

SCR

18

SENATE COMMITTEE REPORT

FURTHER:

3/26/87

DATE TURNED INTO OFFICE 4/7/87

Mr. President:

FINANCE Committee considered SCR 13

Extending the Joint Special Committee on Local Option Laws.

and recommended:

- replace with \_\_\_\_\_ CS FOR \_\_\_\_\_ )  same title
- or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title
- attached amendment(s) and
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_
- letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)  
 new  updated or  previous  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*[Handwritten signatures]*  
 \_\_\_\_\_  
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 \_\_\_\_\_

*[Handwritten signature]*  
 \_\_\_\_\_  
 Chairman signature and recommendation

Committee Backup Attached

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

Bill Version: SCR 18  
Publish Date: \_\_\_\_\_

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: Extending Joint Special  
Committee on Local Option Laws  
Sponsor: Sen. Binkley  
Requestor: Senate Finance

Agency Affected: Legislative Affairs  
BRU: Legislative Council  
Components: Council & Subcommittees

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Prepared by: *John Binkley*  
Division: Senator John Binkley, Co-chairman  
Senate Finance Committee

Phone: 465-4985  
Date: April 7, 1987

Approved by Commissioner: \_\_\_\_\_  
Agency: \_\_\_\_\_

Date: \_\_\_\_\_

**Distribution (by preparer):**

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

Introduced: 3/2/87  
Referred: Health, Education & Social  
Services & Finance

5-0405A

1 IN THE SENATE

BY BINKLEY

2

SENATE CONCURRENT RESOLUTION NO. 18

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

Extending the Joint Special Committee on

6

Local Option Laws.

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

8

WHEREAS the First Session of the Fourteenth Legislature passed Senate

9

Concurrent Resolution 23 establishing a Joint Special Committee on Local

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Option Laws; and

11

WHEREAS this joint special committee was intended to dissolve on the

12

30th day of the First Session of the Fifteenth Legislature; and

13

WHEREAS the joint special committee requires additional time in which

14

to address the problems associated with alcohol abuse and the use of local

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option elections to combat this abuse;

16

BE IT RESOLVED by the Alaska State Legislature that the joint special

17

committee established by the First Session of the Fourteenth Legislature by

18

Senate Concurrent Resolution 23, shall not dissolve on the 30th day of the

19

First Session, but shall dissolve on the last day of the Second Session of

20

the Fifteenth Legislature, after submitting a written report to the legis-

21

lature that addresses the merits of and makes recommendations concerning

22

these local option elections.

# Senator Johne Binkley

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



Finance Committee  
Co-Chairman

## M E M O R A N D U M

April 6, 1987

TO: Senate Finance Committee

FROM: Senator Johne Binkley *Johne*

RE: Senate Concurrent Resolution 18  
Extending the Joint Special Committee on  
Local Option Laws

The Joint Special Committee on Local Option Laws, created by the Fourteenth Legislature, was mandated to review the alcohol local option laws. The committee traveled throughout Alaska, taking testimony, and collecting data on the subject of alcohol problems and the effectiveness of the local option laws.

As a result of the findings of the committee, the alcohol local option laws (AS 04.11) were amended in 1986 to include a fifth option which allows individual communities to choose to ban possession of alcohol.

This is an important law to many villages. In the course of our hearings, the committee determined that follow-up efforts would be required to assist communities that wished to consider this option. It is very important that the law is understood completely and that procedures for adopting and enforcing the law are followed very carefully. During the interim the Local Option Committee contracted with Tanana Chiefs Conference for follow-up services, including outreach and training.

Outreach efforts have included public service announcements, letters, bulletins, extensive telephoning to communities and organizations that indicated an interest in the new law. A training manual was developed, and TCC traveled to those communities that requested training on the fifth option.

To date, eight communities in Alaska have voted and adopted the option to ban possession of alcohol within their community. It has become apparent that the need to oversee the implementation of the local option law continues. Additional villages have expressed a desire for training; opportunities to speak to groups of village residents concerned about

Senate Finance Committee  
April 6, 1987  
Page 2

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alcohol abuse within their community are still before us. In April, 25 to 28 Village Public Safety Officers will be meeting in Bethel. The Association of Village Council Presidents has expressed a desire to have resource persons available to talk with the VPSO's specifically on this new option. Additionally, the committee may wish to consider technical amendments to the law.

This resolution would extend the life of the Local Option Committee through the Fifteenth Legislature. It is important that the committee continue to monitor the new Fifth Option, and to identify any changes that may be required.

A/B

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_  
Revision Date: \_\_\_\_\_  
Title: Extending the Joint Special Committee  
on Local Option Laws.  
Sponsor: Senator John Binkley  
Requestor: Senate HESS Committee

Bill Version: SCR 18  
Publish Date: SENATE 3/2/87

Agency Affected: Legislative Affairs Agency  
BRU: Legislative Council

Components: Council & Subcommittees

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-0-	50.0	-0-	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	50.0	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	50.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The Joint Special Committee on Local Option Laws has requested a budget of \$50.0 for FY 88.

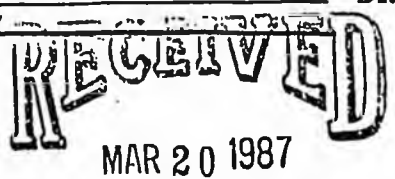
Prepared by: Pamela A. Stoops, Manager  
Division: Administrative Services

Phone: 465-3850  
Date: 3/20/87

Approved by: Warren W. Endicott, Executive Director  
Agency: Legislative Affairs Agency

Date: 3/20/87

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



LEGISLATIVE FINANCE

**A SEARCH FOR CONTROL:  
THE EFFECT OF ALCOHOL ON  
PUBLIC RIGHTS AND PRIVATE WRONGS**



**REPORT TO THE LEGISLATURE  
JOINT SPECIAL COMMITTEE ON LOCAL OPTION LAWS**

**Representative John Binkley, Chairman  
Senator John Sackett  
Senator Vic Fischer  
Senator Edna DeVries  
Representative Katie Hurley  
Representative John Sund**

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**EXECUTIVE SUMMARY**

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**March 1986**

**Prepared by  
Laurie H. Otto  
Otto & Constantino, Attorneys at Law  
P. O. Box 9028  
Bethel, Alaska 99550**

Since Alaska communities are extremely diverse, the tools available to fight alcohol abuse must be equally varied. Approaches to controlling alcohol that are effective in urban areas are unlikely to work in the rural villages of the state. Similarly, alcohol control mechanisms that help stop the disintegration of homogenous and isolated villages, would be completely out of place in a complex urban community. Laws must be flexible enough to provide solutions to the problems faced in all communities.

Villagers repeatedly told the Committee that they want the power to completely prohibit alcohol. The broad range of problems that are associated with alcohol abuse, and which are set forth in the Committee Findings of Fact, legally and morally justify legislative action that grants villages that power. Therefore, the recommendation of the Committee is that the local option law be amended and that communities be granted the power to ban possession of alcohol

A SEARCH FOR CONTROL:  
THE EFFECT OF ALCOHOL ON  
PUBLIC RIGHTS AND PRIVATE WRONGS

EXECUTIVE SUMMARY

Introduction

The numbers of social problems stemming from alcohol abuse in Alaska are staggering. The ravaging effects of alcohol are particularly acute in the isolated native communities of rural Alaska.

As a result of the enactment of the present local option law, villagers are precluded from banning alcohol. Many villagers want the power to ban alcohol in their communities because they believe that alcohol prohibition is a way to prevent serious social problems from occurring. Moreover, many villagers and expert analysts believe that existing bans on importing alcohol cannot be enforced unless possession of alcohol is also banned.

In response to requests made by the city councils of several communities in the Yukon-Kuskokwim Delta, the Fourteenth Legislature created the Joint Special Committee on Local Option Laws. The mandate of the Committee was to take testimony and collect data on the question of banning possession of alcoholic beverages within a community.

Eighteen hearings were held by the Committee during the months of November and December 1985. Hearing locations were limited by financial and time constraints to communities located in the western and northern areas of Alaska. These two areas were chosen because most of the communities which have taken advantage of the existing local option law are in western and northern Alaska.

Two significant facts were made clear to the Committee as a result of the hearing testimony. First, villagers want to have strong and healthy communities. However, their ability to turn this desire into reality is limited because they do not have meaningful input into, and thus control over, most of the governmental decisions that directly affect their lives. Second, the problems related to alcohol abuse in the villages cut across every aspect of community and family life.

After considering a vast body of evidence, the Committee found that the harm caused by alcohol abuse is so pervasive, serious and overwhelming that villages should have the authority to ban possession of alcohol. The Committee, therefore, proposed legislation that would add a new alternative to the present local option law and that would allow communities to implement a ban on alcohol. Violation of a ban on possession of alcohol would be punishable by a fine and violators would not receive a criminal record.

The proposed legislation authorizes the Alaska Supreme Court to set a bail forfeiture schedule for violations of the law. Because the statute allows for bail forfeiture, persons not contesting a citation for possessing alcohol could simply mail the appropriate amount of bail to the nearest court in lieu of a fine. Because many villagers have limited access to cash, community services performed under the direction of the city or village council could be substituted for cash bail. One hour of community service would be equal to \$5.00 in cash. Confiscation and forfeiture of liquor possessed in violation of the ban would be permitted.

#### History of Alcohol Regulation in Alaska

From the time of initial Russian contacts with native Alaskans, through the present-day local option legislation, alcohol regulation has been a consistent theme of law enforcement in rural Alaska. Until the last ten to twenty years, federal statutes, state statutes, village ordinances, and community sanctions have all been used as control mechanisms to prohibit rural Alaskans from using alcohol.

Most recently, the legislature adopted the existing local option law in 1980. Under the local option statute, communities that want to limit the importation or distribution of alcoholic beverages can hold elections and choose one of several options for regulating alcohol. The available options are:

1. Prohibition of the sale of alcohol;
2. Prohibition of the sale and importation of alcohol;
3. Restriction of the types of license available for selling alcohol (i.e., beer and wine only);
4. Restriction of alcohol sales to community-owned liquor stores.

#### Studies of Alaska's Local Option Law

In-depth studies have shown that communities are adopting a wide variety of control measures, including the local option law, in an attempt to prevent residents from abusing alcohol. The local option law is an indirect method of controlling alcohol-related behavior and is used because villages do not have direct control over either the use of alcohol by community

Finding Number Seven: The dangers resulting from alcohol abuse are particularly acute in rural Alaska because the communities are small, isolated, without adequate law enforcement, without adequate health care facilities, and populated by people who are closely related and interdependent.

Finding Number Eight: The most damaging type of abusive alcohol-related behavior is that which affects innocent victims, such as children and elders. Children are particularly vulnerable, and as a result of parental alcohol abuse, suffer from a broad range of serious problems.

Finding Number Nine: The abusive use of alcohol perpetuates an escalating pattern of crime and violence from generation to generation.

Finding Number Ten: The most serious harm to the innocent victims of alcohol abuse takes place in private homes and behind closed doors. In communities that have chosen to ban the sale and importation of alcohol, and that have significant alcohol-related social problems, most drinking takes place in private homes.

Finding Number Eleven: The economic cost of alcohol abuse is high and cannot be afforded by either the state or rural communities.

Finding Number Twelve: A significant number of rural Alaska communities want, and would use, the authority to ban possession of alcohol. These communities have had a long-standing belief that alcohol should be completely banned, and this belief is based on a lengthy history of alcohol prohibition in rural villages.

Finding Number Thirteen: The policy decision to ban possession of alcohol is one that must be made by local governments. If local authorities are precluded from making such a decision, self-government efforts are undermined, respect for the state legal system is lost, and the public welfare is damaged.

Finding Number Fourteen: Although Alaska law permits communities to ban the sale and importation of alcoholic beverages, the present law is unenforceable because the possession of alcoholic beverages, including homebrew, is permitted.

#### Committee Conclusions

The severity of Alaska's problems with alcohol cannot be overemphasized, or exaggerated. Alcohol-induced tragedies have become a reality of daily life across the entire state. Every possible tool must be available for use in combatting the threat posed by alcohol.

- \* Most cases of child abuse and neglect involve alcohol abuse. Many children of drinkers suffer from malnourishment, and some have health problems caused by mothers drinking during pregnancy.
- \* Children of drinkers follow in their parents' footsteps by using and abusing alcohol.
- \* Elders become uneasy and fearful, and cannot eat or sleep, as a result of concern about the behavior of alcohol abusers. This fear and unease causes problems which require medical intervention.
- \* The use and abuse of alcohol is threatening the structure of the extended family. Children and grandchildren in some families are either excluded, or exclude themselves, from extended family activities in an effort to be protected from alcohol abusers.
- \* Alcohol abusers can interrupt critically important subsistence activities.
- \* Essential and irreplaceable family tools, such as snowmachines and boat engines, are broken or destroyed by persons under the influence of alcohol.

#### The Social Costs of Alcohol Abuse

The overall level of alcohol consumption, regardless of beverage source, determines the prevalence of dangerous drinkers and alcohol-related problems, both nationally and within Alaska. Alaska has a high rate of annual consumption in comparison to both the rest of the world and the rest of the United States. Moreover, Alaska has historically shown a dramatic increase over the years in the average annual alcohol consumption rate.

In analyzing which factors most affect per capita consumption rates, a recent study pointed to three variables: the cost of alcohol, the hours in which alcohol is available for sale, and the number of outlets in which alcohol may be purchased. Thus, states with "strict, tight or conservative" liquor laws were found to have low per capita consumption rates, and states with "permissive, loose, or liberal" liquor laws had high per capita consumption.

Chronic alcohol consumption has toxic effects on every part of the body, with medical consequences ranging from slight impairments of physical condition to life-threatening diseases. The most common location of the disease is the liver; however, alcohol may also directly injure the gastro-intestinal tract, muscles, and the pancreas. The cardiovascular system, the nervous system, and the endocrine system may be damaged by alcohol. Finally, there is evidence of a strong association between chronic alcohol use and cancer of the stomach, large intestine, pancreas, and liver.

Studies have consistently shown that alcoholics and heavy drinkers have significantly higher death rates than the rest of

the population. The numbers of homicides, suicides, and accidental deaths are increased as a result of alcohol. Native Alaskans have a particularly high alcohol-related suicide rate. The leading cause of death in Alaska is "accidents" and the rate of of accidental death is over twice the national average. A majority of Alaska's accidental deaths are alcohol-related.

Alcohol and violent crime are inseparable in Alaska. Many different studies have shown the close link between criminal activity and the abusive use of alcohol. The highest correlation between alcohol and crime is with violent acts committed in rural Alaska.

Studies have shown that a strong relationship exists between problem drinking and spouse abuse. The domestic violence problems linked to alcohol were not limited to incidents of spouse abuse; child abuse and parent abuse have also been found to be common. In comparing men who abuse their spouses with those who do not, researchers have found that the abusers had a history of exposure to spouse abuse in their childhood home. These findings suggest that spouse abuse may become more widespread as children from violent homes make families of their own.

Heavy drinking during pregnancy increases the risk of miscarriage and can result in alcohol-related birth defects. When consumed in large amounts, alcohol can cause fetal alcohol syndrome.

There is a substantial relationship between having an alcoholic parent and development of alcoholism. Children of alcoholics are frequent victims of incest, child neglect, and other forms of violence and exploitation. In 90% of child abuse cases, alcohol is a significant factor. Children of alcoholics are prone to experience a range of psychological difficulties, including learning disabilities, anxiety, attempted and completed suicide, eating disorders, and compulsive achieving.

The economic cost to society from alcohol abuse is high. Various methodologies have been used for measuring the cost of alcohol abuse to the State of Alaska in dollars. One study concluded that the total cost for fiscal year 1984, including direct and indirect costs, was \$195,500,000. Another analysis of the economic cost of alcohol abuse during the same period found the cost to be \$185,294,061.

#### Legal Issues Presented by Proposal to Ban Alcohol

Under federal law, states are given the power to absolutely prohibit, or to limit and regulate, traffic in intoxicating liquors within their borders. The Alaska Supreme Court has recognized that the legislature has the power to impose either complete prohibition or any other conditions deemed necessary to protect the people of the state.

A ban on the possession of alcohol would not violate the protection given to individual privacy rights in the Alaska Constitution. The courts have repeatedly held that the right to privacy must yield when it interferes in a serious manner with the health, safety, rights and privileges of others or with the public welfare. "No one has an absolute right to do things in the privacy of his own home which will affect himself or others adversely," according to the Alaska Supreme Court.

The Court has found that there is an unmistakable correlation between alcohol consumptions and poor health, death, family violence, child abuse, and crime. Based on this correlation, the court has upheld the portion of the current local option law which allows communities to ban the specific reference to previous rulings of the Alaska Supreme Court that had expressly recognized "the deleterious effects of consuming alcoholic beverages" and that had expressly found alcohol to be more dangerous than either marijuana or cocaine.

#### Committee Findings

Finding Number One: The abusive use of alcohol interferes in a serious manner with the health, safety, rights, and privileges of Alaskans, and with the public welfare.

Finding Number Two: The public health and welfare will, in fact, suffer if the abusive use of alcohol is not controlled.

Finding Number Three: The prohibition of alcohol in rural Alaska villages is an effective tool for controlling the abusive use of alcohol.

Finding Number Four: Serious crimes, and a wide variety of other social problems, could be prevented if the possession of alcohol were prohibited.

Finding Number Five: There is a strong and unmistakable correlation between alcohol consumption and poor health, fetal damage, death, suicide, crime, family violence, family stability, and child abuse.

Finding Number Six: The level of dangerous alcohol-related behavior is directly tied to the level of alcohol consumption, and the level of alcohol consumption is directly tied to both the cost and availability of alcohol. A law prohibiting possession would limit the availability of alcohol, and would increase the cost of illicitly-available liquor.

members or the resulting alcohol-related deviant behavior. Local option is considered to be a significant and indispensable tool because it helps prevent problems from occurring.

The most frequently used option allows for banning the sale and importation of alcohol. The use of the most restrictive option reflects the desire of many villages to severely limit access to alcohol. If villages could totally prohibit both the manufacture and possession of alcohol, many communities would opt for complete prohibition.

In the communities that have implemented the local option law, there has been a significant reduction in alcohol-related dangerous behavior. After adoption of the local option law, communities have less public drinking and public drunkenness, declines in the amount of alcohol-related interpersonal violence and accidents, and marked improvements in the physical appearance and scholastic performance of the children of drinking parents.

In addition to the direct benefits, other positive side effects of the local option law have been identified. These benefits resulted from the process used in making the decision to regulate alcohol. By implementing the law through an election, the burden of responsibility for the law shifted from the council and village leaders to the entire voting population. As a result, both lawmaking and enforcement have been made easier.

Villagers' concerns about alcohol are not based on moral judgments about drinking, or a desire to intrude on the power of individuals to make decisions about their personal health. The primary reason people want to ban alcohol is because it is intimately related to the deaths of village members. The deaths of young people are of particular concern because many villagers believe that the survival of their culture is completely dependent on the caliber of future community leaders, many of whom are dying in alcohol-related incidents.

#### The 1985 Local Option Hearings

Alcohol is involved in a wide range of social problems occurring in Alaska communities. Some of the problems described during the testimony are:

- \* Virtually all of the violent crime is alcohol related, as is a majority of all types of criminal activity in Alaska.
- \* A large number of deaths, including suicides, are alcohol related.
- \* Children of alcohol abusers suffer problems with their schooling. They do not get enough sleep at night and do not get their homework done because of parents drinking and partying in the home.

4/7/87

SCR18

# Banning Possession of Alcohol



Prepared by

LISA JAEGER

for

Tanana Chiefs Conference, Inc.  
Under Contract With the Joint  
Special Committee on Local Option Laws

fall 1986

The author wishes to express appreciation to Tanana Chiefs employees, Mike Walleri, Tom Alton and Virginia Sweetsir for their comments. Helpful suggestions were also received from Senator John Binkley and especially from his Legislative Aide, Pat Jackson. Special thanks to Sharon Sunnyboy for typing and retyping the manuscript.

# BANNING POSSESSION OF ALCOHOL

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B. Copy of Law Allowing Banning Possession of Alcohol	

## INTRODUCTION

A series of laws passed by the State Legislature allows villages to make choices for controlling alcohol. These laws are called "Alaska Title 4 Alcohol Local Option Laws" and are often referred to as "local option laws." An option is a choice. It means that a village can select one of several choices to control alcohol use in the village. A village also may choose not to hold an election on any of the options.

A law passed by the Alaska legislature in the spring of 1986 allows villages to hold elections to vote on banning the possession of alcohol. This is the fourth choice for controlling alcohol that the unincorporated villages can consider, and the fifth choice cities can consider under state law. Altogether, options the villages have for controlling liquor are to:

1. Sell liquor only with a SELECTED LIQUOR LICENSE. The type of alcohol sold, or where and when it can be sold can be controlled under this option.
2. Stop the SALE of alcohol in the village. Liquor could still be made or brought into the village.
3. Stop the SALE AND IMPORTATION of alcohol in the village. The person must be caught in the act of selling or bringing it in.
4. Sell liquor only with a COMMUNITY LIQUOR LICENSE. Only cities can vote on this option, and if adopted, the city would operate the store or bar.
5. Ban the POSSESSION of alcohol in the village. This is a new option that was recently added to the other options.

The new option, banning possession of alcohol, is the strongest law for controlling alcohol in the village. If a village already has another local option law and wants to vote to ban possession of alcohol a new petition is started and a new election is held. This

law is then added to the existing local option laws. In order to adopt the new option, a village does not have to repeal the old option. Of course if alcohol becomes illegal to possess in the village, any liquor licenses in the village would be cancelled.

This law does not include wine used for religious purposes in church services. It also does not include alcohol which has already been consumed. For example, a person could not be fined under this law for coming back to the village drunk. However, if a person has not been out of the village and becomes drunk, this could be used as evidence that the person possessed alcohol.

Banning possession of alcohol in the village is a community statement. It cannot be enforced without community support and cooperation. This is not the total solution to village alcohol abuse but could be a part of the village effort to help people in a village with alcohol problems and to help the village reduce alcohol related crimes. The state is not pushing the alcohol local option law on anyone or on any community. The most important decision concerning the alcohol local option laws is whether to consider it at all.

For more information and assistance, contact:

Village Government Services  
Tanana Chiefs Conference, Inc.

Fairbanks, AK 99701

Tele: 452-8251

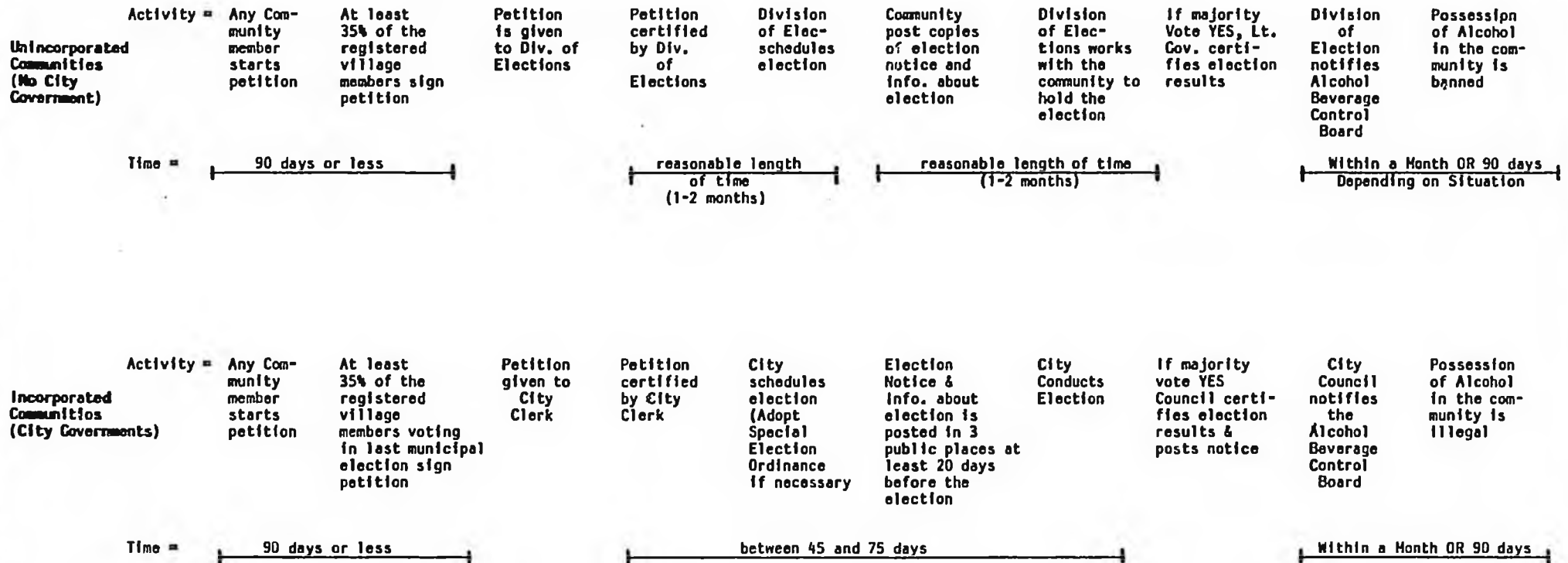
or

Your local office of the  
Department of Community & Regional Affairs

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\* The terms "unincorporated," "incorporated," "established village," "community" and "village" are all used in this booklet. "Village" and "community" can both be used to describe the same thing. The terms "unincorporated" and "established village" both refer to villages without city governments. "Incorporated" refers to a community with a city government.

## Procedure for Banning the Possession of Alcohol in the Village



## PETITIONING FOR ELECTION

Residents of a community show their desire to hold an election by signing a petition. A petition explains that a person or people want something. In this case, the petition says that people want to vote on one of the local option laws to control alcohol in the village.

### Starting a Petition

Anyone can start a petition. The person passing around a petition need not be an official or serve on the village or city council. However, only registered voters can sign the petition, only people registered to vote within the State of Alaska can vote in a local option election. If a person is a registered voter but did not vote in the last regular state or municipal election, the person may still sign the petition. If a person is not a registered voter, he or she may register and then sign the petition. A current list of registered voters can be obtained from the Division of Elections by calling or writing one of the following offices:

#### Division of Elections

Director  
Pouch AF  
Juneau, Alaska 99811-0105  
Tele: (907)465-4611

#### Regional Offices

Districts 1 - 4  
Southeast Election Supervisor  
Pouch AF  
Juneau, Alaska 99811-0106  
Tele: (907)465-3021

Districts 5 - 16, & 27  
South Central Election Supervisor  
1313 E. 3rd Avenue  
Anchorage, Alaska 99501-2879  
Tele: (907)276-8683

Districts 17-21, 24 & 26  
Central Election Supervisor  
Fairbanks Regional Office Building  
675-7th Avenue, Sta. H  
Fairbanks, Alaska 99701-4594  
Tele: (907)452-5111

Districts 22, 23, 25  
Northwest Election Supervisor  
Alaska State Office Building  
Nome, Alaska 99762-0577  
Tele: (907)443-5285

### Collecting Signatures

All signatures on a petition must be collected within 90 days. The signatures may all be collected in one day or in one week, but they must be collected within a 90-day period. The 90 day period begins on the first day someone signs the petition. If there are not enough signatures within 90 days, the petition is "dead". The only way to hold an election in that case is to start a new petition.

### Wording the Petition

In order for a petition to be valid, the exact language of the alcohol local option laws must appear at the top of the petition. For example, for a petition asking to hold an election to vote on the ban on possession of alcohol in the village, the question at the top of the petition would be:

"Shall the Possession of Alcoholic Beverages be  
Prohibited in \_\_\_\_\_ (YES or NO)"  
(Name of Village or City)

### Using Sample Petition from this Manual

Sample copies of petition forms for holding an election on banning possession of alcohol in the village are on pages 19 through 24. If a petition form from this manual is chosen, it should be xeroxed, typed, or hand written in ink. A community can make up its own petition following the sample petitions in this booklet. The name of the community must be on the top of the petition as well as the exact language of the question in the state statutes.

There are several differences in the procedure for petitioning and holding a local option election between communities with city governments (incorporated communities) and communities with no city government (established villages or unincorporated communities).

#### Petitioning Procedures for Unincorporated Communities

In a community with no city government, 35 percent of the voters registered with the state must sign the petition. For example, if a community has 100 registered voters, at least 35 of those voters must sign the petition. To determine how many voters make up 35 percent, multiply .35 times the number of registered voters in the village. It is a good idea to get as many signatures as possible in case some people signing the petition are not registered voters.

When there are enough signatures, the unincorporated communities send the petition to the Director, Division of Elections, Pouch AF, Juneau, Alaska 99811. Call 586-6181 if there are any questions. If the petition has been done correctly, the Division of Elections will then schedule and help conduct an election within a reasonable period of time. Sample copies of petition forms are on pages 19 through 21.

#### Petitioning Procedures for Incorporated Communities

In incorporated communities, 35 percent of the number of registered voters voting in the last regular municipal election must sign the petition. If a person is a registered voter but did not vote in the last regular municipal election, the person may still sign the petition. To determine how many signatures are needed on the petition, multiply .35 times the number of voters participating in the last regular municipal election.

When there are enough signatures, the petition is given to the city clerk. The city clerk will certify the petition if it was done properly. The clerk will then ask the city council to schedule an election within a reasonable length of time. This has been interpreted to be between 45 to 75 days.

Sample copies of petition forms for holding an election on banning possession of alcohol in an incorporated community are on pages 22 through 24.

## ELECTIONS

An election can be scheduled once a petition requesting that an election be held to vote on banning possession of alcohol is complete. Unincorporated communities file their petitions with the Division of Elections, which helps conduct the elections. The petitions in incorporated communities are filed with the city clerk, and the city governments conduct the elections.

### Election Procedures for Unincorporated Communities

#### Setting the Date for the Election

When enough registered voters have signed the petition, the petition and a letter asking that a special election be held as soon as possible, should be sent to the director, Division of Elections, Pouch AF, Juneau, Alaska, 99811. The director of the Division of Elections will appoint a regional election supervisor to help the unincorporated community hold the requested special election. The community and the Division of Elections can work together in scheduling the election for the best time for the village. If the Division of Elections schedules an election at a bad time for the village, the village can request a schedule change. Some reasons for changing the date of the election may be that many registered voters are away from the village berry picking, moose hunting, or at fish camp or fire fighting.

#### Posting Notice

An unincorporated community may want to post copies of the petition and notices of the election in several public places. This will generate discussion on the matter and will help people decide how to vote.

## Majority Voting

A majority of registered voters must vote "yes" on their ballots for the option to become a law. For example, if 80 people vote, at least 41 must vote "yes" for the option to pass. Any number more than half of those voting must be cast in favor of the option in order for it to pass. A sample ballot is on page 26 of this booklet.

## Results of the Election

The results of the election will be sent to the lieutenant governor for certification. The village then posts notice of the election results in at least one public place. The Alcohol Beverage Control Board must be notified of the election results. The Division of Elections should notify the Alcohol Beverage Control Board for the unincorporated communities. It is important that the board be notified because it issues liquor licenses. It wouldn't be appropriate for the board to issue a liquor license in a village where possession of alcohol is prohibited.

## Effective Date of the New Law

The new law goes into effect 90 days after the election results are certified if the village has no other local option law or has selected liquor licenses or community run liquor stores. It goes into effect the first day of the next month following the certification of the election if there is another local option law prohibiting sale or sale and importation of alcohol. Once adopted, this ban on possession of alcohol becomes state law.

## Spreading the Word

In order to help enforce the law, it is a good idea for communities to spread the word that it is illegal to possess alcohol in the village. It would be especially important to contact air services

serving the village so they will know not to bring shipments of alcohol into the village. The village may also consider:

- Advertising on local TV and radio stations
- Advertising in locally distributed papers
- Posting notices around the village or at the airport
- Displaying posters in neighboring communities

### Election Procedure for Incorporated Communities

#### Scheduling the Election

After the petition has enough registered voter signatures, it is given to the city clerk. The election to vote on the matter must be scheduled no less than 45 days and within 75 days after the petition has been certified by the city clerk and given to the city council. The alcohol local option question can be voted on at a regular election, a primary election, a general election, or at a special election. If there are other issues to be voted on, the question must be placed on a separate ballot form. A sample ballot is on page 25 of this booklet.

#### Separate Ballots

The option question must be placed on its own separate ballot. No other questions may be on the same ballot. The language on the ballot must be exactly the same as it is in the statute. For option number four, banning the possession of alcohol in the village, the question is:

"Shall the possession of alcoholic beverages be prohibited  
in (name of municipality or village)?  
(Yes or No)"

Special Elections: Cities must have a special election ordinance in order to hold a special election. Special elections can be scheduled by the city council no less than 20 days and within a

reasonable length of time after the petition has been certified by the city clerk and given to the city council. Any registered voter may be appointed to be an election judge. Separate election ballots must be used. The question cannot be on the same ballot with any other matter. An election notice must be posted for no less than 20 days before the election in three obvious public places. It is also a good idea to post a sample ballot.

If a special election is to be held, the city's special election ordinance must be followed. If there is no special election ordinance, one must be passed by the city council. An example of such an ordinance is:

#### **Special Election Ordinance**

The council may, by resolution, call a special election upon giving at least a twenty (20) days notice.

Regular Municipal Election: Regular municipal elections are held the first Tuesday of October and every year unless another date has been selected by municipal ordinance. The petition for holding the election must be filed with the city clerk at least 90 days before the regular municipal election. Any registered voter may be appointed to be an election judge. The alcohol control question must be placed on its own separate ballot. An election notice must be posted for 20 days before the election in three obvious public places. The notices may be posted for longer than 20 days.

Primary Elections: Primary elections occur in August once every two years before a general election. The municipality must appoint its own election judges to work with the separate alcohol local option ballots. The petition must be filed with the city clerk at least 20 days before the primary election. Separate election ballot forms must be used. An election notice must be posted for 20 days before the election in three obvious public places. The notice can be posted for more than 20 days.

General Election: General elections occur in November once every two years. The municipality must appoint its own election judges to work with the separate alcohol local option ballots. The petition must be filed with the city clerk at least 90 days before the general election. Separate election ballot forms must be used. An election notice must be posted for 20 days before the election in three obvious public places. The election notice can be posted for more than 20 days.

#### Results of the Election

If more than half of the voters vote "Yes" on the ballot question, the option becomes law for everyone in the municipality 90 days after the city council certifies the election results. For example, if 80 people vote, 41 must vote "Yes" for the option to become law. The city council must certify the results of the election within a reasonable length of time. "Certification" means that the City Council prepares and signs a statement about the results of the election. Then the city posts notice of the election results in at least one public place.

The city must send the election results to the Alcohol Beverage Control Board. The address is:

Executive Director  
Alcohol Beverage Control Board  
550 W. 7th, Suite 350  
Anchorage, Alaska 99501  
Tele: 277-8638

#### Effective Date

The new law goes into effect 90 days after the election results are certified if the village has no other local option law or has selected liquor licenses or community run liquor stores. If there is another local option law, prohibiting sale or sale and importation of alcohol, the ban on possession takes effect on the first

day of the next month following the certification of the election. The ban on possession of alcohol becomes a city ordinance. The city must post notice of the prohibition of alcohol in the community.

#### Spreading the Word

In order to help enforce the law, it is a good idea for communities to spread the word that it is illegal to possess alcohol in the village. It is especially important to contact air services serving the village so they will know not to bring shipments of alcohol into the village. The village may also:

- Advertise on local TV and radio stations
- Advertise in locally distributed papers
- Post signs around the village or at the airport
- Distribute posters in neighboring communities

## PENALTIES

Violating the new alcohol local option law banning possession of alcohol in the community is not a criminal violation. A person who breaks this law can be fined and/or have property taken away, but cannot be put in jail. A person who contests the citation does not have a right to a jury trial or to a court appointed lawyer.

Once the ban on possession of alcohol goes into effect, the village law enforcement officer can take alcohol away from people and give them a citation. If there is no law enforcement officer in the village, the nearest trooper can be called to come to the village. It is possible for any village member to take alcohol away and call the troopers, but this could be dangerous. The Department of Public Safety prefers that a law enforcement officer handle the situation. Besides taking alcohol away, other things can be taken away from the offender. They include materials and equipment used in the manufacture and/or sale of alcohol as well as aircraft, vehicles or boats used to transport alcohol.

### Enforcement Boundaries

In unincorporated communities, this law is enforced within a five mile radius of the village post office. In an incorporated community, this ordinance is enforced within the municipal boundaries, and no liquor licenses will be issued within a 5 mile buffer around those boundaries.

### Fines

If a person is cited under this law, the fine is \$100 for each of the two offenses and a mandatory court appearance for the third or more offenses. Courts could fine a person up to \$1,000 for the third or more offenses. A person can pay the fine by mailing it to the court at the address listed on the citation form or, the fine can be personally delivered to the court. The fine must be paid within 30 days.

## Community Work

Community work can be done instead of paying the fine. The community work is equal to \$5 per hour. The city councils or village councils in unincorporated communities designate the community work to be done. A form stating that the work has been done is filled out, attached to the citation and sent to the court listed on the citation. The community work must also be done in 30 days. A person may choose to pay part of the fine and make up the rest through community work.

## Failure to Pay Fine or do Community Work

If a person fails to pay the fine or do community work, the citation becomes a summons to court. The person must pay his own way to the court listed on the citation. The date for the court appearance will also be on the citation. The person does not have a right to a court-appointed lawyer but may hire one at his or her own expense. If the person does not pay the fine, do community work or appear in court after that 30-day period, they are considered in "contempt of court". Being in contempt of court is a criminal offense and if the court follows through with such prosecution, a person can be punished under that law.

\* \* \* \* \*

## Bootlegging

"Bootlegging" or selling alcohol without a license is against state law. This is illegal in the village whether the village votes to ban possession of alcohol in the village or not. The penalty for the first offense of bootlegging is 10 days to one year in jail and/or up to a \$5,000 fine. A second offense can be punishable by 10 days to five years in jail and/or up to a \$50,000 fine.

## Penalties Under Importation

If, under the other alcohol local options, a village votes to stop sale and importation of alcoholic beverages, the penalty for importing depends on the amount of alcohol that is brought into the community.

Less than 12 liters (about 16-1/2 fifths) of hard liquor or 24 liters (about 13 half gallons) of wine or 45 liters of beer (about 22 six-packs) is a Class "A" misdemeanor. Penalty is up to one year in jail and/or up to a \$5,000 fine.

More than 12 liters (about 16-1/2 fifths) of hard liquor or 24 liters (about 13 half gallons) of wine or 45 liters (about 22 six-packs) of beer is a Class "C" felony. Penalty is up to five years in jail and/or up to a \$50,000 fine.

## ENFORCEMENT

If the ban on possession of alcohol is the only local option law in the village, it becomes effective 90 days after the certification of election. If the village has another local option law such as a ban on sale and importation, possession of alcohol becomes illegal on the first day of the month following certification of election results. The village public safety officer (VPSO) or other law enforcement officer can then take alcohol and issue a citation. The chief, village council members or anyone in the community can take alcohol away from someone but this could be dangerous and the Department of Public Safety prefers that it be done by law enforcement officers. Loss of the alcohol can be a large punishment in itself. It can also stop potential problems by keeping people from getting drunk or more drunk.

### Fines

If a citation is issued, the fines for possessing alcohol are:

- \$100 for each of the first two offenses.
- A mandatory court appearance for the third or more offenses.  
If convicted, the fine could be up to \$1,000.

### Paying the Fine

A person has three choices in paying the fine. He or she can:

1. Mail or deliver the money to the clerk of the court.
2. Perform community work at \$5 per hour to work off the fine. The community work is directed by the city council or by the village council if there is no city. After the work is completed, a form and a copy of the citation must be mailed into the clerk of the court.

3. Pay some money and work off the rest of the fine.

If a citation has been issued and a person does not pay the fine or do community work, the citation becomes a summons to court. The date and place will be written on the citation. The person must go at his or her own expense. If the person then does not appear in court, he is then in contempt of court and can be punished for that offense.

Violating the ban on possession of alcohol in the village is not a criminal offense, and a person is not jailed for breaking that law. If a person wishes to contest (protest) the citation, he or she does not have the right to a trial by jury or to a court-appointed attorney. However, if a person fails to pay a fine or do assigned community work and then fails to appear in court, he or she is then guilty of a criminal offense (contempt of court) and can be punished for that offense.

#### Search and Seizure

State law regarding search and seizure must be followed. If alcohol is in plain sight it can simply be taken away. If the alcohol is out of sight, the VPSO or VPO (Village Police Officer) must have "probable cause" in order to get a search warrant. The definition of "probable cause" is ultimately determined by the courts. The basic idea is, however, that the VPSO or VPO must have solid reason to believe that alcohol is in the place where he wants to look. Baggage coming through the airport cannot all be searched for alcohol. There must be certain reason to believe that alcohol is in a bag, and then a search warrant must be obtained. Search warrants can be gotten over the phone if there isn't a state judge, or a magistrate in the village.

## Community's Role in Enforcement

How well this law is enforced will depend upon village attitudes and efforts. The village must support their VPSO or VPO. The councils need to complain to the court system if contempt of court proceedings are not begun when fines aren't paid and court appearances aren't made.

The village can encourage people to comply with their laws by posting signs at the airport, along roads and rivers leading into the village, and in neighboring communities. The councils should also contact local air carriers so they will know not to bring alcohol into the village. Ads can be placed in local newspapers or aired on local radio or TV stations. The community can take an aggressive stand and go beyond minimum requirements to help enforce the law.

UNINCORPORATED COMMUNITY - ESTABLISHED VILLAGE  
NO POSSESSION

PETITION FOR SPECIAL ELECTION

WHEREAS, we, the undersigned registered voters of the established village of \_\_\_\_\_ wish to take action regarding alcohol use in our community, and;

WHEREAS, we the undersigned registered voters of the established village of \_\_\_\_\_ wish to vote on an option under State Title 4 Alcohol Local Option Law as soon as possible, now, therefore,

WE, THE UNDERSIGNED voters of \_\_\_\_\_ HEREBY petition the Director of the Division of Elections that a special election be conducted pursuant to Alaska Statute 04.11.502, with the following question on the ballot:

"Shall the possession of alcoholic beverages be prohibited in \_\_\_\_\_? (Yes or No)."

The date of the first circulation of this petition is the \_\_\_\_\_ day of \_\_\_\_\_, 198\_. All signatures on this petition must be secured within 90 days of this date of first circulation.

Signature	Printed Name	Date of Signature (Printed)	Residence Address (Printed)
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
7. _____	_____	_____	_____





INCORPORATED COMMUNITY

NO POSSESSION

PETITION FOR SPECIAL ELECTION

WHEREAS, we, the undersigned registered voters of the City of \_\_\_\_\_ wish to take action regarding alcohol use in our community, and;

WHEREAS, we the undersigned registered voters of the City of \_\_\_\_\_ wish to vote on an option under State Title 4 Alcohol Local Option Law as soon as possible, now, therefore,

WE, THE UNDERSIGNED voters of \_\_\_\_\_ HEREBY petition the Director of the Division of Elections that a special election be conducted pursuant to Alaska Statute 04.11.502, with the following question on the ballot:

"Shall the possession of alcoholic beverages be prohibited in \_\_\_\_\_? (Yes or No)."

The date of the first circulation of this petition is the \_\_\_\_\_ day of \_\_\_\_\_, 198\_. All signatures on this petition must be secured within 90 days of this date of first circulation.

Signature	Printed Name	Date of Signature (Printed)	Residence Address (Printed)
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
7. _____	_____	_____	_____





**SAMPLE BALLOT FOR MUNICIPALITIES**

**NO POSSESSION**

City of (Name of municipality and type of election) ELECTION BALLOT

Date: \_\_\_\_\_

Mark only by use of "x" marks. Place marks at the right of the YES or NO under the question on this ballot.

The "x" mark must be inside or touching the square so that it shows the intent of the voter. DO NOT erase or correct your marks. Ask for a new ballot if you make a mistake.

Mark only one square. A "YES" vote would mean that you want to ban the possession of alcoholic beverages under state law.

If you spoil your ballot, give it back to one of the election judges and get another ballot.

---

**QUESTION:**

"Shall the possession of alcoholic beverages be prohibited in  
\_\_\_\_\_?"  
(name of municipality)

YES

NO

**SAMPLE BALLOT FOR ESTABLISHED VILLAGES**

**NO POSSESSION**

(Name of village) SPECIAL ELECTION BALLOT

Date: \_\_\_\_\_

Mark only by use of "x" marks. Place marks at the right of the YES or NO under the question on this ballot.

The "x" mark must be inside or touching the square so that it shows the intent of the voter. DO NOT erase or correct your marks. Ask for a new ballot if you make a mistake.

Mark only one square. A "YES" vote would mean that you want to ban the possession of alcoholic beverages under state law.

If you spoil your ballot, give it back to one of the election judges and get another ballot.

---

**QUESTION:**

"Shall the possession of alcoholic beverages be prohibited in  
\_\_\_\_\_?"  
(name of village)

YES

NO



# LAWS OF ALASKA

1986

Source

CSSSHB 700(Fin) am

Chapter No.

80

## AN ACT

Relating to regulation of alcoholic beverages and enactment of municipal ordinances.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 5, 1986  
Actual Effective Date: September 3, 1986

Chapter 80

## AN ACT

Relating to regulation of alcoholic beverages and enactment of municipal ordinances.

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

- (1) abuse of alcohol seriously interferes with the rights and privileges of the people of the state;
- (2) the public health, safety, and welfare does in fact suffer when alcohol abuse is not controlled;
- (3) prohibition of alcohol in rural areas of the state is an effective tool for controlling the abuse of alcohol;
- (4) serious crimes and a wide variety of other social problems could be prevented if the possession of alcohol were prohibited;
- (5) there is a strong and unmistakable correlation between alcohol consumption and poor health, fetal damage, suicide, domestic violence, and crime;
- (6) the dangers resulting from alcohol abuse are particularly acute in rural areas of the state because the communities are small, isolated, without adequate law enforcement, without adequate health care facilities, and populated by people who are closely related and interdependent;
- (7) in communities that have chosen to ban the sale and importation of alcohol, most drinking takes place in private homes;
- (8) the economic cost of alcohol abuse is high, and cannot be afforded by the state or small rural communities; and

(9) a fine in the amount of \$1,000 or 20 hours of community work, is not so severe a penalty as to indicate criminality in either rural or urban Alaska communities.

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

Sec. 04.11.498. PROHIBITION OF POSSESSION OF ALCOHOLIC BEVERAGES. (a) The following question, appearing alone, may be placed before the voters of a municipality or an established village in accordance with AS 04.11.502: "Shall the possession of alcoholic beverages be prohibited in . . . . (name of municipality or village)? (yes or no)."

(b) If a majority of the voters of an established village vote "yes" on the question set out in (a) of this section, and the sale of alcoholic beverages, or the sale and importation of alcoholic beverages, has been previously prohibited in the established village in accordance with AS 04.11.490 or 04.11.494, a person, beginning on the first day of the month following certification of the results of the election, may not knowingly possess an alcoholic beverage in the established village, unless the alcoholic beverage is wine to be used for bona fide religious purposes based on tenets or teachings of a church or religious body, is limited in quantity to the amount necessary for religious purposes, and is dispensed only for religious purposes, by a person recognized by the church or religious body as authorized to dispense the wine. The board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the perimeter of the established village as defined in AS 04.21.080(b)(8).

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

alcoholic beverages, or the sale and importation of alcoholic beverages, has not been previously prohibited in the established village in accordance with AS 04.11.490 or 04.11.494, a person, beginning 90 days after certification of the results of the election, may not knowingly possess an alcoholic beverage in the established village, unless the person is licensed by the board or the alcoholic beverage is wine to be used for bona fide religious purposes based on tenets or teachings of a church or religious body, is limited in quantity to the amount necessary for religious purposes, and is dispensed only for religious purposes by a person by the church or religious body as authorized to dispense the wine. The board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the perimeter of the established village as defined in AS 04.21.080(b)(8). Licenses that may not be renewed because of a local option election held under this section are void 90 days after the results of the election are certified. A license that will expire during the 90 days after the results of a local option election under this section are certified may be extended until it is void under this section, by payment of a prorated portion of the annual license fee.

(d) If a majority of the voters of a municipality vote "yes" on the question set out in (a) of this section, and the sale of alcoholic beverages, or the sale and importation of alcoholic beverages, has been previously prohibited in the municipality in accordance with AS 04.11.490 or 04.11.494, an ordinance is adopted that becomes effective beginning on the first day of the month following certification of the results of the election, and a person may not knowingly possess 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, 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

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

(b) 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 may, within 30 days after the date the citation is issued,

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

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

(c) The supreme court shall establish by rule or order a schedule of bail amounts that may be forfeited without a court appearance for a violation of AS 04.11.498 or an ordinance adopted under AS 04.11.498. In establishing the bail schedule the supreme court may consider the quantity of alcoholic beverages possessed and the number of prior violations of the person cited. Before establishing or amending the schedule of bail amounts required by this subsection, the supreme court shall appoint and consult with an advisory committee consisting of the following seven persons: one superior court judge, one magistrate from each judicial district in the state, a representative of the Department of Law, and a representative of the Public Defender Agency. The maximum bail amount may not exceed \$1,000, and 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 governing body 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 administrative director of the Alaska Court System, 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 proof of performance of community work under this section has been filed with the court, a judgment shall be entered. Forfeiture of bail or filing proof of 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, if requested.

(f) If the person fails to pay the bail amount established under (c) of this section, or fails to provide proof of performance as specified in (d)(1) of this section to the court, 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 imposed for the offense may not exceed the bail amount for that offense established under (c) of this section.

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

(i) The commissioner of public safety shall prescribe and provide a suitable standard citation form that is in a form necessary to identify the offender, to identify the offense, and to meet the needs of public safety and administration of justice.

(j) A municipality shall adopt a citation form that is equivalent to that prescribed by the commissioner under (i) of this section.

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

(a) The following are subject to forfeiture:

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

(2) materials and equipment used in the manufacture, sale, offering for sale, possession for sale, barter or exchange of alcoholic beverages for goods and services in this state in violation of AS 04.11.010; materials and equipment used in the stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060;

materials and equipment used in the sale or offering for sale of an alcoholic beverage 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 licenses or permits under this title in the area;

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

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

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

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

(4) alcoholic beverages found on licensed premises that [WHICH] do not bear federal excise stamps if excise stamps are required under federal law;

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

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

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

- (1) the seizure is incident to a valid arrest or search;
- (2) the property subject to seizure is the subject of a

prior judgment in favor of the state; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Except as provided in (c), (AND) (d) and (e) of this section, the mayor may veto an ordinance, resolution, motion, or other action of the governing body and may strike or reduce appropriation items.

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

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

Chapter 80

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:

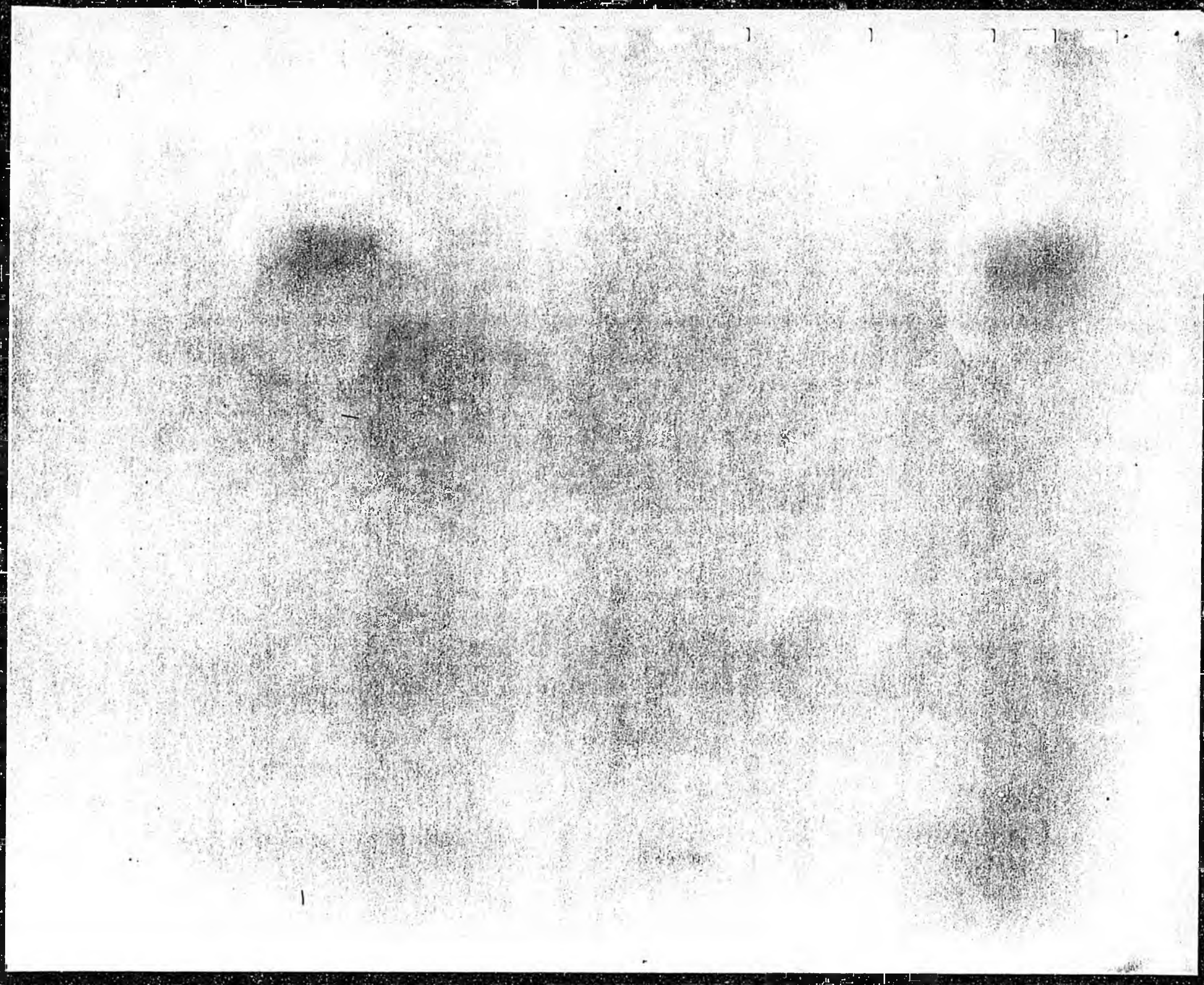
4 (d) This section does not apply to an ordinance proposed under  
5 AS 04.11.502(c).

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

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

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

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



SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 3/18/87 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

\*\*FISCAL NOTE(S) ATTACHED 1 \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

DATE TURNED INTO OFFICE 3/26/87

Mr. President:

HESS

Committee considered SCR 18

Extending the Joint Special Committee on Local Option Laws.

and recommended:

[ ] replace with CS \_\_\_\_\_ [ ] same title  
[ ] new title

[ ] attached amendment(s) and

*majority*  
[X] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted and attached

\*\* Committee [X] attached or [ ] adopted fiscal note(s)  
[ ] zero [X] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*David Jones*  
*Joe P. Josephson*  
*Rick Halford*

*Gaul Fiske Do Pass*  
Chairman signature and recommendation

[ ] Committee Backup Attached