

SB

51

Senator John Binkley

March 26 1987



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

Finance Committee
Co-Chairman

MEMORANDUM

March 25, 1987

Bill

TO: Senator Jay Kertulla, Chairman
Senate Judiciary Committee

FROM: Senator John Binkley *John*

RE: Senate Bill 51 - Relating to Alcohol

I would appreciate your scheduling hearings before your committee on Senate Bill 51, an act relating to alcohol. This bill would raise the penalties for those convicted of bootlegging in communities that have adopted a local option law.

The bill has already passed out of the State Affairs and Health and Social Services Committees and was referred to the Judiciary Committee on March 16.

Enclosed is a memo which gives background information on this bill. If you have questions or need additional information, please let me know.

I would appreciate your consideration in scheduling this bill as soon as possible.

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

REQUEST: _____

Bill Version: Senate Bill No. 51
Publish Date: _____

Revision Date: _____
Title: "An act relating to alcohol"

Agency Affected: Department of Corrections
BRU: _____

Sponsor: Senator John Binkley
Requestor: Senator John Binkley

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY '7	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	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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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)

This bill is expected to have only minor impact on inmate populations.

Prepared by: Susie Riley, Budget Analyst
Division: Administrative Services

Phone: 465-3376
Date: 01/26/87

Approved by Commissioner: William W. Ladwig
Agency: Department of Corrections

Date: 01/26/87

Distribution (by preparer):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

FEB 16 1987

REQUEST: _____

Bill Version: SB 51
Publish Date: _____

Revision Date: _____
Title: "An Act relating to alcohol."

Agency Affected: Department of Law
BRU: Prosecution

Sponsor: Sen. Binkley
Requestor: Sen. Binkley

Components: All

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						
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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)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: Feb. 12, 1987
 Approved by Commissioner: Grace Berg Schaible Date: Feb. 12, 1987
 Agency: Department of Law

Distribution (by preparer):

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

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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.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST _____

Bill Version: SB 51

Publish Date: _____

Revision Date: _____

Agency Affected: ABC Board

Title: An Act relating to Alcohol

BRU: ABC

Sponsor: Senator Binkley

Components: Operating

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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 *for*
Division: ABC Board

Phone: 277-8638
Date: 2/13/87

Approved by Commissioner: Hugh Malone *for*
Agency: Department of Revenue

Date: 2/13/87

Distribution (by Agency preparing fiscal note):

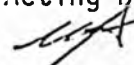
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

BILL NO: SB 51

DATE: 1/26/87

TITLE: "An Act relating to alcohol."

CONTACT: Maj. Walter J. Gilmour
Acting Director

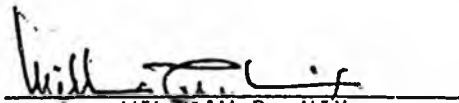


POSTAL TELEGRAPH
DEPARTMENT OF
PUBLIC SAFETY

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 51
Publish Date: _____

REQUEST
Revision Date: _____
Title: "An Act relating to alcohol."

Agency Affected: Public Safety
BRU: Alaska State Troopers

Sponsor: Sen. Binkley
Requestor: Senate State Affairs

Components: Detachments and C.I.B.
Narcotics

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
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
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	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)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan *FCA*
Division: Alaska State Troopers

Phone: 269-5691
Date: 1/26/87

Approved by Commissioner: William R. Nix *WRN*
Agency: Public Safety

Date: ~~1-26-87~~ 1/30/87

Distribution (by preparer):

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

Senator Johne Binkley

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



Finance Committee
Co-Chairman

MEMORANDUM

March 25, 1987

TO: Senator Jay Kertulla, Chairman
Senate Judiciary Committee

FROM: Senator Johne Binkley *Johne*

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.

Senator Jay Kertulla
March 25, 1987
Page 2

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.



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.

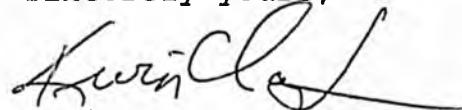
The question is always asked, "where does all the alcohol come from-Bethel's supposed to be a dry town"? Well, the answer to that question is simple, the majority of alcohol involved in criminal activity as well as care for protective custodies is bootleg liquor. Unfortunately, the penalty for selling 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