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HOUSE CS FOR CS FOR SENATE BILL NO. 87(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the membership of the Alcoholic Beverage Control Board;  
2 relating to community local options for control of alcoholic beverages; relating to  
3 the control of alcoholic beverages; prohibiting persons from being on premises  
4 involving alcoholic beverages under certain circumstances; relating to the definition  
5 of 'alcoholic beverage'; relating to purchase and sale of alcoholic beverages;  
6 relating to alcohol server education courses; and providing for an effective date."

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

8 \* Section 1. AS 04.11.010(b) is amended to read:

9 (b) Except as provided in this subsection, a [A] person may not solicit or  
10 receive orders for the delivery of an alcoholic beverage in an area that has adopted  
11 a local option under AS 04.11.491. If the area has adopted a local option under  
12 AS 04.11.491(a)(1), (2), or (3), or (b)(1) or (2), a package store licensee outside of  
13 that local option area may receive orders as provided under AS 04.11.150 but may

1 not solicit in that area or receive orders through an agent or employee in that  
2 area. This subsection does not apply to a package store licensee who operates a  
3 package store in an area that has adopted a local option under  
4 AS 04.11.491(a)(2)(C) or (3)(C) or (b)(2)(C) [WHERE THE RESULTS OF A  
5 LOCAL OPTION ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500,  
6 PROHIBITED THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING  
7 ONE OR MORE TYPES OF LICENSES OR PERMITS UNDER THIS TITLE,  
8 UNLESS THE PERSON IS LICENSED UNDER THIS TITLE AND THE ORDER  
9 IS ACTUALLY RECEIVED BY THAT PERSON FROM THE PURCHASER OF  
10 THE ALCOHOLIC BEVERAGE]. A person who violates this subsection is  
11 punishable upon conviction as provided under AS 04.16.200(a) or (b).

12 \* Sec. 2. AS 04.11.010(c) is amended to read:

13 (c) In a criminal prosecution for possession of alcoholic beverages for sale in  
14 violation of (a) of this section, the fact that a person possessed more than 12 liters of  
15 distilled spirits, 24 liters or more of wine, or 12 gallons [45 LITERS] or more of malt  
16 beverages in an area where the sale of alcoholic beverages is restricted or prohibited  
17 under AS 04.11.491 [AS 04.11.490, 04.11.492, 04.11.496, OR 04.11.500] creates a  
18 presumption that the person possessed the alcoholic beverages for sale.

19 \* Sec. 3. AS 04.11.080 is amended to read:

20 Sec. 04.11.080. TYPES OF LICENSES AND PERMITS. Licenses and  
21 permits issued under this title are as follows:

- 22 (1) beverage dispensary license;
- 23 (2) duplicate beverage dispensary license for additional rooms;
- 24 (3) restaurant or eating place license;
- 25 (4) club license;
- 26 (5) bottling works license;
- 27 (6) brewery license;
- 28 (7) package store license;
- 29 (8) general wholesale license;
- 30 (9) wholesale malt beverage and wine license;
- 31 (10) distillery license;

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- (11) common carrier dispensary license;
- (12) retail stock sale license;
- (13) recreational site license;
- (14) [COMMUNITY LIQUOR LICENSE;
- (15)] pub license;
- (15) [(16)] winery license;
- (16) [(17)] caterer's permit;
- (17) [(18)] special events permit;
- (18) [(19)] conditional contractor's permit;
- (19) [(20)] brewpub license.

\* Sec. 4. AS 04.11.100 is amended by adding a new subsection to read:

(f) Notwithstanding the provisions of (b) and (e) of this section, upon written application and approval of the local governing body, the board may issue or reissue a restaurant or eating place license and exempt the licensee from the requirements of (b) and (e) of this section. A licensee exempt as provided in this subsection shall provide food items for sale on the premises as shown on a menu approved by the board and available to patrons. The board may not

(1) issue or reissue a license as provided under this subsection if

(A) the issuance or reissuance would result in more than one exempt restaurant or eating place license for every 10 restaurant or eating place licenses allowed under the provisions of AS 04.11.400(a)(2) or (3);

(B) the premises would be located in a building having a public entrance within 200 feet of the boundary line of a school or a church building in which religious services are being regularly conducted; for purposes of this subparagraph, the 200-foot prohibition is measured from the outer boundary line of the school or the public entrance of the church building by the shortest pedestrian route to the nearest public entrance of the restaurant or eating place;

(2) reissue a restaurant or eating place license as exempt as provided under the provisions of this subsection if the license was issued under the provisions of AS 04.11.400(g); or

1 (3) transfer an exempt license issued under this subsection to another  
2 person.

3 \* Sec. 5. AS 04.11.135(a) is amended to read:

4 (a) A brewpub license authorizes the holder of a beverage dispensary license  
5 to

6 (1) manufacture on premises licensed under the beverage dispensary  
7 license not more than 75,000 [16,000] gallons of beer in a calendar year; and

8 (2) sell beer manufactured on premises licensed under the beverage  
9 dispensary license for consumption only on the licensed premises.

10 \* Sec. 6. AS 04.11.135(b) is amended to read:

11 (b) Except as provided under AS 04.11.360(10) [AS 04.11.360(12)], the  
12 brewpub license is not transferable, shall remain the property of the state, and is not  
13 subject to any form of alienation.

14 \* Sec. 7. AS 04.11.150(a) is repealed and reenacted to read:

15 (a) Except as provided under (g) of this section, a package store license  
16 authorizes the licensee to sell alcoholic beverages to a person present on the licensed  
17 premises or to a person known to the licensee who makes a written solicitation to that  
18 licensee for shipment. A licensee, agent, or employee may only ship alcoholic  
19 beverages to the purchaser. Before commencing the practice of shipping alcoholic  
20 beverages, and with each subsequent application to renew the license, a licensee shall  
21 notify the board in writing of the licensee's intention to ship alcoholic beverages in  
22 response to a written solicitation. The package store licensee, agent, or employee shall  
23 include written information on fetal alcohol syndrome and fetal alcohol effects  
24 resulting from a woman consuming alcohol during pregnancy in a shipment of  
25 alcoholic beverages sold in response to a written solicitation.

26 \* Sec. 8. AS 04.11.150(g) is repealed and reenacted to read:

27 (g) If a shipment is to an area that has restricted the sale of alcoholic  
28 beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), a package store  
29 licensee, agent, or employee may not ship to a purchaser more than 12 liters of  
30 distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages in  
31 a calendar month.

1 \* Sec. 9. AS 04.11.160 is amended by adding new subsections to read:

2 (f) A person who applies for issuance or renewal of a license under this  
3 section shall file, on forms provided by the board, the following information regarding  
4 each product line of alcoholic beverages that the person intends to purchase, offer for  
5 sale, or sell: (1) the supplier of the product line; (2) the full and correct brand names  
6 in the product line; (3) the name of the distiller, brewer, vintner, or importer of the  
7 product line; and (4) a certification by the distiller, brewer, vintner, or importer of the  
8 product line that the person is the primary source of supply for the product line. In  
9 addition to the fees imposed under (a) and (b) of this section, a person filing under this  
10 subsection shall pay a biennial filing fee as follows:

11	1 to 25 suppliers	\$ 500
12	26 to 50 suppliers	\$1,000
13	51 to 75 suppliers	\$1,500
14	over 75 suppliers	\$2,000

15 In this subsection, "distiller, brewer, vintner, or importer" includes an exclusive agent  
16 of the distiller, brewer, vintner, or importer if the agent's name appears on the label of  
17 the brand approved by the Federal Bureau of Alcohol, Tobacco, and Firearms.

18 (g) A person licensed under this section shall notify the board within 10 days  
19 of a change in a primary source of supply designation required under (f) of this  
20 section.

21 \* Sec. 10. AS 04.16 is amended by adding a new section to read:

22 Sec. 04.16.172. RESTRICTIONS ON PURCHASE AND SALE OF  
23 ALCOHOLIC BEVERAGES. A person licensed under AS 04.11.090, 04.11.100,  
24 04.11.110, or 04.11.150 may not purchase, sell, or offer for sale an alcoholic beverage  
25 unless the alcoholic beverage being purchased, sold, or offered for sale was obtained  
26 from a person licensed under

27 (1) AS 04.11.160 as a primary source of supply for the alcoholic  
28 beverage being purchased, sold, or offered for sale; or

29 (2) AS 04.11.130, 04.11.140, or 04.11.170.

30 \* Sec. 11. AS 04.11.270(b) is amended to read:

31 (b) A license shall be renewed as follows:

1 (1) on or before November 1 [OF EACH YEAR], the director shall  
2 mail a renewal application to each licensee whose license, unless renewed, will expire  
3 on December 31 of that year; the application shall be mailed to the licensee at the  
4 licensed premises or at a mailing address furnished by the licensee;

5 (2) the licensee shall submit the completed renewal application and the  
6 biennial license fee to the director before January 1 [ON OR BEFORE  
7 DECEMBER 31];

8 (3) a renewal application filed after December 31 is delinquent and  
9 must be accompanied by a \$500 [\$200] penalty fee;

10 (4) if December 31 falls on a weekend or a state holiday, the deadline  
11 is extended to the first business day following December 31.

12 \* Sec. 12. AS 04.11.320 is amended to read:

13 Sec. 04.11.320. DENIAL OF NEW LICENSES AND PERMITS. (a) An  
14 application requesting issuance of a new license shall be denied if

15 (1) the board finds, after review of all relevant information, that  
16 issuance of the license would not be in the best interests of the public;

17 (2) issuance of the license is prohibited by AS 04.11.390, relating to  
18 residency, or AS 04.11.410, relating to location of premises near churches and schools;

19 (3) the application has not been completed in accordance with  
20 AS 04.11.260;

21 (4) issuance of the license would violate the restrictions pertaining to  
22 the particular license imposed under this title;

23 (5) issuance of the license is prohibited under this title as a result of  
24 an election conducted under AS 04.11.507 [IN ACCORDANCE WITH  
25 AS 04.11.502];

26 (6) the requirements of AS 04.11.420 - 04.11.450 relating to zoning,  
27 ownership and location of the license, and the identity and financing of a licensee have  
28 not been met;

29 (7) [THE LICENSED PREMISES ARE TO BE LOCATED IN A  
30 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT IS A BEVERAGE  
31 DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE OF LICENSE

1 IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A COMMUNITY  
2 LIQUOR LICENSE, UNLESS THE NEW LICENSE IS TO BECOME EFFECTIVE  
3 AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER EFFECTIVE,  
4 WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR  
5 OTHERWISE;

6 (8) THE AUTHORITY SOUGHT IS AUTHORITY TO OPERATE A  
7 BEVERAGE DISPENSARY OR PACKAGE STORE UNDER A COMMUNITY  
8 LIQUOR LICENSE FOR PREMISES TO BE LOCATED IN A MUNICIPALITY  
9 WHERE THE AUTHORITY SOUGHT IS ALREADY HELD BY A PRIVATE  
10 LICENSEE UNDER A BEVERAGE DISPENSARY OR PACKAGE STORE  
11 LICENSE, UNLESS THE COMMUNITY LIQUOR LICENSE IS TO BECOME  
12 EFFECTIVE AFTER THE PRIVATELY HELD LICENSE IS NO LONGER  
13 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR  
14 OTHERWISE;

15 (9) issuance of the license is prohibited under AS 04.11.400(a) or  
16 prohibition of issuance of the license is found necessary under AS 04.11.400(b);

17 ~~(8)~~ [(10)] the application contains false statements of material fact;

18 ~~(9)~~ [(11)] the license is sought for the sale of alcoholic beverages in a  
19 first or second class city where [IN WHICH] there are no licensed premises at the  
20 time of application unless a majority of the voters have voted not to approve [IN] a  
21 local option to restrict or prohibit the sale of alcoholic beverages under  
22 AS 04.11.491, have voted to approve a local option to allow the type of premises  
23 under AS 04.11.491(a)(2) or (3), or have voted to remove a restriction or  
24 prohibition on the sale of alcoholic beverages under AS 04.11.495 [ELECTION  
25 CONDUCTED IN ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON  
26 THE QUESTION SET OUT IN AS 04.11.490, OR HAVE VOTED "YES" ON A  
27 QUESTION SET OUT IN AS 04.11.492 OR 04.11.500]; or

28 ~~(10)~~ [(12)] the license is sought for the sale of alcoholic beverages in  
29 an established village where [IN WHICH] there are no licensed premises at the time  
30 of application unless a majority of the voters have voted not to approve [IN] a local  
31 option to restrict or prohibit the sale of alcoholic beverages under AS 04.11.491,

1 have voted to approve a local option to allow the type of premises under  
2 AS 04.11.491(b)(2), or have voted to remove a restriction or prohibition on the  
3 sale of alcoholic beverages under AS 04.11.495 [ELECTION CONDUCTED IN  
4 ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON THE QUESTION  
5 SET OUT IN AS 04.11.490 OR HAVE VOTED "YES" ON THE QUESTION SET  
6 OUT IN AS 04.11.500].

7 (b) An application requesting issuance of a new permit shall be denied if

8 (1) the board finds, after review of all relevant information, that  
9 issuance of the permit would not be in the best interests of the public;

10 (2) the board finds that any of the statements made in the application  
11 are untrue;

12 (3) the application has not been completed in accordance with  
13 AS 04.11.260; or

14 (4) the permit is sought for the sale of alcoholic beverages in a first or  
15 second class city or established village where [IN WHICH] there are no licensed  
16 premises at the time of application unless a majority of the voters have voted not to  
17 approve [IN] a local option to restrict or prohibit the sale of alcoholic beverages  
18 under AS 04.11.491, have voted to approve a local option to allow the type of  
19 permit under AS 04.11.491(a)(2) or (b)(2), or have voted to remove a restriction  
20 or prohibition on the sale of alcoholic beverages under AS 04.11.495 [ELECTION  
21 CONDUCTED IN ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON  
22 THE QUESTION SET OUT IN AS 04.11.490].

23 \* Sec. 13. AS 04.11.330(a) is amended to read:

24 (a) An application requesting renewal of a license shall be denied if

25 (1) the board finds, after review of all relevant information, that  
26 renewal of the license would not be in the best interests of the public;

27 (2) the license has been revoked for any cause;

28 (3) the applicant has not operated the licensed premises for at least 30  
29 eight-hour days during each of the two preceding calendar years, unless the board  
30 determines that the licensed premises are under construction or cannot be operated  
31 through no fault of the applicant;

1 (4) the board finds that issuance of an existing license under  
2 AS 04.11.400(d) has not encouraged tourist trade;

3 (5) the requirements of AS 04.11.420 - 04.11.450 relating to zoning,  
4 ownership of the license, and financing of the licensee have not been met;

5 (6) renewal of the license would violate the restrictions pertaining to  
6 the particular license under this title or the license has been operated in violation of  
7 a condition or restriction imposed by the board;

8 (7) renewal of the license is prohibited under this title as a result of an  
9 election conducted under AS 04.11.507 [IN ACCORDANCE WITH AS 04.11.502];

10 (8) the application has not been completed in accordance with  
11 AS 04.11.270; or

12 (9) the license was issued under AS 04.11.400(g), and the board finds  
13 that the public convenience does not require renewal.

14 \* Sec. 14. AS 04.11.340 is amended to read:

15 Sec. 04.11.340. DENIAL OF REQUEST FOR RELOCATION. An application  
16 requesting approval for the relocation of licensed premises shall be denied if

17 (1) the board finds, after review of all relevant information, that  
18 relocation of the license would not be in the best interests of the public;

19 (2) the relocation is prohibited under AS 04.11.400(a) or (b);

20 (3) the license would be relocated out of the established village,  
21 incorporated city, unified municipality, or population area established under  
22 AS 04.11.400(a) within which it is located;

23 (4) transfer of ownership is to be made concurrently with the relocation  
24 of the licensed premises and a ground for denial of the transfer of ownership under  
25 AS 04.11.360 is presented;

26 (5) the application has not been completed in accordance with  
27 AS 04.11.290;

28 (6) relocation of the license would result in violation of a local zoning  
29 law;

30 (7) relocation of the license would violate the restrictions pertaining to  
31 the particular license imposed by this title;

1 (8) relocation of the license is prohibited under this title as a result of  
2 an election conducted under AS 04.11.507 [IN ACCORDANCE WITH  
3 AS 04.11.502]; or

4 (9) [THE LICENSED PREMISES ARE TO BE LOCATED IN A  
5 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT TO BE RELOCATED IS A  
6 BEVERAGE DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE  
7 OF LICENSE IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A  
8 COMMUNITY LIQUOR LICENSE, UNLESS THE RELOCATION IS TO BECOME  
9 EFFECTIVE AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER  
10 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR  
11 OTHERWISE;

12 (10)] the license was issued under AS 04.11.400(d), (e), or (g).

13 \* Sec. 15. AS 04.11.360 is amended to read:

14 Sec. 04.11.360. DENIAL OF TRANSFER OF A LICENSE TO ANOTHER  
15 PERSON. An application requesting approval of a transfer of a license to another  
16 person under this title shall be denied if

17 (1) the board finds, after review of all relevant information, that transfer  
18 of a license to another person would not be in the best interests of the public;

19 (2) the application has not been completed in accordance with  
20 AS 04.11.280;

21 (3) the application contains false statements of material fact;

22 (4) the transferor has not paid all debts or taxes arising from the  
23 conduct of the business licensed under this title unless

24 (A) the transferor gives security for the payment of the debts  
25 or taxes satisfactory to the creditor or taxing authority; or

26 (B) the transfer is pursuant to a promise given as collateral by  
27 the transferor to the transferee in the course of an earlier transfer of the license  
28 under which promise the transferor is obliged to transfer the license back to the  
29 transferee in the event of default in payment for property conveyed as part of  
30 the earlier transfer of the license;

31 (5) transfer of the license to another person would result in violation

1 of the provisions of this title relating to identity of licensees and financing of licensees;

2 (6) transfer of the license to another person would violate the  
3 restrictions pertaining to the particular license under this title;

4 (7) transfer of the license to another person is prohibited under the  
5 provisions of this title as a result of an election conducted under AS 04.11.507 [IN  
6 ACCORDANCE WITH AS 04.11.502];

7 (8) the prospective transferee does not have the qualifications required  
8 under this title of an original applicant;

9 (9) [THE LICENSED PREMISES ARE LOCATED IN A  
10 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT TO BE TRANSFERRED IS  
11 A BEVERAGE DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE  
12 OF LICENSE IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A  
13 COMMUNITY LIQUOR LICENSE, UNLESS THE TRANSFER IS TO BECOME  
14 EFFECTIVE AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER  
15 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR  
16 OTHERWISE;

17 (10) THE AUTHORITY SOUGHT IS AUTHORITY TO OPERATE  
18 A BEVERAGE DISPENSARY OR PACKAGE STORE UNDER A COMMUNITY  
19 LIQUOR LICENSE FOR PREMISES TO BE LOCATED IN A MUNICIPALITY  
20 WHERE THE AUTHORITY SOUGHT IS ALREADY HELD BY A PRIVATE  
21 LICENSEE UNDER A BEVERAGE DISPENSARY OR PACKAGE STORE  
22 LICENSE, UNLESS THE TRANSFER IS TO BECOME EFFECTIVE AFTER THE  
23 PRIVATELY HELD LICENSE IS NO LONGER EFFECTIVE, WHETHER AS THE  
24 RESULT OF A LOCAL OPTION ELECTION OR OTHERWISE;

25 (11)] the license was issued under AS 04.11.100(f) or 04.11.400(g); or  
26 (10) [AS 04.11.400(g);

27 (12)] the license was issued under AS 04.11.135, unless the transferor  
28 is also applying to transfer the beverage dispensary license required under  
29 AS 04.11.135 to the same transferee.

30 \* Sec. 16. AS 04.11.370 is amended to read:

31 Sec. 04.11.370. SUSPENSION AND REVOCATION OF LICENSES AND

1 PERMITS. A license or permit shall be suspended or revoked if the board finds  
2 [THAT ONE OR MORE OF THE FOLLOWING GROUNDS EXISTS:]

3 (1) misrepresentation of a material fact on an application made under  
4 this title or a regulation adopted under this title [FOR A LICENSE OR PERMIT];

5 (2) continuation of the manufacture, sale, or service of alcoholic  
6 beverages by the licensee or permittee [ACTIVITIES AUTHORIZED UNDER A  
7 LICENSE OR PERMIT] would be contrary to the best interests of the public;

8 (3) failure on the part of the licensee to correct a defect [DEFECTS]  
9 that constitutes a violation [CONSTITUTE VIOLATIONS] of this title, a condition  
10 or restriction imposed by the board, a regulation [REGULATIONS] adopted under  
11 this title, or other laws [WITHIN A PRESCRIBED TIME] after receipt of notice  
12 issued by the board or its agent;

13 (4) conviction of a licensee of a violation of [A PROVISION OF] this  
14 title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010;

15 (5) conviction of an [THE] agent or employee of a licensee of a  
16 violation of this title, a regulation adopted under this title, or an ordinance adopted  
17 under AS 04.21.010, if the licensee is found by the board to have either knowingly  
18 allowed the violation or to have recklessly or with criminal negligence failed to act in  
19 accordance with the duty prescribed under AS 04.21.030 with the result that the [AN]  
20 agent or employee violates a law, regulation, or ordinance;

21 (6) failure of the licensee to comply with the public health, fire, or  
22 safety laws and regulations [PERTAINING TO PUBLIC HEALTH] in the state;

23 (7) use of the licensed premises as a resort for illegal possessors or  
24 users of narcotics, prostitutes, or promoters of prostitution; in addition to any other  
25 legally competent evidence, the character of the premises may be proved by the  
26 general reputation of the premises in the community as a resort for illegal possessors  
27 or users of narcotics, prostitutes, or promoters of prostitution;

28 (8) occurrence of illegal gambling within the limits of the licensed  
29 premises;

30 (9) the licensee permitted a [PERMITTING ANY] public offense  
31 involving moral turpitude to occur on the licensed premises;

1 (10) violation by a licensee of this title, a condition or restriction  
2 imposed by the board, a regulation adopted under this title, or an ordinance adopted  
3 under AS 04.21.010; or

4 (11) violation by an agent or employee of a licensee of a provision of  
5 this title, a condition or restriction imposed by the board, a regulation adopted  
6 under this title, or an ordinance adopted under AS 04.21.010, if the licensee is found  
7 by the board to have either knowingly allowed the violation or to have recklessly or  
8 with criminal negligence failed to act in accordance with the duty prescribed under  
9 AS 04.21.030 with the result that the agent or employee violates the law, condition  
10 or restriction, regulation, or ordinance.

11 \* Sec. 17. AS 04.11.370 is amended by adding new subsections to read:

12 (b) If the board finds that a licensee or permittee has been convicted of a  
13 violation of a criminal law related to gambling under AS 11.66.200 - 11.66.280, the  
14 board shall suspend the license or permit for a period of at least six months if the  
15 offense is the person's first conviction or violation and shall revoke the license or  
16 permit if the offense is the person's second or subsequent conviction or violation.

17 (c) If the board receives notice from the Department of Revenue that a licensee  
18 or permittee has violated a provision of AS 05.15 related to gambling, the board

19 (1) may suspend the license or permit; and

20 (2) shall suspend the license or permit for a period of at least 30 days  
21 if the offense is the person's second or subsequent violation of AS 05.15 related to  
22 gambling.

23 \* Sec. 18. AS 04.11 is amended by adding a new section to read:

24 Sec. 04.11.395. BOARD IMPOSED CONDITIONS OR RESTRICTIONS.

25 The board may, in the best interests of the public, impose conditions or restrictions on  
26 a license or permit issued under this chapter.

27 \* Sec. 19. AS 04.11.400(a) is amended to read:

28 (a) Except as provided in (d) - (h) of this section, a new license may not be  
29 issued and the board may prohibit relocation of an existing license

30 (1) outside an established village, incorporated city, unified  
31 municipality, or organized borough if after the issuance or relocation there would be

1 (A) more than one restaurant or eating place license for each 1,500 population or  
2 fraction of that [1,500] population, or (B) more than one license of each other type,  
3 including licenses that have been issued under (d) or (e) of this section, for each 3,000  
4 population or fraction of that [3,000] population, in a radius of five miles of the  
5 licensed premises [OR LOCATION OF PREMISES SOUGHT TO BE LICENSED],  
6 excluding the populations of established villages, incorporated cities, unified  
7 municipalities, and organized boroughs that are wholly or partly included within the  
8 radius;

9 (2) inside an established village, incorporated city, or unified  
10 municipality if after the issuance or relocation there would be inside the established  
11 village, incorporated city, or unified municipality

12 (A) more than one restaurant or eating place license for each  
13 1,500 population or fraction of that [1,500] population; or

14 (B) more than one license of each other type, including licenses  
15 that have been issued under (d) or (e) of this section, for each 3,000 population  
16 or fraction of that [3,000] population [INSIDE THE ESTABLISHED  
17 VILLAGE, INCORPORATED CITY, OR UNIFIED MUNICIPALITY];

18 (3) inside an organized borough but outside an established village or  
19 incorporated city located within the borough, if after the issuance or relocation there  
20 would be inside the borough, but outside the established villages and incorporated  
21 cities located within the borough,

22 (A) more than one restaurant or eating place license for each  
23 1,500 population or fraction of that [1,500] population; or

24 (B) more than one license of each other type, including licenses  
25 that have been issued under (d) or (e) of this section, for each 3,000 population  
26 or fraction of that [3,000] population [INSIDE THE BOROUGH,] excluding  
27 the population of those established villages that have adopted a local option  
28 under AS 04.11.491(b)(1), (3), or (4) [CONDUCTED AN ELECTION ON A  
29 QUESTION SET OUT IN AS 04.11.490, 04.11.496, OR 04.11.500], and  
30 excluding the population of incorporated cities located within the organized  
31 borough.

1 \* Sec. 20. AS 04.11.480(a) is amended to read:

2 (a) A [IF A] local governing body may [WISHES TO] protest the issuance,  
3 renewal, relocation, [TRANSFER OF LOCATION,] or transfer to another person of  
4 a license by sending [, IT SHALL FURNISH] the board and the applicant [WITH] a  
5 protest and the reasons for the protest within 60 [30] days of receipt from the board  
6 of notice of filing of the application. A protest received after the 60-day period  
7 may not be accepted by the board, and in no event may a protest cause the board  
8 to reconsider an approved renewal, relocation, or transfer. The local governing  
9 body may protest the continued operation of a license during the second year of  
10 the biennial license period by sending the board and the licensee a protest and the  
11 reasons for the protest by January 31 of the second year of the license. The  
12 procedures for action on a protest of continued operation of a license are the  
13 same as the procedures for action on a protest of a renewal application. The  
14 board shall consider a protest and testimony received at a hearing conducted under  
15 AS 04.11.510(b)(2) or (4) when it considers the application or continued operation,  
16 and the protest and the record of the hearing conducted under AS 04.11.510(b)(2) or  
17 (4) shall be kept [RETAINED] as part of the board's permanent record of its review  
18 [OF THE APPLICATION]. If an application or continued operation is protested, the  
19 board shall deny [MAY NOT APPROVE] the application or continued operation  
20 unless the board finds that the protest is arbitrary, capricious, and unreasonable.

21 \* Sec. 21. AS 04.11 is amended by adding a new section to read:

22 Sec. 04.11.491. LOCAL OPTIONS. (a) If a majority of the persons voting  
23 on the question vote to approve the option, a municipality shall adopt a local option  
24 to prohibit

- 25 (1) the sale of alcoholic beverages;
- 26 (2) the sale of alcoholic beverages except by one or more of the  
27 following listed on the ballot:
- 28 (A) a restaurant or eating place licensee;
- 29 (B) a beverage dispensary licensee;
- 30 (C) a package store licensee; or
- 31 (D) a caterer holding a permit under AS 04.11.230 to sell

1 alcoholic beverages at a site within the municipality who is also licensed under  
2 a beverage dispensary license for premises outside of the municipality;

3 (3) the sale of alcoholic beverages except on premises operated by the  
4 municipality and under a type of licensed premises listed on the ballot, that may  
5 include one or more of the following:

6 (A) a restaurant or eating place license;

7 (B) a beverage dispensary license; or

8 (C) a package store license;

9 (4) the sale and importation of alcoholic beverages; or

10 (5) the sale, importation, and possession of alcoholic beverages.

11 (b) If a majority of the persons voting on the question vote to approve the  
12 option, an established village shall exercise a local option to prohibit

13 (1) the sale of alcoholic beverages;

14 (2) the sale of alcoholic beverages except by one or more of the  
15 following listed on the ballot:

16 (A) a restaurant or eating place licensee;

17 (B) a beverage dispensary licensee;

18 (C) a package store licensee; or

19 (D) a caterer holding a permit under AS 04.11.230 to sell  
20 alcoholic beverages at a site within the established village who is also licensed  
21 under a beverage dispensary license for premises outside of the established  
22 village;

23 (3) the sale and importation of alcoholic beverages; or

24 (4) the sale, importation, and possession of alcoholic beverages.

25 (c) A ballot question to adopt a local option under this section must at least  
26 contain language substantially similar to: "Shall (name of municipality or village)  
27 adopt a local option to prohibit (local option under (a) or (b) of this section)? (yes or  
28 no)."

29 (d) The ballot for an election on the option set out in (a)(2)(A), (a)(3)(A), or  
30 (b)(2)(A) of this section must include a summary explanation of the authority to sell  
31 alcoholic beverages given to a restaurant or eating place under AS 04.11.100(a). The

1 ballot for an election on the option set out in (a)(2)(B) or (D), (a)(3)(B), or (b)(2)(B)  
2 or (D) of this section must include a statement that a beverage dispensary license is  
3 commonly known as a "bar" and a summary explanation of the authority to sell  
4 alcoholic beverages given to a beverage dispensary licensee under AS 04.11.090(a).  
5 The ballot for an election on the option set out in (a)(2)(C), (a)(3)(C), or (b)(2)(C) of  
6 this section must include a statement that a package store license is commonly known  
7 as a "liquor store" and a summary explanation of the authority to sell alcoholic  
8 beverages given to a package store licensee under AS 04.11.150(a).

9 (e) If a municipality dissolves under AS 29.06.450(a) or (b), a local option  
10 adopted by the municipality under (a) of this section shall continue in effect as the  
11 corresponding local option under (b) of this section for an established village having  
12 the same perimeter as the previous boundaries of the municipality. A license for  
13 premises operated by the municipality under AS 04.11.505 expires when the  
14 municipality dissolves.

15 (f) A municipality or established village that has adopted a local option under  
16 (a)(1), (2), or (3) or (b)(1) or (2) of this section may designate a site for the delivery  
17 of alcoholic beverages to individuals in the area or a site for a person to bring  
18 alcoholic beverages if the alcoholic beverages are imported into the area. This  
19 subsection does not apply to the delivery or importation of

20 (1) one liter or less of distilled spirits, two liters or less of wine, or one  
21 gallon or less of malt beverages; or

22 (2) alcoholic beverages to a premises licensed under (a)(2) - (3) or  
23 (b)(2) of this section.

24 \* Sec. 22. AS 04.11 is amended by adding new sections to read:

25 Sec. 04.11.493. CHANGE OF LOCAL OPTION. (a) If a majority of persons  
26 voting on the question vote to approve a different local option, a municipality or  
27 established village shall change a local option previously adopted under AS 04.11.491  
28 to the different approved option.

29 (b) A ballot question to change a local option under this section must at least  
30 contain language substantially similar to: "Shall (name of municipality or village)  
31 change the local option currently in effect, that prohibits (current local option under

1 AS 04.11.491), and adopt in its place a local option to prohibit (proposed local option  
2 under AS 04.11.491)? (yes or no)."

3 Sec. 04.11.495. REMOVAL OF LOCAL OPTION. (a) If a majority of the  
4 persons voting on the question vote to remove the option, a municipality or established  
5 village shall remove a local option previously adopted under AS 04.11.491. The  
6 option is repealed effective the first day of the month following certification of the  
7 results of the election.

8 (b) A ballot question to remove a local option under this section must at least  
9 contain language substantially similar to: "Shall (name of municipality or village)  
10 remove the local option currently in effect, that prohibits (current local option under  
11 AS 04.11.491), so that there is no longer any local option in effect? (yes or no)."

12 (c) When issuing a license in the area that has removed a local option, the  
13 board shall give priority to an applicant who was formerly licensed and whose license  
14 was not renewed because of the results of the previous local option election. However,  
15 an applicant described in this subsection does not have a legal right to a license and  
16 the board is not required to approve the application.

17 \* Sec. 23. AS 04.11 is amended by adding a new section to read:

18 Sec. 04.11.497. EFFECT ON LICENSES OF PROHIBITION OF SALE. If  
19 a majority of voters vote to prohibit the sale of alcoholic beverages under  
20 AS 04.11.491(a)(1), (a)(4) or (5), (b)(1), or (b)(3) or (4), the board may not issue,  
21 renew, or transfer, between persons or locations, a license for premises located within  
22 the boundaries of the municipality and in unincorporated areas within five miles of the  
23 boundaries of the municipality or within the perimeter of the established village. A  
24 license that may not be renewed because of a local option election held under this  
25 section is void 90 days after the results of the election are certified. A license that  
26 expires during the 90 days after the results of a local option election are certified may  
27 be extended, until it is void under this section, by payment of a prorated portion of the  
28 biennial license fee.

29 \* Sec. 24. AS 04.11 is amended by adding a new section to read:

30 Sec. 04.11.499. PROHIBITION OF IMPORTATION AFTER ELECTION. If  
31 a majority of the voters vote to prohibit the importation of alcoholic beverages under

1 AS 04.11.491(a)(4) or (5) or (b)(3) or (4), a person, beginning on the first day of the  
2 month following certification of the results of the election, may not knowingly send,  
3 transport, or bring an alcoholic beverage into the municipality or established village,  
4 unless the alcoholic beverage is sacramental wine to be used for bona fide religious  
5 purposes based on tenets or teachings of a church or religious body, is limited in  
6 quantity to the amount necessary for religious purposes, and is dispensed only for  
7 religious purposes by a person authorized by the church or religious body to dispense  
8 the sacramental wine.

9 \* Sec. 25. AS 04.11 is amended by adding a new section to read:

10 Sec. 04.11.501. PROHIBITION OF POSSESSION AFTER ELECTION. (a)

11 If a majority of the voters vote to prohibit the possession of alcoholic beverages under  
12 AS 04.11.491(a)(5) or (b)(4), a person may not knowingly possess an alcoholic  
13 beverage in the municipality or established village, unless the alcoholic beverage is  
14 sacramental wine to be used for bona fide religious purposes based on tenets or  
15 teachings of a church or religious body, is limited in quantity to the amount necessary  
16 for religious purposes, and is dispensed only for religious purposes, by a person  
17 recognized by the church or religious body as authorized to dispense the wine.

18 (b) If there are licensed premises within the municipality or established village,  
19 the prohibition on possession is effective beginning 90 days after the results of the  
20 election are certified. If there are no licensed premises within the municipality or  
21 established village, the prohibition on possession is effective beginning 60 days after  
22 the results of the election are certified.

23 (c) Upon the adoption by a municipality of a local option under  
24 AS 04.11.491(a)(5), an ordinance is adopted containing the provisions of this section.

25 (d) In this section, "possession" means having physical possession of or  
26 exercising dominion or control over an alcoholic beverage, but does not include having  
27 an alcoholic beverage within the digestive system of a person.

28 \* Sec. 26. AS 04.11 is amended by adding a new section to read:

29 Sec. 04.11.503. EFFECT ON LICENSES OF RESTRICTION ON SALE. If  
30 a majority of the voters vote under AS 04.11.491(a)(2) or (b)(2) to prohibit sale of  
31 alcoholic beverages except by the type or types of licensees or permit holders listed

1 on the ballot, the board may not issue, renew, or transfer between persons or locations  
2 a license for premises located within the boundaries of the municipality and in  
3 unincorporated areas within five miles of the boundaries of the municipality or within  
4 the perimeter of the established village, except the type or types of licenses listed on  
5 the ballot. A license in effect within the boundaries of the municipality or perimeter  
6 of the established village, and in unincorporated areas within five miles of the  
7 boundaries of the municipality, except the type of license listed on the ballot, is void  
8 90 days after the results of the election are certified. A license that expires during the  
9 90 days after the results of a local option election are certified may be extended, until  
10 it is void under this section, by payment of a prorated portion of the biennial license  
11 fee.

12 \* Sec. 27. AS 04.11 is amended by adding a new section to read:

13 Sec. 04.11.505. LICENSING AFTER PROHIBITION ON SALE EXCEPT IN  
14 PREMISES OPERATED BY MUNICIPALITY. (a) If a majority of the voters vote  
15 under AS 04.11.491(a)(3) to prohibit the sale of alcoholic beverages except on  
16 premises operated by the municipality, the board may not issue, renew, or transfer  
17 between persons or locations a license for premises located within the boundaries of  
18 a municipality and in unincorporated areas within five miles of the boundaries of the  
19 municipality, with the exception of the type of license listed on the ballot and operated  
20 under a license held by the municipality. A license in effect is void 90 days after the  
21 results of the election are certified. A license that expires during the 90 days after the  
22 results of a local option election are certified may be extended, until it is void under  
23 this subsection, by payment of a prorated portion of the biennial license fee.

24 (b) The local governing body of a municipality shall apply for a license to  
25 operate the type of licensed premises listed on the ballot under AS 04.11.491(a)(3) and  
26 approved by a majority of the voters. The municipality shall operate the premises  
27 subject to the conditions and fees applicable to the type of license. Nothing in this  
28 section precludes a municipality from applying to be a licensee under other provisions  
29 of this title.

30 \* Sec. 28. AS 04.11 is amended by adding new sections to read:

31 Sec. 04.11.507. PROCEDURE FOR LOCAL OPTION ELECTIONS. (a)

1 Elections to adopt a local option under AS 04.11.491, change a local option under  
2 AS 04.11.493, or remove a local option under AS 04.11.495, shall be conducted as  
3 required in this section.

4 (b) Upon receipt of a petition of a number of registered voters equal to 35  
5 percent or more of the number of votes cast at the last regular municipal election, the  
6 local governing body of a municipality shall place upon a separate ballot at the next  
7 regular election, or at a special election, whichever local option, change in local option,  
8 or removal of local option constitutes the subject of the petition. The local governing  
9 body shall conduct the election under the election ordinance of the municipality.

10 (c) Upon receipt of a petition of 35 percent or more of the registered voters  
11 residing within an established village, the lieutenant governor shall place upon a  
12 separate ballot at a special election the local option, change in local option, or removal  
13 of local option that constitutes the subject of the petition. The lieutenant governor  
14 shall conduct the election under AS 15.

15 (d) A petition filed with the local governing body of a municipality under (b)  
16 of this section, that places on the ballot the option set out in AS 04.11.491(a)(5),  
17 constitutes a proposed ordinance of the municipality.

18 (e) AS 29.26.110 - 29.26.160 apply to a petition under (b) of this section in  
19 a general law municipality except the

20 (1) number of required signatures is determined under (b) of this  
21 section rather than under AS 29.26.130;

22 (2) application filed under AS 29.26.110 must at least contain language  
23 substantially similar to the questions set out under AS 04.11.491 - 04.11.495 rather  
24 than containing an ordinance or resolution;

25 (3) petition must at least contain language substantially similar to the  
26 questions set out under AS 04.11.491 - 04.11.495 rather than material required under  
27 AS 29.26.120(a)(1) and (2).

28 (f) Notwithstanding any other provisions of law, an election under (b) or (c)  
29 of this section to remove a local option or to change to a less restrictive option than  
30 the local option previously adopted under AS 04.11.491 may not be conducted during  
31 the first 12 months after the local option was adopted or more than once in an

1 18-month period.

2 (g) Notwithstanding AS 29.26.140(a), after a petition has been certified as  
3 sufficient to meet the requirements of (b) or (c) of this section, another petition may  
4 not be filed or certified until after the question presented in the first petition has been  
5 voted on. Only one local option question may be presented in an election.

6 Sec. 04.11.509. NOTICE OF THE RESULTS OF A LOCAL OPTION  
7 ELECTION. (a) If a majority of the voters vote to prohibit, change, or remove a  
8 local option under AS 04.11.491 - 04.11.495, the clerk of the municipality, or, if the  
9 election is in an established village, the lieutenant governor shall notify the board of  
10 the results of the election immediately after the results are certified. The board shall  
11 immediately notify the Department of Law and the Department of Public Safety of the  
12 results of the election.

13 (b) If a majority of the voters vote to prohibit the importation or possession  
14 of alcoholic beverages under AS 04.11.491(a)(4) or (5) or (b)(3) or (4), the following  
15 actions in addition to those prescribed in (a) of this section shall be taken before the  
16 date the prohibition becomes effective:

17 (1) the board shall notify, by certified mail, all package store licensees  
18 who sell alcoholic beverages in response to a written solicitation of the local option;  
19 and

20 (2) the municipality or established village shall post public notice of  
21 the prohibition in a central location in the municipality or village.

22 \* Sec. 29. AS 04.11.540 is amended to read:

23 Sec. 04.11.540. LICENSE RENEWAL AND EXPIRATION. Notwithstanding  
24 AS 04.11.680, an application for renewal of a license issued for the two calendar years  
25 [YEAR] ending December 31 or of a seasonal license issued for parts of those  
26 calendar years [A SIX-MONTH PERIOD ENDING IN THE PREVIOUS YEAR] may  
27 be submitted up until the next February 28 [, BUT THE AUTHORITY GRANTED  
28 UNDER THE LICENSE MAY NOT BE EXERCISED UNTIL THE LICENSE IS  
29 RENEWED]. If a complete [THE] application for renewal has [AND APPLICABLE  
30 AFFIDAVITS HAVE] not been filed by February 28 or the required fees and the  
31 penalty fees have not been paid by that date, the license expires at 12:00 midnight

1 February 28. A new license may not be issued to the holder of an expired license for  
2 the same premises except on proof satisfactory to the board of good cause for the  
3 failure to file and pay.

4 \* Sec. 30. AS 04.11.680(a) is amended to read:

5 (a) Upon application and payment of one-half [ONE-QUARTER] of the  
6 biennial fee, the board may issue a seasonal license under this title that is [WILL BE]  
7 effective for the intervals stated on the license. A seasonal license may not be  
8 effective for more than 12 months in a two-year period [A CONTINUOUS SIX-  
9 MONTH PERIOD]. Otherwise, all licenses issued under this title other than a retail  
10 stock sale license are effective for the two calendar years ending December 31, unless  
11 a shorter period is prescribed by the board or by law.

12 \* Sec. 31. AS 04.16 is amended by adding a new section to read:

13 Sec. 04.16.025. ILLEGAL PRESENCE ON PREMISES INVOLVING  
14 ALCOHOLIC BEVERAGES. (a) A person may not knowingly enter or remain on  
15 premises

16 (1) in which alcoholic beverages are manufactured, sold, offered for  
17 sale, possessed for sale or barter, trafficked in, or bartered in violation of

18 (A) AS 04.11.010; or

19 (B) a municipal ordinance adopted under AS 04.21.010(a) or

20 (b); or

21 (2) licensed under this title during hours in which the person's presence  
22 on the premises is a violation of a municipal ordinance adopted under authority of  
23 AS 04.16.010(d) providing for hours of closure that are outside the hours of closure  
24 prescribed by AS 04.16.010(c).

25 (b) A person who violates this section is guilty of a violation.

26 \* Sec. 32. AS 04.16.110 is repealed and reenacted to read:

27 Sec. 04.16.110. SALE OF CERTAIN ALCOHOLIC BEVERAGES  
28 PROHIBITED. A person may not sell an alcoholic beverage if it

29 (1) is intended for human consumption and is in powdered form; or

30 (2) contains more than 76 percent alcohol by volume.

31 \* Sec. 33. AS 04.16.125(a) is amended to read:

1 (a) A person may not use a common carrier to transport alcoholic beverages  
2 into an area that has restricted the sale of alcoholic beverages under  
3 AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) [AS 04.11.490, 04.11.492, OR  
4 04.11.500] unless

5 (1) the shipping container holding the alcoholic beverages is clearly  
6 labeled as containing alcoholic beverages with letters that contrast in color to the  
7 shipping container and that are at least two inches in height; and

8 (2) an itemized invoice showing the quantity and purchase value of  
9 distilled spirits, of wine, and of malt [THE ALCOHOLIC] beverages is attached to  
10 the outside of the shipping container.

11 \* Sec. 34. AS 04.16.125(b) is amended to read:

12 (b) This section does not apply to

13 (1) a person transporting not more than

14 (A) two liters of wine;

15 (B) one gallon of [OR] malt beverages; [,] or

16 (C) [NOT MORE THAN] one liter of distilled spirits; or

17 (2) the transportation of alcoholic beverages for use on premises  
18 allowed under AS 04.11.491(a)(2) - (3) or (b)(2) or for use under a permit allowed  
19 under AS 04.11.491(a)(2).

20 \* Sec. 35. AS 04.16.180(a) is amended to read:

21 (a) Except as provided in AS 04.11.015, AS 04.16.025, 04.16.051  
22 [AS 04.16.051], 04.16.200 - 04.16.210, and AS 04.21.065, a person who violates a  
23 provision of this title or a regulation adopted by the board is guilty, upon conviction,  
24 of a class A misdemeanor. Each violation is a separate offense.

25 \* Sec. 36. AS 04.16.200(b) is amended to read:

26 (b) A person who violates AS 04.11.010 in an area that has adopted  
27 [WHERE THE RESULTS OF] a local option under AS 04.11.491 [ELECTION  
28 HAVE, UNDER AS 04.11.490 - 04.11.500, PROHIBITED THE BOARD FROM  
29 ISSUING, RENEWING, OR TRANSFERRING ONE OR MORE TYPES OF  
30 LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA] is, upon conviction,  
31 guilty of a class C felony.

1 \* Sec. 37. AS 04.16.200(e) is amended to read:

2 (e) A person who sends, transports, or brings alcoholic beverages into a  
3 municipality or established village in violation of AS 04.11.499 [AS 04.11.496] is,  
4 upon conviction,

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

8 (2) guilty of a class C felony if the quantity imported is 12 liters or  
9 more of distilled spirits, 24 liters or more of wine, or 12 gallons [45 LITERS] or more  
10 of malt beverages.

11 \* Sec. 38. AS 04.16.205(a) is amended to read:

12 (a) A person who possesses alcoholic beverages in a municipality or  
13 established village in violation of AS 04.11.501 [AS 04.11.498] or an ordinance  
14 adopted under AS 04.11.501 [AS 04.11.498] may, upon conviction, be punished by a  
15 fine not to exceed \$1,000 and shall forfeit the seized alcoholic beverages. When a  
16 peace officer stops or contacts a person concerning a violation of AS 04.11.501  
17 [AS 04.11.498] or an ordinance adopted [ENACTED] under AS 04.11.501  
18 [AS 04.11.498], the peace officer shall seize the alcoholic beverages and may [, IN  
19 THE OFFICER'S DISCRETION,] issue a citation to the person as provided in  
20 AS 12.25.180.

21 \* Sec. 39. AS 04.16.205(b) is amended to read:

22 (b) A person cited for a violation of AS 04.11.501 [AS 04.11.498] or an  
23 ordinance adopted under AS 04.11.501 [AS 04.11.498] for which a bail amount has  
24 been established under (c) of this section may, within 30 days after the date the  
25 citation is issued,

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

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

1 \* Sec. 40. AS 04.16.205(c) is amended to read:

2 (c) The supreme court shall establish by rule or order a schedule of bail  
3 amounts that may be forfeited without a court appearance for a violation of  
4 AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501  
5 [AS 04.11.498]. In establishing the bail schedule the supreme court may consider the  
6 quantity of alcoholic beverages possessed and the number of prior violations of the  
7 person cited. Before establishing or amending the schedule of bail amounts required  
8 by this subsection, the supreme court shall appoint and consult with an advisory  
9 committee consisting of the following seven persons: one superior court judge, one  
10 magistrate from each judicial district in the state, a representative of the Department  
11 of Law, and a representative of the Public Defender Agency. The maximum bail  
12 amount may not exceed \$1,000, and the issuing officer shall write on the citation the  
13 amount of bail applicable to the violation.

14 \* Sec. 41. AS 04.16.205(d) is amended to read:

15 (d) Community work shall be performed at the direction of the local governing  
16 body of the municipality or the local governing body of the established village. In the  
17 absence of a local governing body for an established village, community work  
18 shall be performed at the direction of the body that has traditionally performed  
19 public functions on behalf of the entire community. The value of community work  
20 in lieu of a fine is \$5.00 per hour. When the community work is completed, the  
21 person cited for the violation shall mail or personally deliver to the clerk of the court  
22 in which the citation is filed by the peace officer

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

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

28 \* Sec. 42. AS 04.16.205(g) is amended to read:

29 (g) Notwithstanding other provisions of law, if a person cited for a violation  
30 of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501  
31 [AS 04.11.498] for which a bail amount has been established under (c) of this section

1 appears in court and is found guilty, the penalty that is imposed for the offense may  
2 not exceed the bail amount for that offense established under (c) of this section.

3 \* Sec. 43. AS 04.16.205(h) is amended to read:

4 (h) A violation of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under  
5 AS 04.11.501 [AS 04.11.498] may not be considered a criminal offense and may not  
6 result in imprisonment, nor is a fine imposed for a violation considered criminal  
7 punishment. A person cited for a violation does not have a right to a jury trial or  
8 court appointed counsel.

9 \* Sec. 44. AS 04.16.220(a) is amended to read:

10 (a) The following are subject to forfeiture:

11 (1) alcoholic beverages manufactured, sold, offered for sale or  
12 possessed for sale, bartered or exchanged for goods and services in this state in  
13 violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or  
14 otherwise stored in violation of AS 04.21.060; alcoholic beverages sold, or offered for  
15 sale in violation [IN AN AREA WHERE THE RESULTS] of a local option adopted  
16 under AS 04.11.491 [ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500,  
17 PROHIBITED THE POSSESSION OF ALCOHOLIC BEVERAGES OR  
18 PROHIBITED THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING  
19 ONE OR MORE LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA];  
20 alcoholic beverages transported into the state and sold to persons not licensed under  
21 this chapter in violation of AS 04.16.170(b);

22 (2) materials and equipment used in the manufacture, sale, offering for  
23 sale, possession for sale, barter or exchange of alcoholic beverages for goods and  
24 services in this state in violation of AS 04.11.010; materials and equipment used in the  
25 stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060;  
26 materials and equipment used in the sale or offering for sale of an alcoholic beverage  
27 in an area in violation [WHERE THE RESULTS] of a local option adopted under  
28 AS 04.11.491 [ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500, PROHIBITED  
29 THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING ONE OR  
30 MORE LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA];

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

1 transportation of

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

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

7 (C) alcoholic beverages imported into a municipality or  
8 established village in violation of AS 04.11.499 [AS 04.11.496];

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

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

13 \* Sec. 45. AS 04.16.220(b) is amended to read:

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

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

21 (2) the property subject to seizure is the subject of a prior judgment in  
22 favor of the state; or

23 (3) there is probable cause to believe that the property is subject to  
24 forfeiture under (a) of this section; except for alcoholic beverages possessed on  
25 violation of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501  
26 [AS 04.11.498], property seized under this paragraph may not be held over 48 hours  
27 or until an order of forfeiture is issued by the court, whichever is earlier.

28 \* Sec. 46. AS 04.16.220(d) is amended to read:

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

30 (1) upon conviction of a person for a violation of [UNDER]  
31 AS 04.11.010, 04.11.499, [04.11.496(b), OR] AS 04.21.060, or AS 04.11.501 [UPON

1 ENTRY OF JUDGMENT UNDER AS 04.11.498] or an ordinance adopted under  
2 AS 04.11.501 [AS 04.11.498]; or

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

5 \* Sec. 47. AS 04.16.220(g) is amended to read:

6 (g) It is no defense in an in rem forfeiture proceeding brought under (d)(2) of  
7 this section that a criminal proceeding is pending or has resulted in conviction or  
8 acquittal of a person charged with violating AS 04.11.010, 04.11.499 [04.11.496(b)],  
9 or AS 04.21.060.

10 \* Sec. 48. AS 04.16.220(h) is amended to read:

11 (h) Alcoholic beverages forfeited under (d) of this section shall be placed in  
12 the custody of a peace officer of the state and destroyed no later than 30 days after  
13 forfeiture. All other property forfeited under this section shall be placed in the custody  
14 of the commissioner of public safety for disposition according to an order entered by  
15 the court. The court shall order destroyed any property forfeited under this section that  
16 is harmful to the public and shall order any property forfeited under this section  
17 that was seized in a municipality to be transferred to the municipality in which  
18 the property was seized. Other property shall be ordered sold and the proceeds used  
19 for payment of expenses of the proceedings for forfeiture and sale, including expenses  
20 of seizure, custody, and court costs. The remainder of the proceeds shall be deposited  
21 in the general fund.

22 \* Sec. 49. AS 04.21.010(a) is amended to read:

23 (a) A municipality may adopt ordinances governing the importation, barter,  
24 sale, and consumption of alcoholic beverages within the municipality and may ban  
25 possession of alcoholic beverages under AS 04.11.491(a)(5) [AS 04.11.498(d) OR (e)].  
26 An ordinance adopted under this section may not be inconsistent with this title or  
27 regulations adopted under this title. In a municipality that has adopted a local  
28 option under AS 04.11.491(a)(1), (2), or (3), an ordinance is not inconsistent with  
29 this title if it limits

30 (1) the monthly amounts of alcoholic beverages a person may  
31 import into the municipality;

1                   (2) the percent of alcohol by volume that an alcoholic beverage may  
2                   contain; a limit imposed under thi. paragraph may not be less than 40 nor more  
3                   than 76 percent alcohol by volume; or

4                   (3) the type of alcoholic beverage container that may be possessed  
5                   in the municipality.

6 \* Sec. 50. AS 04.21.010(b) is amended to read:

7                   (b) After the adoption of a local option under AS 04.11.491(a), a [IF, AS A  
8                   RESULT OF AN ELECTION HELD IN ACCORDANCE WITH AS 04.11.502 IN A  
9                   MUNICIPALITY, THE BOARD IS PROHIBITED FROM ISSUING, RENEWING,  
10                  OR TRANSFERRING A LICENSE BETWEEN HOLDERS OR LOCATIONS OR IF  
11                  THE IMPORTATION OF ALCOHOLIC BEVERAGES IS PROHIBITED IN THE  
12                  MUNICIPALITY, THE] municipality may adopt an ordinance making the sale, [OR]  
13                  importation, or possession of alcoholic beverages a misdemeanor to the extent  
14                  prohibited under the local option. The ordinance may not be inconsistent with this  
15                  title or the regulations adopted under this title.

16 \* Sec. 51. AS 04.21.010(c) is amended to read:

17                  (c) A municipality may not impose taxes on alcoholic beverages except a  
18                         (1) property tax on alcoholic beverage inventories;  
19                         (2) sales tax on alcoholic beverage sales if sales taxes are imposed on  
20                  other sales within the municipality;  
21                         (3) sales tax on alcoholic beverage sales that was in effect before  
22                  July 1, 1985; and  
23                         (4) sales and use tax on alcoholic beverages if the sale of alcoholic  
24                  beverages within the municipality has been prohibited under AS 04.11.491(a)(1), (4),  
25                  or (5) [AS 04.11.490].

26 \* Sec. 52. AS 04.21.015(b) is amended to read:

27                  (b) This section does not apply to AS 04.16.050, 04.16.051, 04.16.080;  
28                  AS 04.21.010, 04.21.020; alcoholic beverages manufactured in a quantity that exceeds  
29                  the limit imposed on private manufacture under federal law; or an area that has  
30                  adopted a local option law under AS 04.11.491 [AS 04.11.490 - 04.11.500].

31 \* Sec. 53. AS 04.21.025(a) is amended to read:

1 (a) As a condition of issuance or renewal of a license and selling alcoholic  
2 beverages under a license, the board shall require a licensee who sells or serves  
3 alcoholic beverages and a licensee's agents and employees who sell or serve alcoholic  
4 beverages or check the identification of a patron to complete an alcohol server  
5 education course approved by the board, if the license is for a

- 6 (1) beverage dispensary;  
7 (2) restaurant or eating place;  
8 (3) club;  
9 (4) package store;  
10 (5) [COMMON CARRIER DISPENSARY;  
11 (6)] recreational site;  
12 (6) [(7) COMMUNITY;  
13 (8)] pub;  
14 (7) [(9)] conditional contractor.

15 \* Sec. 54. AS 04.21.025 is amended by adding a new subsection to read:

16 (e) A person licensed as a common carrier dispensary shall train agents and  
17 employees who sell or serve alcoholic beverages or who check the identification of a  
18 patron on provisions of state law regarding sale of alcoholic beverages, including  
19 AS 04.16.015, 04.16.020, 04.16.030, 04.16.051, 04.16.052, 04.16.120, 04.16.125,  
20 AS 04.21.030, and 04.21.050. The training must include the subjects of the effects of  
21 alcohol consumption, identifying a drunken person, determining valid identification,  
22 intervention to prevent unlawful alcohol consumption, and penalties for unlawful acts  
23 by agents and employees of licensees. A common carrier licensee shall, once every  
24 three years, provide the board with a description of its training program including the  
25 subjects taught, teaching method, and testing required.

26 \* Sec. 55. AS 04.21.065(a) is amended to read:

27 (a) A holder of one of the following types of licenses or permits shall post on  
28 the licensed or designated premises two separate warning signs as described in (b) of  
29 this section:

- 30 (1) beverage dispensary license;  
31 (2) restaurant or eating place license;

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- (3) club license;
- (4) brewery license; this paragraph applies only to a brewery that permits a person to sample portions of the brewery's product;
- (5) package store license;
- (6) common carrier dispensary license;
- (7) recreational site license;
- (8) [COMMUNITY LIQUOR LICENSE;
- (9)] pub license;
- (9) [(10)] winery license; this paragraph applies only to a winery that permits a person to sample portions of the winery's product;
- (10) [(11)] caterer's permit;
- (11) [(12)] special events permit;
- (12) [(13)] conditional contractor's permit;
- (13) [(14)] another license or permit issued by the board authorizing consumption of alcoholic beverages.

\* Sec. 56. AS 04.21.080(b)(1) is amended to read:

(1) "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage and that contains one-half of one percent or more of alcohol by volume, whether produced commercially or privately; however, in an area that has adopted a local option under AS 04.11.491 [LOCAL-OPTION PROHIBITION UNDER AS 04.11.490 - 04.11.500], "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage by the person who possesses or attempts to possess it and that contains alcohol in any amount if the liquid is produced privately, or that contains one-half of one percent or more of alcohol by volume, if the liquid is produced commercially;

\* Sec. 57. AS 04.21.080(b)(9) is amended to read:

(9) "established village" means an area that does not contain any part of an incorporated city or another established village and that is  
(A) an unincorporated community that is in the unorganized

1                   borough and that has 25 or more permanent residents; or

2                                 (B) an unincorporated community that is in an organized  
3                   borough, has 25 or more permanent residents, and

4   (i) is on a road system and is located more than 50  
5                   miles outside the boundary limits of a unified municipality, or

6   (ii) is not on a road system and is located more than 15  
7                   miles outside the boundary limits of a unified municipality;

8 \* Sec. 58. AS 05.15 is amended by adding a new section to article 1 to read:

9                   Sec. 05.15.097. NOTICE TO THE ALCOHOLIC BEVERAGE CONTROL  
10           BOARD. If, after notice and hearing, the department determines that a person has  
11           violated a provision of this chapter related to gambling and the person is a licensee or  
12           permittee under AS 04, the department shall provide notice of the violation to the  
13           Alcoholic Beverage Control Board.

14 \* Sec. 59. AS 15.07.064(g) is amended to read:

15                   (g) In this section, "established village" means an unincorporated  
16                   community that is in

17   (A) the unorganized borough and that has 25 or more  
18                   permanent residents; or

19   (B) an organized borough, has 25 or more permanent  
20                   residents, and

21   (i) is on a road system and is located more than 50  
22                   miles outside the boundary limits of a unified municipality, or

23   (ii) is not on a road system and is located more than  
24                   15 miles outside the boundary limits of a unified municipality

25                   [HAS THE MEANING GIVEN IN AS 04.21.080].

26 \* Sec. 60. AS 18.65.085(a) is amended to read:

27                   (a) There is established in the Department of Public Safety, division of state  
28           troopers, a narcotic drugs and alcohol enforcement unit for the purpose of investigating  
29           and combating the illicit sale and distribution of narcotic drugs and alcoholic beverages  
30           in the state. Enforcement of the alcoholic beverage control laws shall focus primarily  
31           on the investigation, apprehension, and conviction of persons who violate

1 AS 04.11.010 by selling, importing, or possessing alcoholic beverages in violation of  
2 a local option [AN ORDINANCE] adopted by a municipality or established village  
3 under AS 04.11.491 [AS 04.11.490 - 04.11.500].

4 \* Sec. 61. AS 18.65.085(c) is amended to read:

5 (c) The Department of Public Safety may establish and administer a reward  
6 program, and provide grants to municipalities, established villages, and, at the request  
7 of a municipality or established village, to a nonprofit association that administers a  
8 village public safety officer program, for reward programs leading to the apprehension  
9 and conviction of persons who violate AS 04.11.010 by selling, importing, or  
10 possessing alcoholic beverages in violation of a local option [AN ORDINANCE]  
11 adopted by a municipality or established village under AS 04.11.491 [AS 04.11.490  
12 - 04.11.500].

13 \* Sec. 62. AS 29.20.270(e) is amended to read:

14 (e) The veto does not extend to an ordinance adopted under AS 04.11.501  
15 [AS 04.11.498]. This subsection applies to home rule and general law municipalities.

16 \* Sec. 63. AS 29.25.020(d) is amended to read:

17 (d) This section does not apply to an ordinance proposed under  
18 AS 04.11.507(d) [AS 04.11.502(c)].

19 \* Sec. 64. AS 29.25.070(d) is amended to read:

20 (d) This section does not apply to an ordinance adopted under AS 04.11.501(c)  
21 [AS 04.11.498(d) OR (e)].

22 \* Sec. 65. AS 29.35.080(a) is amended to read:

23 (a) A municipality may regulate the possession, barter, sale, importation, and  
24 consumption of alcoholic beverages under AS 04.11.480 - 04.11.509 [IN  
25 ACCORDANCE WITH AS 04.11.480 - 04.11.506] and AS 04.21.010.

26 \* Sec. 66. AS 34.03.360(6) is amended to read:

27 (6) "illegal activity involving alcoholic beverages" means a person's  
28 delivery of an alcoholic beverage in violation of AS 04.11.010(b) in an area where the  
29 results of a local option election have, under AS 04.11.491 [AS 04.11.490 -  
30 04.11.500], prohibited the Alcoholic Beverage Control Board from issuing, renewing,  
31 or transferring a liquor license or permit under AS 04;

1 \* Sec. 67. AS 47.37.045(e) is amended to read:

2 (e) In this section,

3 (1) "established village" means an unincorporated community that  
4 is in

5 (A) the unorganized borough and that has 25 or more  
6 permanent residents, or

7 (B) a organized borough, has 25 or more permanent  
8 residents, and

9 (i) is on a road system and is located more than 50  
10 miles outside the boundary limits of a unified municipality, or

11 (ii) is not on a road system and is located more than  
12 15 miles outside the boundary limits of a unified municipality

13 [HAS THE MEANING GIVEN IN AS 04.21.080(b)];

14 (2) "local governing body" has the meaning given in AS 04.21.080(b);

15 (3) "nonprofit organization" means an organization that qualifies for  
16 exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code).

17 \* Sec. 68. AS 04.11.090(c), 04.11.190, 04.11.490, 04.11.492, 04.11.496, 04.11.498,  
18 04.11.500, 04.11.502, 04.11.504, 04.11.506, and 04.11.510(d) are repealed.

19 \* Sec. 69. TRANSITION: LOCAL OPTIONS EARLIER ADOPTED. Notwithstanding  
20 the provisions of this Act, local options adopted by an area under AS 04.11.490, 04.11.492,  
21 04.11.496, 04.11.498, or 04.11.500 or previous local option laws before the effective date of  
22 this Act shall continue in effect until changed under AS 04.11.493 or removed under  
23 AS 04.11.495. References in this Act to local option elections conducted under AS 04.11.491,  
24 04.11.493, 04.11.495, 04.11.497, 04.11.499, 04.11.501, 04.11.503, 04.11.505, and 04.11.507  
25 are to be interpreted to include local option elections conducted under AS 04.11.490,  
26 04.11.492, 04.11.496, 04.11.498, 04.11.500, or 04.11.502 or previous local option laws in  
27 effect before the effective date of this section.

28 \* Sec. 70. TRANSITION: EXISTING LOCAL OPTION PETITIONS. A petition to adopt  
29 or remove a local option on file with a municipality or the lieutenant governor on the effective  
30 date of this section that has not been voted on is void and may not be placed on an election  
31 ballot.

1 \* Sec. 71. TRANSITION: COMMUNITY LIQUOR LICENSES. A community liquor  
2 license issued under AS 04.11.190 before the effective date of this section to operate a  
3 beverage dispensary shall continue as a beverage dispensary license under AS 04.11.090. A  
4 community liquor license issued under AS 04.11.190 before the effective date of this section  
5 to operate a package store shall continue as a package store license under AS 04.11.150.

6 \* Sec. 72. TRANSITION. A person licensed under AS 04.11.160 on the effective date of  
7 this section shall submit the information required under AS 04.11.160(f), added by sec. 9 of  
8 this Act, by September 30, 1995.

9 \* Sec. 73. TRANSITION: IMPLEMENTATION OF BIENNIAL SEASONAL LICENSES.

10 (a) Approximately one-half of the applicants for 1996 renewal of a seasonal license issued  
11 by the Alcoholic Beverage Control Board, as determined by the director of the Alcoholic  
12 Beverage Control Board, shall be eligible for a one-year seasonal license. These licenses  
13 expire, unless renewed, on December 31, 1996, and may be renewed biennially in even-  
14 numbered years after that. The 1996 renewal fee for these licenses is one-half of the seasonal  
15 biennial license fee.

16 (b) Applicants whose licenses are not renewed under (a) of this section shall be  
17 eligible for a two-year seasonal license. These licenses expire, unless renewed, on  
18 December 31, 1997, and may be renewed biennially in odd-numbered years.

19 (c) The director shall notify each licensee in writing as to whether the licensee shall  
20 apply for renewal under (a) or (b) of this section, and of the actual amount of the renewal fee.  
21 The notice must be given not later than December 1, 1995. However, the failure of the  
22 director to provide the notice required in this subsection does not prevent a license from  
23 expiring on February 28, 1996, under AS 04.11.540, if the renewal application is not filed on  
24 or before that date.

25 \* Sec. 74. TRANSITION: REGULATIONS. Notwithstanding sec. 78 of this Act, the  
26 Alcoholic Beverage Control Board may proceed to adopt regulations necessary to implement  
27 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not  
28 before July 1, 1995.

29 \* Sec. 75. PROHIBITION ON PURCHASE OR CERTAIN ALCOHOLIC BEVERAGES.  
30 Beginning July 1, 1995, and ending June 30, 1996, a person licensed as a wholesaler under  
31 AS 04.11.160 may not purchase an alcoholic beverage that contains more than 76 percent

1 alcohol by volume.

2 \* Sec. 76. Section 74 of this Act takes effect immediately under AS 01.10.070(c).

3 \* Sec. 77. AS 04.16.110(2), enacted by sec. 32 of this Act, takes effect July 1, 1996.

4 \* Sec. 78. Except as provided in secs. 76 and 77 of this Act, this Act takes effect July 1,  
5 1995.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. CSSB 87 (FIN)

Revision Date: <u>4/24/95</u>	Dept. Affected: <u>Revenue</u>
Title: <u>Alcoholic Beverages: Local</u>	BRU: <u>Alcoholic Beverage Control Board</u>
Option and Misc. _____	Component: _____
Sponsor: <u>Senate Judiciary</u>	
Requester: <u>House C &amp; RA</u>	COMPONENT SERIAL NO. <u>0100</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts (approx.)	5.0	5.0	5.0	5.0	5.0	5.0
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Possible increase in revenue from 1) increase to penalty for filing late applications for renewal of license in Section 13, Page 7 and 2) fee collected from wholesale licensees for registration of brands in Section 11, Page 5.

Prepared by: <u>Patrick L. Sharrock, Director</u>	Phone: <u>277-8638</u>
Division: <u>Alcoholic Beverage Control Board</u>	Date: <u>4/24/95</u>
Approved by: _____	Date: <u>4/24/95</u>
Commissioner: <u>Deborah Voigt</u>	
Agency: <u>Revenue</u>	

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**MEMORANDUM**

April 25, 1995

**SUBJECT:** Sectional Summary of CSSB 87(FIN).  
**TO:** Senator Robin Taylor  
Attn: Joe Ambrose  
**FROM:** Michael F. Ford   
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Requires that at least three members of the Alcoholic Beverage Control Board must represent the general public. Prohibits a board member representing the general public from having a financial interest in the liquor industry.

**Section 2.** Requires that in a three member meeting of the Alcoholic Beverage Control Board, at least two members must be members who represent the general public.

**Section 3.** Prohibits solicitation or receipt of orders for delivery of alcoholic beverages in a local option area. Provides certain exceptions, depending on the local option.

**Section 4.** Provides that possession of 12 gallons or more of malt beverages in an area where sale is restricted or prohibited creates a presumption that the person possessed the alcohol for sale.

**Section 5.** Technical amendment.

Senator Robin Taylor

April 25, 1995

Page 2

**Section 6.** Allows the board to issue or reissue a restaurant or eating place license that is exempt from the requirements of AS 04.11.100(b) and (e), relating to a determination that the premises are a bona fide restaurant and to minimum food sales. Establishes restrictions on licenses issued under this section.

**Section 7.** Increases the quantity of beer than can be manufactured under a brew-pub license.

**Section 8.** Technical amendment.

**Section 9.** Establishes restrictions on sale of an alcoholic beverage by a package store.

**Section 10.** Limits sale of alcoholic beverages by shipment to a local option area.

**Section 11.** Requires that a person licensed as a wholesaler file certain information with the board regarding their alcoholic beverage product line and that the person pay a biennial filing fee. Requires the wholesaler notify the board of a change in a primary source of supply.

**Section 12.** Prohibit certain licensees from purchasing, selling, or offering for sale an alcoholic beverage unless obtained from a person licensed as a primary source of supply or from a brewery, winery, or distillery in the state.

**Section 13.** Changes the dates for renewal of a license and increases the penalty for late renewal.

**Section 14.** Technical amendment.

**Section 15.** Requires denial of a license renewal if the licensee has violated a condition or restriction imposed by the board.

**Section 16.** Technical amendment.

**Section 17.** Technical amendment.

**Section 18.** Amends certain provisions that, if the board finds have occurred, require the board to suspend or revoke a license.

**Section 19.** Adds new provision requiring suspension of a license for certain gambling offenses.

**Section 20.** Provides that the board has the authority to impose conditions or restrictions on a license or permit.

**Section 21.** Technical amendments.

**Section 22.** Allows a local governing body to protest the issuance, renewal, relocation, or transfer of a license, by filing a protest within 60 days of the application by the licensee. Prohibits the board from accepting a late protest. Allows a protest of the continuing operation of licensed premises by filing a protest during the second year of operation.

**Section 23.** Establishes the local options that may be adopted to control the sale and possession of alcoholic beverages by municipalities and by established villages. Establishes the ballot question, requires inclusion of a summary explanation, provides for continuance of the local option if the municipality dissolves, and provides for designation of a delivery site for alcoholic beverages in certain instances.

**Section 24.** Establishes a process for changing or removing a local option. Provides a priority for licensees in an area that removes a local option.

**Section 25.** Establishes the effect of a vote to prohibit sales of alcoholic beverages, on licensees.

**Section 26.** Establishes the effect of a vote to prohibit importation of alcoholic beverages.

**Section 27.** Establishes the effect of a vote to prohibit possession of an alcoholic beverage.

**Section 28.** Establishes the effect of a vote to restrict sales of alcoholic beverages, on licensees.

**Section 29.** Establishes the effect of a vote to only allow sales of an alcoholic beverage by a municipally owned liquor store.

**Section 30.**

Sec. 04.11.507 - Establishes the procedures for local option elections, including petition requirements, limits on elections to remove an option, and restrictions on multiple petitions.

Sec. 04.11.509 - Provides for notice of the results of a local option election to the board and to licensees.

**Section 31.** Establishes a biennial license renewal process.

**Section 32.** Provides for biennial licensing of a seasonal license.

**Section 33.** Prohibits a person from knowingly being on premises where illegal manufacture or sale of an alcoholic beverage is occurring.

**Section 34.** Prohibits sales of certain types of alcoholic beverages.

**Section 35.** Requires that a common carrier shipping alcoholic beverages in a local option area must attach a shipping invoice showing the quantity of the alcoholic beverages being shipped.

**Section 36.** Provides certain exceptions to the labeling and invoice requirements applicable to liquor shipments in a local option area.

**Section 37.** Provides that a violation of AS 04.16.025 is a class A misdemeanor.

**Section 38.** Technical amendment.

**Section 39.** Technical amendment.

**Section 40.** Requires forfeiture and seizure of illegally possessed liquor.

**Section 41.** Technical amendment.

**Section 42.** Technical amendment.

**Section 43.** Requires community work to be performed at the direction of the body that traditionally performed public functions on behalf of the entire community, in the absence of a local governing body.

**Section 44.** Technical amendment.

**Section 45.** Technical amendment.

**Section 46.** Technical amendment.

**Section 47.** Technical amendment.

**Section 48.** Technical amendment.

**Section 49.** Technical amendment.

**Section 50.** Required property forfeited in a municipality be transferred to the municipality.

**Section 51.** Provides authority for a municipality to adopt certain ordinances to limit importation, sales, or the type of container used for alcoholic beverages.

**Section 52.** Allows a municipality to adopt an ordinance making the importation, sale or possession of liquor a misdemeanor, to the extent allowed by the local option.

**Section 53.** Technical amendment.

**Section 54.** Technical amendment.

**Section 55.** Requires a person who checks the identification of a patron to complete an alcohol server education course.

**Section 56.** Requires alcohol training for persons licensed as common carrier dispensaries.

**Section 57.** Technical amendment.

**Section 58.** Amends the definition of "alcoholic beverage".

**Section 59.** Amends the definition of "established village".

**Section 60.** Requires the Department of Revenue to provide notice to the Alcoholic Beverage Control Board of certain gambling violations by licensees.

**Section 61.** Technical amendment.

**Section 62.** Technical amendment.

**Section 63.** Technical amendment.

**Section 64.** Technical amendment.

**Section 65.** Technical amendment.

**Section 66.** Technical amendment.

**Section 67.** Technical amendment.

**Section 68.** Technical amendment.

**Section 69.** Technical amendment.

**Section 70.** Repealers.

**Section 71.** Transition section related to prior adopted local options.

**Section 72.** Transition section related to existing local option petitions.

**Section 73.** Transition section related to community liquor licenses.

**Section 74.** Transition section related to submission of certain liquor stock information.

Senator Robin Taylor

April 25, 1995

Page 6

**Section 75.** Transition section related to biennial seasonal licenses.

**Section 76.** Authority for the board to adopt regulations.

**Section 77.** Prohibits purchase of liquor that contains more than 76 percent of alcohol by volume.

**Section 78.** Transition section for existing members of the board.

**Section 79.** Effective date for sec. 76.

**Section 80.** Effective date for AS 04.16.110(2) enacted by sec. 34.

**Section 81.** Effective date for all sections except secs. 76 and 80.

MFF:klb

95-296.klb

# Alaska State Legislature

Chairman,  
Judiciary Committee

Vice Chairman,  
Transportation Committee

Member,  
Resources Committee  
Western Legislative Forestry Task Force



State Capitol  
Juneau, Alaska 99801-1182  
Phone: (907) 465-3873  
Fax: (907) 465-3922

352 Front Street  
Ketchikan, Alaska 99901  
Phone: (907) 225-8088  
Fax: (907) 225-0713

*Senator Robin L. Taylor*

## Sponsor Statement

### Senate Bill 87

Last year the Alcoholic Beverage Control Board, prompted by concerns over a lack of clarity in how local option elections are to be conducted, asked for legislation to simplify the process. The board also asked that the same vehicle be used to address long needed technical and common sense amendments to Title 4.

The result was Senate Bill 372, which passed the Senate and moved through the committee process in the House, only to die in the Rules Committee in the hectic final days of the 18th State Legislature.

Senate Bill 87 is substantially the same as last year's legislation.

The bill addresses the shortcoming in the current statute dealing with local option elections, for which no provision is made for moving from one type of option to another. Under current law, a community must first vote to remove all restrictions on the sale and importation of alcoholic beverages and then conduct another vote on a new option. This burdensome process can cause confusion for municipalities and unincorporated villages alike.

SB 87 was amended in the Community and Regional Affairs and Judiciary Committees to address specific concerns raised by local option communities. Those amendments have the support of the ABC Board and the chairman of the sponsoring committee.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

# Alaska State Legislature



Chairman,  
Judiciary Committee  
  
Vice Chairman,  
Transportation Committee  
  
Member,  
Resources Committee  
Western Legislative Forestry Task Force

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Ketchikan, Alaska 99901  
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**Senator Robin L. Taylor**

## MEMORANDUM

**TO:** Representative Ivan Ivan, Co-Chair  
House CRA Committee  
  
**FROM:** Senator Robin Taylor *R.L.T.*  
  
**DATE:** 4/22/95  
**REF:** Hearing Request - Senate Bill 87

\*\*\*\*\*

Please consider this to be my formal request for a hearing on Senate Bill 87 at your earliest convenience.

SB 87 revises the alcohol local option election laws to clarify this provision of state law. It also makes changes to other provisions of Title 4 requested by the Alcoholic Beverage Control Board and the liquor industry.

Thank you for your consideration of this request.

POSITION PAPER  
ALCOHOLIC BEVERAGE CONTROL BOARD  
SB 87  
March 1, 1995

This bill is substantially identical to SB 372 that passed the senate and all house committees last year but did not get to a floor vote in the house on the last day of the legislative session.

The bill clarifies and simplifies provisions that allow unincorporated villages and incorporated municipalities to hold local option elections to restrict or prohibit alcoholic beverages within those communities. The board's assistant attorney general has noted that

"When the local option scheme was adopted, no provision was made for moving from one type of option to another. The problems primarily arise when a proposal is made to move to a less restrictive option. Under the limited ballot language permitted, the community must first vote to remove all restrictions, and then conduct another vote to reinstate the desired option. The local option law is also ambiguous as to when a community may first conduct an election to remove an option it has adopted. (Subsequent elections must be at least 12 months later."

The attached recent newspaper editorial provides an example of the dilemma.

Along with a few insignificant new items, the bill contains several long overdue common sense technical amendments. An abbreviated sectional analysis describing these amendments is also attached.

Except for potential average annual revenue of approximately \$5,000 from registration of "brands" by wholesale licensees provided in Section 8, the bill does not create any fiscal impact on board operations.

The Alcoholic Beverage Control Board is in complete support of this bill. Additionally, this legislation has been supported by Tanana Chiefs, North Slope Borough, Division of Elections, Department of Community and Regional Affairs, Department of Law, and Senator Al Adams.

# Barrow vote

Anchorage  
News  
1/2/95

## Give ban a chance

The news from Barrow about the positive effects of prohibition approved in a close fall election are heartening. Public safety has improved in the town and in outlying villages, hospital emergency room personnel aren't swamped with alcohol-related cases, and detoxification beds are in less demand.

Most tellingly, Inupiaq elder Morgan Solomon says "Our children are much happier."

Local option laws, like the one Barrow employed, allow communities to vote on banning the sale, importation and possession of alcohol — and to repeal those laws through the petition and ballot process. "Damp" status allows importation and possession of alcohol, whereas "dry" bans the sale, importation and possession of alcohol by anyone in the city. (The seven outlying villages already banned importation, but villagers were smuggling in booze from Barrow, creating local problems.)

But the heated wrangling in Barrow between supporters and critics of alcohol prohibition demonstrates that there is work ahead for Alaska's legislators as well as the community.

After the dry side won by seven votes, an anti-prohibition group hastily gathered enough signatures to hold another vote on Feb 21. Just days ago, the city council wisely upheld a mayoral veto of the election date, thus delaying it until fall.

State law ought to be clear enough so that community debate about local alcohol option centers on the pros and cons rather than what state law may or may not say. When even Alcoholic Beverage Control Board director Pat Sharrock is unsure about when a repeal election can be held, then it is the job of the legislature to make the laws clear.

The city council and Mayor Long have the right idea in giving the new policy a chance to work.

Prohibition is an extreme measure, and not one to be taken lightly. But given its troubled past, Barrow is on the right track in going dry to battle the devastating effects of alcohol. That's what local option laws are all about. But state law ought not to have gray areas so big as to allow bowhead whales to swim through unimpeded.

# The Almanac

## The Slope and alcohol

The month and year Barrow went dry: November 1994.

Number of calls North Slope Borough Department of Public Safety officials compiled in November 1994 in the seven Slope villages, excluding Barrow: 175.

Number of village calls in November 1994: 103.

Number of November 1993 village calls that were substance-abuse related: 38.

Number of November 1994 village calls that were substance-abuse related: 19.

Number of intoxicated persons removed by public safety officials from premises in Barrow in November 1993: 63.

Number of Barrow drunks removed from premises in November 1994: 18.

Number of Barrow drunks brought to detoxification by safety officials in November 1993: 29.

Number of Barrow drunks brought to detox in November 1994: 3.

Number of calls logged by public safety officials related to Barrow minors consuming alcohol from Sept. 1 through Nov. 1, 1994: 23.

Number of such calls from November 1994 through Dec. 21, 1994: 3.

□ Sources: Daily News and North Slope Borough reports.

## MEMORANDUM

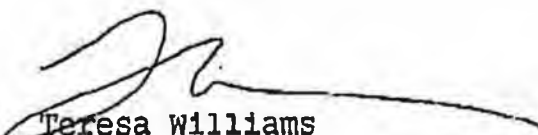
State of Alaska  
Department of LawTO: Patrick Sharrock  
Director  
Alcoholic Beverage Control Board

DATE: March 10, 1995

FILE NO.:

TEL NO: 269-5200

SUBJECT: Local Option Laws

  
Teresa Williams  
FROM: Assistant Attorney General  
Commercial Section -- Anchorage

I am writing to indicate a need for revisions to the current local option laws. When reviewing the original 1986 bill for the governor, the Department of Law found practical problems. 1986 Inf. Op. Att'y Gen. at 4 n.1, 6 - 8 (May 29; 883-86-0074). The Department noted that the speed with which the bill was crafted may have caused the problems: the bill was introduced in late March, 1986 and moved quickly through both houses. With time, we have learned that additional significant problems exist in the implementation of the law.

Both I, as the attorney who advises your board, and Barbara Ritchie, as the supervisor for the Governmental Affairs section of the Juneau Attorney General's Office, have fielded a number of calls from St. Mary's and Barrow about the local option election process. Neither of us could find a solution to their problems within the confines of the present statute. Attorneys in the criminal division of the Department of Law have also reported some problems in enforcing the criminal provisions of local option because of ambiguities in the language.

When the local option scheme was adopted, no provision was made for moving from one type of option to another. The problems primarily arise when a proposal is made to move to a less restrictive option. Under the limited ballot language permitted, the community must first vote to remove all restrictions, and then conduct another vote to reinstate the desired option. The required ballot language does not advise voters what the result of a particular vote will be. The local option law is also ambiguous as to when a community may first conduct an election to remove an option it has adopted. (Subsequent elections must be at least 12 months later. AS 04.11.502(d))

Thank you for your attention to this matter. I would be happy to provide any additional information that you need.

TEW:mh

# STATE OF ALASKA

DEPARTMENT OF

OFFICE OF THE ATTORNEY GENERAL

Post-it™ brand fax transmittal memo 7671		# of pages ▶ 5
To Joe Ambrose	From Theresa Williams	
Co.	Co.	
Dept.	Phone 907-5825	
4105-3922	Fax #	

May 29, 1986

1st NATIONAL CENTER  
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PHONE: (907) 452-1568

P.O. BOX K-STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

Honorable Bill Sheffield  
Governor  
State of Alaska  
P.O. Box A  
Juneau, Alaska 99811

Re: CSSH B 700 (Fin) am --  
local option to ban  
possession of alcohol  
Our file no. 883-86-0074

Dear Governor Sheffield:

As Jim Ayers requested on your behalf, we have reviewed CSSH B 700 (Fin) am (hereafter HB 700), a bill relating to local option elections. This bill was introduced in late March and moved quickly through both houses. Although the law will be subject to constitutional challenge and may create a number of practical problems, it will be of potentially great benefit to many rural communities.

This bill was the product of the work of the Joint Special Committee on Local Option Laws, which held interim hearings all over western and northern Alaska on the question of banning possession of alcoholic beverages through local option elections. The Special Committee also drafted a lengthy report of its findings, which was made part of the legislative record. See 1986 H.J. 2865-66. That report is a valuable record of the legislature's intent in passing this bill and of the need for a local option banning possession of alcohol, and assuming that the bill is signed into law, the report will ultimately be very helpful in defending this legislation against the potential legal challenges described below.

HB 700 creates another "local option" so that communities may vote to ban possession of intoxicating beverages. Possession of alcoholic beverages in the home (including homemade liquor) would be a violation of the ban, but possession of alcohol in the body would not. Violation of the ban would be made an infraction punishable by a maximum \$1,000 fine, and the person would not be entitled to publicly-financed counsel or trial by a six- or twelve-person jury.

Hon. Bill Sheffield, Governor  
File No. 88-3-86-0074

May 29, 1986  
Page 2

The most obvious question raised by this bill is whether banning possession of alcohol in the home violates the right to privacy under article I, section 22, of the Alaska Constitution. In addition, however, there are legal issues relating to penalties under the bill and to delegation of state authority, and there are some practical problems left unresolved. Each of these will be discussed briefly below.

#### Right to Privacy

Despite the minimal penalties provided by this bill (and the ability to "pay" a fine through community work service), the ban on possession is subject to challenge as an invasion of privacy under article I, section 22, and Ravin v. State, 537 P.2d 497 (Alaska 1975) (possession of small amounts of marijuana, by adults in their homes, is protected).

The many public hearings held by the Special Committee throughout the state elicited hours of testimony from people from all walks of life on the problems created by alcohol in rural Alaska, which are summarized in the committee's detailed report. 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 (March 1986) (hereafter "Report"). The problems created by alcohol are well known and beyond dispute (see Findings 1 through 9 and 11, Report at 108-09). There seems to be ample evidence, and it stands to reason, that in communities banning sale and importation of alcohol, much drinking takes place in private homes. Finding 10, id. Given the enormous economic and social costs of alcohol abuse, it is not surprising that communities would want to ban possession. Finding 12, id.

Giving communities this additional option (and allowing community work service to be administered through village councils) provides a greater measure of local control over a problem which, although it exists statewide, has its most severe impact at the local level. This bill represents the legitimate view that each community should be the sole judge of whether an expectation of privacy in the possession of alcohol is one that their localized society believes is reasonable and deserving of protection. In other words, the balance between one person's right to possess and consume alcohol and the public's right to safety and security should be made on a village-by-village basis by the voters in each locale.

One of the most important of the Special Committee's findings is that present laws are not adequate to deal with

Hon. Bill Sheffield, Governor  
File No. 88-3-86-0074

May 29, 1986  
Page 3

problems created by possession of alcohol, including home brew. Finding 14, Report at 110. Because present laws are inadequate, the legislature may devise different means to achieve its legitimate health and safety purposes. This is not to say that the legislature is free to devise draconian and irrational solutions to a problem once a less intrusive method has failed. For example, we understand that there are some who have advocated ideas that amount to a virtual suspension of search and seizure protections in order to completely eradicate all traces of alcohol from a village. This bill obviously does not go that far and is consistent with state and federal law regarding searches and seizures. In the absence of consent, or exigent circumstances, a search warrant issued by a judicial officer will still be required to gain entrance to a person's home. See Report at 107.

The means chosen by the legislature to make alcohol laws more effective helps cure a problem created by current local option laws and by decisions such as Ravin v. State. As noted in Finding 14, Report at 110, Alaska law currently prohibits sale and importation of alcoholic beverages but permits possession. Similarly, the Ravin case left intact criminal prohibition of sale or public possession of marijuana, but legitimized home possession. Laws such as these tend to create an incentive to do precisely what is prohibited, i.e., to acquire these controlled substances. The general populace knows very well that if you can get it to your house (or if you can make it yourself) you are literally home free. On the other hand, if possession is prohibited then it may very well lead to less importation and less manufacturing, which has always been a legitimate goal.

We have not reviewed the transcripts of the Special Committee's interim hearings, as a judge might do, nor have we perused the many reports and publications that are part of the committee record. Nonetheless, if the summary of the evidence contained in the committee's report is accurate, we believe that there is ample justification for the legislative findings contained in sec. 1 of the bill and for upholding the validity of the law. See Harrison v. State, 687 P.2d 332 (Alaska App. 1984); State v. Erickson, 574 P.2d 1 (Alaska 1978).

#### Penalty Provisions

Another legal question posed by this bill is whether the potential monetary penalty (sec. 4 of the bill) or public opprobrium resulting from a violation is sufficiently indicative of criminality so as to require full criminal procedural rights

Hon. Bill Sheffield, Governor  
File No. 88-3-86-0074

May 29, 1986  
Page 4

such as court-appointed counsel or trial by jury. See Report at 103-06. ~~We believe that the answer is no.~~

There is authority that suggests that whether or not a penalty is "criminal" should be determined based on "community" attitudes. See Beran v. State, 705 P.2d 1280, 1284, n.4 (Alaska App. 1985). As we understand it, the testimony elicited during the interim hearings was that rural villages want this local option as a preventive, rather than punitive, measure. The committee's findings in this regard (Findings 15-16, Report at 110) and the legislative findings in sec. 1 of the bill are entitled to deference by the courts and would probably be overturned only if they were irrational or without a basis. Moreover, in light of the fact that the actual fine will be set by bail schedule and that community work service can be substituted as payment of the fine, this provision will probably not be struck down. Even if invalid, this is a severable part of the law, and the remainder will not be affected.

#### Delegation of Responsibility

This bill contains an innovative provision that requires the "governing body" of a municipality or established village to assign community work service to persons who violate the ban on possession. Proposed AS 04.16.205(d), in sec. 4. This provision raises two separate issues. First, whether this constitutes an impermissible delegation of state authority to unincorporated villages, and second, whether this constitutes some sort of implicit state recognition of the sovereign power of the governing body. 1/

1/ The term "governing body" is not defined in the bill, but a court would probably apply the nearly identical term "local governing body" under AS 04.21.080(b)(10), which is defined as "as appropriate, a city council, a borough assembly, or a traditional village council, but does not include a corporation established under the Alaska Native Claims Settlement Act." This definition raises several interpretive questions, e.g., which is the appropriate "governing body" when a community has both a municipal government and a traditional council. We believe the answer must be supplied by referring to the overall intent of the legislature, which was to allow the community as a whole to provide local input on the content of work programs. Therefore, we believe that this provision should be interpreted as follows:

(Footnote Continued)

Hon. Bill Sheffield, Governor  
File No. 88-3-86-0074

May 29, 1986  
Page 7

because the bill also requires that the amount of the fine must be based on the amount of alcohol and the number of prior violations, it may be very difficult for a police officer in the field to choose the correct fine. Another problem is that it might be very difficult for an offender to complete the required amount of community work service in the 30 days specified in the bill.

However, the most important potential practical problems arise out of the definition of "established village" in AS 04.21.080(b)(8). Before 1985, the boundary of an established village was fairly easily ascertained because it was based on a specified distance from a specified central point (a post office station). However, in 1985 the definition was changed to refer simply to an "unincorporated community" with 25 or more residents, without defining how the boundaries of the community are determined.

Although this lack of a definite boundary is a problem under current local option laws, it becomes much more critical when possession is prohibited. It is at least arguable that a person could exclude himself from the "community," particularly if his residence is on the outer perimeter of a group of residences, thus circumventing the local option law. It is hoped that the courts will define the boundaries of an "unincorporated community" so that the historical or commonly understood boundaries will govern, thus assuring that persons within the community have notice of the law and upholding the legislature's intent that the public safety concerns of the majority of voters would outweigh the drinking habits of the minority. Any other, more restrictive, interpretation as to boundaries of a village would frustrate that intent and make the law useless. 2/

2/ During the legislative consideration of HB 700, it was assumed that the definition of "established village" in AS 04.21.080(b)(8) would be changed by Senate Bill No. 69 back to the pre-1985 provision setting up a boundary based on a radius of five miles from a central point in the community. All discussions centered on this "new" definition in SB 69. Unfortunately, SB 69 did not pass, thus resulting in the uncertainty described here. The definition of "established village" should probably be the subject of corrective legislation next session.

Alcoholic Beverage Control Board  
 550 W 7th Ave Suite 350  
 Anchorage AK 99501  
 Patrick L. Sharrock, Director  
 (907) 277-8638 Fax (907) 272-9412

**SCHEDULE OF LOCAL OPTON COMMUNITIES**  
 Updated December 30, 1994

City	Community license only	Open jurisdiction	Vote Tally	Election date	Certification date	Effective date
Akiak			38-16	07-17-91	08-21-91	09-01-91
Alakunuk			94-24	07-20-81	07-27-81	08-01-81
Alakunuk		1	47-7	02-08-90	02-12-90	03-01-90
Allakaket			49-30	05-12-89	05-19-89	06-01-89
Allakaket		1	45-34	05-12-89	05-19-89	08-17-89
Ambler				12-15-81	12-15-81	01-01-82
Anaktuvuk Pass			78-11		1982	01-01-83
Anaktuvuk Pass		1	59-45	11-04-86	12-16-86	01-01-87
Angoon		1	92-40	07-26-88	08-03-88	11-01-88
Aka			22-16	03-07-89	03-08-89	04-01-89
Almauttuak			80-12	10-06-81	04-29-82	05-01-82
Atkasuk		1	43-31	10-05-83	10-11-83	01-01-84
Barrow			614-588	10-04-84	10-06-84	11-01-84
Barrow		1	604-596	10-04-84	10-06-84	11-01-84
Bethel			611-207	10-04-77	10-08-77	11-01-77
Birch Creek*		1	13-2	10-06-87	10-22-87	11-01-87
Brevig Mission			26-14	03-08-83	03-08-83	04-01-83
Buckland			52-8	05-10-82	05-11-82	06-01-82
Chalkyitsik*			21-2	07-20-82	07-28-82	08-01-82
Chefomek			48-29	10-14-82	10-15-82	11-01-82
Chevak			88-63	10-02-90	10-02-90	11-01-90
Deering			32-24	05-28-82	06-01-82	07-01-82
Diomedea			27-11	09-10-81	09-29-81	10-01-81
EEK			90-15	11-27-82	11-27-82	12-01-82
Elim			49-17	08-24-81	08-27-81	09-01-81
Emmonak			54-12	10-12-81	10-12-81	11-01-81
✓ Fort Yukon		1				
Gambell			79-10	08-22-81	08-25-81	09-01-81
Gambell		1	72-13	12-23-86	12-29-86	01-01-87
Golovin			31-22	01-16-84	01-17-84	02-01-84
Goodnews Bay			36-25	11-08-83	11-08-83	12-01-83
Goodnews Bay		1	37-11	01-14-91	01-18-91	02-01-91
Grayling			36-23	12-28-83	01-04-84	02-01-84

\*Unincorporated

## SCHEDULE OF LOCAL OPTION COMMUNITIES

Updated December 30, 1994

City	Community Income only	Plan possession	Vote Tally	Election date	Certification date	Effective date
Hooper Bay			103-44	03-01-83	03-01-83	04-01-83
Hughes			17-4	03-02-93	03-29-93	04-01-93
Huslia			37-13	03-14-89	03-23-89	04-01-89
Ilanina*			35-24	10-05-82	10-25-82	01-23-83
✓Kake	1					
Kaktovik		1	56-39	08-01-89	08-07-89	11-05-89
✓Kasigluk			74-3	10-04-83	10-17-83	11-01-83
Kiana			81-38	12-08-87	12-17-87	01-01-88
Kipruk*			82-7	10-05-82	10-25-82	11-01-82
Kivalina			79-33	01-08-85	01-09-85	02-01-85
Klawock	1		111-70	10-05-93	10-11-93	10-11-93
Kobuk			15-12	03-29-89	04-03-89	05-01-89
Kokhanok*			38-19	09-18-84	09-27-84	10-01-84
Kongiganak*			50-9	07-13-82	07-28-82	08-01-82
Kotlik				09-08-81	09-30-81	10-01-81
Kotlik		1	51-22	03-24-87	03-25-87	04-01-87
Kotzebue			843-433	12-08-88	12-07-88	01-01-89
Koyuk			57-8	08-25-81	08-28-81	09-01-81
Kwethluk			82-30	01-01-82	02-24-82	03-01-82
Kwigilingok*			63-5	08-09-83	09-01-83	10-01-83
Lower Kalskag			46-31	11-05-91	11-07-91	12-01-91
Manokotak			79-9	01-29-88	02-01-88	03-01-88
Manokotak		1	80-8	01-29-88	02-01-88	03-01-88
Marshall (Fortuna)			42-16	07-25-81	07-28-81	08-01-81
Marshall		1	37-34	10-07-86	10-08-86	11-01-86
Mekoryuk			48-10	09-01-81	09-02-81	10-01-81
Mekoryuk		1	42-29	10-07-86	10-08-86	11-01-86
Minto*			59-34	07-12-83	07-21-83	08-01-83
Mountain Village			72-52	03-13-84	03-19-84	04-01-84
Napaklak			54-14	03-31-82	03-31-82	04-01-82
Napaklak		1	82-14	05-05-87	05-19-87	06-01-87
Napasklak			55-4	11-01-82	11-08-82	12-01-82
Newtok			37-9	10-30-84	11-02-84	12-01-84
Noatak*			69-53	12-07-82	12-22-82	01-01-83
Nondalton			46-30	11-10-88	12-30-88	01-28-89
Noorvik			103-58	04-28-87	04-28-87	05-01-87
Nuiqsut			57-39	11-21-83	11-22-83	12-01-83
Nuiqsut		1	60-58	11-04-88	11-12-88	12-01-88
Nunapitchuk			106-35	09-15-81	10-02-81	11-01-81

\*Unincorporated

**SCHEDULE OF LOCAL OPTION COMMUNITIES**  
Updated December 30, 1994

City	Community election only	San jurisdiction	Vote Tally	Election date	Certification date	Effective date
Nunapitchuk		1	75-23	10-07-86	10-13-86	11-01-86
Pilot Station			67-58	03-08-85	03-20-85	04-01-85
Platinum			12-9	01-14-82	01-25-82	02-01-82
Point Hope			62-39	06-29-82	07-02-82	08-01-82
Point Hope		1		10-03-89	10-09-89	11-01-89
Point Lay*			30-15	07-01-86	07-11-88	08-01-88
Port Alexander			31-16	01-05-82	01-11-82	02-01-82
Port Protection*			23-9	03-27-88	04-05-88	05-01-88
Quinhagak			77-26	10-30-81	10-31-81	11-01-81
Quinhagak		1	71-27	10-06-87	10-12-87	11-01-87
Red Devil*			17-8	02-20-90	04-27-90	07-28-90
Russian Mission			46-22	10-06-87	10-27-87	11-01-87
Saint Mary's			60-86	08-23-84	09-02-84	10-01-84
Saint Mary's			63-48	09-22-81	09-28-81	10-01-81
Saint Michael			39-21	08-04-86	08-07-86	09-01-86
Savoonga			103-18	10-14-81	10-14-81	11-01-81
Scammon Bay			57-10	12-07-81	12-08-81	01-01-82
Scammon Bay		1	71-25	10-06-87	10-12-87	11-01-87
Selawik			89-69	12-17-86	12-22-86	01-01-87
Strangeluk			31-27	06-29-93	07-06-93	09-01-93
Shaldoolik			34-28	03-13-84	03-15-84	04-01-84
Sheldon Point			26-7	08-26-86	08-27-86	09-01-86
Shishmaref			82-47	01-04-83	01-04-83	02-01-83
Shungnak			48-44	10-06-87	10-10-87	11-01-87
Stebbins			88-19	06-25-87	10-08-87	11-01-87
Stevens Village*			31-11	06-05-84	06-15-84	07-01-84
Tanacross*		1	32-5	05-17-88	05-31-88	06-01-88
Tanana	1		98-15	01-13-82	01-13-82	02-01-82
Tatitlek*			28-15	08-23-83	09-13-83	10-01-83
Teller			47-31	05-16-83	05-16-83	06-01-83
Tetlin*			54-7	12-07-82	12-22-82	01-01-83
Togiak			96-23	05-03-82	05-04-82	06-01-82
Togiak		1	80-38	10-07-86	10-31-86	11-01-86
Toksook Bay			78-32	11-23-81	11-23-81	12-01-81
Tuluksak			51-16	10-05-82	10-05-82	11-01-82
Tuluksak		1	55-12	04-12-94	04-25-94	05-01-94
Tuntutuliak			47-20	07-20-82	08-02-82	09-01-82
Tuntutuliak		1	41-22	10-06-87	10-28-87	11-01-87
Tununak			90-11	06-12-81	06-13-81	09-01-82

\*Unincorporated

## SCHEDULE OF LOCAL OPTION COMMUNITIES

Updated December 30, 1994

City	Community license only	Beer and wine sales	Ban possession	Vote Tally	Election date	Certification date	Effective date
Unalakleet				121-40	04-14-92	04-16-92	05-01-92
Upper Kalskag				38-30	01-20-93	02-22-93	03-01-93
Wainwright				21-42	07-08-82	07-14-82	08-01-82
Walrus				29-21	08-14-81	08-17-81	09-01-81
<b>TOTALS</b>	<b>4</b>	<b>75</b>	<b>24</b>				

### CHANGES THIS UPDATE:

The City of Saint Marys change is ban importation of alcoholic beverage - added to list.  
 The City of Alca has changed from unincorporated to incorporated.

This schedule is continuously updated as dictated by ongoing elections. If you have any questions, please do not hesitate to call the ABC Board office at 277-0630.