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HOUSE CS FOR CS FOR SENATE BILL NO. 87()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY

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 04.06.020 is amended to read:

9 Sec. 04.06.020. APPOINTMENT AND QUALIFICATIONS. The board
10 consists of five members appointed by the governor and confirmed by a majority of
11 the members of the legislature in joint session. A member of the board may not hold
12 any other state or federal office, either elective or appointive. Two members of the
13 board shall be persons actively engaged in the alcoholic beverage industry, except that

1 no member may hold a wholesale license or be an officer, agent, or employee of a
2 wholesale alcoholic beverage enterprise. No three members of the board may be
3 engaged in the same business, occupation, or profession. At least three members of
4 the board shall represent the general public. A board member representing the
5 general public or an immediate family member of a board member representing
6 the general public may not have any financial interest in the alcoholic beverage
7 industry. In this section, "immediate family member" means a spouse, child, or
8 parent.

9 * Sec. 2. AS 04.11.010(b) is amended to read:

10 (b) Except as provided in this subsection, a [A] person may not solicit or
11 receive orders for the delivery of an alcoholic beverage in an area that has adopted
12 a local option under AS 04.11.491. If the area has adopted a local option under
13 AS 04.11.491(a)(1), (2), or (3), or (b)(1) or (2), a package store licensee outside of
14 that local option area may receive orders as provided under AS 04.11.150 but may
15 not solicit in that area or receive orders through an agent or employee in that
16 area. This subsection does not apply to a package store licensee who operates a
17 package store in an area that has adopted a local option under
18 AS 04.11.491(a)(2)(C) or (3)(C) or (b)(2)(C) [WHERE THE RESULTS OF A
19 LOCAL OPTION ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500,
20 PROHIBITED THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING
21 ONE OR MORE TYPES OF LICENSES OR PERMITS UNDER THIS TITLE,
22 UNLESS THE PERSON IS LICENSED UNDER THIS TITLE AND THE ORDER
23 IS ACTUALLY RECEIVED BY THAT PERSON FROM THE PURCHASER OF
24 THE ALCOHOLIC BEVERAGE]. A person who violates this subsection is
25 punishable upon conviction as provided under AS 04.16.200(a) or (b).

26 * Sec. 3. AS 04.11.010(c) is amended to read:

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

1 presumption that the person possessed the alcoholic beverages for sale.

2 * Sec. 4. AS 04.11.080 is amended to read:

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

- 5 (1) beverage dispensary license;
- 6 (2) duplicate beverage dispensary license for additional rooms;
- 7 (3) restaurant or eating place license;
- 8 (4) club license;
- 9 (5) bottling works license;
- 10 (6) brewery license;
- 11 (7) package store license;
- 12 (8) general wholesale license;
- 13 (9) wholesale malt beverage and wine license;
- 14 (10) distillery license;
- 15 (11) common carrier dispensary license;
- 16 (12) retail stock sale license;
- 17 (13) recreational site license;
- 18 (14) [COMMUNITY LIQUOR LICENSE;
- 19 (15)] pub license;
- 20 (15) [(16)] winery license;
- 21 (16) [(17)] caterer's permit;
- 22 (17) [(18)] special events permit;
- 23 (18) [(19)] conditional contractor's permit;
- 24 (19) [(20)] brewpub license.

25 * Sec. 5. AS 04.11.100 is amended by adding a new subsection to read:

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

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(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

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

* Sec. 6. AS 04.11.135(a) is amended to read:

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

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

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

* Sec. 7. AS 04.11.135(b) is amended to read:

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

* Sec. 8. AS 04.11.150(a) is repealed and reenacted to read:

(a) Except as provided under (g) of this section, a package store license authorizes the licensee to sell alcoholic beverages to a person present on the licensed premises or to a person known to the licensee who makes a written solicitation to that

1 licensee for shipment. A licensee, agent, or employee may only ship alcoholic
 2 beverages to the purchaser. Before commencing the practice of shipping alcoholic
 3 beverages, and with each subsequent application to renew the license, a licensee shall
 4 notify the board in writing of the licensee's intention to ship alcoholic beverages in
 5 response to a written solicitation. The package store licensee, agent, or employee shall
 6 include written information on fetal alcohol syndrome and fetal alcohol effects
 7 resulting from a woman consuming alcohol during pregnancy in a shipment of
 8 alcoholic beverages sold in response to a written solicitation.

9 * Sec. 9. AS 04.11.150(g) is repealed and reenacted to read:

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

15 * Sec. 10. AS 04.11.160 is amended by adding new subsections to read:

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

25	1 to 25 suppliers	\$ 500
26	26 to 50 suppliers	\$1,000
27	51 to 75 suppliers	\$1,500
28	over 75 suppliers	\$2,000

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

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

4 * Sec. 11. AS 04.16 is amended by adding a new section to read:

5 Sec. 04.16.172. RESTRICTIONS ON PURCHASE AND SALE OF
6 ALCOHOLIC BEVERAGES. A person licensed under AS 04.11.090, 04.11.100,
7 04.11.110, or 04.11.150 may not purchase, sell, or offer for sale an alcoholic beverage
8 unless the alcoholic beverage being purchased, sold, or offered for sale was obtained
9 from a person licensed under

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

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

13 * Sec. 12. AS 04.11.270(b) is amended to read:

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

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

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

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

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

26 * Sec. 13. AS 04.11.320 is amended to read:

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

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

31 (2) issuance of the license is prohibited by AS 04.11.390, relating to

- 1 residency, or AS 04.11.410, relating to location of premises near churches and schools;
- 2 (3) the application has not been completed in accordance with
- 3 AS 04.11.260;
- 4 (4) issuance of the license would violate the restrictions pertaining to
- 5 the particular license imposed under this title;
- 6 (5) issuance of the license is prohibited under this title as a result of
- 7 an election conducted under AS 04.11.507 [IN ACCORDANCE WITH
- 8 AS 04.11.502];
- 9 (6) the requirements of AS 04.11.420 - 04.11.450 relating to zoning,
- 10 ownership and location of the license, and the identity and financing of a licensee have
- 11 not been met;
- 12 (7) [THE LICENSED PREMISES ARE TO BE LOCATED IN A
- 13 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT IS A BEVERAGE
- 14 DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE OF LICENSE
- 15 IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A COMMUNITY
- 16 LIQUOR LICENSE, UNLESS THE NEW LICENSE IS TO BECOME EFFECTIVE
- 17 AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER EFFECTIVE,
- 18 WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
- 19 OTHERWISE;
- 20 (8) THE AUTHORITY SOUGHT IS AUTHORITY TO OPERATE A
- 21 BEVERAGE DISPENSARY OR PACKAGE STORE UNDER A COMMUNITY
- 22 LIQUOR LICENSE FOR PREMISES TO BE LOCATED IN A MUNICIPALITY
- 23 WHERE THE AUTHORITY SOUGHT IS ALREADY HELD BY A PRIVATE
- 24 LICENSEE UNDER A BEVERAGE DISPENSARY OR PACKAGE STORE
- 25 LICENSE, UNLESS THE COMMUNITY LIQUOR LICENSE IS TO BECOME
- 26 EFFECTIVE AFTER THE PRIVATELY HELD LICENSE IS NO LONGER
- 27 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
- 28 OTHERWISE;
- 29 (9) issuance of the license is prohibited under AS 04.11.400(a) or
- 30 prohibition of issuance of the license is found necessary under AS 04.11.400(b);
- 31 (8) [(10)] the application contains false statements of material fact;

1 (9) [(11)] the license is sought for the sale of alcoholic beverages in a
2 first or second class city where [IN WHICH] there are no licensed premises at the
3 time of application unless a majority of the voters have voted not to approve [IN] a
4 local option to restrict or prohibit the sale of alcoholic beverages under
5 AS 04.11.491, have voted to approve a local option to allow the type of premises
6 under AS 04.11.491(a)(2) or (3), or have voted to remove a restriction or
7 prohibition on the sale of alcoholic beverages under AS 04.11.495 [ELECTION
8 CONDUCTED IN ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON
9 THE QUESTION SET OUT IN AS 04.11.490, OR HAVE VOTED "YES" ON A
10 QUESTION SET OUT IN AS 04.11.492 OR 04.11.500]; or

11 (10) [(12)] the license is sought for the sale of alcoholic beverages in
12 an established village where [IN WHICH] there are no licensed premises at the time
13 of application unless a majority of the voters have voted not to approve [IN] a local
14 option to restrict or prohibit the sale of alcoholic beverages under AS 04.11.491,
15 have voted to approve a local option to allow the type of premises under
16 AS 04.11.491(b)(2), or have voted to remove a restriction or prohibition on the
17 sale of alcoholic beverages under AS 04.11.495 [ELECTION CONDUCTED IN
18 ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON THE QUESTION
19 SET OUT IN AS 04.11.490 OR HAVE VOTED "YES" ON THE QUESTION SET
20 OUT IN AS 04.11.500].

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

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

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

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

28 (4) the permit is sought for the sale of alcoholic beverages in a first or
29 second class city or established village where [IN WHICH] there are no licensed
30 premises at the time of application unless a majority of the voters have voted not to
31 approve [IN] a local option to restrict or prohibit the sale of alcoholic beverages

1 under AS 04.11.491, have voted to approve a local option to allow the type of
2 permit under AS 04.11.491(a)(2) or (b)(2), or have voted to remove a restriction
3 or prohibition on the sale of alcoholic beverages under AS 04.11.495 [ELECTION
4 CONDUCTED IN ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON

5 THE QUESTION SET OUT IN AS 04.11.490].

6 * Sec. 14. AS 04.11.330(a) is amended to read:

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

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

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

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

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

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

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

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

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

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

28 * Sec. 15. AS 04.11.340 is amended to read:

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

31 (1) the board finds, after review of all relevant information, that

1 relocation of the license would not be in the best interests of the public;

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

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

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

9 (5) the application has not been completed in accordance with
10 AS 04.11.290;

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

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

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

18 (9) [THE LICENSED PREMISES ARE TO BE LOCATED IN A
19 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT TO BE RELOCATED IS A
20 BEVERAGE DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE
21 OF LICENSE IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A
22 COMMUNITY LIQUOR LICENSE, UNLESS THE RELOCATION IS TO BECOME
23 EFFECTIVE AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER
24 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
25 OTHERWISE;

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

27 * Sec. 16. AS 04.11.360 is amended to read:

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

31 (1) the board finds, after review of all relevant information, that transfer

1 of a license to another person would not be in the best interests of the public;

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

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

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

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

9 (B) the transfer is pursuant to a promise given as collateral by
10 the transferor to the transferee in the course of an earlier transfer of the license
11 under which promise the transferor is obliged to transfer the license back to the
12 transferee in the event of default in payment for property conveyed as part of
13 the earlier transfer of the license;

14 (5) transfer of the license to another person would result in violation
15 of the provisions of this title relating to identity of licensees and financing of licensees;

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

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

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

23 (9) [THE LICENSED PREMISES ARE LOCATED IN A
24 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT TO BE TRANSFERRED IS
25 A BEVERAGE DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE
26 OF LICENSE IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A
27 COMMUNITY LIQUOR LICENSE, UNLESS THE TRANSFER IS TO BECOME
28 EFFECTIVE AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER
29 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
30 OTHERWISE;

31 (10) THE AUTHORITY SOUGHT IS AUTHORITY TO OPERATE

1 A BEVERAGE DISPENSARY OR PACKAGE STORE UNDER A COMMUNITY
2 LIQUOR LICENSE FOR PREMISES TO BE LOCATED IN A MUNICIPALITY
3 WHERE THE AUTHORITY SOUGHT IS ALREADY HELD BY A PRIVATE
4 LICENSEE UNDER A BEVERAGE DISPENSARY OR PACKAGE STORE
5 LICENSE, UNLESS THE TRANSFER IS TO BECOME EFFECTIVE AFTER THE
6 PRIVATELY HELD LICENSE IS NO LONGER EFFECTIVE, WHETHER AS THE
7 RESULT OF A LOCAL OPTION ELECTION OR OTHERWISE:

8 (11) the license was issued under AS 04.11.100(f) or 04.11.400(g); or
9 (10) [AS 04.11.400(g);

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

13 * Sec. 17. AS 04.11.370 is amended to read:

14 Sec. 04.11.370. SUSPENSION AND REVOCATION OF LICENSES AND
15 PERMITS. A license or permit shall be suspended or revoked if the board finds
16 [THAT ONE OR MORE OF THE FOLLOWING GROUNDS EXISTS:]

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

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

22 (3) failure on the part of the licensee to correct a defect [DEFECTS]
23 that constitutes a violation [CC INSTITUTE VIOLATIONS] of this title, a co-
24 or restriction imposed by the board, a regulation [REGULATIONS] adopted under
25 this title, or other laws [WITHIN A PRESCRIBED TIME] after receipt of notice
26 issued by the board or its agent;

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

29 (5) conviction of an [THE] agent or employee of a licensee of a
30 violation of this title, a regulation adopted under this title, or an ordinance adopted
31 under AS 04.21.010, if the licensee is found by the board to have either knowingly

1 allowed the violation or to have recklessly or with criminal negligence failed to act in
2 accordance with the duty prescribed under AS 04.21.030 with the result that ~~the~~ [AN]
3 agent or employee violates a law, regulation, or ordinance;

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

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

11 (8) occurrence of illegal gambling within the limits of the licensed
12 premises;

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

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

18 (11) violation by an agent or employee of a licensee of a provision of
19 this title, a condition or restriction imposed by the board, a regulation adopted
20 under this title, or an ordinance adopted under AS 04.21.010, if the licensee is found
21 by the board to have either knowingly allowed the violation or to have recklessly or
22 with criminal negligence failed to act in accordance with the duty prescribed under
23 AS 04.21.030 with the result that the agent or employee violates the law, condition
24 or restriction, regulation, or ordinance.

25 * Sec. 18. AS 04.11.370 is amended by adding new subsections to read:

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

31 (c) If the board receives notice from the Department of Revenue that a licensee

1 or permittee has violated a provision of AS 05.15 related to gambling, the board

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

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

6 * Sec. 19. AS 04.11 is amended by adding a new section to read:

7 Sec. 04.11.395. BOARD IMPOSED CONDITIONS OR RESTRICTIONS.

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

10 * Sec. 20. AS 04.11.400(a) is amended to read:

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

13 (1) outside an established village, incorporated city, unified
14 municipality, or organized borough if after the issuance or relocation there would be
15 (A) more than one restaurant or eating place license for each 1,500 population or
16 fraction of that [1,500] population, or (B) more than one license of each other type,
17 including licenses that have been issued under (d) or (e) of this section, for each 3,000
18 population or fraction of that [3,000] population, in a radius of five miles of the
19 licensed premises [OR LOCATION OF PREMISES SOUGHT TO BE LICENSED],
20 excluding the populations of established villages, incorporated cities, unified
21 municipalities, and organized boroughs that are wholly or partly included within the
22 radius;

23 (2) inside an established village, incorporated city, or unified
24 municipality if after the issuance or relocation there would be inside the established
25 village, incorporated city, or unified municipality

26 (A) more than one restaurant or eating place license for each
27 1,500 population or fraction of that [1,500] population; or

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

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

5 (A) more than one restaurant or eating place license for each
 6 1,500 population or fraction of ~~that~~ [1,500] population; or

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

15 * Sec. 21. AS 04.11.480(a) is amended to read:

16 (a) ~~A~~ [IF A] local governing body may [WISHES TO] protest the issuance,
 17 renewal, relocation, [TRANSFER OF LOCATION,] or transfer to another person of
 18 a license by sending [, IT SHALL FURNISH] the board and the applicant [WITH] a
 19 protest and the reasons for the protest within 60 [30] days of receipt from the board
 20 of notice of filing of the application. A protest received after the 60-day period
 21 may not be accepted by the board, and in no event may a protest cause the board
 22 to reconsider an approved renewal, relocation, or transfer. The local governing
 23 body may protest the continued operation of a license during the second year of
 24 the biennial license period by sending the board and the licensee a protest and the
 25 reasons for the protest by January 31 of the second year of the license. The
 26 procedures for action on a protest of continued operation of a license are the
 27 same as the procedures for action on a protest of a renewal application. The
 28 board shall consider a protest and testimony received at a hearing conducted under
 29 AS 04.11.510(b)(2) or (4) when it considers the application or continued operation,
 30 and the protest and the record of the hearing conducted under AS 04.11.510(b)(2) or
 31 (4) shall be kept [RETAINED] as part of the board's permanent record of its review

1 [OF THE APPLICATION]. If an application or continued operation is protested, the
2 board shall deny [MAY NOT APPROVE] the application or continued operation
3 unless the board finds that the protest is arbitrary, capricious, and unreasonable.

4 * Sec. 22. AS 04.11 is amended by adding a new section to read:

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

8 (1) the sale of alcoholic beverages;

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

11 (A) a restaurant or eating place licensee;

12 (B) a beverage dispensary licensee;

13 (C) a package store licensee; or

14 (D) a caterer holding a permit under AS 04.11.230 to sell
15 alcoholic beverages at a site within the municipality who is also licensed under
16 a beverage dispensary license for premises outside of the municipality;

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

20 (A) a restaurant or eating place license;

21 (B) a beverage dispensary license; or

22 (C) a package store license;

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

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

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

27 (1) the sale of alcoholic beverages;

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

30 (A) a restaurant or eating place licensee;

31 (B) a beverage dispensary licensee;

1 (C) a package store licensee; or

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

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

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

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

12 (d) The ballot for an election on the option set out in (a)(2)(A), (a)(3)(A), or
13 (b)(2)(A) of this section must include a summary explanation of the authority to sell
14 alcoholic beverages given to a restaurant or eating place under AS 04.11.100(a). The
15 ballot for an election on the option set out in (a)(2)(B) or (D), (a)(3)(B), or (b)(2)(B)
16 or (D) of this section must include a statement that a beverage dispensary license is
17 commonly known as a "bar" and a summary explanation of the authority to sell
18 alcoholic beverages given to a beverage dispensary licensee under AS 04.11.090(a).
19 The ballot for an election on the option set out in (a)(2)(C), (a)(3)(C), or (b)(2)(C) of
20 this section must include a statement that a package store license is commonly known
21 as a "liquor store" and a summary explanation of the authority to sell alcoholic
22 beverages given to a package store licensee under AS 04.11.150(a).

23 (e) If a municipality dissolves under AS 29.06.450(a) or (b), a local option
24 adopted by the municipality under (a) of this section shall continue in effect as the
25 corresponding local option under (b) of this section for an established village having
26 the same perimeter as the previous boundaries of the municipality. A license for
27 premises operated by the municipality under AS 04.11.505 expires when the
28 municipality dissolves.

29 (f) A municipality or established village that has adopted a local option under
30 (a)(1), (2), or (3) or (b)(1) or (2) of this section may designate a site for the delivery
31 of alcoholic beverages to individuals in the area or a site for a person to bring

1 alcoholic beverages if the alcoholic beverages are imported into the area. This
2 subsection does not apply to the delivery or importation of

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

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

7 * Sec. 23. AS 04.11 is amended by adding new sections to read:

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

12 (b) A ballot question to change a local option under this section must at least
13 contain language substantially similar to: "Shall (name of municipality or village)
14 change the local option currently in effect, that prohibits (current local option under
15 AS 04.11.491), and adopt in its place a local option to prohibit (proposed local option
16 under AS 04.11.491)? (yes or no)."

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

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

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

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

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

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

13 Sec. 04.11.499. PROHIBITION OF IMPORTATION AFTER ELECTION. If
14 a majority of the voters vote to prohibit the importation of alcoholic beverages under
15 AS 04.11.491(a)(4) or (5) or (b)(3) or (4), a person, beginning on the first day of the
16 month following certification of the results of the election, may not knowingly send,
17 transport, or bring an alcoholic beverage into the municipality or established village,
18 unless the alcoholic beverage is sacramental wine to be used for bona fide religious
19 purposes based on tenets or teachings of a church or religious body, is limited in
20 quantity to the amount necessary for religious purposes, and is dispensed only for
21 religious purposes by a person authorized by the church or religious body to dispense
22 the sacramental wine.

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

24 Sec. 04.11.501. PROHIBITION OF POSSESSION AFTER ELECTION. (a)
25 If a majority of the voters vote to prohibit the possession of alcoholic beverages under
26 AS 04.11.491(a)(5) or (b)(4), a person may not knowingly possess an alcoholic
27 beverage in the municipality or established village, unless the alcoholic beverage is
28 sacramental wine to be used for bona fide religious purposes based on tenets or
29 teachings of a church or religious body, is limited in quantity to the amount necessary
30 for religious purposes, and is dispensed only for religious purposes, by a person
31 recognized by the church or religious body as authorized to dispense the wine.

1 (b) If there are licensed premises within the municipality or established village,
2 the prohibition on possession is effective beginning 90 days after the results of the
3 election are certified. If there are no licensed premises within the municipality or
4 established village, the prohibition on possession is effective beginning 60 days after
5 the results of the election are certified.

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

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

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

12 Sec. 04.11.503. EFFECT ON LICENSES OF RESTRICTION ON SALE. If
13 a majority of the voters vote under AS 04.11.491(a)(2) or (b)(2) to prohibit sale of
14 alcoholic beverages except by the type or types of licensees or permit holders listed
15 on the ballot, the board may not issue, renew, or transfer between persons or locations
16 a license for premises located within the boundaries of the municipality and in
17 unincorporated areas within five miles of the boundaries of the municipality or within
18 the perimeter of the established village, except the type or types of licenses listed on
19 the ballot. A license in effect within the boundaries of the municipality or perimeter
20 of the established village, and in unincorporated areas within five miles of the
21 boundaries of the municipality, except the type of license listed on the ballot, is void
22 90 days after the results of the election are certified. A license that expires during the
23 90 days after the results of a local option election are certified may be extended, until
24 it is void under this section, by payment of a prorated portion of the biennial license
25 fee.

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

27 Sec. 04.11.505. LICENSING AFTER PROHIBITION ON SALE EXCEPT IN
28 PREMISES OPERATED BY MUNICIPALITY. (a) If a majority of the voters vote
29 under AS 04.11.491(a)(3) to prohibit the sale of alcoholic beverages except on
30 premises operated by the municipality, the board may not issue, renew, or transfer
31 between persons or locations a license for premises located within the boundaries of

1 a municipality and in unincorporated areas within five miles of the boundaries of the
2 municipality, with the exception of the type of license listed on the ballot and operated
3 under a license held by the municipality. A license in effect is void 90 days after the
4 results of the election are certified. A license that expires during the 90 days after the
5 results of a local option election are certified may be extended, until it is void under
6 this subsection, by payment of a prorated portion of the biennial license fee.

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

13 * Sec. 29. AS 04.11 is amended by adding new sections to read:

14 Sec. 04.11.507. PROCEDURE FOR LOCAL OPTION ELECTIONS. (a)
15 Elections to adopt a local option under AS 04.11.491, change a local option under
16 AS 04.11.493, or remove a local option under AS 04.11.495, shall be conducted as
17 required in this section.

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

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

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

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

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

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

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

11 (f) Notwithstanding any other provisions of law, an election under (b) or (c)
12 of this section to remove a local option or to change to a less restrictive option than
13 the local option previously adopted under AS 04.11.491 may not be conducted during
14 the first 12 months after the local option was adopted or more than once in an
15 18-month period.

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

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

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

31 (1) the board shall notify, by certified mail, all package store licensees

1 who sell alcoholic beverages in response to a written solicitation of the local option;
2 and

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

5 * Sec. 30. AS 04.11.540 is amended to read:

6 Sec. 04.11.540. LICENSE RENEWAL AND EXPIRATION. Notwithstanding
7 AS 04.11.680, an application for renewal of a license issued for the two calendar years
8 [YEAR] ending December 31 or of a seasonal license issued for parts of those
9 calendar years [A SIX-MONTH PERIOD ENDING IN THE PREVIOUS YEAR] may
10 be submitted up until the next February 28 [, BUT THE AUTHORITY GRANTED
11 UNDER THE LICENSE MAY NOT BE EXERCISED UNTIL THE LICENSE IS
12 RENEWED]. If a complete [THE] application for renewal has [AND APPLICABLE
13 AFFIDAVITS HAVE] not been filed by February 28 or the required fees and the
14 penalty fees have not been paid by that date, the license expires at 12:00 midnight
15 February 28. A new license may not be issued to the holder of an expired license for
16 the same premises except on proof satisfactory to the board of good cause for the
17 failure to file and pay.

18 * Sec. 31. AS 04.11.680(a) is amended to read:

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

26 * Sec. 32. AS 04.16 is amended by adding a new section to read:

27 Sec. 04.16.025. ILLEGAL PRESENCE ON PREMISES INVOLVING
28 ALCOHOLIC BEVERAGES. (a) A person may not knowingly enter or remain on
29 premises

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

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(A) AS 04.11.010; or

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

(b); or

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

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

* Sec. 33. AS 04.16.110 is repealed and reenacted to read:

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

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

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

* Sec. 34. AS 04.16.125(a) is amended to read:

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

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

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

* Sec. 35. AS 04.16.125(b) is amended to read:

(b) This section does not apply to

(1) a person transporting not more than

(A) two liters of wine;

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

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

(2) the transportation of alcoholic beverages for use on premises

1 allowed under AS 04.11.491(a)(2) - (3) or (b)(2) or for use under a permit allowed
2 under AS 04.11.491(a)(2).

3 * Sec. 36. AS 04.16.180(a) is amended to read:

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

8 * Sec. 37. AS 04.16.200(b) is amended to read:

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

15 * Sec. 38. AS 04.16.200(e) is amended to read:

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

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

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

25 * Sec. 39. AS 04.16.205(a) is amended to read:

26 (a) A person who possesses alcoholic beverages in a municipality or
27 established village in violation of AS 04.11.501 [AS 04.11.498] or an ordinance
28 adopted under AS 04.11.501 [AS 04.11.498] may, upon conviction, be punished by a
29 fine not to exceed \$1,000 and shall forfeit the seized alcoholic beverages. When a
30 peace officer stops or contacts a person concerning a violation of AS 04.11.501
31 [AS 04.11.498] or an ordinance adopted [ENACTED] under AS 04.11.501

1 [AS 04.11.498], the peace officer shall seize the alcoholic beverages and may [, IN
2 THE OFFICER'S DISCRETION.] issue a citation to the person as provided in
3 AS 12.25.180.

4 * Sec. 40. AS 04.16.205(b) is amended to read:

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

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

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

15 * Sec. 41. AS 04.16.205(c) is amended to read:

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

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

29 (d) Community work shall be performed at the direction of the local governing
30 body of the municipality or the local governing body of the established village. In the
31 absence of a local governing body for an established village, community work

1 shall be performed at the direction of the body that has traditionally performed
2 public functions on behalf of the entire community. The value of community work
3 in lieu of a fine is \$5.00 per hour. When the community work is completed, the
4 person cited for the violation shall mail or personally deliver to the clerk of the court
5 in which the citation is filed by the peace officer

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

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

11 * Sec. 43. AS 04.16.205(g) is amended to read:

12 (g) Notwithstanding other provisions of law, if a person cited for a violation
13 of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501
14 [AS 04.11.498] for which a bail amount has been established under (c) of this section
15 appears in court and is found guilty, the penalty that is imposed for the offense may
16 not exceed the bail amount for that offense established under (c) of this section.

17 * Sec. 44. AS 04.16.205(h) is amended to read:

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

23 * Sec. 45. AS 04.16.220(a) is amended to read:

24 (a) The following are subject to forfeiture:

25 (1) alcoholic beverages manufactured, sold, offered for sale or
26 possessed for sale, bartered or exchanged for goods and services in this state in
27 violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or
28 otherwise stored in violation of AS 04.21.060; alcoholic beverages sold, or offered for
29 sale in violation [IN AN AREA WHERE THE RESULTS] of a local option adopted
30 under AS 04.11.491 [ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500,
31 PROHIBITED THE POSSESSION OF ALCOHOLIC BEVERAGES OR

1 PROHIBITED THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING
2 ONE OR MORE LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA];
3 alcoholic beverages transported into the state and sold to persons not licensed under
4 this chapter in violation of AS 04.16.170(b);

5 (2) materials and equipment used in the manufacture, sale, offering for
6 sale, possession for sale, barter or exchange of alcoholic beverages for goods and
7 services in this state in violation of AS 04.11.010; materials and equipment used in the
8 stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060;
9 materials and equipment used in the sale or offering for sale of an alcoholic beverage
10 in an area in violation [WHERE THE RESULTS] of a local option adopted under
11 AS 04.11.491 [ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500, PROHIBITED
12 THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING ONE OR
13 MORE LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA];

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

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

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

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

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

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

27 * Sec. 46. AS 04.16.220(b) is amended to read:

28 (b) Property subject to forfeiture under this section may be actually or
29 constructively seized under an order issued by the superior court upon a showing of
30 probable cause that the property is subject to forfeiture under this section. Constructive
31 seizure is effected upon posting a signed notice of seizure on the item to be forfeited,

1 stating the violation and the date and place of seizure. Seizure without a court order
2 may be made if

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

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

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

11 * Sec. 47. AS 04.16.220(d) is amended to read:

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

13 (1) upon conviction of a person for a violation of [UNDER]
14 AS 04.11.010, 04.11.499, [04.11.496(b), OR] AS 04.21.060, or AS 04.11.501 [UPON
15 ENTRY OF JUDGMENT UNDER AS 04.11.498] or an ordinance adopted under
16 AS 04.11.501 [AS 04.11.498]; or

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

19 * Sec. 48. AS 04.16.220(g) is amended to read:

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

24 * Sec. 49. AS 04.16.220(h) is amended to read:

25 (h) Alcoholic beverages forfeited under (d) of this section shall be placed in
26 the custody of a peace officer of the state and destroyed no later than 30 days after
27 forfeiture. All other property forfeited under this section shall be placed in the custody
28 of the commissioner of public safety for disposition according to an order entered by
29 the court. The court shall order destroyed any property forfeited under this section that
30 is harmful to the public and shall order any property forfeited under this section
31 that was seized in a municipality to be transferred to the municipality in which

1 the property was seized. Other property shall be ordered sold and the proceeds used
2 for payment of expenses of the proceedings for forfeiture and sale, including expenses
3 of seizure, custody, and court costs. The remainder of the proceeds shall be deposited
4 in the general fund.

5 * Sec. 50. AS 04.21.010(a) is amended to read:

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

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

15 (2) the percent of alcohol by volume that an alcoholic beverage may
16 contain; a limit imposed under this paragraph may not be less than 40 nor more
17 than 76 percent alcohol by volume; or

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

20 * Sec. 51. AS 04.21.010(b) is amended to read:

21 (b) After the adoption of a local option under AS 04.11.491(a), a [IF, AS A
22 RESULT OF AN ELECTION HELD IN ACCORDANCE WITH AS 04.11.502 IN A
23 MUNICIPALITY, THE BOARD IS PROHIBITED FROM ISSUING, RENEWING,
24 OR TRANSFERRING A LICENSE BETWEEN HOLDERS OR LOCATIONS OR IF
25 THE IMPORTATION OF ALCOHOLIC BEVERAGES IS PROHIBITED IN THE
26 MUNICIPALITY, THE] municipality may adopt an ordinance making the sale, [OR]
27 importation, or possession of alcoholic beverages a misdemeanor to the extent
28 prohibited under the local option. The ordinance may not be inconsistent with this
29 title or the regulations adopted under this title.

30 * Sec. 52. AS 04.21.010(c) is amended to read:

31 (c) A municipality may not impose taxes on alcoholic beverages except a

- 1 (1) property tax on alcoholic beverage inventories;
2 (2) sales tax on alcoholic beverage sales if sales taxes are imposed on
3 other sales within the municipality;
4 (3) sales tax on alcoholic beverage sales that was in effect before
5 July 1, 1985; and
6 (4) sales and use tax on alcoholic beverages if the sale of alcoholic
7 beverages within the municipality has been prohibited under AS 04.11.491(a)(1), (4),
8 or (5) [AS 04.11.490].

9 * Sec. 53. AS 04.21.015(b) is amended to read:

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

14 * Sec. 54. AS 04.21.025(a) is amended to read:

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

- 20 (1) beverage dispensary;
21 (2) restaurant or eating place;
22 (3) club;
23 (4) package store;
24 (5) [COMMON CARRIER DISPENSARY;
25 (6)] recreational site;
26 (6) [(7) COMMUNITY;
27 (8)] pub;
28 (7) [(9)] conditional contractor.

29 * Sec. 55. AS 04.21.025 is amended by adding a new subsection to read:

30 (e) A person licensed as a common carrier dispensary shall train agents and
31 employees who sell or serve alcoholic beverages or who check the identification of a

1 patron on provisions of state law regarding sale of alcoholic beverages, including
2 AS 04.16.015, 04.16.020, 04.16.030, 04.16.051, 04.16.052, 04.16.120, 04.16.125,
3 AS 04.21.030, and 04.21.050. The training must include the subjects of the effects of
4 alcohol consumption, identifying a drunken person, determining valid identification,
5 intervention to prevent unlawful alcohol consumption, and penalties for unlawful acts
6 by agents and employees of licensees. A common carrier licensee shall, once every
7 three years, provide the board with a description of its training program including the
8 subjects taught, teaching method, and testing required.

9 * Sec. 56. AS 04.21.065(a) is amended to read:

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

- 13 (1) beverage dispensary license;
- 14 (2) restaurant or eating place license;
- 15 (3) club license;
- 16 (4) brewery license; this paragraph applies only to a brewery that
17 permits a person to sample portions of the brewery's product;
- 18 (5) package store license;
- 19 (6) common carrier dispensary license;
- 20 (7) recreational site license;
- 21 (8) [COMMUNITY LIQUOR LICENSE;
- 22 (9)] pub license;
- 23 (9) [(10)] winery license; this paragraph applies only to a winery that
24 permits a person to sample portions of the winery's product;
- 25 (10) [(11)] caterer's permit;
- 26 (11) [(12)] special events permit;
- 27 (12) [(13)] conditional contractor's permit;
- 28 (13) [(14)] another license or permit issued by the board authorizing
29 consumption of alcoholic beverages.

30 * Sec. 57. AS 04.21.080(b)(1) is amended to read:

- 31 (1) "alcoholic beverage" means a spirituous, vinous, malt, or other

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

11 * Sec. 58. AS 04.21.080(b)(9) is amended to read:

12 (9) "established village" means an area that does not contain any
13 part of an incorporated city or another established village and that is

14 (A) an unincorporated community that is in the unorganized
15 borough and that has 25 or more permanent residents; or

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

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

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

22 * Sec. 59. AS 05.15 is amended by adding a new section to article 1 to read:

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

28 * Sec. 60. AS 15.07.064(g) is amended to read:

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

31 (A) the unorganized borough and that has 25 or more

1 permanent residents; or

2 (B) an organized borough, has 25 or more permanent
3 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
7 15 miles outside the boundary limits of a unified municipality

8 [HAS THE MEANING GIVEN IN AS 04.21.080].

9 * Sec. 61. AS 18.65.085(a) is amended to read:

10 (a) There is established in the Department of Public Safety, division of state
11 troopers, a narcotic drugs and alcohol enforcement unit for the purpose of investigating
12 and combating the illicit sale and distribution of narcotic drugs and alcoholic beverages
13 in the state. Enforcement of the alcoholic beverage control laws shall focus primarily
14 on the investigation, apprehension, and conviction of persons who violate
15 AS 04.11.010 by selling, importing, or possessing alcoholic beverages in violation of
16 a local option [AN ORDINANCE] adopted by a municipality or established village
17 under AS 04.11.491 [AS 04.11.490 - 04.11.500].

18 * Sec. 62. AS 18.65.085(c) is amended to read:

19 (c) The Department of Public Safety may establish and administer a reward
20 program, and provide grants to municipalities, established villages, and, at the request
21 of a municipality or established village, to a nonprofit association that administers a
22 village public safety officer program, for reward programs leading to the apprehension
23 and conviction of persons who violate AS 04.11.010 by selling, importing, or
24 possessing alcoholic beverages in violation of a local option [AN ORDINANCE]
25 adopted by a municipality or established village under AS 04.11.491 [AS 04.11.490
26 - 04.11.500].

27 * Sec. 63. AS 29.20.270(e) is amended to read:

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

30 * Sec. 64. AS 29.25.020(d) is amended to read:

31 (d) This section does not apply to an ordinance proposed under

1 AS 04.11.507(d) [AS 04.11.502(c)].

2 * Sec. 65. AS 29.25.070(d) is amended to read:

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

5 * Sec. 66. AS 29.35.080(a) is amended to read:

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

9 * Sec. 67. AS 34.03.360(6) is amended to read:

10 (6) "illegal activity involving alcoholic beverages" means a person's
11 delivery of an alcoholic beverage in violation of AS 04.11.010(b) in an area where the
12 results of a local option election have, under AS 04.11.491 [AS 04.11.490 -
13 04.11.500], prohibited the Alcoholic Beverage Control Board from issuing, renewing,
14 or transferring a liquor license or permit under AS 04;

15 * Sec. 68. AS 47.37.045(e) is amended to read:

16 (e) In this section,

17 (1) "established village" means an unincorporated community that
18 is in

19 (A) the unorganized borough and that has 25 or more
20 permanent residents; or

21 (B) an organized borough, has 25 or more permanent
22 residents, and

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

25 (ii) is not on a road system and is located more than
26 15 miles outside the boundary limits of a unified municipality
27 [HAS THE MEANING GIVEN IN AS 04.21.080(b)];

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

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

31 * Sec. 69. AS 04.11.090(c), 04.11.190, 04.11.490, 04.11.492, 04.11.496, 04.11.498,

1 04.11.500, 04.11.502, 04.11.504, 04.11.506, and 04.11.510(d) are repealed.

2 * Sec. 70. TRANSITION: LOCAL OPTIONS EARLIER ADOPTED. Notwithstanding
3 the provisions of this Act, local options adopted by an area under AS 04.11.490, 04.11.492,
4 04.11.496, 04.11.498, or 04.11.500 or previous local option laws before the effective date of
5 this Act shall continue in effect until changed under AS 04.11.493 or removed under
6 AS 04.11.495. References in this Act to local option elections conducted under AS 04.11.491,
7 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
8 are to be interpreted to include local option elections conducted under AS 04.11.490,
9 04.11.492, 04.11.496, 04.11.498, 04.11.500, or 04.11.502 or previous local option laws in
10 effect before the effective date of this section.

11 * Sec. 71. TRANSITION: EXISTING LOCAL OPTION PETITIONS. A petition to adopt
12 or remove a local option on file with a municipality or the lieutenant governor on the effective
13 date of this section that has not been voted on is void and may not be placed on an election
14 ballot.

15 * Sec. 72. TRANSITION: COMMUNITY LIQUOR LICENSES. A community liquor
16 license issued under AS 04.11.190 before the effective date of this section to operate a
17 beverage dispensary shall continue as a beverage dispensary license under AS 04.11.090. A
18 community liquor license issued under AS 04.11.190 before the effective date of this section
19 to operate a package store shall continue as a package store license under AS 04.11.150.

20 * Sec. 73. TRANSITION. A person licensed under AS 04.11.160 on the effective date of
21 this section shall submit the information required under AS 04.11.160(f), added by sec. 10 of
22 this Act, by September 30, 1995.

23 * Sec. 74. TRANSITION: IMPLEMENTATION OF BIENNIAL SEASONAL LICENSES.

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

30 (b) Applicants whose licenses are not renewed under (a) of this section shall be
31 eligible for a two-year seasonal license. These licenses expire, unless renewed, on

1 December 31, 1997, and may be renewed biennially in odd-numbered years.

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

8 * Sec. 75. TRANSITION: REGULATIONS. Notwithstanding sec. 79 of this Act, the
9 Alcoholic Beverage Control Board may proceed to adopt regulations necessary to implement
10 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
11 before July 1, 1995.

12 * Sec. 76. PROHIBITION ON PURCHASE OR CERTAIN ALCOHOLIC BEVERAGES.
13 Beginning July 1, 1995, and ending June 30, 1996, a person licensed as a wholesaler under
14 AS 04.11.160 may not purchase an alcoholic beverage that contains more than 76 percent
15 alcohol by volume.


16 * Sec. 77. Section 75 of this Act takes effect immediately under AS 01.10.070(c).

17 * Sec. 78. AS 04.16.110(2), enacted by sec. 33 of this Act, takes effect July 1, 1996.

18 * Sec. 79. Except as provided in secs. 77 and 78 of this Act, this Act takes effect July 1,
19 1995.

May 3, 1995

To: House Judiciary Committee
Chairperson Rep. Brian Porter
Fax number 465-3834

From: Molly Pederson 
P.O. Box 184
Barrow, Alaska 99723

Subj: Senate Bill no. 87 (CRA)

My name is Molly Pederson, born and raised and reside in Barrow, Alaska. Thank you for the opportunity of testifying on a bill being considered by your committee.

I speak representing the North Slope Celebration of Sober Life Movement, of which I am a chairperson. This group is made up of the residence of Barrow who promote sober living.

When the majority of the voters voted to prohibit the importation, sale and possession of alcoholic beverages by local option election it was a sigh of relief felt by many who have been affected by the devastation of alcohol abuse. The change has been positively phenomenal throughout the community and even carrying over to the nearby villages.

As the months pass, though, we are noticing more and more people getting back to drinking alcohol. Those who chose to possess and drink seem to not care whether they are breaking the law. Because of this the section of SB87 dealing with illegally possessing alcoholic beverages needs to be strong enough to make them think twice before breaking the law. As it is written now it is not going to keep people from taking chances of illegally possessing. Possession of alcoholic beverages in violation of local option should be classified as a misdemeanor or felony according to the amounts possessed the same as is provided for the sending, transporting, or bringing alcoholic beverages into a village in violation of local option ban.

(1)

As it is now, the public safety cannot get a search warrant for illegally possessed alcohol unless another crime has been committed. This does not seem fair when the majority of the voters have voted to ban alcohol and we have to wait for a crime to search and charge someone for breaking the law. It is the illegal possessor of alcohol who perpetuates the market for the bootleggers and must be held accountable for their actions as well.

It is frustrating to know that there is alcohol out there still available to the abusers who cause misery and pain, which was the main reason for the ban. A law needs to be able to help the communities who have voted dry, such as ours, keep illegal alcohol out.

Thank you for your consideration of my testimony.

TO: THE HOUSE JUDICIARY COMMITTEE**FAX: (907) 465-3834**

Subj: CS for Senate Bill No. 87 (FIN), "An Act relating to community local options for control of alcoholic beverages, *et seq*"

Mr. Chairman and Members of the Committee on Community and Regional Affairs:

My name is Edith Nashoalook, Assistant Health Educator employed by the North Slope Borough. My employment with the NSB started in 1983 as an advocate in the Arctic Women-in-Crisis. We dealt with a lot of alcohol related domestic violence, sexual abuse, elder abuse. In 1985, I transferred to Senior Citizens Program and I saw elder abuse due to alcohol and drug abuse. I transferred to Health Education in 1987 and has been there since.

I support amendments for making alcohol possession and importation a crime, a felony.

When the alcohol ban, making possession and importation illegal, first went into effect last year, I felt a sense of peace in our community. Children were happier and the domestic violence and other abuses were less evident in the Public Safety and also in the hospital.

Barrow residents voted to ban alcohol because it affects their way of life. Alcohol use in Barrow has been highly correlated with an increased domestic violence, crimes, accidents, mortality, suicides and job absenteeism. You wouldn't want your child, spouse or family member to be involved in domestic violence, in crimes, or have a serious accident or commit suicide - we do not want that for our families. We now know why those things happened in the past. The people of the NSB voted to ban alcohol because they did not want to increase the statistics that were already outrageously higher than the rest of the U.S. We want those statistics lower and non-existent.

Residents that are not substance abusers are affected by these things too because we live in a isolated area. We are in close contact with each other on a daily basis as work and at school. We see co-workers who don't come in at all because of drinking, or co-workers who are victims of domestic violence related to substance abuse. This makes our jobs and our days hard. We do not want that anymore.

We need stiffer laws that make alcohol procession and importation a serious crime. Please support us in our efforts.

Respectfully,



Edith Nashoalook

Foremost a Grandmother of 2 beautiful Grand-Boys
Mother of 3
Resident of Barrow of 39 years

Alaska State Legislature



State Capitol
Juneau, Alaska 99801-1152
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Ketchikan, Alaska 99901
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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 • Ketchikan • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

Barrow vote

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 Sbarrock 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.

Anchorage
News
1/2/95

MEMORANDUM

State of Alaska

Department of Law

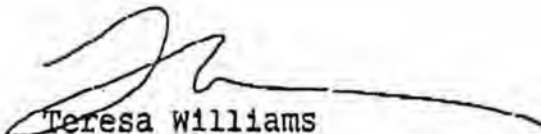
TO: Patrick Sharrock
Director
Alcoholic Beverage Control Board

DATE: March 10, 1995

FILE NO:

TEL. NO: 269-5200

SUBJECT: Local Option Laws



FROM: Teresa Williams
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

May 29, 1986

Post-It™ brand fax transmittal memo 7671		of pages 5
To: Joe Ambrose	From: Jensen Williams	
Co.	Ca.	
Dept.	Phone: 569-5025	
4105-3922	Fax:	

IN NATIONAL CENTER
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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: CSSSHB 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 CSSSHB 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

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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

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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. 38-3-86-0074

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US-1
1
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
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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 OPTION COMMUNITIES
 Updated December 30, 1994

City	Community license only	Open possession	Vote Tally	Election date	Certification date	Effective date
Aldak			38-15	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	02-06-90	02-12-90	03-01-90
Alikakot			49-30	05-12-89	05-19-89	06-01-89
Alikakot		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	07-28-88	08-01-88	11-01-88
Atka			22-16	03-07-89	03-08-89	04-01-89
Almautluak			60-12	10-08-81	04-29-82	05-01-82
Atkasuk		1	43-31	10-05-83	10-11-83	01-01-84
Barrow			614-588	10-04-94	10-06-94	11-01-94
Barrow		1	604-596	10-04-94	10-06-94	11-01-94
Bethel			611-207	10-04-77	10-06-77	11-01-77
Blrch Creek*		1	13-2	10-08-87	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
Chotomak			48-29	10-14-82	10-15-82	11-01-83
Chevak			88-63	10-02-90	10-02-90	11-01-90
Deering			32-24	05-28-82	08-01-82	07-01-82
Diomede			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 increases only	Plan provisions	Vote Tally	Election date	Certification date	Effective date
Hooper Bay			103-44	03-01-83	03-01-83	04-01-83
Hughes			17-4	03-02-83	03-29-83	04-01-83
Huslia			37-13	03-14-89	03-23-89	04-01-89
Iliamna*			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
Kipnuk*			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			643-433	12-06-88	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
Kwigillingok*			63-5	08-09-83	09-01-83	10-01-83
Lower Kalskag			46-31	11-06-81	11-07-81	12-01-81
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	07-26-81	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
Napaidak			54-14	03-31-82	03-31-82	04-01-82
Napaidak		1	62-14	05-05-87	05-19-87	06-01-87
Napaskiak			55-4	11-01-82	11-06-82	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
Nondaton			46-30	11-10-86	12-30-86	01-28-87
Noorvik			103-58	04-28-87	04-28-87	05-01-87
Nuqsut			57-39	11-21-83	11-22-83	12-01-83
Nuqsut		1	60-56	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 license only	San Protection	Vote Tally	Election date	Certification date	Effective date
Numapitchuk		1	75-23	10-07-88	10-13-88	11-01-88
Pilot Station			67-58	03-08-88	03-20-88	04-01-88
Platinum			12-9	01-14-82	01-25-82	02-01-82
Point Hope			62-39	08-29-82	07-02-82	08-01-82
Point Hope		1		10-08-89	10-09-89	11-01-89
Point Lay*			30-15	07-01-86	07-11-88	08-01-86
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			48-22	10-06-87	10-27-87	11-01-87
Saint Mary's			20-86	08-29-84	09-02-84	10-01-84
Saint Mary's			63-48	09-22-81	09-28-81	10-01-81
Saint Michael			39-21	08-04-88	08-07-88	09-01-88
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	10-08-87	10-12-87	11-01-87
Selawik			89-69	12-17-86	12-22-86	01-01-87
Shageluk			31-27	06-28-83	07-06-83	09-01-83
Sheldoonfik			34-28	03-13-84	03-15-84	04-01-84
Sheldon Point			26-7	08-26-88	08-27-88	09-01-88
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	08-25-87	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	48-15	01-12-82	01-13-82	02-01-82
Tatitlek*			28-15	08-23-83	09-13-83	10-01-83
Teller			47-31	05-18-83	05-18-83	06-01-83
Tellin*			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
Tokook Bay			78-32	11-23-81	11-23-81	12-01-81
Tuluksak			51-16	10-06-82	10-05-82	11-01-82
Tuluksak		1	55-12	04-12-94	04-25-94	05-01-94
Tuntutufiak			47-20	07-20-82	08-02-82	09-01-82
Tuntutufiak		1	41-22	10-08-87	10-28-87	11-01-87
Tununak			90-11	08-12-81	08-13-81	09-01-82

*Unincorporated

SCHEDULE OF LOCAL OPTION COMMUNITIES

Updated December 30, 1994

City	Community Revenue only	Ban possession	Vote Tally	Election date	Certification date	Effective date
Unalakleet			121-40	04-14-92	04-16-92	05-01-92
Upper Kalskog			38-30	01-20-93	02-22-93	03-01-93
Wainwright			111-42	07-08-82	07-14-82	08-01-82
Wales			29-21	08-14-81	08-17-81	09-01-81
TOTALS	4	24				

CHANGES THIS UPDATE:

The City of Saint Marys change is ban importation of alcoholic beverage - added to list.
 The City of Alka 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 277-0698.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN

TO: HCS CSSB 87 () (work draft 9-LS0673\R) 5/3/95

Page 2, line 7, following "industry.":

Insert "A person who is employed in a program providing alcohol or substance abuse counseling or related services is not considered to have a financial interest in the alcoholic beverage industry."

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN

TO: HCS CSSB 87() (Work Order 9-LS0673\R)

1 Page 2, after line 8:
 2 Insert a new bill section to read:
 3 **** Sec. 2.** AS 04.06.060 is amended to read:
 4 Sec. 04.06.060. QUORUM AND MAJORITY. Three members of the board
 5 constitute a quorum for the conduct of business, except that at least two members
 6 of a quorum must be members who represent the general public and a majority
 7 of the whole membership of the board must approve all applications for new licenses,
 8 and all renewals, transfers, suspensions, and revocations of existing licenses. If a
 9 majority of the board is present and voting, the director, with the consent of the
 10 members present, may cast a tie-breaking vote."

11 ~~Renumber the~~ following bill sections accordingly.

12 Page 36, line 21:
 13 ~~Delete "sec. 10"~~
 14 ~~Insert "sec. 11"~~

Page 37, line 8:
~~Delete "sec. 79"~~
~~Insert "sec. 81"~~

Page 37, ~~line~~ line 15:
 Insert a new bill section to read:
**** Sec. 78.** TRANSITION: BOARD MEMBERS. The amendments to AS 04.06.020
 made ~~in~~ ~~sec~~ 1 of this Act do not prevent a person who is serving as a member of the

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN

TO: HCS CSSB 87() (Work Order 9-LS0673\R)

1 Page 2, line 4, after "public,":

2 Insert "One board member representing the general public shall also be employed
3 in the field of public health."

4 Page 37, line 8:

5 Delete "sec. 79"

6 Insert "sec. 80"

7 Page 37, after line 15:

8 Insert a new bill section to read:

9 "** Sec. 77. TRANSITION: BOARD MEMBERS. The amendments to AS 04.06.020
10 made by sec. 1 of this Act do not prevent a person who is serving as a member of the
11 Alcoholic Beverage Control Board on the effective date of this section from continuing to
12 serve until the person's term expires. The Governor shall implement AS 04.06.020, as
13 amended by sec. 1 of this Act, in making appointments after the effective date of this
14 section."

15 Renumber the following bill sections accordingly.

16 Page 37, line 18:

17 Delete "secs. 77 and 78"

18 Insert "secs. 78 and 79"

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



May 3, 1995

Rep. Brian Porter, Chairman
House Judiciary Committee
Alaska State Legislature
State Capitol
Juneau, AK. 99802

RE: SB 87 - Local options for control of alcoholic beverages.

Dear Representative Porter:

Last October, the people of Barrow voted to go from a "damp" to a "dry" status regarding the importation, sale and possession of alcohol. In doing so, Barrow became the largest dry community in the state.

This willingness on the part of the electorate to forego alcohol has had remarkable results. During the six months since the ban went into effect, we have seen a dramatic drop in the number of alcohol-related incidents handled by our Department of Public Safety. Teachers have noticed that some students are considerably more alert because of a quieter home life. Employers have experienced less absenteeism and higher morale among their employees. Doctors on-call for emergency medical services at night are getting more sleep. Vandalism of private property has declined.

Some residents who were unhappy about the results of the local option election attempted to force another vote on the issue shortly after last year's election. That conflict ended up in Superior Court, and the judge ruled that the community deserves a period of time to see the effects of the ban before another vote is allowed.

The judge decided on a twelve-month moratorium in our case, but he also

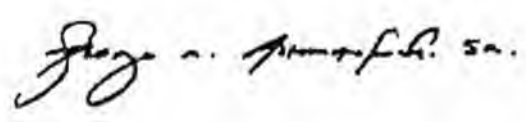
suggested there is precedent for establishing a two-year waiting period after a local option election before an attempt can be made to undo the restriction. However, he left it to the Legislature to determine a permanent solution for this issue.

Our experience shows how difficult it is to get a ban passed in the first place. I believe a community that has cleared this hurdle needs the support of the law in providing adequate time for the community to go through the complex social processes that lead from alcohol dependence to a better way of life. People need to undergo and appreciate the transformation before they are asked to reconsider the question.

In Section 28, subsection (f) of HCSSB 87(CRA), I urge you to make an amendment stipulating a two-year moratorium on removal of a local option restriction.

This is our primary concern regarding SB 87. The North Slope Borough Department of Public Safety will also send further comments on this bill.

Sincerely,



George N. Ahmaogak, Sr.
Mayor

TO: THE HOUSE JUDICIARY COMMITTEE**FAX: (907) 465-3834**

Subj: CS for Senate Bill No. 87 (FIN), "An Act relating to community local options for control of alcoholic beverages, *et seq*"

Mr. Chairman and Members of the Committee on Community and Regional Affairs:

My name is Angela Lesner. I am an Itinerant Health Educator employed by the North Slope Borough. I have lived in the North Slope for three and a half years.

I support amendments for making alcohol possession and importation a crime, a felony.

When the alcohol ban, making possession and importation illegal, first went into effect last year, people quit using. People quit using because they *thought* alcohol possession and importation was a serious crime with serious repercussions. We saw a decline in accidents, suicides, domestic violence and crimes.

People quit using alcohol initially because of a rumor of stiff laws. There was a rumor that being caught drunk was a serious crime, that meant an immediate \$1000 fine and a month in jail. This worked until residents found out possession was only a \$100 fine. They spend more than that just to get one bottle at \$150. An average bi-weekly paycheck is at least \$1000. Paying a \$100 fine for alcohol possession is not a deterrent, just an obstacle. People are using alcohol again because using is no longer considered a crime.

I also hear, substance abusers have found a way to get past being caught importing through the airlines. They import alcohol through the postal system and to my knowledge, they are not getting caught. Alcohol brought in through the postal system is much cheaper than \$150. Substance abusers are making new paths to get alcohol. We haven't truly seriously banned alcohol. We thought we were voting to ban alcohol in Barrow, that is what we want.

Barrow residents voted to ban alcohol because it affects their way of life. Alcohol use in Barrow has been highly correlated with an increased domestic violence, crimes, accidents, mortality, suicides and job absenteeism. You wouldn't want your child, spouse or family member to be involved in domestic violence, in crimes, or have a serious accident or commit suicide - we do not want that for our families. We now know why those things happened in the past. The people of the NSB voted to ban alcohol because they did not want to increase the statistics that were already outrageously higher than the rest of the U.S. We want those statistics lower and non-existent.

Residents that are not substance abusers are affected by these things too because we live in a isolated area. We are in close contact with each other on a daily basis as work and at school. We see co-workers who don't come in at all because of drinking, or co-workers who are victims of domestic violence related to substance abuse. This makes our jobs and our days hard. We do not want that anymore.

Families have it the hardest though in terms of dealing with the affects of alcohol abuse. When a family member drinks, all the persons in the house are affected by the drinking because of limited housing and small house sizes. You can't move out because your spouse is drinking, there isn't an empty apartment in sight, ever. Finding housing up here can take a year or more. As housing is small, you can't just go into another room, it is already filled.

We voted to ban alcohol possession and importation because we want a nice community, nice homes and a nice place to live. We don't want domestic violence, child abuse, job absenteeism, accidents, suicides and increased crimes. We don't want any of that. Statistics here have shown all of those things are closely linked to alcohol and substance abuse.

We need stiffer laws that make alcohol possession and importation a serious crime. Please support us in our efforts. Residents here, and in most places in the US, do not have experience creating nice communities, in the past we sort of thought it just happened. We know now that nice communities happen because residents take responsibility for things that happen in them. We voted to make our community a nice place and we meant to do that. Creating drug free sober communities is a hard to accomplish. More people today are addicted to drugs and alcohol than ever before. Yet we people in Barrow are willing to go without feeding our addictions to create a nice community. We want nice families, nice homes and nice friends. We are trying our best to be responsible community citizens. Please help us create a clean and sober community by instituting stiffer laws that make alcohol possession and importation a serious crime.

Sincerely,

A handwritten signature in cursive script that reads "Angela Lesner". The signature is written in black ink and is positioned above the typed name.

Angela Lesner, Itinerant Health Educator

**NORTH SLOPE BOROUGH
DEPARTMENT OF PUBLIC SAFETY**

P.O. Box 470
Barrow, Alaska 99723

(907) 852-0311

Fax (907) 852-0318

FACSIMILE COVER LETTER

TO: House Judiciary Committee

COMPANY: _____

FACSIMILE PHONE NUMBER: 465-3834

TOTAL NUMBER OF PAGES (Including this cover letter) 1

FROM: Mayor George Ahmaogak Sr.

SPECIAL INSTRUCTIONS:

If you did not receive all pages or if there was an error during transmission, please call (907) 852-0311 as soon as possible.

Testimony of Mayor George Ahmaogak, Sr.

**SB 87 - Local options for control of alcoholic beverages.
House Judiciary Committee
May 4, 1995**

Thank you, Mr. Chairman. I appreciate the opportunity to speak today on SB 87, and I hope our recent experience in Barrow with local option elections can help to make this legislation effective in serving all the Alaskan communities that want to exercise local control over the problems created by alcohol.

On October 4, 1994, the people of Barrow voted to go from a "damp" status to a "dry" status. In doing so, Barrow became the largest dry community in the state. That decision took effect on November 1.

It was not an easy decision for people to make, and it should not be an easy decision to go back on. Many people feel that it is their right to drink if they do it responsibly. Many feel that the needs of the community must take

precedence over their own personal desires. Some people hold both of these opinions at the same time. As a result, it was a difficult decision for many residents.

A lot of people are withholding judgment on the success of the alcohol ban. Others grudgingly admit they have been surprised at its positive effects. Even though we have lived with the new restriction for six months, many residents still take a wait-and-see attitude.

But you don't have to look far to find the results. Since the ban took effect, the number of alcohol-related incidents handled by our Department of Public Safety has fallen dramatically. Some kids are a lot more attentive at school because their homes are no longer as chaotic at night. Employers have experienced less absenteeism on the part of their employees. Vandalism of private property is down. Doctors who are on-call for emergency medical service at night are getting more sleep, which means their

daytime patients are probably getting more alert care.

Any way you cut it, this town has seen a remarkable improvement in its quality of life during the past few months. Even the nearby villages have benefitted. They were already dry, but alcohol importation from Barrow was a continual problem. Now it is much more difficult to get alcohol into the villages, so they are beginning to notice a better quality of life too.

Those who didn't like the results of our local option election decided to circulate a petition to repeal the decision that had been made by the voters. That petition ended up as a court case, which was decided recently in Superior Court. The judge decided that any attempt to eliminate the new local option in Barrow could not go to the polls for a year. In his opinion on the case, the judge also indicated there is precedent in the Constitution and in state law for a two-year waiting period between local

option elections. He suggested that the Legislature should specify which timeframe will apply.

I applaud the Legislature for bringing a number of important issues to the table in SB 87. The bill goes a long way toward cleaning up the local option laws. But I urge you to seriously consider a two-year moratorium on repeal of local option restrictions.

We are discovering that one of the most powerful ways to get people to support a "dry" status is to let them witness the changes that occur when the town goes dry. Some of those changes are immediately noticeable. Others take quite awhile to show themselves. For example, there are very complex problems facing families that have been ravaged by alcohol for years. These families cannot be expected to immediately become whole again. With family counseling and other interventions, there is an opportunity for a gradual transformation into a happy and productive

family.

These gradual changes are reflected at the community level just as they are within the family. A lot of people have been pleasantly surprised by the new tone in our town. But they need time to really be convinced that life can be better, and they need to really experience the difference before they vote on the issue again.

So I urge you to establish this two-year moratorium in SB 87. It is addressed in section 28 of the House CRA committee substitute.

That is my primary concern with the legislation as it currently stands. Communities all over rural Alaska would benefit from this amendment. And Barrow needs the time for everyone to see that it is worth the personal sacrifice to live in a town that has been transformed for the better.

The North Slope Borough has other recommendations regarding SB 87, which will be presented by our Department of Public Safety.

Thank you for the opportunity to speak on this issue, and good luck with the last days of the legislative session.

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 68
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



May 3, 1995

Rep. Brian Porter, Chairman
House Judiciary Committee
Alaska State Legislature
State Capitol
Juneau, AK. 99802

RE: SB 87 - Local options for control of alcoholic beverages.

Dear Representative Porter:

Last October, the people of Barrow voted to go from a "damp" to a "dry" status regarding the importation, sale and possession of alcohol. In doing so, Barrow became the largest dry community in the state.

This willingness on the part of the electorate to forego alcohol has had remarkable results. During the six months since the ban went into effect, we have seen a dramatic drop in the number of alcohol-related incidents handled by our Department of Public Safety. Teachers have noticed that some students are considerably more alert because of a quieter home life. Employers have experienced less absenteeism and higher morale among their employees. Doctors on-call for emergency medical services at night are getting more sleep. Vandalism of private property has declined.

Some residents who were unhappy about the results of the local option election attempted to force another vote on the issue shortly after last year's election. That conflict ended up in Superior Court, and the judge ruled that the community deserves a period of time to see the effects of the ban before another vote is allowed.

The judge decided on a twelve-month moratorium in our case, but he also

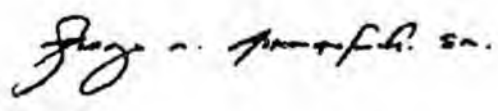
suggested there is precedent for establishing a two-year waiting period after a local option election before an attempt can be made to undo the restriction. However, he left it to the Legislature to determine a permanent solution for this issue.

Our experience shows how difficult it is to get a ban passed in the first place. I believe a community that has cleared this hurdle needs the support of the law in providing adequate time for the community to go through the complex social processes that lead from alcohol dependence to a better way of life. People need to undergo and appreciate the transformation before they are asked to reconsider the question.

In Section 28, subsection (f) of HCSSB 87(CRA), I urge you to make an amendment stipulating a two-year moratorium on removal of a local option restriction.

This is our primary concern regarding SB 87. The North Slope Borough Department of Public Safety will also send further comments on this bill.

Sincerely,



George N. Ahmaogak, Sr.
Mayor

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 28, 1995

SUBJECT: Overinclusive Bill Title - HCS CSSB 87(C&RA)

TO: Representative Ivan Ivan

FROM: Michael F. Ford 
Legislative Counsel

The attached House CS removes secs. 1, 2 and 78 of CSSB 87(FIN) as you requested, but leaves the bill's title unchanged. If this change had been made in the Senate, the removal of secs. 1, 2 and 78 would also require the bill title be changed. However, because CSSB 87(FIN) is in the second house, as you are aware the title cannot be changed unless the Uniform Rules are suspended. By deleting secs. 1, 2 and 78 without changing the title, you probably have a constitutional problem. Essentially, deleting these sections without changing the bill title results in an overinclusive title (one that specifically mentions A and B when the body of the act deals only with A).

Article II, Section 13 of the state constitution requires "The subject of each bill shall be expressed in the title." Clearly, if the title mentions something that is not contained in the bill, the title does not literally comply with this provision and there is a substantial risk that a court will find a violation of the constitution. However, the court has not specifically considered the question of an overinclusive title in this state, so no one can say with any degree of certainty how the court will react.

Courts have generally held that an act will be valid unless the title is misleading or deceptive. (Lowery v. Red Cab Co., 262 S.W. 147 (Tex. Ct. Civ. App. 1924)) Whether a particular title will be misleading or deceptive because it mentions something that is not included in the body of the act will depend on the facts of the case, so an overinclusive title will always be risky. However, some courts have been tolerant of overinclusive titles. (Watts v. Oliphant, 143 S.E. 813 (S.C. (1965); Doyle v. King, 44 S.E. 2d 608 (S.C. 1947)) On the other hand, a court has held an overbroad title to be misleading. (Reeves v. Adam Hat Stores, 198 S.W.2d 789 (Ky. Ct. App. 1946))

My guess is that the more specific the description of the "missing" item is in the title, the more likely that a court will find the title misleading and unconstitutional. The uniform rules prohibiting title changes may affect the decision of Alaska's courts, not because the court would take it upon itself to enforce the rules, but because the court may find that those rules

Representative Ivan Ivan

April 28, 1995

Page 2

encourage legislators to rely on the title when deciding whether to accept amendments by the second house and, therefore, cause the title to be misleading.

While our court has not had occasion to consider title questions, it has considered the single-subject requirement which is contained in the same section of the constitution and been lenient in finding compliance with that requirement. However, the Alaska Supreme Court has begun to reevaluate its broad interpretation of the single-subject rule. (State v. First National bank of Anchorage, 660 P.2d 406 (Alaska 1982); Yute Air Alaska, Inc. v. McAlpine, 698 P.2d 1173 (Alaska 1985)) These cases suggest that the court may be reluctant to adopt an expansive view of the constitutional title requirement.

MFF:glc
95-309.glc

Enclosure

#1

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE FINKELSTEIN
TO: HCS CSSB 87 () (work draft 9-LS0673\R) 5/3/95

Page 2, line 7, following "industry":

Insert "A person who is employed in a program providing alcohol or substance abuse counseling or related services is not considered to have a financial interest in the alcoholic beverage industry."

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN

TO: HCS CSSB 87() (Work Order 9-LS0673R)

#2

1 Page 2, after line 8.

2 Insert a new bill section to read:

3 **** Sec. 2.** AS 04.06.060 is amended to read:

4 Sec. 04.06.060. QUORUM AND MAJORITY. Three members of the board
5 constitute a quorum for the conduct of business, except that at least two members
6 of a quorum must be members who represent the general public and a majority
7 of the whole membership of the board must approve all applications for new licenses,
8 and all renewals, transfers, suspensions, and revocations of existing licenses. If a
9 majority of the board is present and voting, the director, with the consent of the
10 members present, may cast a tie-breaking vote."

11 ~~Renumber~~ the following bill sections accordingly.

2 Page ~~36~~ line 21:

3 ~~Delete~~ "sec. 10"

4 ~~Delete~~ "sec. 11"

Page ~~7~~ line 8:

~~Delete~~ "sec. 79"

~~Insert~~ "sec. 81"

Page ~~3~~ ~~215~~ line 15:

~~Insert~~ a new bill section to read:

**** ~~Sec~~ 78.** TRANSITION: BOARD MEMBERS. The amendments to AS 04.06.020
made by ~~sec~~ 1 of this Act do not prevent a person who is serving as a member of the

A M E N D M E N T

#3

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN

TO: HCS CSSB 87() (Work Order 9-LS0673R)

1 Page 2, line 4, after "public":

2 Insert "One board member representing the general public shall ~~also be employed~~
 3 in the field of law enforcement or public safety."

(has been)

4 Page 37, line 8:

5 Delete "sec. 79"

6 Insert "sec. 80"

7 Page 37, after line 15:

8 Insert a new bill section to read:

9 "** Sec. 77. TRANSITION: BOARD MEMBERS. The amendments to AS 04.06.020
 10 made by sec. 1 of this Act do not prevent a person who is serving as a member of the
 11 Alcoholic Beverage Control Board on the effective date of this section from continuing to
 12 serve until the person's term expires. The Governor shall implement AS 04.06.020, as
 13 amended by sec. 1 of this Act, in making appointments after the effective date of this
 14 section."

15 Renumber the following bill sections accordingly.

16 Page 37, line 18:

17 Delete "secs. 77 and 78"

18 Insert "secs. 78 and 79"

AMENDMENT

#4

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN

TO: HCS CSSB 87() (Work Order 9-LS0673R)

1 Page 2, line 4, after "public":

2 Insert "One board member representing the general public shall also be employed
3 in the field of public health."

4 Page 37, line 8:

5 Delete "sec. 79"

6 Insert "sec. 80"

7 Page 37, after line 15:

8 Insert a new bill section to read:

9 "* Sec. 77. TRANSITION: BOARD MEMBERS. The amendments to AS 04.06.020
10 made by sec. 1 of this Act do not prevent a person who is serving as a member of the
11 Alcoholic Beverage Control Board on the effective date of this section from continuing to
12 serve until the person's term expires. The Governor shall implement AS 04.06.020, as
13 amended by sec. 1 of this Act, in making appointments after the effective date of this
14 section."

15 Renumber the following bill sections accordingly.

16 Page 37, line 18:

17 Delete "secs. 77 and 78"

18 Insert "secs. 78 and 79"

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: 4/29/95

Referred: Judiciary

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

prohibits solicitation

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;

- 1 (11) common carrier dispensary license;
- 2 (12) retail stock sale license;
- 3 (13) recreational site license;
- 4 (14) [COMMUNITY LIQUOR LICENSE;
- 5 (15)] pub license;
- 6 (15) [(16)] winery license;
- 7 (16) [(17)] caterer's permit;
- 8 (17) [(18)] special events permit;
- 9 (18) [(19)] conditional contractor's permit;
- 10 (19) [(20)] brewpub license.

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

*restaurant
or eating
place
license*

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

- 18 (1) issue or reissue a license as provided under this subsection if
 - 19 (A) the issuance or reissuance would result in more than one
 - 20 exempt restaurant or eating place license for every 10 restaurant or eating place
 - 21 licenses allowed under the provisions of AS 04.11.400(a)(2) or (3);
 - 22 (B) the premises would be located in a building having a public
 - 23 entrance within 200 feet of the boundary line of a school or a church
 - 24 building in which religious services are being regularly conducted; for purposes
 - 25 of this subparagraph, the 200-foot prohibition is measured from the outer
 - 26 boundary line of the school or the public entrance of the church building by the
 - 27 shortest pedestrian route to the nearest public entrance of the restaurant or
 - 28 eating place;
- 29 (2) reissue a restaurant or eating place license as exempt as provided
- 30 under the provisions of this subsection if the license was issued under the provisions
- 31 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: *Increase quantity of brewpub*

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

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: *Technical*

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:

Shipping

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 04.11.500. 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 section, 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 this 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;

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

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

17 (1) "alcoholic beverage" means a spirituous, vinous, malt, or other

18 fermented or distilled liquid, whatever the origin, that is intended for human

19 consumption as a beverage and that contains one-half of one percent or more of

20 alcohol by volume, whether produced commercially or privately; however, in an area

21 that has adopted a local option under AS 04.11.491 [LOCAL-OPTION

22 PROHIBITION UNDER AS 04.11.490 - 04.11.500], "alcoholic beverage" means a

23 spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that

24 is intended for human consumption as a beverage by the person who possesses or

25 attempts to possess it and that contains alcohol in any amount if the liquid is

26 produced privately, or that contains one-half of one percent or more of alcohol by

27 volume, if the liquid is produced commercially;

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

29 (9) "established village" means an area that does not contain any

30 part of an incorporated city or another established village and that is

31 (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) an 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.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

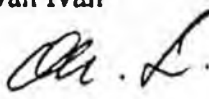
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 28, 1995

SUBJECT: Overinclusive Bill Title - HCS CSSB 87(C&RA)

TO: Representative Ivan Ivan

FROM: Michael F. Ford 
Legislative Counsel

The attached House CS removes secs. 1, 2 and 78 of CSSB 87(FIN) as you requested, but leaves the bill's title unchanged. If this change had been made in the Senate, the removal of secs. 1, 2 and 78 would also require the bill title be changed. However, because CSSB 87(FIN) is in the second house, as you are aware the title cannot be changed unless the Uniform Rules are suspended. By deleting secs. 1, 2 and 78 without changing the title, you probably have a constitutional problem. Essentially, deleting these sections without changing the bill title results in an overinclusive title (one that specifically mentions A and B when the body of the act deals only with A).

Article II, Section 13 of the state constitution requires "The subject of each bill shall be expressed in the title." Clearly, if the title mentions something that is not contained in the bill, the title does not literally comply with this provision and there is a substantial risk that a court will find a violation of the constitution. However, the court has not specifically considered the question of an overinclusive title in this state, so no one can say with any degree of certainty how the court will react.

Courts have generally held that an act will be valid unless the title is misleading or deceptive. (Lowery v. Red Cab Co., 262 S.W. 147 (Tex. Ct. Civ. App. 1924)) Whether a particular title will be misleading or deceptive because it mentions something that is not included in the body of the act will depend on the facts of the case, so an overinclusive title will always be risky. However, some courts have been tolerant of overinclusive titles. (Watts v. Oliphant, 143 S.E. 813 (S.C. (1965); Doyle v. King, 44 S.E. 2d 608 (S.C. 1947)) On the other hand, a court has held an overbroad title to be misleading. (Reeves v. Adam Hat Stores, 198 S.W.2d 789 (Ky. Ct. App. 1946)

My guess is that the more specific the description of the "missing" item is in the title, the more likely that a court will find the title misleading and unconstitutional. The uniform rules prohibiting title changes may affect the decision of Alaska's courts, not because the court would take it upon itself to enforce the rules, but because the court may find that those rules

Representative Ivan Ivan

April 28, 1995

Page 2

encourage legislators to rely on the title when deciding whether to accept amendments by the second house and, therefore, cause the title to be misleading.

While our court has not had occasion to consider title questions, it has considered the single-subject requirement which is contained in the same section of the constitution and been lenient in finding compliance with that requirement. However, the Alaska Supreme Court has begun to reevaluate its broad interpretation of the single-subject rule. (State v. First National bank of Anchorage, 660 P.2d 406 (Alaska 1982); Yute Air Alaska, Inc. v. McAlpine, 698 P.2d 1173 (Alaska 1985)) These cases suggest that the court may be reluctant to adopt an expansive view of the constitutional title requirement.

MFf:glc
95-309.glc

Enclosure

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

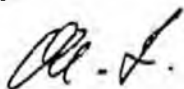
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

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. Prohibits 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

TO: THE HOUSE, ALASKA STATE LEGISLATURE
NINETEENTH LEGISLATURE - FIRST SESSION
HOUSE JUDICIARY COMMITTEE

Date: May 2, 1995

Subj: House CS for CS For Senate Bill No. 87 (CRA), "An Act relating to community local options for control of alcoholic beverages, *et seq*"

Mr. Chairman and Members of the House Judiciary Committee:

My name is James Wood. I am a Police Captain employed by the North Slope Borough. I have lived in the North Slope for fifteen years. My home is in Barrow, Alaska, a community that has prohibited the importation, sale **and possession** of alcoholic beverages by local option election.

Senate Bill No. 87 (CRA version, dated 4/29/95) is, or will soon be, before you. The way **possession** of an alcoholic beverage in a local option area is treated in Sections 38-43 (pages 25-27) of SB87 (CRA) is inadequate to deter civilly disobedient citizens who intend to continue drinking alcoholic beverages despite local options that ban it. The **possession** of an alcoholic beverage in a local option area is a serious breach of order that should be classified as a **crime**, not a mere infraction as it is now treated. We, who live in and experience a local option area daily, believe that the illegal possession of an alcoholic beverage in a local option area is, because of the same unpredictable consequences, every bit as serious as driving while intoxicated, a class A misdemeanor. **Possession** of alcoholic beverages in violation of local option should be a crime, classified as a misdemeanor or felony according to the amounts possessed the same as is provided for the sending, transporting, or bringing alcoholic beverages into a municipality or established village in violation of local option (Sec. 37, page 25).

Accordingly, Section 37 should be amended to include the following new language identified in brackets:

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

(e) A person who sends, transports, or brings alcoholic beverages into a municipality or established village in violation of AS 04.11.499, [**or possesses an alcoholic beverage in a municipality or established village in violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501,**] is, upon conviction.

- Barrow, Alaska 99723
- (1) guilty of a class A misdemeanor if the quantity imported [or possessed] is less than 12 liters of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages, or
 - (2) guilty of a class C felony if the quantity imported [or possessed] is 12 liters or more of distilled spirits, 24 liters of wine, or 12 gallons or more of malt beverages.

Sections 38-43 (pages 25-27) should be deleted. Section 44 should be amended to include the following new language enclosed in brackets:

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

(a) The following are subject to forfeiture:

(1) Alcoholic beverages manufactured, sold, offered for sale or possessed for sale, bartered or exchanged for goods and services in this state in violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or otherwise stored in violation of AS 04.21.060 [or AS 04.11.501]; alcoholic beverages sold, or offered for sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages transported into the state and sold to persons not licensed under this chapter in violation of AS 04.16.170(b);

Other sections regarding AS 04.11.501 should be amended to conform with these suggested changes.

Current law is too lenient. A possessor of an alcoholic beverage in violation of a local option ban may only, at a maximum, be fined \$1000.00. Even that cannot be imposed until the violator is caught yet a third time in illegal possession. This limitation was imposed by the Alaska Supreme Court who mandated, by bail schedule, that the culprit can be fined only a maximum of \$100.00 for the first and second convictions. The fine amounts to less than the \$150.00 price of an illegal bottle of liquor here. This falls far short of deterrence. The result is that few people have any real fear of the punitive consequences of illegal alcohol possession. No meaningful message is conveyed to them about how serious a breach of public trust, confidence, and safety they have committed. Where is the message of public condemnation in such light treatment of so serious a matter? What rehabilitation occurs for the violator? What example is being set for our children?

And, although Section 4 of SB87 (page 3) proposes that possession of a particular amount of an alcoholic beverage in a local option area creates a presumption that the alcoholic beverage was possessed for sale, realistically there is not likely to be found anywhere in Alaska a jurisdiction where violators will be prosecuted for sales based only on the amount of liquor they possessed. To the contrary, District Attorneys steadfastly refuse to prosecute

for illegal sales of alcohol based only on the amount of alcohol possessed. This presumption of law is not valid.

Because the possession of an alcoholic beverage in a local option area is an infraction, the police are not likely to be able to obtain a search warrant to find and seize illegally possessed alcohol. They may do so to search for evidence of a crime, but not for an infraction. Without the availability of this basic enforcement tool, alcoholic beverages will continue to leach into our community. The demonstrated danger and harm that alcohol does to families and individuals in their own homes, and the danger and harm to the public posed by those who begin drinking alcohol at home then venture out, justifies making the illegal possession of it a crime in local option areas, and tilts the balance of justice toward condoning the warranted entry into citizen's homes to seize illegal alcohol over condoning illegal possession of alcohol to preserve the sanctity of the home.

Limitations of the numbers of law enforcement officers, of their time and of their resources, and the reality that few citizens involve themselves in law enforcement, make it unlikely that many who illegally possess an alcoholic beverage will get caught until they have done some monstrous act that draws attention to them...some monstrous crime that was the basis for the ban on alcoholic beverages in the first place. Those who illegally possess alcoholic beverages in a local option area are time bombs of violence waiting to explode, or, too often are opportunists getting wealthy from other people's misery and pain. They are a unique danger to the health, welfare and life safety of our community. The penalty for violating a local option ban on the possession of alcoholic beverages must carry a message strong enough to deter them and others, express public condemnation, and to promote opportunities for rehabilitation. Relegating the illegal possession of alcoholic beverages in a local option area to a simple infraction, no more serious than a parking or littering ticket, is grossly unjustified.

We in Barrow, as in communities all across Alaska, have first hand knowledge of the pain and suffering that alcohol abuse has caused among our citizens. Because the majority of us were sickened to our hearts by the murders, violent physical assaults, rapes, suicides, and pandemic family deterioration caused by alcohol abuse in our community, we voted to ban it entirely. Most of us were personally touched by the barrage of tragedies caused by alcohol abuse through the years.

After the ban went into effect in Barrow on November 1, 1994, alcohol related crime (about 95% of our previous crime rate) dropped by 80%. We have not had any murders, serious physical assaults, rapes, or suicides since then, and our community is a healthier, more productive, happier place to live. The public health has improved, and recovering families are being reunited. Even citizens here who opposed the ban on alcohol agree that there has been a big improvement in our health, welfare and life safety. Where there was misery, there is joy. Where there was sickness, there is health. Where there was death, there is life. We feel, with alcohol banned, that local culture and our community has a greater chance of survival.

But, there are people here, as elsewhere, who will violate the law. They will import, sell and possess alcoholic beverages despite the majority's local option to ban them. They will perpetuate the misery and pain of our past. Already they are doing it. During November in Barrow there were 32 alcohol related police calls. In December there were 15. In January - 26. In February - 32. In March - 53. The numbers are spiraling upward. As people learn about the limitations of enforcement and the lack of a meaningful penalty for possession, more and more alcoholic beverages are being sneaked into our community. People who do so are not afraid of a \$100.00 fine. And, there is little incentive for them to cooperate with the community to keep alcoholic beverages out. The police are hard pressed to catch alcoholic beverages before they get into the community, and they are frustrated by their limited ability to do much after the alcohol has breached the portal. There are just too many ways that alcoholic beverages can be smuggled into our community. And, with each new alcohol related crime, with each child touched by alcohol induced violence and neglect, our future dims just a bit more.

The law simply must be amended to **criminalize the possession** of alcoholic beverages in local option areas. A greater burden must be placed on the illegal possessor and user of illegal alcohol. There are those who say "get the ones who import the liquor. Get the ones who sell it. They are the violators." While importers and sellers of illegal alcohol are law breakers, the guilt must equally be shared by those who solicit and use illegal alcohol. It is they who perpetuate the market for it. It is they who must be held equally accountable, share equally in the responsibility for their actions, and share equally in society's condemnation and punishment.

SB87 proposes to allow municipalities to make the illegal importation, sales or possession of alcoholic beverages a misdemeanor crime within municipal ordinances. Most communities, especially those in bush Alaska where local option bans or limitations on alcohol are most prominent, do not have the resources or money to prosecute misdemeanor crimes. They simply cannot afford the costs of court, prosecutors, public defenders, and all of the related costs. Consequently, most communities in Alaska will not be able to enact, enforce or prosecute misdemeanor laws. Making the possession of alcohol a misdemeanor crime under state law is the best, more workable approach.

There are voices opposed to our majority privilege to ban the importation, sale and possession of alcoholic beverages. There most always are opposing views in such matters. Many of them warn that banning or limiting access to alcohol will only make criminals of innocent citizens. But isn't it our republican form of government to acquiesce to the will of the majority, acting for the common good of all? We who prevail in local option elections to ban or limit alcoholic beverages do not make criminals out of anyone. We simply exercise our option, as a majority, to enact laws that we believe are best for the good of all. People who commit crimes make criminals of themselves.

On behalf of all of those who have reawakened to the vigor of sobriety and those who struggle daily simply to survive with clean hearts and clear minds, I appeal to you to make the will of the majority meaningful. Close the loophole. The conduct of those who violate a local option ban on possession of alcoholic beverages must not be condoned.

Barrow, Alaska 99723

1

Violators must risk stern penalties the first time they're caught, not after they are caught a third, fourth or even more times. **Please, make the possession of an alcoholic beverage in a local option area a crime.**

Thank you.

HOUSE COMMITTEE REPORT

4/29/95

E

(7)

Date Referred: April 21, 1995

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 4-27-95

The COMMUNITY AND REGIONAL AFFAIRS Committee considered: CSSB 87(FIN)

CS FOR SENATE BILL NO. 87(FIN) ALCOHOLIC BEVERAGES: LOCAL OPTION & MISC.

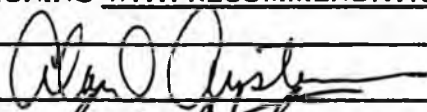
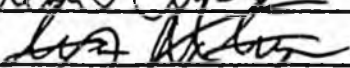
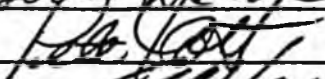
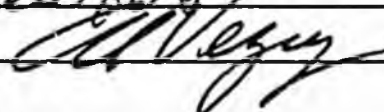
"An Act relating to the membership of the Alcoholic Beverage Control Board; relating to community local options for control of alcoholic beverages; relating to the control of alcoholic beverages; prohibiting persons from being on premises involving alcoholic beverages under certain circumstances; relating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

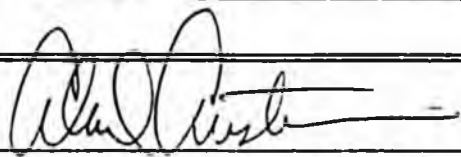
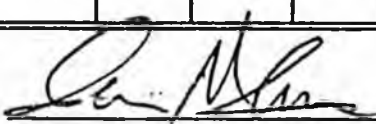
recommends it be replaced with the following committee substitute H.C.S. for CSSB 87 (C&RA) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ ^{Senate} fiscal note(s) Revenue 3/20/95
 zero fiscal note(s) _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
 AUSTERMAN			✓	
 IVAN			✓	
 KOTT			✓	
 VEZBY	2			
	(1)		(3)	

CO-CHAIR'S SIGNATURE  AUSTERMAN  IVAN

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 Sbarrock 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.

Alaska State Legislature

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Judiciary Committee

Chairman
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Resources Committee
Western Legislative Forestry Task Force



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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 • Mevers Chuck • Petersburg • Saxman • Sitka • Wrangell

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSSB 87 (FIN)

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

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

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						
TOTAL	5.0	5.0	5.0	5.0	5.0	5.0

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: Patrick L. Shafrack, Director
 Division: Alcoholic Beverage Control Board
 Approved by: _____
 Commissioner: Deborah Vogt
 Agency: Revenue

Phone: 277-8638
 Date: 4/24/95
 Date: 4/24/95

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SB 87

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Comments:

Attached, please find my testimony from the teleconference on SB 87 this date, as you requested. Thank you for giving me the opportunity to express my views in what I believe are very important issues.

I would also like to point out some concerns I have about information which was misrepresented during the hearing. Please review AS 04.11.502 as currently written and reference SB 87 Section 30, and I believe you will find that, in fact, time restrictions on elections to remove a local option are much more restrictive than to impose a local option.

Further, I would like to point out that you were informed that Barrow's concerns have all ready been addressed and this is not true. Had our issues been addressed, I would not be testifying at this hearing and it was extremely disturbing to hear someone testify to the Committee that they had.

Please pay particular attention to page eight (8) of my testimony. My greatest concern is that a petition certified by the municipality can so easily and swiftly be swept aside.

Nineteenth Alaska State Legislature
Juneau, Alaska 99801

April 27, 1995

RE: SB 87

My name is Tom Nicolos. I'd like to commend the Legislature for its efforts to further clarify Title 4; however I have many points of concern with SB 87. As I understand it, SB 87 was sponsored by Senator Taylor for the purpose of clarifying local option elections and to address some technical and common sense amendments to Title 4. While I completely agree with Senator Taylor that Title 4 needs overhauling, I feel this bill is far from being adequate. It contains contradictions within the bill itself and although the attempt to provide clarity and equity, SB 87 has become slanted toward the prohibitionist point of view which is unfair. It should be amended to be fair to both points of view. Personally, I do not think prohibition is the answer to the problems caused by alcohol, and further refining and giving more control to the government to set specific limits on local option law driven by prohibitionists is frightening. Serious consideration should be given before restricting the freedoms of law-abiding citizens, and for these reasons I would like to be heard.

I have grave concern that enacting this bill will perpetuate the present problem of citizens potentially becoming felons because they have "too much beer" in their home. Felony crimes in my estimation are heinous crimes against the State, such as murder, kidnapping, and sexual assault.

It should not be because a citizen has one too many bottles of wine in his possession. I urge you to go home tonight and take stock of you own liquor

RE SB 87

cabinet. If you had a local option election tomorrow and possession was made illegal, would you be "over the limit," thereby a potential felon? Any well-stocked liquor cabinet exceeds the limit (even in a city where liquor stores are available for restocking purposes). However items such as single-malt scotches and schnapps are rarely used in bootlegging operations, nevertheless according to SB 87, by merely owning them, they can add up to the presumption of sale. This is unfair and untrue.

Specific changes to the bill I would like to see:

Page 3, Sec. 4: "In a criminal prosecution for possession of alcoholic beverages for sale in violation of (a) of this section, the fact that a person possessed more than 12 liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages in an area where the sale of alcoholic beverages is restricted or prohibited under AS 04.11.491 creates a presumption that the person possessed the alcoholic beverages for sale."

Rewrite this section

to aim it toward the populace that can be presumed to be selling alcoholic beverages. A bootlegger is going to be selling the inexpensive variety to keep profit margins up; a bootlegger is rarely going to be selling cognac, liqueur, etc. Any person convicted of possession of more than these quantities, because this may incorrectly presume sale, is guilty of a Class C felony; the same as a person who sells cocaine.

Page 18, Sec. 24, Line 18-27: CHANGE OF LOCAL OPTION This is a commendable change to the law which appears to be well thought-out and will allow a village or municipality to exactly state their desire at the polls, without having to go through multiple elections to do so.

RE SB 87

Page 21, Sec. 30, Line 29: PROCEDURE FOR LOCAL OPTION ELECTION: "Upon receipt of a petition of a number of registered voters equal to 35 percent or more of the number of votes cast at the last regular municipal election, the local governing body of a municipality shall place upon a separate ballot at the next regular election, or at a special election, whichever local option, change in local option or removal of local option constitutes the subject of the petition."

Exactly when a local option election can be held needs to be stipulated in this section. Title 29 and Title 15 specifically address time frames of elections in regards to windows after a petition is certified to clarify whether an item will be voted on in a special election or a general election for referendum, initiative, and recall.

(AS 29.26.180) states that after certification of a petition for referendum, "if no election occurs within 75 days of certification of a petition, the governing body shall hold a special election within 75 days, but not sooner than 45 days after certification."

(AS 29.26.170) states for an initiative election, "if no regular election occurs within 75 days after the certification of a petition, the governing body shall hold a special election within 75 days, but not sooner than 45 days after certification"

(AS 29.26.320) for recall election states "If a regular election occurs within 75 days but not sooner than 45 days after submission of the petition to the governing body, the governing body shall submit the recall at that election. If no regular election occurs within 75 days, the governing body shall hold a special election

RE SB 87

on the recall question within 75 days but not sooner than 45 days after a petition is submitted to the governing body."

However, verbage in SB 87 states "shall place upon a separate ballot at the next regular election, or at a special election." No windows are indicated as are in all other petition-process elections. This needs to be rectified.

Delete or more from paragraph (c) Upon receipt of a petition of 35 percent or more of the registered voters . (AS 29.26.130) Signature requirements for initiative and referendum state "" equal to 25% of the votes cast if a municipality has fewer than 7,500 persons; or equal to 15% of the votes cast if a municipality has 7,500 persons or more. (AS 29.26.280) Signature requirements for recall states "the petition shall be signed by a number of voters equal to 25% of the number of votes cast for that office." No mention is made in any other election of obtaining a certain percentage or more of signatures on a petition. Exactly at whose discretion is or more ? Would a City Council or the Lieutenant Governor be able to require a set percentage amount, say 85%, at their discretion? The 35% of signatures needed for petitioning the government to place a local option question on the ballot as opposed to the 25% needed for any other election item indicates the strength of a community's desire on this important issue. Since this is such an important issue, the law has adequately built in an additional 10% of signatures needed. The term, " or more " adds vagueness to something you're attempting to clarify. I suggest changing the verbage to " equal to 35% of the number of votes cast at the last regular municipal election".

A recent court decision stated that local option elections are neither referendum nor initiative. So, specific clarification and concrete time frames are needed to

RE SB 87

stipulate when a local option election can be held after the certification of a petition.

Page 22, Sec. 30, Line 22-26: "Notwithstanding any other provisions of law, an election under (b) or (c) of this section to remove a local option or to change to a less restrictive option than the local option previously adopted under AS 04.11.491 may not be conducted during the first 12 months after the local option was adopted or more than once in an 18-month period."

If I understand this correctly, it appears that there's numerous restrictions on when an election can be held to remove an option or to change to a less restrictive option, but imposing more restrictions is unlimited in fact an election could be held monthly. Where's the equity in this law? There seems to be none. Legislation regarding an individual's freedoms should be impartial whether imposing or removing a local option question it should have the same set of time frame criterion.

Page 22, Sec. 30, Line 27-30: "Notwithstanding AS 29.26.140(a), after a petition has been certified as sufficient to meet the requirements of (b) or (c) of this section, another petition may not be filed or certified until after the question presented in the first petition has been voted on. Only one local option question may be presented in an election."

I feel that restricting the number of items a voter be allowed to vote on is a direct restriction of democracy and serves no purpose.

Page 30, Sec. 50, Line 9-12: "The court shall order destroyed any property forfeited under this section that is harmful to the public and shall order any property forfeited under this section that was seized in a municipality to be transferred to the municipality in which the property was seized."

Acts of

RE SB 87

property seizures that can be left to the discretion of a local police force should not be permitted especially if the municipality will gain financially from the seizure. Employment and salaries could become dependent upon the amount of property seized. It also tends to punish a person twice for the same offense.

Page 30, Sec. 51, Line 24-30: the monthly amounts of alcoholic beverages a person may import into the municipality. This is to say that the municipality has the right to dictate just how many bottles of distilled spirits they think is proper for a citizen to bring into their home? The problem in a community is caused by alcohol abuse, not alcohol use. And there is a difference. Regulating the quantity of importation is too restrictive and allows a municipality to attempt to legislate morality which is not it's job.

Secondly, the type of alcoholic beverage container that may be possessed in the municipality. What exactly does this mean? If you are trying to clarify something, what sense does it make to add a clause that if you ask five different people what it means, you get five different answers? When it boils right down to it, why does it really matter and who cares what type of alcoholic beverage container may be possessed? What next? Are we going to legislate and regulate what color the container can be? Where does the line get drawn?

Page 30-31, Sec. 52, 31-9: After the adoption of a local option under AS 04.11.491(a), a municipality may adopt an ordinance making the sale, importation or possession of alcoholic beverages a misdemeanor to the extent prohibited under the local option.

RE SB 87

I believe possession and importation should be an infraction. Importation and possession are victimless crimes and shouldn't carry a possibility of a felony, especially when residents in one portion of the State could be felons whereas their neighbors in other locations of State wouldn't. Again, the problem with alcohol is alcohol abuse, not alcohol use....so legislate against abuse, not use as is presently written. Additionally, if possession were made a misdemeanor, this will allow law enforcement agencies to obtain a search warrant to enter a private residence. I, like many other citizens, should not have to fear answering the door to find the Dept. of Public Safety there to invade my privacy based on a tip. The fact of the matter is, I resent it.

Page 27, Sec. 44, Line 22-27: . (AS 04.11.501) clearly states that possession may not be considered a criminal offense. I very much agree with this: making possession a criminal offense can only further burden the State's judicial system and impose a large financial burden on the State for what is clearly a victimless crime. Can the State truly afford this added financial burden especially at a time when we are looking for ways to do more with less? This is clearly a contradiction within the bill and I urge you to maintain possession as an infraction and to reduce importation to an infraction as well.

Page 36, Sec. 72, Line 22-25: TRANSITION: EXISTING LOCAL OPTION PETITIONS. A petition to adopt or remove a local option on file with a municipality or the lieutenant governor on the effective date of this section that has not been voted on is void and may not be placed on an election ballot.

find Section 72 fair, then let's be completely fair and under Section 71, let's just void local options earlier adopted and let everyone start with a clean slate. I can see no reason in voiding existing petitions so they may not be placed on an election ballot merely because the law is being modified. The people of Barrow

If you

RE SB 87

currently have petitions on file with the municipality; I find it absurd, a duplication of effort, and a direct thwart of the will of the people to void their petitions on file with the municipality. This is just as senseless as legislating a transition clause stating that on the effective date of this section that all local option restrictions in place within any municipality shall be nullified and started fresh. I can not imagine why anyone, in their wildest dreams, could find anything fair or just about voiding lawfully-certified petitions on file awaiting an election.

Thank you for your time and allowing me to express my views on this matter.

SBP

FACSIMILE COVER PAGE

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From: James B. Wood
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For delivery to: Chairman and members of the House Committee on Community and Regional Affairs

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TO: THE HOUSE, ALASKA STATE LEGISLATURE
NINETEENTH LEGISLATURE - FIRST SESSION
HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

Date: April 27, 1995

Subj: CS For Senate Bill No. 87 (FIN), "An Act relating to community local options for control of alcoholic beverages, *et seq*"

Mr. Chairman and Members of the Committee on Community and Regional Affairs:

My name is James Wood. I am a Police Captain employed by the North Slope Borough. I have lived in the North Slope for fifteen years. My home is in Barrow, Alaska, a community that has prohibited the importation, sale and possession of alcoholic beverages by local option election.

Senate Bill No. 87 (FIN version, dated 4/11/95) is, or will soon be, before you. The way possession of an alcoholic beverage in a local option area is treated in Sections 40-45 (pages 26-28) of SB87 is inadequate to deter civilly disobedient citizens who intend to continue drinking alcoholic beverages despite local options that ban it. The possession of an alcoholic beverage in a local option area is a serious breach of order that should be classified as a crime, not a mere infraction as it is now treated. We, who live in and experience a local option area daily, believe that the illegal possession of an alcoholic beverage in a local option area is, because of the same unpredictable consequences, every bit as serious as driving while intoxicated, a class A misdemeanor. Possession of alcoholic beverages in violation of local option should be a crime, classified as a misdemeanor or felony according to the amounts possessed the same as is provided for the sending, transporting, or bringing alcoholic beverages into a municipality or established village in violation of local option (Sec. 39, pages 25-26).

Accordingly, Section 39 should be amended to include the following new language identified in brackets:

* Sec 39. AS 04.16.200(e) is amended to read:

(e) A person who sends, transports, or brings alcoholic beverages into a municipality or established village in violation of AS 04.11.499, [or possesses an alcoholic beverage in a municipality or established village in violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501,] is, upon conviction.

- (1) guilty of a class A misdemeanor if the quantity imported [or possessed] is less than 12 liters of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages, or
- (2) guilty of a class C felony if the quantity imported [or possessed] is 12 liters or more of distilled spirits, 24 liters of wine, or 12 gallons or more of malt beverages.

Sections 40 - 45 (pages 26-28) should be deleted. Section 46 should be amended to include the following new language enclosed in brackets:

* Sec. 46. AS 04.16.220(a) is amended to read:

(a) The following are subject to forfeiture:

(1) Alcoholic beverages manufactured, sold, offered for sale or possessed for sale, bartered or exchanged for goods and services in this state in violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or otherwise stored in violation of AS 04.21.060 [or AS 04.11.501]; alcoholic beverages sold, or offered for sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages transported into the state and sold to persons not licensed under this chapter in violation of AS 04.16.170(b);

Current law is too lenient. A possessor of an alcoholic beverage in violation of a local option ban may only, at a maximum, be fined \$1000.00. Even that cannot be imposed until the violator is caught yet a third time in illegal possession. This limitation was imposed by the Alaska Supreme Court who mandated, by bail schedule, that the culprit can be fined only a maximum of \$100.00 for the first and second convictions. The fine amounts to less than the \$150.00 price of an illegal bottle of liquor here. This falls far short of deterrence. The result is that few people have any real fear of the punitive consequences of illegal alcohol possession. No meaningful message is conveyed to them about how serious a breach of public trust, confidence, and safety they have committed. Where is the message of public condemnation in such light treatment of so serious a matter? What rehabilitation occurs for the violator? What example is being set for our children?

And, although Section 4 of SB87 (page 3) proposes that possession of a particular amount of an alcoholic beverage in a local option area creates a presumption that the alcoholic beverage was possessed for sale, realistically there is not likely to be found anywhere in Alaska a jurisdiction where violators will be prosecuted for sales based only on the amount of liquor they possessed. To the contrary, District Attorneys steadfastly refuse to prosecute for illegal sales of alcohol based only on the amount of alcohol possessed. This presumption of law is not valid.

Because the possession of an alcoholic beverage in a local option area is an infraction, the police are not likely to be able to obtain a search warrant to find and seize illegally possessed alcohol. They may do so to search for evidence of a crime, but not for an infraction. Without the availability of this basic enforcement tool, alcoholic beverages will continue to leech into our community. The demonstrated danger and harm that alcohol does to families and individuals in their own homes, and the danger and harm to the public posed by those who begin drinking alcohol at home then venture out, justifies making the illegal possession of it a crime in local option areas, and tilts the balance of justice toward condoning the warranted entry into citizen's homes to seize illegal alcohol over condoning illegal possession of alcohol to preserve the sanctity of the home.

Limitations of the numbers of law enforcement officers, of their time and of their resources, and the reality that few citizens involve themselves in law enforcement, make it unlikely that many who illegally possess an alcoholic beverage will get caught until they have done some monstrous act that draws attention to them...some monstrous crime that was the basis for the ban on alcoholic beverages in the first place. Those who illegally possess alcoholic beverages in a local option area are time bombs of violence waiting to explode, or, too often are opportunists getting wealthy from other people's misery and pain. They are a unique danger to the health, welfare and life safety of our community. The penalty for violating a local option ban on the possession of alcoholic beverages must carry a message strong enough to deter them and others, express public condemnation, and to promote opportunities for rehabilitation. Relegating the illegal possession of alcoholic beverages in a local option area to a simple infraction, no more serious than a parking or littering ticket, is grossly unjustified.

We in Barrow, as in communities all across Alaska, have first hand knowledge of the pain and suffering that alcohol abuse has caused among our citizens. Because the majority of us were sickened to our hearts by the murders, violent physical assaults, rapes, suicides, and pandemic family deterioration caused by alcohol abuse in our community, we voted to ban it entirely. Most of us were personally touched by the barrage of tragedies caused by alcohol abuse through the years.

After the ban went into effect in Barrow on November 1, 1994, alcohol related crime (about 95% of our previous crime rate) dropped by 80%. We have not had any murders, serious physical assaults, rapes, or suicides since then, and our community is a healthier, more productive, happier place to live. The public health has improved, and recovering families are being reunited. Even citizens here who opposed the ban on alcohol agree that there has been a big improvement in our health, welfare and life safety. Where there was misery, there is joy. Where there was sickness, there is health. Where there was death, there is life. We feel, with alcohol banned, that local culture and our community has a greater chance of survival.

But, there are people here, as elsewhere, who will violate the law. They will import, sell and possess alcoholic beverages despite the majority's local option to ban them. They will perpetuate the misery and pain of our past. Already they are doing it. During November in Barrow there were 32 alcohol related police calls. In December there were 15. In January

- 26. In February - 32. In March - 53. The numbers are spiraling upward. As people learn about the limitations of enforcement and the lack of a meaningful penalty for possession, more and more alcoholic beverages are being sneaked into our community. People who do so are not afraid of a \$100.00 fine. And, there is little incentive for them to cooperate with the community to keep alcoholic beverages out. The police are hard pressed to catch alcoholic beverages before they get into the community, and they are frustrated by their limited ability to do much after the alcohol has breached the portal. There are just too many ways that alcoholic beverages can be smuggled into our community. And, with each new alcohol related crime, with each child touched by alcohol induced violence and neglect, our future dims just a bit more.

The law simply must be amended to **criminalize the possession** of alcoholic beverages in local option areas. A greater burden must be placed on the illegal possessor and user of illegal alcohol. There are those who say "get the ones who import the liquor. Get the ones who sell it. They are the violators." While importers and sellers of illegal alcohol are law breakers, the guilt must equally be shared by those who solicit and use illegal alcohol. It is they who perpetuate the market for it. It is they who must be held equally accountable, share equally in the responsibility for their actions, and share equally in society's condemnation and punishment.

SB87 proposes to allow municipalities to make the illegal importation, sales or possession of alcoholic beverages a misdemeanor crime within municipal ordinances. Most communities, especially those in bush Alaska where local option bans or limitations on alcohol are most prominent, do not have the resources or money to prosecute misdemeanor crimes. They simply cannot afford the costs of court, prosecutors, public defenders, and all of the related costs. Consequently, most communities in Alaska will not be able to enact, enforce or prosecute misdemeanor laws. Making the possession of alcohol a misdemeanor crime under state law is the best, more workable approach.

There are voices opposed to our majority privilege to ban the importation, sale and possession of alcoholic beverages. There most always are opposing views in such matters. Many of them warn that banning or limiting access to alcohol will only make criminals of innocent citizens. But isn't it our republican form of government to acquiesce to the will of the majority, acting for the common good of all? We who prevail in local option elections to ban or limit alcoholic beverages do not make criminals out of anyone. We simply exercise our option, as a majority, to enact laws that we believe are best for the good of all. People who commit crimes make criminals of themselves.

On behalf of all of those who have reawakened to the vigor of sobriety and those who struggle daily simply to survive with clean hearts and clear minds, I appeal to you to make the will of the majority meaningful. Close the loophole. The conduct of those who violate a local option ban on possession of alcoholic beverages must not be condoned. Violators must risk stern penalties the first time they're caught, not after they are caught a third, fourth or even more times. **Please, make the possession of an alcoholic beverage in a local option area a class A misdemeanor.**

Thank you.