

HB

212

SPONSOR PROPOSES A
TITLE AMENDMENT
TO ADD VILLAGES
IN ORGANIZED
BOROUGH.

HOUSE BILL NO. 212

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KUBINA

Introduced: 3/25/97

Referred: Community and Regional Affairs, Judiciary

TITLE AMENDMENT
PROPOSED TO ADD
VILLAGES IN ORGAN-
IZED VILLAGES.
BOROUGH.

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to determination of an established village for purposes of
2 regulating the sale, use, and possession of alcoholic beverages in the unorganized
3 borough; and providing for an effective date."

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

5 * Section 1. AS 04.11 is amended by adding a new section to read:

6 Sec. 04.11.508. Establishment of perimeter of established village. (a)
7 Except as provided under (b) and (c) of this section, for purposes of AS 04.11.491,
8 04.11.497, and 04.11.503, the perimeter of an established village is a circle around the
9 established village that includes an area within a five-mile radius of the post office of
10 the established village. If the established village does not have a post office, the
11 perimeter of an established village is a circle around the established village that
12 includes an area within a five-mile radius of another site selected by the local
13 governing body or by the board if the established village does not have a local
14 governing body.

1 (b) If the perimeter of an established village determined under (a) of this
2 section includes any area that is within a municipality or within the perimeter of
3 another established village, the perimeter described under (a) of this section is limited
4 to an area that includes only the established village.

5 (c) If the board determines that the perimeter of an established village as
6 provided under (a) and (b) of this section does not accurately reflect the perimeter of
7 the established village, the board may establish the perimeter of the established village
8 for purposes of applying a local option selected under this chapter.

9 * Sec. 2. This Act takes effect July 1, 1997.

Alaska State Legislature



Committees

Labor & Commerce
Legislative Council
World Trade
Trade & Tourism
Special Committee
on Fisheries

Representative Eugene Kubina
House Minority Leader

During Session:
Alaska State Capitol
Juneau, Alaska 99801-1182

During Interim:
P.O. Box 2463
Valdez, Alaska 99686

SPONSOR STATEMENT - HB 212

HB 212, "An act relating to determination of an established village for the purposes of regulating the sale, use, and possession of alcoholic beverages in the unorganized borough," gives the Alcoholic Beverage Control (ABC) Board greater flexibility in defining actual boundary dimensions for the purpose of enforcing the local option law.

As Villages throughout Alaska have voted themselves dry over the years, their relative isolation has minimized regional conflicts. But when the Native Village of Gulkana decided to ban all alcoholic beverages within the communities' borders, the situation became more problematic. The five-mile radius perimeter effects businesses that exist along the highway system, several residents of the Village of Gakona, as well as general traffic along the highway. As a consequence, these people did not get the opportunity to cast a vote, but they are effected by the law.

This bill would give the ABC Board authority to set the boundary of the established village when circumstances such as these occur. This legislation will resolve the Village of Gulkana problem, as well as provide a permanent solution for those villages in similar circumstances that wish to go dry in the future.

Representative Gene Kubina

Alaska House of Representatives

State Capitol

Juneau, Alaska 99801-1182

Fax: (907) 465-3799

RE: House Bill No. 212

Dear Representative Kubina:

I have reviewed HB 212, a bill you introduced on March 25, 1997 relating to determination of an established village for purposes of enforcing local option alcohol restrictions in the unorganized borough.

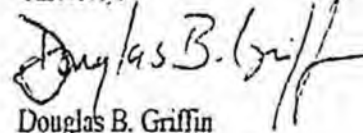
This bill is in response to a very real situation that exists relating to the ban on sale, importation, and possession of alcohol in the village of Gulkana. Gulkana is the first community adjacent to a major Alaska highway to enact such a ban by public vote. In the process of working to establish enforcement jurisdiction for this community it became clear that statutory and regulatory direction which has worked well in rural Alaskan communities off the road system does not adapt itself as well to regulate alcohol possession and use in road system villages.

HB 212 gives the Alcoholic Beverage Control Board discretion to take into account facts and situations that are unique in defining the enforcement area of and around a village that approves local option alcohol restrictions. I support this flexibility because it allows the ABC Board to consider local opinions, geography, impacts on tourism related activities, established land uses, land ownership, access, and settlement and residency patterns in and around a village when it establishes a perimeter other than the five-mile radius standard.

This role of balancing the right of citizens and communities to protect themselves from alcohol abuse with the privilege of conditionally selling and responsibly enjoying alcoholic beverages is one the ABC Board is accustomed to performing. I believe the ABC Board and its staff have the experience and judgement to fairly use the authority delegated to it in HB 212 and make the regulation of alcoholic beverages even more responsive to local concerns. While the ABC Board has not taken a formal position on this legislation, I believe it would concur that the approach of HB 212 to resolve conflicts is sound.

I will be available to speak in support of HB 212 at the April 4 hearing before the House Community and Regional Affairs Committee. I will also be happy to respond to any questions you may have on this issue.

Sincerely,



Douglas B. Griffin
Director

cc: ABC Board Members
Bob Bartholomew, Legislative Liaison, Dept. of Revenue

Box 8
Gakona, Alaska 99586
April 3, 1997

Rep. Gene Kubina
Alaska State Capitol
Juneau, AK 99801-1182
FAX: 907-465-3799

Dear Gene;

Thank you for your letter and copy of HB 212 which deals with the Local Option decision at Gulkana Village and the problems with boundaries. This bill seems to correct the problem here with the proposed wording of section (c) especially.

We appreciate your prompt attention to this matter which concerns many folks living in this area. We trust that you will be able to garner enough support to get the bill passed. We are in sympathy with the alcohol problem and are aware of the fact that the folks in Gulkana Village did not intend to try to regulate anybody outside the village boundaries.

Thanks again for all you do for this area.

Sincerely,

Kenneth Hughes
907-822-3896

Robert A. Frisbie
P.O. Box 635
Glennallen
Alaska 99588
February 21, 1997

Shelly Growden, Elections Supervision
Central Region, Div. of Elections
675 7th Ave, Station H
Fairbanks, Alaska 99701-4594

Dear Ms Growden,

I feel there are some major problems regarding the recent vote taken in the village of Gulkana. While I applaud their efforts to keep alcohol out of their community, the law that permits this type of vote was written for bush communities, not areas accessible by the road system. If the five-mile radius provided in this law is observed, there are a great many more people affected than just those living in Gulkana village.

I live at Mile $\frac{1}{2}$, on the Tok Cut-off. I have always assumed I lived in the community of Gakona. If there is to be some determination of "wet" or "dry" that affects me, I feel I should be able to vote on it. I know several people who are residents of Gulkana that did not receive ballots. There are a lot of people in the five-mile radius who did not receive ballots.

I read the Draft Enforcement Plan written by Doug Griffin, the Director of the Alcoholic Beverage Control Board. He proposes the area for enforcement of the ban be the 300 acre townsite occupied by the village of Gulkana. I agree with this, since they are the only people who were allowed to vote on this issue.

The problem with this is that the law clearly provides for a five-mile radius. It is my feeling that a new election must be held, with ballots going to every legal voter in the affected area. The only other solution is for a new law to be written that will cover only the people in a village.

Yours truly,

Robert A. Frisbie

cc: Senator Lincoln
Representative Kubina
Representative Nicholia
Doug Griffin

Emilie Frisbie
P O Box 635
Glennallen, Alaska 99588

February 22, 1997

Representative Gene Kubina
State Capitol Room 404
Juneau, Alaska 99801-1182

Dear Representative Kubina,

I am writing to you with a request to help the people of Gakona and the village of Gulkana. I have great respect for the people of Gulkana and their efforts to help themselves by voting to become a dry village. As you are aware, this is a village on the road system and therefore there are no statutes to help enforce the law without taking in the surrounding area. This is where the people of Gakona come into the equation. We would like to support the village, but not at the expense of giving up our constitutional rights of freedom of choice. We have had no choice in the local option, and the village of Gulkana had no intentions of the community of Gakona being pulled into the dry area.

Please help us keep the peace in our two communities. The community of Gakona has worked hard for the past four years to form a volunteer fire department. The people of Gulkana have given us their support in our efforts and they are in our service area. This issue has the potential of disrupting our easy coexistence. There were approximately 46 ballots sent out for the vote on local option. These to the people of Gulkana because the ABCB and the Division of Elections felt that the boundaries were distinct. If they elect to go with the current law on local option, approximately 230 people will be effected that had no voice in the vote.

Please give this issue your consideration. I would like to give the people of Gulkana my support in solving a very real problem in their village. Thank you for your time.

Emilie Frisbie

CC: Representative Irene Nicholia
Senator Georgianna Lincoln
Fran Ulmer, Lieutenant Governor
Shelly Growden, Elections Supervisor
Doug Griffin, ABCB Director

Feb. 24, 1997

Rep. Gene Kubina
P.O. Box 2463
Valdez, Alaska 99686

Dear Mr. Kubina,

It is with sincere urgency I write this letter.

You are probably most aware that Gulkana Village at Mile 127, on the Richardson Highway, voted to ban alcohol in their village. The voted was certified as of January 28, 1997. The citizens of the Gakona Community have been pulled into this decision because of the 5 mile radius portion of this law. The entire body of people that are affected by this law did not get a chance to vote.

It would seem that though we would defend the rights for the Gulkana citizens to have a say in what happens in their community, we of Gakona Community would not be granted the same equal rights by our own State Government, which in all fairness has gone against the US Constitution.

This law is how Gulkana Village has chosen to deal with issues within their village. This law for the residents of Gakona is not an alcohol issue nor should it be misconstrued as a prejudicial issue. We people of Gakona feel our Civil Rights have been violated.

It would seem that the reason we have no defense against this law is because there are no boundaries set or established for a Gakona Community. This is false, anyone who has lived in this area for any length of time knows there have always been boundaries that have been backed up by the state. Since the time of State Operated Schools and up to the present, our community has been defined by school attendance areas and School bus routes. We are

also defined by the State of Alaska through our Volunteer Fire Department. Which according to State Guidelines had to register a service area, which pretty much sums up the area that was and is still recognized by School boundaries, bus routes and most especially the people that live here.

This law that is being forced upon us, is not the wish of the people of Gulkana Village, it is not the wish of the people who live in the Gakona Community.

Why does the State of Alaska and the ABC Board feel compelled to impose problems upon the people of these communities? Is there any kind of contingencies by the State to deal with this law? If not, WHY?

It would seem obvious, at some point in time, this law was bound to have an adverse effect on many citizens in the State of Alaska.

Hopefully, this matter can be resolved quickly, reasonably and with the consideration of everyone concerned.

Sincerely,
Mark and Sandra Lappi
P.O. Box 207, Mile 2.5 Tok Hwy.
Gakona, Alaska 99586

JH

P.O. Box 1
Gakona AK 99586
February 28, 1997

Representative Gene Kubina
House of Representatives
Room 406
State Capitol
Juneau AK 99801-1182

Dear Representative Kubina:

The recent vote in Gulkana Village to become dry has created, perhaps unforeseen, problems. The current statutes and regulations were written with bush communities, who wished to restrict alcohol, in mind. Gulkana Village, however, is on the road system and bordered by a sizeable non-native population. This population, including us, is also affected by the Gulkana decision and was not given an opportunity to vote.

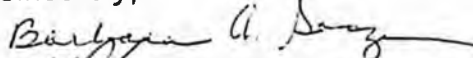
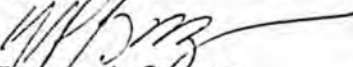
The citizens of Gakona respect the decision of Gulkana to become a dry village. We do not wish to change that. From testimony given at the February 25th meeting, it is clear that Gulkana natives had no intention of having any liquor ban imposed outside the village limit.

It seems that our communities are united in the action that must be taken. The statutes and regulations need to be rewritten to serve native and non-native communities on the road system. Please support legislation and revision of the Alcohol Beverage Control Board regulations to permit native villages the right to be dry and the enforcement area be limited to their townsite. The five mile radius circle of imposition needs to be eliminated for dry villages on the road system.

Doug Griffin, head of the State Alcohol Beverage Control Board, listened well to everyone's concerns and did a very respectable job answering questions and providing information. We feel that he now understands the complexity of the situation.

The citizens of Gulkana have requested a Village Safety Officer. We support that request without, however, giving up any authority of the Alaska State Troopers.

Sincerely,



Barbara A. Goozen
Eric P. Goozen

cc:Mail for: Katrina Matheny

Subject: Gulkana Village Alcohol Law

▷ Forwarded: Representative Gene Kubina 2/26/97 2:15 PM

To: Katrina Matheny

Representative Gene Kubina
P.O. box 2463
Valdez, AK 99686

Dear Mr. Kubina,

I have recently become aware of a law that has been voted on and passed that will have a very real effect on the community in which I live. Since all the people that this law will impact, were not given the opportunity to vote on the law, I feel, very strongly that our rights, as citizens of the State of Alaska and the United States have been seriously violated.

I am referring to the law which will ban the sale and/or possession of alcohol in the Gulkana Village. I fully support Gulkana Village's right to impose such restrictions on their Village, however, the law will also affect an area outside of the perimeter of Gulkana Village. The residents of the Gakona community, which is adjacent to Gulkana Village will be effected by this law as well and had no chance to give their input on the issue or to cast their vote.

This law, as it stands at the present time, would have numerous and far-reaching results on the residents of the Gakona community and other Alaska residents as well. It is not inconceivable that property values and the tourist industry would be adversely affected.

I strongly believe that this issue should have and warrants the immediate attention of our State government. The Rights of the people of the State of Alaska are being abused and that is an unacceptable situation.

Thank you,
Steve and Linda Smythe
P.O. Box 338
Gakona, AK 99586

FISCAL NOTE

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: An Act relating to determination of BRU: none
an established village for purposes ... Component: none
 Sponsor: Rep. Kubina
 Requestor: House C&RA Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

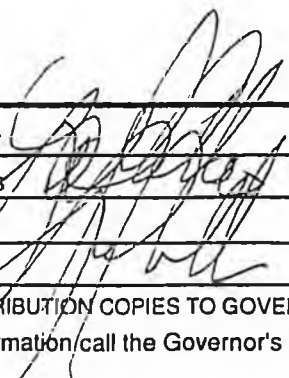
POSITIONS:

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

Estimate of current (FY97) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

This legislation would have no fiscal impact on the department.

Prepared by: Remond Henderson, Director  Phone: 465-4708
 Division: Division of Administrative Services Date: 4/4/97
 Approved by Commissioner: _____ Date: 4/4/97
 Agency: Community & Regional Affairs

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Gakona Junction Village, Inc.

P. O. Box 222

GAKONA, AK 99586

Phone: (907) 822-3664 FAX: (907) 822-3696 Watts: (800) 962-1933 E-mail: gakona@alaska.net

Memorandum

To: Hon. Gene Kubina, Representative - District 35

From: L. Alan LeMaster, President - Gakona Junction Village, Inc.

Subject: Local Option - Gulkana Village

Date: February 26, 1997

Good Morning,

As you are aware, a meeting was held in Gulkana Village last evening to discuss the recent vote for local option by the Gulkana community. There were in excess of 100 souls in attendance including, from the ABD: Mr. Douglas Griffin, Director, Mr. Bert Cottle, Board Member, Mr. Bill Roach, Inspector, and Ms. Bannon, Dept. of Law; from the Alaska State Troopers, Trooper Ridling, Sgt. Maynard and Capt. Savage; members of the Gulkana Village Council and about seventy-five people from this community that reside outside the village.

Some thirty persons testified and during the question and answer period the discussion was lively and continued for about 1½ hours. The testimony included substantial concern over the violation of civil liberties in terms of being governed by a law wherein only a select few were able to vote. Other testimony addressed the inadequacy of the law as it is written when applied to communities other than remote villages.

A good deal of discussion was concerning several questions the ABD Director and the Board had about how we felt the issues should be handled and response from the community on those concerns.

Near the end of the meeting a lively work session was held to try to definitively determine the real boundaries of the Gulkana Village. Some progress was made but there is concern that the village wishes to extend the boundary beyond the legal descriptions to include private lands adjoining their jurisdiction. That question is important and should be carefully considered in making any final determination so we do not encourage court challenges. In the final analysis the meeting was orderly, intense, and productive.

By consensus of the those in attendance, three areas of agreement became evident. First the law, as written, is not enforceable and vulnerable to legal challenge at many levels, both state and federal. Second, the regulations, as written, must also be revised and up-dated to conform to any new statutory language that might be effected by the legislature. And third, the law should be revised to allow a regulatory agency to set the boundaries of the area seeking local option, especially when the area affected is surrounded by other communities that have not vote on the issue. Which agency was left open to those of you that are better equipped to make that judgement but the Alcoholic Control Board, the Boundary Commission, and the Alaska Department of Community and Regional Affairs were three that were mentioned.

Now is the time to begin to make some sense of this law and the place to start is with your office. I would like to see the 1997 Legislature address the law with a bill revising the law this session. Being a bi-partisan issue and with everyone in agreement as to the definition of the problem, the practical solutions, and the need for change, it should help to make it relatively easy to place on the Fast-Track and get a law pushed through this session. Without an effective law, my business and that of Gakona Lodge is in jeopardy.

Director Griffin, Inspector Roach and Attorney Bannon all agreed that this is priority one on their desk. They committed to me that they will lend full cooperation to your office in defining the law the problem and revising. There is little left to do but to get started.

I know you are fully aware of the need and willing to do your part to effect a solution. If there is any thing we constituents can do to assist you, please do not hesitate to call on us. We all stand ready to help. With diligent work of your office, the cooperation of the ABID staff and board and the support of the community, I am certain we will succeed.

I am enclosing a copy of the testimony I presented at the meeting

Sincerely,

L. Alan LeMaster, President
Gakona Junction Village, Inc.

cc: Mr. Douglas Griffin, Director - Alcoholic Control Board
Mr. Bert Cottle, Board Member - Alcoholic Control Board
Mr. Jeremy Weld, Publisher - Copper River Country Journal
File

Gakona Junction Village, Inc.

**P. O. Box 222
GAKONA, AK 99586**

Phone: (907) 822-3664 FAX: (907) 822-3696 Watts: (800) 962-1933 E-mail: gakona@alaska.net

Testimony

To: Alcoholic Beverage Control Board

From: L. Alan LeMaster, President
Gakona Junction Village, Inc.
dba Bunny's Café -
Holder of a Restaurant/Eating Place License

Subject: Restriction of Possession, Procurement and Consumption of
Alcoholic Beverages - Gulkana Village.

Gentlemen:

Thank you for coming into our community to discuss the recent election held here in Gulkana Village. My name is Alan LeMaster. I am the owner of Gakona Junction Village dba Bunny's Café. We hold one of two ABC licenses in our area and feel our business is in jeopardy.

As you can see from tonight's attendance, we as a community, are concerned about the method and means used in the recent election held here in Gulkana Village. We are pleased to have this opportunity to respond to the issue.

To preface my suggestion for reaching a palatable solution, first let me say that after reading Title IV of the Alaska Statutes it is my belief that no matter how one tries to interpret the law, bend the rule or regulate the outcome of the election to not effect our community as a whole, we are, indeed directly effected by an election that was held without our advise, consent or participation. It is because of the fact that we have not been included in the process that we feel the election was not legal, and cannot be binding on our community as a whole.

I know that there is a lot of work going into the questions of defining the boundaries of the Gakona community; what is the difference between an "established village", an unorganized community or an established community. In the final analysis, none of this is really relevant. The law clearly states the sale, possession and consumption of alcoholic beverages is restricted within a five mile radius of the point considered to be the center of the community in question.

If we are to have any hope of allowing communities like Gulkana Village to meet their goals of a ban within their community, a goal that we all support, **this law must be changed.**

I think that the change must come from first, the community advisory council (those of us here tonight) meeting with representatives of the ABC, DCRA, and Boundary Commission to develop a plan to petition the legislature to pass a bill that gives the regulatory agencies the ability to define the perimeters of the villages requesting the ban.

Second, we all must follow through with the plan and begin a campaign to lobby our legislators to work with us on a solution.

The issue at Gulkana is only the tip of the iceberg. Klu-ti-kah, in Copper Center, is in the process of petitioning for a similar ban. There are other villages in our valley with similar thoughts and without question, many other villages on and off the highway system across Alaska will be watching closely to see the results of our efforts.

We need to solve the problem, not only for Gulkana, but we must look for a solution that will be effective for the state as a whole. Bending the rules, working within the loose structure of the current law, or ignoring it will only make us advisories in the future and give our courts one more case to adjudicate. Let us look for viable, permanent solutions now that will work for everyone. We simply cannot rely on our personal interpretations of the law for our guidelines to enforcement. That will, without doubt open the door for trouble in coming years.

Now for a solution. Let us change the law Let us either completely eliminate the five mile radius or, allow the ABC Board or some other regulatory agency the latitude of defining the perimeters according to the intent of those petitioners looking for solutions to their individual community problems.

A rather simple solution might be to define the boundaries with an addendum to 15 AAC 404.645 j (page 79 of Title IV) as follows:

For purposes of this section and AS 04.11.491, 04.11.497 and 04.11.503, "perimeter" means a line around an established village, the line is a circle with a five-mile radius, having at its center a post office station or, if there is not a post office station, another site reasonably designated by the local governing body or by the board if there is no local governing body, but excluding from that circle

- 1) any area that is within an incorporated city; and
- 2) any area that is within another established village

"or, when a five mile radius is not an applicable solution because it encompasses other communities that would prohibit passage of the local option law, a line, which ever is smaller may be drawn, around an established village as defined by the Boundary Commission and the Alcoholic Beverage Control Board."

The intent of this wording, or wording similar to it, is to allow those who wish to restrict sale, possession or consumption of alcoholic beverages within their communities the opportunity to do so without infringing on the rights of citizens beyond their boundaries.

Of course, I am not a constitutional lawyer and obviously, other wording will be required but my hope is that you, in concert with all of us in this community can appeal to our elected representative and the Department of Law to first place a moratorium on the enforcement of the recent election at Gulkana Village and then develop the proper language for the passage of a bill during this 1997 session in Juneau.

This is a bi-partisan issue. Everyone seems to be in agreement as to the need. The ABC, DCRA, Dept. of Law, the Gulkana Village community and all of us in the unorganized community of Gakona see the need for change. We are all pointing in the same direction. We only need to sharpen our arrows and implement a plan. Working together we can and will get the attention and cooperation of our legislators. For, after all, isn't it their job and duty to respond to our needs and demands?

Thank you for the time. I am happy to address any questions you may have.

PUBLIC NOTICE

15 AAC 104.645(j)

Enforcement of Local Option Elections

Notice is also given that any person interested may present written comments relevant to the proposed action, including potential costs to private persons of complying with the proposed action by writing to Douglas B. Griffin, director, Alcoholic Beverage Control Board 550 W 7th

Avenue, STE 350, Anchorage, Alaska 99501, so that they are received no later than April 30,

1997. Additionally, any interested person may present oral or written comments relevant to the proposed action, including the potential costs to private persons of complying with the proposed action, at a public hearing on the proposed regulations that will be held at the Legislative Information Office site, at the State Office Building, room 13, Valdez, Alaska 99686 for teleconference hearings on the proposed regulations dealing with local option enforcement for communities on the highway system. The hearing will be held on Monday, April 14, 1997 starting at 6:30 p.m. from the Valdez LIO office. The public hearing will have teleconference connections to Legislative Information offices at the following locations that will allow persons interested in commenting to submit oral comments relevant to the proposed regulations from the following locations:

Glennallen LIO	Community Library	Phone #	822-5588
Gakona Hotel	128.5 Richardson Hwy	Phone #	822-3664
Anchorage LIO	716 W. 4th Ave., STE 200	Phone #	258-8111

Interested persons may submit oral comments relevant to the proposed regulations at any of the Legislative Information Offices listed above locations, at the time and specified above.

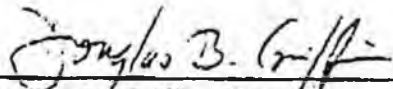
This action is not expected to require an increase appropriation.

If you are a person with a disability who may need a special modification or special assistance in order to comment on the proposed regulation, please contact Verna Hallett at 277-8638 by April 10, 1997.

Copies of the proposed regulations may be obtained by writing to the Alcoholic Beverage Control Board, 550 W. 7th Ave., STE 350, Anchorage, Alaska 99501.

After the close of the public comment period, the Department of Revenue will either adopt these or other proposals dealing with the same subject, without further notice, or decide to take no action on them. You should comment during the time allowed if your interest could be affected.

DATE: March 26, 1997



Douglas B. Griffin, Director
Alcoholic Beverage Control Board

c:\douglass\enforce.mer

Register _____, _____ 1997 REVENUE

15 AAC 104.645(j) is amended to read:

(j) For purposes of this section and AS 04.11.491, 04.11.497 and 04.11.503, "perimeter" means a line around an established village; the line is a circle with a five-mile radius, having at its center a post office station or, if there is no post office station

site reasonably designated by the local governing body or the board if there is no local governing body. But excluding from that circle

- (1) any area that is within an incorporated city; and
- (2) any area that is within another established village.

If, however, the established village is accessible by a regular (not modified) passenger motor vehicle from a road or highway as defined herein, the perimeter is not a five mile radius surrounding the village, but shall be limited to the area generally considered to constitute the village, and includes the entire contiguous growth and development area of the village. For purposes of this subsection, road or highway means one of the following located in Alaska: Alaska Highway, Cooper River Highway, Dalton Highway, Denali Highway, Edgerton Highway, McCarthy Road, Elliot Highway, George Parks Highway, Glenn Highway, Haines Highway, Klondike Highway, Richardson Highway, Seward Highway, Steese Highway, Chena Hot Springs Road, Sterling Highway, Taylor Highway, and the Top of the World Highway.

(Eff. 11/29/81, Register 80; am 3/31/85, Register 93; am 10/24/87, Register 104; am 7/30/89, Register 111; am 5/1/94, Register 130; am 5/11/96, Register 138; am __/__/__, Register __)

Authority: AS 04.06.090 AS 04.11.491 AS 04.16.052
AS 04.06.100 AS 04.11.497 AS 04.16.060
AS 04.11.010 AS 04.11.503 AS 04.16.125
AS 04.11.150 AS 04.16.051

Post-IT™ brand fax transmittal memo 7671		# of pages ▶	2
To	REP. KUBINA	From	Doug Griffin
Co.	ATTN: KATRINA	Co.	ABC Award
Dept.		Phone #	277-8638
Fax #	465-3798	Fax #	272-9412

APR-04-1997 11:44

Rep. Gene Kubina
P.O. Box 2463
Valdez, Alaska 99686

Dear Mr. Kubina,

Enclosed is a petition representing Gakona Community's decision regarding the Local Options Law that Gulkana Village voted in recently. Our community should NOT be confused with Gakona Village. I know you have been here as you have stood in my front yard one day (next to the Gakona Post Office) when I was out working with my dogs. You complimented me on how they behaved.

Early last week my husband & I faxed you a letter in reference to this issue also. Hopefully, you received it. This is a big issue in our community.

Please keep us as up-to-date as you can regarding this situation? It would be greatly appreciated.

Sincerely,



Sandra Lappi
Box 207
Gakona, Ak. 99586

Ph# (907) 822-3320
email- lappi@alaska.net
fax# 907-822-5946

WE, THE UNDERSIGNED, DO HEREBY REJECT ANY ACTION BY ANY FEDERAL OR STATE LAW THAT WOULD INFRINGE UPON OUR CIVIL RIGHTS.

WE SUPPORT GULKANA VILLAGE'S DECISION TO BAN LIQUOR FROM THEIR VILLAGE.

WE DO NOT SUPPORT ANY DECISION THAT EXCEEDS THE EXACT GULKANA VILLAGE PROPERTIES!

SIGNATURE PRINT PHYSICAL ADD. PHONE #

- SR 7022-1*
- ✓ *[Signature]* Bruno Bourer's Mile 8 Toklatoff 822 5947
 - ✓ *[Signature]* Gordon R Brown 17 MILE POST 1/10 TOK CUT OFF
 - ✓ *[Signature]* John Gata MI 2.5 TOK CUT OFF 822 5021
 - ✓ *[Signature]* BOB Flint Mile 9 TOK CUT OFF 822-3070
 - ✓ Joe LeFaire 11 CO 2 Box 157 Gulkana, AK 99701
Mile 4.7 Tok Road 822-3303
 - ✓ Fred Herz Box 125 Gulkana AK 99586
 - ✓ Jim Hopkin Box 303 MI 2 1/2 TOKENY GULKANA AK 99586 822 5496
 - ✓ *[Signature]* A. [unclear] Box 8 Gulkana, AK 99586 822 3996
 - ✓ *[Signature]* [unclear] Box 207 Gulkana AK 99586
 - ✓ *[Signature]* [unclear] Box 247 Gulkana AK 99586
 - ✓ *[Signature]* GREG SMITH PO Box 245 Gulkana, AK 99586
 - ✓ Barbara F. Strong Barbara F. Strong Gulkana, AK 99586-0255
 - ✓ *[Signature]* [unclear] PO Box 209 [unclear] 99586
 - ✓ *[Signature]* [unclear] Box 132 Mile 4.25 Tok Cut off

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SIGNATURE PRINT PHYSICAL ADD. PHONE #

✓ Warren Ulrich ¹³² WARREN ULRICH RICHARDSON AVE 822-3071

✓ Heidi McMahon Heidi McMahon Mi 1.5 Tok Cutoff 822-3441

✓ Francine McMahon Francine McMahon Mi. 1.5 Tok RD. 822-3441

✓ Harley McMahon Harley McMahon 1.5 Tok Rd 822-3441

✓ Christine Egbert Christine Egbert Mi 2.5 Tok cutoff 822-5016

✓ Annalee Egbert Annalee Egbert Mi. 2.5 Tok cutoff 822-5991

✓ Steve Troll STEVE TROLL Mi. 1.28.5 Rd H 822-3168

✓ Gail Troll GAIL TROLL Mi. 2.5 Tok cutoff 822-3634

✓ Teresa Guates TERESA GUATES MILE ⁸²²⁻⁵⁰⁷¹ 2.5 Tok Cutoff Hwy 822-3103

✓ Mary Schlenker MARY SCHLENKER MILE .5 Tok RD 822-3103

✓ Hilly Lappi Hilly Lappi Mi. 2.5 Tok rd. 822-3320

✓ Cathy King Cathy King mi 2.5 Tok Rd. 822-3391

✓ Bill Larsen Bill LARSEN Tok 822-3181


✓ Terry Spaulden Terry Spaulden Mi. 2.5 Tok C. to 822-3652

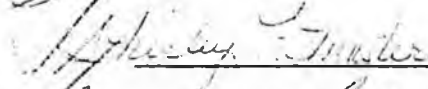
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SIGNATURE PRINT PHYSICAL ADD. PHONE #

 ALAN LESTER MILE 108.5 RICHARDSON 822-3664

 SHIRLEY A. MILLER MILE 135.5 RICHARDSON 822-3664

BRYAN R. COLANG GREGORY R. COLANG MILE 117.5 RICH 822-3968

CINDY L. RHODES CINDY L. RHODES 1/2 MILE 135.5 GLENN HWY 822-3663

✓ DOUGLAS RHODES P.O. Box 110 Glennallen AK 99588

✓ RAOUL D. HONDEK HCO-1 P.O. 275 GAKONA, AK. 99586 5174

✓ DEAN BRINGTON 1981 2.5 TOK CUTOFF 822-3981
Gakona AK

✓ BARBARA BRINGTON BARBARA BRINGTON MILE 2.5 TOK CUTOFF 822-3981

✓ EMILIE FRISBIE EMILIE FRISBIE 1/2 MILE TOK CUTOFF 822-3062

✓ MARK HONDEK 1/2 MILE TOK CUTOFF NO PHONE

✓ R.A. FRISBIE Schultz Drive Mile 1/2 Tok Rd. Gakona 822-3062

✓ GERALD W. STRANG GERALD W. STRANG MILE 2 TOK RD GAKONA, AK
99586

✓ DONOVAN MAHER DONOVAN MAHER S. S TOK CUTOFF 822-5512

✓ NELLIE R. YHRICH NELLIE R. YHRICH MILE 132 RICHARDSON HWY 822-3071

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SIGNATURE	PRINT	PHYSICAL ADD.	PHONE #
<i>[Signature]</i>	JULIE SWE	MI 2.2 TOK CUTOFF	822-3015
<i>[Signature]</i>	William Leonard	129 Richardson	822-5380
<i>[Signature]</i>	Kari E. Paunard	MI 2 Tok Cutoff	822-5087
<i>[Signature]</i>	CHET FERRELL	MI 1295 RICHARDSON	822-3168
<i>[Signature]</i>	LINDA SMYTHE	MI 1289 Old Richardson	822-5073
<i>[Signature]</i>	Michael A. Shelton	MP 1.25 Tok Cut-off	822-3471
<i>[Signature]</i>	Judy A. Shelton	MP 1 3/4 Tok Cut Off Gulkana	822-3471
<i>[Signature]</i>	John J. Strang	MI 2 tok Cutoff Gulkana	822-3482
<i>[Signature]</i>	Benny J. Bozwick	M. 5 TOK CUTOFF GULKANA	822-3600(W)
<i>[Signature]</i>	Sandra Lappi	MI 2.5 Tok Hwy	822-3320
<i>[Signature]</i>	MARK LAPPI	M. 2.5 Tok Hwy	822-3320
<i>[Signature]</i>	Don Bedarek	M.P. 2.6 Tok Hwy	822-3170
<i>[Signature]</i>	MW Jenkins	MP 2.5 Tok Hwy	822-3935
<i>[Signature]</i>	MARIE E. JENKINS	MP. 5 Tok Hwy	822-3935
<i>[Signature]</i>	RONALD N. SIMPSON	Jerry Rd Cutoff	822-3647

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SIGNATURE PRINT PHYSICAL ADD. PHONE #

~~Michael Hansen~~ Michael Hansen ^{mile 182} ^{Box 29 P. 18111} Gladwyne 822-3780

Richard L. Cross P.O. Box 204 Glenallen, Pa 2-5153

Lee De Wilson ^{mile 8.9 Tuckertown} P.O. Box 322 Copper Center Pa 2-3706

~~Richard L. Cross~~ P.O. Box 110 Glenallen Pa

Frederick B. Cross ^{mile 18.5 Gladwyne} P.O. Box 483 Glenallen Pa

Ken M. Sprinkle Ken M. Sprinkle Mile 2.5 Tok Cutoff 907-822-3652
907-822-3440

Barbara A. Gozzen Barbara A. Gozzen Mile 2.5 Tok Cutoff

Eric P. Gozzen ERIC P. GOZZEN Mile 2.5 Tok Cutoff 522 3440

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SIGNATURE PRINT PHYSICAL ADD. PHONE #

Margaret Palmer Margaret Palmer Mile 117 1/2 Richardson Hwy. Alaska

Rosan Wharton Rosan Wharton Tazlina Trailer Ct. Glennallen
561 #16

Dennis D Petty Dennis D Petty Mile 188 Glennallen Glennallen
907 800-3454

Larry D Huelskoetter Larry D Huelskoetter Mile 101 Richardson Hwy 822-3479

ERIK MAXWELL Mile 137 Glennallen

Donna Becker Donna Becker Tazlina Sp Rd. 822-3887

John Downes John Downes Box 309 Copper Center AK 99573

Lisa Downes Lisa Downes Box 309 Copper Center AK 99573

David B. Bell David B. Bell Box 154 Gakona, AK. 99586

Sue Strang Sue Strang Box 194 Gakona, AK 99586

Logan Lappi Logan Lappi Box 194 Gakona, AK 99586

Alan Heger Alan Heger Box 141 Gakona, AK 99586

Amy Kalkway Amy Kalkway Box 283 Gakona AK 99586
822 50 51

MEMORANDUM

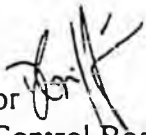
ALCOHOLIC BEVERAGE CONTROL BOARD

PHONE: 907-277-8638 FAX: 907-277-9412

ANCHORAGE, ALASKA 99501

To: Distribution List

Thru:

From: Doug Griffin, Director 
Alcoholic Beverage Control Board

Subject: Draft Enforcement Plan for Gulkana Village Local Option Election

Date: February 3, 1997

The attached **DRAFT ENFORCEMENT PLAN** is being sent to you for your review and comments. A public meeting is scheduled for Tuesday, February 25, 1997. The meeting will begin at 7 p.m. at the Gulkana Village Community Hall. Written comments and suggestions will be received until February 28, 1997 by writing to the:

Alcoholic Beverage Control Board
550 W 7th Avenue, STE 350
Anchorage, Alaska 99501
Fax: 907-272-9412

DISTRIBUTION LIST:

Eileen L. Ewan, President
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Gakona Junction Village, Inc.
PO Box 222
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4454 Chena Hot Springs Road
Fairbanks, Alaska 99717

Evelyn Beeter, Member
Alcoholic Beverage Control Board
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To ABC Board Member

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February 3, 1997

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Alcoholic Beverage Control Board
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Juneau, Alaska 99802

Will Sherman
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Georgianna Lincoln, Senator
State Capitol
Juneau, Alaska 99801-1182

Gene Kubina, Representative
State Capitol
Juneau, Alaska 99801-1182

Irene Nicholia, Representative
State Capitol
Juneau, Alaska 99801-1182

Debra Vogt, Deputy Commissioner
Department of Revenue
PO Box 110400
Juneau, Alaska 99811-0400

Col. Glenn G. Godfrey, Director
Division of Alaska State Troopers
Department of Public Safety
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Anchorage, Alaska 99507-1225

Capt. Don Savage
Commander B Detachment
Division of State Troopers
Department of Public Safety
453 S. Valley Way
Palmer, Alaska 99645-6494

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Gakona, Alaska 99586

Fred Ewan
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Gakona, Alaska 99586

To ABC Board Member
Page 3
February 3, 1997

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Glennallen, Alaska 99588

Nancy Ida Milani-Henson
The Bush Bottle Bin
Glennallen, Alaska 99588

Jack E. & Bonnie L. Wilson
Basin Liquor
Box 316
Glennallen, Alaska 99588

Joseph G. Riley
Owlhoot Inn
HC 01, Box 540
Gakona, Alaska 99586

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Paul White
Rendevous Cafe
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Billy J. & Marianne Williams
Grizzley Liquor Stor/Grizzley Pizza &
Gift Shop
HC 60, box 100
Copper Center, Alaska 99573

Ronald N. Simpson
Copper Rail Depot
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Copper Center, Alaska 99573

Douglas & Cindy Rhodes
Brown Bear RhodeHouse
PO Box 110
Glennallen, Alaska 99588

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Central Region, Div. of Elections
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Assistant Attorney General
Department of Law
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Loren Jones, Director
Division of Alcoholism & Drug Abuse
Department of Health & Social Services
PO Box 110607
Juneau, Alaska 99811-0607

To ABC Board Member
Page 4
February 3, 1997

Donald Dapcevich, Executive Director
Governor's Advisory Board on Alcoholism
& Drug Abuse
PO Box 110608
Juneau, Alaska 99801-0608

Collen Atka, Traffic of Safety Section
Northern Region
Dept. of Transportation & Public Facilities
32301 Feger Road
Fairbanks, Alaska 99709-5316

Bob Bailey, Operations Manager
Alaska Distributor, Anchorage Branch
PO Box 91598
Anchorage, Alaska 99509

Specialty Imports, Inc
4119 Ingra Street
Anchorage, Alaska 99503

J.D. Pross, Glennallen Public Health Center
1830 E. Parks Highway, STE A-134
Wasilla, Alaska 99687

Mountain View Liquor
Rick Strand & Christine Smith
PO Box 426
Copper Center, Alaska 99573

Copper Basin Distributors Inc.
Tazlina Liquors
PO Box 364
Glennallen, Alaska 99588

Tony K. Johanse, Regional Director
Northern Region
Dept. of Transportation & Public Facilities
2301 Peger Road
Fairbanks, Alaska 99709-5316

Don Grasse, Exec. Vice Pres./Gen. Manager
K & L Distributors
Anchorage Branch
6307 Arctic Spur Road
Anchorage, Alaska 99518

William Odom, Executive Vice President
Anchorage Cold Storage, Anchorage Office
240 West 1st Avenue
Anchorage, Alaska 99510

Ed Krause, Director of Human Services
Copper River Community Mental Health
Ctr.
Drawer H
Copper Center, Alaska 99573

W.T. & Lorene Ellis
Duff's Roadhouse
SR Box 370
Gakona, Alaska 99588

Sourdough Lodge
Froltz Properties Inc.
PO Box 358
Gakona, Alaska 99586

GULKANA VILLAGE LOCAL OPTION FOR CONTROL OF ALCOHOLIC BEVERAGES

DRAFT ENFORCEMENT PLAN

For Review and Comment

Prepared by Alcoholic Beverage Control Board
Department of Revenue
State of Alaska

JANUARY 31, 1997

1. BACKGROUND

The Village of Gulkana is located on the east bank of the Gulkana River along the Richardson Highway, 14 miles north of Glennallen. The community is within the Ahntna Regional Native Corporation of Alaska. The economy of the community is in transition from one that once relied primarily on subsistence hunting, fishing, and trapping to a more cash centered system supported by seasonal construction, fire fighting, tourism, and government or non-profit organization employment. The 1990 census recorded 103 residents; 59 percent were Alaska Native and 68 percent were over the age of 18 years. Updated estimates of total population produced by the State Demographer, Alaska Department of Labor, show no significant population change since the decennial census.

The first occupants of Gulkana were Chief Ewan and his family. They established the old village site a quarter mile south of the present location. This site was cut in half during construction of the Richardson Highway requiring the move to the present location about forty years ago. Soon after the Gulkana residents moved to the new town site, they submitted a petition to the U.S. Bureau of Land Management for a 640-acre reserve. Petition reformulation and boundary adjustments eventually produced an amended townsite (USS 4861) of approximately 300 acres.

Gulkana is an unincorporated community within the unorganized borough. The community is governed by a traditional village council which is given limited recognition for administration of grants and revenue sharing by the State of Alaska. Public safety services are provided by the Alaska State Troopers operating out of Glennallen. There are no liquor licensed premises within Gulkana.

2. PETITION FOR LOCAL OPTION ELECTION

In the spring of 1996, Gulkana leaders expressed an interest in exercising greater control over alcoholic beverages in their village. As is often the case, interest was sparked by tragic deaths attributable to alcohol consumption.

On May 23, 1996, Bob Aiken, a Local Government Specialist with the Department of Community and Regional Affairs held an informational meeting in Gulkana to answer questions regarding the

process for placing the local option question of prohibiting sales, importation, and possession of alcohol in Gulkana on a ballot for a community vote. Lt. Bachman and Trooper Pearce of the Alaska State Troopers (AST) were also in attendance to answer questions regarding response to violations of the local option prohibition.

Questions regarding the zone of enforcement of the prohibition were asked leading to some discussion of the "perimeter" around an established village. It was explained that a final determination on who would be eligible to vote on the local option question would have to be made by the Division of Elections and the area designated for enforcement should a local option on alcohol be adopted would have to be made by the Alcoholic Beverage Control Board. The AST representative recommended that if the local option was adopted that large signs be posted on the entrances to the village coming off of the Richardson Highway informing people of the ban on importation and possession and possible penalties for violations.

As a result of the meeting, a petition to prohibit sale, importation, and possession of alcoholic beverages within the Village of Gulkana was drawn up, circulated, and submitted to the Division of Elections. The petition was accepted as meeting the criteria set out in AS 04.11.507(c).

3. LOCAL OPTION ELECTION

The Division of Elections recognized those residing in the actual townsite location of Gulkana as qualified voters and conducted an election by mail-in ballot on January 14, 1997 on the question of prohibiting the sale, importation, and possession of alcoholic beverages provided for in AS 04.11.491(b)(4). The results of the election are 17 yes and 3 no. The election was certified on January 28, 1997.

4. APPLICABLE STATUTES AND REGULATIONS

The following statutes and regulations spell out the basis and effective date of local options approved by voters in an established village. The provisions are edited for ease of understanding and specific relevance to Gulkana. Official versions of Alaska Statutes as published by Michie Company are the definitive resource on this question.

Importation of Alcoholic Beverages

AS 04.11.499 states, in part, that "if a majority of the voters vote to prohibit the importation of alcoholic beverages under AS 04.11.491...(b)(4), a person, **beginning on the first day of the month following certification of the results of the election**, may not knowingly send, transport, or bring an alcoholic beverage into ...the established village, unless the alcoholic beverage is sacramental wine to be used for bona fide religious purposes ...and is dispensed only for religious purposes by a person authorized by the church or religious body to dispense sacramental wine" (emphasis added).

Based on this statute and the results of the Gulkana village vote, importation of alcoholic beverages into the townsite boundaries of Gulkana is a violation of State law beginning **February 1, 1997**.

Possession of Alcoholic Beverages

AS 04.11.501(a) states, in part, that "if a majority of the voters vote to prohibit the possession of alcoholic beverages under AS 04.11.491...(b)(4), a person may not knowingly possess an alcoholic beverage in the ...established village, unless the alcoholic beverage is sacramental wine to be used for bona fide religious purposes...and is dispensed only for religious purposes by a person authorized by the church or religious body to dispense sacramental wine." AS 04.11.501(b) sets out, in relevant part, that "if there are no licensed premises within the...established village, the prohibition on possession is **effective beginning 60 days after the results of the election are certified**" (emphasis added). AS 04.11.501(d) defines "possession" as "having physical possession of or exercising dominion or control over an alcoholic beverage, but does not include having an alcoholic beverage within the digestive system of a person."

With the certification date of January 28, the ban on possession of alcohol goes into effect **March 30, 1997**.

Legal Sales of Alcoholic Beverages

Legal sales by state licensed persons and businesses are subject to change as a result of a local option election within an established village. AS 04.11.197, as it pertains to the Gulkana case, states that "if a majority of voters vote to prohibit the sale of alcoholic beverages under AS 04.11.491...(b)(4), the board may not issue, renew, or transfer between persons of locations, a license for premises located...within the **perimeter** of the established village. A license that may not be renewed because of a local option election held under this section is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this section, by payment of a prorated portion of the biennial license fee" (emphasis added).

Regulations of the Alcoholic Beverage Control Board defines "perimeter" in 15 AAC 104.645(j) as it pertains to this statute as "a line around an established village; the line is a circle with a five-mile radius, having at its center a post office station or, if there is no post office station, another site reasonably designated by the local governing body or by the board if there is no local governing body, **but excluding from that circle ...any area that is within another established village**" (emphasis added).

AS 04.21.080(b)(9) defines "established village" for this circumstance "as an area that does not contain any part of an incorporated city or another established village and that is...an unincorporated community that is in the unorganized borough and has 25 or more permanent residents".

5. PERIMETER FOR SALE, BAN AND ESTABLISHED VILLAGE

There is no post office station within Gulkana. The local governing body recognized by the State of Alaska for the receipt and legal use of State funds is the Gulkana Village Council, a traditional village council. To determine if persons licensed to sell alcoholic beverages near Gulkana are affected by this local option election two questions need to be addressed and answered.

First, in the absence of a post office, the Gulkana Village Council needs to determine another "reasonably designated" site as the center of the five mile radius which forms the perimeter around the established village of Gulkana. This perimeter will then need to be drawn using this designated center point.

Second, "any area that is within another established village" will then need to be excluded. Residents near Gulkana have claimed that there is, in fact, another established village of Gakona that virtually surrounds Gulkana. This established village has a post office, an elementary school, and a volunteer fire station that serve Gakona and Gulkana, and several businesses, including businesses licensed to sell alcoholic beverages. Gakona is an unusual type of community because it is spread out along the Richardson Highway and the Glenn Highway (Tok Cutoff) and consists primarily of residences near the major roadways. Since Gakona is in the vicinity of Gulkana, and appears to clearly contain areas within the perimeter of Gulkana, Gakona's boundaries and area need to be established and a determination needs to be made as to whether it constitutes another "established village".

Therefore, because of the unresolved issues of a reasonably designated center for a five mile perimeter around Gulkana and the need to determine if Gakona constitutes an established village and as such what comprises Gakona's "area", the question of the potential effect of the Gulkana local option election on sales of alcoholic beverages remains unresolved.

6. PROPOSAL FOR ENFORCEMENT

There is a need to make some interim determinations on how enforcement of Gulkana's local option will proceed since the ban on importation goes into effect February 1, 1997. I propose that the area for enforcement of the ban on importation and possession of alcoholic beverages initially be comprised of the area commonly referred to as the BLM townsite located entirely on the east side of the Richardson Highway. I recognize that there are a few residences on the west side of the Richardson Highway with occupants who consider themselves to be part of Gulkana village. The enforcement zone could be expanded in the future to include this area if issues

regarding traffic on the Richardson Highway can be resolved. This is one area that needs to be reviewed and commented upon by local residents. The other question that needs to be addressed is alcohol possession on or near the Gulkana River, a popular sports fishing location, as it passes near Gulkana village. It would be unworkable and defies common sense to have the importation and possession ban apply to vehicles traveling within the Richardson Highway right-of-way. Any zone for enforcement of this portion of the ban would need to exclude the Richardson Highway corridor.

The perimeter for the sale of alcoholic beverages requires determination of the status of Gakona as an established village. While it can be debated that the greater Gakona area may be too spread out and sparsely populated to constitute an established village, I believe there is a core area of Gakona that includes the post office, elementary school, volunteer fire station, Gakona Lodge and the Gakona Junction Village that is reasonably compact and meets criteria for an established village as defined under AS 04.21.080(b)(9).

This recognition is further bolstered by the fact that the Department of Community Regional Affairs (DCRA) recognizes organizations within the Gakona area as being eligible for State Revenue Sharing and Capital Matching Grants. State Revenue Sharing grants have been made in the past to the Gakona Village Council and the Gakona Volunteer Fire Department. These organizations have not always participated in these state aid programs, but they do remain on the DCRA list of eligible unincorporated community organizations for purposes of receiving and expending grant money for public purposes. The Gakona Volunteer Fire Department has, for example, received State Revenue Sharing nearly every year and may soon receive half of Gakona's Capital Matching Grant funding to provide fire protection and response services to 268 persons residing in the Gakona and Gulkana area.

Therefore, I recommend that the ABC Board determine that the core Gakona is an area that constitutes a separate established village for purposes of applying the definition of "perimeter" under 15 AAC 104.645(j). This means that liquor licenses located within the established village of Gakona would not be subject to the sales ban. The area outside of the compact boundaries of Gakona and within the five mile perimeter would exclude sales and new liquor licenses could not be issued in this area.

7. ATTACHED MAP FOR DISCUSSION AND COMMENT

Attached are two copies of the general boundaries as proposed for this enforcement plan. Please comment on the boundaries as proposed. It will be helpful if you could mark on one copy of the map and return it with comments you may have for altering the lines proposed.

8. PUBLIC MEETING/HEARING IN THE GULKANA/GAKONA AREA

A public meeting will be held on February 25, 1997 at 7 p.m. at the Gulkana Community Hall, Mile Post 127, Richardson Highway.

The agenda for the public meeting will include, but may not be limited to, the following topics:

- 1) Consultation with the Gulkana Village Council on a reasonably designated point from which to draw the five mile perimeter and designation of this point.
- 2) Public and agency comment on the boundaries around the village of Gulkana for purposes of enforcing the importation and possession ban. Should they be modified from the "townsite" boundary being proposed ?
- 3) Public and agency comment on the existence of the established village Gakona and its boundaries for purposes of being excluded from the Gulkana perimeter.
- 4) Public and agency comment and discussion of how the local option ban will be enforced.
- 5) Public comment and discussion on how potential conflicts on and along the Gulkana River in the vicinity of Gulkana Village will be addressed.

Written comment on these and other related issues will also be received until February 28, 1997. A final determination for enforcement should be made either by the ABC Board or by its Director with proper authorization from the Board sometime after March 5, 1997.

Written comments should be sent to:

ABC Board
550 W. 7th Avenue, Suite 350
Anchorage, Alaska 99501
FAX: 907-272-9412

MAP OF PROPOSED BOUNDARY FOR ENFORCEMENT OF
GULKANA ALCOHOLIC BEVERAGE LOCAL OPTION
INTERIM ENFORCEMENT AREA SHOWN FOR IMPORTATION BAN
SALES AND POSSESSION AREAS ARE DRAFT -- FOR DISCUSSION

JANUARY 31, 1997

FIVE MILE PERIMETER AROUND
GULKANA FOR RESTRICTION ON
SALES OF ALCOHOLIC BEVERAGES

PROPOSED BOUNDARY FOR THE
ESTABLISHED VILLAGE OF GAKONA

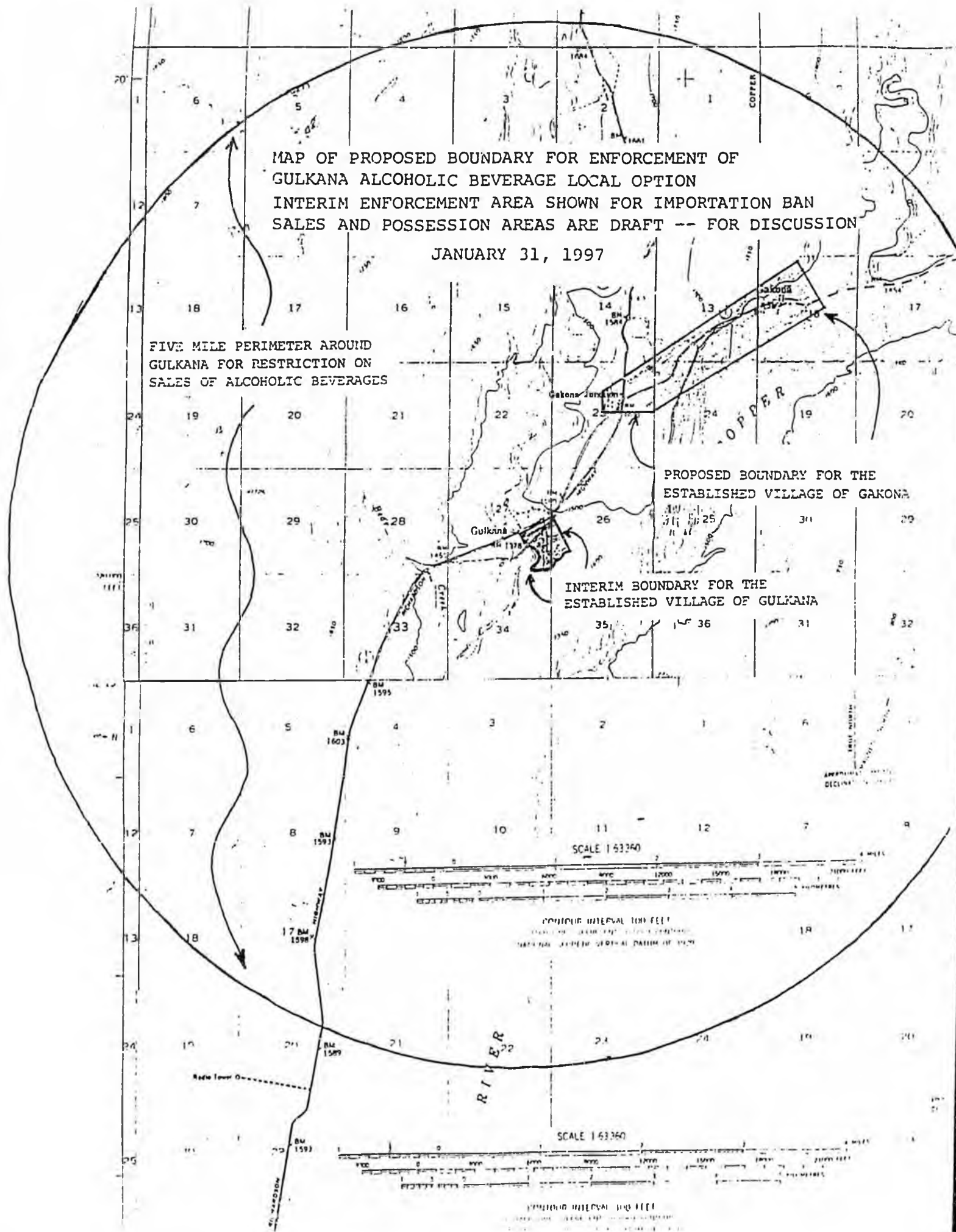
INTERIM BOUNDARY FOR THE
ESTABLISHED VILLAGE OF GULKANA

SCALE 1:63,360

CONTOUR INTERVAL 100 FEET
VERTICAL DATUM: MEAN SEA LEVEL
NATIONAL DATUM: GEODAL DATUM OF 1929

SCALE 1:63,360

CONTOUR INTERVAL 100 FEET
VERTICAL DATUM: MEAN SEA LEVEL
NATIONAL DATUM: GEODAL DATUM OF 1929



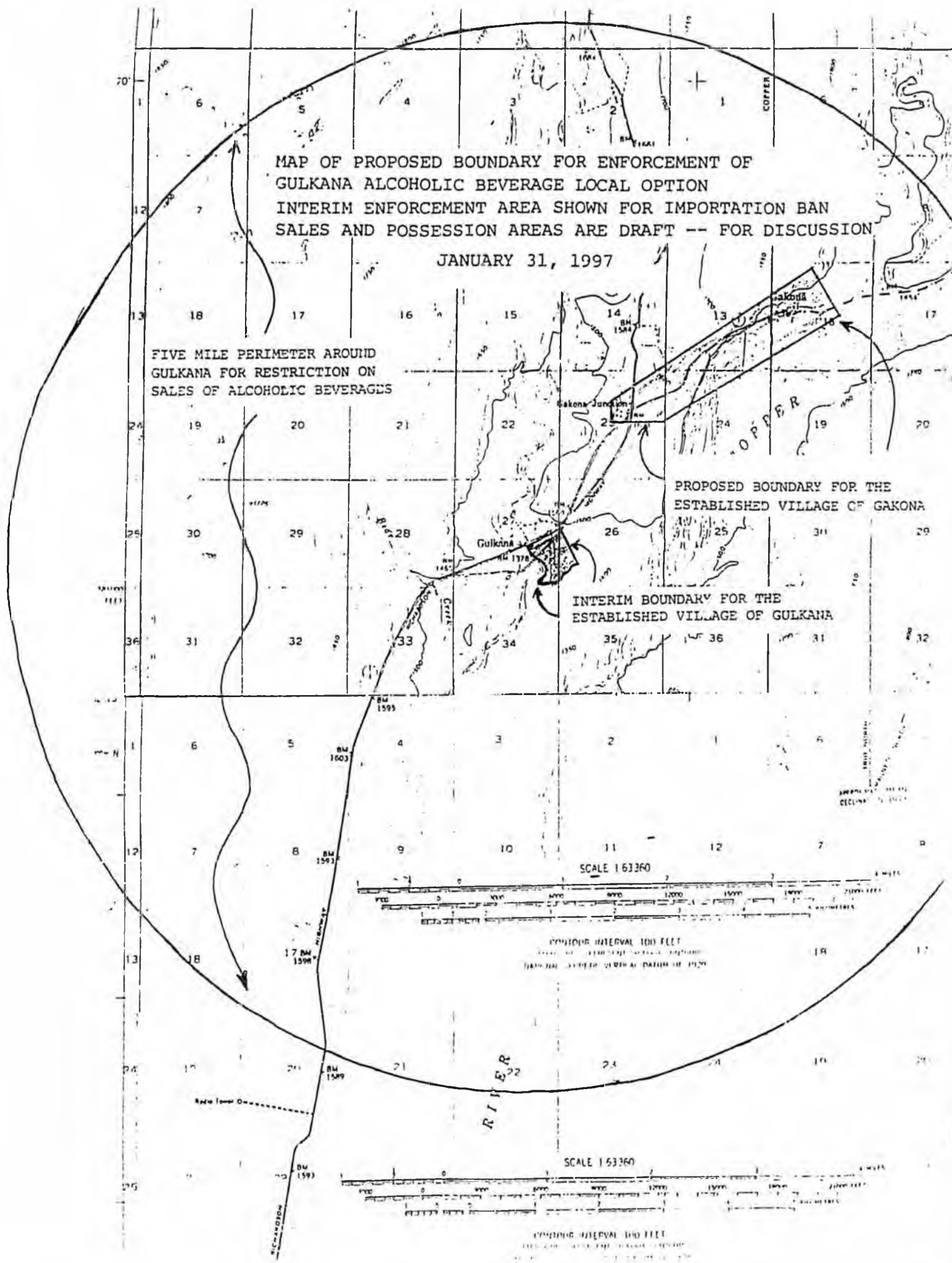
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INTERIM BOUNDARY FOR THE
 ESTABLISHED VILLAGE OF GULKANA



LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH 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 9, 1997

SUBJECT: Sectional Summary of HB 212

TO: Representative Gene Kubina
Attn: Katrina

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. Provides that the perimeter of an established village is the area within a five-mile radius of the village post office, or a site selected by the local governing body or the A.B.C. board if no local governing body exists. Specifies that the perimeter does not include an area within a municipality or within another established village. Allows the A.B.C. board to determine a village's perimeter if the board determines that under (a) and (b) the perimeter does not accurately reflect the true perimeter of the village.

Section 2. Effective date of July 1, 1997.

MFF:jdr
97-257.jdr

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE KUBINA

TO: HB 212

- 1 Page 1, lines 2 - 3:
- 2 Delete "in the unorganized borough"

Justification for amendment to HB 212

When drafting this bill an oversight was made in the title of the bill. As the title currently reads, this bill would only effect those established villages that are in the unorganized borough. However, we want this law to also apply to those established villages that are in the organized borough. With the deletion of the words "in the unorganized borough", the law would apply to all established villages throughout Alaska.

Alaska State Legislature



Committees

Labor & Commerce
Legislative Council
World Trade
Trade & Tourism
Special Committee
on Fisheries

Representative Eugene Kubina
House Minority Leader

During Session:
Alaska State Capitol
Juneau, Alaska 99801-1182

During Interim:
P.O. Box 2463
Valdez, Alaska 99686

SPONSOR STATEMENT - HB 212

HB 212, "An act relating to determination of an established village for the purposes of regulating the sale, use, and possession of alcoholic beverages in the unorganized borough," gives the Alcoholic Beverage Control (ABC) Board greater flexibility in defining actual boundary dimensions for the purpose of enforcing the local option law.

As Villages throughout Alaska have voted themselves dry over the years, their relative isolation has minimized regional conflicts. But when the Native Village of Gulkana decided to ban all alcoholic beverages within the communities' borders, the situation became more problematic. The five-mile radius perimeter effects businesses that exist along the highway system, several residents of the Village of Gakona, as well as general traffic along the highway. As a consequence, these people did not get the opportunity to cast a vote, but they are effected by the law.

This bill would give the ABC Board authority to set the boundary of the established village when circumstances such as these occur. This legislation will resolve the Village of Gulkana problem, as well as provide a permanent solution for those villages in similar circumstances that wish to go dry in the future.



Alaska State Legislature

Please enter into the record my testimony to the HOUSE JUDICIARY
committee name

committee on HB 170 . dated 5-2-97
bill/subject

* SEE ATTACHED 3 PAGES FROM ATHONS,
IRMEN
SCHMIDTBAUER

Signed: _____

Testifier

Representing (Optional)

Address

Phone No.