

HB

132

HFIN

FILE

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: 1
 Bill Version: CSHB 132(L&C)
 (H) Publish Date: 3/26/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title: Liquor License Applicant Check/Training BRU: Alcoholic Beverage Control Board
 Component: Alcoholic Beverage Control Board
 Sponsor: House Judiciary Committee by request
 Requester: House Labor and Commerce Committee Component Number: 100

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 This legislation would reduce by half the quantity of alcoholic beverages required to be in a person's possession in a local-option area to create the legal presumption (for criminal prosecution) that the beverages are intended for sale. It also would reduce by half the quantity of alcoholic beverages that could be shipped each month to a purchaser in an area that imposes restrictions on alcohol sales. Section 3 would require more extensive ID checks and record keeping by package liquor stores near a local-option community that has restricted sales of alcoholic beverages. Section 8 would require the state Alcoholic Beverage Control Board to review an approved alcohol server education course every two years instead of three years in existing statute. None of these provisions are expected to have a fiscal effect on the state Alcoholic Beverage Control Board.

 Section 4 would require liquor license applicants (including license transfer applicants) to submit to the ABC Board a set of fingerprints of the applicant(s) and the fees required by the state Department of Public Safety for a national criminal history record check of the applicant's fingerprints. Because license applicants would pay the fee for the record check, this legislation is not expected to have a fiscal impact on the ABC Board.

Prepared by: Doug Griffin, Director Phone 269-0351
 Division: Alcoholic Beverage Control Board Date/Time March 9, 2001, 3 p.m.
 Approved by: Larry Persily, Deputy Commissioner Date 03/10/2001
 Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

BILL NO. HB 132

ANALYSIS CONTINUATION

Reducing the amount of alcohol sold or transported that qualifies as a C felony will increase felony prosecutions, which are more complicated and time consuming than misdemeanors, often involving jury trials. We have no way to estimate what the increase in workload might be; however, any increase in costs in state FY02 will be covered by part of a recent federal appropriation to Alaska for law enforcement and prosecution relating to alcohol offenses.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 132(L&C)
 (H) Publish Date: 3/26/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title: "An Act relating to the possession or distribution BRU Criminal Division
of alcohol in a local option area; . . ." Component Third Judicial District: Anchorage
 Sponsor: House Judiciary Committee by Request
 Requester: House Labor and Commerce Committee Component No. 2261

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1007 Interagency Receipts						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 132 strengthens enforcement laws for importation of alcoholic beverages in municipalities and villages that have elected to restrict the sale, importation, or possession of alcohol in their communities. First, it reduces by half the amount of alcohol that a person may possess in a restricted community for the application of the presumption that the person possesses the alcohol with intent to sell it. The bill also reduces by half the amount of alcohol a package store may send in a calendar month to a person in a restricted community, and changes the penalty for the illegal sale or transportation of alcohol to a restricted community by reducing by half the amount of alcohol illegally sent to the community that qualifies for a C felony. Package stores within 50 air miles of a restricted community would also be required to keep records of each sale in excess of the amount of alcohol that may be sent to an individual in a restricted community in a calendar month. These records would be available to law enforcement officers.

Prepared by: Joan M. Kasson Phone 465-5370
 Division: Attorney General's Office Date/Time 3/15/01 2:56 PM
 Approved by: Kathryn DeJhhetea for Bruce M. Botelho, Attorney General Date 3/15/01
 Agency: Department of Law

For distribution information, call the Governor's Legislative Office

22nd Legislature
FISCAL NOTE HB 132
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The Dept. of Corrections will certainly feel the effect of these increased efforts. Although we may be able to absorb this amount in our facilities, we do not have the workforce in the field to absorb these additional cases. We are requesting an additional Probation Officer and Criminal Justice Technician to write the Pre-sentence investigations required in felony cases as well as to manage the increased caseload for supervision purposes. The Department of Law anticipates they will need their staff in Anchorage. We will assume the same thing. If it turns out that the workload is in the rural areas, we would transfer the PCN to the appropriate area.

The new staff will need a one-time computer equipment purchase. Additionally, they will need funding for a vehicle, supplies and travel.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 132(L&C)
(H) Publish Date: 3/26/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title: An Act relating to the possession or distribution BRU: 271
of alcohol in a local option area; requiring liquor license... Component: Community Corrections
Sponsor: House Judiciary Committee
Requester: Labor and Commerce Committee Component Number: 1382

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	96.8	96.8	96.8	96.8	96.8	96.8
Travel	2.0	2.0	2.0	2.0	2.0	2.0
Contractual	7.0	7.0	7.0	7.0	7.0	7.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	6.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	112.8	106.8	106.8	106.8	106.8	106.8

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	112.8	106.8	106.8	106.8	106.8	106.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	112.8	106.8	106.8	106.8	106.8	106.8

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will improve interdiction in bootlegging operations in the State. It reduces by half the amount of alcohol that a person may possess in a restricted community for the application of the presumption of intent to sell. It also reduces by half the amount of alcohol a package store is allowed to send in a calendar month to a person in a restricted community, and changes the penalty for the illegal sale or transportation of alcohol to a restricted community by reducing by half the amount of alcohol illegally sent to a community that qualifies for a C felony. Package stores within 50 air miles of a restricted community would also be required to keep records of each sale in excess of the amount of alcohol that may be sent to an individual in a restricted community in a calendar month and make the records available to law enforcement.

The Dept. of Law anticipates these changes along with the increased efforts of State Troopers and the federal authorities will in also increase the number of felony prosecutions for these offenses. They have anticipated the need for an additional prosecutor as well as a paralegal to pick up the increased workload.

Prepared by: Candace Brower Phone 465-4652
Division: Commissioner's Office Date/Time 3/15/01 12:15 PM
Approved by: Margaret Pugh Date 3/15/01
Agency: Dept. of Corrections

For distribution information, call the Governor's Legislative Office

ANALYSIS: HB 132 (continued)

This bill is part of an increased effort at enforcement of anti-bootlegging and drug laws in rural Alaska. The Department of Public Safety (DPS) has recently received a \$1.4 million Federal appropriation for these enforcement efforts. DPS will make an interagency transfer of some of these funds to the Department of Law (DOL) to hire additional prosecutors. The prosecutors will be based in Anchorage and in Bethel. A paralegal will be added in Bethel. Legal secretaries will be added in Bethel and Anchorage.

Investigating and prosecuting bootlegging and drug delivery offenses usually involves undercover operations. Obviously, DPS and DOL will not be revealing their plans, but it can be expected that there will be extensive undercover operations. DPS and DOL will also be investigating shipments originating in Anchorage. Shipment by the U.S. Mail will be targeted in cooperation with the U.S. Postal Service.

The Public Defender Agency will need additional funding to respond to these increased enforcement efforts. Most, if not all, of the cases that will result from this effort will be prosecuted under state bootlegging and drug distribution statutes. Without adequate Public Defender Agency staff, cases coming out of this increased interdiction effort may encounter significant delays and difficulties in their process through the courts.

Based on our experience in responding to undercover operations in rural Alaska, we know that we can expect 15-25 new additional felony bootlegging and drug delivery cases to be filed per operation. (An example of an undercover operation of the type we expect to respond to occurred in Kotzebue in 1995. There were about 25 cases filed at the conclusion of the operation. See e.g. State v. Viverious, No. 2KB-95-312 CR (Alaska Sup. Sept. 8, 1995). For purposes of this fiscal note, we will estimate that there will be 20 cases per operation.

These cases will not be filed immediately. For obvious reasons, the standard practice is to complete the whole undercover operation and then file all the court cases at one time. However, we expect that the enforcement efforts in Anchorage will start immediately.

Obviously, we can only guess at the number of undercover operations that will be initiated. But given the amount of Federal funds that are available, the most conservative estimate we can arrive at is that at least seven operations will be completed by the end of FY 2002. This will result in an additional 140 cases being filed. The Public Defender Agency is usually appointed in 90% of rural cases. 90% of the cases is 126 new cases.

As far as the Anchorage enforcement operations are concerned, we estimate that at least 25 new additional felony cases will be filed in FY 2002. We predict we will be appointed in 80% of these cases, resulting in 20 new cases.

Therefore, the total of new additional cases will be about 146. According to national standards, a public defender attorney should be assigned to no more than 150 new felony cases per year. Therefore, we are requesting one additional attorney to be based in Bethel. Because we do not expect the rural Alaska cases to be filed until six months have passed, we are requesting only half of the funding in FY 2002. The funding includes one-time equipment costs and clerical support.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: CSHB 132(L&C)
(H) Publish Date: 3/26/01

Revision Date/Time (Note if correction): (Rev.3/22/01) Dept. Affected: Administration
Title: "An Act relating to the possession of alcohol in a restricted area..." BRU: Legal & Advocacy Services
Sponsor: House Judiciary Component: Public Defender Agency
Requester: (H) Labor and Commerce Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	61.6	123.1	123.1	123.1	123.1	123.1
Travel	1.9	3.7	3.7	3.7	3.7	3.7
Contractual	13.6	27.2	27.2	27.2	27.2	27.2
Supplies	1.1	2.2	2.2	2.2	2.2	2.2
Equipment	6.5	0.6	0.6	0.6	0.6	0.6
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	84.7	156.8	156.8	156.8	156.8	156.8

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	84.7	156.8	156.8	156.8	156.8	156.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	84.7	156.8	156.8	156.8	156.8	156.8

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time	1	1	1	1	1	1
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

PLEASE SEE ATTACHED

Prepared by: Barbara Brink, Director Phone 907 334-4414
Division: Public Defender Agency Date/Time 03/22/01
Approved by: Jim Duncan, Commissioner Date 3/22/01
Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: 5
 Bill Version: CSHB 132 (JUD)
 (H) Publish Date: 4/3/01

Revision Date/Time (Note if correction) _____ Dept. Affected _____
 Title Possession and distribution of alcohol BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Rokeberg
 Requester House Judiciary Component No. 7C9

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The court system does not anticipate any fiscal impact from the passage of CSHB 132 (L&C).

Prepared by: Douglas Wooliver Phone 463-4750
 Division: Alaska Court System Date/Time 2/29/01 9:30 a.m.
 Approved by: Stephanie Cole Date _____
 Agency: Alaska Court System

For distribution information, call the Governor's Legislative Office

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LETTER OF INTENT
HB 132

It is the intent of the legislature that any general fund money that goes into the operation of this program must have a 50% local match.

Representative Bill Williams
Co-Chair, House Finance Committee

Representative Eldon Mulder
Co-Chair, House Finance Committee

CSHB 132 (L&C)

Amendment on delivery sites in "damp" local option areas (final version).

House Finance Committee

April 19, 2001

SMSK
3 years

as amended
4. ~~year of intent~~

*Sec. _____. AS 04.11.491(f) is amended to read:

(f) **If a** [A] municipality or established village [THAT] has adopted a local option under (a)(1), (2), or (3) or (b)(1) or (2) of this section, **the state, municipality or established village** may designate **and operate** a site for the delivery of alcoholic beverages to individuals in the area or a site for a person to bring alcoholic beverages if the alcoholic beverages are imported into the area. This subsection does not apply to the delivery or importation of

- (1) one liter or less of distilled spirits, two liters or less of wine, or one gallon or less of malt beverages; or
- (2) alcoholic beverages to a premises licensed under (a)(2) - (3) or (b)(2) of this section.

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

AS 04.11.494. Operation of delivery sites. (a) If a delivery site has been designated under AS 04.11.491(f), except as permitted under AS 04.11.491(f)(1) and (2),

(1) alcoholic beverages brought, sent or transported to an area by a package store or by any person must be sent shipping prepaid and must be addressed to the delivery site;

(2) a person or common carrier with possession of alcoholic beverages imported into the area, including alcoholic beverages transported as checked baggage accompanying a traveller, must take the alcoholic beverages to the delivery site upon arrival if the delivery site is open or must keep the alcoholic beverages in secure storage until the earliest time the delivery site is next open; the package containing the alcoholic beverages delivery must be taken to the delivery site without opening the package; alcoholic beverages transported as checked baggage accompanying a traveller may not be released to the traveller before being taken to the delivery site;

(3) if a person can not lawfully receive alcoholic beverages from the delivery site under (b) or (e) of this section, the person may not solicit another to bring, send or transport alcoholic beverages to an area for the solicitor's use;

(4) a person may not bring, send or transport alcoholic beverages to an area if the alcoholic beverages are intended to be provided to another person who cannot lawfully receive alcoholic beverages from the delivery site; and

(5) alcoholic beverages may not be released from the delivery site except by the operator of the site or an authorized employee or agent of the operator.

(b) The operator of a site designated under AS 04.11.491(f) and employees and agents of the operator

(1) may not release alcoholic beverages if the package holding the alcoholic beverages is not clearly labeled with name of the intended recipient, or if the package displays the names of more than one recipient;

(2) may not release alcoholic beverages without first determining the identity of the recipient by checking a government-issued identification card containing the person's photograph or by another method of positive identification;

(3) may not release alcoholic beverages if the recipient is different than the person whose name appears on the container as the recipient;

(4) may not release alcoholic beverages if the amount released to a recipient in one calendar month is more than a package store is permitted to ship to a purchaser in one calendar month under AS 04.11.150(g) or more than the amount a person may import in one calendar month under a municipal ordinance enacted under AS 04.21.010(a), whichever is less;

(5) may not release alcoholic beverages if the alcoholic beverage or its container violates AS 04.16.100 or 04.16.110, or a municipal ordinance enacted under AS 04.21.010(a);

(6) may not open packages containing alcoholic beverages unless permitted to do so by a search warrant or the recipient gives written consent to opening and inspection;

(7) unless the shipper is a licensed package store and the shipping container complies with AS 04.11.125, may not release alcoholic beverages until the package has been opened and the alcoholic beverages have been inspected to determine if release would be lawful under this subsection;

(8) may not release alcoholic beverages until the recipient has paid all applicable taxes and any administrative fees authorized under regulations adopted under this section;

(9) may not release alcoholic beverages to a recipient, and may not employ or otherwise use someone in the operation of the delivery site to handle or secure alcoholic beverages, if the person

(A) is under the influence of an alcoholic beverage, controlled substance or inhalant;

(B) is under a court order or a condition of bail, probation or parole, that prohibits the person from consuming or possessing alcoholic beverages;

(C) is under 21 years of age; or

(D) is disqualified due to the person's criminal record under (e) of this section;

(10) upon the request and at the expense of the recipient, shall return alcoholic beverages to the sender or to the point of shipment if alcoholic beverages cannot be lawfully released under this subsection;

(11) may destroy alcoholic beverages

(A) that cannot be lawfully released under this subsection, if the recipient elects not to pay for the return of the alcoholic beverages under (b)(10) of this section; or

(B) that have not been lawfully released, and have remained on the premises of the delivery site for the time period established by regulations adopted under this section; and

(12) may establish a voluntary and confidential registration system so as to expedite processing by allowing recipients to be authorized in advance to receive alcoholic beverages;

(13) must immediately report violations of a provision of this title or a regulation adopted under this title to the Alaska State Troopers and to the municipal police agency within the municipality;

(14) must maintain records concerning recipients and alcoholic beverages delivered to and released by the delivery site in a manner and for a period of time established under regulations adopted under this section, and such records must be made available for inspection at reasonable times by the Alaska State Troopers, by the municipal police agency within the municipality and by the Alcoholic Beverage Control Board; and

(15) may charge reasonable fees to recipients for registration or for the release of alcoholic beverages, under regulations adopted under this section.

(c) Except as provided in (b)(14) of this section, records of recipients and alcoholic beverages delivered to and released by the site are confidential and not subject to disclosure except pursuant to court order.

(d) The Alcoholic Beverage Control Board shall adopt regulations to implement this section, including hours of operation, requirements for security and recordkeeping, procedures for delivery, release, processing and destruction of alcoholic beverages and administrative fees. Nothing in this section prohibits a municipality or established village from operating a delivery site under more restrictive provisions of a local ordinance adopted for that purpose.

(e) A person is disqualified due to their criminal record if

(1) less than two years has elapsed from the person's unconditional discharge due to a conviction or adjudication as a delinquent for any of the following offenses or a law or ordinance from another jurisdiction with similar elements:

(i) driving while intoxicated under AS 28.35.030 or refusal to take a breath test under AS 28.35.032; or

(ii) a crime involving domestic violence as that term is defined under AS 18.66.990, or violating a protective order under AS 11.56.740;

(2) less than five years has elapsed from the person's unconditional discharge due to a conviction or adjudication as a delinquent for a misdemeanor violation of or a misdemeanor attempt to violate a provision in AS 04, except minor consuming under AS 04.11.050, or a law or ordinance from another jurisdiction with similar elements;

(3) less than ten years has elapsed from the person's unconditional discharge due to a conviction or adjudication as a delinquent for a felony violation or a felony attempt to violate a provision of AS 04, or a law or ordinance from another jurisdiction with similar elements.

(f) In this section,

(1) "area" means a municipality or established village that has adopted a local option under AS 04.11.491(a)(1), (2) or (3) or (b)(1) or (2);

(2) "bring" has the meaning given in AS 04.11.499;

(3) "controlled substance" has the meaning given in AS 11.71.900;

(4) "import" means to send, bring or transport;

(5) "inhalant" has the meaning given to "hazardous volatile material or substance" in AS 47.37.270;

(6) "recipient" means a person entitled to receive or attempting to receive alcoholic beverages from a delivery site;

(7) "send" has the meaning given in AS 04.11.499;

(8) "transport" has the meaning given in AS 04.11.499;

(9) "unconditional discharge" has the meaning given in AS 12.55.185.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Eihan Berkowitz
Representative Albert Kookesh



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Heather M. Nobrega
Counsel to Committee

Sponsor Statement for CSHB 132 (JUD)

The House Judiciary Committee has been requested to introduced this bill to address some problems in the area of bootlegging alcohol, and the issuance of liquor licenses to persons with criminal records outside the state of Alaska. Bootlegging is a prevalent problem in "dry" areas, and is a large contributor to crime in those areas. In addition, by requiring applicants for liquor licenses to give their fingerprints, we can thoroughly investigate the criminal backgrounds of these individuals so that only responsible individuals may obtain a liquor license.

Bootlegging

The Alaska Criminal Justice Assessment Commission has found that in rural and Bush communities, the amount of violent crime is directly proportional to the amount of alcohol consumed by the residents. The majority of villages in four rural regions (those surrounding Bethel, Nome, Kotzebue, and Point Barrow) have responded by prohibiting the sale and importation of alcohol, but the hub communities in these four regions remain either "damp" or "wet."

This bill creates measures designed to restrict the availability of illegally-imported alcohol in the dry areas of Alaska to help reduce violent crime in those areas. Specifically, it reduces the amount of distilled spirits that lead to a presumption that the person possessed the alcoholic beverages for purposes of sale. It also defines "bring," "send" and "transport" to include attempts or solicitations to import alcohol illegally into the local option communities. By including attempt and solicitation in the definition of these acts, the State is able to prosecute these actions on the same level as if they had completed the crime. This will subject the defendants to higher levels of penalties.

Fingerprinting

This portion of the bill has been created in cooperation with, and at the request of, the Alcohol Beverage Control Board (ABC Board). This bill allows the ABC Board, through the Department of Public Safety, to submit fingerprint cards of prospective liquor licensees to the FBI's national criminal history record check. An agency needs specific legislative authorization for the use of the national database for licensing purposes.

Currently, a criminal record check will only produce convictions from Alaska. By chance, the ABC Board has discovered prior to issuing licenses, serious criminal convictions of an applicant that was convicted in another state. It is possible that liquor licenses have been issued to others that have serious criminal records, but due to the present system their convictions could not be brought to the attention of the ABC Board.

Members of our society are increasingly mobile making national background checks more necessary. Many of the licensees are not residents of Alaska and some are multi-national corporations. Prevention of future problems, by requiring a national background check for liquor licensees, is sound public protection policy.

The Committee urges your support of this bill.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogun, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh

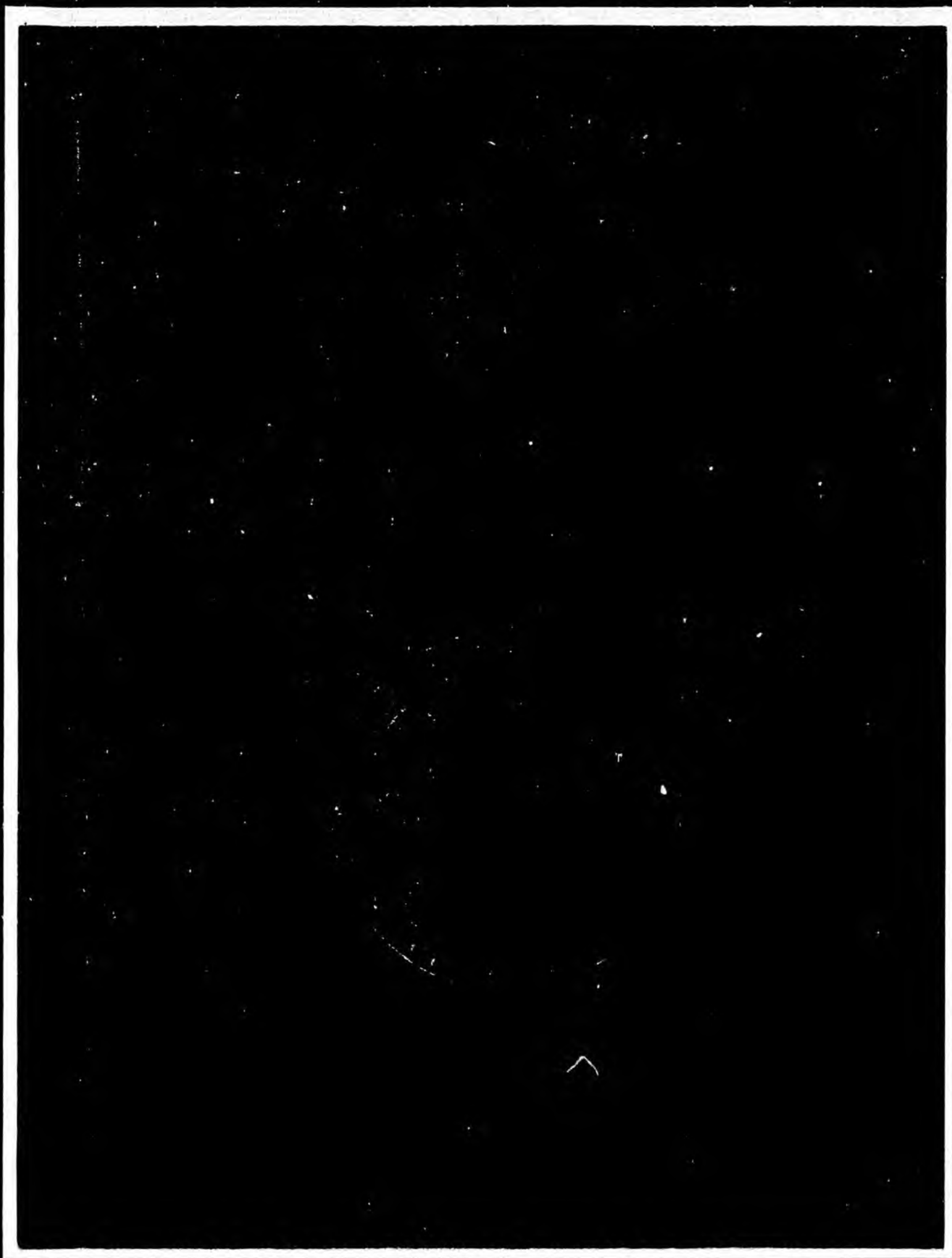


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Heather M. Nobrega
Counsel to Committee

Sectional Analysis for CSHB 132 (JUD)

- Section 1:** Decreases the amount of distilled spirits that creates a presumption that the person possessed the alcoholic beverages for purposes of sale.
- Section 2:** Decreases the amount of distilled spirits that a package store may send to a purchaser, located in an area that has restricted the sale of alcohol, within a calendar month.
- Section 3:** Requires an applicant for a liquor license to submit his or her fingerprints and fees for criminal justice information and a national criminal history record check.
- Section 4:** Defines "bring," "send" and "transport" to also include an attempt, or solicitation, to bring, send or transport alcohol illegally into a local option community.
- Section 5:** Inserts a cross-reference to the newly defined term "transport."
- Section 6:** Decreases the amounts of distilled spirits that lead to a class A misdemeanor or class C felony for a person who sends, transports, or brings alcoholic beverages into a local option community.
- Section 7:** Allows the Alcoholic Beverage Control Board to process pending applications without a national criminal history record check.
- Section 8:** This act is to take effect immediately.



alcohol dispenser interests should be represented on the board, adding two members, one from the public health or medical community and one from the law enforcement community, will provide a broader range of interests and ensure that the public interest is better protected. Additional travel and lodging costs for two individuals for the regular meetings of the Alcohol Beverage Control Board would be minimal.

Action Needed: Requires substantive legislation and minimal additional funding.

Implementing Agencies: The legislature and the Department of Revenue.

6. **The legislature should remove the law enforcement functions of the Alcohol Beverage Control Board from the Department of Revenue and place them in the Department of Public Safety.**

Goals: To improve enforcement of Title 4 liquor laws and thus reduce violent crime and other harmful consequences of alcohol abuse.

Commentary: The enforcement authority of the Alcoholic Beverage Control Board is undermined by a lack of investigative personnel as well as by the lack of clarity in its mandate. The purpose of the Department of Revenue is to raise revenue, not to assist law enforcement. To ensure quality enforcement of Title 4, this function should be moved to a law enforcement department. Licensing functions would remain with the Alcoholic Beverage Control Board.

Action Needed: Requires substantive legislation but no new funding.

Implementing Agencies: The legislature, the Department of Revenue, and the Department of Public Safety.

7. **Recommendations relating to dry communities.**

- 7(a). **The legislature should take steps to deter illegal alcohol sale and possession in dry communities by amending AS 04.11.010(c) to decrease the amount of alcohol that individuals may presumptively possess for their own use.**

Goal: To decrease rural and Bush crime by decreasing unlawful drinking in dry towns.

Commentary: In rural and Bush Alaskan communities, the amount of violent crime is directly proportional to the amount of alcohol consumed by the residents. The majority of villages in four rural regions (those surrounding Bethel, Nome, Kotzebue, and Point Barrow) have responded by prohibiting the sale and importation of alcohol, but the hub communities in these four regions remain either “damp” or “wet.” The Commission believes that measures designed to restrict the availability of illegally-imported alcohol in the dry areas of Alaska will reduce violent crime in those areas.

The Legislature should amend AS 04.11.010(c) to reduce by half the amount of alcohol necessary to trigger the “possession for sale” presumption. The legislative change to AS 04.11.010(c) should include a point system for each type of alcoholic beverage, so that liquor laws can be better monitored and enforced. The proposed amendment is:

- (c) 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 MALTED BEVERAGES] **24 points or more individually or in combination of distilled spirits, wine, or malt beverages** in an area where the sale of alcoholic beverages is restricted or prohibited under A.S. 04.11.491 creates a presumption that the person possessed the alcoholic beverages for sale. **This is based on the following point system: 1 liter of distilled spirits = 4 points; 1 liter of wine = 2 points; 1 liter of malted beverages = 1 point.**

Action Needed: Requires substantive legislation. Initially, legislation may lead to a need for increased funding due to a potential increase in the number of bootlegging violations. However, this initial spike in violations (and funding) is not expected to continue for the long-term. The Commission anticipates an overall reduction in criminal justice system costs through a reduction in alcohol-related crime.

Implementing Agencies: The legislature, the court system, law enforcement agencies, prosecution and defense agencies.

- 7(b). **The legislature should take steps to deter illegal alcohol sale and possession in dry communities by amending AS 04.11.150 to require monitoring of liquor sales in package liquor stores located within 100 miles of a dry community.**

Goals: To decrease rural and Bush crime and thus reduce criminal justice system costs.

Commentary: Package stores in communities adjacent to dry towns should be required to record all purchases of alcoholic beverages that trigger the presumptive limit contained in AS 04.11.101(c). The proposed amendment reads:

- (j) If a business premises licensed under A.S. 04.11.150 is located within 100 miles of one or more communities that has banned the importation and sale of alcoholic beverages under A.S. 04.11.491, that liquor package store shall record all purchases of 24 points or more individually or in combination of distilled spirits, wine, or malt beverages. This is based on the following point system: 1 liter of distilled spirits = 4 points; 1 liter of wine = 2 points; 1 liter of malted beverages = 1 point.

Records should include the name of the purchaser, the date of the transaction, and the point total of merchandise purchased.

Action Needed: Requires substantive legislation. Initially, legislation may lead to a need for increased funding due to a potential increase in the number of bootlegging violations. However, this initial spike in violations (and funding) is not expected to continue for the long-term. The Commission anticipates an overall reduction in criminal justice system costs through a reduction in alcohol-related crime.

Implementing Agencies: The legislature, the Department of Revenue, and the Department of Public Safety.

JUSTIFICATION FOR NATIONAL CRIMINAL JUSTICE BACKGROUND

CHECKS FOR LIQUOR LICENSING

- 1) Alcoholic beverages are a legal substance subject to substantial regulation, control, and oversight due to the potential of this product to create public safety and welfare problems in society. The country has chosen strict regulation over prohibition.
- 2) One means of regulating the distribution of beverage alcohol is strictly licensing the number of retail outlets and the persons involved in business of alcohol sales. Eighteen states are actually engaged in some aspect of retail alcohol sales (usually the sale of spirits), but Alaska, like most states, is a license state and licenses the private sector and non-profit clubs to conduct all alcohol sales.
- 3) As the regulator of private liquor sales, the public rightfully expects the State of Alaska, through its Alcoholic Beverage Control (ABC) Board and Department of Public Safety, to thoroughly investigate "applicants for new licenses and applicants for the transfer of existing licenses before the applications are considered by the board" (AS 04.11.300).
- 4) The debate on the proper balance between privacy for the individual vs. protection of the public prompted the ABC Board to adopt a regulation in 1981 requiring prospective licensees to authorize release of conviction and arrest records. Later changes to federal and state law limited the board's access to only information related of actual criminal convictions and not to unadjudicated arrests.
- 5) In the late 80's, the U.S. Department of Justice banned the use of the national Criminal records Information Center (NCIC) database for licensing purposes and would only allow the FBI fingerprint checks of license applicants **if required by legislative acts of individual states**. The purpose of the bill is to grant this specific authorization and allow access, through the Department of Public Safety, to the FBI's national criminal data bank.
- 6) In 1994, the Alaska Legislature passed AS 12.62.160. Section (c)(3) of that statute prohibits the release of criminal justice information "until the person requesting the information establishes the identity of the subject of the information by fingerprint comparison or another reliable means of identification approved by the department." Upon enactment of this provision the ABC Board has required submission of fingerprint cards by prospective licensees under the Board's general application powers found in AS 04.11.260(5) and AS 04.11.270(1).
- 7) **The criminal record check will only produce convictions in Alaska.** By chance, the ABC Board has discovered prior to issuing licenses, serious criminal convictions (assault, illegal possession of firearms, kidnapping for ransom, and sale of alcohol without a license) of an applicant that was convicted in another state. It is possible that liquor licenses have been issued to others that have serious criminal records, but due to the present system their convictions could not be brought to the attention of the ABC Board.

- 8) Members of our society are increasingly mobile making national background checks more necessary. Many of our licensees are not even residents of the State of Alaska and some are multi-national corporations. Prevention of future problems by conducting more systematic and thorough criminal background checks is sound public protection policy. The potential substantial benefit of not inadvertently licensing a convicted felon in the first place versus the nominal cost (zero fiscal note to the State/approximately \$25 per fingerprint card and ten additional days to process license for the licensee) of the procedure makes this a sound proposition.
- 9) This measure is supported by the Department of Public Safety and was part of its criminal records bill CSHB 292(JUD) last year.

For More info Contact: Doug Griffin, Director
Alcoholic Beverage Control Board
907-269-09351 FAX: 907-272-9412
Email: Doug_Griffin@revenue.state.ak.us

1-16-01

STATE OF ALASKA

ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES

TONY KNOWLES, GOVERNOR

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March 22, 2001

The Honorable Lisa Murkowski, Chair;
Members of House Labor and Commerce
Alaska State Capitol
Juneau, Alaska 99801

Dear Ms. Murkowski:

The Advisory Board on Alcoholism and Drug Abuse encourages your support of HB 132 Liquor License Applicant Check/Training. This legislation would strengthen support for local option communities by reducing the amount of alcohol allowed for personal possession, and the amount allowed for shipment to areas with restrictions on the sale of alcohol, by half the current amount.

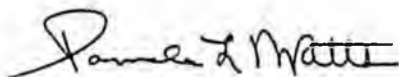
Communities would have increased control over alcohol brought into their communities by requiring purchaser identification by a special identification card, recording of purchases, with records available for inspection by peace officers.

Liquor license applicants would be required to submit fingerprints for the purpose of conducting a criminal history background check, and relates to the use of criminal justice information by the Alcohol Beverage Control Board in approving license applicants. It would also allow the Board to check FBI files in addition to state records. The bill provides for a review of alcohol server education courses by the ABC board every two years.

The Advisory Board on Alcoholism and Drug abuse believes the measures contained in this legislation will assist local option communities in regulating and monitoring the importation of alcohol thereby helping to reduce the negative consequences brought on by alcohol.

Your support for passage of this bill is appreciated.

Respectfully,



Pamela L. Watts
Executive Director

Subject: [Fwd: [Fwd: Alcohol]]
Date: Wed, 21 Mar 2001 09:11:14 -0900
From: Janet Seitz <Janet_Seitz@legis.state.ak.us>
Organization: Representative Norman Rokeberg, Alaska State House
To: Heather_Nobrega@legis.state.ak.us

Subject: [Fwd: Alcohol]
Date: Wed, 21 Mar 2001 08:13:38 -0900
From: royce_weller <royce_weller@dps.state.ak.us>
Organization: Department of Public Safety
To: Janet S Seitz <Janet_Seitz@legis.state.ak.us>

Janet :

Below is an e-mail I received from Lt. Dunnagan responding to a request, made by the Chairman, regarding HB132. I hope this answers your boss's question.

Royce (#2649)

Subject: Alcohol
Date: Tue, 20 Mar 2001 16:40:27 -0900
From: Steve Dunnagan <alvia_dunnagan@dps.state.ak.us>
Organization: Department of Public Safety
To: royce_weller <royce_weller@dps.state.ak.us>

Royce,

In 1999 there were 516 gallons of illegal alcohol seized.
In 2000 there were 585.7 gallons of illegal alcohol seized.

With 5 Troopers dedicated to the problem I would think that a 25 to 30% increase would be possible.

I'll have more information in the morning. Kathy will be giving me some computer runs.

--
Lieutenant Steve Dunnagan
5700 E. Tudor Road
Anchorage, Alaska 99507
(907) 269-4532

Janet Seitz <Janet_Seitz@legis.state.ak.us>

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 20, 2001

SUBJECT: Penalties in local option areas - (CSHB 132(FIN))

TO: Rep. Bill Williams, Co-Chair
House Finance Committee
Attn: Mike

FROM: Michael F. Ford 
Legislative Counsel

The CS you requested is attached. I have included an applicability section (sec. 13) to specify that the bill only applies to offenses that occur after the bill becomes law. Even with this qualification, I have reservations about proposed Sec. 04.11.494(b)(9)(D) that prohibits release of alcoholic beverages to certain individuals who have prior criminal convictions. There may be due process problems imposing this type of penalty. Essentially, this provision changes the penalty for certain offenses, but does so indirectly. Such a scheme may not survive constitutional challenge.

I also removed "except minor consuming under AS 04.16.050" from AS 04.11.494(d)(2)(B) because violation of AS 04.16.050 is not a misdemeanor.

Please contact me if you have further questions.

MFF:med
01-076.med

Enclosure