

**HB**

**132**

SFIN

FILE

**SENATE FINANCE COMMITTEE REPORT**

REPORTED OUT  
MAY 08 2001  
SENATE FINANCE  
COMMITTEE

DATE: 5/6/01

FURTHER:

DATE TURNED IN TO OFFICE: 6 May 2001

Finance Committee considered CS FOR HOUSE BILL NO. 132(2d RLS)(efd am)

ALCOHOL:LOCAL OPTION/DWI/LICENSING

and recommends:

- be replaced with S CS CS HB 132 (FIN)
- adopt previous CS forth coming - ( )
- attached amendment(s)
- adopt Letter of Intent by House ~~Committee~~
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

f/n's \$  
forth coming

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Ang Ward</i>			✓	
<i>John Beer</i>			✓	
<i>Ellen Cluster</i>			✓	
<i>Emily Wicks</i>			✓	
<i>Thomas D. Leman</i>	✓			
<i>Thomas Cl...</i>			⊕	
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			



Official Business

# Alaska State Legislature

House of Representatives

REPORTED OUT

MAY 06 2001

SENATE FINANCE  
COMMITTEE

## HOUSE LETTER OF INTENT CSHB 132(2d RLS)(efd am)

It is the intent of the legislature that any general fund money that goes into the program as described in sec. 4 of this bill must have a 50 percent local match.

A handwritten signature in cursive script, appearing to read "Pete Kott", written over a horizontal line.

Representative Pete Kott  
Chair, House Rules Committee

Adopted by the House  
April 29, 2001

MAY 06 2001

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number:  
Bill Version: SCS for CSHB132 (FIN)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time(Note If Correction): 5/07019:00 am Dept. Affected: Corrections  
Title: "An Act relating to the possession, distribution, BRU: Administration and Operations  
importation, and transportation of alcohol in a local option..... Component: Community Corrections Dir. Office  
Sponsor: House Judiciary Committee  
Requester: Senate Rules 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		34.0	67.9	101.9	101.9	101.9
<b>TOTAL OPERATING</b>	<b>112.8</b>	<b>140.8</b>	<b>174.7</b>	<b>208.7</b>	<b>208.7</b>	<b>208.7</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	112.8	140.8	174.7	208.7	208.7	208.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>112.8</b>	<b>140.8</b>	<b>174.7</b>	<b>208.7</b>	<b>208.7</b>	<b>208.7</b>

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 distilled spirits 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 distilled spirits a package store is allowed to send in a calendar month to a person in a restricted community. The change in amount of distilled spirits also effectively changes the penalty by lowering the requirement that qualifies for a C felony. Additionally, it changes the penalties for possession in dry communities by reducing the amounts required for felony conviction. This bill also seeks to change the offenses of "attempted" to the same level as the offenses themselves, thus resulting in the same penalty for an attempt to import as an actual importation.

This legislation would also allow for delivery sites in cities such as Kotzebue and Bethel where the local option exists to allow possession but not sales of alcohol. It would require all transportation of alcohol to go through the delivery sites for

Prepared by: Candace Brower Phone 465-4652  
Division: Commissioner's Office Date/Time 5/2/01 8:15 PM  
Approved by: Margaret Pugh Date 5/2/01  
Agency: Department of Corrections

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distribution.

The Department of Law anticipates these changes, along with the increased efforts of State Troopers and the federal authorities will 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. The Department 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 new staff will need a one-time compute equipment purchase. Additionally, they will need funding for a vehicle, supplies and travel.

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.

In addition, this legislation would reduce the threshold for presumption of DWI from .10 to .08 effective July 1, 2001. It is estimated by the Department of Law that although this may not increase arrests by a large amount, it will increase convictions by 10%.

Felony DWI offenders are usually given an average of 3 years probation. Probation costs will not be incurred until after completion of sentence so will not be felt until the 2nd and subsequent years. The daily cost for probationers is \$5.17/day. If 18 of the estimated 20 new felons are on probation the second year, the cost would be \$33,967. It would be necessary to add \$67,934 the third year and \$101,901 the fourth year. After that it would level off as the first probationers would drop off.

MAY 06 2001

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number:  
Bill Version: SCS CSHB 132 (FIN)  
( ) Publish Date:

Revision Date/Time (Note if correction): Dept. Affected: Law  
Title "...the possession, distribution,...of alcohol in BRU Criminal Division; Civil Division  
a local option area: "...operating a motor vehicle...intoxicated..." Component Third Jud District: Anchorage; 4th  
Sponsor House Judiciary Committee by Request Jud District: Collections & Support  
Requester Senate Finance Committee Component No. 2201; 2261; 2210

## 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	56.7	199.1	199.1	320.2	320.2	320.2
Travel	0.2	0.6	0.6	1.0	1.0	1.0
Contractual	13.6	35.1	35.1	53.8	53.8	53.8
Supplies	1.5	3.4	3.4	5.0	5.0	5.0
Equipment	13.0	6.5	0.0	6.5	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>85.0</b>	<b>244.6</b>	<b>238.1</b>	<b>386.4</b>	<b>379.9</b>	<b>379.9</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	57.3	219.2	212.7	361.0	354.5	354.5
1005 GF/Program Receipts	27.7	25.4	25.4	25.4	25.4	25.4
1037 GF/Mental Health						
1007 Interagency Receipts						
<b>TOTAL</b>	<b>85.0</b>	<b>244.6</b>	<b>238.1</b>	<b>386.4</b>	<b>379.9</b>	<b>379.9</b>

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		1	1	2	2	2
Part-time	2	2	2	2	2	2
Temporary						

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

SCS CSHB 132 (FIN) allows the state, municipality, or established village to designate a delivery site for alcoholic beverages in municipalities or villages that have adopted a local option that permits importation. For FY 02, the costs of operating state delivery sites will come from non-GF funds.

The bill also amends AS 28.35.030(a) by lowering the blood alcohol limit from 0.10 to 0.08 percent by weight of alcohol in a person's blood (and a corresponding change in the limit for alcohol in a person's breath) for the offense of driving while intoxicated (DWI), a class A misdemeanor. The bill also changes the presumptions in AS 28.35.033(a) in a civil or criminal action from 0.05 - 0.10 to 0.04 - 0.08 percent by weight of alcohol in the person's blood (and a similar change for breath alcohol), as the area where there is no presumption about the person being under the influence of alcohol. Under this bill, a person who measures 0.04 and below is presumed not under the influence, and a person who measures 0.08 and above is presumed to be under the influence of

Prepared by: Joan M. Kasson Phone 465-5370  
Division: Attorney General's Office Date/Time 5/7/01 9:53 AM  
Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 5/7/01  
Agency: Department of Law

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## FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

BILL NO. SCS CSHB 132 (FIN)

### ANALYSIS CONTINUATION

intoxicating liquor. The bill will result in an increased number of DWI cases being prosecuted by the Department of Law.

In FY00, the Criminal Division accepted for prosecution 3,250 misdemeanor and 213 felony DWI cases throughout the state. Experience has varied in other states that have reduced from 0.10 to 0.08 the limit for driving while intoxicated. This fiscal note is based on the assumption passage of this legislation would generate a five percent increase in the division's DWI caseload. This would result in 161 additional misdemeanor and 11 felony DWI cases, which are much more time-consuming to prosecute than misdemeanors. The Department of Law assumes that municipalities which presently prosecute misdemeanor DWI will amend their ordinances to mirror the change in state law. If this does not occur, the estimated number of misdemeanor prosecutions is understated.

Much of the anticipated increase in prosecutions will occur in southcentral Alaska. Because Anchorage is the hub from which prosecutors are sent to assist other offices in times of overload, it will be necessary to add half of one new attorney position to the Anchorage District Attorney's Office.

The Collections unit in the Civil Division's Collections and Support section collects judgments for criminal fines, cost of incarceration for DWI offenders, and cost of court appointed counsel. The change to 0.08 as the threshold for DWI offenses will increase the number of judgments the unit is required to collect annually. Assuming an 80-85 percent conviction rate, the unit anticipates receiving 140 judgments for criminal fines as a result of this change, and 140 judgments for the cost of incarceration. In addition, approximately 80 percent of the offenders are expected to have judgments for the cost of court appointed counsel, 110 in all.

In order to process and collect the estimated 390 new judgments each year, Collections unit personnel must enter the judgment data into the collections data base, post payments received, prepare PFD attachment packets for the court system and Department of Revenue, enter adjustments and process refunds when necessary, respond to phone calls from defendants, court personnel, prosecutors, and other state agencies, prepare satisfactions of judgments, and prepare quarterly or annual reporting of collections data. Much of this work can be handled by existing staff. However, the additional data entry and phone calls will require an additional half-time Administrative Clerk II. The Collections unit administrative staff is at capacity, and could not absorb even the 390 new judgments a 5 percent increase in caseload is anticipated to generate without the additional position to do data entry, and respond to the phone calls the judgments will generate.

The bill also amends the felony DWI statute. Under current law, for the purposes of charging an offender with felony DWI, the state can only "look back" 5-years for the first two offenses. If any of the prior offenses are older than 5-years, the charge remains a misdemeanor. SCS CSHB 132 (FIN) will phase in a 10-year look back period for felony DWI, one year at a time, over the next five years.

Based on Division of Motor Vehicle (DMV) data, it is estimated that increasing the limit to 10-years for how old prior convictions must be in order for the third offense to be charged as felony DWI will result in approximately 240 new felony DWI referrals per year when fully phased in. The Criminal Division estimates approximately 95 percent of these will be accepted for prosecution, based on acceptance rates for current felony DWI prosecutions. This would mean approximately 225 new felony prosecutions in all. For the purposes of this fiscal note, the Department of Law assumes the new felonies will phase in evenly over the 5-year phase in period: 45 new felony prosecutions in FY02, 90 in FY03, 135 in FY04, 180 in FY05, and 225 in FY06.

Felony prosecutions are much more resource intensive than misdemeanor prosecutions. Because the penalties are so much higher, defendants are more likely to vigorously challenge the charge, and less likely to settle prior to trial. The Criminal Division anticipates it would need two new FTE attorney positions to handle these new felony cases, to both screen the referrals and prosecute those that are accepted. These positions would phase in as the number of new felony referrals increase. We anticipate that one new FTE attorney for the Anchorage DAO would be necessary in FY03, and one new FTE attorney for the Fairbanks DAO in FY 05.

All position costs except the Collections unit position are based on the department's FY02 timekeeping and billing rate, and include clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Collections unit positions are specialized, and are not recovered through the timekeeping and billing rate, so are included separately. The standard cost does not include one-time new equipment purchases, and \$6,500 per position is added for this purpose. A summary of line-item costs by position for each section of SCS CSHB 132 (FIN) narrated above follows.

The effective date of for implementation of the DWI related sections of this bill is September 1, 2001, so only ten months of funding is required in FY02. The Criminal Division position for 0.06 will not be filled immediately, so the funding for the Anchorage DAO is further reduced in FY02 to approximately nine months.

**FISCAL NOTE**

**STATE OF ALASKA  
2001 LEGISLATIVE SESSION**

**BILL NO. SCS CSHB 132 (FIN)**

**ANALYSIS CONTINUATION**

Component	Position	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
<b><u>0.03 BAC</u></b>							
Criminal Division: 3rd Judicial District: Anchorage (2261)							
	100 1 PPT Attorney	42.2	60.6	60.6	60.6	60.6	60.6
	200	0.2	0.2	0.2	0.2	0.2	0.2
	300	7.8	9.4	9.4	9.4	9.4	9.4
	400	0.7	0.8	0.8	0.8	0.8	0.8
	500	6.5					
	Total 1004 General Fund	57.3	70.9	70.9	70.9	70.9	70.9
Civil Division: Collections & Support (2210)							
	100 1 PPT Admin Clerk II	14.5	17.4	17.4	17.4	17.4	17.4
	200	0.0	0.0	0.0	0.0	0.0	0.0
	300	5.8	7.0	7.0	7.0	7.0	7.0
	400	0.8	1.0	1.0	1.0	1.0	1.0
	500	6.5					
	Total 1005 GF/Program Receipts	27.7	25.4	25.4	25.4	25.4	25.4
<b>0.08 BAC Total</b>		<b>85.0</b>	<b>96.3</b>	<b>96.3</b>	<b>96.3</b>	<b>96.3</b>	<b>96.3</b>
<b><u>Phase In 10-year Look Back</u></b>							
Criminal Division: 3rd Judicial District: Anchorage (2261)							
	100 1 FTE Attorney		121.1	121.1	121.1	121.1	121.1
	200		0.4	0.4	0.4	0.4	0.4
	300		18.7	18.7	18.7	18.7	18.7
	400		1.6	1.6	1.6	1.6	1.6
	500		6.5				
	Total 1004 General Fund	0.0	148.3	141.8	141.8	141.8	141.8
Criminal Division: 4rd Judicial District (2201)							
	100 1 FTE Attorney				121.1	121.1	121.1
	200				0.4	0.4	0.4
	300				18.7	18.7	18.7
	400				1.6	1.6	1.6
	500				6.5		
	Total 1004 General Fund	0.0	0.0	0.0	148.3	141.8	141.8
<b>Felony Look Back Total</b>		<b>0.0</b>	<b>148.3</b>	<b>141.8</b>	<b>290.1</b>	<b>283.6</b>	<b>283.6</b>

MAY 06 2001

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SCS for CSHB132(FIN)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time(Note if Correction): 5/7/01 9:00 Dept. Affected: Corrections  
Title: "An Act relating to the possession, distribution, BRU: Institutions  
importation, and transportation of alcohol in a local option... Component: Institutions' Director's Office  
Sponsor: House Judiciary Committee  
Requester: Senate Rules Committee Component Number: 1381

## 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	770.1	1,054.0	1,411.4	1,695.9	1,963.4	1,963.4
<b>TOTAL OPERATING</b>	<b>770.1</b>	<b>1,054.0</b>	<b>1,411.4</b>	<b>1,695.9</b>	<b>1,963.4</b>	<b>1,963.4</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )	82.3	82.3	82.3	82.3	82.3	82.3
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## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	605.3	889.2	1,246.6	1,531.1	1,798.6	1,798.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other: Receipt. Serv.*	164.8	164.8	164.8	164.8	164.8	164.8
<b>TOTAL</b>	<b>770.1</b>	<b>1,054.0</b>	<b>1,411.4</b>	<b>1,695.9</b>	<b>1,963.4</b>	<b>1,963.4</b>

\*inmate payments for cost of incarceration.

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)

In addition to increasing interdiction efforts in bootlegging operations, this legislation reduces the threshold for presumption of DWI from .10 to .08. This fiscal note is based on an assumption of a 5% increase in convictions as a result of the threshold change. In FY00 there were 4118 statewide misdemeanor convictions for DWI and 200 felony convictions.

If we multiply 207 misdemeanants (5% of total) by the percentages reflected in DMV 2000 statistics for 1st, 2nd, 3rd, 4th, and 5th time offenders, we come up with an estimate of how many of those offenders might be newly convicted under a 08 law. All 1st and 2nd time offenders go to the CRC so we utilized that cost of care for our calculations. Utilizing a snapshot done on 10/25/00 of our DWI population, we averaged the sentences being served for 3rd, 4th and 5th time non-felony offenders and estimated proportions of time served in CRCs and hard beds to come up with a total cost.

Prepared by: Candace Brower Phone 465-4652  
Division: Commissioner's Office Date/Time 5/2/01 8:20 PM  
Approved by: Margaret Pugh Date 5/2/01  
Agency: Department of Corrections

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Assuming 10 new felons convicted under this threshold, and utilizing the average sentence for DWI felons, we estimated:  $10 \times 352 \text{ days} \times \$88/\text{day} = 309,760$ . The total for misdemeanants and felons then is 605,567.

The Department of Corrections expects a 15% decrease in the incarceration rate for manslaughter/negligent homicides as a result of this legislation, beginning the second year. It will take time for the public to become aware of lowered BAC and to change behaviors. That would result in an annual savings, beginning in FY03, of \$61,320 (or 1.5 persons incarcerated @ \$112/day per year.)

This legislation also increases the 5-year lookback to a 10-year look-back, phasing it in over a 5-year period. Previously, in order to become a felon, an offender had to have two prior DWI convictions within the preceding 5 years. This will gradually expand the look-back to 10 years, one year at a time over the next 5 years. This will reduce the fiscal impact that would have been felt if the system had to absorb what would be (by DMV and DOL figures) an estimated 190 additional felons each year. These will be first time felony offenders. If they receive the 120 day minimum sentence in existing statute, presuming they receive their good time, they would each serve 80 days of incarceration. This would total \$267,520 for the first year phase-in. We will then assume that each new year of the phase-in will add an additional 38 new felons until the 10 year look-back is satisfied. In FY03 the number of new felons will be 76 at a cost of \$462,080. In FY04 there will be 114 for a cost of \$802,560. FY05 will include 152 new felons for a cost of \$1,070,080 and FY06 reaches full look-back for 190 new felons at a cost of \$1,337,600.

MAY 06 2001

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SCS CS HB 132 (FIN)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Health & Social Services  
Title: Reducing blood alcohol to .08 BRU: Alcohol & Drug Abuse Svcs  
Component: Alcohol/Drug Abuse Grants  
Sponsor: House (JUD) by Request  
Requester: Senate (FIN) Component Number: 1239

**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	242.6	242.6	242.6	242.6	242.6	242.6
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>242.6</b>	<b>242.6</b>	<b>242.6</b>	<b>242.6</b>	<b>242.6</b>	<b>242.6</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	242.6	242.6	242.6	242.6	242.6	242.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>242.6</b>	<b>242.6</b>	<b>242.6</b>	<b>242.6</b>	<b>242.6</b>	<b>242.6</b>

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)

SCS CS HB 132 (FIN) lowers the blood alcohol content from .10 to .08. It is estimated that this will result in a 5% increase in number of DUI cases resulting in convictions and mandatory referral to Alcohol Safety Action Programs and subsequently for treatment. Of these additional cases DHSS estimates that 75% would be treated in a public program. Due to existing wait capacity and waitlist an additional \$242.6 is required to fund the capacity required to provide the mandated treatment required.

Prepared by: Ernie Turner Phone 465-2071  
Division: Alcoholism & Drug Abuse Date/Time: \_\_\_\_\_  
Approved by: Elmer A. Lindstrom, Special Assistant Date 5/7/01 12:09 AM  
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

MAY 06 2001

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SCS CS HB 132 (FIN)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Health & Social Services  
Title: Reducing blood alcohol to .08 BRU: Alcohol & Drug Abuse Svcs  
Component: Alcohol Safety Action Program  
Sponsor: House (JUD) by Request  
Requester: Senate (FIN) Component Number: 305

**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	25.0	30.0	30.0	30.0	30.0	30.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	21.9	26.2	26.2	26.2	26.2	26.2
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>46.9</b>	<b>56.2</b>	<b>56.2</b>	<b>56.2</b>	<b>56.2</b>	<b>56.2</b>

CAPI" TAL 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	46.9	56.2	56.2	56.2	56.2	56.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>46.9</b>	<b>56.2</b>	<b>56.2</b>	<b>56.2</b>	<b>56.2</b>	<b>56.2</b>

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	1	1	1	1	1	1
Temporary						

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

SCS CS HB 132 (FIN) lowers the blood alcohol content from .10 to .08. It is estimated that this will result in a 5% increase in number of DUI cases resulting in convictions and mandatory referral to Alcohol Safety Action Programs (ASAP) and subsequently for treatment. Of these additional cases DHSS estimates that 100% would be referred to an ASAP. The costs to handle these additional cases is \$56.2. We estimate that 65-70% of these cases will be handled by the ASAP office in Anchorage, which is operated by employees of the Division of Alcoholism and Drug Abuse. FY 02 costs represent 10 months funding with an effective date on this provision of September 1, 2001.

Prepared by: Ernie Turner Phone 465-2071  
Division: Alcoholism & Drug Abuse Date/Time: \_\_\_\_\_  
Approved by: Elmer A. Lindstrom, Special Assistant Date 5/7/01 12:03 AM  
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

MAY 06 2001

SENATE FINANCE COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

BILL NO. SCS CSHB 132 (FIN)

Revision Date/Time (Note if correction) Amended 5/01/2001 Dept. Affected \_\_\_\_\_  
 Title Possession and distribution of alcohol BRU Alaska Court System  
 Component Trial Courts  
 Sponsor Representative Rokeberg  
 Requester Senate Finance Committee Component No. 768

**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	42.1	49.7	57.2	63.3	70.9	70.9
Travel						
Contractual	12.4	22.7	33.1	41.4	51.7	51.7
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>54.5</b>	<b>72.4</b>	<b>90.3</b>	<b>104.7</b>	<b>122.6</b>	<b>122.6</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	54.5	72.4	90.3	104.7	122.6	122.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>54.5</b>	<b>72.4</b>	<b>90.3</b>	<b>104.7</b>	<b>122.6</b>	<b>122.6</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time	3	3	3	3	3	3
Temporary	1	1	1	1	1	1

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

Two provisions in SCS CSHB 132(FIN) will have an impact on the court system. Section 10 amends AS 28.35.030(a) so that a person commits the crime of driving while intoxicated if that person has a BAC of .08 or higher. The Senate Finance Committee directed that all fiscal notes assume that this new standard would result in a 5% increase in DWI filings. This would mean an additional 250 misdemeanor filings a year and an additional 14 felony filings a year. This note reflects the costs for district court judge and clerk time for the additional misdemeanors and the superior court judge and clerk time and jury costs for two three-day jury trials for the felony cases.

Sections 11 and 14 impose a five-year phase-in of a new 10-year look-back for felony DWI offenses. The Department of Law estimates that the phase-in will result in 45 new felony filings in year one, 90 in year two, 135 in year three, 180 in year four, and 225 in year five. This fiscal note is based on those estimates and on a 10% felony trial rate.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750  
 Division: Alaska Court System Date/Time 5/07/2001 1:00 p.m.  
 Approved by: Stephanie Cole, Administrative Director Date \_\_\_\_\_  
 Agency: Alaska Court System

For distribution information, call the Governor's Legislative Office

Alaska Court System  
 Draft Fiscal Note Calculations for HB132  
 4/30/01

	FY02	FY03	FY04	FY05	FY06
<b><u>Superior Court Lookback Provision:</u></b>					
50 Jurors 1.0 Days for Selection	1,250	1,250	1,250	1,250	1,250
14 Jurors for 1.5 Days of Court	525	525	525	525	525
12 Jurors for .5 Days of Deliberation	150	150	150	150	150
Deliberation Meal \$11/12 jurors + bailiff	143	143	143	143	143
Total per Superior Court Trial	2,068	2,068	2,068	2,068	2,068
Proposed # Superior Court Trials	4	9	14	18	23
Est. Jury Cost of Superior Court Trials	8,272	18,612	28,952	37,224	47,564
Superior Court Judge (Pro Tems)	4,608	10,368	16,128	20,736	26,496
In-Court Clerk (NPP)	1,465	3,296	5,127	6,592	8,424
Est. Personal Services	6,073	13,664	21,255	27,328	34,920
<b>Subtotal Lookback Provision</b>	<b>14,345</b>	<b>32,276</b>	<b>50,207</b>	<b>64,552</b>	<b>82,484</b>
<b><u>Superior Court .08 Provision:</u></b>					
50 Jurors 1.0 Days for Selection	1,250	1,250	1,250	1,250	1,250
14 Jurors for 1.5 Days of Court	525	525	525	525	525
12 Jurors for .5 Days of Deliberation	150	150	150	150	150
Deliberation Meal \$11/12 jurors + bailiff	143	143	143	143	143
Total per Superior Court Trial	2,068	2,068	2,068	2,068	2,068
Proposed # Superior Court Trials	2	2	2	2	2
Est. Jury Cost of Superior Court Trials	4,136	4,136	4,136	4,136	4,136
District Court Judge (Pro Tems)	21,988	21,988	21,988	21,988	21,988
In-Court Clerk (4.0 months)	13,999	13,999	13,999	13,999	13,999
	35,987	35,987	35,987	35,987	35,987
<b>Subtotal .08 Provision</b>	<b>40,123</b>	<b>40,123</b>	<b>40,123</b>	<b>40,123</b>	<b>40,123</b>
HB132 Personal Services Costs	42,060	49,651	57,242	63,315	70,907
HB132 Contractual Services Costs	12,408	22,748	33,088	41,360	51,700
Total Estimated Costs	54,468	72,399	90,330	104,675	122,607

MAY 06 2001

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB 132(2nd Rules)efd am  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title: "An act relating to the possession of BRU: Legal & Advocacy Svc.  
alcohol in a restricted area...and operating a vehicle..." Component: Public Defender Agency  
Sponsor: House Judiciary  
Requester: Senate Rules 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	152.8	257.6	299.4	347.0	347.0	347.0
Travel	5.4	9.0	10.7	12.5	12.5	12.5
Contractual	40.3	67.3	80.2	93.4	93.4	93.4
Supplies	3.1	5.2	6.1	7.1	7.1	7.1
Equipment	14.0	4.6	4.6	4.6	2.2	2.2
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>215.6</b>	<b>343.7</b>	<b>401.0</b>	<b>464.6</b>	<b>462.2</b>	<b>462.2</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	215.6	343.7	401.0	464.6	462.2	462.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>215.6</b>	<b>343.7</b>	<b>401.0</b>	<b>464.6</b>	<b>462.2</b>	<b>462.2</b>

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	0	2	3	3	3	3
Part-time	3	0	0	1	1	1
Temporary						

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

This fiscal note reflects the assumption that the BAC reduction for DUI to .08 will only increase the prosecutions 5 %.

See Pages 2 and 3 for further analysis.

Prepared by: Barbara Brink, Director Phone 907-334-4414  
Division: Public Defender Agency Date/Time 05/07/01  
Approved by: Jim Duncan, Commissioner Date 5/7/01  
Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

C/S HB 132 2<sup>nd</sup> (Rules) ANALYSIS: (continued)

This bill contains three major components:

The first is 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. The cost in Fiscal Year 2002 is \$84.7, and in succeeding years \$156.8.

The second component of the bill would lower the threshold blood alcohol level for Driving While Intoxicated (DWI) from .10 to .08. It also lowers the threshold presumptive level for impaired driving from .05 to .04. This bill would result in an increase in the number of new criminal cases the Public Defender Agency is appointed to handle.

CSHB132(Rules) ANALYSIS: (continued)

At the direction of the Senate Finance Committee we are assuming a 5% increase in prosecutions due to the .08 BAC.

We will need one additional part-time attorney to handle this increased caseload. Because our Palmer office handles a significant number of DWI cases and has the largest caseload growth in recent years, we will place the attorney at that office. The attorney costs include clerical support and one-time equipment costs in the first year. FY 2002 costs are \$70.5, with succeeding years' cost at \$66.6.

The third component is phasing in a 10-year "look-back" period for prior convictions for felony DUI.

This section would phase in a 10-year "look-back" for prior convictions. Again, the Public Defender Agency accepts the Department of Law's estimate of the number of new cases that would result from this change in the law. As above, we estimate that we will be appointed in about 75% of these cases. The end result is that by FY 06, the Public Defender Agency will have an increased caseload of 182 felony DUIs. We will eventually need two additional attorneys to handle this caseload. Because the effect of this provision will be felt beginning in FY02 and, we will add a half-time attorney in Anchorage in FY02, add a half-time attorney in Palmer in FY03, make the half-time attorney in Anchorage full time in FY04, and add a half-time attorney in Fairbanks in FY05. Fiscal Year 2002 cost is 60.8, 2003 is 120.4, 2004 is 177.9, 2005 is 241.5, 2006 is 239.1, and 2007 is 239.1

REPORTED OUT  
MAY 06 2001  
SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CS HB 132(RLS)2nd  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title: "An Act relating to offenses of operating a motor vehicle while intoxicated..." BRU: Motor Vehicles  
Sponsor: House Judiciary Component: \_\_\_\_\_  
Requester: S (Rules) Component Number: 2348

**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	55.1	55.1	55.1	55.1	55.1	55.1
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	1.0	0.4	0.4	0.4	0.4	0.4
Equipment	8.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>64.1</b>	<b>55.5</b>	<b>55.5</b>	<b>55.5</b>	<b>55.5</b>	<b>55.5</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	64.1	55.5	55.5	55.5	55.5	55.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>64.1</b>	<b>55.5</b>	<b>55.5</b>	<b>55.5</b>	<b>55.5</b>	<b>55.5</b>

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	1	1	1	1	1	1
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
This bill would lower the threshold blood alcohol level for Driving While Intoxicated (DWI) from .10 to .08. This bill also lowers the threshold presumptive level for impaired driving from .05 to .04. This bill would result in an increase in the number of driver license revocation hearings held by the division.  
  
This fiscal note assumes that lowering the BAC to .08 will increase DWI arrests by 5%. All of these drivers must be afforded the opportunity for a hearing before their license can be revoked by DMV. Cases under the current .10 law are now scheduled for hearing 30 - 45 days out. Until a hearing is held and a decision rendered, the offender continues to drive unrestricted. The additional caseload for this quasi-judicial process will require one additional hearing officer.

Prepared by: Mary Marshburn Phone 269-5559  
Division: Motor Vehicles Date/Time 05/07/01  
Approved by: Jim Duncan, Commissioner Date 5/7/01  
Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

SENATE FINANCE COMMITTEE  
~~2000~~ COMMITTEE ACTION

3/6/01

Bill Number	HB 132		
Amendment	fiscal notes		
Motion	amend		
<u>Motion by</u>	Donley		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Senator Leman			
Senator Olson			
Senator Ward			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	PASS		

amend all fiscal notes to reflect assumption of a 5% increased arrest rate rather than 10% in current fiscal notes

1 criminal history record check from the Federal Bureau of Investigation if that application was  
2 pending with the board on the effective date of this Act.

3 \* Sec. 18. The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

5 INTERVENING AMENDMENTS. It is the intent of the legislature that intervening  
6 amendments to AS 04.11.491(f) are not to be carried forward on the effective date of sec. 5 of  
7 this Act.

8 \* Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 APPLICABILITY. This Act applies to offenses committed on or after the effective  
11 date of this Act, except that references to previous convictions include convictions occurring  
12 before, on, or after the effective date of this Act.

13 \* Sec. 20. Section 5 of this Act takes effect July 1, 2004.

14 \* Sec. 21. Sections 10 and 15 of this Act take effect September 1, 2001.

15 \* Sec. 22. Sections 11 - 14 of this Act take effect July 1, 2001.

16 \* Sec. 23. Except as provided in secs. 20 - 22 of this Act, this Act takes effect immediately  
17 under AS 01.10.070(c).

AMEND #2

SENATE FINANCE COMMITTEE  
~~2000~~ COMMITTEE ACTION

5/6/01

Bill Number	HB 132		
Amendment	#2		
Motion	adopt		
<u>Motion by</u>	Hoffman		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Senator Leman			
Senator Olson			
Senator Ward			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<b>MOTION</b>	<b>PASS</b>		

delete Sec 1 entirely

page 2, line 8

page 8, lines 20 + 23

delete: "Six"

insert: "10.5"



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### FAX COVER SHEET

DATE: 5/6/01 TIME: 11:40 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 3

FROM: MINDY ROWLAND  
SENATE FINANCE COMMITTEE SECRETARY  
PHONE: 465-4935  
FAX: 465-2187

NOTES: Final Please  
. CS HB 132 (2d RLS) (2df am) 22-LS0380 \R.a  
Plus 2 attached amendments

Thx  
Mindy

SENATE CS FOR CS FOR HOUSE BILL NO. 132(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the possession, distribution, importation, and transportation of  
2 alcohol in a local option area; requiring liquor license applicants to submit fingerprints  
3 for the purpose of conducting a criminal history background check, and relating to the  
4 use of criminal justice information by the Alcoholic Beverage Control Board; relating to  
5 the offenses of operating a motor vehicle, aircraft, or watercraft while intoxicated and  
6 refusal to take a breath test; relating to implied consent to take a chemical test; relating  
7 to presumptions arising from the amount of alcohol in a person's breath or blood; and  
8 providing for an effective date."

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

AS 04.11.010(c) - deleted

10 \* Section 1. AS 04.11.150(g) is amended to read:

11 (g) If a shipment is to an area that has restricted the sale of alcoholic  
12 beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), a package store

#2

licensee, agent, or employee may not ship to a purchaser more than 10 and one-half #2  
 [12] liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt  
 beverages in a calendar month.

\* Sec. 2. AS 04.11 is amended by adding a new section to read:

**Sec. 04.11.295. Criminal justice information and records.** (a) An applicant for the issuance or transfer of a license under this title shall submit to the board, with the application, the applicant's fingerprints and the fees required by the Department of Public Safety for criminal justice information and a national criminal history record check. The board may require an applicant for renewal of a license under this title to submit fingerprints and pay fees as required by this subsection. The board shall submit the fingerprints to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check. The Department of Public Safety may submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The board shall use the information obtained under this section in its determination of an applicant's qualification for issuance, transfer, or renewal of a license.

(b) In this section,

(1) "applicant" means all individuals whose names and addresses are required to be provided with an application for a new license under AS 04.11.260;

(2) "criminal justice information" has the meaning given in AS 12.62.900.

\* Sec. 3. 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

1 (b)(2) of this section.

2 \* **Sec. 4.** AS 04.11.491(f) is repealed and reenacted to read:

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

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

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

12 \* **Sec. 5.** AS 04.11 is amended by adding a new section to read:

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

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

18 (2) a person or common carrier with possession of alcoholic beverages,  
19 upon importation into the area, including alcoholic beverages transported as checked  
20 baggage accompanying a traveler, must deliver the alcoholic beverages to the delivery  
21 site upon arrival if the delivery site is open or must keep the alcoholic beverages in  
22 secure storage until the earliest time the delivery site is next open; the delivery must be  
23 made without opening the package containing the alcoholic beverages; alcoholic  
24 beverages transported as checked baggage accompanying a traveler may not be  
25 released to the traveler before being delivered to the delivery site;

26 (3) a person who cannot lawfully receive alcoholic beverages from the  
27 delivery site may not solicit another to bring, send, or transport alcoholic beverages to  
28 an area for the solicitor's use;

29 (4) a person may not bring, send, or transport alcoholic beverages to an  
30 area upon the solicitation of or with the understanding that the alcoholic beverages are  
31 for the use of another person who cannot lawfully receive alcoholic beverages from

1 the delivery site; and

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

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

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

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

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

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

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

23 (6) may not open packages delivered to the site to inspect the contents  
24 unless permitted to do so by a search warrant or unless the recipient gives written  
25 consent to the opening and inspection;

26 (7) unless the shipper is a licensed package store and the shipping  
27 container complies with AS 04.16.125, may not release alcoholic beverages until the  
28 alcoholic beverages have been inspected to determine if release would be lawful under  
29 this subsection;

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

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

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

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

9 (C) is under 21 years of age; or

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

12 (10) may return alcoholic beverages to the sender or to the point of  
13 shipment at the expense of the recipient if alcoholic beverages cannot be lawfully  
14 released under this subsection;

15 (11) may destroy alcoholic beverages

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

19 (B) that have not been released within the time period  
20 established by regulations adopted under this section;

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

24 (13) shall immediately report violations of a provision of this title or a  
25 regulation adopted under this title to the Alaska state troopers and, if the site is within  
26 a municipality, to the municipal police agency;

27 (14) shall maintain records concerning recipients and alcoholic  
28 beverages delivered to and released by the delivery site in a manner and for a period of  
29 time established under regulations adopted under this section, and shall make the  
30 records available for inspection by the Alaska state troopers, a municipal police  
31 agency if the site is within a municipality, and the board at reasonable times; and

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

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

6 (d) The board shall adopt regulations to implement this section, including  
7 hours of operation, requirements for security and recordkeeping, procedures for  
8 delivery, release, processing, and destruction of alcoholic beverages, and  
9 administrative fees.

10 (e) A person is disqualified as described under (b)(9) of this section due to the  
11 person's criminal record if less than

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

15 (A) driving while intoxicated under AS 28.35.030 or refusal to  
16 submit to a chemical test under AS 28.35.032; or

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

19 (2) five years has elapsed from the person's unconditional discharge  
20 due to a conviction or adjudication as a delinquent for any of the following offenses or  
21 a law or ordinance from another jurisdiction with similar elements:

22 (A) a felony violation or a felony attempt to commit a violation  
23 of AS 11.41; or

24 (B) a misdemeanor violation of or a misdemeanor attempt to  
25 violate a provision in this title; or

26 (3) 10 years has elapsed from the person's unconditional discharge due  
27 to a conviction or adjudication as a delinquent for a felony violation or a felony  
28 attempt to violate a provision of this title or a law or ordinance from another  
29 jurisdiction with similar elements.

30 (f) Operation of a delivery site under this section constitutes a criminal justice  
31 activity. In this subsection, "criminal justice activity" has the meaning given in

1 AS 12.62.900.

2 (g) In this section,

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

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

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

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

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

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

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

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

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

15 \* Sec. 6. AS 04.11.499 is amended to read:

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

26 **(1) "bring" means to carry or convey or to attempt or solicit to**  
27 **carry or convey;**

28 **(2) "send" means to cause to be taken or distributed or to attempt**  
29 **or solicit to cause to be taken or distributed, and includes use of the United States**  
30 **Post Office;**

31 **(3) "transport" means to ship by any method, and includes**

1 delivering or transferring or attempting or soliciting to deliver or transfer an  
 2 alcoholic beverage to be shipped to, delivered to, or left or held for pick up by  
 3 any person.

4 \* Sec. 7. AS 04.16.125(c) is amended to read:

5 (c) In this section,

6 (1) "common carrier" means a motor vehicle, watercraft, aircraft, or  
 7 railroad car available for public hire to transport freight or passengers;

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

9 \* Sec. 8. AS 04.16.200(e) is amended to read:

10 (e) A person who sends, transports, or brings alcoholic beverages into a  
 11 municipality or established village in violation of AS 04.11.499 is, upon conviction,

12 (1) guilty of a class A misdemeanor if the quantity of alcoholic  
 13 beverages [IMPORTED] is less than 10 and one-half [12] liters of distilled spirits, 24 # 2  
 14 liters of wine, or 12 gallons of malt beverages; or

15 (2) guilty of a class C felony if the quantity of alcoholic beverages  
 16 [IMPORTED] is 10 and one-half [12] liters or more of distilled spirits, 24 liters or  
 17 more of wine, or 12 gallons or more of malt beverages.

18 \* Sec. 9. AS 28.35.030(a) is amended to read:

19 (a) A person commits the crime of driving while intoxicated if the person  
 20 operates or drives a motor vehicle or operates an aircraft or a watercraft

21 (1) while under the influence of intoxicating liquor, or any controlled  
 22 substance;

23 (2) when, as determined by a chemical test taken within four hours  
 24 after the alleged offense was committed, there is 0.08 [0.10] percent or more by  
 25 weight of alcohol in the person's blood or 80 [100] milligrams or more of alcohol per  
 26 100 milliliters of blood, or when there is 0.08 [0.10] grams or more of alcohol per 210  
 27 liters of the person's breath; or

28 (3) while the person is under the combined influence of intoxicating  
 29 liquor and a controlled substance.

30 \* Sec. 10. AS 28.35.030(n) is amended to read:

31 (n) A person is guilty of a class C felony if the person is convicted under (a)

1 of this section [OF DRIVING WHILE INTOXICATED] and has been previously  
 2 convicted two or more times since January 1, 1996, and within the 10 [FIVE] years  
 3 preceding the date of the present offense. For purposes of determining minimum  
 4 sentences based on previous convictions, the provisions of (o)(4) of this section apply.  
 5 Upon conviction, the court

6 (1) shall impose a fine of not less than \$5,000 and a minimum sentence  
 7 of imprisonment of not less than

8 (A) 120 days if the person has been previously convicted twice;

9 (B) 240 days if the person has been previously convicted three  
 10 times;

11 (C) 360 days if the person has been previously convicted four  
 12 or more times;

13 (2) may not

14 (A) suspend execution of sentence or grant probati. cept on  
 15 condition that the person serve the minimum imprisonment under (1) of this  
 16 subsection; or

17 (B) suspend imposition of sentence;

18 (3) shall revoke the person's driver's license, privilege to drive, or  
 19 privilege to obtain a license under AS 28.15.181(c);

20 (4) may order as a condition of probation or parole that the person take  
 21 a drug or combination of drugs, intended to prevent the consumption of an alcoholic  
 22 beverage; a condition of probation imposed under this paragraph is in addition to any  
 23 other condition authorized under another provision of law; and

24 (5) may also order forfeiture under AS 28.35.036 of the vehicle or  
 25 aircraft used in the commission of the offense, subject to remission under  
 26 AS 28.35.037.

27 \* Sec. 11. AS 28.35.030(o) is amended to read:

28 (o) In this section,

29 (1) [REPEALED]

30 (2) "operate an aircraft" means to [USE,] navigate, pilot, or taxi an  
 31 aircraft in the airspace over this state, or upon the land or water inside this state;

1 (3) "operate a watercraft" means to navigate [OR USE] a vessel used  
 2 or capable of being used as a means of transportation on water for recreational or  
 3 commercial purposes on all waters, fresh or salt, inland or coastal, inside the territorial  
 4 limits or under the jurisdiction of the state;

5 (4) "previously convicted" means having been convicted in this or  
 6 another jurisdiction, [WITHIN 10 YEARS PRECEDING THE DATE OF THE  
 7 PRESENT OFFENSE,] of any of the following offenses; however, convictions for any  
 8 of these offenses, if arising out of a single transaction and a single arrest, are  
 9 considered one previous conviction:

10 (A) operating a motor vehicle, aircraft, or watercraft while  
 11 intoxicated, in violation of this section or in violation of another law or  
 12 ordinance with similar elements, except that the other law or ordinance may  
 13 provide for a lower level of alcohol in the person's blood or breath than  
 14 imposed under (a)(2) of this section;

15 (B) refusal to submit to a chemical test in violation of  
 16 AS 28.35.032 or in violation of another law or ordinance with similar  
 17 elements; or

18 (C) operating a commercial motor vehicle while intoxicated in  
 19 violation of AS 28.33.030 or in violation of another law or ordinance with  
 20 similar elements, except that the other law or ordinance may provide for a  
 21 lower level of alcohol in the person's blood or breath than imposed under  
 22 AS 28.33.030(a)(2).

23 \* Sec. 12. AS 28.35.031 is amended by adding a new subsection to read:

24 (h) Nothing in this section shall be construed to restrict searches or seizures  
 25 under a warrant issued by a judicial officer, in addition to a test permitted under this  
 26 section.

27 \* Sec. 13. AS 28.35.032(p) is amended to read:

28 (p) A person is guilty of a class C felony if the person is convicted under this  
 29 section and has been previously convicted two or more times since January 1, 1996,  
 30 and within the 10 [FIVE] years preceding the date of the present offense. For  
 31 purposes of determining minimum sentences based on previous convictions, the

1 provisions of AS 28.35.030(o)(4) apply. Upon conviction,

2 (1) the court shall impose a fine of not less than \$5,000 and a  
3 minimum sentence of imprisonment of not less than

4 (A) 120 days if the person has been previously convicted twice;

5 (B) 240 days if the person has been previously convicted three  
6 times;

7 (C) 360 days if the person has been previously convicted four  
8 or more times;

9 (2) the court may not

10 (A) suspend execution of the sentence required by (1) of this  
11 subsection or grant probation, except on condition that the person serve the  
12 minimum imprisonment under (1) of this subsection; or

13 (B) suspend imposition of sentence;

14 (3) the court shall revoke the person's driver's license, privilege to  
15 drive, or privilege to obtain a license under AS 28.15.181(c);

16 (4) the court may order as a condition of probation or parole that the  
17 person take a drug, or combination of drugs, intended to prevent consumption of an  
18 alcoholic beverage; a condition of probation imposed under this paragraph is in  
19 addition to any other condition authorized under another provision of law;

20 (5) the sentence imposed by the court under this subsection shall run  
21 consecutively with any other sentence of imprisonment imposed on the person; and

22 (6) the court may also order forfeiture under AS 28.35.036, of the  
23 vehicle or aircraft used in the commission of the offense, subject to remission under  
24 AS 28.35.037.

25 \* Sec. 14. AS 28.35.033(a) is amended to read:

26 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts  
27 alleged to have been committed by a person while operating or driving a motor vehicle  
28 or operating an aircraft or a watercraft while intoxicated, the amount of alcohol in the  
29 person's blood or breath at the time alleged shall give rise to the following  
30 presumptions:

31 (1) If there was 0.04 [0.05] percent or less by weight of alcohol in the

1 person's blood, or 40 [50] milligrams or less of alcohol per 100 milliliters of the  
 2 person's blood, or 0.04 [0.05] grams or less of alcohol per 210 liters of the person's  
 3 breath, it shall be presumed that the person was not under the influence of intoxicating  
 4 liquor.

5 (2) If there was in excess of 0.04 [0.05] percent but less than 0.08  
 6 [0.10] percent by weight of alcohol in the person's blood, or in excess of 40 [50] but  
 7 less than 80 [100] milligrams of alcohol per 100 milliliters of the person's blood, or in  
 8 excess of 0.04 [0.05] grams but less than 0.08 [0.10] grams of alcohol per 210 liters of  
 9 the person's breath, that fact does not give rise to any presumption that the person was  
 10 or was not under the influence of intoxicating liquor, but that fact may be considered  
 11 with other competent evidence in determining whether the person was under the  
 12 influence of intoxicating liquor.

13 (3) [REPEALED]

14 (4) If there was 0.08 [0.10] percent or more by weight of alcohol in  
 15 the person's blood, or 80 [100] milligrams or more of alcohol per 100 milliliters of the  
 16 person's blood, or 0.08 [0.10] grams or more of alcohol per 210 liters of the person's  
 17 breath, it shall be presumed that the person was under the influence of intoxicating  
 18 liquor.

19 \* Sec. 15. AS 04.11.494, enacted by sec. 5 of this Act, is repealed July 1, 2004.

20 \* Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section to  
 21 read:

22 TRANSITION: PENDING APPLICATIONS. Notwithstanding the requirements of  
 23 AS 04.11.295, enacted by sec. 2 of this Act, the Alcoholic Beverage Control Board may  
 24 process an application for issuance or transfer of a license under AS 04 without a national  
 25 criminal history record check from the Federal Bureau of Investigation if that application was  
 26 pending with the board on the effective date of sec. 2 of this Act.

27 \* Sec. 17. The uncodified law of the State of Alaska is amended by adding a new section to  
 28 read:

29 INTERVENING AMENDMENTS. It is the intent of the legislature that intervening  
 30 amendments to AS 04.11.491(f) are not to be carried forward on the effective date of sec. 4 of  
 31 this Act.

1 \* Sec. 18. The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3 APPLICABILITY. This Act applies to offenses committed on or after the effective  
4 date of the relevant section this Act, except that references to previous convictions include  
5 convictions occurring before, on, or after the effective date of the relevant section of this Act.

6 \* Sec. 19. Section 4 of this Act takes effect July 1, 2004.

7 \* Sec. 20. Sections 9 and 14 of this Act take effect September 1, 2001.

8 \* Sec. 21. Sections 10 - 13 of this Act take effect July 1, 2001.

9 \* Sec. 22. Except as provided in secs. 19 - 21 of this Act, this Act takes effect immediately  
10 under AS 01.10.070(c).

actual section numbers  
changed w/ deletion of  
Sec 1 in Amend #2

# 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 (2d RLS) (efd am)

The House Judiciary Committee was requested to introduce 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 cuts in half the allowable amount of hard liquor. 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.

In addition, this bill allows the state to set up delivery sites in "damp" communities. Even though current law limits how much liquor can be shipped from a package store to one person, bootleggers merely place orders from multiple stores. Or, they get their friends to ship them excess liquor that they then sell for huge profit. Designating a central site where imported liquor is checked, and then delivered to the owner can prevent this. The site will deliver up to the monthly maximum amount allowed by law, and if there are no court orders, such as conditions of probation, that would prevent the person from having alcohol.

#### 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.

#### **Additions to the Bill**

The House Rules Committee made several additions to the bill. The first addition was the inclusion of lowering the legal limit to .08 BAC from .10 BAC. The second addition changes the current five-year look back to a phased in 10-year look back for the purposes of defining felony driving while intoxicated, and felony refusal to submit to a chemical test. The last addition lowers the BAC amount that leads to certain presumptions applicable to civil or criminal actions involving a person alleged to have driven while intoxicated.

The Committee urges your support of this bill.

# ALASKA STATE LEGISLATURE

## HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman  
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Representative Albert Kookesh



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Heather M. Nobrega  
Counsel to Committee

### Sectional Analysis for CSHB 132 (2d RLS) (efd am)

- 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:** Allows the state, municipality or established village to designate and operate a delivery site for alcoholic beverages in certain local option communities, so called "damp" communities.
- Section 5:** This section will be effective on July 1, 2004 (see Sec. 14), and will put the statute back to its original language before the passage of this bill.
- Section 6:** Sets forth the rules regarding the operation of a delivery site, once a site has been designated.
- Section 7:** 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 8:** Inserts a cross-reference to the newly defined term "transport."
- Section 9:** 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 10:** Reduces the legal limit for being intoxicated from 0.10 to 0.08 percent of alcohol in a person's blood.

- Section 11:** Eliminates 5-year look back and phases in a 10-year look back period and establishes that a person is guilty of a class C felony if convicted a third time since January 1, 1996, and within 10 years preceding the date of the offense.
- Section 12:** Deletes language within the definition of "previously convicted" to conform with the new look back provisions.
- Section 13:** Adds new section providing that the implied consent statute is not intended to prevent police search warrants.
- Section 14:** Changes refusal section on felony charges to mirror DUI section. Phases in a 10-year look back period, and establishes that a person is guilty of a class C felony if convicted a third time since January 1, 1996, and within 10 years, preceding the date of the offense.
- Section 15:** Changes certain presumptions applicable to civil or criminal actions involving a person alleged to have driven while under the influence of an alcoholic beverage or controlled substance.
- Section 16:** Creates a sunset date of July 1, 2004 for Section 6.
- Section 17:** Allows the Alcoholic Beverage Control Board to process pending applications without a national criminal history record check.
- Section 18:** Intervening amendments to AS 04.11.491(f) are not to be carried forward on the effective date of Section 5 of this Act.
- Section 19:** The act applies to offenses that occur on or after the effective date of this Act.
- Section 20:** Section 5 of this Act takes effect July 1, 2004.
- Section 21:** Sections 10 - 15 of this Act take effect July 1, 2001.
- Section 22:** Except as provided in Sections 20 and 21, this Act is to take effect immediately.

Labor & Commerce	Department	Amount	Analysis
	Law	Indeterminate	Any increased workload in FY02 covered by Fed. Grant
	Courts	\$0	
	Admin-Public Defender	\$84,700	146 new cases (\$156.8 each year after FY02)
	Corrections	\$112,800	1 probation officer & 1 criminal justice technician
	Revenue	\$0	
	<b>Total</b>	<b>\$197,500</b>	
<b>Judiciary</b>	<b>No new fiscal notes</b>		
<b>Finance</b>	<b>No new fiscal notes</b>		
Rules	Department	Amount	Analysis
	Law	\$180,200	Bootlegging: Indeterminate (Any increased workload in FY02 covered by Fed. Grant) .08 BAC: \$180,200 Look-back: \$0 FY 02: costs of operating state delivery sites will come from non-GF funds
	Courts	\$92,100	.08 BAC: 10% increase in cases Look-back: 45 new felonys in year one, increases each yr after
	H&SS (Grants)	\$582,200	.08 BAC: 75% of new cases treated in a public program This amount is to fund new capacity
	H&SS (ASAP)	\$112,400	.08 BAC: 100% referral to ASAP of new cases
	Corrections	\$1,591,400	Bootlegging: 1 probation officer & 1 criminal justice technician .08 BAC: \$1,211,134 in year one Look-back: \$267,520 in year one
	Admin-Public Defender	\$286,100	Bootlegging: paralegal in Anch., legal secretaries in Anch & Bethel also one additional atty in Bethel, 146 new cases (\$156.8 each year after FY02) .08 BAC: \$140,600 (one new atty) Look-back: \$60,800 in first year, increases each yr after
	Admin-DMV	\$111,200	1 PFT hearing officer, 1 PFT position for admin. support & equipment
	Revenue	\$0	
	<b>TOTAL</b>	<b>\$2,955,600</b>	

HB 132: - 109c

From Rep. Rokeberg

# SENATE COMMITTEE REPORT

DATE: 5/1/01

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered CS FOR HOUSE BILL NO. 132(2d RLS)(efd am)

ALCOHOL:LOCAL OPTION/DWI/LICENSING

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
Admin	4/26/01	✓		12
Admin	4/29/01	✓		11
ACS	4/25/01	✓		10
HSS	4/29/01	✓		9
HSS	4/28/01	✓		8
LAW	4/25/01	✓		7
CORRECTIONS	4/25/01	✓		6
Rev.	3/10/01			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>				
<i>[Signature]</i>				
CHAIR: <i>[Signature]</i>	✓			