

**HB**

**65**

# Alaska State Legislature

**Chair**  
Military and Veterans Affairs Committee

**Vice-Chair**  
Labor and Commerce Committee

**Member**  
Resources Committee  
State Affairs Committee  
Joint Armed Services Committee

**Finance Subcommittees**  
House Environmental Conservation  
House Military & Veterans' Affairs  
House Court System



*A Communication From*  
**REPRESENTATIVE BOB LYNN**  
District 31 Anchorage

**Session:**  
Alaska State Capitol  
Juneau, AK 99801-1182


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Representative\_Bob\_Lynn@legis.state.ak.us

April 29, 2003

**To:** Representative Jim Holm, Co-Chair  
Representative Bev Masek, Co-Chair  
House Transportation Committee

**Fr:** Representative Bob Lynn 

**Re:** HB 65 Importing Alcohol to Dry Villages

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Thank you for scheduling HB 65 to be heard in the House Transportation Committee this Thursday. Attached is a copy of the Bill and a CS along with supporting documents.

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[Representative\\_Bob\\_Lynn@legis.state.ak.us](mailto:Representative_Bob_Lynn@legis.state.ak.us)

## Sponsor Statement HB 65

Bootleg importation of alcoholic beverages into dry villages is a continuing problem not sufficiently remediated in law. Current law allows the **option** to confiscate a vehicle used in a bootleg act. The proposed legislation would make vehicle confiscation a **mandatory** act after due process of law.

As our Governor in his State of the State Address said, "If you bring liquor into a dry village, you can forfeit your airplane or snow machine." I'm proud that Governor Murkowski has made my bill one of his priority measures.

THE  
FOLLOWING  
DOCUMENT(S)  
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4/23/03

CS FOR HOUSE BILL NO. 65( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES LYNN, Croft, Cissna, Crawford, McGuire

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the perimeter of an established village for purposes of sale,  
2 importation, or possession of alcohol; and relating to forfeiture of a motor vehicle,  
3 airplane, or vessel for illegal transportation of alcohol."

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

5 \* Section 1. AS 04.11.508(b) is amended to read:

6 (b) If the perimeter of an established village determined under (a) of this  
7 section includes any area that is within a municipality or within the perimeter of  
8 another established village, the following restrictions apply in the overlapping  
9 area:

10 (1) if the municipality or the other established village has also  
11 adopted a local option under AS 04.11.491, the local option of the established  
12 village or municipality that is more restrictive applies in the overlapping area;

13 (2) if the municipality or the other established village has not  
14 adopted a local option under AS 04.11.491, the local option applies in the area

1 that overlaps the municipality or the other [THE PERIMETER DESCRIBED  
2 UNDER (a) OF THIS SECTION IS LIMITED TO AN AREA THAT INCLUDES  
3 ONLY THE] established village.

4 \* Sec. 2. AS 04.11.508(c) is amended to read:

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

10 \* Sec. 3. AS 04.16.220(e) is amended to read:

11 (e) The owner of property subject to forfeiture under (a) and (i) of this section  
12 is entitled to relief from the forfeiture in the nature of remission of forfeiture if, in  
13 an action under (d) of this section, the owner shows that the owner was not a party to  
14 the violation, [AND] had no actual knowledge or reasonable cause to believe that the  
15 property was used or was to be used in violation of the law, and had no actual  
16 knowledge or reasonable cause to believe that the person committing the  
17 violation had a criminal record or reputation for violating this title.

18 \* Sec. 4. AS 04.16.220(f) is amended to read:

19 (f) A person other than the owner holding, or the assignee of, a lien, mortgage,  
20 conditional sales contract on, or the right to possession to property subject to forfeiture  
21 under (a) or (i) of this section is entitled to relief from the forfeiture in the nature of  
22 remission of the forfeiture if, in an action under (d) of this section, the person shows  
23 that the person was not a party to the violation subjecting the property to forfeiture,  
24 [AND] had no actual knowledge or reasonable cause to believe that the property was  
25 [USED OR WAS] to be used in violation of the law, and had no actual knowledge  
26 or reasonable cause to believe that the person committing the violation had a  
27 criminal record or reputation for violating this title.

28 \* Sec. 5. AS 04.16.220 is amended by adding new subsections to read:

29 (i) Upon conviction for a violation of AS 04.11.010 or 04.11.499, if an  
30 aircraft, vehicle, or watercraft is subject to forfeiture under (a) of this section, the court  
31 shall, subject to remission to innocent parties under this section,

- 1 (1) order the forfeiture of an aircraft to the state;
- 2 (2) order the forfeiture of a vehicle or watercraft if
- 3 (A) the defendant has a prior felony conviction for a violation
- 4 of AS 11.41 or a similar law in another jurisdiction;
- 5 (B) the defendant is on felony probation or parole;
- 6 (C) the defendant has a prior conviction for violating
- 7 AS 04.11.010 or 04.11.499; or
- 8 (D) the quantity of alcohol transported in violation of this title
- 9 was twice the presumptive amounts in AS 04.11.010(c).
- 10 (j) Notwithstanding (i) of this section, a court is not required to order the
- 11 forfeiture of a vehicle or watercraft if the court determines that
- 12 (1) the vehicle or watercraft is the sole means of transportation for a
- 13 family residing in a village;
- 14 (2) the court can impose conditions that will prevent the defendant's
- 15 use of the vehicle or watercraft; and
- 16 (3) either
- 17 (A) a member of the family would be entitled to remission
- 18 under this section if the family member were an owner of or held a security
- 19 interest in the vehicle or watercraft; or
- 20 (B) if a member of the family would not be entitled to
- 21 remission, the family member was unable as a practical matter to stop the
- 22 violation making the vehicle or watercraft subject to forfeiture.
- 23 (k) The title to an aircraft, vehicle, or watercraft forfeited to the state under
- 24 this section may be transferred by the state to a municipality or the local governing
- 25 body of a village for official use by the municipality or village if the aircraft, vehicle,
- 26 or watercraft will not be available for use by the defendant.
- 27 (l) In this section, "village" means a community of fewer than 1,000 persons
- 28 located off the interconnected state road system.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 65  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title "An Act relating to forfeiture of a motor vehicle, BRU Criminal Division  
airplane, or vessel for illegal transportation of alcohol." Component All  
 Sponsor Representative Lynn  
 Requester House Transportation Committee Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</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						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2003) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 HB 65 requires the state to seek forfeiture of an aircraft, vehicle, or vessel used to transport or facilitate the transportation of alcoholic beverages in violation of local option laws.  
  
 Most bootlegging offenses occur in rural Alaska, where an individual's vehicle may be their sole or primary source of transportation. Because of this, the department assumes many of these mandatory forfeitures will be contested, requiring more departmental resources be used to pursue them. However, we do not know the percentage of bootlegging cases that involve a vehicle subject to forfeiture under this bill, and cannot assign a fiscal impact.

Prepared by: Joan M. Kasson Phone (907) 465-5370  
 Division: Attorney General's Office Date/Time 2/11/03 9:12 AM  
 Approved by: Kathryn Daughhetee for Gregg D. Renkes, Attorney General Date 2/11/2003  
 Agency: Department of Law

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## JUNEAU WEATHER

37° mostly clear  
 View Weather  
 Wind: N 7  
 Hi Tide: 2:13am  
 Lo Tide: 8:30am  
 Hi Tide: 2:42pm  
 Lo Tide: 8:33pm

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Web posted Friday, April 4, 2003

## Governor takes 'tough on crime' position

*Measure would reduce plea bargaining and lengthen sentences*

By **MIKE CHAMBERS**  
 THE ASSOCIATED PRESS

Gov. Frank Murkowski outlined a crime package Thursday that calls for fewer plea bargains for child predators, a crackdown on bootleggers, and tightening the state self-defense laws.

"We want the criminals to get the message that they will be prosecuted to the full extent of the law. We're through fooling around in this state," Murkowski said.

The Republican governor is introducing legislation to lengthen sentences for multiple crimes, make it more difficult to claim self-defense, change immunity rules, and allow courts to consider prior convictions during trials.

Murkowski also endorsed GOP bills before the Legislature this session to threaten bootleggers with forfeiture, make Medicaid fraud easier to prosecute, and expand the state's DNA database.

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The governor threw his support behind bills that revoke driver's licenses for some fatal crashes, crack down on Internet harassment, and create an electronic database for pawn-shop items.

Attorney General Gregg Renkes also plans to issue a directive to state prosecutors that no plea bargains will be offered in cases of child sexual assault without his approval, he said.

Each year, state prosecutors handle about 150 such cases and there have been complaints that too many end in plea bargains, Renkes said.

Often factors such as overcrowded prisons or the cost of locking people up can affect decisions on individual cases, Renkes said.

"When it comes to protecting children, we just aren't going to let these other considerations cloud our judgment or affect our decisions," Renkes said.

Sen. Hollis French, an Anchorage Democrat, is a former prosecutor. He said the assistant attorney general for the criminal division already reviewed plea agreements in which a sex crime would be reduced to a non-sex crime.

CALENDAR							April						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4	5						
6	7	8	9	10	11	12							
13	14	15	16	17	18	19							
20	21	22	23	24	25	26							
27	28	29	30										

In addition, prosecutors feel pressure to reduce high caseloads, and victims frequently are willing to settle to avoid the cost and stress of a trial, French said.

"He's going to have his hands full," French said.

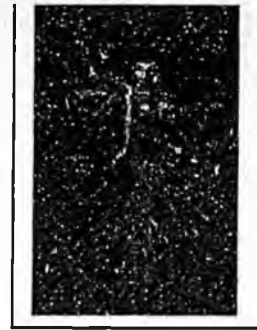
The state Department of Law also is pursuing federal funding to step up prosecutive efforts in rural Alaska and in cases of domestic violence and sexual assault.

A \$2.4 million grant would allow the state to create a rural prosecution unit in Anchorage to assist district attorneys in Bush Alaska, Renkes said.

A \$4.4 million grant would allow the state to create special domestic violence and sexual-assault prosecution units in Anchorage, Palmer, Kenai and Fairbanks, he said.

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MAR 03 2003



*Kristofer Gee*

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February 17, 2003  
Representative Bob Lynn  
State Capitol,  
Juneau, AK 99801-1182

Dear Representative Lynn,

My name is Kristofer Charles Gee. I am a Sophmore that attends Dot Lake School in Alaska. In class I am to find two House or Senate Bills to follow and to see if they make it to become a law. One of the Bills that I am following is House Bill 65 which states "An Act Relating to forfeiture of a motor vehicle, airplane, or vessel for illegal transportation of alcohol." I think that this bill is a really great bill and I believe that this bill would be a very powerful law because the village that I live in is a dry village. But people still bring in alcohol. If they begin to lose their vehicles, maybe they will begin to stop drinking. Thank you for your time.

Sincerely,  
*Kristofer Gee*  
Kristofer Gee



## Alaska Association of Chiefs of Police

APR 29 2003

April 29, 2003

To Whom It May Concern:

On behalf of the Alaska Association of Chiefs of Police (AACOP), I would like to express support for House Bill 65, an act relating to the perimeter of an established village for the purpose of sale, importation, or possession of alcohol; and relating to forfeiture of a motor vehicle, airplane, or vessel for illegal transportation of alcohol. I very much appreciate your introduction of this bill before the twenty-third Alaska Legislature.

For years some of our villages have chosen to make strong efforts to eliminate the importation and the use of alcohol in their communities. They along with law enforcement statewide know that most of the illegal activities we deal with are alcohol related. Villages who have adopted and exercised the local option have found it frustrating with enforcement of the law due to illegal alcohol imports that still occur. House Bill 65 creates even more deterrence for someone who is contemplating importation of alcohol into a "dry village".

I strongly urge you to support the passage of HB 65

Sincerely,

Chief Thomas Clemons  
President Alaska Association of Chiefs of Police

## SECTIONAL ANALYSIS

### CSHB 65

Sections 1 and 2 would repair an omission in the law regarding the boundaries of local option communities. Current law provides that a local option adopted by a village covers an area within a five-mile radius from the post office of the village. However, if this perimeter includes area in another village or municipality, the local option only applies in the village. If two neighboring villages both have local options and their perimeters overlap, the local options of both shrink to the established village, leaving the area between the two with no local option in force. Section 1 of the bill provides that in these circumstances the five-mile radius still applies, and the area in the overlapping perimeters would be governed by the more restrictive local option. Section 2 of the bill allows the ABC Board, which already has authority to adjust boundaries to accurately reflect the perimeter of an established village, to make adjustments to accurately describe the overlapping perimeters or boundaries.

Sections 3-5 amend the forfeiture provisions for certain violations of AS 04. Sections 3 and 4 would change the circumstances under which an owner or lien holder of forfeited property could obtain remission (return of the value of the owner or lien holder's interest in the forfeited property). Under current law, an owner or lien holder may obtain relief from the forfeiture by showing that the owner or lien holder had no actual knowledge that the forfeited property was to be used in violation of the law. Under the bill, an owner or lien holder would also have to establish that he or she had no reasonable cause to believe the property would be used in violation of the law, and had no actual knowledge or reasonable cause to believe that the person who used the property to violate the law had a criminal record or reputation for violating AS 04.

Section 5 would require the forfeiture of aircraft subject to forfeiture for violation of certain provisions of AS 04, subject to remission as discussed above. With some exceptions discussed below and subject to remission, a vehicle or watercraft must be forfeited if (1) the defendant has a prior conviction for a felony against a person; (2) the defendant is on felony probation or parole; (3) the defendant has a prior conviction for violating AS 04.11.010 or 04.11.499; or (4) the quantity of alcohol transported illegally was twice the level presumed to be for sale under AS 04.11.010(c).

The bill does not require the forfeiture of a vehicle or watercraft if the court finds (1) the vehicle or watercraft is the only means of transportation for a village family; (2) the court can impose conditions to prevent the defendant's use of the vehicle or watercraft; and (3) either a family member would be entitled to remission if the member were an owner, or the family member was unable to stop the violation that made the vehicle or watercraft subject to forfeiture.

The bill would allow the state to transfer a forfeited aircraft, vehicle, or watercraft to a municipality or governing body of a village for official use, as long as the defendant would not, as a result of the transfer, have use of it.

# FISCAL NOTE

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2003 LEGISLATIVE SESSION

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

CAPITAL EXPENDITURES						
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Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

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Part-time						
Temporary						

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Prepared by: Joan M. Kasson Phone (907) 465-5370  
Division Attorney General's Office Date/Time 2/11/03 9:12 AM  
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/11/2003  
Agency Department of Law