

SB

284

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAR 24 2006
 SENATE FINANCE COMMITTEE

DATE: 3/3/06

FURTHER:

DATE TURNED
 IN TO OFFICE: 3/24/06

Finance Committee considered SENATE BILL NO. 284

SB 284 SENTENCING FOR ALCOHOL-RELATED CRIMES

"An Act relating to sentencing for the commission of a felony while under the influence of alcohol."

and recommends:

- be replaced with _____ CS SB 284 (FIN)
- adopt previous _____ CS CS Forthcoming _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Court	3/8/06		✓		
Corrections	3/9/06		✓		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Adm/Public Adv	3/1/06		✓		1
Adm/Public Dep	2/28/06		✓		2

APPROPRIATION - no fiscal note

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

FISCAL NOTE

STATE OF ALASKA
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 284(JUD)
 (S) Publish Date: 3/3/06

Revision Date/Time (Note if correction): 3/1/06/ 1:51 p.m. Dept. Affected: Administration
 Title An Act relating to sentencing for the commission RDU Legal and Advocacy Services
of a felony while under the influence Component Office of Public Advocacy
 Sponsor Sen. Therriault
 Requester (S) Jud Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	*	*	*	*	*	*
Travel						
Contractual	*	*	*	*	*	*
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2006) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill permits the court, as part of a sentence for a conviction under AS 11.41, to prohibit a defendant from consuming alcohol for the lifetime of the defendant. This bill also makes it a crime to consume alcohol in violation of a criminal sentence under AS 12.55.015; a first offense is a misdemeanor and the second offense is a C felony.

This bill creates a new misdemeanor and felony offense. It targets a chronic drinking population that is likely to violate a condition that they not drink. Therefore, it is highly likely to increase the number of PDA conflict cases that OPA must handle. It is, however, not possible to predict the number of cases with any certainty. OPA therefore submits an indeterminate fiscal note.

Prepared by: Joshua P. Fink, Director
 Division: Office of Public Advocacy
 Approved by: Mike Tibbles, Deputy Commissioner
 Agency: Administration

Phone 907.269-3501
 Date/Time 3.1.06/1:51 p.m.
 Date 3/1/2006

FISCAL NOTE

STATE OF ALASKA
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 284(JUD)
 (S) Publish Date: 3/3/06

Revision Date/Time (Note if correction): 2/28/06 2:10 p.m. Dept. Affected: Administration
 Title: An Act relating to sentencing for the commission of a felony while under the influence RDU: Legal and Advocacy Services
 Component: Public Defender Agency
 Sponsor: Sen. Therriault
 Requester: (S) JUD Component No.: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2006) cost:
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill permits the court, as part of a sentence for a conviction under AS 11.41, to prohibit a defendant from consuming alcohol for the lifetime of the defendant. This bill also makes it a crime to consume alcohol in violation of a criminal sentence under AS 12.55.015; a first offense is a misdemeanor and the second offense is a C felony.

 This bill creates a new misdemeanor and felony offense. This bill is likely to increase the number of cases that the agency must handle. It is, however, not possible to predict the number of cases. The Public Defender Agency, therefore, submits an indeterminate fiscal note.

Prepared by: Quinlan Steiner, Director Phone 907.334.4414
 Division: Public Defender Agency Date/Time 2.28.06 2:10 p.m.
 Approved by: Mike Tibbles, Deputy Commissioner Date 2/28/2006
 Agency: Administration

REPORTED OUT
 MAR 24 2006
 SENATE FINANCE COMMITTEE

FISCAL NOTE

STATE OF ALASKA
 2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB284(JUD)-Courts-3-8-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Sentencing for alcohol-related crimes RDU Alaska Court System
 Component Trial Courts
 Sponsor Senator Therriault
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	.	.	.	.	.	.

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 CSSB 284(JUD) allows a judge to prohibit a person from consuming alcohol for up to the life of the person if the person has been convicted of a felony crime against a person under AS 11.41 or certain DUI and refusal offenses. The bill makes it a class A misdemeanor to violate an order not to consume alcohol. It will be a class C felony if a person has been previously convicted of this crime.
 This bill will impact the court system because it will result in new misdemeanor and felony charges being filed against those who violate this new crime. However, because it is not clear how often this new sentencing option will be imposed or how often it will be violated and prosecuted, the extent of the impact is too speculative to support a fiscal note at this time.

Prepared by: Doug Wooliver, Administrative Attorney Phone 463-4750
 Division Alaska Court System Date/Time 3/8/06 @ 1:30 pm
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 3/8/2008
 Agency Alaska Court System

FISCAL NOTE

REPORTED OUT
MAR 24 2006
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
 2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 284(JUD)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "An act relating sentencing for Alcohol related RDU Institutional Facilities
crimes..." Component Institution Director's Office
 Sponsor Senator Therriault
 Requester Judiciary, Finance Component No. 524

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
Miscellaneous
TOTAL OPERATING

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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)	.	.	.	.	.	.
TOTAL	.	.	.	.	.	.

Estimate of any current year (FY2006) cost: 00

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	.	.	.	.	.	.
Part-time	.	.	.	.	.	.
Temporary	.	.	.	.	.	.

ANALYSIS: (Attach a separate page if necessary)

The legislation allows a judge to prohibit a defendant from consuming alcohol for up to the lifetime of the person if the person has been convicted of a felony crime against a person under AS 11.41 and the court finds by clear and convincing evidence that the conduct was substantially influenced by the consumption of alcohol, or for certain DUI and refusal crimes. The bill makes it a class A misdemeanor to violate an order not to consume alcohol, and a C felony for a second offense. Most offenders on probation for these crimes already are prohibited from consuming alcohol while under supervision. However, the "up to the lifetime of the defendant" restriction may impact the department if the restriction is ordered by a judge. Because it is not clear how often this new sentencing option may be imposed or how often it may be violated and prosecuted after completion of probation supervision, the potential financial impact to the department is too speculative to support a fiscal note at this time.

Prepared by: Sharleen Griffin, Director
 Division Administrative Services
 Approved by: Portia Parker, Deputy Commissioner
 Agency Department of Corrections

Phone (907) 465-3339
 Date/Time 3/23/06 10:43 AM
 Date 3/23/2006

LEGAL SERVICES

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

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

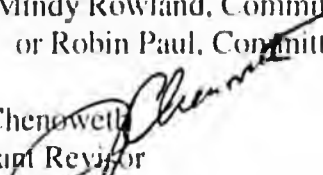
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 24, 2006

SUBJECT: CSSB 284(Fin) (Work Order No. 24-LS0581AS)

TO: Senators Lyda Green and Gary Wilken, Co-Chairs
Senate Finance Committee
Attn: Mindy Rowland, Committee Secretary,
or Robin Paul, Committee Assistant

FROM: Jack Chenoweth 
Assistant Revisor

Please note the change of bill title, adding a second clause to acknowledge inclusion in the bill of the new offense of "consumption of alcohol in violation of sentence."

JBC:imb
06-117.imb

Enclosure



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 3/24/06 TIME: 9:15 am

TO: LEGAL

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: ROBIN PAUL
SENATE FINANCE CMTE. ASST. SECRETARY
PHONE: 465-2618
FAX: 465-2187

NOTES: FINAL PLEASE!
CS SB 284 (FIN)
Version 24-250581/L
(No Changes)

Thank You!
Robin

Adopted

WORK DRAFT

WORK DRAFT

WORK DRAFT

24-LS0581VL
Luckhaupt
3/22/06

CS FOR SENATE BILL NO. 284()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sentencing for the commission of certain offenses influenced by
2 alcohol."

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

4 * Section 1. AS 11.56 is amended by adding a new section to read:

5 Sec. 11.56.768. Consumption of alcohol in violation of sentence. (a) A
6 person commits the crime of consumption of alcohol in violation of sentence if the
7 person knowingly consumes alcohol in violation of an order imposed under
8 AS 12.55.015(a)(13), AS 28.35.030, or 28.35.032.

9 (b) In a prosecution under this section, it is an affirmative defense that

10 (1) the alcohol was consumed under the direction of, a health care
11 professional as part of medical treatment of the defendant; or

12 (2) the alcohol was consumed as a non-prescription medication in
13 doses and for the purposes recommended by the manufacturer of the medication or as
14 approved by the United States Food and Drug Administration.

1 (c) In this section, "consumption of alcohol" means to ingest, orally or
2 otherwise, alcohol or any substance containing alcohol.

3 (d) Except as provided in (e) of this section, consumption of alcohol in
4 violation of sentence is a class A misdemeanor.

5 (e) Consumption of alcohol in violation of sentence is a class C felony if the
6 defendant has been previously convicted of violating this section.

7 * Sec. 2. AS 12.55.015(a) is amended to read:

8 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing
9 sentence on a defendant convicted of an offense, may singly or in combination

10 (1) impose a

11 (A) fine when authorized by law and as provided in
12 AS 12.55.035; or

13 (B) day fine when authorized by law and as provided in
14 AS 12.55.036 if the court does not impose a term of periodic or continuous
15 imprisonment or place the defendant on probation;

16 (2) order the defendant to be placed on probation under conditions
17 specified by the court that may include provision for active supervision;

18 (3) impose a definite term of periodic imprisonment;

19 (4) impose a definite term of continuous imprisonment;

20 (5) order the defendant to make restitution under AS 12.55.045;

21 (6) order the defendant to carry out a continuous or periodic program
22 of community work under AS 12.55.055;

23 (7) suspend execution of all or a portion of the sentence imposed under
24 AS 12.55.080;

25 (8) suspend imposition of sentence under AS 12.55.085;

26 (9) order the forfeiture to the commissioner of public safety or a
27 municipal law enforcement agency of a deadly weapon that was in the actual
28 possession of or used by the defendant during the commission of an offense described
29 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

30 (10) order the defendant, while incarcerated, to participate in or
31 comply with the treatment plan of a rehabilitation program that is related to the

1 defendant's offense or to the defendant's rehabilitation if the program is made available
2 to the defendant by the Department of Corrections;

3 (11) order the forfeiture to the state of a motor vehicle, weapon,
4 electronic communication device, or money or other valuables, used in or obtained
5 through an offense that was committed for the benefit of, at the direction of, or in
6 association with a criminal street gang;

7 (12) order the defendant to have no contact, either directly or
8 indirectly, with a victim or witness of the offense until the defendant is
9 unconditionally discharged;

10 (13) order the defendant to refrain from consuming alcohol,
11 subject to AS 11.56.768, for a period of time up to the lifetime of the defendant,
12 including during the term of any sentence and as a condition of probation,
13 suspended sentence, and suspended imposition of sentence if

14 (A) the defendant was convicted of a felony under AS 11.41
15 and the court finds by clear and convincing evidence that the defendant's
16 conduct constituting the offense was substantially influenced by the
17 consumption of alcohol; or

18 (B) the court finds by clear and convincing evidence that,
19 based on the defendant's history, there is reason to believe that imposing a
20 requirement that the defendant refrain from consuming alcohol is
21 necessary to protect the public and the defendant was convicted of a
22 violation of AS 28.35.030 or 28.35.032 and the defendant has been
23 previously convicted two or more times or the offense resulted in death or
24 serious physical injury to another person; in this subparagraph,
25 "previously convicted" has the meaning given in AS 28.35.030.

26 * Sec. 3. AS 12.55.015 is amended by adding a new subsection to read:

27 (j) Nothing in (a)(13) of this section, limits or restricts the authority of a court
28 to order a person to refrain from the consumption of alcohol as a condition of sentence
29 or probation.

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

1 APPLICABILITY. This Act applies to offenses committed on or after the effective
2 date of this Act. References to previous convictions apply to convictions occurring before, on,
3 or after the effective date of this Act.

Alaska State Legislature

SENATOR

GENE THERRIAULT

Mailino Address:

1194 Cookman, Suite 101

Fairbanks, Alaska 99701

(907) 438-0857

Fax: (907) 466-4771

While in session:

State Capitol

Juneau, Alaska

99801-1182

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Senat District F

Senate

Sponsor Statement SB 284

Alcohol Ban Option For Certain Violent Felons

In the interest of public safety and reducing the rate of recidivism among certain violent offenders, I have introduced Senate Bill 284 giving judges a new option when sentencing felons who commit crimes against persons. (As 11.41)

In instances that clear and convincing evidence shows a long-term pattern of alcohol abuse as a major contributing factor in the commission of a violent crime against a person, or in the case of extreme DUI convictions, a judge may impose as a condition of sentencing, up to a lifetime prohibition on the use of alcohol.

This legislation is intended to accomplish three main objectives. The first is to allow courts to remove a controlled substance from those who have a long track record of being dangerous when they use it. The second is to prevent future acts of violence by establishing a different threshold for re-arrest before actual violence may occur. The third goal is to establish a lifelong deterrent to offenders who might be tempted to use a substance that unleashes their violent nature.



Alaska State Legislature Senate Majority News

Jeff Turner, Senate Majority Press Secretary
Room 413, State Capitol Building
Juneau, AK 99801
Phone: 907.465.3803

Web Site: <http://www.akrepublicans.org>

FOR IMMEDIATE RELEASE: Feb. 13, 2006 CONTACT: Jeff Turner, Press Secretary: 907.465.3803

Lifetime Ban of Alcohol Sentencing Option For Certain Felons

SB 284 Bans Violent Repeat Offender From Drinking

(Juneau) - Judges may impose a lifetime ban on alcohol use as part of a sentence for violent felons under a measure to be introduced Monday by Sen. Gene Therriault (R-North Pole).

"For some people alcohol triggers a violent nature that otherwise does not exist. When extreme crimes against persons occur as a result, extreme mitigation measures may be needed to prevent repeat offenses. This bill gives courts that option," Sen. Therriault said.

The legislation as introduced provides the lifetime ban as an option, and available only for sentencing felons who commit crimes against people. If an offender violates the lifetime ban, he or she is subject to a class A misdemeanor for the first offense and a class C felony for a repeat offense. Under either provision, re-incarceration is an option if a judge determines it is needed.

"Public safety is at the heart of this legislation, but it also gives offenders an extra incentive to never again use a substance that turns them into a ticking time bomb that they cannot control," Sen. Therriault said.

SB 284 has been referred to the Senate Judiciary and Finance Committees.

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SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/13/06

FURTHER: Finance

Date of 5-Day Notice: 2/23/06
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/2/06

Judiciary Committee considered SENATE BILL NO. 284

SB 284 SENTENCING FOR ALCOHOL-RELATED CRIMES

"An Act relating to sentencing for the commission of a felony while under the influence of alcohol."

and recommends:

- be replaced with _____ CS SB 284 (JUD)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:

- Same Title
 New Title

SCS House Bill:

- Same Title
 Technical Title Change
 New Title w/
SCR # _____

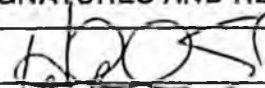
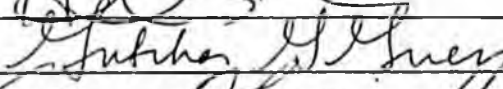
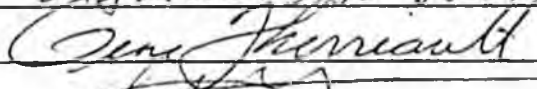
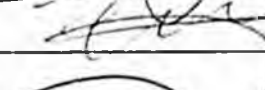
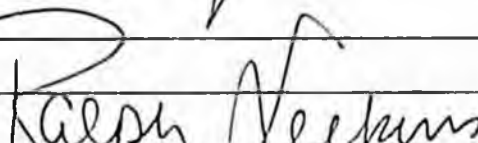
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
ADM / Public Adv	3/1/06		✓		1
ADM / Public Def.	2/28/06		✓		2

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO REC	AMEND
French		X			
Guess		X			
Therriault		X			
Huggins		X			
Seekins	CHAIR: 	✓			