

SB

210

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/9/06

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered SENATE BILL NO. 210

SB 210 VIOL. OF ALCOHOLIC BEV. LAWS/FORFEITURE

"An Act relating to the manufacture and transportation of alcoholic beverages; relating to forfeitures of property for violations of alcoholic beverage laws; and relating to violations of alcoholic beverage laws."

and recommends:

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

CS Senate Bill:
<input type="checkbox"/> Same Title
<input type="checkbox"/> New Title
SCS House Bill:
<input type="checkbox"/> Same Title
<input type="checkbox"/> Technical Title Change
<input type="checkbox"/> New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

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
<i>[Signature]</i>			X	
<i>[Signature]</i>	X			
<i>[Signature]</i>	X			
CHAIR: <i>[Signature]</i>	✓			

Alaska State Legislature

SENATOR
GENE THERRIAULT

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Senate

While in session
State Capitol
Juneau, Alaska
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SENATE DISTRICT F

SPONSOR STATEMENT SB 210

"An Act relating to the manufacture and transportation of alcoholic beverages; relating to forfeiture of property for violations of alcoholic beverage laws; and relating to violations of alcoholic beverage laws."

In 2004, Congress established the Alaska Rural Justice and Law Enforcement Commission, recognizing that many rural communities and their residents: "... face the highest alcohol abuse and family violence rates in the country." The Commission released a Draft Interim Report in late 2005 that contained recommendations including amendments to several provisions in Alaska statutes.

Senate Bill 210 makes changes to current law to better assist law enforcement in protecting communities that have chosen to limit the sale, or possession of alcohol under local option laws. First, Senate Bill 210 strengthens current forfeiture provisions in statute by allowing for seizure of alcohol transported by common carrier in violation of local option laws. Secondly, it allows for the authority to seize property determined to have been purchased or obtained through the proceeds of illegal importation or sale of alcohol. Further, SB 210 proposes a streamlined procedure to give notice of forfeiture proceedings to a person who may claim an interest in property that has been seized.

SB 210 also proposes to make changes by adding a definition of "manufacture" of alcohol and provides consistency between statutes by amending the allowable quantities of alcohol. While current statute prohibits the manufacture of alcohol in a community that has adopted a local option, it does not include a definition. The legislation also clears up inconsistency in the statutes as it relates to the presumptive amount of possession for sale. By amending these provision we are providing clarity and assisting law enforcement and communities in their continued interdiction efforts in damp or dry areas of the state.

There are currently over 100 communities in Alaska that have chosen a local option to combat the problems associated with alcohol abuse and violence. SB 210 provides clarity, consistency, and strength to the state's alcohol and beverage control statutes in order to assist law enforcement and communities to fight the illegal importation of alcohol.

SENATE BILL NO. 210

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY SENATOR THERRIAULT

Introduced: 1/9/06

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "A" Act relating to the manufacture and transportation of alcoholic beverages; relating
2 to forfeitures of property for violations of alcoholic beverage laws; and relating to
3 violations of alcoholic beverage laws."

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

5 * Section 1. AS 04.11.010(c) is amended to read:

6 (c) Unless a municipality or ^{community} ~~established village~~ has adopted a more restrictive
7 local option under AS 04.11.491(g), in a criminal prosecution for possession of
8 alcoholic beverages for sale in violation of (a) of this section, the fact that a person

9 (1) possessed more than 10 1/2 [12] liters of distilled spirits, 24 liters
10 or more of wine, or 12 gallons or more of malt beverages in an area where the sale of
11 alcoholic beverages is restricted or prohibited under AS 04.11.491 creates a
12 presumption that the person possessed the alcoholic beverages for sale;

13 (2) sends, transports, or brings more than 10 1/2 [12] liters of distilled
14 spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages to an area

1 where the sale of alcoholic beverages is restricted or prohibited under AS 04.11.491
 2 creates a presumption that the person sent, transported, or brought the alcoholic
 3 beverages for sale in the area.

4 * Sec. 2. AS 04.16.220(a) is amended to read:

5 (a) The following are subject to forfeiture:

6 (1) alcoholic beverages manufactured, sold, offered for sale, [OR]
 7 possessed for sale, or bartered or exchanged for goods and services in this state in
 8 violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or
 9 otherwise stored in violation of AS 04.21.060; alcoholic beverages sold [,] or offered
 10 for sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages
 11 transported into the state and sold to persons not licensed under this chapter in
 12 violation of AS 04.16.170(b); alcoholic beverages transported in violation of
 13 AS 04.16.125;

14 (2) materials and equipment used in the manufacture, sale, offering for
 15 sale, possession for sale, or barter or exchange of alcoholic beverages for goods and
 16 services in this state in violation of AS 04.11.010; materials and equipment used in the
 17 stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060;
 18 materials and equipment used in the sale or offering for sale of an alcoholic beverage
 19 in an area in violation of a local option adopted under AS 04.11.491;

20 (3) aircraft, vehicles, or vessels used to transport [,] or facilitate the
 21 transportation of

22 (A) alcoholic beverages manufactured, sold, offered for sale,
 23 [OR] possessed for sale, or bartered or exchanged for goods and services in
 24 this state in violation of AS 04.11.010;

25 (B) property stocked, warehoused, or otherwise stored in
 26 violation of AS 04.21.060;

27 (C) alcoholic beverages imported into a municipality or
 28 established village in violation of AS 04.11.499;

29 (4) alcoholic beverages found on licensed premises that do not bear
 30 federal excise stamps if excise stamps are required under federal law;

31 (5) alcoholic beverages, materials, or equipment used in violation of

1 AS 04.16.175;

2 (6) money, securities, negotiable instruments, or other things of value
3 used in financial transactions or items of value purchased from the proceeds
4 derived from activity prohibited under AS 04.11.010 or in violation of a local option
5 adopted under AS 04.11.491.

6 * Sec. 3. AS 04.16.220(c) is amended to read:

7 (c) Within 30 days after [OF] a seizure under this section, the Department of
8 Public Safety shall make reasonable efforts to ascertain the identity and whereabouts
9 of any person holding an interest or an assignee of a person holding an interest in the
10 property seized, including a right to possession, [A] lien, mortgage, or conditional
11 sales contract. The Department of Public Safety shall notify the person ascertained to
12 have an interest in property seized of the impending forfeiture, and, before forfeiture,
13 the Department of Law shall publish, once a week for four consecutive calendar
14 weeks, a notice of the impending forfeiture in a newspaper of general circulation in the
15 judicial district in which the seizure was made [,] or, if no newspaper is published in
16 that judicial district, in a newspaper published in the state and distributed in that
17 judicial district. Upon service or publication of notice of commencement of a
18 forfeiture action under this section, a person claiming an interest in the property
19 shall file, within 30 days after the service or publication, a notice of claim setting
20 out the nature of the interest, the date it was acquired, the consideration paid,
21 and an answer to the state's allegations. If a claim and answer is not filed within
22 the time specified, the property described in the state's allegation must be
23 ordered forfeited to the state without further proceedings or showings. Questions
24 of fact or law raised by a notice of forfeiture action and answer of a claimant in
25 an action commenced under this section must be determined by the court sitting
26 without a jury. This proceeding may be held in abeyance until conclusion of any
27 pending criminal charges against the claimant under this title.

28 * Sec. 4. AS 04.16.220(d) is amended to read:

29 (d) Property subject to forfeiture under (a) of this section may be forfeited

30 (1) upon conviction of a person for a violation of AS 04.11.010,
31 04.11.499, AS 04.16.125, AS 04.21.060, or AS 04.11.501 or an ordinance adopted

1 under AS 04.11.501; or

2 (2) upon judgment by the superior court in a proceeding in rem that the
3 property was used in a manner subjecting it to forfeiture under (a) of this section.

4 * Sec. 5. AS 04.21.080(b) is amended by adding a new paragraph to read:

5 (17) "manufacture" means the creation of alcoholic content by use of
6 fermentation with natural or artificial sugar or yeast or distillation.

**Draft Interim Report of the
Alaska Rural Justice and Law Enforcement
Commission**

Attached

Chapter 1: *Statement of Need*

Appendix G: *Attachments for the Alcohol Importation
Recommendations*

The Report can be found in full at the following url:
http://www.aipc.org/site_documents/Draft%20Interim%20Report-2.mht

Chapter I. Statement of Need

The Alaska Rural Justice and Law Enforcement Commission was created by Congress to respond to a number of needs related to justice and law enforcement in rural Alaska that are detailed in the congressional language (Public Law 108-199). This chapter of the Commission's Final Report reviews current conditions in rural Alaska, recounts the history of law enforcement in rural Alaska, recognizes some of the improvements in rural Alaska that have occurred in recent years, and presents excerpts of the testimony given to the Commission during the public hearings.

A. Current Conditions

1. *Problems the Commission has been asked to address*

Like all communities nationwide, residents of remote, rural Alaska grapple with family violence, child abuse and neglect, and alcohol addiction. Unlike other communities, however, many remote rural residents in Alaska lack a law enforcement presence in their communities and face the highest alcohol abuse and family violence rates in the country. Congress asked the Commission to consider various options that might address these issues, including creation of a unified law enforcement and judicial system, cross deputization, and restorative justice methods to address family violence, child protection and alcohol consumption. This charge reflects congressional concern about the profound challenges facing rural Alaska.

Alcohol abuse presents profound challenges in rural Alaska; its effects are insidious, affecting and influencing the health and welfare of all who live there. As the Alaska Natives Commission reported more than a decade ago:

Facts do not lie: alcohol abuse among Alaska Natives equals tragedy for family and village. It is proven that alcohol abuse equals violence, imprisonment, and death. It is proven that alcohol abuse in the Native family results in frightened, psychologically disordered children. Alcohol abuse leaves FAS, FAE, and a myriad other physical and psychological symptoms in its destructive wake.^{1[3]}

Last year the Institute of Social and Economic Research (ISER), University of Alaska Anchorage, in its *The Status of Alaska Natives Report 2004, Volume 1*, stated, "Analysts say that the most difficult social problems in the Native community – from high rates of suicide to domestic violence and child abuse – can be traced in large part to alcohol."^{2[4]} The costs to Alaska are not only social. Financially, it is estimated that alcohol abuse and alcoholism cost Alaska well over \$615,000,000 a year.^{3[5]}

The Commission emphasizes that alcohol abuse and alcoholism in rural Alaska are not *Native* problems, *per se*, but rather problems for Natives and non-Natives alike.

But the Commission also acknowledges that over 66% of the population in rural Alaska is Native^{4[6]} and that recommendations in this report that mention the importance of culturally appropriate approaches predominantly focus on Alaska Natives. However, that is not intended to imply that these approaches are inappropriate for non-Natives living in rural Alaska.

The impacts of substance abuse and the relevance of finding effective means to prevent alcohol and other drugs from reaching rural Alaska communities that have, through local option laws, decided to ban, partially or wholly, alcohol^{5[7]} are important threads in the fabric of society in rural Alaska, as they have been in the Commission's work over the last ten months. Numerous statistics point to the continuing – and in many cases growing – overrepresentation of Alaska Natives from rural Alaska among children in need of aid, victims and perpetrators of domestic violence and sexual assault, and other crimes. The percentage of Native children under the care of the Office of Children's Services hovers close to 50% and the numbers of Native youth and adults in Alaska's juvenile justice and correctional systems are similarly disproportionately large. The justice systems in rural Alaska struggle to find locally and culturally appropriate ways to manage offenders in a way that minimizes negative impacts to families and communities and strives to restore harmony quickly. There are frequent "disconnects" between tribal and state court systems, and disputes over jurisdiction continue throughout rural Alaska. In the mean time, rural residents criticize the inadequacies of current law enforcement and public safety in much of rural Alaska, but an affordable and acceptable resolution has yet to be found.

Domestic violence, child abuse, child neglect, and sexual assault are major problems in rural Alaska. The following quote highlights the experiences of one Alaskan researcher:

In Alaska, we often see abusive partners who have relocated their families to remote communities to isolate them from the support of their friends and family, and to more easily track and control their movements. Victims may be held hostage in their own homes with no winter clothing or means of escaping their extreme isolation. Deprivation and isolation become powerful tools to control victims.

One survivor, who shares her story to help others understand the dynamics of abuse in rural communities, described how her husband stranded her and their new baby at a remote fish camp for several weeks without enough food, medications and other essentials. Eventually, she was able to escape her abusive marriage and became a domestic violence outreach worker to remote villages in the Arctic. Although she struggles with debilitating, long-term health problems secondary to the abuse, she survived. Her former husband murdered his next wife.

When domestic violence services are available in rural regions, they face additional challenges in maintaining security and accommodating rural lifestyles. In Alaska, none of the shelter locations are secret – the communities are too small to hide a facility. Maniilaq Family Crisis Center, a victims' assistance program and shelter in northwestern Alaska, offers a safe haven to victims and the animals that they are often unwilling to leave behind. The center uses a snowmobile to pick up clients and has a fenced yard where clients can keep their dog teams and other animals. Susan Jones, the center's executive director, takes threats against victims' pets seriously. The murder or mutilation of a pet by an abusive partner is another indicator of escalating domestic violence.^{6[8]}

Statistics reported by the Alaska Council on Domestic Violence and Sexual Assault highlight the seriousness and widespread nature of the situation in Alaska:^{7[9]}

- In calendar year 2002 the Division of Family and Youth Services (now the Office of Children's Services) received 1,475 reports of suspected child sexual abuse.
(Division of Family and Youth Services, State of Alaska)
- On average, an Alaska woman is forcibly raped every 18 hours and 17 minutes.
(Alaska Uniform Crime Report, 2001)
- During FY 2002, 1,851 victims of sexual assault sought services from victim service programs in Alaska.
(Council on Domestic Violence and Sexual Assault, State of Alaska)
- 311 sexual assault cases and 241 sexual abuse of a minor cases were referred to Alaska District Attorney offices in 2001.
(Department of Law, State of Alaska)

Domestic violence, child abuse, child neglect, and sexual assault, especially in rural Alaska and in the Alaska Native population, represent major issues that need new, creative solutions to resolve.

Part of the solution may lie in enhanced or altered rural law enforcement. Accordingly, the Commission also has been asked to study issues related to law enforcement in rural Alaska. A brief history will help put the current systems in perspective.

APPENDIX G

ATTACHMENTS FOR RECOMMENDATIONS RELATED TO

THE DEFINITION OF ALCOHOL MANUFACTURE

FORFEITURE

QUANTITY CONSISTENCY

Attachment 1: Definition of Alcohol Manufacture

The suggested statutory changes are as follows.

Put in AS 04.21.080(b) alcohol definition section: **"manufacture" of alcoholic beverages means to use the fermentation process with natural or artificial sugar and yeast, or the distillation process, to create alcoholic content.**

The statutes currently do not have a definition for "manufacture" as it relates to alcohol, but below are the definitions of Title 4 "alcoholic beverage" and Title 11.71 drug cases "manufacture".

AS 04.21.080(b)(1) "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage and that contains one-half of one percent or more of alcohol by volume, whether produced commercially or privately; however, in an area that has adopted a local option under AS 04.11.491, "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage by the person who possesses or attempts to possess it and that contains alcohol in any amount if the liquid is produced privately, or that contains one-half of one percent or more of alcohol by volume, if the liquid is produced commercially;

AS 11.71.900(13) "manufacture"

A. means the production, preparation, propagation, compounding, conversion, growing, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; however, the growing of marijuana for personal use is not manufacturing;

B. includes the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance or its container unless done in conformity with applicable federal law

(i) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(ii) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

Attachment 2: Forfeiture

Below are the current provisions of the forfeiture statute as applies to alcohol offenses. Added in **bold** are the suggested statutory changes.

AS 04.16.220

(a) The following are subject to forfeiture:

(1) alcoholic beverages manufactured, sold, offered for sale or possessed for sale, bartered or exchanged for goods and services in this state in violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or otherwise stored in violation of AS 04.21.060; alcoholic beverages sold, or offered for sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages transported into the state and sold to persons not licensed under this chapter in violation of AS 04.16.170(b); **alcoholic beverages transported in violation of AS 04.16.125.**

(2) materials and equipment used in the manufacture, sale, offering for sale, possession for sale, barter or exchange of alcoholic beverages for goods and services in this state in violation of AS 04.11.010; materials and equipment used in the stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060; materials and equipment used in the sale or offering for sale of an alcoholic beverage in an area in violation of a local option adopted under AS 04.11.491;

(3) aircraft, vehicles, or vessels used to transport, or facilitate the transportation of

(A) alcoholic beverages manufactured, sold, offered for sale or possessed for sale, bartered or exchanged for goods and services in this state in violation of AS 04.11.010;

(B) property stocked, warehoused, or otherwise stored in violation of AS 04.21.060;

(C) alcoholic beverages imported into a municipality or established village in violation of AS 04.11.499;

(4) alcoholic beverages found on licensed premises that do not bear federal excise

(5) alcoholic beverages, materials or equipment used in violation of AS 04.16.175;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions, **or items of value purchased from the proceeds** derived from activity prohibited under AS 04.11.010 or in violation of a local option adopted under AS 04.11.491; **and**

(7) **a firearm which is visible, carried during, or used in furtherance of a violation of Title 4.**

(b) Property subject to forfeiture under this section may be actually or constructively seized under an order issued by the superior court upon a showing of probable cause that the property is subject to forfeiture under this section. Constructive seizure is effected upon posting a signed notice of seizure on the item to be forfeited, stating the violation and the date and place of seizure. Seizure without a court order may be made if

(1) the seizure is incident to a valid arrest or search;

(2) the property subject to seizure is the subject of a prior judgment in favor of the state; or

(3) there is probable cause to believe that the property is subject to forfeiture under

(a) of this section; except for alcoholic beverages possessed on violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501, property seized under this paragraph may not be held over 48 hours or until an order of forfeiture is issued by the court, whichever is earlier.

(c) Within 30 days of a seizure under this section the Department of Public Safety shall make reasonable efforts to ascertain the identity and whereabouts of any person holding an interest or

an assignee of a person holding an interest in the property seized, including a right to possession, a lien, mortgage, or conditional sales contract. The Department of Public Safety shall notify the person ascertained to have an interest in property seized of the impending forfeiture, and before forfeiture the Department of Law shall publish, once a week for four consecutive calendar weeks, a notice of the impending forfeiture in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district.

(d) Property subject to forfeiture under (a) of this section may be forfeited

(1) upon conviction of a person for a violation of AS 04.11.010 , 04.11.499, AS 04.21.060 , or AS 04.1.501 or an ordinance adopted under AS 04.11.501, or AS 04.16.125 ; or

2) upon judgment by the superior court in a proceeding in rem that the property was used in a manner subjecting it to forfeiture under (a) of this section. Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file within 30 days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings.

Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant.

(e) The owner of property subject to forfeiture under (a) or (i) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the owner shows that the owner

(1) was not a party to the violation;

(2) had no actual knowledge or reasonable cause to believe that the property was used or was to be used in violation of the law; and

(3) had no actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this title; or

(B) committed other violations of this title.

(f) A person other than the owner holding, or the assignee of, a lien, mortgage, conditional sales contract on, or the right to possession to property subject to forfeiture under (a) or (i) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the person shows that the person

(1) was not a party to the violation subjecting the property to forfeiture; and

(2) had no actual knowledge or reasonable cause to believe that the property was to be used in violation of the law; and

(3) had no actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this title; or

(B) committed other violations of this title.

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

- (1) order the forfeiture of an aircraft to the state;
- (2) order the forfeiture of a vehicle or watercraft if
 - (A) the defendant has a prior felony conviction for a violation of AS 11.41 or a similar law in another jurisdiction;
 - (B) the defendant is on felony probation or parole; the defendant has a prior conviction for violating AS 04.11.010 or 04.11.499; or
 - (C) the quantity of alcohol transported in violation of this title was twice the presumptive amounts in AS 04.11.010(c).

(j) Notwithstanding (i) of this section, a court is not required to order the forfeiture of a vehicle or watercraft if the court determines that

- (1) the vehicle or watercraft is the sole means of transportation for a family residing in a village;
- (2) the court may impose conditions that will prevent the defendant's use of the vehicle or watercraft; and
- (3) either
 - (A) a member of the family would be entitled to remission under this section if the family member were an owner of or held a security interest in the vehicle or watercraft; or
 - (B) if a member of the family would not be entitled to remission, the family member was unable as a practical matter to stop the violation making the vehicle or watercraft subject to forfeiture.

(k) When forfeiting property under (a), (d), or (i) of this section, a court may award to a municipal law enforcement agency that participated in the arrest or conviction of the defendant, the seizure of property, or the identification of property for seizure, (1) the property if the property is worth \$5,000 or less and is not money or some other thing that is divisible, or (2) up to 75 percent of the property or the value of the property if the property is worth more than \$5,000 or is money or some other thing that is divisible. In determining the percentage a municipal law enforcement agency may receive under this subsection, the court shall consider the municipal law enforcement agency's total involvement in the case relative to the involvement of the state.

- (l) In this section, "village" means a community of fewer than 1,000 persons located off the interconnected state road system.

Current forfeiture provisions relating to controlled substances below

AS 17.30.110. Items Subject to Forfeiture.

The following may be forfeited to the state:

- (1) a controlled substance which has been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or AS 11.71;
- (2) raw materials, products, and equipment which are used or intended for use in manufacturing, distributing, compounding, processing, delivering, importing, or exporting a controlled substance which is a felony under this chapter or AS 11.71;
- (3) property which is used or intended for use as a container for property described in (1) or (2) of this section;
- (4) a conveyance, including but not limited to aircraft, vehicles, or vessels, which has been used or is intended for use in transporting or in any manner in facilitating the

transportation, sale, receipt, possession, or concealment of property described in (1) or (2) of this section in violation of a felony offense under this chapter or AS 11.71; however,

(A) a conveyance may not be forfeited under this paragraph if the owner of the conveyance establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the owner was neither a consenting party nor privy to the violation;

(B) a forfeiture of a conveyance encumbered by a valid security interest at the time of seizure is subject to the interest of the secured party if the secured party establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the secured party was neither a consenting party nor privy to the violation;

(5) books, records, and research products and materials, including formulas, microfilm, tapes, and data, which are used in violation of this chapter or AS 11.71;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited by this chapter or AS 11.71; and

(7) a firearm which is visible, carried during, or used in furtherance of a violation of this chapter or AS 11.71.

AS 17.30.116. Procedure For Forfeiture Action.

(a) Within 20 days after a seizure under AS 17.30.110 - 17.30.126, the commissioner of public safety shall, by certified mail, notify any person known to have an interest in an item with an appraised value of \$500 or more, or who is ascertainable from official registration numbers, licenses, or other state, federal, or municipal numbers on the item, of the pending forfeiture action. Additionally, the commissioner of public safety shall publish notice of forfeiture action of an item valued at \$500 or more in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district. The notice shall be published once each week during four consecutive calendar weeks. The requirements of this subsection do not apply to the forfeiture of controlled substances which have been manufactured, distributed, dispensed, or possessed in violation of this chapter or AS 11.71, regardless of their value.

(b) Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file within 30 days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings.

(c) Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant under this chapter or AS 11.71.

The most common item bootlegged is R&R whiskey (distilled spirits). The quantity of 14 bottles (750 ml size) equals 10 and one half liters. (16 -750 ml bottles equals 12 liters.) As seen below, the quantity amounts for malt beverages and wine are essentially equivalent for presumptive sale, felony importation and allowable shipping to a sale-restricted location.

The suggested statutory change would make the quantity in AS 04.11.010 consistent if stated "10 and one half liters or more of distilled spirits".

Currently, the statutes provide:

AS 04.11.010 presumptive amount for sale is possession more than 12 liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages.

AS 04.16.200(e)(2) amount that makes importation into a dry location a felony is 10 and one half liters or more of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages.

AS 04.11.140(g) package store license permits shipping monthly to a damp (restriction of sale) location 10 and one half liters of distilled spirits, less than 24 liters of wine, or less than 12 gallons of malt beverages.

Alcoholic Beverage Control Board
 5848 East Tudor Road
 Anchorage AK 99507
 Douglas B. Griffin
 (907) 269-0350 Fax (907) 272-9412

SCHEDULE OF LOCAL OPTION COMMUNITIES
 Updated July 29, 2005

City	Ban sale	Community license only	Ban sale and importation	Ban possession	Package store license only	Vote Tally	Election date	Certification date	Effective date
Akiak			1			38-15	07-17-91	08-21-91	09-01-91
Akiachak			1			40-13	08-07-01	08-23-01	09-01-01
Akiachak				1		40-13	08-07-01	08-23-01	10-22-01
Alakanuk			1			94-24	07-20-81	07-27-81	08-01-81
Alakanuk				1		47-7	02-06-90	02-12-90	03-01-90
Allakaket			1			49-30	05-12-89	05-19-89	06-01-89
Allakaket				1		45-34	05-12-89	05-19-89	08-17-89
Ambler			1				12-15-81	12-15-81	01-01-82
Anvik	1					23-6	1/16/2002	1/21/2002	2/1/2002
Anaktuvuk Pass			1			78-11		1982	01-01-83
Anaktuvuk Pass				1		59-45	11-04-86	12-16-86	01-01-87
Angoon				1		92-40	07-26-88	08-01-88	11-01-88
Atmautluak			1			60-12	10-06-81	04-29-82	05-01-82
Atkasuk			1			59-43	04-15-03	04-21-03	05-01-03
Atkasuk				1		59-43	04-15-03	04-21-03	06-30-03
Barrow	1					911-789	10-07-97	10-09-97	11-01-97
Beaver*			1			17-11	06-15-04	07-09-04	08-01-04
Beaver*				1		17-11	06-15-04	07-09-04	08-01-04
Bethel	1					611-207	10-04-77	10-06-77	11-01-77
Birch Creek*				1		13-2	10-06-87	10-22-87	11-01-87
Brevig Mission			1	1		34-32	03-03-99		05-03-99
Buckland			1			52-6	05-10-82	05-11-82	06-01-82
Chalkyitsik*			1			21-2	07-20-82	07-28-82	08-01-82
Chefornak			1			48-29	10-14-82	10-15-82	11-01-82
Chevak			1			88-63	10-02-90	10-02-90	11-01-90
Deering			1			32-24	05-26-82	06-01-82	07-01-82
Diamond			1			27-11	09-10-81	09-29-81	10-01-81
Eek			1			90-15	11-27-82	11-27-82	12-01-82
Elim			1			49-17	08-24-81	08-27-81	09-01-81
Emmonak			1			54-12	10-12-81	10-12-81	11-01-81
Emmonak				1		104-89	10-01-91	10-07-91	07-14-92
False Pass					1	34-6	10/2/2001	10/5/2001	11/1/2001
Fort Yukon		1							
Gulkana			1			17-3	01-14-97	01-28-97	02-01-97
Gulkana				1		17-3	01-14-97	01-28-97	03-30-97
Gambell			1			79-10	08-22-81	08-25-81	09-01-81
Gambell				1		72-13	12-23-86	12-29-86	01-01-87
Golovin			1			31-22	01-16-84	01-17-84	02-01-84

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Alcoholic Beverage Control Board
 5848 East Tudor Road
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SCHEDULE OF LOCAL OPTION COMMUNITIES
 Updated July 29, 2005

City	Ban sale	Community license only	Ban sale and importation	Ban possession	Package store license only	Vote Tally	Election date	Certification date	Effective date
Goodnews Bay			1			36-25	11-08-83	11-08-83	12-01-83
Goodnews Bay				1		37-11	01-14-91	01-18-91	02-01-91
Grayling	1					36-27	11-05-96	11-12-96	12-01-96
Holy Cross	1					42-31	10-03-00	10-06-00	11-01-00
Hooper Bay			1			103-44	03-01-83	03-01-83	04-01-83
Hughes	1					17-4	03-02-93	03-29-93	04-01-93
Huslia	1					37-13	03-14-89	03-23-89	04-01-89
Iliamna*	1					35-24	10-05-82	10-25-82	01-23-83
Kake		1							
Kaktovik				1		56-39	08-01-89	08-07-89	11-05-89
Kasigluk			1			74-3	10-04-83	10-17-83	11-01-83
Kiana			1			81-38	12-08-87	12-17-87	01-01-88
Kipnuk*			1			82-7	10-05-82	10-25-82	11-01-82
Kivalina			1			79-33	01-08-85	01-09-85	02-01-85
Klawock		1				111-70	10-05-93	10-11-93	10-11-93
Kobuk			1			15-12	03-29-89	04-03-89	05-01-89
Kokhanok*	1					31-18	6/28/2005	7/14/2005	8/1/2005
Kongiganak*			1	1		41-10	04-23-96	05-27-84	06-01-96
Kotlik			1			67-15	09-08-81	09-30-81	10-01-81
Kotlik				1		51-22	03-24-87	03-25-87	04-01-87
Kotzebue	1					643-438	12-06-88	12-07-88	01-01-89
Koyuk			1			57-8	08-25-81	08-26-81	09-01-81
Kwethluk			1			82-30	01-01-82	02-24-82	03-01-82
Kwigillingok*			1			63-5	08-09-83	09-01-83	10-01-83
Lower Kalskag			1			46-31	11-05-91	11-07-91	12-01-91
Manokotak			1			79-9	01-29-86	02-01-88	03-01-88
Manokotak				1		80-8	01-29-88	02-01-88	03-01-88
Marshall (Fortuna)			1			42-16	07-25-81	07-26-81	08-01-81
Marshall				1		37-34	10-07-86	10-08-86	11-01-86
Mekoryuk			1			48-10	09-01-81	09-02-81	10-01-81
Mekoryuk				1		42-29	10-07-86	10-08-86	11-01-86
Minto*			1			59-34	07-12-83	07-21-83	08-01-83
Mountain Village			1			72-52	03-13-84	03-19-84	04-01-84
Nanwalek/ English Bay	1					47-29	01-13-98	01-26-98	02-01-98
Napakiak			1			54-14	03-31-82	03-31-82	04-01-82
Napakiak				1		62-14	05-05-87	05-19-87	06-01-87

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Napaskiak			1			55-4	11-01-82	11-08-82	12-01-82
Naukati				1		31-13	03-26-96	04-08-96	05-01-96
Newtok			1			37-9	10-30-84	11-02-84	12-01-84
Nightmute			1			32-3	02-02-96	02-06-96	03-01-96
Nightmute				1		32-4	02-02-96	02-06-96	04-09-96
Nikolai	1		1			28-16	5/20/1997		8/5/1997
Noatak*			1			69-53	12-07-82	12-22-82	01-01-83
Nondalton	1					46-30	11-10-86	12-30-86	01-28-87
Noorvik			1			103-58	04-28-87	04-28-87	05-01-87
Nuiqsut			1			57-39	11-21-83	11-22-83	12-01-83
Nuiqsut				1		60-56	11-04-86	11-12-86	12-01-86
Nunapitchuk			1			106-35	09-15-81	10-02-81	11-01-81
Nunapitchuk				1		75-23	10-07-86	10-13-86	11-01-86
Pilot Station			1			93-76	03-04-03	03-04-03	04-01-03
Platinum			1			12-9	01-14-82	01-25-82	02-01-82
Point Hope			1			62-39	06-29-82	07-02-82	08-01-82
Point Hope				1			10-03-89	10-09-89	11-01-89
Poin' Lay*			1			30-15	07-01-86	07-11-86	08-01-86
Port Alexander	1					31-16	01-05-82	01-11-82	02-01-82
Port Protection*				1		23-9	03-27-88	04-05-88	05-01-88
Quinhagak			1			77-26	10-30-81	10-31-81	11-01-81
Quinhagak				1		71-27	10-06-87	10-12-87	11-01-87
Red Devil*	1					17-8	02-20-90	04-27-90	07-26-90
Russian Mission			1			46-22	10-06-87	10-27-87	11-01-87
Saint Mary's	1					90-86	08-23-94	09-02-94	10-01-94
Saint Mary's			1			63-48	09-22-81	09-28-81	10-01-81
Saint Michael			1			39-21	08-04-86	08-07-86	09-01-86
Savoonga			1	1		117-56	10-07-87	10-10-97	12-09-97
Scammon Bay			1			57-10	12-07-81	12-08-81	01-01-82
Scammon Bay				1		71-25	10-06-87	10-12-87	11-01-87
Selawik			1			89-69	12-17-86	12-22-86	01-01-87
Shageluk	1					29-25	2/20/2001	3/19/2001	4/1/2001
Shaktolik			1			34-28	03-13-84	03-15-84	04-01-84
Sheldon Point (Nunam Iqua)			1			26-7	08-26-86	08-27-86	09-01-86
Shishmaref			1			82-47	01-04-83	01-04-83	02-01-83
Shungnak			1			46-44	10-06-87	10-10-87	11-01-87
Stebbins			1			88-19	08-25-87	10-08-87	11-01-87
Stevens Village*			1			31-11	06-05-84	06-15-84	07-01-84

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 Updated July 29, 2005

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Tanacross*				1		32-5	05-17-88	05-31-88	06-01-88
Tanana		1				90-15	01-12-82	01-13-82	02-01-82
Takotna	1					22-8	08-24-99	09-09-99	12-08-99
Tatitlek*			1			28-15	08-23-83	09-13-83	12-09-99
Teller	1					55-41	11-13-97	11-14-97	01-14-98
Tetlin*			1			54-7	12-07-82	12-22-82	01-01-83
Togiak			1			96-23	05-03-82	05-04-82	06-01-82
Togiak				1		80-38	10-07-86	10-31-86	11-01-86
Toksook Bay			1			78-32	11-23-81	11-23-81	12-01-81
Tuluksak			1			61-16	10-05-82	10-05-82	11-01-82
Tuluksak				1		55-12	04-12-94	04-25-94	05-01-94
Tuntutuliak			1			47-20	07-20-82	08-02-82	09-01-82
Tuntutuliak				1		41-22	10-06-87	10-28-87	11-01-87
Tununak			1			90-11	08-12-81	08-13-81	09-01-81
Twin Hills			1			13-5	03-14-00	03-30-00	04-01-00
Twin Hills				1		13-5	03-14-00	03-30-00	05-30-00
Unalakleet	1					121-40	04-14-92	04-16-92	05-01-92
Upper Kalskag			1			38-30	01-20-93	02-22-93	03-01-93
Wainwright			1			61-42	07-08-82	07-14-82	08-01-82
Wales			1			29-21	08-14-81	08-17-81	09-01-81
TOTALS	20	4	77	32	3				

CHANGES THIS UPDATE:

Kokhranok voted to ban sale **effective August 1, 2005**.
 This is a change relaxing the previous restrictions against sale & importation.

This schedule is continuously updated as dictated by ongoing elections. If you have any questions, please do not hesitate to call the ABC Board office at 907-269-0350.