

**SB**

**284**

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 2/13/06

FURTHER: Finance

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

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

Judiciary Committee considered      SENATE BILL NO. 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 \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

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

**NEW FISCAL NOTE(S):**

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

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			
<i>[Signature]</i>	X			
<b>CHAIR:</b> <i>Ralph DeLuca</i>	✓			

24-LS0581Y  
Luckhaupt  
3/1/06

**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 a felony while under the influence**  
2 **of 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 the  
10 alcohol was provided by, and consumed under the direction of, a health care  
11 professional as part of medical treatment of the defendant.

12 (c) Except as provided in (e) of this section, consumption of alcohol in  
13 violation of sentence is a class A misdemeanor.

14 (d) In this section, "consumption of alcohol" means to ingest, orally or

1 otherwise, alcohol or any substance containing alcohol, except the use of non-  
2 prescription medications in doses and for purposes recommended by the manufacturer  
3 or approved by the FDA.

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

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

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

9 (1) impose a

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

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

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

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

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

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

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

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

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

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

29 (10) order the defendant, while incarcerated, to participate in or  
30 comply with the treatment plan of a rehabilitation program that is related to the  
31 defendant's offense or to the defendant's rehabilitation if the program is made available

1 to the defendant by the Department of Corrections;

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

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

9 (13) if the court finds by clear and convincing evidence that the  
10 defendant's conduct constituting the offense was substantially influenced by the  
11 consumption of alcohol, order the defendant convicted of a felony under AS 11.41  
12 to refrain from consuming alcohol, subject to AS 11.56.768, up to the lifetime of  
13 the defendant, including during the term of any sentence, and as a condition of  
14 probation, suspended sentence, and suspended imposition of sentence.

15 \* Sec. 3. AS 28.35.030(b) is amended to read:

16 (b) Except as provided under (n) of this section, driving while under the  
17 influence of an alcoholic beverage, inhalant, or controlled substance is a class A  
18 misdemeanor. Except as provided under (p) of this section, upon conviction,

19 (1) the court shall impose a minimum sentence of imprisonment of

20 (A) not less than 72 consecutive hours and a fine of not less  
21 than \$1,500 if the person has not been previously convicted;

22 (B) not less than 20 days and a fine of not less than \$3,000 if  
23 the person has been previously convicted once;

24 (C) not less than 60 days and a fine of not less than \$4,000 if  
25 the person has been previously convicted twice and is not subject to  
26 punishment under (n) of this section;

27 (D) not less than 120 days and a fine of not less than \$5,000 if  
28 the person has been previously convicted three times and is not subject to  
29 punishment under (n) of this section;

30 (E) not less than 240 days and a fine of not less than \$6,000 if  
31 the person has been previously convicted four times and is not subject to

1 punishment under (n) of this section;

2 (F) not less than 360 days and a fine of not less than \$7,000 if  
3 the person has been previously convicted more than four times and is not  
4 subject to punishment under (n) of this section;

5 (2) the court may not

6 (A) suspend execution of sentence or grant probation except on  
7 condition that the person

8 (i) serve the minimum imprisonment under (1) of this  
9 subsection; and

10 (ii) pay the minimum fine required under (1) of this  
11 subsection;

12 (B) suspend imposition of sentence;

13 (3) the court shall revoke the person's driver's license, privilege to  
14 drive, or privilege to obtain a license under AS 28.15.181, and may order that the  
15 motor vehicle, aircraft, or watercraft that was used in commission of the offense be  
16 forfeited under AS 28.35.036; [AND]

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

22 (5) if the court finds by clear and convincing evidence that the  
23 defendant's conduct constituting the offense was substantially influenced by the  
24 consumption of alcohol, the court may order the defendant previously convicted  
25 two or more times or whose offense resulted in death or serious physical injury to  
26 another person to refrain from consuming alcohol, subject to AS 11.56.768, for a  
27 period of time up to the lifetime of the defendant, including during the term of  
28 any sentence, and as a condition of probation and suspended sentence.

29 \* Sec. 4. AS 28.35.030(n) is amended to read:

30 (n) A person is guilty of a class C felony if the person is convicted under (a) of  
31 this section and either has been previously convicted two or more times since

1 January 1, 1996, and within the 10 years preceding the date of the present offense, or  
2 punishment under this subsection or under AS 26.35.032(p) was previously imposed  
3 within the last 10 years. For purposes of determining minimum sentences based on  
4 previous convictions, the provisions of (t)(4) of this section apply. Upon conviction,  
5 the court

6 (1) shall impose a fine of not less than \$10,000 and a minimum  
7 sentence 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 probation except on  
15 condition that the person

16 (i) serve the minimum imprisonment under (1) of this  
17 subsection; and

18 (ii) pay the minimum fine required under (1) of this  
19 subsection; or

20 (B) suspend imposition of sentence;

21 (3) shall permanently revoke the person's driver's license, privilege to  
22 drive, or privilege to obtain a license subject to restoration of the license under (o) of  
23 this section;

24 (4) may order that the person, while incarcerated or as a condition of  
25 probation or parole, take a drug or combination of drugs, intended to prevent the  
26 consumption of an alcoholic beverage; a condition of probation or parole imposed  
27 under this paragraph is in addition to any other condition authorized under another  
28 provision of law;

29 (5) shall order forfeiture under AS 28.35.036 of the vehicle, watercraft,  
30 or aircraft used in the commission of the offense, subject to remission under  
31 AS 26.35.037; [AND]

1 (6) shall order the department to revoke the registration for any vehicle  
 2 registered by the department in the name of the person convicted under this  
 3 subsection; if a person convicted under this subsection is a registered co-owner of a  
 4 vehicle or is registered as a co-owner under a business name, the department shall  
 5 reissue the vehicle registration and omit the name of the person convicted under this  
 6 subsection; and

7 (7) if the court finds by clear and convincing evidence that the  
 8 defendant's conduct constituting the offense was substantially influenced by the  
 9 consumption of alcohol may order the defendant to refrain from consuming  
 10 alcohol, subject to AS 11.56.768, for a period of time up to the lifetime of the  
 11 defendant, including during the term of any sentence, and as a condition of  
 12 probation and suspended sentence.

13 \* Sec. 5. AS 28.35.032(g) is amended to read:

14 (g) Except as provided under (r) of this section, upon conviction under this  
 15 section,

16 (1) the court shall impose a minimum sentence of imprisonment of

17 (A) not less than 72 consecutive hours and a fine of not less  
 18 than \$1,500 if the person has not been previously convicted;

19 (B) not less than 20 days and a fine of not less than \$3,000 if  
 20 the person has been previously convicted once;

21 (C) not less than 60 days and a fine of not less than \$4,000 if  
 22 the person has been previously convicted twice and is not subject to  
 23 punishment under (p) of this section;

24 (D) not less than 120 days and a fine of not less than \$5,000 if  
 25 the person has been previously convicted three times and is not subject to  
 26 punishment under (p) of this section;

27 (E) not less than 240 days and a fine of not less than \$6,000 if  
 28 the person has been previously convicted four times and is not subject to  
 29 punishment under (p) of this section;

30 (F) not less than 360 days and a fine of not less than \$7,000 if  
 31 the person has been previously convicted more than four times and is not

1 subject to punishment under (p) of this section;

2 (2) the court may not

3 (A) suspend execution of the sentence required by (1) of this  
4 subsection or grant probation, except on condition that the person

5 (i) serve the minimum imprisonment under (1) of this  
6 subsection; and

7 (ii) pay the minimum fine required under (1) of this  
8 subsection; or

9 (B) suspend imposition of sentence;

10 (3) the court shall revoke the person's driver's license, privilege to  
11 drive, or privilege to obtain a license under AS 28.15.181, and may order that the  
12 motor vehicle, aircraft, or watercraft that was used in commission of the offense be  
13 forfeited under AS 28.35.036,

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

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

21 (6) if the court finds by clear and convincing evidence that the  
22 defendant's conduct constituting the offense was substantially influenced by the  
23 consumption of alcohol, the court may order the defendant previously convicted  
24 two or more times or whose offense resulted in death or serious physical injury to  
25 another person to refrain from consuming alcohol, subject to AS 11.56.768, for a  
26 period of time up to the lifetime of the defendant, including during the term of  
27 any sentence, and as a condition of probation and suspended sentence.

28 \* Sec. 6. AS 28.35.032(p) is amended to read:

29 (p) A person is guilty of a class C felony if the person is convicted under this  
30 section and either has been previously convicted two or more times since January 1,  
31 1996, and within the 10 years preceding the date of the present offense, or punishment

1 under this subsection or under AS 28.35.030(n) was previously imposed within the  
2 last 10 years. For purposes of determining minimum sentences based on previous  
3 convictions, the provisions of AS 28.35.030(t)(4) apply. Upon conviction,

4 (1) the court shall impose a fine of not less than \$10,000 and a  
5 minimum sentence of imprisonment of not less than

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

7 (B) 240 days if the person has been previously convicted three  
8 times;

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

11 (2) the court may not

12 (A) suspend execution of the sentence required by (1) of this  
13 subsection or grant probation, except on condition that the person

14 (i) serve the minimum imprisonment under (1) of this  
15 subsection; and

16 (ii) pay the minimum fine required under (1) of this  
17 subsection; or

18 (B) suspend imposition of sentence;

19 (3) the court shall permanently revoke the person's driver's license,  
20 privilege to drive, or privilege to obtain a license subject to restoration under (q) of  
21 this section;

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

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

29 (6) the court shall order forfeiture under AS 28.35.036. of the motor  
30 vehicle, aircraft, or watercraft used in the commission of the offense, subject to  
31 remission under AS 28.35.037; [AND]

1 (7) the court shall order the department to revoke the registration for  
2 any vehicle registered by the department in the name of the person convicted under  
3 this subsection; if a person convicted under this subsection is a registered co-owner of  
4 a vehicle, the department shall reissue the vehicle registration and omit the name of  
5 the person convicted under this subsection; and

6 (8) if the court finds by clear and convincing evidence that the  
7 defendant's conduct constituting the offense was substantially influenced by the  
8 consumption of alcohol, the court may order the defendant to refrain from  
9 consuming alcohol, subject to AS 11.56.768, for a period of time up to the lifetime  
10 of the defendant, including during the term of any sentence, and as a condition of  
11 probation and suspended sentence.

12 \* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 APPLICABILITY. This Act applies to offenses committed on or after the effective  
15 date of this Act. References to previous convictions apply to convictions occurring before, on,  
16 or after the effective date of this Act.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 284  
 ( ) Publish Date: \_\_\_\_\_

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						
<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 (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: \_\_\_\_\_  
 Bill Version: SB 28  
 ( ) Publish Date: \_\_\_\_\_

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 RDU Legal and Advocacy Services  
of a felony while under the influence 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						
<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 (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

# Alaska State Legislature

SENATOR  
**GENE THERRIault**

Mailing Address:  
119 N. Cushman, Suite 101  
Fairbanks, Alaska 99701  
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Senate

While in session:  
State Capitol  
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99801-1182  
(907) 465-4797  
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SENATE DISTRICT F

## 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, a judge may impose as a condition of sentencing, a lifetime prohibition on the use of alcohol.

This legislation is intended to accomplish three main objectives. The first is to allow courts to permanently 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.

###

**SENATE BILL NO. 284**

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

**BY SENATOR THERRIAULT**

**Introduced: 2/13/06  
Referred: Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to sentencing for the commission of a felony while under the influence**  
2 **of 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 alcoholic beverage in violation of**  
6 **sentence.** (a) A person commits the crime of consumption of alcoholic beverage in  
7 violation of sentence if the person consumes an alcoholic beverage in violation of an  
8 order imposed under AS 12.55.015(a)(13).

9 (b) In a prosecution under this section, it is an affirmative defense that the  
10 alcoholic beverage was provided by, and consumed under the direction of, a health  
11 care professional as part of medical treatment of the defendant.

12 (c) Except as provided in (d) of this section, consumption of alcoholic  
13 beverage in violation of sentence is a class A misdemeanor.

14 (d) Consumption of alcoholic beverage is a class C felony if the defendant has

1           been previously convicted of violating this section.

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

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

5                   (1) impose a

6                           (A) fine when authorized by law and as provided in  
7                           AS 12.55.055; or

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

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

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

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

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

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

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

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

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

25                           (10) order the defendant, while incarcerated, to participate in or  
26                          comply with the treatment plan of a rehabilitation program that is related to the  
27                          defendant's offense or to the defendant's rehabilitation if the program is made available  
28                          to the defendant by the Department of Corrections;

29                           (11) order the forfeiture to the state of a motor vehicle, weapon,  
30                          electronic communication device, or money or other valuables, used in or obtained  
31                          through an offense that was committed for the benefit of, at the direction of, or in

1 association with a criminal street gang;

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

5 (13) if the court finds by clear and convincing evidence that the  
6 defendant's conduct constituting the offense was substantially influenced by the  
7 consumption of an alcoholic beverage, order the defendant convicted of a felony  
8 under AS 11.41 to refrain from consuming alcoholic beverages for the lifetime of  
9 the defendant, including during the term of any sentence, and as a condition of  
10 probation, suspended sentence, and suspended imposition of sentence.

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

13 APPLICABILITY. This Act applies to offenses committed on or after the effective  
14 date of this Act.

*We Possession purchase*

*for a period up to the [unclear]*

The ACLU continues to pick the wrong side of nearly every issue it chooses to get involved in, whether it's defending the Nazis' right to march in Jewish neighborhoods or NAMBLA's right to advocate that adults commit crimes against children – raping young boys.

The ACLU now is arguing against legislation that would allow judges to sentence some dangerous offenders to a lifetime of sobriety ("Measure Bans Booze for Lifetime," Empire, Sunday, February 19, 2006). Negative comment by the ACLU probably is the best endorsement the bill's sponsor could ask for.

Senate Bill 284, introduced by Senator Gene Therriault, is an innovative approach to a difficult social problem. The bill would allow judges to impose a lifetime alcohol ban when they believe continued alcohol consumption will likely lead to more violent acts by the defendant. The primary point of the legislation, completely missed by the ACLU, is that the offender ultimately will have a better chance of staying out of prison and there will be fewer victims.

The ACLU takes the Murkowski administration, specifically the Department of Corrections, to task for 'gutting' programs. As usual, the ACLU has it wrong. Corrections only eliminated short-term, institutional substance abuse programs. These were one hour twice per week counseling sessions to discuss substance abuse issues. There was little 'treatment,' and there was no empirical evidence that these counseling sessions had any measurable impact on behavior.

Instead, Corrections chose to invest in long-term, intensive residential substance abuse treatment programs in its institutions. These are twelve to fourteen-month programs based on a therapeutic community model where offenders are in treatment 24-hours a day, rather than two-hours a week. Data shows that 80 per cent of prisoners completing these programs maintained sobriety six-months after release. Corrections recently added a third state-approved residential treatment program at the contract facility in Arizona.

I have no idea why the ACLU used legislation that would ban booze to dangerous offenders to comment on sex offenders, but in any case, here again the ACLU got it wrong. Corrections is implementing a comprehensive program considered best practice in the field of sex offender management. The "containment model" is designed to monitor, treat and contain sex offenders to reduce victimization and protect the public. Supervision by probation officers is combined with sex offender treatment and polygraph examination to better treat and monitor offenders. The goal of this enhanced program is to proactively manage sex offenders in order to reduce victimization, protect Alaska communities and to enable offenders to comply with conditions and to cease all criminal behavior.

The Murkowski administration is committed to a higher level of public safety for all Alaskans and has worked closely with this legislature to help enact some of the toughest criminal justice legislation in the state's history. It would be refreshing to have an

organization like the ACLU sign on and assist that effort. After all, victims have civil liberties, too.

*Commissioner Marc Antrim*  
*Alaska Department of Corrections*

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