

**HB**

**232**



# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

## MEMORANDUM

**DATE:** April 4, 2007

**TO:** Representative Fairclough, Co-Chair  
Representative LeDoux, Co-Chair  
House Community and Regional Affairs Committee

**FROM:** Representative Kevin Meyer

**RE:** Request to Schedule House Bill 232 *Alcohol Sale/Purchase/Distribution*

Please schedule HB 232 *Alcohol Sale/Purchase/Distribution* for a hearing in the House Community and Regional Affairs Committee at your earliest convenience.

HB 232 is based on recommendations from the Alaska Rural Justice Commission and establishes a database for written order sales, a pilot project for alcohol delivery sites, makes changes to the statutes governing the transfer of a liquor license and other changes to statute to reduce bootlegging in dry communities. HB 232 is the companion bill to SB 128.

Included in this packet:

- HB 232 *Alcohol Sale Purchase Distribution*
- Sponsor Statement
- Sectional Analysis
- Backup materials: (SB 128)
  - Informational Primer on State Liquor Law Effect on Local Economic Development (City of Wasilla)
  - Tanana Chiefs Conference
  - Testimony of Loretta Bullard



# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

## Sponsor Statement

### HB 232

*Alcohol Sale/Purchase/Distribution*

Alaska, along with many other states, finds itself in the position of needing to protect residents of rural communities from bootleggers of alcohol. Various alcohol abuse educational programs have been in place in rural Alaska for a number of years, but they have not served to halt the illegal importation and sale of alcohol to Alaska's rural communities. HB 232 helps curb bootlegging by allowing the Alcoholic Beverage Control (ABC) Board, at the request of the communities of Bethel and Kotzebue, to establish a pilot program for alcohol delivery. If opened, these sites would operate for a period of three years.

House Bill 232 is aimed at preventing bootleggers from ordering alcohol from numerous package stores in violation of the local option. Alcohol Local Option Provisions require that the ABC Board, in conjunction with package store licensees, create and maintain a database documenting the sale, distribution, and purchase of alcoholic beverages, ordered in writing, from persons residing in damp local option communities. The bill requires that a package store consult the database before filling a written order from a person residing in the local option area. The database will be available to package store licensees and their agents and employees, law enforcement officers, probation and parole officers, and the ABC Board. Information in the database will not be available to the public.

The bill also corrects an inadequacy in state liquor law that hampers the ability of large hub communities to attract investment in family oriented restaurants. There are now allowances for the transfer of a borough license to a city within the borough's borders in order to meet public demand and promote economic development.

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Session: State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-4945 Fax: (907) 465-3476

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# REPRESENTATIVE KEVIN MEYER

## HOUSE DISTRICT 30

### SECTIONAL ANALYSIS CS FOR House Bill 232

**Sections 1 and 2** require the Alaska Beverage Control (ABC) Board, after working with package store licensees, to create and maintain a database that keeps track of written orders for alcohol from persons residing in damp local option communities. A package store licensee must consult the database before filling a written order from the local option area to ensure that the customer has not already ordered the alcohol that the local option allows for that particular month. Any order filled must be immediately entered in the database. The information would be used to prevent bootleggers from ordering alcohol from numerous package stores in violation of the local option. The information in the database may only be used as specifically allowed by package stores and law enforcement; the information in the database would not be public information.

**Section 3** prohibits a package store from shipping alcohol in response to a written order from a person residing in a local option area to any address other than the address of the person ordering the alcohol. However, if the person ordering the alcohol lives in an area where a community delivery site has been established, the alcohol must be shipped to the delivery site.

**Sections 4 and 5** correct an omission in state law that does not allow for transfer of liquor licenses in large hub communities from the organized borough to within city limits of the community. For example, communities like Wasilla, Kenai, or North Pole may have only a few licenses within the city, but the cities serve large populations outside city limits. The bill would allow transfer of licenses available in the surrounding borough into the city center, to promote economic development in businesses such as family-oriented restaurants. The transfer would require the approval of the governing body of both the borough and the city.

**Sections 6, 7, 11, and 12** prohibit a person from purchasing alcoholic beverages in a local option area from another person who is selling the alcohol in violation of the local option. This conduct would be a class A misdemeanor. Under current law, AS 04.16.200(b), the person selling alcohol in violation of a local option would be guilty of a class C felony. Sections 6 and 11 include conforming amendments for the new provisions in Sections 7 and 12.

**Section 8** extends the period after a local option has been adopted in a community from 12 to 24 months, before an election may be held to remove the option or to change the option to a less restrictive alternative. It would also provide that after a community has adopted a local option, an election removing the option or making it less restrictive may be held once in a 36 month period, rather than the 18 month period in current law.

**Section 9** prohibits a person from purchasing alcohol by written order on behalf of another person who resides in a community that has elected to be dry. The penalty for this violation would be a class A misdemeanor.

**Section 10** prohibits a person in a dry local option area from possessing ingredients or equipment with the intent to use them in the creation of home brew. This conduct would be a class A misdemeanor.

**Sections 13 and 14** amend the forfeiture provisions for violation of AS 04.11.499. The law would allow for the forfeiture of alcohol that was purchased from a person who brought the alcohol into the community in violation of the community's local option. They would not allow for the forfeiture of an airplane or other vehicle upon conviction of a person for the purchase of alcohol from a bootlegger.

**Section 15** would allow the ABC Board to establish pilot alcohol delivery sites in Bethel and Kotzebue, if the Board is requested by either community to do so. If opened, the sites would operate for a period of three years.

**Sections 16 – 20** include an instruction to the revisor of statutes and effective dates.

## **Informational Primer on State Liquor Law Effect on Local Economic Development**



The City of Wasilla, in partnership with cities, boroughs, and developers from around the State is seeking to rectify an inadequacy in state liquor law that hampers the ability of hub communities to attract investment in high-end and family oriented restaurants. State law currently allows for 1 such license for every 3,000 residents of a community, so in communities such as Wasilla, Kenai, or North Pole there may be only 2-3 full liquor licenses allocated to go around for restaurants to use. The problem is these communities serve population areas outside of their city limits which are many times their own city population thus providing a large market for restaurants. Since so few licenses are allowed and there is no way to augment the number of liquor licenses allowed in a city the result is a lack of dining options, particularly high end or family oriented dining options in these communities and their surrounding areas.

The City of Wasilla itself has been approached by numerous higher end and family oriented dining groups interested in locating in our city, only to learn such location is impossible because a large component of their business model is the sale of wine and mixed drinks with dinner, which they cannot do here without an outlandish outlay of capital to secure an existing liquor license from within the closed liquor license market.

Instead of seeking to create more liquor licenses we feel it would be good public policy to use existing licenses more efficiently by making use of existing borough allocated licenses in hub cities within those boroughs.

We are suggesting the state liquor license law be changed in the following ways:

1. Restaurants within cities should be allowed to use beverage dispensary liquor licenses allocated to their boroughs when and only when both the city and borough agree to such a use.

*Since these licenses are allocated to the boroughs to serve their populations and the cities act as the commercial hub servicing these same populations it would seem logical that a borough could transfer one of its licenses to city control to meet borough commercial needs.*

2. Such transfers would only be allowed for restaurants transferring beverage dispensary liquor licenses.

*This legislation is not intended to allow for proliferation of package liquor stores, bars, or other liquor distribution venues outside of sit-down dining establishments.*

3. Such transfers should only be allowed in boroughs with a population of 40,000 or more.

*Since this legislation is intended to service the needs of larger suburban populations it seems logical to permit it only where such populations are large enough to warrant such action.*

Please contact Casey Reynolds, Economic Development Planner for the City of Wasilla at (907) 373-9030 to discuss our ideas and the process to change liquor license laws in Alaska.



**TANANA CHIEFS CONFERENCE, INC.**

122 FIRST AVENUE  
FAIRBANKS, ALASKA 99701-4897

March 27, 2007

Dear Members of the Senate Community and Regional Affairs,

Re: In support of SB 128

As you know, issues related to the abuse of alcohol remain of grave importance to the health, safety, and welfare to the people of the Tanana Chiefs Conference Region. Senate Bill 128 proposes to take several steps forward in improving the regulation of alcohol in our villages.

- We support the establishment of a statewide database designed to allow a package store licensee to access, reducing the amount of alcohol that might otherwise go into a restricted area under AS 04.11.150(g).
- The provision to prohibit shipment of alcohol to addresses other than where the purchaser lives is of critical importance to our villages. Too often a buyer will have alcohol shipped to a nearby village that does not have a prohibition, cause a great deal of trouble in that village, and then illegally imports that alcohol into their own village.
- Extending the timeframe that local option law may be conducted to a less restrictive option, and extending the timeframe for conducting an election more than once are both excellent amendments to existing law, allowing for more stability and encouraging healthy behaviors.

- We support the provision which adds a prohibition on possession of homebrew ingredients with intent to manufacture alcohol.
- We support the addition of a penalty for a person purchasing alcohol from another person who had transported it illegally into a village.

Thank you for consideration of our support for the measures in Senate Bill 128, and for your hard work during this legislative session.

Sincerely,

Jerry Isaac, President

Tanana Chiefs Conference

122 First Ave

Fairbanks, AK 99701

1-800-478-6822

Good Afternoon. Thank you for this opportunity to testify on SB 128. My name is Loretta Bullard. I am President of Kawerak, the regional non-profit consortium providing non-health services throughout the Bering Straits Region of Alaska. I also serve on the Alaska Rural Justice and Law Enforcement Commission representing Village Public Safety Officer contractors in the State.

Alcohol and substance abuse is the nucleus around which many of rural Alaska's social problems revolve. Alcohol is a contributing factor in many, if not the majority of suicides, homicides, child sexual abuse and physical neglect, domestic violence situations, and accidenta' death and injuries in rural Alaska. It is a 100% factor in children diagnosed to be FAS and FAE. I estimate that 90% of the Alaska Natives serving time in Alaska correctional facilities, are serving time for offenses conducted under the influence of alcohol, for consuming alcohol while on probation, or for importing or brewing alcohol in violation of local option laws. Alcohol abuse has a huge impact on Alaska families and on the State fiscal situation.

I am testifying in support of SB 128. Many of the provisions contained in SB 128 are practical solutions that were developed as part of the RJLC work group process. In this process, we had individuals from around the State of Alaska participate in work groups to develop options for consideration by the Commission, which if implemented, would improve rural justice and safety throughout the State of Alaska. Work group members included representatives from the Department of Law, Department of Public Safety, rural residents, Alaska Legal Services, Alaska Federation of Natives as well as several Commissioners.

Provisions contained in SB 128 will help to curtail the importation of alcohol into communities that have opted to be damp or dry under Alaska Statutes by:

- Creating a statewide data base that will enable package store outlets to confirm that duplicate shipments are not being shipped to any particular individual in violation of the limits imposed by law. Currently, an individual could order 20 shipments from 20 different outlets - much of which would no doubt be bootlegged. This would greatly curtail bootlegging activity in rural Alaska.
- Requires that alcohol shipments only be shipped to a purchaser's home address. This prevents alcohol from being shipped to nearby damp or wet communities, and then subsequently being imported into dry communities in violation of the local option law.
- Providing the opportunity for Bethel and Kotzebue to set up Alcohol Beverage Delivery Site Pilot Projects. As we understand it, Barrow established such a site a number of years ago which has proven to be a huge success in controlling the amount and delivery of alcoholic beverages into their community.

The language would also limit the ability of a community to remove a local option or change to a less restrictive option - such that a revote could not be conducted during the first 24 months after the local option was adopted or more than once in a 36 month period. This would give the community time to fully experience whether the local option

law is working for the community – and limit flip flopping due to organizing by very persuasive individuals at the local level.

The recommendations in SB 128 primarily address the supply side of the issue. I encourage the Alaska legislature to also make additional funds available to address the demand for and treatment of alcohol and substance abuse. Alaska families, communities and the State budget would benefit if the State proactively explored and set in place means to prevent and minimize the impact alcohol and substance abuse has on Alaska's communities and families, before problems occur – as opposed to locking up individuals after the fact.

While the provisions contained in SB 128 reflect only a small portion of the options that were developed, if implemented, they are a step in the right direction. Attached to my testimony, is a list of the options that were developed by the Alcohol workgroup for the consideration of the Commission. I wanted to note that there are many more options that have not yet been fully explored and recommended by the Commission, simply because we ran out of funding to continue our work.

Unfortunately, the Rural Justice and Law Enforcement Commission's funding got tied up in the federal budget "continuing resolution no-earmark" policy, such that the Commission has not received 2007 federal funds to continue our work. A request was submitted to the State Legislature in February by the Commission asking for stop gap funding to help the Commission continue its work until such time as federal funding again becomes available. Since its inception in 2004, the Commission has been funded by federal receipts. I hope that the legislature will see fit to support this very worthwhile commission.

Thank you for this opportunity to testify.

## Alcohol Workgroup Options

### Options relating to prevention

1. Alcohol abuse prevention .....1
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### Options relating to local option laws

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7. Change in local option time frames .....5
8. Change local option law to enable councils to adopt local options independently, subject to subsequent plebiscites .....6
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### Options relating to the Alcohol Beverage Control Board

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# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: HB232-LAW-CJL-4-10-07  
 Bill Version: HB 232  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title An Act relating to alcohol sale, purchase and RDU Criminal  
distribution Component Criminal Justice Litigation  
 Sponsor REPRESENTATIVE(s) MEYER  
 Requester HOUSE CRA Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</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>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The bill would amend current statute to further regulate the sale, distribution and shipment of alcohol into damp communities across the state through the creation and use of a statewide database for records of purchase and shipment of alcoholic beverages to persons residing in such communities. It would also authorize the establishment of pilot community distribution sites in Kotzebue and Bethel to be operated by the ABC Board. The bill would also amend provisions of statute addressing the purchase of alcohol.

The Department of Law does not anticipate a fiscal impact from passage of this legislation.

Prepared by: Robert Meiners, Admin. Services Manager Phone 465-5427  
 Division: Administrative Services Division Date/Time 4/10/07 9:03 AM  
 Approved by: Robert Meiners for Talis Colberg, Attorney General Date 4/10/2007  
 Agency: Department of Law

Editor's note: As of R acting under AS 44.62.11; torney relocated former 1 104.647, to reflect Execut ive Order 110 relocat

more than 12 cases of wine, or more than 36 liters of distilled spirits, and of any customer who engages in a regular practice of ordering alcoholic beverages in similarly large quantities;

(2) shall immediately notify the board of any customer who places one or more written orders within a monthly period for, in the aggregate, more than 12 liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages for shipment to an area that has restricted the sale of alcoholic beverages under AS 04.11.491.

(3) repealed 7/19/2000.

(o) If alcoholic beverages are not delivered to the purchaser personally on the licensed premises, title to the alcoholic beverages passes from the licensee to the purchaser at the time the alcoholic beverages are packed and addressed to the purchaser and payment is received, and these actions are sufficient to constitute a sale on the licensed premises.

(p) A package store licensee may not ship alcoholic beverages

- (1) to a person other than the purchaser;
- (2) in response to a telephonic order; or
- (3) by taxi cab.

(q) After written notification to the board by a local option municipality that it has imposed a sales and use tax on alcoholic beverages under AS 04.21.010(c)(4), a package store licensee that sells alcoholic beverages by written solicitation under AS 04.11.150(a) may not ship or deliver alcoholic beverages into that municipality until payment for the taxes is collected at the licensed premises in accordance with the ordinances of that municipality. The licensee shall remit the payments of taxes to the municipality for which the tax was collected. (Eff. 11/29/81, Register 80; am 3/31/85, Register 93; am 10/24/87, Register 104; am 7/30/89, Register 111; am 5/1/94, Register 130; am 5/11/96, Register 138; am 9/11/98, Register 147; am 7/19/2000, Register 155; am 8/24/2001, Register 159)

Authority:	AS 04.06.090	AS 04.11.491	AS 04.16.052
	AS 04.06.100	AS 04.11.497	AS 04.16.060
	AS 04.11.010	AS 04.11.503	AS 04.16.125
	AS 04.11.150	AS 04.16.051	AS 04.21.010

Editor's note: As of Register 166 (July 2003), and acting under AS 44.62.125 (b)(6), the regulations attorney relocated former 15 AAC 104.645 to 13 AAC 104.645, to reflect Executive Order 110 (2003). Executive Order 110 relocated the Alcoholic Beverage

Control Board from the Department of Revenue to the Department of Public Safety. The history note for 13 AAC 104.645 carries forward the history from former 15 AAC 104.645.

**13 AAC 104.647. Package store license delivery permit.** (a) A package store licensee may obtain a non-transferable permit to deliver wine or champagne in a gift basket with a floral arrangement to a cruise ship or hotel under AS 04.11.150(i) by submitting a completed permit application on the form prescribed by the board along with a \$50 application fee. A permit issued under this subsection is valid until there is a transfer of ownership of the package store license, or the permit is voluntarily surrendered by the permittee or revoked by the board. The board may prescribe forms for the required written record of deliveries made under AS 04.11.150(i).

(b) A package store licensee may obtain a non-transferable permit to deliver alcoholic beverages to a wedding or wedding reception or other social event under AS 04.11.150(j) by submitting a completed permit application on the form prescribed by the board along with a \$50 application fee. A permit issued under this subsection is valid until there is a transfer of ownership of the package store license, or the permit is voluntarily surrendered by the permittee or revoked by the board. The board may prescribe forms for the required written record of deliveries made under AS 04.11.150(j). (Eff. 8/24/2001, Register 159)

Authority:	AS 04.06.100	AS 04.16.051	AS 04.16.150
	AS 04.11.150	AS 04.16.060	

**13 AAC 104.650.** applies to all stockin unit in a guest room

(b) A holder of a t the board for a pern license issued unde refrigerated unit in 04.11.090(g).

(c) A permittee m room only to the pe years of age or olde agent, or the perm: refrigerated unit in t

(d) A permittee n containers from a re

(1) distilled spi ounces;

(2) wine or vinc

(3) beer, ale, or

(e) A permittee, t restock the supply c permittee, agent, or

(1) a drunken p

(2) a person un

(3) illegal gamb

or

(4) the amount refrigerated unit,

(f) A refrigerated unit key or coded ac authorized to have tl access to the refrige access to the guest r

(g) A permittee sl

(1) all employe stocked in the refi

(2) a refrigerate beverage dispensa 04.16.010(a) and (

(3) a refrigerat beverages only by no other person, w alcoholic beverage refrigerated unit;

(4) a permittee beverages require( contained in a re manufacturer of tl ate for sale to a cc

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: HB232-DPS-ABC-4-12-07  
Bill Version: HB 232  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time CORRECTION: 4/12/2007 9:07 Dept. Affected: Public Safety  
Title "An Act relating to the sale, distribution, and RDU Statewide Support  
purchase of alcoholic beverages; . . . a state database . . ." Component ABC Board  
Sponsor Representative Meyer  
Requester House Community and Regional Affairs Component No. 2690

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	61.9	61.9	61.9	61.9	61.9	61.9
Travel	7.6	7.6	7.6	7.6	7.6	7.6
Contractual	244.0	49.0	15.0	15.0	15.0	15.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	3.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>317.5</b>	<b>119.5</b>	<b>85.5</b>	<b>85.5</b>	<b>85.5</b>	<b>85.5</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	317.5	119.5	85.5	85.5	85.5	85.5
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>317.5</b>	<b>119.5</b>	<b>85.5</b>	<b>85.5</b>	<b>85.5</b>	<b>85.5</b>

Estimate of any current year (FY2007) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

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

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

This fiscal note reflects the costs of building, maintaining, and monitoring the database set out in Sections 1-3 of the bill. This will include working closely with package stores that sell alcoholic beverages by written order. There is a high first year cost to reflect building the database. The database will then need to be maintained and monitored in subsequent years.

The estimated one-time cost for paying for a contractor to construct the database is \$269,000 over two years (\$235.0 in FY2008, \$34.0 in FY2009). Continuing costs include one new position, a Criminal Justice Technician I, Range 12, to perform data input, liaise with and train package store subscribers to  
contd. on page 2

Prepared by: Doug Griffin, Executive Director Phone 907-269-0351  
Division: Alcoholic Beverage Control Board Date/Time 4/12/07 9:07 AM  
Approved by: Walt Monegan, Commissioner Date 4/12/2007  
Agency: Department of Public Safety

**FISCAL NOTE**

**STATE OF ALASKA  
2007 LEGISLATIVE SESSION**

**BILL NO. HB 232** \_\_\_\_\_

**ANALYSIS CONTINUATION**

the database, troubleshoot problems with the database, reconcile and audit records contained in the database, provide information to ABC Investigators, Alaska State Troopers, and municipal law enforcement agencies that may use written order records to support criminal investigations, and other duties associated with running this new program within the ABC Board operation. On-going contractual support to maintain the database is estimated at \$6,000 per year.

Section 15 of the bill calls for the creation, by the ABC Board, of alcoholic beverage delivery sites in Bethel and Kotzebue if requested by the respective local governing bodies. At this time, it is not known whether these delivery sites will be requested so they are not reflected in the fiscal note. Creation of these delivery sites will be very expensive. It will require leasing or building large buildings and staffing the delivery sites with state employees or contractors. The Department of Public Safety procurement section is presently assisting in research to see if adequate buildings are available for lease in Kotzebue and Bethel.

# Alaska State Legislature

Rep. Sharon Cissna  
Rep. Nancy Dahlstrom  
Rep. Mark Neuman  
Rep. Kurt Olson  
Rep. Woodie Salmon



State Capitol, Room 124  
Juneau, AK 99801-1182  
Co-Chairs  
Rep. Gabrielle LeDoux  
(907) 465-3882 FAX 465-4956  
Rep. Anna Fairclough  
(907) 465-3777 FAX 465-2819

## COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Date: April 16, 2007

To: House C&RA Members

From: Representative Gabrielle LeDoux, Co-Chair  
Representative Anna Fairclough, Co-Chair

Re: Comments & Questions on HB 232

CC: Members of House Bush Caucus  
Ginny Austerman, Office of Senator Donny Olson  
Mike Pawlowski, Office of Representative Kevin Meyer  
Annie Carpeneti, Department of Law

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Hello All,

We wanted to be sure that we had a clear understanding of the major issues that came out of our April 12<sup>th</sup> hearing on HB 232 Alcohol Sale/Purchase/Distribution.

1. Database confidentiality. Should Sec. 1 (pp. 1-2) be amended to require that the board purge the statewide database of individual alcohol purchase records every 30-60 days to ensure that people's privacy is protected?
2. Possession of common household ingredients. Should Sec. 10 ( p. 5) be amended to read: (1) "may not possess quantities of sugar, artificial sugar, malt or yeast **that exceeds the amount for personal use in one year** with the intent to use the material or equipment to create an alcoholic beverage;" or (2) "may not possess quantities of sugar, artificial sugar, malt, yeast or any other material **and** [OR] equipment with the intent to use the material or equipment to create an alcoholic beverage," indicating that the equipment and the materials must both be present?

3. Local control for the time frame of the election. Should Sec. 8 (p. 5) be amended to allow the community to determine the period of time before an election on the local option?

If any of you have additional concerns that we have not discussed in committee, please contact Sonya (2487) in Representative LeDoux 's office before the next hearing on this bill, scheduled for Tuesday, April 24.

**Sonya Hymer**

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**From:** Sonya Hymer  
**Sent:** Thursday, April 12, 2007 10:56 AM  
**Subject:** A new bill on bootlegging  
**Attachments:** HB232-DPS-ABC-4-12-07.pdf; SECTIONAL FOR RURAL JUSTICE SENATE VERSION.pdf; Sponsor Statement HB 232.pdf

Dear Community Leaders,

Gabrielle asked me to write to you regarding HB 232, which we heard this morning in the House Community & Regional Affairs Committee (CRA). The bill would clamp down harder on bootlegging in rural areas. This bill will be heard again two weeks from now. Please forward this email to anyone who might be interested. Also, please write to me or call with your comments. Here is a link to the bill and its hearing schedule: [http://www.legis.state.ak.us/basis/get\\_complete\\_bill.asp?session=25&bill=HB232](http://www.legis.state.ak.us/basis/get_complete_bill.asp?session=25&bill=HB232). I have attached a few relevant documents: a sponsor statement and sectional analysis of the bill, both written by the bill's sponsor, and a fiscal note from the Department of Public Safety.

Best regards,  
Sonya

Sonya Hymer, Legislative Aide  
Representative Gabrielle LeDoux  
State Capitol  
District 36  
phone: (907) 465-2487  
fax: (907) 465-4956

**Sonya Hymer**

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**From:** Sonya Hymer  
**Sent:** Monday, April 16, 2007 3:44 PM  
**To:** Rep. Bryce Edgmon; Rep. Richard Foster; Rep. John Harris; Rep. Kyle Johansen; Rep. Reggie Joule; Rep. Gabrielle LeDoux; Rep. Mary Nelson; Rep. Woodie Salmon; Rep. Bill Thomas; Rep. Peggy Wilson  
**Cc:** Ginny Austerman; Rep. Anna Fairclough; Mike Pawlowski; Rep. Mark Neuman; Rep. Kurt Olson; Rep. Nancy Dahlstrom; Rep. Sharon Cissna  
**Subject:** HB 232 Alcohol Sale/ Purchase/ Distribution  
**Attachments:** HB 232 - Amendment.SH.doc

To the House Bush Caucus:

Your comments are sought by the House CRA Committee on House Bill 232, which affects alcohol sale, purchase, and distribution. During the first hearing on this bill last week, members of the CRA Committee expressed concern over this bill's effect in rural communities. The CRA would like to invite all members of the House Bush Caucus to participate in the next CRA hearing on HB 232, scheduled for Tuesday, April 24, at 8 a.m. in Room 124. Attached is a memo to House CRA members summarizing their discussion at the last hearing. Please get in touch with me (2487) if I can provide you with further information.

Best regards,  
Sonya

Sonya Hymer, Legislative Aide  
Representative Gabrielle LeDoux  
State Capitol  
District 36  
phone: (907) 465-2487  
fax: (907) 465-4956

25-LS0831\C  
Bullard  
5/4/07

**CS FOR HOUSE BILL NO. 232(CRA)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES MEYER, Salmon**

**A BILL**  
**FOR AN ACT ENTITLED**

"An Act relating to the sale, distribution, and purchase of alcoholic beverages; relating to a state database for records of certain purchases of alcoholic beverages; relating to procedures for local option elections for control of alcoholic beverages; and providing for an effective date."

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

\* **Section 1.** AS 04.06 is amended by adding a new section to read:

**Sec. 04.06.095. Statewide database.** The board, after consulting with package store licensees, shall create and maintain a statewide database that contains a monthly record of the alcohol purchases by, and shipments made to, a person who resides in a municipality or established village that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2). Except as otherwise specifically provided in this section, the information contained in the database is confidential and is not subject to inspection or copying under AS 40.25.110 - 40.25.220. Information in the database is available only to

1 (1) a package store licensee, agent, or employee to consult before  
2 shipping alcohol to a purchaser in a restricted area as provided in AS 04.11.150(g);

3 (2) a law enforcement officer;

4 (3) a probation or parole officer; and

5 (4) the board.

6 \* Sec. 2. AS 04.11.150(g) is amended to read:

7 (g) If a shipmen. is to an area that has restricted the sale of alcoholic  
8 beverages under AS ' 4.11.491(a)(1), (2), or (3) or (b)(1) or (2), a package store  
9 licensee, agent, or employee may not ship to a purchaser more than 10 and one-half  
10 liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt  
11 beverages in a calendar month, or a lower amount of distilled spirits, wine, or malt  
12 beverages if the municipality or established village has adopted the lower amount by  
13 local option under AS 04.11.491(g). Before shipping alcohol to a purchaser in a  
14 restricted area, a package store licensee, agent, or employee shall consult the  
15 database maintained by the board under AS 04.06.095 for any alcoholic beverage  
16 shipments made to the purchaser during that calendar month by a package store  
17 licensee, agent, or employee. A package store licensee, agent, or employee may  
18 not ship an amount of alcoholic beverages to a purchaser in a restricted area  
19 that, when added to the amount already shipped exceeds the amount authorized  
20 by this subsection. A package store licensee, agent, or employee shall immediately  
21 enter into the database the date and the amount of alcoholic beverages shipped to  
22 the purchaser.

23 \* Sec. 3. AS 04.11.150(h) is amended to read:

24 (h) A package store licensee, agent, or employee may not

25 (1) divide or combine shipments of alcoholic beverages so as to  
26 circumvent the limitation imposed under (g) of this section; or

27 (2) in response to a written order, ship alcohol to a purchaser at an  
28 address other than the address where the purchaser resides or, if the purchaser  
29 resides in a municipality or established village that has adopted a local option  
30 under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) for which a community  
31 delivery site has been designated under AS 04.11.491(f), to an address other than

that community delivery site except as provided by AS 04.11.491(f)(1) and (2).

\* Sec. 4. AS 04.11.499 is amended to read:

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

(1) "BRING" MEANS TO CARRY OR CONVEY OR TO ATTEMPT OR SOLICIT TO CARRY OR CONVEY;

(2) "SEND" MEANS TO CAUSE TO BE TAKEN OR DISTRIBUTED OR TO ATTEMPT OR SOLICIT TO CAUSE TO BE TAKEN OR DISTRIBUTED, AND INCLUDES USE OF THE UNITED STATES POSTAL SERVICE;

(3) "TRANSPORT" MEANS TO SHIP BY ANY METHOD, AND INCLUDES DELIVERING OR TRANSFERRING OR ATTEMPTING OR SOLICITING TO DELIVER OR TRANSFER AN ALCOHOLIC BEVERAGE TO BE SHIPPED TO, DELIVERED TO, OR LEFT OR HELD FOR PICK UP BY ANY PERSON.]

\* Sec. 5. AS 04.11.499 is amended by adding new subsections to read:

(b) A person who resides in a municipality or established village that has adopted a local option under AS 04.11.491(a) or (b) may not purchase alcohol from another person who has sent, transported, or brought an alcoholic beverage into the municipality or established village in violation of the local option.

(c) In this section,

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

1 (2) "send" means to cause to be taken or distributed or to attempt or  
 2 solicit to cause to be taken or distributed, and includes use of the United States Postal  
 3 Service;

4 (3) "transport" means to ship by any method, and includes delivering  
 5 or transferring or attempting or soliciting to deliver or transfer an alcoholic beverage  
 6 to be shipped to, delivered to, or left or held for pickup by any person.

7 \* Sec. 6. AS 04.11.507(f) is amended to read:

8 (f) Notwithstanding any other provisions of law, an election under (b) or (c) of  
 9 this section to remove a local option or to change to a less restrictive option than the  
 10 local option previously adopted under AS 04.11.491 may not be conducted during the  
 11 first 24 [12] months after the local option was adopted or more than once in a 36-  
 12 month [AN 18-MONTH] period.

13 \* Sec. 7. AS 04.16.020 is amended by adding a new subsection to read:

14 (c) A person may not purchase alcohol by written order on behalf of another  
 15 person who resides in a municipality or established village that has adopted a local  
 16 option under AS 04.11.491(a)(5) or (b)(4).

17 \* Sec. 8. AS 04.16 is amended by adding a new section to read:

18 **Sec. 04.16.035. Possession of ingredients for homebrew in certain areas.** A  
 19 person residing in an area that has adopted a local option to prohibit the sale,  
 20 importation, and possession of alcoholic beverages under AS 04.11.491(a)(5) or (b)(4)  
 21 may not possess sugar, artificial sugar, malt, yeast, or any other material or equipment  
 22 with the intent to use the material or equipment to create an alcoholic beverage.

23 \* Sec. 9. AS 04.16.250(e) is amended to read:

24 (e) A person who sends, transports, or brings alcoholic beverages into a  
 25 municipality or established village in violation of AS 04.11.499(a) [AS 04.11.499] is,  
 26 upon conviction,

27 (1) guilty of a class A misdemeanor if the quantity of alcoholic  
 28 beverages is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12  
 29 gallons of malt beverages; or

30 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
 31 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12

1 gallons or more of malt beverages.

2 \* **Sec. 10.** AS 04.16.200 is amended by adding a new subsection to read:

3 (f) A person who purchases alcohol in violation of AS 04.11.499(b) is guilty  
4 of a class A misdemeanor.

5 \* **Sec. 11.** AS 04.16.220(a) is amended to read:

6 (a) The following are subject to forfeiture:

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

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

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

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

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

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

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

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

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

7 (7) a firearm used in furtherance of a violation of this title.

8 \* **Sec. 12.** AS 04.16.220(i) is amended to read:

9 (i) Upon conviction for a violation of AS 04.11.010 or 04.11.499(a)  
10 [04.11.499], if an aircraft, vehicle, or watercraft is subject to forfeiture under (a) of  
11 this section, the court shall, subject to remission to innocent parties under this section,

12 (1) order the forfeiture of an aircraft to the state;

13 (2) order the forfeiture of a vehicle or watercraft if

14 (A) the defendant has a prior felony conviction for a violation  
15 of AS 11.41 or a similar law in another jurisdiction;

16 (B) the defendant is on felony probation or parole;

17 (C) the defendant has a prior conviction for violating  
18 AS 04.11.010 or 04.11.499(a) [04.11.499]; or

19 (D) the quantity of alcohol transported in violation of this title  
20 was twice the presumptive amounts in AS 04.11.010(c).

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

23 **ALCOHOLIC BEVERAGE DELIVERY SITE PILOT PROJECT.** (a) The Alcoholic  
24 Beverage Control Board established by AS 04.06.10 shall, if requested by the local  
25 governing body of Bethel, establish a site in Bethel and, if requested by the local governing  
26 body of Kotzebue, establish a site in Kotzebue for delivery of alcoholic beverages. The  
27 delivery sites shall be operated as sites designated under AS 04.11.491(f) are operated. Each  
28 site shall, if established, begin operation on July 1, 2008, and shall continue in operation as  
29 long as a local option under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) is in effect in each  
30 community. However, each site shall stop operation on June 30, 2011, regardless of whether a  
31 local option is in effect in each community on that date.

1 (b) The delivery site established in Bethel under (a) of this section shall serve as the  
2 delivery site under AS 04.11.494 for Bethel and shall be established after consultation with  
3 public, private, and nonprofit agencies in Bethel.

4 (c) The delivery site established in Kotzebue under (a) of this section shall serve as  
5 the delivery site under AS 04.11.494 for Kotzebue and shall be established after consultation  
6 with public, private, and nonprofit agencies in Kotzebue.

7 \* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to  
8 read:

9 REVISOR'S INSTRUCTIONS. The revisor of statutes is instructed to change the  
10 heading of AS 04.11.499 from "Prohibition of importation after election" to "Prohibition of  
11 importation or purchase after election."

12 \* **Sec. 15.** Section 13 of this Act is repealed.

13 \* **Sec. 16.** Section 2 of this Act takes effect July 1, 2008.

14 \* **Sec. 17.** Section 15 of this Act takes effect June 30, 2011.

15 \* **Sec. 18.** Except as provided in secs. 16 and 17 of this Act, this Act takes effect  
16 immediately under AS 01.10.070(c).



# Alaska State Legislature

Please enter into the record my testimony to the ALC HOUSE COMMUNITY AND REGIONAL AFFAIRS committee name  
 committee on HB 232 / SEC. 5 (N) dated 4/26/07  
 bill/subject

HELLO LEGISLATURE'S

I AM CONTACTING YOU AS A OWNER OF A LIQUOR LICENSE. I AM OPPOSED TO THE PROPOSED AMENDMENT THAT WOULD ALLOW THE RELOCATION OF AN EXISTING LICENSE FROM OUTSIDE A CITY INTO A CITY WITHIN THE SAME BOROUGH. WE NOW HAVE AVENUES TO INCREASE THE NUMBERS OF LICENSES IN A CITY IF THE NEED IS PRESENT. AS AN OWNER OF A LICENSE THAT IS LOCATED WITHIN A CITY I SEE NO BENEFIT AND ONLY A DECREASE IN VALUE OF MY LICENSE IF THIS AMENDMENT WERE TO PASS.

Thank-you for your time

*Wade Ball*

Signed:

WADE BALL KODIAK

Testifier

WADE BALL INC. DBA "THE VILLAGE BAR"

Representing (Optional)

408 MARINE WAY KODIAK

Address

486 3412

Phone No.

**Sonya Hymer**

---

**From:** Andy [ynot@gci.net]  
**Sent:** Thursday, April 19, 2007 9:57 AM  
**To:** Rep. Gabrielle LeDoux; Sen. Gary Stevens  
**Subject:** Hb 232/SB128 and Ellis's "plastic garbage bag tax bill"

Hi Gabrielle and Gary:

Here are a couple of bills which need the "no" vote (Please). The data base bill sounds good on paper but is a "no" for several reasons. The bill relates to written orders to liquor stores going to persons in "damp communities"--it provides for a statewide ABC sanctioned data base by individual of liquor orders by month --so that the current maxims (the threshold of purchases which the State allows to customers before a presumption of bootlegging activity occurs) are not exceeded. What the bill presupposes is that the ABC board has the staff available to impliment such a mandate, all retailers (including small mom and pop operations like myself), have computer capability to "immediately access and update such a data base", persons whom this bill is directed at will not just use different family names to purchase this alcohol and thus not exceed these monthly limits, and all communities have online access on a daily basis to determine this information. I think this bill will fall short in most or all of these categories.

One summer I was working in Barrow and what struck me as I landed in this "damp"(at that time) town were the pallets of beers stacked up at the airport. Even to this day, I would imagine that most of the liquor arriving in most of the "problem towns" arrives by airplane. As long as we have the ABC board under the State Troopers and they have a presence in many of these communities -why isn't the effort to discover who the bootleggers are directed at where the product enters the community?. The ABC board /Troopers spend thousands of dollars on stings running underage purchases into our joints--how about directing some of this effort after "unlicensed bootleggers"? I will be looking for a job shortly--give me about eight hours in each town and I will give you a list of bootleggers operating there--this is not rocket science.

Lastly--this bill is a huge intrusion into people's right to privacy. This is Big Brother tactics.

Second bill is Ellis's "\$. 15 a plastic garbage bag tax"--(to cut down on landfill) costs. Sounds good- bad idea--you are just adding another \$65.00 to a box of plastic bags which gets added to the cost of your groceries. I think what we need is some Public Education on what is filling up our landfills. My experience tells me that it is cardboard and other wood products. Do you know that Kodiak does not burn its cardboard or scrap lumber any more because they do not have a burn pile area?. I would be more in favor on requiring combustibile materials (which do not give off extreme amounts of airborne pollution) to be burned. Waste disposal is a problem which all communities are grappling with. There probably is something that the State of Alaska could do to help solve these problems---like apply for some CleanAir waivers-(if appropriate) Ellis' bill is "garbage". It deserves a "no vote", please!

Sincerely yours,

Andy Lundquist

**Sonya Hymer**

---

**From:** Andy [ynot@gci.net]  
**Sent:** Thursday, May 03, 2007 10:31 AM  
**To:** Rep. Gabrielle LeDoux  
**Subject:** Fw: HB 232/ SB128

Hi Gabrielle,

I know you folks are really busy. Hope you have a second to read this. The "license transfer" part of this bill is even more objectionable to me than the data base part.

Sincerely yours,  
Andy Lundquist

----- Original Message -----

**From:** Andy  
**To:** Sen. Gary Stevens  
**Sent:** Thursday, May 03, 2007 10:27 AM  
**Subject:** HB 232/ SB128

Previously I wrote to you concerning these bills. There is another facet of these bills which is more objectionable than the "big brother" data base and that is the liquor license transfer change. Current law distinguishes between "city licenses" and "borough licenses". Under this law --(with some caveates)--"borough licenses" could become "City licenses" if both local governments agree..

What this law would do is dump the economics of liquor license values on its head--many people have purchases City licenses at prices which vastly exceeded those in the Borough--by changing this law this way--those people will suffer great economic hardship if this bill passes. The growth in the Mat-Su valley is driving this bill--lets not let this unique Mat-Su situation destroy the economics of the liquor license value system for the entire State. A no vote is greatly appreciated.

Sincerely,  
Andy Lundquist