

**HB**

**327**

## Judge flies to village for sentencing in alcohol-related death

**KOBUK:** Defendant brought vodka to dry town; boyfriend drowned.

**MEGAN HOLLAND**

**Anchorage Daily News  
Staff**

A young woman who brought alcohol into a dry village that contributed to the death of her boyfriend was sentenced in the village last week. The sentencing involved the unusual relocation of the Kotzebue District Court to the **Kobuk** school gymnasium -- a gesture meant to drive home the impact that illegal alcohol importation has on communities, said Department of Law spokesman Mark Marones.

Judge Karen Bendler flew 130 miles from Kotzebue to **Kobuk** with the court clerk, public defender and prosecutor for the day. She ordered Heather Lee, who traveled to the village from nearby Shungnak by snowmachine, to 120 hours of community service for the misdemeanor charge of importing alcohol.

Prosecutors said Lee, then 19, went to Fairbanks to get alcohol in June 2005. She was not old enough to buy it herself and later she refused to tell prosecutors where she got it from, prosecutors said.

Lee hid approximately 1.5 liters of vodka in water and Pepsi bottles on the flight back to Shungnak, also a dry village, about seven miles west of **Kobuk**. She then traveled by boat to **Kobuk**.

Lee and her boyfriend, 25-year-old **Leon Horner**, consumed the alcohol, prosecutors say. Four hours later, **Horner** tried to swim the **Kobuk** River. He was about halfway across when he went under.

Less than two hours later, his body was found on a nearby sandbar. Prosecutors say he had a blood alcohol content of 0.324 -- more than four times the legal limit for driving in Alaska.

In a plea agreement with state prosecutors, Lee admitted to illegally importing the alcohol to Shungnak and **Kobuk**.

Prosecutor Andrea Russell said in a press release: "This tragedy (**Leon Horner's** death) was avoidable and is exactly the reason why some communities choose to enact a local option law."

In a telephone interview Tuesday, Russell said she read a letter from Rosa **Horner**, **Leon's** mother, at the sentencing. It said: "There has to be a stop to this alcohol trafficking. ... Alcohol and drugs are final. It hurts families, and it's not good for our people."

**Kobuk** resident Catina Gomez said Tuesday only a few people showed up for the public sentencing - she did not. She said the feeling in the village about the sentencing was tense: "The village is really small, you know."

Russell said she wasn't deterred by the low turnout. She said the important thing was that people in the village knew it was happening, and people were talking about it: "The more people think about it, the more they can address it."

"The local option laws are community enacted and they are the only laws that a village can decide itself," she said. "It makes sense to bring it back to the village."

Residents in **Kobuk** voted to ban the sale and importation of alcohol in 1989. Shungnak banned the sale and importation of alcohol in 1987.

Daily News reporter Megan Holland can be reached at [mrholland@adn.com](mailto:mrholland@adn.com).

## Data Impacting Underage Drinking in Alaska

### 2007 Alaska Youth Risk Behavior Survey—Grades 9-12

- 73.6% (75.1% in 2003) of students reported having had at least one drink of alcohol on one or more days during their life.
- 20.4% (23.2% in 2003) of students reported having had their first drink of alcohol (other than a few sips) before age 13 year.
- 39.7% (38.7% in 2003) of students reported having had at least one drink of alcohol on one or more of the past 30 days.
- 25.8% (26.5% in 2003) of students who reported having had five or more drinks of alcohol in a row, on one or more of the past 30 days—i.e. binge drinking.

### DOT Highway Traffic Safety Administration—2006 DUI and BAC Fatal/major Injury Crashes

- Ages 14-25 automobile crashes resulted in 11 fatalities and 26 serious injuries.
- Average Blood Alcohol Content of driver was 0.12

### Alcohol Beverage Control Board—Underage Drinking Compliance Check Data

- 2006 compliance checks
  - 949 checks
  - 198 failures
  - 21% failure rate
- 2007 compliance checks
  - 520 checks
  - 136 failures
  - 26% failure rate



**STATE OF ALASKA  
OFFICE OF THE GOVERNOR**

**BILL ANALYSIS**

DEPARTMENT Health & Social Services	DIVISION Behavioral Health	BILL NUMBER LL 3508	SPONSOR
SHORT TITLE OF BILL PREVENTION OF UNDERAGE DRINKING			
DEPARTMENT POSITION Support			
PREPARED BY MaShelle Atherton Hess	DATE 01/14/2008	COMMISSIONER'S SIGNATURE	DATE

**SUMMARY**

OTHER AGENCIES AFFECTED BY BILL Alaska Court System Alcoholic Beverage Control Board Dept. of Public Safety Division of Juvenile Justice Division of Motor Vehicles	CONSTITUENT GROUP(S) AFFECTED BY BILL CHARR Alcohol license holders
ORGANIZATIONAL SUPPORT FOR BILL Alaska Court System Alcoholic Beverage Control Board Dept. of Public Safety Division of Juvenile Justice Division of Motor Vehicles	ORGANIZATIONAL OPPOSITION TO BILL Alcohol license holders CHARR

FISCAL IMPACT:  NONE  FISCAL NOTE ATTACHED

**BACKGROUND/LEGISLATIVE INTENT**

The purpose of the bill is to impose civil fines and, for a subsequent offense within five years, license suspensions on liquor licensees whose employees are convicted of furnishing alcohol to a minor on the licensee's premises. The bill would also adopt mandatory minimums for bootleggers, prohibit sending alcohol in plastic containers to local option communities, and expand the manslaughter statute to include bringing alcohol to a local option community if a person dies as a direct result of ingesting the alcohol. The bill will increase the ability of the state to track minor consuming violations for purposes of better data for developing and implementing improved services to prevent repeat offenses.

**ANALYSIS OF BILL/PROGRAM EFFECTS**

The bill proposes to provide an incentive through civil penalties to licensees whose employees furnish alcohol to minors on the licensee's premises, thereby increasing training and supervision in such a way that would emphasize service to persons over the age of 21.

The bill proposes mandatory minimums, identical to those for drunk drivers; and, would amend the manslaughter statute to apply to a person who brings alcohol into a local option community, if a person dies as a direct result of ingesting the transported alcohol. The bill encourages the use of therapeutic drug/wellness courts for defendants accused under these provisions, increasing the use of court-ordered treatment and therapeutic approaches to prevent future alcohol related offenses.

(continued)

**AMENDMENTS PROPOSED**

**BILL ANALYSIS**

**STATE OF ALASKA  
2006 LEGISLATIVE SESSION  
ANALYSIS CONTINUATION**

**BILL NO. LL 3508**

(continued)

Finally, the bill would clarify that the court is required to make certain reports to the Department of Administration concerning certain violations of alcohol laws by minors, for insertion on the central driver's license database.

The amendments contained in the bill are consistent with best practices to reduce alcohol abuse and underage alcohol use. Further, the amendments are consistent with the recommendations contained in the Rural Justice Commission report and the draft "Plan to Reduce and Prevent Underage Drinking," prepared by the Alaska Interagency Coordinating Committee to Prevent Underage Drinking.

There will be no significant fiscal impact on the Department of Health and Social Services.

Alaska Department of Health and Social Services,  
Behavioral Health  
November 2007

**--Proposed Underage Drinking Legislation**

Underage drinking in Alaska has long been a concern by health professionals, criminal justice personnel, educators, treatment providers, and prevention specialists. According to the Alaska Youth Risk Behavior Survey (YRBS) approximately 33,000 underage youth in Alaska drink each year. The annual cost to the state is estimated to be \$317 in services to deal with the impact of underage drinking.

In 2005, Alaska joined states across the nation in establishing an underage drinking coordinating committee, the Alaska Interagency Coordinating Committee on the Prevention of Underage Drinking, and hosting town hall meetings to address the underage drinking dilemma.

To date, Town Hall meetings have been held in Anchorage (two times), Juneau, Valdez, Fairbanks, Galena, Yakutat, Nome, and Sitka. Feedback provided to the underage drinking coordinating committee made it very clear that Alaska needed to develop its own strategy to reduce and prevent underage drinking.

In February 2007, the committee met for several days to review plans developed by other states, to develop the *Alaska Plan to Reduce and Prevent Underage Drinking* and to prioritize recommendations for Alaska's response. Two of the top priorities identified by the committee were: 1) to strengthen the current minor consuming legislation to respond more effectively in reducing underage drinking in the state; and 2) to make penalties for sales of alcohol to a minor consistent with penalties for sales of tobacco to a minor.

Alaska has a number of laws related to youth access to alcohol. However, there have been a number of questions and issues raised with the tracking of minor consuming offenses. In the past, APSIN was the tool that local law enforcement and other criminal justice professionals used to monitor the number and type of minor offenses that were committed by an individual. Currently, when an individual is cited for underage drinking or possession, the justice system has no indication as to the number of times a youth has been cited previously or any information to indicate whether compliance with education or treatment requirements was achieved. Alaska needs an improved system of tracking minor consuming offenses and a coordinated approach across agencies working with these youth to monitor and report on the outcomes associated with a minor consuming offense.

A second but related issue is the need for stronger penalties for retailers who sell alcohol to youth under the age of 21. The Institute of Medicine Report on

Reducing Underage Drinking: A Collective Responsibility identified best practices that states should implement to strengthen their compliance check programs in retail outlets, including media campaigns and license revocation to increase deterrence. Enforcement agencies should issue citations for violations of underage sales laws with substantial fines and temporary suspension of license for first offenses and increasingly stronger penalties thereafter, leading to permanent revocation of licenses after three offenses.

Currently, there is federal legislation that requires states to achieve designated rates of retailer compliance with deterring youth access to tobacco (Synar), as a condition of receiving relevant federal block grant funding. Through this requirement, Alaska has achieved a substantial reduction of illegal sales of tobacco to minors from a high of over 40% to the current level of 10%. Compliance has been achieved in part due to very stringent penalties to retailers who sell tobacco to minors (under 19). Since there are no similar compliance rate requirements or stringent penalties for the sale of alcohol to minors, Alaska's sell rate of alcohol to minors remains around 30%. The same youth who is refused a tobacco sale, can often purchase alcohol—we believe in part, due to the loose and inconsistently applied penalties.

Improving Alaska's Minor Consuming Offenses Tracking system and standardizing retailer penalties for the sale of alcohol to minors (to mirror the tobacco sales to minor's penalties) will greatly increase our state's success in reducing underage drinking among our youth.

#### **-- Underage Drinking Budget Increment for Fiscal Year 2009**

One of the top priorities identified by the Alaska Committee to Prevent Underage Drinking was to expand assessment, treatment and prevention services to all youth, not limited to those entering into courts for alcohol-related offenses.

Behavioral Health is requesting a FY09 budget increment to address this identified need, and to enhance the BH Legislative Underage Drinking Initiative. The budget increment request is \$823,400 and will both increase the service capacity of the eight (8) existing Juvenile Alcohol Safety Action Programs (ASAP) and expand the number and locations of Juvenile ASAP. Existing services are located in Anchorage, Fairbanks, Juneau, Kenai, Ketchikan, Kotzebue, Kodiak and Mat-Su. Communities that have been requesting Juvenile ASAP services include Bethel, Barrow, Dillingham, Nome and Seward.

These new funds will allow agencies (the Alaska Court System, Juvenile Justice, DMVs, local law enforcement and school districts) to respond more effectively in reducing underage drinking in the state, by having access to substance use assessments, local substance use education and treatment services, and monitoring of service progress and completion.

The performance measures for this increment:

1. Increase in the number of minor consuming referrals throughout the state;
2. Increase in early identification of minors in need of substance abuse education or treatment services;
3. Decrease in repeat involvement in the justice system.

# LEGAL SERVICES

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

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


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

## MEMORANDUM

March 17, 2008

**SUBJECT:** Alcohol bill - CSHB 327( ) (Work Order No. 25-GH2035\C)

**TO:** Representative Anna Fairclough  
Attn: Renée Limoge

**FROM:** Pam Finley   
Revisor of Statutes

Enclosed is the draft CS you requested. Note that in AS 04.16.200 (g) and (h), added by bill sec. 3, the term "previously convicted" is used without any indication of what the offense was of which the person was previously convicted. This is the way the Governor's bill was drafted, but it is not good.

PF:med  
08-194.med

Enclosure

25-GH2035\C  
Luckhaupt  
3/17/08

**CS FOR HOUSE BILL NO. 327( )**

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

**BY**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to alcohol or controlled substance use by alcoholic beverage licensees**  
2 **and their agents and employees; relating to shipping, sending, transporting, or bringing**  
3 **alcohol to a local option area and providing alcohol to others in the local option area,**  
4 **including penalties for violations; relating to manslaughter as a direct result of ingestion**  
5 **of alcoholic beverages brought in violation of a local option prohibition; relating to**  
6 **reports of the court concerning certain alcohol violations by minors; making conforming**  
7 **amendments; and providing for an effective date."**

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

9 **\* Section 1.** AS 04.16.030 is amended by adding new subsections to read:

10 (c) A licensee, agent, or employee may not

11 (1) consume an alcoholic beverage or a controlled substance while  
12 serving alcoholic beverages to patrons on licensed premises;

13 (2) serve an alcoholic beverage to patrons on licensed premises while

1 under the influence of an alcoholic beverage or controlled substance.

2 (d) In (c) of this section, "controlled substance" has the meaning given in  
3 AS 11.71.900.

4 \* Sec. 2. AS 04.16.200(e) is amended to read:

5 (e) A person who sends, transports, or brings alcoholic beverages into a  
6 municipality or established village in violation of AS 04.11.499(a) is, upon conviction,

7 (1) except as provided in (3) of this subsection, guilty of a class A  
8 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
9 of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages; [OR]

10 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
11 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12  
12 gallons or more of malt beverages; or

13 (3) guilty of a class C felony if the quantity of alcoholic beverages  
14 is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12 gallons  
15 of malt beverages and the person has been previously convicted under this  
16 subsection or (b) of this section two or more times within 10 years of the date of  
17 the present offense.

18 \* Sec. 3. AS 04.16.200 is amended by adding new subsections to read:

19 (g) Upon conviction of a class A misdemeanor under (e)(1) of this section, the  
20 court

21 (1) shall impose a minimum sentence of imprisonment of

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

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

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

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

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

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

7 (2) may not

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

10 (i) serve the minimum imprisonment under (1) of this  
11 subsection; and

12 (ii) pay the minimum fine required under (1) of this  
13 subsection; or

14 (B) suspend imposition of sentence.

15 (h) Upon conviction of a class C felony under (b) or (e)(2) or (3) of this  
16 section, the court

17 (1) shall impose a fine of not less than \$10,000 and a minimum  
18 sentence of imprisonment of

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

20 (B) 240 days if the person has been convicted three times;

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

23 (2) may not

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

26 (i) serve the minimum imprisonment under (1) of this  
27 subsection; and

28 (ii) pay the minimum fine required under (1) of this  
29 subsection; or

30 (B) suspend imposition of sentence.

31 (i) The court shall consider the date of a previous conviction as occurring on

1 the date that sentence is imposed for the prior offense.

2 \* Sec. 4. AS 11.41.120(a) is amended to read:

3 (a) A person commits the crime of manslaughter if the person

4 (1) intentionally, knowingly, or recklessly causes the death of another  
5 person under circumstances not amounting to murder in the first or second degree;

6 (2) intentionally aids another person to commit suicide; [OR]

7 (3) knowingly manufactures or delivers a controlled substance in  
8 violation of AS 11.71.010 - 11.71.030 or 11.71.040(a)(1) for schedule IVA controlled  
9 substances, and a person dies as a direct result of ingestion of the controlled substance;  
10 the death is a result that does not require a culpable mental state; or

11 (4) violates AS 04.11.010 in an area that the person knows has  
12 adopted a local option under AS 04.11.491, and a person dies as a direct result of  
13 ingestion of the alcoholic beverage brought in violation of the local option; the  
14 death is a result that does not require a culpable mental state [IN THIS  
15 PARAGRAPH, "INGESTION" MEANS VOLUNTARILY OR INVOLUNTARILY  
16 TAKING A SUBSTANCE INTO THE BODY IN ANY MANNER].

17 \* Sec. 5. AS 11.41.120 is amended by adding a new subsection to read:

18 (c) In this section, "ingestion" means voluntarily or involuntarily taking a  
19 substance into the body in any manner.

20 \* Sec. 6. AS 28.15.191(a) is amended to read:

21 (a) A court that convicts a person of an offense under this title or a regulation  
22 adopted under this title, [OR] another law or regulation of this state, [OR] a municipal  
23 ordinance that regulates the driving of vehicles, or a violation of AS 04.16.050, shall  
24 forward a record of the conviction to the department within five working days. A  
25 conviction of a standing or parking offense need not be reported.

26 \* Sec. 7. AS 28.35.028(a) is amended to read:

27 (a) Notwithstanding another provision of law, with the consent of the state and  
28 the defendant, the court may elect to proceed in a criminal case under AS 04.16.200(b)  
29 or (e), AS 28.35.030, or 28.35.032, including the case of a defendant charged with  
30 violating the terms of probation, under the procedure provided in this section and  
31 order the defendant to complete a court-ordered treatment program. The state may not

1 consent to a referral under this subsection unless the state has consulted with the  
2 victim and explained the process and consequences of the referral to the victim. A  
3 court may not elect to proceed under this section if the defendant has previously  
4 participated in a court-ordered treatment program under this section two or more  
5 times.

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

8 **APPLICABILITY.** (a) Sections 1, 4, and 5 of this Act apply to offenses committed on  
9 or after the effective date of this Act.

10 (b) Sections 2 and 3 of this Act apply to offenses committed on or after the effective  
11 date of this Act. Any references in those sections to previous convictions include previous  
12 convictions occurring before, on, or after the effective date of this Act.

13 (c) Sections 6 and 7 of this Act apply to actions taken by a court on or after the  
14 effective date of this Act, regardless of whether the offense occurred before, on, or after the  
15 effective date of this Act.

16 \* **Sec. 9.** This Act takes effect July 1, 2008.



State of Alaska

**Plan** to  
**Reduce** &  
**Prevent**  
**Underage**  
**Drinking**

*Prepared by the*

**Alaska Interagency Coordinating Committee  
on the Prevention of Underage Drinking**

November 2007

**Draft**

## Background

Underage drinking in the United States has long been a concern by health professionals, educators, treatment providers, and prevention specialists. In 2002, Congress responded by asking the National Research Council and the Institute of Medicine of the National Academies of Science (IOM/NAS) to develop a national strategy to reduce and prevent underage drinking. The IOM/NAS created a committee that conducted a broad review of federal, state, and non-governmental programs. During the review the committee utilized scientific literature, research, public input, and the expertise of the selected members. In 2004, *Reducing Underage Drinking: A Collective Responsibility*<sup>1</sup> (widely referred to as the IOM/NAS Report) was published outlining several components for action by national, state, and local governments; the alcohol and entertainment industries; retailers, restaurants and bars; colleges and universities; schools; law enforcement agencies; community organizations; and parents and other adults.

The goal of the national strategy as outlined in the IOM/NAS Report is to reduce and prevent childhood and underage alcohol use through the creation and sustainability of broad societal commitment. Such commitment will require the active participation of multiple individuals and organizations at the national, state, and local levels, as stated in the report and supported again by Congress in 2004.

In 2004, as part of Consolidated Appropriations Act, Congress directed the Secretary of Health and Human Services (HHS) to establish an Interagency Coordinating Committee on the Prevention of Underage Drinking (ICCPUD). The ICCPUD was charged with submitting a report to Congress which outlined a plan for combating underage drinking. The federal ICCPUD membership consists of representatives from the Office of the Surgeon General, the Centers for Disease Control and Prevention, the Administration for Children and Families, and the Office of the Assistant Secretary for Planning and Evaluation, the National Institute on Alcohol Abuse and Alcoholism, the Department of Justice/Office of Juvenile Justice and Delinquency Prevention, the Department of Education/Office of Safe and Drug Free Schools, the Department of Transportation/National Highway Traffic Safety Administration, and the Office of National Drug Control Policy.

In 2005, the Substance Abuse and Mental Health Services Administration (SAMHSA), an agency within HHS, and the federal ICCPUD planned a national meeting of the states. Each state's Governor's Office was responsible for determining the lead agency for the national meeting and the make up of the team to be sent. Alaska's Governor appointed the Department of Health and Social Services, Division of Behavioral Health as the lead agency. A team of seven was created with representatives from the Alaska Court System; the Department of Education and Early Development; Department of Transportation/Highway Safety Office; Department of Health and Social Services, Division of Juvenile Justice; Department of Health and Social Services, Division of Behavioral Health/Prevention; Department of Health and Social Services, Division of Behavioral Health/Alcohol Safety Action Program; and the

Department of Public Safety/Alcoholic Beverage Control Board. A representative from the Alaska Native Justice Center was asked to join the team upon the team's return from the national meeting.

The meeting was held in Washington, D.C. to support teams consisting of government officials from each State, territory, and the District of Columbia to address the serious problem of underage alcohol use. Participants were provided with the most recent information on the scope and consequences of underage alcohol use as well as evidence-based strategies for addressing the issue. Teams were encouraged to assist communities in their states in hosting Town Hall meetings in March 2006 in an effort to "Start Talking Before They Start Drinking", also the name of a national PSA campaign, which kicked off in November 2005.

Alaska's team committed to supporting the national Town Hall meeting event in Alaska and chose the temporary name: Alaska Interagency Coordinating Committee on the Prevention of Underage Drinking (Committee). The new media campaign entitled "Start Talking Before They Start Drinking" was introduced to Alaska communities starting with Anchorage on November 15, 2005 at a Town Hall meeting. To date, Town Hall meetings have been held in Anchorage (two times), Juneau, Valdez, Fairbanks, Galena, Yakutat, Nome, and Sitka. Whereas, the federal Town Hall initiative has been completed, the Committee believes that the Town Hall meeting process is invaluable in terms of gathering information and feedback on reducing and preventing underage drinking and therefore, has incorporated it as one tool in the state strategy addressed in this report.

As the Committee received feedback from the various Town Hall meetings, it became increasingly clear that Alaska needed to develop its own strategy to reduce and prevent underage drinking. In October 2006, Committee members began reviewing plans from other states: Wyoming<sup>1</sup>, Ohio<sup>2</sup>, New Hampshire<sup>3</sup>, and Florida<sup>4</sup>. Committee members also reviewed the comprehensive integrated mental health plan released by the Department of Health and Social Services in November 2001, which discussed goals, performance measures, and strategies to address underage drinking in the State of Alaska<sup>5</sup>. In December 2006, the Committee agreed that the Wyoming state plan was the most comprehensive, mirrored the national strategy, and was reasonable in terms of adaptation to Alaska's needs. The Committee also acknowledged that federal H.R. 864, commonly referred to as the STOP Act (Sober Truth on Preventing Underage Drinking Act) became Public Law 109-422 on December 20, 2006 and should be held in consideration during the drafting of the state strategy.

In February 2007, the Committee met for two days in Juneau to work on Alaska's strategy to reduce and prevent underage drinking. The following pages contain recommendations for each of the components for action called for by the IOM/NAS Report.

**Executive Summary**

We know that Alaska has a serious underage drinking problem. In 2005, underage drinkers consumed 19.2% of all alcohol sold in Alaska, totaling \$74 million in sales. These sales provided profits of \$36 million to the alcohol industry<sup>1</sup>. A myriad of catastrophic health, social and economic problems resultant from underage drinking has impacted Alaska's youth. Childhood and underage drinking has been shown to be a causal factor in homicide, suicide, traumatic injury, drowning, burns, violent and property crime, high risk sex, fetal alcohol syndrome, alcohol poisoning, and the need for treatment for alcohol abuse and dependence.

The cost of underage drinking to the citizens of Alaska was \$317 million in 2005, inclusive of medical care, work loss, and pain and suffering<sup>2</sup>. This is equivalent to \$3,944 per year for each youth in the State. Based on these figures, per capita, Alaska is second among the fifty states for the cost of underage drinking.

As demonstrated in the table below, the largest costs to the State of Alaska can be attributed to youth violence and traffic crashes by underage youth under the influence of alcohol. Furthermore, a multitude of other problems contribute significantly to the overall cost. For example, among teen mothers, fetal alcohol syndrome (FAS) costs Alaska \$4.6 million. Young people who begin drinking before age 15 are four times more likely to develop alcohol dependence and are two and a half times more likely to become abusers of alcohol than those who begin drinking at age 21<sup>3</sup>. In 2003, 366 youth 12-20 years old were admitted for alcohol treatment in Alaska, accounting for 11% of all treatment admissions for alcohol abuse in the State<sup>4</sup>.

<b>Costs of Underage Drinking by Problem, 2005</b>	
<b>Problem</b>	<b>Total Costs (in millions)</b>
Youth Violence	225.5
Youth Traffic Crashes	24.9
High-Risk Sex, Ages 14-20	18.4
Youth Property Crime	7.2
Youth Injury	16.8
Poisoning and Psychoses	1.6
FAS Among Mothers Ages 15-20	4.6
Youth Alcohol Treatment	17.5
<b>Total</b>	<b>316.5</b>

The Alaska Departments of Education and Early Development and Health and Social Services conduct a biannual statewide student survey on health behavior. Alaska uses the Alaska Youth Risk Behavior Survey (YRBS), based upon the U.S. Centers for Disease Control and Prevention's (CDC) epidemiological surveillance system<sup>xi</sup>. This survey was established to monitor the prevalence of behaviors that not only influence adolescent health, but also put youth at risk for the most significant health and social problems. Participating school districts receive a full report of their local data, which they use as the centerpiece of their own local needs assessments, adding other data such as the Search Institute's Developmental Assets<sup>xii</sup> survey and local law enforcement data. In 2003, 1,349 surveys were completed from 38 high schools, a response rate of 62%. The results of that survey demonstrated that underage drinking is clearly widespread in Alaska. Approximately 33,000 underage youth in Alaska drink each year. In 2003, according to self-reports by Alaskan students in grades 9-12:

- 75% had at least one drink of alcohol on one or more days during their life.
- 23% had their first drink of alcohol, other than a few sips, before age 13.
- 39% had at least one drink of alcohol on one or more occasion in the past 30 days.
- 27% had five or more drinks of alcohol in a row (i.e. binge drinking) in the past 30 days.
- 5% had at least one drink of alcohol on school property on one or more of the past 30 days.

In 2000, the Alaska Department of Health and Social Services, Division of Juvenile Justice sponsored an assessment of underage drinking in Alaska. Investigators examined statewide efforts and data and conducted more detailed inquiries by interviewing 203 key informants from 17 rural and urban sample communities. The consequences of underage drinking in Alaska are reflected in an increase in the number of alcohol-related accidents among youth requiring hospitalization of 66.3% between 1991 and 1998. Over this period, Alaska averaged 30 suicide attempts annually among youth where alcohol was a factor<sup>xiii</sup>.

According to the Alaska Highway Safety Office 2006 Annual Report, a third of alcohol impaired drivers and 47% of speeding drivers were under the age of 26. Furthermore, 1,516 traffic crashes and six traffic fatalities involved drivers aged 14-20<sup>xiv</sup>. According to the 2003 YRBS results, 11.3% of Alaska youth self-reported driving and drinking.

Despite the toll that underage drinking brings to bear on all citizens of Alaska — be it physical, mental, social, or economic — social norms remain static leaving the overall impression that underage drinking in Alaska "isn't a problem". Alaska has made great strides in the prevention of underage tobacco use and the parallels between the two drugs, alcohol and tobacco, are remarkable. That being said, enforcement efforts within the Departments of Health and Social Services and Public Safety have been coordinated for both tobacco and alcohol. As a result, an interesting pattern has emerged, which clearly demonstrates exactly where social attitudes lie. For example, in 2006 13% of all retailers investigated sold tobacco to underage buyers whereas 30% of all retailers investigated sold alcohol to underage buyers.

The Alaska-specific information and recommendations contained herein provide a blueprint for a range of science-based state and community actions that are necessary in order to successfully reduce underage drinking in Alaska. These recommendations are based on the IOM/NAS Report: *Reducing Underage Drinking: A Collective Responsibility*. The Committee prioritized recommendations for Year One, which are as follows:

- 1) S3-1: Encourage the Alaska State Legislature to conduct an interim review of state statutes and regulations using this report as a blueprint to reduce youth access to alcohol.
- 2) S6-1: Expand assessment, treatment and prevention services to all youth, but not limited to those entering into courts for alcohol-related offenses.
- 3) S5-5: Provide ongoing training and education for all criminal justice stakeholders and policymakers to include evidence-based best practices and strategies in underage alcohol use reduction and prevention.
- 4) S3-8: Assess feasibility of making penalties for sales of alcohol to a minor consistent with penalties for sales of tobacco to a minor. If feasible, then create and encourage the application of consistent penalties for selling alcohol to a minor.
- 5) S3-3: Strengthen Alaska's compliance check program in retail outlets, restaurants, and bars, using media campaigns and license revocations to increase compliance. The program should include regular notification and education of retailers and the public concerning the program and publicizing the outcome. (DOT & PF Alaska Strategic Highway Safety Plan, AL.7, Page C-15).
- 6) S1-4: A website should be built and maintained, and should provide continuous updates of national, state and community developments. The website should also focus on providing model policies, ordinances and prevention strategies. The website should include information about over-the-counter (OTC) products containing alcohol and include measures of youth exposure to alcohol advertising through a "Talk Back" format to assist in research and evaluation.

Holding youth solely responsible for underage drinking is unreasonable. As the national report concluded, "Youth drink within the context of a society in which alcohol use is normative behavior and images about alcohol are pervasive." Efforts to reduce and prevent underage drinking, therefore, need to focus on a variety of environmental strategies which include adults, youth, and engage the society at large. Alaska's plan employs a variety of strategies, including, but not limited to: public awareness; alcohol advertising; education; limiting access; collaboration; governmental assistance; and research and evaluation.

The problem of underage drinking in Alaska is significant but not insurmountable. It will, however, require determination and commitment to a long-term effort on the part of our citizens, state and community leaders to get involved and to take the action necessary to make a difference.

Strategy Component: Media Campaign

RECOMMENDATIONS

IOM/NAS

State

Local

N6-1: The federal government should fund and actively support the development of a national media effort as a major component of an adult-oriented campaign to reduce underage drinking.

N10-1: Intensive research and development of a youth-focused media campaign relating to underage drinking should be initiated at the national level.

N7-1: All segments of the alcohol industry that profit from underage drinking, inadvertently or otherwise, should join with other private and public partners to establish and fund an independent nonprofit foundation with the sole mission of reducing and preventing underage drinking.

S1-1: The state should allocate sufficient resources to mount an aggressive messaging campaign which should coincide with and enhance a national campaign.

S1-2: Develop/strengthen youth leadership in the creation of a messaging campaign.

S1-3: The state should coordinate, support and assist communities in localizing and enhancing the messaging campaign.

S1-4: Messaging efforts should focus on supporting the implementation of best-practice environmental strategies at the community and state levels.

S1-5: A website should be built and maintained; provide continuous updates of national, state and community developments; focus on providing model policies, ordinances and prevention strategies; include information about over-the-counter (OTC) products containing alcohol and include measures of youth exposure to alcohol advertising through a "Talk Back" format to assist in research and evaluation.

S1-6: All segments of the alcohol industry that profit from underage drinking should join with other private and public partners to establish and support an independent foundation with the sole mission of reducing and preventing underage drinking in Alaska. The foundation shall ensure that local communities have funding opportunities to implement local recommendations.

L1-1: Encourage local messaging efforts to coordinate, coincide with, support and enhance the statewide media campaign. Community stakeholders, including youth, should work to close gaps and remedy deficiencies in the statewide dissemination strategy.

L1-2: Endorse local efforts to focus on localizing the messaging and facilitating community action to include writing letters to the editor; scheduling press conferences; hosting community forums such as town hall meetings; and placing radio or television, poster, and public service announcements throughout the community.

L1-3: Local coalitions should serve as the information source for members of the media for contact information on local underage drinking efforts and to provide feedback to the state campaign.

### Rationale

Alaska's most recent statewide effort to raise awareness about the criminal penalties to adults providing alcohol to youth occurred in 2002, with the "You Buy, You Lose" Campaign. The current level of alcohol consumption by Alaska youth is alarming as evidenced by the fact that in 2005 underage drinkers consumed 19.2% of all alcohol sold in the state<sup>xv</sup>. Equally alarming is the fact that Alaska is among the top states in the nation in several categories involving alcohol and youth: early consumption (by age 13), binge drinking, and driving after drinking<sup>xvi</sup>.

Underage drinking cost the citizens of Alaska \$317 million in 2005. Costs include medical care, work loss, and pain and suffering<sup>xvii</sup>. This translates to a cost of \$3,944 per year for each youth in the State. Alaska ranks 2<sup>nd</sup> highest among the 50 states for the cost per youth for underage drinking.

Youth violence and traffic crashes attributable to alcohol use by underage youth in Alaska represent the largest costs for the state. Furthermore, a host of other problems contribute significantly to the overall cost. For example, among teen mothers, fetal alcohol syndrome (FAS) costs Alaska \$4.6 million. Young people who begin drinking before age 15 are four times more likely to develop alcohol dependence and are two and a half times more likely to become abusers of alcohol than those who begin drinking at age 21<sup>xviii</sup>. The average age of a child's first drink is now 12, and nearly 20 percent of 12 to 20 year-olds are considered binge drinkers. In 2003, 366 youth 12-20 years old were admitted for alcohol treatment in Alaska, accounting for 11% of all treatment admissions for alcohol abuse in the State<sup>xix</sup>.

There exists a perception that adolescents can easily recover from drinking because their bodies are more resilient; however, the opposite is true. According to the American Medical Association, alcohol can seriously damage long and short term growth processes of the brain during adolescence. Frontal lobe development and the refinement of pathways and connections continue until the age of 16, and a high rate of energy is used as the brain matures until the age of 23. Damage from alcohol prior to age 23 can be long-term and irreversible. Furthermore, even moderate drinking impairs learning and memory in youth<sup>xx</sup>.

All Alaskans must be educated about the dangers to our youth when they consume alcohol and the subsequent impact their consumption has on everyone. Alcohol has been implicated in nearly one-third of youth alcohol traffic crashes and is also associated with youth violence, suicide, educational failure, teen pregnancy, and other problem behaviors. Communities, commercial establishments, and adults must learn what is and isn't appropriate in terms of purchasing or providing alcohol to underage persons and what the legal (both civil and criminal) penalties are.

Strategy Component: Alcohol Advertising  
**RECOMMENDATIONS**

**IOM/NAS**

**State**

**Local**

N7-2: Alcohol companies, advertising companies and commercial media should refrain from marketing practices (including product design, advertising and promotional techniques) that have substantial underage appeal and should take reasonable precautions in the time, place and manner of placement and promotion to reduce youthful exposure to other alcohol advertising and marketing activities.

N7-3: The alcohol industry trade associations, as well as individual companies, should strengthen their advertising codes to preclude placement of commercial messages in venues where a significant portion of the expected audience is underage, to prohibit the use of commercial messages that have substantial underage appeal, and to establish independent external review boards to investigate complaints and enforce the codes.

N7-4: Congress should appropriate the necessary funding for the U.S. Department of Health and Human Services to monitor underage exposure to alcohol advertising on a continuing basis and to report periodically to Congress and to the public. The report should include information on the underage percentage of the exposed audience and estimated number of underage viewers of print and broadcasting alcohol advertising in national markets and for television and radio broadcasting in a selection of large or regional markets

S2-1: The state should establish guidelines for alcohol sponsorship and alcohol advertising for state-sponsored or state-funded events, especially in venues that include a large number of young people.

S2-2: The state should support and encourage local communities to review policies regarding alcohol sponsorship at events that include a large number of young people.

S2-3: The state should establish and/or strengthen its advertising statutes and/or regulations to preclude placement of alcohol messages in areas where large numbers of young people would be exposed; i.e., schools, youth organization sponsorship or hosting of alcohol events, websites, etc.

S2-4: The alcohol trade associations within the state, as well as individual companies, should establish and/or strengthen their advertising codes to preclude placement of commercial messages in venues where a significant portion of the expected audience is underage, to prohibit the use of commercial messages that have substantial underage appeal, and to establish independent external review boards to investigate complaints and enforce the codes and make this process transparent to the public.

L2-1: Local communities should strengthen their advertising codes to preclude placement of alcohol messages and alcohol industry sponsorship in venues where a significant portion of the audience is expected to be young people.

L2-2: Local communities should establish a process to investigate complaints and enforce the codes. The results of these complaints should be made available to the public on a regular basis.

Rationale

To change the perception among youth that alcohol is an acceptable choice, alcohol advertising should be banned at venues hosting youth events predominantly attended by youth. This includes college sporting events.

**This space intentionally left blank.**

Strategy Component: Limiting Access  
RECOMMENDATIONS

IOM/NAS	State	Local
<p>N9-1: The minimum drinking age laws of each state should prohibit: Purchase or attempted purchase, possession and consumption of alcoholic beverages by persons under 21; Possession of and use of falsified or fraudulent identification to purchase or attempt to purchase alcoholic beverages; Provision of any alcohol to minors by adults, except to their own children and in their own residences; and Underage drinking in private clubs and establishments.</p>	<p>S3-1: Encourage the Alaska State Legislature to conduct an interim review of state statutes and regulations using this report and the members of the Committee as resources to reduce youth access to alcohol.</p> <p>S3-2: Encourage the Alaska State Legislature to create a committee to review state by state comparison of alcohol laws as prepared by resources such as Century Council (<a href="http://www.centurycouncil.org">www.centurycouncil.org</a>), Alcohol Policy Information System (<a href="http://alcoholpolicy.niaaa.nih.gov/">http://alcoholpolicy.niaaa.nih.gov/</a>), or Mothers Against Drunk Driving (<a href="http://www.madd.org/">http://www.madd.org/</a>).</p>	<p>L3-1: Communities, including youth, should review existing resolutions and city ordinances related to underage drinking and strengthen them accordingly, including environmental focus on zoning, outlet density and related issues.</p>
<p>N9-2: States should strengthen their compliance check programs in retail outlets using media campaigns and license revocation to increase deterrence. Communities and states should undertake regular and comprehensive compliance check programs including notification of retailers concerning the program and follow-up communication to them about the outcome (sale/no sale) for their outlet. Enforcement agencies should issue citations for violations of underage sales laws with substantial fines and temporary suspension of license for first offenses and increasingly stronger penalties thereafter, leading to permanent revocation of license after three offenses. Communities and states should implement media campaigns in conjunction with compliance check programs detailing the program, its purpose and its outcomes.</p>	<p>S3-3: Strengthen Alaska's compliance check program in retail outlets, restaurants, and bars, using media campaigns and license revocations to increase compliance. The program should include regular notification and education of retailers and the public concerning the program and publicizing the outcome. (DOT &amp; PF Alaska Strategic Highway Safety Plan, AL 7, page C-15).</p> <p>S3-4: In keeping with recommendations from the Alaska Rural Justice and Law Enforcement Commission, the state should strengthen enforcement of importation of alcohol (bootlegging and manufacture) in communities exercising local option laws and clarify language in sections of Title 4 that pertain to importation and manufacture of alcohol to "dry" villages.</p>	<p>L3-2: Local police, working with community leaders, should adopt and announce policies for detecting and terminating underage drinking parties, including: Routinely responding to complaints from the public about noisy teenage parties and entering the premises when there is probable cause to suspect underage drinking is taking place; routinely checking, as a part of regular weekend patrols, open areas where teenage drinking parties are known to occur; and routinely citing underage drinkers and, if possible, the person who supplied the alcohol when underage drinking is observed at parties.</p> <p>L3-3: Damp communities should consider establishing local distribution sites for alcohol to assure compliance with alcohol laws, specifically aimed at reducing bootlegging, compliance with probation conditions, and ordering over the legal allowable amount of alcohol per person.</p>

N9-3: The federal government should require states to achieve designated rates of retailer compliance with youth access prohibitions as a condition of receiving relevant block grant funding, similar to the Synar Amendment requirements for youth tobacco sales.

N9-4: States should require all sellers and servers of alcohol to complete state-approved training as a condition of employment.

N9-5: States should enact or strengthen dram shop liability statutes to authorize negligence-based civil actions against commercial providers of alcohol for serving or selling alcohol to a minor who subsequently causes injury to others, while allowing a defense for sellers who have demonstrated compliance with responsible business practices. States should include in their dram shop statutes key portions of the Model Alcoholic Beverage Retail Licensee Liability Act of 1985, including the responsible business practices defense.

N9-6: States that allow internet sales and home delivery of alcohol should regulate these activities to reduce the likelihood of sales to underage purchasers: Require all packages for delivery containing alcohol to be clearly labeled as such; Require persons who deliver alcohol to record the recipient's age identification information from a valid government-issued document (such as a driver's license or ID card); and Require recipients of home delivery of alcohol to sign a statement verifying receipt of alcohol and attesting that he or she is of legal age to purchase alcohol.

S3-5: Alaska's education,

prevention, and enforcement strategies should be reviewed and clarified.

S3-6: Create legislation for a system requiring the registration of beer keg sales.

S3-7: Create legislation and/or regulations for APSIN codes specific to underage drinking law violations in order to create a system for tracking underage alcohol offenses.

S3-8: Assess feasibility of making penalties for sales of alcohol to a minor consistent with penalties for sales of tobacco to a minor. If feasible, then create and encourage the application of penalties for selling alcohol to a minor consistent with penalties for selling tobacco to a minor.

S3-9: Require that mandatory evidence-based alcohol server education for employees of licensed alcohol establishments be paid for by employers and/or licensees and that employees are compensated for training time. Provide training to retailers at the licensee's expense on Title 4 that includes information on retailer liability for sales to underage persons and enforcement of license suspension/revocation laws. Title 4 violators would have to retake any training at the employer's expense.

S3-10: Prohibit the production, sale, distribution, possession, and use of false identification for attempted alcohol purchase.

S3-11: Educate the public and all Criminal Justice system stakeholders on the false identification laws.

**This space intentionally left blank.**

N9-7: States and localities should implement enforcement programs to deter adults from purchasing alcohol for minors. States and communities should: Routinely undertake shoulder tap or other prevention programs targeting adults who purchase alcohol for minors, using warnings rather than citations for the first offense; Enact and enforce laws to hold retailers responsible, as a condition of licensing, for allowing minors to loiter and solicit adults to purchase alcohol for them on outlet property; and use nuisance and loitering ordinances as a means of discouraging youth from congregating outside of alcohol outlets in order to solicit adults to purchase alcohol.

N9-8: States and communities should establish and implement a system requiring registration of beer kegs that records information on the identity of purchasers.

N9-9: States should facilitate enforcement of zero tolerance laws in order to increase their deterrent effect. States should: Modify existing laws to allow passive breath testing, streamlined administrative procedures and administrative penalties; and implement media campaigns to increase young people's awareness of reduced BAC limits and of enforcement efforts.

N9-10: States should enact and enforce graduated driver licensing laws.

N9-11: States and localities should routinely implement sobriety checkpoints.

S3-12: Implement administrative penalties (e.g., immediate confiscation of a driver's license and issuance of a citation resulting in a substantial fine) for attempted use of a false identification by minors for alcohol purchases.

S3-13: Continue to monitor and control the number of alcohol outlets.

S3-14: Establish a system to control and monitor the density of alcohol outlets.

S3-15: Establish legislation that would regulate internet sales and home delivery of alcohol to reduce the likelihood of sales to underage purchasers: Require all packages for delivery containing alcohol to be clearly labeled as such; Require persons who deliver alcohol to record the recipient's age identification information from a valid government-issued document (such as a driver's license or ID card); and Require recipients of home delivery of alcohol to sign a statement verifying receipt of alcohol and attesting that he or she is of legal age to purchase alcohol.

S3-16: Increase variety of enforcement operations to include shoulder tap or other prevention programs targeting adults who purchase alcohol for minors, using warnings rather than citations for the first offense; Enact and enforce laws to hold retailers responsible, as a condition of licensing, for allowing minors to loiter and solicit adults to purchase alcohol for them on outlet property; and use nuisance and loitering ordinances as a means of discouraging youth from congregating outside of alcohol outlets in order to solicit adults to purchase alcohol.

**This space intentionally left blank.**

N9-12: Local police, working with community leaders, should adopt and announce policies for detecting and terminating underage drinking parties, including: Routinely responding to complaints from the public about noisy teenage parties and entering the premises when there is probable cause to suspect underage drinking is taking place; routinely checking, as a part of regular weekend patrols, open areas where teenage drinking parties are known to occur; and routinely citing underage drinkers and, if possible, the person who supplied the alcohol when underage drinking is observed at parties.

**This space intentionally left blank.**

**This space intentionally left blank.**

N9-13: States should strengthen efforts to prevent and detect use of false identification by minors to make alcohol purchases. States should: prohibit the production, sale, distribution, possession, and use of false identification for attempted alcohol purchases; issue driver's licenses and identification cards that can be electronically scanned; allow retailers to confiscate apparently false identification for law enforcement inspection; and implement administrative penalties (e.g., immediate confiscation of a driver's license and issuance of a citation resulting in a substantial fine) for attempted use of false identification by minors for alcohol purchases.

N9-14: States should establish administrative procedures and non-criminal penalties, such as fines or community service, for alcohol infractions by minors.

Rationale

Alaska should continue its work to prevent youth access to alcohol. Alaska has a number of laws related to youth access to alcohol. However, there have been a number of questions and issues raised with respect to court jurisdiction, tracking of minor consuming offenses, increasing blood alcohol content in youth who repeatedly appear in court, etc. With respect to tracking of minor consuming offenses, APSIN, is the tool peace officers use in issuing citations and courts use in entering convictions. A review of practices throughout the state revealed that whereas there is a code in APSIN for "Alcohol Offenses" there is nothing specific to "underage alcohol offenses", and nothing tied to specific statutory codes. Therefore, when an individual is cited for underage drinking or possession, an officer has no indication as to the number of times a youth has been cited previously and it gets even more convoluted if the youth is from another community within Alaska. District Court clerks, have an unreliable system, of hand-tallying, the number of times a minor comes before the court on a particular charge. Again, that is not entered into a statewide database, as would be the case with APSIN, because there is no specific code for underage alcohol offenses.

**This space intentionally left blank.**

Strategy Component: Youth Oriented Interventions

RECOMMENDATIONS

IOM/NAS	State	Local
<p>N10-1: Intensive research and development for a youth-focused national media campaign relating to underage drinking should be initiated. If this work yields promising results, the inclusion of a youth-focused campaign in the strategy should be considered.</p>	<p>S4-1: Promote research-based positive school climate frameworks that develop school cultures which include alcohol prevention and intervention strategies.</p>	<p>L4-1: Support the development of parent peer groups that would offer the following resources: presentations to parents (and to children/youth when appropriate) by parents of teens killed or injured in alcohol-related crashes; information on civil and criminal liability when supplying alcohol to youth; tools to use when talking to children about the effects of alcohol; education on the adverse impact of alcohol on a child's developing brain; brochures discussing the consequences of parent-hosted house parties; education on risk and protective factors associated with alcohol use; and parenting skills directed at youth alcohol use.</p>
<p>N10-2: The U.S Department of Health and Human Services and the U.S. Department of Education should fund only evidence-based education interventions, with priority given to both those that incorporate elements known to be effective and those that are part of comprehensive community programs.</p>	<p>S4-2: Identify prevention programs that show proven success in reducing alcohol use and encourage replication of the most appropriate prevention programs in Alaska.</p>	
<p>N10-3: Residential colleges and universities should adopt comprehensive prevention approaches including evidence-based screening, brief intervention strategies, consistent policy enforcement, and environmental changes that limit underage access to alcohol. They should use universal education interventions as well as selective and indicated approaches with relevant populations.</p>	<p>S4-3: Encourage districts to initiate and to implement comprehensive health education programs as referenced in AS 14.30.360 which include alcohol and drug abuse education.</p>	
<p>N10-4: The National Institute on Alcohol Abuse and Alcoholism and the Substance Abuse and Mental Health Services Administration should continue to fund evaluations of college-based interventions with particular emphasis on targeting of interventions to specific college characteristics and should maintain a list of evidence-based programs.</p>	<p>S4-4: Alaska schools will be encouraged to conduct district-wide/statewide surveys and evaluations (e.g. YRBS) to gather base-line data for alcohol prevention planning and evaluation for alcohol prevention efforts.</p>	
	<p>S4-5: Conduct annual statewide assessments of alcohol-related suspensions and expulsions in Alaska's public schools and report results to public.</p>	
	<p>S4-6: Encourage colleges and universities to mobilize campus/community coalitions to change the environment that supports the high risk use of alcohol. (DOT &amp; PF Alaska Strategic Highway Safety Plan, AL.1, page C-2).</p>	

N10-5: The U.S. Department of Health and Human Services and states should expand the availability of effective clinical services for treating alcohol abuse among underage populations and for following up on treatment. The U.S. Department of Education, the U.S. Department of Health and Human Services and the U.S. Department of Justice should establish policies that facilitate diagnosing and referring underage alcohol abusers, and those who are alcohol dependent, for clinical treatment.

S4-7: Encourage colleges and universities to focus prevention education on students graduating high school and entering college, student athletes, and Greek organizations to discourage high risk use of alcohol.

S4-8: Encourage colleges and universities to provide education to members of the campus/community including parents, alumni, faculty and staff on the signs and symptoms of alcohol abuse; appropriate counseling and self-help referral information; underage drinking laws and policies; and non-judgmental ways to talk to college students about alcohol use and abuse.

S4-9: Encourage colleges and universities to adopt consistent policy enforcement and environmental changes that limit underage access to alcohol.

**This space  
intentionally left  
blank.**

### Rationale

In 2005, a University of Michigan survey entitled *Monitoring the Future*, confirmed heavy drinking by the underage population (pre-college) throughout the nation. Data from that survey demonstrated nearly half the students were regular drinkers and that 75% of students had consumed alcohol more than experimentally by the end of high school. Early onset drinking is a major indicator of alcohol addiction in later life and is measured in both the YRBS and *Monitoring the Future* surveys. The sample populations used for the surveys questioned enrolled students only, at their schools. These samples did not consider students who had dropped out of school legally after the age of 16 (in Alaska) or who were expelled before that age. Alternative-schooled students were not made part of the surveys. The surveys may, therefore, have missed the highest risk subpopulation among the youth in the communities they measured. The validity of these surveys are further put into question by the Juneau survey which indicated many children dropped out of high school due to substance abuse<sup>xxi</sup>.

Furthermore, recent research (Reifman & Watson, 2003) has found a great deal of continuity between high school drinking patterns and college drinking patterns of students. Therefore, interventions at the state and local level should include the university system as well as all of the school districts. If the institutions of higher education in the state only focus on the end result of the problem (i.e., when the student gets to college) we are missing a large piece of the intervention puzzle. Institutions of higher education should collaborate with state and local entities in the application of new and unique programming that would enhance already proven strategies to reduce this high-risk behavior.

Strategy Component: Community Interventions  
**RECOMMENDATIONS**

**IOM/NAS**

N11-1: Community leaders should assess the underage drinking problem in their communities and consider effective approaches – such as community organizing, coalition building and the strategic use of the mass media – to reduce drinking among underage youth.

N11-2: Public and private funders should support community mobilization to reduce underage drinking. Federal funding for reducing and preventing underage drinking should be made available under a national program dedicated to community-level approaches to reduce underage drinking, similar to the Drug Free Communities Act which supports communities in addressing substance abuse with targeted prevention strategies.

**State**

S5-1: Step up meaningful collaboration among state and tribal agencies and other stakeholders to engage shared responsibility in addressing youth access to alcohol in the state of Alaska.

S5-2: Ensure statewide data collection of underage use and abuse of alcohol and other drugs through the Alaska Epidemiological Outcomes Workgroup, including a statewide survey and MIS on alcohol attitudes.

S5-3: The Governor's Office shall receive recommendations from the Alaska Interagency Coordinating Committee on the Prevention of Underage Drinking and provide recommendations for policy development regarding youth alcohol issues.

S5-4: Public and private funding resources should be made available to support community mobilization under every applicable strategy component to reduce underage drinking.

S5-5: Provide ongoing training and education for all stakeholders and policymakers to include evidence-based best practices and strategies in underage alcohol use reduction and prevention.

**Local**

L5-1: Provide literature for landlords (especially landlords in college communities and communities with transient populations) about liability and ramifications of the illegal use of alcohol on their property.

L5-2: Provide the faith community with underage drinking education information.

L5-3: Partner with private driving schools and driver education classes to add and/or strengthen the alcohol education portion of the curriculum.

L5-4: Partner with local colleges and the university to develop strategies to change the drinking culture both on and off campus that contributes to underage drinking and high-risk drinking.

L5-5: Assess the underage drinking problem in communities and consider effective approaches, such as community organizing, parent/adult education, coalition building and the strategic use of the media, to reduce the illegal use of alcohol by youth.

L5-6: Encourage representation and participation of all community stakeholders including health care providers, local businesses, parents, schools, colleges and the university and law enforcement in local coalitions, to achieve a more holistic approach to reducing underage drinking.

**This space  
intentionally left  
blank.**

**This space  
intentionally left  
blank.**

L5-7: Review existing resolutions and city ordinances related to underage drinking and strengthen them accordingly, including environmental focus on zoning, outlet density, and related issues.

L5-8: Encourage collaboration among families, schools, the courts, and treatment providers.

L5-9: Increase the use and role of School Resource Officers.

Rationale

At the state and local levels, community mobilization can be a powerful vehicle to implement and support interventions. People working together have a greater ability to educate many Alaskans about the dangers of alcohol use and abuse by Alaska's youth.

Coalitions provide a wonderful opportunity for youth voice in an issue that directly impacts them and affords a forum for multiple sectors of the community to come together to provide mentoring, citizenship development and peer-to-peer education while lending expertise in government, business, and medicine. At a grass-roots level, this structure provides a myriad of methods and strategies to address the issue of underage alcohol use.

Communities united can speak with one loud voice to advocate to policymakers to address and solve the consequences of underage drinking by incorporating information about social and economic costs. Through the work of the coalitions, communities will also be able to aggressively impact and alter social norms that have remained static for so long.

**This space intentionally left blank.**

Strategy Component: Governmental Assistance and Coordination

RECOMMENDATIONS

IOM/NAS	State	Local
<p>N12-1: A federal interagency coordinating committee on prevention of underage drinking should be established, chaired by the secretary of the U.S. Department of Health and Human Services.</p>	<p>S6-1: Expand affordable assessment, treatment and prevention services to all youth and families including those children and families who are not involved in the court or social services systems.</p>	<p>L6-1: Adopt approaches that involve the entire family as well as youth in the treatment process, from assessment to aftercare, when a young person enters the system because of alcohol addiction. Encourage the use of telemedicine, telebehavioral health, and access to assessment and treatment for substance abuse.</p>
<p>N12-2: A National Training and Research Center on Underage Drinking should be established in the U.S. Department of Health and Human Services. This body would evaluate support and would monitor progress in implementing national goals.</p>	<p>S6-2: All segments of the alcohol industry should join with other private and public partners to establish and support an independent, non-profit foundation with the sole mission of preventing and reducing underage drinking. The foundation should ensure that local communities have funding opportunities to implement local recommendations.</p>	<p>L6-2: Adopt approaches that involve the community in which the youth lives including: schools, vocational agencies, local mental health professionals, and supportive peer network.</p>
<p>N12-3: The secretary of the U.S. Department of Health and Human Services should issue an annual report on underage drinking to Congress summarizing all federal agency activities, progress in reducing underage drinking, and key surveillance data.</p>	<p>S6-3: Encourage and support legislative hearings to address the issue of underage drinking as outlined in this report.</p>	
<p>N12-4: Each state should designate a lead agency to coordinate and spearhead its activities and programs to reduce and prevent underage drinking.</p>	<p>S6-4: Support legislation to fund the development of a statewide media effort.</p>	
<p>N12-5: The annual report of the secretary of the U.S. Department of Health and Human Services on underage drinking should include key indicators of underage drinking.</p>	<p>S6-5: Designate an agency to monitor underage exposure to alcohol advertising to determine its impact on youth for the purposes of guiding policy decisions.</p>	
<p>N12-6: The Monitoring the Future Survey and the National Survey on Drug Use and Health should be revised to elicit more precise information on the quantity of alcohol consumed and to ascertain brand preferences of underage drinkers.</p>	<p>S6-6: Encourage and assist communities in the development and expansion of juvenile diversion programs with an emphasis on alcohol.</p>	

Rationale

In looking at the cost of underage drinking to Alaskans, the total is approximately \$317 million. Of that amount, \$17.5 million is spent on youth treatment and the rest is spent on problems such as youth violence, FASD among teen mothers, traffic crashes, etc. Translated loosely, 6% is spent toward treating the problem of underage drinking. By providing education and training to stakeholders on evidence-based policies, practices, strategies, programming, and resources available for prevention, intervention, and treatment, many more young people would have access to services.

**This space intentionally left blank.**

Strategy Component: Alcohol Excise Taxes

RECOMMENDATIONS

IOM/NAS

State

Local

N12-7: Congress and state legislatures should raise excise taxes to reduce underage consumption and to raise additional revenues for this purpose. Top priority should be given to raising beer taxes. Excise tax rates for all alcoholic beverages should be indexed to the consumer price index to keep pace with inflation without the necessity of further legislation.

S7-1: Communities should be given the ability to levy taxes on all alcohol products at the local level as a revenue enhancement tool for funding best-practice strategies to reduce underage drinking.

S7-2: The state should review and raise the license fees.

S7-3: Allocate alcohol tax revenue to enforcement, prevention, treatment, and evaluation of underage alcohol use.

L7-1: Increase community readiness to accept taxing alcohol products, if given the ability by the state. Allocate funds to youth strategies to prevent, intervene, and treat underage alcohol use and abuse.

L7-2: Revenue from alcohol taxes and fines collected should be allocated to local governments for funding best-practice strategies to reduce underage drinking.

Rationale

Alaska raised its alcohol tax and has the highest alcohol tax in the nation. That being said, the state does not allow municipalities to levy taxes on alcohol at this time. Furthermore, the commercial alcohol license fee for obtaining an alcohol license has not been raised for over 25 years.

**This space intentionally left blank.**

Strategy Component: Research and Evaluation

RECOMMENDATIONS

**IOM/NAS**

**State**

**Local**

N12-8: All interventions, including media messages and education programs, whether funded by public or private sources, should be rigorously evaluated. A portion of all federal grant funds for alcohol-related programs should be designated for evaluation.

N12-9: States and the federal government – particularly the U.S. Department of Health and Human Services and the U.S. Department of Education – should fund the development and evaluation of programs to cover all underage populations.

S8-1: All publicly funded prevention and intervention, including media messages and education should be evaluated (qualitative and quantitative) for effectiveness. A portion of all state grant funds for alcohol-related programs should be designated for evaluation. All evaluation findings should be posted publicly.

L8-1: All publicly funded prevention and intervention, including media messages and education should be evaluated (qualitative and quantitative). A portion of all state grant funds for alcohol-related programs should be designated for evaluation.

L8-2: Evaluation finds should be posted publicly.

Rationale

Rigorous research and evaluation are needed to assess the effectiveness of specific interventions and to ensure that future refinements of the strategy are grounded in evidence-based approaches. In addition, continued research and evaluation is necessary to develop new approaches aimed at reaching all segments of the underage population.

**This space intentionally left blank.**

**Committee Members**

**MaShelle Atherton Hess, Chair**  
Department of Health and Social Services  
Division of Behavioral Health  
Prevention and Early Intervention Services

**Todd Brocious**  
Department of Education and Early Development  
Safe and Drug Free Schools

**Candace Brower**  
Department of Health and Social Services  
Division of Juvenile Justice  
Enforcing Underage Drinking Laws

**Cindy Cashen**  
Department of Transportation  
Alaska Highway Safety Office

**Judge Leonard Devaney**  
Alaska Court System  
4th Judicial District Bethel

**Doug Griffin**  
Department of Public Safety  
Alcoholic Beverage Control Board

**Brenda Horvath**  
Alaska Native Justice Center  
Program Coordinator

**Ronald Taylor**  
Department of Health and Social Services  
Division of Behavioral Health  
Alcohol Safety Action Program

### Biography of Committee Members

MaShelle Atherton Hess is a Project Coordinator with Prevention and Early Intervention Services within the Department of Health and Social Services, Behavioral Health. Her duties include oversight of a portion of the Substance Abuse Prevention and Treatment Block Grant, general fund dollars toward prevention grants for communities, training and technical assistance in the development and implementation of the Strategic Prevention Framework, and service as the Legislative Liaison for the division. She has been with the division since August of 2005. She joined Behavioral Health after serving for three years as the Associate Coordinator for the Enforcing Underage Drinking Laws and Juvenile Accountability Incentive Block Grant, managed the Alaska Youth Court and Community Panel Program, monitored compliance under the Formula Grant and served as the Juvenile Deputy Compact Administrator during her tenure with Alaska Juvenile Justice. Her prior experience includes over fifteen years in the justice field, both adult and juvenile, in Alaska and Washington. She also worked in an Alaska juvenile detention center; worked as part of a team to develop and implement a juvenile treatment curriculum for Alaska Juvenile Justice; worked as part of a team to develop and implement a pre-treatment curriculum for felony adult probationers convicted of drunk driving in Alaska while working as an Adult Probation and Parole Officer with the Alaska Department of Corrections; and developed a gang-intervention program in Seattle, Washington. MaShelle has lived in Alaska since 1984 and has lived in Wrangell and Juneau. She and her husband Dan live in Juneau with their son Geoffrey. She has also served on the Board of Directors for the Juneau Youth Court and the United Youth Courts of Alaska.

Todd Brocious has been an Education Specialist with the Department of Education & Early Development for the past 7 years where his primary duties have been managing the Fetal Alcohol Spectrum Disorders initiatives and stewarding the No Child Left Behind Title IV Safe and Drug-Free Schools Program. In addition to his membership on the Alaska Interagency Coordinating Committee on the Prevention of Underage Drinking, Todd is also currently active on the U.S. Department of Education Interagency Coordinating Committee on Fetal Alcohol Syndrome, The Council on Domestic Violence & Sexual Assault Legislative Task Force, the Alaska Epidemiological Outcomes Workgroup, the Alaska Public Health and Social Service Block Grant Advisory Committee, and the Alaska School Health and Safety Advisory Committee. Prior to his work at the Department of Education, Todd spent 15 years concentrating on supporting at-risk youth and families in a broad array of settings including counseling emotionally disturbed children in residential treatment at Intermountain Children's Home in Montana, managing the Alaska Youth Initiative in Juneau which provided wrap-around services to families with children at risk for requiring out-of-state residential care, and working as a Social Worker III for the Office of Children's Services in Juneau, conducting both investigations of child abuse and neglect and supporting families with ongoing needs as part of the permanency team. Todd currently resides in Juneau with his wife Heidi and their daughter Molly.

Candace Brower is an Associate Coordinator in the Department of Health and Social Services, Division of Juvenile Justice. Her duties include oversight of three federal grants: a Congressional Earmark to support youth courts statewide; the Juvenile Accountability Grant and the Enforcing Underage Drinking Laws. She has extensive experience working the criminal justice field through previous employment at McLaughlin Youth Center and the Johnson Youth Center. She has most recently spent the bulk of her career in Adult Corrections as a probation officer, parole board administrator, and Legislative Liaison for the Department of Corrections. She is married to Dave Brower and they have two daughters, 24 and 14. She also serves on the Board of Directors for the Tongass Alaska Girl Scout Council.

Cindy Cashen is the Administrator for the Department of Transportation and Public Facilities, Alaska Highway Safety Office (AHSO) and is responsible for the federal funds which support transportation safety programs. "Over the Limit, Under Arrest", and "Click It or Ticket" are only two of more than fifty impaired driving and seat belt enforcement projects supported by the AHSO. As one who lost a family member to drunk driving, she knows too well the importance of maximizing federal dollars with effective and sustainable programs that foster state and local ownership and respects community readiness levels. Between 2001 and 2005 Ms. Cashen was a founding member and Executive Director of the MADD—Juneau Chapter. During that time she worked with legislators to lower the legal BAC limit to .08, participated in the Alaska Therapeutic Court program, and advocated for the Graduated Drivers License program and a Primary Seat Belt Law. She was a volunteer on the Drunk Driving Panel and spoke before classrooms, public hearings, and drunk driving offenders. She is currently President of the Juneau Youth Court Board and a member of the Faith Based Community Initiative Board. She has been on the Douglas Island Pink and Chum Hatchery (DIPAC) board since its creation in 1976. Cindy was born and raised in Juneau and is married to Dan Cashen, and the mother of Sam (18), Anne Marie (17), and Donna (13).

Judge Leonard Devaney was appointed to the superior court in Bethel in February 2002 and currently serves on the CINA Court Improvement Committee and as a member of the Alaska Interagency Coordinating Committee on Prevention of Underage Drinking. Prior to being appointed to the bench, Judge Devaney practiced law in Nome Alaska. He spent time as a tribal lawyer, Assistant Attorney General/Assistant District Attorney as well as time in private practice. He is a 1990 graduate of the University of Montana School of Law.

Doug Griffin was appointed Director of the Alaska Alcoholic Beverage Control Board by Governor Tony Knowles and began service in the position January 8, 1996. Prior government experiences included eight years as City Manager for the City of Valdez where he addressed local government challenges in 1989 as a result of the grounding of the crude oil discharge from the *Exxon Valdez*. Mr. Griffin began his government career as a Local Government Specialist with the Alaska Department of Community and Regional Affairs in 1977 and ended

his service there as a Deputy Director in 1987. He graduated with a Bachelor of Science in Political Science and a Masters of Public Administration from American University in Washington, D.C. While attending college Doug worked on the staff of Alaska Senator Mike Gravel. Mr. Griffin has lived in Alaska since 1964 and has lived in Barrow, Wainwright, St. Michael, Sitka, Juneau, Valdez, and Anchorage. Doug and his wife Barbara presently live in Anchorage and have two grown children, Laura and Doug.

Brenda Horvath is the program coordinator for the Alaska Native Justice Center. Part of her responsibilities include working as part of a team in the restorative justice diversion program for Alaska Native youth and their families. Brenda comes to the Alaska Native Justice Center from the clinical community having worked for five years with Volunteers of America youth programs and another five years with Southcentral Foundation and Cook Inlet Tribal Council as a core partner and coordinator in youth diversion efforts. She arrived in Alaska in 1971 and has a son who is 24.

Ronald Taylor is currently the Program Manager for the Alaska Alcohol Safety Action Program (ASAP). For 11 years, he has been responsible for providing overall statewide direction and supervision of both the adult misdemeanor probation and juvenile monitoring components of the ASAP program. Recently, Mr. Taylor assumed supervision of the Tobacco Enforcement section, as well as the development and implementation of the therapeutic court community supervision unit. Prior to this, he worked for over 5 years as an Adult Probation Officer providing case management and monitoring to offenders on misdemeanor probation with substance abuse and/or other behavioral health requirements. Additionally, Mr. Taylor serves as a liaison between professionals in the criminal justice and social service agencies, as well as the current president of the National Organization of State Impaired Driving Programs (NOSIP).

### Endnotes

<sup>1</sup>National Research Council. Institute of Medicine. National Academies of Science. (2004). *Reducing Underage Drinking: A Collective Responsibility*. Retrieved February 10, 2007, from <http://books.nap.edu/catalog/10729.html#toc>

<sup>2</sup>[Wyoming] Governor's Substance Abuse and Violent Crime Advisory Board. (September, 2006). *Reducing Underage Drinking in Wyoming: A Collective Responsibility*. Retrieved February 10, 2007, from [www.wfli.org/pdf/docs/Wyoming\\_Response\\_Final\\_ReportELJedit.pdf](http://www.wfli.org/pdf/docs/Wyoming_Response_Final_ReportELJedit.pdf)

<sup>3</sup>Ohio Policy Panel to Reduce Childhood/Underage Drinking. (March, 2006). *Empowering our Future: Ohio's Recommendations to Prevent Childhood/Underage Drinking*. Retrieved February 10, 2007, from [www.smartandsober.com/townhall/files/documents/policypanelwebbook1.pdf](http://www.smartandsober.com/townhall/files/documents/policypanelwebbook1.pdf)

<sup>4</sup>New Futures. (September, 2005). *Recommendations for Success: New Hampshire's Strategy to Reduce Underage Alcohol Problems*. Retrieved February 10, 2007, from [www.new-futures.org/pdf/NH\\_State\\_Strategy.pdf](http://www.new-futures.org/pdf/NH_State_Strategy.pdf)

<sup>5</sup>Florida Community Coalitions Prevention Center. (April, 2004). *Changing Alcohol Norms (CAN): Florida's Initiative to Lower Youth Drinking*. Retrieved February 10, 2007, from <http://www.fadaa.org/fcc/projects/drinking.asp>

<sup>6</sup>State of Alaska. Department of Health and Social Services. (November, 2001). *In Step: The Plan*. Retrieved February 10, 2007, from <http://www.hss.state.ak.us/commissioner/instep/default.htm>

<sup>7</sup>Miller, TR, Levy, DT, Spicer, RS, & Taylor, DM. (2006) Societal costs of underage drinking *Journal of Studies on Alcohol*, 67(4) 519-528.

<sup>8</sup>Miller, TR, Levy, DT, Spicer, RS, & Taylor, DM. (2006) Societal costs of underage drinking *Journal of Studies on Alcohol*, 67(4) 519-528.

<sup>9</sup>Grant, B.F., & Dawson, D.A. (1997). Age at onset of alcohol use and its association with DSM-IV alcohol abuse and dependence: Results from the Nation Longitudinal Alcohol Epidemiologic Survey. *Journal of Substance Abuse* 9: 103-110.

<sup>10</sup>Office of Applied Studies, Substance Abuse and Mental Health Services Administration. Treatment Episode Data Set (TEDS). (2003). *Substance Abuse Treatment by Primary Substance of Abuse, According to Sex, Age, Race, and Ethnicity*.

<sup>xi</sup>National Center for Chronic Disease Prevention and Health Promotion. Youth Risk Behavior Survey Surveillance, 2003. <http://www.cdc.gov/HealthyYouth/yrbs/index.htm>.

<sup>xii</sup>Scales, P., Leffert, N. (1999). Developmental Assets: A Synthesis of the Scientific Research on Adolescent Development. Search Institute.

<sup>xiii</sup>C & S Management Associates, Underage Drinking Needs Assessment, Juneau, AK, 2000

<sup>xiv</sup>Department of Transportation and Public Facilities. Highway Safety Office. (2006). *2006 Alaska Highway Safety Office Annual Report*. Retrieved February 11, 2007, from [http://www.dot.state.ak.us/stwdplng/hwysafety/dui\\_stats.shtml#](http://www.dot.state.ak.us/stwdplng/hwysafety/dui_stats.shtml#)

<sup>xv</sup>Miller, TR, Levy, DT, Spicer, RS, & Taylor, DM. (2006) Societal costs of underage drinking *Journal of Studies on Alcohol*, 67(4) 519-528.

<sup>xvi</sup>National Center for Chronic Disease Prevention and Health Promotion. Youth Risk Behavior Survey Surveillance, 2003. <http://www.cdc.gov/HealthyYouth/yrbs/index.htm>.

<sup>xvii</sup>Miller, TR, Levy, DT, Spicer, RS, & Taylor, DM. (2006) Societal costs of underage drinking *Journal of Studies on Alcohol*, 67(4) 519-528.

<sup>xviii</sup>Grant, B.F., & Dawson, D.A. (1997). Age at onset of alcohol use and its association with DSM-IV alcohol abuse and dependence: Results from the Nation Longitudinal Alcohol Epidemiologic Survey. *Journal of Substance Abuse* 9: 103-110.

<sup>xix</sup>Office of Applied Studies, Substance Abuse and Mental Health Services Administration. Treatment Episode Data Set (TEDS). (2003). *Substance Abuse Treatment by Primary Substance of Abuse, According to Sex, Age, Race, and Ethnicity*.

<sup>xx</sup>American Medical Association. (2004, October). *Brain damage risks*. Retrieved December 18, 2005, from <http://www.ama-ass.org/ama/pub/category/9416.html>

<sup>xxi</sup>National Council on Alcoholism and Drug Dependence, Juneau Affiliate. (2006). *Underage Drinking in Juneau: A Status Report*.

**Draft**  
**State of Alaska**  
**Plan to Reduce & Prevent Underage Drinking**

November 2007



Sarah Palin, Governor, State of Alaska

Karleen K. Jackson, Commissioner, Dept. of Health & Social Services

Melissa Stone, Director, Behavioral Health

<http://hss.state.ak.us/dbh/prevention/programs/substanceabuse/default.htm>

Steve McComb, Director, Juvenile Justice

<http://www.hss.state.ak.us/dji/grants/>

Dana Fabe, Chief Justice, Alaska Court System

Stephanie J. Cole, Director, Office of the Administrative Director

<http://www.state.ak.us/courts/>

Barbara Thompson, Commissioner, Dept. of Education and Early Development

Paul Prussing, Acting Director, Teaching and Learning Support

<http://www.eed.state.ak.us/tls/support/>

Walt Monegan, Commissioner, Dept. of Public Safety

Doug Griffin, Executive Director, Alcoholic Beverage Control Board

<http://www.dps.state.ak.us/ABC/>

Leo Von Scheben, Commissioner, Dept. of Transportation

Cindy Cashen, Administrator, Highway Safety Office

<http://dot.alaska.gov/stwdplng/hwysafety/index.shtml>

**This draft is out for public comment until April 14, 2008 at: <http://notes5.state.ak.us/pn>.**  
**Additional copies may be obtained by sending a written request to:**

**Department of Health and Social Services**  
**Behavioral Health**

**Attn: Preventing Underage Drinking Plan**

**P.O. Box 110620**

**Juneau, AK 99811-0620**

Or by calling 1-877-393-2287

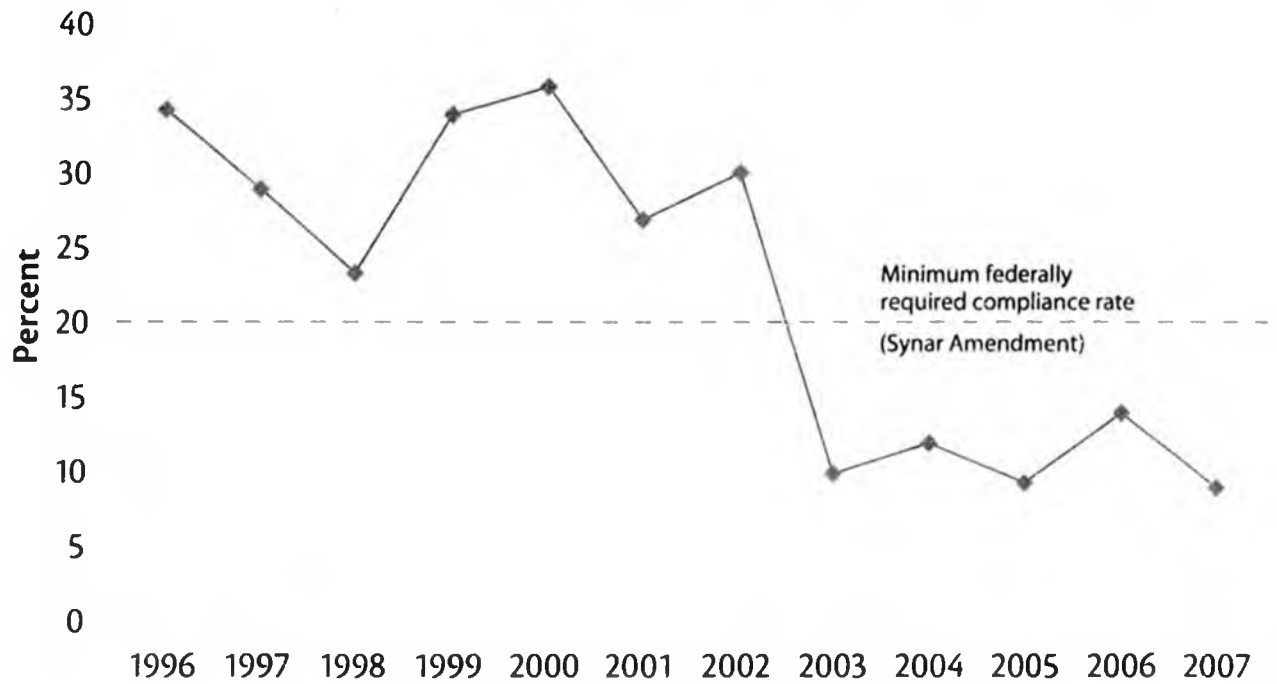
## Comparison of Alcohol & Tobacco Penalties

<b>Clerks</b>	<b>Tobacco</b>	<b>Current Alcohol</b>	<b>Proposed Alcohol</b>
1 <sup>st</sup> Offense	Violation – minimum \$300 fine	Class A misdemeanor – up to 1 year jail time and up to \$10,000 fine	Class A misdemeanor – up to 1 year jail time and up to \$10,000 fine
2 <sup>nd</sup> & Subsequent Offense	Violation – minimum \$300 fine	If previously convicted within 5 years, Class C felony – up to 5 years in jail time and up to \$50,000 fine	If previously convicted within 5 years, Class C felony – up to 5 years in jail time and up to \$50,000 fine

<b>Licensee/Business Owner</b>	<b>Tobacco</b>	<b>Current Alcohol</b>	<b>Proposed Alcohol</b>
1 <sup>st</sup> Offense	** Tobacco endorsement suspension of 20 days, and civil fine of \$300	Notice of Violation, <b>only if the owner makes the sale;</b> license suspension no more than 45 days at the discretion of the ABC Board	Civil fine of \$500
2 <sup>nd</sup> Offense	** If previously convicted within 2 years, then tobacco endorsement suspension of 45 days, and civil fine of \$500	Notice of Violation, <b>only if the owner makes the sale;</b> license suspension no more than 90 days at the discretion of the ABC Board, if previously convicted within 5 years,	If previously convicted within 5 years, then license suspension of 7 days, and civil fine of \$1,000
3 <sup>rd</sup> Offense	If previously convicted within 2 years, then tobacco endorsement suspension of 90 days, and civil fine of \$1,000	Notice of Violation, <b>only if the owner makes the sale;</b> license suspension or revocation at the discretion of the ABC Board, if previously convicted within 5 years,	If previously convicted within 5 years, then license suspension of 30 days, and civil fine of \$2,000
4 <sup>th</sup> Offense	If previously convicted within 2 years, then tobacco endorsement suspension of 1 year, and civil fine of \$2,500	N/A	N/A

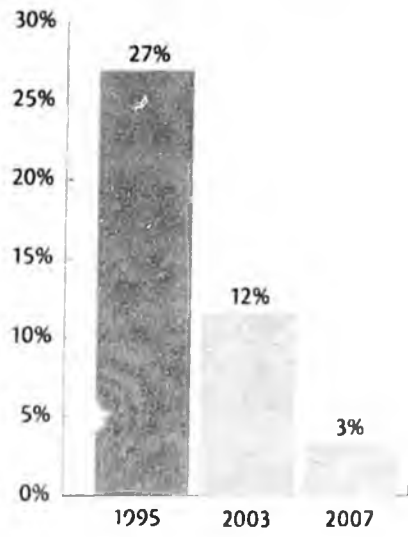
\*\* Note: Based on the results of the administrative hearing, the tobacco endorsement suspension can be **reduced or increased** by 10 days on the 1<sup>st</sup> offense and 20 days for the second offense.

Percentage of Alaska Vendors Found Selling Tobacco to Minors,  
by Year Alaska, 1996-2006



Source: Alaska Synar Compliance Database, 1996-2007

Alaska High School Youth  
Bought Own Cigarettes,  
1995 vs. 2003 (Past 30 Days)



Source: Alaska YRBS 1995, 2003, 2007.

## Best Practices Comparison

	Tobacco	Alcohol
<i>Concrete plan concerning how the state will enforce its law</i>	Yes	Yes
<i>State agency overseeing enforcement</i>	DBH	ABC
<i>Ongoing enforcement inspections employing test inspections</i>	3 Investigators	1 investigator
<i>State funding for enforcement inspections</i>	Tobacco fund	State GF
<i>Prosecution of offenders</i>	Yes Violation	Yes, Class A misdemeanor & Class C felony for subsequent offenses
<i>Penalties for violating the law</i>	Penalties for both clerks and licensee	Only clerks and licensee if sell is made
<i>Effective merchant education</i>	Tobacco Prevention & Control developed original materials	TAMS

**Note:** Based Journal of Public Health Management and Practice- Best Practices for Enforcing State Laws Prohibiting the Sale of Tobacco to Minors

AMENDMENT

OFFERED IN THE HOUSE

BY REP. FAIRCLOUGH

TO: HB 327

Page 2, line 12 – Page 3, line 23:

Delete all material and renumber remaining bill sections accordingly

Page 4, line 13:

Delete "\$500"

Insert "\$2,500"

Page 4, line 15:

Delete "suspend the license for a period of seven days and"

Page 4, line 16:

Delete "\$1,000"

Insert "\$5,000"

Page 4, line 18:

Delete "suspend the license for a period of 30 days and"

Page 4, line 19:

Delete "\$2,000"

Insert "\$10,000"

Page 4, line 26:

Delete "suspend a license"

Insert "impose a civil fine"

Page 5, line 2:

Delete "suspension of the license"

Insert "civil fine"

AMENDMENT

OFFERED IN THE HOUSE

BY REP. FAIRCLOUGH

TO: HB 327

Page 7, following line 2:

Insert a new bill section to read:

\* **Sec. 8.** AS 04.21.025(c) is amended to read:

(c) A licensee, agent, or employee shall complete the course required under (a) of this section and pass a written test demonstrating an understanding of the course subjects before serving alcohol to a patron or checking the identification of a patron [NOT MORE THAN 30 DAYS AFTER BEING LICENSED OR EMPLOYED]. The course provider shall issue a card to each individual who completes the course and passes the written test. A card issued under this subsection is valid for three years from the date of issue. A licensee, agent, or employee may renew a card issued under this section; to renew the card, the licensee, agent, or employee must pass a written test demonstrating an understanding of the course subjects.”

Renumber remaining bill sections accordingly.

AMENDMENT

OFFERED IN THE HOUSE

BY REP. FAIRCLOUGH

TO: HB 237

Page 3, following line 23:

Insert a new bill section to read:

**\*\* Sec. 3.** AS 04.16.030 is amended by adding a new subsection to read:

(c) A licensee, agent, or employee may not

(1) consume an alcoholic beverage or a controlled substance while serving alcoholic beverages to patrons on licensed premises;

(2) serve an alcoholic beverage to patrons on licensed premises while under the influence of an alcoholic beverage or controlled substance.”

Remember following bill sections accordingly.

SARAH PALIN  
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



P.O. Box 110001  
JUNEAU, ALASKA 99811-0001  
(907) 465-3500  
FAX (907) 465-3532  
WWW.GOV.STATE.AK.US

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 15, 2008

The Honorable John Harris  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would build on the significant efforts made in the last several years to curb the catastrophic health, economic, and social problems that arise from alcohol abuse in Alaska. The bill addresses problems arising both in larger urban areas and in communities that have adopted local options limiting possession, sale, or importation of alcohol.

A liquor licensee's agents or employees, such as bartenders or package store clerks, may be charged with a class A misdemeanor, or a class C felony under certain circumstances, if they sell or serve alcohol to a person under 21 years of age. Under current law, there is no adverse consequence to the licensee if the person's agent or employee has furnished alcohol to a minor. The bill would adopt civil penalties -- a civil fine for the first time an agent or employee is convicted, and a civil fine and a license suspension for a second and subsequent conviction of an agent or employee within a five-year period. These consequences would increase the incentive for licensees to train and supervise agents and employees in a way that would emphasize service only to persons 21 years of age and older.

Persons who illegally bring alcohol into a community in violation of a local option, commonly called bootleggers, cause serious harm to their communities. The prosecution of bootleggers requires significant effort by both law enforcement and prosecutors. When the prosecution of a bootlegger is successful, penalties that would deter future violations are important. The bill would impose mandatory minimum terms of imprisonment and fines for bootleggers that are identical to the mandatory minimum terms and fines for drunk drivers and persons who refuse to take a breath test. Bootleggers often repeat their illegal conduct. The bill would provide that a

The Honorable John Harris

January 15, 2008

Page 2

person who illegally brings alcohol into a local option area, and has been convicted twice in the past ten years, may be prosecuted for a class C felony. This is similar to the penalties for drunk driving and refusal, except that the proposed look-back period is ten years, as compared to the look-back period of 15 years for drunk driving and refusal. The bill would also allow persons convicted of bootlegging offenses to be eligible for referral to the therapeutic court, as are persons convicted of drunk driving and refusal.

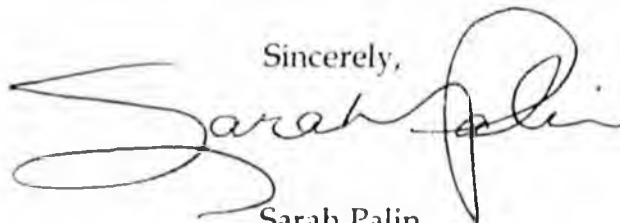
Persons who bring alcohol into a community in violation of local option laws can cause serious harm and even death to members of their community. The bill would amend the manslaughter statute to apply to a person who brings alcohol into a community in violation of a local option, if a person dies as a direct result of ingesting the alcohol. This change is similar to the amendment to the manslaughter statute adopted last year, that prohibited causing death by delivery of certain illegal drugs, if death is the direct result of ingestion of the drug.

The Rural Justice Commission made several recommendations for alcohol enforcement that have already been enacted into law. One recommendation not yet adopted but strongly supported by law enforcement is included in the bill. It would prohibit sending alcohol in plastic containers to a local option area, unless it is sent to a community delivery site. Plastic bottles are much more difficult to detect, because they weigh less and result in less detectible shipping noise during transportation as compared to glass bottles.

Finally, the bill would clarify that the court is required under AS 28.15.191(a) to make certain reports to the Department of Administration concerning certain violations of alcohol laws by minors for insertion on the central driver's license database.

This bill would help local communities address many of the problems of alcohol abuse. I urge your prompt and favorable consideration of this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Palin". The signature is fluid and cursive, with a large loop at the end of the last name.

Sarah Palin  
Governor

Enclosure

HOUSE BILL 327  
SECTIONAL ANALYSIS

**Section 1** would prohibit a licensee from shipping alcohol in plastic containers to a resident who lives in a local option community, unless the shipment is to a community distribution center. According to law enforcement, detection of illegal alcohol shipments in plastic is much more difficult, because it weighs less and is much quieter in plastic than it would be in glass containers.

**Sections 2, 3, 4, and 5** address the serious problem of minors consuming alcohol in Alaska, by requiring the Alcoholic Beverage Control (ABC) Board to levy fines and, for a second or subsequent offense in a five year period, suspend licenses if a bartender or clerk is convicted of furnishing alcohol to a minor on the licensed premises of the licensee. Under current law, there are no consequences for a licensee if the licensee's clerk or bartender is convicted of serving or selling alcohol to a minor. This provision, similar to a provision in tobacco enforcement, would encourage licensees to ensure that their employees are trained and able to avoid furnishing alcohol to minors.

**Section 6** would make a third conviction for bringing smaller amounts of alcohol to a local option community, in violation of the local option, a class C felony if the conviction is the third bootlegging conviction in a 10 year period. Under current law it is a class C felony to bring large amounts of alcohol to a community in violation of a local option. This provision would make it a similar felony for bringing smaller amounts if the person has two convictions in the prior 10 years.

**Section 7** would adopt mandatory minimum sentences for bootleggers that are similar to the mandatory minimum sentences for drunk driving and refusal to submit to a breath test. The sentences would apply both to misdemeanor and felony bootlegging convictions. The look-back period for the prior convictions in the bill is a 10 year period, rather than the 15 year look-back for drunk driving and refusal.

**Sections 8 and 9** amend the manslaughter statute so that it would prohibit causing the death of a person, if the death was a direct result of ingestion of alcohol that the defendant brought the alcohol into a community in violation of a local option. This is similar to a law adopted two years ago addressing the illegal manufacture or delivery of methamphetamines that cause the death of another person.

**Section 10** clarifies that the court system should provide information about minors convicted of minor consuming alcohol to the Division of Motor Vehicles. This transfer of information is then available to law enforcement, so that a peace officer knows if the minor he or she is confronting has prior incidents of minor consuming.

**Section 11** allows a person charged with bootlegging to be eligible for consideration of referral to therapeutic court.

**Sections 12 and 13** include applicability and effective date sections.

**Sonya Hymer**

**From:** Sonya Hymer  
**Sent:** Friday, February 29, 2008 10:51 AM  
**To:** cra; Rep. Mary Nelson; Rep. Reggie Joule  
**Cc:** 'Laughlin, Wilda J (HSS)'; 'Carpeneti, R Anne D (LAW)'; 'Rice, Lauren (DPS)'; 'Griffin, Douglas B (DPS)'; Glick, John R (DPS)  
**Subject:** FW: Work Session on HB 327

Below please find an email and materials from Diane Casto for HCRA's work session on HB 327, scheduled for Tuesday, March 4, at 8 a.m. in Barnes 124.

**From:** Casto, L (HSS) [mailto:l.casto@alaska.gov]  
**Sent:** Thursday, February 21, 2008 3:28 PM  
**To:** Sonya Hymer  
**Cc:** Laughlin, Wilda J (HSS); Renee Limoge; Anne Carpeneti  
**Subject:** RE: Work Session on HB 327

Hello Sonya –

Thank you for the invitation to attend the March 4th Work Session on HB 327. I will be attending. In preparation for the meeting and in response to a number of questions and comments that came up at this morning's hearing, I am sending some resources that the Committee members may find useful prior to the work session. While this is probably more information than most members may want to read, these documents outline national Best Practices around the issues of youth access to alcohol and discuss other strategies that can and should be employed in conjunction with restricting access to alcohol via servers and retailers (recognizing that this is only one way youth access alcohol). I hope you and the committee members find this information useful. If there is any additional information I can provide regarding prevention of underage drinking, please do not hesitate to contact me.

L. Diane Casto, Manager  
Behavioral Health  
Prevention & Early Intervention Services  
465-1188

<http://www.udetc.org/documents/accesslaws.pdf> -- Article, Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices (BP's 9 & 10 specifically, pages 16-21)

<http://www.udetc.org/documents/PreventingSales.pdf> -- Article, Preventing Sales of Alcohol to Minors: What you Should Know about Merchant Education Programs

<http://www.udetc.org/documents/LocalRegulLandUse.pdf> -- Article, How to Use Local Regulatory and Land Use Powers to Prevent Underage Drinking

<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5321a2.htm> - Article, Enhanced Enforcement of Laws to Prevent Alcohol Sales to Underage Persons—New Hampshire, 1999-2004

<http://www.dontserveteens.gov/retailers.html> -- We Don't Serve Teens, FTC. What Alcohol Retailers Can Do

Federal Alcohol Administration

Federal Complaint | Order Filings | Privacy Policy | FTG Search



Did you know?

In 2006, 63 percent of eighth graders reported that alcohol is "fairly easy" or "very easy" to get.

Today is February 29, 2008

En Español



**21 Is the Legal Drinking Age**  
Learn about laws that reduce teen drinking

**State Laws**  
Links to state-by-state legislation

**Dangers of Teen Drinking**  
What can happen to teens who drink

**Stopping Easy Access**  
Steps you can take to reduce teens' access to alcohol

**Alcohol Advertising**  
Talk to your kids about alcohol ads

**Answering Questions About Alcohol**  
What to say to neighbors and friends

## How can you help?

Everyone can do something:

Individuals & Organizations  
Media  
Retailers  
Law Enforcement

## Get Campaign Materials



Stories  
from  
real life

## Alcohol Retailers Can Help Reduce Teen Drinking

### Retailers play an essential role in reducing teen access

They can take steps to make sure that teens can't buy alcohol from their stores, and they can serve as a source of information to reduce the possibility that alcohol legally sold to an adult will end up in a teenager's hands. On this page are tools for retailers to meet these goals.

Responsible retailing practices are key to preventing illegal alcohol sales. But it takes more than just telling your staff not to sell to minors. Responsible retailers need specific policies, backed up by training and accountability, that enable staff to say, "If I sell to you, I'll lose my job."

*Best Practices for Responsible Retailing*, prepared by Brandeis University for the U.S. Government's Center for Substance Abuse and Prevention, describes best practices for retailers of alcohol and other age-restricted products. The report recommends that retailers take the following action.

### Create an alcohol sales policy

Establish steps staff must take for every alcohol transaction, including

- When to ask for ID (From everyone? Everyone who appears 35 or below?)
- How to ask for ID—phrases to use
- What ID is acceptable, what features to check, and how to tell if ID has been altered
- How to verify age (comparison to a calendar or use of electronic device)
- When to call a supervisor
- How to decline a sale—what to say and how to say it

Provide sales personnel with tools to verify ID at each register

- If possible, program registers to recognize alcohol sales and use electronic ID verification.
- Otherwise, provide a guidebook showing currently valid IDs and a calendar indicating birth dates eligible for alcohol sales ("alcohol sales permitted only if you were born on or after this date in [year]"). Some wholesalers or distributors provide ID guides, or you can buy them from:

*Drivers License Guide Co*  
1492 Oddstad Drive  
Redwood City, CA 94063

1-800-227-8827

#### Conduct compliance checks

- Retailers should conduct these at least every six months; reinspect within 14 days following noncompliance. Use "mystery shoppers" (young-looking adults who should trigger an ID check) to determine whether your salespeople ask for ID and whether sales are made despite underage or inauthentic ID.
- Businesses with security cameras should videotape alcohol sales. Supervisors should review them periodically to evaluate compliance. If possible, use technology that "time stamps" transactions and displays date of birth information gathered from the customer. Be sure to display signs letting customers know your store uses cameras.

#### Adopt personnel policies regarding results of compliance checks, such as

- Prompt consequences for employees who fail compliance checks and their supervisors with a caution that additional surprise checks will occur soon, and the details of the consequences of additional failures. Consequences may include counseling, training, suspension without pay, or termination.
- Prompt and public rewards for employees who pass compliance checks and their supervisors, including a tangible gift or recognition.
- Notes about compliance checks in the personnel records of the employee and supervisor that are taken into account in making compensation, promotion, and retention decisions.

#### Establish record keeping requirements, including

- Written records of employee training, compliance checks, and disciplinary actions taken regarding alcohol sales to underage customers.
- Require prominent signs about your policies for ID verification at the entrance to the alcohol sales area and at alcohol sales registers.

#### Train sales personnel

A store culture of compliance begins at the hiring and training process. Some states have requirements about training for alcohol sales personnel. Contact your state to see what laws or regulations they have and whether they recommend a specific type of training. In the absence of state requirements, the Best Practices report suggests these steps:

##### During the application process

- Tell applicants that you require employees to comply with alcohol sales laws and company policies. Let them know the consequences of illegal sales for them, the company, and the community.
- Screen applicants for alcohol sales violations. Ask the applicant and previous employers about violations; check available public records.

##### Before staff begin selling alcohol

- Train them on all aspects of your company's alcohol policies. This training

should include role playing, and teaching how to check ID in a non-confrontational manner.

- Let staff know that:
  - a. you monitor compliance in a variety of ways, including through management oversight, use of mystery shoppers, and review of security tapes, if applicable; and
  - b. failure to comply with alcohol laws and policies constitutes grounds for disciplinary action up to—and including—termination.
- Require them to sign a document stating they received this information.

#### At least every 6 months

- Provide refresher training, including written testing and role playing on how to handle difficult situations.
- Ask them to share situations they have dealt with.

#### Make management accountable for alcohol sales compliance

Every aspect of responsible alcohol sales imposes a responsibility on management to oversee and respond

- Require newly hired or promoted supervisors to be trained on all aspects of company alcohol sales policy, including hiring and training the sales force.
- Train supervisors to monitor staff compliance with alcohol sales policies, including regular reminders on the necessity of proper ID verification.
- Require compliance with alcohol sales policy to be a factor in decisions on compensation, promotion, and retention of managers and sales staff.

#### Become a community resource for alcohol information

The package store or other alcohol retailer is an important source of information about alcohol. Consumers who come in to buy alcohol are primed to receive product-related information. You serve your community when you display and distribute information about the legal drinking age and the importance of preventing teen access to alcohol.

We encourage alcohol retailers to display and give out information about the **We Don't Serve Teens** program.

- Download and print posters, fliers, and brochures.
- Order program materials from [The Century Council](#).
- Use the artwork on this website to create shopping bag or cash register art.

Don't serve alcohol to teens.  
**It's unsafe. It's illegal. It's irresponsible.**



CDC

CDC Home

Search

Health Topics A-Z

MMWR

Weekly

June 4, 2004 / 53(21);452-454

## Enhanced Enforcement of Laws to Prevent Alcohol Sales to Underage Persons --- New Hampshire, 1999--2004

In 1984, the National Minimum Drinking Age Act (Public Law 98-363) was passed, requiring states to raise to 21 years the minimum age to purchase and publicly possess alcohol. Although the law has contributed to substantial reductions in underage drinking and alcohol-related motor-vehicle crashes (1), alcohol use and binge drinking rates among youths remain high in the United States, and efforts by youths to purchase alcohol from licensed establishments frequently are successful (2,3). To reduce alcohol sales to persons aged <21 years in Concord (2000 population: 40,687), New Hampshire, the Concord Police Department (CPD) and New Hampshire Liquor Commission (NHLC) conducted a pilot program of enhanced law enforcement with quarterly compliance checks of alcohol licensees during March 2002--February 2004. This report summarizes the results of that program, which indicated that enhanced enforcement 1) resulted in a 64% reduction in retail alcohol sales to underage youths and 2) was temporally associated with declines in alcohol use and binge drinking among Concord high school students. These findings emphasize the potential effectiveness of enhanced enforcement of minimum drinking age laws to reduce consumption of alcohol by underage youths.

NHLC routinely conducts statewide compliance checks by using persons aged 17--19 years to attempt purchases of beer or wine. If questioned, buyers are instructed to state their true age and, if asked, to present their driver's license to verify their age. During October 1999--February 2004, routine compliance checks were conducted at 29% (539 of 1,839) of "off-sale" alcohol licensees (i.e., businesses that sell alcohol to be consumed off-premises, such as convenience, grocery, and state liquor stores) outside of Concord each year. In Concord, during October 1999--February 2002, routine compliance checks were conducted one to two times per year at all off-sale alcohol licensees.

During March 2002--February 2004, CPD conducted a campaign of increased enforcement of the minimum drinking age. The campaign included three components: 1) quarterly compliance checks of all off-sale alcohol licensees; 2) enhanced administrative penalties for noncompliance, including a mandatory fine levied against the alcohol licensee, temporary suspension of retailers' alcohol licenses beginning with the first offense, and increasing penalties for subsequent offenses (Table); and 3) media coverage of enhanced enforcement activities, such as reporting the number of citations issued for noncompliance. Quarterly compliance checks were conducted throughout the intervention period; however, mandatory licensee fines and suspensions were in effect only during August 2002--July 2003. The enhanced administrative

penalties were announced by CPD in a letter sent to all Concord alcohol licensees in June 2002. Under New Hampshire state law, store clerks who sold alcoholic beverages to underage buyers also were subject to fines and penalties, which were issued at the discretion of the local judicial system throughout the study period.

To estimate the number of youths who drank alcohol, the New Hampshire Department of Health and Human Services analyzed data from the Youth Risk Behavior Survey (YRBS) conducted at Concord High School among students in grades 9--12 in 2001 and 2003. In 2001, a total of 1,131 (62.0%) of 1,824 high school students participated in the Concord YRBS. In 2003, a total of 1,274 (74.0%) of 1,721 students participated. Statewide data on alcohol consumption by high school students were obtained from the 1995 and 2003 YRBS conducted by New Hampshire. Because of low response rates in 1997, 1999, and 2001, data from New Hampshire YRBS surveys in those years were not weighted, and therefore were not used for comparison. In 1995, a total of 2,092 students participated in the New Hampshire YRBS; the overall response rate was 65.0%. In 2003, a total of 1,322 students participated in the New Hampshire YRBS; the overall response rate was 61.8%. Current alcohol use was defined as having at least one drink of alcohol on >1 day during the preceding 30 days. Binge drinking was defined as having five or more drinks of alcohol in a row during the preceding 30 days.

In Concord, before enhanced enforcement activities, 62 (28.2%) of 220 licensees sold alcohol to underage youths during compliance checks (Figure 1). During enhanced enforcement, 39 (10.2%) of 383 licensees sold alcohol to underage youths during compliance checks (relative risk [RR] = 0.4; 95% confidence interval [CI] = 0.3--0.5). During enforcement checks elsewhere in New Hampshire, outside of Concord, 308 (30.5%) of 1,007 licensees sold alcohol to underage youths in compliance checks during October 1999--February 2002 (Figure 2). During March 2002--February 2004, a total of 231 (27.7%) of 832 licensees sold alcohol to underage youths (RR = 0.9; 95% CI = 0.8--1.1).

Among Concord high school students, statistically significant declines occurred in the proportion of students who reported current alcohol use (from 49.8% in 2001 to 39.9% in 2003; RR = 0.8; 95% CI = 0.7--0.9) and binge drinking (from 32.0% in 2001 to 25.0% in 2003; RR = 0.8; 95% CI = 0.7--0.9). Statewide, no statistically significant decreases occurred in the proportion of New Hampshire high school students who reported current alcohol use in 1995 (53.1% [95% CI = 50.2%--56.0%]) versus 2003 (47.1% [95% CI = 41.8%--52.4%]) or binge drinking in 1995 (32.9% [95% CI = 30.2%--35.6%]) versus 2003 (30.6% [95% CI = 25.9%--35.3%]).

**Reported by:** R Barry, Concord Police Dept; E Edwards, New Hampshire Liquor Commission; A Pelletier, MD, New Hampshire Dept of Health and Human Svcs. R Brewer, MD, J Miller, MD, T Naimi, MD, Div of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion; A Redmond, MPH, Div of Applied Public Health Training, Epidemiology Program Office; L Ramsey, PhD, EIS Officer, CDC.

### Editorial Note:

In Concord, New Hampshire, quarterly compliance checks and mandatory penalties were associated with substantial reductions in retail alcohol sales to underage buyers. During this same period, retail alcohol sales to underage buyers in the rest of the state remained unchanged. In addition, both current alcohol use and binge drinking by Concord high school students decreased during 2001--2003. These findings are consistent with other studies that determined

compliance checks can reduce alcohol sales to underage youths and, when combined with other activities, might reduce youth consumption of alcohol (2,4,5).

This report is subject to at least four limitations. First, during the study period, other efforts to reduce underage access to alcohol in Concord were conducted (e.g., roving park patrols and surveillance outside retail stores), reducing the likelihood that reduction in alcohol sales to underage youths was associated only with enhanced enforcement. Second, because quarterly compliance checks were instituted for a longer period than mandatory penalties, the contributions of the checks and penalties relative to the decrease in alcohol sales to underage youths were difficult to assess. Third, because statewide compliance checks were conducted by using a convenience sample, statistical comparisons could not be made between compliance check data for Concord and the rest of New Hampshire. Finally, the absence of weighted data from the 2001 New Hampshire YRBS limited the ability to compare recent changes in current alcohol use and binge drinking between Concord and the rest of the state.

State and local governments often lack adequate resources to enforce minimum drinking age laws (6). CPD was able to partially fund its program through a grant from the New Hampshire Department of Justice. Alcohol excise taxes might be another resource for funding enforcement efforts. In addition, raising alcohol taxes is an effective policy intervention for reducing underage drinking and alcohol-related problems (6,7).

The findings in this report support recommendations of the Institute of Medicine in its 2003 report, *Reducing Underage Drinking: A Collective Responsibility* (2). These recommendations call for 1) regular compliance checks; 2) administrative penalties, including fines and license suspensions that increase with each offense; 3) enhanced media coverage of the purposes and results of compliance checks; and 4) training for alcohol retailers regarding their legal responsibility to avoid selling alcohol to underage youths. These recommendations have been supported by previous studies (4,8,9). In another effort to prevent underage drinking, the New Hampshire state legislature in August 2003 approved a new driver's license that will display photo and driver information vertically for persons aged <21 years and horizontally for persons aged >21 years, making it easier for store clerks to identify underage youths.

### Acknowledgements

This report is based in part on contributions by E Crane, J Madden, D Reilly, Concord Police Dept; A Moore, JD, New Hampshire Liquor Commission. J Magri, MD, Div of Applied Public Health Training, Epidemiology Program Office, CDC.

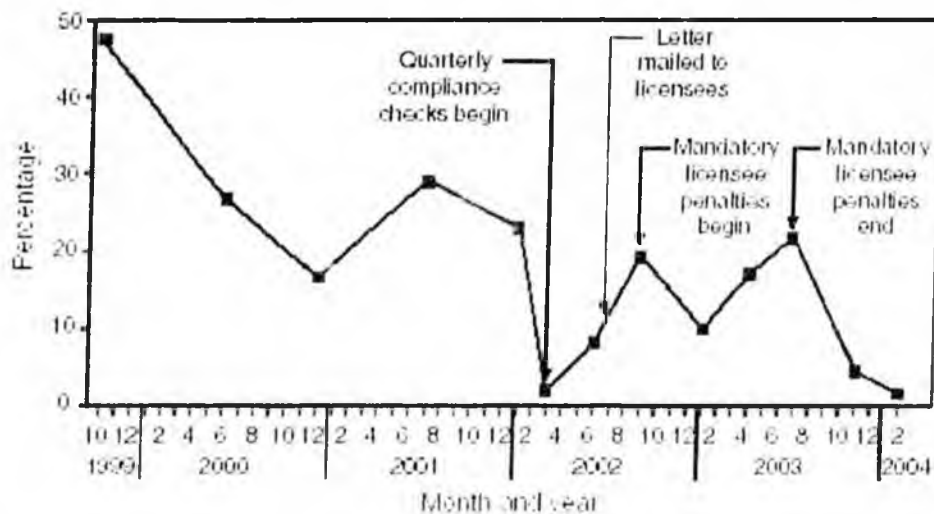
### References

1. Wagenaar AC, Wolfson M. Detering sales and provision of alcohol to minors: a study of enforcement in 295 counties in four states. *Public Health Rep* 1995;110:419--27.
2. Institute of Medicine. *Reducing underage drinking: a collective responsibility*. Washington, DC: Institute of Medicine, 2003.
3. Wagenaar AC, Toomey TL, Murray DM, Short BJ, Wolfson M, Jones-Webb R. Sources of alcohol for underage drinkers. *J Stud Alcohol* 1996; 57:325--33.
4. Pacific Institute for Research and Evaluation. *Regulatory strategies for preventing youth access to alcohol: best practices*. Berkeley, California: Pacific Institute for Research and Evaluation, 1999.
5. Grube J. Preventing sales of alcohol to minors: results from a community trial. *Addiction*

- 1997;92:S251--60.
6. Babor TF. Alcohol: No Ordinary Commodity---Research and Public Policy. Oxford, England: Oxford University Press, 2003.
  7. Chaloupka, FJ, Grossman M, Saffer H. The effects of price on alcohol consumption and alcohol-related problems. Alcohol Res Health 2002; 26:22--34.
  8. Preusser D, Williams A, Weinstein H. Policing underage alcohol sales. Journal of Safety Research 1994;25:127--33.
  9. Lewis R, Paine-Andrews A, Fawcett S, et al. Evaluating the effects of a community coalition's efforts to reduce illegal sales of alcohol and tobacco products to minors. J Community Health 1996;21:429--36.

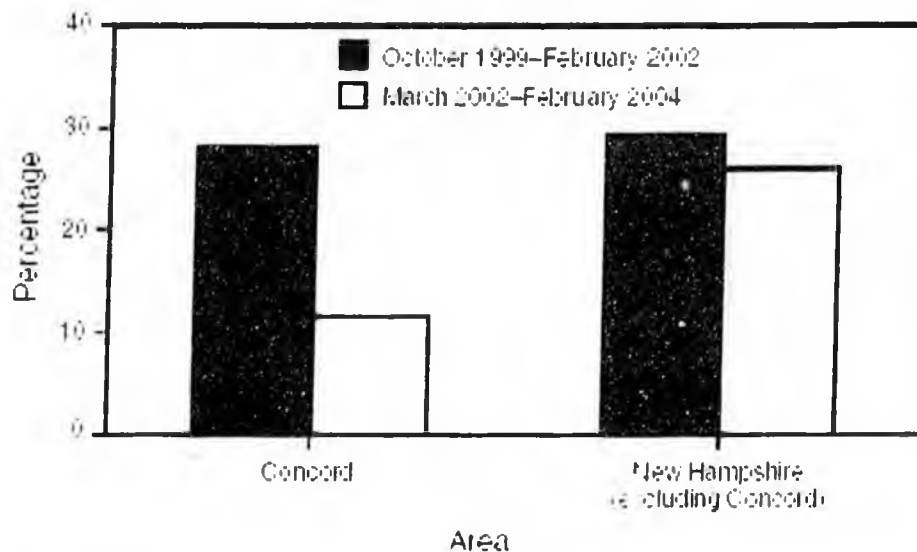
**Figure 1**

**FIGURE 1. Percentage of licensees selling alcohol to persons aged <21 years during compliance checks, by month and year — Concord, New Hampshire, October 1999–February 2004**



Return to top.  
**Figure 2**

**FIGURE 2. Percentage of licensees selling alcohol to persons aged <21 years during compliance checks before and during enhanced enforcement, by area — Concord, New Hampshire, October 1999–February 2004**



Return to top.

**Table**

**TABLE. Mandatory penalties to licensees for sale of alcohol to persons aged <21 years during compliance checks, by severity — Concord, New Hampshire, August 2002–July 2003**

Offense	Fine/Penalty	License/Suspension (days)
First	\$250	3
Second	\$500	5
Third	\$750	10
Fourth	\$1,500	30
Fifth	Revocation of license	

Return to top.

Use of trade names and commercial sources is for identification only and does not imply endorsement by the U.S. Department of Health and Human Services.

References to non-CDC sites on the Internet are provided as a service to *MMWR* readers and do not constitute or imply endorsement of these organizations or their programs by CDC or the U.S. Department of Health and Human Services. CDC is not responsible for the content of pages found at these sites. URL addresses listed in *MMWR* were current as of the date of publication.

**Disclaimer** All *MMWR* HTML versions of articles are electronic conversions from ASCII text into HTML. This conversion may have resulted in character translation or format errors in the HTML version. Users should not rely on this HTML document, but are referred to the electronic PDF version and/or the original *MMWR* paper copy for the official text, figures, and tables. An original paper copy of this issue can be obtained from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402-9371; telephone: (202) 512-1800. Contact GPO for current prices.

**\*\*Questions or messages regarding errors in formatting should be addressed to [mmwrq@cdc.gov](mailto:mmwrq@cdc.gov).**

**Page converted: 6/3/2004**

[HOME](#) | [ABOUT MMWR](#) | [MMWR SEARCH](#) | [DOWNLOADS](#) | [RSS](#) | [CONTACT](#)  
[POLICY](#) | [DISCLAIMER](#) | [ACCESSIBILITY](#)

**SAFER • HEALTHIER • PEOPLE™**

**Morbidity and Mortality Weekly Report**  
Centers for Disease Control and Prevention  
1600 Clifton Rd. MailStop E-90, Atlanta, GA  
30333, U S A



Department of Health  
and Human Services

This page last reviewed 6/3/2004



# How To Use Local Regulatory and Land Use Powers To Prevent Underage Drinking

## What do local regulatory and land use powers have to do with preventing underage drinking?

Communities all over the country are concerned about underage drinking and the many serious problems that go along with alcohol consumption by young people. Whether and how much young people drink depends to a large extent on community norms and expectations about drinking. These norms and expectations emerge from and reflect the community *alcohol landscape* or *alcohol environment*, including such elements as messages regarding alcohol use in the media and elsewhere; the ease with which young people can obtain alcohol through commercial and noncommercial sources; and the role of alcohol in community events. This landscape can be shaped by local regulations and land use ordinances, which are forms of *alcohol policy*.

Often communities take their alcohol landscape as a given or as the sole province of state and federal lawmakers. But many communities now are challenging these assumptions, developing local alcohol policies that have had impressive results. Local governments in most states do not have to wait for state legislatures or Congress to act to reshape their alcohol environments. This fact sheet gives a menu of local alcohol policy options that can reduce youthful drinking in our communities.

## What are local regulatory and land use powers?

Local governments have the responsibility and authority to protect the public's general health, safety, and welfare. They fulfill this responsibility in part through their land use powers—by determining what activities may occur on the land within their jurisdiction. Both commercial and noncommercial activities associated with alcohol fall within these broad powers. Unless preempted by state or federal law (see "Beware of Preemption," below), local communities can rely on land use zoning to determine where alcohol may be sold or consumed and how it is

distributed and marketed. Some states allow local governments to license commercial alcohol establishments. Licensing amplifies local zoning powers as a means to shape the local alcohol environment.

Community zoning ordinances identify the type of development that is permitted within a geographical area. For example, an R-1 zone typically identifies an area where construction of single family residences are permitted as a matter of right—no special license or public hearing is required to build a single family home in an R-1 zone. In addition to such permitted uses, however, other uses may also be permitted, but only after they have been reviewed for potential negative impacts on the area and special conditions placed on the development to minimize these negative impacts. For instance, in an R-1 zone, communities will often permit development of child care centers, schools, parks, and senior housing projects, but only after conditions have been placed on these developments to respond to concerns about the traffic, noise, and other potential negative impacts such developments might pose to the quality of life people expect in a single family neighborhood.

Although the exact term and approval process may differ from state to state, these *Conditional Use Permits* (CUPs) are a central feature of zoning laws in most states. Zoning ordinances specify which land uses require a CUP, and specify the public notice and hearing process that will be conducted to identify potential negative impacts and to decide the specific conditions that will be required to mitigate these negative impacts.

Zoning ordinances can require that any given land use, including retail alcohol outlets, must obtain a conditional use permit in order to conduct business. CUPs serve as a useful adjunct to other types of regulations and allow for specific and public consideration of each business development proposing to sell alcohol. A very important aspect of the CUP requirement is that municipalities may

revoke the CUP at some later date should the required conditions be violated. This opportunity to monitor the continuing operation of an alcohol outlet, and to take corrective action if necessary, is an important feature supporting community zoning ordinances that require that all alcohol outlets be subject to a conditional use permit.

### How do local regulatory and land use powers influence the alcohol environment over time?

Specific regulatory and land use provisions affect how alcohol is made available in the community. Sales practices change over time as marketers and retailers develop innovative strategies and tactics for attracting new customers and increasing sales among current users. Once the changes occur, they become part of the community's landscape and are very difficult to reverse. For example, in the early 1980s, oil companies aggressively entered the convenience store industry, converting gas stations from auto repair centers to mini-marts that rely heavily on alcohol sales. This new marketing concept raises public health concerns because it increases the availability of alcohol (particularly in residential areas and near schools, where children are likely to be present) and combines the sales of alcohol and gasoline (possibly sending an unhealthy message about drinking and driving). Yet today, these alcohol/gas outlets are an accepted part of many communities' alcohol environment. Some entrepreneurs are now introducing alcohol to fast food outlets, beauty salons, and laundromats, marketing plans that raise similar public health and safety concerns.

If communities do not use their regulatory and land use provisions, changes such as these in their alcohol environments will respond solely to economic considerations, without attention to potential public health and safety costs. If, for example, a local jurisdiction had enacted in 1980 a land use restriction that prohibited alcohol and gasoline sales at the same retail outlet, then this marketing scheme would not have taken hold in that locality. Communities should be alert to the health and safety concerns raised by alcohol sales practices and anticipate potential problems. They can then act early to prevent these problems through regulation.

### What is the relationship of local regulatory and land use powers to state regulation?

The 21st Amendment to the U.S. Constitution, enacted at the repeal of Prohibition, gives the state the primary authority for regulating alcoholic beverages. States vary widely in the degree to which they have handed this

authority to local jurisdictions. In a few cases, states have given local government the primary authority for regulating alcohol, providing only minimal statewide standards. At the opposite end of the spectrum, a few states exercise exclusive authority over alcohol commerce, taking away (or *preempting*) related local regulatory and land use powers. The large majority of states fall between these extremes, establishing overlapping (or *concurrent*) local and state regulatory powers. States are most likely to allow at least some forms of local land use zoning powers, with local licensing authority a less common practice. Ideally, the state establishes minimum standards for regulating alcohol use and distribution and allows localities wide discretion in developing additional standards to meet their particular needs and circumstances. This is the case in many states.

Concerned citizens and groups who wish to make maximum use of local power should research state and local laws. Local officials and attorneys who specialize in these issues can be good resources for information.

#### Beware Preemption

The fact that states can take away local powers raises a note of caution: A common strategy of commercial alcohol interests is to seek state preemption in order to eliminate local regulatory and land use policies they oppose. These preemption proposals are sometimes couched in public health terms, mandating relatively weak state controls but eliminating the possibility of more stringent local ordinances.

### How do regulatory and land use policies respond to alcohol marketing practices?

A helpful typology for categorizing regulatory and land use policies is the four *P*'s of marketing—*product*, *place*, *promotion* and *price*. Marketers use these four elements to develop "total marketing" campaigns that target specific demographic groups. For example, specific *products* have been developed that appeal to young college students (e.g., 40-ounce beer containers and sweetened alcohol products). They are made available in *places* frequented by students and are offered at discount *prices* (recognizing that students have limited discretionary income). They are *promoted* using messages and images with youthful, college themes. Marketing campaigns targeting older, affluent, white males, inner-city African American youth, suburban

"soccer moms," or any other demographic group will have a very different marketing mix. Unchecked, these marketing tactics can create unsafe alcohol environments for youth. Many college communities, for example, have college bars and drinking events as the primary venue for entertainment and are saturated with promotions and low price offerings that encourage heavy drinking.

Communities can use these same marketing strategies to develop alcohol-safe environments for young people. Each of the four P's has a set of corresponding preventive responses. These responses should be coordinated with each other and applied in a comprehensive manner, targeting specific demographic groups. At stake is the shape of the alcohol environment and the level of risk to which a given population group is exposed. Here is a checklist of possible community policy options, using the four P's typology.

### What specific *place* regulations can be used to reduce alcohol availability to young people?

#### 1. Restrict the location/number of commercial alcohol outlets.

- Prohibit alcohol outlets within specified distances from schools, child care centers, youth centers, and other locations where children congregate.
- Prohibit alcohol outlets from locating within specific distances of other alcohol outlets.
- Restrict the total number of alcohol outlets based on a population ratio.

The city of Salinas, California, enacted a CUP ordinance that mandates public review and comment of most proposals to open new alcohol retail outlets. As a result, the city has limited the number of new outlets and imposed strict conditions on those that have been approved. In one case, neighborhood protests prompted the city council to reject a proposal to open a liquor store in a new development. The neighborhood already had an over-concentration of alcohol outlets and wanted a day care center on the proposed site. The residents subsequently convinced the developer of the feasibility of the day care center and assisted him and the city in financing the center.

The picturesque and historic city of Old San Juan, Puerto Rico, had become a public health and safety nightmare because of heavy drinking in the streets, underage drinking, littering of beer bottles and other alcohol-generated debris, vandalism, and noise. Traffic was gridlocked by young people cruising and drinking in cars. Residents, merchants and tourists complained to city officials. As a result, a committee was formed including representatives of all concerned parties and new policies were established prohibiting sales on the streets, sales of beverages in glass containers, consumption of alcohol in cars, and unnecessary noise. High fines were established for failing to check age identification and for sales to minors. As a result of this well-publicized effort, the atmosphere in Old San Juan has been transformed and dramatic decreases in crime have occurred.

#### 2. Restrict the types of commercial alcohol outlets.

- Restrict/prohibit concurrent sales of alcohol and gasoline.
- Restrict alcohol sales at mini-marts.
- Prohibit alcohol sales in non-traditional outlets (e.g., laundromats, movie theaters, beauty salons).
- Clearly distinguish between bars/nightclubs and restaurants (e.g., by limiting restaurants' alcohol sales to a maximum of 40 percent of their receipts; restricting late hour operations; prohibiting separate bar areas), and permit bars only in "adult" zoned areas.
- In restaurants, require that all alcohol sales be made only in conjunction with food service and sales.

### 3. Require commercial alcohol outlets to use responsible serving/sales practices.

- Require good management policies and training to ensure that servers and clerks routinely and effectively check age identification.
- Require minimum age of 21 for all servers and clerks.
- Prohibit employee alcohol consumption while on duty.
- Prohibit minors' access to bars and nightclubs.
- Prohibit video games and other forms of entertainment popular with teenagers in alcohol establishments where minors can be present.
- Limit the amount of square footage and shelf space dedicated to alcohol sales in retail outlets.
- Restrict home delivery sales.
- Restrict hours of sale.
- Require adequate lighting to enable staff to discern easily the appearance and conduct of persons in the outlet and adjacent areas.
- Prohibit all public nuisance activities in and around alcohol outlets, including loitering, littering, harassment of passersby, graffiti, loud noise, violations of state ABC code provisions, and criminal conduct.
- Restrict/prohibit public telephones (to deter drug dealing).
- Require adequate security, including, if warranted, the employment of a security guard.
- Conduct routine, effective compliance checks.

More than a dozen communities nationwide (as well as 16 states) have enacted ordinances that either mandate or create incentives to encourage Responsible Beverage Service programs for retail alcohol outlet managers and/or servers. The programs include reviews of current business practices, training on how to check age identification, and procedures for handling intoxicated patrons.

The cities of Petaluma, Vallejo, and Santa Rosa, California, have enacted teen party ordinances that prohibit any gathering in a private residence of five or more persons under 21 years of age, at least one of whom possesses alcohol; hold the person responsible for the event (homeowner, organizer, etc.) liable to the city for the cost of police services if a police officer at the scene determines that the gathering is a threat to the public peace, health, safety, or general welfare of the community; and impose a fine on the homeowner or renter who permits such a gathering to occur at his or her residence.

### 4. Restrict minors' access to noncommercial sources of alcohol.

- Restrict alcohol service at community events such as fairs and holiday celebrations.
- Create alcohol-safe community events.
- Restrict the availability of alcohol in public settings such as parks and recreation centers.
- Enact keg registration and teen party ordinances to reduce the availability of alcohol to young people in noncommercial settings.
- Enact teen party ordinances that hold adults accountable for hosting teen parties.

## What specific *promotion* regulations can be used to reduce minors' exposure to alcohol advertising/promotions?

- Prohibit outdoor advertising and billboards in areas where children are present (including residential zones and within 1,000 feet of schools, playgrounds and other child-oriented facilities).
- Restrict alcohol advertising to the interior of commercial alcohol outlets, and prohibit advertising inside the store that is visible from outside.
- Require signs prominently posted in commercial establishments regarding minimum age for alcohol purchase.
- Require signs prominently posted in public parks/facilities stating that it is illegal to consume alcoholic beverages.
- Prohibit the use of cartoon characters and other child-oriented images and slogans in alcohol advertising.
- Prohibit alcohol advertising by local retailers on television or radio programs with underage audiences exceeding 25 percent.
- Place limitations on the percentage of store window space devoted to advertising.
- Prohibit distribution or sale of any alcohol industry promotional materials to minors (e.g., as prizes at local fairs).
- Restrict alcohol industry sponsorship of any event sponsored or cosponsored by local government, any youth event (e.g., youth athletic events), or any event located on public property.

The cities of Baltimore, Chicago, Cleveland, Los Angeles, and Oakland (and many others) have enacted local ordinances restricting alcohol and tobacco billboards in residential areas and other locations where children are likely to be present. The Los Angeles ordinance includes strict controls on alcohol and tobacco advertising placed on storefront windows.

## What specific *product* regulations can be used to reduce minors' exposure to alcohol marketing that encourages overconsumption or appeals especially to youth?

- Require that 12-ounce or smaller containers of beer be sold in six-packs only – no single can sales (which encourage street drinking).
- Restrict the size of single beer containers to no more than one quart.
- Require that wine be sold in containers of at least 750 milliliters in volume or in minimum four-pack cooler containers.
- Permit corked wine containers only – prohibit screw-top wine bottles.
- Prohibit sales of distilled spirits in mini-bottles unless sold in multiples.
- Prohibit restrict sales of fortified wine and malt liquors (at least in residential areas) or specify that these products may not be chilled for sale.
- Prohibit sales of "alcopops" and other alcoholic products with characteristics that clearly appeal to youth (e.g., sweet taste; cartoon characters on packaging).

## What specific *price* regulations can be used to deter discounting and to increase the cost of alcohol to minors?

- Impose fees on all commercial alcohol outlets to cover local code and law enforcement costs.
- Impose/increase alcohol taxes (if local option available), and encourage increased taxes at state and federal levels.
- Prohibit discounted alcohol prices that are lower than standard prices in the community.
- Prohibit price promotions, such as flat fee "drink and drown" night.

The Coalition on Alcohol Outlet Issues, a grassroots community group in Oakland, California, spearheaded a successful drive in 1993 to enact a licensing ordinance designed to reduce public nuisance problems associated with problem alcohol outlets (such as violations of alcohol laws, violence, loitering, drug dealing, public drinking, and graffiti). The ordinance imposes a \$600 fee on most alcohol retailers in the city, with the fee earmarked for code and law enforcement and merchant education. Despite significant problems in implementing the ordinance (including a law suit filed by the merchants but rejected by the California Court of Appeals that claimed the ordinance was preempted by state law), residents and the city saw significant reductions in the targeted problems. Two California cities, Vallejo and Santa Cruz, have enacted similar ordinances.

In Gallup, New Mexico, local activists persuaded the state legislature to permit a local alcohol sales tax if adopted through a voter initiative process. Voters overwhelmingly supported a 5 percent tax proposal, with the revenue designated for a local alcoholism treatment and prevention center. The tax, combined with other interventions, including a voluntary Responsible Beverage Service program, prohibitions on drive-up windows, and restrictions on new alcohol outlets, resulted in substantial reductions in alcohol-related crime, violence, and injuries.

## Best Practices for Implementation

- Alcohol is a legal but potentially hazardous product that requires special regulatory and planning attention. To the extent permitted by law in each state, local governments should retain oversight and promote public involvement to ensure a safe alcohol environment. This means that communities should maintain an *active* regulatory posture regarding land use controls for alcohol outlets. Permits should not be issued automatically based on an unvarying set of criteria. Each case should be considered individually based on its potential to be an asset to the community rather than a liability.
- State alcohol licensing agencies usually examine the character and business history of the applicant in making decisions about granting a license. In order to complement the state review, community planning and land use decisions about alcohol outlets should focus on the nature of the business activity and its community impacts. Business owners come and go, but an alcohol outlet once approved is often a permanent fixture in a community. Land use permits should include conditions that define business practices and the manner and mode of business operations consistent with community values and standards, independent of the qualifications of current or future business owners.

- No local planning process can predict the problems or conditions that may occur in the future. As a consequence, when there is a proposed change in ownership or in the manner and mode of operation of an alcohol outlet, local governments should require a new public hearing to review the conditions placed on the alcohol outlet. The sale of alcohol is a regulated public privilege, and land use ordinances provide important opportunities to bring and retain balance between public and private interests.

## Conclusions

In most states, communities have the power to establish local regulations and land use policies. These policies can help create and maintain an environment with regard to alcohol that protects public health and safety and that, in particular, protects young people from underage drinking. Communities should explore the scope of the powers they have in their particular state and use policy to control the place, product, pricing, and promotion practices used to sell alcohol. These actions can be extremely effective in reducing underage alcohol use and the serious problems related to alcohol.

## Where can I get more information?

Other publications from the Office of Juvenile Justice and Delinquency Prevention's Underage Drinking Laws Program (Available by contacting the Underage Drinking Enforcement Training Center at 11140 Rockville Pike, 6th floor Rockville MD 20852. 1-800-335-1287):

*Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices* (1999)

This publication reviews 22 regulatory options for reducing youth access to alcohol, assessing available research on their effectiveness and presenting criteria for prioritizing their implementation.

*Strategies To Reduce Underage Alcohol Use: Typology and Brief Overview*

This document provides a summary of the various strategies commonly used to reduce underage drinking and indicates the level of effect that might be expected from each strategy. The information is designed to assist states in setting priorities for activities to be funded with block grant money.

*Guide to Conducting Alcohol Purchase Surveys*

*Guide to Conducting Youth Surveys*

These two documents provide step-by-step information for data collection efforts that can be undertaken by states or localities to identify specific problem areas and to measure and monitor changes over time in alcohol use, sources of alcohol, and merchant compliance with the law.

*The Cost of Underage Drinking*

This document provides information on the various health and social problems related to underage drinking and can be used by state coordinators and others to generate support for enforcement of underage drinking laws.

*Strategic Media Advocacy for Enforcement of Underage Drinking Laws*

The vast majority of states identified media campaigns as a major component of their state action plans. In addition, media coverage is an essential component of enforcement. This guide provides state coordinators and others with practical information on using the media efficiently and effectively to bring about better enforcement of underage drinking laws.

*Tips for Soliciting Cohesive Program Plans (Writing Effective RFPs for the Sub-granting Process)*

This brief document provides state coordinators with a format for constructing requests for proposals that are likely to elicit cohesive and effective plans from local communities.

*Preventing Sales of Alcohol to Minors: What You Should Know About Merchant Education Programs*

This fact sheet defines merchant education and distills current research knowledge on the effectiveness of merchant education programs, the components they should include, and how these programs fit within a larger community effort.

Publications on land use controls and their application to alcohol availability:

*Wittman, F. and Shane, P. Manual for Community Planning to Prevent Problems of Alcohol Availability. Berkeley, CA: CLEW Associates, 1988.*

*Wittman, F.* Development and Use of Conditional Use Permits to Prevent Problems Related to Retail Alcohol Outlets: An Overview. *University of California at Berkeley, Institute for the Study of Social Change, 1994.*

These two publications provide an excellent overview of community zoning principles and applications to alcohol land uses. Although they focus particularly on California law (which has state preemption statutes that are unique to that state), the presentations of land use concepts and strategies are applicable to communities in other states. Contact: Community Prevention Planning Program, Institute for the Study of Social Change, 837 Folger Ave., Berkeley, CA 94710, 510-540-4717.

*Sparks, M.* The Conditional Use Permit as a Prevention Tool. *The Alcohol and Other Drug Prevention Extension, Folsom, CA: The EMT Group, Inc. 1998.*

This is the workbook used for a one-day training with the same title developed by the EMT Group under the auspices of the California Department of Alcohol and Drug Programs. It also focuses on California law but is a useful tool for those from other states. For information on the training and manual availability contact: The EMT Group, Inc., 771 Oak Avenue Parkway, Suite 2, Folsom, CA 95630, 916-983-6680.

**Publications reviewing specific land use/local regulatory options:**

*Pratt, L., Rothstein, C., Meath, J., and Toomey, T.* Keeping Alcohol Away from Underage Youth: Policy Solutions. *Minneapolis, MN: Alcohol Epidemiology Program, University of Minnesota, 1997.*

*La Fond, C., Klaudt, K., Toomey, T., and Gehan, J.* Model Alcohol Ordinances. *Minneapolis, MN: Alcohol Epidemiology Program, University of Minnesota, 1998.*

These two publications provide background information on and sample ordinance language for 12 specific local policy options for reducing youth access to alcohol. Available on the Internet at <http://www.epi.umn.edu/alcohol/default.htm> or contact: Alcohol Epidemiology Program, School of Public Health, University of Minnesota, 1300 South Second Street, #300, Minneapolis, MN 55454-1015, 612-626-9070.

**Resources on Environmental Prevention Strategies for Preventing Alcohol-Related Problems:**

*Center for Substance Abuse Prevention, Environmental Prevention Strategies: Putting Theory into Practice. Training and Resource Guide. Rockville, MD: CSA/P, 1999.*

This guide includes a 30-minute video, research review, and resource materials. It is an excellent tool for introducing environmental prevention concepts and strategies, including local land use/regulatory strategies, to community groups and policy makers. Materials may be ordered from NCADI via mail, fax, telephone, or e-mail. Phone (toll free) 800-729-6686 to speak to an information specialist, or write to The National Clearinghouse for Alcohol and Drug Information, PO Box 2345, Rockville, MD 20847-2345. Fax 301-468-6433. E-mail: [info@health.org](mailto:info@health.org)

*Marin Institute for the Prevention of Alcohol and Other Drug Problems, The Alcohol Policy Slide Set Series: Resources for Organizing and Advocacy, Marin Institute: San Rafael, CA, 1997.*

This compilation of six sets of scripted slides (with topics including alcohol and violence, alcohol outlets and community economic development, alcohol availability regulatory options, and alcohol advertising) is an additional resource for introducing environmental strategies to community groups and policy makers. Contact: Marin Institute, 24 Belvedere Street, San Rafael, CA 94901, 415-456-5692.

*This guide was written by James F. Mosher, J.D., of the Marin Institute for the Prevention of Alcohol and Other Drug Problems and Bob Reynolds of the Pacific Institute for Research and Evaluation.*

Prepared by

**Pacific Institute**

FOR RESEARCH AND EVALUATION

In support of the  
**OJJDP Enforcing the  
Underage Drinking Laws Program**



Pacific Institute for Research and Evaluation  
11140 Rockville Pike, 6th Floor  
Rockville, MD 20850  
301-984-6500  
[www.pire.org](http://www.pire.org)



The Underage Drinking Enforcement  
Training Center

[www.pire.org/udetc](http://www.pire.org/udetc)



## Preventing Sales of Alcohol to Minors: What You Should Know About Merchant Education Programs

### What are merchant education programs?

Education and training of merchants and servers who sell alcohol are intended to promote voluntary compliance with laws and regulations governing the sale of alcohol to minors. Education programs can be provided both for off-sales outlets (such as liquor or grocery stores) and on-sales outlets (such as bars and restaurants). These programs may also be conducted as part of a more general approach to responsible beverage service training. Educational approaches can take a variety of forms, including:

- Distribution of materials to alcohol retailers summarizing the laws and penalties regarding sales to minors;
- Visits to retailers by representatives of regulatory or enforcement agencies or by community groups concerned about sales to minors;
- Training programs offered to managers and employees; and
- Mandatory education programs for establishments or employees in violation of youth access laws

### What can merchant education do?

Merchant education can serve a variety of purposes, including:

- **Provide information** about laws and penalties that might help merchants to understand the risks they take when they sell to minors;
- **Persuade** merchants that selling to minors is dangerous and violates not just the law but the norms of the community;
- Help owners and managers **establish responsible management policies**; and
- **Teach skills**—such as how to recognize a false ID—that can help prevent sales to minors.



### How effective is merchant education in reducing underage alcohol sales?

Merchant education should be conducted *only* as part of a comprehensive and integrated enforcement effort. Enforcement of laws against sales to minors is the key to reducing underage sales. Well-publicized, vigorous use of compliance checks has been repeatedly shown to reduce sales to minors. Merchant education programs can help to generate public and business support for enforcement and can enhance enforcement efforts. They have *not* been shown to be powerful interventions on their own.

### What are responsible beverage service programs?

Responsible beverage service is one type of merchant education program, generally implemented in bars, restaurants, and other on-sales alcohol outlets. These programs provide overall instruction in safe and responsible beverage service and sales. Considerable research demonstrates that a well-implemented, responsible beverage service program can be effective in reducing the sale of alcohol to intoxicated persons and in preventing impaired driving. However, little research currently exists to indicate whether these programs can be effective in reducing the sale of alcohol to minors. In general, we can

assume that responsible beverage service or other merchant education programs can be a useful component of an overall enforcement effort

## What components should a merchant education program include?

Educational programs for merchants should include the following elements:

- Information about laws and penalties;
- Information indicating the importance of avoiding sales to minors to protect the health and well-being of everyone in the community;
- An emphasis on proper management techniques and policies to encourage compliance with the law;
- Information about how to recognize false IDs; and
- Tips on how to refuse a sale safely and comfortably.

Perhaps the most important component—and one that unfortunately is often neglected—is the emphasis on proper management techniques. Clerks and others who carry out direct sales to customers may have difficulty adhering to the law *unless* they have appropriate management support.

## How does merchant education fit within a larger community effort?

Educating alcohol merchants can be a community effort that goes beyond any specific training program or distribution of materials. Some community groups visit merchants and talk to them about the importance of avoiding the sale of alcohol to minors. Sometimes young people make these visits themselves, asking merchants to help protect them and their peers. Some communities reward merchants who refuse to sell alcohol to minors with small prizes or by sending and publishing letters of commendation.

Merchants need more than just the facts about the law. They need to feel that the community supports them in their efforts to do the right thing.



## Where can I get more information?

### Research

Buka, S. L., & Birdthistle, I. J. (1999). Long-term effects of a community-wide alcohol server training intervention. *Journal of Studies on Alcohol, 60*, 27–36.

This study presents encouraging results regarding the effectiveness of alcohol server training. More than 1 year after participating in a “Responsible Alcohol Service” curriculum, trainees continued to report significantly higher levels of acceptable serving behavior, such as checking IDs, dealing with patrons showing the early effects of alcohol, and dealing with intoxicated patrons. The study found that these positive effects were most pronounced for young or inexperienced servers, wait staff, and those working in facilities without written service policies. It is important to note that the effects did diminish over time, suggesting that repeated, periodic training may be useful.

Toomey, T. L., Kilian, G. R., Gehan, J. P., Perry, C. L., Jones-Webb, R., & Wagenaur, A. C. (1998). Qualitative assessment of training programs for alcohol servers and establishment managers. *Public Health Reports, 113*, 162–169.

This study, conducted by members of the University of Minnesota’s School of Epidemiology, reviews 22 national and local training programs for alcohol vendors and servers. Though the study does not actually list the programs, it features a valuable discussion of the components of effective training. The results also indicate that few programs incorporate most of these components.

### Materials and Programs

The Century Council. (n.d.) *The “Front Lines” campaign*. Los Angeles, CA: Author.

The Century Council, an advocacy group funded by major distillers, developed this program to raise clerks’ and servers’ awareness of the importance of checking for a valid ID. The “Front Lines” campaign consists of both point-of-sale signs and training materials, which are available at no charge in both English and Spanish. Visit The Century Council Web site (<http://www.centurycouncil.org/underage/retailer/index.html>) to learn more about the program.

Health Communications. (1999). Training for Intervention ProcedureS [Web site]. Available at <http://www.gettips.com> (visited June 18, 1999)

Training for Intervention ProcedureS is a popular training program for alcohol sellers and servers. Better known as TIPS, the program aims to prevent intoxication, drunk driving, and underage drinking. Different courses are available depending on the type of establishment in which the server works—On Premise, Off Premise, Social Functions, and University, to name a few. All courses cover basic information about behavior, alcohol effects, effective responses to problems, laws, and IDs. This is supplemented with skills training and role playing/rehearsal. TIPS training is available throughout the country. (A cost may be involved.) Consult the Web site for details.

National Highway Traffic Safety Administration. (1997). *Retail oriented best practices for underage drinking prevention: An exemplary selection of retail oriented programs and practices aimed at reducing underage drinking and related drinking and driving* (DOT HS 808 618). Washington, DC: Author.

This report, developed in conjunction with the National Alcohol Beverage Control Association, includes a section on "Seller and Server Training." The section briefly describes the nature and content of a training program and then provides greater detail about three programs deemed exemplary: Licensee Education on Alcohol and Drugs (California), Alabama Responsible Vendor Program (Alabama), Seller and Server Training (Virginia). The report contains contact information for each of these programs, and the final section on "National Resources" includes additional contacts for seller and server training programs.

Prevention Research Center. (1996). *Responsible alcohol sales & service: Off-premise licensee, manager & clerk training*. Berkeley, CA: Author.

The Prevention Research Center provides highly practical information in its manuals, which address clerks and licensees/managers separately. Training participants review important definitions and laws, and they learn about the strategies that minors use to distract or persuade clerks and the procedures that management can establish to prevent illegal underage sales. Methods for checking IDs and successfully refusing sales also are presented. The appendix of

relevant State laws—that can be adapted for any State—is an example of a useful reference tool for those involved in alcohol sales.

### *State Resources*

Because State laws differ with regard to training requirements, one of the most practical steps for learning more about merchant education is to contact the Alcoholic Beverage Control (ABC) office in your State. Some States sponsor specific programs. California, for example, offers both Licensee Education on Alcohol and Drugs (L.E.A.D.—practical information on responsible sales and prevention, offered in a training setting) and Informed Merchants Preventing Alcohol related Crime Tendencies (I.M.P.A.C.T.—a cooperative program that identifies areas of noncompliance and provides crime prevention information to licensees during educational, in-store visits). Other States can provide lists of approved training programs and contact information. The World Wide Web is a convenient way to access this type of government information. Visit <http://www.atf.treas.gov/core/alcohol/info/leb.htm> to view a list of links and contact information for State ABC offices.

*Published June, 1999*


Prepared by

**Pacific Institute**  
FOR RESEARCH AND EVALUATION

In support of the  
**OJJDP Enforcing the  
Underage Drinking Laws Program**



Pacific Institute for Research and Evaluation  
11710 Beltsville Drive, Suite 300  
Cameron, MD 20719-2102  
Toll Free: 1-877-335-1287  
[www.pireval.org](http://www.pireval.org)



The Underage Drinking Enforcement  
Training Center  
[www.udetc.org](http://www.udetc.org)



# Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices



Prepared for the  
OJJDP National Leadership Conference  
July 11—14, 1999

Sheraton Reston Hotel  
11810 Sunrise Valley Drive  
Reston, VA 22091

In support of the  
OJJDP Enforcing the  
Underage Drinking Laws Program

# About This Guide

People who care about young people are aware of the serious problems caused by underage alcohol use. They should also be aware that there are many effective strategies for reducing underage drinking. Every State and community should be using these strategies.

State and local laws and regulations have the potential to be particularly effective in reducing underage access to alcohol. The right laws and regulations can minimize opportunities for young people to use alcohol and maximize the opportunities for effective enforcement and prevention.

This document provides guidance on the best practices for shaping and implementing laws and regulations to

- Restrict the *commercial availability* of alcohol to youth, with a focus on the practices of alcohol retailers;
- Restrict *social availability* to youth, with a focus on noncommercial sources of alcohol and noncommercial venues where young people consume alcohol; and
- Restrict *youth possession* to deter young people from attempting to purchase or consume alcohol.

State and local policymakers and concerned citizens can use the guide to

- Assess the existing laws and regulations in their jurisdiction;
- Identify gaps, loopholes, and areas for improvement;
- Identify strengths upon which effective enforcement strategies can be built;

- Persuade legislatures and local policymaking bodies that changes are needed; and
- Motivate enforcement and regulatory agencies to strengthen enforcement of existing laws and policies.

Well-crafted laws and regulations form the basis of effective strategies to reduce underage alcohol use. This guide can help States and localities to build a strong base for action.

# C ontents

About This Guide .....	i
Overview .....	v
Best Practices .....	vi
Implementation .....	x
Regulatory Strategies: Part of a Comprehensive Goal .....	xii
Introduction .....	1
The Impact of Minimum Age Drinking Laws .....	1
Chapter 1. Commercial Availability .....	5
Strict Prohibitions of Sales or Gifts to Minors .....	6
Licensing Restrictions .....	7
Regulations for Serving and Selling Practices .....	10
Compliance Checks (Decoy or Sting Programs) .....	16
Penalties for Violating Commercial Availability Restrictions .....	18
Chapter 2. Social/Public Availability .....	23
Noncommercial Sources of Alcohol (Social Availability) .....	23
Noncommercial Settings for Youth Consumption .....	27
Penalties for Violating Noncommercial Availability Restrictions .....	31
Chapter 3. Minors in Possession of Alcohol .....	35
Restrictions on Possession of Alcohol by Minors .....	35
"Cops in Shops" Enforcement Programs .....	36
Zero-Tolerance Laws .....	38
False Identification .....	39
Penalties Applied to Underage Offenders .....	41
Chapter 4. Toward Implementation of Regulatory Strategies .....	43
Enforcement Priorities .....	44
The Role of State and Local Governments .....	46
Youth Participation and Activism .....	48
Complementary Prevention Policies and Programs .....	49
Conclusion .....	51
References .....	53

The manager and server training components focus on implementation of these policies, using active learning techniques. (For discussion, see Mosher, 1991; Prevention Research Center 1996). The training should emphasize management policies that are likely to lead to more responsible practices.

---

**Best Practice #8:**

**Mandate responsible beverage service programs.**  
Initiate and, over time, mandate communitywide responsible beverage service programs designed in conjunction with compliance checks and other policy interventions.

## **Compliance Checks (Decoy or Sting Programs)**

Routine, comprehensive compliance checks are the key strategy for deterring commercial alcohol sales to minors. They involve the use of underage buyers by law enforcement agencies as deputies to test retailers' compliance with laws regarding the sale of alcohol to minors. A comprehensive program consists of the following components.

- Notification to retailers, including the program's goals, procedures, and timeframes;
- Opportunity for retailers to participate in responsible sales and service programs prior to the start of the compliance check;
- Community outreach and media advocacy to publicize the program's design and purpose;
- Random selection of outlets to be included in the initial wave of the program (100-percent coverage if feasible);
- Followup communication informing each retailer of the results; and
- Repeated notifications to licensees of the ongoing compliance check program and repeated waves of checks over set periods of time (two or more times per year), which may include targeted checks of retailers identified as violators in previous waves (Fitch, Toomey, Gehan, & Wagenaar, 1998; Grube, 1997).

Properly administered compliance checks sharply reduce illegal sales to minors. Grube (1997) reports the results of a comprehensive program implemented in three experimental communities as part of the Community Trials Project administered by the Prevention Research Center. Outlets in the experimental sites were about half as likely to sell alcohol on a posttest purchase survey as outlets in the comparison sites, dropping from a range of 33 percent to 72 percent to a range of 4 percent to 33 percent. Preusser, Williams, and Weinstein (1994) reported that a compliance check program in Denver, Colorado, resulted in reduced sales to underage police cadets from 58 percent to 26 percent over a 10-month period, after three waves of enforcement. Fitch et al. (1998) report similar or greater declines in two local programs. Lewis et al. (1996) offer additional evidence that compliance checks will reduce youth sales, even when implemented by a community coalition without direct law enforcement involvement. Florida has maintained a compliance rate of 88 percent to 90 percent as a result of 20 years of consistent compliance investigation.

Compliance checks, of course, address only commercial availability. As this avenue for obtaining alcohol is curtailed, young people will likely find alternative avenues through social sources (Wagenaar et al., 1996; see chapter 2). Research studies have not assessed the extent to which this substitution may occur, although overall youth consumption will probably decrease as commercial availability diminishes. Grube's findings (1997, 1998) suggest that compliance check programs will reduce youth consumption, at least when they are combined with other community interventions. Forster et al. (1998) report substantially lower increases in smoking among teenagers in communities adopting tobacco compliance check programs compared to those in control communities.

To be effective, the programs must avoid several common weaknesses. First, they need to be conducted routinely. One-time compliance checks will have little or no long-term effect. Second, they must be communitywide and build community support, without which industry opposition will likely result in the program being terminated or curtailed. Third, they need to be well-designed to ensure that the procedures are fair and not subject to either political or legal attack (for discussion, see Pratt et al., 1997). Finally, ongoing funding sources need to be established. Compliance checks can be made self-supporting through special license fees and/or by recycling fines for violations.

Compliance checks are becoming increasingly common nationwide. In California, for example, the Alcohol Beverage Control (ABC) Department has developed an ambitious State/local partnership program that addresses all of the pitfalls listed above. The Department, working with local law enforcement agencies, conducts onsite visits with retailers, offers licensee education classes, and funds local agencies to conduct compliance checks and other enforcement actions. Its guidelines for conducting compliance checks stress the need for media involvement, community support, licensee notification, and fair procedures that protect against charges of entrapment. The Department reports that cities participating in the program have significantly decreased the number of licensees selling to minors during the compliance checks, from more than 30 percent to less than 10 percent (Stroh, 1998). Fitch et al. (1998) have developed a law enforcement manual that serves as a basic resource for local compliance check programs in that State. Many other States have statewide programs, and local communities are also implementing them with or without State support.

---

\*Control States operate State stores as well as license private establishments. They can use employee disciplinary policies in the State stores to penalize poor management or server performance.

A well-designed compliance check program gives retailers full notice of the impending program, offers assistance and training, uses decoys who are clearly underage, and avoids false identification or any other trick or subterfuge to encourage an illegal sale. Because compliance appears so easy, it is surprising that violation rates are so high. At the same time, communities find that a large percentage of establishments do comply, particularly after one warning. This undermines the arguments made by violators that the programs constitute unfair entrapment. It also supports reports from young people and law enforcement personnel that youth buyers know which retailers in the community are likely to sell to them and which retailers they need to avoid. The program's goal is to send a clear message to those who consistently ignore their legal responsibility: either follow the example of complying licensees or face stiff penalties, including the possible loss of your license.

---

**Best Practice #9:**

Carry out compliance check programs.

Implement comprehensive compliance check programs that are ongoing and communitywide; include a media advocacy component; and follow strict guidelines to ensure fairness.

## Penalties for Violating Commercial Availability Restrictions

Violation of commercial availability restrictions can lead to three types of penalties, which can be imposed separately or concurrently: *administrative*, *criminal*, and *civil liability*. Each has distinctive purposes, consequences, and roles in a comprehensive prevention program.

*Administrative penalties* target the retailer's State and/or local operating license. State and local governments issue alcohol retail licenses as a necessary condition to conduct business and, through the regulatory process, establish standards of conduct for selling alcohol.<sup>1</sup> The license establishes a privilege, not a right, and governments have the authority to suspend or withdraw the privilege or impose a fine on the business if the standards of conduct are violated.

*Criminal penalties*, in contrast, target the individual committing the violation rather than the license. Criminal law establishes moral judgments regarding individual behavior. Penalties, which may include fines, imprisonment, and/or probation, are assessed against the offender and may carry grave

consequences for the individual's future. Because of the gravity of this process, the U.S. Constitution's Bill of Rights establishes the basic rights of an individual to a fair criminal procedure (for discussion, see Mosher, 1995).

*Civil* (or "dram shop") *liability* involves private lawsuits to recover monetary damages caused by the negligence of another and rests on a separate set of legal principles that does not involve direct government action. In a civil liability action, an alcohol retailer who furnishes alcohol to a minor can be sued in a private lawsuit and held responsible for the damage caused by the minor while under the influence of the alcohol (Holder et al., 1993).

All States impose both criminal and administrative penalties for illegal sales of alcohol to minors, although the specific sanctions vary. In many States, local governments can establish separate administrative structures for licensing alcohol outlets, which may include administrative penalties (Pratt et al., 1997). Civil liability law, on the other hand, varies from State to State and cannot be imposed at the local level (Holder et al., 1993; Mosher, 1999b). Some States do not impose any civil liability on alcohol retailers, holding as a matter of law that the minor drinker is entirely responsible for any damage he or she causes. This is a minority position that contradicts basic concepts of negligence law applied to most other business enterprises. Most States recognize civil liability, but many have placed restrictions on its application. In California, for example, lawsuits are allowed only if the retailer sells or serves to an obviously intoxicated minor. (California Business & Profession Code § 25602.1). Other States that recognize the civil liability doctrine do not require evidence that the minor was intoxicated at the time of the sale (Mosher, 1999b). Some States have strict notice and statute of limitations requirements, place limits on the damages a plaintiff may recover, or restrict who has standing to bring a lawsuit (Mosher, 1999b).

From a public health perspective, the purpose of sanctions is to reduce or deter future violations, thereby improving the community's health and safety. Research on deterrence shows that, in order to be effective, there must be a credible threat that a significant negative consequence will occur. The threat must be perceived to be swift and certain, and, for the effect to be maintained, the threat must be perceived to continue over time. Increasing penalties will have little or no effect when the other elements (swiftness, certainty, and continuity) are not present (Ross, 1992).

Using these criteria, administrative penalties are clearly the most effective mechanism for deterring illegal alcohol sales to minors. They create a credible, severe threat—significant reduction in the profitability of the business and, in serious cases, the loss of the business. Licensees will perceive the penalty as relatively certain if it is tied to a well-publicized compliance check program and it can be imposed relatively swiftly.

Administrative actions are much less complex than their criminal counterparts. They can be held before civil officers in administrative hearings, require a lower burden of proof, and occur in a more timely manner. They are also more certain. Criminal dockets are typically clogged, and long delays are common. District attorneys and judges may view alcohol sales violations as relatively minor compared to other crimes, resulting in early dismissals. Administrative penalties are therefore easier to impose and less expensive. They also can be made self-supporting by recycling fines collected to pay the costs of administration (Pratt et al., 1997; Preusser et al., 1994).

Administrative penalties have an important additional advantage over criminal sanctions. Because they target the license, they hold the licensee/owner primarily responsible for the violation. Management policies and manager/server training, which are the responsibility of the licensee, are crucial to maintaining a safe and responsible alcohol establishment (Mosher, 1991). Employee malfeasance can be addressed by the licensee through internal disciplinary action. Administrative sanctions, therefore, target the individuals who are in the best position to prevent future violations. Criminal law, on the other hand, holds the server/seller primarily responsible for the illegal sale, and the licensee may be absolved from any responsibility. They target individual malfeasance but do not focus on the business or environment that is creating the public health risk. In public health terms, administrative penalties promote environmental or systems change, the most effective prevention strategy (Holder, 1998).

To be effective, administrative penalties should impose real costs on the violator and increase in severity for repeat offenses (Inspector General, 1991). In California, for example, the first offense usually results in a fine and recommendation that the licensee enroll in a responsible beverage service program; the second offense within 36 months will most likely lead to license suspension; and a third offense within 36 months may result in license revocation (California Business & Professions Codes §§ 25658; 25658.1).

While penalties should be significant, it is important that they not be *too* severe, especially for first offenses. Law enforcement officials are less likely to impose penalties if the punishment is perceived as too severe and out of proportion to the seriousness of the offense.

Civil liability and criminal sanctions complement administrative penalties. Once established by statute or court decision, civil liability does not require direct government action. Because of the expense and complexities of the process, civil liability cases are generally limited to more serious injury

cases. They share two important advantages with administrative penalties: they target the licensee (who is held responsible for the action of his/her employees), and they focus at least indirectly on management policies (Holder et al., 1993). Research studies have found that imposing civil liability reduces alcohol-related traffic crash deaths, probably because of these advantages and in spite of the lack of swift or certain punishment (Sloan, Reilly, & Schenzler, 1994; Wagenaar & Holder, 1991). Because of their relative severity and expense, criminal sanctions should also be reserved for more serious cases, particularly where the illegal sale resulted in serious injury or death.

---

**Best Practice #10:**

Impose appropriate penalties for commercial violations. Impose strict administrative penalties on retail licensees for violations of sales-to-minors laws, which increase with severity for repeated offenses. Complement administrative penalties in serious cases by permitting civil liability lawsuits against licensees based on common law negligence principles, and by imposing criminal sanctions.

**Sonya Hymer**

---

**From:** Griffin, Douglas B (DPS) [doug.griffin@alaska.gov]  
**Sent:** Wednesday, February 27, 2008 2:28 PM  
**To:** Sonya Hymer  
**Cc:** Rice, Lauren (DPS); Casto, L (HSS); Carpeneti, R Anne D (LAW)  
**Subject:** Civil Penalties in Washington State

Sonya – Here are a couple of links for penalties levied in Washington State against licensees for sale to underage persons. The link on the left gives examples of penalties for violations (Washington State has dozens of ABC Investigators) while the link on the right is the schedule of penalties for various types of violations. Group One is Violations against Public Safety, the most serious category contains sale to persons under 21 years of age. You will note that for a second offense within two years they do impose a suspension. I hope this example of how another state addresses this issue proves useful. – Doug

<http://www.liq.wa.gov/enforcement/violation.asp>

<http://www.liq.wa.gov/enforcement/penalties2007.asp>

Doug Griffin, Director  
Alcoholic Beverage Control Board  
State of Alaska, Department of Public Safety  
5848 E. Tudor Road  
Anchorage, Alaska 99507  
(907)269-0351  
Doug.Griffin@alaska.gov

314-29-015 &lt;&lt; 314-29-020 &gt;&gt; 314-29-025

**WAC 314-29-020**

Washington State Register filings since 2003

**Group 1 violations against public safety.**

Group 1 violations are considered the most serious because they present a direct threat to public safety.

<b>Violation Type</b>	<b>1st Violation</b>	<b>2nd Violation In a two-year window</b>	<b>3rd Violation In a two-year window</b>	<b>4th Violation In a two-year window</b>
<b>Sale or service to minor:</b> Sale or service of alcohol to a person under 21 years of age.	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license
<b>Minor frequenting a tavern, lounge, or other age restricted area.</b>	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license
<b>Sale or service to apparently intoxicated person:</b> Sale or service of alcohol to, or permitting consumption or possession by, an apparently intoxicated person.	5 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	Cancellation of license
<b>Disorderly conduct by licensee or employee, or permitting on premises.</b>	5 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	Cancellation of license
<b>Criminal conduct:</b> Permitting or engaging in criminal conduct.	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license

[Statutory Authority: RCW 66 08 030, 66 24 010, 66 24 120 03-09-015, § 314-29-020, filed 4/4/03, effective 5/5/03]



# Washington State Liquor Control Board



Wednesday, February 27, 2008

- Home
- Board Information
- Alcohol Education
- Forms & Publications
- Tobacco Facts
- Stores and Products
- Contact Information
- Licenses & Permits
- Laws and Rules
- Enforcement
- Employment

## VIOLATIONS

The following are orders issued by the Washington State Liquor Control Board, disposing charges of violations by liquor license holders.

December 2007

3D AM/PM NOBHILL 1801 E NOB HILL BLVD YAKIMA WA 98901-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$500
APPLE BARREL SHELL GAS 2021 FRUITVALE BLVD YAKIMA WA 98902-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$300
AZTECA RESTAURANT 153 SW 157TH ST BURIEN WA 98166-2539	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$500
BAR 14 RANCH HOUSE RESTAURANT 1800 CANYON RD ELLENSBURG WA 98926-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$500
BIG KMART #4155 6606 N DIVISION ST SPOKANE WA 99208-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$300
CANYON'S EDGE WINERY 265 SIX PRONG EXT MABTON WA 98935-9469	Violation: <b>FAIL TO FILE MONTHLY LIQUOR TAX REPORTS</b> Paid penalty in the amount of: \$250
CAPITOL LAKE GROCERY 511 S CAPITOL WAY OLYMPIA WA 98501-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$300
CEDARS RESTAURANT AND LOUNGE 2019 MAIN ST FERDALE WA 98248-0000	Violation: <b>ALLOWING INTOXICATED PERSON TO CONSUME</b> Paid penalty in the amount of: \$500
COLEMAN OIL COMPANY 407 S 2ND OKANOGAN WA 98840-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$300
CONNIE'S BRICKHOUSE	Violation:

1213 56TH ST S TACOMA WA 98408-3407	SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$350
COUNTRY BOY MARKET 5522 MC KINLEY AVE E TACOMA WA 98404-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
COUNTRY GENTLEMAN RESTAURANT AND CATERING 9221 W CLEARWATER STE A KENNEWICK WA 99336-8522	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
DOMINIC'S RED APPLE MARKET 9627 DES MOINES MEMORIAL DR SEATTLE WA 98108-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$350
DON'S EZ MART 1408 BETHEL ST NE OLYMPIA WA 98506-4309	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
DRAGONFLY BISTRO 633 A FRONT ST LEAVENWORTH WA 98826-1346	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$500
EL TORO-PARKLAND 13719 PACIFIC AVE S TACOMA WA 98444-0000	Violation: ALLOWING INTOXICATED PERSON TO CONSUME Paid penalty in the amount of: \$500
FAMILY FOODS 1503 NOB HILL BLVD E YAKIMA WA 98901-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
FRANKIE'S SPORTS BAR GRILL & LOUNGE 3663 PACIFIC AVE SE STE D OLYMPIA WA 98501-2122	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$3000
FRA TERNAL ORDER OF EAGLES CLE ELUM AERIL 649 220 PENNSYLVANIA AVE CLE ELUM WA 98922-0000	Violation: CLUB LIQUOR SALES TO PUBLIC Paid penalty in the amount of: \$500
FUGAZZI 1 N POST ST SPOKANE WA 99201-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
GOLDEN DRAGON III 813 YELM AVE W YELM WA 98597-9412	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$350

HAPPY TERIYAKI #3 1107 COLLEGE ST SE LACEY WA 98503-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
IMPLIOMPTU WINE AND ART BAR 4235 E MADISON ST SEATTLE WA 98112-3236	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$300</b>
JACK-SON'S SPORTS BAR & RESTAURANT 3320 KENNEWICK AVE KENNEWICK WA 99336-0000	Violation: <b>LICENSEE/EMPLOYEE INTOXICATED ON-PREMISES</b> Paid penalty in the amount of: <b>\$500</b>
JC'S MARKET 11801 NE 160TH #A BOTHELL WA 98011-4106	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
JINS MART 500 GRAND AVE S PULLMAN WA 99163-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
KNARR AND SHIPWRECK LOUNGE 5633 UNIVERSITY WAY NE SEATTLE WA 98105-2620	Violation: <b>ALLOWING INTOXICATED PERSON TO CONSUME</b> Paid penalty in the amount of: <b>\$500</b>
KYOTO JAPANESE RESTAURANT 115 N SAMISH WAY BELLINGHAM WA 98226-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
LACEY FOOD MART 4603 LACEY BLVD LACEY WA 98503-	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$300</b>
LITTLE TOKYO 2915 NEW MARKET ST BELLINGHAM WA 98226-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
M & J FOOD MART 427 E SMITH ST KENT WA 98030-4545	Violation: <b>SALE TO APPARENTLY INTOXICATED PERSON</b> Paid penalty in the amount of: <b>\$400</b>
MACKEY'S 15201 VAIL RD YELM WA 98597-9563	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
MAIN STREET BAR & GRILL 2005 MAIN ST FERNDALE WA 98248-9468	Violation: <b>ALLOWING INTOXICATED PERSON TO CONSUME</b> Paid penalty in the amount of: <b>\$600</b>
MAX DALES 2030 RIVERSIDE DR	Violation: <b>ALLOWING INTOXICATED PERSON</b>

MOUNT VERNON WA 98273-5408	TO CONSUME Paid penalty in the amount of: \$2500
MCCABES AMERICAN MUSIC CAFE 2611 PACIFIC AVE TACOMA WA 98402-2804	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$500
MEZCAL FAMILY MEXICAN RESTAURANT 818 MAIN ST BUCKLEY WA 98321-	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$750
PETE'S 28 N 2ND ST YAKIMA WA 98901-2612	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$500
ROYAL BEAR PUB & EATERY 35731 W VALLEY HWY ALGONA WA 98092-4457	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$400
SHELTON MOBIL 2235 OLYMPIC HWY N SHELTON WA 98584-2954	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
SOUTHPORT CAFE AT OPA BEPPO'S 1083 LAKE WASHINGTON BLVD #30 RENTON WA 98056-6417	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
STAR SHELL FOOD MART 23953 104TH AVE SE KENT WA 98031-3312	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
SUN JIN RESTAURANT & BAR 19711 SMOKEY POINT BLVD ARLINGTON WA 98223-8237	Violation: POSSESSION OF LIQUOR BY AN INTOXICATED PERSON Paid penalty in the amount of: \$500
THE MOONRAKER 23803 104TH SE KENT WA 98031-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$350
THE OWL 'N THISTLE 808 POST AVE SEATTLE WA 98104-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$400
THE VAULT 425 FRANKLIN ST OLYMPIA WA 98501-1119	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$1400
TIKI BOB'S CANTINA 166 S KING ST	Violation: ALLOWING MINORS TO

SEATTLE WA 98104-2875	<b>FREQUENT/CONSUME</b> Paid penalty in the amount of: <b>\$350</b>
TRADER JOE'S 15868 FIRST AVE S BURIEN WA 98103-	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
WALLINGFORD PIZZA HOUSE 2109 N 45TH ST SEATTLE WA 98103-0000	Violation: <b>CURRENT LICENSE NOT POSTED ON PREMISES</b> Paid penalty in the amount of: <b>\$100</b>
YELLOW CHURCH CAFE 111 S PEARL ELLENSBURG WA 98926-3328	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>

[Search LCB](#) | [Board Information](#) | [Report Violator](#) | [Liquor Store](#) |  
[Product](#) | [Video](#) | [Contact Us](#)

PRIVACY NOTICE INFORMATION

Copyright © 1998-2003  
 Washington State Liquor Control Board  
 Please contact the webmaster with any questions.

Sample

# ALASKA STATE LEGISLATURE HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras  
Chairman  
(907) 465-3004  
Fax: (907) 465-2070  
Representative\_Jay\_Ramras@legis.state.ak.us  
  
1292 Sadler Way, Suite 324  
Fairbanks, AK 99701



**Committee Members:**  
Representative Nancy Dahlstrom,  
Vice-Chairman  
Representative John Coghi"  
Representative Bob Lynn  
Representative Ralph Samuels  
Representative Max Gruenberg  
Representative Lindsey Holmes

State Capitol, Room 120  
Juneau, Alaska 99801-1182

## Fax

To: Jerry Luckhaupt  
Leg. Legal

Fax #: 2029

Number of pages including cover:

From: Jane Pierson

Date: April 6, 2008

Re: Final for HB 323 from version 25-GH20328\L

---

Please go final on the above-referenced bill with the following amendments:

1. P. 2, L. 27 delete "10" insert "5"  
P. 2, L. 28 delete "24" insert "12"  
P. 2, L. 28 delete "12" insert "6"  
Conform sections (2) and (3)
2. P. 3, L. 5 change 10 year look-back to 15 years.
3. P. 3, L. 13 delete "3000" insert "10,000"  
L. 15 delete "4000" insert "10,000"  
L. 18 delete "5000" insert "10,000"  
L. 21 delete "6000" insert "10,000"  
L. 24 delete "7000" insert "10,000"

4. P.6, I. 11 after "convicted" insert on two separate occasions."

Thank you!!!

# ALASKA STATE LEGISLATURE HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras  
Chairman  
(907) 465-3004

Fax: (907) 465-2070

Representative Jay Ramras @ legis.state.ak.us

1292 Sadler Way, Suite 324  
Fairbanks, AK 99701



**Committee Members:**  
Representative Nancy Dahlstrom,  
Vice-Chairman  
Representative John Coghill  
Representative Bob Lynn  
Representative Ralph Samuels  
Representative Max Gruenberg  
Representative Lindsey Holmes

State Capitol, Room 120  
Juneau, Alaska 99801-1182

April 6, 2008

Letter of Intent – House Bill 323  
By the House Judiciary Committee

Section 30 of this Act corrects a misunderstanding in the applicability provision in ch. 24, section 36(c), SLA 2007. This section addressed the applicability of the newly adopted AS 12.72.025, which adopted a one-year statute of limitation on applications for post-conviction relief based on the claim that the applicant's attorney in his or her first application for post-conviction relief was ineffective. These applications are commonly called *Grinols* applications.

The purpose of AS 12.72.025 was to codify a statute of limitation with respect to second applications for post-conviction relief. Second applications for post-conviction relief raising a claim that an applicant's counsel rendered ineffective assistance in the first application were authorized by *Grinols v. State*, 10 P.3d 600 (Alaska App. 2000), aff'd, 74 P.3d 889 (Alaska 2003). *Grinols* also imposed a requirement of "due diligence" in bringing second applications. The court in *Grinols* assumed, but expressly declined to decide, that the existing statute-of-limitations in AS 12.72.020 applied in *Grinols*'s second application.

The purpose of AS 12.72.025 was to codify for second applications the same one-year statute of limitation as now exists for first applications, and was not to expand it or overrule *Grinols*'s due diligence requirement. But the applicability clause can be misinterpreted to mean that if an application was dismissed at any time prior to July 1, 2007, then a second application will be permitted if filed by July 1, 2008, regardless of how much time passed between the first and second applications, or whether the applicant had exercised due diligence in bringing it. That interpretation is inconsistent with the legislature's purpose in enacting AS 12.72.025 and inconsistent with the court's holding in *Grinols*.

Section 30 of this Act specifically corrects such a mistaken interpretation.

**CS FOR HOUSE BILL NO. 323(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to furnishing or delivering alcoholic beverages to persons under 21  
2 years of age; relating to shipping, seading, transporting, or bringing alcohol to a local  
3 option area and providing alcohol to others in the local option area, including penalties  
4 for violations; relating to reports of alcohol violations by minors; relating to certain  
5 persons who lend money or secondhand articles; relating to arson and criminally  
6 negligent burning; relating to defenses for the detention of persons suspected of  
7 committing concealment of merchandise or theft; relating to controlled substances;  
8 relating to the determination of time of a conviction; relating to issuance of search  
9 warrants; relating to persons found incompetent to stand trial concerning criminal  
10 conduct; relating to probation for certain offenses; relating to restitution for fish and  
11 game violations; relating to aggravating factors at sentencing; relating to post-conviction  
12 relief proceedings; relating to criminal extradition authority of the governor; removing

1 the statutory bar to prosecution of certain crimes; amending Rule 37(b), Alaska Rules of  
2 Criminal Procedure, relating to execution of warrants, and Rule 35.1, Alaska Rules of  
3 Criminal Procedure; and providing for an effective date."

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

5 \* Section 1. AS 04.16.051(a) is amended to read:

6 (a) A person may not furnish or deliver an alcoholic beverage to a person  
7 under the age of 21 years. This subsection does not apply to a licensee or an agent  
8 or employee of a licensee while working on licensed premises.

9 \* Sec. 2. AS 04.16.052 is amended to read:

10 **Sec. 04.16.052. Furnishing of alcoholic beverages to persons under the age**  
11 **of 21 by licensees.** A licensee or an agent or employee of the licensee may not with  
12 criminal negligence

13 (1) allow another person to sell, barter, or give an alcoholic beverage  
14 to a person under the age of 21 years within licensed premises;

15 (2) allow a person under the age of 21 years to enter and remain within  
16 licensed premises except as provided in AS 04.16.049;

17 (3) allow a person under the age of 21 years to consume an alcoholic  
18 beverage within licensed premises;

19 (4) allow a person under the age of 21 years to sell or serve alcoholic  
20 beverages;

21 (5) while working on licensed premises, furnish or deliver alcoholic  
22 beverages to a person under the age of 21 years.

23 \* Sec. 3. AS 04.16.200(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) is, upon conviction,

26 (1) except as provided in (3) of this subsection, guilty of a class A  
27 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
28 of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages; [OR]

29 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
30 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; or

2 (3) guilty of a class C felony if the quantity of alcoholic beverages  
3 is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12 gallons  
4 of malt beverages and the person has been previously convicted under this  
5 subsection or (b) of this section two or more times within 10 years of the date of  
6 the present offense.

7 \* Sec. 4. AS 04.16.200 is amended by adding new subsections to read:

8 (g) Upon conviction of a class A misdemeanor under (e)(1) of this section, the  
9 court

10 (1) shall impose a minimum sentence of imprisonment of

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

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

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

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

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

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

27 (2) may not

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

30 (i) serve the minimum imprisonment under (1) of this  
31 subsection; and

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

3 (B) suspend imposition of sentence.

4 (h) Upon conviction of a class C felony under (b) or (e)(2) or (3) of this  
5 section, the court

6 (1) shall impose a fine of not less than \$10,000 and a minimum  
7 sentence of imprisonment of

8 (A) 120 days if the person has been previously convicted once;

9 (B) 240 days if the person has been previously convicted two  
10 times;

11 (C) 360 days if the person has been previously convicted three  
12 or more times;

13 (2) may not

14 (A) suspend execution of sentence or grant probation except on  
15 the 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 (i) In (g) of this section, "previously convicted" means having been convicted,  
22 within the 10 years preceding the date of the present offense, of an offense under (b)  
23 or (e) of this section or a law or ordinance of another jurisdiction having elements  
24 similar to those offenses.

25 (j) In (h) of this section, "previously convicted" means having been convicted,  
26 within the 10 years preceding the date of the present offense, of a felony offense under  
27 (b) or (e) of this section or a law or ordinance of another jurisdiction having elements  
28 similar to those felony offenses.

29 (k) The court shall consider the date of a previous conviction as occurring on  
30 the date that sentence is imposed for the prior offense.

31 \* Sec. 5. AS 08.76.010 is amended by adding a new subsection to read:

1 (b) A person who lends money on secondhand articles under (a) of this section  
2 and is located in a municipality that has a population of over 5,000 shall also maintain  
3 an electronic record that provides the information required by (a)(1) and (4) of this  
4 section for the secondhand articles on which the person lends money. The person shall  
5 submit the electronic record as required by the municipal law enforcement agency.

6 \* Sec. 6. AS 08.76.020 is amended to read:

7 **Sec. 08.76.020. Manner of recording entry.** The entries in the book and the  
8 electronic record required by AS 08.76.010 shall appear in chronological order and,  
9 when made in a book, in ink or indelible pencil. Blank lines may not be left between  
10 entries. Obliterations, alterations, or erasures may not be made. Corrections shall be  
11 made by drawing a line [IN INK] through the entry without destroying its legibility,  
12 and, when made in a book, the line shall be drawn in ink. The book shall be open  
13 to the inspection of a peace officer at reasonable times.

14 \* Sec. 7. AS 11.46.230(a) is amended to read:

15 (a) In a civil or criminal action upon the complaint of a person who has been  
16 detained in or in the immediate vicinity of a commercial establishment for the purpose  
17 of investigation or questioning as to the ownership of merchandise, it is a defense that

18 (1) the person was detained in a reasonable manner and for not more  
19 than a reasonable time to permit investigation or questioning by a peace officer or by  
20 the owner of the commercial establishment or the owner's agent; and

21 (2) the peace officer, owner, or owner's agent had probable cause to  
22 believe that the person detained was committing or attempting to commit concealment  
23 of merchandise or theft from the commercial establishment.

24 \* Sec. 8. AS 11.46.295 is amended to read:

25 **Sec. 11.46.295. Prior convictions.** For purposes of considering prior  
26 convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) or  
27 11.46.140(a)(3), or in prosecuting the crime of concealment of merchandise under  
28 AS 11.46.220(c), a conviction for an offense under another law or ordinance with  
29 similar elements is a conviction of an offense having elements similar to those of an  
30 offense defined as such under Alaska law at the time the offense was committed. The  
31 court shall consider the date of a prior conviction as occurring on the date that

1            **sentence is imposed for the prior offense.**

2            \* Sec. 9. AS 11.46.410(a) is amended to read:

3                    (a) A person commits the crime of arson in the second degree if the person  
4                    **knowingly** [INTENTIONALLY] damages a building by starting a fire or causing an  
5                    explosion.

6            \* Sec. 10. AS 11.46 is amended by adding a new section to read:

7                    **Sec. 11.46.427. Criminally negligent burning in the first degree.** (a) A  
8                    person commits the crime of criminally negligent burning in the first degree if the  
9                    person

10                    (1) violates AS 11.46.430; and

11                    (2) within the preceding 10 years, has been convicted of violating  
12                    AS 11.46.400 - 11.46.430 or AS 41.15.150 or a law or ordinance of this or another  
13                    jurisdiction with elements similar to those offenses.

14                    (b) Criminally negligent burning in the first degree is a class C felony.

15            \* Sec. 11. AS 11.46.430 is amended to read:

16                    **Sec. 11.46.430. Criminally negligent burning in the second degree.** (a) A  
17                    person commits the crime of criminally negligent burning **in the second degree** if  
18                    with criminal negligence the person damages property of another by fire or explosion.

19                    (b) Criminally negligent burning **in the second degree** is a class A  
20                    misdemeanor.

21            \* Sec. 12. AS 11.71.170(b) is amended by adding new paragraphs to read:

22                    (30) carisprodol;

23                    (31) zolpidem;

24                    (32) zopiclone.

25            \* Sec. 13. AS 12.35.010(a) is amended to read:

26                    (a) A judicial officer may issue a search warrant upon a showing of probable  
27                    cause, supported by oath or affirmation, and particularly describing the place to be  
28                    searched and the thing to be seized. **The court may issue a search warrant for a**  
29                    **place or property located either in the state or outside the state.**

30            \* Sec. 14. AS 12.35.015(a) is amended to read:

31                    (a) A judicial officer may issue a search warrant upon the sworn oral

1 testimony of a person communicated by telephone or other appropriate means, or  
2 sworn affidavit transmitted by facsimile machine [, IF THE JUDICIAL OFFICER  
3 FINDS THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT

4 (1) THE PRESENTATION OF THE APPLICANT'S AFFIDAVIT OR  
5 TESTIMONY PERSONALLY BEFORE THE JUDICIAL OFFICER WOULD  
6 RESULT IN A DELAY IN OBTAINING OR EXECUTING A SEARCH  
7 WARRANT; AND

8 (2) THE DELAY MIGHT RESULT IN LOSS OR DESTRUCTION  
9 OF THE EVIDENCE SUBJECT TO SEIZURE OR MIGHT INTERFERE WITH AN  
10 ONGOING INVESTIGATION].

11 \* Sec. 15. AS 12.47.110(a) is amended to read:

12 (a) When the trial court determines by a preponderance of the evidence, in  
13 accordance with AS 12.47.100, that a defendant is so incompetent that the defendant is  
14 unable to understand the proceedings against the defendant or to assist in the  
15 defendant's own defense, the court shall order the proceedings stayed, except as  
16 provided in (d) of this section shall, [AND MAY] commit a [THE] defendant  
17 charged with a felony and may commit a defendant charged with any other crime  
18 to the custody of the commissioner of health and social services or the commissioner's  
19 authorized representative for further evaluation and treatment until the defendant is  
20 mentally competent to stand trial, or until the pending charges against the defendant  
21 are disposed of according to law, but in no event longer than 90 days.

22 \* Sec. 16. AS 12.47.110(b) is amended to read:

23 (b) On or before the expiration of the initial 90-day period of commitment, the  
24 court shall conduct a hearing to determine whether or not the defendant remains  
25 incompetent. If the court finds by a preponderance of the evidence that the defendant  
26 remains incompetent, the court may recommit the defendant for a second period of 90  
27 days. The court shall determine at the expiration of the second 90-day period whether  
28 the defendant has become competent. If, at the expiration of the second 90-day period,  
29 the court determines that the defendant continues to be incompetent to stand trial, the  
30 charges against the defendant shall be dismissed without prejudice, and continued  
31 commitment of the defendant shall be governed by the provisions relating to civil

1 commitments under AS 47.30.700 - 47.30.915 unless the defendant is charged with a  
2 crime involving force against a person and the court finds that the defendant presents a  
3 substantial danger of physical injury to other persons and that there is a substantial  
4 probability that the defendant will regain competency within a reasonable period of  
5 time, in which case the court may extend the period of commitment for an additional  
6 six months. If the defendant remains incompetent at the expiration of the additional  
7 six-month period, the charges shall be dismissed without prejudice, and continued  
8 [EITHER CIVIL] commitment proceedings shall be governed by the provisions  
9 relating to civil commitment under AS 47.30.700 - 47.30.915 [INSTITUTED OR  
10 THE COURT SHALL ORDER THE RELEASE OF THE DEFENDANT]. If the  
11 defendant remains incompetent for five years after the charges have been dismissed  
12 under this subsection, the defendant may not be charged again for an offense arising  
13 out of the facts alleged in the original charges, except if the original charge is a class A  
14 felony or unclassified felony.

15 \* Sec. 17. AS 12.47.110 is amended by adding a new subsection to read:

16 (e) A defendant charged with a felony and found to be incompetent to proceed  
17 under this section is rebuttably presumed to be mentally ill and to present a likelihood  
18 of serious harm to self or others in proceedings under AS 47.30.700 - 47.30.915. In  
19 evaluating whether a defendant is likely to cause serious harm, the court may consider  
20 as recent behavior the conduct with which the defendant was originally charged.

21 \* Sec. 18. AS 12.55.090(a) is amended to read:

22 (a) Probation may be granted whether the offense under AS 11 or AS 16 or  
23 the crime is punishable by fine or imprisonment or both. If an offense under AS 11  
24 or AS 16 or a crime is punishable by both fine and imprisonment, the court may  
25 impose a fine and place the defendant on probation as to imprisonment. Probation may  
26 be limited to one or more counts or indictments, but, in the absence of express  
27 limitation, shall extend to the entire sentence and judgment.

28 \* Sec. 19. AS 12.55.155(c)(8) is amended to read:

29 (8) the defendant's prior criminal history includes conduct involving  
30 aggravated assaultive behavior or repeated instances of assaultive behavior; in this  
31 paragraph, "aggravated assaultive behavior" means assault that is a felony

**under AS 11.41, or a similar provision in another jurisdiction:**

\* Sec. 20. AS 12.55.155(f) is amended to read:

(f) If the state seeks to establish a factor in aggravation at sentencing

(1) under (c)(7), (8), (12), (15), **(18)(B)**, (19), (20), (21), or (31) of this section, or if the defendant seeks to establish a factor in mitigation at sentencing, written notice must be served on the opposing party and filed with the court not later than 10 days before the date set for imposition of sentence; the factors in aggravation listed in this paragraph and factors in mitigation must be established by clear and convincing evidence before the court sitting without a jury; all findings must be set out with specificity;

(2) other than one listed in (1) of this subsection, the factor shall be presented to a trial jury under procedures set by the court, unless the defendant waives trial by jury, stipulates to the existence of the factor, or consents to have the factor proven under procedures set out in (1) of this subsection; a factor in aggravation presented to a jury is established if proved beyond a reasonable doubt; written notice of the intent to establish a factor in aggravation must be served on the defendant and filed with the court

(A) 20 days before trial, or at another time specified by the court;

(B) within 48 hours, or at a time specified by the court, if the court instructs the jury about the option to return a verdict for a lesser included offense; or

(C) five days before entering a plea that results in a finding of guilt, or at another time specified by the court.

\* Sec. 21. AS 12.70.280(2) is amended to read:

(2) "governor" includes

**(A)** a person performing the functions of governor by authority of the law of this state; **and**

**(B) the lieutenant governor or the head of a principal department in the executive branch appointed by the governor to act on behalf of the governor in performing extradition duties under this**

1                    chapter; the appointment shall be in writing and filed with the lieutenant  
2                    governor;

3       \* Sec. 22. AS 12.72.020(a) is amended to read:

4                    (a) A claim may not be brought under AS 12.72.010 or the Alaska Rules of  
5                    Criminal Procedure if

6                                (1) the claim is based on the admission or exclusion of evidence at trial  
7                                or on the ground that the sentence is excessive;

8                                (2) the claim was, or could have been but was not, raised in a direct  
9                                appeal from the proceeding that resulted in the conviction;

10                               (3) the later of the following dates has passed, except that if the  
11                               applicant claims that the sentence was illegal there is no time limit on the claim:

12                                        (A) if the claim relates to a conviction, one year [TWO  
13                                        YEARS] after the entry of the judgment of the conviction or, if the conviction  
14                                        was appealed, one year after the court's decision is final under the Alaska  
15                                        Rules of Appellate Procedure;

16                                        (B) if the claim relates to a court revocation of probation, one  
17                                        year [TWO YEARS] after the entry of the court order revoking probation or, if  
18                                        the order revoking probation was appealed, one year after the court's decision  
19                                        is final under the Alaska Rules of Appellate Procedure;

20                                (4) one year or more has elapsed from the final administrative decision  
21                                of the Board of Parole or the Department of Corrections that is being collaterally  
22                                attacked;

23                                (5) the claim was decided on its merits or on procedural grounds in any  
24                                previous proceeding; or

25                                (6) a previous application for post-conviction relief has been filed  
26                                under this chapter or under the Alaska Rules of Criminal Procedure.

27       \* Sec. 23. AS 12.72.020(b) is amended to read:

28                    (b) Notwithstanding (a)(3) and (4) of this section, a court may hear a claim

29                                (1) if the applicant establishes due diligence in presenting the claim  
30                                and sets out facts supported by admissible evidence establishing that the applicant

31                                        (A) suffered from a physical disability or from a mental disease

1 or defect that precluded the timely assertion of the claim; or

2 (B) was physically prevented by an agent of the state from  
3 filing a timely claim;

4 (2) based on newly discovered evidence if the applicant establishes due  
5 diligence in presenting the claim and sets out facts supported by evidence that is  
6 admissible and

7 (A) was not known within

8 (i) one year [TWO YEARS] after entry of the judgment  
9 of conviction if the claim relates to a conviction;

10 (ii) one year [TWO YEARS] after entry of a court  
11 order revoking probation if the claim relates to a court's revocation of  
12 probation; or

13 (iii) one year after an administrative decision of the  
14 Board of Parole or the Department of Corrections is final if the claim  
15 relates to the administrative decision;

16 (B) is not cumulative to the evidence presented at trial;

17 (C) is not impeachment evidence; and

18 (D) establishes by clear and convincing evidence that the  
19 applicant is innocent.

20 \* Sec. 24. AS 12.72.020 is amended by adding a new subsection to read:

21 (d) The court may not consider a substantive claim in an application brought  
22 under AS 12.72.010 or the Alaska Rules of Criminal Procedure until the court has first  
23 determined that

24 (1) the application is timely; and

25 (2) except for an application described in AS 12.72.025 or allowed  
26 under (c) of this section, no previous application has been filed.

27 \* Sec. 25. AS 16.05.925(b) is amended to read:

28 (b) In addition to a penalty imposed under (a) of this section or any other  
29 penalty for violation of this title or a regulation adopted under this title, a person  
30 who is convicted of unlawfully taking an animal listed in this subsection may be  
31 ordered by the court to pay restitution to the state in the amount set out in this

1 subsection for each animal unlawfully taken:

2	(1) Bear, black .....	\$ 600
3	(2) Bear, brown or grizzly .....	1,300
4	(3) Bison .....	1,300
5	(4) Caribou .....	850
6	(5) Deer .....	400
7	(6) Elk .....	800
8	(7) Goat .....	800
9	(8) Moose .....	1,000
10	(9) Musk oxen .....	3,000
11	(10) Sheep .....	1,100
12	(11) Wolf .....	500
13	(12) Wolverine .....	500.

14 \* Sec. 26. AS 28.15.191(a) is amended to read:

15 (a) A court that convicts a person of an offense under this title or a regulation  
16 adopted under this title, or another law or regulation of this state [,] or a municipal  
17 ordinance that regulates the driving of vehicles, or a violation of AS 04.16.050 shall  
18 forward a record of the conviction to the department within five working days. A  
19 conviction of a standing or parking offense need not be reported.

20 \* Sec. 27. AS 28.35.028(a) is amended to read:

21 (a) Notwithstanding another provision of law, with the consent of the state and  
22 the defendant, the court may elect to proceed in a criminal case under AS 04.16.200(b)  
23 or (c), AS 28.35.030, or 28.35.032, including the case of a defendant charged with  
24 violating the terms of probation, under the procedure provided in this section and  
25 order the defendant to complete a court-ordered treatment program. The state may not  
26 consent to a referral under this subsection unless the state has consulted with the  
27 victim and explained the process and consequences of the referral to the victim. A  
28 court may not elect to proceed under this section if the defendant has previously  
29 participated in a court-ordered treatment program under this section two or more  
30 times.

31 \* Sec. 28. AS 47.30.780 is amended to read:

1           **Sec. 47.30.780. Early discharge. Except as provided in (b) of this section,**  
2           **the** [THE] professional person in charge shall at any time discharge a respondent on  
3           the ground that the respondent is no longer gravely disabled or likely to cause serious  
4           harm as a result of mental illness. A certificate to this effect shall be sent to the court,  
5           which shall enter an order officially terminating the involuntary commitment.

6           \* **Sec. 29.** AS 47.30.780 is amended to add a new subsection to read:

7                   (b) The professional person in charge shall give the prosecuting authority 10  
8           days' notice before discharging a respondent who was committed after having been  
9           found incompetent to proceed under AS 12.47.110.

10          \* **Sec. 30.** The uncodified law of the State of Alaska enacted in sec. 36(c), ch. 24, SLA  
11          2007, is amended to read:

12                   (c) AS 12.72.025, enacted by sec. 25, ch. 24, SLA 2007 [OF THIS ACT],  
13           applies to offenses committed before, on, or after the effective date of sec. 25, ch. 24,  
14           SLA 2007 [OF THIS ACT]. A person whose application for post-conviction relief was  
15           denied before the effective date of sec. 25, ch. 24, SLA 2007 [OF THIS ACT] has  
16           until July 1, 2008, to file a claim described in AS 12.72.025. This subsection does not  
17           authorize filing a claim under AS 12.72 or the Alaska Rules of Criminal  
18           Procedure that is not otherwise available under AS 12.72, the Alaska Rules of  
19           Criminal Procedure, or other provision of law.

20          \* **Sec. 31.** AS 12.35.015(f) is repealed.

21          \* **Sec. 32.** AS 11.71.310 and AS 12.20.010 are repealed.

22          \* **Sec. 33.** The uncodified law of the State of Alaska is amended by adding a new section to  
23          read:

24                   DIRECT COURT RULE AMENDMENT. Rule 37(b), Alaska Rules of  
25           Criminal Procedure, is amended to read:

26                   (b) **Execution and Return with Inventory.** The warrant shall be executed  
27           and returned within 30 [10] days after its date of issuance. However, upon sworn  
28           application made before the expiration of the initial 30 [10] day period or any  
29           subsequent extension, the court may for good cause extend the execution period for a  
30           reasonable time not to exceed 30 [10] days. Good cause includes protecting the  
31           confidentiality of an ongoing investigation and protecting a person working with

1        **law enforcement authorities on an investigation.** The officer taking property under  
2        the warrant

3                    (1) shall give to the person from whom or from whose premises the  
4        property was taken a copy of the warrant, a copy of the supporting affidavits, and  
5        receipt for the property taken, or

6                    (2) shall leave the copies and the receipt at the place from which the  
7        property was taken.

8                    The return shall be made promptly and shall be accompanied by a  
9        written inventory of any property taken as a result of the search pursuant to or in  
10       conjunction with the warrant. The inventory shall be made in the presence of the  
11       applicant for the warrant and the person from whose possession or premises the  
12       property was taken, if they are present, or in the presence of at least one credible  
13       person other than the applicant for the warrant or the person from whose possession or  
14       premises the property was taken, and shall be signed by the officer under the penalty  
15       of perjury pursuant to AS 09.63.020 or sworn to in front of a magistrate or judge, or a  
16       notary public. The magistrate or judge or the court to which the return is made shall  
17       upon request deliver a copy of the inventory to the person from whom or from whose  
18       premises the property was taken and to the applicant for the warrant.

19       \* **Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to  
20       read:

21                    **INDIRECT COURT RULE AMENDMENT.** The provisions of AS 12.72.020(a) and  
22       (b), as amended by secs. 22 and 23 of this Act, and the provisions of AS 12.72.020(d), as  
23       added by sec. 24 of this Act, have the effect of amending Rule 35.1, Alaska Rule of Criminal  
24       Procedure, by restricting the authority of a court to hear certain applications, claims, or  
25       proceedings for post-conviction relief and by prescribing a procedure for a court to determine  
26       if an application, claim, or proceeding may be considered.

27       \* **Sec. 35.** The uncodified law of the State of Alaska is amended by adding a new section to  
28       read:

29                    **APPLICABILITY.** (a) Sections 1 - 4, 9, 12, 18 - 20, 25 - 27, and 32 of this Act apply  
30       to an offense occurring on or after the effective date of this section. References to previous  
31       convictions in secs. 3 and 4 of this Act apply to convictions occurring before, on, or after the

1 effective date of those sections.

2 (b) Section 8 of this Act applies to an offense occurring before, on, or after the  
3 effective date of this section.

4 (c) Sections 13, 14, 31, and 33 of this Act apply to search warrants applied for on or  
5 after the effective date of this section, regardless of whether the offense occurred before, on,  
6 or after the effective date of this section.

7 (d) Sections 15 - 17, 28, and 29 of this Act apply to procedures occurring after the  
8 effective date of this section, regardless of whether the offense occurred before, on, or after  
9 the effective date of this section.

10 (e) Section 21 of this Act applies to applications for criminal extraditions submitted  
11 on or after the effective date of this section, regardless of whether the offense occurred before,  
12 on, or after the effective date of this section.

13 (f) Section 7 of this Act applies to offenses occurring and actions arising on or after  
14 the effective date of this section.

15 (g) Sections 22 - 24 and 34 of this Act apply to applications submitted on or after the  
16 effective date of this section.

17 \* Sec. 36. The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 RETROACTIVITY. Section 30 of this Act is retroactive to July 1, 2007.

20 \* Sec. 37. Sections 30 and 36 of this Act take effect immediately under AS 01.10.070(c).

21 \* Sec. 38. Except as provided in sec. 37 of this Act, this Act takes effect July 1, 2008.

**BILL NO.**

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

**BY**

**Introduced:  
Referred:**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to licensing and the regulation of sales and distribution of alcoholic**  
2 **beverages; relating to penalties for certain violations of law concerning alcoholic**  
3 **beverages; relating to civil liability of persons providing alcoholic beverages; relating to**  
4 **an alcohol server education course and the failure to renew an alcohol server card**  
5 **concerning sales of alcoholic beverages; and providing for an effective date."**

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

7 **\* Section 1. AS 04.11.240(c) is amended to read:**

8 (c) [THE SPECIAL EVENTS PERMIT MUST BE SURRENDERED TO  
9 THE BOARD, ITS AGENT, OR THE LAW ENFORCEMENT AGENCY  
10 APPROVING THE PERMIT, WITHIN 48 HOURS OF ITS EXPIRATION TIME.  
11 FAILURE TO SURRENDER THE PERMIT IS CAUSE, IN THE DISCRETION OF  
12 THE BOARD, FOR DENIAL OF APPLICATIONS FOR PERMITS MADE IN THE  
13 FUTURE BY THE ORGANIZATION.] No more than five special events permits may

1 be granted to an organization, including its auxiliary, in any one calendar year.

2 \* Sec. 2. AS 04.11.295(a) is amended to read:

3 (a) An applicant for the issuance or transfer of a license or a conditional  
4 contractor's permit under this title shall submit to the board, with the application, the  
5 applicant's fingerprints and the fees required by the Department of Public Safety under  
6 AS 12.62.160 for criminal justice information and a national criminal history record  
7 check. The board may require an applicant for renewal of a license or a conditional  
8 contractor's permit under this title to submit fingerprints and pay fees as required by  
9 this subsection. The board shall submit the fingerprints to the Department of Public  
10 Safety to obtain a report of criminal justice information under AS 12.62 and a national  
11 criminal history record check under AS 12.62.400. The Department of Public Safety  
12 may submit the fingerprints to the Federal Bureau of Investigation for a national  
13 criminal history record check. The board shall use the information obtained under this  
14 section in its determination of an applicant's qualification for issuance, transfer, or  
15 renewal of a license or a conditional contractor's permit. The board may waive the  
16 requirements of this section if the applicant has previously submitted fingerprints  
17 in compliance with this subsection.

18 \* Sec. 3. AS 04.11.330(d) is amended to read:

19 (d) Notwithstanding (a)(3) of this section, a common carrier dispensary  
20 license issued under AS 04.11.180 or a recreational site license issued under  
21 AS 04.11.210 may be renewed if the license was exercised at least once within  
22 [DURING EACH OF] the two preceding calendar years.

23 \* Sec. 4. AS 04.11.410(a) is amended to read:

24 (a) Except as provided in (c) of this section, a [A] beverage dispensary or  
25 package store license may not be issued and the location of an existing license may not  
26 be transferred if the licensed premises would be located in a building the public  
27 entrance of which is within 200 feet of a school ground or a church building in which  
28 religious services are regularly conducted, measured by the shortest pedestrian route  
29 from the outer boundaries of the school ground or the public entrance of the church  
30 building. However, a license issued before the presence of either cause of restriction  
31 within 200 feet of the licensed premises may be renewed or transferred to a person

1           notwithstanding this subsection.

2   \* Sec. 5. AS 04.11.410 is amended by adding a new subsection to read:

3           (c) The board may waive the restriction on location specified in (a) of this  
4           section for a caterer's permit under AS 04.11.230 or a special events permit under  
5           AS 04.11.240 issued for an event in a church building if the responsible official of the  
6           church recommends in writing to the board to approve the waiver.

7   \* Sec. 6. ~~AS~~ 04.11.480(a) is amended to read:

8           (a) A local governing body may protest the issuance, renewal, relocation, or  
9           transfer to another person of a license by sending the board and the applicant a protest  
10          and the reasons for the protest within 60 days of receipt from the board of notice of  
11          filing of the application. A protest received after the 60-day period may not be  
12          accepted by the board, and in no event may a protest cause the board to reconsider an  
13          approved renewal, relocation, or transfer. The local governing body may protest the  
14          continued operation of a license during the second year of the biennial license period  
15          by sending the board and the licensee a protest and the reasons for the protest by  
16          March 1 [JANUARY 31] of the second year of the license. The procedures for action  
17          on a protest of continued operation of a license are the same as the procedures for  
18          action on a protest of a renewal application. The board shall consider a protest and  
19          testimony received at a hearing conducted under AS 04.11.510(b)(2) or (4) when it  
20          considers the application or continued operation, and the protest and the record of the  
21          hearing conducted under AS 04.11.510(b)(2) or (4) shall be kept as part of the board's  
22          permanent record of its review. If an application or continued operation is protested,  
23          the board shall deny the application or continued operation unless the board finds that  
24          the protest is arbitrary, capricious, and unreasonable.

25   \* Sec. 7. AS 04.11.491(a) is amended to read:

26           (a) If a majority of the persons voting on the question vote to approve the  
27           option, a municipality shall adopt a local option to prohibit

28                   (1) the sale of alcoholic beverages;

29                   (2) the sale of alcoholic beverages except by one or more of the  
30           following listed on the ballot:

31                   (A) a restaurant or eating place licensee;

- 1 (B) a beverage dispensary licensee;  
 2 (C) a package store licensee;  
 3 (D) a caterer holding a permit under AS 04.11.230 to sell  
 4 alcoholic beverages at a site within the municipality who is also licensed under  
 5 a beverage dispensary license for premises outside of the municipality;  
 6 (E) a winery licensee; [OR]  
 7 (F) a winery licensee, except that sales may occur only to a  
 8 person licensed under this title or in another state or country;  
 9 **(G) a brewpub licensee;**  
 10 **(H) a golf course licensee;**  
 11 **(I) an outdoor recreation lodge licensee;**  
 12 **(J) a destination resort licensee; or**  
 13 **(K) a special events permittee;**

14 (3) the sale of alcoholic beverages except on premises operated by the  
 15 municipality and under a type of licensed premises listed on the ballot, that may  
 16 include one or more of the following:

- 17 (A) a restaurant or eating place license;  
 18 (B) a beverage dispensary license; [OR]  
 19 (C) a package store license;  
 20 **(D) a golf course license; or**  
 21 **(E) a destination resort license;**  
 22 (4) the sale and importation of alcoholic beverages; or  
 23 (5) the sale, importation, and possession of alcoholic beverages.

24 \* Sec. 8. AS 04.11.491(b) is amended to read:

- 25 (b) If a majority of the persons voting on the question vote to approve the  
 26 option, an established village shall exercise a local option to prohibit  
 27 (1) the sale of alcoholic beverages;  
 28 (2) the sale of alcoholic beverages except by one or more of the  
 29 following listed on the ballot:  
 30 (A) a restaurant or eating place licensee;  
 31 (B) a beverage dispensary licensee;

1 (C) a package store licensee;

2 (D) a caterer holding a permit under AS 04.11.230 to sell  
3 alcoholic beverages at a site within the established village who is also licensed  
4 under a beverage dispensary license for premises outside of the established  
5 village;

6 (E) a winery licensee; [OR]

7 (F) a winery licensee, except that sales may occur only to a  
8 person licensed under this title or in another state or country;

9 (G) a brewpub licensee;

10 (H) a golf course licensee;

11 (I) an outdoor recreation lodge licensee;

12 (J) a destination resort licensee; or

13 (K) a special events permittee;

14 (3) the sale and importation of alcoholic beverages; or

15 (4) the sale, importation, and possession of alcoholic beverages.

16 \* Sec. 9. AS 04.16.172 is amended to read:

17 **Sec. 04.16.172. Restrictions on purchase and sale of alcoholic beverages.** A  
18 person licensed under AS 04.11.090, 04.11.100, 04.11.110, or 04.11.150 may not  
19 purchase, sell, or offer for sale an alcoholic beverage unless the alcoholic beverage  
20 being purchased, sold, or offered for sale was obtained from a person licensed under

21 (1) AS 04.11.160 as a primary source of supply for the alcoholic  
22 beverage being purchased, sold, or offered for sale;

23 (2) AS 04.11.150 and the alcoholic beverage being purchased, sold, or  
24 offered for sale was obtained from a person licensed under AS 04.11.160 as a primary  
25 source of supply; or

26 (3) AS 04.11.130, 04.11.135, 04.11.140, or 04.11.170.

27 \* Sec. 10. AS 04.16.180(a) is amended to read:

28 (a) Except as provided in AS 04.11.015, AS 04.16.025, 04.16.050, 04.16.051,  
29 04.16.200 - 04.16.210, 04.21.025(f) and AS 04.21.065, a person who violates a  
30 provision of this title or a regulation adopted by the board is guilty, upon conviction,  
31 of a class A misdemeanor. Each violation is a separate offense.

1 \* Sec. 11. AS 04.21.020(a) is amended to read:

2 (a) Except as provided under (b) and (d) of this section, a person who provides  
3 alcoholic beverages to another person may not be held civilly liable for injuries  
4 resulting from the intoxication of that person unless the person who provides the  
5 alcoholic beverages holds a license or permit authorized under AS 04.11.080  
6 [AS 04.11.080 - 04.11.220] or is an agent or employee of such a licensee and

7 (1) the alcoholic beverages are provided to a person under the age of  
8 21 years in violation of AS 04.16.051, unless the licensee, agent, or employee secures  
9 in good faith from the person a signed statement, liquor identification card, or driver's  
10 license meeting the requirements of AS 04.21.050(a) and (b), that indicates that the  
11 person is 21 years of age or older; or

12 (2) the alcoholic beverages are provided to a drunken person in  
13 violation of AS 04.16.030.

14 \* Sec. 12. AS 04.21.025(a) is amended to read:

15 (a) As a condition of issuance or renewal of a license and selling alcoholic  
16 beverages under a license, the board shall require a licensee who sells or serves  
17 alcoholic beverages and a licensee's agents and employees who sell or serve alcoholic  
18 beverages or check the identification of a patron to complete an alcohol server  
19 education course approved by the board, if the license is for a

20 (1) beverage dispensary;

21 (2) restaurant or eating place;

22 (3) club;

23 (4) package store;

24 (5) recreational site;

25 (6) pub;

26 (7) conditional contractor;

27 (8) brewpub license;

28 (9) golf course license;

29 (10) outdoor recreation lodge license;

30 (11) destination resort license.

31 \* Sec. 13. AS 04.21.025 is amended by adding a new subsection to read:

1 (f) A licensee, agent, or employee who fails to renew a card issued under (c)  
2 of this section is guilty of

3 (1) a class B misdemeanor if the card has been expired for a period of  
4 six months or longer; or

5 (2) a violation if the card has been expired for a period of less than six  
6 months.

7 \* Sec. 14. AS 04.11.230(d) is repealed.

8 \* Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 TRANSITION: REGULATIONS. The Alcoholic Beverage Control Board may  
11 proceed to adopt regulations necessary to implement the changes made by this Act. The  
12 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before July 1,  
13 2008.

14 \* Sec. 16. Section 15 of this Act takes effect immediately under AS 01.10.070(c).

15 \* Sec. 17. Except as provided in sec. 16 of this Act, this Act takes effect July 1, 2008.

January 10, 2008

## SECTIONAL ANALYSIS OF HB

**"An Act relating to licensing and the regulation of sales and distribution of alcoholic beverages; relating to penalties for certain violations of law concerning alcoholic beverages; relating to civil liability of persons providing alcoholic beverages; relating to an alcohol server education course and failure to renew an alcohol server card concerning sales of alcoholic beverages; and providing for an effective date."**

**Section 1.** This amendment to AS 04.11.240(c) eliminates the requirement for a non-profit organization to surrender a special events permit to the Alcoholic Beverage Control (ABC) Board within 48 hours of the expiration time for the event. This change is prompted by recommendations of the Division of Legislative Audit (ABC Board sunset review dated August 31, 2006, Audit Control Number 12-20047-06) regarding the need for better internal controls over permits issued by the ABC Board. In response to this Legislative Audit recommendation (p. 9-10 of Audit Report), the ABC Board began on January 8, 2007 to issue actual catering and special events permits to provide the internal control suggested. The auditors also found the statutory requirement of returning permits after they have been used for an event to be "ineffective protection against permit misuse...and...enforcing this requirement is time consuming and an inefficient use of staff resources." Enacting this section will address the concerns raised by Legislative Audit.

**Section 2.** This section amends AS 04.11.295(a) to eliminate the need for persons to submit fingerprints if their fingerprint records are already on file with the ABC Board. This will save the public time and money and avoid duplicative work by state employees.

**Section 3.** This change in AS 04.11.330(d) eliminates the requirement that common carrier liquor licensees operate at least 30 days in a calendar year. Several specialty tours vessels visit Alaska and its waters on a less frequent basis and, in effect, are penalized for getting licenses even though they visit for only a short period of time.

**Sections 4 and 5.** This amendment of AS 04.11.410 allows events serviced by a caterer's permit or special events permit to be held in a church building with prior written permission of the church. This change is prompted by the fact that in some Alaskan communities the best venue for a large banquet or reception is a church owned facility. This would be the only exception to the statutory prohibition against locating a beverage dispensary license (bar) or package store within 200 feet of a church or school.

**Section 6.** AS 04.11.480(a) is amended by providing local governments an additional month in which to protest a biennial liquor license that is not up for renewal. Local governments have 60 days in which to protest license renewal. This change will give them the same amount of time to protest a license that is at the midpoint of its two-year cycle.

**Sections 7 and 8.** AS 04.11.491 is amended to give municipalities and established villages more options in the types of licenses they will allow to operate in their jurisdiction under a voter approved alcohol control measure. The law is also expanded so that municipalities may also choose to operate golf course and destination resort licenses under voter approved local option provisions.

**Section 9.** Changes were made by the Legislature in 2006 (Ch. 106, SLA 2006) to allow brewpubs in communities with a population of 75,000 or more to sell up to 6,200 gallons in a calendar year to other specified liquor licensed establishments. AS 04.16.172 needs to be amended to allow bars, restaurants, clubs, and package stores to buy beer from brewpubs offered for sale under this new provision enacted in 2006.

**Section 10.** This amendment of AS 04.16.180(a) is related to Section 13. It reduces the penalty for having a recently expired alcohol server training card from a class A misdemeanor to a violation.

**Section 11.** This amendment clarifies that a person providing alcoholic beverages authorized under a permit issued by the ABC Board may also be held civilly liable if they serve a person under 21 years of age or a drunken person.

**Section 12.** AS 04.21.025(a) is amended to add brewpub, golf course, outdoor recreation, and destination resort licenses to the list of other types of liquor licenses that requires licensees and their employees to complete and keep current alcohol server training.

**Section 13.** As mentioned above in Section 10, AS 04.21.025 is amended to reduce the penalty for failure to renew alcohol server training in a timely manner. Expiration of alcohol server training for a period of less than six months is a violation and expiration for six months or more will be charged as a class B misdemeanor.

**Section 14.** This section repeals the requirement that caterer's permits be returned within 48 hours. The rationale for this change is the same as explained in Section 1 of this analysis with regard to special events permits. This change reflects changes made in ABC Board procedures regarding improved internal controls for permits and responds to recommendations made by the Division of Legislative Audit.

**Section 15.** This provision explicitly authorizes the ABC Board to adopt regulations necessary to implement the changes of this Act.

**Sections 16 and 17.** These sections set out the effective dates for provisions of this Act.

# LEGAL SERVICES

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

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

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

## MEMORANDUM

March 4, 2008

**SUBJECT:** Section 8: Manslaughter for Death resulting from violations of AS 04.11.010 (HB 327, Work Order No. 25-GH2035\A)

**TO:** Representative Nancy Dahlstrom  
Attn: Jennifer Baxter

**FROM:** Gerald P. Luckhaupt *GLP*  
Legislative Counsel

You have asked if bill sec. 8 of HB 327 would apply only to persons not licensed under AS 04.11 or would persons licensed under AS 04.11<sup>1</sup> also potentially be subject to prosecution for manslaughter under that section. It is my opinion that persons who are licensed under AS 04.11, and their agents and employees, could also be subject to prosecution for manslaughter under bill sec. 8.

Bill sec. 8 amends AS 11.41.120(a), manslaughter, by providing that a person who violates AS 04.11.010 in an area that has adopted a local option under AS 04.11.491 and as a result a person dies after ingestion of the alcohol that is brought into the local option area.<sup>2</sup> AS 04.11.010(a) provides that:

a person may not knowingly manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage unless under license or permit issued under this title.

For the most part, this subsection would seem to apply to unlicensed persons but it also prohibits licensed persons from performing activities that they are not licensed to perform.<sup>3</sup> AS 04.11.010(b) provides that:

---

<sup>1</sup> And employees and agents of those licensees.

<sup>2</sup> This section mirrors the language the legislature has previously employed to impose liability for manslaughter on illegal manufacturers and dealers in certain controlled substances. AS 11.41.120(a)(3)

<sup>3</sup> For example, a person with a license to manufacture may not sell or barter unless the license to manufacture also allows to person to sell or barter.

Representative Nancy Dahlstrom  
March 4, 2008  
Page 2

a person may not solicit or receive orders for the delivery of an alcoholic beverage in an area that has adopted a local option under AS 04.11.491. If the area has adopted a local option under AS 04.11.491(a)(1), (2), or (3), or (b)(1) or (2), a package store licensee outside of that local option area may receive orders as provided under AS 04.11.150 but may not solicit in that area or receive orders through an agent or employee in that area. This subsection does not apply to a package store licensee who operates a package store in an area that has adopted a local option under AS 04.11.491(a)(2)(C) or (3)(C) or (b)(2)(C). A person who violates this subsection is punishable upon conviction as provided under AS 04.16.200(a) or (b).

This subsection applies directly to licensees and their agents and employees. A licensee, for example a package store in Anchorage, may not solicit or receive orders from a community that has a local option under AS 04.11.491(a)(4) - (5) or (b)(3) - (4) and may receive orders under AS 04.11.150<sup>4</sup> if the local option is under AS 04.11.491(a)(1) - (3) or (b)(1) or (2). A licensee that violates AS 04.11.010(b) and solicits and receives an order from a community with a local option that bans the sale, importation, and possession of alcohol could possibly be subject to prosecution under bill sec. 8 if the person from whom they solicited or accepted the order subsequently transports the alcohol back to the community and someone dies after ingestion of the alcohol.

GPL:med  
08-149.med

---

<sup>4</sup> But may not solicit.

# STATE OF ALASKA

## DEPARTMENT OF LAW CRIMINAL DIVISION

**SARAH PALIN,  
GOVERNOR**

**Mailing:** PO Box 110300  
Juneau, AK 99811-0300  
**Physical:** 123 4<sup>th</sup> Street, Ste 717  
Juneau, AK 99801  
**Phone:** (907) 465-3428  
**Fax:** (907) 465-4043

March 5, 2008

Representative Nancy Dahlstrom  
Alaska House of Representatives  
Alaska State Capitol, Room 409  
Juneau, Alaska 99801

Re: HB 327

Dear Representative Dahlstrom:

Yesterday at the work session addressing HB 327 the question arose whether Section 8 of the bill, which would expand the crime of manslaughter to a person who sends alcohol in violation of AS 04.11.010 to a local option area if the alcohol is the direct cause of the death of another person, would apply to a clerk in a liquor store who mistakenly sends alcohol to a person in violation of a local option. I said that I thought the answer was no. That answer is correct if the question is about a clerk who makes an honest mistake. It is not correct if the question addresses a clerk in a liquor store who knowingly sends alcohol to a dry or damp community in violation of the local option.

Jerry Luckhaupt, in response to the same question, concluded that Section 8 might apply to a licensee or clerk, but only if the licensee or clerk is "performing activities that they are not licensed to perform." Memo from Mr. Luckhaupt to Rep. Dahlstrom, March 4, 2008.

For Section 8 to apply to a clerk, the prosecution would have to prove beyond a reasonable doubt not only that the clerk sent alcohol illegally and outside the scope of the license he or she is operating under but also that the clerk acted *knowingly* in regard to the local option. You would also have to prove by the same standard that a person died as a direct result of ingesting the alcohol that was illegally sent by the clerk.

Thank you for the opportunity to respond to this issue. Please contact me if you have any further questions.

Sincerely,

TALIS J. COLBERG  
ATTORNEY GENERAL

By



Anne D. Carpeneti  
Assistant Attorney General

respond = say working w  
no iron deloting plastic bottle  
CS

**Golden Port Enterprises Incorporated**  
**Db a Gold Star Liquor**  
**1855 Van Horn Road**  
**Fairbanks, Alaska 99701**  
**907-456-6996**  
**1-800-478-6996**  
**Fax 907-452-3812**

Representative Gabrielle LeDoux  
State Capitol, Room 412  
Juneau, AK 99801-1182

Dear Representative LeDoux:

I am writing to you today to express my viewpoint in regards to HB 327. While I perceive much of the legislation to be sound, I have some concerns relating to Section 1 of this bill.

Section 1 would amend AS 04.11.150 to include:

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

**(3) ship alcohol in a plastic container to a person who resides in a municipality or established village that has adopted a local option under AS 04.11.491(a) (1), (2), or (3) or (b) (1) or (2), unless the shipment is to a community deliver site designa'ed under AS 04.11.491(f).**

It is my opinion that this legislation would benefit the bootleggers while punishing the legal importers and negatively impacting the compliant package stores.

Much of the product we provide to legal importer in rural Alaska is not available in a glass bottle, forcing individuals to pay extra for more expensive brands, while also increasing the cost of freight and risking breakage. Additional cost and further restriction of legal importation will only encourage illegal activity. Bootlegging is a thriving industry that relies on the basic economic law of supply and demand. This principle itself results in the monetary incentive individuals have to illegally import alcohol into a dry/damp community. To reduce the supply will only raise the price paid for the product while putting more cash and resources into the hands of the suppliers. A more reasonable solution would be to work toward reducing the demand in the communities while encouraging the legal, regulated importation of alcohol.

The basic intention of this plastic bottle prohibition is to make shipments of alcohol more obvious in regards to weight and the auditory "clue" of glass bottles clanking together. I find it hard to imagine that any bootlegger would abide by this glass bottle requirement while illegally transporting alcohol. (Not to mention, anyone in their right mind would thoroughly pad any package containing glass to prevent breakage) Bootleggers may even be encouraged by the premise that the authorities are primarily looking for glass bottles, making plastic bottles easier to smuggle.

Every legal shipment of alcoholic beverages in the state of Alaska is already required to clearly label the package as such, dismissing the need for further evidence of its contents.

It is my opinion that the proposed legislation is a frivolous regulation that would undoubtedly impact law-abiding citizens and licensed businesses negatively, while providing more incentive and perhaps even further enabling the illegal transportation of alcohol into rural Alaska.

Thank you for your attention,

A handwritten signature in black ink, appearing to read "Michael Gaddis", written in a cursive style.

Michael Gaddis  
President/Owner  
Golden Port Enterprises Incorporated  
Dba Gold Star Liquor

25-GH2035\E  
Luckhaupt  
3/18/08

**CS FOR HOUSE BILL NO. 327( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

**BY**

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

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to alcohol or controlled substance use by alcoholic beverage licensees**  
2 **and their agents and employees; relating to shipping, sending, transporting, or bringing**  
3 **alcohol to a local option area and providing alcohol to others in the local option area,**  
4 **including penalties for violations; relating to manslaughter as a direct result of ingestion**  
5 **of alcoholic beverages sold or bartered in violation of a local option prohibition; relating**  
6 **to reports of the court concerning certain alcohol violations by minors; making**  
7 **conforming amendments; and providing for an effective date."**

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

9 **\* Section 1.** AS 04.16.030 is amended by adding new subsections to read:

10 (c) A licensee, agent, or employee may not

11 (1) consume an alcoholic beverage or a controlled substance while  
12 serving alcoholic beverages to patrons on licensed premises;

13 (2) serve an alcoholic beverage to patrons on licensed premises while

1 under the influence of an alcoholic beverage or controlled substance.

2 (d) In (c) of this section, "controlled substance" has the meaning given in  
3 AS 11.71.900.

4 \* Sec. 2. AS 04.16.200(e) is amended to read:

5 (e) A person who sends, transports, or brings alcoholic beverages into a  
6 municipality or established village in violation of AS 04.11.499(a) is, upon conviction,

7 (1) except as provided in (3) of this subsection, guilty of a class A  
8 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
9 of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages; [OR]

10 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
11 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12  
12 gallons or more of malt beverages; or

13 (3) guilty of a class C felony if the quantity of alcoholic beverages  
14 is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12 gallons  
15 of malt beverages and the person has been previously convicted under this  
16 subsection or (b) of this section two or more times within 10 years of the date of  
17 the present offense.

18 \* Sec. 3. AS 04.16.200 is amended by adding new subsections to read:

19 (g) Upon conviction of a class A misdemeanor under (e)(1) of this section, the  
20 court

21 (1) shall impose a minimum sentence of imprisonment of

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

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

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

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

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

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

7 (2) may not

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

10 (i) serve the minimum imprisonment under (1) of this  
11 subsection; and

12 (ii) pay the minimum fine required under (1) of this  
13 subsection; or

14 (B) suspend imposition of sentence.

15 (h) Upon conviction of a class C felony under (b) or (e)(2) or (3) of this  
16 section, the court

17 (1) shall impose a fine of not less than \$10,000 and a minimum  
18 sentence of imprisonment of

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

20 (B) 240 days if the person has been convicted three times;

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

23 (2) may not

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

26 (i) serve the minimum imprisonment under (1) of this  
27 subsection; and

28 (ii) pay the minimum fine required under (1) of this  
29 subsection; or

30 (B) suspend imposition of sentence.

31 (i) The court shall consider the date of a previous

1 conviction as occurring on the date that sentence is imposed for the  
2 prior offense.

3 \* Sec. 4. AS 11.41.120(a) is amended to read:

4 (a) A person committs the crime of manslaughter if the person

5 (1) intentionally, knowingly, or recklessly causes the death of another  
6 person under circumstances not amounting to murder in the first or second degree;

7 (2) intentionally aids another person to commit suicide; [OR]

8 (3) knowingly manufactures or delivers a controlled substance in  
9 violation of AS 11.71.010 - 11.71.030 or 11.71.040(a)(1) for schedule IVA controlled  
10 substances, and a person dies as a direct result of ingestion of the controlled substance;  
11 the death is a result that does not require a culpable mental state; or

12 (4) is not licensed under AS 04 or an employee or agent of a  
13 licensee under AS 04 and sells or barter alcoholic beverages in an area that has  
14 adopted a local option under AS 04.11.491 knowing that the sale or barter is in  
15 violation of the local option adopted under AS 04.11.491, and a person dies as a  
16 direct result of ingestion of the alcoholic beverage sold or bartered in violation of  
17 the local option; the death is a result that does not require a culpable mental state  
18 [IN THIS PARAGRAPH, "INGESTION" MEANS VOLUNTARILY OR  
19 INVOLUNTARILY TAKING A SUBSTANCE INTO THE BODY IN ANY  
20 MANNER].

21 \* Sec. 5. AS 11.41.120 is amended by adding a new subsection to read:

22 (c) In this section, "ingestion" means voluntarily or involuntarily taking a  
23 substance into the body in any manner.

24 \* Sec. 6. AS 28.15.191(a) is amended to read:

25 (a) A court that convicts a person of an offense under this title or a regulation  
26 adopted under this title, [OR] another law or regulation of this state, [OR] a municipal  
27 ordinance that regulates the driving of vehicles, or a violation of AS 04.16.050, shall  
28 forward a record of the conviction to the department within five working days. A  
29 conviction of a standing or parking offense need not be reported.

30 \* Sec. 7. AS 28.35.028(a) is amended to read:

31 (a) Notwithstanding another provision of law, with the consent of the state and

1 the defendant, the court may elect to proceed in a criminal case under AS 04.16.200(b)  
2 or (e), AS 28.35.030, or 28.35.032, including the case of a defendant charged with  
3 violating the terms of probation, under the procedure provided in this section and  
4 order the defendant to complete a court-ordered treatment program. The state may not  
5 consent to a referral under this subsection unless the state has consulted with the  
6 victim and explained the process and consequences of the referral to the victim. A  
7 court may not elect to proceed under this section if the defendant has previously  
8 participated in a court-ordered treatment program under this section two or more  
9 times.

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

12 APPLICABILITY. (a) Sections 1, 4, and 5 of this Act apply to offenses committed on  
13 or after the effective date of this Act.

14 (b) Sections 2 and 3 of this Act apply to offenses committed on or after the effective  
15 date of this Act. Any references in those sections to previous convictions include previous  
16 convictions occurring before, on, or after the effective date of this Act.

17 (c) Sections 6 and 7 of this Act apply to actions taken by a court on or after the  
18 effective date of this Act, regardless of whether the offense occurred before, on, or after the  
19 effective date of this Act.

20 \* Sec. 9. This Act takes effect July 1, 2008.

25-GH2035\M  
Luckhaupt  
3/26/08

**CS FOR HOUSE BILL NO. 327( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

**BY**

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

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to alcohol or controlled substance use by alcoholic beverage licensees**  
2 **and their agents and employees; relating to shipping, sending, transporting, or bringing**  
3 **alcohol to a local option area and providing alcohol to others in the local option area,**  
4 **including penalties for violations; relating to reports of the court concerning certain**  
5 **alcohol violations by minors; making conforming amendments; and providing for an**  
6 **effective date."**

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

8 \* **Section 1. AS 04.16.030 is amended by adding new subsections to read:**

- 9 (c) A licensee, agent, or employee may not
  - 10 (1) consume an alcoholic beverage or a controlled substance while
  - 11 serving alcoholic beverages to patrons on licensed premises;
  - 12 (2) serve an alcoholic beverage to patrons on licensed premises while
  - 13 under the influence of an alcoholic beverage or controlled substance.

1 (d) In (c) of this section, "controlled substance" has the meaning given in  
2 AS 11.71.900.

3 \* Sec. 2. AS 04.16.200(e) is amended to read:

4 (e) A person who sends, transports, or brings alcoholic beverages into a  
5 municipality or established village in violation of AS 04.11.499(a) is, upon conviction,

6 (1) except as provided in (3) of this subsection, guilty of a class A  
7 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
8 of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages; [OR]

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

12 (3) guilty of a class C felony if the quantity of alcoholic beverages  
13 is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12 gallons  
14 of malt beverages and the person has been previously convicted under this  
15 subsection or (b) of this section two or more times within 10 years of the date of  
16 the present offense.

17 \* Sec. 3. AS 04.16.200 is amended by adding new subsections to read:

18 (g) Upon conviction of a class A misdemeanor under (c)(1) of this section, the  
19 court

20 (1) shall impose a minimum sentence of imprisonment of

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

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

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

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

31 (E) not less than 240 days and a fine of not less than \$6,000 if

1 the person has been previously convicted four times and is not subject to  
2 punishment under (h) of this section;

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

6 (2) may not

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

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

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

13 (B) suspend imposition of sentence.

14 (h) Upon conviction of a class C felony under (b) or (c)(2) or (3) of this  
15 section, the court

16 (1) shall impose a fine of not less than \$10,000 and a minimum  
17 sentence of imprisonment of

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

19 (B) 240 days if the person has been convicted three times;

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

22 (2) may not

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

25 (i) serve the minimum imprisonment under (1) of this  
26 subsection; and

27 (i) pay the minimum fine required under (1) of this  
28 subsection; or

29 (B) suspend imposition of sentence.

30 (i) The court shall consider the date of a previous conviction as occurring on  
31 the date that sentence is imposed for the prior offense.

1 \* **Sec. 4.** AS 28.15.191(a) is amended to read:

2 (a) A court that convicts a person of an offense under this title or a regulation  
3 adopted under this title, [OR] another law or regulation of this state, [OR] a municipal  
4 ordinance that regulates the driving of vehicles, or a violation of AS 04.16.050, shall  
5 forward a record of the conviction to the department within five working days. A  
6 conviction of a standing or parking offense need not be reported.

7 \* **Sec. 5.** AS 28.35.028(a) is amended to read:

8 (a) Notwithstanding another provision of law, with the consent of the state and  
9 the defendant, the court may elect to proceed in a criminal case under AS 04.16.200(b)  
10 or (e), AS 28.35.030, or 28.35.032, including the case of a defendant charged with  
11 violating the terms of probation, under the procedure provided in this section and  
12 order the defendant to complete a court-ordered treatment program. The state may not  
13 consent to a referral under this subsection unless the state has consulted with the  
14 victim and explained the process and consequences of the referral to the victim. A  
15 court may not elect to proceed under this section if the defendant has previously  
16 participated in a court-ordered treatment program under this section two or more  
17 times.

18 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
19 read:

20 APPLICABILITY. (a) Section 1 of this Act applies to offenses committed on or after  
21 the effective date of this Act.

22 (b) Sections 2 and 3 of this Act apply to offenses committed on or after the effective  
23 date of this Act. Any references in those sections to previous convictions include previous  
24 convictions occurring before, on, or after the effective date of this Act.

25 (c) Sections 4 and 5 of this Act apply to actions taken by a court on or after the  
26 effective date of this Act, regardless of whether the offense occurred before, on, or after the  
27 effective date of this Act.

28 \* **Sec. 7.** This Act takes effect July 1, 2008.

25-GS2035\M  
Luckhaupt  
3/21/08

**CS FOR SENATE BILL NO. 235(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to shipping, sending, transporting, or bringing alcohol to a local  
2 option area and providing alcohol to others in the local option area, including penalties  
3 for violations; relating to when a conviction occurs for certain purposes relating to  
4 alcoholic beverages; relating to furnishing alcohol to a minor and to civil penalties for  
5 licensees whose agents or employees furnish alcohol to a minor; relating to reports of  
6 the court concerning certain alcohol violations by minors; and providing for an  
7 effective date."

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

9 \* Section 1. AS 04.11.150(h) is amended to read.

- 10 (h) A package store licensee, agent, or employee may not
- 11 (1) divide or combine shipments of alcoholic beverages so as to
- 12 circumvent the limitation imposed under (g) of this section; [OR]
- 13 (2) in response to a written order, ship alcohol to a purchaser at an

1 address other than the address where the purchaser resides or, if the purchaser resides  
2 in a municipality or established village that has adopted a local option under  
3 AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) for which a community delivery site  
4 has been designated under AS 04.11.491(f), to an address other than that community  
5 delivery site except as provided by AS 04.11.491(f)(1) and (2); or

6 (3) ship alcohol in a plastic container to a person who resides in a  
7 municipality or established village that has adopted a local option under  
8 AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), unless the shipment is to a  
9 community delivery site designated under AS 04.11.491(f).

10 \* Sec. 2. AS 04.16.180(c) is amended to read:

11 (c) In this section, the terms "second conviction" and "third conviction"  
12 include only convictions for violations that occur within five years of the first  
13 conviction. The terms refer to the cumulative number of convictions of a licensee of  
14 any combination of violations of the provisions of this title, regulations adopted  
15 under this title, or ordinances adopted under AS 04.21.010. The terms "second  
16 conviction" and "third conviction" include a conviction of the agent or employee of a  
17 licensee of a violation of a law, regulation, or ordinance if the conviction constitutes  
18 a ground for suspension or revocation under AS 04.11.370(a)(5). A conviction  
19 occurs on the date that sentence is imposed for the offense.

20 \* Sec. 3. AS 04.16.180 is amended by adding a new subsection to read:

21 (e) If an agent or employee of a licensee is convicted of a violation of  
22 AS 04.16.051 occurring on the licensed premises of the licensee, the board shall  
23 impose a civil fine of \$1,000 on the licensee for each conviction of an employee or  
24 agent.

25 \* Sec. 4. AS 04.16.200(e) is amended to read:

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

29 (1) except as provided in (3) of this subsection, guilty of a class A  
30 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
31 of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages; [OR]

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

4 (3) guilty of a class C felony if the quantity of alcoholic beverages  
5 is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12  
6 gallons of malt beverages and the person has been previously convicted under  
7 this subsection, or (b) of this section two or more times within 10 years of the  
8 date of the present offense.

9 \* Sec. 5. AS 04.16.200 is amended by adding new subsections to read:

10 (g) Upon conviction of a class A misdemeanor under (e)(1) of this section,  
11 the court

12 (1) shall impose a minimum sentence of imprisonment of

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

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

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

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

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

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

29 (2) may not

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

- 1 (i) serve the minimum imprisonment under (1) of this  
2 subsection; and  
3 (ii) pay the minimum fine required under (1) of this  
4 subsection; or  
5 (B) suspend imposition of sentence.

6 (h) Upon conviction of a class C felony under (b) or (c)(2) or (3) of this  
7 section, the court

8 (1) shall impose a fine of not less than \$10,000 and a minimum  
9 sentence of imprisonment of

10 (A) 120 days if the person has been previously convicted  
11 once;

12 (B) 240 days if the person has been previously convicted two  
13 times;

14 (C) 360 days if the person has been previously convicted  
15 three or more times;

16 (2) may not

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

19 (i) serve the minimum imprisonment under (1) of this  
20 subsection; and

21 (ii) pay the minimum fine required under (1) of this  
22 subsection; or

23 (B) suspend imposition of sentence.

24 (i) In (g) of this section, "previously convicted" means having been  
25 convicted, within the 10 years preceding the date of the present offense, of an  
26 offense under (b) or (c) of this section or a law or ordinance of another jurisdiction  
27 having elements similar to those offenses.

28 (j) In (h) of this section, "previously convicted" means having been  
29 convicted, within the 10 years preceding the date of the present offense, of a felony  
30 offense under (b) or (c) of this section or a law or ordinance of another jurisdiction  
31 having elements similar to those felony offenses.

1 (k) The court shall consider the date of a previous conviction as occurring on  
2 the date that sentence is imposed for the prior offense.

3 \* **Sec. 6.** AS 28.15.191(a) is amended to read:

4 (a) A court that convicts a person of an offense under this title or a regulation  
5 adopted under this title, [OR] another law or regulation of this state, [OR] a  
6 municipal ordinance that regulates the driving of vehicles, or a violation of  
7 AS 04.16.050 shall forward a record of the conviction to the department within five  
8 working days. A conviction of a standing or parking offense need not be reported.

9 \* **Sec. 7.** AS 28.35.028(a) is amended to read:

10 (a) Notwithstanding another provision of law, with the consent of the state  
11 and the defendant, the court may elect to proceed in a criminal case under  
12 AS 04.16.200(b) or (e), AS 28.35.030, or 28.35.032, including the case of a  
13 defendant charged with violating the terms of probation, under the procedure  
14 provided in this section and order the defendant to complete a court-ordered  
15 treatment program. The state may not consent to a referral under this subsection  
16 unless the state has consulted with the victim and explained the process and  
17 consequences of the referral to the victim. A court may not elect to proceed under  
18 this section if the defendant has previously participated in a court-ordered treatment  
19 program under this section two or more times.

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

22 APPLICABILITY. (a) Section 1 of this Act applies to offenses committed on or after  
23 the effective date of this Act.

24 (b) Section 2 of this Act applies to convictions occurring before, on, or after the  
25 effective date of this Act.

26 (c) Section 3 of this Act applies to offenses committed on or after the effective date  
27 of this Act.

28 (d) Sections 4 and 5 of this Act apply to offenses committed on or after the effective  
29 date of this Act. Any references in those sections to previous convictions include previous  
30 convictions occurring before, on, or after the effective date of this Act.

31 (e) Sections 6 and 7 of this Act apply to actions taken by a court on or after the

1 effective date of this Act, regardless of whether the offense occurred before, on, or after the  
2 effective date of this Act.

3 \* Sec. 9. This Act takes effect July 1, 2008.

Changes to SB235

1. Removed the manslaughter provisions.
2. Rewrote fines structure for licensees to be \$1000 flat fine per incident (on page 2: Section 3)..
3. At the request of Leg. Legal, definitions of "previous convictions" were written and included in the bill (page four starting at line 24)..

February 27, 2008

In the last 4 years. There was no data from 2003.

Food Factory was checked 5 times and failed 1 time.

Pikes Landing was checked 7 times and failed 2 times. Not been checked in 1 year.

Pikes Waterfront was checked 2 times and has never failed.

Food Factory in North Pole was checked 1 time and has never failed.

He appreciated the assistance he received from the Food Factory for breaking up a fake ID ring.

He is happy to answer any questions and may be contacted at 269-0063.

**Sonya Hymer**

---

**From:** Sonya Hymer  
**Sent:** Friday, March 07, 2008 11:02 AM  
**To:** 'Laughlin, Wilda J (HSS)'; 'Carpeneti, R Anne D (LAW)'; 'Rice, Lauren (DPS)'; 'Griffin, Douglas B (DPS)'; 'Glick, John R (DPS)'; 'Casto, L (HSS)'; cra; Rep. Mary Nelson  
**Subject:** FW: Correct Data on Liquor Lic. (HB327)  
**Attachments:** Stats on Liquor Lic..doc

Attached please find a correction from Rep Ramras regarding ID checks at his businesses.

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

---

**From:** Patty Krueger  
**Sent:** Friday, March 07, 2008 10:54 AM  
**To:** Sonya Hymer  
**Subject:** Correct Data on Liquor Lic.

Thank you for making this correction for the record.

Patty Krueger  
Legislative Aide  
Representative Jay Ramras

Patty.Krueger@legis.state.ak.us  
Phone: (907) 465-3004  
Fax: (907) 465-2070  
Toll Free: (877) 465-3004

**HB 327**

Dale Fox [dfoxcharr@gci.net]

**Sent:** Friday, March 07, 2008 3:13 PM**To:** Rep. Gabrielle LeDoux; Rep. Anna Fairclough; Rep. Nancy Dahlstrom; Rep. Mark Neuman; Rep. Kurt Olson; Rep. Sharon Cissna; Rep. Woodie Salmon**Cc:** Rep. Jay Ramras; Kim Hutchinson [trust@ptialaska.net]; Rep. Mary Nelson

---

Dear House CRA Committee Members:

I am writing to follow up on our conversation during the work session on HB 327, which turns clerical errors by hardworking shipping clerks into felonies and possible manslaughter charges.

I have received copies of the quick legal opinion from Gerald Luckhaupt and the letter from Anne Carpeneti on the issue. Both say that a shipping clerk could be found guilty of a felony and, under certain circumstances, convicted of manslaughter. Neither of them address the violation I used as an example before the committee, which was if a shipping clerk shipped more alcohol to a rural area than the amount allowed under Section 04.11.010, paragraph number 2. I am convinced that the state would argue that the clerk who shipped too much is in violation of 04.11.010 and therefore is subject to felony and manslaughter provisions.

I would encourage legislators to change these provisions so they do not apply to shipping clerks as proposed in this legislation. Further, we should amend the statutes previously passed by the legislature that makes a clerical error by wait staff a felony as well.

Additionally, I would like to comment on Ms. Carpeneti's suggestion that someone charged with these crimes could fight it out in court to prove that they made an honest mistake. One of the challenges facing many workers in the hospitality industry is they do not have the tens of thousands of dollars to hire attorneys to fight the state. It is easier, and often more fiscally prudent, to plead guilty to the first offense and change careers than it is to fight the state's prosecution efforts.

One of the reasons that CHARR members would like to see the ABC Board administered by someone other than the Department of Public Safety is the overzealous efforts made by State Troopers to charge a licensee with a crime. As I stated above, most workers in our industry do not have the money to hire a lawyer and fight, however those who have fought have been very successful when they have their day in court.

Let me provide a few examples where industry members have fought charges and won, just as Ms. Carpeneti suggests:

- \* The licensee that cut a minor's ID in half as a way to discourage attempts to buy alcohol was charged by the State Troopers with malicious destruction of property by the angry undercover agent. The charges were not held up when the member took the issue to court.
- \* The owner that was charged with a violation because the enforcement officer did not have the current site map for alcohol service. The owner hired an attorney and proved that he had changed his site map as required by the ABC Board, however they had not kept the proper files.
- \* Several industry members have fought charges indicating they had no intent to furnish liquor to a minor. Again a number of those who have spent the money on a defense have been found not guilty. Many establishment owners have informed us that subsequent to winning a case based on lack intent, they believe they are targeted for additional compliance checks as punishment for defending themselves in court.

I would encourage legislators to develop laws that can be understood by the laymen who must read and interpret Title 4. Please don't make industry members felons for clerical errors and don't make hardworking Alaskans spend their life savings to defend themselves due to ambiguities in the law.

Dale Fox  
President & CEO, Alaska CHARR  
1111 East 80th Avenue, Suite 3  
Anchorage, AK 99518  
907-274-8133, fax 907-274-8640  
[www.alaskacharr.com](http://www.alaskacharr.com)<<http://www.alaskacharr.com/>>

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08

Identifier (file name): 0035-DOA-DMV-01-14-08 Dept. Affected: Administration  
 Title "An act relating to shipping, sending, transporting..." RDU Division of Motor Vehicles  
 Component Motor Vehicles  
 Sponsor Rules by request  
 Requester Governor Component Number 2348

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
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>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>								
<b>CHANGE IN REVENUES ( )</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>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
1156 Receipt Supported Services								
<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>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

This bill has no financial impact on the Division of Motor Vehicles.

Prepared by: Whitney Brewster, Director  
 Division: Motor Vehicles  
 Approved by: Kevin Brooks, Deputy Commissioner  
Department of Administration

Phone 907-269-5574  
 Date/Time 1/14/08 1:45 PM  
 Date 1/14/2008

# FISCAL NOTE

**STATE OF ALASKA  
2008 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08  
 Dept. Affected: Health & Social Services

ID (File name) 0035-DHSS-BH-1-11-08

Title "AN ACT RELATING TO BRINGING ALCOHOL TO A LOCAL OPTION AREA... FURNISHING ALCOHOL TO A MINOR..."

RDU Behavioral Health

Component Behavioral Health Administration

Sponsor \_\_\_\_\_  
 Requester \_\_\_\_\_

Component No. 2665

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

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

	Appropriation		Information				
	Required						
<b>OPERATING EXPENDITURES</b>	<b>FY 2009</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
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>0.0</b>

<b>CAPITAL EXPENDITURES</b>							
-----------------------------	--	--	--	--	--	--	--

<b>CHANGE IN REVENUES (0)</b>							
-------------------------------	--	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1037 GF/Mental Health							
Other (Specify Type-do not abbreviate)							
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>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time							
Part-time							
Temporary							

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

This bill will have no significant fiscal impact on Behavioral Health. The activities and strategies outlined in the bill, while significantly assisting Behavioral Health in the work of preventing and treating alcohol use, abuse and dependency among our citizens, will not directly impact our fiscal needs or operating budget.

Prepared by: Melissa Stone, Director  
 Division: Behavioral Health  
 Approved by: Karleen Jackson, Commissioner  
 Agency: Department of Health and Social Services

Phone 907-269-3410  
 Date/Time 01/14/2008  
 Date 01/16/2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08

Identifier (file name): 0035-LAW-CRIM-01-14-08 Dept. Affected: LAW  
 Title An Act relating to the illegal distribution of alcohol. RDU CRIMINAL  
 Component Criminal Justice Litigation  
 Sponsor Rules Component Number \_\_\_\_\_  
 Requester Governor

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
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>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
-----------------------------	--	--	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>								
-------------------------------	--	--	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<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>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

The bill would facilitate enforcement of alcohol laws in both urban and rural areas. It prohibits sending alcohol in plastic containers to a local option area unless the area has a distribution site, provides for mandatory minimum sentences for bootleggers; adopts a class C felony for a person convicted of bootlegging for the third time in a ten year period, provides for civil penalties for liquor licensees whose agents or employees are convicted of furnishing alcohol to minors on their licensed premises, and amends the manslaughter statute to apply to a person who brings alcohol into a community in violation of a local option and a person dies as a direct result of ingesting the alcohol.

Prepared by: Robert Meiners, Administrative Services Manager  
 Division Administrative Services  
 Approved by: Talis Colberg, Attorney General  
Department of Law

Phone 907-465-5427  
 Date/Time 1/14/07 8.30AM  
 Date 1/14/2007

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08

Identifier (file name): 0035-DPS-DET-01-14-08 Public Safety  
 Title "An Act relating to shipping, sending, transporting, or bringing alcohol to a local option area..." RDU Alaska State Troopers  
 Component AST Detachments  
 Sponsor Rules Committee  
 Requester Governor Component Number 2325

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>		0.0	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>								
-----------------------------	--	--	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>								
-------------------------------	--	--	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

**POSITIONS**

Full-time							
Part-time							
Temporary							

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill imposes civil penalties against a liquor license holder when the agent and employees of the licensee provide alcohol to those under 21. This bill also would impose mandatory minimum terms of imprisonment and fines and amend the manslaughter statute to apply to a person who brings alcohol into a community in violation of a local option. The sending of alcohol in plastic containers to a local option area would be prohibited under this legislation. Finally, this bill would clarify that the court is required to make certain reports to the Department of Administration concerning certain violations of alcohol laws by minors.  
  
 Passage of this legislation would have no fiscal impact on the department because it mainly deals with civil issues and terms of incarceration.

Prepared by: Lt. Rodney Dial Phone 907-269-5591  
 Division: Alaska State Troopers Date/Time 1/14/08 4:48 AM  
 Approved by: Walt Monegan, Commissioner Date 1/14/2008  
Department of Public Safety

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 5  
Bill Version: HB 327  
(H) Publish Date: 1/17/08

Identifier (file name): 0035-DC A-OPA-1-13-08 Dept. Affected: Administration  
Title: "An Act relating to shipping, sending, transporting, or bringing..." RDU: Legal and Advocacy Services  
Sponsor: Rules by Request Component: Office of Public Advocacy  
Requester: Governor Component Number: 43

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

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

	Appropriation Required		Information				
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>							
Personal Services	*	0.0	*	*	*	*	*
Travel	*	0.0	*	*	*	*	*
Contractual	*	0.0	*	*	*	*	*
Supplies	*	0.0	*	*	*	*	*
Equipment	*	0.0	*	*	*	*	*
Land & Structures	*	0.0	*	*	*	*	*
Grants & Claims	*	0.0	*	*	*	*	*
Miscellaneous	*	0.0	*	*	*	*	*
<b>TOTAL OPERATING</b>	*	<b>0.0</b>	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>							
-----------------------------	--	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>							
-------------------------------	--	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	*	0.0	*	*	*	*	*
1003 GF Match	*	0.0	*	*	*	*	*
1004 GF	*	0.0	*	*	*	*	*
1005 GF/Program Receipts	*	0.0	*	*	*	*	*
1037 GF/Mental Health	*	0.0	*	*	*	*	*
Other Interagency Receipts	*	0.0	*	*	*	*	*
<b>TOTAL</b>	*	<b>0.0</b>	*	*	*	*	*

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

This bill elevates certain convictions for importing alcohol from a misdemeanor to a felony if a person has two or more prior convictions within 10 years of the present offense. The bill provides for certain minimum penalties for misdemeanor and felony convictions. The bill also provides for a manslaughter conviction if a person dies from ingesting alcohol that was imported in violation of local option laws.

This bill is expected to have a fiscal impact due to the increased offense levels and increased penalties. It is, however, impossible to predict the fiscal impact any certainty. The Agency, therefore, submits an indeterminate fiscal note.

Prepared by: Joshua P. Fink, Director  
Division: Office of Public Advocacy  
Approved by: Rachael Petro, Deputy Commissioner  
Department of Administration

Phone 907-269-3500  
Date/Time 1/13/08 3:40 p.m.  
Date 1/14/2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 6  
Bill Version: HB 327  
(H) Publish Date: 1/17/08

Identifier (file name): 0035-DOA-PDA-1-13-08 Dept. Affected: Administration  
Title: "An Act relating to shipping, sending, transporting, or bringing..." RDU: Legal and Advocacy Services  
Component: Public Defender Agency  
Sponsor: Rules by Request  
Requester: Governor Component Number: 1631

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	*	0.0	*	*	*	*	*	*
Travel	*	0.0	*	*	*	*	*	*
Contractual	*	0.0	*	*	*	*	*	*
Supplies	*	0.0	*	*	*	*	*	*
Equipment	*	0.0	*	*	*	*	*	*
Land & Structures	*	0.0	*	*	*	*	*	*
Grants & Claims	*	0.0	*	*	*	*	*	*
Miscellaneous	*	0.0	*	*	*	*	*	*
<b>TOTAL OPERATING</b>	*	<b>0.0</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>								
-----------------------------	--	--	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>								
-------------------------------	--	--	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	*	0.0	*	*	*	*	*	*
1003 GF Match	*	0.0	*	*	*	*	*	*
1004 GF	*	0.0	*	*	*	*	*	*
1005 GF/Program Receipts	*	0.0	*	*	*	*	*	*
1037 GF/Mental Health	*	0.0	*	*	*	*	*	*
Other Interagency Receipts	*	0.0	*	*	*	*	*	*
<b>TOTAL</b>	*	<b>0.0</b>	*	*	*	*	*	*

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

This bill elevates certain convictions for importing alcohol from a misdemeanor to a felony if a person has two or more prior convictions within 10 years of the present offense. The bill provides for certain minimum penalties for misdemeanor and felony convictions. The bill also provides for a manslaughter conviction if a person dies from ingesting alcohol that was imported in violation of local option laws.

This bill is expected to have a fiscal impact due to the increased offense levels and increased penalties. It is, however, impossible to predict the fiscal impact any certainty. The Agency, therefore, submits an indeterminate fiscal note.

Prepared by: Quinlan Steiner, Director Phone 907-334-4414  
Division: Public Defender Agency Date/Time 1/13/08 11:50 a.m.  
Approved by: Rachael Petro, Deputy Commissioner Date 1/13/2008  
Department of Administration

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 7  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08

Identifier (file name): 0035-DOC-IDO-01-12-08 Dept. Affected: Corrections  
 Title: "Act relating to shipping, sending, transporting ... alcohol ..." RDU: Population Management  
 Component: Institution Directors Office  
 Sponsor: Rules Committee  
 Requester: Governor Component Number: 524

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	*	*	*	*	*	*	*	*
Travel	*	*	*	*	*	*	*	*
Contractual	*	*	*	*	*	*	*	*
Supplies	*	*	*	*	*	*	*	*
Equipment	*	*	*	*	*	*	*	*
Land & Structures	*	*	*	*	*	*	*	*
Grants & Claims	*	*	*	*	*	*	*	*
Miscellaneous	*	*	*	*	*	*	*	*
<b>TOTAL OPERATING</b>	*	*	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>								
-----------------------------	--	--	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>								
-------------------------------	--	--	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	*	*	*	*	*	*	*	*
1003 GF Match	*	*	*	*	*	*	*	*
1004 GF	*	*	*	*	*	*	*	*
1005 GF/Program Receipts	*	*	*	*	*	*	*	*
1037 GF/Mental Health	*	*	*	*	*	*	*	*
Other Interagency Receipts	*	*	*	*	*	*	*	*
<b>TOTAL</b>	*	*	*	*	*	*	*	*

Estimate of any current year (FY2008) cost: 0.0

**POSITIONS**

Full-time	0	0	0	0	0	0	0	0
Part-time	0	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0	0

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

The department is unable to estimate the number of individuals who would be committed to the custody of the department as a result of this legislation.

Prepared by: Sharleen Griffin, Director  
 Division: Administrative Services  
 Approved by: Dwayne Peoples, Deputy Commissioner  
Department of Corrections

Phone (907) 465-3339  
 Date/Time: 1/12/08 12:00 AM  
 Date: 1/12/2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 8  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08

Identifier (file name): 0035-DPS-ABC-1-16-08 Dept. Affected: Public Safety  
 Title: "An Act relating to...bringing alcohol to a local option area...furnishing alcohol to a minor..." RDU: Statewide Support  
 Component: Alcoholic Beverage Control Board  
 Sponsor: \_\_\_\_\_ Component Number: 2690  
 Requester: \_\_\_\_\_

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

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

	Appropriation Required	Information					
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
<b>OPERATING EXPENDITURES</b>							
Personal Services	167.4		167.4	167.4	167.4	167.4	167.4
Travel	26.0		26.0	26.0	26.0	26.0	26.0
Contractual	14.0		14.0	14.0	14.0	14.0	14.0
Supplies	4.0		4.0	4.0	4.0	4.0	4.0
Equipment	6.0		3.0	0.0	3.0	0.0	3.0
Land & Structures							
Grants & Claims							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>217.4</b>	<b>0.0</b>	<b>214.4</b>	<b>211.4</b>	<b>214.4</b>	<b>211.4</b>	<b>214.4</b>

<b>CAPITAL EXPENDITURES</b>							
-----------------------------	--	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>							
-------------------------------	--	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts	217.4		214.4	211.4	214.4	211.4	214.4
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>217.4</b>	<b>0.0</b>	<b>214.4</b>	<b>211.4</b>	<b>214.4</b>	<b>211.4</b>	<b>214.4</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time	2		2	2	2	2	2
Part-time							
Temporary							

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

This bill would impose civil fines and, for a second or subsequent offense within five years, license suspensions on liquor licensees whose employees are convicted of furnishing alcohol to a minor on the licensee's premises. These consequences are intended to increase the incentive for licensees to train and supervise agents and employees in a way that would emphasize service only to persons 21 years of age and older. Enforcement by the Alcoholic Beverage Control Board (ABC Board) of these new provisions will require the services of two additional Investigators III. These positions will work primarily in the area of preventing and reducing underage drinking by conducting compliance checks, "shoulder taps", and other enforcement efforts focused on keeping alcoholic beverages away from persons under the age of 21.

Other provisions in this bill related to bootlegging are not anticipated to have a fiscal impact on the ABC Board.

Prepared by: Douglas B. Griffin, Director Phone 269-0350  
 Division: Alcoholic Beverage Control Board Date/Time 1/14/08 5:00pm  
 Approved by: Commissioner Walt Monegan Date 1/17/2008  
Office of the Commissioner

**Subject:** RE: Request

Appreciate your help.

My interpretation of the numbers is:



Pike's Landing 24 checks with 2 failures  
Food Factory-North Pole 14 checks with no failures  
Food Factory- FBX 25 checks with 1 failure  
Midnight Sun- 2 check with no failures.

Are my total counts for checks correct or did I duplicate some?

Patty Krueger  
Legislative Aide  
Representative Jay Ramras

Patty.Krueger@legis.state.ak.us  
Phone: (907) 465-3007  
Fax: (907) 465-2070  
Toll Free: (877) 465-3004

---

**From:** Hamilton, Francis R (DPS) [mailto:joe.hamilton@alaska.gov]  
**Sent:** Tuesday, February 26, 2008 8:45 AM  
**To:** Patty Krueger  
**Subject:** FW: Request

Ms. Krueger,

Looks like he could only go back as far as 2004. The only thing I saw was that it looks like 4 compliance checks were done almost back to back in October of 2004 at Pikes Landing. Doesn't look like a failure. I cannot give an explanation as to why four were done back to back like that either. The person who did those was the guy who had the job before I did.

Call me if you have any questions. I'm in the office most of the day but will be out the rest of the week.

Joe

---

**From:** Barnett, Kenneth (DPS)  
**Sent:** Tuesday, February 26, 2008 8:37 AM  
**To:** Hamilton, Francis R (DPS)  
**Subject:** RE: Request

Sorry Joe,

The best I am able to do is the day after the day after yesterday, but it is attached for what ever it is worth.

Kenn

---

**From:** Hamilton, Francis R (DPS)  
**Sent:** Monday, February 25, 2008 4:22 PM  
**To:** Barnett, Kenneth (DPS)  
**Subject:** RE: Request

2/29/2008