

SB

235

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/18/08

FURTHER: Judiciary
Finance

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

DATE TURNED
IN TO OFFICE: 2/13/08

Community and Regional Affairs Committee considered

SENATE BILL NO. 235

SB 235 ALCOHOL: LOCAL OPTION/LICENSING/MINORS

"An Act relating to shipping, sending, transporting, or bringing alcohol to a local option area and providing alcohol to others in the local option area, including penalties for violations; relating to furnishing alcohol to a minor and to civil penalties for licensees whose agents or employees furnish alcohol to a minor; relating to manslaughter as a direct result of ingestion of alcoholic beverages brought in violation of a local option prohibition; relating to reports of the court concerning certain alcohol violations by minors; making conforming amendments; and providing for an effective date."

and recommends:

- be replaced with SCS or CS SB 235 (CRA)
- adopt previous SCS or CS _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
COR	2/6/08	✓			

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Pub Saf	1/14/08			✓	8
ADM	1/13/08		✓		7
HSS	1/14/08			✓	6
LAW	1/14/08			✓	5
ADM	1/14/08			✓	4
ADM	1/13/08		✓		2
Pub Saf	1/14/08	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	THOMAS	✓			
	WAGNER				✓
	KOOLEN	✓			
	STEVEN			✓	
	OLSON				✓

AMENDMENT

OFFERED IN THE SENATE
TO: SB 235

BY SENATOR THOMAS

1 Page 1, lines 3 - 4:

2 Delete "furnishing alcohol to a minor and to civil penalties for licensees whose
3 agents or employees furnish alcohol to a minor"

4 Insert "when a conviction occurs for certain purposes relating to alcoholic
5 beverage licenses"

6

7 Page 2, line 12, through page 3, line 23:

8 Delete all material.

9

10 Renumber the following bill sections accordingly.

11

12 Page 3, line 25:

13 Delete "(b) of"

14

15 Page 4, line 4, through page 5, line 2:

16 Delete all material.

17

18 Renumber the following bill sections accordingly.

19

20 Page 8, line 10:

21 Delete "Sections 1, 8, and 9"

22 Insert "Sections 1, 5, and 6"

23

- 1 **Page 8, lines 12 - 14:**
- 2 **Delete all material.**
- 3
- 4 **Reletter the following subsections accordingly.**
- 5
- 6 **Page 8, line 15:**
- 7 **Delete "Section 3"**
- 8 **Insert "Section 2"**
- 9
- 10 **Page 8, line 17:**
- 11 **Delete "Sections 6 and 7"**
- 12 **Insert "Sections 3 and 4"**
- 13
- 14 **Page 8, line 20:**
- 15 **Delete "Sections 10 and 11"**
- 16 **Insert "Sections 7 and 8"**

STATE OF ALASKA

DEPARTMENT OF LAW CRIMINAL DIVISION

**SARAH PALIN,
GOVERNOR**

Mailing: PO Box 110300
Juneau, AK 99811-0300
Delivery: 123 4th Street, Ste 717
Juneau, AK 99801
Phone: (907) 465-3428
Fax: (907) 465-4043

January 22, 2008

Senator Donald Olson
Chair, Senate Community and Regional Affairs Committee
Alaska State Capitol, Room 514
Juneau, Alaska 99801

Re: Senate Bill 235

An Act relating to shipping, sending, transporting, or bringing alcohol to a local option area, etc.

Dear Senator Olson:

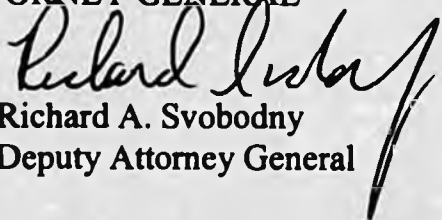
I am writing to respectfully request that you schedule the referenced bill for hearing in the Senate Community and Regional Affairs Committee at your earliest convenience. The bill builds on the recent alcohol enforcement efforts made by the legislature, by adopting mandatory minimum terms for bootleggers that are similar to those for drunk drivers and persons who refuse a breath test. It would also prohibit shipping alcohol to a local option area in plastic bottles, and would adopt mandatory civil penalties for alcohol licensees whose agents or employees are convicted of furnishing alcohol to minors.

A sectional analysis is attached that describes each provision of the bill.

Thank you for your consideration of this request.

Sincerely,

TALIS J. COLBERG
ATTORNEY GENERAL

By: 
Richard A. Svobodny
Deputy Attorney General

SENATE BILL 235
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 ~~to the community~~ 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.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 235
 (S) Publish Date: 1/18/08

Identifier (file name): 0035-DPS-ABC-1-16-08
 Title "An Act relating to...bringing alcohol to a local option area...furnishing alcohol to a minor..."

Dept. Affected: Public Safety
 RDU Statewide Support
 Component Alcoholic Beverage Control Board

Sponsor _____
 Requester _____
 Component Number 2690

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
OPERATING EXPENDITURES								
Personal Services	167.4		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	26.0
Contractual	14.0		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	4.0
Equipment	6.0		3.0	0.0	3.0	0.0	3.0	3.0
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	217.4	0.0	214.4	211.4	214.4	211.4	214.4	214.4

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

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts	217.4		214.4	211.4	214.4	211.4	214.4	214.4
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	217.4	0.0	214.4	211.4	214.4	211.4	214.4	214.4

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
 Division: Alcoholic Beverage Control Board
 Approved by: Commissioner Walt Monegan
Office of the Commissioner

Phone 269-0350
 Date/Time 1/14/08 5:00pm
 Date 1/17/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 235
 (S) Publish Date: 1/18/08

Identifier (file name): 0035-DOA-PD-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
OPERATING EXPENDITURES								
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						
TOTAL OPERATING		0.0						

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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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						
TOTAL		0.0						

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
 Division: Public Defender Agency
 Approved by: Rachael Petro, Deputy Commissioner
Department of Administration

Phone 907-334-4414
 Date/Time 1/13/08 11:50 a.m.
 Date 1/13/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: SB 235
 (S) Publish Date: 1/18/08

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
OPERATING EXPENDITURES								
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
Miscellaneous
TOTAL OPERATING

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

1002 Federal Receipts
1003 GF Match
1004 GF
1005 GF/Program Receipts	.	.	.	.	.	.	.	.
1037 GF/Mental Health	.	.	.	.	.	.	.	.
Other Interagency Receipts	.	.	.	.	.	.	.	.
TOTAL	.	.	.	.	.	.	.	.

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: 4
 Bill Version: SB 235
 (S) Publish Date: 1/18/08

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 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
1156 Receipt Supported Services							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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: 5
 Bill Version: SB 235
 (S) Publish Date: 1/18/08

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
 Requester Governor Component Number _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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: 6
 Bill Version: SB 235
 (S) Publish Date: 1/18/08
 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						
OPERATING EXPENDITURES	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES (0)							
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1037 GF/Mental Health							
Other(Specify Type-do not abbreviate)							
Other(Specify Type-do not abbreviate)							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

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: 7
 Bill Version: SB 235
 (S) Publish Date: 1/18/08

Identifier (file name): 0035-DOA-OPA-1-13-08 Dept. Affected: Administration
 Title: _____ RDU: Legal and Advocacy Services
 "An Act relating to shipping, sending, transporting, or bringing..." Component: Office of Public Advocacy
 Sponsor: Rules by Request
 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
OPERATING EXPENDITURES								
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	*	*	*	*	*	*
TOTAL OPERATING	*	0.0	*	*	*	*	*	*

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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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	*	*	*	*	*	*
TOTAL	*	0.0	*	*	*	*	*	*

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 Phone 907-269-3500
 Division: Office of Public Advocacy Date/Time 1/13/08 3:40 p.m.
 Approved by: Rachael Petro, Deputy Commissioner Date 1/14/2008
Department of Administration

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 8
 Bill Version: SB 235
 (S) Publish Date: 1/18/08

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
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		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 agents 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
 Division: Alaska State Troopers
 Approved by: Walt Monegan, Commissioner
Department of Public Safety

Phone 907-269-5591
 Date/Time 1/14/08 10:48 AM
 Date 1/14/2008

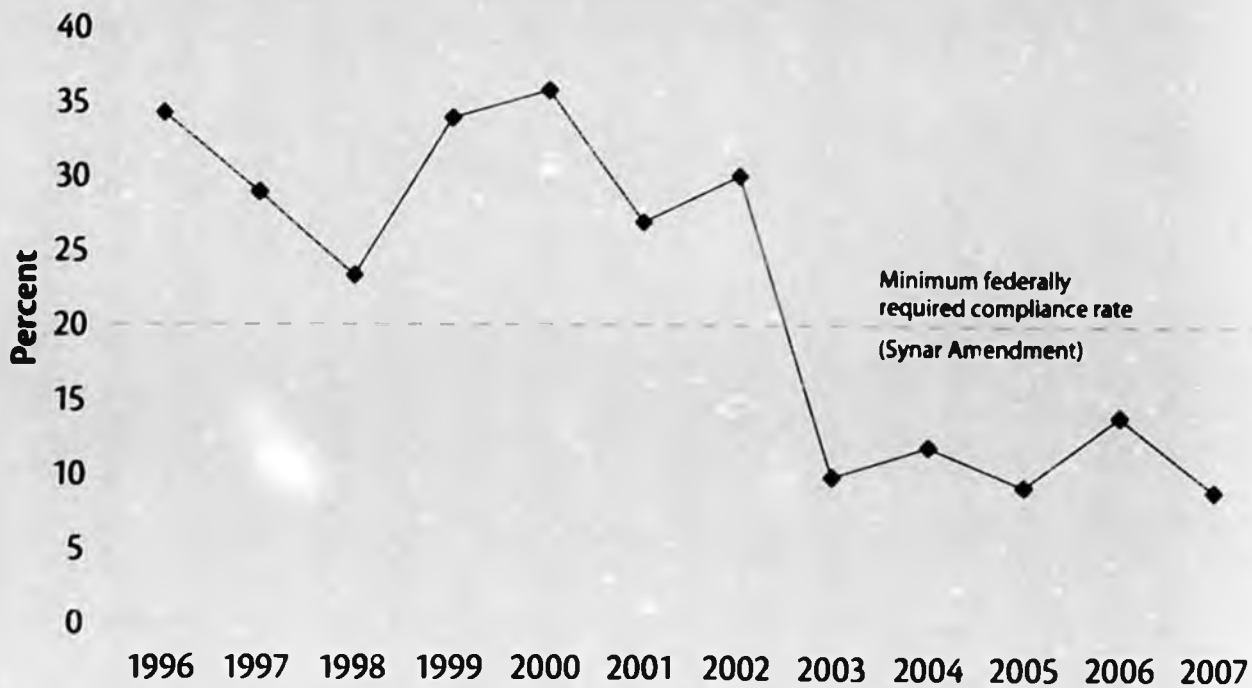
Comparison of Alcohol & Tobacco Penalties

Clerks	Tobacco	Current Alcohol	Proposed Alcohol
1st Offense	<i>Violation</i> – 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
2nd & Subsequent Offense	<i>Violation</i> – 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

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

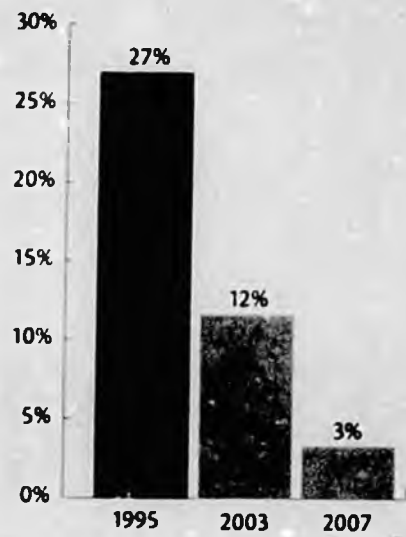
** Note: Based on the results of the administrative hearing, the tobacco endorsement suspension can be **reduced** or **increased** by 10 days on the 1st offense and 20 days for the second offense.

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



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- VALES
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February 5, 2008

Testimony of Loretta Bullard, President of Kawerak on Senate Bill 235

Good afternoon. My name is Loretta Bullard. I am President of Kawerak, the regional non-profit that provides services throughout the Bering Strait Region of Alaska. I also serve as a member of the Alaska Rural Justice & Law Enforcement Commission. This Commission was formed by Congress in 2004 to develop recommendations to improve rural law enforcement and justice in Alaska for consideration by the Alaska Legislature, the State administration and Congress. I also serve on the Regional Wellness Forum in the Bering Straits Region. This is a coalition of agencies and non-profit service providers that meet quarterly. The purpose of the Regional Wellness Forum is to communicate, coordinate and collaborate as we seek to reinstate a culture of wellness in the Bering Straits Region – to the benefit of our children, families and future generations. Thank you for this opportunity to present testimony on Senate Bill 235.

I would like to testify in support of several provisions in Senate Bill 235, the first of which was a direct recommendation from the Alaska Rural Justice and Law Enforcement Commission:

I encourage the committee to support the proposed language in section 1 which prohibits the shipment of alcohol in plastic containers to residents of local option communities, unless the alcohol is to a community delivery site.

The Regional Wellness Forum supports Sections 2,3,4 and 5 of the draft bill which would require the ABC Board to levy fines (for an initial offense) and for second or subsequent offenses in a five year period, to suspend licenses if a bartender, (add: **waiter or waitress**) or clerk is convicted of furnishing alcohol to a minor on the licensed premises of the licensee. I encourage the committee to also add language which provides penalties for the individual bartender, clerk or waiter/waitress, since, (as was discussed in our last Regional Wellness Forum meeting) a disgruntled bartender, waiter or clerk, could easily provide liquor to a minor as a punitive measure against their employer.

Personally, I do not support Sections 6 and 7. I encourage the Alaska Legislature to make additional funds available so that those individuals with alcohol and drug addictions, can receive the treatment and support they need to become and stay sober. The Anvil Mountain Correctional Center here is Nome is full of individuals who need alcohol treatment – they do not receive it – and the cycle of addiction and lawlessness continues in our vilriages.

Just a comment on Section 8 – I do not feel I can testify either in support or opposition of the proposed language. It appears to be singling out importers of alcohol for manslaughter charges when someone dies from drinking in a dry village. Yet, here in Nome, and other wet communities, people die all the time from acute alcohol poisoning, driving under the influence, alcohol fueled homicides and accidents and yet the purveyors alcohol are not held accountable.

Thank you for this opportunity to testify.

U. Bellor