

SB

128

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
 MAY 14 2007
 SENATE FINANCE COMMITTEE

DATE: 5/2/07

FURTHER:

 DATE TURNED IN TO OFFICE: 14 May 2007
Finance Committee considered SENATE BILL NO. 128

SB 128 ALCOHOL LOCAL OPTION PROVISIONS

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

and recommends:

- be replaced with SCS or CS SB 128 (FIN)
 adopt previous SCS or CS _____ (_____)
 attached amendment(s)
 adopt _____ Letter of Intent
 further referral to _____ Committee

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Pub. Safety	4/20/07	317.5			#2
Law	4/20/07			✓	#3

 APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	✓			
	Thomas			✓	
	Dyson	✓			
	Huggins	✓			
	Olson	✓			
CO-CHAIR:	Hoffman	✓			
CO-CHAIR:	Stedman			✓	

REPORTED OUT
MAY 14 2007
SENATE FINANCE COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSSB 128(JUD)
(S) Publish Date: 5/2/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title: "An Act relating . . . to a state database for RDU: Statewide Support
records of certain alcoholic purchases of alcoholic beverages . . ." Component: Alcoholic Beverage Control Board
Sponsor: Senator Olson
Requester: Senate Judiciary Committee Component No.: 2690

Expenditures/Revenues (Thousands of Dollars)

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

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

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	317.5	119.5	85.5	85.5	85.5	85.5
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	317.5	119.5	85.5	85.5	85.5	85.5

Estimate of any current year (FY2007) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY2008 budget proposal:

POSITIONS

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

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

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

Prepared by: Director Doug Griffin Phone: 269-0351
Division: Department of Public Safety Date/Time: 4/20/07 10:33 AM
Approved by: Walt Monegan, Commissioner Date: 4/20/2007
Agency: Department of Public Safety

FISCAL NOTE # 2

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. CSSB 128(JUD)

ANALYSIS CONTINUATION

troubleshoot problems with the database, reconcile and audit records contained in the database, provide information to ABC Investigators, Alaska State Troopers, and municipal law enforcement agencies that may use written order records to support criminal investigations, and other duties associated with running this new program within the ABC Board operation. On-going contractual support to maintain the database is estimated at \$3,000 per year.

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

REPORTED OUT
MAY 14 2007
SENATE FINANCE COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSSB 128(JUD)
(S) Publi's Date: 5/2/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title An Act relating to alcohol sale, purchase and RDU Criminal
distribution Component Criminal Justice Litigation
Sponsor SENATOR(S) OLSON
Requester SENATE JUDICIARY Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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 (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

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

Prepared by: Robert Meiners, Admin. Services Manager Phone 465-5427
Division: Administrative Services Division Date/Time 4/20/07 4:03 PM
Approved by: Robert Meiners for Talis Colberg, Attorney General Date 4/20/2007
Agency: Department of Law



Official Business

Alaska State Senate

Senate Finance Committee

* RUSH *

Scheduled for 4:00pm
Floor Session
FAX COVER SHEET

Man. Sec. 400
State Capitol
Juneau, Alaska 99801-482

DATE: 14 May 2007 TIME: 2:15 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: ROBIN PAUL
SENATE FINANCE CMTE. ASST. SECRETARY
PHONE: 465-2618
FAX: 465-2187

NOTES: Final Please

CS SB 128 (FIN) 25-LS0742K

Bullard 5/12/07

no changes

Thx

Wmndy

Adopted 5/14/07

WORK DRAFT

WORK DRAFT

WORK DRAFT

25-LS0742K
Bullard
5/12/07

CS FOR SENATE BILL NO. 128()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): SENATOR OLSON

A BILL
FOR AN ACT ENTITLED

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

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

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

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

- 1 (1) a package store licensee, agent, or employee to consult before
2 shipping alcohol to a purchaser in a restricted area as provided in AS 04.11.150(g);
3 (2) a law enforcement officer;
4 (3) a probation or parole officer; and
5 (4) the board.

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

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

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

26 (h) A package store licensee, agent, or employee may not
27 (1) divide or combine shipments of alcoholic beverages so as to
28 circumvent the limitation imposed under (g) of this section; or
29 (2) in response to a written order, ship alcohol to a purchaser at an
30 address other than the address where the purchaser resides or, if the purchaser
31 resides in a municipality or established village that has adopted a local option

1 under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) for which a community
2 delivery site has been designated under AS 04.11.491(f), to an address other than
3 that community delivery site except as provided by AS 04.11.491(f)(1) and (2).

4 * Sec. 4. AS 04.11.400(a) is amended to read:

5 (a) Except as provided in (d) - (h), (k), [AND] (l), and (n) of this section, a
6 new license may not be issued and the board may prohibit relocation of an existing
7 license

8 (1) outside an established village, incorporated city, unified
9 municipality, or organized borough if, after the issuance or relocation, there would be
10 (A) more than one restaurant or eating place license for each 1,500 population or
11 fraction of that population, or (B) more than one license of each other type, including
12 licenses that have been issued under (d) or (e) of this section, for each 3,000
13 population or fraction of that population, in a radius of five miles of the licensed
14 premises, excluding the populations of established villages, incorporated cities, unified
15 municipalities, and organized boroughs that are wholly or partly included within the
16 radius;

17 (2) inside an established village, incorporated city, or unified
18 municipality if, after the issuance or relocation, there would be inside the established
19 village, incorporated city, or unified municipality

20 (A) more than one restaurant or eating place license for each
21 1,500 population or fraction of that population; or

22 (B) more than one license of each other type, including licenses
23 that have been issued under (d) or (e) of this section, for each 3,000 population
24 or fraction of that population;

25 (3) inside an organized borough but outside an established village or
26 incorporated city located within the borough [,] if, after the issuance or relocation
27 there would be inside the borough, but outside the established villages and
28 incorporated cities located within the borough,

29 (A) more than one restaurant or eating place license for each
30 1,500 population or fraction of that population; or

31 (B) more than one license of each other type, including licenses

1 that have been issued under (d) or (e) of this section, for each 3,000 population
2 or fraction of that population excluding the population of those established
3 villages that have adopted a local option under AS 04.11.491(b)(1), (3), or (4),
4 and excluding the population of incorporated cities located within the
5 organized borough.

6 * Sec. 5. AS 04.11.400 is amended by adding a new subsection to read:

7 (n) The board may allow the relocation of an existing beverage dispensary
8 license under AS 04.11.090 to a restaurant, eating place, or hotel, motel, resort, or
9 similar business that contains a restaurant or eating place, in a borough with a
10 population of 60,000 or more if the governing body of the borough approves the
11 relocation. However, if the relocation of the license is into or within an incorporated
12 city in the borough, the board may not approve the relocation unless the governing
13 bodies of both the borough and the incorporated city approve the relocation. The board
14 may allow not more than three relocations in a borough under this subsection each
15 decade. In this subsection, "decade" means each 10-year period beginning April 1 in a
16 year ending in zero.

17 * Sec. 6. AS 04.11.499 is amended to read:

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

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

30 (2) "SEND" MEANS TO CAUSE TO BE TAKEN OR
31 DISTRIBUTED OR TO ATTEMPT OR SOLICIT TO CAUSE TO BE TAKEN OR

1 DISTRIBUTED, AND INCLUDES USE OF THE UNITED STATES POSTAL
2 SERVICE;

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

8 * Sec. 7. AS 04.11.499 is amended by adding new subsections to read:

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

13 (c) In this section,

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

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

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

22 * Sec. 8. AS 04.11.507(f) is amended to read:

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

28 * Sec. 9. AS 04.16.020 is amended by adding a new subsection to read:

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

1 * **Sec. 10.** AS 04.16 is amended by adding a new section to read:

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

7 * **Sec. 11.** AS 04.16.180(a) is amended to read:

8 (a) Except as provided in AS 04.11.015, 04.11.150(g), AS 04.16.025,
9 04.16.050, 04.16.051, 04.16.200 - 04.16.210, and AS 04.21.065, a person who violates
10 a provision of this title or a regulation adopted by the board is guilty, upon conviction,
11 of a class A misdemeanor. Each violation is a separate offense.

12 * **Sec. 12.** AS 04.16.200(e) is amended to read:

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

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

19 (2) guilty of a class C felony if the quantity of alcoholic beverages is
20 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12
21 gallons or more of malt beverages.

22 * **Sec. 13.** AS 04.16.200 is amended by adding a new subsection to read:

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

25 * **Sec. 14.** AS 04.16.220(a) is amended to read:

26 (a) The following are subject to forfeiture:

27 (1) alcoholic beverages manufactured, sold, offered for sale, possessed
28 for sale, or bartered or exchanged for goods and services in this state in violation of
29 AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or otherwise
30 stored in violation of AS 04.21.060; alcoholic beverages sold or offered for sale in
31 violation of a local option adopted under AS 04.11.491; alcoholic beverages

1 transported into the state and sold to persons not licensed under this chapter in
2 violation of AS 04.16.170(b); alcoholic beverages transported in violation of
3 AS 04.16.125;

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

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

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

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

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

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

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

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

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

28 * Sec. 15. AS 04.16.220(i) is amended to read:

29 (i) Upon conviction for a violation of AS 04.11.010 or 04.11.499(a)
30 [04.11.499], if an aircraft, vehicle, or watercraft is subject to forfeiture under (a) of
31 this section, the court shall, subject to remission to innocent parties under this section,

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

* Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section to read:

ALCOHOLIC BEVERAGE DELIVERY SITE PILOT PROJECT. (a) The Alcoholic Beverage Control Board established by AS 04.06.010 shall, if requested by the local governing body of Bethel, establish a site in Bethel and, if requested by the local governing body of Kotzebue, establish a site in Kotzebue for delivery of alcoholic beverages. The delivery sites shall be operated as sites designated under AS 04.11.491(f) are operated. Each site shall, if established, begin operation on July 1, 2008, and shall continue in operation as long as a local option under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) is in effect in each community. However, each site shall stop operation on June 30, 2011, regardless of whether a local option is in effect in each community on that date.

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

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

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

TRANSITIONAL PROVISION. For purposes of the limitation on relocation of licenses under AS 04.11.400(n), enacted by sec. 5 of this Act, the first "decade" shall extend from the effective date of sec. 6 of this Act through March 31, 2010.

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

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

6 * **Sec. 19.** Section 16 of this Act is repealed.

7 * **Sec. 20.** Section 2 of this Act takes effect July 1, 2008.

8 * **Sec. 21.** Section 19 of this Act takes effect June 30, 2011.

9 * **Sec. 22.** Except as provided in secs. 20 and 21 of this Act, this Act takes effect
10 immediately under AS 01.10.070(c).

Out of Session:
Legislative Information Office
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Nome, AK 99762-1630
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Alaska State Legislature



In Session:
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Juneau, AK 99801-1182
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SENATOR DONALD C. OLSON

DISTRICT T

Alakanuk
Ambler
Anaktuvuk Pass
Atkasuk
Barrow
Brovig Mission
Browerville
Buckland
Chevak
Deering
Diomedea
Elim
Emmonak
Gambell
Golovin
Hooper Bay
Kaktovik
Kiana
Kivalina
Kobuk
Kotlik
Kotzebue
Koyuk
Mountain Village
Noatak
Nome
Noorvik
Nuiqsut
Nunam Iqua
Pilot Station
Pitka's Point
Point Hope
Point Lay
Savoonga
Scammon Bay
Selawik
Shaktolik
Shishmaref
Shungnak
St. Mary's
Togiak
Tombstone
Teller
Unalakleet
Wainwright
Wales
White Mountain

Sponsor Statement Senate Bill 128

Alaska, along with many other states, finds itself in the position of needing to protect residents of rural communities from bootleggers of alcohol. Various alcohol abuse educational programs have been in place in rural Alaska for a number of years, but they have not served to halt the illegal importation and sale of alcohol to Alaska's rural communities. SB 128 curbs bootlegging by allowing the Alcoholic Beverage Control (ABC) Board, at the request of the communities of Bethel and Kotzebue, to establish pilot alcohol delivery sites. If opened, these sites would operate for a period of three years.

Senate Bill 128 is aimed at preventing bootleggers from ordering alcohol from numerous package stores in violation of the local option. Alcohol Local Option Provisions require that the ABC Board, in conjunction with package store licensees, create and maintain a database documenting the sale, distribution, and purchase of alcoholic beverages, ordered in writing, from persons residing in damp local option communities. The bill requires that a package store consult the database before filling a written order from a person residing in the local option area. The database will be available to package store licensees and their agents and employees, law enforcement officers, probation and parole officers, and the ABC Board. Information in the database will not be available to the public.

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

SECTIONAL ANALYSIS
SENATE BILL 128

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

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

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

Sections 6, 7, 11, 12 and 13 prohibit a person from purchasing alcoholic beverages in a local option area from another person who is selling the alcohol in violation of the local option. This conduct would be a class A misdemeanor. Under current law, AS 04.16.200(b), the person selling alcohol in violation of a local option would be guilty of a class C felony. Sections 6 and 11 include conforming amendments for the new provisions in Sections 7 and 12.

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

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

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

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

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

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

(updated 05 13 07)

Informational Primer on State Liquor Law Effect on Local Economic Development



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

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

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

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

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

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

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

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

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

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

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



TANANA CHIEFS CONFERENCE, INC.

122 FIRST AVENUE
FAIRBANKS, ALASKA 99701-4897

March 27, 2007

Dear Members of the Senate Community and Regional Affairs,

Re: In support of SB 128

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

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

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

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

Sincerely,

Jerry Isaac, President

Tanana Chiefs Conference

122 First Ave

Fairbanks, AK 99701

1-800-478-6822

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

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

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

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

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

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

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

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

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

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

Thank you for this opportunity to testify.

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SENATE COMMITTEE REPORT

DATE: 3/28/07

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 5/1/07

Judiciary Committee considered SENATE BILL NO. 128

SB 128 ALCOHOL LOCAL OPTION PROVISIONS

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

and recommends:

- be replaced with SCS or CS SB/28 (JUD)
- adopt previous SCS or CS ()
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
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HOUSE BILL:	
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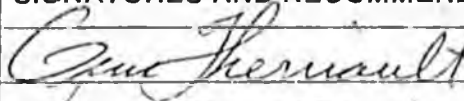
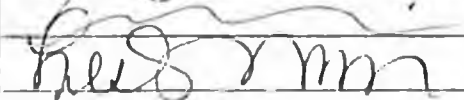


NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DPS	4/20/07	✓			2
LAW	4/20/07			✓	3

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Theriault	✓			
	W. Elschowski			✓	
	McGuire	✓			
CHAIR: 	French			✓	

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/19/07

FURTHER: Judiciary
 Finance

Date of 5-Day Notice: March 22, 2007
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: March 28, 2007

Community and Regional Affairs Committee considered SENATE BILL NO. 128

SB 128 ALCOHOL LOCAL OPTION PROVISIONS

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

and recommends:

- be replaced with SCS or CS SB 128 (CRA)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
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HOUSE BILL:	
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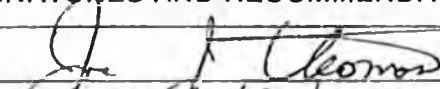
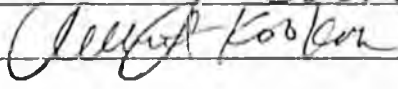
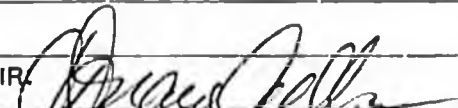
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DPS	3/27/07		✓		1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Thomas	✓			
	Koukes	✓			
CHAIR: 	Olson	✓			