

SB

128

Alaska State Legislature

Senator Hollis French, Chair
State Capitol, Room 417
Juneau, Alaska 99801
Phone: (907) 465-3892
Fax: (907) 465-6595



Committee Members:
Senator Charlie Huggins
Senator Bill Wielechowski
Senator Lesil McGuire
Senator Gene Therriault

Senate Judiciary Committee

MEMORANDUM

DATE: April 30, 2007

TO: Leg. Legal

FROM: Cindy Smith, Senator French

RE: As passed JUD CS for SB128(CRA)

Please provide a final Judiciary CS for SB 128, with the attached amendment.

AMENDMENT #1

OFFERED IN THE SENATE

TO: CSSB 128(CRA)

Page 2, line 22:

Following "purchaser.":

Insert:

"Failure by a package store licensee, agent, or employee to enter into the database the date and the amount of alcoholic beverages shipped to the purchaser is a class B misdemeanor."

Page 5, following line ~~9~~³⁰

Insert:

**** Sec. ~~12~~¹¹ AS 04.16.180(a) is amended to read:**

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

Renumber the following bill sections accordingly.

Out of Session:
Legislative Information Office
P.O. Box 1630
Nome, AK 99762-1630
(907) 443-5555
(907) 443-2162 (Fax)

Alaska State Legislature



In Session:
State Capitol
Juneau, AK 99801-1182
(800) 597-3707
(907) 465-3707
(907) 465-4821 (Fax)

SENATOR DONALD C. OLSON

DISTRICT T

Alakanuk
Ambler
Anaktuvuk Pass
Atkasuk
Barrow
Brovig Mission
Browerville
Buckland
Chevak
Deering
Diomedes
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
St. Michael
Stebbins
Teller
Unalakleet
Wainwright
Wales
White Mountain

March 28, 2007

TO: Senator Hollis French
Senate Judiciary Committee

FROM: Senator Donald Olson 

SUBJECT: Hearing Request SB 128

SB 128, "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."

I respectfully request a hearing before the Senate Judiciary Committee for SB 128 – Local Alcohol Option Provisions.

SB 128 would serve to halt the illegal importation and sale of alcohol to rural Alaska. Bootlegging of alcohol into damp or dry communities will be greatly curtailed with the enactment of the provisions in this legislation. In addition, the bill also makes allowances for the transfer of liquor licenses to a city within that borough's borders.

Attached you will find: the current version of the bill 25-LS0742\E, a sponsor statement, sectional analysis, fiscal note, and various pieces of support documentation. If you require additional information, please contact myself or Ginny Austerman, at 465-4989.

Thank you for your positive consideration of this hearing request.

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. The information would be used to prevent bootleggers from ordering alcohol from numerous package stores in violation of the local option. The information in the database may only be used as specifically allowed by package stores and law enforcement; the information in the database would not be public information.

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

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

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

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

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

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

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

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

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

Suggested contacts for testimony on CS SB 128 – Alcohol Local Option Provisions

Bill Sponsor will have the following people at hearings of the bill:

Ginny Austerman, Staff to Senator Donald C. Olson
Anni Carpeneti, Assistant Attorney General, Criminal Division
Darwin Peterson, Staff to Senate President Lyda Green

Other contacts:

✓ Loretta Bullard, President, Kawerak, Inc. non-profit division of the Bering Straits Native Association (serves on the Alaska Rural Justice & Law Enforcement Commission)
contact here at president@kawerak.org

Talus Colberg, Attorney General

✓ Mayor Diane Keller, City of Wasilla (907-373-9055 Mayor's Office), they have multiple parties interested in the bill, so they may do as they did in C & RA and gather together at the Mayor's office and take turns testifying. Jim Stevens from Browman (?) Development and Tim Wood were two of the people who testified along with Mayor Keller.

So far, we haven't heard any objections to this legislation.

Ginny
4989

Committee report attached FYI

*LISA Jaeger (Yay-ger) of
Tanana Chiefs conf. is
also an option to testify
lisa.jaeger@TANANACHIEFS.ORG*

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.

Alcohol Workgroup Options

Options relating to prevention

- 1. Alcohol abuse prevention 1
- 2. Public information program 1
- 3. Liaison in state government for tribal court juvenile proceedings 2
- 4. Purely private interdiction 3
- 5. Require private carriers to take reasonable steps to check for illegally shipped alcohol 4

Options relating to local option laws

- 6. Revenue sharing incentives 5
- 7. Change in local option time frames 5
- 8. Change local option law to enable councils to adopt local options independently, subject to subsequent plebiscites 6
- 9. Extend local option laws to encompass public intoxication 6

Options relating to the Alcohol Beverage Control Board

- 10. Adjustment of ABC Board licensing fees for inflation 7
- 11. Designated program receipt for ABC Board fines 7
- 12. Adjust membership requirements for ABC Board 8

Options relating to enforcement

- 13. Plastic bottles 9
- 14. Database for shipments by written orders 9
- 15. Cross-designations among state and federal agencies 9
- 16. Prohibition on shipments to residents of dry villages 9
- 17. Further modifications to drug and alcohol forfeiture laws 10
- 18. Change in Drug Enforcement Administration policy with respect to forfeitures .. 13
- 19. Greater use of alcohol bracelet technology 13
- 20. Create a "designated program receipt" from the state share of civil forfeitures 14
- 21. Amendment to AS 12.20.010 15

Options relating to jurisdiction

- 22. Alaska Native Village Alcohol and Controlled Substance Interdiction Zones 16
- 23. Village Circuit Courts 19
- 24. State statute for full faith and credit to tribal court civil money judgments in alcohol cases 22
- 25. Compacts 25