

SB

194

Alaska State Legislature



Interim:
716 West 4th Ave.
Anchorage, Alaska 99501
(907) 269-0199

Session:
State Capitol Building
Juneau, Alaska 99801-1182
(907) 465-4945

Senator Kevin Meyer
Senate District O

TO: Senator Kevin Meyer
FROM: Christine R. Marasigan, Legislative Aide *CRM*
DATE: February 18, 2010
RE: Explanation of changes to SB 194

SB 194 underwent two substantive changes in the Senate since introduction

Senate State Affairs Committee added three new sections to the original bill.

Over the 2009 interim, Anchorage CHARR had expressed the need to mandate some kind of alcohol education course for the minors licensees were bringing civil actions against. After consulting with Legislative Legal, it was determined that because a civil action is between two independent parties, a court couldn't really mandate an alcohol education course. As a result, a compromise was made by making the sentencing of a Juvenile Alcohol Safety Action program or similar program, optional at the discretion of the civil court.

The second substantive change to the bill was in the Senate Judiciary Committee.

The first change was a housekeeping issue, which corrected two cross references to AS 04.16.050 to AS 04.16.050(1)(2). The second change increased the civil damages from \$1,000 to \$1,500 on persons with restrictions on purchasing alcohol who knowingly enter or remain on premises licensed to sell alcohol.

ALASKA STATE LEGISLATURE

Interim:
716 West 4th Avenue
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Session:
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SENATOR KEVIN MEYER
SENATE DISTRICT O

SPONSOR STATEMENT FOR CSSB 194

"An Act relating to penalties and civil damages for certain alcohol violations."

CSSB 194 increases civil damages from \$1,000 to \$1,500 for three alcohol violations.

- 1) Minors who knowingly enter or remain in premises licensed to sell alcohol.
- 2) People who purchase or deliver alcohol to persons under the age of 21.
- 3) Persons with restrictions on purchasing alcohol who knowingly enter or remain on premises licensed to sell alcohol.

Additionally, CSSB 194 may also require a person who is under 21 years of age and convicted of the aforementioned offenses to pay for and enroll in a juvenile alcohol safety action program or similar education or treatment program if one is available.

Underage drinking is a problem in Alaska. According to the State of Alaska's Plan to Reduce & Prevent Underage Drinking (October 2009), 11 percent of all treatment admissions for alcohol abuse in the state were youth aged 12-20. There are currently 2,133 alcohol restricted licenses issued in the state.

An increase in civil damages would reinforce the message to youth that underage drinking will not be tolerated. The increased civil penalty would also be a financial deterrent for those who purchase alcohol for minors as well as adults holding a restricted license who are tempted to purchase alcohol.

Passing CSSB 194 will encourage licensees to continue their enforcement of underage and restricted license drinking laws. This bill will also serve as a deterrent to underage and restricted consumers of alcohol.



LEGAL SERVICES



DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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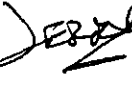
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 22, 2010

SUBJECT: Cross-References to Repealed Subsection (CSSB 194(JUD))
(Work Order No. 26-LS0895\P)

TO: Senator Kevin Meyer

FROM: Gerald P. Luckhaupt 
Legislative Counsel

You have asked me to explain the impact of secs. 6 and 7 of the CS(JUD). Sections 6 and 7 do not have any substantive impact but merely fix cross-references to the definition of "juvenile alcohol safety action program," which is being moved from AS 04.16.050 (see repeal in sec. 8) to AS 04.21.080 (see sec. 5). The definition is being moved so that a judge may require a minor to participate in such a program for any alcohol violation of AS 04.

GPL:ljw
10-122.ljw

LEGAL SERVICES

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

MEMORANDUM

October 20, 2009

SUBJECT: Requiring Alcohol Education and Assessment for Minors in Civil Actions Brought by Licensees (Work Order No. 26-LS0895\R)

TO: Senator Kevin Meyer
Attn: Christine Marasigan

FROM: Gerald P. Luckhaupt *GPL*
Legislative Counsel

You have requested that mandatory alcohol education be required for persons subject to civil suits by licensees under AS 04.16.049(e) and 04.16.065(a). These civil suits are brought by licensees against persons under the age of 21 who attempt to use fake ids or otherwise access premises or purchase alcohol when they are underage. These civil suits are lawsuits between two private parties and do not involve the state or other prosecuting authority and criminal and other penalties may not be imposed. Imposition of criminal sanctions including attendance at alcohol education¹ is inappropriate and unavailable to civil litigants. I do not see how one civil litigant can be authorized to impose a potential criminal sanction on the other civil litigant.

What I did do is provide that a court may require a person under the age of 21 to participate in a juvenile alcohol action safety program whenever the person is convicted of an offense under AS 04.16. Currently we only require this for minor in possession under AS 04.16.050. While this does not directly satisfy your request it does allow alcohol education programs to be required of minors when they are prosecuted and convicted of offenses under AS 04.16.049 and 04.16.065 and other offenses under AS 04.16.

GPL:ljw
09-354.ljw

Enclosure

¹ I assume by this you mean a juvenile alcohol safety action program as is currently required for minor in possession convictions under AS 04.16.050.

*Alaska Cabaret, Hotel,
Restaurant & Retailers Association*



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The Honorable Kevin Meyer
State Senate
Alaska State Capitol
Juneau, AK 99801-1182

February 12, 2010

Dear Senator Meyer,

I am writing to you regarding Senate Bill 194, an act relating to civil damages for certain alcohol violations.

As you may know, one of Alaska CHARR's top legislative priorities is fighting underage drinking. We appreciate your efforts to increase the civil penalty for underage persons attempting to purchase alcohol to \$1,500.00. We believe this will encourage licensees to pursue the civil liability penalty making the penalty a stronger deterrent and sending a stronger message to underage persons that their criminal actions will not be taken lightly.

Alaska CHARR fully supports SB194, and would like to thank you for helping the hospitality industry send a stronger message to kids that attempting to buy alcohol is a serious offense.

Please let me know if I can be of additional assistance.

Dale G. Fox, CAE
President & CEO, Alaska CHARR



January 26, 2010

Senator Kevin Meyer
Alaska State Capitol
Juneau, AK 99801

Re: SB 194

Dear Senator Meyer:

Underage drinking in Alaska has long been a concern in our communities and for this reason we support legislation to increase penalties for underage drinking through the civil penalties process.

As responsible owners and operators, we do not want to contribute to the problem of underage drinking. When a licensee is caught serving or selling alcoholic beverages to a minor the consequences and penalties are severe. We believe the minor should be held primarily responsible for his/her actions; the current \$1,000 civil penalty is not enough. There should be steps for offenses to include increasing the \$1,000 to \$1,500, required or mandatory education and prevention and delaying access to the driver license at the age of 21.

In 2006, the Alaska Federation of Natives (AFN) with funding from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) report highlights the current status of underage drinking throughout rural and urban Alaska from a youth's perspective. The problem of underage drinking is statewide and impacts families, communities, social, health, medical, justice, law enforcement, education and economic bodies.

Anchorage CHARR assists members by processing civil penalty cases against minors on behalf of the licensee and providing information about minor civil penalty law. We compile information from our member about the civil case against the minor, prepare all required legal documents and coordinate third party notification for court appearance.

Currently our office has processed 42 minor cases with 15 pending court filing.

We urge you to please consider supporting SB 194.

Sincerely,


Silvia Villamides,
Executive Director



P.O. Box 242023
Anchorage, AK 99524
907.646.4628
anchoragecharr@gcl.net

Executive Summary

Childhood and underage drinking has been shown to be a causal factor in homicide, suicide, traumatic injury, traffic fatalities, drowning, burns, violent and property crime, high risk sex, fetal alcohol syndrome, alcohol poisoning and the need for treatment for alcohol abuse and dependence.ⁱⁱ The research shows that early onset alcohol use is strongly associated with adult alcohol dependence.ⁱⁱⁱ While there are no significant differences between national and Alaskan trends for heavy drinkingⁱ, the prevalence of binge drinking^b among Alaska's adults is consistently higher than the national average.^c^{iv}

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

A myriad of catastrophic health, social and economic problems resultant from underage drinking has impacted Alaska's youth. In 2000, the Alaska Department of Health and Social Services, Division of Juvenile Justice sponsored an assessment of underage drinking in Alaska. Investigators examined statewide efforts and data and conducted more detailed inquiries by interviewing 203 key informants from 17 rural and urban sample communities. The consequences of underage drinking in Alaska are reflected in an increase in the number of alcohol-related accidents among youth requiring hospitalization of 66.3 percent between 1991 and 1998. Over this period, Alaska averaged 30 suicide attempts annually among youth where alcohol was a factor.^{vii}

The cost of underage drinking to the citizens of Alaska was \$317 million in 2005, inclusive of medical care, work loss, and pain and

suffering.^{viii} This is equivalent to \$3,944 per year for each youth in the State. Based on these figures, per capita, Alaska is second among the fifty states for the cost of underage drinking.

As demonstrated in the table below, the largest costs to the State of Alaska can be attributed to youth violence and traffic crashes by underage youth under the influence of alcohol. Furthermore, a multitude of other problems contribute significantly to the overall cost. For example, among teen mothers, fetal alcohol syndrome (FAS) costs Alaska \$4.6 million. Young people who begin drinking before age 15 are four times more likely to develop alcohol dependence and are two and a half times more likely to become abusers of alcohol

Costs of Underage Drinking by Problem, Alaska 2005



Problem	Total Cost (in millions)
Youth Violence	\$225.5
Youth Traffic Crashes	\$24.9
High Risk Sex, Ages 14-20	\$18.4
Youth Property Crime	\$7.2
Youth Injury	\$16.8
Poisonings and Psychoses	\$1.6
FAS Among Mothers Age 15-20	\$4.6
Youth Alcohol Treatment	\$17.5
Total	\$316.5

Source: Pacific Institute for Research and Evaluation (PIRE), November, 2008.
Posted at <http://www.udete.org/UnderageDrinkingCosts.asp>

than those who begin drinking at age 21.^{ix} In 2003, 366 youth 12-20 years old were admitted for alcohol treatment in Alaska, accounting for 11 percent of all treatment admissions for alcohol abuse in the State.^x

The Alaska Departments of Education and Early Development and Health and Social Services conduct a biannual statewide student survey on health behavior. Alaska uses the Alaska Youth Risk Behavior Survey (YRBS), based upon the U.S. Centers for Disease Control and Prevention's (CDC) epidemiological surveillance system.^{xi} This survey was established to monitor the prevalence of behaviors that not only influence adolescent health, but also put youth at risk for the most significant health and social problems. Participating school

ⁱ Defined as 2 drinks per day for men and 1 drink for women.

^b Defined as 5 or more drinks on one occasion.

^c Thirty-nine percent higher for women and 14 percent higher for men.

Executive Summary

districts may receive a full report of their local data, which can be the centerpiece of their own local needs assessments, adding other data such as the Alaska School Boards' School Climate and Connectedness survey and local law enforcement data.

In 2007, 43 high schools were scientifically selected to be included in the survey. Thirty-eight (88 percent) schools participated and 1,318 (68 percent) students (from a total of 1,952 selected) completed the survey resulting in an overall response rate of 60 percent (P. Owen, personal communication, October 27, 2008).

According to self-reports by Alaskan students in grades 9-12:ⁱⁱⁱ

- 74% had at least one drink of alcohol on one or more days during their life.
- 20% had their first drink of alcohol, other than a few sips, before age 13.
- 40% had at least one drink of alcohol on one or more occasion in the past 30 days.
- 26% had five or more drinks of alcohol in a row (i.e. binge drinking) in the past 30 days.

The 2007 YRBS also shows that 10 percent of Alaska youth self-reported drinking and driving within the past 30 days. According to the Alaska Highway Safety Office 2006 Annual Report, a third

of alcohol impaired drivers and 47 percent of speeding drivers were under the age of 26.ⁱⁱⁱⁱ Additionally, in 2006 there were 102 traffic accidents with alcohol impaired youth drivers ages 11-20.^v

The state-wide YRBS demonstrates that underage drinking is widespread in Alaska, but it does not include all age appropriate youth. There are more youth at risk than are represented. Alaska state law requires that students have active consent^{vi} from parents to participate in school surveys, which excludes students who do not return a signed permission slip. In addition, alternative high school students were excluded from the state-wide YRBS report and students who have dropped out of school were not represented. Studies have shown that alternative high school students are at significantly higher risk for engaging in risky behaviors^{vii} and substance use is correlated with school dropout.^{viii} As such, the risk behaviors of youth are likely underrepresented with the Alaska state-wide YRBS.

However, in 2007, with support from community partners, the Anchorage School District was able to administer the YRBS in alternative schools.^{ix} While they were not able to obtain the 60 percent response rate needed to generalize the findings to all alternative high school students,^x the findings are important to consider as we plan prevention measures. The table below compares the responses from the Anchorage traditional high schools that were included with the state-wide YRBS and those Anchorage students who participated in the alternative school YRBS.^f

Comparison of Traditional vs Alternative High Schools in Anchorage 2007

	Traditional High Schools	Alternative High Schools	McLaughlin High School
Percentage of students who had their first drink of alcohol other than a few sips before age 13	20.6%	30.8%	41.3%
Percentage of students who had at least one drink of alcohol on one or more of the past 30 days	40.8%	54%	76.4%
Percentage of students who had 5 or more drinks of alcohol in a row within a couple hours on one or more of the past 30 days	26.2%	37.3%	63.8%



Executive Summary

The alternative high schools participating in the 2007 Anchorage Youth Risk Behavior Survey included the following:

- *McLaughlin Secondary School* serves students who have been incarcerated at the McLaughlin Youth Center, a state detention center for juveniles.
- *AVAIL* (Anchorage Vocational Academic Institute of Learning) is an alternative high school program devoted to students who have dropped out of traditional schools.
- *Benson/Starob* is an alternative school serving the educational needs of students who have been deemed "at risk."
- *COHO* (Creating Optimal High School Opportunities) offers students in the Chugiak and Eagle River area an alternative to the traditional high school classroom.
- *Continuation Program* is a self-directed alternative education program for students who are expelled, on a long-term suspension, or are in need of a transitional education placement.
- *Crossroads* is the Anchorage School District's school for pregnant and parenting teens.
- *SAVE* is an accredited comprehensive alternative high school that provides the opportunity for credit recovery, and is designed to meet the requirements for high school graduation.

These findings both highlight the need for further evaluation of alternative school students' risk behaviors in an effort to better plan prevention measures for these students and illustrate the strong likelihood that current reports of underage drinking in Alaska are under representative of the actual trend.

Despite the toll that underage drinking brings to bear on all citizens of Alaska — be it physical, mental, social, or economic — social norms remain static leaving the overall impression that underage drinking in Alaska "isn't a problem". Alaska has made great strides in the prevention of underage tobacco use and the parallels between the two drugs, alcohol and tobacco, are remarkable. That being said, enforcement efforts within the Departments of Health and Social Services and Public Safety have been coordinated for both tobacco and alcohol. As a result, an interesting pattern has emerged, which clearly demonstrates exactly where social attitudes lie. For example, in FY 2007, 9.2 percent of all retailers investigated sold tobacco to underage buyers whereas 22 percent of all retailers investigated sold alcohol to underage buyers.



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

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

The national and Alaska-specific information and recommendations contained herein provide a blueprint for a range of science-based state and community actions that are necessary in order to successfully reduce underage drinking in Alaska. These recommendations are based on the IOM/NAS Report: *Reducing Underage Drinking: A Collective Responsibility*. Each recommendation is categorized as national (N), state (S), or local (L). The national recommendations are numbered based on the location within the IOM/NAS report. The numbering of the state and local recommendations is specific to this plan.

^d Parents must sign a permission slip (versus passive consent in which the parent can exclude the student from participating with a written request).

^e There were 230 respondents from Anchorage alternative schools and 75 respondents from McLaughlin High School.

^f The Anchorage alternative school YRBS is only representative of those students who participated in the survey as the response rate was not high enough to generalize it to all alternative school students.

Juvenile Alcohol Safety Action Program (ASAP)

In cooperation with other state or local agencies, a juvenile alcohol safety action program provides substance abuse screening, referral, and monitoring of persons under 18 years of age who have been referred to it by the court, Division of Juvenile Justice, and/or Department of Motor Vehicles (DMV). The typical cases that are ordered to juvenile ASAP are minor consuming, minor in possessions and tobacco violations.

The benefits of screening, referral and monitoring include:

- Increased accountability of offenders;
- Reduced recidivism resulting from successful completion of required education or treatment;
- Significant reductions in the amount of resources spent by prosecutors, law enforcement officers, judges, attorneys and corrections officers enforcing court-ordered conditions; and
- Increased safety for victims and the larger community because offenders are more likely to be receiving treatment, making court appearances, and complying with other probation conditions.

On July 1, 2001, the juvenile ASAP program was formally established in 4 communities throughout the state: Fairbanks, Juneau, Kotzebue and Ketchikan through the passage of HB 179 - Underage Drinking and Drug Offenses. Since the passage of the legislation, the program has expanded into several other communities in the state - Anchorage, Kodiak, Kenai and Mat-Su.

A list of the current juvenile ASAP locations and FY '06 case totals for are below.

	Minor Consuming/ Minor in Possession	Tobacco Violations	Other	Total Cases
Anchorage	1223	0	0	1223
Fairbanks	243	0	0	243
Juneau	145	68	4	217
Kenai	5	2	12	19
Ketchikan	97	0	0	97
Kodiak	143	0	0	143
Kotzebue	48	0	0	48
Mat-Su	186	0	11	197
TOTAL				2187

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER
FINANCE AND MANAGEMENT SERVICES

SEAN PARNELL, GOVERNOR

P.O. Box 110601
Juneau, AK 99811-0601
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February 3, 2010

The Honorable Donald C. Olson, Chair
Senate Finance Subcommittee
State Capitol, Room 508
Juneau, AK 99801-1182

Dear Senator Olson:

In response to a question from Representative Meyer's Office on Wednesday, January 27th, regarding Juvenile alcohol safety action programs, please see our response below:

- *I would like to know how much the Juvenile alcohol safety action program developed by DHSS under AS 47.37 costs and how active they are throughout the state. Just need a quick, one sentence answer.*

In FY09 the Division of Behavioral Health (DBH) awarded a total of \$534,527 to 11 Juvenile alcohol safety action programs (JSAPs) in the following communities: Mat-Su, Homer, Kotzebue, Fairbanks, Juneau, Kenai, Kodiak, Ketchikan, Dillingham, Seward, and Anchorage. An additional \$200,000 was available in FY09 for programs to use to assist juveniles with service access. Total JSAP client new cases for FY09 were 1,917. During FY09 a total of 1,290 cases were completed and closed (this number includes cases that were opened in FY08 and closed in FY09).

In FY10, an additional \$87,607 was awarded to two new JSAPs; Bethel (\$46,000) and Nome (\$41,607), and an additional \$30,000 was available in juvenile treatment dollars. The JSAPs are very successful, with juveniles entering these programs completing their assigned service of alcohol and drug information school (using the Prime for Life Curriculum) or substance use treatment services in a timely manner, with few repeat clients.

If you have additional questions regarding this issue, please contact me at 465-1630.

Sincerely,


Alison Elgee
Assistant Commissioner

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 194(STA)
 (S) Publish Date: 1/29/10

Identifier (file name): SB194-LAW-CRIM-1-25-10
 Title: An Act relating to civil damages for certain alcohol violations
 Dept. Affected: Law
 RDU: CRIMINAL
 Component: Criminal Justice Litigation
 Sponsor: Senator Meyer
 Requester: Senator Meyer
 Component Number: 2202

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
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	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	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This bill raises the possible civil penalty a licensee can get from a minor who tries to buy alcohol on the licensee's premises from \$1,000 to \$1,500. The department does not anticipate any significant fiscal impact

Prepared by: Eileen Donahue, Division Operations Manager
 Division: Administrative Services
 Approved by: Daniel S. Sullivan, Attorney General
Department of Law

Phone 465-5427
 Date/Time 1/25/10 12:00 AM
 Date 1/25/2010

Alaska State Legislature




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Senator Kevin Meyer Senate District O

TO: Representative Bob Lynn
House State Affairs Committee

FROM: Senator Kevin Meyer 

DATE: February 24, 2010

RE: House State Affairs Committee Hearing Request for CSSB 194

This is a request for a House State Affairs Committee hearing for CSSB 194, "An act relating to penalties and civil damages for certain alcohol violations."

The following documents are attached and will be sent electronically:

- Sponsor Statement
- Current version of the bill
- A memo detailing the changes the bill has gone through since introduction
- Legal Memo, Oct. 2009
- Legal Memo, Feb. 2010
- Letters of support
 - Alaska CHARR
 - Anchorage CHARR
- Back up information
 - Excerpt from "Plan to Reduce & Prevent Underage Drinking," Oct. 2009
 - Excerpt from "Prevention eNotes," May/June 2009
 - Letter from DHSS regarding the Juvenile Alcohol Action Safety Program, Feb. 2010
- Fiscal Notes
- Witness/Testimony:
 - OC Madden, Brown Jug
- Staff member assigned to the bill: Christine R. Marasigan, 465-6876

This bill would increase the civil damages under AS 4.16.047(b), AS 4.16.049(e), and AS 4.16.065(a) from \$1,000 to \$1,500 and would make it possible for a person under 21 years of age convicted of one of these offenses to pay for and attend a juvenile alcohol safety action program if available.

Please contact Christine if you have any questions regarding this legislation.