

**HB**

**98**

<target><bill>HB 98</bill><subject>HB  
98</subject><comm>SFIN26</comm></target>

# SENATE FINANCE COMMITTEE REPORT

DATE: 2/3/10

FURTHER:

DATE TURNED  
IN TO OFFICE: 4/9/10

Finance Committee considered CS FOR HOUSE BILL NO. 98(FIN) am

## HB 98 ALCOHOL: MINOR CONSUMING/LOCAL OPTION

"An Act relating to minor consuming and repeat minor consuming; relating to penalties for violations of limitations on possessing, sending, shipping, transporting, or bringing alcoholic beverages to, soliciting or receiving orders for delivery of alcoholic beverages to, and the manufacture, sale, offer for sale, barter, traffic, or possession of alcoholic beverages in, a local option area; and providing for an effective date."

and recommends:

- be replaced with  SCS or  CS CS HB 98 (FIN)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

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

**NEW FISCAL NOTE(S):**


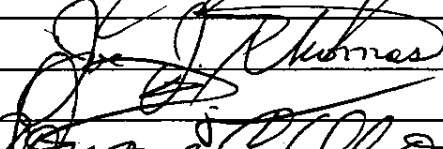
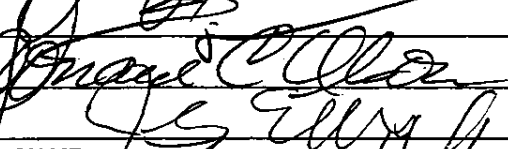
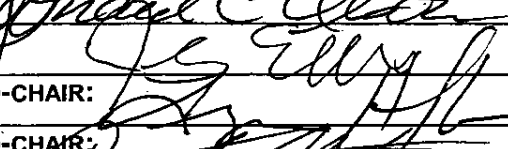
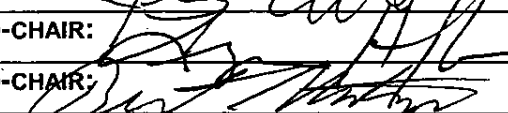
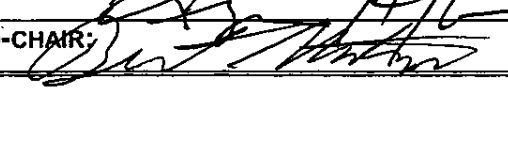
**PREVIOUS FISCAL NOTE(S):**

COR  
CRT

Department	Date	Fiscal	Indet.	Zero	FN#
DOC	2/8			✓	
COR	2/5			✓	

Department	Date	Fiscal	Indet.	Zero	FN#
LAW	1/29			✓	5
DPS	12/27			✓	6

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	HUGHES	X			
	THOMAS EGAN	✓			
	OLSON			X	
	ELLIS			X	
CO-CHAIR: 		✓			
CO-CHAIR: 				✓	

# FISCAL NOTE

STATE OF ALASKA  
2010 LEGISLATIVE SESSION

Fiscal Note Number: 6  
Bill Version: CSHB 98(FIN) am  
(S) Publish Date: 2/3/10

Identifier (file name): HB098CS(FIN)-DPS-DET-01-27-10 Dept. Affected: Public Safety  
Title: "An act relating to minor consuming, and penalties for violation of certain alcohol laws in a local option community". RDU: Alaska State Troopers  
Component: AST Detachments  
Sponsor: Representative Ramras  
Requester: Senate Finance Component Number: 2325

## 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
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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	(Thousands of Dollars)						
	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
<b>FUND SOURCE</b>							
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: 0.0

### POSITIONS

Full-time							
Part-time							
Temporary							

### ANALYSIS: *(Attach a separate page if necessary)*

This bill amends AS 04.16.050(b-d) by clarifying when a person is guilty of repeat or habitual minor consuming or in possession or control. This bill changes AS 04.16.200 by increasing the penalties for violation of AS 04.16.200(b) or (2) or (3), and AS 04.11.499(h).

Passage of this legislation will not increase the number of arrests made or cases referred for prosecution. This bill will have no fiscal impact on the department.

Prepared by: Lt. Rodney Dial  
Division: Alaska State Troopers  
Approved by: Joseph Masters, Commissioner  
Department of Public Safety

Phone 907-247-4480  
Date/Time 12/27/09 10:40 AM  
Date 12/27/2009

# FISCAL NOTE

STATE OF ALASKA  
2010 LEGISLATIVE SESSION

Fiscal Note Number: 5  
Bill Version: CSHB 98(FIN) am  
(S) Publish Date: 2/3/10

Identifier (file name): HB098CS(FIN)AM-LAW-CRIM-1-29-10 Dept. Affected: Law  
Title An Act relating to minor consuming and repeat minor consuming RDU CRIMINAL  
Component Criminal Justice Litigation  
Sponsor REPRESENTATIVE(s) RAMRAS  
Requester Judiciary 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
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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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								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

The bill would clarify the existing minor consuming statute regarding when a minor would be designated as a habitual offender. The bill also clarifies the intent of the legislature that the penalties for bootlegging be the same as those for drunk driving by making the penalties for bootlegging track those for drunk driving. The Department of Law does not anticipate any fiscal impact from passage of this legislation.

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 1/29/10 12:00 AM  
Date 1/29/2000

# FISCAL NOTE

STATE OF ALASKA  
2010 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB 98(FIN) am-ACS-2-5-10  
 () Publish Date: \_\_\_\_\_

Identifier (file name): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Minor Consuming RDU Alaska Court System  
 Sponsor Representative Ramras Component Trial Courts  
 Requester \_\_\_\_\_ Component Number \_\_\_\_\_

**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
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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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								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

The Alaska Court System does not anticipate any fiscal impact from the passage of CSHB 98 (FIN) am.

Prepared by: Douig Wooliver, Administrative Attorney  
 Division: Alaska Court System  
 Approved by: Doug Wooliver for Christine Johnson, Administrative Director  
Alaska Court System

Phone 907-463-4750  
 Date/Time 2/5/10 @ 8:15 am  
 Date 2/5/2010

# FISCAL NOTE

**STATE OF ALASKA**  
**2010 LEGISLATIVE SESSION**

Fiscal Note Number: HB98-DOC-OC-02-08-10  
 Bill Version: \_\_\_\_\_  
 () Publish Date: \_\_\_\_\_

Identifier (file name): HB98-DOC-OC-02-08-10

Dept. Affected: DOC  
 RDU: Administration & Support

Title: "An Act relating to limitations on possessing, sending, shipping transporting, or bringing alcoholic beverages . . ."

Sponsor: Representative Ramras

Requester: Governor Component Number: 694

**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
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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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								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

The intent of Section 4 is to reduce the illegal importation of alcohol with a subsequent reduction in other associated crimes, such as assault and domestic violence. Criminal justice professional opinions and anecdotal information link the majority of assault arrests and convictions to alcohol abuse.

This legislation could increase the number of offenders incarcerated for bootlegging, however, locking up repeat bootleggers could also result in a decrease in the incarceration rate for alcohol-related assaults and other crimes. It is anticipated that the overall impact could be a net zero if not a reduction in the total number and cost of incarcerated offenders. Data is not available for the department to calculate the number of offenders that would be sentenced to the department's custody under this legislation.

Prepared by: Leslie Houston, Director  
 Division: Administration and Support  
 Approved by: Dwayne Peeples, Deputy Commissioner  
Department of Corrections

Phone (907) 465-3339  
 Date/Time 02/08/2010 0900  
 Date 2/8/2010

Adopted  
4/9/10

26-LS0051VE  
Luckhaupt  
4/7/10

**SENATE CS FOR CS FOR HOUSE BILL NO. 98(FIN)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SIXTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVE RAMRAS**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to minor consuming and repeat minor consuming; relating to penalties**  
2 **for violations of limitations on possessing, sending, shipping, transporting, or bringing**  
3 **alcoholic beverages to, soliciting or receiving orders for delivery of alcoholic beverages**  
4 **to, and the manufacture, sale, offer for sale, barter, traffic, or possession of alcoholic**  
5 **beverages in, a local option area; and providing for an effective date."**

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

7 **\* Section 1. AS 04.11.010(c) is amended to read:**

8 (c) Unless a municipality or established village has adopted a more restrictive  
9 local option under AS 04.11.491(g), in a criminal prosecution for possession of  
10 alcoholic beverages for sale in violation of (a) of this section, the fact that a person

11 (1) possessed more than 10 1/2 liters of distilled spirits or [,] 24 liters  
12 or more of wine, or either a half-keg of malt beverages or 12 gallons or more of  
13 malt beverages in individual containers in an area where the sale of alcoholic

1 beverages is restricted or prohibited under AS 04.11.491 creates a presumption that  
2 the person possessed the alcoholic beverages for sale;

3 (2) sends, transports, or brings more than 10 1/2 liters of distilled  
4 spirits or [,] 24 liters or more of wine, or either a half-keg of malt beverages or 12  
5 gallons or more of malt beverages in individual containers to an area where the sale  
6 of alcoholic beverages is restricted or prohibited under AS 04.11.491 creates a  
7 presumption that the person sent, transported, or brought the alcoholic beverages for  
8 sale in the area.

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

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

28 \* Sec. 3. AS 04.16.050(b) is amended to read:

29 (b) A person who violates (a) of this section and who has not been previously  
30 convicted or received a suspended imposition of sentence under (1) of this subsection  
31 is guilty of minor consuming or in possession or control. Minor consuming or in

1 possession or control is not a misdemeanor. Upon conviction in the district court,  
2 the court

3 (1) may grant a suspended imposition of sentence under AS 12.55.085  
4 and place the person on probation for up to one year if the person has not been  
5 convicted of a violation of this section previously; among the conditions of probation,  
6 the court shall, with the consent of a community diversion panel, refer the person to  
7 the panel, and require the person to comply with conditions set by the panel, including  
8 counseling, education, treatment, community work, and payment of fees; in this  
9 paragraph, "community diversion panel" means a youth court or other group selected  
10 by the court to serve as a sentencing option for a person convicted under this section;  
11 or

12 (2) shall impose a fine of at least \$200 but not more than \$600, shall  
13 require the person to attend alcohol information school if the school is available, and  
14 shall place the person on probation for up to one year under (e) of this section; the  
15 court may suspend a portion of the fine imposed under this paragraph that exceeds  
16 \$200 if the person is required to pay for education or treatment required under (e) of  
17 this section.

18 \* Sec. 4. AS 04.16.050(c) is amended to read:

19 (c) A person is guilty of repeat minor consuming or in possession or control if  
20 the person was previously granted a suspended imposition of sentence [PLACED  
21 ON PROBATION] under (b)(1) of this section, has a prior conviction under (b)(2)  
22 of this section, or has been previously convicted once, and the person violates (a) of  
23 this section. Repeat minor consuming or in possession or control is not a  
24 misdemeanor. Upon conviction in the district court, the court shall

25 (1) impose a fine of \$1,000 and require at least 48 hours of community  
26 work;

27 (2) revoke the person's driver's license for three months;

28 (3) take possession of the person's driver's license; and

29 (4) suspend up to \$500 of the fine and place the person on probation  
30 for up to one year under (e) of this section.

31 \* Sec. 5. AS 04.16.050(d) is amended to read:

1 (d) A person is guilty of habitual minor consuming or in possession or control  
2 if the person has a prior conviction [WAS PLACED ON PROBATION] under (c) of  
3 this section, or has been previously convicted two or more times [TWICE], and the  
4 person violates (a) of this section. Habitual minor consuming or in possession or  
5 control is a class B misdemeanor. Upon conviction, the court may impose an  
6 appropriate period of imprisonment and fine and place the person on probation under  
7 (e) of this section for one year, or until the person is 21 years of age, whichever is  
8 later, and shall

9 (1) impose at least 96 hours of community work;

10 (2) revoke the person's driver's license for six months;

11 (3) within five working days, notify the agency responsible for the  
12 administration of motor vehicle laws of the revocation; and

13 (4) take possession of the person's driver's license.

14 \* Sec. 6. AS 04.16.200(e) is amended to read:

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

17 (1) except as provided in (3) of this subsection, guilty of a class A  
18 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
19 of distilled spirits or [,] 24 liters of wine, or either a half-keg of malt beverages or  
20 12 gallons of malt beverages in individual containers;

21 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
22 10 and one-half liters or more of distilled spirits or [,] 24 liters or more of wine, or  
23 either a half-keg of malt beverages or 12 gallons or more of malt beverages in  
24 individual containers; or

25 (3) guilty of a class C felony if the quantity of alcoholic beverages is  
26 less than 10 and one-half liters of distilled spirits or [,] 24 liters of wine, or either a  
27 half-keg of malt beverages or 12 gallons of malt beverages in individual containers  
28 and the person has been previously convicted under this subsection or (b) of this  
29 section two or more times within 15 years of the date of the present offense.

30 \* Sec. 7. AS 04.16.200(h) is amended to read:

31 (h) Upon conviction of a class C felony under (b) or (e)(2) or (3) of this

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section, the court

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

(A) 120 days if the person has not been previously convicted [ONCE];

(B) 240 days if the person has been previously convicted once [TWO TIMES];

(C) 360 days if the person has been previously convicted two [THREE] or more times;

(2) may not

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

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

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

(B) suspend imposition of sentence.

\* Sec. 8. AS 04.21.080 is amended by adding a new paragraph to read:

(18) "half-keg" means a keg designed to be a bulk container for, and containing not more than, 15 1/2 gallons of malt beverages.

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

APPLICABILITY. AS 04.11.010(c), as amended by sec. 1 of this Act, and AS 04.16.200(h), as amended by sec. 7 of this Act, apply to an offense occurring on or after the effective date of this Act. References to previous convictions in sec. 7 of this Act apply to convictions occurring before, on, or after the effective date of this Act.

\* Sec. 10. This Act takes effect immediately under AS 01.10.070(c).

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/2/10

FURTHER: Rules

DATE TURNED  
IN TO OFFICE: 4/14/10

**Finance Committee** considered CS FOR HOUSE BILL NO. 114(TRA) am

## HB 114 USE STATE TRANS FACILITY FOR DISASTER AID

"An Act relating to availability of state transportation facilities and state-owned or state-operated transportation modes for delivering compassionate aid."

and recommends:

- be replaced with  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous  SCS or  CS HB 114 (TRA)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

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

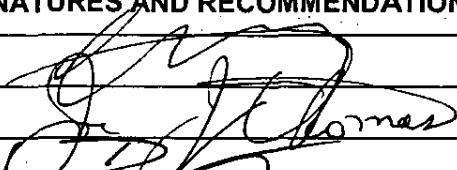
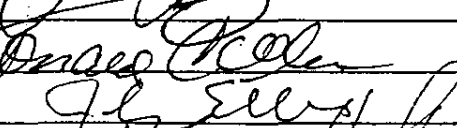



**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
CED	3/9/10			✓	8

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
MVA	2/4/10			✓	5
DFG	2/4/10			✓	6
DOT	2/4/10			✓	7

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Huggins	X			
	Thomas	✓			
	Olson	✓			
	Ellis	✓			
CO-CHAIR: 	Hoffman	✓			
CO-CHAIR:	Sedman	✓			

# FISCAL NOTE

STATE OF ALASKA  
2010 LEGISLATIVE SESSION

Fiscal Note Number: 8  
Bill Version: CSHB 114 (TRA)  
( ) Publish Date: 4/14/10

Identifier (file name): HB114CS(TRA)-CED-ARR-03-9-10 Dept. Affected: DCCED  
Title: State Transportation Assets deliver compassionate aid RDU  
Component: Alaska Railroad Corporation  
Sponsor: Representative Ramras  
Requester: Senate Finance Committee Component Number: \_\_\_\_\_

**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
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
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Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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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								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: 0.0

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

If the Governor determines that public safety or health conditions in an area of the state require emergency assistance, the Governor can utilize state transportation assets to deliver compassionate aid. This legislation would provide that the Alaska Railroad Corporation would not be liable in tort for damages, for the injury to or death of a person, or property damage resulting from assistance provided. Because the Alaska Railroad does not receive state funding for operations or capital improvements, HB 114 would not provide a railroad related cost to the state. The cost to provide this service to the Alaska Railroad would depend on the number of rail cars and locomotive power needed, crew requirements, and the destination.

Prepared by: Wendy Lindskoog, Assistant Vice President, Corporate Affairs  
Division: Alaska Railroad Corporation  
Approved by: Emil Notti, Commissioner  
Department of Commerce, Community and Economic Development

Phone 907-265-2498  
Date/Time 3-9-10 11:00 a.m.  
Date 3/9/2010

# FISCAL NOTE

STATE OF ALASKA  
2010 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB 114 (TRA)  
( ) Publish Date: \_\_\_\_\_

Identifier (file name): HB114CS(TRA)-CED-ARR-03-9-10 Dept. Affected: DCCED  
Title: State Transportation Assets deliver compassionate aid RDU \_\_\_\_\_  
Sponsor: Representative Ramras Component: Alaska Railroad Corporation  
Requester: Senate Finance Committee Component Number: \_\_\_\_\_

**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
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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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								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: 0.0

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

If the Governor determines that public safety or health conditions in an area of the state require emergency assistance, the Governor can utilize state transportation assets to deliver compassionate aid. This legislation would provide that the Alaska Railroad Corporation would not be liable in tort for damages, for the injury to or death of a person, or property damage resulting from assistance provided. Because the Alaska Railroad does not receive state funding for operations or capital improvements, HB 114 would not provide a railroad related cost to the state. The cost to provide this service to the Alaska Railroad would depend on the number of rail cars and locomotive power needed, crew requirements, and the destination.

Prepared by: Wendy Lindscoog, Assistant Vice President, Corporate Affairs  
Division: Alaska Railroad Corporation  
Approved by: Emil Notti, Commissioner  
Department of Commerce, Community and Economic Development

Phone 907-265-2498  
Date/Time 3-9-10 11:00 a.m.  
Date 3/9/2010

# FISCAL NOTE

STATE OF ALASKA  
2010 LEGISLATIVE SESSION

Fiscal Note Number: 7  
Bill Version: SCS CSHB 114(TRA)  
(S) Publish Date: 3/2/10

Identifier (file name): HB114CS-DOT-C0-2-04-10 Dept. Affected: DOT&P  
Title: Use of State Transportation Facility for Disaster Aid RDU: Administration and Support  
Component: Commissioner's Office  
Sponsor: Rep. Ramras  
Requester: S. TRA Component Number: 530

**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
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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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								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact

Prepared by: Mary Siroky, Legislative Liaison Phone 465-4772  
Division: DOT&PF, Commissioner's Office Date/Time 2/4/10 11:00 AM  
Approved by: Frank Richards Date 2/4/2010  
Deputy Commissioner, DOT&PF

# FISCAL NOTE

**STATE OF ALASKA**  
**2010 LEGISLATIVE SESSION**

Fiscal Note Number: 6  
 Bill Version: SCS CSHB 114(TRA)  
 (S) Publish Date: 3/2/10

Identifier (file name): CSHB114(TRA)-DFG-CO-2-4-10 Dept. Affected: ADF&G  
 Title An act relating to availability of state transportation facilities RDU Administration and Support  
and state-owned or state operated... Component Commissioner's office  
 Sponsor Rep. Ramras et al.  
 Requester Senate Transportation Component Number 2175

**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
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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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								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact to the department.

Prepared by: Jeff Hoover, Deputy Director  
 Division Administrative Services  
 Approved by: Tom Lawson, Director of Administrative Services  
Department of Fish and Game

Phone 465-6077  
 Date/Time 2/4/10 2:00 PM  
 Date 2/4/2010

# FISCAL NOTE

**STATE OF ALASKA**  
**2010 LEGISLATIVE SESSION**

Fiscal Note Number: 5  
 Bill Version: SCS CSHB 114(TRA)  
 (S) Publish Date: 3/2/10

Identifier (file name): HB114-DMVA-HS&EM-2-4-10 Dept. Affected: Military & Veterans Affairs  
 Title An Act relating to availability of state transportation facilities RDU Military and Veterans Affairs  
and state-owned or state-operated transportation modes for deliver Component Homeland Security & Emerg. Mgmt.  
 Sponsor Ramras, Dahlstrom, Millett, Johansen, Edgmon, Peterson, Holmes,  
 Requester TRA Component Number 2657

**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
<b>OPERATING EXPENDITURES</b>								
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2010) cost: 0.0

**POSITIONS**

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact is expected as a result of this legislation.

Prepared by: McHugh Pierre, Deputy Commissioner/Legislative Liaison  
 Division Commissioner's Office  
 Approved by: General Thomas Katkus  
Commissioner

Phone 465-4602  
 Date/Time 2/4/10 @ 12:25 pm  
 Date 2/4/2010

Adopted  
4/9/10

26-LS0051\E  
Luckhaupt  
4/7/10

**SENATE CS FOR CS FOR HOUSE BILL NO. 98(FIN)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SIXTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVE RAMRAS**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to minor consuming and repeat minor consuming; relating to penalties  
2 for violations of limitations on possessing, sending, shipping, transporting, or bringing  
3 alcoholic beverages to, soliciting or receiving orders for delivery of alcoholic beverages  
4 to, and the manufacture, sale, offer for sale, barter, traffic, or possession of alcoholic  
5 beverages in, a local option area; and providing for an effective date."

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

7 \* **Section 1.** AS 04.11.010(c) is amended to read:

8 (c) Unless a municipality or established village has adopted a more restrictive  
9 local option under AS 04.11.491(g), in a criminal prosecution for possession of  
10 alcoholic beverages for sale in violation of (a) of this section, the fact that a person

11 (1) possessed more than 10 1/2 liters of distilled spirits or [,] 24 liters  
12 or more of wine, or either a half-keg of malt beverages or 12 gallons or more of  
13 malt beverages in individual containers in an area where the sale of alcoholic

1 beverages is restricted or prohibited under AS 04.11.491 creates a presumption that  
2 the person possessed the alcoholic beverages for sale;

3 (2) sends, transports, or brings more than 10 1/2 liters of distilled  
4 spirits or [,] 24 liters or more of wine, or either a half-keg of malt beverages or 12  
5 gallons or more of malt beverages in individual containers to an area where the sale  
6 of alcoholic beverages is restricted or prohibited under AS 04.11.491 creates a  
7 presumption that the person sent, transported, or brought the alcoholic beverages for  
8 sale in the area.

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

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

28 \* Sec. 3. AS 04.16.050(b) is amended to read:

29 (b) A person who violates (a) of this section and who has not been previously  
30 convicted or received a suspended imposition of sentence under (1) of this subsection  
31 is guilty of minor consuming or in possession or control. Minor consuming or in

1        **possession or control is not a misdemeanor.** Upon conviction in the district court,  
2        the court

3                (1) may grant a suspended imposition of sentence under AS 12.55.085  
4        and place the person on probation for up to one year if the person has not been  
5        convicted of a violation of this section previously; among the conditions of probation,  
6        the court shall, with the consent of a community diversion panel, refer the person to  
7        the panel, and require the person to comply with conditions set by the panel, including  
8        counseling, education, treatment, community work, and payment of fees; in this  
9        paragraph, "community diversion panel" means a youth court or other group selected  
10       by the court to serve as a sentencing option for a person convicted under this section;  
11       or

12                (2) shall impose a fine of at least \$200 but not more than \$600, shall  
13        require the person to attend alcohol information school if the school is available, and  
14        shall place the person on probation for up to one year under (e) of this section; the  
15        court may suspend a portion of the fine imposed under this paragraph that exceeds  
16        \$200 if the person is required to pay for education or treatment required under (e) of  
17        this section.

18        \* **Sec. 4.** AS 04.16.050(c) is amended to read:

19                (c) A person is guilty of repeat minor consuming or in possession or control if  
20        the person was **previously granted a suspended imposition of sentence** [PLACED  
21        ON PROBATION] under (b)(1) of this section, **has a prior conviction under (b)(2)**  
22        **of this section.** or has been previously convicted once, and the person violates (a) of  
23        this section. **Repeat minor consuming or in possession or control is not a**  
24        **misdemeanor.** Upon conviction in the district court, the court shall

25                (1) impose a fine of \$1,000 and require at least 48 hours of community  
26        work;

27                (2) revoke the person's driver's license for three months;

28                (3) take possession of the person's driver's license; and

29                (4) suspend up to \$500 of the fine and place the person on probation  
30        for up to one year under (e) of this section.

31        \* **Sec. 5.** AS 04.16.050(d) is amended to read:

1 (d) A person is guilty of habitual minor consuming or in possession or control  
 2 if the person has a prior conviction [WAS PLACED ON PROBATION] under (c) of  
 3 this section, or has been previously convicted two or more times [TWICE], and the  
 4 person violates (a) of this section. Habitual minor consuming or in possession or  
 5 control is a class B misdemeanor. Upon conviction, the court may impose an  
 6 appropriate period of imprisonment and fine and place the person on probation under  
 7 (e) of this section for one year, or until the person is 21 years of age, whichever is  
 8 later, and shall

9 (1) impose at least 96 hours of community work;

10 (2) revoke the person's driver's license for six months;

11 (3) within five working days, notify the agency responsible for the  
 12 administration of motor vehicle laws of the revocation; and

13 (4) take possession of the person's driver's license.

14 \* Sec. 6. AS 04.16.200(e) is amended to read:

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

17 (1) except as provided in (3) of this subsection, guilty of a class A  
 18 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
 19 of distilled spirits or [,] 24 liters of wine, or either a half-keg of malt beverages or  
 20 12 gallons of malt beverages in individual containers;

21 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
 22 10 and one-half liters or more of distilled spirits or [,] 24 liters or more of wine, or  
 23 either a half-keg of malt beverages or 12 gallons or more of malt beverages in  
 24 individual containers; or

25 (3) guilty of a class C felony if the quantity of alcoholic beverages is  
 26 less than 10 and one-half liters of distilled spirits or [,] 24 liters of wine, or either a  
 27 half-keg of malt beverages or 12 gallons of malt beverages in individual containers  
 28 and the person has been previously convicted under this subsection or (b) of this  
 29 section two or more times within 15 years of the date of the present offense.

30 \* Sec. 7. AS 04.16.200(h) is amended to read:

31 (h) Upon conviction of a class C felony under (b) or (e)(2) or (3) of this

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section, the court

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

(A) 120 days if the person has not been previously convicted [ONCE];

(B) 240 days if the person has been previously convicted once [TWO TIMES];

(C) 360 days if the person has been previously convicted two [THREE] or more times;

(2) may not

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

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

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

(B) suspend imposition of sentence.

\* **Sec. 8.** AS 04.21.080 is amended by adding a new paragraph to read:

(18) "half-keg" means a keg designed to be a bulk container for, and containing not more than, 15 1/2 gallons of malt beverages.

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

APPLICABILITY. AS 04.11.010(c), as amended by sec. 1 of this Act, and AS 04.16.200(h), as amended by sec. 7 of this Act, apply to an offense occurring on or after the effective date of this Act. References to previous convictions in sec. 7 of this Act apply to convictions occurring before, on, or after the effective date of this Act.

\* **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).

# FISCAL NOTE

**STATE OF ALASKA**  
**2010 LEGISLATIVE SESSION**

Fiscal Note Number: 5  
 Bill Version: CSHB 98(FIN) am  
 (S) Publish Date: 2/3/10

Identifier (file name): HB098CS(FIN)AM-LAW-CRIM-1-29-10  
 Title: An Act relating to minor consuming and repeat minor consuming  
 Sponsor: REPRESENTATIVE(S) RAMRAS  
 Requester: Judiciary  
 Dept. Affected: Law  
 RDU: CRIMINAL  
 Component: Criminal Justice Litigation  
 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
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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**FUND SOURCE** (Thousands of Dollars)

	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: \_\_\_\_\_

**POSITIONS**

	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Full-time							
Part-time							
Temporary							

**ANALYSIS:** (Attach a separate page if necessary)

The bill would clarify the existing minor consuming statute regarding when a minor would be designated as a habitual offender. The bill also clarifies the intent of the legislature that the penalties for bootlegging be the same as those for drunk driving by making the penalties for bootlegging track those for drunk driving. The Department of Law does not anticipate any fiscal impact from passage of this legislation.

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 1/29/10 12:00 AM  
 Date 1/29/2010

# FISCAL NOTE

STATE OF ALASKA  
2010 LEGISLATIVE SESSION

Fiscal Note Number: 6  
Bill Version: CSHB 98(FIN) am  
(S) Publish Date: 2/3/10

Identifier (file name): HB098CS(FIN)-DPS-DET-01-27-10 Dept. Affected: Public Safety  
Title: "An act relating to minor consuming, and penalties for violation of certain alcohol laws in a local option community". RDU: Alaska State Troopers  
Sponsor: Representative Ramras Component: AST Detachments  
Requester: Senate Finance Component Number: 2325

## 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
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
-----------------------------	--	--	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>								
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## FUND SOURCE (Thousands of Dollars)

	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: 0.0

### POSITIONS

Full-time							
Part-time							
Temporary							

### ANALYSIS: *(Attach a separate page if necessary)*

This bill amends AS 04.16.050(b-d) by clarifying when a person is guilty of repeat or habitual minor consuming or in possession or control. This bill changes AS 04.16.200 by increasing the penalties for violation of AS 04.16.200(b) or (2) or (3), and AS 04.11.499(h).

Passage of this legislation will not increase the number of arrests made or cases referred for prosecution. This bill will have no fiscal impact on the department.

Prepared by: Lt. Rodney Dial  
Division: Alaska State Troopers  
Approved by: Joseph Masters, Commissioner  
Department of Public Safety

Phone 907-247-4480  
Date/Time 12/27/09 10:40 AM  
Date 12/27/2009

*Called in 4-9-10  
10:00 am n.g.*

26-LS0051E  
Luckhaupt  
4/7/10

**SENATE CS FOR CS FOR HOUSE BILL NO. 98(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SIXTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE RAMRAS**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to minor consuming and repeat minor consuming; relating to penalties**  
2 **for violations of limitations on possessing, sending, shipping, transporting, or bringing**  
3 **alcoholic beverages to, soliciting or receiving orders for delivery of alcoholic beverages**  
4 **to, and the manufacture, sale, offer for sale, barter, traffic, or possession of alcoholic**  
5 **beverages in, a local option area; and providing for an effective date."**

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

7 **\* Section 1.** AS 04.11.010(c) is amended to read:

8 (c) Unless a municipality or established village has adopted a more restrictive  
9 local option under AS 04.11.491(g), in a criminal prosecution for possession of  
10 alcoholic beverages for sale in violation of (a) of this section, the fact that a person

11 (1) possessed more than 10 1/2 liters of distilled spirits or [,] 24 liters  
12 or more of wine, or either a half-keg of malt beverages or 12 gallons or more of  
13 malt beverages in individual containers in an area where the sale of alcoholic

1 beverages is restricted or prohibited under AS 04.11.491 creates a presumption that  
2 the person possessed the alcoholic beverages for sale;

3 (2) sends, transports, or brings more than 10 1/2 liters of distilled  
4 spirits or [,] 24 liters or more of wine, or either a half-keg of malt beverages or 12  
5 gallons or more of malt beverages in individual containers to an area where the sale  
6 of alcoholic beverages is restricted or prohibited under AS 04.11.491 creates a  
7 presumption that the person sent, transported, or brought the alcoholic beverages for  
8 sale in the area.

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

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

28 \* Sec. 3. AS 04.16.050(b) is amended to read:

29 (b) A person who violates (a) of this section and who has not been previously  
30 convicted or received a suspended imposition of sentence under (1) of this subsection  
31 is guilty of minor consuming or in possession or control. Minor consuming or in

1 possession or control is not a misdemeanor. Upon conviction in the district court,  
2 the court

3 (1) may grant a suspended imposition of sentence under AS 12.55.085  
4 and place the person on probation for up to one year if the person has not been  
5 convicted of a violation of this section previously; among the conditions of probation,  
6 the court shall, with the consent of a community diversion panel, refer the person to  
7 the panel, and require the person to comply with conditions set by the panel, including  
8 counseling, education, treatment, community work, and payment of fees; in this  
9 paragraph, "community diversion panel" means a youth court or other group selected  
10 by the court to serve as a sentencing option for a person convicted under this section;  
11 or

12 (2) shall impose a fine of at least \$200 but not more than \$600, shall  
13 require the person to attend alcohol information school if the school is available, and  
14 shall place the person on probation for up to one year under (e) of this section; the  
15 court may suspend a portion of the fine imposed under this paragraph that exceeds  
16 \$200 if the person is required to pay for education or treatment required under (e) of  
17 this section.

18 \* Sec. 4. AS 04.16.050(c) is amended to read:

19 (c) A person is guilty of repeat minor consuming or in possession or control if  
20 the person was previously granted a suspended imposition of sentence [PLACED  
21 ON PROBATION] under (b)(1) of this section, has a prior conviction under (b)(2)  
22 of this section, or has been previously convicted once, and the person violates (a) of  
23 this section. Repeat minor consuming or in possession or control is not a  
24 misdemeanor. Upon conviction in the district court, the court shall

25 (1) impose a fine of \$1,000 and require at least 48 hours of community  
26 work;

27 (2) revoke the person's driver's license for three months;

28 (3) take possession of the person's driver's license; and

29 (4) suspend up to \$500 of the fine and place the person on probation  
30 for up to one year under (e) of this section.

31 \* Sec. 5. AS 04.16.050(d) is amended to read:

1 (d) A person is guilty of habitual minor consuming or in possession or control  
2 if the person **has a prior conviction** [WAS PLACED ON PROBATION] under (c) of  
3 this section, or has been previously convicted **two or more times** [TWICE], and the  
4 person violates (a) of this section. Habitual minor consuming or in possession or  
5 control is a class B misdemeanor. Upon conviction, the court may impose an  
6 appropriate period of imprisonment and fine and place the person on probation under  
7 (e) of this section for one year, or until the person is 21 years of age, whichever is  
8 later, and shall

9 (1) impose at least 96 hours of community work;

10 (2) revoke the person's driver's license for six months;

11 (3) within five working days, notify the agency responsible for the  
12 administration of motor vehicle laws of the revocation; and

13 (4) take possession of the person's driver's license.

14 \* Sec. 6. AS 04.16.200(e) is amended to read:

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

17 (1) except as provided in (3) of this subsection, guilty of a class A  
18 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
19 of distilled spirits **or** [,] 24 liters of wine, or **either a half-keg of malt beverages or**  
20 12 gallons of malt beverages **in individual containers**;

21 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
22 10 and one-half liters or more of distilled spirits **or** [,] 24 liters or more of wine, or  
23 **either a half-keg of malt beverages or** 12 gallons or more of malt beverages **in**  
24 **individual containers**; or

25 (3) guilty of a class C felony if the quantity of alcoholic beverages is  
26 less than 10 and one-half liters of distilled spirits **or** [,] 24 liters of wine, or **either a**  
27 **half-keg of malt beverages or** 12 gallons of malt beverages **in individual containers**  
28 and the person has been previously convicted under this subsection or (b) of this  
29 section two or more times within 15 years of the date of the present offense.

30 \* Sec. 7. AS 04.16.200(h) is amended to read:

31 (h) Upon conviction of a class C felony under (b) or (e)(2) or (3) of this

1 section, the court

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

4 (A) 120 days if the person has not been previously convicted  
5 [ONCE];

6 (B) 240 days if the person has been previously convicted once  
7 [TWO TIMES];

8 (C) 360 days if the person has been previously convicted two  
9 [THREE] or more times;

10 (2) may not

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

13 (i) serve the minimum imprisonment under (1) of this  
14 subsection; and

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

17 (B) suspend imposition of sentence.

18 \* **Sec. 8.** AS 04.21.080 is amended by adding a new paragraph to read:

19 (18) "half-keg" means a keg designed to be a bulk container for, and  
20 containing not more than, 15 1/2 gallons of malt beverages.

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

23 APPLICABILITY. AS 04.11.010(c), as amended by sec. 1 of this Act, and  
24 AS 04.16.200(h), as amended by sec. 7 of this Act, apply to an offense occurring on or after  
25 the effective date of this Act. References to previous convictions in sec. 7 of this Act apply to  
26 convictions occurring before, on, or after the effective date of this Act.

27 \* **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).

2-8-10

Chair, Judiciary  
Chair, Economic Development,  
Trade & Tourism  
Energy  
Military & Veteran Affairs  
Joint Armed Services  
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## Alaska State Legislature House of Representatives



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Representative Jay Ramras  
District 10

### HB98 – Explanation of Changes

A change from version A to version R, was made at the request of the Department of Law Section 3 of the bill was added. Section 3 corrects AS 04.16.200(h), which deals with penalties for possession for sales or importation of liquor into areas that have chosen to establish local option laws. This amendment brings bootlegging penalties into compliance with felony DUI penalties.

A change was made on the House Floor to version R that resulted in version R.A. This amendment made it clear that Minor Consuming and Repeat Minor Consuming are not misdemeanor crimes.

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Representative Jay Ramras  
District 10

## Sponsor Statement HB 98

**“An Act relating to minor consuming and repeat minor consuming; and providing for an effective date.”**

HB 98 fixes a problem that occurred with the enactment of HB 359, a bill that passed the House unanimously in the 25<sup>th</sup> Legislative Session. HB 359 originated due to the desire of Alaskan youths to join the military and not being able to do so due to probation restrictions from a minor consuming charge that may have occurred up to 5 years previously. Unfortunately, when the bill was drafted, it left a loop-hole in the repeat minor consuming law.

HB 98 fixes this loop-hole by referencing both suspended impositions of sentence under AS 04.16.050(b)(1) and a judgment of conviction under AS 04.16.050(b)(2).

This new language will now cover all repeat offenders, no matter how their previous minor consuming charges were adjudicated.

An amendment was added in the House Finance HB98 to also fix an issue as it relates to bootlegging. The new language will bring bootlegging penalties in line with felony DUI penalties.

Representative\_Jay\_Ramras@legis.state.ak.us



❖ Sec. ~~04.16.050~~ Possession, control, or consumption by persons under the age of 21.

(a) A person under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages except those furnished persons under AS 04.16.051 (b).

(b) A person who violates (a) of this section and who has not been previously convicted or received a suspended imposition of sentence under (1) of this subsection is guilty of minor consuming or in possession or control. Upon conviction in the district court, the court

(1) may grant a suspended imposition of sentence under AS 12.55.085 and place the person on probation for up to one year if the person has not been convicted of a violation of this section previously; among the conditions of probation, the court shall, with the consent of a community diversion panel, refer the person to the panel, and require the person to comply with conditions set by the panel, including counseling, education, treatment, community work, and payment of fees; in this paragraph, "community diversion panel" means a youth court or other group selected by the court to serve as a sentencing option for a person convicted under this section; or

(2) shall impose a fine of at least \$200 but not more than \$600, shall require the person to attend alcohol information school if the school is available, and shall place the person on probation for up to one year under (e) of this section; the court may suspend a portion of the fine imposed under this paragraph that exceeds \$200 if the person is required to pay for education or treatment required under (e) of this section.

(c) A person is guilty of repeat minor consuming or in possession or control if the person was placed on probation under (b)(1) of this section or has been previously convicted once, and the person violates (a) of this section. Upon conviction in the district court, the court shall

(1) impose a fine of \$1,000 and require at least 48 hours of community work;

(2) revoke the person's driver's license for three months;

(3) take possession of the person's driver's license; and

(4) suspend up to \$500 of the fine and place the person on probation for up to one year under (e) of this section.

(d) A person is guilty of habitual minor consuming or in possession or control if the person was placed on probation under (c) of this section, or has been previously convicted twice, and the person violates (a) of this section. Habitual minor consuming or in possession or control is a class B misdemeanor. Upon conviction, the court may impose an appropriate period of imprisonment and fine and place the person on probation under (e) of this section for one year, or until the person is 21 years of age, whichever is later, and shall

(1) impose at least 96 hours of community work;

(2) revoke the person's driver's license for six months;

(3) within five working days, notify the agency responsible for the administration of motor vehicle laws of the revocation; and

(4) take possession of the person's driver's license.

(e) The court shall place a person sentenced under (b)(2), (c), or (d) of this section on probation for the appropriate period. The person may not refuse probation. The court may require the person to pay for and enroll in a juvenile alcohol safety action program, if one is available. The court shall impose the following conditions of probation:

- (1) the person shall pay for and successfully complete any education or treatment recommended;
- (2) the person may not consume inhalants or possess or consume controlled substances or alcoholic beverages, except as provided in AS 04.16.051(b);
- (3) the person shall timely complete any community work ordered, as provided in (f) of this section; and
- (4) other conditions the court considers appropriate.

(f) A person ordered to perform community work under this section shall perform the work within 120 days of the entry of judgment for a conviction. The court may expand the time period for up to 30 days upon a showing of good cause. The person shall submit verification of completion of community work to the clerk of court on a form provided by the court. If the verification is not provided within the time period required by this subsection, the court shall, within 30 days, schedule further proceedings in the case to determine whether a violation of probation has occurred.

(g) The treatment recommended by a juvenile alcohol safety action program for a person placed on probation under (e) of this section may include a period of inpatient treatment if the judgment specifies the maximum period of inpatient treatment authorized. A person who has been recommended for inpatient treatment may make a written request to the sentencing court for review of the referral. A person shall make a request for review within seven days after the recommendation and shall specifically set out the grounds upon which the request for review is based. The court may order a hearing on the request for review.

(h) The juvenile alcohol safety action program to which a person is referred under this section shall inform the court or a minor's juvenile probation officer if the person fails to submit to evaluation or fails to complete successfully any education or treatment recommended. If the court finds that the person has failed to perform community work as ordered, to submit to evaluation, or to complete successfully the education or treatment recommended, the court may impose the suspended fine, and may impose any period of suspended incarceration. If the person was convicted under (c) or (d) of this section, the court shall revoke the person's driver's license for an additional six months beyond the revocation imposed under (c) or (d) of this section. A court revoking a person's driver's license under this subsection shall notify the agency responsible for the administration of motor vehicle laws of the revocation within five working days.

(i) When considering the financial resources of a minor for purposes of determining eligibility for court-appointed counsel under this section, the court shall consider the resources of both the defendant and the defendant's parent or guardian, unless the court finds good cause to treat the defendant's or the defendant's parent's or guardian's resources as being unavailable to the defendant.

(j) A driver's license revocation under this section is consecutive to a revocation imposed under another provision of law, but is concurrent with a revocation under another provision of law based on a prior conviction, adjudication of delinquency, or informal adjustment under AS 47.12.060.

(k) Notwithstanding (b), (c), and (e) of this section, a person sentenced under (b) or (c) of this section may make a motion to the court to terminate probation of that person before the end of the probationary period required under those subsections. The court may grant the motion if the court finds, by clear and convincing evidence, that

- (1) the person completed any community work ordered under (f) of this section;
- (2) the person has successfully completed any education or treatment program ordered by the court and, if required by the court, has either
  - (A) paid for the programs; or
  - (B) made a good faith effort to pay for the programs, agreed to have the debt reduced to a civil judgment, entered into a repayment plan with the provider or the state, and agreed that the civil judgment may be enforced in the manner provided for restitution and fines in AS 12.55.051;

(3) the person has either

(A) paid the fine; or

(B) made a good faith effort to pay the fine, agreed to have the remaining fine amount reduced to a civil judgment, entered into a plan with the state, and agreed that the civil judgment may be enforced in the manner provided for restitution and fines in AS 12.55.051; and

(4) the person has substantially complied with the other conditions of probation.

(1) In this section,

(1) "driver's license" has the meaning given in AS 28.90.990;

(2) "juvenile alcohol safety action program" means

(A) a juvenile alcohol safety action program developed and implemented or approved by the Department of Health and Social Services under AS 47.37;

(B) any other alcohol education or treatment program approved by the Department of Health and Social Services under AS 47.37 if a program described in (A) of this paragraph is not available in the community in which the person resides; or

(C) a program or counseling approved by the court if a program or treatment described in (A) of this paragraph is not available in the community where the person resides;

(3) "previously convicted" means a conviction or an adjudication as a delinquent for a violation of AS 11.71, AS 28.35.030, 28.35.032, 28.35.280 - 28.35.290, or a law or ordinance in another jurisdiction with substantially similar elements.

❖ Sec. 04.16.180. Penalties for violation.

(a) Except as provided in AS 04.11.015, 04.11.150(g), AS 04.16.025, ~~04.16.050~~, 04.16.051, 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.

(b) A suspension or revocation of a license ordered by the board under AS 04.11.370 (a)(4) and (5) shall be as follows:

(1) on first conviction the license of the premises involved may not be revoked, but may be suspended for not more than 45 days;

(2) on second conviction the license of the premises involved may not be revoked, but may be suspended for not more than 90 days;

(3) on third conviction the license of the premises involved may be suspended or revoked.

(c) In this section, the terms "second conviction" and "third conviction" include only convictions for violations that occur within five years of the first conviction. The terms refer to the cumulative number of convictions of a licensee of any combination of violations of the provisions of this title, regulations adopted under this title, or ordinances adopted under AS 04.21.010. The terms "second conviction" and "third conviction" include a conviction of the agent or employee of a licensee of a violation of a law, regulation, or ordinance if the conviction constitutes a ground for suspension or revocation under AS 04.11.370(a)(5).

(d) This section does not affect the authority of the board to suspend or revoke a license when the board determines that continuance of activities under a license would not be in the best interests of the public.

**Chair, Judiciary  
Chair, Economic Development,  
Trade & Tourism  
Energy  
Military & Veteran Affairs  
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## **Alaska State Legislature House of Representatives**



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**Representative Jay Ramras  
District 10**

### **HB98 Sectional**

- Sec. 1. States that minor consuming is not a misdemeanor**
- Sec. 2. Incorporates AS 04.16.050(b) penalties under the repeat minor consuming statute.**
- Sec. 3. Conforming language for habitual minor consuming.**
- Sec. 4. Corrects the intent of the bootlegging statute, to bring penalties in line with felony DUIs.**
- Sec 5. Applicability language for section 4.**
- Sec. 6. Immediate effective date language.**

**Representative\_Jay\_Ramras@legis.state.ak.us**

STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

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Wrangell  
Pres. Wrangell Chapter

February 17, 2009

Representative Jay Ramras  
House of Representatives  
State Capitol  
Juneau AK 99801-1182

Dear Representative Ramras:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing HB 98, an act relating to minor consuming and repeat minor consuming; and providing for an effective date.

The APOA State Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

We thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515, if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

Angella Long  
State President

Westlaw  
AS § 04.16.050

Page 1

**C**

West's Alaska Statutes Annotated Currentness

Title 4. Alcoholic Beverages

▣ Chapter 16. Regulation of Sales and Distribution

▣ Article 1. Prohibited Acts

→ § 04.16.050. Possession, control, or consumption by persons under the age of 21

(a) A person under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages except those furnished persons under AS 04.16.051(b).

(b) A person who violates (a) of this section and who has not been previously convicted or received a suspended imposition of sentence under (1) of this subsection is guilty of minor consuming or in possession or control. Upon conviction in the district court, the court

(1) may grant a suspended imposition of sentence under AS 12.55.085 and place the person on probation for up to one year if the person has not been convicted of a violation of this section previously; among the conditions of probation, the court shall, with the consent of a community diversion panel, refer the person to the panel, and require the person to comply with conditions set by the panel, including counseling, education, treatment, community work, and payment of fees; in this paragraph, "community diversion panel" means a youth court or other group selected by the court to serve as a sentencing option for a person convicted under this section; or

(2) shall impose a fine of at least \$200 but not more than \$600, shall require the person to attend alcohol information school if the school is available, and shall place the person on probation for up to one year under (e) of this section; the court may suspend a portion of the fine imposed under this paragraph that exceeds \$200 if the person is required to pay for education or treatment required under (e) of this section.

(c) A person is guilty of repeat minor consuming or in possession or control if the person was placed on probation under (b)(1) of this section or has been previously convicted once, and the person violates (a) of this section. Upon conviction in the district court, the court shall

(1) impose a fine of \$1,000 and require at least 48 hours of community work;

(2) revoke the person's driver's license for three months;

(3) take possession of the person's driver's license; and

(4) suspend up to \$500 of the fine and place the person on probation for up to one year under (e) of this section.

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(d) A person is guilty of habitual minor consuming or in possession or control if the person was placed on probation under (c) of this section, or has been previously convicted twice, and the person violates (a) of this section. Habitual minor consuming or in possession or control is a class B misdemeanor. Upon conviction, the court may impose an appropriate period of imprisonment and fine and place the person on probation under (e) of this section for one year, or until the person is 21 years of age, whichever is later, and shall

- (1) impose at least 96 hours of community work;
- (2) revoke the person's driver's license for six months;
- (3) within five working days, notify the agency responsible for the administration of motor vehicle laws of the revocation; and
- (4) take possession of the person's driver's license.

(e) The court shall place a person sentenced under (b)(2), (c), or (d) of this section on probation for the appropriate period. The person may not refuse probation. The court may require the person to pay for and enroll in a juvenile alcohol safety action program, if one is available. The court shall impose the following conditions of probation:

- (1) the person shall pay for and successfully complete any education or treatment recommended;
- (2) the person may not consume inhalants or possess or consume controlled substances or alcoholic beverages, except as provided in AS 04.16.051(b);
- (3) the person shall timely complete any community work ordered, as provided in (f) of this section; and
- (4) other conditions the court considers appropriate.

(f) A person ordered to perform community work under this section shall perform the work within 120 days of the entry of judgment for a conviction. The court may expand the time period for up to 30 days upon a showing of good cause. The person shall submit verification of completion of community work to the clerk of court on a form provided by the court. If the verification is not provided within the time period required by this subsection, the court shall, within 30 days, schedule further proceedings in the case to determine whether a violation of probation has occurred.

(g) The treatment recommended by a juvenile alcohol safety action program for a person placed on probation under (e) of this section may include a period of inpatient treatment if the judgment specifies the maximum period of inpatient treatment authorized. A person who has been recommended for inpatient treatment may make a written request to the sentencing court for review of the referral. A person shall make a request for review within seven days after the

recommendation and shall specifically set out the grounds upon which the request for review is based. The court may order a hearing on the request for review.

(h) The juvenile alcohol safety action program to which a person is referred under this section shall inform the court or a minor's juvenile probation officer if the person fails to submit to evaluation or fails to complete successfully any education or treatment recommended. If the court finds that the person has failed to perform community work as ordered, to submit to evaluation, or to complete successfully the education or treatment recommended, the court may impose the suspended fine, and may impose any period of suspended incarceration. If the person was convicted under (c) or (d) of this section, the court shall revoke the person's driver's license for an additional six months beyond the revocation imposed under (c) or (d) of this section. A court revoking a person's driver's license under this subsection shall notify the agency responsible for the administration of motor vehicle laws of the revocation within five working days.

(i) When considering the financial resources of a minor for purposes of determining eligibility for court-appointed counsel under this section, the court shall consider the resources of both the defendant and the defendant's parent or guardian, unless the court finds good cause to treat the defendant's or the defendant's parent's or guardian's resources as being unavailable to the defendant.

(j) A driver's license revocation under this section is consecutive to a revocation imposed under another provision of law, but is concurrent with a revocation under another provision of law based on a prior conviction, adjudication of delinquency, or informal adjustment under AS 47.12.060.

(k) Notwithstanding (b), (c), and (e) of this section, a person sentenced under (b) or (c) of this section may make a motion to the court to terminate probation of that person before the end of the probationary period required under those subsections. The court may grant the motion if the court finds, by clear and convincing evidence, that

(1) the person completed any community work ordered under (f) of this section;

(2) the person has successfully completed any education or treatment program ordered by the court and, if required by the court, has either

(A) paid for the programs; or

(B) made a good faith effort to pay for the programs, agreed to have the debt reduced to a civil judgment, entered into a repayment plan with the provider or the state, and agreed that the civil judgment may be enforced in the manner provided for restitution and fines in AS 12.55.051;

(3) the person has either

(A) paid the fine; or

(B) made a good faith effort to pay the fine, agreed to have the remaining fine amount reduced to a civil judgment, entered into a plan with the state, and agreed that the civil judgment may be enforced in the manner provided for restitution and fines in AS 12.55.051; and

(4) the person has substantially complied with the other conditions of probation.

(l) In this section,

(1) "driver's license" has the meaning given in AS 28.90.990;

(2) "juvenile alcohol safety action program" means

(A) a juvenile alcohol safety action program developed and implemented or approved by the Department of Health and Social Services under AS 47.37;

(B) any other alcohol education or treatment program approved by the Department of Health and Social Services under AS 47.37 if a program described in (A) of this paragraph is not available in the community in which the person resides; or

(C) a program or counseling approved by the court if a program or treatment described in (A) of this paragraph is not available in the community where the person resides;

(3) "previously convicted" means a conviction or an adjudication as a delinquent for a violation of AS 11.71, AS 28.35.030, 28.35.032, 28.35.280--28.35.290, or a law or ordinance in another jurisdiction with substantially similar elements.

#### CREDIT(S)

SLA 1980, ch. 131, § 3; SLA 1983, ch. 109, § 8; SLA 1995, ch. 81, § 1; SLA 2001, ch. 65, §§ 1, 2. Amended by SLA 2008, ch. 75, §§ 1 to 5, eff. July 1, 2008.

#### HISTORICAL AND STATUTORY NOTES

SLA 2008, ch. 75, inserted "up to" after "on probation for" and deleted "or until the person is 21 years of age, whichever is later" after "one year" in subsec. (b)(1); inserted "for up to one year" after "person on probation" in subsec. (b)(2); substituted "(b)(1)" for "(b)" and inserted "once" after "previously convicted" in subsec. (c), and inserted "for up to one year" in subsec. (c)(4); inserted "for one year, or until the person is 21 years of age, whichever is later" in subsec. (d); substituted "(b)(2)" for "(b)" and "the appropriate period" for "one year, or until the person is 21 years of age, whichever is later" in subsec. (e); and added subsec. (l) (now subsec. k).

SLA 2008, ch. 75, § 43 provides:

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“APPLICABILITY. (a) Sections 6--9, 14--16, 22--24, 29--31, and 40 of this Act apply to an offense occurring on or after July 1, 2008. References to previous convictions in secs. 8 and 9 of this Act apply to convictions occurring before, on, or after July 1, 2008.

“(b) Sections 5 and 13 of this Act apply to an offense occurring before, on, or after July 1, 2008.

“(c) Sections 17, 18, 39, and 41 of this Act apply to search warrants applied for on or after July 1, 2008, regardless of whether the offense occurred before, on, or after July 1, 2008.

“(d) Sections 19--21, 36, and 37 of this Act apply to procedures occurring after July 1, 2008, regardless of whether the offense occurred before, on, or after July 1, 2008.

“(e) Section 25 of this Act applies to applications for criminal extraditions submitted on or after July 1, 2008, regardless of whether the offense occurred before, on, or after July 1, 2008.

“(f) Section 12 of this Act applies to offenses occurring and actions arising on or after July 1, 2008.

“(g) Sections 26--28 and 42 of this Act apply to applications submitted on or after July 1, 2008.”

SLA 2008, ch. 75, § 44 provides:

“SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application of it to any person or circumstance, is held invalid, the remainder of this Act and the application to other persons or circumstances are not affected.”

In 2008, new subsec. (l) was redesignated as (k) and existing subsec. (k) as (l) by the revisor.

#### CROSS REFERENCES

Administrative revocation of license to drive, see § 28.15.183.  
 Attempt, classification of offenses, see § 11.31.100.  
 Civil liability of persons providing alcoholic beverages, see § 04.21.020.  
 Classification of offenses, see § 11.81.250.  
 Court reports to Department of Transportation, conviction records, see § 28.15.191.  
 Court revocation of a minor's license to drive, see § 28.15.185.  
 Court suspensions, revocations, and limitations, see § 28.15.181.  
 Criminal jurisdiction, see § 22.15.060.  
 Fines, see § 12.55.035.  
 Gangs, additional penalties for activities punishable as misdemeanors, see § 12.55.137.  
 Grounds for arrest by private person or peace officer without warrant, see § 12.25.030.  
 Juvenile delinquency, certain provisions inapplicable, see § 47.12.030.  
 Juvenile delinquents, criminal consequences, see § 47.12.060.  
 Juvenile delinquents, judgment and orders, see § 47.12.120.  
 Legal accountability based upon the conduct of another, see §§ 11.16.110 and 11.16.120.  
 Misdemeanors, sentences of imprisonment, see § 12.55.135.

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Motor vehicle insurance following driver's license revocation, see § 21.89.027.  
 Offenses defined by statute, see § 11.81.220.  
 Periods of limitation, suspension or revocation, see § 28.15.211.  
 Prior convictions, effect on sentencing, see § 12.55.145.  
 Private manufacture of alcoholic beverages, see § 04.21.015.  
 Restitution and compensation, see § 12.55.045.  
 Restrictions on driver's license issued to a person under 18, see § 28.15.057.  
 Victims of crimes, rights, see § 12.61.010 et seq.

## LIBRARY REFERENCES

Intoxicating Liquors ↪ 131, 139.  
 Westlaw Key Number Searches: 223k131; 223k139.  
 C.J.S. Intoxicating Liquors §§ 311, 323 to 324, 361 to 364, 366 to 368.

## NOTES OF DECISIONS

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## 1. Validity

Provision in statute prohibiting possessing, controlling, or consuming alcoholic beverages by a person under the age of 21, which provision requires younger offenders to stay on probation longer than older offenders by mandating that person convicted of violating statute be placed on probation for one year, or until the person reached 21 years of age, whichever is later, does not violate state equal protection clause; state has compelling interest in preserving health and welfare of minors and, given that younger offenders are more at risk than older offenders, challenged provision bears substantial relationship to legislature's goal of preserving minors' health and welfare by preventing unlawful underage drinking. Const. Art. 1, § 1; AS 04.16.050. State v. Morgan (2005) Alaska App., 111 P.3d 360. Constitutional Law ↪ 3819; Intoxicating Liquors ↪ 19

Portions of statute imposing automatic "probation," which made statute unconstitutional in denying underage drinkers right to jury trial and appointed counsel on showing of indigency, could not be stricken, leaving rest of statute intact, where offensive potential punishments of custodial in-patient treatment and community service were clearly important to achievement of legislative goals, and even if offensive portions were removed, fact that underage drinker

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did not receive jury trial for first offense would prohibit imposition of increased penalties for subsequent offense, thus defeating legislative scheme of enhanced punishment for repeat offenders. U.S.C.A. Const.Amends. 6, 14; Const. Art. 1, § 11; AS 04.16.050. *State v. Auliye* (2002) Alaska App., 57 P.3d 711. Statutes ⇨ 64(6)

## 2. Nature of offense

Underage drinking violations are a class of quasi-criminal offenses which, while they are not serious, are to be disposed of within the criminal justice system. *State v. Euteneier* (2001) Alaska App., 31 P.3d 111. Intoxicating Liquors ⇨ 131

## 3. Search warrants

Underage drinking violations can be enforced by traditional criminal procedures, including the use of search warrants. *State v. Euteneier* (2001) Alaska App., 31 P.3d 111. Intoxicating Liquors ⇨ 249

## 4. Persons liable

Possibility that minor who purchases alcohol may drive automobile, and that alcohol-related accident may result, is well within scope of foreseeable risk, for purpose of determining liquor licensee's liability in negligence. AS 04.16.051, 04.21.020, 04.21.050. *Loeb v. Rasmussen*, 1991, 822 P.2d 914. Intoxicating Liquors ⇨ 288

### 4.5. Detention and custody

Police officers did not breach their duty to act reasonably in releasing intoxicated sixteen-year old to her parents, and thus city was not liable in wrongful death action brought by parents after sixteen-year old killed herself shortly after being released; officers initially and properly took sixteen-year old into custody based on their reasonable belief that she had violated law prohibiting minors from consuming alcohol, once officers detained sixteen-year old, they were then governed by statute that provided that the police must release a minor who has consumed alcohol to her parents unless there is a lawful reason not to do so, and parents did not show that there was a lawful reason to keep sixteen-year old in custody. *Estate of Logusak ex rel. Logusak v. City of Togiak* (2008) Alaska, 185 P.3d 103. Municipal Corporations ⇨ 747(3)

## 5. Defenses

Minor's willful misconduct in unlawfully purchasing and consuming alcohol, and in subsequently driving while intoxicated, did not bar recovery in negligence from owner of liquor store. AS 04.16.051, 04.21.020, 04.21.050. *Loeb v. Rasmussen*, 1991, 822 P.2d 914. Intoxicating Liquors ⇨ 295

## 6. Double jeopardy

Administrative revocation of a minor's driver's license for alcohol-related violation is not "punishment" for double jeopardy purposes; valid regulatory purpose exists in restricting or

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revoking driver's licenses of underage drinkers. U.S.C.A. Const.Amend. 5; Const. Art. 1, § 9; AS 04.16.050, 28.15.183. *Rexford v. State* (1997) Alaska App., 941 P.2d 906. Double Jeopardy ⇨ 24

#### 7. Counsel for accused

Statute requiring revocation of driver's license of minor convicted of underage drinking or possession of alcohol was a punitive measure, entitling minors, under State Constitution, to jury trial and court-appointed counsel if indigent. Const. Art. 1, § 11; AS 04.16.050(a), 28.15.185. *State v. District Court*, 1996, 927 P.2d 1295. Criminal Law ⇨ 1715; Jury ⇨ 19.5

#### 8. Presumptions and burden of proof

Exceptions in statute making it offense for person under age of 21 years to consume, possess, or control alcoholic beverages in those cases where beverages are furnished by parents, guardians, spouses, or licensed physicians or nurses were "defenses" to criminal liability, and thus, if defendant wished to invoke one of these exceptions, defendant had to affirmatively raise exception and point to some evidence from which reasonable jury could decide on issue in his or her favor; state was not required to disprove possibility that exception applied. AS 04.16.050, 04.16.051(b). *Trout v. State*, 1994, 866 P.2d 1323. Intoxicating Liquors ⇨ 224

#### 9. Weight and sufficiency of evidence

Defendant charged with consuming alcohol while under 21 years of age failed to properly raise any of the statutory exceptions to criminal liability by failing to present some evidence from which reasonable jury could decide that issue in his favor, and thus, defendant was not entitled to judgment of acquittal or to jury instruction that would have required state to disprove exceptions to criminal liability. AS 04.16.050, 04.16.051(b). *Trout v. State*, 1994, 866 P.2d 1323. Intoxicating Liquors ⇨ 236(1); Intoxicating Liquors ⇨ 239(2)

#### 10. Probation

Trial court did not violate doctrine of separation of powers by requiring minor who was convicted of consuming alcoholic beverages to return to court every other week to report on her progress on probation; responsibilities for probation function were shared by executive and judicial branches, and legislative history of statute indicated that legislature wanted to assure that courts were part of the monitoring process for minors who were convicted of possessing or consuming alcoholic beverages. AS 04.16.050. *Jackson v. State* (2006) Alaska App., 127 P.3d 835, as amended. Constitutional Law ⇨ 2545(1); Infants ⇨ 225

Trial court's requirement that minor who was convicted of minor consuming alcoholic beverages return to court every other week to report on her progress on probation did not impermissibly relieve State's burden to prove a violation of probation, where trial court specifically stated that any petition to revoke minor's probation would have to be initiated by State, not by court. AS 04.16.050. *Jackson v. State* (2006) Alaska App., 127 P.3d 835, as amended. Infants ⇨ 225

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Penalty of automatic "probation" for underage drinking, which permitted sentencing judge to order custodial in-patient treatment, community work service, and revocation of driver's license, were sufficiently severe that underage defendant was entitled to trial by jury and, if defendant was indigent, to counsel at public expense, where each of sentencing judge's permitted orders, if imposed as direct punishment, would have entitled defendant to trial by jury and right to appointed counsel upon finding of indigency. U.S.C.A. Const.Amends. 6, 14; Const. Art. 1, § 11; AS 04.16.050(e). State v. Auliye (2002) Alaska App.. 57 P.3d 711. Infants ⇨ 68.4; Jury ⇨ 22(2)

AS § 04.16.050, AK ST § 04.16.050  
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