

SB

194

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 4/17/09

FURTHER: Judiciary

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

DATE TURNED
 IN TO OFFICE: _____

State Affairs Committee considered SENATE BILL NO. 194

SB 194 CIVIL DAMAGES FOR ALCOHOL VIOLATIONS

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

and recommends:

be replaced with SCS or CS SB 194 (STA)

adopt previous SCS or CS _____ (_____)

attached amendment(s)

adopt _____ Letter of Intent

further referral to _____ Committee

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

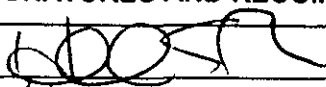
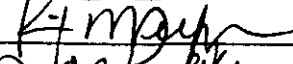
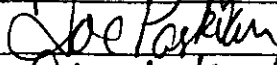
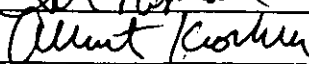
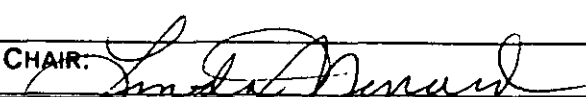
NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Law	01/25/10			X	

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	FRENCH	✓			
	MEYER	✓			
	PASHVIAN	X			
	KOOKAN	X			
CHAIR: 	MENARD	X			

Alaska State Legislature



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

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

Senator Kevin Meyer
Senate District O

TO: Sarah Munson, Senate State Affairs Committee Aide
FROM: Christine R. Marsigan, Staffer to Senator Meyer
DATE: January 26, 2010
RE: Bill Packet for SB 194

A handwritten signature in black ink, appearing to be "CRM", written over the "FROM:" line of the header.

Enclosed are materials for SB 194, "An Act relating to civil damages for certain alcohol violations" scheduled for hearing in the Senate State Affairs meeting January 28, 2010.

- Sponsor statement
- SB 194 version 26-LS0895\A
- Draft of CS 26-LS0895\R
- Legal Memo concerning CS 26-LS0895\R
- Back up information consisting of pages 5-7 of the State of Alaska's Plan to Reduce & Prevent Underage Drinking
- People willing to testify or answer questions: OC Madden, Anchorage CHARR/Brown Jug
- Staff member assigned to the bill: Christine R. Marasigan, 465-6876

Materials pending:

- Additional Support Letters

This bill is very short and self-explanatory. As such, a sectional analysis is not included.

During the course of the hearing an explanation can be made of the CS for SB 194. If you would like a written explanation for the packet, please contact me directly. 465-6876.

ALASKA STATE LEGISLATURE

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Senator_Kevin_Meyer@legis.state.ak.us



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SENATOR KEVIN MEYER
SENATE DISTRICT O

SPONSOR STATEMENT FOR SB 194

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

SB 194 increases civil damages to licensees from minors who knowingly enter or remain in premises licensed to sell alcohol. The bill would increase the amount awarded in civil damages from \$1,000 to \$1,500 under AS 04.16.049.

Underage drinking is a problem in Alaska. According to the State of Alaska's Plan to Reduce & Prevent Underage Drinking (October 2009), 11 percent of all treatment admissions for alcohol abuse in the state were youth aged 12-20. An increase in civil damages would reinforce the message to those youth that underage drinking will not be tolerated.

In 2001, legislation established civil actions from a licensee against minors who attempted to use fake ID's. The current legislation seeks to increase damages from that civil action.

Passing SB 194 will reinforce the penalty on youths who knowingly enter or remain on premises where alcohol is sold or consumed. The bill will also encourage licensees to continue their enforcement of underage drinking laws.

26-LS0895\R
Luckhaupt
10/21/09

CS FOR SENATE BILL NO. 194()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR MEYER

A BILL
FOR AN ACT ENTITLED

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

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

3 *** Section 1. AS 04.16.049(e) is amended to read:**

4 (e) A licensee may bring a civil action against a person who violates this
5 section if the violation occurs on the premises of that licensee. If judgment is entered
6 in favor of the licensee, the court shall award civil damages in the amount of \$1,500
7 [\$1,000] and award reasonable costs and reasonable attorney fees allowed under the
8 Alaska Rules of Civil Procedure.

9 *** Sec. 2. AS 04.16.065(a) is amended to read:**

10 (a) A person who has attained 18 years of age, or an emancipated minor, who
11 violates AS 04.16.060 is, in addition to any criminal penalty provided by law, liable in
12 a civil action to the licensee for a penalty of \$1,500 [\$1,000] plus costs and reasonable
13 attorney fees.

14 *** Sec. 3. AS 04.16.180 is amended by adding a new subsection to read:**

15 (e) In addition to other penalties provided in this chapter, the court may

1 require a person convicted of an offense under this chapter who was less than 21 years
2 of age at the time the person committed the offense to pay for and enroll in a juvenile
3 alcohol safety action program if one is available.

4 * Sec. 4. AS 04.21.080 is amended by adding a new paragraph to read:

5 (18) "juvenile alcohol safety action program" means

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

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

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

16 * Sec. 5. AS 04.16.050(1)(2) is repealed.

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
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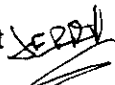
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

October 20, 2009

SUBJECT: Requiring Alcohol Education and Assessment for Minors in Civil Actions Brought by Licensees (Work Order No. 26-LS0895R)

TO: Senator Kevin Meyer
Attn: Christine Marasigan

FROM: Gerald P. Luckhaupt 
Legislative Counsel

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

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

GPL:ljw
09-354.ljw

Enclosure

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

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 194
() Publish Date: _____

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

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

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

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

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



January 26, 2010

Senator Kevin Meyer
Alaska State Capitol
Juneau, AK 99801

Re: SB 194

Dear Senator Meyer:

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

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


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

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

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

We urge you to please consider supporting SB 194.

Sincerely,


Silvia Villamides,
Executive Director



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

Executive Summary

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

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


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

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

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

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

Costs of Underage Drinking by Problem, Alaska 2005



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

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

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

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

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

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

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

Executive Summary

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

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

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

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

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

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

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

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

Comparison of Traditional vs Alternative High Schools in Anchorage 2007

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



Executive Summary

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

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

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

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



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

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

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

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

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

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

LEGAL SERVICES

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

MEMORANDUM

January 28, 2010

SUBJECT: Cross-References to Repealed Subsection (CSSB 194(STA))
(Work Order No. 26-LS0895E)

TO: Senator Linda Menard
Chair of the State Affairs Committee
Attn: Sarah Munson

FROM: Gerald P. Luckhaupt *GPL*
Legislative Counsel

Enclosed is the final CS(STA) version you requested. Please be advised that two cross-references to AS 04.16.050(l)(2), which is repealed in sec. 5 of the bill and is replaced by AS 04.21.080(18), added by sec. 4 of the bill, will need to be corrected at some point. The cross-references are:

AS 28.15.183(g) - reference to AS 04.16.050(l)(2) needs to be replaced with AS 04.21.080;

AS 28.15.211(g) - reference to AS 04.16.050(l)(2) needs to be replaced with AS 04.21.080.

GPL:ljw
10-049.ljw

Enclosure