

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

CSHB 59, HB 64 227

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SENATE COMMITTEE REPORT

FURTHER:

5/13/87

DATE TURNED INTO OFFICE 5/16/87

Mr. President:

FINANCE Committee considered CSHB 59(Fin)
recycling & reduction of litter; efd.

and recommended:

[] replace with CS FOR _____) [] same title
[] or adopt Senate CS FOR CSHB 59(Fin)) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [] adopted fiscal note(s)

[] new [] updated or [] previous
[] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
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[Signature] DO PASS
Chairman signature and recommendation

[] Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CSHB 59 (JUD)

Publish Date: _____

REQUEST
Revision Date: _____

Title: "An Act relating to the re-

cycling of litter..."

Sponsor: Rep. Davis

Requestor: House Finance

Agency Affected: Public Safety

BRU: Alaska State Troopers

Components: Detachments & CIB

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan

Division: Alaska State Troopers

Phone: 269-5691

Date: 2/23/87

Approved by Commissioner: William R. Nix

Agency: Public Safety

Date: 2/24/87

Distribution (by preparer):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

Senate Secretary

page ____ of ____

JNL
2/24/87

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version : HB 50

Publish Date : _____

Revision Date: _____

Agency Affected: DEC

Title: An Act relating to the recycling and reduction of litter

BRU: Environmental Quality

Sponsor: Representative Mike Davis

Components: Regional Offices

Requestor: House Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
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TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Randy Bayliss

Phone: 465-2600

Division: Office of the Commissioner

Date: January 30, 1987

Approved by Commissioner: Dennis D. Kelso

Date: January 30, 1987

Agency: Environmental Conservation

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

Original sponsors: Davis, Koponen
and Pourchot

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 59 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL
6 For an Act entitled: "An Act relating to the recycling and reduction of
7 litter; and providing for an effective date."

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

9 * Section 1. AS 12.25.190(c) is amended to read:

10 (c) The person cited for the crime shall give a written promise
11 to appear in court by signing at least one copy of the written cita-
12 tion prepared by the peace officer and the officer shall deliver a
13 copy of the citation to the person. The written promise requirement
14 of this subsection does not apply to motor vehicle and traffic cita-
15 tions under AS 28.05.151, fish and game citations for which a bail
16 schedule has been established under AS 16.05.165, citations issued
17 under AS 18.35.341, [AND] citations issued in state park and recre-
18 ational facilities under AS 41.21.960, and littering citations issued
19 under AS 46.06.080.

20 * Sec. 2. AS 46.06.010 is repealed and reenacted to read:

21 Sec. 46.06.010. POWERS OF THE DEPARTMENT. The department shall
22 (1) serve as the coordinating agency among public and
23 private organizations in the state that are involved in the control,
24 reduction, and recycling of litter;
25 (2) assist local governments in the adoption and amendment
26 of ordinances relating to the control, reduction, and recycling of
27 litter;
28 (3) promote voluntary local programs and information cam-
29 paigns that encourage the public to refrain from littering and to

1 participate in efforts to clean up and recycle litter;

2 (4) inform the public of, and encourage the public to
3 comply with, the provisions of this chapter and regulations adopted
4 under this chapter;

5 (5) encourage federal, state, and local agencies to assist
6 programs for the recycling of litter by allowing the use of publicly
7 owned land, buildings, or equipment for those programs whenever possi-
8 ble;

9 (6) apply for, receive, and expend grants, loans, and other
10 monetary and nonmonetary assistance for use in programs established
11 under this chapter;

12 (7) determine the types of materials or energy that may be
13 profitably recovered from litter, and adopt regulations under the
14 Administrative Procedure Act (AS 44.62) that require the recovery of
15 the materials or energy;

16 (8) adopt other regulations under the Administrative Proce-
17 dure Act (AS 44.62) necessary to implement this chapter.

18 * Sec. 3. AS 46.06.060 is amended to read:

19 Sec. 46.06.060. LITTER BAGS. The department may [SHALL] design
20 and have produced a litter bag bearing the state anti-litter symbol
21 and a statement of the penalties for littering in the state. The
22 department may [SHALL] make litter bags available to the division of
23 motor vehicles in the Department of Public Safety for this purpose.
24 The [TO THE GREATEST EXTENT PRACTICABLE, THE] division of motor
25 vehicles may [SHALL] distribute one litter bag to each person who
26 applies for registration or reregistration of a motor vehicle and
27 shall notify the person of the person's responsibilities under the
28 law. The department may [SHALL] make litter bags available to all
29 vehicle and vessel operators entering the state. The commissioner

1 shall designate distribution points for the broadest possible dis-
2 tribution of litter bags to persons entering the state by vehicle or
3 vessel.

4 * Sec. 4. AS 46.06.080(c) is amended to read:

5 (c) A person who violates this section is guilty of a violation
6 [CLASS B MISDEMEANOR], and may be sentenced to pay a fine of not more
7 than \$1,000. In [IN] addition [TO THE PUNISHMENT IMPOSED BY AS 12.-
8 55.035(b)(4) AND 12.55.135(b)], the court may order the person to
9 gather and dispose of litter in an area and for a length of time
10 determined by the court.

11 * Sec. 5. AS 46.06.080 is amended by adding new subsections to read:

12 (d) A peace officer shall issue a citation as provided in
13 AS 12.25.180 to a person who violates this section. If a citation is
14 for a minor littering violation, then the person to whom the citation
15 is issued may, within 15 days, mail or personally deliver to the clerk
16 of the court in which the citation is filed

17 (1) a fine of \$25; and

18 (2) a copy of the citation indicating that the right to an
19 appearance is waived and a plea of no contest is entered.

20 (e) If a \$25 fine has been paid under (d) of this section, then
21 the court shall enter a judgment of conviction. Payment of the fine
22 is a complete satisfaction for the violation.

23 (f) If a person cited under this section fails to pay the fine
24 or to appear in court as required, the citation is considered a sum-
25 mons for a failure to obey a citation under AS 12.25.230, and the
26 court may issue a bench warrant.

27 (g) Notwithstanding other provisions of law, if a person cited
28 for a minor littering violation under this section appears in court
29 and is found guilty, the penalty that is imposed for the violation may

1 not exceed \$25.

2 (h) In this section "a minor littering violation" means a viola-
3 tion of (a) or (b) of this section involving litter having an aggre-
4 gate weight of five pounds or less.

5 * Sec. 6. AS 46.06.020, 46.06.030, 46.06.040, and 46.06.070(b) are
6 repealed.

7 * Sec. 7. Section 5, ch. 149, SLA 1980, as amended by sec. 9, ch. 164,
8 SLA 1984, is repealed.

9 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

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Editor's notes. — The repealed article derived from ch. 117, SLA 1949; ch. 129, SLA 1970.

Article 2. Prohibited Acts and Penalties.

Section

160 — 220. [Repealed]

Cross references. — For present provisions as to prohibited acts and penalties, see AS 46.03.710 et seq.

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Secs. 46.05.160 — 46.05.220.

Repealed by § 4 ch 120 SLA 1971.

Editor's notes. — The repealed article derived from ch. 117, SLA 1949; ch. 109, SLA 1968; ch. 244, SLA 1970; ch. 62, SLA 1971.

Article 3. General Provisions.

Section

225 — 240. [Repealed]

Secs. 46.05.225 — 46.05.240.

Repealed by § 4 ch 120 SLA 1971.

Editor's notes. — The repealed article derived from ch. 117, SLA 1949; ch. 109, SLA 1968; ch. 145, SLA 1970.

Chapter 06. Recycling and Reduction of Litter.

Section

- 10. Powers and duties of the department
- 20. Annual report
- 30. Advisory council
- 40. Public awareness; motivation
- 50. Litter receptacles and anti-litter symbol
- 60. Litter bags
- 70. Litter patrol

Section

- 80. Littering prohibited
- 90. Prohibited beverage containers
- 100. Notice to public
- 110. Enforcement authority
- 120. Grants
- 130. Conditions for grants
- 140. Federal requirements
- 150. Definitions

Revisor's notes. This chapter was enacted as AS 41.21.010 — 41.21.150 but was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

Termination date of chapter. — Section 5, ch. 149, SLA 1980, provides: "This Act terminates July 1, 1981."

Editor's notes. — As to intent of 1980 legislation enacting AS 46.06.010 — 46.06.150, see § 1, ch. 149, SLA 1980, in Temporary and Special Acts and Resolves.

Collateral references. — 39 Am. Jur. 2d. Highways, Streets and Bridges. AS 166.147; 11 Am. Jur. 2d. Highways

Streets and Bridges. § 608; 56 Am. Jur. 2d. Validity and construction of statute or
 Municipal Corporations, Counties, and ordinance requiring return deposits on soft
 Other Political Subdivisions. §§ 455, 456; drink or similar containers. 73 ALR3d
 61A Am. Jur. 2d. Pollution Control. 1105.
 §§ 46-49.
 39A C.J.S., Health and Environment.
 §§ 44, 125-128.

Sec. 46.06.010. Powers and duties of the department [Terminates July 1, 1984]. The department shall

(1) serve as the coordinating agency among the various government and private organizations in the state which are involved in litter control and reduction and the recovery of energy or materials from litter;

(2) assist local governments in the adoption and amendment of ordinances relating to litter control and reduction;

(3) encourage, organize and coordinate voluntary local information campaigns which seek to focus the attention of the public on the reduction of litter and the recovery of materials and energy from litter;

(4) encourage, organize and coordinate voluntary or nonprofit local programs for the recovery of materials or energy from litter;

(5) encourage federal, state and local agencies to aid programs for the recovery of materials and energy from litter by providing publicity which encourages those programs and by allowing the use of publicly owned land, buildings, or equipment for those programs whenever possible;

(6) investigate the availability of, apply for, receive, and expend grants, loans or other funds available from any source, and, if it is appropriate and feasible, accept nonmonetary assistance in the form of services or equipment for use in programs established under this chapter;

(7) determine the types of materials or energy which may be profitably recovered from litter, and adopt regulations under the Administrative Procedure Act (AS 44.62) which require the recovery of the materials or energy;

(8) adopt other regulations under the Administrative Procedure Act (AS 44.62) necessary to implement this chapter; and

(9) develop methods for the measurement of litter in the state and encourage competition between municipalities to establish which municipality has the least litter. (§ 2 ch 149 SLA 1980)

Sec. 46.06.020. Annual report [Terminates July 1, 1984]. Not later than six months after the end of each fiscal year, the department shall prepare a detailed report describing and evaluating the actions taken and programs established under this chapter for submission to the governor and the legislature. The report must include

§ 46.06.020

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- (1) the status and results of all grants made under this chapter;
- (2) an evaluation of the progress achieved by litter control and reduction programs; and
- (3) an evaluation of the resources and energy recovered from litter in the state. (§ 2 ch 149 SLA 1980)

Sec. 46.06.030. Advisory council [Terminates July 1, 1984]. (a) There is created an advisory council to the department, which shall advise the department concerning the litter control and reduction, source separation and other programs for the recovery of energy and materials from litter under this chapter. The council may encourage the participation of industry, labor, municipalities, and the public in the programs administered by the department.

(b) The council consists of seven members appointed by the governor who are aware of and concerned with achieving the goals of this chapter. The members serve at the pleasure of the governor.

(c) The council shall meet annually, and may meet more frequently if necessary or desired. The members of the council serve without compensation but are entitled to per diem and travel expenses authorized by law for boards and commissions. (§ 2 ch 149 SLA 1980)

Sec. 46.06.040. Public awareness: motivation [Terminates July 1, 1984]. The department shall establish, provide advice concerning, and coordinate programs designed to

- (1) encourage the public to recover material and energy from litter;
- (2) use existing, and develop new, techniques and programs to reduce litter and littering;
- (3) encourage the public not to litter and to engage in cleanup efforts; and
- (4) advise the public of the state's anti-litter laws and regulations and encourage enforcement of those laws and regulations. (§ 2 ch 149 SLA 1980)

Sec. 46.06.050. Litter receptacles and anti-litter symbol [Terminates July 1, 1984]. (a) The department shall designate one or more types and sizes of litter receptacles for use in the state. The department shall make available for distribution throughout the state an anti-litter symbol of a uniform color and design adopted by the department. This anti-litter symbol must bear a statement of the penalties for littering, and the department shall design the anti-litter symbol so that it may be attached to litter receptacles. To aid public recognition and use of litter receptacles, the department may adopt an anti-litter symbol used in another state. The anti-litter symbol designed by the department must be attached to litter receptacles located in the public places of the state by the person or agency responsible for the placement of those receptacles.

(b) Litter receptacles designated for use in the state by the department shall be placed at public places in the state unless the public place

is specifically exempted by regulations adopted by the commissioner under the Administrative Procedure Act (AS 44.62). The number of receptacles required to be placed in each public place shall be determined by a formula related to the need for those receptacles. The requirements of this subsection are satisfied by the use of a litter receptacle which was in use before July 1, 1980, if the anti-litter symbol of the state is attached to the receptacle.

(c) A person owning or operating a privately owned public place at which litter receptacles are required under (b) of this section shall place litter receptacles at the public place at his own expense.

(d) Compliance with this section requires proper upkeep, maintenance and repair of a litter receptacle sufficient to permit the receptacle to serve the function for which it was designed and to prevent the receptacle from becoming unsightly.

(e) Responsibility for the placement of litter receptacles at publicly owned public places and for the removal of litter from those litter receptacles remains with the municipality or other public agency performing litter removal. Removal of litter from litter receptacles placed at privately owned public places remains the responsibility of the owner or operator of the privately owned public place.

(f) A person may not damage, deface, abuse or misuse a litter receptacle not owned by him so as to interfere with its proper function or to detract from its appearance.

(g) A person may not deposit leaves, clippings, prunings, garden refuse or household waste materials in a litter receptacle unless he has the permission of the owner of that receptacle.

(h) Except as provided in (i) of this section, a person who violates the provisions of (b) — (g) of this section is guilty of a violation and in addition to the punishment imposed by AS 12.55.035(b)(5), the court may order a person who violates this section to gather and dispose of litter in an area and for a length of time determined by the court.

(i) If a municipality of the state adopts an ordinance which prohibits the same conduct prohibited by (b) — (g) of this section, a violation of (b) — (g) of this section which occurs in the municipality is punishable under the provisions of the municipal ordinance if the punishment imposed under the ordinance is equal to or greater than the punishment imposed by AS 12.55.035(b)(5). (§ 2 ch 149 SLA 1980)

Sec. 46.06.060. Litter bags [Terminates July 1, 1984]. The department shall design and have produced a biodegradable litter bag bearing the state anti-litter symbol and a statement of the penalties for littering in the state. The department shall make litter bags available to the division of motor vehicles in the Department of Public Safety for this purpose. To the greatest extent practicable, the division of motor vehicles shall distribute one litter bag to each person who applies for registration or reregistration of his motor vehicle and shall notify the person of his responsibilities under the law. The department shall

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make litter bags available to all vessel owners and persons entering the state by automobile. The commissioner shall designate distribution points for the broadest possible distribution of litter bags to persons entering the state by automobile or vessel. (§ 2 ch 149 SLA 1980)

Sec. 46.06.070. Litter patrol [Terminates July 1, 1984]. (a) The department shall establish a youth litter patrol program for the employment of young people on a seasonal basis. The department shall cooperate with federal, state or municipal programs that either employ young people or encourage their employment. The department may contract with other state agencies to provide administration and other support for the youth litter patrol established by this section.

(b) The department may adopt regulations under the Administrative Procedure Act (AS 44.62) which are necessary to implement this section. (§ 2 ch 149 SLA 1980)

Sec. 46.06.080. Littering prohibited [Terminates July 1, 1984]. (a) A person may not throw, drop, deposit, discard or otherwise dispose of litter from a vehicle or otherwise, on public or private property in the state or in waters in the state or under state jurisdiction unless

(1) the property is designated by a state agency or municipality as a site for the sanitary disposal of garbage or refuse, and the person is authorized to use the site for that purpose; or

(2) litter is placed in a litter receptacle so that the litter is prevented from being carried away or deposited by the elements upon public or private property or waters in the state or under state jurisdiction.

(b) A vehicle may not be driven or moved on a public highway or right-of-way unless it is constructed, loaded or covered to prevent its load from dropping, sifting, leaking or otherwise escaping from the vehicle. This subsection does not apply to a vehicle used (1) to deposit salt or sand to secure traction, (2) by a public agency to clean or maintain highways, or (3) to transport agricultural, mining or timber products. A person who operates a vehicle from which an object has fallen or escaped which obstructs or endangers travel upon a public highway or right-of-way shall immediately remove the object at his own expense or pay the cost of removal incurred by the state or by a person.

(c) A person who violates this section is guilty of a class B misdemeanor, and in addition to the punishment imposed by AS 12.55.035(b)(4) and 12.55.135(b), the court may order the person to gather and dispose of litter in an area and for a length of time determined by the court. (§ 2 ch 149 SLA 1980)

Sec. 46.06.090. Prohibited beverage containers [Terminates July 1, 1984]. (a) Beginning October 1, 1981, a person may not sell or offer to sell a nonglass beverage container which is designed and constructed so that the container is opened by detaching a metal ring or tab. This section does not apply to a beverage container which is opened by a detachable piece of tape, foil, or other soft material.

(b) Beginning October 1, 1981, a person may not sell or offer to sell beverage containers which are held together by plastic rings or similar plastic devices which are not degradable.

(c) A person who violates this section is guilty of a violation. Each sale or offer to sell is a separate offense. (§ 2 ch 149 SLA 1980)

Cross references. — As to fines for violations, see AS 12.55.035(b)(5).

Sec. 46.06.100. Notice to public [Terminates July 1, 1984]. The penalties imposed for littering shall be posted along the public highways of the state, at visitor centers, at entrances to state parks and recreational areas, at public beaches, and other publicly owned public places the commissioner determines necessary to accomplish the purposes of this chapter. The state agency or municipality responsible for litter removal from a public place shall post the notice required by this section. (§ 2 ch 149 SLA 1980)

Sec. 46.06.110. Enforcement authority [Terminates July 1, 1984]. (a) The following persons are authorized to enforce the provisions of this chapter:

- (1) a state employee authorized by the commissioner; and
- (2) a peace officer.

(b) The department shall prescribe a citation form which shall be used by all peace officers and persons in the state who are authorized to enforce the provisions of this chapter. (§ 2 ch 149 SLA 1980)

Sec. 46.06.120. Grants [Terminates July 1, 1984]. The department may make grants to state agencies, to municipalities, and to private organizations including nonprofit organizations for the establishment and operation of programs authorized under this chapter. A grant under this section may not exceed 18 months. A program qualifying for a grant under this section may include

- (1) courses of instruction at, or the distribution of informative materials to, elementary and secondary schools;
- (2) purchase and erection of roadside signs;
- (3) organization and operation of litter removal activities conducted by municipalities, private organizations or service groups using volunteer help;
- (4) a public information program to inform the public concerning the reduction of litter using the media including use of the electronic media;
- (5) expansion of existing, and planning, design and construction of new, facilities for the recovery of materials and energy from litter;
- (6) research and evaluation of markets for the materials and energy recovered from litter;
- (7) advice and assistance, including information and consultation on available technology, operating procedures, organizational arrange-

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- (8) surveys by public agencies or recognized research organizations to assess the amount and composition of litter, and rates of littering;
- (9) the purchase of litter receptacles;
- (10) the creation or expansion of litter law enforcement programs;
- (11) the initial purchase or lease of recycling equipment, the cost of operating that equipment, and the cost of storing and transporting materials before and after those materials are recycled. (§ 2 ch 149 SLA 1980)

Sec. 46.06.130. Conditions for grants [Terminates July 1, 1984].

(a) The department shall adopt regulations under the Administrative Procedure Act (AS 44.62) which establish

- (1) eligibility requirements for applicants for a grant under AS 46.06.120;
- (2) standards for the evaluation of proposals submitted by applicants for grants under AS 46.06.120; and
- (3) other conditions for the receipt of a grant under AS 46.06.120 which are necessary to achieve the purposes of this chapter.

(b) The regulations adopted by the department under (a) of this section must meet the following criteria:

- (1) if there is not enough money for grants to all eligible applicants, the following shall receive priority:
 - (A) a proposed program or project which most efficiently recovers materials or energy from litter;
 - (B) the proposed program or project which creates the greatest number of new jobs;
 - (2) the maximum amount for a single grant shall be established so that available money is distributed to a variety of programs;
 - (3) a grant may be made for new programs or for improvements to or additions to existing programs which were not previously financed by other existing resources of financing. (§ 2 ch 149 SLA 1980)

Sec. 46.06.140. Federal requirements [Terminates July 1, 1984]. If a federal department or agency issues a formal ruling that a section of this chapter will prevent the state from receiving federal financial participation in a program or activity established under this chapter, the section does not apply to the extent that it causes the program or activity to lose federal funding. (§ 2 ch 149 SLA 1980)

Sec. 46.06.150. Definitions [Terminates July 1, 1984]. In this chapter,

- (1) "beverage container" means the individual, separate, sealed glass, metal or plastic bottle, can, jar or carton containing beer or other malt beverages or carbonated soft drinks, in liquid form;
- (2) "commissioner" means the commissioner of environmental conservation;

(3) "department" means the Department of Environmental Conservation;

(4) "litter" means all waste materials susceptible to being dropped, deposited, discarded or otherwise disposed of upon property in the state or in waters under state jurisdiction; "litter" does not include the waste of the primary processes of mining or other extraction process, logging, sawmilling, farming or manufacturing;

(5) "litter bag" means a bag, sack or other container made of any material which is large enough and suitable to serve as a receptacle for litter inside a vehicle or vessel;

(6) "public place" means public or private property that is used or held out for use by the public, including but not limited to highways or other roads upon which vehicles are moved, parks, campgrounds, trailer parks, drive-in and fast food restaurants, gasoline service stations, parking lots for taverns, shopping centers and grocery stores and other parking lots which have a capacity for more than 50 vehicles, marinas, boat launching areas, boat moorage and fueling stations, public and private piers, beaches, bathing areas, school grounds, sporting event sites with seating capacity for more than 200 spectators, and business district sidewalks;

(7) "vehicle" means a mechanically driven device of any kind which is used for the transportation of a person or property on a public highway, trail or path;

(8) "vessel" means all descriptions of watercraft used or capable of being used as a means of transportation on the water. (S 2 ch 149 SLA 1980)

Chapter 07. Village Safe Water Act.

Section

- 10. Statement of purpose
- 20. Provision of facilities
- 30. Nature and location of facilities
- 40. Construction of facilities
- 50. Operation of facilities

Section

- 60. Educational and informational program
- 70. Economy of administration
- 80. Definitions

Collateral references. — 39 Am. Jur. 2d, Health, § 22; 61A Am. Jur. 2d, Pollution Control, §§ 134, 135; 78 Am. Jur. 2d, Waterworks and Water Companies, §§ 31-46.

39A C.J.S., Health and Environment, § 46; 93 C.J.S., Waters, §§ 43-57.

Validity of statute prescribing standard of purity of water furnished for human consumption. 6 ALR 475.

Power of board of health to prescribe means or methods of keeping water supply free of impurities. 23 ALR 228.

Constitutionality and construction of statutes and ordinances for protection of municipal water supply. 72 ALR 673.

Wrongful pollution of stream by municipality as creating single cause of action or successive causes of action. 75 ALR 529.

When statute of limitations commences to run as to action against municipality for damages to riparian premises by pollution of stream by discharge of sewage. 122 ALR 1509.

Measure and elements of damages for pollution of well, cistern, or spring. 19 ALR2d 769.



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
STAFF COUNSEL

303 K Street
Anchorage, Alaska 99501

(907) 264-8228

December 2, 1986

Jeannie Larson
c/o Representative Pat Pourchot
Box 104836
Anchorage, Alaska 99510

Dear Jeannie:

As we discussed, you asked if I could provide a rough draft of a statute which would permit enforcement of anti-littering laws by a mail-in payment rather than a mandatory court appearance.

A copy of a draft is enclosed. Although my primary interest is in the section dealing with the mail-in fine payment, I have included substantive language so that you can see how such a statute might be laid out. The draft is written in legislative style, with new language underlined and deleted language in brackets.

I assumed the framework of the existing littering statutes, and that the existing anti-littering law would not be repealed. In other words, adoption of this draft would override the repealer clause in the existing legislation. However, AS 46.06.080(b), which deals with uncovered loads would be repealed, and replaced by AS 28.35.251, which the legislature enacted last year.

Using AS 16.05.160 as a model, I then drafted new language which would establish a fine rather than a bail schedule method of processing these payments. This process would apply to AS 46.06.020 only; other violations would require a court appearance.

Some of the questions I am sure you will want to address include whether you want to retain the existing anti-littering language or draft new language, whether the \$25.00 fine is appropriate, and whether all violations of the chapter should be processed this way. You may want to solicit the views of enforcement officers regarding these provisions.

Jeannie Larson
December 2, 1986
Page Two

I hope this draft is helpful to you . Again, please be advised that it is merely a concept and that the administrative office does not take a position about the desirability of anti-litter legislation or the proper fine amount. The only concern of this office is that a procedure be adopted which will require the least expenditure of fiscal resources by the court system. If enforcement officers project a substantial level of enforcement, the court system would have to consider the need for additional clerical staff to process these citations and the payments. It is very important to have adequate staff to process these payments, because inaccurate records can lead to improper issuance of bench warrants and subsequent lawsuits for false arrest.

Please let me know if you have any questions.

Sincerely,



Karla L. Forsythe
Staff Counsel

KLF:bs

cc: Arthur H. Snowden, II, Administrative Director
Susan Miller, Manager of Special Projects

11/25/86-7

BILL SHEFFIELD, GOVERNOR

REPLY TO:

DEPARTMENT OF LAW

CRIMINAL DIVISION

CRIMINAL DIVISION CENTRAL OFFICE:
POUCH KC
JUNEAU, ALASKA 99811
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 219
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

October 29, 1986

The Honorable Pat Pourchot
House Representative
P.O. Box 104836
Anchorage, Alaska 99504

Re: Littering - AS 46.06.080

Dear Representative Pourchot:

Recently, a request was made by a member of your staff for the number of littering cases prosecuted under AS 46.06.080 and the sentences received. Since January 1, 1983, a total of 142 littering cases have been referred to the district attorney offices for prosecution statewide. Of the 142 cases referred, 41 individuals have been convicted and sentenced. Of these 41 cases only one person went to jail and that was for one day. More likely than not, this individual was arrested and received credit for time already served when he was sentenced by the court. Two other people received fines and suspended jail sentences with the remainder not receiving any jail sentence but being required to pay fines ranging from \$25 to \$250. About one-quarter of the people were also required to perform community work service, including picking up litter from 2 hours to 50 hours. About half of the defendants were placed on probation anywhere from 11 days to one year.

The person on your staff with whom I spoke had expressed the opinion that the heavy maximum sentence for littering (90 days in jail and/or \$1000 fine) was a disincentive to enforcement, but our records show that this is unlikely. The average fine among these cases was \$60; the average community work service was about 10 hours. If the littering laws are not being enforced it seems much more likely that in this era of declining revenues there are other areas of law enforcement that take a higher priority.

Representative Pourchot

October 29, 1986
Page -2-

If I may be of further assistance, do not hesitate to contact me.

Very truly yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By: *Geneille Massey*
Geneille Massey
Special Assistant

GM:ab-29

STEVE COWPER, GOVERNOR

HB 31
DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

P.O. BOX N
JUNEAU, ALASKA 99811-1200
PHONE: 465-4322

January 8, 1987

The Honorable Pat Pourchot
Alaska State Legislature
P.O. Box 104836
Anchorage, AK 99510

Dear Representative Pourchot:

Thank you for your letter of December 9, 1986.

Littering the highways is covered by 13 AAC 02.530(a) through (d), and 17 AAC 25.050, unsecured loads. At present, I believe both are mandatory court appearances, due to the fine the court often imposes.

Obviously, these sections do not address the littering of public and private property, or waters in the state.

I do not believe the mail-in citation would make a great deal of difference in enforcement, but it could reduce court time for judges and police. The fine is low and should, at least, be doubled, considering the expense involved in cleaning up these people's litter.

I personally believe your approach is correct. Perhaps there could be a second section with a mandatory court appearance to be used in aggravated circumstances. In any event, we need one comprehensive law, rather than multiple regulations.

The level of enforcement is a difficult question. The police seldom observe people littering because people watch for police. The Troopers have such limited patrol outside major municipalities that the perception of risk of being apprehended is small. Most law enforcement officers claim they cannot respond to all the calls for assistance they receive now. Littering complaints, including garbage on the right of way, have a low priority.

The Honorable Pat Pourchot

-2-

January 3, 1987

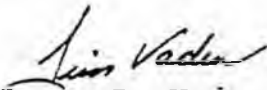
In truth, I believe most, if not all, officers would cite for littering under the aforementioned regulations. However, they do not like to sort through garbage alongside the road in an attempt to identify the depositor. It is also questionable if the district attorneys would prosecute these circumstantial cases, due to the difficulty in obtaining a guilty verdict.

In reference to out-of-state registered vehicles, perhaps we should keep the mail-in system, but make it a mandatory court appearance if the bail and a copy of the registration is not received by the court within a ten-day period. Other sanctions could be applied, i.e., increased penalties for every day after the tenth day.

I believe the residents want the initial enforcement, and the vehicle registered as expeditiously as possible.

If we can be of any further assistance, please let me know.

Sincerely,


James D. Vaden
Deputy Commissioner

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE AFFAIRS
STATE OF ALASKA
1986

M E M O R A N D U M

November 25, 1986

SUBJECT: Litter laws
(Work Order No. 15-0182)

TO: Representative Pat Pourchot

FROM: Edward H. Hein *EH*
Legislative Counsel

You are correct that littering is prohibited under AS 46.06.380, and that AS 46.06 is repealed, effective July 1, 1987. In the event that AS 46.06 is allowed to terminate, there are other statutes under which littering might be prosecuted, but that depends on how we define "litter."

Under AS 46.06.150(4), "litter" means all waste material except "the wastes of the primary processes of mining or other extraction process, logging, sawmilling, farming or manufacturing." But under AS 46.03.710, pollution of the air, land, subsurface land or water of the state is prohibited. For purposes of that section, "pollution" is defined as "the contamination or altering of waters, land or subsurface land of the state in a manner which creates a nuisance or makes waters, land or subsurface land unclean, or noxious, or impure, or unfit so that they are actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial, or recreational use, or to livestock, wild animals, bird, fish, or other aquatic life." Under AS 46.03.760, a polluter is liable to the state for civil damages; AS 46.03.790 provides for criminal penalties.

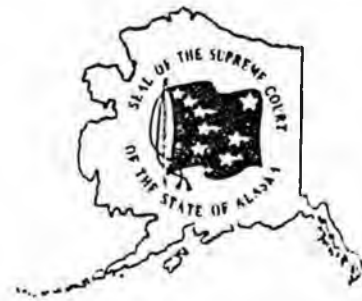
With regard to your idea of establishing a "two-tier" system for littering offenses, that seems like a practical approach. As you know, a bail forfeiture schedule is in effect for minor traffic offenses, and this works well. A similar schedule was required to be established for violations of the smoking-in-public-places law. AS 18.35.341(d). Serious litter offenses could be distinguished from minor litter

Representative Pourchot
Page 2
November 25, 1986

offenses on the basis of the amount of damage done, i.e. the cost of cleaning up and restoring the site to its pre-littered condition. As an alternative, you might want to distinguish on the basis of the weight, amount, or contents of the litter.

I have not discussed this matter with anyone else. I would be happy to work with you or any of your staff members, or to research the matter further on my own, if you wish. If you want me to draft some legislation, let's talk about it so I will have a better picture of what you have in mind.

EHH:mkr
m7/033



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
STAFF COUNSEL

303 K Street
Anchorage, Alaska 99501

(907) 264-8228

December 2, 1986

Jeannie Larson
c/o Representative Pat Pourchot
Box 104836
Anchorage, Alaska 99510

Dear Jeannie:

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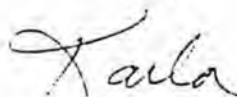
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Jeannie Larson
December 2, 1986
Page Two

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Please let me know if you have any questions.

Sincerely,



Karla L. Forsythe
Staff Counsel

KLF:bs

cc: Arthur H. Snowden, II, Administrative Director
Susan Miller, Manager of Special Projects

11/25/86-7



Alaska State Legislature

Representative Mike Davis

P.O. Box V
Juneau, Alaska 99811
(907) 465-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708

MEMORANDUM

To: Senate Finance Committee

From: Rep. Mike Davis

Date: May 13, 1987

Re: SCSCSHB 59 (Jud); An Act Relating to the Recycling and Reduction of Litter.

The 1986 legislature failed to fund the state's litter reduction and recycling program for FY 87, and the program is due to sunset on June 30, 1987. However, this is an important program that coordinates community efforts to clean up litter throughout the state. Litter along the state's highways has a negative impact upon visitors to Alaska as well as upon the state's residents, and maintaining a litter program should continue to make the state a destination point for tourists.

The provisions of HB 59 would reduce the costs of operating an effective litter program by repealing requirements for an advisory council and the publication of an annual report. The legislation also reduces costs by allowing, rather than requiring, DEC to provide litter bags. These changes have allowed HB 59 to receive a zero fiscal note. The bill also would repeal the sunset provision of the program.

HB 59 would reduce the penalty for littering from a misdemeanor to a violation in order to eliminate court costs, and a prison term would be eliminated as a penalty for littering. The bill would also establish a \$25 fine for minor offenders that may be paid by mail, while retaining a maximum fine of \$1,000 for major offenders. A minor offense is one in which the amount of litter has an aggregate weight of five pounds or less. Community service provisions, in which a litterer may be required to pick up litter in a designated area for a designated length of time, are also retained.

Discussions with ALPAR (Alaskans for Litter Prevention and Recycling), the Fairbanks Litter and Beautification Committee, the Department of Environmental Conservation, the Department of Public Safety, and several municipalities have been very positive toward this legislation. The remarks of a few municipal leaders are presented below:

City and Borough of Juneau, Mayor Ernest Polley: "The City and Borough certainly supports litter reduction and recycling programs. The City and Borough of Juneau has a considerable litter problem as well as disposal problems concerning metals, household garbage, and hazardous liquids. I feel that this is a statewide problem and should be addressed on a statewide basis. We would be happy to work with your office to review any proposed legislation in this area."

Municipality of Anchorage, Mayor Tony Knowles: "As a strong supporter of a healthy, clean environment, I share your wish to avoid sunseting the litter reduction and recycling program within DEC. Although unfunded at this point, I believe a mechanism should exist for revitalizing this program should revenue levels again allow for funding of the program."

Matanuska-Susitna Borough, Mayor Dorothy Jones: "As for the litter reduction and recycling program, we find it a boon to the Matanuska-Susitna area and would most assuredly like to see funding restored and the program remain."

Fairbanks North Star Borough, Mayor Juanita Helms: "As Mayor of the Fairbanks North Star Borough, I support passage of HB 59, An Act Relating to the Recycling and Reduction of Litter. Providing proper solid waste disposal and dealing with the accumulation of litter on our roadways are two problems which confront our community. The State's efforts in recycling and litter reduction help us to effectively resolve these problems. For this reason, I would urge the Alaska State Legislature to pass HB 59."

Rep. Mike Davis

Sectional Analysis of CSHB 59 (Jud)
An Act Relating to the Recycling and Reduction of Litter

Sec. 1. Technical amendment to the Judicial Code to accomodate the establishment of littering citations.

Sec. 2. AS 46.06.010 is rewritten to eliminate redundant language, and to incorporate the provisions of AS 46.06.040.

Sec. 3. AS 46.06.060 is amended to provide that the Department of Environmental Conservation and the Department of Public Safety may, rather than must, provide litter bags to the public.

Sec. 4. The penalty for littering is reduced from a Class B misdemeanor to a violation, and prison terms for littering are eliminated. The maximum \$1,000 fine currently in statute is retained.

Sec. 5. A peace officer may issue a citation providing for a \$25 fine to a person guilty of a minor littering violation. A minor littering violation is one in which the aggregate weight of the litter is five pounds or less. The fine may be paid either in person or through the mail.

Sec. 6. The following sections are repealed:

AS 46.06.020, which requires an annual report.

AS 46.06.030, which establishes an advisory council.

AS 46.06.040, which establishes public awareness programs. Provisions of this section have been incorporated into AS 46.06.010.

AS 46.06.070(b), which establishes litter patrol regulations. These regulations are authorized under AS 46.06.010(8).

Sec. 7. All sunset provisions in AS 46.06 are repealed.

Sec. 8. Immediate effective date.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

POSITION PAPER

Bill No: HB 59

Date: January 30, 1987

Title: An Act relating to the
recycling and reduction
of litter

Contact: Randy Bayliss
465-2600

Department's Position

We support the bill.

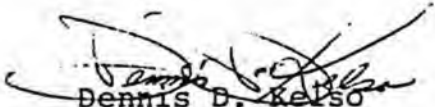
Effect of the Bill

HB 59 reenacts most of Alaska's litter program, now on the eve of its "sunset." It also reduces the costs of the program, either by eliminating some functions (such as the Litter Advisory Council) or by making most other functions optional. The bill would also change littering from a "misdemeanor" to a "violation," which eliminates jail time as a penalty.

According to several opinion polls, many Alaskans consider littering to be a top environmental priority. Litter alongside tourist attractions has drawn national attention on television news and magazines. The litter program has enjoyed popular support from Alaskan cities and has encouraged start-up and operations of many recycling centers throughout Alaska.

Impact on the Agency

HB 59 was drafted with minimal operating expenses in mind. We have prepared a "zero" fiscal note.


Dennis D. Kelso
Commissioner

BILL NO: CSHB 59 (JUD)

DATE: February 23, 1987

TITLE: "An Act relating to the recycling of litter; and providing for an effective date."

CONTACT: Maj. Walter J. Gilmour
Acting Director
Alaska State Troopers

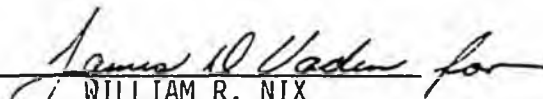
DEPARTMENT OF
PUBLIC SAFETY

A considerable expense is incurred by the state when cases involving incidental littering are pursued.

This legislation reduces littering offenses from a Class "B" misdemeanor to a "violation" and enables peace officers to issue a citation rather than make a physical arrest. Further, it allows the violator to mail in the fine rather than to make a court appearance. This will reduce officer court time and report writing in these minor cases.

Serious littering offenses (over 5 lbs.) remain a class "B" misdemeanor and thus, serious offenders can still be prosecuted.

The Division of Alaska State Troopers supports passage of this legislation.


WILLIAM R. NIX
Acting Commissioner

★ Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

907-452-4761

January 30, 1987

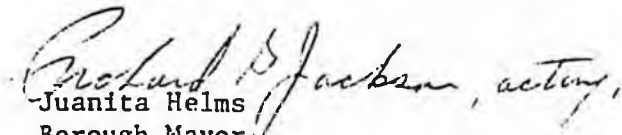
Representative Mike Davis
Pouch V
Juneau, Alaska 99811

Mail Stop 3100

Dear Representative Davis:

As Mayor of the Fairbanks North Star Borough, I support passage of HB 59, An Act Relating to the Recycling and Reduction of Litter. Providing proper solid waste disposal and dealing with the accumulation of litter on our roadways are two problems which confront our community. The State's efforts in recycling and litter reduction help us to effectively resolve these problems. For this reason, I would urge the Alaska State Legislature to pass HB 59.

Sincerely,


Juanita Helms
Borough Mayor

JH/HTS/mnb

BEAUTIFICATION AND LITTER CONTROL COMMITTEE

First National Center
100 Cushman Street

Greater Fairbanks Chamber of Commerce

(907) 458-1108

P.O. Box 74446
Fairbanks, Alaska 99707

January 29, 1987

Representative Mike Davis
Pouch V
Juneau, AK 99811

Mail Stop 3100

Dear Rep. Davis:

The Beautification and Litter Control Committee of the Greater Fairbanks Chamber of Commerce strongly supports passage of HB 59, An Act Relating to the Recycling and Reduction of Litter. Our committee has worked hard over the past several years to make Fairbanks a cleaner, more beautiful place for the enjoyment of residents and visitors alike. We feel that continued State support in the form of litter reduction and recycling legislation is important to our success.

Litter reduction and recycling are more than just "environmental" concerns. These programs enhance economic development and tourism in our state. We are proud of the contributions our committee has made in these areas; we encourage the Alaska State Legislature to support our local efforts through passage of this legislation.

Sincerely,

Art Buswell

Art Buswell
Co-Chairman

Heather Stockard

Heather Stockard
Co-Chairman

Fifth Annual Report

May 1985

**ALASKA
LITTER REDUCTION
AND
RESOURCE RECOVERY
PROGRAM**

BILL SHEFFIELD

Governor

State of Alaska

BILL ROSS

Commissioner

Department of Environmental Conservation

Pouch O, Juneau, Alaska 99811



INTRODUCTION

Early in fiscal year 1984 the Division of Legislative Audit completed its review and evaluation of the first four years of the Department of Environmental Conservation's (DEC) Litter Reduction and Resource Recovery Program. Its performance report concluded that the popular and successful program, and its authorizing legislation, should be continued. On June 8, 1984, the Litter Reduction and Resource Recovery Act was reauthorized until July 1, 1987.

Since the inception of the Litter Reduction and Resource Recovery Program in 1980, DEC has actively pursued projects to reduce litter and encourage recycling and large-scale resource recovery in Alaska. According to the 1983 Alaska litter survey, much has been achieved in the first years of the program. Some of the highlights are:

- 36% decrease in fresh litter generation
- 35% decrease in litter accumulation
- 63.3% decrease of hazardous items in litter
- 20% increase in car litter bag use
- 40% decrease in aluminum can litter
- 36.6% decrease in litter at sites where receptacles have been added

Large-scale resource recovery significantly decreases certain kinds of litter, and saves resources and energy. The program provides support and assistance to resource recovery endeavors throughout Alaska. With the establishment of a pulp (shredder) mill in Anchorage (to be in operation in late 1985), an estimated 20,000 tons a year of ferrous metals will be recovered and possibly sold to a Pacific Rim country. This tonnage will represent a substantial increase over past years. At present, about 7% of over 50,000 tons of paper shipped to Alaska per year is recovered for reuse. Due to recent reduction of rates by freight carriers, the potential for recovery of waste paper is increasing. As demand for both energy and resources rises and supplies decline, such recovery becomes even more important.

This report documents DEC's accomplishments in litter reduction, litter prevention, resource recovery, and increasing public support of the program during FY 1984. In 1984, the program changed its reporting period to coincide with the State's fiscal year. Some of the figures in the report may overlap with figures in the 1983 annual report, which was based on a calendar year.

LITTER REDUCTION

Results from the 1983 Alaska litter survey performed by the Institute for Applied Research indicate that during the first three years of the litter and recycling program's existence, there has been a 36% reduction in the rate that fresh litter is generated (Syrek, 1983). Similar decreases were measured in the rate at which long term accumulations of litter build up. These results show a 35% decline when corrected for traffic and weather conditions.

What are the causes of these significant decreases in litter? Alaskans are becoming more involved in both picking up litter already on the ground (litter reduction) and eliminating acts of littering (litter prevention).

In an executive proclamation, Governor Sheffield declared May 1984 as Litter Prevention and Cleanup Month. Letters seeking similar local declarations were sent to mayors. DEC staff sent mailouts to city and village councils, schools, community leaders, and local media asking for their involvement in cleanup efforts.

The results of these activities were once again gratifying. Again in 1984, Alaska saw an increase in the number of community cleanups statewide. A current list of communities with cleanups appears in Appendix A. Table I shows 1984 cleanup results.

Table I
1984 Spring Cleanups

	Southeastern Region	Southcentral Region	Northern Region	TOTAL
Communities with cleanups	18	126	61	205
Participants	3,124	31,223	18,505	52,852
Bags Collected	6,729	105,590	55,700	168,019
Truckloads	379	12,401	not available	12,753
Junk Autos Removed	63	2,198	366	2,621

Youth Litter Patrols

As part of statewide litter reduction efforts in 1984, summer youth litter patrols were funded for a second year by Alaskans for Litter Prevention and Recycling (ALPAR, a private organization of business and industry) and a cash grant of \$120,000 from the State. Approximately 284 young people on the patrols picked up litter in 26 communities, with more than double the participation of the first year of the program. Table II shows a comparison between 1983 and 1984.

Table II

Youth Litter Patrols

	<u>1983</u>	<u>1984</u>
Number of Participants	120	284
Number of Communities	11	26
Number of Patrols	27	71
Bags Collected	6,500	Data not available
Total Cost	\$82,000	\$171,348

Fairbanks, a star in the youth litter program, had an impressive 20 patrols in 1984, up from 4 patrols in 1983. The patrols worked for 13 weeks cleaning up 400 miles of roadways and over 3,300 bags of litter. This program created 21 full-time seasonal jobs for youths 14-17 years old in the Fairbanks area. The "bottom line" summary of the 1984 Greater Fairbanks litter patrol effort was 9.3 bags of litter abated per mile of roadway cleaned up, at a cost of \$13.90 per bag.

Anchorage doubled its youth litter patrols from 10 in 1983 to 20 in 1984. Communities with two patrols each in 1984 were Homer, Juneau, Kenai, Ketchikan, Nenana, Palmer, and Valdez. The following communities had one youth litter patrol each: Bethel, Deering, Delta Junction, Dillingham, Ekwok, Kodiak, Koliganek, Saxman, Skagway, Soldotna, Togiak, Wasilla, and Wrangell.

Alternative Sentencing and Pretrial Diversion Programs

The Department of Law Pretrial Diversion Program made an outstanding contribution to litter reduction in 1984. The results of the efforts of this program were well up over 1983 (See Table III).

Table III

The Department of Law Pretrial Diversion Program

	<u>1983</u>	<u>1984</u>
Number of participants	50	220
Number of hours	1,600	2,800
Number of communities	1 - Juneau	4 - Fairbanks, Juneau*, Kenai and Sitka

- * 40 assigned to ALPAR patrols for 700 hours
- 100 assigned to DOT/PF on weekends for 800 hours

In FY 1984, the Municipality of Anchorage's Community Work Services Program assigned 400 sentenced misdemeanants to 8,000 hours of litter pickup. These misdemeanants were referred by the Court to this program, and picked up a total of 250,000 pounds of litter. The program not only reduced litter in Anchorage, but seemed to have a positive impact on the recidivism of the offenders, most of whom had been convicted of DWI. Other offenses included shoplifting, reckless driving, and littering. Virtually all the participants commented they would never litter again, after seeing firsthand what a problem litter is.

Working closely with the District Court, the Fairbanks North Star Borough's Environmental Services Division supervised the community service work required of litter offenders and those who had committed other minor offenses. The 53 individuals assigned to this program performed 1,001 hours of work, for an average of 18.9 hours per person. Juveniles performed 465 hours of work; adults, 536 hours. Thirty-three persons were assigned to community work service who did not perform the work, totalling 1344 hours of work assigned which was not performed.

Volunteer Efforts

DEC spring cleanups mobilize the people in a community and often lead to voluntary efforts to keep their communities clean year round. One spinoff of the DEC spring cleanup in 1984 was the voluntary placement of litter receptacles and antilitter signs in more than a dozen communities. Port Heiden went a step further, installing a large community dumpster and instituting a weekly pickup. In some areas, which did not have formal youth litter patrols, local people started voluntary cleanups. In Takotna such activity led to the demolition of three houses and the graveling over of the resulting vacant lot.

Many communities went beyond picking up litter and beautified areas which had previously been eyesores. They developed gardens and parks, planted trees, and placed flower boxes. In these communities volunteers did the work of creating and maintaining the beautified areas. Juneau and Fairbanks established committees, which included DEC litter program staff, to plan, carry out, and reward beautification activities. In Juneau the Beautification Subcommittee of the Mayor's Hospitality Committee honored individuals, businesses, and government agencies for their significant efforts to beautify Juneau. The Fairbanks Chamber of Commerce Beautification Committee beautified formerly littered areas in response to a perceived need in the community to enhance civic pride and foster ongoing antilittering behavior.

LITTER PREVENTION

Reduction of litter on the ground is necessary and desirable, but prevention of acts of littering is the key to long-term litter reduction in Alaska.

Litter is the result of personal habits and decisions. In order to affect the litter rate in Alaska, individual attitudes towards litter must be changed, and efforts made to influence personal decisions about the act of littering.

Secured Truckloads

The 1981 litter survey showed that deliberate littering comes from pedestrians aged 6 to 25 and occupants of motor vehicles aged 10 to 45. Most accidental littering is from unsecured truckloads and trash escaping from truck beds.

Since 1981 there has been a shift in the composition of litter. Deliberately littered convenience product packaging litter has decreased from 56% of all fresh litter items in 1981 to 49% in 1983. At the same time, the percentage of accidentally littered items from trash can spills, unsecured loads and uncovered truck beds has increased from 38% to 45%.

These figures indicate public attitudes towards deliberate littering is improving; fewer people are unconsciously tossing wrappers on the ground. The figures show, however, that more work needs to be done to motivate truck owners to cover their loads.

In 1984 the Municipality of Anchorage passed an ordinance requiring that trucks bringing loads to the municipal landfill be covered or pay an "uncovered load" fee of \$10.00 for small trucks and \$10.00 a ton plus a \$30.00 fee for large trucks. By July 1984, 98.8% of the trucks coming to the landfill were covered.

DEC will encourage other municipalities to follow the lead of this highly successful program and conduct their own covered load campaigns in FY 85.

Community Outreach

Using information provided by litter surveys, DEC gears educational efforts to those groups primarily responsible for litter in Alaska. Attitudes and decisions are substantially shaped by both the mass media and personal contact.

1984 DEC media efforts included press releases, production and distribution of public service announcements, and arrangement of media coverage of local cleanup and recycling efforts. Litter caused by travelers was addressed by a full page ad in the 1984 Milepost. A full page "ad" on uncovered loads was published in the April 1984 edition of the State of Alaska's Driver's Manual.

Public information and public education services are an important means of encouraging litter reduction and resource recovery activities throughout Alaska. Table IV shows public awareness services provided by litter program staff in FY 1984.

Table IV

Community Outreach Services

School Presentations	12
Community Presentations	44
Hotline Calls	1591
Newspaper Interviews	161
TV Interviews	18
Radio Interviews	3
Other	12

Commodities Distributed

Another way DEC encourages communities and citizens to become involved in litter control is by distributing free commodities. These range from car litter bags to cleanup incentives for children, including patches and "sort-n-save" magnets. Table V shows the items distributed during FY 1984.

Table V

Commodities Distributed

DEC car litter bags	27,550
SOHIO car litter bags	90,800
Cleanup bags	166,100
Milepost posters	123
Fish & Game posters	30
Pins	12,995
Patches	8,981
Receptacle decals	6,668
"Aluminum only" decals	928
Miscellaneous brochures	4,002

At the beginning of the 1984 tourist season, DEC sent 2,000 DOT/PF car litter bags to U.S. border stations at ALCAN/TOK and Skagway.

Education

Since young people comprise a large number of those groups identified as deliberate litterers, DEC has attempted to reach them through an elementary school curriculum.

The Legislature appropriated \$150,000 for litter reduction programs in schools. With the approval of the Litter Reduction and Resource Recovery Advisory Council, DEC contracted with the Department of Education to produce a series of three 15-minute lessons on videotape for the Learn/Alaska instructional television network. The series will be designed for grades 4-6 and aired on Learn/Alaska. Printed teacher's guides will be developed and used in conjunction with the video program.

The educational objectives of this series of video lessons are to increase the students' knowledge of their environment, affect their attitude toward conservation of natural resources, and encourage their personal commitment to antilitter, antiwaste behavior. By airing this program on the Learn/Alaska network, we expect to reach the largest possible target audience in the most effective way. The video series is expected to be aired on the Learn/Alaska network beginning in the fall semester 1985.

Litter Receptacles

An important means of preventing litter is to make receptacles available in high use areas. Litter receptacle regulations became effective in October, 1983. Those regulations require receptacles marked with the State's anti-litter logo to be installed, routinely serviced and maintained at commercial, recreation and civic areas. The 1983 litter survey showed a significant increase in receptacles at 10 commercial sampling sites (Syrek, 1983). Table VI shows the additions by site.

Original sponsors: Davis and Koponen

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 59 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the recycling and reduction of
7 litter; and providing for an effective date."

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

9 * Section 1. AS 12.25.190(c) is amended to read:

10 (c) The person cited for the crime shall give a written promise
11 to appear in court by signing at least one copy of the written cita-
12 tion prepared by the peace officer and the officer shall deliver a
13 copy of the citation to the person. The written promise requirement
14 of this subsection does not apply to motor vehicle and traffic cita-
15 tions under AS 28.05.151, fish and game citations for which a bail
16 schedule has been established under AS 16.05.165, citations issued
17 under AS 18.35.341, [AND] citations issued in state park and recre-
18 ational facilities under AS 41.21.960, and littering citations issued
19 under AS 46.06.080.

20 * Sec. 2. AS 46.06.010 is repealed and reenacted to read:

21 Sec. 46.06.010. POWERS OF THE DEPARTMENT. The department shall

22 (1) serve as the coordinating agency among public and
23 private organizations in the state that are involved in the control,
24 reduction, and recycling of litter;

25 (2) assist local governments in the adoption and amendment
26 of ordinances relating to the control, reduction, and recycling of
27 litter;

28 (3) promote voluntary local programs and information cam-
29 paigns that encourage the public to refrain from littering and to

1 participate in efforts to clean up and recycle litter;

2 (4) inform the public of, and encourage the public to
3 comply with, the provisions of this chapter and regulations adopted
4 under this chapter;

5 (5) encourage federal, state, and local agencies to assist
6 programs for the recycling of litter by allowing the use of publicly
7 owned land, buildings, or equipment for those programs whenever possi-
8 ble;

9 (6) apply for, receive, and expend grants, loans, and other
10 monetary and nonmonetary assistance for use in programs established
11 under this chapter;

12 (7) determine the types of materials or energy that may be
13 profitably recovered from litter, and adopt regulations under the
14 Administrative Procedure Act (AS 44.62) that require the recovery of
15 the materials or energy;

16 (8) adopt other regulations under the Administrative Proce-
17 dure Act (AS 44.62) necessary to implement this chapter.

18 * Sec. 3. AS 46.06.060 is amended to read:

19 Sec. 46.06.060. LITTER BAGS. The department may [SHALL] design
20 and have produced a litter bag bearing the state anti-litter symbol
21 and a statement of the penalties for littering in the state. The
22 department may [SHALL] make litter bags available to the division of
23 motor vehicles in the Department of Public Safety for this purpose.
24 The [TO THE GREATEST EXTENT PRACTICABLE, THE] division of motor
25 vehicles may [SHALL] distribute one litter bag to each person who
26 applies for registration or reregistration of a motor vehicle and
27 shall notify the person of the person's responsibilities under the
28 law. The department may [SHALL] make litter bags available to all
29 vehicle and vessel operators entering the state. The commissioner

1 shall designate distribution points for the broadest possible dis-
2 tribution of litter bags to persons entering the state by vehicle or
3 vessel.

4 * Sec. 4. AS 46.06.080(c) is amended to read:

5 (c) A person who violates this section is guilty of a violation
6 [CLASS B MISDEMEANOR], and may be sentenced to pay a fine of not more
7 than \$1,000. In [IN] addition [TO THE PUNISHMENT IMPOSED BY AS 12.-
8 55.035(b)(4) AND 12.55.135(b)], the court may order the person to
9 gather and dispose of litter in an area and for a length of time
10 determined by the court.

11 * Sec. 5. AS 46.06.080 is amended by adding new subsections to read:

12 (d) A peace officer shall issue a citation as provided in
13 AS 12.25.180 to a person who violates this section. If a citation is
14 for a minor littering violation, then the person to whom the citation
15 is issued may, within 15 days, mail or personally deliver to the clerk
16 of the court in which the citation is filed

17 (1) a fine of \$50; and

18 (2) a copy of the citation indicating that the right to an
19 appearance is waived and a plea of no contest is entered.

20 (e) If a \$50 fine has been paid under (d) of this section, then
21 the court shall enter a judgment of conviction. Payment of the fine
22 is a complete satisfaction for the violation.

23 (f) If a person cited under this section fails to pay the fine
24 or to appear in court as required, the citation is considered a sum-
25 mons for a failure to obey a citation under AS 12.25.230, and the
26 court may issue a bench warrant.

27 (g) Notwithstanding other provisions of law, if a person cited
28 for a minor littering violation under this section appears in court
29 and is found guilty, the penalty that is imposed for the violation may

1 not exceed \$50.

2 (h) In this section "a minor littering violation" means a viola-
3 tion of (a) or (b) of this section involving litter having an aggre-
4 gate weight of five pounds or less.

5 * Sec. 6. AS 46.06.020, 46.06.030, 46.06.040, and 46.06.070(b) are
6 repealed.

7 * Sec. 7. Section 5, ch. 149, SLA 1980, as amended by sec. 9, ch. 164,
8 SLA 1984, is repealed.

9 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

HB

64

HOUSE COMMITTEE REPORT

7)

Date referred: 2/25/87

FURTHER REFERRALS:

DATE: 4/3/87

The Finance Committee has considered HB 64

"An Act relating to alcohol."

RECOMMENDS:

- replace with CS HB 64 (Jud.) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 2/13/87
- zero with analysis

SIGNING DO PASS?

ADAMS Robert Adams

POURCHOT Pat Pourchot

LARSON Ronald J. Larson

GOLL Peter Goll

SNACK-HAMMER Bob Snack-Hammer

BOYER Mark Boyer

RIEGER Steve Rieger

WALLIS Ken Wallis

BROWN Tas Brown

SIGNING OTHER RECOMMENDATIONS:

FRANK W. Frank

DAVIS ...

Robert Adams
Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 64
Publish Date: HOUSE 2/13/87

Revision Date: _____
Title: "An Act relating to alcohol."

Agency Affected: Department of Law
BRU: Prosecution

Sponsor: Repr. Hoffman
Requestor: Repr. Hoffman

Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director
Division: Administrative Services

Phone: 465-3672
Date: Feb. 4, 1987

Approved by Commissioner: Grace Berg Schaible, Atty. Gen.
Agency: Department of Law

Date: Feb. 4, 1987

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 64

2/13/87

This bill amends AS 04.16.200(b) by reclassifying the illegal sale of alcoholic beverages from a class A misdemeanor to a class C felony.

A total of 45 such violations were referred to the department last year for prosecution. About one-half of those reported violations occurred in the Bethel service area.

Although this change will require some additional work on our part, preparing these cases for grand jury, this addition does not warrant fiscal note costs because of the small number of cases involved. Our estimate assumes that the same enforcement pattern will continue. However, if police agencies substantially increase their enforcement activities, because of the increased penalties available for felons, it may be necessary to request increased appropriation at a later time. In any event, the department will not be able to respond to a marked increase in this area at this time due to the serious budget shortfalls it now faces.

STATE ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 64
Publish Date: HOUSE 2/13/87

REQUEST: _____

Revision Date: _____
Title: "An act relating to alcohol"

Agency Affected: Department of Corrections
BRU: _____

Sponsor: Representative Hoffman
Requestor: Representative Hoffman

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This bill is expected to have only a minor impact on inmate populations.

Prepared by: Susie Riley, Budget Analyst Phone: 465-3376
Division: Administrative Services Date: 01/26/87

Approved by Commissioner: William W. Ludwig Date: 01/26/87
Agency: Department of Corrections

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST _____

Bill Version: HB 64
Publish Date: HOUSE 2/13/87

Revision Date: _____
Title: An Act relating to Alcohol

Agency Affected: ABC Board
BRU: ABC

Sponsor: Hoffman
Requestor: _____

Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

Prepared By: Patrick L. Sharrock *for*
Division: ABC Board

Phone: 277-8638
Date: 2/10/87

Approved by Commissioner: Hugh Malone *RW for*
Agency: Department of Revenue

Date: 2/10/87

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

STATE OF ALASKA

LYMAN F. HOFFMAN
REPRESENTATIVE

P O BOX 5
JUNEAU, ALASKA 99811
(907) 465-4530, 465-4453

HOUSE OF REPRESENTATIVES

DISTRICT 25

AKIACHAK
AKIAK
ATMAUTLUAK
BETHEL
CHEFORNAK
FFK
GOODNEWS BAY
KASIGLUK
KIPNUR
KONGIGANAK
KWETHLUK
KWIGLINGOK
MEKORYUK
NAPAKIAK
NAPANKIAK
SEWTOK
NIGHTMUTE
NUNAHITCHUK
OSCARVILLE
PLATINUM
QUINHAGAK
TOKSOOK BAY
TUNSTUTLIAK
TUNUNAK

MEMORANDUM

TO: Representative Al Adams, Chairman House Finance

FROM: Representative Lyman Hoffman *Lyman*

DATE: March 25, 1987

SUBJ: HB 64 "An Act increasing the penalty for certain unlicensed manufacture, sale, possession, or barter of alcoholic beverages."

Penalties for bootlegging in communities which have adopted a local option law would be increased by HB 64. The bill would raise the penalty for first time offenders to a Class C Felony. Under current law the charge is a Class A Misdemeanor unless the bootlegger has been previously convicted (sale to a person under 19 years of age, or has sold over a designated volume). Bootlegging in communities where there is a restriction on alcohol is a serious crime. Communities with local option laws realize how serious alcohol problems are and they know how devastating alcohol is to their community. Community police and public safety officers work very hard and at great expense, to apprehend and convict bootleggers---on misdemeanor charges. The end result is the education of first time offenders, the bootleggers learn how to improve their system and how to not get caught. In District 25, communities feel strongly that the stiffer penalty will be a greater deterrent to bootleggers.

Original sponsor: Hoffman

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 64 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act increasing the penalty for certain unlicensed
7 manufacture, sale, possession, or barter of alcoholic
8 beverages."

9

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

10

* Section 1. AS 04.16.200(a) is amended to read:

11

(a) Except as provided under (b) of this section, a [A] person

12

who violates AS 04.11.010 is, upon conviction, guilty of a class A
13 misdemeanor.

14

* Sec. 2. AS 04.16.200(b) is repealed and reenacted to read:

15

(b) A person who violates AS 04.11.010 in an area where the

16

results of a local option election have, under AS 04.11.490 - 04.11.-

17

500, prohibited the board from issuing, renewing, or transferring one

18

or more types of licenses or permits under this title in the area is,

19

upon conviction, guilty of a class C felony.

STATE OF ALASKA

LYMAN E. HOFFMAN
REPRESENTATIVE

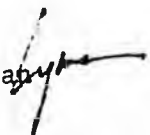
RECEIVED
907 543-3543

HOUSE OF REPRESENTATIVES

DISTRICT 25
AKIAK
AKIAK
AFMAUTLUK
BETHEL
CHEFORNAK
EET
GOODNEWS BAY
KASIGLUK
KIPUK
KONGGANAK
PWEETHUK
RWIGLINGOK
MEKORYUK
NAPAKIAK
NAPAKIAK
SEWTOK
SIGHEMUTE
SUNAPTHULE
OSCARVILLE
PLAINUM
QUINHAGAK
TOKSOK BAY
TUNUTLIAK
TUNUNAK

MEMORANDUM

TO: Representative Al Adams

FROM: Representative Lyman Hoffman 

DATE: March 18, 1987

RE: Age question for elections

Per your request, it appears it would be difficult to implement an age restriction on local option elections.

Thank you.

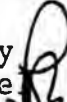
STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITAL
JUNEAU ALASKA 99801
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 18, 1987

SUBJECT: Age for voting
TO: Representative Lyman Hoffman
FROM: Richard A. Bradley
Legislative Counsel 

Lee Goodman has asked that I comment on the question whether the legislature (or a municipality) may raise the voting age to 21 for a particular election.

I have advised him that in my opinion the Alaska Constitution is quite clear in answering the question negatively.

The provisions of art. V, sec. 1 address the question; the provision provides:

SECTION 1. QUALIFIED VOTERS. Every citizen of the United States who is at least eighteen years of age, who meets registration residency requirements which may be prescribed by law, and who is qualified to vote under this article, may vote in any state or local election.
A voter shall have been, immediately preceding the election, a thirty day resident of the election district in which he seeks to vote, except that for purposes of voting for President and Vice President of the United States other residency requirements may be prescribed by law. Additional voting qualifications may be prescribed by law for bond issue elections of political subdivisions.

In my view, the material emphasized addresses the question. Moreover, I consider it so explicit that the legislature has no discretion to vary the age either up or down for any purpose.

If I may be of further assistance, please advise.

RAB:mkr
m10/016

A SEARCH FOR CONTROL:
THE EFFECT OF ALCOHOL ON
PUBLIC RIGHTS AND PRIVATE WRONGS



REPORT TO THE LEGISLATURE
JOINT SPECIAL COMMITTEE ON LOCAL OPTION LAWS

Representative John Binkley, Chairman
Senator John Sackett
Senator Vic Fischer
Senator Edna DeVries
Representative Katie Hurley
Representative John Sund

E X E C U T I V E S U M M A R Y

March 1986

Prepared by
Laurie H. Otto
Otto & Constantino, Attorneys at Law
P. O. Box 9028
Bethel, Alaska 99559

A SEARCH FOR CONTROL:
THE EFFECT OF ALCOHOL ON
PUBLIC RIGHTS AND PRIVATE WRONGS

EXECUTIVE SUMMARY

Introduction

The numbers of social problems stemming from alcohol abuse in Alaska are staggering. The ravaging effects of alcohol are particularly acute in the isolated native communities of rural Alaska.

As a result of the enactment of the present local option law, villagers are precluded from banning alcohol. Many villagers want the power to ban alcohol in their communities because they believe that alcohol prohibition is a way to prevent serious social problems from occurring. Moreover, many villagers and expert analysts believe that existing bans on importing alcohol cannot be enforced unless possession of alcohol is also banned.

In response to requests made by the city councils of several communities in the Yukon-Kuskokwim Delta, the Fourteenth Legislature created the Joint Special Committee on Local Option Laws. The mandate of the Committee was to take testimony and collect data on the question of banning possession of alcoholic beverages within a community.

Eighteen hearings were held by the Committee during the months of November and December 1985. Hearing locations were limited by financial and time constraints to communities located in the western and northern areas of Alaska. These two areas were chosen because most of the communities which have taken advantage of the existing local option law are in western and northern Alaska.

Two significant facts were made clear to the Committee as a result of the hearing testimony. First, villagers want to have strong and healthy communities. However, their ability to turn this desire into reality is limited because they do not have meaningful input into, and thus control over, most of the governmental decisions that directly affect their lives. Second, the problems related to alcohol abuse in the villages cut across every aspect of community and family life.

After considering a vast body of evidence, the Committee found that the harm caused by alcohol abuse is so pervasive, serious and overwhelming that villages should have the authority to ban possession of alcohol. The Committee, therefore, proposed legislation that would add a new alternative to the present local option law and that would allow communities to implement a ban on alcohol. Violation of a ban on possession of alcohol would be punishable by a fine and violators would not receive a criminal record.

The proposed legislation authorizes the Alaska Supreme Court to set a bail forfeiture schedule for violations of the law. Because the statute allows for bail forfeiture, persons not contesting a citation for possessing alcohol could simply mail the appropriate amount of bail to the nearest court in lieu of a fine. Because many villagers have limited access to cash, community services performed under the direction of the city or village council could be substituted for cash bail. One hour of community service would be equal to \$5.00 in cash. Confiscation and forfeiture of liquor possessed in violation of the ban would be permitted.

History of Alcohol Regulation in Alaska

From the time of initial Russian contacts with native Alaskans, through the present-day local option legislation, alcohol regulation has been a consistent theme of law enforcement in rural Alaska. Until the last ten to twenty years, federal statutes, state statutes, village ordinances, and community sanctions have all been used as control mechanisms to prohibit rural Alaskans from using alcohol.

Most recently, the legislature adopted the existing local option law in 1980. Under the local option statute, communities that want to limit the importation or distribution of alcoholic beverages can hold elections and choose one of several options for regulating alcohol. The available options are:

1. Prohibition of the sale of alcohol;
2. Prohibition of the sale and importation of alcohol;
3. Restriction of the types of license available for selling alcohol (i.e., beer and wine only);
4. Restriction of alcohol sales to community-owned liquor stores.

Studies of Alaska's Local Option Law

In-depth studies have shown that communities are adopting a wide variety of control measures, including the local option law, in an attempt to prevent residents from abusing alcohol. The local option law is an indirect method of controlling alcohol-related behavior and is used because villages do not have direct control over either the use of alcohol by community

members or the resulting alcohol-related deviant behavior. Local option is considered to be a significant and indispensable tool because it helps prevent problems from occurring.

The most frequently used option allows for banning the sale and importation of alcohol. The use of the most restrictive option reflects the desire of many villages to severely limit access to alcohol. If villages could totally prohibit both the manufacture and possession of alcohol, many communities would opt for complete prohibition.

In the communities that have implemented the local option law, there has been a significant reduction in alcohol-related dangerous behavior. After adoption of the local option law, communities have less public drinking and public drunkenness, declines in the amount of alcohol-related interpersonal violence and accidents, and marked improvements in the physical appearance and scholastic performance of the children of drinking parents.

In addition to the direct benefits, other positive side effects of the local option law have been identified. These benefits resulted from the process used in making the decision to regulate alcohol. By implementing the law through an election, the burden of responsibility for the law shifted from the council and village leaders to the entire voting population. As a result, both lawmaking and enforcement have been made easier.

Villagers' concerns about alcohol are not based on moral judgments about drinking, or a desire to intrude on the power of individuals to make decisions about their personal health. The primary reason people want to ban alcohol is because it is intimately related to the deaths of village members. The deaths of young people are of particular concern because many villagers believe that the survival of their culture is completely dependent on the caliber of future community leaders, many of whom are dying in alcohol-related incidents.

The 1985 Local Option Hearings

Alcohol is involved in a wide range of social problems occurring in Alaska communities. Some of the problems described during the testimony are:

- * Virtually all of the violent crime is alcohol related, as is a majority of all types of criminal activity in Alaska.
- * A large number of deaths, including suicides, are alcohol related.
- * Children of alcohol abusers suffer problems with their schooling. They do not get enough sleep at night and do not get their homework done because of parents drinking and partying in the home.

- Most cases of child abuse and neglect involve alcohol abuse. Many children of drinkers suffer from malnourishment, and some have health problems caused by mothers drinking during pregnancy.
- Children of drinkers follow in their parents' footsteps by using and abusing alcohol.
- Elders become uneasy and fearful, and cannot eat or sleep, as a result of concern about the behavior of alcohol abusers. This fear and unease causes problems which require medical intervention.
- The use and abuse of alcohol is threatening the structure of the extended family. Children and grandchildren in some families are either excluded, or exclude themselves, from extended family activities in an effort to be protected from alcohol abusers.
- Alcohol abusers can interrupt critically important subsistence activities.
- Essential and irreplaceable family tools, such as snowmachines and boat engines, are broken or destroyed by persons under the influence of alcohol.

The Social Costs of Alcohol Abuse

The overall level of alcohol consumption, regardless of beverage source, determines the prevalence of dangerous drinkers and alcohol-related problems, both nationally and within Alaska. Alaska has a high rate of annual consumption in comparison to both the rest of the world and the rest of the United States. Moreover, Alaska has historically shown a dramatic increase over the years in the average annual alcohol consumption rate.

In analyzing which factors most affect per capita consumption rates, a recent study pointed to three variables: the cost of alcohol, the hours in which alcohol is available for sale, and the number of outlets in which alcohol may be purchased. Thus, states with "strict, tight or conservative" liquor laws were found to have low per capita consumption rates, and states with "permissive, loose, or liberal" liquor laws had high per capita consumption.

Chronic alcohol consumption has toxic effects on every part of the body, with medical consequences ranging from slight impairments of physical condition to life-threatening diseases. The most common location of the disease is the liver; however, alcohol may also directly injure the gastro-intestinal tract, muscles, and the pancreas. The cardiovascular system, the nervous system, and the endocrine system may be damaged by alcohol. Finally, there is evidence of a strong association between chronic alcohol use and cancer of the stomach, large intestine, pancreas, and liver.

Studies have consistently shown that alcoholics and heavy drinkers have significantly higher death rates than the rest of

the population. The numbers of homicides, suicides, and accidental deaths are increased as a result of alcohol. Native Alaskans have a particularly high alcohol-related suicide rate. The leading cause of death in Alaska is "accidents" and the rate of accidental death is over twice the national average. A majority of Alaska's accidental deaths are alcohol-related.

Alcohol and violent crime are inseparable in Alaska. Many different studies have shown the close link between criminal activity and the abusive use of alcohol. The highest correlation between alcohol and crime is with violent acts committed in rural Alaska.

Studies have shown that a strong relationship exists between problem drinking and spouse abuse. The domestic violence problems linked to alcohol were not limited to incidents of spouse abuse; child abuse and parent abuse have also been found to be common. In comparing men who abuse their spouses with those who do not, researchers have found that the abusers had a history of exposure to spouse abuse in their childhood home. These findings suggest that spouse abuse may become more widespread as children from violent homes make families of their own.

Heavy drinking during pregnancy increases the risk of miscarriage and can result in alcohol-related birth defects. When consumed in large amounts, alcohol can cause fetal alcohol syndrome.

There is a substantial relationship between having an alcoholic parent and development of alcoholism. Children of alcoholics are frequent victims of incest, child neglect, and other forms of violence and exploitation. In 90% of child abuse cases, alcohol is a significant factor. Children of alcoholics are prone to experience a range of psychological difficulties, including learning disabilities, anxiety, attempted and completed suicide, eating disorders, and compulsive achieving.

The economic cost to society from alcohol abuse is high. Various methodologies have been used for measuring the cost of alcohol abuse to the State of Alaska in dollars. One study concluded that the total cost for fiscal year 1984, including direct and indirect costs, was \$195,500,000. Another analysis of the economic cost of alcohol abuse during the same period found the cost to be \$185,294,061.

Legal Issues Presented by Proposal to Ban Alcohol

Under federal law, states are given the power to absolutely prohibit, or to limit and regulate, traffic in intoxicating liquors within their borders. The Alaska Supreme Court has recognized that the legislature has the power to impose either complete prohibition or any other conditions deemed necessary to protect the people of the state.

A ban on the possession of alcohol would not violate the protection given to individual privacy rights in the Alaska Constitution. The courts have repeatedly held that the right to privacy must yield when it interferes in a serious manner with the health, safety, rights and privileges of others or with the public welfare. "No one has an absolute right to do things in the privacy of his own home which will affect himself or others adversely," according to the Alaska Supreme Court.

The Court has found that there is an unmistakable correlation between alcohol consumptions and poor health, death, family violence, child abuse, and crime. Based on this correlation, the court has upheld the portion of the current local option law which allows communities to ban the specific reference to previous rulings of the Alaska Supreme Court that had expressly recognized "the deleterious effects of consuming alcoholic beverages" and that had expressly found alcohol to be more dangerous than either marijuana or cocaine.

Committee Findings

Finding Number One: The abusive use of alcohol interferes in a serious manner with the health, safety, rights, and privileges of Alaskans, and with the public welfare.

Finding Number Two: The public health and welfare will, in fact, suffer if the abusive use of alcohol is not controlled.

Finding Number Three: The prohibition of alcohol in rural Alaska villages is an effective tool for controlling the abusive use of alcohol.

Finding Number Four: Serious crimes, and a wide variety of other social problems, could be prevented if the possession of alcohol were prohibited.

Finding Number Five: There is a strong and unmistakable correlation between alcohol consumption and poor health, fetal damage, death, suicide, crime, family violence, family stability, and child abuse.

Finding Number Six: The level of dangerous alcohol-related behavior is directly tied to the level of alcohol consumption, and the level of alcohol consumption is directly tied to both the cost and availability of alcohol. A law prohibiting possession would limit the availability of alcohol, and would increase the cost of illicitly-available liquor.

Finding Number Seven: The dangers resulting from alcohol abuse are particularly acute in rural Alaska because the communities are small, isolated, without adequate law enforcement, without adequate health care facilities, and populated by people who are closely related and interdependent.

Finding Number Eight: The most damaging type of abusive alcohol-related behavior is that which affects innocent victims, such as children and elders. Children are particularly vulnerable, and as a result of parental alcohol abuse, suffer from a broad range of serious problems.

Finding Number Nine: The abusive use of alcohol perpetuates an escalating pattern of crime and violence from generation to generation.

Finding Number Ten: The most serious harm to the innocent victims of alcohol abuse takes place in private homes and behind closed doors. In communities that have chosen to ban the sale and importation of alcohol, and that have significant alcohol-related social problems, most drinking takes place in private homes.

Finding Number Eleven: The economic cost of alcohol abuse is high and cannot be afforded by either the state or rural communities.

Finding Number Twelve: A significant number of rural Alaska communities want, and would use, the authority to ban possession of alcohol. These communities have had a long-standing belief that alcohol should be completely banned, and this belief is based on a lengthy history of alcohol prohibition in rural villages.

Finding Number Thirteen: The policy decision to ban possession of alcohol is one that must be made by local governments. If local authorities are precluded from making such a decision, self-government efforts are undermined, respect for the state legal system is lost, and the public welfare is damaged.

Finding Number Fourteen: Although Alaska law permits communities to ban the sale and importation of alcoholic beverages, the present law is unenforceable because the possession of alcoholic beverages, including homebrew, is permitted.

Committee Conclusions

The severity of Alaska's problems with alcohol cannot be overemphasized, or exaggerated. Alcohol-induced tragedies have become a reality of daily life across the entire state. Every possible tool must be available for use in combatting the threat posed by alcohol.

Since Alaska communities are extremely diverse, the tools available to fight alcohol abuse must be equally varied. Approaches to controlling alcohol that are effective in urban areas are unlikely to work in the rural villages of the state. Similarly, alcohol control mechanisms that help stop the disintegration of homogenous and isolated villages, would be completely out of place in a complex urban community. Laws must be flexible enough to provide solutions to the problems faced in all communities.

Villagers repeatedly told the Committee that they want the power to completely prohibit alcohol. The broad range of problems that are associated with alcohol abuse, and which are set forth in the Committee Findings of Fact, legally and morally justify legislative action that grants villages that power. Therefore, the recommendation of the Committee is that the local option law be amended and that communities be granted the power to ban possession of alcohol

ality had not been before the court. *Frontier Saloon, Inc. v. ABC Bd.*, Sup. Ct. Op. No. 1062 (File No. 1984), 524 P.2d 657 (1974).

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Sec. 04.16.200. Unlicensed persons. (a) A person who violates AS 04.11.010 is, upon conviction, guilty of a class A misdemeanor.

(b) A person who violates AS 04.11.010 in an area where the results of a local option election have, under AS 04.11.490 — 04.11.500, prohibited the board from issuing, renewing, or transferring one or more types of licenses or permits under this title in the area is, upon conviction, guilty of a class C felony, if

(1) the person has previously been convicted of a violation of AS 04.11.010;

(2) the sale or offer for sale was made to a person under 21 years of age; or

(3) the quantity of alcoholic beverages sold or offered for sale is 12 liters or more of distilled spirits, 24 liters or more of wine, or 45 liters or more of malt beverages.

(c) It is an affirmative defense to a prosecution under (a) of this section that no profit was involved in the solicitation or receipt of an order for the delivery of an alcoholic beverage. However, the affirmative defense created under this subsection is not available in a prosecution of a person charged with selling or offering for sale alcoholic beverages to a person under 21 years of age.

(d) Upon conviction of a person of a violation under (a) of this section, the court shall impose a minimum sentence of imprisonment of not less than 10 consecutive days. The execution of the sentence may not be suspended and probation or parole may not be granted until the minimum imprisonment provided in this subsection has been served. Imposition of sentence may not be suspended except upon the condition that the defendant be imprisoned for no less than the minimum period provided in this subsection.

Title 3
Agriculture and Animals

Title 4
Alcoholic Beverages

Title 5
General Provisions

Title 6
Industries

POSITION PAPER
ON
HOUSE BILL NO. 64

"An Act relating to alcohol."

The Department of Health and Social Services strongly supports HB 64.

Penalties for violating AS 04.11.010 must at least nullify the profit motive and increase the personal as well as financial costs of selling alcohol in a local option area. Presently, the potential for large profits with limited punitive consequences of a misdemeanor offense may increase the chances of violating AS 16.200(b)

Requiring the first offense to be a felony may eliminate the transfer of large amounts of alcohol by individuals willing to suffer the consequences of a misdemeanor at least once. Non resident bootleggers especially have been active until they "spend" their misdemeanor. Nevertheless, regional residents participate but with a less organized methodology. This bill covers all individuals engaged in this illegal activity.

The relationship between alcohol and a multitude of health and social problems is clearly shown by research. The desire by rural people to live in an alcohol-free environment is clearly demonstrated by their vote. The documented testimony of the village elders on HB 700 clearly shows their understanding of this problem and the emotional commitment to dealing with alcohol abuse in their communities. The testimony repeatedly requests stronger action by the State; HB 64 is a step in that direction.

Recommended by: *Matthew C. Felix*
.....
Matthew C. Felix
Coordinator
Office of Alcoholism
and Drug Abuse

Date: *4/1/87*
.....

Approved by: *Myra M. Munson*
.....
Myra M. Munson
Commissioner
Department of Health
and Social Services

Date: *4/2/87*
.....

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

REPLY TO

CRIMINAL DIVISION CENTRAL OFFICE
POUCH KC
JUNEAU, ALASKA 99811
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OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 319
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

February 24, 1987

The Honorable Lyman Hoffman
Alaska State House
P.O. Box V
Juneau, Alaska 99811

Re: Average sentences in bootlegging cases

Dear Representative Hoffman:

At the request of your staff I have reviewed sentencing statistics in bootlegging prosecutions since 1984 to determine the average sentence imposed. The results of my review show that about 250 misdemeanor and 20 felony cases resulted in conviction and sentences during that time.

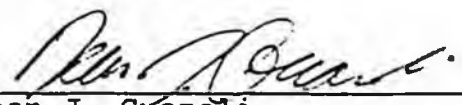
Of the misdemeanors, 90% of which were handled by our offices in Barrow, Bethel, Nome and Kotzebue, the average sentence was about 10 days in jail and a fine of about \$250. (The maximum sentence for a class A misdemeanor is one year in jail and a \$5,000 fine.)

Of the felony cases, most of which occurred in northern and western Alaska, the average sentence was about three months in jail and a fine of about \$500. (The maximum sentence for a class C felony is five years in jail and a \$50,000 fine; the "presumptive" sentence is two years for a second felony offender and three years for a third offender, but there is no required sentence for a first felony offender.)

If I can be of further assistance, please contact me.

Very truly yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
Dean J. Guaneli
Assistant Attorney General

DJG:so-78

A SEARCH FOR CONTROL:
THE EFFECT OF ALCOHOL ON
PUBLIC RIGHTS AND PRIVATE WRONGS



REPORT TO THE LEGISLATURE
JOINT SPECIAL COMMITTEE ON LOCAL OPTION LAWS

Representative John Binkley, Chairman
Senator John Sackett
Senator Vic Fischer
Senator Edna DeVries
Representative Katie Hurley
Representative John Sund

EXECUTIVE SUMMARY

March 1986

Prepared by
Laurie H. Otto
Otto & Constantino, Attorneys at Law
P. O. Box 9028
Bethel, Alaska 99559

A SEARCH FOR CONTROL:
THE EFFECT OF ALCOHOL ON
PUBLIC RIGHTS AND PRIVATE WRONGS

EXECUTIVE SUMMARY

Introduction

The numbers of social problems stemming from alcohol abuse in Alaska are staggering. The ravaging effects of alcohol are particularly acute in the isolated native communities of rural Alaska.

As a result of the enactment of the present local option law, villagers are precluded from banning alcohol. Many villagers want the power to ban alcohol in their communities because they believe that alcohol prohibition is a way to prevent serious social problems from occurring. Moreover, many villagers and expert analysts believe that existing bans on importing alcohol cannot be enforced unless possession of alcohol is also banned.

In response to requests made by the city councils of several communities in the Yukon-Kuskokwim Delta, the Fourteenth Legislature created the Joint Special Committee on Local Option Laws. The mandate of the Committee was to take testimony and collect data on the question of banning possession of alcoholic beverages within a community.

Eighteen hearings were held by the Committee during the months of November and December 1985. Hearing locations were limited by financial and time constraints to communities located in the western and northern areas of Alaska. These two areas were chosen because most of the communities which have taken advantage of the existing local option law are in western and northern Alaska.

Two significant facts were made clear to the Committee as a result of the hearing testimony. First, villagers want to have strong and healthy communities. However, their ability to turn this desire into reality is limited because they do not have meaningful input into, and thus control over, most of the governmental decisions that directly affect their lives. Second, the problems related to alcohol abuse in the villages cut across every aspect of community and family life.

After considering a vast body of evidence, the Committee found that the harm caused by alcohol abuse is so pervasive, serious and overwhelming that villages should have the authority to ban possession of alcohol. The Committee, therefore, proposed legislation that would add a new alternative to the present local option law and that would allow communities to implement a ban on alcohol. Violation of a ban on possession of alcohol would be punishable by a fine and violators would not receive a criminal record.

The proposed legislation authorizes the Alaska Supreme Court to set a bail forfeiture schedule for violations of the law. Because the statute allows for bail forfeiture, persons not contesting a citation for possessing alcohol could simply mail the appropriate amount of bail to the nearest court in lieu of a fine. Because many villagers have limited access to cash, community services performed under the direction of the city or village council could be substituted for cash bail. One hour of community service would be equal to \$5.00 in cash. Confiscation and forfeiture of liquor possessed in violation of the ban would be permitted.

History of Alcohol Regulation in Alaska

From the time of initial Russian contacts with native Alaskans, through the present-day local option legislation, alcohol regulation has been a consistent theme of law enforcement in rural Alaska. Until the last ten to twenty years, federal statutes, state statutes, village ordinances, and community sanctions have all been used as control mechanisms to prohibit rural Alaskans from using alcohol.

Most recently, the legislature adopted the existing local option law in 1980. Under the local option statute, communities that want to limit the importation or distribution of alcoholic beverages can hold elections and choose one of several options for regulating alcohol. The available options are:

1. Prohibition of the sale of alcohol;
2. Prohibition of the sale and importation of alcohol;
3. Restriction of the types of license available for selling alcohol (i.e., beer and wine only);
4. Restriction of alcohol sales to community-owned liquor stores.

Studies of Alaska's Local Option Law

In-depth studies have shown that communities are adopting a wide variety of control measures, including the local option law, in an attempt to prevent residents from abusing alcohol. The local option law is an indirect method of controlling alcohol-related behavior and is used because villages do not have direct control over either the use of alcohol by community

members or the resulting alcohol-related deviant behavior. Local option is considered to be a significant and indispensable tool because it helps prevent problems from occurring.

The most frequently used option allows for banning the sale and importation of alcohol. The use of the most restrictive option reflects the desire of many villages to severely limit access to alcohol. If villages could totally prohibit both the manufacture and possession of alcohol, many communities would opt for complete prohibition.

In the communities that have implemented the local option law, there has been a significant reduction in alcohol-related dangerous behavior. After adoption of the local option law, communities have less public drinking and public drunkenness, declines in the amount of alcohol-related interpersonal violence and accidents, and marked improvements in the physical appearance and scholastic performance of the children of drinking parents.

In addition to the direct benefits, other positive side effects of the local option law have been identified. These benefits resulted from the process used in making the decision to regulate alcohol. By implementing the law through an election, the burden of responsibility for the law shifted from the council and village leaders to the entire voting population. As a result, both lawmaking and enforcement have been made easier.

Villagers' concerns about alcohol are not based on moral judgments about drinking, or a desire to intrude on the power of individuals to make decisions about their personal health. The primary reason people want to ban alcohol is because it is intimately related to the deaths of village members. The deaths of young people are of particular concern because many villagers believe that the survival of their culture is completely dependent on the caliber of future community leaders, many of whom are dying in alcohol-related incidents.

The 1985 Local Option Hearings

Alcohol is involved in a wide range of social problems occurring in Alaska communities. Some of the problems described during the testimony are:

- * Virtually all of the violent crime is alcohol related, as is a majority of all types of criminal activity in Alaska.
- * A large number of deaths, including suicides, are alcohol related.
- * Children of alcohol abusers suffer problems with their schooling. They do not get enough sleep at night and do not get their homework done because of parents drinking and partying in the home.

- Most cases of child abuse and neglect involve alcohol abuse. Many children of drinkers suffer from malnourishment, and some have health problems caused by mothers drinking during pregnancy.
- Children of drinkers follow in their parents' footsteps by using and abusing alcohol.
- Elders become uneasy and fearful, and cannot eat or sleep, as a result of concern about the behavior of alcohol abusers. This fear and unease causes problems which require medical intervention.
- The use and abuse of alcohol is threatening the structure of the extended family. Children and grandchildren in some families are either excluded, or exclude themselves, from extended family activities in an effort to be protected from alcohol abusers.
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The overall level of alcohol consumption, regardless of beverage source, determines the prevalence of dangerous drinkers and alcohol-related problems, both nationally and within Alaska. Alaska has a high rate of annual consumption in comparison to both the rest of the world and the rest of the United States. Moreover, Alaska has historically shown a dramatic increase over the years in the average annual alcohol consumption rate.

In analyzing which factors most affect per capita consumption rates, a recent study pointed to three variables: the cost of alcohol, the hours in which alcohol is available for sale, and the number of outlets in which alcohol may be purchased. Thus, states with "strict, tight or conservative" liquor laws were found to have low per capita consumption rates, and states with "permissive, loose, or liberal" liquor laws had high per capita consumption.

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the population. The numbers of homicides, suicides, and accidental deaths are increased as a result of alcohol. Native Alaskans have a particularly high alcohol-related suicide rate. The leading cause of death in Alaska is "accidents" and the rate of accidental death is over twice the national average. A majority of Alaska's accidental deaths are alcohol-related.

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CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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(3) the quantity of alcoholic beverages sold or offered for sale is 12 liters or more of distilled spirits, 24 liters or more of wine, or 45 liters or more of malt beverages.

(c) It is an affirmative defense to a prosecution under (a) of this section that no profit was involved in the solicitation or receipt of an order for the delivery of an alcoholic beverage. However, the affirmative defense created under this subsection is not available in a prosecution of a person charged with selling or offering for sale alcoholic beverages to a person under 21 years of age.

(d) Upon conviction of a person of a violation under (a) of this section, the court shall impose a minimum sentence of imprisonment of not less than 10 consecutive days. The execution of the sentence may not be suspended and probation or parole may not be granted until the minimum imprisonment provided in this subsection has been served. Imposition of sentence may not be suspended except upon the condition that the defendant be imprisoned for no less than the minimum period provided in this subsection.

Title 3
Agriculture and Animals

Title 4
Alcoholic Beverages

Title 1
General Provisions

Title 2
Alcoholics

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

REPLY TO

CRIMINAL DIVISION CENTRAL OFFICE
POUCH KC
JUNEAU, ALASKA 99811
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

February 24, 1987

The Honorable Lyman Hoffman
Alaska State House
P.O. Box V
Juneau, Alaska 99811

Re: Average sentences in bootlegging cases

Dear Representative Hoffman:

At the request of your staff I have reviewed sentencing statistics in bootlegging prosecutions since 1984 to determine the average sentence imposed. The results of my review show that about 250 misdemeanor and 20 felony cases resulted in conviction and sentences during that time.


Of the misdemeanors, 90% of which were handled by our offices in Barrow, Bethel, Nome and Kotzebue, the average sentence was about 10 days in jail and a fine of about \$250. (The maximum sentence for a class A misdemeanor is one year in jail and a \$5,000 fine.)

Of the felony cases, most of which occurred in northern and western Alaska, the average sentence was about three months in jail and a fine of about \$500. (The maximum sentence for a class C felony is five years in jail and a \$50,000 fine; the "presumptive" sentence is two years for a second felony offender and three years for a third offender, but there is no required sentence for a first felony offender.)

If I can be of further assistance, please contact me.

Very truly yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
Dean J. Guaneli
Assistant Attorney General

DJG:so-78

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CSHB 64 (JUD)

Publish Date: _____

REQUEST

Revision Date: _____

Title: "An Act relating to alcohol."

Agency Affected: Public Safety

BRU: Alaska State Troopers

Sponsor: Rep. Hoffman

Requestor: House Finance

Components: Detachments & CIB

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan *G.C.A.*

Phone: 269-5691

Division: Alaska State Troopers

Date: 4/17/87

Approved by Commissioner: Arthur A. English *A. English*

Date: 4/23/87

Agency: Public Safety

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

RECEIVED

APR 27 1987

page ____ of ____

LEGISLATIVE FINANCE

JMC
4/23/87

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 64(JUL)Publish Date: HOUSE 2/13/87

Revision Date: _____

Title: "An Act relating to alcohol."Agency Affected: Department of LawBRU: ProsecutionSponsor: Repr. HoffmanComponents: AllRequestor: Repr. Hoffman

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, DirectorPhone: 465-3672Division: Administrative ServicesDate: Feb. 4, 1987Approved by Commissioner: Richard I. Pegues/FOR/ Grace Berg Schaible, Atty. Gen.Date: Feb. 4, 1987Agency: Department of Law

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 64

2/13/87

This bill amends AS 04.16.200(b) by reclassifying the illegal sale of alcoholic beverages from a class A misdemeanor to a class C felony.

A total of 45 such violations were referred to the department last year for prosecution. About one-half of those reported violations occurred in the Bethel service area.

Although this change will require some additional work on our part, preparing these cases for grand jury, this addition does not warrant fiscal note costs because of the small number of cases involved. Our estimate assumes that the same enforcement pattern will continue. However, if police agencies substantially increase their enforcement activities, because of the increased penalties available for felons, it may be necessary to request increased appropriation at a later time. In any event, the department will not be able to respond to a marked increase in this area at this time due to the serious budget shortfalls it now faces.

STATE ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

cc

REQUEST: _____

Bill Version: HB 64
Publish Date: HOUSE 2/13/87

Revision Date: _____
Title: "An act relating to alcohol"

Agency Affected: Department of Corrections
BRU: _____

Sponsor: Representative Hoffman
Requestor: Representative Hoffman

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This bill is expected to have only a minor impact on inmate populations.

Prepared by: Susie Riley, Budget Analyst
Division: Administrative Services

Phone: 465-3376
Date: 01/26/87

Approved by Commissioner: William W. Ludwig
Agency: Department of Corrections

Date: 01/26/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST _____

Bill Version: HB 64
Publish Date: HOUSE 2/13/87

Revision Date: _____
Title: An Act relating to Alcohol

Agency Affected: ABC Board
BRU: ABC

Sponsor: Hoffman
Requestor: _____

Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

Prepared By: Patrick L. Sharrock *For*
Division: ABC Board

Phone: 277-8638
Date: 2/10/87

Approved by Commissioner: Hugh Malone *RW for*
Agency: Department of Revenue

Date: 2/10/87

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

STATE OF ALASKA . .

LYMAN F. HOFFMAN
REPRESENTATIVE

P O BOX V
JUNEAU, ALASKA 99811
(907) 465-4530, 465-4453

HOUSE OF REPRESENTATIVES

DISTRICT 25

ANIACHAK
AKIAK
ATMAUTLUAK
BETHEL
CHEFORNAK
EFF
GOODNEWS BAY
KASIGLUK
KIPNUK
KONGIGANAK
KWETHLUK
KWIGILLINGOK
MEKORYUK
NAPAKIAK
NAPASKIAK
NEWTOK
NIGHTMUTE
NUNAPITCHUK
OSCARVILLE
PLATINUM
QUINHAGAK
TOKSOOK BAY
TUNTUTLIAK
TUNUNAK

MEMORANDUM

TO: Representative Al Adams, Chairman House Finance

FROM: Representative Lyman Hoffman *Lyman*

DATE: March 25, 1987

SUBJ: HB 64 "An Act increasing the penalty for certain unlicensed manufacture, sale, possession, or barter of alcoholic beverages."

Penalties for bootlegging in communities which have adopted a local option law would be increased by HB 64. The bill would raise the penalty for first time offenders to a Class C Felony. Under current law the charge is a Class A Misdemeanor unless the bootlegger has been previously convicted (sale to a person under 19 years of age, or has sold over a designated volume). Bootlegging in communities where there is a restriction on alcohol is a serious crime. Communities with local option laws realize how serious alcohol problems are and they know how devastating alcohol is to their community. Community police and public safety officers work very hard and at great expense, to apprehend and convict bootleggers---on misdemeanor charges. The end result is the education of first time offenders, the bootleggers learn how to improve their system and how to not get caught. In District 25, communities feel strongly that the stiffer penalty will be a greater deterrent to bootleggers.

216 4-3-87
Rec'd 4-6-87

POSITION PAPER
ON
HOUSE BILL NO. 64

POSITION PAPER/Department of Health & Social Services

"An Act relating to alcohol."

The Department of Health and Social Services strongly supports HB 64.

Penalties for violating AS 04.11.010 must at least nullify the profit motive and increase the personal as well as financial costs of selling alcohol in a local option area. Presently, the potential for large profits with limited punitive consequences of a misdemeanor offense may increase the chances of violating AS 16.200(b)

Requiring the first offense to be a felony may eliminate the transfer of large amounts of alcohol by individuals willing to suffer the consequences of a misdemeanor at least once. Non resident bootleggers especially have been active until they "spend" their misdemeanor. Nevertheless, regional residents participate but with a less organized methodology. This bill covers all individuals engaged in this illegal activity.

The relationship between alcohol and a multitude of health and social problems is clearly shown by research. The desire by rural people to live in an alcohol-free environment is clearly demonstrated by their vote. The documented testimony of the village elders on HB 700 clearly shows their understanding of this problem and the emotional commitment to dealing with alcohol abuse in their communities. The testimony repeatedly requests stronger action by the State; HB 64 is a step in that direction.

Recommended by:

Matthew C. Felix
.....
Matthew C. Felix
Coordinator
Office of Alcoholism
and Drug Abuse

Date:

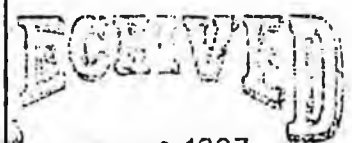
4/1/87
.....

Approved by:

Myra M. Munson
.....
Myra M. Munson
Commissioner
Department of Health
and Social Services

Date:

4/2/87
.....



APR 06 1987

LEGISLATIVE FINANCE

Introduced: 1/22/87
Referred: State Affairs,
Judiciary and Finance

1 IN THE HOUSE

BY HOFFMAN

2

HOUSE BILL NO. 64

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to alcohol."

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

8 * Section 1. AS 04.16.200(b) is repealed and reenacted to read:

9 (b) A person who violates AS 04.11.010 in an area where the
10 results of a local option election have, under AS 04.11.490 - 04.11.-
11 500, prohibited the board from issuing, renewing, or transferring one
12 or more types of licenses or permits under this title in the area is,
13 upon conviction, guilty of a class C felony.