

ALASKA LEGISLATURE

2234

HOUSE and SENATE FINANCE COMMITTEE FILES,

2001 - 2002

HB 128-APPROVAL FOR EMPLOYMENT OF MINORS
SENATE FINANCE COMMITTEE

SIGN - IN

NAME: REBECCA NAUCE GAMBRE Subject/Bill No: HB128
Co./Dept./Title: DEPT OF LABOR Phone: 465-2700
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

HB 128-APPROVAL FOR EMPLOYMENT OF MINORS
SENATE FINANCE COMMITTEE

SIGN - IN

NAME: Rebecca Vance Gentry Subject/Bill No: HB 128
Co./Dept./Title: Dept. of Labor Phone: 465-2700
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

HB

131

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

MAY 12 2002

DATE: 4/9/02

FURTHER:

DATE TURNED
IN TO OFFICE:

12 May 2002

Finance Committee considered

HOUSE BILL NO. 131

HB 131 FOREST RESOURCES & PRACTICES STANDARDS

"An Act relating to standards for forest resources and practices; and providing for an effective date."

and recommends:

be replaced with 5 CS CS HB 131 (FIN)

adopt previous CS CS forthcoming

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:
 same title
 new title
House Bill:
 same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DNR	1/31/02		✓	#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>Linda Green</i>	✓			
<i>Lila B...</i>	✓			
<i>Tom Huff</i>	✓			
<i>W. O...</i>	✓			
<i>...</i>	✓			
<i>Loren D. Simon</i>	✓			
COCHAIR:				
COCHAIR: <i>Pete Kelly</i>	✓			

MAY 1 2 2002

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 131
 (H) Publish Date: 2/8/02
 Dept. Affected: Natural Resources
 BRU: Forestry Mgt & Develop
 Component: Forestry Mgt & Develop
 Component Number: 435

Revision Date/Time (Note if correction): 01/30/02
 Title: Forest Resources and Practices Standards
 Sponsor: Rules by Request of Governor
 Requester: (H) RES

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: none
 Check this box (X) if funding for this bill is included in the Governor's FY2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Based on current levels of harvesting on non-state land, and current funding levels, DNR will not need additional operating funds to implement the changes in this bill. If the amount of harvesting on non-state land increases substantially, or if Forest Resources Practices Act (FRPA) funding, including federal Section 319 funding, declines significantly, additional funds would be needed for field inspections of riparian buffers. On state land, the revised riparian standards can be incorporated into the existing sale design process.

Prepared by: Jeff Jahnke, Director Phone 269-8474
 Division: Forestry Date/Time 30-Jan-02
 Approved by: Pat Pourchot Date 30-Jan-02
 Agency: Natural Resources

1 Mt. Douglas and Cape Kumliun that is east of the crest of the Aleutian Range, plus all
2 islands in the Gulf of Alaska north of 56° 23" North latitude;

3 (28) "Region II" means all land in the state south of the Nutzotin and
4 Mentasta Mountains, south of the Alaska Range, and east of the Aleutian Range,
5 except for the area within Region I and peninsular and island land south of Cape
6 Kumliun;

7 (29) "Region III" means all land in the state outside of Regions I and
8 II;

9 (30) "Type III-A water body" means in Region III, a

10 (A) non-glacial high value resident fish water body greater than
11 three feet in width at the ordinary high water mark;

12 (B) non-glacial anadromous water body; or

13 (C) backwater slough;

14 (31) "Type III-B water body" means in Region III, a glacial high value
15 resident fish water body or a glacial anadromous water body; "Type III-B water body"
16 does not include glacial backwater sloughs;

17 (32) "Type III-C water body" means in Region III, a non-glacial high
18 value resident fish water body that is less than or equal to three feet in width at the
19 ordinary high water mark (OHWM) and that does not contain anadromous fish.

20 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 **TRANSITION: REGULATIONS.** (a) To the extent that the regulations are not
23 inconsistent with the language and purposes of this Act, regulations relating to forest
24 resources and practices adopted by the Department of Natural Resources under AS 41.17 and
25 in effect before the effective date of secs. 1 - 10 of this Act remain in effect and may be
26 administered and enforced by the Department of Natural Resources.

27 (b) Notwithstanding sec. 13 of this Act, the Department of Natural Resources may
28 proceed to adopt regulations to implement this Act. The regulations take effect under
29 AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory
30 change.

31 * **Sec. 12.** Section 11(b) of this Act takes effect immediately under AS 01.10.070(c).

Amend #1
adopted
5/12/02

22-GH1029VA

1 * Sec. 13. Except as provided in sec. 12 of this Act, this Act takes effect September 1,
2 ~~2001~~ 2002

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Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 12 May 2002 TIME: 9:30 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please
SCS CS HB 131 (FIN) 22-GH1029 \A
Plus 1 amendment:
Page 8, line 2
delete: 2001
insert: 2002

*Thx
Mindy*



Briefing:

HB 131 - Region III Forest Practices amendments

December 2001

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FORESTRY

Overview. HB 131/SB 98 amends the Alaska Forest Resources and Practices Act (FRPA) for Interior Alaska (Region III). The bill sets standards for forestry activities in riparian areas. The bill ensures that Region III standards

- protect fish habitat and water quality,
- support healthy timber and fishing industries, and
- incorporate the best available science.

The bill is the product of two years of work by a broad array of interests. There is broad support for the consensus in the bill.

Applicability. In Region III, the FRPA applies to commercial forestry operations on all land ownerships where the operation borders surface waters or a riparian area, or where the operation is more than 40 acres and the landowner owns more than 160 acres in total.

Background. This bill is based on work by an interdisciplinary Science & Technical Committee and an Implementation Group that represented affected interests. The Science & Technical Committee reviewed relevant research and published an annotated bibliography of the results, drafted a stream classification system, and recommended changes to current riparian management standards. Committee members had expertise in fisheries, forestry, hydrology, and soils. Members included scientists and experienced field staff from the resource agencies, the University of Alaska, the U.S. Geological Survey, and Alaska Biological Research, Inc.

The Implementation Group discussed how to implement the recommendations of the Science and Technical Committee in a manner that works on the ground, and drafted language for changes to the FRPA and regulations. The group included representatives from the departments of Natural Resources, Fish and Game, and Environmental Conservation; private forest owners, the timber and fishing industries, and environmental groups.

The Board of Forestry reviewed and concurred with the recommendations from the Implementation Group. The recommendations were incorporated into draft legislation, which the Board endorsed. The legislation was introduced as HB 131/SB 98.

Summary of key provisions. The bill defines three types of water bodies, and sets riparian standards for each type as follows:

- On large non-glacial waters and glacial backwater sloughs (Type III-A): a no-cut buffer of 66' on private land, and 100' on public land. Harvesting can occur in the landward 33' of the buffer on public land with the concurrence of ADF&G.
- On other glacial waters (Type III-B): a 66' riparian area on private land and a 100' riparian area on public land. The half closest to the waterbody is a no-cut buffer. In the landward half, up to 50% of the large white spruce may be harvested.
- On small non-glacial waters (Type III-C, <3' wide): a 100' special management area in which harvesting may occur, but must be consistent with maintenance of important habitat.

ADF&G and DNR will do more research on this stream type to determine the extent of occurrence within commercial forests and to assess needed management measures.

The bill also

- Changes the statewide nomenclature for waterbody classes, to prevent confusion between waterbody types in different regions.
- Moves definitions of regional boundaries from the regulations to the Act.
- Makes a minor change to the regional boundary on the Kenai Peninsula to better match the difference between forest types. Most forest land in the affected area is in federal ownership, so there will be little impact on landowners.

For more information, contact:

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DNR Division of Forestry
550 W. 7th Avenue
Anchorage, AK 99501
907-269-8474

Chris Maisch
DNR Division of Forestry
3700 Airport Way
Fairbanks, AK 99709-4699
907-451-2666

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

JOHN KNOWLES, GOVERNOR

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FAX: (907) 465-3885

550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
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SECTIONAL ANALYSIS HB 131

AN ACT RELATING TO STANDARDS FOR FOREST RESOURCES AND PRACTICES

Section 1 of the bill would amend the statute that provides for variations from the riparian protection standards to correct a reference to water body type necessitated by other changes made by the bill.

Section 2 of the bill would amend AS41.17.116 to delineate the standards for private land in Interior Alaska (designated as "Region III" under the bill), and would change the references to water bodies in the standards for Southeast Alaska and other coastal areas (designated as "Region I" under the bill) to match the new nomenclature. The proposed new standards for Interior Alaska provide that the harvest of timber may not be undertaken within 66 feet of a Type III-A water body, and may not be undertaken within 33 feet of a Type III-B water body. Limited harvest of white spruce may occur between 33 feet and 66 feet from a Type III-B water body. Along a Type III-C water body, harvest within 100 feet must protect fish habitat and surface water quality. Under the bill, the commissioner of natural resources would continue to set riparian standard for private land in other areas of the state (designated as "Region II" under the bill).

Section 3 of the bill would change the current riparian protection standards for state land by modifying the existing 100 foot "no-harvest" buffers to provide that, along Type III-A water bodies, harvest may occur from 66 to 100 feet from the water body where consistent with the maintenance of important fish and wildlife habitat; along a Type III-B water body, limited harvest of white spruce may occur between 50 and 100 feet of the water body; and along a Type III-C water body, harvest within the riparian area may occur when consistent with the maintenance of important fish and wildlife habitat.

Section 4 of the bill would provide that, in Region III, the standards for other public land are to be the same as those on state land.

Section 5 of the bill would change the current definition of "riparian area" to mean the areas that are subject to the riparian standards set in or under AS 41.17.116.

Sections 6-9 of the bill would change existing definitions to conform to the new nomenclature used to describe water bodies.

Section 10 of the bill would add 11 new definitions to the Forest Resources and Practices Act. The term "backwater slough" is defined based mostly on flow characteristics. The terms "glacial water body" and "non-glacial water body" are defined based on their receipt of significant surface flow from a glacier under normal conditions. The term "diameter at breast height" is defined in

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

accordance with ordinary usage. The term "ordinary high water mark" is, likewise, defined in the way that hydrologists and foresters use that term. Then, the boundaries of Regions II, III, and I are defined in the statutes. These boundaries previously were defined in regulations of the Department of Natural Resources. The new boundary descriptions are simpler. They change the boundary between Region I and II on the Kenai Peninsula and along Turnagain Arm to better match the border between the coastal forest and boreal forest. Finally, Type III-A, III_B, and III_C water bodies are defined for the Interior region based on whether they provide habitat for anadromous fish and other characteristics.

Section 11 of the bill provides that existing, non-conflicting, regulations may remain in place and be implemented, and provides for the timely adoption of regulations needed to implement the changes made by the bill.

Section 12 of the bill provides an immediate effective date for the latter provision.

Section 13 of the bill provides an effective date for the remainder of the bill.

TABLE 2. Existing and Riparian management standards and changes proposed in HB 131 for Region III

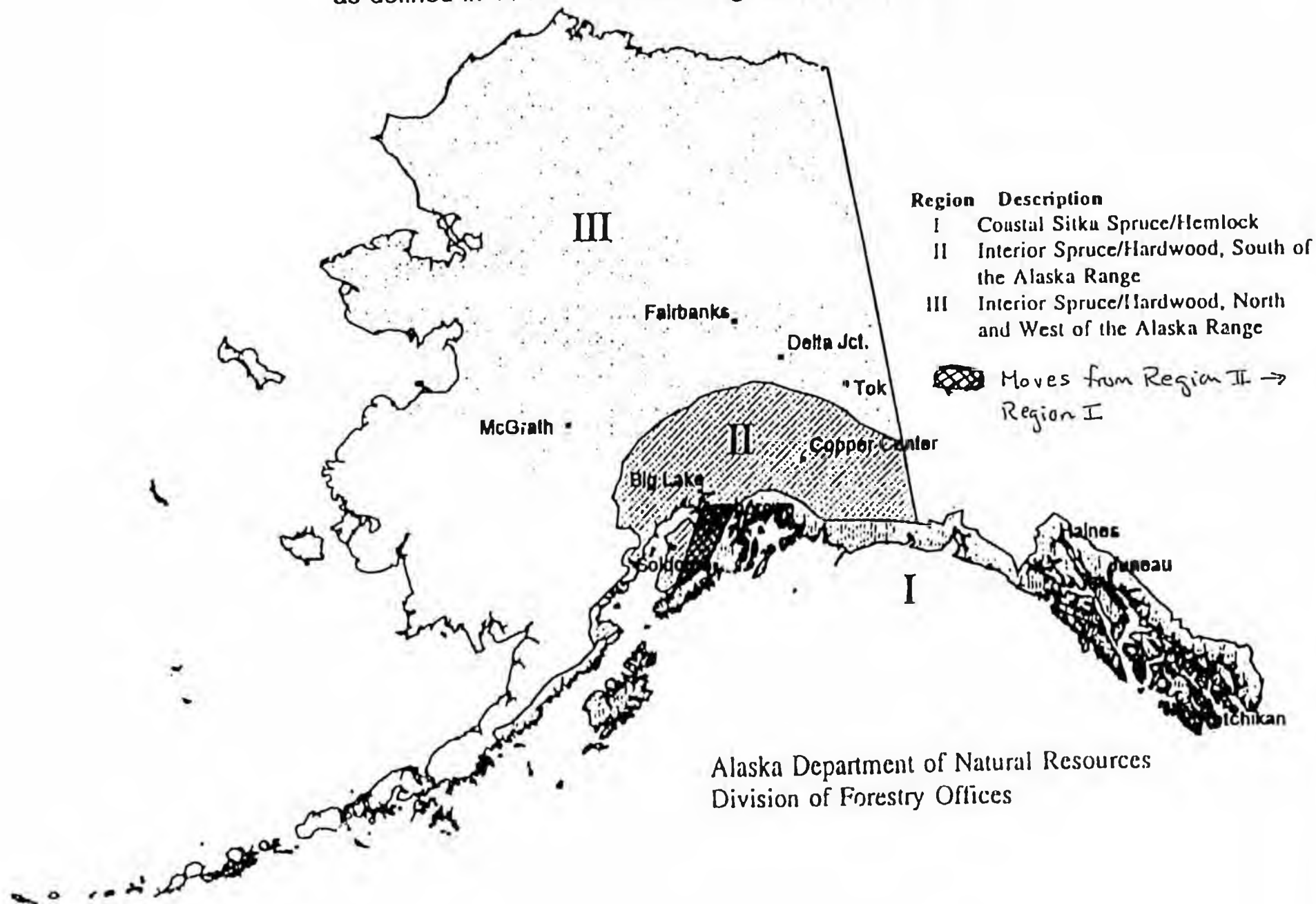
Land Owner	Buffer
Public	<p>Existing standard: No harvest of timber within 100' immediately adjacent to an anadromous or high value resident fish water body unless the division determines that adequate protection remains for the fish habitat. AS 41.17.118(a)(1), AS 41.17.119(2)</p> <p>HB 131: Type IiiA (non-glacial waters and glacial backwater sloughs) – no harvest within 100', except that harvesting may occur between 66' and 100' with the agreement of ADF&G. Type IIIB (other glacial waters) – no harvest within 50'; up to half the large white spruce may be harvested between 50' and 100'. Type IIIC (small high value resident fish waters) -- harvest of timber within 100 feet of the water body must be consistent with the maintenance of important fish and wildlife habitat</p>
Private	<p>Existing standard: A timber harvest operation within 100 feet from the shore or bank of an anadromous or high-value resident fish water body must be located and designed primarily to protect fish habitat and surface water quality from significant adverse effects. 11 AAC 95.260</p> <p>HB 131: Type IIIA (non-glacial waters and glacial backwater sloughs) – no harvesting within 66' Type IIIB (other glacial waters) – no harvest within 33'; up to half of large white spruce can be harvested between 33' and 66' Type IIIC (small high value resident fish streams) -- harvest of timber within 100 feet of the water body must be located and designed primarily to protect fish habitat and surface water quality</p>

Other changes:

- Stream classes in Region I (Coastal Alaska) are changed from "A, B,C, D" to :I-A, I-B, I-C, and I-D" to avoid confusion between regions.
- The definitions of the regional boundaries are moved from the regulations to the statute to make it easier to reference the regions in the statute.
- The boundary between Region I (Coastal Alaska) and Region II (the boreal forest south of the Alaska Range) on the Kenai Peninsula and Turnagain Arm is moved to better match the boundary between forest types in this area. The affected area is mainly federal land.

Alaska Forest Resources & Practices Regions

as defined in 11 AAC 95.800 Designation of Regions



Alaska Department of Natural Resources
Division of Forestry Offices

TONY KNOWLES
GOVERNOR

HB131

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 15, 2001

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

Alaska is recognized as a world leader in protecting the habitat and spawning capacity of anadromous and resident fish in our streams and rivers. Our Forest Resources and Practices Act establishes high standards of protection while promoting timber development.

Two years ago, the Legislature amended Alaska's Forest Resources and Practices Act (FRPA) as it applies to the Southeast region of our state. That legislation reflected consensus between the timber and fishing industries and state land management agencies. This bill I transmit today continues to improve the FRPA and its ability to protect fish habitat and water quality in a manner that supports both the timber and fishing industries. This current phase of the FRPA revision addresses management standards in interior Alaska (Region III) and, once again, represents a consensus of interested constituents.

This bill is the result of hard work by many people over the last two years. It is founded on the best science available, including an extensive review of existing research, and recommendations of an interdisciplinary science and technical committee. The committee included experienced field staff from the state resource agencies, and University of Alaska, private, and federal scientists. Their recommendations were passed on to a group that included representatives of the timber and fishing industries, Native corporations, and environmental groups. Together, they crafted language to implement the scientists' recommendations in a practical manner that will work in the field. Finally, the Board of Forestry unanimously endorsed this legislation. The result of this public effort is an amended FRPA that has support from a broad array of interest groups.

The Honorable Brian Porter
February 15, 2001
Page 2


The current interim standards for Region III were adopted in 1990. Under these standards, harvesting can occur up to the bank of anadromous waters on both public and private land under certain conditions. Under this bill, all anadromous and high-value resident fish waters are classified and riparian standards are established for each water body type. The requirements are tailored to the characteristics and fish habitat needs of each stream type. On most anadromous and high-value resident fish waters, a no-harvest buffer will be required. However, along glacial rivers where some of the most valuable timber occurs, the standards allow harvest of up to half the large white spruce in the landward half of the buffer. This lets landowners capture some of the economic value within the riparian areas while keeping enough large trees to provide appropriate habitat for fish and wildlife.

This bill has substantive changes only for riparian management standards in Region III. Other revisions are technical in nature, such as changes to the statewide nomenclature for waterbody classes to prevent confusion between waterbody types in different regions. The bill also moves definitions of regional boundaries from the regulations to the Act, and makes a minor change to the regional boundary on the Kenai Peninsula to better match the difference between forest types. Most forest land in the affected area is in federal ownership, so the change will have little impact on private landowners.

This bill helps ensure that the FRPA continues to be certified for compliance with federal Clean Water Act and coastal zone management requirements. This means that the Act keeps providing "one-stop shopping" for the timber industry with respect to state, federal and coastal management standards.

I look forward to working with you on the passage and implementation of this bill.

Sincerely,


Tony Knowles
Governor

HB131

*This bill was
not heard
on 4/17/01*

HB 131-FOREST RESOURCES & PRACTICES STANDARDS
SENATE FINANCE COMMITTEE

SIGN-IN

NAME: Jeff Johnson Subject/Bill No: HB 131
Co./Dept./Title: AK DNR Phone: 269 8474
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: Marty Freeman Subject/Bill No: HB 131
Co./Dept./Title: DNR - Forestry Phone: 269-8473
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SENATE COMMITTEE REPORT

DATE: 2/27/02

FURTHER: Finance

DATE TURNED IN TO OFFICE: 4-8-02

Resources Committee considered HOUSE BILL NO. 131

HB 131 FOREST RESOURCES & PRACTICES STANDARDS

"An Act relating to standards for forest resources and practices; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:**
 same title
 new title
- House Bill:**
 same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DNR	1-30-02		✓	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Rich Halford</i>	✓			
<i>Ben Stewart</i>	✓			
<i>Conrad Kell</i>	✓			
<i>R. V. ...</i>			✓	
CHAIR: <i>[Signature]</i>	✓			

HB

132

HFIN

FILE

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: 1
 Bill Version: CSHB 132(L&C)
 (H) Publish Date: 3/26/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title: Liquor License Applicant Check/Training BRU: Alcoholic Beverage Control Board
 Component: Alcoholic Beverage Control Board
 Sponsor: House Judiciary Committee by request
 Requester: House Labor and Commerce Committee Component Number: 100

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This legislation would reduce by half the quantity of alcoholic beverages required to be in a person's possession in a local-option area to create the legal presumption (for criminal prosecution) that the beverages are intended for sale. It also would reduce by half the quantity of alcoholic beverages that could be shipped each month to a purchaser in an area that imposes restrictions on alcohol sales. Section 3 would require more extensive ID checks and record keeping by package liquor stores near a local-option community that has restricted sales of alcoholic beverages. Section 8 would require the state Alcoholic Beverage Control Board to review an approved alcohol server education course every two years instead of three years in existing statute. None of these provisions are expected to have a fiscal effect on the state Alcoholic Beverage Control Board.
 Section 4 would require liquor license applicants (including license transfer applicants) to submit to the ABC Board a set of fingerprints of the applicant(s) and the fees required by the state Department of Public Safety for a national criminal history record check of the applicant's fingerprints. Because license applicants would pay the fee for the record check, this legislation is not expected to have a fiscal impact on the ABC Board.

Prepared by: Doug Griffin, Director Phone 269-0351
 Division: Alcoholic Beverage Control Board Date/Time March 9, 2001, 3 p.m.
 Approved by: Larry Persily, Deputy Commissioner Date 03/10/2001
 Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

BILL NO. HB 132

ANALYSIS CONTINUATION

Reducing the amount of alcohol sold or transported that qualifies as a C felony will increase felony prosecutions, which are more complicated and time consuming than misdemeanors, often involving jury trials. We have no way to estimate what the increase in workload might be; however, any increase in costs in state FY02 will be covered by part of a recent federal appropriation to Alaska for law enforcement and prosecution relating to alcohol offenses.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 132(L&C)
 (H) Publish Date: 3/26/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to the possession or distribution BRU Criminal Division
of alcohol in a local option area; . . ." Component Third Judicial District: Anchorage
 Sponsor House Judiciary Committee by Request
 Requester House Labor and Commerce Committee Component No. 2261

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1007 Interagency Receipts						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 132 strengthens enforcement laws for importation of alcoholic beverages in municipalities and villages that have elected to restrict the sale, importation, or possession of alcohol in their communities. First, it reduces by half the amount of alcohol that a person may possess in a restricted community for the application of the presumption that the person possesses the alcohol with intent to sell it. The bill also reduces by half the amount of alcohol a package store may send in a calendar month to a person in a restricted community, and changes the penalty for the illegal sale or transportation of alcohol to a restricted community by reducing by half the amount of alcohol illegally sent to the community that qualifies for a C felony. Package stores within 50 air miles of a restricted community would also be required to keep records of each sale in excess of the amount of alcohol that may be sent to an individual in a restricted community in a calendar month. These records would be available to law enforcement officers.

Prepared by: Joan M. Kasson Phone 465-5370
 Division Attorney General's Office Date/Time 3/15/01 2:56 PM
 Approved by: Kathryn DeJhhetea for Bruce M. Botelho, Attorney General Date 3/15/01
 Agency Department of Law

For distribution information, call the Governor's Legislative Office

22nd Legislature
FISCAL NOTE HB 132
Page 2

The Dept. of Corrections will certainly feel the effect of these increased efforts. Although we may be able to absorb this amount in our facilities, we do not have the workforce in the field to absorb these additional cases. We are requesting an additional Probation Officer and Criminal Justice Technician to write the Pre-sentence investigations required in felony cases as well as to manage the increased caseload for supervision purposes. The Department of Law anticipates they will need their staff in Anchorage. We will assume the same thing. If it turns out that the workload is in the rural areas, we would transfer the PCN to the appropriate area.

The new staff will need a one-time computer equipment purchase. Additionally, they will need funding for a vehicle, supplies and travel.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 132(L&C)
(H) Publish Date: 3/26/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title: An Act relating to the possession or distribution BRU: 271
of alcohol in a local option area; requiring liquor license... Component: Community Corrections
Sponsor: House Judiciary Committee
Requester: Labor and Commerce Committee Component Number: 1382

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	96.8	96.8	96.8	96.8	96.8	96.8
Travel	2.0	2.0	2.0	2.0	2.0	2.0
Contractual	7.0	7.0	7.0	7.0	7.0	7.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	6.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	112.8	106.8	106.8	106.8	106.8	106.8

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	112.8	106.8	106.8	106.8	106.8	106.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	112.8	106.8	106.8	106.8	106.8	106.8

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will improve interdiction in bootlegging operations in the State. It reduces by half the amount of alcohol that a person may possess in a restricted community for the application of the presumption of intent to sell. It also reduces by half the amount of alcohol a package store is allowed to send in a calendar month to a person in a restricted community, and changes the penalty for the illegal sale or transportation of alcohol to a restricted community by reducing by half the amount of alcohol illegally sent to a community that qualifies for a C felony. Package stores within 50 air miles of a restricted community would also be required to keep records of each sale in excess of the amount of alcohol that may be sent to an individual in a restricted community in a calendar month and make the records available to law enforcement.

The Dept. of Law anticipates these changes along with the increased efforts of State Troopers and the federal authorities will in also increase the number of felony prosecutions for these offenses. They have anticipated the need for an additional prosecutor as well as a paralegal to pick up the increased workload.

Prepared by: Candace Brower Phone 465-4652
Division: Commissioner's Office Date/Time 3/15/01 12:15 PM
Approved by: Margaret Pugh Date 3/15/01
Agency: Dept. of Corrections

For distribution information, call the Governor's Legislative Office

ANALYSIS: HB 132 (continued)

This bill is part of an increased effort at enforcement of anti-bootlegging and drug laws in rural Alaska. The Department of Public Safety (DPS) has recently received a \$1.4 million Federal appropriation for these enforcement efforts. DPS will make an interagency transfer of some of these funds to the Department of Law (DOL) to hire additional prosecutors. The prosecutors will be based in Anchorage and in Bethel. A paralegal will be added in Bethel. Legal secretaries will be added in Bethel and Anchorage.

Investigating and prosecuting bootlegging and drug delivery offenses usually involves undercover operations. Obviously, DPS and DOL will not be revealing their plans, but it can be expected that there will be extensive undercover operations. DPS and DOL will also be investigating shipments originating in Anchorage. Shipment by the U.S. Mail will be targeted in cooperation with the U.S. Postal Service.

The Public Defender Agency will need additional funding to respond to these increased enforcement efforts. Most, if not all, of the cases that will result from this effort will be prosecuted under state bootlegging and drug distribution statutes. Without adequate Public Defender Agency staff, cases coming out of this increased interdiction effort may encounter significant delays and difficulties in their process through the courts.

Based on our experience in responding to undercover operations in rural Alaska, we know that we can expect 15-25 new additional felony bootlegging and drug delivery cases to be filed per operation. (An example of an undercover operation of the type we expect to respond to occurred in Kotzebue in 1995. There were about 25 cases filed at the conclusion of the operation. See e.g. State v. Viverious, No. 2KB-95-312 CR (Alaska Sup. Sept. 8, 1995). For purposes of this fiscal note, we will estimate that there will be 20 cases per operation.

These cases will not be filed immediately. For obvious reasons, the standard practice is to complete the whole undercover operation and then file all the court cases at one time. However, we expect that the enforcement efforts in Anchorage will start immediately.

Obviously, we can only guess at the number of undercover operations that will be initiated. But given the amount of Federal funds that are available, the most conservative estimate we can arrive at is that at least seven operations will be completed by the end of FY 2002. This will result in an additional 140 cases being filed. The Public Defender Agency is usually appointed in 90% of rural cases. 90% of the cases is 126 new cases.

As far as the Anchorage enforcement operations are concerned, we estimate that at least 25 new additional felony cases will be filed in FY 2002. We predict we will be appointed in 80% of these cases, resulting in 20 new cases.

Therefore, the total of new additional cases will be about 146. According to national standards, a public defender attorney should be assigned to no more than 150 new felony cases per year. Therefore, we are requesting one additional attorney to be based in Bethel. Because we do not expect the rural Alaska cases to be filed until six months have passed, we are requesting only half of the funding in FY 2002. The funding includes one-time equipment costs and clerical support.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 132(L&C)
 (H) Publish Date: 3/26/01

Revision Date/Time (Note if correction): (Rev.3/22/01) Dept. Affected: Administration
 Title: "An Act relating to the possession of alcohol in a restricted area..." BRU: Legal & Advocacy Services
 Component: Public Defender Agency
 Sponsor: House Judiciary
 Requester: (H) Labor and Commerce Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	61.6	123.1	123.1	123.1	123.1	123.1
Travel	1.9	3.7	3.7	3.7	3.7	3.7
Contractual	13.6	27.2	27.2	27.2	27.2	27.2
Supplies	1.1	2.2	2.2	2.2	2.2	2.2
Equipment	6.5	0.6	0.6	0.6	0.6	0.6
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	84.7	156.8	156.8	156.8	156.8	156.8

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	84.7	156.8	156.8	156.8	156.8	156.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	84.7	156.8	156.8	156.8	156.8	156.8

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time	1	1	1	1	1	1
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

PLEASE SEE ATTACHED

Prepared by: Barbara Brink, Director Phone 907 334-4414
 Division: Public Defender Agency Date/Time 03/22/01
 Approved by: Jim Duncan, Commissioner Date 3/22/01
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: 5
 Bill Version: CSHB 132 (JUD)
 (H) Publish Date: 4/3/01

Revision Date/Time (Note if correction) _____ Dept. Affected _____
 Title Possession and distribution of alcohol BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Rokeberg
 Requester House Judiciary Component No. 7C9

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of CSHB 132 (L&C).

Prepared by: Douglas Wooliver Phone 463-4750
 Division Alaska Court System Date/Time 2/29/01 9:30 a.m.
 Approved by: Stephanie Cole Date _____
 Agency Alaska Court System

For distribution information, call the Governor's Legislative Office

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Alaska State Legislature
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LETTER OF INTENT
HB 132

It is the intent of the legislature that any general fund money that goes into the operation of this program must have a 50% local match.

Representative Bill Williams
Co-Chair, House Finance Committee

Representative Eldon Mulder
Co-Chair, House Finance Committee

CSHB 132 (L&C)

Amendment on delivery sites in "damp" local option areas (final version).

House Finance Committee

April 19, 2001

SMSK
3 years

as amended
4. ~~year of intent~~

*Sec. _____. AS 04.11.491(f) is amended to read:

(f) **If a** [A] municipality or established village [THAT] has adopted a local option under (a)(1), (2), or (3) or (b)(1) or (2) of this section, **the state, municipality or established village** may designate **and operate** a site for the delivery of alcoholic beverages to individuals in the area or a site for a person to bring alcoholic beverages if the alcoholic beverages are imported into the area. This subsection does not apply to the delivery or importation of

- (1) one liter or less of distilled spirits, two liters or less of wine, or one gallon or less of malt beverages; or
- (2) alcoholic beverages to a premises licensed under (a)(2) - (3) or (b)(2) of this section.

*Sec. _____. AS 04.11 is amended by adding a new section to read:

AS 04.11.494. Operation of delivery sites. (a) If a delivery site has been designated under AS 04.11.491(f), except as permitted under AS 04.11.491(f)(1) and (2),

(1) alcoholic beverages brought, sent or transported to an area by a package store or by any person must be sent shipping prepaid and must be addressed to the delivery site;

(2) a person or common carrier with possession of alcoholic beverages imported into the area, including alcoholic beverages transported as checked baggage accompanying a traveller, must take the alcoholic beverages to the delivery site upon arrival if the delivery site is open or must keep the alcoholic beverages in secure storage until the earliest time the delivery site is next open; the package containing the alcoholic beverages delivery must be taken to the delivery site without opening the package; alcoholic beverages transported as checked baggage accompanying a traveller may not be released to the traveller before being taken to the delivery site;

(3) if a person can not lawfully receive alcoholic beverages from the delivery site under (b) or (e) of this section, the person may not solicit another to bring, send or transport alcoholic beverages to an area for the solicitor's use;

(4) a person may not bring, send or transport alcoholic beverages to an area if the alcoholic beverages are intended to be provided to another person who cannot lawfully receive alcoholic beverages from the delivery site; and

(5) alcoholic beverages may not be released from the delivery site except by the operator of the site or an authorized employee or agent of the operator.

(b) The operator of a site designated under AS 04.11.491(f) and employees and agents of the operator

(1) may not release alcoholic beverages if the package holding the alcoholic beverages is not clearly labeled with name of the intended recipient, or if the package displays the names of more than one recipient;

(2) may not release alcoholic beverages without first determining the identity of the recipient by checking a government-issued identification card containing the person's photograph or by another method of positive identification;

(3) may not release alcoholic beverages if the recipient is different than the person whose name appears on the container as the recipient;

(4) may not release alcoholic beverages if the amount released to a recipient in one calendar month is more than a package store is permitted to ship to a purchaser in one calendar month under AS 04.11.150(g) or more than the amount a person may import in one calendar month under a municipal ordinance enacted under AS 04.21.010(a), whichever is less;

(5) may not release alcoholic beverages if the alcoholic beverage or its container violates AS 04.16.100 or 04.16.110, or a municipal ordinance enacted under AS 04.21.010(a);

(6) may not open packages containing alcoholic beverages unless permitted to do so by a search warrant or the recipient gives written consent to opening and inspection;

(7) unless the shipper is a licensed package store and the shipping container complies with AS 04.11.125, may not release alcoholic beverages until the package has been opened and the alcoholic beverages have been inspected to determine if release would be lawful under this subsection;

(8) may not release alcoholic beverages until the recipient has paid all applicable taxes and any administrative fees authorized under regulations adopted under this section;

(9) may not release alcoholic beverages to a recipient, and may not employ or otherwise use someone in the operation of the delivery site to handle or secure alcoholic beverages, if the person

(A) is under the influence of an alcoholic beverage, controlled substance or inhalant;

(B) is under a court order or a condition of bail, probation or parole, that prohibits the person from consuming or possessing alcoholic beverages;

(C) is under 21 years of age; or

(D) is disqualified due to the person's criminal record under (e) of this section;

(10) upon the request and at the expense of the recipient, shall return alcoholic beverages to the sender or to the point of shipment if alcoholic beverages cannot be lawfully released under this subsection;

(11) may destroy alcoholic beverages

(A) that cannot be lawfully released under this subsection, if the recipient elects not to pay for the return of the alcoholic beverages under (b)(10) of this section; or

(B) that have not been lawfully released, and have remained on the premises of the delivery site for the time period established by regulations adopted under this section; and

(12) may establish a voluntary and confidential registration system so as to expedite processing by allowing recipients to be authorized in advance to receive alcoholic beverages;

(13) must immediately report violations of a provision of this title or a regulation adopted under this title to the Alaska State Troopers and to the municipal police agency within the municipality;

(14) must maintain records concerning recipients and alcoholic beverages delivered to and released by the delivery site in a manner and for a period of time established under regulations adopted under this section, and such records must be made available for inspection at reasonable times by the Alaska State Troopers, by the municipal police agency within the municipality and by the Alcoholic Beverage Control Board; and

(15) may charge reasonable fees to recipients for registration or for the release of alcoholic beverages, under regulations adopted under this section.

(c) Except as provided in (b)(14) of this section, records of recipients and alcoholic beverages delivered to and released by the site are confidential and not subject to disclosure except pursuant to court order.

(d) The Alcoholic Beverage Control Board shall adopt regulations to implement this section, including hours of operation, requirements for security and recordkeeping, procedures for delivery, release, processing and destruction of alcoholic beverages and administrative fees. Nothing in this section prohibits a municipality or established village from operating a delivery site under more restrictive provisions of a local ordinance adopted for that purpose.

(e) A person is disqualified due to their criminal record if

(1) less than two years has elapsed from the person's unconditional discharge due to a conviction or adjudication as a delinquent for any of the following offenses or a law or ordinance from another jurisdiction with similar elements:

(i) driving while intoxicated under AS 28.35.030 or refusal to take a breath test under AS 28.35.032; or

(ii) a crime involving domestic violence as that term is defined under AS 18.66.990, or violating a protective order under AS 11.56.740;

(2) less than five years has elapsed from the person's unconditional discharge due to a conviction or adjudication as a delinquent for a misdemeanor violation of or a misdemeanor attempt to violate a provision in AS 04, except minor consuming under AS 04.11.050, or a law or ordinance from another jurisdiction with similar elements;

(3) less than ten years has elapsed from the person's unconditional discharge due to a conviction or adjudication as a delinquent for a felony violation or a felony attempt to violate a provision of AS 04, or a law or ordinance from another jurisdiction with similar elements.

(f) In this section,

(1) "area" means a municipality or established village that has adopted a local option under AS 04.11.491(a)(1), (2) or (3) or (b)(1) or (2);

(2) "bring" has the meaning given in AS 04.11.499;

(3) "controlled substance" has the meaning given in AS 11.71.900;

(4) "import" means to send, bring or transport;

(5) "inhalant" has the meaning given to "hazardous volatile material or substance" in AS 47.37.270;

(6) "recipient" means a person entitled to receive or attempting to receive alcoholic beverages from a delivery site;

(7) "send" has the meaning given in AS 04.11.499;

(8) "transport" has the meaning given in AS 04.11.499;

(9) "unconditional discharge" has the meaning given in AS 12.55.185.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Eihan Berkowitz
Representative Albert Kookesh



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Heather M. Nobrega
Counsel to Committee

Sponsor Statement for CSHB 132 (JUD)

The House Judiciary Committee has been requested to introduced this bill to address some problems in the area of bootlegging alcohol, and the issuance of liquor licenses to persons with criminal records outside the state of Alaska. Bootlegging is a prevalent problem in "dry" areas, and is a large contributor to crime in those areas. In addition, by requiring applicants for liquor licenses to give their fingerprints, we can thoroughly investigate the criminal backgrounds of these individuals so that only responsible individuals may obtain a liquor license.

Bootlegging

The Alaska Criminal Justice Assessment Commission has found that in rural and Bush communities, the amount of violent crime is directly proportional to the amount of alcohol consumed by the residents. The majority of villages in four rural regions (those surrounding Bethel, Nome, Kotzebue, and Point Barrow) have responded by prohibiting the sale and importation of alcohol, but the hub communities in these four regions remain either "damp" or "wet."

This bill creates measures designed to restrict the availability of illegally-imported alcohol in the dry areas of Alaska to help reduce violent crime in those areas. Specifically, it reduces the amount of distilled spirits that lead to a presumption that the person possessed the alcoholic beverages for purposes of sale. It also defines "bring," "send" and "transport" to include attempts or solicitations to import alcohol illegally into the local option communities. By including attempt and solicitation in the definition of these acts, the State is able to prosecute these actions on the same level as if they had completed the crime. This will subject the defendants to higher levels of penalties.

Fingerprinting

This portion of the bill has been created in cooperation with, and at the request of, the Alcohol Beverage Control Board (ABC Board). This bill allows the ABC Board, through the Department of Public Safety, to submit fingerprint cards of prospective liquor licensees to the FBI's national criminal history record check. An agency needs specific legislative authorization for the use of the national database for licensing purposes.

Currently, a criminal record check will only produce convictions from Alaska. By chance, the ABC Board has discovered prior to issuing licenses, serious criminal convictions of an applicant that was convicted in another state. It is possible that liquor licenses have been issued to others that have serious criminal records, but due to the present system their convictions could not be brought to the attention of the ABC Board.

Members of our society are increasingly mobile making national background checks more necessary. Many of the licensees are not residents of Alaska and some are multi-national corporations. Prevention of future problems, by requiring a national background check for liquor licensees, is sound public protection policy.

The Committee urges your support of this bill.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogun, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh

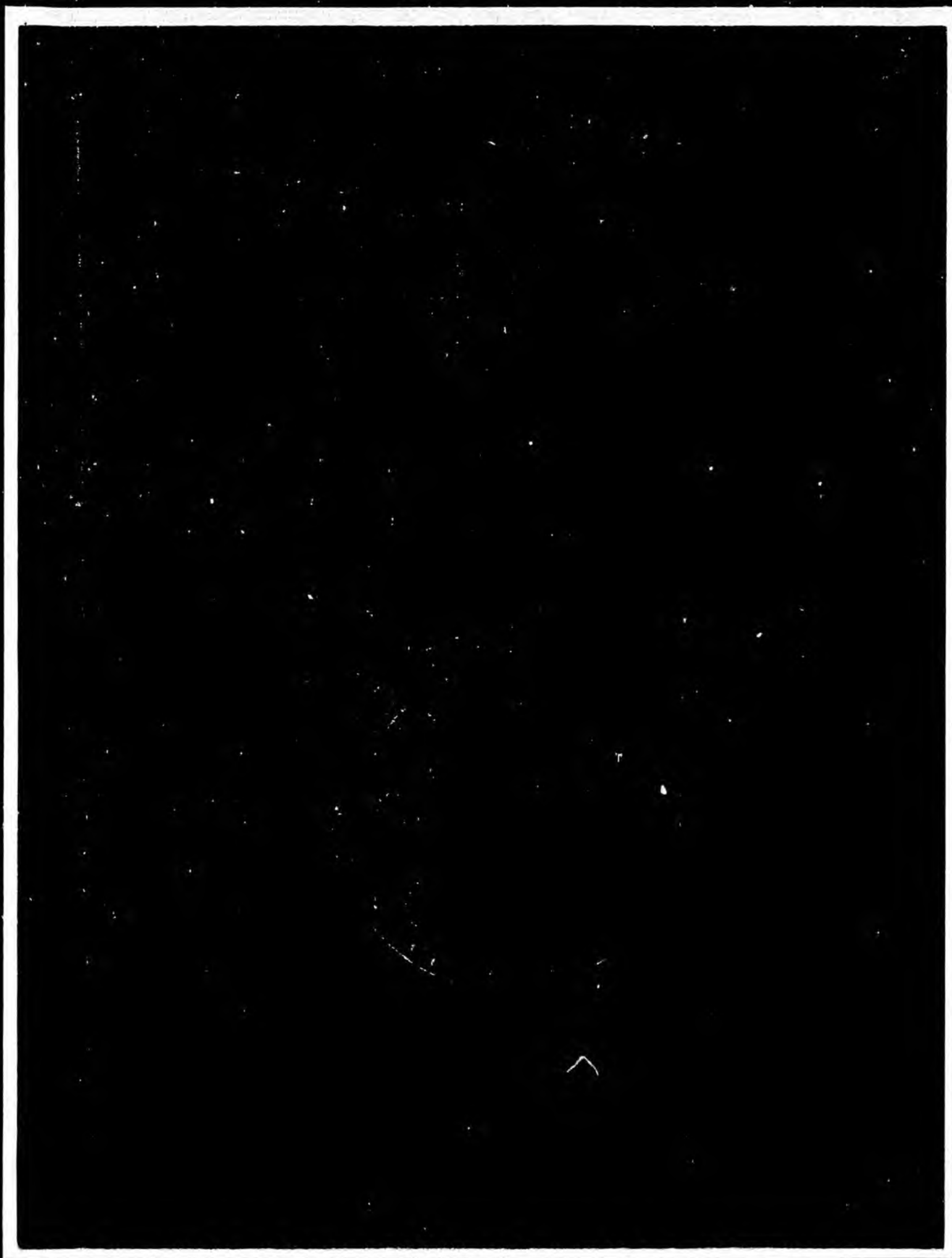


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Heather M. Nobrega
Counsel to Committee

Sectional Analysis for CSHB 132 (JUD)

- Section 1:** Decreases the amount of distilled spirits that creates a presumption that the person possessed the alcoholic beverages for purposes of sale.
- Section 2:** Decreases the amount of distilled spirits that a package store may send to a purchaser, located in an area that has restricted the sale of alcohol, within a calendar month.
- Section 3:** Requires an applicant for a liquor license to submit his or her fingerprints and fees for criminal justice information and a national criminal history record check.
- Section 4:** Defines "bring," "send" and "transport" to also include an attempt, or solicitation, to bring, send or transport alcohol illegally into a local option community.
- Section 5:** Inserts a cross-reference to the newly defined term "transport."
- Section 6:** Decreases the amounts of distilled spirits that lead to a class A misdemeanor or class C felony for a person who sends, transports, or brings alcoholic beverages into a local option community.
- Section 7:** Allows the Alcoholic Beverage Control Board to process pending applications without a national criminal history record check.
- Section 8:** This act is to take effect immediately.



alcohol dispenser interests should be represented on the board, adding two members, one from the public health or medical community and one from the law enforcement community, will provide a broader range of interests and ensure that the public interest is better protected. Additional travel and lodging costs for two individuals for the regular meetings of the Alcohol Beverage Control Board would be minimal.

Action Needed: Requires substantive legislation and minimal additional funding.

Implementing Agencies: The legislature and the Department of Revenue.

6. **The legislature should remove the law enforcement functions of the Alcohol Beverage Control Board from the Department of Revenue and place them in the Department of Public Safety.**

Goals: To improve enforcement of Title 4 liquor laws and thus reduce violent crime and other harmful consequences of alcohol abuse.

Commentary: The enforcement authority of the Alcoholic Beverage Control Board is undermined by a lack of investigative personnel as well as by the lack of clarity in its mandate. The purpose of the Department of Revenue is to raise revenue, not to assist law enforcement. To ensure quality enforcement of Title 4, this function should be moved to a law enforcement department. Licensing functions would remain with the Alcoholic Beverage Control Board.

Action Needed: Requires substantive legislation but no new funding.

Implementing Agencies: The legislature, the Department of Revenue, and the Department of Public Safety.

7. **Recommendations relating to dry communities.**
 - 7(a). **The legislature should take steps to deter illegal alcohol sale and possession in dry communities by amending AS 04.11.010(c) to decrease the amount of alcohol that individuals may presumptively possess for their own use.**

Goal: To decrease rural and Bush crime by decreasing unlawful drinking in dry towns.

Commentary: In rural and Bush Alaskan communities, the amount of violent crime is directly proportional to the amount of alcohol consumed by the residents. The majority of villages in four rural regions (those surrounding Bethel, Nome, Kotzebue, and Point Barrow) have responded by prohibiting the sale and importation of alcohol, but the hub communities in these four regions remain either “damp” or “wet.” The Commission believes that measures designed to restrict the availability of illegally-imported alcohol in the dry areas of Alaska will reduce violent crime in those areas.

The Legislature should amend AS 04.11.010(c) to reduce by half the amount of alcohol necessary to trigger the “possession for sale” presumption. The legislative change to AS 04.11.010(c) should include a point system for each type of alcoholic beverage, so that liquor laws can be better monitored and enforced. The proposed amendment is:

- (c) In a criminal prosecution for possession of alcoholic beverages for sale in violation of (a) of this section, the fact that a person possessed more than [12 LITERS OF DISTILLED SPIRITS, 24 LITERS OR MORE OF WINE, OR 12 GALLONS OR MORE OF MALTED BEVERAGES] 24 points or more individually or in combination of distilled spirits, wine, or malt beverages in an area where the sale of alcoholic beverages is restricted or prohibited under A.S. 04.11.491 creates a presumption that the person possessed the alcoholic beverages for sale. This is based on the following point system: 1 liter of distilled spirits = 4 points; 1 liter of wine = 2 points; 1 liter of malted beverages = 1 point.

Action Needed: Requires substantive legislation. Initially, legislation may lead to a need for increased funding due to a potential increase in the number of bootlegging violations. However, this initial spike in violations (and funding) is not expected to continue for the long-term. The Commission anticipates an overall reduction in criminal justice system costs through a reduction in alcohol-related crime.

Implementing Agencies: The legislature, the court system, law enforcement agencies, prosecution and defense agencies.

- 7(b). **The legislature should take steps to deter illegal alcohol sale and possession in dry communities by amending AS 04.11.150 to require monitoring of liquor sales in package liquor stores located within 100 miles of a dry community.**

Goals: To decrease rural and Bush crime and thus reduce criminal justice system costs.

Commentary: Package stores in communities adjacent to dry towns should be required to record all purchases of alcoholic beverages that trigger the presumptive limit contained in AS 04.11.101(c). The proposed amendment reads:

- (j) If a business premises licensed under A.S. 04.11.150 is located within 100 miles of one or more communities that has banned the importation and sale of alcoholic beverages under A.S. 04.11.491, that liquor package store shall record all purchases of 24 points or more individually or in combination of distilled spirits, wine, or malt beverages. This is based on the following point system: 1 liter of distilled spirits = 4 points; 1 liter of wine = 2 points; 1 liter of malted beverages = 1 point.

Records should include the name of the purchaser, the date of the transaction, and the point total of merchandise purchased.

Action Needed: Requires substantive legislation. Initially, legislation may lead to a need for increased funding due to a potential increase in the number of bootlegging violations. However, this initial spike in violations (and funding) is not expected to continue for the long-term. The Commission anticipates an overall reduction in criminal justice system costs through a reduction in alcohol-related crime.

Implementing Agencies: The legislature, the Department of Revenue, and the Department of Public Safety.

JUSTIFICATION FOR NATIONAL CRIMINAL JUSTICE BACKGROUND

CHECKS FOR LIQUOR LICENSING

- 1) Alcoholic beverages are a legal substance subject to substantial regulation, control, and oversight due to the potential of this product to create public safety and welfare problems in society. The country has chosen strict regulation over prohibition.
- 2) One means of regulating the distribution of beverage alcohol is strictly licensing the number of retail outlets and the persons involved in business of alcohol sales. Eighteen states are actually engaged in some aspect of retail alcohol sales (usually the sale of spirits), but Alaska, like most states, is a license state and licenses the private sector and non-profit clubs to conduct all alcohol sales.
- 3) As the regulator of private liquor sales, the public rightfully expects the State of Alaska, through its Alcoholic Beverage Control (ABC) Board and Department of Public Safety, to thoroughly investigate "applicants for new licenses and applicants for the transfer of existing licenses before the applications are considered by the board" (AS 04.11.300).
- 4) The debate on the proper balance between privacy for the individual vs. protection of the public prompted the ABC Board to adopt a regulation in 1981 requiring prospective licensees to authorize release of conviction and arrest records. Later changes to federal and state law limited the board's access to only information related of actual criminal convictions and not to unadjudicated arrests.
- 5) In the late 80's, the U.S. Department of Justice banned the use of the national Criminal records Information Center (NCIC) database for licensing purposes and would only allow the FBI fingerprint checks of license applicants **if required by legislative acts of individual states**. The purpose of the bill is to grant this specific authorization and allow access, through the Department of Public Safety, to the FBI's national criminal data bank.
- 6) In 1994, the Alaska Legislature passed AS 12.62.160. Section (c)(3) of that statute prohibits the release of criminal justice information "until the person requesting the information establishes the identity of the subject of the information by fingerprint comparison or another reliable means of identification approved by the department." Upon enactment of this provision the ABC Board has required submission of fingerprint cards by prospective licensees under the Board's general application powers found in AS 04.11.260(5) and AS 04.11.270(1).
- 7) **The criminal record check will only produce convictions in Alaska.** By chance, the ABC Board has discovered prior to issuing licenses, serious criminal convictions (assault, illegal possession of firearms, kidnapping for ransom, and sale of alcohol without a license) of an applicant that was convicted in another state. It is possible that liquor licenses have been issued to others that have serious criminal records, but due to the present system their convictions could not be brought to the attention of the ABC Board.

- 8) Members of our society are increasingly mobile making national background checks more necessary. Many of our licensees are not even residents of the State of Alaska and some are multi-national corporations. Prevention of future problems by conducting more systematic and thorough criminal background checks is sound public protection policy. The potential substantial benefit of not inadvertently licensing a convicted felon in the first place versus the nominal cost (zero fiscal note to the State/approximately \$25 per fingerprint card and ten additional days to process license for the licensee) of the procedure makes this a sound proposition.
- 9) This measure is supported by the Department of Public Safety and was part of its criminal records bill CSHB 292(JUD) last year.

For More info Contact: Doug Griffin, Director
Alcoholic Beverage Control Board
907-269-09351 FAX: 907-272-9412
Email: Doug_Griffin@revenue.state.ak.us

1-16-01

STATE OF ALASKA

ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 110608
JUNEAU, AK 99811-0608

PHONE: (907) 465-8920
FAX: (907) 465-4410
TOLL FREE: 1-888-464-8920

March 22, 2001

The Honorable Lisa Murkowski, Chair;
Members of House Labor and Commerce
Alaska State Capitol
Juneau, Alaska 99801

Dear Ms. Murkowski:

The Advisory Board on Alcoholism and Drug Abuse encourages your support of HB 132 Liquor License Applicant Check/Training. This legislation would strengthen support for local option communities by reducing the amount of alcohol allowed for personal possession, and the amount allowed for shipment to areas with restrictions on the sale of alcohol, by half the current amount.

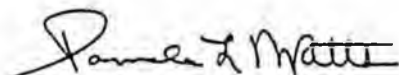
Communities would have increased control over alcohol brought into their communities by requiring purchaser identification by a special identification card, recording of purchases, with records available for inspection by peace officers.

Liquor license applicants would be required to submit fingerprints for the purpose of conducting a criminal history background check, and relates to the use of criminal justice information by the Alcohol Beverage Control Board in approving license applicants. It would also allow the Board to check FBI files in addition to state records. The bill provides for a review of alcohol server education courses by the ABC board every two years.

The Advisory Board on Alcoholism and Drug abuse believes the measures contained in this legislation will assist local option communities in regulating and monitoring the importation of alcohol thereby helping to reduce the negative consequences brought on by alcohol.

Your support for passage of this bill is appreciated.

Respectfully,



Pamela L. Watts
Executive Director

Subject: [Fwd: [Fwd: Alcohol]]
Date: Wed, 21 Mar 2001 09:11:14 -0900
From: Janet Seitz <Janet_Seitz@legis.state.ak.us>
Organization: Representative Norman Rokeberg, Alaska State House
To: Heather_Nobrega@legis.state.ak.us

Subject: [Fwd: Alcohol]
Date: Wed, 21 Mar 2001 08:13:38 -0900
From: royce_weller <royce_weller@dps.state.ak.us>
Organization: Department of Public Safety
To: Janet S Seitz <Janet_Seitz@legis.state.ak.us>

Janet :

Below is an e-mail I received from Lt. Dunnagan responding to a request, made by the Chairman, regarding HB132. I hope this answers your boss's question.

Royce (#2649)

Subject: Alcohol
Date: Tue, 20 Mar 2001 16:40:27 -0900
From: Steve Dunnagan <alvia_dunnagan@dps.state.ak.us>
Organization: Department of Public Safety
To: royce_weller <royce_weller@dps.state.ak.us>

Royce,

In 1999 there were 516 gallons of illegal alcohol seized.
In 2000 there were 585.7 gallons of illegal alcohol seized.

With 5 Troopers dedicated to the problem I would think that a 25 to 30% increase would be possible.

I'll have more information in the morning. Kathy will be giving me some computer runs.

--
Lieutenant Steve Dunnagan
5700 E. Tudor Road
Anchorage, Alaska 99507
(907) 269-4532

Janet Seitz <Janet_Seitz@legis.state.ak.us>

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


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

MEMORANDUM

April 20, 2001

SUBJECT: Penalties in local option areas - (CSHB 132(FIN))

TO: Rep. Bill Williams, Co-Chair
House Finance Committee
Attn: Mike

FROM: Michael F. Ford 
Legislative Counsel

The CS you requested is attached. I have included an applicability section (sec. 13) to specify that the bill only applies to offenses that occur after the bill becomes law. Even with this qualification, I have reservations about proposed Sec. 04.11.494(b)(9)(D) that prohibits release of alcoholic beverages to certain individuals who have prior criminal convictions. There may be due process problems imposing this type of penalty. Essentially, this provision changes the penalty for certain offenses, but does so indirectly. Such a scheme may not survive constitutional challenge.

I also removed "except minor consuming under AS 04.16.050" from AS 04.11.494(d)(2)(B) because violation of AS 04.16.050 is not a misdemeanor.

Please contact me if you have further questions.

MFF:mcd
01-076.mcd

Enclosure

HB

132

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 08 2001
SENATE FINANCE
COMMITTEE

DATE: 5/6/01

FURTHER:

DATE TURNED IN TO OFFICE: 6 May 2001

Finance Committee considered CS FOR HOUSE BILL NO. 132(2d RLS)(efd am)

ALCOHOL:LOCAL OPTION/DWI/LICENSING

and recommends:

- be replaced with S CS CS HB 132 (FIN)
- adopt previous CS CS forth coming - ()
- attached amendment(s)
- adopt Letter of Intent by House ~~Committee~~
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

f/n's \$
forth coming

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Jim Walsh</i>			✓	
<i>Richard Beer</i>			✓	
<i>William Claster</i>			✓	
<i>Emily Wilke</i>			✓	
<i>Thomas D. Leman</i>	✓			
<i>Thomas Claster</i>			⊕	
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			



Official Business

Alaska State Legislature

House of Representatives

REPORTED OUT

MAY 06 2001

SENATE FINANCE
COMMITTEE

HOUSE LETTER OF INTENT CSHB 132(2d RLS)(efd am)

It is the intent of the legislature that any general fund money that goes into the program as described in sec. 4 of this bill must have a 50 percent local match.

A handwritten signature in cursive script, appearing to read "Pete Kott", written over a horizontal line.

Representative Pete Kott
Chair, House Rules Committee

Adopted by the House
April 29, 2001

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SCS for CSHB132 (FIN)
() Publish Date: _____

Revision Date/Time(Note If Correction): 5/07019:00 am Dept. Affected: Corrections
Title: "An Act relating to the possession, distribution, BRU: Administration and Operations
importation, and transportation of alcohol in a local option..... Component: Community Corrections Dir. Office
Sponsor: House Judiciary Committee
Requester: Senate Rules Committee Component Number: 1382

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	96.8	96.8	96.8	96.8	96.8	96.8
Travel	2.0	2.0	2.0	2.0	2.0	2.0
Contractual	7.0	7.0	7.0	7.0	7.0	7.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	6.0					
Land & Structures						
Grants & Claims						
Miscellaneous		34.0	67.9	101.9	101.9	101.9
TOTAL OPERATING	112.8	140.8	174.7	208.7	208.7	208.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	112.8	140.8	174.7	208.7	208.7	208.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	112.8	140.8	174.7	208.7	208.7	208.7

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will improve interdiction in bootlegging operations in the State. It reduces by half the amount of distilled spirits that a person may possess in a restricted community for the application of the presumption of intent to sell. It also reduces by half the amount of distilled spirits a package store is allowed to send in a calendar month to a person in a restricted community. The change in amount of distilled spirits also effectively changes the penalty by lowering the requirement that qualifies for a C felony. Additionally, it changes the penalties for possession in dry communities by reducing the amounts required for felony conviction. This bill also seeks to change the offenses of "attempted" to the same level as the offenses themselves, thus resulting in the same penalty for an attempt to import as an actual importation.

This legislation would also allow for delivery sites in cities such as Kotzebue and Bethel where the local option exists to allow possession but not sales of alcohol. It would require all transportation of alcohol to go through the delivery sites for

Prepared by: Candace Brower Phone 465-4652
Division: Commissioner's Office Date/Time 5/2/01 8:15 PM
Approved by: Margaret Pugh Date 5/2/01
Agency: Department of Corrections

For distribution information, call the Governor's Legislative Office

distribution.

The Department of Law anticipates these changes, along with the increased efforts of State Troopers and the federal authorities will increase the number of felony prosecutions for these offenses. They have anticipated the need for an additional prosecutor as well as a paralegal to pick up the increased workload. The Department of Corrections will certainly feel the effect of these increased efforts. Although we may be able to absorb this amount in our facilities, we do not have the workforce in the field to absorb these additional cases. We are requesting an additional Probation Officer and Criminal Justice Technician to write the pre-sentence investigations required in felony cases as well as to manage the increased caseload for supervision purposes. The new staff will need a one-time compute equipment purchase. Additionally, they will need funding for a vehicle, supplies and travel.

The Department of Law anticipates they will need their staff in Anchorage. We will assume the same thing. If it turns out that the workload is in the rural areas, we would transfer the PCN to the appropriate area.

In addition, this legislation would reduce the threshold for presumption of DWI from .10 to .08 effective July 1, 2001. It is estimated by the Department of Law that although this may not increase arrests by a large amount, it will increase convictions by 10%.

Felony DWI offenders are usually given an average of 3 years probation. Probation costs will not be incurred until after completion of sentence so will not be felt until the 2nd and subsequent years. The daily cost for probationers is \$5.17/day. If 18 of the estimated 20 new felons are on probation the second year, the cost would be \$33,967. It would be necessary to add \$67,934 the third year and \$101,901 the fourth year. After that it would level off as the first probationers would drop off.

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SCS CSHB 132 (FIN)
() Publish Date:

Revision Date/Time (Note if correction): Dept. Affected: Law
Title "...the possession, distribution,...of alcohol in BRU Criminal Division; Civil Division
a local option area: "...operating a motor vehicle...intoxicated..." Component Third Jud District: Anchorage; 4th
Sponsor House Judiciary Committee by Request Jud District: Collections & Support
Requester Senate Finance Committee Component No. 2201; 2261; 2210

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	56.7	199.1	199.1	320.2	320.2	320.2
Travel	0.2	0.6	0.6	1.0	1.0	1.0
Contractual	13.6	35.1	35.1	53.8	53.8	53.8
Supplies	1.5	3.4	3.4	5.0	5.0	5.0
Equipment	13.0	6.5	0.0	6.5	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	85.0	244.6	238.1	386.4	379.9	379.9

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	57.3	219.2	212.7	361.0	354.5	354.5
1005 GF/Program Receipts	27.7	25.4	25.4	25.4	25.4	25.4
1037 GF/Mental Health						
1007 Interagency Receipts						
TOTAL	85.0	244.6	238.1	386.4	379.9	379.9

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time		1	1	2	2	2
Part-time	2	2	2	2	2	2
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SCS CSHB 132 (FIN) allows the state, municipality, or established village to designate a delivery site for alcoholic beverages in municipalities or villages that have adopted a local option that permits importation. For FY 02, the costs of operating state delivery sites will come from non-GF funds.

The bill also amends AS 28.35.030(a) by lowering the blood alcohol limit from 0.10 to 0.08 percent by weight of alcohol in a person's blood (and a corresponding change in the limit for alcohol in a person's breath) for the offense of driving while intoxicated (DWI), a class A misdemeanor. The bill also changes the presumptions in AS 28.35.033(a) in a civil or criminal action from 0.05 - 0.10 to 0.04 - 0.08 percent by weight of alcohol in the person's blood (and a similar change for breath alcohol), as the area where there is no presumption about the person being under the influence of alcohol. Under this bill, a person who measures 0.04 and below is presumed not under the influence, and a person who measures 0.08 and above is presumed to be under the influence of

Prepared by: Joan M. Kasson Phone 465-5370
Division: Attorney General's Office Date/Time 5/7/01 9:53 AM
Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 5/7/01
Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. SCS CSHB 132 (FIN)

ANALYSIS CONTINUATION

intoxicating liquor. The bill will result in an increased number of DWI cases being prosecuted by the Department of Law.

In FY00, the Criminal Division accepted for prosecution 3,250 misdemeanor and 213 felony DWI cases throughout the state. Experience has varied in other states that have reduced from 0.10 to 0.08 the limit for driving while intoxicated. This fiscal note is based on the assumption passage of this legislation would generate a five percent increase in the division's DWI caseload. This would result in 161 additional misdemeanor and 11 felony DWI cases, which are much more time-consuming to prosecute than misdemeanors. The Department of Law assumes that municipalities which presently prosecute misdemeanor DWI will amend their ordinances to mirror the change in state law. If this does not occur, the estimated number of misdemeanor prosecutions is understated.

Much of the anticipated increase in prosecutions will occur in southcentral Alaska. Because Anchorage is the hub from which prosecutors are sent to assist other offices in times of overload, it will be necessary to add half of one new attorney position to the Anchorage District Attorney's Office.

The Collections unit in the Civil Division's Collections and Support section collects judgments for criminal fines, cost of incarceration for DWI offenders, and cost of court appointed counsel. The change to 0.08 as the threshold for DWI offenses will increase the number of judgments the unit is required to collect annually. Assuming an 80-85 percent conviction rate, the unit anticipates receiving 140 judgments for criminal fines as a result of this change, and 140 judgments for the cost of incarceration. In addition, approximately 80 percent of the offenders are expected to have judgments for the cost of court appointed counsel, 110 in all.

In order to process and collect the estimated 390 new judgments each year, Collections unit personnel must enter the judgment data into the collections data base, post payments received, prepare PFD attachment packets for the court system and Department of Revenue, enter adjustments and process refunds when necessary, respond to phone calls from defendants, court personnel, prosecutors, and other state agencies, prepare satisfactions of judgments, and prepare quarterly or annual reporting of collections data. Much of this work can be handled by existing staff. However, the additional data entry and phone calls will require an additional half-time Administrative Clerk II. The Collections unit administrative staff is at capacity, and could not absorb even the 390 new judgments a 5 percent increase in caseload is anticipated to generate without the additional position to do data entry, and respond to the phone calls the judgments will generate.

The bill also amends the felony DWI statute. Under current law, for the purposes of charging an offender with felony DWI, the state can only "look back" 5-years for the first two offenses. If any of the prior offenses are older than 5-years, the charge remains a misdemeanor. SCS CSHB 132 (FIN) will phase in a 10-year look back period for felony DWI, one year at a time, over the next five years.

Based on Division of Motor Vehicle (DMV) data, it is estimated that increasing the limit to 10-years for how old prior convictions must be in order for the third offense to be charged as felony DWI will result in approximately 240 new felony DWI referrals per year when fully phased in. The Criminal Division estimates approximately 95 percent of these will be accepted for prosecution, based on acceptance rates for current felony DWI prosecutions. This would mean approximately 225 new felony prosecutions in all. For the purposes of this fiscal note, the Department of Law assumes the new felonies will phase in evenly over the 5-year phase in period: 45 new felony prosecutions in FY02, 90 in FY03, 135 in FY04, 180 in FY05, and 225 in FY06.

Felony prosecutions are much more resource intensive than misdemeanor prosecutions. Because the penalties are so much higher, defendants are more likely to vigorously challenge the charge, and less likely to settle prior to trial. The Criminal Division anticipates it would need two new FTE attorney positions to handle these new felony cases, to both screen the referrals and prosecute those that are accepted. These positions would phase in as the number of new felony referrals increase. We anticipate that one new FTE attorney for the Anchorage DAO would be necessary in FY03, and one new FTE attorney for the Fairbanks DAO in FY 05.

All position costs except the Collections unit position are based on the department's FY02 timekeeping and billing rate, and include clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Collections unit positions are specialized, and are not recovered through the timekeeping and billing rate, so are included separately. The standard cost does not include one-time new equipment purchases, and \$6,500 per position is added for this purpose. A summary of line-item costs by position for each section of SCS CSHB 132 (FIN) narrated above follows.

The effective date of for implementation of the DWI related sections of this bill is September 1, 2001, so only ten months of funding is required in FY02. The Criminal Division position for 0.06 will not be filled immediately, so the funding for the Anchorage DAO is further reduced in FY02 to approximately nine months.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. SCS CSHB 132 (FIN)

ANALYSIS CONTINUATION

Component	Position	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
<u>0.03 BAC</u>							
Criminal Division: 3rd Judicial District: Anchorage (2261)							
	100 1 PPT Attorney	42.2	60.6	60.6	60.6	60.6	60.6
	200	0.2	0.2	0.2	0.2	0.2	0.2
	300	7.8	9.4	9.4	9.4	9.4	9.4
	400	0.7	0.8	0.8	0.8	0.8	0.8
	500	6.5					
	Total 1004 General Fund	57.3	70.9	70.9	70.9	70.9	70.9
Civil Division: Collections & Support (2210)							
	100 1 PPT Admin Clerk II	14.5	17.4	17.4	17.4	17.4	17.4
	200	0.0	0.0	0.0	0.0	0.0	0.0
	300	5.8	7.0	7.0	7.0	7.0	7.0
	400	0.8	1.0	1.0	1.0	1.0	1.0
	500	6.5					
	Total 1005 GF/Program Receipts	27.7	25.4	25.4	25.4	25.4	25.4
0.08 BAC Total		85.0	96.3	96.3	96.3	96.3	96.3
<u>Phase In 10-year Look Back</u>							
Criminal Division: 3rd Judicial District: Anchorage (2261)							
	100 1 FTE Attorney		121.1	121.1	121.1	121.1	121.1
	200		0.4	0.4	0.4	0.4	0.4
	300		18.7	18.7	18.7	18.7	18.7
	400		1.6	1.6	1.6	1.6	1.6
	500		6.5				
	Total 1004 General Fund	0.0	148.3	141.8	141.8	141.8	141.8
Criminal Division: 4rd Judicial District (2201)							
	100 1 FTE Attorney				121.1	121.1	121.1
	200				0.4	0.4	0.4
	300				18.7	18.7	18.7
	400				1.6	1.6	1.6
	500				6.5		
	Total 1004 General Fund	0.0	0.0	0.0	148.3	141.8	141.8
Felony Look Back Total		0.0	148.3	141.8	290.1	283.6	283.6

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS for CSHB132(FIN)
() Publish Date: _____

Revision Date/Time(Note if Correction): 5/7/01 9:00 Dept. Affected: Corrections
Title: "An Act relating to the possession, distribution, BRU: Institutions
importation, and transportation of alcohol in a local option... Component: Institutions' Director's Office
Sponsor: House Judiciary Committee
Requester: Senate Rules Committee Component Number: 1381

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	770.1	1,054.0	1,411.4	1,695.9	1,963.4	1,963.4
TOTAL OPERATING	770.1	1,054.0	1,411.4	1,695.9	1,963.4	1,963.4

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	82.3	82.3	82.3	82.3	82.3	82.3
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	605.3	889.2	1,246.6	1,531.1	1,798.6	1,798.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other: Receipt. Serv.*	164.8	164.8	164.8	164.8	164.8	164.8
TOTAL	770.1	1,054.0	1,411.4	1,695.9	1,963.4	1,963.4

*inmate payments for cost of incarceration.

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

In addition to increasing interdiction efforts in bootlegging operations, this legislation reduces the threshold for presumption of DWI from .10 to .08. This fiscal note is based on an assumption of a 5% increase in convictions as a result of the threshold change. In FY00 there were 4118 statewide misdemeanor convictions for DWI and 200 felony convictions.

If we multiply 207 misdemeanants (5% of total) by the percentages reflected in DMV 2000 statistics for 1st, 2nd, 3rd, 4th, and 5th time offenders, we come up with an estimate of how many of those offenders might be newly convicted under a 08 law. All 1st and 2nd time offenders go to the CRC so we utilized that cost of care for our calculations. Utilizing a snapshot done on 10/25/00 of our DWI population, we averaged the sentences being served for 3rd, 4th and 5th time non-felony offenders and estimated proportions of time served in CRCs and hard beds to come up with a total cost.

Prepared by: Candace Brower Phone 465-4652
Division: Commissioner's Office Date/Time 5/2/01 8:20 PM
Approved by: Margaret Pugh Date 5/2/01
Agency: Department of Corrections

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Assuming 10 new felons convicted under this threshold, and utilizing the average sentence for DWI felons, we estimated: $10 \times 352 \text{ days} \times \$88/\text{day} = 309,760$. The total for misdemeanants and felons then is 605,567.

The Department of Corrections expects a 15% decrease in the incarceration rate for manslaughter/negligent homicides as a result of this legislation, beginning the second year. It will take time for the public to become aware of lowered BAC and to change behaviors. That would result in an annual savings, beginning in FY03, of \$61,320 (or 1.5 persons incarcerated @ \$112/day per year.)

This legislation also increases the 5-year lookback to a 10-year look-back, phasing it in over a 5-year period. Previously, in order to become a felon, an offender had to have two prior DWI convictions within the preceding 5 years. This will gradually expand the look-back to 10 years, one year at a time over the next 5 years. This will reduce the fiscal impact that would have been felt if the system had to absorb what would be (by DMV and DOL figures) an estimated 190 additional felons each year. These will be first time felony offenders. If they receive the 120 day minimum sentence in existing statute, presuming they receive their good time, they would each serve 80 days of incarceration. This would total \$267,520 for the first year phase-in. We will then assume that each new year of the phase-in will add an additional 38 new felons until the 10 year look-back is satisfied. In FY03 the number of new felons will be 76 at a cost of \$462,080. In FY04 there will be 114 for a cost of \$802,560. FY05 will include 152 new felons for a cost of \$1,070,080 and FY06 reaches full look-back for 190 new felons at a cost of \$1,337,600.

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CS HB 132 (FIN)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: Reducing blood alcohol to .08 BRU: Alcohol & Drug Abuse Svcs
Component: Alcohol/Drug Abuse Grants
Sponsor: House (JUD) by Request
Requester: Senate (FIN) Component Number: 1239

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	242.6	242.6	242.6	242.6	242.6	242.6
Miscellaneous						
TOTAL OPERATING	242.6	242.6	242.6	242.6	242.6	242.6

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	242.6	242.6	242.6	242.6	242.6	242.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	242.6	242.6	242.6	242.6	242.6	242.6

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SCS CS HB 132 (FIN) lowers the blood alcohol content from .10 to .08. It is estimated that this will result in a 5% increase in number of DUI cases resulting in convictions and mandatory referral to Alcohol Safety Action Programs and subsequently for treatment. Of these additional cases DHSS estimates that 75% would be treated in a public program. Due to existing wait capacity and waitlist an additional \$242.6 is required to fund the capacity required to provide the mandated treatment required.

Prepared by: Ernie Turner Phone 465-2071
Division: Alcoholism & Drug Abuse Date/Time: _____
Approved by: Elmer A. Lindstrom, Special Assistant Date 5/7/01 12:09 AM
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CS HB 132 (FIN)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: Reducing blood alcohol to .08 BRU: Alcohol & Drug Abuse Svcs
Component: Alcohol Safety Action Program
Sponsor: House (JUD) by Request
Requester: Senate (FIN) Component Number: 305

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	25.0	30.0	30.0	30.0	30.0	30.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	21.9	26.2	26.2	26.2	26.2	26.2
Miscellaneous						
TOTAL OPERATING	46.9	56.2	56.2	56.2	56.2	56.2

CAPI" TAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	46.9	56.2	56.2	56.2	56.2	56.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	46.9	56.2	56.2	56.2	56.2	56.2

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SCS CS HB 132 (FIN) lowers the blood alcohol content from .10 to .08. It is estimated that this will result in a 5% increase in number of DUI cases resulting in convictions and mandatory referral to Alcohol Safety Action Programs (ASAP) and subsequently for treatment. Of these additional cases DHSS estimates that 100% would be referred to an ASAP. The costs to handle these additional cases is \$56.2. We estimate that 65-70% of these cases will be handled by the ASAP office in Anchorage, which is operated by employees of the Division of Alcoholism and Drug Abuse. FY 02 costs represent 10 months funding with an effective date on this provision of September 1, 2001.

Prepared by: Ernie Turner Phone 465-2071
Division: Alcoholism & Drug Abuse Date/Time: _____
Approved by: Elmer A. Lindstrom, Special Assistant Date 5/7/01 12:03 AM
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

MAY 06 2001

SENATE FINANCE COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. SCS CSHB 132 (FIN)

Revision Date/Time (Note if correction) Amended 5/01/2001 Dept. Affected _____
 Title Possession and distribution of alcohol BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Rokeberg
 Requester Senate Finance Committee Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	42.1	49.7	57.2	63.3	70.9	70.9
Travel						
Contractual	12.4	22.7	33.1	41.4	51.7	51.7
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	54.5	72.4	90.3	104.7	122.6	122.6

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	54.5	72.4	90.3	104.7	122.6	122.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	54.5	72.4	90.3	104.7	122.6	122.6

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time	3	3	3	3	3	3
Temporary	1	1	1	1	1	1

ANALYSIS: (Attach a separate page if necessary)
 Two provisions in SCS CSHB 132(FIN) will have an impact on the court system. Section 10 amends AS 28.35.030(a) so that a person commits the crime of driving while intoxicated if that person has a BAC of .08 or higher. The Senate Finance Committee directed that all fiscal notes assume that this new standard would result in a 5% increase in DWI filings. This would mean an additional 250 misdemeanor filings a year and an additional 14 felony filings a year. This note reflects the costs for district court judge and clerk time for the additional misdemeanors and the superior court judge and clerk time and jury costs for two three-day jury trials for the felony cases.
 Sections 11 and 14 impose a five-year phase-in of a new 10-year look-back for felony DWI offenses. The Department of Law estimates that the phase-in will result in 45 new felony filings in year one, 90 in year two, 135 in year three, 180 in year four, and 225 in year five. This fiscal note is based on those estimates and on a 10% felony trial rate.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 5/07/2001 1:00 p.m.
 Approved by: Stephanie Cole, Administrative Director Date _____
 Agency: Alaska Court System

For distribution information, call the Governor's Legislative Office

Alaska Court System
 Draft Fiscal Note Calculations for HB132
 4/30/01

	FY02	FY03	FY04	FY05	FY06
<u>Superior Court Lookback Provision:</u>					
50 Jurors 1.0 Days for Selection	1,250	1,250	1,250	1,250	1,250
14 Jurors for 1.5 Days of Court	525	525	525	525	525
12 Jurors for .5 Days of Deliberation	150	150	150	150	150
Deliberation Meal \$11/12 jurors + bailiff	143	143	143	143	143
Total per Superior Court Trial	2,068	2,068	2,068	2,068	2,068
Proposed # Superior Court Trials	4	9	14	18	23
Est. Jury Cost of Superior Court Trials	8,272	18,612	28,952	37,224	47,564
Superior Court Judge (Pro Tems)	4,608	10,368	16,128	20,736	26,496
In-Court Clerk (NPP)	1,465	3,296	5,127	6,592	8,424
Est. Personal Services	6,073	13,664	21,255	27,328	34,920
Subtotal Lookback Provision	14,345	32,276	50,207	64,552	82,484
<u>Superior Court .08 Provision:</u>					
50 Jurors 1.0 Days for Selection	1,250	1,250	1,250	1,250	1,250
14 Jurors for 1.5 Days of Court	525	525	525	525	525
12 Jurors for .5 Days of Deliberation	150	150	150	150	150
Deliberation Meal \$11/12 jurors + bailiff	143	143	143	143	143
Total per Superior Court Trial	2,068	2,068	2,068	2,068	2,068
Proposed # Superior Court Trials	2	2	2	2	2
Est. Jury Cost of Superior Court Trials	4,136	4,136	4,136	4,136	4,136
District Court Judge (Pro Tems)	21,988	21,988	21,988	21,988	21,988
In-Court Clerk (4.0 months)	13,999	13,999	13,999	13,999	13,999
	35,987	35,987	35,987	35,987	35,987
Subtotal .08 Provision	40,123	40,123	40,123	40,123	40,123
HB132 Personal Services Costs	42,060	49,651	57,242	63,315	70,907
HB132 Contractual Services Costs	12,408	22,748	33,088	41,360	51,700
Total Estimated Costs	54,468	72,399	90,330	104,675	122,607

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 132(2nd Rules)efd am
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: "An act relating to the possession of BRU: Legal & Advocacy Svc.
alcohol in a restricted area...and operating a vehicle..." Component: Public Defender Agency
Sponsor: House Judiciary
Requester: Senate Rules Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	152.8	257.6	299.4	347.0	347.0	347.0
Travel	5.4	9.0	10.7	12.5	12.5	12.5
Contractual	40.3	67.3	80.2	93.4	93.4	93.4
Supplies	3.1	5.2	6.1	7.1	7.1	7.1
Equipment	14.0	4.6	4.6	4.6	2.2	2.2
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	215.6	343.7	401.0	464.6	462.2	462.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	215.6	343.7	401.0	464.6	462.2	462.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	215.6	343.7	401.0	464.6	462.2	462.2

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	0	2	3	3	3	3
Part-time	3	0	0	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note reflects the assumption that the BAC reduction for DUI to .08 will only increase the prosecutions 5 %.

See Pages 2 and 3 for further analysis.

Prepared by: Barbara Brink, Director Phone 907-334-4414
Division: Public Defender Agency Date/Time 05/07/01
Approved by: Jim Duncan, Commissioner Date 5/7/01
Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

C/S HB 132 2nd (Rules) ANALYSIS: (continued)

This bill contains three major components:

The first is an increased effort at enforcement of anti-bootlegging and drug laws in rural Alaska. The Department of Public Safety (DPS) has recently received a \$1.4 million Federal appropriation for these enforcement efforts. DPS will make an interagency transfer of some of these funds to the Department of Law (DOL) to hire additional prosecutors. The prosecutors will be based in Anchorage and in Bethel. A paralegal will be added in Bethel. Legal secretaries will be added in Bethel and Anchorage.

Investigating and prosecuting bootlegging and drug delivery offenses usually involves undercover operations. Obviously, DPS and DOL will not be revealing their plans, but it can be expected that there will be extensive undercover operations. DPS and DOL will also be investigating shipments originating in Anchorage. Shipment by the U.S. Mail will be targeted in cooperation with the U.S. Postal Service.

The Public Defender Agency will need additional funding to respond to these increased enforcement efforts. Most, if not all, of the cases that will result from this effort will be prosecuted under state bootlegging and drug distribution statutes. Without adequate Public Defender Agency staff, cases coming out of this increased interdiction effort may encounter significant delays and difficulties in their process through the courts.

Based on our experience in responding to undercover operations in rural Alaska, we know that we can expect 15-25 new additional felony bootlegging and drug delivery cases to be filed per operation. (An example of an undercover operation of the type we expect to respond to occurred in Kotzebue in 1995. There were about 25 cases filed at the conclusion of the operation. See e.g. State v. Vivacious, No. 2KB-95-312 CR (Alaska Sup. Sept. 8, 1995). For purposes of this fiscal note, we will estimate that there will be 20 cases per operation.

These cases will not be filed immediately. For obvious reasons, the standard practice is to complete the whole undercover operation and then file all the court cases at one time. However, we expect that the enforcement efforts in Anchorage will start immediately.

Obviously, we can only guess at the number of undercover operations that will be initiated. But given the amount of Federal funds that are available, the most conservative estimate we can arrive at is that at least seven operations will be completed by the end of FY 2002. This will result in an additional 140 cases being filed. The Public Defender Agency is usually appointed in 90% of rural cases. 90% of the cases is 126 new cases.

As far as the Anchorage enforcement operations are concerned, we estimate that at least 25 new additional felony cases will be filed in FY 2002. We predict we will be appointed in 80% of these cases, resulting in 20 new cases.

Therefore, the total of new additional cases will be about 146. According to national standards, a public defender attorney should be assigned to no more than 150 new felony cases per year. Therefore, we are requesting one additional attorney to be based in Bethel. Because we do not expect the rural Alaska cases to be filed until six months have passed, we are requesting only half of the funding in FY 2002. The funding includes one-time equipment costs and clerical support. The cost in Fiscal Year 2002 is \$84.7, and in succeeding years \$156.8.

The second component of the bill would lower the threshold blood alcohol level for Driving While Intoxicated (DWI) from .10 to .08. It also lowers the threshold presumptive level for impaired driving from .05 to .04. This bill would result in an increase in the number of new criminal cases the Public Defender Agency is appointed to handle.

CSHB132(Rules) ANALYSIS: (continued)

At the direction of the Senate Finance Committee we are assuming a 5% increase in prosecutions due to the .08 BAC.

We will need one additional part-time attorney to handle this increased caseload. Because our Palmer office handles a significant number of DWI cases and has the largest caseload growth in recent years, we will place the attorney at that office. The attorney costs include clerical support and one-time equipment costs in the first year. FY 2002 costs are \$70.5, with succeeding years' cost at \$66.6.

The third component is phasing in a 10-year "look-back" period for prior convictions for felony DUI.

This section would phase in a 10-year "look-back" for prior convictions. Again, the Public Defender Agency accepts the Department of Law's estimate of the number of new cases that would result from this change in the law. As above, we estimate that we will be appointed in about 75% of these cases. The end result is that by FY 06, the Public Defender Agency will have an increased caseload of 182 felony DUIs. We will eventually need two additional attorneys to handle this caseload. Because the effect of this provision will be felt beginning in FY02 and, we will add a half-time attorney in Anchorage in FY02, add a half-time attorney in Palmer in FY03, make the half-time attorney in Anchorage full time in FY04, and add a half-time attorney in Fairbanks in FY05. Fiscal Year 2002 cost is 60.8, 2003 is 120.4, 2004 is 177.9, 2005 is 241.5, 2006 is 239.1, and 2007 is 239.1

REPORTED OUT
MAY 06 2001
SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 132(RLS)2nd
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: "An Act relating to offenses of operating a motor vehicle while intoxicated..." BRU: Motor Vehicles
Component: _____
Sponsor: House Judiciary
Requester: S (Rules) Component Number: 2348

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	55.1	55.1	55.1	55.1	55.1	55.1
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	1.0	0.4	0.4	0.4	0.4	0.4
Equipment	8.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	64.1	55.5	55.5	55.5	55.5	55.5

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	64.1	55.5	55.5	55.5	55.5	55.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	64.1	55.5	55.5	55.5	55.5	55.5

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill would lower the threshold blood alcohol level for Driving While Intoxicated (DWI) from .10 to .08. This bill also lowers the threshold presumptive level for impaired driving from .05 to .04. This bill would result in an increase in the number of driver license revocation hearings held by the division.
This fiscal note assumes that lowering the BAC to .08 will increase DWI arrests by 5%. All of these drivers must be afforded the opportunity for a hearing before their license can be revoked by DMV. Cases under the current .10 law are now scheduled for hearing 30 - 45 days out. Until a hearing is held and a decision rendered, the offender continues to drive unrestricted. The additional caseload for this quasi-judicial process will require one additional hearing officer.

Prepared by: Mary Marshburn Phone 269-5559
Division: Motor Vehicles Date/Time 05/07/01
Approved by: Jim Duncan, Commissioner Date 5/7/01
Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

SENATE FINANCE COMMITTEE
~~2000~~ COMMITTEE ACTION

3/6/01

Bill Number	HB 132		
Amendment	fiscal notes		
Motion	amend		
<u>Motion by</u>	Donley		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Senator Leman			
Senator Olson			
Senator Ward			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	PASS		

amend all fiscal notes to reflect assumption of a 5% increased arrest rate rather than 10% in current fiscal notes

1 criminal history record check from the Federal Bureau of Investigation if that application was
2 pending with the board on the effective date of this Act.

3 * Sec. 18. The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 INTERVENING AMENDMENTS. It is the intent of the legislature that intervening
6 amendments to AS 04.11.491(f) are not to be carried forward on the effective date of sec. 5 of
7 this Act.

8 * Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 APPLICABILITY. This Act applies to offenses committed on or after the effective
11 date of this Act, except that references to previous convictions include convictions occurring
12 before, on, or after the effective date of this Act.

13 * Sec. 20. Section 5 of this Act takes effect July 1, 2004.

14 * Sec. 21. Sections 10 and 15 of this Act take effect September 1, 2001.

15 * Sec. 22. Sections 11 - 14 of this Act take effect July 1, 2001.

16 * Sec. 23. Except as provided in secs. 20 - 22 of this Act, this Act takes effect immediately
17 under AS 01.10.070(c).

AMEND #2

SENATE FINANCE COMMITTEE
~~2000~~ COMMITTEE ACTION

5/6/01

Bill Number	HB 132		
Amendment	#2		
Motion	adopt		
<u>Motion by</u>	Hoffman		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Senator Leman			
Senator Olson			
Senator Ward			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
MOTION	PASS		

delete Sec 1 entirely

page 2, line 8

page 8, lines 20 + 23

delete: "Six"

insert: "10.5"



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 5/6/01 TIME: 11:40 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 3

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please
. CS HB 132 (2d RLS) (2df am) 22-LS0380 \R.a
Plus 2 attached amendments

Thx
Mindy

SENATE CS FOR CS FOR HOUSE BILL NO. 132(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the possession, distribution, importation, and transportation of
2 alcohol in a local option area; requiring liquor license applicants to submit fingerprints
3 for the purpose of conducting a criminal history background check, and relating to the
4 use of criminal justice information by the Alcoholic Beverage Control Board; relating to
5 the offenses of operating a motor vehicle, aircraft, or watercraft while intoxicated and
6 refusal to take a breath test; relating to implied consent to take a chemical test; relating
7 to presumptions arising from the amount of alcohol in a person's breath or blood; and
8 providing for an effective date."

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

AS 04.11.010(c) - deleted

10 * Section 1. AS 04.11.150(g) is amended to read:

11 (g) If a shipment is to an area that has restricted the sale of alcoholic
12 beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), a package store

#2

licensee, agent, or employee may not ship to a purchaser more than 10 and one-half #2
 [12] liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt
 beverages in a calendar month.

* Sec. 2. AS 04.11 is amended by adding a new section to read:

Sec. 04.11.295. Criminal justice information and records. (a) An applicant for the issuance or transfer of a license under this title shall submit to the board, with the application, the applicant's fingerprints and the fees required by the Department of Public Safety for criminal justice information and a national criminal history record check. The board may require an applicant for renewal of a license under this title to submit fingerprints and pay fees as required by this subsection. The board shall submit the fingerprints to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check. The Department of Public Safety may submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The board shall use the information obtained under this section in its determination of an applicant's qualification for issuance, transfer, or renewal of a license.

(b) In this section,

(1) "applicant" means all individuals whose names and addresses are required to be provided with an application for a new license under AS 04.11.260;

(2) "criminal justice information" has the meaning given in AS 12.62.900.

* Sec. 3. AS 04.11.491(f) is amended to read:

(f) **If a** [A] municipality or established village [THAT] has adopted a local option under (a)(1), (2), or (3) or (b)(1) or (2) of this section, **the state, municipality, or established village** may designate **and operate** a site for the delivery of alcoholic beverages to individuals in the area or a site for a person to bring alcoholic beverages if the alcoholic beverages are imported into the area. This subsection does not apply to the delivery or importation of

(1) one liter or less of distilled spirits, two liters or less of wine, or one gallon or less of malt beverages; or

(2) alcoholic beverages to a premises licensed under (a)(2) - (3) or

1 (b)(2) of this section.

2 * **Sec. 4.** AS 04.11.491(f) is repealed and reenacted to read:

3 (f) A municipality or established village that has adopted a local option under
4 (a)(1), (2), or (3) or (b)(1) or (2) of this section may designate a site for the delivery of
5 alcoholic beverages to individuals in the area or a site for a person to bring alcoholic
6 beverages if the alcoholic beverages are imported into the area. This subsection does
7 not apply to the delivery or importation of

8 (1) one liter or less of distilled spirits, two liters or less of wine, or one
9 gallon or less of malt beverages; or

10 (2) alcoholic beverages to a premises licensed under (a)(2) - (3) or
11 (b)(2) of this section.

12 * **Sec. 5.** AS 04.11 is amended by adding a new section to read:

13 **Sec. 04.11.494. Operation of delivery sites.** (a) If a site has been designated
14 under AS 04.11.491(f), except as permitted under AS 04.11.491(f)(1) and (2),

15 (1) alcoholic beverages brought, sent, or transported to an area by a
16 package store or by a person must be sent shipping prepaid and must be addressed to
17 the delivery site;

18 (2) a person or common carrier with possession of alcoholic beverages,
19 upon importation into the area, including alcoholic beverages transported as checked
20 baggage accompanying a traveler, must deliver the alcoholic beverages to the delivery
21 site upon arrival if the delivery site is open or must keep the alcoholic beverages in
22 secure storage until the earliest time the delivery site is next open; the delivery must be
23 made without opening the package containing the alcoholic beverages; alcoholic
24 beverages transported as checked baggage accompanying a traveler may not be
25 released to the traveler before being delivered to the delivery site;

26 (3) a person who cannot lawfully receive alcoholic beverages from the
27 delivery site may not solicit another to bring, send, or transport alcoholic beverages to
28 an area for the solicitor's use;

29 (4) a person may not bring, send, or transport alcoholic beverages to an
30 area upon the solicitation of or with the understanding that the alcoholic beverages are
31 for the use of another person who cannot lawfully receive alcoholic beverages from

1 the delivery site; and

2 (5) alcoholic beverages may not be released from the delivery site
3 except by the operator of the site or an authorized employee or agent of the operator.

4 (b) The operator of a site designated under AS 04.11.491(f) and employees
5 and agents of the operator

6 (1) may not release alcoholic beverages if the package holding the
7 alcoholic beverages is not clearly labeled with the name of the intended recipient or if
8 the package displays the names of more than one recipient;

9 (2) may not release alcoholic beverages without first determining the
10 identity of the recipient by checking a government-issued identification card
11 containing the person's photograph or establishing another means of positive
12 identification;

13 (3) may not release alcoholic beverages if the recipient is different than
14 the person whose name appears on the container as the recipient;

15 (4) may not release alcoholic beverages if the amount released to a
16 recipient in one calendar month is more than a package store is permitted to ship to a
17 purchaser in one calendar month under AS 04.11.150(g) or more than the amount a
18 person may import in one calendar month under a municipal ordinance enacted under
19 AS 04.21.010(a), whichever is less;

20 (5) may not release alcoholic beverages if the alcoholic beverage or its
21 container violates AS 04.16.100, 04.16.110 or a municipal ordinance enacted under
22 AS 04.21.010(a);

23 (6) may not open packages delivered to the site to inspect the contents
24 unless permitted to do so by a search warrant or unless the recipient gives written
25 consent to the opening and inspection;

26 (7) unless the shipper is a licensed package store and the shipping
27 container complies with AS 04.16.125, may not release alcoholic beverages until the
28 alcoholic beverages have been inspected to determine if release would be lawful under
29 this subsection;

30 (8) may not release alcoholic beverages until the recipient has paid all
31 applicable taxes and administrative fees authorized under this section;

1 (9) may not release alcoholic beverages to a recipient and may not
2 employ or otherwise use a person in the operation of the delivery site to handle or
3 secure alcoholic beverages if the person

4 (A) is under the influence of an alcoholic beverage, controlled
5 substance, or inhalant;

6 (B) is under a court order or a condition of bail, probation, or
7 parole that prohibits the person from consuming or possessing alcoholic
8 beverages;

9 (C) is under 21 years of age; or

10 (D) is disqualified due to the person's criminal record under (e)
11 of this section;

12 (10) may return alcoholic beverages to the sender or to the point of
13 shipment at the expense of the recipient if alcoholic beverages cannot be lawfully
14 released under this subsection;

15 (11) may destroy alcoholic beverages

16 (A) that cannot be lawfully released under this subsection if the
17 recipient elects not to pay for the return of the alcoholic beverages under (10)
18 of this subsection; or

19 (B) that have not been released within the time period
20 established by regulations adopted under this section;

21 (12) may establish a voluntary and confidential registration system so
22 as to expedite processing by allowing recipients to be authorized in advance to receive
23 alcoholic beverages;

24 (13) shall immediately report violations of a provision of this title or a
25 regulation adopted under this title to the Alaska state troopers and, if the site is within
26 a municipality, to the municipal police agency;

27 (14) shall maintain records concerning recipients and alcoholic
28 beverages delivered to and released by the delivery site in a manner and for a period of
29 time established under regulations adopted under this section, and shall make the
30 records available for inspection by the Alaska state troopers, a municipal police
31 agency if the site is within a municipality, and the board at reasonable times; and

1 (15) may charge reasonable fees to recipients for registration or for the
2 release of alcoholic beverages under regulations adopted under this section.

3 (c) Except as provided in (b)(14) of this section, records of recipients and
4 alcoholic beverages delivered to and released by the site are confidential and not
5 subject to disclosure except as required by a court order.

6 (d) The board shall adopt regulations to implement this section, including
7 hours of operation, requirements for security and recordkeeping, procedures for
8 delivery, release, processing, and destruction of alcoholic beverages, and
9 administrative fees.

10 (e) A person is disqualified as described under (b)(9) of this section due to the
11 person's criminal record if less than

12 (1) two years has elapsed from the person's unconditional discharge
13 due to a conviction or adjudication as a delinquent for any of the following offenses or
14 a law or ordinance from another jurisdiction with similar elements:

15 (A) driving while intoxicated under AS 28.35.030 or refusal to
16 submit to a chemical test under AS 28.35.032; or

17 (B) a crime involving domestic violence as that term is defined
18 under AS 18.66.990 or violating a protective order under AS 11.56.740;

19 (2) five years has elapsed from the person's unconditional discharge
20 due to a conviction or adjudication as a delinquent for any of the following offenses or
21 a law or ordinance from another jurisdiction with similar elements:

22 (A) a felony violation or a felony attempt to commit a violation
23 of AS 11.41; or

24 (B) a misdemeanor violation of or a misdemeanor attempt to
25 violate a provision in this title; or

26 (3) 10 years has elapsed from the person's unconditional discharge due
27 to a conviction or adjudication as a delinquent for a felony violation or a felony
28 attempt to violate a provision of this title or a law or ordinance from another
29 jurisdiction with similar elements.

30 (f) Operation of a delivery site under this section constitutes a criminal justice
31 activity. In this subsection, "criminal justice activity" has the meaning given in

1 AS 12.62.900.

2 (g) In this section,

3 (1) "area" means a municipality or established village that has adopted
4 a local option under AS 04.11.491(a)(1), (2) or (3) or (b)(1) or (2);

5 (2) "bring" has the meaning given in AS 04.11.499;

6 (3) "controlled substance" has the meaning given in AS 11.71.900;

7 (4) "import" means to send, bring, or transport;

8 (5) "inhalant" has the meaning given to "hazardous volatile material or
9 substance" in AS 47.37.270;

10 (6) "recipient" means a person entitled to receive or attempting to
11 receive alcoholic beverages from a delivery site;

12 (7) "send" has the meaning given in AS 04.11.499;

13 (8) "transport" has the meaning given in AS 04.11.499;

14 (9) "unconditional discharge" has the meaning given in AS 12.55.185.

15 * Sec. 6. AS 04.11.499 is amended to read:

16 **Sec. 04.11.499. Prohibition of importation after election** If a majority of
17 the voters vote to prohibit the importation of alcoholic beverages under
18 AS 04.11.491(a)(4) or (5) or (b)(3) or (4), a person, beginning on the first day of the
19 month following certification of the results of the election, may not knowingly send,
20 transport, or bring an alcoholic beverage into the municipality or established village,
21 unless the alcoholic beverage is sacramental wine to be used for bona fide religious
22 purposes based on tenets or teachings of a church or religious body, is limited in
23 quantity to the amount necessary for religious purposes, and is dispensed only for
24 religious purposes by a person authorized by the church or religious body to dispense
25 the sacramental wine. **In this section,**

26 **(1) "bring" means to carry or convey or to attempt or solicit to**
27 **carry or convey;**

28 **(2) "send" means to cause to be taken or distributed or to attempt**
29 **or solicit to cause to be taken or distributed, and includes use of the United States**
30 **Post Office;**

31 **(3) "transport" means to ship by any method, and includes**