

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 3050

## Attachment 1: Definition of Alcohol Manufacture

The suggested statutory changes are as follows.

Put in AS 04.21.080(b) alcohol definition section: "manufacture" of alcoholic beverages means to use the fermentation process with natural or artificial sugar and yeast, or the distillation process, to create alcoholic content.

The statutes currently do not have a definition for "manufacture" as it relates to alcohol, but below are the definitions of Title 4 "alcoholic beverage" and Title 11.71 drug cases "manufacture".

AS 04.21.080(b)(1) "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage and that contains one-half of one percent or more of alcohol by volume, whether produced commercially or privately; however, in an area that has adopted a local option under AS 04.11.491, "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage by the person who possesses or attempts to possess it and that contains alcohol in any amount if the liquid is produced privately, or that contains one-half of one percent or more of alcohol by volume, if the liquid is produced commercially;

AS 11.71.900(13) "manufacture"

A. means the production, preparation, propagation, compounding, conversion, growing, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; however, the growing of marijuana for personal use is not manufacturing,

B. includes the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance or its container unless done in conformity with applicable federal law

(i) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(ii) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

## Attachment 2: Forfeiture

Below are the current provisions of the forfeiture statute as applies to alcohol offenses. Added in **bold** are the suggested statutory changes.

### AS 04.16.220

(a) The following are subject to forfeiture:

(1) alcoholic beverages manufactured, sold, offered for sale or possessed for sale, bartered or exchanged for goods and services in this state in violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or otherwise stored in violation of AS 04.21.060; alcoholic beverages sold, or offered for sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages transported into the state and sold to persons not licensed under this chapter in violation of AS 04.16.170(b); **alcoholic beverages transported in violation of AS 04.16.125.**

(2) materials and equipment used in the manufacture, sale, offering for sale, possession for sale, barter or exchange of alcoholic beverages for goods and services in this state in violation of AS 04.11.010; materials and equipment used in the stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060; materials and equipment used in the sale or offering for sale of an alcoholic beverage in an area in violation of a local option adopted under AS 04.11.491;

(3) aircraft, vehicles, or vessels used to transport, or facilitate the transportation of

(A) alcoholic beverages manufactured, sold, offered for sale or possession for sale, bartered or exchanged for goods and services in this state in violation of AS 04.11.010;

(B) property stocked, warehoused, or otherwise stored in violation of AS 04.21.060;

(C) alcoholic beverages imported into a municipality or established village in violation of AS 04.11.499;

(4) alcoholic beverages found on licensed premises that do not bear federal excise

(5) alcoholic beverages, materials or equipment used in violation of AS 04.16.175;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions, or **items of value purchased from the proceeds** derived from activity prohibited under AS 04.11.010 or in violation of a local option adopted under AS 04.11.491; and

(7) a firearm which is visible, carried during, or used in furtherance of a violation of Title 4.

(b) Property subject to forfeiture under this section may be actually or constructively seized under an order issued by the superior court upon a showing of probable cause that the property is subject to forfeiture under this section. Constructive seizure is effected upon posting a signed notice of seizure on the item to be forfeited, stating the violation and the date and place of seizure. Seizure without a court order may be made if

(1) the seizure is incident to a valid arrest or search;

(2) the property subject to seizure is the subject of a prior judgment in favor of the state; or

(3) there is probable cause to believe that the property is subject to forfeiture under

(a) of this section; except for alcoholic beverages possessed on violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501, property seized under this paragraph may not be held over 48 hours or until an order of forfeiture is issued by the court, whichever is earlier.

(c) Within 30 days of a seizure under this section the Department of Public Safety shall make reasonable efforts to ascertain the identity and whereabouts of any person holding an interest or

an assignee of a person holding an interest in the property seized, including a right to possession, a lien, mortgage, or conditional sales contract. The Department of Public Safety shall notify the person ascertained to have an interest in property seized of the impending forfeiture, and before forfeiture the Department of Law shall publish, once a week for four consecutive calendar weeks, a notice of the impending forfeiture in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district.

(d) Property subject to forfeiture under (a) of this section may be forfeited

(1) upon conviction of a person for a violation of AS 04.11.010 , 04.11.499, AS 04.21.060 , or AS 04.11.501 or an ordinance adopted under AS 04.11.501, or AS 04.16.125 ; or

2) upon judgment by the superior court in a proceeding in rem that the property was used in a manner subjecting it to forfeiture under (a) of this section. Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file within 30 days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings.

Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant.

(e) The owner of property subject to forfeiture under (a) or (i) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the owner shows that the owner

(1) was not a party to the violation;

(2) had no actual knowledge or reasonable cause to believe that the property was used or was to be used in violation of the law; and

(3) had no actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this title; or

(B) committed other violations of this title.

(f) A person other than the owner holding, or the assignee of, a lien, mortgage, conditional sales contract on, or the right to possession to property subject to forfeiture under (a) or (i) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the person shows that the person

(1) was not a party to the violation subjecting the property to forfeiture; and

(2) had no actual knowledge or reasonable cause to believe that the property was to be used in violation of the law; and

(3) had no actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this title; or

(B) committed other violations of this title.

(i) Upon conviction for a violation of AS 04.11.010 or 04.11.499, if an aircraft, vehicle, or watercraft is subject to forfeiture under (a) of this section, the court shall, subject to remission to innocent parties under this section,

- (1) order the forfeiture of an aircraft to the state;
- (2) order the forfeiture of a vehicle or watercraft if
  - (A) the defendant has a prior felony conviction for a violation of AS 11.41 or a similar law in another jurisdiction;
  - (B) the defendant is on felony probation or parole; the defendant has a prior conviction for violating AS 04.11.010 or 04.11.499; or
  - (C) the quantity of alcohol transported in violation of this title was twice the presumptive amounts in AS 04.11.010(c).

(j) Notwithstanding (i) of this section, a court is not required to order the forfeiture of a vehicle or watercraft if the court determines that

- (1) the vehicle or watercraft is the sole means of transportation for a family residing in a village;
- (2) the court may impose conditions that will prevent the defendant's use of the vehicle or watercraft; and
- (3) either
  - (A) a member of the family would be entitled to remission under this section if the family member were an owner of or held a security interest in the vehicle or watercraft; or
  - (B) if a member of the family would not be entitled to remission, the family member was unable as a practical matter to stop the violation making the vehicle or watercraft subject to forfeiture.

(k) When forfeiting property under (a), (d), or (i) of this section, a court may award to a municipal law enforcement agency that participated in the arrest or conviction of the defendant, the seizure of property, or the identification of property for seizure, (1) the property if the property is worth \$5,000 or less and is not money or some other thing that is divisible, or (2) up to 75 percent of the property or the value of the property if the property is worth more than \$5,000 or is money or some other thing that is divisible. In determining the percentage a municipal law enforcement agency may receive under this subsection, the court shall consider the municipal law enforcement agency's total involvement in the case relative to the involvement of the state.

- (1) In this section, "village" means a community of fewer than 1,000 persons located off the interconnected state road system.

#### **Current forfeiture provisions relating to controlled substances below**

AS 17.30.110. Items Subject to Forfeiture.

The following may be forfeited to the state:

- (1) a controlled substance which has been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or AS 11.71;
- (2) raw materials, products, and equipment which are used or intended for use in manufacturing, distributing, compounding, processing, delivering, importing, or exporting a controlled substance which is a felony under this chapter or AS 11.71;
- (3) property which is used or intended for use as a container for property described in (1) or (2) of this section;
- (4) a conveyance, including but not limited to aircraft, vehicles, or vessels, which has been used or is intended for use in transporting or in any manner in facilitating the

transportation, sale, receipt, possession, or concealment of property described in (1) or (2) of this section in violation of a felony offense under this chapter or AS 11.71; however,

(A) a conveyance may not be forfeited under this paragraph if the owner of the conveyance establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the owner was neither a consenting party nor privy to the violation;

(B) a forfeiture of a conveyance encumbered by a valid security interest at the time of seizure is subject to the interest of the secured party if the secured party establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the secured party was neither a consenting party nor privy to the violation;

(5) books, records, and research products and materials, including formulas, microfilm, tapes, and data, which are used in violation of this chapter or AS 11.71;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited by this chapter or AS 11.71; and

(7) a firearm which is visible, carried during, or used in furtherance of a violation of this chapter or AS 11.71.

#### **AS 17.30.116. Procedure For Forfeiture Action.**

(a) Within 20 days after a seizure under AS 17.30.110 - 17.30.126, the commissioner of public safety shall, by certified mail, notify any person known to have an interest in an item with an appraised value of \$500 or more, or who is ascertainable from official registration numbers, licenses, or other state, federal, or municipal numbers on the item, of the pending forfeiture action. Additionally, the commissioner of public safety shall publish notice of forfeiture action of an item valued at \$500 or more in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district. The notice shall be published once each week during four consecutive calendar weeks. The requirements of this subsection do not apply to the forfeiture of controlled substances which have been manufactured, distributed, dispensed, or possessed in violation of this chapter or AS 11.71, regardless of their value.

(b) Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file within 30 days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings.

(c) Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant under this chapter or AS 11.71.

The most common item bootlegged is R&R whiskey (distilled spirits). The quantity of 14 bottles (750 ml size) equals 10 and one half liters. (16 -750 ml bottles equals 12 liters.) As seen below, the quantity amounts for malt beverages and wine are essentially equivalent for presumptive sale, felony importation and allowable shipping to a sale-restricted location.

The suggested statutory change would make the quantity in AS 04.11.010 consistent if stated "10 and one half liters or more of distilled spirits".

Currently, the statutes provide:

AS 04.11.010 presumptive amount for sale is possession **more than 12 liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages.**

AS 04.16.200(e)(2) amount that makes importation into a dry location a felony is **10 and one half liters or more of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages.**

AS 04.11.140(g) package store license permits shipping monthly to a damp (restriction of sale) location **10 and one half liters of distilled spirits, less than 24 liters of wine, or less than 12 gallons of malt beverages.**

Alcoholic Beverage Control Board  
 5848 East Tudor Road  
 Anchorage AK 99507  
 Douglas B. Griffin  
 (907) 269-0350 Fax (907) 272-9412

**SCHEDULE OF LOCAL OPTION COMMUNITIES**  
 Updated July 29, 2005

City	Ban sale	Community license only	Ban sale and importation	Ban possession	Package store license only	Vote Ta'ly	Election date	Certification date	Effective date
Akiak			1			38-15	07-17-91	08-21-91	09-01-91
Akiachak			1			40-13	08-07-01	08-23-01	09-01-01
Akiachak				1		40-13	08-07-01	08-23-01	10-22-01
Alakanuk			1			94-24	07-20-81	07-27-81	08-01-81
Alakanuk				1		47-7	02-06-90	02-12-90	03-01-90
Allakaket			1			49-30	05-12-89	05-19-89	06-01-89
Allakaket				1		45-34	05-12-89	05-19-89	08-17-89
Ambler			1				12-15-81	12-15-81	01-01-82
Anvik	1					23-6	1/16/2002	1/21/2002	2/1/2002
Anaktuvuk Pass			1			78-11		1982	01-01-83
Anaktuvuk Pass				1		59-45	11-04-86	12-16-86	01-01-87
Angoon				1		92-40	07-26-88	08-01-88	11-01-88
Atmautluak			1			60-12	10-06-81	04-29-82	05-01-82
Atqasuk			1			59-43	04-15-03	04-21-03	05-01-03
Atqasuk				1		59-43	04-15-03	04-21-03	06-30-03
Barrow	1					911-789	10-07-97	10-09-97	11-01-97
Beaver*			1			17-11	06-15-04	07-09-04	08-01-04
Beaver*				1		17-11	06-15-04	07-09-04	08-01-04
Bethel	1					611-207	10-04-77	10-06-77	11-01-77
Birch Creek*				1		13-2	10-06-87	10-22-87	11-01-87
Brevig Mission			1	1		34-32	03-03-99		05-03-99
Buckland			1			52-6	05-10-82	05-11-82	06-01-82
Chalkyitsik*			1			21-2	07-20-82	07-28-82	08-01-82
Chefornak			1			48-29	10-14-82	10-15-82	11-01-82
Chevak			1			88-63	10-02-90	10-02-90	11-01-90
Deering			1			32-24	05-26-82	06-01-82	07-01-82
Diomede			1			27-11	09-10-81	09-29-81	10-01-81
Eek			1			90-15	11-27-82	11-27-82	12-01-82
Elim			1			49-17	08-24-81	08-27-81	09-01-81
Emmonak			1			54-12	10-12-81	10-12-81	11-01-81
Emmonak				1		104-89	10-01-91	10-07-91	07-14-92
False Pass					1	34-6	10/2/2001	10/5/2001	11/1/2001
Fort yukon		1							
Gulkana			1			17-3	01-14-97	01-28-97	02-01-97
Gulkana				1		17-3	01-14-97	01-28-97	03-30-97
Gambell			1			79-10	08-22-81	08-25-81	09-01-81
Gambell				1		72-13	12-23-86	12-29-86	01-01-87
Golovin			1			31-22	01-16-84	01-17-84	02-01-84

\*Unincorporated

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City	Ban sale	Community license only	Ban sale and importation	Ban possession	Package store license only	Vote Tally	Election date	Certification date	Effective date
Goodnews Bay			1			36-25	11-08-83	11-08-83	12-01-83
Goodnews Bay				1		37-11	01-14-91	01-18-91	02-01-91
Grayling	1					36-27	11-05-96	11-12-96	12-01-96
Holy Cross	1					42-31	10-03-00	10-06-00	11-01-00
Hooper Bay			1			103-44	03-01-83	03-01-83	04-01-83
Hughes	1					17-4	03-02-93	03-29-93	04-01-93
Huslia	1					37-13	03-14-89	03-23-89	04-01-89
Iliamna*	1					35-24	10-05-82	10-25-82	01-23-83
Kake		1							
Kaktovik				1		56-39	08-01-89	08-07-89	11-05-89
Kasigluk			1			74-3	10-04-83	10-17-83	11-01-83
Kiana			1			81-38	12-08-87	12-17-87	01-01-88
Kipnuk*			1			82-7	10-05-82	10-25-82	11-01-82
Kivalina			1			79-33	01-08-85	01-09-85	02-01-85
Klawock		1				111-70	10-05-93	10-11-93	10-11-93
Kobuk			1			15-12	03-29-89	04-03-89	05-01-89
Kokhanok*	1					31-18	6/28/2005	7/14/2005	8/1/2005
Kungiganak*			1	1		41-10	04-23-96	05-27-84	06-01-96
Kotlik			1			67-15	09-08-81	09-30-81	10-01-81
Kotlik				1		51-22	03-24-87	03-25-87	04-01-87
Kotzebue	1					643-433	12-06-88	12-07-88	01-01-89
Koyuk			1			57-8	08-25-81	08-26-81	09-01-81
Kwethluk			1			82-30	01-01-82	02-24-82	03-01-82
Kwigillingok*			1			63-5	08-09-83	09-01-83	10-01-83
Lower Kalskag			1			46-31	11-05-91	11-07-91	12-01-91
Manokotak			1			79-9	01-29-88	02-01-88	03-01-88
Manokotak				1		80-8	01-29-88	02-01-88	03-01-88
Marshall (Fortuna)			1			42-16	07-25-81	07-26-81	08-01-81
Marshall				1		37-34	10-07-86	10-08-86	11-01-86
Mekoryuk			1			48-10	09-01-81	09-02-81	10-01-81
Mekoryuk				1		42-29	10-07-86	10-08-86	11-01-86
Minto*			1			59-34	07-12-83	07-21-83	08-01-83
Mountain Village			1			72-52	03-13-84	03-19-84	04-01-84
Nanwalek/ English Bay	1					47-29	01-13-98	01-26-98	02-01-98
Napakiak			1			54-14	03-31-82	03-31-82	04-01-82
Napakiak				1		62-14	05-05-87	05-19-87	06-01-87

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Napaskiak			1			55-4	11-01-82	11-08-82	12-01-82
Naukati					1	31-13	03-26-96	04-08-96	05-01-96
Newtok			1			37-9	10-30-84	11-02-84	12-01-84
Nightmute			1			32-3	02-02-96	02-06-96	03-01-96
Nightmute				1		32-4	02-02-96	02-06-96	04-09-96
Nikolai	1		1			28-16	5/20/1997		8/5/1997
Noatak*			1			69-53	12-07-82	12-22-82	01-01-83
Nondalton	1					46-30	11-10-86	12-30-86	01-28-87
Noorvik			1			103-58	04-28-87	04-28-87	05-01-87
Nuiqsut			1			57-39	11-21-83	11-22-83	12-01-83
Nuiqsut				1		60-56	11-01-86	11-12-86	12-01-86
Nunapitchuk			1			106-35	09-12-81	10-02-81	11-01-81
Nunapitchuk				1		75-23	10-07-86	10-13-86	11-01-86
Pilot Station			1			93-76	03-04-03	03-04-03	04-01-03
Platinum			1			12-9	01-14-82	01-25-82	02-01-82
Point Hope			1			62-39	06-29-82	07-02-82	08-01-82
Point Hope				1			10-0	10-09-89	11-01-89
Point Lay*			1			30-15	07-01-86	07-11-86	08-01-86
Port Alexander	1					31-16	01-05-82	01-11-82	02-01-82
Port Protection*					1	23-9	03-27-88	04-05-88	05-01-88
Quinhagak			1			77-26	10-30-81	10-31-81	11-01-81
Quinhagak				1		71-27	10-06-87	10-12-87	11-01-87
Red Devil*	1					17-8	02-20-90	04-27-90	07-26-90
Russian Mission			1			46-22	10-06-87	10-27-87	11-01-87
Saint Mary's	1					90-86	08-23-94	09-02-94	10-01-94
Saint Mary's			1			63-48	09-22-81	09-28-81	10-01-81
Saint Michael			1			39-21	08-04-86	08-07-86	09-01-86
Savoonga			1	1		117-56	10-07-97	10-10-97	12-09-97
Scammon Bay			1			57-10	12-07-81	12-08-81	01-01-82
Scammon Bay				1		71-25	10-06-87	10-12-87	11-01-87
Selawik			1			89-69	12-17-86	12-22-86	01-01-87
Shageluk	1					29-25	2/20/2001	3/19/2001	4/1/2001
Shaktolik			1			34-28	03-13-84	03-15-84	04-01-84
Sheldon Point (Nunam Iqua)			1			26-7	08-26-86	08-27-86	09-01-86
Shishmaref			1			82-47	01-04-83	01-04-83	02-01-83
Shungnak			1			46-44	10-06-87	10-10-87	11-01-87
Stebbins			1			88-19	08-25-87	10-08-87	11-01-87
Stevens Village*			1			31-11	06-05-84	06-15-84	07-01-84

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City	Ban sale	Community license only	Ban sale and importation	Ban possession	Package store license only	Vote Tally	Election date	Certification date	Effective date
Tanacross*				1		32-5	05-17-88	05-31-88	06-01-88
Tanana		1				90-15	01-12-82	01-13-82	02-01-82
Takotna	1					22-8	08-24-99	09-09-99	12-08-99
Tatitlek*			1			28-15	08-23-83	09-13-83	12-09-99
Teller	1					55-41	11-13-97	11-14-97	01-14-98
Tellin*			1			54-7	12-07-82	12-22-82	01-01-83
Togiak			1			96-23	05-03-82	05-04-82	06-01-82
Togiak				1		80-38	10-07-86	10-31-86	11-01-86
Toksook Bay			1			78-32	11-23-81	11-23-81	12-01-81
Tuluksak			1			61-16	10-05-82	10-05-82	11-01-82
Tuluksak				1		55-12	04-12-94	04-25-94	05-01-94
Tuntutuliak			1			47-20	07-20-82	08-02-82	09-01-82
Tuntutuliak				1		41-22	10-06-87	10-28-87	11-01-87
Tununak			1			90-11	08-12-81	08-13-81	09-01-81
Twin Hills			1			13-5	03-14-00	03-30-00	04-01-00
Twin Hills				1		13-5	03-14-00	03-30-00	05-30-00
Unalakleet	1					121-40	04-14-92	04-16-92	05-01-92
Upper Kalskag			1			38-30	01-20-93	02-22-93	03-01-93
Wainwright			1			61-42	07-08-82	07-14-82	08-01-82
Wales			1			29-21	08-14-81	08-17-81	09-01-81
<b>TOTALS</b>	<b>20</b>	<b>4</b>	<b>77</b>	<b>32</b>	<b>3</b>				

CHANGES THIS UPDATE:

Kokhanok voted to ban sale effective August 1, 2005.

This is a change relaxing the previous restrictions against sale & importation.

This schedule is continuously updated as dictated by ongoing elections. If you have any questions, please do not hesitate to call the ABC Board office at 907-269-0350.

**SB**

**210**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

REPORTED OUT  
**FEB 17 2006**  
 SENATE FINANCE COMMITTEE

DATE: 2/3/06

FURTHER:

DATE TURNED  
 IN TO OFFICE: 2/17/06

Finance Committee considered SENATE BILL NO. 210

## SB 210 VIOL. OF ALCOHOLIC BEV. LAWS/FORFEITURE

"An Act relating to the manufacture and transportation of alcoholic beverages; relating to forfeitures of property for violations of alcoholic beverage laws; and relating to violations of alcoholic beverage laws."

and recommends:

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

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#
DPS	2/3/06			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓		✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>				

# FISCAL NOTE

REPORTED OUT  
**FEB 17 2006**  
 SENATE FINANCE COMMITTEE

STATE OF ALASKA  
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: SB 210  
 (S) Publish Date: 2/6/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title "An Act relating to the manufacture and transportation of alcoholic beverages;..." RDU Alaska State Troopers  
 Component AST Detachments  
 Sponsor Senator Therriault  
 Requester Senate Finance Committee Component No. 2325

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2006) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Passage of this legislation will have no fiscal impact to the Department of Public Safety. Enforcement efforts in this area have been ongoing and will continue to use current and existing resources within the division of the Alaska State Troopers.

Passage of this legislation could act as a significant deterrent against the crime of alcohol importation when the person faces the loss of personal property as a result of his criminal conduct.

Prepared by: Lieutenant James Helgoe Phone 907-269-4532  
 Division: Alaska State Troopers Date/Time 2/3/06 5:26 PM  
 Approved by: Commissioner William Tandeske Date 2/3/2006  
 Agency: Department of Public Safety

# Alaska State Legislature

SENATOR  
GENE THERRIAULT

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Senate District F

## Senate

### SPONSOR STATEMENT SB 210

*"An Act relating to the manufacture and transportation of alcoholic beverages; relating to forfeitures of property for violations of alcoholic beverage laws; and relating to violations of alcoholic beverage laws."*

In 2004, Congress passed legislation recognizing that many rural communities and their residents ". . . face the highest alcohol abuse and family violence rates in the country," and establishing the Alaska Rural Justice and Law Enforcement Commission. The Commission released a *Draft Interim Report* in late 2005 that contained recommendations, including amendments to several provisions in Alaska statutes.

Senate Bill 210 changes current law to help law enforcement better protect communities that have chosen to limit the sale or possession of alcohol under local option laws. First, Senate Bill 210 strengthens current forfeiture provisions in statute by allowing seizure of alcohol transported by common carrier in violation of current law. Second, it authorizes the seizure of property determined to have been purchased or obtained through the proceeds of illegal importation or sale of alcohol and outlines procedures for a person claiming an interest in property that has been seized.

SB 210 also defines "manufacture" of alcohol and provides consistency between statutes by amending the allowable quantities. While current statute prohibits the manufacture of alcohol in a community that has adopted a local option, it does not include a definition. The legislation also clarifies statutes relating to the presumption of possession for sale. These provisions provide clarity and assist law enforcement and communities in their continued interdiction efforts in damp or dry areas of the state.

Currently more than 100 communities in Alaska have chosen a local option to combat the problems associated with alcohol abuse and violence. SB 210 clarifies, strengthens and brings uniformity to the state's alcohol and beverage control statutes to assist law enforcement and communities fight the illegal importation of alcohol.

**Draft Interim Report of the  
Alaska Rural Justice and Law Enforcement  
Commission**

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**Attached**

Chapter 1:     *Statement of Need*

Appendix G:   *Attachments for the Alcohol Importation  
Recommendations*

The Report can be found in full at the following url:  
[http://www.aitc.org/site\\_documents/Draft%20Interim%20Report-2.mht](http://www.aitc.org/site_documents/Draft%20Interim%20Report-2.mht)

## Chapter I. Statement of Need

The Alaska Rural Justice and Law Enforcement Commission was created by Congress to respond to a number of needs related to justice and law enforcement in rural Alaska that are detailed in the congressional language (Public Law 108-199). This chapter of the Commission's Final Report reviews current conditions in rural Alaska, recounts the history of law enforcement in rural Alaska, recognizes some of the improvements in rural Alaska that have occurred in recent years, and presents excerpts of the testimony given to the Commission during the public hearings.

### A. Current Conditions

#### 1. *Problems the Commission has been asked to address*

Like all communities nationwide, residents of remote, rural Alaska grapple with family violence, child abuse and neglect, and alcohol addiction. Unlike other communities, however, many remote rural residents in Alaska lack a law enforcement presence in their communities and face the highest alcohol abuse and family violence rates in the country. Congress asked the Commission to consider various options that might address these issues, including creation of a unified law enforcement and judicial system, cross deputization, and restorative justice methods to address family violence, child protection and alcohol consumption. This charge reflects congressional concern about the profound challenges facing rural Alaska.

Alcohol abuse presents profound challenges in rural Alaska; its effects are insidious, affecting and influencing the health and welfare of all who live there. As the Alaska Natives Commission reported more than a decade ago:

Facts do not lie: alcohol abuse among Alaska Natives equals tragedy for family and village. It is proven that alcohol abuse equals violence, imprisonment, and death. It is proven that alcohol abuse in the Native family results in frightened, psychologically disordered children. Alcohol abuse leaves FAS, FAE, and a myriad other physical and psychological symptoms in its destructive wake.<sup>131</sup>

Last year the Institute of Social and Economic Research (ISER), University of Alaska Anchorage, in its *The Status of Alaska Natives Report 2004, Volume I*, stated, "Analysts say that the most difficult social problems in the Native community – from high rates of suicide to domestic violence and child abuse – can be traced in large part to alcohol."<sup>341</sup> The costs to Alaska are not only social. Financially, it is estimated that alcohol abuse and alcoholism cost Alaska well over \$615,000,000 a year.<sup>131</sup>

The Commission emphasizes that alcohol abuse and alcoholism in rural Alaska are not *Native* problems, *per se*, but rather problems for Natives and non-Natives alike.

---

But the Commission also acknowledges that over 66% of the population in rural Alaska is Native<sup>46)</sup> and that recommendations in this report that mention the importance of culturally appropriate approaches predominantly focus on Alaska Natives. However, that is not intended to imply that these approaches are inappropriate for non-Natives living in rural Alaska.

The impacts of substance abuse and the relevance of finding effective means to prevent alcohol and other drugs from reaching rural Alaska communities that have, through local option laws, decided to ban, partially or wholly, alcohol<sup>57)</sup> are important threads in the fabric of society in rural Alaska, as they have been in the Commission's work over the last ten months. Numerous statistics point to the continuing – and in many cases growing – overrepresentation of Alaska Natives from rural Alaska among children in need of aid, victims and perpetrators of domestic violence and sexual assault, and other crimes. The percentage of Native children under the care of the Office of Children's Services hovers close to 50% and the numbers of Native youth and adults in Alaska's juvenile justice and correctional systems are similarly disproportionately large. The justice systems in rural Alaska struggle to find locally and culturally appropriate ways to manage offenders in a way that minimizes negative impacts to families and communities and strives to restore harmony quickly. There are frequent "disconnects" between tribal and state court systems, and disputes over jurisdiction continue throughout rural Alaska. In the mean time, rural residents criticize the inadequacies of current law enforcement and public safety in much of rural Alaska, but an affordable and acceptable resolution has yet to be found.

Domestic violence, child abuse, child neglect, and sexual assault are major problems in rural Alaska. The following quote highlights the experiences of one Alaskan researcher:

In Alaska, we often see abusive partners who have relocated their families to remote communities to isolate them from the support of their friends and family, and to more easily track and control their movements. Victims may be held hostage in their own homes with no winter clothing or means of escaping their extreme isolation. Deprivation and isolation become powerful tools to control victims.

One survivor, who shares her story to help others understand the dynamics of abuse in rural communities, described how her husband stranded her and their new baby at a remote fish camp for several weeks without enough food, medications and other essentials. Eventually, she was able to escape her abusive marriage and became a domestic violence outreach worker to remote villages in the Arctic. Although she struggles with debilitating, long-term health problems secondary to the abuse, she survived. Her former husband murdered his next wife.

When domestic violence services are available in rural regions, they face additional challenges in maintaining security and accommodating rural lifestyles. In Alaska, none of the shelter locations are secret – the communities are too small to hide a facility. Maniilaq Family Crisis Center, a victims' assistance program and shelter in northwestern Alaska, offers a safe haven to victims and the animals that they are often unwilling to leave behind. The center uses a snowmobile to pick up clients and has a fenced yard where clients can keep their dog teams and other animals. Susan Jones, the center's executive director, takes threats against victims' pets seriously. The murder or mutilation of a pet by an abusive partner is another indicator of escalating domestic violence.<sup>6[8]</sup>

Statistics reported by the Alaska Council on Domestic Violence and Sexual Assault highlight the seriousness and widespread nature of the situation in Alaska:<sup>7[9]</sup>

- In calendar year 2002 the Division of Family and Youth Services (now the Office of Children's Services) received 1,475 reports of suspected child sexual abuse.  
(Division of Family and Youth Services, State of Alaska)
- On average, an Alaska woman is forcibly raped every 18 hours and 17 minutes.  
(Alaska Uniform Crime Report, 2001)
- During FY 2002, 1,851 victims of sexual assault sought services from victim service programs in Alaska.  
(Council on Domestic Violence and Sexual Assault, State of Alaska)
- 311 sexual assault cases and 241 sexual abuse of a minor cases were referred to Alaska District Attorney offices in 2001.  
(Department of Law, State of Alaska)

Domestic violence, child abuse, child neglect, and sexual assault, especially in rural Alaska and in the Alaska Native population, represent major issues that need new, creative solutions to resolve.

Part of the solution may lie in enhanced or altered rural law enforcement. Accordingly, the Commission also has been asked to study issues related to law enforcement in rural Alaska. A brief history will help put the current systems in perspective.

---

**APPENDIX G**

**ATTACHMENTS FOR RECOMMENDATIONS RELATED TO**

**THE DEFINITION OF ALCOHOL MANUFACTURE**

**FORFEITURE**

**QUANTITY CONSISTENCY**

## Attachment 1: Definition of Alcohol Manufacture

The suggested statutory changes are as follows.

Put in AS 04.21.080(b) alcohol definition section: "manufacture" of alcoholic beverages means to use the fermentation process with natural or artificial sugar and yeast, or the distillation process, to create alcoholic content.

The statutes currently do not have a definition for "manufacture" as it relates to alcohol, but below are the definitions of Title 4 "alcoholic beverage" and Title 11.71 drug cases "manufacture".

AS 04.21.080(b)(1) "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage and that contains one-half of one percent or more of alcohol by volume, whether produced commercially or privately; however, in an area that has adopted a local option under AS 04.11.401, "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage by the person who possesses or attempts to possess it and that contains alcohol in any amount if the liquid is produced privately, or that contains one-half of one percent or more of alcohol by volume, if the liquid is produced commercially;

AS 11.71.900(13) "manufacture"

A. means the production, preparation, propagation, compounding, conversion, growing, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; however, the growing of marijuana for personal use is not manufacturing;

B. includes the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance or its container unless done in conformity with applicable federal law

(i) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(ii) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

## Attachment 2: Forfeiture

Below are the current provisions of the forfeiture statute as applies to alcohol offenses. Added in **bold** are the suggested statutory changes.

### AS 04.16.220

(a) The following are subject to forfeiture:

(1) alcoholic beverages manufactured, sold, offered for sale or possessed for sale, bartered or exchanged for goods and services in this state in violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or otherwise stored in violation of AS 04.21.060; alcoholic beverages sold, or offered for sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages transported into the state and sold to persons not licensed under this chapter in violation of AS 04.16.170(b); **alcoholic beverages transported in violation of AS 04.16.125.**

(2) materials and equipment used in the manufacture, sale, offering for sale, possession for sale, barter or exchange of alcoholic beverages for goods and services in this state in violation of AS 04.11.010; materials and equipment used in the stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060; materials and equipment used in the sale or offering for sale of an alcoholic beverage in an area in violation of a local option adopted under AS 04.11.491;

(3) aircraft, vehicles, or vessels used to transport, or facilitate the transportation of

(A) alcoholic beverages manufactured, sold, offered for sale or possessed for sale, bartered or exchanged for goods and services in this state in violation of AS 04.11.010;

(B) property stocked, warehoused, or otherwise stored in violation of AS 04.21.060;

(C) alcoholic beverages imported into a municipality or established village in violation of AS 04.11.499;

(4) alcoholic beverages found on licensed premises that do not bear federal excise

(5) alcoholic beverages, materials or equipment used in violation of AS 04.16.175;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions, **or items of value purchased from the proceeds derived from activity prohibited under AS 04.11.010 or in violation of a local option adopted under AS 04.11.491; and**

(7) a firearm which is visible, carried during, or used in furtherance of a violation of Title 4.

(b) Property subject to forfeiture under this section may be actually or constructively seized under an order issued by the superior court upon a showing of probable cause that the property is subject to forfeiture under this section. Constructive seizure is effected upon posting a signed notice of seizure on the item to be forfeited, stating the violation and the date and place of seizure. Seizure without a court order may be made if

(1) the seizure is incident to a valid arrest or search;

(2) the property subject to seizure is the subject of a prior judgment in favor of the state; or

(3) there is probable cause to believe that the property is subject to forfeiture under

(a) of this section; except for alcoholic beverages possessed on violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501, property seized under this paragraph may not be held over 48 hours or until an order of forfeiture is issued by the court, whichever is earlier.

(c) Within 30 days of a seizure under this section the Department of Public Safety shall make reasonable efforts to ascertain the identity and whereabouts of any person holding an interest or

an assignee of a person holding an interest in the property seized, including a right to possession, a lien, mortgage, or conditional sales contract. The Department of Public Safety shall notify the person ascertained to have an interest in property seized of the impending forfeiture, and before forfeiture the Department of Law shall publish, once a week for four consecutive calendar weeks, a notice of the impending forfeiture in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district.

(d) Property subject to forfeiture under (a) of this section may be forfeited

(1) upon conviction of a person for a violation of AS 04.11.010 , 04.11.499, AS 04.21.060 , or AS 04.11.501 or an ordinance adopted under AS 04.11.501, or AS 04.16.125 ; or

2) upon judgment by the superior court in a proceeding in rem that the property was used in a manner subjecting it to forfeiture under (a) of this section. Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file within 30 days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings.

Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant.

(e) The owner of property subject to forfeiture under (a) or (i) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the owner shows that the owner

(1) was not a party to the violation;

(2) had no actual knowledge or reasonable cause to believe that the property was used or was to be used in violation of the law; and

(3) had no actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this title; or

(B) committed other violations of this title.

(f) A person other than the owner holding, or the assignee of, a lien, mortgage, conditional sales contract on, or the right to possession to property subject to forfeiture under (a) or (i) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the person shows that the person

(1) was not a party to the violation subjecting the property to forfeiture; and

(2) had no actual knowledge or reasonable cause to believe that the property was to be used in violation of the law; and

(3) had no actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this title; or

(B) committed other violations of this title.

(i) Upon conviction for a violation of AS 04.11.010 or 04.11.499, if an aircraft, vehicle, or watercraft is subject to forfeiture under (a) of this section, the court shall, subject to remission to innocent parties under this section,

- (1) order the forfeiture of an aircraft to the state;
- (2) order the forfeiture of a vehicle or watercraft if
  - (A) the defendant has a prior felony conviction for a violation of AS 11.41 or a similar law in another jurisdiction;
  - (B) the defendant is on felony probation or parole; the defendant has a prior conviction for violating AS 04.11.010 or 04.11.499; or
  - (C) the quantity of alcohol transported in violation of this title was twice the presumptive amounts in AS 04.11.010(c).

(j) Notwithstanding (i) of this section, a court is not required to order the forfeiture of a vehicle or watercraft if the court determines that

- (1) the vehicle or watercraft is the sole means of transportation for a family residing in a village;
- (2) the court may impose conditions that will prevent the defendant's use of the vehicle or watercraft; and
- (3) either
  - (A) a member of the family would be entitled to remission under this section if the family member were an owner of or held a security interest in the vehicle or watercraft; or
  - (B) if a member of the family would not be entitled to remission, the family member was unable as a practical matter to stop the violation making the vehicle or watercraft subject to forfeiture.

(k) When forfeiting property under (a), (d), or (i) of this section, a court may award to a municipal law enforcement agency that participated in the arrest or conviction of the defendant, the seizure of property, or the identification of property for seizure, (1) the property if the property is worth \$5,000 or less and is not money or some other thing that is divisible, or (2) up to 75 percent of the property or the value of the property if the property is worth more than \$5,000 or is money or some other thing that is divisible. In determining the percentage a municipal law enforcement agency may receive under this subsection, the court shall consider the municipal law enforcement agency's total involvement in the case relative to the involvement of the state.

- (l) In this section, "village" means a community of fewer than 1,000 persons located off the interconnected state road system.

#### **Current forfeiture provisions relating to controlled substances below**

AS 17.30.110. Items Subject to Forfeiture.

The following may be forfeited to the state:

- (1) a controlled substance which has been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or AS 11.71;
- (2) raw materials, products, and equipment which are used or intended for use in manufacturing, distributing, compounding, processing, delivering, importing, or exporting a controlled substance which is a felony under this chapter or AS 11.71;
- (3) property which is used or intended for use as a container for property described in (1) or (2) of this section;
- (4) a conveyance, including but not limited to aircraft, vehicles, or vessels, which has been used or is intended for use in transporting or in any manner in facilitating the

transportation, sale, receipt, possession, or concealment of property described in (1) or (2) of this section in violation of a felony offense under this chapter or AS 11.71; however,

(A) a conveyance may not be forfeited under this paragraph if the owner of the conveyance establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the owner was neither a consenting party nor privy to the violation;

(B) a forfeiture of a conveyance encumbered by a valid security interest at the time of seizure is subject to the interest of the secured party if the secured party establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the secured party was neither a consenting party nor privy to the violation;

(5) books, records, and research products and materials, including formulas, microfilm, tapes, and data, which are used in violation of this chapter or AS 11.71;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited by this chapter or AS 11.71 and

(7) a firearm which is visible, carried during, or used in furtherance of a violation of this chapter or AS 11.71.

#### **AS 17.30.116. Procedure For Forfeiture Action.**

(a) Within 20 days after a seizure under AS 17.30.110 - 17.30.126, the commissioner of public safety shall, by certified mail, notify any person known to have an interest in an item with an appraised value of \$500 or more, or who is ascertainable from official registration numbers, licenses, or other state, federal, or municipal numbers on the item, of the pending forfeiture action. Additionally, the commissioner of public safety shall publish notice of forfeiture action of an item valued at \$500 or more in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district. The notice shall be published once each week during four consecutive calendar weeks. The requirements of this subsection do not apply to the forfeiture of controlled substances which have been manufactured, distributed, dispensed, or possessed in violation of this chapter or AS 11.71, regardless of their value.

(b) Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file within 30 days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings.

(c) Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant under this chapter or AS 11.71.

The most common item bootlegged is R&R whiskey (distilled spirits). The quantity of 14 bottles (750 ml size) equals 10 and one half liters. (16 -750 ml bottles equals 12 liters.) As seen below, the quantity amounts for malt beverages and wine are essentially equivalent for presumptive sale, felony importation and allowable shipping to a sale-restricted location.

The suggested statutory change would make the quantity in AS 04.11.010 consistent if stated "10 and one half liters or more of distilled spirits".

Currently, the statutes provide:

AS 04.11.010 presumptive amount for sale is possession more than 12 liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages.

AS 04.16.200(e)(2) amount that makes importation into a dry location a felony is 10 and one half liters or more of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages.

AS 04.11.140(g) package store license permits shipping monthly to a damp (restriction of sale) location 10 and one half liters of distilled spirits, less than 24 liters of wine, or less than 12 gallons of malt beverages.

**Alaska State Troopers  
Alaska Bureau of Alcohol  
and Drug Enforcement**



**2004 Annual Drug Report**



## 2004 Annual Drug Report

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## Introduction

The Alaska State Troopers, Bureau of Alcohol and Drug Enforcement in authoring this publication, has endeavored to represent the drug situation in Alaska in a manner that provides the broadest possible picture of the true situation.

There are numerous agencies that conduct drug investigations in Alaska. While some agencies have a less formal relationship, most work closely with the Alaska State Troopers. In order to properly represent the true drug situation in Alaska, statistics from agencies other than those that participate in Alaska Bureau of Alcohol and Drug Enforcement are included in this report. Information provided by all sources should be considered when attempting to measure how drugs are impacting the citizens of this state.

We believe that all of this material is vital when analyzing the needs of the state in the arena of drug enforcement.



## Our Mission

### *Alaska Bureau of Alcohol and Drug Enforcement*

The Alaska State Troopers, Alaska Bureau of Alcohol and Drug Enforcement (ABADE) provides a leadership role in coordinating law enforcement's efforts to reduce the availability of alcohol and controlled substances throughout Alaska. ABADE recognizes that a successful alcohol and drug program depends upon a unified effort blending traditional law enforcement techniques with demand reduction programs that address educational, social, and community concerns.

### ABADE's mission is to:

- ❖ Interdict and seize alcohol and controlled substances that are illegally distributed throughout Alaska.
- ❖ Identify and arrest distributors of controlled substances and illegal alcohol.
- ❖ Provide training and investigative support to criminal justice agencies.
- ❖ Support and participate in public education programs.



## Staffing and Support

Using a combination of federal and state funding, ABADE consisted of twenty-seven (27) State Trooper investigators and twelve (12) civilian clerical personnel for the majority of 2004. ABADE recognizes that because of Alaska's geographical vastness and ethnic diversity, no single law enforcement agency is capable of handling the drug and alcohol problems alone. ABADE encourages cooperative efforts between federal, state and local law enforcement agencies and has taken a leadership role in fostering and developing many of these cooperative arrangements through multi-jurisdictional and/or multi-agency efforts. The ABADE headquarters office in Anchorage supports six (6) investigative teams throughout the state. These teams are broken down by region as follows:

Alaska Interdiction Task Force (DEA sponsored)

Fairbanks Area-wide Narcotics Team

Mat-Su Drug Narcotics Enforcement Team

Major Offenders Unit

Southeast Alaska Narcotics Enforcement Team

Western Alaska Alcohol and Narcotics Team

The Alaska National Guard Counter Drug Support Program (CDSP) provides additional support in several ABADE units. They provide operational resources, which include, but are not limited to manpower, equipment, and logistical support to federal, state, and local law enforcement throughout Alaska. Financed under a special congressional appropriation, there is no cost to the state of Alaska for the CDSP. This program contributes numerous resources not normally available to law enforcement agencies for assistance specific to drug investigations.

ABADE participates with and receives assistance from several investigative agencies involved in drug enforcement. These agencies include the Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), the U.S. Postal Inspection Service, the Internal Revenue Service (IRS), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and U.S. Immigration and Customs Enforcement (ICE) as well as other state and local agencies.



## Nature of the Drug Problem

Members of Alaska's law enforcement community and others who are part of Alaska's criminal justice system have long known that the greatest contributing factor to violent crimes, including domestic violence and sexual assault, is drug and alcohol abuse. It is also widely recognized that many of the accidental deaths that occur in Alaska are related to alcohol use. This is especially true in the western regions of the state.

While there is no question that many aspects of the drug and alcohol problem are unique to Alaska, ABADE strives to provide a continuing and coordinated effort that not only meets the needs of Alaska, but is also dovetailed with the National Drug Control Strategy. The Strategy underscores the social and economic costs to society and was developed to provide general guidance and a framework for federal, state, and local agencies in developing a counter drug effort. The Strategy's established goals are:

- Educate and enable America's youth to reject illegal drugs as well as alcohol and tobacco.
- Increase the safety of America's citizens by substantially reducing drug-related crime and violence.
- Reduce health and social costs to the public of illegal drug use.
- Shield America's air, land and sea frontiers from the drug threat.
- Break foreign and domestic drug sources of supply.

The National Institute of Justice's Arrestee Drug Abuse Monitoring (ADAM) program tracks trends in the prevalence and type of drug use among booked arrestees in urban areas. This data has played an important role in assembling the national picture of drug abuse in the arrestee population and has been a central component in studying the links between drug use and crime.

The last data available for these types of statistics are for calendar year 2003 and were found in an article published by the Alaska Justice Forum. Research conducted by ADAM continues to show several very serious trends. This data represents only males screened at one correctional facility.

There were a total of 943 male arrestees screened for being under the influence of drugs and alcohol at time of booking. Among those screened, 10.4% were under 21, while over 40.3% were 36 years of age or older. These age percentages do not seem to dovetail with the normal expectations since such a large percent of those arrested are over 36 years of age.

When arrested, 25.4% of the 943 arrestees tested positive for cocaine, 52% tested positive for marijuana and 12.1% tested positive for alcohol.

The primary reason that these persons were arrested is not indicated in the ADAM report, but a strong inference can certainly be made that among arrestees, the use of drugs is prevalent. Another interesting statistic reveals that among those interviewed 37.8% admitted to using cocaine in the last 12 months and 62.5% admitted to using marijuana in the last 12 months.

While there are no ADAM type statistics on hand to indicate drug or alcohol use among arrestees in the more rural areas of Alaska, there is certainly strong evidence that alcohol is a very large contributor to the reasons that rural citizens are arrested.



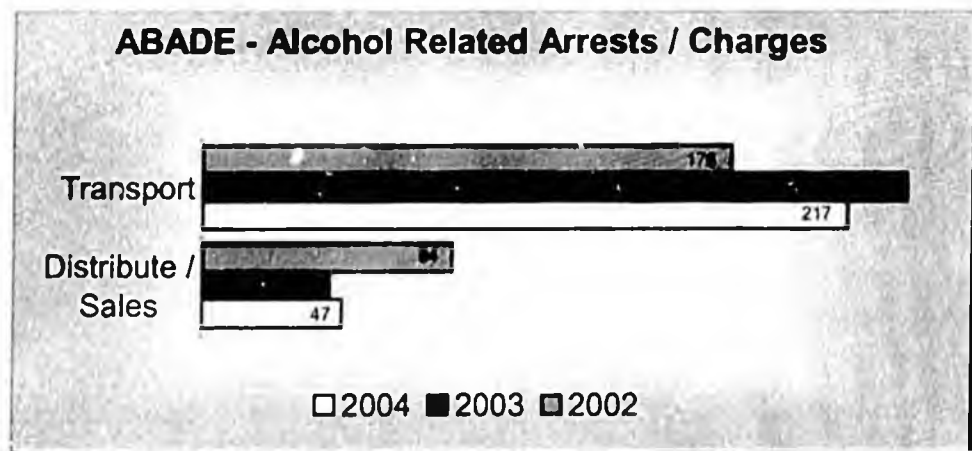
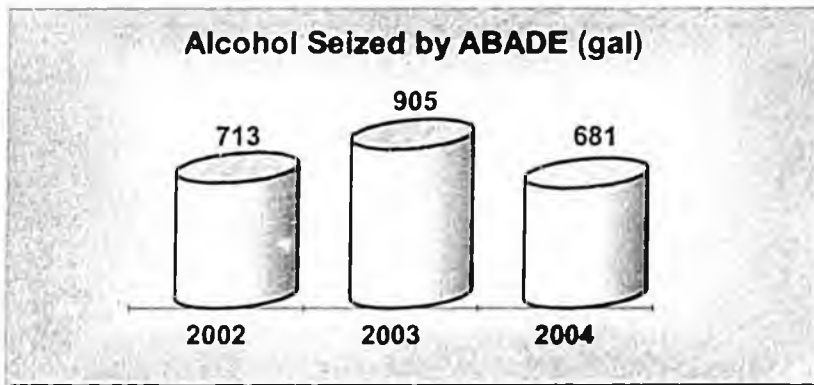
## Drugs of Choice

Alcohol, cocaine, methamphetamine, marijuana and pharmaceuticals have been identified as the primary substances of abuse and are the focus of most law enforcement efforts. During 2004, methamphetamine use and manufacturing have increased significantly. Another area of significant increase was the use of prescription drugs, many of which are obtained with fraudulent prescriptions. Other drugs such as LSD, Ecstasy and designer and/or "club" drugs were also cause for concern.

## Alcohol

Alaska's criminal justice professionals recognize that alcohol is the primary substance of abuse in Alaska and is the leading cause of violent, suicidal, and accidental deaths, especially in rural areas. Currently, 122 communities have voted in favor of local option statutes prohibiting the sale, importation, and/or possession of alcohol. Because alcohol remains legal in many areas of Alaska, illegal bootlegging activities continue to be a problem in the local option communities. Alcohol is easily transported to the villages via the U.S. Postal Service, local air carriers, private aircraft, boat, snow machines and express mailing services. Bootlegging alcohol has become a very lucrative business in rural Alaska.

The Alaska State Troopers applied for and received federal funding for five investigators whose function is focused on alcohol issues. During most of 2004, all five investigators dedicated 100% of their time to alcohol investigations.



The economics of the illegal sales of alcohol is staggering. A bootlegger can purchase a 750-milliliter bottle of alcohol legally for \$10 or less in an urban liquor store. The same bottle of alcohol in Bethel, Kotzebue or Barrow may sell for \$50. In the more remote communities, alcohol can easily sell for \$150 to over \$300 per bottle depending on the supply and demand. The initial purchase for the bootlegger involves a minimal cash investment, a maximum cash return with little threat of being caught or criminally charged. A dollar-for-dollar comparison of alcohol and drugs purchased in Anchorage and then sold in many Alaskan villages breaks down as follows:

Substance	Investment	Return *
Cocaine	\$1.00	\$1.50
Marijuana	\$1.00	\$4.00
Alcohol	\$1.00	\$15.00

\* Calculated at \$150 per bottle



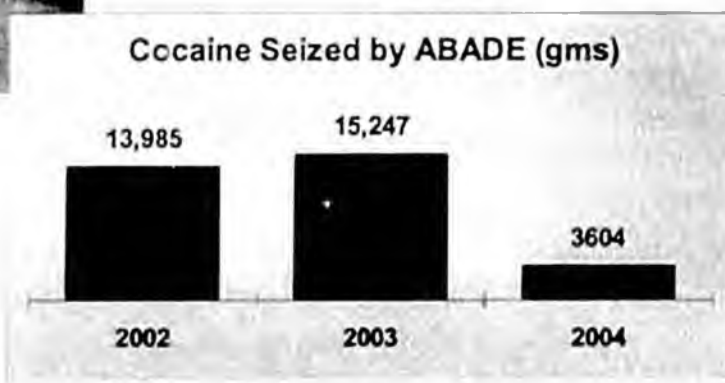
## Cocaine

Cocaine continues to be a lucrative drug for sale and use in Alaska. Cocaine is readily available in most areas of the state and is seen with great frequency in powder form and crack cocaine in the major urban areas such as Anchorage and Fairbanks.

Cocaine is brought into Alaska concealed on passengers or in luggage through ports of entry such as the Ted Stevens Anchorage International Airport, and it is also shipped via the US Post Office or commercial parcel companies such as FedEx or UPS.

The cocaine brought into Alaska is typically packaged in kilogram quantities and later broken down by dealers into smaller quantities for retail sale. In powder form, it is normally sold in gram quantities for \$100-150 and its primary method of ingestion is by snorting.

Crack dealers use a process involving powder cocaine, water, baking soda and heat to produce crack cocaine, which is then sold in small rocks for \$20. The primary method of use for crack is by smoking.



## Marijuana

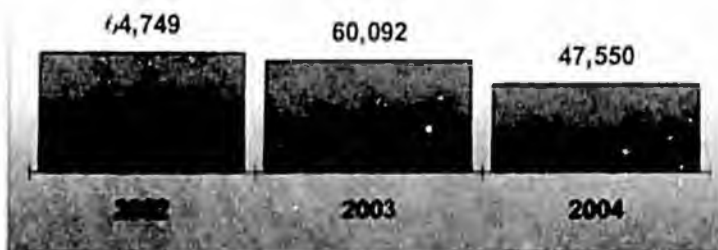
Marijuana is available throughout the state and is viewed as a gateway drug to other drugs for young adults and teenagers. Demand for Alaskan-grown marijuana continues to be high as a result of its exceptional tetrahydrocannabinol (THC) content. Because Alaskan produced marijuana is extremely high quality; Alaska is considered a marijuana exporting state.

During 2004, the investigation of commercial marijuana cultivations were diminished due to the increased use and manufacturing of methamphetamine. In addition, recent Alaska court decisions, like Noy and Crocker, have diminished the ability of the investigators to obtain search warrants for marijuana cultivations.

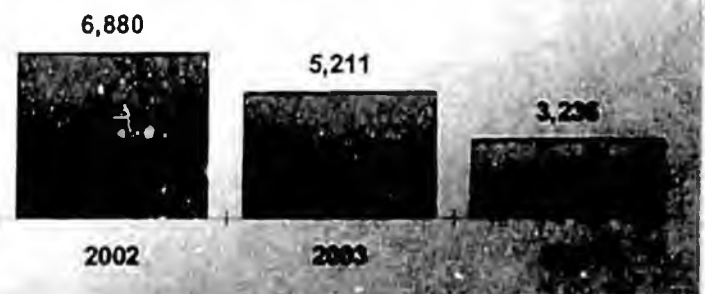
However, ABADE teams continue to find extremely sophisticated indoor growing operations. Most commercial marijuana grows take place along the road system in the south central part of Alaska from Anchorage to Fairbanks. The Mat-Su Valley area is the "Marijuana Growing Capital of Alaska", followed by Fairbanks and the Kenai Peninsula. It is not unusual for sites to be located in homes with hidden or underground rooms specifically designed for the cultivation of marijuana. These rooms are often equipped with surveillance cameras and state-of-the-art timers controlling temperature, lighting, water, humidity and air purifiers.

In some parts of the state, the local economy is directly affected by the influx of money from illegally produced marijuana. Proceeds from marijuana production are used for a multitude of purchases including fuel, grow equipment/supplies, utilities, vehicles, ATV's and building materials.

Processed Marijuana Seized by  
ABADE (gms)



Marijuana Plants seized by ABADE



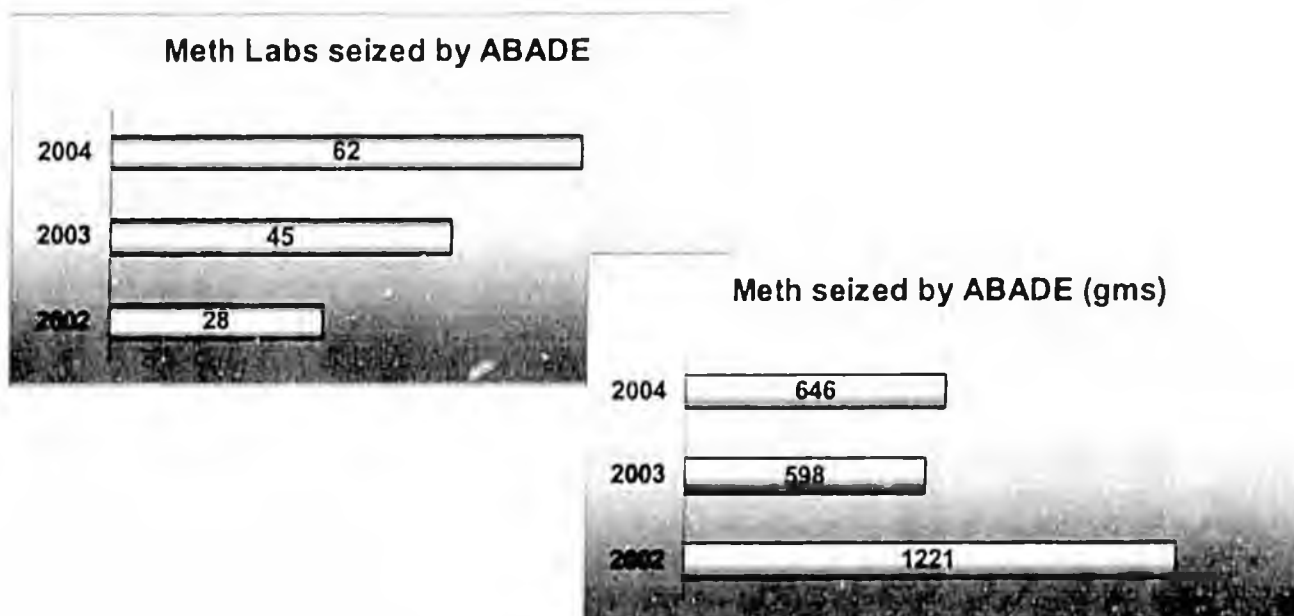
## Methamphetamine

Methamphetamine use and manufacturing continues to be on the rise throughout the United States including Alaska. The manufacture and distribution of meth has reached alarming proportions. Methamphetamine, also known as meth, speed, crank, crystal and ice, produces an increase in energy and alertness, and a decrease in appetite. The effects, which also include an intense rush, can last up to 12 hours. It can be smoked, snorted, injected, or taken orally. The most frequent method of use is injection.

The DEA continues to conduct training in Alaska so that police officers will have the skills, knowledge, and tools to safely investigate suspected clandestine laboratories. There is now a sizable cadre of trained officers across the state. These officers are available to assist in the eradication of clandestine laboratories. They consist of federal, state, and local officers. In order to stay compliant with OSHA regulations, these members require annual re-certification as well as constant replacement of one time use equipment. In July 2004, 14 ABADE members were meth lab certified during training sponsored by CDSP.

Additionally, DEA has been extremely helpful in assisting in the cost of gross clean-up at clandestine lab sites. This requires a certified clean-up company to respond to the scene of each location, containerize larger items as well as the containers of chemical. These containers are then transported to a location for safe long-term storage and/or destruction.

Methamphetamine laboratories are being operated increasingly in single and multi-family residences in many neighborhoods. In addition to meth labs producing illegal, often deadly drugs, the clandestine nature of the manufacturing process and the presence of ignitable, corrosive, reactive, and toxic chemicals at the sites, have resulted in explosions, fires, toxic fumes, and irreparable damage to human health and to the environment. On several occasions in 2002, 2003, and again in 2004 labs were also discovered in hotel/motel rooms. Frequently children are found residing within clan lab sites.



Some of the commonly available items used in the manufacturing of meth include, Ephedrine or pseudoephedrine (found in cold/allergy tablets), lithium batteries, starter fluid, rock/table salt, matchbooks, coffee filters, acetone, aluminum foil and assorted kitchen glassware.

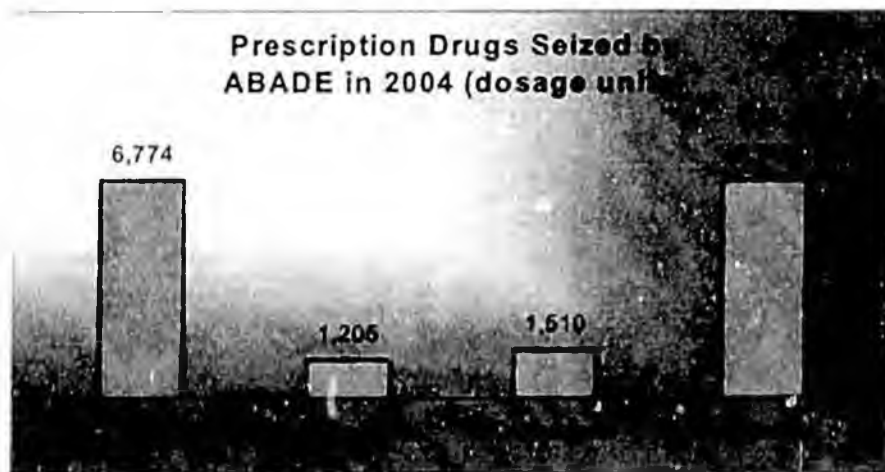
The methamphetamine problem in Alaska has certain peculiarities depending upon the region of the state in which the problem is located. The Anchorage, Mat-Su, Kenai Peninsula, and Fairbanks areas have a significant problem with clandestine labs that produce methamphetamine that is consumed in the local area. Southeast Alaska, specifically Ketchikan and Juneau, tend to have relatively large amounts of methamphetamine arrive already in a processed and usable form. The same tends to be true for coastal commercial fishery related communities.

## Prescription Drugs

The sale and abuse of prescription drugs such as Oxycontin, Oxycodone, Methadone, Hydrocodone continue to be an issue in 2004. These drugs are being sought after for their pharmaceutical purity and ability to alter the central nervous system. With the identification of this increasing health hazard, statistics have been put into place for capturing the true impact anticipated in the upcoming years. Not only does the abuse of prescription drugs create a health hazard for the users, it creates a financial tragedy in the communities. The drugs vary in price and can cost anywhere from one dollar per milligram to two dollars per milligram depending on availability. With the increased demand for the drugs and a shortening of supply, many abusers may not have the money or insurance to pay for their addiction. Thus increasing property and violent crimes in the communities to pay for the drugs. It has been reported that tens of thousands of dollars are being spent to feed this growing abuse and addiction.

Prescription drugs have been linked to the following crimes; homicide, assault, prescription fraud, home invasion thefts and pharmacy robberies. People who are addicted to prescription facilitate their addiction by doctor shopping, pharmacy shopping, forgery, and purchasing the drugs via the Internet.

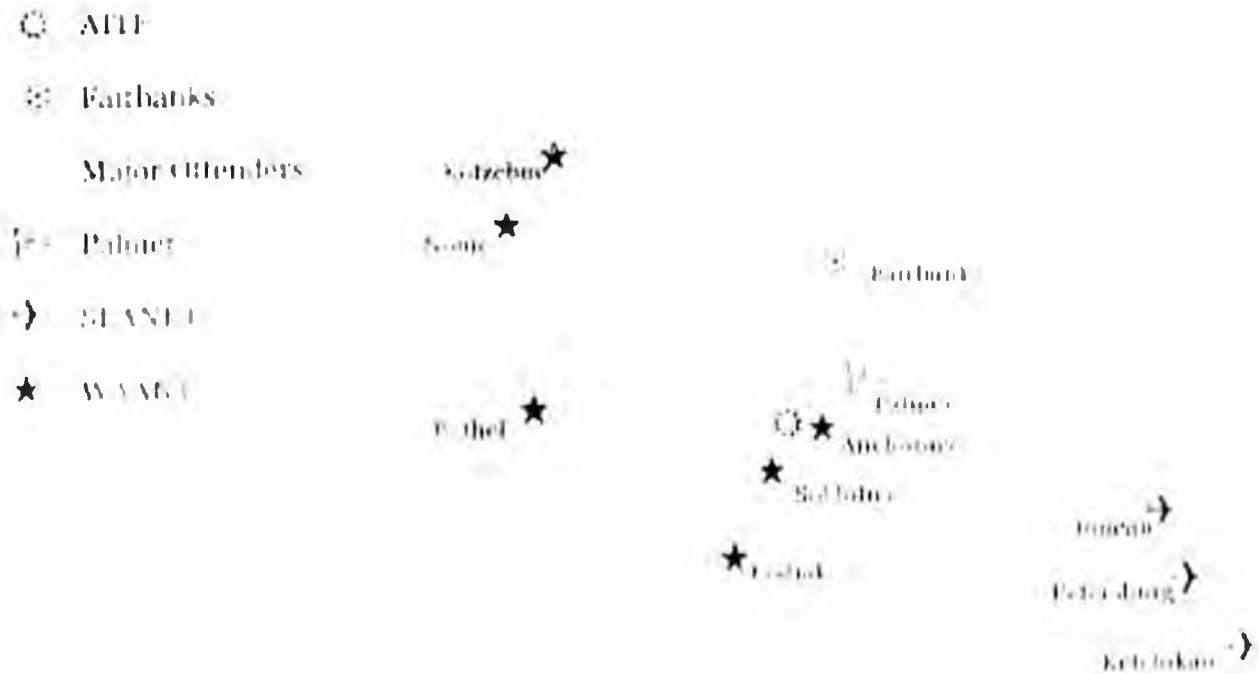
It is the intent of the ABADE to increase pressure on those involved in the non-medical use, abuse, and sales of these addictive drugs. It has been said in the past that once problems of this sort have taken a toehold in the community, the community is at great risk for social decay from within. It has been and will continue to be the intent and purpose of the ABADE program not to allow that to happen in Alaska.



## Alaska Bureau of Alcohol and Drug Enforcement Overviews

During the year of 2003, the Department of Public Safety (DPS) underwent substantial changes. One such change was the restructuring of the Statewide Drug Enforcement Unit (SDEU). With that restructuring, SDEU became the Alaska Bureau of Alcohol and Drug Enforcement (ABADE). ABADE, previously assigned to "I" Detachment, is now its own detachment. ABADE's program has expanded and been enhanced throughout the state. The command staff has grown from the traditional commander only to a commander and a deputy commander. During 2004, manning has been increased with the addition of three investigators and two administrative support personnel.

The six teams that comprise the Alaska Bureau of Alcohol and Drug Enforcement are spread throughout the state. Each team works hand-in-hand with the local law enforcement agencies and, in most locations, with the federal law enforcement agencies. The map below shows these teams and their area of responsibility.



## ***Alaska Interdiction Task Force***

The importance of the narcotics interdiction effort at key locations is constantly being reaffirmed and the Alaska Interdiction Task Force (AITF) continued its success in making large seizures of US Currency, cocaine, crack, methamphetamine and other controlled substances during 2004.

The AITF is a federally funded task force sponsored by the Drug Enforcement Administration (DEA). The AITF is responsible for investigations that involve drug trafficking at various ports of entry to include passengers and luggage arriving at airport terminals, packages and cargo shipped through parcel delivery services, and commercial cargo carriers. AITF is strategically located in Anchorage near the Ted Stevens International Airport, allowing the unit easy access to the airport and shipping companies where most passengers and parcels arrive.

Cocaine primarily comes into Alaska through the Anchorage airport from various source cities in the lower 48 states. Various methods are used to transport cocaine, such as concealing it in carry-on luggage, secured underneath clothing, or hidden in shoes, just to name a few. It is also imported and distributed through parcel express companies and the U.S. Postal Service. With the increase in airport security since September 11, drug traffickers have shifted their transportation methods and started to use parcel and cargo delivery services on a more frequent basis. Members of the AITF have worked diligently to develop working relationships with key business in this industry.

AITF team members consist of a DEA group supervisor, two DEA agents, two Alaska State Troopers, an Anchorage Police officer, an Airport Public Safety officer, one ICE agent four members of the National Guard Counterdrug Support Program (CDSP) and an AST administrative clerk.

In addition to the cocaine seizures, the AITF seized significant amounts of U.S. currency as it was leaving Alaska through the airport. The currency is commonly found to be the proceeds of drug trafficking.

The amount of cocaine detected and interdicted in the last several years in Anchorage clearly indicates that the illegal possession, sale, and use of cocaine in Alaska is a significant problem. There are organizations with international connections moving very large quantities of controlled substances and drug related monies across the country and state.

During 2004, AITF made several large seizures of US Currency as well as multi-kilo seizures of opium being shipped to Alaska from Asia.

## ***Fairbanks Area-wide Narcotics Team***

The primary area of responsibility for the Fairbanks Area-wide Narcotics Team is interior Alaska, which includes Fairbanks and the surrounding area, north to Barrow, and east to the Canadian border. This team is made up of one AST sergeant, two AST investigators, and a Fairbanks Police Department investigator. The Fairbanks team also works closely with two DEA agents assigned to the Fairbanks area. DEA compliments the teams' investigative ability by additional manpower, resources and the possibility of federal prosecution of drug traffickers.

Their focus varies from the identification and investigation of street level dealers of crack cocaine to the investigation of large distributors of powder cocaine. Of significant concern in the Fairbanks area is the continuing threat of manufacturing, use, and distribution of methamphetamine. Clandestine methamphetamine laboratories are prevalent in the Fairbanks area and are being operated increasingly in or near single and multi-family homes, where public health and safety is at an extremely high risk. Marijuana cultivation also continues to be a problem in the Fairbanks area. During 2004, the team eradicated 9 meth labs and 13 marijuana grows.

In May, investigators received information that a vehicle was driving from Fairbanks to Anchorage with a large amount of cocaine. Unit members and DEA stopped the vehicle and a search of the vehicle resulted in a seizure of 400 grams of cocaine, one gram of crack, and three handguns. The three male occupants were arrested.

In July, Fairbanks Airport Police received information that a male subject was arriving at the Fairbanks International Airport carrying a large quantity of prescription drugs. Contact was made with the suspect and 998 Oxycodone tablets and 1.5 grams of methamphetamine were seized. Members of the Fairbanks unit assisted with the execution of the search warrants in relation and follow-up to the case.

In August, the Fairbanks unit, with assistance from DEA, University of Alaska Fairbanks Police Department and the Fairbanks Police Department served two separate search warrants and a knock-and-talk on suspected marijuana grow sites. Three marijuana grows with a total of 502 marijuana plants were seized as well as \$3,609 in cash and one shotgun. The investigation revealed that all three grows were being operated by the same group of defendants.

In October, Fairbanks unit investigators began assisting the Fairbanks Police Department with the surveillance of a homicide suspect. The Fairbanks unit investigators, Fairbanks city detectives, the FBI and DEA conducted a traffic stop on a subject related to the homicide victim after investigators witnessed a suspected drug deal. The individual was found to have approximately 210 grams of cocaine on his person as well as at his residence. A 2001 GMC pickup truck and \$14,000 in cash was seized. The suspect then worked for the investigators and purchased 1,134 grams of cocaine from another suspect. The suspect was arrested and a 1999 Ford Mustang was seized as evidence.

## ***Mat-Su Drug Enforcement Team***

The Mat-Su Drug Enforcement Team focuses on drug investigations within the Matanuska-Susitna region to include Palmer, Wasilla, Talkeetna, Glennallen, Valdez, and Cordova. The team is comprised of one AST sergeant, two AST investigators, one officer from the Palmer Police Department, one officer from the Wasilla Police Department, and one individual from CDSP. The Mat-Su team works closely with the local police departments and the uniformed patrol section of the Alaska State Troopers to educate, train, and support their efforts related to drug enforcement.

This team's primary enforcement duties have shifted from marijuana cultivation to the investigation of meth labs. However, the Mat-Su region still comprises the bulk of marijuana related seizures throughout Alaska and has long been recognized as the primary area of marijuana cultivation and distribution in the state.

The production of methamphetamine in illegal clandestine laboratories continues to be a significant problem across the Mat-Su area. During 2004 the number of meth labs tripled to 37, compared to 10 labs in 2003. The rise in the number of seized meth labs indicates that meth use and manufacturing is a steadily growing problem in the Mat-Su area. ABADE is continually analyzing this situation and adjusting resources as needed to maintain an aggressive enforcement effort.

In February, the Mat-Su Team executed a search warrant in Wasilla. A commercial marijuana cultivation operation was discovered. Investigators seized 128 live marijuana plants. Also seized during the search warrant were scales, grow equipment, processed marijuana, suspected cocaine, firearms and various drug paraphernalia. The processed marijuana had a weight of 7.49 pounds with a street value estimated at approximately \$30,000.

Also in February the Mat-Su Team served a search warrant and seized a commercial marijuana cultivation operation consisting of 120 live plants. Investigators also seized processed marijuana, related grow equipment, scales and drug paraphernalia. One person was arrested and charged with four counts of Misconduct Involving a Controlled Substance in the 4<sup>th</sup> degree and three counts of contributing to the delinquency of minor.

In May, the Mat-Su unit executed a search warrant on a suspected meth lab at the Goldminer Hotel in downtown Palmer. This investigation started after a suspicious fire was discovered in a City of Palmer garbage truck. It appeared that the fire was started from the chemicals from a meth lab. Further investigation led investigators to the Goldminer Hotel where two suspects were discovered in the process of manufacturing methamphetamine. Both suspects were arrested at the scene.

In April, troopers with 'B' Detachment located a possible meth lab in Wasilla. A search was obtained for the residence and one of the largest meth labs seized during 2004 was discovered in the crawl space of the residence. Also found at the time of the search warrant was a loaded 9mm pistol and an illegally sawed off shotgun. Both suspects were located and arrested for the manufacturing of methamphetamine.

In October, the Mat-Su Unit along with investigators from DEA, the Anchorage Interdiction Task Force, Palmer Alaska Bureau of Investigation and Palmer Patrol executed a search warrant in Wasilla. Investigators delivered a parcel containing approximately 20 grams of crystal methamphetamine that was shipped from Arizona to the Wasilla address. Upon execution of the search warrant investigators seized approximately one ounce of methamphetamine, packaging used for distribution, digital scales and \$1,200 in US Currency. Firearms and miscellaneous drug paraphernalia was also seized. Two suspects were arrested at the residence.

## ***Major Offender Unit***

During 2003, the Department of Public Safety reinstated a statewide Major Offenders Unit. Ultimately the unit is located in Anchorage, but would have the ability to travel and conduct long-term drug and alcohol investigations anywhere in the state, targeting major offenders. Once the unit becomes established, AST plans to invite other agencies, such as, DEA, and the Anchorage Police Department to participate. The Major Offenders Unit is co-located with the Alaska Interdiction Task Force, allowing for better communication and cooperation between the units.

During most of 2004, the Major Offender Unit consisted of 2 to 3 investigators supervised by an Officer In Charge. The members worked to support other ABADE units when available and also assisted the Alaska Bureau of Investigations.

Late in 2004, the unit was completed with the assignment of a sergeant and two additional investigators, which brought the unit to a total of five investigators. In addition, an administrative clerk was added as well as a part-time prosecutor from the Department of Law. The prosecutor has been assigned to assist with legal questions, case development assistance and prosecution of drug and alcohol cases. The unit has been actively investigating several cases around the state.

## ***Southeast Alaska Narcotics Enforcement Team***

The primary responsibility for drug enforcement in southeast Alaska lies with the Southeast Alaska Narcotics Enforcement Team (SEANET). This team is composed of one AST sergeant, two Juneau Police Department officers, all located in Juneau and one AST investigator located in Ketchikan. SEANET also works closely with officers from the Ketchikan, Sitka, Wrangell, Yakutat, Craig, Haines, Skagway, Hoonah and Petersburg Police Departments. The teams focus ranges from street level dealers to major offenders. Some of the investigative methods used by this team include interdiction activities and undercover operations. This program works hand-in-hand with the SouthEast Alaska Cities Against Drugs (SEACAD) project that is oversighted by the Sitka Police Department.

Of particular note in Southeast Alaska is the quick rise in the availability, sales, possession, and use of methamphetamine. It appears that most of the substance is introduced into the region in a powder form, having been manufactured at other locations and imported into Southeast Alaska.

In June SEANET seized 1,679 grams of cocaine with a street value of approximately \$120,000 from a vehicle shipped to Juneau on a barge from Seattle, Washington. Two suspects have been charged.

Also in June, the U.S. Coast Guard and the Royal Canadian Mounted Police (RCMP) made contact with four individuals on a 20-foot skiff after information was provided by SEANET Juneau. The RCMP arrested 3 U.S. citizens at the scene for possession of 4 ounces of cocaine, 6 pounds of marijuana and 200 grams of Psilocybin mushrooms. The fourth suspect, a Canadian citizen, escape from the scene on foot.

In September, SEANET in Juneau discovered 2,203 grams of narcotics hidden on a vehicle being shipped from Seattle to Juneau on the Alaska Marine Highway Ferry system. This investigation led to the arrest of 3 people in Juneau who were attempting to import 495 grams of cocaine, 444 grams of methamphetamine and 1,097 grams of cocaine base (crack). Follow up investigation led to the delivery of a kilo of cocaine in Seattle and the arrest of another suspect.

On 9/16/04, SEANET Ketchikan completed a two-month investigation resulting in the seizure of 266 Oxycontin pills with a street value of approximately \$4,095

On 10/28/04, SEANET and Juneau Police Department seized \$13,100 in cash. The cash was suspected of being proceeds from drug sales. A residential search warrant resulted in the seizure of a stolen Tech-9 semi-auto pistol.

On 11/03/04, SEANET Juneau intercepted 5 pounds of marijuana being shipped from Seattle, Washington and \$28,000 in cash. The suspect had hidden the marijuana inside a new washing machine that was shipped to Juneau. One suspect was arrested.

## ***Western Alaska Alcohol and Narcotics Team (WAANT)***

This team's area of responsibility is Alaska's west coast, to include: Kotzebue, Nome, Bethel, Kodiak, Dillingham, the Aleutian Chain, and the Kenai Peninsula. For most of 2003, the WAANT team consisted of one AST sergeant and two AST investigators in Anchorage; one AST investigator and one officer from Soldotna Police Department in Soldotna; one AST investigator and one officer from Bethel Police Department in Bethel; one AST investigator in Kodiak, working with two investigators from Kodiak Police Department.

One of the positions in Bethel and one in Anchorage are dedicated specifically to alcohol interdiction and investigations. During 2003, three troopers previously assigned to "C" Detachment were reassigned to the WAANT unit. These three investigators, located in Bethel, Nome and Kotzebue will focus on alcohol interdictions.

Due to the vast number of local option communities in Western Alaska, a large portion of this team's principal focus is on alcohol enforcement. They target smugglers and bootleggers through undercover operations and interdictions.

Two common methods of importing alcohol and illegal drugs into rural communities are via the U.S. Postal system and local airlines. Alcohol shipped legally to regional hubs such as Nome, Bethel, and Kotzebue is then illegally distributed to local option communities that have banned alcohol or have limited the possession of alcohol under the local option laws of Alaska.

Because much of the alcohol and drugs being sold illegally in Alaska are shipped through the U.S. mail, the U.S. Postal Inspectors Service conducts interdictions with direct support from CDSP. These efforts consist mainly of US Postal Inspectors assisted by CDSP members monitoring packages en route to outlying villages and communities through the Anchorage postal hub facility. Suspicious packages are brought to the attention of the Postal Inspectors, who then decide how best to investigate the shipment.

The investigations of many of these seizures are coordinated through AST and/or other local law enforcement entities. The Postal Inspectors office relies heavily on support from ABADE. This support includes resources like scent detection canines, intelligence information and follow-up efforts. Not only do these resources assist in the seizure, they also help successfully investigate and prosecute those involved in alcohol bootlegging and drug trafficking.

In other WAANT areas of responsibility, the team has conducted long term undercover operations in Kodiak, Soldotna and Seward. Investigations vary from marijuana grows and meth labs to drug distributors dealing marijuana, meth, cocaine and prescription drugs.

In January, WAANT investigators in Anchorage discovered a suspicious box being shipped to Kotzebue. Investigators received consent to open the box and 4 pounds of marijuana was seized.

In February, investigators seized 5 bottles of alcohol being imported into the local option community of Selawik. As a result, a 2003 Polaris snow machine was also seized.

A contact at the Kotzebue airport resulted in the seizure of 94 grams of marijuana and the service of a search warrant. During the search investigators discovered 130 blasting caps, 500 feet of time/fuse cord and a small amount of C4 explosives. Also seized were 39 seal bombs, 28 rifles, 10 handguns, 8 shotguns and a 37mm gas gun.

In July, Kotzebue investigators saw a person loading alcohol into a vehicle at the airport. The vehicle operator drove to an 18-foot boat where the suspect loaded and hid the alcohol on the boat. The alcohol was being delivered to the local option community of Kivalina. Property seized from the investigation included the boat valued at \$8500, the vehicle valued at \$12,000 along with 60 cans of beer and 14 bottles of alcohol. The alcohol was valued at \$5100. Three suspects were arrested in this case.

In August, Soldotna WAANT investigators served a search warrant on a residence suspected of having a marijuana grow. Over 100 marijuana plants were discovered in several underground storage units. The property, consisting of a two-story, structure was seized and forfeiture proceedings were begun against the owner by DEA in Anchorage. One person was arrested in this case.

A contact at the Kotzebue airport led to the service of a search warrant at a known marijuana distributor's residence. The search resulted in the seizure of 3 Skidoo snow machines, one Honda 4 wheeler, a 20-foot Bayliner boat, one 16-foot Lund boat and other property totaling approximately \$49,000. In addition, \$11,975 in cash and 18 firearms were seized and 5 suspects were arrested.



## DRUG ENFORCEMENT ADMINISTRATION

The Drug Enforcement Administration (DEA) in Anchorage is deeply involved in working with all state and local drug units to enhance and facilitate investigations of major offenders throughout Anchorage.

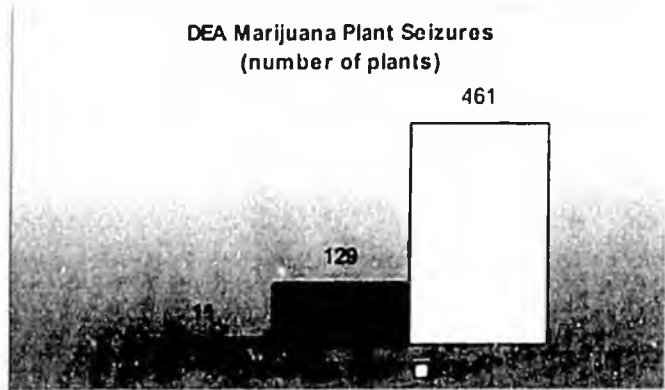
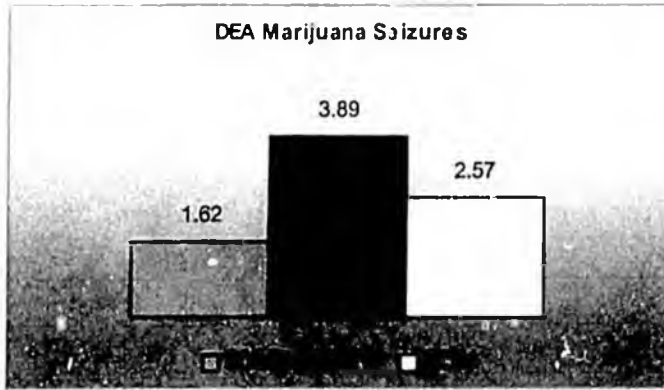
The DEA has added several Special Agents to Alaska in the last few years to support the entire state of Alaska, including two positions in Fairbanks that work hand-in-hand with the Alaska State Troopers, Alaska Bureau of Alcohol and Drug Enforcement to investigate a wide variety of drug related crimes in and around the area.

They are the host agency for the Alaska Interdiction Task Force, a joint effort involving DEA, AST, Ted Stevens Anchorage International Airport Police, Anchorage Police Department, Postal Inspectors, CDSP, and several other agencies as needed.

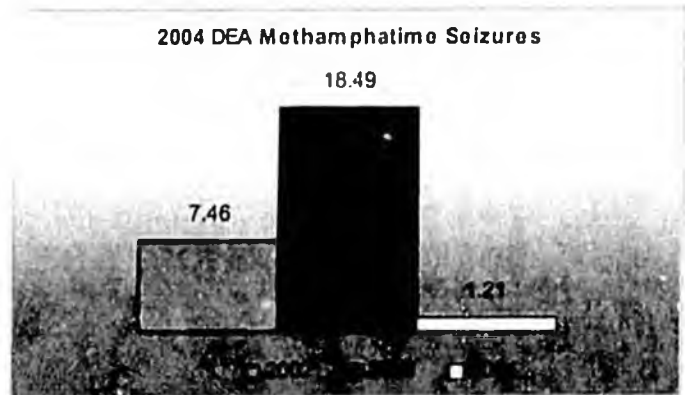
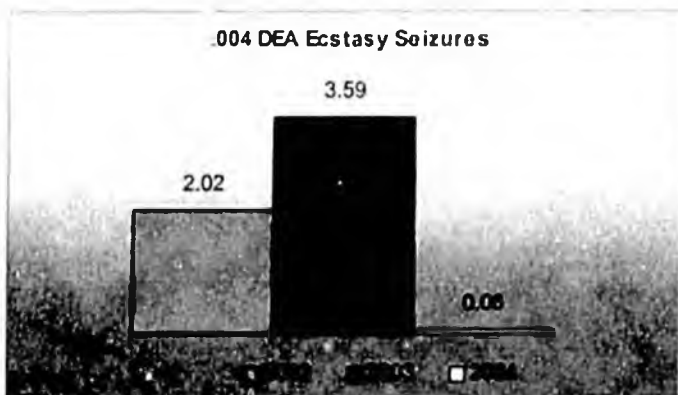
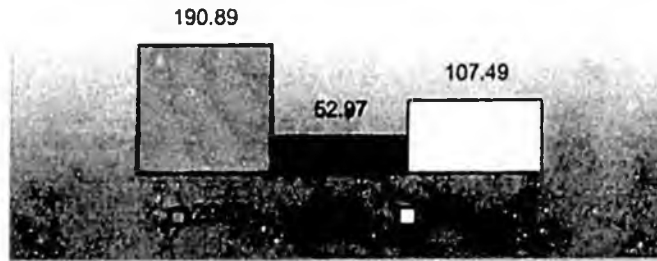
DEA continues to furnish training to state and local officers to include topics related to clandestine methamphetamine laboratories. DEA provided the funds for members of the Alaska Interdiction Task Force and other law enforcement personnel to be trained and get re-certified in clandestine laboratory safety and investigations. In addition, they have facilitated participation of troopers in a Drug Unit Commanders Academy held in Quantico, Virginia. The DEA Anchorage office is also currently planning additional training to state and local law enforcement personnel through a DEA sanctioned "Two-Week Basic Drug Enforcement School."

DEA continues to facilitate forfeiture proceedings related to assets and funds seized as a result of criminal investigations and drug trafficking. This effort allows state and local law enforcement agencies to receive a portion of the assets seized, which in turn funds additional criminal investigations.

## Seizure Statistics for DEA Anchorage



### DEA Cocaine Seizures



## Emerging Trends in 2004

The most significant trend in 2004 continues to be the explosion in the manufacturing and abuse of methamphetamine throughout Alaska. The number of illicit methamphetamine labs has continued to rise since 2002 when 29 labs were seized statewide, 66 labs were seized in 2003 and 80 labs were seized in 2004. Due to the volatile chemicals involved, investigators need to be trained and certified and wear hazardous material protective gear when responding to methamphetamine labs. Several residential fires were reported this year were caused by the manufacturing of methamphetamine. Also during 2004, several methamphetamine labs were discovered inside hotel/motel rooms creating chemical and fire hazards for other civilians that also occupy the buildings. Violent crime related to methamphetamine manufacturing and usage also appears to be on the rise. During the year there were several homicides that have been connected to methamphetamine. The sale and abuse of methamphetamine is as much on the rise as the number of meth labs.

A trend that continues from year to year is the illegal transport of alcohol and drugs to villages throughout Alaska. ABADE will continue to aggressively pursue and investigate the illegal possession, shipment and sale of alcohol in local option communities and other illegal drugs throughout Alaska. With funding from federal sources, as well as traditional program funds, the dedication to the task of pursuing bootleggers and drug dealers has been expanded and enhanced. Between the efforts of ABADE, Alaska State Troopers, Village Public Safety Officers, local law enforcement, federal agencies and the promised support of Governor Frank Murkowski, we will strive to decrease the alcohol and drug problem within the State of Alaska.

## Summary

The Alaska Bureau of Alcohol and Drug Enforcement, with its unique ability to interdict and investigate cases across the state, recognizes that drug abuse is not confined to any one geographical location or any economic strata in our state. Drug and alcohol abuse affects all Alaskans, despite social, ethnic, racial and economic barriers.

The Alaska State Troopers, Alaska Bureau of Alcohol and Drug Enforcement is committed to working with all interested agencies in the fight against substance abuse throughout the state by using innovative concepts to deal with the illegal sale and distribution of alcohol and drugs. We are also committed to focusing on increased awareness and knowledge of drug abuse through educational presentations to the Public Safety Academy and in public forums, such as schools, service organizations and other community groups.



*The 2004 Annual Drug Report is a publication of the Alaska State Troopers, Alaska Bureau of Alcohol and Drug Enforcement. It can be accessed via the Department of Public Safety Internet site therefore there is no publication cost and is intended to inform Alaskans about the type and frequency of drug related crime reported in Alaska during 2004.*

*The Alaska State Troopers, Alaska Bureau of Alcohol and Drug Enforcement supplied the majority of information and photos presented in this report. Additional data was obtained from Office of National Drug Control Policy (ONDCP) publications, the National Criminal Justice Reference Service (NCJRS) and the Alaska Justice Forum.*



Alcoholic Beverage Control Board  
 5848 East Tudor Road  
 Anchorage AK 99507  
 Douglas B. Griffin

(907) 269-0350 Fax (907) 272-9412

**SCHEDULE OF LOCAL OPTION COMMUNITIES**  
 Updated July 29, 2005

City	Ban sale	Community license only	Ban sale and importation	Ban possession	Package store license only	Vote Tally	Election date	Certification date	Effective date
Akiak			1			38-15	07-17-91	08-21-91	09-01-91
Akiachak			1			40-13	08-07-01	08-23-01	09-01-01
Akiachak				1		40-13	08-07-01	08-23-01	10-22-01
Alakanuk			1			94-24	07-20-81	07-27-81	08-01-81
Alakanuk				1		47-7	02-06-90	02-12-90	03-01-90
Allakaket			1			49-30	05-12-89	05-19-89	06-01-89
Allakaket				1		45-34	05-12-89	05-19-89	08-17-89
Ambler			1				12-15-81	12-15-81	01-01-82
Anvik	1					23-6	1/16/2002	1/21/2002	2/1/2002
Anaktuvuk Pass			1			78-11		1982	01-01-83
Anaktuvuk Pass				1		59-45	11-04-86	12-16-86	01-01-87
Angoon				1		92-40	07-26-88	08-01-88	11-01-88
Atmautluak			1			60-12	10-06-81	04-29-82	05-01-82
Atqasuk			1			59-43	04-15-03	04-21-03	05-01-03
Atqasuk				1		59-43	04-15-03	04-21-03	06-30-03
Barrow	1					911-789	10-07-97	10-09-97	11-01-97
Beaver*			1			17-11	06-15-04	07-09-04	08-01-04
Beaver*				1		17-11	06-15-04	07-09-04	08-01-04
Bethel	1					611-207	10-04-77	10-06-77	11-01-77
Birch Creek*				1		13-2	10-06-87	10-22-87	11-01-87
Brevig Mission			1	1		34-32	03-03-99		05-03-99
Buckland			1			52-6	05-10-82	05-11-82	06-01-82
Chalkyitsik*			1			21-2	07-20-82	07-28-82	08-01-82
Chefornak			1			48-29	10-14-82	10-15-82	11-01-82
Chevak			1			88-63	10-02-90	10-02-90	11-01-90
Deering			1			32-24	05-26-82	06-01-82	07-01-82
Diomede			1			27-11	09-10-81	09-29-81	10-01-81
Eek			1			90-15	11-27-82	11-27-82	12-01-82
Elim			1			49-17	08-24-81	08-27-81	09-01-81
Emmonak			1			54-12	10-12-81	10-12-81	11-01-81
Emmonak				1		104-89	10-01-91	10-07-91	07-14-92
False Pass					1	34-6	10/2/2001	10/5/2001	11/1/2001
Fort Yukon		1							
Gulkana			1			17-3	01-14-97	01-28-97	02-01-97
Gulkana				1		17-3	01-14-97	01-28-97	03-30-97
Gambell			1			79-10	08-22-81	08-25-81	09-01-81
Gambell				1		72-13	12-23-86	12-29-86	01-01-87
Golovin			1			31-22	01-16-84	01-17-84	02-01-84

\*Unincorporated

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 Updated July 29, 2005

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Goodnews Bay			1			36-25	11-08-83	11-08-83	12-01-83
Goodnews Bay				1		37-11	01-14-91	01-18-91	02-01-91
Grayling	1					36-27	11-05-96	11-12-96	12-01-96
Holy Cross	1					42-31	10-03-00	10-06-00	11-01-00
Hooper Bay			1			103-44	03-01-83	03-01-83	04-01-83
Hughes	1					17-4	03-02-93	03-29-93	04-01-93
Huslia	1					37-13	03-14-89	03-23-89	04-01-89
Iliamna*	1					35-24	10-05-82	10-25-82	01-23-83
Kake		1							
Kaktovik				1		56-39	08-01-89	08-07-89	11-05-89
Kasigluk			1			74-3	10-04-83	10-17-83	11-01-83
Kiana			1			81-38	12-08-87	12-17-87	01-01-88
Kipnuk*			1			82-7	10-05-82	10-25-82	11-01-82
Kivalina			1			79-33	01-08-85	01-09-85	02-01-85
Klawock		1				111-70	10-05-93	10-11-93	10-11-93
Kobuk			1			15-12	03-29-89	04-03-89	05-01-89
Kokhanok*	1					31-18	6/28/2005	7/14/2005	8/1/2005
Kongiganak*			1	1		41-10	04-23-96	05-27-84	06-01-96
Kotlik			1			67-15	09-08-81	09-30-81	10-01-81
Kotlik				1		51-22	03-24-87	03-25-87	04-01-87
Kotzebue	1					643-433	12-06-88	12-07-88	01-01-89
Koyuk			1			57-8	08-25-81	08-26-81	09-01-81
Kwethluk			1			82-30	01-01-82	02-24-82	03-01-82
Kwigillingok*			1			63-5	08-09-83	09-01-83	10-01-83
Lower Kalskag			1			46-31	11-05-91	11-07-91	12-01-91
Manokotak			1			79-9	01-29-88	02-01-88	03-01-88
Manokotak				1		80-8	01-29-88	02-01-88	03-01-88
Marshall (Fortuna)			1			42-16	07-25-81	07-26-81	08-01-81
Marshall				1		37-34	10-07-86	10-08-86	11-01-86
Mekoryuk			1			48-10	09-01-81	09-02-81	10-01-81
Mekoryuk				1		42-29	10-07-86	10-08-86	11-01-86
Onto*			1			59-34	07-12-83	07-21-83	08-01-83
Mountain Village			1			72-52	03-13-84	03-19-84	04-01-84
Nanwalek/ English Bay	1					47-29	01-13-98	01-26-98	02-01-98
Napakiak			1			54-14	03-31-82	03-31-82	04-01-82
Napakiak				1		62-14	05-05-87	05-19-87	06-01-87

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 Updated July 29, 2005

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Napaskiak			1			55-4	11-01-82	11-08-82	12-01-82
Naukati				1		31-13	03-26-96	04-08-96	05-01-96
Newtok			1			37-9	10-30-84	11-02-84	12-01-84
Nightmute			1			32-3	02-02-96	02-06-96	03-01-96
Nightmute				1		32-4	02-02-96	02-06-96	04-09-96
Nikolai	1		1			28-16	5/20/1997		8/5/1997
Noatak*			1			63-53	12-07-82	12-22-82	01-01-83
Nondalton	1					46-30	11-10-86	12-30-86	01-28-87
Noorvik			1			103-58	04-28-87	04-28-87	05-01-87
Nuiqsut			1			57-39	11-21-83	11-22-83	12-01-83
Nuiqsut				1		60-56	11-04-86	11-12-86	12-01-86
Nunapitchuk			1			106-35	09-15-81	10-02-81	11-01-81
Nunapitchuk				1		75-23	10-07-86	10-13-86	11-01-86
Pilot Station			1			93-76	03-04-83	03-04-83	04-01-83
Platinum			1			12-9	01-14-82	01-25-82	02-01-82
Point Hope			1			62-39	06-29-82	07-02-82	08-01-82
Point Hope				1			10-03-89	10-09-89	11-01-89
Point Lay*			1			30-15	07-01-86	07-11-86	08-01-86
Port Alexander	1					31-16	01-05-82	01-11-82	02-01-82
Port Protection*				1		23-9	03-27-88	04-05-88	05-01-88
Quinhagak			1			77-26	10-30-81	10-31-81	11-01-81
Quinhagak				1		71-27	10-06-87	10-12-87	11-01-87
Red Devil*	1					17-8	02-20-90	04-27-90	07-26-90
Russian Mission			1			46-22	10-06-87	10-27-87	11-01-87
Saint Mary's	1					90-86	08-23-94	09-02-94	10-01-94
Saint Mary's			1			63-48	09-22-81	09-28-81	10-01-81
Saint Michael			1			39-21	08-04-86	08-07-86	09-01-86
Savoonga			1	1		117-56	10-07-97	10-10-97	12-09-97
Scammon Bay			1			57-10	12-07-81	12-08-81	01-01-82
Scammon Bay				1		71-25	10-06-87	10-12-87	11-01-87
Selawik			1			89-69	12-17-86	12-22-86	01-01-87
Shageluk	1					29-25	2/20/2001	3/19/2001	4/1/2001
Shaktolik			1			34-28	03-13-84	03-15-84	04-01-84
Sheldon Point (Nunam Iqua)			1			26-7	08-26-86	08-27-86	09-01-86
Shishmaref			1			82-47	01-04-83	01-04-83	02-01-83
Shungnak			1			46-44	10-06-87	10-10-87	11-01-87
Stebbins			1			88-19	08-25-87	10-08-87	11-01-87
Stevens Village*			1			31-11	06-05-84	06-15-84	07-01-84

<b>SCHEDULE OF LOCAL OPTION COMMUNITIES</b>
<b>Updated July 29, 2005</b>

City	Ban sale	Community license only	Ban sale and importation	Ban possession	Package store license only	Vote Tally	Election date	Certification date	Effective date
Tanacross*				1		32-5	05-17-88	05-31-88	06-01-88
Tanana		1				90-15	01-12-82	01-13-82	02-01-82
Takotna	1					22-8	08-24-99	09-09-99	12-08-99
Tatitlek*			1			28-15	08-23-83	09-13-83	12-09-99
Teller	1					55-41	11-13-97	11-14-97	01-14-98
Tellin*			1			54-7	12-07-82	12-22-82	01-01-83
Togiak			1			96-23	05-03-82	05-04-82	06-01-82
Togiak				1		80-38	10-07-86	10-31-86	11-01-86
Toksook Bay			1			78-32	11-23-81	11-23-81	12-01-81
Tuluksak			1			61-16	10-05-82	10-05-82	11-01-82
Tuluksak				1		55-12	04-12-94	04-25-94	05-01-94
Tuntutuliak			1			47-20	07-20-82	08-02-82	09-01-82
Tuntutuliak				1		41-22	10-06-87	10-28-87	11-01-87
Tununak			1			90-11	08-12-81	08-13-81	09-01-81
Twin Hills			1			13-5	03-14-00	03-30-00	04-01-00
Twin Hills				1		13-5	03-14-00	03-30-00	05-30-00
Unalakleet	1					121-40	04-14-92	04-16-92	05-01-92
Upper Kalskag			1			38-30	01-20-93	02-22-93	03-01-93
Wainwright			1			61-42	07-08-82	07-14-82	08-01-82
Wales			1			29-21	08-14-81	08-17-81	09-01-81
<b>TOTALS</b>	<b>20</b>	<b>4</b>	<b>77</b>	<b>32</b>	<b>3</b>				

**CHANGES THIS UPDATE:**

Kokhanok voted to ban sale effective August 1, 2005.  
 This is a change relaxing the previous restrictions against sale & importation.

This schedule is continuously updated as dictated by ongoing elections. If you have any questions, please do not hesitate to call the ABC Board office at 907-269-0350.

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 1/9/06

FURTHER: Finance

Date of 5-Day Notice: 1/26/06  
 (in accordance with Uniform Rule 23)

DATE TURNED  
 IN TO OFFICE: 2/2/06

Judiciary Committee considered      SENATE BILL NO. 210

**SB 210 VIOL. OF ALCOHOLIC BEV. LAWS/FORFEITURE**

"An Act relating to the manufacture and transportation of alcoholic beverages; relating to forfeitures of property for violations of alcoholic beverage laws; and relating to violations of alcoholic beverage laws."

and recommends:

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

<b>CS Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>SCS House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
fiscal info forthcoming					

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO RLC	AMEND
French				X	
Huggins		X			
Herriault		X			
Seekins	CHAIR:	✓			

**SB**

**216**

**HFIN**

**FILE**



# REPORTED OUTCOME

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

HFC 4120106

Fiscal Note Number: 1  
Bill Version: CSSB 216(JUD)  
(S) Publish Date: 3/1/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
Title: "An act relating to bail restrictions." RDU: Institutional Facilities  
Component: Institution Director's Office  
Sponsor: Senator Huggins & Green  
Requester: Judiciary, Finance Component No: 524

### Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

### POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

The Department of Corrections does not anticipate a significant fiscal impact due to the passage of this legislation.

Prepared by: Sharleen Griffin, Acting Director Phone: 465-3339  
Division: Administrative Services Date/Time: 2/27/06 4:26 PM  
Approved by: Portia C. K. Parker, Deputy Commissioner Date: 2/27/2006  
Agency: Department of Corrections

*adopted 4/20*

*gm*

24-LS1300\S  
Luckhaupt  
4/19/06

HOUSE CS FOR CS FOR SENATE BILL NO. 216( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS HUGGINS AND GREEN, Dyson, Seekins, Wagoner, Gary Stevens, Cowdery, Bunde, Stedman

REPRESENTATIVE Stoltze

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to bail and unlawful evasion; and providing for an effective date."

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

3 \* Section 1. AS 11.56.310(a) is amended to read:

4 (a) One commits the crime of escape in the second degree if, without lawful  
5 authority, one

6 (1) removes oneself from

7 (A) a correctional facility while under official detention;

8 (B) official detention for a felony or for extradition, or

9 (C) official detention and, during the escape or at any time

10 before being restored to official detention, one possesses on or about oneself a  
11 firearm;

12 (2) violates AS 11.56.335 or 11.56.340 [AS 11.56.340] and, during the  
13 time of the unlawful evasion or at any time before being restored to official detention,

14 one possesses on or about oneself a firearm; or

15 (3) removes, tampers with, or disables the electronic monitoring

1 equipment, or leaves one's residence or other place designated by the commissioner of  
2 corrections for the service by electronic monitoring of official detention for a felony.

3 \* Sec. 2. AS 11.56.320(a) is amended to read:

4 (a) One commits the crime of escape in the third degree if one

5 (1) removes oneself from official detention during any lawful  
6 movement or activity incident to confinement within a correctional facility for a  
7 misdemeanor; or

8 (2) violates AS 11.56.335 or 11.56.340 [AS 11.56.340] and leaves or  
9 attempts to leave the state.

10 \* Sec. 3. AS 11.56 is amended by adding a new section to read:

11 **Sec. 11.56.335. Unlawful evasion in the first degree.** (a) A person commits  
12 the crime of unlawful evasion in the first degree if, while charged with or convicted of  
13 a felony,

14 (1) the person fails to return to official detention within the time  
15 authorized following temporary leave granted for a specific purpose or limited period,  
16 including leave granted under AS 33.30.181; or

17 (2) while on furlough under AS 33.30.101 - 33.30.131, the person fails  
18 to return to the place of confinement or residence within the time authorized by those  
19 having direct supervision.

20 (b) Unlawful evasion in the first degree is a class C felony.

21 \* Sec. 4. AS 11.56.340 is amended to read:

22 **Sec. 11.56.340. Unlawful evasion in the second degree.** (a) A person  
23 commits the crime of unlawful evasion in the second degree if, while charged with or  
24 convicted of a [FELONY OR A] misdemeanor,

25 (1) the person fails to return to official detention within the time  
26 authorized following temporary leave granted for a specific purpose or limited period,  
27 including leave granted under AS 33.30.181; or

28 (2) while on furlough under AS 33.30.101 - 33.30.131, the person fails  
29 to return to the place of confinement or residence within the time authorized by those  
30 having direct supervision.

31 (b) Unlawful evasion in the second degree is a class A misdemeanor.

1 \* Sec. 5. AS 12.30.010 is amended to read:

2           **Sec. 12.30.010. Bail before or after conviction.** The defendant in a criminal  
3 proceeding is entitled to be admitted to bail before conviction as a matter of right if the  
4 alleged victim can be reasonably protected through the imposition of bail and  
5 conditions of release. The defendant in a criminal case may be admitted to bail  
6 after conviction only as permitted under AS 12.30.040. However, nothing in this  
7 chapter allows a court to order a defendant who has not satisfied bail to be  
8 released temporarily or periodically, either before trial or after conviction unless

9                   (1) the defendant is charged with a misdemeanor or class B or C  
10 felony;

11                   (2) the temporary release is because of the

12                               (A) death of an immediate family member of the defendant;

13                               (B) birth of the defendant's child and the defendant has  
14 executed an affidavit of paternity before the release;

15                               (C) defendant's need for a mental health or substance abuse  
16 assessment that the court finds cannot be accommodated in the facility or  
17 telephonically; or

18                               (D) defendant's need for a medical or dental exam required  
19 for acceptance into a residential treatment facility; and

20                   (3) the court solicits information from the Department of  
21 Corrections regarding the defendant's conduct while incarcerated and considers  
22 that information when making a decision under this subsection.

23 \* Sec. 6. AS 12.30.010 is amended by adding a new subsection to read:

24           (b) If a court orders the temporary release of a defendant under (a) of this  
25 section, the court shall order the defendant to appear in court during normal business  
26 hours at the end of the period of temporary release and before the defendant is  
27 returned to a correctional facility.

28 \* Sec. 7. AS 33.30.141(b) is amended to read:

29           (b) The failure of a prisoner on a furlough to return to the place of  
30 confinement or residence within the time specified by those having direct supervision  
31 over the prisoner is an unlawful evasion under AS 11.56.335 or 11.56.340

- 1 [AS 11.56.340].
- 2 \* Sec. 8. AS 12.30.020(b)(3) is repealed.
- 3 \* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

# ALASKA STATE LEGISLATURE

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Wasilla AK 99654  
907-376-4866  
907-373-4724 - Fax  
Senator\_Charlie\_Huggins@legis.state.ak.us



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[www.akrepublicans.org/huggins/](http://www.akrepublicans.org/huggins/)

Charlie Huggins  
Senator

## Senate Bill No. 216 Sponsor Statement

**"An Act Relating to bail, temporary release, and unlawful evasion."**

Currently, there are loopholes in our judicial system that has unfortunately been taken advantage of by harmful individuals. A prime example of this exploitation occurred on Oct. 13, 2005, when a Mat-Su Valley judge released a man with five felony charges pending against him, including burglary, kidnapping and assault. The accused individual had already been denied affordable bail, had escaped from a temporary release as a minor and was, without a doubt, a flight risk on October 13, 2005. On October 14, 2005, the accused escaped from his mother's custody while attending his father's funeral. When he was captured several weeks later, he was baby-sitting a child while in possession of two stolen handguns. Senate Bill 216 will fix the loopholes in our judicial system that make escapes possible, such as the one described.

**Senate Bill 216** Changes the punishment for unlawful evasion. Currently unlawful evasion is a misdemeanor. As one could imagine, the threat of being charged with a misdemeanor when one has several felonies pending is not very intimidating. This bill would enable the state to charge unlawful evaders on an equal basis with their pending charges, i.e., someone charged with a misdemeanor would be charged with another misdemeanor and someone charged with a felony would be charged with another felony.

**Senate Bill 216** also amends AS 12.30.010 to disallow temporary and periodic releases. Temporary and periodic releases are neither necessary, nor are they favored in the Correction system. These releases simply provide the means to potentially put our families and neighbors at risk by these individuals who have already been denied affordable bail because of flight risk assessment.

The previously described case is not the only example of an escape from temporary release. In fact, during the same month of October, three other people also escaped while on temporary release. This is a very costly burden for the State of Alaska, but more importantly, it can lead to serious and potentially harmful risks for the residents of Alaska.

This bill will help ensure the safety of our property, our neighbors, and our children.

Contact: Josh  
Tempel  
Staff to Senator Charlie Huggins  
465-3878

Version 24-  
LS1300L

Karen Sawyer

---

From: jaime chew [j4chew@mtaonline.net]  
 Sent: Friday, October 21, 2005 7:39 AM  
 To: Sen. Charlie Huggins; Rep. Mark Neuman  
 Subject: Palmer District court  
 Follow Up Flag: Follow up  
 Flag Status: Red

Mr. Huggins & Mr. Neuman-

I am writing as an appalled citizen of the Big Lake community. After discovering Sunday that there was a violent criminal "on the loose" after cutting his ankle bracelet while allowed out of custody to attend his father's memorial service, I am stunned, shocked, and scared. I moved to the "valley" 5 years ago and since I have seen repeated failures by the Palmer District Court and the prosecutors' office. However until recently I have not been angered enough to take action. This inaction must stop!

The true "story" is not that John Pearl Smith escaped, he was allowed to leave. Judge Beverly Cutler allowed a dangerous criminal, accused of many offenses involving a gun, out of custody of the department of corrections. Despite Smith's history of attempted escape, and apparently he was successful at escaping as a juvenile where he remained "at large" for 3 days after beating up a guard, Cutler allowed him to attend the memorial without any guards, shackles, or search of his person, all typical requirements by the Department of Corrections as stated in their policies. The policies in place are for just this situation, why were the policies not enforced?

The prosecutors' office said *"the court did a very fine job in narrowing what he could do, and showing a level of mercy that I think the average citizen wants our court system to show."* *Richard Payne, assistant D.A., didn't know why the court didn't have a corrections officer, rather than a family member, escort Smith.* Isn't it his job to know why, or to at least request that guards accompany this dangerous man? Where was the representation for the people of the State of Alaska in that courtroom? The prosecutors' office didn't represent the people of the state of Alaska because they are so far out of touch with what the "average citizen" expects from their judges and prosecutors' that they believe they did the right thing despite the results of an online poll by the frontiersman where only 3% agreed with the decision.

Continually the courts and prosecutors within the Palmer District Court system, fail to make the safe and responsible decisions. We have yet to hear any comment from Beverly Cutler, who was appointed in the early 80's, as to why she did not follow the policies in place. How do we hold her accountable? As "the average citizen" I feel that the justice system seems so large, too large to battle alone, I am asking your help to bring attention to this matter. I have discussed this issue with a prosecutor and senior officers with the State Troopers and they have all agreed it is their opinion that this would not have been allowed to happen in Anchorage. Anchorage judges continually hold their defendants to a higher standard. Why? Are the people living in Anchorage more deserving of protection? Are the people of "valley" just more.... "Valley trash"?

I am a mother of 2 small children, a wife, a business owner, a volunteer and a scared citizen of the Mat-Su valley. Our area has grown over the last 5 years that I have lived here, can our justice system grow with it? The people of our community deserve the same standard that Anchorage citizens are entitled to, in fact the people of our community are the same people that were living in Anchorage 5 years ago. Again, the area is growing, let our ideas and our judicial system's outlook evolve with it. Would you please let me know how you feel in regards to this issue, where can we take this matter for attention, as only the Anchorage daily news has covered this part of the story? I look forward to your response.

Jaime Chew

TM CALASKA, INC.  
 (907)892-3500

2/22/2006

THE  
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**Shalese M. Primrose**

6029 Debarr Road, Apt. 202, Anchorage, AK 99504  
(907) 440-0314 cell or (907) 258-7555 work

District Attorney's Office  
Attn: Suzanne Powell  
11921 Palmer Wasilla Highway  
Suite 100  
Palmer, AK 99645

RECEIVED

OCT 31 2005

RE: CASE NO. 3PA-05-02346CR & 3AN-04-04465CR

Department of Corrections  
Commissioner's Office

October 24, 2005

To Whom It May Concern:

I have contacted the following agencies in connection to a person who is out on third party and out of compliance with the Dept. of Corrections for more than two weeks. I believe he was released on Friday, October 14, 2005 or Friday, October 7, 2005 from the Mat-Su Pretrial Facility in Palmer.

**Anchorage Police Department** (referred by APD to Alaska Court System)

**Magistrate's Office at the Alaska Court System** (left Mike's whereabouts on the answering machine since no one answers that line - upon calling back a few days later I was told that I had to contact the Prosecutor's office)

**Municipal Prosecutor's Office in Anchorage** (MPA's office referred me to Palmer DA's office)

**District Attorney's Office in Palmer, Alaska** (DA's office told me I have to wait a week to speak with a paralegal that is out on leave - week of 10/17/05)

**MADD in Anchorage** (MADD told me the Alaska State Troopers would probably be very responsive 10/24/05)

**Alaska State Troopers** (told me they wouldn't do anything if there isn't a warrant which means there apparently isn't one since they told me they didn't need any information from me as of 10/24/05)

Mike was out of jail on a third-party pass to get a drug rehabilitation evaluation when he ran from his third-party custodian (his sister, who *did* report that he took off on her). He is now staying with his girlfriend, Donna Susook at 1731 Beaver Street in Anchorage, AK. Donna works for Joann Fabrics in the Northway Mall at night. Her home phone number is: 332-1781.

I drove past the place where Mike is staying to write down the license plate numbers of the vehicles that belong to him. I have personally witnessed him driving a burgundy minivan with wood paneling (he passed me driving this vehicle three times in one day), although I was unable to get the license plate number since he is always driving it. I will attempt to obtain that license number without bringing attention to myself in the process. The blue and white Chevy Blazer that is in the driveway at that location has a license plate number of DXZ-997. These vehicles are probably registered still under the previous owner or his sister's name: Christina Osness. He also has other cars on his property in Big Lake, including a Chevelle.

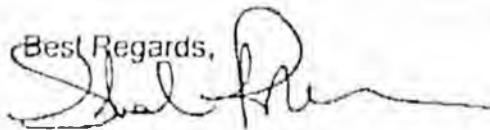
Nobody seems concerned that Mike is out driving or that he ran from the law. I personally don't want him anywhere near me or our child. My three-year-old is afraid of him and I also understand that he has physically threatened his 15-year-old son who consequently ran away from home. Since I personally know him and many mutual friends, I know that Mike is doing

drugs and drinking and it will be no time at all (if it isn't happening already) until he is on the road drinking again. Michael J. Osness (born 7/16/70) was incarcerated for his third DWI and other offenses that he was out of compliance with including driving while license suspended. When he was last arrested he was already under an agreement to turn himself in November 1<sup>st</sup> to take care of time he had left to serve on a previous conviction.

I do not wish to have my name mentioned in relation to his arrest when the warrant is issued for him, because I fear retaliation on his part. He threatened me many times when I filed for child support and it is obvious that he doesn't care about anyone but himself; and never will. I reopened my child support case while he was incarcerated, hoping that the state can eventually seize his assets since it is not his intention to provide financial or emotional parenting. I live in a security building and do not wish to have any trouble. I supported Mike's rehabilitation and his goals for almost 4 years, but when drugs and alcohol became too oppressive in our relationship, and his behavior became more violent, I broke things off.

I previously wrote positive letters into the Department of Corrections on his behalf since I had me convinced at the time that he was trying to change. Since then he threatened us, he hurt our two-year-old son, he put holes in the walls in my home, he broke every item of mine that he could get his hands on and now he drives by us while we're walking our puppy like it's all in fun. I don't have a restraining order since I don't believe they are much help. I have a small sense of security living in a security building and there are 24-hour security patrols as well. All I can do is hope that Mike is picked up and during the time he is in jail can sober up enough to realize what deep-seeded problem he has. If not, it may be 3-5 years I do not have to worry about a run-in with him.

I am only hoping that I don't have to go any farther than this to get the State of Alaska to issue a warrant for Mike's arrest and swiftly resolve this matter.

Best Regards,  


Shalese M. Primrose

CC: Anchorage Police Department, Attn: Warrants Department  
MADD, Anchorage Office  
Municipal Prosecutor's Office, Anchorage  
Alaska State Troopers, Attn: Warrants Department  
Dept. of Corrections, Office of the Commissioner (Juneau & Anchorage)

**Escapee found in home east of Wasilla**

**BABY-SITTING:** Police believe friends may have helped fugitive during flight.

By KYLE HOPKINS  
Anchorage Daily News

*(Published: October 23, 2005)*

WASILLA -- Valley fugitive John Pearl Smith, who fled custody while attending a memorial service for his father, was caught Friday night while in possession of two stolen guns and baby-sitting a young boy at a house off Fairview Loop.

Investigators said they suspect Smith, a 19-year-old who cut the ankle monitor used to track him while he attended the Butte service on Oct. 14, eluded capture for a week with the help of friends and acquaintances. Smith, staring down at his cuffed hands, was arraigned Saturday in Palmer on charges of violating the conditions of his release and criminal mischief.

On the day of the service, he had been released by a judge into the custody of his mother for a few hours. He was then supposed to return to custody in the Mat-Su Pre-Trial Facility.

Instead, his mother says Smith ran while she was in the bathroom. Authorities said Saturday they aren't sure exactly what he's been up to, but he seemed well taken care of said trooper Vic Aye, a member of the Alaska Fugitive Task Force that captured Smith Friday.

"He got his food. He got showered," Aye said. "He was obviously staying with people."

Smith's mother, Christine Ace, said Saturday she's relieved to see her son back in custody. His escape upset the family, and Ace thinks police suspected her of aiding and abetting her son, which she denied.

"I'm just pissed off at him," she said.

Headed by the U.S. marshals, the fugitive task force is charged with hunting down criminals on the run. Members spent much of the last week interviewing more than 30 people in the Mat-Su, from the core area of Palmer and Wasilla to Trapper Creek, in search of Smith.

Aye said investigators suspected Smith was in the Butte or Pittman Road areas, but as part of their routine interviews Friday, they headed to the house of one of Smith's acquaintances at Michelle Lane, off Fairview Loop.

Near the house, about 9:30 p.m. Friday, they saw a small black pickup -- a vehicle they'd heard Smith might be using.



John Pearl Smith is arraigned Saturday in Palmer. Smith escaped a week ago after attending his father's memorial service. *(Photo by EVAN R. STEINHAUSER / Anchorage Daily News)*

Waiting in two unmarked cars, the task force called for backup, Aye said. Alaska state troopers and Wasilla police officers showed up, and about 9:30 p.m. one of the U.S. marshals talked to Smith over a loudspeaker: He was surrounded.

Aye said Smith surrendered peacefully after about 10 minutes.

"He claims he was going to turn himself in," Aye said. "But they all do. Every single one of them."

Troopers Sgt. Kathy Peterson, who took Smith's case when he first fled from custody, said the teenager when caught wore a black, hooded sweatshirt and blue jeans, his blond hair dyed black.

Inside the house, authorities found two stolen, semi-automatic handguns -- a 10 mm and .45-caliber. Also inside the home was an 8-year-old boy whom Smith was baby-sitting, Peterson said.

Investigators believe the boy lived in the home where Smith was found and may be the son of one of Smith's acquaintances.

Troopers continued sorting out details of the case Saturday afternoon, asking questions such as who actually owned the house, where exactly Smith got the handguns and who may have helped him.

Smith claimed he'd only been at the house a few hours, Aye said.

Peterson said anyone who aided Smith could face charges of hindering a prosecution, while Smith himself could be on the hook for gun theft.

This wouldn't be the first time Smith was accused of stealing weapons, or even the first time he's eluded his captors for days at a time.

Before he escaped last week, Smith was in the Mat-Su Pre-Trial Facility facing five separate felony cases, including burglary, robbery, vehicle theft, weapons misconduct and felony assault.

He escaped custody once before, at age 14. Accused of breaking into homes and snatching guns, Smith ran from authorities for three days after a court hearing in Palmer, troopers said in 2000.

He's now being charged with failure to meet the conditions of his release, rather than escape, because he was technically out on bond and not in custody for those few hours he attended his father's memorial service, Peterson said.

Though Department of Corrections policy sometimes requires escorts for inmates allowed on temporary leave, a Palmer Superior Court judge did not make that a requirement for Smith's release.

Aye, the task force investigator, said people asked him why that was all week, as Aye interviewed those who knew Smith and his criminal history.

"All of his friends say he was a powder keg waiting to go off," he said.

At noon Saturday, Ace stood outside her Palmer home wearing a blue sweater and blonde highlights in her short hair. Her keys hung from a ring peeking above the pocket of her jeans.

An hour later, her son was due to be arraigned in the nearby Palmer courthouse. Ace wasn't sure if she would go -- she'd been through this many times before, she said.

"He's deserving everything he gets," Ace said. She paused. "Doesn't mean I don't love him."

She grabbed cigarettes from the cab of a pickup and lit one in the driveway. Ace doesn't smoke in the house, she said. She talked about all the questions police asked over the past few days, and all the friends who called to say they'd been interviewed about John by investigators.

She took a quick drag from her cigarette. "Yup. Long week."

---

Contact reporter Kyle Hopkins at [khopkins@adn.com](mailto:khopkins@adn.com) or call 352-6710.

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**SB**

**216**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

REPORTED OUT  
 MAR 18 2006  
 SENATE FINANCE COMMITTEE

DATE: 3/1/06

FURTHER:

DATE TURNED  
 IN TO OFFICE: 3/08/06

Finance Committee considered

SENATE BILL NO. 216

SB 216 BAIL RESTRICTIONS

"An Act relating to bail."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS SB 216 (JUD)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Admin	3/6/06		✓		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
DOC				✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>C. Bunde</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>Lyle Green</i>	✓			
COCHAIR:				

# FISCAL NOTE

STATE OF ALASKA  
 2005 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: CSSB 216(JUD)  
 (S) Publish Date: 3/1/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept Affected: Corrections  
 Title "An act relating to bail restrictions." RDU Institutional Facilities  
 Component Institution Director's Office  
 Sponsor Senator Huggine & Green  
 Requester Judiciary, Finance Component No. 524

**Expenditures/Revenues** (Thousands of Dollars)  
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-----------------------------	------------	------------	------------	------------	------------	------------

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

The Department of Corrections does not anticipate a significant fiscal impact due to the passage of this legislation.

Prepared by: Sharleen Griffin, Acting Director Phone 465-3339  
 Division Administrative Services Date/Time 2/27/06 4:26 PM  
 Approved by: Portia C K Parker, Deputy Commissioner Date 2/27/2006  
 Agency Department of Corrections

REPORTED OUT  
 MAR 03 2006  
 SENATE FINANCE COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
 2006 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSSB 216(JUD)  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title An Act relating to bail and unlawful evasion RDU Legal and Advocacy Services  
 Component Public Defender Agency  
 Sponsor Sen. Huggins, Sen. Green  
 Requester (S) FIN Component No. 1631

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

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

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY2006) cost. 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill creates the felony offense of first-degree unlawful evasion for conduct related to felony charges. It also prohibits temporary or periodic bail release.

Due to the new felony offense, this bill is expected to increase the work associated with cases that were previously filed as misdemeanor unlawful evasion. It is, however, not possible to estimate the fiscal impact of making unlawful evasion for felony cases a felony. The Agency, therefore, submits an indeterminate fiscal note.

Prepared by: Quinlan Steiner, Director Phone (907) 334-4414  
 Division Public Defender Agency Date/Time 3/6/06 1:50 p.m.  
 Approved by: Mike Tibbitts, Deputy Commissioner Date 3/6/2006  
 Agency Administration

# ALASKA STATE LEGISLATURE

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[www.akrepublicans.org/huggins/](http://www.akrepublicans.org/huggins/)

**Charlie Huggins**  
Senator

## **Senate Bill No. 216**

### **Sponsor Statement**

**"An Act Relating to bail, temporary release, and unlawful evasion."**

Currently, there are loopholes in our judicial system that have unfortunately been taken advantage of by harmful individuals. A prime example of this exploitation occurred on Oct. 13, 2005, when a Mat-Su Valley judge released a man with five felony charges pending against him, including burglary, kidnapping and assault. The accused individual had already been denied affordable bail, had escaped from a temporary release as a minor and was, without a doubt, a flight risk on October 13, 2005. On October 14, 2005, the accused escaped from his mother's custody while attending his father's funeral. When he was captured several weeks later, he was baby-sitting a child while in possession of two stolen handguns. Senate Bill 216 will fix the loopholes in our judicial system that make escapes possible, such as the one described.

Senate Bill 216 amends AS 11.56.340 by classifying an unlawful evasion as a felony. Currently, unlawful evasion is only classified as a misdemeanor.

Senate Bill 216 also amends AS 12.30.010 to disallow temporary and periodic releases. Temporary and periodic releases are neither necessary, nor are they favored in the Correction system. These releases simply provide the means to potentially put our families and neighbors at risk by these individuals who have already been denied affordable bail because of flight risk assessment.

The previously described case is not the only example of an escape from temporary release. In fact, during the same month October 2005, three other people also escaped while on temporary release. This is a very costly burden for the State of Alaska, but more importantly, it can lead to serious and potentially harmful risks for the residents of Alaska.

This bill will help ensure the safety of our property, our neighbors, and our children.

Contact: Josh Tempel  
Staff to Senator Charlie Huggins  
465-3878

Version 24-LS1300\F  
Work Draft

## Karen Sawyer

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**From:** jaime chew [j4chew@mtaonline.net]  
**Sent:** Friday, October 21, 2005 7:39 AM  
**To:** Sen. Charlie Huggins; Rep. Mark Neuman  
**Subject:** Palmer District court  
**Follow Up Flag:** Follow up  
**Flag Status:** Red

Mr. Huggins & Mr. Neuman-

I am writing as an appalled citizen of the Big Lake community. After discovering Sunday that there was a violent criminal "on the loose" after cutting his ankle bracelet while allowed out of custody to attend his father's memorial service, I am stunned, shocked, and scared. I moved to the "valley" 5 years ago and since I have seen repeated failures by the Palmer District Court and the prosecutors' office. However until recently I have not been angered enough to take action. This inaction must stop!

The true "story" is not that John Pearl Smith escaped, he was allowed to leave. Judge Beverly Cutler allowed a dangerous criminal, accused of many offenses involving a gun, out of custody of the department of corrections. Despite Smith's history of attempted escape, and apparently he was successful at escaping as a juvenile where he remained "at large" for 3 days after beating up a guard, Cutler allowed him to attend the memorial without any guards, shackles, or search of his person, all typical requirements by the Department of Corrections as stated in their policies. The policies in place are for just this situation, why were the policies not enforced?

The prosecutors' office said *"the court did a very fine job in narrowing what he could do, and showing a level of mercy that I think the average citizen wants our court system to show."* *Richard Payne, assistant D.A, didn't know why the court didn't have a corrections officer, rather than a family member, escort Smith.* Isn't it his job to know why, or to at least request that guards accompany this dangerous man? Where was the representation for the people of the State of Alaska in that courtroom? The prosecutors' office didn't represent the people of the state of Alaska because they are so far out of touch with what the "average citizen" expects from their judges and prosecutors' that they believe they did the right thing despite the results of an online poll by the frontiersman where only 3% agreed with the decision.

Continually the courts and prosecutors within the Palmer District Court system, fail to make the safe and responsible decisions. We have yet to hear any comment from Beverly Cutler, who was appointed in the early 80's, as to why she did not follow the policies in place. How do we hold her accountable? As "the average citizen" I feel that the justice system seems so large, too large to battle alone, I am asking your help to bring attention to this matter. I have discussed this issue with a prosecutor and senior officers with the State Troopers and they have all agreed it is their opinion that this would not have been allowed to happen in Anchorage. Anchorage judges continually hold their defendants to a higher standard. Why? Are the people living in Anchorage more deserving of protection? Are the people of "valley" just more.... "Valley trash"?

I am a mother of 2 small children, a wife, a business owner, a volunteer and a scared citizen of the Mat-Su valley. Our area has grown over the last 5 years that I have lived here, can our justice system grow with it? The people of our community deserve the same standard that Anchorage citizens are entitled to, in fact the people of our community are the same people that were living in Anchorage 5 years ago. Again, the area is growing, let our ideas and our judicial system's outlook evolve with it. Would you please let me know how you feel in regards to this issue, where can we take this matter for attention, as only the Anchorage daily news has covered this part of the story? I look forward to your response.

Jaime Chew

TMCALASKA, INC.  
 (907)892-3500

2/22/2006

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**Shalese M. Primrose**

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District Attorney's Office  
Attn: Suzanne Powell  
11921 Palmer Wasilla Highway  
Suite 100  
Palmer, AK 99645

RECEIVED

OCT 31 2005

RE: CASE NO. 3PA-05-02346CR & 3AN-04-04465CR

Department of Corrections  
Commissioner's Office

October 24, 2005

To Whom It May Concern:

I have contacted the following agencies in connection to a person who is out on third party and out of compliance with the Dept. of Corrections for more than two weeks. I believe he was released on Friday, October 14, 2005 or Friday, October 7, 2005 from the Mat-Su Pretrial Facility in Palmer.

**Anchorage Polico Department** (referred by APD to Alaska Court System)

**Magistrate's Office at the Alaska Court System** (left Mike's whereabouts on the answering machine since no one answers that line - upon calling back a few days later I was told that I had to contact the Prosecutor's office)

**Municipal Prosecutor's Office in Anchorage** (MPA's office referred me to Palmer DA's office)

**District Attorney's Office in Palmer, Alaska** (DA's office told me I have to wait a week to speak with a paralegal that is out on leave - week of 10/17/05)

**MADD in Anchorage** (MADD told me the Alaska State Troopers would probably be very responsive 10/24/05)

**Alaska State Troopers** (told me they wouldn't do anything if there isn't a warrant which means there apparently isn't one since they told me they didn't need any information from me as of 10/24/05)

Mike was out of jail on a third-party pass to get a drug rehabilitation evaluation when he ran from his third-party custodian (his sister, who *did* report that he took off on her). He is now staying with his girlfriend, Donna Susook at 1731 Beaver Street in Anchorage, AK. Donna works for Joann Fabrics in the Northway Mall at night. Her home phone number is: 332-1781.

I drove past the place where Mike is staying to write down the license plate numbers of the vehicles that belong to him. I have personally witnessed him driving a burgundy minivan with wood paneling (he passed me driving this vehicle three times in one day), although I was unable to get the license plate number since he is always driving it. I will attempt to obtain that license number without bringing attention to myself in the process. The blue and white Chevy Blazer that is in the driveway at that location has a license plate number of DXZ-997. These vehicles are probably registered still under the previous owner or his sister's name: Christina Osness. He also has other cars on his property in Big Lake, including a Chevelle.

Nobody seems concerned that Mike is out driving or that he ran from the law. I personally don't want him anywhere near me or our child. My three-year-old is afraid of him and I also understand that he has physically threatened his 15-year-old son who consequently ran away from home. Since I personally know him and many mutual friends, I know that Mike is doing