

ALASKA LEGISLATURE COMMITTEE PRINTS 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916 1917 1918 1919 1920 1921 1922 1923 1924 1925 1926 1927 1928 1929 1930 1931 1932 1933 1934 1935 1936 1937 1938 1939 1940 1941 1942 1943 1944 1945 1946 1947 1948 1949 1950 1951 1952 1953 1954 1955 1956 1957 1958 1959 1960 1961 1962 1963 1964 1965 1966 1967 1968 1969 1970 1971 1972 1973 1974 1975 1976 1977 1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025

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Am. Jur. 2d and C.J.S. references. — 48 C.J.S. Intoxicating Liquors
45 Am. Jur. 2d Intoxicating Liquors §§ 147-150.
§§ 156-158.

Sec. 04.11.480. Protest. (a) If a local governing body wishes to protest the issuance, renewal, transfer of location or transfer to another person of a license, it shall furnish the board and the applicant with a protest within 30 days of receipt from the board of notice of filing of the application. The board shall consider a protest and testimony received at a hearing conducted under AS 04.11.510(b)(2) or (b)(4) when it considers the application, and the protest and the record of the hearing conducted under AS 04.11.510(b)(2) or (b)(4) shall be retained as part of the board's permanent record of its review of the application. If an application is protested, the board may not approve the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

(b) If the permanent residents residing outside of but within two miles of an incorporated city or an established village wish to protest the issuance, renewal, or transfer of a license within the city or village, they shall file with the board a petition meeting the requirements of AS 04.11.510(b)(3) requesting a public hearing within 30 days of the posting of notice required under AS 04.11.310, or by December 31 of the year application is made for renewal of a license. The board shall consider testimony received at a hearing conducted under AS 04.11.510(b)(3) when it considers the application, and the record of a hearing conducted under AS 04.11.510(b)(3) shall be retained as part of the board's permanent record of its review of the application. (§ 2 ch 131 SLA 1980)

Former law construed. — See In re Alaska 599 (1945); In re Kaye, 11 Alaska Alaska Labor Trades Ass'n, 10 Alaska 472 556 (1948); In re Martin's Retail Liquor (1945); Application of Wakefield, 10 License No. 1517, 16 Alaska 225 (1954).

Sec. 04.11.490. Prohibition of the sale of alcoholic beverages.

(a) The following question, appearing alone, may be placed before the voters of a municipality or an established village in accordance with AS 04.11.502: "Shall the sale of alcoholic beverages in (name of municipality or village) be prohibited? (yes or no)".

(b) If a majority of the voters vote "yes" on the question set out in (a) of this section, the board shall be notified immediately after certification of the results of the election and thereafter the board may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of a municipality and in unincorporated areas within five miles of the boundaries of the municipality or within the perimeter of an established village. As of midnight December 31 of the year in which the results of the election are certified, licenses which may not be renewed are void. The results

of an election held under this section are not a ground for the suspension of a license during the year for which the license was issued or renewed.

(c) If a majority of the voters vote "no" on the question set out in (a) of this section or vote "yes" on a question set out in AS 04.11.492 or 04.11.500 in an election conducted in accordance with AS 04.11.502 after an election in which the voters voted "yes" on the question set out in (a) of this section, the board shall be notified immediately after certification of the results of the election. Thereafter, the prohibitions imposed under (b) of this section on the issuance, renewal, or transfer of licenses between holders and location as a result of the earlier election are removed except insofar as those prohibitions are imposed in accordance with the results of the subsequent election. (§ 2 ch 131 SLA 1980)

Am. Jur. 2d and C.J.S. references. — 48 C.J.S. Intoxicating Liquors §§ 58-98.
45 Am. Jur. 2d Intoxicating Liquors §§ 79-113.

Sec. 04.11.492. Community liquor license; complete prohibition on sales.

(a) The following question, appearing alone, may be placed before the voters of a municipality in accordance with AS 04.11.502: "Shall the sale of alcoholic beverages be prohibited in (name of municipality) unless sold by a (either a beverage dispensary or package store, or both, operated under a community liquor license)? (yes or no)".

(b) If a majority of the voters vote "yes" on the question set out in (a) of this section, the board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of a municipality and in unincorporated areas within five miles of the boundaries of the municipality, with the exception of a beverage dispensary or package store operated under a community liquor license held by the municipality. As of midnight December 31 of the year in which the results of the election are certified, licenses in effect are void. The results of an election held under this section are not a ground for the suspension of a license during the year for which the license was issued or renewed.

(c) If a majority of the voters vote "no" on the question set out in (a) of this section or vote "yes" on a question set out in AS 04.11.490, 04.11.496, or 04.11.500 in an election conducted in accordance with AS 04.11.502 after an election in which the voters voted "yes" on the question set out in (a) of this section, the board shall be notified immediately after a certification of the results of the election. As of midnight December 31 of the year in which the results of the election are certified, the prohibitions imposed under (b) of this section on the

issuance, renewal, or transfer of licenses between holders and locations as a result of the earlier election are removed except insofar as those prohibitions are imposed in accordance with the results of the subsequent election. The results of an election held under this section are not a ground for the suspension of a license during the year for which the license was issued or renewed. (§ 2 ch 131 SL A 1980)

Am. Jur. 2d and C.J.S. references. — 48 C.J.S. Intoxicating Liquors §§ 58-98.
45 Am. Jur. 2d Intoxicating Liquors
§§ 79-113.

Sec. 04.11.496. Prohibition of sale and importation of alcoholic beverages. (a) The following question, appearing alone, may be placed before the voters of a municipality or an established village in accordance with AS 04.11.502: "Shall the sale and importation of alcoholic beverages be prohibited in (name of municipality or village)? (yes or no)".

(b) If a majority of the voters vote "yes" on the question set out in (a) of this section, a person, beginning on the first day of the month following certification of the results of the election, may not knowingly send, transport, or bring alcoholic beverages into the municipality or established village. The board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of the municipality and within unincorporated areas within five miles of the boundaries of the municipality or within the perimeter of the established village. As of midnight December 31 of the year in which the results of the election are certified, licenses which may not be renewed are void. The results of an election held under this section are not a ground for the suspension of a license during the year for which the license was issued or renewed.

(c) If a majority of the voters vote "no" on the question set out in (a) of this section or vote "yes" on the questions set out in AS 04.11.492 or 04.11.500 in an election conducted in accordance with AS 04.11.502 after an election in which the voters voted "yes" on the question set out in (a) of this section, the prohibition on the importation of alcoholic beverages and the prohibition on the issuance, renewal, or transfers of licenses between holders and locations, imposed as a result of the earlier election in which the voters voted "yes" on the question set out in (a) of this section are removed effective on the first day of the month following certification of the results of the election except as those prohibitions continue to be imposed in accordance with the results of the subsequent election. (§ 2 ch 131 SLA 1980)

Am. Jur. 2d and C.J.S. references. — 48 C.J.S. Intoxicating Liquors §§ 58-98.
45 Am. Jur. 2d Intoxicating Liquors
§§ 79-113.

Sec. 04.11.500. Prohibition of the sale of alcoholic beverages except by selected licenses. (a) The following question, appearing alone, may be placed before the voters of a municipality or an established village in accordance with AS 04.11.502: "Shall the sale of alcoholic beverages be prohibited in (name of municipality or village) except by (listing of the types of licenses which premises would be exempted from the prohibition on the sale of alcoholic beverages if the measure passes)? (yes or no)".

(b) If a majority of the voters vote "yes" on the question set out in (a) of this section, the board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of the municipality and in unincorporated areas within five miles of the boundaries of the municipality or within the perimeter of the established village, except those types of licenses listed on the ballot. As of midnight December 31 of the year in which the results of the election are certified, licenses in effect within the boundaries of the municipality or perimeter of the established village, and in an unincorporated area outside of but within five miles of the boundaries of the municipality, except those types of licenses listed on the ballot, are void.

(c) If the majority of the voters vote "no" on the question set out in (a) of this section or vote "yes" on the questions set out in AS 04.11.490, 04.11.492, 04.11.496, or this section if different types of licenses are listed on the ballot in an election conducted in accordance with AS 04.11.502 after an election in which the voters voted "yes" on the question set out in (a) of this section, the board shall be notified immediately after certification of the results of the election. As of midnight December 31 of the year in which the results of the election are certified, licenses in effect in the municipality, in the unincorporated area outside of but within five miles of the boundaries of the municipality or established village which were excepted from the prohibition on sale in accordance with the results of the earlier election are void. Thereafter the board may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of the municipality or within the perimeter of an established village, or in an unincorporated area within five miles of the boundaries of the municipality, except a license which may be issued to a municipality or to one of the types of licenses listed on the ballot as a result of a majority of the voters voting "yes" on the question set out in AS 04.11.492 or this section, respectively. (§ 2 ch 131 SLA 1980)

(1) if an application is denied, the notice of denial shall be furnished the applicant immediately in writing stating the reason for the denial in clear and concise language; the notice of denial shall inform the applicant that he is entitled to an informal conference with either the director or the board, and that, if not satisfied by the informal conference, he is then entitled to a formal hearing before the board; if the applicant requests a formal hearing, the board shall adhere to AS 44.62.330 — 44.62.630 (Administrative Procedure Act); all interested persons may be heard at the hearing and unless waived by the applicant and the board, the formal hearing shall be held in the area for which the application is requested;

(2) the board may, on its own initiative or in response to an objection or protest, hold a hearing to ascertain the reaction of the public or a local governing body to an application if a hearing is not required under (1), (3), or (4) or this subsection;

(3) if a petition containing the signatures of 35 percent of the adult residents having a permanent place of abode outside of but within two miles of an incorporated city or an established village is filed with the board, the board shall hold a public hearing on the question of whether the issuance, renewal, or transfer of the license in the city or village would be in the public interest;

(4) if a protest to the issuance, renewal, transfer of location or transfer to another person of a license made by a local governing body is based on a question of law, the board shall hold a public hearing.

(c) Unless the grounds for the suspension or revocation are under AS 04.11.370(4), board proceedings to suspend or revoke a license shall be conducted in accordance with AS 44.62.330 — 44.62.630 (Administrative Procedure Act), except that the licensee is entitled to an opportunity to informally confer with the director or the board within 10 days after the accusation is served upon him. Notice of the opportunity for an informal conference shall be served upon the licensee along with the accusation. If an informal conference is requested, the running of the period of time specified in AS 44.62.380 for filing a notice of defense is tolled from the date of receipt of the request for the conference until the day following the date of the conference unless extended by the board. After the conference, the licensee, if not satisfied by the results of the conference, may obtain a hearing by filing a notice of defense as provided in AS 44.62.390. If the grounds for suspension or revocation are under AS 04.11.370(4), the licensee is not entitled to notice and hearing under AS 44.62.330 — 44.62.630 on the merits of the suspension or revocation. However, the board shall afford the licensee notice and hearing on the issue of what administrative sanction to impose under AS 04.16.180. (§ 2 ch 131 SLA 1980)

Editor's note. — The cases cited in the note below were decided under former AS 04.05.030, 04.15.100, and earlier statute.

Compliance with Administrative Procedure Act. — An authorized proceeding of the Alcoholic Beverage Control Board to consider a license application constituted a public hearing on the application, and as such, was subject to the requirements of the Administrative Procedure Act (AS 44.62). *Ketchikan Retail Liquor Dealers Ass'n v. State, ABC Bd., Sup. Ct. Op. No. 1963 (File No. 3697), 602 P.2d 434 (1979).*

Discretion. — That lawful and sound,

and not arbitrary, discretion must be exercised in granting or refusing licenses is beyond question. *In re Alaska Labor Trades Ass'n, 10 Alaska 472 (1945).*

For discussion of hearing required before suspension of license under prior law, see *Frontier Saloon, Inc. v. Alcoholic Beverage Control Bd., Sup. Ct. Op. No. 1062 (File No. 1984), 524 P.2d 657 (1974).*

Am. Jur. 2d and C.J.S. references. — 45 *Am. Jur. 2d Intoxicating Liquors* §§ 153-169.

48 *C.J.S. Intoxicating Liquors* §§ 142-166.

Sec. 04.11.520. Notice to local governing body. After receipt of an application from within (1) an established village, (2) an incorporated city, (3) an organized borough, or (4) a unified municipality, the board shall transmit written notice to the local governing body within 10 days so that the local governing body may protest under AS 04.11.480. (§ 2 ch 131 SLA 1980)

Sec. 04.11.530. Consideration of reports. A license may not be suspended or revoked under AS 04.11.370(4) or (5) unless the board considers the reports prepared by arresting and investigating officers and the sentencing report sent to the board under AS 12.55.025(b). (§ 2 ch 131 SLA 1980)

Sec. 04.11.535. Suspension and revocation based on acts of employees. (a) If, in a proceeding to suspend or revoke a license under AS 04.11.370(5), the board finds that a sentencing report sent to the board under AS 12.55.025(b) or a report prepared by the investigating or arresting officers in connection with the violation, contains information which if uncontradicted or unexplained would provide a ground for suspension or revocation under AS 04.11.370(5), the licensee has the burden of proof to establish that he neither knowingly allowed the violation nor recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.030.

(b) If the board suspends or revokes a license on grounds that a licensee knowingly allowed or recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.030 resulting in unlawful action of an agent or employee, the board shall file a criminal complaint charging the licensee with violation of AS 04.16.150. (§ 2 ch 131 SLA 1980)

Sec. 04.11.537. Application of precedent. In determining whether issuance, renewal, transfer, suspension, or revocation of a license is in the best interests of the public, the board need not conform to or distinguish its decision from any action it has taken in the past on applications presenting similar facts, but may instead base its decision only on the particular facts before it. (§ 2 ch 131 SLA 1980)

Sec. 04.11.502. Procedure for local option elections. (a) The local governing body of a municipality, whenever a number of registered voters equal to at least 35 percent of the number of votes cast at the last regular municipal election petition the local governing body to do so, shall place upon a separate ballot at the next regular election whichever question or combination of questions set out in AS 04.11.490 — 04.11.500 constitutes the subject of the petition. The lieutenant governor shall conduct the election in the general manner prescribed by the Alaska Election Code (AS 15.05 — 15.60).

(b) The lieutenant governor, whenever 35 percent of the registered voters residing within an established village petition the lieutenant governor to do so, shall place upon a separate ballot at a special election that question or combination of questions set out in AS 04.11.490 — 04.11.500 which constitutes the subject of the petition. The lieutenant governor shall conduct the election in the general manner prescribed by the Alaska Election Code (AS 15.05 — 15.60). (§ 2 ch 131 SLA 1980)

Editor's note. — Chapter 129, SLA 1980, amended various local option provisions of former AS 04. However, the subsequent enactment of the major revision of AS 04 by ch 131, SLA 1980, repealed the earlier local option provisions of AS 04 and all amendments to them.

Am. Jur. 2d, ALR and C.J.S. references. — 45 Am. Jur. 2d Intoxicating Liquors §§ 79-113.

Operation and effect, in dry territory, of general state statute making sale or possession for sale of intoxicating liquor, without a license, an offense, 8 ALR2d 750.

Change of "wet" or "dry" status fixed by local option election by change of name, character, or boundaries of voting unit, without later election, 25 ALR2d 863.

48 C.J.S. Intoxicating Liquors §§ 58-98.

Sec. 04.11.504. Reinstatement of licenses. If a prohibition imposed on the issuance, renewal, or transfer of licenses between holders and locations under AS 04.11.490 — 04.11.500 is removed by a vote of "no" on a question for which the majority of the people voted "yes" in an earlier election, the board shall, upon application, issue the same number and type of licenses which were in effect in the municipality or established village on the date of certification of the earlier election. If the prohibition imposed on issuance, renewal, or transfer of licenses between holders and locations is removed by a "yes" vote on a question set out in AS 04.11.492 and 04.11.500, the board may issue the types of licenses specified in the question presented to the voters in the subsequent election. Licenses may be issued for the same or other premises within the municipality or established village which were licensed on the date of certification of the earlier election. However, if the local governing body requests that fewer licenses of a particular type be issued than would otherwise be issued if the

provisions prescribing the ratio of population to licensed premises in AS 04.11.400(a) are applied, only the number of licenses of that particular type requested by the local governing body may be issued by the board. Priority shall be given applicants who were formerly licensees and whose licenses were not renewed because of the results of the previous election. However, these applicants have no legal right to a license and the board is not required to approve the application. (§ 2 ch 131 SLA 1980)

Am. Jur. 2d and C.J.S. references. — 48 C.J.S. Intoxicating Liquors §§ 58-98.
45 Am. Jur. 2d Intoxicating Liquors §§ 79-113.

Sec. 04.11.506. Notice of the results of a local option election. (a) If a majority of the voters vote "yes" on a question set out in AS 04.11.490 — 04.11.500, the board shall immediately notify the Department of Law and the Department of Public Safety of the results of the election.

(b) If a majority of the voters vote "yes" on a question set out in AS 04.11.496, the following actions, in addition to those prescribed in (a) of this section, shall be undertaken before the date the prohibition on importation becomes effective:

(1) the board shall notify by registered mail all holders of package store licenses of the prohibition;

(2) the municipality or established village shall post notice of the prohibition in the municipality or village. (§ 2 ch 131 SLA 1980)

Am. Jur. 2d and C.J.S. references. — 48 C.J.S. Intoxicating Liquors §§ 58-98.
45 Am. Jur. 2d Intoxicating Liquors §§ 79-113.

Article 7. Board Procedures.

Section	Section
510. Procedure for action on license applications, suspensions, and revocations	530. Consideration of reports
520. Notice to local governing body	535. Suspension and revocation based on acts of employees
	536. Application of precedent

Sec. 04.11.510. Procedure for action on license applications, suspensions, and revocations. (a) Unless a legal action relating to the license, applicant or premises to be licensed is pending, the board shall decide whether to grant or deny an application within 90 days of receipt of the application at the main office of the board. However, the decision may not be made before the 30 days allowed for protest under AS 04.11.480 have elapsed unless waived by the municipality.

(b) The board may review an application for the issuance, renewal, transfer of location, or transfer to another person of a license without affording the applicant notice or hearing, except

286), see 1967 House Journal, p. 544. For report on ch. 84, SLA 1968 (CSSB 344), see 1968 House Journal, p. 672. For report on ch. 86, SLA 1968 (CSHB 47 am S), see 1967 House Journal, p. 458. Chapter 245, SLA 1970 (HCSSB 399 am H), was identical to CSHB 406 (Jud.). For report on

CSHB 406 (Jud.), see 1970 House Journal Supplement No. 6. For report on ch. 63, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885. For report on ch. 184, SLA 1976 (SCS CSHB 246 am S), see 1976 House Journal, p. 944.

Chapter 16. Regulation of Sales and Distribution.

Article

1. Prohibited Acts (§§ 04.16.010 — 04.16.175)
2. Penalties and Forfeitures (§§ 04.16.180 — 04.16.220)

Article 1. Prohibited Acts.

Section	Section
10. Hours of sale and presence on licensed premises (standard closing hours)	60. Purchase by persons under the age of 19
20. Solicitation of alcoholic beverages	70. Sales on election day
30. Sale or disposition of alcoholic beverages to drunken persons	80. Sales or consumption at school events
40. Access of drunken persons to licensed premises	90. Prohibition of bottle clubs
45. Obligation to enforce restrictions in licensed premises	100. Restriction on size of containers
49. Access of persons under the age of 19 to licensed premises	110. Sale of powdered alcohol prohibited
50. Possession or consumption by persons under the age of 19	120. Removal or introduction of alcoholic beverages
51. Furnishing of alcoholic beverages to persons under the age of 19	130. Stock confined to licensed premises
52. Furnishing of alcoholic beverages to persons under the age of 19 by licensees	140. Sale or consumption of alcoholic beverages in a warehouse
	150. Licensee responsible for violations
	170. Source of alcoholic beverages
	175. Furnishing alcoholic beverages in aid of gambling enterprise

Sec. 04.16.010. Hours of sale and presence on licensed premises (standard closing hours). (a) A person may not sell, offer for sale, give, furnish, deliver or consume an alcoholic beverage on premises licensed under this title between the hours of 5:00 a.m. and 8:00 a.m. each day.

(b) A licensee, his agent, or employee may not permit a person to consume alcoholic beverages on the licensed premises between the hours of 5:00 a.m. and 8:00 a.m. each day.

(c) A licensee, his agent, or employee may not permit a person to and a person may not enter premises licensed under this title between the hours of 5:00 a.m. and 8:00 a.m. each day. This subsection does not apply to common carriers, as defined in AS 42.10.420(2), or to an employee of the licensee who is on the premises to prepare for the next day's business or to persons remaining on the premises of a restaurant or eating place licensed under this title to consume food or nonalcoholic beverages.

(d) A municipality may provide for additional hours of closure under AS 04.21.010. (§ 3 ch 131 SLA 1980)

ALR and C.J.S. references. — Power of municipality to require Sunday closing, 29 ALR 407, 420; 37 ALR 575.

Validity, construction and application of statute or ordinance requiring closing,

during certain hours, of place where intoxicating liquor is sold, as affected by fact that such places are also used for other business, 139 ALR 756.

48 C.J.S. Intoxicating Liquors § 207.

Sec. 04.16.020. Solicitation of alcoholic beverages. (a) A person may not pay or receive from another a salary, percentage or commission to solicit or encourage a patron of licensed premises to purchase alcoholic or other beverages for consumption by a person other than the patron.

(b) A licensee, his agent, or employee may not knowingly permit a person to loiter within or about premises licensed under this title for the purpose of begging or soliciting a patron or visitor to purchase alcoholic or other beverages for the person who is begging or soliciting. (§ 3 ch 131 SLA 1980)

Former law construed. — See Alaska Alcoholic Beverage Control Bd. v. Malcolm, Inc., Sup. Ct. Op. No. 208 (File No. 363), 331 P.2d 441 (1964).

Am. Jur. 2d and C.J.S. references. — 45 Am. Jur. 2d Intoxicating Liquor §§ 297, 298.

48 C.J.S. Intoxicating Liquors § 267.

Sec. 04.16.030. Sale or disposition of alcoholic beverages to drunken persons. A licensee, his agent, or employee may not with criminal negligence

- (1) sell, give, or barter alcoholic beverages to a drunken person;
- (2) allow another person to sell, give, or barter an alcoholic beverage to a drunken person within licensed premises;
- (3) allow a drunken person to enter and remain within licensed premises or to consume an alcoholic beverage within licensed premises;
- (4) permit a drunken person to sell or serve alcoholic beverages. (§ 3 ch 131 SLA 1980)

Am. Jur. 2d and C.J.S. references. — 45 Am. Jur. 2d Intoxicating Liquors §§ 266, 268.

48 C.J.S. Intoxicating Liquors §§ 257, 258.

Sec. 04.16.040. Access of drunken persons to licensed premises. A drunken person may not knowingly enter or remain on premises licensed under this title. (§ 3 ch 131 SLA 1980)

Sec. 04.16.045. Obligation to enforce restrictions in licensed premises. A licensee, his agent or employee may not permit the consumption of alcoholic beverages by any person within licensed premises unless it is permitted by the license. (§ 3 ch 131 SLA 1980)

Revisor's note. — This section was originally enacted as AS 04.16.041 but was renumbered by the revisor of statutes.

Cross reference. — As to responsibility of licensee for violations, see AS 04.16.150.

04.16.049
ALASKA STATUTES
Sec. 04.16.049. Access of persons under the age of 19 to licensed premises. (a) A person under the age of 19 years may not knowingly enter or remain in premises licensed under this title unless

(1) accompanied by a parent, guardian or spouse who has attained the age of 19 years;

(2) accompanied by a person over the age of 19 years and with the consent of the person's parent or guardian if the premises are licensed as a restaurant or eating place and the persons enter and remain only for dining.

(b) Notwithstanding (a) of this section, a licensee, his agent, or employee may refuse entry to a person under the age of 19 years to that part of licensed premises in which alcoholic beverages are sold, served or consumed, may refuse service to a person under the age of 19 years, or may require a person under the age of 19 years to leave the portion of the licensed premises in which alcoholic beverages are sold, served, or consumed.

(c) Notwithstanding this section, a person between 16 and 19 years of age may enter and remain within the licensed premises of a hotel, restaurant, or eating place in the course of his employment if (1) the employment does not involve the serving, mixing, delivering, or dispensing of alcoholic beverages; (2) the person has the written consent of a parent or guardian; and (3) an exemption from the prohibition of AS 23.10.355 is granted by the Department of Labor. The board, with the approval of the governing body having jurisdiction and at the licensee's request, shall designate which premises are hotels, restaurants or eating places for the purposes of this subsection (§ 3 ch 131 SLA 1980)

Sec. 04.16.050. Possession or consumption by persons under the age of 19. A person under the age of 19 years may not knowingly consume, possess, or control alcoholic beverages except those furnished persons under AS 04.16.051(b). (§ 3 ch 131 SLA 1980)

Sec. 04.16.051. Furnishing of alcoholic beverages to persons under the age of 19. (a) A person may not furnish an alcoholic beverage to a person under the age of 19 years.

(b) This section does not prohibit the furnishing of an alcoholic beverage

(1) by a parent to his child, by a guardian to his ward, or by a spouse to his or her legal spouse if the furnishing occurs off licensed premises; or

(2) by a licensed physician or nurse to a patient in the course of administering medical treatment.

(c) Acts unlawful under AS 11.51.130 are not made legal by (b) of this section. (§ 3 ch 131 SLA 1980)

Sec. 04.16.052. Furnishing of alcoholic beverages to persons under the age of 19 by licensees. A licensee, his agent, or employee may not with criminal negligence

(1) allow another person to sell, barter, or give an alcoholic beverage to a person under the age of 19 years within licensed premises;

(2) allow a person under the age of 19 years to enter and remain within licensed premises except as provided in AS 04.16.049;

(3) allow a person under the age of 19 years to consume an alcoholic beverage within licensed premises;

(4) allow a person under the age of 19 years to sell or serve alcoholic beverages. (§ 3 ch 131 SLA 1980)

Am. Jur. 2d and C.J.S. references. — 48 C.J.S. Intoxicating Liquors §§ 257, 259.
45 Am. Jur. 2d Intoxicating Liquors §§ 267 — 276.

Sec. 04.16.060. Purchase by persons under the age of 19. (a) A person under the age of 19 years may not purchase alcoholic beverages or solicit another to purchase alcoholic beverages on his behalf.

(b) A person may not influence the sale, gift, or service of an alcoholic beverage to a person under the age of 19 years, by misrepresenting the age of that person.

(c) A person may not order or receive an alcoholic beverage from a licensee, his agent, employee, or another person, for the purpose of selling, giving, or serving it to a person under the age of 19 years.

(d) A person under the age of 19 years may not enter licensed premises where alcoholic beverages are sold and offer or present to a licensee, his agent, or employee a birth certificate or other written evidence of age, which is fraudulent or false or which is not actually his own, or otherwise misrepresent his age, for the purpose of inducing the licensee, his agent, or employee to sell, give, serve, or furnish alcoholic beverages contrary to law.

(e) A person who has attained the age of 19 years accompanying a person under the age of 19 who is seeking to enter and remain in a licensed premises under AS 04.16.049(a)(2) may not misrepresent having obtained the consent of the parent or guardian of the person under the age of 19 years. (§ 3 ch 131 SLA 1980)

Am. Jur. 2d reference. — 45 Am. Jur. 2d Intoxicating Liquors §§ 299, 300.

Sec. 04.16.070. Sales on election day. (a) It is unlawful to sell, barter, give, consume, or dispose of alcoholic beverages within licensed premises

(1) in the state on a day on which a statewide special, primary, or general election is held for the purpose of voting for a candidate for public office, until the polls have closed;

(2) in a municipality on a day on which a local option election or an election is held for the purpose of voting for a candidate for public office, until the polls are closed.

(c) It is an affirmative defense to a prosecution under (a) of this section that no profit was involved in the solicitation or receipt of an order for the delivery of an alcoholic beverage. However, the affirmative defense created under this subsection is not available in a prosecution of a person charged with selling or offering for sale alcoholic beverages to a person under 19 years of age.

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

(e) A person who sends, transports, or brings alcoholic beverages into a municipality or established village in violation of AS 04.11.496 is, upon conviction,

(1) guilty of a class A misdemeanor if the quantity imported is less than 12 liters of distilled spirits, 24 liters of wine, or 45 liters of malt beverages; or

(2) guilty of a class C felony if the quantity imported is 12 liters or more of distilled spirits, 24 liters or more of wine, or 45 liters or more of malt beverages. (§ 3 ch 131 SLA 1980)

Sec. 04.16.210. Penalty for making false statement. If a false statement is made in an application under AS 04.11.260, the applicant is guilty of perjury and, upon conviction, is subject to the penalty provided by law for the crime of perjury under AS 11.56.200. (§ 3 ch 131 SLA 1980)

Sec. 04.16.220. Forfeitures. (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 stocked, warehoused, or otherwise stored in violation of AS 04.21.060; alcoholic beverages sold or offered for sale in an area where the results of a local option election have, under AS 04.11.490 — 04.11.500, prohibited the board from issuing, renewing, or transferring one or more licenses or permits under this title in the area; alcoholic beverages transported into the state and sold to persons not licensed under this chapter in violation of AS 04.16.170(b);

(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 where the results of a local option election have, under AS 04.11.490 — 04.11.500, prohibited the board from issuing, renewing, or transferring one or more licenses or permits under this title in the area;

(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 04.11.496;

(4) alcoholic beverages found on licensed premises which do not bear federal excise stamps if excise stamps are required under federal law;

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

(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; 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

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811

April 17, 1981

The Honorable Patrick M. Rodey
Chairman
Senate Judiciary Committee
Room 207 - Capitol Building
Juneau, Alaska

RECEIVED

APR 20 1981

Dear Senator Rodey:

Re: CS for Senate Bill No.65 (C&RA)

CS for Senate Bill No. 65 (C&RA), an Act relating to alcoholic beverages, was referred on March 27, 1981 by the Senate Community and Regional Affairs Committee to the Senate Judiciary Committee.

For the consideration of the Senate Judiciary Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Patrick L. Sharrock, Director, Alcoholic Beverage Control Board, Department of Revenue, Anchorage concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

FDS/rdh

cc: Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Patrick L. Sharrock, Director
Alcoholic Beverage Control Board
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSR65
 Title Relating to Alcoholic Beverages
 Requested by Senate Judiciary Committee Date 3/30/81

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Consumer Protection
 BRU, Program, or Subprogram(s) Affected Alcoholic Beverage Control Board
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	81 FY 80	82 FY 81	83 FY 82	84 FY 83	85 FY 84	86 FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Enactment of this legislation will not have fiscal impact on the Alcoholic Beverage Control Board.

IV. DATE April 13, 1981 PREPARED BY Patrick A. Sharrock, Director
 AGENCY Alcoholic Beverage Control Board
 PHONE 277-8638
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
615 "H" STREET, SUITE 100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-9431

April 3, 1981

The Honorable Patrick M. Rodey
Alaska State Senate
Alaska State Legislature
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

I deeply appreciated the time you took to meet with me to discuss Senate Bill 65 on March 18, 1981. Your attention and comprehension of the issues were impressive.

It is my understanding that on March 24, 1981, Senate Bill 65 dealing with amendments to the state Title IV alcohol local option law was reported out of the Senate Community and Regional Affairs Committee. The bill now is being considered by the Senate Judiciary Committee, which you head.

I have not yet been able to obtain a copy of Senate Bill 65, as reported out of the Senate Community and Regional Affairs Committee on March 24, 1981. Apparently, restrictive language limiting the ability of local communities to control the sale and importation of alcohol was not deleted from the bill.

Specifically, the availability of "special" elections to incorporated communities is not included and the limitation of a local option election to communities of 2,500 or less was included.

For the state Title IV alcohol local option law to be at all viable for any community, amendments are necessary. As the law now reads, the Lieutenant Governor's office is to "conduct and certify" all elections under the state Title IV alcohol local option process. Generally, in incorporated communities, this procedure is handled by the municipality and the Division of Elections conducts special elections for an established village. Lieutenant Governor Terry Miller requested early

The Honorable Patrick M. Rodey
Page Two
April 3, 1981

this year that this issue be clarified by legislative amendment. To date, no election under the Title IV alcohol local option law can be validly conducted and, presumably, will not be until this issue is clarified.

Also, as the law is presently written, incorporated cities may only vote on the alcohol local options at the time of their regularly scheduled elections. This serves to obviate the intent of the law, which was to give communities local control over alcohol sale and importation. Traditionally, bush communities come under siege from alcohol abuse in the harsh winter months and that is when they cry out desperately for assistance. Providing for special elections for all villages, along with a certain date for the removal of any liquor license, e.g. ninety days after the certification of a valid election, would give communities the much-needed control. As discussed, a liquor license appears to be a privilege granted by the state, rather than a property right which expires on a certain date.

Finally, an amendment to Senate Bill 65 was introduced to limit a local option election to communities of 2,500 or less. The practical effect of this amendment would be to limit so-called "hub" communities, which through sales provide liquor to outlying villages from the same protections afforded smaller communities. Legislative action is generally presumed to have a rational basis unless otherwise indicated, but to my knowledge, no rational purpose can be imputed from this amendment.

"Bush" communities are crying out for help and your continuing and thorough consideration of the proposed amendments will be appreciated. Please call me if I can be of any assistance.

Again, thank you for your time and consideration.

Sincerely,

ALASKA LEGAL SERVICES CORPORATION

Carole
Carole A. Baekey
Statewide Alcohol Coordinator

CAB/csn

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
615 "H" STREET, SUITE 100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 572-2431

April 3, 1981

The Honorable Donald E. Gilmar
Alaska State Senate
Alaska State Legislature
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Gilman:

I appreciated your taking the time to meet with Barbara Thorn and me on March 17, 1981, to discuss and consider the various amendments to Senate Bill Number 65.

It is my understanding Senate Bill Number 65, with highly restrictive language which will serve to limit the ability of "bush" communities to control alcohol abuse and its effects, passed out of the Senate Community and Regional Affairs Committee on March 24, 1981, to the Senate Judiciary Committee.

At the time Senate Bill Number 65 comes up for a vote, your reconsideration of the procedural issues which affect the substance of the lives of people affected adversely by alcohol abuse in "bush" communities, would be appreciated.

Specifically, special elections for incorporated cities would permit communities under siege from alcohol abuse to hold elections when necessary, rather than in October of each year. If the special election provision were adopted, it would be necessary to rescind the state privilege of a liquor license within a specified time period, e.g. ninety days, so that it would not be possible for a village to hold an election early in a year and then be stuck with the sale of liquor until December 31st of that year.

Finally, unless a rational purpose is shown for the limitation of a local options election to community of 2,500 or less, it would appear the state Title IV alcohol local options law is to be indiscriminately applied. As the proposed Senate Bill Number 65 is written, it is impossible to assess the reasoning of the legislature and the requirement appears quite arbitrary.

The Honorable Donald E. Gilman

Page Two

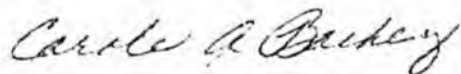
April 3, 1981

"Bush" communities are crying out for help in dealing with the effects of alcohol abuse and many villages have taken illegal action or had invalid elections because of the failure of state law to address their serious problems.

Again, thank you for your consideration of these issues and meeting with us.

Sincerely,

ALASKA LEGAL SERVICES CORPORATION



Carole A. Baekey
Statewide Alcohol Coordinator

CAB/csn

STATE OF ALASKA

DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

JAY S. HAMMOND, GOVERNOR

201 E 9TH AVE.
ANCHORAGE, AK 99501

January 30, 1981

*received
2/2/81*

The Honorable Bill Ray
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Ray:

I am forwarding some additional comments and suggestions for your consideration with SB65. If I can provide any more clarification, please let me know.

Section 5, Page 2

Suggest adding at the beginning on line 16 "Except for those licenses authorized in this article,".....

On line 17 and 18 suggest deleting "a local option election" and inserting "the voters vote 'yes' on a question set out in AS 04.11.590-04.11.500."

As rewritten, the amended subsection would read:

6

"Except for those licenses authorized in this article the board may not accept an application for the issuance, renewal, or transfer of a license within one year after the voters vote 'yes' on a question set out in AS 04.11.490-04.11.500."

The intent of the above suggestion is to provide for application and issuance of licenses which are allowed by certain local option provisions and make the limitation on applications apply only when voters vote "yes" on an option question.

Section 8, Page 3

The phrases "bona fide restaurant or eating place" and "bona fide" on lines 7 and 8 are the same phrases used in AS 04.11.100 for a "Restaurant or Eating Place License." Because of this relationship between the two sections it has been concluded that minors described in 04.16.049(a)(2) may only enter "restaurant or eating place" licensed premises. To eliminate this confusion

*what is the
purpose of
this section?*

and allow the board more flexibility suggest deleting the words "bona fide" and "or eating place" in lines 7 and 8.

On line 9 it may be appropriate to add a new sentence which states "A restaurant or eating place licensed premises and a restaurant in a beverage dispensary licensed premises may be designated as restaurants for purposes of this section." However, this provision may create unnecessary abuse or misuse.

New Matters

AS 04.11.490(b))

AS 04.11.492(b))

AS 04.11.496(b))

AS 04.11.500(b))

Here the word "unincorporated" on lines 13, 13, 19 and 22 respectively would pose a problem in some future option elections. For example, if the City of Barrow were to vote "yes" on an option question, a license could be issued in the area immediately outside the city's boundary because the area is an incorporated area in the North Slope Borough.

Suggest deleting the word "unincorporated" from each of the above subsections.

AS 04.11.502(b) - Here the words "registered voters" are used. The same words are used in subsection (a) but are applicable to municipal registered voters for purposes of a municipal election. Therefore, "registered voters" in subsection (b) can only refer to state registered voters because established villages do not have voters who are formally titled "registered voters."

?
type of registration possible

It would seem more appropriate and applicable to delete "registered voters" and insert "bona fide residents" unless the words "registered voters" in subsections (a) and (b) means registered to vote in the State of Alaska.

The intent here is to provide for petitioning by "residents" who are probably more directly involved in a community. Also, because state voter registration information may include persons who have not voted for two years, a registration listing may not be representative of residents who desire to vote on a local option question.

-K

AS 04.16.210 - After AS 04.11.260 on line 4 insert "--AS 04.11.290." This would include all applications where false statements might be made. As presently written a penalty may be imposed for false statements made only on applications for new licenses and permits. Applications for renewals and transfer have been excluded.

Sincerely,

Patrick L. Sharrock
Director

PLS:vk

cc: Mr. David Dye, c/o Senator Don Gilman

STATE OF ALASKA

OFFICE OF THE LT. GOVERNOR

DIVISION OF ELECTIONS

JAY S. HAMMOND, GOVERNOR
TERRY MILLER, LT. GOV.

POUCH AF—JUNEAU 99811

February 10, 1981

The Honorable Don Gilman
Chairman
Community and Regional Affairs Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Gilman:

Senate Bill 65 relating to alcoholic beverages has been referred to the Community and Regional Affairs Committee. I urge your early consideration of Section 4 relating to the conduct of local liquor option elections.

The language that is currently in AS 14.11.502(a) is confusing in that it requires both a municipality and the lieutenant governor to be involved in the local liquor option election. Alaska Statutes generally require a municipality to conduct its own elections, but allow the lieutenant governor to conduct required elections in the unorganized borough area. This procedure has worked through the years and I see no point in requiring the lieutenant governor's involvement in an election that can be conducted by the municipality.

The new language proposed in Section 4 of Senate Bill 65 clearly allows the local liquor option elections to be conducted by the municipality. In addition, the section allows the municipality to call a special election to conduct the election.

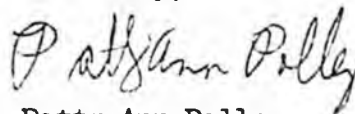
Several cities such as Eamonak and Manokotak have petitioned to have the lieutenant governor conduct local option elections, but because of the confused assignment of responsibilities, no election has been conducted. I urge you at your earliest convenience to consider Section 4 of Senate Bill 65 so that the responsibility can be clarified

The Honorable Don Gilman
February 10, 1981
Page Two

and the election process may proceed. Particularly in bush areas, this bill will have a big impact on efforts to cope with alcohol related problems.

If I may be of any assistance, please call on me.

Sincerely,



Patty Ann Polley
Director
Division of Elections

PAP:ko

cc: Senator Bill Ray
Pat Sharrock, Chairman of ABC Board
Carol Baekey
All Election Supervisors

March 12, 1981

To: Alaska State Senate ✓
Alaska House of Representatives ✓
Office of Attorney General
Office of Lieutenant Governor
Director of Elections
State Office on Alcoholism and Drug Abuse

C
O
P
Y
The registered voters of Makoryuk voted last fall under the Sec. 04.10.433 to ban the possession and importation of Alcohol to the City of Makoryuk.

The City of Makoryuk was notified on November 24, 1980 from Attorney General's office stating the local option, citizen's of Makoryuk voted on was invalidated. Then we found out that we can not have special election on alcohol option laws any time after the fall general election.

Therefore, the City of Makoryuk like to be granted an opportunity to hold a special election on one of the new alcohol option laws to give protection to the citizens of Makoryuk, instead of waiting for the next fall general election.

Thank you for your time and attention.

Sincerely Yours,

Mayor

Fred Don
Makoryuk City Council

cc: Russ Mackins, Jr. 1524 K st. Anchorage, 99501
Frank R. Ferguson Box 131, Kotzebue 99752
Files, Makoryuk, Alaska 99630

FD/mck

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
615 "H" STREET, SUITE 100
ANCHORAGE, ALASKA 99501
TELEPHONE 807 272-8431

February 27, 1981

The Honorable Frank R. Ferguson
Alaska State Senate
Alaska State Legislature
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Ferguson:

Your Administrative Assistant Cathy Hathaway called me on February 24, 1981, to solicit comments about possible changes to Senate Bill 65. Her call was in response to our brief conversation on February 3, 1981, and my letter of February 14, 1981, to you.

Specifically, concern with respect to Senate Bill 65 has been focussed on the inability of "second-class cities" to hold special elections to ban the sale and/or importation of alcoholic beverages and the need for clarification of the authority of "established villages" to hold elections and enforce election results. Additionally, in reviewing the effect of proposed Senate Bill 65 it appeared likely a village could elect not to have sales of alcohol in the village and be stuck with a liquor license and sale of liquor for several more months after the certification of the election results.

On February 24, 1981, Ms. Hathaway asked me about all these issues and on February 26, 1981, she advised me in a telephone conversation you had included all these issues in your presentation to the Senate Community and Regional Affairs Committee on February 24, 1981.

This letter is to express my deep appreciation for the attention you paid to what might be perceived as small procedural issues by others. In fact, in our work with the Title IV alcohol "local option" law, it is glaringly apparent many villages are anxious to take advantage of the alcohol local options law to be backed up by the state and that the villages do not wish to wait to vote until the next general election in October while continuing to cope with alcohol-related homicides, suicides, violence and abuse

of all descriptions. The Alaska Legal Services alcohol grant has been in operation for only three months and in the last few weeks increasing numbers of requests have come in for legal assistance on the law. Without amendment to the law, villages are unable to address immediate and crushing problems.

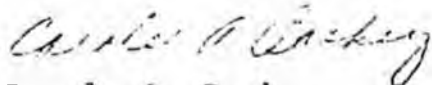
Some of the villages contacting us include Noorvik, Selawik, Point Hope, Wainwright, Wales, White Mountain, Elim, Golivan, Koyuk, Shaktoolik, Stebbins, St. Michael, Teller, Shishmaref, Alakanuk, Aniak, Toksook Bay, Tununak, Nightmute, Newtok, Koyuk, Cheforak, Shageluk, Kipuk, Emmonak, Arctic Village, Unalakleet, Akolmiut (including Kasigluk and Nunapitchuk) and Mekoryuk. Our small staff of two and one-half people tries to respond immediately to all requests, but our hands are tied until the amendments to Title IV are law.

Also, please note that if your office receives questions about or requests on the Title IV alcohol local options law, we will be delighted, where appropriate, to provide technical legal assistance in dealing with the adoption and enforcement of the law.

Again, thank you very much for your time and attention in these procedural issues clearly affecting the daily fabric of the lives of Alaska residents.

Sincerely,

ALASKA LEGAL SERVICES CORPORATION



Carol A. Baekey
Statewide Alcohol Coordinator

CAB/csn

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
615 "H" STREET, SUITE 100
ANCHORAGE, ALASKA 99501
TELEPHONE 207-272-9431



February 14, 1981

Senator Frank R. Ferguson
Alaska State Senate
Alaska State Legislature
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Ferguson:

On February 3, 1981, John Hale of Representative Meekins' office introduced us and noted my concerns with the application of the Title IV alcohol "local options" legislation. Cathy Hathaway took me to meet with Joe Guthrie and Jack Chenowitz to discuss a possible amendment to the existing Title IV alcohol local options law.

To refresh your memory, I am working under a grant from the State Office on Alcoholism & Drug Abuse to Alaska Legal Services Corporation. The primary focus of the grant is to make the Title IV alcohol "local options" law a reality for interested villages. This office is working with various native and statewide organizations to make the alcohol "local options" a reality for villages wanting to adopt the law.

Unfortunately, at this time no village is able to adopt any of the options provided for in Title IV. The Lieutenant Governor's office is to "conduct" and "certify" the local options elections. The Lieutenant Governor's office finds this to be impractical given the current state and municipal election practices and regulations. The Lieutenant Governor's office has indicated its intention to request from the legislature a revision in the Title IV alcohol "local option" election procedures.

Further, a municipality (second-class city) can only vote on the alcohol "local options" at a regularly conducted election, which practically would mean October of each year. An established village is permitted to hold a special election at any time after following the specified petition procedures. Given the uncertainty of the Lieutenant Governor's office, presently no Title IV alcohol local option election either in second-class cities or established villages can be validly held.

Senate Bill No. 65, currently in the Senate Community and Regional Affairs and Judiciary Committees, attempts to remedy both of these problems. However, there are two glaring problems. The first is that the authority of an "established village" to adopt and enforce any of the options chosen should be clarified.

The second issue presented by S.B.65 is that as the law presently is written, a village which votes to prohibit the sale of alcohol would be entitled to have any affected liquor license removed on the December 31st following the certification of the election results. Provided S.B.65 as it is written is passed by the legislature and signed into law, it is conceivable that a village could hold a special election and vote to prohibit sale of alcohol in December of a year, have the results "certified" the following January and the affected liquor license would be removed the following December 31st, fully a year after the village vote to prohibit the sale of alcohol. It is more likely that a village vote to prohibit sale would be held in the early part of a year and the affected liquor license would not be removed until several months later. Clearly, when the Title IV alcohol "local options" law was written, it was contemplated elections would generally be held in October and the December 31st date would give affected liquor license holders time either to appeal the election or to wind down business operations. This issue could easily be remedied by providing that within a certain number of days, e.g. sixty, following an election to prohibit sale, the affected liquor license would be removed.

In the course of my work under the SOADA grant these past three months, many village leaders, anxious to do something constructive about community alcohol abuse, have contacted me with pleas to be able to hold a Title IV alcohol "local options" election immediately or to have existing problems with the legislation clarified. As the law now stands, no valid election can be held. Also, some villages anxious to curb alcohol-related incidents have already held elections which are clearly invalid under state law and lack the force of state law. Based on the heartfelt pleas and desires of villages to hold valid alcohol "local options" elections, you and your staff are respectfully urged to give this matter prompt attention.

I discussed these issues with Joe Guthrie and Jack Chenowitz of the Office of Legislative Counsel and am sending them each a copy of this letter.

Thank you for your time and attention to these matters.

Sincerely,

ALASKA LEGAL SERVICES CORPORATION

Carole A. Baekey
Carole A. Baekey
Statewide Alcohol Coordinator

CAB/csn

cc: Joe Guthrie, Legislative Counsel
Jack Chenowitz, Legislative Counsel

St. Mary's to prohibit importation of alcohol

by Cheryl Keepers *Jandra Adams*

Last week St. Mary's City Council enacted a 60 day emergency ordinance prohibiting the importation of alcoholic beverages into its city limits. The ordinance is to be effective for 60 days, unless extended by the City Council; the maximum fine for violation is \$500.

According to a press release from the City Council, there were several reasons for passing the ordinance. Public disturbances, violence and vandalism have increased in recent weeks. Most of the problems were alcohol related, and often caused by residents from other villages who were in St. Mary's to receive shipments of alcohol, the release stated. With one local policeman and one jail

cell, the city is not able to control the disturbances caused by too many people drinking too much.

However, there is some question regarding the legality of the city ordinance. In an informal opinion on the ordinance issued to this reporter by Assistant Attorney General Rod Pegues, Mr. Pegues noted that the ordinance was probably not legal. He stated that there "has to be an election and vote on the question." Under the existing local option law, the election must be held at the next regular election (October), and until then nothing can be done. While sympathizing with St. Mary's

Please turn to page 30

from page 1

wish to act sooner, Mr. Pegues commented that there is "nothing they can do about it unless the law is changed."

Tim Troll, City Manager for St. Mary's, said the city has a petition pending with the Division of Elections to put the issue on the ballot at the next regular election, but that the City Council felt the situation was so pressing they "had to try to do something about it." Mr. Troll, who is also a lawyer, noted that he had cautioned the City Council that "some questions would be raised" regarding the legality of their move, but that he feels the ordinance is not necessarily in violation of the state law. Citing the leeway given local governments in controlling alcohol under federal law, and noting that they are looking for voluntary compliance on the part of the airlines, Troll stated "we do think there are arguments on our side too." The city will be enforcing the ordinance by seizing alcohol dropped off and delivered in St. Mary's.

Mr. Troll continued by saying that St. Mary's had wanted to hold the local option election before fishing season and the accompanying increase in alcohol and alcohol related problems. The City Council acting in part is intended to let the state know the severity and urgency of the problem.

The issue of when elections can be held on the local option law has been receiving some attention in the community and in the Community and Regional Affairs committee of the state legislature, also. Senate Bill 65, (SB65), introduced by Bill Ray (D-Juneau), contains a provision for special elections that would allow municipalities and established villages to hold local option elections at times other than October.

This amendment retains the provision that a petition containing signatures equal to at least 35 percent of the number of votes cast at the last regular municipal election be filed, but provides that in a municipality, the election be carried out in accordance with the election ordinance of that municipality. This is a change from the existing law which has required that the Lt. Governor conduct all local option elections, a provision which has effectively prevented any local option elections from taking place.

An amendment was also introduced, but later dropped, which would have provided for revoking any existing liquor licenses in a community within 60 days after certification of a local option election to prohibit sales. According to David Dye, aide to Sen. Don Gilman, (R-Kenai) chairperson of the Community and Regional Affairs Committee, this amendment was not accepted by the committee due to potential legal problems with this process. The Committee also felt that it would be unfair to a legitimate business person to take away the license when he/she had expected it to be valid.

As SB65 now stands, a liquor license in a community that votes to prohibit sales will be allowed to expire at the end of the year, which would happen in any event, but the license would then not be renewed for at least one full year afterwards.

If the community were to choose in that year to go back to allowing the sale of alcohol, no liquor license would be

issued before the full year had run. If the community does not change its mind, no new licenses would be issued.

Should the community choose the alternative of prohibiting importation, Mr. Dyer noted, this would affect both private individuals and licensed businesses, thus effectively ending any sales business.

Another amendment not in the original legislation, but introduced at the request of the bill's prime sponsor, Bill Ray, would have placed limits on which municipalities could use the local option law, and on what questions could be put before the public. Ray's amendment would have limited the question to one of sales, and would have allowed this only in municipalities under 2,500 in population. This

would have meant that hub communities such as Bethel would not have been able to prohibit either sales or importation, and communities under 2,500 would not have been able to prohibit importation. The amendment was rejected by the committee. Mr. Dyer noted that the committee felt it would be unfair to "foreclose on any community's" right to control alcohol based on size, and that the local option law should have blanket application.

The bill is now in the Senate Judiciary Committee. Members of that committee include George Hohman (D-Bethel), Bill Ray (D-Juneau), Charles Parr (D-Fairbanks), Don Bennett (R-Fairbanks), and Patrick Rody (D-Anchorage).

IN THE REGULATIONS OF THE
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE IS HEREBY GIVEN that the Alcoholic Beverage Control Board, under authority vested by AS 04.16.100, proposes to adopt a comprehensive set of regulations in Title 15 of the Alaska Administrative Code to implement and clarify Title 4 of the Alaska Statutes titled "Alcoholic Beverages"; and to repeal in its entirety the present set of regulations designated as 15 AAC 20.010 through 15 AAC 20.270, recodified as 104.010 through 104.270 effective January 1, 1981.

NOTICE IS ALSO GIVEN that any interested person may present oral or written statements or arguments relevant to the proposed action. Written comments may be made by mailing them to the Alcoholic Beverage Control Board at 201 East Ninth Avenue, Anchorage, Alaska 99501. Written comments should be received at the Board's Anchorage office by February 26, 1981. This action is not expected to require an increased appropriation.

The ABC Board will hold public hearings on the dates and the locations set forth below. All interested persons are invited to attend.

JUNEAU, ALASKA
February 26, 1981 - 3 p.m. to 5 p.m.
at Assembly Chambers, Municipal
Building, 155 South Seward Street

FAIRBANKS, ALASKA
March 26, 1981 - 1:30 p.m. to 4 p.m.
at Borough Assembly Chambers
520 Fifth Avenue

ANCHORAGE, ALASKA
March 27, 1981 - 1:30 p.m. to 4 p.m.
at Department of Revenue Conference
Room, 201 East 9th Avenue

Public comment from all communities will be heard at all locations.

PLEASE TAKE NOTE: Oral comment for an individual is limited to 10 minutes; a person speaking on behalf of an organization may have up to 15 minutes. Un-scheduled persons may speak within the time limit set by the chairman.

Copies of the draft of the proposed regulations may be obtained by writing to the ABC Board, 201 East Ninth Avenue, Anchorage, Alaska 99501. Copies are also available for review at all of the Board's offices at the following locations:

201 East Ninth Avenue
Anchorage, Alaska 99501

675 Seventh Avenue
Fairbanks, Alaska 99701

230 South Franklin Street
Juneau, Alaska 99801

Copies have also been mailed to municipal managers/clerks of all incorporated cities.

The proposed set of regulations contains seven articles, titled as follows: Administration, Licensing, Licenses, General Provisions Regarding Licensees and Licensed Premises, Enforcement, Miscellaneous Provisions, and General Provisions.

Some topics not previously covered by regulation and changes in current regulations are set forth below. The complete set of regulations should be reviewed for a complete description of changes.

New provisions for Public Notice (p. 4).

Authority delegated to director for issuance of temporary licenses (p. 5).

Local governing body protest (p. 5).

Renewals by December 31 (p. 6).

Reapplication upon failure to timely apply for renewal (p. 7).

License must be surrendered when conduct of business ceases or licensee ceases to exercise authority (p. 8).

Requirements for restaurant or eating place license include presentation of menu and evidence of food sales (p. 9).

Designation in bowling alleys of areas where minors may be present at designated times (p. 9).

New licenses under AS 04.11.400 may be granted when population quota in class is full, public convenience is defined, provisions are made for licenses granted to encourage tourism (pp. 9, 10 & 11).

Storage and warehousing security required (p. 12).

Provides for designation of "restaurant premises" under AS 04.16.049 (pp. 12 & 13).

Establishes reporting and record keeping requirements for licensees (p. 13).

Provides for notices of violation (p. 15).

Provides grounds for suspension or revocation upon conviction of an agent or employee (p. 15).

Clarifies procedure for determining population for the purpose of establishing if quota is filled (p. 17).

Establishes procedure for granting licenses when a class previously filled becomes open (p. 18).

Prohibits purchase of alcoholic beverages for third party for a fee (p. 18).

Sets out requirements for sales upon written order (p. 18 & 19).

The ABC Board, upon its own motion at any time in Anchorage, Alaska after the completion of the hearings ending March 27, 1981, may adopt any or all of the proposed regulations substantially as described above without further notice or may decide to take no action on them.

DATED January 22, 1981.

Patrick L. Sharrock
Executive Director

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CHAPTER 104. ALCOHOLIC BEVERAGE
CONTROL BOARD.

15 AAC 20.010 - 15 AAC 20.270 repealed / / .

(Editor's note: The repealed sections of this chapter (15 AAC 20.010 - 15 AAC 20.270, originally adopted in 1959 and amended several times since then, have been repealed, effective / / , to be replaced by the following comprehensive revision.)

Article

1. Administration (15 AAC 104.005 - 15 AAC 104.040)
2. Licensing (15 AAC 104.105 - 15 AAC 104.215)
3. Licenses (15 AAC 104.305 - 15 AAC 104.345)
4. General Provisions Regarding Licensees and Licensed Premises (15 AAC 104.405 - 15 AAC 104.465)
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7. General Provisions (15 AAC 104.705 - 15 AAC 104.725)

ARTICLE 1. ADMINISTRATION.

Section

- 005. Offices
- 015. Staff
- 025. Conduct of Board meetings
- 040. Public Comment at Board meetings

15 AAC 104.005. OFFICES. All applications and communications of a formal nature must be submitted in writing, upon prescribed forms as appropriate, to the board at its main office, and are not considered timely filed until received there. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.06.090

15 AAC 104.015. STAFF. (a) The director of the board is responsible for the management of the board's offices, the administration of the board's functions and the enforcement of AS .04 and this chapter.

(b) The director shall employ and supervise necessary clerical and investigative personnel and shall prescribe their duties and authority.

(c) The director shall prescribe forms for application for new licenses, transfers, renewals and permits, and other necessary documents. (Eff. / / , Register)

15 AAC 104.025. CONDUCT OF BOARD MEETINGS. (a) The board will, at the first meeting of each calendar year, select a chairman from among its members to preside over board meetings during the ensuing year.

(b) The board will meet at the call of the chairman after reasonable public notice is given.

(c) Three members of the Board constitute a quorum, except that a majority of the whole membership of the Board must approve all applications for new licenses, and all renewals, transfers, suspensions and revocations of existing licenses. For the purposes of this section the whole membership includes those persons appointed and serving as members of the Board. In the event it is necessary, the director shall cast the tie breaking vote but only with the written consent of the board executed prior to each meeting and made a part of that meeting's minutes.

(d) The director is responsible for preparing an informative agenda for each board meeting. A copy of the agenda will be available for inspection by persons who request it. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.06.050
AS 04.06.060

15 AAC 104.040. PUBLIC COMMENT AT BOARD MEETINGS. (a) At its public meetings the board will receive public comment upon items of agenda business and other issues of public interest related to alcoholic beverages, including the conduct of business by licensees and the compliance by licensees and others with the statutes and regulations related to alcoholic beverages. Public comment may also be submitted to the board in writing by any person at any time.

(b) The right to be heard provided for in this section is not a legal remedy for a person claiming to be aggrieved by board action, and the exercise of this right to be heard by such a person does not constitute intervention in a proceeding or exhaustion of any administrative remedy. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.06.050

ARTICLE 2. LICENSING.

Section

- 105. Applications
- 115. Petitions
- 125. Public notice
- 135. Action upon application
- 145. Local governing body protest
- 155. Issuance of licenses

- 165. Renewals
- 175. Transfers
- 185. Licensed premises
- 190. Reapplication
- 195. Surrender of license
- 205. Transfer or relocation after loss of premises
- 215. Death of a licensee

15 AAC 104.105. APPLICATIONS. (a) Applications for new licenses or permits and for renewals, transfers of ownership or location must contain the information required by AS 04.11.260. In addition the application shall contain the following information:

1. convictions of the applicant if an individual, or of officers and shareholders holding more than ten percent if the applicant is a corporation, for a felony during the ten years preceding the application.

2. a statement under penalty of perjury that no one other than the applicant has a financial interest in the licensed business.

(b) A license fee in the amount required by AS 04.11.090-250 must accompany every application for a new license or for renewal of an existing license.

(c) An application which is incomplete may be returned to the applicant.

(d) An application fee of \$50.00 must accompany all license applications. (Eff. / / , Register)

Authority: AS 04.06.100
 AS 04.11.010
 AS 04.11.040
 AS 04.11.260
 AS 04.11.270
 AS 04.11.280
 AS 04.11.290
 AS 04.11.450

15 AAC 104.115. PETITIONS. (a) When required by statute or regulation, a petition is a necessary part of an application for a new license, and for renewal, transfer, or relocation of an existing license, and an application submitted without the required petition is incomplete. All petitions must be submitted upon a form prescribed by the director. Petition signatures are invalid unless obtained within the 90 day period immediately preceding the submission of the application. Once an application has been filed, no additional signatures may be added to the petition, and no signatures may be withdrawn.

(b) Persons signing petitions relating to licenses must be 19 years of age or older and must be permanent residents of the geographical area relevant to the petition. For the purpose of this chapter a person may have only one permanent residence. The director may make a determination of permanent residence when the residence of a petition signer is questioned. Such a determination of the director is subject to review by the board. (Eff. / / , Register)

3 AAC 104.125. PUBLIC NOTICE. (a) A notice required by AS 04.11.310 must be given as follows:

(1) by posting for a period of at least ten days a true copy of the application at

- (A) the location of the proposed premises
- (B) the post office nearest the proposed premises, and
- (C) one other conspicuous location in the area of the proposed premises;

(2) by an announcement either published once a week for three consecutive weeks in a newspaper of general circulation in the area or broadcast twice a week for three consecutive weeks by a radio or television station serving the area; the announcement must include

- (A) name of the applicant,
- (B) name and location of the premises,
- (C) the type of license applied for,
- (D) a statement that any comment or objection may be submitted to the board, and
- (E) whether the application is for a new license or transfer of an existing license.

(b) Proof of posting and of publication or broadcast must be made by affidavit which must be attached to the application.

(c) When the director considers it necessary to provide adequate public notice, or when the director is requested to do so by a local governing body or village council the director may require that the announcement described in (a) of this section be given in the local language most likely to inform the local citizens, as well as in English.

(d) The application must be filed with the board within 60 days after final publication of the notice. (Eff. / / , Register)

15 AAC 104.135. ACTION UPON APPLICATION. (a) The board may conduct public hearings before taking final action upon an application.

(b) The board will, in its discretion, deny an application for a new license for reasons stated in AS 04.11.320 and the board finds it not in the public interest to grant a license to a person who has been convicted of a felony during the ten years immediately preceding the application. If the applicant is a corporation the board finds it not in the public interest to grant a license to a corporation the shareholder of 10% or more of the shares of which has been convicted of a felony in the ten years immediately preceding the application.

(c) Upon denial of an application, the director shall notify the applicant in writing of the reasons for the denial and inform the applicant of the right to an administrative hearing.

(c) The power to temporarily grant the issuance, renewal or transfer of license is delegated to the director when all of the following conditions are present:

(1) All requirements imposed by statute, or these regulations, have in the judgment of the director been met.

(2) The time for protests made pursuant to AS 04.11-.480 has expired and none has been received by the director.

(3) The applicant for issuance, renewal or transfer demonstrates in writing to the satisfaction of the director that there is a need to have approval of the license application, renewal or transfer prior to the next scheduled board meeting.

The temporary approvals of applications are not binding on the board, and in no case may temporary approvals be effective for more than ninety days without board approval. The director shall place all temporary approvals on the agenda for the next board meeting. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.06.080
AS 04.11.510

15 AAC 104.145. LOCAL GOVERNING BODY PROTEST. (a) Within ten days of receipt of a complete application from within a municipality or established village the director shall transmit written notice of the filing of the application to the city or village if the application is for premises within an incorporated city, or established village, or to the borough assembly if the application is for premises within an organized borough but outside the boundaries of an incorporated city. If the local governing body wishes to protest the application it shall set forth its reasons, either legal or factual, in a written protest. The local governing body must file the protest with the board accompanied by proof of service upon the applicant within 30 days of transmittal of the notice. Upon receipt of a protest the board shall convene a public hearing pursuant to AS 04.11.480. The board may not approve the license unless it finds after the hearing that the protest is arbitrary, capricious and unreasonable. If the board denies the license, then it must inform the applicant of the reasons for the denial and of the right to request a hearing under the Alaska Administrative Procedures Act (AS 44.62). At such a hearing the local governing body is expected to prosecute its statement of issues.

(b) No final action may be taken upon an application until at least 30 days after the transmittal of notice to the local governing body unless it advises the director in writing that it is waiving its right to protest the application. No final action may be taken upon any application until at least 15 days following the last date of publication by the applicant.

(c) For good cause shown, the board may grant a local governing body an extension of time within which to file its protest provided the request is filed in writing with the director within the original 30 day period. An extension of time under this section is limited to one 30 day extension. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.480
AS 04.11.510
AS 04.11.520

15 AAC 104.155. ISSUANCE OF LICENSES. Upon approval of an application for a new license or the renewal, transfer, or relocation of an existing license, and upon payment of the prescribed license and application fee, and upon receipt by the board of necessary public health and public safety approvals, and upon inspection deemed necessary by the director, the director shall issue an appropriate license. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.06.080

15 AAC 104.165. RENEWALS. (a) An application for renewal of a license must be filed on or before December 31, except that an application for renewal may be filed after December 31 and on or before February 28 of the next year when accompanied by a penalty fee equal to the annual license fee or \$100, whichever is less.

(b) Upon receipt of a completed application for renewal the director may issue a temporary renewal pending final board action on the application, which must be taken within 90 days.

(c) The board may deny a renewal on any of the grounds stated in AS 04.11.330(a).

(d) A license for which a renewal application is not filed by the close of business on December 31, or the most recent preceding regular business day if December 31 falls on a weekend or holiday, may not be exercised after midnight December 31 until a renewal application is temporarily approved by the director.

(e) A license for which a renewal application is not filed on or before February 28 automatically expires at 12:00 midnight on February 28. Expired licenses may not thereafter be renewed. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.270

15 AAC 104.175. TRANSFERS. (a) Transfer of ownership or transfer of location of a license requires the prior written approval of the board upon application of the transferor.

(b) An application for the transfer of ownership of a license or of any interest in a license must contain the same information from the transferee as required by the board for a new applicant.

(c) The provisions of AS 04.11.340 and 360 relating to prohibiting the transfer of licenses issued under 04.11.400(j) are construed to include a transfer of controlling interest in a corporation which is the holder of a license issued under AS 04.11.400(j). (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.280
AS 04.11.290
AS 04.11.340
AS 04.11.360
AS 04.11.040

15 AAC 104.185. LICENSED PREMISES. (a) A license is issued for a specific place which is the licensed premises, and which must be clearly designated in a line drawing accompanying an application. Such licensed premises must be one area, but may include separate rooms, if such rooms are within said premises and adjacent to one another. The current address of the licensed premises and the business name under which the licensee is doing business at that address must be indicated on the license application.

(b) The licensee shall conspicuously post the license within the licensed premises.

(c) A licensee may not alter the functional floor plan of the licensed premises, nor reduce or expand the area, nor change the business name without the prior written approval of the director. If a licensee wishes to alter the floor plan of the licensed premises, he is required to provide a new line drawing showing the proposed changes in the premises.

(d) When a business establishment or facility consists of both a licensed premises and an unlicensed area, the licensee shall clearly delineate on the line drawing the areas served and the unlicensed area shall be clearly marked in the establishment.

(e) A licensee doing business under separate names in separate rooms which are not contiguous even though at the same general location and at the same principal address, is considered to be doing business at separate premises and they must be separately licensed. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.260
AS 04.11.090

15 AAC 104.190. REAPPLICATION. A new license may be issued to the holder of license which has expired under \$165 upon application and proof satisfactory to the board of good cause of failure to timely renew. Such good cause may include:

(1) Acts of God which prevented timely delivery and filing of the necessary documents, except that the board will consider whether in the absence of such act of God, the delivery and filing could reasonably have been expected to occur.

(2) Excusable neglect of the licensee or his agent. An application under this subsection is subject to denial under AS 04.11.320. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.270
AS 04.11.540

15 AAC 104.195. SURRENDER OF LICENSE. (a) Within 10 days after the loss or vacation of the licensed premises or when a licensee ceases to conduct business upon the licensed premises for a period expected to continue for one month or more, a licensee shall inform the director and surrender his current license to the director, to be returned upon request when the conduct of business is resumed or upon transfer of the license.

(b) When a licensee ceases personally, or through employees and agents, to exercise actual authority for the conduct of business upon the licensed premises, the licensee shall surrender the license to the director. Until the licensee surrenders the license, and so long as business is conducted upon the licensed premises, the licensee is solely responsible and liable for it. No other person may acquire or be permitted to acquire a direct or indirect financial interest in the conduct of the business without transfer of the license upon approval of the board. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.580
AS 04.11.450

15 AAC 104.205. TRANSFER OF LOCATION UPON LOSS OF PREMISES. In determining whether or not an application for a transfer of location under AS 04.11.400(i) should be granted the public interest is defined to include compliance with AS 04.11.340(1), (3), (4), (5), (6), (7), (8), (9) and (10). The above language is not a limitation on what may be considered as in the public interest. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.400

15 AAC 104.215. DEATH OF A LICENSEE. (a) Upon the death of an individual who was the sole licensee of licensed premises, the business must cease operation until the appointment of a personal representative by the Superior Court. Upon written request made by the personal representative accompanied by an order of the Superior Court showing the appointment as personal representative of the estate of a deceased individual licensee, the director shall grant permission to the personal representative to operate the business upon the licensed premises under AS 04-11.030.

(b) If an application for transfer of the license from the deceased licensee or a request for an extension of time is not received by the board within 90 days of the death of the licensee, the license is forfeited. The board may for good cause shown grant an extension of time of up to an additional 90 days within which to apply for transfer. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.030

ARTICLE 3. LICENSES.

Section

- 305. Restaurant or eating place license
- 315. Beverage dispensary license
- 325. License issued to encourage tourism
- 335. License issued to serve the traveling public
- 345. License issued for public convenience

15 AAC 104.305. RESTAURANT OR EATING PLACE LICENSE. (a) Before the issuance of a restaurant or eating place license, the applicant shall provide evidence to the board in the form of a menu sufficient to establish that meals are presently available and being furnished to the public on the premises or that they will be available before operation under the license. If meals cease to be available, the license may be suspended or revoked.

(b) Upon application for renewal the holder of a restaurant or eating place license must show that the gross receipts from the sale of food constitutes at least 50% of the gross receipts of the business. If it does not, the license may not be renewed. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.100

15 AAC 104.315. BEVERAGE DISPENSARY LICENSE. The licensed premises of a beverage dispensary license may include the concourse or lane areas of a bowling alley provided such area is adjacent to the main bar area and the licensee has possessory control of the lane and concourse area of the bowling alley. Access to the lane area by persons under 19 years of age is permitted only:

(1) during a period when no alcoholic beverages are permitted to be served or consumed there;

(2) if such areas are clearly marked;

(3) if the time during which persons under 19 years may be permitted access is clearly posted on the premises; and

(4) the board has approved such access upon application by the licensee showing the means for complying with this section. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.090

15 AAC 104.325. LICENSE ISSUED TO ENCOURAGE TOURISM. (a) The board will in its discretion, pursuant to AS 04.11.400(g), approve the issuance or transfer of ownership of a beverage dispensary or restaurant or eating place license notwithstanding the population quota established in AS 04.11.400(a), if the applicant is able to show to the satisfaction of board that:

(1) The area served by the tourist facility is visited by a substantial number of tourists on a regular basis and that tourists will or are likely to constitute a substantial portion of the business for which the license is issued;

(2) The approval will encourage the construction or improvement of a tourist facility described in AS 04.11-.400(g) which would not otherwise be financially feasible without a liquor license. Improvement means expenditure of labor and capital which increases the value of the premises, and can be depreciated for federal income tax purposes.

(b) The requirements of AS 04.11.400(g) are construed to be continuing in nature and the license issued under this section may be revoked upon failure by the licensee to continue ownership and operation of the facility. The licensee must show upon application for renewal that the requirements described in (a) above have been met during the preceding year.

(c) A license issued or transferred pursuant to AS 04.11.400(g) may not be subsequently transferred unless the tourist facility described in AS 04.11.400(g)(1) is transferred to the same transferee. (Eff. / / , Reg.)

Authority: AS 04.05.100
AS 04.11.400

15 AAC 104.335. LICENSE ISSUED TO SERVE TRAVELING PUBLIC. The board will in its discretion, under AS 04.11.400(n), approve the issuance or transfer of a restaurant or eating place license under the following conditions:

(1) The premises of the restaurant or eating place are more than 18 miles from the corporate limits of a city or unified municipality as measured along the most direct regularly traveled highway. Should there be no regularly traveled highway then the distance shall be measured by the other means of transportation most utilized. In either case the measurement shall be by the most direct route possible.

(2) Food will be served to the traveling public. The premises must be located on a major state highway or located at a stopover point of a regularly scheduled air carrier authorized to provide passenger service.

(3) Food sales will equal 50% of gross revenues and must be reported quarterly (calendar quarter) to the board no later than 30 days following the end of the quarter. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.06.400

15 AAC 104.345. LICENSE ISSUED FOR PUBLIC CONVENIENCE.
(a) The Board will in its discretion, under AS 04.11.400(j), issue a new license within a municipality notwithstanding the

population quota established in AS 04.11.400(a), if it finds that the issuance of license is necessary for the public convenience. For the purposes of this section, "public convenience" may be established by showing:

(1) That present facilities are unable to adequately serve the public;

(2) By a petition signed by a majority of residents 19 years of age or over within one mile of the proposed premises that there is community support.

(b) The application for a license under this section must be approved by the governing body of the municipality in which the licensed premises are to be located. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.400

ARTICLE 4. GENERAL PROVISIONS REGARDING
LICENSEES AND LICENSED PREMISES.

Section

- 405. Adulteration, misbranding and false advertising
- 415. Storing, warehousing and transporting
- 425. Determining age of patron
- 435. Employment of minors
- 445. Consent of parent or guardian to the presence of minors
on premises
- 455. Record keeping requirements

15 AAC 104.405. ADULTERATION, MISBRANDING AND FALSE ADVE -
TISING. Adulteration, misbranding, and false advertising of
alcoholic beverages are prohibited. (Eff. / / , Register)

Authority: AS 04.06.090
AS 04.06.100

15 AAC 104.415. STORAGE, WAREHOUSING AND TRANSPORTING. (a)
A licensee may not stock, warehouse, or otherwise store alcoholic
beverages in a place other than upon the licensed premises except
as provided in AS 04.21.060.

(b) Alcoholic beverages may not be sold nor consumed at an
approved storage facility, nor may they be removed from the
facility except at the direction of the licensee.

(c) Vehicles used to transport alcoholic beverages must at
all times be physically secured or must be under observation by
the licensee or the agent or employee of the licensee to assure
the vehicle is secure against public access.

(d) A licensee may not store or warehouse opened containers
of intoxicating beverages. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.21.060

15 AAC 104.425. DETERMINING AGE OF PATRON. It is the respon-
sibility of the licensee to obtain proof of age forms required
under AS 04.21.050. Licensees must retain completed forms for 90
days and make them available upon request for inspection by the
board. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.21.050

15 AAC 104.435. EMPLOYMENT OF MINORS. (a) A holder of a
restaurant or eating place license or a licensee in a hotel who
wishes to have a restaurant designation under AS 04.16.049 to

permit minors to come onto and remain on the licensed premises for the purpose of employment, may apply to the director for such a designation. The licensee must state in writing how minors will be employed and supervised. Approval of the local governing body of the municipality where the licensed premises are located must be obtained.

(b) A licensee with a restaurant designation must reapply annually to keep the designation. The application for the continuance of the restaurant designation shall be submitted with the license renewal application on forms provided by the board.

(c) The restaurant designation providing for employment of minors may be revoked upon violation of any statute or regulation relating to minors. (Eff. / / , Register)

Authority· AS 04.06.100
AS 04.16.049

15 AAC 104.445. CONSENT OF PARENT OR GUARDIAN TO THE PRESENCE OF MINORS ON PREMISES. A minor who wishes to have access to licensed premises under AS 04.16.049(a)(2) must have on file with the licensee a written consent of his parent or legal guardian which (i) identifies the premises to which access is sought (ii) is dated and (iii) is signed by the parent or guardian and acknowledged by a notary public. The written consent under this subsection is valid for one year. The licensee may further implement this subsection by issuing identification cards to minors who have presented the proper written parental consent. (Eff. / / , Register)

Authority· AS 04.06.100
AS 04.16.049

15 AAC 104.455. RECORD KEEPING REQUIREMENTS. (a) Licensees shall retain records of the sales, purchases and expenses of the business and any other records sufficient to show the license was actively exercised for at least 30 days as defined in AS 04.11.330(a)(3) during the preceding calendar year, for one year.

(b) Wholesale licensees shall retain for three years a record of all sales made in the conduct of the business.

Authority: AS 04.06.100
AS 04.11.150
AS 04.11.330

ARTICLE 5. ENFORCEMENT.

Section

- 505. Powers of investigative personnel
- 515. Inspection
- 525. Notices of violation
- 535. Suspension and revocation of license
- 545. Effect of revocation

15 AAC 104.505. POWERS OF INVESTIGATIVE PERSONNEL.

(a) Investigative personnel may:

(1) conduct inspections and investigations of licensees, applicants, or unlicensed persons suspected of engaging in activities in violation of any statute, regulation, or municipal ordinance related to alcoholic beverages, and of the premises, whether licensed or unlicensed, related to such activity;

(2) issue notices of violation to licensees;

(3) seize alcoholic beverages which are subject to forfeiture under AS 04.16.220;

(4) serve subpoenas issued by a hearing officer in a board adjudicative proceeding;

(5) execute search warrants of licensed premises or premises where it is suspected a violation of any statute, regulation, or municipal ordinance related to alcoholic beverages is occurring;

(6) exercise specified peace officer powers upon the written concurrence of the commissioner of public safety filed with the Lieutenant Governor and with the director, but only when necessary for the enforcement of the criminally punishable provisions of AS 04 and regulations adopted pursuant thereto;

(7) other investigative activity deemed necessary by the director to assure the enforcement of AS 04 and not in conflict with any law or regulation.

(b) Investigative personnel are not authorized to carry firearms in the performance of their duties as such peace officers.
(Eff / / , Register)

Authority: AS 04.06.100
AS 04.06.110
AS 04.06.075

15 AAC 104.515. INSPECTION. (a) Licensees are considered as consenting to the entry upon the licensed premises and inspection of them at all reasonable times and in a reasonable manner, by investigative personnel of the board or by other peace officers acting in their official capacity, for the purpose of enforcing statutes and regulations related to alcoholic beverages.

(b) Licensees shall do all things reasonably necessary and appropriate to cooperate with investigative personnel and employees of the board acting in their official capacity to enforce the statutes and regulations related to alcoholic beverages, including permitting entry upon and inspection of the licensed premises and providing access, upon request at reasonable times, to business records at the written direction of the director. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.630

15 AAC 104.525. NOTICES OF VIOLATION. (a) Investigative personnel of the board shall issue a notice of violation to a licensee whenever an alleged violation of the laws related to alcoholic beverages is observed on or about a licensed premises or is reported by a police officer. A copy of the notice of violation must be delivered to the licensee and filed with the board.

(b) Upon receipt of a notice of violation, a licensee may request to appear before the director and be heard regarding the notice of violation. The request must be made within 10 days of receipt of notice and the director must grant an appearance within 10 days of receipt of the request.

(c) Notices of violation and responses thereto may be reviewed by the board in considering whether to suspend or revoke a license, but do not constitute grounds for suspension or revocation. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.06.090

15 AAC 104.535. SUSPENSION AND REVOCATION OF LICENSES. (a) The board will in its discretion suspend or revoke a license on the grounds stated in AS 04.11.370.

(b) A conviction of an agent or employee of the licensee is grounds for suspension or revocation of a license if the board finds after a hearing that the licensee (i) knowingly allowed the violation or (ii) recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.030. The board may make either of the above findings if:

(1) the licensee was physically present when the violation occurred and knew or should have known the violation was occurring and took no action to stop it;

(2) the licensee failed to adequately supervise the agent or employee;

(3) the licensee failed to adequately train the agent or employee; or

(4) the licensee was negligent in the hiring of the agent or employee.

(c) If the licensee is a corporation the conviction is deemed to be a conviction of the corporation if it is against (i) a stockholder holding 50% or more of the corporation stock, (ii) or an officer or director of the corporation. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.370

15 AAC 104.545. EFFECT OF REVOCATION. A person whose license is revoked by the board may not apply for a license of any type until at least one year after the effective date of the revocation. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.320
AS 04.11.370

ARTICLE 6. MISCELLANEOUS PROVISIONS.

Section

- 605. Determining population criteria
- 615. Petitions for area outside a municipality
- 625. Processing applications for licenses
in a previously filled class
- 635. Community prohibitions on alcoholic beverages
- 645. Third party purchases for consideration
- 655. Written orders for alcoholic beverages
- 665. Involuntary transfer of license

15 AAC 104.605. DETERMINING POPULATION CRITERIA. (a)
The director shall use the annual population figures published by the Department of Community and Regional Affairs to establish a population figure for application of the population quota in AS 04.11.400(a)(2).

(b) When submitting an application for a new license or for transfer of location of an existing license outside an incorporated city or unified municipality, an applicant shall assist in the determination of population by submitting the following information with the application:

(1) a United States Geodetic Survey map with a scale of at least one inch to the mile with a graphic designation showing the population within the circle described by AS 04.11.400(a)(1);

(2) if a petition is required under AS 04.11.460, a graphic designation on a United States Geodetic Survey map with a scale of at least one inch to the mile showing the population within a circle for the applicable radius, and showing the general area where petition signatures were obtained;

(3) the population within the applicable area and a narrative of how the population was determined. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.400
AS 04.11.460

15 AAC 104.615. PETITIONS FOR AREA OUTSIDE A MUNICIPALITY.
(a) Signatures for petitions regarding licensed premises located outside an incorporated city may be obtained from persons residing within the circle required by statute whether or not these persons reside within or outside an incorporated city.

(b) For purposes of determining how many signatures are required on a petition, all qualified persons 19 years of age or older are counted. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.460

15 AAC 104.625. PROCESSING APPLICATIONS FOR LICENSES IN A PREVIOUSLY FILLED CLASS. When any class of license has been issued so that the population quota has been met or exceeded, and the population in the area then increases or a previously granted license is revoked or forfeited so that an additional license or licenses may be issued, then the director shall notify the public that applications for a new license in the previously filled class will be considered by the board on a first-come/first-serve basis as to the date of receipt, except that all applications received on a given day will be considered as a group. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.400

15 AAC 104.635. COMMUNITY PROHIBITIONS ON ALCOHOLIC BEVERAGES. The director shall maintain a record of the established villages and incorporated cities within which the barter, sale, possession for sale, importation, or trafficking in alcoholic beverages is prohibited, which record must be available to package store licensees and the public. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.490
AS 04.11.496

15 AAC 104.645. THIRD PARTY PURCHASES FOR CONSIDERATION.
(a) No person may purchase for another person or solicit the purchase by another person of alcoholic beverages for a consideration other than the purchase price.

(b) No person other than a licensee, or a licensed common carrier or a contract carrier may, for consideration, transport alcoholic beverages. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.06.090

15 AAC 104.655. WRITTEN ORDERS FOR ALCOHOLIC BEVERAGES.
(a) Except when the purchaser is on the premises at the time the sale is made orders other than in writing are prohibited. A holder of a package store license may sell alcoholic beverages in response to a written order only as follows:

(1) The order must be in writing from a person known to the licensee to be at least 19 years of age;

(2) The order must be

(A) filled, boxed, addressed and shipped by licensed common carrier or contract carrier to the purchaser; or

(B) immediately delivered on the licensed premises to an individual specifically authorized by name by the purchaser in the written order to receive the purchase and to deliver it to the purchaser.

(3) The written order must be retained by the licensee for one year from date of sale and filed chronologically for easy inspection.

(b) In a mail-order sale, title to the alcoholic beverages passes to the purchaser at the time the alcoholic beverages are packed and identified to the purchaser, and these actions are sufficient to constitute a sale on the premises.

(c) A package store licensee who fills, delivers or ships, alcoholic beverages based on written orders shall retain copies of the order forms, the records verifying the age and identity of the purchaser, and the delivery and shipping documents for at least one year. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.06.090

15 AAC 104.665. INVOLUNTARY TRANSFER OF LICENSE. A licensee shall file with the board any instrument executed pursuant to AS 04.11.670. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.670

ARTICLE 7. GENERAL PROVISIONS

Section

- 705. Permits
- 715. Caterer's permit
- 725. Definitions

15 AAC 104.705. PERMITS. (a) Applications for permits must meet the requirements of this chapter of applications for licenses.

(b) The grounds for denial of a permit application are the same as for a license application.

(c) To apply for a permit, an applicant shall submit to the board the proper application form, together with the application fee and permit fee. The application must include a description of the proposed premises, a drawing designating which areas are for storage, service, and consumption, specific hours of intended operation, a copy of the approval from the proper authority, and other information required by the board.

(d) A permit applies only to the premises designated in the application and accompanying drawing and is only effective for the time period specifically designated. Permits are not transferable.

(e) The director shall determine whether a permit holder may purchase alcoholic beverages from a licensee selling on a retail or a wholesale basis and shall so indicate on the permit.

(f) The holder of a permit shall comply with all laws, regulations, and ordinances pertaining to the sale or dispensing of alcoholic beverages. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.230
AS 04.11.240
AS 04.11.250
AS 04.11.260
AS 04.11.320

15 AAC 104.715. CATERER'S PERMIT. (a) The caterer, or an employee or agent of the caterer, shall be present on the catered premises at all times alcoholic beverages are being served or consumed.

(b) The caterer is subject to the laws, regulations, and ordinances pertaining to beverage dispensary licenses and violation of them in the operation of the caterer's permit is ground for suspension or revocation of the permit holder's beverage dispensary license. (Eff. / / , Register)

Authority: AS 04.06.100
AS 04.11.230

15 AAC 104.20.825. DEFINITIONS. Unless the context indicates otherwise, in this chapter, the definitions of terms found in AS 04.21.080 apply. (Eff. / / , Register)

Authority: AS 04.06.100

April 23, 1981

Senator Pat Rodey, Chairman
Senate Judiciary Committee
Juneau, AK. 99811

Re: Hearings on local options provisions.

Dear Chairman Rodey and
Members of the Senate Judiciary Committee,

I would like to briefly comment on the proposed amendments to the local option provisions. Prior to doing so I must point out the enormous problems created in rural Alaska villages due to excessive alcohol consumption. On a daily basis I deal with the victims of violent crime in bush Alaska. These crimes are virtually all committed by an offender who is under the influence of alcohol. An example of this devastation can be seen by the high rate of homicides in the Second Judicial District which is primarily rural. In one village alone there have been two alcohol related killings by firearms in the last year. On a per capita basis, taking into account the small number of residents of the village this would equate to 42 people a week being victims of homicides in a city the size of Anchorage.

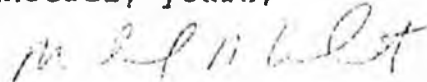
Something must be done, and it must be done quickly. Of course, violent acts committed by those under the influence of alcohol are merely the symptoms of the alcohol problem. My office is only able to handle the symptoms by protecting communities from those who have already caused destruction. Local option provisions can start the process of treating the causes of violent crime in bush Alaska.

The current local option statutes have been uniformly heralded by rural Alaska residents. My office has been heavily involved in communications with village spokesmen in trying to assist villages in preparing local option provisions. The particular provisions passed in the last legislative session were extremely good in that they allowed villages to close the loop holes in prior law by keeping alcohol from being imported as well as being sold. Virtually every village I have communicated with wants to enact this provision. To date they have been unable to do so due

to the procedures which require that the vote take place in a state-wide, or state run election handled by the Ill. Governor. I am confident that if the villages had been able to pass the local option provision prohibiting sale and importation when it became effective in 1980, that there would be people alive today that have been killed by intoxicated people in the interim.

I urge this committee to look favorably on the bill before it which would allow special elections in second class municipalities for the purpose of passing local options provisions. It is impossible to tell how many lives will be ended or adversely affected between now and the next state-wide election if the statute remains the way it is. The sooner that small rural communities can prohibit importation of alcohol the better. Based on my experience as the criminal prosecutor for the Second Judicial District at least one person will be killed in each two-month period from now until importation of alcohol is banned in this area. These deaths can be prevented by this committee doing everything possible to speed up the mechanism by which villages can ban the importation of alcohol.

Sincerely yours,



Michael H. White
District Attorney

MHW:ew

STATE OF ALASKA

DEPARTMENT OF LAW

DISTRICT ATTORNEY - SECOND JUDICIAL DISTRICT

JAY S. HAMMOND, Governor

BOX 160 - NOME 99762

May 29, 1981 (907) 443-2296

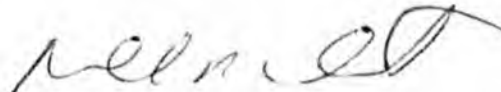
Senator Pat Rodey
State Capitol Building
Juneau, Alaska 99811

Dear Senator Rodey:

Attached is a copy of a letter that I sent to you on April 23, 1981 along with the front page and editorial of the Nome Nugget of May 27, 1981.

The killing is going to continue, and continue until there is decisive legislative action on local options and on treating alcohol abuse.

Sincerely,



Michael N. White
District Attorney

MNW: cy

cc. Rep. Jack Fuller

cc. Senator Frank Ferguson

The Nome Nugget

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VOLUME LXXX NO. 10, NOME ALASKA, THURSDAY, MAY 28, 1981

Elim Family Murdered

W. Murray kills wife, kids, self

A grizzly triple homicide/suicide took the lives of four members of an Elim family and left one child wounded.

In the early morning hours of May 24, the Alaska State Troopers in Nome were notified that a multiple shooting had taken place in the eastern Norton Sound village.

Witnesses at the scene said that Wilfred C. Murray Sr., 43, had been engaged in a family argument when he got the weapons — a high powered rifle and a shotgun — and murdered his wife, Martha (31) and two of their children. He also wounded a third child before turning the weapon on himself.

Murdered were Martha who received a gunshot wound to the chest; April Murray, 11, who received a gunshot wound to the chest and leg and Tasha Murray, age 1, who died of a gunshot wound to the head.

Clifford Murray, 7, was injured by a shotgun blast to the arm and was transported to Norton Sound Hospital for inpatient treatment.

Two other children were reported to be in the house at the time of the shootings, but escaped without physical injury.

Although investigation into the case is not complete, it has been determined that alcohol was involved. Murray reportedly turned one of the guns on himself after the murders and killed himself with a single gunshot wound to the chest.



McGuire towed boat for City. orders in an

What's inside

SB65

St. Mary's to prohibit importation of alcohol

by Cheryl Keepers

Last week St. Mary's City Council enacted a 60-day emergency ordinance prohibiting the importation of alcoholic beverages into its city limits. The ordinance is to be effective for 60 days, unless extended by the City Council; the maximum fine for violation is \$500.

According to a press release from the City Council, there were several reasons for passing the ordinance. Public disturbances, violence and vandalism have increased in recent weeks. Most of the problems were alcohol related, and often caused by residents from other villages who were in St. Mary's to receive shipments of alcohol, the release stated. With one local policeman and one jail

cell, the city is not able to control the disturbances caused by too many people drinking too much.

However, there is some question regarding the legality of the city ordinance. In an informal opinion on the ordinance issued to this reporter by Assistant Attorney General Rod Pegues, Mr. Pegues noted that the ordinance was probably not legal. He stated that there "has to be an election and vote on the question." Under the existing local option law, the election must be held at the next regular election (October), and until then nothing can be done. While sympathizing with St. Mary's

Please turn to page 30

ST. MARY'S

from page 1

wish to act sooner, Mr. Pegues commented that there is "nothing they can do about it unless the law is changed."

Tim Troll, City Manager for St. Mary's, said the city has a petition pending with the Division of Elections to put the issue on the ballot at the next regular election, but that the City Council felt the situation was so pressing they "had to try to do something about it." Mr. Troll, who is also a lawyer, noted that he had cautioned the City Council that "some questions would be raised" regarding the legality of their move, but that he feels the ordinance is not necessarily in violation of the state law. Citing the leeway given local governments in controlling alcohol under federal law, and noting that they are looking for voluntary compliance on the part of the airlines, Troll stated "we do think there are arguments on our side too." The city will be enforcing the ordinance by seizing alcohol dropped off and delivered in St. Mary's.

Mr. Troll continued by saying that St. Mary's had wanted to hold the local option election before fishing season and the accompanying increase in alcohol and alcohol related problems. The City Council acting in part is intended to let the state know the severity and urgency of the problem.

The issue of when elections can be held on the local option law has been receiving some attention in the community attention in the Community and Regional Affairs committee of the state legislature, also. Senate Bill 65, (SB65), introduced by Bill Ray (D-Juneau), contains a provision for special elections that would allow municipalities and established villages to hold local option elections at times other than October.

This amendment retains the provision that a petition containing signatures equal to at least 35 percent of the number of votes cast at the last regular municipal election be filed, but provides that in a municipality, the election be carried out in accordance with the election ordinance of that municipality. This is a change from the existing law which has required that the Lt. Governor conduct all local option elections, a provision which has effectively prevented any local option elections from taking place.

An amendment was also introduced, but later dropped, which would have provided for revoking any existing liquor licenses in a community within 60 days after certification of a local option election to prohibit sales. According to David Dye, aide to Sen. Don Gillman, (R-Kenai) chairperson of the Community and Regional Affairs Committee, this amendment was not accepted by the committee due to potential legal problems with this process. The Committee also felt that it would be unfair to a legitimate business person to take away the license when he/she had expected it to be valid.

As SB65 now stands, a liquor license in a community that votes to prohibit sales will be allowed to expire at the end of the year, which would happen in any event, but the license would then not be renewed for at least one full year afterwards.

If the community were to choose in that year to go back to allowing the sale of alcohol, no liquor license would be

issued before the full year had run. If the community does not change its mind, no new licenses would be issued.

Should the community choose the alternative of prohibiting importation, Mr. Dyer noted, this would affect both private individuals and licensed businesses, thus effectively ending any sales business.

Another amendment not in the original legislation, but introduced at the request of the bill's prime sponsor, Bill Ray, would have placed limits on which municipalities could use the local option law, and on what questions could be put before the public. Ray's amendment would have limited the question to one of sales, and would have allowed this only in municipalities under 2,500 in population. This would have meant that hub communities such as Bethel would not have been able to prohibit either sales or importation, and communities under 2,500 would not have been able to prohibit importation. The amendment was rejected by the committee. Mr. Dyer noted that the committee felt it would be unfair to foreclose on any communities' right to control alcohol based on size, and that the local option law should have blanket application.

The bill is now in the Senate Judiciary Committee. Members of that committee include George Hohman (D-Bethel), Bill Ray (D-Juneau), Charles Parr (D-Fairbanks), Don Bennett (R-Fairbanks), and Patrick Rody (D-Anchorage).

EXECUTIVE SUMMARY

"JUNEAU '81"

**RURAL ALASKA
CITIZEN'S PARTICIPATION CONFERENCE**

**March 16 - 19, 1981
Juneau, Alaska**

**Rural Alaska
Community Action Program, Inc.
Box 3-3908, 327 Eagle Street, Anchorage, Alaska 99501, (907) 279-2511**

Rural Alaska Community Action Program, Inc.

March 19, 1981

Dear Friends,

Included in this small packet of information is the EXECUTIVE SUMMARY of the findings and recommendations of Delegates to the 8th Annual Rural Alaska CITIZEN PARTICIPATION CONFERENCE. For the past four days, citizens from rural locations throughout the entire state have been gathered here in Juneau to deal with such compelling public policy issues as:

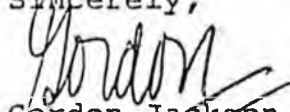
- * Early Childhood Development and Head Start
- * Natural Resources and Subsistence
- * Alcoholism
- * Energy

Additionally, representatives of not-for-profit community-based organizations throughout the State met and devised a Comprehensive Community Services Act for consideration by the Administration and the Legislature.

Although these are times of stress and insecurity, with federal funding for literally dozens of programs designed to help society's less fortunate people threatened by President Reagan's attempt to balance the federal budget, Delegates to the Conference also realized that this is a time of enormous opportunity for the citizens of Alaska.

It was in that spirit that these recommendations were formed -- and it is in that spirit that they are transmitted. We commend the Delegates and urge that their work be accorded the respect and consideration that it so clearly deserves.

Sincerely,


Gordon Jackson, Chairman
8th Annual Citizens Participation Conference



Phil Smith, Executive Director
Rural Alaska Community Action Program

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SUMMARY OF RECOMMENDATIONSALCOHOLISM WORKSHOP

The group elected as officers the following individuals: Karl Ashenfelter, Chairperson; Gail Evanoff, Secretary; Daisy May Lamont, Spokesperson; Stewart Nicolai, Sergeant at Arms. We addressed the following issues by appointing subcommittees and voting on their reports.

- (1) Full funding for alcoholism and drug programs as proposed in HB 50 (Governor's budget); addressing the issue of funding for those wishing to start new programs:

A resolution follows speaking to the above. In addition, meetings were arranged with Senator Parr (Senate HESS) and Representative Cotten (House Finance), to offer them information as to program accomplishments following increased funding for FY 81. (Senator Parr's attitude, as expressed in a letter to Robert Cole, is that he is unwilling to support full funding without seeing results). The workshop recommended that the chairperson of the Workshop send a letter to Senator Parr and that the Fairbanks delegate be asked to address Senator Parr's position and attitude when he reports back to Tanana Chiefs Conference.

- (2) Consideration of revisions of the drug laws (HB 180, SB 177, SB 180) and allied issues.

A series of resolutions on drug issues follows. A roll call on the resolution to recriminalize marijuana showed 18 in favor, 2 opposed, 1 abstention.

- (3) Review of Title 4 provisions on local option elections and proposed amendments as stated in SB 65:

The group requests the legislature to enact amendments permitting maximum use of local option and enabling established villages and second-class cities to move as quickly as possible to hold valid elections, including special elections.

The group recommends against the proposed amendment to SB 65, Section 11. AS.4.11.490(a) as an unnecessary restriction on cities with a population of over 2500 and recommends that it be stricken.

- (4) Consideration of other bills:

A summary of our recommendations follows. Resolutions on SB 71/HB 112, SB 117/HB 117, and SB 177 are attached.

<u>BILL # or SUBJECT</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
SB 65	Amends Title 4 provision for local option election.	Do pass with amendment. See subcommittee report.
SB 71/ HB 112	Raises legal drinking age to 21.	Do pass, resolution attached.
SB 117/ HB 117	Shortens hours bars may be open.	Do pass; reduces opportunities for abusers to obtain liquor.
SB 177/ SB 190/ HB 180	Revision of drug laws, prosecution of minors as adults.	No recommendation; much technical information which we do not feel competent to analyze. Resolutions on issues attached.
HB 5	Removes prohibition for intoxicated persons to enter and remain.	Do pass.
HB 50	Governor's budget. \$18 million for alcohol/drug abuse.	Do pass, resolution attached.
HE 62/ SB 241	Removes provision for civil liability for bartenders.	Do not pass.
HB 114	Combines alcohol/drug abuse review boards.	Do pass. Step toward unifying attack on the total problem.
SSHB 41	Health Insurance	Do pass; good basic bill, can be expanded later.
HB 178	Legal for grocery stores to sell beer and wine.	Do not pass. Already enough retail outlets; too easy for minors to obtain.
HB 226	Legalizes prescription of marijuana for cancer patients.	Do not pass. Not specific enough; beneficial effects of drug in question.
HB 249	Lowers annual fee for beverage dispensary license.	Do not pass. Profits from bars are high enough so that lowering license fee is not warranted

All of the above were designated high priority.

The group also voted to present the Rural CAP Board's resolution on additional provisions for informing the public as to what villages and cities have voted "dry".

Following the work session, some members of the group toured the Juneau Regional Rehabilitation Hospital, a component of the Juneau Alcoholism Comprehensive Agency.

The group was given invaluable background information and technical assistance by the following:

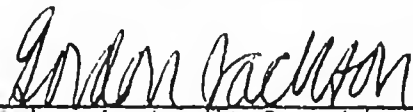
Representative Jack Fuller, Bush Caucus, and Cheryl Frasca,
Legislative Assistant
Coordinator Robert L. Cole, State Office of Alcohol and
Drug Abuse, and Dr. Earl Albrecht
Executive Director Matt Felix, Alcoholism Comprehensive
Agency, Juneau
Statewide Alcohol Coordinator Carole A. Baekey and Legal
Assistant Barbara Thorn, Alaska Legal Services Corporation
Legislative Analyst Dave Katzeek, Juneau

Rural Alaska Community Action Program, Inc.

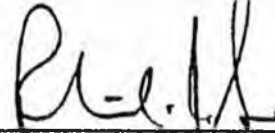
CPC RESOLUTION #81- 1

- ENTITLED: Additional funding for radio and TV programs giving preventive information on alcohol and drug abuse for adults and children alike.
- WHEREAS, The drug and alcohol abuse problems among our youth and adults is an increasing public health threat throughout the State, and,
- WHEREAS, The State Legislature has been supportive of developing programs to deal with the drug and alcohol problems within the state by increasing funds during the last legislative session, and,
- WHEREAS, Public education is one means of making people aware of the dangers involved in alcohol and drug abuse, and,
- WHEREAS, Funding has been allocated to provide limited media broadcasting to address the problems of alcohol and drug abuse in the State of Alaska, now, therefore be it
- RESOLVED: That additional statewide funding be provided to produce and broadcast educational material on alcohol and drug abuse prevention appropriate for the State of Alaska so that public awareness may be further increased.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



 Gordon Jackson, President
 Rural CAP Board of Directors



 Philip J. Smith, Executive Director
 Rural CAP

Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-21

ENTITLED: "Support of HB #50, Governor's Budget"

WHEREAS, Alcoholism and drug abuse are the largest health problems in the State of Alaska, and,

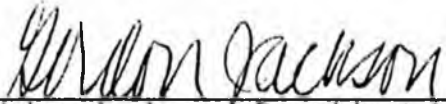
WHEREAS, The State of Alaska has initiated a much needed aggressive attack on the alcohol and drug abuse problem in most areas of the state, and,

WHEREAS, The problem is present in epidemic proportions throughout the state, and,

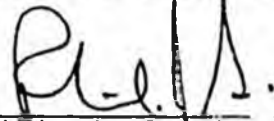
WHEREAS, In spite of the new programs there are still some areas of the State which have been overlooked and no programs have been started; now, therefore be it

RESOLVED: That the Governor's requested budget be amended by adding six hundred thousand dollars (\$600,000.) to the requested \$18,035,600 to allow programs to be initiated in those areas of the state that presently have no programs.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



 Gordon Jackson, President
 RurAL CAP Board of Directors



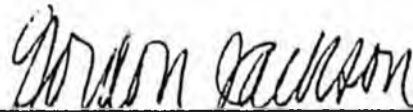
 Philip J. Smith, Executive Director
 RurAL CAP

Rural Alaska Community Action Program, Inc.

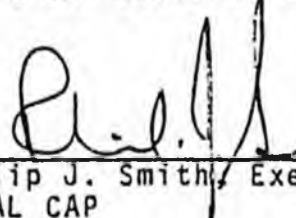
CPC RESOLUTION #81-3

- ENTITLED: "A resolution supporting SB#177 and other legislation providing for heavy penalties for individuals supplying drugs to children on school grounds and for drug rehabilitation offered as an alternative to sentencing our youth"
- WHEREAS, Children are our most important resource, and,
- WHEREAS, Suppliers of drugs are endangering the lives of our children and thereby the future of our state by entering upon school grounds and supplying drugs to our children, and,
- WHEREAS, Our children and youth who do get involved with the law due to the usage of drugs should be given every opportunity for rehabilitation, and,
- WHEREAS, SB#177 states therefore heavy sentencing is proposed and is appropriate; now, therefore be it
- RESOLVED: That suppliers of drugs should receive heavy mandatory penalties for supplying drugs to children on school grounds; and be it further
- RESOLVED: That sentencing for children and youth who have become involved with the law because of drugs should focus upon rehabilitation through a drug treatment program.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



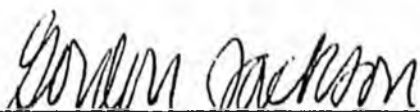
Philip J. Smith, Executive Director
Rural CAP

Rural Alaska Community Action Program, Inc.

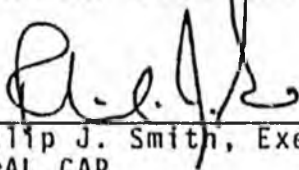
CPC RESOLUTION #81- 4

- ENTITLED: "Seeking to control the flow of drugs through increased efforts to detect while being transported"
- WHEREAS, Drug abuse is increasing at epidemic rates in the State of Alaska and is rapidly approaching a health and social problem equivalent to the alcohol abuse problem, and,
- WHEREAS, The transportation and mail systems in the State are being extensively used to transport drugs, and,
- WHEREAS, Methods of detecting concealed drugs while in transport do exist and are used in other states; now, therefore be it
- RESOLVED: That detection programs (i.e.; trained dogs and surveillance equipment) should be established in transportation stations (i.e. airports, seaports and major bus depots) and the U.S. Postal Service for the purpose of finding and confiscating drugs and reducing the flow of drugs in Alaska.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



 Gordon Jackson, President
 Rural CAP Board of Directors



 Philip J. Smith, Executive Director
 Rural CAP

Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81- 5

ENTITLED: "To recriminalize marijuana"

WHEREAS, Our present laws do not protect our children and youth from the suppliers of the drug marijuana; and,

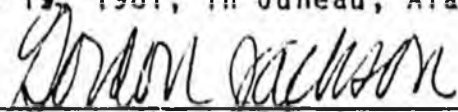
WHEREAS, The use of marijuana is interfering with the education of our children and youth, and,

WHEREAS, Marijuana abuse is becoming one of the major problems with the youth of America, and,

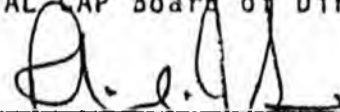
WHEREAS, Children and youth are our most important resource, now, therefore be it

RESOLVED: That the drug marijuana should be recriminalized and be it further resolved that heavy penalties be enforced for those suppliers of the drug marijuana.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



 Gordon Jackson, President
 Rural CAP Board of Directors



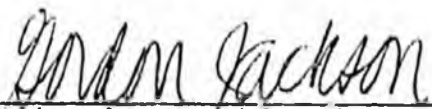
 Philip J. Smith, Executive Director
 Rural CAP

Rural Alaska Community Action Program, Inc.

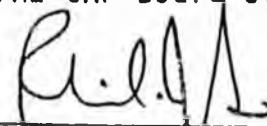
CPC RESOLUTION #81- 6

- ENTITLED: "Supporting Senate Bill No. 71 and House Bill No. 112, authorizing vote to raise legal drinking age to 21..
- WHEREAS, The epidemic alcohol abuse among our youth is an increasing recognized problem throughout the State of Alaska, and,
- WHEREAS, There is an immediate problem concerning students 19 years of age and over in Alaskan high schools who are consuming and distributing alcohol to vulnerable minors, thereby causing detrimental problems in the area of their education and mental stability, and,
- WHEREAS, The increasing rate as a result of alcohol abuse in crime, suicide, disorderly conduct, assault, accidental death and drop-outs is affecting our youth, and,
- WHEREAS, Our state funded alcoholism programs show an increasing amount of our youths seeking treatment and counseling, and,
- WHEREAS, Our youth shows an increasing amount of juvenile arrest and traffic fatalities for driving while under the influence of alcoholic beverages; now, therefore be it
- RESOLVED: That the drinking age be legally raised to the age of 21, to lessen the easy access to alcohol by students still in elementary and secondary schools.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



 Gordon Jackson, President
 Rural CAP Board of Directors



 Philip J. Smith, Executive Director
 Rural CAP

Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-7

ENTITLED: "In support of Senate Bill No. 117 and House Bill No. 117, acts to shorten hours bars may be open"

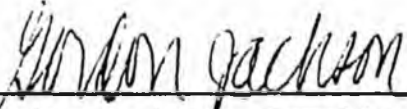
WHEREAS, Bills have been introduced in the Senate and the House to limit the hours of the day during which patrons may be present or alcohol sold or consumed on licensed premises, and,

WHEREAS, The Citizens Participation Conference delegates recognize that limiting of such sale and presence will result in decreased OMVI violations, liquor law violations, minors consuming, disorderly conduct and assault (as occurred in Juneau after earlier closing hours became effective) and,

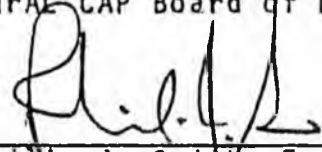
WHEREAS, Limitation on hours of sale will result (as in Juneau) in some lowering of per capita consumption, alcohol related human and social costs, and some modification of attitude concerning the wide open acceptability of drinking in Alaska; now, therefore be it

RESOLVED: That the delegates of the Citizens Participation Conference strongly urges the Alaska State Legislature to pass S.B. No. 117 and H. B. 117..

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



 Gordon Jackson, President
 Rural CAP Board of Directors



 Philip J. Smith, Executive Director
 Rural CAP

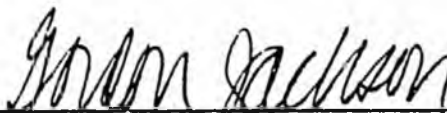
Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-8

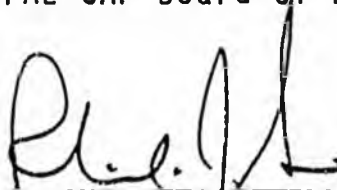
- ENTITLED: "In support of adequate notification of suppliers and transporters of alcohol as to who are "dry" communities.
- WHEREAS, It is in the interest of established villages and second class cities to have their wishes concerning regulation of alcohol use in their communities respected by those who sell and transport alcoholic beverages, and,
- WHEREAS, At least 30 villages and cities in rural Alaska have inquired about using the local option law to regulate or prohibit sale and/or importation of alcohol in their communities, and,
- WHEREAS, Several cities in the state have already chosen to ban sale and/or importation of alcohol in their communities, and,
- WHEREAS, Alcoholism workers representing 16 villages at Rural CAP's Community Action Education Workshop expressed a desire to have the names of "dry" villages and cities supplied to every supplier of liquor and every carrier of passengers and/or freight in the State of Alaska, and
- WHEREAS, The Alcoholic Beverage Control Board is presently soliciting public comment on proposed new regulations, and,
- WHEREAS, Article VI Section 635 of these proposed regulations provides that the Board maintain a roster of communities which have voted "dry" and make this roster available to the public, and, now therefore be it
- RESOLVED: That the Citizens Participation Conference recommend to the Alcoholic Beverage Control Board that a) Article VI Section 635 be amended to require the ABC Board to supply current lists of "dry" communities to all liquor outlets and carriers of freight and passengers in the state and that b) this list contain the text of the laws concerning bootlegging and the penalties for that offense, and that a copy of this resolution be forwarded to the ABC Board.

Page Two - CPC Resolution #81-

Adopted by the Citizens Participation Conference,
March 19, 1981, in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



Philip J. Smith, Executive Director
Rural CAP

ALCOHOL WORKSHOPDELEGATES

Wassilie B. Evan
 Daisy May Lamont
 Jerome Selby
 Sam Pedro
 Adolph "Shep" Larson
 Ralph Amouak
 Bobby Curtis
 Rinna Posehn
 Gail Evanoff
 Patricia Paul
 Emla Leavitt
 Sam Smith
 Karl Ashenfelter
 Al Stevens
 Beatrice Brown
 Louie Jones
 Pat Simpson
 Edna Charley

Napakiak
 Bethel
 Kodiak
 Copper Center
 Dillingham
 Anchorage
 Kotzebue
 Anchorage
 Anchorage
 Sitka
 Pt. Barrow
 Mekoryuk
 White Mountain
 Fairbanks
 Hoonah
 Aniak
 Kotzebue
 Copper Center

RESOURCE PEOPLE

Carole A. Baekey
 Barbara Thorn
 Robert L. Cole
 C. Earl Albrecht, M. D.
 Jack Fuller
 David Katzeek
 Matt Felix

Alaska Legal Services Corp.
 Alaska Legal Services Corp.
 State Office of Alcohol and Drug Abuse
 Alaska State Legislature
 RurAL CAP
 Alcohol and Drug Abuse Central Agency

GUESTS

George Goenett
 Tom J. Jimmie Jr.
 Gladys Scott
 Evelyn Mullen
 Elaine Loomis
 Cheryl Frasca
 Mike Martin
 Corinne Reeve
 Lewis E. Gorman
 Chip Thoma
 Herb Adams
 Myrna Sharclane
 Laura Johnsen
 Danny Karmun
 Milton S. Hunt

Alcohol and Drug Abuse Central Agency
 Alaska Council on Alcoholism
 Alaska Native Leadership
 Kodiak Area Native Assn.
 Kodiak Area Native Assn.
 Rep. Fullers Office
 Aleutian/Pribilof Island Assn.
 Metlakatla Indian Community
 Aleutian/Pribilof Island Assn.
 David Katzeek & Associates
 Gastineau Council on Alcohol
 Central Council, Tlingit & Haida Indian
 Tribes of Alaska
 Central Council, Tlingit & Haida Indian
 Nome School District
 Alaska Christian Conference

Page Two - ALCDHOL WORKSHOP

STAFF

Peg Engwall	RurAL CAP, Director, Alcoholism Department
Susanna Andersen	RurAL CAP, Alcohol Education Coordinator
Stewart Nicolai	RurAL CAP, Counselor, Copper Center
Ethel Adcox	RurAL CAP, Counselor, Iliamna Lake
Max Lestenkof	RurAl CAP, Counselor, St. Paul Island
Lois Hough	RurAl CAP, Secretary

ALASKA REGIONAL ENERGY ASSOCIATIONENERGY WORKSHOPSTATEMENT OF THE ISSUE

The dramatic rise in oil prices since 1973, the small, widely spread population, the high cost of living, and the rapidly rising price of transportation combine to help explain why energy costs so much in a village. Rural residents are forced to commit a large and rapidly increasing share of their income on energy and transportation. The very same source of Alaska's current large budget surpluses is ironically causing the most serious threat ever to the continued existence of remote rural Alaskan communities.

Unfortunately, state and federal agencies have been very narrow in their response to this crisis. They responded simply by expanding their welfare system. In certain rural communities more than 50% of the village income results from welfare payments.

METHOD OF DEALING WITH THE ISSUE

The Alaska Regional Energy Association (AREA) was formed in 1979 to serve as a clearinghouse for the exchange of energy information affecting rural Alaska, and to serve as a conduit for expressing the views of the 14 member non-profit associations on energy-related issues affecting their regions. With Rural CAP's financial support and technical assistance, AREA has been meeting at least quarterly to accomplish this end. Specifically, the goal of the organization is to increase rural Alaskans' degree of control over energy resource decision-making which has a significant effect on the quality of life of residents of rural Alaska.

During the past year the Alaska Regional Energy Association's emphasis has been shifting from attention toward short-term crisis intervention responses like energy assistance and fuel loans toward longer-run solutions like capital assistance for energy production and conservation.

The workshop was conducted as a regular meeting of AREA, and was chaired by Bob Martin. Each delegate, representing a member non-profit native association or development corporation received a briefing packet in the mail several weeks before the meeting. The packet contained an analysis of the significant issues identified by AREA previously as potential legislative priorities, as well as copies of related bills and resolutions pending in the Alaska State Legislature. These packets were updated in Juneau the first day of the workshop to include the most current information available on each issue.

Several joint meetings were held with the Village Energy Workshop group to discuss and compare legislative priorities. Both groups listened to presentations by Representatives Brian Rogers, Terry

Gardiner and Joe Chuckwuk, and asked these House leaders on energy legislation many questions about their priorities for this year. Also, on the final day of workshops the two workshops met jointly to present their conclusions to each other.

BILL # or
SUBJECT

DESCRIPTION

17
ACTION

Village Energy
Reconnaissance &
Conservation
Program: SSHB 9)

Reconnaissance &
Weatherization pro-
gram that will
provide funds to
weatherize every home
in rural Alaska

#1 priority
Resolution
(attached)

Power Production
Cost Assistance
Program

Subsidizes high cost
of electrical energy

motion passed
to support the
program and
expand it to
include co-
mmercial fac-
ilities.

Power Production
Cost Assistance
Program

Subsidizes high cost
of electrical energy

motion passed
that the 40¢/
kwh be region-
alized accord-
ing to the cost
of living.

Alaska Statute
46.11.030 (c)

Residential energy
audit grants and
loans

motion passed
to increase the
amount of ma-
terials made
available in
accord with
actual cost of
transportation
& materials in
rural Alaska

North Slope
Borough
Resolution
#6-81

Energy Conservation
Policy

motion passed to
endorse the
policy and
recommend that
other regions
adopt a similar
approach

North Slope
Borough
Resolution
#6-81

Energy Conservation
Policy

motion passed to
send the policy
to appropriate
state energy
agencies for use
as a model for
state policy on
energy conser-
vation

<u>BILL # or SUBJECT</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
SB 25	Power Project Development Fund	motion passed to support both bills with amendments: to make the factors used to
SB 26	Appropriation for Power Project Development Fund	determine economic feasibility of a project set out in Section 5 be more realistic for the rural Alaskan area where the project is to be located and for the time when the project is to be built.
HB 289	An Act relating to the establishment of Regional Energy Authorities	motion passed to support the bill with an amendment to designate the 14 member non-profit organi- zations of the Alaska Regional Energy Association as eligible to form energy authorities
HB20 and HB21	Providing for the de- velopment of electrical service in rural areas and a special appropri- ation to the Department of Commerce and Economic Development for the Rural Electrification Fund	Motion passed to support both bills
CH001 SLA 1980	Rural CAP fuel loan program	motion passed to support the extension of the expiration date
SB166	An Act amending the eligibility qualifica- tions of an electric utility for power pro- duction cost assistance payable by the Alaska Power Authority	motion passed to support the bill
CSSB174 (Finance)	An Act making supplemen- tal appropriations to the Alaska Power Autho- rity for the Power Production Cost Assistance Program	motion passed to support the bill
CSHB 9	Relating to Departments and programs of State government which are concerned with energy	AREA supports provisions of this bill that would expand the responsibility of the Alaska Power Authority by substituting "energy" for "power" throughout their authorizing legislation

BILL # OR
SUBJECTDESCRIPTIONACTION

SSHB 9

Related to Departments and programs of state government which are concerned with energy

AREA has established the need for state funding of regional energy planners at the regional non-profit level. This is an integral part of the #1 priority established by AREA: the Village Energy Reconnaissance & Conservation Program. This bill would be an appropriate place to authorize these positions.

All of the issues and bills considered by the Alaska Regional Energy Association were rated as high priorities. The delegates identified the Village Energy Reconnaissance and Conservation Program, including full funding of the regional energy planners, as the #1 legislative priority of the organization.

Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-9

- ENTITLED: Urging Full Funding for the Village Energy Reconnaissance and Conservation Program
- WHEREAS, energy costs of up to 50¢ per kilowatt-hour for electricity and \$3.00 per gallon for fuel oil are distressingly common in rural Alaskan communities, and
- WHEREAS, low-income residents of rural Alaska are unable to bear the impact of these high and steadily rising costs, and
- WHEREAS, the very existence of many communities is threatened by these excessive costs, and
- WHEREAS, state and federal welfare payments make up more than 50% of the total income of some rural communities, including a total of \$10 million per year statewide for direct energy welfare bill-paying assistance, and
- WHEREAS, the need for these energy welfare payments will continue to grow dramatically unless the state acts to lower the cost of energy in rural Alaska, without recourse to operating subsidies, and
- WHEREAS, agencies such as the Alaska Power Authority, the Division of Energy & Power Development, the Department of Community and Regional Affairs, the Institute for Social and Economic Research, the Alaska Regional Energy Association and Rural CAP have joined together to develop a program that would reduce household energy bills by an average of at least 30% per household statewide, and
- WHEREAS, the present value of the net energy savings from this program would be at least \$433 million in avoided energy costs over the next 20 years, and
- WHEREAS, every house in rural Alaska could be properly insulated to meet Alaskan climatic conditions by the fourth and final year of this program, and
- WHEREAS, local and regional non-profit contractors would be used, and local hire would be used exclusively in the installation of weatherization materials in local communities, and

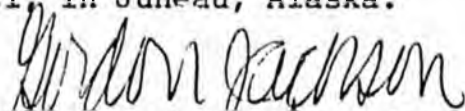
WHEREAS, this program would provide funding for regional energy planners, which are urgently needed to address regional energy problems, and

WHEREAS, the reconnaissance studies in this program would gather vital data on the best mix of sources of energy generation, designed to reduce the long-term cost of energy produced in villages for heating, electrical needs and transportation; now, therefore be it

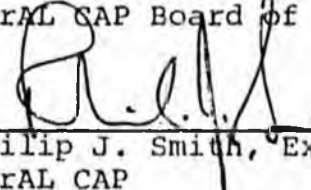
RESOLVED: That the Alaska Regional Energy Association urges speedy passage by the Alaska State Legislature and the approval by the Governor of the Village Energy Reconnaissance and Conservation Program and be it further

RESOLVED: That AREA urges the Alaska State Legislature and the Governor to fund this program at a level that will allow each homeowner in rural Alaska to install the optimal quantity of energy saving materials in his/her house over the next four years.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



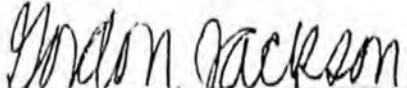
Philip J. Smith, Executive Director
Rural CAP

Rural Alaska Community Action Program, Inc.

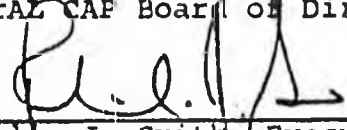
CPC RESOLUTION #81-10

- ENTITLED: "Urging Full Support of House Bill 289, Entitled, 'An Act Relating to Regional Energy Authorities,' with an Amendment to Designate the 14 Member Non-Profit Organizations of the Alaska Regional Energy Association as the Authorized Designees
- WHEREAS, AS 18.57 creates Regional Electrical Authorities limited to the production of electrical energy, and
- WHEREAS, the electrical generation represents only a small part of the energy requirements for rural Alaskans, and
- WHEREAS, there is a need for regional coordination to achieve local planning and development, and
- WHEREAS, there is an urgent need for appropriate alternative energy approaches; now, therefore, be it
- RESOLVED: That the Alaska Regional Energy Association urges speedy passage by the Alaska State Legislature and and the approval by the Governor of House Bill 289, an Act relating to Regional Energy Authorities.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



 Gordon Jackson, President
 Rural CAP Board of Directors



 Phillip J. Smith, Executive Director
 Rural CAP

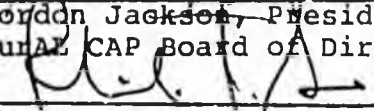
Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-11

- ENTITLED: Supporting Passage of Legislation Establishing the Power Project Development Fund and a Special Appropriation
- WHEREAS, Energy costs of up to 50¢ per kilowatt hour of electricity and \$3.00 per gallon for fuel oil are distressingly common in rural Alaska communities, and
- WHEREAS, low income residents of rural Alaska are unable to bear the impact of these high and steadily rising costs, and
- WHEREAS, the very existence of many communities is threatened by these excessive costs, and
- WHEREAS, power production development is essential to the reduction of energy costs in Alaska, and
- WHEREAS, the Power Project Development Fund outlined in Senate Bill 25 provides funding for significant power project development in Alaska, and
- WHEREAS, the funds may be used for reconnaissance and feasibility studies and power project finance plans, and
- WHEREAS, the funds may be used for the cost of a project, including the costs of acquiring necessary licenses, preparing engineering designs, obtaining land and constructing the power project; now, therefore, be it
- RESOLVED: That the Alaska Regional Energy Association supports the passage of Senate Bill 25 and 26, and be it further
- RESOLVED: That the factors used to determine economic feasibility set out in Section 5 of SB 25 be more realistic for the rural area for which the project is being considered.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.


Gordon Jackson, President
Rural CAP Board of Directors

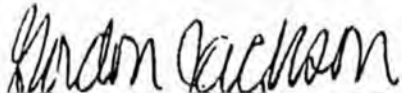

Philip J. Smith, Executive Director
Rural CAP

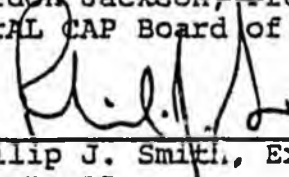
Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-12

- ENTITLED:** In Support of Continued Funding for the Power Production Cost Assistance Program
- WHEREAS,** The cost of power production in rural Alaska is rising disproportionately to local incomes, and
- WHEREAS,** the cost of power is affected by regional circumstances, and
- WHEREAS,** commercial facilities in some communities can assist in resolving community energy needs, and
- WHEREAS,** financial support of the Power Production Cost Assistance Program is desirable; now, therefore be it
- RESOLVED:** That the Alaska Regional Energy Association supports passage of Senate Bill 166 to expand the eligibility qualifications of utilities, and passage of CSSB 174, (\$1,050,000 appropriation), and be it further
- RESOLVED:** That the Alaska Regional Energy Association recommends the 40¢/kwh cap on Power Production Cost Assistance be regionalized to reflect cost of living differentials.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.


 Gordon Jackson, President
 Rural CAP Board of Directors


 Philip J. Smith, Executive Director
 Rural CAP

ENERGY WORKSHOPALASKA REGIONAL ENERGY
ASSOCIATION DELEGATES

Pat Petrivelli
 Mark Siegars
 Bob Martin

Pete Ezi
 Clyde Stoltzfus
 Phil Kaluza
 Tom Peterson
 Larry Jones
 Sharon Zandman Zeeman
 Will Theuer
 Bob Brean
 John Quirk
 Kent Grinage
 David Cartier

REPRESENTING

Aleutian/Pribilof Islands Assoc.
 Bristol Bay Native Association
 Central Council, Tlingit-Haida
 Indians of Alaska
 Cook Inlet Native Association
 Copper River Native Association
 Kawerak, Inc.
 Kodiak Area Native Association
 Mauneluk Association
 The North Pacific Rim
 Tanana Chiefs Conference
 Upper Tanana Development Corp.
 Koyukon Development Corporation
 North Slope Borough
 Nunam Kitlutsisti

RESOURCE PERSONS

Representative Briar Rogers
 Representative Terry Gardiner
 Representative Joe Chuckwuk
 Dave Gray
 Nancy Lord
 Bob Speed
 Dave Hutchins
 Alephe Morris

Alaska State Legislature
 Alaska State Legislature
 Alaska State Legislature
 Legislative Liaison
 Rep. Brian Roger's Office
 Rep. Terry Gardiner's Office
 Alaska Rural Energy Cooperative
 Senator John Sackett's Office

GUESTS

Lois Kaufman
 Mary Lee Jones

Energy Consultant
 Central Council, Tlingit-Haida
 Indians of Alaska

RURAL CAP STAFF

Bob Lchr
 Terry Berman
 Naomi Woloshin

Director, Rural Energy
 Energy Consultant
 Energy Researcher