

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4658 HJUD HB 59 - HB 65

230

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*House Judiciary:*

*2/10/87*

*2/11/87*

# HOUSE COMMITTEE REPORT

Date referred: 2/2/87

FURTHER REFERRALS: Finance

DATE: 2-11-87

The Judiciary Committee has considered HB 59

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

**RECOMMENDS:**

- replace with CS 17359 (Jud)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

[Signature]  
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**SIGNING OTHER RECOMMENDATIONS:**

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[Signature]  
 Chairman's signature

Original sponsors: Davis and Koponen

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 59 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

1 participate in efforts to clean up and recycle litter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 not exceed \$50.

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

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

7 \* Sec. 7. Section 5, ch. 149, SLA 1930, as amended by sec. 9, ch. .64,  
8 SLA 1924, is repealed.

9 \* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).  
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HB 59  
. Amendment #2 - by Davis

Page 1, Line 10: Replace 'may' with 'shall'.

This amendment would strengthen the litter reduction and recycling program, while not resulting in any additional costs to the department.

2/27/87

Proposed amendment to HB 59 - Litter Recycling & Reduction

1. AS 46.06.080(c) is repealed and reenacted to read:

(c) A person who violates (a) of this section is guilty of a violation and shall be issued a citation as provided in AS 12.25.180.

(1) A person cited for a violation under this section may, within 15 days after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed by the enforcement officer

(A) a fine of \$ --; and

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

(2) When a fine has been paid under (1) of this section, a judgment of conviction shall be entered. Payment of the fine is a complete satisfaction for the violation.

(3) If the person cited fails to pay the fine or to appear in court as required, the citation is considered a summons for a failure to obey a citation under AS 12.25.230 and the court may issue a bench warrant.

(4) Notwithstanding other provisions of law, if a person cited for a violation for which a fine has been established under (1) of this section appears in court and is found guilty, the penalty that is imposed for the offense may not exceed \$ --.

2. A new subsection (d) is added to read:

(d) A person who violates (b) of this section is guilty of a violation and may be sentenced to pay a fine of not more than \$1,000. In addition, the court may order the person to gather and dispose of litter in an area and for a length of time determined by the court.

3. Sec. 12.25.190(c) is amended to read:

(c) The person cited for the crime shall give a written promise to appear in court by signing at least one copy of the written citation prepared by the peace officer and the officer shall deliver a copy of the citation to the person. The written promise requirement of this subsection does not apply to motor vehicle and traffic citations under AS 28.05.151, fish and game citations for which a bail schedule has been established under AS 16.05.165, citations issued under AS 18.35.341, [AND] citations issued in state park and recreational facilities under AS 41.21.960, and citations issued under AS 46.06.080(c).

BILL SHEFFIELD, GOVERNOR

REPLY TO

**DEPARTMENT OF LAW**

CRIMINAL DIVISION

- CRIMINAL DIVISION CENTRAL OFFICE  
POUCH KC  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3428
- OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (307) 279-7424

October 29, 1986

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

Re: Littering - AS 46.06.080

Dear Representative Pourchot:

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

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

Representative Pourchot

October 29, 1986

Page -2-

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

Very truly yours,

HAROLD M. BROWN  
ATTORNEY GENERAL

By: Genelle Massey  
Genelle Massey  
Special Assistant

GM:ab-29

HB 31

STEVE COWPER, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

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

January 3, 1987

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

Dear Representative Pourchot:

Thank you for your letter of December 9, 1986.

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

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

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

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

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

January 8, 1987

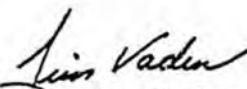
In truth, I believe most, if not all, officers would cite for littering under the aforementioned regulations. However, they do not like to sort through garbage alongside the road in an attempt to identify the depositor. It is also questionable if the district attorneys would prosecute these circumstantial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

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

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

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

Sincerely,

  
James D. Vaden  
Deputy Commissioner

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

November 25, 1986

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

TO: Representative Pat Pourchot

FROM: Edward H. Hein *EH*  
Legislative Counsel

You are correct that littering is prohibited under AS 46.06.080, and that AS 46.06 is repealed, effective July 1, 1987. In the event that AS 46.06 is allowed to terminate, there are other statutes under which littering might be prosecuted, but that depends on how we define "litter."

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

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

Representative Pourchot  
Page 2  
November 25, 1986

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

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

EHH:mkr  
m7/033



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE  
STAFF COUNSEL

303 K Street  
Anchorage, Alaska 99501

(907) 264-8228

December 2, 1986

Jeannie Larson  
c/o Representative Pat Pourchot  
Box 104826  
Anchorage, Alaska 99510

Dear Jeannie:

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

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

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

Using AS 16.05.160 as a model, I then drafted new language which would establish a fine rather than a bail schedule method of processing these payments. This process would apply to AS 46.06.080 only; other violations would require a court appearance.

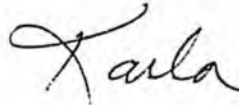
Some of the questions I am sure you will want to address include whether you want to retain the existing anti-littering language or draft new language, whether the \$25.00 fine is appropriate, and whether all violations of the chapter should be processed this way. You may want to solicit the views of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

Jeannie Larson  
December 2, 1986  
Page Two

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

Please let me know if you have any questions.

Sincerely,



Karla L. Forsythe  
Staff Counsel

KLF:bs

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

11/25/86-7

By: Davis

A M E N D M E N T

Offered in the HOUSE

TO: HB 59

Page 1, after line 8:

Insert a new bill section to read:

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

(c) The person cited for the crime shall give a written promise to appear in court by signing at least one copy of the written citation prepared by the peace officer and the officer shall deliver a copy of the citation to the person. The written promise requirement of this subsection does not apply to motor vehicle and traffic citations under AS 28.05.151, fish and game citations for which a bail schedule has been established under AS 16.05.165, citations issued under AS 18.35.341, [AND] citations issued in state park and recreational facilities under AS 41.21.960, and littering citations issued under AS 46.06.080."

Renumber remaining bill sections accordingly.

Page 2, after line 28:

Insert a new bill section to read:

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

(d) A peace officer shall issue a citation as provided in AS 12.25.180 to a person who violates this section. If a citation is

for a minor littering violation, then the person to whom the citation is issued may, within 15 days, mail or personally deliver to the clerk of the court in which the citation is filed

(1) a fine of \$50; and

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

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

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

(g) Notwithstanding <sup>any</sup> other provisions of law, if a person cited for a minor littering violation under this section appears in court and is found guilty, the penalty that is imposed for the violation may not exceed \$50.

(h) In this section "a minor littering violation" means a violation of (a) or (b) of this section involving litter having an aggregate weight of five pounds or less."

Renumber remaining bill sections accordingly.

## STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 59  
 Title: Relating to recycling and reduction of litter  
 Sponsor: Reps. Davis & Koponen  
 Requestor: House Judiciary  
 Date of Request: 2/5/87

**FISCAL DETAIL**

Agency Affected: Alaska Court System  
 BRU: Trial Courts  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

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

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS :**

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

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

The fiscal impact of this bill depends upon the level of anticipated enforcement. Since the Department of Environmental Conservation does not anticipate increased enforcement, there is no fiscal impact at this time.

Prepared by: Karla Forsythe  
 Division: General Counsel, Alaska Court System

Phone: 264-8228  
 Date: 2/6/87

Approved by Commissioner: Stephanie Cole for Art Jankin  
 Agency: Alaska Court System

Date: 2-6-87

**Distribution (by Agency preparing fiscal note):**

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

Rule 8. Minor Offenses.

(a) Scope, Purpose and Construction. This rule governs the procedure in cases involving minor offenses. It is intended to provide for the just determination of these cases and to that effect shall be construed to secure simplicity and uniformity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

(b) Minor Offenses. As used in this rule, "minor offenses" means

(1) an offense classified by statute as an infraction or a violation; or

(2) any offense for which a bail forfeiture amount has been authorized by statute and established by supreme court order; or

(3) any offense under statute or municipal ordinance for which a conviction cannot result in incarceration, a fine greater than \$300, or the loss of a valuable license.

(c) Complaint and Summons.

(1) The charging document for a minor offense may be in the form of a citation. If a citation is used, it shall state that the defendant is entitled to a trial, to engage counsel, to confront and question witnesses, to testify and to subpoena witnesses in the defendant's behalf. The citation shall further indicate whether a court appearance is mandatory or can be waived, shall state the bail forfeiture amount if the appearance can be waived, the procedure the defendant must follow in responding to the citation, and the consequences of a failure to respond. A citation for a fish and game offense shall further state that all seized equipment will be forfeited if the appearance is waived.

(2) An offense for which a bail forfeiture amount has been established shall be charged on a citation and shall not be filed, numbered or processed as a criminal case.

(d) Disposition Without Court Appearance.

(1) A person charged with a minor offense for which a bail forfeiture amount has been established in a bail forfeiture schedule adopted by supreme court order may within the time period stated on the citation mail or deliver to the court location listed on the citation the amount of bail indicated in the schedule for that offense, together with either:

(A) a signed waiver of the right to appear for arraignment, plea of no contest and a direction to forfeit the bail in lieu of a fine; or

(B) a signed waiver of the right to appear for arraignment, plea of not guilty and a request for trial.

(2) A person who mails or delivers an unsigned waiver of right to appear for arraignment along with the bail forfeiture amount shall be deemed to have entered a plea of no contest unless the person designates otherwise. A person who mails or delivers a plea of not guilty but fails to forward the bail amount is not subject to issuance of a bench warrant unless the person also fails to appear for trial.

(3) When bail has been forfeited under the provisions of paragraph (d)(1) of this rule, the clerk shall enter a judgment of conviction and court proceedings shall thereupon terminate. When trial is requested, the case shall be set on the calendar and notice sent to the parties.

(4) When a person is charged with a minor offense, and the statute, regulation or ordinance provides that the citation shall be dismissed upon providing proof to a law enforcement agency of compliance with the requirements of the state statute, regulation or ordinance, the court shall dismiss the citation upon notification from the agency.

(e) Mandatory Court Appearance. Any person charged with a minor offense:

(1) for which no bail forfeiture amount has been established in a bail forfeiture schedule; or

(2) who has not waived appearance and entered a plea under paragraph (d) of this rule; or

(3) who has failed to provide proof of compliance to a law enforcement agency under a statute, regulation or ordinance that permits dismissal of the citation upon a showing of compliance, shall appear for arraignment at the time and place designated on the citation. A person under 18 years of age at the time of the offense must be accompanied by a parent, guardian or legal custodian. Arraignment shall be conducted in accordance with District Court Criminal Rule 1. The defendant shall be admitted to bail in accordance with AS 12.30.020 without regard to the bail amounts established in the applicable bail forfeiture schedule and with preference to release on the

person's own recognizance. A defendant shall not be incarcerated solely for inability to post a bail amount which may be established.

(f) Disposition of Records of Conviction. Notice of conviction will be transmitted to the following agencies:

(1) In the case of a motor vehicle offense, the conviction will be transmitted to the Department of Public Safety, division of motor vehicles, to become a part of the defendant's driving record and for the department to assess points pursuant to statute and regulation.

(2) In the case of a fish and game violation the conviction will be transmitted to the Department of Public Safety, fish and wildlife division, for the department to determine whether it has a basis for petitioning for license revocation.

(3) In the case of a smoking violation the conviction will be transmitted to the Department of Environmental Conservation, division of environmental health.

(g) Failure to Respond to Citation, Complaint or Summons.

(1) A defendant who fails to respond to a citation within the time period stated is subject to arrest on a bench warrant, without issuance of a summons or other notice. The bench warrant shall be signed by a judicial officer, and shall state that the defendant has failed to respond to the citation. A defendant who is served with a bench warrant under this subsection and cannot post bail shall be brought before a judicial officer

(i) immediately, if the defendant will be taken to the court which issued the warrant;

(ii) without unnecessary delay within a period not to exceed twenty-four hours after arrest on the warrant if the defendant will be taken before a court other than the court which issued the bench warrant.

(2) The court in its discretion may issue a summons or other notice to a defendant before issuing a bench warrant for the defendant's arrest. If the court has issued a summons or other notice to the defendant prior to issuance of the bench warrant, and the person has failed to respond to the summons or notice and is arrested on a subsequent bench warrant, the person shall be taken before a judicial officer without unnecessary delay within a period not to exceed twenty-four hours after arrest on the warrant.

District Court Criminal Rules

(h) Longevity of Warrants. After a period of two years the presiding judge for a judicial district may, upon the request of a clerk of court and after notice to the agency which issued the citation, order that warrants for minor offenses which have been outstanding for two years or more shall be quashed and the cases closed statistically.

(i) A municipal corporation or the State of Alaska may be represented by an employee for the prosecution of minor offenses under this rule, AS 22.20.040 notwithstanding. However, the employee is limited to giving testimony and may not examine witnesses, make opening and closing arguments, or otherwise act as an attorney. (Added by Supreme Court Order 649 effective July 1, 1985; amended by Supreme Court Order 671 effective June 15, 1986; and by Supreme Court Order 751 effective September 11, 1986)





Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE  
STAFF COUNSEL

303 K Street  
Anchorage, Alaska 99501

(907) 264-0228

February 9, 1987

Representative John Sund  
Chair, House Judiciary Committee  
P. O. Box V  
Juneau, Alaska 99811

Dear Representative Sund:

You asked the Alaska Court System to provide comments regarding House Bill 59, an act relating to the recycling and reduction of litter and providing for an effective date.

The impact on the Alaska Court System from this legislation would result from enforcement under Section 3, which amends AS 46.06.080(c) to provide that an anti-littering offense is a violation subject to a fine of not more than \$1,000 rather than a Class B misdemeanor. It is the understanding of the court system that this change is intended to increase the potential for enforcement of these violations.

Under AS 11.81.900(56), a violation is defined as a non-criminal offense punishable only by a fine, but not by imprisonment or other penalty. Conviction of a violation does not give rise to any disability based on conviction of a crime, and a person charged with a violation is not entitled to a jury trial or to have counsel appointed at public expense. Additionally, under District Court Criminal Rule 8(i) (copy attached), a violation can be prosecuted by an employee of the State of Alaska rather than a prosecutor (although the employee is limited to giving testimony and may not examine witnesses, make opening and closing arguments, or otherwise act as an attorney). Thus, fewer resources are required to process a violation because the State of Alaska does not have to fund a prosecutor, a public defender or a jury, as it would for a misdemeanor. However, the defendant still must appear in court to plead guilty.

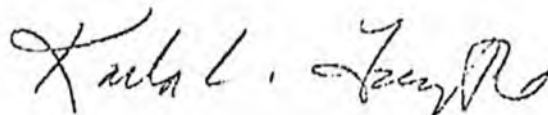
Representative John Sund  
February 9, 1987  
Page Two

Some minor offenses, such as traffic infractions, are processed in a manner which also decreases court time. Under AS 28.05.151, the Legislature has delegated to the Supreme Court the authority to determine which traffic offenses can be disposed of by a mail-in bail forfeiture rather than a court appearance. If a defendant pleads no contest and mails in the bail amount, a court appearance is not required. The citing officer does not have discretion to decide between a bail forfeiture and a court appearance.

Although classifying this offense as a violation rather than a misdemeanor should decrease the expenditure of state resources to prosecute each offense, more judicial resources will be required than under a mail-in payment procedure. However, because the Department of Environmental Conservation anticipates no increase in enforcement, it appears that this measure will not have a fiscal impact on the courts. Any enforcement increase which reasonably could be projected could be absorbed without new resources.

I hope this information is helpful to the committee. Thank you for the opportunity to provide comments.

Sincerely,



Karla L. Forsythe  
Staff Counsel

KLF:bs

Att.

cc: Representative Mike Davis  
Representative Nillo Koponen  
Arthur H. Snowden, II, Administrative Director

2/9/87-2

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version: HR 59

Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_

Agency Affected: DEC

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

BRU: Environmental Quality

Sponsor: Representative Mike Davis

Components: Regional Offices

Requestor: House Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

TOTAL						
-------	--	--	--	--	--	--

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Randy Bavliiss

Phone: 465-2600

Division: Office of the Commissioner

Date: January 30, 1987

Approved by Commissioner: Dennis D. Kelso

Date: January 30, 1987

Agency: Environmental Conservation

Distribution (by preparer):

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

Rep. Mike Davis  
February 1, 1987

Sectional Analysis of HB 59

An Act Relating to the Recycling and Reduction of Litter

Sec. 1. AS 46.06.010 is rewritten to eliminate redundant language, and to incorporate the provisions of AS 46.06.040. The department may, rather than must, act upon the provisions of this section.

Sec. 2. AS 46.06.060 is amended to provide that the Department of Environmental Conservation and the Department of Public Safety may, rather than must, provide litter bags to the public.

Sec. 3. The penalty for littering is reduced from a Class B misdemeanor to a violation, and prison terms for littering are eliminated.

Sec. 4. The following sections are repealed:

AS 46.06.020, which requires an annual report.

AS 46.06.030, which establishes an advisory council.

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

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

Sec. 5. All sunset provisions in AS 46.06 are repealed.

Sec. 6. Immediate effective date.

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION

### POSITION PAPER

Bill No: HB 59

Date: January 30, 1987

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

Contact: Randy Bayliss  
465-2600

### Department's Position

We support the bill.


### Effect of the Bill

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

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

### Impact on the Agency

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



Dennis D. Kelso  
Commissioner

HOUSE COMMITTEE REPORT

(9)

Date referred: 1/20/87

FURTHER REFERRALS: Judiciary  
Finance

DATE: 2/2/87

The Resources Committee has considered HB 59

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

RECOMMENDS:

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS:  \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Adelheid Herrmann  
 Cliff Davidson  
 Bill Pearce  
 Mike Spavane  
 James R. Galt

Dick Shultz (No Rec)  
 Lynn Hyatt (No Pass)  
 James R. Galt  
 Chairman's signature

# BEAUTIFICATION AND LITTER CONTROL COMMITTEE

First National Center  
100 Cushman Street

Greater Fairbanks Chamber of Commerce

(907) 458-1108

P.O. Box 74446  
Fairbanks, Alaska 99707

January 29, 1987

Representative Mike Davis  
Pouch V  
Juneau, AK 99811

Mail Stop 3100

Dear Rep. Davis:

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

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

Sincerely,

*Art Buswell*  
Art Buswell  
Co-Chairman

*Heather Stockard*  
Heather Stockard  
Co-Chairman

# ★ Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

907/452-4761

January 30, 1987

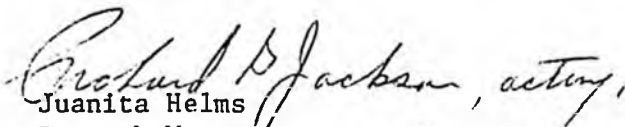
Representative Mike Davis  
Pouch V  
Juneau, Alaska 99811

Mail Stop 3100

Dear Representative Davis:

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

Sincerely,

  
Juanita Helms  
Borough Mayor

JH/HTS/mnb



# Alaska State Legislature

Representative Mike Davis

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

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

## MEMORANDUM

To: All Interested Persons

From: Rep. Mike Davis

Date: January 30, 1987

Re: HB 59; An Act Relating to the Recycling and Reduction of Litter.

---

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

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

HB 59 would reduce the penalty for littering from a misdemeanor to a violation in order to eliminate court costs, and a prison term would be eliminated as a penalty for littering. The bill would also repeal the sunset provision of the program.

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

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

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

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



August 5, 1985

The Honorable Mike Davis  
House of Representatives  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, AK 98111

Dear Representative Davis:

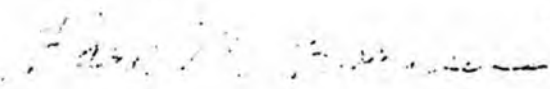
It has come to the attention of the Fairbanks Convention and Visitors Bureau that your office is seeking legislative support for litter reduction via a financial appropriation. The F.C.V.B. supports funding for litter reduction and control at the legislative level.

Litter drastically reduces the aesthetic value of an area, resulting in a bad impression of a place by all who pass by. This affects visitors as well as residents. While litter control is not directly related to the visitor industry per se, it does have an impact on visitors, as it does all people.

Litter control has a positive effect on a community. Visitors view a clean community as a nice place to visit, and residents see it as a good place to live.

Funding at the legislative level is appropriate for litter reduction and control as it affects all Alaskans and the people who visit our state. The Fairbanks Convention and Visitors Bureau supports funding at the legislative level.

Sincerely,

  
Kari M. Kornfeind  
Director of Tourism

KMK/bap

**Fifth Annual Report**

**May 1985**

**ALASKA  
LITTER REDUCTION  
AND  
RESOURCE RECOVERY  
PROGRAM**

**BILL SHEFFIELD**

**Governor**

**State of Alaska**

**BILL ROSS**

**Commissioner**

**Department of Environmental Conservation**

**Pouch O, Juneau, Alaska 99811**



## INTRODUCTION

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

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

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

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

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

## LITTER REDUCTION

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

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

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

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

Table I  
1984 Spring Cleanups

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

### Youth Litter Patrols

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

Table II

#### Youth Litter Patrols

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

Fairbanks, a star in the youth litter program, had an impressive 20 patrols in 1984, up from 4 patrols in 1983. The patrols worked for 13 weeks cleaning up 400 miles of roadways and over 3,300 bags of litter. This program created 21 full-time seasonal jobs for youths 14-17 years old in the Fairbanks area. The "bottom line" summary of the 1984 Greater Fairbanks litter patrol effort was 8.3 bags of litter abated per mile of roadway cleaned up, at a cost of \$13.90 per bag.

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

Alternative Sentencing and Pretrial Diversion Programs

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

Table III

The Department of Law Pretrial Diversion Program

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

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

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

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

## Volunteer Efforts

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

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

## LITTER PREVENTION

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

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

### Secured Truckloads

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

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

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

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

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

### Community Outreach

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

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

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

Table IV

Community Outreach Services

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

Commodities Distributed

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

Table V

Commodities Distributed

DEC car litter bags	27,550
SOHIO car litter bags	90,800
Cleanup bags	166,100
Milepost posters	123
Fish & Game posters	30
Pins	12,995
Patches	8,981
Receptacle decals	5,669
"Aluminum only" decals	928
Miscellaneous brochures	4,002

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

### Education

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

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

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

### Litter Receptacles

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

# Litter, BEWARE!

With energy and enthusiasm characteristic of Alaskans, a unique mix of private and public efforts sent that message ringing throughout the Tanana Valley in 1984. The result: the cleanest roads, highways and streets in recent memory.

Keeping a town clean is not an easy task, and the Beautification and Litter Control Committee of the Greater Fairbanks Chamber of Commerce recognizes that its work is just beginning. But the seeds of success that were planted in 1984 have begun to sprout. With your help, future rewards will be easier and easier to harvest.

*Following is a synopsis of the committee's major activities in 1984:*



## LITTER PATROL

Using a \$50,000 grant from ALPAR (Alaskans for Litter Prevention and Recycling) and local contributions, a litter patrol composed primarily of youth age 14-17 combed area highways for 10 weeks, and worked on a reduced scale for three additional weeks to close the season on August 31. Approximately 400 miles of road were covered this summer. Patrollers collected 3,300 bags of litter, which amounted to 8.3 bags of litter per mile.

This program received an award as the outstanding youth litter control program in Alaska.



## BEAUTIFICATION

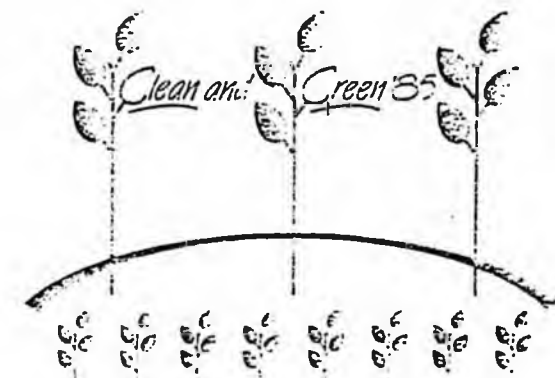
The Beautification Subcommittee recruited volunteers and utilized court referrals to landscape, plant and maintain Golden Heart Park, Park Plaza and numerous downtown flower and tree boxes. Special attention was paid to the banks of the Chena River in the downtown area.

School children and several businesses cooperated in creating, hanging and maintaining 60 banners that were hung at the airport, along Airport Road and the Richardson Highway. The banners carried a warm greeting to all who visited our city.



## EDUCATION

Working primarily through the schools, this subcommittee stressed good citizenship and personal responsibility when using the outdoors. Children were encouraged to participate in the beautification of their school grounds through litter pickup, planting and respect for property.



Beautification and Litter Control Committee  
GREATER FAIRBANKS CHAMBER OF COMMERCE



## ENFORCEMENT

Working closely with the District Court, the Fairbanks North Star Borough's Environmental Services Division supervised the community service work required of litter offenders and those who had committed other minor offenses. The 53 individuals assigned to this program performed 1,001 hours of work, which consisted of litter pickup and beautification. Enforcement efforts will be expanded next year to solicit the cooperation of construction companies, garbage haulers and major businesses in keeping litter off the streets and highways.



## SPRING CLEANUP

Our most visible effort, this subcommittee really earned its stripes in 1984. Faced with the visit of the Pope and the President just 10 days before the traditional spring cleanup, the committee recruited volunteers who made Airport Road, Chena Pump Road, University Avenue, Geist Road and College Road spotless. Reporters from around the world commented on how clean Fairbanks was.

The traditional Clean Up Day drew 11,000 participants and produced 30,000 bags of rubbish, the largest one-day effort in the history of Alaska. This program received an award from the state as the top volunteer clean up effort in Alaska in 1984.

Clean & Green in '85 Project  
 % Fairbanks Chamber of Commerce  
 P.O. Box 74446  
 Fairbanks, AK 99707



**HOW CAN YOU HELP?**

A community-based litter control and beautification program must have broad support. Your assistance is urgently needed in the following areas:

**Financial support.**

Private sector donations represent a large part of the budget required to successfully operate this program. If you can, please give generously. Major contributors will be recognized by having their names displayed on safety bibs worn by litter patrol members.

**Take pride**

in your own home and business. Keep your sidewalk and storefront neat and clean. Add flowers. Call us for ideas.

**Bend over.**

If you see some litter or trash, stop to pick it up. If everyone did this, we wouldn't need a committee like ours.

**Sweat equity.**

Lend a hand on some sunny afternoon. Join the committee. Donate your time. Get involved!

**Report offenders.**

If you see someone toss litter out of their car or truck, or if garbage blows off a truck enroute to the landfill, call the Troopers or the city police.

For further information, call 452-1105.



**GREATER FAIRBANKS CHAMBER OF COMMERCE**

Yes! I want to help keep Fairbanks clean and beautiful.

- I will sponsor a litter patrol member for:  
 1 day (\$50)       1 week (\$250)       1 month (\$1,000)\*
- I like the work you are doing. Here is my donation of \_\_\_\_\_
- I cannot give money, but will volunteer my time.  
 Please call me at \_\_\_\_\_ (day phone).
- You can count on me. I pledge to keep my home and/or business clean and beautiful in 1985.
- I have \_\_\_\_\_ tools \_\_\_\_\_ equipment \_\_\_\_\_ a vehicle that I will loan to the committee to help it achieve its goals.

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/2/87

FURTHER REFERRALS: Finance

DATE: 2-11-87

The Judiciary Committee has considered HB 59

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

**RECOMMENDS:**

- replace with CS HB 59 (Jud)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]  
Chairman's signature

H B

h b

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*House Judiciary:*

*2/16/87*

*2/19/87*

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

Bill Version: HB 61  
Publish Date: \_\_\_\_\_

**REQUEST:**  
Revision Date: February 5, 1987  
Title: Permits for Use of Mental Health Land  
Sponsor: Representative Sund  
Requestor: House Resources

Agency Affected: Natural Resources  
BRU: Land and Water Management  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

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

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by: Tom Hawkins  
Division: Land and Water Management  
Approved by Commissioner: Mina D Arnold Degette  
Agency: Natural Resources

Phone: 465-2400  
Date: February 5, 1987  
Date: 2/6/87

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

JOHN SUND, REPRESENTATIVE

2504 2nd Avenue  
Ketchikan, Alaska 99901  
(907) 225-5552

---

While in Juneau  
P. O. Box V  
Juneau, Alaska 99811  
(907) 465-4919

February 11, 1987

MEMORANDUM

TO: House Judiciary Committee

FROM: Representative John Sund

RE: CSHB61 (Resources) "An Act relating to the renewal of permits or contracts for the use of mental health land of the state; and providing for an effective date."

.....

The renewal of permits or contracts on mental health lands is becoming a serious problem due to policies adopted by the Department of Natural Resources, the attorneys for the plaintiffs and interveners in the Weis lawsuit, and the Mental Health Review Commission.

A contractor in my district received a letter from DNR requesting an application for permit renewal on 11/13/86. He reapplied to DNR within the week, and his application was passed along to the attorneys for the plaintiffs and interveners. Under Department order, the attorneys are allowed 30-60 days to review each permit before it can be reviewed by the Commission.

In this case the permit expired on 1/7/87 while under review and it wasn't scheduled to go before the Mental Health Review Commission until 1/23/87. In the meantime the contractor couldn't operate and was facing possible bankruptcy. Attorneys had requested a thirty day extension to appraise resource value, even though DNR and the Commission had each appraised the permit within the last year.

Under Sec. 2. (g) of this bill, If a person files a timely application for the renewal of a permit for the use of mental health land of the state and the commission fails to reject it before the termination of the permit, the commissioner may extend the permit until the commission has acted on the application for the renewal.

# STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801  
PHONE: (907) 465-2400

February 5, 1987

The Honorable Sam Cotten  
The Honorable Adleheid Herrmann  
Co-Chairs, House Resources Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

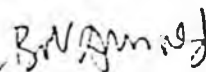
Dear Representatives Cotten and Herrmann:

Subject: HB 61, which provides for the extension of permits until the Mental Health Commission has had the opportunity to determine that such action is consistent with the terms of the trust established by the Alaska Mental Health Enabling Act.

Response: The department supports this legislation. It provides a more orderly process for conducting business on mental health lands. Additionally, we think its coverage should be expanded to include other actions provided in AS 38.05.850 and 38.05.110.

Commentary: The meeting schedule of the Mental Health Commission does not always coincide with the termination date of permits and other land use authorizations. Thus a gravel sale contract, for instance, could be terminated before the commission was able to consider its consistency with trust purposes and approve its extension. The bill would remedy this problem.

Sincerely,

  
Judith M. Brady  
Commissioner

cc: Committee Members  
Governor's Legislative Liaison

AMENDMENT

Amendment #1  
Adopted

BY: SUND

Offered in the House Judiciary Committee  
TO: CSHB 61(Resources)

Page 1, line 24:  
Delete "renewal" insert "reissuance"

Page 1, line 29:  
Delete "renewal" insert "reissuance"

Page 2, line 4  
Delete "renewal" insert "reissuance"

Introduced: 1/22/87  
Referred: Resources and  
Judiciary

1 IN THE HOUSE

BY SUND

2

HOUSE BILL NO. 61

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the renewal of permits for the  
7 use of mental health land of the state; and providing  
8 for an effective date."

9

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

10

\* Section 1. Section 2(d), ch. 132, SLA 1986, is amended to read:

11

(d) The commissioner of natural resources is responsible for the  
12 management of the mental health land of the state as a public trust  
13 under P.L. 84-830, 70 Stat. 709. Except as provided in [(e) OF] this  
14 section, the commissioner of natural resources may not sell, lease, or  
15 exchange mental health trust land of the state or an interest in the  
16 mental health trust land of the state without the prior approval of  
17 the commission. In reviewing a proposal for the sale, lease, or ex-  
18 change of mental health trust land from the commissioner of natural  
19 resources, the commission may approve the proposal of the commissioner  
20 on its determination that the proposal is consistent with the terms of  
21 the trust established by the Alaska Mental Health Enabling Act.

22

\* Sec. 2. Section 2, ch. 132, SLA 1986, is amended by adding a new  
23 subsection to read:

24

(g) If a person files a timely application for the <sup>renewal</sup> of a  
25 permit for the use of mental health land of the state and the commis-  
26 sion fails to reject it before the termination of the permit, the  
27 commissioner may extend the permit until the commission has acted on  
28 the application for the renewal.

29

\* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

HB0061A

HB 61

*or contract*  
-1-  
38.05.110  
38.05.850

H

B

6

4

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*House Judiciary:*

*2/24/87*

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-5000

February 6, 1987

Honorable Lyman Hoffman  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Re: HB 64 -- relating to alcohol

Dear Representative Hoffman:

Your staff inquired by telephone last week about our position on HB 64. The bill elevates the crime of selling alcoholic beverages in an area which has exercised its local option to prohibit such sales to a class C felony in every instance. Currently, that crime is a class A misdemeanor under AS 04.16.-200(b) unless it is a repeat offense, involves sale to a minor, or involves a large sale. In those instances it is already a class C felony under AS 04.16.200(a).

We are concerned that elevating these offenses will have a fiscal impact on both the Department of Law and the Department of Corrections and will make prosecution of these crimes more difficult. In general, the administration opposes increasing the number of people charged with felony crimes.


However, if HB 64 is pursued, we suggest that the relationship between AS 04.16.200(a) and (b) be clarified by adding cross-referencing language to either or both subsections.

Thank you for the invitation to comment on this bill. Let us know if we can provide anything further.

Sincerely yours,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By:

  
Peter B. Froehlich

Assistant Attorney General

PBF/pjg

Honorable Lyman Hoffman  
Alaska State Legislature  
Re: HB 64 -- alcohol

February 6, 1987  
Page #2

cc: Bob Evans  
Acting Legislative Liaison  
Office of the Governor

B.J. Jordan  
Legal Text Editor  
Department of Law

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



REPORT TO THE LEGISLATURE  
JOINT SPECIAL COMMITTEE ON LOCAL OPTION LAWS

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

---

EXECUTIVE SUMMARY

---

March 1986

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

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

EXECUTIVE SUMMARY

Introduction

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

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

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

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

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

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

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

#### History of Alcohol Regulation in Alaska

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

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

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

#### Studies of Alaska's Local Option Law

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

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

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

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

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

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

#### The 1985 Local Option Hearings

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

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

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

#### The Social Costs of Alcohol Abuse

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

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

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

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

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

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

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

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

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

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

#### Legal Issues Presented by Proposal to Ban Alcohol

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

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

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

#### Committee Findings

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Committee Conclusions

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

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

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

# STATE OF ALASKA

LYMAN F. HOFFMAN  
REPRESENTATIVE



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

## HOUSE OF REPRESENTATIVES

DISTRICT 25  
AKJACHAK  
AKIAK  
ATMAUTLUAK  
BETHEL  
CHEFORNAK  
EEK  
GOODNEY BAY  
KASIGLUK  
KIPNUK  
KONGIGANAK  
KWETHLUK  
KWIGILLINGOK  
MEKORYUK  
NAPAKIAK  
NAPASKIAK  
NEWTOK  
NIGHTMUTE  
NUNAPITCHUK  
OSCARVILLE  
PLATINUM  
QUINHAGAK  
TOKSOOK BAY  
TUNTUTLIAK  
TUNUNAK

### MEMORANDUM

TO: Representative Fran Ulmer, Chairperson  
FROM: Representative Lyman Hoffman *Lyman Hoffman*  
DATE: February 10, 1987  
SUBJ: HB 64 "An Act relating to alcohol"

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

SECTIONAL ANALYSIS - HOUSE BILL 64

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

\*Section 1. AS 04.16.200(b) is repealed and reenacted to provide that a person who manufactures, sells, offers for sale, possesses for sale or barter, traffics in, or barter an alcoholic beverage, in an area where the results of a local option election prohibits this, will result in a class "C" felony action against a first offender.

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/13/87

FURTHER REFERRALS: Finance

DATE: 2-24-87

The Judiciary Committee has considered HB 64

"An Act relating to alcohol."

**RECOMMENDS:**

- replace with CSHB 64 (Judiciary)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published 2-13-87
- zero with analysis

**SIGNING DO PASS:**

\_\_\_\_\_

*W. W. Warner*

*W. W. Warner*

*W. W. Warner*

*W. W. Warner*

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\_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*W. W. Warner*

Chairman's signature

Original sponsor: Hoffman

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 64 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

1 (a) Except as provided under (b) of this section, a [A] person  
2 who violates AS 04.11.010 is, upon conviction, guilty of a class A  
3 misdemeanor.

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

5 (b) A person who violates AS 04.11.010 in an area where the  
6 results of a local option election have, under AS 04.11.490 - 04.11.-  
7 500, prohibited the board from issuing, renewing, or transferring one  
8 or more types of licenses or permits under this title in the area is,  
9 upon conviction, guilty of a class C felony.

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

The outcome in one proceeding could not result in the subsequent deprivation of rights that had not been litigated or subject to deprivation in the prior proceeding. Frontier Saloon, Inc. v. ABC Bd., Sup. Ct. Op. No. 1062 (File No. 1984), 524 P.2d 657 (1974).

Sentence under former law affirmed. — See Williams v. State, Sup. Ct. Op. No. 1939 (File No. 4263), 600 P.2d 741 (1979); Hampton v. State, Sup. Ct. Op. No. 2283 (File No. 4711), 623 P.2d 318 (1981). Cited in M.O.W. v. State, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982).

Collateral references. — 45 Am. Jur. 2d, Intoxicating Liquors, §§ 416-426. 48 C.J.S., Intoxicating Liquors, §§ 289-296.

Right of one charged with unlawful sale of intoxicating liquor to be informed of name or identity of purchaser before trial. 5 ALR 409.

Criminal responsibility of purchaser of liquor sold in violation of law. 5 ALR 786; 74 ALR 1110; 131 ALR 1322.

Revocation of license in exercise of police power. 124 ALR 541.

Revocation of liquor license of one person as ground for refusal of license to another. 153 ALR 836.

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

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

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

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

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

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

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

Title 3  
Agriculture and Animals

Title 4  
Alcoholic Beverages

Title 1  
General Provisions

Title 2  
Aeronautics

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

STEVE COWPER, GOVERNOR

REPLY TO

- CRIMINAL DIVISION CENTRAL OFFICE  
POUCH KC  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3428
- OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

February 24, 1987

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

Re: Average sentences in bootlegging cases

Dear Representative Hoffman:

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

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

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

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

Very truly yours,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By: 

Dean J. Guaneli  
Assistant Attorney General

DJG:so-78

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version: HB 64  
Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: "An Act relating to alcohol."

Agency Affected: Department of Law  
BRU: Prosecution

Sponsor: Repr. Hoffman  
Requestor: Repr. Hoffman

Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director

Phone: 465-3672

Division: Administrative Services

Date: Feb. 4, 1987

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

Date: Feb. 4, 1987

Distribution (by preparer):

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 64

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

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

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

C FELONY → CORRECTIONS!

→

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: House Bill 64  
Publish Date: \_\_\_\_\_

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: "An act relating to alcohol"

Agency Affected: Department of Corrections  
BRU: \_\_\_\_\_

Sponsor: Representative Hoffman  
Requestor: Representative Hoffman

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

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

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

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

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

Date: 01/26/87

Distribution (by preparer):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUES: \_\_\_\_\_

Bill Version: HB 64  
Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act relating to Alcohol

Agency Affected: ABC Board  
BRU: ABC

Sponsor: Hoffman  
Requestor: \_\_\_\_\_

Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

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

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

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

Date: 2/10/87

Distribution (by Agency preparing fiscal note):

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

H

B

65

SECTIONAL ANALYSIS - HOUSE BILL 65

For an Act entitled: "An Act relating to dissolution of a municipality."

Under current law the Local Boundry Commission cannot allow the dissolution of a community. Under HB 65 it is the intent that if a community approves dissolution in an advisory election then preceeds through the dissolution process; then the Local Boundry Commission may grant dissolution.

\*Section 1. AS 29.06.470(a) is amended to allow for a community to decide by advisory election if dissolution is what the community desires.

\*Section 2. AS 29.06.520 is repealed and reenacted to clarify the distribution process if dissolution is approved.

Sec. 29.06.500. Decision. (a) If the Local Boundary Commission determines that a municipality fails to meet the standards for dissolution, it shall reject the petition. If the commission determines that the municipality meets the standards, it shall accept the petition.

(b) A Local Boundary Commission decision under this section may be appealed under the Administrative Procedure Act (AS 44.62). (§ 5 ch 74 SLA 1985)

Sec. 29.06.510. Election. (a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of a dissolution petition. Within 30 days after notification, the director of elections shall order an election in the municipality to determine whether the voters desire dissolution. The election must be held at least 30 and not more than 90 days after the election order. A person who is a voter of the municipality may vote in the dissolution election.

(b) The director of elections shall supervise the election in the general manner prescribed by the Alaska Election Code (AS 15). The state shall pay all election costs.

(c) The director of elections shall certify the election results. If dissolution is approved, the director of elections shall declare that the municipality is dissolved effective on the date of certification. (§ 5 ch 74 SLA 1985)

Sec. 29.06.520. Succession. The government succeeding to a dissolved municipality succeeds to all its rights, powers, duties, assets, and liabilities. (§ 5 ch 74 SLA 1985)

Sec. 29.06.530. Application. AS 29.06.450 — 29.06.530 apply to home rule and general law municipalities. (§ 5 ch 74 SLA 1985)

### Chapter 08. Classification of Municipalities.

*[Repealed, § 44 ch 21 SLA 1985; § 88 ch 74 SLA 1985.]*

### Chapter 10. Home Rule Municipalities.

#### Article

- 1. Charters (§§ 29.10.010 — 29.10.100)
- 2. Home Rule Limitations (§ 29.10.200)

Title 28  
Motor Vehicles

Title 29  
Municipal Government

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 407  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL :

February 2, 1987

Hon. Lyman Hoffman  
Alaska House of Representatives  
P.O. Box V  
Juneau, AK 99811

Re: House Bill 65 -- dissolution  
of a municipality

Dear Representative Hoffman:

Per your request, we have reviewed HB 65 relating to the requirements for dissolution of a municipality under the local option method and providing for the distribution of assets and liabilities of a municipality upon its dissolution.

Section 1. This section is amended by adding a third alternative by which a municipality can qualify its petition to dissolve under the local option method, AS 29.06.470(a). The new subsection, AS 29.06.470(a)(3) reads: "dissolution is approved in an advisory election held on the question by the municipality proposed to be dissolved." The terminology "approved in an advisory election ..." is not defined in this bill. In order for such an election to be useful to the Local Boundary Commission when it considers the adequacy of a municipality's petition for dissolution under AS 29.06.500, we believe that the advisory election alternative in AS 29.06.470(a)(3) should be more definitive.

Section 2. The basic problem in this section arises because it would have public assets of a dissolved municipality distributed to nonpublic entities, i.e., private nonprofit corporations and Native councils organized under the Indian Reorganization Act. Article IX, section 6 of the Alaska Constitution says, "No ... public property shall be transferred, ... except for a public purpose." Article X, section 2 requires all local government power to be vested in cities and boroughs. Both private corporations and IRA councils (whose membership is restricted by federal law to Natives) are not elected by or responsible to the entire electorate. We believe it would be unconstitutional to transfer public assets to private organizations which may not serve as substitute local governments under the Alaska Constitution, and to allow those organizations to make discretionary

Hon. Lyman Hoffman  
Alaska House of Representatives  
Re: HB 65 -- Dissolution of municipality

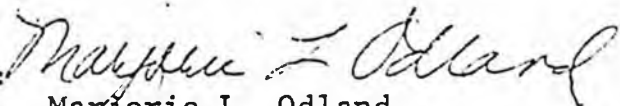
February 2, 1987  
Page #2

decisions about assets which belong to the entire population of the dissolved municipality.

However, occasionally a local nonprofit or Native council may be in the best position to administer local assets, particularly when it has broad support from the community. In such cases, it may be possible to accomplish almost the same and despite the restrictions noted above, through the device of retaining title to the assets -- and ultimate control -- in the state, but contracting with local organization to administer the assets. Such delegations must be subject to strict controls to insure public access to facilities and state oversight, and truly discretionary governmental authority may not be delegated. But day-to-day operation of the former municipality's assets may be turned over to local private entities. We believe this can be accomplished under present law and does not require amending Title 29.

Sincerely yours,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By:   
Marjorie L. Odland  
Assistant Attorney General

MLO/pjg

cc: Rob Evans  
Acting Legislative Liaison  
Office of the Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

February 6, 1987

POSITION PAPER

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4700

549 E. 36TH AVENUE, SUITE 401  
ANCHORAGE, ALASKA 99503  
PHONE: (907) 563-1073

RE: HB 65 -- "An Act relating to dissolution of a municipality."

SPONSOR: Representative Hoffman

Program Effects of Bill:

Section 1 of the bill amends the standards by which the Local Boundary Commission (LBC) judges a petition allowing a municipality to dissolve by adding an advisory election option.

Section 2 of the bill designates to the Local Boundary Commission (LBC) the responsibility to distribute the assets of a dissolved municipality and sets out some general guidelines for this distribution. The designation of the LBC as the executor of a dissolved municipality's assets and liabilities is a new role for this constitutionally mandated body.

Comments:

The creators of the existing statutes pertaining to municipal dissolution apparently only envisioned the need for dissolving municipal government in those cases in which communities essentially ceased to exist (i.e., became ghost towns). Consequently, the existing statutory dissolution standards do not adequately address the situation in which the residents of a "viable" community, presently incorporated as a municipality, choose to dissolve their municipality and return to an unincorporated status. The existing standards which the LBC uses to judge a petition for dissolution are as follows:

1. It (the municipality) is free of debt, or it has satisfied its creditors with a method of repayment; and
2. it no longer meets the minimum standards for incorporation; or
3. it ceases to use its mandatory powers.

Clearly these standards were constructed to apply to the case in which a community's population has moved away and the municipality has ceased to function. With the exception of the debt standard, these standards become quite subjective, ambiguous, and generally strained when applied to the case of a thriving community. It is virtually impossible for a still existing community to satisfy the last two standards.

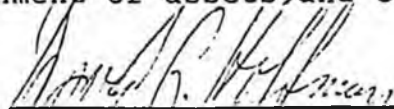
This situation thwarts the will of local residents to determine the type of local organization they will have represent and govern them. The proposed amendment, providing for a local advisory vote as an optional standard for dissolution, creates an objective and easily measured means to determine whether a municipal government should be allowed to dissolve. The Department advocates local control of government to the extent practical and, therefore, supports the purpose and intent of this legislation.

The bill does raise a number of questions concerning the mechanics of implementation. The Department recommends three technical amendments to clarify and strengthen new procedures set out in the bill:

- The Department recommends that the "advisory election" process provided for in this bill be clarified so that it is clear that the election is a municipal election by secret ballot and meets State procedural requirements.
- The Department also recommends the insertion of a requirement that the dissolution advisory vote, and the final vote on the question after LBC approval, be approved by a majority of residents registered to vote (this would require amendment of AS 29.06.510 which pertains to the dissolution election). Dissolution is clearly one of the most critical actions that residents of a municipality can take. It is therefore essential that such an election represent the broadest reasonable measure of community sentiment.
- It is recommended that the bill be amended to clearly state that the LBC shall require, in conjunction with the distribution of municipal assets, that facility use and services provided by such assets be provided equally to all residents and that the trustee of such assets be liable and accountable for the expenditure of public funds.

The Department believes these changes would strengthen the bill by more clearly defining the dissolution process and by making the trustee of local assets more accountable for public funds and services.

The proposed legislation presumes the LBC's ability to "provide for the distribution of assets and liabilities" and "consider the manner in which assets will best be used." However, it is not clear that the LBC has the power to place binding conditions on the assignment of assets, and the provision of services.



David G. Hoffman, Commissioner