

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8642 HOUSE JUDICIARY

1 (f) A person affected by an order issued under AS 16.10.265 - 16.10.296
2 [THIS CHAPTER] may seek equitable relief preventing the commissioner from
3 enforcing the order.

4 * Sec. 16. AS 16.10.294(g) is amended to read:

5 (g) In an action instituted in the superior court by the commissioner or a
6 representative of the commissioner, a person acting in the capacity of a fish processor
7 or primary fish buyer in violation of AS 16.10.265 - 16.10.296 [THIS CHAPTER] may
8 be enjoined from acting as a fish processor or primary fish buyer.

9 * Sec. 17. AS 18.05 is amended by adding a new section to read:

10 Sec. 18.05.061. PENALTY FOR VIOLATION. A person who violates a
11 provision of AS 18.05.040 - 18.05.046 or a regulation adopted under AS 18.05.040 -
12 18.05.046 is guilty of a misdemeanor and, upon conviction, is punishable by a fine of
13 not more than \$500, or by imprisonment for not more than one year. Each day that
14 a person continues a violation is a separate offense.

*return penalty
provision
misdemeanor
removed*

15 * Sec. 18. AS 18.65.705(4) is amended to read:

16 (4) has not been convicted, within the five years immediately preceding
17 the application, of, and is not currently charged under a complaint, information,
18 indictment, or presentment with, any of the following misdemeanor offenses or similar
19 laws of another jurisdiction:

- 20 (A) AS 11.41.230, 11.41.250, 11.41.270;
- 21 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;
- 22 (C) AS 11.51.130;
- 23 (D) AS 11.56.330, 11.56.340, 11.56.850, 11.56.880, 11.56.545,
24 11.56.700, 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800, 11.56.805;
- 25 (E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;
- 26 or
- 27 (F) AS 11.71.050, 11.71.060;

*2nd
unlawful
weapon*
*1st
unlawful
weapon
should have been
here*

28 * Sec. 19. AS 19.40.200(b) is amended to read:

29 (b) The prohibition on disposal of state land under (a) of this section does not
30 apply to a disposal

31 (1) to a licensed public utility or a licensed common carrier under

1 AS 38.05.810(e);

2 (2) for the reauthorization of leases that were in effect on January 1,
3 1994, for nonresidential purposes within the following development nodes:

4 Coldfoot:

5 Township 28 North, Range 12 West, Fairbanks Meridian

6 Sections 9 - 10

7 Sections 15 - 16

8 Yukon River Crossing:

9 Township 13 North, Range 11 West, Fairbanks [UMIAT]

10 Meridian

11 Section 26;

12 (3) for nonresidential development within the following development
13 node:

14 Deadhorse:

15 Township 10 North, Range 14 East, Umiat Meridian

16 Sections 24 - 25

17 Township 10 North, Range 15 East, Umiat Meridian

18 Section 19

19 Section 30; or

20 (4) necessary for

21 (A) an oil and gas lease under AS 38.05.180;

22 (B) exploration, development, production, or transportation of
23 oil and gas north of 68 degrees north latitude; or

24 (C) a state lease or materials sale for

25 (i) exploration, development, production, or
26 transportation of oil and gas;

27 (ii) reconstruction or maintenance of state highways; or

28 (iii) construction or maintenance of airports.

29 * Sec. 20. AS 21.21.230 is amended to read:

30 Sec. 21.21.230. SAVINGS AND LOAN. To the extent that the account is
31 insured by the Federal Deposit Insurance Corporation [FEDERAL SAVINGS AND

1 LOAN INSURANCE CORPORATION], an insurer may invest in share or savings
2 accounts of savings and loan and building and loan associations.

3 * Sec. 21. AS 21.21.600(19) is amended to read:

4 (19) "savings and loan" means an organization organized under the laws
5 of a state that has qualified for the insurance protection provided by the Federal
6 Deposit Insurance Corporation [FEDERAL SAVINGS AND LOAN INSURANCE
7 CORPORATION];

8 * Sec. 22. AS 39.50.020(a) is amended to read:

9 (a) A judicial officer, commissioner, chair or member of a state commission
10 or board specified in AS 39.50.200(b), a person hired or appointed as head or deputy
11 head of, or director of a division within, a department in the executive branch, a
12 person appointed as assistant to the governor, a state investment officer and the state
13 comptroller in the Department of Revenue, and a municipal officer, shall file a
14 statement giving income sources and business interests, under oath and on penalty of
15 perjury, within 30 days after taking office as a public official. Candidates for state
16 elective office other than a candidate who is subject to AS 24.60 shall file such a
17 statement with the director of elections at the time of filing a declaration of candidacy
18 or within 30 days of the filing of a nominating petition, or within 30 days of becoming
19 a candidate by any other means. Candidates for elective municipal office shall file
20 such a statement at the time of filing a nominating petition, declaration of candidacy,
21 or other required filing for the elective municipal office. Refusal or failure to file
22 within the time prescribed shall require that the candidate's filing fees, if any, and
23 filing for office be refused or that a previously accepted filing fee be returned and the
24 candidate's name removed from the filing records. A statement shall also be filed by
25 public officials no later than April 15 or 15 days after the person files a federal income
26 tax return in each following year, whichever comes first. Persons who are [, ON OR
27 AFTER DECEMBER 11, 1974, WERE] members of boards or commissions not named
28 in AS 39.50.200(b) are not required to file financial statements.

29 * Sec. 23. AS 41.09.010(h) is amended to read:

30 (h) Amounts due the permanent fund under AS 37.13.010 shall [MAY] be
31 calculated before the application of a credit extended under (a) of this section.

1 no longer included

*Correct
a typo
proofing
error*

1 * Sec. 24. AS 42.40.750(c) is amended to read:

2 (c) The railroad labor relations agency shall determine who is eligible to vote
3 in an election held under this section and shall adopt regulations [ESTABLISH
4 RULES] governing the election. In an election in which none of the choices on the
5 ballot receives a majority of the votes cast, a runoff election shall be conducted, the
6 ballot providing for selection between the two choices receiving the largest number of
7 valid votes cast in the election. If an organization receives the majority of the votes
8 cast in the election, it shall be certified by the railroad labor relations agency as
9 exclusive representative of all the employees in the bargaining unit. An election may
10 not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid
11 election has been held within the preceding 12 months.

12 * Sec. 25. AS 44.19.155(d) is amended to read:

13 (d) Each member of the council shall select one person to serve as a
14 permanent alternate at meetings of the council. If a member of the council is unable
15 to attend, the member shall advise the alternate who may attend and act in the place
16 of the member. The alternate for a public member appointed [AFTER JULY 9, 1978]
17 under (a)(1) of this section shall, at the time of the alternate's designation and
18 throughout the period of service as a permanent alternate, be the mayor or member of
19 the assembly or council of a municipality within the region from which the permanent
20 member is appointed. The alternate for the director of the office of management and
21 budget, serving under (a)(2)(A) of this section, shall be the director's designee within
22 that office. The alternate for a designated member serving under (a)(2)(B) - (G) of
23 this section shall be a deputy commissioner of the department or the director of a
24 division in the department. The names of alternates shall be filed with the council.

25 * Sec. 26. AS 44.21.501(a)(8) is amended to read:

26 (8) assist the state's bargaining representative [THE DIVISION OF
27 LABOR RELATIONS] in collective bargaining negotiations between the state and
28 employee bargaining organizations to ensure that each collective bargaining agreement
29 negotiated by the state ensures equal employment opportunity;

no longer exists

30 * Sec. 27. AS 44.33.119(6) is amended to read:

31 (6) ensure that the visitors' [VISITORY] experience in the state is and

1 continues to be satisfactory and leads to word-of-mouth advertising and return visits
2 to the state;

3 * Sec. 28. AS 44.62.160(a) is amended to read:

4 (a) The Alaska Administrative Register shall be published quarterly on the first
5 day of the month [, BEGINNING IN A MONTH TO BE DESIGNATED BY THE
6 DEPARTMENT OF LAW, BUT NOT LATER THAN OCTOBER 1969]. All
7 regulations required to be submitted under AS 44.62.040 that are filed by the first day
8 of the month preceding publication shall be published in the register for that quarter.

9 * Sec. 29. AS 46.14.990 is amended by adding new paragraphs to read:

10 (26) "commissioner" means the commissioner of environmental
11 conservation;

12 (27) "department" means the Department of Environmental
13 Conservation.

14 * Sec. 30. AS 47.10.080(b)(6) is amended to read:

15 (6) in addition to an order under (1) - (5) of this subsection, if the
16 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or
17 11.71.040(a)(4), order the minor to perform 50 hours of community service; for
18 purposes of this paragraph, "community service" includes work

19 (A) defined as community service under [ON A PROJECT
20 IDENTIFIED IN] AS 33.30.901; or

21 (B) that, on the recommendation of the city council or
22 traditional village council, would benefit persons within the city or village who
23 are elderly or disabled.

24 * Sec. 31. AS 47.10.097(b) is amended to read:

25 (b) Fingerprint records taken under this section are not subject to
26 AS 47.10.093(a) [AS 47.10.090].

27 * Sec. 32. AS 47.10.490(2) is repealed and reenacted to read:

28 (2) "out-of-home care provider" means an agency or person, other than
29 the child's legal parents, with whom a child who is in the custody of the state under
30 AS 47.10.080(b)(3), (c)(1), or (c)(3), 47.10.142, or 47.10.230(c) is currently placed;
31 in this paragraph, "agency or person" includes a foster parent, a relative other than a

1 parent, a person who has petitioned for adoption of the child, and a residential child
2 care facility;

3 * Sec. 33. AS 18.07.111(12); AS 24.20.075; AS 44.33.122, 44.33.124; AS 44.66.010(a)(8),
4 44.66.010(a)(12), 44.66.010(a)(16); and AS 47.30.500(4) are repealed.

5 * Sec. 34. This Act takes effect immediately under AS 01.10.070(c).

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MEMORANDUM

April 7, 1995

SUBJECT: CSSB 85 (JUD) am
TO: Representative Brian Porter
FROM: Pamela Finley *PF*
Assistant Revisor of Statutes

The following is a sectional analysis for CSSB 85 (JUD) am, the 1995 revisor's bill, which passed the Senate on April 5, 1995 and has been referred to the House Judiciary Committee.

Would you please ask the Chief Clerk to print this memorandum as a supplement to the House Journal so that the public can be aware of the contents of CSSB 85 (JUD) am.

Sections that delete, repeal, or update obsolete provisions: Sections 2, 3, 4, 5, 6, 10, 20, 21, 22, 25, 26, 28, and 33 delete, update, or repeal provisions that have become obsolete either through other legislative action or the passage of time.

Sections that correct errors or oversights: Sections 1, 7, 8, 9, 11, 12, 13, 14, 17, 18, 19, 23, 29, and 31 correct errors or oversights that cannot be corrected editorially.

Sections that improve the form or substance of the law: Sections 15, 16, 24, 27, 30 and 32 propose amendments to improve the form or substance of the statute law of Alaska.

SECTIONAL ANALYSIS

Section 1. AS 04.11.400(d)(1) is a good example of misuse of the word "between," in that it excludes the beginning and ending numbers. This bill section corrects the error by including the beginning and ending numbers.

Sections 2 and 3. These sections delete "as defined in AS 04.21.080(b)" in AS 04.11.498(b) and (c). The definition of "established village" in AS 04.21.080(b) already applies to AS 04.11.498(b) and (c), so the cross-references are superfluous.

Sections 4 and 5. These amendments to AS 05.12.010(a) and (b) reflect the fact that Arctic Winter Games Inc. has changed its name to Arctic Winter Games International Committee.

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Section 6. According to the Division of Banking, the Federal Savings and Loan Insurance Corporation no longer exists; its duties have been assumed by the Federal Deposit Insurance Corporation. Accordingly, the reference to FSLIC is deleted from AS 06.45.060(7)(D).

Section 7. According to the Division of Occupational Licensing, the "National Council for the Certification of Acupuncturists" does not exist; there is, however, a "National Commission for the Certification of Acupuncturists." This bill section amends AS 08.06.030(a)(4) to reflect that fact. The change was requested by the Department of Law.

Sections 8 and 9. According to the Division of Occupational Licensing, the American Association of Naturopathic Physicians does not sponsor, and is not involved in, examinations for certifications. Accordingly, the reference to this organization is deleted in AS 08.45.030 and 08.45.035. This amendment was requested by the Department of Law.

Section 10. According to the Division of Occupational Licensing, the name of the National Council of Engineering Examiners Committee on National Engineering Certification has been changed to the National Council of Examiners for Engineering and Surveying. This bill section makes that change in AS 08.48.191(b).

Section 11. According to the Division of Occupational Licensing, the proper name for the pharmacy association is the "National Association of Boards [not Board] of Pharmacy." The designation is correct in AS 08.80.110(4), but wrong in AS 08.80.120. This bill section amends AS 08.80.120 to correct the name of the association. The amendment was requested by the Department of Law.

Sections 12 and 13. AS 09.38.015(c) and 09.38.500(1) are amended to delete "general law or home rule" before "municipality." All municipalities in the state are general law or home rule municipalities, so the phrase is redundant.

Section 14. AS 13.26.344(l), which relates to powers of attorney, refers to "conclusive or electric-shock therapy." Clearly "conclusive" should be "convulsive", and this bill section makes that change. This corrects an error in ch. 109, SLA 1988.

Sections 15 and 16. AS 16.10.294(f) and (g) relate to legal actions between the commissioner of labor and a fish processor or primary fish buyer. Note that "commissioner" in this section is defined as the commissioner of labor, AS 16.10.296(1), whereas in other parts of AS 16.10 the "commissioner" is either the commissioner of fish and game or the commissioner of commerce and economic development. See AS 16.05.940, AS 16.10.360, and 16.10.560. Therefore the provisions of AS 16.10.294(f) and (g) can apply only to AS 16.10.265 - 16.10.296 because those are the only sections in AS 16.10 that the commissioner of labor can enforce. Accordingly, the reference to "this chapter" (i.e., AS 16.10) is changed to "AS 16.10.265 - 16.10.296".

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Section 17. This section adds a provision that was erroneously repealed by ch. 130, SLA 1992. Chapter 130, SLA 1992 enacted provisions governing the practice of midwifery in AS 08.65, and repealed certain provisions in AS 18.05, most of which dealt with the practice of lay midwifery. AS 18.65.060, however, provided a penalty for violations of **any** provision of AS 18.05 and regulations adopted thereunder (not just those related to lay midwifery), and therefore should not have been repealed. This section reenacts the provisions of former AS 18.65.060, except that the penalty is limited to violations of AS 18.05.040 - 18.05.046 and regulations adopted under those provisions, which include such things as disease control, transportation of dead bodies, voluntary certification of laboratories, and disclosure and confidentiality of information. The Department of Law believes, and I concur, that a misdemeanor is too severe a penalty for violations of other provisions of AS 18.05, e.g., failure of staff to cooperate with the federal government.

Section 18. This bill section adds unlawful evasion in the first degree (AS 11.56.340) to those misdemeanors that disqualify a person from receiving a concealed handgun permit, if the conviction was within the last five years. Unlawful evasion in the second degree (AS 11.56.350), which is a lesser offense, is currently listed as a disqualifying offense. The only difference between AS 11.56.340 and 11.56.350 is that AS 11.56.340 covers those who are charged with or convicted of felonies, whereas the AS 11.56.350 covers those charged with or convicted of misdemeanors. It makes no sense to disqualify a person who fails to return to official detention while charged with a misdemeanor, but not to disqualify a person who fails to return to official detention while charged with a felony. It is true that the person who violates AS 11.56.340 would be disqualified anyway if he or she were convicted of the underlying felony, and it is true that those charged with felonies are unlikely to be on furloughs, which may explain why AS 11.56.340 was omitted from the list. However, to avoid any possibility of an unequitable result, AS 11.56.340 is added to the list in AS 18.65.705(4).

Section 19. This section amends the legal description for the Yukon River Crossing development node on the Dalton Highway by changing the reference in AS 19.40.200(b) from the Umiat Meridian to the Fairbanks Meridian. The Director of the Division of Land requested this change to correct an error in ch. 50, SLA 1994.

Sections 20 and 21. Because the Federal Savings and Loan Insurance Corporation no longer exists, the reference to it in AS 21.21.230 and 21.21.600 (19) is changed to the Federal Deposit Insurance Corporation. See explanation for Section 6.

Section 22. This bill section removes an obsolete reference to December 11, 1974 that appears in AS 39.50.020(a), the subsection that identifies persons required to file financial statements with the Alaska Public Offices Commission.

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Section 23. AS 41.09.010, which governs exploration incentive credits, was enacted by ch. 39, SLA 1994. In a committee substitute, a "shall" in subsection (h) was changed to "may" due to an error in typing and proofing. The committee did not ask for such a change, nor did the drafter make it, but it appeared in the final anyway. This section returns the language to "shall".

Section 24. Executive Order 77 (1990) required the Alaska labor relations agency to act as the railroad labor relations agency. See AS 23.05.370(a)(6). AS 42.40.750(c) requires the railroad labor relations agency to "establish rules," rather than "adopt regulations," although the latter is the normal language used in the Alaska Statutes. "Rules" was probably used because it was closer to terminology used in federal law. Now that the relevant "rules" are to be made by a general state agency (as opposed to one limited to the railroad), the terminology should be changed to reflect that fact. Accordingly, "adopt regulations" is substituted for "establish rules."

Section 25. The section concerns the Alaska Coastal Policy Council. Because the public members serve only two years under AS 44.19.155(b), the reference to July 9, 1978 is obsolete and therefore is deleted.

Section 26. AS 44.21.501(a)(8) requires the office of equal employment opportunity to assist the division of labor relations in collective bargaining negotiations. According to the Department of Administration, the division of labor relations no longer exists. Therefore, "the state's bargaining representative" is substituted for the reference to the division. This change was requested by the Department of Law.

Section 27. AS 44.33.119 sets the purposes of the Alaska Division of Tourism. Since "visitory" does not appear in our dictionary, the reference in paragraph (6) to a "visitory experience" is changed to "the visitors' experience".

Section 28. This bill section removes an obsolete reference to the date that the first Alaska Administrative Register had to be published.

Section 29. This section adds definitions of "commissioner" and "department" for AS 46.14, which concerns air quality and was enacted in ch. 74, SLA 1993. Early drafts of that Act placed the provisions in an area of the Alaska Statutes that already defined "commissioner" as the commissioner of environmental conservation and "department" as the Department of Environmental Conservation, so additional definitions were not needed. When the provisions were renumbered as the bill made its way through the legislature, we failed to add the appropriate definitions. This bill section corrects that error.

Section 30. This amendment concerns the definition of "community service" in a statute dealing with delinquent minors. The current reference is to work on "a project identified in AS 33.30.901." However, AS 33.30.901 merely defines terms, including the term "community service." To clarify the legislature's intent, the reference is changed to work "defined as community service under AS 33.30.901".

Section 31. Chapter 113, SLA 1994 modified provisions relating to records of minors. AS 47.10.090 (which formerly covered both court and agency records) was rewritten to apply only to court records and AS 47.10.093 (which covers only agency records and includes some provisions that were formerly in AS 47.10.090(a)) was enacted. Unfortunately, ch. 113, SLA 1994 did not amend AS 47.10.097(b), which exempted fingerprint records of minors from the requirement (formerly found in AS 47.10.090(a)) that agency records pertaining to the minor be kept confidential. Since the confidentiality of agency records is now covered by AS 47.10.093(a), rather than AS 47.10.090(a), a conforming amendment to AS 47.10.097(b) is necessary.

Section 32. As currently written, AS 47.10.490(2) defines "out-of-home care provider" as follows:

(2) "out-of-home care provider" means an agency or a person, other than the child's legal parents, with whom the child is currently placed and who is in the custody of the state under AS 47.10.080(b)(3), (c)(1), or (c)(3), 47.10.142, or 47.10.230(c), including a foster parent, a relative other than a parent, a person who has petitioned for adoption of the child, or a residential child care facility;

This could be interpreted to require that the person or agency (instead of the child) be in the custody of the state. The Department of Law therefore suggested that it be rewritten. This section rewrites the definition to clarify that it is the child who must be in the custody of the state, and also to bring the "means and includes" aspect of the definition in line with standard style.

Section 33. This section repeals various provisions; a copy of the statutes to be repealed is attached. The reasons for the proposed repeals are as follows:

AS 18.07.111(12) defines a term ("secretary") that is not used in the chapter.

AS 24.20.075 establishes the Alaska Code Revision Commission, which expired on June 30, 1993 under AS 44.66.010(a)(8). Since the Commission's wind-down year ended on June 30, 1994, I have included AS 24.20.075 and AS 44.66.010(a)(8) in the repealer.

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AS 44.33.122 established the Tourism Coordinating Committee and AS 44.33.124 sets its membership. Under AS 44.66.010(a)(16), it expired on June 30, 1993. Since the Committee's wind-down year ended on June 30, 1994, I have included AS 44.33.122, 44.33.124, and AS 44.66.010(a)(16) in the repealer.

AS 44.66.010(a)(12) is the sunset provision for the Alaska Women's Commission. Executive Order 84 (1993) repealed the Alaska Women's Commission. Therefore, the reference in AS 44.66.010(a)(12) is obsolete.

AS 47.30.500(4) defines "poverty area," a term that is no longer used in the article for which it is defined.

Section 34. This section gives the bill an immediate effective date.

Please let me know if you have any questions or comments about the above.

PF:pl:klb
95-078.plm

Enclosure

TEXT OF STATUTES REPEALED

AS 18.07.111(12):

(12) "secretary" means the secretary of the United States Department of Health and Human Services.

AS 24.20.075:

Sec. 24.20.075. ALASKA CODE REVISION COMMISSION.

(a) The Alaska Code Revision Commission is established as a permanent commission of the legislature.

(b) The commission consists of two legislators, one from each house, appointed by the presiding officer; three public members who are not employees of the state government, appointed by the legislative council; a designee of the governor, who is an attorney employed by the executive branch of the state government; a designee of the chief justice of the supreme court; and a designee of the Alaska Bar Association appointed by the board of governors of the association. Legislative members serve at the pleasure of the presiding officer, the designee of the governor and the designee of the chief justice serve at the pleasure of the governor and chief justice, respectively; the public members and the designee of the board of governors serve terms of six years each, beginning July 1 and ending on June 30 six years later. Members may be reappointed or redesignated. A vacancy in the membership of the commission occurring other than by expiration of term shall be filled in the same manner as the original appointment but, with regard to the legislative members, the public members, and the board of governors' designee, for the unexpired term only. The term of a member continues until the member's successor is appointed. Members who are not state employees or legislators are entitled to receive the standard per diem and travel allowance provided for members of independent boards and commissions. Legislative members are entitled to receive the regular legislative per diem and travel allowance for days spent on commission business, and members who are state employees are entitled to receive the regular state employees per diem and travel allowance for days spent on commission business. The commission selects its chairman and vice-chairman. The director of legal services for the Legislative Affairs Agency, or the designee of the director, serves as executive secretary for the commission.

(c) The commission shall

(1) examine the statutes of the state and judicial decisions to discover defects and anachronisms in the law;

(2) review and consider proposed changes in the law recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, the Alaska Judicial Council, the Alaska Legislative Council, the supreme court, the state or local bar associations, principal departments, agencies, boards, and commissions of the executive or judicial branch, and committees of the legislative branch;

(3) receive and consider suggestions from the Alaska bench and bar, public officials, organizations, and individuals as to areas of law needing review and remedy;

(4) recommend changes in law needed to eliminate antiquated and inadequate rules of law and to bring the law into harmony with current needs and conditions.

(d) The commission may

(1) hold public hearings and other meetings as necessary throughout the state and shall determine an appropriate quorum for conducting business;

(2) establish one or more subcommissions to assist it in the performance of its duties.

(e) The staff of the Legislative Affairs Agency serves as staff for the commission. Subject to appropriation for the purpose, the commission may request the agency to contract with other agencies or persons for the performance of necessary services.

(f) The commission shall submit its reports and recommendations, and draft legislation as to revision of law, to the legislative council and shall distribute them to the governor, members of the legislature, and the chief justice of the supreme court. Each draft of legislation submitted by the commission shall be accompanied by a sectional analysis. The commission shall prepare the sectional analysis using language that is understandable to a layman.

(g) All branches of state government shall provide information and documents requested by the commission necessary to the accomplishment of its work.

(h) The commission shall make a formal request to the legislative council for funds it considers necessary for the per diem, travel, and contractual expenses of the commission. Funds appropriated to the commission are to be disbursed and accounted for under procedures required by the Legislative Affairs Agency. The commission chairman shall approve all expenditure documents.

AS 44.33.122:

Sec. 44.33.122. ESTABLISHMENT OF TOURISM COORDINATING COMMITTEE.

(a) The Tourism Coordinating Committee is established in the Department of Commerce and Economic Development.

(b) The committee is established to advise the division of tourism and to coordinate the activities of state agencies that affect tourism.

(c) The committee shall

(1) provide a forum to develop interagency goals for visitor attraction and services that are consistent with the public interest and that will provide increased economic benefits to the various regions of the state;

(2) conduct analyses of problems facing development of tourism in the state and develop solutions to those problems by exploring successful models for the development of travel and recreation in other tourism-focused states and nations;

(3) develop, review, and recommend to the governor and commissioners budget requests for tourism development in the various programs of the agencies of the state; and

(4) coordinate the operating programs of state agencies to enhance tourism development efforts.

(d) The committee may hold formal or informal meetings concerned with the responsibilities assigned under this section and with other associated responsibilities. The committee may appoint subcommittees and may consider topics at meetings with less than the entire membership of the committee present (§ 7 ch 78 SLA 1988).

AS 44.33.124:

Sec. 44.33.124. MEMBERSHIP OF THE TOURISM COORDINATING COMMITTEE.

The governor shall appoint the members of the Tourism Coordinating Committee. Members may be appointed from the operational level of state agencies and may include representatives from the following:

- (1) Office of the Governor (office of management and budget, international trade);
- (2) Department of Commerce and Economic Development (tourism, business development);
- (3) Department of Community and Regional Affairs;
- (4) Department of Education (state museums);
- (5) Department of Environmental Conservation;
- (6) Department of Fish and Game (sport fish, habitat, fisheries rehabilitation, enhancement, and development);
- (7) Department of Labor;
- (8) Department of Natural Resources (parks, forestry, land and water, and historic preservation);
- (9) Department of Revenue (taxation and revenue considerations);
- (10) Department of Transportation and Public Facilities (airports, ferry system, highways);
- (11) University of Alaska (Center for International Business, School of Management);
- (12) Alaska Railroad.

AS 44.66.010(a)(8), (12), and (16):.

(a) Boards and commissions listed in this subsection expire on the date set out after each: . . .

(8) Alaska Code Revision Commission (AS 24.20.075) - June 30, 1993; . . .

(12) Alaska Women's Commission - June 30, 1993; . . .

(16) Tourism Coordinating Committee (AS 44.33.122) - June 30, 1993; . . .

AS 47.30.500(4):

(4) "poverty area" means a district in which 15 per cent or more of the population, based on the 1970 census data, falls under 125 per cent of the Community Services Administration poverty guidelines.

PF:klb

95-041.klb

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 10, 1995

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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- KEY BANK BUILDING
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- P.O. BOX 110300-DIMOND COURT HOUSE
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PHONE: (907) 465-3600
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Honorable Brian Porter, Chair
House Judiciary Committee
Alaska House of Representatives
State Capitol, Room 118
Juneau, Alaska 99801-1182

Re: CSSB 85 (JUD) am

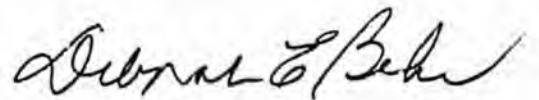
Dear Representative Porter:

The Department of Law has reviewed CSSB 85 (JUD) am (1995 Revisor's Bill) and find no legal problems. The bill makes important technical revisions to improve the accuracy of the Alaska statutes. We believe that all of the changes proposed are well within the scope of traditional revisor's bills offered under AS 01.05.036.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Deborah E. Behr
Assistant Attorney General
and Regulations Attorney

DEB:cl

cc: Pam Finley
Dave Dierdorff

S B

8 7

HOUSE CS FOR CS FOR SENATE BILL NO. 87()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the membership of the Alcoholic Beverage Control Board;
2 relating to community local options for control of alcoholic beverages; relating to
3 the control of alcoholic beverages; prohibiting persons from being on premises
4 involving alcoholic beverages under certain circumstances; relating to the definition
5 of 'alcoholic beverage'; relating to purchase and sale of alcoholic beverages;
6 relating to alcohol server education courses; and providing for an effective date."

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

8 * Section 1. AS 04.06.020 is amended to read:

9 Sec. 04.06.020. APPOINTMENT AND QUALIFICATIONS. The board
10 consists of five members appointed by the governor and confirmed by a majority of
11 the members of the legislature in joint session. A member of the board may not hold
12 any other state or federal office, either elective or appointive. Two members of the
13 board shall be persons actively engaged in the alcoholic beverage industry, except that

1 no member may hold a wholesale license or be an officer, agent, or employee of a
2 wholesale alcoholic beverage enterprise. No three members of the board may be
3 engaged in the same business, occupation, or profession. At least three members of
4 the board shall represent the general public. A board member representing the
5 general public or an immediate family member of a board member representing
6 the general public may not have any financial interest in the alcoholic beverage
7 industry. In this section, "immediate family member" means a spouse, child, or
8 parent.

9 * Sec. 2. AS 04.11.010(b) is amended to read:

10 (b) Except as provided in this subsection, a [A] person may not solicit or
11 receive orders for the delivery of an alcoholic beverage in an area that has adopted
12 a local option under AS 04.11.491. If the area has adopted a local option under
13 AS 04.11.491(a)(1), (2), or (3), or (b)(1) or (2), a package store licensee outside of
14 that local option area may receive orders as provided under AS 04.11.150 but may
15 not solicit in that area or receive orders through an agent or employee in that
16 area. This subsection does not apply to a package store licensee who operates a
17 package store in an area that has adopted a local option under
18 AS 04.11.491(a)(2)(C) or (3)(C) or (b)(2)(C) [WHERE THE RESULTS OF A
19 LOCAL OPTION ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500,
20 PROHIBITED THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING
21 ONE OR MORE TYPES OF LICENSES OR PERMITS UNDER THIS TITLE,
22 UNLESS THE PERSON IS LICENSED UNDER THIS TITLE AND THE ORDER
23 IS ACTUALLY RECEIVED BY THAT PERSON FROM THE PURCHASER OF
24 THE ALCOHOLIC BEVERAGE]. A person who violates this subsection is
25 punishable upon conviction as provided under AS 04.16.200(a) or (b).

26 * Sec. 3. AS 04.11.010(c) is amended to read:

27 (c) In a criminal prosecution for possession of alcoholic beverages for sale in
28 violation of (a) of this section, the fact that a person possessed more than 12 liters of
29 distilled spirits, 24 liters or more of wine, or 12 gallons [45 LITERS] or more of malt
30 beverages in an area where the sale of alcoholic beverages is restricted or prohibited
31 under AS 04.11.491 [AS 04.11.490, 04.11.492, 04.11.496, OR 04.11.500] creates a

1 presumption that the person possessed the alcoholic beverages for sale.

2 * Sec. 4. AS 04.11.080 is amended to read:

3 Sec. 04.11.080. TYPES OF LICENSES AND PERMITS. Licenses and
4 permits issued under this title are as follows:

- 5 (1) beverage dispensary license;
6 (2) duplicate beverage dispensary license for additional rooms;
7 (3) restaurant or eating place license;
8 (4) club license;
9 (5) bottling works license;
10 (6) brewery license;
11 (7) package store license;
12 (8) general wholesale license;
13 (9) wholesale malt beverage and wine license;
14 (10) distillery license;
15 (11) common carrier dispensary license;
16 (12) retail stock sale license;
17 (13) recreational site license;
18 (14) [COMMUNITY LIQUOR LICENSE;
19 (15)] pub license;
20 (15) [(16)] winery license;
21 (16) [(17)] caterer's permit;
22 (17) [(18)] special events permit;
23 (18) [(19)] conditional contractor's permit;
24 (19) [(20)] brewpub license.

25 * Sec. 5. AS 04.11.100 is amended by adding a new subsection to read:

26 (f) Notwithstanding the provisions of (b) and (e) of this section, upon written
27 application and approval of the local governing body, the board may issue or reissue
28 a restaurant or eating place license and exempt the licensee from the requirements of
29 (b) and (e) of this section. A licensee exempt as provided in this subsection shall
30 provide food items for sale on the premises as shown on a menu approved by the
31 board and available to patrons. The board may not

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(1) issue or reissue a license as provided under this subsection if

(A) the issuance or reissuance would result in more than one exempt restaurant or eating place license for every 10 restaurant or eating place licenses allowed under the provisions of AS 04.11.400(a)(2) or (3);

(B) the premises would be located in a building having a public entrance within 200 feet of the boundary line of a school or a church building in which religious services are being regularly conducted; for purposes of this subparagraph, the 200-foot prohibition is measured from the outer boundary line of the school or the public entrance of the church building by the shortest pedestrian route to the nearest public entrance of the restaurant or eating place;

(2) reissue a restaurant or eating place license as exempt as provided under the provisions of this subsection if the license was issued under the provisions of AS 04.11.400(g); or

(3) transfer an exempt license issued under this subsection to another person.

* Sec. 6. AS 04.11.135(a) is amended to read:

(a) A brewpub license authorizes the holder of a beverage dispensary license to

(1) manufacture on premises licensed under the beverage dispensary license not more than 75,000 [16,000] gallons of beer in a calendar year; and

(2) sell beer manufactured on premises licensed under the beverage dispensary license for consumption only on the licensed premises.

* Sec. 7. AS 04.11.135(b) is amended to read:

(b) Except as provided under AS 04.11.360(10) [AS 04.11.360(12)], the brewpub license is not transferable, shall remain the property of the state, and is not subject to any form of alienation.

* Sec. 8. AS 04.11.150(a) is repealed and reenacted to read:

(a) Except as provided under (g) of this section, a package store license authorizes the licensee to sell alcoholic beverages to a person present on the licensed premises or to a person known to the licensee who makes a written solicitation to that

1 licensee for shipment. A licensee, agent, or employee may only ship alcoholic
 2 beverages to the purchaser. Before commencing the practice of shipping alcoholic
 3 beverages, and with each subsequent application to renew the license, a licensee shall
 4 notify the board in writing of the licensee's intention to ship alcoholic beverages in
 5 response to a written solicitation. The package store licensee, agent, or employee shall
 6 include written information on fetal alcohol syndrome and fetal alcohol effects
 7 resulting from a woman consuming alcohol during pregnancy in a shipment of
 8 alcoholic beverages sold in response to a written solicitation.

9 * Sec. 9. AS 04.11.150(g) is repealed and reenacted to read:

10 (g) If a shipment is to an area that has restricted the sale of alcoholic
 11 beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), a package store
 12 licensee, agent, or employee may not ship to a purchaser more than 12 liters of
 13 distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages in
 14 a calendar month.

15 * Sec. 10. AS 04.11.160 is amended by adding new subsections to read:

16 (f) A person who applies for issuance or renewal of a license under this
 17 section shall file, on forms provided by the board, the following information regarding
 18 each product line of alcoholic beverages that the person intends to purchase, offer for
 19 sale, or sell: (1) the supplier of the product line; (2) the full and correct brand names
 20 in the product line; (3) the name of the distiller, brewer, vintner, or importer of the
 21 product line; and (4) a certification by the distiller, brewer, vintner, or importer of the
 22 product line that the person is the primary source of supply for the product line. In
 23 addition to the fees imposed under (a) and (b) of this section, a person filing under this
 24 subsection shall pay a biennial filing fee as follows:

25	1 to 25 suppliers	\$ 500
26	26 to 50 suppliers	\$1,000
27	51 to 75 suppliers	\$1,500
28	over 75 suppliers	\$2,000

29 In this subsection, "distiller, brewer, vintner, or importer" includes an exclusive agent
 30 of the distiller, brewer, vintner, or importer if the agent's name appears on the label of
 31 the brand approved by the Federal Bureau of Alcohol, Tobacco, and Firearms.

1 (g) A person licensed under this section shall notify the board within 10 days
2 of a change in a primary source of supply designation required under (f) of this
3 section.

4 * Sec. 11. AS 04.16 is amended by adding a new section to read:

5 Sec. 04.16.172. RESTRICTIONS ON PURCHASE AND SALE OF
6 ALCOHOLIC BEVERAGES. A person licensed under AS 04.11.090, 04.11.100,
7 04.11.110, or 04.11.150 may not purchase, sell, or offer for sale an alcoholic beverage
8 unless the alcoholic beverage being purchased, sold, or offered for sale was obtained
9 from a person licensed under

10 (1) AS 04.11.160 as a primary source of supply for the alcoholic
11 beverage being purchased, sold, or offered for sale; or

12 (2) AS 04.11.130, 04.11.140, or 04.11.170.

13 * Sec. 12. AS 04.11.270(b) is amended to read:

14 (b) A license shall be renewed as follows:

15 (1) on or before November 1 [OF EACH YEAR], the director shall
16 mail a renewal application to each licensee whose license, unless renewed, will expire
17 on December 31 of that year; the application shall be mailed to the licensee at the
18 licensed premises or at a mailing address furnished by the licensee;

19 (2) the licensee shall submit the completed renewal application and the
20 biennial license fee to the director before January 1 [ON OR BEFORE
21 DECEMBER 31];

22 (3) a renewal application filed after December 31 is delinquent and
23 must be accompanied by a \$500 [\$200] penalty fee;

24 (4) if December 31 falls on a weekend or a state holiday, the deadline
25 is extended to the first business day following December 31.

26 * Sec. 13. AS 04.11.320 is amended to read:

27 Sec. 04.11.320. DENIAL OF NEW LICENSES AND PERMITS. (a) An
28 application requesting issuance of a new license shall be denied if

29 (1) the board finds, after review of all relevant information, that
30 issuance of the license would not be in the best interests of the public;

31 (2) issuance of the license is prohibited by AS 04.11.390, relating to

- 1 residency, or AS 04.11.410, relating to location of premises near churches and schools;
- 2 (3) the application has not been completed in accordance with
- 3 AS 04.11.260;
- 4 (4) issuance of the license would violate the restrictions pertaining to
- 5 the particular license imposed under this title;
- 6 (5) issuance of the license is prohibited under this title as a result of
- 7 an election conducted under AS 04.11.507 [IN ACCORDANCE WITH
- 8 AS 04.11.502];
- 9 (6) the requirements of AS 04.11.420 - 04.11.450 relating to zoning,
- 10 ownership and location of the license, and the identity and financing of a licensee have
- 11 not been met;
- 12 (7) [THE LICENSED PREMISES ARE TO BE LOCATED IN A
- 13 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT IS A BEVERAGE
- 14 DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE OF LICENSE
- 15 IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A COMMUNITY
- 16 LIQUOR LICENSE, UNLESS THE NEW LICENSE IS TO BECOME EFFECTIVE
- 17 AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER EFFECTIVE,
- 18 WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
- 19 OTHERWISE;
- 20 (8) THE AUTHORITY SOUGHT IS AUTHORITY TO OPERATE A
- 21 BEVERAGE DISPENSARY OR PACKAGE STORE UNDER A COMMUNITY
- 22 LIQUOR LICENSE FOR PREMISES TO BE LOCATED IN A MUNICIPALITY
- 23 WHERE THE AUTHORITY SOUGHT IS ALREADY HELD BY A PRIVATE
- 24 LICENSEE UNDER A BEVERAGE DISPENSARY OR PACKAGE STORE
- 25 LICENSE, UNLESS THE COMMUNITY LIQUOR LICENSE IS TO BECOME
- 26 EFFECTIVE AFTER THE PRIVATELY HELD LICENSE IS NO LONGER
- 27 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
- 28 OTHERWISE;
- 29 (9) issuance of the license is prohibited under AS 04.11.400(a) or
- 30 prohibition of issuance of the license is found necessary under AS 04.11.400(b);
- 31 (8) [(10)] the application contains false statements of material fact;

1 (9) [(11)] the license is sought for the sale of alcoholic beverages in a
2 first or second class city where [IN WHICH] there are no licensed premises at the
3 time of application unless a majority of the voters have voted not to approve [IN] a
4 local option to restrict or prohibit the sale of alcoholic beverages under
5 AS 04.11.491, have voted to approve a local option to allow the type of premises
6 under AS 04.11.491(a)(2) or (3), or have voted to remove a restriction or
7 prohibition on the sale of alcoholic beverages under AS 04.11.495 [ELECTION
8 CONDUCTED IN ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON
9 THE QUESTION SET OUT IN AS 04.11.490, OR HAVE VOTED "YES" ON A
10 QUESTION SET OUT IN AS 04.11.492 OR 04.11.500]; or

11 (10) [(12)] the license is sought for the sale of alcoholic beverages in
12 an established village where [IN WHICH] there are no licensed premises at the time
13 of application unless a majority of the voters have voted not to approve [IN] a local
14 option to restrict or prohibit the sale of alcoholic beverages under AS 04.11.491,
15 have voted to approve a local option to allow the type of premises under
16 AS 04.11.491(b)(2), or have voted to remove a restriction or prohibition on the
17 sale of alcoholic beverages under AS 04.11.495 [ELECTION CONDUCTED IN
18 ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON THE QUESTION
19 SET OUT IN AS 04.11.490 OR HAVE VOTED "YES" ON THE QUESTION SET
20 OUT IN AS 04.11.500].

21 (b) An application requesting issuance of a new permit shall be denied if

22 (1) the board finds, after review of all relevant information, that
23 issuance of the permit would not be in the best interests of the public;

24 (2) the board finds that any of the statements made in the application
25 are untrue;

26 (3) the application has not been completed in accordance with
27 AS 04.11.260; or

28 (4) the permit is sought for the sale of alcoholic beverages in a first or
29 second class city or established village where [IN WHICH] there are no licensed
30 premises at the time of application unless a majority of the voters have voted not to
31 approve [IN] a local option to restrict or prohibit the sale of alcoholic beverages

1 under AS 04.11.491, have voted to approve a local option to allow the type of
2 permit under AS 04.11.491(a)(2) or (b)(2), or have voted to remove a restriction
3 or prohibition on the sale of alcoholic beverages under AS 04.11.495 [ELECTION
4 CONDUCTED IN ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON

5 THE QUESTION SET OUT IN AS 04.11.490].

6 * Sec. 14. AS 04.11.330(a) is amended to read:

7 (a) An application requesting renewal of a license shall be denied if

8 (1) the board finds, after review of all relevant information, that
9 renewal of the license would not be in the best interests of the public;

10 (2) the license has been revoked for any cause;

11 (3) the applicant has not operated the licensed premises for at least 30
12 eight-hour days during each of the two preceding calendar years, unless the board
13 determines that the licensed premises are under construction or cannot be operated
14 through no fault of the applicant;

15 (4) the board finds that issuance of an existing license under
16 AS 04.11.400(d) has not encouraged tourist trade;

17 (5) the requirements of AS 04.11.420 - 04.11.450 relating to zoning,
18 ownership of the license, and financing of the licensee have not been met;

19 (6) renewal of the license would violate the restrictions pertaining to
20 the particular license under this title or the license has been operated in violation of
21 a condition or restriction imposed by the board;

22 (7) renewal of the license is prohibited under this title as a result of an
23 election conducted under AS 04.11.507 [IN ACCORDANCE WITH AS 04.11.502];

24 (8) the application has not been completed in accordance with
25 AS 04.11.270; or

26 (9) the license was issued under AS 04.11.400(g), and the board finds
27 that the public convenience does not require renewal.

28 * Sec. 15. AS 04.11.340 is amended to read:

29 Sec. 04.11.340. DENIAL OF REQUEST FOR RELOCATION. An application
30 requesting approval for the relocation of licensed premises shall be denied if

31 (1) the board finds, after review of all relevant information, that

1 relocation of the license would not be in the best interests of the public;

2 (2) the relocation is prohibited under AS 04.11.400(a) or (b);

3 (3) the license would be relocated out of the established village,
4 incorporated city, unified municipality, or population area established under
5 AS 04.11.400(a) within which it is located;

6 (4) transfer of ownership is to be made concurrently with the relocation
7 of the licensed premises and a ground for denial of the transfer of ownership under
8 AS 04.11.360 is presented;

9 (5) the application has not been completed in accordance with
10 AS 04.11.290;

11 (6) relocation of the license would result in violation of a local zoning
12 law;

13 (7) relocation of the license would violate the restrictions pertaining to
14 the particular license imposed by this title;

15 (8) relocation of the license is prohibited under this title as a result of
16 an election conducted under AS 04.11.507 [IN ACCORDANCE WITH
17 AS 04.11.502]; or

18 (9) [THE LICENSED PREMISES ARE TO BE LOCATED IN A
19 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT TO BE RELOCATED IS A
20 BEVERAGE DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE
21 OF LICENSE IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A
22 COMMUNITY LIQUOR LICENSE, UNLESS THE RELOCATION IS TO BECOME
23 EFFECTIVE AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER
24 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
25 OTHERWISE;

26 (10) the license was issued under AS 04.11.400(d), (e), or (g).

27 * Sec. 16. AS 04.11.360 is amended to read:

28 Sec. 04.11.360. DENIAL OF TRANSFER OF A LICENSE TO ANOTHER
29 PERSON. An application requesting approval of a transfer of a license to another
30 person under this title shall be denied if

31 (1) the board finds, after review of all relevant information, that transfer

1 of a license to another person would not be in the best interests of the public;

2 (2) the application has not been completed in accordance with
3 AS 04.11.280;

4 (3) the application contains false statements of material fact;

5 (4) the transferor has not paid all debts or taxes arising from the
6 conduct of the business licensed under this title unless

7 (A) the transferor gives security for the payment of the debts
8 or taxes satisfactory to the creditor or taxing authority; or

9 (B) the transfer is pursuant to a promise given as collateral by
10 the transferor to the transferee in the course of an earlier transfer of the license
11 under which promise the transferor is obliged to transfer the license back to the
12 transferee in the event of default in payment for property conveyed as part of
13 the earlier transfer of the license;

14 (5) transfer of the license to another person would result in violation
15 of the provisions of this title relating to identity of licensees and financing of licensees;

16 (6) transfer of the license to another person would violate the
17 restrictions pertaining to the particular license under this title;

18 (7) transfer of the license to another person is prohibited under the
19 provisions of this title as a result of an election conducted under AS 04.11.507 [IN
20 ACCORDANCE WITH AS 04.11.502];

21 (8) the prospective transferee does not have the qualifications required
22 under this title of an original applicant;

23 (9) [THE LICENSED PREMISES ARE LOCATED IN A
24 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT TO BE TRANSFERRED IS
25 A BEVERAGE DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE
26 OF LICENSE IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A
27 COMMUNITY LIQUOR LICENSE, UNLESS THE TRANSFER IS TO BECOME
28 EFFECTIVE AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER
29 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
30 OTHERWISE;

31 (10) THE AUTHORITY SOUGHT IS AUTHORITY TO OPERATE

1 A BEVERAGE DISPENSARY OR PACKAGE STORE UNDER A COMMUNITY
 2 LIQUOR LICENSE FOR PREMISES TO BE LOCATED IN A MUNICIPALITY
 3 WHERE THE AUTHORITY SOUGHT IS ALREADY HELD BY A PRIVATE
 4 LICENSEE UNDER A BEVERAGE DISPENSARY OR PACKAGE STORE
 5 LICENSE, UNLESS THE TRANSFER IS TO BECOME EFFECTIVE AFTER THE
 6 PRIVATELY HELD LICENSE IS NO LONGER EFFECTIVE, WHETHER AS THE
 7 RESULT OF A LOCAL OPTION ELECTION OR OTHERWISE:

8 (11) the license was issued under AS 04.11.100(f) or 04.11.400(g); or
 9 (10) [AS 04.11.400(g);

10 (12) the license was issued under AS 04.11.135, unless the transferor
 11 is also applying to transfer the beverage dispensary license required under
 12 AS 04.11.135 to the same transferee.

13 * Sec. 17. AS 04.11.370 is amended to read:

14 Sec. 04.11.370. SUSPENSION AND REVOCATION OF LICENSES AND
 15 PERMITS. A license or permit shall be suspended or revoked if the board finds
 16 [THAT ONE OR MORE OF THE FOLLOWING GROUNDS EXISTS:]

17 (1) misrepresentation of a material fact on an application made under
 18 this title or a regulation adopted under this title [FOR A LICENSE OR PERMIT];

19 (2) continuation of the manufacture, sale, or service of alcoholic
 20 beverages by the licensee or permittee [ACTIVITIES AUTHORIZED UNDER A
 21 LICENSE OR PERMIT] would be contrary to the best interests of the public;

22 (3) failure on the part of the licensee to correct a defect [DEFECTS]
 23 that constitutes a violation [CC INSTITUTE VIOLATIONS] of this title, a co-
 24 or restriction imposed by the board, a regulation [REGULATIONS] adopted under
 25 this title, or other laws [WITHIN A PRESCRIBED TIME] after receipt of notice
 26 issued by the board or its agent;

27 (4) conviction of a licensee of a violation of [A PROVISION OF] this
 28 title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010;

29 (5) conviction of an [THE] agent or employee of a licensee of a
 30 violation of this title, a regulation adopted under this title, or an ordinance adopted
 31 under AS 04.21.010, if the licensee is found by the board to have either knowingly

1 allowed the violation or to have recklessly or with criminal negligence failed to act in
2 accordance with the duty prescribed under AS 04.21.030 with the result that ~~the~~ [AN]
3 agent or employee violates a law, regulation, or ordinance;

4 (6) failure of the licensee to comply with the public health, fire, or
5 safety laws and regulations [PERTAINING TO PUBLIC HEALTH] in the state;

6 (7) use of the licensed premises as a resort for illegal possessors or
7 users of narcotics, prostitutes, or promoters of prostitution; in addition to any other
8 legally competent evidence, the character of the premises may be proved by the
9 general reputation of the premises in the community as a resort for illegal possessors
10 or users of narcotics, prostitutes, or promoters of prostitution;

11 (8) occurrence of illegal gambling within the limits of the licensed
12 premises;

13 (9) the licensee permitted a [PERMITTING ANY] public offense
14 involving moral turpitude to occur on the licensed premises;

15 (10) violation by a licensee of this title, a condition or restriction
16 imposed by the board, a regulation adopted under this title, or an ordinance adopted
17 under AS 04.21.010; or

18 (11) violation by an agent or employee of a licensee of a provision of
19 this title, a condition or restriction imposed by the board, a regulation adopted
20 under this title, or an ordinance adopted under AS 04.21.010, if the licensee is found
21 by the board to have either knowingly allowed the violation or to have recklessly or
22 with criminal negligence failed to act in accordance with the duty prescribed under
23 AS 04.21.030 with the result that the agent or employee violates the law, condition
24 or restriction, regulation, or ordinance.

25 * Sec. 18. AS 04.11.370 is amended by adding new subsections to read:

26 (b) If the board finds that a licensee or permittee has been convicted of a
27 violation of a criminal law related to gambling under AS 11.66.200 - 11.66.280, the
28 board shall suspend the license or permit for a period of at least six months if the
29 offense is the person's first conviction or violation and shall revoke the license or
30 permit if the offense is the person's second or subsequent conviction or violation.

31 (c) If the board receives notice from the Department of Revenue that a licensee

1 or permittee has violated a provision of AS 05.15 related to gambling, the board

2 (1) may suspend the license or permit; and

3 (2) shall suspend the license or permit for a period of at least 30 days
4 if the offense is the person's second or subsequent violation of AS 05.15 related to
5 gambling.

6 * Sec. 19. AS 04.11 is amended by adding a new section to read:

7 Sec. 04.11.395. BOARD IMPOSED CONDITIONS OR RESTRICTIONS.

8 The board may, in the best interests of the public, impose conditions or restrictions on
9 a license or permit issued under this chapter.

10 * Sec. 20. AS 04.11.400(a) is amended to read:

11 (a) Except as provided in (d) - (h) of this section, a new license may not be
12 issued and the board may prohibit relocation of an existing license

13 (1) outside an established village, incorporated city, unified
14 municipality, or organized borough if after the issuance or relocation there would be
15 (A) more than one restaurant or eating place license for each 1,500 population or
16 fraction of that [1,500] population, or (B) more than one license of each other type,
17 including licenses that have been issued under (d) or (e) of this section, for each 3,000
18 population or fraction of that [3,000] population, in a radius of five miles of the
19 licensed premises [OR LOCATION OF PREMISES SOUGHT TO BE LICENSED],
20 excluding the populations of established villages, incorporated cities, unified
21 municipalities, and organized boroughs that are wholly or partly included within the
22 radius;

23 (2) inside an established village, incorporated city, or unified
24 municipality if after the issuance or relocation there would be inside the established
25 village, incorporated city, or unified municipality

26 (A) more than one restaurant or eating place license for each
27 1,500 population or fraction of that [1,500] population; or

28 (B) more than one license of each other type, including licenses
29 that have been issued under (d) or (e) of this section, for each 3,000 population
30 or fraction of that [3,000] population [INSIDE THE ESTABLISHED
31 VILLAGE, INCORPORATED CITY, OR UNIFIED MUNICIPALITY];

1 (3) inside an organized borough but outside an established village or
2 incorporated city located within the borough, if after the issuance or relocation there
3 would be inside the borough, but outside the established villages and incorporated
4 cities located within the borough,

5 (A) more than one restaurant or eating place license for each
6 1,500 population or fraction of ~~that~~ [1,500] population; or

7 (B) more than one license of each other type, including licenses
8 that have been issued under (d) or (e) of this section, for each 3,000 population
9 or fraction of ~~that~~ [3,000] population [INSIDE THE BOROUGH,] excluding
10 the population of those established villages that have adopted a local option
11 under AS 04.11.491(b)(1), (3), or (4) [CONDUCTED AN ELECTION ON A
12 QUESTION SET OUT IN AS 04.11.490, 04.11.496, OR 04.11.500], and
13 excluding the population of incorporated cities located within the organized
14 borough.

15 * Sec. 21. AS 04.11.480(a) is amended to read:

16 (a) ~~A~~ [IF A] local governing body may [WISHES TO] protest the issuance,
17 renewal, relocation, [TRANSFER OF LOCATION,] or transfer to another person of
18 a license by sending [, IT SHALL FURNISH] the board and the applicant [WITH] a
19 protest and the reasons for the protest within 60 [30] days of receipt from the board
20 of notice of filing of the application. A protest received after the 60-day period
21 may not be accepted by the board, and in no event may a protest cause the board
22 to reconsider an approved renewal, relocation, or transfer. The local governing
23 body may protest the continued operation of a license during the second year of
24 the biennial license period by sending the board and the licensee a protest and the
25 reasons for the protest by January 31 of the second year of the license. The
26 procedures for action on a protest of continued operation of a license are the
27 same as the procedures for action on a protest of a renewal application. The
28 board shall consider a protest and testimony received at a hearing conducted under
29 AS 04.11.510(b)(2) or (4) when it considers the application or continued operation,
30 and the protest and the record of the hearing conducted under AS 04.11.510(b)(2) or
31 (4) shall be kept [RETAINED] as part of the board's permanent record of its review

1 [OF THE APPLICATION]. If an application or continued operation is protested, the
2 board shall deny [MAY NOT APPROVE] the application or continued operation
3 unless the board finds that the protest is arbitrary, capricious, and unreasonable.

4 * Sec. 22. AS 04.11 is amended by adding a new section to read:

5 Sec. 04.11.491. LOCAL OPTIONS. (a) If a majority of the persons voting
6 on the question vote to approve the option, a municipality shall adopt a local option
7 to prohibit

8 (1) the sale of alcoholic beverages;

9 (2) the sale of alcoholic beverages except by one or more of the
10 following listed on the ballot:

11 (A) a restaurant or eating place licensee;

12 (B) a beverage dispensary licensee;

13 (C) a package store licensee; or

14 (D) a caterer holding a permit under AS 04.11.230 to sell
15 alcoholic beverages at a site within the municipality who is also licensed under
16 a beverage dispensary license for premises outside of the municipality;

17 (3) the sale of alcoholic beverages except on premises operated by the
18 municipality and under a type of licensed premises listed on the ballot, that may
19 include one or more of the following:

20 (A) a restaurant or eating place license;

21 (B) a beverage dispensary license; or

22 (C) a package store license;

23 (4) the sale and importation of alcoholic beverages; or

24 (5) the sale, importation, and possession of alcoholic beverages.

25 (b) If a majority of the persons voting on the question vote to approve the
26 option, an established village shall exercise a local option to prohibit

27 (1) the sale of alcoholic beverages;

28 (2) the sale of alcoholic beverages except by one or more of the
29 following listed on the ballot:

30 (A) a restaurant or eating place licensee;

31 (B) a beverage dispensary licensee;

1 (C) a package store licensee; or

2 (D) a caterer holding a permit under AS 04.11.230 to sell
3 alcoholic beverages at a site within the established village who is also licensed
4 under a beverage dispensary license for premises outside of the established
5 village;

6 (3) the sale and importation of alcoholic beverages; or

7 (4) the sale, importation, and possession of alcoholic beverages.

8 (c) A ballot question to adopt a local option under this section must at least
9 contain language substantially similar to: "Shall (name of municipality or village)
10 adopt a local option to prohibit (local option under (a) or (b) of this section)? (yes or
11 no)."

12 (d) The ballot for an election on the option set out in (a)(2)(A), (a)(3)(A), or
13 (b)(2)(A) of this section must include a summary explanation of the authority to sell
14 alcoholic beverages given to a restaurant or eating place under AS 04.11.100(a). The
15 ballot for an election on the option set out in (a)(2)(B) or (D), (a)(3)(B), or (b)(2)(B)
16 or (D) of this section must include a statement that a beverage dispensary license is
17 commonly known as a "bar" and a summary explanation of the authority to sell
18 alcoholic beverages given to a beverage dispensary licensee under AS 04.11.090(a).
19 The ballot for an election on the option set out in (a)(2)(C), (a)(3)(C), or (b)(2)(C) of
20 this section must include a statement that a package store license is commonly known
21 as a "liquor store" and a summary explanation of the authority to sell alcoholic
22 beverages given to a package store licensee under AS 04.11.150(a).

23 (e) If a municipality dissolves under AS 29.06.450(a) or (b), a local option
24 adopted by the municipality under (a) of this section shall continue in effect as the
25 corresponding local option under (b) of this section for an established village having
26 the same perimeter as the previous boundaries of the municipality. A license for
27 premises operated by the municipality under AS 04.11.505 expires when the
28 municipality dissolves.

29 (f) A municipality or established village that has adopted a local option under
30 (a)(1), (2), or (3) or (b)(1) or (2) of this section may designate a site for the delivery
31 of alcoholic beverages to individuals in the area or a site for a person to bring

1 alcoholic beverages if the alcoholic beverages are imported into the area. This
2 subsection does not apply to the delivery or importation of

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

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

7 * Sec. 23. AS 04.11 is amended by adding new sections to read:

8 Sec. 04.11.493. CHANGE OF LOCAL OPTION. (a) If a majority of persons
9 voting on the question vote to approve a different local option, a municipality or
10 established village shall change a local option previously adopted under AS 04.11.491
11 to the different approved option.

12 (b) A ballot question to change a local option under this section must at least
13 contain language substantially similar to: "Shall (name of municipality or village)
14 change the local option currently in effect, that prohibits (current local option under
15 AS 04.11.491), and adopt in its place a local option to prohibit (proposed local option
16 under AS 04.11.491)? (yes or no)."

17 Sec. 04.11.495. REMOVAL OF LOCAL OPTION. (a) If a majority of the
18 persons voting on the question vote to remove the option, a municipality or established
19 village shall remove a local option previously adopted under AS 04.11.491. The
20 option is repealed effective the first day of the month following certification of the
21 results of the election.

22 (b) A ballot question to remove a local option under this section must at least
23 contain language substantially similar to: "Shall (name of municipality or village)
24 remove the local option currently in effect, that prohibits (current local option under
25 AS 04.11.491), so that there is no longer any local option in effect? (yes or no)."

26 (c) When issuing a license in the area that has removed a local option, the
27 board shall give priority to an applicant who was formerly licensed and whose license
28 was not renewed because of the results of the previous local option election. However,
29 an applicant described in this subsection does not have a legal right to a license and
30 the board is not required to approve the application.

31 * Sec. 24. AS 04.11 is amended by adding a new section to read:

1 Sec. 04.11.497. EFFECT ON LICENSES OF PROHIBITION OF SALE. If
2 a majority of voters vote to prohibit the sale of alcoholic beverages under
3 AS 04.11.491(a)(1), (a)(4) or (5), (b)(1), or (b)(3) or (4), the board may not issue,
4 renew, or transfer, between persons or locations, a license for premises located within
5 the boundaries of the municipality and in unincorporated areas within five miles of the
6 boundaries of the municipality or within the perimeter of the established village. A
7 license that may not be renewed because of a local option election held under this
8 section is void 90 days after the results of the election are certified. A license that
9 expires during the 90 days after the results of a local option election are certified may
10 be extended, until it is void under this section, by payment of a prorated portion of the
11 biennial license fee.

12 * Sec. 25. AS 04.11 is amended by adding a new section to read:

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

23 * Sec. 26. AS 04.11 is amended by adding a new section to read:

24 Sec. 04.11.501. PROHIBITION OF POSSESSION AFTER ELECTION. (a)
25 If a majority of the voters vote to prohibit the possession of alcoholic beverages under
26 AS 04.11.491(a)(5) or (b)(4), a person may not knowingly possess an alcoholic
27 beverage in the municipality or established village, unless the alcoholic beverage is
28 sacramental wine to be used for bona fide religious purposes based on tenets or
29 teachings of a church or religious body, is limited in quantity to the amount necessary
30 for religious purposes, and is dispensed only for religious purposes, by a person
31 recognized by the church or religious body as authorized to dispense the wine.

1 (b) If there are licensed premises within the municipality or established village,
2 the prohibition on possession is effective beginning 90 days after the results of the
3 election are certified. If there are no licensed premises within the municipality or
4 established village, the prohibition on possession is effective beginning 60 days after
5 the results of the election are certified.

6 (c) Upon the adoption by a municipality of a local option under
7 AS 04.11.491(a)(5), an ordinance is adopted containing the provisions of this section.

8 (d) In this section, "possession" means having physical possession of or
9 exercising dominion or control over an alcoholic beverage, but does not include having
10 an alcoholic beverage within the digestive system of a person.

11 * Sec. 27. AS 04.11 is amended by adding a new section to read:

12 Sec. 04.11.503. EFFECT ON LICENSES OF RESTRICTION ON SALE. If
13 a majority of the voters vote under AS 04.11.491(a)(2) or (b)(2) to prohibit sale of
14 alcoholic beverages except by the type or types of licensees or permit holders listed
15 on the ballot, the board may not issue, renew, or transfer between persons or locations
16 a license for premises located within the boundaries of the municipality and in
17 unincorporated areas within five miles of the boundaries of the municipality or within
18 the perimeter of the established village, except the type or types of licenses listed on
19 the ballot. A license in effect within the boundaries of the municipality or perimeter
20 of the established village, and in unincorporated areas within five miles of the
21 boundaries of the municipality, except the type of license listed on the ballot, is void
22 90 days after the results of the election are certified. A license that expires during the
23 90 days after the results of a local option election are certified may be extended, until
24 it is void under this section, by payment of a prorated portion of the biennial license
25 fee.

26 * Sec. 28. AS 04.11 is amended by adding a new section to read:

27 Sec. 04.11.505. LICENSING AFTER PROHIBITION ON SALE EXCEPT IN
28 PREMISES OPERATED BY MUNICIPALITY. (a) If a majority of the voters vote
29 under AS 04.11.491(a)(3) to prohibit the sale of alcoholic beverages except on
30 premises operated by the municipality, the board may not issue, renew, or transfer
31 between persons or locations a license for premises located within the boundaries of

1 a municipality and in unincorporated areas within five miles of the boundaries of the
2 municipality, with the exception of the type of license listed on the ballot and operated
3 under a license held by the municipality. A license in effect is void 90 days after the
4 results of the election are certified. A license that expires during the 90 days after the
5 results of a local option election are certified may be extended, until it is void under
6 this subsection, by payment of a prorated portion of the biennial license fee.

7 (b) The local governing body of a municipality shall apply for a license to
8 operate the type of licensed premises listed on the ballot under AS 04.11.491(a)(3) and
9 approved by a majority of the voters. The municipality shall operate the premises
10 subject to the conditions and fees applicable to the type of license. Nothing in this
11 section precludes a municipality from applying to be a licensee under other provisions
12 of this title.

13 * Sec. 29. AS 04.11 is amended by adding new sections to read:

14 Sec. 04.11.507. PROCEDURE FOR LOCAL OPTION ELECTIONS. (a)
15 Elections to adopt a local option under AS 04.11.491, change a local option under
16 AS 04.11.493, or remove a local option under AS 04.11.495, shall be conducted as
17 required in this section.

18 (b) Upon receipt of a petition of a number of registered voters equal to 35
19 percent or more of the number of votes cast at the last regular municipal election, the
20 local governing body of a municipality shall place upon a separate ballot at the next
21 regular election, or at a special election, whichever local option, change in local option,
22 or removal of local option constitutes the subject of the petition. The local governing
23 body shall conduct the election under the election ordinance of the municipality.

24 (c) Upon receipt of a petition of 35 percent or more of the registered voters
25 residing within an established village, the lieutenant governor shall place upon a
26 separate ballot at a special election the local option, change in local option, or removal
27 of local option that constitutes the subject of the petition. The lieutenant governor
28 shall conduct the election under AS 15.

29 (d) A petition filed with the local governing body of a municipality under (b)
30 of this section, that places on the ballot the option set out in AS 04.11.491(a)(5),
31 constitutes a proposed ordinance of the municipality.

1 (e) AS 29.26.110 - 29.26.160 apply to a petition under (b) of this section in
2 a general law municipality except the

3 (1) number of required signatures is determined under (b) of this
4 section rather than under AS 29.26.130;

5 (2) application filed under AS 29.26.110 must at least contain language
6 substantially similar to the questions set out under AS 04.11.491 - 04.11.495 rather
7 than containing an ordinance or resolution;

8 (3) petition must at least contain language substantially similar to the
9 questions set out under AS 04.11.491 - 04.11.495 rather than material required under
10 AS 29.26.120(a)(1) and (2).

11 (f) Notwithstanding any other provisions of law, an election under (b) or (c)
12 of this section to remove a local option or to change to a less restrictive option than
13 the local option previously adopted under AS 04.11.491 may not be conducted during
14 the first 12 months after the local option was adopted or more than once in an
15 18-month period.

16 (g) Notwithstanding AS 29.26.140(a), after a petition has been certified as
17 sufficient to meet the requirements of (b) or (c) of this section, another petition may
18 not be filed or certified until after the question presented in the first petition has been
19 voted on. Only one local option question may be presented in an election.

20 Sec. 04.11.509. NOTICE OF THE RESULTS OF A LOCAL OPTION
21 ELECTION. (a) If a majority of the voters vote to prohibit, change, or remove a
22 local option under AS 04.11.491 - 04.11.495, the clerk of the municipality, or, if the
23 election is in an established village, the lieutenant governor shall notify the board of
24 the results of the election immediately after the results are certified. The board shall
25 immediately notify the Department of Law and the Department of Public Safety of the
26 results of the election.

27 (b) If a majority of the voters vote to prohibit the importation or possession
28 of alcoholic beverages under AS 04.11.491(a)(4) or (5) or (b)(3) or (4), the following
29 actions in addition to those prescribed in (a) of this section shall be taken before the
30 date the prohibition becomes effective:

31 (1) the board shall notify, by certified mail, all package store licensees

1 who sell alcoholic beverages in response to a written solicitation of the local option;
2 and

3 (2) the municipality or established village shall post public notice of
4 the prohibition in a central location in the municipality or village.

5 * Sec. 30. AS 04.11.540 is amended to read:

6 Sec. 04.11.540. LICENSE RENEWAL AND EXPIRATION. Notwithstanding
7 AS 04.11.680, an application for renewal of a license issued for the two calendar years
8 [YEAR] ending December 31 or of a seasonal license issued for parts of those
9 calendar years [A SIX-MONTH PERIOD ENDING IN THE PREVIOUS YEAR] may
10 be submitted up until the next February 28 [, BUT THE AUTHORITY GRANTED
11 UNDER THE LICENSE MAY NOT BE EXERCISED UNTIL THE LICENSE IS
12 RENEWED]. If a complete [THE] application for renewal has [AND APPLICABLE
13 AFFIDAVITS HAVE] not been filed by February 28 or the required fees and the
14 penalty fees have not been paid by that date, the license expires at 12:00 midnight
15 February 28. A new license may not be issued to the holder of an expired license for
16 the same premises except on proof satisfactory to the board of good cause for the
17 failure to file and pay.

18 * Sec. 31. AS 04.11.680(a) is amended to read:

19 (a) Upon application and payment of one-half [ONE-QUARTER] of the
20 biennial fee, the board may issue a seasonal license under this title that is [WILL BE]
21 effective for the intervals stated on the license. A seasonal license may not be
22 effective for more than 12 months in a two-year period [A CONTINUOUS SIX-
23 MONTH PERIOD]. Otherwise, all licenses issued under this title other than a retail
24 stock sale license are effective for the two calendar years ending December 31, unless
25 a shorter period is prescribed by the board or by law.

26 * Sec. 32. AS 04.16 is amended by adding a new section to read:

27 Sec. 04.16.025. ILLEGAL PRESENCE ON PREMISES INVOLVING
28 ALCOHOLIC BEVERAGES. (a) A person may not knowingly enter or remain on
29 premises

30 (1) in which alcoholic beverages are manufactured, sold, offered for
31 sale, possessed for sale or barter, trafficked in, or bartered in violation of

- 1 (A) AS 04.11.010; or
2 (B) a municipal ordinance adopted under AS 04.21.010(a) or
3 (b); or
4 (2) licensed under this title during hours in which the person's presence
5 on the premises is a violation of a municipal ordinance adopted under authority of
6 AS 04.16.010(d) providing for hours of closure that are outside the hours of closure
7 prescribed by AS 04.16.010(c).

8 (b) A person who violates this section is guilty of a violation.

9 * Sec. 33. AS 04.16.110 is repealed and reenacted to read:

10 Sec. 04.16.110. SALE OF CERTAIN ALCOHOLIC BEVERAGES
11 PROHIBITED. A person may not sell an alcoholic beverage if it

12 (1) is intended for human consumption and is in powdered form; or

13 (2) contains more than 76 percent alcohol by volume.

14 * Sec. 34. AS 04.16.125(a) is amended to read:

15 (a) A person may not use a common carrier to transport alcoholic beverages
16 into an area that has restricted the sale of alcoholic beverages under
17 AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) [AS 04.11.490, 04.11.492, OR
18 04.11.500] unless

19 (1) the shipping container holding the alcoholic beverages is clearly
20 labeled as containing alcoholic beverages with letters that contrast in color to the
21 shipping container and that are at least two inches in height; and

22 (2) an itemized invoice showing the quantity and purchase value of
23 distilled spirits, of wine, and of malt [THE ALCOHOLIC] beverages is attached to
24 the outside of the shipping container.

25 * Sec. 35. AS 04.16.125(b) is amended to read:

26 (b) This section does not apply to

27 (1) a person transporting not more than

28 (A) two liters of wine;

29 (B) one gallon of [OR] malt beverages; [,] or

30 (C) [NOT MORE THAN] one liter of distilled spirits; or

31 (2) the transportation of alcoholic beverages for use on premises

1 allowed under AS 04.11.491(a)(2) - (3) or (b)(2) or for use under a permit allowed
2 under AS 04.11.491(a)(2).

3 * Sec. 36. AS 04.16.180(a) is amended to read:

4 (a) Except as provided in AS 04.11.015, AS 04.16.025, 04.16.051
5 [AS 04.16.051], 04.16.200 - 04.16.210, and AS 04.21.065, a person who violates a
6 provision of this title or a regulation adopted by the board is guilty, upon conviction,
7 of a class A misdemeanor. Each violation is a separate offense.

8 * Sec. 37. AS 04.16.200(b) is amended to read:

9 (b) A person who violates AS 04.11.010 in an area that has adopted
10 [WHERE THE RESULTS OF] a local option under AS 04.11.491 [ELECTION
11 HAVE, UNDER AS 04.11.490 - 04.11.500, PROHIBITED THE BOARD FROM
12 ISSUING, RENEWING, OR TRANSFERRING ONE OR MORE TYPES OF
13 LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA] is, upon conviction,
14 guilty of a class C felony.

15 * Sec. 38. AS 04.16.200(e) is amended to read:

16 (e) A person who sends, transports, or brings alcoholic beverages into a
17 municipality or established village in violation of AS 04.11.499 [AS 04.11.496] is,
18 upon conviction,

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

22 (2) guilty of a class C felony if the quantity imported is 12 liters or
23 more of distilled spirits, 24 liters or more of wine, or 12 gallons [45 LITERS] or more
24 of malt beverages.

25 * Sec. 39. AS 04.16.205(a) is amended to read:

26 (a) A person who possesses alcoholic beverages in a municipality or
27 established village in violation of AS 04.11.501 [AS 04.11.498] or an ordinance
28 adopted under AS 04.11.501 [AS 04.11.498] may, upon conviction, be punished by a
29 fine not to exceed \$1,000 and shall forfeit the seized alcoholic beverages. When a
30 peace officer stops or contacts a person concerning a violation of AS 04.11.501
31 [AS 04.11.498] or an ordinance adopted [ENACTED] under AS 04.11.501

1 [AS 04.11.498], the peace officer shall seize the alcoholic beverages and may [, IN
2 THE OFFICER'S DISCRETION.] issue a citation to the person as provided in
3 AS 12.25.180.

4 * Sec. 40. AS 04.16.205(b) is amended to read:

5 (b) A person cited for a violation of AS 04.11.501 [AS 04.11.498] or an
6 ordinance adopted under AS 04.11.501 [AS 04.11.498] for which a bail amount has
7 been established under (c) of this section may, within 30 days after the date the
8 citation is issued,

9 (1) mail or personally deliver to the clerk of the court in which the
10 citation is filed by the peace officer the amount of bail indicated on the citation and
11 a copy of the citation indicating that the right to an appearance is waived, a plea of no
12 contest is entered, and the bail and all alcoholic beverages seized are forfeited; or

13 (2) perform community work in lieu of payment of the fine or a portion
14 of the fine as provided in (d) of this section.

15 * Sec. 41. AS 04.16.205(c) is amended to read:

16 (c) The supreme court shall establish by rule or order a schedule of bail
17 amounts that may be forfeited without a court appearance for a violation of
18 AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501
19 [AS 04.11.498]. In establishing the bail schedule the supreme court may consider the
20 quantity of alcoholic beverages possessed and the number of prior violations of the
21 person cited. Before establishing or amending the schedule of bail amounts required
22 by this subsection, the supreme court shall appoint and consult with an advisory
23 committee consisting of the following seven persons: one superior court judge, one
24 magistrate from each judicial district in the state, a representative of the Department
25 of Law, and a representative of the Public Defender Agency. The maximum bail
26 amount may not exceed \$1,000, and the issuing officer shall write on the citation the
27 amount of bail applicable to the violation.

28 * Sec. 42. AS 04.16.205(d) is amended to read:

29 (d) Community work shall be performed at the direction of the local governing
30 body of the municipality or the local governing body of the established village. In the
31 absence of a local governing body for an established village, community work

1 shall be performed at the direction of the body that has traditionally performed
2 public functions on behalf of the entire community. The value of community work
3 in lieu of a fine is \$5.00 per hour. When the community work is completed, the
4 person cited for the violation shall mail or personally deliver to the clerk of the court
5 in which the citation is filed by the peace officer

6 (1) a form, prescribed by the administrative director of the Alaska
7 Court System, indicating completion of the community work; and

8 (2) a copy of the citation, indicating that the right to an appearance is
9 waived, a plea of no contest is entered, and that the bail is forfeited or community
10 work has been performed and that all alcoholic beverages seized are forfeited.

11 * Sec. 43. AS 04.16.205(g) is amended to read:

12 (g) Notwithstanding other provisions of law, if a person cited for a violation
13 of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501
14 [AS 04.11.498] for which a bail amount has been established under (c) of this section
15 appears in court and is found guilty, the penalty that is imposed for the offense may
16 not exceed the bail amount for that offense established under (c) of this section.

17 * Sec. 44. AS 04.16.205(h) is amended to read:

18 (h) A violation of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under
19 AS 04.11.501 [AS 04.11.498] may not be considered a criminal offense and may not
20 result in imprisonment, nor is a fine imposed for a violation considered criminal
21 punishment. A person cited for a violation does not have a right to a jury trial or
22 court appointed counsel.

23 * Sec. 45. AS 04.16.220(a) is amended to read:

24 (a) The following are subject to forfeiture:

25 (1) alcoholic beverages manufactured, sold, offered for sale or
26 possessed for sale, bartered or exchanged for goods and services in this state in
27 violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or
28 otherwise stored in violation of AS 04.21.060; alcoholic beverages sold, or offered for
29 sale in violation [IN AN AREA WHERE THE RESULTS] of a local option adopted
30 under AS 04.11.491 [ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500,
31 PROHIBITED THE POSSESSION OF ALCOHOLIC BEVERAGES OR

1 PROHIBITED THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING
2 ONE OR MORE LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA];
3 alcoholic beverages transported into the state and sold to persons not licensed under
4 this chapter in violation of AS 04.16.170(b);

5 (2) materials and equipment used in the manufacture, sale, offering for
6 sale, possession for sale, barter or exchange of alcoholic beverages for goods and
7 services in this state in violation of AS 04.11.010; materials and equipment used in the
8 stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060;
9 materials and equipment used in the sale or offering for sale of an alcoholic beverage
10 in an area in violation [WHERE THE RESULTS] of a local option adopted under
11 AS 04.11.491 [ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500, PROHIBITED
12 THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING ONE OR
13 MORE LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA];

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

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

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

21 (C) alcoholic beverages imported into a municipality or
22 established village in violation of AS 04.11.499 [AS 04.11.496];

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

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

27 * Sec. 46. AS 04.16.220(b) is amended to read:

28 (b) Property subject to forfeiture under this section may be actually or
29 constructively seized under an order issued by the superior court upon a showing of
30 probable cause that the property is subject to forfeiture under this section. Constructive
31 seizure is effected upon posting a signed notice of seizure on the item to be forfeited,

1 stating the violation and the date and place of seizure. Seizure without a court order
2 may be made if

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

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

6 (3) there is probable cause to believe that the property is subject to
7 forfeiture under (a) of this section; except for alcoholic beverages possessed on
8 violation of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501
9 [AS 04.11.498], property seized under this paragraph may not be held over 48 hours
10 or until an order of forfeiture is issued by the court, whichever is earlier.

11 * Sec. 47. AS 04.16.220(d) is amended to read:

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

13 (1) upon conviction of a person for a violation of [UNDER]
14 AS 04.11.010, 04.11.499, [04.11.496(b), OR] AS 04.21.060, or AS 04.11.501 [UPON
15 ENTRY OF JUDGMENT UNDER AS 04.11.498] or an ordinance adopted under
16 AS 04.11.501 [AS 04.11.498]; or

17 (2) upon judgment by the superior court in a proceeding in rem that the
18 property was used in a manner subjecting it to forfeiture under (a) of this section.

19 * Sec. 48. AS 04.16.220(g) is amended to read:

20 (g) It is no defense in an in rem forfeiture proceeding brought under (d)(2) of
21 this section that a criminal proceeding is pending or has resulted in conviction or
22 acquittal of a person charged with violating AS 04.11.010, 04.11.499 [04.11.496(b)],
23 or AS 04.21.060.

24 * Sec. 49. AS 04.16.220(h) is amended to read:

25 (h) Alcoholic beverages forfeited under (d) of this section shall be placed in
26 the custody of a peace officer of the state and destroyed no later than 30 days after
27 forfeiture. All other property forfeited under this section shall be placed in the custody
28 of the commissioner of public safety for disposition according to an order entered by
29 the court. The court shall order destroyed any property forfeited under this section that
30 is harmful to the public and shall order any property forfeited under this section
31 that was seized in a municipality to be transferred to the municipality in which

1 the property was seized. Other property shall be ordered sold and the proceeds used
2 for payment of expenses of the proceedings for forfeiture and sale, including expenses
3 of seizure, custody, and court costs. The remainder of the proceeds shall be deposited
4 in the general fund.

5 * Sec. 50. AS 04.21.010(a) is amended to read:

6 (a) A municipality may adopt ordinances governing the importation, barter,
7 sale, and consumption of alcoholic beverages within the municipality and may ban
8 possession of alcoholic beverages under AS 04.11.491(a)(5) [AS 04.11.498(d) OR (e)].
9 An ordinance adopted under this section may not be inconsistent with this title or
10 regulations adopted under this title. In a municipality that has adopted a local
11 option under AS 04.11.491(a)(1), (2), or (3), an ordinance is not inconsistent with
12 this title if it limits

13 (1) the monthly amounts of alcoholic beverages a person may
14 import into the municipality;

15 (2) the percent of alcohol by volume that an alcoholic beverage may
16 contain; a limit imposed under this paragraph may not be less than 40 nor more
17 than 76 percent alcohol by volume; or

18 (3) the type of alcoholic beverage container that may be possessed
19 in the municipality.

20 * Sec. 51. AS 04.21.010(b) is amended to read:

21 (b) After the adoption of a local option under AS 04.11.491(a), a [IF, AS A
22 RESULT OF AN ELECTION HELD IN ACCORDANCE WITH AS 04.11.502 IN A
23 MUNICIPALITY, THE BOARD IS PROHIBITED FROM ISSUING, RENEWING,
24 OR TRANSFERRING A LICENSE BETWEEN HOLDERS OR LOCATIONS OR IF
25 THE IMPORTATION OF ALCOHOLIC BEVERAGES IS PROHIBITED IN THE
26 MUNICIPALITY, THE] municipality may adopt an ordinance making the sale, [OR]
27 importation, or possession of alcoholic beverages a misdemeanor to the extent
28 prohibited under the local option. The ordinance may not be inconsistent with this
29 title or the regulations adopted under this title.

30 * Sec. 52. AS 04.21.010(c) is amended to read:

31 (c) A municipality may not impose taxes on alcoholic beverages except a

- 1 (1) property tax on alcoholic beverage inventories;
2 (2) sales tax on alcoholic beverage sales if sales taxes are imposed on
3 other sales within the municipality;
4 (3) sales tax on alcoholic beverage sales that was in effect before
5 July 1, 1985; and
6 (4) sales and use tax on alcoholic beverages if the sale of alcoholic
7 beverages within the municipality has been prohibited under AS 04.11.491(a)(1), (4),
8 or (5) [AS 04.11.490].

9 * Sec. 53. AS 04.21.015(b) is amended to read:

10 (b) This section does not apply to AS 04.16.050, 04.16.051, 04.16.080;
11 AS 04.21.010, 04.21.020; alcoholic beverages manufactured in a quantity that exceeds
12 the limit imposed on private manufacture under federal law; or an area that has
13 adopted a local option law under AS 04.11.491 [AS 04.11.490 - 04.11.500].

14 * Sec. 54. AS 04.21.025(a) is amended to read:

15 (a) As a condition of issuance or renewal of a license and selling alcoholic
16 beverages under a license, the board shall require a licensee who sells or serves
17 alcoholic beverages and a licensee's agents and employees who sell or serve alcoholic
18 beverages or check the identification of a patron to complete an alcohol server
19 education course approved by the board, if the license is for a

- 20 (1) beverage dispensary;
21 (2) restaurant or eating place;
22 (3) club;
23 (4) package store;
24 (5) [COMMON CARRIER DISPENSARY;
25 (6)] recreational site;
26 (6) [(7) COMMUNITY;
27 (8)] pub;
28 (7) [(9)] conditional contractor.

29 * Sec. 55. AS 04.21.025 is amended by adding a new subsection to read:

30 (e) A person licensed as a common carrier dispensary shall train agents and
31 employees who sell or serve alcoholic beverages or who check the identification of a

1 patron on provisions of state law regarding sale of alcoholic beverages, including
2 AS 04.16.015, 04.16.020, 04.16.030, 04.16.051, 04.16.052, 04.16.120, 04.16.125,
3 AS 04.21.030, and 04.21.050. The training must include the subjects of the effects of
4 alcohol consumption, identifying a drunken person, determining valid identification,
5 intervention to prevent unlawful alcohol consumption, and penalties for unlawful acts
6 by agents and employees of licensees. A common carrier licensee shall, once every
7 three years, provide the board with a description of its training program including the
8 subjects taught, teaching method, and testing required.

9 * Sec. 56. AS 04.21.065(a) is amended to read:

10 (a) A holder of one of the following types of licenses or permits shall post on
11 the licensed or designated premises two separate warning signs as described in (b) of
12 this section:

- 13 (1) beverage dispensary license;
- 14 (2) restaurant or eating place license;
- 15 (3) club license;
- 16 (4) brewery license; this paragraph applies only to a brewery that
17 permits a person to sample portions of the brewery's product;
- 18 (5) package store license;
- 19 (6) common carrier dispensary license;
- 20 (7) recreational site license;
- 21 (8) [COMMUNITY LIQUOR LICENSE;
- 22 (9)] pub license;
- 23 (9) [(10)] winery license; this paragraph applies only to a winery that
24 permits a person to sample portions of the winery's product;
- 25 (10) [(11)] caterer's permit;
- 26 (11) [(12)] special events permit;
- 27 (12) [(13)] conditional contractor's permit;
- 28 (13) [(14)] another license or permit issued by the board authorizing
29 consumption of alcoholic beverages.

30 * Sec. 57. AS 04.21.080(b)(1) is amended to read:

- 31 (1) "alcoholic beverage" means a spirituous, vinous, malt, or other

1 fermented or distilled liquid, whatever the origin, that is intended for human
2 consumption as a beverage and that contains one-half of one percent or more of
3 alcohol by volume, whether produced commercially or privately; however, in an area
4 that has adopted a local option under AS 04.11.491 [LOCAL-OPTION
5 PROHIBITION UNDER AS 04.11.490 - 04.11.500], "alcoholic beverage" means a
6 spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that
7 is intended for human consumption as a beverage by the person who possesses or
8 attempts to possess it and that contains alcohol in any amount if the liquid is
9 produced privately, or that contains one-half of one percent or more of alcohol by
10 volume, if the liquid is produced commercially;

11 * Sec. 58. AS 04.21.080(b)(9) is amended to read:

12 (9) "established village" means an area that does not contain any
13 part of an incorporated city or another established village and that is

14 (A) an unincorporated community that is in the unorganized
15 borough and that has 25 or more permanent residents; or

16 (B) an unincorporated community that is in an organized
17 borough, has 25 or more permanent residents, and

18 (i) is on a road system and is located more than 50
19 miles outside the boundary limits of a unified municipality, or

20 (ii) is not on a road system and is located more than 15
21 miles outside the boundary limits of a unified municipality;

22 * Sec. 59. AS 05.15 is amended by adding a new section to article 1 to read:

23 Sec. 05.15.097. NOTICE TO THE ALCOHOLIC BEVERAGE CONTROL
24 BOARD. If, after notice and hearing, the department determines that a person has
25 violated a provision of this chapter related to gambling and the person is a licensee or
26 permittee under AS 04, the department shall provide notice of the violation to the
27 Alcoholic Beverage Control Board.

28 * Sec. 60. AS 15.07.064(g) is amended to read:

29 (g) In this section, "established village" means an unincorporated
30 community that is in

31 (A) the unorganized borough and that has 25 or more

1 permanent residents; or

2 **(B) an organized borough, has 25 or more permanent**
3 residents, and

4 (i) is on a road system and is located more than 50
5 miles outside the boundary limits of a unified municipality, or

6 (ii) is not on a road system and is located more than
7 15 miles outside the boundary limits of a unified municipality

8 [HAS THE MEANING GIVEN IN AS 04.21.080].

9 * Sec. 61. AS 18.65.085(a) is amended to read:

10 (a) There is established in the Department of Public Safety, division of state
11 troopers, a narcotic drugs and alcohol enforcement unit for the purpose of investigating
12 and combating the illicit sale and distribution of narcotic drugs and alcoholic beverages
13 in the state. Enforcement of the alcoholic beverage control laws shall focus primarily
14 on the investigation, apprehension, and conviction of persons who violate
15 AS 04.11.010 by selling, importing, or possessing alcoholic beverages in violation of
16 a local option [AN ORDINANCE] adopted by a municipality or established village
17 under AS 04.11.491 [AS 04.11.490 - 04.11.500].

18 * Sec. 62. AS 18.65.085(c) is amended to read:

19 (c) The Department of Public Safety may establish and administer a reward
20 program, and provide grants to municipalities, established villages, and, at the request
21 of a municipality or established village, to a nonprofit association that administers a
22 village public safety officer program, for reward programs leading to the apprehension
23 and conviction of persons who violate AS 04.11.010 by selling, importing, or
24 possessing alcoholic beverages in violation of a local option [AN ORDINANCE]
25 adopted by a municipality or established village under AS 04.11.491 [AS 04.11.490
26 - 04.11.500].

27 * Sec. 63. AS 29.20.270(e) is amended to read:

28 (e) The veto does not extend to an ordinance adopted under AS 04.11.501
29 [AS 04.11.498]. This subsection applies to home rule and general law municipalities.

30 * Sec. 64. AS 29.25.020(d) is amended to read:

31 (d) This section does not apply to an ordinance proposed under

1 AS 04.11.507(d) [AS 04.11.502(c)].

2 * Sec. 65. AS 29.25.070(d) is amended to read:

3 (d) This section does not apply to an ordinance adopted under AS 04.11.501(c)
4 [AS 04.11.498(d) OR (e)].

5 * Sec. 66. AS 29.35.080(a) is amended to read:

6 (a) A municipality may regulate the possession, barter, sale, importation, and
7 consumption of alcoholic beverages under AS 04.11.480 - 04.11.509 [IN
8 ACCORDANCE WITH AS 04.11.480 - 04.11.506] and AS 04.21.010.

9 * Sec. 67. AS 34.03.360(6) is amended to read:

10 (6) "illegal activity involving alcoholic beverages" means a person's
11 delivery of an alcoholic beverage in violation of AS 04.11.010(b) in an area where the
12 results of a local option election have, under AS 04.11.491 [AS 04.11.490 -
13 04.11.500], prohibited the Alcoholic Beverage Control Board from issuing, renewing,
14 or transferring a liquor license or permit under AS 04;

15 * Sec. 68. AS 47.37.045(e) is amended to read:

16 (e) In this section,

17 (1) "established village" means an unincorporated community that
18 is in

19 (A) the unorganized borough and that has 25 or more
20 permanent residents; or

21 (B) an organized borough, has 25 or more permanent
22 residents, and

23 (i) is on a road system and is located more than 50
24 miles outside the boundary limits of a unified municipality, or

25 (ii) is not on a road system and is located more than
26 15 miles outside the boundary limits of a unified municipality

27 [HAS THE MEANING GIVEN IN AS 04.21.080(b)];

28 (2) "local governing body" has the meaning given in AS 04.21.080(b);

29 (3) "nonprofit organization" means an organization that qualifies for
30 exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code).

31 * Sec. 69. AS 04.11.090(c), 04.11.190, 04.11.490, 04.11.492, 04.11.496, 04.11.498,

1 04.11.500, 04.11.502, 04.11.504, 04.11.506, and 04.11.510(d) are repealed.

2 * Sec. 70. TRANSITION: LOCAL OPTIONS EARLIER ADOPTED. Notwithstanding
3 the provisions of this Act, local options adopted by an area under AS 04.11.490, 04.11.492,
4 04.11.496, 04.11.498, or 04.11.500 or previous local option laws before the effective date of
5 this Act shall continue in effect until changed under AS 04.11.493 or removed under
6 AS 04.11.495. References in this Act to local option elections conducted under AS 04.11.491,
7 04.11.493, 04.11.495, 04.11.497, 04.11.499, 04.11.501, 04.11.503, 04.11.505, and 04.11.507
8 are to be interpreted to include local option elections conducted under AS 04.11.490,
9 04.11.492, 04.11.496, 04.11.498, 04.11.500, or 04.11.502 or previous local option laws in
10 effect before the effective date of this section.

11 * Sec. 71. TRANSITION: EXISTING LOCAL OPTION PETITIONS. A petition to adopt
12 or remove a local option on file with a municipality or the lieutenant governor on the effective
13 date of this section that has not been voted on is void and may not be placed on an election
14 ballot.

15 * Sec. 72. TRANSITION: COMMUNITY LIQUOR LICENSES. A community liquor
16 license issued under AS 04.11.190 before the effective date of this section to operate a
17 beverage dispensary shall continue as a beverage dispensary license under AS 04.11.090. A
18 community liquor license issued under AS 04.11.190 before the effective date of this section
19 to operate a package store shall continue as a package store license under AS 04.11.150.

20 * Sec. 73. TRANSITION. A person licensed under AS 04.11.160 on the effective date of
21 this section shall submit the information required under AS 04.11.160(f), added by sec. 10 of
22 this Act, by September 30, 1995.

23 * Sec. 74. TRANSITION: IMPLEMENTATION OF BIENNIAL SEASONAL LICENSES.

24 (a) Approximately one-half of the applicants for 1996 renewal of a seasonal license issued
25 by the Alcoholic Beverage Control Board, as determined by the director of the Alcoholic
26 Beverage Control Board, shall be eligible for a one-year seasonal license. These licenses
27 expire, unless renewed, on December 31, 1996, and may be renewed biennially in even-
28 numbered years after that. The 1996 renewal fee for these licenses is one-half of the seasonal
29 biennial license fee.

30 (b) Applicants whose licenses are not renewed under (a) of this section shall be
31 eligible for a two-year seasonal license. These licenses expire, unless renewed, on

1 December 31, 1997, and may be renewed biennially in odd-numbered years.

2 (c) The director shall notify each licensee in writing as to whether the licensee shall
3 apply for renewal under (a) or (b) of this section, and of the actual amount of the renewal fee.
4 The notice must be given not later than December 1, 1995. However, the failure of the
5 director to provide the notice required in this subsection does not prevent a license from
6 expiring on February 28, 1996, under AS 04.11.540, if the renewal application is not filed on
7 or before that date.

8 * Sec. 75. TRANSITION: REGULATIONS. Notwithstanding sec. 79 of this Act, the
9 Alcoholic Beverage Control Board may proceed to adopt regulations necessary to implement
10 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
11 before July 1, 1995.

12 * Sec. 76. PROHIBITION ON PURCHASE OR CERTAIN ALCOHOLIC BEVERAGES.
13 Beginning July 1, 1995, and ending June 30, 1996, a person licensed as a wholesaler under
14 AS 04.11.160 may not purchase an alcoholic beverage that contains more than 76 percent
15 alcohol by volume.


16 * Sec. 77. Section 75 of this Act takes effect immediately under AS 01.10.070(c).

17 * Sec. 78. AS 04.16.110(2), enacted by sec. 33 of this Act, takes effect July 1, 1996.

18 * Sec. 79. Except as provided in secs. 77 and 78 of this Act, this Act takes effect July 1,
19 1995.

May 3, 1995

To: House Judiciary Committee
Chairperson Rep. Brian Porter
Fax number 465-3834

From: Molly Pederson 
P.O. Box 184
Barrow, Alaska 99723

Subj: Senate Bill no. 87 (CRA)

My name is Molly Pederson, born and raised and reside in Barrow, Alaska. Thank you for the opportunity of testifying on a bill being considered by your committee.

I speak representing the North Slope Celebration of Sober Life Movement, of which I am a chairperson. This group is made up of the residence of Barrow who promote sober living.

When the majority of the voters voted to prohibit the importation, sale and possession of alcoholic beverages by local option election it was a sigh of relief felt by many who have been affected by the devastation of alcohol abuse. The change has been positively phenomenal throughout the community and even carrying over to the nearby villages.

As the months pass, though, we are noticing more and more people getting back to drinking alcohol. Those who chose to possess and drink seem to not care whether they are breaking the law. Because of this the section of SB87 dealing with illegally possessing alcoholic beverages needs to be strong enough to make them think twice before breaking the law. As it is written now it is not going to keep people from taking chances of illegally possessing. Possession of alcoholic beverages in violation of local option should be classified as a misdemeanor or felony according to the amounts possessed the same as is provided for the sending, transporting, or bringing alcoholic beverages into a village in violation of local option ban.

(1)

As it is now, the public safety cannot get a search warrant for illegally possessed alcohol unless another crime has been committed. This does not seem fair when the majority of the voters have voted to ban alcohol and we have to wait for a crime to search and charge someone for breaking the law. It is the illegal possessor of alcohol who perpetuates the market for the bootleggers and must be held accountable for their actions as well.

It is frustrating to know that there is alcohol out there still available to the abusers who cause misery and pain, which was the main reason for the ban. A law needs to be able to help the communities who have voted dry, such as ours, keep illegal alcohol out.

Thank you for your consideration of my testimony.

TO: THE HOUSE JUDICIARY COMMITTEE**FAX: (907) 465-3834**

Subj: CS for Senate Bill No. 87 (FIN), "An Act relating to community local options for control of alcoholic beverages, *et seq*"

Mr. Chairman and Members of the Committee on Community and Regional Affairs:

My name is Edith Nashoalook, Assistant Health Educator employed by the North Slope Borough. My employment with the NSB started in 1983 as an advocate in the Arctic Women-in-Crisis. We dealt with a lot of alcohol related domestic violence, sexual abuse, elder abuse. In 1985, I transferred to Senior Citizens Program and I saw elder abuse due to alcohol and drug abuse. I transferred to Health Education in 1987 and has been there since.

I support amendments for making alcohol possession and importation a crime, a felony.

When the alcohol ban, making possession and importation illegal, first went into effect last year, I felt a sense of peace in our community. Children were happier and the domestic violence and other abuses were less evident in the Public Safety and also in the hospital.

Barrow residents voted to ban alcohol because it affects their way of life. Alcohol use in Barrow has been highly correlated with an increased domestic violence, crimes, accidents, mortality, suicides and job absenteeism. You wouldn't want your child, spouse or family member to be involved in domestic violence, in crimes, or have a serious accident or commit suicide - we do not want that for our families. We now know why those things happened in the past. The people of the NSB voted to ban alcohol because they did not want to increase the statistics that were already outrageously higher than the rest of the U.S. We want those statistics lower and non-existent.

Residents that are not substance abusers are affected by these things too because we live in a isolated area. We are in close contact with each other on a daily basis as work and at school. We see co-workers who don't come in at all because of drinking, or co-workers who are victims of domestic violence related to substance abuse. This makes our jobs and our days hard. We do not want that anymore.

We need stiffer laws that make alcohol possession and importation a serious crime. Please support us in our efforts.

Respectfully,



Edith Nashoalook

Foremost a Grandmother of 2 beautiful Grand-Boys
Mother of 3
Resident of Barrow of 39 years

Alaska State Legislature



State Capitol
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Senator Robin L. Taylor

Sponsor Statement

Senate Bill 87

Last year the Alcoholic Beverage Control Board, prompted by concerns over a lack of clarity in how local option elections are to be conducted, asked for legislation to simplify the process. The board also asked that the same vehicle be used to address long needed technical and common sense amendments to Title 4.

The result was Senate Bill 372, which passed the Senate and moved through the committee process in the House, only to die in the Rules Committee in the hectic final days of the 18th State Legislature.

Senate Bill 87 is substantially the same as last year's legislation.

The bill addresses the shortcoming in the current statute dealing with local option elections, for which no provision is made for moving from one type of option to another. Under current law, a community must first vote to remove all restrictions on the sale and importation of alcoholic beverages and then conduct another vote on a new option. This burdensome process can cause confusion for municipalities and unincorporated villages alike.

SB 87 was amended in the Community and Regional Affairs and Judiciary Committees to address specific concerns raised by local option communities. Those amendments have the support of the ABC Board and the chairman of the sponsoring committee.

District A:

Hyder • Ketchikan • Ketchikan • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

Barrow vote

Anchorage
News
1/2/95

Give ban a chance

The news from Barrow about the positive effects of prohibition approved in a close fall election are heartening. Public safety has improved in the town and in outlying villages. Hospital emergency room personnel aren't swamped with alcohol-related cases, and detoxification beds are in less demand.

Most tellingly, Inupiaq elder Morgan Solomon says "Our children are much happier."

Local option laws, like the one Barrow employed, allow communities to vote on banning the sale, importation and possession of alcohol — and to repeal those laws through the petition and ballot process. "Damp" status allows importation and possession of alcohol, whereas "dry" bans the sale, importation and possession of alcohol by anyone in the city. (The seven outlying villages already banned importation, but villagers were smuggling in booze from Barrow, creating local problems.)

But the heated wrangling in Barrow between supporters and critics of alcohol prohibition demonstrates that there is work ahead for Alaska's legislators as well as the community.

After the dry side won by seven votes, an anti-prohibition group hastily gathered enough signatures to hold another vote on Feb 21. Just days ago, the city council wisely upheld a mayoral veto of the election date, thus delaying it until fall.

State law ought to be clear enough so that community debate about local alcohol option centers on the pros and cons rather than what state law may or may not say. When even Alcoholic Beverage Control Board director Pat Sbarrock is unsure about when a repeal election can be held, then it is the job of the legislature to make the laws clear.

The city council and Mayor Long have the right idea in giving the new policy a chance to work.

Prohibition is an extreme measure, and not one to be taken lightly. But given its troubled past, Barrow is on the right track in going dry to battle the devastating effects of alcohol. That's what local option laws are all about. But state law ought not to have gray areas so big as to allow bowhead whales to swim through unimpeded.

The Almanac

The Slope and alcohol

The month and year Barrow went dry: November 1994.

Number of calls North Slope Borough Department of Public Safety officials compiled in November 1994 in the seven Slope villages, excluding Barrow: 175.

Number of village calls in November 1994: 103.

Number of November 1993 village calls that were substance-abuse related: 38.

Number of November 1994 village calls that were substance-abuse related: 19.

Number of intoxicated persons removed by public safety officials from premises in Barrow in November 1993: 63.

Number of Barrow drunks removed from premises in November 1994: 18.

Number of Barrow drunks brought to detoxification by safety officials in November 1993: 29.

Number of Barrow drunks brought to detox in November 1994: 3.

Number of calls logged by public safety officials related to Barrow minors consuming alcohol from Sept. 1 through Nov. 1, 1994: 23.

Number of such calls from November 1994 through Dec. 21, 1994: 3.

□ Sources: Daily News and North Slope Borough reports.

MEMORANDUM

State of Alaska

Department of Law

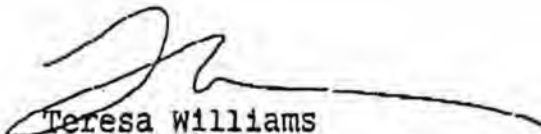
TO: Patrick Sharrock
Director
Alcoholic Beverage Control Board

DATE: March 10, 1995

FILE NO:

TEL. NO: 269-5200

SUBJECT: Local Option Laws



FROM: Teresa Williams
Assistant Attorney General
Commercial Section -- Anchorage

I am writing to indicate a need for revisions to the current local option laws. When reviewing the original 1986 bill for the governor, the Department of Law found practical problems. 1986 Inf. Op. Att'y Gen. at 4 n.1, 6 - 8 (May 29; 883-86-0074). The Department noted that the speed with which the bill was crafted may have caused the problems: the bill was introduced in late March, 1986 and moved quickly through both houses. With time, we have learned that additional significant problems exist in the implementation of the law.

Both I, as the attorney who advises your board, and Barbara Ritchie, as the supervisor for the Governmental Affairs section of the Juneau Attorney General's Office, have fielded a number of calls from St. Mary's and Barrow about the local option election process. Neither of us could find a solution to their problems within the confines of the present statute. Attorneys in the criminal division of the Department of Law have also reported some problems in enforcing the criminal provisions of local option because of ambiguities in the language.

When the local option scheme was adopted, no provision was made for moving from one type of option to another. The problems primarily arise when a proposal is made to move to a less restrictive option. Under the limited ballot language permitted, the community must first vote to remove all restrictions, and then conduct another vote to reinstate the desired option. The required ballot language does not advise voters what the result of a particular vote will be. The local option law is also ambiguous as to when a community may first conduct an election to remove an option it has adopted. (Subsequent elections must be at least 12 months later. AS 04.11.502(d))

Thank you for your attention to this matter. I would be happy to provide any additional information that you need.

TEW:mh

STATE OF ALASKA

DEPARTMENT OF

OFFICE OF THE ATTORNEY

May 29, 1986

Post-It™ brand fax transmittal memo 7671		of pages 5
To: Joe Ambrose	From: Jensen Williams	
Co.	Ca.	
Dept.	Phone: 569-5025	
4105-3922	Fax:	

IN NATIONAL CENTER
 100 CUSHMAN ST.
 SUITE 400
 FAIRBANKS, ALASKA 99701
 PHONE: (907) 462-1568

P.O. BOX K-STATE CAPITOL
 JUNEAU, ALASKA 99811
 PHONE: (907) 465-3600

Honorable Bill Sheffield
 Governor
 State of Alaska
 P.O. Box A
 Juneau, Alaska 99811

Re: CSSSHB 700 (Fin) am --
 local option to ban
 possession of alcohol
 Our file no. 883-86-0074

Dear Governor Sheffield:

As Jim Ayers requested on your behalf, we have reviewed CSSSHB 700 (Fin) am (hereafter HB 700), a bill relating to local option elections. This bill was introduced in late March and moved quickly through both houses. Although the law will be subject to constitutional challenge and may create a number of practical problems, it will be of potentially great benefit to many rural communities.

This bill was the product of the work of the Joint Special Committee on Local Option Laws, which held interim hearings all over western and northern Alaska on the question of banning possession of alcoholic beverages through local option elections. The Special Committee also drafted a lengthy report of its findings, which was made part of the legislative record. See 1986 H.J. 2865-66. That report is a valuable record of the legislature's intent in passing this bill and of the need for a local option banning possession of alcohol; and assuming that the bill is signed into law, the report will ultimately be very helpful in defending this legislation against the potential legal challenges described below.

HB 700 creates another "local option" so that communities may vote to ban possession of intoxicating beverages. Possession of alcoholic beverages in the home (including homemade liquor) would be a violation of the ban, but possession of alcohol in the body would not. Violation of the ban would be made an infraction punishable by a maximum \$1,000 fine, and the person would not be entitled to publicly-financed counsel or trial by a six- or twelve-person jury.

Hon. Bill Sheffield, Governor
File No. 88-3-86-0074

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The most obvious question raised by this bill is whether banning possession of alcohol in the home violates the right to privacy under article I, section 22, of the ALASKA Constitution. In addition, however, there are legal issues relating to penalties under the bill and to delegation of state authority, and there are some practical problems left unresolved. Each of these will be discussed briefly below.

Right to Privacy

Despite the minimal penalties provided by this bill (and the ability to "pay" a fine through community work service), the ban on possession is subject to challenge as an invasion of privacy under article I, section 22, and Ravin v. State, 537 P.2d 497 (Alaska 1975) (possession of small amounts of marijuana, by adults in their homes, is protected).

The many public hearings held by the Special Committee throughout the state elicited hours of testimony from people from all walks of life on the problems created by alcohol in rural Alaska, which are summarized in the committee's detailed report. 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 (March 1986) (hereafter "Report"). The problems created by alcohol are well known and beyond dispute (see Findings 1 through 9 and 11, Report at 108-09). There seems to be ample evidence, and it stands to reason, that in communities banning sale and importation of alcohol, much drinking takes place in private homes. Finding 10, id. Given the enormous economic and social costs of alcohol abuse, it is not surprising that communities would want to ban possession. Finding 12, id.

Giving communities this additional option (and allowing community work service to be administered through village councils) provides a greater measure of local control over a problem which, although it exists statewide, has its most severe impact at the local level. This bill represents the legitimate view that each community should be the sole judge of whether an expectation of privacy in the possession of alcohol is one that their localized society believes is reasonable and deserving of protection. In other words, the balance between one person's right to possess and consume alcohol and the public's right to safety and security should be made on a village-by-village basis by the voters in each locale.

One of the most important of the Special Committee's findings is that present laws are not adequate to deal with

Hon. Bill Sheffield, Governor
File No. 88-3-86-0074

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problems created by possession of alcohol, including home brew. Finding 14, Report at 110. Because present laws are inadequate, the legislature may devise different means to achieve its legitimate health and safety purposes. This is not to say that the legislature is free to devise draconian and irrational solutions to a problem once a less intrusive method has failed. For example, we understand that there are some who have advocated ideas that amount to a virtual suspension of search and seizure protections in order to completely eradicate all traces of alcohol from a village. This bill obviously does not go that far and is consistent with state and federal law regarding searches and seizures. In the absence of consent, or exigent circumstances, a search warrant issued by a judicial officer will still be required to gain entrance to a person's home. See Report at 107.

The means chosen by the legislature to make alcohol laws more effective helps cure a problem created by current local option laws and by decisions such as Ravin v. State. As noted in Finding 14, Report at 110, Alaska law currently prohibits sale and importation of alcoholic beverages but permits possession. Similarly, the Ravin case left intact criminal prohibition of sale or public possession of marijuana, but legitimized home possession. Laws such as these tend to create an incentive to do precisely what is prohibited, i.e., to acquire these controlled substances. The general populace knows very well that if you can get it to your house (or if you can make it yourself) you are literally home free. On the other hand, if possession is prohibited then it may very well lead to less importation and less manufacturing, which has always been a legitimate goal.

We have not reviewed the transcripts of the Special Committee's interim hearings, as a judge might do, nor have we perused the many reports and publications that are part of the committee record. Nonetheless, if the summary of the evidence contained in the committee's report is accurate, we believe that there is ample justification for the legislative findings contained in sec. 1 of the bill and for upholding the validity of the law. See Harrison v. State, 687 P.2d 332 (Alaska App. 1984); State v. Erickson, 574 P.2d 1 (Alaska 1978).

Penalty Provisions

Another legal question posed by this bill is whether the potential monetary penalty (sec. 4 of the bill) or public opprobrium resulting from a violation is sufficiently indicative of criminality so as to require full criminal procedural rights

Hon. Bill Sheffield, Governor
File No. 38-3-86-0074

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Page 4

US-1
1
such as court-appointed counsel or trial by jury. See Report at
103-06. ~~We believe that the answer is no.~~

There is authority that suggests that whether or not a penalty is "criminal" should be determined based on "community" attitudes. See Beran v. State, 705 P.2d 1280, 1284, n.4 (Alaska App. 1985). As we understand it, the testimony elicited during the interim hearings was that rural villages want this local option as a preventive, rather than punitive, measure. The committee's findings in this regard (Findings 15-16, Report at 110) and the legislative findings in sec. 1 of the bill are entitled to deference by the courts and would probably be overturned only if they were irrational or without a basis. Moreover, in light of the fact that the actual fine will be set by bail schedule and that community work service can be substituted as payment of the fine, this provision will probably not be struck down. Even if invalid, this is a severable part of the law, and the remainder will not be affected.

Delegation of Responsibility

This bill contains an innovative provision that requires the "governing body" of a municipality or established village to assign community work service to persons who violate the ban on possession. Proposed AS 04.16.205(d), in sec. 4. This provision raises two separate issues. First, whether this constitutes an impermissible delegation of state authority to unincorporated villages, and second, whether this constitutes some sort of implicit state recognition of the sovereign power of the governing body. 1/

1/ The term "governing body" is not defined in the bill, but a court would probably apply the nearly identical term "local governing body" under AS 04.21.080(b)(10), which is defined as "as appropriate, a city council, a borough assembly, or a traditional village council, but does not include a corporation established under the Alaska Native Claims Settlement Act." This definition raises several interpretive questions, e.g., which is the appropriate "governing body" when a community has both a municipal government and a traditional council. We believe the answer must be supplied by referring to the overall intent of the legislature, which was to allow the community as a whole to provide local input on the content of work programs. Therefore, we believe that this provision should be interpreted as follows:
(Footnote Continued)

Hon. Bill Sheffield, Governor
File No. 88-3-86-0074

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because the bill also requires that the amount of the fine must be based on the amount of alcohol and the number of prior violations, it may be very difficult for a police officer in the field to choose the correct fine. Another problem is that it might be very difficult for an offender to complete the required amount of community work service in the 30 days specified in the bill.

However, the most important potential practical problems arise out of the definition of "established village" in AS 04.21.080(b)(8). Before 1985, the boundary of an established village was fairly easily ascertained because it was based on a specified distance from a specified central point (a post office station). However, in 1985 the definition was changed to refer simply to an "unincorporated community" with 25 or more residents, without defining how the boundaries of the community are determined.

Although this lack of a definite boundary is a problem under current local option laws, it becomes much more critical when possession is prohibited. It is at least arguable that a person could exclude himself from the "community," particularly if his residence is on the outer perimeter of a group of residences, thus circumventing the local option law. It is hoped that the courts will define the boundaries of an "unincorporated community" so that the historical or commonly understood boundaries will govern, thus assuring that persons within the community have notice of the law and upholding the legislature's intent that the public safety concerns of the majority of voters would outweigh the drinking habits of the minority. Any other, more restrictive, interpretation as to boundaries of a village would frustrate that intent and make the law useless. 2/

2/ During the legislative consideration of HB 700, it was assumed that the definition of "established village" in AS 04.21.080(b)(8) would be changed by Senate Bill No. 69 back to the pre-1985 provision setting up a boundary based on a radius of five miles from a central point in the community. All discussions centered on this "new" definition in SB 69. Unfortunately, SB 69 did not pass, thus resulting in the uncertainty described here. The definition of "established village" should probably be the subject of corrective legislation next session.

Alcoholic Beverage Control Board
 550 W 7th Ave Suite 350
 Anchorage AK 99501
 Patrick L. Sharrock, Director
 (907) 277-8638 Fax (907) 272-9412

SCHEDULE OF LOCAL OPTION COMMUNITIES
 Updated December 30, 1994

City	Community license only	Open possession	Vote Tally	Election date	Certification date	Effective date
Aldak			38-15	07-17-91	08-21-91	09-01-91
Alakunuk			94-24	07-20-81	07-27-81	08-01-81
Alakunuk		1	47-7	02-06-90	02-12-90	03-01-90
Aiakaket			49-30	05-12-89	05-19-89	06-01-89
Aiakaket		1	45-34	05-12-89	05-19-89	08-17-89
Ambler				12-15-81	12-15-81	01-01-82
Anaktuvuk Pass			78-11		1982	01-01-83
Anaktuvuk Pass		1	59-45	11-04-86	12-16-86	01-01-87
Angoon		1	92-40	07-28-88	08-01-88	11-01-88
Atka			22-16	03-07-89	03-08-89	04-01-89
Almautluak			60-12	10-08-81	04-29-82	05-01-82
Atkasuk		1	43-31	10-05-83	10-11-83	01-01-84
Barrow			614-588	10-04-94	10-06-94	11-01-94
Barrow		1	604-596	10-04-94	10-06-94	11-01-94
Bethel			611-207	10-04-77	10-06-77	11-01-77
Blrch Creek*		1	13-2	10-08-87	10-22-87	11-01-87
Brevig Mission			26-14	03-08-83	03-08-83	04-01-83
Buckland			52-8	05-10-82	05-11-82	06-01-82
Chalkyitsik*			21-2	07-20-82	07-28-82	08-01-82
Chotomak			48-29	10-14-82	10-15-82	11-01-82
Chevak			88-63	10-02-90	10-02-90	11-01-90
Deering			32-24	05-28-82	06-01-82	07-01-82
Diomede			27-11	09-10-81	09-29-81	10-01-81
EEK			90-15	11-27-82	11-27-82	12-01-82
Elim			49-17	08-24-81	08-27-81	09-01-81
Emmonak			54-12	10-12-81	10-12-81	11-01-81
✓ Fort Yukon	1					
Gambell			79-10	08-22-81	08-25-81	09-01-81
Gambell		1	72-13	12-23-86	12-29-86	01-01-87
Golovin			31-22	01-16-84	01-17-84	02-01-84
Goodnews Bay			36-25	11-08-83	11-08-83	12-01-83
Goodnews Bay		1	37-11	01-14-91	01-18-91	02-01-91
Grayling			36-23	12-28-83	01-04-84	02-01-84

*Unincorporated

SCHEDULE OF LOCAL OPTION COMMUNITIES

Updated December 30, 1994

City	Community increases only	Plan provisions	Vote Tally	Election date	Certification date	Effective date
Hooper Bay			103-44	03-01-83	03-01-83	04-01-83
Hughes			17-4	03-02-83	03-29-83	04-01-83
Huslia			37-13	03-14-89	03-23-89	04-01-89
Iliamna*			35-24	10-05-82	10-25-82	01-23-83
Kake	1					
Kaktovik		1	56-39	08-01-89	08-07-89	11-05-89
Kasigluk			74-3	10-04-83	10-17-83	11-01-83
Kiana			81-38	12-08-87	12-17-87	01-01-88
Kipnuk*			82-7	10-05-82	10-25-82	11-01-82
Kivalina			79-33	01-08-85	01-09-85	02-01-85
Klawock	1		111-70	10-05-93	10-11-93	10-11-93
Kobuk			15-12	03-29-89	04-03-89	05-01-89
Kokhanok*			38-19	09-18-84	09-27-84	10-01-84
Kongiganak*			50-9	07-13-82	07-28-82	08-01-82
Kotlik				09-08-81	09-30-81	10-01-81
Kotlik		1	51-22	03-24-87	03-25-87	04-01-87
Kotzebue			643-433	12-06-88	12-07-88	01-01-89
Koyuk			57-8	08-25-81	08-28-81	09-01-81
Kwethluk			82-30	01-01-82	02-24-82	03-01-82
Kwigillingok*			63-5	08-09-83	09-01-83	10-01-83
Lower Kalskag			46-31	11-06-81	11-07-81	12-01-81
Manokotak			79-9	01-29-88	02-01-88	03-01-88
Manokotak		1	80-8	01-29-88	02-01-88	03-01-88
Marshall (Fortune)			42-16	07-26-81	07-28-81	08-01-81
Marshall		1	37-34	10-07-86	10-08-86	11-01-86
Mekoryuk			48-10	09-01-81	09-02-81	10-01-81
Mekoryuk		1	42-29	10-07-86	10-08-86	11-01-86
Minto*			59-34	07-12-83	07-21-83	08-01-83
Mountain Village			72-52	03-13-84	03-19-84	04-01-84
Napaidak			54-14	03-31-82	03-31-82	04-01-82
Napaidak		1	62-14	05-05-87	05-19-87	06-01-87
Napaskiak			55-4	11-01-82	11-06-82	12-01-82
Newtok			37-9	10-30-84	11-02-84	12-01-84
Noatak*			69-53	12-07-82	12-22-82	01-01-83
Nondaton			46-30	11-10-86	12-30-86	01-28-87
Noorvik			103-58	04-28-87	04-28-87	05-01-87
Nuqsut			57-39	11-21-83	11-22-83	12-01-83
Nuqsut		1	60-56	11-04-88	11-12-88	12-01-88
Nunapitchuk			106-35	09-15-81	10-02-81	11-01-81

*Unincorporated

SCHEDULE OF LOCAL OPTION COMMUNITIES
Updated December 30, 1994

City	Community license only	San Protection	Vote Tally	Election date	Certification date	Effective date
Numapitchuk		1	75-23	10-07-88	10-13-88	11-01-88
Pilot Station			67-58	03-08-88	03-20-88	04-01-88
Platinum			12-9	01-14-82	01-25-82	02-01-82
Point Hope			62-39	08-29-82	07-02-82	08-01-82
Point Hope		1		10-08-89	10-09-89	11-01-89
Point Lay*			30-15	07-01-86	07-11-88	08-01-86
Port Alexander			31-16	01-05-82	01-11-82	02-01-82
Port Protection*			23-9	03-27-88	04-05-88	05-01-88
Quinhagak			77-26	10-30-81	10-31-81	11-01-81
Quinhagak		1	71-27	10-06-87	10-12-87	11-01-87
Red Devil*			17-8	02-20-90	04-27-90	07-28-90
Russian Mission			48-22	10-06-87	10-27-87	11-01-87
Saint Mary's			80-86	08-29-84	09-02-84	10-01-84
Saint Mary's			63-48	09-22-81	09-28-81	10-01-81
Saint Michael			39-21	08-04-88	08-07-88	09-01-88
Savoonga			103-18	10-14-81	10-14-81	11-01-81
Scammon Bay			57-10	12-07-81	12-08-81	01-01-82
Scammon Bay		1	71-25	10-08-87	10-12-87	11-01-87
Selawik			89-69	12-17-86	12-22-86	01-01-87
Shageluk			31-27	06-28-83	07-06-83	09-01-83
Sheldoonfik			34-28	03-13-84	03-15-84	04-01-84
Sheldon Point			26-7	08-26-88	08-27-88	09-01-88
Shishmaref			82-47	01-04-83	01-04-83	02-01-83
Shungnak			48-44	10-06-87	10-10-87	11-01-87
Stebbins			88-19	08-25-87	10-08-87	11-01-87
Stevens Village*			31-11	06-05-84	06-15-84	07-01-84
Tanacross*		1	32-5	05-17-88	05-31-88	06-01-88
Tanana		1	98-15	01-12-82	01-13-82	02-01-82
Tatitok*			28-15	08-23-83	09-13-83	10-01-83
Teller			47-31	05-18-83	05-18-83	06-01-83
Tellin*			54-7	12-07-82	12-22-82	01-01-83
Togiak			96-23	05-03-82	05-04-82	06-01-82
Togiak		1	80-38	10-07-86	10-31-86	11-01-86
Tokook Bay			78-32	11-23-81	11-23-81	12-01-81
Tuluksak			81-16	10-06-82	10-05-82	11-01-82
Tuluksak		1	55-12	04-12-94	04-25-94	05-01-94
Tuntutufiak			47-20	07-20-82	08-02-82	09-01-82
Tuntutufiak		1	41-22	10-08-87	10-28-87	11-01-87
Tununak			90-11	08-12-81	08-13-81	09-01-82

*Unincorporated

SCHEDULE OF LOCAL OPTION COMMUNITIES

Updated December 30, 1994

City	Community Revenue only	Ban possession	Vote Tally	Election date	Certification date	Effective date
Unalakleet			121-40	04-14-92	04-16-92	05-01-92
Upper Kalskog			38-30	01-20-93	02-22-93	03-01-93
Wainwright			11-21-42	07-08-82	07-14-82	08-01-82
Wales			29-21	08-14-81	08-17-81	09-01-81
TOTALS	4	24				

CHANGES THIS UPDATE:

The City of Saint Marys change is ban importation of alcoholic beverage - added to list.
 The City of Alka has changed from unincorporated to incorporated.

This schedule is continuously updated as dictated by ongoing elections. If you have any questions, please do not hesitate to call the ABC Board office at 277-0898.

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE FINKELSTEIN

TO: HCS CSSB 87 () (work draft 9-LS0673\R) 5/3/95

Page 2, line 7, following "industry.":

Insert "A person who is employed in a program providing alcohol or substance abuse counseling or related services is not considered to have a financial interest in the alcoholic beverage industry."

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN

TO: HCS CSSB 87() (Work Order 9-LS0673\R)

1 Page 2, after line 8:

2 Insert a new bill section to read:

3 **** Sec. 2.** AS 04.06.060 is amended to read:

4 Sec. 04.06.060. QUORUM AND MAJORITY. Three members of the board
 5 constitute a quorum for the conduct of business, except that at least two members
 6 of a quorum must be members who represent the general public and a majority
 7 of the whole membership of the board must approve all applications for new licenses,
 8 and all renewals, transfers, suspensions, and revocations of existing licenses. If a
 9 majority of the board is present and voting, the director, with the consent of the
 10 members present, may cast a tie-breaking vote."

11 ~~Renumber the~~ following bill sections accordingly.

12 Page 36, line 21:

13 ~~Delete "sec. 10"~~

14 ~~Insert "sec. 11"~~

Page 37, line 8:

~~Delete "sec. 79"~~

~~Insert "sec. 81"~~

Page 37, ~~line~~ line 15:

~~Insert a new~~ bill section to read:

**** Sec. 78.** TRANSITION: BOARD MEMBERS. The amendments to AS 04.06.020 made ~~in~~ ~~sec.~~ 1 of this Act do not prevent a person who is serving as a member of the

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN

TO: HCS CSSB 87() (Work Order 9-LS0673\R)

1 Page 2, line 4, after "public":

2 Insert "One board member representing the general public shall also be employed
3 in the field of public health."

4 Page 37, line 8:

5 Delete "sec. 79"

6 Insert "sec. 80"

7 Page 37, after line 15:

8 Insert a new bill section to read:

9 "** Sec. 77. TRANSITION: BOARD MEMBERS. The amendments to AS 04.06.020
10 made by sec. 1 of this Act do not prevent a person who is serving as a member of the
11 Alcoholic Beverage Control Board on the effective date of this section from continuing to
12 serve until the person's term expires. The Governor shall implement AS 04.06.020, as
13 amended by sec. 1 of this Act, in making appointments after the effective date of this
14 section."

15 Renumber the following bill sections accordingly.

16 Page 37, line 18:

17 Delete "secs. 77 and 78"

18 Insert "secs. 78 and 79"

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



May 3, 1995

Rep. Brian Porter, Chairman
House Judiciary Committee
Alaska State Legislature
State Capitol
Juneau, AK. 99802

RE: SB 87 - Local options for control of alcoholic beverages.

Dear Representative Porter:

Last October, the people of Barrow voted to go from a "damp" to a "dry" status regarding the importation, sale and possession of alcohol. In doing so, Barrow became the largest dry community in the state.

This willingness on the part of the electorate to forego alcohol has had remarkable results. During the six months since the ban went into effect, we have seen a dramatic drop in the number of alcohol-related incidents handled by our Department of Public Safety. Teachers have noticed that some students are considerably more alert because of a quieter home life. Employers have experienced less absenteeism and higher morale among their employees. Doctors on-call for emergency medical services at night are getting more sleep. Vandalism of private property has declined.

Some residents who were unhappy about the results of the local option election attempted to force another vote on the issue shortly after last year's election. That conflict ended up in Superior Court, and the judge ruled that the community deserves a period of time to see the effects of the ban before another vote is allowed.

The judge decided on a twelve-month moratorium in our case, but he also

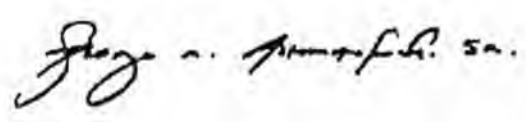
suggested there is precedent for establishing a two-year waiting period after a local option election before an attempt can be made to undo the restriction. However, he left it to the Legislature to determine a permanent solution for this issue.

Our experience shows how difficult it is to get a ban passed in the first place. I believe a community that has cleared this hurdle needs the support of the law in providing adequate time for the community to go through the complex social processes that lead from alcohol dependence to a better way of life. People need to undergo and appreciate the transformation before they are asked to reconsider the question.

In Section 28, subsection (f) of HCSSB 87(CRA), I urge you to make an amendment stipulating a two-year moratorium on removal of a local option restriction.

This is our primary concern regarding SB 87. The North Slope Borough Department of Public Safety will also send further comments on this bill.

Sincerely,



George N. Ahmaogak, Sr.
Mayor

TO: THE HOUSE JUDICIARY COMMITTEE**FAX: (907) 465-3834**

Subj: CS for Senate Bill No. 87 (FIN), "An Act relating to community local options for control of alcoholic beverages, *et seq*"

Mr. Chairman and Members of the Committee on Community and Regional Affairs:

My name is Angela Lesner. I am an Itinerant Health Educator employed by the North Slope Borough. I have lived in the North Slope for three and a half years.

I support amendments for making alcohol possession and importation a crime, a felony.

When the alcohol ban, making possession and importation illegal, first went into effect last year, people quit using. People quit using because they *thought* alcohol possession and importation was a serious crime with serious repercussions. We saw a decline in accidents, suicides, domestic violence and crimes.

People quit using alcohol initially because of a rumor of stiff laws. There was a rumor that being caught drunk was a serious crime, that meant an immediate \$1000 fine and a month in jail. This worked until residents found out possession was only a \$100 fine. They spend more than that just to get one bottle at \$150. An average bi-weekly paycheck is at least \$1000. Paying a \$100 fine for alcohol possession is not a deterrent, just an obstacle. People are using alcohol again because using is no longer considered a crime.

I also hear, substance abusers have found a way to get past being caught importing through the airlines. They import alcohol through the postal system and to my knowledge, they are not getting caught. Alcohol brought in through the postal system is much cheaper than \$150. Substance abusers are making new paths to get alcohol. We haven't truly seriously banned alcohol. We thought we were voting to ban alcohol in Barrow, that is what we want.

Barrow residents voted to ban alcohol because it affects their way of life. Alcohol use in Barrow has been highly correlated with an increased domestic violence, crimes, accidents, mortality, suicides and job absenteeism. You wouldn't want your child, spouse or family member to be involved in domestic violence, in crimes, or have a serious accident or commit suicide - we do not want that for our families. We now know why those things happened in the past. The people of the NSB voted to ban alcohol because they did not want to increase the statistics that were already outrageously higher than the rest of the U.S. We want those statistics lower and non-existent.

Residents that are not substance abusers are affected by these things too because we live in a isolated area. We are in close contact with each other on a daily basis as work and at school. We see co-workers who don't come in at all because of drinking, or co-workers who are victims of domestic violence related to substance abuse. This makes our jobs and our days hard. We do not want that anymore.

Families have it the hardest though in terms of dealing with the affects of alcohol abuse. When a family member drinks, all the persons in the house are affected by the drinking because of limited housing and small house sizes. You can't move out because your spouse is drinking, there isn't an empty apartment in sight, ever. Finding housing up here can take a year or more. As housing is small, you can't just go into another room, it is already filled.

We voted to ban alcohol possession and importation because we want a nice community, nice homes and a nice place to live. We don't want domestic violence, child abuse, job absenteeism, accidents, suicides and increased crimes. We don't want any of that. Statistics here have shown all of those things are closely linked to alcohol and substance abuse.

We need stiffer laws that make alcohol possession and importation a serious crime. Please support us in our efforts. Residents here, and in most places in the US, do not have experience creating nice communities, in the past we sort of thought it just happened. We know now that nice communities happen because residents take responsibility for things that happen in them. We voted to make our community a nice place and we meant to do that. Creating drug free sober communities is a hard to accomplish. More people today are addicted to drugs and alcohol than ever before. Yet we people in Barrow are willing to go without feeding our addictions to create a nice community. We want nice families, nice homes and nice friends. We are trying our best to be responsible community citizens. Please help us create a clean and sober community by instituting stiffer laws that make alcohol possession and importation a serious crime.

Sincerely,

A handwritten signature in cursive script that reads "Angela Lesner". The signature is written in black ink and is positioned above the typed name.

Angela Lesner, Itinerant Health Educator

**NORTH SLOPE BOROUGH
DEPARTMENT OF PUBLIC SAFETY**

P.O. Box 470
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FACSIMILE COVER LETTER

TO: House Judiciary Committee

COMPANY: _____

FACSIMILE PHONE NUMBER: 465-3834

TOTAL NUMBER OF PAGES (Including this cover letter) 1

FROM: Mayor George Ahmaogak Sr.

SPECIAL INSTRUCTIONS:

If you did not receive all pages or if there was an error during transmission, please call (907) 852-0311 as soon as possible.

Testimony of Mayor George Ahmaogak, Sr.

**SB 87 - Local options for control of alcoholic beverages.
House Judiciary Committee
May 4, 1995**

Thank you, Mr. Chairman. I appreciate the opportunity to speak today on SB 87, and I hope our recent experience in Barrow with local option elections can help to make this legislation effective in serving all the Alaskan communities that want to exercise local control over the problems created by alcohol.

On October 4, 1994, the people of Barrow voted to go from a "damp" status to a "dry" status. In doing so, Barrow became the largest dry community in the state. That decision took effect on November 1.

It was not an easy decision for people to make, and it should not be an easy decision to go back on. Many people feel that it is their right to drink if they do it responsibly. Many feel that the needs of the community must take

precedence over their own personal desires. Some people hold both of these opinions at the same time. As a result, it was a difficult decision for many residents.

A lot of people are withholding judgment on the success of the alcohol ban. Others grudgingly admit they have been surprised at its positive effects. Even though we have lived with the new restriction for six months, many residents still take a wait-and-see attitude.

But you don't have to look far to find the results. Since the ban took effect, the number of alcohol-related incidents handled by our Department of Public Safety has fallen dramatically. Some kids are a lot more attentive at school because their homes are no longer as chaotic at night. Employers have experienced less absenteeism on the part of their employees. Vandalism of private property is down. Doctors who are on-call for emergency medical service at night are getting more sleep, which means their

daytime patients are probably getting more alert care.

Any way you cut it, this town has seen a remarkable improvement in its quality of life during the past few months. Even the nearby villages have benefitted. They were already dry, but alcohol importation from Barrow was a continual problem. Now it is much more difficult to get alcohol into the villages, so they are beginning to notice a better quality of life too.

Those who didn't like the results of our local option election decided to circulate a petition to repeal the decision that had been made by the voters. That petition ended up as a court case, which was decided recently in Superior Court. The judge decided that any attempt to eliminate the new local option in Barrow could not go to the polls for a year. In his opinion on the case, the judge also indicated there is precedent in the Constitution and in state law for a two-year waiting period between local

option elections. He suggested that the Legislature should specify which timeframe will apply.

I applaud the Legislature for bringing a number of important issues to the table in SB 87. The bill goes a long way toward cleaning up the local option laws. But I urge you to seriously consider a two-year moratorium on repeal of local option restrictions.

We are discovering that one of the most powerful ways to get people to support a "dry" status is to let them witness the changes that occur when the town goes dry. Some of those changes are immediately noticeable. Others take quite awhile to show themselves. For example, there are very complex problems facing families that have been ravaged by alcohol for years. These families cannot be expected to immediately become whole again. With family counseling and other interventions, there is an opportunity for a gradual transformation into a happy and productive

family.

These gradual changes are reflected at the community level just as they are within the family. A lot of people have been pleasantly surprised by the new tone in our town. But they need time to really be convinced that life can be better, and they need to really experience the difference before they vote on the issue again.

So I urge you to establish this two-year moratorium in SB 87. It is addressed in section 28 of the House CRA committee substitute.

That is my primary concern with the legislation as it currently stands. Communities all over rural Alaska would benefit from this amendment. And Barrow needs the time for everyone to see that it is worth the personal sacrifice to live in a town that has been transformed for the better.

The North Slope Borough has other recommendations regarding SB 87, which will be presented by our Department of Public Safety.

Thank you for the opportunity to speak on this issue, and good luck with the last days of the legislative session.

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NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

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Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



May 3, 1995

Rep. Brian Porter, Chairman
House Judiciary Committee
Alaska State Legislature
State Capitol
Juneau, AK. 99802

RE: SB 87 - Local options for control of alcoholic beverages.

Dear Representative Porter:

Last October, the people of Barrow voted to go from a "damp" to a "dry" status regarding the importation, sale and possession of alcohol. In doing so, Barrow became the largest dry community in the state.

This willingness on the part of the electorate to forego alcohol has had remarkable results. During the six months since the ban went into effect, we have seen a dramatic drop in the number of alcohol-related incidents handled by our Department of Public Safety. Teachers have noticed that some students are considerably more alert because of a quieter home life. Employers have experienced less absenteeism and higher morale among their employees. Doctors on-call for emergency medical services at night are getting more sleep. Vandalism of private property has declined.

Some residents who were unhappy about the results of the local option election attempted to force another vote on the issue shortly after last year's election. That conflict ended up in Superior Court, and the judge ruled that the community deserves a period of time to see the effects of the ban before another vote is allowed.

The judge decided on a twelve-month moratorium in our case, but he also

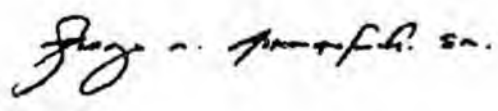
suggested there is precedent for establishing a two-year waiting period after a local option election before an attempt can be made to undo the restriction. However, he left it to the Legislature to determine a permanent solution for this issue.

Our experience shows how difficult it is to get a ban passed in the first place. I believe a community that has cleared this hurdle needs the support of the law in providing adequate time for the community to go through the complex social processes that lead from alcohol dependence to a better way of life. People need to undergo and appreciate the transformation before they are asked to reconsider the question.

In Section 28, subsection (f) of HCSSB 87(CRA), I urge you to make an amendment stipulating a two-year moratorium on removal of a local option restriction.

This is our primary concern regarding SB 87. The North Slope Borough Department of Public Safety will also send further comments on this bill.

Sincerely,



George N. Ahmaogak, Sr.
Mayor

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MEMORANDUM

April 28, 1995

SUBJECT: Overinclusive Bill Title - HCS CSSB 87(C&RA)

TO: Representative Ivan Ivan

FROM: Michael F. Ford 
Legislative Counsel

The attached House CS removes secs. 1, 2 and 78 of CSSB 87(FIN) as you requested, but leaves the bill's title unchanged. If this change had been made in the Senate, the removal of secs. 1, 2 and 78 would also require the bill title be changed. However, because CSSB 87(FIN) is in the second house, as you are aware the title cannot be changed unless the Uniform Rules are suspended. By deleting secs. 1, 2 and 78 without changing the title, you probably have a constitutional problem. Essentially, deleting these sections without changing the bill title results in an overinclusive title (one that specifically mentions A and B when the body of the act deals only with A).

Article II, Section 13 of the state constitution requires "The subject of each bill shall be expressed in the title." Clearly, if the title mentions something that is not contained in the bill, the title does not literally comply with this provision and there is a substantial risk that a court will find a violation of the constitution. However, the court has not specifically considered the question of an overinclusive title in this state, so no one can say with any degree of certainty how the court will react.

Courts have generally held that an act will be valid unless the title is misleading or deceptive. (Lowery v. Red Cab Co., 262 S.W. 147 (Tex. Ct. Civ. App. 1924)) Whether a particular title will be misleading or deceptive because it mentions something that is not included in the body of the act will depend on the facts of the case, so an overinclusive title will always be risky. However, some courts have been tolerant of overinclusive titles. (Watts v. Oliphant, 143 S.E. 813 (S.C. (1965); Doyle v. King, 44 S.E. 2d 608 (S.C. 1947)) On the other hand, a court has held an overbroad title to be misleading. (Reeves v. Adam Hat Stores, 198 S.W.2d 789 (Ky. Ct. App. 1946))

My guess is that the more specific the description of the "missing" item is in the title, the more likely that a court will find the title misleading and unconstitutional. The uniform rules prohibiting title changes may affect the decision of Alaska's courts, not because the court would take it upon itself to enforce the rules, but because the court may find that those rules

Representative Ivan Ivan

April 28, 1995

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encourage legislators to rely on the title when deciding whether to accept amendments by the second house and, therefore, cause the title to be misleading.

While our court has not had occasion to consider title questions, it has considered the single-subject requirement which is contained in the same section of the constitution and been lenient in finding compliance with that requirement. However, the Alaska Supreme Court has begun to reevaluate its broad interpretation of the single-subject rule. (State v. First National bank of Anchorage, 660 P.2d 406 (Alaska 1982); Yute Air Alaska, Inc. v. McAlpine, 698 P.2d 1173 (Alaska 1985)) These cases suggest that the court may be reluctant to adopt an expansive view of the constitutional title requirement.

MFF:glc

95-309.glc

Enclosure

#1

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE FINKELSTEIN
TO: HCS CSSB 87 () (work draft 9-LS0673\R) 5/3/95

Page 2, line 7, following "industry.":

Insert "A person who is employed in a program providing alcohol or substance abuse counseling or related services is not considered to have a financial interest in the alcoholic beverage industry."