

ALASKA LEGISLATURE COMMITTEE ON GOVERNMENT  
12093 HOUSE C&RA

# C contents

About This Guide .....	i
Overview .....	v
Best Practices .....	vi
Implementation .....	x
Regulatory Strategies: Part of a Comprehensive Goal .....	xii
Introduction .....	1
The Impact of Minimum Age Drinking Laws .....	1
Chapter 1. Commercial Availability .....	5
Strict Prohibitions of Sales or Gifts to Minors .....	6
Licensing Restrictions .....	7
Regulations for Serving and Selling Practices .....	10
Compliance Checks (Decoy or Sting Programs) .....	16
Penalties for Violating Commercial Availability Restrictions .....	18
Chapter 2. Social/Public Availability .....	23
Noncommercial Sources of Alcohol (Social Availability) .....	23
Noncommercial Settings for Youth Consumption .....	27
Penalties for Violating Noncommercial Availability Restrictions .....	31
Chapter 3. Minors in Possession of Alcohol .....	35
Restrictions on Possession of Alcohol by Minors .....	35
"Cops in Shops" Enforcement Programs .....	36
Zero-Tolerance Laws .....	38
False Identification .....	39
Penalties Applied to Underage Offenders .....	41
Chapter 4. Toward Implementation of Regulatory Strategies .....	43
Enforcement Priorities .....	44
The Role of State and Local Governments .....	46
Youth Participation and Activism .....	48
Complementary Prevention Policies and Programs .....	49
Conclusion .....	51
References .....	53

The manager and server training components focus on implementation of these policies, using active learning techniques. (For discussion, see Mosher, 1991; Prevention Research Center 1996). The training should emphasize management policies that are likely to lead to more responsible practices.

---

**Best Practice #8:**

**Mandate responsible beverage service programs.**  
Initiate and, over time, mandate communitywide responsible beverage service programs designed in conjunction with compliance checks and other policy interventions.

## **Compliance Checks (Decoy or Sting Programs)**

Routine, comprehensive compliance checks are the key strategy for deterring commercial alcohol sales to minors. They involve the use of underage buyers by law enforcement agencies as deputies to test retailers' compliance with laws regarding the sale of alcohol to minors. A comprehensive program consists of the following components.

- Notification to retailers, including the program's goals, procedures, and timeframes;
- Opportunity for retailers to participate in responsible sales and service programs prior to the start of the compliance check;
- Community outreach and media advocacy to publicize the program's design and purpose;
- Random selection of outlets to be included in the initial wave of the program (100-percent coverage if feasible);
- Followup communication informing each retailer of the results; and
- Repeated notifications to licensees of the ongoing compliance check program and repeated waves of checks over set periods of time (two or more times per year), which may include targeted checks of retailers identified as violators in previous waves (Fitch, Toomey, Gehan, & Wagenaar, 1998; Grube, 1997).

Properly administered compliance checks sharply reduce illegal sales to minors. Grube (1997) reports the results of a comprehensive program implemented in three experimental communities as part of the Community Trials Project administered by the Prevention Research Center. Outlets in the experimental sites were about half as likely to sell alcohol on a posttest purchase survey as outlets in the comparison sites, dropping from a range of 33 percent to 72 percent to a range of 4 percent to 33 percent. Preusser, Williams, and Weinstein (1994) reported that a compliance check program in Denver, Colorado, resulted in reduced sales to underage police cadets from 58 percent to 26 percent over a 10-month period, after three waves of enforcement. Fitch et al. (1998) report similar or greater declines in two local programs. Lewis et al. (1996) offer additional evidence that compliance checks will reduce youth sales, even when implemented by a community coalition without direct law enforcement involvement. Florida has maintained a compliance rate of 88 percent to 90 percent as a result of 20 years of consistent compliance investigation.

Compliance checks, of course, address only commercial availability. As this avenue for obtaining alcohol is curtailed, young people will likely find alternative avenues through social sources (Wagenaar et al., 1996; see chapter 2). Research studies have not assessed the extent to which this substitution may occur, although overall youth consumption will probably decrease as commercial availability diminishes. Grube's findings (1997, 1998) suggest that compliance check programs will reduce youth consumption, at least when they are combined with other community interventions. Forster et al. (1998) report substantially lower increases in smoking among teenagers in communities adopting tobacco compliance check programs compared to those in control communities.

To be effective, the programs must avoid several common weaknesses. First, they need to be conducted routinely. One-time compliance checks will have little or no long-term effect. Second, they must be communitywide and build community support, without which industry opposition will likely result in the program being terminated or curtailed. Third, they need to be well-designed to ensure that the procedures are fair and not subject to either political or legal attack (for discussion, see Pratt et al., 1997). Finally, ongoing funding sources need to be established. Compliance checks can be made self-supporting through special license fees and or by recycling fines for violations.

Compliance checks are becoming increasingly common nationwide. In California, for example, the Alcohol Beverage Control (ABC) Department has developed an ambitious State/local partnership program that addresses all of the pitfalls listed above. The Department, working with local law enforcement agencies, conducts onsite visits with retailers, offers licensee education classes, and funds local agencies to conduct compliance checks and other enforcement actions. Its guidelines for conducting compliance checks stress the need for media involvement, community support, licensee notification, and fair procedures that protect against charges of entrapment. The Department reports that cities participating in the program have significantly decreased the number of licensees selling to minors during the compliance checks, from more than 30 percent to less than 10 percent (Stroh, 1998). Fitch et al. (1998) have developed a law enforcement manual that serves as a basic resource for local compliance check programs in that State. Many other States have statewide programs, and local communities are also implementing them with or without State support.

---

\*Control States operate State stores as well as license private establishments. They can use employee disciplinary policies in the State stores to penalize poor management or server performance.

A well-designed compliance check program gives retailers full notice of the impending program, offers assistance and training, uses decoys who are clearly underage, and avoids false identification or any other trick or subterfuge to encourage an illegal sale. Because compliance appears so easy, it is surprising that violation rates are so high. At the same time, communities find that a large percentage of establishments do comply, particularly after one warning. This undermines the arguments made by violators that the programs constitute unfair entrapment. It also supports reports from young people and law enforcement personnel that youth buyers know which retailers in the community are likely to sell to them and which retailers they need to avoid. The program's goal is to send a clear message to those who consistently ignore their legal responsibility: either follow the example of complying licensees or face stiff penalties, including the possible loss of your license.

---

**Best Practice #9:**

Carry out compliance check programs.

Implement comprehensive compliance check programs that are ongoing and communitywide; include a media advocacy component; and follow strict guidelines to ensure fairness.

## Penalties for Violating Commercial Availability Restrictions

Violation of commercial availability restrictions can lead to three types of penalties, which can be imposed separately or concurrently: *administrative*, *criminal*, and *civil liability*. Each has distinctive purposes, consequences, and roles in a comprehensive prevention program.

*Administrative penalties* target the retailer's State and/or local operating license. State and local governments issue alcohol retail licenses as a necessary condition to conduct business and, through the regulatory process, establish standards of conduct for selling alcohol.<sup>1</sup> The license establishes a privilege, not a right, and governments have the authority to suspend or withdraw the privilege or impose a fine on the business if the standards of conduct are violated.

*Criminal penalties*, in contrast, target the individual committing the violation rather than the license. Criminal law establishes moral judgments regarding individual behavior. Penalties, which may include fines, imprisonment, and/or probation, are assessed against the offender and may carry grave

consequences for the individual's future. Because of the gravity of this process, the U.S. Constitution's Bill of Rights establishes the basic rights of an individual to a fair criminal procedure (for discussion, see Mosher, 1995).

*Civil* (or "dram shop") *liability* involves private lawsuits to recover monetary damages caused by the negligence of another and rests on a separate set of legal principles that does not involve direct government action. In a civil liability action, an alcohol retailer who furnishes alcohol to a minor can be sued in a private lawsuit and held responsible for the damage caused by the minor while under the influence of the alcohol (Holder et al., 1993).

All States impose both criminal and administrative penalties for illegal sales of alcohol to minors, although the specific sanctions vary. In many States, local governments can establish separate administrative structures for licensing alcohol outlets, which may include administrative penalties (Pratt et al., 1997). Civil liability law, on the other hand, varies from State to State and cannot be imposed at the local level (Holder et al., 1993; Mosher, 1999b). Some States do not impose any civil liability on alcohol retailers, holding as a matter of law that the minor drinker is entirely responsible for any damage he or she causes. This is a minority position that contradicts basic concepts of negligence law applied to most other business enterprises. Most States recognize civil liability, but many have placed restrictions on its application. In California, for example, lawsuits are allowed only if the retailer sells or serves to an obviously intoxicated minor. (California Business & Profession Code § 25602.1). Other States that recognize the civil liability doctrine do not require evidence that the minor was intoxicated at the time of the sale (Mosher, 1999b). Some States have strict notice and statute of limitations requirements, place limits on the damages a plaintiff may recover, or restrict who has standing to bring a lawsuit (Mosher, 1999b).

From a public health perspective, the purpose of sanctions is to reduce or deter future violations, thereby improving the community's health and safety. Research on deterrence shows that, in order to be effective, there must be a credible threat that a significant negative consequence will occur. The threat must be perceived to be swift and certain, and, for the effect to be maintained, the threat must be perceived to continue over time. Increasing penalties will have little or no effect when the other elements (swiftness, certainty, and continuity) are not present (Ross, 1992).

Using these criteria, administrative penalties are clearly the most effective mechanism for deterring illegal alcohol sales to minors. They create a credible, severe threat—significant reduction in the profitability of the business and, in serious cases, the loss of the business. Licensees will perceive the penalty as relatively certain if it is tied to a well-publicized compliance check program and it can be imposed relatively swiftly.

Administrative actions are much less complex than their criminal counterparts. They can be held before civil officers in administrative hearings, require a lower burden of proof, and occur in a more timely manner. They are also more certain. Criminal dockets are typically clogged, and long delays are common. District attorneys and judges may view alcohol sales violations as relatively minor compared to other crimes, resulting in early dismissals. Administrative penalties are therefore easier to impose and less expensive. They also can be made self-supporting by recycling fines collected to pay the costs of administration (Pratt et al., 1997; Preusser et al., 1994).

Administrative penalties have an important additional advantage over criminal sanctions. Because they target the license, they hold the licensee/owner primarily responsible for the violation. Management policies and manager/server training, which are the responsibility of the licensee, are crucial to maintaining a safe and responsible alcohol establishment (Mosher, 1991). Employee malfeasance can be addressed by the licensee through internal disciplinary action. Administrative sanctions, therefore, target the individuals who are in the best position to prevent future violations. Criminal law, on the other hand, holds the server/seller primarily responsible for the illegal sale, and the licensee may be absolved from any responsibility. They target individual malfeasance but do not focus on the business or environment that is creating the public health risk. In public health terms, administrative penalties promote environmental or systems change, the most effective prevention strategy (Holder, 1998).

To be effective, administrative penalties should impose real costs on the violator and increase in severity for repeat offenses (Inspector General, 1991). In California, for example, the first offense usually results in a fine and recommendation that the licensee enroll in a responsible beverage service program; the second offense within 36 months will most likely lead to license suspension; and a third offense within 36 months may result in license revocation (California Business & Professions Codes §§ 25658; 25658.1).

While penalties should be significant, it is important that they not be *too* severe, especially for first offenses. Law enforcement officials are less likely to impose penalties if the punishment is perceived as too severe and out of proportion to the seriousness of the offense.

Civil liability and criminal sanctions complement administrative penalties. Once established by statute or court decision, civil liability does not require direct government action. Because of the expense and complexities of the process, civil liability cases are generally limited to more serious injury

cases. They share two important advantages with administrative penalties: they target the licensee (who is held responsible for the action of his/her employees), and they focus at least indirectly on management policies (Holder et al., 1993). Research studies have found that imposing civil liability reduces alcohol-related traffic crash deaths, probably because of these advantages and in spite of the lack of swift or certain punishment (Sloan, Reilly, & Schenzler, 1994; Wagenaar & Holder, 1991). Because of their relative severity and expense, criminal sanctions should also be reserved for more serious cases, particularly where the illegal sale resulted in serious injury or death.

---

**Best Practice #10:**

Impose appropriate penalties for commercial violations. Impose strict administrative penalties on retail licensees for violations of sales-to-minors laws, which increase with severity for repeated offenses. Complement administrative penalties in serious cases by permitting civil liability lawsuits against licensees based on common law negligence principles, and by imposing criminal sanctions.

**Sonya Hymer**

---

**From:** Griffin, Douglas B (DPS) [doug.griffin@alaska.gov]  
**Sent:** Wednesday, February 27, 2008 2:28 PM  
**To:** Sonya Hymer  
**Cc:** Rice, Lauren (DPS); Casto, L (HSS); Carpeneti, R Anne D (LAW)  
**Subject:** Civil Penalties in Washington State

Sonya – Here are a couple of links for penalties levied in Washington State against licensees for sale to underage persons. The link on the left gives examples of penalties for violations (Washington State has dozens of ABC Investigators) while the link on the right is the schedule of penalties for various types of violations. Group One is Violations against Public Safety, the most serious category contains sale to persons under 21 years of age. You will note that for a second offense within two years they do impose a suspension. I hope this example of how another state addresses this issue proves useful. – Doug

<http://www.liq.wa.gov/enforcement/violation.asp>

<http://www.liq.wa.gov/enforcement/penalties2007.asp>

Doug Griffin, Director  
Alcoholic Beverage Control Board  
State of Alaska, Department of Public Safety  
5848 E. Tudor Road  
Anchorage, Alaska 99507  
(907)269-0351  
Doug.Griffin@alaska.gov

314-29-015 << 314-29-020 >> 314-29-025

**WAC 314-29-020**

Washington State Register filings since 2003

**Group 1 violations against public safety.**

Group 1 violations are considered the most serious because they present a direct threat to public safety.

<b>Violation Type</b>	<b>1st Violation</b>	<b>2nd Violation In a two-year window</b>	<b>3rd Violation In a two-year window</b>	<b>4th Violation In a two-year window</b>
<b>Sale or service to minor:</b> Sale or service of alcohol to a person under 21 years of age.	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license
<b>Minor frequenting a tavern, lounge, or other age restricted area.</b>	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license
<b>Sale or service to apparently intoxicated person:</b> Sale or service of alcohol to, or permitting consumption or possession by, an apparently intoxicated person.	5 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	Cancellation of license
<b>Disorderly conduct by licensee or employee, or permitting on premises.</b>	5 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	Cancellation of license
<b>Criminal conduct:</b> Permitting or engaging in criminal conduct.	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license

[Statutory Authority RCW 66 08 030, 66 24 010, 66 24 120 03-09-015, § 314-29-020, filed 4/4/03, effective 5/5/03 ]



# Washington State Liquor Control Board



Wednesday, February 27, 2008

Home

Board Information

Alcohol Education

Forms & Publications

Tobacco Facts

Stores and Products

Contact Information

Licenses & Permits

Laws and Rules

Enforcement

Employment

## VIOLATIONS

The following are orders issued by the Washington State Liquor Control Board, disposing charges of violations by liquor license holders.

December 2007

3D AM/PM NOBHILL 1801 E NOB HILL BLVD YAKIMA WA 98901-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$500
APPLE BARREL SHELL GAS 2021 FRUITVALE BLVD YAKIMA WA 98902-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$300
AZTECA RESTAURANT 153 SW 157TH ST BURIEN WA 98166-2539	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$500
BAR 14 RANCH HOUSE RESTAURANT 1800 CANYON RD ELLENSBURG WA 98926-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$500
BIG KMART #4155 6606 N DIVISION ST SPOKANE WA 99208-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$300
CANYON'S EDGE WINERY 265 SIX PRONG EXT MABTON WA 98935-9469	Violation: <b>FAIL TO FILE MONTHLY LIQUOR TAX REPORTS</b> Paid penalty in the amount of: \$250
CAPITOL LAKE GROCERY 511 S CAPITOL WAY OLYMPIA WA 98501-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$300
CEDARS RESTAURANT AND LOUNGE 2019 MAIN ST FERDALE WA 98248-0000	Violation: <b>ALLOWING INTOXICATED PERSON TO CONSUME</b> Paid penalty in the amount of: \$500
COLEMAN OIL COMPANY 407 S 2ND OKANOGAN WA 98840-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: \$300
CONNIE'S BRICKHOUSE	Violation:

1213 56TH ST S TACOMA WA 98408-3407	SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$350
COUNTRY BOY MARKET 5522 MC KINLEY AVE E TACOMA WA 98404-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
COUNTRY GENTLEMAN RESTAURANT AND CATERING 9221 W CLEARWATER STE A KENNEWICK WA 99336-8522	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
DOMINIC'S RED APPLE MARKET 9627 DES MOINES MEMORIAL DR SEATTLE WA 98108-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$350
DON'S EZ MART 1408 BETHEL ST NE OLYMPIA WA 98506-4309	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
DRAGONFLY BISTRO 633 A FRONT ST LEAVENWORTH WA 98826-1346	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$500
EL TORO-PARKLAND 13719 PACIFIC AVE S TACOMA WA 98444-0000	Violation: ALLOWING INTOXICATED PERSON TO CONSUME Paid penalty in the amount of: \$500
FAMILY FOODS 1503 NOB HILL BLVD E YAKIMA WA 98901-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
FRANKIE'S SPORTS BAR GRILL & LOUNGE 3663 PACIFIC AVE SE STE D OLYMPIA WA 98501-2122	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$3000
FRA TERNAL ORDER OF EAGLES CLE ELUM AERIL 649 220 PENNSYLVANIA AVE CLE ELUM WA 98922-0000	Violation: CLUB LIQUOR SALES TO PUBLIC Paid penalty in the amount of: \$500
FUGAZZI 1 N POST ST SPOKANE WA 99201-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
GOLDEN DRAGON III 813 YELM AVE W YELM WA 98597-9412	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$350

HAPPY TERIYAKI #3 1107 COLLEGE ST SE LACEY WA 98503-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
IMPLIOMPTU WINE AND ART BAR 4235 E MADISON ST SEATTLE WA 98112-3236	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$300</b>
JACK-SON'S SPORTS BAR & RESTAURANT 3320 KENNEWICK AVE KENNEWICK WA 99336-0000	Violation: <b>LICENSEE/EMPLOYEE INTOXICATED ON-PREMISES</b> Paid penalty in the amount of: <b>\$500</b>
JC'S MARKET 11801 NE 160TH #A BOTHELL WA 98011-4106	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
JINS MART 500 GRAND AVE S PULLMAN WA 99163-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
KNARR AND SHIPWRECK LOUNGE 5633 UNIVERSITY WAY NE SEATTLE WA 98105-2620	Violation: <b>ALLOWING INTOXICATED PERSON TO CONSUME</b> Paid penalty in the amount of: <b>\$500</b>
KYOTO JAPANESE RESTAURANT 115 N SAMISH WAY BELLINGHAM WA 98226-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
LACEY FOOD MART 4603 LACEY BLVD LACEY WA 98503-	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$300</b>
LITTLE TOKYO 2915 NEW MARKET ST BELLINGHAM WA 98226-0000	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
M & J FOOD MART 427 E SMITH ST KENT WA 98030-4545	Violation: <b>SALE TO APPARENTLY INTOXICATED PERSON</b> Paid penalty in the amount of: <b>\$400</b>
MACKEY'S 15201 VAIL RD YELM WA 98597-9563	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
MAIN STREET BAR & GRILL 2005 MAIN ST FERNDALE WA 98248-9468	Violation: <b>ALLOWING INTOXICATED PERSON TO CONSUME</b> Paid penalty in the amount of: <b>\$600</b>
MAX DALES 2030 RIVERSIDE DR	Violation: <b>ALLOWING INTOXICATED PERSON</b>

MOUNT VERNON WA 98273-5408	TO CONSUME Paid penalty in the amount of: \$2500
MCCABES AMERICAN MUSIC CAFE 2611 PACIFIC AVE TACOMA WA 98402-2804	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$500
MEZCAL FAMILY MEXICAN RESTAURANT 818 MAIN ST BUCKLEY WA 98321-	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$750
PETE'S 28 N 2ND ST YAKIMA WA 98901-2612	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$500
ROYAL BEAR PUB & EATERY 35731 W VALLEY HWY ALGONA WA 98092-4457	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$400
SHELTON MOBIL 2235 OLYMPIC HWY N SHELTON WA 98584-2954	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
SOUTHPORT CAFE AT OPA BEPPO'S 1083 LAKE WASHINGTON BLVD #30 RENTON WA 98056-6417	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
STAR SHELL FOOD MART 23953 104TH AVE SE KENT WA 98031-3312	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
SUN JIN RESTAURANT & BAR 19711 SMOKEY POINT BLVD ARLINGTON WA 98223-8237	Violation: POSSESSION OF LIQUOR BY AN INTOXICATED PERSON Paid penalty in the amount of: \$500
THE MOONRAKER 23803 104TH SE KENT WA 98031-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$350
THE OWL 'N THISTLE 808 POST AVE SEATTLE WA 98104-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$400
THE VAULT 425 FRANKLIN ST OLYMPIA WA 98501-1119	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$1400
TIKI BOB'S CANTINA 166 S KING ST	Violation: ALLOWING MINORS TO

SEATTLE WA 98104-2875	<b>FREQUENT/CONSUME</b> Paid penalty in the amount of: <b>\$350</b>
TRADER JOE'S 15868 FIRST AVE S BURIEN WA 98103-	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>
WALLINGFORD PIZZA HOUSE 2109 N 45TH ST SEATTLE WA 98103-0000	Violation: <b>CURRENT LICENSE NOT POSTED ON PREMISES</b> Paid penalty in the amount of: <b>\$100</b>
YELLOW CHURCH CAFE 111 S PEARL ELLENSBURG WA 98926-3328	Violation: <b>SALE/FURNISHING TO PERSON(S) UNDER 21 YOA</b> Paid penalty in the amount of: <b>\$500</b>

[Search LCB](#) | [Board Information](#) | [Report Violator](#) | [Liquor Store](#) |  
[Product](#) | [Video](#) | [Contact Us](#)

PRIVACY NOTICE INFORMATION

Copyright © 1998-2003  
Washington State Liquor Control Board  
Please contact the webmaster with any questions.

Sample

# ALASKA STATE LEGISLATURE HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras  
Chairman  
(907) 465-3004  
Fax: (907) 465-2070  
Representative\_Jay\_Ramras@legis.state.ak.us  
  
1292 Sadler Way, Suite 324  
Fairbanks, AK 99701



**Committee Members:**  
Representative Nancy Dahlstrom,  
Vice-Chairman  
Representative John Coghi"  
Representative Bob Lynn  
Representative Ralph Samuels  
Representative Max Gruenberg  
Representative Lindsey Holmes

State Capitol, Room 120  
Juneau, Alaska 99801-1182

## Fax

To: Jerry Luckhaupt  
Leg. Legal

Fax #: 2029

Number of pages including cover:

From: Jane Pierson

Date: April 6, 2008

Re: Final for HB 323 from version 25-GH20328\L

---

Please go final on the above-referenced bill with the following amendments:

1. P. 2, L. 27 delete "10" insert "5"  
P. 2, L. 28 delete "24" insert "12"  
P. 2, L. 28 delete "12" insert "6"  
Conform sections (2) and (3)
2. P. 3, L. 5 change 10 year look-back to 15 years.
3. P. 3, L. 13 delete "3000" insert "10,000"  
L. 15 delete "4000" insert "10,000"  
L. 18 delete "5000" insert "10,000"  
L. 21 delete "6000" insert "10,000"  
L. 24 delete "7000" insert "10,000"

4. P.6, I. 11 after "convicted" insert on two separate occasions."

Thank you!!!

# ALASKA STATE LEGISLATURE HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras  
Chairman  
(907) 465-3004

Fax: (907) 465-2070

Representative Jay Ramras @ legis.state.ak.us

1292 Sadler Way, Suite 324  
Fairbanks, AK 99701



**Committee Members:**  
Representative Nancy Dahlstrom,  
Vice-Chairman  
Representative John Coghill  
Representative Bob Lynn  
Representative Ralph Samuels  
Representative Max Gruenberg  
Representative Lindsey Holmes

State Capitol, Room 120  
Juneau, Alaska 99801-1182

April 6, 2008

Letter of Intent – House Bill 323  
By the House Judiciary Committee

Section 30 of this Act corrects a misunderstanding in the applicability provision in ch. 24, section 36(c), SLA 2007. This section addressed the applicability of the newly adopted AS 12.72.025, which adopted a one-year statute of limitation on applications for post-conviction relief based on the claim that the applicant's attorney in his or her first application for post-conviction relief was ineffective. These applications are commonly called *Grinols* applications.

The purpose of AS 12.72.025 was to codify a statute of limitation with respect to second applications for post-conviction relief. Second applications for post-conviction relief raising a claim that an applicant's counsel rendered ineffective assistance in the first application were authorized by *Grinols v. State*, 10 P.3d 600 (Alaska App. 2000), *aff'd*, 74 P.3d 889 (Alaska 2003). *Grinols* also imposed a requirement of "due diligence" in bringing second applications. The court in *Grinols* assumed, but expressly declined to decide, that the existing statute-of-limitations in AS 12.72.020 applied in *Grinols*'s second application.

The purpose of AS 12.72.025 was to codify for second applications the same one-year statute of limitation as now exists for first applications, and was not to expand it or overrule *Grinols*'s due diligence requirement. But the applicability clause can be misinterpreted to mean that if an application was dismissed at any time prior to July 1, 2007, then a second application will be permitted if filed by July 1, 2008, regardless of how much time passed between the first and second applications, or whether the applicant had exercised due diligence in bringing it. That interpretation is inconsistent with the legislature's purpose in enacting AS 12.72.025 and inconsistent with the court's holding in *Grinols*.

Section 30 of this Act specifically corrects such a mistaken interpretation.

25-GH2038 L  
Luckhaupt  
4.6.08

**CS FOR HOUSE BILL NO. 323(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to furnishing or delivering alcoholic beverages to persons under 21  
 2 years of age; relating to shipping, seading, transporting, or bringing alcohol to a local  
 3 option area and providing alcohol to others in the local option area, including penalties  
 4 for violations; relating to reports of alcohol violations by minors; relating to certain  
 5 persons who lend money or secondhand articles; relating to arson and criminally  
 6 negligent burning; relating to defenses for the detention of persons suspected of  
 7 committing concealment of merchandise or theft; relating to controlled substances;  
 8 relating to the determination of time of a conviction; relating to issuance of search  
 9 warrants; relating to persons found incompetent to stand trial concerning criminal  
 10 conduct; relating to probation for certain offenses; relating to restitution for fish and  
 11 game violations; relating to aggravating factors at sentencing; relating to post-conviction  
 12 relief proceedings; relating to criminal extradition authority of the governor; removing

1 the statutory bar to prosecution of certain crimes; amending Rule 37(b), Alaska Rules of  
2 Criminal Procedure, relating to execution of warrants, and Rule 35.1, Alaska Rules of  
3 Criminal Procedure; and providing for an effective date."

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

5 \* Section 1. AS 04.16.051(a) is amended to read:

6 (a) A person may not furnish or deliver an alcoholic beverage to a person  
7 under the age of 21 years. This subsection does not apply to a licensee or an agent  
8 or employee of a licensee while working on licensed premises.

9 \* Sec. 2. AS 04.16.052 is amended to read:

10 **Sec. 04.16.052. Furnishing of alcoholic beverages to persons under the age**  
11 **of 21 by licensees.** A licensee or an agent or employee of the licensee may not with  
12 criminal negligence

13 (1) allow another person to sell, barter, or give an alcoholic beverage  
14 to a person under the age of 21 years within licensed premises;

15 (2) allow a person under the age of 21 years to enter and remain within  
16 licensed premises except as provided in AS 04.16.049;

17 (3) allow a person under the age of 21 years to consume an alcoholic  
18 beverage within licensed premises;

19 (4) allow a person under the age of 21 years to sell or serve alcoholic  
20 beverages;

21 (5) while working on licensed premises, furnish or deliver alcoholic  
22 beverages to a person under the age of 21 years.

23 \* Sec. 3. AS 04.16.200(e) is amended to read:

24 (e) A person who sends, transports, or brings alcoholic beverages into a  
25 municipality or established village in violation of AS 04.11.499(a) is, upon conviction,

26 (1) except as provided in (3) of this subsection, guilty of a class A  
27 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
28 of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages; [OR]

29 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
30 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12

1 gallons or more of malt beverages; or

2 (3) guilty of a class C felony if the quantity of alcoholic beverages  
3 is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12 gallons  
4 of malt beverages and the person has been previously convicted under this  
5 subsection or (b) of this section two or more times within 10 years of the date of  
6 the present offense.

7 \* Sec. 4. AS 04.16.200 is amended by adding new subsections to read:

8 (g) Upon conviction of a class A misdemeanor under (e)(1) of this section, the  
9 court

10 (1) shall impose a minimum sentence of imprisonment of

11 (A) not less than 72 consecutive hours and a fine of not less  
12 than \$1,500 if the person has not been previously convicted;

13 (B) not less than 20 days and a fine of not less than \$3,000 if  
14 the person has been previously convicted once;

15 (C) not less than 60 days and a fine of not less than \$4,000 if  
16 the person has been previously convicted twice and is not subject to  
17 punishment under (h) of this section;

18 (D) not less than 120 days and a fine of not less than \$5,000 if  
19 the person has been previously convicted three times and is not subject to  
20 punishment under (h) of this section;

21 (E) not less than 240 days and a fine of not less than \$6,000 if  
22 the person has been previously convicted four times and is not subject to  
23 punishment under (h) of this section;

24 (F) not less than 360 days and a fine of not less than \$7,000 if  
25 the person has been previously convicted more than four times and is not  
26 subject to punishment under (h) of this section;

27 (2) may not

28 (A) suspend execution of sentence or grant probation except on  
29 the condition that the person

30 (i) serve the minimum imprisonment under (1) of this  
31 subsection; and

1 (ii) pay the minimum fine required under (1) of this  
2 subsection; or

3 (B) suspend imposition of sentence.

4 (h) Upon conviction of a class C felony under (b) or (e)(2) or (3) of this  
5 section, the court

6 (1) shall impose a fine of not less than \$10,000 and a minimum  
7 sentence of imprisonment of

8 (A) 120 days if the person has been previously convicted once;

9 (B) 240 days if the person has been previously convicted two  
10 times;

11 (C) 360 days if the person has been previously convicted three  
12 or more times;

13 (2) may not

14 (A) suspend execution of sentence or grant probation except on  
15 the condition that the person

16 (i) serve the minimum imprisonment under (1) of this  
17 subsection; and

18 (ii) pay the minimum fine required under (1) of this  
19 subsection; or

20 (B) suspend imposition of sentence.

21 (i) In (g) of this section, "previously convicted" means having been convicted,  
22 within the 10 years preceding the date of the present offense, of an offense under (b)  
23 or (e) of this section or a law or ordinance of another jurisdiction having elements  
24 similar to those offenses.

25 (j) In (h) of this section, "previously convicted" means having been convicted,  
26 within the 10 years preceding the date of the present offense, of a felony offense under  
27 (b) or (e) of this section or a law or ordinance of another jurisdiction having elements  
28 similar to those felony offenses.

29 (k) The court shall consider the date of a previous conviction as occurring on  
30 the date that sentence is imposed for the prior offense.

31 \* Sec. 5. AS 08.76.010 is amended by adding a new subsection to read:

1 (b) A person who lends money on secondhand articles under (a) of this section  
2 and is located in a municipality that has a population of over 5,000 shall also maintain  
3 an electronic record that provides the information required by (a)(1) and (4) of this  
4 section for the secondhand articles on which the person lends money. The person shall  
5 submit the electronic record as required by the municipal law enforcement agency.

6 \* Sec. 6. AS 08.76.020 is amended to read:

7 **Sec. 08.76.020. Manner of recording entry.** The entries in the book and the  
8 electronic record required by AS 08.76.010 shall appear in chronological order and,  
9 when made in a book, in ink or indelible pencil. Blank lines may not be left between  
10 entries. Obliterations, alterations, or erasures may not be made. Corrections shall be  
11 made by drawing a line [IN INK] through the entry without destroying its legibility,  
12 and, when made in a book, the line shall be drawn in ink. The book shall be open  
13 to the inspection of a peace officer at reasonable times.

14 \* Sec. 7. AS 11.46.230(a) is amended to read:

15 (a) In a civil or criminal action upon the complaint of a person who has been  
16 detained in or in the immediate vicinity of a commercial establishment for the purpose  
17 of investigation or questioning as to the ownership of merchandise, it is a defense that

18 (1) the person was detained in a reasonable manner and for not more  
19 than a reasonable time to permit investigation or questioning by a peace officer or by  
20 the owner of the commercial establishment or the owner's agent; and

21 (2) the peace officer, owner, or owner's agent had probable cause to  
22 believe that the person detained was committing or attempting to commit concealment  
23 of merchandise or theft from the commercial establishment.

24 \* Sec. 8. AS 11.46.295 is amended to read:

25 **Sec. 11.46.295. Prior convictions.** For purposes of considering prior  
26 convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) or  
27 11.46.140(a)(3), or in prosecuting the crime of concealment of merchandise under  
28 AS 11.46.220(c), a conviction for an offense under another law or ordinance with  
29 similar elements is a conviction of an offense having elements similar to those of an  
30 offense defined as such under Alaska law at the time the offense was committed. The  
31 court shall consider the date of a prior conviction as occurring on the date that

1 sentence is imposed for the prior offense.

2 \* Sec. 9. AS 11.46.410(a) is amended to read:

3 (a) A person commits the crime of arson in the second degree if the person  
4 knowingly [INTENTIONALLY] damages a building by starting a fire or causing an  
5 explosion.

6 \* Sec. 10. AS 11.46 is amended by adding a new section to read:

7 **Sec. 11.46.427. Criminally negligent burning in the first degree.** (a) A  
8 person commits the crime of criminally negligent burning in the first degree if the  
9 person

10 (1) violates AS 11.46.430; and

11 (2) within the preceding 10 years, has been convicted of violating  
12 AS 11.46.400 - 11.46.430 or AS 41.15.150 or a law or ordinance of this or another  
13 jurisdiction with elements similar to those offenses.

14 (b) Criminally negligent burning in the first degree is a class C felony.

15 \* Sec. 11. AS 11.46.430 is amended to read:

16 **Sec. 11.46.430. Criminally negligent burning in the second degree.** (a) A  
17 person commits the crime of criminally negligent burning in the second degree if  
18 with criminal negligence the person damages property of another by fire or explosion.

19 (b) Criminally negligent burning in the second degree is a class A  
20 misdemeanor.

21 \* Sec. 12. AS 11.71.170(b) is amended by adding new paragraphs to read:

22 (30) carisprodol;

23 (31) zolpidem;

24 (32) zopiclone.

25 \* Sec. 13. AS 12.35.010(a) is amended to read:

26 (a) A judicial officer may issue a search warrant upon a showing of probable  
27 cause, supported by oath or affirmation, and particularly describing the place to be  
28 searched and the thing to be seized. The court may issue a search warrant for a  
29 place or property located either in the state or outside the state.

30 \* Sec. 14. AS 12.35.015(a) is amended to read:

31 (a) A judicial officer may issue a search warrant upon the sworn oral

1 testimony of a person communicated by telephone or other appropriate means, or  
2 sworn affidavit transmitted by facsimile machine [, IF THE JUDICIAL OFFICER  
3 FINDS THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT

4 (1) THE PRESENTATION OF THE APPLICANT'S AFFIDAVIT OR  
5 TESTIMONY PERSONALLY BEFORE THE JUDICIAL OFFICER WOULD  
6 RESULT IN A DELAY IN OBTAINING OR EXECUTING A SEARCH  
7 WARRANT; AND

8 (2) THE DELAY MIGHT RESULT IN LOSS OR DESTRUCTION  
9 OF THE EVIDENCE SUBJECT TO SEIZURE OR MIGHT INTERFERE WITH AN  
10 ONGOING INVESTIGATION].

11 \* Sec. 15. AS 12.47.110(a) is amended to read:

12 (a) When the trial court determines by a preponderance of the evidence, in  
13 accordance with AS 12.47.100, that a defendant is so incompetent that the defendant is  
14 unable to understand the proceedings against the defendant or to assist in the  
15 defendant's own defense, the court shall order the proceedings stayed, except as  
16 provided in (d) of this section shall, [AND MAY] commit a [THE] defendant  
17 charged with a felony and may commit a defendant charged with any other crime  
18 to the custody of the commissioner of health and social services or the commissioner's  
19 authorized representative for further evaluation and treatment until the defendant is  
20 mentally competent to stand trial, or until the pending charges against the defendant  
21 are disposed of according to law, but in no event longer than 90 days.

22 \* Sec. 16. AS 12.47.110(b) is amended to read:

23 (b) On or before the expiration of the initial 90-day period of commitment, the  
24 court shall conduct a hearing to determine whether or not the defendant remains  
25 incompetent. If the court finds by a preponderance of the evidence that the defendant  
26 remains incompetent, the court may recommit the defendant for a second period of 90  
27 days. The court shall determine at the expiration of the second 90-day period whether  
28 the defendant has become competent. If, at the expiration of the second 90-day period,  
29 the court determines that the defendant continues to be incompetent to stand trial, the  
30 charges against the defendant shall be dismissed without prejudice, and continued  
31 commitment of the defendant shall be governed by the provisions relating to civil

1 commitments under AS 47.30.700 - 47.30.915 unless the defendant is charged with a  
2 crime involving force against a person and the court finds that the defendant presents a  
3 substantial danger of physical injury to other persons and that there is a substantial  
4 probability that the defendant will regain competency within a reasonable period of  
5 time, in which case the court may extend the period of commitment for an additional  
6 six months. If the defendant remains incompetent at the expiration of the additional  
7 six-month period, the charges shall be dismissed without prejudice, and continued  
8 [EITHER CIVIL] commitment proceedings shall be governed by the provisions  
9 relating to civil commitment under AS 47.30.700 - 47.30.915 [INSTITUTED OR  
10 THE COURT SHALL ORDER THE RELEASE OF THE DEFENDANT]. If the  
11 defendant remains incompetent for five years after the charges have been dismissed  
12 under this subsection, the defendant may not be charged again for an offense arising  
13 out of the facts alleged in the original charges, except if the original charge is a class A  
14 felony or unclassified felony.

15 \* Sec. 17. AS 12.47.110 is amended by adding a new subsection to read:

16 (e) A defendant charged with a felony and found to be incompetent to proceed  
17 under this section is rebuttably presumed to be mentally ill and to present a likelihood  
18 of serious harm to self or others in proceedings under AS 47.30.700 - 47.30.915. In  
19 evaluating whether a defendant is likely to cause serious harm, the court may consider  
20 as recent behavior the conduct with which the defendant was originally charged.

21 \* Sec. 18. AS 12.55.090(a) is amended to read:

22 (a) Probation may be granted whether the offense under AS 11 or AS 16 or  
23 the crime is punishable by fine or imprisonment or both. If an offense under AS 11  
24 or AS 16 or a crime is punishable by both fine and imprisonment, the court may  
25 impose a fine and place the defendant on probation as to imprisonment. Probation may  
26 be limited to one or more counts or indictments, but, in the absence of express  
27 limitation, shall extend to the entire sentence and judgment.

28 \* Sec. 19. AS 12.55.155(c)(8) is amended to read:

29 (8) the defendant's prior criminal history includes conduct involving  
30 aggravated assaultive behavior or repeated instances of assaultive behavior; in this  
31 paragraph, "aggravated assaultive behavior" means assault that is a felony

**under AS 11.41, or a similar provision in another jurisdiction:**

\* Sec. 20. AS 12.55.155(f) is amended to read:

(f) If the state seeks to establish a factor in aggravation at sentencing

(1) under (c)(7), (8), (12), (15), **(18)(B)**, (19), (20), (21), or (31) of this section, or if the defendant seeks to establish a factor in mitigation at sentencing, written notice must be served on the opposing party and filed with the court not later than 10 days before the date set for imposition of sentence; the factors in aggravation listed in this paragraph and factors in mitigation must be established by clear and convincing evidence before the court sitting without a jury; all findings must be set out with specificity;

(2) other than one listed in (1) of this subsection, the factor shall be presented to a trial jury under procedures set by the court, unless the defendant waives trial by jury, stipulates to the existence of the factor, or consents to have the factor proven under procedures set out in (1) of this subsection; a factor in aggravation presented to a jury is established if proved beyond a reasonable doubt; written notice of the intent to establish a factor in aggravation must be served on the defendant and filed with the court

(A) 20 days before trial, or at another time specified by the court;

(B) within 48 hours, or at a time specified by the court, if the court instructs the jury about the option to return a verdict for a lesser included offense; or

(C) five days before entering a plea that results in a finding of guilt, or at another time specified by the court.

\* Sec. 21. AS 12.70.280(2) is amended to read:

(2) "governor" includes

**(A)** a person performing the functions of governor by authority of the law of this state; **and**

**(B) the lieutenant governor or the head of a principal department in the executive branch appointed by the governor to act on behalf of the governor in performing extradition duties under this**

1                    chapter; the appointment shall be in writing and filed with the lieutenant  
2                    governor;

3                    \* Sec. 22. AS 12.72.020(a) is amended to read:

4                    (a) A claim may not be brought under AS 12.72.010 or the Alaska Rules of  
5                    Criminal Procedure if

6                                (1) the claim is based on the admission or exclusion of evidence at trial  
7                                or on the ground that the sentence is excessive;

8                                (2) the claim was, or could have been but was not, raised in a direct  
9                                appeal from the proceeding that resulted in the conviction;

10                               (3) the later of the following dates has passed, except that if the  
11                               applicant claims that the sentence was illegal there is no time limit on the claim:

12                                        (A) if the claim relates to a conviction, one year [TWO  
13                                        YEARS] after the entry of the judgment of the conviction or, if the conviction  
14                                        was appealed, one year after the court's decision is final under the Alaska  
15                                        Rules of Appellate Procedure;

16                                        (B) if the claim relates to a court revocation of probation, one  
17                                        year [TWO YEARS] after the entry of the court order revoking probation or, if  
18                                        the order revoking probation was appealed, one year after the court's decision  
19                                        is final under the Alaska Rules of Appellate Procedure;

20                                (4) one year or more has elapsed from the final administrative decision  
21                                of the Board of Parole or the Department of Corrections that is being collaterally  
22                                attacked;

23                                (5) the claim was decided on its merits or on procedural grounds in any  
24                                previous proceeding; or

25                                (6) a previous application for post-conviction relief has been filed  
26                                under this chapter or under the Alaska Rules of Criminal Procedure.

27                    \* Sec. 23. AS 12.72.020(b) is amended to read:

28                                (b) Notwithstanding (a)(3) and (4) of this section, a court may hear a claim

29                                        (1) if the applicant establishes due diligence in presenting the claim  
30                                        and sets out facts supported by admissible evidence establishing that the applicant

31                                                (A) suffered from a physical disability or from a mental disease

1 or defect that precluded the timely assertion of the claim; or

2 (B) was physically prevented by an agent of the state from  
3 filing a timely claim;

4 (2) based on newly discovered evidence if the applicant establishes due  
5 diligence in presenting the claim and sets out facts supported by evidence that is  
6 admissible and

7 (A) was not known within

8 (i) one year [TWO YEARS] after entry of the judgment  
9 of conviction if the claim relates to a conviction;

10 (ii) one year [TWO YEARS] after entry of a court  
11 order revoking probation if the claim relates to a court's revocation of  
12 probation; or

13 (iii) one year after an administrative decision of the  
14 Board of Parole or the Department of Corrections is final if the claim  
15 relates to the administrative decision;

16 (B) is not cumulative to the evidence presented at trial;

17 (C) is not impeachment evidence; and

18 (D) establishes by clear and convincing evidence that the  
19 applicant is innocent.

20 \* Sec. 24. AS 12.72.020 is amended by adding a new subsection to read:

21 (d) The court may not consider a substantive claim in an application brought  
22 under AS 12.72.010 or the Alaska Rules of Criminal Procedure until the court has first  
23 determined that

24 (1) the application is timely; and

25 (2) except for an application described in AS 12.72.025 or allowed  
26 under (c) of this section, no previous application has been filed.

27 \* Sec. 25. AS 16.05.925(b) is amended to read:

28 (b) In addition to a penalty imposed under (a) of this section or any other  
29 penalty for violation of this title or a regulation adopted under this title, a person  
30 who is convicted of unlawfully taking an animal listed in this subsection may be  
31 ordered by the court to pay restitution to the state in the amount set out in this

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

subsection for each animal unlawfully taken:

(1) Bear, black .....	\$ 600
(2) Bear, brown or grizzly .....	1,300
(3) Bison .....	1,300
(4) Caribou .....	850
(5) Deer .....	400
(6) Elk .....	800
(7) Goat .....	800
(8) Moose .....	1,000
(9) Musk oxen .....	3,000
(10) Sheep .....	1,100
(11) Wolf .....	500
(12) Wolverine .....	500.

\* Sec. 26. AS 28.15.191(a) is amended to read:

(a) A court that convicts a person of an offense under this title or a regulation adopted under this title, or another law or regulation of this state [,] or a municipal ordinance that regulates the driving of vehicles, or a violation of AS 04.16.050 shall forward a record of the conviction to the department within five working days. A conviction of a standing or parking offense need not be reported.

\* Sec. 27. AS 28.35.028(a) is amended to read:

(a) Notwithstanding another provision of law, with the consent of the state and the defendant, the court may elect to proceed in a criminal case under AS 04.16.200(b) or (c), AS 28.35.030, or 28.35.032, including the case of a defendant charged with violating the terms of probation, under the procedure provided in this section and order the defendant to complete a court-ordered treatment program. The state may not consent to a referral under this subsection unless the state has consulted with the victim and explained the process and consequences of the referral to the victim. A court may not elect to proceed under this section if the defendant has previously participated in a court-ordered treatment program under this section two or more times.

\* Sec. 28. AS 47.30.780 is amended to read:

1           **Sec. 47.30.780. Early discharge. Except as provided in (b) of this section,**  
2           **the** [THE] professional person in charge shall at any time discharge a respondent on  
3           the ground that the respondent is no longer gravely disabled or likely to cause serious  
4           harm as a result of mental illness. A certificate to this effect shall be sent to the court,  
5           which shall enter an order officially terminating the involuntary commitment.

6           \* **Sec. 29.** AS 47.30.780 is amended to add a new subsection to read:

7                   (b) The professional person in charge shall give the prosecuting authority 10  
8           days' notice before discharging a respondent who was committed after having been  
9           found incompetent to proceed under AS 12.47.110.

10          \* **Sec. 30.** The uncodified law of the State of Alaska enacted in sec. 36(c), ch. 24, SLA  
11          2007, is amended to read:

12                   (c) AS 12.72.025, enacted by sec. 25, ch. 24, SLA 2007 [OF THIS ACT],  
13           applies to offenses committed before, on, or after the effective date of sec. 25, ch. 24,  
14           SLA 2007 [OF THIS ACT]. A person whose application for post-conviction relief was  
15           denied before the effective date of sec. 25, ch. 24, SLA 2007 [OF THIS ACT] has  
16           until July 1, 2008, to file a claim described in AS 12.72.025. This subsection does not  
17           authorize filing a claim under AS 12.72 or the Alaska Rules of Criminal  
18           Procedure that is not otherwise available under AS 12.72, the Alaska Rules of  
19           Criminal Procedure, or other provision of law.

20          \* **Sec. 31.** AS 12.35.015(f) is repealed.

21          \* **Sec. 32.** AS 11.71.310 and AS 12.20.010 are repealed.

22          \* **Sec. 33.** The uncodified law of the State of Alaska is amended by adding a new section to  
23          read:

24                   DIRECT COURT RULE AMENDMENT. Rule 37(b), Alaska Rules of  
25           Criminal Procedure, is amended to read:

26                   (b) **Execution and Return with Inventory.** The warrant shall be executed  
27           and returned within 30 [10] days after its date of issuance. However, upon sworn  
28           application made before the expiration of the initial 30 [10] day period or any  
29           subsequent extension, the court may for good cause extend the execution period for a  
30           reasonable time not to exceed 30 [10] days. Good cause includes protecting the  
31           confidentiality of an ongoing investigation and protecting a person working with

1            **law enforcement authorities on an investigation.** The officer taking property under  
2            the warrant

3                            (1) shall give to the person from whom or from whose premises the  
4            property was taken a copy of the warrant, a copy of the supporting affidavits, and  
5            receipt for the property taken, or

6                            (2) shall leave the copies and the receipt at the place from which the  
7            property was taken.

8                            The return shall be made promptly and shall be accompanied by a  
9            written inventory of any property taken as a result of the search pursuant to or in  
10           conjunction with the warrant. The inventory shall be made in the presence of the  
11           applicant for the warrant and the person from whose possession or premises the  
12           property was taken, if they are present, or in the presence of at least one credible  
13           person other than the applicant for the warrant or the person from whose possession or  
14           premises the property was taken, and shall be signed by the officer under the penalty  
15           of perjury pursuant to AS 09.63.020 or sworn to in front of a magistrate or judge, or a  
16           notary public. The magistrate or judge or the court to which the return is made shall  
17           upon request deliver a copy of the inventory to the person from whom or from whose  
18           premises the property was taken and to the applicant for the warrant.

19            \* **Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to  
20            read:

21                            **INDIRECT COURT RULE AMENDMENT.** The provisions of AS 12.72.020(a) and  
22            (b), as amended by secs. 22 and 23 of this Act, and the provisions of AS 12.72.020(d), as  
23            added by sec. 24 of this Act, have the effect of amending Rule 35.1, Alaska Rule of Criminal  
24            Procedure, by restricting the authority of a court to hear certain applications, claims, or  
25            proceedings for post-conviction relief and by prescribing a procedure for a court to determine  
26            if an application, claim, or proceeding may be considered.

27            \* **Sec. 35.** The uncodified law of the State of Alaska is amended by adding a new section to  
28            read:

29                            **APPLICABILITY.** (a) Sections 1 - 4, 9, 12, 18 - 20, 25 - 27, and 32 of this Act apply  
30            to an offense occurring on or after the effective date of this section. References to previous  
31            convictions in secs. 3 and 4 of this Act apply to convictions occurring before, on, or after the

1 effective date of those sections.

2 (b) Section 8 of this Act applies to an offense occurring before, on, or after the  
3 effective date of this section.

4 (c) Sections 13, 14, 31, and 33 of this Act apply to search warrants applied for on or  
5 after the effective date of this section, regardless of whether the offense occurred before, on,  
6 or after the effective date of this section.

7 (d) Sections 15 - 17, 28, and 29 of this Act apply to procedures occurring after the  
8 effective date of this section, regardless of whether the offense occurred before, on, or after  
9 the effective date of this section.

10 (e) Section 21 of this Act applies to applications for criminal extraditions submitted  
11 on or after the effective date of this section, regardless of whether the offense occurred before,  
12 on, or after the effective date of this section.

13 (f) Section 7 of this Act applies to offenses occurring and actions arising on or after  
14 the effective date of this section.

15 (g) Sections 22 - 24 and 34 of this Act apply to applications submitted on or after the  
16 effective date of this section.

17 \* Sec. 36. The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 RETROACTIVITY. Section 30 of this Act is retroactive to July 1, 2007.

20 \* Sec. 37. Sections 30 and 36 of this Act take effect immediately under AS 01.10.070(c).

21 \* Sec. 38. Except as provided in sec. 37 of this Act, this Act takes effect July 1, 2008.

**BILL NO.**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

**BY**

**Introduced:  
Referred:**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to licensing and the regulation of sales and distribution of alcoholic**  
2 **beverages; relating to penalties for certain violations of law concerning alcoholic**  
3 **beverages; relating to civil liability of persons providing alcoholic beverages; relating to**  
4 **an alcohol server education course and the failure to renew an alcohol server card**  
5 **concerning sales of alcoholic beverages; and providing for an effective date."**

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

7 **\* Section 1. AS 04.11.240(c) is amended to read:**

8 (c) [THE SPECIAL EVENTS PERMIT MUST BE SURRENDERED TO  
9 THE BOARD, ITS AGENT, OR THE LAW ENFORCEMENT AGENCY  
10 APPROVING THE PERMIT, WITHIN 48 HOURS OF ITS EXPIRATION TIME.  
11 FAILURE TO SURRENDER THE PERMIT IS CAUSE, IN THE DISCRETION OF  
12 THE BOARD, FOR DENIAL OF APPLICATIONS FOR PERMITS MADE IN THE  
13 FUTURE BY THE ORGANIZATION.] No more than five special events permits may

1 be granted to an organization, including its auxiliary, in any one calendar year.

2 \* Sec. 2. AS 04.11.295(a) is amended to read:

3 (a) An applicant for the issuance or transfer of a license or a conditional  
4 contractor's permit under this title shall submit to the board, with the application, the  
5 applicant's fingerprints and the fees required by the Department of Public Safety under  
6 AS 12.62.160 for criminal justice information and a national criminal history record  
7 check. The board may require an applicant for renewal of a license or a conditional  
8 contractor's permit under this title to submit fingerprints and pay fees as required by  
9 this subsection. The board shall submit the fingerprints to the Department of Public  
10 Safety to obtain a report of criminal justice information under AS 12.62 and a national  
11 criminal history record check under AS 12.62.400. The Department of Public Safety  
12 may submit the fingerprints to the Federal Bureau of Investigation for a national  
13 criminal history record check. The board shall use the information obtained under this  
14 section in its determination of an applicant's qualification for issuance, transfer, or  
15 renewal of a license or a conditional contractor's permit. The board may waive the  
16 requirements of this section if the applicant has previously submitted fingerprints  
17 in compliance with this subsection.

18 \* Sec. 3. AS 04.11.330(d) is amended to read:

19 (d) Notwithstanding (a)(3) of this section, a common carrier dispensary  
20 license issued under AS 04.11.180 or a recreational site license issued under  
21 AS 04.11.210 may be renewed if the license was exercised at least once within  
22 [DURING EACH OF] the two preceding calendar years.

23 \* Sec. 4. AS 04.11.410(a) is amended to read:

24 (a) Except as provided in (c) of this section, a [A] beverage dispensary or  
25 package store license may not be issued and the location of an existing license may not  
26 be transferred if the licensed premises would be located in a building the public  
27 entrance of which is within 200 feet of a school ground or a church building in which  
28 religious services are regularly conducted, measured by the shortest pedestrian route  
29 from the outer boundaries of the school ground or the public entrance of the church  
30 building. However, a license issued before the presence of either cause of restriction  
31 within 200 feet of the licensed premises may be renewed or transferred to a person

1           notwithstanding this subsection.

2       \* Sec. 5. AS 04.11.410 is amended by adding a new subsection to read:

3           (c) The board may waive the restriction on location specified in (a) of this  
4           section for a caterer's permit under AS 04.11.230 or a special events permit under  
5           AS 04.11.240 issued for an event in a church building if the responsible official of the  
6           church recommends in writing to the board to approve the waiver.

7       \* Sec. 6. ~~AS~~ 04.11.480(a) is amended to read:

8           (a) A local governing body may protest the issuance, renewal, relocation, or  
9           transfer to another person of a license by sending the board and the applicant a protest  
10          and the reasons for the protest within 60 days of receipt from the board of notice of  
11          filing of the application. A protest received after the 60-day period may not be  
12          accepted by the board, and in no event may a protest cause the board to reconsider an  
13          approved renewal, relocation, or transfer. The local governing body may protest the  
14          continued operation of a license during the second year of the biennial license period  
15          by sending the board and the licensee a protest and the reasons for the protest by  
16          March 1 [JANUARY 31] of the second year of the license. The procedures for action  
17          on a protest of continued operation of a license are the same as the procedures for  
18          action on a protest of a renewal application. The board shall consider a protest and  
19          testimony received at a hearing conducted under AS 04.11.510(b)(2) or (4) when it  
20          considers the application or continued operation, and the protest and the record of the  
21          hearing conducted under AS 04.11.510(b)(2) or (4) shall be kept as part of the board's  
22          permanent record of its review. If an application or continued operation is protested,  
23          the board shall deny the application or continued operation unless the board finds that  
24          the protest is arbitrary, capricious, and unreasonable.

25       \* Sec. 7. AS 04.11.491(a) is amended to read:

26           (a) If a majority of the persons voting on the question vote to approve the  
27           option, a municipality shall adopt a local option to prohibit

28                   (1) the sale of alcoholic beverages;

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

31                   (A) a restaurant or eating place licensee;

- 1 (B) a beverage dispensary licensee;  
 2 (C) a package store licensee;  
 3 (D) a caterer holding a permit under AS 04.11.230 to sell  
 4 alcoholic beverages at a site within the municipality who is also licensed under  
 5 a beverage dispensary license for premises outside of the municipality;  
 6 (E) a winery licensee; [OR]  
 7 (F) a winery licensee, except that sales may occur only to a  
 8 person licensed under this title or in another state or country;  
 9 **(G) a brewpub licensee;**  
 10 **(H) a golf course licensee;**  
 11 **(I) an outdoor recreation lodge licensee;**  
 12 **(J) a destination resort licensee; or**  
 13 **(K) a special events permittee;**

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

- 17 (A) a restaurant or eating place license;  
 18 (B) a beverage dispensary license; [OR]  
 19 (C) a package store license;  
 20 **(D) a golf course license; or**  
 21 **(E) a destination resort license;**  
 22 (4) the sale and importation of alcoholic beverages; or  
 23 (5) the sale, importation, and possession of alcoholic beverages.

24 \* Sec. 8. AS 04.11.491(b) is amended to read:

- 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;

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 (E) a winery licensee; [OR]

7 (F) a winery licensee, except that sales may occur only to a  
8 person licensed under this title or in another state or country;

9 (G) a brewpub licensee;

10 (H) a golf course licensee;

11 (I) an outdoor recreation lodge licensee;

12 (J) a destination resort licensee; or

13 (K) a special events permittee;

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

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

16 \* Sec. 9. AS 04.16.172 is amended to read:

17 **Sec. 04.16.172. Restrictions on purchase and sale of alcoholic beverages.** A  
18 person licensed under AS 04.11.090, 04.11.100, 04.11.110, or 04.11.150 may not  
19 purchase, sell, or offer for sale an alcoholic beverage unless the alcoholic beverage  
20 being purchased, sold, or offered for sale was obtained from a person licensed under

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

23 (2) AS 04.11.150 and the alcoholic beverage being purchased, sold, or  
24 offered for sale was obtained from a person licensed under AS 04.11.160 as a primary  
25 source of supply; or

26 (3) AS 04.11.130, 04.11.135, 04.11.140, or 04.11.170.

27 \* Sec. 10. AS 04.16.180(a) is amended to read:

28 (a) Except as provided in AS 04.11.015, AS 04.16.025, 04.16.050, 04.16.051,  
29 04.16.200 - 04.16.210, 04.21.025(f) and AS 04.21.065, a person who violates a  
30 provision of this title or a regulation adopted by the board is guilty, upon conviction,  
31 of a class A misdemeanor. Each violation is a separate offense.

1 \* Sec. 11. AS 04.21.020(a) is amended to read:

2 (a) Except as provided under (b) and (d) of this section, a person who provides  
3 alcoholic beverages to another person may not be held civilly liable for injuries  
4 resulting from the intoxication of that person unless the person who provides the  
5 alcoholic beverages holds a license or permit authorized under AS 04.11.080  
6 [AS 04.11.080 - 04.11.220] or is an agent or employee of such a licensee and

7 (1) the alcoholic beverages are provided to a person under the age of  
8 21 years in violation of AS 04.16.051, unless the licensee, agent, or employee secures  
9 in good faith from the person a signed statement, liquor identification card, or driver's  
10 license meeting the requirements of AS 04.21.050(a) and (b), that indicates that the  
11 person is 21 years of age or older; or

12 (2) the alcoholic beverages are provided to a drunken person in  
13 violation of AS 04.16.030.

14 \* Sec. 12. 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) recreational site;

25 (6) pub;

26 (7) conditional contractor;

27 (8) brewpub license;

28 (9) golf course license;

29 (10) outdoor recreation lodge license;

30 (11) destination resort license.

31 \* Sec. 13. AS 04.21.025 is amended by adding a new subsection to read:

1 (f) A licensee, agent, or employee who fails to renew a card issued under (c)  
2 of this section is guilty of

3 (1) a class B misdemeanor if the card has been expired for a period of  
4 six months or longer; or

5 (2) a violation if the card has been expired for a period of less than six  
6 months.

7 \* Sec. 14. AS 04.11.230(d) is repealed.

8 \* Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 TRANSITION: REGULATIONS. The Alcoholic Beverage Control Board may  
11 proceed to adopt regulations necessary to implement the changes made by this Act. The  
12 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before July 1,  
13 2008.

14 \* Sec. 16. Section 15 of this Act takes effect immediately under AS 01.10.070(c).

15 \* Sec. 17. Except as provided in sec. 16 of this Act, this Act takes effect July 1, 2008.

January 10, 2008

## SECTIONAL ANALYSIS OF HB

**"An Act relating to licensing and the regulation of sales and distribution of alcoholic beverages; relating to penalties for certain violations of law concerning alcoholic beverages; relating to civil liability of persons providing alcoholic beverages; relating to an alcohol server education course and failure to renew an alcohol server card concerning sales of alcoholic beverages; and providing for an effective date."**

**Section 1.** This amendment to AS 04.11.240(c) eliminates the requirement for a non-profit organization to surrender a special events permit to the Alcoholic Beverage Control (ABC) Board within 48 hours of the expiration time for the event. This change is prompted by recommendations of the Division of Legislative Audit (ABC Board sunset review dated August 31, 2006, Audit Control Number 12-20047-06) regarding the need for better internal controls over permits issued by the ABC Board. In response to this Legislative Audit recommendation (p. 9-10 of Audit Report), the ABC Board began on January 8, 2007 to issue actual catering and special events permits to provide the internal control suggested. The auditors also found the statutory requirement of returning permits after they have been used for an event to be "ineffective protection against permit misuse...and...enforcing this requirement is time consuming and an inefficient use of staff resources." Enacting this section will address the concerns raised by Legislative Audit.

**Section 2.** This section amends AS 04.11.295(a) to eliminate the need for persons to submit fingerprints if their fingerprint records are already on file with the ABC Board. This will save the public time and money and avoid duplicative work by state employees.

**Section 3.** This change in AS 04.11.330(d) eliminates the requirement that common carrier liquor licensees operate at least 30 days in a calendar year. Several specialty tours vessels visit Alaska and its waters on a less frequent basis and, in effect, are penalized for getting licenses even though they visit for only a short period of time.

**Sections 4 and 5.** This amendment of AS 04.11.410 allows events serviced by a caterer's permit or special events permit to be held in a church building with prior written permission of the church. This change is prompted by the fact that in some Alaskan communities the best venue for a large banquet or reception is a church owned facility. This would be the only exception to the statutory prohibition against locating a beverage dispensary license (bar) or package store within 200 feet of a church or school.

**Section 6.** AS 04.11.480(a) is amended by providing local governments an additional month in which to protest a biennial liquor license that is not up for renewal. Local governments have 60 days in which to protest license renewal. This change will give them the same amount of time to protest a license that is at the midpoint of its two-year cycle.

**Sections 7 and 8.** AS 04.11.491 is amended to give municipalities and established villages more options in the types of licenses they will allow to operate in their jurisdiction under a voter approved alcohol control measure. The law is also expanded so that municipalities may also choose to operate golf course and destination resort licenses under voter approved local option provisions.

**Section 9.** Changes were made by the Legislature in 2006 (Ch. 106, SLA 2006) to allow brewpubs in communities with a population of 75,000 or more to sell up to 6,200 gallons in a calendar year to other specified liquor licensed establishments. AS 04.16.172 needs to be amended to allow bars, restaurants, clubs, and package stores to buy beer from brewpubs offered for sale under this new provision enacted in 2006.

**Section 10.** This amendment of AS 04.16.180(a) is related to Section 13. It reduces the penalty for having a recently expired alcohol server training card from a class A misdemeanor to a violation.

**Section 11.** This amendment clarifies that a person providing alcoholic beverages authorized under a permit issued by the ABC Board may also be held civilly liable if they serve a person under 21 years of age or a drunken person.

**Section 12.** AS 04.21.025(a) is amended to add brewpub, golf course, outdoor recreation, and destination resort licenses to the list of other types of liquor licenses that requires licensees and their employees to complete and keep current alcohol server training.

**Section 13.** As mentioned above in Section 10, AS 04.21.025 is amended to reduce the penalty for failure to renew alcohol server training in a timely manner. Expiration of alcohol server training for a period of less than six months is a violation and expiration for six months or more will be charged as a class B misdemeanor.

**Section 14.** This section repeals the requirement that caterer's permits be returned within 48 hours. The rationale for this change is the same as explained in Section 1 of this analysis with regard to special events permits. This change reflects changes made in ABC Board procedures regarding improved internal controls for permits and responds to recommendations made by the Division of Legislative Audit.

**Section 15.** This provision explicitly authorizes the ABC Board to adopt regulations necessary to implement the changes of this Act.

**Sections 16 and 17.** These sections set out the effective dates for provisions of this Act.

# LEGAL SERVICES

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

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

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

## MEMORANDUM

March 4, 2008

**SUBJECT:** Section 8: Manslaughter for Death resulting from violations of AS 04.11.010 (HB 327, Work Order No. 25-GH2035\A)

**TO:** Representative Nancy Dahlstrom  
Attn: Jennifer Baxter

**FROM:** Gerald P. Luckhaupt *GLP*  
Legislative Counsel

You have asked if bill sec. 8 of HB 327 would apply only to persons not licensed under AS 04.11 or would persons licensed under AS 04.11<sup>1</sup> also potentially be subject to prosecution for manslaughter under that section. It is my opinion that persons who are licensed under AS 04.11, and their agents and employees, could also be subject to prosecution for manslaughter under bill sec. 8.

Bill sec. 8 amends AS 11.41.120(a), manslaughter, by providing that a person who violates AS 04.11.010 in an area that has adopted a local option under AS 04.11.491 and as a result a person dies after ingestion of the alcohol that is brought into the local option area.<sup>2</sup> AS 04.11.010(a) provides that:

a person may not knowingly manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage unless under license or permit issued under this title.

For the most part, this subsection would seem to apply to unlicensed persons but it also prohibits licensed persons from performing activities that they are not licensed to perform.<sup>3</sup> AS 04.11.010(b) provides that:

---

<sup>1</sup> And employees and agents of those licensees.

<sup>2</sup> This section mirrors the language the legislature has previously employed to impose liability for manslaughter on illegal manufacturers and dealers in certain controlled substances. AS 11.41.120(a)(3)

<sup>3</sup> For example, a person with a license to manufacture may not sell or barter unless the license to manufacture also allows to person to sell or barter.

Representative Nancy Dahlstrom  
March 4, 2008  
Page 2

a person may not solicit or receive orders for the delivery of an alcoholic beverage in an area that has adopted a local option under AS 04.11.491. If the area has adopted a local option under AS 04.11.491(a)(1), (2), or (3), or (b)(1) or (2), a package store licensee outside of that local option area may receive orders as provided under AS 04.11.150 but may not solicit in that area or receive orders through an agent or employee in that area. This subsection does not apply to a package store licensee who operates a package store in an area that has adopted a local option under AS 04.11.491(a)(2)(C) or (3)(C) or (b)(2)(C). A person who violates this subsection is punishable upon conviction as provided under AS 04.16.200(a) or (b).

This subsection applies directly to licensees and their agents and employees. A licensee, for example a package store in Anchorage, may not solicit or receive orders from a community that has a local option under AS 04.11.491(a)(4) - (5) or (b)(3) - (4) and may receive orders under AS 04.11.150<sup>4</sup> if the local option is under AS 04.11.491(a)(1) - (3) or (b)(1) or (2). A licensee that violates AS 04.11.010(b) and solicits and receives an order from a community with a local option that bans the sale, importation, and possession of alcohol could possibly be subject to prosecution under bill sec. 8 if the person from whom they solicited or accepted the order subsequently transports the alcohol back to the community and someone dies after ingestion of the alcohol.

GPL:med  
08-149.med

---

<sup>4</sup> But may not solicit.

# STATE OF ALASKA

## DEPARTMENT OF LAW CRIMINAL DIVISION

**SARAH PALIN,  
GOVERNOR**

**Mailing:** PO Box 110300  
Juneau, AK 99811-0300  
**Physical:** 123 4<sup>th</sup> Street, Ste 717  
Juneau, AK 99801  
**Phone:** (907) 465-3428  
**Fax:** (907) 465-4043

March 5, 2008

Representative Nancy Dahlstrom  
Alaska House of Representatives  
Alaska State Capitol, Room 409  
Juneau, Alaska 99801

Re: HB 327

Dear Representative Dahlstrom:

Yesterday at the work session addressing HB 327 the question arose whether Section 8 of the bill, which would expand the crime of manslaughter to a person who sends alcohol in violation of AS 04.11.010 to a local option area if the alcohol is the direct cause of the death of another person, would apply to a clerk in a liquor store who mistakenly sends alcohol to a person in violation of a local option. I said that I thought the answer was no. That answer is correct if the question is about a clerk who makes an honest mistake. It is not correct if the question addresses a clerk in a liquor store who knowingly sends alcohol to a dry or damp community in violation of the local option.

Jerry Luckhaupt, in response to the same question, concluded that Section 8 might apply to a licensee or clerk, but only if the licensee or clerk is "performing activities that they are not licensed to perform." Memo from Mr. Luckhaupt to Rep. Dahlstrom, March 4, 2008.

For Section 8 to apply to a clerk, the prosecution would have to prove beyond a reasonable doubt not only that the clerk sent alcohol illegally and outside the scope of the license he or she is operating under but also that the clerk acted *knowingly* in regard to the local option. You would also have to prove by the same standard that a person died as a direct result of ingesting the alcohol that was illegally sent by the clerk.

Thank you for the opportunity to respond to this issue. Please contact me if you have any further questions.

Sincerely,

TALIS J. COLBERG  
ATTORNEY GENERAL

By



Anne D. Carpeneti  
Assistant Attorney General

respond = say working w  
no iron deloting plastic bottle  
CS

**Golden Port Enterprises Incorporated**  
**Db a Gold Star Liquor**  
**1855 Van Horn Road**  
**Fairbanks, Alaska 99701**  
**907-456-6996**  
**1-800-478-6996**  
**Fax 907-452-3812**

Representative Gabrielle LeDoux  
State Capitol, Room 412  
Juneau, AK 99801-1182

Dear Representative LeDoux:

I am writing to you today to express my viewpoint in regards to HB 327. While I perceive much of the legislation to be sound, I have some concerns relating to Section 1 of this bill.

Section 1 would amend AS 04.11.150 to include:

(h) A package store licensee, agent, or employee may not

**(3) ship alcohol in a plastic container to a person who resides in a municipality or established village that has adopted a local option under AS 04.11.491(a) (1), (2), or (3) or (b) (1) or (2), unless the shipment is to a community deliver site designa'ed under AS 04.11.491(f).**

It is my opinion that this legislation would benefit the bootleggers while punishing the legal importers and negatively impacting the compliant package stores.

Much of the product we provide to legal importer in rural Alaska is not available in a glass bottle, forcing individuals to pay extra for more expensive brands, while also increasing the cost of freight and risking breakage. Additional cost and further restriction of legal importation will only encourage illegal activity. Bootlegging is a thriving industry that relies on the basic economic law of supply and demand. This principle itself results in the monetary incentive individuals have to illegally import alcohol into a dry/damp community. To reduce the supply will only raise the price paid for the product while putting more cash and resources into the hands of the suppliers. A more reasonable solution would be to work toward reducing the demand in the communities while encouraging the legal, regulated importation of alcohol.

The basic intention of this plastic bottle prohibition is to make shipments of alcohol more obvious in regards to weight and the auditory "clue" of glass bottles clanking together. I find it hard to imagine that any bootlegger would abide by this glass bottle requirement while illegally transporting alcohol. (Not to mention, anyone in their right mind would thoroughly pad any package containing glass to prevent breakage) Bootleggers may even be encouraged by the premise that the authorities are primarily looking for glass bottles, making plastic bottles easier to smuggle.

Every legal shipment of alcoholic beverages in the state of Alaska is already required to clearly label the package as such, dismissing the need for further evidence of its contents.

It is my opinion that the proposed legislation is a frivolous regulation that would undoubtedly impact law-abiding citizens and licensed businesses negatively, while providing more incentive and perhaps even further enabling the illegal transportation of alcohol into rural Alaska.

Thank you for your attention,

A handwritten signature in black ink, appearing to read "Michael Gaddis", written in a cursive style.

Michael Gaddis  
President/Owner  
Golden Port Enterprises Incorporated  
Dba Gold Star Liquor

25-GH2035\E  
Luckhaupt  
3/18/08

**CS FOR HOUSE BILL NO. 327( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to alcohol or controlled substance use by alcoholic beverage licensees**  
2 **and their agents and employees; relating to shipping, sending, transporting, or bringing**  
3 **alcohol to a local option area and providing alcohol to others in the local option area,**  
4 **including penalties for violations; relating to manslaughter as a direct result of ingestion**  
5 **of alcoholic beverages sold or bartered in violation of a local option prohibition; relating**  
6 **to reports of the court concerning certain alcohol violations by minors; making**  
7 **conforming amendments; and providing for an effective date."**

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

9 **\* Section 1.** AS 04.16.030 is amended by adding new subsections to read:

- 10 (c) A licensee, agent, or employee may not
  - 11 (1) consume an alcoholic beverage or a controlled substance while
  - 12 serving alcoholic beverages to patrons on licensed premises;
  - 13 (2) serve an alcoholic beverage to patrons on licensed premises while

1 under the influence of an alcoholic beverage or controlled substance.

2 (d) In (c) of this section, "controlled substance" has the meaning given in  
3 AS 11.71.900.

4 \* Sec. 2. AS 04.16.200(e) is amended to read:

5 (e) A person who sends, transports, or brings alcoholic beverages into a  
6 municipality or established village in violation of AS 04.11.499(a) is, upon conviction,

7 (1) except as provided in (3) of this subsection, guilty of a class A  
8 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
9 of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages; [OR]

10 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
11 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12  
12 gallons or more of malt beverages; or

13 (3) guilty of a class C felony if the quantity of alcoholic beverages  
14 is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12 gallons  
15 of malt beverages and the person has been previously convicted under this  
16 subsection or (b) of this section two or more times within 10 years of the date of  
17 the present offense.

18 \* Sec. 3. AS 04.16.200 is amended by adding new subsections to read:

19 (g) Upon conviction of a class A misdemeanor under (e)(1) of this section, the  
20 court

21 (1) shall impose a minimum sentence of imprisonment of

22 (A) not less than 72 consecutive hours and a fine of not less  
23 than \$1,500 if the person has not been previously convicted;

24 (B) not less than 20 days and a fine of not less than \$3,000 if  
25 the person has been previously convicted once;

26 (C) not less than 60 days and a fine of not less than \$4,000 if  
27 the person has been previously convicted twice and is not subject to  
28 punishment under (h) of this section;

29 (D) not less than 120 days and a fine of not less than \$5,000 if  
30 the person has been previously convicted three times and is not subject to  
31 punishment under (h) of this section;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

(E) not less than 240 days and a fine of not less than \$6,000 if the person has been previously convicted four times and is not subject to punishment under (h) of this section;

(F) not less than 360 days and a fine of not less than \$7,000 if the person has been previously convicted more than four times and is not subject to punishment under (h) of this section;

(2) may not

(A) suspend execution of sentence or grant probation except on the condition that the person

(i) serve the minimum imprisonment under (1) of this subsection; and

(ii) pay the minimum fine required under (1) of this subsection; or

(B) suspend imposition of sentence.

(h) Upon conviction of a class C felony under (b) or (e)(2) or (3) of this section, the court

(1) shall impose a fine of not less than \$10,000 and a minimum sentence of imprisonment of

(A) 120 days if the person has been previously convicted twice;

(B) 240 days if the person has been convicted three times;

(C) 360 days if the person has been previously convicted four or more times;

(2) may not

(A) suspend execution of sentence or grant probation except on the condition that the person

(i) serve the minimum imprisonment under (1) of this subsection; and

(ii) pay the minimum fine required under (1) of this subsection; or

(B) suspend imposition of sentence.

(i) The court shall consider the date of a previous

1 conviction as occurring on the date that sentence is imposed for the  
2 prior offense.

3 \* Sec. 4. AS 11.41.120(a) is amended to read:

4 (a) A person committ the crime of manslaughter if the person

5 (1) intentionally, knowingly, or recklessly causes the death of another  
6 person under circumstances not amounting to murder in the first or second degree;

7 (2) intentionally aids another person to commit suicide; [OR]

8 (3) knowingly manufactures or delivers a controlled substance in  
9 violation of AS 11.71.010 - 11.71.030 or 11.71.040(a)(1) for schedule IVA controlled  
10 substances, and a person dies as a direct result of ingestion of the controlled substance;  
11 the death is a result that does not require a culpable mental state; or

12 (4) is not licensed under AS 04 or an employee or agent of a  
13 licensee under AS 04 and sells or barter alcoholic beverages in an area that has  
14 adopted a local option under AS 04.11.491 knowing that the sale or barter is in  
15 violation of the local option adopted under AS 04.11.491, and a person dies as a  
16 direct result of ingestion of the alcoholic beverage sold or bartered in violation of  
17 the local option; the death is a result that does not require a culpable mental state  
18 [IN THIS PARAGRAPH, "INGESTION" MEANS VOLUNTARILY OR  
19 INVOLUNTARILY TAKING A SUBSTANCE INTO THE BODY IN ANY  
20 MANNER].

21 \* Sec. 5. AS 11.41.120 is amended by adding a new subsection to read:

22 (c) In this section, "ingestion" means voluntarily or involuntarily taking a  
23 substance into the body in any manner.

24 \* Sec. 6. AS 28.15.191(a) is amended to read:

25 (a) A court that convicts a person of an offense under this title or a regulation  
26 adopted under this title, [OR] another law or regulation of this state, [OR] a municipal  
27 ordinance that regulates the driving of vehicles, or a violation of AS 04.16.050, shall  
28 forward a record of the conviction to the department within five working days. A  
29 conviction of a standing or parking offense need not be reported.

30 \* Sec. 7. AS 28.35.028(a) is amended to read:

31 (a) Notwithstanding another provision of law, with the consent of the state and

1 the defendant, the court may elect to proceed in a criminal case under AS 04.16.200(b)  
2 or (e), AS 28.35.030, or 28.35.032, including the case of a defendant charged with  
3 violating the terms of probation, under the procedure provided in this section and  
4 order the defendant to complete a court-ordered treatment program. The state may not  
5 consent to a referral under this subsection unless the state has consulted with the  
6 victim and explained the process and consequences of the referral to the victim. A  
7 court may not elect to proceed under this section if the defendant has previously  
8 participated in a court-ordered treatment program under this section two or more  
9 times.

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

12 APPLICABILITY. (a) Sections 1, 4, and 5 of this Act apply to offenses committed on  
13 or after the effective date of this Act.

14 (b) Sections 2 and 3 of this Act apply to offenses committed on or after the effective  
15 date of this Act. Any references in those sections to previous convictions include previous  
16 convictions occurring before, on, or after the effective date of this Act.

17 (c) Sections 6 and 7 of this Act apply to actions taken by a court on or after the  
18 effective date of this Act, regardless of whether the offense occurred before, on, or after the  
19 effective date of this Act.

20 \* Sec. 9. This Act takes effect July 1, 2008.

25-GH2035\M  
Luckhaupt  
3/26/08

**CS FOR HOUSE BILL NO. 327( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to alcohol or controlled substance use by alcoholic beverage licensees**  
2 **and their agents and employees; relating to shipping, sending, transporting, or bringing**  
3 **alcohol to a local option area and providing alcohol to others in the local option area,**  
4 **including penalties for violations; relating to reports of the court concerning certain**  
5 **alcohol violations by minors; making conforming amendments; and providing for an**  
6 **effective date."**

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

8 \* **Section 1.** AS 04.16.030 is amended by adding new subsections to read:

- 9 (c) A licensee, agent, or employee may not
  - 10 (1) consume an alcoholic beverage or a controlled substance while
  - 11 serving alcoholic beverages to patrons on licensed premises;
  - 12 (2) serve an alcoholic beverage to patrons on licensed premises while
  - 13 under the influence of an alcoholic beverage or controlled substance.

1 (d) In (c) of this section, "controlled substance" has the meaning given in  
2 AS 11.71.900.

3 \* Sec. 2. AS 04.16.200(e) is amended to read:

4 (e) A person who sends, transports, or brings alcoholic beverages into a  
5 municipality or established village in violation of AS 04.11.499(a) is, upon conviction,

6 (1) except as provided in (3) of this subsection, guilty of a class A  
7 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
8 of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages; [OR]

9 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
10 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12  
11 gallons or more of malt beverages; or

12 (3) guilty of a class C felony if the quantity of alcoholic beverages  
13 is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12 gallons  
14 of malt beverages and the person has been previously convicted under this  
15 subsection or (b) of this section two or more times within 10 years of the date of  
16 the present offense.

17 \* Sec. 3. AS 04.16.200 is amended by adding new subsections to read:

18 (g) Upon conviction of a class A misdemeanor under (c)(1) of this section, the  
19 court

20 (1) shall impose a minimum sentence of imprisonment of

21 (A) not less than 72 consecutive hours and a fine of not less  
22 than \$1,500 if the person has not been previously convicted;

23 (B) not less than 20 days and a fine of not less than \$3,000 if  
24 the person has been previously convicted once;

25 (C) not less than 60 days and a fine of not less than \$4,000 if  
26 the person has been previously convicted twice and is not subject to  
27 punishment under (h) of this section;

28 (D) not less than 120 days and a fine of not less than \$5,000 if  
29 the person has been previously convicted three times and is not subject to  
30 punishment under (h) of this section;

31 (E) not less than 240 days and a fine of not less than \$6,000 if

1 the person has been previously convicted four times and is not subject to  
2 punishment under (h) of this section;

3 (F) not less than 360 days and a fine of not less than \$7,000 if  
4 the person has been previously convicted more than four times and is not  
5 subject to punishment under (h) of this section;

6 (2) may not

7 (A) suspend execution of sentence or grant probation except on  
8 the condition that the person

9 (i) serve the minimum imprisonment under (1) of this  
10 subsection; and

11 (ii) pay the minimum fine required under (1) of this  
12 subsection; or

13 (B) suspend imposition of sentence.

14 (h) Upon conviction of a class C felony under (b) or (c)(2) or (3) of this  
15 section, the court

16 (1) shall impose a fine of not less than \$10,000 and a minimum  
17 sentence of imprisonment of

18 (A) 120 days if the person has been previously convicted twice;

19 (B) 240 days if the person has been convicted three times;

20 (C) 360 days if the person has been previously convicted four  
21 or more times;

22 (2) may not

23 (A) suspend execution of sentence or grant probation except on  
24 the condition that the person

25 (i) serve the minimum imprisonment under (1) of this  
26 subsection; and

27 (i) pay the minimum fine required under (1) of this  
28 subsection; or

29 (B) suspend imposition of sentence.

30 (i) The court shall consider the date of a previous conviction as occurring on  
31 the date that sentence is imposed for the prior offense.

1 \* **Sec. 4.** AS 28.15.191(a) is amended to read:

2 (a) A court that convicts a person of an offense under this title or a regulation  
3 adopted under this title, [OR] another law or regulation of this state, [OR] a municipal  
4 ordinance that regulates the driving of vehicles, or a violation of AS 04.16.050, shall  
5 forward a record of the conviction to the department within five working days. A  
6 conviction of a standing or parking offense need not be reported.

7 \* **Sec. 5.** AS 28.35.028(a) is amended to read:

8 (a) Notwithstanding another provision of law, with the consent of the state and  
9 the defendant, the court may elect to proceed in a criminal case under AS 04.16.200(b)  
10 or (e), AS 28.35.030, or 28.35.032, including the case of a defendant charged with  
11 violating the terms of probation, under the procedure provided in this section and  
12 order the defendant to complete a court-ordered treatment program. The state may not  
13 consent to a referral under this subsection unless the state has consulted with the  
14 victim and explained the process and consequences of the referral to the victim. A  
15 court may not elect to proceed under this section if the defendant has previously  
16 participated in a court-ordered treatment program under this section two or more  
17 times.

18 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
19 read:

20 APPLICABILITY. (a) Section 1 of this Act applies to offenses committed on or after  
21 the effective date of this Act.

22 (b) Sections 2 and 3 of this Act apply to offenses committed on or after the effective  
23 date of this Act. Any references in those sections to previous convictions include previous  
24 convictions occurring before, on, or after the effective date of this Act.

25 (c) Sections 4 and 5 of this Act apply to actions taken by a court on or after the  
26 effective date of this Act, regardless of whether the offense occurred before, on, or after the  
27 effective date of this Act.

28 \* **Sec. 7.** This Act takes effect July 1, 2008.

25-GS2035\M  
Luckhaupt  
3/21/08

**CS FOR SENATE BILL NO. 235(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to shipping, sending, transporting, or bringing alcohol to a local  
2 option area and providing alcohol to others in the local option area, including penalties  
3 for violations; relating to when a conviction occurs for certain purposes relating to  
4 alcoholic beverages; relating to furnishing alcohol to a minor and to civil penalties for  
5 licensees whose agents or employees furnish alcohol to a minor; relating to reports of  
6 the court concerning certain alcohol violations by minors; and providing for an  
7 effective date."

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

9 \* Section 1. AS 04.11.150(h) is amended to read.

10 (h) A package store licensee, agent, or employee may not

11 (1) divide or combine shipments of alcoholic beverages so as to  
12 circumvent the limitation imposed under (g) of this section; [OR]

13 (2) in response to a written order, ship alcohol to a purchaser at an

1 address other than the address where the purchaser resides or, if the purchaser resides  
2 in a municipality or established village that has adopted a local option under  
3 AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) for which a community delivery site  
4 has been designated under AS 04.11.491(f), to an address other than that community  
5 delivery site except as provided by AS 04.11.491(f)(1) and (2); or

6 (3) ship alcohol in a plastic container to a person who resides in a  
7 municipality or established village that has adopted a local option under  
8 AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), unless the shipment is to a  
9 community delivery site designated under AS 04.11.491(f).

10 \* Sec. 2. AS 04.16.180(c) is amended to read:

11 (c) In this section, the terms "second conviction" and "third conviction"  
12 include only convictions for violations that occur within five years of the first  
13 conviction. The terms refer to the cumulative number of convictions of a licensee of  
14 any combination of violations of the provisions of this title, regulations adopted  
15 under this title, or ordinances adopted under AS 04.21.010. The terms "second  
16 conviction" and "third conviction" include a conviction of the agent or employee of a  
17 licensee of a violation of a law, regulation, or ordinance if the conviction constitutes  
18 a ground for suspension or revocation under AS 04.11.370(a)(5). A conviction  
19 occurs on the date that sentence is imposed for the offense.

20 \* Sec. 3. AS 04.16.180 is amended by adding a new subsection to read:

21 (c) If an agent or employee of a licensee is convicted of a violation of  
22 AS 04.16.051 occurring on the licensed premises of the licensee, the board shall  
23 impose a civil fine of \$1,000 on the licensee for each conviction of an employee or  
24 agent.

25 \* Sec. 4. AS 04.16.200(e) is amended to read:

26 (e) A person who sends, transports, or brings alcoholic beverages into a  
27 municipality or established village in violation of AS 04.11.499(a) is, upon  
28 conviction,

29 (1) except as provided in (3) of this subsection, guilty of a class A  
30 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
31 of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages; [OR]

1 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
2 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12  
3 gallons or more of malt beverages; or

4 (3) guilty of a class C felony if the quantity of alcoholic beverages  
5 is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12  
6 gallons of malt beverages and the person has been previously convicted under  
7 this subsection, or (b) of this section two or more times within 10 years of the  
8 date of the present offense.

9 \* Sec. 5. AS 04.16.200 is amended by adding new subsections to read:

10 (g) Upon conviction of a class A misdemeanor under (e)(1) of this section,  
11 the court

12 (1) shall impose a minimum sentence of imprisonment of

13 (A) not less than 72 consecutive hours and a fine of not less  
14 than \$1,500 if the person has not been previously convicted;

15 (B) not less than 20 days and a fine of not less than \$3,000 if  
16 the person has been previously convicted once;

17 (C) not less than 60 days and a fine of not less than \$4,000 if  
18 the person has been previously convicted twice and is not subject to  
19 punishment under (h) of this section;

20 (D) not less than 120 days and a fine of not less than \$5,000 if  
21 the person has been previously convicted three times and is not subject to  
22 punishment under (h) of this section;

23 (E) not less than 240 days and a fine of not less than \$6,000 if  
24 the person has been previously convicted four times and is not subject to  
25 punishment under (h) of this section;

26 (F) not less than 360 days and a fine of not less than \$7,000 if  
27 the person has been previously convicted more than four times and is not  
28 subject to punishment under (h) of this section;

29 (2) may not

30 (A) suspend execution of sentence or grant probation except  
31 on the condition that the person

- 1 (i) serve the minimum imprisonment under (1) of this  
2 subsection; and  
3 (ii) pay the minimum fine required under (1) of this  
4 subsection; or  
5 (B) suspend imposition of sentence.

6 (h) Upon conviction of a class C felony under (b) or (c)(2) or (3) of this  
7 section, the court

8 (1) shall impose a fine of not less than \$10,000 and a minimum  
9 sentence of imprisonment of

10 (A) 120 days if the person has been previously convicted  
11 once;

12 (B) 240 days if the person has been previously convicted two  
13 times;

14 (C) 360 days if the person has been previously convicted  
15 three or more times;

16 (2) may not

17 (A) suspend execution of sentence or grant probation except  
18 on the condition that the person

19 (i) serve the minimum imprisonment under (1) of this  
20 subsection; and

21 (ii) pay the minimum fine required under (1) of this  
22 subsection; or

23 (B) suspend imposition of sentence.

24 (i) In (g) of this section, "previously convicted" means having been  
25 convicted, within the 10 years preceding the date of the present offense, of an  
26 offense under (b) or (c) of this section or a law or ordinance of another jurisdiction  
27 having elements similar to those offenses.

28 (j) In (h) of this section, "previously convicted" means having been  
29 convicted, within the 10 years preceding the date of the present offense, of a felony  
30 offense under (b) or (c) of this section or a law or ordinance of another jurisdiction  
31 having elements similar to those felony offenses.

1 (k) The court shall consider the date of a previous conviction as occurring on  
2 the date that sentence is imposed for the prior offense.

3 \* **Sec. 6.** AS 28.15.191(a) is amended to read:

4 (a) A court that convicts a person of an offense under this title or a regulation  
5 adopted under this title, [OR] another law or regulation of this state, [OR] a  
6 municipal ordinance that regulates the driving of vehicles, or a violation of  
7 AS 04.16.050 shall forward a record of the conviction to the department within five  
8 working days. A conviction of a standing or parking offense need not be reported.

9 \* **Sec. 7.** AS 28.35.028(a) is amended to read:

10 (a) Notwithstanding another provision of law, with the consent of the state  
11 and the defendant, the court may elect to proceed in a criminal case under  
12 AS 04.16.200(b) or (e), AS 28.35.030, or 28.35.032, including the case of a  
13 defendant charged with violating the terms of probation, under the procedure  
14 provided in this section and order the defendant to complete a court-ordered  
15 treatment program. The state may not consent to a referral under this subsection  
16 unless the state has consulted with the victim and explained the process and  
17 consequences of the referral to the victim. A court may not elect to proceed under  
18 this section if the defendant has previously participated in a court-ordered treatment  
19 program under this section two or more times.

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

22 **APPLICABILITY.** (a) Section 1 of this Act applies to offenses committed on or after  
23 the effective date of this Act.

24 (b) Section 2 of this Act applies to convictions occurring before, on, or after the  
25 effective date of this Act.

26 (c) Section 3 of this Act applies to offenses committed on or after the effective date  
27 of this Act.

28 (d) Sections 4 and 5 of this Act apply to offenses committed on or after the effective  
29 date of this Act. Any references in those sections to previous convictions include previous  
30 convictions occurring before, on, or after the effective date of this Act.

31 (e) Sections 6 and 7 of this Act apply to actions taken by a court on or after the

1 effective date of this Act, regardless of whether the offense occurred before, on, or after the  
2 effective date of this Act.

3 \* Sec. 9. This Act takes effect July 1, 2008.

Changes to SB235

1. Removed the manslaughter provisions.
2. Rewrote fines structure for licensees to be \$1000 flat fine per incident (on page 2: Section 3)..
3. At the request of Leg. Legal, definitions of "previous convictions" were written and included in the bill (page four starting at line 24)..

February 27, 2008

In the last 4 years. There was no data from 2003.

Food Factory was checked 5 times and failed 1 time.

Pikes Landing was checked 7 times and failed 2 times. Not been checked in 1 year.

Pikes Waterfront was checked 2 times and has never failed.

Food Factory in North Pole was checked 1 time and has never failed.

He appreciated the assistance he received from the Food Factory for breaking up a fake ID ring.

He is happy to answer any questions and may be contacted at 269-0063.

**Sonya Hymer**

---

**From:** Sonya Hymer  
**Sent:** Friday, March 07, 2008 11:02 AM  
**To:** 'Laughlin, Wilda J (HSS)'; 'Carpeneti, R Anne D (LAW)'; 'Rice, Lauren (DPS)'; 'Griffin, Douglas B (DPS)'; 'Glick, John R (DPS)'; 'Casto, L (HSS)'; cra; Rep. Mary Nelson  
**Subject:** FW: Correct Data on Liquor Lic. (HB327)  
**Attachments:** Stats on Liquor Lic..doc

Attached please find a correction from Rep Ramras regarding ID checks at his businesses.

Sonya Hymer, Legislative Aide  
Representative Gabrielle LeDoux  
State Capitol  
District 36  
phone: (907) 465-2487  
fax: (907) 465-4956

---

**From:** Patty Krueger  
**Sent:** Friday, March 07, 2008 10:54 AM  
**To:** Sonya Hymer  
**Subject:** Correct Data on Liquor Lic.

Thank you for making this correction for the record.

Patty Krueger  
Legislative Aide  
Representative Jay Ramras

Patty.Krueger@legis.state.ak.us  
Phone: (907) 465-3004  
Fax: (907) 465-2070  
Toll Free: (877) 465-3004

**HB 327**

Dale Fox [dfoxcharr@gci.net]

**Sent:** Friday, March 07, 2008 3:13 PM**To:** Rep. Gabrielle LeDoux; Rep. Anna Fairclough; Rep. Nancy Dahlstrom; Rep. Mark Neuman; Rep. Kurt Olson; Rep. Sharon Cissna; Rep. Woodie Salmon**Cc:** Rep. Jay Ramras; Kim Hutchinson [trust@ptialaska.net]; Rep. Mary Nelson

---

Dear House CRA Committee Members:

I am writing to follow up on our conversation during the work session on HB 327, which turns clerical errors by hardworking shipping clerks into felonies and possible manslaughter charges.

I have received copies of the quick legal opinion from Gerald Luckhaupt and the letter from Anne Carpeneti on the issue. Both say that a shipping clerk could be found guilty of a felony and, under certain circumstances, convicted of manslaughter. Neither of them address the violation I used as an example before the committee, which was if a shipping clerk shipped more alcohol to a rural area than the amount allowed under Section 04.11.010, paragraph number 2. I am convinced that the state would argue that the clerk who shipped too much is in violation of 04.11.010 and therefore is subject to felony and manslaughter provisions.

I would encourage legislators to change these provisions so they do not apply to shipping clerks as proposed in this legislation. Further, we should amend the statutes previously passed by the legislature that makes a clerical error by wait staff a felony as well.

Additionally, I would like to comment on Ms. Carpeneti's suggestion that someone charged with these crimes could fight it out in court to prove that they made an honest mistake. One of the challenges facing many workers in the hospitality industry is they do not have the tens of thousands of dollars to hire attorneys to fight the state. It is easier, and often more fiscally prudent, to plead guilty to the first offense and change careers than it is to fight the state's prosecution efforts.

One of the reasons that CHARR members would like to see the ABC Board administered by someone other than the Department of Public Safety is the overzealous efforts made by State Troopers to charge a licensee with a crime. As I stated above, most workers in our industry do not have the money to hire a lawyer and fight, however those who have fought have been very successful when they have their day in court.

Let me provide a few examples where industry members have fought charges and won, just as Ms. Carpeneti suggests:

- \* The licensee that cut a minor's ID in half as a way to discourage attempts to buy alcohol was charged by the State Troopers with malicious destruction of property by the angry undercover agent. The charges were not held up when the member took the issue to court.
- \* The owner that was charged with a violation because the enforcement officer did not have the current site map for alcohol service. The owner hired an attorney and proved that he had changed his site map as required by the ABC Board, however they had not kept the proper files.
- \* Several industry members have fought charges indicating they had no intent to furnish liquor to a minor. Again a number of those who have spent the money on a defense have been found not guilty. Many establishment owners have informed us that subsequent to winning a case based on lack intent, they believe they are targeted for additional compliance checks as punishment for defending themselves in court.

I would encourage legislators to develop laws that can be understood by the laymen who must read and interpret Title 4. Please don't make industry members felons for clerical errors and don't make hardworking Alaskans spend their life savings to defend themselves due to ambiguities in the law.

Dale Fox  
President & CEO, Alaska CHARR  
1111 East 80th Avenue, Suite 3  
Anchorage, AK 99518  
907-274-8133, fax 907-274-8640  
[www.alaskacharr.com](http://www.alaskacharr.com)<<http://www.alaskacharr.com/>>

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08

Identifier (file name): 0035-DOA-DMV-01-14-08 Dept. Affected: Administration  
 Title "An act relating to shipping, sending, transporting..." RDU Division of Motor Vehicles  
 Component Motor Vehicles  
 Sponsor Rules by request  
 Requester Governor Component Number 2348

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>								
<b>CHANGE IN REVENUES ( )</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
1156 Receipt Supported Services								
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

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

This bill has no financial impact on the Division of Motor Vehicles.

Prepared by: Whitney Brewster, Director  
 Division: Motor Vehicles  
 Approved by: Kevin Brooks, Deputy Commissioner  
Department of Administration

Phone 907-269-5574  
 Date/Time 1/14/08 1:45 PM  
 Date 1/14/2008

# FISCAL NOTE

**STATE OF ALASKA  
2008 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08  
 Dept. Affected: Health & Social Services

ID (File name) 0035-DHSS-BH-1-11-08

Title "AN ACT RELATING TO BRINGING ALCOHOL TO A LOCAL OPTION AREA... FURNISHING ALCOHOL TO A MINOR..."

RDU Behavioral Health

Component Behavioral Health Administration

Sponsor \_\_\_\_\_  
 Requester \_\_\_\_\_

Component No. 2665

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

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

	Appropriation		Information						
	Required		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>									
Personal Services									
Travel									
Contractual									
Supplies									
Equipment									
Land & Structures									
Grants & Claims									
Miscellaneous									
<b>TOTAL OPERATING</b>			<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**CAPITAL EXPENDITURES**

**CHANGE IN REVENUES (0)**

**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time									
Part-time									
Temporary									

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

This bill will have no significant fiscal impact on Behavioral Health. The activities and strategies outlined in the bill, while significantly assisting Behavioral Health in the work of preventing and treating alcohol use, abuse and dependency among our citizens, will not directly impact our fiscal needs or operating budget.

Prepared by: Melissa Stone, Director  
 Division: Behavioral Health  
 Approved by: Karleen Jackson, Commissioner  
 Agency: Department of Health and Social Services

Phone 907-269-3410  
 Date/Time 01/14/2008  
 Date 01/16/2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08

Identifier (file name): 0035-LAW-CRIM-01-14-08 Dept. Affected: LAW  
 Title: An Act relating to the illegal distribution of alcohol. RDU: CRIMINAL  
 Component: Criminal Justice Litigation  
 Sponsor: Rules Component Number: \_\_\_\_\_  
 Requester: Governor

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

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

The bill would facilitate enforcement of alcohol laws in both urban and rural areas. It prohibits sending alcohol in plastic containers to a local option area unless the area has a distribution site, provides for mandatory minimum sentences for bootleggers; adopts a class C felony for a person convicted of bootlegging for the third time in a ten year period, provides for civil penalties for liquor licensees whose agents or employees are convicted of furnishing alcohol to minors on their licensed premises, and amends the manslaughter statute to apply to a person who brings alcohol into a community in violation of a local option and a person dies as a direct result of ingesting the alcohol.

Prepared by: Robert Meiners, Administrative Services Manager  
 Division: Administrative Services  
 Approved by: Talis Colberg, Attorney General  
Department of Law

Phone 907-465-5427  
 Date/Time 1/14/07 8.30AM  
 Date 1/14/2007

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08

Identifier (file name): 0035-DPS-DET-01-14-08 Public Safety  
 Title "An Act relating to shipping, sending, transporting, or bringing alcohol to a local option area..." RDU Alaska State Troopers  
 Component AST Detachments  
 Sponsor Rules Committee  
 Requester Governor Component Number 2325

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>		0.0	0.0	0.0	0.0	0.0	0.0	0.0

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 00

**POSITIONS**

Full-time							
Part-time							
Temporary							

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill imposes civil penalties against a liquor license holder when the agent and employees of the licensee provide alcohol to those under 21. This bill also would impose mandatory minimum terms of imprisonment and fines and amend the manslaughter statute to apply to a person who brings alcohol into a community in violation of a local option. The sending of alcohol in plastic containers to a local option area would be prohibited under this legislation. Finally, this bill would clarify that the court is required to make certain reports to the Department of Administration concerning certain violations of alcohol laws by minors.

Passage of this legislation would have no fiscal impact on the department because it mainly deals with civil issues and terms of incarceration.

Prepared by: Lt. Rodney Dial Phone 907-269-5591  
 Division Alaska State Troopers Date/Time 1/14/08 4:48 AM  
 Approved by: Walt Monegan, Commissioner Date 1/14/2008  
Department of Public Safety

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 5  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08

Identifier (file name): 0035-DC A-OPA-1-13-08 Dept. Affected: Administration  
 Title: "An Act relating to shipping, sending, transporting, or bringing..." RDU: Legal and Advocacy Services  
 Component: Office of Public Advocacy  
 Sponsor: Rules by Request  
 Requester: Governor Component Number: 43

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

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

	Appropriation Required		Information				
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>							
Personal Services	*	0.0	*	*	*	*	*
Travel	*	0.0	*	*	*	*	*
Contractual	*	0.0	*	*	*	*	*
Supplies	*	0.0	*	*	*	*	*
Equipment	*	0.0	*	*	*	*	*
Land & Structures	*	0.0	*	*	*	*	*
Grants & Claims	*	0.0	*	*	*	*	*
Miscellaneous	*	0.0	*	*	*	*	*
<b>TOTAL OPERATING</b>	*	<b>0.0</b>	*	*	*	*	*

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	*	0.0	*	*	*	*	*
1003 GF Match	*	0.0	*	*	*	*	*
1004 GF	*	0.0	*	*	*	*	*
1005 GF/Program Receipts	*	0.0	*	*	*	*	*
1037 GF/Mental Health	*	0.0	*	*	*	*	*
Other Interagency Receipts	*	0.0	*	*	*	*	*
<b>TOTAL</b>	*	<b>0.0</b>	*	*	*	*	*

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

This bill elevates certain convictions for importing alcohol from a misdemeanor to a felony if a person has two or more prior convictions within 10 years of the present offense. The bill provides for certain minimum penalties for misdemeanor and felony convictions. The bill also provides for a manslaughter conviction if a person dies from ingesting alcohol that was imported in violation of local option laws.

This bill is expected to have a fiscal impact due to the increased offense levels and increased penalties. It is, however, impossible to predict the fiscal impact any certainty. The Agency, therefore, submits an indeterminate fiscal note.

Prepared by: Joshua P. Fink, Director  
 Division: Office of Public Advocacy  
 Approved by: Rachael Petro, Deputy Commissioner  
Department of Administration

Phone 907-269-3500  
 Date/Time 1/13/08 3:40 p.m.  
 Date 1/14/2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 6  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08

Identifier (file name): 0035-DOA-PDA-1-13-08 Dept. Affected: Administration  
 Title: "An Act relating to shipping, sending, transporting, or bringing..." RDU: Legal and Advocacy Services  
 Component: Public Defender Agency  
 Sponsor: Rules by Request  
 Requester: Governor Component Number: 1631

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	*	0.0	*	*	*	*	*	*
Travel	*	0.0	*	*	*	*	*	*
Contractual	*	0.0	*	*	*	*	*	*
Supplies	*	0.0	*	*	*	*	*	*
Equipment	*	0.0	*	*	*	*	*	*
Land & Structures	*	0.0	*	*	*	*	*	*
Grants & Claims	*	0.0	*	*	*	*	*	*
Miscellaneous	*	0.0	*	*	*	*	*	*
<b>TOTAL OPERATING</b>	*	<b>0.0</b>	*	*	*	*	*	*

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	*	0.0	*	*	*	*	*	*
1003 GF Match	*	0.0	*	*	*	*	*	*
1004 GF	*	0.0	*	*	*	*	*	*
1005 GF/Program Receipts	*	0.0	*	*	*	*	*	*
1037 GF/Mental Health	*	0.0	*	*	*	*	*	*
Other Interagency Receipts	*	0.0	*	*	*	*	*	*
<b>TOTAL</b>	*	<b>0.0</b>	*	*	*	*	*	*

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

This bill elevates certain convictions for importing alcohol from a misdemeanor to a felony if a person has two or more prior convictions within 10 years of the present offense. The bill provides for certain minimum penalties for misdemeanor and felony convictions. The bill also provides for a manslaughter conviction if a person dies from ingesting alcohol that was imported in violation of local option laws.

This bill is expected to have a fiscal impact due to the increased offense levels and increased penalties. It is, however, impossible to predict the fiscal impact any certainty. The Agency, therefore, submits an indeterminate fiscal note.

Prepared by: Quinlan Steiner, Director Phone 907-334-4414  
 Division: Public Defender Agency Date/Time 1/13/08 11:50 a.m.  
 Approved by: Rachael Petro, Deputy Commissioner Date 1/13/2008  
Department of Administration

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 7  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08

Identifier (file name): 0035-DOC-IDO-01-12-08 Dept. Affected: Corrections  
 Title: "Act relating to shipping, sending, transporting ... alcohol ..." RDU: Population Management  
 Component: Institution Directors Office  
 Sponsor: Rules Committee  
 Requester: Governor Component Number: 524

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	*	*	*	*	*	*	*	*
Travel	*	*	*	*	*	*	*	*
Contractual	*	*	*	*	*	*	*	*
Supplies	*	*	*	*	*	*	*	*
Equipment	*	*	*	*	*	*	*	*
Land & Structures	*	*	*	*	*	*	*	*
Grants & Claims	*	*	*	*	*	*	*	*
Miscellaneous	*	*	*	*	*	*	*	*
<b>TOTAL OPERATING</b>	*	*	*	*	*	*	*	*

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	*	*	*	*	*	*	*	*
1003 GF Match	*	*	*	*	*	*	*	*
1004 GF	*	*	*	*	*	*	*	*
1005 GF/Program Receipts	*	*	*	*	*	*	*	*
1037 GF/Mental Health	*	*	*	*	*	*	*	*
Other Interagency Receipts	*	*	*	*	*	*	*	*
<b>TOTAL</b>	*	*	*	*	*	*	*	*

Estimate of any current year (FY2008) cost: 0.0

**POSITIONS**

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

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

The department is unable to estimate the number of individuals who would be committed to the custody of the department as a result of this legislation.

Prepared by: Sharleen Griffin, Director  
 Division: Administrative Services  
 Approved by: Dwayne Peoples, Deputy Commissioner  
Department of Corrections

Phone (907) 465-3339  
 Date/Time: 1/12/08 12:00 AM  
 Date: 1/12/2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 8  
 Bill Version: HB 327  
 (H) Publish Date: 1/17/08

Identifier (file name): 0035-DPS-ABC-1-16-08 Dept. Affected: Public Safety  
 Title: "An Act relating to...bringing alcohol to a local option area...furnishing alcohol to a minor..." RDU: Statewide Support  
 Component: Alcoholic Beverage Control Board  
 Sponsor: \_\_\_\_\_ Component Number: 2690  
 Requester: \_\_\_\_\_

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	167.4		167.4	167.4	167.4	167.4	167.4	167.4
Travel	26.0		26.0	26.0	26.0	26.0	26.0	26.0
Contractual	14.0		14.0	14.0	14.0	14.0	14.0	14.0
Supplies	4.0		4.0	4.0	4.0	4.0	4.0	4.0
Equipment	6.0		3.0	0.0	3.0	0.0	3.0	3.0
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>217.4</b>	<b>0.0</b>	<b>214.4</b>	<b>211.4</b>	<b>214.4</b>	<b>211.4</b>	<b>214.4</b>	<b>214.4</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts	217.4		214.4	211.4	214.4	211.4	214.4	214.4
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>	<b>217.4</b>	<b>0.0</b>	<b>214.4</b>	<b>211.4</b>	<b>214.4</b>	<b>211.4</b>	<b>214.4</b>	<b>214.4</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

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

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

This bill would impose civil fines and, for a second or subsequent offense within five years, license suspensions on liquor licensees whose employees are convicted of furnishing alcohol to a minor on the licensee's premises. These consequences are intended to increase the incentive for licensees to train and supervise agents and employees in a way that would emphasize service only to persons 21 years of age and older. Enforcement by the Alcoholic Beverage Control Board (ABC Board) of these new provisions will require the services of two additional Investigators III. These positions will work primarily in the area of preventing and reducing underage drinking by conducting compliance checks, "shoulder taps", and other enforcement efforts focused on keeping alcoholic beverages away from persons under the age of 21.

Other provisions in this bill related to bootlegging are not anticipated to have a fiscal impact on the ABC Board.

Prepared by: Douglas B. Griffin, Director  
 Division: Alcoholic Beverage Control Board  
 Approved by: Commissioner Walt Monegan  
Office of the Commissioner

Phone 269-0350  
 Date/Time 1/14/08 5:00pm  
 Date 1/17/2008

**Subject:** RE: Request

Appreciate your help.

My interpretation of the numbers is:



Pike's Landing 24 checks with 2 failures  
Food Factory-North Pole 14 checks with no failures  
Food Factory- FBX 25 checks with 1 failure  
Midnight Sun- 2 check with no failures

Are my total counts for checks correct or did I duplicate some?

Patty Krueger  
Legislative Aide  
Representative Jay Ramras

Patty.Krueger@legis.state.ak.us  
Phone: (907) 465-3007  
Fax: (907) 465-2070  
Toll Free: (877) 465-3004

---

**From:** Hamilton, Francis R (DPS) [mailto:joe.hamilton@alaska.gov]  
**Sent:** Tuesday, February 26, 2008 8:45 AM  
**To:** Patty Krueger  
**Subject:** FW: Request

Ms. Krueger,

Looks like he could only go back as far as 2004. The only thing I saw was that it looks like 4 compliance checks were done almost back to back in October of 2004 at Pikes Landing. Doesn't look like a failure. I cannot give an explanation as to why four were done back to back like that either. The person who did those was the guy who had the job before I did.

Call me if you have any questions. I'm in the office most of the day but will be out the rest of the week.

Joe

---

**From:** Barnett, Kenneth (DPS)  
**Sent:** Tuesday, February 26, 2008 8:37 AM  
**To:** Hamilton, Francis R (DPS)  
**Subject:** RE: Request

Sorry Joe,

The best I am able to do is the day after the day after yesterday, but it is attached for what ever it is worth.

Kenn

---

**From:** Hamilton, Francis R (DPS)  
**Sent:** Monday, February 25, 2008 4:22 PM  
**To:** Barnett, Kenneth (DPS)  
**Subject:** RE: Request

2/29/2008

**HB**

**344**

State Capitol  
Juneau, Alaska 99801  
907.465.3520 465.5400TAX  
www.lt.gov.state.ak.us



550 West 7th Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460 269.0263TAX  
LT\_Governor@gov.state.ak.us

## Lieutenant Governor Sean Parnell

February 4, 2008

Rep. Anna Fairclough, Co-Chair  
House CRA Committee  
Alaska State Legislature  
State Capitol, Room 411  
Juneau, AK 99801-1182

Rep. Gabrielle LeDoux, Co-Chair  
House CRA Committee  
Alaska State Legislature  
State Capitol, Room 412  
Juneau, AK 99801-1182

Dear Representatives Fairclough and LeDoux:

The Governor's Legislative Office has transmitted HB 344 on my behalf, and I request consideration and passage of this bill in the House Community and Regional Affairs Committee.

The bill was generated in response to feedback I have received from local governments who do not use or wish to receive paper copies of the Alaska Administrative Code that I currently distribute at state expense. With electronic access available at no charge, many local governments believe that these materials are obsolete and an unnecessary use of limited office space.

The bill allows local governments to opt-out of receiving paper copies of the Alaska Administrative Code and its quarterly supplements. If, in the future, local officials wish to resume receiving these materials, the bill also affords provisions for opting-in.

Responding to local concerns and conserving state resources are two benefits of this legislation. I urge your support of these goals in the passage of HB 344. If I can provide any information, please contact me or Jason Hooley in my office at 465-4082. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Sean Parnell".

Sean Parnell  
Lieutenant Governor

Cc with Enclosures: Russ Kelly, Legislative Director

SARAH PALIN  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

P.O. Box 110001  
JUNEAU, ALASKA 99811-0001  
(907) 465-3500  
FAX (907) 465-3832  
WWW.GOV.STATE.AK.US

January 28, 2008

The Honorable Lyda Green  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 111  
Juneau, AK 99801-1182

Dear President Green:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to change the Alaska Administrative Procedure Act to provide for better and more cost-effective access to administrative information.

The bill stems from requests of some local governments to stop receiving paper copies of the Alaska Administrative Code and the Alaska Administrative Register. Space in some local government offices is limited and the storage and disposal of these documents can be problematic.

Under current law, the Lieutenant Governor, at state expense, is required to supply a complete set of the Alaska Administrative Code, the Alaska Administrative Register, and each supplement to the code or register to the clerk of each local government unit. Many local governments have indicated that paper copies of these publications are neither utilized nor desired.

The bill allows the clerk of a local governmental unit to choose to forego receipt of the paper copies. Paper copies would continue to be supplied to governmental units that do not request cessation of the deliveries.

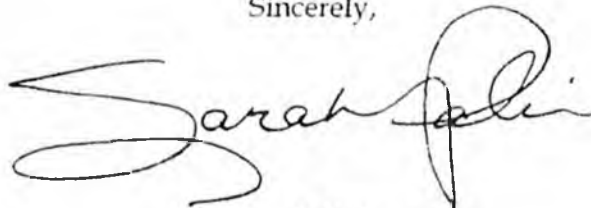
Because electronic access to the Alaska Administrative Code is currently available through the Legislature's website, and through links to that website from various state agency websites, we anticipate that many local governments would prefer this "no-cost" option for electronic access to the information, and paper copies would not be needed.

The Honorable Lyda Green  
January 28, 2008  
Page 2

The bill also provides an easy method for the local government to "opt back in" to start receiving paper copies of the documents if the local government's needs changed.

I urge your prompt consideration and passage of this bill.

Sincerely,

A handwritten signature in black ink, reading "Sarah Palin". The signature is written in a cursive style with a large, sweeping initial "S" and a distinct "P" for "Palin".

Sarah Palin  
Governor

Enclosure

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number 1  
Bill Version HB 344  
(H) Publish Date 1/30/08

Identifier (file name): 0048-OOG-LGO-1-25-08 Dept. Affected: OOG  
Title "An Act relating to distribution of the Alaska Administrative code and Alaska Administrative Register, ..." RDU Executive Operations  
Sponsor Rules Committee Component Office of the Lt. Governor  
Requester Governor Component Number 11

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

Note: Amounts do not include inflation unless otherwise noted below

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: 0.0

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

Reduced distribution of the Alaska Administrative Code and Register should result in savings to the state. It is not possible at this time to estimate the number of local governments that would opt out, nor to estimate the amount of savings that would be realized

Prepared by Linda Perez, Administrative Director  
Division Division of Administrative Services  
Approved by Jay Pullins, Chief of Staff  
Office of the Lt. Governor

Phone 465-3876  
Date/Time 1/25/08 10:20 AM  
Date 1/25/2008

**HB**

**356**

# ALASKA STATE LEGISLATURE

*Vice Chair:*  
House Finance Committee

*Chair:*  
House Finance Subcommittees for:  
Department of Public Safety  
Department of Law



*Session:*  
Alaska State Capitol  
Juneau, AK 99801-1182  
Phone (907) 465-4958  
Fax (907) 465-4928

*Interim:*  
PO Box 464  
Chugiak, AK 99567

## **BILL STOLTZE** State Representative

Representative\_Bill\_Stoltze@legis.state.ak.us

### **House Bill 356**

#### **Municipal Property Tax Exemption**

*"An Act relating to an exemption from the municipal property taxes for certain real property that is exempt from levy and collection of real property taxes when conveyed by the federal government to implement the Alaska Native Claims Settlement Act or when conveyed under a land exchange authorized by that Act involving land or an interest in land that is made exempt from local property taxes by that Act; and providing for an effective date."*

Land conveyed under the Alaska Native Claims Settlement Act (ANCSA) is exempt from taxation so long as it is not leased, developed, or sold. When a Native corporation trades land with the state or federal government, the land received in the trade remains tax exempt. However, there is no clear direction on the tax exemption on land traded with a municipality. Because of this lack of direction, some municipalities in Alaska have taken the position that land a Native corporation receives in an exchange with a municipality may not be exempt under the provisions of Alaska's municipal tax exemptions. Thus, these municipalities have advised Native corporations that exchanged land the corporation receives from the municipality will be subject to taxation.

This legislation will provide benefits for all municipalities in Alaska who wish to enter into land exchanges with Native villages and regional corporations. Many discussions of exchanges have died in the past when the municipality and Native corporations realized that current state law created this real estate tax issue. If this legislation is passed, those exchanges can be revisited by the affected parties, and exchanges benefiting both parties can be made.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP  
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 356  
 () Publish Date: \_\_\_\_\_

Identifier (file name): HB356-CED-CRA-02-25-08 Dept. Affected: DCCED  
 Title Muni Tax Exemptions: Alaska Native Claims Settlement Act RDU Comm Asst & Ec Dev (405)  
 Component Community & Regional Affairs  
 Sponsor Stoltze, Thomas  
 Requester House Community and Regional Affairs Component Number 2879

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

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

This legislation would expand the list of property exempt from municipal taxation to include certain real property of native corporations conveyed under the Alaska Native Claims Settlement Act (ANCSA) when it is exchanged with a municipality and not leased or developed.

While this legislation has no fiscal impact on the operations of the division, it would have the potential of creating a positive economic impact on local municipalities. It would allow municipalities and native corporations to exchange lands without immediate property tax consequences. This exchange of lands could expedite development of lands by the native corporations in exchange for lands which the municipality may need for public uses, such as recreational uses and public schools.

Prepared by: Tara Jollie, Director  
 Division: Community and Regional Affairs  
 Approved by: Emil R. Notti, Commissioner  
Commerce, Community, and Economic Development

Phone 907 269 7959  
 Date/Time 2/25/08 2:40 PM  
 Date 2/25/2008