



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE

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TO: Lori Strickler, Bethel City Clerk

DATE: Thursday, September 13, 2018

FROM: Jedediah Smith, Local Government

RE: Bethel Local Option Questions

Specialist-Alcohol & Marijuana Control Office

Title 04 of Alaska Statute contains the laws that permit communities to establish, through an election, regulations related to alcohol. If a community chooses to regulate alcohol under the local option law, there are five basic options to choose from:

- 1) **Prohibit the sale of alcohol**—importation and possession are still allowed.
- 2) **Prohibit the sale of alcoholic beverages except by one or more of the following selected licenses:** a restaurant or eating place; a beverage dispensary; a package store; a licensed caterer with a permit to sell alcoholic beverages; a winery; an outdoor recreation lodge license.
- 3) **Prohibit the sale of alcoholic beverages except on a premises operated by the municipality** that may include a restaurant or eating place, a beverage dispensary and/or a package store.
- 4) **Prohibit the sale and importation of alcoholic beverages**—possession is still allowed under this option.
- 5) **Prohibit the sale, importation AND possession of alcoholic beverages**—all alcohol is prohibited in the community except for sacramental wine used for religious purposes as specified in AS 04.11.499(a).

In 2009, Bethel voters approved an initiative to allow for the sale of alcoholic beverages. Prior to that election, Bethel prohibited the sale of alcoholic beverages, a status commonly referred to as “damp.” In 2015, the Alaska Alcoholic Beverage Control Board began issuing liquor licenses in Bethel, including two package liquor stores. Other nearby villages, such as Kwethluk, are “dry” meaning the sale, importation, and possession of alcoholic beverages is prohibited. **The initiative on the October ballot proposes option #1: sale of alcohol in Bethel would be prohibited, but importation and possession (with amount limits) would be permitted.**

What happens to a liquor licenses if Bethel voters decide to prohibit the sale of alcohol as proposed in the initiative on the ballot in October 2018?

According to AS 04.11.497, the licenses held in the community would expire 90 days after the certification of the local option election. 90 days after the election is certified and the liquor licenses have expired, Bethel would be subject to importation limits listed in AS 04.11.010 (no more than 10 ½ liters of distilled spirits, or 24 liters of wine or 12 gallons of malt beverage per person per month.)

Can I still obtain alcohol legally if the community votes in favor of this local option?

Yes. Residents may purchase alcohol by written order from vendors outside of Bethel for shipment to Bethel. Residents may also purchase from outside of Bethel and bring it in as luggage.

Am I still able to make my own alcohol if the community votes to go damp?

Yes. The prohibition of possession of ingredients for homebrew only applies to dry communities that prohibit the sale, importation and possession of alcohol. As long as you are producing less than the possession limits and you don't intend to distribute for sale or barter, you may brew your own alcohol.

Is it true that the State has a database that records how much alcohol I order?

YES. The State Alcoholic Beverage Control Board maintains a database that contains a monthly record of alcohol purchased by, and shipped to, persons residing in local option communities. (AS 04.06.095) The written order database is confidential and is not subject to inspection by the general public.

Is it true that residents of local option communities which prohibit the purchase and importation of alcoholic beverages will not be permitted to purchase alcohol from Anchorage and have it shipped in through the airlines if Bethel is in damp status?

Whether or not Bethel is in damp status, residents of communities which prohibit the importation of alcohol could not legally bring alcohol into those communities, whether through Bethel or by some other means.

If Bethel residents vote to go damp, prohibiting the purchase of alcohol, do I need to do anything special with the alcohol I bring back on the airlines with me as luggage?

YES. When in damp status, AS 04.16.125 requires special packaging for alcoholic beverages if the shipment is more than two liters of wine, one gallon of malt beverages, or one liter of distilled spirits. The container holding the alcohol must be clearly labeled as alcoholic beverages

with at least two inch high letters, and an itemized invoice must be attached to the outside of the shipping container.

Are there limits on the amount of alcohol that I can have delivered to Bethel or have in my possession if the community votes in favor of this local option?

YES. When in local option, there are limitations on the amount of alcohol imported and possessed.

More than 10 ½ liters of distilled spirits or 24 liters or more of wine, or either a half-keg of malt beverages or 12 gallons or more of malt beverages in individual containers. (AS 04.11.010(c)). The possession or importation of amounts greater than this creates a presumption that the individual possessed the alcohol for sale.

Are there any other changes in the conviction types if Bethel votes for this local option?

YES. Furnishing alcohol to a minor would be considered a class C felony if convicted. (AS 04.16.051(d)(3))

Violations Compared:

Alaska Statutes	Offence	Violation When in Local Option	Violation not in Local Option
04.11.010	Manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter alcohol. <i>Commonly known as bootlegging.</i>	Class C Felony	Class A Misdemeanor
04.16.051	Furnishing/Delivery of alcoholic beverages to a person under the age of 21.	Class C Felony	Class A Misdemeanor

According to a summary of the Local Option Laws released by the State: An unlicensed person selling hard liquor (gin, whiskey, rum, etc.), or wine, or malt beverages (beer) in a community that has not adopted a local option, commits a Class A misdemeanor, and will be sentenced to at least 10 days in jail (AS 04.16.200) and can be sentenced up to one year in jail and/or fined up to \$5,000.00. An unlicensed person selling hard liquor or wine or malt beverages in a community that has adopted a local option under AS 04.11.491 commits a Class C felony, and can be sentenced up to five years in jail and/or fined up to \$50,000.00. AS 04.11.491(g)(3) gives communities the option to not apply a class C felony to violations of local option law.