**Wet, Dry, or Damp[[1]](#footnote-1)**

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Abstract: Since before statehood Alaskan communities have been plagued with widespread alcohol related crime, violence, health issues, and death. The “local option” approach to addressing access to alcohol in Alaska became law through Title 4 of the Alaska Statues in 1981. “Local option” communities may exercise a local option to modify the State laws regarding alcohol importation, sales, and possession for their own community. Becoming a “local option” community is voluntary but an overwhelming majority of “local option” communities are rural and have a predominately Native population. In 2009, one of the “local option” communities voted to end its “local option” status. This case study provides a framework to examine the cultural, political, commercial, social, and health issues related to alcohol use in rural Alaska*.*

Prior to 1959 when Alaska achieved statehood, alcohol access to Native communities was controlled by the federal government. The Bureau of Indian Affairs worked with the Native village councils under the Indian Reorganization Act of 1936 to regulate alcohol. The sale of alcohol to a Native was a federal felony. After statehood the village councils lost the ability to enforce limitations on alcohol. With increased access to alcohol, alcohol related violence and deaths among Alaska Natives increased to 5 times the national average (Berman & Hull, 2000). Historically, 99% of violence in rural Alaska is alcohol related (Shively, Wood, Olsho, Rhodes, Chapman, 2008, Hopkins, 2009). Alaska Natives have disproportionately high rates of fetal alcohol syndrome, family violence, suicide, and alcohol related automobile and boating accidents (Segal, 1998).

In 1981, in response to a grass-roots campaign by several Native organizations and by other social service and police groups, a “local option” law was instituted by the State of Alaska. Any community could choose to obtain this designation. The local option law (Title 4 of the Alaska Statutes) created a state imposed limit on the amount of alcohol that was allowed into “local option” communities and allowed those “local option” communities to ban alcohol completely or to impose restrictions on the importation and sale of alcohol that exceeded the State mandated limits. Those communities that voted to become “local option” communities were overwhelmingly Alaska Native and rural. Urban centers such as Anchorage and Fairbanks did not opt to become “local option” communities. For communities like Anchorage or Fairbanks importation and distribution of alcohol is regulated solely through liquor licenses issued by the State of Alaska Alcohol Beverage Control Board although the local community governments do have the opportunity to protest any decisions.



Alaska “Local Option” Communities

As of June 17, 2013 there are –

34 communities that ban sale, import, possession

43 communities that ban sale and importation

18 communities that ban sale

8 communities that sell through a municipal license only

4 communities that sell through a specific type of license only

<http://commerce.alaska.gov/dnn/abc/Resources/DryDampCommunities.aspx>

The local option law provides for enforcement by the State of Alaska in the following ways: (Title 4, Alaska Statutes)

1. A data base is kept by the State of all people who order or bring liquor into a “local option” community
2. Limits on the quantity of liquor that can be purchased per month.
3. Special packaging requirements for any shipped liquor.
4. State enforcement of “local option” regulations and prosecution of violations.

All Alaska communities that are not “local-option” communities are “wet”. In “wet communities liquor can be bought, shipped, and possessed legally without limitation subject to only State law. The “local option” allows a community to restrict access to alcohol by enacting local ordinances that are more restrictive than Title 4 of the Alaska Statutes. A local option community that has voted to prohibit the sale, importation, and possession of alcohol so that all alcohol is illegal is considered “dry”. In 2013 the Alaska Alcohol Beverage Control Board listed 34 “dry” communities (Title 4). A partial restriction, such as a prohibition against selling alcohol but permitting possession or importation, or any other combination of restrictions is considered “damp”. (DeMarban, 2009).

**Bethel, Alaska**

Bethel is a rural community in western Alaska that is off the road system. As of 2010, 62% of the population identified themselves as Yup’ik Eskimo (2010 Census data in Bethel Chamber of Commerce). Bethel, like the other “local option” communities in Alaska, enacted some form of a local option to restrict access to alcohol that were more restrictive than the limits imposed by State statute. Bethel is considered “damp” since it allows importation and possession according to guidelines in Title 4 of Alaska Statutes, and it has exercised its local option to prohibit the sale of alcohol. The nearby villages are “local option” communities and most are “dry” and prohibit importation, sale or possession of alcohol.

Enforcement of local option laws in rural Alaska communities has been largely ineffective. Many rural villages are off the road system and access is only by boat, airplane, snow machine, or all terrain vehicle. The absence of a road system makes it harder to get alcohol to the villages. However, enforcement is by periodic visits to a village by Alaska State Troopers and, for some villages, a village public safety officer (VPSO). Because of the minimal and intermittent police presence bootleggers are able to import and sell alcohol in the villages with little risk of being arrested. Until 1986 the bootlegger had to be caught in the act of importing or selling in order to be arrested. In 1986 the law was amended to include restriction of alcohol possession. This made enforcement much easier and targeted not just the bootlegger but anyone who possessed any alcohol.

Enforcement and prosecution for bootlegging, the sale of liquor for profit without a license, and possession of bootlegged liquor is considered a Class C felony with punishment of up to 5 years in jail and/or fines up to $50,000 in a “local option” community. In communities that are not “local option” bootlegging is a Class A misdemeanor punished by up to 1 year in jail and/or a fine of $5,000.

In January 2009, House Bill 91 and Senate Bill 85 were introduced at the request of Governor Sarah Palin. These bills both called for reducing the maximum quantities of alcohol that could be imported into local option communities and increasing the penalties for violations. The bills were quickly defeated in the State Legislature but not before some residents of Bethel became outraged at what they perceived as the State’s heavy handed, arbitrary, meddling in local community affairs. In response, several long term Bethel Native and Non-Native residents organized a petition drive to reconsider Bethel’s local option status. On October 6, 2009 the people of Bethel held an election and voted 615 - 523 to opt out of the “local option”. However, instead of gaining local self-determination and the ability to independently and locally enact and enforce a liquor ordinance Bethel residents learned that the community was now considered by the State of Alaska to be “wet”. (Anchorage Daily News, October 9, 2009). Because of the new “wet” status the Alcohol Beverage Control Board for the State of Alaska was required by state law to consider granting liquor licenses for Bethel in proportion to its population and could legally do so without input from the community.

Many residents including Native leaders, elders, church leaders, and police spokesmen supported Bethel remaining a “local option” community. They argued that the local option was necessary to continue the most effective means for regulating access to alcohol and for addressing the health outcomes and crime caused by alcohol. They argued that if access to alcohol is legal in Bethel then access to alcohol will also be easier for the 57 surrounding “dry” villages. Some pointed to the long history of death and destruction caused by alcohol. Others said that state regulation was the most effective way to address the problem. All agreed that enforcement is inefficient. Some said that inefficient enforcement was a separate issue and that alcohol related crime and violence would be even worse without the present level of enforcement. By opting out of local option the most effective way of preventing access to alcohol will be eliminated.

Many arguments were made to opt out of local option status. Other Native and Non-Native residents in the community believed that the local option deprived Bethel of local control. The limits in how much alcohol could be brought into Bethel in the “local option” law interfered with ordering alcohol for large events such as weddings. They argued that the “local option” status made alcohol expensive and inconvenient to obtain. They considered the data bases kept by the State of people who bought liquor and shipped it to Bethel intrusive and wanted the practice to end. They said local people were victimized by the inequality in punishment for offenses tied to transporting, selling, or possessing even small amounts of liquor in local option communities. Bethel residents argued that alcohol related death and destruction was occurring regularly in “dry” villages by making homebrew and bootlegging. The cost of a bottle of whiskey, they pointed out, in a non- local option community may cost $10 but in a dry village that same bottle may cost up to $200 (.http://www.adn.com/2013/11/30/3206475/with-30-million-about-to-hit-the.html) If Bethel is no longer a “local option” community, they argued, the cost of bootlegged alcohol would drop and the bootleggers would be forced out of business in Bethel.

Some residents stated that the local option is an example of paternalism. As one Native Bethel resident stated “They are treating us like children.” In “non local option” communities individuals are not restricted by the State as to how much liquor they can obtain. Some Native and Non-Native Bethel residents expressed anger and embarrassment since they felt that the “local option” implied that the people of Bethel were not capable of living their lives responsibly without State regulation. Others argued that the change would prove ineffective like prohibition in the United States between 1920-1933 when restricting access gave rise to production of home brew and favored bootleggers. It increased the cost of alcohol and decreased its safety and quality.

Very quickly after Bethel voted to opt out of local option several Bethel businesses applied to the State of Alaska for liquor licenses. Purchasing a liquor license was considered financially attractive. Not only was selling liquor potentially profitable but the license itself had value. The initial license would be bought from the State of Alaska for approximately $850. Once purchased it could be sold by the owner at market value which could potentially be hundreds of thousands of dollars.

The people who organized the petition drive stated that increasing access to alcohol was not what they wanted. The drive was motivated to free the community from overbearing State control. Instead they found themselves subject to the decisions of the State Alcohol Beverage Control Board regarding granting liquor licenses. On January 19, 2010 the voters of Bethel held an advisory vote about the issue of granting liquor licenses. The voters rejected any licensing for a bar, restaurant, or for a liquor store. Although the State Alcohol Beverage Control Board is not required to consider the wishes of the local community when it awards liquor licenses it was notified of the vote in the hope that the outcome of the advisory vote would be a part of their deliberations about issuing liquor licenses for Bethel. (Conservative you Pick 2010).

Bethel resolution #09-54 presented December 22, 2009 outlined possible results

of opting out of the “local option”:

1. The individualized databases that are maintained by the State of how much each person has ordered will be abolished.

2. Limits on quantities that can be ordered will be abolished.

3. Penalties for ordering more than current limits will be abolished.

4. The special packaging and labeling each package with “ALCOHOL” required by the local option law will be abolished.

5. The State grant to Bethel in lieu of collection of taxes on liquor would end.

On Tuesday May 4,2010, seven months after the vote to opt out of local option, another election was held to re-instate the local option. Returning to “local option” status was widely supported by many factions and expected to pass. It failed.

Nonetheless, three years later as of summer 2013, there is still no place to buy alcohol locally. It is a crime to sell liquor without a liquor license and no liquor licenses have been granted for Bethel. (Lamb, 2010). In June 2011 a large Anchorage based liquor distributor requested to start a “point of sale” in Bethel. It would only be an ordering and delivery point for alcohol that people from Bethel ordered from the Anchorage store. It would not be selling alcohol locally so no liquor license would be required. All that was needed was a Bethel business license. The Bethel city council denied the business license.

There is no limit on possession and importation. Although the State Troopers and the Bethel Police stated that they have not been able to compare the statistics for alcohol related crimes, anecdotally the crime rate in Bethel has remained unchanged. The rate of emergency room visits that are related to alcohol has likewise not seen a significant change.

A 2012 story about the “damp dilemma” in Bethel reported mixed conclusions about the results. Some residents said that the alcohol problem is “about the same as it ever was” (Simon, 2012). But Bethel police records show that arrests are up and that the effects can be seen in the other nearby villages where more crime is being committed.

According to a 2013 article in the *Anchorage Daily News*, the tribal court for Akiak, a nearby dry “local option” community, banished a person accused of repeated bootlegging. Banishment is a punishment historically used by Yup’ik Eskimo communities. If he enters the village without permission from the tribal leaders, he will be taken into custody by the tribal police. The village public safety officers would not be able to enforce the custody order since it would be an unconstitutional detainment according to Alaska State Troopers. Residents from Akiak stated that the legality of banishment is “thorny”. They had been working with Alaska law enforcement but “decided not to wait for criminal investigation that might never come” because of the “many steps” involved in the process. Community leaders felt that the community was “hurting” so much that they went ahead and tried a traditional solution. (Hopkins, 2013)

In a KYUK interview with the director of the Bethel Sobering Center on December 23, 2013 it was mentioned that the Center opened in 2009 to provide a warm shelter to inebriates who might otherwise die of exposure. Since then the sobering center has increased to 7 night per week service. For 2013 the sobering center served 970 people for a total of 1866 nights. According to the director of the sobering center approximately 60% of those using the center are from out of town, 40% are from Bethel. The director of the sobering center stated that approximately 5-7% of the clients would consider referrals for alcohol rehab and that much needs to be done to gather the resources to help the clients recover. (KYUK radio news broadcast Friday December 23, 2013).

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