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Community Control of Alcohol in Alaska

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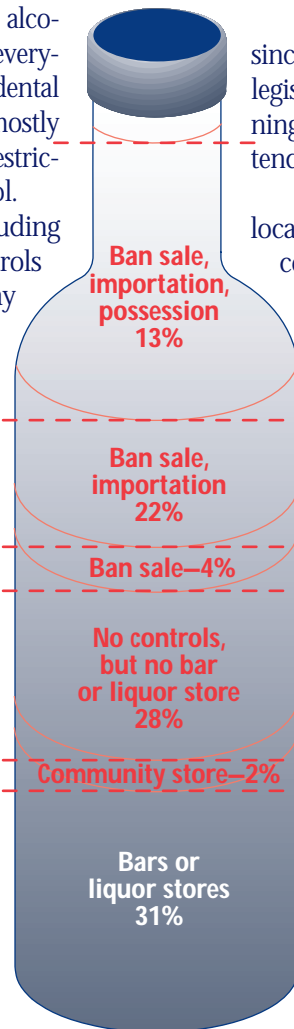
Many of Alaska's Native communities want alcohol out of their towns. Alcohol plays a part in everything from domestic violence to high rates of accidental death in rural areas. About 100 communities—mostly small villages off the highway system—have restrictions on selling, importing, or possessing alcohol.

A few larger rural regional centers—including Barrow, Bethel, and Kotzebue—also have controls on alcohol. Gulkana on the Richardson Highway recently became the first community on a major highway to ban alcohol under state law.

Both municipalities and unincorporated places can control the availability of alcohol under Alaska's local option law. This paper looks at the status of communities under that law and briefly reviews the history of community alcohol control under state and federal law. (It doesn't discuss other forms of alcohol regulation, like limiting bar hours.)

The adjacent figure summarizes current local option controls in about 250 communities: 41 percent have approved various controls and 59 percent have no controls (although many of the places that have no controls also have no bars or liquor stores). The centerfold map details alcohol control status by community.

None of the largest, road-connected communities have approved local option controls—so the breakdown of alcohol control by population is much different from that by community. About 11 percent of Alaska's total population and 52 percent of the Native population live in places with restricted alcohol access (as the box in the centerfold shows).



**Community
Alcohol Status**

Municipalities have been able to ban alcohol sales since 1937, but it was only in the 1980s that the state legislature broadened local options to include banning importation and possession of alcohol and extended those options to unincorporated villages.

Village leaders asked the legislature to strengthen local options to help Native communities reclaim control of alcohol. During territorial days, the Bureau of Indian Affairs and the territorial government encouraged (or at least did not interfere with) village councils' use of authority to control alcohol under the federal Indian Reorganization Act (IRA), which gave IRA councils considerable authority in Native villages.

But after Alaska became a state in 1959, the authority of village councils was weakened because the new state government recognized only organized cities and boroughs—not village councils—as local governments. (Some Native villages today are using federal law to control alcohol; see the box on the back page.)

Alaska's villages also became less isolated after statehood, as transportation and communication systems in rural Alaska improved. More money came into the villages, first with federal anti-poverty programs in the 1960s and later with formation of Native corporations under terms of the 1971 Alaska Native Claims Settlement Act.

So even as village control of alcohol eroded, other forces of change made alcohol easier to get in remote villages—and problems related to alcohol rose sharply.

Alaska's Local Option Law

Municipalities that want to use the state's local option law first have to get 35 percent as many local voters as voted in the last election to sign a petition calling for a local option election. In unincorporated places, 35 percent of registered voters have to petition for an election.

Residents can vote on several options: banning sale of alcohol; banning sale and importation into the community; banning sale, importation, and possession; or limiting alcohol sales to just restaurants, bars, or liquor stores. Municipalities can limit sales to community-operated liquor stores or bars. Making home brew is prohibited in places that have adopted liquor controls under the local option law.

Local residents can also change their minds and vote to remove controls. To add or remove alcohol controls, the majority of voters in a local option election have to agree to the change.

Also, before a liquor license can be issued in a community where there are no existing licenses, residents must hold a local option election and vote against a ban on alcohol sales. So in effect, places without liquor licenses have a ban on sales—because residents have to vote not to ban sales before licenses can be issued.

A separate provision of Alaska law requires applicants for new liquor licenses in rural areas to get either a simple majority or two-thirds of adult residents living nearby to sign a petition favoring issuance of the license, depending on how far the new liquor store or bar would be from a municipality.

The Alcoholic Beverage Control Board controls manufacture, sale, and possession of alcohol in Alaska and tracks the status of communities under the local option law.

Local Option Elections

From 1981 through 1994, 99 Alaska communities held 148 local option elections that either added or removed restrictions on alcohol, as the adjacent figure shows. (Elections that did not change alcohol control status are not included in the figure.)

Many elections were held in the early 1980s, after communities gained the option of banning importation of alcohol,

and in the late 1980s, after the option of banning possession became available. The five communities (as shown on the centerfold map) that have opted to limit sales to specific establishments have all chosen single package stores.

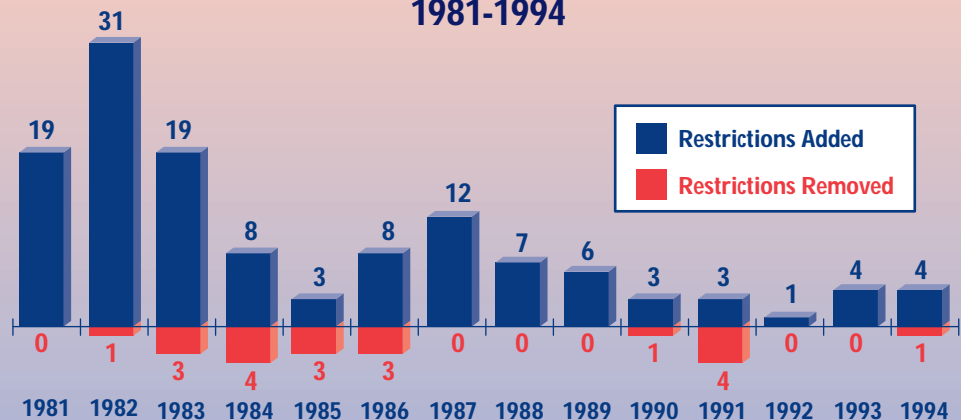
Relatively few communities have tried and failed to exercise some control under the local option law. Many communities have held more than one local option election, however, and a few have held several. Voters in Bethel—which has had a ban on alcohol sales since 1977, under the old local option law—have rejected changes in the alcohol control status several times; most recently, voters in 1995 rejected an attempt to put a complete ban on alcohol.

Our information for 1995 and 1996 isn't complete, but among the most prominent local option elections were in Barrow on the North Slope, where voters in 1994 approved a ban on alcohol, overturned the ban in 1995, and re-imposed it in 1996.

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- The authors thank the staff of the Alcoholic Beverage Control Board for giving us access to the board's records and providing information.*

Local Option Elections Adding Or Removing Alcohol Controls 1981-1994



Source: Compiled by ISER from Alcoholic Beverage Control Board records

Community Alcohol Control Over Time

Alaska becomes a U.S. territory. For most of the next 30 years, it is illegal to import alcohol into Alaska, but alcohol is generally available in larger towns. Federal law prohibits selling liquor to Alaska Natives, but enforcement limited. Village leaders deputized to control alcohol use in their communities.

1867

Alaska goes dry after a 1915 territorial referendum approves ban on alcohol. Ban enforced most in sales to Natives.

1918

Federal government repeals Prohibition and gives Territory of Alaska power to regulate liquor.

1933

Territorial legislature approves local option law allowing voters in incorporated places to ban liquor sales. To hold local option election, 50 percent of voters in previous election had to sign a petition; to ban sales, two-thirds of voters in local option election had to agree. In villages, BIA supports efforts of IRA councils and other village authorities to control alcohol.

1937

U.S. government repeals national ban on selling alcohol to Indians and allows IRA councils to decide whether to allow liquor sales on reservations, including the Annette Island Reserve (the Indian community of Metlakatla) in Alaska. Also in 1953, in response to court case challenging method of issuing liquor licenses, territorial legislature repeals all territorial liquor laws.

1953

Alaska becomes a state. New state government recognizes only cities and boroughs—not tribal organizations—as local government entities. State government will not enforce decisions of tribal councils.

1959

State legislature broadens local option law to give municipalities and unincorporated places the authority to ban sale and importation of alcohol. Limiting sales to specific establishments is also a choice. To hold local option elections, municipalities required to have petition signed by 35 percent as many voters as voted in previous election; unincorporated places need signatures of 35 percent of registered voters. To enact controls, majority of voters in local option election must approve. Also, in places without liquor licenses, no licenses can be issued until a local option election is held and a majority of voters reject a ban on alcohol sales.

1980

1899 **Alcohol** becomes legal in Alaska under a liquor license system.

1920 **Prohibition:** manufacture, importation, and sale of alcohol illegal throughout the U.S.

Congress extends 1934 Indian Reorganization Act (IRA) to Alaska Natives associated with villages. The IRA recognized tribal councils as governing bodies for tribes (villages in Alaska) and gave councils substantial authority over tribal members.

1936

Territorial legislature makes it easier for incorporated places to ban alcohol sales by reducing requirements: to hold a local option election, 35 percent as many voters as in previous election had to sign a petition; to ban alcohol sales, a simple majority of voters in the local option election had to be in favor.

1941

Territorial legislature changes procedure for granting liquor licenses and re-instates local option laws and Liquor Control Board. Applicants for new liquor licenses in unincorporated places required to get a majority of resident adults in designated radius to sign petition favoring license.

1957

Tribal councils in Venetie and Arctic Village in Interior Alaska ban possession of alcohol; some other tribal councils also take a stand against alcohol.

1970s

State legislature gives municipalities and unincorporated places the option of banning possession of alcohol by holding a local option election.

1986

Controlling Alcohol Under Federal Law

Whether Alaska Natives living in villages have similar self-government powers under federal law as Indians living on reservations is a long and ongoing controversy, with a history of conflicting federal policies and court decisions. Here we talk about just one aspect of this complicated issue: the potential for Native village councils to use federal law as an additional way of controlling alcohol in their communities, as a few councils already do. (See the timeline on page 3 and the notes to the foldout map.)

Since 1936 the federal Indian Reorganization Act (IRA) has given Alaska Native villages the option of establishing IRA councils, which are federally recognized tribal governments. The Department of the Interior lists 226 villages and groups of villages in Alaska as tribes, and the Bureau of Indian Affairs estimates there are currently 72 IRA councils in villages. IRA councils have potentially broad jurisdiction over their own tribal members—which in Alaska means Native residents of villages—including authority to control liquor traffic. But the councils have little ability to enforce alcohol controls locally; Congress is currently considering whether to authorize IRA councils to establish their own enforcement authorities for alcohol control.

Over the past decade some Native groups in Alaska have asked federal courts to support their claims that lands they have traditionally used and occupied are “Indian country.” Indian country is a term Congress has historically used to denote areas where federal Indian laws apply. Congress has given tribal governments in Indian country broad jurisdiction over tribal members, as well as some authority to regulate activities of non-members in Indian country. Federal law prohibits alcohol in Indian country, but gives tribal governments the authority to allow it—and to establish systems for enforcing tribal alcohol ordinances.

Most land designated as Indian country nationwide is reservation land. The only reservation in Alaska today is the Annette Island Reserve for the Indian community of Metlaktala. Whether Congress ever intended additional “Indian country” to exist in Alaska, and if so, whether Congress intended to extinguish it with the 1971 Alaska Native Claims Settlement Act (which awarded Alaska Natives 44 million acres), have been the subjects of major court cases. The state government does not recognize IRA councils as local governments, and it maintains that Indian country does not exist in Alaska, except for the Metlakatla reservation.

The state government went to court against the IRA council of Venetie (which represents Venetie and Arctic Village) when the council claimed power to tax a contractor working on village lands. Lower courts ruled in favor of the state, but in 1996 the Ninth Circuit Court of Appeals reversed those rulings, holding that lands owned by the tribal council of Venetie are Indian country. The state plans to appeal that decision to the U.S. Supreme Court. The federal courts—and ultimately Congress—will decide whether additional land in Alaska is Indian country. It is uncertain how existing federal laws governing Indian country would apply to newly designated areas in Alaska, especially those with significant non-Native populations.

The state’s local option law requires communities with no existing liquor licenses to vote to allow liquor sales, but bringing alcohol into those communities is legal until residents vote to ban it. Under federal law in Indian country, all alcohol is banned until tribal governments act to legalize it.

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