

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

January 23, 2013

SUBJECT: Sectional Summary of 2013 Revisor's Bill
(Work Order No. 28-LS0100\N)

TO: Representative Craig Johnson
Chair of the House Rules Committee

FROM: Kathryn L. Kurtz *KK*
Revisor of Statutes

The following is a sectional summary of the 2013 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

... shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of any portion of the statute law of this state.

To assist the reader in understanding the bill, the following summarizes the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 2, 3, 18, 22, 23, and 28 amend or repeal provisions that have become obsolete.

Sections that correct errors or oversights: Sections 1, 7, 29, and 30 correct errors or oversights.

Sections that improve the form or substance of the law: Sections 4 - 6, 8 - 17, 19, 21, 24 - 27, and 31 improve the form or substance of the law.

Section 1. Amends AS 04.11.080, the list of licenses and permits issued under AS 04, the title relating to alcoholic beverages, to include destination resort licenses. Ch. 25, SLA 2007 added AS 04.11.260, which provides for destination resort licenses.

Section 2. Amends AS 04.11.220(e) to update a reference to an accreditation organization that has changed its name.

Section 3. Amends AS 08.70.110(a) to repeal a provision providing for licensing of nursing home administrators who were originally licensed under an emergency regulation adopted in 1974 and repealed in 1977. The Department of Law has informed us that there is no one licensed under this provision any longer, and that AS 08.70.110(a)(2) is obsolete.

Section 4. In AS 11.46.495, changes the term defined from "oil or gas pipeline or supporting facilities" to "oil or gas pipeline or supporting facility" to match the usage (singular) of that term in AS 11.46.476, 11.46.480, and 11.56.810.

Section 5. Adds the word "to" in AS 11.51.100(a)(3) to provide a missing preposition.

Section 6. Changes "and" to "or" in AS 11.56.810(a)(2), for consistency with other uses of the phrase, and to match the term defined in AS 11.46.495. See the changes to 11.46.495, above.

Section 7. Changes the word "education" to "educational" in AS 14.20.310(a) to match the term used in AS 14.08 and elsewhere in the statutes, "regional educational attendance area".

Section 8. Replaces the term "election district" with "house district" in AS 15.10.120(a), to match changes in the state constitution made by Legislative Resolve No. 74 of 1998, SCS CSHJR 44(JUD), which was approved by the voters November 3, 1998. Similar changes were made in ch. 21, SLA 2000. The reference being changed in this section was added in sec. 2, ch. 161, SLA 2004.

Section 9. Replaces the term "election district" with "house district" in two places in AS 15.15.430(a), to match changes in the state constitution made by Legislative Resolve No. 74 of 1998, SCS CSHJR 44(JUD), which was approved by the voters November 3, 1998. Similar changes were made in ch. 21, SLA 2000. The reference being changed in this section was added in sec. 14, ch. 2, FSSLA 2005.

Section 10. In AS 18.60.075(a), deletes the phrase "but not limited to" following the word "including". Under AS 01.10.040(b), "[w]hen the words 'includes' or 'including' are used in a law, they shall be construed as though followed by the phrase 'but not limited to.'" Also replaces "work place" with "workplace": it means the same thing, and reflects a stylistic preference for economy of words.

Section 11. Deletes the words "but not limited to" following "including" in AS 18.60.780(2). Under AS 01.10.040(b), "[w]hen the words 'includes' or 'including' are used in a law, they shall be construed as though followed by the phrase 'but not limited to.'"

Section 12. Deletes the words "but not limited to" following "including" in AS 18.60.780(6). Under AS 01.10.040(b), "[w]hen the words 'includes' or 'including' are

used in a law, they shall be construed as though followed by the phrase 'but not limited to.'"

Section 13. Deletes the words "but not limited to" following "including" in AS 18.60.780(8). Under AS 01.10.040(b), "[w]hen the words 'includes' or 'including' are used in a law, they shall be construed as though followed by the phrase 'but not limited to.'"

Section 14. Deletes the words "but not limited to" following "including" in AS 18.60.780(9). Under AS 01.10.040(b), "[w]hen the words 'includes' or 'including' are used in a law, they shall be construed as though followed by the phrase 'but not limited to.'"

Section 15. Deletes the words "but not limited to" following "including" in AS 18.60.780(11). Under AS 01.10.040(b), "[w]hen the words 'includes' or 'including' are used in a law, they shall be construed as though followed by the phrase 'but not limited to.'"

Section 16. Deletes the words "but not limited to" following "including" in AS 18.60.780(12). Under AS 01.10.040(b), "[w]hen the words 'includes' or 'including' are used in a law, they shall be construed as though followed by the phrase 'but not limited to.'"

Section 17. Deletes the words "but not limited to" following "including" in AS 18.60.780(13). Under AS 01.10.040(b), "[w]hen the words 'includes' or 'including' are used in a law, they shall be construed as though followed by the phrase 'but not limited to.'"

Section 18. Amends AS 18.63.040(b) to replace a reference to a regulation repealed in 1995 with a generic reference to a regulation adopted by the department. The drafting manual provides, "A drafter should not incorporate specific references to the administrative code in the statutes. The provision in the code may be renumbered, repealed, or amended at any time leaving a defective reference in the statutes." So, although the Department of Labor and Workforce Development has supplied a reference to the current regulations, at 8 AAC 61.1010 - 8 AAC 61.1960, a generic reference is preferable.

Section 19. Deletes the words "of transportation and public facilities" from AS 35.15.080(b), since the term "commissioner" will now be defined in AS 35.95.100 for the title.

Section 20. Deletes the words "of transportation and public facilities" from AS 35.15.080(f), since the term "commissioner" will now be defined in AS 35.95.100 for the title.

Section 21. Amends AS 35.20.020 to remove the words "of the department" in the phrase "commissioner of the department", since the term "commissioner" will now be defined in AS 35.95.100 for purposes of AS 35.

Section 22. Removes an obsolete date reference from AS 35.27.020(c).

Section 23. Removes an obsolete date reference and an obsolete sentence (permitting a change in the name of the building before March 31, 2002) from AS 35.40.110, relating to the Robert B. Atwood building in Anchorage.

Section 24. Amends AS 35.40.210(b) to change the "Department of Transportation and Public Facilities" to "the department", since the term "department" is defined in AS 35.95.100.

Section 25. Amends AS 35.40.210(c) to change "commissioner of transportation and public facilities" to "commissioner", since a definition of "commissioner" is being added to AS 35.95.100. Also changes "Department of Transportation and Public Facilities" to "the department", since the term "department" is defined in AS 35.95.100.

Section 26. Amends AS 35.40.210(d) to change the "Department of Transportation and Public Facilities" to "the department", since the term "department" is defined in AS 35.95.100.

Section 27. In AS 35.95.100, defines "commissioner" as the commissioner of the department of transportation and public facilities for purposes of AS 35. The term is used in AS 35.10.180(c), 35.10.220(c)(5), AS 35.15.010(a) and (b), 35.15.080(a) and (c), and AS 35.20.050 without definition. In each of those instances, it is clear from the context (including references to department, which is defined as the department of transportation and public facilities) that the term refers to the commissioner of the department of transportation and public facilities.

Section 28. Amends AS 44.62.175(a), relating to the Alaska Online Public Notice System, to update the provision requiring that summaries of certain opinions of the attorney general be posted on the system. The statute now refers to "recently issued formal opinions and memoranda of advice of the attorney general". However, according to the Department of Law's website, http://law.alaska.gov/doclibrary/opinions_index.html, the department eliminated the distinction between formal and informal opinions in 2006. This bill section updates the reference in AS 44.62.175 to reflect this.

Section 29. Amends AS 44.88.070(1) by adding the word "energy", to conform to changes made to AS 44.88.010(a) and (b) in secs. 2 and 3 of ch. 60, SLA 2012, and the addition of new sections relating to sustainable energy transmission and supply in sec. 12 of that Act.

Section 30. Amends AS 47.12.310(a) to address a conflict created when AS 47.12.310(i) was added. AS 47.12.310(a) generally prohibits disclosure of information, with certain listed exceptions:

(a) *Except as specified in AS 47.12.315, 47.12.320, and (b) - (g) of this section*, all information and social records pertaining to a minor who is subject to this chapter or AS 47.17 prepared by or in the possession of a federal, state, or municipal agency or employee in the discharge of the agency's or employee's official duty, including driver's license actions under AS 28.15.185, are privileged and may not be disclosed directly or indirectly to anyone without a court order.

(emphasis added). However AS 47.12.310(i), added in 2004, is another exception to the nondisclosure rule, not listed in (a):

(i) A state or municipal agency, other than a state or municipal law enforcement agency, or authorized employee may disclose to the public information regarding a case as may be necessary to protect the safety of the public provided the disclosure is authorized by regulations adopted by the department.

This subsection should have been added to the list of exceptions in (a) in 2004. This section corrects this oversight and resolves the conflict between (a) and (i).

Section 31. AS 35.27.030(2) defines "commissioner" for purposes of AS 35.27. Since a definition of the term "commissioner" for the entire title is being added at AS 35.95.100, this definition is no longer needed.

Section 32. Provides an immediate effective date for the changes made in the bill.

Text Of Repealed Provision

AS 35.27.030(2):

Sec. 35.27.030. Definitions. In this chapter,

...

(2) "commissioner" means the commissioner of transportation and public facilities;

...