

# Frank Wake

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Representative Shelley Hughes  
Alaska State Legislature  
House of Representative  
Vice Chairman  
Labor and Commerce committee  
State Capitol Room 13  
Juneau, Alaska 99801-1182

Dear Representative Hughes:

Last Wednesday afternoon I attended the legislative hearing session on House Bill 9. There were three of us there waiting to address this issue before the Labor and Commerce Committee. Another colleague was in Juneau willing to offer some insight as to many issues accompanying this proposed legislation. A well known private investigator was standing by in Homer. And there was another who was unable to attend due to a medical situation.

Unfortunately House Bill 81 took up considerable time dealing with the licensing of contractors and we were not able to participate after you and Ms. Blaisdell reviewed the details of the bill. In addition, Ms. Sara Chambers, Director of the Division of Corporations, Business, and Professional Licensing also made remarks regarding the fiscal note which would accompany this bill.

While I do not assume that all of the private investigators assembled (and those consulted in previous conversations) are in total agreement on every detail contained in the bill, I think it is safe to say that all of us are against the bill for a variety of good reasons. I trust that one day we will be able to voice those reasons directly to you and the committee.

I was prepared to address the issue of the marketplace being best able to monitor our profession. I was intrigued to hear the comments offered in support of House Bill 81, the licensing of contractors. All the responders were in support because it provided consumer protection aspects to home buyers. Personally, as a home owner, I like that idea. With so many potentially shoddy construction projects going on to keep up with the housing demand, the consumer needs protection. I say that's great idea. And there wasn't a naysayer in the room. It shows there are some folks out there who need to be licensed. Governmental oversight isn't always a bad thing. The sad aspect of this is a family died because of what sounded like carbon monoxide poisoning.

I believe that my colleagues and I work diligently, are dedicated, honest and pride ourselves on providing an honest service for an honest living. Of course, I can't speak for what goes on in other places but what few transgressors we've had here could best be disciplined by the court system

I will acknowledge there might be some states where licensing is required. Large population centers like New York, Chicago, DC, and LA likely need a large staff overseeing private investigators. I would hazard a guess as to why large metropolitan areas require licensing. State officials might feel large numbers of investigators need supervision for past behavior. Another reason might be to reduce the competition. Maybe its purpose is to weed out part-time or retired persons. And then again, the idealized life of Magnum PI and Charlie's Angels seems like a fantasy and if TV can do it, then it must be something anyone can do. Those wannabes need a reality check and licensing might provide that.

It was stated that Alaska was only one of four states without state licensing. Actually, there are five not including Alaska. Those without statewide licensing are Alabama, Idaho, Rhode Island, South Dakota and Wyoming. Three states, like Alaska, require licenses to practice in certain cities. Anchorage and Fairbanks mandate a state business license and a Private Detective license. Colorado is a state where eventual licensing will be mandatory (or it is now) so it was not included in the list of states without formal state licensing. But until recently Colorado would have been number six.

While waiting and listening I reviewed again the provisions in the bill. There are numerous issues I find problematic. Rather than going line by line I will point out generally those I find most egregious.

I note on page 3 line 2 (5) that an applicant be required to "not have been dishonorably discharged from the armed services of the United States" and if so will not be granted a license. But if he had been a convicted felon in any jurisdiction past 10 years before applying he could be licensed. Equally confusing is the requirement that an individual who had once been mentally incompetent, but then deemed cured to a courts satisfaction, could also be licensed. In other words, a young person who for whatever reason made a horrible yet youthful mistake and was ejected from the military with a dishonorable discharge could NEVER get a PI license. But a guy, who killed his neighbor and was in compliance of the 10 year time limit, could be licensed. Additionally, someone once insane then returned to sanity is eligible.

**Work History:** 1500 hours is about one year of experience. Its hard to learn a trade in a year. If professionalism and protection is the goal, then the requirement should be much higher. Requiring the younger generation (trainee) to produce more hours benefits the employer because he can keep a person around longer and cheaper because more is required. Additional training also benefits the trainee.

**Application Information:** This appears to be overly broad and unnecessary. Does the hairdresser license requirement demand similar details? A five year residential history, the applicant's sex, five years of employment history, and names of "all business entities in which the applicant or the

applicants spouse has a vested interest" are details required for our licensing. Is it really necessary? What is the real purpose behind this?

**Reciprocity:** Alaska will grant anyone with a "valid license, registration, identification or similar card by a state that recognizes and accepts licenses issued under this chapter in a reciprocal manner." In other words, we get yours if we can give you ours. In addition, it means a person from another state can apply for a license, and pay the license fee, and be automatically granted permission to practice in Alaska. In some cases, this might not be such a fair trade. What do we really know about a person other than he has a license from another state?

**License cards:** Page 7 line 5 (c) requires in part that, "a licensed private investigator shall carry the license card while performing the duties of a private investigator..." If anyone in the business has ever done undercover work, then carrying any type of identification is a bad idea.

**Prohibited practices:** page 10 line 18 reads "(B) not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the department." This seems on its face to be a potential violation of the confidentiality rules lawyers and their staff (investigators) live by. If a complaint is filed against the licensee, and he refuses to respond in writing because confidentiality prohibits him from divulging privileged information, what will happen? Will he be sanctioned by the department? Will the license be revoked? What will be the punishment? These seem to be areas of confusion the bill does not address.

**Immunity for complaints:** "An action may not be brought against a person for damages resulting from a complaint filed in good faith with the department..." This is to be interpreted as, if a complaint is filed the department does not protect the licensee if "good faith" can be determined (or even alleged). For heaven's sake, "good faith" is hard enough to define. The fact there is no recourse against the complainant, the licensee is then without protection and an avenue to respond legally.

And who determines "good faith?" The department? The investigator for the department? An independent arbiter unfamiliar with our profession will have to define and decide? If it can't be well defined, I would hope its mettle is judged by requiring the filer to follow the standard of proof beyond a reasonable doubt that we enjoy in our courtrooms and not by simply making a claim that it was filed in "good faith." Unfortunately, this opens a whole new area of filings made against an investigator who cannot please a client so he or she is left without protection by the government. This plan takes consumer protection to a whole new level.

**Exemptions:** I believe Representative LeDoux more than adequately addressed this issue and I will continue to support her inquiry into why shouldn't those engaged in any investigative work be licensed.

However, I must note on page 12 line 4-9 that "a person who has a private investigator license or the equivalent from another jurisdiction who (A) registers with the department before acting as a private investigator in the state and (B) acts as a private investigator in the state for less than 30 days in a calendar year" is exempt from obtaining a license and paying the license fee.

I take this to mean that any of the reported 40 Outside investigators not licensed in Anchorage or Fairbanks no state PI license is required if working in the state for less than 30 days. I suspect when those Outside companies who proudly claim to be licensed and work the odd case or two in Alaska find out what a license issued by the state will cost they will for sure keep their assignment here under 30 days. That way they don't need state licensing under this provision, thereby eliminating them from the baseline number of investigators Ms. Chambers uses as her factor in determining what a license will cost per license holder. There is no doubt those companies will run like deer if they have to pay \$2900.00 (or more) for a 2 year license. But in reality they don't have to run far since they have protection hidden within the exemption clause, as long as they don't exceed working over 30 days so they can fish the rest of the time.

I must say that when the three of us were waiting to testify and the issue of the fiscal note came up we all looked at each other wondering just what this might entail. When Ms. Chambers began her presentation we all were handed a copy of the fiscal note and without hesitation sat staring at the numbers on page one and the breakdown on page 3. Then we stared at each other. Its almost \$3000 per licensee! Compared to other occupations licensed by the state we heard the range is a low of \$50 to a high of \$1750 for a midwife. I assume the FY2016 Appropriation Requested is accurate. It's over \$223,000 for the first year dropping to \$194,000 for each of the next 5 years. I don't believe the government agent would make up those numbers. The only multiplier of consequence then is the number of applications. It is not beyond consideration that when my fellow investigators learn they will need to pay more than what the state charges a midwife to be in business, some will decline to re-apply.

If my math is correct, taking the figures from page 3, 150 times \$2900.00 equals \$435,000. But page 3 shows the FY16 and FY17 total is \$432,300. I admit I am not up on the concepts of new math but I don't understand the difference. It is, however, of little consequence when planning to add staff to an already taxed agency with so many other occupations to oversee.

None the less, using either amount and taking a realistic number of investigators who actually live and work in Alaska, the fee is still staggering. I find it hard to believe there are 150 potential applicants. My personal guess is there are 75 regularity employed private investigators in Alaska. If that is accurate (it could be less) then each license will cost \$5800.00 or \$5764.00 for 2 years. At this point the difference is hardly a number to quibble about. But let's be generous and say there are 100. That still is a fee way out of line with reality. It remains somewhere in the range of \$2100.00 per year.

The only logical way to bring this into the stratosphere is to believe that if the state would license 659 private investigators each would pay about \$330.00 which is a figure pretty much in line with what Colorado will be charging for the first year of their licensing.

Thankfully this bill is tabled for now for further analysis. I was relieved to hear you say you were shocked to find the figure quadrupled from last year (HB253) and would like to find out why.

Please do all the research necessary to find a reasonable answer. As I've said in a previous communication, a licensing bill for private investigators is simply not necessary at this time. It's quite possible when we find a lot more of us running around then that would be the time to implement PI licensing. That is if all the other problems are addressed as well.

Thank you.

Sincerely,



Frank Wake

cc

Governor Bill Walker

Representative Max Gruenberg

Representative Kurt Olson

Representative Gabrielle LeDoux

Representative Cathy Tilton

Representative Andy Josephson

Representative Sam Kito III

Representative Les Gara

Representative Lance Pruitt

Representative Matt Claman

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*"Professional Investigation Service Specialists"*