

SENATE CS FOR HOUSE BILL NO. 375(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/25/02

Referred: Rules

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL

A BILL

FOR AN ACT ENTITLED

1 **"An Act making corrective amendments to the Alaska Statutes as recommended by the**
2 **revisor of statutes; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 01.10.070(d) is amended to read:

5 (d) An Act that [WHICH] specifies a definite effective date becomes effective
6 at 12:01 a.m., Alaska Standard Time, on the date specified. However, if the specified
7 definite effective date is on or before the day the governor signs the Act, the day
8 the governor's veto is overridden, or the last day of the period allowed for
9 gubernatorial action by art. II, sec. 17, Constitution of the State of Alaska, as
10 applicable, the Act becomes effective at 12:01 a.m., Alaska Standard Time, on the
11 day after the governor signs the Act, the governor's veto is overridden, or the
12 period allowed for gubernatorial action by art. II, sec. 17, Constitution of the
13 State of Alaska, expires, as applicable.

14 *** Sec. 2.** AS 14.48.190 is amended to read:

1 **Sec. 14.48.190. Civil penalty.** A person who violates the provisions of
 2 AS 14.48.020 [,] or who fails or refuses to deposit with the **commission**
 3 [COMMISSIONER] the records required by AS 14.48.150 is subject to a civil penalty
 4 of not more than \$1,000 for each violation. Each day's failure to comply with the
 5 provisions of AS 14.48.020 and 14.48.150 constitutes a separate violation. The fine
 6 may be imposed by the commission in an administrative proceeding or by a court of
 7 competent jurisdiction.

8 * **Sec. 3.** AS 15.20.207(g) is amended to read:

9 (g) Upon completion of the questioned ballot review, the election supervisor
 10 shall prepare an election certificate for execution by the district questioned ballot
 11 counting board, and shall forward the original certificate and returns to the director as
 12 soon as the count is completed but no later than the **16th** [11TH] day following the
 13 election.

14 * **Sec. 4.** AS 15.25.180(a) is amended to read:

15 (a) The petition must state in substance
 16 (1) the full name of the candidate;
 17 (2) the full residence address of the candidate and the date on which
 18 residency at that address began;
 19 (3) the full mailing address of the candidate;
 20 (4) the name of the political group, if any, supporting the candidate;
 21 (5) if the candidacy is for the office of state senator or state
 22 representative, the house or senate district of which the candidate is a resident;
 23 (6) the office for which the candidate is nominated;
 24 (7) the date of the election at which the candidate seeks election;
 25 (8) the length of residency in the state and in the district of the
 26 candidate;
 27 (9) that the subscribers are qualified voters of the state or house or
 28 senate district in which the candidate resides;
 29 (10) that the subscribers request that the candidate's name be placed on
 30 the **general** [PRIMARY] election ballot;
 31 (11) that the proposed candidate accepts the nomination and will serve

1 if elected, with the statement signed by the proposed candidate;

2 (12) the name of the candidate as the candidate wishes it to appear on
3 the ballot;

4 (13) that the candidate is not a candidate for any other office to be
5 voted on at the primary or general election and that the candidate is not a candidate for
6 this office under any other nominating petition or declaration of candidacy;

7 (14) that the candidate meets the specific citizenship requirements of
8 the office for which the person is a candidate;

9 (15) that the candidate will meet the specific age requirements of the
10 office for which the person is a candidate by the time that the candidate, if elected, is
11 sworn into office;

12 (16) that the candidate is a qualified voter; and

13 (17) if the candidacy is for the office of the governor, the name of the
14 candidate for lieutenant governor running jointly with the candidate for governor.

15 * **Sec. 5.** AS 16.43.160(f) is amended to read:

16 (f) For an entry permit or an interim-use permit issued for calendar year 2002
17 and following years, the holder of a permit whose household income, assets, and
18 financial resources fall within the eligibility standards for the food stamp program
19 under 7 U.S.C. 2011 - 2025 [7 U.S.C. 2001 - 2025], as amended, is subject to a
20 maximum annual fee that is equal to 50 percent of the fee that the permit holder would
21 otherwise pay under (e) of this section.

22 * **Sec. 6.** AS 18.56.300(b) is amended to read:

23 (b) As a condition of a commitment to purchase or approve a loan under this
24 section for residential housing the construction of which begins after June 30, 1992,
25 the corporation shall require inspection of the unit of residential housing that is the
26 subject of the loan. The inspection must be performed by a municipal building
27 inspector, by a person who is approved or certified to perform residential inspections
28 by the International Conference of Building Officials or the International Association
29 of Electrical Inspectors, or, when the unit of residential housing is located in a rural
30 area, by an architect registered [LICENSED] under AS 08.48, by an engineer
31 registered [LICENSED] under AS 08.48, or by another person approved by the

corporation. When the unit of residential housing is located in a rural area, the person who makes the inspection may use methods other than a personal physical inspection to make the inspection if the method is approved by the corporation, and variations from the applicable code may be accepted at the corporation's discretion, if the person authorized to inspect the unit under this subsection satisfies the corporation that the variation does not adversely affect the structural integrity of the unit or the health and safety of the residents. The person who makes the inspection shall determine whether the construction conforms to relevant provisions of the construction codes of the municipality or of the state building code, as applicable, at each of the following stages of construction:

- (1) plan approval;
- (2) completion of footings and foundations;
- (3) completion of electrical installation, plumbing, and framing;
- (4) completion of installation of insulation;
- (5) final approval.

* **Sec. 7.** AS 23.30.017(c) is amended to read:

(c) In this section,

(1) "design professional" means a person **registered** [LICENSED] under AS 08.48 as an architect, engineer, or land surveyor;

(2) "professional services" means services provided by a design professional that are within the scope of services for which the design professional is **registered** [LICENSED].

* **Sec. 8.** AS 33.32.017(d) is amended to read:

(d) In exchange for the inmate workers and other services provided to it, the private industry or organization shall pay to the commissioner a weekly payment in an amount not less than [THE SUM OF] the existing minimum hourly wage, established under AS 23.10.065, multiplied by the total number of hours worked during that week by inmates employed in the "Free Venture" correctional industry.

* **Sec. 9.** AS 35.15.080(f) is amended to read:

(f) To carry out the purpose of this section, the commissioner of transportation and public facilities shall adopt regulations relating to the application for and the

making and the conditions of agreements and the local assumption of responsibilities for the planning, design, and construction of public works under this section. The commissioner shall include in grant contracts terms and conditions requiring a regional school board and its contractors to adhere to the provisions of AS 36.05.010 with respect to the payment of wage rates on construction projects [, AND AS 36.10.010 WITH RESPECT TO EMPLOYMENT PREFERENCE,] and may require different terms in agreements for different projects to meet local conditions and unique requirements and to assure compliance with the public facilities procurement policies developed by the department under AS 35.10.160 - 35.10.200. If necessary, the commissioner may require as a condition of an agreement approval of the agreement by the federal government. Regulations adopted, amended, or repealed by the department under this section that [WHICH] relate to educational facilities shall be developed in conjunction with the Alaska Association of School Boards and the Alaska Association of School Administrators and reviewed by those associations before final action on the regulations is taken by the department.

* **Sec. 10.** AS 35.40.010 is amended to read:

Sec. 35.40.010. E. L. Patton Bridge. The bridge spanning the Yukon River at the southern terminus of the James Dalton Highway [HIGHWAY] is named "The E. L. Patton Bridge ["]."

* **Sec. 11.** AS 44.21.225 is amended to read:

Sec. 44.21.225. Executive director. The executive director of the commission shall

(1) formulate a comprehensive statewide plan that identifies the concerns and needs of older Alaskans and present that plan to the commission;

(2) administer, with the approval of the commissioner of administration, federal programs subject to state control as provided under 42 U.S.C. 3001 - 3058ee [42 U.S.C. 3001 - 3045i] (Older Americans Act), as amended; and

(3) administer, with the approval of the commissioner of administration, state programs as provided under AS 47.65.

* **Sec. 12.** AS 44.21.230(a)(7) is amended to read:

(7) with the approval of the commissioner of administration, set policy

for the administration of federal programs **subject to state control** as provided under **42 U.S.C. 3001 - 3058ee** [42 U.S.C. 3001 - 3045i] (Older Americans Act), as amended, and evaluate grant applicants and make grant awards under those programs;

* **Sec. 13.** AS 45.02.401 is amended to read:

Sec. 45.02.401. Passing of title; reservation for security; limited application of this section. Each provision of this chapter with regard to the rights, obligations, and remedies of the seller, the buyer, purchasers, or other third parties applies irrespective of title to the goods except where the provision refers to the title. Insofar as situations are not covered by the other provisions of this chapter and matters concerning title become material the following rules apply:

(1) title to goods cannot pass under a contract for sale before their identification to the contract (AS 45.02.501), and, unless otherwise explicitly agreed, the buyer acquires by their identification a special property as limited by the code; a retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest; subject to these provisions and to the provisions of **AS 45.29** [AS 45.09.101 - 45.09.507], title to goods passes from the seller to the buyer in the manner and on the conditions explicitly agreed on by the parties;

(2) unless otherwise explicitly agreed, title passes to the buyer at the time and place at which the seller completes performance with reference to the physical delivery of the goods, despite a reservation of a security interest and even though a document of title is to be delivered at a different time or place; in particular and despite a reservation of a security interest by the bill of lading,

(A) if the contract requires or authorizes the seller to send the goods to the buyer but does not require the seller to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(B) if the contract requires delivery at destination, title passes on tender there;

(3) unless otherwise explicitly agreed, where delivery is to be made without moving the goods,

(A) if the seller is to deliver a document of title, title passes at

1 the time and place the seller delivers the documents; or

2 (B) if the goods are at the time of contracting already identified
3 and no documents are to be delivered, title passes at the time and place of
4 contracting;

5 (4) a rejection or other refusal by the buyer to receive or retain the
6 goods, whether or not justified, or a justified revocation of acceptance reverts title to
7 the goods in the seller; this reversion occurs by operation of law and is not a "sale."

8 * **Sec. 14.** AS 46.03.760(a) is amended to read:

9 (a) A person who violates or causes or permits to be violated a provision of
10 this chapter other than AS 46.03.250 - 46.03.313 [AS 46.03.250 - 46.03.314], or a
11 provision of AS 46.04 or AS 46.09, or a regulation, a lawful order of the department,
12 or a permit, approval, or acceptance, or term or condition of a permit, approval, or
13 acceptance issued under this chapter or AS 46.04 or AS 46.09 is liable, in a civil
14 action, to the state for a sum to be assessed by the court of not less than \$500 nor more
15 than \$100,000 for the initial violation, nor more than \$5,000 for each day after that on
16 which the violation continues, and that shall reflect, when applicable,

17 (1) reasonable compensation in the nature of liquidated damages for
18 any adverse environmental effects caused by the violation, which shall be determined
19 by the court according to the toxicity, degradability, and dispersal characteristics of
20 the substance discharged, the sensitivity of the receiving environment, and the degree
21 to which the discharge degrades existing environmental quality;

22 (2) reasonable costs incurred by the state in detection, investigation,
23 and attempted correction of the violation;

24 (3) the economic savings realized by the person in not complying with
25 the requirement for which a violation is charged.

26 * **Sec. 15.** AS 47.05.012 is amended to read:

27 **Sec. 47.05.012. Material incorporated by reference.** Under
28 AS 44.62.245(a)(2), in adopting or amending a regulation that incorporates a
29 document or other material by reference, the department may incorporate future
30 amended versions of the document or other material if the document or other material
31 is one of the following:

(1) a document that is published, compiled, or prepared by the United States Department of Health and Human Services and is included in the following list:

(A) the international classification of diseases, clinical modifications;

(B) the common procedure coding system;

(C) the specifications for national uniform billing data elements;

(D) the federal poverty guidelines for the state;

(E) the Indian Health Service encounter rates; or

(F) the relative value units used in the Medicare program for determination of fee schedules;

(2) the current procedural terminology for physicians published by the American Medical Association;

(3) the diagnostic and statistical manual of mental disorders published by the American Psychiatric Association;

(4) the length of stay in hospitals by diagnosis and operation for the western region of the United States, published by **Solucient**; [HCIA, INC.]

(5) the relative value guide published by the American Society of Anesthesiologists;

(6) the consumer price index published by the United States Department of Labor;

(7) the health plan employer data and information set published by the National Committee for Quality Assurance;

(8) practice standards adopted by the American Academy of Pediatrics, American College of Obstetricians and Gynecologists, American Diabetes Association, American Cancer Society, American Academy of Family Physicians, American College of Physicians, United States Centers for Disease Control and Prevention, Agency for **Healthcare Research and Quality** [HEALTH CARE POLICY AND RESEARCH], or the National Asthma Education and Prevention Program;

(9) the compendium of animal rabies control published by the United

1 States Centers for Disease Control and Prevention;

2 (10) the control of communicable diseases manual published by the
3 American Public Health Association;

4 (11) the standards manual and interpretative guidelines for behavioral
5 health, employment and community support services, and for medical rehabilitation
6 published by the Commission on Accreditation of Rehabilitative Facilities;

7 (12) consumer assessment of health plans published by the Agency for
8 Health Care Policy and Research; or

9 (13) resources for optimal care of the injured patient published by the
10 Committee on Trauma, American College of Surgeons.

11 * **Sec. 16.** AS 36.10.006 and AS 18.55.934(b) are repealed.

12 * **Sec. 17.** Sections 1 - 18, 25, and 26, ch. 99, SLA 1985, and ch. 148, SLA 1990, are
13 repealed.

14 * **Sec. 18.** This Act takes effect immediately under AS 01.10.070(c).