



LAWS OF ALASKA

2004

Source

CSHB 447(JUD)

Chapter No.

AN ACT

Making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Making corrective amendments to the Alaska Statutes as recommended by the revisor of
2 statutes; and providing for an effective date.

3 _____
4 * **Section 1.** AS 09.45.230(d) is amended to read:

5 (d) The provisions of (b) of this section remain in effect only as long as both
6 of the following are satisfied:

7 (1) AS 46.03.900 defines "pollution" as including the contamination or
8 altering of waters, land, or subsurface land of the state in a manner that creates a
9 nuisance; and

10 (2) AS 46.14.990 defines "emission" as the release of one or more air
11 **pollutants** [CONTAMINANTS] to the atmosphere.

12 * **Sec. 2.** AS 09.65.235 is amended to read:

13 **Sec. 09.65.235. Immunity for negotiated regulation making committee**
14 **and its members.** A civil action for damages or costs may not be brought against a

1 negotiated regulation making committee established under AS 44.62.710 - 44.62.800
2 or any of its members for an act or omission occurring in the course and scope of the
3 official duties of the committee under AS 44.62.710 - 44.62.800 [THIS CHAPTER].

4 * **Sec. 3.** AS 11.61.195(a) is amended to read:

5 (a) A person commits the crime of misconduct involving weapons in the
6 second degree if the person knowingly

7 (1) possesses a firearm during the commission of an offense under
8 AS 11.71.010 - 11.71.040;

9 (2) violates AS 11.61.200(a)(1) and is within the grounds of or on a
10 parking lot immediately adjacent to

11 (A) a public or private preschool, elementary, junior high, or
12 secondary school without the permission of the chief administrative officer of
13 the school or district or the designee of the chief administrative officer; or

14 (B) a center, other than a private residence, licensed under
15 [AS 14.37,] AS 47.33 [,] or AS 47.35 or recognized by the federal government
16 for the care of children; or

17 (3) discharges a firearm at or in the direction of

18 (A) a building with reckless disregard for a risk of physical
19 injury to a person; or

20 (B) a dwelling.

21 * **Sec. 4.** AS 11.61.220(a) is amended to read:

22 (a) A person commits the crime of misconduct involving weapons in the fifth
23 degree if the person

24 (1) is 21 years of age or older and knowingly possesses a deadly
25 weapon, other than an ordinary pocket knife or a defensive weapon,

26 (A) that is concealed on the person, and, when contacted by a
27 peace officer, the person fails to

28 (i) immediately inform the peace officer of that
29 possession; or

30 (ii) allow the peace officer to secure the deadly weapon,
31 or fails to secure the weapon at the direction of the peace officer,

1 during the duration of the contact;

2 (B) that is concealed on the person within the residence of
3 another person unless the person has first obtained the express permission of
4 an adult residing there to bring a concealed deadly weapon within the
5 residence;

6 (2) knowingly possesses a loaded firearm on the person in any place
7 where intoxicating liquor is sold for consumption on the premises;

8 (3) being an unemancipated minor under 16 years of age, possesses a
9 firearm without the consent of a parent or guardian of the minor;

10 (4) knowingly possesses a firearm

11 (A) within the grounds of or on a parking lot immediately
12 adjacent to a center, other than a private residence, licensed under [AS 14.37,]
13 AS 47.33 [,] or AS 47.35 or recognized by the federal government for the care
14 of children;

15 (B) within a

16 (i) courtroom or office of the Alaska Court System; or

17 (ii) courthouse that is occupied only by the Alaska
18 Court System and other justice-related agencies; or

19 (C) within a domestic violence or sexual assault shelter that
20 receives funding from the state;

21 (5) possesses or transports a switchblade or a gravity knife; or

22 (6) is less than 21 years of age and knowingly possesses a deadly
23 weapon, other than an ordinary pocket knife or a defensive weapon, that is concealed
24 on the person.

25 * **Sec. 5.** AS 12.55.125(*l*) is amended to read:

26 (*l*) Notwithstanding any other provision of law, a defendant convicted of an
27 unclassified or class A felony offense, and not subject to a mandatory 99-year
28 sentence under (a) of this section, shall be sentenced to a definite term of
29 imprisonment of at least 40 years but not more than 99 years when the defendant has
30 been previously convicted of two or more most serious felonies and the prosecuting
31 attorney has filed a notice of intent to seek a definite sentence under this subsection at

1 the time the defendant was arraigned in superior court. If a defendant is sentenced to a
2 definite term under this **subsection** [SECTION],

3 (1) imprisonment for the prescribed definite term may not be
4 suspended under AS 12.55.080;

5 (2) imposition of sentence may not be suspended under AS 12.55.085;

6 (3) imprisonment for the prescribed definite term may not be reduced,
7 except as provided in (j) of this section.

8 * **Sec. 6.** AS 13.26.015 is amended to read:

9 **Sec. 13.26.015. Facility of payment or delivery.** Any person under a duty to
10 pay or deliver money or personal property to a minor may perform this duty, in
11 amounts not exceeding \$5,000 a year, by paying or delivering the money or property
12 to, (1) the minor, if the minor [HAS ATTAINED THE AGE OF 18 YEARS OR] is
13 married; (2) any person having the care and custody of the minor with whom the
14 minor resides; (3) a guardian of the minor; or (4) a financial institution incident to a
15 deposit in a federally insured savings account in the sole name of the minor and giving
16 notice of the deposit to the minor. This section does not apply if the person making
17 payment or delivery has actual knowledge that a conservator has been appointed or
18 proceedings for appointment of a conservator of the estate of the minor are pending.
19 The persons, other than the minor or any financial institution under (4) of this section,
20 receiving money or property for a minor, are obligated to apply the money to the
21 support and education of the minor, but may not pay themselves except by way of
22 reimbursement for out-of-pocket expenses for goods and services necessary for the
23 minor's support. Any excess sums shall be preserved for future support of the minor
24 and any balance not so used and any property received for the minor must be turned
25 over to the minor when the minor attains majority. Persons who pay or deliver in
26 accordance with provisions of this section are not responsible for the proper
27 application thereof.

28 * **Sec. 7.** AS 13.26.280(a) is amended to read:

29 (a) A conservator has all of the powers conferred herein and any additional
30 powers conferred by law on trustees in this state. In addition, a conservator of the
31 estate of an unmarried minor [UNDER THE AGE OF 18 YEARS], as to whom no one

1 has parental rights, has the duties and powers of a guardian of a minor described in
2 AS 13.26.070 until the minor attains the age of 18 or marries, but the parental rights so
3 conferred on a conservator do not preclude appointment of a guardian as provided by
4 AS 13.26.030 - 13.26.085.

5 * **Sec. 8.** AS 14.43.148(h)(1)(B)(iii) is amended to read:

6 (iii) a license issued under [AS 14.37 OR] AS 47.35;

7 * **Sec. 9.** AS 15.13.040(j) is amended to read:

8 (j) Except as provided in (l) of this section, each nongroup entity shall make a
9 full report in accordance with AS 15.13.110 upon a form prescribed by the
10 commission and certified by the nongroup entity's treasurer, listing

11 (1) the name and address of each officer and director of the nongroup
12 entity;

13 (2) the aggregate amount of all contributions made to the nongroup
14 entity for the purpose of influencing the outcome of an election;

15 (3) for all contributions described in (2) of this subsection, the name,
16 address, [AND PRINCIPAL OCCUPATION OF THE CONTRIBUTOR, AND THE]
17 date, and amount contributed by each contributor and, for all contributions described
18 in (2) of this subsection in excess of \$250 in the aggregate during a calendar year, the
19 **principal occupation and** employer of the contributor; and

20 (4) the date and amount of all contributions made by the nongroup
21 entity, and, except as provided for certain independent expenditures in
22 AS 15.13.135(a), all expenditures made, incurred, or authorized by the nongroup
23 entity, for the purpose of influencing the outcome of an election; a nongroup entity
24 shall report contributions made to a different nongroup entity for the purpose of
25 influencing the outcome of an election and expenditures made on behalf of a different
26 nongroup entity for the purpose of influencing the outcome of an election as soon as
27 the total contributions and expenditures to that nongroup entity for the purpose of
28 influencing the outcome of an election reach \$500 in a year and for all subsequent
29 contributions and expenditures to that nongroup entity in a year whenever the total
30 contributions and expenditures to that nongroup entity for the purpose of influencing
31 the outcome of an election that have not been reported under this paragraph reach

1 \$500.

2 * **Sec. 10.** AS 15.13.110(f)(2) is amended to read:

3 (2) a person who has filed a nominating petition under AS 15.25.140 -
4 15.25.200 to become a candidate at the **general** [PRIMARY] election for elective state
5 executive or legislative office;

6 * **Sec. 11.** AS 16.43.160(e) is amended to read:

7 (e) For an entry permit or an interim-use permit issued for calendar year 2002
8 and following years, the annual base fee may not be less than \$10 or more than \$300.
9 The annual base fee must reasonably reflect the different rates of economic return for
10 different fisheries. The fee for a nonresident entry permit or a nonresident interim-use
11 permit shall be higher than the annual base fee by an amount, established by the
12 commission by regulation, that is as close as is practicable to the maximum allowed by
13 law. The amount of the fee for a nonresident entry permit or a nonresident interim-use
14 permit may reflect

15 (1) the costs incurred by the state that are directly attributable to
16 participation of nonresidents in the commercial fisheries of the state;

17 (2) the costs incurred by the state for

18 (A) direct operating expenditures for ongoing management,
19 support, and regulation of the commercial fishing industry, including relevant
20 expenditures of the

21 (i) [REPEALED

22 (ii)] Department of Environmental Conservation - air
23 and water quality permitting activities and seafood inspection activities;

24 **(ii)** [(iii)] Department of Community and Economic
25 Development - commercial fishing loan program, Alaska Seafood
26 Marketing Institute, and community development quota program;

27 **(iii)** [(iv)] Department of Fish and Game - division of
28 commercial fisheries, [DIVISION OF HABITAT AND
29 RESTORATION,] board support section, division of administrative
30 services, division of sport fish, commissioner's office, and Alaska
31 Commercial Fisheries Entry Commission;

1 (iv) [(v)] Department of Labor and Workforce
2 Development - wage and hour enforcement, mechanical inspections,
3 occupational safety and health activities, and fishermen's fund;

4 (v) [(vi)] Department of Law;

5 (vi) [(vii)] Department of Natural Resources, including
6 the Alaska coastal management program **and habitat programs**;

7 (vii) [(viii)] Department of Public Safety - commercial
8 fisheries enforcement;

9 (viii) [(ix)] Department of Revenue - fisheries business
10 tax program, fishery resource landing tax program, salmon
11 enhancement tax program, salmon marketing tax program, **salmon**
12 **fishery assessment program, permit buy-back assessment program,**
13 and dive fishery management assessment program;

14 (ix) [(x)] University of Alaska - Fisheries Industrial
15 Technology Center, Institute of Marine Science, Marine Advisory
16 Program, Sea Grant College Program, and School of Fisheries and
17 Ocean Sciences;

18 (x) [(xi)] Legislature;

19 (xi) [(xii)] Alaska Court System;

20 (B) indirect operating expenditures for general overhead
21 attributable to supporting the commercial fishing industry, including
22 expenditures for general overhead attributable to components of agencies that
23 have direct operating expenditures identified under (A) of this paragraph and to
24 components of agencies for which direct operating expenditures related to the
25 ongoing management, support, and regulation of the commercial fishing
26 industry cannot be readily determined;

27 (C) [GENERAL GOVERNMENT EXPENDITURES FOR
28 GOVERNMENT SERVICES THAT ARE USED BY A PORTION OF THE
29 POPULATION ATTRIBUTABLE TO THE PRESENCE OF THE
30 COMMERCIAL FISHING INDUSTRY, INCLUDING GOVERNMENT
31 SERVICES PROVIDED BY THE DEPARTMENT OF ADMINISTRATION,

DEPARTMENT OF CORRECTIONS, DEPARTMENT OF EDUCATION
AND EARLY DEVELOPMENT, DEPARTMENT OF HEALTH AND
SOCIAL SERVICES, DEPARTMENT OF MILITARY AND VETERANS'
AFFAIRS, AND DEPARTMENT OF TRANSPORTATION AND PUBLIC
FACILITIES;

(D)] capital costs directly supporting [EXPENDITURES TO
SUPPORT] the commercial fishing industry [AS MEASURED BY ANNUAL
DEPRECIATION OF PUBLIC FACILITIES AND INFRASTRUCTURE];
and

(D) [(E)] expenditures to subsidize the construction and
operation of salmon hatcheries [; AND

(3) THE AMOUNT OF REVENUE FOREGONE BY THE STATE
DUE TO THE CURRENT MANAGEMENT SYSTEM FOR COMMERCIAL
FISHERIES IN THE STATE].

* **Sec. 12.** AS 21.36.360(i) is amended to read:

(i) A criminal insurance act is committed by a person doing business in this
state or relative to a subject resident, located, or to be performed in this state who
knowingly

(1) writes, places, or causes to be written or placed in this state or
relative to a subject resident, located, or to be performed in this state a policy,
duplicate policy, or contract of insurance of any kind or character, or general or
floating policy upon persons or property resident, situated, or located in this state,
from or through a person not authorized to transact business under AS 21.27 or a risk
retention group or purchasing group not registered under AS 21.89.090
[AS 21.89.070]; or

(2) pays a commission or other form of remuneration to a person, firm,
or organization for the writing or placing of insurance coverage in this state or relative
to a subject resident, located, or to be performed in this state unless that person, firm,
or organization is authorized under AS 21.27 to transact the kind or class of insurance
written or placed, or, in the case of a risk retention group or purchasing group, is
registered under AS 21.89.090 [AS 21.89.070].

1 * **Sec. 13.** AS 21.36.360(j) is amended to read:

2 (j) A criminal insurance act is committed by a person in this state or relative to
3 a subject resident, located, or to be performed in this state who acts as an insurance
4 producer, managing general agent, third-party administrator, reinsurance intermediary
5 broker, reinsurance intermediary manager, surplus lines broker, or independent
6 adjuster without being licensed by the director as required under this title or as a risk
7 retention group or purchasing group without being registered as required under
8 **AS 21.89.090** [AS 21.89.070]. A criminal insurance act is committed by an insurance
9 producer, managing general agent, third-party administrator, reinsurance intermediary
10 broker, reinsurance intermediary manager, or surplus lines broker who solicits or takes
11 application for, procures, or places for others any insurance for which the person is not
12 licensed as required under AS 21.27 or for which the license of the person has been
13 suspended or revoked. A criminal insurance act is committed by a person in this state
14 or relative to a subject resident, located, or to be performed in this state who acts as or
15 on behalf of a risk retention group or a purchasing group that is not registered under
16 **AS 21.89.090** [AS 21.89.070].

17 * **Sec. 14.** AS 21.36.360(k) is amended to read:

18 (k) A criminal insurance act is committed by an insurance producer, managing
19 general agent, third-party administrator, reinsurance intermediary broker, reinsurance
20 intermediary manager, or surplus lines broker who knowingly compensates or offers
21 to compensate in any manner a person other than an insurance producer, managing
22 general agent, third-party administrator, reinsurance intermediary broker, reinsurance
23 intermediary manager, or surplus lines broker licensed as required under this title in
24 this or another jurisdiction, for procuring or in any manner helping to procure
25 applications for or to place insurance in this state. A criminal insurance act is
26 committed by a person in this state or relative to a subject resident, located, or to be
27 performed in this state who acts as or on behalf of a risk retention group or a
28 purchasing group that is not registered under **AS 21.89.090** [AS 21.89.070]. This
29 subsection does not apply to the payment of compensation that is not contingent upon
30 volume of business transacted in the form of salaries to the regular employees of the
31 insurance producer, managing general agent, third-party administrator, reinsurance

intermediary broker, reinsurance intermediary manager, or surplus lines broker.

* **Sec. 15.** AS 24.08.330(b) is amended to read:

(b) Agencies receiving sets of the Alaska Statutes shall mark each volume or binder received "Property of the State of Alaska," AND SHALL HAVE EACH SET RECORDED AS AN ITEM OF PROPERTY ON ITS RECORDS AND THE CENTRAL PROPERTY RECORDS OF THE STATE.]

* **Sec. 16.** AS 25.27.244(s)(2)(B)(ii) is amended to read:

(ii) a license issued under [AS 14.37 OR] AS 47.35;

* **Sec. 17.** AS 28.35.032(l) is amended to read:

(l) The court shall order a person convicted under this section to satisfy the screening, evaluation, referral, and program requirements of an alcohol safety action program if such a program is available in the community where the person resides, or a private or public treatment facility approved by [THE DIVISION OF ALCOHOLISM AND DRUG ABUSE, OF] the Department of Health and Social Services [,] under AS 47.37 to make referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person is convicted under (p) of this section, the court shall order the person to be evaluated as required by this subsection before the court imposes sentence for the offense.

* **Sec. 18.** AS 32.05.020(2) is amended to read:

(2) joint tenancy, tenancy in common, tenancy by the entirety [ENTIRETIES], joint property, common property, or part ownership does not of itself establish a partnership, whether or not the co-owners share any profits made by the use of the property;

* **Sec. 19.** AS 32.06.202(c) is amended to read:

(c) In determining whether a partnership is formed, the following rules apply:

(1) joint tenancy, tenancy in common, tenancy by the entirety [ENTIRETIES], joint property, common property, or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property;

(2) the sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest

1 in property from which the returns are derived;

2 (3) a person who receives a share of the profits of a business is
3 presumed to be a partner in the business, unless the profits are received in payment

4 (A) of a debt by installments or otherwise;

5 (B) for services as an independent contractor, or of wages or
6 other compensation to an employee;

7 (C) of rent;

8 (D) of an annuity or other retirement or health benefit provided
9 to a beneficiary, representative, or designee of a deceased or retired partner;

10 (E) of interest or other charge on a loan, even if the amount of
11 payment varies with the profits of the business, including a direct or indirect
12 present or future ownership of the collateral, or rights to income, proceeds, or
13 increase in value derived from the collateral; or

14 (F) for the sale of the good will of a business or other property
15 by installments or otherwise.

16 * **Sec. 20.** AS 36.30.850(b)(11) is amended to read:

17 (11) agreements with providers of services under [AS 47.25.007 -
18 47.25.009;] AS 47.07; AS 47.08; AS 47.10; AS 47.12; AS 47.14; AS 47.17; AS 47.24;
19 **AS 47.25.001 - 47.25.009;** and AS 47.27, including contractors under AS 47.27.050;

20 * **Sec. 21.** AS 37.05.180 is amended to read:

21 **Sec. 37.05.180. Limitation on payment of warrants.** A warrant upon the
22 state treasury may not be paid unless presented at the office of the commissioner of
23 revenue within six months of the date of its issuance. A warrant not presented within
24 that time is presumed abandoned, except where the warrant is for the payment of a
25 permanent fund dividend or a benefit payment or refund under AS 14.25, AS 22.25,
26 AS 26.05, AS 39.30, AS 39.35, **former** AS 39.37, or AS 39.45. Money held for an
27 abandoned warrant shall be delivered to the custody of the Department of Revenue to
28 be administered as unclaimed property under AS 34.45.

29 * **Sec. 22.** AS 37.05.318 is amended to read:

30 **Sec. 37.05.318. Further regulations prohibited.** Notwithstanding **AS 44.62**
31 **([THE] Administrative Procedure Act), AS 37.07 ([(AS 44.62), THE FISCAL**

1 PROCEDURES ACT (AS 37.05), AND THE] Executive Budget Act), **and other**
2 **provisions of this chapter** [(AS 37.07)], a state agency may not adopt regulations or
3 impose additional requirements or procedures to implement, interpret, make specific,
4 or otherwise carry out the provisions of AS 37.05.315 - 37.05.317 unless required by
5 the federal government for participation in federal programs.

6 * **Sec. 23.** AS 37.14.270(2) is amended to read:

7 (2) "child abuse and neglect" has the meaning given **"child abuse or**
8 **neglect"** in AS 47.17.290;

9 * **Sec. 24.** AS 39.50.030(g) is amended to read:

10 (g) The requirements in this section for disclosures related to a person's
11 **domestic partner** [SPOUSAL EQUIVALENT] do not apply to an elected or
12 appointed municipal officer.

13 * **Sec. 25.** AS 41.17 is amended by adding a new section to read:

14 **Sec. 41.17.955. Short title.** This chapter may be cited as the Forest Resources
15 and Practices Act.

16 * **Sec. 26.** AS 44.29.520 is amended to read:

17 **Sec. 44.29.520. Composition of the board.** (a) The Alaska Pioneers' Homes
18 Advisory Board consists of

19 (1) **five** [SEVEN] members appointed by the governor from among
20 citizens of the state; [AND]

21 (2) **one member appointed by the governor who is a veteran of**
22 **active service in the armed forces of the United States, including the Alaska**
23 **National Guard or the Alaska Territorial Guard;**

24 **(3) one member who is the chair of the Alaska Commission on Aging**
25 **established in AS 47.44.200; and**

26 **(4) one member who is chair of the Alaska Veterans Advisory**
27 **Council established in AS 44.35.**

28 (b) The term of office of a member of the board appointed under (a)(1) of this
29 section is four years. A member of the board may not serve more than eight
30 consecutive years. A chair shall be elected by the voting members of the board. The
31 members of the board appointed under (a)(1) **and (2)** of this section serve at the

1 pleasure of the governor.

2 * **Sec. 27.** AS 44.66.010(a)(10) is amended to read:

3 (10) Alaska Commission on Aging (**AS 47.44.200**) [(AS 44.21.200)] -
4 June 30, 2004;

5 * **Sec. 28.** AS 46.14.120(b) is amended to read:

6 (b) Except when considered to be in compliance with this chapter under
7 AS 46.14.275 or under a regulation adopted under **AS 46.14.140(a)(12)**
8 [AS 46.14.140(a)(11)], the owner and operator shall obtain an operating permit under
9 this chapter before operating a stationary source subject to AS 46.14.130(b).

10 * **Sec. 29.** AS 46.14.120(c) is amended to read:

11 (c) A permittee shall comply with the terms and conditions of a permit or a
12 modifying compliance order issued by the department under this chapter or a court
13 order. A person operating under the application shield available under
14 **AS 46.14.140(a)(12)** [AS 46.14.140(a)(11)] and 46.14.275, shall comply with the
15 terms and conditions of the pending application and applicable regulations.

16 * **Sec. 30.** AS 46.14.170(a) is amended to read:

17 (a) Except as provided in AS 46.14.220 or in regulations adopted under
18 **AS 46.14.140(a)(7)** [AS 46.14.140(a)(6)], after receipt of a complete application, and
19 after notice and opportunity for public comment and hearing, the department shall
20 issue or deny

21 (1) a construction permit within 30 days after the close of the public
22 comment period;

23 (2) an operating permit, other than a general operating permit or
24 temporary operating permit, within 12 months after receipt of the complete application
25 by the department.

26 * **Sec. 31.** AS 47.10.093(g) is amended to read:

27 (g) The department and affected law enforcement agencies shall work with
28 school districts and private schools to develop procedures for the disclosure of
29 information to school officials under **(b)(4)** [(b)(3)] of this section. The procedures
30 must provide a method for informing the principal or the principal's designee of the
31 school the student attends as soon as it is reasonably practicable.

1 * **Sec. 32.** AS 47.24.070 is amended to read:

2 **Sec. 47.24.070. Required review of proposed regulations.** Before adoption
3 by the department, regulations to implement this chapter shall be provided to the
4 Alaska Commission on Aging established under **AS 47.44.200** [AS 44.21.200] for
5 review.

6 * **Sec. 33.** AS 47.30.016(b)(2)(D) is amended to read:

7 (D) one person selected by the Alaska Commission on Aging
8 established by **AS 47.44.200** [AS 44.21.200];

9 * **Sec. 34.** AS 47.30.036(3) is amended to read:

10 (3) review and consider the recommendations submitted under
11 [AS 44.21.230(a)(10),] AS 44.29.140(2), AS 47.30.666(6), **AS 47.44.230(a)(10)**, and
12 AS 47.80.090(13);

13 * **Sec. 35.** AS 47.35.010(a) is amended to read:

14 (a) The department may

15 (1) license and supervise child care facilities, foster homes, residential
16 child care facilities, semi-secure residential child care facilities, secure residential
17 psychiatric treatment centers, child placement agencies, and maternity homes;

18 (2) investigate applicants, licensees, and persons that the department
19 reasonably believes are operating a facility without a license **or certification** in
20 violation of this chapter;

21 (3) adopt regulations to implement the provisions of this chapter,
22 including regulations establishing licensure, **certification**, and renewal procedures,
23 standards, and fees; establishing requirements for operation of facilities or agencies
24 licensed under this chapter; and distinguishing between types of facilities;

25 (4) enter into agreements with private entities, municipalities, or
26 individuals to investigate and make recommendations to the department for the
27 licensing and supervision of child care facilities, foster homes, residential child care
28 facilities, semi-secure residential child care facilities, secure residential psychiatric
29 treatment centers, child placement agencies, and maternity homes under procedures
30 and standards of operation established by the department;

31 (5) accept licenses issued by other organizations or state agencies that

1 have licensing authority under federal or state law for the facilities listed in (1) of this
2 subsection, **other than child care facilities.**

3 * **Sec. 36.** AS 47.35.017(b) is amended to read:

4 (b) An application submitted under this section must contain at least the
5 following information:

6 (1) the name and address of the applicant and, if the applicant is an
7 agency, corporation, partnership, association, or any other form of organization, the
8 name, address, and title of each individual who has an ownership or management
9 interest in the facility; if the applicant is an individual, the application must include the
10 name, age, and driver's license number, if any, of each member of the individual's
11 household;

12 (2) the name, physical location, and mailing address of the facility or
13 agency for which the license is sought;

14 (3) the name and address of the administrator of the facility or agency,
15 if any;

16 (4) evidence that the administrator or foster parent is an adult with
17 sufficient experience, training, or education to fulfill the duties of an administrator or
18 foster parent;

19 (5) a release for the administrator or foster parent and for each other
20 person who is 16 years of age or older, as specified by the department by regulation,
21 who will have contact with individuals served by the facility or agency, authorizing
22 the department to review all federal, state, and municipal criminal justice information,
23 whether of this state, of a municipality of this state, or of another jurisdiction, medical
24 records, licensing records, and protective services records, identified in regulations
25 adopted under this chapter, that are relevant to the person who is the subject of the
26 release and to the type of license for which the application has been submitted;

27 (6) [FOR A FACILITY OR AGENCY

28 (A) OTHER THAN A CHILD CARE FACILITY,] two sets of
29 fingerprints and the social security number of each person required to provide
30 a release under (5) of this subsection in order for the department to submit the
31 fingerprints to the Department of Public Safety for the purpose of conducting

1 state and national criminal background checks from criminal justice
2 information received under AS 12.62 and regulations adopted under AS 12.62;
3 the department may not approve an application under this section until the
4 results of the criminal background check have been submitted to the
5 department; [OR

6 (B) THAT IS A CHILD CARE FACILITY, IF REQUIRED
7 BY REGULATIONS ADOPTED BY THE DEPARTMENT, TWO SETS OF
8 FINGERPRINTS AND THE SOCIAL SECURITY NUMBER OF EACH
9 PERSON REQUIRED TO PROVIDE A RELEASE UNDER (5) OF THIS
10 SUBSECTION IN ORDER FOR THE DEPARTMENT TO SUBMIT THE
11 FINGERPRINTS TO THE DEPARTMENT OF PUBLIC SAFETY FOR THE
12 PURPOSE OF CONDUCTING STATE AND NATIONAL CRIMINAL
13 BACKGROUND CHECKS FROM CRIMINAL JUSTICE INFORMATION
14 RECEIVED UNDER AS 12.62 AND REGULATIONS ADOPTED UNDER
15 AS 12.62;]

16 (7) for a facility, the number of individuals that will be served in the
17 facility;

18 (8) the type of facility or agency for which the license is sought;

19 (9) copies of all inspection reports and approvals required by state fire
20 prevention and environmental health and safety authorities for operation of the facility
21 or agency, including any variances granted by these authorities;

22 (10) a plan of operation, as required by the department by regulation;

23 (11) a staffing plan that describes the number of people who will work
24 at the facility or agency, staff qualifications, a description of each person's
25 responsibilities, and, for a facility other than a maternity home, a supervision schedule
26 for the children in care that meets the requirements established by the department by
27 regulation;

28 (12) evidence that the applicant is capable of meeting the minimum
29 standards of care established by the department under AS 47.14.120;

30 (13) evidence that the applicant has completed orientation or training
31 required by the department, by regulation, for holders of the type of license for which

1 the application was submitted; and

2 (14) other information required by the department, by regulation, in
3 order to monitor compliance with this chapter and regulations adopted under this
4 chapter.

5 * **Sec. 37.** AS 47.35.021 is amended by adding a new subsection to read:

6 (b) This section does not apply to the issuance of an initial license to a child
7 care facility.

8 * **Sec. 38.** AS 47.35.140 is amended by adding a new subsection to read:

9 (b) This section does not apply to a child care facility.

10 * **Sec. 39.** Section 5, ch. 4, SSSLA 2002, is repealed and reenacted to read:

11 Sec. 5. AS 47.55.010 is amended by adding new subsections to read:

12 (e) As provided in this subsection, a certain number of beds in the Alaska
13 Pioneers' Home shall be reserved for use by veterans who meet all other qualifications
14 for admission to the home. The Department of Health and Social Services shall by
15 regulation

16 (1) specify the number of beds reserved for use by veterans under this
17 subsection; the department may not specify that more than 30 percent of the beds in a
18 single institution are reserved for veterans, nor that more than the percentage of the
19 occupied beds collectively comprising the Alaska Pioneers' Home system that were in
20 use by veterans on June 30, 2002, are reserved for veterans;

21 (2) establish procedures that

22 (A) provide for a veteran to be considered for admission to an
23 unreserved, unoccupied bed in the home under admission criteria in or under
24 this chapter if all beds reserved under this subsection are occupied;

25 (B) provide for a person who is not a veteran to be considered
26 for admission to an unoccupied bed reserved under this subsection if no
27 veteran who is qualified for admission to a reserved bed has applied for
28 admission; and

29 (C) ensure that, to the extent possible, the beds reserved for use
30 by veterans under this subsection are occupied by veterans.

31 (f) In this section, "veteran" means a person with 181 days or more of active

1 service in the armed forces of the United States, including the Alaska National Guard
2 or the Alaska Territorial Guard.

3 * **Sec. 40.** Section 8, ch. 4, SSSLA 2002, is repealed and reenacted to read:

4 Sec. 8. AS 47.55.060 is amended to read:

5 **Sec. 47.55.060. Trust fund.** Unless otherwise provided by the donor, money
6 bequeathed to the Alaska Pioneers' Home or to the former Alaska Pioneers' and
7 Veterans' Home constitutes a special trust fund. Unless otherwise provided by the
8 donor, interest from the special trust fund is under the control and at the disposal of the
9 Department of Health and Social Services, and expenditure from it is limited to the
10 benefit and comfort of the residents of the home.

11 * **Sec. 41.** Section 9, ch. 4, SSSLA 2002, is amended to read:

12 Sec. 9. AS 47.55.010(e), enacted by sec. 5 of this Act, as amended by sec. 39
13 of an Act passed by the Second Regular Session of the Twenty-Third Alaska
14 State Legislature implementing changes recommended by the revisor of statutes,
15 is repealed.

16 * **Sec. 42.** Section 10, ch. 4, SSSLA 2002, is amended to read:

17 Sec. 10. The uncodified law of the State of Alaska is amended by adding a
18 new section to read:

19 PILOT PROJECT. (a) The Department of Health and Social Services
20 [ADMINISTRATION] may negotiate with the United States Department of Veterans
21 Affairs for the purpose of achieving an agreement to operate a pilot project under
22 which, until June 30, 2005, federal veterans' per diem payments could be used by
23 veterans who reside in the Alaska Pioneers' Home. The agreement must also provide
24 that receipt by a veteran of the federal per diem payment may not reduce the total
25 home daily rate charged to the veteran, but that a veteran's per diem payment will
26 contribute to the cost of the veteran's care in the home. The agreement must also
27 provide that the pilot project may be conducted without any need for changes in the
28 state ownership and authority to operate and manage the home under the state laws as
29 they would exist after being amended or enacted by this Act.

30 (b) The Department of Health and Social Services [ADMINISTRATION]
31 shall report to the legislature by January 5, 2005, on the operation of the pilot project

1 authorized under (a) of this section. The report must include the department's
2 recommendations as to whether the project should continue, whether the project
3 should become permanent in nature, and other matters related to the project, as
4 determined by the department.

5 * **Sec. 43.** Section 12(b), ch. 4, SSSLA 2002, is amended to read:

6 (b) Sections [1,] 5 [,] and 11 of this Act take effect only if an agreement is
7 signed between the federal Department of Veterans Affairs and the state Department
8 of **Health and Social Services** [ADMINISTRATION] that authorizes the pilot project
9 described in sec. 10 of this Act.

10 * **Sec. 44.** Section 12, ch. 4, SSSLA 2002, is amended by adding a new subsection to read:

11 (c) Sections 8 and 9 of this Act take effect only if sec. 5, ch. 4, SSSLA 2002,
12 as amended by sec. 39 of an Act passed by the Second Regular Session of the Twenty-
13 Third Alaska State Legislature implementing changes recommended by the revisor of
14 statutes, and sec. 11, ch. 4, SSSLA 2002, take effect before July 1, 2005.

15 * **Sec. 45.** Section 13(b), ch. 4, SSSLA 2002, is amended to read:

16 (b) If secs. [1,] 5 [,] and 11 of this Act take effect, they take effect on the date
17 the agreement described in sec. 10 of this Act is signed by both parties. The
18 commissioner of **health and social services** [ADMINISTRATION] shall notify the
19 revisor of statutes of this date and send a copy of the agreement to the Legislative
20 Budget and Audit Committee and the presiding officers of the Senate and House of
21 Representatives.

22 * **Sec. 46.** Section 15, ch. 4, SSSLA 2002, is amended to read:

23 Sec. 15. **If secs. 8 and 9 of this Act take effect, they** [SECTIONS 8 AND 9
24 OF THIS ACT] take effect July 1, 2005.

25 * **Sec. 47.** AS 39.25.110(21) is repealed.

26 * **Sec. 48.** Section 71(1), ch. 106, SLA 1980, is repealed.

27 * **Sec. 49.** Sections 1, 2, 12(a), and 13(a), ch. 4, SSSLA 2002, are repealed.

28 * **Sec. 50.** The uncoded law of the State of Alaska is amended by adding a new section to
29 read:

30 APPLICABILITY OF AMENDMENTS TO AS 44.29.520. (a) Notwithstanding the
31 provisions of AS 44.29.520, as amended by sec. 26 of this Act, the members of the Alaska

1 Pioneers' Homes Advisory Board appointed under AS 44.29.520(a)(1) who are serving on the
2 effective date of sec. 26 of this Act may continue to serve their terms to the extent provided
3 by AS 44.29.520. The member described under AS 44.29.520(a)(2), as amended by sec. 26
4 of this Act, may be appointed as soon after the effective date of sec. 26 of this Act as there is
5 a vacancy in the members appointed under AS 44.29.520(a)(1).

6 (b) Notwithstanding the provisions of AS 44.29.520(a), as amended by sec. 26 of this
7 Act, the member described under AS 44.29.520(a)(4), as amended by sec. 26 of this Act, shall
8 become a member of the Alaska Pioneers' Homes Advisory Board as soon after the effective
9 date of sec. 26 of this Act as there is a vacancy in the members appointed under
10 AS 44.29.520(a)(1) and the member described in AS 44.29.520(a)(2), as amended by sec. 26
11 of this Act, has been appointed.

12 * **Sec. 51.** The uncoded law of the State of Alaska is amended by adding a new section to
13 read:

14 **CONDITIONAL EFFECTIVENESS OF SECTION 26.** Section 26 of this Act takes
15 effect only if an agreement is signed between the federal Department of Veterans Affairs and
16 the state Department of Health and Social Services that authorizes the pilot project described
17 in sec. 10, ch. 4, SSSLA 2002, as amended by sec. 42 of an Act passed by the Second Regular
18 Session of the Twenty-Third Alaska State Legislature implementing changes recommended
19 by the revisor of statutes. The commissioner of health and social services shall notify the
20 revisor of statutes of this date and send a copy of the agreement to the Legislative Budget and
21 Audit Committee and the presiding officers of the Senate and House of Representatives.

22 * **Sec. 52.** If sec. 26 of this Act takes effect, it takes effect on the date the agreement
23 described in sec. 10, ch. 4, SSSLA 2002, as amended by sec. 42 of an Act passed by the
24 Second Regular Session of the Twenty-Third Alaska State Legislature implementing changes
25 recommended by the revisor of statutes, is signed by both parties.

26 * **Sec. 53.** Except as provided in sec. 52 of this Act, this Act takes effect immediately under
27 AS 01.10.070(c).