

# ALASKA STATE LEGISLATURE

## SENATE FINANCE COMMITTEE



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### Sectional Analysis

## SENATE CS for CS for HOUSE BILL NO. 76(FIN)

Version 32-GH1011\E

#### Section 1 Findings

Establishes legislative findings pertaining to COVID-19. The Legislature finds that it is in the best interest of the state to take appropriate steps to continue to contain the spread of COVID-19; to distribute COVID-19 vaccines statewide; and to take appropriate steps to limit further harm to the state's economy, enable displaced workers in the state to return to work, and to allow students to rejoin in-person classes.

#### Section 2 Public Health Disaster Emergency; Approval, Ratification, and Extension of Disaster Emergency

Approves and ratifies the declarations of a public health disaster emergency issued on November 15, 2020, December 15, 2020, and January 15, 2021.

Extends the Public Health Disaster Emergency issued on January 15, 2021 to December 31, 2021.

Provides that the Commissioner of the Department of Health & Social Services (DHSS) may certify to the Governor that there is no longer a present outbreak of COVID-19, or a credible threat of an imminent outbreak. Upon receiving this certification, the Governor shall submit a proclamation to the Legislature that indicates that the public health disaster emergency no longer exists.

#### Section 3 Emergency Powers of The Governor

Restricts the governor from acting in response to COVID-10 public health disaster emergency by removing access to:

- 26.23.020(g)(4): commandeer or utilize any private property;
- 26.23.020(g)(5): direct and compel the relocation of all or part of the population from any stricken or threatened area;
- 26.23.020(g)(6): prescribe routes, modes of transportation and destinations in connection with necessary relocation;
- 26.23.020(g)(8): suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, or combustibles; and
- 26.23.020(g)(11): use money from the oil and hazardous substance release response account to respond to the disaster related to an oil or hazardous substance discharge.

**Section 4      Emergency Powers of the Commissioner of Health and Social Services**  
Provides declaration powers to the Commissioner of Health and Social Services for a public health emergency to respond to the ongoing COVID-19 pandemic to support emergency allotments for Supplemental Nutritional Assistance Program, CMS blanket waivers, and 1915(c) Appendix K waivers.

**Section 5      Public Health Disaster Emergency; Financing Plan**  
Notwithstanding AS 26.23.050(b), provides that expenditure of state funds to address the effects of the declaration of a public health disaster emergency is limited to the expenditure authority identified in this finance plan as follows:

- Appropriations made in Section 8 of HB 206 (Ch.2, SLA 2020)
- Appropriations made in Section 10 of HB 234 (Ch. 7, SLA 2020)
- Authorization made in Section 1 of HB 205 (Ch. 8, SLA 2020) for transfers between all appropriations in DHSS, excluding from Medicaid appropriations.
- Appropriations made in Section 28 of HB 205 (Ch. 8, SLA 2020) – of federal receipts received during FY 2021 for Medicaid Services and federal receipts received for responding to the public health disaster emergency
- Appropriations made in Section 38 of HB 205 (Ch. 8, SLA 2020) to the Disaster Relief Fund
- Appropriations made in Section 37(a) of HB 205 (Ch. 8, SLA 2020) - excess federal receipts received during FY 2021
- The authorization for expenditure of federal CARES Act receipts that were ratified in HB 313 (Ch. 32, SLA 2020)
- Any future appropriations made for FY 2021 and FY 2022
- The Governor may not spend more than \$10 million from the Disaster Relief Fund for the emergency declared on January 15, 2021 and extended to December 31, 2021

**Section 6      Reports**  
Requires the Office of Management and Budget to submit a monthly report to the Legislative Finance Division that lists the total expenditures incurred by the State in its response to the public health emergency disaster including expenditures aimed at mitigating, preventing, and controlling COVID-19.

The reports will begin May 1, 2021 and will include cumulative expenses incurred since March 11, 2020, the date the Governor issued an initial declaration of a public health disaster emergency. This section further provides for a final report due to the Legislative Finance Division no later than January 31, 2022 or 60 days after the Governor determines that a public health disaster emergency no longer exists, whichever is earlier.

## **Section 7 Professional and Occupational Licensing**

Provides that a professional or occupational licensing board, or the Director of Corporations, Business and Professional Licensing (CBPL):

- May not increase licensing fees during the public health disaster emergency declaration;
- May grant a license, permit or certificate on an expedited basis, if an individual holds a corresponding license, permit, or certificate in good standing in another jurisdiction. A license expedited under this section, expires December 31, 2021 or on the date that the Governor determines a public health disaster emergency no longer exists;
- May temporarily waive or modify continuing education requirements for licensees who need to renew a professional license permit or certificate in calendar year 2021;
- May require an individual who receives a license, permit, or certificate under this section to arrange and agree to supervision by an individual who holds a license, permit or certificate in good standing for an applicable profession or by an administrator of facility licensed under AS 47.32.

This section provides that a licensed professional seeking or holding an expedited license, permit or certificate under this section who travels to Alaska from outside of Alaska, must comply with travel restriction orders or guidelines recommended by the Centers for Disease Control and Prevention (CDC), the US Health and Human Services, and that are in effect when the individual travels.

## **Section 8 Telemedicine and Telehealth**

Allows for a health care provider licensed, permitted, or certified in another jurisdiction to practice telehealth in Alaska, without first conducting an in-person physical examination or being licensed in Alaska. The telehealth services provided must be within a provider's authorized scope of practice. If the provider determines that the encounter will extend beyond the scope of practice or services, the provider must notify the patient and recommend that the patient contact a health care provider licensed in Alaska. The health care provider cannot charge unreasonable fees and the fees must be consistent with the ordinary fees charged for that service and may not be more than 5% above the ordinary fees typically charged.

The definition for "health care provider" in this section includes providers for behavioral health care services.

- Section 9      Department of Revenue; Charitable Gaming Online Ticket Sales**  
Allows for certain charitable gaming activities to be conducted online during the public health disaster emergency declared by the Governor on January 15, 2021 and an extension granted by this Act. Permittees and operators may sell tickets and draw the winning ticket online for a raffle or lottery, dog mushers' contest, derby, or a type of classic. The seller must verify that the purchaser is of legal age to purchase, physically present in Alaska, and not within an area where charitable gaming is prohibited. The Department of Revenue is responsible for establishing standards for online ticket sales.
- Section 10     School Operating Funds**  
Provides that a school district may retain an unreserved portion of its year-end fund balance in its school operating fund and the unreserved portion may not be used to reduce the state aid for that school district in the next fiscal year. Under current law, a district may not accumulate an unreserved portion that is greater than 10 percent of its expenditures for that fiscal year.
- Section 11     Workers' Compensation Presumption of Compensability**  
Provides that individuals employed as firefighters, emergency medical technicians, paramedics, peace officers, or health care providers, who contract COVID-19, are presumed to have contracted an occupational disease arising out of and in the course of employment during the public health disaster emergency declaration and are eligible for workers' compensation benefits.
- Section 12     Program Execution**  
Restricts the governor from increasing appropriations based on receipt of federal receipts through the revised program legislation (RPL) process for the Coronavirus Response and Relief Supplemental Appropriations Act, the American Rescue Plan Act, or the funds appropriated by the 117<sup>th</sup> Congress for infrastructure, jobs, as part of the American Jobs Plan, related to COVID-19 or economic recovery.  
  
This section does not apply to appropriations and expenditures ratified under HB 313 (ch. 32, SLA 2020), or to appropriations increased in compliance with AS 37.07.080(h) before the effective date of this section.
- Section 13     Civil Liability**  
Provides civil and criminal liability for a state agency, or an employee or agent of the state acting in an official capacity for the state for acts performed in good faith based on the authority in this Act. This section does not grant immunity for acts or omissions that constitute gross negligence, reckless misconduct, or intentional misconduct.

**Section 14      Licensee Liability for Client Exposure to Covid-19**

Adds a new section of law to AS 08.02 (Business and Professions) that provides that a licensee under Title 8, is immune from disciplinary actions for the sickness, death, economic loss, and other damages suffered by a client due to exposure to COVID-19 if the exposure occurred during the course of the licensee’s practice.

In order for the protection to apply, the licensee must have been in substantial compliance with applicable federal, state, and municipal laws and health mandates in effect at the time of the client’s exposure. The immunity from disciplinary action does not apply if the exposure of the client resulted from gross negligence, recklessness, or intentional misconduct of the licensee.

Provides clarity for what constitutes “gross negligence” with respect to licensee actions to protect clients from COVID-19. Substantial compliance with applicable health mandates proves a licensee is not negligent. If there are no mandates that apply to the licensee, substantial compliance with mandates from another municipality or federal guidelines would serve as proof that a licensee was not negligent.

**Section 15      Business and Employee Liability for Customer Exposure to Covid-19**

Adds a new section of law to AS 45.45 (Trade and Commerce) that provides that a business owner and an employee, while working in the business, are immune from liability for sickness, death, economic loss, and other damages suffered by a customer from exposure to COVID-19 while the individual is patronizing the business.

In order for the protection to apply, the business owner must have been in substantial compliance with applicable federal, state, and municipal laws and health mandates that are in effect at the time the customer was exposed to COVID-19. Immunity does not apply to exposure to COVID19 if the exposure was the result of gross negligence, recklessness, or intentional misconduct of the business owner or the employee of the business.

Provides clarity for what constitutes “gross negligence” with respect to a business’s actions to protect customers from COVID-19. Substantial compliance with applicable health mandates proves a business is not negligent. If there are no mandates that apply to the business, substantial compliance with mandates from another municipality or federal guidelines would serve as proof that a business was not negligent.

Defines “business” for this section using a definition that currently exists in statute.

**Section 16      Amends Section 37, Chapter 10, SLA 2020**

Repeals Section 29 (Purchase of Seafood for Distribution) and Section 31 (Tolling of Office of Administrative Hearings) of SB 241 effective March 11, 2021.

SB 241 provided a sunset date for these sections of March 11, 2021.

- Section 17      Repeals sections of SB 241**  
Repeals Section 25 (Witnessing of Will Signing by Videoconference), Section 26 (Unfair or Deceptive Trade Practices), and Section 28 (State Access to Federal Education Stabilization Funds) of SB 241 on December 31, 2021.  
SB 241 provided a sunset date for these sections of March 11, 2021.
- Section 18      Applicability**  
Provides that Section 14 (Licensee Liability Immunity) and Section 15 (Business/Employee Liability Immunity) apply to events of exposure to COVID-19 occurring on or after February 15, 2021.
- Section 19      Repeal Section**  
Repeals Sections 1 – 3, 5, 7-9, 11 and 13 on the earlier of December 31, 2021 or when the Governor determines that a public health disaster emergency no longer exists.  
Sections 4, 10, 14 and 15 are repealed on June 30, 2023.
- Section 20      Retroactivity**  
Except for Section 2(a) and 11, the sections of this bill are retroactive to February 14, 2021.  
Section 2(a) and 11 are retroactive to November 15, 2020.
- Section 21      Effective Date**  
This Act takes effect immediately under AS 01.10.070(c).