

HOUSE BILL NO. 532

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Introduced: 5/8/02

Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers and duties of the Department of Environmental
2 Conservation, to barbers, hairdressers, estheticians, manicurists, tattooers, permanent
3 cosmetic colorists, body piercers, and their establishments, to the licensure of child care
4 facilities, to food establishments, to cosmetics, to tourist camps, trailer camps, motor
5 courts, and motels, to restrooms, to smoking in public facilities, to public health
6 nuisances, to sanitation and sanitary practices, to camps and canneries, to schools, to
7 soft drink establishments, to beer and wine dispensaries, to other establishments, and to
8 commercially compressed air; and providing for an effective date."

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

10 * **Section 1.** AS 08.01.065(c) is amended to read:

11 (c) Except as provided in **(f) and (g)** [(f) - (h)] of this section, the department
12 shall establish fee levels under (a) of this section so that the total amount of fees

1 collected for an occupation approximately equals the actual regulatory costs for the
 2 occupation. The department shall annually review each fee level to determine whether
 3 the regulatory costs of each occupation are approximately equal to fee collections
 4 related to that occupation. If the review indicates that an occupation's fee collections
 5 and regulatory costs are not approximately equal, the department shall calculate fee
 6 adjustments and adopt regulations under (a) of this section to implement the
 7 adjustments. In January of each year, the department shall report on all fee levels and
 8 revisions for the previous year under this subsection to the office of management and
 9 budget. If a board regulates an occupation covered by this chapter, the department
 10 shall consider the board's recommendations concerning the occupation's fee levels and
 11 regulatory costs before revising fee schedules to comply with this subsection. In this
 12 subsection, "regulatory costs" means costs of the department that are attributable to
 13 regulation of an occupation plus

14 (1) all expenses of the board that regulates the occupation if the board
 15 regulates only one occupation;

16 (2) the expenses of a board that are attributable to the occupation if the
 17 board regulates more than one occupation.

18 * **Sec. 2.** AS 08.13.030(c) is amended to read:

19 (c) The board may

20 (1) suspend or revoke a license or permit;

21 (2) on its own motion or upon receipt of a written complaint, conduct
 22 hearings and request the Department of Community and Economic Development [OR
 23 THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION] to investigate
 24 the practices of a person, shop, or school involved in the practice or teaching of
 25 barbering, hairdressing, manicuring, esthetics, body piercing, or tattooing and
 26 permanent cosmetic coloring;

27 (3) adopt regulations or do any act necessary to carry out the
 28 provisions of this chapter.

29 * **Sec. 3.** AS 08.13.120 is amended to read:

30 **Sec. 08.13.120. Shop license.** (a) The board shall adopt regulations for the
 31 licensing of shops. [THE REGULATIONS MUST REQUIRE THAT A SHOP FOR

1 TATTOOING AND PERMANENT COSMETIC COLORING OR FOR BODY
 2 PIERCING BE INSPECTED AND CERTIFIED BY THE DEPARTMENT OF
 3 ENVIRONMENTAL CONSERVATION AS BEING IN COMPLIANCE WITH THE
 4 REGULATIONS ADOPTED UNDER AS 44.46.020 BEFORE A SHOP LICENSE
 5 MAY BE ISSUED UNDER THIS SUBSECTION.] A shop owner shall be licensed to
 6 operate a shop without examination, but, unless the shop owner is a practitioner, the
 7 shop owner may not conduct business without employing a manager who is a
 8 practitioner. This subsection does not apply to a shop for the practice of barbering,
 9 hairdressing, or esthetics located in a community having a population of less than
 10 1,000 people that is not within 25 miles of a community of more than 1,000 people.

11 (b) The regulations adopted under (a) of this section must include provisions
 12 under which the board may issue a temporary shop license to a person who has a
 13 license or temporary permit under this chapter to practice tattooing and permanent
 14 cosmetic coloring or to practice body piercing. The temporary shop license authorized
 15 under this subsection may only be issued to cover a site where the practitioner intends
 16 to hold a workshop or to demonstrate techniques as part of a convention or other
 17 special event, as defined by the board, that includes other practitioners of tattooing and
 18 permanent cosmetic coloring or body piercing. Each practitioner of tattooing and
 19 permanent cosmetic coloring or body piercing who holds a workshop or demonstrates
 20 techniques at a convention or special event shall have a separate temporary shop
 21 license and a license or temporary permit under this chapter to practice tattooing and
 22 permanent cosmetic coloring or body piercing. The board shall issue a temporary
 23 shop license upon receipt of an application from a practitioner demonstrating
 24 compliance with the regulations adopted under this section and payment of the
 25 appropriate fee [~~]; HOWEVER, THE TEMPORARY SHOP LICENSE MAY BE~~
 26 ~~SUMMARILY REVOKED, WITHOUT REFUNDING OF THE FEE, IF THE~~
 27 ~~DEPARTMENT OF ENVIRONMENTAL CONSERVATION DETERMINES~~
 28 ~~AFTER AN INSPECTION THAT THE CLEANLINESS OR SANITATION~~
 29 ~~CONDITIONS AT THE SITE COVERED BY THE TEMPORARY LICENSE POSE~~
 30 ~~A CLEAR AND IMMEDIATE DANGER TO THE PUBLIC HEALTH OR~~
 31 ~~SAFETY. A LICENSEE MAY APPEAL A SUMMARY REVOCATION UNDER~~

1 THIS SUBSECTION TO THE SUPERIOR COURT].

2 * **Sec. 4.** AS 08.13.150 is amended to read:

3 **Sec. 08.13.150. Disciplinary sanctions and grounds for refusal of a license**
 4 **or permit.** The board may, in addition to the actions authorized under AS 08.01.075,
 5 refuse, suspend, or revoke a license, student permit, temporary license, or temporary
 6 permit for failure to comply with this chapter, with a regulation adopted under this
 7 chapter, [WITH A REGULATION ADOPTED BY THE DEPARTMENT OF
 8 ENVIRONMENTAL CONSERVATION UNDER AS 44.46.020,] or with an order of
 9 the board.

10 * **Sec. 5.** AS 08.13.215(c), added by sec. 24, ch. 93, SLA 2000, is amended to read:

11 (c) The owner of a shop for tattooing and permanent cosmetic coloring or for
 12 body piercing shall prominently display

13 (1) a copy of the statement provided by the board under
 14 AS 08.13.030(b) that advises the public of the health risks and possible consequences
 15 of tattooing and permanent cosmetic coloring or body piercing, as applicable;

16 (2) the names, addresses, and telephone numbers of the division of
 17 occupational licensing **in the** [,] Department of Community and Economic
 18 Development, [AND THE DEPARTMENT OF ENVIRONMENTAL
 19 CONSERVATION] and a description of how a complaint about the shop or a
 20 practitioner in the shop may be filed with **the Department of Community and**
 21 **Economic Development** [EITHER ENTITY] or with the board.

22 * **Sec. 6.** AS 14.37.040(b) is amended to read:

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

25 (1) the name and address of the applicant and, if the applicant is a
 26 corporation, partnership, association, or another form of organization, the name,
 27 address, and title of each individual who has an ownership or management interest in
 28 the facility; if the applicant is an individual, the application must include the name,
 29 age, and driver's license number, if any, of each member of the individual's household;

30 (2) the name, physical location, and mailing address of the facility for
 31 which the license is sought;

1 (3) the name and address of the administrator of the facility, if any;

2 (4) evidence that the administrator is an adult with sufficient
3 experience, training, or education to fulfill the duties of an administrator;

4 (5) a release for the administrator and for each other person who is 16
5 years of age or older, as specified by the department by regulation, who will have
6 contact with individuals served by the facility authorizing the department to review all
7 federal, state, and municipal criminal justice information, whether of this state, of a
8 municipality of this state, or of another jurisdiction, medical records, licensing records,
9 and protective services records, identified in regulations adopted under this chapter,
10 that are relevant to the person who is the subject of the release;

11 (6) the number of individuals that will be served in the facility;

12 (7) the type of facility for which the license is sought;

13 (8) copies of all inspection reports and approvals required by state fire
14 prevention and [ENVIRONMENTAL HEALTH AND] safety authorities for operation
15 of the facility, including any variances granted by these authorities;

16 (9) a plan of operation, as required by the department by regulation;

17 (10) a staffing plan that describes the number of people who will work
18 at the facility, staff qualifications, a description of each person's responsibilities, and a
19 supervision schedule for the children in care that meets the requirements established
20 by the department by regulation;

21 (11) evidence that the applicant has completed orientation or training
22 required by the department by regulation; and

23 (12) other information required by the department, by regulation, in
24 order to monitor compliance with this chapter and regulations adopted under this
25 chapter.

26 * **Sec. 7.** AS 17.20.005 is amended by adding a new subsection to read:

27 (b) Notwithstanding any other provision of this chapter, the powers listed in
28 (a) of this section or granted to the commissioner or department under this chapter
29 may not be exercised by the commissioner or department with regard to
30 establishments that sell or serve food at retail or that sell food at wholesale.

31 * **Sec. 8.** AS 17.20.150 is amended to read:

1 **Sec. 17.20.150. Misbranded cosmetics.** A cosmetic is misbranded if

2 (1) its labeling is false or misleading in any particular;

3 (2) it is in package form unless it bears a label containing (A) the name
4 and place of business of the manufacturer, packer, or distributor; and (B) an accurate
5 statement of the quantity of the contents in terms of weight, measure, or numerical
6 count; however, under (B) of this paragraph, reasonable variations shall be permitted [,
7 AND EXEMPTIONS AS TO SMALL PACKAGES SHALL BE ESTABLISHED BY
8 REGULATIONS ADOPTED BY THE DEPARTMENT];

9 (3) a word, statement, or other information required by or under
10 authority of this chapter to appear on the label or labeling is not prominently placed on
11 it with conspicuousness as compared with other words, statements, designs, or
12 devices, in the labeling, and in terms **that** [WHICH] make it likely to be read and
13 understood by the ordinary individual under customary conditions of purchase and
14 use;

15 (4) its container is made, formed, or filled so as to be misleading.

16 * **Sec. 9.** AS 17.20.152 is repealed and reenacted to read:

17 **Sec. 17.20.152. Enforcement authority.** A peace officer may enforce
18 AS 17.20.140 - 17.20.155.

19 * **Sec. 10.** AS 17.20.200(a) is amended to read:

20 (a) The commissioner of environmental conservation or an agent shall have
21 free access at reasonable hours to a factory, warehouse, or establishment in which
22 foods [OR COSMETICS] are manufactured, processed, packed, or held for
23 introduction into commerce, to enter a vehicle being used to transport or hold these
24 foods [OR COSMETICS] in commerce, or to an aquatic farm in order to

25 (1) inspect a factory, warehouse, establishment, vehicle, or aquatic
26 farm to determine if the provisions of the commissioner's respective portions of this
27 chapter are being violated; and

28 (2) secure samples or specimens of a food **or** [,] aquatic farm product
29 [, OR COSMETIC].

30 * **Sec. 11.** AS 17.20.200(c) is amended to read:

31 (c) The commissioner of health and social services has the same powers and

1 duties with respect to drugs and devices as the commissioner of environmental
 2 conservation has with respect to food [AND COSMETICS] under (a) and (b) of this
 3 section.

4 * **Sec. 12.** AS 17.20.220(b) is amended to read:

5 (b) The commissioner of environmental conservation may have disseminated
 6 information regarding food **that** [AND COSMETICS WHICH] the commissioner
 7 considers necessary in the interest of public health and the protection of the consumer
 8 against fraud. This section does not prohibit the commissioner from collecting,
 9 reporting, and illustrating the results of the commissioner's investigations.

10 * **Sec. 13.** AS 17.20.220(c) is amended to read:

11 (c) The commissioner of health and social services has the same power with
 12 respect to drugs and devices as the commissioner of environmental conservation has
 13 with respect to food [AND COSMETICS] under (b) of this section.

14 * **Sec. 14.** AS 17.20.230(b) is amended to read:

15 (b) The commissioner of health and social services has the same duty with
 16 respect to drugs and devices as the commissioner of environmental conservation has
 17 with respect to food [AND COSMETICS] under (a) of this section.

18 * **Sec. 15.** AS 17.20.270 is amended to read:

19 **Sec. 17.20.270. Immediate destruction of contaminated food.** Meat,
 20 seafood, poultry, vegetable, fruit, or other perishable article in any room, building,
 21 vehicle of transportation, or other structure which is unsound, or contains filthy,
 22 decomposed, or putrid substance, or a substance that may be poisonous or deleterious
 23 to health or otherwise unsafe, is a nuisance. **Except as provided in AS 17.20.005(b),**
 24 **whenever** [WHENEVER] the commissioner of environmental conservation finds such
 25 an article, the commissioner shall immediately condemn or destroy it or in any other
 26 manner render it unsalable as human food.

27 * **Sec. 16.** AS 17.20.290(b) is amended to read:

28 (b) The commissioner of environmental conservation or a designee of the
 29 commissioner is responsible for enforcing the provisions of [PARAGRAPHS] (a)(1),
 30 (2), (3), (4), (6), (7), (8), (9), and (10) of this section, if the subject of the prohibited
 31 act involves food [OR COSMETICS, AND THE PROVISIONS OF PARAGRAPH

1 (a)(12) OF THIS SECTION]. This subsection does not limit the authority of peace
2 officers.

3 * **Sec. 17.** AS 18.35.200 is amended by adding a new subsection to read:

4 (b) In (a) of this section,

5 (1) "public facilities" means recreation camps, picnic areas, theaters,
6 places of entertainment, churches, fair buildings, and places with permanent facilities
7 for public use;

8 (2) "special events" means events involving public gathering and
9 includes athletic and sporting events where the public congregates, including dog sled
10 racing, horse racing, snowmobile races, skiing events, salmon derbies, and other
11 activities.

12 * **Sec. 18.** AS 18.35.343 is amended to read:

13 **Sec. 18.35.343. Injunctions.** An [THE COMMISSIONER OR ANY]
14 affected party may institute an action in the superior court to enjoin repeated violations
15 of AS 18.35.300, 18.35.305, or 18.35.330.

16 * **Sec. 19.** AS 44.46.025(a) is amended to read:

17 (a) Except as otherwise provided in AS 37.10.050 - 37.10.056, the Department
18 of Environmental Conservation may adopt regulations that prescribe reasonable fees,
19 and establish procedures for the collection of those fees, to cover the applicable direct
20 costs, not including travel except in the case of a designated regulatory service, as that
21 term is defined in AS 37.10.058, of inspections, permit preparation and administration,
22 plan review and approval, and other services provided by the department relating to

23 (1) agriculture and animals under AS 03.05 and [;] food and [,] drugs
24 [, AND COSMETICS] under AS 17.20; [AND PUBLIC ACCOMMODATIONS
25 AND FACILITIES UNDER AS 18.35;]

26 (2) certificates of inspection for motor vehicles under AS 46.14.400 or
27 46.14.510;

28 (3) sewerage system and treatment works and wastewater disposal
29 systems, and drinking water systems, under AS 46.03.720;

30 (4) water and wastewater operator training under AS 46.30;

31 (5) control of solid waste facilities under AS 46.03.020(10) and

1 46.03.100;

2 (6) certification of laboratories conducting environmental analyses of
3 public drinking water systems or of oil or hazardous substances, or conducting other
4 analyses required by the department;

5 (7) certification of federal permits or authorizations under 33 U.S.C.
6 1341 (sec. 401, Clean Water Act).

7 * **Sec. 20.** AS 44.46.025(d) is amended to read:

8 (d) Notwithstanding (a) of this section, the department may not charge a fee
9 for inspection, permit preparation and administration, plan review and approval, or
10 other services provided by the department under AS 03.05 [OR AS 44.46.020(5)] to a
11 school. In this subsection, "school" means a public school or private school for
12 children of school age, as defined in AS 14.03.070, or a head start center that receives
13 federal financial assistance under 42 U.S.C. 9835.

14 * **Sec. 21.** AS 08.01.065(h); AS 08.13.210; AS 17.20.155; AS 18.35.010, 18.35.020,
15 18.35.030, 18.35.040, 18.35.050, 18.35.060, 18.35.070, 18.35.080, 18.35.090, 18.35.120,
16 18.35.220, 18.35.230(1), 18.35.230(2), 18.35.230(5), 18.35.330(d), 18.35.340, 18.35.341(b),
17 18.35.350, 18.35.355; AS 44.46.020(5); and AS 44.62.330(a)(30) are repealed.

18 * **Sec. 22.** AS 08.13.215(c), amended by sec. 5 of this Act, takes effect on the effective date
19 of AS 08.13.215 under sec. 35(a), ch. 93, SLA 2000.

20 * **Sec. 23.** Except as provided in sec. 22 of this Act, this Act takes effect July 1, 2002.