

AMENDMENT #2

OFFERED IN THE HOUSE
TO: CSHB 257(JUD)

BY REPRESENTATIVE GARA

- 1 Page 4, line 25, through page 5, line 3:
- 2 Delete all material.
- 3
- 4 Renumber the following bill section accordingly.

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MEMORANDUM

May 5, 2003

SUBJECT: Amendments to CSHB 257(JUD) (Work Order No. 23-LS0893\V)

TO: Representative Les Gara
Attn: Ryan

FROM:  Theresa L. Bannister
Legislative Counsel

This memo accompanies the three amendments to the bill described above.

1. Issues in existing CSHB 257(JUD). Please be aware that CSHB 257(JUD) raises several constitutional issues, including a possible ex post facto law due to the application of bill sec. 1 to a licensee's acts occurring before the effective date of the act, a possible due process clause violation for removing causes of action that arose before the effective date of the act, and a possible equal protection issue due to the classifications made by sec. 5(b) of the bill.
2. Amendment V.2. Even though this amendment changes the content of sec. 08.88.396(e), sec. 5 of the bill still makes the bill retrospective. With regard to the amendment's version of sec. 08.88.396(e), sec. 5 raises a due process issue because, by relaxing the criteria for possible liability ("a reasonable amount of time") retrospectively, it may take away from a person a cause of action against a licensee that accrued to the person under AS 08.88.396 before the effective date of the act.
3. Amendment V.3. While this amendment repeals sec. 5(b) of the bill, which relates expressly to existing court actions, sec. 5(a) remains to make the provisions of the act retrospective. This means the ex post facto issue described in the first paragraph of this memo remains.

If I may be of further assistance, please advise.

TLB:med
03-486.med

Enclosure