

**CS FOR SENATE BILL NO. 52(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 2/16/05

Referred: Rules

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to certain functions of the division of banking, securities, and**  
2 **corporations and the division of occupational licensing in the Department of Commerce,**  
3 **Community, and Economic Development; relating to program receipts and record**  
4 **search fees of the Department of Commerce, Community, and Economic Development**  
5 **related to banking, securities, and corporations; and providing for an effective date."**

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

7 **\* Section 1.** AS 08.13.215(c) is amended to read:

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

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

13 (2) the names, addresses, and telephone numbers of the [DIVISION

1 OF OCCUPATIONAL LICENSING,] Department of Commerce, Community, and  
 2 Economic Development [,] and the Department of Environmental Conservation and a  
 3 description of how a complaint about the shop or a practitioner in the shop may be  
 4 filed with either entity or with the board.

5 \* **Sec. 2.** AS 08.24.260 is amended to read:

6 **Sec. 08.24.260. Investigations.** The department may, upon its own motion,  
 7 and shall, upon the sworn complaint in writing of a customer of a collection agency,  
 8 investigate the actions of a licensee claimed to have violated this chapter and, for that  
 9 purpose, shall have free access to the offices and place of business and, if the  
 10 complaint involves customer accounts, to all pertinent books, accounts, records,  
 11 papers, files, safes, and vaults of the licensee or certificate holder. If the complaint  
 12 involves the owing of money, or any other thing of value, by a licensee to the  
 13 complainant, when the licensee raises the issue of an offset or counterclaim, the  
 14 **department** [DIVISION] may require the complainant to submit all records and data  
 15 in the complainant's possession pertaining to the offset or counterclaim.

16 \* **Sec. 3.** AS 08.26.180 is amended to read:

17 **Sec. 08.26.180. Exemption.** A financial institution regulated by the federal  
 18 government or a financial institution regulated under AS 06 by the [DIVISION IN  
 19 THE] department [THAT REGULATES BANKING, SECURITIES, AND  
 20 CORPORATIONS,] is not required to be licensed under this chapter in order to  
 21 engage in the business of providing services as a guardian or a conservator or be  
 22 appointed as a private professional guardian or a private professional conservator by a  
 23 court. In this subsection, "financial institution" does not include a person who is  
 24 exempt under AS 06.26.020 or who has received an exemption under AS 06.26.200.

25 \* **Sec. 4.** AS 08.32.071 is amended to read:

26 **Sec. 08.32.071. Renewal of registration.** At least 60 days before expiration  
 27 of a licensee's registration certificate, the **Department of Commerce, Community,**  
 28 **and Economic Development** [DIVISION OF OCCUPATIONAL LICENSING] shall  
 29 mail a form for renewal of registration to each licensed dental hygienist. Each  
 30 licensee who wishes to renew a registration certificate shall complete the form and  
 31 return it with the appropriate fee and evidence of continued professional competence

1 as required by the board. The **Department of Commerce, Community, and**  
 2 **Economic Development** [DIVISION OF OCCUPATIONAL LICENSING] shall, as  
 3 soon as practicable, issue a registration certificate valid for a stated number of years.  
 4 Each licensee shall keep the registration certificate beside or attached to the licensee's  
 5 license. Failure to receive the registration form does not exempt a licensee from  
 6 renewing registration.

7 \* **Sec. 5.** AS 08.36.190 is amended to read:

8 **Sec. 08.36.190. Grading of examination.** Upon the conclusion of the written  
 9 examination and as soon as practicable, the papers shall be rated by an examiner. The  
 10 examiner shall prepare a report in duplicate on each written examination and a report  
 11 in duplicate on each practical examination. The examiner shall forward one copy of  
 12 each report on each candidate to the secretary of the board and one copy to the  
 13 **department** [DIVISION OF OCCUPATIONAL LICENSING]. The secretary shall  
 14 prepare a composite report on each applicant and file one copy of that report with the  
 15 **department** [DIVISION OF OCCUPATIONAL LICENSING]. As soon as  
 16 practicable, the **department** [DIVISION OF OCCUPATIONAL LICENSING] shall  
 17 notify each candidate of the results of the examination.

18 \* **Sec. 6.** AS 08.36.230 is amended to read:

19 **Sec. 08.36.230. Practice outside the state.** A dentist licensed to practice in  
 20 this state and residing and practicing dentistry outside this state may maintain  
 21 eligibility to practice in this state by registering the dentist's name and place of  
 22 residence with the **department** [DIVISION OF OCCUPATIONAL LICENSING]  
 23 every four years and submitting proof of continued professional competence as  
 24 required by the board. If the dentist fails to register, the board may reinstate the  
 25 dentist's license without examination upon payment of applicable fees established by  
 26 regulations adopted under AS 08.01.065, payment of a penalty established under  
 27 AS 08.01.100(b), presentation of proof of continued professional competence, and  
 28 presentation of proof of active practice certified by the dental board having  
 29 jurisdiction or, if there is no board with jurisdiction, by evidence satisfactory to the  
 30 board.

31 \* **Sec. 7.** AS 08.36.250(a) is amended to read:

1 (a) At least 60 days before expiration of a licensee's registration certificate, the  
 2 **department** [DIVISION OF OCCUPATIONAL LICENSING] shall mail a form for  
 3 renewal of registration to each licensed dentist. A licensee who wishes to renew a  
 4 license shall complete the form and return it with the appropriate fee and evidence of  
 5 continued professional competence as required by the board. The **department**  
 6 [DIVISION OF OCCUPATIONAL LICENSING] shall, as soon as practicable, issue a  
 7 registration certificate valid for a stated number of years. A licensee shall keep the  
 8 registration certificate beside or attached to the licensee's license. Failure to receive  
 9 the registration form does not exempt a licensee from renewing registration.

10 \* **Sec. 8.** AS 08.45.020 is amended to read:

11 **Sec. 08.45.020. Application for license.** A person desiring to practice  
 12 naturopathy shall apply in writing to the **department** [DIVISION OF  
 13 OCCUPATIONAL LICENSING OF THE DEPARTMENT OF COMMERCE,  
 14 COMMUNITY, AND ECONOMIC DEVELOPMENT].

15 \* **Sec. 9.** AS 08.45.030 is amended to read:

16 **Sec. 08.45.030. Issuance of license.** The **department** [DIVISION] shall  
 17 issue a license to practice naturopathy to an applicant who provides proof satisfactory  
 18 to the **department** [DIVISION] that the applicant has received a degree from an  
 19 accredited four-year college or university, and

20 (1) on or before December 31, 1987, has graduated from a school of  
 21 naturopathy that required four years of attendance at the school and after graduation  
 22 has received a license in another state after passing an examination for licensure in  
 23 that state and is licensed by a state at the time of application; or

24 (2) after December 31, 1987, has

25 (A) graduated from a school of naturopathy that required four  
 26 years of attendance at the school and at the time of graduation the school was  
 27 accredited or a candidate for accreditation by the Council on Naturopathic  
 28 Medical Education or a successor organization recognized by the United States  
 29 Department of Education; and

30 (B) passed the Naturopathic Physicians Licensing Examination.

31 \* **Sec. 10.** AS 08.45.035(a) is amended to read:

1 (a) The **department** [DIVISION] shall issue a temporary license to practice  
 2 naturopathy to an applicant who has applied for and is qualified to take the next  
 3 Naturopathic Physicians Licensing Examination offered after the date of application  
 4 and provides proof satisfactory to the **department** [DIVISION] that the applicant

5 (1) meets the requirements of AS 08.45.030(2)(A); and

6 (2) has not previously failed the Naturopathic Physicians Licensing  
 7 Examination.

8 \* **Sec. 11.** AS 08.45.060 is amended to read:

9 **Sec. 08.45.060. Grounds for suspension, revocation, or refusal to issue a**  
 10 **license.** The **department** [DIVISION] may, after a hearing, impose a disciplinary  
 11 sanction on a person licensed under this chapter when the **department** [DIVISION]  
 12 finds that the licensee

13 (1) secured a license through deceit, fraud, or intentional  
 14 misrepresentation;

15 (2) engaged in deceit, fraud, or intentional misrepresentation in the  
 16 course of providing professional services or engaging in professional activities;

17 (3) advertised professional services in a false or misleading manner;

18 (4) has been convicted of a felony or other crime that affects the  
 19 licensee's ability to continue to practice competently and safely;

20 (5) failed to comply with this chapter, with a regulation adopted under  
 21 this chapter, or with an order of the **department** [DIVISION];

22 (6) continued to practice after becoming unfit due to

23 (A) professional incompetence;

24 (B) addiction or severe dependency on alcohol or a drug that  
 25 impairs the licensee's ability to practice safely;

26 (C) physical or mental disability;

27 (7) engaged in lewd or immoral conduct in connection with the  
 28 delivery of professional service to patients.

29 \* **Sec. 12.** AS 08.45.070 is amended to read:

30 **Sec. 08.45.070. Disciplinary sanctions.** (a) When it finds that a licensee  
 31 under this chapter has violated AS 08.45.040 - 08.45.050 or is guilty of an offense

1 under AS 08.45.060, the **department** [DIVISION] may impose the following  
 2 sanctions singly or in combination:

- 3 (1) permanently revoke the license to practice;
- 4 (2) suspend the license for a determinate period of time;
- 5 (3) censure the licensee;
- 6 (4) issue a letter of reprimand to the licensee;
- 7 (5) place the licensee on probationary status and require the licensee to
  - 8 (A) report regularly to the **department** [DIVISION] upon
  - 9 matters involving the basis of probation;
  - 10 (B) limit practice to those areas prescribed;
  - 11 (C) continue professional education until a satisfactory degree
  - 12 of skill has been attained in areas determined by the **department** [DIVISION]
  - 13 to need improvement;
  - 14 (6) impose limitations or conditions on the practice of the licensee.

15 (b) The **department** [DIVISION] may withdraw probationary status of a  
 16 licensee if it finds that the deficiencies that required the sanction have been remedied.

17 (c) The **department** [DIVISION] may summarily suspend a license before  
 18 final hearing or during the appeals process if the **department** [DIVISION] finds that  
 19 the licensee poses a clear and immediate danger to the public health and safety if the  
 20 licensee continues to practice. A licensee whose license is suspended under this  
 21 section is entitled to a hearing by the **department not** [DIVISION NO] later than  
 22 seven days after the effective date of the order. The licensee may appeal the  
 23 suspension after a hearing to a court of competent jurisdiction.

24 \* **Sec. 13.** AS 08.45.070(c), as amended by sec. 14, ch. 163, SLA 2004, is further amended  
 25 to read:

26 (c) The **department** [DIVISION] may summarily suspend a license before  
 27 final hearing or during the appeals process if the **department** [DIVISION] finds that  
 28 the licensee poses a clear and immediate danger to the public health and safety if the  
 29 licensee continues to practice. A licensee whose license is suspended under this  
 30 section is entitled to a hearing conducted by the office of administrative hearings  
 31 (AS 44.64.010) not later than seven days after the effective date of the order. The

1 licensee may appeal the suspension after a hearing to a court of competent jurisdiction.

2 \* **Sec. 14.** AS 08.45.200 is amended by adding a new paragraph to read:

3 (4) "department" means the Department of Commerce, Community,  
4 and Economic Development.

5 \* **Sec. 15.** AS 08.64.050 is amended to read:

6 **Sec. 08.64.050. Oath of office.** Each member shall take an oath of office.

7 The oath shall be filed and preserved in the [DIVISION OF OCCUPATIONAL  
8 LICENSING OF THE] department.

9 \* **Sec. 16.** AS 10.13.810(b) is amended to read:

10 (b) The department may appoint as conservator one of the employees of the  
11 [DIVISION OF BANKING, SECURITIES, AND CORPORATIONS OF THE]  
12 department or another competent and disinterested person. The **department**  
13 [DIVISION] shall be reimbursed out of the assets of the conservatorship for all money  
14 expended by the **department** [DIVISION] in connection with the conservatorship.  
15 Upon the approval of the department, the expenses of the conservatorship paid for by  
16 the **department** [DIVISION] shall be paid out of the assets of the licensee. Payment  
17 of the **department** [DIVISION] expenses shall take priority over other payments from  
18 the assets and shall be fully paid before a final distribution is made.

19 \* **Sec. 17.** AS 10.20.530 is amended to read:

20 **Sec. 10.20.530. Service on commissioner.** When a foreign corporation  
21 authorized to transact business in the state, or not authorized to transact business in the  
22 state but doing so, fails to appoint or maintain a registered agent in the state, or when a  
23 registered agent cannot with reasonable diligence be found at the registered office, or  
24 when the certificate of authority of a foreign corporation is suspended or revoked, the  
25 commissioner is an agent upon whom process, notice, or demand may be served.  
26 Service on the commissioner shall be made by delivering to and leaving with the  
27 commissioner, or **the commissioner's** [A] designee [IN THE CORPORATION  
28 DIVISION OF THE DEPARTMENT], duplicate copies of the process, notice, or  
29 demand, accompanied by a fee established by the department by regulation. The  
30 commissioner shall immediately have one copy forwarded by registered or certified  
31 mail, addressed to the corporation at its principal office in the state or country under

1           whose laws it is incorporated. Service on the commissioner is returnable in not less  
2           than 30 days.

3           \* **Sec. 18.** AS 13.36.145(b) is amended to read:

4                   (b) The separate fund of securities required by (a)(2) of this section shall be  
5           marked as a separate fund for (a)(2) of this section. Withdrawals from or additions to  
6           the separate fund may be made from time to time, as long as the required value is  
7           maintained. The income of the securities in the separate fund belongs to the corporate  
8           trustee. In the statements of its financial condition published or delivered to the  
9           [DIVISION OF BANKING, SECURITIES, AND CORPORATIONS IN THE]  
10          Department of Commerce, Community, and Economic Development, the corporate  
11          trustee shall show as separate items the amount of trust funds that it has deposited with  
12          itself and the amount of securities that it holds as security for the payment of the  
13          deposits.

14          \* **Sec. 19.** AS 18.18.100(n) is amended to read:

15                   (n) A hospice program may not use a direct service provider whose name is  
16          listed on an abuse registry maintained by the department [DEPARTMENT OF  
17          COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT, DIVISION  
18          OF OCCUPATIONAL LICENSING]. A hospice program shall contact the  
19          department [THE DIVISION] for a determination of whether a prospective direct  
20          service provider's name is on an abuse registry maintained by the department [THE  
21          DIVISION] and may not allow the person to provide hospice services until the  
22          department [THE DIVISION] has responded to the inquiry. The department  
23          [DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC  
24          DEVELOPMENT] may adopt regulations to implement this subsection. In this  
25          subsection, "department" means the Department of Commerce, Community, and  
26          Economic Development.

27          \* **Sec. 20.** AS 34.80.090(4) is amended to read:

28                   (4) "financial institution" means a financial institution

29                           (A) whose accounts are insured by an agency of the federal  
30                   government;

31                           (B) that is located in this state and does not meet the

1 requirements of (A) of this paragraph, but is subject to regulation by the  
 2 [DIVISION OF BANKING, SECURITIES AND CORPORATIONS IN THE]  
 3 Department of Commerce, Community, and Economic Development; or

4 (C) that is located in another state and does not meet the  
 5 requirements of (A) of this paragraph, but is subject to regulation in the other  
 6 state by an agency comparable to the [DIVISION OF BANKING,  
 7 SECURITIES AND CORPORATIONS IN THE] Department of Commerce,  
 8 Community, and Economic Development;

9 \* **Sec. 21.** AS 37.05.146(c)(34) is amended to read:

10 (34) receipts of the [DIVISION OF THE] Department of Commerce,  
 11 Community, and Economic Development **from its functions relating to** [THAT  
 12 REGULATES] banking, securities, and corporations;

13 \* **Sec. 22.** AS 40.25.110(e) is amended to read:

14 (e) Notwithstanding other provisions of this section to the contrary, the Bureau  
 15 of Vital Statistics and the library archives in the Department of Education and Early  
 16 Development may continue to charge the same fees that they were charging on  
 17 September 25, 1990, for performing record searches, and may increase the fees as  
 18 necessary to recover agency expenses on the same basis that was used by the agency  
 19 immediately before September 25, 1990. Notwithstanding other provisions of this  
 20 section to the contrary, the [DIVISION OF BANKING, SECURITIES, AND  
 21 CORPORATIONS IN THE] Department of Commerce, Community, and Economic  
 22 Development may continue to charge the same fees that the former Department of  
 23 Commerce and Economic Development was charging on July 1, 1999, for performing  
 24 record searches **for matters related to banking, securities, and corporations,** and  
 25 may increase the fees as necessary to recover agency expenses on the same basis that  
 26 was used by the former Department of Commerce and Economic Development  
 27 immediately before July 1, 1999.

28 \* **Sec. 23.** AS 46.03.375(a) is amended to read:

29 (a) The department shall adopt regulations governing the certification of  
 30 persons who install, test, close, repair, or significantly change the configuration of  
 31 underground petroleum storage tanks and tank systems. The certification program

1 shall be administered by the [DIVISION OF OCCUPATIONAL LICENSING,]  
 2 Department of Commerce, Community, and Economic Development. In consultation  
 3 with the Department of Environmental Conservation, the **Department of Commerce,**  
 4 **Community, and Economic Development** [DIVISION] shall make every reasonable  
 5 attempt to ensure that opportunities for obtaining certification under this section are  
 6 available throughout the state. The **Department of Commerce, Community, and**  
 7 **Economic Development** [DIVISION] shall organize presentation of national training  
 8 courses that are available in the state and assist residents of isolated communities who  
 9 request assistance in becoming certified. The **Department of Commerce,**  
 10 **Community, and Economic Development** [DIVISION] may contract with the  
 11 University of Alaska, a vocational technical school, or a regional nonprofit  
 12 organization to provide the education and testing necessary for certification.

13 \* **Sec. 24.** AS 46.03.375(b) is amended to read:

14 (b) The **Department of Commerce, Community, and Economic**  
 15 **Development** [DIVISION] shall establish fees applicable to certification under this  
 16 section in an amount necessary to cover the costs of the certification program. The  
 17 fees shall be collected by the **Department of Commerce, Community, and**  
 18 **Economic Development** [DIVISION].

19 \* **Sec. 25.** AS 08.45.200(2) and AS 46.03.375(g)(2) are repealed.

20 \* **Sec. 26.** Section 13 of this Act takes effect on the effective date of sec. 14, ch. 163, SLA  
 21 2004.

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