

**CS FOR SENATE BILL NO. 104(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/2/05

Referred: Rules

Sponsor(s): SENATORS SEEKINS, Therriault, Bunde, Wilken, Stedman, Cowdery, Guess, Elton, Kookesh, Wagoner, Ellis, Olson, Gary Stevens, Green, French, Huggins, Dyson, Ben Stevens

REPRESENTATIVES Gruenberg, Anderson, Gara, McGuire

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the crimes of unsworn falsification in the first and second degrees**  
2 **and false information or report; requiring the establishment of a permanent fund**  
3 **dividend fraud investigation unit in the Department of Revenue; and providing for an**  
4 **effective date."**

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

6 \* **Section 1.** AS 05.15.095(a) is amended to read:

7 (a) The applications and reports to the department required by this chapter  
8 shall be signed under penalty of unsworn falsification **in the second degree** by the  
9 following person, as applicable:

- 10 (1) the member in charge for the qualified organization;  
11 (2) a person authorized to sign on behalf of the municipality;  
12 (3) the operator or the operator's agent;  
13 (4) the licensed pull-tab distributor or the distributor's agent; or  
14 (5) the licensed pull-tab manufacturer or the manufacturer's agent.

1 \* **Sec. 2.** AS 05.15.680(b) is amended to read:

2 (b) A person who, with the intent to mislead a public servant in the  
3 performance of the public servant's duty, submits a false statement in an application  
4 for a permit, license, or vendor registration under this chapter is guilty of unsworn  
5 falsification **in the second degree**.

6 \* **Sec. 3.** AS 06.05.045(a) is amended to read:

7 (a) Each state bank shall make at least four reports of condition each year to  
8 the department on days designated by, and on forms prescribed by, the department.  
9 The report shall be signed by a duly authorized officer of the bank and shall be signed  
10 by at least three directors who certify under penalty of unsworn falsification **in the**  
11 **second degree** under AS 11.56.210 that they, and each of them, have personal  
12 knowledge of the facts stated in the report and that the facts are true. The reports must  
13 exhibit in detail and under appropriate heads the resources and liabilities of the bank  
14 and must be received by the department within 30 calendar days after the end of the  
15 period covered by the report.

16 \* **Sec. 4.** AS 06.50.310(a) is amended to read:

17 (a) On or before March 15 of each year, a licensee shall file with the  
18 department a composite annual report for the preceding calendar year in the form  
19 prescribed by the department relating to all advances made by the licensee. The  
20 department may require that the report be submitted under oath or affirmation, or with  
21 notice that false statements made are punishable as unsworn falsification **in the**  
22 **second degree** under AS 11.56.210.

23 \* **Sec. 5.** AS 08.88.460(a) is amended to read:

24 (a) Subject to (e) of this section, a person seeking reimbursement for a loss  
25 suffered in a real estate transaction as a result of fraud, misrepresentation, deceit, or  
26 the conversion of trust funds or the conversion of community association accounts  
27 under the control of a community association manager on the part of a licensee  
28 licensed under this chapter shall make a claim to the commission for reimbursement  
29 on a form furnished by the commission. In order to be eligible for reimbursement by  
30 the commission, the claim form must be filed within two years after the occurrence of  
31 the fraud, misrepresentation, deceit, or conversion of trust funds or the conversion of

1 community association accounts under the control of a community association  
 2 manager claimed as the basis for the reimbursement. The form shall be executed under  
 3 penalty of unsworn falsification **in the second degree** and must include the following:

- 4 (1) the name and address of each real estate licensee involved;
- 5 (2) the amount of the alleged loss;
- 6 (3) the date or period of time during which the alleged loss occurred;
- 7 (4) the date upon which the alleged loss was discovered;
- 8 (5) the name and address of the claimant; and
- 9 (6) a general statement of facts relative to the claim.

10 \* **Sec. 6.** AS 10.20.655(b) is amended to read:

11 (b) The interrogatories shall be answered within 30 days after mailing, or  
 12 within the additional time fixed by the commissioner, and the answers shall be full and  
 13 complete, in writing and under penalty of unsworn falsification **in the second degree**  
 14 under AS 11.56.210. If the interrogatories are directed to an individual, they shall be  
 15 answered by that individual and, if directed to a corporation, they shall be answered by  
 16 the president, vice-president, secretary, or assistant secretary of the corporation.

17 \* **Sec. 7.** AS 11.56 is amended by adding a new section to read:

18 **Sec. 11.56.205. Unsworn falsification in the first degree.** (a) A person  
 19 commits the crime of unsworn falsification in the first degree if the person violates  
 20 AS 11.56.210(a)(1) and the application is an application for a permanent fund  
 21 dividend.

22 (b) In this section,

23 (1) "application for a permanent fund dividend" includes a written or  
 24 electronic application and any other documentation submitted to support an  
 25 application for a permanent fund dividend;

26 (2) "permanent fund dividend" has the meaning given in  
 27 AS 43.23.095.

28 (c) Unsworn falsification in the first degree is a class C felony.

29 \* **Sec. 8.** AS 11.56.210 is amended to read:

30 **Sec. 11.56.210. Unsworn falsification in the second degree.** (a) A person  
 31 commits the crime of unsworn falsification **in the second degree** if, with the intent to

1 mislead a public servant in the performance of a duty, the person submits a false  
2 written or recorded statement **that** [WHICH] the person does not believe to be true

3 (1) in an application for a benefit; or

4 (2) on a form bearing notice, authorized by law, that false statements  
5 made in it are punishable.

6 (b) Unsworn falsification **in the second degree** is a class A misdemeanor.

7 \* **Sec. 9.** AS 11.56.220 is amended to read:

8 **Sec. 11.56.220. Proof of guilt.** In a prosecution for perjury or unsworn  
9 falsification **in the first or second degree** it is not necessary that proof be made by a  
10 particular number of witnesses or by documentary or other type of evidence.

11 \* **Sec. 10.** AS 11.56.800(a) is amended to read:

12 (a) A person commits the crime of false information or report if the person  
13 knowingly

14 (1) gives false information to a peace officer

15 (A) with the intent of implicating another in an offense; or

16 (B) concerning the person's identity while the person is

17 (i) under arrest, detention, or investigation for a crime;

18 or

19 (ii) being served with an arrest warrant or being issued a

20 citation;

21 (2) makes a false report to a peace officer that a crime has occurred or  
22 is about to occur;

23 (3) makes a false report or gives a false alarm, under circumstances not  
24 amounting to terroristic threatening in the second degree under AS 11.56.810, that a  
25 fire or other incident dangerous to life or property calling for an emergency response  
26 has occurred or is about to occur; [OR]

27 (4) makes a false report to the Department of Natural Resources under  
28 AS 46.17 concerning the condition of a dam or reservoir; **or**

29 **(5) gives false information to a public employee relating to a**  
30 **person's eligibility for a permanent fund dividend under AS 43.23 and the false**  
31 **information does not also violate AS 11.56.205.**

1 \* **Sec. 11.** AS 12.55.045(j) is amended to read:

2 (j) A defendant who is convicted of an offense for which restitution may be  
3 ordered shall submit financial information as ordered by the court. The Alaska Court  
4 System shall prepare a form, in consultation with the Department of Law, for the  
5 submission of the information; the form must include a warning that submission of  
6 incomplete or inaccurate information is punishable as unsworn falsification **in the**  
7 **second degree** under AS 11.56.210. A defendant who is convicted of (1) a felony  
8 shall submit the form to the probation office within 30 days after conviction, and the  
9 probation officer shall attach the form to the presentence report, or (2) a misdemeanor  
10 shall file the form with the defendant's response or opposition to the restitution  
11 amount. The defendant shall provide a copy of the completed form to the prosecuting  
12 authority.

13 \* **Sec. 12.** AS 16.05.450(a) is amended to read:

14 (a) The commissioner or an authorized agent shall issue a crewmember fishing  
15 license under AS 16.05.480 to each qualified person who files a written application at  
16 a place in the state designated by the commissioner, containing the reasonable  
17 information required by the commissioner together with the required fee. The  
18 commissioner shall require the reporting of the applicant's social security number on  
19 the application. The application shall be simple in form and shall be executed by the  
20 applicant under the penalty of unsworn falsification **in the second degree**.

21 \* **Sec. 13.** AS 16.05.450(b) is amended to read:

22 (b) The Alaska Commercial Fisheries Entry Commission shall issue a vessel  
23 license under AS 16.05.490 to each qualified vessel for which a written application  
24 has been filed, at a place in the state designated by the commission, containing the  
25 reasonable information required by the commission together with the required fee.  
26 The application shall be simple in form and shall be executed by the applicant under  
27 the penalty of unsworn falsification **in the second degree**.

28 \* **Sec. 14.** AS 16.43.970(b) is amended to read:

29 (b) A person or entity who knowingly makes a false statement to the  
30 commission for the purpose of obtaining a benefit, including the issuance, renewal,  
31 duplication, or transfer of an entry or interim-use permit, vessel license, vessel

1 interim-use permit, or vessel entry permit, or a person who assists another by  
 2 knowingly making a false statement to the commission for the purpose of obtaining a  
 3 benefit for another, is guilty of the crime of unsworn falsification **in the second**  
 4 **degree** as set out in AS 11.56.210. Upon conviction, the person or entity is also  
 5 subject to suspension of commercial fishing privileges and revocation of commercial  
 6 fishing permits under (i) of this section.

7 \* **Sec. 15.** AS 18.60.095(f) is amended to read:

8 (f) A person who knowingly makes a false statement, representation, or  
 9 certification with the intent to mislead in an application, record, report, plan or other  
 10 document filed or required to be maintained under AS 18.60.010 - 18.60.105 is guilty  
 11 of unsworn falsification **in the second degree**.

12 \* **Sec. 16.** AS 18.65.710(a) is amended to read:

13 (a) The application for a permit to carry a concealed handgun must contain the  
 14 following information:

15 (1) the applicant's name, physical residence, mailing address, place and  
 16 date of birth, physical description, including height, weight, race, hair color, and eye  
 17 color, Alaska driver's license or identification card number, and the city and state of  
 18 each place the applicant has resided in the five years immediately preceding the  
 19 application;

20 (2) a statement that the applicant qualifies under AS 18.65.705;

21 (3) a statement that the applicant has been furnished with a copy of the  
 22 state laws and regulations relating to concealed handguns, has read those sections, and  
 23 understands them;

24 (4) a statement that the applicant desires a permit to carry a concealed  
 25 handgun for a lawful purpose, which may include self-defense;

26 (5) a statement by the applicant that all statements, answers, and  
 27 attachments to the application are true and complete;

28 (6) a conspicuous warning that an applicant who supplies a false  
 29 statement, answer, or document in connection with the application that the applicant  
 30 does not believe to be true may be prosecuted for unsworn falsification **in the second**  
 31 **degree** and, if found guilty, may be punished for violation of a class A misdemeanor,

1 and that, in such cases, the permit shall be revoked and the applicant may be barred  
2 from any further application for a permit; and

3 (7) a statement that the applicant understands that a permit eligibility  
4 investigation will be conducted as a part of the application process, that this may  
5 involve computerized records searches, and that the applicant authorizes the  
6 investigation.

7 \* **Sec. 17.** AS 21.27.110(h) is amended to read:

8 (h) A notice of termination submitted to the director under this section must  
9 include a statement of the reasons for the termination. A statement of the reasons for  
10 termination is confidential and not subject to inspection and copying under  
11 AS 40.25.110. A statement of reasons for the termination may not be admitted as  
12 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,  
13 or authorized representative by or on behalf of a person affected by the termination,  
14 except when the action or proceeding involves perjury, unsworn falsification **in the**  
15 **second degree**, fraud, or failure to comply with this subsection.

16 \* **Sec. 18.** AS 28.35.130 is amended to read:

17 **Sec. 28.35.130. False report or destruction of evidence.** An officer or  
18 person who knowingly makes or subscribes a false report concerning an investigation  
19 of a vehicle or damage or injury caused by a vehicle, as provided in this chapter, is  
20 guilty of unsworn falsification **in the second degree**. A person who destroys,  
21 obliterates, conceals or removes, or who aids, abets, or assists in the destruction,  
22 obliteration, concealment, or removal from a vehicle, of evidence showing or tending  
23 to show that the vehicle collided with a person or property, is punishable by a fine of  
24 not more than \$500, or by imprisonment for not more than six months, or by both.

25 \* **Sec. 19.** AS 28.35.135(a) is amended to read:

26 (a) A person may not knowingly make a false affidavit, statement, or  
27 representation, or affirm falsely with respect to a matter or fact required to be set out  
28 under this title, nor may the person use a name other than the person's true name. A  
29 person convicted of violating this section is guilty of unsworn falsification **in the**  
30 **second degree** and is punishable as prescribed by law.

31 \* **Sec. 20.** AS 43.23.055 is amended by adding a new paragraph to read:

1 (10) establish a fraud investigation unit for the purpose of assisting the

2 (A) Department of Law in the prosecution of individuals who  
3 apply for or obtain a permanent fund dividend in violation of a provision in  
4 AS 11, by detecting and investigating those crimes; and

5 (B) commissioner to detect and investigate the claiming or  
6 paying of permanent fund dividends that should not have been claimed by or  
7 paid to an individual and to impose the penalties and enforcement provisions  
8 under AS 43.23.035.

9 \* **Sec. 21.** AS 43.65.020(a) is amended to read:

10 (a) A person subject to tax under this chapter shall make a return stating  
11 specifically the items of gross income from the property, including royalty received  
12 and the deductions and credits allowed by this chapter and the exploration incentive  
13 credit authorized by AS 27.30, and other information for carrying out this chapter that  
14 the department prescribes. The return must show the mining license number and must  
15 be signed by the taxpayer or an authorized agent of the taxpayer, under penalty of  
16 unsworn falsification **in the second degree**. If receivers, trustees, or assigns are  
17 operating the property or business, they shall make returns for the person engaged in  
18 mining, or the recipient of royalty in connection with mining property. The tax due on  
19 the basis of the returns shall be collected in the same manner as if collected from the  
20 person of whose business they have custody and control. In a tax year in which a  
21 taxpayer applies against the tax levied under this chapter the exploration incentive  
22 credit authorized by AS 27.30, the commissioner shall require the taxpayer to submit  
23 the accounting of mining operation activities form required by AS 27.30.030(b).

24 \* **Sec. 22.** AS 43.75.030(a) is amended to read:

25 (a) A person subject to the tax shall file a return stating the value of fisheries  
26 resources processed during the license year, computed as required by this chapter, and  
27 such other information as the department prescribes by regulation. The return must  
28 show the license number and must be signed by the taxpayer or an authorized agent,  
29 under penalty of unsworn falsification **in the second degree**. If a receiver, trustee, or  
30 assign is operating the property or business, that person shall file the return for the  
31 person. A tax due on the basis of such a return shall be collected in the same manner

1 as if collected from the person of whose business the receiver, trustee, or assign has  
2 custody and control.

3 \* **Sec. 23.** AS 43.75.110 is amended to read:

4 **Sec. 43.75.110. Duty of taxpayer and payment of tax.** A person subject to  
5 taxes under AS 43.75.100 shall make a return stating the value of fisheries resources  
6 taken, purchased, or otherwise acquired during the license year for sale to fisheries  
7 businesses outside of the taxing jurisdiction of the state computed as required by  
8 AS 43.75.100, and other information to carry out the provisions of AS 43.75.100 as  
9 may be prescribed by the department. The return must contain the license number and  
10 must be signed by the taxpayer or an authorized agent, under penalty of unsworn  
11 falsification **in the second degree**. If a receiver, trustee, or assign is operating the  
12 property or business, that person shall make the return for the person. A tax due on  
13 the basis of such return shall be collected in the same manner as if collected from the  
14 person of whose business the receiver, trustee, or assign has custody and control. The  
15 requirements for time and place of payment of tax, and the obligation to keep records  
16 and make the records available to the commissioner are the same as those prescribed  
17 in AS 43.75.011 - 43.75.050.

18 \* **Sec. 24.** AS 45.63.010(d) is amended to read:

19 (d) The notice of intent must be on a form or in a format provided and  
20 established by the department by regulation. The department may require the notice  
21 of intent to be submitted under oath or affirmation or with notice that false statements  
22 made are punishable as unsworn falsification **in the second degree** under  
23 AS 11.56.210. The notice of intent must include detailed information about the nature  
24 of the solicitation campaign and the identity and business practices of the telephone  
25 seller, including information on the employees, agents, and officers affiliated with the  
26 telephone seller. The notice of intent must disclose criminal convictions, civil  
27 judgments, orders, consent decrees, or administrative determinations involving  
28 allegations of unfair or deceptive business practices by the telephone seller.

29 \* **Sec. 25.** AS 45.68.010(f) is amended to read:

30 (f) The department may require the registration and registration renewal  
31 statement required under (c)(1) and (d) of this section to be submitted

1 (1) under oath or affirmation; or

2 (2) with notice that false statements made in the statement are  
3 punishable as unsworn falsification **in the second degree** under AS 11.56.210.

4 \* **Sec. 26.** AS 45.68.055(c) is amended to read:

5 (c) The authorized contracting agent for the paid solicitor shall sign the report  
6 required by (b) of this section. Signature of the report under this subsection must be  
7 made under oath or affirmation, but submission of false information in a notice that is  
8 not signed under oath or affirmation is punishable as an unsworn falsification **in the**  
9 **second degree** under AS 11.56.210.

10 \* **Sec. 27.** AS 46.03.550(a) is amended to read:

11 (a) Property for which a notice has been issued under AS 46.03.500 shall be  
12 determined by the department to be fit for use if the owner certifies to the department  
13 under penalty of unsworn falsification **in the second degree** that

14 (1) based on sampling and testing procedures established by the  
15 department under AS 46.03.520(b) and performed by laboratories that are on the list  
16 maintained by the department under AS 46.03.520(c), the limits on substances  
17 specified in regulations adopted under AS 46.03.530 are not exceeded on the property;

18 (2) if the property was ever sampled and tested under AS 46.03.520  
19 and the test results showed the property to be unfit for use under AS 46.03.530,  
20 decontamination procedures were performed in accordance with the guidelines  
21 established under AS 46.03.540(b) and the requirements of (1) of this subsection have  
22 been met; or

23 (3) a court has held that the determination that the property was an  
24 illegal drug manufacturing site was not made in compliance with AS 46.03.500(a).

25 \* **Sec. 28.** AS 47.12.120(b) is amended to read:

26 (b) If the minor is not subject to (j) of this section and the court finds that the  
27 minor is delinquent, it shall

28 (1) order the minor committed to the department for a period of time  
29 not to exceed two years or in any event extend past the day the minor becomes 19  
30 years of age, except that the department may petition for and the court may grant in a  
31 hearing (A) two-year extensions of commitment that do not extend beyond the minor's

1 19th birthday if the extension is in the best interests of the minor and the public; and  
2 (B) an additional one-year period of supervision past age 19 if continued supervision  
3 is in the best interests of the person and the person consents to it; the department shall  
4 place the minor in the juvenile facility that the department considers appropriate and  
5 that may include a juvenile correctional school, juvenile work camp, treatment facility,  
6 detention home, or detention facility; the minor may be released from placement or  
7 detention and placed on probation on order of the court and may also be released by  
8 the department, in its discretion, under AS 47.12.260;

9 (2) order the minor placed on probation, to be supervised by the  
10 department, and released to the minor's parents, guardian, or a suitable person; if the  
11 court orders the minor placed on probation, it may specify the terms and conditions of  
12 probation; the probation may be for a period of time not to exceed two years and in no  
13 event to extend past the day the minor becomes 19 years of age, except that the  
14 department may petition for and the court may grant in a hearing

15 (A) two-year extensions of supervision that do not extend  
16 beyond the minor's 19th birthday if the extension is in the best interests of the  
17 minor and the public; and

18 (B) an additional one-year period of supervision past age 19 if  
19 the continued supervision is in the best interests of the person and the person  
20 consents to it;

21 (3) order the minor committed to the custody of the department and  
22 placed on probation, to be supervised by the department and released to the minor's  
23 parents, guardian, other suitable person, or suitable nondetention setting such as with a  
24 relative or in a foster home or residential child care facility, whichever the department  
25 considers appropriate to implement the treatment plan of the predisposition report; if  
26 the court orders the minor placed on probation, it may specify the terms and conditions  
27 of probation; the department may transfer the minor, in the minor's best interests, from  
28 one of the probationary placement settings listed in this paragraph to another, and the  
29 minor, the minor's parents or guardian, the minor's foster parent, and the minor's  
30 attorney are entitled to reasonable notice of the transfer; the probation may be for a  
31 period of time not to exceed two years and in no event to extend past the day the

1 minor becomes 19 years of age, except that the department may petition for and the  
2 court may grant in a hearing

3 (A) two-year extensions of commitment that do not extend  
4 beyond the minor's 19th birthday if the extension is in the best interests of the  
5 minor and the public; and

6 (B) an additional one-year period of supervision past age 19 if  
7 the continued supervision is in the best interests of the person and the person  
8 consents to it;

9 (4) order the minor and the minor's parent to make suitable restitution  
10 in lieu of or in addition to the court's order under (1), (2), or (3) of this subsection;  
11 under this paragraph,

12 (A) except as provided in (B) of this paragraph, the court may  
13 not refuse to make an order of restitution to benefit the victim of the act of the  
14 minor that is the basis of the delinquency adjudication; under this  
15 subparagraph, the court may require the minor to use the services of a  
16 community dispute resolution center that has been recognized by the  
17 commissioner under AS 47.12.450(b) to resolve any dispute between the minor  
18 and the victim of the minor's offense as to the amount of or manner of payment  
19 of the restitution;

20 (B) the court may not order payment of restitution by the parent  
21 of a minor who is a runaway or missing minor for an act of the minor that was  
22 committed by the minor after the parent has made a report to a law  
23 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run  
24 away or is missing; for purposes of this subparagraph, "runaway or missing  
25 minor" means a minor who a parent reasonably believes is absent from the  
26 minor's residence for the purpose of evading the parent or who is otherwise  
27 missing from the minor's usual place of abode without the consent of the  
28 parent; and

29 (C) at the request of the department, the Department of Law,  
30 the victims' advocate, or on its own motion, the court shall, at any time, order  
31 the minor and the minor's parent, if applicable, to submit financial information

1 on a form approved by the Alaska Court System to the court, the department,  
2 and the Department of Law for the purpose of establishing the amount of  
3 restitution or enforcing an order of restitution under AS 47.12.170; the form  
4 must include a warning that submission of incomplete or inaccurate  
5 information is punishable as unsworn falsification **in the second degree** under  
6 AS 11.56.210;

7 (5) order the minor committed to the department for placement in an  
8 adventure-based education program established under AS 47.21.020 with conditions  
9 the court considers appropriate concerning release upon satisfactory completion of the  
10 program or commitment under (1) of this subsection if the program is not satisfactorily  
11 completed;

12 (6) in addition to an order under (1) - (5) of this subsection, order the  
13 minor to perform community service; for purposes of this paragraph, "community  
14 service" includes work

15 (A) on a project identified in AS 33.30.901; or

16 (B) that, on the recommendation of the city council or  
17 traditional village council, would benefit persons within the city or village who  
18 are elderly or disabled; or

19 (7) in addition to an order under (1) - (6) of this subsection, order the  
20 minor's parent or guardian to comply with orders made under AS 47.12.155, including  
21 participation in treatment under AS 47.12.155(b)(1).

22 \* **Sec. 29.** This Act takes effect July 1, 2005.