

HOUSE CS FOR CS FOR SENATE BILL NO. 260(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/8/08

Referred: Rules

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act making corrective amendments to the Alaska Statutes as recommended by the**
2 **revisor of statutes; and providing for an effective date."**

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

4 *** Section 1.** AS 06.50.020(a) is amended to read:

5 (a) To qualify for a license, an applicant shall

6 (1) have cash assets of at least \$25,000, as determined under generally
7 accepted accounting principles, except that an applicant who wants to engage in the
8 business of making advances at more than one location in the state shall have cash
9 assets of at least \$25,000 for each location;

10 (2) demonstrate the financial responsibility, financial condition,
11 business experience, character, and general fitness that reasonably warrant the
12 department's belief that the applicant's business will be conducted lawfully and fairly;
13 when determining whether this qualification has been met, and for the purpose of
14 investigating compliance with this chapter, the department may review

1 (A) the relevant business records of the applicant and the
2 adequacy of the capital of the applicant;

3 (B) the competence, experience, integrity, and financial ability
4 of the applicant, and, if the applicant is an entity, of any person who is a
5 member, partner, director, senior officer, or owner of 10 percent or more of the
6 equity of the applicant; and

7 (C) a record, on the part of the applicant or a person described
8 in (B) of this paragraph, of

9 (i) a conviction for criminal activity, fraud, or other act
10 of personal dishonesty;

11 (ii) an act, an omission, or a practice that constitutes a
12 breach of a fiduciary duty; or

13 (iii) a suspension, a revocation, a removal, or an
14 administrative act by an agency or a department of the United States or
15 a state **limiting the applicant's or person's** [FROM] participation in
16 the conduct of a business;

17 (3) if the person has a physical business location in the state, have a
18 physical business location that is accessible by and convenient to the public;

19 (4) have a current business license issued under AS 43.70; and

20 (5) if applicable, have a certificate of incorporation under
21 AS 10.06.218, have a certificate of authority under AS 10.06.705, have a copy of
22 articles of organization that satisfies AS 10.50.090, be registered under AS 10.50.605,
23 have a statement of foreign qualification filed under AS 32.06.922, have a certificate
24 of limited partnership filed under AS 32.11.060, or be registered under AS 32.11.420.

25 * **Sec. 2.** AS 08.01.010(16) is repealed and reenacted to read:

26 (16) regulation of dispensing opticians under AS 08.71;

27 * **Sec. 3.** AS 08.71.055 is amended to read:

28 **Sec. 08.71.055. Powers and duties.** The **department** [BOARD] shall have the
29 following powers and duties:

30 (1) to issue licenses to applicants;

31 (2) to renew licenses;

1 (3) to hold hearings and order disciplinary sanctions against a person
2 who violates this chapter or the regulations of the department [BOARD];

3 (4) to supply forms for applications, licenses, and other needed
4 documents;

5 (5) to keep a record of all proceedings open to the public, including the
6 name of each license applicant and each licensee;

7 (6) to enforce the provisions of this chapter and adopt or amend
8 regulations necessary to make these provisions effective.

9 * **Sec. 4.** AS 08.71.080 is amended to read:

10 **Sec. 08.71.080. License required.** A person may not act as a dispensing
11 optician in the state unless the person is licensed under this chapter. A license shall be
12 issued for (1) the dispensing of contact lenses, or (2) the dispensing of other lenses,
13 eyeglasses, spectacles, artificial eyes, and their appurtenances, or (3) both. The
14 department [BOARD] shall by endorsement on the license designate for which aspect
15 of dispensing opticianry the license is issued.

16 * **Sec. 5.** AS 08.71.090 is amended to read:

17 **Sec. 08.71.090. Examination requirement.** To be licensed to dispense contact
18 lenses, a person, unless eligible for licensing under AS 08.71.145, shall document to
19 the department [BOARD] that the person has passed the contact lens registry
20 examination offered by the National Contact Lens Examiners with a score acceptable
21 to the department [BOARD]. In order to be licensed to dispense other lenses,
22 eyeglasses, spectacles, artificial eyes, and their appurtenances, a person, unless eligible
23 for licensing under AS 08.71.145, shall document to the department [BOARD] that
24 the person has passed the national opticianry competency examination offered by the
25 American Board of Opticianry with a score acceptable to the department [BOARD].
26 An applicant for licensure in both areas shall document having received a score
27 acceptable to the department [BOARD] on both examinations. The department
28 [BOARD] shall, by regulation, establish the scores that will be acceptable for the
29 examinations described in this section.

30 * **Sec. 6.** AS 08.71.110(a) is amended to read:

31 (a) The department [BOARD] may issue a license to a person who

1 (1) has had education equivalent to four years attendance at a high
2 school;

3 (2) has either

4 (A) completed at least 1,800 hours of training as an apprentice
5 after registering with the department as an apprentice; or

6 (B) been engaged for at least 1,800 hours as a practicing
7 optician in good standing in a state, territory, district, or possession of the
8 United States;

9 (3) has passed the applicable examination required under
10 AS 08.71.090 with a score acceptable to the department [BOARD];

11 (4) has passed a course designated in the department's [BOARD'S]
12 regulations as being acceptable; and

13 (5) has paid the required license fee.

14 * **Sec. 7.** AS 08.71.130(c) is amended to read:

15 (c) If the license remains lapsed for more than one year, the department
16 [BOARD] may require the applicant to retake and successfully pass again the
17 applicable examination or examinations required under AS 08.71.090.

18 * **Sec. 8.** AS 08.71.130(d) is amended to read:

19 (d) Before a license may be renewed, the licensee shall submit to the
20 department [BOARD] evidence of continuing competence in optical dispensing as
21 prescribed by regulations of the department [BOARD].

22 * **Sec. 9.** AS 08.71.145 is amended to read:

23 **Sec. 08.71.145. Licensure by credentials.** A person with a valid license as a
24 dispensing optician from another state, territory, district, or possession of the United
25 States with licensing requirements substantially equivalent to or higher than those of
26 this state shall be issued a license under this chapter for those professional areas in
27 which the person is licensed in the other jurisdiction upon payment of any fee and
28 documentation that the department [BOARD] may require by regulation.

29 * **Sec. 10.** AS 08.71.160(a) is amended to read:

30 (a) A person may be employed by or serve under a licensed physician,
31 optometrist, or dispensing optician as an apprentice for dispensing optician tasks. An

1 apprentice shall register with the department before beginning employment or service
 2 as an apprentice, shall be designated as **an apprentice** [SUCH] in the records of the
 3 **department** [BOARD], and shall be in training under the regular supervision of a
 4 licensed physician, optometrist, or dispensing optician. Notwithstanding
 5 AS 08.71.180, a registered apprentice may perform dispensing optician tasks that are
 6 delegated by and performed under the regular supervision of the licensed physician,
 7 optometrist, or dispensing optician and may use the title "dispensing optician
 8 apprentice."

9 * **Sec. 11.** AS 08.71.170 is amended to read:

10 **Sec. 08.71.170. Prohibited conduct.** The **department** [BOARD] may revoke
 11 or suspend the license of a dispensing optician, or the licensee may be reprimanded or
 12 otherwise disciplined, when the **department** [BOARD] finds after a hearing that the
 13 licensee

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

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

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

19 (4) has been convicted of a crime **that** [WHICH] affects the licensee's
 20 ability to continue to practice competently and safely;

21 (5) intentionally or negligently engaged in or permitted the
 22 performance of patient care by persons under the licensee's supervision **that** [WHICH]
 23 does not conform to minimum professional standards regardless of whether actual
 24 injury to the patient occurred;

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

26 (A) professional incompetence;

27 (B) addiction **to** or severe dependency on alcohol or other
 28 drugs **that** [WHICH] impairs the licensee's ability to practice safely;

29 (C) physical or mental disability;

30 (7) engaged in lewd or immoral conduct in connection with the
 31 delivery of professional service to patients;

1 (8) participated in the division, assignment, rebate, or refund of fees to
2 a physician or optometrist in consideration of patient referrals;

3 (9) advertised the services of any other segment of the healing arts.

4 * **Sec. 12.** AS 09.50.250 is amended to read:

5 **Sec. 09.50.250. Actionable claims against the state.** A person or corporation
6 having a contract, quasi-contract, or tort claim against the state may bring an action
7 against the state in a state court that has jurisdiction over the claim. A person who may
8 present the claim under AS 44.77 may not bring an action under this section except as
9 set out in AS 44.77.040(c). A person who may bring an action under AS 36.30.560 -
10 36.30.695 may not bring an action under this section except as set out in
11 AS 36.30.685. However, an action may not be brought if the claim

12 (1) is an action for tort, and is based upon an act or omission of an
13 employee of the state, exercising due care, in the execution of a statute or regulation,
14 whether or not the statute or regulation is valid; or is an action for tort, and based upon
15 the exercise or performance or the failure to exercise or perform a discretionary
16 function or duty on the part of a state agency or an employee of the state, whether or
17 not the discretion involved is abused;

18 (2) is for damages caused by the imposition or establishment of, or the
19 failure to impose or establish, a quarantine or isolation, or by other actions, by the
20 state or its agents, officers, or employees under AS 18.15.355 - 18.15.395, except for
21 damages caused by negligent medical treatment provided under AS 18.15.355 -
22 18.15.395 by a state employee, or except that, if a state employee quarantines or
23 isolates a person with gross negligence or in intentional violation of AS 18.15.385, the
24 state shall pay to the person who was quarantined or isolated a penalty of \$500 for
25 each day of the improper quarantine;

26 (3) arises out of assault, battery, false imprisonment, false arrest,
27 malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or
28 interference with contract rights;

29 (4) arises out of the use of an ignition interlock device certified under
30 AS 33.05.020(c); or

31 (5) arises out of injury, illness, or death of a seaman that occurs or

1 manifests itself during or in the course of, or arises out of, employment with the state;
 2 AS 23.30 provides the exclusive remedy for such a claim, and no action may be
 3 brought against the state, its vessels, or its employees under the Jones Act (46 U.S.C.
 4 30104 - 30105) [(46 U.S.C. 688)], in admiralty, or under the general maritime law.

5 * **Sec. 13.** AS 11.46.462(a) is amended to read:

6 (a) A person commits the **offense** [CRIME] of unlawful possession of an
 7 official traffic control device if, without the right to do so or a reasonable ground to
 8 believe the person has the right, the person possesses an official traffic control device.

9 * **Sec. 14.** AS 11.51.110(a) is amended to read:

10 (a) A person commits the **offense** [CRIME] of endangering the welfare of a
 11 child in the second degree if the person, while caring for a child under 10 years of age,

12 (1) causes or allows the child to enter or remain in a dwelling or
 13 vehicle in which a controlled substance is stored in violation of AS 11.71; or

14 (2) is impaired by an intoxicant, whether or not prescribed for the
 15 person under AS 17.30, and there is no third person who is at least 12 years of age and
 16 not impaired by an intoxicant present to care for the child.

17 * **Sec. 15.** AS 11.56.755(a) is amended to read:

18 (a) A person commits the crime **or offense, as applicable**, of unlawful contact
 19 in the second degree if

20 (1) the person is arrested for a crime against a person under AS 11.41
 21 or a crime involving domestic violence; and

22 (2) before the person's initial appearance before a judge or magistrate
 23 or before dismissal of the charge for which the person was arrested, whichever occurs
 24 first, the person initiates communication or attempts to initiate communication with
 25 the alleged victim of the crime that was the basis for the person's arrest.

26 * **Sec. 16.** AS 11.56.767(a) is amended to read:

27 (a) A person, other than the victim, commits the **offense** [CRIME] of failure to
 28 report a violent crime committed against an adult if the person, under circumstances
 29 not requiring the person to report as required by AS 11.56.765,

30 (1) witnesses what the person knows or reasonably should know is

31 (A) the murder or attempted murder of a person by another;

1 (B) the kidnapping or attempted kidnapping of a person by
2 another; or

3 (C) the sexual penetration or attempted sexual penetration by
4 another

5 (i) of a person without consent of the person;

6 (ii) of a person who is mentally incapable;

7 (iii) of a person who is incapacitated; or

8 (iv) of a person who is unaware that a sexual act is
9 being committed; and

10 (2) does not, as soon as reasonably practicable, report that crime to a
11 peace officer or law enforcement agency.

12 * **Sec. 17.** AS 11.61.145(a) is amended to read:

13 (a) A person commits the crime or offense, as applicable, of promoting an
14 exhibition of fighting animals if the person

15 (1) owns, possesses, keeps, or trains an animal with intent that it be
16 engaged in an exhibition of fighting animals;

17 (2) instigates, promotes, or has a pecuniary interest in an exhibition of
18 fighting animals; or

19 (3) attends an exhibition of fighting animals.

20 * **Sec. 18.** AS 11.76.133(a) is amended to read:

21 (a) A person commits the offense [CRIME] of interference with the training of
22 a service animal if the person intentionally prevents or restricts a person who is
23 authorized to train a service animal from being accompanied by an animal that is
24 identified as being in training to be a service animal, or assesses an extra charge
25 because of the animal, in a public facility, except as provided in (b) and (c) of this
26 section.

27 * **Sec. 19.** AS 14.30.174(b)(2) is amended to read:

28 (2) "federal education law" means 20 U.S.C. 1400 - 1482 [20 U.S.C.
29 1400 - 1487] (Individuals with Disabilities Education Act), 20 U.S.C. 7101 - 7143
30 (Safe and Drug-Free Schools and Communities Act of 1994), 29 U.S.C. 794
31 (nondiscrimination under federal grants and programs), and 42 U.S.C. 12101 - 12213

1 (equal opportunity for individuals with disabilities);

2 * **Sec. 20.** AS 14.30.180 is amended to read:

3 **Sec. 14.30.180. Purpose.** It is the purpose of AS 14.30.180 - 14.30.350 to

4 (1) provide an appropriate public education for each child with a
5 disability in the state who is at least three years of age but less than 22 years of age;

6 (2) allow procedures and actions necessary to comply with the
7 requirements of federal law, including 20 U.S.C. 1400 - 1482 [20 U.S.C. 1400 - 1487]
8 (Individuals with Disabilities Education Act).

9 * **Sec. 21.** AS 14.30.193(d) is amended to read:

10 (d) After a hearing officer is appointed and the time for rejection under (c) of
11 this section has expired, the hearing officer shall immediately inform the parent and
12 the school district of the availability of the mediation process provided under
13 AS 14.30.194 and encourage use of that process to attempt to resolve the disagreement
14 between the parent and the school district. If the mediation process does not result in
15 settlement of all of the issues, the hearing officer shall conduct a hearing in
16 conformance with the requirements of federal law, including 34 C.F.R. 300.511 - 513
17 [34 C.F.R. 300.507 - 509]. After the hearing is completed, the hearing officer shall
18 issue a written decision that

19 (1) upholds the school district's decision; or

20 (2) overturns the school district's decision with specific instructions for
21 modification of the identification, evaluation, educational placement, or provision of
22 the education program by the district.

23 * **Sec. 22.** AS 14.30.272(b) is amended to read:

24 (b) The department shall establish, by regulation, impartial procedures for a
25 school district to follow for due process hearings to comply with requirements
26 necessary to participate in federal grant-in-aid programs, including 20 U.S.C. 1400 -
27 1482 [20 U.S.C. 1400 - 1487] (Individuals with Disabilities Education Act).

28 * **Sec. 23.** AS 14.30.278 is amended to read:

29 **Sec. 14.30.278. Individualized education program.** A school district shall
30 develop an individualized education program for special education and related
31 services for each eligible child with a disability. The plan must be completed not later

1 than 30 days after the determination of the child's eligibility. Each individualized
 2 education program shall be developed and periodically reviewed and revised as
 3 necessary in conformance with federal requirements, including **34 C.F.R. 300.320 -**
 4 **328** [34 C.F.R. 300.340 - 350].

5 * **Sec. 24.** AS 14.30.340(a) is amended to read:

6 (a) If a parent of a child with a disability enrolls the child in a private school,
 7 including a religious school, at the parent's expense or teaches the child at home, the
 8 school district in which the child resides shall make special education and related
 9 services available in conformance with federal requirements, including **34 C.F.R.**
 10 **300.130 - 148** [34 C.F.R. 300.450 - 462]. A parent teaching the parent's child at home
 11 may refuse special education and related services for the child.

12 * **Sec. 25.** AS 14.30.350(7) is amended to read:

13 (7) "related services" means services described in **34 C.F.R. 300.34**
 14 [34 C.F.R. 300.24];

15 * **Sec. 26.** AS 14.30.350(9) is amended to read:

16 (9) "special education" means an educational program described in **34**
 17 **C.F.R. 300.39** [34 C.F.R. 300.26];

18 * **Sec. 27.** AS 14.33.120(a) is amended to read:

19 (a) Each governing body shall adopt a written school disciplinary and safety
 20 program. The program required under this subsection must include written

21 (1) standards for student behavior and safety that reflect community
 22 standards and that include, at a minimum, basic requirements for respect and honesty;
 23 standards required under this paragraph must be developed and periodically reviewed
 24 with the collaboration of members of each school, parents, teachers, and other persons
 25 responsible for the students at a school; a governing body may require that standards
 26 developed under this paragraph be consistent for all schools in an attendance area or
 27 the district;

28 (2) standards relating to when a teacher is authorized to remove a
 29 student from the classroom for

30 (A) failure to follow student behavior and safety standards; or

31 (B) behavior described under AS 14.30.045(1) or (2);

1 (3) procedures for notifying teachers of dangerous students consistent
2 with AS 47.12.310(b);

3 (4) standards relating to when a teacher, teacher's assistant, or other
4 person responsible for students is authorized to use reasonable and appropriate force to
5 maintain classroom safety and discipline as described under AS 11.81.430(a)(2);

6 (5) policies necessary to comply with provisions of state and federal
7 law, including 20 U.S.C. 1400 - 1482 [20 U.S.C. 1400 - 1485] (Individuals with
8 Disabilities Education Act);

9 (6) standards to address needs of students for whom mental health or
10 substance abuse may be a contributing factor to noncompliance with the school
11 disciplinary and safety program;

12 (7) policies for implementing a student conflict resolution strategy,
13 including the nonviolent resolution or mediation of conflicts and procedures for
14 reporting and resolving conflicts;

15 (8) procedures for periodic review and revision of the school
16 disciplinary and safety program.

17 * **Sec. 28.** AS 15.13.010(a) is amended to read:

18 (a) This chapter applies

19 (1) in every election for governor, lieutenant governor, a member of
20 the state legislature, a delegate to a constitutional convention, or judge seeking
21 judicial retention [ELECTORAL CONFIRMATION];

22 (2) to every candidate for election to a municipal office in a
23 municipality with a population of more than 1,000 inhabitants according to the latest
24 United States census figures or estimates of population certified as correct for
25 administrative purposes by the Department of Commerce, Community, and Economic
26 Development unless the municipality has exempted itself from the provisions of this
27 chapter; a municipality may exempt its elected municipal officers from the
28 requirements of this chapter if a majority of the voters voting on the question at a
29 regular election, as defined by AS 29.71.800(20), or a special municipality-wide
30 election called for that purpose, votes to exempt its elected municipal officers from the
31 requirements of this chapter; the question of exemption from the requirements of this

1 chapter may be submitted by the governing body by ordinance or by initiative
2 election.

3 * **Sec. 29.** AS 15.56.016(a) is amended to read:

4 (a) A person commits the **offense** [CRIME] of campaign misconduct in the
5 third degree if

6 (1) the person violates a provision of AS 15.13 or a regulation adopted
7 under AS 15.13; or

8 (2) during the hours the polls are open and after election officials have
9 posted warning notices as required by AS 15.15.170 or at the required distance in the
10 form and manner prescribed by the chief municipal elections official in a local
11 election, the person is within 200 feet of an entrance to a polling place, and

12 (A) violates AS 15.15.170; or

13 (B) circulates cards, handbills, or marked ballots, or posts
14 political signs or posters relating to a candidate at an election or election
15 proposition or question.

16 * **Sec. 30.** AS 16.05.165(b) is amended to read:

17 (b) The supreme court shall specify by rule or order those misdemeanors that
18 are appropriate for disposition without court appearance, and shall establish a schedule
19 of bail amounts. Before establishing or amending the schedule of bail amounts
20 required by this subsection, the supreme court shall appoint and consult with an
21 advisory committee consisting of two **law enforcement** officers [OF THE DIVISION
22 OF FISH AND WILDLIFE PROTECTION] of the Department of Public Safety
23 **engaged in fish and wildlife protection**, two representatives of the Department of
24 Fish and Game, two district court judges, and the chairpersons of the House and
25 Senate Judiciary Committees of the legislature. The maximum bail amount for an
26 offense may not exceed the maximum fine specified by law for that offense. If the
27 misdemeanor for which the citation is issued may be disposed of without court
28 appearance, the issuing peace officer shall write on the citation the amount of bail
29 applicable to the violation.

30 * **Sec. 31.** AS 18.72.100(4) is amended to read:

31 (4) "salable fireworks" are **1.4 G fireworks, as defined by the**

1 **National Fire Protection Association** [ICC CLASS C COMMON FIREWORKS
2 AND SHALL INCLUDE ONLY THOSE FIREWORKS ENUMERATED AS ICC
3 CLASS C COMMON FIREWORKS IN THE REGULATIONS OF THE
4 INTERSTATE COMMERCE COMMISSION, AS THE REGULATIONS ARE
5 PRESENTLY CONSTRUCTED], and, more specifically, shall include and be limited
6 to the following:

7 (A) roman candles, not exceeding 10 balls spaced uniformly in
8 the tube, total pyrotechnic composition not to exceed 20 grams each in weight,
9 any inside tube diameter not to exceed 3/8 inch;

10 (B) skyrockets with sticks, total pyrotechnic composition not to
11 exceed 20 grams each in weight, and the inside tube diameter not to exceed 1/2
12 inch, with the rocket sticks being securely fastened to the tubes;

13 (C) helicopter type rockets, total pyrotechnic composition not
14 to exceed 20 grams each in weight, and the inside tube diameter not to exceed
15 1/2 inch;

16 (D) cylindrical fountains, total pyrotechnic composition not to
17 exceed 75 grams each in weight, and the inside tube diameter not to exceed 3/4
18 inch;

19 (E) cone fountains, total pyrotechnic composition not to exceed
20 50 grams each in weight;

21 (F) wheels, total pyrotechnic composition not to exceed 60
22 grams for each driver unit or 240 grams for each complete wheel, and the
23 inside tube diameter of driver units not to exceed 1/2 inch;

24 (G) illuminating torches and colored fire in any form, total
25 pyrotechnic composition not to exceed 100 grams each in weight;

26 (H) dipped sticks, the pyrotechnic composition of which
27 contains chlorate or perchlorate, that do not exceed five grams, and sparklers,
28 the composition of which does not exceed 100 grams each and that contains no
29 magnesium or magnesium and a chlorate or perchlorate;

30 (I) mines and shells of which the mortar is an integral part, total
31 pyrotechnic composition not to exceed 40 grams each in weight;

1 (J) firecrackers with soft casings, the external dimensions of
 2 which do not exceed one and one-half inches in length or one-quarter inch in
 3 diameter, total pyrotechnic composition not to exceed two grains each in
 4 weight;

5 (K) novelties consisting of two or more devices enumerated in
 6 this paragraph when approved by the Bureau of Explosives.

7 * **Sec. 32.** AS 23.15.132 is amended to read:

8 **Sec. 23.15.132. Vending facilities.** (a) A vending facility may not be
 9 established on public property that is under the jurisdiction of the state except as
 10 authorized by the commissioner [OF EDUCATION AND EARLY
 11 DEVELOPMENT].

12 (b) A vending facility authorized by the commissioner [OF EDUCATION
 13 AND EARLY DEVELOPMENT] shall be selected and located after consulting with
 14 the persons responsible for the maintenance and operation of the property to be served
 15 by the vending facility. A contract for the operation of the vending facility by a
 16 licensee shall be executed by the agency and must contain provisions ensuring that the
 17 licensee shall charge reasonable prices and that the vending facility shall provide high
 18 quality merchandise.

19 * **Sec. 33.** AS 23.15.135(b) is amended to read:

20 (b) The commissioner [OF EDUCATION AND EARLY DEVELOPMENT]
 21 shall assure active participation by the Committee of Blind Vendors in administrative,
 22 policy, and program development decisions concerning vending facilities operated by
 23 blind licensees. The agency shall, with active participation by the Committee of Blind
 24 Vendors,

25 (1) adopt regulations providing for the licensing of blind persons for
 26 the operation of vending facilities on public property;

27 (2) consider and respond to grievances of blind licensees;

28 (3) develop and administer a statewide system for the transfer and
 29 promotion of blind licensees;

30 (4) develop training and retraining programs for blind licensees and for
 31 blind persons interested in obtaining a license to operate a vending facility;

1 (5) organize meetings and conferences for blind licensees;

2 (6) adopt regulations necessary to assure that vending facilities
3 operated by blind licensees are administered by the agency in a substantially
4 equivalent manner whether a vending facility is located on state or federal property;

5 (7) designate public property as appropriate for the location of a
6 vending facility operated by a blind licensee.

7 * **Sec. 34.** AS 23.15.210(1) is amended to read:

8 (1) "active participation" means a process through which the
9 Committee of Blind Vendors or a licensee is provided the opportunity to exert a major
10 influence in program policies, standards, and procedures affecting the operation of
11 vending facilities, with the commissioner [OF EDUCATION AND EARLY
12 DEVELOPMENT] having final responsibility;

13 * **Sec. 35.** AS 24.05.080 is amended to read:

14 **Sec. 24.05.080. Terms.** The term of each member of the legislature begins
15 [ON THE SECOND MONDAY IN JANUARY FOLLOWING A PRESIDENTIAL
16 ELECTION YEAR; HOWEVER, FOLLOWING A GUBERNATORIAL ELECTION
17 YEAR, THE TERM OF EACH MEMBER BEGINS] on the third Tuesday in January.
18 The term of representatives is two years, and the term of senators is four years. One-
19 half of the senators shall be elected every two years.

20 * **Sec. 36.** AS 36.30.627(a) is amended to read:

21 (a) An appeal from a decision of the procurement officer of a claim involving
22 a construction contract shall be resolved by

23 (1) binding and final arbitration under AS 09.43.010 - 09.43.180
24 (Uniform Arbitration Act) or AS 09.43.300 - 09.43.595 (Revised Uniform
25 Arbitration Act), as applicable, if the claim is

26 (A) less than \$250,000 and the contractor requests arbitration
27 of the claim; or

28 (B) \$250,000 or more and both the agency and the contractor
29 agree to arbitration of the claim; or

30 (2) a hearing under AS 36.30.630 if the claim is not handled by
31 arbitration under (1) of this subsection.

1 * **Sec. 37.** AS 36.30.850(b)(27) is amended to read:

2 (27) purchases of supplies and services to support the operations of the
3 Alaska state troopers or **law enforcement officers engaged in fish and wildlife**
4 **protection** [THE DIVISION OF FISH AND WILDLIFE PROTECTION] if the
5 procurement officer for the Department of Public Safety makes a written
6 determination that publicity of the purchases would jeopardize the safety of personnel
7 or the success of a covert operation;

8 * **Sec. 38.** AS 40.25 is amended by adding a new section to article 1 to read:

9 **Sec. 40.25.295. Short title.** AS 40.25.100 - 40.25.295 may be cited as the
10 Alaska Public Records Act.

11 * **Sec. 39.** AS 41.14.165(b) is amended to read:

12 (b) The supreme court shall specify by rule or order those misdemeanors that
13 are appropriate for disposition without court appearance, and shall establish a schedule
14 of bail amounts. Before establishing or amending the schedule of bail amounts
15 required by this subsection, the supreme court shall appoint and consult with an
16 advisory committee consisting of two **law enforcement** officers [OF THE DIVISION
17 OF FISH AND WILDLIFE PROTECTION] of the Department of Public Safety
18 **engaged in fish and wildlife protection**, two representatives of the department, two
19 district court judges, and the chairpersons of the House and Senate Judiciary
20 Committees of the legislature. The maximum bail amount for an offense may not
21 exceed the maximum fine specified by law for that offense. If the misdemeanor for
22 which the citation is issued may be disposed of without court appearance, the issuing
23 peace officer shall write on the citation the amount of bail applicable to the violation.

24 * **Sec. 40.** AS 42.40.100 is amended to read:

25 **Sec. 42.40.100. Management by the board.** The board is responsible for the
26 management of the corporation but shall delegate certain powers and duties to the
27 chief executive officer in accordance with AS 42.40.120. In managing the corporation,
28 the board shall

29 (1) be responsible for the management of the financial and legal
30 obligations of the Alaska Railroad;

31 (2) operate the Alaska Railroad as a common carrier subject to the

1 jurisdiction of the United States Surface Transportation Board [INTERSTATE
2 COMMERCE COMMISSION] consistent with 45 U.S.C. 1207;

3 (3) generally manage the corporation on a self-sustaining basis;

4 (4) apply to the legislature for an appropriation with the concurrence of
5 the governor to be used to provide a particular service that is not otherwise self-
6 sustaining if a subsidy is required to maintain that service;

7 (5) provide for safe, efficient, and economical transportation to meet
8 the overall needs of the state;

9 (6) raise needed capital by issuing bonds of the corporation upon
10 approval by the legislature while ensuring that borrowing by the corporation does not
11 directly or indirectly endanger the state's own borrowing capacity;

12 (7) review all state and other land disposal proposals to aid in planning
13 for future development or expansion of transportation services;

14 (8) ensure that the procurement procedures of the corporation meet
15 accepted railroad industry standards;

16 (9) ensure that the accounting procedures of the corporation meet
17 generally accepted accounting principles consistent with industry standards for
18 comparable railroads.

19 * **Sec. 41.** AS 42.40.170(b) is amended to read:

20 (b) Only the following subjects may be discussed in an executive session:

21 (1) matters, the immediate knowledge of which would clearly have an
22 adverse effect upon the finances of the corporation;

23 (2) unless the person has requested to have the subjects discussed in
24 public, subjects that tend to prejudice the reputation and character of a person;

25 (3) matters that, by law or municipal charter or ordinance, are
26 permitted to be kept confidential from public disclosure;

27 (4) matters pertaining to personnel;

28 (5) matters pertaining to the corporation's legal position;

29 (6) land acquisition or disposal; and

30 (7) proprietary or other information of a type treated as confidential
31 under the standards and practices of the United States Surface Transportation Board

1 [INTERSTATE COMMERCE COMMISSION], including practices that protect
2 information associated with specific shippers, divisions, and contract rate agreements.

3 * **Sec. 42.** AS 42.40.220(b) is amended to read:

4 (b) The corporation may by rule designate and withhold public disclosure of
5 matters of a privileged or proprietary nature. Those matters include personnel records,
6 communications with and work product of legal counsel, and, consistent with the
7 standards and practices of the United States **Surface Transportation Board**
8 [INTERSTATE COMMERCE COMMISSION] for the protection of these matters,
9 other information including proprietary information associated with specific shippers,
10 divisions, and contract rate agreements.

11 * **Sec. 43.** AS 42.40.270(a) is amended to read:

12 (a) The board shall have the financial records of the corporation audited
13 annually by an independent certified public accountant experienced in railroad
14 accounting. The board shall have an annual performance audit conducted by a
15 recognized railroad management expert to assure that the railroad is being managed
16 and operated effectively and efficiently in accordance with the requirements of this
17 chapter and that each appropriation is used to directly support those services for which
18 the appropriation was requested. Auditors shall use the standards required under
19 AS 42.40.100(9) and determine whether appropriations received for a service that is
20 not self-sustaining were calculated in accordance with United States **Surface**
21 **Transportation Board** [INTERSTATE COMMERCE COMMISSION] standards for
22 determining rail service subsidies.

23 * **Sec. 44.** AS 42.40.280(b) is amended to read:

24 (b) The report under (a) of this section shall be in writing, describe the
25 proposed undertaking in detail, and specify

- 26 (1) its financial impact on the corporation;
27 (2) its impact on the level and nature of services provided by the
28 corporation;
29 (3) the reasons the action is necessary or desirable to achieve the
30 purposes of this chapter;
31 (4) whether and when the undertaking or service is expected to be self-

1 sustaining financially; and

2 (5) if the undertaking requires an appropriation to be used for
3 providing a service that is not self-sustaining, that the amount of the appropriation has
4 been strictly calculated in accordance with United States **Surface Transportation**
5 **Board** [INTERSTATE COMMERCE COMMISSION] standards for determining rail
6 service subsidies.

7 * **Sec. 45.** AS 43.50.170 is amended to read:

8 **Sec. 43.50.170. Definitions.** In **AS 43.50.010 - 43.50.180** [AS 43.50.010 -
9 43.50.190], unless the context otherwise requires,

10 (1) "buyer" means a person who imports or acquires cigarettes for the
11 person's own consumption from any source other than a manufacturer, distributor,
12 direct-buying retailer, retailer, or wholesaler-distributor;

13 (2) "cigarette" means a roll for smoking of any size or shape, made
14 wholly or partly of tobacco, whether the tobacco is flavored, adulterated, or mixed
15 with another ingredient, if the wrapper or cover of the roll is made of paper or a
16 material other than tobacco;

17 (3) "direct-buying retailer" means a person who is engaged in the sale
18 of cigarettes at retail in this state and who brings cigarettes or causes cigarettes to be
19 brought into the state that are not purchased from a wholesaler-distributor;

20 (4) "distributor" means a person who brings cigarettes that are not
21 purchased from a wholesaler-distributor, or has cigarettes that are not purchased from
22 a wholesaler-distributor brought, into the state, and who sells or distributes at least 75
23 percent of the cigarettes to others for resale in the state;

24 (5) "licensee" means a person licensed under AS 43.50.010 -
25 43.50.180;

26 (6) "manufacturer" means a person who makes, fashions, or produces
27 cigarettes for sale to distributors or other persons;

28 (7) "person" includes an individual, company, partnership, limited
29 liability partnership, joint venture, joint agreement, limited liability company,
30 association, mutual or otherwise, corporation, estate, trust, business trust, receiver,
31 trustee, syndicate, or political subdivision of this state, or combination acting as a unit;

1 (8) "place of business" means a place where cigarettes are sold, or
 2 where cigarettes are brought or kept for the purpose of sale or consumption, including
 3 a vessel, vehicle, airplane, or train;

4 (9) "retailer" means a person in the state who is engaged in the
 5 business of selling cigarettes at retail;

6 (10) "sale" includes a sale, barter, exchange, and every other manner of
 7 transferring the ownership of personal property;

8 (11) "tobacco product" has the meaning given in AS 43.50.390;

9 (12) "wholesaler-distributor" means a person outside this state who
 10 sells or distributes cigarettes into this state, who is not required to be licensed under
 11 AS 43.50.010, and who is licensed under AS 43.50.035.

12 * **Sec. 46.** AS 43.50.190 is amended by adding a new subsection to read:

13 (e) In this section, "cigarette" has the meaning given in AS 43.50.170.

14 * **Sec. 47.** AS 44.19.035 is amended to read:

15 **Sec. 44.19.035. Jones Act repeal.** The governor shall use best efforts and all
 16 appropriate means to persuade the United States Congress to repeal **those provisions**
 17 **of the Jones Act formerly codified at** 46 U.S.C. 861, et seq. [, KNOWN AS THE
 18 JONES ACT.]

19 * **Sec. 48.** AS 45.25.190 is amended to read:

20 **Sec. 45.25.190. Arbitration.** In a controversy between a manufacturer and a
 21 new motor vehicle dealer under AS 45.25.010 - 45.25.320, neither the manufacturer
 22 nor the new motor vehicle dealer is required to submit the controversy to arbitration. If
 23 both the manufacturer and the new motor vehicle dealer agree to submit a controversy
 24 under AS 45.25.010 - 45.25.320 to arbitration, the arbitration shall be conducted under
 25 AS 09.43.020 - 09.43.180 (Uniform Arbitration Act) **or AS 09.43.300 - 09.43.595**
 26 **(Revised Uniform Arbitration Act), as applicable,** the manufacturer and the new
 27 motor vehicle dealer shall each select one arbitrator, and both the manufacturer and
 28 the new motor vehicle dealer shall select the third arbitrator.

29 * **Sec. 49.** AS 45.55.900(a)(9) is amended to read:

30 (9) a security issued or guaranteed by a railroad, other common carrier,
 31 public utility, or holding company that is

1 (A) subject to the jurisdiction of the **Surface Transportation**
 2 **Board** [INTERSTATE COMMERCE COMMISSION] or its successor;

3 (B) a registered holding company under 15 U.S.C. 79 - 79z-6
 4 (Public Utility Holding Company Act of 1935) or a subsidiary of the company
 5 within the meaning of 15 U.S.C. 79 - 79z-6;

6 (C) regulated **with** [IN] respect **to** [OF] its rates and charges by
 7 a governmental authority of the United States or a state; or

8 (D) regulated **with** [IN] respect **to** [OF] the issuance or
 9 guarantee of the security by a governmental authority of the United States, a
 10 state, Canada, or a Canadian province;

11 * **Sec. 50.** AS 46.03.465(a) is amended to read:

12 (a) The owner or operator of a commercial passenger vessel shall maintain
 13 daily records related to the period of operation while in the state, detailing the dates,
 14 times, and locations, and the volumes and flow rates of any discharges of sewage,
 15 graywater, or other **wastewaters** [WASTER] into the marine waters of the state, **and**
 16 provide electronic copies of **those** [SUCH] records on a monthly basis to the
 17 department **not** [NO] later than five days after each calendar month of operation in
 18 state waters.

19 * **Sec. 51.** AS 46.03.465(f) is amended to read:

20 (f) If the owner or operator of a commercial passenger vessel has, when
 21 complying with another state **or** [OF] federal law that requires substantially equivalent
 22 information **gathering, gathered the information** required under (a), (b), or (d) of
 23 this section, the owner or operator shall be considered to be in compliance with that
 24 subsection so long as the information is also provided to the department.

25 * **Sec. 52.** AS 47.10.088(i) is amended to read:

26 (i) The department shall concurrently identify, recruit, process, and approve a
 27 qualified person or family for an adoption whenever a petition to terminate a parent's
 28 rights to a child is filed. Before identifying a placement of the child in an adoptive
 29 home, the department shall attempt to locate all living adult family members of the
 30 child and, if an adult family member expresses an interest in adopting the child,
 31 investigate the adult family member's ability to care for the child. The department

1 shall provide to all adult family members of the child located by the department
 2 written notice of the adult family members' rights under this chapter and of the
 3 procedures necessary to gain custody of the child, but the department's obligation to
 4 provide written notice under this subsection does not apply to a parent of the child
 5 whose parental rights are being or have been terminated or to an adult family member
 6 who is known by the department to be ineligible for a foster care license under
 7 **AS 47.32 and regulations adopted under AS 47.32** [AS 47.35.019 OR 47.35.021]. If
 8 an adult family member of the child requests that the department approve the adult
 9 family member for an adoption, the department shall approve the request unless there
 10 is good cause not to approve the adoption. If the court issues an order to terminate
 11 under (j) of this section, the department shall report within 30 days on the efforts being
 12 made to recruit a permanent placement for the child if a permanent placement was not
 13 approved at the time of the trial under (j) of this section. The report must document
 14 recruitment efforts made for the child.

15 * **Sec. 53.** AS 47.14.100(m) is amended to read:

16 (m) Prima facie evidence of good cause not to place a child with an adult
 17 family member or family friend under AS 47.10.088(i) or under (e) of this section
 18 includes **the failure to meet the requirements for** [GROUNDS FOR DENIAL OF] a
 19 foster care license under **AS 47.32 and regulations adopted under AS 47.32**
 20 [AS 47.35.019 OR 47.35.021]. Prima facie evidence of good cause not to place a child
 21 with an adult family member or adult family friend does not include poverty or
 22 inadequate or crowded housing. If the department denies a request for placement with
 23 an adult family member or a family friend, the department shall inform the adult
 24 family member or family friend of the basis for the denial and the right to request a
 25 hearing to review the decision. A non-party adult family member or family friend
 26 requesting a review hearing under AS 47.10.088(i) or under (e) of this section is not
 27 eligible for publicly appointed legal counsel.

28 * **Sec. 54.** AS 47.20.330(b) is amended to read:

29 (b) The parents of all newborns and infants diagnosed with a hearing loss, as
 30 reported to the department, shall be provided by the department with written
 31 information on the availability of follow-up care through community resources and

1 government agencies, including those provided in accordance with **20 U.S.C. 1400 -**
 2 **1482** [20 U.S.C. 1400 - 1491] (Individuals with Disabilities Education Act), as
 3 amended. Information provided by the department must include listings of local and
 4 statewide nonprofit deaf and hard of hearing consumer-based organizations, parent
 5 support organizations affiliated with deafness, counseling and educational services,
 6 and programs offered through the department and the Department of Education and
 7 Early Development.

8 * **Sec. 55.** AS 47.30.550(e) is amended to read:

9 (e) In (a) and (b) of this section, "poverty area" means a census district in
 10 which at least 15 percent of the population, based upon the most recent census **data**
 11 [DATE], falls under 125 percent of the United States Department of Health and
 12 Human Services' Poverty Income Guidelines for Alaska, as reported in the Federal
 13 Register.

14 * **Sec. 56.** AS 08.03.010(c)(9); AS 08.71.010, 08.71.020, 08.71.040, and 08.71.240(1) are
 15 repealed.

16 * **Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to
 17 read:

18 REVISOR'S INSTRUCTION. In reconciling the repeal of AS 08.01.010(16) in sec. 4
 19 of CSSB 149(L&C), Twenty-Fifth Alaska State Legislature, and the repeal and reenactment
 20 of AS 08.01.010(16) in sec. 2 of this Act, the revisor of statutes shall ignore the repeal in
 21 CSSB 149(L&C) and give effect to the repeal and reenactment in sec. 2 of this Act.

22 * **Sec. 58.** This Act takes effect immediately under AS 01.10.070(c).