

HOUSE CS FOR CS FOR SENATE BILL NO. 265(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/25/10

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 02.15.260(15) is amended to read:

5 (15) "public aircraft" means an aircraft used exclusively in the
6 governmental service of the United States or [AND] the state government;

7 *** Sec. 2.** AS 06.55.407(a) is amended to read:

8 (a) Except as otherwise provided in (b) of this section, all information or
9 reports obtained by the department from an applicant, a licensee, or an authorized
10 delegate are confidential and not subject to disclosure under AS 40.25.100 - 40.25.295
11 [AS 40.25.100 - 40.25.220], including

12 (1) all information contained in or related to examination,
13 investigation, operating, or condition reports prepared by, on behalf of, or for the use
14 of the department; and

1 (2) financial statements, balance sheets, and authorized delegate
2 information.

3 * **Sec. 3.** AS 06.60.580 is amended to read:

4 **Sec. 06.60.580. Form and contents of fund claim.** The form for a fund claim
5 shall be executed under penalty of unsworn falsification in the second degree and
6 must include

7 (1) the name and address of each originator licensee involved;

8 (2) the amount of the alleged loss;

9 (3) the date or period of time during which the alleged loss occurred;

10 (4) the date when the alleged loss was discovered;

11 (5) the name and address of the claimant; and

12 (6) a general statement of the facts related to the fund claim.

13 * **Sec. 4.** AS 08.04.450 is amended to read:

14 **Sec. 08.04.450. Revocation or suspension of license, practice privilege, or**
15 **permit.** In addition to its powers under AS 08.01.075, the board may revoke, suspend,
16 or refuse to renew a license, practice privilege, or permit, or may censure a holder of a
17 license, practice privilege, or permit for

18 (1) fraud or deceit in obtaining a license, practice privilege, or permit
19 required by this chapter;

20 (2) dishonesty or gross negligence in the practice of public accounting,
21 or other acts discreditable to the accounting profession;

22 (3) violation of a provision of AS 08.04.500 - 08.04.610;

23 (4) violation of a rule of professional conduct or other regulation
24 adopted by the board;

25 (5) conviction of a felony under the laws of any state or of the United
26 States;

27 (6) conviction of any crime, an essential element of which is
28 dishonesty or fraud, under the laws of any state or of the United States;

29 (7) cancellation, revocation, suspension, or refusal to renew authority
30 to practice as a certified public accountant or public accountant in any other state for
31 any cause other than failure to pay a required fee;

1 (8) suspension or revocation of the right to practice before any state or
2 federal agency;

3 (9) failure to satisfy the continuing education requirements prescribed
4 by the board under AS 08.04.425, except as conditioned, relaxed, or suspended by the
5 board under AS 08.04.425(c) and (d);

6 (10) failure to satisfactorily complete [THE SUPERVISION
7 REQUIRED BY AS 08.04.423 OR] a quality review requirement under
8 AS 08.04.426; or

9 (11) committing an act in another state for which the holder of the
10 license, practice privilege, or permit would be subject to discipline in this state.

11 * **Sec. 5.** AS 08.32.110(a) is amended to read:

12 (a) The role of the dental hygienist is to assist members of the dental
13 profession in providing oral health care to the public. A person licensed to practice the
14 profession of dental hygiene in the state may

15 (1) remove calcareous deposits, accretions, and stains from the
16 exposed surfaces of the teeth beginning at the epithelial attachment by scaling and
17 polishing techniques;

18 (2) apply topical preventive agents;

19 (3) apply pit and fissure sealants;

20 (4) perform root **planing** [PLANNING] and periodontal soft tissue
21 curettage;

22 (5) perform other dental operations and services delegated by a
23 licensed dentist if the dental operations and services are not prohibited by (c) of this
24 section; and

25 (6) if certified by the board and under the direct, indirect, or general
26 supervision of a licensed dentist, administer local anesthetic agents.

27 * **Sec. 6.** AS 08.48.341(10) is amended to read:

28 (10) "limited liability partnership" means **a limited liability**
29 **partnership or a foreign limited liability partnership, as those terms are defined**
30 **in AS 32.06.995** [AN ORGANIZATION REGISTERED UNDER AS 32.05.415 OR
31 A FOREIGN LIMITED LIABILITY PARTNERSHIP; IN THIS PARAGRAPH,

1 "FOREIGN LIMITED LIABILITY PARTNERSHIP" HAS THE MEANING GIVEN
2 IN AS 32.05.990];

3 * **Sec. 7.** AS 08.65.140(d) is amended to read:

4 (d) A certified direct-entry midwife may not knowingly deliver a woman who

5 (1) has a history of thrombophlebitis or pulmonary embolism;

6 (2) has gestational diabetes, diabetes, hypertension, Rh disease with
7 positive titer, active tuberculosis, active syphilis, active gonorrhea, epilepsy, heart
8 disease, or kidney disease;

9 (3) contracts genital herpes simplex in the first trimester of pregnancy
10 or has active genital herpes in the last two weeks of pregnancy;

11 (4) has severe psychiatric illness;

12 (5) inappropriately uses controlled substances, including those
13 obtained by prescription;

14 (6) has multiple gestation;

15 (7) has a fetus of less than 37 weeks gestation at the onset of labor;

16 (8) has a gestation of more than 42 weeks by dates and examination;

17 (9) has a fetus in any presentation other than vertex at the onset of
18 labor;

19 (10) is a primigravida with an unengaged fetal head in active labor, or
20 any woman who has rupture of membranes with unengaged fetal head, with or without
21 labor;

22 (11) has a fetus with suspected or diagnosed congenital anomalies that
23 may require immediate medical intervention;

24 (12) has pre-eclampsia or eclampsia;

25 (13) has bleeding with evidence of placenta previa;

26 (14) **has** any condition determined by the board to be of high risk to
27 the pregnant woman and newborn;

28 (15) has had a previous caesarian delivery or other uterine surgery;

29 (16) experienced the rupture of membranes at least 24 hours before the
30 onset of labor; or

31 (17) is less than 16 years of age at the time of delivery.

1 * **Sec. 8.** AS 12.55.035(c) is amended to read:

2 (c) Upon conviction of an offense, a defendant that is an organization may be
3 sentenced to pay a fine not exceeding the **greatest** [GREATER] of

4 (1) an amount that is

5 (A) \$1,000,000 for a felony offense or for a misdemeanor
6 offense that results in death;

7 (B) \$200,000 for a class A misdemeanor offense that does not
8 result in death;

9 (C) \$25,000 for a class B misdemeanor offense that does not
10 result in death;

11 (D) \$10,000 for a violation;

12 (2) three times the pecuniary gain realized by the defendant as a result
13 of the offense; or

14 (3) three times the pecuniary damage or loss caused by the defendant
15 to another, or to the property of another, as a result of the offense.

16 * **Sec. 9.** AS 12.65.140(b) is amended to read:

17 (b) Except for public reports issued by the team, records [,] and other
18 information collected by the team or a member of the team related to duties under this
19 chapter are confidential and not subject to public disclosure under **AS 40.25.100 -**
20 **40.25.295** [AS 40.25.100 - 40.25.220].

21 * **Sec. 10.** AS 13.26.344(j) is amended to read:

22 (j) In a statutory form power of attorney, the language conferring general
23 authority with respect to personal relationships **shall** be construed to mean that, as to
24 real and personal property owned by the principal, whether in the state or elsewhere,
25 the principal authorizes the agent to

26 (1) do all acts necessary to maintain the customary standard of living
27 of the spouse, children, and other dependents of the principal, including by way of
28 illustration and not by way of restriction, power to provide living quarters by purchase,
29 lease, or by other contract, or by any payment of the operating costs, including
30 interest, amortization payments, repairs, and taxes, of premises owned by the principal
31 and occupied by the principal's family or dependents, to provide normal domestic help

1 for the operation of the household, to provide usual vacations and usual travel
2 expenses, to provide usual educational facilities, and to provide funds for all the
3 current living costs of the spouse, children, and other dependents, including, among
4 other things, shelter, clothing, food, and incidentals;

5 (2) provide, whenever necessary, medical, dental, and surgical care,
6 hospitalization, and custodial care for the spouse, children, and other dependents of the
7 principal;

8 (3) continue whatever provision has been made by the principal for the
9 principal's spouse, children, and other dependents, with respect to automobiles, or
10 other means of transportation, including by way of illustration, but not by way of
11 restriction, power to license, insure, and replace automobiles owned by the principal
12 and customarily used by the spouse, children, or other dependents of the principal;

13 (4) continue whatever charge accounts have been opened for the
14 convenience of the principal's spouse, children, or other dependents, open any new
15 accounts that the agent considers desirable to accomplish the purposes enumerated in
16 this subsection, and pay the items charged on these accounts by a person authorized or
17 permitted by the principal to make the charges;

18 (5) continue the discharge of any services or duties assumed by the
19 principal to a parent, relative, or friend of the principal;

20 (6) supervise, enforce, defend, or settle any claim by or against the
21 principal arising out of property damages or personal injuries suffered by or caused by
22 the principal, or under any circumstance that the resulting loss will or may fall on the
23 principal;

24 (7) continue payments incidental to the membership or affiliation of
25 the principal in a church, club, society, order, or other organization, or continue
26 contributions to the organization;

27 (8) demand, receive, or obtain money or any other thing of value to
28 which the principal is or may become or may claim to be entitled as remuneration for
29 services performed, or as a stock dividend or distribution, or as interest or principal
30 upon indebtedness, or as a periodic distribution of profits from any partnership or
31 business in which the principal has or claims an interest, and endorse, collect, or

1 otherwise realize upon an instrument for the payment received;

2 (9) prepare, execute, and file all tax, social security, unemployment
3 insurance, and information returns required by the laws of the United States or of any
4 state or subdivision, or of any foreign government; prepare, execute, and file all other
5 papers and instruments that the agent considers desirable or necessary for the
6 safeguarding of the principal against excess or illegal taxation or against penalties
7 imposed for claimed violation of a law or regulation; and pay, compromise, or contest
8 or apply for refunds in connection with a tax or assessment for which the principal is
9 or may be liable;

10 (10) use an asset of the principal to perform a power enumerated in
11 this subsection, including by way of illustration and not by way of restriction, power
12 to draw money by check or otherwise from a bank deposit of the principal, to sell land
13 or a chattel, bond, share, commodity interest, or other asset of the principal, to borrow
14 money, and to pledge as security for the loan any asset, including insurance, that
15 belongs to the principal;

16 (11) execute, acknowledge, verify, seal, file, and deliver an
17 application, consent, petition, notice, release, waiver, agreement, or other instrument
18 that the agent considers useful to accomplish a purpose enumerated in this subsection;

19 (12) prosecute, defend, submit to arbitration, settle, and propose or
20 accept a compromise with respect to a claim existing in favor of, or against, the
21 principal based on or involving a transaction enumerated in this subsection, or
22 intervene in any action or proceeding related to a transaction;

23 (13) hire, discharge, and compensate an attorney, accountant, expert
24 witness, or assistant when the agent considers the action to be desirable for the proper
25 execution of any of the powers described in this subsection, and for the keeping of
26 records, about that action; and

27 (14) do any other act or acts that the principal can do through an agent,
28 for the welfare of the spouse, children, or dependents of the principal or for the
29 preservation and maintenance of the other personal relationships of the principal to a
30 parent, relative, friend, or organization.

31 * **Sec. 11.** AS 13.27.030(a) is amended to read:

1 (a) In a guardianship or protective proceeding in this state, a court may request
2 the appropriate court of another state to

3 (1) hold an evidentiary hearing;

4 (2) order a person in that state to produce evidence or give testimony
5 under procedures of that state;

6 (3) order that an evaluation or assessment be made of the respondent;

7 (4) order any appropriate investigation of a person involved in a
8 proceeding;

9 (5) forward to the court a certified copy of the transcript or other
10 record of a hearing under (1) of this subsection or any other proceeding, any evidence
11 otherwise produced under (2) of this subsection, and any evaluation or assessment
12 prepared in compliance with an order under (3) or (4) of this subsection;

13 (6) issue any order necessary to assure the appearance in the
14 proceeding of a person whose presence is necessary for the court to make a
15 determination, including the respondent or the incapacitated or protected person;

16 (7) issue an order authorizing the release of medical, financial,
17 criminal, or other relevant information in that state, including protected health
18 information as defined in 45 C.F.R. 160.103 [45 CFR 164.504], as amended.

19 * **Sec. 12.** AS 14.43.930(e)(2) is amended to read:

20 (2) "qualified high school" means a public high school, a high school
21 accredited by the Northwest Association of Accredited Schools [NORTHWEST
22 ASSOCIATION OF SCHOOLS AND COLLEGES], or a high school registered with
23 the department.

24 * **Sec. 13.** AS 17.37.010(a) is amended to read:

25 (a) The department shall create and maintain a confidential registry of patients
26 who have applied for and are entitled to receive a registry identification card according
27 to the criteria set out in this chapter. The registry must also contain the name of the
28 primary caregiver and the name of the alternate caregiver of a patient, if either is
29 designated by the patient. Only one primary caregiver and one alternate caregiver may
30 be listed in the registry for a patient. The registry and the information contained within
31 it are not a public record under AS 40.25.100 - 40.25.295 [AS 40.25.100 - 40.25.220].

1 Peace officers and authorized employees of state or municipal law enforcement
 2 agencies shall be granted access to the information contained within the department's
 3 confidential registry only

4 (1) for the purpose of verifying that an individual who has presented a
 5 registry identification card to a state or municipal law enforcement official is lawfully
 6 in possession of such card; or

7 (2) for the purpose of determining that an individual who claims to be
 8 lawfully engaged in the medical use of marijuana is registered or listed with the
 9 department or is considered to be registered or listed under (g) of this section.

10 * **Sec. 14.** AS 18.65.087(e) is amended to read:

11 (e) The name, address, and other identifying information of a member of the
 12 public who makes an information request under this section is not a public record
 13 under AS 40.25.100 - 40.25.295 [AS 40.25.100 - 40.25.220].

14 * **Sec. 15.** AS 23.20.526(a) is amended to read:

15 (a) In this chapter, unless the context otherwise requires, "employment" does
 16 not include

17 (1) domestic service in a private home, except as provided in
 18 AS 23.20.525(a)(13);

19 (2) newsboys' services [SERVICE PERFORMED BY AN
 20 INDIVIDUAL UNDER 18 YEARS OF AGE] in selling or distributing newspapers on
 21 the street or from house to house;

22 (3) service not in the course of the employing unit's trade or business
 23 performed in a calendar quarter by an individual, unless the cash remuneration paid
 24 for the service is \$50 or more and the service is performed by an individual who is
 25 regularly employed by the employing unit to perform the service; an individual is here
 26 considered to be regularly employed to perform service not in the course of an
 27 employing unit's trade or business during a calendar quarter only if the individual
 28 performs the service for some portion of the day on each of 24 days during the quarter
 29 or during the preceding calendar quarter;

30 (4) service performed by an individual in the employ of the
 31 individual's

- 1 (A) son, daughter, or spouse;
- 2 (B) parent or legal guardian if the individual was under the age
3 of 21 years and a full-time student during eight of the last 12 months and
4 intends to resume full-time student status within the next four months; and
- 5 (C) mother or father if the service is performed by a child under
6 the age of 18;
- 7 (5) service with respect to which unemployment insurance is payable
8 under an unemployment insurance program established by an Act of Congress;
- 9 (6) service performed in the employ of a foreign government including
10 service as a consular or other officer or employee or a nondiplomatic representative;
- 11 (7) service performed in the employ of an instrumentality wholly
12 owned by a foreign government if
- 13 (A) the service is of a character similar to that performed in
14 foreign countries by employees of the United States government or its
15 instrumentalities; and
- 16 (B) the department finds that the United States Secretary of
17 State has certified to the United States Secretary of the Treasury that the
18 foreign government, with respect to whose instrumentality exemption is
19 claimed, grants an equivalent exemption with respect to similar service
20 performed in the foreign country by employees of the United States
21 government and its instrumentalities;
- 22 (8) service performed by an insurance agent, insurance solicitor, real
23 estate broker, real estate salesperson, or securities salesperson to the extent the person
24 is compensated by commission, unless the service is required to be covered under the
25 Federal Unemployment Tax Act, as amended;
- 26 (9) notwithstanding AS 23.20.525(a)(9), service performed by an
27 officer or member of the crew of an American vessel on or in connection with the
28 vessel, if the operating office, from which the operations of the vessel operating on
29 navigable waters inside or inside and outside the United States are ordinarily and
30 regularly supervised, managed, directed, and controlled, is outside this state;
- 31 (10) service performed on or in connection with a vessel not an

1 American vessel by an individual if the individual performed service on and in
2 connection with the vessel when outside the United States;

3 (11) service performed in the employ of the United States government
4 or an instrumentality of the United States exempt under the Constitution of the United
5 States from the contributions imposed by this chapter, except that to the extent that the
6 Congress of the United States permits states to require an instrumentality of the United
7 States to make payments into an unemployment fund under a state employment
8 security law, all of the provisions of this chapter apply to the instrumentalities, and to
9 service performed for the instrumentalities in the same manner, to the same extent, and
10 on the same terms as to all other employers, employing units, individuals, and service;
11 however, if this state is not certified for any year by the United States Secretary of
12 Labor under 26 U.S.C. 3304(c) (Federal Unemployment Tax Act, Internal Revenue
13 Code), the payments required of the instrumentalities with respect to the year shall be
14 refunded by the department from the fund in the same manner and within the same
15 period as is provided in AS 23.20.225 with respect to contributions erroneously
16 collected;

17 (12) service performed in the employ of another state, or political
18 subdivision of another state, or an instrumentality of another state or political
19 subdivision that is wholly owned by another state or its political subdivision, or a
20 service performed in the employ of an instrumentality of another state or its political
21 subdivisions to the extent that the instrumentality is, with respect to the service,
22 exempt under the Constitution of the United States from the tax imposed by 26 U.S.C.
23 3301 (Federal Unemployment Tax Act, Internal Revenue Code);

24 (13) service performed in the employ of an international organization;

25 (14) service covered by an election approved by the agency charged
26 with the administration of any other state or federal employment security law, in
27 accordance with an arrangement under AS 23.20.090(a) during the effective period of
28 the election;

29 (15) service performed by an individual in agricultural labor, except as
30 provided in AS 23.20.525(a)(14); the term "agricultural labor" means remunerated
31 service

1 (A) on a farm, in the employ of any person in connection with
2 cultivating the soil, or in connection with raising or harvesting any agricultural
3 or horticultural commodity, including the raising, shearing, feeding, caring for,
4 training, and management of livestock, bees, poultry, and fur-bearing animals
5 and wildlife;

6 (B) in the employ of the owner or tenant or other operator of a
7 farm, in connection with the operation, management, conservation,
8 improvement, or maintenance of the farm and its tools and equipment, or in
9 salvaging timber or clearing land of brush and other debris left by a hurricane,
10 if the major part of the service is performed on a farm;

11 (C) in connection with the production or harvesting of any
12 commodity defined as an agricultural commodity in 12 U.S.C. 1141j (Sec.
13 15(g), Agricultural Marketing Act), as amended, or in connection with the
14 operation or maintenance of ditches, canals, reservoirs, or waterways, not
15 owned or operated for profit, used exclusively for supplying and storing water
16 for farming purposes;

17 (D) in the employ of the operator of a farm in handling,
18 planting, drying, packing, packaging, processing, freezing, grading, storing, or
19 delivering to storage or to market or to a carrier for transportation to market, in
20 its unmanufactured state, any agricultural or horticultural commodity; but only
21 if the operator produced more than one-half of the commodity with respect to
22 which the service is performed except as stated in (b) of this section;

23 (E) in the employ of a group of operators of farms, or a
24 cooperative organization of which the operators are members, in the
25 performance of service described in (D) of this paragraph, but only if the
26 operators produced more than one-half of the commodity with respect to which
27 the service is performed;

28 (F) on a farm operated for profit if the service is not in the
29 course of the employer's trade or business;

30 (16) service performed as a student nurse in the employ of a hospital or
31 a nurses' training school by an individual who is enrolled and is regularly attending

1 classes in a nurses' training school chartered or approved in accordance with the laws
 2 of this state, and service performed as an intern in the employ of a hospital by an
 3 individual who has completed a four-year course in a medical school chartered or
 4 approved in accordance with the laws of this state, unless the service is required to be
 5 covered under the Federal Unemployment Tax Act;

6 (17) service performed by an individual on a boat engaged in catching
 7 fish or other forms of aquatic animal life under an arrangement with the owner or
 8 operator of that boat under which

9 (A) that individual does not receive any cash remuneration
 10 except as provided in (B) of this paragraph;

11 (B) that individual receives a share of the boat's, or the boats' in
 12 the case of a fishing operation involving more than one boat, catch of fish or
 13 other forms of aquatic animal life or a share of the proceeds from the sale of
 14 that catch; and

15 (C) the amount of that individual's share depends on the
 16 amount of the boat's, or the boats' in the case of a fishing operation involving
 17 more than one boat, catch of fish or other forms of aquatic animal life; but only
 18 if the operating crew of that boat, or each boat from which the individual
 19 receives a share in the case of a fishing operation involving more than one
 20 boat, is normally made up of fewer than 10 individuals;

21 (18) service performed as a prospective or impaneled juror in a court;

22 (19) service performed for a corporation by an employee of the
 23 corporation if

24 (A) the corporation is incorporated under AS 10.06;

25 (B) the corporation is not a government corporation; and

26 (C) the employee is an executive officer of the corporation;

27 (20) service performed by an individual who drives a taxicab whose
 28 compensation and written contractual arrangements are as described in
 29 AS 23.10.055(a)(13);

30 (21) service of an individual who

31 (A) directly sells or solicits the sale of consumer products, for

1 resale or otherwise, personally to a prospective consumer in the home or
 2 otherwise than in a permanent retail establishment; a sale or solicitation by
 3 telephone, mail, other telecommunications method, or other nonpersonal
 4 method does not satisfy the requirement of this subparagraph;

5 (B) is compensated solely by

6 (i) commissions on sales or other remuneration directly
 7 related to sales or sales performance; or

8 (ii) a profit represented by the difference between the
 9 wholesale cost of the product to the seller and the final sale price to the
 10 consumer; and

11 (C) performs under a written contract with the person for whom
 12 the service is performed that provides, notwithstanding AS 23.20.395(a), that
 13 the individual is not an employee for purposes of this chapter or for federal or
 14 state tax purposes;

15 (22) temporary services related to emergency oil spill training and
 16 response activities by an individual described in (17) of this subsection; in this
 17 paragraph, "temporary" means a period of less than seven continuous days.

18 * **Sec. 16.** AS 26.23 is amended by adding a new section to article 1 to read:

19 **Sec. 26.23.240. Short title.** AS 26.23.010 - 26.23.240 and 26.23.900 may be
 20 cited collectively as the Alaska Disaster Act.

21 * **Sec. 17.** AS 29.65.050(b) is amended to read:

22 (b) All approved selections under former AS 29.18.190 and 29.18.200 for
 23 which patent has not been issued to a municipality on July 1, 1978, shall be reviewed
 24 by the director within nine months after July 1, 1978. Any approved selection of land
 25 that was vacant, unappropriated, [OR] unreserved **land** on the date of selection is valid
 26 as of the date of the approval under former AS 29.18.190, 29.18.200, 29.18.201,
 27 29.18.202, and 29.18.203, and a patent shall be issued to the municipality within three
 28 months after approval by the director of a plat of survey. The acreage shall be credited
 29 toward fulfillment of the municipality's entitlement. A municipality is not entitled to
 30 receive patent under this chapter to more than its entitlement determined under
 31 AS 29.65.010 - 29.65.030. Any prior approval by the director of municipal selections

1 for land that was not vacant, unappropriated, [OR] unreserved **land** on the date of
 2 selection shall be rescinded, and patent may not be issued except when disposal to a
 3 third party by sale or lease has occurred. Transfers of land to municipalities under this
 4 chapter are subject to AS 38.05.321. Classification actions as reflected on the land
 5 status records of the Department of Natural Resources are determinative of land
 6 classification status for purposes of this chapter.

7 * **Sec. 18.** AS 29.65.060(a) is amended to read:

8 (a) If an entitlement determined under AS 29.65.010 or 29.65.020 results in a
 9 per capita entitlement for the municipality of less than one and one-half acre, the
 10 municipality may select vacant school or mental health land in the municipality in
 11 partial fulfillment of its land entitlement under this chapter. School or mental health
 12 land may be selected notwithstanding the fact that this land is not unappropriated and
 13 unreserved within the meaning of this chapter and under former AS 29.18.190 and
 14 29.18.200, but each selection of school or mental health land by a municipality must
 15 be vacant, unappropriated, [OR] unreserved land as defined in this chapter, except that
 16 it need not be general grant land.

17 * **Sec. 19.** AS 34.45.320(b) is amended to read:

18 (b) If the owner establishes the right to receive the abandoned property to the
 19 satisfaction of the holder before the property has been delivered or if it appears that the
 20 presumption of abandonment is erroneous, the holder need not pay or deliver the
 21 property to the department, and the property is no longer presumed abandoned. The
 22 holder shall file with the department a written explanation, made under penalty of
 23 unsworn falsification **in the second degree**, of the proof of claim or of the error in the
 24 presumption of abandonment.

25 * **Sec. 20.** AS 34.45.380(a) is amended to read:

26 (a) A person, excluding another state, claiming an interest in property paid or
 27 delivered to the department may file a claim on a form prescribed by the department
 28 and bearing a notice that statements are made under penalty of unsworn falsification **in**
 29 **the second degree**.

30 * **Sec. 21.** AS 40.25.220 is amended to read:

31 **Sec. 40.25.220. Definitions for AS 40.25.100 - 40.25.295 [AS 40.25.100 -**

1 **40.25.220**]. In **AS 40.25.100 - 40.25.295** [AS 40.25.100 - 40.25.220], unless the
2 context otherwise requires,

3 (1) "electronic services and products" means computer-related services
4 and products provided by a public agency, including

5 (A) electronic manipulation of the data contained in public
6 records in order to tailor the data to the person's request or to develop a product
7 that meets the person's request;

8 (B) duplicating public records in alternative formats not used
9 by a public agency, providing periodic updates of an electronic file or data
10 base, or duplicating an electronic file or data base from a geographic
11 information system;

12 (C) providing on-line access to an electronic file or data base;

13 (D) providing information that cannot be retrieved or generated
14 by the existing computer programs of the public agency;

15 (E) providing functional electronic access to the information
16 system of the public agency; in this subparagraph, "functional access" includes
17 the capability for alphanumeric query and printing, graphic query and plotting,
18 nongraphic data input and analysis, and graphic data input and analysis;

19 (F) providing software developed by a public agency or
20 developed by a private contractor for a public agency;

21 (G) generating maps or other standard or customized products
22 from an electronic geographic information system;

23 (2) "public agency" means a political subdivision, department,
24 institution, board, commission, division, authority, public corporation, council,
25 committee, or other instrumentality of the state or a municipality; "public agency"
26 includes the University of Alaska and the Alaska Railroad Corporation;

27 (3) "public records" means books, papers, files, accounts, writings,
28 including drafts and memorializations of conversations, and other items, regardless of
29 format or physical characteristics, that are developed or received by a public agency,
30 or by a private contractor for a public agency, and that are preserved for their
31 informational value or as evidence of the organization or operation of the public

1 agency; "public records" does not include proprietary software programs [;

2 (4) REPEALED].

3 * **Sec. 22.** AS 41.21.506(b) is amended to read:

4 (b) The commissioner shall adopt regulations under AS 44.62 (Administrative
5 Procedure Act) that are necessary to achieve the purposes of AS 41.21.500 - 41.21.514
6 and to implement the plan adopted under (a) of this section. The regulations must

7 (1) designate incompatible uses and prohibit or restrict them; and

8 (2) establish a registration, licensing, or comparable procedure for
9 professional fishing guides and such additional fishing guide controls as the
10 commissioner considers necessary [; NOTWITHSTANDING THE
11 REQUIREMENTS ESTABLISHED BY THE COMMISSIONER TO IMPLEMENT
12 THIS PARAGRAPH, THE COMMISSIONER SHALL ESTABLISH A
13 PROCEDURE BY WHICH THE HOLDER OF A VALID SPORT FISHING
14 OPERATOR LICENSE ISSUED UNDER AS 16.40.260 MAY PETITION FOR,
15 AND THE DIRECTOR OF THE DIVISION OF PARKS, OR THE DIRECTOR'S
16 DESIGNEE, SHALL EXPEDITIOUSLY ISSUE, A WAIVER TO ALLOW THE
17 SPORT FISHING OPERATOR LICENSE HOLDER TO USE THE SERVICES IN
18 THE KENAI RIVER SPECIAL MANAGEMENT AREA OF A GUIDE LICENSED
19 UNDER AS 16.40.270 WHO HAS NOT COMPLETED THE PROCEDURES AND
20 ADDITIONAL CONTROLS THAT ARE REQUIRED BY THE DEPARTMENT
21 UNDER THIS PARAGRAPH; THE WAIVER AUTHORIZED IN THIS
22 PARAGRAPH APPLIES ONLY FOR THE DURATION OF THE SPORT FISHING
23 SEASON DURING WHICH THE WAIVER APPLICATION IS SUBMITTED AND
24 ONLY IF THE SPORT FISHING OPERATOR LICENSE HOLDER

25 (A) EMPLOYING THE LICENSED GUIDE HAS LOST THE
26 SERVICES OF A LICENSED GUIDE BECAUSE OF UNFORESEEN
27 CIRCUMSTANCES; AND

28 (B) IS UNABLE TO HIRE AS A REPLACEMENT AN
29 AVAILABLE LICENSED GUIDE WHO HAS SATISFIED ALL THE
30 REQUIREMENTS OF THIS PARAGRAPH, INCLUDING THOSE
31 REQUIRED BY REGULATION].

1 * **Sec. 23.** AS 42.40.430 is amended to read:

2 **Sec. 42.40.430. Acquisition of government property.** The corporation, as an
3 instrumentality of the state, may acquire in its own name from the United States under
4 **40 U.S.C. 101 et seq.** [40 U.S.C. 471 ET SEQ. (FEDERAL PROPERTY AND
5 ADMINISTRATIVE SERVICES ACT OF 1949)] or other law, property under the
6 control of a federal department or agency that is useful for the corporation's purposes.
7 The corporation may acquire from the Department of Administration property of the
8 state made available under AS 44.68.110 - 44.68.140.

9 * **Sec. 24.** AS 43.05.455(d) is amended to read:

10 (d) The formal hearing before the administrative law judge is not required to
11 be conducted with strict adherence to the Alaska Rules of Evidence. Relevant
12 evidence must be admitted if it is probative of a material fact in controversy. Irrelevant
13 and unduly repetitious evidence shall be excluded. Hearsay evidence is admissible if it
14 is the kind of evidence on which responsible persons are accustomed to rely in the
15 conduct of serious affairs, regardless of the existence of a common law or statutory
16 rule that makes improper the admission of the evidence over objection in a civil
17 action. Oral evidence may be taken only on oath or affirmation. The rules of privilege
18 are effective to the same extent that they are recognized in a civil action in the courts
19 of this state, except that relevant documents and other material items that are public
20 records under **AS 40.25.100 - 40.25.295** [AS 40.25.100 - 40.25.220] shall be
21 admissible.

22 * **Sec. 25.** AS 43.05.475(b) is amended to read:

23 (b) To promote consistency among legal determinations issued under
24 AS 43.05.405 - 43.05.499, the chief administrative law judge may review and circulate
25 among the other administrative law judges the drafts of formal decisions, decisions
26 upon reconsideration, and other legal opinions of the other administrative law judges
27 in the office. The drafts are confidential documents and are not subject to disclosure
28 under **AS 40.25.100 - 40.25.295** [AS 40.25.100 - 40.25.220] or this chapter.

29 * **Sec. 26.** AS 44.62 is amended by adding a new section to article 6 to read:

30 **Sec. 44.62.319. Short title.** AS 44.62.310 - 44.62.319 may be cited as the
31 Open Meetings Act.

1 * **Sec. 27.** AS 46.14.500(c) is amended to read:

2 (c) In this section, "corresponding onshore area" means, with respect to a
 3 stationary source located within 25 miles of the seaward boundary of the state, the
 4 onshore attainment or nonattainment area that is closest to the stationary source, unless
 5 the commissioner determines that another area with more stringent requirements
 6 relating to control and abatement of air pollution may reasonably be expected to be
 7 affected by emissions from the offshore stationary source; this determination shall be
 8 based on the potential for air pollutants from the stationary source to reach the other
 9 onshore area and the potential of the air pollutants to affect the efforts of the other
 10 onshore area to attain or maintain a federal ambient air quality standard set under **42**
 11 **U.S.C. 7470 - 7492 (Clean Air Act, secs. 160 - 169b)** [42 U.S.C. 7470 - 7492 (TITLE
 12 I, PART C, CLEAN AIR ACT)] or a state equivalent.

13 * **Sec. 28.** AS 47.30.695 is amended to read:

14 **Sec. 47.30.695. Request by parent or guardian to release of minors under**
 15 **18 years of age from detention and commitment.** The parent or guardian of a minor
 16 who is less than 18 years of age may file a notice to withdraw the minor from the
 17 facility. On receipt of the notice, [THE FACILITY MAY]

18 (1) **the facility may** discharge the minor to the custody of the parent or
 19 guardian; or

20 (2) if, in the opinion of the treating physician, release of the minor
 21 would be seriously detrimental to the minor's health, the treating physician may

22 (A) discharge the minor to the custody of the parent or
 23 guardian after advising the parent or guardian that this action is against
 24 medical advice and after receiving a written **acknowledgment**
 25 [ACKNOWLEDGEMENT] of the advice; or

26 (B) refuse to discharge the minor, initiate involuntary
 27 commitment proceedings, and continue to hold the minor until a court order
 28 under AS 47.30.700 has been issued; or

29 (3) if, in the opinion of the treating physician, the minor is likely to
 30 cause serious harm to self or others and there is reason to believe the release could
 31 place the minor in imminent danger, the treating physician shall refuse to discharge

1 the minor, and shall initiate involuntary commitment proceedings and continue to hold
2 the minor until a court order under AS 47.30.700 has been issued.

3 * **Sec. 29.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 REVISOR'S INSTRUCTION. To reflect the short title in AS 44.62.319, added by sec.
6 26 of this Act, the revisor of statutes shall make the following changes:

7 (1) delete "AS 44.62.310 and 44.62.312" and insert "AS 44.62.310 - 44.62.319
8 (Open Meetings Act)" in the following statute sections: AS 08.08.075, AS 12.65.015(e),
9 12.65.140(c), AS 14.40.946(b), AS 16.20.310(a), AS 18.66.400(d), AS 29.35.890,
10 AS 37.14.430(a) and (b), AS 46.03.464(b)(1), AS 47.14.235(b), and 47.14.300(e);

11 (2) delete "AS 44.62.310 - 44.62.312" and insert "AS 44.62.310 - 44.62.319
12 (Open Meetings Act)" in the following statute sections: AS 24.60.130(j), AS 29.35.695,
13 AS 37.10.240(a), AS 44.42.220(a), 44.62.750(f), 44.83.970, and AS 46.14.320(d)(2);

14 (3) delete "AS 44.62.310 - 44.62.312 (agency public meetings)" and insert
15 "AS 44.62.310 - 44.62.319 (Open Meetings Act)" in AS 44.85.400;

16 (4) delete "AS 44.62.310 and 44.62.312 regarding public meetings" and insert
17 "AS 44.62.310 - 44.62.319 (Open Meetings Act)" in the following statute sections:
18 AS 14.40.871(b) and AS 44.88.085(a); and

19 (5) delete "AS 44.62.310 and 44.62.312, regarding public meetings" and insert
20 "AS 44.62.310 - 44.62.319 (Open Meetings Act)" in AS 18.56.088(a).

21 * **Sec. 30.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 RETROACTIVITY. Section 15 of this Act is retroactive to June 21, 2009.

24 * **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 CONDITIONAL EFFECT. Section 22 of this Act takes effect only if AS 16.40.260
27 and 16.40.270 are repealed under sec. 8, ch. 70, SLA 2004, as amended by sec. 3, ch. 61, SLA
28 2009, and as may be further amended.

29 * **Sec. 32.** If sec. 22 of this Act takes effect, it takes effect on the date of the repeal described
30 in sec. 31 of this Act.

31 * **Sec. 33.** Except as provided in sec. 32 of this Act, this Act takes effect immediately under

1 AS 01.10.070(c).