

SENATE BILL NO. 35

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL

Introduced: 1/30/15

Referred: Judiciary

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 03.40.030(a) is amended to read:

5 (a) To adopt a brand or mark, a person shall forward to the commissioner of
6 natural resources a facsimile of the brand or mark, together with a written application,
7 and the recording fee of \$2. Upon receipt, the commissioner shall record the brand or
8 mark unless it is of record or conflicts with or closely resembles that of some other
9 person, in which case the commissioner shall return the facsimile and fee to the
10 applicant. A brand described as being on either side of the animal may not be accepted
11 or recorded.

12 * **Sec. 2.** AS 05.15.690(21) is amended to read:

13 (21) "fraternal organization" means a civic, service, or charitable
14 organization in the state, except a college or [AND] high school fraternity, not for

pecuniary profit, that is a branch or lodge or chapter, of a national or state organization and exists for the common business, brotherhood, or other interest of its members;

* **Sec. 3.** AS 05.90.001(b) is amended to read:

(b) The Department of Public Safety, with the concurrence of the Department of Transportation and Public Facilities, may grant, and for cause cancel, permission to conduct a special racing event as provided in this section on [UPON] terms and conditions and at times and places the department may determine. If the Department of Public Safety refuses or cancels an applicant's permission [IS REFUSED OR CANCELLED], the applicant may request [THE DEPARTMENT OF PUBLIC SAFETY FOR] a hearing. The hearing shall be conducted under the provisions of AS 44.62 (Administrative Procedure Act).

* **Sec. 4.** AS 09.45.820 is amended to read:

Sec. 09.45.820. Publication and posting of notice. The notice required by Rule 4(e)(4), Alaska Rules of Civil Procedure [ALASKA RULE OF CIVIL PROCEDURE 4(e)(4)] shall be published as provided in the rules, and a copy of the notice shall be posted in a conspicuous place on each separate parcel of the entire real property described in the complaint within 20 days after the first publication of the notice.

* **Sec. 5.** AS 09.55.240(a) is amended to read:

(a) Except as provided in (d) and (e) of this section, the right of eminent domain may be exercised for the following public uses:

- (1) all public uses authorized by the government of the United States;
- (2) public buildings and grounds for the use of the state and all other public uses authorized by the legislature of the state;
- (3) public buildings and grounds for the use of an organized or unorganized borough, city, town, village, school district, or other municipal division, whether incorporated or unincorporated; canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the inhabitants of an organized or unorganized borough, city, town, or other municipal division, whether incorporated or unincorporated; raising the banks of streams, removing obstructions from them, and widening, deepening, or straightening their channels; and roads, streets, and alleys,

1 and all other public uses for the benefit of an organized or unorganized borough, city,
 2 town, or other municipal division whether incorporated or unincorporated, or its
 3 inhabitants, which may be authorized by the legislature;

4 (4) wharves, docks, piers, chutes, booms, ferries, bridges of all kinds,
 5 private roads, plant and turnpike roads, railroads, canals, ditches, flumes, aqueducts,
 6 and pipes for public transportation, supplying mines and farming neighborhoods with
 7 water, and draining and reclaiming land, and for floating logs and lumber on streams
 8 not navigable, and sites for reservoirs necessary for collecting and storing water;

9 (5) roads, tunnels, ditches, flumes, pipes, and dumping places for
 10 working mines; also outlets, natural or otherwise, for the flow, deposit, or conduct of
 11 tailings or refuse matter from mines; also an occupancy in common by the owners or
 12 possessors of different mines of any place for the flow, deposit, or conduct of tailings
 13 or refuse matter from their several mines, and sites for reservoirs necessary for
 14 collecting and storing water;

15 (6) private roads leading from highways to residences, mines, or farms;

16 (7) telephone lines;

17 (8) fiber-optic lines;

18 (9) telegraph lines;

19 (10) sewerage of an organized or unorganized borough, city, town,
 20 village, or other municipal division, whether incorporated or unincorporated, or a
 21 subdivision of it, or of a settlement consisting of not less than 10 families, or of public
 22 buildings belonging to the state or to a college or university;

23 (11) tramway lines;

24 (12) electric power lines;

25 (13) for the location of pipelines for gathering, transmitting,
 26 transporting, storing, or delivering natural or artificial gas or oil or any liquid or
 27 gaseous hydrocarbons, including [, BUT NOT LIMITED TO,] pumping stations,
 28 terminals, storage tanks, or reservoirs, and related installations.

29 * **Sec. 6.** AS 09.55.535(g) is amended to read:

30 (g) The attorney general shall prepare a list of persons consisting of lawyers or
 31 other persons qualified to serve as chairperson of an arbitration board. They shall be

selected on the basis of their technical expertise, judicial temperament, and capability of impartially acting on malpractice claims. The attorney general shall submit a list of at least three names whenever requested to do so by the court along with detailed biographical information on each person listed.

* **Sec. 7.** AS 09.55.590(g) is amended to read:

(g) Except for specific constitutional and statutory age requirements for voting and use of alcoholic beverages, a minor whose disabilities are removed for general purposes has the power and capacity of an adult, including [BUT NOT LIMITED TO] the right to self-control, the right to be domiciled where one desires, the right to receive and control one's earnings, the right to sue or to be sued, and the capacity to contract.

* **Sec. 8.** AS 09.60.070(b) is amended to read:

(b) If a judgment for attorney fees is entered against an offender in a civil action brought under this section, and a contract of insurance requires an insurer to pay the attorney fees, the insurer shall be liable only for the attorney fees that would be awarded to the plaintiff under Rule 82(b)(1), Alaska Rules of Civil Procedure [ALASKA RULE OF CIVIL PROCEDURE 82(b)(1)].

* **Sec. 9.** AS 09.68.110(g) is amended to read:

(g) The liability of a person for damages and penalties under this section is in addition to liability for an award of reasonable attorney fees that may be made to the prevailing party in a civil action under Rule 82, Alaska Rules of Civil Procedure [ALASKA RULE OF CIVIL PROCEDURE 82].

* **Sec. 10.** AS 10.06.208 is amended to read:

Sec. 10.06.208. Articles of incorporation. The articles of incorporation must set out

(1) the name of the corporation;

(2) the purpose or purposes for which the corporation is organized, which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this chapter;

(3) if incorporation is after March 24, 1982, the address of its initial registered office and the name of its initial registered agent;

1 (4) the name and address of each alien affiliate or a statement that there
2 are no alien affiliates;

3 (5) if the corporation is authorized to issue only one class of shares, the
4 total number of shares that the corporation is authorized to issue;

5 (6) if the corporation is authorized to issue more than one class of
6 shares, or if a class of shares is to have two or more series,

7 (A) the total number of shares of each class the corporation is
8 authorized to issue, and the total number of shares of each series that the
9 corporation is authorized to issue or of which the board is authorized to fix the
10 number of shares;

11 (B) the designation of each class, and the designation of each
12 series or that the board may determine the designation of any series; and

13 (C) the rights, preferences, privileges, and restrictions granted to
14 or imposed on the respective classes or series of shares or the holders of the
15 shares, or that the board, within any limits and restrictions stated, may
16 determine or alter the rights, preferences, privileges, and restrictions granted to
17 or imposed on a wholly unissued class of shares or a wholly unissued series of
18 any class of shares [; AND

19 (D) IF THE NUMBER OF SHARES OF A SERIES IS
20 AUTHORIZED TO BE FIXED BY THE BOARD, THE ARTICLES OF
21 INCORPORATION MAY ALSO AUTHORIZE THE BOARD, WITHIN
22 THE LIMITS AND RESTRICTIONS STATED IN THE ARTICLES OR
23 STATED IN A RESOLUTION OF THE BOARD ORIGINALLY FIXING
24 THE NUMBER OF SHARES CONSTITUTING A SERIES, TO INCREASE
25 OR DECREASE, BUT NOT BELOW THE NUMBER OF SHARES OF THE
26 SERIES THEN OUTSTANDING, THE NUMBER OF SHARES OF A
27 SERIES AFTER THE ISSUE OF SHARES OF THAT SERIES; IF THE
28 NUMBER OF SHARES OF A SERIES ARE DECREASED, THE SHARES
29 CONSTITUTING THE DECREASE SHALL RESUME THE STATUS
30 THEY HAD BEFORE THE ADOPTION OF THE RESOLUTION
31 ORIGINALLY FIXING THE NUMBER OF SHARES OF THE SERIES].

1 * **Sec. 11.** AS 10.06.210 is amended to read:

2 **Sec. 10.06.210. Articles of incorporation; optional provisions.** The articles
3 of incorporation may set out

4 (1) any of the following provisions, which are not effective unless
5 expressly provided in the articles:

6 (A) a provision granting, with or without limitations, the power
7 to levy assessments on [UPON] the shares or class of shares;

8 (B) a provision removing from shareholders preemptive rights
9 to subscribe to any or all issues of shares or securities;

10 (C) special qualifications of persons who may be shareholders;

11 (D) a provision limiting the duration of the corporation's
12 existence to a specified date;

13 (E) a provision restricting or eliminating the power of the board
14 or of the outstanding shares to adopt, amend, or repeal provisions of the bylaws
15 as provided in AS 10.06.228;

16 (F) a provision requiring, for any corporate action except as
17 provided in AS 10.06.460 and [AS] 10.06.605, the vote of a larger proportion
18 or of all of the shares of a class or series, or the vote or quorum for taking
19 action of a larger proportion or of all of the directors, than is otherwise
20 required by this chapter;

21 (G) a provision limiting or restricting the business in which the
22 corporation may engage or the powers that the corporation may exercise or
23 both;

24 (H) a provision conferring on [UPON] the holder of an
25 evidence of indebtedness, issued or to be issued by the corporation, the right to
26 vote in the election of directors and on any other matters on which
27 shareholders may vote;

28 (I) a provision conferring on shareholders the right to determine
29 the consideration for which shares shall be issued;

30 (J) a provision requiring the approval of the shareholders or the
31 approval of the outstanding shares for a corporate action, even though not

otherwise required by this chapter;

(K) a provision that one or more classes or series of shares are redeemable as provided in AS 10.06.325;

(L) [REPEALED

(M)] a provision that confers or imposes the powers, duties, privileges, and liabilities of directors on [UPON] delegates under AS 10.06.450;

(M) [(N)] a provision eliminating or limiting the personal liability of a director to the corporation or its stockholders for monetary damages for the breach of fiduciary duty as a director; the articles of incorporation may not eliminate or limit the liability of a director for (i) a breach of a director's duty of loyalty to the corporation or its stockholders; (ii) acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law; (iii) wilful or negligent conduct involved in the payment of dividends or the repurchase of stock from other than lawfully available funds; or (iv) a transaction from which the director derives an improper personal benefit; the provisions of this **subparagraph** [PARAGRAPH] do not eliminate or limit the liability of a director for an act or omission that occurs before the effective date of the articles of incorporation or of an amendment to the articles of incorporation authorized by this **subparagraph** [PARAGRAPH];

(N) if the number of shares of a series is authorized to be fixed by the board, a provision authorizing the board, within the limits and restrictions stated in the articles or stated in a resolution of the board originally fixing the number of shares constituting a series, to increase or decrease, but not below the number of shares of the series then outstanding, the number of shares of a series after the issue of shares of that series; if the number of shares of a series are decreased, the shares constituting the decrease shall resume the status they had before the adoption of the resolution originally fixing the number of shares of the series;

(2) reasonable restrictions on [UPON] the right to transfer or hypothecate shares of a class or series, but a restriction is not binding on shares issued before the adoption of the restriction unless the holders of those shares voted in favor of the restriction;

(3) the names and addresses of the persons appointed to act as initial directors;

(4) any other provision not in conflict with this chapter for the management of the business and for the conduct of the affairs of the corporation, including any provision that is required or permitted by this chapter to be stated in the bylaws.

* **Sec. 12.** AS 10.06.405(c) is amended to read:

(c) Special meetings of the shareholders may be called by the board, the chair [CHAIRMAN] of the board, the president, the holders of not less than one-tenth of all the shares entitled to vote at the meeting, or other persons as may be authorized in the articles of incorporation or the bylaws.

* **Sec. 13.** AS 10.06.408(a) is amended to read:

(a) To determine the shareholders entitled to notice of or to vote at a meeting of shareholders or an adjournment of a meeting, [OR] to determine the shareholders entitled to receive payment of a dividend, or to determine the shareholders for any other proper purpose, the board of a corporation may provide that the stock transfer books shall be closed for a stated period not exceeding 70 days. If the stock transfer books are closed to determine shareholders entitled to notice of or to vote at a meeting of shareholders, they shall be closed for at least 20 days immediately preceding the meeting.

* **Sec. 14.** AS 10.06.433(b) is amended to read:

(b) In addition to the financial statement required by (a) of this section, unless a corporation has a nonexempt class of securities registered under 15 U.S.C. 78l (Securities Exchange Act of 1934) [SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934] or files reports under 43 U.S.C. 1606(c), 1607(c), and 1625 (Alaska Native Claims Settlement Act) [SECTIONS 7(c), 8(c), AND 28 OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT], the annual report of a

1 corporation having 100 or more holders of record of its shares must also briefly
2 describe

3 (1) all transactions, excluding compensation of officers and directors,
4 during the previous fiscal year involving an amount in excess of \$40,000, other than
5 contracts let at competitive bid or services rendered at prices regulated by law, to
6 which the corporation or its parent or subsidiary was a party, and in which a director
7 or officer of the corporation or of a subsidiary or, if known to the corporation, its
8 parent, or subsidiary, a holder of more than 10 percent of the outstanding voting shares
9 of the corporation had a direct or indirect material interest; the report must include the
10 name of the person, the person's relationship to the corporation, the nature of the
11 person's interest in the transaction and, if practicable, the amount of the interest; in the
12 case of a transaction with a partnership of which the person is a partner, only the
13 interest of the partnership need be stated; a report is not required in the case of
14 transactions approved by the shareholders under AS 10.06.478;

15 (2) the amount and circumstances of indemnifications or advances
16 aggregating more than \$10,000 paid during the fiscal year to an officer or director of
17 the corporation under AS 10.06.490; a report is not required in the case of
18 indemnification approved by the shareholders under AS 10.06.490(d)(3).

19 * **Sec. 15.** AS 10.06.960(n) is amended to read:

20 (n) Notwithstanding AS 10.06.504(d), an amendment to the articles of
21 incorporation of a corporation organized under 43 U.S.C. 1601 et seq. (Alaska Native
22 Claims Settlement Act) and incorporated under former AS 10.05.005 to add a
23 provision eliminating or limiting the personal liability of a director to the corporation
24 or its stockholders for monetary damages under AS 10.06.210(1)(M)
25 [AS 10.06.210(1)(N)] may be adopted by the affirmative vote of a majority of the
26 shares represented at the regular or special meeting at which a quorum is present in
27 person or by proxy.

28 * **Sec. 16.** AS 10.06.990(3) is amended to read:

29 (3) "alien" means

30 (A) an individual who is not a citizen or national of the United
31 States, or who is not lawfully admitted to the United States for permanent

1 residence, or paroled into the United States under **8 U.S.C. 1101 - 1524**
 2 **(Immigration and Nationality Act), as amended** [THE IMMIGRATION
 3 AND NATIONALITY ACT (8 U.S.C. 1101 - 1525, AS AMENDED)];

4 (B) a person, other than an individual, that was not created or
 5 organized under the laws of the United States or of a state, or whose principal
 6 place of business is not located in any state; or

7 (C) a person, other than an individual, that was created or
 8 organized under the laws of the United States or of a state, or whose principal
 9 place of business is located in a state, and that is controlled by a person
 10 described in (A) or (B) of this paragraph;

11 * **Sec. 17.** AS 10.06.990(24) is amended to read:

12 (24) ["LIQUIDATION PRICE" OR] "liquidation preference" means
 13 amounts payable for shares of a class upon voluntary or involuntary dissolution,
 14 winding up or distribution of the entire assets of the corporation, including any
 15 cumulative dividends accrued and unpaid, in priority to shares of another class or
 16 classes;

17 * **Sec. 18.** AS 10.06.990(31) is amended to read:

18 (31) "parent" [OR "PARENT CORPORATION"] means an affiliate
 19 controlling a specified corporation directly or indirectly through one or more
 20 intermediaries;

21 * **Sec. 19.** AS 14.16 is amended by adding a new section to article 2 to read:

22 **Sec. 14.16.100. Application for residential school. Before establishing a**
 23 **residential school, a** [A] school district shall apply to the department for approval to
 24 establish and operate a statewide or district-wide residential school. The department
 25 shall accept applications during an open application period conducted annually. A
 26 period of open application in itself does not indicate that the department will approve
 27 the establishment of a new residential school.

28 * **Sec. 20.** AS 14.20.149(h) is amended to read:

29 (h) Information provided to a school district under the school district's
 30 certificated employee evaluation system concerning the performance of an individual
 31 being evaluated under the system is not a public record and is not subject to disclosure

under AS 40.25.100 - 40.25.295 [AS 40.25]. However, the individual who is the subject of the evaluation is entitled to a copy of the information and may waive the confidentiality provisions of this subsection concerning the information.

* **Sec. 21.** AS 15.13.374(f) is amended to read:

(f) Advisory opinion requests and advisory opinions are public records subject to inspection and copying under AS 40.25.100 - 40.25.295 [AS 40.25], except that, if a person requesting an advisory opinion requests that the person's name be kept confidential, the person's name shall be kept confidential and the commission shall redact the name of the requester from the request and from the advisory opinion before making the request and opinion public.

* **Sec. 22.** AS 23.10.110(g) is amended to read:

(g) Failure to inquire into Alaska law is not consistent with a claim of good faith under this section [SUBSECTION].

* **Sec. 23.** AS 23.30.107(b) is amended to read:

(b) Medical or rehabilitation records, and the employee's name, address, social security number, electronic mail address, and telephone number contained on any record, in an employee's file maintained by the division or held by the board or the commission are not public records subject to public inspection and copying under AS 40.25.100 - 40.25.295 [AS 40.25]. This subsection does not prohibit

(1) the reemployment benefits administrator, the division, the board, the commission, or the department from releasing medical or rehabilitation records in an employee's file, without the employee's consent, to a physician providing medical services under AS 23.30.095(k) or 23.30.110(g), a party to a claim filed by the employee, or a governmental agency; or

(2) the quoting or discussing of medical or rehabilitation records contained in an employee's file during a hearing on a claim for compensation or in a decision or order of the board or commission.

* **Sec. 24.** AS 28.15.261(1) is amended to read:

(1) "licensee" includes [, BUT IS NOT LIMITED TO,] an applicant for a new driver's license if the applicant's license was revoked under AS 28.15.221 - 28.15.261;

1 * **Sec. 25.** AS 28.15.271(a) is amended to read:

2 (a) The fees for drivers' licenses and permits, including [BUT NOT LIMITED
3 TO] renewals, and all related driver skills tests are as follows:

4 (1) all noncommercial vehicles and motor-driven cycles

5 (A) each license fee \$20;

6 (B) each driver skills test \$15;

7 (2) all commercial motor vehicles

8 (A) each license fee \$100;

9 (B) each driver skills test \$25;

10 (3) instruction permit \$15;

11 (4) duplicate of driver's license or instruction permit \$15;

12 (5) temporary license and renewal of permit \$5;

13 (6) school bus driver's endorsement renewal \$5.

14 * **Sec. 26.** AS 28.35.036(e) is amended to read:

15 (e) Disposal under this subsection includes [, BY WAY OF EXAMPLE AND
16 NOT OF LIMITATION,]

17 (1) sale, as a unit or in parts, including sale at an auction, and the
18 proceeds deposited into the general fund;

19 (2) transfer to a state or municipal law enforcement agency;

20 (3) being declared surplus and transferred to the Department of
21 Administration;

22 (4) being destroyed; or

23 (5) transfer to a charitable organization; in this paragraph, "charitable
24 organization" means a charity that is exempt from taxation under 26 U.S.C. 501(c)(3)
25 (Internal Revenue Code).

26 * **Sec. 27.** AS 31.25.090(g) is amended to read:

27 (g) The portions of records containing information acquired or provided by the
28 corporation under a confidentiality agreement are not subject to AS 40.25.100 -
29 40.25.295 [AS 40.25]. The corporation may enter into confidentiality agreements with
30 a public agency, as defined in AS 40.25.220, to allow release of confidential
31 information. The portions of the records and files of a public agency bound by a

1 confidentiality agreement that reflect, incorporate, or analyze information subject to a
 2 confidentiality agreement under this subsection are not public records. Confidentiality
 3 agreements entered into under this subsection are valid and binding against all parties
 4 in accordance with the terms of the confidentiality agreement.

5 * **Sec. 28.** AS 31.25.090(h) is amended to read:

6 (h) Information and trade secrets of the corporation are confidential and not
 7 subject to AS 40.25.100 - 40.25.295 [AS 40.25] if the corporation determines that
 8 disclosure would cause commercial or competitive harm or damage to the corporation.
 9 Information that discloses the particulars of a business or the affairs of a private
 10 enterprise, investor, advisor, consultant, counsel, or manager that is developed or
 11 obtained by the corporation and related to the development, financing, construction, or
 12 operation of an in-state natural gas pipeline project by the corporation is confidential
 13 and not subject to AS 40.25.100 - 40.25.295 [AS 40.25]. The corporation may waive
 14 the confidentiality described in this subsection, except for information that is
 15 confidential under another provision of state law or under a federal law or regulation
 16 and except for information acquired from another person that is subject to a
 17 confidentiality agreement, if the waiver is consistent with the interests of the state and
 18 will facilitate the development, financing, or construction of an in-state natural gas
 19 pipeline. On the date that the in-state natural gas pipeline project becomes operational,
 20 the corporation shall make available, upon request under AS 40.25.100 - 40.25.295
 21 [AS 40.25], records that were exempt from AS 40.25.100 - 40.25.295 [AS 40.25]
 22 under this subsection or (g) of this section, unless the corporation determines that

23 (1) maintaining the confidentiality of the information is necessary to
 24 protect the economic interests of the corporation or the state; or

25 (2) disclosure of the information will violate another provision of state
 26 law, a federal law or regulation, or the terms of a confidentiality agreement or other
 27 agreement to which the corporation is a party or that is binding on the corporation.

28 * **Sec. 29.** AS 39.25.160(e) is amended to read:

29 (e) An employee in the classified, partially exempt, or exempt service who
 30 seeks nomination or becomes a candidate for state or national elective political office
 31 shall immediately resign any position held in the state service. The employee's

position becomes vacant on the date the employee files a declaration of candidacy for state or national elective office. This subsection applies to employees in the exempt service, except those listed below, notwithstanding AS 39.25.110. This subsection does not apply to

(1) justices [A JUSTICE], judges, magistrates, and employees of the judicial branch, including employees of the judicial council;

(2) the governor or the lieutenant governor;

(3) a member of the legislature;

(4) an employee seeking election as a delegate to a constitutional convention;

(5) officers and employees of the University of Alaska;

(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(7) certificated teachers employed as correspondence teachers, teachers in skill centers operated by the Department of Education and Early Development, or teachers at Mt. Edgecumbe School;

(8) members of boards and commissions and authorities if the member is not entitled to compensation other than per diem and travel for service on the board, commission, or authority;

(9) emergency firefighting personnel employed by the Department of Natural Resources for a fire emergency or for fire prevention and related activities conducted under AS 41.15.030;

(10) youth employed by the Department of Natural Resources under the Youth Employment and Student Intern programs;

(11) students employed by the state institutions in which the students are enrolled;

(12) persons engaged in employment or pre-employment training programs operated by the Department of Military and Veterans' Affairs;

(13) a participant in the Alaska temporary assistance program under

AS 47.27 who holds a temporary position with the state in order to obtain job training or experience.

* **Sec. 30.** AS 39.30.090(a) is amended to read:

(a) The Department of Administration may obtain a policy or policies of group insurance covering state employees, persons entitled to coverage under AS 14.25.168, 14.25.480, AS 22.25.090, AS 39.35.535, 39.35.880, or former AS 39.37.145, employees of other participating governmental units, or persons entitled to coverage under AS 23.15.136, subject to the following conditions:

(1) a [A] group insurance policy shall provide one or more of the following benefits: life insurance, accidental death and dismemberment insurance, weekly indemnity insurance, hospital expense insurance, surgical expense insurance, dental expense insurance, audiovisual insurance, or other medical care insurance; [.]

(2) each [EACH] eligible employee of the state, the spouse and the unmarried children chiefly dependent on the eligible employee for support, and each eligible employee of another participating governmental unit shall be covered by the group policy, unless exempt under regulations adopted by the commissioner of administration; [.]

(3) a [A] governmental unit may participate under a group policy if

(A) its governing body adopts a resolution authorizing participation [,] and payment of required premiums;

(B) a certified copy of the resolution is filed with the Department of Administration; and

(C) the commissioner of administration approves the participation in writing; [.]

(4) in [IN] procuring a policy of group health or group life insurance as provided under this section or excess loss insurance as provided in AS 39.30.091, the Department of Administration shall comply with the dual choice requirements of AS 21.86.310, and shall obtain the insurance policy from an insurer authorized to transact business in the state under AS 21.09, a hospital or medical service corporation authorized to transact business in this state under AS 21.87, or a health maintenance organization authorized to operate in this state under AS 21.86; an [AN] excess loss

1 insurance policy may be obtained from a life or health insurer authorized to transact
 2 business in this state under AS 21.09 or from a hospital or medical service corporation
 3 authorized to transact business in this state under AS 21.87; [.]

4 (5) the [THE] Department of Administration shall make available bid
 5 specifications for desired insurance benefits or for administration of benefit claims and
 6 payments to (A) all insurance carriers authorized to transact business in this state
 7 under AS 21.09 and all hospital or medical service corporations authorized to transact
 8 business under AS 21.87 who are qualified to provide the desired benefits; and (B) to
 9 insurance carriers authorized to transact business in this state under AS 21.09, hospital
 10 or medical service corporations authorized to transact business under AS 21.87, and
 11 third-party administrators licensed to transact business in this state and qualified to
 12 provide administrative services; the [. THE] specifications shall be made available at
 13 least once every five years; the [. THE] lowest responsible bid submitted by an
 14 insurance carrier, hospital or medical service corporation, or third-party administrator
 15 with adequate servicing facilities shall govern selection of a carrier, hospital or
 16 medical service corporation, or third-party administrator under this section or the
 17 selection of an insurance carrier or a hospital or medical service corporation to provide
 18 excess loss insurance as provided in AS 39.30.091; [.]

19 (6) if [IF] the aggregate of dividends payable under the group insurance
 20 policy exceeds the governmental unit's share of the premium, the excess shall be
 21 applied by the governmental unit for the sole benefit of the employees; [.]

22 (7) a [A] person receiving benefits under AS 14.25.110, AS 22.25,
 23 AS 39.35, or former AS 39.37 may continue the life insurance coverage that was in
 24 effect under this section at the time of termination of employment with the state or
 25 participating governmental unit; [.]

26 (8) a [A] person electing to have insurance under (7) of this subsection
 27 shall pay the cost of this insurance; [.]

28 (9) for [FOR] each permanent part-time employee electing coverage
 29 under this section, the state shall contribute one-half the state contribution rate for
 30 permanent full-time state employees, and the permanent part-time employee shall
 31 contribute the other one-half; [.]

(10) a [A] person receiving benefits under AS 14.25, AS 22.25, AS 39.35, or former AS 39.37 may obtain auditory, visual, and dental insurance for that person and eligible dependents under this section; the [. THE] level of coverage for persons over 65 shall be the same as that available before reaching age 65 except that the benefits payable shall be supplemental to any benefits provided under the federal old age, survivors, and disability insurance program; a [. A] person electing to have insurance under this paragraph shall pay the cost of the insurance; the [. THE] commissioner of administration shall adopt regulations implementing this paragraph; [.]

(11) a [A] person receiving benefits under AS 14.25, AS 22.25, AS 39.35, or former AS 39.37 may obtain long-term care insurance for that person and eligible dependents under this section; a [. A] person who elects insurance under this paragraph shall pay the cost of the insurance premium; the [. THE] commissioner of administration shall adopt regulations to implement this paragraph; [.]

(12) each [EACH] licensee holding a current operating agreement for a vending facility under AS 23.15.010 - 23.15.210 shall be covered by the group policy that applies to governmental units other than the state.

* **Sec. 31.** AS 39.35.680(37) is amended to read:

(37) "qualified domestic relations order" means a divorce or dissolution judgment under AS 25.24, including an order approving a property settlement, that

(A) creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of an employee contribution account or the benefits payable with respect to an employee;

(B) sets out the name and last known mailing address, if any, of the employee and of each alternate payee covered by the order;

(C) sets out the amount or percentage of the employee's benefit, or of any survivor's benefit, to be paid to the alternate payee, or sets out the manner in which that amount or percentage is to be determined;

(D) sets out the number of payments or period to which the order applies;

(E) sets out the retirement plan to which the order applies;

(F) does not require any type or form of benefit or any option not otherwise provided by AS 39.35.095 - 39.35.680;

(G) does not require an increase of benefits in excess of the amount provided by AS 39.35.095 - 39.35.680, determined on the basis of actuarial value; and

(H) does not require the payment to an alternate payee of benefits that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

* **Sec. 32.** AS 41.35.310 is amended to read:

Sec. 41.35.310. Composition of commission. The Alaska Historical Commission consists of the following persons:

(1) the lieutenant governor;

(2) the state historic preservation officer [LIAISON OFFICER] appointed under 16 U.S.C. 470 - 470n (P.L. 89-665, National Historic Preservation Act of 1966);

(3) three persons with professionally relevant backgrounds appointed from each of the following fields: history, architecture, and archeology;

(4) one person appointed to represent indigenous ethnic groups;

(5) two persons appointed from a list of recommended nominees, containing at least four names, submitted each year by the Alaska Historical Society;

(6) one other person.

* **Sec. 33.** AS 43.90.160(b) is amended to read:

(b) Applications received under this chapter are not subject to public disclosure under AS 40.25.100 - 40.25.295 [AS 40.25] until the commissioners publish notice under this section. However, information that the commissioners have determined is proprietary or a trade secret under AS 43.90.150 may not be made public even after the notice is published under (a) of this section, except as otherwise provided in AS 43.90.150. If information is proprietary or a trade secret and is held confidential under AS 43.90.150, the applicant shall provide a summary of the confidential information that is satisfactory to the commissioners, and the commissioners shall

1 make the summary of the information available to the public.

2 * **Sec. 34.** AS 43.90.220(e) is amended to read:

3 (e) All proprietary information, privileged information, and trade secrets
4 received by the commissioners or their representative under (d) of this section are not
5 subject to public disclosure under AS 40.25.100 - 40.25.295 [AS 40.25].

6 * **Sec. 35.** AS 44.62.330(a) is amended to read:

7 (a) The procedure of the state boards, commissions, and officers listed in this
8 subsection or of their successors by reorganization under the constitution shall be
9 conducted under AS 44.62.330 - 44.62.630. This procedure, including [, BUT NOT
10 LIMITED TO,] accusations and statements of issues, service, notice and time and
11 place of hearing, subpoenas, depositions, matters concerning evidence and decisions,
12 conduct of hearing, judicial review and scope of judicial review, continuances,
13 reconsideration, reinstatement or reduction of penalty, contempt, mail vote, oaths,
14 impartiality, and similar matters shall be governed by this chapter, notwithstanding
15 similar provisions in the statutes dealing with the state boards, commissions, and
16 officers listed. Where indicated, the procedure that shall be conducted under
17 AS 44.62.330 - 44.62.630 is limited to named functions of the agency.

18 (1) Board of Chiropractic Examiners;

19 (2) Board of Dental Examiners;

20 (3) State Board of Registration for Architects, Engineers, and Land
21 Surveyors;

22 (4) Board of Examiners in Optometry;

23 (5) State Medical Board;

24 (6) Division of Lands under Alaska Land Act where applicable;

25 (7) Board of Nursing functions, except those related to findings of
26 abuse, neglect, or misappropriation of property contained in the registry of certified
27 nurse aides under AS 08.68.333;

28 (8) Board of Pharmacy;

29 (9) Board of Public Accountancy;

30 (10) Department of Labor and Workforce Development as to functions
31 relating to employment security only as provided in (c) of this section;

- 1 (11) Real Estate Commission;
- 2 (12) Alaska Workers' Compensation Board, where procedures are not
- 3 otherwise expressly provided by the Alaska Workers' Compensation Act;
- 4 (13) Department of Transportation and Public Facilities, as to functions
- 5 relating to aeronautics and communications;
- 6 (14) Department of Public Safety, as to suspension or revocation of a
- 7 security guard's license under AS 18.65.400 - 18.65.490;
- 8 (15) Department of Health and Social Services and Department of
- 9 Environmental Conservation under AS 17.20 (Alaska Food, Drug, and Cosmetic Act),
- 10 and Department of Commerce, Community, and Economic Development in
- 11 connection with the licensing of embalmers and funeral directors under AS 08.42;
- 12 (16) Department of Environmental Conservation, under AS 18.35.010 -
- 13 18.35.090, concerning the regulation of tourist and trailer camps, motor courts, and
- 14 motels;
- 15 (17) Board of Marine Pilots;
- 16 (18) Alaska Police Standards Council;
- 17 (19) Big Game Commercial Services Board;
- 18 (20) Alaska Public Offices Commission;
- 19 (21) Board of Fisheries;
- 20 (22) Board of Game;
- 21 (23) [THE] Department of Education and Early Development and
- 22 [THE] Professional Teaching Practices Commission with regard to proceedings to
- 23 revoke or suspend a teacher's certificate under AS 14.20.030 - 14.20.040 and
- 24 AS 14.20.470(a)(4);
- 25 (24) Alaska Commission on Postsecondary Education under AS 14.48
- 26 as to denial of applications and revocation of authorizations and permits;
- 27 (25) Department of Environmental Conservation, except to the extent
- 28 that AS 44.62.360 - 44.62.400 are inconsistent with the manner in which proceedings
- 29 are initiated under the provisions of AS 46.03 and AS 46.14;
- 30 (26) Board of Psychologist and Psychological Associate Examiners;
- 31 (27) [THE] Department of Fish and Game as to functions relating to the

1 protection of fish and game under AS 16.05.871;

2 (28) Board of Veterinary Examiners;

3 (29) Department of Commerce, Community, and Economic
4 Development concerning the licensing and regulation of nursing home administrators;

5 (30) Board of Barbers and Hairdressers;

6 (31) Department of Natural Resources concerning the Alaska grain
7 reserve program under former AS 03.12;

8 (32) Department of Commerce, Community, and Economic
9 Development concerning the licensing and regulation of audiologists and speech-
10 language pathologists under AS 08.11;

11 (33) Department of Commerce, Community, and Economic
12 Development concerning the licensing and regulation of hearing aid dealers under
13 AS 08.55;

14 (34) Board of Certified Real Estate Appraisers;

15 (35) Department of Labor and Workforce Development as to functions
16 related to employment rights of the organized militia under AS 26.05.075;

17 (36) Board of Certified Direct-Entry Midwives;

18 (37) Board of Marital and Family Therapy;

19 (38) [THE] Department of Revenue for administrative review of
20 actions taken under AS 43.50 relating to a tobacco product manufacturer's compliance
21 with statutory requirements regarding cigarette sales;

22 (39) [THE] Department of Commerce, Community, and Economic
23 Development as to the licensing and regulation of private professional guardians and
24 conservators under AS 08.26;

25 (40) Department of Commerce, Community, and Economic
26 Development relating to the licensing and regulation of persons making deferred
27 deposit advances under AS 06.50;

28 (41) Department of Health and Social Services relating to the
29 centralized registry under AS 47.05.330 - 47.05.390;

30 (42) State Commission for Human Rights, where procedures are not
31 otherwise expressly provided in AS 18.80;

(43) [THE] Alaska Retirement Management Board for administration of pension forfeitures under AS 37.10.310;

(44) Department of Commerce, Community, and Economic Development relating to mortgage lending under AS 06.60;

(45) Board of Massage Therapists.

*** Sec. 36.** AS 45.02.107(b) is amended to read:

(b) A contract for the sale apart from the land of growing crops or other things attached to [A] realty and capable of severance without material harm to them but not described in (a) of this section or of timber to be cut is a contract for the sale of goods within this chapter, whether the subject matter is to be severed by the buyer or by the seller even though it forms part of the realty at the time of contracting, and the parties can by identification effect a present sale before severance.

*** Sec. 37.** AS 45.02.706(d) is amended to read:

(d) If the resale is at public sale,

(1) only identified goods can be sold unless there is a recognized market for a public sale of futures in goods of the kind; [AND]

(2) it must be made at a usual place or market for public sale if one is reasonably available, and, except in the case of goods that are perishable or threaten to decline in value speedily, the seller must give the buyer reasonable notice of the time and place of the resale; [AND]

(3) if the goods are not to be within the view of those attending the sale, the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective bidders; and

(4) the seller may buy.

*** Sec. 38.** AS 45.08.110(d) is amended to read:

(d) The following rules determine a securities intermediary's jurisdiction for purposes of this section:

(1) if an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of AS 45.08.101 - 45.08.116, this chapter, or this code, that jurisdiction is the securities intermediary's

jurisdiction;

(2) if (1) of this subsection does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction;

(3) if neither (1) nor (2) of this subsection applies and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides [SPECIFIES] that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction;

(4) if none of the preceding paragraphs of this subsection applies, the securities intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the entitlement holder's account is located;

(5) if none of the preceding paragraphs of this subsection applies, the securities intermediary's jurisdiction is the jurisdiction in which the chief executive office of the securities intermediary is located.

* **Sec. 39.** AS 45.10.215 is amended to read:

Sec. 45.10.215. Applicability of chapter. For the purposes of this chapter, a retail installment contract or retail charge agreement is entered into in this state, and is therefore subject to the provisions of this chapter, if either the seller offers or agrees to sell to a resident [ALASKA] buyer in this state [ALASKA] or if a resident [ALASKA] buyer in this state accepts the offer to sell or makes the offer to buy in this state [ALASKA], regardless of any specification in the contract as to its situs.

* **Sec. 40.** AS 45.12.108(d) is amended to read:

(d) Notwithstanding **Rule 82, Alaska Rules of Civil Procedure** [ALASKA RULE OF CIVIL PROCEDURE 82], in an action in which the lessee claims unconscionability with respect to a consumer lease

(1) if the court finds unconscionability under (a) or (b) of this section, the court shall award reasonable attorney fees to the lessee;

(2) if the court does not find unconscionability and the lessee claiming unconscionability has brought or maintained an action the lessee knew to be

1 groundless, the court shall award reasonable attorney fees to the party against whom
2 the claim is made;

3 (3) in determining attorney fees, the amount of the recovery on behalf
4 of the claimant under (a) and (b) of this section is not controlling.

5 * **Sec. 41.** AS 45.14.305(e) is amended to read:

6 (e) Reasonable attorney fees are recoverable if demand for compensation under
7 (a) or (b) of this section is made and refused before an action is brought on the claim.
8 If a claim is made for breach of an agreement under (d) of this section and the
9 agreement does not provide for damages, reasonable attorney fees are recoverable if
10 demand for compensation under (d) of this section is made and refused before an
11 action is brought on the claim. Recovery of attorney fees under this subsection is an
12 exception to the general provisions of **Rule 82, Alaska Rules of Civil Procedure**
13 [ALASKA RULE OF CIVIL PROCEDURE 82].

14 * **Sec. 42.** AS 45.14.404(b) is amended to read:

15 (b) If a payment order accepted by the beneficiary's bank instructs payment to
16 an account of the beneficiary, the bank is obliged to notify the beneficiary of receipt of
17 the order before midnight of the next funds-transfer business day following the
18 payment date. If the payment order does not instruct payment to an account of the
19 beneficiary, the bank is required to notify the beneficiary only if notice is required by
20 the order. Notice may be given by first class mail or other means reasonable in the
21 circumstances. If the bank fails to give the required notice, the bank is obliged to pay
22 interest to the beneficiary on the amount of the payment order from the day notice
23 should have been given until the day the beneficiary learned of receipt of the payment
24 order by the bank. Other damages are not recoverable. Notwithstanding **Rule 82,**
25 **Alaska Rules of Civil Procedure** [ALASKA RULE OF CIVIL PROCEDURE 82],
26 reasonable attorney fees are also recoverable if demand for interest is made and
27 refused before an action is brought on the claim.

28 * **Sec. 43.** AS 45.25.190 is amended to read:

29 **Sec. 45.25.190. Arbitration.** In a controversy between a manufacturer and a
30 new motor vehicle dealer under AS 45.25.010 - 45.25.320, neither the manufacturer
31 nor the new motor vehicle dealer is required to submit the controversy to arbitration. If

both the manufacturer and the new motor vehicle dealer agree to submit a controversy under AS 45.25.010 - 45.25.320 to arbitration, the arbitration shall be conducted under AS 09.43.010 [AS 09.43.020] - 09.43.180 (Uniform Arbitration Act) or AS 09.43.300 - 09.43.595 (Revised Uniform Arbitration Act), as applicable, the manufacturer and the new motor vehicle dealer shall each select one arbitrator, and both the manufacturer and the new motor vehicle dealer shall select the third arbitrator.

* **Sec. 44.** AS 45.45.355 is amended to read:

Sec. 45.45.355. Arbitration or mediation. If a manufacturer or distributor has established an informal dispute settlement procedure that substantially complies with the requirements of 16 C.F.R. Part 703 [16 C.F.R. 703], as that section may be amended, or if the manufacturer or distributor, after receipt of notice required by AS 45.45.310, offers in writing to participate in an arbitration or mediation process with the owner and the arbitration or mediation decision is binding on the manufacturer or distributor but not on the owner, and if the informal dispute settlement or arbitration or mediation process is approved by the attorney general, the provisions of AS 45.45.305 concerning refund or replacement or AS 45.45.350 concerning shipping costs do not apply to an owner who has not first resorted to the informal dispute settlement procedure or arbitration or mediation process.

* **Sec. 45.** AS 45.45.920(f) is amended to read:

(f) This section does not apply to

(1) a telephonic seller who is registered under AS 45.63 and who complies with AS 45.63; or

(2) a prenotification negative option plan that is regulated by 16 C.F.R. Part 425 [16 C.F.R. 425] and that complies with 16 C.F.R. Part 425 [16 C.F.R. 425].

* **Sec. 46.** AS 45.45.930(e)(1) is amended to read:

(1) "opt-out marketing plan"

(A) means an arrangement under which a seller provides, without the buyer's express verifiable consent, a notice to a buyer that identifies goods or services that the seller intends to provide to the buyer and to charge the buyer for, unless, by a specific date or within a specific time frame, the buyer notifies the seller not to provide the goods or services;

(B) does not include a prenotification negative option plan that is regulated by and complies with **16 C.F.R. Part 425** [16 C.F.R. 425];

* **Sec. 47.** AS 45.48.540(b) is amended to read:

(b) A business is not required to comply with AS 45.48.500 - 45.48.530 if

(1) the business is subject to and in compliance with the Gramm-Leach-Bliley Financial Modernization Act; or

(2) the manner of the disposal of the records of the business is subject to 15 U.S.C. 1681w (Fair Credit Reporting Act) and the business is complying with **15 U.S.C. 1681w** [15 U.S.C. 1861W].

* **Sec. 48.** AS 45.50.592(a) is amended to read:

(a) If the attorney general determines that a person is in possession, custody, or control of [A] documentary evidence, wherever situated, that the attorney general believes to be relevant to an investigation authorized in AS 45.50.590, the attorney general may execute in writing and cause to be served **on** [UPON] that person an investigative demand requiring the person to produce the documentary material, and permit inspection and copying.

* **Sec. 49.** AS 45.50.592(d) is amended to read:

(d) The demand may be served by the attorney general or the designee of the attorney general by

(1) delivering a copy of it to the person to be served [,] or, if the person is not a natural person, to an officer of the person to be served;

(2) delivering a copy of it to a place of business in the state of the person to be served; or

(3) mailing by registered or certified mail a copy of it addressed to the person to be served at a place of business in the state [,] or, if the person has no place of business in the state, to **the** principal office or place of business of the person.

* **Sec. 50.** AS 45.50.592(g) is amended to read:

(g) A person **on** [UPON] whom a demand is served under this section shall comply with the terms of the demand unless otherwise provided by an order of court issued in response to a petition filed under (f) of this section. A person who, with intent to avoid, prevent, or obstruct compliance, in whole or in part, with an

investigative demand under this section, removes from any place, conceals, withholds, or destroys, mutilates, alters, or by any other means falsifies, [A] documentary material in the possession, custody, or control of a person that [WHICH] is the subject of a demand duly served on [UPON] any person, or who otherwise wilfully disobeys any such demand, is guilty of a misdemeanor, and is punishable upon conviction by a fine of not more than \$5,000, or by imprisonment for a term of not more than one year, or by both. Failure of the state to serve the demand properly under (d) of this section is a defense to prosecution under this subsection, but invalidity of the demand under (b) or (c) of this section is not a defense, and that invalidity may be tested only in an action under (f) of this section to modify or set aside the demand.

* **Sec. 51.** AS 45.55.023(b) is amended to read:

(b) The conduct listed in (a) of this section is not the exclusive conduct prohibited by (a) of this section. Engaging in other similar conduct, including nondisclosure, incomplete disclosure, or a deceptive practice, is considered unethical practice or conduct under AS 45.55.060(a)(7). The federal statutory and regulatory provisions referred to in this section apply to a state investment adviser and a registered investment adviser representative of either a state investment adviser or a federal covered adviser, regardless of whether the federal provisions limit [LIMITS] their application to state investment advisers or federal covered advisors subject to federal registration. With respect to a federal covered adviser, the provisions of this section apply only to the extent permitted under P.L. 104-290, 101 Stat. 3416-3440 (National Securities Markets Improvement Act of 1996) and only when the conduct proscribed involves fraud or deceit within the meaning of AS 45.55.010(a) and 45.55.020(a).

* **Sec. 52.** AS 45.63.080(a) is amended to read:

(a) AS 45.63.010, 45.63.015, 45.63.020, and AS 45.63.030(c) and (d) do not apply to a sale or attempted sale

(1) of a security regulated under AS 45.55 or a security that is exempted by AS 45.55.900 from regulation under AS 45.55;

(2) by a person registered with the United States Securities and Exchange Commission when acting within the scope of the person's Securities and

1 Exchange Commission license;

2 (3) by an issuer, or a subsidiary of an issuer, of a class of securities that
3 is

4 (A) subject to 15 U.S.C. 78a - 78lll (Securities Exchange Act of
5 1934); and

6 (B) either registered under 15 U.S.C. 78a - 78lll (Securities
7 Exchange Act of 1934) or exempt from registration under 15 U.S.C.
8 78l(g)(2)(A) - (C) or (E) - (H);

9 (4) by a real estate broker, associate real estate broker, or real estate
10 salesperson licensed under AS 08.88 and acting in a capacity covered by the license;

11 (5) by a person who has a certificate of registration under AS 08.18 to
12 operate as a contractor and is acting in a capacity covered by the certificate of
13 registration;

14 (6) by an embalmer or funeral director licensed under AS 08.42 and
15 acting in a capacity covered by the license;

16 (7) by an insurance agent, general agent, broker, solicitor, or adjuster
17 licensed under AS 21.27 and acting in a capacity covered by the license;

18 (8) by a person who is primarily soliciting the sale of a subscription to,
19 or advertising in, a newspaper of general circulation;

20 (9) by a charitable organization or paid solicitor if the organization or
21 solicitor is registered to make charitable solicitations under AS 45.68 and is acting in a
22 capacity that is covered by the registration;

23 (10) by a person who is primarily soliciting the sale of a sound
24 recording or book

25 (A) if the person

26 (i) has no minimum purchase requirements;

27 (ii) provides written notice of the buyer's right to cancel
28 at any time; and

29 (iii) allows the buyer to return the sound recording or
30 book and obtain a full refund; or

31 (B) through a membership in a book or record club

(i) where the club provides the buyer with a form that the buyer may use to instruct the club not to ship the offered merchandise; and

(ii) that is regulated by the Federal Trade Commission as a negative option plan under **16 C.F.R. Part 425** [16 C.F.R. 425];

(11) by a publisher, or a publisher's agent operating under a written agreement between a publisher and the agent, who is soliciting the sale of a publisher's magazine if

(A) the buyer has the right to review the magazine and cancel the subscription for the magazine within seven days after receipt of the magazine or at the time the invoice is received by the buyer, whichever is later; a cancellation request is timely if the request is mailed, properly addressed and postmarked, postage prepaid, within seven days after receipt of the magazine;

(B) the right of cancellation and refund is fully disclosed in writing to the buyer before or at the time the initial invoice is received by the buyer;

(12) of services provided by a cable television system operating under a franchise issued by a municipality;

(13) by a person who is soliciting for a business, or for an affiliate of a business, that is regulated by the Regulatory Commission of Alaska;

(14) by a person whose solicitation is solely for telephone answering services provided by the person or the person's employer;

(15) of property from a mail order catalog that is published on a regular, periodic basis and that describes or pictures the items for sale and prominently provides the specific price of each item;

(16) by a supervised financial institution or the parent, subsidiary, or affiliate of a supervised financial institution; in this paragraph, "supervised financial institution" means a commercial bank, savings bank, mutual savings bank, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or other financial institution if the financial institution is subject to regulation by this

1 state or the United States;

2 (17) by an insurer or the parent, subsidiary, or affiliate of an insurer;

3 (18) by a person who solicits a sale by a contact by telephonic means
4 without intending to complete the sales presentation during the contact, who does not
5 complete the sales presentation during the contact, and who only completes the sales
6 presentation at a later meeting in person, unless at the later meeting the solicitor
7 attempts to collect payment for property or services delivered before the later meeting;

8 (19) of an item of personal property, including a food product, that is
9 made by hand by an individual, if the sale or attempted sale of the item is made by the
10 individual who made the item; in this paragraph, "made by hand" includes the use of
11 ordinary household devices if the majority of the value of the item is added by the
12 labor of the individual.

13 * **Sec. 53.** AS 46.03.020 is amended to read:

14 **Sec. 46.03.020. Powers of the department.** The department may

15 (1) enter into contracts and compliance agreements necessary or
16 convenient to carry out the functions, powers, and duties of the department;

17 (2) review and appraise programs and activities of state departments
18 and agencies in light of the policy set out in AS 46.03.010 for the purpose of
19 determining the extent to which the programs and activities are contributing to the
20 achievement of that policy and to make recommendations to the departments and
21 agencies, including environmental guidelines;

22 (3) consult with and cooperate with

23 (A) officials and representatives of any nonprofit corporation or
24 organization in the state;

25 (B) persons, organizations, and groups, public and private,
26 using, served by, interested in, or concerned with the environment of the state;

27 (4) appear and participate in proceedings before any state or federal
28 regulatory agency involving or affecting the purposes of the department;

29 (5) undertake studies, inquiries, surveys, or analyses it may consider
30 essential to the accomplishment of the purposes of the department; these activities
31 may be carried out by the personnel of the department or in cooperation with public or

1 private agencies, including educational, civic, and research organizations, colleges,
2 universities, institutes, and foundations;

3 (6) at reasonable times, enter and inspect with the consent of the owner
4 or occupier any property or premises to investigate either actual or suspected sources
5 of pollution or contamination or to ascertain compliance or noncompliance with a
6 regulation that may be adopted under AS 46.03.020 - 46.03.040; information relating
7 to secret processes or methods of manufacture discovered during investigation is
8 confidential;

9 (7) conduct investigations and hold hearings and compel the attendance
10 of witnesses and the production of accounts, books, and documents by the issuance of
11 a subpoena;

12 (8) advise and cooperate with municipal, regional, and other local
13 agencies and officials in the state, to carry out the purposes of this chapter;

14 (9) act as the official agency of the state in all matters affecting the
15 purposes of the department under federal laws now or hereafter enacted;

16 (10) adopt regulations necessary to carry out the purposes of this
17 chapter, including [, BY WAY OF EXAMPLE AND NOT LIMITATION,]
18 regulations providing for

19 (A) control, prevention, and abatement of air, water, or land or
20 subsurface land pollution;

21 (B) safeguard standards for petroleum and natural gas pipeline
22 construction, operation, modification, or alteration;

23 (C) protection of public water supplies by establishing
24 minimum drinking water standards, and standards for the construction,
25 improvement, and maintenance of public water supply systems;

26 (D) collection and disposal of sewage and industrial waste;

27 (E) collection and disposal of garbage, refuse, and other
28 discarded solid materials from industrial, commercial, agricultural, and
29 community activities or operations;

30 (F) control of pesticides;

31 (G) other purposes as may be required for the implementation

1 of the policy declared in AS 46.03.010;

2 (H) handling, transportation, treatment, storage, and disposal of
3 hazardous wastes;

4 (11) inspect the premises of sellers and suppliers of paint, vessels, and
5 marine and boating supplies, and take other actions necessary to enforce
6 AS 46.03.715;

7 (12) notwithstanding any other provision of law, take all actions
8 necessary to receive authorization from the administrator of the United States
9 Environmental Protection Agency to administer and enforce a National Pollutant
10 Discharge Elimination System program in accordance with 33 U.S.C. 1342 (sec. 402,
11 Clean Water Act), 33 U.S.C. 1345 (sec. 405, Clean Water Act), 40 C.F.R. Part 123,
12 and 40 C.F.R. Part 403, as amended;

13 (13) require the owner or operator of a facility to undertake monitoring,
14 sampling, and reporting activities described in 33 U.S.C. 1318 (sec. 308, Clean Water
15 Act);

16 (14) notwithstanding any other provision of law, take all actions
17 necessary to receive federal authorization of a state program for the department and
18 the Department of Natural Resources to administer and enforce a dredge and fill
19 permitting program allowed under 33 U.S.C. 1344 (sec. 404, Clean Water Act) and to
20 implement the program, if authorized.

21 * **Sec. 54.** AS 46.03.900(25) is amended to read:

22 (25) ["SEWER SYSTEM" OR] "sewerage system" means pipelines or
23 conduits, pumping stations, and force mains, and all other appurtenant constructions,
24 devices, and appliances used for conducting sewage, industrial waste, or other wastes
25 to a point of ultimate disposal;

26 * **Sec. 55.** AS 46.03.900(28) is amended to read:

27 (28) **"solid waste processing"** ["SOLID WASTE PROCESSING
28 FACILITY"] means [A FACILITY FOR THE] extraction of materials from solid
29 waste, volume reduction, conversion to energy, or other separation and preparation of
30 solid waste for reuse or disposal and includes **processing by** incinerators, shredders,
31 balers, and transfer stations;

1 * **Sec. 56.** AS 46.04.080(a) is amended to read:

2 (a) The commissioner [COMMISSIONER OF ENVIRONMENTAL
3 CONSERVATION] or the adjutant general of the Department of Military and
4 Veterans' Affairs may request the governor to determine that an actual or imminent
5 occurrence of a catastrophic oil discharge constitutes a disaster emergency under
6 AS 26.23. The commissioner [COMMISSIONER OF ENVIRONMENTAL
7 CONSERVATION] and the adjutant general of the Department of Military and
8 Veterans' Affairs shall respond appropriately in the relief of the actual or imminent
9 discharge under the relevant provisions of the applicable incident command system.

10 * **Sec. 57.** AS 46.04.900(12) is amended to read:

11 (12) "oil" means oil of any kind and in any form, whether crude,
12 refined, or a petroleum by-product, including [BUT NOT LIMITED TO] petroleum,
13 fuel oil, gasoline, lubricating oils, oily sludge, oil refuse, oil mixed with other wastes,
14 crude oils, liquefied natural gas, propane, butane, or other liquid hydrocarbons
15 regardless of specific gravity;

16 * **Sec. 58.** AS 46.04.900(14) is amended to read:

17 (14) "oil terminal facility" means an onshore or offshore facility of any
18 kind, and related appurtenances, including [BUT NOT LIMITED TO] a deepwater
19 port, bulk storage facility, or marina, located in, on, or under the surface of the land or
20 waters of the state, including tide and submerged land, that is used for the purpose of
21 transferring, processing, refining, or storing oil; a vessel, other than a nontank vessel,
22 is considered an oil terminal facility only when it is used to make a ship-to-ship
23 transfer of oil, and when it is traveling between the place of the ship-to-ship transfer of
24 oil and an oil terminal facility;

25 * **Sec. 59.** AS 46.08.005 is amended to read:

26 **Sec. 46.08.005. Purpose of fund; description of accounts.** The legislature
27 finds and declares that the release of oil or hazardous substances into the environment
28 presents a real and substantial threat to the public health and welfare, to the
29 environment, and to the economy of the state. The legislature therefore concludes that
30 it is in the best interest of the state and its citizens to provide a fund containing two
31 accounts. Within the fund,

(1) one account consists of money readily available to the commissioner for the payment of the expenses incurred by the department [DEPARTMENT OF ENVIRONMENTAL CONSERVATION] during a response to a release or threatened release of oil or hazardous substances when authorized by AS 46.08.045 and for related purposes intended to address those releases;

(2) the other account consists of money that the state may use during a response to a release of oil or a hazardous substance, other than one described in (1) of this subsection, and to a threatened release of oil or a hazardous substance, to pay the expenses of making preparations for the possibility of a release or threatened release of oil or hazardous substances, to reduce the amount, degree, or intensity of a release or threatened release, and for other related purposes identified in law.

* **Sec. 60.** AS 47.32.180(b) is amended to read:

(b) With the exception of information that identifies a complainant or a recipient of services from an entity, a copy of the department's report of investigation or inspection under AS 47.32.120, an entity's written response to the report, and information regarding any department imposition of an enforcement action under AS 47.32.130 or 47.32.140 are public records under AS 40.25.100 - 40.25.295 [AS 40.25]. The department shall make this information available to the public for inspection and copying within time frames [TIMEFRAMES] specified in AS 40.25.100 - 40.25.295 [AS 40.25] or regulations adopted under AS 40.25.100 - 40.25.295 [AS 40.25] after the

(1) entity receives its copy of the report of investigation under AS 47.32.120, if the department has determined that an enforcement action under AS 47.32.130 or 47.32.140 will not be taken regarding the entity;

(2) department's notice of enforcement action under AS 47.32.130 or 47.32.140 becomes a final administrative order without a hearing under AS 47.32.130(c) or 47.32.140(i); or

(3) issuance of a decision following a hearing under AS 47.32.150.

* **Sec. 61.** AS 19.75.980(4); AS 45.25.990(14), and 46.03.900(31) are repealed.

* **Sec. 62.** Section 35 of this Act takes effect July 1, 2015.

* **Sec. 63.** Except as provided in sec. 62 of this Act, this Act takes effect immediately under

1 AS 01.10.070(c).