

Introduced: 3/4/64
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE
BY REQUEST

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HOUSE BILL NO. 383

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRD LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to the practice of law;

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creating an Alaska bar association; and pro-

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viding for an effective date."

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

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* Section 1. PURPOSE. The control of the practice of law has

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both regulatory and quasi-judicial aspects and purely judicial

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aspects. When lawyers are in court practicing before courts,

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they are officers of the court, and are, for certain purposes, sub-

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ject to being controlled by the courts. When lawyers are practic-

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ing out of court, as when they are drafting wills, leases,

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mortgages, bills of sale, contracts, and deeds, and are assisting

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persons before administrative agencies, they have no more to do

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with the judicial process than have persons practicing any other

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occupation or profession. In the latter case, providing for the

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control of the practice of law is a legislative responsibility,

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under Section 22, Article III, of the Constitution of the State of

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Alaska. The purpose of this Act is to establish an association of

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all persons entitled to practice law in the state, and to provide

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for its governance by a regulatory and quasi-judicial agency not

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within a principal department, under Section 22, Article III, of

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the Constitution of the State of Alaska. The Act gives the

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governing body the duty of regulating the practice of law, and of

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disciplining lawyers who do not comply with the regulation. It

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also provides a basic regulatory system the courts may use in

1 regulating the practice of law before courts.

2 * Sec. 2. AS 08.08 is amended by adding new sections to read:

3 ARTICLE 1. THE ALASKA BAR ASSOCIATION

4 Sec. 08.08.011. CREATION OF ALASKA BAR ASSOCIATION.

5 There is created an instrumentality of the state known as
6 the Alaska Bar Association, referred to in this chapter as
7 the Alaska Bar. The Alaska Bar shall have a common seal,
8 may sue and be sued, and may, for the purpose of carrying
9 into effect and promoting the objects of the Alaska Bar, enter
10 into contracts and acquire, hold, encumber and dispose of real
11 and personal property.

12 Sec. 08.08.021. ACTIVE MEMBERS. Every person licensed
13 to practice law in the state except a judge of a court of
14 record is eligible for active membership in the Alaska Bar.

15 ARTICLE 2. THE BOARD OF GOVERNORS AND OFFICERS

16 Sec. 08.08.031. GOVERNANCE OF THE ALASKA BAR. The
17 Alaska Bar is governed by the Board of Governors of the
18 Alaska Bar. The board has the powers and duties conferred
19 by this chapter. Members of the board shall receive no
20 salary.

21 Sec. 08.08.041. BOARD OF GOVERNORS OF THE ALASKA BAR.

22 (a) There is hereby constituted a Board of Governors of the
23 Alaska Bar. The board consists of nine members appointed by
24 the governor and confirmed by the legislature.

25 (b) The governor shall appoint three members from the
26 first judicial district, one member from the second judicial
27 district, three members from the third judicial district, and
28 two members from the fourth judicial district.

29 (c) At the annual meeting of the Alaska Bar, the Alaska

1 Bar shall prepare a list of two or more names of nominees for
2 each vacancy on the board. The governor may select a member
3 of the board only from the list of nominees.

4 (d) Members of the board serve staggered terms of
5 three years.

6 Sec. 08.08.051. QUALIFICATIONS OF MEMBERS. A person
7 is qualified to serve on the board if he is nominated under
8 sec. 041(c) of this chapter and is an active member of the
9 Alaska Bar.

10 Sec. 08.08.061. POWERS OF BOARD. The board shall
11 adopt regulations

12 (1) concerning membership and the classification
13 of membership in the Alaska Bar into active, inactive, and
14 honorary members;

15 (2) concerning the enrollment and privileges of
16 membership;

17 (3) providing for other officers of the Alaska Bar
18 and their respective powers, duties, terms of office, and
19 compensation;

20 (4) concerning annual and special meetings;

21 (5) concerning the collection of membership and
22 admission fees, penalties, and all other money;

23 (6) providing for the organization and government
24 of local subdivisions of the Alaska Bar;

25 (7) defining the practice of law;

26 (8) providing for all other matters, whether
27 similar to the foregoing or not, affecting in any way what-
28 soever the organization and functioning of the Alaska Bar.

29 Sec. 08.08.071. POLL OF THE BAR. (a) In every general

1 election year in which the question of the approval or re-
2 jection of a supreme court justice or superior court judge
3 is on the ballot, the board shall poll the members of the
4 Alaska Bar to allow the members to rate the performance of
5 the justice or judge, and to determine whether or not a
6 majority of the members of the Alaska Bar believe the justice
7 or judge should be approved or rejected.

8 (b) The board shall conduct the poll in such a manner
9 that a member of the Alaska Bar may express his opinions
10 freely, without fear of possible reprisal.

11 (c) The board shall widely publish the result of the
12 poll.

13 Sec. 08.08.081. CONTENTS OF POLL. In a poll conducted
14 under sec. 71 of this chapter, the board shall request the
15 members of the Alaska Bar to rate the justice or judge
16 according to whether or not the justice or judge

17 (1) gives complete, intellectually and practically
18 satisfying, reasons for holding as he does in cases in which
19 opinions are published;

20 (2) is swayed for or against a party because of
21 personal feelings the justice or judge has for the party or
22 the party's attorney;

23 (3) conducts himself according to the canons of
24 judicial ethics;

25 (4) maintains a proper respect for the independ-
26 ence of the bar association;

27 (5) engages in conduct that is a ground for dis-
28 ciplining an attorney.

29 Sec. 08.08.091. DEPOSIT OF MONEY. The board shall

1 deposit all money collected under this chapter in the
2 general fund.

3 Sec. 08.08.101. POWER OF THE BAR TO MAKE OR CHANGE
4 RULES. Any rule adopted by the Board of Governors under sec.
5 61 of this chapter may be modified or rescinded, or a new
6 rule may be adopted, by a vote of the active members of the
7 association under rules to be prescribed by the Board of
8 Governors.

9 Sec. 08.08.111. ADMISSION, SUSPENSION AND DISBARMENT.
10 The board may

11 (1) adopt rules fixing the qualifications, require-
12 ments and procedure for admission to the practice of law not
13 inconsistent with this chapter;

14 (2) establish and enforce rules of professional
15 conduct for members of the Alaska Bar which shall conform
16 but need not be limited to the standards of the Code of
17 Ethics of the American Bar Association;

18 (3) appoint boards or committees to examine appli-
19 cations for admission;

20 (4) investigate, prosecute, hear, and finally
21 determine all causes involving discipline, disbarment, sus-
22 pension, or reinstatement, and prescribe rules establishing
23 the procedure for the investigation and hearing of these
24 matters, and establish divisional or municipal agencies to
25 assist therein to the extent provided by the rules.

26 Sec. 08.08.121. DISQUALIFICATION TO HEAR DISCIPLINARY
27 MATTERS. No person who has participated in the investigation
28 or prosecution of any cause involving discipline, disbarment,
29 suspension, or reinstatement may sit as a member of any board

1 or committee hearing the same.

2 ARTICLE 3. ADMISSION TO ALASKA BAR

3 Sec. 08.08.131. ELIGIBILITY FOR ADMISSION. (a) A
4 person is eligible for admission to the Alaska Bar who

5 (1) is a citizen of the United States;

6 (2) is over 21 years of age;

7 (3) has been graduated from a law school approved
8 by the American Bar Association or is a lawyer in good stand-
9 ing in the bar of another state;

10 (4) has passed a bar examination given by the
11 Alaska Bar.

12 (b) The board may waive the provision of (a)(4) of
13 this section in the case of a person who has passed a bar
14 examination given by the governing body of the bar of another
15 state, if the examination is at least as comprehensive as
16 the bar examination given in Alaska.

17 Sec. 08.08.141. FEES. The annual fee for active mem-
18 bers of the bar is \$100. The annual fee for inactive members
19 of the bar is \$10. The fee for applicants for admission to
20 the bar is \$100.

21 Sec. 08.08.151. NONPAYMENT OF FEES. Any member, active
22 or inactive, failing to pay any fees within 60 days after
23 they become due shall be suspended from membership in the
24 Alaska Bar. He may be reinstated upon payment of accrued
25 fees and such penalties as may be imposed by the board, not
26 exceeding double the amount of the delinquent fees.

27 Sec. 08.08.161. PROCEDURE FOR ADMISSION. The board
28 may not refuse to admit a person to the bar until after it
29 has offered him the opportunity for a hearing under the

1 Administrative Procedure Act (AS 44.62).

2 ARTICLE 4. UNLAWFUL ACTS

3 Sec. 08.08.171. WHO MAY PRACTICE LAW. No person may
4 engage in the private practice of law in the state unless he
5 is an active member of the Alaska Bar. A member of the bar
6 in good standing in another jurisdiction may appear in the
7 courts of the state under the rules the board may prescribe.

8 Sec. 08.08.181. DISCIPLINARY PROCEEDINGS AND REVIEW.
9 The board may not discipline, disbar, suspend, or reinstate
10 a member of the Alaska Bar until after it has offered the
11 member a hearing under the Administrative Procedure Act
12 (AS 44.62).

13 Sec. 08.08.191. UNLAWFUL PRACTICE A MISDEMEANOR. Any
14 person not an active member of the Alaska Bar who engages in
15 the private practice of law or represents himself as entitled
16 to engage in the private practice of law in the state other
17 than as permitted by this chapter is guilty of a misdemeanor
18 and upon conviction is punishable by a fine of not more than
19 \$1,000, or by imprisonment for not more than one year, or by
20 both.

21 Sec. 08.08.201. SUSPENSION UPON CONVICTION OF CERTAIN
22 CRIME. Upon the conviction of a member of the Alaska Bar for
23 a misdemeanor involving moral turpitude, or for a felony, he
24 shall be suspended for a period not to exceed 90 days, during
25 which period the board shall act promptly to make a final
26 determination of his right to practice. This section does
27 not affect the power of a court to grant injunctive relief
28 or to punish for contempt.

29 ARTICLE 5. GENERAL PROVISIONS

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Sec. 08.08.211. DEFINITIONS. In this chapter,

(1) "board" means the Board of Governors of the Alaska Bar Association;

(2) "Alaska Bar" means the Alaska Bar Association.

Sec. 08.08.221. SHORT TITLE. This chapter may be cited as the Alaska Integrated Bar Act of 1964.

* Sec. 3. A person entitled to practice law in Alaska on the effective date of this Act is entitled to a license under AS 08.08 without meeting the requirements of AS 08.08.131.

* Sec. 4. The governor shall appoint to the initial board of governors established by AS 08.08, three members for a one-year term, three members for a two-year term, and three members for a three-year term.

* Sec. 5. AS 08.08.010 - 08.08.250 is repealed.

* Sec. 6. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.