

Original sponsor: Metcalfe

Offered: 4/5/82  
Referred: Rules

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 674 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to investigation by the attorney  
7 general of violations of AS 45.50.471."

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

9 \* Section 1. AS 45.50.495 is amended to read:

10 Sec. 45.50.495. INVESTIGATIVE POWER OF ATTORNEY GENERAL.

11 (a) If the attorney general from his own inquiry, from complaints,  
12 or from information received from other law enforcement agencies has  
13 reasonable cause to believe that a person has engaged in, is engaging in  
14 or is about to engage in, an unfair or [A] deceptive trade practice  
15 under AS 45.50.471, he may serve a civil investigative demand in writing  
16 on a person believed to have information, documentary material, or physi-  
17 cal evidence related to the suspected practice. By issuance of the  
18 civil investigative demand the attorney general may

19 (1) request the person to file a statement or report in  
20 writing, under oath, on forms prescribed by him, setting out all facts  
21 and circumstances concerning the sale or advertisement of goods, ser-  
22 vices, or property known to [BY] the person, and other information  
23 considered necessary;

24 (2) examine under oath any person in connection with the sale  
25 or advertisement of goods, services, or property;

26 (3) examine property or sample of the property, record, book,  
27 document, account or paper that he considers necessary;

28 (4) make true copies of records, books, documents, accounts,  
29 or papers examined under (3) of this subsection which may be offered in

1 evidence in place of the originals in actions brought under AS 45.50.-  
2 471 - 45.50.561; and

3 (5) if he obtains a court [UNDER AN] order [OF THE SUPERIOR  
4 COURT], impound samples of property which are material to his investiga-  
5 tion and retain the sample until proceedings undertaken under AS 45.50.-  
6 471 - 45.50.561 are completed.

7 (b) [THE ATTORNEY GENERAL, IN ADDITION TO OTHER POWERS CONFERRED  
8 ON HIM BY THIS SECTION, MAY ISSUE SUBPOENAS TO REQUIRE THE ATTENDANCE OF  
9 WITNESSES OR THE PRODUCTION OF DOCUMENTS OR OTHER PHYSICAL EVIDENCE,  
10 ADMINISTER OATHS, AND CONDUCT HEARINGS TO AID AN INVESTIGATION OR  
11 INQUIRY.] Service of a civil investigative demand may [AN ORDER OR  
12 SUBPOENA SHALL] be made by [IN THE SAME MANNER AS A SUMMONS IN A CIVIL  
13 ACTION IN THE SUPERIOR COURT]

14 (1) delivering an executed copy of the demand to the person  
15 to be served, his partner, or an officer or agent authorized to receive  
16 service of process on his behalf;

17 (2) delivering an executed copy of the demand to the princi-  
18 pal place of business of the person to be served;

19 (3) mailing by registered or certified mail an executed copy  
20 of the demand addressed to the person to be served at his principal  
21 place of business; or

22 (4) delivering an executed copy of the demand to the person  
23 to be served in the manner prescribed by court rule for service of sub-  
24 poenas.

25 \* Sec. 2. AS 45.50.495 is amended by adding new subsections to read:

26 (c) A civil investigative demand shall

27 (1) state the general subject matter of the investigation and  
28 applicable statutes and regulations;

29 (2) describe with reasonable specificity the class or classes

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of documentary material to be produced;

(3) prescribe a return date for the production of documentary material or testimony; and

(4) identify the members of the attorney general's staff to whom production should be made.

(d) Documentary material and testimony demanded under this section shall be made available during normal business hours or at other times and places agreed to by the person served and the attorney general.

(e) At any time before the return date specified in the demand, or within 15 days after the demand has been served, whichever period is shorter, a written request to extend the return date or to modify or to set aside the demand for good cause may be made to the attorney general. The attorney general shall within five days grant or deny a request to extend the return date or to modify or to set aside the demand. If the attorney general denies a request to extend the return date or to modify or to set aside the demand, the person upon whom the demand was served may file a petition in the superior court, stating good cause, to extend the return date or to modify or to set aside the demand.

(f) A person on whom a demand is served under this section shall comply with the demand unless otherwise provided by court order. If a person fails to comply with a civil investigative demand, the attorney general may file a petition in the superior court for an order to enforce compliance. Disobedience of a court order entered under this section shall be punished as a contempt of court.