

**CS FOR SENATE BILL NO. 399 (JUDICIARY)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered: 3/23/92**  
**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 05.15.210(29) is amended to read:

5 (29) "qualified organization" means a bona fide civic or service organization or  
 6 a bona fide religious, charitable, fraternal, veterans, labor, political, or educational organization,  
 7 police or fire department and company, dog mushers' association, outboard motor association,  
 8 or fishing derby or nonprofit trade association in the state, that operates without profits to its  
 9 members and that has been in existence continually for a period of three years immediately  
 10 before applying for a license; the organization may be a firm, corporation, company, association,  
 11 or partnership;

12 \* **Sec. 2.** AS 08.01.087(b) is amended to read:

13 (b) If it appears to the commissioner that a person has engaged in or is about to engage  
 14 in an act or practice in violation of a provision of this chapter or a regulation adopted under it,

1 or a provision of AS 43.70, or a provision of this title or regulation adopted under this title  
2 dealing with an occupation or board listed in AS 08.01.010, the commissioner may, if the  
3 commissioner considers it in the public interest, and after notification of a proposed order or  
4 action by telephone, [OR] telegraph, or facsimile to all board members, if a board regulates the  
5 act or practice involved, unless a majority of the members of the board object within 10 days,

6 (1) issue an order directing the person to stop the act or practice; however,  
7 reasonable notice of and an opportunity for a hearing must first be given to the person, except  
8 that the commissioner may issue a temporary order before a hearing is held; a temporary order  
9 remains in effect until a final order affirming, modifying, or reversing the temporary order is  
10 issued or until 15 days after the person receives the notice and has not requested a hearing by  
11 that time; a temporary order becomes final if the person to whom the notice is addressed does  
12 not request a hearing within 15 days after receiving the notice; the commissioner or the  
13 commissioner's designee shall be the hearing officer at the hearing and shall issue a final order  
14 within 10 days after the hearing;

15 (2) bring an action in the superior court to enjoin the acts or practices and to  
16 enforce compliance with this chapter, a regulation adopted under it, an order issued under it, or  
17 with a provision of this title or regulation adopted under this title dealing with business licenses  
18 or an occupation or board listed in AS 08.01.010;

19 (3) examine or have examined the books and records of a person whose business  
20 activities require a business license or licensure by a board listed in AS 08.01.010, or whose  
21 occupation is listed in AS 08.01.010; the commissioner may require the person to pay the  
22 reasonable costs of the examination; and

23 (4) issue subpoenas for the attendance of witnesses, and the production of books,  
24 records, and other documents.

25 \* Sec. 3. AS 08.20.025 is amended to read:

26 Sec. 08.20.025. REMOVAL OF BOARD MEMBERS. A member of the board may be  
27 removed from office by the governor for cause. [THE BOARD MAY BY REGULATION  
28 PROVIDE THAT UNEXCUSED ABSENCES FROM MEETINGS CONSTITUTE CAUSE FOR  
29 REMOVAL.]

30 \* Sec. 4. AS 08.70.055 is amended to read:

31 Sec. 08.70.055. REMOVAL OF BOARD MEMBERS. A member of the board may be

1 removed from office by the governor for cause. [THE BOARD MAY BY REGULATION  
2 PROVIDE THAT UNEXCUSED ABSENCES FROM MEETINGS CONSTITUTE CAUSE FOR  
3 REMOVAL.]

4 \* Sec. 5. AS 08.80.105 is amended to read:

5 Sec. 08.80.105. REMOVAL OF BOARD MEMBERS. A member of the board may be  
6 removed from office by the governor for cause. [THE BOARD MAY BY REGULATION  
7 PROVIDE THAT UNEXCUSED ABSENCES FROM MEETINGS CONSTITUTE CAUSE FOR  
8 REMOVAL.]

9 \* Sec. 6. AS 08.88.037(b) is amended to read:

10 (b) If it appears to the department that a person has engaged in or is about to engage in  
11 an act or practice in violation of a provision of this chapter or a regulation adopted under it and  
12 that action is warranted in the public interest, the department shall notify all commission  
13 members by telephone, [OR] telegraph, or facsimile of a proposed order or action, and, if a  
14 majority of the members of the commission approve, the department may

15 (1) after reasonable notice of and an opportunity for a hearing is given to the  
16 person, issue an order directing the person to stop the act or practice; the department may issue  
17 a temporary order before a hearing is held; a temporary order remains in effect until a final order  
18 affirming, modifying, or reversing the temporary order is issued or until 15 days have elapsed  
19 after the person receives the notice and has not requested a hearing; a temporary order becomes  
20 final if the person to whom the notice is addressed does not request a hearing within 15 days  
21 after receiving the notice; if a hearing is requested, a hearing shall be conducted by a hearing  
22 officer within 30 days; the commission shall issue a final order within 10 days after the hearing;

23 (2) bring an action in superior court to enjoin the act or practice and to enforce  
24 compliance with this chapter, a regulation adopted under it, or an order issued under it;

25 (3) examine or have examined the books and records of a person whose business  
26 activities require licensure under this chapter and the department may require the person to pay  
27 the reasonable costs of the examination; and

28 (4) issue subpoenas for the attendance of witnesses, and the production of books,  
29 records, and other documents.

30 \* Sec. 7. AS 09.55.548(a) is amended to read:

31 (a) Damages shall be awarded in accordance with principles of the common law. The fact

1 finder in a malpractice action shall render any award for damages by category of loss. The court  
2 may enter a judgement that future damages be paid in whole or in part by periodic payments  
3 rather than by a lump-sum payment; the judgment shall include, if necessary, other provisions  
4 to assure that funds are available as periodic payments become due. Insurance from an authorized  
5 insurer as defined in AS 21.90.900 [OR FROM THE MEDICAL INDEMNITY CORPORATION  
6 OF ALASKA] is sufficient assurance that funds will be available. Any part of the award that  
7 [WHICH] is paid on a periodic basis shall be adjusted annually according to changes in the  
8 consumer price index in the community where the claimant resides. In this subsection, future  
9 damages includes damages for future medical treatment, care or custody, loss of future earnings,  
10 or loss of bodily function of the claimant.

11 \* Sec. 8. AS 10.25.040 is amended to read:

12 Sec. 10.25.040. NAME. The name of a cooperative must include the words "electric"  
13 or "telephone," as appropriate to its purpose, and "cooperative," and the abbreviation "inc." The  
14 name of a cooperative shall be distinct from the name of other cooperatives or corporations  
15 organized under the laws of or authorized to do business in this state. This section does not apply  
16 to a corporation that [WHICH] becomes subject to this chapter by compliance with AS 10.25.290  
17 and 10.25.300 or 10.25.620 [10.25.600] and that [WHICH] elects to retain a corporate name that  
18 [WHICH] does not comply with this section.

19 \* Sec. 9. AS 12.25.030(b) is amended to read:

20 (b) In addition to the authority granted under (a) of this section, a peace officer without  
21 a warrant may arrest a person when the peace officer has reasonable cause for believing that the  
22 person has committed a crime under

23 (1) AS 11.56.740; or

24 (2) AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an ordinance with  
25 elements substantially similar to the elements of a crime under AS 11.41, AS 11.46.330, or  
26 AS 11.61.120, when the victim is a spouse or former spouse of the person who committed the  
27 crime; a parent, grandparent, child, or grandchild of the person who committed the crime; a  
28 member of the social unit comprised of those living together in the same dwelling as the person  
29 who committed the crime; or another person who is not a spouse or former spouse of the person  
30 who committed the crime but who previously lived in a spousal relationship with the person who  
31 committed the crime or is in or has been in a dating, courtship, or engagement relationship

1 with the person who committed the crime.

2 \* Sec. 10. AS 14.07.058(d) is amended to read:

3 (d) The governing body of the association shall be the board of control with at least one  
4 member from each judicial district on the board of control. A member of the board shall be  
5 elected from each regional activities association by the members of that region. The term of  
6 office for each member is two years [, EXCEPT THAT ONE-HALF OF THE MEMBERS  
7 ELECTED TO THE FIRST ELECTED BOARD SHALL BE ELECTED FOR ONE-YEAR  
8 TERMS UNDER REGULATIONS PRESCRIBED BY THE COMMISSIONER OF  
9 EDUCATION].

10 \* Sec. 11. AS 14.30.410(b) is amended to read:

11 (b) The department shall adopt regulations for the determination of entitlement and the  
12 distribution of bilingual-bicultural funds to city and borough school districts and regional  
13 educational attendance areas [AND THE STATEWIDE CENTER].

14 \* Sec. 12. AS 14.48.080(b) is amended to read:

15 (b) An applicant for an agent's permit shall be an individual of good reputation and  
16 character and shall represent only a postsecondary educational institution or institutions that  
17 [WHICH] meet the minimum standards established in AS 14.48.060 [THIS SECTION] and the  
18 criteria established under AS 14.48.050(1).

19 \* Sec. 13. AS 14.48.130(c) is amended to read:

20 (c) If, upon the evidence at a hearing, the commission finds that a postsecondary  
21 educational institution or its agent, or both, has engaged in or is engaging in, an act or practice  
22 which violates this chapter or the regulations adopted under this chapter the commission shall  
23 serve upon the institution or agent or both, an order requiring the institution or agent or both to  
24 cease and desist from the act or practice. If the commission finds that the complainant, or class  
25 of complainants, has suffered loss or damage as a result of the act or practice, the commission  
26 may also award the complainant, or class of complainants, full or partial restitution for the  
27 damage or loss and may impose the penalties provided for in AS 14.48.190 [AS 14.48.180]. The  
28 commission may also, based on its own investigation and the evidence adduced at the hearing,  
29 begin an action to revoke an institution's authorization to operate or an agent's permit.

30 \* Sec. 14. AS 15.20.470 is amended to read:

31 Sec. 15.20.470. REQUIREMENT OF NOTICE. The director shall give the candidate or

1 designated chairman signing the application, the two or more persons appointed to represent the  
2 applicant during the recount, and other directly interested parties, notice of the time and place  
3 of the recount by certified mail, [BY] telegraph, [OR BY] telephone, or facsimile.

4 \* Sec. 15. AS 15.25.130 is amended to read:

5 Sec. 15.25.130. SELECTION OF NOMINEES FOR PARTY PETITION. The nominees  
6 of political parties by party petition may be selected for statewide offices by the party central  
7 committee or in any other manner prescribed by the party bylaws, and the petition for statewide  
8 offices shall be signed by the chairman of the central committee, or in the absence of the  
9 chairman, by any two members of the committee. The nominees of political parties by party  
10 petition may be selected for district-wide offices by the respective party district committee or in  
11 any other manner prescribed by the party bylaws, and the petition for district-wide offices shall  
12 be signed by the chairman of the party district committee, or in the absence of the chairman, by  
13 any two members of the party committee, or in any other manner prescribed by the party bylaws.  
14 The petition may be delivered in person, or by mail, [OR BY] telegraph, or facsimile.

15 \* Sec. 16. AS 16.05.330(a) is amended to read:

16 (a) Except as otherwise permitted in this chapter, without having the appropriate  
17 license or tag in actual possession a person may not engage in

18 (1) sport fishing, including the taking of razor clams;

19 (2) [IN] hunting, trapping, or fur dealing;

20 (3) [IN] the farming of fish, fur, or game; or

21 (4) [IN] taxidermy [, WITHOUT HAVING THE APPROPRIATE LICENSE OR

22 TAG IN ACTUAL POSSESSION].

23 \* Sec. 17. AS 16.05.420(b) is amended to read:

24 (b) Except as provided in AS 16.05.408(b), a [A] person who knowingly makes a false  
25 statement, or knowingly omits a material fact, in an application for a license, tag, or permit  
26 issued under AS 16.05.330 - 16.05.430 is guilty of unsworn falsification under AS 11.56.210.

27 \* Sec. 18. AS 16.05.940(8) is amended to read:

28 (8) "domestic mammals" include musk oxen, bison, elk, and reindeer, if they are  
29 lawfully owned;

30 \* Sec. 19. AS 16.10.030 is amended to read:

31 Sec. 16.10.030. PENALTY FOR VIOLATION OF AS 16.10.010 - 16.10.050

1 [AS 16.10.010 - 16.10.055]. A person who violates AS 16.10.010 - 16.10.050 [AS 16.10.010 -  
2 16.10.055] is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less  
3 than \$100 nor more than \$500.

4 \* Sec. 20. AS 18.20.075(a) is amended to read:

5 (a) To be eligible for a license, each hospital shall have in operation an internal risk  
6 management program that shall

7 (1) investigate the frequency and causes of incidents in hospitals that cause injury  
8 to patients;

9 (2) develop and implement measures to minimize the risk of injury to patients;  
10 in developing these measures each hospital shall take into account recommendations of its  
11 medical staff, [THE MEDICAL INDEMNITY CORPORATION OF ALASKA,] private  
12 underwriters, industry standards, experience of other hospitals, and recommendations of licensing  
13 boards of other health care providers; and

14 (3) analyze patient grievances that relate to patient care.

15 \* Sec. 21. AS 18.35.120 is amended to read:

16 Sec. 18.35.120. ENFORCEMENT OF AS 18.35.100. The department shall adopt  
17 regulations to implement and enforce AS 18.35.100 by appropriate means. The regulations must  
18 set standards of sanitation and must provide for, but need not be limited to, periodic inspections.  
19 However, the regulations may not require a restaurant or tavern to have more than one toilet  
20 accommodation. [A RESTAURANT OR TAVERN THAT IS REMODELED AFTER  
21 AUGUST 15, 1976 IS CONSIDERED TO BE NEWLY CONSTRUCTED.]

22 \* Sec. 22. AS 18.45.020 is amended to read:

23 Sec. 18.45.020. UNITED STATES LICENSES OR PERMITS REQUIRED. A person  
24 may not manufacture, construct, produce, transfer, acquire, or possess a special nuclear material,  
25 by-product material, production facility, or utilization facility, or act as an operator of a  
26 production or utilization facility wholly within the state without first obtaining a license or permit  
27 for the activity in which the person proposes to engage from the Nuclear Regulatory [UNITED  
28 STATES ATOMIC ENERGY] Commission if the commission requires a license or permit to be  
29 obtained by persons proposing to engage in the activities.

30 \* Sec. 23. AS 18.45.900(7) is amended to read:

31 (7) "special nuclear material" means plutonium, uranium 233, and uranium

1 enriched in the isotope 233 or in the isotope 235, and any other material that the governor  
2 declares by order to be special nuclear material after the Nuclear Regulatory Commission  
3 [UNITED STATES ATOMIC ENERGY COMMISSIONER] has determined the material to be  
4 special nuclear material; or material artificially enriched by any of the foregoing material;

5 \* Sec. 24. AS 18.60.210(a)(2) is amended to read:

6 (2) unfired pressure vessels meeting the requirements of the federal Department  
7 of Transportation [AND PUBLIC FACILITIES] for shipment of liquids or gases under pressure;

8 \* Sec. 25. AS 18.60.370 is amended to read:

9 Sec. 18.60.370. APPEALS. A person aggrieved by an order or act of a deputy inspector  
10 may, within 15 days after notice of the order or act, appeal to the Department of Labor. The  
11 Department of Labor shall hold a hearing within 30 days of the appeal but shall give at least 10  
12 days' written notice of the hearing to all interested parties. Within 30 days after the hearing, the  
13 Department of Labor shall issue an order approving or disapproving the order or act and shall  
14 give a copy of the order to all interested parties. Within 30 days after the order of the  
15 Department of Labor, a person aggrieved may file an appeal [A PETITION] in the superior court  
16 for review. The court shall summarily hear the appeal [PETITION] and may make an  
17 appropriate order or decree.

18 \* Sec. 26. AS 18.60.590(b) is amended to read:

19 (b) AS 18.60.580 - 18.60.660 do [THIS CHAPTER DOES] not affect the authority of  
20 any municipality or rural electrification association to prescribe by ordinance, rule, or order  
21 standards for their respective areas of jurisdiction not less stringent than the standards prescribed  
22 by the department or those established under AS 18.60.580.

23 \* Sec. 27. AS 18.60.735 is amended to read:

24 Sec. 18.60.735. BOROUGH OR CITY REGULATION. AS 18.60.705 - 18.60.740 do  
25 not affect the authority of any municipality to prescribe by ordinance, rule, or order, standards  
26 for their respective areas of jurisdiction no less stringent than those established under  
27 AS 18.60.705. AS 18.60.705 - 18.60.740 are [THIS CHAPTER IS] not intended to duplicate  
28 or preempt code administration or enforcement by municipalities. Any organized municipality  
29 or unorganized village having less than 2,500 population is exempt from the provisions of  
30 AS 18.60.705 - 18.60.740.

31 \* Sec. 28. AS 18.67.020(d) is amended to read:

1 (d) A [EACH MEMBER OF THE BOARD IS ELIGIBLE FOR REAPPOINTMENT  
2 AND ANY] member of the board may be removed by the governor for inefficiency, neglect of  
3 duty, or malfeasance in office after due notice and hearing.

4 \* Sec. 29. AS 18.85.100(a) is amended to read:

5 (a) An indigent person who is being detained by a law enforcement officer in connection  
6 with a serious crime, or is under formal charge of having committed, or is being detained under  
7 a conviction of a serious crime, or is on probation or parole, or is entitled to representation under  
8 the Supreme Court Delinquency or Child in Need of Aid Rules [OF CHILDREN'S  
9 PROCEDURE], or against whom commitment proceedings for mental illness have been initiated,  
10 is entitled

11 (1) to be represented by an attorney to the same extent as a person retaining an  
12 attorney is entitled; and

13 (2) to be provided with the necessary services and facilities of this representation,  
14 including investigation and other preparation.

15 \* Sec. 30. AS 21.36.360(j) is amended to read:

16 (j) A criminal insurance act is committed by a person in this state who acts as an  
17 insurance agent, broker, solicitor, or adjuster without being licensed by the director. A criminal  
18 insurance act is committed by an agent, broker, or solicitor who solicits or takes application for,  
19 procures, or places for others any insurance for which the person is not licensed or for which the  
20 license of the person has been suspended or revoked. This subsection does not apply to a person  
21 described in AS 21.90.910 [AS 21.27.520] or to a person securing and forwarding information  
22 required for the purpose of a group insurance covering the unpaid balance or remaining payments  
23 proposed to be made in connection with the purchase of merchandise or services if no  
24 commission or other compensation is payable on account of the insurance to the person.

25 \* Sec. 31. AS 21.78.100(b) is amended to read:

26 (b) The director may apply for and secure an order dissolving the corporate existence of  
27 a domestic insurer [, EXCEPT THE MEDICAL INDEMNITY CORPORATION OF ALASKA,]  
28 upon the director's application for an order of liquidation of the insurer or at any time after the  
29 order has been granted.

30 \* Sec. 32. AS 21.80.180(5) is amended to read:

31 (5) "member insurer" means a person, except an assessable reciprocal insurer

1 formed by and insuring only municipalities or nonprofit public utilities, a reciprocal insurer  
2 formed under AS 21.75 to provide marine insurance, and a joint insurance arrangement formed  
3 under AS 21.76, [AND THE MEDICAL INDEMNITY CORPORATION OF ALASKA,] who

4 (A) writes insurance to which this chapter applies under AS 21.80.020  
5 including the exchange of reciprocal or interinsurance contracts; [,] and

6 (B) is licensed to transact insurance in the state;

7 \* Sec. 33. AS 27.21.210 is amended to read:

8 Sec. 27.21.210. PERFORMANCE STANDARDS. The [WITHIN 120 DAYS AFTER  
9 MAY 2, 1983, THE] commissioner shall adopt [PROPOSE] regulations consistent with the  
10 environmental performance standards of the Surface Mining Control and Reclamation Act of  
11 1977 and the regulations promulgated under that Act for both surface coal mining and  
12 reclamation operations and surface effects of underground mining with appropriate adjustments  
13 to the special physical, hydrological, biological, and climatic conditions in the state [ALASKA].  
14 All permits issued under this chapter shall require that surface coal mining and reclamation  
15 operations and coal exploration activities must comply with those environmental performance  
16 standards.

17 \* Sec. 34. AS 28.10.431(b)(9) is amended to read:

18 (9) vehicles 40

19 eligible for

20 dealer plates under

21 [SPECIFIED IN]

22 AS 28.10.421(d)(10).

23 \* Sec. 35. AS 38.05.965(22) is amended to read:

24 (22) "timber land" means [AND "MATERIAL LAND" MEAN] state land chiefly  
25 valuable for [MATERIALS, INCLUDING, BUT NOT LIMITED TO, SAND, STONE, GRAVEL,  
26 PUMICE, COMMON CLAY, OR] timber and other forest products;

27 \* Sec. 36. AS 38.05.965 is amended by adding a new paragraph to read:

28 (24) "material" includes sand, stone, gravel, pumice, and common clay.

29 \* Sec. 37. AS 44.81.250(c) is amended to read:

30 (c) If the debtor is unable to nominate a qualified person to assume the note under (b)  
31 of this section, the permit must be made available to a qualified person, chosen as provided in

1 this section, who shall assume the note subject to all rights and liabilities of the original debtor.  
2 The commission shall provide the bank with a list of persons chosen by lottery who qualify as  
3 transferees of entry permits under AS 16.43 and regulations adopted by the commission and who  
4 have met the residency [AND COMMERCIAL FISHING PARTICIPATION] requirements of  
5 AS 44.81.210(a)(20). The bank shall then determine, in order of presentation, any remaining  
6 qualifications. The bank shall allow the first applicant meeting all qualifications to assume the  
7 note.

8 \* Sec. 38. AS 14.11.135(2), 14.11.135(4); AS 14.17.250(3), 14.17.250(8); AS 14.30.350(3);  
9 AS 16.05.050(19); AS 18.31.500(3); AS 18.35.230(3); AS 18.55.950(5), 18.55.950(9); AS 18.60.775;  
10 and AS 26.05.040 are repealed.

11 \* Sec. 39. This Act takes effect immediately under AS 01.10.070(c).