

H B

389

fiscal note
coming -

called Mike Clemens
at 9:45 am Mon

S.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 389
 Title An Act relating to state regulation of fireworks
 Requested by _____ Date 4-14-80

II. FISCAL DETAIL
 Agency Affected Public Safety
 Program Category Affected Public Protection
 BRU, Program, or Subprogram(s) Affected Fire Safety
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		(2.0)	(2.0)	(2.0)		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

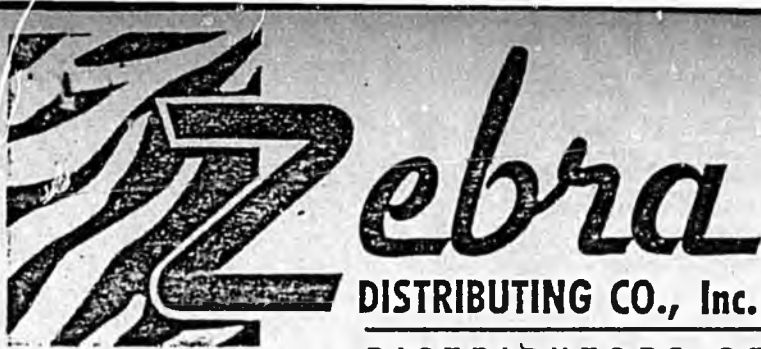
POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No significant impact as far as our program. The average yearly license fees (wholesalers) collected would be reduced from \$2500. to \$500.

IV. DATE 4-14-80 PREPARED BY Gary R. Crouse, Deputy Director
 AGENCY Division of Fire Prevention, Department of Public Safety
 PHONE 465-4331
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)



PHONES WA 2-8716 OR WA 2-8717

DISTRIBUTING CO., Inc.

P. O. BOX 258 ■ TACOMA, WASHINGTON 98401

DISTRIBUTORS OF
RED DEVIL
FIREWORKS.

Office located ¼ mile north of Puyallup River Bridge on Old Seattle-Tacoma Highway

September 30, 1969

Mr. Jim Norene
717 Erwin Street
Anchorage, Alaska

Dear Jim:

I appreciated the time you gave me when I was in your area several weeks ago. When I arrived in Juneau, I discussed the fireworks bill with Mr. Andre Schalk, the Assistant State Fire Marshal. He was quite disturbed about this fireworks law and is looking forward to a change in the law to make it easier for his department to operate.

The attorney we spoke of in Seattle, is Mr. De Witt Williams, Attorney-at-Law, Washington Building, Seattle, Washington. We are checking on the insurance possibilities for you to see what expenses will be incurred.

Thanks again, Jim. I really enjoyed my visit to Alaska.

Best regards,

ZEBRA DISTRIBUTING COMPANY, INC.

Bernard L. Crowell,
Vice-President

BLC/pm



Alaska State Legislature

House of Representatives

Committee on State Affairs

Official Business

May 9, 1978

Pouch V
State Capitol
Juneau, Alaska 99811

Mr. James E. Norene
717 Irwin Street
Anchorage, Alaska 99504

Dear Jim:

Enclosed please find a memorandum I have sent to Senator "Brad" Bradley, Chairman of the Senate Commerce Committee where HB-546 now resides. You will also find a copy of the bill analysis and the Letter of Intent.

So far it looks good, but I will keep you informed as to the progress of the bill.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bob Bradley".

REP. BOB BRADLEY
Chairman
House State Affairs Committee

Thanks again for your efforts in the past!

BB/ch

Enclosure(s)

PATRICK RODEY
SPENARD

601 W. 5TH AVE. SUITE 820
ANCHORAGE, ALASKA 99501

Alaska State Senate

JUNEAU, ALASKA 99811

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

May 8, 1978

Mr. James Noreen
717 Irwin
Anchorage, Alaska

Dear Jim:

Just wanted to drop you a note to let you know that I enjoyed talking with you.

In view of your interest, I wanted to enclose a copy of Committee Substitute for House Bill 546, which has been referred to the Senate Commerce Committee for further consideration.

I'll speak with Chairman Bradley about the bill, and am glad to have the benefit of your views on the legislation.

If there are any other legislative proposals of concern to you, Jim, please feel free to let me know.

Kindest regards,



Patrick Rodey

PR/ks

*Jim, I'll speak with Bradley so
we'll as Zigler to keep this
bill moving.*

LAW OFFICES

BOYKO AND WALTON

330 "L" STREET

ANCHORAGE, ALASKA 98501

TELEPHONE
277-2671

EDGAR PAUL BOYKO
PETER B. WALTON
JAMES H. LACK
STEPHEN C. COWPER
ROBERT H. WAGSTAFF

May 13, 1970

Honorable Brad Phillips
President, Alaska State Senate
Pouch V
Juneau, Alaska 99801

Dear Brad:

I have your secretary's note of April 21, 1970 requesting my comments on the memo from Greg Machyowsky of the legislative affairs agency with respect to the fireworks insurance requirements of AS18.72.020(a)(1).

I agree with what he says, but feel that the matter has to be resolved by the legislature, since the final outcome of the litigation is still in doubt and in any event will not be ascertained prior to the 1970 fireworks season.

Accordingly, I have prepared a proposed amendment to the statute which would be acceptable to the local industry. I note, that the Governor's office is reported to be interested in considering introduction of an appropriate measure. Perhaps you could sell this to them, bearing in mind that our friend Hank Pratt has a conflict of interest as does our other good friend Senator Joe Josephson (who is the attorney of record for the outside fireworks company which was named as a defendant in the pending law suit).

For your convenience I am also enclosing a copy of Machyowsky's memorandum, so that you won't have to hunt for it.

Your response to the foregoing will be sincerely appreciated.

Cordially,

Edgar Paul Boyko

EPB:ss

CC: Mr. James Norene
Mr. Joseph Bagwill

encl



Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

M E M O R A N D U M

May 5, 1978

SUBJECT: CSMB 546

TO: Senator W. E. "Brad" Bradley, Chairman
Senate Commerce Committee

FROM: Representative Bob Bradley, Chairman
House State Affairs Committee

A handwritten signature in cursive script, appearing to read "B. Bradley".

I would appreciate it if you would schedule this bill as soon as possible. It is an innocuous bill that benefits two people, one in Sitka and a constituent of yours and mine - Jim Norene.

In reading the bill analysis (attached) you will find that it is simply correcting a "wrong." There is no controversy here. The person in the Administration who is familiar with the subject is Dick Block, Director, Division of Insurance, Department of Commerce & Economic Development.



Official Business

for files 4/17/78
Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

BILL ANALYSIS

HR 546

The main thrust of the bill amounts to the following changes:

- A. Elimination of the requirement that the state and all governmental subdivisions of the state be named as insured parties on the person's insurance policy.
- B. Deletion as a prerequisite to selling salable fireworks the acquisition of product liability insurance.

Through research and testimony from the Administration, the Committee came to the following conclusions:

1. That these insurance requirements do in fact discriminate in favor of large out of state fireworks companies. The little instate guys cannot get insurance even from Lloyd's of London because of the statutory requirements. (Exhibit A)
2. No clearly justified benefits -- either to the state or a possible injured party -- exist with the inclusion of these provisions.
3. These items were enacted into the statutes back in 68 or 69, allegedly in response to lobbying by a large fireworks outfit. No evidence arose to the contrary.

The secondary changes in the bill are:

- A. Reduction of the permit fee from \$500 to \$100.
 - * B. Reduction of required public liability insurance for bodily injury from \$300,000 to \$200,000 (committee substitute). The draft of the original bill dropped it to \$100,000.
 - C. Reduction of required public liability insurance for property damage from \$100,000 to \$50,000.
- * This is the only difference between the original bill and the CS.

NOTE: The Administration testified that there have (so far) been no damages or injuries in this state due to fireworks.



Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

LETTER OF INTENT

April 13, 1978

The Honorable Hugh Malone
Speaker of the House

RE: CS for HB 546

Dear Mr. Speaker,

The Committee on State Affairs has had HB 546 under consideration and recommends that it be replaced with CS for HB 546.

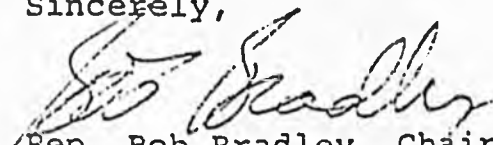
The major thrust of the bill amounts to the following changes in the fireworks laws:

- A. Elimination of the requirement that the state and all governmental subdivisions of the state be named as insured parties on the person's insurance policy.
- B. Deletion as a prerequisite to selling salable fireworks the acquisition of product liability insurance.

Through research and testimony from the Administration, the Committee came to the following conclusions:

1. That such insurance requirements do in fact discriminate in favor of large out of state fireworks companies. The little instate guys cannot get insurance even from Lloyd's of London because of the statutory requirements.
2. No clearly justified benefits -- either to the state or a possible injured party -- exist with the inclusion of these provisions.

Sincerely,


Rep. Bob Bradley, Chairman
House State Affairs Committee

BB:jn

file copy
James E. Norene
717 Irwin St.
Anchorage, Ak. 99504

Mr. Randy Phillips
House of Representatives
Pouch Y
Juneau, Alaska 99801

Dear Mr. Phillips:

As you know, I have handled firework sales for over thirty years in Alaska, and am still supplementing my pension with firework sales.

In 1969, a bill was passed in the legislature (S.B. 302 am, Chapter 116 amended to add a new Chapter 72, State regulation of fireworks). The bill was introduced by Ace Fireworks Co. of Seattle, to gain a monopoly in the State of Alaska, as the insurance requirements were such that it was impossible to obtain the policy even through Lloyds of London. Even Ace Fireworks Company's insurance company refused me a policy. The case was taken to court, I was able to get an injunction through the courts, including the State Supreme Court, which eliminated the insurance clause, and I was able to stay in business.

Now, I have just learned that in 1972, I was supposed to appear in court within 60 days to substitute the State of Alaska as party defendant in place of the individual defendants originally named, and failing to do so the case would be dismissed. I was never notified nor issued a subpoena and only learned of the action as of yesterday through the State Fire Marshal's office in Anchorage. Once again, I am denied a State fireworks license while the large companies in Seattle, Tacoma, and Denver can monopolize the State of Alaska because the State law prohibits the small companies in Alaska from obtaining insurance as called for in the Act.

I know that it is almost sine die, in legislature, but with your cooperation and other members of both houses I feel sure that the amendment that I am submitting can be pushed through before adjournment. I am not trying to eliminate other firework companies, only amend the Act so Alaska businessmen can stay in business and not be subjected to monopolies. I am including a copy of a bill and memorandum from the Legislative Affairs Agency which was sent to Brad Phillips in 1970 and never introduced or passed, which would have eliminated the problem. I would appreciate your consideration and help, as the present Act is discriminatory to Alaskans.

I'm sorry that I am sending this request at such a late date, but as I mentioned before, it only came to my attention yesterday.

It is imperative that action be taken. Our orders were placed in January, and it will create an economic disaster if not corrected before July 1st.

Sincerely yours,

James E. Norene
James E. Norene
Former Legislator

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

February 27, 1970

MEMORANDUM

TO: Senator Brad Phillips

FROM: Greg Machyowsky, Legislative Counsel

SUBJECT: Attached bill relating to state fireworks control

As we discussed, the attached bill amends AS 18.72 to eliminate the requirement that wholesalers of fireworks obtain insurance for products liability and reduces the amounts of public liability insurance required. In addition, the bill reduces the amount of the annual license fee required to engage in the business of wholesale sale of fireworks.

The bill does not remove the authority of the state fire marshal to enforce the law and regulations issued under the fire safety code with respect to use of fireworks (a copy of the current regulations is attached).

As you know, the state supreme court, in State v. Norene (457 P.2nd 926, August, 1969) has enjoined enforcement of the existing law insofar as it requires insurance policies to provide for coverage of the state and political subdivisions of the state as additional insureds. The fire marshall's regulations (at 13 AAC 51.010(b)) now omit the requirement for the state and political subdivisions as additional insureds on a policy.

In addition, from the supreme court's opinion, there is a possibility that the entire requirement for insurance may at least temporarily be unenforceable, pending any future determination of the validity of the provisions. However, at present neither the insurance requirement nor that part of it requiring additional insureds has been actually declared unconstitutionally discriminatory. In view of the unusual legal status of the provisions, though, the legislature may wish to revise the provisions, particularly the requirements for additional insureds. Consideration of deletion of the additional insureds requirement is recommended by the revisor in this year's Legislative Oversight of the Administration of Statutes.

Enclosures

Copy

Reg. 30, Oct. 1969

13 AAC 51.010 -
13 AAC 51.020

PUBLIC SAFETY

CHAPTER 51. FIREWORKS

Section

- 10. Use of Dangerous Fireworks
- 20. Permits for the Sale of Saleable Fireworks
- 30. Storage of Dangerous and Saleable Fireworks
by a Wholesaler
- 40. Discharge of Fireworks
- 50. Revocation of Licenses and Permits
- 60. Seizure

13 AAC 51.010. USE OF DANGEROUS FIREWORKS. (a) A permit is required for the use of dangerous fireworks under AS 13.72.010 (b) and may be granted upon verified application to the state fire marshal on forms provided by him.

(b) There shall be attached to the application for a permit under this section a policy or certified true copy of a policy of public liability insurance and products liability insurance coverage, including both accident and occurrence in the amount of at least \$500,000 for bodily injury and death and at least \$300,000 for property damage, provided by the applicant or his employer.

(c) The use of dangerous fireworks shall be handled by a competent operator certified as to competency by the state fire marshal.

(d) A permit granted under this section for the use of dangerous fireworks shall be lawful for that purpose only.

(e) No permit granted under this section for the use of dangerous fireworks is transferrable. (Eff. 6/25/69; reg. 30).

Authority: AS 13.70.030

13 AAC 51.020. PERMITS FOR THE SALE OF SALEABLE FIREWORKS. (a) A permit is required for the sale of saleable fireworks under AS 13.72.020(a) and may be granted upon verified application to the state fire marshal on forms provided by him.

(b) No permit shall be granted to a person who desires to sell fireworks at retail within 250 feet of any place of habitation or place of public assembly.

PUBLIC SAFETY

(c) A permit granted under this section for the sale of saleable fireworks shall be lawful for that purpose only.

(d) No permit granted under this section is transferrable. (Eff. 6/25/69; reg. 30).

Authority: AS 18.70.080

13 AAC 51.030. STORAGE OF DANGEROUS AND SALEABLE FIREWORKS BY A WHOLESALER. (a) NFPA #405 (1968-69 edition) and AIA, Article 12.6(q), Construction of Storage Facilities, is adopted.

(b) A wholesaler of dangerous and saleable fireworks who fails to comply with this section may have his license revoked pursuant to 13 AAC 51.050. (Eff. 6/25/69; reg. 30).

Authority: AS 18.70.080

13 AAC 51.040. DISCHARGE OF FIREWORKS. (a) No fireworks of any kind may be discharged within the state within 250 feet of any establishment that sells fireworks at retail or wholesale.

(b) The discharge of dangerous fireworks within the state, except for those purposes for which a permit is required under AS 18.72.010, and this chapter, is prohibited. (Eff. 6/25/69; reg. 30).

Authority: AS 18.70.080

13 AAC 51.050. REVOCATION OF LICENSES AND PERMITS. The state fire marshal shall revoke a permit or license where the permittee or licensee fails to comply with the requirements of this chapter or with the provisions of AS 18.72, or where the permittee or licensee conducts his business in a manner so as to constitute a hazard to life and property. (Eff. 6/25/69; reg. 30).

Authority: AS 18.70.080

13 AAC 51.060. SEIZURE. The state fire marshal shall seize, take, remove, or cause to be removed at the owner's expense, all stocks of dangerous or saleable fireworks from persons who do not have a valid permit or license under AS 18.72, or this chapter. (Eff. 6/25/69; reg. 30).

Authority: AS 18.70.080



J. C. MORRIS AGENCY, INC.

INSURANCE AGENTS: GENERAL • CASUALTY • BOND • LIFE
938 5TH AVENUE • ANCHORAGE, ALASKA 99501
(ON 5TH AVENUE FACING CAPTAIN COOK HOTEL)

June 14, 1969

Mr. James Norene
717 Irwin St.
Anchorage, Alaska

Dear Mr. Norene:

We were unsuccessful in obtaining liability coverage for you on fireworks sales in the State to meet the new Law. None of our Standard markets will consider a risk of this type. We also submitted the risk to Lloyd's of London for their consideration, but they too have declined.

We are sorry we can not assist you in this case,

Sincerely,

J. C. MORRIS AGENCY



Von R. Baxter



please reply via

