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# COMMITTEE REPORT

## HOUSE

2/20/81

FURTHER: FINANCE

§5)

Date: Mar 5 1981

Mr. Speaker:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had SSHB 43

"An Act relating to day care assistance."

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

\_\_\_\_\_  
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\_\_\_\_\_  
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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
CHAIRMAN

Sponsors' proposed amendment to SS HB 43:

The purpose of the proposed amendment is to ensure that the rights of parents and the rights of centers are both protected. The sponsors wish to provide for flexibility in the payment of benefits, but also want to allow centers to determine how flexible they can be in accepting different methods of payment to cover the cost of their operations.

page 2, line 14: Delete new language and replace it with the following language:  
"A parent may elect to enroll a child in a facility that has an enrollment policy or in a facility that has an attendance policy. The payment of benefits shall be based on the number of units of care when a child is authorized for care in a facility that has an enrollment policy or in a facility that has an attendance policy, in accordance with the method used by the facility in billing the parent or guardian. When a facility allows the option of billing on the basis of either enrollment or attendance, the payment of benefits by the department shall be based on the method elected by the parent or guardian and specified to the facility."

3/4/81 : LC

# ESTIMATED LOSS PER YEAR FOR

## ST. ANN'S DAYCARE/NURSERY

### Daycare

$$\begin{array}{r} 265^{00} \text{ Present + C+RA enrollment fee} \\ - 204^{00} \text{ attendance w/4 days absence (21 possible days)} \\ \hline 61^{00} = \text{Loss per child} \end{array}$$

$$61^{00} \times 24 = \$1,464 \text{ (present loss per month if on ~~enrollment~~ attendance)}$$

$$61^{00} \times 44 = \$2,684 \text{ (loss per month if mod. income is included on attendance)}$$

$$\$2,684 \times 6 = \$16,104 \text{ loss in 6 mos.}$$

$$\$2,684 \times 12 = \$32,208 \text{ loss in 12 mos.}$$

### Nursery

$$\begin{array}{r} 330^{00} \text{ C+RA enrollment fee} \\ - 255^{00} \text{ attendance w/4 days absence (21 possible days)} \\ \hline 75^{00} \text{ Loss per child} \end{array}$$

$$75^{00} \times 10 = \$750^{00} \text{ (present loss/mo. if on attendance)}$$

$$75^{00} \times 23 = \$1,725^{00} \text{ (loss/mo. if moderate income is included on attendance)}$$

$$\$1,725 \times 6 = \$10,350 \text{ loss in 6 mos.}$$

$$\$1,725 \times 12 = \$20,700 \text{ loss in 12 mos.}$$

Total Daycare/Nursery Loss in 6 mos.: \$26,454

Total Daycare/Nursery Loss in 12 mos.: \$52,908 ✓

The estimated loss/yr. is equal to 5 full-time salaries/yr.  
(25% of our staff.)

POSITION PAPER

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 43

"An Act relating to day care assistance."

This Bill would amend the Day Care Assistance statute to add provisions to expand the eligible families to include those of moderate income, to require Department of Community and Regional Affairs payment to a municipality to help defray the expenses of administering the Day Care Assistance Program, and to provide for parent option in determining whether the payment of services would be based on child enrollment or actual attendance.

While the Department of Community and Regional Affairs has major responsibility for purchase of day care services in the State, the Department of Health and Social Services maintains responsibility for purchase of day care in child protective cases and for WIN registrants. The protective services and WIN day care programs are not named in this Bill, however, the Department of Health and Social Services has adhered to a policy of administering its day care programs in a manner consistent with the Day Care Assistance Program and plans to continue that policy to the maximum extent feasible. From a licensing perspective, the Department has an interest in the financial viability and stability of day care facilities. It is for these reasons that the Department of Health and Social Services is commenting on this Bill.

The Department has no objection to expanding the group of program (eligibles) provided that a priority system is established to ensure the ready availability of services to those most economically in need. Consideration may be given to amending section 280 of the statute to provide for prioritizing low income families.

The Department enforces the concept of financial assistance to municipalities to help defray the costs of administering the Day Care Assistance Program. Some communities have opted not to participate in the Day Care Assistance Program because of the administrative costs involved, and in some instances a local day care center has absorbed these costs and acted as the administrator in order to have the Day Care Assistance Program in their community. This amendment would offset many of the current financial hardships being experienced by communities. It may result in several additional communities choosing to participate in the Day Care Assistance Program. Furthermore, the monies would allow the funding of a part-time position in a municipal office, thereby permitting local day care operators to withdraw from a situation of potential conflict of interest, both in terms of determining eligibility for parents enrolling children in their program and determining eligibility for parents interested in a competitor's program.

✓  
The second provision of this Bill would provide payment of benefits based on days enrolled or attended "each month" as elected by the parent. The Department recommends that the words "each month" be removed, since it has been our experience that enrollment policies of day care providers vary greatly; many providers permitting children to enroll for a day or two while others require a three to nine month commitment.

There are also several issues which should be addressed related to the diversity of provider payment policies. Some day care facilities charge based on enrollment, others charge based on attendance, while others use an excused absence and/or a required two week notice system. Day care providers being private businesses have a right to select the payment system which best addresses their management requirements. It would appear to be more appropriate for the State funded program to honor admission and payment policies established by a day care facility provided that the established policies are applied to the general public, as well as to the State funded child.

Consideration should also be given to establishing a maximum length of time for payment to continue for periods of non-attendance or following withdrawal from the program. We would suggest some committee deliberation and discussion on this issue.

For your information, the Department of Health and Social Services initiated a policy of payment on an enrollment basis on July 1, 1980 following receipt of funding from the Legislature for that purpose. The following paragraph, taken from our letter to day care providers, explains the way this Department decided to administer the policy for the first year: ✓

↓  
Since the Department's protective service and WIN day care programs serve different client needs than the Day Care Assistance Program, there are frequently reasons for authorizing day care services for periods of time substantially less than a full month. WIN clients may need short term day care for their children during job interviews, vocational counseling, testing sessions, or employment related medical sessions. Occasionally, one unit of day care is needed. Families may need protective services day care support for only one week of respite from the stresses of parenting during a family crisis. Most day care center enrollment policies and some care home policies allow enrollment on a drop-in basis and also for periods of less than a full month. We are assuming that these enrollment options will remain available for WIN and protective services eligible children. We believe that it is appropriate to pay for the number of units authorized, recognizing that a day care facility must hold space open for the child. There are times when a day care center or home receives notice that a child will no longer be attending, but the enrollment (authorized period) has not ended. The Department will allow payment unless another child is enrolled for that space. The units billed to the Department should cease with the enrollment of a new child or the end of the authorized period, whichever comes first.

**POSITION PAPER/Department of Health & Social Services**

We hope this information is useful to you in committee deliberations.

The Department supports the concept of expanding the Day Care Assistance program to moderate income families, supports the concept of financial assistance to municipalities for administering the Day Care Assistance Program, and supports allowing payment based on enrollment. We suggest that modifications be made based on Department comments and information obtained in committee hearings.

RECOMMENDED BY:

John R. Pugh  
John R. Pugh, Director  
Division of Family and  
Youth Services

DATE:

3/2/81

RECOMMENDED BY:

Elizabeth Muktarian  
Elizabeth Muktarian  
Director, Division of  
Adult and Aging  
Services

DATE:

3/2/81

APPROVED BY:

Helen D. Beirne  
Helen D. Beirne  
Commissioner

DATE:

3/2/81

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. \_\_\_\_\_ Sponsor Substitute for House Bill No. 43  
Title "An Act relating to day care."  
Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services  
Program Category Affected \_\_\_\_\_  
BRU, Program, or Subprogram(s) Affected \_\_\_\_\_  
(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

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

Payment based on enrollment was included in the Department's day care budget.

DATE 2/27/81 PREPARED BY John R. Pugh John R. Pugh, Director

IV. DATE \_\_\_\_\_ PREPARED BY Elizabeth Muktarian Elizabeth Muktarian,  
AGENCY Div. of Family & Youth Svcs/Div. of Director  
PHONE 465-3170/465-3253 Adult & Aging Svcs.

Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named) M&B Approval Date 2/28/81

REGISTRY: SOCIAL SERVICES  
AGENCY: DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS

PROGRAM: CHILD ASSISTANCE  
SUB-PROGRAM: DAY CARE

\*\*\*\*\* F.C.C. ANALYSIS \*\*\*\*\*

BS REC \$2,004.1

ST GROUP	VARIATION	DESCRIPTION	F.C.C. VERSUS GOVERNOR
BS, CLMS	1348.8 72.9%	ADD 978.8 TO FULLY FUND EXISTING PROGRAM AND ADD 370.0 TO PROVIDE PAYMENTS BASED ON ENROLLMENT.	

1348.8 67.3%

2004.1 + 978.8 = 2982.9 x 20% = 596.6

GOV'S      wait list      TOTAL

FIGURE \$3,352.9

LEGISLATIVE INTENT: THE DAY CARE ALLOCATION INCLUDES \$370,000 TO PROVIDE FOR PAYMENTS BASED ON ENROLLMENT INSTEAD OF THE PRESENT METHOD OF PAYMENTS BASED ON ATTENDANCE.

LEGISLATIVE INTENT: THE DEPARTMENT IS TO PERFORM A STUDY ON THE ACTUAL COST OF FULLY FUNDING DAY CARE AND THE COST OF ANNUALLY REVISING THE SLIDING FEE SCALE TO THE STATEWIDE MEDIAN INCOME LEVEL WITH REGIONAL COST OF LIVING FACTORS AND THE REPORT IS TO BE PROVIDED TO THE LEGISLATURE BY FEBRUARY 1, 1981.

\*\*\*\*\* HOUSE ANALYSIS \*\*\*\*\*

*implemented 3/1 a higher fee scale*

BS REC \$2,004.1

ST GROUP	VARIATION	DESCRIPTION	HOUSE VERSUS GOVERNOR
BS, CLMS	978.8 52.9%	ADD 978.8 TO FULLY FUND EXISTING PROGRAM.	

978.8 48.8%

FIGURE \$2,982.9



Rep. Don Clocksin, Chairman  
465-3797

# Alaska State Legislature

## House of Representatives

### Committee on Health, Education & Social Services

3/25/81  
Pouch V  
State Capitol  
Juneau, Alaska 99811

#### Proposed Committee Substitute to SSHB 43 (Conceptual Language):

##### Amendments:

1. 44.47.300(b) is amended to read:

Each day care facility receiving a grant under Secs. 44.47.250-.310, shall, when payment of benefits is based upon the number of days a child is enrolled at the facility, provide for full-time and part-time enrollment. Each such facility shall provide for payment of benefits based upon the number of days a child attends the facility. The number of children who may utilize the attendance payment policy shall be as determined by the department, based upon the need for such a policy and the economic impact on the facility.

2. Amend 44.47.270 - after "freed to work" insert ", seek work."
3. 44.33.245 (a)(1) and .255(a) (delete lines 11-23, findings and purpose).
4. Sec. 1. The Early Childhood Development Grant Program is established in the Department of Community and Regional Affairs to provide state assistance in the operation of child care facilities. The program shall provide grants for the operation of day care centers, including private, non-profit child care facilities. Participation in the program is optional.

Sec. 2. (a) Grants will be available to day care centers if the following conditions are met:

(a) be currently licensed under 47.35.010-.080 and any appropriate municipal licensing requirements.

(b) be participating in the day care assistance program under AS 44.47.250-.310.

(c) be providing care under both enrollment and attendance policies as provided in 44.47.300(b).

(d) minimum grants will be \$150.00/month for each licensed day care slot as determined by the Department of Health and Social Services. The grants shall vary by geographic region and COLA.

Sec. 3.

(a) Application for a grant under this section shall be made in the form established by the commissioner.

(b) A grant under this section shall be made monthly and shall be based on the average daily enrollment in the child care facility during the calendar month preceding the date on which application for a grant is made.

Sec. 4.

(a) Grants in addition to those in Sec. 2 may be provided to day care centers which provide a quality of care in excess of that required by the licensing requirements of AS 47.35.010-.080. To receive the supplemental grant, all conditions of Sec. 2(a) must be met and in addition, the center shall meet or exceed criteria established by the Department of Health and Social Services. Those criteria will include personnel training and experience, staff-child ratio, establishment of programs designed for early childhood development, improved nutrition, equipment and space.

(b) A center meeting requirements of Sec. 2 (a) and the requirements of this section as well will receive at least an additional \$100/per child per month. Grants shall vary based on the geographic region and COLA.

DC:am

SS HB 43: Section-by-section analysis

Section 1: Expands Day Care Assistance Program (DCAP) in the Department of Community and Regional Affairs (C&RA) to cover middle income families.

Section 2: Requires the state to pay some of a municipality's cost to administer the program. Costs that the state will pay half of include: (1) salaries of eligibility workers; (2) accounting and bookkeeping; (3) clerical work; (4) making sure that recipients are attending school or working while their children are in day care; (5) advertising the program; (6) reports required by C&RA. In addition, the state is required to contribute to the salary paid a program manager, by paying 10% of the total cost of the salaries required in (1) to the program manager.

Section 3: Same effect as section 1.

Section 4: Requires C&RA to pay day care payments on the "enrollment" or the "attendance" basis to a facility. The parent has the right to choose which method of payment he or she prefers, as long as the center provides for both options.

(prepared by Rep. Bucholdt's office)

DCAP subsidy schedule as of 3/81

Dollar figures represent maximum adjusted net income (monthly) for level of subsidy in each community.

Anchorage Ketchikan Juneau	Petersburg Sitka Wasilla	Kenai Kodiak	Cordova Fairbanks	Bethel Nome Anderson Ft. Greely Delta Junction	Kotzebue	Max. st. subsidy avail- able for day care costs
base	1.0375*	1.0764*	1.1587*	1.3425*	1.3928*	
\$533	\$553	\$574	\$618	\$716	\$742	100%
633	657	681	733	850	882	90
733	760	789	849	984	1021	80
833	864	897	965	1118	1160	70
933	968	1004	1081	1253	1299	60
1033	1072	1112	1197	1387	1439	50
1133	1175	1220	1313	1521	1578	40
1233	1279	1327	1429	1655	1717	30
1333	1383	1435	1545	1790	1857	20

*209/yr*

\*These figures represent percentages of the base figure used for Anchorage, Ketchikan and Juneau.

Source: Day Care Assistance Program, Department of Community and Regional Affairs

*1850  
12  
3700  
18  
21700*

# Estimated Loss Per Year for Home Daycare/Nursery Facility

## Daycare:

$\$265^{00}$  Present C&RA enrollment fee  
 $- \$204^{00}$  Attendance w/ 4 days absence (21 possible days)  
 $\underline{\hspace{1cm}}$   
 $61^{00}$  Loss per child Per month

$\$61^{00} \times 3 = \$183^{00}$  Loss Per month if on attendance

$\$183^{00} \times 6 = \$1098^{00}$  Loss in 6 months

$\$183^{00} \times 12 = \$2196^{00}$  Loss in 12 months

## Nursery:

$\$330^{00}$  Present C&RA enrollment fee  
 $- \$255^{00}$  Attendance w/ 4 days absence (21 days)  
 $\underline{\hspace{1cm}}$   
 $75^{00}$  Loss per child

$\$75^{00} \times 2 = 150^{00}$  Loss per month

$\$150^{00} \times 6 = \$900^{00}$  Loss in 6 months

$\$150^{00} \times 12 = \$1800^{00}$  Loss in 12 months

Total Daycare/Nursery loss in 6 mos. =  $\$1998^{00}$

Total Daycare/Nursery loss in 12 mos. =  $\$3996^{00}$

(over)

Home daycare/nursery facility is necessary as it provides second income to a family or full income to a single parent.

The estimated loss/yr. represents 3 to 5 (approx) monthly house payments or 5 to 8 (approx) monthly rent payments.

(2) "director" means the executive director of the Rural Development Council. (§ 2 ch 172 SLA 1980)

Editor's note. — This section derives from AS 44.19.231 and was renumbered by the revisor under 01.05.031.

Article 6. Community Legal Assistance Grants.

Section	Section
200. Community legal assistance grant fund	220. Grants
210. Eligibility	230. Regulations

Sec. 44.47.200. Community legal assistance grant fund. There is created in the Department of Community and Regional Affairs the community legal assistance grant fund. From legislative appropriations to the fund, the department shall make grants to eligible communities and regions for the purpose of enabling them to obtain legal assistance. (§ 1 ch 60 SLA 1975)

Sec. 44.47.210. Eligibility. First and second class cities and unincorporated villages, and regional associations of those communities, may apply to the department for a grant under AS 44.47.200. Grants shall be made only to those communities or regions that would otherwise be unable to obtain legal assistance. No regional or village corporation formed under the Alaska Native Claims Settlement Act (P.L. 92-203) is eligible for a grant under AS 44.47.200. (§ 1 ch 60 SLA 1975)

Sec. 44.47.220. Grants. Grants made under AS 44.47.200 shall be used for a single legal project and not for the provision of general legal counsel. The department shall assure that the grant is spent for necessary legal assistance and that appropriate accounting procedures are maintained. Grants may not exceed \$20,000. (§ 1 ch 60 SLA 1975)

Sec. 44.47.230. Regulations. The department shall adopt regulations to carry out the purposes of AS 44.47.200 — 44.47.220. (§ 1 ch 60 SLA 1975)

Article 7. Day Care Assistance.

Section	Section
250. Powers and duties	290. Contributions by parent or guardian
300. Local participation	300. Child care facilities
270. Conditions of receipt of benefits	310. Definitions
280. Eligibility of families for benefits	

Editor's note. — Section 1, ch. 66, SLA 1975, provides: "Findings of fact; purpose. The legislature finds that a need exists in the state for the provision of adequate day care facilities for families with low income. Adequate child care facilities allow the parent or guardian to work outside the home and in many cases

to avoid the need for welfare and other forms of public assistance. The purpose of this Act is to establish in the Department of Community and Regional Affairs a program to aid low income families in urban and rural areas of the state in providing adequate care for their children."

Sec. 44.47.250. Powers and duties. (a) The department shall (1) implement and administer a program to assist in providing day care for the children of low-income families according to the requirements of AS 44.47.250 — 44.47.310; (2) establish standards of eligibility for day care benefits; (3) contract for the care of children of eligible families; (4) establish procedures to periodically review the needs of families receiving day care benefits; (5) provide notification to the local government body of the request for a contract with a day care facility. (b) The department may (1) adopt regulations necessary for the performance of its duties under AS 44.47.250 — 44.47.310; (2) contract with municipalities to perform its duties under AS 44.47.250 — 44.47.310 within that municipality; with the approval of the department, the municipality may subcontract with another organization in the community to perform administrative duties; (3) [deleted] (4) contract with day care facilities outside of municipalities; to provide more effective administration of programs in the unorganized borough, the department may contract with another organization in the community or with an organization serving the region in which the community is located to perform administrative duties. (§ 2 ch 66 SLA 1975; am § 1 ch 272 SLA 1976)

Effect of amendment. — The 1976 amendment deleted "with day care facilities" following "contract" in paragraph (3) of subsection (a), and in subsection (b), substituted "municipalities" for "local agencies" in paragraph (2), added the language beginning "within that municipality" to the end of paragraph (2), deleted paragraph (3), which read

"solicit recommendations from local governing bodies regarding local agencies which may provide contractual services under this section." and added paragraph (4).

Legislative history report. — For report on ch. 66, SLA 1975 (HCS CSSB 120), see 1975 Senate Journal, p. 287; 1975 House Journal, p. 876.

Sec. 44.47.260. Local participation. When a contract is made under AS 44.47.250(b)(2) between the department and a municipality,

the municipality shall pay the costs of administering the contractual duties within its jurisdiction. (§ 2 ch 66 SLA 1975; am § 2 ch 272 SLA 1976)

**Effect of amendment.** — The 1976 amendment substituted "municipality" for "local agency within an incorporated borough or city of the state" and for "incorporated borough or city."

**Sec. 44.47.270. Conditions of receipt of benefits.** Benefits may be paid for the care of children of a low income family only if a parent or guardian, because of the day care, is freed to work or to attend school. In no event shall benefits be paid for the care of children of a family where one parent or guardian is not working or attending school and is physically and mentally capable of caring for the children. (§ 2 ch 66 SLA 1975)

**Sec. 44.47.280. Eligibility of families for benefits.** The department shall determine the eligibility of families for day care benefits on the basis of the following factors:

- (1) net income of the family including salary, alimony, child support, retirement benefits, social security, and any other source of income;
- (2) number of children in the family;
- (3) whether there is one parent or guardian solely responsible for the care of the family;
- (4) Repealed by § 3 ch 98 SLA 1977.
- (5) other factors found relevant by the department. (§ 2 ch 66 SLA 1975; am § 3 ch 98 SLA 1977)

**Effect of amendment.** — The 1977 amendment repealed paragraph (4), which read "whether the family receives aid to families with dependent children and is eligible for day care service under aid to families with dependent children."

**Sec. 44.47.290. Contributions by parent or guardian.** The department shall develop a sliding fee scale based on the factors listed in AS 44.47.280 for purposes of determining the amount to be contributed by the parent or guardian for child care. The contribution of the parent or guardian shall be paid to the day care facility. (§ 2 ch 66 SLA 1975)

**Sec. 44.47.300. Child care facilities.** (a) Parents or guardians shall select the day care facility for the care of their children.

(b) Benefits shall be paid by the department directly to the municipality contracting with the day care facility or, outside of a municipality, to the facility upon receipt of a billing from a municipality or facility. (§ 2 ch 66 SLA 1975; am § 3 ch 272 SLA 1976)

**Effect of amendment.** — The 1976 amendment rewrote this section.

**Sec. 44.47.310. Definitions.** In AS 44.47.250 — 44.47.310

- (1) "day care facility" means a center or home licensed in accordance with the provisions of AS 47.35.010—47.35.080 or recognized by the federal government for the care of children;
- (2) "department" means the Department of Community and Regional Affairs;
- (3) "child" means any person below 11 years of age.
- (4) "day care" means the care, supervision, and guidance of a child or children unaccompanied by a parent or legal guardian on a regular basis for periods of less than 24 hours a day.
- (5) "municipality" includes a home rule, general law and unified municipality, as defined in AS 29. (§ 2 ch 66 SLA 1975; am §§ 6—8 ch 253 SLA 1976; am §§ 4, 5 ch 272 SLA 1976; am § 2 ch 98 SLA 1977)

**Effect of amendments.** — The first 1976 amendment rewrote paragraphs (1) and (3) and added paragraph (4). The second 1976 amendment substituted "who has not reached the age of 7" for "up to the mandatory school age" in paragraph (3) and added paragraph (5). The 1977 amendment rewrote paragraph (3).

**Article 8. The Temperate Social Activities Revolving Loan Fund.**

Section	Section
320. Fund established	340. Loan terms
330. Powers and duties of the office in administering the fund	350. Sale or transfer of mortgages and notes

**Sec. 44.47.320. Fund established.** There is established in the Department of Community and Regional Affairs the revolving loan fund for temperate social activities to carry out the purposes of AS 44.47.320 — 44.47.350. Loans made under AS 44.47.320 — 44.47.350 are to be used to foster social activities at which alcohol is not served or consumed. The fund may be used for no other purpose. (§ 5 ch 152 SLA 1978)

**Sec. 44.47.330. Powers and duties of the office in administering the fund.** (a) The Department of Community and Regional Affairs may

- (1) make loans for the purchase, construction, and modification of building in which social activities at which alcohol is not served or consumed may be held; however loans may be made only in communities with a population of less than 5,000;
- (2) promulgate regulations necessary to carry out the provisions of AS 44.47.320 — 44.47.350.

(b) The Department of Community and Regional Affairs shall develop eligibility standards for loans made under AS 44.47.320 — 44.47.350 and adopt guidelines for the determination of loan terms. (§ 5 ch 152 SLA 1978)



# Alaska State Legislature

## House of Representatives

Committee on

Health, Education & Social Services

Rep. Don Clocksin, Chairman  
465-3797

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: House HESS Committee Members  
FROM: Rep. Don Clocksin, Chair  
RE: Additional Amendments to CS for SSHB 43  
DATE: April 8, 1981

Proposed Amendments to CS for SSHB 43 (Conceptual language)

1. Page 2, line 8 (d)  
amended to reflect the following concept:

Grants in addition to those in (c) of this section ~~may~~ be provided to day care centers for the sole purpose of training administrators and day care teachers.

The amount of grants will be determined according to availability of training services or types of potential contractual arrangements.

2. Page 2, line 28, insert words and parents after providers.

3. Page 4, lines 4 - 10 delete.

4. Page 4, line 15, after part-time enrollment, insert:

In addition, each day care facility receiving a grant under AS 44.47.250 - 44.47.310 - shall make at least 20% of its slots available for children eligible for day care assistance who may wish to pay based on the attendance policy.

DC:sp



Rep. Don Clocksin, Chairman  
465-3797

# Alaska State Legislature

## House of Representatives

### Committee on Health, Education & Social Services

Pouch V  
State Capitol  
Juneau, Alaska 99811

Date: May 5, 1981

To: House HESS Committee

Fr: Rep. Don Clocksin

Re: Additional Amendments to CS for SSHB 43

On Wednesday, April 8, 1981 the following amendments were proposed and accepted by the House HESS Committee to CS for SSHB 43 - Day Care.

1. Page 2, line 8 (d)  
amended to reflect the following concept:

Grants in addition to those in (c) of this section may be provided to day care centers for the sole purpose of training administrators and day care teachers.

There will be a ceiling of \$50,000 on the training grants.

2. Page 2, line 28, insert words and parents after providers.
3. Page 4, line 4-10, delete.
4. Page 4, line 15, after part-time enrollment, insert:

In addition, each day care facility receiving a grant under AS 44.47.250-44.47.310 shall make at least 20% of its slots available for children eligible for day care assistance who may wish to pay based on the attendance policy.

The new proposed amendments for CS for SSHB 43:

In the current form of CS for SSHB 43, the following amendments are proposed and included in the Bill:

1. Page 1, lines 22-26 Contract Administration

-department's portion of payment for contract administration is extended beyond Municipality to include an organization which administers day care assistance.



# Alaska State Legislature

## House of Representatives

### Committee on

### Health, Education & Social Services

Rep. Don Clocksin, Chairman  
465-3797

Pouch V  
State Capitol  
Juneau, Alaska 99811

Page 2

2. Page 1, lines 27-29  
Page 2, line 2

-simplified to read: 10% of total contract will go for administrative costs.

3. Page 2, line 6

-day care is extended to one who is seeking work.

4. Page 2, line 11

-title is amended for consistency to read Child Care Grant Program.

5. Page 2, line 28-29

-percentages of grant are adjusted downward to account for geographical differences in cost of living and cost of service delivery.

6. Page 3, lines 1-7

-reminder that fund for training was increased from \$50,000 to \$100,000.

7. Page 3, lines 14-23 (g)

-department shall, by regulation, determine how many slots each day care center must make available on an attendance basis.

POSITION PAPER ON SSB 43

"An Act relating to day care assistance."

by

Department of Community and Regional Affairs

The Department supports the three major concepts of this bill:

- 1) raising the day care subsidy scale to the state median income. This concept is proposed as a use of the grant budget increase in FY '82.
- 2) administrative relief for local municipalities, or in the absence of a local municipality a local group, who administers the day care assistance program.
- 3) the parental choice of having children either attend or enroll at a day care facility, if they are covered under the day care assistance program. This concept is currently being utilized by parents.

The cost of implementing these three concepts is estimated to be \$4,542,560 in FY 1982. This is \$466,180 over the Governor's budget request for the coming fiscal year.

STATE MEDIAN INCOME AS 44.47.156(a)(1)

The state median income is estimated for FY 1982 at \$21,037. Using this figure, adjusted, as the upper limit of income subsidy, we project that this will serve a monthly average of 1342 families. The families are projected to have 2317 children who will participate in the program of which 463 of these would be infants.

Currently, the program is serving a monthly average of 833 families, 1250 children of which 250 are infants. Thus, there would be an additional 700 families served, if the subsidy level were increased to include state median income families.

Eighty percent of the families that are currently being served would be receiving a 100 percent subsidy. Presently, the upper limit income is \$20,000. However, 80 percent the families currently being served earn \$15,000 per year, or less. These same families have state subsidy for child care ranging from 50-100 percent, depending upon their income.

The cost projections and the number of families served are derived from using a subsidy scale that has been used by the Department for a number of years. We are not confident that this scale takes into consideration the various costs for families, family configuration, and budgets. As is suggested

by the Day Care Study, the Department does plan a thorough review of the subsidy scale, including poverty weighting.

A limitation on both the projected dollars and people served is the straight line projection we have done based on current client usage. Our current clients are low income wage earners and are frequently the most volatile in the labor market. That is, they are the last to be hired, work irregular hours, and are the first to be dismissed. These employment characteristics are generally not held to be true of moderate income wage earners. We may find that the new group of families to be served are more stable in the work force and thus the per child cost may be dramatically understated.

CONTRACT ADMINISTRATION: AS 44.47.260

As the day care assistance program has expanded to include more and more families, and with the advent of the enrollment policy, the demand on local administrators' time has also increased.

While we concur that contractors (local municipalities, day care facilities outside of municipalities or other organizations) should have some administrative relief, we believe the present language could be a burden both to the local contractor and the state.

We are also concerned that grants to municipalities for administration not come from program dollars for child care.

Therefore, we suggest that the language be changed to read:

(line 15)"...the department shall pay the local contractor an amount equal to ten percent of the total contract award. This payment will be on a monthly basis. However, under no circumstances will the payment be less than \$500.00 per year.

Further, a separate grant award will be made to the department to pay this portion of the contractor's cost, but in no circumstances is this payment to come from grants appropriated for family day care."

ENROLLMENT OR ATTENDANCE AS: 44.47.300(B)

Currently, parents do have the option of having their children cared for by facilities that use either an attendance or enrollment policy. As of December, 1960 approximately 60 percent of the children in the day care assistance program were in a facility that had an enrollment policy.

However, we do have some concerns regarding the proposed language. Parents are authorized to have child care subsidy based on units of care. These units may be by the hour, full time, part time or a combination. The proposed language speaks

of days, and perhaps may be construed to be the only form of authorization. We would prefer substituting "units of care" for days.

Parents now have their authorization for day care renewed every three months, unless there has been a change in family income, size, marital status, working or training hours. The proposed language appears to say that the parent must come each month for reauthorization. We would hope this burden was not placed on parents.

The proposed language appears to say that the parent can specify to the facility what type of policy the facility may have. We propose a change in the language to clarify that parents have the option of attendance or enrollment, as does the facility have the right to make that determination.

Therefore we would suggest the following as substitute language:

"The payment of benefits shall be based on the number of units of care when a child is authorized for care in a facility that has an enrollment policy or the number of units of authorized care in a facility that has an attendance policy. The parent may elect a facility that has an attendance policy or a facility that has an enrollment policy."

I. REQUEST

Bill/Resolution No. SSHB 43  
 Title "An Act relating to day care"  
 Requested by House Health & Social Services Date 2/27/1981

II. FISCAL DETAIL

Agency Affected Department of Community & Regional Affairs  
 Program Category Affected Community Development  
 BRU, Program, or Subprogram(s) Affected Day Care Assistance Program  
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	-0-	466.2	503.5	543.8	587.3	634.3
<b>TOTAL</b>	<b>-0-</b>	<b>466.2</b>	<b>503.5</b>	<b>543.8</b>	<b>587.3</b>	<b>634.3</b>

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	466.2	503.5	543.8	587.3	634.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

These figures include the day care grant funds as a result of the raise in subsidy scale level, local municipal administration cost for the program, with a constant eight percent inflation figure.

In FY 82 this includes \$66.0 for a raise in subsidy scale and \$400.2 in municipal administrative grants. (This does not include grants to military installations.)

This does not include any new programs, revising the scale annually, or recognition that median income families may use the program on a more constant level, thus increasing the child per care costs.

IV. DATE February 27, 1981 PREPARED BY Lore' *Lore'*  
 AGENCY Dept. of Community & Regional Affairs  
 Original: Legislative Finance PHONE 264-2201  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

3/4/51

SSHB 43

- In what % of all people covered?  
i.e. low + middle + high income.

- Why include middle income families?  
Will it damage low income?

- Program only 1 yr. old - Has it <sup>been</sup> time enough to get all  
the ~~best~~ low income needy covered for sure?

Richard Buckhardt

John McCarter - Dir of Longwood inst.

Lorray - Coordinator

led up by opportunity

80% on enrollment now.

leg intent - cost of dc than state  
- funded

Lorray - supports - see memo

10% due → mem. → sub contract

June	60-70%	full
July	"	"
Aug	"	"
Sept	100%	100%
March	- ?	

12/day rate

John Hugh - Dir of Family & Youth Serv.

Tele conf:

Vicki Worthington - Seculim. NO. NO NO.

3/14/81 Cont - Teleconference

Nome - Cheryl Yates - Dir of some children  
YES.

MORRISHA

← 2 yrs very expensive + diff to find

\$350/mo. is not realistic pay

Clue - ~~from~~ Karen Smith - chr. - An child care  
all taken care of except the Center

Lee Robinson - Coronal center YES  
6 wks to 10 yr

Murray Nancy, Hobart  
YES.

Enke - self ← observed provision present but not present  
proportion expense  
" " edu cost

Pat Cook - of June

YES  
Smith (note) must go up (4 weeks)

maison Eggberg - AT Annals  
100 kids for analysis/statement

Judy Callison - AT Ann

Pat Henry cell loan sponsor for AT Ann

Archie Mackay city of June -

Roselee P Walker

Lee Callage - wants 10/day

3/4

- CETA programs support many social de program  
in big effect.

- Joe Grogan - child. Com Center, Jan  
CETA provides sev. workers,

Bernie Moseley - Dir. mem. ; coord.

<sup>9/26</sup>  
Chor Gisel - op. d. done center

H B

6 2

COMMITTEE REPORT

HOUSE

2/4/81

FURTHER: JUDICIARY

(5)

Date: March 19, 1981

Mr. Speaker:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had HB 62

"An Act relating to civil liability of providers of alcoholic beverages."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING

DO/PASS

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING

OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]  
CHAIRMAN

3-19-81

1875

Live Com

Bob Maloney 735 midnight mine

Peg Anquell Wood Rural cap

Bob KRAIER, delta junction

Talking - @ 4<sup>15</sup> PM.

Bob Cole 5-OK

62-

Howard Hanson

Mind Altering <sup>Drug</sup> - Results in Special order  
Speeches

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 3  
JUNEAU, ALASKA 99811

February 26, 1981

The Honorable Donald E. Clocksin  
Chairman  
House Health, Education and Social  
Services Committee  
Room 106 - Capitol Building  
Juneau, Alaska

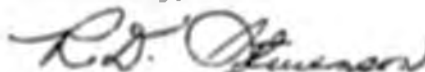
Dear Mr. Clocksin:

Re: House Bill No. 62

House Bill No. 62, an Act relating to civil liability of providers of alcoholic beverages, was introduced in the House on February 4, 1981 and was referred to the House Health, Education and Social Services and Judiciary Committees.

For the consideration of the House Health, Education and Social Services Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Patrick L. Sharrock, Director, Alcoholic Beverage Control Board, Department of Revenue, Anchorage concerning the proposed legislation.

Sincerely,



R. D. Stevenson  
Special Assistant

cc: The Honorable Fred E. Brown  
Chairman  
House Judiciary Committee

Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Patrick L. Sharrock, Director  
Alcoholic Beverage Control Board  
Department of Revenue  
Anchorage, Alaska

FISCAL NOTE

**I. REQUEST**

Bill/Resolution No. HB#62  
 Title Relating to civil liability & providers of alcoholic beverages  
 Requested by Governor Date \_\_\_\_\_

**II. FISCAL DETAIL**

Agency Affected Department of Revenue  
 Program Category Affected Consumer Protection  
 BRU, Program, or Subprogram(s) Affected Alcoholic Beverage Control Board  
 (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.						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME						
PART TIME						
TEMPORARY						

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

There will not be any fiscal impact on the BRU with passage of this legislation.

IV. DATE February 25, 1981 PREPARED BY *Patrick L. Sharrock*  
 AGENCY Alcoholic Beverage Control Board  
 PHONE 277-8638  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

the property was used in a manner subjecting it to forfeiture under (a) of this section.

(e) The owner of property subject to forfeiture under (a) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if in an action under (d) of this section the owner shows that he was not a party to the violation and had no actual knowledge that the property was used or was to be used in violation of the law.

(f) A person other than the owner holding, or the assignee of, a lien, mortgage, conditional sales contract on, or the right to possession to property subject to forfeiture under (a) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if in an action under (d) of this section the person shows that he was not a party to the violation subjecting the property to forfeiture and had no actual knowledge that the property was used or was to be used in violation of the law.

(g) It is no defense in an in rem forfeiture proceeding brought under (d)(2) of this section that a criminal proceeding is pending or has resulted in conviction or acquittal of a person charged with violating AS 04.11.010, 04.11.496(b), or AS 04.21.060.

(h) Property forfeited under this section shall be placed in the custody of the commissioner of public safety for disposition according to an order entered by the court. The court shall order destroyed any property forfeited under this section which is harmful to the public. Other property shall be ordered sold and the proceeds used for payment of expenses of the proceedings for forfeiture and sale, including expenses of seizure, custody and court costs. The remainder of the proceeds shall be deposited in the general fund. (§ 3 ch 131 SLA 1980)

Former law construed. — See 45 Am. Jur. 2d Intoxicating Liquors Territory of Alaska v. 188 Cases of Mixed Intoxicating Liquors, 10 Alaska 414 (1946). 48 C.J.S. Intoxicating Liquors § 384 — 404

Am. Jur. 2d and C.J.S. references. —

## Chapter 20. General Provisions.

### Section

10. [Repealed]

### Sec. 04.20.010. Intoxicating liquor defined.

Repealed by § 12 ch 131 SLA 1980.

Cross reference. — For present provisions covering the subject matter of the repealed chapter, see AS 04.21. Editor's note. — The repealed chapter derived from § 36-4-11, ACIA 1949; § 2 ch 131, SLA 1957; § 2 ch 197, SLA 1960; § 1 ch 71, SLA 1969; § 9, ch 129, SLA 1980.

- 10. Municipal regulation
- 20. Civil liability of persons providing alcoholic beverages
- 30. Responsibility of licensees, agents and employees

- 40. Sales on federal reservations
- 50. Proof of age
- 60. Warehousing of alcoholic beverages
- 70. Enforcement
- 80. Definitions

**Sec. 04.21.010. Municipal regulation.** (a) A municipality may adopt ordinances governing the barter, sale, and consumption of alcoholic beverages within the municipality as necessary for the orderly conduct of the business of selling alcoholic beverages within the municipality. An ordinance adopted under this section may not be inconsistent with this title or regulations adopted under this title.

(b) If, as a result of an election held in accordance with AS 04.11.502 in a municipality, the board is prohibited from issuing, renewing, or transferring a license between holders or locations or if the importation of alcoholic beverages is prohibited in the municipality, the municipality may adopt an ordinance making the sale or importation of alcoholic beverages a misdemeanor. The ordinance may not be inconsistent with this title or the regulations adopted under this title.

(c) A municipality may not impose taxes on alcoholic beverages except (1) property taxes on alcoholic beverage inventories and (2) sales taxes on alcoholic beverage sales. (§ 4 ch 131 SLA 1980)

Am. Jur. 2d and C.J.S. references. —

45 Am. Jur. 2d Intoxicating Liquors § 27

48 C.J.S. Intoxicating Liquors § 193

**Sec. 04.21.020. Civil liability of persons providing alcoholic beverages.** A person who provides alcoholic beverages to another person may not be held civilly liable for injuries resulting from the intoxication of that person unless the person who provides the alcoholic beverages holds a license authorized under AS 04.11.080 — 04.11.220, or is an agent or employee of such a licensee and

(1) the alcoholic beverages are provided to a person under the age of 19 years in violation of AS 04.16.051, unless the licensee, agent, or employee secures in good faith from the person a signed statement, liquor identification card, or driver's license meeting the requirements of AS 04.21.050(a) and 04.21.050(b), which indicates that the person is 19 years of age or older; or

(2) the alcoholic beverages are provided to a drunken person in violation of AS 04.16.030. (§ 5 ch 131 SLA 1980)

**Cross reference.** — As to responsibility of licensee for violations, see AS 04.16.150. As to responsibility of licensee, agents and employees, see AS 04.21.030.

**Editor's note.** — The cases cited in the note below were decided under former AS 04.10.180 and 04.15.020.

**Civil liability under former law.** — The common-law rule as to the non-liability of the vendor of intoxicating liquor for torts committed by the drinker of liquor while the latter was intoxicated, without more, generally prevailed. *Cherbonnier v. Rafalovich*, 12 Alaska 634, 88 F. Supp. 900 (D. Alas. 1950). See *Vance v. United States*, 355 F. Supp. 756 (D. Alas. 1973).

Although it was true that policy embodied in former AS 04.10.180 could also be enforced by criminal and administrative sanctions, there was no

**Sec. 04.21.030. Responsibility of licensees, agents and employees.** The licensee has a duty to exercise that degree of care which a reasonable person would observe to insure that a business under his control is lawfully conducted. This duty of the licensee includes, but is not limited

(1) to insuring the compliance by agents or employees with this title and regulations adopted under this title, including acting with reasonable diligence to determine that his agents or employees are advised of the provisions of this title and the regulations adopted under this title, either by securing the agent's or employee's written acknowledgement of posted instructions or otherwise; and

(2) to insuring the compliance of the premises with public health, fire, and safety codes and ordinances of the state or municipality having jurisdiction. (§ 4 ch 131 SLA 1980)

**Cross reference.** — As to responsibility of licensee for violations, see AS 04.16.150.

**Sec. 04.21.040. Sales on federal reservations.** (a) A wholesaler of alcoholic beverages may sell alcoholic beverages to a person who does not have a license under this title who has a fixed place of business on land in the state maintained by the United States government as a military or naval reservation, a national park, or other federal reservation. A sale may be made under this section only if the purchaser is a ship's service store, officers club, officers mess, post exchange, or similar organization. The wholesaler may deliver

No. 2148 (File No. 4406), P.2d (1980), overruling *Barton v. Lund*, Sup. Ct. Op. No. 1423 (File No. 2726), 563 P.2d 875 (1977).

It is not unfair to hold a licensee responsible for the establishment's operation even though the licensee does not have actual control of the day-to-day functions. *Alesna v. Legrue*, Sup. Ct. Op. No. 2148 (File No. 4406), P.2d (1980).

For construction of former AS 04.15.020(a) as setting a minimum standard of care for purposes of the common-law cause of action based upon ordinary negligence, see *Vance v. United States*, 355 F. Supp. 756 (D. Alas. 1973).

**Am. Jur. 2d and C.J.S. references.** — 45 Am. Jur. 2d Intoxicating Liquors §§ 553 — 614.

48 C.J.S. Intoxicating Liquors §§ 430 — 485.

section shall keep the original order attached to the copy of the invoice on file at his premises.

(b) Alcoholic beverages received on federal reservations under this section may not be removed for resale or public use outside the federal reservation.

(c) A wholesaler who sells alcoholic beverages on a federal reservation under this section shall pay the state excise tax imposed by AS 43.60.010 on the alcoholic beverages sold and may subsequently claim credit for the excise taxes paid if the sale is made to an organization which is an instrumentality of the federal government. (§ 4 ch 131 SLA 1980)

**Sec. 04.21.050. Proof of age.** (a) If a licensee, or an agent or employee of the licensee questions or has reason to question whether a person entering a licensed premises, or ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure alcoholic beverages, has attained the age of 19 years, that licensee, agent, or employee shall require the person to furnish proof of age acceptable under (b) of this section. If the person questioned does not furnish proof of age acceptable under (b) of this section, or if a licensee, agent, or employee questions or has reason to question the validity of the proof of age furnished, the licensee, employee, or agent shall require the person to sign a statement that he is over the age of 19 years. This statement shall be made on a form prepared by and furnished to the licensee by the board.

(b) A valid driver's license or a valid identification card is acceptable as proof of age when used for identification in the purchase of alcoholic beverages and for securing entry to and remaining on premises where alcoholic beverages are sold if the license or identification card is made of or encased in plastic and contains a photograph of the license or card holder and a statement of his age or date of birth.

(c) A licensee, or an agent or employee of the licensee, may not be charged for a violation of AS 04.16.051 — 04.16.052 if a signed statement as provided in (a) of this section is secured in good faith, or a valid driver's license or identification card is presented indicating that the owner and possessor of the presented driver's license or identification card is 19 years of age or over. (§ 4 ch 131 SLA 1980)

**Sec. 04.21.060. Warehousing of alcoholic beverages.** A licensee may stock, warehouse, or otherwise store alcoholic beverages in a place elsewhere than premises indicated on his license if

(1) the premises to be used for storage are inspected and approved by the board before their use.

January 12, 1981

Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. II, sec. 18, of the Alaska Constitution, I am transmitting a bill repealing AS 04.21.020. AS 04.21.020 sets out the circumstances under which a provider of alcohol may be civilly liable for injuries resulting from intoxication of persons to whom the provider furnishes the alcohol. That section, enacted last year as part of the comprehensive revision of AS 04 (ch. 131 SLA 1980, derived from FCCSSB 239), broadens the alcohol provider's immunity from civil liability.

Under AS 04.21.020, a prerequisite to civil liability is that the provider be licensed. This condition has the presumably unintended but nonetheless clear result of immunizing illegal, unlicensed alcohol distributors from civil liability.

Under AS 04.21.020(1), a provider of alcohol is immunized from civil liability if, where age is questioned, the patron supplies identification or signs a statement asserting he is of lawful age. Although it is probably beneficial to limit criminal liability exposure of providers under such circumstances, when civil liability is at issue, it is preferable to hold providers to the same standard of reasonable conduct under the circumstances as is present under the general law of civil liability.

Under AS 04.21.020(2), a provider of alcohol is immunized from civil liability for injuries resulting from intoxication unless the provider acts with criminal negligence and supplies alcohol to one who is visibly drunk. See AS 04.16.030 and 04.21.080(a)(1) and (b)(7). The common law of tort liability for negligence would hold providers accountable under circumstances where their conduct was unreasonable (e.g., serving a great quantity of alcohol), not just where there was a "gross

*Richard I. Pegues*

IV. DATE 1/08/81 PREPARED BY Richard I. Pegues, Admin. Officer  
AGENCY DEPARTMENT OF LAW  
PHONE 465-2691  
Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)

deviation" from the standard of care that a reasonable person would observe in the situation.

As a matter of state public policy, rather than specially sheltering a certain class of individuals, persons acting negligently should be held accountable for their negligence to the same degree as other members of the public. This is especially so where injuries to innocent victims are involved. Repeal of AS 04.21.020 will further this public policy.

Sincerely,

*S.J.S.H.*

Jay S. Hammond  
Governor

-2-

IV. DATE 1/08/91 PREPARED BY *Richard I. Perues*  
AGENCY DEPARTMENT of Law  
PHONE 463-3693  
Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 62  
 Title "An Act relating to civil liability of providers of alcoholic beverages"  
 Requested by The Governor Date Jan. 8, 1981

II. FISCAL DETAIL

Agency Affected Department of Law  
 Program Category Affected General Government  
 BRU, Program, or Subprogram(s) Affected Legal Services  
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

This bill deals with the rights of private parties in their relationship to each other. It does not require state administration except as private litigants use the court system. No significant impact is anticipated.

IV. DATE 1/08/81 PREPARED BY Richard I. Piques, Admin. Officer  
 AGENCY Department of Law  
 PHONE 463-3633  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)