

S

B

488

FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 488
 Title: "...relating to unfair trade practices."
 Sponsor: Sen. Josephson
 Requestor: Sen. Labor & Commerce
 Date of Request: 2/17/84

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Consumer Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2-21-84
 Approved by Commissioner: Norman C. Gorsuch Date: 2-21-84
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Fiscal Note 12/1/83

This bill is the first comprehensive revision of Alaska's unfair trade practices and consumer protection statutes since 1974. The bill clears up ambiguities raised by Alaska court decisions; for instance, the bill reaffirms that the statute is meant to protect: (1) purchasers of real property, and (2) business or government entities purchasing goods or services as "consumers". The bill encourages members of the public to seek private redress for violations of the statute, by clarifying the private cause of action provisions, and creating a new cause of action by an honest business against a competitor which damages the honest merchant by its deceptive conduct.

It is not expected that this bill will have any fiscal impact on the Department of Law's Consumer Protection Section because the bill refines the Section's law enforcement tools (by eliminating substantive and procedural ambiguities), and encourages more citizens to act on their own behalf rather than seeking government intervention (by the strengthened private action amendments).

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 17, 1984

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

The Honorable Richard I. Eliason, Chairman
Senate Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: SB 488 (unfair trade practices and
consumer and business protection)
Our file no. 377-053-84

Dear Senator Eliason:

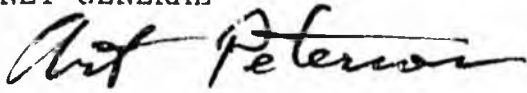
Sheila Peterson, of your staff, asked today for our position paper and fiscal note on this bill. Our position is that we strongly support the bill. I am enclosing a copy of the draft transmittal letter that we prepared when it was contemplated that the governor would be introducing the bill. That letter sets out the major goals of the bill and includes a section-by-section analysis. Dick Pegues, our director of administrative services, will be sending you the fiscal note. I believe that it will be a zero fiscal note.

If we may be of further assistance on this, please do not hesitate to call on us.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:



Arthur H. Peterson
Assistant Attorney General

AHP:djc

cc w/enclosure:

The Honorable Joe Josephson
Alaska State Senate

Hon. Richard I. Eliason, Chairman
Senate Labor and Commerce Committee
Our file no. 377-053-84

February 17, 1984
Page 2

cc w/o enclosure:

Connie J. Sipe
Assistant Attorney General
Chief, Consumer Protection Section
Department of Law/Anchorage

D R A F T

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which amends and re-names art. 4 of AS 45.50 which has been titled "Unfair Trade Practices and Consumer Protection." (AS 45.-50.471 -- 45.50.561 or "the UTP Act.") This bill is the first comprehensive revision to these statutes since 1974. The bill was prepared by the consumer protection section of the Department of Law in response to decisions by our courts under the present statutes and based on the suggestions of businesses, consumers, attorneys, and legislators in our state.

The bill has seven major goals:

1. to clarify that every Alaskan who buys or leases any item in trade or commerce for use (not for resale) is a protected consumer under these statutes, whether the buyer is an individual buying a car, a business concern buying airline tickets for employees, or a village corporation buying office photocopier supplies;

2. to clarify that honest business competitors may bring a private cause of action for damages against their less scrupulous competitors who injure them through the use of unfair or deceptive trade practices;

3. to clarify and simplify the investigative procedures used by the attorney general, and to make them less threatening to the business under investigation;

4. to clarify the role of the attorney general when bringing an enforcement action on behalf of the general public to stop an unlawful practice and to seek restitution for injured consumers;

5. to eliminate any barriers to private victims of fraud who wish to seek their own redress in the courts;

6. to ensure that out-of-state businesses which reach into our marketplace to do business with Alaskans are covered by the UTP Act, and to further ensure that all aspects of "trade or commerce" in the Alaskan marketplace are also covered, not just the narrow area of "goods or services";

7. to cure substantive, procedural, and language defects which have made the UTP Act difficult to enforce in the past.

In order that the full intent of this bill be clearly understood, a detailed section-by-section analysis follows.

Section-By-Section Analysis

Change in Name of Act

The first change made by this bill is to re-name art. 4 of AS 45.50 which is now titled "Unfair Trade Practices and Consumer Protection" to be the "Unfair Trade Practices and Consumer and Business Protection Act," to emphasize the intent of the amendments in the bill. Article 4 will be referred to in this analysis as "the UTP Act" or simply "the Act."

Section 1. Consolidating Consumer Laws

Section 1 of the bill amends AS 45.50.471(b), which is a list of examples of the type of unfair or deceptive trade practices which the Act prohibits. Two practices are added to the list, failure to comply with AS 45.45.105 -- 45.45.110, regarding unsolicited merchandise, and failure to comply with AS 45.45.120 regarding disclosure of funeral costs. Although these statutes contain no enforcement provisions, it has been the informal opinion of the attorney general that they may be enforced under the UTP Act, since they are clearly meant to protect consumers. Their direct inclusion in the Act more clearly allows their enforcement. Alaskans are frequent victims of unsolicited merchandise schemes from the lower 48, and of funeral home over-reaching in sales to bereaved families.

Section 2. Exemptions from the Act

Section 2 of the bill would clear up an area of ongoing confusion regarding what types of business activities are exempt from the UTP Act under AS 45.50.481(1). This paragraph is in need of amendment because it has been a source of continued controversy due to its "double-negative" language, and because of its potential to exempt almost all commercial activities from the UTP Act. Under AS 45.50.481(1), as amended by this bill, the UTP Act would not apply to acts or transactions which are regulated by other laws, only if the other law: (1) prohibits the same type of unlawful practices, (2) does not exempt from regulation the very person who is committing a prohibited act or practice, (3) provides a private cause of action for injured consumer or competitor victims, and (4) provides the state with adequate means to compel compliance with the statute and to recover restitution for injured parties, in the public interest.

This amended exemption section recognizes that while government should not duplicate regulatory efforts, the state also should not exempt a licensed professional or tradesman from the standard of honest conduct that governs unlicensed, unregulated vendors of a different type of goods or services. It also recognizes that activity should not be exempt from the UTP Act merely because the activity

constitutes a crime.

The amendment does not cause "double regulation" of licensed professions or occupations, but rather acknowledges that "regulation" through licensure or certification by a board or commission is not the same type of public law enforcement protection as that provided in the UTP Act. Although some boards have power to prohibit a licensed professional from repeating unlawful practices in the future, most boards do not have authority to order, grant, or even to seek restitution for members of the public who were injured by the licensee.

This section of the bill would ensure that both private injuries and injuries to the public interest can be corrected, but it does not set up a new "regulatory" scheme.

Section 3. Investigations by the Attorney

General

Section 3 of this bill is a comprehensive revision of AS 45.50.495, which deals with the investigative powers of the attorney general. Currently, the grant of investigative powers focuses on the use of a "subpoena," without describing the method by which the attorney general decides to issue a subpoena, nor the rights of the subpoenaed person to challenge the scope or method of the

investigation. This section of the bill more clearly sets out the steps the attorney general must follow before and during using formal investigations.

At AS 45.50.495(a), the bill inserts new language that shows that the attorney general must have cause to believe that an illegal act is happening, based on information received from public complaints, information from other agencies, or from information gained by the attorney general's own inquiries. Also, in this subsection the new term "civil investigative demand" is first used. This term is substituted for the word "subpoena," which had a more onerous or quasi-criminal connotation.

AS 45.50.495(b) as revised by this bill, describes in detail what information is required to be included on the face of an investigative demand. Although it has been the practice of the attorney general to disclose this information, having the requirements set by law makes it more clear to both the attorney general's staff and to the person involved in the investigation.

The bill adds new AS 45.50.495(c), describing the way in which the attorney general may serve a civil investigative demand. Previously, a subpoena had to be served by a process server or a state trooper, which often caused undue alarm to the person being served. Under this new subsec-

tion, service may be made the same way as for a subpoena from a civil court action, which is much less onerous and does not always require delivery by a process server or a law enforcement officer.

New AS 45.50.495(d), (e), and (f) set out the location where testimony sought under a civil investigative demand shall be made, and the manner in which a person may seek a modification or waiver of the civil investigative demand. If the attorney general denies a request for modification, the person under investigation may file a petition in court, asking the court to grant the request.

New AS 45.50.495(g) provides that a person served with an investigative demand who does not seek relief under subsec. (f), and who fails to respond to the demand, may be held in contempt of court for failure to answer the investigative demand. Again, although standards for enforcement similar to those set out in the bill are already followed, it is the opinion of the attorney general that statutory notice would better ensure procedural fairness to all parties concerned.

Section 4. Public Interest Lawsuits
by the Attorney General

Section 4 of the bill would expand and clarify AS 45.50.-

501, which is the section under which the attorney general brings public interest actions in the courts to stop unfair and deceptive trade practices. The attorney general does not have power to order a business to cease and desist, but must go to court and prove a civil case before a business will be ordered by the court to stop a particular practice.

The new language in AS 45.50.501(a) includes a vital revision to clarify that any one outside Alaska who solicits the business of Alaskans or otherwise trades with Alaskans with knowledge that the goods or services will reach Alaska, is subject to the jurisdiction of our courts and to prosecution by our attorney general for any unfair or deceptive trade practices which harm Alaskan businesses or consumers. Although legislative history shows that this was the intent of the existing language, a 1980 Alaska Supreme Court decision throws some doubt on whether the existing language in AS 45.50.501 is sufficient to vest the courts with the total extent of "long-arm jurisdiction" granted to them in AS 09.05.015. Swenson Trucking & Excavating Inc. v. Truckweld Equipment Co., 604 P.2d 1113 (Alaska 1980). The amendment in the bill cures this potential defect.

The new language of AS 45.50.501(a) and (b) also clarifies that not only may the attorney general seek a temporary,

preliminary, or permanent order or injunction against unlawful practices, but that the attorney general may also, acting on behalf of citizens injured by an unlawful act or practice, seek to restore the status quo by a court order to return to victims whatever money or property they may have lost by the unlawful actions of the business defendant.

Other amendments to AS 45.50.501 became necessary when a recent court decision interpreted current AS 45.50.501(b) so as to create several barriers to the attorney general's ability to obtain restitution for victims in a public interest action. State v. First Nat'l Bank of Anchorage, 660 P.2d 406 (Alaska 1982). Specifically, new subsecs. (b) through (g) clarify that when the attorney general seeks restitution for a group of injured citizens, the attorney general does not "represent" each of them as would a private attorney, and that the attorney general's lawsuit is not what is otherwise known to the courts as a "class action." If the attorney general were forced to follow the cumbersome procedures for "class actions" each time he seeks restitution, the attorney general might be forced -- in the interest of putting an expeditious halt to unlawful activity -- to seek only injunctive relief and not restitution to victims.

Restitution to victims plays a critical role in law

enforcement, since a civil injunction against a business violator, without a requirement that the violator repay ill-gotten profits back to the victims, would not provide an adequate deterrent to businesses who might violate the law. It is in the interest of honest competitors, consumer victims, and the general public, that those who violate the law lose their ill-gotten gains, and that this money be put back into the marketplace.

New AS 45.50.501(c) provides that the attorney general will give notice of actions brought under subsec. (b) to all affected consumers. New subsec. (d) provides a method by which consumer victims could decide to "opt-out" from the public action.

The addition of AS 45.50.501(e) and (f) ensures that consumer victims will not get duplicate recoveries, once from the public interest action by the attorney general, and once by a private action. It further ensures that a victim who elects the public action by the attorney general will be bound by a court's decision in that case and be prevented from pursuing a private claim for the same remedy.

New AS 45.50.501(g) ensures that procedural requirements will not interfere with speedy law enforcement by the attorney general, so that requirements for consumer notice

and elections to opt-in or opt-out of the public interest action would not delay a request by the attorney general for an order or injunction to halt the unlawful activity.

New AS 45.50.501(h) is intended to strengthen the message to our courts that once the court has found, to a sufficient degree of probability, that an unfair practice is occurring, that the court should and must grant a preliminary injunction in the public interest to restrain the use of the unlawful act pending the time when the court can hear a full trial on the case. The message to the courts would be clear that an unlawful trade practice should not be tolerated longer than necessary.

New AS 45.50.501(i) amends a serious deficiency in existing subsec. 501(b). The bill gives the court further powers to ensure that there will be, if at all possible, money available to make restitution to victims of the unlawful scheme. The bill adds the specific power of the court to grant a prejudgment attachment of a violator's money or property to make restitution, or in the alternative, to appoint a receiver to manage the business's money or property until the time for restitution.

This addition to existing AS 45.50.501(b) is needed because of court rulings that under our prejudgment attachment statute, AS 09.40.010, the courts do not have power

to grant prejudgment attachment of money upon request of the attorney general in an action enforcing the UTP Act. When the attorney general wins the case at final trial, one or two years after the fraud actually occurs, the business has often transferred its assets or filed for bankruptcy. With this amendment, the courts may use all legal or equitable remedies that may be necessary to restore the status quo, and make whole all persons injured by an unlawful act.

Sections 5 -- 8. Private and Class Actions for
Consumers and Businesses

Section 5 of the bill amends AS 45.50.531(a) and expands the private and class actions that may be brought by individual members of the public. New subsec. (a) makes it clear that any person who purchases or leases any item of value in trade or commerce for use and not for resale (not merely the traditional household or family consumer buying goods or services), may bring a private cause of action against a party who uses an unfair trade practice which harms the purchaser or lessee. Another amendment to subsec. 531(a) deletes the existing clause specifying in which judicial district the injured person must sue. This designation is moved to new AS 45.50.531(j), in sec. 8 of the bill.

Section 6 of the bill amends the private class action portion of the UTP Act (AS 45.50.531(b)) to eliminate the requirement that an injured person wishing to bring a class action on behalf of himself and other similarly situated persons is required to first get the approval of the attorney general. Such a prerequisite is an unfair and perhaps unconstitutional barrier to a private party's right to seek redress from the courts.

Section 7 of the bill amends AS 45.50.531(h), which allows honest Alaskan merchants who are found liable for damages in a court action under the Act to seek redress in turn from their manufacturer or supplier of merchandise. The bill amends this provision to enable a retailer to also seek redress from the manufacturer or supplier when the retailer satisfies a customer's claim without a legal action. The retailer must give reasonable notice and an opportunity to satisfy the customer's claim to the manufacturer or supplier, but if the manufacturer or supplier does not do so, the retailer would have a private cause of action to recover the cost of satisfying the customer.

Section 8 of the bill amends AS 45.50.531 in a very important way by adding a new provision that a business which is injured by a competitor who commits an unfair or deceptive trade practice has a private cause of action against the competitor. This cause of action may be inferred in

the current UTP Act, but, in order to enhance the rights of private business competitors to guard their own place in the market against unfair competition, a clearly spelled out private cause of action for the injured competitor is needed.

Section 8 also cures a serious potential defect in the Act, by clarifying in new AS 45.50.531(j) that a private consumer or business who exercises the private right of action under new ~~sec.~~ 531 is entitled to seek relief not only against a business located in Alaska, but also against outside businesses which solicit trade with Alaskans, or send merchandise or services into Alaska. As with the amendment to AS 45.50.501(a) in sec. 4 of the bill, dealing with the attorney general's lawsuits, this revision is necessary to eliminate the ambiguity caused by the 1980 Alaska Supreme Court decision in the Swenson Trucking case, which implied that the existing Act might not apply to a Seattle business which did not maintain a place of business within Alaska. Under Alaska's "long-arm" jurisdiction statute, AS 09.05.015, most outside businesses which deal with Alaska would be subject to the "personal" jurisdiction of our courts, but perhaps not to the "subject matter" jurisdiction of this Act. This ambiguity will be cured by adding new AS 45.50.531(j).

Sections 9 -- 12. Revised and Expanded Definitions
of Who is Protected by the UTP Act; Short Title

Section 9 of the bill amends AS 45.50.541, the only section of the UTP Act where it is appropriate to restrict the word "consumer" to mean a person who acquires goods or services for personal, family, or household purposes (as opposed to a business or municipal "consumer" who purchases goods for use in the work place). AS 45.50.541 is concerned with the nonnegotiability of consumer installment contracts or "paper," such as the three-year contract signed by a consumer purchasing a health spa membership or an automobile. The special protections in this section are necessary only for a consumer who finances the traditional type of consumer purchase made for personal, family, or household use. Therefore, a restrictive definition of "consumer" is added to AS 45.50.541 as subsec. (d).

Section 10 of the bill deals with a similar problem. Presently, AS 45.50.542 contains a provision that "consumers" cannot waive their protections under the Act. To make it clear that this Act covers all types of customers, and not merely a restrictively defined "consumer," the bill amends this section to read that a waiver by any person who is the intended beneficiary of the protections in the Act is contrary to public policy, and is void.

In sec. 11 of the bill, new AS 45.50.560 provides for a short title by which to cite AS 45.50.471 -- 45.50.561, "The Unfair Trade Practices Act."

Section 12 of the bill amends AS 45.50.561 by adding three definitions. The first, AS 45.50.561(9), clarifies that whenever the word "person" is used in the UTP Act, it has the meaning given to it in AS 01.10.060(7), which is

"person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person.

The second new definition, AS 45.50.561(10), is a crucial component of this bill. It adds a definition of "trade or commerce" that affects the operative section of the entire Act, AS 45.50.471, which forbids unfair or deceptive practices in "the conduct of trade or commerce." Recent court decisions have limited the coverage of the UTP Act to merely the sale of "goods or services," which would eliminate real property and commercial intangibles, such as commodity futures from the Act. However, it is the opinion of the attorney general that it was the original intent of the legislature to prohibit all unfair trade practices, not only in the sale of goods or services, but in the conduct of any type of "trade or commerce." The new definition of trade or commerce includes not only a sale or lease, but all advertisements or offers for sale, or the barter or any other type of distribution of any type of goods, services, or any type or property, article,

commodity, or other thing of value.

This definition of "trade or commerce" is especially critical in reversing the Alaska Supreme Court's ruling that the UTP Act does not cover the sale of real property. State v. First Nat'l Bank of Anchorage, 660 P.2d 406 (Alaska 1982). Under that ruling and traditional property law, a builder or developer who sells a piece of land with a newly built home on it, may well not be covered by the UTP Act because the house and arguably the materials, appliances, and builder services included in its construction are considered to be "real property."

The court's restriction of the UTP Act to "goods or services" also leaves other gaps in the public protection. For instance, Alaskans are often exposed to high pressure offers to buy commodity futures, an item of value in trade or commerce, but which is not regulated by our state securities law, and arguably is not "goods" or "services," under the UTP Act.

HB 236, introduced during the 1983 session by Representatives Lacher, Koponen, and Clocksin, contains the same definition of "trade or commerce." HB 236 is currently in the House Labor and Commerce Committee.

Section 12 also adds, as AS 45.50.561(11), a definition of

what it means for a person to "willfully" violate the statute. The term "willful" is not of relevance in public actions brought by the attorney general, but is the operative language which gives rise to triple damages in private actions brought by consumer victims or honest competitor victims who use their private cause of action against unfair trade practices.

Section 13 of the bill repeals AS 45.50.561(6), the definition of "consumer." Section 9 of the bill adds a more restrictive definition of "consumer" only to AS 45.50.541, concerning the nonnegotiability of consumer paper, where it is appropriate.

In summary, this bill reflects the practical experience of the attorney general's staff, and consumers and businesses in the state over the last nine years of using the existing Unfair Trade Practices Act. Such a vital law enforcement tool as this Act is due for a well-planned refinement to better serve our citizens. I therefore urge your prompt and favorable action on this measure.

Sincerely,

Bill Sheffield
Governor

DEPARTMENT OF LAW

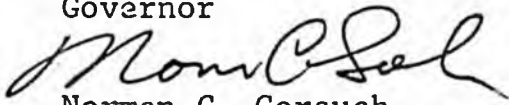
OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

January 13, 1984

M E M O R A N D U M

TO: Honorable Bill Sheffield
Governor

FROM: 
Norman C. Gorsuch
Attorney General

RE: Attached bill concerning unfair trade practices
and consumer and business protection
Our file: 377-053-84

Attached is a bill that would make a number of amend-
ments to and re-name art. 4 of AS 45.50, which has been titled
"Unfair Trade Practices and Consumer Protection." The bill was
requested by the consumer protection section of the Department
of Law, and approved by the L/BRC on October 20, 1983. The pri-
mary purposes of this bill are the following:

- (1) to enhance and expand the protection offered both
to honest Alaskan businesses and to Alaskan consumers;
- (2) to simplify the law enforcement procedures used
in investigations and litigation by the attorney gen-
eral;
- (3) to better enable consumer or business victims of
fraud to seek their own private redress in the courts;
- (4) to ensure that all aspects of Alaska's "trade and
commerce" which affect the consumer marketplace are
covered by this article; and
- (5) to correct various procedural and language de-
fects or omissions in the present statutes.

Also attached is a transmittal letter to the legisla-
ture which describes the bill in more detail and includes a sec-
tion-by-section analysis to help with legislative consideration
of the bill and provide legislative history.

NCG:CJS:an

cc w/enc.: Honorable Richard A. Lyon
Commissioner
Department of Commerce and Economic
Development

Honorable Bill Sheffield
377-053-84

January 13, 1984
Page 2

Connie J. Sipe
Assistant Attorney General
Consumer Protection Section
Department of Law
Anchorage

SB 488 TITLE & SPONSOR SUMMARY

14:33 5/22/84 PAGE 1 OF 2

AMENDED TITLE:

AN ACT RELATING TO UNFAIR TRADE PRACTICES AND CONSUMER AND BUSINESS PROTECTION

PRIME SPONSOR: JOSEPHSON.

CO-SPONSORS:

CURRENT STATUS: 2/13/84 IN (S) LABOR & COM REFERRAL: JUDICIARY

SB 488 SENATE ACTION 14:33 5/22/84 PAGE 2 OF 2

DATE SEQ PAGE LEGISLATIVE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/13/84	01	2050	FIRST READING -- COMMITTEE REPORTS LABOR & COMMERCE JUDICIARY RULES

*** ** ** *** ** **

MSC 84-00028778 PRTY I 03/27/84 14:24:28 ORIG: LS00 IN= 0013 OUT= 0050
FROM: SITKA TO: TOM/PRIMARY MODERATOR
TARGET: LJHV SUBJ: S L&C, 3/27, HB 488 TC

F I N A L S T A T S

LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET

DATE: MARCH 27, 1984
SITE: SITKA
SPONSOR/SUBJECT: SENATE LABOR & COMMERCE/HB 488, UNFAIR TRADE ACT

1	TESTIFIED	1	STARTED:	1:30
0	OBSERVED	**	ENDED:	2:15
**1*	TOTAL			

TESTIFIED

1. BOB TICE, BOX 2426, SITKA, AK 99835 747-5989

WILL SEND HAINES STATS WHEN I GET THEM.

MSG 84-00028795 PRY 1 03/27/84 14:37:34 ORIG: LA19 IN= 0009 OUT= 0054
FROM: ANCHORAGE TO: TOM/FINAL STATS
TARGET: LJVH SUBJ: (S) LABOR & COMMERCE, 3/27

LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET

DATE: MARCH 27, 1984
SITE: ANCHORAGE
SPONSOR/SUBJECT: (S) LABOR & COMMERCE, SB 488

...2..TESTIFIED	*****T/C STARTED: 1:35
...0..OBSERVED	*****T/C ENDED: 2:13
...2..TOTAL	

TESTIFIED

1. CONNIE SIPE/DEPT. OF LAW, 1031 W. 4TH, 99501, 279-0478
2. MAUREEN KENNEDY/AKPIRG, P.O. BOX 1093, 99510, 278-3661



OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE

COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811
(907) 465-3844

3/19/84

The Senate Labor and Commerce Committee today announced a state-wide public hearing via the teleconference network to take testimony concerning S.B. 488 - "An Act relating to unfair trade practices and consumer and business protection". The teleconference is scheduled for March 27 at 1:30 at all Legislative Information Offices. Other sites will be added upon request.

SB 488 is a comprehensive revision and update of the Unfair Trade Practices Act. The bill would define the "trade or commerce" covered by the act and would clarify and strengthen the attorney general's preliminary relief powers. This legislation would also create private causes of action for businesses against a fraudulent competitor who is causing economic harm to an honest business, and against a manufacturer or distributor who is responsible for ultimate repayment of a consumer claim against a local merchant for deceptive advertising or defective merchandise.

If more information is needed, contact Sheila Peterson, Senate Labor and Commerce Committee, at 465-3844.

3/28/84

Re: Sen. Pettyjohn's concern about possible
Court impact on SB 488 - Unfair Trade Practices

I talked to Karla Forsythe, General Counsel,
Judicial Branch and she reviewed SB 488
as to possible impact. Karla stated
that SB 488 would not change court
rules, but would complement the rules.
The legislation clarifies procedures
when dealing with consumer protection
cases.

Ms Forsythe foresees some increase in
caseload, but not a vast increase so she
expressed no concern. Karla felt it
is appropriate for the legislature
to outline procedure to handle these
cases

In other words, in Karla's opinion, the
Court System would be neutral on
SB 488

From: Sheila

Bill Fact Sheet

Date Received 2/13/46

Bill Number SB488 Title Unfair Trade Practices

Fiscal Note - Date Requested 2/16 Date Received _____

- Of Whom Consumer Protection (Law)

Dept. Position Paper - Date Requested 2/16 Date Received _____

- Of Whom _____

Resource People

Initial Hearing - Date 3/22/84
People Contacted

- Don Magnuson
- Martin Tuvador
- Elaine Sunde
- Chamber (slate)
- Sen. Josephson
- Connie (AKPIRC)

Follow-up Hearing - Date _____

Final Action _____ Date _____

refer. 587 on 55700
(a) 5 AAC 46.035. ~~2~~

"Not more than six lines may be fished from any charter vessel."

Authority: AS 16.05.251(a)(4)
Regs of the Board of Fish

MSG 84-00027386 PRTY 1 03/22/84 11:41:46 ORIG: LS00 IN= 0003 OUT= 0072
FROM: ELAINE, SITKA TO: JUNEAU
TARGET: LJHK SUBJ: POM 3

TO: SENATOR ELIASON AND REPRESENTATIVE GRUSSENDORF

FROM: BOB TICE
BOX 2426
SITKA, AK. 99835 747-5989

RE: SPORT FISHING REGULATION

I SENT YOU A MESSAGE ON MARCH 20 CONCERNING MY ATTEMPT TO START A SPORT FISH CHARTER SERVICE IN SITKA. I AM APPARENTLY BLOCKED BY A REGULATION THROUGH ADF&G WHICH PERMITS NO MORE THAN 6 RODS IN THE WATER AT ONE TIME. MY BUSINESS WOULD BE A DAILY BOAT, LEAVING SITKA HARBOR, WITH PEOPLE ABLE TO RESERVE A SPACE FOR MUCH, MUCH LESS MONEY THAN CHARTERING A FULL BOAT. I WANT TO MAKE SOME FISHING AVAILABLE TO LOCAL RESIDENTS WITHOUT BOATS, AS WELL AS VISITORS. FISH & GAME TELLS ME THAT THE KETCHIKAN CHARTER SERVICE ASSOCIATION HAS PUSHED THIS REGULATION THROUGH TO KEEP COMPETITION OUT. I THINK THIS IS UNFAIR TRADE RESTRICTION AND INTEND TO TESTIFY ON SB 488. CAN YOU PLEASE LOOK INTO THIS REGULATION FOR ME? I AM VERY SHORT ON TIME TO FINALIZE THE BOAT PURCHASE & PROCEED. THANK YOU.

-----SITKA LIO, 3-22-84 - 27396 -----

Please check out.