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STATE OF ALASKA THE LEGISLATURE

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JUNEAU, ALASKA 99811
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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	2/4/85	1:30 pm
" "	2/8/85	1:30 pm
" "	2/28/85	1:30 pm

COMMITTEE REPORT
HOUSE

4/1

Rules

(7)

FURTHER:

1/25/85

Date: 3-28-85

The Committee on JUDICIARY has had HB 125

"An Act revising the Alaska Unfair Trade Practices and Consumer Protection Act; adding new causes of action for private business; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 125 (Jud) same title
- and recommends it do pass new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] no rec

[Signature] NI

[Signature] NO PASS

[Signature]

CHAIRMAN

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 125 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act revising the Alaska Unfair Trade Practices
7 and Consumer Protection Act; and adding new causes of
8 action for private business."

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

10 * Section 1. AS 45.50.471(b) is amended by adding new paragraphs to
11 read:

12 (26) failing to comply with AS 45.45.105 - 45.45.110 relat-
13 ing to unsolicited merchandise;

14 (27) failing to comply with AS 45.45.120 relating to disclo-
15 sure of funeral costs.

16 * Sec. 2. AS 45.50.481 is amended to read:

17 Sec. 45.50.481. EXEMPTIONS. Nothing in AS 45.50.471 -
18 45.50.561 applies to

19 (1) an act or transaction regulated under laws administered
20 by the state, by a [ANY] regulator, board or commission, or an officer
21 acting under statutory authority of the state or of the United States,
22 if [UNLESS] the law regulating the act or transaction

23 (A) prohibits [DOES NOT PROHIBIT] the practices de-
24 clared unlawful in AS 45.50.471;

25 (B) does not exempt from regulation the person commit-
26 ting the prohibited act or practice;

27 (C) provides remedies for injured persons equal to or
28 greater than those provided in AS 45.50.471 - 45.50.561; and

29 (D) unless the law is a federal law that preempts

1 state action, provides the state with adequate enforcement and
2 restitution remedies in the public interest similar to those
3 remedies in AS 45.50.501 and 45.50.551;

4 (2) an act done by the publisher, owner, agent, or employee
5 of a newspaper, periodical or radio or television station in the
6 publication or dissemination of an advertisement, when the owner,
7 agent or employee did not have knowledge of the false, misleading or
8 deceptive character of the advertisement or did not have a direct
9 financial interest in the sale or distribution of the advertised
10 product or service;

11 (3) an act or transaction regulated under AS 21.36 or
12 AS 06.05 or a regulation adopted [ANY REGULATIONS PROMULGATED] under
13 the authority of either of those chapters.

14 * Sec. 3. AS 45.50.531(a) is amended to read:

15 (a) A person who purchases or leases an item of value in trade
16 or commerce for use and not for resale, [GOODS OR SERVICES] and who
17 thereby suffers an ascertainable loss of money or real or personal
18 property [, REAL OR PERSONAL,] as a result of another person's act or
19 practice declared unlawful by AS 45.50.471, may bring a civil action
20 [IN THE JUDICIAL DISTRICT IN WHICH THE SELLER OR LESSOR RESIDES OR HAS
21 HIS PRINCIPAL PLACE OF BUSINESS OR IS DOING BUSINESS,] to recover
22 actual damages or \$200, whichever is greater. The jury, or, if the
23 action is tried without a jury, the judge, may, in cases of wilful
24 violation, award up to three times the actual damages sustained. In
25 [, AND IN] all cases the court may provide equitable relief it consid-
26 ers necessary or proper.

27 * Sec. 4. AS 45.50.531(b) is amended to read:

28 (b) A person entitled to bring an action under this section may,
29 [AFTER INVESTIGATION BY AND APPROVAL OF THE ATTORNEY GENERAL,] if the

1 unlawful act or practice has caused similar injury to numerous other
2 persons similarly situated and if the person [HE] adequately repre-
3 sents the similarly situated persons, bring an action on behalf of all
4 [HIMSELF AND OTHER] similarly injured and situated persons to recover
5 actual damages. A person planning to bring an action under this
6 subsection shall deliver [FIRST SUBMIT] to the attorney general a copy
7 of the [HIS PROPOSED] complaint when it is filed with the court [, AND
8 HE MAY NOT FILE THE COMPLAINT IN COURT WITHOUT THE ATTORNEY GENERAL'S
9 APPROVAL]. In an action brought under this subsection, the court may
10 in its discretion order, in addition to damages, injunctive or other
11 equitable relief.

12 * Sec. 5. AS 45.50.531(h) is amended to read:

13 (h) A manufacturer or supplier [MANUFACTURERS OR SUPPLIERS] of
14 merchandise, whose [THE] fault [OF WHICH] is the basis for the action
15 under this chapter, is [ARE] liable for the damages assessed to or
16 suffered by a retailer sued or [RETAILERS] charged under this chapter.
17 A retailer has a private cause of action to recover from a
18 manufacturer or supplier under this subsection the actual damages
19 suffered by the retailer if

20 (1) the retailer has given the manufacturer or supplier
21 reasonable notice and a reasonable opportunity to satisfy the
22 customer's claim;

23 (2) the manufacturer or retailer has not satisfied the
24 customer's claim;

25 (3) the retailer satisfies, before the customer files an
26 action in court, a claim of the customer against the manufacturer or
27 supplier arising under this subsection; and

28 (4) the retailer has suffered damage by satisfying the
29 customer's claim.

1 * Sec. 6. AS 45.50.531 is amended by adding a new subsection to read:

2 (i) A business person whose business is injured and who suffers
3 an ascertainable loss of money or real or personal property as a
4 result of a competitor's act or practice declared unlawful by AS 45.-
5 50.471, may bring a civil action to recover actual damages. The jury,
6 or, if the action is tried without a jury, the judge, may, in cases of
7 wilful violation, award up to three times the actual damages sus-
8 tained. In all cases the court may provide equitable relief it con-
9 siders necessary or proper.

10 * Sec. 7. AS 45.50.541 is amended by adding a new subsection to read:

11 (d) In this section, "consumer" means a person who seeks or
12 acquires goods or services, whether or not affixed to real property,
13 by lease or purchase, for personal, family, or household purposes.

14 * Sec. 8. AS 45.50.542 is amended to read:

15 Sec. 45.50.542. WAIVER VOID. A waiver by a person [CONSUMER] of
16 a provision [THE PROVISIONS] of AS 45.50.471 - 45.50.561 that was
17 enacted to protect that person is contrary to public policy and is
18 unenforceable and void.

19 * Sec. 9. AS 45.50 is amended by adding a new section to read:

20 Sec. 45.50.560. SHORT TITLE. AS 45.50.471 - 45.50.561 may be
21 cited as the Unfair Trade Practices Act.

22 * Sec. 10. AS 45.50.561 is amended by adding new paragraphs to read:

23 (10) "person" has the meaning given in AS 01.10.060;

24 (11) "trade or commerce" means the advertising, offering for
25 sale, barter, or distribution of a service or property, tangible or
26 intangible, real, personal, or mixed, or other article, commodity, or
27 thing of value, wherever situated, and includes trade or commerce
28 directly or indirectly affecting the people of the state;

29 (12) "wilful" means that the person committing the act or

1 practice declared unlawful by AS 45.50.471 knew or should have known
2 that the conduct was an unfair or deceptive trade practice or unfair
3 method of competition.

4 * Sec. 11. AS 45.50.561(6) is repealed.
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PROPOSED COMMITTEE SUBSTITUTE FOR HB 125

CS FOR HOUSE BILL NO. 125
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act revising the Alaska Unfair Trade Practices and Consumer Protection Act; adding new causes of action for private business; and providing for an effective date."

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

* Section 1. AS 45.50.471(b) is amended by adding new paragraphs to read:

(26) failing to comply with AS 45.45.105 -- 45.45.110 relating to unsolicited merchandise;

(27) failing to comply with AS 45.45.120 relating to disclosure of funeral costs.

* Sec. 2. AS 45.50.481 is amended to read:

Sec. 45.50.481. EXEMPTIONS. Nothing in AS 45.50.471 -- 45.50.561 applies to

(1) an act or transaction regulated under laws administered by the state, by any regulatory board or commission, or officer acting under statutory authority of the state or of the United States, if [UNLESS] the law regulating the act or transaction

(A) prohibits [DOES NOT PROHIBIT] the practices declared unlawful in AS 45.50.471; and

(B) does not itself exempt from regulation the person committing the prohibited act or practice; and

(C) provides an adequate private cause of action for injured persons similar to that provided in AS 45.50.531; and

(D) unless the law is a federal law which preempts state action, provides the state with adequate enforcement and restitution remedies in the public interest similar to those remedies in AS 45.50.501 and 45.50.551;

(2) an act done by the publisher, owner, agent, or employee of a newspaper, periodical or radio or television station in the publication or dissemination of an advertisement, when the owner, agent or employee did not have knowledge of the false, misleading or deceptive character of the advertisement or did not have a direct financial interest in the sale or distribution of the advertised product or service;

(3) an act or transaction regulated under AS 21.36 or AS 06.05 or any regulations adopted [PROMULGATED] under authority of those chapters.

* Sec. 3. AS 45.50.531(a) is amended to read:

(a) A person who purchases or leases any item of value in trade or commerce for use and not for resale, [GOODS OR SERVICES] and who thereby suffers an ascertainable loss of money or real or personal property[, REAL OR PERSONAL,] as a result of another person's act or practice declared unlawful by AS 45.50.471, may bring a civil action [IN THE JUDICIAL DISTRICT IN WHICH THE SELLER OR LESSOR RESIDES OR HAS HIS PRINCIPAL PLACE OF BUSINESS OR IS DOING BUSINESS,] to recover actual damages or \$200, whichever is greater. The jury, or, if the action is tried without a jury, the judge, may, in cases of wilful violation, award up to three times the actual damages sustained. In [, AND IN] all cases the court may provide equitable relief it considers necessary or proper.

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(b) A person entitled to bring an action under this section may,

[AFTER INVESTIGATION BY AND APPROVAL OF THE ATTORNEY GENERAL,] if the unlawful act or practice has caused similar injury to numerous other persons similarly situated and if the person [HE] adequately represents the similarly situated persons, bring an action on behalf of all [HIMSELF AND OTHER] similarly injured and situated persons to recover actual damages. A person planning to bring an action under this subsection shall deliver [FIRST SUBMIT] to the attorney general a copy of the [HIS PROPOSED] complaint when it is filed with the court [, AND HE MAY NOT FILE THE COMPLAINT IN COURT WITHOUT THE ATTORNEY GENERAL'S APPROVAL]. In an action brought under this subsection, the court may in its discretion order, in addition to damages, injunctive or other equitable relief.

* Sec. 5. AS 45.50.531(h) is amended to read:

(h) Manufacturers or suppliers of merchandise, the fault of which is the basis for the action under this chapter, are liable for the damages assessed to or suffered by retailers sued or charged under this chapter. When a retailer suffers damages due to satisfying, without legal action, a claim by a customer which would have been actionable under this chapter, the manufacturer or supplier of merchandise may be liable for those damages to the retailer, if after reasonable notice from the retailer and opportunity to satisfy the customer's claim, the manufacturer or supplier fails to satisfy the customer's claim. A retailer has a private cause of action to recover damages from a manufacturer or supplier under this subsection.

* Sec. 6. AS 45.50.531 is amended by adding a new subsection to read:

(i) A business person whose business is injured and who suffers an ascertainable loss of money or real or personal property as a result of a competitor's act or practice declared unlawful by AS 45.-50.471 may bring a civil action to recover actual damages. The jury,

or, if the action is tried without a jury, the judge, may, in cases of wilful violation, award up to three times the actual damages sustained. In all cases the court may provide equitable relief it considers necessary or proper.

* Sec. 7. AS 45.50.541 is amended by adding a new subsection to read:

(d) In this section, "consumer" means a person who seeks or acquires goods or services, whether separate or affixed to real property, by lease or purchase, for personal, family, or household purposes.

* Sec. 8. AS 45.50.542 is amended to read:

Sec. 45.50.542. WAIVER. A waiver by a person [CONSUMER] of a substantive provision [THE PROVISIONS] of AS 45.50.471 -- 45.50.561 which was enacted to protect that person is contrary to public policy and is unenforceable and void.

* Sec. 9. AS 45.50 is amended by adding a new section to read:

Sec. 45.50.560. SHORT TITLE. AS 45.50.471 -- 45.50.561 may be cited as the Unfair Trade Practices Act.

* Sec. 10. AS 45.50.561 is amended by adding new paragraphs to read:

(10) "person" has the meaning given to it in AS 01.10.-060(7);

(11) "trade or commerce" means the advertising, offering for sale, barter, or distribution of any service or any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value, wherever situated, and includes any trade or commerce directly or indirectly affecting the people of this state;

(12) "wilful" means that the person committing the act or practice declared unlawful by AS 45.50.471 knew or should have known that the conduct was an unfair or deceptive trade practice or unfair method of competition.

* Sec. 11. AS 45 50.561(6) is repealed.

* Sec. 12. This Act takes effect immediately in accordance with AS 01.-
10.070(c).

- House Judiciary

No participants in Fairbanks.

DELIVER TO: TCJNU
ORIGINAL
SENT: 03/28/85 TIME: 14:38
FROM: DAVID JENSEN
SUBJECT: HOU JUDICIARY STATS (3-28-85)
PRINT DATE: 03/28/85 TIME: 15:17

*** FINAL T/C STATS ***

DATE: MARCH 28, 1984- THURSDAY
SITE: ANCHORAGE - MAIN MEETING ROOM
SPONSOR: HOUSE JUDICIARY COMMITTEE
SUBJECT: HB 125 : CONSUMER PROTECTION ACT LEGIS.
LOCAL MODERATOR: DAVID J

TESTIFIED:

NAME/REPRESENTING	ADDRESS	PHONE
FRED WITZLEBEN/WITZLEBEN HOMES	P O BOX 02351 ANCH	274-7176
FRED KEHL	BOX 111 7 ANCH	29511 344-1427

OBSERVED:

NAME/REPRESENTING	ADDRESS	PHONE
BARBARA HENDRICKSEN	DEPARTMENT OF LAW ANCH	
ROBERT MINTZ	DEPARTMENT OF LAW ANCH	
BRIAN MATHEWS	ADDRESS NOT GIVEN	

TESTIFIED: 02
OBSERVED: 03
TOTAL: 05

TIME START: 1:30
TIME END: 2:40

Alaska State Legislature



House of Representatives House Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

Contents - HB 125
March 28, 1985

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Fiscal Note, Dept. of Law
3/27/85 letter from Linda O'Bannon with Sectional Analysis
of committee substitute
Proposed Committee Substitute for HB 125
2/21/85 letter from Linda O'Bannon with litigation report
2/13/85 Attorney General Opinion re Civil Rule 89
2/8/85 untitled memo re changes
Swenson Trucking, Etc. v. Truckweld Equip
AS 09.05.015
House Journal 1/25/85
2/11/85 Letter from Gruenberg to Witzleben
2/7/85 Witzleben letter
Consumer Protection information

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 125
 Title: "...relating to unfair trade practices."
 Sponsor: House Rules/by req. of Gov.
 Requestor: Governor's Ofc./OMB
 Date of Request: 12/11/84

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 85	FY 86	FY 87	FY 88	FY 89	FY 90
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)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Richard I. Pegues, Director
 Division: Administrative Services
 Approved by Commissioner: Norman C. Forsuch
 Agency: Department of Law

Phone: 465-3672
 Date: 12/12/84
 Date: 12/12/84

- Distribution (by Agency preparing fiscal note):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

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).

The changes to AS 45.50.501(a)(1) and (2) and AS 45.50.531(a) are actually venue changes, but the changes were recommended in response to the Alaska Supreme Court's remarks about AS 45.50.531 in Swenson Trucking, Etc. v. Truckweld Equipment 604 P.2d 1113 (Alaska 1980). The court did not reach the question whether the ban against unfair trade practices contained in AS 45.50.471 applies to acts committed outside the State of Alaska, but did hold that the court lacked subject matter jurisdiction in that particular case because the defendant's residence and principal place of business were in Washington State. The court noted the plaintiff made no argument that the defendant was "doing business" (the term used in § 531) in Alaska.

In a footnote the court remarked:

We do not imply a decision of whether Truckweld's association with Alaska - namely, repairing a product which Truckweld knew or should have known would be used in Alaska is sufficient to permit personal jurisdiction over Truckweld within Alaska's long arm jurisdiction statutes, AS 09.05.015. Id. at 1119, 20 n. 17

Therefore, we suggest an amendment to § 501 and 531, taking out the venue provisions which the Supreme Court was looking at in questioning subject matter jurisdiction and therefore personal jurisdiction. Thus, if you adopt HB 115 or some other venue statute and want to conform the suggested amendment to § 501, that would be acceptable, but you probably should take out the language in § 531(a) as suggested because the venue provision is

really not needed in that section and could lead to some confusion as evidenced by the court's remarks in Swenson Trucking. The venue provision in § 501 may be needed if there is subject matter jurisdiction over an out-of-state business (therefore personal jurisdiction) to explain that the Attorney General can file the action in judicial district of AG's choice.

SWENSON TRUCKING, ETC. v. TRUCKWELD EQUIP. Alaska 1113

Cite as, Alaska, 604 P.2d 1113

Although the circumstances surrounding the scene of a violent crime are far different from a traffic stop the general principle is equally applicable. Police should be free to ask questions to determine what has happened. Only then can an officer exercise judgment as to what action to take. Again, each case turns on its particular facts. At some point, the on-the-scene questioning may become a custodial interrogation. See *State v. Darnell*, 8 Wash.App. 627, 508 P.2d 613, 615 (Wash.App.1973), cert. denied, 414 U.S. 1112, 94 S.Ct. 842, 38 L.Ed.2d 739; *United States v. LeQuire*, 424 F.2d 341, 343-44 (5th Cir. 1970).

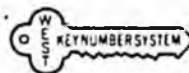
I conclude that the circumstances in this case did not amount to custodial interrogation. Therefore, I can agree with the majority that there was no error in the admission of Palmer's statement.

BOOCHEVER, Justice, concurring.

With reference to the videotaping and recording of the sobriety tests at the police headquarters, I am of the opinion that one in defendant's position would have had no actual or subjective expectation of privacy. From all indications, the testing was performed in a public area and not in a private room which might give rise to such an expectation. Moreover, the vary nature of the testing was for the obvious purpose of making the results public. Therefore, I would rest the holding that there was no violation of Palmer's right to privacy on the lack of subjective expectation of privacy.

I am not at all sure that if the circumstances were such as to give rise to an actual and subjective expectation of privacy, that society would not be prepared to recognize such an expectation as reasonable. A sense of fairness based on a requirement of being open and above board would seem to require notification that one's actions are being videotaped and recorded, if the testing were performed under circumstances giving rise to a subjective expectation of privacy. See *State v. Glass*, 583 P.2d 872 (Alaska 1978).

I further would not speculate as to whether a *Miranda* warning would be required if the statements of the accused made during the testing are regarded as testimonial in character. The trooper indicated that the breathalyzer test results indicated that Palmer had a blood alcohol level of .16 percent, to which Palmer replied "Oh no." That exclamation could hardly be regarded as incriminating, and I find it unnecessary to make any general holding as to whether the remarks were the result of custodial interrogation so as to require a *Miranda* warning. There are too many factual variations which may arise to justify such a sweeping holding. For example, a police officer could give a false statement of a high breathalyzer reading hoping to elicit an admission of where a defendant had been drinking or some statement as to the amount consumed. Even under the circumstances here involved, had Palmer answered "I only had six drinks," a close question would be presented. There can be no dispute of the fact that Palmer was in custody.¹ The United States Supreme Court has held that direct questioning is not required to trigger the requirement of *Miranda* warnings. *Brewer v. Williams*, 430 U.S. 387, 97 S.Ct. 1232, 51 L.Ed.2d 424 (1977).



SWENSON TRUCKING & EXCAVATING, INC., Appellant,

v.

TRUCKWELD EQUIPMENT COMPANY, Appellee.

No. 4288.

Supreme Court of Alaska.

Jan. 4, 1980.

Action for damages arising out of a defective weld in the original manufacture

1. See *Hanter v. State*, 590 P.2d 888 (Alaska 1979).

SWENSON TRUCKING, ETC. v. TRUCKWELD EQUIP. Alaska 1119

Cite as, Alaska, 604 P.2d 1113

minds could draw different inferences and reach different conclusions from the fact the issue must be reserved for trial.¹³

III. BREACH OF EXPRESS AND IMPLIED WARRANTIES

Counts II and III of Swenson's complaint alleged breach of express and implied warranties. Swenson claims that "the repairs requested by Swenson and the bill presented by Truckweld constituted a sales transaction within the definition of the Uniform Commercial Code."¹⁴

[10] The U.C.C. does not apply to this transaction. AS 45.05.046(a) (U.C.C. § 2106(a)) provides:

In §§ 36-242 of this chapter,¹⁵ unless the context otherwise requires, "contract" and "agreement" are limited to those relating to the present or future sale of goods. "Contract for sale" includes both a present sale of goods and a contract to sell goods at a future time. A "sale" consists in the passing of title from the seller to the buyer for a price (§ 126). A "present sale" means a sale which is accomplished by the making of the contract. [emphasis added]

AS 45.05.094, .096, and .098, the Code's warranty provisions, expressly apply only to

13. Quoting *Gross v. Southern Ry. Co.*, 414 F.2d 292, 297 (5th Cir. 1969) (citations omitted).

14. The Alaskan version of the U.C.C. is codified at AS 45.05.

15. This refers to Article II, the "Uniform Commercial Code—Sales." Ch. 114, § 2.106. SLA 1962.

16. AS 45.50.471 provides, in pertinent part:

(a) Unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce are declared to be unlawful.

(b) The terms "unfair methods of competition" and "unfair or deceptive acts or practices" include, but are not limited to, the following acts:

(4) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a

sales of goods. Truckweld was not a seller of the defective ram assembly. Since Swenson claims no other basis for relief on its theory of breach of warranty, summary judgment was appropriate.

IV. AS 45.50.471

[11] Swenson claims damages from alleged unfair trade practices committed by Truckweld, in violation of AS 45.50.471(b)(4), (6), (12) and (15).¹⁶ The dismissal of this claim was correct because the superior court lacked subject matter jurisdiction over the claim. AS 45.50.531 states:

Private and class actions. (a) A person who purchases or leases goods or services and thereby suffers an ascertainable loss of money or property, real or personal, as a result of another person's act or practice declared unlawful by § 471 of this chapter, may bring a civil action in the judicial district in which the seller or lessor resides or has his principal place of business or is doing business, to recover actual damages or \$200, whichever is greater.

Truckweld's residence and principal place of business is in Washington state. Swenson makes no argument that Truckweld was "doing business" in Alaska within the meaning of AS 45.50.531.¹⁷ We do not reach the question whether the ban against

sponsorship, approval, status, affiliation, or connection that he does not have;

(6) representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(12) using or employing deception, fraud, false pretense, false promise, misrepresentation, or knowingly concealing, suppressing, or omitting a material fact with intent that others rely upon the concealment, suppression or omission in connection with the sale or advertisement of goods or services whether or not a person has in fact been misled, deceived or damaged;

(15) knowingly making false or misleading statements concerning the need for parts, replacement, or repair service;

17. We do not imply a decision on whether Truckweld's association with Alaska—namely, repairing a product which Truckweld knew or

unfair trade practices contained in AS 45-50.471 applies to acts committed outside the State of Alaska.

As we have discussed in section II of this opinion, there are triable issues of fact concerning Truckweld's duty of care to Swenson. Consequently, we reverse the trial court's grant of summary judgment on Swenson's negligence claim.

should have known would be used in Alaska—is sufficient to permit personal jurisdiction over Truckweld within Alaska's long arm jurisdiction statute, AS 09.05.015. Compare *Modern Trailer Sales, Inc. v. Traweck*, 561 P.2d 1192

AFFIRMED in part, REVERSED in part, and REMANDED.



(Alaska 1977) (defendant had insufficient contact with Alaska for personal jurisdiction), with *Jones Enterprises, Inc. v. Atlas Service Corp.*, 442 F.2d 1136 (9th Cir. 1971) (sufficient contact with Alaska for personal jurisdiction).

12
STATE of

Antonio Gamez
No
Supreme

No
Rehearing

Defendant,
was convicted by
Pima County, C
Gin, J., of false
and he appealed
prisonment by v
ly included off
Court of Appea
Court, Hays, J.
that false impr
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Collateral references. — 5 Am. Jur. 2d, Appearance, § 1 et seq.; 20 Am. Jur. 2d, Courts, §§ 87-171.

21 C.J.S., Courts, §§ 15-119.

Setting aside default judgment for failure of statutory agent on whom process was served to notify defendant. 20 ALR2d 1179.

Tolling of statute of limitations when process is not served before expiration of limitation period, as affected by statutes defining commencement of action, or expressly relating to interruption of running of limitations. 27 ALR2d 236.

Appealability of order overruling or sustaining motion to quash or set aside service of process. 30 ALR2d 287.

Necessity of service of process upon infant itself in juvenile delinquency and dependency proceedings. 90 ALR2d 293.

Construction and effect of provision for service of process against minor on a parent, guardian, or other designated person. 92 ALR2d 1336.

Inclusion or exclusion of first and last days in computing time for service of process which must take place a certain number of days before a known future date. 98 ALR2d 1398.

Statute permitting new action after failure of original action commenced within period of limitation, as applicable in cases where original action failed for lack of jurisdiction. 6 ALR3d 1043.

Mistake or error in middle initial or middle name of party as vitiating or invalidating civil process, summons, or the like. 6 ALR3d 1179.

Tolling of statute of limitations during absence from state as affected by fact that party claiming benefit of limitations remained subject to service during absence or nonresidence. 55 ALR3d 1158.

Validity of service of summons or complaint on Sunday or holiday. 63 ALR3d 423.

Sec. 09.05.010. Jurisdiction of action. From the time of the service of a copy of the summons and complaint, or of the completion of the publication when service by publication is ordered, the court acquires jurisdiction and has control of all the subsequent proceedings. The voluntary appearance of the defendant is equivalent to personal service of a copy of the summons and complaint upon the defendant. (§ 5.05 ch. 101 SLA 1962)

Collateral references. — Immunity from service of process of nonresident witness appearing in other than strictly judicial proceedings. 35 ALR2d 1353.

Sufficiency of designation of court or place of appearance in original civil process. 93 ALR2d 376.

Jurisdiction of court to permit sterilization of mentally defective person in absence of specific statutory authority. 74 ALR3d 1210.

Sec. 09.05.015. Personal jurisdiction. (a) A court of this state having jurisdiction over the subject matter has jurisdiction over a person served in an action according to the rules of civil procedure

(1) in an action, whether arising in or out of this state, against a defendant who, when the action is commenced,

(A) is a natural person present in this state when served;

(B) is a natural person domiciled in this state;

(C) is a domestic corporation; or

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(D) is engaged in substantial and not isolated activities in this state, whether the activities are wholly interstate, intrastate, or otherwise;
(2) in an action which may be brought under statutes of this state which specifically confer grounds for personal jurisdiction over the defendant;

(3) in an action claiming injury to person or property in or out of this state arising out of an act or omission in this state by the defendant;

(4) in an action claiming injury to person or property in this state arising out of an act or omission out of this state by the defendant, provided, in addition, that at the time of the injury either

(A) solicitation or service activities were carried on in this state by or on behalf of the defendant; or

(B) products, materials or things processed, serviced or manufactured by the defendant were used or consumed in this state in the ordinary course of trade;

(5) in an action which

(A) arises out of a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to perform services in this state or to pay for services to be performed in this state by the plaintiff;

(B) arises out of services actually performed for the plaintiff by the defendant in this state, or services actually performed for the defendant by the plaintiff in this state if the performance in this state was authorized or ratified by the defendant;

(C) arises out of a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to deliver or receive in this state or to ship from this state goods, documents of title, or other things of value;

(D) relates to goods, documents of title, or other things of value shipped from this state by the plaintiff to the defendant or the order or direction of the defendant; or

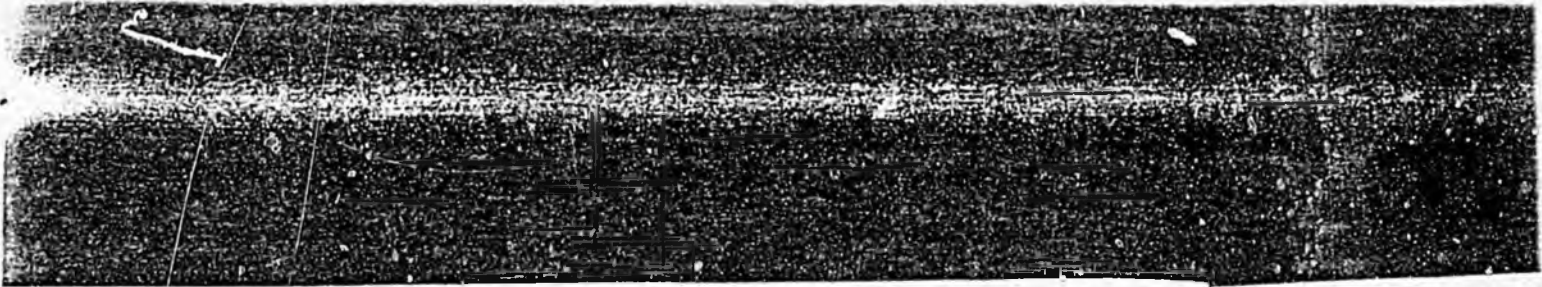
(E) relates to goods, documents of title, or other things of value actually received by the plaintiff in this state from the defendant, without regard to where delivery to the carrier occurred;

(6) in an action which arises out of

(A) a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to create in either party an interest in, or to protect, acquire, dispose of, use, rent, own, control or possess by either party real property situated in this state;

(B) a claim to recover a benefit derived by the defendant through the use, ownership, control or possession by the defendant of tangible property situated in this state either at the time of the first use, ownership, control or possession or at the time the action is commenced; or

(C) a claim that the defendant return, restore, or account to the plaintiff for an asset or thing of value which was in this state at the time the defendant acquired possession or control over it;



§ 09.05.015

ALASKA STATUTES

§ 09.05.015

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(7) in an action to recover a deficiency judgment upon a mortgage note or conditional sales contract or other security agreement executed by the defendant or a predecessor of the defendant to whose obligations the defendant has succeeded and the deficiency is claimed

(A) in an action in this state to foreclose upon real property situated in this state;

(B) following sale of real property in this state by the plaintiff; or

(C) following resale of tangible property in this state by the plaintiff;

(8) in an action against a defendant who is or was an officer or director of a domestic corporation where the action arises out of the defendant's conduct as such officer or director or out of the activities of the corporation while the defendant held office as a director or officer;

(9) in an action for the collection of taxes or assessments levied, assessed or otherwise imposed by a taxing authority after April 10, 1968;

(10) in an action which arises out of a promise made to the plaintiff or some third party by the defendant to insure upon or against the happening of an event if

(A) the person insured was a resident of this state when the event out of which the cause of action is claimed to arise occurred;

(B) the event out of which the cause of action is claimed to arise occurred in this state; or

(C) the promise to insure was made in the state;

(11) in an action against a personal representative to enforce a claim against the deceased person represented if one or more of the grounds stated in (a)(2) — (10) of this section would have furnished a basis for jurisdiction over the deceased if living, and it is immaterial under this paragraph whether the action was commenced during the lifetime of the deceased;

(12) in an action for annulment, divorce or separate maintenance when a personal claim is asserted against the nonresident party, if

(A) the parties resided in this state in a marital relationship for not less than six consecutive months within the six years preceding the commencement of the action;

(B) the party asserting the personal claim has continued to reside in this state; and

(C) the nonresident party receives notice as required by law.

(b) In an action brought in reliance upon jurisdictional grounds stated in (a)(2) — (10) of this section, there cannot be joined in the same action any other claim or cause against the defendant unless grounds exist under this section for personal jurisdiction over the defendant as to the claim or cause to be joined.

(c) The jurisdictional grounds stated in (a)(2) — (10) of this section are cumulative and in addition to any other grounds provided by the common law. (§ 1 ch 87 SLA 1968; am § 1 ch 92 SLA 1972)

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CONSUMER INFO

CONSUMER PROTECTION SECTION

The Consumer Protection Section of the Attorney General's office enforces Alaska's Unfair Trade Practices and Consumer Protection laws, which laws benefit both individual consumers and business people. One of the functions of this office is to handle consumer complaints.

WHY WE NEED YOUR COMPLAINT IN WRITING

Consumer Protection is here to serve you. We can do a better job and process your complaint faster if you help us. We need to have your complaint in writing because written complaints help you give us all the details we need and help us work faster than with initial interviews. (We can handle several complaints in the time it takes to do an interview, and somebody still has to write out all the details.) If we need more details after reading your complaint, we will contact you.

If you aren't sure whether you have a complaint, go ahead and fill out one of our complaint forms anyway. If you don't have a complaint, we will contact you promptly. Usually you do have a complaint or you wouldn't be here.

WHAT WE DO WITH YOUR COMPLAINT

A staff member initially reviews all complaints to determine whether there is evidence of a clear, serious violation of law. If so, the complaint will go to a staff attorney. Otherwise, we will handle the complaint in our informal complaint resolution procedure.

We send the business a letter and a copy of your complaint, asking them to tell their side of the story. When we get their reply, we will contact you for your comments or to tell you about any proposed settlement offer from the business. Much of the time, this process yields satisfactory results.

If there is no voluntary offer of settlement or the proposed settlement is not acceptable to you, you must then proceed privately through the Small Claims Court or a private attorney. The state can only take formal action when there is a serious indication of deceptive practices in violation of law. The fact that we do not take formal action does not necessarily reflect on the merit of either party's position in this matter.

All complaint files are kept for future reference in case other complaints against the business are received. This way we can keep track of deceptive or fraudulent patterns which may begin to evolve. However, unless we file formal legal action in court, all complaints are confidential; we do not perform the function of a Better Business Bureau by releasing complaint information about particular businesses.

YOU SHOULD REALIZE THAT:

- 1** THE CONSUMER PROTECTION OFFICE CANNOT ACT AS YOUR ATTORNEY. WHEN THE ATTORNEY GENERAL SUES A BUSINESS, HE SUES FOR THE STATE--TO STOP THE PRACTICE AND COLLECT FINES.
- 2** THE COMPLAINT HANDLING PROCESS USUALLY TAKES AT LEAST SIXTY (60) DAYS.
- 3** IT IS NOT POSSIBLE FOR THE STATE TO SUE EVERY TIME A CONSUMER IS TREATED UNFAIRLY OR EVEN DEFRAUDED. THE STATE CAN ONLY ACT IN THE GENERAL PUBLIC INTEREST.
- 4** EVEN THOUGH YOU FILE A CONSUMER COMPLAINT WITH OUR OFFICE YOU MAY ALSO WANT TO CONSULT A PRIVATE ATTORNEY, OR THE LEGAL SERVICES ATTORNEY, OR FILE A CLAIM IN SMALL CLAIMS COURT AT THE SAME TIME.

Anchorage

1031 W. 4th
Suite 110
Anchorage, AK
99501
279-0428

Fairbanks

604 Barnette
State Court Bldg.
Fairbanks, AK
99701
456-8588

Juneau

S.S. Fuller Bldg.
4th & Harris
Suite 214
Juneau, AK 99811
465-3692

Valdez

P.O. Box 671
Valdez, AK 99686
835-2462



CONSUMER COMPLAINT

ATTORNEY GENERAL

[Empty box for stamp or date]

ANCHORAGE

FAIRBANKS

JUNEAU

VALDEZ

1031 W. 4th
Suite 110
Anchorage, AK
99501
279-0428

1st National Center
100 Cushman, Ste.400
Fairbanks, AK
99701
456-8588

S.S. Fuller Bldg.
4th & Harris, Ste.214
Pouch K
Juneau, AK 99811
465-3692

P. O. Box 671
Valdez, AK
99686
835-2462

I WISH TO FILE A CONSUMER COMPLAINT AGAINST THE PERSON OR COMPANY NAMED IN 7 BELOW. I REALIZE THAT A COPY OF THIS COMPLAINT WILL BE SENT TO THE PERSON OR BUSINESS I HAVE COMPLAINED OF. (PLEASE TYPE OR PRINT)

1. NAME Last First M.I.			2. TODAY'S DATE		
3. MAILING ADDRESS			CITY	STATE	ZIP CODE
4. HOME ADDRESS (if different)			CITY	STATE	ZIP CODE
5. HOME TELEPHONE NO.			6. BUSINESS TELEPHONE NO.		
7. NAME OF THE PERSON OR COMPANY COMPLAINED ABOUT,			NAME OF SALESPERSON:		
8. COMPANY'S ADDRESS,			CITY	STATE	ZIP CODE
9. COMPANY'S TELEPHONE NO.			10. DATE OF TRANSACTION		
11. WERE YOU ATTRACTED TO THE SERVICE OR PRODUCT BY AN ADVERTISEMENT? <input type="checkbox"/> YES <input type="checkbox"/> NO					
12. IF YES, WHEN AND WHERE DID YOU SEE THE ADVERTISEMENT?					
13. WAS A WRITTEN CONTRACT SIGNED? <input type="checkbox"/> YES <input type="checkbox"/> NO					
14. HAVE YOU COMPLAINED TO THE INDIVIDUAL OR COMPANY? <input type="checkbox"/> YES <input type="checkbox"/> NO			15. IF YES, NAME OF PERSON TO WHOM YOU COMPLAINED.		
16. HAVE YOU CONTACTED A PRIVATE ATTORNEY? <input type="checkbox"/> YES <input type="checkbox"/> NO			17. IF YES, NAME OF ATTORNEY.		
18. IS THERE A COURT OR ADMINISTRATIVE PROCEEDING PENDING? <input type="checkbox"/> YES <input type="checkbox"/> NO			19. IF YES, NAME COURT OR AGENCY.		

AUTOMOBILE REPAIR ONLY

20. DID YOU REQUEST A SIGNED COPY OF REPAIRS TO BE MADE?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
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DID COSTS EXCEED WRITTEN ESTIMATE?	<input type="checkbox"/> YES	<input type="checkbox"/> NO			
WERE YOU NOTIFIED OF ADDITIONAL COSTS BEFORE WORK WAS DONE?	<input type="checkbox"/> YES	<input type="checkbox"/> NO			
DID YOU REQUEST THAT REPLACED PARTS BE RETURNED TO YOU?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	RECEIVED/OR ALLOWED TO INSPECT PARTS?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
			DID YOU RECEIVE IT?	<input type="checkbox"/> YES	<input type="checkbox"/> NO

Please state the year, make, model name and V.I.N. (Vehicle Identification No.) of your auto. (Check your registration papers.)

Year	Make	Model	V.I.N.
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I hereby certify that I have read the information contained in this complaint and that all of the information I have given is true and complete to the best of my knowledge, information and belief. I further authorize the Attorney General to use this information as he deems necessary and proper.

Signature

On the reverse side of this form Summarize your complaint. Be brief, But complete.

BUSINESS RESPONSE INFORMATION

Consumer Protection Section

The Consumer Protection Section of the Attorney General's Office enforces Alaska's Unfair Trade Practices and Consumer Protection laws, which laws benefit both individual consumers and business people. One of the functions of this office is to handle consumer complaints.

Consumer Complaints

Any consumer who believes that he/she has been subjected to an unfair or deceptive trade practice may file a complaint with this state office. A staff member initially reviews all complaints to determine whether there is evidence of a clear, serious violation of law. If so, the complaint will go to a staff attorney. Otherwise, we will handle the complaint in our informal complaint resolution procedure.

We do not attempt to prejudge the merits of complaints by either refusing to handle some complaints or by assuming that one or the other side is "right." It would be impossible, as well as unfair, to make any assumptions on so little information. We do screen complaints to verify that we have jurisdiction to handle the subject matter of the complaint.

The Complaint Resolution Process

Our complaint handling process is informal and relies upon cooperation from all parties. Whenever a consumer files a complaint against you, we will send the complaint to you as a respondent. By doing so, we are requesting your cooperation in clarifying the situation and resolving the problem. We cannot force you as a respondent to offer a settlement, nor can we force a settlement on either party.

We recognize that there are two sides to every story, and we listen to both sides. We know that sometimes consumer complaints are inaccurate or unreasonable. The fact that both sides may be angry does not make either one of them "right."

By our mediation efforts, we hope to give both sides to a consumer complaint a chance to better understand each other and, once understood, resolve their problem. Much of the time, this process yields satisfactory results for both sides.

How to Respond to a Complaint

We request that you respond, in writing, to the complaint. Written responses help you give us all the details we need, avoid misunderstandings, and help us work faster. (We can handle several matters in the time it takes to do an interview, and somebody still has to write all the details.)

To enable both this office and the consumer to better understand your position, we ask that you investigate the complaint; for instance, talk to the employees involved and check your business records. We request that you respond with a discussion of the facts of this complaint and any figures that might be necessary to better understand the situation. Often, it is important to include a statement of your standard business procedure so that there is a context in which to view this particular complaint. Finally, please include a statement of your position on this consumer complaint, as well as any suggestions or plans you may have for resolving this matter.

What Happens When Mediation Fails

If mediation fails (or if you fail to respond), we will review the information we obtained to determine whether or not there is a pattern or serious indication of deceptive practices which justifies formal action by the state. Formal actions include conducting a formal investigation or, in the face of serious violations of the law, filing a lawsuit seeking an injunction to stop the disputed practice and to seek restitution for consumers and civil penalties.

If we determine that formal state action is not appropriate, we will usually advise consumers that they have the right to proceed privately through small claims court or a private attorney if they so choose. The fact that the state does not take formal action does not necessarily reflect on the merit of either party's position in this matter.

All complaint files are kept for future reference in case other complaints against the business are received. This way we can keep track of deceptive or fraudulent patterns which may begin to evolve. However, unless we file formal legal action in court, all complaints are confidential. We do not perform the function of a Better Business Bureau by releasing complaint information about particular businesses.

ANCHORAGE

1031 West 4th Avenue,
Suite 110
Anchorage, AK 99501
(907) 279-0428

FAIRBANKS

1st National Center
100 Cushman, Suite 400
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S.S. Fuller Building
4th & Harris, Suite 214
Pouch K
Juneau, AK 99811
(907) 465-3692

VALDEZ

P.O. Box 671
Valdez, AK 99686
(907) 835-2462

State of Alaska

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
(Co-Chairman)
HOUSE JUDICIARY
HOUSE COMMUNITY AND
REGIONAL AFFAIRS



Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4968

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

HB 125

February 11, 1985

Mr. Fred Witzleben
P.O. Box 102351
Anchorage, AK 99510

Dear Mr. Witzleben:

Thank you for your public opinion message on HB 125. I have brought your message to the attention of the other members of the House Judiciary Committee. As a result, the Chairman is going to hold teleconference hearings with Anchorage and we will make sure that you get notified.

For your information I am enclosing a copy of the bill. If you have any additional questions or comments, please let me know.

Thank you again for your message.

Cordially,

A handwritten signature in cursive script that reads "Max F. Gruenberg, Jr.".

Max F. Gruenberg, Jr.

Encls.

cc: Hayden Kayden, House Judiciary staff

Alaska State Legislature



House of Representatives House Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 565-4990

April 5, 1985

The Honorable Mike Navarre
Chairman, House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mike:

The House Judiciary Committee, in the course of hearings on HB 125, "An Act revising the Alaska Unfair Trade Practices and Consumer Protection Act", received testimony from several funeral home operators on the bill.

While the concerns expressed by these representatives of the funeral and mortuary business appeared well founded, the committee was reluctant to delve into the merits of their arguments. The bill's purpose was narrowly drawn to clear up existing provisions of the Unfair Trade Practices Act and to provide for causes of action for private businesses. It was felt that the issues raised by Mr. Kehl in his testimony and the attached letter would be better dealt with in a separate bill.

The Judiciary Committee told Mr. Kehl that it would forward his letter to the Labor and Commerce Committee for a determination on whether your committee wished to deal with the subject in a bill.

Sincerely,

A handwritten signature in black ink, appearing to read "M.M. Miller".

M.M. Miller, Chairman
House Judiciary Committee

cc: Alfred O. Kehl

March 1, 1985

Senator Mitch Abood
State Capitol
Pouch "V"
Juneau, AK 99811

Re: HB 125 Sec. 2 (24)

Dear Senator Abood:

As we have earlier discussed, my company heartily endorses and applauds the Governor's efforts to clarify and delineate unfair trade practices and consumer protection as it applies to funeral homes and related service providers.

The referenced House Bill, which was introduced at the request of the Governor, in Section 24 is apparently being offered for the purpose of preventing service providers from collecting funds for services to be rendered in the future and failing to properly account for those funds pending the actual time the services are provided. That protection is desirable and experience tells us may be necessary. On the other hand, we all understand that if those of us who are in the industry are to provide at today's prices a service to be rendered at some point in time in the future (and with Alaskans that probably would stretch to 15 to 20 years per purchaser), it is necessary to either invest the funds so as to hedge against inflation, or in the alternative set the price so high as to cover any possible increase which may occur over that rather substantial period of time.

Since the latter cure is unfeasible and unrealistic, the only reasonable solution if such services are to be provided to Alaskans would be to allow the provider to aggregate the funds of the various purchasers into a single trust account which is liquidable upon demand or withdrawal, but which account can earn interest in order to cover the vicissitudes of time. As mentioned, since we are anticipating periods of up to 20 years before the service is actually provided, it is almost impossible to anticipate what may occur in the interim. On the other hand, there is no question but that if the service is not provided or if the purchaser wishes to withdraw, the funds should be kept separate and available, including accrued interest on them, for return.

Senator Mitch Abood
March 1, 1985
Page Two

For the foregoing reasons, we would request that you consider offering an amendment to the current language being proposed by the Governor to include the following language:

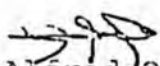
Said trust funds may be aggregated in one or more accounts so long as adequate auditable records of the funds of the individual purchaser may be made, and provided that the parties may contract that if all services or materials purchased are certified to have been satisfactorily furnished, the accrued interest may be applied to the purchase price.

As you can see, our requested amendment would continue the funds in separate and auditable individual accounts for withdrawal or refund according to necessity, but would permit the parties to apply accrued interest to the purchase price if a representative of the family certifies to the trustee that the services have been satisfactorily performed. As earlier stated, this language is not intended to dilute or divert the protection afforded to the purchaser, but on the other hand makes it possible for the service provider to offer to members of the public the opportunity to provide for their desired funeral arrangements at today's prices and under their own personal direction. The alternative may be to prohibit such offers, which would result in a disservice to the public.

We have been informed by the Executive Director of the Order of the Golden Rule, which is an organization of funeral service providers, that the various versions of the foregoing language have been accepted in most other states.

Your careful consideration of our request is solicited.

Very truly yours,

 "Fred"
Alfred O. Kehl
Funeral Director
Forest Lawn Memorial Chapel
and Crematory, Inc.
11621 Old Seward Highway
Anchorage, AK 99515



Witzleben Family Funeral Homes and Crematory

P.O. Box 102351
Anchorage, Alaska 99510-2351

February 7, 1985

FEB 11 1985

Members of the House Judiciary Committee
Alaska House of Representatives
Juneau, Alaska 99811

Re: HB 125, Section 2, Paragraph (27)

Dear Representatives:

I secured a copy of this legislation on February 4, 1985, along with a copy of the House Journal of January 25, 1985 (specifically p. 148, section 2). I have some real difficulties with the stated intent of these proposed changes. Frankly, I'm weary of being flaggelated by State officials and agencies because I'm in a profession that performs a very necessary public service. It seems most trendy to attack funeral directors as wanton abusers of the public. Yet isn't it your job as legislators to sift through the hype and come up with legislation that is fair both to the consumer and to the businesses that serve the consumers? Some of us have requested public hearings in locations accessible to us because we are concerned that once again legislation is being considered that drastically effects our ability to continue to serve the public, but none of you have contacted any of us to ascertain the real problems we face every day, that probably haven't even occurred to you.

In as much as I was party to the writing of, and hearings on AS 45.45.120 when it was being considered in 1976, I would like to remind you that there are some problems inherent in serving a state the size of Alaska, that are not found in the rest of the country. We told the legislators then that the clause ".....shall give to the person arranging for the disposition at the time the arrangements are completed **AND BEFORE THE TIME OF RENDERING SERVICE OR PROVIDING THE MERCHANDISE A WRITTEN STATEMENT**" was not workable or realistic much of the time. Yet this exact wording is now proposed in HB 125, Section 2, Paragraph (27).

There are MANY times that we are NOT dealing with a local party, but are, in fact, dealing via long distance or radio phone either with a family in a village, with a family and/or funeral home in the other 49 states, or a family/consulate in a foreign country.

Whenever possible, we do request, after we have quoted the charges for the services requested and/or required to the "person arranging" (be that a family, friend, funeral home, or official agency), a telegram authorizing

6th Avenue Chapel
1023 East 6th Avenue
(907) 274-7576

Our Family Serving Your Families

Bragaw Chapel
1707 South Bragaw
(907) 277-1682



Witzleben Family Funeral Homes and Crematory

P.O. Box 102351
Anchorage, Alaska 99510-2351

Members of the House Judiciary Committee
February 7, 1985
Page 2

those charges. Often we are told by families in the villages and families/funeral homes in rural parts of the other 49 states that there aren't any telegraphic services readily accessible. Others complain about the added costs. Can you imagine their reaction if we told them we couldn't do anything at all until we had their written authorization on our written statement?

Please tell me how I am to give the "person arranging...a written statement." Is it actually a requirement of AS 45.45.120 and this new legislation that we must forward "a written statement" via U.S. Postal Service and await its return **"BEFORE THE TIME OF RENDERING SERVICE OF PROVIDING THE MERCHANDISE"???** Can you comprehend the delay that this would, in reality, cause? We'd eternally be being charged with holding a body for ransom, simply because we were attempting to comply with the law.

Additionally, if the statute is to be read very strictly should a funeral establishment not even remove the deceased from the place of death? That is, after all, part of the service a funeral director renders. What happens if a death occurs at 2:00 A.M., be it in a hospital, residence, or accident scene, and no family is available? Are telephone directives from a family/funeral home to a hospital, the police, or a funeral home unacceptable under this law?

We have NO problem with providing "a person arranging" a full and itemized written statement. In fact, those we've provided since 1976 under the itemization section of AS 45.45.120 are even more extensive than those required by the Federal Trade Commission. The problem is being able to do this in the sequence that appears to be required by this legislation. The practical reality of being able to expeditiously serve families who do not reside in the immediate metropolitan area **MUST BE ADDRESSED** in a realistic way.

Without amendments to this statute at this time, you will only be compounding the existing problem we've been trying for months to work out with the Department of Health and Social Services, that have resulted from ill-conceived legislation passed last session - AS 12.65 (which covers some of the itemized costs that are covered in AS 45.45.120) for a selected group of deceased individuals, namely coroner's cases. If we, as private business people, did what the State has done in fixing prices, we would be charged with Restraint of Trade! Again, legislation was passed without prior input from the industry professionals who know the day-to-day logistical realities.

6 Avenue Chapel
1C. East 6th Avenue
(907) 274-7576

Our Family Serving Your Families

Bragaw Chapel
1707 South Bragaw
(907) 277-1682



Witzleben Family Funeral Homes and Crematory

P.O. Box 102351
Anchorage, Alaska 99510-2351

Members of the House Judiciary Committee
February 7, 1985
Page 3

I'm a little resentful that you take so much guidance from State financed attorneys and bureaucrats who don't know the industry, and then we get to go broke hiring individual private attorneys to try to correct what never should have been done in the first place. There are two sides to EVERY story. I'm a consumer too and therefore value balanced, reasoned consumer legislation. However, as a business person, I don't judge this to be balanced or reasoned.

Before action is taken to enact this legislation, I would again request that hearings be scheduled for Anchorage or Fairbanks, to allow the maximum number of funeral service professionals the opportunity to speak on this legislation, without causing them undue expense or time away from their businesses.

If I can be of assistance to you, please feel free to contact me or other members of the funeral profession.

Sincerely yours,


F. J. Witzleben, President

cc: Alaskan Funeral Establishments

6th Avenue Chapel
1023 East 6th Avenue
(907) 274-7576

Our Family Serving Your Families

Bragaw Chapel
1707 South Bragaw
(907) 277-1682

STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF ATTORNEY GENERAL
CONSUMER PROTECTION SECTION

April 9, 1985

Mike Miller, Chair
House Judiciary Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Representative Miller:

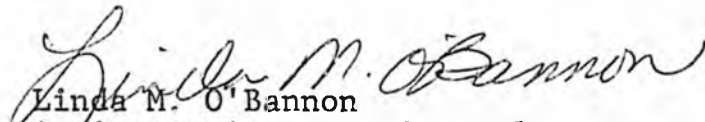
Thank you very much for your assistance during the House Judiciary Committee hearings and work sessions on HB 148 and HB 125. Special thanks also to Hayden Kayden. These bills, if enacted, will provide important protections for consumers in Alaska.

If any of your constituents should have any consumer problems please don't hesitate to refer them to our section. You will note that we have a Juneau office. If I can be of assistance on any future consumer issues please don't hesitate to contact me.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By


Linda M. O'Bannon
Assistant Attorney General
Consumer Protection Section

/pc

BILL SHEFFIELD, GOVERNOR

XXREPLY TO

1031 W 4th, SUITE 110
ANCHORAGE, ALASKA 99501
PHONE (907) 279-0428

1st NATIONAL CENTER
100 CUSHMAN, SUITE 400
FAIRBANKS, ALASKA 99701
PHONE (907) 456-8588

S S FULLER BLDG
4th & HARRIS, SUITE 214
POUCH K
JUNEAU ALASKA 99811
PHONE (907) 465-3692

STATE COURTHOUSE, ROOM 26
P O BOX 671
VALDEZ, ALASKA 99686
PHONE (907) 835-2462

Offered: 4/1/85
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 125 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act revising the Alaska Unfair Trade Practices
7 and Consumer Protection Act; and adding new causes of
8 action for private business."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 45.50.471(b) is amended by adding new paragraphs to
11 read:
12 (26) failing to comply with AS 45.45.105 - 45.45.110 relat-
13 ing to unsolicited merchandise;
14 (27) failing to comply with AS 45.45.120 relating to disclo-
15 sure of funeral costs.
16 * Sec. 2. AS 45.50.481 is amended to read:
17 Sec. 45.50.481. EXEMPTIONS. Nothing in AS 45.50.471 -
18 45.50.561 applies to
19 (1) an act or transaction regulated under laws administered
20 by the state, by a [ANY] regulatory board or commission, or an officer
21 acting under statutory authority of the state or of the United States,
22 if [UNLESS] the law regulating the act or transaction
23 (A) prohibits [DOES NOT PROHIBIT] the practices de-
24 clared unlawful in AS 45.50.471;
25 (B) does not exempt from regulation the person commit-
26 ting the prohibited act or practice;
27 (C) provides remedies for injured persons equal to or
28 greater than those provided in AS 45.50.471 - 45.50.561; and
29 (D) unless the law is a federal law that preempts

1 state action, provides the state with adequate enforcement and
2 restitution remedies in the public interest similar to those
3 remedies in AS 45.50.501 and 45.50.551;

4 (2) an act done by the publisher, owner, agent, or employee
5 of a newspaper, newspaper, radio or television station in the
6 publication or dissemination of an advertisement, when the owner,
7 agent or employee did not have knowledge of the false, misleading or
8 deceptive character of the advertisement or did not have a direct
9 financial interest in the sale or distribution of the advertised
10 product or service;

11 (3) an act or transaction regulated under AS 21.36 or
12 AS 06.05 or a regulation adopted [ANY REGULATIONS PROMULGATED] under
13 the authority of either of those chapters.

14 * Sec. 3. AS 45.50.531(a) is amended to read:

15 (a) A person who purchases or leases an item of value in trade
16 or commerce for use and not for resale, [GOODS OR SERVICES] and who
17 thereby suffers an ascertainable loss of money or real or personal
18 property [, REAL OR PERSONAL,] as a result of another person's act or
19 practice declared unlawful by AS 45.50.471, may bring a civil action
20 [IN THE JUDICIAL DISTRICT IN WHICH THE SELLER OR LESSOR RESIDES OR HAS
21 HIS PRINCIPAL PLACE OF BUSINESS OR IS DOING BUSINESS,] to recover
22 actual damages or \$200, whichever is greater. The jury, or, if the
23 action is tried without a jury, the judge, may, in cases of wilful
24 violation, award up to three times the actual damages sustained. In
25 [, AND IN] all cases the court may provide equitable relief if consid-
26 ers necessary or proper.

27 * Sec. 4. AS 45.50.531(b) is amended to read:

28 (b) A person entitled to bring an action under this section may,
29 [AFTER INVESTIGATION BY AND APPROVAL OF THE ATTORNEY GENERAL,] if the

1 unlawful act or practice has caused similar injury to numerous other
2 persons similarly situated and if the person [HE] adequately repre-
3 sents the similarly situated persons, bring an action on behalf of all
4 [HIMSELF AND OTHER] similarly injured and situated persons to recover
5 actual damages. A person planning to bring an action under this
6 subsection shall deliver [FIRST SUBMIT] to the attorney general a copy
7 of the [HIS PROPOSED] complaint when it is filed with the court [, AND
8 HE MAY NOT FILE THE COMPLAINT IN COURT WITHOUT THE ATTORNEY GENERAL'S
9 APPROVAL]. In an action brought under this subsection, the court may
10 in its discretion order, in addition to damages, injunctive or other
11 equitable relief.

12 * Sec. 5. AS 45.50.531(h) is amended to read:

13 (h) A manufacturer or supplier [MANUFACTURERS OR SUPPLIERS] of
14 merchandise, whose [THE] fault [OF WHICH] is the basis for the action
15 under this chapter, is [ARE] liable for the damages assessed to or
16 suffered by a retailer sued or [RETAILERS] charged under this chapter.
17 A retailer has a private cause of action to recover from a
18 manufacturer or supplier under this subsection the actual damages
19 suffered by the retailer if

20 (1) the retailer has given the manufacturer or supplier
21 reasonable notice and a reasonable opportunity to satisfy the
22 customer's claim;

23 (2) the manufacturer or retailer has not satisfied the
24 customer's claim;

25 (3) the retailer satisfies, before the customer files an
26 action in court, a claim of the customer against the manufacturer or
27 supplier arising under this subsection; and

28 (4) the retailer has suffered damage by satisfying the
29 customer's claim.

1 * Sec. 6. AS 45.50.531 is amended by adding a new subsection to read:

2 (i) A business person whose business is injured and who suffers
3 an ascertainable loss of money or real or personal property as a
4 result of a competitor's act or practice declared unlawful by AS 45.-
5 50.471, may bring a civil action to recover actual damages. The jury,
6 or, if the action is tried without a jury, the judge, may, in cases of
7 wilful violation, award up to three times the actual damages sus-
8 tained. In all cases the court may provide equitable relief it con-
9 siders necessary or proper.

10 * Sec. 7. AS 45.50.541 is amended by adding a new subsection to read:

11 (d) In this section, "consumer" means a person who seeks or
12 acquires goods or services, whether or not affixed to real property,
13 by lease or purchase, for personal, family, or household purposes.

14 * Sec. 8. AS 45.50.542 is amended to read:

15 Sec. 45.50.542. WAIVER VOID. A waiver by a person [CONSUMER] of
16 a provision [THE PROVISIONS] of AS 45.50.471 - 45.50.561 that was
17 enacted to protect that person is contrary to public policy and is
18 unenforceable and void.

19 * Sec. 9. AS 45.50 is amended by adding a new section to read:

20 Sec. 45.50.560. SHORT TITLE. AS 45.50.471 - 45.50.561 may be
21 cited as the Unfair Trade Practices Act.

22 * Sec. 10. AS 45.50.561 is amended by adding new paragraphs to read:

23 (10) "person" has the meaning given in AS 01.10.060;

24 (11) "trade or commerce" means the advertising, offering for
25 sale, barter, or distribution of a service or property, tangible or
26 intangible, real, personal, or mixed, or other article, commodity, or
27 thing of value, wherever situated, and includes trade or commerce
28 directly or indirectly affecting the people of the state;

29 (12) "wilful" means that the person committing the act or

1 practice declared unlawful by AS 45.50.471 knew or should have known
2 that the conduct was an unfair or deceptive trade practice or unfair
3 method of competition.
4 * Sec. 11. AS 45.50.561(6) is repealed.

What will it cost to have a financial adviser?

Fees can be determined in a number of ways. For example:

- an hourly fee
- a flat fee for specific services, as outlined in a signed agreement
- a percentage of annual income or total assets
- a commission on investments made for you
- a fee offset by commissions on investments made for you

Be sure you understand the fee schedule before you make a commitment! Do not write out a check in the adviser's name, or hand over your money without a signed agreement that you understand. Make sure the agreement obligates the adviser to keep the information strictly confidential.

What information should you give to your adviser?

Expect to be asked for the following kinds of information so a plan tailored to your needs can be prepared. **Caution: Impersonal financial discussions lead to impersonal advice!**

- Names, addresses, birthdates, etc. of all persons in your current financial plan.
- Names and phone numbers of your attorney, accountant, banker
- Lists of all bank accounts, stocks, bonds, and other assets—with purchase date and current value of each
- Description of all financial commitments: how much, how long, reason for
- Copies of appraisals of property and other valuables
- Salary records and your expectations for your family's future earnings
- Family budget, including fixed and variable expenses
- Recent tax returns
- Retirement plans, regardless of your current age
- Statement of long-term and short-term goals and priorities including: how much, for how long and why you want to invest, how much risk you can afford

Additional information, contact:

International Association for Financial Planning
5755 Peachtree Dunwoody Road (Suite 120 C)
Atlanta, Georgia 30342. (404) 252-9600

Institute of Certified Financial Planners
3443 South Galena (Suite 190)
Denver, Colorado 80231. (303) 751-7600

Securities and Exchange Commission (SEC)
Office of Consumer Affairs and Information Services
450 Fifth Street, NW
Washington, DC 20540. (202) 272-7440



One in a series published by the ConsumerCard™ Information Service of the Consumer Affairs Office, American Express Company in cooperation with Shearson/American Express.

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FINANCIAL
ADVICE
ConsumerCard

Keep this reference guide handy . . .

It's designed to help you select
and use a financial adviser
who has your needs in mind.

One in a series published by the ConsumerCard Information Service of the Consumer Affairs Office, American Express Company in cooperation with Shearson/American Express.

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What licenses, certifications, registrations and professional memberships do you have? Do these affiliations enforce a strong code of ethics?
 What is the extent of your responsibility to me, including bonding and insurance liability?
 How do you keep current with new financial concepts, tax regulations, etc?
 How much input can or will I have into the handling of my investments?
 Who will review and discuss my financial plan with me?

How much will these services cost?
 What services do you offer?
 Are you limited to recommending products provided by one company?
 How diversified is your approach to investing?
 The interview asks the following questions:
 to help you present clearly your financial situation. Once all financial goals and attitudes. Organize your financial records and tax advice or the ability to help you plan your entire financial future? Prepare for the interview by considering your choice. Identify your expectations. Do you want investment several potential advisers before making your

A financial adviser works with you to establish and achieve your financial needs and objectives. He or she will also provide information for tax savings, insurance coverage, referrals for more complicated legal matters, and of course, expert investment advice.

Good advisers want to know about your current financial situation, goals and needs, and are able to explain their methods to even the most inexperienced investor. Becoming familiar with common investments will be helpful in planning with the adviser you select and be a built-in safeguard as well.

That depends on your knowledge of finance, the time you're willing to devote to analyzing your situation, and your own financial circumstances. These questions can help you decide:

- Am I confident about making financial decisions?
- Am I knowledgeable enough to begin my own long-range financial planning?
- Do I know enough about my investment alternatives to work effectively toward my short-term and long-term objectives?

- Will my present income and investment approach provide for my retirement years?

- Am I comfortable with my level of debt?

If you answered "no" to any of these questions, you should consider talking to a financial adviser.

In the same way you would choose any professional specialist, such as a doctor or lawyer, ask friends, relatives and business associates to recommend an adviser who has performed well for them. Perhaps your current broker, accountant, real estate or insurance agent is now a financial adviser. Some financial advisers are self-employed, others are a part of an independent financial consulting business.

Just be sure to shop around for an adviser whose field of expertise fits your own needs and whose investment philosophy appeals to you. Most importantly, look for one you trust because you've evaluated his or her credentials.

A good financial adviser has a working knowledge of the following areas:

- Taxes
- Investments
- Insurance
- Family Budgeting (including plans for your children's education)
- Retirement
- Estate Planning (wills and trusts)

Interview several candidates, looking for the following:

- Extensive education and/or financial experience or licensing (Professional designations or licensing such as CFP, CLU, ChFC, CPA, CFA, while not listed by all financial advisers, may indicate greater interest in providing competent, ethical service and participation in educational update programs)
- Successful investment track record in good and bad economic climates
- Investment philosophy that is compatible with your own: a risk-taker, a conservative or somewhere in between

- Listens to your opinions and goals
- Presents his/her strategies with logic and conviction
- Explains your progress clearly and simply, and produces documentation for his/her decisions
- Tailors his/her own strategies to suit your situation, rather than relying on set formulas or pat answers

- Gives you a written summary of services and fees
- Offers access to tax and legal specialists, as well as reliable information sources
- Is willing to discuss small investments as well as large
- Assists in actual implementation of your plan
- Provides follow-up as a part of your plan, or as agreed

But I Don't Have Many Dissatisfied Customers.

(YOU SAY)



ARE YOU SURE?

The truth is you probably don't know how many you have because **MOST DISSATISFIED CUSTOMERS DO NOT COMPLAIN.** The average business does not hear from 96% of its unhappy customers. For every complaint received at company headquarters the average business has another 26 customers with problems, at least 6 of which are serious ones.

How can this be true? Think of your own record as a consumer and as a complainer. How often have you been less than satisfied with a product, a service, a meal in a restaurant, a wait in line? And how often have you complained to the management, the manufacturer, or the retailer? Your customers are just like you: they don't complain. Three reasons are most often given:

- “It's not worth my time or trouble.”
- “Complaining will do no good—no one cares.”
- “I don't know where or how to complain.”

Well, If They Don't Complain, They Can't Be All That Dissatisfied.

(YOU SAY)



ON THE CONTRARY!

Noncomplainers are unhappy with your product or service, mad at themselves, and frustrated. They are actually the **LEAST** likely group to buy from your company again. Even a complainer who gets no response to his complaint is more likely to buy your products again than is a noncomplainer. The odds are that between 65% and 90% of your non-complainers will **NOT** buy from you again *and you will never know why.*

Your customers who have problems and complain to you are giving you a chance to keep their business. Surveys show that you can win back between 54% and 70% of these complainers by resolving their complaints. Actually, up to 95% of this group will become loyal customers again if their complaints are handled well and quickly.



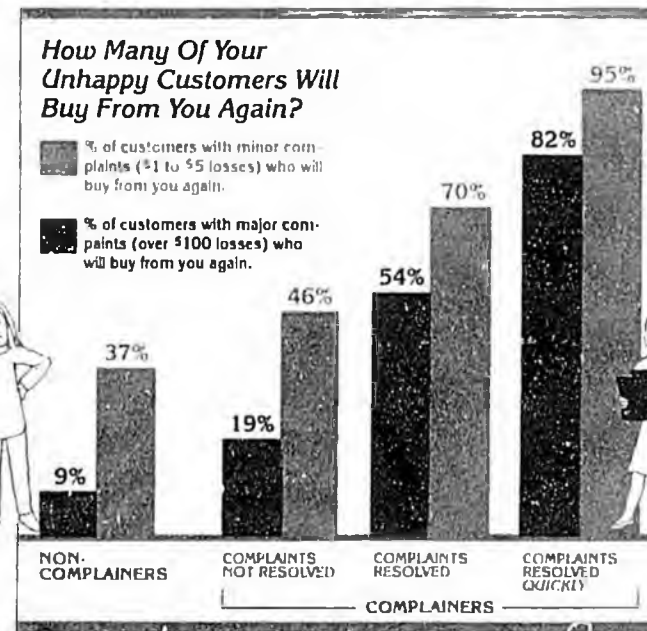
But I Can Afford To Lose Some Customers. I'll Replace Them With New Ones.

(YOU SAY)



THAT'S AN EXPENSIVE WAY TO DO BUSINESS.

How much do you spend to gain a new customer? Marketing data indicate that it usually costs five times as much to get a new customer as it does to keep an existing one.



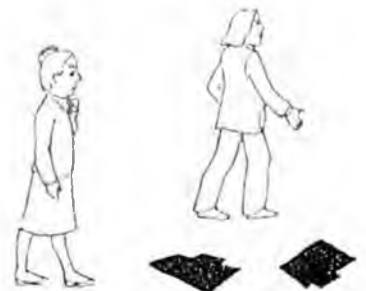
It's A Good Thing Most Of My Unhappy Customers Don't Go Around Complaining!

(YOU SAY)



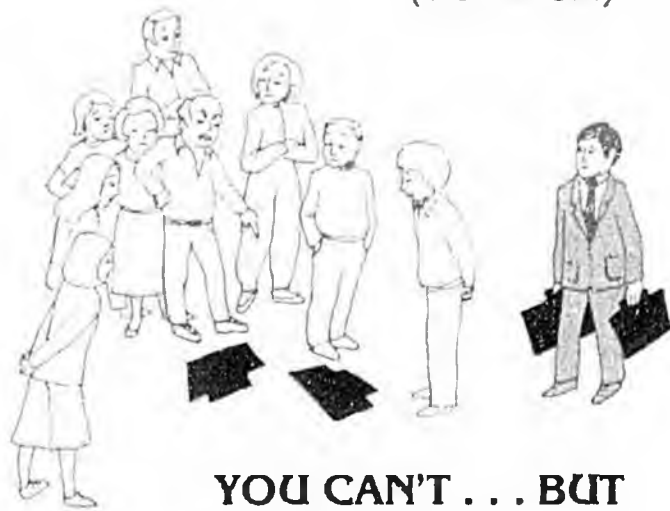
OH, BUT THEY DO!!

It's true that about 96% of your unhappy customers don't complain to you, but they do let off steam and spread their dissatisfaction with your products. They complain to other customers and potential customers (lots of them)—family, friends, associates at work, anyone who will listen. They feel wronged and frustrated and want to talk about it. **ON THE AVERAGE, A CUSTOMER WHO HAS HAD AN UNPLEASANT EXPERIENCE WITH A BUSINESS WILL TELL 9 OR 10 OTHER PEOPLE.** And about 13% will tell more than 20 other people. This negative word-of-mouth can be very harmful to your business. In today's complex marketplace more and more consumers are basing their purchasing decisions on the advice of people they know.



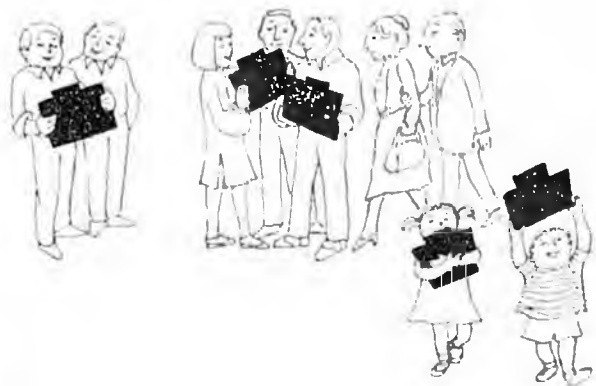
How Can I Keep Them Quiet?

(YOU ASK)



YOU CAN'T . . . BUT

You can turn them around. How? Solve their complaints as quickly as possible and you will not only get them back as customers but you will give them something positive to talk about. According to consumer surveys, a customer who has had a good experience with a company will tell an average of 5 other people, some of whom will become new customers. If a customer has a complaint resolved quickly and courteously, he wants to tell others about his good fortune . . . and his good sense (after all, he had the courage to complain). Speedy complaint resolution can help you keep your present customers and get new ones by changing word-of-mouth advertising from negative to positive. But remember . . . Over 96% of your dissatisfied customers may not be registering complaints with you. First you have to find out who they are and why they are unhappy.



So What Can I Do?

(YOU ASK)



The Technical Assistance Research Program, the research company that gathered the foregoing data, suggests:

- 1 Solicit complaints—make it easy for unhappy customers to tell you what their problems are.
- 2 Solve customer complaints as quickly as possible and with a smile.
- 3 Keep records of why complaints occur.
- 4 Analyze how complaints can be prevented and make changes in your products and marketing procedures when appropriate.
- 5 Provide incentives to encourage your salespeople to carry out the policies described above.

FOR ASSISTANCE: the Department of Commerce has recently published a helpful guide entitled *Managing Consumer Complaints*. This guide and four others (*Advertising, Packaging and Labeling; Product Warranties and Servicing; Credit and Financial Issues; and Consumer Product Safety*) were written for the express purpose of helping businesses respond to their customers' needs. These booklets were written with the assistance of the National Association of Consumer Agency Administrators (NACAA) and the Society of Consumer Affairs Professionals in Business (SOCAP). For more information, call or write the Office of Consumer Affairs, Department of Commerce, Washington, DC, 20230 (202) 377-5001.

Who Says So?

(YOU ASK)



The data reported in this pamphlet are based on studies conducted by Technical Assistance Research Programs, Inc. (TARP, a Washington, D.C. based research firm) for the White House, the National Science Foundation, and a number of private companies. See TARP, *A National Survey of the Complaint-Handling Procedures Used by Consumers*, NTIS PB-263-082 (Washington, D.C.: White House Office of Consumer Affairs, 1976); *Consumer Complaint Handling in America: Final Report*, NTIS PB 80-176316 (Washington, D.C.: White House Office of Consumer Affairs, 1980); and *Measuring the Grapevine—Consumer Response and Word-of-Mouth*, (Atlanta, Georgia: Consumer Information Center, The Coca-Cola Company 1981).

This pamphlet was published by the Direct Selling Education Foundation, a Washington, D.C. not-for-profit public educational organization. It is tax-exempt and contributions to it are tax-deductible. The objective of the Foundation is to serve, through its educational, informational and research activities, the public interest in the marketplace.

The Foundation runs consumer conferences; publishes a free quarterly newsletter, *AT HOME WITH CONSUMERS*, that presents diverse points of view on topical consumer issues; develops and distributes consumer information literature in English and Spanish; supports research on consumer and marketplace matters; and maintains a library in Washington.



Direct Selling Education Foundation
1730 M Street, N.W.
Washington, DC 20036
(202) 293-5760

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CUSTOMERS MEAN BUSINESS...



SURVEYS SHOW

You Have More Dissatisfied Customers Than You Think



How to guard credit and charge cards

Always:

- Sign new cards as soon as they arrive.
- Keep a record of your card numbers, their expiration dates, and the phone number and address of each company.
- Retrieve cards promptly after using them.
- Void or destroy incorrect receipts.
- Save receipts to compare them with billing statements.
- Open billing statements promptly and reconcile your card accounts each month, just as you would your checking account.
- Report promptly any questionable charges to the card issuers.
- Notify card companies in advance of a change of address.

Never:

- Lend card(s) to anyone.
- Leave cards or receipts lying around.
- Put a card number on a postcard or on the outside of an envelope.
- Give a card number over the phone *unless* you are initiating a transaction with a company you know is reputable. If you have questions about a company, check with your local Consumer Protection Office or Better Business Bureau before ordering.

If you suspect someone is using your account number without your permission:

Send the card issuer a letter that includes your name, account number(s), and the charges that you question, with your reasons. You must direct your letter to the "billing error address" provided on your statement, and it must reach the creditor within 60 days after the first bill containing the error was mailed to you. Sending your letter by certified mail, with a return receipt requested, will give you proof that the letter was mailed and received.

If you decide to call the card issuer for faster action—using the special numbers that many card issuers list on billing statements—follow up with a letter. Only a letter protects your rights under the Fair Credit Billing Act.

The card issuer must acknowledge receipt of your letter or correct the error within 30 days. Or, they must investigate and either correct the mistake or justify the charges within two billing cycles or 90 days, whichever is less. You may be asked to sign a statement under oath that you did not make the purchase(s) in question.

For more information about your rights, contact the Federal Trade Commission, Washington, D.C. 20580.

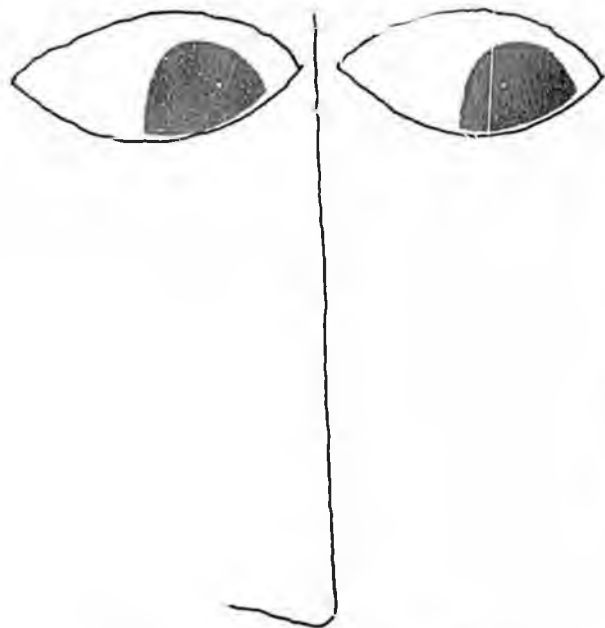


Published by the Consumer Affairs Office, American Express Company in cooperation with the Federal Trade Commission

American Express Company, 1984

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Who's got your number?



Protect yourself against credit and charge card fraud.

Would you...

Give your checking account number and current balance to an unfamiliar caller?

Leave your ID and a blank check behind at a restaurant?

Send cash through the mail?

Of course not...

But thousands of Americans do things that are just as risky as sending cash through the mail. Giving credit or charge card numbers to unknown callers, or carelessly tossing away card receipts are some of the ways consumers unwittingly fall victim to credit card fraud.

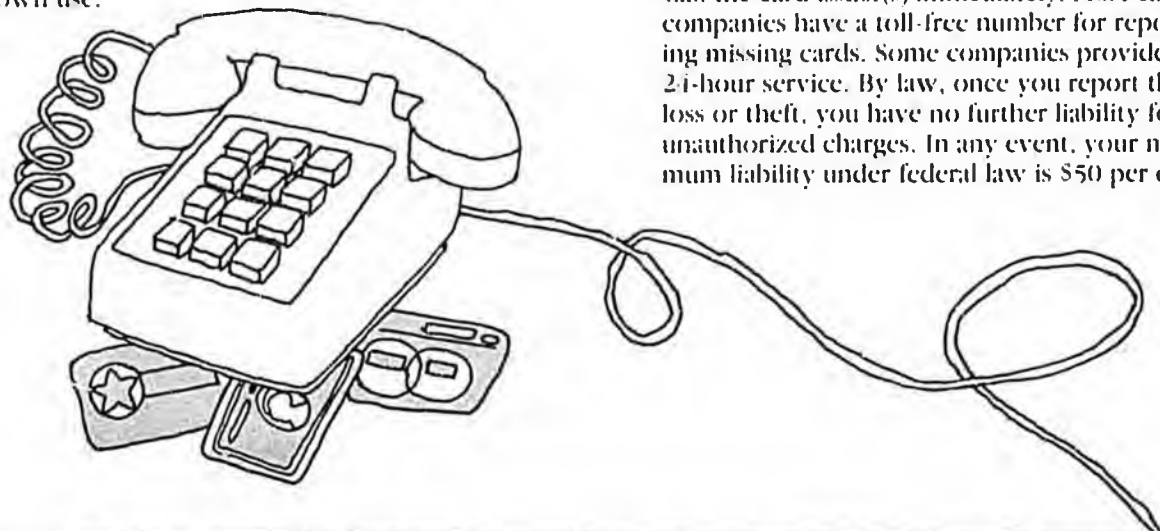
The cost of credit and charge card fraud—to card holders and to card companies alike—may be as high as \$500 million a year. Everyone pays for card fraud in higher prices, whether or not they are personally defrauded.

While theft is the most obvious form of card fraud, it is not the only way crimes occur. A more subtle crime is "misappropriation": the use of your card number (not the card itself) without your permission.

How can it happen?

Misappropriation may occur in a variety of ways:

- A caller says that to qualify for a discount vacation or a special investment opportunity you need only give your card number and its expiration date. Neither offer is genuine—the caller wants your card number for an illegal use.
- Someone rifles the trash behind a store for discarded card receipts or carbons to get numbers for making counterfeit cards or for ordering merchandise by mail or phone.
- A dishonest clerk makes an extra imprint from the credit or charge card for his or her own use.



Consider taking other precautions:

- Keep infrequently used cards in a secure place.
- Carry cards separately from your wallet.
- Keep the card in view, whenever you can, after you give it to a clerk.
- Avoid signing a blank receipt, if possible.
- Draw a line through blank spaces above the total when you sign card receipts.
- Destroy carbon papers on card receipts.
- Instruct others who are authorized to use your account to take these same precautions.

If cards are lost or stolen:

Call the card issuer(s) immediately. Most card companies have a toll-free number for reporting missing cards. Some companies provide 24-hour service. By law, once you report the loss or theft, you have no further liability for unauthorized charges. In any event, your maximum liability under federal law is \$50 per card.



Fair Credit Reporting

If you've ever applied for a charge account, a personal loan, insurance, or a job, someone is probably keeping a file on you. This file might contain information on how you pay your bills, or whether you've been sued, arrested, or have filed for bankruptcy.

The companies that gather and sell this information are called "Consumer Reporting Agencies," or "CRA's." The most common type of CRA is the credit bureau. The information sold by CRA's to creditors, employers, insurers, and other businesses is called a "consumer report." This generally contains information about where you work and live and about your bill-paying habits.

In 1970, Congress passed the Fair Credit Reporting Act to give consumers specific rights in dealing with CRA's. The Act protects you by requiring credit bureaus to furnish correct and complete information to businesses to use in evaluating your applications for credit, insurance, or a job.

The Federal Trade Commission enforces the Fair Credit Reporting Act. Here are answers to some questions about consumer reports and CRA's:

How do I locate the CRA that has my file?

If your application was denied because of information supplied by a CRA, that agency's name and address must be supplied to you by the company you applied to. Otherwise, you can find the CRA that has your file by calling those listed in the Yellow Pages under "credit" or "credit rating and reporting." Since more than one CRA may have a file about you, call each one listed until you locate all agencies maintaining your file.

Do I have the right to know what the report says?

Yes, if you request it. The CRA is required to tell you about every piece of information in the report and, in most cases, the sources of that information. Medical information is exempt from this rule, but you can have your physician try to obtain it for you. The CRA is *not* required to give you a copy of the report, although more and more are doing so. You also have the right to be told the name of anyone who received a report on you in the past six months. (If your inquiry concerns a job application, you can get the names of those who received a report during the past two years.)

Is this information free?

Yes, if your application was denied because of information furnished by the CRA, and if you request it within 30 days of receiving the denial notice. If you don't meet these requirements, the CRA may charge a reasonable fee.

What can I do if the information is inaccurate or incomplete?

Notify the CRA. They're required to reinvestigate the items in question. If the new investigation reveals an error, a corrected version will be sent, on your request, to anyone who received your report in the past six months. (Job applicants can have corrected reports sent to anyone who received a copy during the past two years.)

What can I do if the CRA won't modify the report?

The new investigation may not resolve your dispute with the CRA. If this happens, have the CRA include your version or a summary of your version of the disputed information in your file and in future reports. At your request, the CRA will also show your version to anyone who recently received a copy of the old report. There is no charge for this service if it's requested within 30 days after you

FEDERAL TRADE COMMISSION / BUREAU OF CONSUMER PROTECTION

FTC
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receive notice of your application denial. After that, there may be a reasonable charge.

Do I have to go in person to get the information?

No, you may also request information over the phone. But before the CRA will provide any information, you must establish your identity by completing forms they will send you. If you do wish to visit in person, you'll need to make an appointment.

Are reports prepared on insurance and job applicants different?

If a report is prepared on you in response to an insurance or job application, it may be an *investigative* consumer report. These are much more detailed than regular consumer reports. They often involve interviews with acquaintances about your lifestyle, character, and reputation. Unlike regular consumer reports, you'll be notified in writing when a company orders an investigative report about you. This notice will also explain your right to ask for additional information about the report from the company you applied to. If your application is rejected, however, you may prefer to obtain a *complete* disclosure by contacting the CRA, as outlined in this brochure. Note that the CRA does not have to reveal the sources of the investigative information.

How long can CRA's report unfavorable information?

Generally seven years. Adverse information can't be reported after that, with certain exceptions:

- bankruptcy information can be reported for 10 years;
- information reported because of an application for a job with a salary of more than \$20,000 has no time limitation;
- information reported because of an application for more than \$50,000 worth of credit or life insurance has no time limitation;
- information concerning a lawsuit or judgment against you can be reported for seven years or until the statute of limitations runs out, whichever is longer.

Can anyone get a copy of the report?

No, it's only given to those with a legitimate business need.

Are there other laws I should know about?

Yes, if you applied for and were denied credit, the Equal Credit Opportunity Act requires creditors to tell you the specific reasons for your denial. For example, the creditor must tell you whether the denial was because you have "no credit file" with a CRA or because the CRA says you have "delinquent obligations." This law also requires creditors to consider, upon request, additional information you might supply about your credit history.

You may wish to obtain the reason for denial from the creditor before you go to the credit bureau.

Do women have special problems with credit applications?

Married and formerly married women may encounter some common credit-related problems. For more information, write the FTC for a free brochure on "Women and Credit Histories" at the address listed below.

Where should I report violations of the law?

Although the FTC can't act as your lawyer in private disputes, information about your experiences and concerns is vital to the enforcement of the Fair Credit Reporting Act. Please send questions or complaints to the FTC, Washington, D.C. 20580.

* GPO : 1987 O - 378-889 : QL 3

Federal Trade Commission
Washington, D. C. 20580

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ALASKA'S LEMON LAW



**Consumer Protection Section
Department of Law**

NORMAN C. GORSUCH
Attorney General

BILL SHEFFIELD
GOVERNOR

(3) "express warranty" or "warranty" means an express written warranty provided by the manufacturer of a new motor vehicle;

(4) "full purchase price" means the total price paid for a motor vehicle by the original owner, including costs added to the retail price, such as original registration fees, transportation fees, dealer preparation, and dealer installed options;

(5) "manufacturer" means a person who by labor transforms raw materials and component parts into motor vehicles for wholesale or retail sale;

(6) "motor vehicle" or "vehicle" means a land vehicle having four or more wheels, that is self-propelled by a motor, is normally used for personal, family, or household purposes, and is required to be registered under AS 28.10; but does not include a tractor, farm vehicle, or a vehicle designed primarily for off-road use;

(7) "nonconformity" means a defect or condition in a motor vehicle caused by a manufacturer, distributor, dealer, or repairing agent that substantially impairs the use or market value of a vehicle;

(8) "owner" means a purchaser, other than for resale, of a new motor vehicle, and a person to whom ownership of the motor vehicle is transferred in conformity with AS 28;

(9) "reasonable allowance" means an amount attributable to an owner's use of a motor vehicle; a "reasonable allowance" may not exceed an amount equal to the depreciation in value of the vehicle for the period during which the vehicle is available for use by the owner, calculated by a straight line depreciation method over seven years, plus an amount equal to the depreciation in value of the vehicle that is caused by

(A) any neglect or abuse by the owner; or

(B) body damage not caused by a nonconformity;

(10) "repairing agent" means a person who has been specifically authorized by a motor vehicle manufacturer or distributor to perform warranty repairs in the state on one or more of the manufacturer's or distributor's motor vehicles;

(11) "substantially impairs the market value" means a nonconformity that substantially decreases the dollar value of a vehicle to the owner when compared to the dollar value of a similar vehicle that does not have the nonconformity;

(12) "substantially impairs the use" means a nonconformity that prevents a motor vehicle from being operated or makes the vehicle unsafe to operate.



A MESSAGE FROM THE ATTORNEY GENERAL

The motor vehicle of today is an expensive and complicated device. Most Alaskans have become dependent on the availability of a motor vehicle to conduct their daily affairs. Unfortunately, some new cars prove less than dependable. They turn out to be lemons. When this happens, the consumer is faced with a problem that is not easily resolved.

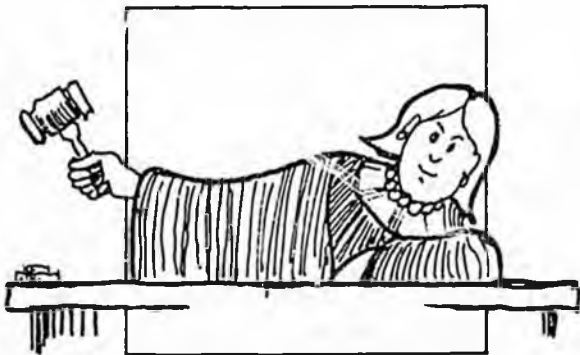
The legislature, recognizing the dilemma faced by many new car buyers, enacted a law which has commonly become known as the "Lemon Law." The law was approved by Governor Bill Sheffield, June 13, 1984. The actual effective date was September 11, 1984. New motor vehicles purchased after that date are clearly covered by this law.

This brochure is designed to inform consumers of the protections offered by this law. If you need additional information, or if you have information regarding violations of this law, please contact my Consumer Protection Section.

Norman C. Gorsuch
Attorney General

WHAT ARE THE BENEFITS OF THE LAW?

- The Lemon Law (AS 45.45.300) provides protection to buyers of new motor vehicles. If a new vehicle turns out to be defective and has not been properly repaired after a reasonable number of attempts, the law requires a refund or replacement vehicle.
- Only a small percentage of new vehicles will be declared lemons. However, all new vehicle buyers will benefit from this law. The manufacturer and the dealer now have a stronger economic incentive to deliver the vehicle free from defects, and if problems develop, correct them speedily and accurately.
- The law encourages the vehicle manufacturers to establish third party arbitration programs. These programs must meet specific standards and must have the approval of the Attorney General. Any decisions ordered by the arbitrators are binding on the manufacturer but not on the consumer.
- This law spells out clearly the owner, dealer and manufacturer's responsibilities. It does not limit other rights and remedies that may be available to the owner of a motor vehicle under other provisions of law.



(h) A motor vehicle returned under (b) of this section may not be resold by the manufacturer or distributor in the state unless full disclosure of the reason for the return is made to the prospective buyer before the resale is concluded.

(i) The provisions of this section do not limit other rights and remedies that may be available to the owner of a motor vehicle under other provisions of law. This subsection does not create a new cause of action against a dealer or repairing agent who sells or attempts to repair a motor vehicle found to be nonconforming under this section.

(j) A manufacturer or distributor of motor vehicles who authorizes the sale of the manufacturer's or distributor's motor vehicles in the state shall maintain authorized dealership facilities within the state that are able to perform the service and make the repairs required by the manufacturer's express warranty and by this section.

(k) A manufacturer or distributor who accepts the return of a nonconforming motor vehicle under (b) of this section shall reimburse the owner for any reasonable cost incurred in shipping the vehicle to and from the nearest authorized facility for warranty service and repair of a nonconformity that causes the return of the vehicle.

(l) If a manufacturer or distributor has established an informal dispute settlement procedure that substantially complies with the requirements of 16 C.F.R. 703, as that section may be amended, or if the manufacturer or distributor, after receipt of notice required by (c) of this section, offers in writing to participate in an arbitration or mediation process with the owner and the arbitration or mediation decision is binding on the manufacturer or distributor but not on the owner, and if the informal dispute settlement or arbitration or mediation process is approved by the attorney general, the provisions of (b) of this section concerning refund or replacement or (k) of this section concerning shipping costs do not apply to an owner who has not first resorted to the informal dispute settlement procedure or arbitration or mediation process.

(m) In this section,

(1) "dealer" means a person who has obtained a franchise from, or is authorized by, a motor vehicle manufacturer to engage in the retail sale and warranty repair of the manufacturer's new motor vehicles in the state;

(2) "distributor" means a person who is authorized by a manufacturer to engage in the wholesale distribution of the manufacturer's new motor vehicles in the state;

or replacement vehicle to be delivered on the 60th day after the mailing of the written notice. Within 30 days after receiving the notice required by this subsection the manufacturer may make a final attempt to conform the vehicle before a refund or replacement is made under (b) of this section.

(d) An owner may not receive a refund or replacement under this section if the manufacturer or distributor shows that the nonconformity complained of

(1) does not substantially impair either the use or the market value of the motor vehicle; or

(2) is the result of

(A) alteration of the motor vehicle by the owner or a person other than a dealer or repairing agent that is not authorized by the manufacturer or distributor; or

(B) abuse or neglect by the owner or a person other than the dealer or repairing agent.

(e) A presumption that a reasonable number of attempts have been made to conform a motor vehicle under an applicable express warranty is established if:

(1) the same nonconformity has been subject to repair three or more times by the manufacturer, distributor, dealer, or repairing agent during the term of the express warranty or the one-year period after delivery of the motor vehicle to the original owner, whichever period terminates first, but the nonconformity continues to exist; or

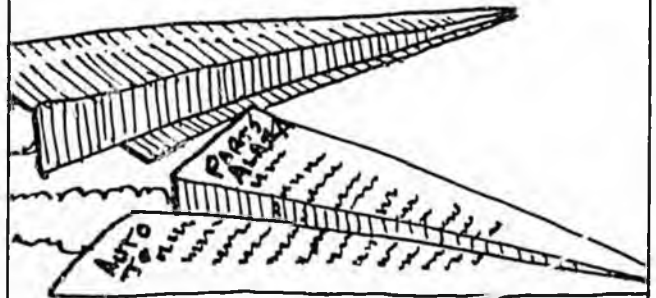
(2) the vehicle is out of service for repair for a total of 30 or more business days during the express warranty term or the one-year period referred to in (1) of this subsection, whichever period terminates first; any period of time that repairs are not performed for reasons that are beyond the control of the manufacturer, distributor, dealer, or repairing agent is excluded from the 30-day time period referred to in this paragraph.

(f) A manufacturer whose vehicles are sold in the state through an authorized dealer shall provide its dealer or repairing agent with any part necessary to make a repair of a nonconformity covered under an express warranty, as soon as possible, without additional charge for freight or handling, if the part is not in the dealer's or agent's inventory when the nonconforming vehicle is brought to the dealer or repairing agent for repair.

(g) A manufacturer or distributor who fails to refund the full purchase price of a motor vehicle or replace the motor vehicle when there is a requirement to do so under this section is presumed to have committed an unfair trade practice under AS 45.50.471.

WHAT ARE THE MANUFACTURER'S RESPONSIBILITIES?

- If an owner of a new motor vehicle reports a defect or problem, the manufacturer normally, through their dealer or repairing agent, makes the necessary repairs.
- If the manufacturer, dealer or repairing agent has been unable to repair the defect or problem after a reasonable number of attempts, the manufacturer shall, at the owner's option, replace the vehicle or offer a refund.
- When a manufacturer refunds or replaces a motor vehicle, they are also required to refund any reasonable charges the owner may have paid in shipping the defective motor vehicle back and forth to the nearest authorized facility for repairs.
- A manufacturer shall ship its dealer or repairing agent parts necessary for warranty repairs by the fastest means available (generally air freight) with no additional charge for freight or handling.



HOW DOES THE LEMON LAW DEFINE A REASONABLE NUMBER OF ATTEMPTS?

- First for a single defect or condition that defies repairs the Lemon Law says:

" (1) The same non-conformity has been subject to repair three or more times by the manufacturer, distributor, dealer or repairing agent during the term of the express warranty or the one-year period after delivery of the motor vehicle to the original owner, whichever period terminates first, but the non-conformity continues to exist;"

- Second for a motor vehicle that has been out of service for an unreasonable period of time due to a single or multiple defects the Lemon Law says:

" (2) The vehicle is out of service for repair for a total of 30 or more business days during the one-year period referred to in (1) of this subsection whichever period terminates first;"

WHAT ARE THE HITCHES?

- The defect or problem must substantially impair the use or the market value of the vehicle.
- The defect or problem must not be the result of alteration, abuse or neglect by the owner or a person other than the dealer or repairing agent.

AN ACT

Relating to motor vehicle warranties.

*Section 1. AS 45.45 is amended by adding a new section to read:

Article 6. Motor Vehicle Warranties

Sec. 45.45.300. Motor Vehicle Warranties. (a) If a new motor vehicle does not conform to an express warranty that is applicable to it and the owner of the vehicle reports the defect or condition to the manufacturer of the vehicle or to the manufacturer's or distributor's dealer during the term of the warranty, the manufacturer, distributor, dealer, or a repairing agent shall make the necessary repairs to conform the vehicle to the express warranty.

(b) If during the term of the express warranty or within one year from the date of delivery of the motor vehicle to the original owner, whichever period terminates first, the manufacturer, distributor, dealer, or repairing agent is unable to conform the motor vehicle to an applicable express warranty after a reasonable number of attempts, the manufacturer or distributor shall accept the return of the nonconforming motor vehicle, and, at the owner's option, shall replace the nonconforming vehicle with a new, comparable vehicle or shall refund the full purchase price to the owner less a reasonable allowance for the use of the motor vehicle from the time it was delivered to the original owner. A refund under this subsection shall be made to a lienholder of record, if any, and the owner, as their interests may appear.

(c) In order to claim a refund or replacement under (b) of this section, the owner shall give written notice by certified mail to the manufacturer and its dealer or repairing agent at any time before 60 days have elapsed after the expiration of the express warranty or the one-year period after the date of delivery of the motor vehicle to the original owner, whichever period terminates first (1) stating that the vehicle has a non-conformity; (2) providing a reasonable description of the nonconformity; (3) stating that the manufacturer, distributor, dealer, or repairing agent has made a reasonable number of attempts to conform the vehicle; and (4) stating that the owner demands a refund

A SAMPLE NOTICE

Name _____

Address _____

City, State, Zip _____

Phone (day) _____

Phone (night) _____

Dear Sir or Madam:

My _____, _____
Year Make of Vehicle

_____ has a non-conformity.
V.I.N. _____

The non-conformity is _____
Describe the Non-conformity

Your dealer or repairing agent has made a reasonable number of attempts to conform the vehicle. I demand a _____

Refund or Replacement

be delivered to me on the 60th day after the mailing of this notice.

Signature _____

- Any period of time that repairs are not performed for reasons that are beyond the control of the manufacturer, dealer or repairing agent is excluded from the 30-day period. This refers to situations such as labor disputes or natural disasters.
- The owner must provide written notice via certified mail to the manufacturer and their dealer or repairing agent. Within 30 days after receiving the notice the manufacturer may make another final attempt to repair the vehicle.
- If you choose a refund over a replacement, the refund will not include any accrued finance charges. The manufacturer may also deduct an allowance for your use of the vehicle and for excess depreciation due to damage, neglect or abuse.
- If the manufacturer has set up an approved informal dispute settlement procedure and if they offer in writing to arbitrate, you will be required to participate or you will lose the protections offered by this law.

SOME THINGS TO DO

- You never know when you buy a new car whether it will turn out to be a lemon. As a new car buyer you should check out the dealership's service facility as closely as you check out the new vehicle. Is the area clean, organized, and well lit; do the equipment and tools appear modern and well maintained? A dealer who is proud of the service facility will be happy to demonstrate this. Also, ask if the dealer gives appointments for warranty repairs and what is the normal delay in obtaining an appointment.



- Prior to the sale read and understand the warranty. The dealer is required by a Federal Trade Commission rule to make all warranties available prior to the sale.
- Be wary of purchasing a service contract (extended warranty), especially contracts which are not backed by the vehicle's manufacturer. Read and understand what is covered and more importantly what is **not** covered. In most cases service contracts can be purchased up to the date the manufacturer's new car warranty expires. Remember, there is little or no benefit from a service contract during a vehicle's first year.
- Prior to taking delivery of your new car, inspect it. If any problems are noted, refuse delivery until they are corrected. Be wary of promises that "We'll take care of those problems at the first service."
- You should be very concerned if a dealer attempts to deliver a new vehicle with obvious defects.

- (3) that the manufacturer, distributor, dealer, or repairing agent has made a reasonable number of attempts to conform the vehicle; and
- (4) that the owner demands a refund or replacement vehicle to be delivered on the 60th day after the mailing of the written notice.
- (5) a description of the vehicle (year, make, and model)
- (6) the vehicle identification number. This number is located on the tag behind the driver's side of your windshield, or it can be found on the vehicle registration as "serial number."
- (7) your name, address and if possible a daytime phone number.

- If you have problems with exercising your rights under the Lemon Law or if you believe a dealer or manufacturer is not complying with the law phone or write the nearest Consumer Protection Section of the Attorney's Office listed on the back cover of this brochure.



- Once you have compiled your documentation write a chronological description of the history of your vehicle and its problems. When writing this history remember this guide: What, Why, When, How, Where and Who.
- Consider consulting with an attorney. If you do not have an attorney, contact the Alaska Bar Association's Lawyer Referral Service in Anchorage. The telephone number is 272-0352 (outside of Anchorage call toll-free ZENITH 9999). Some labor union contracts allow for legal services. If you have this coverage, contact your union representative for assistance.
- Under the Lemon Law, if you wish to claim a refund or replacement you must give written notice by certified mail to the manufacturer and its dealer or repairing agent. This notice may be sent any time before 60 days have elapsed, after the expiration of the express warranty or the one-year period, after the date of the delivery of the motor vehicle to the original owner, whichever terminates first.
- The notice must contain the following information:
 - (1) that the vehicle has a nonconformity;
 - (2) a reasonable description of the nonconformity;

- Read, understand and follow maintenance requirements contained in the owner's manual. Your driving cycle may be considered by the manufacturers as a severe operating condition and may require more frequent maintenance.
- If problems develop, contact your dealer as soon as possible to request an appointment for repairs. On the appointment date arrive 15 minutes early and be ready for up to a one-hour delay. Few Alaska dealers offer loaner or courtesy car service. Therefore, you should arrange to be picked up or plan on a cab ride.
- Give the service advisor a dated note completely describing all of the conditions you are complaining about. Do not attempt to diagnose the cause of the conditions, simply describe them.



PROPER EXAMPLE

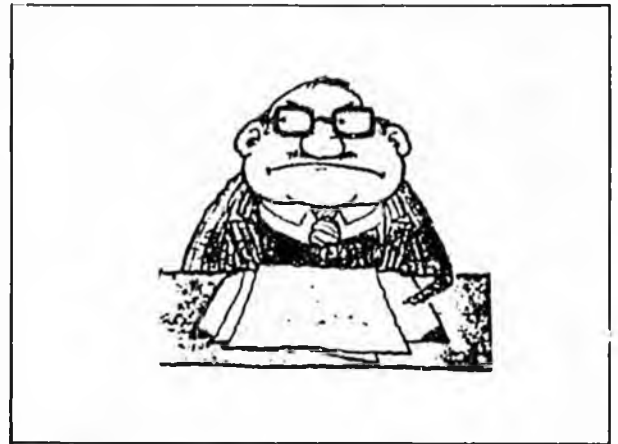
Owner: Thadius D. Foghorn
Address: 12134 N St
Anchorage, AK 99000
Vehicle: 1985 Backfire 4
(Black Hatchback)
Plate: WID 346
Home Telephone: 212-3000
Work Telephone: 202-2000

Problems

- 1) Entire car vibrates between 35 mph and 55 mph. Seems worse with passengers in back.
- 2) Engine is hard to start when hot. Starts fine when cold.
- 3) Gas mileage has dropped from 22-24 mpg to 16-18 mpg.
- 4) Last week a light on the dashboard was lit that said check engine. This morning it went out.

- Keep a copy of the note. Remember you never know if your new car is going to turn out to be a lemon.
- If it is necessary to have your vehicle towed to the dealership, ask the dealer to provide the service or reimbursement for the expenses. Some warranties offer this coverage. Other dealers have a policy that may cover towing expense. If towing is not provided keep copies of your bills. The Lemon Law allows for reimbursement of reasonable shipping expenses if the vehicle is later declared a lemon.
- An hour or two prior to picking up your vehicle call the dealer to verify repairs will be completed as scheduled. Often problems develop that can delay the repair process. If this occurs, again request a loaner vehicle.

- If your vehicle is in the shop for repairs more than one day, make sure the repair invoice shows the day it was brought in and the day it was picked up.
- Keep copies of all repair invoices for maintenance or warranty repairs. The dealer or repairing agent is required by law to furnish a copy of the repair invoice even if the repairs were done under warranty.
- If the problems persist, and you end up writing the dealer or manufacturer, keep copies of all correspondence. If you make long distance telephone calls, keep your telephone bills and make notes of who you talked to and about what.



THE DEALER HAS TRIED THREE TIMES AND STILL THE PROBLEM PERSISTS. NOW WHAT?

- First, organize all of your documentation. If you are missing any repair orders, contact your dealer or repairing agent and request a copy from their files. The dealer or repairing agent is required by the Alaskan Auto Repair Act to maintain these records for two years.

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE



state of alaska
 department of law
 consumer protection section

BILL SHEFFIELD
 GOVERNOR
 NORMAN C. GORSUCH
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 Pouch K
 JUNEAU, AK 99811
 465-3692

1031 West 4th Avenue
 Suite 110
 ANCHORAGE, AK 99501
 279-0428

1st National Center
 100 Cushman, Suite 400
 FAIRBANKS, AK 99701
 456-8588

P. O. Box 671
 VALDEZ, AK 99686
 835-2462

CONSUMER PROTECTION NEWSLETTER

FALL 1983

YOU WON!!!

How lucky! You've been selected. You have won a color television, a home computer, a video recorder, diamond jewelry, or an all expenses paid vacation. Great. Or, is it? Did you really win? Is it really free?

Alaskans are being "selected" by the thousands to "win" just such prizes. All you have to do to claim your prize is to purchase vitamins, pens, or printed advertisements for your business. Sounds worth it, doesn't it?

frequently, the fabulous "prize" turns out to be virtually worthless. And, the merchandise you had to buy to receive the prize is far less desirable than represented. In some cases, even after you have paid for your merchandise, you never receive either the merchandise or the prize.

No, you and thousands of others were all selected to

Chances are, it isn't worth it. The Consumer Protection Section of the Attorney

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state of alaska
department of law
consumer protection section

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835-2462

CONSUMER PROTECTION NEWSLETTER

SUMMER 1984

LEMON LAW PASSES!

Lemon law On June 13, 1984 Governor Bill Sheffield signed into law HCS-CSSB 286, commonly known as the "Lemon Law."

"This legislation, first introduced by Representative Mike Miller (D-Juneau) was subject to much scrutiny by both the Senate and the House before it evolved into its present form," Sheffield said.

purchases made prior to the effective date, it is not intended to have a retroactive effect. Consequently, new car purchasers whose purchase dates occur after September 11, 1984, will be covered under this law while those occurring before will not. By early September, the Consumer Protection Section of the Attorney General's Office will have available a brochure explaining the new law.

seriously. They are only issued on the most serious problems. 1980 Subaru owners should have received notification from Subaru of a steering rack recall. It appears that the boot which protects the rack can't stand our cold winters. The failure of this boot can cause corrosion which results in hard steering or seizure. If you own a 1980 Subaru and did not receive a