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STATUTES REFERENCED BY CSSB 288

AS04.11.320

HEADINGS TITLE 4.
Alcoholic Beverages.
CHAPTER 11.
Licensing.
ARTICLE 4.
Denial, Suspension, or Revocation of Licenses and Permits.

CITATION Sec. 04.11.320.

CATCH LINE

DENIAL OF NEW LICENSES AND PERMITS.

TEXT

- (a) An application requesting issuance of a new license shall be denied if
- (1) the board finds, after review of all relevant information, that issuance of the license would not be in the best interest of the public;
 - (2) issuance of the license is prohibited by AS 04.11.390, relating to residency, or AS 04.11.410, relating to location of premises near churches and schools;
 - (3) the application has not been completed in accordance with AS 04.11.260;
 - (4) issuance of the license would violate the restrictions pertaining to the particular license imposed under this title;
 - (5) issuance of the license is prohibited under this title as a result of an election conducted in accordance with AS 04.11.502;
 - (6) the requirements of AS 04.11.420 - 04.11.450 relating to zoning, ownership and location of the license, and the identity and financing of a licensee have not been met;
 - (7) the licensed premises are to be located in a municipality, the type of license sought is a beverage dispensary or package store license, and that type of license is already in effect in the municipality under a community liquor license, unless the new license is to become effective after the community liquor license is no longer effective, whether as the result of a local option election or otherwise;
 - (8) the authority sought is authority to operate a beverage dispensary or package store under a community liquor license for premises to be located in a municipality where the authority sought is already held by a private licensee under a beverage dispensary or package store license, unless the community liquor license is to become effective after the privately held license is no longer effective, whether as the result of a local option election or otherwise;
 - (9) issuance of the license is prohibited under AS 04.11.400(a) or prohibition of issuance of the license is found necessary under AS 04.11.400(b);
 - (10) the application contains false statements of material fact;

AS04.11.320 cont.

(11) the license is sought for the sale of alcoholic beverages in a first or second class city or which there are no licensed premises at the time of application unless a majority of the voters in a local option election conducted in accordance with AS 04.11.502 have voted "no" on the question set out in AS 04.11.490, or have voted "yes" on a question set out in AS 04.11.490 or 04.11.500;

(12) the license is sought for the sale of alcoholic beverages in an established village in which there are no licensed premises at the time of application unless a majority of the voters in a local option election conducted in accordance with AS 04.11.502 have voted "no" on the question set out in AS 04.11.490 or have voted "yes" on the question set out in AS 04.11.500.

(b) An application requesting issuance of a new permit shall be denied if

(1) the board finds, after review of all relevant information, that issuance of the permit would not be in the best interests of the public;

(2) the board finds that any of the statements made in the application are untrue;

(3) the application has not been completed in accordance with AS 04.11.260;

(4) the permit is sought for the sale of alcoholic beverages in a first or second class city or established village in which there are no licensed premises at the time of application unless a majority of the voters in a local option election conducted in accordance with AS 04.11.502 have voted "no" on the question set out in AS 04.11.490.

HISTORY (Sec. 2 ch 131 SLA 1980)

AS04.11.370

HEADINGS TITLE 4.

Alcoholic Beverages.

CHAPTER 11.

Licensing.

ARTICLE 4.

Denial, Suspension, or Revocation of Licenses and Permits.

CITATION Sec. 04.11.370.

CATCH LINE

SUSPENSION AND REVOCATION OF LICENSES AND PERMITS.

TEXT A license or permit shall be suspended or revoked if the board finds that one or more of the following grounds exists:

(1) misrepresentation of a material fact on an application for a license or permit;

(2) continuation of activities authorized under a license or permit would be contrary to the best interest of the public;

(3) failure on the part of the licensee to correct defects which constitute violations of this title, regulations adopted under this title, or other laws within a prescribed time after receipt of notice issued by the board or its agent;

AS04.11.370 cont.

(4) conviction of a licensee of a violation of a provision of this title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010;

(5) conviction of the agent or employee of a licensee of a violation of this title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010, if the licensee is found by the board to have either knowingly allowed the violation or to have recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.030 with the result that an agent or employee violates a law, regulation, or ordinance;

(6) failure of the licensee to comply with the laws and regulations pertaining to public health in the state;

(7) use of the licensed premises as a resort for illegal possessors or users of narcotics, prostitutes, or pimps; in addition to any other legally competent evidence, the character of the premises may be proved by the general reputation of the premises in the community as a resort for illegal possessors or users of narcotics, prostitutes, or pimps;

(8) occurrence of illegal gambling within the limits of the licensed premises;

(9) permitting any public offense involving moral turpitude to occur on the licensed premises;

(10) violation by a licensee of this title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010;

(11) violation by an agent or employee of a licensee of a provision of this title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010, if the licensee is found by the board to have either knowingly allowed the violation or to have recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.030 with the result that the agent or employee violates the law, regulation, or ordinance.

HISTORY (Sec. 2 ch 131 SLA 1980)

AS04.21.080

HEADINGS TITLE 4.
Alcoholic Beverages.
CHAPTER 21.
General Provisions.

CITATION Sec. 04.21.080.

CATCH LINE

DEFINITIONS.

TEXT

(a) In this title

(1) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when he fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation;

(2) a person acts "knowingly" with respect to conduct

AS04.21.080 cont.

or to a circumstance described by a provision of law defining an offense when he is aware that his conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless he actually believes it does not exist; a person who is unaware of conduct or a circumstance of which he would have been aware had he not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which he would have been aware had he not been intoxicated acts recklessly with respect to that risk.

(b) In this title

(1) "alcoholic beverage" includes, but is not limited to, whiskey, brandy, rum, gin, wine, ale, porter, beer, and all other spirituous, vinous, malt and other fermented or distilled liquors intended for human consumption and containing more than one percent alcohol by volume;

(2) "board" means the Alcoholic Beverage Control Board;

(3) "bottling" means to put into a bottle, can, or other container;

(4) "designated premises" means any or all designated portions of a building or structure, rooms or enclosures in the building or structure, or real estate leased, used, controlled, or operated by a licensee for the purpose for which the permit is issued by the board at the location of the site for which the permit is issued;

(5) "director" means the director of the Alcoholic Beverage Control Board;

(6) "distributing point" means a location where alcoholic beverages are distributed from a warehouse;

(7) "drunken person" means a person whose physical or mental conduct is substantially impaired as a result of the introduction of an alcoholic beverage into his body and who exhibits those plain and easily observed or discovered outward manifestations of behavior commonly known to be produced by the overconsumption of alcoholic beverages;

(8) "established village" means

(A) an unincorporated community that is in the unorganized borough and that has 25 or more permanent residents; or

(B) an unincorporated community that is in an organized borough, has 25 or more permanent residents, and

AS04.21.080 cont.

(i) is on a road system and is located more than 50 miles outside the boundary limits of a unified municipality, or

(ii) is not on a road system and is located more than 15 miles outside the boundary limits of a unified municipality;

(9) "licensed premises" means any or all designated portions of a building or structure, rooms or enclosures in the building or structure, or real estate leased, used, controlled, or operated by a licensee in the conduct of business for which he is licensed by the board at the specific address for which the license is issued;

(10) "local governing body" means, as appropriate, a city council, a borough assembly, or a traditional village council, but does not include a corporation established under the Alaska Native Claims Settlement Act;

(11) "municipality" means an incorporated city, an organized borough, or a unified municipality established under AS 29.68.

HISTORY (Sec. 4 of 131 SLA 1980; am sec. 1 ch 75 SLA 1983)

* AS11.81.900 (out of sequence - see following page)

AS21.06.090

HEADINGS TITLE 21.

Insurance.

CHAPTER 06.

The Director of Insurance.

CITATION Sec. 21.06.090.

CATCH LINE

REGULATIONS.

TEXT

(a) The director may adopt reasonable regulations to effectuate this title. A regulation may not extend, modify, or conflict with any law of this state or the reasonable implications thereof. A regulation affecting a person or matter other than the personnel or the internal affairs of the director's office shall be adopted or amended only after a hearing thereon of which notice was given as required by AS 21.06.200. If reasonably possible the director shall set out the proposed regulation or amendment in or with the notice of hearing. A regulation or amendment as to which a hearing is required is not effective until it has been on file as a public record in the director's office for at least 10 days.

(b) In addition to any other penalty provided, willful violation of a regulation subjects the violator to the administrative penalty prescribed for that violation.

HISTORY (Sec. 1 ch 120 SLA 1966)

AS11.81.900

HEADINGS TITLE 11.
Criminal Law.
CHAPTER 81.
General Provisions.
ARTICLE 6.
Definitions.

CITATION Sec. 11.81.900.

CATCH LINE

DEFINITIONS.

TEXT

(a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;*

*Further text excluded to save space.

AS21.06.120

HEADINGS TITLE 21.

Insurance.

CHAPTER 06.

The Director of Insurance.

CITATION Sec. 21.06.120.

CATCH LINE

EXAMINATION OF INSURERS.

TEXT

(a) The director may examine the affairs, transactions, accounts, records, and assets of each authorized insurer and each licensed surplus lines broker as often as the director considers advisable. The director shall so examine each domestic insurer at least once every three years. Examination of an alien insurer may be limited to its insurance transactions and affairs in the United States. Examination of a reciprocal insurer may also include examination of its attorney-in-fact to the extent that the transactions of the attorney-in-fact relate to the insurer.

(b) The director shall in like manner examine each insurer applying for an initial certificate of authority to do business in this state.

(c) In place of an examination by the director, the director may accept a full report of the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory official of another state, territory, commonwealth, or district of the United States.

HISTORY (Sec. 1 ch 120 SLA 1966; am sec. 1 ch 117 SLA 1984)

AS21.06.140

HEADINGS TITLE 21.

Insurance.

CHAPTER 06.

The Director of Insurance.

CITATION Sec. 21.06.140.

CATCH LINE

CONDUCT OF EXAMINATION.

TEXT

(a) The director shall conduct the examination at the home office of a domestic, foreign, or Canadian insurer, or the United States branch office of an alien insurer, or in any of its branch or agency offices; or with respect to persons other than insurers, at the office or other place or places where the records are kept.

(b) Every person being examined and its officers, employees, agents, and representatives shall produce and make freely available to the director the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination, and shall facilitate and aid the examination as far as reasonably possible.

(c) If the director finds accounts to be inadequate or inadequately kept or posted after the director has given the person notice of the inadequacy of the accounts and a reasonable opportunity to complete or correct the accounting, the director may employ experts to rewrite, post, or balance them at the expense of the person being examined.

AS21.06.140 cont.

(d) If the director considers it necessary to value real estate involved in the examination, the director may make written request of the person being examined to appoint one or more competent appraisers approved by the director, for the purpose of appraising the property. If no appointment is made within 10 days after the request is delivered to the person the director may appoint the appraiser or appraisers. The appraisal shall be made promptly, and a copy of the appraisal report shall be furnished to the director. The reasonable expense of the appraisal shall be borne by the person being examined.

(e) As far as practical the director shall conduct the examination of a foreign or alien insurer in cooperation with the insurance supervisory officials of other states in which the insurer transacts business, and for this purpose the director may participate in joint examinations of insurers or be represented at an examination by an examiner of another state.

HISTORY (Sec. 1 ch 120 SLA 1966)

AS21.06.160

HEADINGS TITLE 21.

Insurance.

CHAPTER 06.

The Director of Insurance.

CITATION Sec. 21.06.160.

CATCH LINE

EXAMINATION EXPENSE.

TEXT

(a) Each person examined, other than as to examinations under AS 21.06.130, shall pay the actual travel expenses, a reasonable living expense allowance, and a per diem as compensation of examiners, as necessarily incurred on account of the examination, all at reasonable rates customary therefor and as established or adopted by the director, upon presentation of a detailed account of the charges and expenses by the director or pursuant to the written authorization of the director. The accounting may either be presented periodically during the course of the examination or at the termination of the examination. A person may not pay and an examiner may not accept additional emolument for an examination.

(b) The director shall pay into the general fund of the state all money received under (a) of this section. In lieu of making a deposit into the general fund, the director may give written authorization for the person examined to make direct payment to the examiner for travel expenses and living allowance.

(c) If the person fails to pay the charges and expenses prescribed in (a) of this section, the amount may be recovered by suit by the attorney general on behalf of the state and restored to the general fund. The amount due shall be a first lien upon all of the assets and property of the person in this state.

HISTORY (Sec. 1 ch 120 SLA 1966)

AS21.06.180

HEADINGS TITLE 21.
Insurance.
CHAPTER 06.
The Director of Insurance.

CITATION Sec. 21.06.180.

CATCH LINE

HEARINGS.

TEXT

(a) The director may hold hearings for any purpose within the scope of this title considered to be necessary.

(b) The director shall hold a hearing if required by a provision of this title, or upon written demand by a person aggrieved by an act, threatened act or failure of the director to act, or by a report, regulation or order of the director (other than an order for the holding of a hearing, or an order on hearing or under it). A demand shall specify the grounds to be relied upon at the hearing as a basis for the relief. Unless postponed by mutual consent or for good cause shown, the hearing shall be held within 30 days after receipt by the director of the written demand.

(c) If within the 30-day period the director does not either (1) grant the hearing, or (2) issue an order refusing the hearing, as to the previous report, regulation, or order as to which the person so claims to be aggrieved, the hearing shall be considered to have been refused.

HISTORY (Sec. 1 ch 120 SLA 1966)

AS21.06.190

HEADINGS TITLE 21.
Insurance.
CHAPTER 06.
The Director of Insurance.

CITATION Sec. 21.06.190.

CATCH LINE

STAY OF ACTION.

TEXT

(a) A demand for a hearing received by the director before the effective date of an order issued or within 10 days after an order is delivered stays the effectiveness of the order pending the hearing and an order made thereon, except as to action taken or proposed under an order

(1) on hearing;

(2) under and supplemental to an order on hearing; or

(3) based upon impairment of assets or unsound

financial condition of an insurer.

(b) If an automatic stay is not provided for and the director after receipt of a written request for a stay fails to grant it, the person aggrieved may apply to the superior court for a stay of the director's proposed action.

HISTORY (Sec. 1 ch 120 SLA 1966)

AS21.06.200

HEADINGS TITLE 21.

Insurance.

CHAPTER 06.

The Director of Insurance.

CITATION Sec. 21.06.200.

CATCH LINE

NOTICE OF HEARING.

TEXT Not less than 20 days in advance the director shall give notice of the time and place of the hearing, stating the matters to be considered at the hearing. If the persons to be given notice are not specified in the provision under which the hearing is held, the director shall give notice to all persons whose pecuniary interests are to be directly and immediately affected by the hearing.

HISTORY (Sec. 1 ch 120 SLA 1966)

AS21.06.210

HEADINGS TITLE 21.

Insurance.

CHAPTER 06.

The Director of Insurance.

CITATION Sec. 21.06.210.

CATCH LINE

HEARING PROCEDURE.

TEXT (a) The director shall allow a party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of the party's interest, and to have subpoenas issued by the director to compel attendance of witnesses and production of evidence in the party's behalf.

(b) The director shall permit to become a party to the hearing by intervention, if timely, any person who was not an original party to the proceeding and whose pecuniary interests are to be directly and immediately affected by the director's order made upon the hearing.

(c) Formal rules of pleading or evidence need not be observed at a hearing.

(d) Upon written request seasonably made by a party to the hearing and at that person's expense, the director shall cause a full stenographic record of the proceedings to be made by a competent reporter. If transcribed, a copy of the stenographic record shall be furnished to the director, without cost to the director or the state, and shall be a part of the director's record of the hearing. If transcribed a copy of the stenographic record shall be furnished to any other party to the hearing at the request and expense of the other party. If no stenographic record is made or transcribed, the director shall prepare an adequate record of the evidence and of the proceedings.

AS21.06.210 cont.

(e) Upon written request of a party to a hearing filed with the director within 30 days after an order made pursuant to a hearing has been mailed or delivered to the persons entitled to receive it, the director may grant a rehearing or reargument of the matters involved in the hearing. Notice of the rehearing or reargument shall conform to the requirements of AS 21.06.200.

HISTORY (Sec. 1 ch 120 SLA 1966)

AS21.06.220

HEADINGS TITLE 21.
Insurance.
CHAPTER 06.
The Director of Insurance.

CITATION Sec. 21.06.220.

CATCH LINE
ORDER ON HEARING.

TEXT (a) In conducting the hearing the director shall sit in a quasi-judicial capacity. Within 30 days after termination of the hearing, rehearing, or reargument, the director shall make an order on hearing, covering matters involved in the hearing, rehearing or reargument, and shall give a copy of the order to the same persons given notice of the hearing.

(b) The order shall contain a concise statement of the facts found by the director, the conclusions of the director, and the matters required by AS 21.06.100.

(c) The order may affirm, modify, or nullify a previous action or may constitute the taking of new action within the scope of the notice of hearing.

HISTORY (Sec. 1 ch 120 SLA 1966)

AS21.06.230

HEADINGS TITLE 21.
Insurance.
CHAPTER 06.
The Director of Insurance.

CITATION Sec. 21.06.230.

CATCH LINE
APPEALS FROM THE DIRECTOR.

TEXT A person aggrieved by an order of the director may appeal the order to the superior court, using procedures provided by court rule.

HISTORY (Sec. 1 ch 120 SLA 1966)

AS21.06.250

HEADINGS TITLE 21.
Insurance.
CHAPTER 06.
The Director of Insurance.

CITATION Sec. 21.06.250.

CATCH LINE

FEEES AND LICENSES.

TEXT (a) The director shall collect required fees in advance.
The fees are as follows:

- (1) certificate of authority
 - (A) for filing an application for certificate of authority, articles of incorporation and other charter documents, bylaws, financial statement, examination report, power of attorney to the director, and all other documents and filings required in connection with such application, and for issuance of an original certificate of authority, if issued
 - domestic insurers \$100
 - foreign insurers \$100
 - (B) annual continuation of certificate of authority \$ 65
 - (C) reinstatement of certificates of authority \$ 65
 - (D) amending certificate of authority \$ 10
- (2) filing amendment of articles of incorporation, domestic and foreign insurers \$ 10
- (3) filing bylaws or amendments thereto, where required \$ 10
- (4) filing annual statement of insurer, other than as part of application for original certificate of authority \$ 10
- (5) general agent or agent license, property, casualty, surety, title insurance agents, and including disability insurance without additional license or fee when written by property, casualty, or surety insurer otherwise represented by the general agent or agent
 - (A) application for original license, and including issuance of license, if issued,
 - (i) individual \$ 35
 - (ii) firm or corporation 75
 - (B) annual renewal or continuation of license
 - (i) individual \$ 35
 - (ii) firm or corporation 75
 - (C) appointment of agent or general agent, each insurer \$ 5
 - (D) annual renewal of appointment of general agent or agent, each insurer \$ 5
 - (E) temporary license \$ 35

AS21.06.250 cont.

- (6) nonresident general agent or agent's license
 - (A) individual \$ 75
 - (B) firm or corporation \$150
 - (C) annual renewal or continuation of license
..... \$ 75
- (7) broker license
 - (A) application for original license and including
issuance of license if issued - resident
 - (i) all line broker
\$100
 - (ii) property-casualty broker
75
 - (iii) life-disability broker
75
 - (B) annual renewal or continuation of license -
resident
 - (i) all line broker
\$100
 - (ii) property-casualty broker
75
 - (iii) life-disability broker
75
 - (C) application for original license and including
issuance of license, if issued - nonresident
 - (i) all line broker
\$250
 - (ii) property-casualty broker
150
 - (iii) life-disability broker
150
 - (D) annual renewal or continuation of license -
nonresident
 - (i) all line broker
\$250
 - (ii) property-casualty broker
150
 - (iii) life-disability broker
150
- (8) solicitor license
 - (A) application for original license, including
issuance of license if issued \$ 15
 - (B) annual continuation of license \$ 15
- (9) general agent or agent license, life, disability
insurance and annuities
 - (A) application for original license, including
issuance of license, if issued,
 - (i) individual \$
35
 - (ii) firm or corporation
75
 - (B) annual renewal or continuation of license,
 - (i) individual \$
35
 - (ii) firm or corporation
75

AS21.06.250 cont.

- (C) appointment of general agent or agent, each insurer \$ 5
 - (D) annual renewal of appointment of general agent or agent, each insurer \$ 5
 - (10) examination for license as general agent, agent, broker, solicitor or adjuster, each examination \$ 10
 - (11) surplus line broker license
 - (A) application for original license and for issuance of license, if issued - resident \$100
 - (B) application for original license and for issuance of license if issued - nonresident \$300
 - (C) annual renewal or continuation of license - resident \$100
 - (D) annual renewal or continuation of license - nonresident \$300
 - (12) adjuster license
 - (A) application for original license and for issuance of license if issued - resident \$ 35
 - (B) annual renewal or continuation of license - resident \$ 35
 - (C) application for original license and for issuance of license, if issued - nonresident \$ 75
 - (D) annual renewal or continuation of license - nonresident \$ 75
 - (13) insurance vending machine license, each machine, each year \$ 35
 - (14) for issuing any other certificate required or permissible under law \$ 5
 - (15) for accepting service of process \$ 5
 - (16) for copy of insurance code, actual printing cost plus postage;
 - (17) for copy of insurance report, actual printing cost plus postage;
 - (18) for any printed material furnished by the director not mentioned above, the director may charge the actual cost of printing plus handling and postage;
 - (19) for limited license (travel insurance agent) \$ 25
 - (20) -Repealed, sec. 6 ch 113 SLA 1974.-
 - (21) rating bureaus (for a three-year license) \$100
- (b) The director shall promptly deposit with the commissioner of revenue to the credit of the general fund of this state all fees received under this section.

HISTORY

(Sec. 1 ch 120 SLA 1966; am secs. 1 - 6 ch 113 SLA 1974; am sec. 1 ch 206 SLA 1976)

AS21.09.180

HEADINGS TITLE 21.

Insurance.

CHAPTER 09.

Authorization of Insurers and General Requirements.

CITATION Sec. 21.09.180.

CATCH LINE

DIRECTOR ATTORNEY FOR SERVICE OF PROCESS.

TEXT

(a) Each insurer applying for authority to transact insurance in this state shall appoint the director as its attorney to receive service of legal process issued against it in Alaska. The appointment shall be made on a form designated and furnished by the director. The appointment shall be irrevocable, shall bind the insurer and any successor in interest to the assets or liabilities of the insurer, and shall remain in effect as long as there is in force in Alaska a contract made by the insurer or obligations arising from it.

(b) Service of process against a foreign or alien insurer shall be made only by service of process upon the director, or upon a deputy or other person in charge of the office during the absence of the director. Service of process against a domestic insurer may be made either upon the director or upon the insurer corporation in the manner provided by laws applying to corporations generally, or upon the insurer's attorney-in-fact if a domestic reciprocal insurer.

(c) Each insurer at the time of application for a certificate of authority shall file with the director the name and address of the person to whom process against it served upon the director is to be forwarded. The insurer may change the designation by a new filing.

HISTORY

(Sec. 1 ch 120 SLA 1966)

AS21.09.190

HEADINGS TITLE 21.

Insurance.

CHAPTER 09.

Authorization of Insurers and General Requirements.

CITATION Sec. 21.09.190.

CATCH LINE

SERVICE OF PROCESS.

TEXT

(a) Duplicate copies of legal process against an insurer for whom the director is attorney under AS 21.09.180 shall be served upon the director, or upon a deputy or other person in charge of the office during the absence of the director. At the time of service the plaintiff shall pay \$5 to the director taxable as costs in the action. Upon receiving service the director shall promptly forward a copy by certified mail with return receipt requested to the person last designated by the insurer to receive it.

(b) Process served upon the director and the copy forwarded as provided in this section constitutes service upon the insurer.

HISTORY

(Sec. 1 ch 120 SLA 1966)

AS21.09.200

HEADINGS TITLE 21.

Insurance.

CHAPTER 09.

Authorization of Insurers and General Requirements.

CITATION Sec. 21.09.200.

CATCH LINE

ANNUAL STATEMENT.

TEXT

(a) Each authorized insurer shall annually, before March 2, file with the director a full and true statement of its financial condition, transactions, and affairs as of the preceding December 31. The statement shall be in the general form and context acceptable to the director, and in current use for similar reports to states in general with respect to the type of insurer and kinds of insurance to be reported upon, and supplemented for additional information as required by the director. The statement shall be verified by the oath of the insurer's president or vice-president, and secretary, or, if a reciprocal insurer, by oath of the attorney-in-fact or its like officers if a corporation unless verification is waived by the director of insurance.

(b) The statement of an alien insurer shall relate only to its transactions and affairs in the United States unless the director requires otherwise. If the director requires a statement concerning an alien insurer's affairs throughout the world, the insurer shall file the statement with the director as soon as is reasonably possible. The statement shall be verified by the insurer's United States manager or other authorized officer.

(c) The director may refuse to accept a fee for continuance of the insurer's certificate of authority, as provided in AS 21.09.130, or may suspend or revoke the certificate of authority of an insurer failing to file its annual statement when due.

(d) At the time of filing, the insurer shall pay to the director the fee for filing its statement as prescribed in AS 21.06.250.

(e) An insurer shall pay to the division \$100 for each day the insurer fails to file the annual statement in the form required and within the time established in (a) of this section. The authority of the insurer to enter into new obligations or issue new or renewal policies of insurance in this state may be suspended by the director if the annual statement has not been filed by March 1.

HISTORY

(Sec. 1 ch 120 SLA 1966; am sec. 1 ch 149 SLA 1984)

AS21.09.250

HEADINGS TITLE 21.
Insurance.
CHAPTER 09.
Authorization of Insurers and General Requirements.

CITATION Sec. 21.09.250.

CATCH LINE
PROHIBITED ACTS.

TEXT An insurer doing business in this state may not make, write, place or cause to be made, written or placed in this state a policy, duplicate policy or contract of insurance of any kind or character, or general or floating policy upon persons or property resident, situated or located in this state, from or through a broker, agent, surplus line broker or person who has not secured a license in this state. An insurer may not pay a commission or any form of remuneration to a person, firm or organization for the writing or placing of insurance coverage in this state unless that person, firm or organization holds a license issued by the director.

HISTORY (Sec. 1 ch 120 SLA 1966)

AS21.09.280

HEADINGS TITLE 21.
Insurance.
CHAPTER 09.
Authorization of Insurers and General Requirements.

CITATION Sec. 21.09.280.

CATCH LINE
GENERAL AGENTS AND MANAGERS.

TEXT (a) An insurer appointing a person as its general agent or manager to represent it in this state shall file notice of the appointment with the director on forms prescribed and furnished by the director.
(b) A general agent or manager has the authority, consistent with this title, that may be conferred by the insurer. A general agent, resident or nonresident, qualified in AS 21.27.090, licensed as provided in this section, may exercise the powers conferred by this title upon agents licensed for the kinds of insurance that the general agent is authorized to transact for the insurer appointing the agent.

(c) Except as provided under AS 21.27.500, the appointment of a resident or nonresident general agent is not effective unless the person appointed is licensed as the general agent of the insurer by the director upon application and payment of the fee as provided in AS 21.06.250.

(d) Every license expires at the close of business on the 30th day of June following the date of issue, and may be renewed for an additional year upon application and payment of the fee.

(e) The director may deny, suspend, or revoke a license for any cause specified in AS 21.27.410 in the manner provided in AS 21.27.420.

HISTORY (Sec. 1 ch 120 SLA 1966; am sec. 7 ch 113 SLA 1974)

AS21.12.020

HEADINGS TITLE 21.

Insurance.

CHAPTER 12.

Kinds of Insurance, Limits of Risk, and Reinsurance.

CITATION Sec. 21.12.020.

CATCH LINE

REINSURANCE.

TEXT

(a) An insurer may accept reinsurance only of the kinds of risks and retain risk within the limits it is otherwise authorized to insure.

(b) An insurer may reinsure all or part of a particular risk with a solvent insurer authorized to transact insurance in one or more states and having surplus to policyholders in an amount not less than the paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance.

(c) No credit shall be allowed to an insurer, as an asset or as a deduction from liability, for reinsurance ceded to an alien insurer unless the alien insurer has surplus to policyholders, or assets held in trust for the benefit of its American policyholders, in an amount not less than the paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance, or in the case of a group of individual unincorporated insurers, assets held in trust for the benefit of its American policyholders in a sum not less than \$50,000,000, and is either (1) authorized to transact insurance in at least one state of the United States, or (2) has an attorney-in-fact resident in the United States upon whom service of legal process may be made.

(d) Credit shall be allowed as an asset or as a deduction from liability, to a ceding insurer for reinsurance ceded to an assuming insurer qualified under (a) - (c) of this section; except that no credit shall be allowed unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer.

(e) Upon request of the director, an insurer shall promptly inform the director in writing of the cancellation or other material change in any of its reinsurance treaties or arrangements.

(f) This section does not apply to wet marine and transportation insurance.

HISTORY

(Sec. 1 ch 120 SLA 1966)

TITLES AND CHAPTERS REFERENCED BY CSSB 288

AS21.12 TITLE 21.
Insurance.
CHAPTER 12.
Kinds of Insurance, Limits of Risk, and Reinsurance.

AS21.18 TITLE 21.
Insurance.
CHAPTER 18.
Assets and Liabilities.

AS21.21 TITLE 21.
Insurance.
CHAPTER 21.
Investments.

AS21.24 TITLE 21.
Insurance.
CHAPTER 24.
Administration of Deposits.

AS21.36 TITLE 21.
Insurance.
CHAPTER 36.
Trade Practices and Frauds.

AS21.78.040

HEADINGS TITLE 21.

Insurance.

CHAPTER 78.

Rehabilitation and Liquidation.

CITATION Sec. 21.78.040.

CATCH LINE

FOUNDATIONS FOR REHABILITATION.

TEXT

The director may apply to the court for an order appointing the director as receiver of and directing the director to rehabilitate a domestic insurer when the insurer

(1) is impaired or insolvent;

(2) has refused to submit any of its books, records, accounts or affairs to reasonable examination by the director;

(3) has concealed or wrongfully removed records or assets or otherwise violated AS 21.69.390;

(4) has failed to comply with an order of the director to make good an impairment of capital or surplus or both;

(5) has transferred or attempted to transfer substantially its entire property or business, or has entered into a transaction the effect of which is to merge substantially its entire property or business in that of any other insurer without having first obtained the written approval of the director;

(6) is found, after examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to its members, subscribers, or stockholders, or to the public;

(7) has an officer, director, or manager who has refused to be examined under oath, concerning its affairs, for which purpose the director is authorized to conduct and to enforce by all appropriate and available means an examination under oath in another state or territory of the United States, in which the officer, director or manager may then presently be, to the full extent permitted by the laws of the other state or territory, this special authorization considered;

(8) has been or is the subject of an application for the appointment of a receiver, trustee, custodian or sequestrator of the insurer or its property otherwise than under the provisions of this title, but only if the appointment has been made or is imminent and its effect is or would be to oust the courts of this state of jurisdiction;

(9) has consented to such an order through a majority of its directors, stockholders, members or subscribers; or

(10) has failed to pay a final judgment rendered against it in this state upon any insurance contract issued or assumed by it, within 30 days after the judgment became final or within 30 days after the time for taking an appeal has expired, or within 30 days after dismissal of an appeal before final termination, whichever date is the later.

HISTORY (Sec. 1 ch 120 SLA 1966)

AS21.78.050

HEADINGS TITLE 21.
Insurance.
CHAPTER 78.
Rehabilitation and Liquidation.

CITATION Sec. 21.78.050.

CATCH LINE

GROUPS FOR LIQUIDATION.

TEXT The director may apply to the court for an order appointing the director as receiver, if an appointment of the director as receiver is not then in effect, and directing the director to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusteed assets in this state, regardless of whether or not there has been a prior order directing the director to rehabilitate the insurer, upon any of the grounds specified in AS 21.78.040, or if the insurer

- (1) has ceased transacting business for a period of one year;
- (2) is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute an action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian or sequestrator under any law except this title; or
- (3) is the Medical Indemnity Corporation of Alaska, and the director has ordered termination of the business of the corporation in accordance with AS 21.88.055.

HISTORY (Sec. 1 ch 120 SLA 1966; am sec. 2 ch 177 SLA 1978)

AS21.78.100

CHAPTER = 21.78
SECTION = 21.78.100
TITLE = 21
HEADINGS TITLE 21.
Insurance.
CHAPTER 78.
Rehabilitation and Liquidation.

CITATION Sec. 21.78.100.

CATCH LINE

ORDER OF LIQUIDATION, DOMESTIC INSURERS.

TEXT (a) An order to liquidate the business of a domestic insurer shall require the director to take immediate possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in the director's name as director of insurance or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present the claims.

(b) The director may apply for and secure an order dissolving the corporate existence of a domestic insurer, except the Medical Indemnity Corporation of Alaska, upon the director's application for an order of liquidation of the insurer or at any time after the order has been granted.

HISTORY (Sec. 1 ch 120 SLA 1966; am sec. 3 ch 177 SLA 1978)

AS21.80.020

HEADINGS TITLE 21.
Insurance.
CHAPTER 80.
Alaska Insurance Guaranty Association Act.

CITATION Sec. 21.80.020.

CATCH LINE

APPLICABILITY.

TEXT This chapter applies to all kinds of direct insurance, except life, title, surety, disability, credit, mortgage guaranty, and ocean marine insurance.

HISTORY (Sec. 1 ch 121 SLA 1970)

AS21.80.180

HEADINGS TITLE 21.
Insurance.
CHAPTER 80.
Alaska Insurance Guaranty Association Act.

CITATION Sec. 21.80.180.

CATCH LINE

DEFINITIONS.

TEXT In this chapter, unless the context requires otherwise,
(1) "account" means any one of the three accounts created by AS 21.80.040;
(2) "association" means the Alaska Insurance Guaranty Association;
(3) "commissioner" means the commissioner of the Department of Commerce and Economic Development or a representative of the commissioner;
(4) "covered claim" means an unpaid claim, including one of unearned premiums, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this chapter applies issued by an insurer, if the insurer becomes an insolvent insurer after August 6, 1970, and (A) the claimant or insured is a resident of this state at the time of the insured event; or (B) the property from which the claim arises is permanently located in this state; "covered claim" does not include any amount due a reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise;
(5) "insolvent insurer" means an insurer
(A) authorized to transact insurance in this state, except an assessable reciprocal insurer formed by and insuring only municipalities or nonprofit public utilities, the Medical Indemnity Corporation of Alaska, and the Health Care Providers Joint Underwriting Association established under AS 21.88, either at the time the policy was issued or when the insured event occurred, and
(B) determined to be insolvent by a court of competent jurisdiction;

AS21.80.180 cont.

(6) "member insurer" means a person, except an assessable reciprocal insurer formed by and insuring only municipalities or nonprofit public utilities, the Medical Indemnity Corporation of Alaska, and the Health Care Providers Joint Underwriting Association established under AS 21.88, who

(A) writes any kind of insurance to which this chapter applies under AS 21.80.020 including the exchange of reciprocal or interinsurance contracts, and

(B) is licensed to transact insurance in this state;

(7) "net direct written premiums" means direct gross premiums written in this state on insurance policies to which this chapter applies, less return premiums thereon and dividends paid or credited to policyholders on direct business; "net direct written premiums" does not include premiums on contracts between insurers or reinsurers.

HISTORY (Sec. 1 ch 121 SLA 1970; am secs. 43, 44 ch 102 SLA 1976; am secs. 5, 6 ch 104 SLA 1983)

AS21.88.055

HEADINGS TITLE 21.

Insurance.

CHAPTER 88.

Health Care Providers Insurance.

ARTICLE 2.

Medical Indemnity Corporation of Alaska.

CITATION Sec. 21.88.055.

CATCH LINE

TERMINATION.

TEXT

(a) If at any time the corporation posts written premiums for two consecutive years of less than 35 per cent of all premiums written in Alaska for physicians' medical malpractice insurance or posts written premiums for one calendar year of less than 20 per cent of all premiums written in Alaska for physicians' medical malpractice, the director may hold a public hearing in accordance with AS 21.06.180 - 21.06.230 to determine whether the business of the corporation should be terminated.

(b) Upon the effective date of an order of termination issued by the director under (a) and (d) of this section, the terms of the governors appointed under AS 21.88.030 expire, and the corporation, its governors, officers and employees are relieved of all further liabilities for all their obligations to the creditors and policyholders of the corporation, and the business of the corporation shall be liquidated according to AS 21.78.

(c) At any time after termination of the corporation by the director, the director may, after public hearing held in accordance with AS 21.06.180 21.06.230 and (d) of this section, order reactivation of the corporation if the director finds that malpractice insurance is unavailable for physicians and hospitals

AS21.88.055 cont.

on the voluntary market. The business of the corporation shall commence operation upon appointment by the governor of new governors to the board.

(d) In determining whether to terminate or reactivate the business of the corporation the director shall consider the following:

(1) the level of expected premiums and losses for

continued operation;

(2) the requirement for state funds to support continued operation;

(3) the availability of alternative markets for coverage to a substantial majority of physicians and hospitals in the state;

(4) the costs of continued operation of the corporation;

(5) the impact that the continued operation of the corporation will have on rates charged for coverage by the corporation or by alternative markets; or

(6) the expected number of physicians or hospitals who would participate if the operations were continued.

(e) If after public hearing held in accordance with (a) and (c) of this section the director determines that continuing the business of the corporation would result in substantial underwriting loss unless excessive premiums are charged to participating physicians and hospitals, the director may order termination of the corporation.

HISTORY (Sec. 11 ch 177 SLA 1978)

AS43.60.010

HEADINGS TITLE 43.

Revenue and Taxation.

CHAPTER 60.

Excise Tax on Alcoholic Beverages.

CITATION Sec. 43.60.010.

CATCH LINE

ALCOHOLIC BEVERAGE TAX.

TEXT

(a) Every brewer, distiller, bottler, jobber, retailer, wholesaler, or manufacturer who sells alcoholic beverages in the state or who consigns shipments of alcoholic beverages into the state, whether or not the alcoholic beverages are brewed, distilled, bottled, or manufactured in the state, shall pay on all malt beverages (alcoholic content of one percent or more by volume), wines, and hard or distilled alcoholic beverages, the following taxes: (1) malt beverages at the rate of 35 cents a gallon or fraction of a gallon; (2) wine or other beverages of 21 percent alcohol by volume or less, at the rate of 85 cents a gallon or fraction of a gallon; and (3) other beverages having a content of more than 21 percent alcohol by volume at the rate of \$5.60 a gallon.

(b) -Repealed, sec. 3 ch 235 SLA 1976.-

HISTORY (Sec. 35-4-31 ACLA 1949; am sec. 1 ch 73 SLA 1957; am sec. 1 ch 61 SLA 1961; am sec. 28 ch 70 SLA 1964; am sec. 1 ch 61 SLA 1971; am sec. 3 ch 235 SLA 1976; am sec. 1 ch 46 SLA 1983)



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

CSSB 288(L&C): Sectional Analysis

- Section 1) Requires the denial of an application for a new liquor license if the applicant has less than \$500,000 in liability insurance coverage.
- Section 2) Requires the revocation of a liquor license if the licensee fails to maintain at least \$500,000 in liability coverage.
- Section 3) Permits the director of the Division of Insurance to become a court ordered receiver for the Liquor License Holders' Indemnification Corporation if the director has ordered termination of the business under 21.85.055.
- Section 4) Excludes the Corporation from the domestic insurance corporations that may be dissolved by the director following liquidation.
- Section 5) Excludes the Corporation from insurers that may be defined as "insolvent insurers" under this chapter.
- Section 6) Excludes the corporation from insurers included within the definition of "member insurers".
- Section 7) Adds a new chapter to AS 21 titled "Liquor License Holders' Insurance Corporation."
- 21.85.010: States that the purpose of the chapter is to provide a means of furnishing liquor license holders with adequate liability insurance for acts or omissions that concern customers on licensed premises.
- 21.85.020: Provides for the creation of the Corporation as a public corporation. Its existence is independent of the state and it cannot encumber the state with any debt, liability, or obligation.
- 21.85.030: (a) provides for the exercise of corporation powers thru a board of governors. The board shall be made up of Alaskan residents appointed by the Governor and confirmed by the Legislature. Four board members must be liquor license holders, and of these, 2 must have

obtained their insurance coverage from the corporation. No more than 2 may reside in municipalities with populations in excess of 100,000 and 2 members must be professionals from the insurance industry and be licensed to do business in the state. The remaining 2 board members must be persons who have no financial interest in a liquor license and are not members of the insurance industry.

(b) establishes a 3 year term of office for Board members and provides for appointments of staggered terms. Also requires that an outgoing board member be replaced by a new member from the same class as described in subsection (a).

(c) provides that upon early termination by a board member, the governor shall appoint a replacement from the same class as described in subsection (a).

(d) provides that the director or a designee may participate in all board meetings but does not have voting privileges.

(e) provides for compensation and reimbursement of expenses for members of the board under a policy approved by the director.

(f) holds harmless past and present board members and employees of the corporation for business related conduct unless the conduct was knowingly outside the scope of authority, knowingly against the interests of the corporation, or in a criminal action, the person acted knowingly or recklessly.

(g) provides that a board member, or employee under this section is entitled to defense by the state in a court action. The board member or employee shall be required to reimburse the state for the defense if it is established that the person's conduct was knowingly outside the scope of authority, knowingly against the interests of the corporation, or in a criminal action, acted knowingly and recklessly.

(h) defines "knowingly" and "recklessly" as having the meaning given in AS 11.81.900 (see statutes in members packet)

21.85.040: (a) provides that the board shall prepare an operating plan for the corporation, which will become effective upon approval of the director. In the event the board fails to submit a plan or necessary amendments, the director shall, after notice and hearing, adopt such a plan as is necessary to carry out the provisions of this chapter. Adoption of the plan is not subject to

the administrative procedures act.

(b) provides that the plan of operation shall establish procedures for the performance of corporation duties, procedures for handling assets and liabilities, meeting schedules for the board of governors, record keeping, awarding of contracts, issuing contracts of insurance, and determining rates.

21.85.050

(a) provides that the corporation shall issue to all liquor license holders who are acceptable risks and who pay premiums, insurance contracts of indemnification for themselves and their employees against losses in excess of \$50,000 for covered claims. The corporation shall defend its insureds in actions for damages. Coverage is limited to \$500,000 and the corporation need not indemnify for punitive damages on a covered claim. Coverage may be provided for an earlier period if approved by the director. Coverage may not be provided for a claim already made, or for a claim which the license holder had or reasonably should have had notice. Insurance premiums shall be determined by the board of governors and approved by the director. The corporation must comply with all applicable general insurance regulations, but is exempt from the Alaska Insurance Guarantee Association. It must honor its contracts to its insureds, establish standards for the acceptability of risks, and may exclude applicants on risk selection factors.

(b) provides that the corporation may employ and compensate persons and that these persons are not state employees. The corporation may get reinsurance from private insurers, borrow or advance funds, enter into contracts for corporation purposes, litigate in the name of the corporation, provide risk management advice, contract for management services, and perform other necessary acts.

21.85.055

(a) provides that the director may hold a public hearing to determine whether the corporation should be terminated if the corporation posts less than 35% of the premiums written for two consecutive years or less than 20% for one year.

(b) provides that upon an order of termination by the director the terms of the members of the board expire, the members obligations end, and the corporation shall be liquidated.

(c) provides that after termination of the corporation it may be reactivated by the director if it is determined that liability insurance is unavailable for liquor license holders on the voluntary market. The

reactivated corporation shall commence business on the appointment of a new board of governors by the governor of the state.

(d) provides that in determining whether to terminate or reactivate the corporation, the director shall consider the level of expected premiums and losses, the requirement for state funds needed to operate, the availability of alternative insurance markets, the costs of continued operation, the impact of continued operation on rates, and the expected number of insureds in the event of continued operation.

(e) the director may order termination of the corporation if, after public hearing, it is determined that continued business would result in substantial underwriting losses unless excessive premiums are charged to participants.

- 21.85.060 The corporation shall be taxed in the same manner as a domestic insurer.
- 21.85.070 requires that the corporation maintain records sufficient to determine losses for rate making and to maintain loss control. Information regarding reserves, premiums, expenses, and claims shall be annually reported and made available to the public. The director may require supplemental reports that include names of insured persons and claimants.
- 21.85.080 provides that policy rates shall be determined by license categories. A minimum rate may be set for each category of liquor license holder. Rates may not be excessive in terms of premiums unjustifiably exceeding losses. Rates may not be inadequate in terms of losses exceeding premiums. Rates may not be discriminatory. Rates shall be adjusted annually based on actual experience of the corporation over the previous 4 years. Rate considerations shall include national trends in damages, income from the investments of reserves, individual risk underwriting factors, classifications within license categories, and amounts necessary for loan repayments. If the corporation suffers excessive claim losses for a given year, the corporation may levy a special assessment, subject to approval by the director, against policy holder for that year. This special assessment may be made in installments within 3 years, and may not exceed 150% of the insured's premium for the given year. The obligation is not cut off by policy termination. If earned premiums for a given year prove excessive, the corporation may, subject to approval of the director, pay or credit the excess to persons insured during the given year. The director may extinguish special assessments under this section upon the finding of a sound actuarial basis.

21.85.090 provides for installment payments of premiums. Permits the cancellation of policies for nonpayment of premiums by delivery of notice to the insured and to the ABC Board. Cancellation is not effective until 30 days after the notice.

21.85.095 (a) permits the corporation, subject to approval by the director, to transfer its assets and liabilities to a company that is certified to transact casualty insurance in this state. The company must pay full value to the state for any surplus in the corporation, reinsure all policy obligations, and meet other reasonable requirements of the director. A written statement of compliance with these requirements must be submitted to the board of governors by the company.

(b) provides that while the company continues to write premiums at levels required under 21.85.055, it may carry forward and offset against its premium tax obligation to the state, the amount by which the aggregate claims paid on reinsurance assumed exceeds aggregate reserves on business established at the date of the reinsurance agreement.

21.85.210: Provides that the corporation shall establish a reserve fund as required by DCED.

21.85.900 Definitions section

Section 8) The tax imposed during the period January 1, 1986 thru December 31, 1986:

Malt beverages: \$.70 a gallon or fraction of a gallon

Wine (21% beverages): \$1.70 a gallon or fraction of a gallon

Beverages above 21% alcohol: \$11.20 a gallon

Section 9) The purpose of the tax rate increase in section 8 is to compensate the state for appropriations made to the reserve fund enacted in section 7 of this act. If the Department of Revenue collects more than \$5,000,000 resulting from the increased tax rate during 1986, the excess shall be refunded by the department to taxpayers in proportion to the taxes paid by each taxpayer under 43.60.010 during the months subject to the increased tax rates.

Section 10) This act takes effect on the effective date of an Act making a special appropriation to the reserve fund established in section 7 of this act.

Chairman's Information:

- 1) CSSB 288(L&C): "An act relating to liquor license holder's insurance; and providing for increased alcoholic beverage taxes and providing for an effective date"

- a) Introduced: Sen Josephson, Ziegler, and Ferguson

- b) Co-Sponsors:

- 2) INTENT: This legislation creates the liquor license holders' indemnification corporation of Alaska to address a statewide problem of prohibitively expensive or unavailable insurance for liquor dispensing businesses in the state. The legislation proposes to create an insurance corporation similar to the MICA concept for the medical profession, and will require a fiscal note to capitalize the reserve fund. Further, the bill proposes to double the liquor taxes for a period of one year (July 1st 1985 thru June 30, 1986) to off set the cost of the \$5.1 million dollar fiscal note needed to capitalize the reserve fund.

FISCAL NOTE: One fiscal note from the Dept of Revenue is 0; another fiscal note from Revenue indicates they would generate \$7,250,000 thru the increased liquor taxes; There is a \$5,100,000 fiscal note being prepared by DCED for the capitalization of the reserve fund.

- 3) ADDITIONAL REFERRALS: Finance

- 4) PUBLIC HEARINGS:

- a) Sponsor:

- b) Public witnesses:

- 5) BILL ACTION:

- a) Hold in committee?
- b) Assign to sub committee for further review?
- c) Move from Committee?
- d) close public hearings?

- 6) COMMITTEE ACTION:

- a) amendments?
- b) CS adoption?

SENATE LABOR AND COMMERCE
STANDING COMMITTEE

May 3, 1985

3:30 p.m.

Members Present: Sen. Fred Zharoff, Chair

COMMITTEE CALENDAR

CSSB 288(L&C)	"An Act relating to liquor license holders' insurane; providing for increased alcoholic beverage taxes; and providing for an effective date."
CSHB 102(Fin)	"An Act relating to the Alaska Resources Corporation; and providing for an effective date."

WITNESS REGISTER

Dave Gray
Representing City of Kodiak
836 Calhoun
Juneau, Alaska 99801
Position statement: Present to testify on CSHB 102(Fin), did not testify.

Charles Bytebiere
Alaska General Agencies[?]
Alliance Insurance
405 E. Fireweed
Anchorage, Alaska 99801
Position statement: Present to testify on CSSB 288(L&C)

Paul Trueh
Dept. of Commerce and Economic Development
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2515
Position statement: Present for CSSB 288(L&C), did not testify.

Don Koch
Dept. of Commerce and Economic Development
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2515
Position statement: Present for CSSB 288(L&C), did not testify.

Chris Ulmann
Dept. of Commerce and Economic Development
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2515
Position statement: Present for CSSB 288(L&C), did not testify.

Bruce Botelho
Dept. of Revenue
Pouch S
Juneau, Alaska 99811
465-2300
Position statement: Present for CSHB 102(Fin), did not testify.

Marty Lentz
Dept. of Revenue
Pouch S
Juneau, Alaska 99811
465-2300
Position statement: Present for CSHB 102(Fin), did not testify.

Jeff Bush
Dept. of Law
Pouch K
Juneau, Alaska 99811
465-3600
Position statement: Present for CSHB 102(Fin), did not testify.

Greg Baker
Dept. of Commerce and Economic Development
Office of Commercial Fisheries Development
Pouch D
Juneau, Alaska 99811
465-2162
Position statement: Present for CSHB 102(Fin), did not testify.

ACTION NARRATIVE

COMPLETE TRANSCRIPT

Tape #28
Side A
003
3:40 p.m.

Sen. Zharoff: We don't have enough committee members here to open the meeting but since we do have visitors from out of town -- and if we do receive a quorum we'll open the meeting officially -- we'll go ahead with the questioning and see what information has been supplied us this time, and we'll also transcribe this for the other members of the committee. And if we do have a quorum, toward the end of the meeting, we'll open it and either take action or no act on on this bill.

Senate Bill 288, the one that we had previous testimony on, on Wednesday, we'll go ahead and continue the testimony at that time. There's a suggestion here by Mr. McLean to hold the bill until Monday but the version you see there superceded that, but probably his wisdom was greater than ours -- he realized we probably wouldn't have a quorum today -- maybe we shouldn't listen to him, but since we do have a visitor from out of town and Senator Josephson is the prime sponsor of the bill, there were some questions that came up; maybe we could just informally address those now, and if you wanted to speak up loudly we could probably pick it up with the mike there. Let us know if we're not getting the reading on there. For our information, would you give us your name.

033

Charles Bytebiere: My name is Charles Bytebiere.

Sen. Zharoff: I realize you haven't had an opportunity to see the committee substitute [for CSHB 102(Fin)] that we've been working on, but in regards to the original bill, if you have any specific comments... We were concerned about what the insurance industry was doing as far as providing insurance for various businesses in the state; in this case, here, the liquor industry at this time appears to be without insurance, more than anything, unless that's a misunderstanding on my part. Maybe you might correct us there, and then also, between Sen. Josephson and I, I guess we'll go through questiona, and run through this rather informally.

Charles Bytebiere: I do believe there is a misunderstanding here. We have a company writing liquor liability currently in the State of Alaska, the Alliance Insurance Company. In the last 60 days we have probably had in excess of 300 applications submitted. It was not until this last week that we finally refused to quote one, but one out of in excess of 300 applications submitted. It was not until this last week that we finally refused to quote one. But one out of in excess of three hundred and that was what we felt was for good cause. There is a liquor market available, albeit it is more expensive than last year, and I think probably this is what has caused most of the consternation. The coverage is available, excess coverage is available over the company that we have writing it, and umbrella coverages are available.

Sen. Josephson: Are these 300 applicants retail stores or bars?

Charles Bytebiere: A combination. We've had everything from package stores, that's been the minority, we've had combination restaurant and bars, we've had the pure bar.

Sen. Josephson: I talked, before introducing the bill, to Marsh & McLennan, both I think in Fairbanks and in Anchorage, and one other underwriter. I also talked to people across the country involved in insurance. What I was told, and what I saw in documents, was that the bar owner who a year ago was paying premiums of \$4,000 per year, was being quoted premiums of \$26,000 per year.

Charles Bytebiere: Entirely possible. Now, can I go into that for a moment?

Sen. Josephson: Sure.

Charles Bytebiere: I'm sure with the work you've done with insurance, you're aware of the ISO rating bureau.

Sen. Josephson: No, I'm not.

Charles Bytebiere: This is an independent bureau, having nothing to do with any particular insurance company, that sets both rates that must be charged, and then sets a suggested guide "A" rate. Companies are not obligated to follow the "A" rates. The rate for a half-million [dollars] suggested by the ISO, is, I believe, or let's go to 300,000[dollars], is about a 3½ rate per \$100 of gross receipts. The current rates that we are charging, at the most expensive when you're into your pure bar, is about \$2.00. The problem comes as the past year was being written at about a 30¢ rate. It's obvious that the 30¢ rate was not going to be sufficient to pay the losses, and while the rates are extremely higher than last year they are still not up to the recommended rate level of the insurance rating organization.

Sen. Josephson: But the point is, that from the standpoint of the bar owner, who's only concerned with his bottom line, these rates may not be affordable. I'm sort of surprised that your testimony is that 299 people have found they were affordable. Is that what you're saying? They've signed up for this insurance?

Charles Bytebiere: I would say not the whole 300, no. I would say probably closer to 50%. But on the affordable, let's turn that for a moment. It doesn't matter whether it's private industry, whether it's the state running an insurance company, or what, you have to collect enough premiums to pay your losses.

Sen. Josephson: Well, there isn't any criticism involved here. If I directed an insurance company, I'm sure I would do the same thing. You're not in business to lose money. The question, though, is whether the insurance industry, in the light of the modern-day litigation climate, has simply broken down in its ability to handle, at affordable rates, the problems of the [liquor] industry. That's the question, it's not a question of fault or blame. And that's the perception that I have and some of my colleagues have: that a bar owner who could make it at \$4000, has the Hobson's choice of either being uninsured at \$26,000 or going broke, in some instances, or if not going broke, deciding that the game is worth the candle, and getting out of the game, and letting somebody else we may not want in the business operate instead.

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Charles Bytebiere: Well, first I'd like to give you a copy of an article that appeared in the Anchorage paper yesterday [Anchorage Daily News, 5-2-85, "Insurance Rates..."]. I think it explains the current situation very well.

Sen Josephson and Sen. Zharoff: We have it.

Charles Bytebiere: Applying the line of reasoning that you are applying Senator [Josephson], we might as well expand the company to take in at least a dozen different areas.

Sen. Josephson: Yes, I know...

Charles Bytebiere: There are other areas that are far worse off than the bar and restaurant situation. As you know there are certain areas that have virtually become uninsurable. The restaurant owner has a rather unique -- or bar owner, whichever the case may be -- has a rather unique situation. He is looking at a pure overhead cost. Now let's break down the cost of liquor liability from his \$4000 last year to \$20,000, which sounds spectacular, and let's take a look and say, "Alright, what is this man paying on a per drink basis." If we're talking about 2% of his gross receipts, we're talking about 6c on a \$3 drink. I don't think that's an unreasonable overhead item, and I think that can be passed on to the customer. I don't see how the passage of this bill is going to reduce the amount of the judgements. I don't see where it's going to reduce the amount of dollars needed to pay the claims. I think all we're going to do is form another insurance company who is ultimately going to come to the same rate schedule.

Sen. Josephson: We thought we were going to do that because we eliminate coverage for claims under \$50,000.

Charles Bytebiere: I was curious about that, because, again, if we're into a standpoint of picking \$24,000, which incidentally is the high end of the scale, if the \$24,000 is not affordable, I can't understand the thinking of a \$50,000 deductible.

Sen. Josephson: The thinking -- I can explain that if you'd like -- but I'm not sure the Chair wants me to do that...but through the Chair I'll simply say that that was suggested to me, very frankly, by the Insurance Commissioner of Minnesota, who said that one of the problems in this field is that very often the money is consumed, and the negotiation and arbitration between the carrier for a driver and the carrier for a bar handling claims under \$50,000. In our state we are moving to the mandatory insurance program for drivers with \$50,000 required limits, and we are trying to encourage victims to look to that source as the primary source, discourage claims against the bars in the first place. That isn't going to work in a lot of instances, I recognize. But that is the theory of the \$50,000 deductible. It doesn't prevent somebody from getting other insurance if he wants to. That's the theory.

Charles Bytebiere: I understand the theory. It is a frightening one to me simply because in all of the claims I've had presented to me I've never had a joint claim presented against a driver and a bar. They might both well be sued, but the driver's insurance is going to be wiped protecting the driver, and then the bar is going to, I feel in most cases, be facing that \$50,000 deductible, and at that point you may have well put them out of business.

Sen. Josephson: I don't understand what you're saying...

Charles Bytebiere: If, for instance, I go into a bar and I have too much to drink, and am involved in an accident which results in a liquor liability suit, it's not going a joint suit against the bar and myself, there's going to be a suit against me, there's going to be a suit against the bar. I am not going to tender my limits to the bar to satisfy their deductible. If you could get into a negotiation between carriers it might work. But I think the chances are greater that the bar will pay the \$50,000 deductible and will not have the benefit of the individual driver's limits. The other problem is that not all liquor liability claims arise out of automobiles. And in this particular area you would have a real problem.

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Sen. Josephson: How many carriers are there, in your opinion, who now, besides Alliance, who now write this kind of insurance?

Charles Bytebiere: On a primary basis, none. On a primary basis they are the only carrier who is currently interested. There is another carrier who will do the excess coverage -- take it up to a half-million [dollars], then there are several umbrella carriers; obviously once you have the half-million primary in place, we'll write an umbrella.

Sen. Josephson: Well, insofar as you make the point that other businesses are facing the same problem, we're aware of that. In fact, this is not the first time the Legislature has tried to address this issue, as you know; we did it with the doctors, the medical profession. What the Legislature has to determine is whether you in the private sector are going to be able to handle the problem or whether you won't. I suppose Alliance could elect not to be here at all, and then we'd have nobody.

Charles Bytebiere: That's true. But I think we face that with every line of insurance we have. There are others who are even a little bit worse off right now.

Sen. Josephson: There is a social problem connected with this, apart from the [Division of] Insurance Director's testimony that about 90% of the bars don't have coverage. This was the testimony we got at the last meeting. I guess you disagree with that, by the way.

Charles Bytebiere: I can't speak, I don't know what the total membership is doing. I know the figures of the ones that have been submitted to me, and we write far in excess of 10%.

Sen. Josephson: The social problem is that if reliable or responsible operators decide that this is pushing them over the brink, and I'm not omitting what you say about how it's affordable, but if that's their decision, the licenses they hold are very valuable, whether they are low-volume, neighborhood bars or high-volume discos. And they may simply decide that it isn't worth their time anymore to pour drinks for Joe and Mary...at the bowling alley, and just sell those licenses to people that are even undesirable in Alaska. We can't control that...

Charles Bytebiere: Well, I think that's more into the domain of the Liquor Control Board. We recently had a bar in Anchorage closed for that very reason. There was a out-of-state Mafia-suspected figure involved in the ownership, and while it was never in paper, the liquor license was taken. And I think that that is something that is under the control and domain of the Liquor Control Board.

Sen. Josephson: Thank you, Mr. Chairman.

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Sen. Zharoff: I guess our concern was at least affording or providing some means of insurance to those people in the liquor industry that would like to have it, but right now don't have the accessibility to it, whether its prohibitive by cost or whether the insurer will just not serve a certain area.

Charles Bytebiere: If there is a prohibition, it is purely from cost, because we have seen bars from Nome and Barrow, Anchorage, Fairbanks, Kenai, and, as I say, only one have we declined to provide a quote to. So it is not a prohibition on anything other than cost. We have covered all classifications, the rates will vary. If you have a restaurant and bar where the bulk of the receipts are food, it's not going to be nearly as expensive as the pure bar, the bar with the dance floor, the live entertainment, the disco. But coverage has been available to anyone up to this point who has asked. As to the question of Marsh-Mack [Marshall & McLennan], we have written several accounts for them. We have not written everything we quoted.

Sen Josephson: Are the rates comparable with the same classification in Cordova as they are in Anchorage, or Seward as they are in Anchorage?

Charles Bytebiere: Um-hmm. I should have brought one of the applications that the company designed along and you could get a feeling from reading the application what influences the rate. Starting at the low end of the scale, if you have that small pizza place that's selling beer and wine and doesn't even have a separate bar, the rate is extremely low. You go from there into the restaurant that does have a bar, but the liquor is mainly an accomodation of the food. You go from there to the restaurant and bar that's doing more liquor than they are food, into the pure bar, the disco, and you will see a rate change at each level. Geographical location does not affect the rate.

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Sen. Zharoff: I don't know, I might be mistaken, but I thought we were kind of led to believe last time, there towards the end of our meeting, that there was more optimism in terms of additional providers. Maybe you could touch on that.

Charles Bytebiere: There may be. I am not aware of one, but there are people working probably on a daily basis looking for providers.

Sen. Zharoff: Well I think you were to have been the bearer of good news, but maybe not.

Charles Bytebiere: Well, I think what you're going to see happen is that once the ink turns black on the results of liquor liability, then you will see other markets come in. There's very little desire for an insurance company to go in and be at risk where the ink is always red. If we get the loss ratios turned around this year, then I think by the end of the year there is hope that you will see other companies, if they feel they write it profitably.

Sen. Josephson: What is your impression...is the tendency in this Legislature of a new dram shop law affecting this industry or is it instead the scarcity of coverage or the cost of coverage attributable to hard dollar results and litigation, and national trends?

Charles Bytebiere: This is one man's opinion: I think we do have a very, very tough climate in this state for...we have a tough legal climate. Our juries many times have given some awards that you have to sit back and wonder about. There may be concerns in the minds of insurance companies as to a new dram shop act. From a realistic standpoint, you might as well pass a new dram shop act, because that's the way the juries are interpreting it anyway.

Sen. Josephson: I made that statement last time, that I thought it was "much ado over nothing."

Charles Bytebiere: I would rather see the juries interpret the law the way it is currently written. But I think they have taken the avenue of: they are settling on ordinary negligence. They are not demanding criminal negligence. This probably more than anything else is one of the difficulties, but again it comes down to the matter of if you can make the business profitable, then you will have additional capacity. If we can't make it profitable, then it doesn't matter whether its a state company, a private carrier, it's going to become unavailable. In reading the bill, quite frankly, if I were in the liquor industry, I would be afraid to let the state company write my insurance. Because it's an accessible company, You may tell me I have a premium of \$6,000 and at the end of the year send me an additional \$9,000. You cannot operate at an inadequate rate, by the law, the wording of the law, if you show a 300% loss ratio your first year because you were unfortunate and got hit with a couple of lawsuits, what's this going to do to your rate for the coming year? I think the danger that you're going to get into is if there is private insurance available as well as state insurance, then the State's company should be unfortunate enough to suffer a severe loss ratio, which can happen to any company. You're going to drive the

better class of business out of your company because your rate level is going to go up. As I read the bill, you have no choice. Not only will the rates go up, but you'll be penalized retroactively, with an assessable policy. So what the insured is really doing under this, is he's giving you a blank check.

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Sen. Josephson: One of the results we think would happen, of course, is that, for the very reasons you mentioned, the industry would begin to police itself much better than it does. Every bar owner would have a stake in how every other bar does business. And I think there's positive benefits from that.

Charles Bytebiere: I think it's a good theory. I question it. I look at the problems the bar owners have right now, and I can't understand why the inducement isn't already there. I look at their rising premiums, I look at the dollars they're paying, and yet, you can walk into a bar and it is obvious that the person standing behind that bar, if they're an employee, has never been given any instructions as to how much liquor they can pour for a customer. The idea, the other thing that is frightening is the motive is the hammer motive, in that we're going to hit you with a \$50,000 deductible, we're going to slap you with an assessable policy, and we're gonna bring your rates up to whatever the rate level is. I think what you will find is the better class of business drifting out. And you will wind up with problem areas.

Sen. Josephson: If you permit that choice.

Charles Bytebiere: Well, your bill does not say that it would be mandatory that all bars would have to be written through this company. So I would imagine that the choice would be there.

Sen. Josephson: I think we do require that there be insurance.

Charles Bytebiere: Yes.

Sen. Josephson: We would not provide -- I say "we", the corporation -- would have the right not to write to the problem area.

Charles Bytebiere: Alright, now, what is the corporation accomplishing, if you now have twenty bar owners that walk in and says, "The corporation has denied us insurance." This is a judgement call. Any underwriting decision is a judgement call, and now you've got the same problem we've gone to all the trouble of forming a company, but it's not an assigned risk plan. It's not something where the man can apply and be guaranteed coverage. And if I am underwriting for that company and trying to turn a profit, what you really have done is just created another insurance company.

Sen. Josephson: We do accomplish, perhaps, is getting that license out of Alaska, or out of business, unless the licensee can get insurance somewhere else.

Charles Bytebiere: The next question, and I would really be concerned here, is your requirement for insurance on the bar, and don't get me wrong, I'm not championing drunk drivers, but why are you discriminating? Are you gonna tell the corner restaurant that they've must carry a quarter of a million dollars worth of insurance? Are you going to take the retail store downtown and say, "You can't open your doors or get a business license until you have a quarter of a million dollars?"

Sen. Josephson: That's not...Mr. Chairman, we do require certain key industries to provide insurance against certain kinds of contract bonds and kinds of public works and so forth, so that's nothing really new. And there's a tradition or history in America, which the courts have recognized, of particular regulation affecting the sale of alcohol. I don't really think that's an anomaly that we...

Charles Bytebiere: As I say, it's only a question. If I were a bar owner I might be upset; it doesn't bother me one way or the other. But as a bar owner I might wonder, "Why am I being singled out, as opposed to other main. St. businesses that are not being forced into this area."

Sen. Josephson: If the Chairman will permit me again, let me get your advice in another direction. If you were sitting where Senator Zharoff and I sit, and you wanted to make sure that you had a viable local industry, responsible industry, that did have insurance coverage, what would you do?

Charles Bytebiere: I think I would look first to the private sector, see if it's available there. And if it's available there, then I would have to let the private sector take care of it.

Sen. Josephson: And would you be concerned about the cost, or would you just say, "Well..."

Charles Bytebiere: Well, my feeling is that as long as you are dedicated in your bill, to at least operating at a break even point, the claim will not be any less, regardless which company is paying the claim. You're still going to require...if the claim is a half million dollars, it matters not whether it's the corporation that's paying the claim or the XYZ Insurance Company, you still need the half million dollars. I don't think you can operate the corporation any cheaper from an expense standpoint than an insurance company is going to operate. And I don't think you would be willing to settle for any less profit. I don't think that the cost is going to vary, and it makes not a bit of difference who is running the insurance organization.

Sen. Josephson: Do you have any reason why Alliance still finds this an attractive market, and somebody else doesn't?

Charles Bytebiere: They have provided liquor liability on an almost nationwide basis for the last several years. The other thing that I would question here, and I would put out for your thoughts...I don't know how many liquor licenses we have in the State of Alaska...

Sen. Josephson: Four- or five-hundred in the bar business.

Charles Bytebiere: Insurance is basically nothing more than a game with the law of large numbers. I do not believe that if you take an insurance company and you say to them, "You have available only a thousand clients, and that's providing that you can write every client that there is in the state," that you have a sufficient base to make anything credible. I think that your experience would become distorted very quickly because you have a maximum; if you have 500 bars then you throw in the restaurants and the package stores and maybe you have 1500. But you have a maximum of 1500 clients. If price is the consideration, and we manage to lower the price to an average of \$4000 a bar the premium spread is not big enough. As I say, it's almost too specialized with too small a client base.

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Sen. Zharoff: I guess that one of the concerns that we've had here is that -- you might correct it if I'm wrong -- I was under the impression that a number of the people in the liquor industry have looked for some sort of private insurance of some kind, and the difficulty in obtaining it, either the difficulty or the cost...

Charles Bytebiere: The cost is high. That, as I say, I can't deny. The only real difficulty that came in obtaining it is that there were two markets that simultaneously elected to cancel all of their existing business. We came up to cancel all of their existing business. We came up with a common cancellation date on some 250-300 accounts. Now, to try to get that processed and get quotations for people in a week's time, there was too much paper. Some people had to go [indist.] for a week, ten days, two weeks before they could get a quote, simply because of the crush of business that was liquidated, so to speak.

Sen. Zharoff: Was this a result, here, of trends nationwide, or is it just Alaska being singled out, or what?

Charles Bytebiere: I think liquor liability is difficult nationwide. It is more difficult in probably half a dozen states because of the past track record. There are some states that liquor liability is extremely inexpensive in. California changed their law a couple of years ago and said the bar is not responsible for the actions of its customers. Obviously, liquor liability is not that much of a problem in California now. By court award, by jury award, we are a difficult state, but we have at least a half a dozen states that are in the same position. We are what's referred to in the industry as a "class A" state.

Sen. Zharoff: A "class A" state?

Charles Bytebiere: For liquor liability. You don't get any worse.

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Sen. Zharoff: I know you had copies of the article that appeared in the Anchorage Daily News yesterday. Did you have any comments on that one that you wanted to share with us?

Charles Bytebiere: I think that this has probably given us a good feeling of what has created the problem. Up until we've had a problem and too many people not involved in the insurance industry have not been aware as to why, and I think it does give us a good explanation of what is causing the problem.

Sen. Josephson: I think we'll look into what your testimony is with our own Director of Insurance, who helped draft the bill, and who has the job of making sure that every insurance entity is viable, on whom we rely for information. I have said to Mr. McLean and others that if someone can show me that there is a viable private market and it's affordable, which is a judgement, I would prefer, too, to see the private sector do that, but on the other hand, not to be redundant about it, I will, as an individual legislator, as long as I am down here, and when an Alaska business group comes to me and says we can't get coverage in the Alaska market and I can see a way that the state can help without a subsidy, I mean either through license fees or some other way explore that, I'm going to keep doing that as I did with doctors, in fact, I was a lobbyist for the doctors before I got here. I think there should be insurance mechanisms; I just feel that way. I will say that we're also looking at the other side of the coin which is the liability regime, and we have some proposals, not the Governor's proposal but other proposals, for amending the dram shop law, which might be helpful too. So, with that Mr. Chairman, I thank you, and Mr. McLean for having this witness before us. My suggestion would be that we get back to the people in the industry who have complained about this, and see if they agree that coverage is available at all. Because I will say that just, I believe, two Saturdays ago I met with twelve business people from CHAR in Anchorage, and the impression I was getting then was that the insurance is not available. And they may not know of you and your office...

Charles Bytebiere: Possible...

Sen. Josephson: I'm going to send you some business, because I'm going to send them your name and address, so that...

Charles Bytebiere: One of the CHAR representatives asked me in the hall to meet with him in Anchorage next week.

Sen. Josephson: O. K. Thank you very much Mr. Chairman.

Sen. Zharoff: Was there anybody else that wanted to comment on Senate Bill 288? Well, thank you Mr. Bytebiere.

Sen. Josephson: I'll excuse myself, and I want to thank the Chair for having this brought out in this way.

Sen. Zharoff: Are you gonna leave me alone, just like the rest of the committee, or...

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Sen. Josephson: I'm being summoned by some municipal people from Anchorage...

Sen. Zharoff: I see...

Sen. Josephson: I'll come back.

Sen. Zharoff: I see. Whichever way the wind blows, there! Not having sole dictatorial powers I can't pass this out on my own. And we apologize to everybody that did show for this bill, in great anticipation that it would move today. Another period of disappointment. I think we've got some questions, we've been working on a draft that has gone through several reviews, and there are still some technicalities in there. There's a good possibility we may see it again. I don't see any real action this year. We might look at it during the interim, as suggested, and possibly we may want to call on Mr. McLean, there, for some assistance. House Bill 102, for those who are waiting in great anticipation, we'll have to hold that one for Monday. With that we'll adjourn.



who's
back?

Lifestyles, Page J-1

prize:
\$187,000

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Anchorage Daily

VOL. XL, NO. 119, 170 PAGES

ANCHORAGE, ALASKA, THURSDAY, MAY 2, 1985

Insurance rates balloon as much as 600 percent

By **RONNIE CHAPPELL**
Daily News reporter

Huge losses have forced insurance companies doing business in Alaska to raise some commercial premiums 600 percent while new businesses are having an extremely difficult time buying coverage at any price, state officials say.

Concern is also growing that some insurance companies will not be able to meet their financial obligations in the event of large claims, said Don Koch, chief of the market surveillance section of the Alaska Division of Insurance.

Two insurance companies doing business in Alaska went bankrupt last year, Koch said, "and I'm particularly concerned about six or seven others."

Several may be asked to cease operation in Alaska or to "stop writing certain kinds of insurance because they are unduly exposing themselves and the public," Koch said.

Others have voluntarily stopped writing new policies and are canceling old ones in order to bring potential liability into line with company assets.

According to Koch, the problems are generally limited to companies that specialize in business property, workman's compensation and liability coverage.

Alaskans can expect to pay more to insure their homes and personal automobiles, he said, but the increases will be minuscule compared to the increases seen by

Policies are steep and scarce

By **RONNIE CHAPPELL**
Daily News reporter

KENAI — Last year Kenai River fishing guide Harry Gaines was able to purchase business liability insurance for \$125. This summer, he may have to pay six times as much.

"The insurance companies are asking as much as \$1,000 and I've checked with just about everyone of them that writes this kind of insurance," Gaines said.

Gaines, a well established guide, will be able to absorb the higher premiums. But the new rates will work a signifi-

See Back Page, POLICIES

some Alaska businesses.

Doctors are paying two to three times as much for malpractice insurance while architects and consulting engineers have seen premiums increase 400 to 500 percent.

Bars and restaurants that can

See Back Page, INSURANCE



Policies

Continued from Page A-1

cant hardship on smaller operators, he said.

The premiums are increasing, Gaines said, even though there has never been a significant claim filed against a Kenai River fishing guide. Gaines blames a change in state regulations requiring guides to purchase liability coverage.

"Now that it's mandatory, they're really putting it to us," Gaines said.

Not so, said broker Steve Schumacher of the Leo Oberis Insurance Agency in Kenai. "All rates, across the board, have gone up" as insurance companies struggle to stem a rising tide of red ink caused by declining interest rates, low premiums and losses that exceed income.

"The companies are losing money so fast they don't have time to look at individual segments of the business," Schumacher said. "They're taking a broad brush approach."

"My own insurance is going to triple this year. It's nothing I like either."

According to Schumacher, his company will pay more than \$50,000 for an "errors and omissions" policy that cost him less than \$20,000 last year.

"My rates have more than doubled in the last two years," said Dr. George Garnett, who maintains a large family practice in Soldotna. Last year, Garnett paid \$5,000 for malpractice insurance. This year he's paying \$11,000.




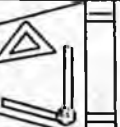


The situation is much the same at Central Peninsula General Hospital, where the Lutheran Homes and Hospital Society is paying \$54,000 a year for liability insurance, an increase of 172 percent over 1981.

Commercial fishermen can expect to pay 25 to 30 percent more for hull insurance this year, said broker Mike Miller of Northern Marine Insurance in Juneau.

William Nelson, who oper-

Premium Stock

Rates for business are up all over

	FISHING VESSELS Obtaining insurance for a Bering Sea crab boat is next to impossible.
	EARTHQUAKE INSURANCE Next to impossible to buy.
	DOCTORS Malpractice insurance is up 200 to 300 percent.
	ARCHITECTS & ENGINEERS Premiums are up 400 to 500 percent. Coverage for "errors and omissions" can cost \$30,000 per year.
	BARS & RESTAURANTS Liquor liability is hard to obtain. Those who can get it are paying 700 to 800 percent more than last year.
	FISHING GUIDES Coverage is now mandatory for Kenai River fishing guides and premiums can cost 600 percent more than last year.

Anchorages Daily News-Pen Register

ates a small but successful consulting engineering firm in Kenai, saw the cost of his "errors and omissions" policy jump from \$3,800 to \$16,000 in one year, an increase of 450 percent.

"I didn't have any claims and I've never had any problems. It just went up that much," Nelson said.

To date, Nelson has been unable to pass the additional cost on to his customers because he's now completing contracts that were bid before his insurance premiums soared.

tors today to continue his push for a special election this year to request voter approval of a \$350 million package of general obligation bonds. "This study would be-

House, Senate lawmakers agree on \$62 million for Anchorage projects

Continued from Page A-1

million in federal highway money that is earmarked for Anchorage projects, Falls

his share of the total state construction budget. Wanting to avoid vetoes by the governor, legislators have traditionally tried to appropriate

Insurance rates up; some firms in trouble

Continued from Page A-1

New businesses are finding it almost impossible to buy property or business liability insurance and many are being forced to turn to the state's assigned risk pool — where premiums are 10 percent higher than on the open market — for automobile liability and workman's compensation policies that are required by state law.

Getting hull insurance for a Bering Sea crab boat is now almost impossible, Koch said, and earthquake insurance is also difficult to find.

"We've heard of people who tried to purchase it and only got part of what they needed at a price that was close to exorbitant."

Businesses in Alaska are not the only ones caught in the bind.

Rates are increasing dramatically across the nation as the insurance industry attempts to stem a \$50 billion tide of red ink. Last year, Koch said, losses exceeded premiums by more than \$21 billion.

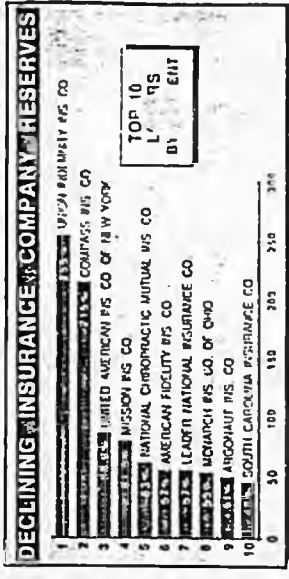
In past years, companies were able to recoup their losses, subsidize premiums and earn reasonable profits with income earned on the investment of the premiums they collected. That began to change, Koch said, when interest rates began to decline in the early '80s.

Losses have now started to chew into the capital reserves that companies are required to maintain in order to write insurance coverage.

The Division of Insurance surveyed more than 300 insurance companies earlier this year. Many saw their cash reserves decline by more than 10 percent in 1984. Nineteen recorded losses of 40 percent or more.

Ten companies have premium-to-capital reserve ratios that are alarming, Koch said, "and two are insolvent."

State regulators say health insurance companies generally have a premium-to-cash



Source: State Division of Insurance

spooky.

"It could also drive the company out of business, and that's also spooky."

In coming months, Koch said, the Division of Insurance will be asking some "shaky" companies to suspend operation in Alaska. He declined to name the firms.

Big losses are also having a substantial impact on the ability of insurance companies to maintain existing policies and write new ones. Under state law, the potential liability on a single policy cannot exceed 10 percent of the firm's cash reserve.

With cash reserves dwindling, many companies are now at the limit of their underwriting capacity. Some are curbing existing policies while others, such as Providence Washington — a major writer of workman's compensation coverage in Alaska — have stopped writing new ones.

"It doesn't take too many of these to have a profound effect on availability" of insurance coverage, Koch said.

A national survey indicates that demand for coverage will outstrip industry capacity by \$5 billion in 1985 and by more than \$50 billion in 1986, he said.

Koch predicts hard times for insurance companies and policy holders over the next 2.5 to 3 years. People should expect "higher rates, higher deductibles and lower coverage."

reserve ratio of 3 or less, to 1. Six firms surveyed by the state had ratios of more than 6 to 1. One, the Great Global Insurance Company, had a ratio of 14.8 to 1.

The big losses sustained by some insurance companies has, Koch and others wondering whether the firms will be able to pay off their Alaska claims. Two firms went bankrupt last year.

One of the companies had losses of \$500,000 in Alaska last year, Koch said. Settlement of those claims is still being worked out.

The other firm wrote completion or performance bonds for construction contractors. Most of the bonded projects have been completed, but "there are still some out there that are still underway."

"We don't know the potential liability," Koch said, adding that his "gut feeling" is that it's less than \$10 million.

Koch is especially concerned about the health of companies that provide excess workman's compensation coverage to businesses that are "self-insured."

These businesses agree to be responsible for their own workman's compensation claims up to a threshold amount and purchase excess insurance to cover claims above that specified level.

"If the excess-insurer fails and a self-insured business has a big claim, you could end up with injured workers with no recourse to any kind of benefit," Koch said. "That's

Heart

Continued from Page A-1

University School of Medicine, concludes that perhaps 36 percent of the heart patients don't

change limited road service areas, \$500,000 to acquire sites for new schools in Anchorage.

\$4.5 million for widening and bridge construction on the Old Eklakwani Highway.

\$1.8 million for the new highway to Seward.

MICA
LICA

What happens this year w/o any

legislation?

How many liquor license holders

How many will have insurance now?

300,000
limited liability
Another market -
available -
who behave much
Liability

Questions regarding the LLHICA Bill:

- 1) Who will actually be paying the increased liquor taxes to support this legislation? (wholesaler, retailer, bar owner, consumer?)
- 2) In the event that the taxes collected exceed the revenue requirements for the insurance program, which taxpayers will actually receive the refund? Consumers, wholesalers, retailers? Would this refund proposal require additional personnel to implement? Accounting nightmare?
- 3) How much money will the state be required to appropriate to the reserve fund to make the proposal viable? I have heard figures from \$5,000,000 to \$10,000,000;
- 4) There are various classes of liquor licenses in the state. What categories of liquor dispensers are we talking about? Liquor stores? bars? vendors at social or athletic events?
- 5) If the board of governors is to consist of 8 members and includes a corporation director who does not have voting privileges, how does the board of governors intend to break a tie vote? Should the number of appointees be an ~~odd~~ ^{odd} number?
- 6) 21.85.030 (e) provides that the corporation shall compensate members of the board and reimburse them for travel expenses under a policy approved by the director. Where will the money come from to compensate members? **INVESTMENTS ON THE RESERVES**
- 7) Technical point: page 7 line 24 references the Alaska Insurance Guarantee Corporation. Should that not be Alaska Insurance Guarantee Association?
- 8) The bill also provides that the corporation may retain and employ people to discharge the duties of the corporation. Will the funds come from the proposed tax increases?

How do we know when the ^{ol} sum is reached.

Edwards
5/3/85 ✓

Original sponsors: Josephson, Ziegler
and Ferguson

*INDICATES
CHANGES IN
CS*

IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

CS FOR SENATE BILL NO. 288 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to liquor license holders' insurance; providing for increased alcoholic beverage taxes; and providing for an effective date."

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

* Section 1. AS 04.11.320(a) is amended by adding a new paragraph to read:

(13) the applicant has less than ~~\$500,000~~ ^{#250,000} in liability insurance coverage.

* Sec. 2. AS 04.11.370 is amended by adding a new paragraph to read:

(12) failure of the licensee to maintain at least ~~\$500,000~~ ^{#250,000} in liability insurance coverage.

* Sec. 3. AS 21.78.050 is amended to read:

Sec. 21.78.050. GROUNDS FOR LIQUIDATION. The director may apply to the court for an order appointing the director as receiver, if an appointment of the director as receiver is not then in effect, and directing the director to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusted assets in this state, regardless of whether or not there has been a prior order directing the director to rehabilitate the insurer, upon any of the grounds specified in AS 21.78.040, or if the insurer

(1) has ceased transacting business for a period of one year;

(2) is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute an

1 action or proceeding to liquidate its business or affairs, or to
2 dissolve its corporate charter, or to procure the appointment of a
3 receiver, trustee, custodian or sequestrator under any law except this
4 title; [OR]

5 (3) is the Medical Indemnity Corporation of Alaska, and the
6 director has ordered termination of the business of the corporation in
7 accordance with AS 21.88.055; or

8 (4) is the Liquor License Holders' Indemnity Corporation of
9 Alaska, and the director has ordered termination of the business of
10 the corporation in accordance with AS 21.85.055.

11 * Sec. 4. AS 21.78.100(b) is amended to read:

12 (b) The director may apply for and secure an order dissolving
13 the corporate existence of a domestic insurer, except the Medical
14 Indemnity Corporation of Alaska or the Liquor License Holders' Indem-
15 nity Corporation of Alaska, upon the director's application for an
16 order of liquidation of the insurer or at any time after the order has
17 been granted.

18 * Sec. 5. AS 21.80.180(5) is amended to read:

19 (5) "insolvent insurer" means an insurer

20 (A) authorized to transact insurance in this state,
21 except an assessable reciprocal insurer formed by and insuring
22 only municipalities or nonprofit public utilities, the Liquor
23 License Holders' Indemnity Corporation of Alaska, the Medical
24 Indemnity Corporation of Alaska, and the Health Care Providers
25 Joint Underwriting Association established under AS 21.88, either
26 at the time the policy was issued or when the insured event
27 occurred, and

28 (B) determined to be insolvent by a court of competent
29 jurisdiction;

1 * Sec. 6. AS 21.80.180(6) is amended to read:

2 (6) "member insurer" means a person, except an assessable
3 reciprocal insurer formed by and insuring only municipalities or
4 nonprofit public utilities, the Liquor License Holders' Indemnity
5 Corporation of Alaska, the Medical Indemnity Corporation of Alaska,
6 and the Health Care Providers Joint Underwriting Association estab-
7 lished under AS 21.88, who

8 (A) writes any kind of insurance to which this chapter
9 applies under AS 21.80.020 including the exchange of reciprocal
10 or interinsurance contracts, and

11 (B) is licensed to transact insurance in this state;

12 * Sec. 7. AS 21 is amended by adding a new chapter to read:

13 CHAPTER 85. LIQUOR LICENSE HOLDERS' INSURANCE CORPORATION.

14 Sec. 21.85.010. PURPOSE OF THIS CHAPTER. It is the purpose of
15 this chapter to provide a means of furnishing liquor license holders
16 under AS 04 with adequate insurance against liability for negligent
17 acts or omissions that concern customers on licensed premises.

18 Sec. 21.85.020. CORPORATION CREATED. There is created the
19 Liquor License Holders' Indemnity Corporation of Alaska that is a
20 public corporation having a legal existence independent of and sepa-
21 rate from the state. Obligations issued by the corporation do not
22 constitute a debt, liability or obligation of the state or a pledge of
23 full faith and credit of the state.

24 Sec. 21.85.030. CORPORATION BOARD OF GOVERNORS. (a) The corpo-
25 ration shall exercise its powers through a board of governors that is
26 appointed by the governor of the state and confirmed by the legisla-
27 ture. Members of the board of governors shall be Alaska residents as
28 follows:

29 (1) four liquor license holders; no more than two of the

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2 liquor license holders shall reside in a municipality having a popula-
3 tion of more than 100,000, and at least two of the liquor license
4 holders must be indemnified against loss by reason of liability by the
5 Liquor License Holders' Indemnity Corporation of Alaska;

6 (2) two persons who hold insurance licenses issued under
7 this title; *RE-PHRASED*

8 (3) two persons who are not liquor license holders or
9 financially interested in a license issued under AS 04 and do not hold
10 insurance licenses issued under this title. *RE-PHRASED*

11 (b) The term of office of each governor is three years, except
12 that the governor of the state shall designate two initially appointed
13 governors to serve for one year and two initially appointed governors
14 to serve for two years. Upon the expiration of the term of a gover-
15 nor, the governor of the state shall appoint a successor who shall be
16 from the same class described in (a) of this section as the governor
17 whose term has expired.

18 (c) Upon a governor's early resignation, death or inability to
19 serve, the governor of the state shall appoint a successor from the
20 same class defined in (a) of this section as the terminating governor,
21 who shall serve for the unexpired term.

22 (d) The director or a designee of the director is not a voting
23 member of the board of governors but shall be notified by the board of
24 and have the right to attend and participate in all meetings and
25 proceedings of the board.

26 (e) The corporation shall compensate members of the board of
27 governors and reimburse them for necessary travel expenses according
28 to a policy approved by the director.

29 (f) A governor, officer, or employee or former governor, of-
ficer, or employee of the corporation is not liable for damages or

1 other relief in any action by reason of the person's actions or in-
2 actions as a governor, officer, or employee of the corporation, or by
3 reason of the actions or inactions of the corporation, its board of
4 governors, officers or employees unless

5 (1) the person acted with actual knowledge that the person
6 was acting outside the scope of the person's authority;

7 (2) at the time the person acted for a purpose that the
8 person knew was not in the best interests of the corporation; or

9 (3) with respect to any criminal action, the person acted
10 knowingly or recklessly.

11 (g) If a claim or action is brought against a person entitled to
12 the protection of (f) of this section, the claim or action shall be
13 defended by the state. The person shall reimburse the state for the
14 cost to the state of the person's defense if it is established that
15 the person

16 (1) acted with actual knowledge that the person was acting
17 outside the scope of the person's authority;

18 (2) at the time was acting for a purpose that the person
19 knew was not in the best interests of the corporation; or

20 (3) with respect to any criminal action, acted knowingly or
21 recklessly.

22 (h) In this section,

23 (1) "knowingly" has the meaning given in AS 11.81.900;

24 (2) "recklessly" has the meaning given in AS 11.81.900.

25 Sec. 21.85.040. CORPORATION PLAN OF OPERATION. (a) The board
26 of governors shall prepare and submit to the director for approval a
27 plan of operation that provides for the fair and reasonable adminis-
28 tration of the affairs of the corporation and the discharge of the
29 purposes for which it is created. The plan and any amendments to it

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Re-phrased

become effective upon the director's approval. If the board of governors fails to submit a plan of operation acceptable to the director, or if at a subsequent time the board of governors fails to submit suitable amendments to the plan, the director shall, after notice and hearing, adopt and promulgate a plan of operation or amendments that are necessary or advisable to carry out the provisions of this chapter. Adoption of the plan is not subject to the Administrative Procedure Act (AS 44.62).

(b) The plan of operation shall

(1) establish the procedures by which the powers and duties of the corporation specified in AS 21.85.050 shall be performed;

(2) establish procedures for handling assets and discharging liabilities of the corporation;

(3) establish regular times and places for meetings of the board of governors;

(4) establish procedures for records to be kept of all financial transactions of the corporation, its agents, and the board of governors;

(5) establish the procedures for awarding contracts to carry out the provisions of this chapter;

(6) establish the procedures for issuing contracts of insurance as provided in AS 21.85.050 and for the determination of rates;

(7) contain additional provisions necessary for the execution of the powers and duties of the corporation.

Sec. 21.85.050. POWERS AND DUTIES OF THE CORPORATION. (a) The corporation shall

(1) in the form approved by the director, issue to all liquor license holders who are found to be acceptable risks under

90 days "start-up" time

1 standards developed under (5) of this subsection, and who pay the
2 premiums for it, an insurance contract effective no earlier than 90
3 days following enactment of this chapter; the contract shall indemnify
4 liquor license holders and their employees on licensed premises
5 against loss in excess of \$50,000 by reason of liability for covered
6 claims, and agree to tender on behalf of the liquor license holders
7 and their employees on licensed premises a defense to a covered claim;
8 except as provided in (b) of this section, the limit of liability
9 covered by policies issued by the corporation shall be \$250,000; the
10 contract shall cover the defense against but need not indemnify lia-
11 bility for punitive damages arising from a covered claim; at the
12 option of the corporation, if approved by the director, and for an
13 additional premium the contract may cover claims for any period before
14 the contract is issued, except that coverage will not be provided for
15 a claim already filed or of which the liquor license holder had or
16 reasonably should have had notice at the time the retroactive
17 insurance was purchased;

18 (2) charge a premium for the protection provided by the
19 contracts issued by the corporation that shall be determined by the
20 board of governors in accordance with AS 21.85.080 and subject to the
21 approval of the director;

22 (3) comply with or be subject to AS 21.06.090, 21.06.120,
23 21.06.140, 21.06.160, 21.06.250; AS 21.09.180 - 21.09.200, 21.09.250,
24 21.09.280; AS 21.12.020(b) - (e); AS 21.18; AS 21.21; AS 21.24 and
25 AS 21.36; and shall be exempt from participation as a member insurer
26 in the Alaska Insurance Guaranty Corporation;

27 (4) carry out the obligations of the contracts issued by
28 the corporation by defending all covered claims made against insured
29 liquor license holders and by paying all liabilities that are finally

1 adjudicated against the liquor license holders or that may in the
2 opinion of the corporation reasonably be expected to be finally adju-
3 dicated against the liquor license holders to the extent of the con-
4 tract obligation;

5 (5) establish standards for the acceptability of risks; in
6 establishing these standards the corporation may exclude an applicant
7 for insurance based on individual risk selection factors, but may not
8 exclude an applicant based only on the type of license held by the
9 applicant.

10 (b) The corporation may

11 (1) employ or retain persons, individual or corporate, to
12 discharge its obligations and pay reasonable compensation for these
13 services; employees of the corporation are not considered state em-
14 ployees;

15 (2) negotiate for and procure reinsurance from private
16 casualty insurers or reinsurers for any and all liability incurred by
17 contracts issued by it;

18 (3) provide for a limit of liability under (a) of this
19 section that exceeds \$250,000 if the director determines that
20 sufficient reserves or adequate reinsurance exists to support the
21 increase;

22 (4) borrow or advance funds necessary to carry out the
23 purposes of the corporation;

24 (5) negotiate and become a party to contracts that are
25 necessary to carry out the purposes of the corporation;

26 (6) sue or be sued in the name of the corporation;

27 (7) provide risk management advice and services to liquor
28 license holders;

29 (8) negotiate and become a party to contracts for

1 management services for the corporation;

2 (9) perform other acts necessary and proper to carry out
3 the duties of the corporation.

4 Sec. 21.85.055. TERMINATION. (a) If at any time the corpora-
5 tion posts written premiums for two consecutive years of less than 35
6 percent of all premiums written in the state for liquor license
7 holders' liability insurance or posts written premiums for one calen-
8 dar year of less than 20 percent of all premiums written in the state
9 for liquor license holders' liability insurance, the director may hold
10 a public hearing in accordance with AS 21.06.180 - 21.06.230 to deter-
11 mine whether the business of the corporation should be terminated.

12 (b) Upon the effective date of an order of termination issued by
13 the director under (a) and (c) of this section, the terms of the
14 governors appointed under AS 21.85.030 expire, and the corporation,
15 its governors, officers and employees are relieved of all further
16 liabilities for all their obligations to the creditors and policy-
17 holders of the corporation, and the business of the corporation shall
18 be liquidated according to AS 21.78.

19 (c) In determining whether to terminate or reactivate the busi-
20 ness of the corporation the director shall consider the following:

21 (1) the level of expected premiums and losses for continued
22 operation;

23 (2) the requirement for state funds to support continued
24 operation;

25 (3) the availability of alternative markets for coverage to
26 a substantial majority of liquor license holders in the state;

27 (4) the costs of continued operation of the corporation;

28 (5) the impact that the continued operation of the corpo-
29 ration will have on rates charged for coverage by the corporation or

1 by alternative markets; or

2 (6) the expected number of liquor license holders who would
3 participate if the operations were continued.

4 (d) If after public hearing held in accordance with (a) of this
5 section the director determines that continuing the business of the
6 corporation would result in substantial underwriting loss unless
7 excessive premiums are charged to participating liquor license
8 holders, the director may order termination of the corporation.

9 Sec. 21.85.060. PREMIUM TAX. The corporation shall be taxed in
10 the same manner as a domestic insurer.

11 Sec. 21.85.070. STATISTICS. The corporation shall collect,
12 maintain and report information concerning claims against liquor
13 license holders that it insures. The information must be on forms
14 prescribed by the director, and must be sufficient to enable a proper
15 determination of losses for rate making and to identify causes and
16 sources of loss for loss control. At least annually the corporation
17 shall report to the director the number and amount of claims filed,
18 reserved, paid, settled and adjudicated during the year, the premiums
19 paid to and the expenses incurred by the corporation during the year.
20 This report shall be available to the public. The director may re-
21 quire that supplemental reports include the names of insured liquor
22 license holders and the claimants.

23 Sec. 21.85.080. RATES. The rates and rating plans used by the
24 corporation for the policies issued shall be determined by license
25 category of liquor license holders in accordance with all of the
26 following:

27 (1) a minimum rate may be set for each category of liquor
28 license holders within a license classification;

29 (2) rates may not be excessive; rates are excessive if,

1 after a period of time and with respect to an amount of gross premium
2 that is actuarially credible, the premiums exceed losses incurred by
3 the corporation, including losses paid, reserves for covered claims
4 reported and unpaid, reserves for covered claims incurred during the
5 policy period and not reported, and reasonable expenses for the opera-
6 tion of the corporation;

7
8 (3) rates may not be inadequate; rates are inadequate if,
9 based on available actuarial data, the premiums to be paid by the
10 liquor license holders are or may reasonably be expected to be insuf-
11 ficient to pay for losses incurred by the corporation, including
12 covered claims paid, reserves for covered claims reported and unpaid,
13 reserves for covered claims incurred during the policy period and not
14 reported, and reasonable expenses for the operation of the corpora-
15 tion;

16 (4) rates may not be unfairly discriminatory;

17 (5) rates shall be adjusted annually;

18 (6) rates for any policy year shall be calculated to in-
19 clude the adjustment for actual experience of the corporation as
20 developed for the preceding four policy years;

21 (7) in considering losses to be incurred, changes in the
22 law, national, regional, or local trends in damage awards, and other
23 relevant factors may be considered;

24 (8) income from the investment of reserves shall be con-
25 sidered;

26 (9) individual risk underwriting factors shall be con-
27 sidered;

28 (10) disciplines and classifications within the license
29 categories of liquor license holders shall be considered;

(11) amounts sufficient for repayment of loan obligations

1 shall be considered;

2
3 (12) if the earned premiums of the corporation for any given
4 year are less than the incurred claims, claim expense, underwriting
5 expense, reserves for that year and provision for repayment of any
6 loans, the corporation may, subject to the prior approval of the
7 director, levy an assessment upon the insureds who held policies
8 during that year; the assessment, which may be made in periodic in-
9 stallments, shall be made within three years and may not exceed 150
10 percent of the insured's premium for that year; the termination of any
11 policy does not relieve the insured of contingent liability for the
12 insured's proportionate share of the obligations to the corporation
13 that accrued while the policy was in force;

14 (13) if the earned premiums of the corporation for any given
15 year exceed its incurred claim expense, underwriting expense, reserves
16 for that year, and provision for repayment of any loan, the corpora-
17 tion may, subject to the prior approval of the director, apportion and
18 pay or credit its insureds who held policies during that year; a
19 payment or credit shall be proportionate to the insured's earned
20 premium for that year;

21 (14) upon application by any person, the director may issue
22 a certificate authorizing the corporation to extinguish all or a
23 portion of an assessment levied, or that could be levied, under (12)
24 of this section for all insureds with policies in force when the
25 certificate is issued, and to omit provisions levying an assessment
26 under (12) of this section in all policies delivered or issued for
27 delivery after the certificate is issued, if the director determines
28 that there is a sound actuarial basis for the extinguishment; the
29 director may at any time revoke the certificate; a policy in force at
the time of revocation is not subject to the revocation of the

1 certificate for the remainder of the period for which the premium has
2 been paid, but after revocation a policy may not be issued or renewed
3 without providing for an assessment of the insured.

4 Sec. 21.85.090. PAYMENT OF PREMIUMS; CANCELLATION OF INSURANCE.

5 The corporation may provide for installment payment of premiums in
6 which case each installment is due by the date specified. The corpo-
7 ration may cancel any of its policies for nonpayment of any premium or
8 installment on a premium, or other charge, by mailing or delivering
9 notice of cancellation to the insured at the address shown on the
10 policy and to the Alcoholic Beverage Control Board. Cancellation is
11 not effective until 30 days after the date notice is mailed or de-
12 livered by the corporation.

13 Sec. 21.85.095. TRANSFER OF CORPORATE ASSETS AND LIABILITIES.

14 (a) The corporation may, subject to the prior approval of the direc-
15 tor, transfer its assets and liabilities to a company that meets all
16 of the following conditions:

17 (1) the company possesses a valid certificate of authority
18 to transact casualty insurance business in the state; in evaluating
19 the capital and surplus of the company for qualification for a certif-
20 icate of authority, the value of the assets and liabilities trans-
21 ferred by the corporation may not be considered;

22 (2) the company pays to the corporation for return to the
23 state treasury the full value of any surplus in the corporation;

24 (3) the company executes a complete reinsurance and hold
25 harmless agreement in a form approved by the director covering all of
26 the obligations of the corporation to its creditors and policyholders;

27 (4) the company meets other requirements the director may
28 reasonably require to protect the interests of the state, the liquor
29 license holders insured, the involved company, and the public;

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(5) the company provides the board of governors with a written statement from the director that the company qualifies under (1) - (5) of this subsection.

(b) If and while the company to which the assets and liabilities of the corporation are transferred in the manner provided in (a) of this section continues to write premiums in excess of the levels provided in AS 21.85.055, it shall be entitled to carry forward and offset against its premium tax obligation to the state the amount by which the aggregate claims paid on reinsurance assumed under (a)(3) of this section exceeds aggregate reserves on the same business established at the date of the reinsurance agreement.

Sec. 21.85.210. RESERVE FUND ESTABLISHED. The corporation shall establish a reserve fund, in an amount required by the Department of Commerce and Economic Development to provide surplus in respect to policyholders.

Sec. 21.85.900. DEFINITIONS. In this chapter, unless the context requires otherwise,

(1) "continuous coverage" means one or more successive policy period that is uninterrupted by cancellation or failure to renew for any reason;

(2) "corporation" means the Liquor License Holders' Indemnity Corporation of Alaska;

(3) "covered claim" means a claim by an injured person reported to the corporation during the period of continuous coverage by the corporation of the insured liquor license holder for a negligent act or omission that concerns customers on licensed premises;

(4) "governor" means a member of the board of governors of the Liquor License Holders' Indemnity Corporation of Alaska;

(5) "licensed premises" has the meaning given in

1 AS 04.21.080;

2 (6) "liquor license holder" means a person, association of
3 persons, or a corporation that holds a current liquor license issued
4 under AS 04.

5 * Sec. 8. Notwithstanding the provisions of AS 43.60.010(a)(1) - (3),
6 the tax imposed by AS 43.60.010 during the period July 1, 1985 through
7 June 30, 1986 shall be paid at the following rates:

8 (1) malt beverages at the rate of \$.70 a gallon or fraction of a
9 gallon;

10 (2) wine or other beverages of 21 percent alcohol by volume or
11 less at the rate of \$1.70 a gallon or fraction of a gallon; and

12 (3) other beverages having a content of more than 21 percent
13 alcohol by volume at the rate of \$11.20 a gallon.

14 * Sec. 9. The primary purpose of the rate increase under sec. 8 of this
15 Act is to compensate the state for appropriations made to the reserve fund
16 established under AS 21.85.210 enacted in sec. 7 of this Act.

17 * Sec. 10. This Act takes effect on the effective date of an Act making
18 a special appropriation to the reserve fund established under AS 21.85.210,
19 enacted in sec. 7 of this Act.
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STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 4/19/85

REQUEST
Bill/Resolution No: SB 288
Title: Alcohol Tax Increase

Sponsor: Josephson
Requestor: Labor and Commerce
Date of Request: 4/19/85

FISCAL DETAIL
Agency Affected: Department of Revenue
Program Category Affected: Collection and Management

BRU, Program of Subprogram(s) Affected: Audit Division
Audit Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<u>OPERATING</u>						
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LANDS & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
800 MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
<u>TOTAL OPERATING</u>	-0-	-0-	-0-	-0-	-0-	-0-
<u>CAPITAL</u>	-0-	-0-	-0-	-0-	-0-	-0-
<u>REVENUE</u>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
<u>TOTAL</u>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: This bill will not require an additional appropriation.

Prepared By: Martin J. Richard
 Division: Audit Division

Phone: 465-2320
 Date: 4/19/85

Approved by Commissioner: [Signature]
 Agency: Revenue

Date: 4/22/85

Distribution (by Agency preparing fiscal note):

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

Fiscal note

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date _____

REQUEST

Bill/Resolution No: SB 288
 Title: Liquor License Holder's Insurance...
 Providing for Increased Alcoholic
 Beverage Taxes
 Sponsor: Josephson, Ziegler, Ferguson
 Requestor: Labor & Commerce; Finance
 Date of Request: April 19, 1985

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: _____

 BRU, Program of Subprogram(s) Affected: _____

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 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	7,250	7,250	-	-	-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: David Tonkovich
 Division: Revenue Research

Phone: 465-2173
 Date: 4/22/85

Approved by Commissioner: [Signature]
 Agency: [Signature]

Date: 4/24/85

Distribution (by Agency preparing fiscal note):

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

FISCAL NOTE SB 288
Attachment

Analysis:

1. The legislation doubles the tax rates on alcoholic beverages for tax year 1986. Analysis assumes that one half of increased revenues falls into each of fiscal years 1986 and 1987.
2. There will be some downward pressure on consumption because of price increases due to higher taxes. While no estimates of price elasticity are available for Alaska figures from national studies suggest that this decreased consumption will be relatively insignificant in terms of its revenue impact.

STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 288
 Title: Liquor License Holder's Insurance
 Sponsor: Josephson
 Requestor: Senate Labor & Comm.
 Date of Request: 5/1/85

FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
 Program Category Affected: Consumer Protection
 BRU, Program or Subprogram(s) Affected: Division of Insurance

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						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS		5,100.0				
300 MISCELLANEOUS						
TOTAL OPERATING		5,100.0				

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	5,100.0				
FEDERAL FUNDS					
OTHER					
TOTAL	5,100.0				

POSITIONS:

FULL-TIME	0				
PART-TIME					
TEMPORARY					

ANALYSIS: Attach a separate page if necessary

Prepared By: John George, Director
 Division: Insurance
 Approved by Commissioner: Loren H. Lounsbury
 Agency: Commerce and Economic Development

Phone: 465-2515
 Date: 5/1/85
 Date: 5/1/85

Distribution (by Agency preparing fiscal note):

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

FISCAL Notes 7/1/84
 (3)

Original sponsors: Josephson, Ziegler
and Ferguson

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IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

CS FOR SENATE BILL NO. ~~288~~ ²⁸⁸ (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to liquor license holders' insurance; providing for increased alcoholic beverage taxes; and providing for an effective date."

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

* Section 1. AS 04.11.320(a) is amended by adding a new paragraph to read:

(13) the applicant has less than \$500,000 in liability insurance coverage.

* Sec. 2. AS 04.11.370 is amended by adding a new paragraph to read:

(12) failure of the licensee to maintain at least \$500,000 in liability insurance coverage.

* Sec. 3. AS 21.78.050 is amended to read:

Sec. 21.78.050. GROUNDS FOR LIQUIDATION. The director may apply to the court for an order appointing the director as receiver, if an appointment of the director as receiver is not then in effect, and directing the director to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusted assets in this state, regardless of whether or not there has been a prior order directing the director to rehabilitate the insurer, upon any of the grounds specified in AS 21.78.040, or if the insurer

(1) has ceased transacting business for a period of one year;

(2) is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute an

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2 action or proceeding to liquidate its business or affairs, or to
3 dissolve its corporate charter, or to procure the appointment of a
4 receiver, trustee, custodian or sequestrator under any law except this
5 title; [OR]

6 (3) is the Medical Indemnity Corporation of Alaska, and the
7 director has ordered termination of the business of the corporation in
8 accordance with AS 21.88.055; or

9 (4) is the Liquor License Holders' Indemnity Corporation of
10 Alaska, and the director has ordered termination of the business of
11 the corporation in accordance with AS 21.85.055.

12 * Sec. 4. AS 21.78.100(b) is amended to read:

13 (b) The director may apply for and secure an order dissolving
14 the corporate existence of a domestic insurer, except the Medical
15 Indemnity Corporation of Alaska or the Liquor License Holders' Indem-
16 nity Corporation of Alaska, upon the director's application for an
17 order of liquidation of the insurer or at any time after the order has
18 been granted.

19 * Sec. 5. AS 21.80.180(5) is amended to read:

20 (5) "insolvent insurer" means an insurer

21 (A) authorized to transact insurance in this state,
22 except an assessable reciprocal insurer formed by and insuring
23 only municipalities or nonprofit public utilities, the Liquor
24 License Holders' Indemnity Corporation of Alaska, the Medical
25 Indemnity Corporation of Alaska, and the Health Care Providers
26 Joint Underwriting Association established under AS 21.88, either
27 at the time the policy was issued or when the insured event
28 occurred, and

29 (B) determined to be insolvent by a court of competent
jurisdiction;

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2 * Sec. 6. AS 21.80.180(6) is amended to read:

3 (6) "member insurer" means a person, except an assessable
4 reciprocal insurer formed by and insuring only municipalities or
5 nonprofit public utilities, the Liquor License Holders' Indemnity
6 Corporation of Alaska, the Medical Indemnity Corporation of Alaska,
7 and the Health Care Providers Joint Underwriting Association estab-
8 lished under AS 21.88, who

9 (A) writes any kind of insurance to which this chapter
10 applies under AS 21.80.020 including the exchange of reciprocal
11 or interinsurance contracts, and

12 (B) is licensed to transact insurance in this state;

13 * Sec. 7. AS 21 is amended by adding a new chapter to read:

14 CHAPTER 85. LIQUOR LICENSE HOLDERS' INSURANCE CORPORATION.

15 Sec. 21.85.010. PURPOSE OF THIS CHAPTER. It is the purpose of
16 this chapter to provide a means of furnishing liquor license holders
17 under AS 04 with adequate insurance against liability for negligent
18 acts or omissions that concern customers on licensed premises.

19 Sec. 21.85.020. CORPORATION CREATED. There is created the
20 Liquor License Holders' Indemnity Corporation of Alaska that is a
21 public corporation having a legal existence independent of and sepa-
22 rate from the state. Obligations issued by the corporation do not
23 constitute a debt, liability or obligation of the state or a pledge of
24 full faith and credit of the state.

25 Sec. 21.85.030. CORPORATION BOARD OF GOVERNORS. (a) The corpo-
26 ration shall exercise its powers through a board of governors that is
27 appointed by the governor of the state and confirmed by the legisla-
28 ture. Members of the board of governors shall be Alaska residents as
29 follows:

(1) four liquor license holders; no more than two of the

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2 liquor license holders shall reside in a municipality having a popula-
3 tion of more than 100,000, and two of the liquor license holders must
4 be indemnified against loss by reason of liability by the Liquor
5 License Holders' Indemnity Corporation of Alaska;

6 (2) two professionals from the insurance industry who are
7 authorized or licensed to do business in the state;

8 (3) two persons who are not liquor license holders or
9 financially interested in a license issued under AS 04 or representa-
10 tives of the insurance industry.

11 (b) The term of office of each governor is three years, except
12 that the governor of the state shall designate two initially appointed
13 governors to serve for one year and two initially appointed governors
14 to serve for two years. Upon the expiration of the term of a gover-
15 nor, the governor of the state shall appoint a successor who shall be
16 from the same class described in (a) of this section as the governor
17 whose term has expired.

18 (c) Upon a governor's early resignation, death or inability to
19 serve, the governor of the state shall appoint a successor from the
20 same class defined in (a) of this section as the terminating governor,
21 who shall serve for the unexpired term.

22 (d) The director or a designee of the director is not a voting
23 member of the board of governors but shall be notified by the board of
24 and have the right to attend and participate in all meetings and
25 proceedings of the board.

26 (e) The corporation shall compensate members of the board of
27 governors and reimburse them for necessary travel expenses according
28 to a policy approved by the director.

29 (f) A governor, officer, or employee or former governor, of-
ficer, or employee of the corporation is not liable for damages or

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2 other relief in any action by reason of the person's actions or in-
3 actions as a governor, officer, or employee of the corporation, or by
4 reason of the actions or inactions of the corporation, its board of
5 governors, officers or employees unless

6 (1) the person acted with actual knowledge that the person
7 was acting outside the scope of the person's authority;

8 (2) at the time the person acted for a purpose that the
9 person knew was not in the best interests of the corporation; or

10 (3) with respect to any criminal action, the person acted
11 knowingly or recklessly.

12 (g) If a claim or action is brought against a person entitled to
13 the protection of this subsection, the claim or action shall be de-
14 fended by the state. The person shall reimburse the state for the
15 cost to the state of the person's defense if it is established that
16 the person

17 (1) acted with actual knowledge that the person was acting
18 outside the scope of the person's authority;

19 (2) at the time was acting for a purpose that the person
20 knew was not in the best interests of the corporation; or

21 (3) with respect to any criminal action, acted knowingly or
22 recklessly.

23 (h) In this section,

24 (1) "knowingly" has the meaning given in AS 11.81.900;

25 (2) "recklessly" has the meaning given in AS 11.81.900.

26 Sec. 21.85.040. CORPORATION PLAN OF OPERATION. (a) The board
27 of governors shall prepare and submit to the director for approval a
28 plan of operation that provides for the fair and reasonable adminis-
29 tration of the affairs of the corporation and the discharge of the
purposes for which it is created. The plan and any amendments to it

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become effective upon the director's approval. If the board of gover-
nors fails to submit a plan of operation, or if at a subsequent time
the board of governors fails to submit suitable amendments to the
plan, the director shall, after notice and hearing, adopt and promul-
gate a plan of operation or amendments that are necessary or advisable
to carry out the provisions of this chapter. Adoption of the plan is
not subject to the Administrative Procedure Act (AS 44.62).

9 (b) The plan of operation shall

10 (1) establish the procedures by which the powers and duties
11 of the corporation specified in AS 21.85.050 shall be performed;

12 (2) establish procedures for handling assets and discharg-
13 ing liabilities of the corporation;

14 (3) establish regular times and places for meetings of the
15 board of governors;

16 (4) establish procedures for records to be kept of all
17 financial transactions of the corporation, its agents, and the board
18 of governors;

19 (5) establish the procedures for awarding contracts to
20 carry out the provisions of this chapter;

21 (6) establish the procedures for issuing contracts of
22 insurance as provided in AS 21.85.050 and for the determination of
23 rates;

24 (7) contain additional provisions necessary for the exe-
25 cution of the powers and duties of the corporation.

26 Sec. 21.85.050. POWERS AND DUTIES OF THE CORPORATION. (a) The
27 corporation shall

28 (1) in the form approved by the director, issue to all
29 liquor license holders who are found to be acceptable risks under
standards developed under (5) of this subsection, and who pay the

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2 premiums for it, a contract or contracts indemnifying liquor license
3 holders and their employees on licensed premises against loss in
4 excess of \$50,000 by reason of liability for covered claims, and
5 agreeing to tender on behalf of the liquor license holders and their
6 employees on licensed premises a defense to a covered claim; the
7 liability covered by policies issued by the corporation shall be
8 \$500,000; the contract shall cover the defense against but need not
9 indemnify liability for punitive damages arising from a covered claim;
10 at the option of the corporation, if approved by the director, and for
11 an additional premium the contract may cover claims for any period
12 before the contract is issued, except that coverage will not be
13 provided for a claim already filed or of which the liquor license
14 holder had or reasonably should have had notice at the time the retro-
15 active insurance was purchased;

16 (2) charge a premium for the protection provided by the
17 contracts issued by the corporation that shall be determined by the
18 board of governors in accordance with AS 21.85.080 and subject to the
19 approval of the director;

20 (3) comply with or be subject to AS 21.06.090, 21.06.120,
21 21.06.140, 21.06.160, 21.06.250; AS 21.09.180 - 21.09.200, 21.09.250,
22 21.09.280; AS 21.12.020(b) - (e); AS 21.18; AS 21.21; AS 21.24 and
23 AS 21.36; and shall be exempt from participation as a member insurer
24 in the Alaska Insurance Guaranty Corporation;

25 (4) carry out the obligations of the contracts issued by
26 the corporation by defending all covered claims made against insured
27 liquor license holders and by paying all liabilities that are finally
28 adjudicated against the liquor license holders or that may in the
29 opinion of the corporation reasonably be expected to be finally adju-
dicated against the liquor license holders to the extent of the

1 contract obligation;

2 (5) establish standards for the acceptability of risks; in
3 establishing these standards the corporation may exclude an applicant
4 for insurance based on individual risk selection factors, but may not
5 exclude an applicant based only on the classification of the appli-
6 cant.

7 (b) The corporation may

8 (1) employ or retain persons, individual or corporate, to
9 discharge its obligations and pay reasonable compensation for these
10 services; employees of the corporation are not considered state em-
11 ployees;

12 (2) negotiate for and procure reinsurance from private
13 casualty insurers or reinsurers for any and all liability incurred by
14 contracts issued by it;

15 (3) borrow or advance funds necessary to carry out the
16 purposes of the corporation;

17 (4) negotiate and become a party to contracts that are
18 necessary to carry out the purposes of the corporation;

19 (5) sue or be sued in the name of the corporation;

20 (6) provide risk management advice and services to liquor
21 license holders;

22 (7) negotiate and become a party to contracts for manage-
23 ment services for the corporation;

24 (8) perform other acts necessary and proper to carry out
25 the duties of the corporation.

26
27 Sec. 21.85.055. TERMINATION. (a) If at any time the corpora-
28 tion posts written premiums for two consecutive years of less than 35
29 percent of all premiums written in the state for liquor license
holders' liability insurance or posts written premiums for one

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2 calendar year of less than 20 percent of all premiums written in the
3 state for liquor license holders' liability insurance, the director
4 may hold a public hearing in accordance with AS 21.06.180 - 21.06.230
5 to determine whether the business of the corporation should be termi-
6 nated.

7 (b) Upon the effective date of an order of termination issued by
8 the director under (a) and (c) of this section, the terms of the
9 governors appointed under AS 21.85.030 expire, and the corporation,
10 its governors, officers and employees are relieved of all further
11 liabilities for all their obligations to the creditors and policy-
12 holders of the corporation, and the business of the corporation shall
13 be liquidated according to AS 21.78.

14 (c) In determining whether to terminate or reactivate the busi-
15 ness of the corporation the director shall consider the following:

16 (1) the level of expected premiums and ses for continued
17 operation;

18 (2) the requirement for state funds to support continued
19 operation;

20 (3) the availability of alternative markets for coverage to
21 a substantial majority of liquor license holders in the state;

22 (4) the costs of continued operation of the corporation;

23 (5) the impact that the continued operation of the corpo-
24 ration will have on rates charged for coverage by the corporation or
25 by alternative markets; or

26 (6) the expected number of liquor license holders who would
27 participate if the operations were continued.

28 (d) If after public hearing held in accordance with (a) of this
29 section the director determines that continuing the business of the
corporation would result in substantial underwriting loss unless

1 excessive premiums are charged to participating liquor license
2 holders, the director may order termination of the corporation.

3 Sec. 21.85.060. PREMIUM TAX. The corporation shall be taxed in
4 the same manner as a domestic insurer.

5 Sec. 21.85.070. STATISTICS. The corporation shall collect,
6 maintain and report information concerning claims against liquor
7 license holders that it insures. The information must be on forms
8 prescribed by the director, and must be sufficient to enable a proper
9 determination of losses for rate making and to identify causes and
10 sources of loss for loss control. At least annually the corporation
11 shall report to the director the number and amount of claims filed,
12 reserved, paid, settled and adjudicated during the year, the premiums
13 paid to and the expenses incurred by the corporation during the year.
14 This report shall be available to the public. The director may re-
15 quire that supplemental reports include the names of insured liquor
16 license holders and the claimants.

17 Sec. 21.85.080. RATES. The rates and rating plans used by the
18 corporation for the policies issued shall be determined by license
19 category of liquor license holders in accordance with all of the
20 following:

21 (1) a minimum rate may be set for each category of liquor
22 license holders within a license classification;

23 (2) rates may not be excessive; rates are excessive if,
24 after a period of time and with respect to an amount of gross premium
25 that is actuarially credible, the premiums exceed losses incurred by
26 the corporation, including losses paid, reserves for covered claims
27 reported and unpaid, reserves for covered claims incurred during the
28 policy period and not reported, and reasonable expenses for the opera-
29 tion of the corporation;

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2 (3) rates may not be inadequate; rates are inadequate if,
3 based on available actuarial data, the premiums to be paid by the
4 liquor license holders are or may reasonably be expected to be insuf-
5 ficient to pay for losses incurred by the corporation, including
6 covered claims paid, reserves for covered claims reported and unpaid,
7 reserves for covered claims incurred during the policy period and not
8 reported, and reasonable expenses for the operation of the corpora-
9 tion;

10 (4) rates may not be unfairly discriminatory;

11 (5) rates shall be adjusted annually;

12 (6) rates for any policy year shall be calculated to in-
13 clude the adjustment for actual experience of the corporation as
14 developed for the preceding four policy years;

15 (7) in considering losses to be incurred, changes in the
16 law, national, regional, or local trends in damage awards, and other
17 relevant factors may be considered;

18 (8) income from the investment of reserves shall be con-
19 sidered;

20 (9) individual risk underwriting factors shall be con-
21 sidered;

22 (10) disciplines and classifications within the license
23 categories of liquor license holders shall be considered;

24 (11) amounts sufficient for repayment of loan obligations
25 shall be considered;

26 (12) if the earned premiums of the corporation for any given
27 year are less than the incurred claims, claim expense, underwriting
28 expense, reserves for that year and provision for repayment of any
29 loans, the corporation may, subject to the prior approval of the
director, levy an assessment upon the insureds who held policies

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2 during that year; the assessment, which may be made in periodic in-
3 stallments, shall be made within three years and may not exceed 150
4 percent of the insured's premium for that year; the termination of any
5 policy does not relieve the insured of contingent liability for the
6 insured's proportionate share of the obligations to the corporation
7 that accrued while the policy was in force;

8 (13) if the earned premiums of the corporation for any given
9 year exceed its incurred claim expense, underwriting expense, reserves
10 for that year, and provision for repayment of any loan, the corpora-
11 tion may, subject to the prior approval of the director, apportion and
12 pay or credit its insureds who held policies during that year; a
13 payment or credit shall be proportionate to the insured's earned
14 premium for that year;

15 (14) upon application by any person, the director may issue
16 a certificate authorizing the corporation to extinguish all or a
17 portion of an assessment levied, or that could be levied, under (12)
18 of this section for all insureds with policies in force when the
19 certificate is issued, and to omit provisions levying an assessment
20 under (12) of this section in all policies delivered or issued for
21 delivery after the certificate is issued, if the director determines
22 that there is a sound actuarial basis for the extinguishment; the
23 director may at any time revoke the certificate; a policy in force at
24 the time of revocation is not subject to the revocation of the certif-
25 icate for the remainder of the period for which the premium has been
26 paid, but after revocation a policy may not be issued or renewed
27 without providing for an assessment of the insured.

28 Sec. 21.85.090. PAYMENT OF PREMIUMS; CANCELLATION OF INSURANCE.
29 The corporation may provide for installment payment of premiums in
which case each installment is due by the date specified. The

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corporation may cancel any of its policies for nonpayment of any premium or installment on a premium, or other charge, by mailing or delivering notice of cancellation to the insured at the address shown on the policy and to the Alcoholic Beverage Control Board. Cancellation is not effective until 30 days after the date notice is mailed or delivered by the corporation.

Sec. 21.85.095. TRANSFER OF CORPORATE ASSETS AND LIABILITIES.

(a) The corporation may, subject to the prior approval of the director, transfer its assets and liabilities to a company that meets all of the following conditions:

(1) the company possesses a valid certificate of authority to transact casualty insurance business in the state; in evaluating the capital and surplus of the company for qualification for a certificate of authority, the value of the assets and liabilities transferred by the corporation may not be considered;

(2) the company pays to the corporation for return to the state treasury the full value of any surplus in the corporation;

(3) the company executes a complete reinsurance and hold harmless agreement in a form approved by the director covering all of the obligations of the corporation to its creditors and policyholders;

(4) the company meets other requirements the director may reasonably require to protect the interests of the state, the liquor license holders insured, the involved company, and the public;

(5) the company provides the board of governors with a written statement from the director that the company qualifies under (1) - (5) of this subsection.

(b) If and while the company to which the assets and liabilities of the corporation are transferred in the manner provided in (a) of this section continues to write premiums in excess of the levels

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2 provided in AS 21.85.055, it shall be entitled to carry forward and
3 offset against its premium tax obligation to the state the amount by
4 which the aggregate claims paid on reinsurance assumed under (a)(3) of
5 this section exceeds aggregate reserves on the same business estab-
6 lished at the date of the reinsurance agreement.

7 Sec. 21.85.210. RESERVE FUND ESTABLISHED. The corporation shall
8 establish a reserve fund, in an amount required by the Department of
9 Commerce and Economic Development to provide surplus in respect to
10 policyholders.

11 Sec. 21.85.900. DEFINITIONS. In this chapter

12 (1) "continuous coverage" means one or more successive
13 policy period that is uninterrupted by cancellation or failure to
14 renew for any reason;

15 (2) "corporation" means the Liquor License Holders' Indem-
16 nity Corporation of Alaska;

17 (3) "covered claim" means a claim by an injured person
18 reported to the corporation during the period of continuous coverage
19 by the corporation of the insured liquor license holder for a negli-
20 gent act or omission that concerns customers on licensed premises;

21 (4) "governor" means a member of the board of governors of
22 the Liquor License Holders' Indemnity Corporation of Alaska;

23 (5) "licensed premises" has the meaning given in AS 04.21.-
24 080;

25 (6) "liquor license holder" means a person, association of
26 persons, or corporation that holds a current liquor license issued
27 under AS 04.

28 * Sec. 8. Notwithstanding the provisions of AS 43.60.010(a)(1) - (3),
29 the tax imposed by AS 43.60.010 during the period January 1, 1986 through
December 31, 1986 shall be paid at the following rates:

1 (1) malt beverages at the rate of \$.70 a gallon or fraction of a
2 gallon;

3 (2) wine or other beverages of 21 percent alcohol by volume or
4 less at the rate of \$1.70 a gallon or fraction of a gallon; and

5 (3) other beverages having a content of more than 21 percent
6 alcohol by volume at the rate of \$11.20 a gallon.

7 * Sec. 9. The purpose of the rate increase under sec. 8 of this Act is
8 to compensate the state for appropriations made to the reserve fund
9 established under AS 21.85.210 enacted in sec. 7 of this Act. If the
10 Department of Revenue collects more than \$5,000,000 as a result of
11 increased alcoholic beverage tax rates imposed during 1986, the excess
12 shall be refunded by the department to taxpayers in proportion to the taxes
13 paid by each taxpayer under AS 43.60.010 during the months subject to the
14 increased rates.

15 * Sec. 10. This Act takes effect on the effective date of an Act making
16 a special appropriation to the reserve fund established under AS 21.85.210,
17 enacted in sec. 7 of this Act.
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