

HB

552

STATE OF ALASKA  
THE LEGISLATURE

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POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

May, 1988

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

Mary Van Nimwegen

*House LRC:*

*April 17, 1988*

# HOUSE COMMITTEE REPORT

(7)

Date referred: 3/29/88

FURTHER REFERRALS: Judiciar

DATE: 4/19/88

The Labor & Commerce Committee has considered HB 552

"An Act relating to civil liability for emergency aid."

**RECOMMENDS:**

- replace with CS HB 552 (L+C)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Commit

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal n. published \_\_\_\_\_
- zero fiscal note  same as previous zero fis. note published \_\_\_\_\_
- zero with analysis

**SIGNING TO PASS:**

Don Duley  
Edwards  
Leah Bombardieri  
Cliff Davidson

**SIGNING OTHER RECOMMENDATIONS:**

Neil Kozlowski no rec

Don Duley  
 Chairman's signature

5-2079X  
Lauterbach  
4/19/88

Original sponsor: Health, Education and  
Social Services Committee

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 552 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to civil liability for emergency aid  
7 administered by community health aides and hospital  
8 or clinic employees or staff members."

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

10 \* Section 1. AS 09.65.090(a) is amended to read:

11 (a) A person at a hospital or any other location who renders  
12 emergency care or emergency counseling to an injured, ill, or emotion-  
13 ally distraught person who reasonably appears to the person rendering  
14 the aid to be in immediate need of emergency aid in order to avoid  
15 serious harm or death is not liable for civil damages as a result of  
16 an act or omission in rendering emergency aid. The immunity provided  
17 under this subsection does not apply to an employee of a hospital or  
18 clinic or a member of a hospital's or clinic's medical, dental, or  
19 nursing staff who

20 (1) has a preexisting duty to provide the emergency care or  
21 assistance as a part of a hospital's or clinic's operations; and

22 (2) provides the emergency care or assistance while per-  
23 forming duties as an employee of the hospital or clinic or as a staff  
24 member of the hospital or clinic.

25 \* Sec. 2. AS 09.65.090 is amended by adding a new subsection to read:

26 (c) A community health aide under AS 18.28 who renders emergency  
27 care or emergency counseling to an injured, ill, or emotionally dis-  
28 traught person who reasonably appears to the community health aide to  
29 be in immediate need of emergency aid in order to avoid serious harm

1 or death is not liable for civil damages as a result of an act or  
2 omission in rendering emergency aid regardless of whether the communi-  
3 ty health aide is under a preexisting duty to render assistance. The  
4 immunity provided to a community health aide under this subsection  
5 does not apply to civil damages that result from providing or attempt-  
6 ing to provide any of the following advanced life support techniques  
7 unless the person who provided them was authorized by law to provide  
8 them:

- 9 (1) electric cardiac defibrillation;
- 10 (2) administration of antiarrhythmic agents;
- 11 (3) intravenous therapy; or
- 12 (4) use of endotracheal intubation devices or esophageal  
13 airway devices.

Position Paper

HB 552

For an Act entitled, "An Act relating to civil liability for emergency aid."

This bill would amend AS 09.65.090(a), "Civil liability for emergency aid," by granting immunity from liability to community health aides (CHAs) who render emergency care and emergency counseling to an injured, ill, or emotionally distraught person who reasonably appears to the CHA to be in immediate need of emergency aid in order to avoid serious harm or death.

Background

Until recently, it was widely assumed that CHAs had liability protection under federal tort claims for U.S. Public Health Service employees. However, last year the federal government determined that CHAs were not covered under federal tort claims since they are not employed by the federal government. Congress subsequently changed the law to cover employees of Native regional corporations established under the Indian Self-Determination Act (PL 93-638). However, there is still widespread confusion over whether CHAs are covered when they treat non-Native beneficiaries or whether the new law covers CHAs retroactively. There also is concern that CHAs who are not employed under PL 93-638 contracts are not covered. Native regional health corporations are investing thousands of dollars in malpractice insurance for CHAs and in legal fees to get legal opinions from the U.S. Justice Department. This is diverting health care dollars from direct services.

Under current arrangements, CHAs receive 40 hours of emergency trauma technician (ETT) training prior to going to session I of the CHA training program. Following sessions II and III of this training, some CHAs are trained and certified as emergency medical technician (EMT) I's (110 hours), and a few have been certified as EMT II's (50 additional hours) under AS 18.08.080. Once certified as EMTs by the Department of Health and Social Services, CHAs have some immunity from liability protections under AS 18.08.086.

Position

The Department of Health and Social Services supports the intent of this legislation but cannot support the bill as currently written. Although we recognize the need for liability protection for CHAs, the department believes this liability should not extend to procedures for which specialized training is required. The department proposes the following amendment to the bill to alleviate this concern:

Insert the following language at line 22 after the word "assistance".

. . . This immunity from liability protection would not apply to civil damages that result from providing or attempting to provide any one of the following advanced life support techniques, unless the community health aide is authorized by state law to provide them:

- (1) electric cardiac defibrillation,
- (2) administration of antiarrhythmic agents,
- (3) intravenous therapy, and
- (4) use of endotracheal intubation devices or esophageal airway devices.

The department supports HB 552 with this change.

Recommended by: *Elizabeth Ward*  
 Elizabeth Ward, M.N.  
 Director  
 Division of Public Health

Date: 4/18/88

Approved by: *Myra M. Munson*  
 Myra M. Munson  
 Commissioner  
 Department of Health and  
 Social Services

Date: 4/18/88

FISCAL NOTE

REQUEST:

Revision Date: 3-30-88  
Title: An Act relating to civil liability for emergency aid.  
Sponsor: \_\_\_\_\_  
Requestor: \_\_\_\_\_

Agency Affected: Health & Social Services  
BRU: State Health Services  
Components: EMS Training and Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The enactment of HB 552 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Elizabeth Ward, Director *Elizabeth Ward* Phone: 465-3090  
Division: Public Health Date: 4-18-88

Approved by Commissioner: Mike M. Munson *Mike M. Munson* Date: 4-18-88  
Agency: Department of Health & Social Services

Distribution (by preparer):

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# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE  
Chairman - Representative Dave Donley

P.O. BOX V, JUNEAU 99811

(907) 465-3892

April 18, 1988

## M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair  
House Labor and Commerce Committee

RE: Support for HB 552 - "An Act relating to civil liability for emergency aid."

Following is a list of the people who called the House Labor and Commerce Committee stating their support of HB 552.

Grace Lincoln, Community Health Practitioner Program, 442-3311, x172.

Ron Gould, Director, Tanana Chiefs village health services, 452-2446.

Debra Caldera, Director, Community Health Aide Program, Yukon Health Group (Bethel), 543-4471.

Clarissa Carl, R.N., Health Dept. for the Aleutian Islands, 276-2700.

Lloyd Miller, Attorney for the Native Health Board, 258-6377.

Norma Jean Frank, Community Health Aide Educator, South East Alaska Regional Health Corporation (Sitka), 966-2459.