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(7)

HOUSE COMMITTEE REPORT

Date referred: 4/30/87

FURTHER REFERRALS: Judiciary

DATE: 4/26/88

The Labor & Commerce Committee has considered SB 223

"An Act relating to civil liability of zoos and zoo operators."

RECOMMENDS:

- replace with CS SB 223 the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Chris Davidson

W. Furnace

SIGNING OTHER RECOMMENDATIONS:

David Dauley (NO REC)

John Ellis (no rec)

Walter Kozman (no rec)

Ed G. ... (no rec)

David Dauley

Chairman's Signature

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: <hr/> Revision Date: 03/10/88 Title: An act relating to civil liability of zoos and zoo operators Sponsor: Faiks Requestor: Finance	Bill Version: SB 223 Publish Date: Agency Affected: Alaska Court System BRU: Trial Courts Components:
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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
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL
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REVENUE
---------	---------	---------	---------	---------	---------	---------

FUNDING:	(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Jan Strandberg, General Counsel	Phone: 264-8228
Division: Alaska Court System	Date: 03/10/88

Approved by: Arthur H. Snowden, II, Administrative Director	Date: 03/10/88
Agency: Alaska Court System	

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management & Budget
 - Impacted Agency(ies)
 - Senate Secretary

5-0978B

Ford
4/25/88

Original sponsors: Faiks and Sturgulewski

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 223 (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 of zoos and zoo
7 operators."

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

9 * Section 1. AS 09.17 is amended by adding a new section to read:

10 Sec. 09.17.100. CIVIL LIABILITY OF ZOOS. (a) A person may not
11 recover damages for injury to person or property from a zoo or a zoo
12 operator, if the damages occurred as a result of an inherent risk of
13 attendance at a zoo, notice of the inherent risk was posted as re-
14 quired under (b) of this section, and the zoo operator exercised
15 reasonable care to prevent the injury.

16 (b) A zoo operator shall post signs at prominent places within a
17 zoo and at each zoo entrance. Each sign shall include a statement
18 warning that the zoo is not liable for injuries to person or property
19 occurring as a result of dangers or conditions inherent in attending
20 the zoo.

21 (c) In this section

22 (1) "inherent risk of attendance" means the dangers or
23 conditions that are an integral part of a zoo and the physical prox-
24 imity of wild animals;

25 (2) "zoo" means a place where wild animals are kept for
26 exhibition to the public that is

27 (A) owned by the state or a municipality; or

28 (B) owned and operated by a nonprofit organization.

No 289

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB 223

Publish Date: _____

Revision Date: _____

Agency Affected: Alaska Court System

Title: Civil liability of zoos
and zoo operators

BRU: Trial Courts

Sponsor: Faiks

Components: _____

Requestor: Senate Judiciary Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: ART SNOWDEN
Division: Alaska Court System

Phone: 264-0457
Date: 4-23-87

Approved by Commissioner: [Signature]
Agency: _____

Date: 4-23-87

- Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

Alaska State Legislature



PRESIDENT
907-465-3755

JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

April 6, 1987

MEMORANDUM

TO: Senator Jay Kerttula, Chairman
Senate Judiciary Committee

FROM: Senator Jan Faiks
President of the Senate

SUBJECT: Background on Senate Bill 223
An Act relating to civil liability of zoos and
zoo operators

Senate Bill 223 has been referred to your committee for consideration. The purpose of this bill is to limit the civil liability of zoos and zoo operators in Alaska.

SB 223 provides that a person may not recover damages for injuries sustained at a zoo as a result of an inherent risk of attendance at a zoo, provided that notice of the inherent risk was posted and the zoo operator exercised reasonable care to prevent the injury.

The bill further provides that a zoo operator shall post warning signs at prominent places within the zoo and at each entrance.

"Inherent risk of attendance" is defined as the dangers or conditions that are an integral part of the physical layout of a zoo and the physical proximity of wild animals.

I would appreciate the committee's consideration of the legislation at its earliest convenience. Should you need any additional information, please let me know.

Thank you.

OUT OF SESSION

6060 YUKON DRIVE ANCHORAGE, ALASKA 99516 907-274-6611

Alaska State Legislature

PRESIDENT
907-465-3755

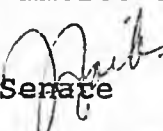
JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

May 4, 1987

MEMORANDUM

TO: Representative Dave Donley, Chairman
House Labor and Commerce Committee

FROM: Senator Jan Faiks 
President of the Senate

SUBJECT: Background on Senate Bill 223
An Act relating to civil liability of zoos and
zoo operators

Senate Bill 223 has been referred to your committee for consideration. The purpose of this bill is to limit the civil liability of zoos and zoo operators in Alaska.

SB 223 provides that a person may not recover damages for personal or property injuries sustained at a zoo as a result of an inherent risk of attendance. The bill further provides that the zoo operator must use reasonable care to prevent the injury, and has a duty to post warning signs at prominent places within the zoo and at each entrance.

"Inherent risk of attendance" is defined as the dangers or conditions that are an integral part of the physical layout of a zoo and the physical proximity of wild animals.

This legislation addresses the standard of care to be applied in liability cases which may be brought against zoos and zoo operators in Alaska.

There are two theories of liability which have been applied to such keepers of wild animals. The rule of "absolute liability" is that one who keeps wild animals on his premises must see to it at his peril that they do no damage to others. Stated

OUT OF SESSION

6060 YUKON DRIVE ANCHORAGE, ALASKA 99516 907-274-6611



differently, one who harbors a wild animal, which by its very nature is vicious and unpredictable, does so at his peril, and liability for injuries inflicted by such animal is absolute, regardless of fault.

This theory of "absolute liability" has been refuted in several cases throughout the country involving city-owned zoos, in favor of a duty of reasonable care. The argument that maintenance of a caged polar bear creates absolute liability for any injuries sustained was first rejected in a 1952 California case. The court found that the bear was properly caged and that the injury occurred when the victim strained against the barrier and brought his hand close to the bear's mouth in trying to feed it sugar. McKinney v. City and County of San Francisco, 241 P.2d 1060 (Cal. 1952). The most recent case on point, Kennedy v. City and County of Denver, 506 P.2d 764 (Colo. App. 1972), held that the rule of absolute liability does not extend to situations where a municipality maintains and operates a zoo for the benefit of the public and in response to the public's obvious desires. The wild animal rule has been held inapplicable in the context of today's society and present zoological techniques, as it would be unrealistic to hold that operation of a municipal zoo exposes the public to inordinate risk. City and County of Denver v. Kennedy, 476 P.2d 762 (Colo. App. 1970).

However, that line of cases has been applied only to zoos which are owned by municipalities. There are no city-owned zoos in Alaska; the Alaska Zoo is owned and operated by a non-profit organization for the benefit of the public.

The purpose of this legislation is to hold the Alaska Zoo, and other zoos which may be established in Alaska, to a standard of reasonable care, rather than to the theory of absolute liability. Ownership of a zoo should not determine the standard of care that it is held to.

The application of the duty of reasonable care to zoos and zoo operators conforms to the standard of care of ski area operators, another activity which has recognized inherent risks.

Senate Bill 223 applies only to personal or property injuries which occur during attendance at a zoo. The zoo operator must act reasonably to protect the public from harm, and must prominently place signs to warn the public of danger.

The Alaska Zoo presently requires that all children be accompanied by an adult guardian, and one adult must accompany a group of five children, as a means of protecting them from harm.

I would appreciate the committee's consideration of the legislation at its earliest convenience. Should you need any additional information, please let me know.

Thank you.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

HL+C

4-26-88

1:30 p.m.



Official Business

DATE: April 26, 1988

SIGN-IN

- HB 544 Contractor bonds/public buildings and works
- SB 61 Civil liability for plane inspection
- SB 61 Rehire of injured state employees
- ✓ SB 309 Definition of commercial fisherman
- SB 211 Civil liability
- SB 461 Liability of hospitals for nonemployees

PLEASE PRINT
NAME & TITLE

REPRESENTING

ADDRESS & ZIP

PHONE

DO YOU WANT
TO TESTIFY?

SUBJECT:
BILL #

✓ Sharon Anderson	Humana Hospital		H W 276-1131	Yes	SB 461
✓ Adrienne Anderson	Nat'l Campaign Against Toxic Hazards	1266 Cook St. Denver Colorado 80206	H W 303-333-9714	YES	SB 211 SB 461
✓ Jeff Stepan	DOT & PF	P.O. Box 2 Juneau	H W 465-2151	IF NEEDED	HB 558
Karl Ohls	Sen. Zharoff	P.O. Box V, Juneau	H W 465-4922	Yes, if needed	SB 309
✓ David McGuire	Citizens Coalition for Reform	4001 Laurel	H 349-1752 W 562-4142	yes	SB 211 SB 461
✓ AN GROSS	ATIL	8470 N. D. Ave.	H W	yes	SB 211
✓ Paul Roller	D.O.I		H W 465-2513	Yes	
RICHARD RITTER	AMERICAN INST. of ARCHITECTS	800 GLACIER AVE., JUNEAU	H W 586-1371	YES, IF NEEDED	SB 211
MARY KANCEWICK	AEL	Assembly Bldg	H W	yes	SB 211
			H W		

NEEDS TO TESTIFY TODAY WON'T BE IN JUNEAU 11/27
Must also testify today before 5

