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347



Alaska State Legislature

SENATOR JIM DUNCAN

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COMMITTEES:
FINANCE
RESOURCES
BUDGET AND AUDIT

MEMORANDUM

January 26, 1988

TO: Senator Mitch Abood, Chairman
Senate State Affairs Committee

FROM: Senator Jim Duncan

SUBJECT: SB 347, "An act relating to the regulation of motorboat repairs".

SB 347 amends the definition section of the current law relating to the Regulation of Motor Vehicle Repairs to include motorboats and defines motorboats.

Currently under AS 45.45, motor vehicle repair, when a customer takes his motor vehicle to a shop for repair the customer may request a written estimate prior to the commencement of any repairs. If the shop has given the customer an estimate and the price for the authorized repairs exceeds the estimate, the shop must call the customer before continuing with the repairs and at that time the shop has the opportunity to give the customer a new estimate. Also if the customer requests, at the time the repair order is taken, the customer may elect to receive the parts of their motor vehicle that are replaced.

Essentially 45.45 Regulation of Motor Vehicle Repairs is a consumer protection law. SB 347 will provide the same protection for boat owners as for motor vehicle owners under AS 45.45.

My office was contacted by an individual who needed to have his boat engine repaired. A verbal estimate by the boat dealership indicated the repairs would cost \$4,500.00. When the dealership was finished repairing the engine the total bill was over \$7,000.00. There was no indication to the owner at any time prior to the billing that the amount due would be over the original estimate.

With the large number of boat owners in our state and the fact that for many their boat is an important means of transportation I believe this bill will extend the necessary protection for boat owners that currently exists for car owners.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to regulation of motorboat repairs."
Sponsor: Senator Duncan
Requestor: Senate State Affairs

Agency Affected: Department of Law
BRU: Consumer Protection
Components: Consumer Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		47.0	23.5	23.5		
TRAVEL		5.0	2.5	2.5		
CONTRACTUAL		10.0	5.0	5.0		
SUPPLIES		3.3	1.8	1.8		
EQUIPMENT		8.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	73.3	32.8	32.8	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	73.3	32.8	32.8	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	1	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	1	1	-0-	-0-
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director
Division: Administrative Services
Approved by Commissioner: Grace Berg Schuble, Atty. Gen.
Agency: Department of Law

Phone: 465-3672
Date: January 27, 1988
Date: January 27, 1988

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

- CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 347

This bill amends AS 45.45.240(2) by changing the definition of "motor vehicle" or "vehicle" to include motorboats. The bill further defines "motorboat" to mean a vessel used or capable of being used as a means of transportation on water if the vessel is propelled in whole or in part by machinery; "motorboat" includes a vessel temporarily equipped with a detachable motor, but does not include aircraft equipped to land on water.

The effect of this bill will be to extend the existing regulation of motor vehicle repairs, set out in AS 45.45.130 through AS 45.45.240, to the repair of motorboats. This regulation includes: repair cost estimates, on request; notice to customers of their rights under the Act; fair charges for cost estimates, where such charges are necessary; customer authorization to proceed, including notice of and prior approval of unanticipated additional work and costs; return or inspection of parts that are replaced; a dated invoice detailing the costs of all parts and labor involved in the repair, identifying all part replacements as either new, used, rebuilt, or reconditioned; prohibited practices on the part of repair shops; and the requirement that shops maintain for inspection by the attorney general repair records and invoices for parts purchased by the shop for a period of two years.

Although the bill does not place mandatory administrative duties on the Department of Law, for investigation and enforcement action under AS 45.50.471 through AS 45.50.561, the attorney general is, nonetheless, empowered to take such actions under these sections.

It is the department's view that marine repair shop compliance with the motor vehicle repair statute will not be successful unless two essential steps are accomplished. First, a comprehensive education program for shop operators, explaining the new requirements of the statute, must be undertaken. To be effective, such a program would necessarily include preparation, printing, and distribution of explanatory brochures, and face-to-face visits by Department of Law consumer protection staff. This is based on the department's prior experience in obtaining compliance by automotive repair shops under the motor vehicle repair statute as originally enacted. When specific regulatory requirements are first placed on an industry not previously subject to them, it takes considerable time and effort to inform and assist the businesses in adapting to the change and to gain their cooperation in voluntary compliance.

Second, some follow-up enforcement and informational efforts must occur in order to demonstrate the willingness of the state to back up the standards of conduct required of shop operators. Enforcement would primarily involve investigating and mediating complaints, but it may also involve taking legal action if it becomes necessary to do so.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 347

Unfortunately, budget reductions which took place in FY 1987 and FY 1988, have substantially cut enforcement resources and have eliminated most consumer complaint mediation services, except at Fairbanks. The department's consumer protection section, which had a full-time staff of 15 employees in FY 1986, was reduced to the equivalent of 10 full-time employees in FY 1987, and reduced to 4 full-time and 1 part-time employees in FY 1988. The current staff consists of 1 attorney, 1 investigator, and 1 legal secretary at Anchorage, and 1 investigator/mediator and 1 part-time legal secretary at Fairbanks. Because of the reduced size of the staff, the Anchorage office's efforts have been concentrated on bringing enforcement action against wide-scale consumer fraud having the most serious impact on consumers. Efforts at the Fairbanks office continue to be centered on the investigation and resolution of consumer complaints.

Due to the substantial staff reduction mentioned above, the department recommends employment of an Associate Attorney I (paraprofessional) at Juneau to prepare and conduct the marine repair shop education program. This position would also be responsible for providing some follow-up complaint mediation and enforcement. It is anticipated that the associate attorney position would be required on a full-time basis for the first year following implementation of the bill, and on a part-time basis for two successive years, after which the department's involvement in marine repair shop enforcement would cease. First year education costs include \$6,000 for production of the marine shop brochure, \$4,000 for additional postage and long-distance toll costs, and \$5,000 for travel to coastal marine repair centers, except for Anchorage and Fairbanks where on-site consultation would be handled by existing staff. These out-of-pocket costs would drop by about fifty per cent after the first year, when the program enters the follow-up enforcement phase. New position costs include the purchase of a personal computer with letter quality printer to avoid the substantially greater cost of clerical assistance, although some clerical help from the civil division will be required from time-to-time.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 347

Fiscal Analysis Summary

	<u>First Year</u>	<u>Second and Third Years</u>
71000	46,960	23,480
72000	5,000	2,500
73000	10,000	5,000
74000	3,300	1,800
75000	8,000	-0-
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Total	73,260	32,780

Position Title Associate Attorney I		No. of Positions 1	Range/Step 17A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Juneau		Election District 4
Type of Expenditure		Justification		
1	2	3		
Salary	34,920	This position is required to provide consumer protection law information to operators of marine repair shops, who would be included under the state's motor vehicle repair statute if SB 347 is enacted. In addition to the service, the position would investigate consumer complaints under the amended statute, provide mediation services and, if legal action becomes necessary, provide case preparation assistance for attorneys who handle such actions. In view of the level of expertise required of these sometimes highly technical investigations, allocation to the mid-level para-professional class of Associate Attorney I is recommended.		
Benefits	12,040			
Premium Pay				
Other				
Total Personal Services	46,960			
Travel		5,000		
Contractual		10,000		
Commodities		3,300		
Equipment		8,000		
Other				
Total Cost		73,260		
Funding Source for Total Cost				
Federal Receipts	1002			
G. E. Match	1003			
General Fund	1004	73,260		
GF Program Receipts	1005			
Other				

**Request For
New Position**

Agency Department of Law
 BRU Consumer Protection
 Component Consumer Protection

Page 1 of 1
 Revised Date _____

FY 89

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SB 347
PUBLISH DATE: 1-15-88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to the
regulation of motorboat repairs
Sponsor: Duncan
Requestor: _____

Agency Affected: _____
BRU: _____
Components: _____

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						
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REVENUE						
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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)

Prepared by: Senate State Affairs Committee Phone: 465-4522
Division: _____ Date: _____
Senator: _____
Approved by Commissioner: Mitch Abbod Date: 1-28-88
Agency: Senate State Affairs Committee

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

Sec. 45.45.220. Records. A shop shall maintain repair records and invoices for parts purchased by the shop. The records shall be available for reasonable inspection by the attorney general or other persons acting at the request of the attorney general and shall be retained for at least two years. (§ 1 ch 146 SLA 1976)

Sec. 45.45.240. Definitions. In AS 45.45.130 — 45.45.240

(1) "customer" includes a person authorized by the customer to act on the customer's behalf;

(2) "motor vehicle" or "vehicle" means a motor vehicle as defined in AS 28.40.100 which is required to be registered under AS 28.10, or with a governmental agency of another jurisdiction performing a similar function;

(3) "motor vehicle repair shop" or "shop" means an individual, corporation, partnership, or other form of business organization engaged in the motor vehicle repair business and includes owners, officers, directors, agents, employees, and representatives but excludes the following:

(A) a shop engaged solely in the business of repairing the motor vehicles of a single commercial, industrial or governmental establishment, or of two or more of these establishments which are related by common ownership or corporation affiliation;

(B) a person repairing the person's own or a family member's motor vehicle;

(4) "repair" or "repairs" means the improvement, adjustment, replacement, examination, diagnosis, maintenance, servicing, removal or installation of any component or part of a motor vehicle, but does not include towing or the supplying of motor fuel to a motor vehicle. (§ 1 ch 146 SLA 1976; am § 21 ch 144 SLA 1977)

Article 6. Motor Vehicle Warranties.

Section	Section
300. Repairs required	335. Resale without disclosure prohibited
305. Replacement or refund	340. Other rights and remedies
310. Notice by owner	345. Repair facilities
315. Exceptions	350. Reimbursement of shipping costs
320. Presumption	355. Arbitration or mediation
325. Parts availability	360. Definitions
330. Failure to replace or refund	

Opinions of attorney general. — The Better Business Bureau's auto line informal dispute resolution mechanism pursuant to this article is in substantial compliance with 16 C.F.R. § 703, setting forth the standards for informal dispute settlement procedures. 1986 Op. Att'y Gen. No. 01.