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DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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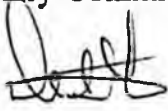
240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

March 19, 1992

SUBJECT: CSSB 399(Judiciary)(1992 Revisor's Bill)

TO: Senator Rick Halford
Chair, Senate Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

This memorandum discusses CSSB 399(Judiciary) (the 1992 revisor's bill, Work Order No. 7-LS1706D), which was approved by your committee.

The bill was prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

* * * shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of * * * the statute law of this state.

To assist in understanding the bill, I have summarized the contents by listing sections that have similar effects.

Sections that delete, repeal, or update obsolete provisions: Sections 3 - 5, 10, 11, 21 - 23, 29, 33, 37, and 38 delete, repeal, or update provisions that have become obsolete either through other legislative action or the passage of time.

Sections that corrects errors or oversights: Sections 1, 7 - 9, 12, 13, 18 - 20, 24, and 30 - 32 correct errors or oversights that can not be corrected editorially.

Sections that improve the form or substance of the law: Sections 2, 6, 14 - 17, 25 - 28, and 34 - 36 propose amendments to improve the form or substance of the statute law of Alaska.

SECTIONAL ANALYSIS

Section 1. AS 05.15.210(35) defines "veterans organization," but the term is not used in AS 05.15. The Department of Commerce and Economic Development treats veterans organizations as "qualified organizations," which is consistent with apparent legislative intent. The amendment to AS 05.15.210(29) in sec. 1 of the bill adds veterans organizations to the list of organizations that qualify for charitable gaming permits, thus making express that which had been implied.

Secs. 2, 6, 14, and 15. Each of these sections adds facsimile as an authorized means of communication where existing law allows the use of telegraph. The amendments are intended to keep these laws abreast of technological changes.

Secs. 3 - 5. Each of these sections deletes material that is obsolete in that it is redundant to the general provisions of AS 08.01.020, enacted in 1987.

Secs. 7, 20, 31, and 32. Delete references to the Medical Indemnity Corporation of Alaska, which is no longer functioning. Chapter 14, SLA 1991 repealed the authority for the corporation. These remaining references were overlooked when ch. 14 was enacted.

Sec. 8. This amendment corrects an erroneous reference in the laws relating to electric cooperatives. The need for the amendment was brought to our attention by the corporations section of the Department of Commerce and Economic Development.

Sec. 9. A drafting oversight in ch. 64, SLA 1991 had the effect of taking away the authority of peace officers to make warrantless arrests for violation of domestic violence restraining orders that prohibit communication between the parties. The intended effect of replacing AS 11.61.120(a)(6) with new AS 11.56.740 in last year's legislation was to increase the penalty for a violation to a class A misdemeanor. Unfortunately, AS 12.25.030(b) should have been amended to include a reference to the new provision. This section of the bill corrects that oversight, and also incorporates a change in the description of the protected class of victims to parallel other changes made by ch. 64.

Sec. 10. Deletes obsolete language relating to the initial board of the Alaska school activities association.

Sec. 11. AS 14.30.410(b) is amended to delete a reference to the statewide bilingual-bicultural center. The statutory direction for that center was deleted from subsection (a) in 1978 and the reference to it in (b) should have been deleted at the same time.

Sec. 12. The section amends AS 14.48.080(b) to correct an erroneous internal references to "this section." Minimum standards are established by AS 14.48.060, not AS 14.48.080.

Sec. 13. AS 14.48.130(c) is amended to correct an erroneous internal reference. Penalties are set out in AS 14.48.190, whereas AS 14.48.180 simply authorizes a suit for injunctive relief.

Sec. 16. This section merely relocates language in a fish and game provision and divides it into paragraphs to eliminate any ambiguity in the scope of the requirement of possession. The provision could be read to require license possession only with respect to taxidermy, when, of course, it relates to all of the listed activities.

Sec. 17. AS 16.05.420(b) makes false statements in fish and game license applications subject to prosecution for unsworn falsification. The provisions of AS 16.05.408(b) make false statements in affidavits required for applications under that section subject to a perjury prosecution. AS 16.04.420(b) applies to AS 16.05.408 as well. The amendment proposed in this bill section makes it clear that the provisions of AS 16.05.408(b) control as to those false statements.

Sec. 18. This section adds "elk" (when lawfully owned) to the definition of "domestic mammals" for purposes of the fish and game code. This should have been done when elk farming was authorized in 1987.

Sec. 19. In the 1975 revisor's bill, the spanned reference in AS 16.10.030 (a penalty provision) was amended to include AS 16.10.055, which had been enacted in 1974. The amendment was not necessary and not appropriate for a revisor's bill. AS 16.10.055 (prohibiting interference with commercial fishing gear) contains its own penalty provision, which is more stringent (a class A misdemeanor) than the penalty set out in AS 16.10.030 for a violation of AS 16.10.010 - 16.10.050 (a fine of not less than \$100 nor more than \$500). Further, AS 16.10.010 - 16.10.050 deal with conduct that interferes with or is destructive to waters used for spawning or propagation by salmon unless the conduct is allowed under a permit issued by DEC, and bear very little relationship to the conduct covered by AS 16.10.055. The amendment proposed in the bill restores the law to its original state. If this amendment is made, we will set out AS 16.10.055 in its own article when the AS 16 pamphlet is replaced later this year.

Sec. 21. The sentence proposed for deletion from AS 18.35.120 is meaningless because of the repeal of AS 18.35.100(a) in 1982.

Secs. 22 and 23. These provisions simply update the name of the Nuclear Regulatory Commission, formerly the Atomic Energy Commission.

Sec. 24. The Department of Transportation and Public Facilities does not regulate the referenced pressure vessels. They are regulated by the federal Department of Transportation.

Sec. 25. The proposed amendment corrects the description of the action required to initiate a judicial appeal of certain administrative action.

Secs. 26 and 27. Both sections involve changing erroneous references to the entire chapter to references to the relevant article.

Sec. 28. The first part of each of AS 18.67.020(c) and (d) duplicate each other. This amendment eliminates the redundant portion of (d).

Sec. 29. The proposed amendment updates a reference to the Alaska Rules of Court.

Sec. 30. Corrects a statutory reference in the insurance code.

Sec. 33. Deletes obsolete language relating to a deadline for certain administrative action.

Sec. 34. Rewrites the language used to describe vehicles that may receive dealer plates to correct the context. No vehicles are "specified" in AS 28.10.421(d)(10).

Secs. 35 and 36. The term "material land" is not used in AS 38.05, but the word "material" or "materials" is used frequently, most often in the context of "timber and other materials." The term "timber land" is used once in AS 38.05. These two sections of the bill amend the old definition of "'timber land' and 'material land'" to delete the reference to "material land" and the types of materials, so that the definition is now limited to "timber land," and enact a definition for "material" that incorporates the language deleted in the first amendment.

Sec. 37. The language that is amended out of AS 44.81.250(c) became obsolete in 1987 with the passage of ch. 49, SLA 1987, which removed the participation requirements formerly contained in AS 44.81.210(a)(20).

Sec. 38. Repeals provisions that are obsolete. Those provisions and the reasons for their obsolescence are:

AS 14.11.135(2) and (4) - define terms that are defined for the title in AS 14.60.010;

AS 14.17.250(3) - defines a term that is defined for the title;

AS 14.17.250(8) - defines a term that is not used;

AS 14.30.350(3) - defines a term that is defined for the title;

Senator Rick Halford
March 19, 1992
Page 5

AS 16.05.050(19) - this provision required that a report be given to the legislature by January 1, 1991 and is now obsolete;

AS 18.31.500(3) - defines a term that is not used;

AS 18.35.230(3) - the term related to a repealed provision (see discussion for sec. 14 of this bill);

AS 18.55.950(5) - defines a term that is not used, except in a different context;

AS 18.55.950(9) - defines a term that is not used;

AS 18.60.775 - obsolete through the passage of time;

AS 26.05.040 - the provisions of federal law that are incorporated by reference in this section have all been repealed (the old federal provisions related to the Territorial Guard and have, in large part, been subsequently enacted as a part of state law in AS 26.05).

The text of all provisions proposed for repeal is set out in the appendix.

Sec. 39. Gives the bill an immediate effective date.

If I may be of further assistance, please advise.

cc: Deborah Behr
Department of Law

APPENDIX - TEXT OF REPEALED PROVISIONS

AS 14.11.135(2) and (4):

- (2) "commissioner" means the commissioner of education;
* * *
(4) "department" means the Department of Education;

AS 14.17.250(3) and (8):

- (3) "commissioner" means the commissioner of the Department of Education;
* * *
(8) "pre-fiscal year" means the year immediately before the fiscal year;

AS 14.30.350(3):

- (3) "department" means the Department of Education;

AS 16.05.050(19):

Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The commissioner has, but not by way of limitation, the following powers and duties:

- * * *
(19) to report to the legislature by January 1, 1991, concerning the production and sale of merchandise bearing designs, labels, or words associating the merchandise with the department;

AS 18.31.500(3):

- (3) "asbestos product" means a product that produces airborne asbestos.

AS 18.35.230(3):

- "remodeling" means any substantial modification of the physical structure or redecoration the value of which exceeds 10 per cent of the fair market value of

AS 18.55.950(5) and (9):

(5) "clerk" means the clerk or other official of the municipality who is the custodian of its official records;

* * *
(9) "mayor" means the mayor of a municipality or the officer having the duties customarily imposed upon the executive head of a municipality;

AS 18.60.775:

Sec. 18.60.775. APPLICABILITY. AS 18.60.750 - 18.60.755 apply only to installations or replacements of safety glazing materials made after January 1, 1975, but do not apply to contracts awarded, under an invitation for bids, before January 1, 1975.

AS 26.05.040:

Sec. 26.05.040. RATIFICATION AND CONFIRMATION OF EXISTING MILITARY FORCES. The provisions of 48 U.S.C. 473 - 479 pertaining to the National Guard apply to the existing units and individuals of the military forces in the state, heretofore organized and known as the Alaska National Guard, and this organization is ratified and confirmed.

(7)

Date Referred: April 1, 1992

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Date of Committee Action: 4/24/92

The JUDICIARY Committee considered:

CSSB 399(JUD)

CS FOR SENATE BILL NO. 399 (JUD)

1992 REVISOR'S BILL

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

RECOMMENDATIONS: the same title
be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) LAA 3-23-92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Dan Donley</i>	<input checked="" type="checkbox"/>				
<i>S. J. ...</i>	<input type="checkbox"/>	<i>Mark ...</i>		<input checked="" type="checkbox"/>	
		<i>J. ...</i>		<input checked="" type="checkbox"/>	

Dan Donley
CHAIRMAN'S SIGNATURE

FISCAL NOTE

Bill Version: SR 399
 (S) Publish Date: 3-23-92

STATE OF ALASKA
 1992 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Legislative Affairs Agency
 Title: "An Act making corrective amendments
to the Alaska Statutes as recommended by the... BRU: Legislative Council
 Sponsor: Senate Judiciary Component: Legal Services
 Requestor: Senate Judiciary

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Changes in (SSB 399 (JD))
 have no fiscal impact. This
 fiscal note is appropriate.
3-20-92 Rick Ly Gml
 date Comte Aide (initial)

Prepared By: Pamela A. Stoops, Director Phone: 465-3850
 Division: Administrative Services Date: 3/16/92

Approved By: Warren W. Endicott, Executive Director
 Agency: Legislative Affairs Agency Date: 3/16/92

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov. , & Impacted Agency(ies).

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Juneau, Alaska 99801-2101

MEMORANDUM

April 9, 1992

SUBJECT: Amendment for CSSB 399(JUD) (1992 Revisor's Bill)

TO: Representative Dave Donley
Chair, House Judiciary Committee

FROM: David R. Dierdorff *DRD*
Revisor of Statutes

I note that you have scheduled CSSB 399(JUD) for hearing on Monday, April 13 at 1:30 p.m. At this point I have one small amendment to propose to your committee and have enclosed a copy for members' packets.

The amendment corrects a 1991 drafting error in CSSSSB 25(CRA), which became ch. 83, SLA 1991. Late revisions to the language amending AS 29.35.020(b) added an internal reference to AS 46.08.900 to pick up the definition of "village." At that time, sec. 3 of the bill, which added a different definition of "village" as a new subsection (e) for AS 29.35.020, should have been deleted, but, through oversight, it was left in the bill. It is necessary to repeal (e) to eliminate the conflict and correct the error.

If I may be of further assistance, please advise.

DRD:gc
92-294.glc

Enclosure

Thanks for getting this on your calendar so promptly.

A M E N D M E N T

OFFERED IN THE HOUSE JUDICIARY COMMITTEE
TO: CSSB 399 (JUDICIARY)

Page 11, line 10:

Delete "and"

Insert ";

Following "AS 26.05.040", insert "; and AS 29.35.020(e)"

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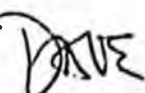
240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

April 2, 1992

SUBJECT: CSSB 399(Judiciary), the 1992 Revisor's Bill

TO: Representative Dave Donley
Chair, House Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

I note that the revisor's bill has been referred to your committee. I enclose a copy of the sectional analysis for CSSB 399(Judiciary), as the sectional for the CS was not published in the Senate Journal. You will see that this year's bill is relatively short and sweet.

Because I am involved in more drafting than usual and anticipate a heavy load as the session approaches its end, I would appreciate it very much if you could schedule a hearing at your earliest convenience so that I can concentrate on other business during "crunch" time.

Thank you in advance for your cooperation. If you or your staff have any questions about the bill, please do not hesitate to give me a call.

DRD:gc
92-272.glc

Enclosure

DIVISION OF LEGAL SERVICES

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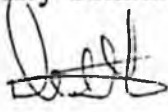
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March 19, 1992

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* * * shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of * * * the statute law of this state.

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Section 1. AS 05.15.210(35) defines "veterans organization," but the term is not used in AS 05.15. The Department of Commerce and Economic Development treats veterans organizations as "qualified organizations," which is consistent with apparent legislative intent. The amendment to AS 05.15.210(29) in sec. 1 of the bill adds veterans organizations to the list of organizations that qualify for charitable gaming permits, thus making express that which had been implied.

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Sec. 19. In the 1975 revisor's bill, the spanned reference in AS 16.10.030 (a penalty provision) was amended to include AS 16.10.055, which had been enacted in 1974. The amendment was not necessary and not appropriate for a revisor's bill. AS 16.10.055 (prohibiting interference with commercial fishing gear) contains its own penalty provision, which is more stringent (a class A misdemeanor) than the penalty set out in AS 16.10.030 for a violation of AS 16.10.010 - 16.10.050 (a fine of not less than \$100 nor more than \$500). Further, AS 16.10.010 - 16.10.050 deal with conduct that interferes with or is destructive to waters used for spawning or propagation by salmon unless the conduct is allowed under a permit issued by DEC, and bear very little relationship to the conduct covered by AS 16.10.055. The amendment proposed in the bill restores the law to its original state. If this amendment is made, we will set out AS 16.10.055 in its own article when the AS 16 pamphlet is replaced later this year.

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Secs. 26 and 27. Both sections involve changing erroneous references to the entire chapter to references to the relevant article.

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Sec. 34. Rewrites the language used to describe vehicles that may receive dealer plates to correct the context. No vehicles are "specified" in AS 28.10.421(d)(10).

Secs. 35 and 36. The term "material land" is not used in AS 38.05, but the word "material" or "materials" is used frequently, most often in the context of "timber and other materials." The term "timber land" is used once in AS 38.05. These two sections of the bill amend the old definition of "'timber land' and 'material land'" to delete the reference to "material land" and the types of materials, so that the definition is now limited to "timber land," and enact a definition for "material" that incorporates the language deleted in the first amendment.

Sec. 37. The language that is amended out of AS 44.81.250(c) became obsolete in 1987 with the passage of ch. 49, SLA 1987, which removed the participation requirements formerly contained in AS 44.81.210(a)(20).

Sec. 38. Repeals provisions that are obsolete. Those provisions and the reasons for their obsolescence are:

AS 14.11.135(2) and (4) - define terms that are defined for the title in AS 14.60.010;

AS 14.17.250(3) - defines a term that is defined for the title;

AS 14.17.250(8) - defines a term that is not used;

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Senator Rick Halford

March 19, 1992

Page 5

AS 16.05.050(19) - this provision required that a report be given to the legislature by January 1, 1991 and is now obsolete;

AS 18.31.500(3) - defines a term that is not used;

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AS 18.55.950(5) - defines a term that is not used, except in a different context;

AS 18.55.950(9) - defines a term that is not used;

AS 18.60.775 - obsolete through the passage of time;

AS 26.05.040 - the provisions of federal law that are incorporated by reference in this section have all been repealed (the old federal provisions related to the Territorial Guard and have, in large part, been subsequently enacted as a part of state law in AS 26.05).

The text of all provisions proposed for repeal is set out in the appendix.

Sec. 39. Gives the bill an immediate effective date.

If I may be of further assistance, please advise.

cc: Deborah Behr
Department of Law

APPENDIX - TEXT OF REPEALED PROVISIONS

AS 14.11.135(2) and (4):

(2) "commissioner" means the commissioner of education;

* * *

(4) "department" means the Department of Education;

AS 14.17.250(3) and (8):

(3) "commissioner" means the commissioner of the Department of Education;

* * *

(8) "pre-fiscal year" means the year immediately before the fiscal year;

AS 14.30.350(3):

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AS 16.05.050(19):

Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The commissioner has, but not by way of limitation, the following powers and duties:

* * *

(19) to report to the legislature by January 1, 1991, concerning the production and sale of merchandise bearing designs, labels, or words associating the merchandise with the department;

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(3) "asbestos product" means a product that produces airborne asbestos.

AS 18.35.230(3):

(3) "remodeling" means any substantial modification of the physical structure or redesign and redecoration the value of which exceeds 10 per cent of the fair market value of the structure;

AS 18.55.950(5) and (9):

(5) "clerk" means the clerk or other official of the municipality who is the custodian of its official records;

* * *

(9) "mayor" means the mayor of a municipality or the officer having the duties customarily imposed upon the executive head of a municipality;

AS 18.60.775:

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