

4-4-91

Approval of
Personal
Contracts
& HB 9



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

Ellis

MEMORANDUM

MARCH 26, 1991

TO: ALL RULES COMMITTEE MEMBERS
FROM: REP. JOHNNY ELLIS, CHAIR *AE*
HOUSE RULES COMMITTEE
SUBJECT: HOUSE RULES COMMITTEE MEETING

HOUSE RULES COMMITTEE MEETING
8:30 A.M.
CAPITOL, ROOM 208
THURSDAY, APRIL 4, 1991

AGENDA:

PROPOSED LEGISLATIVE CONTRACT APPROVAL

HB 9 - LIMIT FREE SAMPLES OF TOBACCO PRODUCTS

COMMITTEE NAME

DATE 4-4

JOINT Rules

TAPE # 3

JOINT _____

TIME CALLED TO ORDER 8:31 am/pm

TIME ADJOURNED _____

ROLL CALL:

PRES

ABST

TIME ARRVD

JOINT MEMBERS PRESENT:

ROLL CALL:	PRES	ABST	TIME ARRVD	JOINT MEMBERS PRESENT:
<u>Rep. Martin</u>	<u>X</u>	<u> </u>	<u>8:05</u>	<u> </u>
<u>Rep. Donley</u>	<u>X</u>	<u> </u>	<u>8:29</u>	<u> </u>
<u>Ellis</u>	<u>X</u>	<u> </u>	<u>8:29</u>	<u> </u>
<u>Greenberg</u>	<u>X</u>	<u> </u>	<u>8:30</u>	<u> </u>
<u>Trussard</u>	<u>X</u>	<u> </u>	<u>8:30</u>	<u> </u>
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AGENDA:

BILL NO.

SHORT TITLE

ACTION TAKEN

BILL NO.	SHORT TITLE	ACTION TAKEN
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OTHER:

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SPECIAL ANNOUNCEMENTS:

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

FOUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

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 Rules 4-4-91 8:30 am

PROFESSIONAL SERVICES CONTRACT BETWEEN

GREGG ERICKSON
P.O. BOX 21124
JUNEAU, ALASKA 99802-1124

AND

HOUSE RULES COMMITTEE

CONTRACT AMOUNT: \$8,000.00

The parties to this contract, made and entered into this 5th day of April, 1991, are the House Rules Committee, (hereinafter referred to as the "Agency,"), and Gregg Erickson (hereinafter referred to as the "Consultant").

THE PURPOSE OF THIS CONTRACT IS TO PROVIDE the House Special Committee on the Exxon Valdez Oil Spill Claims Settlement ("Committee") with Professional Services.

IT IS THEREFORE MUTUALLY AGREED THAT:

CLAUSE I - STATEMENT OF WORK

The Consultant shall provide specialized economic assistance to the House Special Committee on the Exxon Valdez Oil Spill Claims Settlement. The Consultant's duties will include but are not limited to the following:

1. Preparation and presentation of written or oral reports concerning:
 - (a) the provisions of the various settlement documents;
 - (b) economic theories of valuing natural resource injuries;
 - (c) institutional and economic factors to be considered in restoration; and
 - (d) direct and indirect costs incurred by the state as a result of the Exxon Valdez oil spill.

CLAUSE II - PERIOD AND DATES OF PERFORMANCE AND TERMINATION

- (A) The work under this contract shall begin March 27, 1991 and terminate May 3, 1991.
- (B) This contract may be terminated by the Agency upon delivery of written notice to the Consultant. If this contract is so terminated and the termination is not based on a breach by the Consultant, the Consultant shall be compensated for services provided under the terms of this contract to the date of termination if the Consultant provides the Agency with a written report containing a description of the services performed, a statement of the results or conclusions formed based upon the research or analysis performed, and a copy of the written material produced during the contract.

CLAUSE III - COMPENSATION AND METHOD OF PAYMENT

- (A) For the work required by this contract, the Consultant shall be paid Eighty and No/100 Dollars (\$80.00) per hour.
- (B) Consultant shall be reimbursed for long distance telephone calls and authorized travel as approved by the Project Director.
- (C) Payment shall be based on proper billing provided by the Consultant.
- (D) The Project Director must approve a billing before it may be paid.
- (E) If a payment is not made within 90 days after the Agency has received a proper billing, the Agency shall pay interest on the unpaid balance of the billing at the rate of 1.5 percent per month from, and including, the 91st day through the date payment is made. A payment is considered made on the date it is mailed or personally delivered to the Consultant.
- (F) Total payments under this contract, including reimbursement of costs, may not exceed Eight Thousand and No/100 Dollars (\$8,000.00).

CLAUSE IV - PROCUREMENT OFFICER AND PROJECT DIRECTOR

The Procurement Officer is Representative Johnny Ellis. The Project Director is Representative Max Gruenberg.

CLAUSE V - EXPENSES AND DUPLICATION

- (A) Except as may be otherwise provided by Clause III, the office space, equipment, supplies, clerical support and other expenses that are necessary for the Consultant to carry out the Consultant's obligations under this contract shall be supplied and paid by the Consultant at no cost to the

Agency.

- (B) Duplicates of any material or other item produced under this contract may be produced by the Agency; the office space, equipment, supplies, clerical support and other expenses required for the duplication shall be supplied by the Agency.

CLAUSE VI - RECORDS, DOCUMENTS, AUDIT

The Consultant shall accurately maintain those records, including detailed time records, that are required by the Project Director. The records are subject to inspection by the Agency or the Project Director at all reasonable times. All documents, reports, material, and other items generated as a consequence of work done under this contract shall become the property of the Agency, and the Agency shall own all rights included in any copyright rights for the documents and reports. Upon completion of the work or the termination of this contract, the items shall be delivered to the Project Director.

CLAUSE VII - INDEMNIFICATION

The Consultant shall indemnify, save harmless, and defend the Agency and the Committee, and their officers, agents and employees from liability for any claim, including costs arising from the claim, arising from Consultant's negligence in the performance of Consultant's obligations under this contract.

CLAUSE VIII - VENUE

In the event that the parties to this contract find it necessary to litigate the terms of the contract, venue shall be the State of Alaska, First Judicial District, at Juneau, and the contract shall be interpreted according to the laws of Alaska.

CLAUSE IX - ASSIGNMENT

This contract may not be assigned to another party unless in accordance with sec. 160 of the Procurement Procedures of the Alaska State Legislature.

CLAUSE X - WORKERS' COMPENSATION

During the life of this contract, the Consultant shall, in accordance with AS 23.30.045(d), provide and maintain workers' compensation insurance. The Consultant shall require any subcontractor to provide and maintain workers' compensation insurance for the subcontractor's employees. Consultant shall provide the Agency, upon request, with written proof of the coverage required by this clause.

CLAUSE XI - AUTHORIZATION/CERTIFICATION

Execution of this contract was authorized by a majority of the members of the House Rules Committee on April 7, 1991. Execution of this contract by the chair of

the Committee constitutes the signed authorization required by Procurement Procedures sec. 150 (b); the committee members who authorized the contract delegated their sec. 150 signature responsibilities to the chair of the Committee on April 4, 1991.

Execution of this contract by the Legislative Affairs Agency Executive Director or his designee hereby constitutes a certification that funds have been appropriated and encumbered for the amount of this contract.

CLAUSE XII - MODIFICATION AND PREVIOUS AGREEMENTS

This document contains all terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind either of the parties to this contract.

This contract may not be modified unless in writing and signed by the parties to this contract.

IN WITNESS WHEREOF, the parties have executed this contract on the dates indicated below:

CONSULTANT
Gregg Erickson

Gregg K. Erickson 4/4/91
Gregg Erickson Date
S.S.N.#

AGENCY
House Rules Committee

Johnny Ellis
Rep. Johnny Ellis, Chair Date
Procurement Officer Apr. 4, 1991

ACCEPTED:
House Special Committee on the
Exxon Valdez Oil Spill Claims
Settlement

Max Gruenberg 4/7/91
Rep. Max Gruenberg Date
Chair
Project Director

APPROVED AS TO FORM:

Thomas A. Bennett
Legal Counsel Date 4-3-91

CERTIFYING AUTHORITY:

Warren Endicott 4/11/91
Warren Endicott Date
Executive Director
Legislative Affairs Agency

HOUSE COMMITTEE REPORT

(7)

Date RETURNED TO RULES: March 18, 1991

FURTHER REFERRALS:

Date of Committee Action: 4-4-91

The RULES Committee considered:

CSHB 9(HES)(TITLE AM)

CS FOR HOUSE BILL NO. 9 (HES)(TITLE AM) LIMIT FREE SAMPLES OF TOBACCO PRODUCTS

"An Act relating to the crime of selling, giving, or possessing tobacco and to promotion of retail sales of tobacco."

RECOMMENDATIONS:

be replaced with

CS HB 9 (Rules)

the same title

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) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>					
<i>Dee Douley</i>		<i>Ben Simpson</i>		✓	
<i>M. P. Gunder</i>		<i>Larry Martin</i>		✓	
		<i>David L. Taylor</i>	X		

[Signature]
 CHAIRMAN'S SIGNATURE

State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



P.O. BOX V
JUNEAU, ALASKA 99811
(907) 463-4712
463-4968/4986
(SESSION)

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

MEMORANDUM

TO: Representative Johnny Ellis
Chair, Rules Committee

FROM: Representative Max Gruenberg *MAX*

DATE: March 6, 1991

SUBJECT: Scheduling of CSHB 9 (HESS), (TITLE AM)
the Anti-Tobacco Sample Bill

I would very much appreciate it if you would schedule CSHB 9 (HESS), the Anti-Tobacco Sample Bill, for a hearing as soon as it is possible.

Under the present law it is legal to give adults unsolicited free samples of cigarettes and other tobacco products.

This bill prohibits giving away tobacco products in order to promote retail sales except in limited circumstances, such as in tobacco shops or conventions.

Deaths and serious illnesses from tobacco use are some of society's most serious substance abuse problems. This bill discourages tobacco use by prohibiting this type of aggressive marketing.

This is the same bill that passed the House last year by a vote of 29-4 as HB 466.

If you have any questions, please call me or Mark Handley, my Legislative Assistant at ext. 4968.

Thank you.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 1
Bill Version: HB 9
(H) Publish Date: 2/1/91

Revision Date: _____ Department Affected: Department of Law
Title: "An Act relating to tobacco." BRU: Legal Services
Component: Operations
Sponsor: Representative Gruenberg
Requestor: Representative Gruenberg COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

Estimate of current year Impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: January 24, 1991
Approved by Commissioner: Richard I. Pegues
Charles E. Cole, Attorney General
Agency: Department of Law Date: January 24, 1991

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 9

This bill amends AS 11.76 by adding a new section that provides that a person may not provide tobacco to another person without charge or for a nominal fee, for the purpose of promoting retail sales. The bill does allow a person to provide small samples of tobacco without charge or for a nominal fee to a person 19 years of age or older for the purpose of promoting retail sales, if the samples are provided in a retail store that sells primarily tobacco, or at trade shows or conventions from which the general public is excluded, or in conjunction with a separate sale of tobacco by a retailer, manufacturer, or distributor.

In the past, the tobacco industry represented that state jurisdiction of tobacco promotions is preempted by 15 U.S.C. 1334(b), which places responsibility for regulating tobacco advertising at the federal level. It is the Department of Law's view, however, that the distribution of free samples falls under 15 U.S.C. 1332(6), which places the responsibility for the regulation of the distribution of tobacco, whether for sale or not, at the state level. If the bill is approved and is then subsequently challenged in court, the department will handle a challenge using its existing staff. Consequently, fiscal note costs are not required.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

(H) Publish Date: 2/1/91

Revision Date: _____
Title: An Act Relating to Tobacco

Department Affected: Public Safety
BRU: Alaska State Troopers
Component: Detachments

Sponsor: Rep. Gruenberg
Requestor: H. JUD

COMPONENT SERIAL NO.

	7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER/PROG RCPT						
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 No fiscal impact anticipated.

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact anticipated.

Prepared by: Gavle A. Horetski, Dep. Commissioner Phone: 465-4322
Division: Commissioner's Office Date: 1/25/91

Approved by Commissioner: *Gavle A. Horetski* Richard L. Burton
Agency: Department of Public Safety Date: 1/25/91

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

Levin
Adopted

CS FOR HOUSE BILL NO. 9 (RULES)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE

Offered:
 Referred:

Sponsor(s): REPRESENTATIVES GRUENBERG, Brown, Ellis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the crime of selling, giving, or possessing tobacco and to promotion
 2 of retail sales of tobacco."

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

4 * Section 1. AS 11.76.100(a) is amended to read:

5 (a) Except as provided in (f) of this section, a person commits the offense of selling or
 6 giving tobacco to a minor if the person is 19 years of age or older and

7 (1) knowingly sells, exchanges, or gives [A CIGARETTE, A CIGAR, TOBACCO,
 8 OR A PRODUCT CONTAINING] tobacco to a person under 19 years of age; or

9 (2) maintains a vending machine that dispenses [CIGARETTES, CIGARS,
 10 TOBACCO, OR PRODUCTS CONTAINING] tobacco and that is accessible to persons under
 11 19 years of age.

12 * Sec. 2. AS 11.76.105(a) is amended to read:

13 (a) A person under 19 years of age may not knowingly possess [A CIGARETTE, A
 14 CIGAR, TOBACCO, OR A PRODUCT CONTAINING] tobacco in this state. [THIS

1 SUBSECTION DOES NOT APPLY TO A PERSON WHO IS A PRISONER AT AN ADULT
2 CORRECTIONAL FACILITY.]

3 * Sec. 3. AS 11.76 is amended by adding a new section to read:

4 Sec. 11.76.108. RETAIL PROMOTION OF TOBACCO. (a) Except as provided in (b)
5 of this section, a person may not provide tobacco to another person without charge or for a
6 nominal fee, for the purpose of promoting retail sales.

7 (b) A person may provide small samples of tobacco without charge or for a nominal fee
8 to a person 19 years of age or older for the purpose of promoting retail sales, if the samples are
9 provided

10 (1) in a retail store that sells primarily tobacco;

11 (2) at a trade show or convention from which persons under age 19 are excluded;

12 or

13 (3) in conjunction with a separate sale of tobacco by a retailer, manufacturer, or
14 distributor.

15 (c) A person who provides tobacco in violation of this section is guilty of a violation.

16 * Sec. 4. AS 11.81.900(b) is amended by adding a new paragraph to read:

17 (58) "tobacco" means a cigarette as defined in AS 43.50.170 or tobacco product
18 as defined in AS 43.50.390.

19 * Sec. 5. AS 11.76.100(f) is repealed.

- DRAFT -

CS FOR HOUSE BILL NO. 9 (HES) (title am)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Amended: 3/13/91
Offered: 3/6/91
Referred: Rules

Sponsor(s): REPRESENTATIVES GRUENBERG, Brown, Ellis

A BILL

FOR AN ACT ENTITLED

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2 of retail sales of tobacco."

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

4 * Section 1. AS 11.76.100(a) is amended to read:

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8 OR A PRODUCT CONTAINING] tobacco to a person under 19 years of age; or

9 (2) maintains a vending machine that dispenses [CIGARETTES, CIGARS,
10 TOBACCO, OR PRODUCTS CONTAINING] tobacco and that is accessible to persons under
11 19 years of age.

12 * Sec. 2. AS 11.76.105(a) is amended to read:

13 (a) A person under 19 years of age may not knowingly possess [A CIGARETTE, A
14 CIGAR, TOBACCO, OR A PRODUCT CONTAINING] tobacco in this state. This subsection

1 does not apply to a person who is a prisoner at an adult correctional facility.

2 * Sec. 3. AS 11.76 is amended by adding a new section to read:

3 Sec. 11.76.108. RETAIL PROMOTION OF TOBACCO. (a) Except as provided in (b)
4 of this section, a person may not provide tobacco to another person without charge or for a
5 nominal fee, for the purpose of promoting retail sales.

6 (b) A person may provide small samples of tobacco without charge or for a nominal fee
7 to a person 19 years of age or older for the purpose of promoting retail sales, if the samples are
8 provided

9 (1) in a retail store that sells primarily tobacco;

10 (2) at a trade show or convention from which persons under age 19 are excluded;

11 or

12 (3) in conjunction with a separate sale of tobacco by a retailer, manufacturer, or
13 distributor.

14 (c) A person who provides tobacco in violation of this section is guilty of a violation.

15 * Sec. 4. AS 11.81.900(b) is amended by adding a new paragraph to read:

16 (58) "tobacco" means a cigarette as defined in AS 43.50.170 or tobacco product
17 as defined in AS 43.50.390.

Title
AMENDMENT #~~2~~

OFFERED IN THE HOUSE
TO: CSHB 9 (HES)

BY REPRESENTATIVE GRUENBERG

Page 1, line 1, after "to":

Insert "the crime of selling, giving, or possessing"

After "tobacco":

Insert "and to promotion of retail sales of tobacco"

Adopted unanimously