

HB

457

CS FOR HOUSE BILL NO. 457(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE JAMES

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the unlicensed practice of certain occupations for which
2 licenses are required."

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

4 * **Section 1.** AS 08.01 is amended by adding a new section to read:

5 Sec. 08.01.089. **CIVIL PENALTY FOR UNLICENSED PRACTICE.** (a) In
6 addition to any other provision of law, if a person practices or offers to practice an
7 occupation in this state that is regulated under this title by a board or by the
8 department without being licensed in accordance with the provisions of this title, the
9 department may enter an order imposing a civil penalty.

10 (b) A civil penalty imposed under this section may not exceed \$5,000 for each
11 offense. The department shall set the amount of the penalty after taking into account
12 appropriate factors, including the seriousness of the violation, the economic benefit
13 resulting from the violation, the history of violations, and other matters the department
14 considers appropriate.

1 (c) Before issuing an order under this section, the department shall provide the
2 person written notice and the opportunity to request, within 30 days of issuance of
3 notice by the department, a hearing on the record.

4 (d) In connection with proceedings under (a) - (c) of this section, the
5 department may issue subpoenas to compel the attendance and testimony of witnesses
6 and the disclosure of evidence, and may request the attorney general to bring an action
7 to enforce a subpoena.

8 (e) A person aggrieved by the imposing of a civil penalty under this section
9 may file an appeal with the superior court for judicial review of the penalty under
10 AS 44.62.560.

11 (f) If a person fails to pay a civil penalty within 30 days after entry of an order
12 under (a) of this section, or if the order is stayed pending an appeal, within 10 days
13 after the court enters a final judgment in favor of the department of an order appealed
14 under (e) of this section, the department shall notify the attorney general. The attorney
15 general may commence a civil action to recover the amount of the penalty.

16 (g) An action to enforce an order under this section may be combined with an
17 action for an injunction under AS 08.01.087.

18 (h) The department may not impose a fine under this section for an act for
19 which a fine has already been imposed by a board under this title.

20 (i) Notwithstanding other provisions of this section and the definition of
21 "license" in AS 08.01.110, the department may not impose a civil penalty under this
22 section based solely on a person's failure to have a business license required under
23 AS 43.70.

24 * Sec. 2. APPLICABILITY. This Act applies to violations of AS 08 that occur on or after
25 the effective date of this Act.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 457

Revision Date: _____
 Title: An Act relating to the unlicensed practice of
certain occupations for which licenses are required.
 Sponsor: Representative James
 Requestor: House State Affairs

Department: Commerce and Economic Development
 BRU: Occupational Licensing
 Component: Operations
 COMPONENT SERIAL NO. 1844

Expenditures/Revenues

(Thousands of Dollars)

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HB 457 authorizes the department to establish a civil penalty for unlicensed practice of a regulated occupation in an amount not to exceed \$5,000.00. The bill expands the department's current enforcement powers for unlicensed activity by providing the civil fine option. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Officer
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 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: February 5, 1996
 Date: 2-5-96

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STATE OF ALASKA

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SPONSOR STATEMENT

HB 457 Fines: unlicensed practice of occupation

Rep. Jeannette James

February 6, 1995

This legislation was requested by LB&A as part of the sunset audits on various boards.

Current law allows enforcement of practicing certain occupations without a license only through the courts. This Bill allows the Department to impose a civil penalty if a person practices or offers to practice an occupation in this State that is regulated under Title Sec.08.01.

The civil penalty may not exceed \$5,000.00 for each offense. The Bill also provides for enforcement mechanisms.