

**HB**

**180**

# SENATE COMMITTEE REPORT

DATE: 3/21/95

FURTHER: Labor and Commerce

DATE TURNED INTO OFFICE: 4/12/95

CRA Committee considered HOUSE BILL NO. 180

Liquor licenses issued to a hotel, motel, resort, or similar establishment; etc.

and recommends:

- be replaced with 5 CS (CRA)
- adopt previous      CS (    )
- attached amendment(s)
- adopt Letter of Intent by      Committee
- further referral to the      Committee

- Senate Bill: same title
- new title
- House Bill:**
- same title
- technical change
- new: SCR\*

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>T. Kelly</i>	✓		
		<i>Tom Huff</i>	✓		
CHAIR: <i>John Ferguson</i>	X				

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
<i>Law</i>	<i>7/16</i>		

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<i>Revenue</i>	<i>7/16/95</i>	✓	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 180

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: An Act Relating to Liquor License Issuance BRU: ABC  
 Component: ABC  
 Sponsor: Representative James  
 Requester: (H)ITT COMPONENT SERIAL NO. 100

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ \_\_\_\_\_

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

No additional costs or significant revenue is anticipated with the implementation of HB 180. No significant demand for increased licensure is anticipated.

Prepared by: Pat Sharrock, Director Phone: (907)277-8638  
 Division: ABC Division Date: 2/16/95  
 Approved by: Deborah Vogt Date: 2/16/95  
 Commissioner: \_\_\_\_\_  
 Agency: Revenue

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 180

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "An Act relating to liquor licenses issued to a hotel, motel, resort, or similar establishment..." BRU: Legal Services  
 Component: Operations  
 Sponsor: Representative James  
 Requester: Representative James COMPONENT SERIAL NO. 0093

**Expenditures/Revenues** (Thousands of Dollars)

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Richard I. Peques, Director Phone: 465-3872  
 Division: Administrative Services Division Date: 2/16/95  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/18/95  
 Agency: Department of Law

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Sec. 28.40.100

DEFINITIONS FOR TITLE.

(a) Unless otherwise specifically defined or unless the context otherwise requires, in this title and in regulations adopted under this title

(1) "cancel" means to annul or terminate, by formal action of the department, a certification, registration, license, permit or privilege issued or allowed under this title or regulations adopted under this title, because of an error or defect in the document issued or the application for issuance or because the person holding the document is no longer entitled to it;

(2) "commercial motor vehicle" means a motor vehicle or a combination of a motor vehicle and one or more other vehicles

(A) used to transport passengers or property;

(B) used upon a land highway or vehicular way connected to

(i) the land connected state highway system; or

(ii) a land highway or vehicular way with an average

daily traffic volume greater than 499; and

(C) that

(i) has a gross vehicle weight rating or gross combination weight rating greater than 26,000 pounds;

(ii) is designed to transport more than 15 passengers, including the driver; or

(iii) is used in the transportation of materials found by the United States Secretary of Transportation to be hazardous for purposes of 49 U.S.C. 1801 - 1813 (Hazardous Materials Transportation Act);

(D) except that the following vehicles meeting the criteria in (A) - (C) of this paragraph are not commercial vehicles:

(i) emergency or fire equipment that is necessary to the preservation of life or property;

(ii) farm vehicles that are controlled and operated by a farmer; used to transport agricultural products, farm machinery, or farm supplies to or from that farmer's farm; not used in the operations of a common or contract motor carrier; and used within 150 miles of the farmer's farm; and

(iii) recreational vehicles used exclusively for purposes other than commercial purposes;

(3) "commercial purposes" means activities for which a person receives direct monetary compensation or activities for which a person receives no direct monetary compensation but that are incidental to and done in furtherance of the person's primary business;

(4) "commissioner" means the commissioner of public safety;

(5) "custom collector vehicle" means a vehicle whose body and

frame were manufactured before 1949 or a replica of a vehicle whose body and frame were manufactured before 1949 and that has been modified for safe road use; in this paragraph, "modified" includes a material alteration of the drive-train, suspension, brake system, or dimensions of the body;

(6) "department" means the Department of Public Safety;

(7) "driver" means a person who drives or is in actual physical control of a vehicle;

(8) "driver's license" or "license," when used in relation to driver licensing, means a license or permit to drive a motor vehicle, or the privilege to drive or to obtain a license to drive a motor vehicle, under the laws of this state, whether or not a person holds a valid license issued in this or another jurisdiction;

(9) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination vehicle, except that if a value has not been specified by the manufacturer, the gross combination weight rating is determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and the load on the towed unit;

(10) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle;

(11) "highway" means the entire width between the boundary lines of every way that is publicly maintained when a part of it is open to the public for purposes of vehicular travel, including but not limited to every street and the Alaska state marine highway system but not vehicular ways or areas;

(12) "motor vehicle" means a vehicle which is self-propelled except a vehicle moved by human or animal power;

(13) "motorcycle" means a vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; the term does not include a tractor;

(14) "motor-driven cycle" means a motorcycle, motor scooter, motorized bicycle, or similar conveyance with a motor attached and having an engine with 50 or less cubic centimeters of displacement;

(15) "official traffic-control device" means a sign, signal, marking, or other device not inconsistent with this title, placed or erected by authority of a state or municipal agency or official having jurisdiction, for the purpose of traffic regulating, warning, and guiding;

(16) "owner" means a person, other than a lienholder, having the property in or title to a vehicle, including but not limited to a person entitled to the use and possession of a vehicle subject to a security interest in another person, but exclusive of a lessee under a lease not intended as security;

(17) "revoke" means the termination by formal action of the department or a court of a certification, registration, license, permit, or privilege issued or allowed under this title or regulations adopted under this title; the certification, registration, license, permit, or privilege may not be reissued, renewed, or restored during the time for which revoked; however, after that time, an application for a new certificate, registration, license, permit, or privilege may be made;

(18) "roadway" means that portion of a highway designed or ordinarily used for vehicular travel, exclusive of the sidewalk, berm, or shoulder, even though the sidewalk, berm, or shoulder is used by persons riding bicycles or other human powered vehicles; and in the event that a highway includes two or more separate roadways, the term refers to each roadway separately but not to all such roadways collectively;

(19) "serious physical injury" has the meaning given in AS 11.81.900(b);

(20) "suspend" means the temporary withdrawal by formal action of the department or a court of a certificate, registration, license, permit, or privilege issued or allowed under this title or regulations adopted under this title, effective for a period of time which must be specifically designated by the department or court;

(21) "traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using a highway or vehicular way or area that is open to public use for purposes of travel;

(22) "underinsured motor vehicle" means a motor vehicle licensed for highway use with respect to ownership, operation, maintenance, or use for which there is a bodily injury or property damage insurance policy or a bond applicable at the time of an accident and the amount of insurance or bond

(A) is less than the limit for uninsured and underinsured coverage of the insured's policy; or

(B) has been reduced by payments to persons other than an insured, injured in an accident, to less than the limit for uninsured and underinsured coverage of the insured's policy;

(23) "vehicle" means a device in, upon, or by which a person or property may be transported or drawn upon or immediately over a highway or vehicular way or area; "vehicle" does not include

(A) devices used exclusively upon stationary rails or tracks;

(B) mobile homes;

(24) "vehicular way or area" means a way, path, or area, other than a highway or private property, that is designated by official traffic control devices or customary usage and that is open to the public for

purposes of pedestrian or vehicular travel, and which way or area may be restricted in use to pedestrians, bicycles, or other specific types of vehicles as determined by the department or other agency having jurisdiction over the way, path, or area.

(b) The commissioner shall adopt regulations to define other terms that are used in this title and in regulations adopted under this title.

History -

(Sec. 50-1-1 ACLA 1949; am Sec. 3 ch 81 SLA 1973; am Sec. 13, 14 ch 241 SLA 1976; am Sec. 1 ch 135 SLA 1977; am Sec. 14 ch 70 SLA 1984; am Sec. 1 ch 13 SLA 1985; am Sec. 88 ch 74 SLA 1985; am Sec. 2 ch 130 SLA 1988; am Sec. 4 ch 53 SLA 1990; am Sec. 33 ch 119 SLA 1990; am Sec. 9 ch 168 SLA 1990; am Sec. 5 ch 8 SLA 1993; am Sec. 63 ch 63 SLA 1993; am Sec. 16 ch 55 SLA 1994)

Revisors Notes -

Formerly AS 28.35.260. Renumbered in 1984. Subsection (a) was reorganized in 1984, 1989, 1990, 1993, and 1994 to alphabetize the terms defined and to maintain alphabetical order.

Cross References -

For definitions adopted by regulation, see 13 Alaska Admin. Code 40.010.

Amendment Notes -

The first 1990 amendment effective January 1, 1991, added paragraphs (a)(2), (a)(3), (a)(8) (now (a)(9)), and (a)(9) (now (a)(10)).

The second 1990 amendment, effective January 1, 1991, rewrote paragraph (a)(7) (now (a)(8)).

The third 1990 amendment, effective June 22, 1990, substituted "to annul or terminate" for "the annulment or termination" and made a related grammatical change in paragraph (a)(1).

The first 1993 amendment, effective January 1, 1994, added present paragraph (a)(5).

The second 1993 amendment, effective January 1, 1993, in paragraph (a)(22) (now (a)(23)), added "; 'vehicle' does not include," added the subparagraph (A) designation, deleting "except" from the beginning, and added subparagraph (B).

The 1994 amendment, effective August 22, 1994, added present paragraph (a)(19).

Editors Notes -

Section 87, ch. 63, SLA 1993 provides "if any section of this bill is found to violate the single subject rule it is severed from the rest of the bill."

Decisions -

An all terrain three-wheeler - is a motor vehicle for which a driver's license is required. *State v. Benolken*, 838 P.2d 280 (Alaska Ct. App. 1992).

Applied in *Conner v. State*, 696 P.2d 680 (Alaska Ct. App. 1985);  
*Caulkins v. State, Dep't of Pub. Safety*, 743 P.2d 360 (Alaska 1987).

Quoted in *Burton v. State Farm Fire & Cas. Co.*, 796 P.2d 1361  
(Alaska 1990); *Fielding v. State*, 842 P.2d 614 (Alaska Ct. App. 1992).

Cited in *Francis v. Municipality of Anchorage*, 641 P.2d 226 (Alaska Ct.  
App. 1982); *Uhde v. State*, 654 P.2d 1323 (Alaska Ct. App. 1982); *State v.*  
*Robertson*, 749 P.2d 902 (Alaska Ct. App. 1988); *State v. Straetz*, 758  
P.2d 133 (Alaska Ct. App. 1988).

PROPOSED AMENDMENT TO HOUSE BILL 180 (LIQUOR LICENSES FOR RESORT/LODGES)

BY: SENATOR TORGERSON

PAGE 2, LINES 8 THRU 13: DELETE LANGUAGE IN SUB-SECTION (3) AND  
REPLACE WITH THE FOLLOWING:

(3) A HOTEL, MOTEL, RESORT, OR SIMILAR BUSINESS THAT IS  
INSIDE A UNIFIED MUNICIPALITY OR ORGANIZED BOROUGH AND

(A) HAS AT LEAST 10 ROOMS AVAILABLE FOR THE PUBLIC TO  
RENT;

(B) CANNOT BE REACHED BY HIGHWAY FROM THE NEAREST FIRST  
OR SECOND CLASS CITY OR ESTABLISHED VILLAGE; OR

(C) COULD BE REACHED BY HIGHWAY DURING NO MORE THAN  
10 MONTHS IN A CALENDAR YEAR PRECEDING THE YEAR IN WHICH THE  
ISSUANCE OR TRANSFER IS REQUESTED.

ADD NEW SUB-SECTION (4) TO READ:

(4) "HIGHWAY" FOR PURPOSES OF THIS SECTION IS A ROAD MAINTAINED  
BY THE STATE FOR PUBLIC TRANSPORTATION.

*Forquison*

**STATE OF ALASKA**

*Tony Knowles, Governor*

**ADVISORY BOARD  
ON  
ALCOHOLISM AND DRUG ABUSE**

P.O. Box 110608  
Juneau, Alaska 99811-0608  
Phone: (907) 465-8920  
Fax: (907) 465-4410

December 12, 1995

Honorable Pete Kott  
House of Representatives  
State of Alaska  
Room 432  
State Capitol  
Juneau, Alaska 99801-1182

*File  
Senate  
CRA*

Dear Representative Kott:

The Citizen's Advisory Board on Alcoholism and Drug Abuse strongly opposes Senate CS for House Bill No. 180, "An Act relating to liquor licenses issued to hotel, motel, resort or similar establishment; and providing for an effective date."

The State of Alaska has one of the highest per capita alcohol consumption rates among all states. Alcohol abuse is the number one health problem in the state. Fetal Alcohol syndrome births are the highest in the United States. Dwindling resources have left treatment and prevention programs with service gaps and unmet needs. While all of these issues confront our political leaders, legislation that promotes further consumption of alcohol cannot be considered.

Please consider defeat of this measure.

Sincerely,

*Roseanne Turner*

Roseanne Turner  
Chair

cc: Senate Community and Regional Affairs Committee

# Alaska State Legislature

REPRESENTATIVE  
**JEANNETTE JAMES**  
P.O. Box 56622  
North Pole, Alaska 99705  
(907) 488-0862

House District 34



White in Juneau  
State Capitol  
Juneau, Alaska  
907-586-1182  
(907) 465-3745

## House Of Representatives


RECEIVED

MAR 23 1995

Ans'd.....

DATE: March 23, 1995

TO: Senator John Torgerson, Chair  
Senate Community and Regional Affairs  
ATTN: SANDY

FROM: Representative Jeannette James 

Please schedule House Bill 180, "Liquor Licenses for Remote Lodges," for hearing in your committee as soon as possible. Back-up material is attached.

We request that Mr. Patrick Sharrock, Director of the Alcohol Beverage Control Board, be available to answer questions via teleconference or conference call when HB180 is heard. His number in Anchorage is 277-8638.

Thank you for your help.

# Alaska State Legislature

REPRESENTATIVE  
**JEANNETTE JAMES**

P.O. Box 50822  
North Pole, Alaska 99703  
(907) 488-1548  
FAX (907) 488-9008



While In Juneau  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-3743  
FAX (907) 465-2381

House of Representatives

House District 34

## SPONSOR STATEMENT

### HOUSE BILL 180

### LIQUOR LICENSES FOR REMOTE LODGES

HB180 is a cooperative effort between remote lodge owners and the Alcohol Beverage Control Board to correct an inequity.

Under current law, some small lodges which happen to be located in a remote corner of large unified population areas cannot get a liquor license. These small remote lodges exemplify the very heart of Alaska and provide a vital service to Alaskan residents as well as visitors from outside our state.

For example, as the law now reads, if a person wants to develop a small lodge or tourist facility in a remote or inaccessible area of the Mat-Su or Kenai Borough, the lodge would be required to have 40 rental rooms to obtain a full-service liquor license. All of us who have enjoyed visiting small remote lodges in Alaska know that this requirement is excessive and unfair.

This is not a "liquor issue." This is an effort to remove a roadblock created by an inequity in our laws. If Alaska is to survive economically, we must allow hard-working Alaskans to develop small businesses in the spirit of Alaskan enterprise.

HOUSE BILL 180  
(JAMES)

LIQUOR LICENSES FOR RESORT/LODGES  
IN: 3/21/95                      OUT:  
FURTHER REFERRAL: LABOR & COMMERCE  
REQUEST FOR HEARING: 3/23/95  
HEARING DATE: 4/12/95

REMARKS: HOUSE PASSED 31Y - 8N (ELTON, GREEN, KOHRING, MACLEAN,  
MARTIN, NAVARRE, OGAN, THERRIALT) ON 3/20/95

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

Rep. Jeannette James  
Rep. Jeannette James  
TONY KNOWLES, GOVERNOR

FEB 20 1995

RECEIVED BY  
ANCHORAGE, ALASKA 99501-6690

February 16, 1995

The Honorable Jeannette James  
Alaska State House of Representatives  
Room 102, State Capitol  
Juneau, Alaska 99801-1182

RE: HB 180

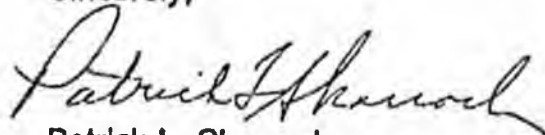
Dear Representative James:

Your HB 180 has specific potential to correct an inequity in current law. For example, a person who would like to develop a tourist facility in a rural or inaccessible area in the Matanuska-Susitna or Kenai Borough has to construct a 40-room facility to obtain a full-service liquor license (or acquire an existing license from another person). In reality, this requirement is excessive.

The Alcoholic Beverage Control Board fully supports the legislation and believes that your amendment will possibly stimulate development of small tourist facilities in certain remote areas.

If I can provide you any additional information or clarification, please do not hesitate to call.

Sincerely,



Patrick L. Sharrock  
Director

95-013

# Maclaren River Lodge

42 Mi. Denali Hwy.  
P.O. Box 3018  
Paxson, AK 99737

(907) 822-7105 (at Lodge)  
(907) 263-8899 (RECEIVED BY SERVICE)

All Honorable members,  
Alaska State Legislature  
Juneau, Alaska

JAN 25 1995  
January 3, 1995  
Rep. Jeannette James

Ladies and Gentlemen of the Legislature:

By way of introduction, my name is Mike Tittle and until her untimely death last November my wife Lynn and I were the only year round residents of the Denali Highway.

Lynn and I (I can't yet believe she is dead nor can I refer to her in the past tense) are 35 year residents of Alaska and prior to buying the Maclaren River Lodge and moving to the Denali Highway we owned a real estate company in Fairbanks.

We had Paxson Lodge and Tangle River Inn listed for sale with our company and in the process of servicing the listings we fell in love with the area and saw a way we could make our dream come true and promote winter tourism as well. Not to mention the Alaskans that can't find a place to ride a snowmachine. We had over 2,000 people come out here by snowmachine our first winter of operation.

We took an old lodge and completely rebuilt it to make it winter ready and comfortable. In order to do this we sold our company and everything we owned to be able to make the lodge something the State of Alaska could be proud of.

However, since we're located a mere 1.5 miles inside the Mat-Su borough we can't get a liquor license and are in very real danger of losing everything we've worked so hard for because of it.

There has been a license at this lodge since Statehood and it's gone only because the prior owner didn't renew it in a timely manner.

The regulation in question is Sec 04.11.400 of Title 4 which says that I must have 40 rooms for rent before I can get a license.

Ladies and Gentlemen, this is the most unfair situation I am aware of in the entire State of Alaska. I pay taxes to the Mat-Su borough and have to haul my trash to Fairbanks. We provide a service to the public that no one else is doing yet we get penalized for it. We promote winter tourism as much or more than anyone in the State yet because the Mat-Su borough decided to annex the earth I can't get the license that would allow me to compete on an even keel with other lodges. We have provided an oasis in the arctic and have given it our lives.

I have talked to hundreds of tourists and the overwhelming consensus is that they would rather spend much more of their time in small rustic lodges where the pace is a little slower and they can experience the "real Alaska" They say they feel they're missing something if they don't experience the bush as well as the cities.

I've outlined a few minor changes to the ABC regulations that I hope you will support as it will help our economy as well as promote tourism.

I beg your indulgence and understanding.

Best Regards,  
  
Mike Tittle, owner