

SB

295

ALASKA STATE LEGISLATURE

Senate Health, Education and
Social Services Committee

Senate Judiciary Committee

Department of Health and Social
Services Budget Subcommittee

Department of Law
Budget Subcommittee




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SENATOR JOHNNY ELLIS

MEMORANDUM

TO: Senator Robin Taylor, Chair
Senate Judiciary Committee

FROM: Senator Johnny Ellis 

DATE: March 7, 1996

RE: SB 295 - Consumer Protection

I respectfully request that you schedule SB 295, relating to consumer protection, for a hearing at your earliest convenience. I have attached a sponsor statement and other supporting materials.

If you have questions regarding this legislation please don't hesitate to contact me or my legislative aide, Alexis Ross Miller, at 465-3704.



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Consumer Protection Fact Sheet

Consumer fraud is a crime which robs both Alaska consumers and honest Alaska businesses. The biggest "crime wave" in Alaska is nonviolent, but it costs the average Alaska household an estimated \$460 a year. Every year Alaskans lose over \$10 million to fraudulent business scams and financial con games. Much of this money is lost to Outside con artists, so that the local Alaska economy loses as well as the individual.

Enforcement of consumer protection laws is inadequate. Ever since the state government started slashing funding for consumer protection in the mid-1980's, Alaska has been without an effectively funded Consumer Protection Agency. Legislative attempts to provide consumer protection, like the AKPIRG sponsored telemarketing law (which made phone fraud a felony with serious fines, prison terms, and extradition procedures), provide little deterrent without active enforcement.

Common scams in Alaska:

Free vacation or prize give-away. Additional costs and restrictions often make the "free" offer more expensive than what it actually costs. Or, a "processing fee" or taxes of up to \$500 are required to be paid up front, and the free gift is never received.

Fraudulent consumer protection. Occasionally a second con artist will contact someone recently scammed, posing as a consumer protection agent. He or she will require money to pursue the case.

Bogus invoices. Phony invoices are sent for services never rendered. Sometimes these include a note threatening legal action if the "overdue" bill is not paid.

Auto or home repairs. Unnecessary work is done, or claimed to have been done, or advance money is required, but the contractor never arrives.

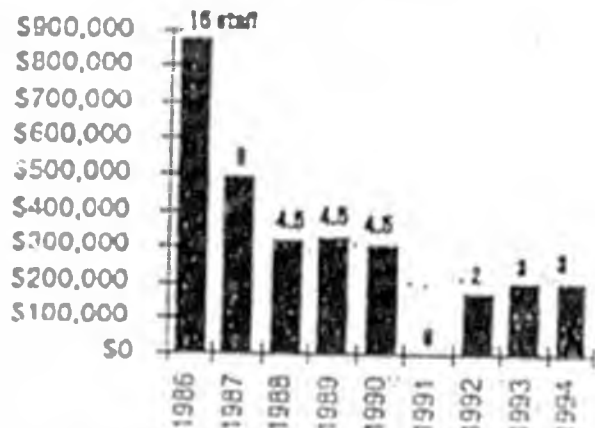
Investment scams. Art prints or precious metals turn out to be cheap reproductions; or securities, commodities, or foreign bank investments prove to be nonexistent.

History of Consumer Protection in Alaska

Alaska's Consumer Protection Agency was once an effective and well-staffed program. While the state has slashed funding in the last eight years, consumer fraud has skyrocketed.

In 1991, Governor Steve Cowper completely eliminated funding for the Consumer Protection Agency from the state budget. In 1992, AKPIRG campaigned to restore the program, but ultimately the legislature appropriated only token funding. In the last two years, only one half-time lawyer was funded to prosecute violators of Alaska's consumer protection laws.

Alaska Consumer Protection Budget and Staffing



The Solution:

The Alaska Public Interest Research Group (AKPIRG) is fighting for consumer rights, and seeks to return consumer protection to state government and the Alaskan marketplace.

A fully-funded Consumer Protection Agency would result in strict enforcement of consumer protection laws. AKPIRG's consumer protection platform calls for:

- Three Agency offices in Anchorage, Juneau, and Fairbanks.
- A 1-800 Agency consumer hotline for rural communities.
- An Agency staff of paid professionals to handle all legal, investigative, and field work.

Even a budget increase of \$125,000, for a total budget of \$300,000, could support a staff of two lawyers, four volunteer paralegal interns from the University of Anchorage, and investigative and support staff. This minimum budget would provide enough money to begin enforcement of Alaska's telephone fraud law.

An effective Consumer Protection Agency would require no additional funding from the state. In the 1980's, with operational budgets of \$300,000 to \$400,000, the Consumer Protection Agency recouped all of its expenses in successful prosecutions and resultant fines.

The Campaign for Effective Consumer Protection

To re-establish an effective Consumer Protection Agency, the state legislature must step forward and ensure that the budget allocates money for this important program.

AKPIRG is calling upon candidates for the state legislature to endorse a consumer protection platform. Throughout the summer and until the November elections, we will be collecting 2,000 letters and post-cards to these candidates, demonstrating widespread support for consumer protection. We also ask that you write a letter to your representative about this important issue; a sample is provided to the right.

Consumer protection will be an AKPIRG priority in the coming legislative session.

Sample letter

Dear _____,

Alaska has the weakest Consumer Protection law enforcement of all state governments. Many Alaska households lose over \$450 a year or more to fraud in the marketplace. We need more protection because our state is isolated and news of permanent fund checks makes us special targets. Only the Department of Law has the muscle to enforce the laws already on the books.

I urge you to support a budget next session which would reopen three offices in Anchorage, Fairbanks, and Juneau to deter major fraud and handle daily consumer complaints, and restore a hot-line in Fairbanks for the Bush communities. Please listen to your constituents and help bring back strong Consumer Protection for honest consumers and honest businesses alike.

Sincerely,

ALASKA

Cuts reduce consumer protection staff

■ *One attorney and two staffers try to track down scam artists*

THE ASSOCIATED PRESS

ANCHORAGE - A decade ago, the state attorney general's office had a 16-member consumer protection staff working in five cities around Alaska.

Now there is a single attorney and two full-time staff members in Anchorage to investigate and prosecute lawbreakers who run scams ranging from phone sales fraud to hawking damaged cars.

The whittling down of an office devoted to looking out for Alaska's consumers has some asking the question: Does the state watchdog have any bite?

"I'm concerned that consumer

protection is just going down the tubes," Stephen Conn, executive director of the Alaska Public Interest Research Group. "There are people who think the state should, at some level, function as a protector of consumers."

The governor's proposal for the budget year that starts July 1 would lump funding for Fair Business Practices - which includes antitrust matters - into the Department of Law's fund for general legal services. The proposed funding would drop to \$349,500, from the \$415,000 in this year's budget.

Rep. David Finkelstein, D-Anchorage, said Wednesday he will push for more consumer protection funding, but he doesn't expect to succeed.

The consumer protection office can file civil lawsuits against bus-

inesses suspected of defrauding the public or enter into agreements with companies to stop certain business practices.

The office obtained the refund of more than \$30,000 to telemarketing customers within the last year, assistant attorney general Daveed Schwartz said.

Also last year, the office won a verdict against Anchorage Nissan over the sale of defective cars and filed a suit against Block & Cleaver Meats Inc., a bulk-meat retailer accused of using "bait and switch" tactics to lure customers.

"But we could be doing a heck of a lot more with more staff," Schwartz said.

The attorney said he has lost a mediator position in Fairbanks in the last year, but has added a part-time, temporary investiga-

tor in Anchorage. "We are able to provide some level of deterrent," he said.

Amid funding cutbacks a few years ago, the Better Business Bureau started screening complaints and forwarding the worst cases to the attorney general's office.

The BBB gets about 3,000 calls per month, and as many as 40 percent of them are complaints of some kind, president Rick Gilmore said.

"But we are not an enforcement agency," Gilmore said.

"It is a travesty, to me, that the Legislature puts so little emphasis on consumer protection. There has got to be a force in Alaska that can hit people over the head," he said. "And we can't do that."

The consumer

A call for better protection

An ad you might see in a newspaper-someday if Alaskans aren't careful:

CROOKS and CON ARTISTS

Have you been chased out of the Lower 48 by overvigilant consumer protection officers? Alaska's state government has already cut a bunch of money from efforts to enforce fair business practices and now state officials are working really, really hard to cut even more.

If you can't make it big in Alaska, you can't make it anywhere! So come on up; the fishing's great!

Gov. Tony Knowles, continuing what the legislature has started, proposes to cut funding for the Fair Business Practices section of the Department of Law by \$65,500. Starting July 1, money formerly earmarked for the section would be tossed into the department fund for general legal services.

Consumer protection looks like a casualty of the push to close the fiscal gap.

The state is missing a bet. Instead of squeezing a paltry few bucks from the budgeted funds to go after con artists, we should allow the scammers themselves to contribute to consumer protection. Not only do they have plenty of money, all derived illegally, but if the crooks weren't here we wouldn't need a consumer protection division.

A legislature that takes consumer crime seriously could and would pass legislation to make this possible.

As Les Gara, an attorney and Alaska Public Interest Research Group board member, suggested last year on behalf of AkPIRG:

- The state should be entitled to recoup full costs and attorney fees from con artists who lose in court.

- There should be substantial fines against people who commit consumer fraud. Provisions for what fines the state can impose are vague; the law says only that the fine will be between zero and \$25,000. For big-time crooks, \$25,000 is quickly absorbed.

- The money should go into a separate account within the general fund, so it will be instantly apparent how much the state received from prosecuting consumer fraud.

- Fine fraudulent businesses that refuse to compensate victims and that clog up the court system with their foot-dragging. Make them pay, say, \$3,000 per week, Mr. Gara suggests, until trial. Only if found guilty would the wrongdoer actually pay.

Con artists don't stick a gun to anybody's head, but they leave a trail of grief behind them just the same. Disreputable telemarketers prey on the elderly — in particular, on people who may be lonely enough to enjoy chatting with a charming stranger.

Rick Gilmore of the Better Business Bureau says he has talked with 15 or so people, each of whom lost from \$10,000 to \$38,000 to telemarketers. A Homer woman discovered after her 83-year-old mother died that the woman had sent more than \$87,000 to a con artist in Las Vegas. She was lured with the promise of free trips, cars and cash, what she got was mini Frisbees printed with "Just Say No to Drugs" and chintzy brass key chains.

One scammer put ads in the paper offering great deals on computer equipment. About 30 people paid between \$1,100 and \$3,500 and got nothing.

A meat company lured customers with promises of low-priced specials on steaks and other choice cuts, then dissuaded people from buying the advertised special in favor of meat for \$6 or more a pound. Some folks paid as much as \$2,500 for the packaged "deal."

Con artists hurt more than just their initial victim; they take money that could have otherwise been spent at honest businesses that deliver what they promise.

The Better Business Bureau in Anchorage receives more than 3,000 calls for help each month. "Our main function is to try to educate consumers, but there has to be somebody standing behind us to investigate and if necessary to take action," the BBB's Rick Gilmore says.

If all the attorney general can do is send out "cease and desist" warning letters, the crooks can just move on, change their names and bilk others down the road.

Consumers have to take responsibility for being informed shoppers. Consumers can't count on the government to protect them. But consumers should be able to count on the government to enforce the law.