

**HB**

**49**

# REPRESENTATIVE ERIC CROFT

## House Bill 49 Consumer Protection

### Sponsor Statement

Alaska's consumer protection effort has shrunk dramatically.

Since the Dept. of Law's Consumer Protection Section was eliminated in the late 1980's, Alaska has lagged far behind other states in providing protection to its consumers. Lack of adequate enforcement invites shysters and scam artists to cheat Alaskans. We enjoy a dubious reputation as easy targets. Telemarketing fraud costs Alaskan consumers \$10 million a year (estim.).

Our Attorney General's office lacks the resources necessary to respond to the many thousands of individual consumer complaints Alaskans lodge each year.

Even as the state's population has increased, **actual expenditures for consumer protection have shrunk 74%** from \$865,000 in FY86 (\$1,167,000 in 1997 dollars) to \$298,156 in FY97. All of the consumer protection function is dependent upon General Fund monies, making it vulnerable to further budget cuts.

Such cuts have forced the AG to rely on the Better Business Bureau to screen all individual consumer complaints. **The DOL hears no individual complaints. None.**

An essential government service is lacking when we cannot provide protection for Alaskan consumers. Citizens rightfully expect their government to protect them from shysters. Elderly Alaskans are especially vulnerable.

To guard against further erosion in protection, HB49 would:

- re-establish a separate consumer protection section in the DOL,
- raise (from its original 1978 level) the fines our AG can pursue,
- and attempt to secure a funding stream via separate accounting.

Please help protect Alaskan consumers by supporting HB49.



# FISCAL NOTE

01-1-98P04112 80 1

**STATE OF ALASKA  
1998 LEGISLATIVE SESSION**

**BILL NO. SSBH 49** | \_\_\_\_\_

Revision Date (Note if correction) _____	Dept. Affected <u>Law</u>	_____
Title <u>"An Act establishing and relating to a</u>	BRU <u>Civil Division</u>	_____
<u>consumer protection section in the Department of Law</u>	Component <u>Consumer Protection</u>	_____
Sponsor <u>Representative Croft</u>	_____	_____
Requester <u>House Labor &amp; Commerce Committee</u>	Component Serial No. <u>new</u>	_____

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	113.2	113.2	113.2	113.2	113.2	113.2
Travel	2.9	3.0	3.0	3.0	3.0	3.0
Contractual	20.6	20.6	20.6	20.6	20.6	20.6
Supplies	1.8	1.8	1.8	1.8	1.8	1.8
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>145.0</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	145.0	138.6	138.6	138.6	138.6	138.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>145.0</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

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

Sponsor Substitute for HB 49 establishes a consumer protection section in the Department of Law. In addition, the bill increases the civil penalty to \$10,000 for using an act or practice declared unlawful by AS 45.50.471, relating to unfair trade practices and consumer protection. Recoveries obtained through this provision, including attorneys fee awards, would be accounted for separately and available for appropriation by the legislature for the expenses of the consumer protection section.

The Department of Law currently has a consumer protection unit, included within the Fair Business Practices section. Passage of this legislation would require an organizational structure change, and appointment of a supervisory level Attorney V to head the section. Using the department's standard FY98/99 attorney cost schedule, the fiscal impact from

Prepared by <u>Joan M. Kasson</u>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date <u>2/10/98</u>
Approved by Commissioner <u>Bruce M. Botelho, Attorney General</u>	Date <u>2/10/98</u>
Agency <u>Department of Law</u>	

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January 17, 1997

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Representative Eric Croft  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Dear Representative Croft,

On behalf of the Alaska Peace Officers Association, I would like to thank you for introducing House Bill 49 relating to the establishment of a division of consumer protection in the Department of Law. At a recent meeting of the APOA State Board, we decided unanimously to support this legislation. We believe that consumer fraud and other related crimes are a problem in Alaska and need enforcement and investigative attention.

We encourage you to call on us when there are hearings on this bill, so that we may testify about the need for this legislation. If you need assistance as you shepherd this bill through the legislative process, please call me at 451-5316, or our business manager, Joseph Young at 277-0515.

Sincerely,

Michael Corkill  
APOA State President



ALASKA STATE LEGISLATIVE COMMITTEE

TELEMARKETING FRAUD  
POSITION PAPER  
1998

**AARP POSITION:**

Promote adequate funding for the enforcement of consumer protection laws against telemarketing fraud.

**DISCUSSION:**

Although Alaska law does impose criminal penalties for telemarketing fraud, it is not adequately enforced for lack of funding. Alaska has a responsibility to protect its citizens from fraudulent activity. Additional staffing in the Attorney General's office is needed to receive and act on complaints from the public. Also, Alaskans need to be regularly warned of fraudulent activity taking place in the state.

Current statistics indicate that telemarketing fraud costs the people of Alaska approximately ten million dollars a year, and appears to be increasing.

The law should be amended to:

1. Require that telemarketers file a bond to compensate consumers who may be defrauded by the seller's acts;
2. Ban all courier pick-ups associated with telemarketing sales, unless the consumer has the opportunity to inspect the goods before any payment is collected;
3. Prohibit telemarketers from directly accessing any consumer's bank, savings, trust, stock, or bond account as a method of collecting payment for goods and services; and
4. Include a more substantial list of deceptive practices.

(Over, please)



# NARFE

National Association of Retired Federal Employees

Resolution passed at Alaska NARFE Federation Convention

Wasilla, AK May 3, 1997

Re-establish a Consumer Protection Office in the Department of Law.

WHEREAS:

Alaska is the only state with no functional Consumer Protection Office and Alaskans lose ten million per year to fraud, and retirees and seniors are most vulnerable to this type of fraud and in dire need of a fully staffed Consumer Protection office, therefore

BE IT RESOLVED:

The NARFE Alaska Federation request that the Legislature hold public hearings on bills related to this issue during the interim, and

That the Governor and Legislature reconsider their budget actions on the Consumer Protection funding, and instead consider their responsibility to the citizens of Alaska.

TO 1998 NARFE CONVENTION APRIL 25-26

Whereas-

HB 49 was introduced last session to once again create a Consumer Protection Section within the Attorney General's Office, and no hearings were held on the bill during the interim between sessions, and

Whereas -

the public has become very aware of telemarketing and other consumer fraud issues with at least 50% receiving unwanted calls, and

Whereas -

Alaskans lose over ten million dollars per year to fraud

Therefore, be it resolved -

That the Alaska Federation of NARFE again asks the Alaska Legislature to establish a Consumer Protection Section within the Attorney General's office to begin meeting their responsibility to the citizens of Alaska.



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## Alaska Commission on Aging

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### RESOLUTION 97-5

*In support of holding a hearing concerning the need for a consumer protection division  
within the Department of Law*

WHEREAS, consumer protection is of particular importance to seniors; and

WHEREAS, fraudulent acts victimizing seniors and people of all ages in Alaska is occurring with increasing frequency; and

WHEREAS, there is a need to hear from the public on issues concerning fraudulent solicitations; and

WHEREAS, citizens of the State of Alaska would benefit from a consumer protection division;

THEREFORE, BE IT RESOLVED that the Alaska Commission on Aging requests the Labor and Commerce Committee hold hearings on this subject.

Adopted this 4th day of March, 1997.

A handwritten signature in cursive script that reads "Donald M. Hoover".

Donald Hoover, Chair

# Legislative Research Services

Alaska State Legislature  
Legislative Affairs Agency  
Division of Legal & Research Services



130 Seward Street, Suite 218  
Juneau, Alaska 99801-2196  
Phone: (907) 465-3991  
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April 22, 1997

## MEMORANDUM

TO: Representative Eric Croft

FROM: Gina Spartz   
Legislative Analyst

RE **The Number of Better Business Bureaus in Alaska and State Funding for Consumer Protection Services (FY86-FY97)**  
Research Request 97.085

You wanted to know how many Better Business Bureaus are currently operating in Alaska. You also asked for a breakdown of funding for consumer protection services within the state Department of Law from FY86 through FY97. The following is a brief description of state Better Business Bureaus. In addition we provide background on state funding for consumer protection services along with a table and chart illustrating this funding history.

### Better Business Bureaus in Alaska

The National Better Business Bureau is a private nonprofit organization began over 80 years ago. Business leaders join the organization by paying a membership fee and agreeing to respond to any complaints filed by consumers against their businesses. The Bureau does not enforce laws but rather mediates disputes between consumers and businesses. Consumers may file complaints against any business through the BBB. But nonmembers are not obligated to respond to these complaints. All complaints are kept on file and are open to the public, making the local chapters of the Bureau an excellent resource for consumers.

According to Blair Schaad, a representative of the Fairbanks Better Business Bureau, Alaska has four BBB offices, located in Anchorage, Kenai, Fairbanks, and the Matanuska-Susitna Valley (Wasilla). Currently only the Fairbanks and Kenai offices have a director. The former director of the Anchorage BBB, Rick Gilmore, is no longer working for the organization. That office is currently going through an internal reorganization but is still taking complaints from consumers. In addition, the Matanuska-Susitna office is working closely with the Anchorage office staff to assist consumers and is also concentrating on building its own membership in the Mat-Su Valley. Ms.

Representative Croft  
April 22, 1997  
Page 2

Schaad said that her office handles roughly 600 consumer complaints per month and that statewide the BBB offices handle over 3,000 consumer complaints per month.

### **Consumer Protection Services in the Department of Law**

The attached chart and table illustrate the history of state funding for consumer protection services from FY86 through FY97. The information for the table and chart was provided by the Department of Law, Division of Administrative Services.

The Consumer Protection Division in the Department of Law was established in 1973 and functioned as its own division through most of the 1970s and early 1980s. In the mid-1980s, the consumer protection functions and funding were shared with the DOL's Antitrust Section. In FY93, the two divisions were combined into the Fair Business Practices Division. In FY97, the Fair Business Practices Division was subsumed under the General Legal Services component of the budget.<sup>1</sup>

Daveed Schwartz, one of two full-time attorneys working on consumer fraud within the Fair Business Practices Division, said that his office does not take consumer complaints. Under an information sharing agreement, the BBB refers consumer fraud cases and provides information on scams to the DOL. The department then litigates the most egregious consumer fraud cases. Mr. Schwartz said his office litigates cases involving many consumers involved in a scam.

We have attached a previous research memorandum which contains a number of articles and editorials concerning consumer protection in Alaska.<sup>2</sup> We hope this information is useful to you. If you have any further questions please don't hesitate to call this office.

Attachment

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<sup>1</sup>The funding listed on the attached table and chart for FY97 is DOL's estimated budget projection since there was no Fair Business Practices component within the Department of Law's FY97 budget.

<sup>2</sup>Legislative Research Agency Memorandum 96.045, "Consumer Protection Services in Alaska," is included as Attachment A.

You asked for expenditures for consumer protection in the Alaska Department of Law from fiscal years 1986 to 1997. The following table presents the actual expenditures, adjusted for inflation.

**Actual Expenditures for Consumer Protection**  
**Alaska Department of Law, FY86-FY97, Adjusted for Inflation**  
**(Thousands of 1997 Dollars)**

Fiscal Year	Consumer Protection	Antitrust	Fair Business Practices	TOTAL	Percent Change from Previous Year	Percent Change 1986 to 1997
FY86	1,167.5	-	-	1,167.5		
FY87	795.0	199.6	-	994.6	-15%	
FY88	425.2	372.5	-	797.7	-20%	
FY89	406.1	592.3	-	998.4	25%	
FY90	376.1	457.7	-	833.9	-16%	
FY91	-	491.4	-	491.4	-41%	
FY92	189.0	430.1	-	619.1	26%	
FY93	-	-	573.9	573.9	-7%	
FY94	-	-	514.6	514.6	-10%	
FY95	-	-	485.7	485.7	-6%	
FY96	-	-	259.1	259.1	-47%	
FY97*	-	-	298.2	298.2	15%	-74%

NOTES: For fiscal years 1986-1992, Department of Law's (DOL) Consumer Protection Services section funding and functions were shared with the Antitrust section. In FY93, the two sections were combined into the Fair Business Practices Section.

\*Expenditures for 1997 were estimated by the Department. The Fair Business Practices BRU was subsumed under General Legal Services.

Dollars adjusted for inflation using the Anchorage Consumer Price Index.

**SOURCES:**

Legislative Finance Division, *Operating Budget for Department of Law*, for FY86-FY96. FY97 expenditures provided by Department of Law, Administrative Services Division.

**Actual Expenditures for Consumer Protection Alaska Department  
of Law, FY86-FY97 (Thousands of Dollars)**

Fiscal Year	Consumer Protection	Antitrust	Fair Business Practices Section	TOTAL
FY86	865.0			865.0
FY87	591.2	148.4		739.6
FY88	317.4	278.0		595.4
FY89	311.8	454.7		766.5
FY90	306.6	373.1		679.7
FY91		418.8		418.8
FY92	166.5	379.0		545.5
FY93			521.4	521.4
FY94			477.5	477.5
FY95			463.7	463.7
FY96			254.1	254.1
FY97*			298.2	298.2

NOTES: For fiscal years 1986-1992, Department of Law's (DOL) Consumer Protection Services section funding and functions were shared with the Antitrust section. In FY93, the two sections were combined into the Fair Business Practices Section.

\*Expenditures for 1997 were estimated by the Department. The Fair Business Practices BRU was subsumed under General Legal Services.

**SOURCES:**

Legislative Finance Division, *Operating Budget for Department of Law*, for FY86-FY96. FY97 expenditures provided by Department of Law, Administrative Services Division.

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I hope you find this information useful. Please do not hesitate to contact us if you have questions or need additional information.

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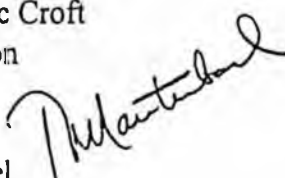
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

April 9, 1997

**SUBJECT:** Sectional Summary of SSHB 49. (Consumer protection)

**TO:** Representative Eric Croft  
Attn: Tom Atkinson

**FROM:** Terri Lauterbach  
Legislative Counsel 

You have requested a sectional summary of the above-described bill.

As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. You have not asked any specific questions about the bill, so this summary is brief. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, let me know.

Section 1. Makes a technical change to reflect sec 2.

Section 2. Establishes a consumer protection section in the Department of Law.

Section 3. Increases the civil penalty for violation of consumer protection laws.

Section 4. Indicates a legislative intent that the proceeds from consumer protection actions be appropriated for the expenses of the consumer protection section.

Section 5. Gives a July 1, 1997, effective date to the bill.

TML:jdr  
97-255.jdr

# STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

APR 14 1997

P.O. BOX 110300  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-2075

April 13, 1997

The Honorable Eric Croft  
Alaska State House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

Re: Consumer Protection

Dear Representative Croft:

Thank you for your interest in the Department of Law's consumer protection function, staffing levels, and enforcement efforts. This letter will summarize the current situation with regard to these issues.

## Consumer Protection Staffing and Budget Constraints

As you know, because of declining budgets over the past ten years, Alaska's consumer protection staffing has shrunk dramatically. For the last six or seven years, the Attorney General's Office has, regrettably, not had the resources necessary to handle the many thousands of individual consumer complaints each year from Alaskans. In this last year we have shifted assignments to add one additional attorney position for antitrust and consumer protection litigation, which brings us to a total of two assistant attorneys general and a part-time paralegal focusing on this work. However, this compares unfavorably with 5 attorneys and 8 paralegals that were dedicated to consumer protection and antitrust litigation in the early to mid-1980s.

The Department of Law has experienced a substantial reduction in general fund funding in recent years, and this has negatively affected our ability to do consumer protection work. For FY 97, only 32 percent of the Civil Division's funding is unrestricted general fund. The majority of the work of assistant attorneys general is funded through reimbursable services agreements (RSAs) with client agencies. RSA funds

from these agencies may only be expended for legal services for those agencies. Aside from the consumer protection/antitrust staff, virtually all of the attorney positions in the Fair Business Practices and Commercial sections are RSA-funded positions. Since no one agency is responsible for consumer protection and antitrust investigation and enforcement, there is no source other than the general fund to support this type of work directly. I would point out, however, that a number of the functions of the agencies that have RSAs for legal services provided by the Fair Business Practices and Commercial sections do, in fact, involve consumer protection matters. These include occupational licensing cases, rate proceedings before the Alaska Public Utilities Commission, enforcement actions against insurance companies, proceedings against licensees before the Alcoholic Beverage Control Board, and charitable gaming licensing issues. This is in addition to our direct consumer protection enforcement efforts, which, as noted above, are supported by the general fund.

The Fair Business Practices and Commercial sections provide legal services for the following client agencies:

1. Department of Commerce & Economic Development
  - a. Division of Occupational Licensing
  - b. Alaska Public Utilities Commission (APUC)
  - c. Division of Insurance
  - d. Division of Investments
  - e. Division of Banking, Securities & Corporations
  - f. Division of Measurement Standards
  - g. Other agencies within the Department of Commerce & Economic Development.
2. Department of Education
  - a. Professional Teaching Practices Commission
  - b. Commission on Postsecondary Education
3. Department of Labor
  - a. Employment Security Division
4. Department of Natural Resources
  - a. Division of Agriculture / Agricultural Revolving Loan Fund (ARLF)
5. Department of Revenue
  - a. Alaska Housing Finance Corporation (AHFC)
  - b. Alcoholic Beverage Control Board (ABC)

- c. Income and Excise Audit Division (I&E)
  - d. Permanent Fund Dividend Division
  - e. Charitable Gaming Division
- 6. Department of Law
    - a. Antitrust
    - b. Consumer Protection
  - 7. Executive Branch Ethics Act for all departments

### **How We Stretch Our Enforcement Dollars**

Although our consumer protection/antitrust staffing is limited, through creative use of resources the department has been able to stretch its enforcement dollar significantly beyond current staffing levels. One prime example of our efforts in this regard is the close cooperative relationship between the Department of Law and the Better Business Bureau of Alaska. The State has an excellent working relationship with the Better Business Bureau and relies heavily on it for investigative leads on a whole host of consumer protection violations.

The Attorney General's Office began referring consumers to the Better Business Bureau in 1989, shortly after the virtual elimination of the department's individual complaint mediation function, which had been handled by paralegals. While it is extremely effective in resolving many consumer matters on an informal basis, the BBB has no enforcement powers and is, therefore, powerless to deal with fraudulent businesses bent on bilking consumers unless and until ordered by a court to cease operating illegally. In recognition of this fact, the Legislature restored a modest amount of consumer protection funding in FY 1991. With this new funding, the Attorney General's Office was able to hire one attorney and one investigator devoted to pursuing a few of the most serious fraud cases where a pattern of consumer fraud was identified. And, as noted above, during FY 97 we have been able to devote an additional attorney position for consumer protection. However, our resources still do not allow us to handle the complaints of individual consumers.

In order to make the most of the department's modest consumer protection resources, the Attorney General's Office entered into a complaint referral and information sharing agreement with the BBB in September 1991. The BBB receives and processes thousands of consumer complaints from Alaskans each year. Under the agreement between the department and the BBB, the Attorney General's Office refers consumer

complaints from individuals to the BBB for informal resolution. The BBB, from its complaint files, identifies serious patterns of consumer fraud and refers these matters to this department for enforcement. The department files enforcement actions in Superior Court in appropriate cases:

- that affect large numbers of consumers;
- where the victims are without adequate means to solve the problem on their own;
- where the magnitude of actual or potential financial loss to the consumers supports the expenditure of scarce state enforcement resources;
- where enforcement action is likely to do some good; (e.g., where obtaining injunctive relief is a distinct possibility, and/or where the defendant is financially solvent); and
- where the victims are not also violators.

The agreement with the BBB has been renewed annually, and it is in effect today because our resources remain insufficient to handle the complaints of individual consumers. Given recent reductions in funding for state agencies, and particularly in the department's general fund funding, the Attorney General's Office would not be able to handle the thousands of telephone calls from the public concerning consumer fraud and deception and have personnel resources available to enforce the law in larger cases where a widespread pattern of serious violations has occurred. This arrangement is, therefore, a way of providing the most critical consumer protection service -- law enforcement, through prosecution of lawsuits by an attorney -- while keeping costs down by privatizing other consumer protection services, such as the complaint processing function formerly handled by paralegals.

Since 1991 when we privatized the individual complaint mediation function, the department has used its paralegals in the consumer protection area only to assist the attorney responsible for litigating consumer protection lawsuits. Since we no longer handle individual consumer complaints, we refer individual complainants to the BBB as a matter of routine practice. Many consumers are quite surprised and disappointed to learn that Alaska -- unlike virtually every other state -- does not handle individual consumer complaints. These consumers often demand to know what they can do to restore the department's capability to handle consumer complaints.

In addition to referral to the BBB, we advise consumers (where appropriate) that they have a private right of action under Alaska law and can receive their actual damages trebled in cases of willful violations. Alaska Statute 45.50.531(a). Consumers may even be able to bring an action in small claims court if their potential damages are valued at \$5,000 or less. Persons need not hire an attorney in small claims cases in Alaska.

### **Recent Successful Enforcement Actions**

Although the State is forced to turn away many cases of consumer fraud because of the small size of our consumer protection staff, we have, nevertheless, been able to recover substantial amounts of money for consumers, and we have obtained a number of injunctions against deceptive and unfair practices. Working hand-in-hand with the BBB, we have had some recent successes in the areas of telemarketing fraud, used car sales, "bait and switch" bulk retail meat sales, deceptive home business opportunity seminars, and other areas. I have summarized some of these cases for you below; information on these and other cases is included regularly in the department's Monthly Report, which is distributed to all legislators.

**Telemarketing Fraud.** The Federal Trade Commission estimates that, nationwide, consumers and others lose approximately \$40 billion a year in telemarketing fraud. We have made illegal telemarketing a priority since September 1993, when the Legislature passed laws requiring telemarketer and charitable solicitors to register annually with the Attorney General's Office as a condition of operating in Alaska. In 1995 alone, the Department of Law recovered approximately \$30,000 in restitution to consumers who had fallen victim to illegal telemarketing operations. We have issued over 100 "Cease and Desist" letters to "Lower 48" based illegal telemarketing operations and have put them out of business in Alaska. We also obtained a permanent injunction, in March 1995, against a San Diego, California, telemarketer called Distributel, which illegally telemarketed advertising specialty promotional items to Alaska without registering as a telemarketer with the State. We recovered \$10,000 in attorney's fees and costs in that case and prevailed on appeal to the Alaska Supreme Court.

**Anchorage Nissan Consumer Protection Case.** In early 1995 the department won a three-week jury trial against Anchorage Nissan for engaging in unfair and deceptive practices arising from the sale of eight used cars. Anchorage Nissan was found to have accepted in trade several used cars that had been in major accidents causing structural damage. After making repairs that were mostly cosmetic, Anchorage Nissan sold the cars to consumers without notifying them that the cars had been in major accidents. Some of

the cars were unsafe to drive but sold anyway. The jury found that Anchorage Nissan had violated its duty to disclose to the purchasers the fact that the cars had previously been in accidents. On April 14, 1995, the court issued a permanent injunction against the illegal conduct, assessed Anchorage Nissan civil penalties of \$64,000, ordered that restitution be paid to the injured consumers, and awarded the state over \$70,000 in attorney's fees and costs. That case is also on appeal in the Alaska Supreme Court.

Additionally, my department settled a claim in February 1996 that Johnson/Nissan/Jeep/Eagle violated the terms of the court's April 1995 injunction. Johnson Nissan admitted that it had not complied with the injunction to the extent that it had continued to induce customers to sign an "As Is" disclaimer on the purchase order in those cases where a customer had purchased a used vehicle and paid for a service contract for that vehicle. Under the recent settlement, Johnson Nissan sent a letter on February 20, 1996, to the approximately 500 customers who had purchased a used car with a service contract since the April 1995 injunction. Each customer was advised that if the car they purchased had a material defect at the time of sale, the dealership would repair the defect free of charge. Customers were also advised that the "As Is" disclaimer on the sale is ineffective and that the customers have warranty coverage on the cars. Johnson Nissan also paid the State of Alaska \$2,000 to cover its attorney's fees in connection with the State's investigation and settlement of the injunction violation.

Thirty-three purchasers of used vehicles contacted Anchorage Nissan in response to the warranty coverage notices the company sent pursuant to the settlement. Anchorage Nissan submitted documentation indicating it provided to these consumers diagnostic checks, repairs, and rental car transportation totaling in excess of \$20,000.

**Block & Cleaver Meats; Robert Brueggemeyer.** In October 1995, with the help of the BBB, we scored a victory against a Texas-based nationally notorious "bait and switch" meat seller, Bob Brueggemeyer, doing business in Anchorage as Block & Cleaver Meats. Brueggemeyer -- who was profiled nationally on ABC Television's 20/20 program in 1983 by ABC consumer correspondent John Stossel -- had operated a similar "bait and switch" operation in Alaska from 1987 through 1989. This time around, with the help of the BBB, Assistant Attorney General Daveed Schwartz obtained a preliminary injunction against Brueggemeyer and his company, essentially running them out of Alaska in just two months after they opened. The State won most of this case on summary judgment in February, and a short trial on the remaining issues is scheduled for May.

**Home Business Opportunity Seminar Companies.** With BBB help, the department enforced Alaska's five-business-day cooling off period in obtaining a court-approved Assurance of Voluntary Compliance with Financial Freedom Report, a Utah-based horie

business opportunity seminar company that visits Alaska twice a year. We also obtained over \$20,000 in consumer refunds last Fall for 44 Alaskans who purchased products from a California-based home business opportunities seminar company that violated the same five-business-day cooling off law.

**Discount Airline Ticket Operations.** The Anchorage Police Department recently concluded an investigation of Ronald Downey's and Lucretia Dilena's involvement in an alleged airline discount ticket brokering scam. The Civil Division worked closely with the Office of Special Prosecutions and Appeals ("OSPA") on this issue, with the result being that OSPA filed criminal contempt of court charges against Downey and Dilena for their alleged violations of a 1993 superior court injunction against unfair and deceptive practices.

**Pyramid Schemes.** The Civil Division worked hand-in-hand with OSPA during a November 1994 criminal prosecution of persons involved in an illegal "gifting" chain distributor and pyramid scheme. In particular, the consumer protection attorneys made public announcements in the news media warning consumers that the "gifting" scheme was illegal and could result in criminal penalties. These announcements were actually heard by the defendants in the criminal cases and provided strong circumstantial evidence of the defendants' criminal intent, which is often difficult to prove in these types of cases.

**Stereo Speakers Sold by Van Drivers.** On August 14, 1996, the department and the BBB issued an alert warning consumers in Anchorage and the Mat-Su Valley about a Fresno, California, based company called United Audio Imaging ("UAI") that sells so-called high-quality stereo speakers supposedly at bargain prices from vans. These sales, occurring in Anchorage and Wasilla, were apparently been made in violation of Alaska's consumer protection laws requiring companies selling merchandise at a place other than their regular place of business to provide purchasers, at the time of sale, with a written notice of their right to revoke the purchase agreement within five (5) business days of the date of purchase. The van drivers misrepresenting the speakers as being valued at \$1,500 a pair when in fact the speakers appear, at best, to be worth \$150 a pair. The state filed a consumer protection suit against the company in October and obtained a \$75,000 default judgment and injunction in February.

### **Conclusion**

We have worked hard to maximize the impact of the limited resources we have for consumer protection by working closely with the BBB, as well as with the Federal

The Honorable Eric Croft  
Re: Consumer Protection

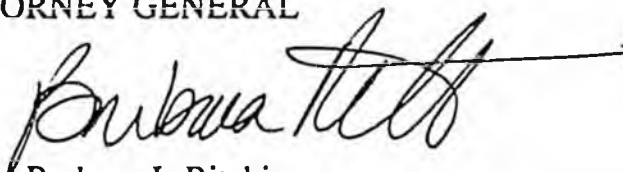
April 13, 1997  
Page 8

Trade Commission, state and federal criminal enforcement agencies, and consumer protection enforcement programs in other states.

Thank you again for expressing your concerns on consumer protection staffing and enforcement issues.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL



BY: Barbara J. Ritchie  
Deputy Attorney General

BJR:css

cc: Daveed Schwartz  
Pat Pourchot  
Chrystal Smith  
Deb Behr

FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. SSB 49

ANALYSIS CONTINUATION

adding a full-time equivalent attorney would be \$133,500. This cost includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. The standard cost does not include case-specific costs or one-time new equipment purchases. \$5,000 is added for case-specific costs, and \$6,500 is added for one-time equipment purchases in FY 99 only.

# HOUSE COMMITTEE REPORT

(7)  
Date Referred to Committee: March 26, 1997

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 2/18/98

The LABOR AND COMMERCE Committee considered:

SSHB 49

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 49

ESTABLISH CONSUMER PROTECTION DIVISION

“An Act establishing and relating to a consumer protection section in the Department of Law; increasing penalties for violation of laws relating to consumer protection; requiring special accounting for money from certain actions related to consumer protection; and providing for an effective date.”

recommends it be replaced with the following committee substitute CS SSHB 49 (LAC)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) DOL  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	D.N.P.	NR	AM
<i>Norm Keckley</i>	✓		<del>NR</del>	
<i>Bill Hudson</i>	✓			
<i>Joe Ryan</i>			✓	
<i>Steve Kubera</i>	✓			
<i>Tom Bissel</i>	✓			
<i>John J. Cuddy</i>	✓			

CHAIR'S SIGNATURE *Norm Keckley* 2-18-98

# Alaska State Legislature

2000 IN 5500  
CAPITOL BUILDING  
300 W. ALASKA STREET, 1ST FLOOR  
ANCHORAGE, ALASKA 99501  
PHONE: 907-465-4933  
FAX: 907-465-4934



CHAIRMAN JUDICIARY COMMITTEE  
VICE CHAIRMAN HEALTH, EDUCATION  
& SENIORS SERVICES COMMITTEE  
MEMBER RESOURCES COMMITTEE

## Representative Joe Green

District 10

March 9, 1998

Leslie Gara  
1242 W. 10<sup>th</sup> Avenue  
Anchorage, AK 99501

Leslie,

Thank you for attempting to testify on HB 49 this afternoon during the House Judiciary Committee hearing. I'm sorry you had to leave before we could get to you, but Steve Conn did a good job in your absence. I feel this is a very important, but potentially divisive, issue which must be thoroughly reviewed and ultimately resolved this year. Your input is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Green".

Joseph P. Green  
State House, District 10

# Alaska State Legislature



Representative Joe Green  
District 10

March 9, 1998

Stephen Conn  
601 W. 18<sup>th</sup> Avenue  
Anchorage, AK 99503

Steve,

Thank you for your input on HB 49 to the House Judiciary Committee hearing this afternoon. I feel this is a very important, but potentially divisive, issue which must be thoroughly reviewed and ultimately resolved this year. Your input is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe".

Joseph P. Green  
State House, District 10

**URGENT**

**MUSTAPHA DANBABA  
TEL/FAX: 234-90-408605  
LAGOS - NIGERIA.**

Dear Sir,

**BUSINESS PROPOSAL STRICTLY CONFIDENTIAL**

I am a member of the Federal Government of Nigeria Contract Award and Monitoring Committee in the Nigeria National Petroleum Corporation (NNPC).

Sometime ago, a contract was awarded to a foreign firm in NNPC by my committee. This contract was over-invoiced to the tune of US\$21.5M. This was done deliberately. The over-invoicing was a deal by my committee to benefit from the project. We now desire to transfer this money which is in a suspense account with NNPC in any Overseas Account which we expect you to provide for us.

**SHARE:**

For providing the account where we shall remit the money, you will be entitled to 25% of the money, 70% will be for me and my partners while 5% has been mapped out from the total sum to cover any expenses that may be incurred by us during the course of this transaction, both local and international expenses.

*I would require the following from you:*

1. **Bankers Name and Address**
2. **Telephone and Fax number of Bankers**
3. **Sort/ABA/Routing Number of Bankers**
4. **Account Number**
5. **Name of Beneficiary/Company Name.**

The above information would be used to make formal applications as a matter of procedure for the release of the money and onward transfer to your account.

It does not matter whether or not your company does contract projects of the nature described here, the assumption is that your company won the major contract and sub-contract it out to other companies. More often than not, big trading companies or firms of unrelated fields win major contract and sub-contracts to more specialized firms for execution of such contracts.

We have a strong and reliable connections and contacts at the Apex Bank of Nigeria and federal Ministry of Finance and we have no doubt that all this money will be released and transferred if we get the necessary foreign partner to assist us in this deal. Therefore, when the business is successfully concluded we shall through our same connections withdraw all documents used from all the concerned Government Ministries to avoid any trace either now or in future for 100% security.

We are civil servants and we will not want to miss this opportunity. We want this money to be transferred to the Overseas Account for us, before the present Military Government hands over to Democratically Elected Government.

Please contact me immediately through Tel/Fax message whether or not you are interested in this deal. If you are not, it will enable me scout for another foreign partner to carry out this deal. But where you are interested, send the required documents aforementioned herein through **MY ABOVE TEL/FAX NUMBER** as time is of the essence in this business.

I wait in anticipation of your fullest co-operation.

Yours faithfully,

*M. Danbaba*  
**MUSTAPHA DANBABA**



DARLIN M  
2150 GLACIER HWY,  
JUNEAU, AK 99801-7  
U. S. A.

*this is an old address  
still in the phone book  
however.*



# ACROSS THE STATE

## Vermont Telemarketing Fraud Law

Vermont is one of the first states in the nation to enact a state law that provides increased protections for consumers against telemarketing fraud, a \$40 billion per year criminal industry that disproportionately targets older persons. H 226 places a ban on courier or other pick-up services for use in collecting pay-



ment from consumers, and requires the express written authorization from consumers to gain access into their checking, savings, share or other depository accounts. These sections of H 226 are based on model legislation developed by AARP; the Act was co-authored by AARP and the attorney general's office.

"AARP has conducted extensive research into the behavior, attitudes, and values of telemarketing fraud victims," explained AARP State President Lloyd A. "Pete" Kelley, Jr. "Through this research, we learned that it is difficult for victims and potential victims to identify telemarketing fraud. H 226 protects and helps consumers by defining specific telemarketing activities as illegal."

"Fraudulent telemarketers can no longer use legitimate channels—courier pick-ups and bank demand drafts—to achieve illegitimate ends," commented Attorney General William Sorrell. "Under the new law, if a telemarketer calls and offers to send a courier or delivery company to pick up a consumer's money, this is a clear sign of fraudulent activity." Vermont is the first state in the nation to legislate a ban on courier pick-ups in attempt to combat telemarketing fraud.

"In addition," Attorney General Sorrell continued, "Vermont now requires express written authorization before anyone gains access to a consumer's bank or savings account. No longer can a fraudulent telemarketer talk a consumer into revealing the encoded numbers on the bottom of his/her checks and then make up an unsigned demand draft that the bank clearing process treats like a personal check. For older persons on fixed incomes this kind of raid on a bank account can be devastating."



INTERNET ADDRESS:  
acoa@admin.state.ak.us



APR 7 4 1997

P.O. BOX 110209  
JUNEAU, AK 99811-0209  
(907) 465-3250  
FAX: 465-4716

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## Alaska Commission on Aging

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April 4, 1997

The Honorable Norman Rokeburg  
Chair  
House Labor and Commerce Committee  
State Capitol, Room 24  
Juneau, AK 99801-1182

Dear Mr. Chair:

On March 10, 1996 the Alaska Commission on Aging transmitted Resolution 97-5 (copy attached) to the House Labor and Commerce committee. The resolution requested a committee hearing in support of the need to establish a Consumer Protection Division as stated in SB 6 and HB 49. Since then, HB 203 has been introduced by Representatives Croft and Dyson. The Commission again recently stated its interest in a committee hearing. Consumer protection is of increasing interest to seniors of the State of Alaska in that citizens of this state lose an average of \$10 million per year to telemarketing fraud alone and a great proportion of these victims are Alaska's elderly. The Commission feels that creation of a Consumer Protection Division would save the State money by making it more difficult for fraudulent solicitors to do business in the State of Alaska.

Please consider again the urgency in holding a hearing concerning HB 49. Thank you for your attention to this.

Sincerely,

A handwritten signature in cursive script that reads "Donald M. Hoover".

Don Hoover  
Chair

DH/nl  
Attachment



## REPRESENTATIVE ERIC CROFT

-13-98P05:00 R.C.D

### MEMORANDUM

To: Rep. Norm Rokeberg, Chair, House Labor & Commerce  
From: Rep. Eric Croft  
Date: February 3, 1998  
Re: SSHB49

Please schedule a hearing for SSHB49 at your earliest convenience.

This bill is a very high priority for the American Association of Retired Persons and the Older Persons' Action Group.

Please find attached to my April 1997 request:

- Sponsor Statement
- Fiscal Note
- Letters of support
- Sectional Analysis
- Research report, including budget chart
- Attorney General's description of current consumer protection program

We would like for the committee to hear teleconferenced testimony. Potential witnesses include: The Dept. of Law; American Association of Retired Persons; Older Persons' Action Group; Alaska Public Interest Research Group; Alaska Peace Officers Association; consumers who have been defrauded.

If you have any questions, please don't hesitate to call Tom Atkinson of my staff at 465-2116.



APR 09 1997



## REPRESENTATIVE ERIC CROFT

### MEMORANDUM

To: Rep. Norm Rokeberg, Chair, House Labor & Commerce  
From: Rep. Eric Croft *Eric Croft*  
Date: April 9, 1997  
Re: SSHB49

Please schedule a hearing for SSHB49 at your earliest convenience.

Ideally, the Labor & Commerce Committee could hear SSHB49 and HB203 during the same meeting, as they both address the same problem, but with differing approaches.

Please find attached:

- Sponsor Statement
- Fiscal Note
- Letters of support

I will submit the following to you before a hearing:

- Sectional Analysis
- Research report, including budget chart
- Attorney General's description of current consumer protection program

We would like for the committee to hear teleconferenced testimony. Potential witnesses include: The Dept. of Law; the Better Business Bureau; consumers who have been defrauded.

If you have any questions, please don't hesitate to call Tom Atkinson of my staff at 465-2116.



(7)

Date Referred to Committee: February 20, 1998

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/9/98

The JUDICIARY Committee considered:

SSHB 49

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 49

CONSUMER PROTECT.: DIVISION & PENALTIES

"An Act establishing and relating to a consumer protection section in the Department of Law; increasing penalties for violation of laws relating to consumer protection; requiring special accounting for money from certain actions related to consumer protection; and providing for an effective date."

recommends it be replaced with the following committee substitute \_\_\_\_\_ [ ] the same title [ ] a new title

[ ] additional referral to \_\_\_\_\_ Committee [ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[x] fiscal note(s) LAW

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Brian J. Porter</i>			✓	
<i>Stannette Jones</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			

CHAIR'S SIGNATURE

*[Signature]*