

**SB**

**130**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/6/99

FURTHER: REPORTED ON  
5/6/99

DATE TURNED  
IN TO OFFICE: 5/06/99

Finance Committee considered

SENATE BILL NO. 130

"An Act relating to immunity for sale or transfer of a firearm; relating to administrative functions performed by and fees charged by the Department of Public Safety for transfer of a firearm."

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_

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 title

new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Pete Kelly</i>	✓	<i>John E. Kelly</i>	✓		
<i>John D. Hanley</i>	✓	<i>Lynne Green</i>			possible ✓
<i>Bruce D. Roman</i>	✓	<i>Al Cohen</i>		X	
		<i>Gary Kelly</i>	✓		
Co-Chair: <i>[Signature]</i>	✓	Co-Chair: _____			
Co-Chair: _____		Co-Chair: <i>[Signature]</i>	X		

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
Pub. Safety / AST detach	5/6/99	d	
Law/Crim Div.	5/5/99	c	

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

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

5/6/99

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

**BILL NO. SB 130**

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title "An Act relating to immunity for sale or transfer of a firearm; ... administrative functions ... fees charged ..."	BRU	Criminal Division/Civil Division
Sponsor Senator Pete Kelly	Component	Criminal Justice Litigation
Requester Senate Finance Committee	Component Serial No.	Special Litigation
		2202; 2213

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<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 (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

26 USC 5801-5872 (National Firearms Act) provides authority for a chief law enforcement officer (CLEO) of a state or local law enforcement agency to concur with the sale or transfer of an otherwise prohibited weapon, such as an automatic weapon. SB 130 would provide immunity from civil liability to such an officer for concurring in the sale or transfer if the person who receives the weapon causes damage or harm.

SB 130 will have no fiscal impact on the Department of Law.

Prepared by Joan M. Kasson *Joan M. Kasson*  
 Division Attorney General's Office  
 Approved by Commissioner Bruce M. Botelho *Bruce M. Botelho*  
 Agency Department of Law

Phone 465-5370  
 Date/Time 5/5/99, 11:03 AM  
 Date 5/5/99

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# FISCAL NOTE

5/6/99

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

**BILL NO. SB 130**

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Public Safety</u>
Title <u>An Act relating to immunity for sale or transfer</u>	BRU <u>AST Detachments</u>
of a firearm; relating to administrative functions...(etc)...	Component <u>n/a</u>
Sponsor <u>Senators Kelly</u>	
Requester <u>S. Finance</u>	Component Serial No. <u>2325</u>

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<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 (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill will have no fiscal impact on the Department of Public Safety.

Prepared by <u>F/Sgt. David Hudson</u>	Phone <u>269-5655</u>
Division <u>Alaska State Troopers</u>	Date/Time <u>5/6/99 8:20 AM</u>
Approved by Commissioner <u>Ronald L. Otte</u>	Date <u>5/6/99</u>
Agency <u>Department of Public Safety</u>	

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# Alaska State Legislature

SENATOR

**PETER KELLY**

Mailing Address:

119 N. Cushman, Suite 201

Fairbanks, Alaska 99701

Senator\_Pete\_Kelly@legis.state.ak.us

(907) 456-8161



*Senate*

While in Session

State Capitol

Juneau, Alaska

99801-1182

(907) 465-2327

Senate District P

## Sponsor Statement

### Senate Bill 130

**“An Act relating to immunity for sale or transfer of  
A firearm; relating to administrative functions performed by  
And fees charged by the Department of Public Safety for transfer  
Of a firearm.”**

The transfer of firearms regulated by Section 5812 of the National Firearms Act requires a certification from a Chief Law Enforcement Officer (CLEO) on Federal Tax Forms 1, 4 or 5 which states, “I have no information indicating that the transferee will use the firearm or device described on this application for other than lawful purposes. I have no information that the receipt and/ or possession of the firearm described . . . would place the transferee in violation of State or local law.”

Some legal opinions have caused officials to consider that signing forms 1, 4 or 5 might make them liable if the transferee were to commit a crime with the firearm or device. Additionally, officials have refused to sign citing an unfunded federal mandate.

This bill would remove the liability of public officials who sign federal forms, 1, 4 or 5 for damage or harm caused by the individual for whom the form was executed. Further, this bill would provide for a reasonable fee to perform any background checks deemed necessary by the Alaska Department of Public Safety. This would address the unfunded mandate question.

There is no known instance where an Alaskan citizen legally possessing firearms regulated by the National Firearms Act has committed a crime. Indeed, these same individuals undergo stringent background and fingerprint checks before approval, and pay a tax of up to \$200.00 for each transfer. The Bureau of Alcohol, Tobacco and Firearms is very diligent in the enforcement of violations of NFA regulations.

Date: Tue, 06 Apr 1999 16:56:46 -0800  
From: Darwin\_Peterson@legis.state.ak.us  
Organization: Alaska State Legislature  
X-Mailer: Mozilla 4.5 [en] (Win95; I)  
X-Accept-Language: en  
MIME-Version: 1.0  
To: Shari Kochman <Shari\_Kochman@gov.state.ak.us>  
Subject: SB 130  
Content-Type: text/plain; charset=us-ascii  
Content-Transfer-Encoding: 7bit

Shari,

The Senate Finance Committee requests a fiscal note for SB 130, "An Act relating to immunity for sale or transfer of a firearm; relating to administrative functions performed by and fees charged by the Department of Public Safety for transfer of a firearm." SB 130 was waived from the Judiciary committee, therefore the Senate Finance Committee is the first committee of referral. SB 130 is sponsored by Senator Pete Kelly and has not yet been scheduled for a hearing in the Senate Finance Committee.

Thanks,  
Darwin

5/06/99

DEPARTMENT OF THE TREASURY - BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
APPLICATION FOR TAX PAID TRANSFER AND REGISTRATION OF FIREARM

SEE INSTRUCTIONS ATTACHED.  
TO BE SUBMITTED IN DUPLICATE  
TO: National Firearms Act Branch  
Bureau of Alcohol, Tobacco and  
Firearms  
P.O. Box 73201  
Chicago, IL 60673-7201

2a. TRANSFEREE'S NAME AND ADDRESS (If transferee is a Special (Occupational) Taxpayer who is acquiring firearm for personal use, rather than as part of his business inventory, show personal name below and check here: )

2b. TRADE NAME (See instruction 2e)

2c. COUNTY

3a. TRANSFEROR'S NAME AND MAILING ADDRESS (If the firearm is registered under your trade name, enter your trade name. EXECUTORS: See instruction 2f.)

1. TYPE OF TRANSFER (Check one)  
(See instructions 1 and 6)  
 \$5  \$200

Submit with your application a check or money order for the appropriate amount made payable to the Department of the Treasury. Upon approval of this application, this office will acquire, affix and cancel the required "National Firearms Act" stamp for you. (See instruction 6)

3b. NUMBER, STREET, CITY, STATE AND ZIP CODE IF DIFFERENT FROM ITEM 3a.

3c. IF APPLICABLE: DECEDENT'S NAME, ADDRESS, AND DATE OF DEATH

The above-named and undersigned transferor hereby makes application as required by Section 5812 of the National Firearms Act to transfer and register the firearm described below to the transferee.

4. DESCRIPTION OF FIREARM (Complete items a through h)

a. NAME AND ADDRESS OF MANUFACTURER AND/OR IMPORTER OF FIREARM

b. TYPE OF FIREARM (Short-barreled rifle, machine gun, destructive device, any other weapon, etc.)

c. CALIBER, GAUGE OR SIZE (Specify)

d. MODEL

LENGTH e. OF BARREL f. OVERALL: (Inches)

g. SERIAL NUMBER

h. ADDITIONAL DESCRIPTION OR DATA APPEARING ON FIREARM (Attach additional sheet if necessary)

5. TRANSFEREE'S FEDERAL FIREARMS LICENSE (If any)

(Give complete 15-digit number)

First 6 digits | 2 digits | 2 digits | 5 digits

6. TRANSFEREE'S SPECIAL (OCCUPATIONAL) TAX STATUS

a. ATF IDENTIFICATION NUMBER

b. CLASS

7. TRANSFEROR'S FEDERAL FIREARMS LICENSE (If any)

(Give complete 15-digit number)

First 6 digits | 2 digits | 2 digits | 5 digits

8. TRANSFEROR'S SPECIAL (OCCUPATIONAL) TAX STATUS

a. ATF IDENTIFICATION NUMBER

b. CLASS

3

UNDER PENALTIES OF PERJURY, I DECLARE that I have examined this application, and to the best of my knowledge and belief it is true, correct and complete, and that the transfer of the described firearm to the transferee and receipt and possession of it by the transferee are not prohibited by the provisions of Chapter 44, Title 18, United States Code; Chapter 53, Title 26, United States Code; or Title VII of the Omnibus Crime Control and Safe Streets Act, as amended; or any provisions of State or local law.

9. SIGNATURE OF TRANSFEROR (Or authorized official)

10. NAME AND TITLE OF AUTHORIZED OFFICIAL (Print or type)

11. DATE

THE SPACE BELOW IS FOR THE USE OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

BY AUTHORITY OF THE DIRECTOR, THIS APPLICATION HAS BEEN EXAMINED, AND THE TRANSFER AND REGISTRATION OF THE FIREARM DESCRIBED HEREIN AND THE INTERSTATE MOVEMENT OF THAT FIREARM, WHEN APPLICABLE, TO THE TRANSFEREE ARE:

STAMP NUMBER

APPROVED (With the following conditions, if any)

DISAPPROVED (For the following reasons)

SIGNATURE OF DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

DATE

## CERTIFICATIONS

1. F1

If the transferor of a destructive device, machinegun, short-barreled shotgun or short-barreled rifle is a Federal firearms licensee, and the transferee is anyone other than a licensee qualified to deal in the firearm to be transferred, the transferee must sign the Applicant Certification (item 2 below) in the presence of the law enforcement officer signing item 3 below. The Law Enforcement Certification (item 3 below) must be completed for the transfer of any registered firearm to an individual other than a licensee qualified to deal in the firearm to be transferred. In addition, the individual transferee must affix a recent photograph (taken within the past year) in item 1 and submit, in duplicate (to the transferor) two completed copies of FBI Form FD-258, Fingerprint Card. (See Important note below.)

### 2. APPLICANT CERTIFICATION

I, \_\_\_\_\_, have a reasonable necessity to possess the device or  
(Name of Transferee)  
weapon described on this application for the following reason(s) \_\_\_\_\_

and my possession of the device or weapon would be consistent with public safety (18 U.S.C. 922(b) (4) and 27 CFR 178.96).

UNDER PENALTIES OF PERJURY, I declare that I have examined this application, and to the best of my knowledge and belief it is true, correct and complete, and that receipt and possession of the firearm described on this form will not place me in violation of the provisions of Chapter 44, Title 18, U.S.C.; Chapter 53, Title 26, U.S.C.; or Title VII of the Omnibus Crime Control and Safe Streets Act, as amended, or any provisions of State or local law.

\_\_\_\_\_  
(Signature of Transferee or official authorized to sign for firm)

\_\_\_\_\_  
Date

### 3. LAW ENFORCEMENT CERTIFICATION (See IMPORTANT note below)

I certify that I am the chief law enforcement officer of the organization named below having jurisdiction in the area

of residence of \_\_\_\_\_ . I have no information indicating that the transferee will use the fire-  
(Name of Transferee)

arm or device described on this application for other than lawful purposes. I have no information that the receipt and/or possession of the firearm described in item 4 of this form would place the transferee in violation of State or local law.

\_\_\_\_\_  
(Signature and Title of Chief Law Enforcement Officer — See IMPORTANT note below)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Organization and Street Address)

\_\_\_\_\_  
(County)

\_\_\_\_\_  
(Phone — include area code)

**IMPORTANT:** The chief law enforcement officer is considered to be the Chief of Police for the transferee's city or town of residence, the Sheriff for the transferee's county of residence; the Head of the State Police for the transferee's State of residence; a State or local district attorney or prosecutor having jurisdiction in the transferee's area of residence; or another person whose certification is acceptable to the Director, Bureau of Alcohol, Tobacco and Firearms. If someone has specific delegated authority to sign on behalf of the Chief of Police, Sheriff, etc., this fact must be noted by printing the Chief's, Sheriff's, or other authorized official's name and title, followed by the word "by" and the full signature and title of the delegated person.

SENATE FINANCE COMMITTEE

SIGN-IN

SB 130-FEES/IMMUNITY SALE/TRANSFER OF FIREARMS

NAME: Del SMITH Sub./Bill No: SB130

Co./Dept./Title: DPS DEP COMM. Phone: 4322

Address: 450 WHITTIER Zip: 99801

Do you wish to testify?  Yes  No  Respond to Questions

NAME: \_\_\_\_\_ Sub./Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond to Questions

NAME: \_\_\_\_\_ Sub./Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond to Questions

NAME: \_\_\_\_\_ Sub./Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond to Questions