

HB

487

ALASKA STATE LEGISLATURE



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Session:
State Capitol Building, Room 24
Juneau, Alaska 99801-1182
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REPRESENTATIVE VIC KOHRING
DISTRICT 26

MEMORANDUM

Date: March 18, 2002

To: Rep. John Coghill, Chair
House State Affairs Committee

From: Rep. Vic Kohring ↘

Subject: HB 487 Fireworks Regulation

Please schedule a hearing as soon as possible on HB 487, my bill to update the state's fireworks statutes. Enclosed in the bill packet are my Sponsor Statement, Sectional Analysis (written on the CS version), and letter of support.

Also included along with the original Bill is a work draft Committee Substitute which adds updates in terminology and definitions in the statute, and adds a provision under Enforcement that allows the State Fire Marshall to end restrictions or suspensions when a violation has been corrected

The CS also adds a provision for a fire safety program and establishes an account in state treasure for the safety program fees from vendors. The legislature may appropriate money from the account to the Department for costs incurred for the fire safety program.

I would request that the Committee adopt the CS as their working document.

If you have any questions, contact my staff aide, Sharron O'Dell.

Thank you very much.

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REPRESENTATIVE VIC KOHRING
DISTRICT 26

SPONSOR STATEMENT

HOUSE BILL 487

FIREWORKS REGULATION

The disastrous Miller's Reach Fire in 1996 was believed to have been started by the irresponsible use of fireworks during a high fire condition period. Legal and financial effects of that fire are still ongoing. This disaster brings focus to the need to update the State's fireworks statutes and regulations.

In 1969, the Legislature passed legislation to regulate fireworks sales. Consumer use of fireworks has increased and the availability of different types of fireworks has changed over the years; however, regulations have not kept pace with the changes. HB 487 will:

- place into statute authority to the State Fire Marshal to restrict or limit sale and use of certain fireworks between April 1 and September 30;
- limit the use of all fireworks at any time of extreme fire conditions;
- completely ban the sale of bottle rockets;
- bring the definition section in line with the standard fireworks definitions set by the Consumer Products Safety Commission; and
- create a Fireworks Advisory Committee appointed by the State Fire Marshal to annually review federal regulations, national fire codes, state statutes and regulations, and to advise the State Fire Marshal of needed updates.

Passage of HB 487 will ensure fireworks regulations are kept up to date thereby increasing protection to the public by reducing fire danger caused by the irresponsible use of fireworks.

22-LS1385\L
Bannister
3/14/02

CS FOR HOUSE BILL NO. 487()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE KOHRING

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to fireworks, to a fire safety program, to a fire safety program account,**
2 **and to certain criminal laws relating to explosives; and providing for an effective date."**

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

4 *** Section 1.** AS 11.81.900(b)(22) is amended to read:

5 (22) "explosive" means a chemical compound, mixture, or device that
6 is commonly used or intended for the purpose of producing a chemical reaction
7 resulting in a substantially instantaneous release of gas and heat, including dynamite,
8 blasting powder, nitroglycerin, blasting caps, and nitrojelly, but excluding consumer
9 [SALABLE] fireworks as defined in AS 18.72.100 [AS 18.72.050], black powder,
10 smokeless powder, small arms ammunition, and small arms ammunition primers;

11 *** Sec. 2.** AS 18.72.020(a) is amended to read:

12 (a) A person holding a permit required by the fire safety code may sell or offer
13 for sale consumer [SALABLE] fireworks [,] if the person

14 (1) [THE PERSON] has submitted to the state fire marshal a policy, or

1 a certified true copy of a policy, of public liability and products liability insurance,
2 including both accident and occurrence coverage, provided by the wholesale company
3 selling fireworks to the person, in the amount of at least \$200,000 for bodily injury or
4 death and at least \$50,000 property damage and the person is named as an insured
5 party upon the policy and the policy is continuously in force while the person is
6 engaged in the retail sale of fireworks; [AND]

7 (2) pays an endorsement fee of \$500 [\$10 IS PAID] to the state fire
8 marshal for an endorsement that is valid for two years or portions of two years during
9 which the permit holder is engaged in the retail sale of fireworks; and

10 (3) pays a fire safety program fee of \$300 to the state fire marshal;
11 the state fire marshal shall transfer the amount of the fees collected under this
12 paragraph to the Department of Revenue for deposit in the fire safety program
13 account created under AS 44.41.060 in the state treasury.

14 * **Sec. 3.** AS 18.72 is amended by adding a new section to read:

15 **Sec. 18.72.035. Restrictions on certain fireworks.** (a) Notwithstanding the
16 other provisions of this chapter, a person, whether or not licensed under this chapter,
17 may not sell a bottle rocket in the state. In this subsection, "bottle rocket" means a
18 device that is a smaller version of a sky rocket, that is less than 16 inches long, and
19 that contains 50 milligrams or less of material of pyrotechnic composition.

20 (b) Notwithstanding the other provisions of this chapter, the state fire marshal
21 may limit or restrict the sale of sky rockets and missile-type rockets from April 1 to
22 September 30 in a region of the state as the state fire marshal determines to be
23 appropriate to protect health and safety in that region.

24 (c) The state fire marshal may limit or restrict the use of some or all consumer
25 fireworks in places where extreme fire conditions exist. This subsection does not
26 affect or diminish the ability of the state to regulate the use of fireworks under other
27 state authority, including limiting burning on forested lands.

28 * **Sec. 4.** AS 18.72 is amended by adding a new section to read:

29 **Sec. 18.72.045. Civil penalty.** A person who recklessly violates a provision
30 of this chapter is liable, after notice and an opportunity for a hearing, to the state for a
31 civil penalty of \$1,000 for each violation.

1 * **Sec. 5.** AS 18.72 is amended by adding new sections to read:

2 **Sec. 18.72.070. Enforcement.** (a) If the state fire marshal has reason to
3 believe that a person who has a permit issued under AS 18.72.020 or 18.72.030 is
4 violating this chapter or another law relating to health and safety in the use of the
5 permit, the state fire marshal may, after notice and an opportunity for a hearing,
6 suspend or take other action against the person's permit until the violation has been
7 corrected.

8 (b) Notwithstanding (a) of this section, if a person with a permit issued under
9 AS 18.72.020 or 18.72.030 is violating this chapter and the state fire marshal
10 determines that the violation is causing a serious immediate threat to health or safety,
11 the state fire marshal may restrict or suspend the sale of consumer fireworks by a
12 person immediately without a hearing. The state fire marshal shall provide the person
13 with a hearing on the next business day of the person's business to determine whether
14 the restriction or suspension was justified and whether there is a reason to continue the
15 restriction or suspension. The state fire marshal shall end the restriction or suspension
16 as soon as the state fire marshal determines the violation is corrected.

17 (c) The Department of Public Safety shall establish by regulation the
18 procedures to be followed under this section.

19 (d) Nothing in this section shall be construed to limit the state fire marshal's
20 other enforcement authority under an applicable building code, the fire safety code, or
21 other statutes.

22 **Sec. 18.72.080. Fireworks Advisory Committee.** (a) The Fireworks
23 Advisory Committee is established in the Department of Public Safety. The
24 committee consists of members appointed by the state fire marshal to provide a
25 balanced representation from the rural and urban areas of the state of persons who are
26 fire service officials and manufacturers, distributors, retailers, and users of fireworks.
27 The state fire marshal shall establish the number of members to serve on the
28 committee.

29 (b) Each year the committee shall familiarize itself with current federal
30 regulations and national fire codes, thoroughly review existing state statutes and
31 regulations, and advise the state fire marshal on any statutes and regulations that need

1 to be enacted, adopted, amended, or repealed.

2 (c) The committee shall meet at least once each year. The state fire marshal
3 shall chair the committee.

4 (d) A member of the committee serves at the pleasure of the state fire marshal
5 and does not receive compensation for the member's work on the committee.

6 (e) In this section, "committee" means the Fireworks Advisory Committee
7 established by (a) of this section.

8 * Sec. 6. AS 18.72.100(l) is amended to read:

9 (1) "dangerous fireworks" includes all fireworks that are not defined as
10 consumer [SALABLE] fireworks;

11 * Sec. 7. AS 18.72.100(3) is amended to read:

12 (3) "fireworks" means consumer [SALABLE] fireworks or dangerous
13 fireworks;

14 * Sec. 8. AS 18.72.100 is amended by adding new paragraphs to read:

15 (5) "aerial shell or mine" means a round or cylindrical paper or plastic
16 shell that

17 (A) contains material of pyrotechnic composition and a lift
18 charge;

19 (B) is either loaded into a paper or plastic mortar that is
20 designed to be placed on or in the ground, or preloaded in a paper or plastic
21 mortar that is on a plastic or wooden base; and

22 (C) upon ignition, is designed to be propelled into the sky to
23 burst and produce visible and audible effects;

24 (6) "aerial spinner," also known as a helicopter, means a tube that is
25 composed of paper, plastic, or both paper and plastic, that contains material of
26 pyrotechnic composition, that has a propeller or blade attached, that is designed to be
27 placed on a flat area of the ground or on a board, that is designed to rise into the air,
28 and that is often followed by a visible or audible effect at or near the height of flight;

29 (7) "chaser" means a paper or cardboard tube that contains material of
30 pyrotechnic composition or of pyrotechnic and explosive composition, that is designed
31 to be placed on the ground, that is designed, upon ignition, to produce from the fuse

1 end of the tube a whistling effect designed to cause the tube to travel along the ground,
2 and that may end with a report;

3 (8) "combination item" means a device that is designed to produce the
4 effects of more than one of the devices identified in (5) - (7), (9), (11), and (21) of this
5 section;

6 (9) "cone fountain" means a cardboard or heavy paper tube that has a
7 cone shape, that contains material of pyrotechnic composition, that is designed to be
8 placed on the ground, and that is designed, upon ignition, to produce effects that are
9 the same as those of a cylindrical fountain;

10 (10) "consumer fireworks" means a device that is designed primarily to
11 produce visible effects by combustion and that complies with the construction,
12 chemical composition, and labeling requirements of the United States Consumer
13 Product Safety Commission in 16 CFR 1500 and 1507; in this paragraph, "device that
14 is designed primarily to produce visible effects by combustion" includes an aerial shell
15 or mine, an aerial spinner, a chaser, a combination item, a cone fountain, a cylindrical
16 fountain, a firecracker, a flitter sparkler, a ground spinner, an illuminating torch, a
17 missile-type rocket, a roman candle, a sky rocket, a sparkler, a toy smoke device, and
18 a wheel;

19 (11) "cylindrical fountain" means a cardboard or heavy paper tube that
20 has a cylindrical shape, that contains material of pyrotechnic composition, that is
21 designed to be placed on or in the ground or held in the hand, that is designed, upon
22 ignition, to produce a shower of colored sparks and sometimes a whistling effect or
23 smoke, and that has

24 (A) a spike for insertion into the ground, and may be known as
25 a spike fountain;

26 (B) a wooden or plastic base for placing on the ground, and
27 may be known as a base fountain; or

28 (C) a wooden or cardboard handle that is held by hand, and
29 may be known as a handle fountain;

30 (12) "firecracker" means a paper-wrapped or cardboard tube that
31 contains material of explosive composition, that is designed to be placed on the

1 ground or hung from a post or tree, and that is designed, upon ignition, to produce
2 visible and audible effects;

3 (13) "flitter sparkler" means a paper tube that is attached to a stick or
4 wire, that contains material of pyrotechnic composition, that is designed to be held in
5 the hand, and that is designed, upon ignition, to produce a shower of sparks and color;

6 (14) "ground spinner" means a cardboard or heavy paper tube that has
7 a cylindrical shape, that contains material of pyrotechnic composition, that is designed
8 to be placed on flat ground, and that is designed, upon ignition, to produce a shower of
9 sparks and color from a vent on the side that spins the device on the ground;

10 (15) "illuminating torch" means a cardboard or heavy paper tube that
11 has a cylindrical shape, that contains material of pyrotechnic composition, that is
12 designed to be placed on the ground or held in the hand, that is designed, upon
13 ignition, to produce a colored flame, and that has

14 (A) a spike for insertion into the ground;

15 (B) a wooden or plastic base for placing on the ground; or

16 (C) a handle for holding by hand;

17 (16) "missile-type rocket" means an item that is similar to a sky rocket
18 in size, composition, and effect, but that uses fins rather than a stick for guidance and
19 stability;

20 (17) "roman candle," also known as a cake, means a heavy paper or
21 cardboard tube that contains pellets of pyrotechnic composition, that is designed to be
22 placed on or in the ground, and that is designed, upon ignition, to expel the pellets
23 individually and to produce a visible effect, an audible effect, or visible and audible
24 effects;

25 (18) "sky rocket" means a cylindrical tube that contains material of
26 pyrotechnic composition, that has a wooden stick attached for guidance and stability,
27 that is designed to be placed in a tube, that is designed, upon ignition, to fly into the
28 air, and that, upon ignition and flight, may be followed by a visible or audible effect at
29 or near the height of its flight;

30 (19) "sparkler" means a wire or stick that is coated with material of
31 pyrotechnic composition, that is designed to be held in the hand, and that is designed,

1 upon ignition, to produce a shower of sparks;

2 (20) "toy smoke device" means a plastic or paper ball or tube that
3 contains material of pyrotechnic composition, that is designed to be placed on the
4 ground, and that is designed, upon ignition, to produce white or colored smoke;

5 (21) "wheel" means a paper or wooden item that has various shapes,
6 including round, triangular, or square, that has an axis in the center, that has a driver
7 that consists of a paper or cardboard tube that contains material of pyrotechnic
8 composition, that is designed to be attached to a post or tree by a nail or string, and
9 that is designed, upon ignition, to produce a shower of color and sparks and sometimes
10 a whistling effect that causes the wheel to spin on the axis.

11 * **Sec. 9.** AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

12 (AAA) receipts of fees paid to the state fire marshal and for
13 certain inspections deposited under AS 18.72.020(a)(3) in the fire safety
14 program account created under AS 44.41.060;

15 * **Sec. 10.** AS 44.41 is amended by adding a new section to read:

16 **Sec. 44.41.060. Fire safety program account.** The fire safety program
17 account is created in the state treasury. The legislature may appropriate money from
18 the account for necessary costs incurred by the Department of Public Safety for a fire
19 safety program to promote fire safety in the state. Nothing in this section creates a
20 dedicated fund or dedicates the money in the account for a specific purpose.

21 * **Sec. 11.** AS 18.72.100(4) is repealed.

22 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **REGULATIONS.** The Department of Public Safety may adopt regulations to
25 implement AS 18.72.070, enacted by sec. 5 of this Act. The regulations take effect under
26 AS 44.62, but not before the effective date of sec. 5 of this Act.

27 * **Sec. 13.** Section 12 of this Act takes effect immediately under AS 01.10.070(c).

28 * **Sec. 14.** Sections 1 - 11 of this Act take effect December 1, 2002.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 15, 2002

SUBJECT: Sectional summary of CSHB 487() relating to fireworks
(Work Order No. 22-LS1385\L)

TO: Representative Vic Kohring
Attn: Sharron

FROM: *JB*
Theresa L. Bannister
Legislative Counsel

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

As a preliminary matter, 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.

Section 1. Amends a definition in the criminal code to conform the definition to a change made in this bill and to correct an old cross-reference.

Section 2. Amends the subsection that identifies certain conditions that a person must meet to sell consumer fireworks. Substitutes the term "consumer fireworks" for "salable fireworks." Increases the endorsement fee to \$500. Requires that the person pay a fire safety program fee of \$300 to the state fire marshal.

Section 3. Adds a new section that sets restrictions on the sale of certain fireworks. Prohibits the sale of a bottle rocket in the state. Allows the state fire marshal to limit the sale of sky rockets and missile-type rockets from April 1 to September 30 in a region where the state fire marshal determines health and safety make the limit appropriate. Allows the state fire marshal to limit the use of consumer fireworks where extreme fire conditions exist.

Section 4. Establishes a civil penalty of \$1,000 for a person who recklessly violates a provision of AS 18.72. Requires notice and an opportunity for a hearing.

Section 5. Adds two new sections.

Sec. 18.72.070. Allows the state fire marshal to suspend or take other action against a person's permit where there is a reasonable belief that the person is violating this chapter or another law relating to health and safety in the use of the permit. Requires notice and

Representative Vic Kohring
March 15, 2002
Page 2

an opportunity for a hearing. If a violation causes a serious immediate threat to health or safety, allows the state fire marshal to immediately restrict or suspend the sale of consumer fireworks without a hearing. Requires a hearing on the next business day. Requires that the restriction or suspension be ended as soon as the violation is corrected. Directs the Department of Public Safety to establish by regulation the procedures to be followed under the section. States that the section does not limit the state fire marshal's other enforcement authority.

Sec. 18.72.080. Establishes a Fireworks Advisory Committee in the Department of Public Safety. Establishes that the state fire marshal establishes the number of members on the committee and appoints the members. Provides that the members serve at the pleasure of the state fire marshal. Requires the committee to familiarize itself with current federal regulations and national fire codes, review state statutes and regulations, and advise the state fire marshal on any statutes and regulations that need to be enacted, adopted, amended, or repealed. Establishes how frequently the committee must meet, who is to chair the committee, and that the members do not receive compensation.

Section 6. Amends the definition of "dangerous fireworks" to conform the definition to the use of the new term "consumer fireworks."

Section 7. Amends the definition of "fireworks" to conform the definition to the use of the new term "consumer fireworks."

Section 8. Defines the new term "consumer fireworks" and adds definitions for various types of named consumer fireworks.

Section 9. Adds the fire safety program fee receipts paid under AS 18.72.020(a)(3) to the list of program receipts that are accounted for separately.

Section 10. Creates the fire safety program account in the state treasury.

Section 11. Repeals the current definition of "salable fireworks."

Section 12. Authorizes the Department of Public Safety to adopt regulations to implement AS 18.72.070.

Section 13. Gives sec. 12 of this bill an immediate effective date.

Section 14. Gives secs. 1 - 11 of this bill an effective date of December 1, 2002.

If I may be of further assistance, please advise.

TLB:med
02-284.med



Gorilla Fireworks

Fireworks Make People Happy

Phone: 907-892-6557
Toll Free: 888-Gorilla
Toll Free: 888-467-4552
Fax: 907-892-6566

Email: gorilla@alaska.net
Snail Mail: P.O. Box 871906
Wasilla, AK 99687

March 18, 2002

Representative Vic Kohring
State Capitol – Room 24
Juneau, AK 99801

Representative Vic Kohring:

RE: Support HB 487

I am pleased to confirm our full support for HB 487. Taken, as a whole HB 487 is a thoughtful proactive update of Alaska's consumer fireworks statute.

The restrictions on bottle rockets and sky rockets should significantly reduce noise complaints, the possibility of personal injuries and the possibility of a wildland fire started by the misuse of a rocket. The new fire safety education program is clearly a good idea. Raising the permit fees to offset the administrative cost is a reasonable cost of doing business.

Sincerely,

A handwritten signature in black ink that reads "Robert Hall". The signature is written in a cursive, slightly slanted style.

Robert Hall

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FIREWORKS REGULATION

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- place into statute authority to the State Fire Marshal to restrict or limit sale and use of certain fireworks between April 1 and September 30;
- limit the use of all fireworks at any time of extreme fire conditions;
- completely ban the sale of bottle rockets;
- bring the definition section in line with the standard fireworks definitions set by the Consumer Products Safety Commission; and
- create a Fireworks Advisory Committee appointed by the State Fire Marshal to annually review federal regulations, national fire codes, state statutes and regulations, and to advise the State Fire Marshal of needed updates.

Passage of HB 487 will ensure fireworks regulations are kept up to date thereby increasing protection to the public by reducing fire danger caused by the irresponsible use of fireworks.

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5 party upon the policy and the policy is continuously in force while the person is
6 engaged in the retail sale of fireworks; [AND]

7 (2) pays an endorsement fee of \$500 [\$10 IS PAID] to the state fire
8 marshal for an endorsement that is valid for two years or portions of two years during
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12 person immediately without a hearing. The state fire marshal shall provide the person
13 with a hearing on the next business day of the person's business to determine whether
14 the restriction or suspension was justified and whether there is a reason to continue the
15 restriction or suspension. The state fire marshal shall end the restriction or suspension
16 as soon as the state fire marshal determines the violation is corrected.

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18 procedures to be followed under this section.

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20 other enforcement authority under an applicable building code, the fire safety code, or
21 other statutes.

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23 Advisory Committee is established in the Department of Public Safety. The
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20 designed to be placed on or in the ground, or preloaded in a paper or plastic
21 mortar that is on a plastic or wooden base; and

22 (C) upon ignition, is designed to be propelled into the sky to
23 burst and produce visible and audible effects;

24 (6) "aerial spinner," also known as a helicopter, means a tube that is
25 composed of paper, plastic, or both paper and plastic, that contains material of
26 pyrotechnic composition, that has a propeller or blade attached, that is designed to be
27 placed on a flat area of the ground or on a board, that is designed to rise into the air,
28 and that is often followed by a visible or audible effect at or near the height of flight;

29 (7) "chaser" means a paper or cardboard tube that contains material of
30 pyrotechnic composition or of pyrotechnic and explosive composition, that is designed
31 to be placed on the ground, that is designed, upon ignition, to produce from the fuse

1 end of the tube a whistling effect designed to cause the tube to travel along the ground,
2 and that may end with a report;

3 (8) "combination item" means a device that is designed to produce the
4 effects of more than one of the devices identified in (5) - (7), (9), (11), and (21) of this
5 section;

6 (9) "cone fountain" means a cardboard or heavy paper tube that has a
7 cone shape, that contains material of pyrotechnic composition, that is designed to be
8 placed on the ground, and that is designed, upon ignition, to produce effects that are
9 the same as those of a cylindrical fountain;

10 (10) "consumer fireworks" means a device that is designed primarily to
11 produce visible effects by combustion and that complies with the construction,
12 chemical composition, and labeling requirements of the United States Consumer
13 Product Safety Commission in 16 CFR 1500 and 1507; in this paragraph, "device that
14 is designed primarily to produce visible effects by combustion" includes an aerial shell
15 or mine, an aerial spinner, a chaser, a combination item, a cone fountain, a cylindrical
16 fountain, a firecracker, a flitter sparkler, a ground spinner, an illuminating torch, a
17 missile-type rocket, a roman candle, a sky rocket, a sparkler, a toy smoke device, and
18 a wheel;

19 (11) "cylindrical fountain" means a cardboard or heavy paper tube that
20 has a cylindrical shape, that contains material of pyrotechnic composition, that is
21 designed to be placed on or in the ground or held in the hand, that is designed, upon
22 ignition, to produce a shower of colored sparks and sometimes a whistling effect or
23 smoke, and that has

24 (A) a spike for insertion into the ground, and may be known as
25 a spike fountain;

26 (B) a wooden or plastic base for placing on the ground, and
27 may be known as a base fountain; or

28 (C) a wooden or cardboard handle that is held by hand, and
29 may be known as a handle fountain;

30 (12) "firecracker" means a paper-wrapped or cardboard tube that
31 contains material of explosive composition, that is designed to be placed on the

1 ground or hung from a post or tree, and that is designed, upon ignition, to produce
2 visible and audible effects;

3 (13) "flitter sparkler" means a paper tube that is attached to a stick or
4 wire, that contains material of pyrotechnic composition, that is designed to be held in
5 the hand, and that is designed, upon ignition, to produce a shower of sparks and color;

6 (14) "ground spinner" means a cardboard or heavy paper tube that has
7 a cylindrical shape, that contains material of pyrotechnic composition, that is designed
8 to be placed on flat ground, and that is designed, upon ignition, to produce a shower of
9 sparks and color from a vent on the side that spins the device on the ground;

10 (15) "illuminating torch" means a cardboard or heavy paper tube that
11 has a cylindrical shape, that contains material of pyrotechnic composition, that is
12 designed to be placed on the ground or held in the hand, that is designed, upon
13 ignition, to produce a colored flame, and that has

14 (A) a spike for insertion into the ground;

15 (B) a wooden or plastic base for placing on the ground; or

16 (C) a handle for holding by hand;

17 (16) "missile-type rocket" means an item that is similar to a sky rocket
18 in size, composition, and effect, but that uses fins rather than a stick for guidance and
19 stability;

20 (17) "roman candle," also known as a cake, means a heavy paper or
21 cardboard tube that contains pellets of pyrotechnic composition, that is designed to be
22 placed on or in the ground, and that is designed, upon ignition, to expel the pellets
23 individually and to produce a visible effect, an audible effect, or visible and audible
24 effects;

25 (18) "sky rocket" means a cylindrical tube that contains material of
26 pyrotechnic composition, that has a wooden stick attached for guidance and stability,
27 that is designed to be placed in a tube, that is designed, upon ignition, to fly into the
28 air, and that, upon ignition and flight, may be followed by a visible or audible effect at
29 or near the height of its flight;

30 (19) "sparkler" means a wire or stick that is coated with material of
31 pyrotechnic composition, that is designed to be held in the hand, and that is designed,

1 upon ignition, to produce a shower of sparks;

2 (20) "toy smoke device" means a plastic or paper ball or tube that
3 contains material of pyrotechnic composition, that is designed to be placed on the
4 ground, and that is designed, upon ignition, to produce white or colored smoke;

5 (21) "wheel" means a paper or wooden item that has various shapes,
6 including round, triangular, or square, that has an axis in the center, that has a driver
7 that consists of a paper or cardboard tube that contains material of pyrotechnic
8 composition, that is designed to be attached to a post or tree by a nail or string, and
9 that is designed, upon ignition, to produce a shower of color and sparks and sometimes
10 a whistling effect that causes the wheel to spin on the axis.

11 * **Sec. 9.** AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

12 (AAA) receipts of fees paid to the state fire marshal and for
13 certain inspections deposited under AS 18.72.020(a)(?) in the fire safety
program account created under AS 44.41.060;

14 * **Sec. 10.** AS 44.41 is amended by adding a new section to read:

15 **Sec. 44.41.060. Fire safety program account.** The fire safety program
16 account is created in the state treasury. The legislature may appropriate money from
17 the account for necessary costs incurred by the Department of Public Safety for a fire
18 safety program to promote fire safety in the state. Nothing in this section creates a
19 dedicated fund or dedicates the money in the account for a specific purpose.
20

21 * **Sec. 11.** AS 18.72.100(4) is repealed.

22 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **REGULATIONS.** The Department of Public Safety may adopt regulations to
25 implement AS 18.72.070, enacted by sec. 5 of this Act. The regulations take effect under
26 AS 44.62, but not before the effective date of sec. 5 of this Act.

27 * **Sec. 13.** Section 12 of this Act takes effect immediately under AS 01.10.070(c).

28 * **Sec. 14.** Sections 1 - 11 of this Act take effect December 1, 2002.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 15, 2002

SUBJECT: Sectional summary of CSHB 487() relating to fireworks
(Work Order No. 22-LS1385\L)

TO: Representative Vic Kohring
Attn: Sharron

FROM: *TB*
Theresa L. Bannister
Legislative Counsel

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

As a preliminary matter, 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.

Section 1. Amends a definition in the criminal code to conform the definition to a change made in this bill and to correct an old cross-reference.

Section 2. Amends the subsection that identifies certain conditions that a person must meet to sell consumer fireworks. Substitutes the term "consumer firework" for "salable fireworks." Increases the endorsement fee to \$500. Requires that the person pay a fire safety program fee of \$300 to the state fire marshal.

Section 3. Adds a new section that sets restrictions on the sale of certain fireworks. Prohibits the sale of a bottle rocket in the state. Allows the state fire marshal to limit the sale of sky rockets and missile-type rockets from April 1 to September 30 in a region where the state fire marshal determines health and safety make the limit appropriate. Allows the state fire marshal to limit the use of consumer fireworks where extreme fire conditions exist.

Section 4. Establishes a civil penalty of \$1,000 for a person who recklessly violates a provision of AS 18.72. Requires notice and an opportunity for a hearing.

Section 5. Adds two new sections.

Sec. 18.72.070. Allows the state fire marshal to suspend or take other action against a person's permit where there is a reasonable belief that the person is violating this chapter or another law relating to health and safety in the use of the permit. Requires notice and

Representative Vic Kohring
March 15, 2002
Page 2

an opportunity for a hearing. If a violation causes a serious immediate threat to health or safety, allows the state fire marshal to immediately restrict or suspend the sale of consumer fireworks without a hearing. Requires a hearing on the next business day. Requires that the restriction or suspension be ended as soon as the violation is corrected. Directs the Department of Public Safety to establish by regulation the procedures to be followed under the section. States that the section does not limit the state fire marshal's other enforcement authority.

Sec. 18.72.080. Establishes a Fireworks Advisory Committee in the Department of Public Safety. Establishes that the state fire marshal establishes the number of members on the committee and appoints the members. Provides that the members serve at the pleasure of the state fire marshal. Requires the committee to familiarize itself with current federal regulations and national fire codes, review state statutes and regulations, and advise the state fire marshal on any statutes and regulations that need to be enacted, adopted, amended, or repealed. Establishes how frequently the committee must meet, who is to chair the committee, and that the members do not receive compensation.

Section 6. Amends the definition of "dangerous fireworks" to conform the definition to the use of the new term "consumer fireworks."

Section 7. Amends the definition of "fireworks" to conform the definition to the use of the new term "consumer fireworks."

Section 8. Defines the new term "consumer fireworks" and adds definitions for various types of named consumer fireworks.

Section 9. Adds the fire safety program fee receipts paid under AS 18.72.020(a)(3) to the list of program receipts that are accounted for separately.

Section 10. Creates the fire safety program account in the state treasury.

Section 11. Repeals the current definition of "salable fireworks."

Section 12. Authorizes the Department of Public Safety to adopt regulations to implement AS 18.72.070.

Section 13. Gives sec. 12 of this bill an immediate effective date.

Section 14. Gives secs. 1 - 11 of this bill an effective date of December 1, 2002.

If I may be of further assistance, please advise.

TLB:med
02-284.med

HOUSE BILL NO. 487

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KOHRING

Introduced: 2/19/02
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fireworks; and providing for an effective date."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 18.72.020(a) is amended to read:

4 (a) A person holding a permit required by the fire safety code may sell or offer
5 for sale salable fireworks [,] if

6 (1) the person has submitted to the state fire marshal a policy, or a
7 certified true copy of a policy, of public liability and products liability insurance,
8 including both accident and occurrence coverage, provided by the wholesale company
9 selling fireworks to the person, in the amount of at least \$200,000 for bodily injury or
10 death and at least \$50,000 property damage and the person is named as an insured
11 party upon the policy and the policy is continuously in force while the person is
12 engaged in the retail sale of fireworks; and

13 (2) an endorsement fee of \$500 [~~\$10~~] is paid to the state fire marshal
14 for an endorsement that is valid for two years or portions of two years during which
15 the permit holder is engaged in the retail sale of fireworks.

1 * **Sec. 2.** AS 18.72 is amended by adding a new section to read:

2 **Sec. 18.72.035. Restrictions on certain fireworks.** (a) Notwithstanding the
3 other provisions of this chapter, a person, whether or not licensed under this chapter,
4 may not sell a bottle rocket in the state. In this subsection, "bottle rocket" means a
5 small cylindrical tube that contains a substance of pyrotechnic composition, that has a
6 wooden stick attached for guidance, and that, upon ignition, flies into the air.

7 (b) Notwithstanding the other provisions of this chapter, a person holding a
8 permit under AS 18.72.020 may not sell a non-mortar-type or non-cannon-type aerial
9 fireworks device in the state from April 1 through September 30 of each year.

10 * **Sec. 3.** AS 18.72 is amended by adding a new section to read:

11 **Sec. 18.72.045. Civil penalty.** A person who recklessly violates a provision
12 of this chapter is liable, after notice and an opportunity for a hearing, to the state for a
13 civil penalty of \$1000 for each violation.

14 * **Sec. 4.** AS 18.72 is amended by adding new sections to read:

15 **Sec. 18.72.070. Enforcement.** (a) If the state fire marshal has reason to
16 believe that a person who has a permit issued under AS 18.72.020 or 18.72.030 is
17 violating this chapter or another law relating to health and safety in the use of the
18 permit, the state fire marshal may, after notice and an opportunity for a hearing,
19 suspend or take other action against the person's permit until the violation has been
20 corrected.

21 (b) Notwithstanding (a) of this section, if a person with a permit issued under
22 AS 18.72.020 or 18.72.030 is violating this chapter or another law relating to health
23 and safety and the state fire marshal determines that there is an immediate threat to
24 health and safety, the state fire marshal may issue the person a cease and desist order
25 and close the business immediately without a hearing, but the state fire marshal shall
26 provide the person with a hearing the next business day to determine whether the
27 closure was justified and whether there is reason for continuing the closure.

28 (c) The Department of Public Safety shall establish by regulation the
29 procedures to be followed under this section.

30 **Sec. 18.72.080. Fireworks Advisory Committee.** (a) The Fireworks
31 Advisory Committee is established in the Department of Public Safety. The

1 committee consists of members appointed by the state fire marshal to provide a
2 balanced representation from the rural and urban areas of the state of persons who are
3 fire service officials and manufacturers, distributors, retailers, and users of fireworks.
4 The state fire marshal shall establish the number of members to serve on the
5 committee, and the members serve at the pleasure of the state fire marshal.

6 (b) Each year the committee shall familiarize itself with current federal
7 regulations and national fire codes, thoroughly review existing state statutes and
8 regulations, and advise the state fire marshal on any statutes and regulations that need
9 to be enacted, adopted, amended, or repealed.

10 (c) The committee shall meet at least once each year. The state fire marshal
11 shall chair the committee.

12 (d) In this section, "committee" means the Fireworks Advisory Committee
13 established by (a) of this section.

14 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 REGULATIONS. The Department of Public Safety may adopt regulations to
17 implement AS 18.72.070, enacted by sec. 4 of this Act, but not before the effective date of
18 sec. 4 of this Act.

19 * Sec. 6. Section 5 of this Act takes effect immediately under AS 01.10.070(c).

20 * Sec. 7. Sections 1 - 4 of this Act take effect December 1, 2002.



Gorilla Fireworks

Fireworks Make People Happy

Phone: 907-892-6557
Toll Free: 888-Gorilla
Toll Free: 888-467-4552
Fax: 907-892-6566

Email: gorilla@alaska.net
Snail Mail: P.O. Box 871906
Wasilla, AK 99687

March 18, 2002

Representative Vic Kohring
State Capitol – Room 24
Juneau, AK 99801

Representative Vic Kohring:

RE: Support HB 487

I am pleased to confirm our full support for HB 487. Taken, as a whole HB 487 is a thoughtful proactive update of Alaska's consumer fireworks statute.

The restrictions on bottle rockets and sky rockets should significantly reduce noise complaints, the possibility of personal injuries and the possibility of a wildland fire started by the misuse of a rocket. The new fire safety education program is clearly a good idea. Raising the permit fees to offset the administrative cost is a reasonable cost of doing business.

Sincerely,

A handwritten signature in black ink that reads "Robert Hall". The signature is written in a cursive, flowing style.

Robert Hall

Sponsor and/or Committee Name			Date
HSTA- Rep. Coghill, Chair			4/4/02
Start/End Time	Chairing site	Juneau Room	Testimony
8am / 10am	Juneau	Cap102	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Invitational <input type="checkbox"/>
Contact Person and	Phone Number	Other sites may add?	Testimony Limit
Rynniva Moss	465-4963	Yes	

Subject of meeting and/or Bills on agenda

HB 487 Fireworks

Sites - LIOs	Sites - Offnets	Phone #
Anchorage	Gary Powell State Fire Marshal	269-5292
Barrow	Anchorage	
Bethel		
Cordova		
Delta Junction		
Dillingham		
Fairbanks		
Glennallen		
Homer		
Juneau		
Kenai		
Ketchikan		
Kodiak		
Kotzebue		
Matsu		
Nome		
Petersburg		
Seward		
Sitka		
Tok		
Valdez		
Wrangell		

Notes

SITE: SEWARD LIO

COMMITTEE: HSTA

DATE: 3-26-02

SUBJECT OF MEETING:

HB 315 STATE HEALTH INS FOR
BUSINESS/NONPROFITS

UPDATE #:



PLEASE SIGN IN

DO YOU WANT

P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

TO TESTIFY?

Y or N

Diane Pautz		Seaview Services	Community	Y
Email address:				
Email address:				
Email address:				
Email address:				
Email address:				
Email address:				

SITE: ANCHORAGE LIO

COMMITTEE: HSTA

DATE: 3-26-02

SUBJECT OF MEETING:

HB 315

UPDATE #: 2



P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

**DO YOU WANT
TO TESTIFY?
Y or N**

Fred Jenkins		United Way of Anch	Y-HB 315
Email address:			
Jan MacClarence		Abused Women Aid in	Y-HB 315
Email address:		Crisis	
Carla Stephenson		Campfire USA	Y-HB 315
Email address:			
Daryl Nelson		Access AK	Y-HB 315
Email address:			
Susannah Morgan		Good Bank of AK	Y-HB 315
Email address:			
Sandra Camery		M T Caverly Sr Cntr	Y-HB 315
Email address:			
Ken Taylor		Southcentral Counseling	Y-HB 315
Email address:		Center	

ANCHORAGE PARTS LIST PAGE 2

SUBJECT: HSTA - HB 315

DO YOU WANT
TO TESTIFY?
Y or N

P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

Ronni Sullivan		Southern Region ESM	Y-HB 315
Email address:			
Elizabeth Edmands		Challenge AK/Gov Cncl	Y-HB 315
Email address:			
Email address:			
Email address:			
Email address:			
Email address:			

Subject: HB487 points to address

Date: Thu, 04 Apr 2002 09:10:04 -0900

From: Sharron Odell <Sharron_Odell@legis.state.ak.us>

Organization: Alaska State Legislature

To: Rynnieva Moss <Rynnieva_Moss@legis.state.ak.us>

I thought John mentioned 4 issues for us to address but when I got back to the office, I only have 3

1> insurance

2> retail vs wholesale vs display (language needed?)

3> language in Sec.4 re applying the civil penalties to other areas than the retail sales dealt with in the bill

Could you let me know what the 4th point was?

I think Rep. James addressed the concerns against Anchorage Fire Chief's office request for statewide permits for buyers. She mentioned that Hawaii does this and I've found out Hawaii is the ONLY state that does this (as a means to present safety information, not used for enforcement)

Thanks, Sharron

Sharron O'Dell <Sharron_Odell@legis.state.ak.us>

ALASKA STATE LEGISLATURE

Chair:
LABOR AND COMMERCE

Member:
MILITARY AND VETERANS AFFAIRS
COMMUNITY AND REGIONAL AFFAIRS
LEGISLATIVE COUNCIL
JOINT ARMED SERVICES



REPRESENTATIVE LISA MURKOWSKI
Government Hill • Elmendorf • East Anchorage

Session:
ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-3783
FAX: (907) 465-2293
Representative_Lisa_Murkowski@legis.state.ak.us

Interim:
716 WEST 4TH AVENUE
ANCHORAGE, AK 99501-2133
PHONE: (907) 269-0174
FAX: (907) 269-0177

To: Representative John Coghill, Chairman, House State affairs

From: Representative Murkowski 

Date: April 18, 2002

Re: House Bill 493

Please schedule House Bill 493 "An Act relating to assignments of permanent fund dividends; and providing for an effective date." for a hearing in House State Affairs Committee as soon as possible.

Included with the request is:

- 1) HB 493
- 2) Sponsor Statement
- 3) Letter of Support

Thank you for your consideration.

ALASKA STATE LEGISLATURE

Chair:

LABOR AND COMMERCE

Member:

MILITARY AND VETERANS AFFAIRS
COMMUNITY AND REGIONAL AFFAIRS
LEGISLATIVE COUNCIL
JOINT ARMED SERVICES



REPRESENTATIVE LISA MURKOWSKI

Government Hill • Elmendorf • East Anchorage

Session:

ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-3783
FAX: (907) 465-2293

Representative_Lisa_Murkowski@legis.state.ak.us

Interim:

716 WEST 4TH AVENUE
ANCHORAGE, AK 99501-2133
PHONE: (907) 269-0174
FAX: (907) 269-0177

Sponsor Statement

HB 493

Assignment of Permanent Fund Dividend

House Bill 493, the Good Neighbor Act, allows a Permanent Fund Dividend to be assigned to an organization that qualifies for nonprofit status, or is exempt from federal taxation.

Alaskans who regularly contribute to nonprofits and religious organizations requested this option to assign a dividend directly to these entities. Currently, Permanent Fund Dividends may be assigned to a federal, state, or municipal government agency, or to a court.

HB 493 promotes the spirit of charitable giving by Alaskans.

doorman SERVICE CO.

P.O. BOX 91141
ANCHORAGE, ALASKA 99509
(907)-582-3318
(FAX) 907-583-2050
doorman@ak.net

April 9, 2002

FROM: ROB LUPTON
1904 CLEVELAND AVE.
ANCHORAGE, AK. 99517

TO: JOHN COGHILL, VIC KOHRING, NORMAN ROKEBURG AND BRIDGET BUSHUE.

REF: COMMENTS ON THE PROPOSED HOUSE BILL 487.

DEAR SIRs AND MADAM,

I AM WRITING TO YOU WITH CONCERNS ABOUT THE WORDING AND RESTRICTIONS IN THIS BILL. I AM A SPECIALTY CONTRACTOR IN THIS STATE, A MEMBER AND BOARD DIRECTOR OF THE ALASKA PYROTECHNICS GUILD, INC., A MEMBER OF THE WESTERN PYROTECHNIC ASSOCIATION, I HOLD A CURRENT STATE OF ALASKA PYROTECHNICS DISPLAY OPERATORS PERMIT.

I WILL KEEP MY COMMENTS SHORT AND TO THE POINT AS FOLLOWS:

• SECTION 1. (1) INSURANCE

I RECOMMEND (5) MILLION COVERAGE, INJURY/DEATH AND (2) MILLION PROPERTY DAMAGE.

• SECTION 1. (2) ENDORSEMENT FEE

I THINK THAT AN ANNUAL FEE OF \$60.00 IS AMPLE.

• SECTION 2. RESTRICTIONS ON CERTAIN FIREWORKS

PARAGRAPH A) WITH THE WORDING AS IS, IF ENACTED, THIS WILL RESTRICT ALL OF THE PROFESSIONAL DISPLAY COMPANY'S THAT DO BUSINESS IN THIS STATE FROM SELLING THESE AND "LIKE" PYROTECHNIC DEVICES TO SHOW SPONSORS IN PERMITTED PUBLIC DISPLAYS.

WHAT IS THE PURPOSE OF THIS WORDING? TO KEEP BOTTLE ROCKETS OUT OF THE GENERAL PUBLIC'S HANDS? IF SO, THE WORDING NEEDS TO BE SPECIFIC.

NOTE: ROCKET BARRAGES IN PROFESSIONAL DISPLAYS MAKE AN INCREDIBLE EFFECT.

PARAGRAPH B) THE WORDING IN THIS PARAGRAPH IS NOT SPECIFIC AND VERY BROAD.

AGAIN, IF ENACTED, THIS WOULD RESTRICT THE DISPLAY COMPANY'S FROM SELLING MANY TYPES OF DEVICES, COMMONLY USED IN AERIAL AND GROUND DISPLAYS ACROSS THIS GREAT STATE. THIS WOULD ALSO RESTRICT THE USE OF MANY SPECIAL EFFECT PRODUCTS DURING THE BUSIEST TIME OF THE FIREWORK SEASON. YES! THE FOURTH OF JULY.~

- SECTION 5) FIREWORKS ADVISORY COMMITTEE. I VERY MUCH SUPPORT THIS IDEA AND I THINK THAT THE COMMITTEE SHOULD ESTABLISHED AND REVIEW THIS HB 487 PRIOR TO IT'S PRESENTATION TO THE LEGISLATURE.

THANK YOU FOR REVIEWING THESE COMMENTS AND PLEASE CONTACT ME SHOULD YOU HAVE ANY QUESTIONS.

Rob Lupton

Subject: [Fwd: HB 487 correction to 4/4 testimony]

Date: Fri, 05 Apr 2002 13:17:40 -0900

From: Sharron Odell <Sharron_Odell@legis.state.ak.us>

Organization: Alaska State Legislature

To: Representative John Coghill <Representative_John_Coghill@legis.state.ak.us>,
Representative Jeannette James <Representative_Jeannette_James@legis.state.ak.us>,
Representative Hugh Fate <Representative_Hugh_Fate@legis.state.ak.us>,
Representative Gary Stevens <Representative_Gary_Stevens@legis.state.ak.us>,
Representative Peggy Wilson <Representative_Peggy_Wilson@legis.state.ak.us>,
Representative Harry Crawford <Representative_Harry_Crawford@legis.state.ak.us>,
Representative Joe Hayes <Representative_Joe_Hayes@legis.state.ak.us>

I received the following from State Fire Marshall Gary Powell. I told him I would forward it to the Committee members.

Thanks

Sharron

Legislative Aide for Rep. Vic Kohring

Gary Powell wrote:

> Sharron,
>
> I do need to clarify something I said this morning, and will do so for
> all SA Committee members, if need be. I said we averaged 18 licensed
> retailers in the state. Actually we issued 31 retail permits in FY
> 2001. I think the Permits Clerk misunderstood my request the first
> time. I hope this didn't cause a problem. I value my integrity above
> all else, and don't want to leave wrong information out there.
>
> Gary

Sharron O'Dell <Sharron_Odell@legis.state.ak.us>

Subject: HB487 points to address

Date: Thu, 04 Apr 2002 09:10:04 -0900

From: Sharron Odell <Sharron_Odell@legis.state.ak.us>

Organization: Alaska State Legislature

To: Rynnieva Moss <Rynnieva_Moss@legis.state.ak.us>

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- 2> retail vs wholesale vs display (language needed?)
- 3> language in Sec.4 re applying the civil penalties to other areas than the retail sales dealt with in the bill

Could you let me know what the 4th point was?

I think Rep. James addressed the concerns against Anchorage Fire Chief's office request for statewide permits for buyers. She mentioned that Hawaii does this and I've found out Hawaii is the ONLY state that does this (as a means to present safety information, not used for enforcement)

Thanks, Sharron

Sharron O'Dell <Sharron_Odell@legis.state.ak.us>

FACSIMILE COVER SHEET

FIRE ART BY GRIZ, Inc.

BOX 0584
 BIG LAKE, ALASKA 99652
 Ph & Fax (907)-892-7700
 E-Mail fireart@alaska.net

"WHEN NOTHING BUT FIREWORKS WILL DO!"

TO State Affairs & Finance Comittees	From Griz Smith
ATTENTION Chairman	Date 4-4-02
FAX # 465-3258	Phone #

 Urgent Reply ASAP Please Comment Please Review For Your Information

Total pages, including cover sheet.

five

The Alaska Pyrotechnic Guild Inc. (APGI) has the following coments about HB487.
 Thank You---- Griz SmIth

ATF = Alcohol, Tobacco & Firearms
 DOT = Department of Transportation
 USCG = United Staes Coast Guard

**** Fire Art By Griz Inc. ****

P.O.Box 0584 Big Lake Alaska 99652
Phone and Fax (907)892-7700
E mail fireart@alaska.net

To: Hon. Rep. Vlo Kohring
April 2, 2002

From: Alaska Pyrotechnic Guild, Inc.
Griz Smith, President

Sir:

I am writing to you concerning the pending legislation HB 487, concerning the revision of statutes pertaining to the sale and use of pyrotechnic devices. The Alaska Pyrotechnic Guild, Inc. (APGI) is a non-profit professional trade association for pyrotechnicians operating in the state of Alaska. Our purpose and focus is the education, training and safety of our members and the public at large. Collectively, we represent the most experienced group of extreme conditions show operators in the world, with a safety record that is unmatched anywhere. By virtue of this experience, we believe we are uniquely qualified to comment on HB 487.

We are concerned as to the effects of the proposed changes to the existing statutes as it affects our industry and members, due to the potential restriction of trade it enables. The APGI held a special meeting of the membership on March 9th, 2002 to form a consensus on the proposed changes, and respectfully submit our comments and concerns for your consideration.

HB 487 "An Act relating to fireworks; and providing for an effective date"
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*Section 1. AS 18.72.020(a) is amended to read:

(a) A person holding a permit required by the fire safety code may sell or offer for sale saleable fireworks if

(1) The person has submitted to the state fire marshal a policy or a certified true copy of a policy, of public liability and products liability insurance including both accident and occurrence coverage, provided by the wholesale company selling fireworks to the person, in the amount of at least \$200,000 for bodily injury or death and at

least \$50,000 property damage and the person is named as an insured party upon the policy and the policy is continuously in force while the person is engaged in the retail sale of fireworks; and
(2) An endorsement fee of \$500 [\$10] is paid to the state fire marshal for an endorsement that is valid for two years or portions of two years during which the permit holder is engaged in the retail sale of fireworks.

Comments On Paragraph (1):

The APGI feels very strongly that insurance requirements should be in no way reduced, but rather they should be increased. As an example, the Miller's Reach fire exceeded \$11 million in fire fighting costs alone. This does not include property losses, temporary housing, relief agency expenditures or any of the numerous costs associated with this disaster. We suggest that a more appropriate level of insurance would be \$5 million in liability coverage, including \$2 million of premises/operations coverage and increasing coverage for bodily injury/property damage to \$4 million per occurrence. We feel that as inflation has increased the cost of living, medical costs and replacement values, it is logical to increase insurance coverage requirements to reflect this.

Additionally, we feel another point should be raised with regard to the liabilities of the sale of fireworks to the general public. Consider the bartender who serves a customer: When the customer leaves the server's premises, the server has no control over the ensuing actions of the customer, yet can be held accountable in civil and criminal proceedings for the actions of his customer. Should it not also be in the best interest of similarly aggrieved parties to be able to pay for the medical expenses or replacement of a dwelling incurred through no fault of their own other than having the misfortune to be in the proximity of a careless fool? Say the careless fool has no insurance and the aggrieved turns to the vendor for recompense- is it not in the best interest of the vendor to have the means to satisfy a judgment against their business without resorting to bankruptcy? Is the public at large not better served by this protection?

Comments On Paragraph (2):

The APGI suggests that the existing \$60.00 endorsement fee is adequate, and that Paragraph (2) should NOT be amended.

*Section 2. AS 18.72 is amended by adding a new section to read:

Sec. 18.72.035. Restrictions on certain fireworks.

- a Notwithstanding the other provisions of this chapter, a person, whether or not licensed under this chapter, may not sell a bottle rocket in the state. In this subsection, "bottle rocket" means a

small cylindrical tube that contains a substance of pyrotechnic composition, that has a wooden stick attached for guidance, and that, upon ignition, flies into the air.

- b Notwithstanding the other provisions of this chapter, a person holding a permit under AS 18.72.020 may not sell a non-mortar-type or non-cannon-type aerial fireworks device in the state from April 1 through September 30 of each year

Comments On Paragraphs (a) and (b):

The APGI disagrees with the wording of this section for several reasons. For a fireworks production company/wholesaler to deliver a show to a customer, the product must be sold and transferred to the sponsor. This section therefore restricts the options that a wholesaler can sell or that a customer can buy to produce a legally permitted show, which often includes both Class C and Class B pyrotechnic devices of many types, which are not necessarily aerial. No distinction is made of types or classes in the language. While the APGI recognizes the intent of the language is to address the "dry" season potential for fire, we feel the language is too broad in scope and restrictive to professionally produced shows. Further, professional pyrotechnicians are already required to comply with a plethora of laws and regulations set down by the USDOT, BATF, NFPA, USCG, Alaska Dept. of Public Safety and local agencies. We feel restrictions of this nature may only lead to further restriction of our already highly regulated trade and the manner in which we are permitted to display fireworks for the enjoyment of the people of Alaska.

* Section 3. AS 18.72 is amended by adding a new section to read:

Sec. 18.72.045. Civil penalty. A person who recklessly violates a provision of this chapter is liable, after notice and an opportunity for a hearing, to the state for a civil penalty of \$1000 for each violation.

Comments On Sec. 18.72.045:

Many different types of violations occur all the time by unscrupulous display operators (i.e. using a rented box van without any placards to transport fireworks.) APGI feels that the amendment should address more than just a violation of this "chapter". It should include a provision/regulation authorizing the enforcement of any & all applicable Federal, State, Municipal, Borough, and Community rules and regulations with regard to the purchase, sale, manufacture, transportation and other activities related to fireworks.

For example: If a violation of DOT regulations occurred in the North Slope Borough, there could be difficulties in regard to the reporting or

enforcement of it. APGI believes the State Fire Marshall's Office should have the authority to investigate all DOT, NFPA, and ATF, etc. violations. This should not be a problem as the State Fire Marshall's Office has already adopted the laws and regulations of these other agencies as policy. Additionally, APGI believes a \$1000.00 fine is minimal. This fine should be increased to \$5000.00 per occurrence.

In conclusion:

APGI agrees with this amendment with clarification and a larger fine. We propose the amendment read as follows:

A regulation that includes: Subject to any and all State, Federal, Borough, City and Community laws, rules and regulations pertaining to the purchasing, sales, manufacturing, transporting, storage and display of fireworks by any and all Federal or State regulations, that a person, or persons, who recklessly violates a provision of this chapter is liable, after notice and an opportunity for a hearing, to the State of Alaska for a civil penalty of \$5000.00 or more for each violation.

*Section 4. AS 18.72 is amended by adding new sections to read:

Sec. 18.72.070. Enforcement.

- a If the state fire marshal has reason to believe that a person who has a permit issued under AS 18.72.020 or 18.72.030 is violating this chapter or another law relating to health and safety in the use of the permit, the state fire marshal may, after notice and an opportunity for a hearing, suspend or take other action against the person's permit until the violation has been corrected.
- b Notwithstanding (a) of this section, if a person with a permit issued under AS 18.72.020 or 18.72.030 is violating this chapter or another law relating to health and safety and the state fire marshal determines that there is an immediate threat to health and safety, the state fire marshal may issue the person a cease and desist order and close the business immediately without a hearing, but the state fire marshal shall provide the person with a hearing the next business day to determine whether the closure was justified and whether there is reason for continuing the closure.
- c The Department of Public Safety shall establish by regulation the procedures to be followed under this section.

APGI has no comments about this amendment.

***Section 4. AS 18.72 is amended by adding new sections to read:**

Section 18.72.080. Fireworks Advisory Committee.

- a The Fireworks Advisory Committee is established in the Department of Public Safety. The committee consists of members appointed by the state fire marshal to provide a balanced representation from the rural and urban areas of the state of persons who are fire service officials and manufacturers, distributors, retailers, and users of fireworks. The state fire marshal shall establish the number of members to serve on the committee, and the members serve at the pleasure of the state fire marshal.**
- b Each year the committee shall familiarize itself with current federal regulations and national fire codes, thoroughly review existing state statutes and regulations, and advise the state fire marshal on any statutes and regulations that need to be enacted, adopted, amended, or repealed.**
- c The committee shall meet at least once each year. The state fire marshal shall chair the committee.**
- d In this section, "committee" means the Fireworks Advisory Committee established by (a) of this section.**

APGI agrees with and supports the formation of the Fireworks Advisory Committee as described in this amendment.

*** Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to read:**

REGULATIONS. The Department of Public Safety may adopt regulations to implement AS 18.72.070, enacted by sec. 4 of this Act, but not before the effective date of sec. 4 of this Act.

***Sec. 6. Section 5 of this Act takes effect immediately under AS 01.10.070(o).**

***Sec. 7. Sections 1 - 4 of this Act take effect December 1, 2002.**

APGI has no comments on Section 5, 6 or 7.

The APGI would like to thank you for the opportunity to express our opinions and concerns on this matter, and commend you on the intent of

this legislation to make our industry safer for all Alaskans. We recognize that the Legislature's time in session is limited and valuable and believe that an amended bill, which addresses our concerns, will enable the language to withstand potential unconstitutionality challenges with regard to restriction of trade.

Sincerely,



Griz Smith
President, APGI

CC: