

HB

56

ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. Dan Ogg
Rep. Jim Holm
Rep. Ralph Samuels
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

MEMORANDUM

To: House Judiciary Committee
From: Rep. Lesil McGuire, Chair, Judiciary Committee
Date: May 12, 2003
Re: Waiver Request for House Judiciary Committee Referral for
HB 56: Unfair Trade Practices; Antitrust

I respectfully request your consideration to waive HB 56: Unfair Trade Practices; Antitrust, sponsored by Rep. Gara, from the House Judiciary Committee due to the Committee's current extremely busy schedule. The bill was given a full public hearing in the House Labor and Commerce Committee on April 25, 2003, and has a further referral to the House Finance Committee.

Thank you.

AGREEMENT TO WAIVE HB 56 FROM THE HOUSE JUDICIARY COMMITTEE

Rep. Lesil McGuire (Chair) _____

Rep. Tom Anderson (Vice-Chair) _____

Rep. Dan Ogg _____

Rep. Ralph Samuels _____

Rep. James Holm _____

Rep. Max Gruenberg _____

Rep. Les Gara _____

ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

MEMORANDUM

DATE: April 28, 2003

TO: Rep. Lesil McGuire
Chair, House Judiciary Committee

FROM: Rep Les Gara

RE: Hearing Request for HB 56, "Consumer Attorney's Fees"

I respectfully request that HB 56, "Consumer Attorney's Fees", be scheduled for hearing in the House Judiciary Committee. Please feel free to contact me, or my aide Ryan Peterson, with questions or thoughts at 465-2647.

Attached you will find a background packet for HB 56. This includes the original bill, a Labor and Commerce Committee Substitute, a sponsor's statement, sectional analysis, and letters of support.

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 21, 2003

FURTHER REFERRALS: Judiciary

Date of Committee Action: April 25, 2003

The LABOR AND COMMERCE Committee considered:

HB 56

HOUSE BILL NO. 56

UNFAIR TRADE PRACTICES ATTY FEES/COSTS

"An Act relating to the attorney fees and costs awarded in certain court actions relating to unfair trade practices; and, if considered court rule changes, amending Rules 54(d), 79, and 82, Alaska Rules of Civil Procedure."

Recommends it be replaced with HCS or CS for HB 56 (LSC)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LAA
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
<u>LAW</u>			✓	

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	LYNN	X			
	GATTO			✓	
	CRAWFORD	✓			
	GUTTENBERG	✓			
	ROKEBERG			✓	
Chair:	ANDERSON	X			
Chair:					

ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

Differences Between HB 56 and CSHB 56(L&C)

There is one change:

The original bill did not include a statement that this bill involves a court rule change.

Since that version was introduced, however, it has been made clear that, indeed, the Act would substantively change Court Rules 54(d), 79 and 82 of the Alaska Rules of Civil Procedure. The proposed CSHB 56 takes this into account and incorporates the court rule changes (Sec. 2., starting page 1, line 10 of proposed CS).

The bill now states a 2/3 vote is required because a court rule change is involved.

As a result, Sec. 4 of the original bill, the EFFECT NOTWITHSTANDING VOTE clause, is no longer necessary and has also been removed.

ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

SPONSOR STATEMENT

HB 56: Making State's Fight Against Consumer Fraud More Effective; And More Cost Effective.

This bill provides the state with a needed tool to fight consumer fraud more effectively, more efficiently, and without any cost to the state. This bill strengthens the state's ability to represent Alaskans who have been victimized by fraudulent business practices, whether by used car dealers, telemarketers, or others who prey on Alaska's consumers. It does so while actually saving the state money. Senator Fred Dyson and I have worked on similar cost-effective consumer protection measures in the past, and will join hands to advance this proposal in our respective legislative houses.

Currently victims of consumer fraud can contact the State's Attorney General's Office for help. However, due to budget constraints, the State cannot help many such victims. In 2001 roughly half of all Alaskans who complained of consumer law violations were turned away due to budget constraints.

HB 56 changes the law to allow the state to recover its full enforcement, investigation and court costs if it prevails against a party that has violated Alaska's consumer protection laws. The bill is modeled after legislation in other areas that allow state and federal investigators and enforcement authorities to recover their enforcement costs. For example, federal anti-trust, and federal and state hazardous waste laws allow the recovery of enforcement costs and full attorneys fees from parties who violate the law.

The public policies behind this bill are simple: Those who engage in unfair business practices should not force the state to bear the costs of their misconduct. Moreover, by allowing the state to recover not only the existing penalties that are available under state law, but it's enforcement costs, the law will help fund a more vibrant, more cost-effective consumer protection presence in Alaska.

Current law prevents the state from recovering many types of investigative and enforcement costs, and allows the state to recover only 20% of its attorney fee costs. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Les Gara".

Les Gara

ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

Sectional Analysis: HB 56

This bill provides the state with a needed tool to fight consumer fraud more effectively, more efficiently, and without any cost to the state. This bill strengthens the state's ability to represent Alaskans who have been victimized by fraudulent business practices, whether by dishonest used car dealers, telemarketers, or others who prey on Alaska's consumers. It does so while actually saving the state money.

HB 56 changes the law to allow the state to recover its full enforcement, investigation and court costs if it prevails against a party that has violated Alaska's consumer protection laws. The bill is modeled after legislation in other areas that allows the state to recover its enforcement costs. For example, federal anti-trust, and federal and state hazardous waste laws allow the state to recover its enforcement costs from parties who violate the law.

Section 1: Currently the state is entitled to only partial compensation for its enforcement efforts when it prevails in a case under Alaska's consumer protection law, the Unfair Trade Practices Act. This section changes the law to entitle the state, if it prevails in such a case, to receive full compensation for its enforcement efforts on behalf of a victim. Under this section, a court may award full compensation to the state for its attorneys fees and investigation and other enforcement costs. The state would have to prove that these costs were reasonable.

Section 2: This notice is required when the Legislature changes existing court rules on attorney's fees and costs.

Section 3: Provides for a standard effective date, and that the new law only applies to new cases that arise because of conduct that occurs after this law is enacted.

LEGAL SERVICES

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

MEMORANDUM

March 7, 2003

SUBJECT: CSHB 56() relating to attorney fees and costs awarded in unfair trade actions (Work Order No. 23-LS0300H)

TO: Representative Les Gara
Attn: Ryan

FROM:  Theresa L. Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. 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. Provides that in an unfair trade practice action the state shall be awarded its actual reasonable attorney fees and costs, including investigation costs, if the state wins the case.

Section 2. Explains how sec. 1 indirectly causes changes in Rules 54(d), 79, and 82 of the court's rules of civil procedure.

Section 3. Applies sec. 1 to causes of action that accrue on or after the effective date of this Act.

If I may be of further assistance, please advise.

TLB:med
03-272.med



Honorable Tom Anderson, Chair
House Labor and Commerce Committee
Alaska Capital, Room 432
Juneau, AK 99801-1182

March 27, 2003

RE: HB 56 (Gara)-Support

Dear Chair Anderson:

On behalf of the AARP members in Alaska, we encourage you and your colleagues on the House Labor and Commerce Committee to support HB 56, authored by Representative Les Gara.

This bill will allow the State of Alaska to recover all costs involved in the prosecution of an entity that violates the State's consumer protection laws. We fully agree with Representative Gara that the State should not bear the costs for someone who conducts business illegally here. Many AARP members are the victims of consumer fraud. We know many more would be able to secure the professional assistance of the Attorney General's office if more funding was available. HB 56 is an ideal way to provide that funding.

AARP urges an "AYE" vote on HB 56.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capitol City Task Force; Patrick Luby

(907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Sincerely,

Marguerite Stetson

Marguerite Stetson
AARP Alaska
Executive Council Member for Advocacy
3009 Northwood Street
Anchorage, AK 99517-1871
907.245.5259 voice
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ffmas@aurora.uaf.edu

cc: Vice-Chair Bob Lynn
Representative Nancy Dahlstrom
Representative Carl Gatto
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg
Representative Les Gara
Marie Darlin
Patrick Luby



AKPIRG

ALASKA PUBLIC INTEREST RESEARCH GROUP

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Statement in Support of HB 56

HB 56 deserves a prompt hearing because of its value to Alaskan consumers and the Attorney General's office.

HB 56 bolsters the State of Alaska's ability to fight consumer fraud. With the proliferation of both phone and internet solicitations and Alaskan's reliance on such commercial mechanisms, fraudulent businesses have ever-increasing avenues to engage in illegal business practices. Identity theft has risen to become the most prevalent form of fraud reported to the Department of Law. Yet, in 2001 around half of all Alaskans who complained about consumer law violations couldn't get help from the state due to a lack of funding. This bill makes bad businesses pay for their violations

HB 56 gives the state another method to fight consumer fraud without expense to the state. Through this legislation, the state will be able to represent Alaskans who have been wronged by fraudulent business practices. While doing this, the law will also allow the state to recover its full court costs if it prevails against a party that has violated Alaska's consumer protection laws. Current law prevents the state from recovering many types of investigative and enforcement costs, and allows the state to recover only 20% of its attorney fee costs. Just as businesses must purchase a license to operate in Alaska, those businesses that break Alaska laws should be held responsible for the costs they rack up in Alaska courts.

HB 56 is patterned after legislation, both state and federal, which allows the recovery of enforcement costs. Federal anti-trust laws, and federal and state hazardous waste laws allow the state to recover its enforcement costs from parties who violate the law.

Currently, Alaska is entitled to only partial compensation for its enforcement efforts when it prevails in a case under the Unfair Trade Practices Act. HB 56 changes the law to entitle the state to receive full compensation for its investigation and enforcement efforts on behalf of a victim, if it prevails in such a case. The state would have to prove that these costs were reasonable.

AkPIRG urges quick passage of HB 56.