

HB

297

ALASKA STATE LEGISLATURE

Chair:
House Finance Subcommittees for,
Department of Public Safety
Department of Law

Member:
House Finance Committee
Legislative Council



Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-4958
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Interim:
PO Box 464
Chugiak, AK 99567

REPRESENTATIVE BILL STOLTZE

Representative_Bill_Stoltze@legis.state.ak.us

MEMORANDUM-

TO: Representative Nancy Dahlstrom, Co-Chairman
Representative Beverly Masek, Co-Chairman
House Resources Committee

FROM: Representative Bill Stoltze

DATE: March 19, 2004

SUBJECT: Blank Committee Substitute for House Bill 297

Attached is a blank committee substitute that I would like the committee to adopt. The substitute tightens the title of the bill, allows emergency personnel to be removed from being liable for property damage resident causes while in the evacuated area, and allows only adults to request to be let into an evacuated area.

Thank you for your consideration.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

23-LS1073AH
Luckhaupt
3/18/04

CS FOR HOUSE BILL NO. 297()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE STOLTZE

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to allowing adult residents to remain in, enter, or reenter areas
2 affected by wildfires and other natural disasters."

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

4 * Section 1. AS 11.56.210(a) is amended to read:

5 (a) A person commits the crime of unsworn falsification if, with the intent to
6 mislead a public servant in the performance of a duty, the person

7 (1) submits a false written or recorded statement that [WHICH] the
8 person does not believe to be true

9 (A) [(1)] in an application for a benefit; or

10 (B) [(2)] on a form bearing notice, authorized by law, that false
11 statements made in it are punishable; or

12 (2) makes a false statement that a person is a resident in an area
13 threatened or affected by wildfire or natural disaster under AS 18.70.500 in
14 order to remain in or to enter or reenter the area.

1 * Sec. 2. AS 18.70 is amended by adding a new section to read:

2 **Article 3A. Areas Threatened or Affected by Wildfires and Natural Disasters.**

3 **Sec. 18.70.500. Rights of a resident of an area threatened by wildfire or**
4 **natural disaster.** (a) Notwithstanding a provision of this chapter or another law
5 giving a law enforcement officer, fire fighter, emergency medical provider, or other
6 public safety official the authority to evacuate, close, or blockade an area threatened or
7 affected by a wildfire or other natural disaster that presents a clear and immediate
8 threat to the safety of residents or emergency responders, and except when martial law
9 or a disaster emergency order or proclamation has been issued under AS 26, an adult
10 resident of the threatened or affected area who appears to be capable of making a
11 reasonable and informed decision

12 (1) may refuse to evacuate the area if the person is informed that

13 (A) further opportunities to evacuate may not be available;

14 (B) the person may be liable for injury or death to responders
15 or other persons endangered by the person's decision to stay; and

16 (C) no other attempt to rescue or evacuate the person will be
17 made;

18 (2) shall be permitted to enter or reenter the threatened or affected area

19 if

20 (A) the entry or reentry is subject to and does not interfere with
21 the actions of or use of the roads and other means of access by fire, law
22 enforcement, or emergency vehicles;

23 (B) the resident provides satisfactory proof of residency in the
24 area; and

25 (C) the resident is informed that entry or reentry is at the
26 resident's own risk, that no attempt to rescue or evacuate the resident will be
27 made; that evacuation opportunities may not be further available, and that the
28 person may be liable for injury or death to other persons or responders
29 endangered by the person's entry or reentry.

30 (b) Notwithstanding another provision of law, the state, a municipality, a fire
31 department, an emergency medical, rescue, or emergency services organization or an

1 employee or volunteer of the state, a municipality, a fire department, or an emergency
2 medical, rescue, or emergency services organization is not liable for property damage
3 or the injury or death

4 (1) of a person who (A) refuses to evacuate, or (B) enters or reenters
5 an area threatened or affected by a wildfire or natural disaster; or

6 (2) caused to any other person by a person who (A) refuses to
7 evacuate, or (B) enters or reenters an area threatened or affected by wildfire or natural
8 disaster.

9 (c) The Department of Natural Resources, after consultation with the
10 Department of Public Safety and the Department of Military and Veterans' Affairs,
11 may adopt regulations to implement this section.

ALASKA STATE LEGISLATURE

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REPRESENTATIVE BILL STOLTZE

Representative_Bill_Stoltze@legis.state.ak.us

House Bill 297

Wildfires and Other Natural Disasters

"An act relating to wildfires and other natural disasters."

In 1996, a huge wildfire swept through the Miller's Reach, Big Lake area in south central Alaska. Many residents desired to stay or return to their property to protect it from the wildfire. They were denied entry to their property while others were forced to evacuate. A similar situation occurred a few years later during the Lazy Mountain wildfire. To address issues raised by homeowners wishing to have access to their property, House Bill 297 was introduced. HB 297 will enable residents of a restricted area access to their property during a wildfire or other natural disaster, while protecting the State of Alaska from certain liabilities.

The main provisions in this legislation provides for private property owners and emergency personnel:

- The stipulations and liabilities residents of the area have who refuse to exit or decide to return to their property in the restricted area.
- Protecting emergency personnel and the state from liability for any injury to the resident or any injury committed to another resident's or emergency personnel's person.

I ask for your consideration and support of HB 297 to enable people to protect their own homes and property.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB297-DNR-FOR-01-30-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title Wildfires & Natural Disasters RDU Statewide Fire Suppression
Component Fire Suppression Activity
Sponsor Rep. Stoltze
Requester (H) STA Component No. 2706

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill will clarify responsibility for evacuation of residents and property owners in wildland fire situations. No additional costs will be incurred as a result of this change.

Prepared by: Dean Brown Phone 907-269-8476
Division: Forestry Date/Time 1/30/04
Approved by: Thomas Irwin, Commissioner Date 1/30/04
Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 297
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title "Wildfires and other natural Disasters" RDU Administration & Operations
Component: _____
Sponsor Representative Stoltze Component No. _____
Requester _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact to the Department of Corrections.

Prepared by: Jerry D. Burnett, Director Phone (907) 465-3339
Division: Administrative Services Date/Time 2/2/04 8:35 AM
Approved by: Portia C.K. Parker, Deputy Commissioner Date 2/2/2004
Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB297-DPS-AST-1-12-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Wildfires and Natural Disasters BRU Alaska State Troopers
 Component Alaska State Trooper Detachments
 Sponsor Representative Stoltze
 Requester House State Affairs Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 297 allows a resident of an area threatened by wildfire or natural disaster, under certain circumstances, to refuse to evacuate the area or be permitted to reenter the area.

No fiscal impact is anticipated by Department of Public Safety.

Prepared by: Lt. Al Storey Phone 269-4532
 Division Division of Alaska State Troopers Date/Time 1/12/04 9:43 AM
 Approved by: Commissioner William Tandeske Date 1/12/2004
 Agency Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 297
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to wildfires and BRU Legal and Advocacy Service
other natural disasters Component Office of Public Advocacy
Sponsor Rep. Stoltze
Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	*	*	*	*	*	*
Travel						
Contractual	*	*	*	*	*	*
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would allow a resident of an area threatened by wildfire or natural disaster to refuse to evacuate the area and to enter or reenter the area under certain conditions. The bill would make it a crime (unsworn falsification) for a person to falsely claim that he or she is a resident of the area in order to enter or reenter the area.

This bill would have an indeterminate fiscal impact on the Office of Public Advocacy.

Prepared by: Barbara L. Malchick, Assistant Public Advocate Phone (907)269-3507
Division: Office of Public Advocacy Date/Time 1/16/04 2:37 PM
Approved by: Mike Miller, Commissioner Date 1/16/2004
Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB297
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Military and Veterans Affairs
Title An Act relating to wildfires and other n: BRU Homeland Security & Emergency Serv
Component Homeland Security & Emergency Serv
Sponsor Representative Stoltze
Requester Representative Stoltze Component No. 2657

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type-Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact to the Department of Military and Veterans Affairs.

Prepared by: John W. Cramer
Division: Administrative Services
Approved by: Commissioner Craig Campbell
Agency: Department of Military and Veterans Affairs

Phone 465-4602
Date/Time 1/12/04 8:35 AM
Date 1/12/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: HB297-LAW-T&WC
Bill Version: HB297
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to wildfires and RDU Civil
other natural disasters." Component Torts & Workers' Compensation
Sponsor Stolze
Requester House State Affairs Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill makes it a crime to make a false statement regarding residency in an area threatened or affected by wildfire or natural disaster in order to enter or reenter the area. The bill also amends AS 18.70 by establishing certain rights for a resident of an area threatened by wildfire or natural disaster.

Passage of this legislation is expected to have a fiscal impact on the Department of Law that will arise in the event that an emergency worker's on-the-spot decision is challenged regarding whether a resident is capable of making a reasonable and informed decision under Sec. 2 (a). The bill also does not speak to any risk transferring to the resident in the event of property damage rather than injury or death to other persons or responders endangered by a resident's entry or reentry into an area threatened by wildfire or natural disaster. The fiscal impact cannot easily be determined.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division: Administrative Services Date/Time 1/11/04 11:57 AM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 1/11/2004
Agency: Department of Law