

**HB**

**297**



# ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



ALASKA  
STATE CAPITOL  
JUNEAU, ALASKA 99801-1182

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## STATE AFFAIRS COMMITTEE

TO: Representative Bill Stoltze

FROM: House State Affairs Committee  
Ginny Austerman, Committee Aide

A handwritten signature in cursive that reads "Ginny Austerman".

SUBJECT: HB 297 – Wildfires and Natural Disasters

Representative Weyhrauch asked me to advise you that the House State Affairs Committee is still interested in HB 297 being referred to the Judiciary Committee. To that end, I have furnished Representative McGuire and her staff a copy of the verbatim transcript of the tape of the House State Affairs Committee meeting of February 5, 2004 where the bulk of the discussion regarding HB 297 took place. Also included is that portion of the February 27, 2004 State Affairs meeting where there was additional discussion regarding HB 297.

I gave Representative Weyhrauch the information you passed to me regarding your conversation with Speaker Kott and his reluctance to add another referral to the bill. Nonetheless, it was the wish of the Committee that there be a Judiciary hearing. I have also furnished the verbatim transcript of both of the meetings to Ben, in your office. If you or your staff have need of additional information, please contact me.

# ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4



ALASKA  
STATE CAPITOL  
JUNEAU, ALASKA  
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March 11, 2004

Representative Lesli McGuire  
Room 118 State Capitol  
Juneau, AK 99801

Dear Representative McGuire:

House State Affairs heard and considered HB 297 (Rep. Stoltze), a bill relating to wildfires and other natural disasters.

On February 26, the State Affairs Committee voted to move the bill from committee with individual recommendations and fiscal notes.

From the outset, the State Affairs Committee believed that the intent of the bill had laudable public purpose. However, the committee was concerned that the bill receives a Judiciary Committee referral because of the important legal issues presented by the bill. In addition, committee members expressed a number of concerns whether amendments that it believed should be made to the bill, should be made in the context of a judiciary committee mark up.

To assist your committee in spotting the issues of concern, I have attached the verbatim transcript from the discussions held on this bill on February 5 and February 26, 2004. The discussion highlights areas of the bill that could be addressed by the Judiciary Committee

Sincerely,

A handwritten signature in cursive script that reads "Bruce Weyhrauch".

Bruce Weyhrauch

February 5, 2004

HB 297 – House State Affairs hearing

Rep. Holm – questioned indeterminate fiscal note from OPA – Office of Public Advocacy.

Rep. Stoltze – responded that it seems that is the general type of fiscal note usually received from that dept. and does not understand the vagaries of their reasoning.

Rep. Weyhrauch – stated he felt that there is concern since the bill does create a crime that it should have a Judiciary referral. OPA is often brought in to defend the accused in these types of crimes.

Rep. Gruenberg: Asked Gail Voightlander of the Civil Division of the Dept. of Law to address the issue that was mentioned in the fiscal note from the Dept. of Law (second paragraph – sentence 2) “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.”

Ms. Voightlander: Said the dept (civil division dept. of law) has some concerns about Section 2 of the bill. (Verbatim from tape: -“Section 2 concern is primarily the liability issue. The bill sets out a test for the emergency provider to apply in terms of determining whether the person who, either seeks to remain within an area being evacuated or seeks to reenter an area that is being evacuated, is capable of making a reasonable and informed decision. It also requires that person be advised of certain risks, basically that they are taking by either reentering or remaining within an evacuated situation. The problem that this arises from a liability standpoint, is that if there is a later question about whether someone was, in fact, capable of making a reasonably informed decision or whether or not that they were advised of the things that the statute requires them to be advised of, obviously the only way to have a record to meet such challenges is to have paperwork, so that the emergency provider who is making that call and making those advisements to the person who wants to remain or reenter, needs to have basically written a report or filled out a form that it is a paper trail for a potential lawsuit. The statute of limitations for such a lawsuit

would probably the two-year statute of limitations under tort and in an emergency situation, obviously, if two years down the road or three years down the road, Trooper X were asked whether he went through all of these advisements and what his observations of the person was that led him to the conclusion that the person was capable of making a reasonable and informed decision. Really, that trooper or that emergency provider – because it could be a National Guardsman, it could be a local firefighter, it could be any of a number of people at that post – is going to need something to refresh their recollection, to have any recollection, I would pose to the committee, of what that interaction was, let alone what led that trooper to believe that the person was capable of making a reasonable and informed decision. In some ways, the test that's applied here is not unlike the challenge that law enforcement has when there is a challenge to Miranda rights issues with a criminal defendant. Was the criminal defendant capable of making a reasoned decision at the time about waiving his or her Miranda rights; and were they advised of everything under their Miranda rights and the way the police usually address that is through a written form; but also always have to address the issue of whether or not what led them to believe what the situation was; what led them to believe that this person was capable of reasoned and informed decisions. In terms of the breadth of the immunity that's provided under subsection b of section 2; our comments would be that it needs to be broader. Rep. Gruenberg's comment about property damage, it does not include property damage, it only includes personal injury, such as, bodily injury or death of the person who enters or remains in the area. Our concerns are claims from a couple of other fronts; one would be neighbor property owners who might claim at a later date that because you let me neighbor in during an evacuation and so there was no law enforcement available, my neighbor stole my generator, my neighbor did something that caused my house to burn down and it would not have burned down if that person hadn't done whatever that person did. So the breadth, our recommendation is, needs to be expanded and in fact in order to meet the issue about having to have this paper trail about informed and reasoned consent and whether or not someone has been advised of everything that they are supposed to be advised; we would suggest that the immunity provision be expanded to say simply that no civil actions for damages may be filed against – and then the laundry list of people that are covered by this bill for injury, death or property damage arising out of the provisions of this section. That would go a long way to deal with the liability issues it also would make this language read compatibly with language that is in AS 41.150.045 and 41.170.081 as well as AS 26.20.140 which have to do with

fire fighting immunities and civil defense immunities, both of which could be covered here in this situation. Thank you....

Rep. Seaton: asked for written comments from Ms. Voightlander

Rep. Gruenberg: pointed out that this bill raises a lot of implications – the general issue that this bill encompasses is what to do concerning residents in these areas of natural disasters it could be in a village, it could be in Anchorage, it could be like the San Francisco earthquake or like the earthquake we had in Anchorage a few years ago, it could be all kinds of things. I think definitely that the Judiciary Committee does have a lot of interest in this, also Military and Veterans Affairs because the Office of Emergency Preparedness and the civil the defenses issues are coordinated through that dept. and that committee has some interest in that, too. Several of us are one that committee, three of us are one that committee, but I can see just one issue here that a person may, for example, be a relative and believe there's some children trapped in rubble or something like that and they don't have enough time to explain and they just say I'm a resident I want to get in and rescue those kids. I'd hate to see someone criminalized for something like that, which is not with a malicious intent, which is to save somebody's life. Who knows what people are going to say if they think their sister-in-law is trapped in the rubble or burning in a house or something like that? Just all kinds of issues. This is a really important subject.

Rep. Weyhrauch: Does this connect with the Big Lake fire and that whole thing that happened, events that happened here on the ground.

Rep. Stoltze: Thank you Mr. Chairman. There's probably implications; my involvement in the legislature, as an elected official has been since I campaigned again in 2002 probably the more probably the prominent issue to me is what occurred in Lazy Mountain, right in the heart of the Glen Hwy part of my district. There's certainly connectivity to the Big Lake issue. As a matter of fact, the reason this bill was deferred until the end of the last session was I'm very sensitive to the litigation that was occurring on the Big Lake/Miller's Reach fire and I didn't want to cloud any issues. I'm trying to approach this responsibly and make sure issues were decided - litigated before I brought this to fore (indec.) for the satisfactory, not necessarily those who were litigating, but the state's position prevailed primarily in that Big Lake fire. My legislative approach was waiting until that issue was

cleared up before I even introduced this. So I certainly tended to concerns that our legal department raised, just by the manner this was introduced.

Rep. Weyhrauch: Ms. Voightlander, Section 2 little b on the bottom, is that, that essentially gives immunity to these individuals if - lets say the policeman is negligent sitting there, allows somebody in - lets a teenager who is just driving down the road 'Oh, yeah, you can go in' and then the teenager is harmed. Does that give statutory immunity to that official who let the teen in or does discretionary function immunity (indec.) can still apply here where the judge could decide whether the person could get immunity or not?

Ms. Voightlander: Mr. Chairman – your question actually raises another issue that I meant to cover in my comments, which is that the bill does not address if we are just talking about adults or if children are allowed (those under 18) are allowed to remain or to have their parents allow them to remain, because that implicates child safety issues if – it may be one issue if a parent, an adult, decides to stay and defend the home but what if there is a grave risk of harm – are they allowed to have a child remain within a dangerous area. That's not addressed in this bill. More germanely to your question, Mr. Chairman, if you have a statute such as this that basically gives you a cookbook of what the officers duties and obligations are, then that part of the bill might set what the duty is and it may no longer be a discretionary issue. It may be, 'Well, we're going to look at the terms of the statute and that's going to outline what your obligation was. It's always difficult to anticipate whether an individual officer may have discretionary function immunity in a situation. Generally the test is whether they're acting without malice if there is not a set protocol they are supposed to file and they have to exercise personal judgment deliberation and discretion, but that immunity follows the person and it is a different test as to the state because that is the broader test of discretionary function immunity. Which is whether it's a policy decision versus operational. So there are two different tests that apply, so while the latter test might mean a defense for an individual who's sued, it wouldn't apply to the state in large. This language does address both of the governmental entities. The local government and the state as well as the individuals who would be on the line, but as I discussed earlier it is limited to injury or death to the person. Arguably, it would not preclude and I wouldn't be surprised if people were to make the argument, that derivative suits, or what I would call derivative suits, may be

independent suits that a spouse might be able to make a claim if something happened to a family member who was allowed to return.

Rep. Weyhrauch: In Section 1, the number 2 that's added says it adds 'makes a false statement when a person is a resident', number 1 says that it's a false written or recorded statement. That, I assume, means you either tape record a statement or you write something down. 'A false statement' is that also writing something down or recording it, or is that just talking to a guy?

Ms. Voightlander: Mr. Chairman, Unfortunately, I'm in the civil division, I can't address section 1 of the bill. My vague recollection from having been in the criminal division now, I guess the last I was in was 1984 so quite some time ago; is that the first provision addresses, more often the case, when someone is signing some document, and the second is when it is an oral representation, but I would defer to the criminal division on that particular nuance, because I'm not current on criminal....

Rep. Weyhrauch: It seems to me that in viewing this bill through the progress of the that Resources really isn't the appropriate committee, but that Judiciary is more appropriate than Resources. I would just (indec.) Resources and go to Judiciary, so that you don't become encumbered with another committee to take the place of one.

Rep. Gruenberg: Once in awhile we get a bill that really has some incorrect referrals, I would say.

Rep. Weyhrauch: We can talk with the sponsor....

Rep. Gruenberg: and also military and veterans affairs, because it has a lot of civil.....

Rep. Stoltze: I cherish the chance to have Rep. Gruenberg look at in several committees if that is what he wants.

(Banter)

Rep. Gruenberg: I can see that this is something that could become a very important piece of legislation in a variety of areas.

Rep. Stoltze: Mr. Chairman, I recognize that our own legal department has different opinions on some of the concerns presented by Law, whether they are addressed in law, it's certainly appropriate that this gets more perusal.

Rep. Weyhrauch: I can see the state policy in terms of having this. I'm trying to play this out in real life, how it affects people. What you're concerned about is if there is a big fire, you don't want people to go into the area and you also want to get people out. Right? If you are getting people out, I know there is people, well, the guy on Mt. St. Helen's; there was Mr. Truman, they tried to do everything they could to put dynamite under the guy and eventually he was never found after it blew up. You make every possible plea to a guy, 'I lived here, I'll die here. I'm gonna stay here.' Well if you don't give the guy a card that says you could burn up, you could die you be incinerated, you could be crushed. Are you subjecting yourself to some sort of negligence claim by the heirs that says you didn't do everything possible; there are inordinate possibilities, I don't want to subject public officials trying to do good to some risk of (indec.) liability, litigation if they don't 'dot every i and cross every t'; by an aggrieved sibling far removed.

Rep. Stoltze: It's a pretty imprecise and awkward process trying to protect people from themselves and it's my policy to try to avoid that as much as possible and limit my amount of, some of my constituents call it too much dogooderism and help in telling me what I ought to do, but ....

Rep. Gruenberg: The title lends itself to all kinds of things related to natural disasters; it's quite a title. On the other hand, if your real interest is to determine the liability of the state when somebody won't evacuate in a dangerous situation. That takes the whole legislation in a different turn, and I think that maybe where you want to go - and if so, you want to think about things that aren't just natural disasters - that may occur in my district in high crime areas. Say there is a shootout and a policeman wants people to evacuate the building. That's got many of the same issues here, and I would recommend that you thing which turn you want this legislations to take because sometimes people won't get out of the way.

Rep. Lynn: On that point, same thing whether it's a terrorist attack. Somebody tells them to get out of the World Trade Center and they say 'no, I'm not gonna do it.'

Rep. Weyhrauch: Right. It wouldn't be a natural disaster, though.

Rep. Lynn: That's the point, it wasn't a natural disaster and this wouldn't cover a World Trade Center type situation, that's the point.

Rep. Stoltze: Just anecdotally, the reference to children was made and I would have, back in 1970 I think I was 8 maybe 9 years old, I certainly appreciated when the raging river was coming close to our house, I appreciated that I was able to sit there, you know, I wasn't be filling the sand bags and I couldn't carry them very well at that age, but it sure gave me a sense of pride being able to help my parents save my house. I'm looking at my staff, I don't mean to call attention to her, I think her son at 12 is bigger than her right now and often many of my constituents are single parents. It's not as cut and dried as an issue of child endangerment. So I guess I'm acknowledging a lot of the issues that are being brought up and I'll be asking more questions and giving answers.

Rep. Gruenberg: That's often the way good legislation goes. We had, of course, the attack on some kids in Mountain View School a couple of years ago and those kinds of issues of getting people out of there and stuff. I think that I would urge maybe some thought on that as a focus in this kind of... and not just immunizing people but what is the state's role in that whole thing and local government. It's really important.

Rep. Weyhrauch: You mean the man who had the razor blades. (answer was yes) Why don't we set this aside and come back and get your testimony before (indec.) and anything that (indec.) and then we'll talk to you about the process afterwards.

Rep. Stoltze: Thank you for the amount of time you have given both of my bills today.

END

Transcript from HSTA Feb. 26, 2004 –areas HSTA asked be considered by  
Judiciary on HB 297 Wildfires and Natural Disasters

Transcribed 2/27/04 by Ginny Austerman, House State Affairs Committee Aide

Rep. Weyhrauch and Rep. Berkowitz - Title needs to be tightened to include the new crime and also the rights related to persons affected by the crime.

*From this point, the transcript is verbatim:*

Rep. Berkowitz: Sec. 1 (I'm probably the last person in Alaska who believes in keeping the criminal code as simple as possible and) it seems to me that instead of putting a specific crime under (indeciph) 210, I believe it should be under the false information component of 11.56.800 which already has a section making a false report to DNR under reports of danger to a dam any misdemeanors, I think it would fit better under that section and it also preserve the generic language which I think it also makes the criminal code stronger . I think, we can also tighten up some of the language in 18.75.100 so it just isn't quite as long. I have a question about section C, which gives DNR the regulation making authority whereas in most of Title 18 regulation authority belongs with the Dept. of Public Safety. That seems to pose some issues that should be resolved. The final question, and those are points about just the legislation itself, but the question I have about this is, and pose a hypothetical is; you have an elderly or disable individual who is unable to return to their home and they want to designate somebody to go back and say pick up family mementos or things of that nature, it doesn't seem to me that the way that it's currently written we can accommodate anyone other than the resident himself/herself to stay or to return.

Rep. Stoltze: Mr. Chairman, I appreciate that it's certainly a (indeciph.) process. I want to address all of these concerns, they're all good points.

Rep. Weyhrauch: Any further questions or comments. This is a judiciary committee bill, clearly, far more related to the criminal code and the liability of individuals. I think as a policy matter for this committee, it is my understanding from earlier testimony I believe it's a good state policy that should be moved forward; it needs to be adapted to the code a little better. That's why I sent it through the committee.

Rep: Stoltze: Thank you chairman Weyhrauch, those are sentiments with which I can concur. This is our best effort, my clumsy way to try to address this (indeciph.). As much as I might find the process miserable, at times it's certainly yields a lot of valuable results.

Rep: Coghill: Based on previous meetings on this and some of the notes that we have taken, would it be your intent Mr. Chairman to pass along that information to the next committee.

Rep. Weyhrauch: Absolutely.

Rep. Coghill: I wouldn't want to hold up the bill, but if there are suggestions, I would sure hate to see them get left here and not taken on with the bill, so is it your intention to make a report to go with it, or do we need to amend the bill accordingly?

Rep. Weyhrauch: We'd have to adopt a Committee Substitute on this bill to incorporate all of the things we have to do, but those committee, even those amendments that we make to this are so in the nature of a Judiciary amendment that what there is going to be is a report accompanying the bill from State Affairs along the lines that we talked about last year and what Rep. Berkowitz has raised today. That was my intention:

Rep. Stoltze: Mr. Chair: in addition to you have my person commitment to work to incorporate these, I think that everything that has been said makes sense.

Rep. Berkowitz: This is a small (indecih.) that gets sucked up. On page 2 line 7 there is a specific reference to AS 26, I believe that this should be specific to AS 26.23 because there's other kinds of emergency orders and proclamations that can be issued, but this is specifically related to fire and other disasters that occur under 26.23

Rep. Weyhrauch: I also think that section 2 which amends 18.75.100 adds a new section that should be rights of a resident or area threatened by a wildfire or other natural disasters. We were talking about lots of other disasters and the title needs to be amended to rights affected (indeciph.) crimes. On section b the new section on page 2 that those people would not be liable for the injury, it also has to be the property damage added in there as well as the death.

The other legal issue was in section a of that on line 5 and 6 what a clear immediate threat is defined to mean.

Rep. Seaton: Your previous points on modifying the bill, were you talking a small b or large B?

Rep. Weyhrauch: I'm sorry small b line 31.

Rep. Seaton: And that would include property damage as well as injury.

Rep. Weyhrauch: Rep. Stoltze, with that, what I was going to do is ask the committee to move the bill with individual recommendations and with a report from State Affairs to accompany it to Judiciary; and ask for a commitment by you to remove Resources and add Judiciary and Finance as referrals. I don't care about the Finance so much as Judiciary.

Rep. Stoltze: Mr. Chairman, wouldn't the report be the presiding officer to request the committee changes. Answer was: Yes, it is marked on the Committee Report.

Bill moved with individual recommendations and attached fiscal note and the analysis by the State Affairs Committee. Rep. Weyhrauch said he would offer a recommendation to amend the bill in Judiciary..

# 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  
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Phone: (907) 465-4958  
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PO Box 464  
Chugiak, AK 99567

## 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (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  
 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	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
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>		<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>						
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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
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (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  
 Division: Administrative Services  
 Approved by: Portia C.K. Parker, Deputy Commissioner  
 Agency: Department of Corrections

Phone (907) 465-3339  
 Date/Time 2/2/04 8:35 AM  
 Date 2/2/2004

# 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (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						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

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)						
<b>TOTAL</b>	*	*	*	*	*	*

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
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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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
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (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 Phone 465-4602  
Division Administrative Services Date/Time 1/12/04 8:35 AM  
Approved by: Commissioner Craig Campbell Date 1/12/2004  
Agency Department of Military and Veterans Affairs

# 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						
<b>TOTAL OPERATING</b>	*****	*****	*****	*****	*****	*****

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

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

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

Fw: Testimony on House Bill No. 297

**Subject: Fw: Testimony on House Bill No. 297****Date: Thu, 15 Jan 2004 08:49:24 -0900****From: "HILBAR" <hilbar@mtaonline.net>****To: <matsu\_ljo@legis.state.ak.us>**

----- Original Message -----

From: HILBARTo: housesaleaffairscom@legis.state.ak.us → Did not go!?

Sent: Wednesday, January 14, 2004 10:45 PM

Subject: Testimony on House Bill No. 297

**HOUSE BILL NO. 297****"An Act relating to Wildfires and other Natural Disasters"**

I'd like to offer testimony to get this Bill passed in this Session, both in the House and the Senate. The Senate's Bill No. is 212. Bill No. 297 is by Representative Stoltze.

For the past 4 years, a Bill on this subject has been introduced to the Legislature, and each time, it was held up by one Committee or another. The last reasoning by the Natural Resources Committee was that they were going to shelve it until the Courts came to a decision regarding the Millers' Reach Fire at Big Lake, and the lawsuit the citizens of that community had filed against the State.

Many of the citizens of this community, and other communities, were extremely upset that our elected representatives refused to re-introduce this Bill on Wildfires, which basically gives us access to our homes and properties during these type disasters. Senator Scott Ogan told me at an open meeting that it would be a waste of time to try to get it passed.

If all of you have read the papers, as we have, with reference to the various fires taking place in the Lower 48, especially those in California, it is very clearly stated in the news media that people are forewarned, but given the choice of whether or not they wish to stay with their homes and property during a wildfire or other natural disaster. They are also not denied access to their homes, families, and property, as was done here on Lazy Mountain during the fire of '99. A MAN'S HOME IS HIS CASTLE! There are too many Alaskans who do not carry Fire Insurance on their homes; therefore, they will knock themselves out to save their home from a wildfire. It is our constitutional right to have access to our own homes and families.

We are not asking the State of Alaska's Legislature to give us something additional....we are asking that you give us back our individual rights under the Constitution of the United States that somewhere along the line, you had taken away from us. This Bill must be passed before another wildfire or natural disaster takes place, and another out-of-control police force misuses their power, and then not giving accountability for their actions. To avoid having honest citizens join together in a riot mob against the police and/or other authorities, I urge you to pass this Bill with flying colors so that no innocent lives are lost when the next wildfire takes place. The people will simply not stand back and do nothing while their homes or families are at stake.

Mrs. Barbara J. Leiss  
Mr. Hilary H. Leiss

#6275 N. Wolverine Rd., Mile 1.8  
P. O. Box 1329  
Palmer, AK 99645  
TEL: (907) 746-4936



# Alaska State Legislature

Please enter into the record my testimony to the HSTA  
 committee name  
 committee on HB 297, dated February 3, 2004  
 bill/subject

I'd like to offer testimony to get this Bill passed in this Session, both in the House and the Senate. The Senate's Bill No. is 212. Bill No. 297 is by Representative Stoltze.

For the past 4 years, a Bill on this subject has been introduced to the Legislature, and each time, it was held up by one Committee or another. The last reasoning by the Natural Resources Committee was that they were going to shelve it until the Courts came to a decision regarding the Millers' Reach Fire at Big Lake, and the lawsuit the citizens of that community had filed against the State.

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Signed: Mrs. Barbara J. Leiss  
 Mr. Hilary H. Leiss \_\_\_\_\_

\_\_\_\_\_  
 #6275 N. Wolverine Rd., Mile 1.8  
 P. O. Box 1329  
 Palmer, AK 99645

Address  
 (907) 746-4936

# 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  
Fax: (907) 465-4928

*Interim:*  
PO Box 464  
Chugiak, AK 99567

## REPRESENTATIVE BILL STOLTZE

Representative\_Bill\_Stoltze@legis.state.ak.us

### Memorandum

To: House State Affairs Committee  
From: Representative Bill Stoltze *BS*  
Date: 2/17/2004  
Re: Department of Law's Concerns on House Bill 297

The Department of Law brought up their concerns regarding House Bill 297 during the House State Affairs Committee meeting on the 5<sup>th</sup> of February. While these concerns are reasonable, every issue has two sides. I would like to comment on these concerns.

**Law Enforcement Personnel Liability:** In section 2, line 7-9 the Department of Law proposes to remove liability from emergency personnel to determine that an individual "appears to be capable of making a reasonable and informed decision." State Troopers and other law enforcement personnel are trained to and act daily to make these decisions, even during emergency situations. I have confidence in our troopers and believe removing this statement from the bill will say there is no confidence in the training and performance of law enforcement personnel in Alaska.

**Written Liability Waivers:** Requiring residents to sign a written liability waiver is not feasible. The time consumed in the process and who would keep such records would create a major dilemma. People are not driving in and out of the area without being stopped. Law enforcement personnel will stop people, and if they want in to the evacuated area they will have to show proof of residency. This will give emergency personnel ample opportunity to inform a resident of the stipulations for gaining access into the area.

DISTRICT 16

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

**State Liability:** The Department of Law feels the state is not fully removed from liability. The legislature's legal department informed me the bill was drafted using the terms under Title 9 (09.65 & 09.68), and the state is properly removed from liability, even civil liability that the Dept. of Law wants specifically worded into the bill. However, all liability cannot be removed from the state. By removing liability to the state for property damage done by a resident let back into the evacuation area would violate other resident's rights. If any crime is committed an appropriate response should be followed. The duty falls to law enforcement to examine the crime if someone vandalizes or steals from a neighbor.

**Child Safety:** The Department of Law is concerned with minors allowed into the evacuated area. Allowing a child into the evacuated area would, under certain circumstances, clearly be endangering the life or safety of a child. I fully agree that in certain circumstances this would be true; however, the State of Alaska already has laws (AS 11.51.100-11.51.110 and AS 47.10 & AS 47.17) regarding children's safety. These statutes are used to determine whether a parent is putting a child into danger by taking them back into an evacuated area and if state officials should intercede on the child's behalf. I believe the Department of Law's concerns are valid, and are covered in current statute.

In closing, the intent of this legislation is to provide access to resident's properties within an evacuated area. This will give residents the ability to protect their property. I fully understand the Department of Law's concerns, and am willing to address them to the extent that it does not circumvent the intent of this legislation.

DISTRICT 16

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KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK