

SB

260



HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120
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Rep. Lindsey Holmes
Room 405
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MEMORANDUM

Date: April 2, 2008

To: Representative Kevin Meyer
Co-Chair House Finance Committee

From: Representative Jay Ramras
Chair House Judiciary Committee

Re: Referral File for SB260

Please consider this memo as the referral file for SB260. Attached are the following documents:

- CSHB260(STA) 25-LS1022\C
- Sectional
- Text of Repealed Provisions
- Fiscal Note - Leg - 0
- SF 260 25-LS1022\A
- Support
- Bill History
- HJUD Report

LEGAL SERVICES

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

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Juneau, Alaska 99801-1182
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MEMORANDUM

March 27, 2008

SUBJECT: 2008 Revisor's Bill; CSSB 260(STA)
(Work Order No. 25-LS1022\C)

TO: Representative Jay Ramras
Chair of the House Judiciary Committee

FROM: Pam Finley *PF*
Revisor of Statutes

The following is a sectional analysis of the 2008 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

... shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of any portion of the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 2 - 12, 19 - 27, 31, 40 - 44, 47, 49, 54, and 56 amend or repeal provisions that have become obsolete through other legislative action.

Sections that correct errors or oversights: Sections 1, 13 - 18, 28 - 30, 32 - 37, 39, 48, 50 - 53, and 55 correct errors or oversights.

Sections that improve the form or substance of the law: Sections 38, 45, and 46 propose amendments to improve the form or substance of the statutory law of Alaska.

SECTIONAL ANALYSIS

Bill section 1 amends AS 06.50.020(a)(2)(C) to make the provision grammatical.

Bill sections 2 - 11 change references to the Board of Dispensing Opticians to references to the Department of Commerce, Community, and Economic Development. The Board was sunsetted June 30, 2004, under AS 08.03.010(9), and the department is regulating the dispensing opticians.

Bill section 12 substitutes the current federal law citation for personal injury claims under the Jones Act for the previous citation.

Bill sections 13, 14, and 16 change the word "crime" to "offense" in statutes addressing unlawful possession of an official traffic control device, endangering the welfare of a child in the second degree, and failure to report a violent crime committed against an adult. All three of these offenses are punishable as a violation, which under AS 11.81.900(63) is defined as an offense that is punishable only by a fine. A "crime," on the other hand, is an offense for which a sentence of imprisonment is authorized. AS 11.81.900(11). The word "offense" as used in AS 11 covers both crimes and violations. AS 11.81.900(3), and therefore is substituted for "crime" in these three statutes.

Bill sections 15 and 17 add the words "or offense, as applicable" to statutes addressing unlawful contact in the second degree and promoting an exhibition of fighting animals. Both of these offenses may be either crimes or violations, depending on the circumstances, so it is appropriate to add a reference to "offense." See explanation for bill sections 13, 14, and 16.

Bill section 18 changes the word "crime" to "offense" in the statute addressing interference with the training of a service animal. See the explanation for bill sections 13, 14, and 16.

Bill sections 19 - 27 update references to federal statutes and regulations as a result of 2004 amendments. These changes were requested by the Department of Education and Early Development.

Bill section 28 substitutes "judicial retention" for "electoral confirmation" because, under art. IV, sec. 6 of Alaska's constitution, judges seek approval, not confirmation. See AS 15.35.040, 15.35.055, and 15.35.070.

Bill section 29 changes the word "crime" to "offense" in the statute addressing campaign misconduct in the third degree. Although the definitions in AS 11.81.900 do not apply outside AS 11, the term "offense" is more precise for the reasons set out in the explanation for bill sections 13, 14, and 16.

Bill section 30 substitutes a generic description for a specific reference to the division of fish and wildlife protection. There is no statutorily created division of fish and wildlife protection. Currently there is an administratively created division of Alaska wildlife troopers, but that name could also be changed administratively. The generic reference should apply no matter what name is given to the division administratively.

Bill section 31 substitutes a reference to 1.4 G fireworks, as defined by the National Fire Protection Association, for a reference to class C common fireworks enumerated by the

ICC. The ICC (Interstate Commerce Commission) was abolished in 1995 and many of its duties transferred to the Surface Transportation Board. However, I could find no indication that the Surface Transportation Board regulated fireworks. Mr. Belanger at the Department of Public Safety referred me to Griz, the president of Alaska Pyrotechnics Guild, who said that the current designation for what used to be called "Class C common fireworks" is 1.4 G fireworks, as defined by the National Fire Protection Association. It may be that other aspects of this statute need to be changed, but this bill section addresses only the obsolete reference to the ICC.

Bill sections 32 - 34 fix an error in ch. 58, SLA 1999, which transferred responsibility for vending machines on public property from the Department of Education to the Department of Labor and Workforce Development. By deleting the reference to education and early development, the reference to "commissioner" will be to the commissioner of labor and workforce development. AS 23.45.010. This change was requested by the Department of Law.

Bill section 35 amends the section governing terms of legislators (AS 24.05.080) so that the terms will begin on the third Tuesday in January. This corrects an error of omission in ch. 34, SLA 2007, which set the third Tuesday in January as the beginning of each regular legislative session.

Bill section 36 adds a reference to the Revised Uniform Arbitration Act to the procurement code. This change should have been made when the Revised Uniform Arbitration Act was enacted in 2004.

Bill section 37 substitutes a generic description for a specific reference to the division of fish and wildlife protection. See explanation for bill section 30.

Bill section 38 adds a short title for AS 40.25.100 - 40.25.295 (the Alaska Public Records Act). This makes it easier for people to refer to that body of law.

Bill section 39 substitutes a generic description for a specific reference to the division of fish and wildlife protection. See explanation for bill section 30.

Bill sections 40 - 44 amend AS 42.40 to substitute references to the Surface Transportation Board for references to the Interstate Commerce Commission, which was abolished in 1995. These changes were approved by the Alaska Railroad.

Bill sections 45 and 46 make the definition of "cigarette" that applies to AS 43.50.190 easier to find by adding a cross-reference in AS 43.50.190. Currently the definition of the term appears in the preceding article, which is confusing. Note that, of the words defined in AS 43.50.170, only "cigarette" appears in AS 43.50.190.

Bill section 47 amends a reference to portions of the Jones Act in AS 44.19.035. When AS 44.19.035 was enacted by initiative in 1983, part of the Jones Act was codified at

Representative Jay Ramras
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46 U.S.C. 861 et seq. Those provisions are now scattered throughout 46 U.S.C. Yute Air Alaska v. McAlpine, 698 P.2d 1173 (Alaska 1985) suggests that the focus of the initiative that enacted AS 44.19.035 was the requirement ---now found in 46 U.S.C. 55102--- that U.S. vessels be used for transporting goods between U.S. ports. However, the citation that appears in AS 44.19.035 is much broader. To correct the citation without limiting the (none too clear) intent of the voters who enacted AS 44.19.035, I have substituted a reference to "those provisions of the Jones Act formerly codified at 46 U.S.C. 861 et seq."

Bill section 48 adds a reference to the Revised Uniform Arbitration Act to the procurement code. This change should have been made when the Revised Uniform Arbitration Act was enacted in 2004.

Bill section 49 amends AS 45.55.900(a)(9) to substitute a reference to the Surface Transportation Board for a reference to the Interstate Commerce Commission, which was abolished in 1995. While the statute does include the "successor" of the ICC, it is more helpful to the user of the statutes to refer to the appropriate agency.

Bill sections 50 and 51 correct errors in 2006 Primary Election Ballot Measure No. 2 (the cruiseship initiative). The word "wastewaters" is substituted for "waster" in AS 46.03.465(a), "state or federal law" is substituted for "state of federal law" in AS 46.03.465(f), and a verb is supplied in AS 46.03.465(f).

Bill sections 52 and 53 correct an error in ch. 57, SLA 2005. AS 47.10.088(i) and AS 47.14.100(m) refer to "a foster care license under AS 47.35.019 or 47.35.021." However, AS 47.35.019 and 47.35.021 were repealed in ch. 57, SLA 2005. Instead the Department of Health and Social Services was authorized to adopt regulations to impose licensing requirements. See AS 47.32.030(a)(3)(B). These bill sections correct the error.

Bill section 54 updates references to federal education statutes to conform to the passage of 2004 amendments.

Bill section 55 corrects an error in AS 47.30.550(e) by changing "census date" to "census data". This amendment was requested by the Department of Law.

Bill section 56 repeals sections related to the Board of Dispensing Opticians, which was sunsetted in 2004. The text of these statutes is set out below.

Bill section 57 gives the bill an immediate effective date.

Please give me a call if you have any questions about the above.

TEXT OF REPEALED PROVISIONS

AS 08.03.010(9).

(9) Board of Dispensing Opticians (AS 08.71.010) - June 30, 2004;

AS 08.71.010.

Sec. 08.71.010. Creation of board. There is created the Board of Dispensing Opticians.

AS 08.71.020.

Sec. 08.71.020. Membership. The board consists of four opticians licensed under AS 08.71.080 and one public member appointed by the governor.

AS 08.71.040.

Sec. 08.71.040. Election of officers. The board shall elect a chairman and secretary from among its members. The officers may administer oaths.

AS 08.71.240(1).

(1) "board" means the Board of Dispensing Opticians;

PF:med

08-226.med

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 260(STA)
 (S) Publish Date: 3/19/08

Identifier (file name): SB260-LEG-COU-03-14-08 Dept. Affected: Legislature
 Title: "An Act making corrective amendments to the Alaska RDU
 Statutes as recommended by the revisor of statutes; and providing..." Legislative Council
 Sponsor: Senate Rules by Request Component: Council and Subcommittees
 Requester: Senate State Affairs Component Number: 783

Expenditures/Revenues (Thousands of Dollars)

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

| | Appropriation Required | Information | | | | | | |
|-------------------------------|---------------------------|-------------|------------|------------|------------|------------|------------|------------|
| | | FY 2009 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 |
| OPERATING EXPENDITURES | | | | | | | | |
| 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 | 0.0 | 0.0 |

| | | | | | | | | |
|-----------------------------|--|--|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | | | |
|-----------------------------|--|--|--|--|--|--|--|--|

| | | | | | | | | |
|-------------------------------|--|--|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | | | |
|-------------------------------|--|--|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | | | |
|----------------------------|------------|------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | | | |
| 1003 GF Match | | | | | | | | |
| 1004 GF | | | | | | | | |
| 1005 GF/Program Receipts | | | | | | | | |
| 1037 GF/Mental Health | | | | | | | | |
| Other Interagency Receipts | | | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2008) cost: _____

POSITIONS

| | | | | | | | | |
|-----------|--|--|--|--|--|--|--|--|
| Full-time | | | | | | | | |
| Part-time | | | | | | | | |
| Temporary | | | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This legislator has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director
 Division: Legislative Affairs Agency
 Approved by: Pamela Varni, Executive Director
Legislative Affairs Agency

Phone 465-6626
 Date/Time 3/14/08 11:49 AM
 Date 3/14/2008

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

SARAH PALIN, GOVERNOR

LEGISLATION & REGULATIONS SECTION
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March 28, 2008

The Honorable Jay B. Ramras, Chair
House Judiciary Committee
Alaska State Legislature
State Capital, Room 118
Juneau, Alaska 99801-1182

Re: 2008 Revisor's Bill - CSSB 260(STA)

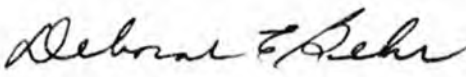
Dear Representative Ramras:

The Department of Law has reviewed CSSB 260(STA), 2008 revisor of statutes' bill. The bill makes technical improvements in the statutes. We believe these improvements are appropriate and will assist making necessary clarifications in the statutes.

If you need additional information, please let me know.

Sincerely,

TALIS J. COLBERG
ATTORNEY GENERAL

By: 
Deborah E. Behr
Chief Assistant Attorney General

DEB:ajh

cc: Russ Kelly, Legislative Director, Office of the Governor
Pam Finley, Revisor of Statutes, Legislative Affairs Agency

