

SB

265

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 25, 2010

SUBJECT: HCS CSSB 265(JUD), 2010 Revisor's Bill
(Work Order No. 26-LS1220\C)

TO: Representative Jay Ramras
Chair of the House Judiciary Committee
Attn: Jane Pierson

FROM: Kathryn L. Kurtz 
Assistant Revisor

Enclosed is the committee substitute HCS CSSB 265(JUD). I will send a sectional summary of the bill to the rules committee.

If you could carry this bill on the floor, I would be grateful. I will be in the gallery in case there are any questions about the bill.

Thanks for your help.

KLK:ljw
10-216.ljw

Enclosure

Representative Jay Ramras
Chair, Judiciary
Chair, Economic
Development, Trade &
Tourism
Energy
Military & Veteran Affairs
Joint Armed Service
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Alaska State Legislature



House of Representatives

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To: Leg. Legal

Fax #: (907) 465-2029

Number of pages including cover: 1

From: Jane W. Pierson

Date: March 24, 2010

Re: SB265

Today the HJUD Committee heard and passed out the CS for SB265 (26-LS1220P) with amendment P.1. Please draft up a final HJUD CS.

If you have any questions, please do not hesitate to call.

Thank you

Representative_Jay_Ramras@legis.state.ak.us

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MEMORANDUM

March 11, 2010

SUBJECT: Sectional Summary of the 2010 Revisor's Bill
(CSSB 265(JUD)); Work Order No. 26-LS1220\P)

TO: Representative Jay Ramras
Chair of the House Judiciary Committee

FROM: Kathryn L. Kurtz 
Assistant Revisor

This is a sectional summary of the 2010 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the Legislative Affairs Agency, working in cooperation with the Revisor of Statutes

... shall make recommendations to the legislative council concerning deficiencies, conflicts, or obsolete provisions in and the need for reorganization or revision of the statutes, and, at the direction of the legislative council, 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. . . .

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.

Sections that delete, repeal, or update obsolete provisions: 12, 21, 22

Sections that correct errors or oversights: 1, 4, 5, 10, 11, 16, 17, 27

Sections that improve the form or substance of the law: 2, 3, 6 - 9, 13 - 15, 18 - 20, 23 - 26, 28

Representative Jay Ramras

March 11, 2010

Page 2

Bill section 1. Amends the definition of "public aircraft" in AS 02.15.260(15). This definition was originally adopted in sec. 1, ch. 123, SLA 1949, prior to statehood. In the session laws, the definition read:

"Public Aircraft" means an aircraft used exclusively in the governmental service with reference to the United States, and the Territorial Government.

However, in the first revised statutes published in 1962, the definition, then AS 02.15.270(12), read as it does now:

(15) "public aircraft" means an aircraft used exclusively in the governmental service of the United States and the state government;

The changes in the definition, necessitated by the transition to statehood, presumably occurred in the course of the bulk formal revision of the statutes, adopted as the law of Alaska in 1963. See AS 01.05.006.

In its original form, the definition referred to both the government of the United States and the territorial government. The "with reference to" phrasing would have included an aircraft used in the service of either governmental entity. The wording of the revised version retains the "and" used in the original, but does not include the "with reference to" phrasing, suggesting that a particular aircraft would need to be used in both federal and state governmental service to fall within the definition. This seems inconsistent with the original definition, which appeared to be disjunctive. Also, the disjunctive form is more consistent with the definition of "civil aircraft" in AS 02.15.260(8), which reads

(8) "civil aircraft" means any aircraft other than a public aircraft;

Together, it seems clear that these definitions were intended to cover all aircraft. To include an aircraft used only in the service of the state government and not the federal government in the definition of "civil aircraft" would require a strained reading of that definition. For these reasons, the conjunction "and" is replaced with "or" in this section.

Bill section 2. Amends the spanned reference to the Alaska Public Records Act in AS 06.55.407(a) to include the new short title section (added in 2008).

Bill section 3. This section amends a reference to unsworn falsification in AS 06.60.580 to specify unsworn falsification *in the second degree*.

From the revision of the criminal code in 1978 until 2006, the crime of unsworn falsification, a class A misdemeanor, was codified at AS 11.56.210. In 2006, the legislature enacted AS 11.56.205, making unsworn falsification on a permanent fund dividend application a class C felony. Unsworn falsification in other contexts, still

punishable under AS 11.56.210, became unsworn falsification in the second degree. In the 2006 bill, most statutory references to "unsworn falsification" were amended to read "unsworn falsification in the second degree."

AS 06.60.580 was enacted in 2007 with a reference to "unsworn falsification" that did not specify degree. Because the section relates to claims from the originator surety fund, AS 11.56.205 has no relevance here. The amendment adds the words "in the second degree" to correct an oversight.

Bill section 4. This section deletes the phrase "the supervision required by AS 08.04.023" in AS 08.04.450. This phrase is a non sequitur because AS 08.04.023 does not contain any supervision requirement; it is extraneous and without legal effect. Inclusion of the phrase was a drafting error made by the legal services division.

Bill section 5. Changes "planning" to "planing" in AS 08.32.110(a). Although an Internet search reveals references to both "root planning" and "root planing," it appears that "root planing" is the more common usage for the therapy for periodontal disease performed by dental hygienists, and the word "planing" does some more accurately descriptive of the procedure, which involves smoothing the surface of a tooth's root. Also, the term "root planing" is used by the Alaska Department of Health and Social Services¹ and the American Dental Association.²

Bill section 6. Amends the definition of "limited liability partnership" in AS 08.48.341(10), the definition for statutes relating to the professional registration of architects, engineers, and land surveyors.

In 2000, the legislature passed an act adding limited liability companies and limited liability partnerships to the organizations that may practice architecture, engineering, and surveying. It included a new section defining the term "limited liability partnership" with reference to AS 32.05.415 and 32.05.990. That Act, ch. 38, SLA 2000, took effect August 9, 2000. During the same session, the legislature also passed an act repealing AS 32.05, the Uniform Partnership Act, and replacing it with a new version of that Act. The new provisions in that Act, ch. 115, SLA 2000, took effect January 1, 2001. The repeal of AS 32.05 took effect January 1, 2004.

¹ BJ Whistler, Alaska Oral Health Plan: 2008 - 2012, Section of Women's Children's and Family Health, Division of Public Health, Alaska Department of Health and Social Services, 2007, at <http://www.hss.state.ak.us/dph/wcfh/Oralhealth/docs/Oral-Health-Plan.pdf>, accessed January 8, 2010, at p. 13.

² "Treating Periodontal Disease. Scaling and Root Planing. Journal of the American Dental Association, vol. 134, February 2003 at 259, at http://www.ada.org/prof/resources/pubs/jada/patient/patient_23.pdf, accessed January 8, 2010.

Chapter 115, the Act enacting the new Uniform Partnership Act, did not make conforming changes to AS 08, as amended by chapter 38. As a result, since the repeal of AS 32.05 in 2004, the definition in AS 08.48.341(10) has pointed to two statutes that no longer exist. The changes made in this section direct the reader to the definitions in the new Uniform Partnership Act, which, under sec. 10, ch. 115, SLA 2000, has applied to all limited liability partnerships since January 1, 2004.

Bill section 7. Inserts the word "has" at the beginning of AS 08.65.140(d)(14) to improve the readability of the paragraph, and for consistency with the remainder of the subsection.

Bill section 8. Amends AS 12.55.035(c) by deleting "greater" (the comparative form of the adjective) and inserting "greatest" (the superlative form). This change is suggested because the comparative is generally used for comparing two things and the superlative is used for comparing three or more things. Since the rest of the sentence asks the reader to choose among three options, the superlative form is preferable here.

Bill section 9. Amends the spanned reference to the Alaska Public Records Act in AS 12.65.140(b) to include the new short title section (added in 2008).

Bill section 10. Amends AS 13.26.344(j) to add a missing part of the verb. This change makes the provision parallel to other subsections of AS 13.26.344.

Bill section 11. Changes a reference to a federal regulation in AS 13.27.030, part of the Uniform Adult Guardianship and Protective Proceedings Act enacted in 2008. The statute now refers to "protected health information as defined in 45 CFR 164.504." However, that section of the CFR does not include a definition of the term "protected health information." The term is defined for purposes of 45 CFR 164.504 and the rest of subchapter C, subtitle A, title 45 in 45 CFR 160.103.

Alaska's statute used the reference included in the model act. Through the attorney general's office, we have received confirmation from the National Conference of Commissioners on Uniform State Laws that the cite in section 105 of the model act was erroneous, and that the correct cite is 45 CFR 160.103. This corrects the error.

Bill section 12. Amends AS 14.43.930(e)(2) to reflect the current name of the Northwest Association of Accredited Schools, which was formerly the Northwest Association of Schools and Colleges. The Association changed its name in 2004.

Bill section 13. Amends the spanned reference to the Alaska Public Records Act in AS 17.37.010(a) to include the new short title section (added in 2008).

Bill section 14. Amends the spanned reference to the Alaska Public Records Act in AS 18.65.087(e) to include the new short title section (added in 2008).

Bill section 15. Codifies at AS 26.23.240 a short title for AS 26.23.010 - 26.23.240 and 26.23.900 -- the "Alaska Disaster Act." This term has frequently been used by the Attorney General as a shorthand reference to AS 26.23 (see Op. Atty Gen. file nos. 883-03-0070 (June 2, 2003), 663-93-0425 (July 8, 1993), and 663-92-0494 (January 13, 1993) for example). The term was employed by the Alaska Supreme Court in *City of Seward v. Afognak Logging*, 31 P.3d 780, 785 (Alaska 2001).

The phrase "Alaska Disaster Act" was used as a chapter heading when AS 26.23 was originally enacted, in sec. 3, ch. 104, SLA 1977. In 1990, two sections were added to the chapter: AS 26.23.300, creating a disaster relief fund, and AS 26.23.400, creating a fuel emergency fund. Each of these was created as a new article, and the definitions section, formerly AS 26.23.230, was renumbered as AS 26.23.900. In 2002, the Emergency Management Assistance Compact was enacted (AS 26.23.135 - AS 26.23.136), replacing the former Interstate Civil Defense and Disaster Compact, which was repealed. "Alaska Disaster Act" has been retained as the article title for Article 1 of AS 26.23.

In codifying the short title, the question arises whether it should apply only to the sections enacted in 1977, or to the 1990 additions as well. The drafting manual advises that a short title "should be used only with a bill that contains a cohesive body of proposed law dealing comprehensively with a particular subject." Manual at 23. For the sake of consistency with the existing article heading and usage by the Alaska Supreme Court and the Attorney General, the revisor's bill applies the short title only to Article 1 of AS 26.23 and the definitions section, AS 26.23.900, which was part of the original material designated as the Alaska Disaster Act in the 1977 legislation.

Bill section 16. Amends AS 29.65.050(b) to conform the usage to the term defined in AS 29.65.130(10) -- "vacant, unappropriated, unreserved land." Since the subsection in which the phrase "land that was vacant, unappropriated, or unreserved" was adopted in the same 1985 revision of the municipal code as the definition in AS 29.65.130(10), it is assumed that the inconsistency is a drafting error or oversight.

Bill section 17. Amends AS 29.65.060(a). Currently, the statute reads "vacant, unappropriated, *or* unreserved land as defined in this chapter" (emphasis added). The "or" is deleted to conform the usage with the phrase that is actually defined in the chapter.

Bill section 18. Amends AS 34.45.320(b) to specify unsworn falsification in the second degree (under AS 11.56.210), which is generally applicable, as opposed to unsworn falsification in the first degree (under AS 11.56.205), which relates only to permanent fund dividend applications.

AS 34.45.280(b) specifies that reports of abandoned personal property are to be made on a form which gives notice that statements on the form are made under penalty of unsworn falsification. Since this section relates to reports of unclaimed property rather than permanent fund dividend applications, unsworn falsification in the second degree under AS 11.56.210 is clearly the applicable statute. This section predates the 2006 changes to

the law of unsworn falsification, and it is not clear why the reference was not changed in the 2006 bill. Although the general reference may suffice -- "under penalty of unsworn falsification" is not wrong, it is merely imprecise -- a reference that includes "in the second degree" is more accurate here. For further explanation, see the discussion in bill sec. 3, above.

Bill section 19. Amends AS 34.45.380(a) to specify unsworn falsification in the second degree (under AS 11.56.210), which is generally applicable, as opposed to unsworn falsification in the first degree (under AS 11.56.205), which relates only to permanent fund dividend applications. See bill sec. 18, above; the only difference is that AS 34.45.380(a) relates to abandoned property claim forms (rather than report forms).

Bill section 20. Amends the spanned reference to the Alaska Public Records Act in AS 40.25.220 to include the new short title section (added in 2008).

Bill section 21. Amends AS 41.21.506(b)(2) to remove an exception added in sec. 2, ch. 61, SLA 2009 relating to AS 16.40.260 and 16.40.270 on the date that those two sections are repealed. The repeal will take effect January 1, 2011, under sec. 8, ch. 70, SLA 2004 as amended by sec. 3, ch. 61, SLA 2009, unless that section is further amended.

Bill section 22. Corrects a reference to the United States Code in AS 42.40.430. In 2002, 40 U.S.C. 471 was renumbered as 40 U.S.C. 401 in a general revision of federal laws relating to public property. According to the statement of purpose for the revision Act, P.L. 107-217, sec 5(b)(1), "[t]his Act makes no substantive change in existing law and may not be construed as making a substantive change in existing law."

Bill section 23. Amends the spanned reference to the Alaska Public Records Act in AS 43.05.455(d) to include the new short title section (added in 2008).

Bill section 24. Amends the spanned reference to the Alaska Public Records Act in AS 43.05.475(b) to include the new short title section (added in 2008).

Bill section 25. Adds a short title at AS 44.62.319 for AS 44.62.310 - 44.62.312, which is commonly referred to as "the open meetings act." See for example *Abood v. League of Women Voters*, 743 P.2d 833 (Alaska 1987), *Hickel v. Southeast Conference*, 846 P.2d 38 (Alaska 1992), *Griswold v. City of Homer*, 55 P.3d 64 (Alaska 2002), and 1995 Op. (Inf.) Atty Gen. Alas. 317, file no. 663-95-0524 (August 21, 1995).

Bill section 26. In AS 46.14.500(c), changes a parenthetical reference to the Clean Air Act to make the form similar to that used for other United States Code citations cited in the Alaska Statutes.

Bill section 27. Moves the phrase "the facility may" in AS 47.30.695 from the introductory text into the text of paragraph (1). This is necessary because the phrase "the

Representative Jay Ramras

March 11, 2010

Page 7

facility may" cannot be applied to paragraph (2), since paragraphs (1) and (2) are disjunctive ("or" is the conjunction), and (2) has a different verb phrase ("the treating physician may").

Bill section 28. Instructs the revisor to conform references to the Open Meetings Act to reflect the short title codified in sec. 25 of the bill.

Bill section 29. Makes the effective date for sec. 21 of the Act conditional; this section should only take effect if the sections referred to are actually repealed.

Bill section 30. Provides an effective date for sec. 21, if sec. 21 takes effect under sec. 29.

Bill section 31. Provides an effective date for the remaining sections of the bill.

KLK:med
10-037.med

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 265
 (S) Publish Date: 2/17/10

Identifier (file name): SB265-LAW-CIV-02-12-10 Dept. Affected: Law
 Title: An Act making corrective amendments to the Alaska Statutes RDU: Civil
as recommended by the revisor of statutes Component: Legislation/Regulations
 Sponsor: Rules by request of Legislative Council
 Requester: State Affairs Component Number: 2209

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
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								
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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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

SB 265 is the 2010 revisor of statute's bill. It makes important technical improvements to Alaska statutes. It has no fiscal impact on the Department of Law.

Prepared by: Eileen Donahue, Division Operations Manager
 Division: Administrative Services
 Approved by: Daniel S. Sullivan, Attorney General
Department of Law

Phone 465-5427
 Date/Time 2/12/10 1:30 PM
 Date 2/12/2010

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MEMORANDUM

March 16, 2010

SUBJECT: Amendment reversing change made in 2009 revisor's bill
(CSSB 265(JUD), Work Order No. 26-LS1220\P, Am. P.1)

TO: Representative Jay Ramras
Chair of the House Judiciary Committee
Attn: Jane Pierson

FROM: Kathryn L. Kurtz 
Assistant Revisor

Enclosed is an amendment to the 2010 revisors' bill.

This amendment would reverse a change made in last year's revisor's bill. That bill changed the phrase "newsboys' services" in AS 23.20.526(a)(2) to "services performed by an individual under 18 years of age."¹ The change was made to avoid the use of a gender specific term. However, we have been informed by Mr. John McKay (an Anchorage attorney) that this change has been interpreted by the Department of Labor and Workforce Development as having a substantive effect. Apparently the term "newsboys" has been interpreted to include individuals both over and under age 18. To correct this situation, the enclosed amendment would change AS 23.20.526(a)(2) back to the way it was, using the phrase "newsboys' services." The change would be retroactive.

KLK:lmb
10-006.lmb

Enclosure

¹ AS 23.20.526(a)(2) now provides, in part:

(a) In this chapter, unless the context otherwise requires, "employment" does not include

...

(2) service performed by an individual under 18 years of age in selling or distributing newspapers on the street or from house to house;

...

AMENDMENT

OFFERED IN THE HOUSE
TO: CSSB 265(JUD)

offered by:
Rep. RAMRAS

1 Page 9, following line 13:

2 Insert a new bill section to read:

3 **** Sec. 15.** AS 23.20.526(a) is amended to read:

4 (a) In this chapter, unless the context otherwise requires, "employment" does
5 not include

6 (1) domestic service in a private home, except as provided in
7 AS 23.20.525(a)(13);

8 (2) newsboys' services [SERVICE PERFORMED BY AN
9 INDIVIDUAL UNDER 18 YEARS OF AGE] in selling or distributing newspapers on
10 the street or from house to house;

11 (3) service not in the course of the employing unit's trade or business
12 performed in a calendar quarter by an individual, unless the cash remuneration paid
13 for the service is \$50 or more and the service is performed by an individual who is
14 regularly employed by the employing unit to perform the service; an individual is here
15 considered to be regularly employed to perform service not in the course of an
16 employing unit's trade or business during a calendar quarter only if the individual
17 performs the service for some portion of the day on each of 24 days during the quarter
18 or during the preceding calendar quarter;

19 (4) service performed by an individual in the employ of the
20 individual's

21 (A) son, daughter, or spouse;

22 (B) parent or legal guardian if the individual was under the age
23 of 21 years and a full-time student during eight of the last 12 months and

1 intends to resume full-time student status within the next four months; and

2 (C) mother or father if the service is performed by a child under
3 the age of 18;

4 (5) service with respect to which unemployment insurance is payable
5 under an unemployment insurance program established by an Act of Congress;

6 (6) service performed in the employ of a foreign government including
7 service as a consular or other officer or employee or a nondiplomatic representative;

8 (7) service performed in the employ of an instrumentality wholly
9 owned by a foreign government if

10 (A) the service is of a character similar to that performed in
11 foreign countries by employees of the United States government or its
12 instrumentalities; and

13 (B) the department finds that the United States Secretary of
14 State has certified to the United States Secretary of the Treasury that the
15 foreign government, with respect to whose instrumentality exemption is
16 claimed, grants an equivalent exemption with respect to similar service
17 performed in the foreign country by employees of the United States
18 government and its instrumentalities;

19 (8) service performed by an insurance agent, insurance solicitor, real
20 estate broker, real estate salesperson, or securities salesperson to the extent the person
21 is compensated by commission, unless the service is required to be covered under the
22 Federal Unemployment Tax Act, as amended;

23 (9) notwithstanding AS 23.20.525(a)(9), service performed by an
24 officer or member of the crew of an American vessel on or in connection with the
25 vessel, if the operating office, from which the operations of the vessel operating on
26 navigable waters inside or inside and outside the United States are ordinarily and
27 regularly supervised, managed, directed, and controlled, is outside this state;

28 (10) service performed on or in connection with a vessel not an
29 American vessel by an individual if the individual performed service on and in
30 connection with the vessel when outside the United States;

31 (11) service performed in the employ of the United States government

1 or an instrumentality of the United States exempt under the Constitution of the United
2 States from the contributions imposed by this chapter, except that to the extent that the
3 Congress of the United States permits states to require an instrumentality of the United
4 States to make payments into an unemployment fund under a state employment
5 security law, all of the provisions of this chapter apply to the instrumentalities, and to
6 service performed for the instrumentalities in the same manner, to the same extent, and
7 on the same terms as to all other employers, employing units, individuals, and service;
8 however, if this state is not certified for any year by the United States Secretary of
9 Labor under 26 U.S.C. 3304(c) (Federal Unemployment Tax Act, Internal Revenue
10 Code), the payments required of the instrumentalities with respect to the year shall be
11 refunded by the department from the fund in the same manner and within the same
12 period as is provided in AS 23.20.225 with respect to contributions erroneously
13 collected;

14 (12) service performed in the employ of another state, or political
15 subdivision of another state, or an instrumentality of another state or political
16 subdivision that is wholly owned by another state or its political subdivision, or a
17 service performed in the employ of an instrumentality of another state or its political
18 subdivisions to the extent that the instrumentality is, with respect to the service,
19 exempt under the Constitution of the United States from the tax imposed by 26 U.S.C.
20 3301 (Federal Unemployment Tax Act, Internal Revenue Code);

21 (13) service performed in the employ of an international organization;

22 (14) service covered by an election approved by the agency charged
23 with the administration of any other state or federal employment security law, in
24 accordance with an arrangement under AS 23.20.090(a) during the effective period of
25 the election;

26 (15) service performed by an individual in agricultural labor, except as
27 provided in AS 23.20.525(a)(14); the term "agricultural labor" means remunerated
28 service

29 (A) on a farm, in the employ of any person in connection with
30 cultivating the soil, or in connection with raising or harvesting any agricultural
31 or horticultural commodity, including the raising, shearing, feeding, caring for,

1 training, and management of livestock, bees, poultry, and fur-bearing animals
2 and wildlife;

3 (B) in the employ of the owner or tenant or other operator of a
4 farm, in connection with the operation, management, conservation,
5 improvement, or maintenance of the farm and its tools and equipment, or in
6 salvaging timber or clearing land of brush and other debris left by a hurricane,
7 if the major part of the service is performed on a farm;

8 (C) in connection with the production or harvesting of any
9 commodity defined as an agricultural commodity in 12 U.S.C. 1141j (Sec.
10 15(g), Agricultural Marketing Act), as amended, or in connection with the
11 operation or maintenance of ditches, canals, reservoirs, or waterways, not
12 owned or operated for profit, used exclusively for supplying and storing water
13 for farming purposes;

14 (D) in the employ of the operator of a farm in handling,
15 planting, drying, packing, packaging, processing, freezing, grading, storing, or
16 delivering to storage or to market or to a carrier for transportation to market, in
17 its unmanufactured state, any agricultural or horticultural commodity; but only
18 if the operator produced more than one-half of the commodity with respect to
19 which the service is performed except as stated in (b) of this section;

20 (E) in the employ of a group of operators of farms, or a
21 cooperative organization of which the operators are members, in the
22 performance of service described in (D) of this paragraph, but only if the
23 operators produced more than one-half of the commodity with respect to which
24 the service is performed;

25 (F) on a farm operated for profit if the service is not in the
26 course of the employer's trade or business;

27 (16) service performed as a student nurse in the employ of a hospital or
28 a nurses' training school by an individual who is enrolled and is regularly attending
29 classes in a nurses' training school chartered or approved in accordance with the laws
30 of this state, and service performed as an intern in the employ of a hospital by an
31 individual who has completed a four-year course in a medical school chartered or

1 approved in accordance with the laws of this state, unless the service is required to be
2 covered under the Federal Unemployment Tax Act;

3 (17) service performed by an individual on a boat engaged in catching
4 fish or other forms of aquatic animal life under an arrangement with the owner or
5 operator of that boat under which

6 (A) that individual does not receive any cash remuneration
7 except as provided in (B) of this paragraph;

8 (B) that individual receives a share of the boat's, or the boats' in
9 the case of a fishing operation involving more than one boat, catch of fish or
10 other forms of aquatic animal life or a share of the proceeds from the sale of
11 that catch; and

12 (C) the amount of that individual's share depends on the
13 amount of the boat's, or the boats' in the case of a fishing operation involving
14 more than one boat, catch of fish or other forms of aquatic animal life; but only
15 if the operating crew of that boat, or each boat from which the individual
16 receives a share in the case of a fishing operation involving more than one
17 boat, is normally made up of fewer than 10 individuals;

18 (18) service performed as a prospective or impaneled juror in a court;

19 (19) service performed for a corporation by an employee of the
20 corporation if

21 (A) the corporation is incorporated under AS 10.06;

22 (B) the corporation is not a government corporation; and

23 (C) the employee is an executive officer of the corporation;

24 (20) service performed by an individual who drives a taxicab whose
25 compensation and written contractual arrangements are as described in
26 AS 23.10.055(a)(13);

27 (21) service of an individual who

28 (A) directly sells or solicits the sale of consumer products, for
29 resale or otherwise, personally to a prospective consumer in the home or
30 otherwise than in a permanent retail establishment; a sale or solicitation by
31 telephone, mail, other telecommunications method, or other nonpersonal

1 method does not satisfy the requirement of this subparagraph;

2 (B) is compensated solely by

3 (i) commissions on sales or other remuneration directly
4 related to sales or sales performance; or

5 (ii) a profit represented by the difference between the
6 wholesale cost of the product to the seller and the final sale price to the
7 consumer; and

8 (C) performs under a written contract with the person for whom
9 the service is performed that provides, notwithstanding AS 23.20.395(a), that
10 the individual is not an employee for purposes of this chapter or for federal or
11 state tax purposes;

12 (22) temporary services related to emergency oil spill training and
13 response activities by an individual described in (17) of this subsection; in this
14 paragraph, "temporary" means a period of less than seven continuous days."
15

16 Renumber the following bill sections accordingly.

17
18 Page 15, lines 1 - 2:

19 Delete "sec. 25"

20 Insert "sec. 26"

21
22 Page 15, line 16:

23 Insert a new bill section to read:

24 **** Sec. 30.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 **RETROACTIVITY.** Section 15 of this Act is retroactive to June 21, 2009."
27

28 Renumber the following bill sections accordingly.

29
30 Page 15, line 19:

31 Delete "Section 21"

1 Insert "Section 22"

2

3 Page 15, line 22:

4 Delete "sec. 21"

5 Insert "sec. 22"

6

7 Page 15, line 24:

8 Delete "sec. 30"

9 Insert "sec. 32"

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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March 12, 2010

Representative Jay Ramras, Chair
House Judiciary Committee
Alaska State Legislature
State Capitol, Room 118
Juneau, Alaska 99801-1182

Re: CSSB 265 (JUD) - 2010 Revisor's Bill

Dear Representative Ramras:

The Department of Law has reviewed CSSB 265 (JUD), the 2010 revisor's bill.

The bill presents no legal issues and makes important technical improvements to the law.

Sincerely,

DANIEL S. SULLIVAN
ATTORNEY GENERAL

By: 

Deborah E. Behr
Chief Assistant Attorney General

DEB:tjd

cc: Kathryn Kurtz, Assistant Revisor of Statutes
Jerry Gallagher, Legislative Director, Office of the Governor
Mike Ford, Assistant Attorney General