

HB

273

<TARGET><BILL>HB 273</BILL><SUBJECT>HB
273</SUBJECT><COMM>SSTA29</COMM></TARGET>

Alaska State Legislature

Chairman
State Affairs Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Administration
Corrections
Military and Veterans Affairs
Judiciary/Courts



A Communication From
REPRESENTATIVE BOB LYNN
District 26 Anchorage

E-Mail: Rep.Bob.Lynn@akleg.gov

Session:
Alaska State Capitol #108
Juneau, AK 99801-1182


Phone: (907) 465-4931
Fax: (907) 465-4316
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Interim:
716 W. 4th Ave.
Anchorage, AK 99501-2133

Phone: (907) 269-0205
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March 25, 2016

TO: SENATE STATE AFFAIRS

FROM: Representative Bob Lynn 

RE: Senate State Affairs Bill Scheduling Request

On behalf of Representative Lynn I respectfully request that House State Affairs hears HB273: "An Act relating to the transfer of the title to a vehicle, including certain manufactured homes and trailers, on the death of the owner; and providing for an effective date."

Thank you for your time and consideration.

Staff Contact: Deneen Tuck
465-4965
Deneen.Tuck@akleg.gov

Packet Contents:



HB273 – "I" version
Sponsor Statement
Sectional Summary
Fiscal Notes
(2) Letters of support (Alaska Automobile Dealers Association and Alaska AARP)

Alaska State Legislature

Representative Bob Lynn,
Chair



Representative Louise Stutes
Representative David Talerico
Representative Liz Vazquez
Representative Max Gruenberg
Representative Jonathan Kreiss-Tomkins

Representative Wes Keller
Vice-Chair

A Communication From

HOUSE STATE AFFAIRS COMMITTEE

SPONSOR STATEMENT HB 273

“An Act relating to the transfer of the title to a vehicle, including certain manufactured homes and trailers, on the death of the owner; and providing for an effective date.”

This bill will simplify, speed up, and lower the cost of vehicle transfers on death¹. It will allow a vehicle owner to designate up to two beneficiaries to take joint title to a vehicle upon his/her death. Designation is simple. The names and addresses of the designated beneficiaries are noted on the vehicle registration. This can be done or changed at any time. Transfer of title is automatic upon presenting proof of death to the Alaska Division of Motor Vehicles (DMV)². Vehicle liens remain. TODs can be revoked, superseded, or disclaimed. A small fee will be charged so the program will be self-supporting. Only owners who are natural persons can designate beneficiaries, because artificial owners (corporations, etc.) do not die. Beneficiaries can be any person, natural or artificial (e.g. corporations). The bill is similar to TOD vehicle laws in at least 15 other states. It is also similar to Alaska laws for TOD bank accounts, TOD brokerage accounts, and TOD real property deeds³.

The bill was drafted with input from the DMV, taking the best provisions from the other state laws.

We invite your comments, concerns, questions, criticisms and, of course, support! Please contact Deneen Tuck for further information at 465-4965 or deneen.tuck@akleg.gov.

¹ Although 4 states allow TODs for non-vehicles, we did not, because Alaska does not title vessels, outboard motors, aircraft or snow machines.

² See AS 13.06.035.

³ See AS 13.33.201-227; AS 13.33.301-310; AS 13.48.010-195.

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STATEMENT OF CHANGES FROM VERSION P TO I HB 273

"An Act relating to the transfer of the title to a vehicle, including certain manufactured homes and trailers, on the death of the owner; allowing a person to act for the surviving spouse of a decedent to make a demand of the personal representative of the decedent's estate related to enforcing a liability against real property or an interest in real property transferred at death by a transfer on death deed; and providing for an effective date."

TITLE CHANGE - Added Language

"allowing a person to act for the surviving spouse of a decedent to make a demand of the personal representative of the decedent's estate related to enforcing a liability against real property or an interest in real property transferred at death by a transfer on death deed;"

Page 2, lines 18-25 - 1) new section added to conform to the other TOD language currently in statute. 2) Added the wording "or the surviving spouse" to conform to current TOD statute language.

Renumbered Sections as appropriate

Page 3, line 25 - Changed language to reflect the added sub-sections (i) and (j) - added language to conform to other TOD language currently in statute.

Page 3, lines 30-31 through Page 4, lines 1-10 - added language to conform to the other TOD language currently in statute.

Renumbered sections as appropriate

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


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

MEMORANDUM

March 10, 2016

SUBJECT: Sectional summary of proposed CSHB 273(STA) relating to the transfer of the title to a vehicle on the death of the owner (Work Order No. 29-LS0322\I)

TO: Representative Bob Lynn
Attn: Deneen Tuck

FROM: 
Terry Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Bill Section 1. Amends AS 13.33.101(a), which describes transfers on death that are not considered testamentary. Adds a transfer on death (TOD) vehicle title from the new sec. 28.10.275.

Bill Section 2. Amends AS 13.48.110(c) of the Uniform Real Property Transfer on Death Act. The amendment allows a person to act for the surviving spouse of a decedent to make a demand of the personal representative of the decedent's estate to enforce a liability against real property or an interest in real property that the decedent transferred at death by a transfer on death deed.

Bill Section 3. Adds to the chapter that covers motor vehicle titles a new section that authorizes the transfer of a vehicle's certificate of title when the owner dies.

In (a), allows the owner of a vehicle to obtain a transfer on death (TOD) title for the vehicle. A TOD title transfers the vehicle's title to a designated beneficiary when the sole owner or the last surviving joint owner dies.

In (b), to obtain a TOD vehicle title, requires the owner to apply to the Department of Administration (department) on the department's form and to pay the transfer fee. Requires each joint owner to sign an application to obtain, revoke, or change a TOD title.

In (c), requires a TOD title to contain the words "transfer on death to" or "TOD," followed by the names of not more than two designated beneficiaries.

In (d), makes a TOD title effective without any notice to, delivery to, or acceptance by the designated beneficiary, and without consideration.

In (e), states that a TOD title is nontestamentary.

In (f), allows the owner to revoke a TOD title or change the designated beneficiary at any time during the owner's life without the consent of, or notice to, the designated beneficiary.

In (g), indicates how the owner can revoke or change a TOD title.

In (h), allows a designated beneficiary to disclaim the beneficiary's interest under AS 13.70 (Uniform Disclaimer of Property Interests Act).

In (i), states that, except as limited under (j) - (l) of this section, the designated beneficiary takes the TOD title subject to all conveyances, liens, and other interests to which the vehicle is subject at the owner's death, and subject to claims of creditors against the owner or the owner's estate.

In (j), to the extent the owner's probate estate is insufficient to satisfy certain claims, costs, or allowances, allows the estate to enforce the liability against a vehicle transferred at the owner's death by a transfer on death title.

In (k), if more than one vehicle is transferred by transfer on death titles, apportions the liability under (j) of this section among the vehicles.

In (l), requires a proceeding to enforce a liability under (j) of this section to begin not later than 12 months after the owner's death. Requires that a demand be made on the personal representative of the owner's estate by one of the persons identified in this subsection.

In (m), states that, while the owner is alive, the TOD title does not affect certain interests, rights, and other matters related to the owner, the designated beneficiary, creditors, and public assistance eligibility.

In (n), requires the beneficiary to survive the owner by 120 hours in order for the title to be transferred to the beneficiary. Makes certain exceptions related to (1) the calculation of the augmented estate of a deceased person under AS 13.12.203, (2) the effect of homicide under AS 13.12.803, and (3) the effect of divorce, annulment, and other changes of circumstances under AS 13.12.804.

In (o), sets up the criteria for when the department is required to issue a new certificate of title to the designated beneficiary after the owner's death.

Representative Bob Lynn
March 10, 2016
Page 3

In (p), indicates that if the designated beneficiary who obtains the vehicle title under (o) of this section consists of more than one person, the persons take the title as joint tenants with the right of survivorship. Requires the department to issue the new title in the conjunctive.

In (q), prohibits a TOD title from being changed or revoked by will or another instrument, by a change in circumstances, or in another manner, except as provided in the new section.

In (r), authorizes the department to adopt regulations for the new section.

In (s), defines terms for the new section.

Bill Section 4. Authorizes the department to adopt regulations for the new section.

Bill Section 5. Gives bill sec. 4 an immediate effective date.

Bill Section 6. Gives bill secs. 1- 3 an effective date of July 1, 2017.

If I may be of further assistance, please advise.

TLB:lem:dla
16-267.dla

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: HB 273
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB273-DOA-DMV-02-01-16
Title: VEHICLES: TRANSFER ON DEATH TITLE
Sponsor: STATE AFFAIRS
Requester: House State Affairs

Department: Department of Administration
Appropriation: Motor Vehicles
Allocation: Motor Vehicles
OMB Component Number: 2348

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2017 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES	FY 2017	FY 2017					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **Yes**
If yes, by what date are the regulations to be adopted, amended or repealed? **07/01/17**

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: <u>Amy Erickson, Director</u>	Phone: <u>(907)269-5574</u>
Division: <u>Motor Vehicles</u>	Date: <u>02/01/2016 08:30 AM</u>
Approved By: <u>Sheldon Fisher, Commissioner</u>	Date: <u>02/01/16</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. HB 273

Analysis

HB 273 amends Title 28 and will authorize the transfer of a certificate of vehicle title upon the death of the owner without the need for probate. The vehicle title must contain the words "transfer on death" or "TOD" and may name up to two beneficiaries. TOD titles are effective without the notification or acceptance of the beneficiary and may be revoked or changed any time during the owner's life without the consent of the beneficiary.

Associated costs to DMV: None

While no simple task to program changes to DMV's current business practices, DMV will complete programming internally and absorb the associated costs.

The bill takes effect July 1, 2017.



P.O. Box 201305
Anchorage, Alaska
99520-1305

January 28, 2016

The Honorable Bob Lynn
Chair
House State Affairs Committee
Alaska State Capitol
Juneau, Alaska

Re: House Bill 273

Dear Representative Lynn:

The Alaska Automobile Dealers Association wishes to respectfully inform you of our support for House Bill 273. The Alaska Automobile Dealers Association represents both new and used car dealers in Alaska.

This bill will simplify, speed up, and lower the cost of vehicle transfers on death. It will allow a vehicle owner to designate a beneficiary to take joint title to a vehicle upon their death. This designation can be changed at any time as a person's condition or intentions change. Beneficiaries can be any person, natural or artificial (e.g. corporations).

Transfer of title would be automatic upon presenting proof of death to the Alaska Division of Motor Vehicles. Vehicle liens remain protected and in force. The bill is similar to transfer on death vehicle laws in at least 15 other states.

We believe House Bill 273 will provide a benefit to Alaskans as they do estate planning and certainly for their heirs as they settle estates.

Sincerely,

Tim Toth
President

February 5, 2016

Representative Bob Lynn
Alaska State Capitol, Room 108
Juneau, AK 99801-1182

Re: HB 273 – Vehicle Transfer on Death Act - SUPPORT

Dear Representative Lynn,

On behalf of the more than 86,000 members of AARP Alaska, I wish to extend our support for HB 273, the Vehicle Transfer on Death bill. This bill would help seniors and other citizens of Alaska by providing a simple and inexpensive alternative method for transferring title to vehicles or mobile home upon their death. Similar laws have been in effect in many other states and have been considered successful.

The primary advantage of a TOD is that it would provide Alaska's citizens with an additional option they might use to transfer their vehicle or mobile home upon their death. The convenience of Alaska's citizens and the protection of their rights are, and should be, the main considerations of all proposed legislation. There are many issues and statutes that are not unique to particular states, but rather have general applicability across the country. For this reason, the effort to adopt uniform laws across states is very useful to individuals and families that might live in different places. The Transfer on Death deed, as well as Joint Tenancy with Right of Survivorship, are examples of the how uniform laws work for the Alaskans' advantage.

As the Vehicle TOD addresses needs that occur at a person's death and which are important tools in estate planning, they are very relevant to AARP's age 50+ membership group. We believe HB 273 would help to ease the stress of settling affairs at a time of life that is already difficult enough. We appreciate your efforts to streamline the transfer of property at the time of death, and we support the passage and adoption of HB 273 into Alaska law.

AARP Alaska is available to elaborate on our support of the bill or to answer any questions you might have.

Respectfully,



Ken Helander
Advocacy Director
762-3314
khelander@aarp.org

April 11, 2016

Senator Bill Stoltze
Alaska State Capitol
Room 125
Juneau, AK 99801

Dear Senator Stoltze,

As Max's wife, I know how hard he worked on the property transfer on death bill in the 28th Legislative session and now on this bill. Max worked and reworked this bill taking input at each writing. As a bill, it is as smooth as a river stone.

Max didn't have a trust or will. The transfer of his stock accounts to me were almost instantaneous because I was the beneficiary of his TOD provision. Through the TOD process I feel financially secure. Other portions of his estate were also transferred to me with simplicity and without waiting for probate.

HB273 will make a transfer of a vehicle at the time of death seamless in a similar fashion to Max's stock accounts. Sign a piece of paper with the DMV and it's done. Why is a TOD for a car better than a will or a trust? My estate attorney charges over \$400 an hour.

When Max died I called my best friend. She immediately flew to Juneau and stayed with me for a month and a half. I wasn't allowed in the kitchen. I wasn't allowed to wash or fold my clothes. She did everything. I have plans to do something nice for her, but beyond that I know her only car is old and has serious transmission problems. If something happened to me I would like her to have my car. Such a small bequest should not require an attorney. Through this bill's design, if my friend no longer needed a car it would be easy to name someone else.

I may be unable to come to the next hearing. In any case, my thoughts will be with you and Max's bill no matter what.

Thank you again for hearing HB273 and thank you for taking time to read my note.

Warm Regards,


Kayla Epstein

CS FOR HOUSE BILL NO. 273(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

~~Introduced:~~ Offered:
Referred:

Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the transfer of the title to a vehicle, including certain manufactured
2 homes and trailers, on the death of the owner; allowing a person to act for the surviving
3 spouse of a decedent to make a demand of the personal representative of the decedent's
4 estate related to enforcing a liability against real property or an interest in real property
5 transferred at death by a transfer on death deed; and providing for an effective date."

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

7 * **Section 1.** AS 13.33.101(a) is amended to read:

8 (a) A provision for a nonprobate transfer on death in an insurance policy,
9 contract of employment, bond, mortgage, promissory note, certificated or
10 uncertificated security, account agreement, custodial agreement, deposit agreement,
11 compensation plan, pension plan, individual retirement plan, employee benefit plan,
12 trust, conveyance, deed of gift, marital property agreement, or other written instrument
13 of a similar nature is nontestamentary. This subsection includes [A WRITTEN

1 PROVISION THAT]

2 (1) **a written provision that**

3 (A) money or other benefits due to, controlled by, or owned by
 4 a decedent before death must be paid after the decedent's death to a person
 5 whom the decedent designates either in the instrument or in a separate writing,
 6 including a will, executed either before or at the same time as the instrument,
 7 or later;

8 (B) [(2)] money due or to become due under the instrument
 9 ceases to be payable in the event of death of the promisee or the promisor
 10 before payment or demand; or

11 (C) [(3)] property controlled by or owned by the decedent
 12 before death that is the subject of the instrument passes to a person the
 13 decedent designates either in the instrument or in a separate writing, including
 14 a will, executed either before or at the same time as the instrument, or later;

15 **and**

16 (2) **a transfer of a vehicle by a transfer on death title under**
 17 **AS 28.10.275.**

18 * **Sec. 2.** AS 13.48.110(c) is amended to read:

19 (c) A proceeding to enforce the liability under this section must be
 20 commenced not later than 12 months after the transferor's death. A proceeding to
 21 enforce the liability under (a) of this section may not be commenced unless the
 22 personal representative of the transferor's estate has received a written demand by the
 23 surviving spouse, a creditor, a child, or a person acting for a child or the surviving
 24 spouse of the decedent.

25 * **Sec. 3.** AS 28.10 is amended by adding a new section to read:

26 **Sec. 28.10.275. Transfer of certificate of title on death.** (a) In addition to the
 27 transfer of a vehicle provided by AS 28.10.211, 28.10.271, or another statute, the
 28 owner of a vehicle for which the department is required or allowed under
 29 AS 28.10.201 to issue a certificate of title may obtain a transfer on death title for the
 30 vehicle. A transfer on death title transfers the title to a designated beneficiary when the
 31 sole owner or the last surviving joint owner dies.

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(b) To obtain a transfer on death title for a vehicle, the owner of the vehicle shall submit to the department an application on a form established by the department and a fee for the transfer on death title. Each joint owner shall sign the application to obtain, revoke, or change a transfer on death title.

(c) In addition to the requirements of AS 28.10.231 for the contents of a certificate of title, a transfer on death title must contain the words "transfer on death to" or the abbreviation "TOD," followed by the names of not more than two designated beneficiaries.

(d) A transfer on death title obtained under this section is effective without
(1) notice to, delivery to, or acceptance by the designated beneficiary;
or
(2) consideration.

(e) A transfer on death title is a nontestamentary transfer on death.

(f) The owner may revoke a transfer on death title or change the designated beneficiary on a transfer on death title at any time during the owner's life without the consent of or notice to the designated beneficiary.

(g) To revoke or change a transfer on death title, the owner shall
(1) transfer the vehicle to another person and assign and deliver the certificate of title for the vehicle to the other person; or
(2) file with the department an application on a form established by the department and pay a fee to the department to reissue the certificate of title for the vehicle without a designated beneficiary or with a different designated beneficiary.

(h) A designated beneficiary may disclaim the designated beneficiary's interest in the vehicle under AS 13.70 (Uniform Disclaimer of Property Interests Act).

~~(i)~~ A(i) Except as limited under (j) - (l) of this section, a designated beneficiary takes the transfer on death title subject to the

(1) conveyances, encumbrances, assignments, contracts, liens, and other interests to which the vehicle is subject at the owner's death; and
(2) claims of creditors against the owner or the owner's estate.

~~(j)~~ To the extent the owner's probate estate is insufficient to satisfy an allowed claim against the estate, the costs of administration of the estate, or a statutory

1 allowance to a surviving spouse or child, the estate may enforce the liability against a
2 vehicle transferred at the owner's death by a transfer on death title.

3 (k) If more than one vehicle is transferred by one or more transfer on death
4 titles, the liability under (j) of this section is apportioned among the vehicles in
5 proportion to the net values of the vehicles at the owner's death.

6 (l) A proceeding to enforce a liability under (j) of this section shall begin not
7 later than 12 months after the owner's death. A proceeding to enforce a liability under
8 (j) of this section may not begin unless the personal representative of the owner's
9 estate has received a written demand by the surviving spouse, a creditor, a child of the
10 decedent, or a person acting for a child or the surviving spouse of the decedent.

11 (m) During the life of the owner, a transfer on death title does not

12 (1) affect an interest or right of the sole owner or a joint owner of the
13 vehicle, including the right to transfer or encumber the vehicle;

14 (2) affect an interest or right of the designated beneficiary, even if the
15 designated beneficiary has actual or constructive notice of the transfer on death title;

16 (3) affect an interest or right of a secured or unsecured creditor or
17 future creditor of the sole owner or a joint owner, even if the creditor has actual or
18 constructive notice of the transfer on death title;

19 (4) affect the eligibility of the sole owner, a joint owner, or a
20 designated beneficiary for any form of public assistance;

21 (5) create a legal or equitable interest in favor of the designated
22 beneficiary; or

23 (6) subject the vehicle to the claims or service of process of a creditor
24 of the designated beneficiary.

25 ~~(k)~~ Except as otherwise provided in this section or in AS 13.12.203,
26 13.12.803, or 13.12.804, on the death of the owner, the title to the vehicle is
27 transferred to the designated beneficiary, if the designated beneficiary survives the
28 owner by 120 hours.

29 ~~(o)~~ The department shall issue a new certificate of title for a vehicle to the
30 designated beneficiary after the death of the owner if the designated beneficiary
31 otherwise satisfies this section and submits

1 (1) proof of the death of the owner by providing a death certificate,
2 another official record of the death, or other evidence of the death that is satisfactory
3 to the department; and

4 (2) an application on a form established by the department and pays a
5 fee to the department for the certificate of title.

6 ~~(mp)~~ If a designated beneficiary obtains the title to a vehicle under ~~(to)~~ of this
7 section and if the designated beneficiary consists of more than one person, the persons
8 hold the title as joint tenants with the right of survivorship. Notwithstanding
9 AS 28.10.201(c), the department shall issue the new title in the conjunctive.

10 ~~(mq)~~ Except as provided in this section, a transfer on death title may not be
11 changed or revoked by will or another instrument, by a change in circumstances, or in
12 any other manner.

13 ~~(or)~~ The department may adopt regulations under AS 44.62 (Administrative
14 Procedure Act) to implement this section, including regulations establishing the forms
15 to be used under this section and the fees to be paid.

16 ~~(ps)~~ In this section,

17 (1) "designated beneficiary" means a person to whom a vehicle title is
18 transferred by a transfer on death title;

19 (2) "joint owner" means an individual who owns a vehicle with one or
20 more other individuals as joint tenants with a right of survivorship or as tenants by the
21 entirety;

22 (3) "owner" means

23 (A) the sole owner; or

24 (B) all joint owners;

25 (4) "person" includes a corporation, company, partnership, firm,
26 association, organization, trust, business trust, or society, as well as a natural person;

27 (5) "sole owner" means an individual who is the only person who owns
28 the vehicle;

29 (6) "transfer on death title" means a certificate of title obtained under
30 (a) of this section that transfers the title of a vehicle to a designated beneficiary when
31 the owner dies;

1 (7) "vehicle" means a vehicle for which the department is required or
2 allowed to issue a certificate of title under AS 28.10.201.

3 * **Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 TRANSITION: REGULATIONS. The Department of Administration may adopt
6 regulations necessary to implement AS 28.10.275, enacted by sec. 23 of this Act. The
7 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
8 effective date of sec. 23 of this Act.

9 * **Sec. 45.** Section 34 of this Act takes effect immediately under AS 01.10.070(c).

10 * **Sec. 56.** Sections 1 ~~and 2-3~~ of this Act take effect July 1, 2017.