

ALASKA LEGISLATURE

1536

HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996

Sec. 11.61.240

CRIMINAL POSSESSION OF EXPLOSIVES.

(a) A person commits the crime of criminal possession of explosives if the person possesses or manufactures an explosive substance or device and intends to use that substance or device to commit a crime.

(b) Criminal possession of explosives is a

- (1) class A felony if the crime intended is murder in any degree or kidnapping;
- (2) class B felony if the crime intended is a class A felony;
- (3) class C felony if the crime intended is a class B felony;
- (4) class A misdemeanor if the crime intended is a class C felony;
- (5) class B misdemeanor if the crime intended is a class A or class B misdemeanor.

Sec. 11.71.050

MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE FIFTH DEGREE.

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the fifth degree if the person

(1) manufactures or delivers, or possesses with the intent to manufacture or deliver, one or more preparations, compounds, mixtures, or substances of an aggregate weight of one-half ounce or more containing a schedule VIA controlled substance;

(2) manufactures or delivers, or possesses with the intent to manufacture or deliver, one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than one-half ounce containing a schedule VIA controlled substance, for remuneration;

(3) possesses

(A) less than 25 tablets, ampules, or syrettes containing a schedule IIIA or IVA controlled substance;

(B) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than three grams containing a schedule IIIA or IVA controlled substance;

(C) less than 50 tablets, ampules, or syrettes containing a schedule VA controlled substance;

(D) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than six grams containing a schedule VA controlled substance; or

(E) one or more preparations, compounds, mixtures, or substances of an aggregate weight of one-half pound or more containing a schedule VIA controlled substance; or

(4) fails to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under AS 17.30.

(b) Misconduct involving a controlled substance in the fifth degree is a class A misdemeanor.

Sec. 11.71.060

MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE SIXTH DEGREE.

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the sixth degree if the person

(1) uses or displays any amount of a schedule VIA controlled substance or possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than one-half pound containing a schedule VIA controlled substance; or

(2) refuses entry into a premise for an inspection authorized under AS 17.30.

(b) Misconduct involving a controlled substance in the sixth degree is a class B misdemeanor.

MEMORANDUM

State of Alaska

Department of Law


TO Ronald L. Otte
Commissioner
Department of Public Safety

DATE July 12, 1995

FILE NO 663-95-0323

TEL NO 465-3428

SUBJECT Enforcement of criminal trespass
statutes in connection with concealed
handguns

FROM  Dean J. Guaneff and Margot O. Knuth
Assistant Attorneys General
Criminal Division, Central Office

By memorandum dated December 21, 1994, you have requested advice as to whether a private business may bar from its premises someone who is carrying a concealed handgun and, if so, whether a person who nonetheless enters the business with a concealed handgun is guilty of a criminal offense. You have also requested advice as to whether a criminal offense is committed when a person carries a concealed handgun into a retail store that contains a branch office of a bank, in view of the new statute that prohibits concealed handguns from being carried into "financial institutions."

The Department of Law cannot provide legal advice to private parties, and consequently private businesses with questions about concealed firearms should contact their own legal advisors regarding their rights and liabilities for protecting patrons of their business and issues regarding employees of their business, civil actions for trespass¹ and general landlord and tenant matters.² Your question, however, is what action, if any, troopers should take when they receive a complaint about a person carrying a concealed handgun on private business premises. The following is our advice.

¹ This memorandum addresses criminal trespass laws only and we express no opinion on the ability of private persons to maintain a civil suit for trespass. See *Brown Jug, Inc. v. International Brotherhood of Teamsters*, 688 P.2d 932, 937-38 (Alaska 1984) (in civil action, intentional entry onto land of another constitutes intentional trespass even if trespasser believes that he or she has the right to be on the land).

² This department has previously opined, in response to questions from the legislature, that a landlord has a right to prohibit firearms on leased property. 1983 Inf. Op. Att'y Gen. (Jul. 1; 366-444-83).

I. Summary

The short answer to your first question is that it may, depending on the circumstances, be illegal under the state criminal trespass statutes for a person to carry concealed handguns on private business premises, even though the person has a permit for the weapon. The short answer to your second question is that clear demarcation of bank premises and notice to patrons are important considerations in enforcing the concealed handgun law on bank premises within larger stores. Issues regarding automatic teller machines and other premises of financial institutions will be discussed below. Before reaching these issues, however, we will first discuss the impact of the newly-enacted concealed handgun statutes on state criminal trespass laws.

II. Discussion

A. The Concealed Handgun Statutes Do Not Prevent Private Property Owners From Relying On Criminal Trespass Laws To Control Access To Their Premises

Under AS 11.61.220, it is a crime for a person to carry a concealed handgun unless the person is a peace officer, is on the person's own property, is engaged in a lawful outdoor activity requiring a weapon for protection, or has obtained a permit under the new statutes set out in AS 18.65.700 — 18.65.790. Even if a person has obtained a permit to carry a concealed handgun, there are several types of places where these guns cannot be carried. AS 18.65.755(c) makes it a class B misdemeanor for a person with a permit to possess a concealed handgun in one of these legislatively designated areas.³

The first question that you have asked is whether there are any other premises that can be designated as off-limits for concealed handguns, even though they do not appear on the list of prohibited premises in AS 18.65.755. We believe that there are.

Alaska has a criminal trespass statute, AS 11.46.330, which makes it a crime to enter or remain on premises when a person is not privileged to do so or has been directed to leave. It provides as follows: "A person commits the crime of criminal trespass in the second degree if the person enters or remains unlawfully (1) in or upon premises; or (2) in a propelled vehicle." AS 11.46.330. AS 11.46.350 defines "enter or remain unlawfully" as meaning to "(1) enter or remain in or upon premises . . . when the premises . . . at the time of the entry or

³ These places include, among others: law enforcement or correctional facilities, school grounds, courthouses, certain governmental buildings, portions of airline terminals, and residences where an appropriate notice has been given by oral statement or by a conspicuous notice. AS 18.65.755.

remaining is not open to the public and when the defendant is not otherwise privileged to do so; (or) (2) fail to leave premises . . . that is open to the public after being lawfully directed to do so personally by the person in charge."

These statutes give property owners the right to exclude a person from their property for any reason. That reason can include carrying a concealed handgun, even with a permit, unless the concealed handgun permit laws are interpreted as somehow superseding this aspect of the criminal trespass laws. It is therefore necessary to consider whether the legislature's enactment of AS 18.65.755 impliedly repealed the criminal trespass statute (and any municipal ordinance prohibiting criminal trespass) as applied to the carrying of concealed handguns. As explained below, we do not believe that AS 18.65.755 prevents property owners from choosing to exclude persons carrying concealed handguns, even if the person has a permit, and, accordingly, those who enter or remain on property with a concealed handgun despite the owner's request that they leave can be prosecuted for criminal trespass. ■

To determine whether a prior statute has been impliedly repealed, Alaska's courts look to the intent of the legislature in passing the new statute to determine if there is an irreconcilable conflict between the two. *Peter v. State*, 531 P.2d 1263, 1268 (Alaska 1975). Although the supreme court will not automatically apply the common law presumption against implied repeals, the court has quoted from a well-respected commentator who notes that "[t]he presumption has . . . special application to important public statutes of long standing." *Id.* (quoting 1A J. Sutherland, *Statutes and Statutory Construction* § 23.10 (4th ed. Sands 1972)).

Criminal trespass laws are important public statutes that protect private property rights by allowing owners to choose who may enter or remain on their premises. Although there are limits on the extent to which private property owners can control free speech on portions of their premises that have become the functional equivalent of public property (*see, e.g., Pruneyard Shopping Center v. Robins*, 447 U.S. 74, 100 S. Ct. 2035, 64 L. Ed. 2d 741 (1980)), there are no similar limitations in Alaska law on the ability of businesses to prohibit firearms or smoking on the premises, or to require a dress code or otherwise require that patrons behave in a way that is believed by the business owner to be appropriate for operation of the establishment or for preserving the safety and comfort of other patrons.⁴

⁴ We note that the Alaska Constitution was recently amended to create an "individual" right to bear arms that is not to be infringed by state or local government. Art. I, § 19, Alaska Const. We conclude that this amendment does not prevent private persons from setting rules of conduct for their own property. For example, the Alaska Supreme Court has declared that ingesting substances (such as smoking tobacco) is constitutionally protected, *Gray v. State*, 525 P.2d 524 (Alaska 1974), as is choosing how to appear and what to wear, *Breese v. Smith*, 501 P.2d 159 (Alaska 1972). Nonetheless, private
(continued...)

Also, criminal trespass laws have been part of Alaska society for many years. The present Model Penal Code formulation of the criminal trespass statute has been part of Alaska law since 1980, and earlier criminal trespass statutes were part of the Alaska criminal code since well before statehood.⁵

Given the importance and long history of these laws, it is probable that the Alaska courts would impose a presumption against the implied repeal of the criminal trespass statutes. Even if no presumption is applied, however, it is unlikely that a court would find that the concealed handgun statutes impliedly repealed the criminal trespass statutes to the extent of prohibiting businesses from excluding concealed handguns on their premises.

There is nothing on the face of the concealed handgun statutes in general, or in AS 18.65.755 in particular, that is inherently inconsistent with the criminal trespass statute set out in AS 11.46.330. The concealed handgun statutes create a detailed statutory scheme for obtaining permits to carry concealed handguns. They also create a large number of *new* offenses for carrying concealed handguns in certain designated areas or for misusing the permit. See AS 18.65.760; AS 18.65.765. The criminal trespass statute, on the other hand, gives private property owners the right to ensure that their property is used in the manner they choose. These purposes are not in conflict.⁶ We accordingly conclude that AS 11.46.330, as applied to persons

⁴(...continued)

businesses indisputedly may ban smoking and impose dress codes. This is because the constitutional rights in Article I of the Alaska Constitution (like the Bill of Rights in the United States Constitution) are limitations on the power of government, rather than on the actions of private persons. *Luedike v. Nabors Alaska Drilling, Inc.*, 768 P.2d 1123, 1129-30 (Alaska 1989).

⁵ See former AS 11.20.610, AS 11.20.630 and AS 11.20.650. The Revised Criminal Code replaced these earlier, more specific laws with broader provisions so as to eliminate a "needless proliferation of statutes." *Alaska Criminal Code Revision, Tentative Draft, Part 3, Offenses Against Property* (April 1977) at 59.

⁶ The legislative history of AS 18.65.755 discloses that an unsuccessful attempt was made in the House of Representatives to expand the list of prohibited premises to include retail establishments and other places that post signs prohibiting entrants from carrying concealed handguns. See Amendments 2 and 3 offered to CSHB 351(FIN) on April 15, 1994. House Journal at 3471-73 (1994). It is rarely appropriate to infer legislative intent from the defeat of a proposed amendment. Its defeat may mean only that legislators wanted to ensure that some areas would be off-limits to concealed handguns, regardless of whether a person carrying a concealed handgun noticed that a sign had been posted, while in other areas it is to be left to the discretion of the property owner whether to allow patrons to carry concealed handguns.

carrying concealed handguns, should not be interpreted as having been impliedly repealed by AS 18.65.755.⁷

B. Alaska's Criminal Trespass Laws

AS 11.46.330 makes it the crime of criminal trespass in the second degree, a class B misdemeanor, to "enter or remain unlawfully" in or upon land, buildings or propelled vehicles. Under AS 11.46.350, the phrase "enter or remain unlawfully" is defined to include

(1) for premises *not open to the public*, entering or remaining "when the defendant is not otherwise privileged to do so"; and

(2) for places *open to the public*, "fail[ing] to leave . . . after being lawfully directed to do so personally by the person in charge." ■

These two provisions differ slightly with regard to the type of notice that must be given to a person before that person may be deemed to have entered or remained unlawfully. We will first discuss places "not open to the public," and then places "open to the public."

1. Places Not Open to the Public

The primary elements of the crime of criminal trespass in the second degree, as applied to persons who carry concealed weapons into places that are *not* open to the public, are: (1) that the person knowingly entered or remained in the place with a concealed handgun, (2) that the person was not privileged to enter or remain in the place with a concealed handgun, and (3) that the person entered or remained with reckless disregard as to whether or not he or she was privileged to do so.

Whether a place is "not open to the public," for purposes of the criminal trespass statute, is a question ultimately to be decided by the factfinder in each specific criminal case and we accordingly will not attempt to try to list all the places that are "not open to the public." The term, however, almost certainly includes (1) private offices, (2) offices that require an

⁷ Our conclusion is bolstered by the analogy that can be made to the state's public drunkenness statutes. In *Peter v. State*, the Alaska Supreme Court held that the Uniform Alcoholism and Intoxication Treatment Act in AS 47.37 impliedly repealed Alaska's drunk-in-public law. The court found that the legislature's *expressed* intent in adopting the Uniform Act was to stop criminally punishing drunks and to rehabilitate them instead. 531 P.2d at 1271. This holding, however, has no impact on the ability of business owners to invoke the criminal trespass laws against drunks who are asked to leave the premises and refuse to do so.

appointment (such as doctor or dentist offices), (3) places reserved for residents or authorized guests of residents (such as nursing homes),⁸ (4) places for employees or authorized personnel only, (5) places that are limited to only members or authorized guests of members (such as members-only stores or clubs), and (6) premises that are normally open to the public, but closed for special occasions (for example, restaurants closed for a "private party"). *Johnson v. State*, 739 P.2d 781, 783 n.1 (Alaska App. 1987).

The simplest element of the offense of criminal trespass is whether the person knowingly entered or remained on the premises. Unless a person has entered a place by mistake, or for some reason is unaware of his or her location, this element can easily be proven.⁹

Assuming that a person has a permit to carry a concealed handgun, whether that person is privileged to carry the gun onto premises that are not open to the public depends on the policies of the office, theater, sporting event, or other premise operator. The prohibition against bringing guns onto the premises must be an official policy of the organization or be imposed by someone managing the premises.¹⁰

Whether or not a person entered or remained in reckless disregard of a lack of privilege depends on the type of notice provided. Although the statutory definition of "reckless" in AS 11.81.900(a) requires only awareness and disregard of a *risk* that the circumstance (in this case, a lack of privilege) exists, most juries will likely want proof that the person actually *knew* he or she was prohibited from carrying a concealed handgun on the premises.

The strongest evidence that a person knew he or she was not allowed to enter or remain on the premises with a concealed handgun is if the property manager or an agent of the manager provides this information to the person in a face-to-face conversation or by telephone.

⁸ *But see Steele v. Breinholt*, 747 P.2d 433 (Utah App. 1987), in which the issue of whether a nursing home was open to a particular visitor was deemed to be question of fact for the jury.

⁹ In most instances, a person both enters and remains either with or without the permission of the property owner. In some cases, however, a person may initially enter with the permission of the owner but thereafter lose that permission.

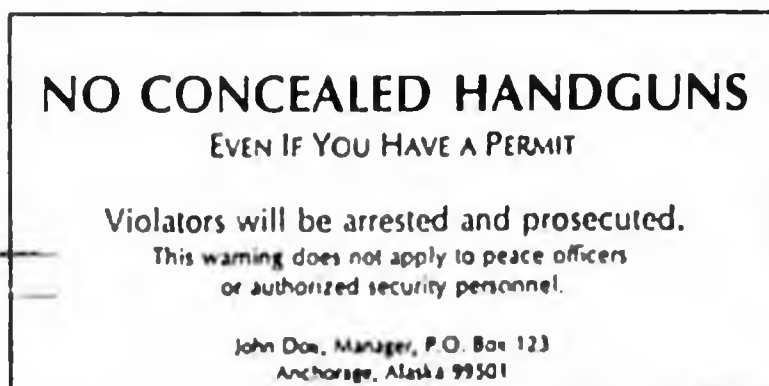
¹⁰ There is nothing, however, that precludes an organization from applying different rules at different times. For example, an arena or convention center may choose to allow guests to carry firearms, including concealed handguns, at a gun collectors show, but prohibit concealed weapons at a rock concert. It is also permissible for an organization to allow peace officers or other authorized persons (such as security guards) to carry concealed handguns, but prohibit other persons from carrying them.

Proof of a written communication of this information would also establish the fact. For example, in *Johnson v. State*, 739 P.2d 781 (Alaska App. 1987), the court upheld a criminal trespass conviction against a skier on the basis of a letter that the Alyeska Ski Resort had written to him, barring him from the resort for the remainder of the season because of the danger posed by his reckless conduct.

Alternatively, a business may communicate the information by placing a placard at each of its entrances. The Alaska Statutes specify the size and contents of a notice against trespass in AS 11.46.350(c).¹¹ The notice must be "printed legibly in English," be "at least 144 square inches in size," contain "the name and address of the person under whose authority the property is posted and the name and address of the person who is authorized to grant permission to enter the property," and be "placed at each . . . way of access onto the property." AS 11.46.350(c)(1) -- (4).¹²

There may, however, be circumstances under which a posted notice described in AS 11.46.350(c) may not be visible enough and therefore it will be difficult to prove that the entrant had actual knowledge. For example, persons seeking admission to a crowded auditorium may not be able to see a sign of the statutory minimum 144 square inches (12 inches by 12 inches). Or a person who enters an office or a "members-only" store for the first time may not notice a small sign. In these situations, one option would be for the business to increase the size of the sign.

In terms of the content of the notice, the following is an example of language that might be used:



¹¹ AS 11.46.350 was enacted with other statutes in ch. 168, SLA 1988, dealing with trespasses to unoccupied land. Its terms, however, are not explicitly limited to unoccupied land.

¹² See also AS 18.65.755, setting out similar requirements for the posting of notice by homeowners that permittees are prohibited from bringing concealed handguns into their homes.

Organizations that wish to preclude firearms generally should use the phrase "no firearms" instead of "no concealed handguns."

There are a myriad of alternative means that may be used by businesses to provide the necessary notice. For example, a business may decide to give out handbills to persons entering the establishment. A similar notice could be given at the time a ticket is purchased or an application for membership is obtained. Alternatively, in theaters, sporting events, or members-only stores, it would seem to be a simple matter to print a written warning (similar to the sample sign set out above) directly on the admission ticket or membership card.

It would be difficult to list all the ways in which the necessary notice can be given, and it is impossible to predict all of the defenses that might be raised by persons claiming they were unaware that they did not have a privilege to possess firearms on the premises. State troopers investigating cases of trespass will have to determine whether, based on all the circumstances, there is evidence establishing that the person was aware of the prohibition.

2. Places Open to the Public

The primary elements of the crime of criminal trespass in the second degree, as applied to persons who carry concealed weapons into places that *are* open to the public, are: (1) that the person knowingly entered or remained in a place with a concealed handgun, (2) that the person was directed to leave personally by the person in charge or someone authorized by the person in charge, and (3) that the person recklessly disregarded the lawful order not to remain. *Johnson v. State*, 739 P.2d at 783-84.

Again, the element of whether the person knowingly entered or remained in the place is easily proven.

The second element, that the person was "directed to leave personally," is more difficult. A prosecution cannot easily be based on notice provided solely by a sign posted at an entryway. Notice, however, will be sufficient if the business owner, or the person in charge, acts through an agent to provide actual notice. *Cleveland v. Municipality of Anchorage*, 631 P.2d 1073, 1077 (Alaska 1981). As before, a face-to-face or telephone conversation is the clearest example of personal notice. It is likely that most cases of criminal trespass that require trooper involvement will occur *after* a person has been told not to bring a firearm into an establishment. This advisement should be deemed to remain in effect until rescinded.

As in *Johnson*, a letter directed to the person will also suffice under this subsection of the criminal trespass statute. Similarly, a handbill given to an entrant will also be

sufficient. The adequacy of other types of personal directions (for example, an announcement made over a loudspeaker) will depend on the circumstances.

If there is sufficient evidence that the person was personally directed to leave, then there should be no problem proving the final element, that the person recklessly disregarded that direction. The lawfulness of an order to leave — like other legal issues — would seem to be a question for a judge, rather than a question of fact for the jury to decide.¹³

C. The Defense of "Necessity" Is Not Available

Persons who carry concealed handguns often claim they are doing so for purposes of self-defense. It is foreseeable that a person charged with criminal trespass may try to raise the defense of "necessity." Thus, for example, a defendant charged with criminal trespass for refusing to leave premises when asked to do so by an owner who objects to the presence of concealed weapons may argue that his "need" to carry a concealed handgun outweighs the owner's interest in barring the presence of such weapons on the premises.

The defense of "necessity" is governed in Alaska by the common law and by AS 11.81.320. In accordance with these authorities, it is only rarely, if ever, that the defense of necessity will justify a person's possession of a concealed handgun on premises where such possession is prohibited by the owner.¹⁴ See *Cleveland v. Municipality of Anchorage*, 631 P.2d 1073 (Alaska 1981) (defense of necessity to "preserve life" rejected in trespass case arising from

¹³ But see *Johnson v. State*, 739 P.2d 781 (Alaska App. 1987), in which the court indicated that the lawfulness of the order was a "circumstance" in the case that the jury could review. It is not clear what the *Johnson* court meant by this. The court observed that, under the facts in that case, the defendant could claim he was not reckless because he reasonably questioned the "validity" of a warning letter. We believe that the technical lawfulness of an order is a question for a judge to decide. *Johnson*, however, suggests that the reasonableness of the defendant's belief with respect to that order is a question for the jury. In the rare case in which there may be a question about the legality of an order to leave (e.g., a property owner changes the terms of a lease in the middle of the tenancy), a judge would be the more appropriate one to decide the issue than a jury.

¹⁴ It is at least theoretically possible for a "necessity" defense to arise if, for example, a person with a concealed weapon were chased by attackers into a prohibited area. In the unlikely event that the person were prosecuted for trespass for entering the prohibited area, a defense of "necessity" or perhaps duress would be applicable. Note, however, that prisoners who escape can raise a defense of "necessity" if they were in danger in prison, but they must then turn themselves in and inform authorities immediately, or else justify their continuing absence. *Wells v. State*, 687 P.2d 346 (Alaska App. 1984). Like escape, criminal trespass is a continuing offense that would have to be justified.

defendant's refusal to leave an abortion clinic); *Bird v. Municipality of Anchorage*, 787 P.2d 119 (Alaska App. 1990) (abortion clinic trespass case). Nonetheless, we recommend that the investigating officer provide a suspect with the opportunity to explain why the suspect thought it was necessary to carry a concealed handgun onto the premises in contravention of the owner's explicit directions.

D. "Financial Institutions" under AS 18.65.755

Under AS 18.65.755(a)(11), a person with a permit to carry a concealed handgun is prohibited from carrying the gun "into . . . a financial institution." The statute defines "financial institution" as a "bank, savings bank, savings association, credit union, or other institution regulated by the Department of Commerce and Economic Development under AS 06."

You have asked whether a branch office of a financial institution fits within the prohibition of AS 18.65.755(a)(11) when the branch office is located within a larger retail store that is not a "financial institution." We conclude that a branch office of a bank is a financial institution under AS 18.65.755. This, however, does not mean that the entire retail store enclosing the branch office automatically becomes a financial institution for purposes of the prohibition set out in the concealed handgun law.

If the bank branch office is physically separated from the remainder of the store by walls or other barriers, then the statutory prohibition against carrying concealed handguns into a financial institution applies to that separate area, but not to the surrounding store. If the branch office is not physically separated from the remainder of the store, we believe that the prohibition set out in AS 18.65.755 applies only to those areas where a patron of the bank deals face-to-face with a bank employee, or in those waiting areas where patrons of the bank congregate or line up to wait to see a bank employee. In either situation, it is advisable for notice (through use of a sign or one of the other means discussed above) to be provided to the customers of the bank that concealed handguns or firearms are not allowed in that area.

A related question is whether drive-up teller windows, outdoor automatic teller machines, and bank parking lots are included within the term "financial institution" for purposes of AS 18.65.755. We believe that drive-up teller windows and automatic teller machines fall within the ambit of that term, while bank parking lots do not.

This, however, does not end the inquiry. For purposes of AS 18.65.755(a)(11), the key question about drive-up teller windows and outdoor automatic teller machines is whether the person using that service has come "into" a financial institution. We conclude that a person who uses a drive-up teller window has not entered "into" a financial institution. Similarly, a person who uses an outdoor automatic teller machine, even one that is connected to a bank, has

not entered "into" the bank itself. On the other hand, if the automatic teller machine is located inside bank premises, or in a foyer or other entry to the bank, a person who uses such a machines has entered "into" the institution.

If a financial institution reports that a person is carrying a firearm in a parking lot or when using a drive-up window or outdoor automatic teller machine, then the state troopers may take action if the elements of the offense of criminal trespass have been met, as discussed in earlier sections of this memorandum (*e.g.*, notice has been provided to the patron, etc).

III. Conclusion

For the reasons set out in this memorandum, we conclude that the state's criminal trespass laws can be used to arrest and prosecute a person who possesses a concealed handgun on private business premises, even if the person has obtained a permit for the concealed weapon if the owner or management of the business has provided notice that concealed handguns (or all firearms) are prohibited on the premises.

We also conclude that a branch office of a bank that is located in a retail store is a financial institution under AS 18.65.755. If the branch office in the retail store has been physically separated from the rest of the store, through the use of walls or other types of dividers, then AS 18.65.755 prohibits a person from carrying a concealed weapon into the area. It is not a violation of AS 18.65.755, however, to carry concealed handguns to drive-up teller windows, outdoor automatic teller machines, or bank parking lots, although this conduct might constitute criminal trespass if all of the elements of that offense can be proven.

Please contact this office if you have further questions.

DJG/MOK/jf

SENATE FINANCE COMMITTEE

SB 177 CONCEALED HANDGUN PERMIT AMENDMENTS

PLEASE SIGN-IN BELOW

NAME: David Schwantes

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Address: 8148 E 4TH Ave., Anchorage zip: 99504

Do you wish to testify? Yes No Respond to Questions

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Co./Dept/Title: AK Dept of Public Safety Phone: 465-4306

Address: 450 Whiting Street, Juneau Zip: 99801

Do you wish to testify? Yes No Respond to Questions

NAME: JANNE ANDREU

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Do you wish to testify? Yes No Respond to Questions

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Do you wish to testify? Yes No Respond to Questions

NAME: RON FUHRER
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Address: 4166 LARON LANE ANCH AK Zip: 99504
Do you wish to testify? Yes No Respond to Questions

NAME: _____
Co./Dept/Title _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond to Questions

NAME: _____
Co./Dept/Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond to Questions

NAME: _____
Co./Dept/Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond to Questions

SENATE FINANCE COMMITTEE

SB 177 CONCEALED HANDGUN PERMIT AMENDMENTS

PLEASE SIGN-IN BELOW

NAME: David Schwantes

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Do you wish to testify? Yes No Respond to Questions

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Do you wish to testify? Yes No Respond to Questions

NAME: ED VISCARDI

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Do you wish to testify? Yes No Respond to Questions

SENATE FINANCE
COMMITTEE

Amendment Number: 1
Bill Number: SB 177
Sponsor: _____ Date: 3/22/96
Logged In By: JR

9-LS1139Z.3
Luckhaupt
3/19/96

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSSB 177(JUD)

1 Page 1, lines 3 - 13:

2 Delete all material.

3 Page 1, line 14:

4 Delete "* Sec. 2."

5 Insert "* Section 1."

6 Renumber the following bill sections accordingly.

7 Page 6, lines 10 - 17:

8 Delete

9 "(2) or possess a concealed handgun within a building, on the
10 grounds or on the parking lot of a public or private preschool, elementary, junior
11 high, or secondary school except while the permittee, without entering a school
12 building, without detour or delay while on school grounds, and without being on
13 a school bus, directly escorted to or from the school, or picked up or dropped off
14 at the school, a person or thing; [ON SCHOOL GROUNDS OR A SCHOOL BUS;
15 IN THIS PARAGRAPH, "SCHOOL GROUNDS" HAS THE MEANING GIVEN IN
16 AS 11.71.900];"

17 Insert

18 "(2) or on school grounds or a school bus; in this paragraph, "school
19 grounds" has the meaning given in AS 11.71.900;"

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 177(JUD)

SENATE FINANCE
COMMITTEE

Amendment Number: 2

Bill Number: SB 177

Sponsor: _____ Date: 3/22/96

Logged In By: JS

- 1 Page 5, line 25:
- 2 Delete "\$65"
- 3 Insert "\$99"

SENATE FINANCE
COMMITTEE

Amendment Number: 1
Bill Number: SB 177
Sponsor: _____ Date: 3/22/96
Logged In By: JS

9-LS1139Z.3
Luckhaupt
3/19/96

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 177(JUD)

1 Page 1, lines 3 - 13:

2 Delete all material.

3 Page 1, line 14:

4 Delete "* Sec. 2."

5 Insert "* Section 1."

6 Renumber the following bill sections accordingly.

7 Page 6, lines 10 - 17:

8 Delete

9 "(2) or possess a concealed handgun within a building, on the
10 grounds or on the parking lot of a public or private preschool, elementary, junior
11 high, or secondary school except while the permittee, without entering a school
12 building, without detour or delay while on school grounds, and without being on
13 a school bus, directly escorted to or from the school, or picked up or dropped off
14 at the school, a person or thing; (ON SCHOOL GROUNDS OR A SCHOOL BUS;
15 IN THIS PARAGRAPH, "SCHOOL GROUNDS" HAS THE MEANING GIVEN IN
16 AS 11.71.900);"

17 Insert

18 "(2) or on school grounds or a school bus; in this paragraph, "school
19 grounds" has the meaning given in AS 11.71.900;"

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 177(JUD)

- 1 Page 5, line 25:
- 2 Delete "\$65"
- 3 Insert "\$99"

SENATE FINANCE
COMMITTEE
Amendment Number: 2
Bill Number: SB 177
Sponsor: _____ Date: 3/22/96
Logged In By: JS

SENATE COMMITTEE REF RT
First Committee of Referral

DATE: 5/6/95

FURTHER: Judiciary
 FINANCE - 900000 1/24

Date of 5-Day Notice: 1/13/96
 (in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2/16/96

State Affairs Committee considered **SB 177**

Permits to carry concealed handguns.

01 PM

and recommends:

- be replaced with CS SB 177 (STA)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by Committee
- further referral to the Committee

Senate Bill:
 same title
 new title
 House Bill:
 same title
 technical title
 new: SCR

SIGNING/DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Drew A. Jensen</i>	<input checked="" type="checkbox"/>	<i>Vote on 200</i>			
<i>David Donley</i>	<input checked="" type="checkbox"/>				
<i>Chair [Signature]</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Law	1/13/96	0	(117.6)
DPS Troopers	1/13/96	0	(117.6)
DPS - Admin Serv	1/13/96	0	(117.6)
<input checked="" type="checkbox"/> Law	2/14/96	0	
<input checked="" type="checkbox"/> DPS - Troopers	7/1/96		(117.6)

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
DPS Troopers	1/13/96	0	(117.6)

*Work on 9/25/95
 1/13/96
 2/14/96
 7/1/96
 SB
 CS*

APPROPRIATION - no fiscal note

*include fiscal notes accompanying Governor's bill

Senate Finance Committee

To: Larry Stevens

From: ~~Rose Sturgis~~ Kathy (2618)

Date: 1-23-96

Subject: Bill Number: SB 177 Version: _____

Fiscal Note WITHOUT a Senate Finance Committee Referral

Title: Concealed Handguns

Referrals: STA, TUD

Sponsor(s): Sen. Green, et. al.

Department: DPS

BRC: Troopers + Support

Component: Detachments + Crim. Records

Comments: Notes evidence limitation
on prog. receipt authority.

Joint H+S (STA) teleconference
this date 3:30pm
Butovich Room.

SB

178

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 1/10/96

FURTHER:

Date of 5-Day Notice: 2-1-96
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2-9-96

The Finance Committee considered SB 178

Small employer health insurance.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill: same title
 new title
 House Bill: same title
 technical change
 new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Steve Kiser</i>	✓	<i>James W. Donley</i>	✓		
<i>Paul E. [unclear]</i>	✓	<i>Paul F. Zandt</i>	✓		
<i>Don [unclear]</i>	✓				
Co-Chair: <i>[unclear]</i>	✓	Co-Chair:			
Co-Chair: <i>Kirk Halford</i>		Co-Chair:	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>DELETED</i>	<i>1/4/96</i>	0	

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 1
 Bill Version: SB 178
 (S) Publish Date: 1/10/96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: _____ Department: Commerce and Economic Development
 Title: Small Employer Health Insurance BRU: Insurance
 Component: Operations
 Sponsor: Senator Rieger
 Requestor: Labor & Commerce Committee COMPONENT SERIAL NO. #354

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	00	00	00	00	00	00

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTA						
Other						
TOTAL	00	00	00	00	00	00

Estimate of any current year (FY 96) cost: \$ 00

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by: Joan Brown, Administrative Officer Phone: 465-2597
 Division: Insurance Date: 1/4/96
 Approved by Commissioner: William L. Hensley Date: _____
 Agency: Commerce and Economic Development

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 178

Revision Date: _____ Department: Commerce and Economic Development
 Title: Small Employer Health Insurance BRU: Insurance
 Component: Operations
 Sponsor: Senator Rieger
 Requestor: Labor & Commerce Committee COMPONENT SERIAL NO. #354

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	00	00	00	00	00	00

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	00	00	00	00	00	00

Estimate of any current year (FY 96) cost: \$ 00

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by: Joan Brown, Administrative Officer *JTB* Phone: 465-2597
 Division: Insurance Date: 1/4/96
 Approved by Commissioner: William L. Mansley *WLM* Date: _____
 Agency: Commerce and Economic Development

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Alaska State Senate

JAN 10 1996

SENATOR STEVE RIEGER
District I

During Session
State Capitol, Room 516
Juneau, Alaska 99801
(907) 465-3879

Senate Finance Committee
Chair, Senate Transportation Committee

Legislative Budget and Audit Committee
Administrative Regulation Review Committee
Legislative Council

716 West 4th Avenue, Suite 530
Anchorage, Alaska 99501
(907) 258-9188

MEMORANDUM

January 10, 1996

TO: Senator Rick Halford, Co-Chair
Senator Steve Frank, Co-Chair
Senate Finance Committee

FROM: Senator Steve Rieger *SR*
Senate District I

RE: Hearing request for SB 178 "An Act relating to small employer health insurance."

I respectfully request a hearing for SB 178 which was heard and passed out of Senate Labor and Commerce on January 9, 1996.

I have enclosed a sponsor statement and packet of information on SB 178 for Finance members. The bill has one zero fiscal note from the Department of Commerce and Economic Development. If you have any questions on this legislation, please contact me or Betty Hargrave on my staff.

Thank you.

Enclosures

Alaska State Senate

SENATOR STEVE RIEGER

District 1

Senate Finance Committee
Chair, Senate Transportation Committee

Legislative Budget and Audit Committee
Administrative Regulation Review Committee
Legislative Council

During Session
State Capitol, Room 510
Juneau, Alaska 99801
(907) 685-1579

716 West 4th Avenue, Suite 530
Anchorage, Alaska 99501
(907) 258-8188

Sponsor Statement

SB 178 "An Act relating to small employer health insurance."

In 1993, I sponsored legislation that created an association of insurers who transact health insurance in the state and required those insurers to join the association as a condition of doing business in Alaska. That legislation allowed a member of the association to reinsure health coverage of a small employer and required a small employer insurer to offer small employers at least two health benefit plans. This legislation passed the legislature and became Chapter 39 SLA 1993.

SB 178 amends the 1993 legislation by changing the definition of "small employer" to include those that employ 2 - 50 individuals. This is an increase from the earlier definition of 2 - 25 employees. This change is supported by the National Association of Life Underwriters, Association of Health Insurance Agents, the Southern Alaska Life Underwriters and the Health Insurance Association of America.

A L A S K A



National Federation of Independent Business

Statement of Support

of SB 178

Expanding the small employer health insurance program to include companies with 26 to 50 employees.

February 5, 1996

The Alaska Chapter of the National Federation of Independent Business has 4,500 members, making it the largest small-business advocacy group in the state

In 1993 NFIB/Alaska lobbied strongly in favor of legislation to create the small business health insurance program for businesses with 2 to 25 employees. The majority of our membership supports expanding this program for companies of up to 50 employees

Prior to the creation of this program there was limited health insurance available for small employers. In some cases it was impossible to get insurance if even one employee was considered a high risk. Now the insurance companies cannot reject any group or individual. If necessary, individual employees with health problems can be covered through a high risk pool called a reinsurance association. The state required insurers to form the reinsurance association in order to offer high risk insurance and to allow the risk to be spread among all insurers in the market

NFIB/Alaska supports expanding this important program to companies with up to 50 employees.

NFIB/Alaska urges support for SB 178

Submitted by Thyres Shaub on behalf of NFIB/Alaska

**BALDWIN FINANCIAL CONCEPTS**

2525 Blucherly Rd., Suite 107 • Anchorage, Alaska 99503 • (907) 276-4849

January 4, 1996

Senator Steve Rieger
Senate Finance Committee
716 West 4th Avenue, Suite 530
Anchorage, AK 99501

Dear Senator Rieger:

I would like you to support SB178 "An act relating to small employer health insurance" which would expand the definition of a small employer to 50 eligible employees. As a health insurance broker I have found that some groups over 25 with medical problems may be declined for coverage. These employers may not be able to secure coverage for their entire group. Underwriting is normally not a problem for groups of over 50 employees due to the capacity to spread adverse risk.

In addition, many organizations I belong to also support expansion of the definition to 50 employees as well. These organizations include the National Association of Life Underwriters, Association of Health Insurance Agents, and the Southern Alaska Life Underwriters.

It is my understanding that a majority of States have adopted legislation to define a small group as over 25 employees.

Thank you for your consideration on this important matter.

Sincerely,

Eric J. "Rick" Johnson
Employee Benefits Specialist

LICENSED LIFE and HEALTH AGENTS
OFFERING INSURANCE and OTHER FINANCIAL PRODUCTS

Lincoln Financial Group, Inc.
Suite B
8300 Briarwood
Anchorage, AK 99518-3331

Tel (907) 522-1194
Tel. (800) 478-1194
Fax (907) 522-3415
Res. (907) 345-5746

David L. Stratton, C.I.U. ChFC
Managing General Agent



LINCOLN FINANCIAL GROUP

01-04-96

Senator Steve Rieger
Juneau, Ak

Fax 1-907-465-2069

Re: SB-178

Dear Senator Rieger,

I and my company are in support of changing the definition of small employer to include those groups of 2-50 lives. We have come across a number of cases that this would have helped on in the last year. We feel that anything that can be done to broaden the number of covered groups in Alaska will be beneficial to the overall health of the state.

Please feel free to contact my office with any questions you or your staff may have.

Sincerely,

David L. Stratton

Registered representative of, and securities offered through, Lincoln National Life Insurance Co
(member NASD), and LNC Equity Sales Corp. (member NASD, SIPC)

Branch office, 1100 South Clifton, P.O. Box 1110, Fort Wayne, IN 46801-1110 Tel. (317) 433-2000

Lincoln Financial Group, Inc. is an affiliate of Lincoln National Life Insurance Co.



Southern Alaska Life Underwriters Association • P.O. Box 10-3956 • Anchorage, Alaska 99512-3956

Senator Steve Rieger
Senate Finance Committee
716 W. 4th Ave. #530
Anchorage, AK 99501

January 4, 1996

Dear Senator Rieger:

I am writing in support of Senate Bill 178 which proposes to include groups of 25-50 employees in small group reform. I am strongly in favor of this modification in the definition of small group because it would increase the availability of health coverage both to small employers and the consumer.

Southern Alaska Life Underwriters, the trade association of professional insurance agents of which I'm president, also endorses this modification. The support of this reform is also favored by the National Association of Life Underwriters and the Association of Health Insurance Agents, groups of which I am a member.

I urge you to vote in favor of S.B. 178 when it appears on the Senate Floor.

Thank you,

A handwritten signature in cursive script that reads "Beverly S. Lukchart".

Beverly S. Lukchart, CLU, ChFC
President, Southern Alaska Life Underwriters

**HAGEN INSURANCE**

810 East 36th Avenue
P.O. Box 240326
Anchorage, Alaska 99524-0326
907-561-8040 Fax 907-561-8041

January 5, 1996

Hon. Steve Rieger
State Capitol Building
Juneau, AK 99801

RE: SB178

Dear Senator Rieger:

I am writing in my role as Chair of the Health Insurance Committee of the Southern Alaska Life Underwriters.

Our organization was instrumental in gaining support for the original small group reform bill. We feel that the original legislation is working and that its benefits should be expanded to groups of up to fifty employees.

These groups face many of the premium and underwriting pressures previously faced by smaller groups. Senate Bill 178 will bring them the same aid.

Sincerely,

Robert F. Hagen

DAVID FRAZIER & ASSOCIATES INC.

1600 A Street, Suite Number 300

Anchorage, Alaska 99501

Phone (907) 258-1169

Fax (907) 258-3638

MEMORANDUM

DATE: January 8, 1996
TO: Honorable Steve Reiger
FROM: David Frazier
RE: Senate Bill 178

I'm an independent insurance broker that specializes in group coverage. My clients and I are interested in seeing that the subject statute change takes place. Although this seems to be an insignificant issue, there are many small employers out there that have group insurance problems that would be resolved by passage of this bill. This will make it a lot easier for employers that have between 26 and 50 employees to obtain group health insurance that is affordably priced for their people and family members.

CCL & C Members

Sb178

Pension Services Ltd.

1205 EAST INTERNATIONAL AIRPORT ROAD, SUITE 205, ANCHORAGE, ALASKA 99518
PHONE: 907-562-3938 • FAX: 907-562-1368

MEMO

To: Senator Steve Rieger
From: Al Tamagni, Sr.
Date: January 9, 1996
Subject: Senate Bill 178

I am writing in regards to Senate Bill 178, an Act related to small employers' health insurance.

I strongly support the Bill as drafted. It would provide services to small employers in the Alaska market.

Thank you
al

Post-it® brand fax transmittal memo 707		# of pages
To	Senator Steve Rieger	From
From	Al Tamagni, Sr.	To
Phone	907-562-3938	Phone
Fax	907-562-1368	Fax

HIAA

Health Insurance Association of America

SMALL GROUP ENACTMENTS

STATE
COMPARATIVE
CHART

MAY 1995

State Affairs/Legal

Chris Petersen,
Vice President of State Affairs/Legal
Gregory Barranco, Legislative Analyst
202/223-7780

HIAA

Health Insurance Association of America

SMALL EMPLOYER ENACTMENTS

	ALASKA	ARIZONA
Availability	Guaranteed issue. Director may promulgate regulations to require insurers after July 1, 1993 to reissue plans that small employers had terminated after January 1, 1993. §21.56.190 (1993 SB 173)	Guaranteed offer of basic plan (beginning 7/1/96 group size is 25-40, beginning 7/1/96 group size is 3-40 lives) §20-2304-A
Group Size	2-25 §21.56.250(23)	3-40 §20-2301(10)
Individual Policies	Individual policies sold to small employers meeting certain requirements are subject to this Act. §21.56.110	Does not apply to any policy that is issued on an individual basis. §20-2302(B) May request health screening and underwriting information to be used to set rates, but not to deny coverage. §20-2306-0
Case Characteristics	Age, sex, industry, geographic area, family composition and group size. Others need director approval. May not use claim experience, health status, and duration of coverage. §21.56.120	Does not include claims experience, health status, industry or duration of coverage. §20-2301(2)
Rating Restrictions	Premium rates for small employer plans with similar case characteristics for similar coverage may not vary from the index rate by more than 35%. §21.56.120	Premium rates may not vary by more than 60% from the index rate for plans with similar coverage, family size and composition and geographic area. Plans making adjustments for demographic characteristics shall apply them consistently across all employers. Prohibits using geographic areas smaller than a county or an area that includes all areas in which the first three digits of the zip code are identical, whichever is smaller. §20-2311
Transitional Period	3 years §21.56.120 amended by §10	
Renewal Rating	Trend plus 15% plus changes in case characteristics. §21.56.120	Trend plus 15% plus any adjustment in case characteristics. §20-2311(C)
Renewability	Guaranteed renewable except "for cause." §21.56.130	Guaranteed renewable except "for cause" §20-2309
Whole Groups	Must cover whole group. §21.56.150(6)	Carriers are required to take the whole group, no regard given to health status or insurability. §20-2307, 2308
Continuity of Coverage	Preexisting condition limitation of 12 months relating to conditions 6 months before coverage. Waiting periods must be waived for the period of time an individual was previously covered if that coverage was continuous 90 days before effective date of new coverage. The period of continuous coverage may not include a waiting period for the effective date of coverage applied. §21.56.150(2)	Preexisting condition limitation of 12 months; credit of one month for each month of continuous coverage for 60 days under another plan prior to new coverage. §20-2310 Plans that provide open enrollment periods of at least 30 days may require up to one year waiting period for late enrollees. §20-2307.
Reinsurance Type	Prospective, membership condition of doing health insurance business. §21.56.010	Prospective/with opt out §20-2345
Reinsurance Price	Whole Groups: 100% Individuals: 50% §21.56.010	Whole groups: 100% Individuals: 50% §20-2350
Cost Sharing	Association may not reimburse a reimbursing insurer until insurer has paid an initial level of \$500 per year. §21.56.010	\$500 plus 10% of the next \$50,000 and a cap of \$10,000 per year. §20-2349
Assessments	Board shall determine. Insureds may not have an assessment share less than 50% or more than 100% of the proportion of total premium earned the preceding year from small group plans. Assessments above 5% of total premium will be evaluated §21.56.010	Board shall determine. §20-2351
Other	Repealer on 7/1/96 §12 Prohibits cost shifting of the program to other insureds in the state. §21.56.040	All insurers must be licensed as "guaranteed issue health plans" by 7/1/96. Delivery of all health benefits through preferred provider networks required to be phased in beginning 1996. §20-2305

	ARKANSAS	CALIFORNIA
Availability		Guaranteed issue of small employer products (group size 5-50 by 7/1/93; 4-50 by 7/1/95) (1192 HB 1672)
Group Size	1-25 §23-86-202	3-50 (by 7/1/95) §10700(x)
Individual Policies	Does not apply to individual policies which are subject to policy form and premium rate approval. §23-86-203	Individual policies sold to small employers meeting certain requirements are subject to this Act. §10702
Case Characteristics	Relevant demographics of small employer as considered by carrier in determination of premiums. Claims experience, health status, and duration of coverage are not case characteristics. §23-86-202	Includes age (7 categories), geography (9 regions), family composition (4 categories), and plan design which are used to determine the standard employee risk rate. §10700(w)
Rating Restrictions	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 20%. §2204(a). For a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25%. §23-86-204	Premium rates may not vary from the standard employee risk rate by more than 120% nor less than 80% until July 1, 1996; effective July 1, 1996, premium rates may not vary from the standard employee risk rate by more than 110% nor less than 90%. §10700(v), 10714
Transitional Period	5 years §23-86-204	See above
Renewal Rating	Trend plus 15% plus changes in case characteristics. §23-86-204	10% permitted for risk adjustment factors; renewal rates are effective for at least six months. §10714(b)(2)
Renewability	Guaranteed renewable except "for cause." §23-86-205	Guaranteed renewable except "for cause" §10705(b), 10713
Whole Groups		Carriers are required to take the whole group. §10707
Continuity of Coverage		Preexisting condition limitation of 6 months; credit shall be given if a person was covered under qualifying previous coverage if previous coverage was continuous 30 days prior to the new coverage, exclusive of applicable waiting periods; if employment is terminated or employer's contribution toward the coverage has terminated, there is a 180-day period allowed for continuity of coverage. §10706, 10708(a,b), 10709(a); §10198.7
Reinsurance Type		Prospective/with opt out §10719, 10720(d)
Reinsurance Price		No provision
Cost Sharing		No provision
Assessments		No cap §10721
Other		Establishes a purchasing pool for small employers §10730 Guaranty Association - only need one member
Effective Date	January 1, 1992	July 1, 1993, but see phase-in effective dates above

	COLORADO	CONNECTICUT
Availability	Guaranteed issue for standard and basic plans (HB 94-1210) §10-16-108.5	Guaranteed issue §38a-552, 5682(b) (*1992 SB 419 changes)
Group Size	1-50 §10-16-107 (6)	1-50 §38a-564(4) (1-25 for rating restrictions until July 1, 1995)
Individual Policies	Does not apply to individual policies. §10-8-101(6)	Insurers may issue individual special health care plans subject to the laws applicable to individual health insurance, provided such policies shall be identical to individual special health care plans made available by the Health Reinsurance Association. §38a-552, 566
Case Characteristics	After Jan. 1, 1995 characteristics are limited to age bands (dependent children up to 19 years or 24 if a student; adults in five year intervals), geography, family size. Does not include claim experience, health status and duration of coverage. § 10-6-102 (10)	Appears to include everything except claims experience, duration of coverage and health status. §38a-564(27)
Rating Restrictions	Rates based on a single, same index rate, adjusted for case characteristics and coverage; Rate adjustment factors based on claims experience; between 1/1/95 and 1/1/97 adjustment factor must be between 0.8 and 1.20. Before 1/1/95 adjustment factor cannot be more than previous year's factor plus 10%. After 1/1/98 no adjustment factor. §10-16-105(8)	Premium rates may not exceed 200% of the base premium rate for the same or similar case characteristics for plans issued on or after 7/1/90 and prior to 10/1/92 and beginning 7/1/95 plans issued prior to 7/1/90. Rates may not exceed 150% of the base premium rate for plans issued on or after 10/1/92, and beginning 10/1/97, plans issued prior to 10/1/92.* §38a-567(5)
Transitional Period		5 years; after July 1, 1995, rating restrictions will be applied to plans issued prior to July 1, 1990 §38a-567(5)
Renewal Rating	Policies issued before 1/1/95 and renewed after 1/1/96 factor between 0.8 and 1.20; After 1/1/97 factor between 0.90 and 1.10. §10-16-105(8)	Trend plus 15% plus changes in case characteristics.* §38a-567(5)
Renewability	Guaranteed renewable except "for cause." §10-8-116.5	Guaranteed renewable except "for cause" §38a-567(3)
Whole Groups	Carriers are required to take all eligible employees of the group. §10-16-105(7.5)	Cannot exclude eligible employees or dependents on the basis of an actual or expected health condition §38a-567(4)
Continuity of Coverage	Preexisting condition limitation of six months; May exclude preexisting condition for 12 months. Waiting period not greater than ninety days may be used in lieu of preex limitations. Late enrollees may be excluded for up to 12 months; preexisting condition exclusion up to 18 months §10-16-116	Preexisting condition limitation of 12 months; credit shall be given if a person was covered under qualifying previous coverage if previous coverage was continuous 30 days prior to the new coverage, exclusive of applicable waiting periods, except a carrier may limit the credit for a person enrolled commencing before 8/1/92 to prior coverage as a resident of Ct. §38a-567(1,2)
Reinsurance Type	Formula and reinsurance rates to be determined by Board, approved by commissioner. §10-8-605	Prospective/mandatory (effective 5/1/91) §38a-569
Reinsurance Price		Whole Group: 150% Individual: 500% §38a-569(c)
Cost Sharing		\$5000 for all plans except those which supplement the basic hospital or hospital surgical plans, in which case the deductible is \$2000 §38a-569(b1)
Assessments		(1) Apportioned among all members in proportion to their respective shares of the total premium earned from small group plans, (2) apportioned among all members in proportion to their respective shares of total premium earned from other plans; members' assessments cannot exceed 60% of the total assessment for the first year; 50% for the second year. §38a-569 a(2)
Other		
Effective Date	July 1, 1994	July 1, 1990

	DELAWARE	FLORIDA
Availability	Guaranteed issue (groups of 2-25) §7207(a)3	Guaranteed issue of standard and basic plans with cap (group size 3-25) §627.6699(3)r, (5)a
Group Size	1-50 §7202(29) (SBH 365 - 1994)	1-25 §627.4106(2)a (Jan. 1, 1994 changes to 1-50)
Individual Policies	Applies to any health benefit plan provided by a small employer which provides coverage to the employees of such small employer in this state. §7203	Generally applies to individual policies sold to small employers. Regarding rating and renewability provisions, does not apply to individual policies if the insurer certifies to the department that the policy was issued in good faith with no knowledge or intent that the policy is paid by or the premiums are reimbursed by a small employer §627.4106(4) (Applies to individuals 4/94)
Case Characteristics	Demographic or other objective characteristics of small employer as considered by carrier in determination of premiums; Claims experience, health status, and duration of coverage are not case characteristics; small employer carrier shall not use characteristics other than age, industry, geographic area, family composition, unhealthy lifestyle choices, and group size without prior approval of Commissioner §7202(d), 7204, 7205(4)	Demographic or other objective characteristics of small employer as considered by carrier in determination of premiums; Claims experience, health status, and duration of coverage are not case characteristics §627.4106(2)e (1/1/94 rating factors are age, gender, family comp., tobacco usage and geography)
Rating Restrictions	Index rate for one class of business may not exceed the index rate for any other class of business by more than 20%; for a class of business, the premium rates charged small employers with similar benefit plans shall not vary from the index rate by more than 35%, with an additional combined variation of no more than 10% for gender and geography, and the actuarially justified adjustment for age and family composition, provided that the carrier file age and family composition tables with the Commissioner §7205(1,2)	Index rate for one class of business may not exceed the index rate for any other class of business by more than 20%; for a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25% §627.4106(5)1,3 Expires 1/1/94.
Transitional Period	For plans delivered or issued for delivery prior to the effective date of this chapter, premium rate may have a 1 year transition period §7205(7)	5 years §627.4106(9)
Renewal Rating	Trend plus 15% plus changes in case characteristics §7205(3)b	Trend plus 15% plus changes in case characteristics §627.4106(5)b
Renewability	Guaranteed renewable except "for cause" §7206	Guaranteed renewable except "for cause" §627.4106(6)
Whole Groups	Carriers must offer coverage to all eligible employees and dependents §7207(a)	Carriers must offer coverage to all eligible employees and dependents §627.6699(5)e(7)
Continuity of Coverage	Preexisting condition limitation of 12 months; credit shall be given if a person was covered under qualifying previous coverage if previous coverage was continuous 60 days prior to the new coverage, exclusive of applicable waiting periods §7207(c)	Preexisting condition limitation of 12 months with 6 month lookback; credit shall be given if a person was covered under qualifying previous coverage if previous coverage was continuous 30 days prior to the new coverage, exclusive of applicable waiting periods §627.6699(5)e(1)(2)
Reinsur. Type	Prospective/with an opt-out §7210	Prospective/with an opt-out §627.6699(8)
Reinsurance Price	Whole Group: 150% Individual: 500% §7210(1)c	Whole Group: 150% Individual: 500% §627.6699(8)(1)a,b
Cost Sharing	\$5,000 plus 10% of the next \$50,000 §7210(1)c, (1)c	\$5000 per year plus 10% of incurred claims during a calendar year §627.6699(8)9(c)
Assessments	Formula to be set by Board but must be 50% - 150% of carrier's proportional share of all reinsuring carriers' small employer premiums; maximum amount shall be 5% of total premiums earned in previous year from small employer plans §7210(1)c(2)(b), (1)c	1st tier: an amount not to exceed 5% of small employer premiums; 2nd tier, if necessary: an amount not to exceed .5% of premiums collected on all health benefit plans issued by small and large group carriers §627.6699(8)1(2)
Other	Allows reinsurance of existing business §7210(1)c	Carriers paying 2nd tier assessments will receive a credit for assessments paid to the Florida Risk Pool §627.6699(8)1(2)b
Effective Date	January 6, 1993	October 1, 1992 (rating & renewability provisions 10/1/91)

GEORGIA	
Availability	
Group Size	1-50 (not applicable to true associations) §33-27-8(a)
Individual Policies	Silent
Case Characteristics	Age, sex, area, industry, occupation and avocational factors may be considered. "Duration since issue and their factors may not be considered." §33-27-8(d)
Rating Restrictions	The claims experience produced by small groups covered under "group life" insurance for each insurer shall be fully pooled for rating purposes. The claims experience provided by any individual small group shall not be used in any manner for rating purposes §33-27-8(b), but see §33-27-8(d) which states that not withstanding subsection (b) the total premium calculated for any small group may deviate from the pool rate by not more than + or - 25% based upon individual small group experience factors. §33-27-8(d)
Transitional Period	Silent
Renewal Rating	Substandard rating shall not be used for renewability purposes. §33-27-8(d)
Renewability	Guaranteed renewable except for cause. §33-24-56
Whole Groups	
Continuity of Coverage	
Reinsurance Type	
Reinsurance Price	
Cost Sharing	
Assessments	
Other	
Effective Date	October 1, 1990

	HAWAII	IDAHO
Availability	State run, employment based program; all residents are eligible	Guaranteed issue of standard and basic plan (2-49). §41-4708(c)
Group Size	No provision	1-49 §41-4703(2B)
Individual Policies	No provision	Does apply to individual policies. §41-4704
Case Characteristics	No provision	Demographic or other objective characteristics of small employer as considered by carrier in determination of premiums; Claims experience, health status and duration of coverage are not case characteristics. Carriers shall not use case characteristics, other than age or gender, without prior approval of the director. §41-4703(B).
Rating Restrictions	No provision	Index rate for one class of business may not exceed the index rate for any other class of business by more than 20%; for a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25%. Tobacco usage may be used as a rating factor. §41-4706
Transitional Period	No provision	3 years §41-4706(f)
Renewal Rating	No provision	Trend plus 15% plus changes in case characteristics §41-4706(c)
Renewability	No provision	Guaranteed renewable except "for cause" §41-4707
Whole Groups	No provision	Carriers are required to take the whole group. §41-4708(3)e
Continuity of Coverage	No provision	Preexisting condition limitation of 12 months; full credit given if a person was covered under qualifying previous coverage if that coverage was continuous 30 days prior to the new coverage, exclusive of applicable waiting periods §41-4708(3)
Reinsurance Type	No provision	Prospective/with an opt-out §41-4709
Reinsurance Price	No provision	Whole Group: 150% Individual: 500% §41-4711(10)b
Cost Sharing	No provision	\$5,000 plus 10% of the next \$50,000 of incurred claims during a calendar year. §41-4711(9)
Assessments	No provision	Determined by Board. §41-4711(12)e
Other	Employees required to pay 1.5% of wages, or half the premium whichever is less; employers provide the balance for each employee working more than 20 hours per week; dependent coverage is optional; unemployed residents above poverty level pay a small fee for doctor visits and a portion of the premium with the remainder being funded by the State; poor are covered by Medicaid.	
Effective Date		July 1, 1993

	ILLINOIS
Availability	Silent
Group Size	3-25 §10 (SBM 830, 1993)
Individual Policies	Does not include individual §10
Case Characteristics	Relevant demographic, geographic or other objective characteristics of a small employer in the determination of premiums. Claim experience, health status and duration of coverage are not characteristics. §10
Rating Restrictions	Index rate for a rating period for any class of business shall not exceed the index rate of any other class of business by more than 20%. Premium rates for small employer plans with similar case characteristics may not vary from the index rate by more than 25%. §30
Transitional Period	silent
Renewal Rating	15% annually. §30(A)(3)(b)
Renewability	Guaranteed renewable except for "cause." §35
Whole Groups	Insurers are required to offer coverage to the entire group. §20(c)
Continuity of Coverage	Preexisting condition limitation of 12 months. Portability of coverage to the extent a person was covered under a prior employer-based plan if not a late enrollee and prior coverage was continued exclusive of any applicable waiting period. §20A
Reinsurance Type	Silent
Reinsurance Price	Whole Group: Silent Individual: Silent
Cost Sharing	Silent
Assessments	Silent
Other	The director may adopt and promulgate rules and regulations to carry out provisions of the Small Employer Rating, Renewability and Portability Health Insurance Act. §55
Effective Date	January 1, 1994

	INDIANA	IOWA
Availability		Guaranteed issue §513(B)10
Group Size	3-50 IC 27-8-15(14)	1-50; however, must have at least 2 participating employees at the date of issue of health benefit plan §513B.2
Individual Policies	Does not apply to individual policies. IC 27-8-15(2)	Does apply to individual policies which are subject to policy form and premium rate approval. §513B.3
Case Characteristics	Relevant demographics of small employer as considered by carrier in determination of premiums. Claims experience, health status, and duration of coverage are not case characteristics. IC 27-8-15(6)	Include age, geographic area, family composition, and group size; gender may be used provided the insurance division has conducted an independent, actuarial study that determined use of gender shall to be actuarially justified; other case characteristics shall not be used without prior approval of commissioner. §513B.4(2)
Rating Restrictions	For a small employer business, the premium rates charged small employers with similar case characteristics for the same or similar benefit design characteristics may not vary from the midpoint rate by more than 35%. IC 27-8-15(16)(1)	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 20%; for a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25%. §513B.4
Transitional Period	5 years IC 27-8-15(16)(3)	3 years §513B.4
Renewal Rating	Trend plus 15% plus changes in case characteristics. IC 27-8-15(16)(2)	Trend plus 15% plus changes in case characteristics. §513B.4
Renewability	Guaranteed renewable except "for cause." IC 27-8-15(19)	Guaranteed renewable except "for cause." §513B.5
Whole Groups		Must offer to whole group, except as permitted with regard to late enrollees. §513B.7A(3)e
Continuity of Coverage	Preexisting condition limitation of no more than 9 months. Must waive exclusion period for preexisting conditions for time employee was previously covered by a plan to a date not more than 30 days before effective date. Preexisting exclusions limited to 15 days for late enrollees. §27-8-15(27) et seq. (effective 1/1/96) Continuing coverage for at least 90 days. IC 27-8-15(31.1)	Preexisting condition limitation of 12 months; credit shall be given if a person was covered under qualifying previous coverage if previous coverage was continuous 30 days prior to the new coverage, exclusive of applicable waiting periods. May impose waiting period of no longer than 60 days for new entrants. §513B.7A(3)3
Reinsurance Type		Prospective with an opt-out §513B.7(D)
Reinsurance Price		Whole Group: 150% Individual: 500% §513B.7(D)9(b)
Cost Sharing		\$5,000 and 10% of the next \$50,000 of incurred claims during a calendar year; liability maximum of \$10,000 in any one calendar year with respect to any reinsured individual. §513B.7(D)8(D)
Assessments		Formula to be set by Board but must be 50%-150% of carrier's proportional share of all reinsuring carriers' small employer premiums; amount shall be 5% of total premiums earned in previous year from small employer plans. §513B.7(D)11(2)
Other		
Effective Date	June 30, 1992	July 1, 1992

	KENTUCKY
Availability	Guaranteed issue SBN 250 §54(1)
Group Size	No provision
Individual Policies	Applies to individual policies. §55
Case Characteristics	Modified community rating for state alliance plans, individual plans and groups with less than 100. Factors permitted include age (limited to 300%), geography, family composition, benefit design, and limited discount for healthy lifestyle. §55(1)
Rating Restrictions	No provision
Transitional Period	No provision
Renewal Rating	No provision
Renewability	Guaranteed renewable except for "cause." (Regulation 806. 18:030)
Whole Groups	No provision
Continuity of Coverage	Pre-existing condition limitation of 6 months; applies only to conditions arising during prior six months. Credit given for prior health coverage if there was no lapse more than 60 days. §54(2)
Reinsurance Type	No provision
Reinsurance Price	No provision
Cost Sharing	No provision
Assessments	Risk adjustment process shall be set by Board to reflect demographic and medical risk characteristics. §56
Other	After 7/15/95 only five Board approved plans may be offered in the state (approved supplemental plans may also be offered). §59 Plans must include cost containment features. Any willing provider §54(3);
Effective Date	July 15, 1995

	KANSAS	LOUISIANA
Availability	Guaranteed issue (group size: 3-25) (1992 SB 561) §4(b), 12(a)	Silent
Group Size	1-50 §3(z)	3-35 for employer groups §22:228.1; Family groups of 1 or more persons §22:215.A(2)(a)
Individual Policies	Individual policies issued to individuals and dependents totally independent of any group, association, or trust arrangement shall not be subject to this Act §4(a), 4(a)3(e)	Silent
Case Characteristics	Case characteristics include the geographic area, age and sex, industry classification, number of employees and dependents, family composition, and other objective criteria as may be approved by the commissioner; claims experience, health status, and duration of coverage are not case characteristics §3(g)	Modified community rating. Age, gender, industry, geographic area, family composition, group size, tobacco usage, plan benefits and other approved factors may be used in determination of premiums. Claims experience, health status, and duration of coverage must be phased out at the first renewal after 1/1/94 (individually underwritten, guaranteed renewable limited benefit or supplemental policies exempted). §22:228.6
Rating Restrictions	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 20%; for a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25% §7(1)(2)	Index rate for one class of business shall not vary from the index rate for any other class of business by more than plus or minus 20% after 1/1/94. After 1/1/96, may not vary by more than 10%. For a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25%. §22:228.6(B) May not increase premium rates during first 12 months of coverage or more than once in any 6 month period 22.229
Transitional Period	3 years §7(6)	3 years (until 1/1/94) §22:228.1
Renewal Rating	Trend plus 15% plus changes in case characteristics §7(3)(b)	Trend plus 15% plus changes in case characteristics. §22:228.2
Renewability	Guaranteed renewable except "for cause" §5(c)	Guaranteed renewable except "for cause." §22:228.3
Whole Groups	Prohibits carrier from excluding any employee or dependent on the basis of an actual or expected health condition §5(c)6(e)	May not impose a preexisting condition limitation greater than 12 months. R.S. 215.12. Credit given for previous coverage if coverage was continuous to a date not more than 60 days prior to new coverage, exclusive of any waiting periods. R.S. 215.12.
Continuity of Coverage	Preexisting condition limitations of 90 days and waiting periods not to exceed 90 days; waiting periods may be waived if individual was covered by a group policy prior to the effective date of coverage with no gap in coverage §6(a)(b)	
Reinsurance Type	Prospective/with an opt-out §11(a)	
Reinsurance Price	To be established by the reinsurance board §13(g)6	
Cost Sharing	\$10,000 plus 10% of the next \$50,000; maximum in one calendar year shall not exceed 20% of total premium §11(h)6(j)	
Assessments	Not to exceed 5% of small employer plan premiums; second tier not to exceed 1% of total premium upon which assessment is based §11(k)2(c)	
Other	Must reinsure the entire -ous <u>all</u> carriers, whether reinsuring or not, subject to second tier assessment §11(k)2(b)	
Effective Date	July 1, 1992	January 1, 1994

	MAINE	MARYLAND
Availability	Guaranteed issue of standard and basic plans. (1992 HP 507) §2808-B 4(A)	Guaranteed issue all plans. Carriers must have annual 30-day open-enrollment period for self-employed individuals. §704(A and B)
Group Size	1-24 §2808-B 1(D)	2-50 (3-50 until 1/1/95 if carrier does not impose pre-existing conditions.) §698(P)
Individual Policies	All policies, plans, contracts and certificates issued are subject to this section. §2808-B(7)	Could apply in the future as well as to larger groups if statutory trigger is met.
Case Characteristics	A carrier may not vary the premium rate due to the gender, health status, claims experience or policy duration of the eligible group; age, industry, smoking status and geography within the bands; family status, smoking status, participation in wellness programs, and group size may be used outside rate bands §2808-B 2(B)	Carriers may only adjust the community rates for age and geography. Geography is based on the Baltimore metropolitan area; the DC metropolitan area; Western Maryland and Eastern and Southern Maryland. §702(A)
Rating Restrictions	Premium rates for age, gender, industry, and geographic area may not vary by +/- 50% of the community rate until 7/14/96, +/- 33% of the community rate until 7/14/95, and +/- 20% of the community rate after 7/14/95. §2808-B 2(D)	Carriers may charge 50% above or below the community rate between 7/1/96 and 6/30/95; 40% between 7/1/95 and 6/30/96; 33% between 7/1/96 and 6/30/97; and 16% after 7/1/97. §702(B)
Transitional Period	None	No provision.
Renewal Rating	No provision	No provision.
Renewability	Guaranteed renewable except "for cause" §2808-B 4(B)	Guaranteed renewable except "for cause" for all plans §705
Whole Groups	(1990 - applies to <u>all</u> groups) Prohibits carriers from excluding any person from group; all new eligible employees must be added; may reject group until guaranteed issue is effective §2829-B	Carriers are required to take the whole group. §704(B)
Continuity of Coverage	(1990 - applies to <u>all</u> groups) Requires continuity for any person eligible for coverage in prior 3 months in a group replacement situation or for person moving from individual to group or group-to-group coverage; No preexisting condition waiting period for more than 12 months; Exclusions may only relate to conditions manifested during 12 mos. immediately preceding effective date of new coverage or pregnancy §2850(2) Late enrollees cannot be excluded for more than 6 mos. §2867(1)	Until 12/31/96, preexisting condition limitation of 6 months, after that date - none; credit given if previous coverage was continuous 60 days prior to the new coverage. Late enrollees may be subject to 12 month limitation. §701(a) Late enrollees waiting periods not to exceed 12 months or enrollee has the option to wait for the next open enrollment period which may not exceed a 12-month period. §701(b) May impose up to a 90 day waiting period or surcharge not to exceed 150% of community rate for one year. §701(c)
Reinsurance Type	Prospective with opt out §2808-B	Prospective/with an opt-out. §706
Reinsurance Price	No provision	Whole Group: 150% Individual: 500% §709(B)
Cost Sharing	No provision	\$5,000 plus 10% of the next \$50,000 of incurred claims during a calendar year; liability maximum of \$10,000 in any one calendar year with respect to any reinsured individual §709(A)5
Assessments	No provision	Formula to be set by Board, but must be 50% - 150% of carrier's proportional share of all reinsuring carriers' small employer premiums; maximum amount shall be 5% of total premiums earned in previous year from small employer plans §709(D)
Other	Marketing standards; superintendent will develop standardized plans §2808-B 6)	Loss ratio 75% and expense ratio 20% or commissioner may require the insurer or HMO to file new rates. §712
Effective Date	July 15, 1993 (for rating and guaranteed issue)	July 1, 1993 (some provisions effective 7/1/96)

	MASSACHUSETTS	MINNESOTA
Availability	Guaranteed issue; however, until December 31, 1994, a carrier can limit the guaranteed issue requirement to 90 consecutive days a year; certain association groups are exempted from all but the reinsurance portion of the bill (1991 HB 6207) §2(b), 4(a)1	Guaranteed issue of all products sold in small employer market (1992 HB 2800, SB 2603) §3 subd. 1, 4 subd. 1
Group Size	1-25 §1	2-49 §subd. 26
Individual Policies	Does not apply to individual policies §2(a)	All provisions except guaranteed issue apply to individual policies §12 subd. 1,2,6 subd. 27(f)(ii)
Case Characteristics	Age, sex, rate basis type, industry, number of eligible persons, and participation rate of a group §1	Relevant characteristics of small employer as determined by carrier in determination of premiums; claims experience, health status, industry, duration of coverage, and gender are not case characteristics §2 subd. 6, 3 subd. 4
Rating Restrictions	Premium rates are limited to a 2:1 rate band; however, the following adjustments are permitted inside that band: benefit level, geography +/- 20%, group size +/- 5%, wellness discount -5%, phase out adjustment for experience and duration rating on existing business to reach +/- 15% by 12/31/94, age +/- 33% until 12/31/93 §3(a)1, 3(a)3(4), 3(a)7	Rates must not vary by more than +/- 25% of the index rate for same or similar coverage; inside the rating band, variations can be based only on health status (includes refraining from tobacco use or other actuarially valid lifestyle factors), claims experience, industry, and length of time employer has been covered; adjustments outside the band: age +/- 50%, geography +/- 20%, rate cells are permitted based on number of adults and children covered under the policy §8 subd. 2,3,4,5,6
Transitional Period	Phase out of rating restrictions §3(a)8	None
Renewal Rating	Trend plus 10% plus changes in case characteristics §3(b)	No provision
Renewability	Guaranteed renewable except "for cause" §4(b)(1)(2)	Guaranteed renewable except "for cause" §3 subd. 5
Whole Groups	Prohibits policies from excluding eligible employees or eligible dependents on the basis of an actual or expected health condition of such person §5(a)	Application must include all eligible employees §4 subd. 1
Continuity of Coverage	Preexisting condition exclusion of 6 months; credit shall be given if a person was covered under qualifying previous coverage if previous coverage was continuous 30 days prior to the new coverage and if previous coverage was reasonably actuarially equivalent to new coverage §5(b)	Preexisting condition exclusion of 12 months; requires credit for time covered under qualifying prior coverage; permits 18 month preexisting condition limitation for late entrants §3 subd.4
Reinsurance Type	Prospective/mandatory for commercials §8	prospective/with an opt-out §13, 18(1)
Reinsurance Price	Whole Groups: 150% Individuals: 500% §8(1)(2)	Whole Groups: 150% Individuals: 500% §21(1)
Cost Sharing	\$5,000 §8	\$5,000, plus 10% of the next \$50,000 §20(1)
Assessments	5% of small employer premiums; if inadequate, other funding sources will be recommended §8(7)	Initially, \$100; in addition, not to exceed 4% of the member's small group market premium (if it is determined that premium charges are insufficient to cover the losses) §22(2)(3)
Other		Loss ratios: initially 65% for individual policies, 75% for group policies; increases by 1% per year to 70% and 80%, respectively §8(1)
Effective Date	April 1, 1992	Most provisions July 1, 1992

	MISSISSIPPI
Availability	
Group Size	1-35 §83-63-5(m)
Individual Policies	Subject to law if any portion of premiums or benefits is paid by employer. §83-63-1
Case Characteristics	Demographics and other objective characteristics; Claims experience, health status and duration of coverage are not case characteristics. §83-63-3(d)
Rating Restrictions	Rate may not vary by more than +/- 25% of index rate for any class of business with similar case characteristics §83-63-7(1)
Transitional Period	3 years §83-63-7(e)
Renewal Rating	Trend plus 15% changes in case characteristics §83-63-7(c)
Renewability	Guaranteed renewable except for cause. §83-63-11
Whole Groups	
Continuity of Coverage	
Reinsurance Type	
Reinsurance Price	
Cost Sharing	
Assessments	
Other	
Effective Date	

	MISSOURI	MONTANA
Availability	Guaranteed issue of basic and standard plans (1992 SB 796) §6	Guaranteed issue of standard and basic plans. §29 (1995 HB 466)
Group Size	3-25 §1(2B)	3-25 §24(25)
Individual Policies	Generally applies to individual policies sold to small employers. Sections 1-12 shall not apply to any plan when employees pay the total cost of the plan. §2(1)(2)(3),3	Individual policies sold to small employers meeting certain requirements are subject to this Act. §25
Case Characteristics	May use age, sex, industry, geography, family composition, and group size without prior approval of director; claims experience, health status, and duration of coverage are not case characteristics. §379.936.1(10)	Relevant characteristics of small employer as determined by carrier in determination of premiums; claims experience, health status, gender and duration of coverage are not case characteristics. §24(8)
Rating Restrictions	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 20%; for a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25% §4(1)(2)	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 20%; for a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25%. If the MT health care authority certifies to the commissioner that the cost containment goal is met before 1/1/99, the premium rates charged to small employers with similar case characteristics for the same or similar coverage may not vary from the index rate by more than 20%. §27
Transitional Period	3 years §4(3)b	
Renewal Rating	Trend plus 15% plus changes in case characteristics §4(3)b	Trend plus 15% plus changes in case characteristics. §27c
Renewability	Guaranteed renewable except "for cause." §5	Guaranteed renewable except "for cause" §28
Whole Groups	Insurer must cover the whole group §6(5)a	Must cover whole group §29
Continuity of Coverage	Preexisting condition limitation of 12 months with 6 month lookback; credit shall be given if a person was covered under qualifying previous coverage if previous coverage was continuous 30 days prior to the new coverage, exclusive of applicable waiting periods. Permits 18 month preexisting condition limitation for late entrants. §6(2)(2)	Preexisting condition exclusion of 12 months; waiting periods may be waived if individual was covered by a group policy prior to the effective date of coverage if previous coverage was continuous for 30 days prior to new coverage; permits 18 month preexisting condition limitation for late entrants. §29
Reinsurance Type	Prospective/mandatory with an opt-out after three years §7(1)	Prospective with opt out. §30
Reinsurance Price	Whole Group: 150% §7(9)2	Whole Groups: 150% Individual: 500% §30
Cost Sharing	\$5,000 plus 10% of the remaining incurred claims; maximum limit of \$25,000 §7(8)3	\$5,000, plus 20% of the next \$100,000, with a maximum limit of \$25,000 per year, per individual. §30
Assessments	Formula to be set by Board, but must be 50%-150% of carrier's proportional share of all reinsuring carriers' small employer premiums; maximum amount shall be 5% of total premiums earned in previous year from small employer plans. §11	The board shall determine prior to March 1 each year. Formula requires each carrier to pay a fraction of the total assessment. §33-22-1819(B)
Other		Loss ratios: initially 65% for individual policies, 75% for group policies; increases by 1% per year to 70% and 80%, respectively §8(1)
Effective Date	Guaranteed issue and continuity of coverage provision effective July 1, 1994; all other sections effective July 1, 1993.	January 1, 1994 §30-34; July 1, 1993; October 1, 1995

	HEV/DA
Availability	Limited open enrollment. §689C-19 (AB 299, 1995)
Group Size	2-25 §689C-10
Individual Policies	
Case Characteristics	May not use characteristics other than age, sex, industry (limited), geography, family composition or group size without prior approval of commissioner; may not use claim experience, health status or duration of coverage. §689C-14 and 21.
Rating Restrictions	Index rate for one class of business may not exceed the index rate for any other class of business by more than 20%. For a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25%. §689C-22.
Transitional Period	Three year transition period. §689C-20(3)
Renewal Rating	Trend plus 15% plus changes in case characteristics. §689C-20
Renewability	Guaranteed renewable except for cause. §689C-29
Whole Groups	Carriers must offer coverage to whole group. §689C-18
Continuity of Coverage	Preexisting condition limitation of 6 months if enrolled during open enrollment or for late enrollees. 12 month waiting period for employees who miss open enrollment period. Credit given for continuous coverage up to 90 days prior to effective date. §689C-18
Reinsurance Type	
Reinsurance Price	
Cost Sharing	
Assessments	
Other	
Effective Date	Most sections effective January 1, 1996.

	NEBRASKA	NEW HAMPSHIRE
Availability	Guaranteed issue of standard and basic plans, but with cap of \$1 million. LBN 1222 §36(4)	Guaranteed issue §420-G:4(c) Carriers may require up to 75% of eligible employees to qualify §420-G(11) / 1994 SB 711)
Group Size	3-25 LBN 1222 §31	1-100 §420-G:3(1)
Individual Policies	Does not apply to individual policies which are subject to policy form and premium rate approval. Individual policies issued prior to 1/1/95 under certain circumstances. LBN 1222 §34(2)	Applies to individual health insurance policies §420-G:(11)
Case Characteristics	Age, gender, industry, geographic area, family composition and group size. Others may be used with prior approval of director. Claims experience, health status, and duration of coverage are not case characteristics. LBN 1222 §36(1)	Gender, geography, occupation, claims experience, health status, and duration of coverage are not case characteristics §420-G:4
Rating Restrictions	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 20%. For a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25%. LBN 1222 §36	Community rating based on monthly or quarterly average for each membership type - may modify only for age brackets. First year maximum differential is 4 to 1; second and subsequent years, 3 to 1. §420-G:4
Transitional Period	3 years LBN 1222 §36(g)	
Renewal Rating	Trend plus 15% plus changes in case characteristics. LBN 419 §24	May not be increased by more than 25% from preceding year. §420-G:4
Renewability	Guaranteed renewable except "for cause." LBN 1222 §37	Guaranteed renewable except "for cause" §420-G:4(1)(c)(4)
Whole Groups	Carriers must offer coverage to whole group. §44-5260(3)(e)	Insurer must cover the whole group §420-f:4
Continuity of Coverage	Preexisting condition limitation of 12 months; credit shall be given if a person was covered under qualifying previous coverage if previous coverage was continuous 90 days prior to the new coverage, exclusive of applicable waiting periods. LBN 1222 §38(3)	Preexisting conditions waiting period allowed up to 3 months, condition exclusions up to 9 months; credit given for previous coverage whether insured or self-insured; lack of coverage during period of unemployment will also be disregarded; late enrollees must wait for next open enrollment period §44(1)
Reinsurance Type	Prospective with opt out. LBN 1222 §39	No provision
Reinsurance Price	Whole Group: 150% Individual: 500% LBN 1222 §39(2)(b)	No provision
Cost Sharing	\$5,000 plus 10% of the next \$50,000 up to \$10,000 in calendar year LBN 1222 §39(8)(d)	No provision
Assessments	Formula to be set by Board but must be 50%-150% of carrier's proportional share of all reinsuring carriers' small employer premiums. LBN 1222 §39(11)	No provision
Other	Standard and Basic Health plans required LBN 1222 §38	High Risk Pools prohibited §420-G:4(c)(3) Requires acceptance of electronic claims submitted in XFA format. §420-G:4 VI
Effective Date	April 16, 1994; (amended by LB37, 1995)	January 1, 1995

	NEW JERSEY	NEW MEXICO
Availability	Continuous open enrollment; guaranteed issue of five "standard" plans or more variation. §178:27A-19	Illness
Group Size	2-50. §178:27A-17	2-50. §59A-23C-3.C
Individual Policies	Applies to all health benefit plans covering 2 or more eligible employees of one or more small employers. §178:27A-18	Does not apply to individual policies which are subject to policy form and premium rate approval. §59A-23C-6.B
Case Characteristics	Community rating; prohibits the use of age, gender, health status, residence or occupation with community rating. §178:27A-17	Until 7/1/98, case characteristics include age, gender, geography and smoking; however, claims experience, health status or duration of coverage may not be used; After 7/1/98, the only factor allowed will be age (i.e., 10). §59A-23C-5.1
Rating Restrictions	Plans must be community rated by 1/1/97. 1/1/96 to 12/31/95, premium rates charged to highest rated group shall not be greater than 300% of rate charged to lowest rated group. 1/1/96 to 12/31/96 greater than 200%. §178:27A-21(a)	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 15%. For a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25% of the index rate. §59A-23C-5
Transitional Period	5 years. §178:27A-25(a)	5 years. §59A-23C-5.4
Renewal Rating	Beginning 1/1/95 new rate informational rating with commissioner of increase or decrease provided the loss ratio not be less than 75%. §178:27A-25(g).	Fixed plus 10% plus changes in case characteristics. §59A-23C-5.A(3)
Renewability	Guaranteed renewable except "for cause." §178:27A-23.	Guaranteed renewable except "for cause." §59A-23C-6
Whole Groups	Must offer coverage to all employees and their dependents. Cannot exclude based on actual or expected health condition. §178:27A-18	Must cover whole group. (see 236, 1095)
Continuity of Coverage	Generally no preexisting condition limitations, rates may apply to a group of 2-5 if the period is 180 days forward and 6 months back, however, if 10 or more late enrollees request coverage rates does not apply. Credit shall be given if a person was covered under qualifying previous coverage if previous coverage was continuous 90 days prior to the new coverage, exclusive of applicable waiting periods. §178:27A-22	Preexisting condition limitation of six months. §59A-23C-7.1
Rate of Loss	Prospective. §178:27A-25	
Reinsurance Price	Each carrier's assessments calculated by multiplying the total assessment amount by the ratio of the carrier's earned premium to the total earned premium for all reinsuring carriers. NAC 11:21-2.9(c)(1). Reinsuring carrier's assessments exceeding 4% of earned premium will be apportioned to all small employer carriers based on their share of earned premium. NAC 11:21-2.9(c)(3)	
Rate Sharing	Reinsurments to be determined by the standards developed by the board. §178:27A-36(a)	
Assessments	Apportioned among all reinsuring members in proportion to their respective shares of the premium earned from small group plans. Additional assessments of all members not to exceed 1% of premium. Credit given to carriers bearing the tier assessments. §178:27A-37	
Other	Requires all small employer carriers to offer 5 standard plans. §178:27A-16. Musts must register with all small employer health benefit programs, and must offer one or more of the standard plans; must conform to rating restrictions. Substantive issue, and published renewability provisions. §178:27A-48	
Effective Date	January 1, 1994	January 1, 1995

	NEW YORK	NORTH CAROLINA
Availability	Continuous open enrollment (guaranteed issue) (1992 A 12350-A) §231	Guaranteed issue §143-629 (1993 HB 729, Chapter 529)
Group Size	3-50 for open enrollment §231	2-49 §58-50-110(22)
Individual Policies	Must be community rated and must be offered through open enrollment §231	Applies to individual health policies (only self-employed) §143-623
Case Characteristics	Prohibits the use of age, sex, health status, or occupations; geography is permitted on a county-wide (or larger) basis; Since not prohibited, presumably group size, participation, wellness, and other case characteristics are permitted §231(a,b)	Adjusted community rating methodology allowing the premium to vary on the basis of the eligible employee's or dependent's age, gender, number of family members covered or geographic area. Rating factors related to age, gender, number of family members covered or geographic location may be developed by each carrier to reflect carrier's experience. No age brackets of less than 5 yrs. May not apply different geographic rating factors to the rates of small employers located within the same county. §58-50-130
Rating Restrictions	No statutory restrictions on permitted case characteristics, but Department has rate approval authority for initial rates §231(c)(e)	May not modify the rate for a small employer for 12 months from the initial issue date or renewal date, unless the composition of the group changed by 20% or more or benefits are changed. Community rating index line adjusted pro rata for a period of 2 yrs. beginning 1/1/95. Carriers participating in an Alliance may apply a different community rate. On 1/1/95 rates charged employers with similar case characteristics for the similar coverage shall not vary from the adjusted community rate by more than 20%. On 1/1/96 rates shall not vary by more than 10%. On 1/1/97 all small employer benefit plans issued before 1/1/97 will have rates based on the same adjusted community rating standard applied to new business. §58-50-130(b)
Transitional Period	The one-year delay in effective date is viewed as the transition period	3 years §58-50-130(b)7
Renewal Rating	Prior rating approval; beginning April 1, 1994, rates shall be deemed approved if policy has an anticipated loss ratio of not less than 75% §231(a), §231(2)a	Trend plus 15% plus changes in case characteristics §58-50-130(b)3(b)
Renewability	Coverage may not be terminated due to claims experience §231	Guaranteed renewable except "for cause" §58-50-130(a)3
Whole Groups	Carriers must offer coverage to all employees and their dependents §231	Must cover the whole group. §58-50-125
Continuity of Coverage	Plans must credit the time a person was covered under previous health insurance plan or benefit arrangement if the previous coverage was continuous to a date not more than 60 days prior to the effective date of new coverage §232(a), §315(a)	Preexisting condition limitation of 12 months; credit shall be given if a person was covered under qualifying previous coverage if previous coverage was continuous 60 days prior to the new coverage, exclusive of applicable waiting periods §58-50-130
Reinsurance Type	Demographic and large claims pooling mechanisms. §233(c)	Prospective/with an opt-out §58-50-150
Reinsurance Price	No provision	Whole Group: 150% Individual: 500% §58-50-150(g)(2)(g)
Cost Sharing	No provision	\$5,000 plus 10% of the next \$50,000 §58-50-150(g)(2)(c)
Assessments	No provision	First 3 years: 50% - 150% of amount it would have been had assessments been based on proportional relationship of small carrier's total premium; not to exceed 4% §58-50-150(i)(1)
Other	1 and 2 live employers must be classified in either the individual or small groups rating category by the insurer §231(b)	Sets up non-exclusive health Plan Purchasing Alliances. §143-628

	NORTH DAKOTA	0410
Availability	Guaranteed issue of basic and standard plans (group size 3-25) §26.1-36.3	Modified open enrollment (for groups of 2-25). Carriers must open enroll 1/2 of 1% of small group certificate holders. §3923.58(G)
Group Size	1-25 §1(25)	2-50 (2-25 for MMs) §3924.01(P)
Individual Policies	Individual policies sold to small employers meeting certain requirements are subject to this Act. §2	Subject to law if any portion of the premium or benefits is paid by the employer, or any individual is reimbursed for any portion of the premium. Subject to open enrollment. §3924.02(A)
Case Characteristics	Age, gender, industry, geographic area, family composition and group size. Claim experience, health status and duration of coverage are not characteristics. Gender may not be used as a case characteristic after 1/1/96. §26.1-36.3-04	Geography, age, sex and industry classification; group size. Does not include claims experience, health status or duration of coverage. §3924.01(E)
Rating Restrictions	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 15%; for a class of business, premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 20%. §26.1-36.3-04 After 1/1/97 premium rates may not vary by a ratio of greater than 4:1.	Premium rates for small employer plans with similar case characteristics may not vary from the midpoint rate for those small employers by more than 35% of that midpoint rate. §3924.04(B); if carrier uses industry, may not vary more than 15% from arithmetic average for all industry classifications. §3924.04(B)
Transitional Period		For health plans delivered prior to effective date, a premium rate may exceed ranges for 18 months immediately following effective date. §3924.04
Renewal Rating	Trend plus 15% plus changes in case characteristics. §6(2)	Trend plus 15% changes in case characteristics. §3924.04(C)
Renewability	Guaranteed renewable except "for cause." §5	Guaranteed renewable except "for cause." §3924.03(C)
Whole Groups	Must cover whole group. §6(3)	Cannot exclude eligible employees or dependents on the basis of an actual or expected health condition. §3924.03(F)
Continuity of Coverage	Preexisting condition limitation of 12 months relating to conditions 6 months before coverage. Waiting periods waived for the time an individual was previously covered if the coverage was continuous 93 days prior to the effective date of new coverage. Does not preclude application of a waiting period for all new enrollees. §6(3)	Preexisting condition limitation of 12 months with 6 months look back. Waiting periods may not be more than 90 days. Credit time to a person covered under a previous health plan for 30 days prior to the effective date of the new coverage, exclusive of any applicable waiting period. Late enrollees may be excluded up to 24 months. §3924.03
Reinsurance Type	Prospective §7	Voluntary, prospective §3924.07
Reinsurance Price	Whole groups: 150% Individuals: 500% §7(B)	Whole Group: 150% Individual: 500% §3924.12(A)
Cost Sharing	\$5,000, plus 10% of the next \$50,000 not to exceed \$10,000 in a year per individual. §7(B)	Adopted although not in statute, carriers must meet the first \$5,000. Does not apply to open enrollment.
Assessments	Formula set by Board, but must be 50%-150% of carrier's proportional share of premiums; maximum amount 5% of total premium earned in previous year. §7(11)	Apportioned among all members in proportion to their respective shares of the total premiums earned from small group plans. Assessment may not exceed 1%. §3924.13(B) Separate pool for open enrollment reinsurance fund - maximum assessment of 1% of small group premiums §3924.1(2)
Other		
Effective Date	August 1, 1993	January 16, 1993

	OKLAHOMA
Availability	Guaranteed issue for eligibles living in service area (standard or basic plans by 1/1/95) (HBN 2256; Title 36, §6520)
Group Size	2-50 §2.7
Individual Policies	
Case Characteristics	Case characteristics other than age, gender, industry, geographic area, family composition and group size may not be used without prior approval of Commissioner §6512.
Rating Restrictions	Index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than 20%. For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics shall not vary from the index rate by more than 25%. §6515
Transitional Period	3 years. §6515
Renewal Rating	
Renewability	Carriers may refuse to renew for failure to meet minimum participation levels and for "cause." §9
Whole Groups	Carriers must offer coverage to all eligible employees and dependents (may exclude if not living in the established service area). §7(A)
Continuity of Coverage	Pre-existing condition limitation of 12 months for past six months and pregnancy; credit given if a person was covered under qualifying previous coverage if previous coverage was continuous 60 days prior to new coverage. Late enrollees may be excluded from coverage for up to 18 months. §10
Reinsurance type	Prospective with opt-out.
Reinsurance Price	
Cost Sharing	
Assessments	
Other	Voluntary reinsurance program; carrier retains liability for the first \$5,000 and 10% thereafter, up to maximum of \$10,000 per year. Any net loss is assessed back to reinsuring carriers. If assessments for 2 consecutive years exceeds 5% of total premiums, Board may assess all carriers.
Effective Date	(9/1/92) July 1, 1994

	OREGON	PENNSYLVANIA
Availability	Guaranteed issue (1991 SB 1076) §6(4)	
Group Size	3-25 §3(25)	Not defined
Individual Policies	Applies to individual policies providing health benefits covering one or more employees of a small employer; provisions of OR 742.005 do not apply to individual policies subject to this law §5(1)(2)	Silent
Case Characteristics	Geography and differences in family size and composition §7(6)b	Silent
Rating Restrictions	Premium rates may not vary from the geographic average rate by more than 33% except that the premium rate may be adjusted to reflect the provision of additional benefits not covered by the basic health care plan and differences in family size and composition §7(6)b	The Department's policy prohibiting exclusion of individual at policy inception or for new entrants due to medical conditions in small group health policies was affirmed. <u>Insurance Federation of Pennsylvania, Inc. v. Foster</u> . Index rate for one class of business shall not exceed the index rate for any other class of business by more than 20%; for a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25% §27-69-6(1,2)
Transitional Period	Effective on the date the reinsurance pool becomes operational §7(10)a	None
Renewal Rating	Trend plus 15% plus adjustments to reflect provision of benefits not required to be covered by basic health care plan §7(6)c(8)	Silent
Renewability	Guaranteed renewable except "for cause" §7(4)	Silent
Whole Groups	Prohibits carriers from excluding individuals on the basis of actual or expected health condition §7(3)	
Continuity of Coverage	Preexisting condition limitation of 6 months; credit shall be given if the person was covered under a previous group or individual plan if the previous coverage was continuous 30 days prior to the new coverage, exclusive of applicable waiting periods §7(1)(2)	
Reinsurance Test	Prospective/with an opt-out §10,11	
Reinsurance Price	Existing business: none Whole Group: 150% Individuals: 300% §11(8)a,b	
Cost Sharing	\$5,000 plus 15% of the next \$100,000 §11(7)d	
Assessments	Maximum assessment is 4% of small employer premium plus 1% of members' total health insurance premiums §11(12)a	
Other		
Effective Date	On or after the date the Oregon Small Employer Reinsurance Pool becomes operational	February 27, 1991

	RHODE ISLAND	SOUTH CAROLINA
Availability	Guaranteed issue (groups of 3-25) (1992 H 9011 Sub. A)	Guaranteed issue; basic and standard plans (SBM 541 §6 (4)(a))
Group Size	1-50 §27-49-4(AA)	2-50 (SBM 541 §4 (A))
Individual Policies	Generally applies to individual policies sold to small employers. §27-49-4	Does not apply to individual health policies subject to policy form and premium rate approval §38-71-930(A,B)
Case Characteristics	Relevant demographics of small employer as considered by carrier in determination of premiums; claims experience, health status, and duration of coverage are not case characteristics §27-49-3(F)	Age, gender, geography, industry and family composition; claims experience, health status, and duration of coverage are not case characteristics (SBM 541 §15 (5))
Rating Restrictions	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 20%; for a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25% §27-49-6(1,2)	Actuarial base rate for plans may be adjusted only to reflect case characteristics and family composition within a class of business. Adjustment due to class of business may not exceed 10% of actuarial base rate. (SBM 541 § 20 (A)(1))
Transitional Period	3 years §27-49-6(7)	3 years (SBM 541 § 20(3))
Renewal Rating	Trend plus 15% plus changes in case characteristics §27-49-6(3)b	Trend plus 10% plus changes in case characteristics, family composition. Policies issued before 1/1/95 may also factor claims experience, health status or duration of coverage up to 20% the first year, 10% the second year and 0% after the third year. §38-71-940(A)2(B)
Renewability	Guaranteed renewable except "for cause" §27-49-7	Guaranteed renewable except "for cause" §38-71-950
Whole group	Carriers are required to take the whole group §27-49-8c(5a)	Carriers are required to take whole group. (SBM 541 §6 (A)(2))
Continuity of Coverage	Plans must credit the time a person was covered by qualified previous coverage provided the coverage was continuous; qualified previous coverage is defined as Medicare, Medicaid, employer-based health insurance, or individual insurance providing similar or exceeding benefits. §27-49-8(c)	Preexisting condition limitations of 12 months; credit shall be given for time served under a prior plan if the coverage is selected when the person first becomes eligible and the coverage is continuous; service waiting periods are not considered to interrupt; continuous service §38-71-730(4)
Reinsurance Type	Prospective with an opt out §27-49-11	Prospective/with an opt out (SBM 541 §9)
Reinsurance Price	Whole Group: 150% Individual: 500% §27-49-11(9)(2)	Whole group 150% Individual 500% (SBM 541 §11 (1)(2))
Cost Sharing	First \$5,000 of reinsured claims §27-49-11(9)(4A)	\$5,000 plus .0% of the next \$50,000 and a cap of \$10,000 per year. (SBM 541 §11 (9)(4)(a))
Assessments	5% of total premium earned in small employer market §27-49-11(6)(3c)	Board shall determine. Insurers may not have an assessment share less than 50% or more than 150% of the proportion of total premium earned the preceding year from small group plans (SBM 541 §11 (K)(2))
Other	Standard and economy health benefit plans are included within the law and are based on Rhode Island's low-cost limited mandated benefit law. Copayment, deductibles, and coinsurance are outlined. §27-49-12	
Effective Date	July 31, 1992	January 1, 1992 (SBM 541 effective July 1, 1995)

	SOUTH DAKOTA	TENNESSEE
Availability	Guaranteed issue of standard and basic plans (effective 7/1/96). §58-188	Guaranteed issue for standard and basic plans §56-7-2208(a) (1992 SB 2578)
Group Size	1-25 §58-188-1(12) (1991 SB 229)	3-25 §56-7-2203(24)
Individual Policies	Does not apply to individual health policies subject to policy form and premium rate approval. §58-188-2	Generally applies to individual policies sold to small employers. Provisions of TCA, Title 56, Chapter 5, Part 3 do not apply to individual policies subject to this law. §56-7-2206(a,b)
Case Characteristics	No factors other than age, gender, industry, family composition and group size without prior approval of director. Relevant demographics of small employer as considered by carrier in determination of premiums. Claims experience, health status, and duration of coverage are not case characteristics. §58-188-1(4) Industry may be used if the highest rate factor for industry doesn't exceed the lowest industry rate factor by more than 15%.	Relevant demographics of small employer as considered by carrier in determination of premiums; claims experience, health status, and duration of coverage are not case characteristics §56-2203(6)
Rating Restrictions	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 20%. For a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25%. §58-188-3(1,2). Rates for small employer may not exceed the rate for another small employer because of age alone by a factor of 3:1. §58-188	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 25%; for a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 35% §56-7-2209(b)
Transitional Period	5 years §58-188-3(4)	5 years §56-7-2209(b)7
Renewal Rating	Trend plus 15% plus changes in case characteristics. §58-188-3(5)	Trend plus 15% plus change in case characteristics §56-7-2209(b)3(8)
Renewability		Guaranteed renewable except "for cause" §56-7-2209(a)3
Whole Groups	Carriers are required to take whole groups. §58-188-49	Carriers are required to take whole groups.
Continuity of Coverage		Preexisting condition limitation of 12 months; plans shall credit the time person was covered under a previous group health benefit plan if previous coverage was continuous 30 days prior to the new coverage §56-7-2209(a)1,2
Reinsurance Type		Prospective/with an opt-out §56-7-2221(a)
Reinsurance Price		Whole Group: 150% Individuals: 500% §56-7-2221(g)2(c)
Cost Sharing		\$5,000 plus 10% of the next \$50,000 §56-7-2221(g)2(c)
Assessments		Capped at 5% of small employer premiums; formula to be set by board but must be 50% to 150% of carrier's proportional share of all reinsuring carriers' small employer premiums §56-7-2221(h)2,4
Other		Guaranteed issue requirement suspended if assessment cap is reached §56-7-2221(h)6
Effective Date	July 1, 1992	July 1, 1992; January 1, 1993 for preexisting condition and guaranteed renewable provisions

	TEXAS	VERMONT
Availability	Guaranteed issue (9/1/95) §26.21 HB 2055 1993	Guaranteed issue §4080a(4)d(1)
Group Size	3-50 §26.01	1-49 §4080a(1)
Individual Policies	Generally applies to individual policies sold to small employers. §26.06	May not offer a health benefit plan or insurance policy to individual employees or members of a small group as a means of circumventing the act §4080a(4)h(3)=
Case Characteristics	Geography, age, gender, industry classification, number of employees and others. Claims experience, health status, medical history or pregnancy are not case characteristics. §26.01	The following risk classification factors are prohibited: demographic rating, including age and gender, geographic area rating, industry rating, medical underwriting and screening, experience rating, tier rating, or durational rating; Commissioner may by rule permit carriers to use one or more risk classifications §4080a(h)1
Rating Restrictions	Index rates shall not exceed another class by more than 20%; or within a class by more than 25%. (NAIC rate bands) §26.32	Premiums may not deviate by more than +/- 20% of the community rate filed by the small employer carrier §4080a(h)2
Transitional Period	May exceed ranges until 9/1/95.	In force business will not be subject to the provisions of the Act until the later of the date of renewal, anniversary, or July 1, 1992 §5112(6)b
Renewal Rating	Trend plus 15%.	No provision
Renewability	Guaranteed renewable except "for cause." §26.23	Must guarantee rates for six months; must guarantee acceptance §4080a(k)
Whole Groups		Carrier must take entire group §4080a(e)4(d)
Continuity of Coverage	Prex may be excluded for 12 months if treatment sought within 6 months prior to coverage. Does not apply if individual was continuously covered for 12 months and only had a gap of 60 days. Credit given for any day coverage in effect during preceding 12 months. May establish waiting period up to 90 days.	Preexisting condition limitation of 12 months; limitation shall be waived if there is evidence of substantially equivalent continuous coverage during previous 9 months §4080a(g)
Reinsurance Type	Prospective with opt out §26.51-62	Prospective/mandatory for commercials; participants must guarantee solvency w/out limitation on a pro-rata basis §4080a(o)
Reinsurance Price	Whole Group: 150% Individual: 500% §26.59	No provision
Cost Sharing	\$5,000 plus 10% of the next \$50,000 with a \$10,000 cap per individual per year.	No provision
Assessments	\$% cap. Must be 50%-150% of carrier's proportional share of all reinsuring carriers' small employer premium. §26.60	No provision
Other	Guaranteed issue is suspended if assessment cap is reached. Provides three mandated benefit packages which must be offered by 1/1/94; primary and preventive, in-hospital and standard. §26.42	Participation requirement = 75% of employees; most provisions do not apply to registered carriers who on 1/1/91 and thereafter have written or collected less than \$100,000 in annual gross premiums for group health benefit plans §4080a(1)h(3)1
Effective Date	September 1, 1993 (offering of the mandated plans does not begin until 1/1/94 and guarantee issue isn't until 9/1/95).	July 1, 1992

UTAH

Availability	Silent
Group Size	1-50 (SBH 158 - 31A-30-103 (15))
Individual Policies	
Case Characteristics	Age, gender, industry, geographic area, family composition and group size. Others need commissioner's approval. Duration of coverage, claim experience and health status may not be used. (31A-30-106.1 (d-j))
Rating Restrictions	Premium rates may not vary from the index rate by more than 25% for the same class of business. Adjustments for claims experience, health status and duration shall be applied uniformly to all members of small employer group. Would allow up to nine different classes of business (31A-30-106.1 (b))
Transitional Period	
Renewal Rating	
Renewability	Guaranteed renewable except "for cause" (31A-30-107.1)
Whole Groups	
Continuity of Coverage	Preexisting condition limitation of 12 months relating to conditions 6 months before coverage. Waiting periods must be waived for the period of time an individual was previously covered if that coverage was continuous 90 days before effective date of new coverage. The period of continuous coverage may not include a waiting period for the effective date of coverage applied. (31A-30-107.4)
Reinsurance Type	
Reinsurance Price	
Cost Sharing	
Assessments	
Other	
Effective Date	January 1, 1995

	VIRGINIA	WASHINGTON
Availability	Guaranteed issue.* §38.2-3431(D) (4/1/94)	(1993 SB 5304)
Group Size	2-25 for guaranteed issue, 2-49 for other reforms §38.2-3431(B)	Covers everyone. Employer and individual mandate. Requires residents to purchase a uniform benefit package from a certified health plan by 7/1/99.
Individual Policies	Extends to include individual policies §38.2-3431(A) (4/1/94)	
Case Characteristics	Based on a community rate on carriers combined claims for all groups subject to demographic rating including age, gender and geography. May not use claim experience, health status or duration. (4/1/94)	Family size and geography.
Rating Restrictions	Premium rates charged by a small employer may deviate above or below the community rate by no more than 20% for claim experience, health status and duration only during a rating period for such groups within similar demographics for the same or similar coverage. Rating factors, including case characteristics will be applied consistently with respect to all primary small employers in similar demographics. Adjustments in rates for claims experience, health status and duration from issue may not be applied individually.*	Community rating. Must provide benefits of the uniform privilege on a pre-paid per capital community rated premium not to exceed the maximum premium established by the commission and provide benefits through managed care.
Transitional Period	No provision	
Renewal Rating	No provision	
Renewability	Guaranteed renewable except: "for cause" §38.2-3432(B)	
Whole Groups	Prohibits carriers from excluding individuals because of health status or based upon the nature of the employer's business §38.2-3432(1)(3)	
Continuity of Coverage	Preexisting condition limitation of 12 months; time shall be credited to a person covered under previous individual or group coverage in the small employer market of equal or greater value if coverage was continuous 30 days prior to new coverage, exclusive of applicable waiting periods. Late enrollees may be excluded for up to 18 months. §38.2-3432(1)(3)	After 1/1/94, every individual and group disability insurer MCO and health service contract is to waive any pre-existing condition, exclusion or limitation in 3 month period preceding effective date of coverage. If person met a 12 month waiting period in the preceding policy, insurer will waive pre-existing condition limitation.
Reinsurance Type	No provision	
Reinsurance Price	No provision	
Cost Sharing	No provision	
Assessments	No provision	
Other	Standard and essential plans (effective 7/1/93)	
Effective Date	April 1, 1994	Effective 7/1/93 except § 234-257 on 7/1/95 and §301 on 1/1/96.

	WEST VIRGINIA	WISCONSIN
Availability		Guaranteed issue (1992 A 655) §635.26
Group Size	2-59 §33-160-2	2-25 §635.20(12)a
Individual Policies	Does not apply to individual health policies subject to policy form and premium rate approval. §33-160-3	Applies to individual policies §635.02(8)
Case Characteristics	Relevant demographics of small employer as considered by carrier in determination of premiums. Claims experience, health status, and duration of coverage are not case characteristics. §33-160-2	Relevant demographics of small employer as considered by carrier in determination of premiums; claims experience, health status, and duration of coverage are not case characteristics §6305.05(2)(5), 635.18(4)
Rating Restrictions	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 20%. For a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25%. §33-160-5	Premium rates for small employer plans with similar case characteristics may not vary from the midpoint rate for those small employers by more than 35% of that midpoint rate §635.05(1)
Transitional Period	5 years §33-160-5	3 years
Renewal Rating	Trend plus 15% plus changes in case characteristics. §33-160-5	Trend plus 15% plus changes in case characteristics §635.05(2)2
Renewability	Guaranteed renewable except "for cause." §33-160-7	Guaranteed renewable except "for cause" §635.07
Whole Groups		Insurer must offer coverage to the entire group §635.23(2)
Continuity of Coverage		Preexisting condition limitation of 12 months; credit shall be given to individuals who were previously covered by qualifying coverage if the coverage was continuous 30 days prior to the new coverage, exclusive of applicable waiting periods §635.17
Reinsurance Type		Reinsurance type and assessments shall be studied by the Health Insurance Board §635.23
Reinsurance Price		No provision
Cost Sharing		No provision
Assessments		No provision
Other		
Effective Date	July 1, 1991	Day after publication

	WYOMING
Availability	Guaranteed issue §26-19-306
Group Size	2-25 §26-19-302(xxii)
Individual Policies	Does not apply to individual policies which are subject to approval for policy form. §26-19-303
Case Characteristics	Relevant demographics of small employer as considered by carrier in determination of premiums; claims experience, health status, and duration of coverage are not case characteristics §26-19-302(vi)
Rating Restrictions	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 20%; for a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25% §26-19-304
Transitional Period	3 years §26-19-304(a)viii
Renewal Rating	Trend plus 15% plus changes in case characteristics §26-19-304(a)iii(B)
Renewability	Guaranteed renewable except "for cause" §26-19-305
Whole Groups	Insurers are required to offer coverage to the entire group §26-19-306(c)vi
Continuity of Coverage	Preexisting condition limitation of 12 months; credit shall be given for time person was previously covered if previous coverage was continuous 30 days prior to new coverage, exclusive of applicable waiting periods, or for a person who become unemployed and are provided coverage if the person obtains employment and coverage within 60 days §26-19-306(c)i
Reinsurance Type	Prospective/mandatory §26-19-307
Reinsurance Price	Whole Group: 150% Individual: 500% §26-19-307(k)i,ii
Cost Sharing	\$5,000 §26-19-307(i)c,v
Assessments	Not to exceed 5% of the total small group premium §26-19-307(n)A
Other	
Effective Date	No earlier than March 31, 1993

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/78

Central Microfilm Services
Department of Education
State of Alaska

	WYOMING
Availability	Guaranteed issue §26-19-306
Group Size	2-25 §26-19-302(xxii)
Individual Policies	Does not apply to individual policies which are subject to approval for policy form. §26-19-303
Case Characteristics	Relevant demographics of small employer as considered by carrier in determination of premiums; claims experience, health status, and duration of coverage are not case characteristics §26-19-302(vi)
Rating Restrictions	Index rate for one class of business shall not exceed the index rate for any other class of business by more than 20%; for a class of business, the premium rates charged small employers with similar case characteristics shall not vary from the index rate by more than 25% §26-19-306
Transitional Period	3 years §26-19-304(a)viii
Renewal Rating	Trend plus 15% plus changes in case characteristics §26-19-304(a)iii(B)
Renewability	Guaranteed renewable except "for cause" §26-19-305
Whole Groups	Insurers are required to offer coverage to the entire group §26-19-306(cvi)
Continuity of Coverage	Preexisting condition limitation of 12 months; credit shall be given for time person was previously covered if previous coverage was continuous 30 days prior to new coverage, exclusive of applicable waiting periods, or for a person who become unemployed and are provided coverage if the person obtains employment and coverage within 60 days §26-19-306(c)i
Reinsurance Type	Prospective/mandatory §26-19-307
Reinsurance Price	Whole Group: 150% Individuals: 500% §26-19-307(k)i,ii
Cost Sharing	\$5,000 §26-19-307(l)x,v
Assessments	Not to exceed 5% of the total small group premiums §26-19-307(n)A
Other	
Effective Date	No earlier than March 31, 1993

* This is an outline of passed legislation. For a full understanding of the enactments, the text of the statutes cited should be consulted. This should not be used as a sole source.

COMPREHENSIVE SMALL EMPLOYER PACKAGES

	NIAA	NAIC
Availability	Guaranteed issue	Guaranteed issue (groups of 1 to <u> </u>) of all health benefit plans actively marketed to small employers in the state.
Group size	2-50	1.
Individual Policies	Individual policies sold to small employer subject to Act; however, if state has effective rate regulation, the rating requirements do not apply. Group coverage should not extend to one-life groups.	Does apply to individual policies sold to small employers; although drafting note says that states may wish to consider exempting individual health policies from the rating provisions.
Case Characteristics	Modified community rating; family composition, geography, age, gender, size of employer, health improving behaviors, and other objective criteria; rate variation based on health status, claims experience or any other factor is permitted, subject to strict limitations.	Small employer carriers may not use case characteristics other than geographic area, family composition, and age.
Rating Restrictions	Premium rates for small employer plans with similar case characteristics may not vary by more than +/- 25 percent from the modified community rate.	Age bracket- must be at least in 5 year increments for ages 30-65 (separate rates allowed for those over 65). Adjustments to rates cannot be more than 400% of the lowest rate for all age groups for the first 2 years, 300% in the 3rd and 4th years and 200% after 5 years. ** these limitations are only one of several viable approaches. ** Premiums may not be adjusted more than annually to reflect changes in enrollment, family composition or the health benefit plan requested by the employer.
Transitional Period	3 years	5 years
Renewal Rating	Trend plus 1% plus changes in case characteristics	Trend
Renewability	Guaranteed renewable except "for cause"	Guaranteed renewable except "for cause"
Whole Groups	Carriers must take the entire group	Carriers must take the entire group.
Continuity of Coverage	No pre-existing condition exclusions if coverage is continuous (has not lapsed more than 60 days), otherwise a 12 month exclusion is allowed. Up to an 18-month pre-existing condition exclusion may be imposed on late entrants if coverage has lapsed more than 60 days or if condition was not covered under prior coverage.	Plans may not deny, exclude or limit benefits for losses incurred more than 6 months due to a pre-existing condition. Plans must credit the time a person was covered by qualified previous coverage provided the coverage was continuous at least 90 days prior to effective date; qualified previous coverage is defined as Medicare, Medicaid, employer-based health insurance, or individual insurance providing similar or exceeding benefits. Waiting periods for pre-existing conditions of up to 12 months may be applied to late enrollees.
Reinsurance Type	Prospective/mandatory	Individual states will determine whether to make participation in reinsurance mandatory or voluntary.
Reinsurance Price	Whole Group: 150% Individuals: 500%	Whole Group: 150% Individuals: 500%
Cost Sharing	None	First \$5000 of reinsured claims plus 10% of next \$50,000
Assessments	4% of the premium of small employer market net of reinsurance premiums paid	5% of the premium of the small employer market
Other	Carriers may reinsure existing business and new risks	
Effective Date		

**SENATE COMMITTEE RE: RT
First Committee of Referral**

DATE: 5/9/95

FURTHER: Finance

Date of 5-Day Notice: 1/3/96
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 1/10/96

Labor and Commerce Committee considered SB 178

Small employer health insurance.

For action

and recommends:

- be replaced with _____ CS _____
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
same title
new title
House Bill:
same title
technical title
new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Hank Myler</i>	<input checked="" type="checkbox"/>	<i>John</i>	<input checked="" type="checkbox"/>		
<i>John Ferguson</i>	<input checked="" type="checkbox"/>	<i>Adrian & Said</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>Tim Kelly</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

<i>DCED</i>	<i>1/4/96</i>	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SB

180

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 30, 1996

FURTHER REFERRALS:

Date of Committee Action: 5/2/96

The FINANCE Committee considered:

CSSB 180(FIN)

CS FOR SENATE BILL NO. 180(FIN)

VALUE-ADDED TIMBER SALES; MARKETING

"An Act authorizing the commissioner of natural resources to negotiate and enter into timber sale contracts that provide for local manufacture of high value-added wood products; and establishing an Alaska Forest Products Research and Marketing Program within the Department of Commerce and Economic Development."

recommends it be replaced with the following committee substitute HCS CSSB 180 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Date)

APPROVES PREVIOUS: (Date)

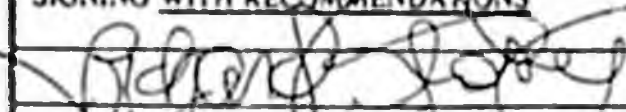

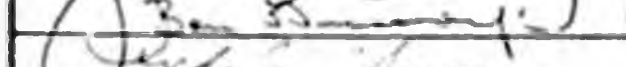


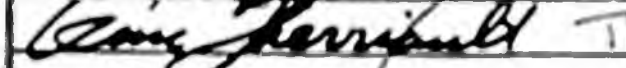

fiscal note(s) _____

^{Senate} fiscal note(s) DNR 4/24/96

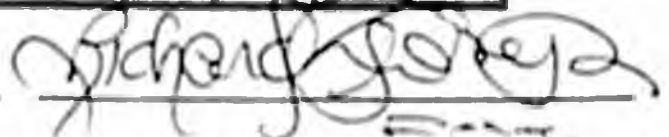
zero fiscal note(s) _____

^{Senate} zero fiscal note(s) UA 4/22/96

CRA 4/23/96

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	Foster	X			
	Kohring			X	
	Grossendy	X			
	Vance				
	Parnell			X	
	Kelly	X			
	Ferris	X			

CHAIR'S SIGNATURE _____



FISCAL NOTE

REPORTED TO
770

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB180(RES)

Revision Date: 23-Apr-96 Dept Affected Natural Resources
 Title: An Act authorizing the commissioner of the BRU: Resource Development
Dept. of Natural Resources to negotiate and enter into timber... Component: Forest Management & Development
 Sponsor: Senate Rules by request of the Governor
 Requestor: Senate Finance Component Serial No. 435

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	20.0	3.5	3.5	3.5	3.5	3.5
TRAVEL	3.5					
CONTRACTUAL	3.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	26.5	3.5	3.5	3.5	3.5	3.5
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	26.5	3.5	3.5	3.5	3.5	3.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	26.5	3.5	3.5	3.5	3.5	3.5

Estimate of any current year (FY96) cost: \$ none

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 analysis assumes that the Act would be signed into law in June of 1996, and no timber sales enabled by the Act would take place until FY98. In FY97 there would be a cost of promulgating regulations. Additional annual costs (\$3.5) would be limited to evaluating the direct economic benefit, commercial success, etc., required under the best interest finding. If this program was intended to be a second concurrent timber sale program, then the program would require \$350.0 to \$560.0 annually and 4 to 5 full-time personnel, depending on the number of negotiated sales. However, because this program will most likely replace existing sales, funding and personnel requirements will displace costs of existing programs and are not reflected in the fiscal note. Timber sale receipts would continue to go to the general fund.

Prepared by: Tom Bouch, Director *[Signature]* Phone: 465-3378
 Division: Forestry Date: 23-Apr-96
 Approved by Commissioner: *[Signature]* Date: 23-Apr-96
 Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

REPORT No. 7
Bill Version: CSB 180 (RES)
(S) Publish Date: 4/22/96

Revision Date:
Title: An Act - establishing an Alaska Forest Products Research
and Marketing Program
Sponsor:
Requestor:

Department Affected: University of Alaska
BRU: UAF
Component: Fairbanks Organized Research

COMPONENT SERIAL NO. 730

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRAVTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FD SOURCE						
-------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1000 FEDERAL FUNDS						
1000 OF MATCH						
1004 GENERAL FUND						
1006 OF/MHTLA						
OTHER						
TOTAL FUNDING	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Marilyn Barnes Phone: 463-3086
 Division: Statewide Budget Office Date: 4/18/96
 Approved by: [Signature] Marilyn Barnes, Director
 Agency: Statewide Budget Office Date: 4/18/96

Distribution (by proposer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies)

9-OS004610.1
Luckhaupt
4/30/96

AMENDMENT 1

no/obj

OFFERED IN THE HOUSE

TO: CSSB 180(FIN)

1 Page 2, line 20:

2 Delete "three"

3 Insert "two"

4 Page 3, line 1, following "section,":

5 Insert

6 "(1) the area of the sale must be designated for forestry purposes by
7 a valid, existing area plan adopted under AS 38.04; and

8 (2)"

9 Page 3, following line 14:

10 Insert a new paragraph to read:

11 "(5) the existence of adequate protection measures to ensure the
12 sustainability of fish and wildlife habitat and populations and continuation of other
13 uses of the area subject to the negotiated sale;"

14 Renumber the following paragraphs accordingly.

15 Page 5, line 7:

16 Delete "three"

17 Insert "two"

SB

180

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT OF
SFC 4/26/96

DATE: 4/22/96

DATE TURNED INTO OFFICE: 4/26/96

The Finance Committee considered SENATE BILL NO. 180

Authorizing the commissioner of the Department of Natural Resources to negotiate and enter into timber sale contracts.

and recommends:

- be replaced with CS SB 180 (FIN)
- adopt previous CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
same title
new title
House Bill:
same title
technical change
new: SCR _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
		<i>[Signature]</i>	<input checked="" type="checkbox"/>		
		<i>[Signature]</i>	<input checked="" type="checkbox"/>		
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Natural Resources	4/23/96		26.5

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Univ. Alaska	4/1/96	0	
Comm. Regional Affairs	4/22/96	0	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 5/9/95

FURTHER: Finance

Date of 5-Day Notice: 2-15-96
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4-18-96

Resources Committee considered SB 180

Authorizing Commissioner of Dept. of Natural Resources to negotiate and enter into timber sale contracts.

and recommends:

- be replaced with 10/11 CS SB 180 (RES)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
 same title
 new title
 House Bill:
 same title
 technical title
 new: SCR# _____

Miss 10/11

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
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<i>[Signature]</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
C&ED	2/14/96	<input checked="" type="checkbox"/>	
DNR - Res. Dev.	2/14/96		26.5
UAF	4/14/96	<input checked="" type="checkbox"/>	
C&RA			

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>[Signature]</i>			
<i>[Signature]</i>			

APPROPRIATE

1 OFN forthcoming C&RA

*include fiscal notes accompanying Governor's bill

TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
Juneau, Alaska 99811-0001
Phone 465-3100
Fax 907 465 2532

May 9, 1995

The Honorable Drue Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Pearce:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that establishes a new negotiated timber sales program for state land managed by the Department of Natural Resources. This bill addresses the need to stimulate local, small scale value-added processing of Alaska's forest resources and to foster creation of Alaskan jobs. With the introduction of this bill, we seek to provide a new focus on how timber should be managed in Alaska by providing more jobs from timber cut on state lands by encouraging industries that process high-value finished wood products. At the same time, this legislation provides direction on management of our forests to preserve fish and wildlife habitat and other uses of the forest including tourism, fisheries, personal and family uses including hunting and fishing.

The goal of my Administration in proposing this bill is to develop sound long-term strategies for managing Alaska's forest resources so as to provide the highest and best economic uses in local communities that are dependent on timber resources while maintaining other Alaskan uses through the constitutionally mandated sustained yield principles. The attached bill maximizes the opportunity for employment while minimizing the impact on other uses of our state forests.

I am introducing this legislation in the final days of the session because it is my understanding that the legislature will be holding hearings on timber over the interim and I think it is critical that the new directions embodied in this bill are considered in the discussions of the legislature.

The bill has two main components:

- provisions for incentives for local manufacture of high value-added wood products and other value-added wood products from timber on state lands and authorizing use of such incentives in awarding special negotiated timber sale contracts (sec. 2 of the

The Honorable Drue Pearce

May 9, 1995

Page 2

bill)

- creation of an Alaska Forest Products Research and Marketing Program within the Department of Commerce and Economic Development to coordinate research and marketing efforts related to value-added manufacturing of Alaska wood products (sec. 3 of the bill).

An uncertain supply of timber is one of the primary factors limiting the development of high value-added wood products manufacturing facilities in the state. To address this problem, sec. 2 of the bill proposes a new special negotiated timber sale program for timber destined for local manufacture of high value-added wood products. Contracts negotiated under this section may be for the harvest of up to five million board feet of timber each year for up to 10 years. Stumpage rates would not be less than the base price established under regulations. Planning for this program by the Department of Natural Resources also will take into account sustained yield principles of timber harvest, the need for protection of fish and wildlife populations and habitat and maximizing opportunities for public uses of the state's forests. The same public comment will apply to the planning process as it does with sales conducted presently. Existing forest planning requirements would apply to these new negotiated sales and other timber sales programs would not be affected.

To participate in a negotiated timber sale authorized in sec. 2 of the bill, the prospective purchaser must agree to use at least 50 percent of the timber from the sale for the local manufacture of high value-added wood products. In determining whether it is in the state's best interest to enter into a sale contract under sec. 2, the commissioner is to consider the economic benefits to the region from the local manufacture of the high value-added wood products as well as from the local manufacture of other value-added wood products; the commissioner also must ensure the sustainability of fish and wildlife populations and habitat and other uses of the forest. My Administration will be working with the Alaska Congressional delegation to ensure that appropriate related changes are made to federal law.

Section 3 of the bill establishes an Alaska Forest Products Research and Marketing Program to encourage in-state processing of Alaska timber into value-added wood products. The program coordinator is to gather and disseminate existing information related to the manufacture of value-added wood products and to identify unfilled needs and problems, conduct analyses and propose solutions to assist local manufacturers. This program will be accomplished through an existing position in the Department of Commerce.

The provisions proposed in this bill will provide a mechanism for encouraging the development of Alaskan businesses and Alaskan jobs, and will establish a new timber sales program as a means of encouraging local processing. It should help address the crisis that faces Alaskan communities that are largely dependent on the jobs the forest products

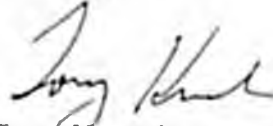
The Honorable Drue Pearce

May 9, 1995

Page 3

industry provides. I urge your favorable action on this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Knowles".

Tony Knowles
Governor

Sen Frank moved adopted

WORK DRAFT

WORK DRAFT

WORK DRAFT

9-GS004610 -
Luckhaupt
4/26/96

Sen Frank moved
w/o objection r/o
incl. vers F/N

CS FOR SENATE BILL NO. 180(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): **SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing the commissioner of natural resources to negotiate and
2 enter into timber sale contracts that provide for local manufacture of high
3 value-added wood products; and establishing an Alaska Forest Products Research
4 and Marketing Program within the Department of Commerce and Economic
5 Development."

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

7 • Section 1. **LEGISLATIVE FINDINGS AND PURPOSE.** The legislature finds that it is
8 in the best interests of the people and economy of Alaska to encourage the establishment and
9 sustainable operation of local timber processing facilities in Alaska to produce high value-
10 added wood products and other value-added wood products from timber cut on state land.
11 One means of encouraging such facilities is through the use of an incentive by reducing the
12 stumpage price of timber offered through negotiated timber sale contracts. The value-added
13 use of timber harvested in Alaska is intended to foster a stable, small scale, locally operated.

1 finished wood products industry by providing a steady reliable supply of timber at a reliable
2 rate over a period of time to a purchaser of the timber that will provide maximum
3 opportunities for jobs in Alaska without significantly adversely affecting fish and wildlife
4 habitat and the forest resources.

5 * Sec. 2. AS 38.05 is amended by adding a new section to article 4 to read:

6 Sec. 38.05.123. NEGOTIATED TIMBER SALES FOR LOCAL
7 MANUFACTURE OF WOOD PRODUCTS. (a) Notwithstanding the provisions of
8 AS 38.05.115 and 38.05.120, and upon a finding that the sale is in the best interest of
9 the state, the commissioner may negotiate a sale of timber for use in the local
10 manufacture of high value-added wood products. A timber sale contract entered into
11 under this section may provide for a harvest of up to 10,000,000 board feet of timber
12 each year, consistent with sustained yield principles, and may be for a term of up to
13 10 years. Initial stumpage rates for a contract under this section shall be determined
14 by negotiation but may not be less than the base price for the area as established under
15 regulations adopted by the commissioner. A contract under this section shall provide
16 that stumpage rates shall be redetermined by negotiation at least once every three years
17 during the term of the contract, to reflect changes in market conditions; the
18 redetermined rates may not be less than the base price for the area as established under
19 regulations adopted by the commissioner. The commissioner shall by regulation set
20 a maximum number of contracts, but not less than three, per region of the state that
21 may be negotiated each year under this section.

22 (b) Notice of intent to negotiate a contract under this section shall be given in
23 accordance with AS 38.05.945.

24 (c) The commissioner may negotiate a sale of timber under this section if the
25 prospective purchaser agrees to use to the maximum extent commercially practicable
26 the timber subject to the sale for the local manufacture of high value-added wood
27 products. The commissioner shall determine the maximum amount of the timber being
28 sold that is commercially practicable to use for those purposes and make the use of
29 that percentage of the timber for those purposes a term of the contract. In evaluating
30 proposals, the commissioner shall take into account the proposed manufacture of other
31 value-added wood products to be produced under a negotiated contract.

1 (d) Before a sale may be negotiated under this section, the requirements of
2 AS 38.05.112 and 38.05.113 must be met.

3 (e) In making the best interest finding required by AS 38.05.035(c) and this
4 section, the commissioner shall consider, in addition to other factors,

5 (1) the direct economic benefit from the local manufacture of high
6 value-added wood products as a result of the sale;

7 (2) the direct economic benefit from other local processing of the
8 timber to be undertaken by the purchaser as a result of the sale, including the
9 manufacture of other value-added wood products in addition to high value-added wood
10 products;

11 (3) the likelihood of commercial success of the locally manufactured
12 high value-added wood products and other value-added wood products;

13 (4) the extent to which the sale is likely to result in the creation and
14 maintenance of a stable local job base;

15 (5) the stumpage return to the state; and

16 (6) any other reasonably foreseeable benefits to the state and local
17 economies from the sale.

18 (f) As part of the timber sale negotiations authorized by this section, the
19 commissioner may require a prospective purchaser negotiating a timber sale contract
20 to submit financial and technical data that demonstrates that the requirements of this
21 section have been or will be met. Upon the prospective purchaser's request, the
22 commissioner shall keep data provided by the purchaser confidential in accordance
23 with the requirements of AS 38.05.035(a)(9).

24 (g) If the commissioner determines that additional analysis is necessary in
25 order to complete the best interest finding for a sale under this section, the
26 commissioner may require the prospective purchaser to retain and pay for the services
27 of a contractor to assist the commissioner in evaluating the proposed negotiated sale
28 and financial and technical data relating to the proposed sale. The contractor shall be
29 selected by the prospective purchaser from a list of consultants in forestry and timber
30 economics provided by the commissioner. If the commissioner requires a prospective
31 purchaser to retain the services of a contractor under this subsection, the commissioner