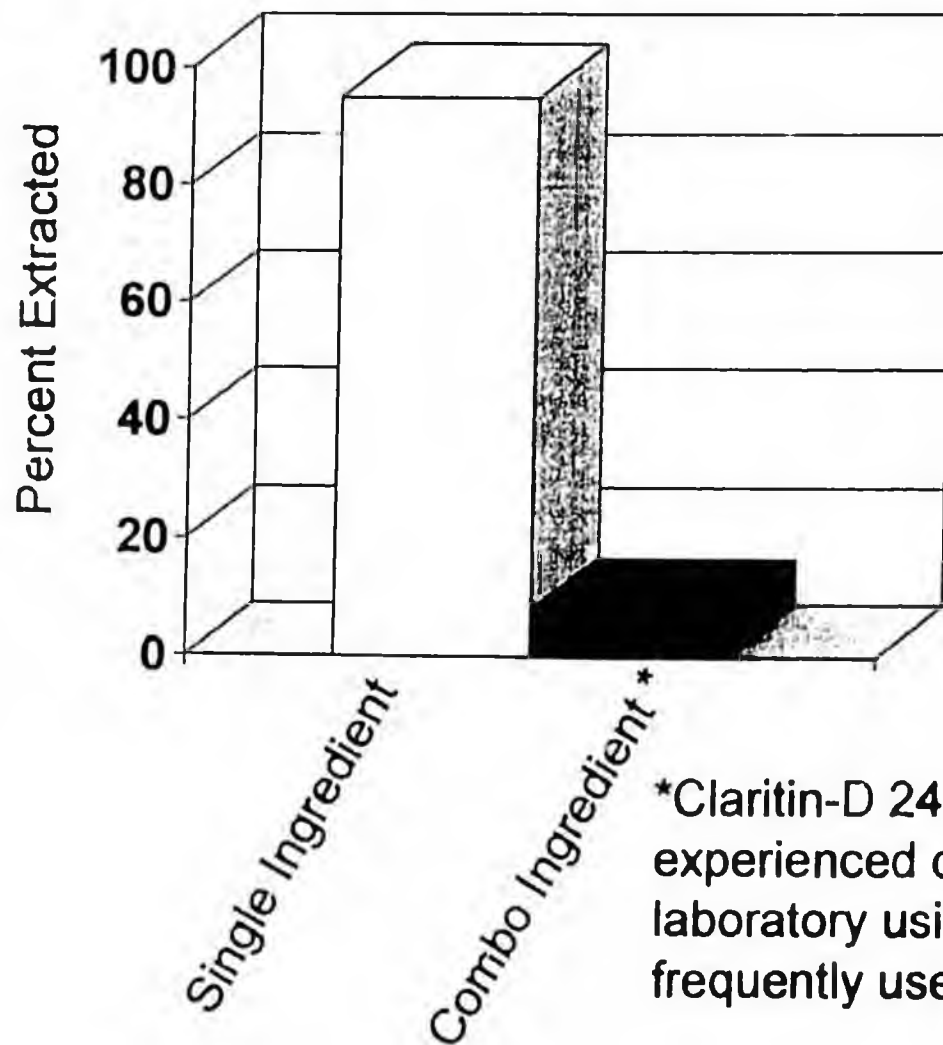


ALASKA LEGISLATURE

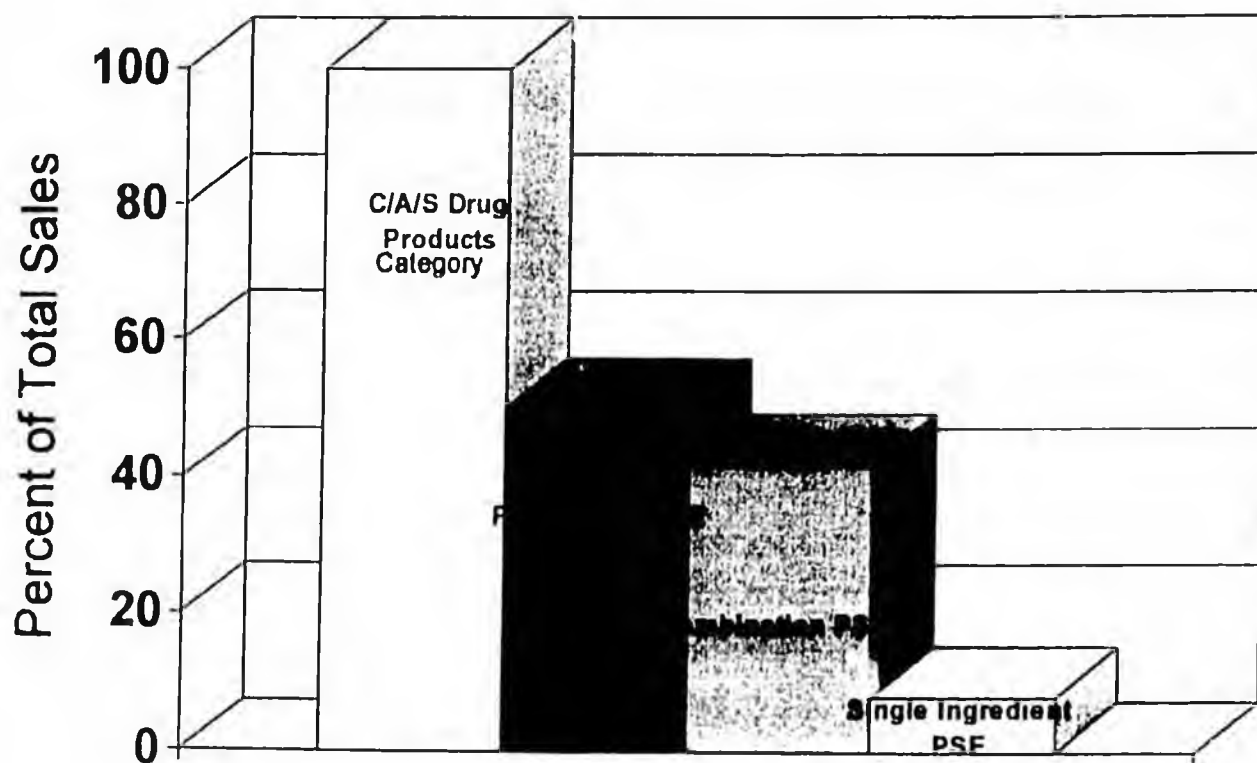
HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2876

Extraction from Combination Tablets Yields Far Lower Levels of Pseudoephedrine than Single Ingredient Products



*Claritin-D 24 extracted by an experienced chemist in a pharmaceutical laboratory using the "UncleFester" method frequently used by meth cooks

Single Ingredient Pseudoephedrine Products are Small Part of Cold/Allergy/Sinus OTC Market but Are Predominant Products Found in Meth Labs



IRI Market Information, January 2005

Combination Pseudoephedrine Products are **not** found in Meth Lab Seizures*

- Eight states thoroughly investigated
 - AZ, CA, GA, IL, NY, OK, TN, TX
- Interviews with local, state, and federal law enforcement officials
- Findings
 - Single ingredient pseudoephedrine products predominantly found in meth labs
 - Combination products in general not found and no Claritin-D products found

*Investigation conducted by national DEA Investigative consulting firm, February 2005

House Bill 272 impacts the following products by requiring that they be placed behind the pharmacy counter. Customers would be required to sign a log and show identification in order to purchase these products:

Single-entity PSE products

(Note: Some products are examples of store brand)

| | |
|-------------------------|-----------------------------|
| Suphedrine MX Strength | Suphedrine 12 Hour Caplets |
| Sudafed Tablets 30 MG | Sudafed 24 Hour |
| Suphedrine Decongestant | Suphedrine 12 Hour Caplets |
| Sudafed 12 Hour | Contac 12 Hour Cold Caplets |
| Sudafed 12 Hour Caplets | Contac 12 Hour Caplets |
| Suphedrine | Cold Caps 12 Hour |

Single-entity PSE products – Liquid and Gel Tabs

(Note: Some products are examples of store brand)

Pedia Care Infant Drops
Sudafed Children's Decongestant
Dimetapp 12 Hour Non-Drowsy
Childrens Suphedrine Grape
Sudafed Nasal Decongestant Childrens
Elixsure Children's Decongestant

Multiple/ Compound PSE Products

(NOTE: Products listed more than once indicate varying formulations; Some products are examples of store brands)

| | |
|--|--------------------------------------|
| Alka Seltzer Plus Cold Tabs | Actifed Tablets |
| Claritin D Allergy Tabs (X 3 strengths) | Contac Day & Night Cold & Flu |
| Nyquil Cold Medicine (capsules, gelcaps, liquid) | Theraflu Flu Cold & Cough |
| ND Allergy Congestant | Flu Cold & Cough Nite Time |
| Advil Cold and Sinus | Tylenol Sinus ND Severe Congestion |
| Tylenol Cold Severe Congestion | Theraflu Non-Drowsy Flu & Congestion |
| Aphedrid Tabs | Sudafed Sinus |
| Theraflu Max Strength Nighttime | Theraflu |
| ND Allergy Congestion Tab 24 Hour | Tylenol Allergy Sinus |
| Tylenol Flu Gelcaps | Alavert Allergy Sinus |
| Aphedrid Cold & Allergy Tab | Coricidin D Tablet |
| Tylenol Cold ND MS | Tylenol Cold ND Caplet |
| Theraflu Max Strength Packets | Alavert Allergy |
| Theraflu Nighttime Flu | Tylenol Max STR Sinus |
| Drixoral Cold & Allergy | Suphedrine ND Liquid Sinus Caps |
| Advil Cold and Sinus | Theraflu Cold & Sore Throat |
| Tylenol Cold MS Caplet | Theraflu Nite Time Flu & Cough |
| Alleve Cold and Sinus | Primatene |
| Suphedrine MS Tablets | Advil Flu & Body Ache |
| Sudafed Non Drying Sinus | Sudafed Sever Cold & Flu |
| ND Allergy Congestion Tab 24 Hour | Benadryl Allergy Sinus Headache |
| | P RLVR Allergy Sinus Max |

Tylenol MS St Sinus
Benadryl D Allergy Sinus FSTMLT
Tylenol Allergy Sinus
Contac Severe Max STR Cold & Flu
Contac Severe Cold Max Strength
Suphedrine MS Sin Caps
Pain Reliever Sinus Caps
Alka Seltzer Plus Cold & Cough
Tylenol Sinus ND MS
MS Flu Cold & Cough ND
Profen IB Cold Sinus CPLT
Motrin Cold & Sinus
Sudafed Sinus Nighttime Max STR
Aleve Sinus & Headache
Benadryl Cold Caplets
Pain Reliever Cold Severe Caps
Comtrex Non-Drowsy Cold & Cough
Benadryl D Allergy Sinus
Flu Cold & Cough Original
Benadryl Severe Allergy & Sinus
Headache
Pain Relief Sinus Allergy Caps
Tylenol Child Cold & Cough Chew
Suphedrine MS Cough & Cold
Tylenol Sinus
Triaminic Soft Chew Cold & Cough
Tylenol Max STR Sinus
Sudafed Sinus Nighttime
Tylenol Allergy Sinus
Sudafed Sinus & Cold Liquid Caps
Sudafed Sinus Tablets
Theraflu Severe Cold & Congestion NT
Theraflu Caplets
Child Aspirin FR Cold & Cough
Sudafed Severe Cold & Flu
Alka Seltzer Plus Cold
Contac Severe Cold & Flu Caplets
Tylenol M S Sinus
Advil Cold & Sinus
Sudafed Severe Cold & Flu
Tric Nite Time Max Strength

Tylenol Allergy Sinus DN MS
Sudafed Max Strength Sinus
Tylenol Allergy Sinus
Suphedrine Cold Allergy
Allerest Tablets Max Strength
Benadryl Allergy Sinus Headache
Suphedrine Severe Cold Caplets
Primatene
Tylenol Allergy Sinus
Suphedrine MS Sinus Tabs
Alka Seltzer Plus Nighttime
Triaminic Softchew Throat & Cough
Advil Allergy Sinus
Severe Cold and Flu Caplets
Comtrex Nighttime Cold & Cough
Sinutab Max Strength Non-Drowsy
Comtrex Deep Chest Cold
Advil Allergy Sinus
Comtrex Day & Nite Cold & Flu Therapy
Diph Headache Allergy Sinus CP
Profen IB Cold & Sinus CPLT
Tavist Allergy Sinus Headache
Suphedrine Severe Cold MS Capsules
Triacting MS Cough & Cold Cherry
Pain Reliever Cold COM MS Capsules
Tylenol Sinus Nite & Day Severe
Congestion
Sinus Caplets Non-Drowsy
Pain Relief ND Multi Caplets
Triacting MS Chest Congestion
Claritin D 24 Hour Allergy
Claritin D 12 Hour Allergy
NA Flu Day & Night Combo
NA Cold Day & Night Combo
Sinus Day & Night Caplet
Tylenol Cold Severe Congestion
Vicks Baby Rub
Advil Multi Symptom Cold
Advil Multi-Symptom Cold
Triacting MS Cold & Allergy

Multiple/ Compound PSE Products – Liquid and Gel Tabs

(NOTE: Products listed more than once indicate varying formulations; Some products are examples of store brands)

Robitussin Cough Syrup (X 4 strengths/
flavors)
Dayquil Liquicaps
Tylenol Infant Cold Drops
Children's Tylenol Cold Cough
Vicks Dayquil
PediCare Decongestant Plus Cough
Dayquil Liquid
Tylenol Flu MS Day/ Night
Children's Motrin Cold
 Nighttime Liquid Cherry
 Nighttime Liquid Original
Dimetapp DM Elixir
Dimetapp Decongestant Cough Infant
Drops
Tussin CF
Tylenol Cold ND Geltabs
Daytime Liquid Caps
Robitussin Flu
Nighttime Liquid Original
Robitussin Pedia Cough & Cold
Tylenol Childrens Flu Formula
 Nighttime Liquid Cherry
Pedia Care Cough & Cold
Robitussin Cough & Cold
Tylenol Flu Night Time
Tylenol Infant Cold Decongestant Drops
Advil Cold and Sinus
Nighttime Liquid Caps
Vicks Dayquil/ Nyquil Liquicaps
Sudafed Cold & Cough Liquid Caps
Dimetapp Elixir
Vicks Formula 44E
Vicks Dayquil ND Cold Flu
Robitussin PE
Vicks Formula 44M
Vicks Children's Nyquil Cold & Cough
Children's Tylenol Cold Nighttime
Dimetapp Cough Plus Cold
Robitussin Cough, Cold & Flu
Robitussin Allergy & Cough
ND Day Time Liquid
Robitussin Cold Severe Congestion
Vicks Nyquil Cold & Flu
Sudafed Cold & Cough Liquid Caps
Nyquil Original Twin Pack
Dimetapp Nighttime Flu
Vicks Formula 44D
Childrens Advil Cold
Children's Benadryl Allergy Cold
Robitussin PM Cough and Cold
Robitussin Pediatric Night
Children's Motrin Cold Dye Free
Nyquil Twin Pack Cherry
Robitussin Syrup PE
Benadryl D Allergy Sinus Liquid
Robitussin Maximum Strength
PediCare Nite Rest
 Nighttime Original
Vicks Formula 44M
Tussin MS Cough & Cold EXL
Sinus Pain Relief Gecaps
PediCare Cough Plus Cold
Tussin Pediatric
Sudafed Children Cold & Cough
Infant Cold Drops Cherry
Dibromm Elixir Grape
Dibromm DM Elixir Grape
Robitussin
Dimetapp Pediatric
Vicks Pediatric Formula 44E
Dibromm Elixir Grape
Triacting Sorethroat Grape
Robitussin Cough & Cold
Childs Cold Liquid Grape
Daytime Cold & Flu Softgels
Sinus Max Strength Geltabs NA
Vicks Dayquil Twin
Night Time Cold & Flu Softgels
Pediatric Relief Infant Drops
Childrens Pain Reliever Flu
Suphedrine Cough & Cold Liquid Gel
Children's Tylenol Cold
 Ibuprofen Cold Suspension
Dayquil Sinus Liquicaps
Dimetapp Cold & Fever
Children's Advil Allergy Sinus
Tylenol Cold & Flu Daytime
Dimetapp Elixir

AS 11.51.100. Endangering the welfare of a child in the first degree.

(a) A person commits the crime of endangering the welfare of a child in the first degree if, being a parent, guardian, or other person legally charged with the care of a child under 16 years of age, the person

(1) intentionally deserts the child in a place under circumstances creating a substantial risk of physical injury to the child;

(2) leaves the child with another person who is not a parent, guardian, or lawful custodian of the child knowing that the person

(A) is registered or required to register as a sex offender under AS 12.63 or a law or ordinance in another jurisdiction with similar requirements;

(B) has been charged by complaint, information, or indictment with a violation of AS 11.41.410 - 11.41.455 or a law or ordinance in another jurisdiction with similar elements; or

(C) has been charged by complaint, information, or indictment with an attempt, solicitation, or conspiracy to commit a crime described in (B) of this paragraph; or

(3) leaves the child with another person knowing that the person has previously physically mistreated or had sexual contact with any child, and the other person causes physical injury or engages in sexual contact with the child.

(b) A person commits the crime of endangering the welfare of a minor in the first degree if the person transports a child in a motor vehicle, aircraft, or watercraft while in violation of AS 28.35.030.

(c) In this section, "physically mistreated" means

(1) having committed an act punishable under AS 11.41.100 - 11.41.250; or

(2) having applied force to a child that, under the circumstances in which it was applied, or considering the age or physical condition of the child, constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation because of the substantial and unjustifiable risk of

(A) death;

(B) serious or protracted disfigurement;

(C) protracted impairment of health;

(D) loss or impairment of the function of a body member or organ;

(E) substantial skin bruising, burning, or other skin injury;

(F) internal bleeding or subdural hematoma;

(G) bone fracture; or

(H) prolonged or extreme pain, swelling, or injury to soft tissue.

(d) Endangering the welfare of a child in the first degree under (a)(3) of this section is a

(1) class B felony if the child dies;

(2) class C felony if the child suffers sexual contact, sexual penetration, or serious physical injury; or

(3) class A misdemeanor if the child suffers physical injury.

(e) Endangering the welfare of a child under (b) of this subsection is a class A misdemeanor.

(f) Endangering the welfare of a child in the first degree under (a)(1) or (2) of this section is a class C felony.

Sec. 11.51.110. Endangering the welfare of a child in the second degree.

(a) A person commits the crime of endangering the welfare of a child in the second degree if the person, while caring for a child under 10 years of age,

(1) causes or allows the child to enter or remain in a dwelling or vehicle in which a controlled substance is stored in violation of AS 11.71; or

(2) is impaired by an intoxicant, whether or not prescribed for the person under AS 17.30, and there is no third person who is at least 12 years of age and not impaired by an intoxicant present to care for the child.

(b) In this section,

(1) "impaired" means that a person is unconscious or a person is physically or mentally affected so that the person does not have the ability to care for the basic safety or personal needs of a child with the caution characteristic of a sober person of ordinary prudence;

(2) "intoxicant" has the meaning given in AS 47.10.990.

(c) Endangering the welfare of a child in the second degree is a violation.

AS 11.51.130. Contributing to the delinquency of a minor.

(a) A person commits the crime of contributing to the delinquency of a minor if, being 19 years of age or older or being under 19 years of age and having the disabilities of minority removed for general purposes under AS 09.55.590, the person aids, induces, causes, or encourages a child

(1) under 18 years of age to do any act prohibited by state law unless the child's disabilities of minority have been removed for general purposes under AS 09.55.590;

(2) under 18 years of age or allows a child under 18 years of age to enter or remain in the immediate physical presence of the unlawful manufacture, use, display, or delivery of a controlled substance knowing that the manufacture, use, display, or delivery is occurring, unless the child's disabilities of minority have been removed for general purposes under AS 09.55.590;

(3) under 16 years of age to be repeatedly absent from school, without just cause; or

(4) under 18 years of age to be absent from the custody of a parent, guardian, or custodian without the permission of the parent, guardian, or custodian or without the knowledge of the parent, guardian, or custodian, unless the child's disabilities of minority have been removed for general purposes under AS 09.55.590 or the person has immunity under AS 47.10.350 or 47.10.398(a); it is an affirmative defense to a prosecution under this paragraph that, at the time of the alleged offense, the defendant

(A) reasonably believed that the child was in danger of physical injury or in need of temporary shelter; and

(B) within 12 hours after taking the actions comprising the alleged offense, notified a peace officer, a law enforcement agency, or the Department of Health and Social Services of the name of the child and the child's location.

(b) Contributing to the delinquency of a minor is a class A misdemeanor.

AS 11.71.020. Misconduct involving a controlled substance in the second degree.

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

(1) manufactures or delivers any amount of a schedule IA controlled substance or possesses any amount of a schedule IA controlled substance with intent to manufacture or deliver;

(2) manufactures any material, compound, mixture, or preparation that contains

(A) methamphetamine, or its salts, isomers, or salts of isomers; or

(B) an immediate precursor of methamphetamine, or its salts, isomers, or salts of isomers;

(3) possesses an immediate precursor of methamphetamine, or the salts, isomers, or salts of isomers of the immediate precursor of methamphetamine, with the intent to manufacture any material compound, mixture, or preparation that contains methamphetamine, or its salts, isomers, or salts of isomers; or

(4) possesses a listed chemical with intent to manufacture any material, compound, mixture, or preparation that contains

(A) methamphetamine, or its salts, isomers, or salts of isomers; or

(B) an immediate precursor of methamphetamine, or its salts, isomers, or salts of isomer.

(b) In this section, "listed chemical" means a chemical described under AS 11.71.200

(c) Misconduct involving a controlled substance in the second degree is a class A felony.

AS 11.71.030. Misconduct involving a controlled substance in the third degree.

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

(1) under circumstances not proscribed under AS 11.71.020 (a)(2) - (4), manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or possesses any amount of a schedule IIA or IIIA controlled substance with intent to manufacture or deliver;

(2) delivers any amount of a schedule IVA, VA, or VIA controlled substance to a person under 19 years of age who is at least three years younger than the person delivering the substance; or

(3) possesses any amount of a schedule IA or IIA controlled substance

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center; or

(B) on a school bus.

(b) It is an affirmative defense to a prosecution under (a)(3)(A) of this section that the prohibited conduct took place entirely within a private residence located within 500 feet of the school grounds or recreation or youth center, and that the prohibited conduct did not involve distributing, dispensing, or possessing with the intent to distribute or dispense a controlled substance for profit. Nothing in this subsection precludes a prosecution under any other provision of this section or any other section of this chapter.

(c) Misconduct involving a controlled substance in the third degree is a class B felony.

AS 11.71.180. Schedule VA.

(a) A substance shall be placed in schedule VA if it is found under AS 11.71.120(c) to have a degree of danger or probable danger to a person or the public which is less than substances listed in schedule IVA, but higher than substances listed in schedule VIA.

(b) Schedule VA includes any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or their salts, calculated as the free anhydrous base or alkaloid, in limited quantities as specified in (1) - (6) of this subsection, which includes one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by schedule IA substances alone:

(1) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) [Repealed, § 1 ch 66 SLA 1987.]

(d) Schedule VA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the narcotic drug buprenorphine and its salts.

(e) Schedule VA includes, unless specifically excepted or unless listed in another schedule any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) propylhexedrine, except when contained in a Benzedrex inhaler;

(2) pyrovalerone.

History

(§ 2 ch 45 SLA 1982; am § 1 ch 66 SLA 1987; am § 10 ch 76 SLA 1990)

AS 11.71.900. Definitions.

In this chapter, unless the context clearly requires otherwise,

(1) "administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means into the body of a patient or research subject by

(A) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or

(B) the patient or research subject at the direction and in the presence of a practitioner;

(2) "agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser, but does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman;

(3) "committee" means the Controlled Substances Advisory Committee established in AS 11.71.100;

(4) "controlled substance" means a drug, substance, or immediate precursor included in the schedules set out in AS 11.71.140 - 11.71.190;

(5) "counterfeit substance" means a controlled substance which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance and which falsely purports or is represented to be the product of, or to have been distributed by, the other manufacturer, distributor, or dispenser;

(6) "deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship;

(7) "dispense" means to deliver a controlled substance to an ultimate user or research subject by or under the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery; "dispenser" means a practitioner who dispenses;

(8) "distribute" means to deliver other than by administering or dispensing a controlled substance, whether or not there is any money or other item of value exchanged; it includes sale, gift, or exchange; "distributor" means a person who distributes;

(9) "drug"

(A) means

(i) a substance recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to these publications;

(ii) a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(iii) a substance, other than food, intended to affect the structure or any function of the body of humans or animals; and

(iv) a substance intended for use as a component of any article specified in (i), (ii), or (iii) of this subparagraph;

(B) does not include a device or its components, parts, or accessories;

(10) "hashish" means the dried, compressed, resinous product of the plant (genus) Cannabis;

(11) "hashish oil" means the viscous liquid concentrate of tetrahydrocannabinols extracted from the plant (genus) Cannabis;

(12) "immediate precursor" means a substance which is by statute or regulation designated as the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture of that controlled substance;

(13) "manufacture"

(A) means the production, preparation, propagation, compounding, conversion, growing, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; however, the growing of marijuana for personal use is not manufacturing;

(B) includes the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance or its container unless done in conformity with applicable federal law

(i) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(ii) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

(14) "marijuana" means the seeds, and leaves, buds, and flowers of the plant (genus) Cannabis, whether growing or not; it does not include the resin or oil extracted from any part of the plants, or any compound, manufacture, salt, derivative, mixture, or preparation from the resin or oil, including hashish, hashish oil, and natural or synthetic tetrahydrocannabinol; it does not include the stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the stalks, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

(15) "opiate" means

(A) a substance having an addiction-forming or addiction-sustaining capability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining capability; and

(B) includes its racemic and levorotatory forms; but

(C) does not include the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan);

(16) "opium poppy" means the plant of any species of Papaver containing the phenanthrine alkaloids of opium, except its seeds;

(17) "peyote" means any part of the plant classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the seeds of the plant, any extract from any part of the plant, and a compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or extracts, including mescaline;

(18) "poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

(19) "practitioner" means

(A) a physician, dentist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect

to, or to administer or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in the state;

(B) a pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in the state;

(20) "recreation or youth center" means a building, structure, athletic playing field, or playground run or created by a municipality or the state to provide athletic, recreational, or leisure activities for minors.

(21) "sale" means to sell, barter, exchange, give, or dispose of to another, or an exchange for a thing of value;

(22) "schedule IA controlled substance" means a controlled substance included in the schedule in AS 11.71.140;

(23) "schedule IIA controlled substance" means a controlled substance included in the schedule in AS 11.71.150;

(24) "schedule IIIA controlled substance" means a controlled substance included in the schedule in AS 11.71.160;

(25) "schedule IVA controlled substance" means a controlled substance included in the schedule in AS 11.71.170;

(26) "schedule VA controlled substance" means a controlled substance included in the schedule in AS 11.71.180;

(27) "schedule VIA controlled substance" means a controlled substance included in the schedule in AS 11.71.190;

(28) "school bus" means a motor vehicle operated by a school district or private school, directly or by contract, to transport students;

(29) "school grounds" means a building, structure, athletic playing field, playground, parking area, or land contained within the real property boundary line of a public or private preschool, elementary, or secondary school.

(30) "ultimate user" means a person who lawfully possesses a controlled substance for the person's own use or for the use of a member of the person's household or for administering to an animal owned by the person or by a member of the person's household.

History

(§ 2 ch 45 SLA 1982; am § 41 ch 6 SLA 1984; am § 5 ch 63 SLA 1991; am § 5 ch 70 SLA 1994)

Annotations

Revisor's notes. Paragraphs in this section were renumbered in 1991 and 1994 as necessary to reflect the enactment of paragraphs (20) and (29) - (30) and maintain alphabetical order.

Cross references. For definition of terms used in this title, see AS 11.81.900.

AS 12.55.125. Sentences of imprisonment for felonies.

(a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years. A defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when

(1) the defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was engaged in the performance of official duties at the time of the murder;

(2) the defendant has been previously convicted of

(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110;

(3) the court finds by clear and convincing evidence that the defendant subjected the murder victim to substantial physical torture; or

(4) the defendant is convicted of the murder of and personally caused the death of a person, other than a participant, during a robbery.

(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 10 years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adopted parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under AS 11.41.200 - 11.41.530. In this subsection, "legal guardian" and "position of authority" have the meanings given in AS 11.41.470.

(c) Except as provided in (i) of this section, a defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;

(2) if the offense is a first felony conviction

(A) other than for manslaughter and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven years;

- (B) for manslaughter and the conduct resulting in the conviction was knowingly directed towards a child under the age of 16, seven years;
- (C) for manslaughter and the conduct resulting in the conviction involved driving while under the influence of an alcoholic beverage, inhalant, or controlled substance, seven years;
- (3) if the offense is a second felony conviction, 10 years;
- (4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (1) of this section, 15 years.
- (d) Except as provided in (i) of this section, a defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:
- (1) if the offense is a second felony conviction, four years;
- (2) if the offense is a third felony conviction, six years.
- (e) Except as provided in (i) of this section, a defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:
- (1) if the offense is a second felony conviction, two years;
- (2) if the offense is a third felony conviction, three years;
- (3) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one year.
- (f) If a defendant is sentenced under (a) or (b) of this section,
- (1) imprisonment for the prescribed minimum or mandatory term may not be suspended under AS 12.55.080;
- (2) imposition of sentence may not be suspended under AS 12.55.085;
- (3) imprisonment for the prescribed minimum or mandatory term may not be reduced, except as provided in (j) of this section.
- (g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3), or (i) of this section, except to the extent permitted under AS 12.55.155 - 12.55.175,
- (1) imprisonment may not be suspended under AS 12.55.080;
- (2) imposition of sentence may not be suspended under AS 12.55.085;
- (3) terms of imprisonment may not be otherwise reduced.
- (h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided. Nothing in (a) of this section limits the court's discretion to impose a sentence of 99 years imprisonment, or to limit parole eligibility, for a person convicted of murder in the first or second degree in circumstances other than those enumerated in (a).
- (i) A defendant convicted of
- (1) sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 40 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:
- (A) if the offense is a first felony conviction and does not involve circumstances described in (B) of this paragraph, eight years;

- (B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;
- (C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 15 years;
- (D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 20 years;
- (E) if the offense is a third felony conviction and the defendant is not subject to sentencing under (F) of this paragraph or (I) of this section, 25 years;
- (F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (I) of this section, and the defendant has two prior convictions for sexual felonies, 30 years;
- (2) attempt, conspiracy, or solicitation to commit sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 30 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:
- (A) if the offense is a first felony conviction and does not involve circumstances described in (B) of this paragraph, five years;
- (B) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;
- (C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 10 years;
- (D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 15 years;
- (E) if the offense is a third felony conviction, does not involve circumstances described in (F) of this paragraph, and the defendant is not subject to sentencing under (I) of this section, 15 years;
- (F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (I) of this section, and the defendant has two prior convictions for sexual felonies, 20 years;
- (3) sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography may be sentenced to a definite term of imprisonment of not more than 20 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:
- (A) if the offense is a second felony conviction and does not involve circumstances described in (B) of this paragraph, five years;
- (B) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 10 years;
- (C) if the offense is a third felony conviction, does not involve circumstances described in (D) of this paragraph, 10 years;
- (D) if the offense is a third felony conviction, and the defendant has two prior convictions for sexual felonies, 15 years;
- (4) sexual assault in the third degree, incest, indecent exposure in the first degree, possession of child pornography, or attempt, conspiracy, or solicitation to commit sexual

assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography, may be sentenced to a definite term of imprisonment of not more than 10 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(A) if the offense is a second felony conviction and does not involve circumstances described in (B) of this paragraph, two years;

(B) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, three years;

(C) if the offense is a third felony conviction and does not involve circumstances described in (D) of this paragraph, three years;

(D) if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, six years.

(j) A defendant sentenced to a (1) mandatory term of imprisonment of 99 years under (a) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving one-half of the mandatory term without consideration of good time earned under AS 33.20.010, or (2) definite term of imprisonment under (l) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving the greater of (A) one-half of the definite term or (B) 30 years. A defendant may not file and a court may not entertain more than one motion for modification or reduction of a sentence subject to this subsection, regardless of whether or not the court granted or denied a previous motion.

(k) A first felony offender convicted of an offense for which a presumptive term of imprisonment is not specified under this section

(1) may be sentenced to a term of unsuspended imprisonment that exceeds the presumptive term for a second or third felony offender convicted of the same crime if the offender is convicted of criminally negligent homicide and the victim is a child under the age of 16;

(2) except as provided in (1) of this subsection, may not be sentenced to a term of unsuspended imprisonment that exceeds the presumptive term for a second felony offender convicted of the same crime unless the court finds by clear and convincing evidence that an aggravating factor under AS 12.55.155(c) is present, or that circumstances exist that would warrant a referral to the three-judge panel under AS 12.55.165.

(l) Notwithstanding any other provision of law, a defendant convicted of an unclassified or class A felony offense, and not subject to a mandatory 99-year sentence under (a) of this section, shall be sentenced to a definite term of imprisonment of at least 40 years but not more than 99 years when the defendant has been previously convicted of two or more most serious felonies and the prosecuting attorney has filed a notice of intent to seek a definite sentence under this subsection at the time the defendant was arraigned in superior court. If a defendant is sentenced to a definite term under this subsection,

(1) imprisonment for the prescribed definite term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed definite term may not be reduced, except as provided in (j) of this section.

(m) Notwithstanding (a)(4) and (f) of this section, if a court finds that imposition of a mandatory term of imprisonment of 99 years on a defendant subject to sentencing under (a)(4) of this section would be manifestly unjust, the court may sentence the defendant to a definite term of imprisonment otherwise permissible under (a) of this section.

History

(§ 12 ch 166 SLA 1978; am § 18 ch 45 SLA 1982; am §§ 28 - 30 ch 143 SLA 1982; am § 8 ch 78 SLA 1983; am §§ 1 - 3 ch 92 SLA 1983; am § 5 ch 59 SLA 1988; am § 4 ch 37 SLA 1989; am §§ 23 - 25 ch 79 SLA 1992; am § 5 ch 3 SLA 1994; am §§ 1, 2, 6 ch 6 SLA 1996; am §§ 3 - 7 ch 7 SLA 1996; am § 8 ch 30 SLA 1996; am § 4 ch 33 SLA 1996; am §§ 9 - 11 ch 54 SLA 1999; am § 1 ch 65 SLA 1999; am §§ 1, 2 ch 49 SLA 2000; am § 4 ch 60 SLA 2002; am §§ 1 - 5 ch 90 SLA 2003; am § 5 ch 99 SLA 2004)

Annotations

Cross references. For classification of felonies and misdemeanors, see AS 11.81.250; for authorized fines, see AS 12.55.035; for reduction of sentence for good behavior, see AS 33.20.010; for effect of the enactment of (j) of this section on Alaska Rule of Criminal Procedure 35, see § 34, ch. 79, SLA 1992 in the Temporary and Special Acts; for findings related to the addition of subsection (l), see § 1, ch. 7, SLA 1996 in the Temporary and Special Acts; for the effect of amendments to (j) of this section made by ch. 7, SLA 1996 on Alaska Rule of Criminal Procedure 35, see § 20, ch. 7, SLA 1996 in the Temporary and Special Acts. For applicability provisions relating to the 1999 amendment of subsection (b) by § 9, ch. 54, SLA 1999, and relating to the 1999 amendment of subsections (c) and (k), see § 16, ch. 54, SLA 1999 in the 1999 Temporary & Special Acts. For applicability provisions relating to the 1999 amendment of subsection (b) by § 1, ch. 65, SLA 1999, see § 2, ch. 64, SLA 1999 in the 1999 Temporary & Special Acts. For applicability provisions relating to the 2000 amendment of subsection (a) by sec. 1, ch. 49, SLA 2000, and the addition of subsection (m) by sec. 2, ch. 49, SLA 2000, see sec. 3, ch. 49, SLA 2000 in the 2000 Temporary & Special Acts.

Administrative Code. - For eligibility for discretionary parole, see 22 AAC 20, art. 1.

Effect of amendments. The 1992 amendment, effective September 14, 1992, in subsection (a), added the second sentence and paragraphs (1) to (3); added the second sentence in subsection (h); and added subsections (j) and (k).

The 1994 amendment, effective May 30, 1994, inserted "conspiracy to commit murder in the first degree," in subsection (b).

The first 1996 amendment, effective June 27, 1996, substituted "correctional employee" for "correctional officer" in paragraphs (a)(1) and (c)(2) and repealed paragraphs (d)(3) and (e)(3).

The second 1996 amendment, effective June 27, 1996, in paragraphs (c)(4) and (i)(4), inserted "and the defendant is not subject to sentencing under (l) of this section"; in subsection (f), inserted "or mandatory" in paragraphs (1) and (2), and in paragraph (3), deleted "otherwise" preceding "reduced" and added ", except as provided in (j) of this section"; in (j), inserted "(1)," "once," and all of the language following "AS 33.20.010"; and added subsection (l).

The third 1996 amendment, effective May 16, 1996, inserted a section reference in subsection (g).

The fourth 1996 amendment, effective May 23, 1996, made a section reference substitution in paragraph (e)(4).

The first 1999 amendment, effective June 5, 1999, in subsection (b), inserted "solicitation to commit murder in the first degree" in the first sentence and added the third and fourth sentences; and added subparagraph (c)(2)(B), the subparagraph (c)(2)(A) designation, paragraph (k)(1), the paragraph (k)(2) designation, and "except as provided in (1) of this subsection" at the beginning of paragraph (k)(2).

The second 1999 amendment, effective September 20, 1999, in subsection (b) deleted "murder in the second degree," following "convicted of" in the first sentence and added the second sentence.

The 2000 amendment, effective August 9, 2000, added paragraph (a)(4) and made related stylistic changes, and added subsection (m).

The 2002 amendment, effective July 1, 2002, added subparagraph (c)(2)(C).

The 2003 amendment, effective September 11, 2003, added "Except as provided in (i) of this section" at the beginning of subsections (c)-(e); substituted "(e)(3)" for "(e)(4)" in subsection (g); rewrote subsection (i); and made stylistic changes.

The 2004 amendment, effective July 23, 2004, substituted "subsection" for "section" at the end of the introductory language of subsection (l).

Editor's notes. Section 7, ch. 6, SLA 1996 provides that the repeal of (d)(3) and (e)(3) and the amendments to (a) and (c) of this section made by ch. 6, SLA 1996 apply "to all offenses committed on or after June 27, 1996." Section 19, ch. 7, SLA 1996 provides that references to prior or previous convictions in ch. 7, SLA 1996, which amended subsections (c), (f), (i), and (j) and added subsection (l), "apply to all convictions occurring before, on, or after June 27, 1996."

Subsection (b) was amended by § 9, ch. 54, SLA 1999, with an effective date of June 5, 1999, and was further amended by § 1, ch. 65, SLA 1999, with a later effective date of September 20, 1999. Thus, on and after June 5 and before September 20, 1999, subsection (b) read as follows: "A defendant convicted of murder in the second degree, attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adopted parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under AS 11.41.200 - 11.41.530. In this subsection, "legal guardian" and "position of authority" have the meanings given in AS 11.41.470."

Section 12(a), ch. 90, SLA 2003 provides that the provisions of §§ 1 - 5, ch. 90, SLA 2003 amending this section apply "to sentencings for offenses committed on or after September 11, 2003," and that "[a]ll references to prior or previous convictions in [that section] apply to convictions occurring before, on, or after September 1, 2003."

Chapter 17.30. CONTROLLED SUBSTANCES

Article 01. REGULATION OF MANUFACTURE, DISTRIBUTION, PRESCRIPTION, AND DISPENSING OF CONTROLLED SUBSTANCES

Sec. 17.30.010. Regulations. [Repealed, Sec. 22 ch 146 SLA 1986].

Repealed or Renumbered

Sec. 17.30.020. Registration requirements; inspections.

(a) A person who manufactures, distributes, dispenses, or conducts research with a controlled substance in the state or who proposes to manufacture, distribute, or dispense a controlled substance in the state, shall comply with the registration requirements of 21 U.S.C. 811 - 830 (Controlled Substances Act), and the regulations adopted under those sections.

(b) A person registered under federal law to manufacture, distribute, dispense, or conduct research with controlled substances in the state may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by the person's registration and in conformity with the other provisions of this chapter.

(c) *[Repealed, Sec. 22 ch 146 SLA 1986].*

(d) *[Repealed, Sec. 22 ch 146 SLA 1986].*

(e) *[Repealed, Sec. 22 ch 146 SLA 1986].*

(f) A peace officer may enter a registrant's premises at reasonable times and in a reasonable manner to inspect the premises and records required to be maintained under federal law. An inspection may not extend to financial data, pricing data, or sales data, other than shipment data, unless the owner, operator, or agent in charge of the premises consents.

(g) Upon request from a peace officer, a person who manufactures, distributes, dispenses, or conducts research with a controlled substance in the state shall provide evidence of current registration under 21 U.S.C. 811 - 830 (Controlled Substances Act) and the regulations adopted under those sections.

Sec. 17.30.030. - 17.30.050. Registration; denial, revocation, and suspension of registration; order to show cause. [Repealed, Sec. 22 ch 146 SLA 1986].

Repealed or Renumbered

Sec. 17.30.060. Records of registrants.

A person registered under federal law to manufacture, distribute, dispense, or conduct research with controlled substances in the state shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law.

Sec. 17.30.070. Order forms; prescriptions.

(a) A controlled substance may be distributed by one registrant to another registrant only if the distribution is in accordance with federal requirements for order forms.

(b) A controlled substance may not be dispensed by a practitioner other than in accordance with federal requirements regarding prescriptions for controlled substances.

(c) If the classification of a controlled substance in a schedule set out in AS 11.71.140 - 11.71.190 is different from its corresponding classification under federal law, the requirements of (a) and (b) of this section are determined by the classification of the substance under federal law.

Sec. 17.30.080. Unlawful administration, prescription, and dispensation of controlled substances.

(a) A controlled substance classified under federal law or in a schedule set out in AS 11.71.140 - 11.71.190 may not be administered, prescribed, dispensed, or distributed other than for a medical purpose.

(b) A person who violates (a) of this section, or who otherwise manufactures, distributes, dispenses, or conducts research with a controlled substance in the state without fully complying with 21 U.S.C. 811 - 830 (Controlled Substances Act), and regulations adopted under those sections, is guilty of misconduct involving a controlled substance under AS 11.71.010 - 11.71.070 in the degree appropriate to the circumstances as described in those sections. Upon filing a complaint, information, presentment, or indictment charging a medical assistance provider with misconduct involving a controlled substance under AS 11.71.140 - 11.71.190, the attorney general shall, in writing, notify the commissioner of health and social services of the filing.

(c) Upon receiving a notice from the attorney general under (b) of this section, the commissioner of health and social services shall immediately undertake a review of all unpaid claims or requests for reimbursements attributable to services claimed to have been provided by the person charged.

(d) In this section,

(1) "claims" has the meaning given in AS 47.05.290;

(2) "medical assistance provider" has the meaning given in AS 47.05.290;

(3) "medical purpose" means a purpose that is solely medical as opposed to any other purpose, that is reasonably necessary for treatment of a person's illness, injury, or physical or mental health, and that is provided by a practitioner while acting within the usual course of professional practice or research and in accordance with a standard of care generally recognized and accepted within the medical profession in the United States;

(4) "practitioner" has the meaning given in AS 11.71.900.

Article 02. ENFORCEMENT AND FORFEITURE

Sec. 17.30.100. Powers of the department of public safety.

(a) The commissioner of public safety shall enforce this chapter and shall cooperate with other state and federal agencies in the discharge of their responsibilities pertaining to illicit traffic in controlled substances and in suppressing the abuse of controlled substances. Under this section, the powers of the commissioner of public safety include but are not limited to the following:

(1) arranging for the exchange of information among government officials concerning illicit traffic in and abuse of controlled substances;

(2) coordinating training programs pertaining to controlled substances at both local and state levels;

(3) cooperating with the Drug Enforcement Administration of the United States Department of Justice by establishing a centralized unit to accept, catalog, file, and collect statistics, including records of persons who have violated the provisions of this chapter or AS 11.71 in the state and making the information available for federal, state, and local law enforcement purposes; and

(4) instituting in the superior court, actions for injunctions against continued manufacture, distribution, dispensation, or research with a controlled substance in the

state by a person who violates 21 U.S.C. 811 - 830 (Controlled Substances Act) or the regulations adopted under those sections.

(b) The commissioner of public safety may not furnish the name or identity of a patient or research subject whose identity could not be obtained under AS 17.30.155.

(c) The Department of Public Safety, in accordance with AS 37.07 (the Executive Budget Act), may apply for and accept money necessary to exchange information concerning narcotics trafficking between the states, or otherwise related to the enforcement of AS 11.71 or AS 11.73.

(d) The Department of Public Safety or a local law enforcement agency may accept from the United States Attorney General property, including money, that is forfeited under 21 U.S.C. 881 (the Controlled Substances Act). The Department of Public Safety and local law enforcement agencies shall, in accordance with 21 U.S.C. 881 (e) and regulations and policies adopted under that section, use property and the proceeds of property obtained under this subsection in the enforcement of this chapter, AS 11.71, and municipal ordinances substantially similar to this chapter and AS 11.71.

Sec. 17.30.110. Items subject to forfeiture.

The following may be forfeited to the state:

(1) a controlled substance which has been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or AS 11.71;

(2) raw materials, products, and equipment which are used or intended for use in manufacturing, distributing, compounding, processing, delivering, importing, or exporting a controlled substance which is a felony under this chapter or AS 11.71;

(3) property which is used or intended for use as a container for property described in (1) or (2) of this section;

(4) a conveyance, including but not limited to aircraft, vehicles, or vessels, which has been used or is intended for use in transporting or in any manner in facilitating the transportation, sale, receipt, possession, or concealment of property described in (1) or (2) of this section in violation of a felony offense under this chapter or AS 11.71; however,

(A) a conveyance may not be forfeited under this paragraph if the owner of the conveyance establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the owner was neither a consenting party nor privy to the violation;

(B) a forfeiture of a conveyance encumbered by a valid security interest at the time of seizure is subject to the interest of the secured party if the secured party establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the secured party was neither a consenting party nor privy to the violation;

(5) books, records, and research products and materials, including formulas, microfilm, tapes, and data, which are used in violation of this chapter or AS 11.71;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited by this chapter or AS 11.71; and

(7) a firearm which is visible, carried during, or used in furtherance of a violation of this chapter or AS 11.71.

Sec. 17.30.112. Proceedings resulting in forfeiture.

(a) Property listed in AS 17.30.110 may be forfeited to the state either upon conviction of the defendant of a violation of this chapter or AS 11.71, or upon judgment of a court in a separate civil proceeding in rem. The court may order a forfeiture in the in rem proceeding if it finds that an item specified in AS 17.30.110 was used during or in aid of a violation of this chapter or AS 11.71.

(b) It is not a defense in an in rem proceeding brought under this section that a criminal proceeding has resulted in a conviction or conviction of a lesser offense for a violation of this chapter or AS 11.71.

(c) When forfeiting property under (a) of this section, a court may award to a municipal law enforcement agency that participated in the arrest or conviction of the defendant, the seizure of property, or the identification of property for seizure, (1) the property if the property is worth \$5,000 or less and is not money or some other thing that is divisible, or (2) up to 75 percent of the property or the value of the property if the property is worth more than \$5,000 or is money or some other thing that is divisible. In determining the percentage a municipal law enforcement agency may receive under this subsection, the court shall consider the municipal law enforcement agency's total involvement in the case relative to the involvement of the state.

Sec. 17.30.114. Seizure and custody of property.

(a) Property listed in AS 17.30.110 may be seized by a peace officer upon an order issued by a court having jurisdiction over the property upon a showing of probable cause that the property may be forfeited under AS 17.30.110. Seizure without a court order may be made if

(1) the seizure is incident to a valid arrest or a search under a valid search warrant;

(2) the property subject to seizure has been the subject of an earlier judgment in favor of the state in a criminal proceeding or civil proceeding in rem under this chapter or AS 11.71; or

(3) there is probable cause that the property was used, is being used, or is intended for use, in violation of this chapter or AS 11.71 and the property is easily movable; property seized under this paragraph may not be held for more than 48 hours without a court order obtained to continue its detention.

(b) Property taken or detained under (a) of this section shall be held in the custody of either the commissioner of public safety or a municipal law enforcement agency authorized by the commissioner of public safety to retain custody of property listed in AS 17.30.110 subject only to the orders and decrees of the court having jurisdiction over any forfeiture proceedings. If property is seized under this chapter, the commissioner of public safety or an authorized municipal law enforcement agency may

(1) place the property under seal;

(2) remove the property to a place designated by the court;

(3) take custody of the property and remove it to an appropriate location for disposition in accordance with law; or

(4) with court approval, transfer the property to another state or federal law enforcement agency for forfeiture proceedings by that agency; the court having jurisdiction shall grant the approval under this paragraph if the property

(A) will be retained within the jurisdiction of the court by the agency to which the property is being transferred; or

(B) is

(i) not needed as evidence; or
(ii) needed as evidence, and the property is fungible or the property's evidentiary value can otherwise be preserved without retaining the property within the jurisdiction of the court.

(c) Within 10 days after a seizure under AS 17.30.110 - 17.30.126, the commissioner of public safety shall make an inventory of any property seized, including controlled substances, and shall appraise the value of any items seized other than controlled substances.

Sec. 17.30.116. Procedure for forfeiture action.

(a) Within 20 days after a seizure under AS 17.30.110 - 17.30.126, the commissioner of public safety shall, by certified mail, notify any person known to have an interest in an item with an appraised value of \$500 or more, or who is ascertainable from official registration numbers, licenses, or other state, federal, or municipal numbers on the item, of the pending forfeiture action. Additionally, the commissioner of public safety shall publish notice of forfeiture action of an item valued at \$500 or more in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district. The notice shall be published once each week during four consecutive calendar weeks. The requirements of this subsection do not apply to the forfeiture of controlled substances which have been manufactured, distributed, dispensed, or possessed in violation of this chapter or AS 11.71, regardless of their value.

(b) Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file within 30 days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings.

(c) Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant under this chapter or AS 11.71.

Sec. 17.30.118. Petition for release of seized items.

(a) A claimant under AS 17.30.116 (b) may at any time petition for release of a seized item as follows:

- (1) to a court in which a warrant for seizure has been issued;
- (2) to a court in which a criminal or civil action alleging forfeiture of the item has been filed; or
- (3) before an action is filed, or if no seizure warrant was issued, to a court in the judicial district in which the violation took place.

(b) An item may not be released by the court under (a) of this section unless the claimant gives adequate assurance that the item will remain subject to the court's jurisdiction and

- (1) the court finds that the release is in the best interests of the state; or
- (2) the claimant provides a bond or other valid and equivalent security equal to twice the assessed value of the item.

Sec. 17.30.120. Petition for sale of seized item.

A claimant may petition the court for sale of an item before final disposition of court proceedings. The court shall grant a petition for sale upon a finding that the sale is in the best interests of the state and the preservation and maintenance of the item seized. Proceeds from the sale plus interest to the date of final disposition of the court proceedings become the subject of the forfeiture action.

Sec. 17.30.122. State disposal of forfeited property.

Property forfeited under AS 17.30.110 - 17.30.126 other than controlled substances and firearms shall be disposed of by the commissioner of administration in accordance with applicable law. Firearms shall be disposed of as provided in AS 18.65.340. As to property other than firearms or controlled substances, the commissioner of administration may

- (1) destroy property harmful to the public;
- (2) sell the property and use the proceeds for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, custody, and court costs;
- (3) take custody of the property and authorize its use in the enforcement of this chapter or AS 11.71, or transfer it to another agency of the state or a political subdivision of the state for a use in furtherance of the administration of justice;
- (4) take custody of the property and remove it for disposition in accordance with law;
- (5) forward it to the Drug Enforcement Administration of the United States Department of Justice for disposition; or
- (6) transfer ownership of an aircraft to the Alaska Wing, Civil Air Patrol.

Sec. 17.30.124. Remittance to claimant.

(a) Upon a showing that a claimant is entitled to remittance under AS 17.30.110 - 17.30.126, the court shall order that

- (1) if the claimant is entitled to the item, it shall be delivered to the claimant immediately;
- (2) if the claimant is entitled to remittance of some value less than the total value of the item, the claimant is entitled, at the claimant's choice, to receive either the value of the claimant's interest or, upon receipt of payment of the difference in value by the claimant, the entire item.

(b) An offender who used an item subject to remission in violation of this chapter or AS 11.71 shall be assessed a fine which may not be less than the cost of any lien payment or remittance made by the state plus the reasonable costs of the seizure.

Sec. 17.30.126. Forfeiture of controlled substances.

(a) A controlled substance manufactured, possessed, transferred, sold, or offered for sale in violation of this chapter or AS 11.71 is contraband and must be seized and summarily forfeited to the state. The commissioner of public safety or the commissioner's designee, including a municipal law enforcement agency authorized under AS 17.30.114(b) to retain custody of controlled substances, is responsible for the disposal of controlled substances which have been forfeited. The controlled substances shall be disposed of in accordance with procedures and requirements prescribed by the commissioner.

(b) Plants from which controlled substances may be derived and which have been planted or cultivated in violation of this chapter or AS 11.71, or which are grown in the wild, may be seized and summarily forfeited to the state.

Sec. 17.30.130. Judicial review. [Repealed, Sec. 22 ch 146 SLA 1986].

Repealed or Renumbered

Article 03. EDUCATION AND RESEARCH

Sec. 17.30.140. Education and research.

(a) The commissioner of health and social services shall provide for educational programs designed to prevent and deter the abuse of controlled substances. In connection with these programs, the commissioner may

(1) assist the regulated industry and interested groups and organizations in contributing to the reduction of abuse of controlled substances;

(2) promote better recognition of the problems surrounding abuse of controlled substances within the regulated industry and among interested groups and organizations;

(3) consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(4) evaluate procedures, projects, and techniques conducted or proposed as part of educational programs on abuse of controlled substances;

(5) disseminate the results of research on abuse of controlled substances to promote a better public understanding of the problems which exist and their solutions; and

(6) with the cooperation of the Department of Law, assist in the education and training of state and local law enforcement officials in their efforts to prevent illicit traffic in and abuse of controlled substances.

(b) The commissioner of health and social services shall encourage research on controlled substances and may

(1) establish methods to assess the effects of controlled substances and identify and characterize those with potential for abuse;

(2) make studies and undertake research to

(A) develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this chapter;

(B) determine patterns of abuse of controlled substances and their social effects; and

(C) improve methods for preventing, predicting, and understanding the abuse of controlled substances;

(3) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for conducting research, demonstrations, or special projects which bear directly on abuse of controlled substances and for related research and educational activities.

Article 04. GENERAL PROVISIONS

Sec. 17.30.150. Reliance on Drug Enforcement Administration.

Results, information, and evidence received from the Drug Enforcement Administration of the United States Department of Justice relating to the enforcement functions of this chapter, including results of inspections conducted by it, may be relied on and acted on by the Department of Public Safety in the exercise of its enforcement functions under this chapter.

Sec. 17.30.155. Confidentiality of certain information.

A practitioner engaged in medical practice or research may not disclose the name or identity of a patient or research subject that the practitioner is required to keep confidential unless ordered by a court to disclose it within the context of a criminal investigation or proceeding.

Sec. 17.30.900. Definitions.

(a) Unless the context clearly requires otherwise, the definitions set out in AS 11.71.900 apply to this chapter.

(b) *[Repealed, Sec. 22 ch 146 SLA 1986].*

| Current Alaska Law | | | CS SB 74 (FIN) |
|--|---|--|---|
| Misconduct involving controlled substances in the third degree AS 11.71.030; class B felony | | | |
| delivers (sells or gives) | any amount to person under 19, and three years younger | Sentence for first offender: 2-4 years; max for repeat offender with aggravated facts: 10 years | No change |
| Misconduct involving controlled substances in the fourth degree AS 11.71.040; class C felony | | | |
| grows, delivers or possesses with intent to deliver | 1 ounce or more | Sentence for first offender: 0-2 years; max for repeat offender with aggravated facts: 5 years | No change |
| possesses | 1 pound or more | | 1/4-pound or more: the amount that the Alaska Court of Appeals agrees indicates an intent to sell |
| possesses | 25 or more marijuana plants | | No change |
| possesses | any amount on school grounds and within 500 feet | | No change |
| Misconduct involving controlled substances in the fifth degree AS 11.71.050; class A misdemeanor | | | |
| possesses | 1/2 pound to 1 pound | No minimum sentence, maximum sentence for "worst" offender with long criminal record or particularly aggravated facts: 1 year | 1 ounce to 1/4-pound |
| grows, delivers or possesses with intent to deliver | 1/2 ounce to 1 ounce | | Less than 1 ounce |
| grows, delivers or possesses with intent to deliver, for money | less than 1/2 ounce | | Repealed, because included in category above |
| Misconduct involving controlled substances in the sixth degree AS 11.71.060; class B misdemeanor | | | |
| possesses | up to 1/2 pound (up to 1/4 pound in home protected by court decision) | No minimum sentence; under CSSB 74(FIN) maximum sentence for first offender \$500; under CSSB 74(FIN) max for second offender \$1000; max for third offender 90 days | Less than 1 ounce |
| uses or displays | any amount | | No change |

SENATE COMMITTEE REPORT

DATE: 4/14/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 5/3/05

Judiciary Committee considered CS FOR HOUSE BILL NO. 149(FIN) am

HB 149 CONTROLLED SUBSTANCES

"An Act relating to controlled substances; relating to the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the manufacture of methamphetamine; relating to listing certain anabolic steroids as controlled substances; and providing for an effective date."

and recommends:

- be replaced with S CS CS HB 149 (JUD)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by Judiciary Committee
- further referral to Committee

| | |
|-------------------------------------|-------------------------------------|
| CS Senate Bill: | |
| <input type="checkbox"/> | Same Title |
| <input type="checkbox"/> | New Title |
| SCS House Bill: | |
| <input type="checkbox"/> | Same Title |
| <input type="checkbox"/> | Technical Title |
| <input type="checkbox"/> | Change |
| <input checked="" type="checkbox"/> | New Title w/ SCR # <u>needed</u> |

NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Indet. | Zero | FN# |
|------------|--------|--------|--------|------|-----|
| DPS | 4/2/05 | ✓ | | | 7 |
| | | | | | |
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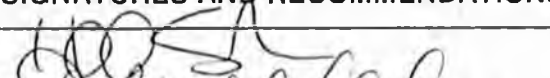

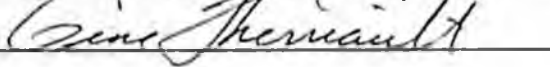
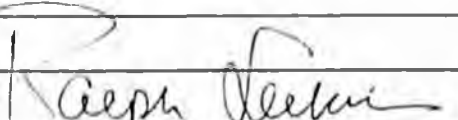
PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Indet. | Zero | FN# |
|------------|---------|--------|--------|------|-----|
| CRT | 3/3/05 | | | ✓ | 1 |
| LAW | 3/6/05 | | | ✓ | 2 |
| ADM | 3/8/05 | | ✓ | | 3 |
| COR | 3/7/05 | | ✓ | | 4 |
| CEO | 3/15/05 | | | ✓ | 6 |

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:

French
Gues
Theriault

| | Do PASS | Do NOT PASS | No REC | AMEND |
|--|---------|-------------|--------|-------|
|  | | | X | |
|  | X | | | |
|  | X | | | |
| | | | | |
| | | | | |
| CHAIR:  | ✓ | | | |

Seckins

SENATE FINANCE COMMITTEE

SIGN-IN

HB 149-CONTROLLED SUBSTANCES

✓

NAME: JASON MONTAN Subject/Bill No: HB 149
Co./Dept./Title: LP Director Safety Phone: 425-637-2215
Address: 1221 124th Ave NE Bellevue, wa Zip: 98005

Do you wish to testify? Yes No Respond To Questions

✓

NAME: Glenn Peterson Subject/Bill No: HB 149
Co./Dept./Title: Safety District Valdez AK Phone: 339-7702
Address: 6401 1st Ave Zip: 99572

Do you wish to testify? Yes No Respond To Questions

NAME: DEAN G. MELI Subject/Bill No: HB 149
Co./Dept./Title: DEPT. LAW Phone: 408
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

HB

150

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 150(FIN)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Licensing Radiological Technicians RDU Corp. Bus & Prof Licensing (117)
Component Corp. Bus & Prof Licensing
Sponsor Anderson
Requester Finance Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 28.7 | 28.7 | 28.7 | 28.7 | 28.7 | 28.7 |
| Travel | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Contractual | 6.0 | 6.0 | 6.0 | 6.0 | 6.0 | 6.0 |
| Supplies | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| Equipment | 6.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 41.7 | 35.7 | 35.7 | 35.7 | 35.7 | 35.7 |

| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|------|-----|------|-----|------|-----|
| CHANGE IN REVENUES (1156) | 77.4 | 0.0 | 71.4 | 0.0 | 71.4 | 0.0 |

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| 1156 Receipt Supported Services | 41.7 | 35.7 | 35.7 | 35.7 | 35.7 | 35.7 |
| TOTAL | 41.7 | 35.7 | 35.7 | 35.7 | 35.7 | 35.7 |

Estimate of any current year (FY2006) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | | | | | | |
| Part-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This legislation establishes licensure for occupations relating to radiological technology. The division was advised that approximately 380 to 400 individuals will seek licensure under this bill. This fiscal note is based on the assumption there will be at least 400 licensees.

An explanation of the costs shown above is attached.

Prepared by Jennifer Strickler, Chief Phone (907) 465-2144
Division Corporations and Licensing Date/Time 2/24/06 11:57 AM
Approved by: William C Noll, Commissioner Date 2/24/2006
Agency Commerce, Community and Economic Development

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. CSHB 150(FIN)

ANALYSIS CONTINUATION

CSHB 150(FIN): An Act requiring licensure of occupations relating to radiological technology,

Total PERSONAL SERVICES: \$28.7

- Occupational Licensing Examiner position, PPT, Range 13

This fiscal note provides funding for half of an Occupational Licensing Examiner position to provide support to this licensing program. This fiscal note identifies funding for half of a position and a corresponding position count.

Total TRAVEL: \$0

Total CONTRACTUAL SERVICES: \$6.0

- Printing, postage, communication, and advertising costs, \$3.0
- Regulations-related costs to establish education criteria and standards, and other requirements; including AAG time, \$3.0

Information has been received that licensure examinations are available from The American Registry of Radiological Technologists. The division will seek to make arrangements with this organization for use of the licensing examinations.

Total SUPPLIES: \$1.0

To fund daily operating supplies of the program.

Total EQUIPMENT (one-time costs): \$6.0

TOTAL FISCAL NOTE: \$41.7

REVENUE: Revenue will be generated by individuals who seek license under this bill. Based on 400 licensees, each licensee can be expected to pay direct costs of approximately \$194.00 (\$77.4 biennial costs divided by 400); in addition to indirect costs of approximately \$100.00 per person, for an approximate initial licensing fee of \$294.00 biennially. Licensing fees will be adjusted at the first renewal based on actual costs and actual numbers of licensees.

2/22/06
adopted N/U

24-LS0470B
Mischel
2/20/06

CS FOR HOUSE BILL NO. 150()

⊙ # NEW |

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

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE ANDERSON

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring licensure of occupations relating to radiologic technology, radiation
2 therapy, and nuclear medicine technology; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

5 (39) regulation of radiographers under AS 08.89.

6 * Sec. 2. AS 08 is amended by adding a new chapter to read:

7 Chapter 89. Radiographers.

8 Article 1. Licensing Requirements.

9 Sec. 08.89.100. Unlicensed practice prohibited. (a) Except as provided in (b)
10 of this section, a person may not knowingly

11 (1) use radioactive materials or equipment emitting radiation on a
12 human for diagnostic or therapeutic purposes without a license or permit issued under
13 this chapter that authorizes the person to do so; or

14 (2) employ another to use radioactive materials or equipment emitting

1 radiation on a human for diagnostic or therapeutic purposes unless the employee has
2 an appropriate license or permit issued under this chapter.

3 (b) The licensing or permit requirement in (a) of this section does not apply to
4 a person who is

5 (1) a licensed practitioner;

6 (2) a dental assistant who uses equipment emitting radiation on
7 humans under the supervision of a licensed practitioner;

8 (3) licensed under another provision of state law if the license
9 authorizes the person to use radioactive materials or equipment emitting radiation on a
10 human for diagnostic or therapeutic purposes;

11 (4) a student enrolled in and attending a school or college of medicine,
12 osteopathy, dentistry, dental hygiene, chiropractic, podiatry, radiologic technology,
13 radiation therapy, or nuclear medicine, while, as part of course work in the school or
14 college, the student uses radioactive materials or equipment emitting radiation on
15 humans under

16 (A) the direct supervision of a licensed practitioner; or

17 (B) the direct supervision of a person fully licensed under this
18 chapter as a radiographer, radiation therapist, or nuclear medicine technologist,
19 as appropriate to the course;

20 (5) in the regular medical service of the armed services of the United
21 States or the United States Public Health Service while in the discharge of the person's
22 official duties; or

23 (6) in the regular medical service of the United States Public Health
24 Service or the armed services of the United States volunteering services without pay or
25 other remuneration to a hospital, clinic, medical office, or other medical facility in the
26 state.

27 (c) In this section, "under the direct supervision" includes the amount of
28 supervision needed to ensure that an examination or test conducted is performed safely
29 and appropriately.

30 (d) Violation of this section is a class A misdemeanor.

31 **Sec. 08.89.110. Use of title prohibited.** (a) Unless a person holds the

1 corresponding full or limited certificate of licensure or permit issued under this
2 chapter or proof of certification by the American Registry of Radiologic Technologists
3 or the Nuclear Medicine Technology Certification Board, a person may not use

4 (1) the title "radiographer," "radiation therapist," "nuclear medicine
5 technologist," "limited radiologic imager," "temporary permitted radiographer,"
6 "temporary permitted radiation therapist," "temporary permitted nuclear medicine
7 technologist," or "temporary permitted limited radiologic imager";

8 (2) an abbreviation that corresponds to a title listed in (1) of this
9 subsection; or

10 (3) another title, abbreviation, letters, figures, signs, or other devices
11 that would lead a reasonable person to believe that the person is licensed or permitted
12 under this chapter.

13 (b) Violation of this section is a class A misdemeanor.

14 **Sec. 08.89.120. Qualifications for full certificate licensure.** (a) In order to
15 receive a full certificate of licensure under this chapter, a person must apply to the
16 department in a manner that indicates whether the person is applying to practice as a
17 radiographer, radiation therapist, or nuclear medicine technologist. In addition, the
18 person shall

19 (1) be at least 18 years of age;

20 (2) have graduated from secondary school or have passed an approved
21 equivalency test;

22 (3) have graduated from a program approved by the department under
23 AS 08.89.130 in the area of practice for which the person seeks licensure;

24 (4) have met the examination requirement under AS 08.89.140 for the
25 area of practice for which the person seeks licensure; and

26 (5) pay the required fees.

27 (b) A full certificate shall specify the area of practice authorized under it.

28 (c) A person with a full certificate of licensure may practice in the authorized
29 area of practice only under the direction of a licensed practitioner.

30 **Sec. 08.89.130. Program approval; full certificates.** (a) The department
31 shall, upon application by a program, evaluate an educational program that trains

1 persons to receive full certificates of licensure under this chapter and approve or
2 disapprove the program according to the criteria in (b) of this section.

3 (b) The department shall approve a program evaluated under this section only
4 if

5 (1) the program is affiliated with at least one hospital that provides a
6 clinical component for the program that is considered to be adequate by the
7 department;

8 (2) the program's curriculum for each course of study in the areas of
9 practice licensed under AS 08.89.120 meets the standards approved by the Joint
10 Review Committee on Education in Radiologic Technology, the Joint Review
11 Committee on Educational Programs in Nuclear Medicine Technology, the United
12 States Department of Education, or another appropriate accreditation agency whose
13 standards are considered equivalent by the department; and

14 (3) a recognized national voluntary accrediting organization has
15 reviewed the program's application to the department and submitted the review
16 comments to the department.

17 **Sec. 08.89.140. Examinations; full certificates.** The examination requirement
18 under AS 08.89.120 may be met by meeting one of the following criteria:

19 (1) successfully passing an examination approved by the department in
20 the area of practice for which the full certificate of licensure is sought;

21 (2) proof of current certification by the American Registry of
22 Radiologic Technologists, Nuclear Medicine Technology Certification Board; or

23 (3) proof of current licensure in the area of practice for which a full
24 certificate of licensure is sought by another jurisdiction with standards for licensure
25 considered by the department to be equivalent to the standards of this state.

26 **Sec. 08.89.150. Qualifications for limited radiologic imager.** (a) In order to
27 be licensed as a limited radiologic imager, a person must

28 (1) be at least 18 years of age;

29 (2) have graduated from secondary school or have passed an approved
30 equivalency test;

31 (3) have graduated from a program approved by the department under

1 AS 08.89.160 or have not less than two years of clinical experience in limited
2 diagnostic radiologic imaging under the supervision of a fully licensed radiographer or
3 a licensed practitioner;

4 (4) have passed the exam approved by the department for limited
5 radiologic imager licensure; and

6 (5) pay the required fees.

7 (b) A limited radiologic imager

8 (1) may perform limited radiologic diagnostic imaging only under the
9 supervision of a fully licensed radiographer or a licensed practitioner;

10 (2) may perform only radiography of the chest, abdomen, and axial-
11 appendicular skeleton;

12 (3) may not perform radiologic procedures involving the use of
13 contrast media, use of fluoroscopic equipment, mammography, tomography, magnetic
14 resonance imaging (MRI), bone densitometry using ionizing radiation, nuclear
15 medicine, radiation therapy, or computed tomography imaging (CT scan).

16 **Sec. 08.89.160. Program approval for limited radiologic imager.** (a) The
17 department shall, upon application by a program, evaluate a program that trains
18 persons to be limited radiologic imagers and approve or disapprove the program
19 according to the criteria in (b) of this section.

20 (b) The department shall approve a program evaluated under this section if the
21 program includes didactic instruction and clinical instruction considered adequate by
22 the department in axial-appendicular skeleton radiography, chest and abdomen
23 radiography, equipment maintenance and operation, radiation safety and protection,
24 image production and evaluation, radiographic anatomy and positioning procedures,
25 and applicable federal and state requirements relating to patient care and safety or if
26 the program is instructed by and under the supervision of a fully licensed radiographer
27 or licensed practitioner and sponsored by a medical facility, as defined in
28 AS 18.26.900; in this subsection, "clinical instruction" means hands-on experience in
29 a health facility setting, such as in a hospital or clinic, under the supervision of a
30 licensed practitioner or fully licensed radiographer.

31 **Sec. 08.89.165. Examination; limited radiologic imagers.** (a) The

1 department shall provide for an examination for qualification for licensure of a limited
2 radiologic imager under AS 08.89.150. The examination must be offered at regular
3 intervals to provide maximum access and sufficient opportunity for interested
4 applicants.

5 (b) The examination provided under this section must be based in whole or in
6 part on a limited scope of practice in radiography examination designed by the
7 American Registry of Radiologic Technologists, and shall be designed by the
8 department in consultation with the Department of Health and Social Services, the
9 state Medical Board, the Alaska Society of Radiologic Technologists, and at least one
10 member of the American College of Radiology who resides in the state.

11 (c) A passing score on an examination taken under this section is 75 percent as
12 a general average rating.

13 **Sec. 08.89.170. Temporary permit.** (a) The department may issue a
14 nonrenewable temporary

15 (1) limited permit to a person authorizing practice in an area
16 corresponding to the person's scope of radiology training if the person

17 (A) is enrolled in a program for that area approved under
18 AS 08.89.160; and

19 (B) pays the appropriate fee; or

20 (2) full permit to a person authorizing practice in an area
21 corresponding to the person's scope of radiology training if the person

22 (A) has taken an examination described under AS 08.89.140 or
23 08.89.150 for that area and the results are not yet available;

24 (B) applies for the temporary permit within one year after
25 completing a program approved under AS 08.89.130; and

26 (C) pays the appropriate fee.

27 (b) A temporary permit issued under this section must indicate the area of
28 practice authorized. Except as provided in (c) of this section, the permit expires two
29 years after the date of issuance of the permit.

30 (c) Notwithstanding (a) and (b) of this section, if an applicant has provided
31 proof of certification by a recognized national credentialing body that covers the area

1 of practice for which a certificate of licensure is sought, the department may issue a
2 nonrenewable temporary permit valid for a period of one year to the applicant upon
3 payment of a fee determined by the department.

4 (d) A person who holds a permit under this section is entitled to use the title
5 "temporary permitted radiographer," "temporary permitted radiation therapist,"
6 "temporary permitted nuclear medicine technologist," or "temporary permitted limited
7 radiologic imager."

8 **Sec. 08.89.180. License renewal; continuing education.** (a) The department
9 may not renew a full certificate of licensure issued under this chapter unless the
10 licensee pays the required fee and submits evidence satisfactory to the department that
11 the person has met the applicable continuing education requirements as determined by
12 the department.

13 (b) A person with a full certificate of licensure who is licensed to practice in
14 more than one area of practice is not required to complete more continuing education
15 than a person with a full certificate of licensure who is licensed in only one area of
16 practice. However, the department, in its communications with persons who have a
17 full certificate of licensure in more than one area of practice, shall encourage those
18 persons to receive continuing education in all of the areas for which they are licensed.

19 (c) The department may not renew a limited radiological imager license issued
20 under this chapter unless the licensee pays the required fee and submits evidence
21 satisfactory to the department that the person has met the applicable continuing
22 competency requirements as determined by the department.

23 **Sec. 08.89.190. License or permit to be kept on file.** A person licensed or
24 holding a permit under this chapter shall keep on file at each place of the person's
25 employment the license or permit document issued under this chapter or a verified
26 copy of the license or permit document.

27 **Sec. 08.89.200. Notification of address changes.** A licensee or permittee
28 under this chapter shall notify the department in writing within 30 days after a name or
29 address change.

30 **Sec. 08.89.210. Reapplication after revocation.** A person whose license or
31 permit is revoked by the department for a reason other than nonpayment of fees may

1 not apply to be licensed under this chapter until one year has elapsed from the date of
2 revocation. The department may require an examination for reinstatement.

3 **Sec. 08.89.220. Fees.** The department shall set fees under AS 08.01.065 for
4 each of the following:

- 5 (1) application;
- 6 (2) examination;
- 7 (3) full certificate of licensure;
- 8 (4) limited certificate of licensure;
- 9 (5) temporary full permit;
- 10 (6) temporary limited permit;
- 11 (7) license renewal;
- 12 (8) adding an area of practice to an existing license;
- 13 (9) program approval under AS 08.89.130.

14 **Article 2. Prohibitions; Penalties; Disciplinary Sanctions.**

15 **Sec. 08.89.300. Prescription required.** (a) A person holding a license or
16 permit issued under this chapter may not knowingly use a radioactive substance or
17 equipment for radiologic procedures on a human for diagnostic or therapeutic
18 purposes except as prescribed by a licensed practitioner.

19 (b) Violation of this section is a class A misdemeanor.

20 **Sec. 08.89.310. Civil penalty for unlicensed practice.** A person required to
21 be licensed or to have a permit under this chapter who engages or offers to engage in a
22 type of diagnostic radiologic imaging, radiation therapy, or nuclear medicine
23 technology for which the person is not licensed or for which the person does not hold
24 a permit may be fined up to \$5,000 under the citation procedures of AS 08.01.102 -
25 08.01.104.

26 **Sec. 08.89.320. Criminal penalty for certain fraudulent practices.** A person
27 who obtains or attempts to obtain a license or permit under this chapter by dishonest or
28 fraudulent means or who knowingly forges, counterfeits, or fraudulently alters a
29 license or permit issued under this chapter is guilty of a class B misdemeanor.

30 **Sec. 08.89.330. Grounds for disciplinary sanctions or denial of license.** The
31 department may impose a disciplinary sanction authorized under AS 08.89.340 on a

1 person licensed or holding a permit under this chapter or refuse to issue or renew a
2 license or permit if the department finds that the person

3 (1) used fraud or deceit in the procurement or holding of the license or
4 permit or in the application process for the license or permit;

5 (2) has been convicted of a felony in a court of competent jurisdiction,
6 either within or outside of this state, unless the conviction has been reversed and the
7 person has been discharged or acquitted, or unless the person has been pardoned with
8 full restoration of civil rights;

9 (3) is or has been afflicted with a medical problem, disability, or
10 addiction that, in the opinion of the department, impairs professional competence;

11 (4) has aided a person who is not licensed or permitted under this
12 chapter, or otherwise authorized to perform the duties of a licensee or permittee, to
13 perform diagnostic radiologic imaging, radiation therapy, or nuclear medicine
14 technology;

15 (5) has undertaken or engaged in a radiologic technology practice
16 beyond the scope of duties permitted by law;

17 (6) has, under an assumed name, impersonated a person licensed or
18 formerly licensed under this chapter or is performing duties of a fully certificated
19 licensee, a limited certificate licensee, or a person holding a permit;

20 (7) is a licensee or permittee under this chapter and has violated the
21 code of ethics established by the department;

22 (8) has interpreted a diagnostic image for a clinician, a patient, the
23 patient's family, or the public;

24 (9) is a licensee or permittee under this chapter and is or has been
25 incompetent or negligent in performance of the licensee's or permittee's duties.

26 **Sec. 08.89.340. Disciplinary sanctions.** (a) When it finds that a person
27 licensed or holding a permit under this chapter has committed an act listed in
28 AS 08.89.330, the department may impose the following sanctions singly or in
29 combination:

30 (1) permanently revoke a license to practice;

31 (2) suspend a license for a determinate period of time;

- 1 (3) censure a licensee;
- 2 (4) issue a letter of reprimand;
- 3 (5) place a licensee on probationary status and require the licensee to
- 4 (A) report regularly to the department on matters involving the
- 5 basis of probation;
- 6 (B) limit practice to those areas prescribed;
- 7 (C) continue professional education until a satisfactory degree
- 8 of skill has been attained in those areas determined by the department to need
- 9 improvement;
- 10 (6) impose limitations or conditions on the practice of a licensee.
- 11 (b) The department may withdraw a limitation, condition, or probationary
- 12 status if it finds that the deficiency that required the sanction has been remedied.
- 13 (c) The department may summarily suspend a license before final hearing or
- 14 during the appeals process if the department finds that the licensee poses a clear and
- 15 immediate danger to the public welfare and safety. A person is entitled to a hearing
- 16 conducted by the office of administrative hearings under AS 44.64.010 within seven
- 17 days after the suspension order is issued. A person may appeal an adverse decision
- 18 after hearing to the superior court.
- 19 (d) The department may reinstate a license that has been suspended or revoked
- 20 if the department finds after a hearing that the person is able to practice with
- 21 reasonable skill and safety.

22 **Article 3. General Provisions.**

23 **Sec. 08.89.900. Unified occupation for fee purposes.** For purposes of

24 AS 08.01.065, all persons licensed or holding a permit under this chapter are

25 considered to be engaged in the same occupation.

26 **Sec. 08.89.910. Regulations.** The department shall adopt regulations necessary

27 to implement this chapter.

28 **Sec. 08.89.990. Definitions.** In this chapter,

- 29 (1) "axial-appendicular skeleton" means the skull, including the
- 30 mandible, sinuses, and facial bones; spine, including cervical, thoracic, lumbar,
- 31 sacrum, and coccyx areas; pelvis; ribs; and upper and lower extremities;

1 (2) "contrast media" means an examination where contrast media is
2 introduced into a human body to define a part or parts not normally visualized on a
3 radiograph;

4 (3) "department" means the Department of Commerce, Community,
5 and Economic Development;

6 (4) "diagnostic radiologic imaging" means the making of film records
7 or digital records by passage of radiation through the body to act on specially
8 sensitized film or digital sensors;

9 (5) "direct supervision" means in the physical presence of a person
10 who assists, evaluates, and approves the performance of tasks;

11 (6) "knowingly" has the meaning given in AS 11.81.900(a);

12 (7) "licensed practitioner" means a physician, physician assistant,
13 nurse practitioner, podiatrist, osteopath, dentist, or chiropractor who is either licensed
14 in this state or, if practicing as a physician, podiatrist, or osteopath, is exempt from
15 licensure under AS 08.64.370(1) or (4);

16 (8) "limited radiologic imager" means a person licensed under
17 AS 08.89.150 to perform diagnostic radiologic imaging within the limits specified in
18 AS 08.89.150(b);

19 (9) "nuclear medicine technologist" means a person who prepares,
20 calibrates, and administers radiopharmaceutical agents to humans for diagnostic or
21 therapeutic purposes;

22 (10) "radiation therapist" means a person who applies radiation to
23 humans for therapeutic purposes;

24 (11) "radiographer" means a person who uses radiation on humans for
25 diagnostic purposes.

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

28 REGULATIONS. The Department of Commerce, Community, and Economic
29 Development may begin the process to adopt regulations to implement this Act. The
30 regulations take effect under AS 44.62 (Administrative Procedure Act) but not before the
31 effective date of the statutes implemented by the regulations.

1 * Sec. 4. Except as provided in secs. 5 and 6 of this Act, this Act takes effect July 1, 2006.

2 * Sec. 5. AS 08.89.100 and 08.89.310, enacted by sec. 2 of this Act, take effect July 1,
3 2008.

4 * Sec. 6. Section 3 of this Act takes effect immediately under AS 01.10.070(c).

2-22-06

adopted

New

CONCEPTUAL AMENDMENT 1

OFFERED IN THE HOUSE FINANCE COMMITTEE
TO: CS HB 150 () Version 24-LS0470AB

BY Rep. Meyer

1 Page 6, lines 17-19

2 Delete all material

3 Page 6, line 17

4 Insert

5 (A) is enrolled in a program for the area approved under AS 08.89.160 and
6 pays the appropriate fee; or

7 (B) demonstrates to the satisfaction of the department that the applicant has
8 been performing limited scope radiologic diagnostic imaging under AS
9 68.89.150(b) for two years preceding July 1, 2008 and pays the
10 appropriate fee; or

11
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FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 150(JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Licensing Radiological Technicians RDU Corp. Bus & Prof Licensing (117)
Component Corp. Bus & Prof Licensing
Sponsor Anderson
Requester House Finance Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 28.7 | 28.7 | 28.7 | 28.7 | 28.7 | 28.7 |
| Travel | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Contractual | 6.0 | 6.0 | 6.0 | 6.0 | 6.0 | 6.0 |
| Supplies | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| Equipment | 6.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 41.7 | 35.7 | 35.7 | 35.7 | 35.7 | 35.7 |

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

| | | | | | | |
|------------------------------------|-------------|------------|-------------|------------|-------------|------------|
| CHANGE IN REVENUES (1156) | 77.4 | 0.0 | 71.4 | 0.0 | 71.4 | 0.0 |
|------------------------------------|-------------|------------|-------------|------------|-------------|------------|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| 1156 Receipt Supported Services | 41.7 | 35.7 | 35.7 | 35.7 | 35.7 | 35.7 |
| TOTAL | 41.7 | 35.7 | 35.7 | 35.7 | 35.7 | 35.7 |

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | | | | | | |
| Part-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

CSHB 150(JUD) establishes licensure for occupations relating to radiological technology. The division was originally advised that approximately 380 to 400 individuals would seek licensure under this bill. This estimate has been revised to reflect revenue for an estimated 500 Fully Licensed Technicians and 400 Limited Licensees.

An explanation of the costs shown above are attached.

Prepared by: Katherine Mason, Administrative Manager Phone 907.465.2572
Division Corporations and Licensing Date/Time 2/8/06 6:23 PM
Approved by: William C Noll, Commissioner Date 2/8/2006
Agency Commerce, Community, and Economic Development

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. CSHB 150(JUD)

ANALYSIS CONTINUATION

Total PERSONAL SERVICES: \$28.7

-Occupational Licensing Examiner position, PPT, Range 13.

This fiscal note provides funding for half of an Occupational Licensing Examiner position to provide support to this licensing program.

Total TRAVEL: \$0

Total CONTRACTUAL SERVICES: \$6.0

- Printing, postage, communication, and advertising costs, \$3.0
- Regulations-related costs to establish education criteria and standards, and other requirements; including AAG time, \$3.0

Information has been received that licensure examinations are available from The American Registry of Radiological Technologists. The division will seek to make arrangements with this organization for use of the licensing examinations.

Total SUPPLIES: \$1.0

To fund daily operating supplies of the program.

Total EQUIPMENT (one-time costs): \$6.0

TOTAL FISCAL NOTE: \$41.7

REVENUE: Revenue will be generated by individuals who seek licensing under this bill. Based on 900 licensees, each licensee can be expected to pay direct costs of approximately \$86.00 (\$77.4 biennial costs divided by 900); in addition to indirect costs of approximately \$100.00 per person, for an approximate initial licensing fee of \$186.00 biennially. Licensing fees will be adjusted at the first renewal based on actual costs and actual numbers of licensees.

*Repaired
2/22/06*

*adopted
2/13/06*

24-LS0470N
Mischel
2/9/06

CS FOR HOUSE BILL NO. 150()

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

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE ANDERSON

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring licensure of occupations relating to radiologic technology, radiation
2 therapy, and nuclear medicine technology; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

5 (39) regulation of radiographers under AS 08.89.

6 * Sec. 2. AS 08 is amended by adding a new chapter to read:

7 Chapter 89. Radiographers.

8 Article 1. Licensing Requirements.

9 Sec. 08.89.100. Unlicensed practice prohibited. (a) Except as provided in (b)
10 of this section, a person may not knowingly

11 (1) use radioactive materials or equipment emitting radiation on a
12 human for diagnostic or therapeutic purposes without a license or permit issued under
13 this chapter that authorizes the person to do so; or

14 (2) employ another to use radioactive materials or equipment emitting

1 radiation on a human for diagnostic or therapeutic purposes unless the employee has
2 an appropriate license or permit issued under this chapter.

3 (b) The licensing or permit requirement in (a) of this section does not apply to
4 a person who is

5 (1) a licensed practitioner;

6 (2) a dental assistant who uses equipment emitting radiation on
7 humans under the supervision of a licensed practitioner;

8 (3) licensed under another provision of state law if the license
9 authorizes the person to use radioactive materials or equipment emitting radiation on a
10 human for diagnostic or therapeutic purposes; or

11 (4) a student enrolled in and attending a school or college of medicine,
12 osteopathy, dentistry, dental hygiene, chiropractic, podiatry, radiologic technology,
13 radiation therapy, or nuclear medicine while, as part of course work in the school or
14 college, the student uses radioactive materials or equipment emitting radiation on
15 humans under

16 (A) the direct supervision of a licensed practitioner; or

17 (B) the direct supervision of a person fully licensed under this
18 chapter as a radiographer, radiation therapist, or nuclear medicine technologist,
19 as appropriate to the course.

20 (c) In this section, "under the direct supervision" includes the amount of
21 supervision needed to ensure that an examination or test conducted is performed safely
22 and appropriately.

23 (d) Violation of this section is a class A misdemeanor.

24 **Sec. 08.89.110. Use of title prohibited.** (a) Unless a person holds the
25 corresponding full or limited certificate of licensure or permit issued under this
26 chapter or proof of certification by the American Registry of Radiologic Technologists
27 or the Nuclear Medicine Technology Certification Board, a person may not use

28 (1) the title "radiographer," "radiation therapist," "nuclear medicine
29 technologist," "limited radiologic imager," "temporary permitted radiographer,"
30 "temporary permitted radiation therapist," "temporary permitted nuclear medicine
31 technologist," or "temporary permitted limited radiologic imager";

1 (2) an abbreviation that corresponds to a title listed in (1) of this
2 subsection; or

3 (3) another title, abbreviation, letters, figures, signs, or other devices
4 that would lead a reasonable person to believe that the person is licensed or permitted
5 under this chapter.

6 (b) Violation of this section is a class A misdemeanor.

7 **Sec. 08.89.120. Qualifications for full certificate licensure.** (a) In order to
8 receive a full certificate of licensure under this chapter, a person must apply to the
9 department in a manner that indicates whether the person is applying to practice as a
10 radiographer, radiation therapist, or nuclear medicine technologist. In addition, the
11 person shall

12 (1) be at least 18 years of age;

13 (2) have graduated from secondary school or have passed an approved
14 equivalency test;

15 (3) have graduated from a program approved by the department under
16 AS 08.89.130 in the area of practice for which the person seeks licensure;

17 (4) have met the examination requirement under AS 08.89.140 for the
18 area of practice for which the person seeks licensure; and

19 (5) pay the required fees.

20 (b) A full certificate shall specify the area of practice authorized under it.

21 (c) A person with a full certificate of licensure may practice in the authorized
22 area of practice only under the direction of a licensed practitioner.

23 **Sec. 08.89.130. Program approval; full certificates.** (a) The department
24 shall, upon application by a program, evaluate an educational program that trains
25 persons to receive full certificates of licensure under this chapter and approve or
26 disapprove the program according to the criteria in (b) of this section.

27 (b) The department shall approve a program evaluated under this section only
28 if

29 (1) the program is affiliated with at least one hospital that provides a
30 clinical component for the program that is considered to be adequate by the
31 department;

1 (2) the program's curriculum for each course of study in the areas of
2 practice licensed under AS 08.89.120 meets the standards approved by the Joint
3 Review Committee on Education in Radiologic Technology, the Joint Review
4 Committee on Educational Programs in Nuclear Medicine Technology, the United
5 States Department of Education, or another appropriate accreditation agency whose
6 standards are considered equivalent by the department; and

7 (3) a recognized national voluntary accrediting organization has
8 reviewed the program's application to the department and submitted the review
9 comments to the department.

10 **Sec. 08.89.140. Examinations; full certificates.** The examination requirement
11 under AS 08.89.120 may be met by meeting one of the following criteria:

12 (1) successfully passing an examination approved by the department in
13 the area of practice for which the full certificate of licensure is sought;

14 (2) proof of current certification by the American Registry of
15 Radiologic Technologists, Nuclear Medicine Technology Certification Board; or

16 (3) proof of current licensure in the area of practice for which a full
17 certificate of licensure is sought by another jurisdiction with standards for licensure
18 considered by the department to be equivalent to the standards of this state.

19 **Sec. 08.89.150. Qualifications for limited radiologic imager.** (a) In order to
20 be licensed as a limited radiologic imager, a person must

21 (1) be at least 18 years of age;

22 (2) have graduated from secondary school or have passed an approved
23 equivalency test;

24 (3) have graduated from a program approved by the department under
25 AS 08.89.160 or have not less than two years of clinical experience in limited
26 diagnostic radiologic imaging under the supervision of a fully licensed radiographer or
27 a licensed practitioner;

28 (4) have passed the exam approved by the department for limited
29 radiologic imager licensure; and

30 (5) pay the required fees.

31 (b) A limited radiologic imager

1 (1) may perform limited radiologic diagnostic imaging only under the
2 supervision of a fully licensed radiographer or a licensed practitioner;

3 (2) may perform only radiography of the chest, abdomen, and axial-
4 appendicular skeleton;

5 (3) may not perform radiologic procedures involving the use of
6 contrast media, use of fluoroscopic equipment, mammography, tomography, magnetic
7 resonance imaging (MRI), bone densitometry using ionizing radiation, nuclear
8 medicine, radiation therapy, or computed tomography imaging (CT scan).

9 **Sec. 08.89.160. Program approval for limited radiologic imager.** (a) The
10 department shall, upon application by a program, evaluate a program that trains
11 persons to be limited radiologic imagers and approve or disapprove the program
12 according to the criteria in (b) of this section.

13 (b) The department shall approve a program evaluated under this section if the
14 program includes didactic instruction and clinical instruction considered adequate by
15 the department in axial-appendicular skeleton radiography, chest and abdomen
16 radiography, equipment maintenance and operation, radiation safety and protection,
17 image production and evaluation, radiographic anatomy and positioning procedures,
18 and applicable federal and state requirements relating to patient care and safety or if
19 the program is instructed by and under the supervision of a fully licensed radiographer
20 or licensed practitioner and sponsored by a medical facility, as defined in
21 AS 18.26.900; in this subsection, "clinical instruction" means hands-on experience in
22 a health facility setting, such as in a hospital or clinic, under the supervision of a
23 licensed practitioner or fully licensed radiographer.

24 **Sec. 08.89.170. Temporary permit.** (a) The department may issue a
25 nonrenewable temporary

26 (1) limited permit to a person authorizing practice in an area
27 corresponding to the person's scope of radiology training if the person

28 (A) is enrolled in a program for that area approved under
29 AS 08.89.160; and

30 (B) pays the appropriate fee; or

31 (2) full permit to a person authorizing practice in an area

1 corresponding to the person's scope of radiology training if the person

2 (A) has taken an examination described under AS 08.89.140 or
3 08.89.150 for that area and the results are not yet available;

4 (B) applies for the temporary permit within one year after
5 completing a program approved under AS 08.89.130; and

6 (C) pays the appropriate fee.

7 (b) A temporary permit issued under this section must indicate the area of
8 practice authorized. Except as provided in (c) and (d) of this section, the permit
9 expires one year after completion of the program described in (a)(1) of this section or ~~two~~
10 upon receipt of the examination results referred to in (a)(2) of this section, whichever
11 is earlier.

12 (c) Notwithstanding (a) and (b) of this section, the department may issue a
13 nonrenewable temporary permit valid for two years to an applicant who pays a fee
14 determined by the department and who demonstrates to the satisfaction of the
15 department that the applicant has been performing limited scope radiologic diagnostic
16 imaging under AS 08.89.150(b) for two years preceding July 1, 2008. A two-year
17 temporary permit issued under this subsection qualifies the applicant for employment
18 only as specified in AS 08.89.150(b).

19 (d) Notwithstanding (a) - (c) of this section, if an applicant has provided proof
20 of certification by a recognized national credentialing body that covers the area of
21 practice for which a certificate of licensure is sought, the department may issue a
22 nonrenewable temporary permit valid for a period of one year to the applicant upon
23 payment of a fee determined by the department .

24 (e) A person who holds a permit under this section is entitled to use the title
25 "temporary permitted radiographer," "temporary permitted radiation therapist,"
26 "temporary permitted nuclear medicine technologist," or "temporary permitted limited
27 radiologic imager."

28 **Sec. 08.89.180. License renewal; continuing education.** (a) The department
29 may not renew a full certificate of licensure issued under this chapter unless the
30 licensee pays the required fee and submits evidence satisfactory to the department that
31 the person has met the applicable continuing education requirements as determined by

1 the department.

2 (b) A person with a full certificate of licensure who is licensed to practice in
3 more than one area of practice is not required to complete more continuing education
4 than a person with a full certificate of licensure who is licensed in only one area of
5 practice. However, the department, in its communications with persons who have a
6 full certificate of licensure in more than one area of practice, shall encourage those
7 persons to receive continuing education in all of the areas for which they are licensed.

8 (c) The department may not renew a limited radiological imager license issued
9 under this chapter unless the licensee pays the required fee and submits evidence
10 satisfactory to the department that the person has met the applicable continuing
11 competency requirements as determined by the department.

12 **Sec. 08.89.190. License or permit to be kept on file.** A person licensed or
13 holding a permit under this chapter shall keep on file at each place of the person's
14 employment the license or permit document issued under this chapter or a verified
15 copy of the license or permit document.

16 **Sec. 08.89.200. Notification of address changes.** A licensee or permittee
17 under this chapter shall notify the department in writing within 30 days after a name or
18 address change.

19 **Sec. 08.89.210. Reapplication after revocation.** A person whose license or
20 permit is revoked by the department for a reason other than nonpayment of fees may
21 not apply to be licensed under this chapter until one year has elapsed from the date of
22 revocation. The department may require an examination for reinstatement.

23 **Sec. 08.89.220. Fees.** The department shall set fees under AS 08.01.065 for
24 each of the following:

- 25 (1) application;
- 26 (2) examination;
- 27 (3) full certificate of licensure;
- 28 (4) limited certificate of licensure;
- 29 (5) temporary full permit;
- 30 (6) temporary limited permit;
- 31 (7) license renewal;

1 (8) adding an area of practice to an existing license;

2 (9) program approval under AS 08.89.130.

3 **Article 2. Prohibitions; Penalties; Disciplinary Sanctions.**

4 **Sec. 08.89.300. Prescription required.** (a) A person holding a license or
5 permit issued under this chapter may not knowingly use a radioactive substance or
6 equipment for radiologic procedures on a human for diagnostic or therapeutic
7 purposes except as prescribed by a licensed practitioner.

8 (b) Violation of this section is a class A misdemeanor.

9 **Sec. 08.89.310. Civil penalty for unlicensed practice.** A person required to
10 be licensed or to have a permit under this chapter who engages or offers to engage in a
11 type of diagnostic radiologic imaging, radiation therapy, or nuclear medicine
12 technology for which the person is not licensed or for which the person does not hold
13 a permit may be fined up to \$5,000 under the citation procedures of AS 08.01.102 -
14 08.01.104.

15 **Sec. 08.89.320. Criminal penalty for certain fraudulent practices.** A person
16 who obtains or attempts to obtain a license or permit under this chapter by dishonest or
17 fraudulent means or who knowingly forges, counterfeits, or fraudulently alters a
18 license or permit issued under this chapter is guilty of a class B misdemeanor.

19 **Sec. 08.89.330. Grounds for disciplinary sanctions or denial of license.** The
20 department may impose a disciplinary sanction authorized under AS 08.89.340 on a
21 person licensed or holding a permit under this chapter or refuse to issue or renew a
22 license or permit if the department finds that the person

23 (1) used fraud or deceit in the procurement or holding of the license or
24 permit or in the application process for the license or permit;

25 (2) has been convicted of a felony in a court of competent jurisdiction,
26 either within or outside of this state, unless the conviction has been reversed and the
27 person has been discharged or acquitted, or unless the person has been pardoned with
28 full restoration of civil rights;

29 (3) is or has been afflicted with a medical problem, disability, or
30 addiction that, in the opinion of the department, impairs professional competence;

31 (4) has aided a person who is not licensed or permitted under this

1 chapter, or otherwise authorized to perform the duties of a licensee or permittee, to
2 perform diagnostic radiologic imaging, radiation therapy, or nuclear medicine
3 technology;

4 (5) has undertaken or engaged in a radiologic technology practice
5 beyond the scope of duties permitted by law;

6 (6) has, under an assumed name, impersonated a person licensed or
7 formerly licensed under this chapter or is performing duties of a fully certificated
8 licensee, a limited certificate licensee, or a person holding a permit;

9 (7) is a licensee or permittee under this chapter and has violated the
10 code of ethics established by the department;

11 (8) has interpreted a diagnostic image for a clinician, a patient, the
12 patient's family, or the public;

13 (9) is a licensee or permittee under this chapter and is or has been
14 incompetent or negligent in performance of the licensee's or permittee's duties.

15 **Sec. 08.89.340. Disciplinary sanctions.** (a) When it finds that a person
16 licensed or holding a permit under this chapter has committed an act listed in
17 AS 08.89.330, the department may impose the following sanctions singly or in
18 combination:

19 (1) permanently revoke a license to practice;

20 (2) suspend a license for a determinate period of time;

21 (3) censure a licensee;

22 (4) issue a letter of reprimand;

23 (5) place a licensee on probationary status and require the licensee to

24 (A) report regularly to the department on matters involving the
25 basis of probation;

26 (B) limit practice to those areas prescribed;

27 (C) continue professional education until a satisfactory degree
28 of skill has been attained in those areas determined by the department to need
29 improvement;

30 (6) impose limitations or conditions on the practice of a licensee.

31 (b) The department may withdraw a limitation, condition, or probationary

1 status if it finds that the deficiency that required the sanction has been remedied.

2 (c) The department may summarily suspend a license before final hearing or
3 during the appeals process if the department finds that the licensee poses a clear and
4 immediate danger to the public welfare and safety. A person is entitled to a hearing
5 conducted by the office of administrative hearings under AS 44.64.010 within seven
6 days after the suspension order is issued. A person may appeal an adverse decision
7 after hearing to the superior court.

8 (d) The department may reinstate a license that has been suspended or revoked
9 if the department finds after a hearing that the person is able to practice with
10 reasonable skill and safety.

11 Article 3. General Provisions.

12 Sec. 08.89.900. Unified occupation for fee purposes. For purposes of
13 AS 08.01.065, all persons licensed or holding a permit under this chapter are
14 considered to be engaged in the same occupation.

15 Sec. 08.89.910. Regulations. The department shall adopt regulations necessary
16 to implement this chapter.

17 Sec. 08.89.990. Definitions. In this chapter,

18 (1) "axial-appendicular skeleton" means the skull, including the
19 mandible, sinuses, and facial bones; spine, including cervical, thoracic, lumbar,
20 sacrum, and coccyx areas; pelvis; ribs; and upper and lower extremities;

21 (2) "contrast media" means an examination where contrast media is
22 introduced into a human body to define a part or parts not normally visualized on a
23 radiograph;

24 (3) "department" means the Department of Commerce, Community,
25 and Economic Development;

26 (4) "diagnostic radiologic imaging" means the making of film records
27 or digital records by passage of radiation through the body to act on specially
28 sensitized film or digital sensors;

29 (5) "direct supervision" means in the physical presence of a person
30 who assists, evaluates, and approves the performance of tasks;

31 (6) "knowingly" has the meaning given in AS 11.81.900(a);

1 (7) "licensed practitioner" means a physician, physician assistant,
2 nurse practitioner, podiatrist, osteopath, dentist, or chiropractor who is either licensed
3 in this state or, if practicing as a physician, podiatrist, or osteopath, is exempt from
4 licensure under AS 08.64.370(1) or (4);

5 (8) "limited radiologic imager" means a person licensed under
6 AS 08.89.150 to perform diagnostic radiologic imaging within the limits specified in
7 AS 08.89.150(b);

8 (9) "nuclear medicine technologist" means a person who prepares,
9 calibrates, and administers radiopharmaceutical agents to humans for diagnostic or
10 therapeutic purposes;

11 (10) "radiation therapist" means a person who applies radiation to
12 humans for therapeutic purposes;

13 (11) "radiographer" means a person who uses radiation on humans for
14 diagnostic purposes.

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

17 REGULATIONS. The Department of Commerce, Community, and Economic
18 Development may begin the process to adopt regulations to implement this Act. The
19 regulations take effect under AS 44.62 (Administrative Procedure Act) but not before the
20 effective date of the statutes implemented by the regulations.

21 * Sec. 4. Except as provided in secs. 5 and 6 of this Act, this Act takes effect July 1, 2006.

22 * Sec. 5. AS 08.89.100 and 08.89.310, enacted by sec. 2 of this Act, take effect July 1,
23 2008.

24 * Sec. 6. Section 3 of this Act takes effect immediately under AS 01.10.070(c).

THE
FOLLOWING
DOCUMENT(S)
ARE
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Feb-16-05

08:50


From:Independence Park Medical

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T-138

P.002/003

F-795



**A Patient in Alaska Received
64 Times the Radiation
Dose Needed for an
X-ray!**

PROTECT YOURSELF!

Alaska should require
licensing for individuals who
take your x-ray!

Contact your state
legislator!

www.legis.state.ak.us

Association of the State Society of
Radiologic Technologists
(907) 222-6976

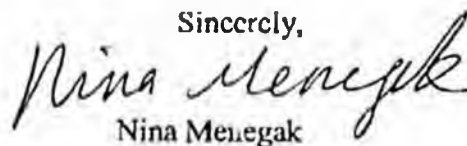
To Whom It May Concern:

I began working in Diagnostic Imaging as a secretary in June 2004. In December 2004 I started to learn to take x-rays under the supervision of a few Registered Radiographers. In working with these techs, I learned how to set a technique on the machines, how to access and shield a patient and limited positioning skills. I would often have to ask the Registered Radiographers if a film was "passable" or how to improve a non-diagnostic film.

In January of 2005, I enrolled in the "pilot" class of UAA's distance delivered Limited Scope Classes. I am currently taking the 3rd class in a series of 3. We meet online once a week for 1 hour and work through the course modules at our own pace. These classes have helped me to learn which anatomy should be visualized in each study, enhanced my positioning skills, and taught me the fundamentals of x-ray production. I have also learned technique manipulation and the qualities of a diagnostic film.

I am able to work confidently and independently of the technologists, and even pull my share of call. The classes have helped me to better understand the importance of radiation protection for patient, the family members and myself. I also understand the qualities of a good film.

Sincerely,


Nina Menegak

FISCAL NOTE

Repaired

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 150(L&C)
(H) Publish Date: 3/22/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Licensing Radiologic Technicians RDU Occupational Licensing (117)
Component Occupational Licensing
Sponsor Anderson
Requester House Labor & Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 25.2 | 25.2 | 25.2 | 25.2 | 25.2 | 25.2 |
| Travel | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Contractual | 6.0 | 6.0 | 6.0 | 6.0 | 6.0 | 6.0 |
| Supplies | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| Equipment | 6.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 38.2 | 32.2 | 32.2 | 32.2 | 32.2 | 32.2 |

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

| | | | | | | |
|----------------------------------|-------------|------------|-------------|------------|-------------|------------|
| CHANGE IN REVENUES (1156) | 70.4 | 0.0 | 64.4 | 0.0 | 64.4 | 0.0 |
|----------------------------------|-------------|------------|-------------|------------|-------------|------------|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other 1156 - Receipt Supported Services | 38.2 | 32.2 | 32.2 | 32.2 | 32.2 | 32.2 |
| TOTAL | 38.2 | 32.2 | 32.2 | 32.2 | 32.2 | 32.2 |

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | | | | | | |
| Part-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

HB 150 establishes licensure for occupations relating to radiologic technology. The division was advised that approximately 380 to 400 individuals will seek licensure under this bill. This fiscal note is based on the assumption there will be at least 400 licensees.

An explanation of the costs shown above are attached.

Prepared by: Jennifer Strckler, Administrative Manager Phone (907) 465-2144
Division: Occupational Licensing Date/Time 2/23/05 2:02 PM
Approved by: Edgar Blatchford, Commissioner Date 2/23/2005
Agency: Commerce, Community, and Economic Development

FISCAL NOTE #1

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSHB 150(L&C)

ANALYSIS CONTINUATION

HB 150: Licensing Radiologic Technicians

Total PERSONAL SERVICES: \$25.2

- Occupational Licensing Examiner I position, PPT, Range 13

This fiscal note provides funding for half of an Occupational Licensing Examiner I position to provide support to this licensing program. Last year, the division had a half time position in support of another licensing program that could have been made to full-time with this funding to support this program as well; however, that option is no longer available since that position has been assigned to support other new licensing programs. Therefore, this fiscal note identifies funding for half of a position and a corresponding position count.

Total TRAVEL: \$0

Total CONTRACTUAL SERVICES: \$6.0

- Printing, postage, communication, and advertising costs, \$3.0
- Regulations-related costs to establish education criteria and standards, and other requirements; including AAG time, \$3.0

Information has been received that licensure examinations are available from The American Registry of Radiologic Technologists. The division will seek to make arrangements with this organization for use of the licensing examinations.

Total SUPPLIES: \$1.0

To fund daily operating supplies of the program.

Total EQUIPMENT (one-time costs): \$6.0

TOTAL FISCAL NOTE: \$38.2

REVENUE: Revenue will be generated by individuals who seek license under this bill. Based on 400 licensees, each licensee can be expected to pay approximately \$176.00 biennially (\$70.4 divided by 400) in direct costs; in addition to indirect costs of approximately \$100.00 per person, for an approximate initial licensing fee of \$276.00 biennially. Licensing fees will be adjusted at the first renewal based on actual costs and numbers of licensees.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT FOR HB 150 **BY: Representative Tom Anderson**

"An Act requiring licensure of occupations relating to radiologic technology, radiation therapy, and nuclear medicine technology; and providing for an effective date."

The Radiologic Health Science professionals in the State of Alaska are dedicated to the preservation of life and health as well as the prevention and treatment of disease. The use of x-rays and other medical imaging disciplines is the most acceptable method for discovering and treating many conditions that might not otherwise be observed until it is too late for treatment.

The unregulated practice of Radiologic Technology, Nuclear Medicine Technology and Radiation Therapy by unqualified individuals represents a serious health risk to the citizens of Alaska. The Alaska Society of Radiologic Technologists has consistently supported the enactment of state standards for the education and credentialing of Radiologic Technologists, Radiation Therapists and Nuclear Medicine Technologists as a means of protecting Alaskans from the harmful effects of excessive and unnecessary exposure to medical radiation.

Any radiology procedure is only as effective as the person performing it. An underexposed chest x-ray cannot reveal pneumonia or a malignant lesion, just as an inadequate mammography technique cannot detect breast cancer. No matter what the procedure, the Radiologic Technologist's knowledge of anatomy, careful application of radiation and skillful operation of sophisticated medical equipment are the keys to its success. Patients have long benefited from Alaska's wisely implemented Radiology equipment performance standards but those benefits can easily be negated by under trained operators of the equipment. To be clinically useful, diagnostic imaging exams must be accurate. To stop invasive cancers, radiation therapy treatments must be precise.

To ensure that the citizens of the State of Alaska receive maximum protection practicable from the harmful effects of excessive and improper exposure to ionizing radiation, licensure must be passed to establish standards.

Establishing state standards will ensure that Alaskans will have access to safe and high quality radiologic care. Licensure for Radiologic Technologists, Radiation Therapists and Nuclear Medicine Technologists will establish radiation protection measures as well as education and credentialing standards that will ensure the competency of persons operating medical equipment emitting radiation.

I urge your support of this important piece of legislation.

24-LS0470R

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

Sectional Analysis for HB 150 BY: Representative Tom Anderson

Section 1. Amends AS 08 is amended to add a new section

Sec. 08.89.100 defines who needs to acquire a Radiological Technician license under this bill. Also provides exemptions for the license.

Sec. 08.89.110 limits the titles a person can use if they do not hold a license.

Sec. 08.89.120 defines the minimum requirements to receive a license

Sec. 08.89.130 describes how the Department of Health and Social Services shall approve licensure programs.

Sec. 08.89.140 describes the radiological licensure examinations.

Sec. 08.89.150 defines the qualifications for a limited radiological imager license

Sec. 08.89.160 describes how the Department of Health and Social Services shall approve limited radiological licensure programs.

Sec. 08.89.170 provides for the application and scope of a temporary permit for practice of radiology and allows a person to receive such a permit if they can prove they were performing radiological work before the passage of HB 150

Sec. 08.89.180 defines the license renewal process

Sec. 08.89.190 states that a licensee must keep their license or a copy of their license on file at their place of employment

Sec. 08.89.200 states that the licensee must notify the Department of a name or address change within 30 days

Sec. 08.89.210 states that a person whose license is revoked for a reason other than late payment of fees must wait 24 months before reapplying for a license.

Sec. 08.89.220 directs the Department to set fees for various aspect of the licensure process.

Sec. 08.89.300 limits the use of radiological equipment on a patient without a prescription.

Sec. 08.89.310 defines a civil penalty for practicing radiology without a license.

Sec. 08.89.320 defines a criminal penalty for a person who obtains or attempts to obtain a license through fraudulent means.

Sec.08.89.330 defines the grounds for disciplinary actions or denial of license.

Sec. 08.89.340 defines under what situations the Department may impose sanctions on a licensee.

Sec. 08.89.900 states that for the purposes of 08.01.065, all persons who hold a radiological license are considered to be engaged in the same occupation.

Sec. 08.89.990 outlines various definitions for terms in HB 150.

Section 2. Amends AS 44.64.030(a)(6)

This allows the Board of Radiological Technicians to conduct disciplinary hearings.

Section 3. The uncodified law of the State of Alaska is amended

Directs the Department of Commerce, Community and Economic Development and the division of occupational licensing to begin the process of adopting and implementing the regulations created by HB 150.

Section 4. The uncodified law of the State of Alaska is amended

Details revisors' instructions for reconciliation of sec. 2 of this bill with sec. 82, ch. 163, SLA 2004.

Section 5 Effective date of this act except as provided by sec. 6 and 7

Section 6. Effective date of AS 08.89.100 and AS 08.89.310

Section 7. Effective date of Section 3

Representative Foster,

Thank you for responding to me email so quickly and my apologies for some delay in getting back to you. I wanted to make sure that I gave you the most accurate answer possible. I'm sure you will agree that there will definitely be a cost increase despite the rad tech association's assurances in their testimony that there will be none.

The following is my best estimate on the direct costs to my personal business, which consists of two clinics and 10 employees taking x-rays.

The course the bill's promoters are referring to is through Glacier Valley Medical Education, glaciermedicaled.com. The registration fee for the course is \$229 per person. The online course is estimated to take 240 hours to complete on average. Some will likely need less time, some more time, but let's at least use what they say is the average. I believe it is reasonable that an employee will want to be compensated for the time spent on the course. My average employee wage for the 10 persons taking xrays is \$15.03 per hour. There may be some time the employee could spend on the course while at the job site, but our clinics are very busy and the employee is then neglecting their other job duties. Likely, the employee will have to do this during their own free time. Most of my employees spend 30-40 hrs per week already on the job. If the employee spent an additional 2 hours per day, 5 days a week, it would take the employee 6 months to complete the course.

In addition, I am estimating a yearly licensing fee from the state at \$50. You also must include continuing education costs. I would guess the number of credits required yearly will be about 15, at a cost of \$4 per credit from the same online company.

If you do the math, here is what I estimate:

First Year:

1. Course registration: $\$229 \times 10 \text{ employees} = \2290.00
2. Hourly wages: $240 \text{ hrs} \times 10 \text{ employees} \times \$15.03 \text{ average wage} = \$36,072$
3. License fee: $\$50 \times 10 \text{ employees} = \500

First Year Total \$38,862.00

Recurring yearly fees:

1. Continuing education fees: $\$4 \text{ per credit} \times 15 \text{ credits needed} \times 10 \text{ employees} = \600
2. Continuing education wage time: $15 \text{ credit hours} \times 15.03 \text{ average wage} \times 10 \text{ employees} = \2254.50
3. New employee training (average 1 new employee/year between clinics): $\$229 \text{ course registration} + \text{wage time } (\$15.03 \text{ per hour} \times 240 \text{ hrs}) \text{ of } \$3607.20 = \$3836.20$
4. Yearly license fees: \$500

Every Year Total \$7,190.70

Again, these are estimates as the licensing fees and CME requirements are not yet defined. But I believe this is a very close estimate of what this bill will cost just our clinics. Multiply these numbers by the number of small doctor's offices and clinics to get an idea of what the direct costs to small business will be across the state. This will

especially hit small rural subsidized clinics hard in the wallet. I realize there are employers out there that will not agree to pay for some of the above things I mentioned for their employees, and make them study on their own, or not reimburse them for CME expenses. I think most offices and clinics will choose to or have to pay up in order to retain quality employees.

I would ask that you also consider the indirect costs to the health system as well. Specifically, the real possibility that x-ray services will no longer be offered in some offices and rural clinics, requiring that the patient be transported or flown into a larger community just to do an x-ray. In addition, you are likely to see over and inappropriate utilization of emergency rooms and hospitals for a simple x-ray. It is much cheaper and quicker if you are seen at an outpatient clinic for your ankle injury than in the ER.

Thank you for your time in considering my point of view. I hope this will help you make an informed decision.

Don Smith, PA-C
President, AKAPA
373-6055

Representative Moses.

2-7-06

I am the co-owner of two out patient medical clinics, and the current president of the Alaska Academy of Physician Assistants. From a business stand point, and on behalf of the AKAPA, I am opposed to HB 150 in its present form. I would ask that this letter be entered into the record as public testimony when you hear the bill.

HB 150 passed through the Judiciary Committee on Friday, and is moving on to your committee.

I certainly agree that licensing and regulation is necessary for individuals doing procedures involving high levels of radiation such as CT scans. However, for simple plain in-office/clinic x-rays I feel the bill goes too far. Plain x-rays for wrist or ankle or even a chest expose the patient to very low levels of radiation. There is a significant amount of presumption by those that support the bill that this low level of radiation may cause some health problems now or later, but there is still no documented evidence of such harm.

This bill exists to promote patient safety, and the AKAPA and I will always strive to deliver quality and safe healthcare. I believe that there needs to be a balance between the perceived and presumed safety of the public, and the reality of the financial cost of healthcare. Again-please pass this bill to license and regulate persons doing high radiation level procedures.

However, I would respectfully ask that the bill exclude the licensing of professionals performing x-rays in office/clinic settings for the following reasons:

1. There is NO documented evidence of any patient harm.
2. The financial burden placed on primary care clinics, especially rural clinics, by this bill is NOT outweighed by any perceived risk to the patient.

There has been testimony by the rad tech association that the bill will not raise costs, but consider the following - the fee for the course will be at least \$229, my personnel will need to be paid for the time they are studying and taking the test, the yearly licensing fees, continuing education course costs and registration fees. All of this contributes to increasing the cost of health care delivery. These are admittedly not huge numbers, but add it into the mix of the most regulated industry in the US, and we will all continue to wonder why health care eats up so much of the GDP. I firmly believe that this increase in cost will lead to limitation of services and competition, especially in rural clinics and small clinics such as mine where the profit margins barely exist. I think you will see patients in bush communities being flown to Anchorage or Fairbanks just for an x-ray, or conversely not traveling and delaying care with potentially disastrous outcomes.

The current bill will allow unlicensed persons to continue to take x-rays as long as they are enrolled in a course, and will allow those persons up to 1 year to complete the course. It also has language that will allow "licensed practitioners" (doctors, NPs, etc) to take x-rays. (I am very pleased the bill has at least been amended recently to include PAs as licensed practitioners.) How can anyone possibly claim that a significant safety issue exists if you continue to allow unlicensed persons to take x-rays for that 1 year time period, or have your "practitioner" take the x-ray? In general, medical schools and PA schools do not teach how to take x-rays, only to interpret them. My nurses take our x-rays after undergoing internal training, and our films are over read by a radiologist ensuring proper technique and an adequate study. There is no misdiagnosis by a bad study if these simple practices are followed. This is the norm for the majority of clinics. I realize these items are compromises and appreciate what the author is trying to do, but I believe they speak the point that there really is no safety issue here.

The last two committees the bill went through expounded on the need for protecting the public, and that radiation is a carcinogen. That makes for great political rhetoric and no one can argue against those principles, but again, the point I am trying to make clear is that in office/clinic x-rays do not pose a significant threat to public health and safety, and the need to continue such services currently outweighs the perceived danger.

I respectfully ask that you strongly consider these thoughts in your upcoming meetings, and not dismiss them as readily as your colleagues. I believe a reasonable compromise between safety and economics exists. The current bill is not it.

Don Smith, P.A.-C

Ed Hall

From: Ed Hall
Sent: Monday, February 13, 2006 3:23 PM
To: 'Representative_Mike_Chenault@legis.state.ak.us'
Cc: 'don@alaskamedicalclinics.com'; 'ehall@beaconhss.com'
Subject: HB 150

Dear Rep Chenault:

I am sitting here listening to Mr. Clyde Pearce testify regarding HB 150. I have never testified that I did not know how to use xray equipment nor do I think that Don Smith ever testified that he did not know how to use equipment. What we did say is that many providers who are to be exempt may not know how to use equipment. This is yet one more example of how the supporters of this bill take things out of context and sensationalize their agenda. I would appreciate it if you would share this note with your committee for clarification.

We (the Alaska Academy of Physician Assistants) still stand against this bill as it will create a financial burden and decrease access to care. I remind you that we are only against the bill as it pertains to basic xrays and not other procedures such as mammography, CT and MRI scanning. We think that the continued medical education requirement in this bill is onerous and would not necessarily make a basic radiographer any more proficient. They would however have to pay to obtain CME to satisfy the requirements of this bill. We would even support a bill that would that would require xrays be over read by radiologists that would help ensure quality of care.

If possible, please read this during this hearing.

Thank you.

Regards,
Ed Hall PA-C

Suzanne Cunningham

From: Ed Hall [ehall@beaconhss.com]
Sent: Saturday, February 11, 2006 12:49 PM
To: Rep. Kevin Meyer
Subject: HB 150

February 7, 2006

TO: Rep. Lesil McGuire
Chair of Judiciary Committee

FROM: Ed Hall PA-C

RE: HB 150

Dear Representative McGuire:

I wanted to take the opportunity to follow up on the hearing of HB 150 in the judiciary committee last Friday, Feb. 3, 2006. I am dismayed that only two of your committee members seemed to grasp the negative impact that this bill will have on access to care in Alaska. I acquiesced to your plea to stay on subject as you directed everyone who wanted to testify on this bill. As you recall, you instructed everyone to direct comments to the content of the bill that pertained to the legality of the fines that would be levied if the bill passed and was subsequently violated. I was to testify on behalf of the Alaska Academy of Physician Assistants (AKAPA) against this bill. Per your request I was unable to elaborate on the reasons we feel this is not a good bill. We have tried in earnest to work with the radiology board to come up with appropriate solutions to ensure that safe practices are followed when dealing with radiographic exposure. To date, the only change that the authors have made is that they have added physician assistants to the list of exempt providers. Now after the hearing on Friday, suggested changes to this list has made this bill more nebulous. So far the following are the facts that many providers of health care are frustrated with.

1. There has been NO objective evidence presented of any harm that individuals have suffered secondary to basic x-rays. We are not denying that the potential is there but it just does not seem to be a current medical problem. Aren't bills supposed to fix problems? It would make more sense to pass a bill requiring providers to have their films over read by a radiologist which is a common practice already in most conscientious providers.
2. There seems to be nonchalance about the cost that this bill will create, particularly in the rural areas. Clinics who currently employ well trained, educated persons to shoot x-rays may not be able to afford hiring certified radiology technicians. The options then would be to discard the option of shooting an x-ray or send patients by plane to the nearest facility to get an x-ray which will ultimately lead to substandard care or significantly increased costs.
3. This bill is supposedly a health issue. Inquiring minds are confused as to why this bill is not being considered by the HESS committee? It makes providers feel like there are ulterior motives for this bill. Most allopathic providers understand evidenced based

medicine and decisions made based on the science. Your committee is fortunate to have the input of Representative Peggy Wilson who has the medical background and experience with a similar bill back east that disrupted medical care access. When she voiced her concerns, she was responded to with sarcasm by Representative Anderson. He commented that the reason that individuals haven't come to the HESS committee with health concerns is that they were all dead from over exposure. This type of humor may be appropriate for some Friday night bar session throwing jibes at constituents but when we are serious about our concerns regarding a bad bill and have waited two hours to testify, we deserve much more decorum. Shame on him.

Personally I hear a different tone in you this year compared to last year when you were more concerned about why this bill is not a good idea as written. I urge you to contemplate these thoughts before you take the opportunity to vote in favor of it's final passage.

Thank you for your time.

Ed Hall PA-C
Wk (907) 222-7612
Email edhallpac@gei.net <<mailto:edhallpac@gei.net>>

Representative Meyer,

2-7-06

I am the co-owner of two out patient medical clinics, and the current president of the Alaska Academy of Physician Assistants. From a business stand point, and on behalf of the AKAPA, I am opposed to HB 150 in its present form. I would ask that this letter be entered into the record as public testimony when you hear the bill.

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This bill exists to promote patient safety, and the AKAPA and I will always strive to deliver quality and safe healthcare. I believe that there needs to be a balance between the perceived and presumed safety of the public, and the reality of the financial cost of healthcare. Again-please pass this bill to license and regulate persons doing high radiation level procedures.

However, I would respectfully ask that the bill exclude the licensing of professionals performing x-rays in office/clinic settings for the following reasons:

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2. The financial burden placed on primary care clinics, especially rural clinics, by this bill is NOT outweighed by any perceived risk to the patient.

There has been testimony by the rad tech association that the bill will not raise costs, but consider the following - the fee for the course will be at least \$229, my personnel will need to be paid for the time they are studying and taking the test, the yearly licensing fees, continuing education course costs and registration fees. All of this contributes to increasing the cost of health care delivery. These are admittedly not huge numbers, but add it into the mix of the most regulated industry in the US, and we will all continue to wonder why health care eats up so much of the GDP. I firmly believe that this increase in cost will lead to limitation of services and competition, especially in rural clinics and small clinics such as mine where the profit margins barely exist. I think you will see patients in lush communities being flown to Anchorage or Fairbanks just for an x-ray, or conversely not traveling and delaying care with potentially disastrous outcomes.

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The last two committees the bill went through expounded on the need for protecting the public, and that radiation is a carcinogen. That makes for great political rhetoric and no one can argue against those principles, but at the point I am trying to make clear is that in office/clinic x-rays do not pose a significant threat to public health and safety, and the need to continue such services currently outweighs the perceived danger.

I respectfully ask that you strongly consider these thoughts in your upcoming meetings, and not dismiss them as readily as your colleagues. I believe a reasonable compromise between safety and economics exists. The current bill is not it.

Don Smith, PA-C



States With Licensure or Certification Laws

U.S. States with Licensure/Certification Laws or Regulations and Year of Implementation

| | |
|--------------------|---------------------|
| Arizona-1977 | Montana-1977 |
| Arkansas-1999 | Nebraska-1987 |
| California-1969 | New Jersey-1968 |
| Connecticut-1993 | New Mexico-1983 |
| Delaware-1989 | New York-1965 |
| Florida-1979 | North Dakota-2003 |
| Hawaii-1974 | Ohio-1995 |
| Illinois-1990 | Oregon-1979 |
| Indiana-1982 | Rhode Island-1994 |
| Iowa-1987 | South Carolina-1999 |
| Kansas-2004 | Texas-1987 |
| Kentucky-1978 | Utah-1989 |
| Louisiana-1984 | Vermont-1984 |
| Maine-1984 | Virginia-1997 |
| Maryland-1992 | Washington-1991 |
| Massachusetts-1987 | West Virginia-1977 |
| Mississippi-1996 | Wyoming-1985 |

States With Partial Licensure Laws and/or Other Forms of Regulation

- **Colorado** – Laws for mammography and limited (non-ARRT registered) licensure only.
- **Michigan** – Laws for mammography only.
- **Nevada** – Laws for mammography only.
- **Pennsylvania** – Technologists who have not passed the ARRT or other board-approved examination must pass a state examination to perform patient examinations in physician, osteopathic physician, podiatrist, chiropractic or dentist offices.
- **Minnesota** – Operator of any x ray equipment for human use must be either a registered radiologic technologist through the ARRT, a licensed person from another state (and are then given an x-ray operator equivalent standing) or have passed one of Minnesota's state approved exams.
- **Tennessee** – Technologists who have not passed the ARRT or other board-approved examination must pass a state examination to perform patient examinations in physician, osteopathic physician, podiatrist, chiropractic or dentist offices.
- **Wisconsin** – Requires that all CT technologists and radiation therapists be ARRT certified.

States without Licensure Laws or With Legislative Proposals Being Considered

| | |
|---------------------|----------------|
| Alabama | Missouri |
| Alaska | New Hampshire |
| Distict of Columbia | North Carolina |
| Georgia | Oklahoma |
| Idaho | South Dakota |



Questions and Answers About Licensure

Q *How does the unregulated practice of radiologic technology harm or endanger the public?*

A As physics and radiation biology textbooks attest, there is no threshold level for damage to healthy tissue due to ionizing radiation. In other words, there is no dose so small that it cannot potentially cause biological damage.

Q *What about alternatives to licensure such as a proficiency examination or certification by a professional association?*

A The problem with some alternatives to licensure is that they are voluntary and many health care workers will choose not to comply. State licensure programs are the most effective way to control the practice of uncredentialed individuals. As a result, licensure offers the public the best protection from unnecessary exposure to ionizing radiation and the highest quality radiologic patient care.

Q *How will the public benefit from licensure of radiologic technologists?*

A The public benefits by receiving care from properly educated and credentialed professionals who have met all of the requirements to practice radiologic technology.

Q *How do we ensure the competencies of radiologic technologists?*

A No one can be 100 percent sure of the competencies of any professional, whether in medicine, law or radiologic technology. However, steps to ensure the competence of individual practitioners can be taken. Accredited educational programs and state licensure programs are the main mechanisms for ensuring the competence of radiologic technologists. The curriculum for educational programs in radiologic technology is competency based, meaning students must meet performance objectives. The national certification examination also is a criterion-referenced, performance-based examination that has demonstrated high validity and reliability.

Q *Do the benefits of licensure justify the costs?*

A As with any endeavor, licensure requires a cost vs. benefit analysis. This is especially important in light of rising health care costs. Many states that have already implemented licensure programs saved the cost of developing an examination by contracting with the American Registry of Radiologic Technologists to use the national certification examination as their state licensing examination. Also, many states use license fees to fund their licensure program. Overall, the impact on state budgets and the health care economy are minimal.

Q *How will licensure affect the job market? Will it drive wages up, forcing employers to cut costs or raise patient fees?*

A As with any other profession or occupation, the primary objective of licensing radiologic technologists is not to create a favorable supply/demand arrangement. Rather, the objective is to restrict practice to individuals who meet certain standards and improve the quality of patient care. In California and New York, states with long-standing licensure laws, there have been no appreciable increases in average salaries for radiologic technologists since the laws passed.

Q *Won't licensure lead to fragmented care and higher health care costs, in effect creating an obstacle to health care delivery?*

A The major objective of licensure is to solve the problem of uncredentialed practitioners performing radiologic examinations on human beings. Related objectives are to reduce unnecessary radiation exposure and reduce costs associated with repeat examinations. Far from creating obstacles, properly educated and credentialed practitioners streamline health care and ensure the highest possible quality of care.



American Society of
Radiologic Technologists

March 4, 2005

The Honorable Tom Anderson
Alaska House of Representatives
State Capitol Building, Room 408
Juneau, AK 99801-1182

Dear Representative Anderson:

The American Society of Radiologic Technologists, representing more than 116,000 medical imaging professionals nationally including 350 in Alaska, is pleased to hear of your introduction of HB 150 before the Alaska Legislature.

The ASRT's goals are educating the medical community and the public about the benefits and risks of radiologic and other diagnostic medical procedures while providing safe, effective examinations and treatments to patients. ASRT firmly believes that personnel performing diagnostic and therapeutic procedures on patients must be required to demonstrate competence through education and certification.

ASRT has pursued these goals by supporting the federal Consumer-Patient Radiation Health and Safety Act of 1981, which established basic certification and education guidelines for personnel who perform radiologic procedures. However there was no enforcement provision in this act, leaving the adoption of certification and education standards to the discretion of each state. To date, 41 states have enacted licensure, certification laws or regulations for medical imaging and radiation therapy professionals and the regulations vary widely from state to state. Hopefully Alaska will be the 42nd state to enact a law that guarantees that all members of the public—young, old, male and female—receive safe and high-quality radiologic examinations and treatments.

We have worked closely with our state affiliate society, the Alaska Society of Radiologic Technologists, to advocate education and credentialing standards for persons who perform medical imaging, plan and deliver radiation therapy treatments for Alaska's citizens. Please feel free to call upon me in the ASRT Government Relations department if I can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "David R. Harwell". The signature is written in a cursive style with a large, sweeping initial "D".

David R. Harwell
State Legislative Coordinator