

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2431.30 SCOMM 101A: CIVIL JUSTICE/TORT REFORM - HB 58, 1997 592



Active U.S. Pilot and Non-Pilot Certificates Held—1977-1995

Category	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
PILOT—Total	783,932	798,833	814,667	827,071	764,182	733,255	718,004	722,376	709,540	709,118	699,653	694,016	700,010	702,659	692,095	682,959	685,069	684,085	639,184
Student	203,510	204,874	210,180	199,833	179,912	156,361	147,197	150,081	146,652	150,273	146,016	136,913	142,544	128,663	120,203	114,597	103,583	96,254	101,279
Private	327,424	337,644	343,276	357,479	328,562	322,094	318,643	320,086	311,086	305,736	300,949	299,786	293,179	299,111	293,306	288,078	283,700	284,236	261,399
Commercial	188,763	185,833	182,097	183,442	168,580	165,093	159,495	155,929	151,632	147,798	143,645	143,030	144,540	149,666	148,385	146,385	143,014	138,728	133,980
Airline Transport	50,149	55,881	63,652	69,569	70,311	73,471	75,938	79,192	82,740	87,186	91,287	96,968	102,087	107,732	112,167	115,855	117,070	117,434	123,877
Helicopter (only)	4,819	4,874	5,218	6,030	6,453	7,034	7,237	7,532	8,123	8,122	8,702	8,608	8,863	9,567	9,860	9,652	9,166	8,719	7,183
Glider (only) ¹	6,208	6,541	6,796	7,039	7,388	7,842	8,157	8,390	8,168	8,411	7,901	7,600	7,708	7,833	8,033	8,205	8,328	8,476	11,234
Lighter-Than-Air ¹	3,059	3,186	3,448	3,679	2,976	1,360	1,337	1,166	1,139	1,133	1,153	1,111	1,089	²	²	²	²	²	²
Recreational	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	87	161	187	206	241	232
Flight Instructor Certificates³	49,362	52,201	54,398	60,440	57,523	62,492	62,201	61,173	58,940	57,355	60,316	61,798	61,472	63,775	69,209	72,148	75,621	76,171	77,613
NON-PILOT—Total	348,584	362,350	377,213	393,486	382,840	399,661	413,199	426,802	395,139	410,079	427,962	448,710	468,405	492,237	517,462	540,548	669,726	571,358	651,341
Mechanic ⁴	220,768	228,743	237,611	250,157	262,705	277,436	288,335	298,028	274,100	284,241	297,178	312,419	326,243	344,232	366,392	384,669	401,060	411,071	405,294
Repair Men	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	61,233
Parachute Rigger ⁴	8,994	9,200	9,831	9,547	9,716	9,893	10,074	10,194	9,395	9,535	9,659	9,770	9,879	10,084	7,916	8,163	8,417	8,631	11,824
Ground Instructor ⁴	55,717	57,738	59,680	61,550	63,246	65,004	66,385	67,463	58,214	59,443	60,861	62,582	64,503	66,882	70,086	73,276	78,050	77,788	96,165
Dispatcher ⁴	5,972	6,161	6,446	6,799	7,094	7,580	8,223	8,980	8,511	9,025	9,491	10,020	10,455	11,002	11,607	12,264	12,683	13,410	15,642
Flight Navigator	2,155	2,092	1,994	1,936	1,785	1,695	1,636	1,603	1,542	1,512	1,445	1,400	1,357	1,290	1,225	1,154	1,039	990	916
Flight Engineer	29,871	33,028	36,869	38,367	38,294	38,053	38,546	40,534	43,377	46,323	49,328	52,519	55,968	58,687	60,236	61,022	60,277	59,467	60,267
Instrument Rating ^{5,3}	226,334	236,312	247,096	260,461	252,535	255,073	254,271	256,584	258,559	262,388	266,122	273,804	282,804	297,073	303,193	306,169	385,617	302,300	298,301

¹Glider and Lighter-Than-Air pilots are not required to have a medical examination; however, the totals above represent pilots who received a medical examination within the last 25 months, except for 1994 numbers, which are based on medical certificates issued 27 or less months ago.

Source: FAA

²Lighter-Than-Air type ratings are no longer being issued.

³Not included in the total.

⁴Numbers represent all certificates on record. No medical examination required.

⁵Special ratings shown on pilot certificates; does not indicate additional certificates.

N/A=Not available. Recreational certificate first issued in 1990.

PILOTS BY GEOGRAPHIC AREA

Estimated Active Pilots and Flight Instructors By FAA Region and State—1995



FAA Region and State	Total Pilots	AIRPLANE ¹				Misc. ³	Flight Instructor ⁴
		Student ¹	Private	Commercial	Airline Transport		
GRAND TOTAL¹	689,184	101,279	261,399	138,980	123,577	18,049	77,613
UNITED STATES—Total	611,078	97,133	255,508	124,981	116,289	17,167	75,533
ALASKAN—Total	9,024	1,064	3,978	2,286	1,594	102	1,034
CENTRAL—Total	31,087	4,718	15,275	6,511	4,166	417	3,723
Iowa	6,427	968	3,470	1,321	596	72	764
Kansas	8,739	1,341	4,253	1,916	1,103	126	1,032
Missouri	11,568	1,753	5,378	2,246	2,003	188	1,454
Nebraska	4,353	656	2,174	1,028	464	31	473
EASTERN—Total	80,077	14,455	33,141	15,491	14,027	2,963	10,504
Delaware	1,554	256	625	303	329	41	223
District of Columbia	496	100	201	110	40	45	54
Maryland	8,898	1,517	3,838	1,752	1,514	304	1,174
New Jersey	12,399	2,189	5,265	2,183	2,270	492	1,592
New York	19,957	4,049	8,571	3,788	2,509	1,076	2,521
Pennsylvania	19,411	3,328	8,253	3,648	3,650	570	2,665
Virginia	14,446	2,416	5,164	3,118	3,384	364	1,953
West Virginia	2,317	472	1,081	462	259	43	262
Armed Forces Europe ⁵	525	128	143	154	72	28	60
GREAT LAKES—Total	105,654	17,909	49,372	20,742	15,764	1,876	13,209
Illinois	22,999	3,877	9,937	4,471	4,250	464	3,118
Indiana	12,041	2,198	5,808	2,315	1,545	175	1,447
Michigan	18,906	3,538	9,198	3,429	2,306	435	2,264
Minnesota	15,377	2,246	6,907	3,257	2,782	185	1,933
North Dakota	2,818	381	1,271	958	190	18	340
Ohio	19,642	3,312	9,233	3,722	2,902	473	2,486
South Dakota	2,262	355	1,086	543	265	13	244
Wisconsin	11,609	2,002	5,932	2,047	1,524	104	1,377
NEW ENGLAND—Total	28,456	4,647	12,544	5,162	5,125	978	3,430
Connecticut	7,192	1,063	3,000	1,202	1,659	268	888
Maine	3,432	605	1,653	692	440	42	358
Massachusetts	10,563	1,860	4,964	1,909	1,371	459	1,242
New Hampshire	4,288	597	1,593	775	1,222	101	596
Rhode Island	1,337	256	600	266	178	37	146
Vermont	1,644	266	734	318	255	71	200
NORTHWEST MOUNTAIN—Total	64,626	9,838	26,999	13,237	12,736	1,816	7,790
Colorado	16,821	2,338	6,079	3,508	4,183	713	2,425
Idaho	4,541	708	2,189	981	588	75	466
Montana	3,746	538	1,810	939	408	51	422
Oregon	10,247	1,756	5,084	2,092	1,080	235	1,111
Utah	6,035	1,120	2,438	1,080	1,272	125	617
Washington	21,344	3,112	8,459	4,261	4,925	587	2,535
Wyoming	1,892	266	940	376	280	30	214
SOUTHERN—Total	114,215	17,624	42,207	24,578	27,434	2,372	13,852
Alabama	8,077	1,433	3,229	2,016	978	421	992
Florida	45,637	6,563	16,223	10,550	11,541	787	5,969
Georgia	17,455	2,550	5,865	3,308	5,414	318	1,873
Kentucky	6,389	1,080	2,467	1,086	1,656	100	771
Mississippi	4,135	755	1,571	1,168	559	82	459
North Carolina	14,222	2,214	5,798	2,776	3,145	289	1,594
South Carolina	6,167	1,116	2,573	1,401	957	120	666
Tennessee	12,065	1,928	4,462	2,252	3,169	254	1,521
Armed Forces Europe ⁵	68	12	19	21	15	1	7
SOUTHWEST—Total	73,034	11,030	27,864	16,081	16,466	1,593	9,409
Arkansas	5,428	970	2,303	1,412	686	57	622
Louisiana	6,449	1,012	2,364	1,736	1,087	250	803
New Mexico	4,572	654	1,940	1,100	748	130	593
Oklahoma	9,254	1,683	4,182	2,096	1,187	106	1,247
Texas	47,331	6,711	17,075	9,737	12,758	1,050	6,144
WESTERN-PACIFIC—Total	104,343	15,844	44,120	20,891	18,976	4,512	12,581
Arizona	15,662	2,490	5,811	3,332	3,486	543	2,245
California	79,590	12,086	35,492	15,667	12,801	3,544	9,119
Hawaii	2,736	382	640	635	859	220	363
Nevada	5,833	694	2,053	1,125	1,776	185	809
Armed Forces Pacific ⁶	522	192	124	132	54	20	45
UNKNOWN	562	4	8	2	1	574	1
OUTSIDE U.S.—Total⁷	26,106	4,146	5,891	8,999	7,588	1,482	2,080
OTHER U.S. AREAS—Total	2,229	622	626	423	498	60	251
American Samoa	14	0	1	5	7	1	2
Guam	198	26	33	36	101	2	20
Puerto Rico	1,684	536	462	317	316	53	186
Virgin Islands	291	53	116	53	66	3	31

¹Category of medical certificate unknown.

²Includes pilots with an airplane-only certificate. Also includes those with an airplane and a helicopter and/or glider certificate.

³Includes helicopter, glider, and recreational.

⁴Not included in total.

⁵Includes Outside U.S.

⁶Military personnel holding civilian certificate stationed in foreign country.

⁷Outside U.S. includes other U.S. areas outside of the 50 states and foreign countries.

Source: FAA

ACTIVE AIRMEN

Estimated FAA Active Pilot Certificates Held by Category and Age Group of Holder—1995

Age Group	Total	TYPE OF PILOT CERTIFICATES							
		Airplane ¹					Rotorcraft (Only)	Glider (Only) ²	Flight Instructor ³
		Student	Recre- ational	Private	Commercial	Airline Transport			
Total	639,184	101,279	232	261,399	133,980	123,877	7,183	11,234	77,613
14-15	196	196	0	0	0	0	0	0	0
16-19	14,316	10,681	4	3,314	205	0	32	80	52
20-24	39,395	14,423	2	14,748	9,332	318	366	206	4,787
25-29	57,189	14,579	17	17,611	18,019	5,637	1,007	319	11,734
30-34	73,661	14,798	16	25,199	16,186	15,401	1,398	663	10,470
35-39	86,337	13,993	34	34,402	14,476	21,002	1,251	1,179	9,445
40-44	88,005	11,531	24	40,192	13,844	19,545	1,088	1,781	9,171
45-49	85,701	8,587	28	36,924	15,441	21,785	1,217	1,719	9,775
50-54	67,497	5,439	27	29,081	14,120	17,143	516	1,171	7,854
55-59	48,240	2,998	26	20,816	10,706	12,678	195	821	5,595
60 and over	78,647	4,054	54	39,112	21,651	10,368	113	3,295	8,730

¹Includes outside U.S.

Source: FAA

²Glider pilots are not required to have a medical examination; however, totals above represent pilots who received a medical examination.

³Not included in total active pilots.

Average Age of Active Pilots by Category

Calendar Year	Total ¹	Student	Recreational	Private	Commercial	Airline Transport
1981	37.8	30.7	N/A	39.3	40.7	42.0
1982	38.3	31.2	N/A	39.5	41.0	42.3
1983	38.8	31.7	N/A	40.0	41.5	42.5
1984	39.2	32.1	N/A	40.4	42.0	42.7
1985	39.5	32.4	N/A	40.8	42.4	42.8
1986	39.7	32.2	N/A	41.1	42.6	43.0
1987	39.9	32.3	N/A	41.4	42.7	43.1
1988	40.1	32.5	N/A	41.4	42.6	43.2
1989	40.2	32.7	N/A	41.8	42.5	43.4
1990	40.5	32.5	41.7	42.0	42.2	43.6
1991	40.5	32.6	43.5	42.0	41.8	43.7
1992	40.8	32.9	44.4	42.2	41.7	43.8
1993	41.3	33.7	45.5	42.7	41.9	44.1
1994	41.9	34.3	46.5	43.2	42.4	44.4
1995	42.9	34.5	48.3	44.6	43.7	44.9

¹Includes helicopter (only) and glider (only).

Source: FAA

N/A=Not available. Recreational certificate first issued in 1990.

Estimated Active Women Pilot Certificates Held—1995

Category	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
PILOT—Total	43,082	42,578	42,299	42,366	40,515	40,831	40,620	39,460	39,157	38,032
Student ¹	18,899	18,367	17,529	17,637	15,007	14,501	13,921	12,788	12,061	12,710
Recreational ¹	N/A	N/A	N/A	N/A	6	15	10	17	21	16
Airplane ²										
Private	17,532	17,349	17,544	16,988	17,301	17,514	17,276	16,997	17,196	15,398
Commercial	4,176	4,208	4,410	4,760	5,210	5,852	5,918	5,981	6,000	5,694
Airline Transport	1,334	1,538	1,745	1,898	2,082	2,308	2,530	2,738	2,924	3,134
Helicopter (only)	232	247	259	273	292	307	313	276	277	N/A
Glider (only) ³	667	627	590	586	617	634	652	663	678	N/A
Lighter-Than-Air ^{3,4}	242	242	222	224	4	4	4	4	4	4
Flight Instructor Certificates⁵	2,687	2,909	3,018	3,074	3,239	3,629	3,964	4,338	4,481	4,556
NONPILOT—Total	6,502	7,101	7,842	10,883	9,557	10,324	11,514	12,363	13,026	15,120
Mechanic ⁶	1,964	2,237	2,565	2,892	3,333	3,901	4,398	4,839	5,175	3,914
Repair Men	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1,710
Parachute Rigger ⁶	414	428	441	451	474	363	390	413	442	672
Ground Instructor ⁶	3,087	3,232	3,391	3,554	3,760	3,952	4,338	4,615	4,804	6,019
Dispatcher ⁶	460	524	622	711	802	852	1,004	1,083	1,159	1,270
Flight Navigator	0	0	1	1	0	0	0	0	0	0
Flight Engineer	577	680	822	3,074	1,188	1,256	1,384	1,413	1,446	1,535

¹Category of medical certificate unknown.

²Includes pilots with an airplane only certificate. Also includes those with an airplane and a helicopter and/or glider certificate.

³Glider and Lighter-Than-Air pilots are not required to have a medical examination; however, the totals above represent pilots who received a medical examination within the last 25 months.

⁴Lighter-Than-Air type ratings are no longer being issued.

⁵Not included in total.

⁶Numbers represent all certificates on record. No medical examination required.

N/A=Not available. Recreational certificate first issued in 1990.

Source: FAA

INSTRUMENT-RATED PILOTS

Estimated Total Active Pilots and Instrument-Rated Pilots—1976-1995



Calendar Year	Total Active Pilots ¹	INSTRUMENT-RATED PILOTS	
		Number	Percent of Total
1976	555,625	211,364	38
1977	580,422	226,334	39
1978	593,959	236,312	40
1979	604,487	247,096	41
1980	627,238	260,461	42
1981	584,270	252,535	43
1982	576,894	255,073	44
1983	570,807	254,271	45
1984	572,295	256,584	45
1985	562,888	258,559	46
1986	558,845	262,388	47
1987	553,637	266,122	48
1988	557,103	273,804	49
1989	557,466	282,804	51
1990	573,909	297,073	52
1991	571,731	306,193	53
1992	568,175	306,169	54
1993	561,280	305,517	54
1994	557,593	302,300	54
1995	537,673	298,798	56

¹Excludes student pilots and recreational pilots.

Source: FAA

PILOT CERTIFICATES ISSUED

Pilot Certificates Issued By Category—1964-1995

Year	STUDENT		PRIVATE		COMMERCIAL		AIRLINE TRANSPORT		HELICOPTER (ONLY)		GLIDER (ONLY)	
	Original	Additional ¹	Original	Additional ¹	Original	Additional ¹	Original	Additional ¹	Original	Additional ¹	Original	Additional ¹
1964	84,629	N/A	26,425	4,394	8,772	10,123	983	3,114	344	48	191	N/A
1965	94,635	N/A	33,337	4,981	11,043	12,557	1,177	4,018	549	74	252	N/A
1966	129,180	N/A	42,464	5,648	14,210	15,360	1,513	5,571	822	53	316	2
1967	159,399	N/A	57,520	8,036	19,996	21,272	2,745	5,726	1,411	105	422	4
1968	149,444	N/A	54,232	7,926	20,157	21,795	2,601	4,911	1,433	94	476	17
1969	132,926	N/A	54,597	8,096	21,399	25,706	3,469	4,616	2,326	148	521	N/A
1970	126,871	N/A	53,026	8,374	21,130	25,746	3,745	3,917	4,250	187	652	N/A
1971	128,004	N/A	49,579	7,775	16,356	22,695	2,439	2,567	3,448	172	611	10
1972	121,543	N/A	50,523	8,371	16,043	22,236	2,604	3,410	2,421	263	713	14
1973	131,384	N/A	53,140	9,797	16,769	24,823	3,224	4,391	1,719	507	892	131
1974	113,997	N/A	48,501	9,866	17,693	24,638	3,219	3,557	1,298	387	832	244
1975	127,424	N/A	49,733	9,734	12,620	21,860	2,765	3,370	866	251	230	158
1976	129,280	N/A	55,583	12,618	13,577	22,059	3,869	3,910	1,064	276	848	238
1977	138,816	N/A	54,657	15,104	11,121	22,806	5,697	6,229	944	328	792	220
1978	137,032	N/A	58,064	16,048	11,789	17,501	6,912	5,921	1,122	287	759	188
1979	135,956	N/A	54,466	16,466	12,627	17,793	8,981	6,603	1,300	283	642	157
1980	102,301	N/A	50,458	16,035	12,452	16,015	7,116	6,289	1,721	272	583	151
1981	111,531	N/A	45,713	14,897	10,657	12,146	4,763	5,991	1,985	302	629	164
1982	90,816	N/A	52,144	16,276	11,048	11,910	5,037	7,956	2,256	330	793	184
1983	92,239	N/A	41,210	12,721	8,789	9,513	5,643	8,187	1,932	315	606	162
1984	90,167	N/A	36,545	11,784	7,702	8,892	5,099	9,335	1,808	319	524	139
1985	86,060	N/A	35,402	11,636	8,404	7,197	6,081	9,192	2,105	207	537	138
1986	88,699	N/A	34,816	12,672	8,889	9,241	6,498	10,372	2,209	234	514	109
1987	85,611	N/A	42,287	16,302	11,314	11,365	7,678	11,956	2,217	293	542	74
1988	86,193	N/A	39,900	15,800	12,042	10,597	7,461	11,209	1,947	287	475	28
1989	87,698	N/A	35,360	22,240	13,759	11,778	7,829	12,698	2,240	252	336	22
1990	88,586	N/A	41,749	19,299	15,500	12,584	8,013	13,540	2,700	266	378	41
1991	82,205	N/A	49,580	23,630	16,869	13,506	8,437	13,979	3,344	291	487	29
1992	78,377	N/A	39,968	19,416	14,354	11,630	7,699	13,391	2,684	291	376	32
1993	69,178	N/A	39,060	18,801	12,645	10,466	6,126	12,995	2,310	370	341	28
1994	66,501R	N/A	32,787	14,568	9,237	8,630	5,360	10,963	1,801	267	320	25
1995	62,241E	N/A	28,333	15,331	9,133	8,042	5,965	13,641	1,724	290	373	83

Notes: ¹An additional rating added to an existing pilot certificate (e.g. instrument rating added to a private certificate).

R=Revised.

E=Estimated.

N/A=Not available.

Source: FAA



Airports and Aeronautical Facilities



AIRPORTS BY GEOGRAPHIC AREA

U.S. Civil and Joint Use Heliports, Stolports, and Seaplane Bases On Record
By Type Of Ownership—1995



FAA Region and State	Facilities	TOTAL FACILITIES BY OWNERSHIP		AIRPORTS OPEN TO THE PUBLIC				TOTAL AIRPORTS
		Public	Private	PAVED AIRPORTS¹		UNPAVED AIRPORTS¹		
				Lighted	Unlighted	Lighted	Unlighted	
GRAND TOTAL	18,212	5,102	13,090	3,505	298	406	805	5,130
UNITED STATES—Total*	18,145	5,082	13,054	3,582	298	406	805	5,091
ALASKAN—Total	547	384	163	44	5	100	157	306
CENTRAL—Total	1,479	496	983	388	17	42	56	503
Iowa	300	135	165	96	1	14	14	125
Kansas	385	132	253	101	9	17	21	148
Missouri	496	136	360	114	6	6	11	137
Nebraska	298	93	205	77	1	5	10	93
EASTERN—Total	2,353	348	2,005	330	28	48	82	488
Delaware	35	4	31	5	0	3	1	9
District of Columbia	17	8	9	2	0	0	0	2
Maryland	201	21	180	28	1	3	3	35
New Jersey	348	47	301	36	2	4	7	49
New York	535	91	444	81	15	22	30	148
Pennsylvania	747	73	674	89	5	14	28	136
Virginia	365	73	292	63	1	1	4	69
West Virginia	105	31	74	26	4	1	9	40
GREAT LAKES—Total	4,273	908	3,365	745	22	145	159	1,071
Illinois	898	122	776	93	0	18	5	116
Indiana	608	87	521	78	4	6	21	109
Michigan	469	135	334	124	6	42	55	227
Minnesota	476	150	326	106	1	23	16	146
North Dakota	436	97	339	66	5	12	12	95
Ohio	742	136	606	125	2	17	28	172
South Dakota	156	77	79	53	2	15	4	74
Wisconsin	488	104	384	100	2	12	18	132
NEW ENGLAND—Total	707	144	563	116	18	4	29	167
Connecticut	136	16	120	17	2	0	4	23
Maine	151	47	104	30	8	2	9	49
Massachusetts	227	35	192	36	4	1	5	46
New Hampshire	94	17	77	16	3	1	6	26
Rhode Island	26	9	17	7	0	0	0	7
Vermont	73	20	53	10	1	0	5	16
N.W. MOUNTAIN—Total	1,887	682	1,205	405	51	23	145	624
Colorado	376	92	284	64	4	3	9	80
Idaho	223	131	92	44	9	1	64	118
Montana	241	123	118	72	7	9	31	119
Oregon	398	103	295	59	16	4	18	97
Utah	124	58	66	41	5	0	1	47
Washington	422	126	296	91	9	5	17	122
Wyoming	103	49	54	34	1	1	5	41
SOUTHERN—Total	2,623	841	1,782	632	51	26	53	762
Alabama	240	103	137	86	5	4	6	101
Florida	769	162	607	100	5	8	14	127
Georgia	401	137	264	98	9	2	2	111
Kentucky	179	73	106	53	9	0	3	65
Mississippi	221	90	131	70	9	2	2	83
North Carolina	355	95	260	86	5	5	18	114
Puerto Rico	32	17	15	10	1	0	0	11
South Carolina	165	69	96	56	2	5	6	69
Tennessee	252	89	163	71	6	0	2	79
Virgin Islands	9	6	3	2	0	0	0	2
SOUTHWEST—Total	2,933	818	2,115	639	46	14	79	778
Arkansas	253	115	138	89	6	0	5	100
Louisiana	426	110	316	71	2	1	7	81
New Mexico	164	73	91	44	9	0	10	63
Oklahoma	413	161	252	112	14	6	19	151
Texas	1,677	359	1,318	323	15	7	38	383
WESTERN—Total	1,410	511	899	306	63	4	58	431
Arizona	276	88	188	54	8	0	14	76
California	932	318	614	206	42	1	11	260
Hawaii	46	18	28	11	2	0	0	13
Nevada	121	60	61	24	9	3	20	56
South Pacific**	35	27	8	11	2	0	13	26

*Excludes Puerto Rico, Virgin Islands, N. Mariana Islands, and South Pacific.

**American Samoa, Guam, and Trust Territories.

¹Among all airports open to the public, either publicly or privately owned.

Source: FAA



AERONAUTICAL FACILITIES

FAA Air Route Facilities and Services—1972-1995

As of December 31	VOR VORTAC	Non- directional Beacons	Air Route Traffic Control Centers	Airport Traffic Control Towers	Flight Service Stations	International Flight Service Stations	Instrument Landing Systems	Airport Surveillance Radar
1972	991	706	27	355	324	7	403	125
1973	995	739	27	403	315	7	467	142
1974	1,000	793	26	417	320	7	490	156
1975	1,011	848	25	487	321	7	580	177
1976	1,020	920	25	488	321	7	640	175
1977	1,021	959	25	495	319	7	678	182
1978	1,020	988	25	494	319	6	698	185
1979	1,028	1,015	25	499	318	6	753	192
1980	1,037	1,055	25	502	317	6	796	192
1981	1,033	1,123	25	501	316	6	840	199
1982	1,029	1,143	25	492	316	6	884	197
1983	1,032	1,183	25	494	316	5	934	197
1984	1,035	1,211	25	497	310	5	955	197
1985	1,039	1,222	25	500	302	4	968	198
1986	1,043	1,239	25	686	293	3	977	312
1987	1,039	1,212	25	500	302	4	968	198
1988	1,043	1,239	25	686	293	3	977	312
1989	1,046	1,263	25	686	255	3	1,100	312
1990	1,045	1,271	25	686	235	3	1,120	311
1991	1,045	1,295	24	694	192	3	1,114	318
1992	1,044	1,314	24	691	179	3	1,177	312
1993	1,041	1,344	24	684	165	3	1,231	310
1994	1,041	1,342	24	685	156	3	1,245	303
1995	1,039 ¹	1,333 ²	24 ³	683 ⁴	91 ⁵	3	1,280 ⁶	298 ⁷

Source: FAA

¹Includes 73 nonfederal and 32 military.

²Includes 976 nonfederal and 57 military.

³Includes 3 combined center/radar approach control facilities (CERAP).

⁴Includes 89 nonfederal and 178 military.

⁵Includes 58 automated flight service stations (AFSS).

⁶Includes 230 partial, 23 landing directional aids (LDA), 5 interim microwave landing systems (ISMLS), 25 simplified direction finders, 213 nonfederal and 18 military.

⁷Includes 222 airport surveillance radars (ASR), 52 airport surveillance radar/precision approach radars (ASRPAP), 18 ground control approaches (GCA), 4 precision approach radars (PAR), and 2 beacons (BCN).



Forecasts and Other Information



GAMA



AIRCRAFT FORECAST

U.S. Active General Aviation and Air Taxi Aircraft (In Thousands)

Calendar Year	FIXED WING				ROTORCRAFT		Experimental	Other	Total
	Piston		Turboprop	Turbojet	Piston	Turbine			
	Single-Engine	Multi-Engine							
<u>Historical</u>									
1989	158.9	21.9	5.9	4.1	3.0	4.0	N/A	7.2	205.0
1990	154.0	21.2	5.3	4.1	3.2	3.7	N/A	6.6	198.0
1991	154.1	21.2	4.9	4.4	2.5	3.8	N/A	7.6	198.5
1992	143.6	18.6	4.7	4.0	2.2	3.5	N/A	7.8	184.4
1993	130.7	16.4	4.4	3.9	1.6	2.9	11.0	5.2	176.0
1994	123.3	15.6	4.2	4.1	1.4	3.0	12.9	6.2	170.6
<u>Forecast</u>									
1995	120.0	15.2	4.2	4.1	1.3	3.0	13.1	6.4	167.3
1996	117.8	14.9	4.3	4.2	1.3	3.0	13.3	6.6	165.4
1997	119.0	15.1	4.4	4.3	1.3	3.0	13.5	6.7	167.3
1998	120.1	15.2	4.4	4.3	1.2	3.0	13.7	6.8	168.7
1999	121.4	15.4	4.5	4.4	1.2	3.0	13.9	6.9	170.7
2000	122.6	15.5	4.6	4.5	1.2	3.0	14.1	7.0	172.5
2001	123.3	15.5	4.6	4.5	1.2	3.0	14.3	7.1	173.5
2002	123.9	15.6	4.7	4.6	1.1	3.0	14.5	7.3	174.7
2003	124.5	15.6	4.8	4.7	1.1	3.0	14.6	7.4	175.7
2004	125.1	15.7	4.9	4.7	1.1	3.0	14.8	7.5	176.8
2005	125.8	15.8	4.9	4.8	1.1	3.0	14.9	7.6	177.9
2006	126.4	15.8	5.0	4.9	1.1	3.0	15.0	7.7	178.9

*First year reported.

Notes: Detail may not add to total because of independent rounding.

An active aircraft must have a current registration and it must have been flown at least one hour during the previous calendar year.

N/A=Not available.

Historical Source: FAA Statistical Handbook of Aviation

Forecast Source: FAA Aviation Forecasts

PILOT FORECAST

Active Pilots by Type of Certificate (In Thousands)

Calendar Year	Students	Recreational ² Lighter-Than-Air ³	Private	Commercial	Airline Transport	Helicopter	Glider	Total	Instrument Rated ¹
Historical									
1989	142.5	1.1	293.2	144.5	102.1	8.9	7.7	700.0	282.8
1990	128.7	0.1	299.1	149.7	107.7	9.6	7.8	702.7	297.1
1991	120.2	0.2	293.3	148.4	112.2	9.9	8.0	692.2	303.2
1992	114.6	0.2	288.1	146.4	115.9	9.7	8.2	683.0	306.2
1993	103.6	0.2	283.7	143.0	117.1	9.2	8.3	665.1	305.5
1994	96.3	0.2	284.2	138.7	117.4	8.7	8.5	654.0	302.3
1995	101.3	0.2	261.4	134.0	123.9	7.2	11.2	639.2	298.3
Forecast									
1996	94.6	0.3	278.4	135.9	120.4	8.5	8.7	646.8	306.8
1997	96.4	0.3	281.4	137.2	122.2	8.6	8.8	654.9	309.9
1998	98.2	0.3	284.5	138.6	124.3	8.7	8.8	663.4	313.0
1999	100.1	0.3	287.6	140.0	126.8	8.8	8.9	672.5	316.1
2000	101.9	0.4	290.5	140.7	129.3	8.8	8.9	680.5	319.3
2001	103.2	0.4	292.7	141.4	131.3	8.9	9.0	686.9	321.7
2002	104.7	0.4	294.8	142.1	133.2	9.0	9.0	693.2	324.1
2003	105.8	0.4	297.1	142.8	134.9	9.1	9.1	699.2	326.5
2004	106.6	0.5	299.0	143.6	136.6	9.1	9.1	704.5	329.0
2005	107.4	0.5	300.5	144.3	138.3	9.2	9.2	709.4	331.4
2006	108.2	0.5	302.0	145.0	139.7	9.3	9.2	713.9	333.9

¹Instrument rated pilots should not be added to other categories in deriving total.

²Recreational rating not available until 1991.

³Lighter-Than-Air type rating is no longer issued after 1990.

Notes: Detail may not add to total because of independent rounding.

Historical Source: FAA Statistical Handbook of Aviation

Forecast Source: FAA Aviation Forecasts

FLIGHT HOURS FORECAST

U.S. Active General Aviation and Air Taxi Hours Flown (In Millions)

Calendar Year	FIXED WING				ROTORCRAFT		Experimental	Other	Total
	PISTON		Turboprop	Turbojet	ROTORCRAFT				
	Single-Engine	Multi-Engine			Piston	Turbine			
Historical									
1990	21.9	4.0	2.3	1.4	0.7	1.5	N/A	0.3	32.1
1991	20.5	3.6	1.5	1.2	0.6	2.2	N/A	0.5	30.1
1992	18.1	3.2	1.5	1.1	0.4	1.9	N/A	0.4	26.5
1993	16.5	2.5	1.2	1.2	0.4	1.5	0.7	0.4	24.3
1994	15.8	2.6	1.1	1.2	0.3	1.7	0.7	0.4	23.9
1995E	15.5	2.5	1.1	1.2	0.3	1.6	0.7	0.4	23.3
Forecast									
1996	15.3	2.5	1.1	1.3	0.3	1.6	0.7	0.4	23.2
1997	15.2	2.5	1.2	1.3	0.3	1.7	0.8	0.4	23.4
1998	15.3	2.6	1.2	1.4	0.3	1.7	0.8	0.4	23.7
1999	15.5	2.6	1.2	1.4	0.3	1.7	0.8	0.4	23.9
2000	15.7	2.6	1.2	1.4	0.3	1.7	0.8	0.4	24.1
2001	15.8	2.6	1.3	1.5	0.3	1.7	0.8	0.5	24.5
2002	15.9	2.7	1.3	1.5	0.3	1.8	0.8	0.5	24.8
2003	16.0	2.7	1.3	1.5	0.3	1.8	0.8	0.5	24.9
2004	16.0	2.7	1.3	1.6	0.3	1.8	0.8	0.5	25.0
2005	16.1	2.7	1.4	1.6	0.3	1.8	0.8	0.5	25.2
2006	16.2	2.7	1.4	1.6	0.3	1.8	0.9	0.5	25.4
2007	16.3	2.7	1.4	1.7	0.3	1.8	0.9	0.5	25.6

*First year reported in Survey.

Notes: Detail may not add to total because of independent rounding.

An active aircraft must have a current registration and it must have been flown at least one hour during the previous calendar year.

E=Estimated.

N/A=Not available.

Historical Source: FAA General Aviation and Air Taxi Surveys

Forecast Source: FAA Aviation Forecasts

FUEL USE FORECAST

U.S. General Aviation Aircraft Fuel Consumption (In Millions of Gallons)

Calendar Year	FIXED WING				ROTORCRAFT		Other/ Experimental	Total
	PISTON		Turboprop	Turbojet	ROTORCRAFT			
	Single-Engine	Multi-Engine			Piston	Turbine		
Historical*								
1990	220.4	118.8	204.4	418.1	9.5	40.3	1.0	1,012.5
1991	230.8	110.3	133.3	351.1	7.7	92.4	4.8	930.4
1992	202.2	98.9	124.3	289.0	6.5	80.6	6.5	808.0
1993	178.7	74.7	99.9	310.6	5.6	43.5	9.4	722.4
1994	170.7	78.8	89.8	331.0	5.1	50.0	9.5	734.9
1995E	167.5	75.8	89.8	331.0	5.1	48.5	9.7	727.4
Forecast								
1996	165.3	75.8	91.5	340.9	5.1	47.0	9.9	735.5
1997	164.1	75.8	93.4	351.2	5.1	47.5	10.1	747.2
1998	165.3	76.6	95.2	361.7	5.1	47.9	10.2	762.0
1999	167.4	77.3	97.2	372.5	5.1	48.4	10.4	778.3
2000	169.6	78.1	99.1	383.7	5.1	48.9	10.6	795.1
2001	170.4	78.9	101.1	395.2	5.1	49.4	10.8	810.9
2002	171.3	79.4	103.2	405.9	5.1	49.6	11.0	825.8
2003	172.2	79.8	105.2	416.8	5.1	50.4	11.3	840.8
2004	173.0	80.3	107.3	428.1	5.1	50.9	11.5	856.2
2005	173.9	80.8	109.5	439.6	5.1	51.4	11.7	872.0
2006	174.7	81.3	111.7	451.5	5.1	51.9	11.9	888.1
2007	175.6	81.7	113.7	463.7	5.1	52.4	12.1	904.3

*Adjusted to reflect nonrespondent sampling error.

Note: Detail may not add to total because of independent rounding.

E=Estimated.

Source: FAA APO Estimates



AIRCRAFT FUEL CONSUMPTION

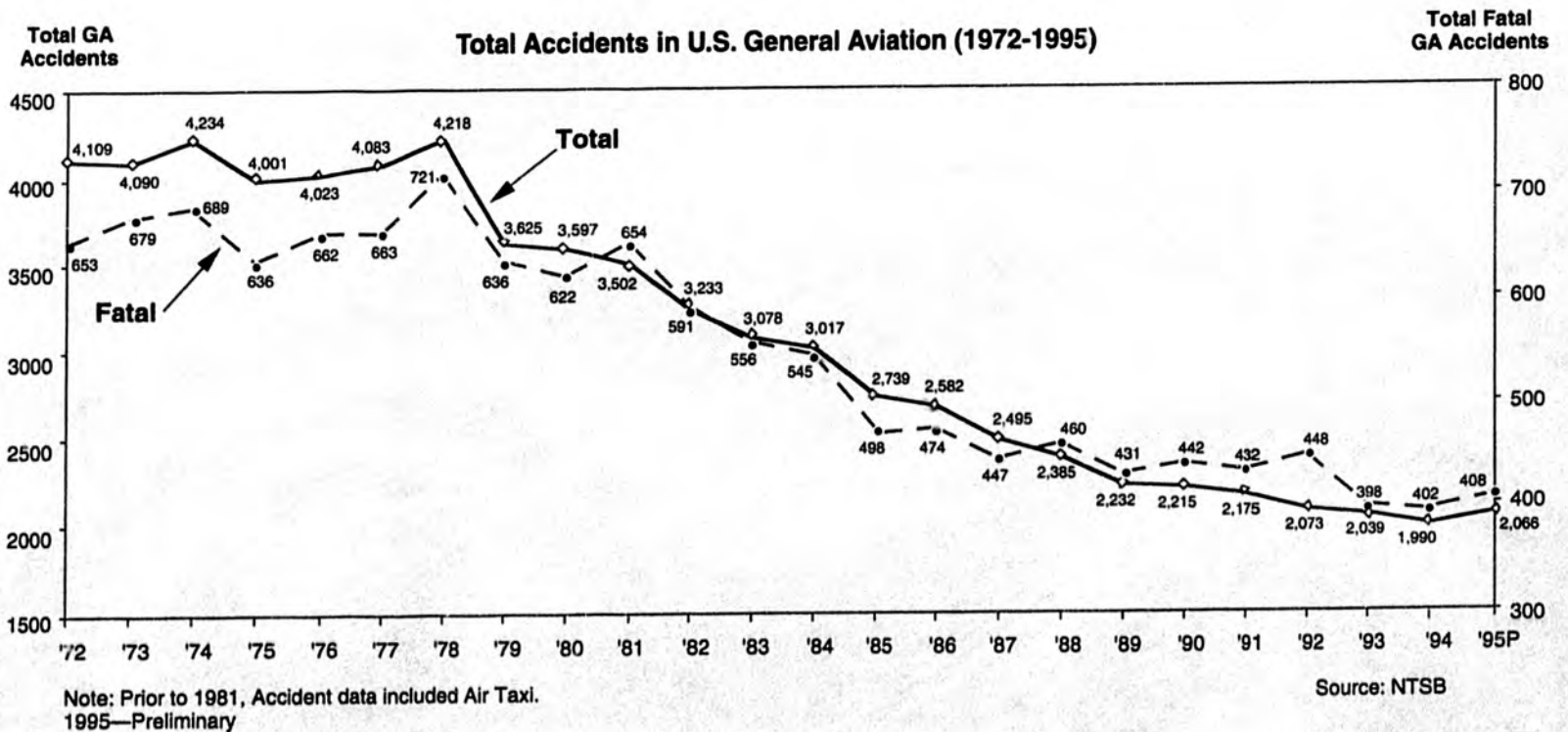
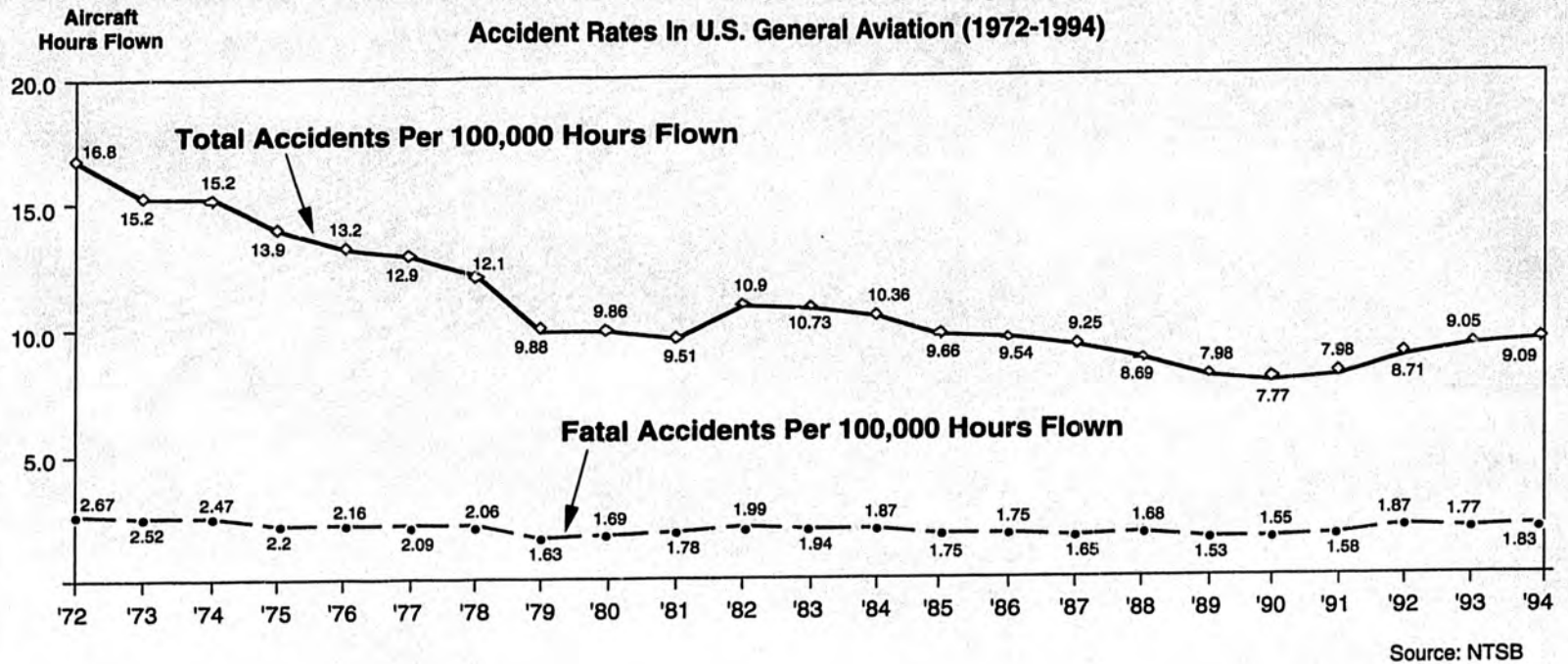
**Total General Aviation Fuel Consumed
and Average Fuel Consumption Rate in the U.S. By Aircraft Type—1994**

Aircraft Type	Average Rate GPH	Estimated Fuel Use (Mil. Gal.)	Percent Standard Error
ALL AIRCRAFT—TOTAL	26.8	734.9	2.1
PISTON—Total	13.2	249.5	2.2
One-Engine	10.8	170.6	2.3
1-3 seats	9.4	42.6	4.7
4 + seats	11.4	128.0	2.7
Two-Engines	29.5	77.0	4.5
1-6 seats	26.6	44.4	6.2
7 + seats	35.1	32.6	6.5
Other Piston	238.7	1.8	52.4
TURBOPROP—Total	81.2	89.8	5.6
One-Engine	54.4	11.2	8.9
Two-Engines	87.2	78.6	6.3
1-12 seats	84.8	68.7	6.6
13 + seats	110.4	9.9	19.5
Other Turboprop	54.4	0.0	8.0
TURBOJET—Total	266.5	331.0	3.8
Two-Engines	263.2	315.1	3.9
Other Turbojet	362.1	15.9	18.6
ROTORCRAFT—Total	26.8	55.1	9.8
Piston	15.1	5.1	12.4
Turbine	29.7	50.0	10.7
EXPERIMENTAL—Total	13.2	9.5	6.3
Homebuilt	13.2	5.5	7.9
Exhibition	13.2	0.3	26.5
Other	13.2	3.7	11.1
JET FUEL—Total	118.9	470.8	2.8
AVIATION GASOLINE—Total	13.0	264.1	3.1

Note: Row and column summation may differ from printed totals due to estimation procedures.

Source: FAA

HISTORICAL SAFETY RECORD



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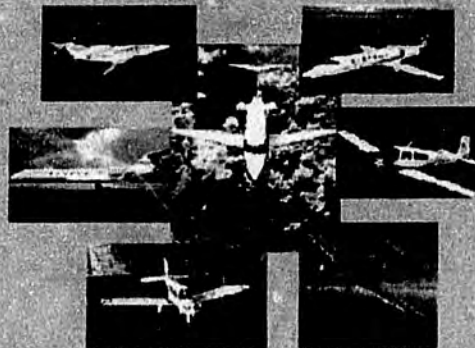
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Cedar Rapids, IA 52498
(319) 395-1000

Commander Aircraft Company
7200 NW 63rd Street
Bethany, OK 73008
(405) 495-8080

Cooper Industries
Champion Aviation Products
900 Upton Avenue
P.O. Box 910
Toledo, OH 43661
(419) 535-2800

Cooper Industries
Champion Aviation Products
P.O. Box 910
Toledo, OH 43661
(419) 535-2567

Crane Company
Hydro-Aire Division
3000 Winona Avenue
Burbank, CA 91504
(818) 842-6121

The Dee Howard Company
P.O. Box 469001
San Antonio, TX 78246
(210) 828-1341

Dowty Aerospace Yakima
P.O. Box 9907
Yakima, WA 98909-9907
(509) 248-5000

Dukes, Inc.
9060 Winnetka Avenue
Northridge, CA 91324
(818) 998-9811

Electrosystems, Inc.
P.O. Box 273, Airport Complex
Ft. Deposit, AL 36032
(334) 227-8306

ERDA, Inc.
701 Maple Street
Peshtigo, WI 54157
(715) 582-4517

FlightSafety International, Inc.
Marine Air Terminal
LaGuardia Airport
New York, NY 11371-1061
(718) 565-4100

GEC-Marconi Aerospace Inc.
110 Algonquin Parkway
Whippany, NJ 07981
(201) 428-9898

BFGoodrich Aerospace
250 N. Cleveland-Massillon Rd.
Akron, OH 44333-2465
(216) 374-2200

Grimes Aerospace
P.O. Box 247
Urbana, OH 43078
(513) 652-1431

Gulfstream Aerospace Corporation
P.O. Box 2206
Savannah, GA 31402
(912) 965-3000

Hartzell Propeller Inc.
One Propeller Place
Piqua, OH 45356-2634
(513) 778-4200

Honeywell, Inc.
Space and Aviation Control
P.O. Box 29000
Phoenix, AZ 85038-9000
(602) 436-8000

Jeppesen
55 Iverness Drive East
Englewood, CO 80112-5498
(303) 799-9090

Kollsman
220 Daniel Webster Highway
Merrimack, NH 03054
(603) 889-2500

Learjet Inc.
P.O. Box 7707
Wichita, KS 67277-7707
(316) 946-2000

Lucas Aerospace Power Equipment Corporation
777 Lena Drive
Aurora, OH 44202
(216) 995-1000

Marathon Power Technologies
P.O. Box 8233
Waco, TX 76714-8233
(817) 776-0650

Mooney Aircraft Corporation
Louis Schreiner Field
Kerrville, TX 78028
(210) 896-6000

The Nordam Group
P.O. Box 3365
Tulsa, OK 74101
(918) 587-4105

Northrop Grumman Corporation
Commercial Aircraft Division
P.O. Box 655907
Dallas, TX 75255-5907
(214) 266-2011

Parker Hannifin Corporation
Parker Berteau Aerospace
18321 Jamboree Boulevard
Irvine, CA 92715
(714) 833-3000

The New Piper Aircraft, Inc.
2926 Piper Drive
Vero Beach, FL 32960
(407) 567-4361

PPG Industries, Inc.
P.O. Box 2200
Huntsville, AL 35804
(205) 859-2500

Precision Aerospace Corporation
3220 100th Street SW #E
Everett, WA 98204

Raytheon Aircraft Company
P.O. Box 85
Wichita, KS 67201-0085
(316) 676-7111

Sabreliner Corporation
7733 Forsyth Boulevard, Suite 1500
St. Louis, MO 63105-1821
(314) 863-6880

SimuFlite Training International
P.O. Box 619119
DFW Airport, TX 75261
(214) 456-8000

Sundstrand Corporation
Sundstrand Aerospace
P.O. Box 7002
Rockford, IL 61125
(815) 226-6512

Teledyne Continental Motors
P.O. Box 53
Mobile, AL 36601
(334) 438-3411

Textron Lycoming
652 Oliver Street
Williamsport, PA 17701
(717) 323-6181

Trimble Navigation Ltd.
2105 Donley Drive
Austin, TX 78746
(512) 432-0400

Unison Industries
7575 Baymeadows Way
Jacksonville, FL 32256
(904) 739-4000

United Technologies Corporation
Pratt & Whitney Canada
1000 Marie-Victorin Boulevard
Longueuil, Quebec Canada J4G 1A1
(514) 677-9411

Universal Avionics Systems Corporation
3260 E. Lerdo Road
Tucson, AZ 85706
(602) 295-2300

Whittaker Controls, Inc.
Whittaker Aerospace
12838 Saticoy Street
North Hollywood, CA 91605
(818) 765-8160

Williams International
P.O. Box 200
Walled Lake, MI 48390-0200
(810) 624-5200

Woodward Governor Company
P.O. Box 7001
Rockford, IL 61125-7001
(815) 877-7442

ATTACHMENT G

One-page synopsis of a general aviation industry survey, supplied by General Aviation Manufacturers Association.

INDUSTRY SURVEYS SHOWED THAT IN 1986, PAID CLAIMS AND OUT-OF-POCKET EXPENSES TOTALLED \$210 MILLION. WHAT HAS BEEN RECENT EXPERIENCE?

Industry surveys had previously found that industry product liability costs had risen rapidly over the years 1979 to 1986, peaking at \$210 in 1986. Since that survey, the industry has been dramatically restructured.

It is extremely difficult, if not impossible, to construct a comparative product liability picture today. Because of high liability costs, Cessna Aircraft Corporation, once the world's largest piston-powered airplane producer, stopped all production of piston airplanes in 1986. Citing product liability costs as the primary factor, Piper Aircraft was forced to declare bankruptcy in 1990. Bankruptcy proceedings have temporarily sheltered Piper from further liability lawsuits.

Manufacturers have seen their production rates drop to a small fraction of that produced in 1979, from an industry average of 68 airplanes per day to only 2 per day in 1993. Industry shipments have declined 95 percent, reaching their lowest point since World War II. Industry average production rates that once reached 68 airplanes per day, plummeted to only 2 per day in 1993.

In the past, most manufacturers carried large liability insurance policies. But now, most manufacturers are "self insured" up to a very high "umbrella" policy. Because of this extensive restructuring, a more recent, comparable survey of industry product liability costs is not meaningful.

American General Aircraft Corporation has stated that next to material, product liability costs are the single largest component of an aircraft's price, adding as much as one third to the cost.

ATTACHMENT H

**General Aviation Manufacturers Association Annual Industry Review for 1996 and
General Aviation Manufacturers Association brochure, "Results of the General Aviation
Revitalization Act."**

CNN - Simpson jury awards \$25 million in puni...

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U.S. NEWS

STORY PAGE



Simpson jury awards \$25 million in punitive damages

\$12.5 million to each family

February 10, 1997

Web posted at: 8:30 p.m. EST

SANTA MONICA, California (CNN) -- The jury in the O.J. Simpson civil trial reached a verdict Monday concerning **punitive damages** against the former football star, deciding that he must pay \$25 million to the families of Nicole Brown Simpson and Ron Goldman, \$12.5 million each.

The jury's decision on punitive damages, which are intended to punish the defendant for malicious wrongdoing, came after about five hours of deliberations. The jury voted 11-1 that punitive damages should be paid, and 10-2 on the amount of the damages.

ALSO

Simpson jurors say they weighed evidence with care

Last Tuesday the same jury unanimously ordered Simpson to pay the Goldman family \$8.5 million in compensatory damages.

PUNITIVE DAMAGES	
Goldman family	\$12.5 million
Brown family	\$12.5 million

Simpson was not present in court Monday, but learned about the punitive damage verdicts against him as he ate lunch at a public golf course bar and grill.

A bartender at the Knollwood Golf Course in Granada Hills said Simpson "wasn't even paying attention" when the verdict was broadcast on a bar television. Simpson was talking with friends about their golf game and eating his lunch when the verdicts were announced, the bartender said.

A bartender at the Knollwood Golf Course in

CNN - Simpson jury awards \$25 million in peni...

Page 2 of 4

However, the jury's verdict Monday is far from final. By California law, a 10-day stay is automatically placed on the verdict, during which time lead plaintiffs' lawyer Daniel Petrocelli and Simpson lawyer Robert Baker will prepare their judgments on the verdict.

If Judge Hiroshi Fujisaki reviews, signs and certifies the plaintiffs' judgment, then the verdict will be entered. If by that time, Simpson hasn't appealed and hasn't put up bond, the plaintiffs can begin to try to attach whatever assets they can find, said CNN legal analyst Roger Cossack.

However, "excessive damages are grounds for appeal and a reversal in many states," Cossack said.

If the judgment was "clearly out of scope, sometimes the judge will change it himself. Or the parties can get together and agree" on a lower payment, he said.

Civil attorney Howard Price agreed. "Historically, it's quite common for the trial court, if not the appellate court, to cut down punitive damages because punitive damages quite often are exorbitant, or at least they're viewed that way by the courts," he said.

CNN's Greg LaMotte reports on how the jurors votedQuestion 1 -  (119K/10 sec. [AIFF](#) or [WAV](#) sound)Question 2 -  (162K/14 sec. [AIFF](#) or [WAV](#) sound)Question 3 -  (128K/11 sec. [AIFF](#) or [WAV](#) sound)Question 4 -  (162K/13 sec. [AIFF](#) or [WAV](#) sound)

If Simpson does seek an appeal he still will have to pay a price. In order to hold off creditors during the appeal process, the defendant must show the ability to pay his bills. Usually, a defendant must put up a bond equal to 150 percent of the jury award.

Simpson must have collateral to back up such a bond. Finding so much collateral could be difficult, since he still owes legal fees from his civil, criminal and child custody trials, not to mention the \$8.5 million compensatory damages already levied in the civil trial.

Simpson's lawyers are likely to argue that the punitive damages are unreasonable. In court,

**View the
Vivo movie**

CNN's Greg LaMotte
reads the verdict



CNN - Simpson jury awards \$25 million in puni...

Page 3 of 4

during the punitive damages phase of the civil trial, Simpson attorney Robert Baker said Simpson is "in effect, without assets. Hence, punitive damages are totally inappropriate in this case."

- [Download a player](#)
- [Vivo's technical FAQ](#)



The defense says
Simpson is broke
(CNN/11e)

The defense argued the opposite. "Mr. Simpson has a lot of money, in the neighborhood of many millions of dollars," said Daniel Petrocelli, the attorney for the family of Ron Goldman.

The plaintiffs say Simpson's assets are worth \$15.7 million. They include his future earnings in that estimate -- a plaintiffs' celebrity marketing expert testified that Simpson would be worth \$24.5 million, if paid out today.

According to the defense, Simpson is worth less than nothing. Considering the compensatory damage award against Simpson, they said last week that he was \$9.3 million in debt.

His attorneys also denied that his future earnings would be worth anywhere near plaintiff estimates, arguing against estimates that his autograph is worth \$60.

Neither estimate includes his retirement and pension funds, which cannot be seized by the court. Simpson's defense lists the retirement funds at just over \$4 million. A CNN-TIME Magazine investigation found Simpson's net worth to be about \$2.5 million, most of it in pension and retirement funds.

The CNN-TIME investigation also found that since 1993, Simpson has sold most of his property, with the exception of his house and a San Francisco condominium where his elderly mother lives.

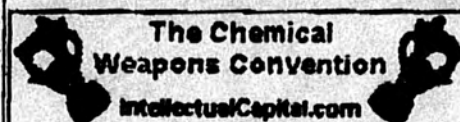
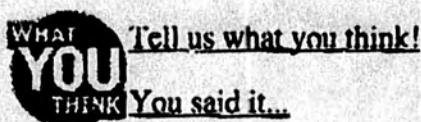
Price also sounded skepticism towards the plaintiffs' high estimate of Simpson's worth. "For the plaintiffs to say that this man has the possibility of making \$25 million in the future seems problematical. I don't see where he's going to do any endorsements except possibly for knives." Price said.

Correspondents Jennifer Auther, Jim Hill and Greg LaMotte contributed to this report.

Related stories and sites

CNN - Simpson jury awards \$25 million in puni...

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To: Joel Lounsbury

Fax: 465-3834

From: Paul Brandt

Date: March 11, 1997

Pages: 5, including cover sheet.

The jury awarded and the judge confirmed \$25 million in punitive damages (\$12.5 million to each family) and an additional \$8.5 million in compensatory damages to the Goldman family.

fax

From the desk of...

Paul Brandt
Legislative Analyst
Division of Legal and Research Services
130 Seward Street, Suite 218
Juneau AK 99801-2196

907-465-6607
Fax: 907-463-3351

Legislative Research Services

Phone: 465-3991

Fax: 463-3351

WORK ORDER

No: 97.063
Short Title: Statistics Pertaining to Tort Reform
Legislator: Representative Brian Porter **Phone:** 465-6850
Legislative Staff Contact: Jim Sourant ☒ Phone ☐ Memo
Date Requested: February 27, 1997
Staff Assignment: Patricia Young
Date Assigned: February 28, 1997

Questions Asked/Information Sought

For each of the last five years (1992-96), provide the number of practicing attorneys in Alaska and the U.S., the total population of Alaska and the U.S., and the number of civil cases filed in Alaska and U.S. courts.

Regarding small plane manufacturers, specifically Cessna and Piper, were these companies able to start making planes again because of new tort reform legislation? What is the cost of a new small plane? How does the cost compare to the price before the company stopped production? Is a portion of the cost directly attributable to potential civil liabilities? Please provide a copy of the federal tort reform law that places a 17-year statute of limitations on civil actions filed against small plane manufacturers.

Expected Completion Date: March 7, 1997

Priority Status:

Due to a reduction in staff, Legislative Research Services has been directed by Legislative Council to prioritize work assignments according to the attached policy. Research staff will try to complete this request by the expected completion date listed above. If another request is assigned with a higher priority, however, your research may be delayed.

Jim,
Let's see if they
came close to
march 7

P.

LEGAL AND RESEARCH SERVICES

Legislative Council Research Priority Policy

The Legislative Council recognizes that staffing reductions have made it impossible to provide the level of research services that have been provided in the past. With enhanced technological support like Internet now available, the Council expects committee aides and staff of individual Legislators to perform routine research. Therefore, the Council directs the Legislative Research Section of the Division of Legal and Research Services to concentrate on providing assistance to legislative staff in finding materials and conduct their own research. Furthermore, as to research conducted by the Legislative Research Section itself, under the authority of AS 24.20.100, the Council directs the section to give priority in the following order to research requests:

1. Research for the presiding officer, majority and minority leaders of each house requested in writing and signed by the officer.
2. Research for standing, joint, special, permanent interim, and other committees of the Legislature requested in writing and signed by the committee chair.
3. Research for an individual Legislator requested in writing and signed by the Legislator.
4. Oral or other requests received from Legislators and legislative staff.

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Time, Aug 1, 1983 v122 p64(2)

Land without lawyers. (Japan) J.D. Reed.



Full Text: COPYRIGHT Time Inc. 1983 American parents are fond of telling their college-bound children, "We'll always need lawyers." Partly as a result, there are 600,000 practicing attorneys in the U.S., or one for every 400 Americans. Most Japanese parents, by contrast, are barely aware of the profession. Amazingly, in this highly competitive and complex island society, there are a mere 12,500 attorneys in private practice, roughly one for every 10,000 citizens. Most Japanese live--and die--without ever having seen a lawyer. Humorist Russell Baker recently suggested curing the imbalance by "exporting one lawyer to Japan for every car Japan exports to the United States."

The lawyers traded overseas, however, would find their occupation severely limited. Americans operate on the principle that the rights of individuals, and the wrongs done to them, are morally compelling claims worthy of full-dress legal battle. Although the Japanese have a highly developed sense of individual rights, social harmony, not personal justice, is the basis of their law. Litigation, never common, has actually decreased during the past 15 years. As the distinguished jurist Takenori Kawashima wrote in 1967, "We think of the law as a hereditary family sword . . . an ornament rather than a means for enforcing the power of the government to control the daily life of our society."

Since the 19th century, the venerated ideals of consultation and agreement in Japan have helped to keep the sword sheathed. The 1942 Conciliation of Personal Affairs Act, for instance, outlines the philosophy in language that would irritate most American jurists. The main object, it states, lies in reaching a solution "based upon sound morals and with a warm heart." Such beliefs have been combined with borrowings from both the German and French legal systems. Like the European models, Japan's civil law puts less stress on judicial precedent than there is in the U.S., and it is used less frequently to resolve disputes and create rules of conduct.

Court trials, for example, still upset the Japanese sense of privacy and are considered public embarrassments. They also aggravate a deeply ingrained reluctance to assess good and evil in others. Kawashima notes that unlike most Westerners, the Japanese find that "there is no tension posed between what ought to be . . . morality, on one hand, and the realities of the human spirit and human society as it exists." One practice that caters to such beliefs: proceedings in some civil cases are extensively thrashed out in chambers to avoid surprises, making court appearances anticlimactic. Says an American attorney working in Japan: "They won't tolerate Perry Mason-type behavior."

In criminal cases, Japan's courts tend to be staunchly severe on rape, gun control and narcotics

violations. But the nation's 99% conviction rate in cases brought to trial is not solely due to tough application of the codes. Prosecutors rarely go before the bench unless their case is a strong one. Moreover, the confession rate is very high. Japan's 2,774 judges are often moved to impose lighter sentences by pleas of remorse. Writer Frank Gibney, an expert on Japan, observes, "Be it only a traffic accident, if a person has caused injury to another, he is well advised to rush to the hospital with flowers and gifts for the victim."

Bringing a civil damage suit requires more than presents. There are high, nonrefundable filing fees, payable in advance and based on a percentage; to sue for a million dollars, for instance, costs \$5,032 in Japan. On top of that is the lawyer's fee, which must be paid no matter what the outcome. U.S.-style contingency agreements, under which losers pay no fee, are ethically prohibited in Japan. Finally, despite the relatively low amount of litigation, courts are often backlogged for years because trials move at a snail's pace.

Japan's lawyers are rigorously selected and intentionally limited. Last year more than 26,000 university graduates took a prohibitively difficult test for entrance into the two-year course at the Judicial Research and Training Institute, Japan's only professional school for lawyers, judges and prosecutors. A mere 457 passed. Graduates find the law no stepping stone to prominence. None of Japan's 16 postwar Prime Ministers, for instance, has been a lawyer. Only 51 of the 763 Diet members are attorneys. Nor does the position confer wealth. Only 20% make more than \$43,000 annually.

The legal system is not burdened with many large and small matters for which U.S. courtrooms are so often the first resort. "Their courts are not the place where one manipulates the system," says Columbia Law Professor Michael Young, an expert on the Japanese legal system. "They do not decide on social change." As for less weighty conflicts, family elders often still handle matters like inheritance. Local police stations actively work to resolve neighborhood and domestic disputes (see box). The system of chotei (mediation) handles serious confrontations like divorce by having litigants and their lawyers meet with court-appointed masters who hear both sides and recommend a settlement.

Much of the work done in the U.S. by attorneys is processed in Japan by nearly 90,000 scriveners and other workers, many of whom have undergraduate law degrees. They make up an extensive, inexpensive and nearly invisible legal-services network, dealing with ordinary tax, patient, administrative and real estate transactions. Nor do lawyers handle fender-bending auto accidents. Japanese insurance without resorting to the almost pro forma suits that many U.S. underwriters seem to demand before a settlement is made. A judge's ruling is sought only in extreme conditions if negotiation fails.

Although they hire foreign attorneys for overseas operations and have legal departments to review their paperwork, at home Japanese companies still frown on the American practice of using attorneys to write contracts. Says diet Member Taro Aso, for 13 years an executive at Aso, Japan's largest cement company: "We never had a formal, written contract with any supplier or customer. There was no need." The details of deals are nonetheless carefully negotiated, sometimes with maddening thoroughness, and notes on the agreement are kept by both sides. Any subsequent disputes are settled by negotiation, in part because courts tend to make small awards; litigation is not cost efficient.

Will modern necessity be the mother of new interventions? Some in Japan see signs that change is coming. While only 200 or so Japanese lawyers now prepare international contracts

on a full-time basis, more are moving into the growing area. Group lawsuits, unheard of two decades ago, have resulted in commendable antipollution laws. And ordinary citizens are beginning to be a little more litigious. Says Tokyo Attorney Shin Asahina: "In the past we hesitated even to use the word Kenri (rights) with lawmen because it was too strong. Now ordinary people use words like litigation and enforcement of rights, even if their fundamental feelings about them haven't changed."

Those fundamental feelings can still be powerful inhibitors. When three-year-old Yasuyuki Yamanaka drowned in a reservoir near the town of Nagoya, his parents sued their neighbors, who had been baby-sitting. The court recently awarded the parents \$24,000 in damages. But the Yamanakas became public pariahs. They received hundreds of calls a day shaming them not only for taking money from neighbors but even for bringing suit against them. TV crews camped on their doorstep, and poison-pen letters flooded their mailbox. Less than an month later, the Yamanakas went back to court, returned the money and dropped the case.

Article A2863007



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Article



Previous
Article

pay legal fees if a suit was not legally justified. The solutions are numerous and clear.

We are the only nation in the world that has a jury trial in a civil case. No less an advocate than F. Lee Bailey has stated: "Every democratic nation, including our model, Great Britain, has given up the right to a jury trial on most civil lawsuits. Were we to imitate them we might see substantial reform, yet we continue to expend tremendous amounts of effort and money in preserving a procedural nicety which no longer insures a fair and independent accounting."

Deeper reasons also apply here. Lawyers are partly mirroring the adversarial nature of our culture. We are less willing to accept certain losses as non-compensable acts of God. We increasingly believe we have a right to be compensated for every loss.

Additionally, we have come to view the legal system like the lottery, as our outside chance to get rich without working for it. The legal system, like the lottery, promises easy riches to the citizens of the casino society.

President Derek Bok of Harvard put it succinctly, "Our societal gains from law and lawyering are outweighed by their societal costs." Most Americans understand this and agree. We know the solutions. But we fail to act. We cannot even save ourselves from the obvious.

* * * * *

Return to About the Man

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about 4.17m
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SCOMM

101A:29

MEMORANDUM

TO: Brian Porter, Dick Cattanach, Bruce Pozzi
FROM: Roger F. Holmes
RE: Initiative
DATE: January 24, 1997

Jim Baldwin called me today concerning his review of the Initiative for the Lt. Governor. He expressed three concerns with the bill as drafted.

1. Section 11 deals with Expert Witnesses. He believes this interferes with the court rule making powers. I do not consider this provision to be too important. It probably can't be redrafted to eliminate his concerns.

2. Section 6 deals with Collateral Benefits. Jim is worried that the language in section (b) talking about introducing into evidence the amounts paid as collateral source may also violate the court's rule making powers. He thinks the provision can be redrafted to eliminate the offending provisions. I agree that it can be redrafted to get around his concerns.

3. Section 14 states: 'This Initiative applies to all causes of action accruing on or after the effective date of this Act. This Initiative does not apply to any action or recovery arising out of the "Exxon Valdez" oil spill of March 1989.' Jim believes the second sentence may make this special legislation which is prohibited. I agree with him. The second sentence is redundant. The Initiative does not apply to the "Exxon Valdez" litigation since those causes of action accrued in 1989. The Initiative only applies to causes of action accruing after it becomes law. The offending sentence was placed in the Initiative to preempt the scare tactics used by trial lawyers during the last legislative session.

Jim and I discussed several options. His opinion is done. He has discussed it with Bruce Botelho but has not sent it to Fran Ulmer. Jim will give us the option of simply withdrawing the Initiative now, fixing it and resubmitting it. I prefer to see him issue his opinion, have the Lt. Governor turn it down for these three reasons, then fix it and resubmit it. Once the AG's opinion is published and you comply with it, the AG's office becomes a defender of the Initiative.

I have the highest personal and professional respect for both Jim Baldwin and Bruce Botelho. I believe each is a straight shooter.


Jim called
Cattanach &
left mess. "I agree"
in [unclear] tel

However, this is a high profile political issue. Withdrawing and fixing the Initiative on the basis of my off the record conversation with Jim leaves everyone open for another issue surfacing after the Initiative is resubmitted.

This is your call. I think it is far more cost effective and efficient to let the Lt. Governor reject the Initiative for stated reasons and fix the bill rather than litigating over it. Having said that I think you may be able to comply by pulling the expert witness provision and the Exxon Valdez language and rewriting the collateral source provision. Ohio just passed a comprehensive tort reform bill. Maybe we could look to that bill for some suggestions on the collateral source issue. If there is a rewrite of this provision Jim Sourant of Bryan's office should be involved.

Jim will hold off doing anything until the middle of next week. He expects to hear back from one of you or me.

(C) has permanently impaired cognitive capacity, is incapable of making independent, responsible decisions, and is permanently incapable of independently performing the activities of normal, daily living;

(D) is both deaf and blind; or

(E) has third degree burns over one half or more of the claimant's body.

(d) The limit under (b) or (c) of this section does not apply to noneconomic damages awarded by a court or jury against a person who, as proven by a preponderance of the evidence, was attempting to commit or committing a felony, if the person bringing the action was a victim of that offense and the offense substantially contributed to the injury or death. In this subsection, "victim" has the meaning given in AS 12.55.185.

(e) Multiple injuries sustained as a result of a single incident shall be treated as a single injury for purposes of this section.

Sec. 5. AS 09.17.020 is repealed and reenacted to read:

Sec. 09.17.020. PUNITIVE DAMAGES. (a) Punitive damages may not be awarded in an action, whether in tort, contract, or otherwise, unless supported by clear and convincing evidence of outrageous conduct, including acts done with malice or bad motives, or reckless indifference to the interest of another person.

(b) The amount of punitive damages awarded by a court or jury under (a) of this section may not exceed three times the amount of compensatory damages awarded or \$300,000, whichever amount is greater.

(c) The limit under (b) of this section does not apply to punitive damages awarded by a court or jury against a person who, as proven by a preponderance of the evidence, was attempting to commit or committing a felony if the person bringing the action was a victim of that offense and the offense substantially contributed to the injury or death. In this subsection, "victim" has the meaning given in AS 12.55.185.

(d) If a person receives an award of punitive damages, the court shall require that seventy five percent of the award be deposited into the general fund of the state. This subsection does not grant the state the right to file or join a civil action to recover punitive damages.

Sec. 6. AS 09.17.070 is repealed and reenacted to read:

Sec. 09.17.070. COLLATERAL BENEFITS. (a) A claimant in an action for personal injury or death may only recover damages that exceed amounts received by the claimant, or that with reasonable probability will be received in the future by the claimant, as compensation for the injuries from collateral sources, whether private, group, or governmental, and whether contributory or noncontributory, except when

(1) the collateral source is a federally funded program that by law must seek subrogation;

INITIATIVE

December 18, 1996

- (2) the collateral source has a right of subrogation under federal law;
- (3) the collateral source is the payment of a dependent child's medical bills by the injured child's parent which does not result from insurance coverage;
- (4) the benefit consists of death benefits paid under life insurance; or
- (5) the benefit consists of workers' compensation benefits received under AS 23.30.

(b) A person defending a claim may introduce into evidence an amount paid or payable as a benefit to the claimant as a result of the personal injury or death under Title 42 Chapter 7 of the United States Code (Social Security Act); a state or federal disability act; health, sickness, disability, accident, or income-disability insurance; insurance that provides health benefits or income-disability coverage; and a contract or agreement of a group, organization, partnership, or corporation, or other collateral source, to provide, pay for, or reimburse the cost of medical, hospital, dental, or other health care services, disability, or lost wages. However, evidence of a collateral source that is a federally funded program that by law must seek subrogation or that has a right of subrogation under federal law, or evidence of death benefits paid under life insurance, or evidence of workers' compensation benefits received under AS 23.30, may not be introduced under this subsection. If a person defending a claim elects to introduce evidence described in this subsection, the claimant may introduce evidence of the amount that the claimant has paid or contributed to secure the claimant's right to the collateral benefit, including the cost to the claimant resulting from depleted or exhausted coverage.

(c) A person who provides a collateral benefit admissible under (b) of this section may not recover any amount against the claimant as reimbursement for those benefits and may not be subrogated to the rights of a claimant against a person defending a claim.

Sec. 7. AS 09.17.080 is repealed and reenacted to read:

Sec. 09.17.080. ALLOCATION OF DAMAGES. (a) In all actions involving the fault of more than one person, including third-party defendants and persons who have been released, the court, unless otherwise agreed by all parties, shall instruct the jury to answer special interrogatories or, if there is not jury, shall make findings, indicating

(1) the amount of damages each claimant would be entitled to recover if contributory fault is disregarded; and

(2) the percentage of the total fault that is allocated to each claimant, defendant, third-party defendant, person who has been released from liability, or other person responsible for the damages to each claimant regardless of whether the other person, including an employer, is or could have been named as a party to the action.

(b) In determining the percentages of fault, the trier of fact shall consider both the nature of the conduct of each party at fault, and the extent of the causal relation between the conduct and the damages claimed. The trier of fact may determine that two or more persons are to be treated as a single party if their conduct was a cause of the damages claimed and the separate act or omission of each person cannot

is licensed in this state:

(2) "hospital" has the meaning given in AS 18.20.130 and includes a governmental owned or operated hospital;

(3) "independent contractor" means a licensed health care provider who is a member of a hospital's medical staff or who has otherwise been granted specified privileges to render health care services directly or indirectly to patients at the hospital, but who is not an employee or actual agent of the hospital in connection with the rendition of the health care services.

Sec. 10. AS 09.65.210 is repealed and reenacted to read:

Sec. 09.65.210 DAMAGES RESULTING FROM COMMISSION OF A FELONY. (a) A person who suffers personal injury or property damage may not recover damages for the personal injury or property damage if the injury occurred while the person was committing or attempting to commit a felony, or fleeing from the commission or attempted commission of a felony and the commission or attempted commission of the felony substantially contributed to the injury or property damage.

(b) The personal representative of a deceased person may not recover damages for the person's death if the court determines by clear and convincing evidence that the death occurred while the person was committing or attempting to commit a felony, or fleeing from the commission or attempted commission of a felony, and that the felony or attempted felony substantially contributed to the death.

Sec. 11. AS 09.17 is amended to add a new section to read

Sec. 09.17.090 EXPERT WITNESS QUALIFICATION. (a) Except as provided under (b) of this section, in an action based upon professional negligence, a person may not testify as an expert witness on the issue of the appropriate standard of care unless the witness is a professional who is licensed in this state, or is licensed in another state or country and

(1) is trained and experienced in the same discipline or school of practice as the defendant or in an area directly related to a matter at issue; and

(2) is certified by a board recognized by the state as having acknowledged expertise and training directly related to the particular field or matter at issue.

(b) The provisions of (a) of this section do not apply to a person who is testifying on the appropriate standard of care in a profession that is not licensed in this state, or another state or country, and who the court determines is qualified as an expert witness.

(c) "Professional negligence" means a negligent act or omission in rendering professional services:

Sec. 12. AS 09.55.548 is repealed.

Sec. 13. SEVERABILITY. If any provision of this Initiative, or the application of a provision of this Initiative to any person or circumstance is held invalid, the remainder of this Initiative and the application to other persons or circumstances shall not be affected.

Sec. 14. APPLICABILITY. This Initiative applies to all causes of action accruing on or after the effective date of this Act. This Initiative does not apply to any action or recovery arising out of the "Exxon Valdez" oil spill of March 1989.

Sec. 15. EFFECTIVE DATE OF THIS INITIATIVE. This Initiative takes effect ninety days after its certification by the lieutenant governor.

BISS & HOLMES
FACSIMILE TRANSMITTAL SLIP

DATE: January 24, 1997
TO: Representative Brian Porter's Office
ATTN: James D. Sourant, Esquire
FAX NO: 465-3834
FROM: BISS & HOLMES FAX #: (907) 243-6695
SENDER: Roger F. Holmes, Esq.
RE: Tort Reform FILE NO. 3625

MESSAGE:

Please see the attached from Mr. Roger Holmes. Thank you.

TOTAL PAGES TRANSMITTED (Including this page) 7

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL: (907) 248-8013

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MEMORANDUM

TO: James D. Sourant, Esq.
FROM: Roger F. Holmes
RE: HB 58
DATE: February 23, 1997

Here are the following documents: Baldwin's opinion on the Initiative which the State kicked back; my proposed redraft of the Initiative; my memo to Brian and Dick Cattanaach explaining the proposed redraft; my letter to Brian concerning the statute of repose. I am not sending a separate set to Brian.

You asked about introducing the amendment to AS 18..23.070. I think it should be introduced to make that statute consistent with the proposed changes to title 9 in SSHB 58 Section 32. ✓

Please review the letter on the Statute of Repose. If it is acceptable I will send you the original. ✓

You, Brian and Dick Cattanaach should talk about the proposed redraft of the initiative. You especially need to know what is going on and have some input. Bruce Pozzi will return to the office on March 3 and would like to begin collecting signatures as soon as possible. The Chamber wants to have the Initiative back in the AG's hands well before the session winds down to force maximum pressure on the legislature and the governor to come up with a bill.

Ethan Berkowitz's legislative aid called me yesterday to say Ethan would like to support a bill this session on tort reform. ✓

MEMORANDUM

TO: Representative Brian Porter & Dick Cattanach
FROM: Roger F. Holmes
RE: Tort Reform Initiative
DATE: February 23, 1997

Enclosed please find a redraft of the Initiative. I have the following to add to this redraft which explains what I have done and what I have not done. The paragraphs in this memo correspond to the sections of the attached draft Initiative.

1. This is a new provision and is contained in Section 3 of Brian's sponsor substitute of HB58 (SSHB58). It becomes necessary because of the addition of the next section.
2. This is a new section and corresponds to SSHB58 Section 4. It comes from the Governor's Commission on Tort Reform. Its purpose is to reduce the statute of limitations for lawyers from six years to three years. It will reduce malpractice rates for lawyers. It may neutralize some Bar Association organized opposition. The change in this provision requires #1 above.
3. This is #1 in the original Initiative. I changed the definition of "hazardous substance" in section (b) (1) (A) to match a change in SSHB58. ✓
4. This section has been added and is a limitation on actions by minors in medical malpractice cases and is section 6 in SSHB58.
5. This is Section 2 from the original Initiative and has been amended to add sections (2) and (3) as per SSHB58 Section 7. Original Initiative Section 3 has been eliminated as it is now essentially contained in this Section.
6. This is Section 4 from the original Initiative. The only change is to renumber the paragraphs under (c) with numbers instead of letters. Brian has made some changes in this section in SSHB58, Section 8, by eliminating some of the exception categories. Please let me know if you want this changed to match. ✓

leave it
This is section 5 from the original Initiative. I have made a slight change in paragraph (d) to accommodate Baldwin's comments. The original language stated that the court shall

50%?
✓
require 75% to be deposited into the general fund. In order to forestall a trial lawyer challenge I omitted the reference to the court and simply stated that 75% must be deposited into the general fund. Brian has made some changes in this provision in Section 9 of SSHB58. Please let me know if you want those changes included.

8. *OK; to take out Baldwin's BKK*
This is original Initiative Section 6 that Baldwin said was impermissible. I eliminated paragraph (b) such that the court itself will now determine whether or not collateral source information is admissible during the trial or after the trial. If we decide to include this provision I should probably run it by Baldwin first. One reason for this provision was to get the information in front of a jury. It may be that the best thing to do here is simply eliminate this provision. Please advise. ✓

9. This is original Initiative Section 7. Baldwin suggested that I rewrite this to reflect an amendment rather than a repeal and reenactment. I did that (which is the way Brian also does it in SSHB58 Sections 16-18). In subsection (b) I eliminated some language that Brian's legislative aid told me they were going to delete. (However I can't see where they did delete it.) ✓

some
10. This is a new section which is identical to SSHB58 Section 23. This is the section reducing prejudgment interest. For reasons I can't recall you instructed me to leave this out of the original Initiative. Do you want it in or out? ✓

11. This is section 8 from the original Initiative. ✓

don't BKK
12. This is section 9 from the original Initiative. Brian has a provision requiring \$500,000 insurance in SSHB58 Section 35 which is not contained in the Initiative. ✓

13. This is Section 10 from the original Initiative. It has been changed to accommodate acts committed while under the influence of alcohol or drugs which is now included in SSHB58 Section 36. It is a hybrid in that it does not match exactly the language in SSHB58.

14. This is original Initiative Section 13.

15. This is original Initiative Section 14. In response to the Baldwin memorandum I have removed the sentence referring to the "Exxon Valdez" oil spill recoveries. Instead, I have included the sentence "This Initiative does not apply to any action or recovery for which an action was filed in court prior to the effective date of this Act." I consider the sentence redundant and unnecessary (as I did the "Exxon Valdez" language) since the Initiative only applies to causes

of actions which accrue after the effective date of the Initiative.

16. This is original Initiative Section 15.

I have eliminated old Initiative Sections 11 and 12. Eleven is the expert witness qualifications section which Baldwin said is impermissible. I see no way to rewrite this section to gain his blessing. Section 12 is a repeal of the collateral source provision for medical malpractice actions. In light of the forced rewrite, and possible elimination, of the more general collateral source section it does not seem appropriate to strip health care providers of their more beneficial provision.

Please review the above and give me further direction. ✓

cc: Bruce Pozzi
Pamela La Bolle

AN ACT

An Act relating to civil actions in Alaska and providing for an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

Sec. 1. AS 09.10.050 is repealed and reenacted to read:

Sec. 09.10.050. **CERTAIN PROPERTY ACTIONS TO BE BROUGHT IN SIX YEARS.** Unless the action is commenced within six years, a person may not bring an action for waste or trespass upon real property.

Sec. 2. AS 09.10 is amended by adding a new section to read:

Sec. 09.10. 053. **CONTRACT ACTIONS TO BE BROUGHT IN THREE YEARS.** Unless the action is commenced within three years, a person may not bring an action upon a contract or liability, express or implied, except as provided in AS 09.10.040 or as otherwise provided by law.

Sec. 3. AS 09.10.055 is repealed and reenacted to read:

Sec. 09.10.055. **STATUTE OF REPOSE OF EIGHT YEARS.** (a) Notwithstanding the disability of minority described under AS 09.10.140(a), a person may not bring an action for personal injury, death, or property damage unless commenced within eight years of the earlier of the date of

(1) substantial completion of the construction alleged to have caused the personal injury, death, or property damage; however, the limitation of this paragraph does not apply to a claim resulting from an intentional or reckless disregard of specific project design plans and specifications or building codes; or

(2) the last act alleged to have caused the personal injury, death, or property damage.

(b) This section does not apply if

(1) the personal injury, death, or property damage resulted from

(A) prolonged exposure to a hazardous waste;

(B) an intentional act or gross negligence;

- (C) fraud or fraudulent misrepresentation;
 - (D) breach of an express warranty or guarantee; or
 - (E) a defective product; in this subparagraph, "product" means an object that has intrinsic value, is capable of delivery as an assembled whole or as a component part, and is introduced into trade or commerce; "product" includes an element or compound that if ingested by humans or if humans are exposed to, or are in contact with the element compound or product, poses a threat to human health;
 - (2) the facts that would give notice of a potential cause of action are intentionally concealed;
 - (3) a shorter period of time for bringing the action is imposed under another provision of law;
- or
- (4) a longer period of time for bringing the action was provided under a contract.
 - (c) The limitation imposed under (a) of this section is tolled during any period in which there exists the undiscovered presence of a foreign body, that has no therapeutic or diagnostic purpose or effect, in the body of the injured person and the action is based on the presence of the foreign body.
 - (d) In this section, "substantial completion" means the date when construction is sufficiently completed to allow the owner or a person authorized by the owner to occupy the improvement or to use the improvement in the manner for which it was intended.

Sec. 4. AS 09.10 is amended by adding a new section to read:

Sec. 09.10.065. LIMITATION OF ACTIONS AGAINST HEALTH CARE PROVIDERS. (a) Notwithstanding the disability of minority described under AS 09.10.140(a), an action based on professional negligence may not be brought against a health care provider if the injured person is, on the date of the alleged negligent act or omission, less than six years of age unless the action is commenced before the person's eighth birthday.

(b) The limitation imposed under (a) of this section is tolled during any period in which there exists

- (1) fraud, including fraud or collusion by a parent, guardian, insurer, or health care provider, resulting in the failure to bring an action on behalf of an injured minor;
- (2) intentional concealment of facts that would give notice of a potential action; or
- (3) the undiscovered presence of a foreign object that has no therapeutic or diagnostic purpose or effect in the body of the injured person and the action is based on the presence of the foreign object.

(C) In this section,

- (1) "health care provider" has the meaning given in AS 09.55.560;
- (2) "professional negligence" means a negligent act or omission by a health care provider in rendering professional services;
- (3) "professional services" means service provided by a health care provider that is within the scope of services for which the health care provider is licensed and that is not prohibited under the

health care provider's license or by a facility in which the health care provider practices.

Sec. 5. AS 09.10.070 is repealed and reenacted to read:

Sec. 09.10.070. ACTIONS FOR CERTAIN TORTS AND CERTAIN STATUTORY LIABILITIES TO BE BROUGHT IN TWO YEARS. Except as otherwise provided by law, a person may not bring an action (1) for libel, slander, assault, battery, seduction, or false imprisonment; (2) for personal injury or death or injury to the rights of another not arising on contract and not specifically provided otherwise; (3) for taking, detaining, or injuring personal property, including an action for its specific recovery; (4) upon a statute for a forfeiture or penalty to the state; or (5) upon a liability created by statute, other than a penalty or forfeiture; unless the action is commenced within two years.

Sec. 6. AS 09.17.010. is repealed and reenacted to read:

Sec.. 09.17.010. NONECONOMIC DAMAGES. (a) In an action to recover damages for personal injury or wrongful death, all damage claims for noneconomic losses shall be limited to compensation for pain, suffering, inconvenience, physical impairment, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary damage.

(b) Except as provided under (c) of this section, the amount of damages awarded by a court or a jury under (a) of this section for all claims of a party to the action, including a loss of consortium claim, arising out of a single injury or death may not exceed \$300,000.

(c) In an action for personal injury, the damages awarded by a court or jury that are described under (a) of this section may not exceed \$500,000 when the claimant, as a result of the injury;

(1) is a hemiplegic, paraplegic, or quadriplegic and has permanent functional loss of one or more limbs resulting from injury to the spine or spinal cord;

(2) has lost both arms or both legs or an arm and a leg;

(3) has permanently impaired cognitive capacity, is incapable of making independent, responsible decisions, and is permanently incapable of independently performing the activities of normal, daily living;

(4) is both deaf and blind; or

(5) has third degree burns over one half or more of the claimant's body.

(d) The limit under (b) or (c) of this section does not apply to noneconomic damages awarded by a court or jury against a person who, as proven by a preponderance of the evidence, was attempting to commit or committing a felony, if the person bringing the action was a victim of that offense and the offense substantially contributed to the injury or death. In this subsection, "victim" has the meaning given in AS 12.55.185.

(e) Multiple injuries sustained as a result of a single incident shall be treated as a single injury

for purposes of this section.

Sec. 7. AS 09.17.020 is repealed and reenacted to read:

Sec. 09.17.020. PUNITIVE DAMAGES. (a) Punitive damages may not be awarded in an action, whether in tort, contract, or otherwise, unless supported by clear and convincing evidence of outrageous conduct, including acts done with malice or bad motives, or reckless indifference to the interest of another person.

(b) The amount of punitive damages awarded by a court or jury under (a) of this section may not exceed three times the amount of compensatory damages awarded or \$300,000, whichever amount is greater.

(c) The limit under (b) of this section does not apply to punitive damages awarded by a court or jury against a person who, as proven by a preponderance of the evidence, was attempting to commit or committing a felony if the person bringing the action was a victim of that offense and the offense substantially contributed to the injury or death. In this subsection, "victim" has the meaning given in AS 12.55.185.

(d) If a person receives an award of punitive damages, seventy-five percent of the award shall be deposited into the general fund of the state. This subsection does not grant the state the right to file or join a civil action to recover punitive damages.

Sec. 8. AS 09.17.070 is repealed and reenacted to read:

Sec. 09.17.070. COLLATERAL BENEFITS. (a) A claimant in an action for personal injury or death may only recover damages that exceed amounts received by the claimant, or that with reasonable probability will be received in the future by the claimant, as compensation for the injuries from collateral sources, whether private, group, or governmental, and whether contributory or noncontributory, except when

- (1) the collateral source is a federally funded program that by law must seek subrogation;
- (2) the collateral source has a right of subrogation under federal law;
- (3) the collateral source is the payment of a dependent child's medical bills by the injured child's parent which does not result from insurance coverage;
- (4) the benefit consists of death benefits paid under life insurance; or
- (5) the benefit consists of workers' compensation benefits received under AS 23.30.

(b) A person who provides a collateral benefit admissible under (b) of this section may not recover any amount against the claimant as reimbursement for those benefits and may not be subrogated to the rights of a claimant against a person defending a claim.

Sec. 9. AS 09.17.080 is amended to read:

Sec. 09.17.080. ALLOCATION OF DAMAGES. (a) In all actions involving the fault of more than one person [PARTY TO THE ACTION], including third-party defendants and persons who have been released [UNDER AS 09.16.040], the court, unless otherwise agreed by all parties, shall instruct the jury to answer special interrogatories or, if there is not jury, shall make findings, indicating

(1) the amount of damages each claimant would be entitled to recover if contributory fault is disregarded; and

(2) the percentage of the total fault [OF ALL OF THE PARTIES TO EACH CLAIM] that is allocated to each claimant, defendant, third-party defendant, [AND] person who has been released from liability, or other person responsible for the damages to each claimant regardless of whether the other person, including an employer, is or could have been named as a party to the action [UNDER AS 09.16.040].

(b) In determining the percentages of fault, the trier of fact shall consider both the nature of the conduct of each person [PARTY] at fault, and the extent of the causal relation between the conduct and the damages claimed. [THE TRIER OF FACT MAY DETERMINE THAT TWO OR MORE PERSONS ARE TO BE TREATED AS A SINGLE PARTY IF THEIR CONDUCT WAS A CAUSE OF THE DAMAGES CLAIMED AND THE SEPARATE ACT OR OMISSION OF EACH PERSON CANNOT BE DISTINGUISHED.]

(c) The court shall determine the award of damages to each claimant in accordance with the findings [, SUBJECT TO A REDUCTION UNDER AS 09.16.040,] and enter judgment against each party liable. The court also shall determine and state in the judgment each party's equitable share of the obligation to each claimant in accordance with the respective percentages of fault as determined under (a) of this section. An assessment of a percentage of fault against a person who is not a party may only be used as a measure for accurately determining the percentages of fault of a named party. Assessment of a percentage of fault against a person who is not a party does not subject that person to civil liability in that or another action and may not be used as evidence of civil liability in another action.

(d) The court shall enter judgment against each party liable on the basis of several liability in accordance with that party's percentage of fault.

Sec. 10. AS 09.30.070 (a) is amended to read:

Sec. 09.30.070 (a) PREJUDGMENT INTEREST. Notwithstanding AS 45.45.010, the [THE] rate of interest on judgments and decrees for the payment of money, including prejudgment interest, is three percentage points above the 12th Federal Reserve District discount rate in effect on January 2 of the year in which the judgment or decree is entered [10.5 PERCENT A YEAR], except that a judgment or decree founded on a contract in writing, providing for the payment of interest until paid at a specified rate not exceeding the legal rate of interest for that type of contract, bears interest at the

rate specified in the contract if the interest rate is set out in the judgment or decree.

Sec. 11. AS 09.30.070 is amended by adding a new subsection to read:

Sec. 09.30.070(c) PREJUDGMENT INTEREST. Prejudgment interest may not be awarded for future economic damages, future noneconomic damages, or for punitive damages.

Sec. 12. AS 09.65 is amended by adding a new section to read:

Sec. 09.65.096. CIVIL LIABILITY OF HOSPITALS FOR NONEMPLOYEES.

(a) A hospital is not liable for civil damages as a result of an act or omission by a health care provider who is not an employee or actual agent of the hospital if the hospital provides notice that the health care provider is an independent contractor. The notice required by this subsection must be posted conspicuously in all admitting areas of the hospital, published at least annually in a newspaper of general circulation in the area, and must be in substantially the following form:

Notice of Limited Liability

The following health care providers are independent contractors and are not employees of the hospital:

(List specific health care providers)

The hospital is responsible for exercising reasonable care in granting staff privileges to practice in the hospital, for reviewing those privileges on a regular basis, and for taking appropriate steps to revoke or restrict privileges in appropriate circumstances. The hospital is not otherwise liable for the acts or omissions of a health care provider who is an independent contractor.

(b) This section does not preclude liability for civil damages that are the proximate result of the hospital's own negligence or intentional misconduct.

(c) In this section,

(1) "health care provider" means a doctor of medicine, psychologist, osteopath, dentist, optometrist, chiropractor, optician, pharmacist, podiatrist, or certified registered nurse anesthetist, who is licensed in this state;

(2) "hospital" has the meaning given in AS 18.20.130 and includes a governmental owned or operated hospital;

(3) "independent contractor" means a licensed health care provider who is a member of a hospital's medical staff or who has otherwise been granted specified privileges to render health care services directly or indirectly to patients at the hospital, but who is not an employee or actual agent of the hospital in connection with the rendition of the health care services.

Sec. 13. AS 09.65.210 is repealed and reenacted to read:

Sec. 09.65.210 DAMAGES RESULTING FROM COMMISSION OF A FELONY OR WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

(a) A person who suffers personal injury, death or property damage or the person's personal representative under AS 09.55.570 or 09.55.580 may not recover damages for the personal injury, death or property damage if the injury, death or damage occurred while the person was

(1) committing or attempting to commit a felony, or fleeing from the commission or attempted commission of a felony and the commission or attempted commission of the felony substantially contributed to the injury, death or property damage whether or not the person was convicted on the felony.

(2) operating a vehicle, aircraft, or watercraft while under the influence of intoxicating liquor or any controlled substance which would constitute a violation of AS 28.35.030 if the conduct substantially contributed to the injury, death or property damage whether or not the person was convicted of such action.

(b) The conduct described in section (a) must be proved by the defendant in the civil trial by clear and convincing evidence.

Sec. 14. SEVERABILITY. If any provision of this Initiative, or the application of a provision of this Initiative to any person or circumstance is held invalid, the remainder of this Initiative and the application to other persons or circumstances shall not be affected.

Sec. 15. APPLICABILITY. This Initiative applies to all causes of action accruing on or after the effective date of this Act. This Initiative does not apply to any action or recovery for which an action was filed in court prior to the effective date of this Act.

Sec. 16. EFFECTIVE DATE OF THIS INITIATIVE. This Initiative takes effect ninety days after its certification by the lieutenant governor.

**Bruce Pozzi Public Relations**

821 N Street, Suite 203 Anchorage, Alaska 99501
Phone (907) 272-8880 Fax (907) 272-8282

RECEIVED
FEB 10 1997**BISS & HOLMES
ATTORNEYS AT LAW**

To: Roger Holmes
From: Bruce Pozzi
Subject: Initiative Update
Date: February 8, 1997

Upon your return or sooner by phone if that is possible, you, Dick Cattanach and I should talk about this rejection from the Lt. Governor (and Attorney General) and what needs to be done to prepare a new Initiative (bill) in a very timely manner.

Officially, the State Chamber of Commerce will have withdrawn for resubmittal by the required date.

That means we must collect the sponsors all over again, but cannot do so until you have completed the new initiative that must accompany the application for sponsorships. That process will take me at least three to four weeks to complete.

Assuming you already know, from your conversations with Jim Baldwin what you need to do to the initiative, then perhaps it won't take you more than a week hopefully less upon your return.

If a phone call is possible let your assistant Bruce arrange it with me. Other wise I'll look forward to talking with you on your return, Feb. 21 or so.

The reason I'd be anxious to talk, if possible, by phone prior to your return, is that I must be out of town Feb. 24-27, a Monday through Thursday. And I'd much prefer if you were doing your "stuff" at that time.

Send your statements to Pamela La Bolle at the Alaska State Chamber of Commerce, 217 2nd St., Suite 201, Juneau, Ak. 99801

cc: D. Cattanach
P. La Bolle

FAX TRANSMITTAL SHEET



STATE OF ALASKA FRAN ULMER, LIEUTENANT GOVERNOR

Office of the Lieutenant Governor
P.O. Box 110015
Juneau, AK 99811-0015

Phone:(907) 465-3520
Fax:(907) 465-5400

Please deliver to: Bruce Pozzi
Location: Anchorage
Phone Number: (907) 272-8880
Fax Number: (907) 272-8282
Pages (including cover): 13
Comment: Tort Reform Initiative

Date: February 5, 1997
From: Carol Collins
Phone: (907) 465-4082
Fax: (907) 465-5400



FRAN ULMER
LIEUTENANT GOVERNOR
STATE OF ALASKA

February 3, 1997

Bruce Pozzi
200 Pacific View Drive
Anchorage, AK 99515

Dear Mr. Pozzi:

The purpose of this letter is to transmit to you a copy of the Attorney General's review of Initiative No. 96TORT. In the opinion, the attorney general advised me that the bill to be initiated is not in the required form, because some of the provisions of the initiative contains subject matter that is restricted by art. XI, sec. 7 of the Alaska Constitution. The Attorney General recommends that I deny certification of the application. However, before I take formal action on the recommendation of the Attorney General, I will extend the opportunity to you to withdraw the application. I believe that the sponsors of the initiative application should have the opportunity to determine whether the bill to be initiated can be amended to remove the provisions identified by the Attorney General.

If the initiative is not withdrawn by February 14, 1997, I intend to take final action on the application as required by AS 15.45.070. If you are aggrieved by the action, you will have 30 days to appeal to the Superior Court (AS 15.45.240). If you decide to withdraw the application, and resubmit it in a revised form, you will need to fully comply with the requirements of AS 15.45.010 - AS 15.45.040.

Should you have any questions, please do not hesitate to contact my office.

Sincerely,

Fran Ulmer
Lieutenant Governor

Enclosure

cc: Sandi Stout, Director, Division of Elections
Jim Baldwin, Assistant Attorney General, Dept. Of Law
Pamala La Bolle, Initiative Committee member
Edward B. Rasmuson, Initiative Committee member

MEMORANDUM

State of Alaska
Department of Law

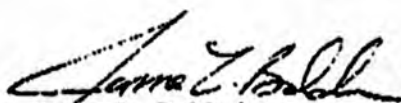
TO: Honorable Fran Ulmer
Lieutenant Governor
State of Alaska

DATE: February 3, 1997

FILE NO.: 663-96-0085

TEL. NO.: 465-2129

SUBJECT: Certification of Tort
Reform initiative

FROM: 
James L. Baldwin
Assistant Attorney General
Governmental Affairs - Juneau

OFFICE OF THE
FEB 3 1997

LIEUTENANT GOVERNOR

At your request, we have reviewed the initiative proposed by a committee consisting of Edward Rasmusson, A. Bruce Pozi, and Pamela E. La Bolle for "An Act relating to civil actions in Alaska (hereinafter "the initiative)." This review is in preparation for your decision under AS 15.45.070 to either certify the initiative application, or deny it. If the application is certified, petition booklets will be prepared and returned to the sponsors for circulation and subscription.

In reviewing the initiative, you must determine whether the bill to be initiated is in the proper form, as well as the application, and whether there is a sufficient number of qualified sponsors. The Division of Elections has determined that there is a sufficient number of qualified sponsors, and the application appears to be in the proper form. You have asked our opinion whether the proposed bill is in the proper form. A pre-election review for form must include an analysis whether the bill includes a subject which may not be enacted by initiative. Boucher v. Engstrom, 528 P.2d 456 (1974). The initiative may not be used

to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation.

Alaska Const. art. XI, sec. 7.

The initiative proposes to enact or amend several statutory sections, including AS 09.10.55 regarding the statute of repose; sec. 09.10.070 and 09.10.75 regarding the statute of limitations; sec. 09.17.010 regarding limitations on non-economic damages; sec. 09.17.020 regarding punitive damages; sec. 09.17.070 regarding collateral benefits; sec. 09.17.080 regarding allocation of damages; sec. 09.30.070(c) regarding prejudgment interest; sec. 09.65.096 regarding civil liability of hospitals; sec. 09.65.210 regarding damages resulting from the commission of a felony; and sec. 09.17.090 regarding expert witness qualifications.

Although liberal construction of initiative proposals is the general rule, constitutional restrictions on the use of the initiative must also be broadly construed, and constitute "important

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conditions on the initiative right that require strict compliance." Citizens Coalition v. McAlpine, 810 P.2d 162, 168 n. 14 (Alaska 1991); Alaskans for Legislative Reform v. State, 887 P.2d 960, 962 (Alaska 1994). We have researched several legal issues concerning the validity of this initiative.¹ At this stage of the initiative process, we are solely concerned with grounds for legal invalidity that are ripe for consideration before enactment. By this, we mean only alleged grounds for invalidity that fall within the restrictions set out in art. XI, sec. 7 of the Alaska Constitution.

Opponents of the initiative claim that the tort reform initiative contains a number of sections that constitute either procedural rules, or matters within the inherent rule making power of the court. In resolving this matter we must balance the often countervailing obligations to liberally construe initiatives so as to not unduly restrict their use and the obligation to carefully apply restrictions on the use of the initiative to protect the people against possible abuse. For the reasons set out below, we recommend that you deny certification of the initiative application because it appears that certain of the sections of the initiative prescribe court rules.

I. Prescription of Court Rules

In Citizens Coalition v. McAlpine, 810 P.2d 162 (Alaska 1991), the Court discussed the history and purpose of the constitutional prohibition on use of the initiative to prescribe court rules. The court concluded that the framers of the Alaska Constitution intended the restriction to remove certain "sensitive or sophisticated areas of legislation" from the sphere of the electorate. Id. at 170.² The effect of Citizens Coalition is to throw a broad net over the subject matter covered by the restriction. According to the court, there are two separate sources for rule-making power that are within the constitutional restriction on use of the initiative. First, under art. IV, sec. 15 of the Alaska

¹ We received memoranda from interested individuals in opposition to certification of the initiative. These include memoranda from Robert Wagstaff, Les Gara of Friedman, Rubin & White, and the law offices of Michael Schneider. These memoranda were provided to the sponsors and are kept in AG file no. 663-96-0085. The memoranda raise certain issues that are appropriate for a pre-election certification review under AS 15.45. However, some issues are appropriate to consider only after the initiative is enacted. Gara provided information intended to show that the initiative was unconstitutional, because the limit on non-economic damages contained in sec. 5 denied plaintiffs a right to trial by jury and equal protection. Wagstaff argued that the initiative would deny access to the courts and impair insurance contracts. While these memoranda may or may not raise valid legal issues, we decline to consider these matters as a part of a pre-election certification review.

² See, e.g., V. Fischer, Alaska's Constitutional Convention 80-81 (1975) (restrictions on direct legislation were meant to protect "critical areas" like the judicial system "against rash, discriminatory, and irresponsible acts").

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Constitution, the court may prescribe rules governing "practice and procedure." Second, the court has "inherent" rule-making authority provided in the grant of judicial power in art. IV, sec. 1.

Opponents claim that at least four sections of the proposed initiative violate the prohibition against prescribing court rules. Sections 5, 6, and 7 allegedly violate the prohibition by adding court procedures to implement substantive rights created by the sections; and section 11 is claimed to violate the prohibition by prescribing a rule of evidence, a subject-matter inherently within the Court's rule-making authority. While we do not completely agree with the contentions of opponents, we believe the initiative does, in some respects, directly prescribe court rules, and for this reason must be rejected.

Each section is discussed separately below.

Section 7:

Sec. 7 of the proposed initiative, relating to allocation of damages, is set out using the "repeal and reenact" method. This technique makes it difficult to understand the true nature of the amendments to existing law, because all material in the section is set out as if it were a change to existing law. However, upon close inspection, it appears that much of sec. 7 is unchanged from existing law. The change in law proposed in sec. 7 would permit a jury to allocate a part of the fault for a tort to a person not a party to the action. The procedures set out in sec. 7 requiring the jury to answer certain interrogatories concerning the allocation of fault presently appears in law and would not be changed. These procedures are governed by existing court rules. Special verdicts and interrogatories are governed by Civil Rule 49; findings by the court are governed by Civil Rule 52; and entry of judgment is governed by Civil Rule 58. For this reason, we believe that the material contained in sec. 7 is consistent with existing law and court rules, and is not intended to prescribe new or amend existing court rules.³

³ Existing law, which contains the same procedural provisions, was originally enacted by the legislature in accordance with the procedure prescribed in Leege v. Martin, 379 P.2d 447 (Alaska 1963) for changing court rules, i.e., the bill was passed by a two-thirds majority, and stated that its purpose was to change court rules. Current AS 09.17.080, enacted in sec. 1 Ch. 139 SLA 1986, was passed as CCS SB 377 by over two-thirds majority of each house. See 1986 House Journal 3466-67; 1986 Senate Journal 2885-86. Section 5 and 7 Ch. 139 SLA 1986. We cannot be certain that a court would find that the reenactment of an existing court procedure amounts to an act "prescribing a court rule." If the initiative is resubmitted by the sponsors, we encourage them to draft the bill using the "repealing and reenacting" method with "restraint." See Manual of Legislative Drafting at 17 (Leg. Aff. Agency 1997). By doing this, the sponsor would avoid this alleged violation of the restriction.

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Section 5:

Section 5 of the proposed initiative also is claimed to violate the restriction against prescribing court rules. Section 5 seeks to amend AS 09.17.020, relating to punitive damage awards, by repealing current AS 09.17.020, and reenacting it in a substantially amended form to permit punitive damage only for "outrageous conduct, including acts done with malice or bad motives, or reckless indifference to the interest of another person." Sec. 5 would also cap the amount of damages at "three times the amount of compensatory damages awarded or \$300,000, whichever amount is greater." The procedural matter complained of involves proposed sec. 09.17.020(d) which provides:

(d) If a person receives an award of punitive damages, the court shall require that seventy five percent of the award be deposited into the general fund of the state. This subsection does not grant the state the right to file or join a civil action to recover punitive damages.

Section 5 of the proposed initiative (emphasis added).

The section does not specify the exact procedural mechanism to be used. Opponents claim that the initiative mandates the court to take some procedural action to effectuate the substantive right created by the section, i.e., the State's entitlement to seventy-five percent of punitive damage awards. They argue that the initiative impermissibly invades the rule-making power of the Court by "creat[ing] a right and then append[ing] procedures for the exercise of that right." citing Nolan v. Sea Airmotive, Inc., 627 P.2d 1035, 1043 (Alaska 1981). We do not agree. The initiative appears to leave the court free to implement any necessary procedures. The court is free to implement any necessary procedures. The court's rule making powers are not encroached upon if the procedures specified are "only incidental to the implementation of a substantive right." Winegardner v. Greater Anchorage Area Borough, 534 P.2d 541, 547 (Alaska 1975).

Section 11:

We agree with the argument of opponents that sec. 11 of the proposed initiative violates the prohibition against prescribing court rules. The subject-matter of sec. 11 is within the scope of the Court's rule-making power. The section would have the effect of enacting a statute that would be directly in conflict with an existing court rule of evidence by specifying qualifications for expert witnesses in professional malpractice cases. Sec. 11 proposes to amend AS 09.17 by adding a new section, sec. 09.17.090, to provide:

EXPERT WITNESS QUALIFICATION. (a) Except as provided under (b) of this section, in an action based upon professional negligence, a person may not testify as an expert witness on the issue of the appropriate standard

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of care unless the witness is a professional who is licensed in this state, or is licensed in another state or country and

(1) is trained and experienced in the same discipline or school of practice as the defendant or in an area directly related to a matter at issue; and

(2) is certified by a board recognized by the same state as having acknowledged expertise and training directly related to the particular field or matter at issue.

(b) The provisions of (a) of this section do not apply to a person who is testifying on the appropriate standard of care in a profession that is not licensed in this state, or another state or country, and who the court determines is qualified as an expert witness.

(c) "Professional negligence" means a negligent act or omission in rendering professional services.

Section 11 of the proposed initiative. This section conflicts with Evidence Rule 702(a) by specifying certain qualifications for expert witnesses in malpractice cases.⁴

Section 11 would effectively change Rule 702(a) by requiring a witness to be licensed and board certified in the same field or matter at issue in order to qualify as an expert witness. Rule 702(a) provides that a witness may qualify as an expert witness based on either "knowledge, skill, experience, training or education." It does not require licensing or board certification.

Section 11 involves the same subject-matter, and directly changes, an existing court rule. For purposes of this analysis, it is immaterial whether section 11 is classified as "procedural" or "substantive." If regarded as procedural, then it falls within the ambit of the Court's art. IV, sec. 15 rule-making power. If regarded as substantive, then Evidence Rule 702(a) must also be

⁴ Evidence Rule 702(a) provides:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

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regarded as substantive, and as an exercise of the Court's substantive rule-making authority under art. IV, sec. 1.⁵ Either way, section 11 impermissibly attempts to prescribe a court rule.

This conclusion is consistent with recognized treatises on civil and legislative procedure. See Joiner & Miller, Rules of Practice and Procedure: A Study of Judicial Rule Making, 55 Mich.L.Rev. 623, 651 (1957) ("Most rules of evidence involve only the orderly dispatch of judicial business and should be subject to court rule"); 3A Singer, Statutes and Statutory Construction, § 67.07 at 78 (5th ed.) (the rules of evidence are generally regarded as procedural); 9 Wright & Miller, Federal Practice and Procedure, § 2405 (rules of evidence are generally regarded as procedural for purposes of the Erie doctrine, and the Federal Rules of Evidence apply in diversity cases). When a new testimonial privilege for marital and family therapists was created in 1992, the legislature enacted a bill in accordance with the constitutional requirements for changing court rules. See sec. 12 ch. 129 SLA 1992.

This conclusion is also consistent with decisions of the Alaska Supreme Court and Court of Appeals, holding that legislative amendments to the rules of evidence must follow the constitutional procedure for amending "court rules" of practice and procedure under art. IV, sec. 15.

In Allred v. State, 554 P.2d 411 (Alaska 1976), the court recognized the existence of a psychotherapist-patient testimonial privilege, even though it was not provided by a court rule or statute. Following the Court's decision in Allred, the commentary to Rule 504 now states:

⁵ In Citizens Coalition v. McAlpine, supra, the Court noted that the distinction between "substantive" and "procedural" is not dispositive in determining whether an initiative violates the prohibition against prescribing "court rules" where the rule falls within the ambit of the Court's inherent rule-making authority under art. IV, sec. 1:

Appellants argue that a limit on contingent fees cannot be a rule of court because such a limit is a matter of "substance" and not "procedure." This argument would carry more force if the rule at issue here were one we might adopt under the authority of article IV, section 15 of the Alaska Constitution, which vests in the court the power to adopt rules of administration, practice, and procedure. We have found, however, that a limit on contingent fees invokes our powers under article IV, section 1. Consequently, the distinction between procedural and substantive rules, while still important, is not dispositive, because our judicial power includes the authority to regulate with greater substantive effect inside the limited ambit of the judicial system, than we could under our article IV, section 15 powers. Thomas v. State, 566 P.2d 630, 636-38 (Alaska 1977); cf. State v. Williams, 681 P.2d 313, 316 (Alaska 1984); Nolan v. Sea Air Motive, Inc., 627 P.2d 1035, 1042-43 (Alaska 1981).

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A psychotherapist-patient privilege was recognized in Allred v. State, 554 P.2d 411 (Alaska 1976), although the supreme court divided on the source of the privilege and its scope. Since the court has power under the Alaska Constitution to create testimonial privileges, the source of power to create Rule 504 is beyond question. . . .

Evidence Rules Commentary to Rule 504. In Walstad v. State, 818 P.2d 695 (Alaska App. 1991), the Court of Appeals noted that the psychotherapist-patient privilege and the communications to clergy privilege had been promulgated by the Supreme Court, in Evidence Rules 504 and 506, "pursuant to its constitutional authority to 'make and promulgate rules governing practice and procedure in civil and criminal cases'" under art. IV, sec. 15. Id. at 697. See also, Galbraith v. State, 693 P.2d 880 (Alaska App. 1985) (sec. 40 of ch. 143 SLA 1982 invalid because it changed Evidence Rule 901- Requirement of Authentication or Identification).

Section 6:

Section 6 of the initiative also violates the prohibition against prescribing court rules by prescribing a new rule of evidence. Sec. 6 proposes to amend AS 09.17.070 by requiring that amounts received from so-called collateral sources be taken into account by the jury when it determines an award of damages. Under existing law, amounts recovered from collateral sources are deducted from the award by the court after the jury has determined the amount of the award without knowledge that there may be an additional recovery. The attempt to prescribe a new rule of evidence is found in proposed sec. 09.17.070(b) and (c) which provide:

(b) A person defending a claim may introduce into evidence an amount paid or payable as a benefit to the claimant as a result of the personal injury or death under Title 42 Chapter 7 of the United States Code (Social Security Act); a state or federal disability act; health, sickness, disability, accident, or income-disability insurance; insurance that provides health benefits or income-disability coverage; and a contract or agreement of a group, organization, partnership, or corporation, or other collateral source, to provide, pay for, or reimburse the cost of medical, hospital, dental, or other health care services, disability, or lost wages. However, evidence of a collateral source that is a federally funded program that by law must seek subrogation or that has a right of subrogation under federal law, or evidence of death benefits paid under life insurance, or evidence of workers' compensation benefits received under AS 23.30, may not be introduced under this subsection. If a person defending a claim elects to introduce evidence described in this subsection, the claimant may introduce evidence of the amount that the claimant has paid or contributed to secure the claimant's right

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to the collateral benefit, including the cost to the claimant resulting from depleted or exhausted coverage.

(c) A person who provides a collateral benefit admissible under (b) of this section may not recover any amount against the claimant as reimbursement for those benefits and may not be subrogated to the rights of a claimant against a person defending a claim.

Sec. 6 of proposed initiative (emphasis added).

Subsection (b) provides that a person defending a claim for personal injury or death "may introduce into evidence" specified collateral benefits. The claimant, in turn, "may introduce evidence" of amounts paid or contributed to obtain the benefits. The first sentence in subsection (c), which refers to collateral benefits "admissible" under subsection (b), makes clear that subsection (b) provides for the introduction of such benefits into evidence during trial.

This represents a departure from the provisions of current AS 09.17.070. Existing AS 09.17.070 provides for the deduction of collateral benefits by the court at the conclusion of the case, after the fact finder has rendered its award, and after the court has awarded costs and attorneys fees.⁶

⁶ AS 09.17.070 provides:

Collateral benefits. (a) After the fact finder has rendered an award to a claimant, and after the court has awarded costs and attorney fees, a defendant may introduce evidence of amounts received or to be received by the claimant as compensation for the same injury from collateral sources that do not have a right of subrogation by law or contract.

(b) If the defendant elects to introduce evidence under (a) of this section, the claimant may introduce evidence of

(1) the amount that the actual attorney fees incurred by the claimant in obtaining the award exceed the amount of attorney fees awarded to the claimant by the court; and

(2) the amount that the claimant has paid or contributed to secure the right to an insurance benefit introduced by the defendant as evidence.

(c) If the total amount of collateral benefits introduced as evidence under (a) of this section exceeds the total amount that the claimant introduced as

(continued...)

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Although existing AS 09.17.070 refers to the introduction of evidence of collateral benefits, it is clear from the context that it relates only to the submission of proof of collateral benefits to the court for deduction from the total award after trial, and after the fact finder has rendered its award.⁷

Section 6 appears to prescribe a new rule of evidence, a matter clearly within the scope of the Supreme Court's art. IV, sec. 15 rule-making power. By providing for the admissibility of evidence of collateral benefits during trial, the section falls within the Court's procedural rule-making power to govern the admissibility of evidence. See the discussion on this issue pertaining to sec. 11 of the initiative at pp. 8 - 10 of this opinion.

There is an additional reason why the subject matter of sec. 6 comes within the restriction against prescribing a rule of court. Proposed sec. 6 would specify the admissibility of evidence of a type that should be left to the sound discretion of a court. This kind of evidence may cause a jury to be more apt to find for the defendant in close cases if it is known that the plaintiff has, or will, recover from sources other than the defendant.⁸ We believe that this type of provision

⁶ (...continued)

evidence under (b) of this section, the court shall deduct from the total award the amount by which the value of the non-subrogated sum awarded under (a) of this section exceeds the amount of payments under (b) of this section

AS 09.17.070 (emphasis added).

⁸ Evidence Rule 411 excludes evidence of liability insurance, in part for this reason. The Evidence Rules Commentary for Rule 411 states:

[T]he rule is designed to prevent a jury from deciding a close case on an improper basis-- i.e., whether or not a party is insured. There is a danger that insurance evidence might skew the decision-making process of the jury by making it regret a possibly wrong decision against an uninsured person much more than a similar decision under identical facts against a person whose insurance status is unknown, or by making the jury regret any erroneous decision against an insured party less than it would an erroneous decision against a person whose insurance status is unknown. This is not to suggest that a jury will intentionally make a mistake. It suggests only that in close cases someone must bear the risk of error, that the presence or absence of insurance is not regarded as an appropriate guide for allocating the risk, and that it is possible that a jury will misuse insurance evidence

(continued...)

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comes within the stated purpose of the framers of the constitutional prohibition who desired to foreclose use of the initiative to prescribe court rules. They wanted to protect "sensitive or sophisticated areas of legislation" from "emotional electoral dialogue and impulsive enactment by the general public." Citizens Coalition v. McAlpine, supra, 810 P.2d at 170.

II. Special Legislation

Opponents of the initiative also claim that sec. 14 constitutes special legislation. Sec. 14 reads as follows:

This initiative applies to all causes of action accruing on or after the effective of this Act. This initiative does not apply to any action or recovery arising out of the "Exxon Valdez" oil spill of March 1989.

Art. XI, sec. 7 restricts the initiative from being used to "enact local or special legislation." It is the singling out of a specific action or recovery for exclusion from the law to be enacted that is objectionable.⁹ Unfortunately, there have been no Alaska Supreme Court cases applying the restriction against special legislation by initiative.

Another provision in the Alaska Constitution limits the power of the legislature to enact special or local legislation. The prohibition against local or special legislation provides:

The legislature shall pass no local or special act if a general act can be made applicable. whether a general act can be made applicable shall be subject to judicial determination.

Alaska Const. art. II, sec. 19.

Section 19 has not been recently applied by the Alaska Supreme Court. In 1975, sec.19 was applied to invalidate a statute that mandated the creation of an Eagle River-Chugiak Borough. Abrams v. State, 534 P.2d 91 (Alaska 1975). In Abrams, the court recognized that a statute may affect only one of a few areas and yet relate to a matter of statewide concern or common interest.

* (...continued)

Evidence Rules Commentary to Rule 411.

⁹ We are not certain whether there are yet "unaccrued" claims related to the Exxon Valdez oil spill. Our uncertainty forces us to give credence to a claim that the restriction on special litigation must be applied to this section.

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In 1977, sec. 19 was again applied to validate a statute authorizing a trade of land between the federal government, the state, and a Native regional corporation. State v. Lewis, 559 P.2d 630 (Alaska 1977), cert. denied 432 U.S. 901 (1977). The court found that the land trade was unique, but of statewide concern. The Lewis court propounded a test to be used in determining whether a statute violates the special or local prohibition. It was substantially the same as the test used to determine the validity of non-suspect classifications challenged as violative of equal protection. The State merely had to show a rational basis, a good reason, to justify the special treatment.

In 1978, the Court articulated a unified equal protection analysis that avoids distinguishing between suspect and non-suspect classifications by using a sliding scale to weigh the interests involved in any classification. State v. Erickson, 574 P.2d 1 (Alaska 1978). The Court applies a single test that is flexible, and dependent on the importance of the rights involved. The more fundamental the right involved, the more compelling the interest the state must have for preferring one classmember over another. Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d 1255 (Alaska 1980).

There has not been a case involving the local or special legislation prohibition since the unified equal protection test was adopted by the court. It remains to be seen how the court will apply an equal protection analysis to a statute claimed to violate sec. 19. The Exxon Valdez oil spill action is matter that has drawn substantial interest from the public, but that does not mean that it is a matter of statewide concern. The parties to that action are the only persons or entities who may stand to benefit from the provisions of sec. 14. This presents a close question of law, which should be resolved in favor of allowing a vote on the matter. We cannot help observing that the sponsors could easily avoid this issue by substituting a more generally worded applicability provision, and we encourage them to do so.¹⁰

Conclusion

If you decide to reject the initiative, you must give notice to all interested persons and groups who may be aggrieved by your decision. AS 15.45.240. This notice will set in motion a thirty day appeal period during which these persons must contest your action or be forever barred. McAlpine v. University, 762 P.2d 81, 86 (Alaska, 1988). We recommend that the sponsors remedy the defects discussed above by severing the offending provisions and reapplying for certification of the amended initiative.

JLB:clh

¹⁰ An clause that made certain provisions of the initiative applicable only to actions filed after a specified date would effectively accomplish the intended purpose.

BISS & HOLMES
FACSIMILE TRANSMITTAL SLIP

DATE: February 24, 1997
TO: Honorable Brian Porter's Office
ATTN: James D. Sourant, Esquire
FAX NO: 465-3834
FROM: BISS & HOLMES FAX #: (907) 243-6695
SENDER: Roger F. Holmes, Esq.
RE: Tort Reform FILE NO. 3625

MESSAGE:

Please see the attached from Mr. Roger Holmes. Thank you.

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APPENDIX

Alaska State Library
Alaska Historical Collections
Box 110571
AK 99511-0571

COMPLIMENTS OF THE
ALASKA STATE LIBRARY

BALLOT MEASURE NO. 2

**Initiative No. 87TOR2
Civil Liability**

BALLOT LANGUAGE

(As it will appear on the November 6, 1988
General Election Ballot)

This initiative changes the way damages can be collected from parties to lawsuits who share fault for injury to persons or property. The law now says that a party more than half responsible could be liable for the total judgement. Parties may collect from each other amounts paid over their share. Parties less than half responsible pay only up to twice their fault.

The initiative would make each party liable only for damages equal to his or her share of fault, and repeal the law concerning reimbursement from other parties.

Shall this initiative become law?

YES ☐

NO ☐

**LEGISLATIVE AFFAIRS
AGENCY SUMMARY**

This measure will affect lawsuits in which two or more persons are at fault.

The new law would tell the court to enter judgment against each person at fault, but only in an amount that represents that person's share of the fault.

Existing law now tells the court to enter judgment against each person at fault in an amount equal to the total liability of all persons at fault. Those at fault are required to share the total cost of the fault. The measure repeals that law.

The measure applies to suits based on acts occurring after its effective date.

**FULL TEXT OF PROPOSED
AMENDMENT**

What follows is the actual text of the amendment to Title 9 of the Alaska Statutes proposed by the initiative which would become law if the measure is passed by the voters. Capitalized words appearing in brackets are those in the current law which would be deleted. Words that are underlined would be added to the current law.

"Section 1. AS 09.17.080(d) is amended to read:

(d) The court shall enter judgment against each party liable on the basis of [JOINT AND] several liability [, EXCEPT THAT A PARTY WHO IS ALLOCATED LESS THAN 50 PERCENT OF THE TOTAL FAULT ALLOCATED TO ALL THE PARTIES MAY NOT BE JOINTLY LIABLE FOR MORE THAN TWICE THE PERCENTAGE OF FAULT ALLOCATED TO THAT PARTY] in accordance with that party's percentage of fault.

"Sec. 2. AS 09.16 is repealed.

"Sec. 3. Underlined material in this Act indicates text that is being added to the law and bracketed material in capital letters in this act indicates deletions from the law.

"Sec. 4. Sections 1-2 of this Act apply to all causes of action accruing after the effective date of this Act.

"Sec. 5. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application to other persons or circumstances shall not be affected thereby.

JK
a h a s

APPENDIX—Continued

Alaska State Library
Alaska Historical Collections
P O Box 110571
Juneau AK 99811-0571

BALLOT MEASURE NO. 2

STATEMENT IN SUPPORT

Supporters of this ballot measure believe it isn't fair to hold people responsible for things that aren't their fault. Yet, under current law, defendants found liable in a civil suit can be forced to pay damages equal to twice the amount of their fault. In other words, if you are 50 percent responsible for an injury you could be forced to pay 100 percent of the damages.

The current law - called joint and several liability - is simply unfair. It forces people to pay for damages caused by somebody else, and it contributes to inflated damage awards and encourages lawsuits based on who has money instead of who's at fault.

If Ballot Measure No. 2 is passed and you do something wrong, you pay for it. But you would not be forced to pay for something you didn't do - which could happen under present law.

This initiative will make the civil justice system more fair by assessing damages on the basis of a person's degree of fault, instead of on how much money or insurance he/she has. Thus, if you are found to be 20 percent responsible for someone's injury or property damage, you pay only 20 percent of the award.

Ballot Measure No. 2 will make the civil justice system more fair, while ensuring that people are held accountable for injuries or damage they cause.

Please vote YES on Ballot Measure No. 2.

Citizens' Coalition for Tort Reform
PO Box 201668
Anchorage, Alaska 99520

STATEMENT IN OPPOSITION

In Alaska, when drunk drivers, criminals, careless corporations or polluters harm a person or his property, that person has the right to seek repayment for the wrong done to him. Ballot Measure No. 2 drastically limits this basic right to protect ourselves and our property from such wrongdoers.

Here is how it works. If two drunk drivers hit a car and cripple a little girl, the child can seek payment from both drivers. But if one driver has no money, who should pay the child's lifetime doctor bills - the other drunk driver, who is insured, or the child and her parents?

In 1984, our legislature dealt with this problem. It said the drunk driver with insurance and the young girl who was injured should share the problem created by the drunk driver without insurance.

Ballot Measure No. 2 eliminates that sharing, and places the entire burden on the innocent victim. In the example of the drunk drivers, the crippled child would recover only half her medical bills. The injured child and her parents would have to pay the rest. Under Ballot Measure No. 2, the drunk driver's insurance company will not have to pay all the child's medical bills. The insurance companies win, and we lose. That's unfair.

Even under current law, the innocent victim loses when one of the wrongdoers can't pay. For instance, suppose a corporate polluter is 10% at fault, and a penniless company is 90% at fault. Today, the corporate polluter shares the problem by paying only 20%. The innocent victims of the polluters, such as homeowners and fishermen, share the problem because they cannot recover 80% of their loss. That may be unfair to victims, but Ballot Measure No. 2 is even worse. Ballot Measure No. 2 would eliminate the sharing, and penalize only the victims.

The insurance companies pushing Ballot Measure No. 2 are telling us wrongdoers should only pay their own share of the loss. That sounds good. But the insurance companies are not telling us what happens when one of the wrongdoers cannot pay anything. This is a common problem. Under Ballot Measure No. 2, the insurance company wins, and the victim loses.

Who benefits from Ballot Measure No. 2? The answer is simple: insurance companies. Who loses under Ballot Measure No. 2? The citizens of the State of Alaska. Will we pay less for insurance if the law is changed? No. Not even one insurance company has promised to lower its rates if Ballot Measure No. 2 passes. And you can bet it won't happen. Do not be misled by the insurance companies' propaganda. Vote NO on Ballot Measure No. 2.

Alaskans for Fairness
PO Box 103363
Anchorage, Alaska 99510

1987 INIT. NO. 2

STATE OF ALASKA
INITIATIVE NO. 87-2

1988



* Section 1. AS 09.17.080(d) is amended to read:

(d) The court shall enter judgment against each party liable on the basis of [JOINT AND] several liability [, EXCEPT THAT A PARTY WHO IS ALLOCATED LESS THAN 50 PERCENT OF THE TOTAL FAULT ALLOCATED TO ALL THE PARTIES MAY NOT BE JOINTLY LIABLE FOR MORE THAN TWICE THE PERCENTAGE OF FAULT ALLOCATED TO THAT PARTY] in accordance with that party's percentage of fault.

* Sec. 2. AS 09.16 is repealed.

* Sec. 3. Underlined material in this Act indicates text that is being added to the law, and bracketed material in capital letters in this Act indicates deletions from the law.

* Sec. 4. Sections 1 - 2 of this Act apply to all causes of action accruing after the effective date of this Act.

* Sec. 5. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application to other persons or circumstances shall not be affected thereby.

EXHIBIT 5
to 3 3



FRAN ULMER
LIEUTENANT GOVERNOR
STATE OF ALASKA

February 3, 1997

Bruce Pozzi
200 Pacific View Drive
Anchorage, AK 99515

Dear Mr. Pozzi:

The purpose of this letter is to transmit to you a copy of the Attorney General's review of Initiative No. 96TORT. In the opinion, the attorney general advised me that the bill to be initiated is not in the required form, because some of the provisions of the initiative contains subject matter that is restricted by art. XI, sec. 7 of the Alaska Constitution. The Attorney General recommends that I deny certification of the application. However, before I take formal action on the recommendation of the Attorney General, I will extend the opportunity to you to withdraw the application. I believe that the sponsors of the initiative application should have the opportunity to determine whether the bill to be initiated can be amended to remove the provisions identified by the Attorney General.

If the initiative is not withdrawn by February 14, 1997, I intend to take final action on the application as required by AS 15.45.070. If you are aggrieved by the action, you will have 30 days to appeal to the Superior Court (AS 15.45.240). If you decide to withdraw the application, and resubmit it in a revised form, you will need to fully comply with the requirements of AS 15.45.010 - AS 15.45.040.

Should you have any questions, please do not hesitate to contact my office.

Sincerely,

A handwritten signature of Fran Ulmer in dark ink.

Fran Ulmer
Lieutenant Governor

Enclosure

cc: Sandi Stout, Director, Division of Elections
Jim Baldwin, Assistant Attorney General, Dept. Of Law
Pamala La Bolle, Initiative Committee member ✓
Edward B. Rasmuson, Initiative Committee member

Mr. David
PO Box 84503

R Kramer

000-0000

Date POM Sent	Constituency	Bill Number	Response	Subject	Distribution Affiliation	Reg Voter
Y	N	HB 68	Opposes		60	01/2

I ADAMANTLY OPPOSE HB 68 WHICH TAKES AWAY THE OVERTIME PAY EXCEEDING 8 HOURS DAILY. PEOPLE HAVE FOUGHT HARD AND DIED IN THE STREETS TO GET WHERE WE ARE TODAY. I URGE YOU TO KILL HB 68.

short title VOLUNTARY FLEXIBLE WORK PLAN:

Mr. Thomas
1853 Alder St

P Conley

488-9263

Date POM Sent	Constituency	Bill Number	Response	Subject	Distribution Affiliation	Reg Voter
Y	N	HB 68	Opposes		60	01/2

PLEASE DO NOT PASS HB 68. THIS BILL COVERS A LOT MORE THAN FORT KNOX! ONCE DAY WE WILL BE FORCED TO FIGHT TO STOP THIS - YOU ARE GOING TO UNDO SOME VERY IMPORTANT WORKERS' RIGHTS. I WILL BE WATCHING TO SEE HOW YOU VOTE.

short title VOLUNTARY FLEXIBLE WORK PLAN:

Mr. Edmund
1122 Sunset Dr

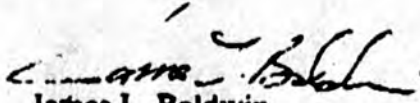
P Brosnan

456-9377

Date POM Sent	Constituency	Bill Number	Response	Subject	Distribution Affiliation	Reg Voter
Y	N	HB 68	Opposes		60	01/2

I OPPOSE HB 68. IT ENCOURAGES EMPLOYERS TO EXTEND SHIFTS TO 12 HOURS WHICH PEOPLE FOUGHT YEARS AGO TO SHORTEN THE SHIFT SO WORKERS COULD HAVE SOME SORT OF NORMALITY IN THEIR LIVES. NOBODY I HAVE TALKED TO WANTS TO WORK LONG SHIFTS UNLESS THEY ARE COMPENSATED WITH OVERTIME PAY.

short title VOLUNTARY FLEXIBLE WORK PLAN:

MEMORANDUM**State of Alaska
Department of Law****TO: Honorable Fran Ulmer
Lieutenant Governor
State of Alaska****DATE: February 3, 1997****FILE NO: 663-96-0085****TEL NO: 465-2129****SUBJECT: Certification of Tort
Reform initiative****FROM: 
James L. Baldwin
Assistant Attorney General
Governmental Affairs - Juneau**

At your request, we have reviewed the initiative proposed by a committee consisting of Edward Rasmusson, A. Bruce Pozi, and Pamela E. La Bolle for "An Act relating to civil actions in Alaska (hereinafter "the initiative)." This review is in preparation for your decision under AS 15.45.070 to either certify the initiative application, or deny it. If the application is certified, petition booklets will be prepared and returned to the sponsors for circulation and subscription.

In reviewing the initiative, you must determine whether the bill to be initiated is in the proper form, as well as the application, and whether there is a sufficient number of qualified sponsors. The Division of Elections has determined that there is a sufficient number of qualified sponsors, and the application appears to be in the proper form. You have asked our opinion whether the proposed bill is in the proper form. A pre-election review for form must include an analysis whether the bill includes a subject which may not be enacted by initiative. Boucher v. Engstrom, 528 P.2d 456 (1974). The initiative may not be used

to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation.

Alaska Const. art. XI, sec. 7.

The initiative proposes to enact or amend several statutory sections, including AS 09.10.55 regarding the statute of repose; sec. 09.10.070 and 09.10.75 regarding the statute of limitations; sec. 09.17.010 regarding limitations on non-economic damages; sec. 09.17.020 regarding punitive damages; sec. 09.17.070 regarding collateral benefits; sec. 09.17.080 regarding allocation of damages; sec. 09.30.070(c) regarding prejudgment interest; sec. 09.65.096 regarding civil liability of hospitals; sec. 09.65.210 regarding damages resulting from the commission of a felony; and sec. 09.17.090 regarding expert witness qualifications.

Although liberal construction of initiative proposals is the general rule, constitutional restrictions on the use of the initiative must also be broadly construed, and constitute "important

Ms. Laura L Sarcone
1702 McKinley Ave

561-2448

Anchorage AK 99517

Distribution Affiliation Reg Voter
60 01/2

Date POM Sent	Constituency	Bill Number	Response	Subject
Y	N		None	TOBACCO

I STRONGLY FAVOR A \$1 INCREASE IN TOBACCO TAX.

short title

Mr. Lawrence Eardley
PO Box 81415

000-0000

Fairbanks AK 99708

Distribution Affiliation Reg Voter
60 01/2

Date POM Sent	Constituency	Bill Number	Response	Subject
Y	N	HB 68	Opposes	

I URGE YOU TO UPHOLD THE PRESENT LABOR LAWS OF THE STATE OF ALASKA WITH NO EXEMPTION GRANTED TO ANY ONE INDUSTRY.

short title VOLUNTARY FLEXIBLE WORK PLAN:

Mr Leonard Moffitt
PO Box 748

745-3384

Palmer AK 99645

Distribution Affiliation Reg Voter
60 01/2

Date POM Sent	Constituency	Bill Number	Response	Subject
Y	N	SB 60	Amend	

LADY SEATED IN A CHAIR WAS SHOT DEAD IN BACK OF HEAD BY GUEST IN COLD BLOOD. GIVEN NINE YEARS. ACQUAINTANCE AND POSSIBLE LOVER SHOT AN ATTORNEY TO DEATH, SAME JUDGE GAVE 88 YEARS SENTENCED. SHOWS THAT ONLY JURORS CAN ADMINISTER DEATH PENALTIES TO ELIMINATE JUDICIAL GANG CONFLICT OF INTEREST.

short title ADVISORY VOTE ON CAPITAL

Hon. Fran Ulmer
Our File No. 663-96-0085

February 3, 1997
Page 2

conditions on the initiative right that require strict compliance." Citizens Coalition v. McAlpine, 810 P.2d 162, 168 n. 14 (Alaska 1991); Alaskans for Legislative Reform v. State, 887 P.2d 960, 962 (Alaska 1994). We have researched several legal issues concerning the validity of this initiative.¹ At this stage of the initiative process, we are solely concerned with grounds for legal invalidity that are ripe for consideration before enactment. By this, we mean only alleged grounds for invalidity that fall within the restrictions set out in art. XI, sec. 7 of the Alaska Constitution.

Opponents of the initiative claim that the tort reform initiative contains a number of sections that constitute either procedural rules, or matters within the inherent rule making power of the court. In resolving this matter we must balance the often countervailing obligations to liberally construe initiatives so as to not unduly restrict their use and the obligation to carefully apply restrictions on the use of the initiative to protect the people against possible abuse. For the reasons set out below, we recommend that you deny certification of the initiative application because it appears that certain of the sections of the initiative prescribe court rules.

I. Prescription of Court Rules

In Citizens Coalition v. McAlpine, 810 P.2d 162 (Alaska 1991), the Court discussed the history and purpose of the constitutional prohibition on use of the initiative to prescribe court rules. The court concluded that the framers of the Alaska Constitution intended the restriction to remove certain "sensitive or sophisticated areas of legislation" from the sphere of the electorate. *Id.* at 170.² The effect of Citizens Coalition is to throw a broad net over the subject matter covered by the restriction. According to the court, there are two separate sources for rule-making power that are within the constitutional restriction on use of the initiative. First, under art. IV, sec. 15 of the Alaska

¹ We received memoranda from interested individuals in opposition to certification of the initiative. These include memoranda from Robert Wagstaff, Les Gara of Friedman, Rubin & White, and the law offices of Michael Schneider. These memoranda were provided to the sponsors and are kept in AG file no. 663-96-0085. The memoranda raise certain issues that are appropriate for a pre-election certification review under AS 15.45. However, some issues are appropriate to consider only after the initiative is enacted. Gara provided information intended to show that the initiative was unconstitutional, because the limit on non-economic damages contained in sec. 5 denied plaintiffs a right to trial by jury and equal protection. Wagstaff argued that the initiative would deny access to the courts and impair insurance contracts. While these memoranda may or may not raise valid legal issues, we decline to consider these matters as a part of a pre-election certification review.

² See, e.g., V. Fischer, Alaska's Constitutional Convention 80-81 (1975) (restrictions on direct legislation were meant to protect "critical areas" like the judicial system "against rash, discriminatory, and irresponsible acts").

Mr. Vern
790 Cessna Wy

Bouton

000-0000

Distribution Affiliation Reg Voter
57 01/2

Fairbanks AK 99712

Date POM Sent	Constituency	Bill Number	Response	Subject
Y	N	HB 68	Opposes	

I OPPOSE HB 68 AS IT AFFECTS ALL WORKERS IN THE STATE OF ALASKA IN A BAD WAY.

short title VOLUNTARY FLEXIBLE WORK PLAN:

Mr. Larry
PO Box 10636

W. Pardue

457-2617

Distribution Affiliation Reg Voter
57 01/2

Fairbanks AK 99710

Date POM Sent	Constituency	Bill Number	Response	Subject
Y	N	HB 68	Opposes	

OPPOSE HB 68 BECAUSE IT WILL AFFECT ALL WORKERS IN ALASKA AND LOWER LIVING STANDARDS. MEN FOUGHT AND DIED IN THE STREETS FOR A FORTY HOUR WEEK AND OVERTIME PERIOD.

short title VOLUNTARY FLEXIBLE WORK PLAN:

Mr. Royal
6301 Trappers Trail Rd

T Kiehl

561-1847

Distribution Affiliation Reg Voter
60 01/2

Anchorage AK 99516

Date POM Sent	Constituency	Bill Number	Response	Subject
Y	N		None	TOBACCO

PLEASE INCREASE THE TOBACCO TAX BY \$1 PER PACK.

short title

Hon. Fran Ulmer
Our File No. 663-96-0085

February 3, 1997
Page 3

Constitution, the court may prescribe rules governing "practice and procedure." Second, the court has "inherent" rule-making authority provided in the grant of judicial power in art. IV, sec. 1.

Opponents claim that at least four sections of the proposed initiative violate the prohibition against prescribing court rules. Sections 5, 6, and 7 allegedly violate the prohibition by adding court procedures to implement substantive rights created by the sections; and section 11 is claimed to violate the prohibition by prescribing a rule of evidence, a subject-matter inherently within the Court's rule-making authority. While we do not completely agree with the contentions of opponents, we believe the initiative does, in some respects, directly prescribe court rules, and for this reason must be rejected.

Each section is discussed separately below.

Section 7:

Sec. 7 of the proposed initiative, relating to allocation of damages, is set out using the "repeal and reenact" method. This technique makes it difficult to understand the true nature of the amendments to existing law, because all material in the section is set out as if it were a change to existing law. However, upon close inspection, it appears that much of sec. 7 is unchanged from existing law. The change in law proposed in sec. 7 would permit a jury to allocate a part of the fault for a tort to a person not a party to the action. The procedures set out in sec. 7 requiring the jury to answer certain interrogatories concerning the allocation of fault presently appears in law and would not be changed. These procedures are governed by existing court rules. Special verdicts and interrogatories are governed by Civil Rule 49; findings by the court are governed by Civil Rule 52; and entry of judgment is governed by Civil Rule 58. For this reason, we believe that the material contained in sec. 7 is consistent with existing law and court rules, and is not intended to prescribe new or amend existing court rules.³

³ Existing law, which contains the same procedural provisions, was originally enacted by the legislature in accordance with the procedure prescribed in Lege v. Martin, 379 P.2d 447 (Alaska 1963) for changing court rules, i.e., the bill was passed by a two-thirds majority, and stated that its purpose was to change court rules. Current AS 09.17.080, enacted in sec. 1 Ch. 139 SLA 1986, was passed as CCS SB 377 by over two-thirds majority of each house. See 1986 House Journal 3466-67; 1986 Senate Journal 2885-86. Section 5 and 7 Ch. 139 SLA 1986. We cannot be certain that a court would find that the reenactment of an existing court procedure amounts to an act "prescribing a court rule." If the initiative is resubmitted by the sponsors, we encourage them to draft the bill using the "repealing and reenacting" method with "restraint." See Manual of Legislative Drafting at 17 (Leg. Aff. Agency 1997). By doing this, the sponsor would avoid this alleged violation of the restriction.



Official Business

Alaska State Legislature

HOUSE AND SENATE FINANCE COMMITTEES

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

Date: January 29, 1997

To: All Legislators

From: Senator Drue Pearce, Co-Chair *Drue Pearce*
Senator Bert Sharp, Co-Chair *Bert Sharp*
Senate Finance Committee

Mark Hanley, Co-Chair *Mark Hanley*
Gene Therriault, Co-Chair *Gene Therriault*
House Finance Committee

Re: Department of Law - Executive Session Briefing on Oil and Gas
Litigation Efforts

The Attorney General and staff will provide interested members with an executive session briefing on the Department's oil and gas litigation efforts Thursday, February 6, at 4:00 p.m. in the House Finance Committee Room. As is customary, members will be asked to sign an agreement with the A.G. to assure the confidentiality of this information. We anticipate this meeting to last about one hour.

All members are invited and we particularly hope members of the Resource Committees and the House Oil and Gas Committee can attend.

cc: Attorney General Bruce Botelho
House Chief Clerk
Senate Secretary

1/31/97

CORRECTION

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



Central Microfilm Services
Department of Education & Early Development
State of Alaska



Official Business

Alaska State Legislature

HOUSE AND SENATE FINANCE COMMITTEES

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

Date: January 29, 1997 ✓

To: All Legislators

From: Senator Drue Pearce, Co-Chair *[Signature]*
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cc: Attorney General Bruce Botelho
House Chief Clerk
Senate Secretary

13753

Hon. Fran Ulmer
Our File No. 663-96-0085

February 3, 1997
Page 4

Section 5:

Section 5 of the proposed initiative also is claimed to violate the restriction against prescribing court rules. Section 5 seeks to amend AS 09.17.020, relating to punitive damage awards, by repealing current AS 09.17.020, and reenacting it in a substantially amended form to permit punitive damage only for "outrageous conduct, including acts done with malice or bad motives, or reckless indifference to the interest of another person." Sec. 5 would also cap the amount of damages at "three times the amount of compensatory damages awarded or \$300,000, whichever amount is greater." The procedural matter complained of involves proposed sec. 09.17.020(d) which provides:

(d) If a person receives an award of punitive damages, the court shall require that seventy five percent of the award be deposited into the general fund of the state. This subsection does not grant the state the right to file or join a civil action to recover punitive damages.

Section 5 of the proposed initiative (emphasis added).

The section does not specify the exact procedural mechanism to be used. Opponents claim that the initiative mandates the court to take some procedural action to effectuate the substantive right created by the section, i.e., the State's entitlement to seventy-five percent of punitive damage awards. They argue that the initiative impermissibly invades the rule-making power of the Court by "creat[ing] a right and then append[ing] procedures for the exercise of that right." citing Nolan v. Sea Airmotive, Inc., 627 P.2d 1035, 1043 (Alaska 1981). We do not agree. The initiative appears to leave the court free to implement any necessary procedures. The court is free to implement any necessary procedures. The court's rule making powers are not encroached upon if the procedures specified are "only incidental to the implementation of a substantive right." Winegardner v. Greater Anchorage Area Borough, 534 P.2d 541, 547 (Alaska 1975).

Section 11:

We agree with the argument of opponents that sec. 11 of the proposed initiative violates the prohibition against prescribing court rules. The subject-matter of sec. 11 is within the scope of the Court's rule-making power. The section would have the effect of enacting a statute that would be directly in conflict with an existing court rule of evidence by specifying qualifications for expert witnesses in professional malpractice cases. Sec. 11 proposes to amend AS 09.17 by adding a new section, sec. 09.17.090, to provide:

EXPERT WITNESS QUALIFICATION. (a) Except as provided under
(b) of this section, in an action based upon professional negligence, a person may not testify as an expert witness on the issue of the appropriate standard

The Republican Party of Alaska

January 28, 1997

TO: All SCC Members

FROM: Linda McKay, RPA Office Manager

RE: SCC Meeting in Juneau

As many of you know the SCC meeting will be held in Juneau, April 5, 1997. We have looked into the following ticket prices and hotel accommodations.

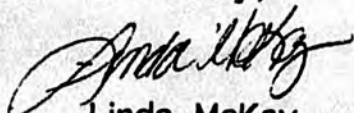
Alaska Airlines (1-800-445-4435) has given us a "V" Class price of \$110.00 one way from Anchorage to Juneau and a 5% discount fare of \$150.10 one way from Fairbanks to Juneau. Also, from Sitka to Juneau a 21 day advance fare of \$47.50 one way (rates subject to change and availability plus tax). It is up to each individual to make your own reservations. When you call them you will need the following information: MEETING ID NUMBER- CMR1952.

The Westmark Baranof (1-800-544-0790) has also given us a group rate of \$79.00 plus 12% bed tax for one or two people for those of you wanting to stay over night. Again, it is up to you to make your own reservations by 3/21/97. The rooms are being held under The Republican Party of Alaska.

We are at this time trying to plan a tour of the Capitol and also a dinner/dance through the Young Republicans. We will let you know more about these events as the time approaches for the meeting.

If you have any questions please do not hesitate to call me at 276-4467.

Sincerely,



Linda McKay
RPA Office Manager



Headquarters: 1001 West Fireweed Lane • Anchorage, AK 99503 • (907) 276-4467 • Fax 276-0425

CORRECTION

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



Central Microfilm Services
Department of Education & Early Development
State of Alaska

The Republican Party of Alaska

January 28, 1997

TO: All SCC Members

FROM: Linda McKay, RPA Office Manager

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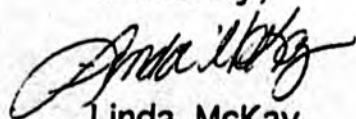
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If you have any questions please do not hesitate to call me at 276-4467.

Sincerely,



Linda McKay
RPA Office Manager



Headquarters: 1001 West Fireweed Lane • Anchorage, AK 99503 • (907) 276-4467 • Fax 276-0425

Hon. Fran Ulmer
Our File No. 663-96-0085

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Page 5

of care unless the witness is a professional who is licensed in this state, or is licensed in another state or country and

(1) is trained and experienced in the same discipline or school of practice as the defendant or in an area directly related to a matter at issue; and

(2) is certified by a board recognized by the same state as having acknowledged expertise and training directly related to the particular field or matter at issue.

(b) The provisions of (a) of this section do not apply to a person who is testifying on the appropriate standard of care in a profession that is not licensed in this state, or another state or country, and who the court determines is qualified as an expert witness.

(c) "Professional negligence" means a negligent act or omission in rendering professional services.

Section 11 of the proposed initiative. This section conflicts with Evidence Rule 702(a) by specifying certain qualifications for expert witnesses in malpractice cases.⁴

Section 11 would effectively change Rule 702(a) by requiring a witness to be licensed and board certified in the same field or matter at issue in order to qualify as an expert witness. Rule 702(a) provides that a witness may qualify as an expert witness based on either "knowledge, skill, experience, training or education." It does not require licensing or board certification.

Section 11 involves the same subject-matter, and directly changes, an existing court rule. For purposes of this analysis, it is immaterial whether section 11 is classified as "procedural" or "substantive." If regarded as procedural, then it falls within the ambit of the Court's art. IV, sec. 15 rule-making power. If regarded as substantive, then Evidence Rule 702(a) must also be ✓

⁴ Evidence Rule 702(a) provides:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

<u>Name of Lobbyist</u>	<u>Contract/Salaried</u>	<u>Subject</u>	<u>Name of Client/Employer</u>	<u>Termination Date</u>
WESSELS, Paul D. PO Box 196612, MB6-4 Anchorage, AK 99519 907-564-4039	Salaried Employee	Oil/Gas	BP Exploration (Alaska) Inc.	
WEYRAUCH, Bruce B. 302 Gold Street Juneau, AK 99801 907-586-2210	Contract Lobbyist Contract Lobbyist Contract Lobbyist	Fisheries Marine Pilots Fisheries	AK Crab Coalition SE AK Pilot's Assn. Valdez Fisheries Development Assn.	
WILLIAMS, Thomas K. PO Box 196612 Anchorage, AK 99519 907-564-5955	Salaried Employee	Oil/Gas	BP Exploration (Alaska) Inc.	
YOULD, Eric P. 703 W Tudor Road, #200 Anchorage, AK 99503 907-561-6103	Salaried Employee	Electric Utilities	AK Rural Electric Cooperative Assn.	

Hon. Fran Ulmer
Our File No. 663-96-0085

February 3, 1997
Page 6

regarded as substantive, and as an exercise of the Court's substantive rule-making authority under art. IV, sec. 1.⁵ Either way, section 11 impermissibly attempts to prescribe a court rule.

This conclusion is consistent with recognized treatises on civil and legislative procedure. See Joiner & Miller, Rules of Practice and Procedure: A Study of Judicial Rule Making, 55 Mich.L.Rev. 623, 651 (1957) ("Most rules of evidence involve only the orderly dispatch of judicial business and should be subject to court rule"); 3A Singer, Statutes and Statutory Construction, § 67.07 at 78 (5th ed.) (the rules of evidence are generally regarded as procedural); 9 Wright & Miller, Federal Practice and Procedure, § 2405 (rules of evidence are generally regarded as procedural for purposes of the Erie doctrine, and the Federal Rules of Evidence apply in diversity cases). When a new testimonial privilege for marital and family therapists was created in 1992, the legislature enacted a bill in accordance with the constitutional requirements for changing court rules. See sec. 12 ch. 129 SLA 1992.

This conclusion is also consistent with decisions of the Alaska Supreme Court and Court of Appeals, holding that legislative amendments to the rules of evidence must follow the constitutional procedure for amending "court rules" of practice and procedure under art. IV, sec. 15.

In Allred v. State, 554 P.2d 411 (Alaska 1976), the court recognized the existence of a psychotherapist-patient testimonial privilege, even though it was not provided by a court rule or statute. Following the Court's decision in Allred, the commentary to Rule 504 now states:

⁵ In Citizens Coalition v. McAlpine, supra, the Court noted that the distinction between "substantive" and "procedural" is not dispositive in determining whether an initiative violates the prohibition against prescribing "court rules" where the rule falls within the ambit of the Court's inherent rule-making authority under art. IV, sec. 1:

Appellants argue that a limit on contingent fees cannot be a rule of court because such a limit is a matter of "substance" and not "procedure." This argument would carry more force if the rule at issue here were one we might adopt under the authority of article IV, section 15 of the Alaska Constitution, which vests in the court the power to adopt rules of administration, practice, and procedure. We have found, however, that a limit on contingent fees invokes our powers under article IV, section

1. Consequently, the distinction between procedural and substantive rules, while still important, is not dispositive, because our judicial power includes the authority to regulate with greater substantive effect inside the limited ambit of the judicial system, than we could under our article IV, section 15 powers. Thomas v. State, 566 P.2d 630, 636-38 (Alaska 1977); cf. State v. Williams, 681 P.2d 313, 316 (Alaska 1984); Nolan v. Sea Air motive, Inc., 627 P.2d 1035, 1042-43 (Alaska 1981).

Id. at 167 n. 10.

Name of Lobbyist	Contract/Salaried	SUBJECT	NAME OF CLIENT/EMPLOYER
SPRINGER, Heinrich 4041 B Street Anchorage, AK 99503 907-561-5354	Salaried Employee	Construction	Associated General Contractors
STILES, Robert B. 711 H Street #600 Anchorage, AK 99501 907-279-6868	Salaried Employee	Mining	DRven Corporation
STONE, David G. 3100 Channel Drive #2 Juneau, AK 99801 907-463-5704	Salaried Employee	Mining	Echo Bay Mines
STOOPS, Reed 240 Main Street #600 Juneau, AK 99801 907-463-3232	Contract Lobbyist Contract Lobbyist Contract Lobbyist Contract Lobbyist Contract Lobbyist Contract Lobbyist Contract Lobbyist	Entertainment Insurance Telecommunication Transportation Marine Highways Public Broadcasting Mining Mining	Motion Picture Assn. of America Aetna Life & Causalty General Communication Inc. Lynden, Inc. Port of Bellingham Alaska Public Broadcasting Kennecott Greens Creek Mine Fairbanks Gold
TESAR, Kate AK Services Group PO Box 22754 Juneau, AK 99802 907-463-5657	Contract Lobbyist Contract Lobbyist	Local Government Fisheries	City of Cordova Taku Fisheries
THIBODEAU, Robert 1616 Glacier Avenue Juneau, AK 99801 907-586-2138	No Compensation	Self	Robert Thibodeau
THOMAS, Bill PO Box 942 Haines, AK 99827 907-766-3365	Contract Lobbyist Contract Lobbyist Contract Lobbyist	Local Government Fisheries Utilities	North Slope Borough United SE Alaska Gillnetters Kito, Inc.