

55 HJ: FOLDER 1A (MATERIAL ON MISCELLANEOUS BILLS)

## Part V

# GEOGRAPHICAL LISTING OF MEMBERS

### ARIZONA

*Active*  
Figuerettes, Inc.

### CALIFORNIA

*Active*  
Century Metalcraft Corporation  
Con-Sun Industries, Inc.  
Edith Rehnborg Cosmetics  
Family Record Plan, Incorporated  
Heritage  
Nutralite Products, Inc.  
Shaklee Products

*Associate*  
Belora Fine China Products, Inc.  
Blue Cross Laboratories  
Spatz Laboratories

### COLORADO

*Active*  
Cyclo Manufacturing Company  
Homemakers Guild of America

*Associate*  
American Salesmasters, Ltd.

### CONNECTICUT

*Active*  
The Fuller Brush Company  
Spencer Incorporated

### FLORIDA

*Active*  
Atlantic Industries, Inc.  
Tupperware Home Parties  
Vanda Beauty Counselor

*Associate*  
The Management Team, Inc.  
Vacation Prizes, Inc.

### ILLINOIS

*Active*  
Beeline Fashions, Inc.  
Deanne LaVé, Ltd.  
The Easterling Company, Inc.  
Field Enterprises Educational  
Corporation  
Health-Mor Inc.  
Judy-Lee Jewels  
Moorman Mfg. Co.  
Nightingale-Conant Corporation  
The Process Corporation  
Queen's-Way to Fashion, Inc.  
The W. T. Rawleigh Company  
Studio Girl-Hollywood, Inc.  
Time-Life Libraries, Inc.

*Associate*  
Alden Press, Inc.  
Clay Agency, Inc.  
Consulting Associates, Inc.  
Cory Corporation  
Dill-Clitherow and Company  
DuKane Corporation  
Eureka Williams Company  
Fawcett Printing Corp.  
Grant, Wright & Baker, Inc.  
Knox Associates, Inc.  
Kranzten Studio, Inc.  
Nightingale-Conant Corporation  
Salesman's Opportunity Magazine  
Singer Fur Co., Inc.  
Specialty Salesman and Franchise  
Opportunities Magazine, Inc.  
Standard Educational Corporation  
Sunbeam Appliance Company

### INDIANA

*Active*  
Realsilk, Inc.  
Society Corporation

*Associate*  
Future Enterprises, Inc.  
RCA Sales Corporation

**IOWA***Active*

Home Reference Library, Inc.

**KANSAS***Active*

Celebrity, Inc.

Vita Craft Corporation

*Associate*

DeVore &amp; Sons, Inc.

**MASSACHUSETTS***Active*

The Charles Chester Shoe Co.

Stanley Home Products, Inc.

*Associate*

American Optical Corporation

The MCB Company

**MICHIGAN***Active*

Amway Corporation

**MINNESOTA***Active*

Fashion Wagon

McConnon and Company

Minnesota Woolen Company

The Playhouse Company, Inc.

Watkins Products, Inc.

*Associate*

Norplac, Inc.

**MISSISSIPPI***Associate*

The M. H. Graham Corporation

**MISSOURI***Active*

Luzier Incorporated

Stark Bro's Nurseries &amp; Orchards Co.

*Associate*

Motivators, Incorporated

**NLW JERSEY***Active*International Hostess Enterprises,  
Inc.

Lisa Jewels Co.

Mid-Atlantic Home Shopping Service  
Co., Inc.

Tri-Chem, Inc.

Wheatonware, Inc.

*Associate*

Oxzy Company

Wm. Stroh, Inc.

**NEW YORK***Active*

Avon Products, Inc.

Caroline Emmons

Electrolux

Nobility-Prestige Co.

Sarah Coventry, Inc.

C. H. Stuart &amp; Co., Inc.

C. W. Stuart &amp; Co.

*Associate*

Alba-Waldensian, Inc.

Americana Products

Channel Master Corp.

Coro, Inc.

Dreher Advertising, Inc.

DuBarry-Fifth Avenue, Inc.

Duveen Soap Corporation

Helbros Watches

International Flavors & Fragrances,  
Inc.Kayser-Roth Special Marketing  
Division

Morse Electro Products Corp.

Norda Essential Oil & Chemical Co.,  
Inc.

Oneida Ltd.

Revelation Plastics, Inc.

Springs Mills, Inc.

C. H. Stuart &amp; Co., Inc.

Syroco

Travellers Premium Company, Inc.

United Metal Goods Mfg. Co., Inc.

UOP Fragrances U.S.

## **NORTH CAROLINA**

### *Active*

Bible House Catholic Guild  
Doncaster, Inc.  
Keller Cosmetics, Inc.  
Renn Enterprises, Ltd.

## **OHIO**

### *Active*

Artex Hobby Products, Inc.  
Children's Records, Inc.  
Cutco Division (Wear-Ever  
Aluminum, Inc.)  
Fashion Frocks, Inc.  
Fashion Two Twenty, Inc.  
Highlights for Children  
The Kirby Company  
Rubbermaid, Inc.  
The Scott & Fetzer Co.  
Wear-Ever Aluminum, Inc.

### *Associate*

Anchor Hocking Corporation  
The Hewitt Soap Company, Inc.

## **PENNSYLVANIA**

### *Active*

American Foresight, Inc.  
The Hanover Shoe, Inc.

### *Associate*

American Manor China & Crystal  
The Jeannette Glass Company

## **RHODE ISLAND**

### *Associate*

Richards & Sargent, Inc.

## **TENNESSEE**

### *Active*

Catholic Publishers, Inc.  
John H. Daniel Co.  
Lucky Heart Cosmetics, Inc.  
National Book, Inc.  
The Southwestern Company

## **TEXAS**

### *Active*

Beauticontrol, Inc.  
HomCare  
Home Interiors and Gifts, Inc.  
Mary Kay Cosmetics, Inc.  
National Photographers Album Co.  
Success Motivation Institute, Inc.

### *Associate*

Success Motivation Institute, Inc.  
Thuron Industries, Inc.

## **UTAH**

### *Associate*

O. C. Tanner Co.

## **VIRGINIA**

### *Active*

Anna Elizabeth Wade  
Blair Quality Products  
Chap Stick Company  
The Stuart McGuire Company, Inc.

### *Associate*

Brand and Edmonds Associates

## **WASHINGTON**

### *Active*

Rena-Ware Distributors, Inc.  
Zyleo Cutlery

## **WISCONSIN**

### *Active*

Isle of Aloe, Inc.  
Mason Shoe Mfg. Co.  
Regal Ware, Inc.  
The West Bend Company

### *Associate*

The Parker Pen Company  
Regal Ware, Inc.  
Spare Time Magazine  
The West Bend Company

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of the sale which shall be stated in clear and unambiguous language and in readable type comparable in size with all other type thereon.

### **Recruiting Advertisements**

11. An industry member may not use any advertisement which is false, misleading, or deceptive concerning:

- a. the salary, commission, income, earnings, profits, or other remuneration which sales-contact personnel receive or may expect to receive; or
- b. the chances or opportunities for such remuneration.

Any reference to the amount of compensation should be based on actual, typical earnings.

### **Illustrations**

12. Illustrations of advertised merchandise shall conform without exaggeration or essential difference to the appearance of the merchandise actually on sale, or being offered for sale. Any featured price used in proximity to an illustration shall be the price of the illustrated unit.

### **Chain Referral Selling**

13. No industry member shall use an illegal chain referral sales plan or other scheme for the distribution of prizes, premiums, or gifts by illegal lottery.

### **Multi-Level Sales Plans**

14. All multi-level sales plans shall conform to existing laws and avoid exaggerated earnings possibilities.

### **Cancellation of Contracts**

15. Upon receipt of evidence of fraud, misrepresentation, or undue influence, members

of the industry shall cancel contracts and refund deposits.

### **Deceptive Offers**

16. No member of the industry shall make misleading or deceptive statements to induce a purchase by representing that the prospect receives "something for nothing"; that a survey or quiz is being conducted; that, because of the standing of the prospect in the community, the person is to receive special gifts or price considerations; that the prospect was unknowingly entered in a contest and won a prize; or that the prospect will receive benefits in price, quantity, quality, gifts, service, or guarantee without disclosing and clearly explaining full details.

The National Association of Direct Selling Companies, together with its individual members, pledge to seek full compliance with these ethical standards by all engaged in direct selling.

The National Better Business Bureau pledges continuing review of advertising and selling practices in the direct selling industry to the end that conformity to these standards may be perfected throughout the entire industry. The National Better Business Bureau pledges its full facilities to implement these standards through a continuing program of review and eliminating through persuasion and cooperation all violations of this code.

The distribution of this booklet should not be considered an endorsement by the National Better Business Bureau of any security, product, service, or concern. This information, which is believed to be accurate and impartial, is for the benefit of consumers and is not to be used for sales or promotional purposes.

# THE RIGHT THING TO DO

**A Code of Business Responsibility**



**NATIONAL BETTER BUSINESS  
BUREAU, INC.**  
230 Park Avenue  
New York, N.Y. 10017

**NATIONAL ASSOCIATION OF  
DIRECT SELLING COMPANIES**  
1730 "M" Street, N.W.  
Washington, D.C. 20036

**V**oluntary adherence to high ethical standards preserves integrity and fairness in the direct selling industry, its manufacturers, distributors and salesmen. Faithful compliance with these standards will increase public confidence in the direct selling industry and thereby help to protect the consumer and legitimate business from unfair and deceptive practices.

Direct sellers include all persons, firms, corporations and organizations engaged in the sale or offering for sale of any kind of product by direct personal contact with consumer-purchasers, or prospective consumer-purchasers, at their home or other places not on the premises of the suppliers or sellers. It excludes those retail establishments that distribute primarily through stores, but also employ in-home selling techniques.

The National Association of Direct Selling Companies and the National Better Business Bureau jointly endorse this program of standards and urge others engaged in direct selling to adhere to them.

### **Scope**

These standards apply to oral representations made for the purpose of selling or including the sale of commodities or services marketed by the direct selling process. They also apply to advertisements and advertising promotion in any form.

### **Accuracy**

1. All statements, written or oral, by industry members, shall be accurate, free of the capacity to mislead or deceive the consumer and shall reveal material facts, the concealment of which might cause customers to be misled.

### **Competition**

2. All statements, whether written or oral, by industry members, shall offer merchandise or service on its merits and refrain from attacking competitors or disparaging their products, services or method of doing business.

### **Guarantees**

3. Guarantees and warranties offered by industry members shall be in writing and adequately and completely disclose their exact scope, limitations, and conditions and shall make clear who is responsible for their fulfillment. Guarantees shall not exceed in time the useful life expectancy of a product. Lifetime guarantees shall be avoided. All sales or promotional references to guarantees shall state in immediate conjunction therewith all material conditions and limitations and the name of the guarantor.

### **Sales Pricing**

4. Any price saving claims, whether oral or in writing, shall make clear whether the saving is from:
- a. The seller's usual and customary price for the article in the recent regular course of business; or
  - b. The current going price of the same articles in the market area; or
  - c. The current going price of comparable articles in the market area.

No product shall be "pre-ticketed" with any price figure which exceeds the price at which it is regularly and usually sold. The use of "list" prices, which are not the usual and customary retail prices, shall be avoided.

### **Free Offers**

5. If the word "free" is used to describe an item available to the public with the purchase of

some other article during a limited time period, the purchased article must be sold at its usual and customary price in exactly the same form as to size, quality and quantity. An item or service which is regularly and continuously sold in combination with another item for a stated price shall not be represented as "free."

### **Bona Fide Offers**

6. All offers shall be bona fide and the merchandise offered must be available promptly in reasonably adequate quantities, freely shown and sold without disparagement at the featured price to any customer responding to the offer.

### **Superlative Factual Claims**

7. Members of the industry shall avoid the use of superlative claims, such as "world's smallest unit" or "rated number one," unless based on fact, and sellers must be prepared to substantiate with facts their use of such claims.

### **Contracts in Blank**

8. No member of the industry shall induce a buyer to sign an order form or contract in blank regardless of the reason given for so doing. A completed copy of the contract should always be provided to the buyer.

### **Negotiable Instruments**

9. Members of the industry should state, if such be the fact, that a contract or a negotiable instrument signed by the customer in connection therewith, may be sold or assigned to a financial institution.

### **Written Orders**

10. All members of the industry must deliver to the customer at the time of sale a written order or receipt setting forth the name and address of the seller and all of the terms and conditions

HB 174



# DIRECT SELLING ASSOCIATION

1730 M STREET, N. W., SUITE 610 • WASHINGTON, D. C. 20036 • (202)293-5760

February 23, 1971

The Honorable William J. Moran  
Chairman  
Judiciary Committee  
House of Representatives  
State Capitol  
Juneau, Alaska 99801

Dear Representative Moran:

Please send me the date, time and place of any public hearings scheduled for House Bill 174. Thank you.

Cordially,

A handwritten signature in cursive script that reads "Bernadette Chapin". The signature is written in black ink and is positioned above the typed name and title.

(Mrs.) Bernadette Chapin  
Legislative Secretary

Enclosures

the RIGHT of  
FREE MEN  
to ENGAGE in  
LEGITIMATE  
BUSINESS

*Published by National Better Business Bureau, Inc.  
230 Park Avenue, New York, N. Y. 10017*





## the RIGHT of FREE MEN to ENGAGE in LEGITIMATE BUSINESS

**T**HE right of free men to engage in legitimate business is exemplified by the door-to-door salesperson who is so familiar a part of the contemporary American scene. He can trace his ancestry to the very birth of our traditional system of free trade and enterprise. In the beginning, the "Yankee peddler" was one of the few means for the distribution of goods and he played a vital part in the early widening of our frontiers. On foot, on horseback and then in wagons, as roads supplanted Indian trails, he traveled from settlement to settlement and farm to farm bringing the inhabitants the manufactures of the towns and cities. With his stocks of tinware, brass, clocks, jewelry and silverware, hats, shawls and laces, drugs and chemicals, pottery, books, brooms, knives and woodenware, cotton and silk goods, the ancestor of today's direct sellers made an indispensable contribution to the early growth of industrial America. He opened markets for the products of struggling manufacturers and modern house-to-house salesmen often perform much the same function.

### PIONEERING SMALL BUSINESSMEN

These venturesome small businessmen pioneered in establishing the right of free men to engage in legitimate business. Their markets expanded with the establishment of roads, canals, the railroad and the automobile. At the same time, these improved means of transportation reduced the number of people who were originally almost entirely dependent on these salesmen to obtain manufactured goods. It became easier for people to supply their wants from retail stores or mail order houses which, with direct selling, constitute our three principal forms of merchandising. That the "Yankee peddler" has survived

and greatly multiplied himself in the form of the contemporary direct-to-the-home salesperson would in itself indicate that direct selling makes contributions of definite value to our way of life.

These contributions are not always readily apparent or fully appreciated. Even in Colonial days, house-to-house vendors were the victims of prohibitive or punitive legislation. The history of this country is replete with examples of the folly of building barriers against legitimate trade, and laws designed to accomplish this purpose are invariably repealed or fall into disuse. Nevertheless, and despite all the lessons of experience, there are those who would persist in denying to direct sellers the right of free men to engage in legitimate business.

sewing machines, washers and other home appliances; brushes, mops, cleansers and kindred household necessities; animal feeds; children's wear, dresses, foundation garments, hosiery, knitwear, lingerie, raincoats, shirts, shoes, men's and women's suits and coats, uniforms and work garments; cooking ware and tableware; nursery stock; oils, paints and varnishes; fire extinguishers, blankets and household furnishings and specialties of all kinds; plastic housewares; greeting cards, magazines, encyclopedias and other books, not the least of which is The Bible. All these and many other goods or the immediate means of obtaining them, are brought to your door by approximately 2,000,000 direct salespeople.

## WHO ARE THE DIRECT SELLERS?

The great majority of these men and women are your neighbors. The original "Yankee peddler" who carried his pack from settlement to settlement has his descendants in the itinerant salesmen of today and these transient vendors are among the best customers of such local business firms as hotels and motels, garages and service stations, laundries, dry cleaners, restaurants and many others. And the money they spend in these establishments has a way of filtering into other business channels in the community.

Nowadays, however, the itinerant is the exception rather than the rule in house-to-house selling. Actually, 88% of all direct salespersons live in the communities in which they carry on their work. The dollars they earn are returned to the community to purchase food, shelter and clothing for themselves and their families. Their savings are entrusted to the safekeeping of local banks. They vote, participate in local activities, go to church, and send their children to school in the community in which they gain their livelihood. Many of them are members of Rotary, Kiwanis, Chambers of Commerce, Parent-Teacher Associations and other organizations through which they make further contributions to community welfare.

Is it fair to single out these direct sellers by subjecting them to restrictive ordinances?

## AMERICA'S SMALLEST BUSINESSMEN

According to a nation-wide survey, the average age of the direct salesperson who calls at your door is between 30 and 45, and he will have been engaged in sales work for approximately five years. He is probably married (87%) and has children (79%). Eighty-nine percent of these men and women own cars. Seventy-one percent own their own homes and have the same problems of fuel and repairs and taxes that other home owners do. In fact, 88% pay local taxes in the communities in which they do their selling.

America's smallest businessman, the direct salesperson occupies an established place in the business and social structure of his community. Do you favor legislation that would deny him his right to engage in legitimate business?

## DIRECT SELLING IS LOCAL BUSINESS

Aside from these independent salesmen, a surprising number of established local business firms of an average community use direct selling methods. They include:

Automobile dealers	Laundries
Bakeries	Newspapers
Bottled gas dealers	Oil burner dealers
Dairymen	Plastic houseware dealers
Department stores	Real estate agencies
Electric light and power company	Refrigerator dealers
Electric appliance dealers	Roofing, siding and insulation dealers
Frozen food dealers	Storm window dealers
Fuel oil dealers	Sewing machine agencies
Gas company	Truck gardeners
Insurance agents and agencies	Vacuum cleaner dealers
	Venetian blind dealers

Local business firms like these use direct selling to obtain new customers, to introduce a new product or service and for other purposes which account for a major portion of their business.

Clubs and fraternal organizations, the Girl Scouts with their cookies, the most respected groups in the community frequently use direct selling as a means of raising funds for useful civic and charitable purposes.

## DIRECT SELLING AND RELIGION

The churches of the community often make effective use of direct selling methods. For example, most religious newspapers and periodicals obtain their circulation through house-to-house canvassing. Referring to the Green River Ordinance, the reverend director of the nation's largest Catholic magazine has stated:

"Ordinances of this type, even if not strictly enforced, would be disastrous to us and have great harm for the cause of religion, since it would be impossible to keep employees if they were constantly living under the threat of being harried by the police in various communities."

Other clergymen have declared that the ordinance would interfere with the sale of Bibles and Bible-reading materials to people in their homes. "It violates the very commission and injunction given by Jesus Christ to evangelize the whole world with His gospel," said the executive secretary of the Board of Home Missions of the Baptist General Conference.

## DIRECT SELLING AND EDUCATION

The Bible is the greatest, but only one of the great books, which require direct selling methods for their distribution. It is a fact that every great reference work and encyclopedia is dependent for its existence on sales direct to the home. Only in this way can the educational value and general usefulness of these books be adequately explained by a trained representative. The success of modern educational methods depends upon the widespread availability of this kind of reference material, and direct selling is the only way that has been found to market these books successfully without prohibitive cost to the buyer.

Direct selling is a major factor in the great circulations of the magazines of America. And a big share of the circulations of most of our daily newspapers is from orders placed with carrier boys.

Direct selling contributes to the educational opportunities which are so largely responsible for the greatness of our nation in still another way—through the effective use of college students who must earn their education. It gives remunerative vacation time employment to thousands of students, and thousands more augment their income by door-to-door sales on college campuses and their environs during the school year.

## AIDING THE HANDICAPPED

Others who must limit themselves to part-time activity find direct selling peculiarly adapted to their needs because the direct salesperson is his own boss. As an independent businessman, he can tailor his working hours to fit his individual circumstances, recognizing that his earnings will be in direct ratio to his own efforts and his own ability.

Widowed mothers may find a career in direct selling the only means by which they can support their families and, at the same time, perform their household duties. Persons living on inadequate pensions and others who need more income often turn to direct selling to increase their earning capacity. Housewives welcome the opportunity for part-time work that direct selling offers.

## INTRODUCING NEW PRODUCTS

A list of the products, now in everyday use but originally introduced by direct sellers, would read like an inventory of the average, comfortable American household. There are certain kinds of products which seem to demand the direct demonstration method of selling to introduce them when they are first placed on the market. Apparently it is not enough to tell people how they can benefit from the possession of these goods; they must be shown in their own homes. The vacuum cleaner, the washing machine, the sewing machine and

many others were introduced to the American public in this way and continue to be sold economically and effectively by the same methods. Direct selling is largely responsible for the modernization of American home equipment, comforts and labor saving features.

The safety razor and many small articles selling at a low price have been equally dependent on the pioneering efforts of the direct salesperson to introduce them to the public. Can you imagine a modern kitchen without a can-opener? The inventor and original manufacturer of one of the finest can-openers on the market tried in vain to obtain a market through the channels of jobber and retailer. Imminent bankruptcy practically forced him to turn to solicitors to distribute his invention. Through their efforts it rapidly gained such a good reputation that, three or four years later, the inventor was able to resume selling through stores. He did so with great success because the public demand had now been created by direct selling.

## CREATING CONTINUING DEMAND

Thus, the door-to-door salesman is a creative, educational force in our economy. He does not take a market away from the local merchant so often as he creates a new market where none existed before. In the long run, the retail merchant benefits from the creative selling and personal demonstrations of the direct seller. He is the pioneer who introduces the new product. He is the educator who makes the consumer aware of his need for the merchandise. He creates the buying desires which develop into an expanding market. The result is that every sale made by the direct seller is multiplied over and over again and these sales, for the most part, go to the local merchant.

## DIRECT SELLING AN EMPLOYER AND BUYER

The fifteen hundred companies engaged in direct selling employ more than a million workers to manufacture their merchandise and distribute it to the 2,000,000 direct salespersons. This is in addition to the indirect employment given to thousands of other employees of railroads, trucking companies and local warehouses utilized in the process.

The suppliers of direct selling companies are located in cities and towns all over the United States. Mining towns, paper towns, lumbering towns, manufacturing towns, railroad towns—all are part of the web of industry furnishing the raw materials, the tools, the parts, the finished products and the services that go into the manufacture and merchandising of the goods that are brought to your home by the door-to-door salesman. For example, there are thirty-two different parts, produced by as many companies, which must be purchased for the manufacture of a single home-sold vacuum cleaner.

Fourteen different kinds of tools and equipment must be purchased from other manufacturers to build the cleaner. Dozens of other auxiliary services and materials are utilized by this direct selling manufacturer. The suppliers and distributors to direct selling are a diversified cross-section of industrial America. A survey of a single major city, Chicago, disclosed over 1600 companies involved in supplying basic merchandise and material to the direct selling industry.

### DIRECT SELLING AND LABOR

The arbitrary abolition of direct selling through widespread adoption of restrictive ordinances would have a crippling effect on industrial production that would be felt throughout the length and breadth of the land. Unemployment figures and relief rolls would soar because American business could not fail to be grievously injured by the mortal wounding of one of its integral parts. This threat to employment has evoked from labor leaders widespread condemnation of such ordinances.

### ABUSES IN DIRECT SELLING

It has been argued that prohibitive or restrictive legislation is needed to protect the citizens of a community from being defrauded or abused by villainous salesmen. There is a small minority of fraudulent direct sellers just as there is a small minority of dishonest retailers and mail order firms. Yet, out of 515,662 complaints received by the nation's Better Business Bureaus in a given year, only one and one-half percent involved direct selling generally.

Honest direct sellers carry credentials to identify themselves as the bona fide representatives of honest companies. They do not demand payment in full until merchandise is delivered nor do they accept money without issuing a receipt. They leave a copy of any contract that has been signed.

The direct selling industry as a whole has pledged its members to a course of fair dealing with its customers. Witness the following Statement of Principles adopted by the National Association of Direct Selling Companies and its member firms on September 17, 1954:

We believe:

1. That salespersons, by creating demands for goods, help provide the American people with employment and the world's highest standard of living and that those who devote their lives to selling are making important contributions to the welfare of our nation.
2. That salespersons in all fields must observe the highest standards of integrity, frankness and responsibility in dealing with consumers, and that, in all selling:

- (a) Descriptions of products must be truthful, and terms of sale clearly stated;
- (b) Honesty is required in the approach to a sale; and
- (c) Courtesy to a prospective customer, and consideration of his needs, are prime essentials of all selling.

3. That the National Association of Direct Selling Companies endorses the efforts of national, state and local organizations, such as the National Better Business Bureau, the Chamber of Commerce of the United States, and local Better Business Bureaus, Chambers of Commerce and Commercial Clubs to establish and maintain high standards of truth and fair practices in the sale of all merchandise.

The overwhelming majority of direct sellers are honest vendors of honest merchandise. To demolish a multi-billion dollar industry in the hopes of catching a few thieves on its fringe is like burning down a barn to roast a pig. It violates a cardinal rule of American justice—deeply rooted in the fundamentals of fair play—that it is better for some who are guilty to escape than for the innocent to suffer.

### SHALL THE INNOCENT SUFFER?

Curiously, while the prohibitive or restrictive type of ordinance would effectively bar from business the great majority of law abiding direct sellers, it offers no guarantee of protection against the swindler. Laws can be devised to punish fraud but no laws have ever been found which would prevent the perpetration of fraud by those who have no respect for the law.

Those householders who prefer to have no dealings with direct sellers have a simple remedy. They can post their premises, secure in the knowledge that legitimate salespersons will not trespass upon their privacy. Any irresponsible or dishonest vendors who do so should be reported to the police. There is every reason to believe, however, that the majority of people welcome the special services the direct seller brings to their door and would resent a law that dictates against their buying as they choose, in city after city where prohibitive ordinances have been submitted to popular vote they have been roundly defeated.

Every community has laws, or should have laws, to punish the minority of direct sellers and other business renegades who are guilty of fraud, misrepresentation or deceit. Enforcement of these laws would seem to be the practical solution to the problem where it exists. It can be done without denying to free men the right to engage in legitimate business serving the needs and convenience of the community and contributing to the economic strength of the nation.

### NATIONAL BETTER BUSINESS BUREAU, INC.

## RESTRICTIVE ORDINANCES

More than thirty years ago, the little town of Green River, Wyoming, passed an ordinance, which made it a nuisance, punishable as a misdemeanor, for a person to go in and upon a private residence for the purpose of selling merchandise unless the salesman had been requested or invited to do so by the occupant of the premises. Laws similar to this Green River Ordinance have since been adopted by a number of, for the most part, small communities.

For all practical purposes, the effect of these ordinances, if enforced, is to destroy direct selling as a lawful means of conducting business. In fact, as the late Chief Justice Vinson of the United States Supreme Court stated in a notable decision:

**"In my view, the ordinance is a flat prohibition of solicitation."**

Naturally, the constitutionality of any law that denies to free men and women the right to engage in legitimate business has been and will be vigorously challenged. Even though the Supreme Court of the United States ruled in 1951 that the Green River Ordinance does not violate Federal constitutional law the ruling in no sense legalized the ordinance in communities where it has been held to violate State constitutional law. It did not take away from the states the right to determine the validity of the ordinance for themselves under the provisions and limitations of their basic laws. In the 19 states where the Green River Ordinance has been challenged, the highest courts of 12 states have ruled that this type of ordinance is unconstitutional in those states.

Some communities have passed other types of ordinances which are also, in effect, prohibitive of direct selling. Some have adopted registration requirements with long waiting periods before the direct seller can legally go to work. Others have levied fees that, in the aggregate, impose an intolerable toll on legitimate direct selling firms and the people selling their merchandise. Some ordinances require that these sales people submit themselves to fingerprinting and photographing, like criminals; others require health certificates. Regardless of how well intentioned, these and similar restrictive ordinances are in effect prohibitive of direct selling because the survival of honest direct selling is jeopardized by such discriminatory restrictions.

Any governmental unit has, of course, the right validly to exercise its tax and police powers. One may ask, however, whether these powers should be exercised in a prohibitive manner, singling out direct selling—from all other forms of selling—for regulation, taxation and other discriminatory measures? The National Better Business Bureau believes that such legislation violates the spirit of fair play that has made American business great.

Quite apart from legal considerations, thoughtful citizens of every community where prohibitive or restrictive ordinances are proposed should ask themselves whether the prohibition of door-to-door selling will serve their interests, the interests of their community, and the broader interests of the nation.

## WHAT IS DIRECT SELLING?

Direct selling is one means of getting goods out of the hands of the producer and into the hands of the consumer. Like the retailer and the mail order house, the door-to-door salesman is a cog in the machinery of distribution. The selling job is just as important as packing, transportation, warehousing or any other part of the distributive process. A manufacturer can produce an abundance of goods and transport them to every corner of the country but, unless the goods are sold, he will have to go out of business. This is not only bad for him and his employees but also has broad social implications. For every consumer is dependent, directly or indirectly, on production for his income.

Direct selling has a great deal in common with advertising. In fact, the one often complements the other. Both sell by the process of "making known." By showing how a product is desirable, how it can make life easier, simpler, or happier, they both create a want but, at the same time, explain how one may gratify that want. Both bring these want-satisfying goods to public attention. Advertising also tells how and where one may buy them and the house-to-house salesman carries the process one step further by bringing the actual goods to the customer or acting as his agent in their procurement.

The primary reason for the existence of direct selling is that many manufacturers have found that, for producer and consumer alike, it is one of the quickest, cheapest and most effective means of selling that has been devised, particularly for the introduction of new products. With respect to certain kinds of goods, no other truly effective means of selling has yet been discovered. Furthermore, housewives welcome the comfort, convenience, service and personal demonstrations which the direct seller brings them. Business operates under the stern injunction of economic necessity to please its customers. If they did not like this method of selling, it would have passed out of the picture long ago.

## SCOPE OF DIRECT SELLING

Because direct selling fills a vacuum which might otherwise exist in the distributive process, it contributes significantly to our democratic economy. It has increased in scope and stature until today there are in the United States approximately 1500 big and little companies and manufacturing concerns. They do an annual multi-billion dollar business—no one knows the exact amount—part of which is shared by almost every community. The wisdom of abolishing an industry of such magnitude, giving employment to hundreds of thousands of people, may be seriously questioned.

These direct selling companies manufacture and distribute countless necessities and luxuries which have come to be regarded as necessities under the American standard of living. The list includes food products, toilet articles, medicinal preparations and insecticides; vacuum cleaners,

# Alaska Retail Association

HB 174

Box 1727 Anchorage, Alaska 99501

March 3, 1971

**President:**

John W. Walls  
Barb's Florists  
Anchorage, Alaska

TO ALL LEGISLATORS

**Vice-President:**

S. G. "Jerry" Nerland  
Nerland's Home Furnishings  
Anchorage, Alaska

The Uniform Consumer Credit Code was recently introduced in the House as HB #174. The Alaska Retail Association strongly supports this measure as the most equitable legislation available in the area of consumer credit. We feel the code would solve the vast majority of problems usually associated with this portion of our economy -- both from the standpoint of the credit industry and the consumer.

**Secretary-Executive Director**

Dean Ehrich  
Anchorage, Alaska

**BOARD OF DIRECTORS**

**Anchorage:**

S.G. "Jerry" Nerland  
Nerland's Home Furnishings

John W. Walls  
Barb's Florists

We are pleased to enclose a "Question and Answer" booklet which, we believe, will provide you with complete, concise information on UCCC. It covers all the basic provisions of the code and includes much valuable information on the background of its development.

J. A. Miller  
J. C. Penney Co., Inc.

Frank Harris  
Alaska Cleaners

We expect that hearings will be held on UCCC sometime within the next 30 days, depending of course on the legislative work load. Meanwhile, we hope you will take the time to go over the enclosed literature.

Jerry Wolf  
Wolfe's Home Furnishings

We welcome any comments or questions you may have on this important legislation. The undersigned can be contacted either at Room 432, Baranof Hotel, Juneau or at the above captioned address.

**Fairbanks:**

Austin Ward  
Sach's Mens Shop

Ron Dukes  
Co-op Drugs

Respectfully Yours:



DEAN EHRIICH  
Executive Director

**Juneau:**

William Flint  
Behrends Dept. Store

Defc

Howie Rider  
Lyle's Furniture & Hardware

**Nome:**

Frank A. Couch  
Northern Commercial Co.

**Questions & Answers**

**On**

**UNIFORM  
CONSUMER  
CREDIT CODE**

*Courtesy of*

**Alaska Retail Association, Inc.**

**Box 1727  
Anchorage, Alaska**

## THE UNIFORM CONSUMER CREDIT CODE

### Questions and Answers

**Q. What is the Uniform Consumer Credit Code?**

**A.** The Uniform Consumer Credit Code is a balanced consumer protection law considered by most authorities to be the finest consumer protection legislation ever written.

**Q. Who prepared the UCCC?**

**A.** The Code was prepared by the National Conference of Commissioners on Uniform State Laws.

**Q. What is the National conference?**

**A.** The Conference is an organization made up of Commissioners of the 50 states whose function it is to draft uniform legislation to be offered to states for enactment.

**Q. How many Commissioners are there in the National Conference?**

**A.** The average number of Commissioners from each state is three making a total of 150 for the Conference as a whole. Provisions for appointment of Commissioners is made by statute with appointments customarily made by the Governor.

**Q. What are the qualifications of Commissioners?**

**A.** Commissioners must be either practicing lawyers, judges or law school professors.

**Q. Are Commissioners paid for their services?**

**A.** The Commissioners serve without compensation but are reimbursed for most out-of-pocket expenses.

**Q. What other laws have been written by the National Conference?**

**A.** The organization which has been in existence since 1892 has drafted several other uniform state laws. Examples of such laws which have been widely enacted include: The Uniform Sales Act, the Uniform Stock Transfer Act, more recently, the Uniform Commercial Code.

**Q. What is the relationship of the Commissioners to their respective states?**

**A.** Commissioners are officials of the respective states which they represent and, as such, are public servants with all of the responsibilities and duties incident to public service.

**Q. Just how does the role of public servants influence the work of the Commissioners?**

**A. Commissioners accept their responsibility as public servants with the highest ethics. Every action of the National Conference is determined fully by the public responsibility felt by its members.**

**Q. How does the Conference draft uniform legislation?**

**A. The Conference works thoroughly and slowly. Work on the Uniform Commercial Code continued for 12 years before it was finally offered to the states for enactment. The Uniform Consumer Credit Code required more than 4 years in its preparation.**

In drafting uniform legislation the Commissioners build solidly on existing law and practice but where they find that by reason of historical accident or some like cause existing laws or practices in their judgment are unsound, archaic or sometimes silly they do not hesitate to provide for their repeal.

**Q. Why did the Conference draft Consumer Credit legislation?**

**A. The major underlying reason for drafting Uniform Credit legislation is the phenomenal growth of consumer credit during the 20th century. The Conference notes that by the latest Federal Reserve figures there is close to 100 billion dollars of installment consumer credit outstanding at any one time in the United States, and if household mortgage credit is added to this figure the aggregate total is in the neighborhood of 330 billion dollars. The Conference felt that the extension and growth of such credit are not only matters of social and economic concern, but, also, are matters of major consequence to which the law must adjust.**

**Q. What is meant by the term "adjust"?**

**A. As consumer credit developed it became apparent that credit of this type could not live within low rate ceilings. Therefore, a steady series of legal principles or special legislation evolved to circumvent and avoid low rates. This resulted in a proliferation of legislation throughout the nation and despite such proliferation there were still widespread consumer abuses. In 1957, recognizing the need of uniform legislation, the Council of State Governments requested the National Conference to draft such a Credit Code. The Code project got underway in 1964. By that time the Conference was convinced that the need for extensive study and a major drafting effort was clear.**

**Q. What trend did the Conference follow in developing the Code?**

- A. The Conference decided to deal with the entire subject of Consumer Credit comprehensively and on fundamental lines, to review all laws relating to Consumer Credit in depth, to consider the background and reasons for Consumer Credit and economic and social aspects of it, and to draft legislation that would treat the entire subject of Consumer Credit on scientific lines rather than a continuance of historical acts.
- Q. In defining the Code, the term "balanced" Consumer Protection law has been used. What does this mean?
- A. The UCCC restructures all laws imposing maximum charges on the cost of money or credit, regulates consumer credit generally and brings substantially all consumer credit transactions under one comprehensive code. It imposes a single and standard set of maximum charges on almost all types of consumer credit, and except in the case of extortionate charges frees substantially all types of business credit from any maximum charge or rate ceiling. The Code puts all creditors extending consumer credit on virtually an even or balance footing so far as maximum charges and control of balances are concerned. It stimulates competition by eliminating artificial barriers to entry into the credit granting business and by requiring disclosure of the cost of credit both in terms of dollar amounts and in terms of an annual percentage rate. It is a balanced code, fair to all creditors operating in the consumer credit field and fair to consumers.
- Q. Should consumer legislation be drafted and enacted at the federal or state level?
- A. The National Conference felt that the Code should be enacted at the state level. The Commissioners stated that between a particular buyer and a seller, or a particular borrower and lender both located in the same state it is quite difficult to think of a much more local type of transaction than consumer credit. They, also, pointed out that consumer credit is usually a transaction of small size, ranging from a less than \$5.00 sale as a part of a store revolving account or a shopper's credit card operation to purchase of automobiles on time or borrowing from the installment credit department of banks ranging in most cases from \$100 to \$3,000. The Conference, also, felt that if the Federal government took control of Consumer Credit entirely this would constitute a very large shift in control from the state to the federal government of an important aspect of American life.
- Q. What does the federal government think about federal-state control of Consumer Credit?

- A. The Banking & Currency Committees of the Senate and House of Representatives in considering the recently enacted Federal Truth-in-Lending Act expressed an awareness of the federal-state problem and were reluctant and hesitant to pre-empt from the states the field of consumer credit. As a result, the recently enacted federal bill included a provision that the Board of Governors of the Federal Reserve system "shall exempt from the requirements of the Act any class of credit transaction which the Board determines is subject to state law which requires disclosure substantially similar to the federal requirements and contains adequate provisions for enforcement." Thus, it follows that the federal government definitely provided a way and a means by which consumer credit may remain a state controlled field.
- Q. Will adoption of the Uniform Consumer Credit Code exempt Alaska from supervision of consumer credit by the federal government?
- A. Yes, According to all current information available the UCCC meets the Federal Reserve test and would divest the state of federal supervision. As far as the Truth-in-Lending Act supervises disclosure and related provisions, the Code does likewise and authorities say is even more stringent than the federal law. In addition, the UCCC goes further in that it sets maximum ceilings and correction of virtually all known consumer abuses.
- Q. We have been told by some that if the Legislature copies the Federal Truth-in-Lending Act into Alaska law the federal government will divest itself of control of credit in the state. Is this true?
- A. Not necessarily. There is a wide field of interpretation regarding Federal Reserve acceptance of supervisory staffing, regulations, transaction requirements etc.
- Q. Does the Code contain the regulations pursuant to the Federal Truth-in-Lending law?
- A. The UCCC bill, as introduced in the Alaska Legislature, includes all regulations pursuant to the federal act.
- Q. What confusion could arise out of copying the federal law into state law rather than passing the UCCC?
- A. (1) There is a question as to whether the state would be divested of Federal supervision.  
(2) Such action may lead to conditions in which creditors would be required to make double disclosures.  
(3) The law would be a "bits and pieces" type of legislation which usually creates confusion in the marketplace  
(4) Such action is completely unnecessary since the federal act went into effect on July 1, 1969, thus negating any need for a small "Federal Act."

**Q. Is exemption from Federal supervision a strong argument for the passage of the UCCC?**

**A. Yes.** Most Alaskans desire to retain jurisdiction over consumer credit and creditors in the consumer credit field of Alaska certainly do not want to operate under two sets of laws. This fact is one of the major reasons why the enactment of the Code is advisable.

**Q. Were attempts made to influence the preparation of the Code in order to preserve segmented consumer credit?**

**A. Yes.** Strong pressures were brought to bear upon the National Conference by opponents of consumer protection legislation to produce more of the same confusion which already exists throughout the nation in the consumer credit field. The status quo is referred to as segmented with segmentation being based to a considerable extent on types of creditors, that is, small loan companies, retail merchants, commercial banks, credit unions etc. The Conference was urged to preserve all this segmentation, some or all of the variations in maximum rate ceilings on finance charges, and some or all of the varying methods for starting ceiling rates. In fact, the Conference was pressured to do nothing more than compound the existing confusion.

**Q. How did the Conference react to this pressure?**

**A. The National Conference** took the position that a policy of preserving and attempting to improve one or more existing types of legislation would do nothing more than preserve and stratify types of classifications that are now causing confusion and have partially broken down. The Conference felt it could make no contribution unless a comprehensive approach was adopted.

**Q. How much of the installment credit outstanding in the United States do the various segments of the credit industry possess?**

**A. As of December 31, 1967,** the percentage share of different segments of the consumer credit industry in installment consumer credit was as follows:

Commercial banks . . . . .	43.6%
Sales finance companies . . . . .	21.6%
Credit unions . . . . .	11.8%
Consumer finance (small loan) companies . . . . .	8.1
Other financial institutions insurance companies, savings & loan associations, etc.) . . . . .	2.5%
Retail outlets . . . . .	12.4%
Total	100.00%

- Q. What limits did the Conference feel were needed in the Code's coverage?**
- A. The Code covers consumer credit as opposed to business credit.**
- Q. Why is not the purpose test a part of the Code?**
- A. There are difficulties in applying a pure purpose test. Actually, purpose is nothing more than the mental intent of an individual. The Code made the distinction between consumer credit and business credit on the basis of whether the debtor is a natural person or whether the debtor is an organization. Organization as defined includes corporations, business trusts, partnerships, associations or governmental entities or bodies.**
- Q. Are the Code's provisions fair and equitable to both consumers and the credit industry?**
- A. Yes. The provisions are workable and provide a greatly superior base for handling consumer credit than the mass of legislation presently on statute books throughout the nation. Although some provisions may appear to favor industry and others favor consumers, in actual fact the provisions will be beneficial to both sides of the economic spectrum.**
- Q. How does the Code affect usury provisions?**
- A. The Code provides for the outright termination of all usury provisions and rate ceilings in the case of most business credit. The reasoning which supports this principle is that the operation of the money market and the economic rules of supply and demand are better control factors for interest charges in business credit than any legislation. It, also, notes that business debtors can bargain satisfactorily without the need of legislative assistance. The operation of existing general usury statutes has become so much an empty shell and so generally absurd in its unreasonable and haphazard application that they should be repealed outright as to substantially all business credit, according to most authorities.**
- Q. In the case of consumer credit, are rate ceilings preserved?**
- A. Rate ceilings are preserved but are evenly distributed across-the-board to all types of consumer credit.**
- Q. What is consumer credit as defined by the Code?**
- A. Consumer credit is credit extended to natural persons for personal, family, household or in some instances agricultural use.**
- Q. Is there a dollar limitation in regard to the jurisdiction established in the Code?**

**A.** Yes. Consumer credit is credit extended up to a dollar jurisdictional amount of \$25,000 except in the case of consumer credit secured by real estate where there is no jurisdictional limit.

**Q.** What are the rate ceiling found in the Code?

**A.** The rate ceiling prescribed is on a graduated basis with a maximum of 36% per annum on the first \$300, 21% per annum on balances of \$300 to \$1,000 and 15% per annum on balances above \$1,000 with the composite rate resulting from these graduated ceilings leveling off at a base ceiling of 18% per annum on balances from \$2,500 to \$2,900 and above. A major exception from these standard rate ceilings is in sales credit revolving account where the ceilings are 24% per annum or 2% per month on the unpaid balance on the first \$500 of balance, and 18% per annum or 1½% per month on the unpaid balance in excess of \$500.

**Q.** How does the Conferened justify the standard recommended rate ceilings?

**A.** First, the Conference emphasizes the basic principle that legislation should not attempt to fix rates in the sense that public utility commissions prescribe rates that may be charged by public utilities. Rather, the Conference says the legislation should do nothing more than fix maximum ceilings which may not be exceeded but should be at a level to permit the extension of almost any type of consumer credit through legitimate channels.

**Q.** Upon what does the Code rely to fix effective rates?

**A.** The Code places reliance upon the operation of competition to keep actual rates charged below the legislative ceiling prescribed.

**Q.** How does the Code provide ways to see that the competition will keep lower than established ceiling rates?

**A.** The Code notes competition, in order to keep rates low, should be permitted to operate to a maximum extent and provides for "easy" entry into the lending field to make it as competitive as the retail field. This means that as far as is possible all extenders of credit must compete on equal terms with all other extenders of credit. It, also, means that a consumer must be able to intelligently shop for credit.

**Q.** The Code, to encourage competition, provides "easy" entry into the lending field. What does this mean?

**A.** "Easy" entry refers to the provision of the Code which makes it possible for individuals or businesses to enter the cash loan fields without being restricted by artificial barriers.

**Q. Are "easy" entry lenders regulated?**

**A. Yes. The Administrator will establish regulations governing such lenders and the Code, itself, provides that –**

- (1) Such lenders must secure a license from the Administrator.**
- (2) They cannot loan money for more than 18% per annum.**
- (3) They cannot accept deposits.**
- (4) They must pay the same fee to the Administrator's office on credit outstanding during the year as all other lenders.**
- (5) They must adhere to all disclosure requirements.**
- (6) They must abide by all consumer protection provisions of the Code.**

**Q. Why do banks have regulations applicable to lending money not placed on "easy" entry lenders?**

**A. Banks use depositors' money for lending purposes and the various governments provide regulations to protect the depositor. "Easy" entry lenders cannot accept deposits and they will be lending their own personal money.**

**Q. Can "easy" entry licenses be revoked?**

**A. Yes. Any irregular practice is sufficient cause for revocation of license.**

**Q. Are these basic principles of the Code?**

**A. The Code, as a whole, is framed on these principles.**

**Q. Does this establish a new principle in American thinking?**

**A. No. These principles involve no novelty in basic American thinking. In most areas of economic life in America price-fixing by governmental fiat has been avoided rigorously. Price fixing is inherent in general usury statutes and actually constitutes an exception to the traditional American economic view.**

**Q. Opponents to the Code say that the rate ceilings as applied to the total consumer credit market will cause an increase in finance charges to the consumer. Is this true?**

**A. This is not true. Studies made by the National Conference point out that competition does in fact keep interest and finance charges down as much in the case of extension credit as in other types of transactions. Examples include interest rates charged to corporations which under existing law in 30 states do not have full benefit of usury statutes. In these states interest rates have been no higher than in states where usury statutes exist. In Massachusetts and New Hampshire there have been no general usury statutes for many years but the general level of interest**

rates and finance charges in these states are not significantly different from those in other states. In automobile financing, rates actually charged are in most cases materially lower than ceilings prescribed in the motor vehicle retail installment sales act.

**Q. What fact did the Conference recognize as primary in setting the rate ceilings in the Code?**

**A. The Conference recognized that rates must be sufficient to cover the cost of money, the cost of administering the credit extended, and the risk of nonpayment.**

**Q. What other factors operate in the cost of granting credit?**

**A. The Commissioners stated that the cost of money varies in relation to general money market conditions and that the cost of money today is higher than for many years, perhaps, as far back as the stock market crash in 1929. The Conference, also, pointed out that in consumer credit the cost of administering the credit is a most important factor. Commissioners noted one study which showed the average operating expenses other than bad debt reserves of many major national finance companies to be \$10.40 on the first \$100 of each loan.**

**Q. Does this explain the higher rate ceilings prescribed for the first \$300 of any transaction?**

**A. Yes, the high cost of setting up any credit transaction on the books of a credit extender explains the high ceiling rate prescribed for the first \$300. Actually, the rates prescribed fall at about the midpoint of existing rate limitations in the small loan area and are somewhat above present rates in the area over \$3,000.**

**Q. What did money market studies reveal to the National Conference?**

**A. Money market studies and economic advice given to the National Conference consistently indicated that the principal effect of fixing maximum rates at a higher or lower level is to permit larger or smaller numbers of consumers into the credit market. High maximums permit more persons to obtain credit from legitimate sources. In contrast, low maximums decrease the number of persons who may obtain credit and drive the borrower and/or buyer to illegal loan sharks.**

**Q. Is competition the primary factor in establishing effective rates favorable to consumers?**

A. Yes. The Code's provisions for improved operation of competition in credit are calculated to keep the rates actually charged well below the maximum ceilings stated.

Q. What are the disclosure requirements in the Code?

A. The Code requires the seller to set forth:

- (1) What is being sold.
- (2) The cash price.
- (3) The down payment.
- (4) The balance owing.
- (5) Amount payable for registration or certificate of title fees not included in the cash price.
- (6) The amount of official fees and taxes.
- (7) A description of any insurance provided and if a separate charge is made the amount of the charge.
- (8) In the case of a sale of land the amount and a description of the closing costs.
- (9) The total amount financed.
- (10) The dollar amount of the credit service charge.
- (11) The total unpaid balance.
- (12) The annual rate of the credit service charge.
- (13) The payment schedule
- (14) The charges to be made in the event of default.
- (15) A description of any security interest taken.

Q. Will the disclosure requirements of the Code enhance competition as a basic principle set forth in the Code?

A. Yes, such disclosure requirements complement quite closely the maximum rate provisions of the Code. They do so by developing a single set of measuring standards by which consumers may shop for credit. Thus, they enhance competition which is relied upon by the Code to keep rates reasonably low.

Q. Does the Code place limitation on creditors' remedies?

A. Yes. The Code contains a number of limitations on creditors' remedies. This is the true reason that there is opposition to the adoption of the Code since these remedies are pure consumer protection.

Q. Does the Code prohibit the use of multiple agreements?

A. Yes. Sellers are prohibited from using multiple agreements for the purpose of obtaining a higher finance charge than would be otherwise permitted.

Q. Are sellers and lessors prohibited from taking negotiable promissory notes to evidence consumer obligation?

**A. Yes. The promissory note use has been one of the major consumer abuses where instead of selling the actual installment contract, a promissory note has been utilized as a negotiable instrument. Producers of the notes have been held not responsible in any way for claims and defenses of the buyer against the seller.**

**Q. Does the Code provide that assignees shall be subject to claims and defenses of the buyer against the seller?**

**A. Yes. The Code provides that an assignee is equally responsible for the quality of goods and services as the original seller. This is an issue of long standing and it is admitted in the consumer credit field. Sellers and banks and finance companies buying sellers' papers argue that assignees shall not be subject to claims and defenses of the buyer against the seller. Consumers, on the other hand, argue with equal strength that a great portion of consumer abuses are traceable to a bank or finance company which is free from claims and defenses of the buyer against the seller.**

**Q. What is the opinion of merchants regarding this issue?**

**A. The legitimate merchant does not fear this situation; nor should any bank or finance company which does business with legitimate merchants since it has been historically true in Alaska that legitimate stores make restitution for defective goods and services.**

**Q. Does the Code place controls upon balloon payments?**

**A. yes. If any scheduled payment is more than twice as large as the average of earlier scheduled payments, the buyer has a right to refinance the amount of that payment at the time it is due without penalty. The terms of the refinancing must be as favorable to the buyer as the terms of the original sale.**

**Q. Does the Code place limitations on the amount and type of security that may be taken in sales transactions?**

**A. Yes. A seller may take a security interest**  
**(1) in the property sold;**  
**(2) in goods upon which services are performed;**  
**(3) in property in which goods sold are installed; or**  
**(4) in land to which the goods are affixed or which is maintained, repaired or improved as a result of the sale of the goods or the services, if, in the case of a security interest in land, the debt secured is \$1,000 or more or in the case of a security interest in goods the debt secured is \$300 or more.**

**Q. Does the Code make any provisions regarding the assignment of earnings?**

- A. Yes. A seller or lessor may not take an assignment of earnings of the buyer or lessee for payment or as a security for payment of a debt arising out of a consumer credit sale or a consumer lease.
- Q. What does the Code do in respect to referral sales?
- A. Referral sale contracts cannot be entered into by sellers and buyers. Any inducement to enter into such a contract is in violation of the Code and the buyer or lessee at his option may rescind the agreement or retain the goods delivered and the benefit of any service performed without any obligation to pay for them.
- Q. May terms be changed in the case of revolving charge accounts?
- A. Yes. If a change is made in the terms of a revolving charge account the merchant must give the buyer written notice at least 3 times with the first notice issued at least six months before the effective date of the change.
- Q. Are there any exceptions to this requirement?
- A. Yes. The notice specified is not required if:
- (1) The buyer after receiving notice of the change agrees in writing to the change;
  - (2) The buyer elects to pay an amount designated on a billing statement as including a new charge for the benefit offered to the buyer when the benefit and charge constitute a change in terms and when the billing statement also states the amount payable if the new charge is excluded;
  - (3) The change involves no significant cost to the buyer;
  - (4) The buyer has previously consented in writing to the kind of change made and notice of the change is given to the buyer in two billing cycles prior to the effective date of the change; and
  - (5) The change applies only to purchases made or obligations incurred after a date specified in a notice of the change given in two billing cycles prior to the effective date of the change.
- Q. What constitutes notice in regard to changes in revolving credit account?
- A. The notice is given to the buyer when mailed to him, at the address used by the seller for sending periodic billing statements.
- Q. Does the Code provide for a cancelling provision in home solicitation sales?
- A. Yes. A buyer has the right to cancel a home solicitation sale until

midnight of the third business day after the day on which he signs the agreement or offer to purchase.

**Q. What are the technical procedures in regard to cancellation?**

**A. Cancellation occurs when the buyer gives written notice of cancellation to the seller.**

**Q. Where does the Code require that such notice be sent?**

**A. The notice must be sent to the address listed in the agreement or offer to purchase.**

**Q. What other provisions for cancellation does the Code provide?**

**A. The notice of cancellation if by mail is given when the notice is properly addressed with postage prepaid and deposited in a mail box.**

**Q. Does the notice of cancellation have to take a particular form?**

**A. No. Notice of cancellation is sufficient if it indicates by any form of written expression the intention of the buyer to cancel the home solicitation sale.**

**Q. Are there any circumstances under which the buyer may not cancel a home solicitation sale?**

**A. Yes. The buyer may not cancel a home solicitation sale if he has requested the seller to provide goods or services without delay because of an emergency and the seller in good faith has made a substantial beginning of performance. The buyer also may not cancel a home solicitation sale if the goods cannot be returned to the seller in substantially as good condition as when received by the buyer.**

**Q. Does the Code provide for the return of goods given as collateral or the down payment by the seller in cancelled home solicitation sales?**

**A. Yes. Within 10 days after a home solicitation sale has been cancelled the seller must return any payments made by the buyer and any note or other evidence of indebtedness. If the down payment included goods traded the goods must be returned in substantially as good condition as when received by the seller.**

**Q. Is there a provision made whereby the seller may retain a cancellation fee?**

**Yes. The seller may retain a cancellation fee amounting to 5% of the cash price but not exceeding the amount of the cash down payment. However, if the seller fails to comply with any obligation imposed by the Code, or if the buyer voids the sale on**

any ground independent of his right to cancel provided by the provision of the Code, the seller is not entitled to retain a cancellation fee.

**Q. What does the Code provide in regard to the duty of the buyer to the seller of the home solicitation sale?**

**A.** Upon demand, the buyer must give to the seller any goods delivered by the seller pursuant to the sale, but he is not obligated to deliver the goods to any place other than his residence. If the seller fails to demand possession of the goods within a reasonable time after cancellation or revocation, the goods become the property of the buyer without obligation to pay for them. The Code states that 40 days is a reasonable time. The buyer is required to take reasonable care of the goods in his possession both before cancellation or revocation and for a reasonable time afterwards during which time that goods are otherwise at the seller's risk.

**Q. Does the Code provide limitations on garnishment?**

**A.** Yes. The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce payment of a judgment arising from a consumer credit sale, consumer lease or consumer loan may not exceed the lesser of:

- (1) 25% of the disposable earnings for that week; or
- (2) The amount of which his disposable earnings for that week exceed 40 times the Federal Minimum Hourly Wage. Since the Federal Minimum Hourly Wage at this time is \$1.60, this means \$64.00.

Disposable earnings as defined by the Code means that part of the earnings of an individual remaining after the deductions of those earnings of amounts required by law to be withheld.

**Q. What does the Code provide regarding discharging employees for garnishment?**

**A.** The Code states emphatically that no employer shall discharge an employee because his wages have been subject to garnishment.

**Q. What does the Code say in regard to repossession of goods and suit for balance due?**

**A.** The Code, as introduced, provides that the seller may repossess goods with a cash price under \$1,000 where the debt is not being repaid or may sue for the balance due but the seller may not do both. He must make a choice between the two actions. Deficiency judgments are forbidden.

**Q. We note that the Code contains language in regard to unconscionable agreements and conduct. Just what does this section do?**

**A.** The Conference gave a great deal of study to the fact that the greatest majority of consumer abuse is traceable to a relatively small proportion of fringe operators who do not hesitate to over-reach whenever they can whether inside or outside the law. The question arose as to how a statute can provide protection against this kind of conduct. The Commissioners felt that realistic legislation is of limited value unless it has some language pointed toward this problem and believe there is no escape from having that language flexible enough to adjust to the great variety of schemes and practices that an ingenious type of individual may conceive. Therefore, the Code provided "Unconscionability" to meet this situation. The Code contains language with respect to unconscionable agreements and conduct. This has been done for the simple reason that the Commissioners could see no escape from this provision if the provision was to be flexible enough to adjust to the maneuvers of fringe operators.

**Q. Is unconscionability a new concept?**

**A.** Unconscionability is not a new concept. There have been decisions providing relief from unconscionable conduct running back over 100 years. It is, also, a part of the Uniform Commercial Code and there is equal or more reason to use it in the Consumer Credit Code.

**Q. Are there any limitations on the action of unconscionability?**

**A.** Yes. Considerable care is used to keep the concept within strict boundaries. Debtors for example cannot determine that conduct of a creditor is unconscionable. The Administrator cannot make such a determination, only courts can make this determination, and in courts only the judge and not the jury. The Code provides that the Administrator may bring a civil action to restrain a creditor from engaging in a course of unconscionable conduct either in effecting consumer credit transactions or in collection of debts arising from these transactions. In every case, however, it is only a court that can make a determination of unconscionability.

**Q. How will the Code be administered?**

**A.** The Code provides for administration by the State Banking Commissioner, and it prescribes his powers and functions. In the Code he is referred to as the "Administrator."

**Q. What are his powers?**

**A.** (1) He will administer the consumer credit market;

- (2) He may bring action on behalf of an individual or a class of debtors to recover excess charges made by a creditor;
- (3) He may bring actions to restrain a creditor from engaging in unconscionable conduct;
- (4) He may issue orders and subject to appropriate administrative review he may order a creditor or others to cease and desist from engaging in violations of the Code;
- (5) The Administrator is given substantial investigatory powers with respect to consumer credit extended by merchants or finance companies; and
- (6) He is expected to cooperate with officials having supervisory power over banking institutions to obtain compliance with Code provisions.

In addition, the Administrator

- (1) has power to issue regulations with respect to specified subjects;
- (2) he may foster and aid programs for education of consumers; and
- (3) encourage establishment of non-profit consumer credit counseling agencies.

**Q. Does the Code provide for advisors to the Administrators?**

**A. Yes.** The Code recognizes the considerable power of the Administrator and to aid and assist him in the effective performance of his duties the Code provides for a Council of Advisors on Consumer Credit. These are to be drawn in relatively equal proportions from consumers or the public, on the one hand, and from members of the consumer industry on the other.

**Q. How is the office of the Administrator financed?**

**A. All persons or businesses doing credit business must so notify the Administrator and must pay to the Administrator \$10 for every \$100,000 outstanding credit during a fiscal year. This money will be used to carry on the work and meet the expenses of the office of the Administrator.**

**Q. Do merchants of Alaska support the adoption of the Uniform Consumer Credit Code?**

**A. Yes, even though the Code will require merchants to pay a substantial fee for its administration which heretofore has not been required of retailers.**

**Q. Why is the retail industry favorable to its adoption?**

**A. (1) It is the finest consumer protection Code ever prepared.**

- (2) The public policy demands its passage.
- (3) The Code will do away with the "Bits and Pieces" type of credit legislation.
- (4) The UCCC will give the state as near total consumer protection as is legislatively possible.
- (5) The Code solves present and future credit problems in a way that will not require future legislative action.
- (6) Creditors can live with the Code, and though there are some provisions which retailing does not like, the Code is a document, which taken as a whole, retailing can support and under which retailing can operate. This is the "on balance" concept which is basic to the Code.
- (7) The Code attempts to satisfy the interests of the diverse groups represented in the credit field.
- (8) The code is favored by the Alaska Retail Association, The Alaska State Chamber of Commerce and most other chambers throughout the state because they recognize it as one of the most fair documents ever devised in th area of consumer credit. Alaskan retailers acknowledge the fact that problems do exist in the consumer credit field and are proud to support UCCC as the best existing answer to those problems — from the standpoint of both consumer and creditor.

HB-174

Statement by the AFL-CIO Executive Council

on

The Uniform Consumer Credit Code ✓

Bal Harbour, Florida

February 17, 1969

We have carefully examined the Uniform Consumer Credit Code, a "model state law" which has been prepared for introduction in the 47 state legislatures meeting in 1969.

UCCU would repeal and replace virtually all existing state laws relating to consumer credit. Sponsored by the National Conference of Commissioners on Uniform State Laws, it is offered for adoption as a "package" without amendment. The sponsors urge immediate enactment, despite the fact that the Code is a lengthy, complex, and sweeping legislative proposal. The public has had little opportunity to evaluate either its general impact or its specific provisions.

The Code is not essentially a "consumer statute" but seeks to compromise consumer and creditor interests. While it would make a number of desirable reforms in behalf of the consumer, which should be supported, it also contains serious drawbacks from a consumer point of view.

For this reason we cannot endorse the Code in its present form for enactment as a uniform law throughout the United States.

Our principal objections are as follows:

(1) We are shocked by the extraordinarily high finance charge ceilings authorized by the Code, ranging from 18 to 36 percent per year for installment loans and credit, and believe that they would inevitably result in exorbitantly high credit costs for borrowers and credit buyers.

(2) We cannot concur in the excessive rate of 10 percent per year, which would be permitted on first mortgages.

(3) We are dissatisfied with the provisions on wage garnishment which could, if care is not taken, result in reduction of existing protections for wage earners in a number of states. We cannot in any case endorse a "take" by creditors as high as 25 percent of a person's wages.

(4) We are alarmed at the general repeal contemplated by the Code of present state consumer credit legislation regardless of whether it is superior to Code provisions or covers subjects not covered in the Code.

The possible impact of Code enactment would vary in each of the 50 states. Each state will need to make a careful assessment of its existing legislation in comparison with Code provisions.

In states with a large body of existing legislation, state AFL-CIO central bodies will probably find it best to reject the Code and instead seek improvements in their present laws, borrowing good features from the Code where appropriate.

In states with little or very deficient legislation, state central bodies may find it advisable to start with the Code as a working basis, but should seek amendment of its worst features.

In any case, precipitous enactment of the Code on an "as is" package basis should be rejected, as well as deviant forms, containing even worse features, which are likely to be introduced in some of the legislatures.

At the national level, the AFL-CIO staff will render whatever assistance it can to state bodies in connection with UCCC. We will also pursue abatement of consumer credit evils through federal legislation, wherever it is possible and appropriate. The door should not be shut on consumer credit reform through federal action. Enactment of federal minimum standards in the consumer credit field may in fact be necessary to reach the states in which reform is most needed and where creditor lobbies are most likely to succeed in blocking it.

BACKGROUND STATEMENT  
ON  
UNIFORM CONSUMER CREDIT CODE

The Uniform Consumer Credit Code (UCCC) is a type of "model state law" developed by the National Conference of Commissioners on Uniform State Laws. It was officially promulgated by the Conference on July 30, 1968, and subsequently endorsed, on August 7, 1968, by the American Bar Association. The Code has been in process since 1964, although much of the final text was prepared in 1968 to take account of the Federal Consumer Credit Protection Act, which was signed by the President on May 29, 1968.

Since the original text was released, the Code has undergone additional revisions. The current version of the Code is the "Revised Final Draft, November 1968." published in December 1968.

UCCC is designed as a replacement for virtually all existing state laws relating to consumer credit. Present laws on such provisions as maximum finance charge rates, (including usury rates), disclosure, licensing, administration and enforcement would be repealed. The one major exception to general repeal would be in the case of "supervised financial institutions" -- such as banks, savings and loan associations, and credit unions -- which receive deposits as well as make loans, although the new rate structure would apply to them as well as to other creditors.

Because the Code is designed as a uniform law, to be enacted in the same form in every state, it is offered as a "package" for adoption in its entirety, without amendment. Code sponsors are seeking blanket endorsement of the Code, regardless of any deficiencies and drawbacks.

The Code was not developed as a "consumer statute," as such, but rather seeks a "balance" of consumer and creditor interests. The principal "trade-off" appears to be in the form of high finance charges for creditors in exchange for restrictions on some of the more bloodthirsty techniques by which creditors can enforce repayment of debts plus more comprehensive enforcement procedures than now apply under many types of credit statutes.

Present indications are that the compromise is unlikely to be satisfactory to all groups. The Code has drawn support from various segments of the credit industry, but coldness from others (notably the American Bankers Association). No known support has come from consumer groups. The major exception in the consumer community was an endorsement by the Special Assistant to the President for Consumer Affairs and the President's Committee on Consumer Interests. But the Code has come under heavy fire from the Consumer Federation of America, representing 136 consumer-oriented organizations. To date it has been opposed by at least three important state consumer organizations -- the Association of California Consumers, the Consumers League of New Jersey, and the Pennsylvania League for Consumer Protection -- as well as by the Massachusetts Consumers' Council, an official consumer representation body.

Although Code sponsors have sought immediate, wholesale endorsements of their work, and immediate enactment in the 47 state legislatures meeting in 1969, the general public has had little time to gain an understanding of the

Code or to develop knowledgeable criticism. The possible impacts would, of course, vary in each of the separate 50 states. Study and criticism will be a continuing process, and common sense dictates a rejection of precipitous enactment.

For states which already have a large body of consumer credit legislation, covering both cash loans and retail sales credit, enactment of UCCC may represent little if any gain in consumer protections and in fact is more likely to result in a net loss. Such states should be extremely critical of UCCC and probably will find it best to reject the Code altogether in favor of continuing improvements in their existing statutes.

On the other hand, states with little or very deficient consumer credit legislation could find that UCCC represents a net gain, in the sense that almost anything would be better than what they have. Even in such situations, a cautious approach is advisable. As indicated in the more detailed comments that follow, finance charge ceilings authorized under UCCC are extraordinarily high for types of credit other than for small loans, and the Code has other drawbacks.

Clearly, an important motivation for urging speedy enactment is the hope of forestalling further federal action in the field of consumer credit. An immediate and announced goal of the Conference is to gain exemptions of state credit laws from applicable provisions of the newly enacted federal Consumer Credit Protection Act. Under the federal law, state laws with "substantially similar" provisions may be exempted from federal requirements for disclosure of the cost of consumer credit and from federal requirements limiting the amount of wages that may be garnished. Further possibilities of federal entry into the consumer credit field could come out of the prospective study by the newly authorized National Commission on Consumer Finance which was set up by the Consumer Credit Protection Act with instructions to make a study and recommendations by January 1, 1971. Also specific federal bills may be expected in the field of credit insurance and in door-to-door credit sales, at a minimum.

#### MAJOR POINTS ABOUT THE UNIFORM CONSUMER CREDIT CODE

##### Maximum Charges

1. The Code repeals all existing laws setting maximum rates on consumer loans from banks, credit unions, small loan companies and repeals general usury rate statutes (important primarily in mortgage lending). Maximum rates for retail sales are also repealed including finance charge ceilings set for automobiles, for general retail sales, home repair services and for revolving credit. Existing finance charge ceilings for most creditors would be replaced by uniform ceilings patterned on existing rates for small loan companies, the highest-rate legal lenders in the credit market. In effect, the small loan company rates would become an "umbrella" for all creditors, both for cash loans and for sales credit. The new ceilings would thus raise the legally permitted rates of charge for most creditors in most states.

For most types of consumer credit, except first mortgages, the effective ceilings would be 36% on the first \$300, 21% on the next \$700 and 15% on the remainder over \$1,000. Ceilings on store revolving credit are set at 24% on the first \$500 and 18 percent on the remainder. (See Attachment I for more detailed outline.)

2. Over and above the maximum rate ceilings, the Code permits additional charges for official fees and taxes, and for insurance -- property, liability, credit life, and credit accident and disability. These provisions follow the lines of the Federal Consumer Credit Protection Act, which defines "finance charge" in such a way as to permit their exclusion from the finance charge for disclosure purposes. A number of current small loan laws require the lender to include most of these charges in the finance charge, although extra charges for credit life insurance are now generally permitted. The "additional charge" system provides an additional source of revenue to creditors, since the "extras" can be included in the amount of the loan or credit and a finance charge computed on top of them.
3. In addition to charges for official fees, taxes, and insurance, the Code allows "extras" for "other benefits." This provision, although presented as being in conformity with the federal act, actually opens up what could be a dangerous loophole for "tie-in" charges and purchases to be required by the creditor as a condition of extending credit. The Code nowhere makes a flat prohibition of "tie-in" sales, except for limitations on compulsory purchase of various types of insurance.
4. The Code properly requires that a rebate of finance charges be made to the credit buyer or borrower who pays off the credit balance in advance. The rebate is calculated according to the "Rule of 78". Unfortunately, where graduated rate ceilings are used, as under the Uniform Consumer Credit Code, the Rule of 78 provides the creditor with a windfall of unearned credit charges and a corresponding shortfall to the consumer. The "Revised Final Draft" attempts to deal with the problem, not by eliminating the windfall, but by authorizing alternative calculation of the finance charges in such a way as to "legitimize" the windfall. This point will require more analysis and explanation, but some idea of the problem can be obtained by the summary comparisons shown in Attachment II, based on tables appearing in the explanatory text ("Official Comment") of the Code.

### Insurance

UCCC insurance provisions are written within the framework of the Model Credit Insurance Act developed by the National Association of Insurance Commissioners and now in effect in a number of states. Although some of the more disreputable creditor practices in the sale of credit insurance are prohibited, UCCC does nothing to deal with fundamental problems of overcharges for credit, life, accident and health policies documented by the Senate Antitrust and Monopoly Subcommittee in its 1967 investigative hearings. These hearings disclosed widespread profiteering by creditors on the sale of high-priced insurance, paid for in its entirety by borrowers.

Kickbacks, commissions, and rebates from insurance companies and creditor-owned insurance subsidiaries have built a system of "reverse competition" encouraging the sale of insurance at highest possible rates. UCCC forbids charges beyond the legal maximums permitted by the Commissioner of Insurance but does nothing to reduce them further. Lenders' profits on insurance are specifically protected.

### Disclosure Provisions

The sections on disclosure are largely a duplicate of the provisions of the Federal law which contains extensive requirements relating to items of cost of the credit provided, including a statement of the annual percentage rate. Both credit contracts and credit advertising are covered. The principal problem about the disclosure provisions is that since all existing state legislation on disclosure is repealed, any disclosure requirements other than the ones copied from the federal law would disappear. Disclosure statutes may, for example, require disclosure of a buyer's rights under the law, make detailed specifications as to contract forms, or other matters. In effect the federal specifications would substitute for existing requirements rather than add to them. In addition, the disclosure provisions could be rendered ineffective by the fact that specific administrative authority for issuing regulations to interpret the disclosure requirements in the Code is not provided. In particular, the decision as to what is "conspicuous" is left to the courts for determination, on a case by case basis.

### Restrictions on Contract Provisions

#### 1. Credit Sales

The UCCC makes a commendable attempt to prohibit or restrain certain types of contracts and contract provisions which are notoriously unfair to credit buyers, but it does not go "all the way."

##### a. Holder in Due Course

The Code knocks a hole in the onerous "holder-in-due course" doctrine under which a finance company which has bought a credit contract from a retailer is held free of all responsibility to the original buyer and is legally entitled to collect monthly payments from the debtor, regardless of fraud in the original contract, overcharges, defects in the product or other failure in the seller's duties.

The Code would prohibit sellers from taking a "negotiable instrument" in connection with consumer credit contracts. A subsequent buyer of the paper (the "holder") would not qualify for "holder in due course" status if he had notice of the seller's violation. However, no provision is made for labeling consumer paper as such and no penalties attach to the "holder" even he does take paper illegally procured by the seller.

The Code also invalidates agreements whereby the borrower waives his legal defenses against a subsequent holder ("assignee") of a credit contract. Two Alternatives are provided. Alternative A, which subjects assignees to buyer's defenses, is definitely superior to Alternative B, which requires notice by buyer to assignee of defenses within three months. Even under Alternative A, certain limitations are placed on the liability of the assignee.

b. Balloon Contracts

The Code discourages the writing of "balloon contracts," but does not prohibit them. It merely specifies that the buyer shall have the right to refinance a balloon payment "without penalty" in any case where the balloon is more than twice the average of earlier scheduled payments. Current state laws that deal with balloon payments usually prohibit them.

c. Security for Contract

The Code makes certain restrictions on the security that may be taken in a credit sale. In general the seller may not take a security interest in property of the debtor other than in the goods which are the subject of sale. Exceptions are allowed to permit a security interest in goods on which services are performed or in which goods sold are installed. Also a security interest in land may be taken if goods are affixed to it or improvement services performed on it. The debt must be at least \$300 in the case of security interest in goods and at least \$1,000 in the case of a security interest in land. These provisions are definitely a step in the right direction, but the \$300 and \$1,000 limits have been criticized as too low.

d. Add-on Sales

The Code reforms but does not eliminate "add-on" sales whereby a buyer's current purchases are permitted to be taken as security for earlier purchases on which payments have not yet been completed, and vice-versa (earlier purchases become security for later purchases). Situations have occurred in which default on the most recent purchase have occasioned loss to the buyer of the entire set of purchases. The Code provides that a buyer's payments must be allocated to the goods in the order which they were bought and the security interest terminated in each item as the debt on each is paid off.

A question remains as to whether "add-on" sales should be prohibited in their entirety. A consideration against such prohibition in the Code as presently written is that multiple separate sales could result in multiple high-charge contracts under the graduated rate structure.

e. Wage Assignments

UCCC prohibits wage assignments, as do a number of existing state laws. This is a desirable reform. A wage assignment is an agreement which provides that the creditor can take part of a worker's wages directly from his employer if the debt is not repaid when due. Under UCCC an assignment of earnings may not be taken unless the employee is free to revoke his authorization of the assignment.

f. Referral Sales

Referral sales are prohibited. A desirable reform. Referral selling is a racket whereby the buyer is persuaded to sign a contract by a promise that he can recoup the purchase price in whole or in part by supplying other customers to the seller.

g. Attorney's Fees

Two alternatives are provided: (A) prohibits agreements providing for payment of attorney's fees by the borrower and (B) limits attorney's fees to 15 percent of the unpaid balance. Alternative (A) is clearly superior, particularly since "reasonable expenses" are allowed to the creditor in realizing on his security interest in case of the borrower's default.

h. Confession of Judgment

This is prohibited. A desirable and important reform. A debtor who "confesses judgment" signs away his legal rights to challenge the validity of the debt.

i. Blank Snaces and Contract Accelerations

Two notable omissions in the Code are (1) the failure to prohibit blank snaces in contracts (a common requirement under existing state legislation) a source of easy fraud on the debtor (2) the failure to curb the creditor's unrestricted right to require immediate payment of the unpaid balance of the debt thereby precipitating a debtor's default. Unilatera! acceleration by the creditor should be restricted to cases in which substantial default has actually occurred.

2. Loans

Restrictions on loan agreements are less extensive than those for sales. Provisions on balloon payments, wage assignments, attorney's fees, and confessions of judgment are the same. But no restraints are put upon the rights of holders in due course or on rights of assignees. "Supervised lenders" (licensed lenders and supervised financial institutions) may not

take a security interest in land unless the debt is over \$1,000 but other lenders may do so. Again, the \$1,000 cut-off has been criticized as too low.

### Restrictions on Creditor Collection Practices

#### 1. Deficiency Judgments

The UCCC makes a limited attack on deficiency judgments. It provides that a seller who repossesses or takes back goods that were the subject of sale (or other security for the debt) may not also obtain payment for the "deficiency" between what the goods sell for and the unpaid balance of the debt. However, this provision applies only where the cash price of the sale was \$1,000 or less, thus being of no effect for larger purchases such as new cars. No restraint on deficiency judgments applies in the case of cash lenders.

#### 2. Wage Garnishment

UCCC would restrict garnishment along the lines of the Federal Consumer Credit Protection Act which limits garnishment to 25% of disposable earnings or the excess over \$48 per week (30 times the federal minimum hourly wage) whichever is less. In UCCC the minimum exemption is improved to \$64 (40 times the minimum wage). but the 25% figure remains unchanged.

In addition UCCC would prohibit garnishment before judgment and would prohibit employers from firing workers on account of garnishment. Federal law forbids firing on account of garnishment for "any one indebtedness" and makes no special provision for garnishment before judgment.

The principal immediate problem presented by UCCC is whether its 25% limit and basic exemption amount would replace more favorable provisions under a number of existing state laws, for example, laws which provide a 10% limit or which do not permit garnishment at all. A "savings clause" is included in the Federal statute for such situations, but not in the text of the Code.

In the most recent published edition of the Code (Revised Final Draft, November 1968) the "Official Comment" has been rewritten to disclaim any intent to undercut existing laws which provide additional protections to wage-earners. However, the fact remains that the statutory language does not in itself accomplish this result.

A further technical difficulty presented by the Code is that its garnishment provisions cover only situations in which the garnishment has arisen out of a transaction covered by the Code (generally, debt characterized either by installment repayments or by the imposition of a finance charge). Garnishment arising out of debt not covered by the Code, such as service credit (doctor bills and utility bills), would not be affected.

Even assuming the most favorable interpretations of the Code, only modest improvement is made over the Federal provisions which will go into effect July 1, 1970. More comprehensive action on garnishment is needed, either to abolish garnishment altogether, or to severely restrict its application.

#### Contract Cancellation Rights

UCCC includes a section on "home solicitation sales" giving buyers a three day period in which to cancel a credit contract for goods or services bought from a door-to-door salesman.

The objective of this provision is obviously desirable, but specific points will need to be examined for possible improvements. The provision for a 5% cancellation fee has been particularly criticized.

An additional section, relating to buyer's cancellation rights in the case of a credit sale or loan secured by the buyer's home, is incorporated from the Federal Consumer Credit Protection Act.

#### Administration and Enforcement

Administration and enforcement is centered in a single Administrator who is given fairly impressive powers in the form of authority to issue "cease and desist" orders, to obtain injunctions and temporary injunctions from the courts, to bring suit for civil penalties, and to recover overcharges in behalf of debtors. Debtors are also given certain rights of bringing private suits.

Licensing requirements are included for all "supervised lenders" and their assignees (i.e., lenders who charge more than 18 percent per year on loans). These provisions would cover lenders presently licensed under state small loan laws and could have the effect of requiring licensing of at least some high rate lenders in the second mortgage market. Licensing provisions are considerably less stringent than those usually applicable to small loan licenses under much existing legislation. No license would be required for lenders charging less than 18 percent per year.

No licensing is required in the credit sales field, either for retailers or for sales finance companies which buy their paper. They are subject only to registration requirements. A number of states currently have licensing requirements for sales finance companies, and in some states retail dealers (especially automobile dealers) must be licensed for credit operations. These laws would be repealed by UCCC. Licensing requirements involve important powers to suspend or revoke the license of an enterprise to continue in business and can provide an important protection against shady operators in the credit field, as well as in securing general compliance with the law.

Apparently the main weapon in the Code against shady operators in the credit sales field would be recourse by the Administrator to the courts for an injunction against "unconscionable" conduct.

Another notable omission is rule-making power for the Administrator. He is prohibited from issuing regulations except where specifically authorized by the Code to do so. (These relatively few authorizations are nowhere summed up in a list.) It is evidently intended that the Administrator may issue regulations to correspond to those which will be issued by the Federal Reserve Board, assuming the state were to be exempted from the operation of the federal statute with respect to disclosure requirements. However, rule-making powers in the section of the Code dealing with disclosure do not appear sufficient to accomplish this result.

February 7, 1969  
AFL-CIO Department of Research/Draper

FINANCE CHARGE CEILINGS UNDER UNIFORM CONSUMER CREDIT CODE

1. For retail sellers

Installment credit: \*

36% on first \$300

21% on next \$700

15% on excess over \$1,000

Revolving credit:

2% per month on first \$500 (24% per year)

1½% per month on excess over \$500 (18% per year)

2. For licensed lenders and supervised financial institutions  
(small loan companies, finance companies, commercial and industrial loan banks, credit unions)

Loans and revolving loan accounts\*

36% on first \$300

21% on next \$700

15% on excess over \$1,000

3. Other lenders

a. 18% per year

b. Mortgage loans are exempt from certain key provisions of the Code if finance charge is 10% or less. This is intended to result in an effective ceiling of 10% on first mortgages.

\*Alternatively, a rate of 18% is authorized if the yield would be larger.

Note: The Code further provides for an escalation of effective ceilings in accordance with rises in the Consumer Price Index. This is done through increasing the sizes of the loan to which the higher rates apply. For example, if the CPI increased by 10%, the \$300 to which the 36% rate applies would go to \$330 and the 21% rate would apply up to \$1,100 instead of \$1,000.

CREDITOR'S EARNED INTEREST CHARGES ON LOAN  
OF \$1500

<u>Month No.</u>	<u>Normal Computation</u> <u>1/</u>	<u>Rule of 78</u> <u>2/</u>	<u>Alternative Permitted in Revised Final Draft</u> <u>3/</u>
1	\$ 27.50	\$ 32.66	\$ 31.38
2	26.06	29.85	29.05
3	24.60	27.14	26.67
4	23.13	24.43	24.25
5	21.63	21.72	21.77
6	19.67	18.99	19.24
7	17.52	16.28	16.66
8	15.33	13.57	14.03
9	13.10	10.86	11.34
10	10.83	8.15	8.59
11	8.19	5.42	5.79
12	<u>4.12</u>	<u>2.71</u>	<u>2.91</u>
Total	\$ 211.68	\$ 211.68	\$ 211.68

Rebate due if loan is paid off after 5 months (the addition of charges for months 6-12):

(1) Normal computation: \$ 88.76  
 (2) Rule of 78: 75.98  
 (3) Alternative under Revised Draft: 78.56

1/ Based on month by month application of 36% per year on first \$300, 21% on next \$700, and 15% on balance over \$1,000

2/ Based on distribution of total finance charge according to Rule of 78

3/ Based on recasting of charges at flat annual rate of 25.10 percent, corresponding to 36% on first \$300, 21% on next \$700, and 15% on balance over \$1,000

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A UNIT IN THE ORIGINAL FILE.

# TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.  
PHONE 586-7477  
JUNEAU, ALASKA 99801

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JUNEAU

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YOUR SUPPORT

ROBERT SCHICK, TREASURER

NOME ALASKA.

HS 179  
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## MEMORANDUM

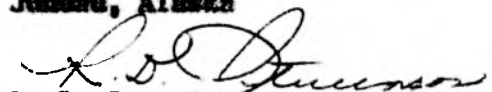
State of Alaska

TO: 

Honorable Marty Farrell, Chairman  
House Resources Committee  
Alaska State Legislature  
Juneau, Alaska

DATE : February 26, 1971

FROM:

  
R. D. Stevenson  
Deputy Commissioner  
Department of Revenue

SUBJECT: House Bill 183  
Litter Control

Certain portions of House Bill 183 affect the Department of Revenue and the Treasury of the State. Attached is a copy of a memo from L. P. Carroll, Chief, Miscellaneous Tax Section, concerning the provisions of House Bill 183 that concern the Department of Revenue.

In addition there is a fiscal note on costs of administration.

For your information Mr. Carroll administers the Business License Tax. In the event that you should desire clarification on any of the material submitted, kindly advise and Mr. Carroll will be available to your Committee.

RDS:eh

Attachment

cc: Honorable William J. Moran, Chairman ✓  
House Judiciary Committee

## MEMORANDUM

## State of Alaska

TO:  R. D. Stevenson  
Deputy Commissioner

DATE : February 25, 1971

FROM: L. P. Carroll, Chief *Stamp*  
Miscellaneous Tax Section

SUBJECT: House Bill 183 - Senate Bill 130--  
Litter Control

Effect on Treasury: This legislation imposes a gross receipts tax of 1/20 of 1% on all manufacturers, wholesalers, and retailers to the extent of the gross derived from the manufacture or sale of any commodity which is packaged in a disposable container including newspapers and magazines, household paper, and paper products. To estimate the potential revenue to the State we have made the following assumptions to arrive at a basis of gross receipts subject to the tax.

	* 1969 Actual Gross <u>Manufacturing</u>	* 1969 Actual Gross <u>Wholesale</u>	* 1969 Actual Gross <u>Retail</u>
	\$71,299,737	\$213,007,177	\$712,535,399
Less portion believed not subject to the tax	<u>35,649,868</u> - 50%	<u>53,251,794</u> - 25%	<u>285,014,159</u> - 40%
Balance subject to tax	\$35,649,869	\$159,755,383	\$427,521,240
Add in value of liquor, beer, wine	0	\$ 27,455,674	\$ 28,553,900
Total 1969	\$35,649,869	\$187,211,057	\$456,075,140

\* See attached

Thus, it may be shown that for calendar year 1969 a total of \$678,936,066 gross receipts could have conceivably been subject to the tax at 1/20 of 1%.

Assuming further an accumulated growth factor of 10% to arrive at a figure for 1971 we find the following:

1969 gross subject to tax	\$678,936,066
Add 10% growth factor	<u>67,893,606</u>
1971 estimated gross subject to tax	<u>746,829,672</u>
Estimated tax at 1/20 of 1%	<u>\$ 373,415</u>

February 25, 1971

**Problems of administration:**

Basically we could administer this tax in the same manner as the present gross business license tax. The major problem we can foresee is the difficulty in making an accurate determination of just what portion of the manufacturers', wholesalers', and retailers' gross is attributable to product sales as set forth in Sec. 41.20.580 (b) (1) - (12). To require each business subject to the tax to keep separate records on these particular sales will create a considerable book-keeping problem. The problem multiplies when you consider staff required to enforce and equitably administer the tax through an audit program.

We urge that the effective date be established on 1/1/72 to allow adequate time for staffing, promulgation of procedures, rules, and regulations, and design of a tax reporting form.

I have attached herewith an estimate of administrative cost which the Department may expect to accrue should this proposed legislation become law.

LPC:mbc  
Attachment

SUMMARY: GROSS RECEIPTS AS REPORTED FOR CALENDAR YEAR 1970  
JANUARY 1, 1970 - DECEMBER 31, 1970

Municipalities	Agriculture & Forestry										Transportation & Communication			Finance & Real Estate			Miscellaneous	
	Totals	Forestry	Construction	Manufacturing	Professional	Utilities	Wholesale	Retail	Real Estate	Service	Real Estate	Service	Miscellaneous					
<b>Boroughs</b>																		
Bristol Bay	\$ 440,641.70		\$ 2,706.00			\$ 66,664.68		\$ 220,449.75	\$ 27,361.05		\$ 143,659.22							
Cantey	46,176,132.02	40,320,804.82	1,256,412.86	1,569,379.11		1,585,737.91		386,921.29	466,397.75		130,287.65							
Greater Anchorage Area	111,336,190.08	3,298,825.21	154,958,918.42	1,171,642.41	4,712,542.93	12,802,204.06	21,483,482.88	63,439,548.96	17,209,547.60	16,290,256.80	11,909,016.73							
Greater Juneau	19,309,420.45	133,553.33	2,530,293.49	64,950.78	119,346.11	1,040,377.72	694,984.76	8,980,712.37	2,482,857.16	1,127,190.44	154,152.29							
Greater Sitka	31,267,793.68	4,375,372.00	145,664.46	24,603,239.55		860,764.72	5,645.60	726,384.41	345,518.81	225,404.13								
Haines	11,381,178.48	5,369,308.00	2,067,394.82	2,378,829.00		316,604.64		197,819.35	43,068.10	408,655.55								
Kenai Peninsula	20,468,615.53	111,650.59	4,112,966.24	2,661,166.57	64,576.71	3,918,130.41	780,853.33	3,300,615.27	1,297,355.93	1,519,388.58	1,300,592.02							
Kodiak Island	2,390,679.17		704,446.86	19,215.36		443,239.87		131,200.00	636,461.36	68,719.29	365,385.03			1,811.40				
Metanaka Sutinca	4,733,007.03	1,370.00	493,486.23	65,461.70	50,527.59	494,836.29		11,699.00	2,274,664.99	922,877.74	401,623.38			37,140.12				
North Star	46,002,336.20	72,284.23	18,146,742.15	1,498,061.98	173,158.24	2,324,413.08	4,261,638.06	11,609,129.12	2,623,376.41	2,754,523.84	336,207.09							
<b>Total Boroughs</b>	\$ 682,766,796.37	\$ 553,643,368.18	\$ 1,089,221,539.31	\$ 833,612,246.46	\$ 3,421,251.58	\$ 25,032,923.32	\$ 29,631,424.22	\$ 94,772,977.07	\$ 25,486,701.74	\$ 23,944,976.70	\$ 13,796,919.63							
<b>Cities</b>																		
Alakanuk	\$ 113,625.46																	
Anaktuvok Pass	27,926.98																	
Anchorage	823,138,133.67	127,549.81	79,365,322.84	1,845,318.01	22,158,460.02	66,841,182.51	70,57,879.74	184,921,627.71	362,124,282.84	29,379,292.84	7,797,007.33							
Anderson & Clear	308,267.02		1,120.00	873.50		6,813.70		207,511.20	70,718.53	11,047.00	16,183.08							
Angoon	207,005.23							289,986.00	4,019.25									
Arvik	59,632.00							59,632.00										
Barrow	1,884,200.05							18,677.90										
Barrel	4,740,402.93		119,049.17			1,397,180.58		2,877,417.05										
Buckland	3,479.40																	
Chuvik	258.32																	
Cortova	6,733,782.97		1,844,391.47	56,617.39	123,231.99	602,249.97		2,613,576.23	648,723.74	837,301.14	49,680.84							
Craig	303,724.83		21,131.00			18,060.02		214,003.73	8,335.30	29,754.78								
Delta Junction	3,039,059.61		282,193.07			76,454.03		636,377.60	1,043,623.97	822,375.90	104,025.04							
Dillingham	2,261,091.69					32,006.90		696,977.70	17,000.00	1,312,953.07	93,001.43							
Douglas	1,110,275.39					1,775.60		144,682.34	1,274.00	624,301.21	178,349.16							
Eagle	67,326.16							33,741.31		14,584.65								
Emmonak	77,981.78							44,417.03		2,187.00								
Fairbanks	222,737,493.81	124,942.44	23,359,641.56	723,605.22	4,802,169.53	30,507,296.50	21,737,213.07	32,371,257.73	31,016,981.26	6,922,990.02	1,161,416.44							
Fort Yukon	264,123.19					78,342.97		77,077.62		100,701.60								
Gambell	11,881.30							1,881.30										
Girdwood	388,449.37		7,370.83					340,822.23		40,246.49								
Greyling	170.00					170.00												
Haines	3,569,113.06		179,917.72			108,069.96		559,729.27	119,991.30	3,817,207.05	398,620.21							
Hamlet	4,861,730.02		564,003.87	6,384.00	190,581.16	624,151.94		2,727,478.03	140,025.00	786,841.04	78,739.78							
Hoonah	409,403.42			300.00		22,538.00		370,627.42	14,818.00	1,600.00								
Hooper Bay	59,469.00							27,963.00		1,300.00								
Huachuca	103,418.24							17,276.24		86,142.00								
Juneau	40,976,386.31		3,351,023.94		3,160,149.52	3,421,139.87	3,780,935.86	18,220,669.69	5,133,034.84	2,590,144.57	99,267.00							
Kake	4,034,133.89	3,470,646.00		154,324.00		8,740.00		327,977.74		22,388.15								
Katig	89,358.33							89,358.33										
Kenai	9,234,139.43		1,223,120.87			468,108.51		1,286,308.98	401,903.54	3,114,525.09	728,044.16							
Ketchikan	49,813,286.13	5,932,631.41	2,406,122.44	5,021,091.77	1,440,025.98	4,568,531.94	2,738,131.88	21,619,594.83	3,719,739.25	2,108,722.55	459,252.88							
Kiana	297,152.30							297,152.30										
King Cove	294,423.65							294,423.65										
Klimovik	60,642.00							60,642.00										
Kodiak	15,220,911.32	25,043.73	924,782.61	15,332.74	554,228.76	1,026,404.81	639,754.75	11,825,198.71	671,938.37	908,236.27	289,978.57							
Kotzebue	2,148,375.23			59,810.26		38,041.50		31,768.21		1,913,401.35	60,099.18							
Maharyuk	19,006.80							19,006.80										
Mountain Village	3,488.90							3,488.90										
Sumna	2,897,521.94							807,080.40		7,348.67								
Sumuk	3,773,735.44		168,618.13			1,116,484.72		2,669,232.34	88,786.30	463,193.57	15,169.88							
Seward	57,844.43					4,553.00		67,282.74		1,069,083.89								
North Pole	352,809.42							37,344.63		3,069.30								
Palatka	114,789.14							231,841.84	74,929.19	129,983.23	57,399.38							
Old Harbor	1,030.00							110,900.00		3,884.30								
Palmer	8,808,882.50	10,238.00	383,883.19	133,153.96	261,496.24	108,063.45	1,201,464.84	5,471,102.83	533,761.78	632,659.12	42,057.70							
Pellana	145,081.73					17,210.36		112,761.00		1,343.08								
Petersburg	10,608,967.77	217,326.04	1,869,483.06	2,143,274.37	342,676.79	461,328.47	294,683.03	3,931,374.96	328,800.88	973,841.82								
Pilot Station	21,601.86							21,601.86										
Point Hope	7,349.00							7,349.00										
Port Alexander	335.11																	
Port Lions	143,843.53					19,351.60		117,444.93		8,948.00								
Saint Mary's	14,844.75							14,844.75										
Saint Michael's	3,314.64							3,314.64										
Sand Point	964,899.96			3,470.00				963,429.96										
Savanna	18,474.00							18,474.00		2,300.00								
Semmes Bay	10,432.62							6,163.76		4,268.86								
Selavik	30,806.04							30,806.04										
Seldovia	735,987.03		12,641.00			21,740.00		683,518.30		12,246.80								
Seward	5,115,985.04		183,409.38			176,033.18		3,440,083.89		163,938.90								
Shikofuraf	98,499.51							82,499.51										
Sitka	12,880,884.83		689,896.47	1,288.00	634,731.50	2,300,109.63	198,538.99	8,071,832.02	829,582.89	347,290.13	7,767.88							
Skagway	1,350,708.38					1,946.00												

Fiscal Note

Personal Services:

1 Sr. Revenue Agent	\$15,496.00
2 Revenue Agents	25,008.00
2 Tax Examiners	18,600.00
1 Clerk Typist II	6,924.00
Total Salary	<u>\$65,028.00</u>
Benefits	<u>11,054.00</u>
Total Personal Services	<u>\$76,082.00</u>

Equipment:

Desks	\$ 1,260.00
Chairs	360.00
Adding Machines	1,750.00
Typewriter	480.00
Files	300.00
Miscellaneous Equipment	500.00
Total Equipment	<u>\$14,650.00</u>

Statewide Travel:

<u>Audit Purposes</u>	
Travel	\$1,000.00
Per Diem	3,100.00
Total Travel	<u>\$4,100.00</u>

Commodities:

Printing	\$4,000.00
Stationery	500.00
Postage	1,400.00
Telephone	200.00
	<u>\$6,100.00</u>

Contractual:

EDP	\$2,000.00
Office Space Rent	5,000.00
Miscellaneous	500.00
	<u>\$7,500.00</u>

Fiscal Note

Summary:

Personal Services	\$76,082.00
Equipment	4,650.00
Travel	4,100.00
Commodities	6,100.00
Contractual	<u>7,500.00</u>
Estimated Total Administrative Costs	<u>\$98,432.00</u>

THE PRECEDING PAGES WERE TREATED AS  
A UNIT IN THE ORIGINAL FILE.

# Greater Anchorage Area Community Action Agency

P.O. BOX 1886

ANCHORAGE, ALASKA 99501

## RESOLUTION NO. 98

RESOLUTION ENDORSING HOUSE  
BILL NO. 224 AND OTHER  
SIMILAR BILLS AS RESPONSIVE  
TO THE NEEDS OF THE POOR

HB 224



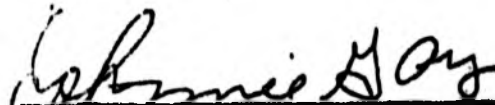
WHEREAS, one of the most serious problems affecting the lives of poor families in the Greater Anchorage Area is the inadequate planning, coordination, and distribution of the necessary social services that affect the poor; and

WHEREAS, the Trustees and staff of the Agency feel that it is of critical importance to the meaningful provision of social services that the affected poor people themselves have a powerful voice in those programs (social service and otherwise) that affect their lives; and

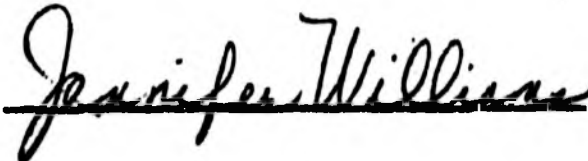
WHEREAS, House Bill No. 224 in the present legislature of the State of Alaska embodies the above expressed principles of meaningful indigenous community participation in the planning, coordination, and administration of comprehensive social service programs that effect their well-being;

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees of the Greater Anchorage Area Community Action Agency endorse House Bill No. 224 as responsive to the problems and needs of the poor, and call upon all state legislators to support the concept as exemplified in House Bill 224 and other similar bills.

PASSED this 18th day of March, 1971, at Anchorage, Alaska

  
Johnnie Gay, Acting President

ATTEST:

  
Jennifer Williams

THE FOLLOWING PAGES WERE TREATED AS  
A UNIT IN THE ORIGINAL FILE.



MAYNARD & WIRUM  
ARCHITECTS

413-239  
746 First Anchorage Alaska  
99501 tel 907 272 3225

April 15, 1971

The Honorable Jalmar M. Kerttula  
Chairman, Commerce Committee  
State House of Representatives, State Capitol  
Juneau, Alaska 99801

Subject: SSHB-239

File

Dear Mr. Kerttula:

I have been waiting anxiously to read of House Bill 239 being brought to the floor for action, but so far I have been disappointed.

The architects and engineers in the state had planned on submitting this for consideration in 1970 but, because of the anticipated pressure from the oil lease sales, it was decided to delay submittal for one year. This action does not infer lack of urgency but rather a desire that the bill be given due consideration.

There are a number of people practicing architecture in the state illegally and, although charges have been filed, the District Attorney's load is such that it receives low priority. It is imperative then that the State Board be given injunctive powers.

I have heard rumor that there is a petition signed by people in the housing industry opposing passage of this bill. Section 08.48.041(8) specifically excludes control of persons designing one and two-family homes. Once we get into multi-family housing the state, community and building owner have responsibilities to the people occupying these buildings to safeguard their life, health and property as the General Provisions provide. A lot of those persons presently practicing illegally go beyond the housing field and are designing public buildings. This is a dangerous situation. If the practitioner is in fact qualified he can become licensed and thereby responsible for his actions. At present these people carry no insurance and are under no legal obligation to anyone. This is a deplorable situation.

State Representative Jalmar M. Kerttula - Page 2 - April 15, 1971

I would respectfully request that this bill be processed THIS YEAR in the interest of all citizens of the state.

Very truly yours,



KENNETH MAYNARD, AIA

KDM:ml

cc: Representatives Gene Guess, Willard L. Bowman, Mike Colletta, Marty Farrell, Tom Fink, Jess Harris, Richard McVeigh, William J. Moran, Mike Rose, Joshua J. Wright, Helen M. Fischer, Earl D. Hillstrand, Edward G. Barber

HB-239

12 April 1971

Honorable William Moran  
Chairman, Judiciary Committee  
Alaska House of Representatives  
Juneau, Alaska 99801

Dear Mr. Moran:

I would like to direct your attention to a legislative matter of prime importance. I have become increasingly aware of the inadequacies of House Bill 239, through correspondence with the National Engineers Legal Fund.

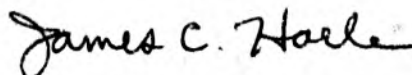
I am concerned over a portion of HB 239 which may be an open invitation to legal actions (Enclosure 1). The objectional portion is that of the wording of "practice of engineering", page 19 of HB 239, Section 08.48.301/7 (Enclosure 2). It appears that this section is attempting to exclude engineers from becoming prime design consultants of buildings.

In a joint Architect-Engineer Registration Act such as HB 239 there should be a clear cross exemption clause included, designed to permit the architect or engineer to contract for all design services.

I would recommend amending HB 239 to read as suggested by the National Council of Engineering Examiners Model Law (Enclosure 3). The Model Law has been endorsed by the National Society of Professional Engineers and several other national engineering groups. I am confident that this amendment will clear up most objections to this bill.

I hope you can give this important matter your attention.

Sincerely yours,



JAMES C. HARLE, P.E.

3 Enclosures  
As stated

(Printed and Distributed by: NATIONAL ENGINEERS LEGAL FUND)

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
JULY TERM 1970

ALEX VERICH, EDWARD J. DeBARTOLO )  
d/b/a EDWARD J. DeBARTOLO & )  
ASSOCIATES and EDWARD J. )  
DeBARTOLO CORP., )

Appellants, )

CASE NO. 69-40.

v. )

THE FLORIDA STATE BOARD OF )  
ARCHITECTURE, an agency of the )  
State of Florida, )

Appellee. )

Opinion filed July 29, 1970

Appeal from the Circuit Court for Palm  
Beach County; R.O. Morrow, Judge.

Madison F. Pacetti of Caldwell, Pacetti,  
Barrow & Salisbury, Palm Beach for appellant.

Selig I. Goldin of Goldin, Jones, Gainesville  
and Marks, Gray, Yates, Conroy & Gibbs, Jacksonville  
for appellee.

OWEN, J.

On complaint filed by the Florida State Board of Architecture  
appellant Alex Verich, a registered professional engineer, was found to  
be practicing architecture and enjoined from further practice thereof. We  
reverse that judgment in what we believe to be a case of first impression  
in this jurisdiction.

Mr. Verich was registered as a professional engineer in the  
State of Florida as provided under Chapter 471, F.S. He prepared or had pre-  
pared under his supervision, plans for a shopping center in West Palm  
Beach, Florida known as the Palm Beach Mall. Thses plans involved both  
architecture and engineering. At no time did Mr. Verich hold himself out  
to be an architect in any manner whatsoever nor did he enter into any

contracts to perform architectural services, as he prepared the plans for the Edward J. DeBartolo Corporation for whom he was a fulltime engineer employee. The Palm Beach Mall is owned by Palm Beach Mall, Inc., a corporation wholly owned by the Edward J. DeBartolo Corporation.

Not unexpectedly, the plaintiff called as witnesses three architects all of whom testified that in their opinion the drawings, plans and specifications for the Palm Beach Mall constituted the work product of the practice of an architect. The defendant called as witnesses several registered professional engineers who expressed the opinion that the preparation of the plans for the Palm Beach Mall constituted the practice of engineering. The engineers testified that in their opinion the engineering services in preparing the necessary drawings and plans constituted approximately 75% of the work and that architecture was approximately 25% of the work. Both the engineers and architects agreed that the Palm Beach Mall was a building and that the plans for the same required the use or knowledge of mathematics and the practice of engineering, while we mention the foregoing conflicts in the testimony, our decision does not turn on a factual basis.

That there is an overlapping between the two professions appears to be readily recognized by the language of Section 467.09(1)(a), F.S. which provides in substance that registered professional engineers are not prohibited from performing architectural services which are purely incidental to their engineering practice, and that registered architects are not prohibited from performing engineering services which are purely incidental to their architectural practice. The overlapping nature of the two professions is well recognized. See 82 ALR2d 1026; 5 Am.Jur.2d, Architects, §3; 6 C.J.S., Architects, §1.

Section 467.09(1)(a), F.S. defines the practice of architecture in a somewhat negative manner. After first providing for certain exemptions, the statute then defines the practice of architecture in the following terms:

"Otherwise, any person who shall be engaged in the planning or design for the erection, enlargement or alteration of buildings for others or furnishing architectural supervision of the construction thereof shall be deemed to be practicing architecture and be required to secure a certificate and all annual renewals thereof required by the laws of this state as a condition precedent to his so doing."

Stated in rather broad and general terms, the planning or design for the erection of buildings for others is the practice of architecture. The same statute expressly provides that no professional engineer shall practice architecture or use the designation "architect" or any term derived therefrom, but at the same time also expressly provides that nothing in the state law shall be held to prevent a registered professional engineer (or their employees or subordinates under their responsible supervising control) from performing architectural services which are purely incidental to their engineering practice. Standing alone, the statute appears to contain some contradictions in and of itself.

Chapter 471, F.S. pertains to profession engineers and by definition (Section 471.02(5)) the term "professional engineering" includes, among other things, any professional service requiring use of knowledge of mathematics and the principles of engineering rendered or offered to be rendered for public or private buildings and any consultation, investigation, plan, design, or responsible supervision of construction in any public or private buildings. Thus, it can be seen that the preparation of plans and design for and responsible supervision of the construction of buildings is by statute defined as the practice of professional engineering.

If the planning and design of a building and the furnishing of supervision of its construction are functions which are encompassed solely within the practice of architecture, then professional engineers are prohibited from engaging in such functions unless incidental to their engineering practice. But paradoxically, the practice of professional

engineering expressly includes the planning and design of buildings and the supervision of their construction. Thus, the apparent conflict can only be resolved by concluding that the statutes mean a registered architect can plan and design and supervise construction of a building as the practice of architecture and a registered professional engineer can plan and design and supervise construction of a building as a professional engineer. Of course, the professional engineer cannot represent himself as being an architect nor can the architect represent himself as being a professional engineer.

Appellee contends that the statutory definition of "professional engineering" by necessary implication has reference to "buildings" of an industrial nature designed primarily to house machinery and equipment rather than designed primarily for habitation or occupancy by humans. Admittedly, such a qualification as to the type of buildings upon which professional engineers were authorized to plan and supervise construction would help preserve a line of demarcation between the two professions consistent with generally accepted concepts. We feel however that had it been the legislative intent to thus limit or restrict to industrial buildings the type of buildings which professional engineers were authorized to design and supervise construction upon, such qualifications or restrictions would have been explicitly contained in the statute. We are concerned here with statutory construction and not historical differences of these two professions.

The final judgment is reversed and the cause remanded for entry of a judgment favorable to appellant.

REED, J., concurs.

WALDEN, J., dissents, without opinion.

A PORTION OF  
HOUSE BILL 239

ENCLOSURE 2

1 projects, and architectural review of plans and specifications by  
2 regulatory agencies, but does not include the design of complete  
3 mechanical, electrical or structural systems for buildings or other  
4 structures, but may by regulation of the board include mechanical,  
5 electrical or structural design as is of relatively minor importance  
6 to the project as a whole<sup>27</sup> and one who<sup>28</sup>, by verbal claim, sign,  
7 advertisement, letterhead, card, or in any way represents himself to  
8 be an architect, or through the use of some other title implies that  
9 he is an architect or that he is registered under this chapter, or  
10 who holds himself out as able to perform or who does perform any  
11 service or work the board shall by regulation define as the practice  
12 of architecture;

13 (7) "practice of engineering" means professional or creative  
14 work, the adequate performance of which requires the application of  
15 specialized knowledge of mathematics and sciences, dealing with the  
16 functional and economic design of buildings, structures, machines,  
17 equipment, utilities systems, materials, processes, works or projects,  
18 public or private; the planning of portions of the earth's surface  
19 for man's use, the teaching of advanced engineering courses in  
20 institutions of higher learning, the direction of or the performance  
21 of engineering<sup>29</sup> and land<sup>30</sup> surveys, including services of consultation,  
22 investigation, evaluation, planning, design and inspection for the  
23 purpose of assuring compliance with the designs and specifications  
24 in connection with public and private structures, buildings, works  
25 or projects and engineering review of plans and specifications by  
26 regulatory agencies; and the practice of engineering may by regulation  
27 of the board include such architectural design as is of relatively  
28 minor importance to the project as a whole, but shall not be construed  
29 to include comprehensive architectural services<sup>29</sup> and one, who<sup>30</sup>, by

NEEDS AMENDING

" NATIONAL COUNCIL OF ENGINEERING EXAMINERS "
THE MODEL LAW

CHAPTER I. REGISTRATION OF ENGINEERS
AN ACT

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1 To Regulate the Practice of Engineering; Provide for the Registration of Quali-
2 fied Persons as Engineers and the Certification of Engineers-in-Training; Define
3 the Terms "Engineer", "Professional Engineer", "Engineer-in-Training", and
4 "Practice of Engineering"; Create a State Board of Registration for Professional
5 Engineers and Provide for the Appointment and Compensation of its Members;
6 Fix the Term of Members of the Board and Define its Powers and Duties; Set
7 Forth the Minimum Qualifications and Other Requirements for Registration as
8 an Engineer and Certification as an Engineer-in-Training; Establish Registration
9 Fees with Expiration and Renewal Requirements; Impose Certain Duties upon
10 the State and Political Subdivisions thereof in Connection with Public Work, and
11 Provide for the Enforcement of this Act and Penalties for its Violation.
12 Be it enacted by the General Assembly of the State of . . . . .
13 as follows:

SECTION 1. GENERAL PROVISIONS

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1 In order to safeguard life, health, and property, and to promote the public
2 welfare, the practice of engineering in this state is hereby declared to be subject
3 to regulation in the public interest. It shall be unlawful for any person to prac-
4 tice, or to offer to practice, engineering in this state, as defined in the provisions
5 of this Act, or to use in connection with his name or otherwise assume, or adver-
6 tise any title or description tending to convey the impression that he is an engi-
7 neer, unless such person has been duly registered or exempted under the pro-
8 visions of this Act. The right to engage in the practice of engineering shall be
9 deemed a personal right, based on the qualifications of the individual as evi-
10 denced by his certificate of registration, which shall not be transferable.

SECTION 2. DEFINITIONS

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1 (a) Engineer—The term, "engineer", within the intent of this Act shall mean
2 a person who, by reason of his special knowledge and use of the mathematical,
3 physical and engineering sciences and the principles and methods of engineering
4 analysis and design, acquired by engineering education and engineering experi-
5 ence, is qualified to practice engineering.
6 (b) Professional Engineer—The term, "professional engineer", as used in this
7 Act, shall mean a person who has been duly registered and licensed by the State
8 Board of Registration for Professional Engineers.
9 (c) Engineer-in-Training—The term, "engineer-in-training", as used in this Act,
10 shall mean a person who complies with the requirements for education, experi-
11 ence and character, and has passed an examination in the fundamental engi-
12 neering subjects, as provided in Sections 12 and 14 of this Act.

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RECOMMENDED AMENDMENT

13 (d) Practice of Engineering—The term, "practice of engineering", within the
14 intent of this Act, shall mean any service or creative work, the adequate per-
15 formance of which requires engineering education, training, and experience in
16 the application of special knowledge of the mathematical, physical, and engineer-
17 ing sciences to such services or creative work as consultation, investigation, eval-
18 uation, planning and design of engineering works and systems, planning the use
19 of land and waters, engineering teaching of advanced engineering subjects or
20 courses related thereto, engineering surveys, and the inspection of construction
21 for the purpose of assuring compliance with drawings and specifications; any of
22 which embraces such service or work either public or private, in connection with
23 any utilities, structures, buildings, machines, equipment, processes, work sys-
24 tems, or projects and including such architectural work as is incidental to the
25 practice of engineering.
26 A person shall be construed to practice or offer to practice engineering, within
27 the meaning and intent of this Act, who practices any branch of the profession
28 of engineering; or who, by verbal claim, sign, advertisement, letterhead, card,
29 or in any other way represents himself to be an engineer, or through the use

30 of some other title implies that he is an engineer or that he is registered under  
31 this Act; or who holds himself out as able to perform, or who does perform any  
32 engineering service or work or any other service designated by the practitioner  
33 which is recognized as engineering.

34 (e) Board—The term, "Board", as used in this Act shall mean the State Board  
35 of Registration for Professional Engineers, hereinafter provided by this Act.

36 (f) Responsible Charge—This term means direct control and personal supervision  
37 of engineering work.

### SECTION 3. BOARD—APPOINTMENTS—TERMS

1 A State Board of Registration for Professional Engineers is hereby created  
2 whose duty it shall be to administer the provisions of this Act. The Board shall  
3 consist of . . . . . engineers, who shall be appointed by the Governor, preferably  
4 from a list of nominees submitted by the representative engineering societies of  
5 the State, and shall have the qualifications required by Section 4. Each member  
6 of the Board shall receive a certificate of his appointment from the Governor  
7 and shall file with the Secretary of State his written oath or affirmation for the  
8 faithful discharge of his official duty. Appointments to the Board shall be in  
9 such manner and for such period of time that the term of each member shall expire  
10 at a different time. On the expiration of the term of any member, the Governor  
11 shall in the manner hereinbefore provided appoint for a term of . . . . .  
12 years a registered engineer having the qualifications required in Section 4. A  
13 member may be reappointed to succeed himself. Each member shall hold office  
14 until the expiration of the term for which appointed or until a successor has been  
15 duly appointed and has qualified. In the event of a vacancy on the Board for  
16 any reason and the Governor failing to appoint a successor within three months  
17 after the vacancy occurs, the Board is empowered to fill that vacancy until the  
18 Governor makes an appointment.

### SECTION 4. BOARD—QUALIFICATIONS

1 Each member of the Board shall be a professional engineer, who is a citizen  
2 and resident of this State and is registered in this State and who shall have been  
3 engaged in the lawful practice of engineering for at least twelve years, and who  
4 shall have been in responsible charge of important engineering work for at least  
5 five years.

### SECTION 5. BOARD—COMPENSATION AND EXPENSES

1 Each member of the Board shall receive the sum of . . . . . Dollars  
2 (\$ . . . . . ) per diem when attending to the work of the Board or any  
3 of its committees and for the time spent in necessary travel; and, in addition  
4 thereto, shall be reimbursed for all actual traveling, incidental, and clerical  
5 expenses necessarily incurred in carrying out the provisions of this Act.

### SECTION 6. BOARD—REMOVAL OF MEMBERS—VACANCIES

1 The Governor may remove any member of the Board for misconduct, in-  
2 competency, neglect of duty, or any sufficient cause, in the manner prescribed  
3 by law for removal of state officials. Vacancies in the membership of the Board  
4 shall be filled for the unexpired term by appointment by the Governor as pro-  
5 vided in Section 3.

### SECTION 7. BOARD—ORGANIZATION AND MEETINGS

1 The Board shall hold at least . . . . . regular meetings each year. Special  
2 meetings may be held as the by-laws of the Board provide. The Board shall elect  
3 or appoint annually the following officers: A chairman, a vice-chairman, and a  
4 secretary. A quorum of the Board shall consist of not less than . . . . . members.

### SECTION 8. BOARD—POWERS

1 (a) The Board shall have the power to adopt and amend all by-laws and rules  
2 of procedure, not inconsistent with the constitution and laws of this state or this  
3 Act, including the adoption and promulgation of a Code of Ethics and/or Rules

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PLEASE REPLY BY AIRMAIL

WARREN C. CHRISTIANSON  
ATTORNEY AT LAW  
SITKA, ALASKA 99835

POST OFFICE BOX 4  
TELEPHONE 747-3558  
132 LINCOLN ST.

April 2, 1971

The Honorable William J. Moran,  
Chairman  
Judiciary Committee  
Pouch V  
Juneau, Alaska 99801


Re: HB 241

Dear Mr. Moran:

As HB 241 - "An Act relating to damages for oil pollution",  
introduced by Mike Miller has been referred to the Judiciary  
Committee, I would very much appreciate it if you would give  
your support to this bill.

Thank you for your assistance in this matter.

Very truly yours

  
Warren C. Christianson

WCC/dw

# TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.  
PHONE 586-7477  
JUNEAU, ALASKA 99801

HB 264

#V

1971 MAR 29 PM 3 09

CWA069 POM

FAIRBANKS ALASKA 29

REP ANDY WARWICK

JUN 2593

STRONGLY URGE YOU SUPPORT HB264 TO IMPROVE CHILDRENS

EDUCATIONAL OPPORTUNITY

DORIS D RAY 1209 10 AVE

HB264 1209 10.



TOM WHITEHEAD, MINISTER  
212 WEST 29TH AVENUE  
ANCHORAGE, ALASKA 99503

CHURCH PHONE 279-3342  
PARSONAGE PHONE 277-9601

# TURNAGAIN UNITED METHODIST CHURCH

3300 NORTHERN LIGHTS BOULEVARD

ANCHORAGE, ALASKA 99503

*HB 275*

Rep. William Moran  
Pouch V  
Juneau, Ak. 99801

Dear Mr. Moran;

The adult class at Turnagain United Methodist Church in Anchorage was very appreciative of the senators and legislators who took time from their busy schedule to meet with us last Fall. We are even more appreciative of the time that you have put in in Juneau since the first of the year.

When we met with legislators in November, we shared our thinking about several matters that we thought had moral implications. One of those was the matter of drinking and driving. We note that HB 275 sets up a point system for motor vehicle violations which would revoke the licenses of chronic violators who imperil the safety of others. From the sound of the resume, this is a bill that we heartily endorse, and we would urge your support of it.

Sincerely,

*Jeanne Miller*  
*Beth Seuderason*  
*Will Troyer*  
*Jan W. Hannon*  
*Mary Reardon*  
*Mary Libby*

*Bonnie J. Hoffentrager*  
*Lukie Troyer*  
*Maurice Blewett*  
*Judith Powell*  
*Carol Daly*  
*Walter L. Hayes*  
*Carolyn K. Lawrence*  
*Beverly Whitcomb*

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DAVIDSON, ENGSTROM [REDACTED]  
ATTORNEYS AT LAW  
JUNEAU, ALASKA 99801

C. GIRARD DAVIDSON  
ALLAN A. ENGSTROM  
[REDACTED]

201 NATIONAL BANK OF ALASKA BUILDING  
TELEPHONE 586-1448

April 1, 1971

HB 358

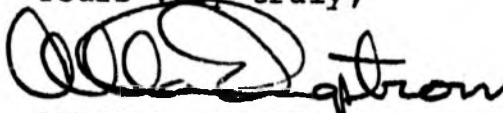
Hon. William Moran  
Chairman, House Judiciary Committee  
State Capitol Building  
Juneau, Alaska

Re: H.B. 358

Dear Bill:

House Bill 358, relating to hospitals, would vitally affect my client, Blue Cross Washington Alaska, Inc. Prior to your Committee taking any action on the bill, we would appreciate being heard by your Committee. We would be prepared to appear before your Committee subject to your convenience.

Yours very truly,

  
ALLAN A. ENGSTROM

AAE:rhm

XXXXXXXXXXXXXXXXXXXX  
Ketchikan General Hospital  
3100 Tongass Avenue  
March 31, 1971

XXXXXXXXXXXXXXXXXXXX  
Ketchikan, Alaska 99901

HB # 358

Representative Tom Fink  
Alaska State House of Representatives  
Juneau, Alaska 99801

Dear Representative Fink

I have received a copy of House Bill #358 which was introduced by you on March 26, 1971. I and the other members of the Alaska State Hospital Association have had an opportunity to make an initial review of the proposed Bill and feel that the proposed legislation may not be workable. For instance, many of the Alaska State Hospital Association institutions currently have expense reimbursement contracts existing with the U.S. Public Health Service for periods ranging up to twenty years which apparently would not meet the specifications of your proposal. We would also question whether the Federal Medicare Reimbursement System would be allowable under proposed House Bill #358.

The Alaska State Hospital Association therefore urges that no positive action be taken on this proposal until such time as the Association and other interested parties have an opportunity to give a more complete review to the proposal. I would also appreciate receiving your comments as to the intent of the legislation.

Thank you for your cooperation.

Sincerely

Patrick R. Mahoney  
Chairman  
Legislative Committee ASHA

cc Jalmar Kerttula, Commerce  
William Moran, Judiciary  
Frank Peratrovich, Commerce  
Dick Whittaker, HW & E

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STATE OF ALASKA  
THE LEGISLATURE  
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99801

HB-388

March 27, 1971

MEMORANDUM

TO: Rep. William J. Moran, Chairman  
House Judiciary Committee

FROM: Arthur H. Peterson *Art*  
Revisor of Statutes

SUBJECT: Administration of small estates

The committee's bill on the administration of small estates, as recommended by the director of the court system and by Probate Master Keifer Gray, is attached. Two things about the recommendation are unclear to me: (1) Why was the appropriate change in AS 13.30.006 (which I have included in sec. 4 of the bill) not mentioned? (2) Is the recommended change in sec. 2 of the bill necessary in light of AS 13.30.006? Or perhaps AS 13.30.006 could be amended in this respect too.



ALASKA STATE  
MEDICAL ASSOCIATION

514 WEST EIGHTH AVENUE ANCHORAGE, ALASKA 99501 TELEPHONE 277-6891



SB 92

March 1, 1971

The Honorable John Rader  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99801

Dear Senator Rader:

On behalf of the Legislative Committee of the Alaska State Medical Association, I wish to make known our position on SB 92, "An act relating to disciplinary procedures of the State Medical Board; and providing for an effective date."

We generally concur with and support Sections 08.64.390 through 08.64.590. We are cognizant, as I am sure you are, of some negative opinions; namely that the procedures outlined are unnecessarily complex, cumbersome, and potentially expensive. We do not share these views. We believe your proposal provides a reasonably clear delineation of powers, procedures, and responsibilities, while still providing maximal protection for both the charged physician and the public interest.

As you probably know, we especially favor Section 08.64.580. These provisions appear well written and should satisfy our needs and those of the State Medical Board. We feel that this immunity from civil liability is the keystone for effective enforcement of disciplinary provisions of the State Medical Practice Act.


With respect to Section 08.64.570, Counsel and Staff, we would suggest a re-draft specifically providing for a full-time executive secretary for the State Medical Board. Such an individual is requested by Dr. Henry Akiyama of the Board, as a means of making their functions more effective. We endorse this view.

We must express our strong disapproval of the proposed amendment of AS 08.64.315(6) which would treble biennial license renewal fees. You were perhaps not aware that a major increase in these fees went into effect only this year. We are unaware of any justification or necessity for a further major increase at this time. Since such expenses are indirectly passed on to the patient in terms of higher medical fees, we feel this would be simply an added factor in the spiralling cost of medical care.

Senator Rader  
March 1, 1971  
Page 2

Thank you for introducing this needed legislation. We will be pleased to provide you with any additional clarification of our position, and offer our full assistance in securing passage of the major portions we favor.

Sincerely,

  
John A. Pennington, M.D., Vice Chairman  
Legislative Committee

JAP:ch  
cc: Representative Gene Chance  
Senator Lowell Thomas, Jr.

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A UNIT IN THE ORIGINAL FILE.

SB 124

Enclosed is the testimony I gave in Juneau before the joint House and Senate Health, Welfare and Education Committees. Under consideration were the nursery school regulations now being pushed by Health and Welfare social workers in Anchorage and the State. We believe that their misinterpretation of current vague regulations and lack of educational expertise has caused a great deal of unnecessary trouble for established and satisfactorily functioning private nursery schools. The present furor appears unlikely to lead to improvements; rather it may result in overpricing or closure of such private facilities. For this and other reasons, elaborated in this testimony, we recommend placement of these nursery schools under the Department of Education.

We therefore urge your endorsement of Senate Bill No. 124, with the changes in (8) as shown. The (ages 3-5) were inserted by me; the other changes were put in by Dr. Hartman of the Dept. of Education. He felt that the words "in cooperation with the Department of Health and Welfare" were unnecessary, since Health and Welfare always cooperates in the running of schools anyway (inspecting the schools for cleanliness, space, etc.), and that the inclusion of these words might just add confusion as to which Department would have jurisdiction over the nursery schools.

*Marianne von Hippel*

Marianne von Hippel, M.D.

THE PRECEDING DOCUMENT(S) MAY NOT FILM  
LEGIBLY BECAUSE OF POOR QUALITY OF THE  
ORIGINAL.

Original sponsor: Groh

BY THE HEALTH, WELFARE AND  
EDUCATION COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 124

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to jurisdiction over prekindergarten  
7 schools."

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

9 \* Section 1. AS 47.35.030(4) is amended to read:

10 (4) "nursery" means an establishment providing care and  
11 services for any part of the 24-hour day for a child not related by  
12 blood or marriage to the owner or operator, but does not include any  
13 establishment whose primary purpose is educational.

14 \* Sec. 2. AS 14.07.020 is amended by adding a new paragraph to read:

15 (d) ~~in cooperation with the Department of Health and Welfare~~  
16 *Exercise general supervision over public and private preelementary*  
17 *(ages 3-5) whose primary function is educational*  
18 *schools, and over the educational component of nurseries as defined*  
19 *in AS 47.35.030(4).*

HB 124

Marianne von Hippel, M.D.  
Testimony regarding Anchorage private nursery schools

I am representing five private nursery schools in Anchorage; Safehaven, Mrs. Pointer's, Mrs. Hanshew's at the First Presbyterian Church, Central Lutheran Church and St. Mary's Episcopal Church. The first is a cooperative owned and operated by the mothers; the second is owned by Mrs. Pointer, the teacher; the latter three are run by their respective church boards. All are non-sectarian. Tuition is paid by the parents; none of these schools receive State or Federal aid.

What is the problem? These schools have been running successfully for a few to twenty-three years (Safehaven). Last fall, Mrs. Wolfe, a social worker from the Borough, and Mrs. Johnson, a social worker from the State, have informed all these schools that the regulations state that all day care centers must have one adult for each ten children, or close beginning with the 1971-72 school year. All these schools have been classified as day care centers, since the regulation defines a day care center as one which has more than five children, under the age of five, for any part of the day, in a dwelling other than the home. If the regulation was strictly applied all Sunday Schools would come under this classification, and thus be accountable to representatives of the Department of Health and Welfare. Of the five nursery schools I am representing, all but Mrs. Pointer's have approximately fifteen children to one adult. Mrs. Pointer, who has gradually switched from kindergarten to nursery school, is operating strictly nursery school this year for the first time, and has complied with the Borough Ordinance. However, I have included her school with the other four because her school is similar, and because she is in favor of offering the mothers a choice. (These schools all have other adults in the building present at all times; in case an emergency should arise, someone would be available to help.)

Our feeling is that nursery schools are entirely different from day care centers, and so should come under a different classification.

How are they different? All of the five schools mentioned take children three and four years old only; none of them take infants and toddlers. Central Lutheran, Mrs. Pointer's and Mrs. Hanshew's take four-year-olds only; Safehaven and St. Mary's take three and four-year-olds, having different classes for the two different age groups. All the schools follow the school district age deadline; thus, a four-year-old is a child who will be five after November 1.

von Hippel  
Testimony regarding nursery schools, cont'd.

All of the five schools have children for only two and a half hours a day. Mrs. Hanshew has children three days a week; St. Mary's has the four-year-olds three days a week and the three-year-olds two days a week; Mrs. Pointer has three different programs - two days, three days and five days; Central Lutheran and Safehaven both have five day weeks. Thus, the children spend anywhere from five to twelve and a half hours a week at the school.

What goes on at the school? While each of the five schools differs in the program it offers, each is similar in that it has an organized curriculum. Most combine free play, during which time the children gain valuable experience in learning to get along with each other, and specific learning situations, such as painting, numbers, learning about their environment, etc. None of these schools teach things that will be taught by the public schools, such as reading, as it is felt that these could be better learned at a later stage of development. The school I am most familiar with, Safehaven, includes poetry for all the children, plus a little Spanish, number concepts and geography for the four-year-olds. Our teachers are selected on the ability to teach and to relate to children of this age, not on the basis of certificates. As a result many of these teachers are not fully certified.

It is obvious from the above that these schools cannot be used as baby sitting services. The children are there for too short a period. They are too old for diapers, bottles, or continuous watching for such dangerous habits as sticking fingers in electric outlets, etc. No meals are served and there are no naps. The children are there for educational and social reasons, not for mothering or baby sitting. The primary purpose is to serve the children, not the mothers. In brief, these are pre-schools, not day-care centers, and are much more like the public school kindergarten, where the ratio is about 1/25.

What would be the problem in reducing the child/adult ratio? First of all, we see no reason that this would be of any benefit to the children. Secondly, the tuition would have to be raised to support more teachers and teacher-aides, which would make nursery schools prohibitive to many families and force the closing of many of the schools. At the present time the cost is as follows:

von Hipp 1  
Testimony regarding nursery schools, cont'd.

St. Mary's - \$16/month for the three-year-olds  
                  \$20/month for the four-year-olds  
Mrs. Hanshaw's - \$25/month  
Central Lutheran - \$30/month  
Safehaven - \$30/month  
Mrs. Pointer's - \$20/month two day program  
                  \$30/month three day program  
                  \$45/month five day program (As Mrs. Pointer's  
school has the ten/one ratio, she must charge more.)

Other suggestions made to reduce the ratio are to have mothers help; and to have college students who are Education Majors help. The first suggestion has been discarded by all the schools because most mothers are not interested in this sort of thing (those that are can send their children to cooperative schools where mothers do help), and many teachers are afraid the child of the helping mother would be a behavior problem. The second suggestion (college students helping) is impractical since an adult is defined as a person over twenty-one, and there are not that many college students over twenty-one who have the interest and time to help on a daily basis.\*\*

No school is ideal ~~of~~ everyone. We believe that a large variety of schools is ideal as it offers mothers a chance to select the learning experience most suited for their child.

What children do our schools serve? Generally they serve middle-class children from two-parent homes. Most of the mothers do not work. The one exception to this is Central Lutheran; half of their children come from poverty homes, and these students have their tuition donated by members of the congregation.

As a Board-Certified Pediatrician I have had considerable experience with nursery schools. I often refer a child to a nursery school when I think it would benefit him. When I arrived in Anchorage nearly six years ago there were few schools and they had long waiting lists. I would not like to see this situation return because our present good schools are forced to close; I would not like parents to be unable to send their children to nursery schools because of rising costs. I feel these five schools are excellent and offer valuable experience for pre-schoolers. I can see that some regulations are required for day-care centers so that children of working mothers are not crowded together and given inadequate care; but I see little resemblance between a day care center and our nursery schools.

von Hippel  
Testimony regarding nursery schools, cont'd.

As a mother of four children who have attended nursery school over a period of six years, I have seen my children gain much, both educationally and socially, and they have had a lot of fun in the process. I am one of the few mothers who do work, but I have never used the nursery school as a baby sitting service, as I have always had a baby sitter in my home when I am at the office.

In our community we have programs for poverty children; we have programs for children with serious emotional difficulties; we have programs for children with physical and mental disabilities, such as cerebral palsy and deafness. Many of these programs are partly or wholly State supported. This is as it should be.

Our nursery schools are privately supported institutions run primarily for normal, middle-class children. These children have rights too.

These schools have proven effective over many years. We hope they will not be destroyed by the present bureaucratic misinterpretation of regulations designed to protect other children under entirely different circumstances.

*Continued on next page*

\*\*It should be pointed out that many teachers do not want to work with another adult, even if this could be done. Mrs. Hanshaw, an excellent teacher of many years experience, has told me that she wants to have all her attention on the children, rather than having to concern herself with the other adult and how the children are relating to her. Some teachers work well with another teacher; some don't. Some children can relate well to several adults at one time; some relate best when only one adult is present.

April 12, 1971

SB-124

Dear Rep. Moran,

Enclosed is an article which appeared in the November 1970 issue of Parents magazine, discussing the urgent need for expanded day care services for preschool children. It should be of great interest to you since there have been several bills introduced in the Alaska Legislature this session on the subject.

In the past, many uninformed people have dismissed the topic of day care as one of minor importance, a frivolity. But of late, there has been the realization that money spent on early childhood development, not to be confused with mere custodial care, is the best investment our country can make. President Nixon has allotted \$386 million for comprehensive day care services as part of his new welfare program. The major recommendation of the 1970 White House Conference on Children was for "comprehensive family oriented child development programs, including health services, day care and early childhood education."

In Alaska, we have a high proportion of working mothers due to the higher cost of living and the large number of military families. To meet the child care needs of these women in the Anchorage area we have 14 day care centers which can accommodate a total of 300 children, a drop in the bucket when compared to the thousands of women one sees daily in the offices and business establishments of our city. The picture throughout the state is equally dismal.

Funds are desperately needed to provide low cost, quality day care to the mothers whose income is necessary to help provide their families with the essentials of a decent life; for those women who need and want to work but can't because of a lack of child care services; for those women, who in increasing numbers, make a substantial contribution to the Alaskan economy.

Of acute concern to us are the proposed cuts of Operation Upgrade funds. This money, \$50,000 (coupled with \$150,000 federal funds) operates 10 day care centers from Ketchikan to Nome and without it these centers will doubtlessly close. We would like to see the originally requested \$100,000 (which will be matched with \$300,000 federal money) approved so that we can expand these vitally needed programs.

In addition, we urge you to give your full support to House Bill 224, entitled Comprehensive Community Services Program, a measure which would provide for locally planned and operated day care services. If passed, multiple funding from various federal and state sources would be made available.

In conclusion, we feel that this area of developing human resources is as deserving of your attention, and as vital to the growth of Alaska, as development of the physical attributes of the state.

Sincerely,

*Mrs. Rosaire Kennedy*

Mrs. Rosaire Kennedy, Pres.  
Mrs. Judy Smith, Vice Pres.  
Mrs. Shirley Leighty, Sec.  
Mrs. Jan Erickson  
Mrs. Susan Heasley  
Mrs. Jackie Bloom  
Mrs. Diana Berkowitz  
Mrs. Gail Simmons  
Mrs. Kathy Dubbs

Mothers for Quality Child Care  
1712 W. 11th Ave.  
Anchorage, Ak. 99501

# New Developments in Day Care

*A well-known pediatrician discusses  
the urgent need for expanded  
day care services for preschoolers.*

*by Morris A. Wessel, M.D.*

*Associate Clinical Professor of Pediatrics,  
Yale University School of Medicine*

**B**arbara Anton, an attractive young woman whose two children I've cared for since their birth, sat in a chair in my office. "Susan's three-and-a-half now, you know," she said, "and Bobby's past two. They're both pretty independent and they get along very well when I leave them with a neighbor. What I wanted to ask you was," she continued a little hesitantly, "do you think it would be all right if I left them in a day care center for a few hours every day? I'm thinking of taking some college courses. I can get my degree in a year that way and then I'll be able to teach. I'll want to start working in a couple of years anyway, and I've always thought I'd like to teach. I've been thinking more and more about doing this since Brian was killed."

Barbara's husband was a casualty of the war in Vietnam, killed when their second child, who was born in his absence, was only a few months old. In spite of her grief and shock, Barbara had managed to submerge her sorrow in the day-to-day job of looking after her two babies. Somehow she had even been able to give them a sense of ease and security, and Susan and Bobby were two of the healthiest, nicest youngsters I knew.

Now Barbara was trying to pick up the pieces of her own life as well, and I was delighted that she was thinking ahead and making plans for the future. I assured her that her idea was an excellent one and, moreover, I knew of a fine day care center near the State Teachers College she would be attending. When Barbara left my office she looked happier than I had seen her in a long time, and she called me a few days later to tell me she had been able to schedule all her classes in the mornings so she could pick up the children after lunch and take them home in time for their afternoon naps. I was confident that the arrangement would work out fine for all of them. And it has.

Barbara's youngsters, Susan and Bobby, are two of several million children who are presently being cared

for away from home while their mothers work or go to school. Unfortunately, not all the mothers who seek day care services for their youngsters find centers as good as the one Barbara found. Day care centers are too few in this country, and good ones are even fewer. Less than 10 per cent of the children are being cared for in licensed centers, and even some of these licensed services are overcrowded and understaffed, and lack adequate physical and educational facilities.

According to government statistics, mothers of some four million children under the age of six work outside their homes. Often these working mothers have to rely on makeshift arrangements in order to be able to keep a job they badly need. Sometimes women need to work simply can't because there's no one with whom they feel they can safely leave their children.

Increasingly, throughout the country, community councils, hospitals, churches, and government agencies are supporting child care centers, and a number of companies and labor unions have also set up day care centers for the children of their employees or members. Recently, too, there has been a new development in the form of joint sponsorship of a day care center by parents, a government agency, and an industrial company. An example of this is the KLH Child Development Center in Cambridge, Massachusetts, which cares for 60 preschoolers, most of them children of employees of KLH, a manufacturer of stereophonic sound equipment. This center is organized on a cooperative basis. Parents become members of the corporation that owns and operates it, and the center is supported financially by the company, the United States Children's Bureau, private contributions, and fees paid by parents according to their income.

The majority of mothers who work do so because their income is needed to help provide their families with the essentials of a decent life. Some three million of the mothers who work in this country live with their children in homes where there is no father and the mother is the major support of the family.

There are also many families on welfare who are struggling to become self-supporting and could do so if the mother were able to leave her children in a day care center on weekdays. Part of the new welfare program proposed to Congress (Continued on page 116)