

141 HC

HB 827 - HB 845

However, because the damages which can be recovered in a lawsuit are hard to prove, the landlord can usually evict illegally with little fear of economic penalty. In a poll of Anchorage attorneys, approximately nineteen answered the question of whether, under the present law, they would represent an illegally evicted tenant who was unable to pay for their services. Only one said he would, the others claiming that the penalty would have to be increased considerably before they would help. The amendment seeks to discourage lockouts and encourage private lawyers to represent victimized low and middle income tenants.

Section 7. This section makes a violation of this act a violation of the Unfair Trade Practices and Consumer Protection Act. Many, many people who are injured by a violation of this landlord-tenant law are too poor to hire a private lawyer and too rich for help from Alaska Legal Services Corporation. For them, there is little they can do unless the Attorney General's Consumer Protection office can step in on their behalf. The Consumer Protection office, I understand, is still inundated by landlord-tenant problems. They are forced to turn them away because they have no jurisdiction.

*patterns of  
identity - not  
isolated incidents*

An interesting statistic is found in the First Report of the Ombudsman--1975 (February, 1976). According to that report the Ombudsman received a surprisingly high number of landlord-tenant problems. Of all inquiries, about 6% related to a private landlord-tenant problem, even though the Ombudsman deals only with state agencies. This means, I think, that people aren't getting help elsewhere and that they expect state government to provide some assistance. The Consumer Protection office is best able to help.

#### Possible Objections to HB 827

1. We worked out a compromise in 1974 which shouldn't be tampered with now. Answer: Senator Zeigler said in 1974 that we should try the Act for two years and, if changes are needed, come back to the Legislature. Two years of extensive experience with the Act has revealed problems. It's not cast in concrete.
2. By creating a penalty for failing to deposit a security deposit in a trust account, you're penalizing only a technical violation. Answer: The section requiring a trust account is preventative - to protect the deposit, which is the tenant's money, in case the landlord goes

bankrupt. Many landlords in Anchorage are violating Subsection C of A.S. 34.03.070 by refusing to protect the tenant's money.

3. The repair and deduct remedy takes away the landlord's right to control his/her own property. Answer: That right does not include the right to refuse to fix serious defects. If the landlord, after being given a chance to fix an "essential service," refuses to do it, the tenant, who is suffering, should be allowed to. Besides, the amendments on page 1, lines 23-28 don't really increase the tenants' right. They only specify that the costs cannot exceed the cost of labor and materials.
4. A \$1,000 penalty for a lockout is too high. Answer: There is no excuse for these lockouts or utility shut-offs. They continue to occur often and a high penalty is needed to stop them. It's this or making it a crime. Lots of other laws have minimum penalties (state Consumer Protection Act--\$200 minimum; state Anti-Trust Act--treble actual damages; federal Truth-In-Lending Act--\$100 to \$1,000). The "good" landlord, who we should try to protect, does not use lockouts or utility shut-offs. A higher penalty will make more lawyers available to middle-income tenants.
5. What is it going to cost to extend the Consumer Protection office's jurisdiction to landlord-tenant disputes? Answer: About \$50,000 next year. ~~The intent is to allow that office to deal with patterns of illegal activity, not to take the place of private attorneys for all disputes.~~ Since the Consumer Protection office has the discretion to determine which illegal activities need the most attention, the fiscal impact of the bill could vary considerably, depending on what cases they get involved with. The Consumer Protection offices are already receiving lots of complaints, so a portion of the current budget is going to landlord-tenant disputes already. We figure roughly that if we could add an attorney in Fairbanks (which has no resident Consumer Protection attorney) and an attorney in Anchorage, that would be enough to carry the office through the first year. That's about \$50,000. Then we'll know more about the need for more staff. That's how we handled the staffing question on the anti-trust bill we passed last session.

HB 828

COMMITTEE REPORT

2/17/76

HOUSE

JUDICIARY

Mr. Speaker:

Date \_\_\_\_\_

The Committee on COMMERCE has had HB 828

under consideration. A Majority of the members of the Committee

- ( ) recommends it DO PASS
- ( ) recommends it DO NOT PASS
- ( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)
- ( ) recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT  
CS FOR \_\_\_\_\_ DO PASS
- ( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_  
COMMITTEE
- ( ) reports it back WITHOUT RECOMMENDATION
- ( ) "other"

Members signing the Majority report:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Members NOT concurring in the Majority report:

\_\_\_\_\_ recommends:  
 \_\_\_\_\_ recommends: no rec  
 \_\_\_\_\_ recommends: no rec  
 \_\_\_\_\_ recommends:  
 \_\_\_\_\_ recommends:

\_\_\_\_\_ Chairman

LAW OFFICES OF  
ALASKA LEGAL SERVICES CORPORATION

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JUNEAU, ALASKA 99801

TELEPHONE 586-~~6425~~ 6425  
February 24, 1976

MEMORANDUM

TO: Rep. Bradley - Commerce

FROM: Don Clocksin, ALSC

SUBJECT: HB 828 - Landlord-tenant evictions

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1. Present Law.

Under the present law a landlord can evict a tenant by giving a written notice giving him/her 10, 20, or 30 days to move depending on the circumstances. There are different, and conflicting notice provisions in various parts of the present law. Once the period has run and the tenant does not move, the landlord may file a lawsuit in court and serve a copy of the lawsuit on the tenant. The trial and the decision by the judge on whether the tenant must move comes two to four days after the suit is filed. The tenant has no time to prepare a defense and is, in effect, not allowed a defense.

2. What this Bill Would Do.

This bill amends the Forcible Entry and Detainer Act in order to make it consistent with the Landlord-Tenant Act. It clarifies what notices must be given and creates a new, fairer procedure for evicting a tenant.

Section 1. This section states simply that eviction of a residential tenant (not a commercial tenant or one who claims he/she owns the property) will be done under the sections set out below and AS 34.03.190 of the Landlord-Tenant Act. That latter section authorizes a judge to order a tenant to pay rent into court, to order repairs made, etc., as part of an eviction.

Section 2. This section reorganizes the provisions for giving notice to a tenant to move. The problem is that presently AS 09.45.090 conflicts with the notice provisions of the Landlord-Tenant Act (AS 34.03.170, .220(a), and .290). There are no substantial changes in the present law in this section.

Section 3. This section again makes the Forcible Entry and Detainer (eviction) statute consistent with the

Landlord-Tenant Act. It also adds language to assure that the tenant gets actual notice that he/she must move.

Section 4. Present AS 09.45.110 provides a 10 day notice to move where a tenant does not leave at the end of an agreed period of time or breaches the lease. It also creates an agricultural exception. This section is not necessary since subparagraphs (3) and (4) of AS 09.45.090 (as amended; see section 2 above) already provide for notice. The agricultural exemption conflicts with the one in AS 09.45.496(b), which was adopted as part of the 1974 Landlord-Tenant Act.

Section 5. This section establishes in which court the eviction action must be brought and provides that the procedures set out in this article are the exclusive remedy for evicting a tenant.

Section 6. This section amends the procedure to eliminate the requirement that a summons and complaint be served between two and four days before trial. The automatic bond requirement for a postponement is repealed. The new section requires that the summons state the nature of the lawsuit, the place, date and time of trial, and the right to a continuance for good cause.

Section 7. AS 09.45.130 is repealed. It presently provides that a tenant cannot be evicted while rent has been paid in advance. An eviction notice is provided prior to the rent due date if rent is paid in advance. The section is repealed because it conflicts with the notice provisions of section .090.

Section 8. Several new sections are added to AS 09.45 creating a new eviction procedure.

Sec. 09.45.121: Motion for Immediate Possession.

Once a suit to evict a tenant is filed, a landlord who believes there is an emergency sufficient to justify immediate action can request that a court remove the tenant before the case is over. This is like a preliminary injunction. The hearing to remove the tenant will be held within 6-12 days (as compared with the 2-4 days in the present law).

Sec. 09.45.135: Hearing; Defenses and Counterclaims.

At the hearing on the motion for possession the tenant explains all his/her defenses and counterclaims. If the lawsuit has been brought improperly (e.g. inadequate notice) or if the objections raised by the tenant would be valid if proven at trial, the suit shall be dismissed or scheduled

later so the objections can be properly presented. If the objections do not appear valid, and the suit has been brought properly, the judge shall order the tenant to leave. The tenant being evicted for being behind in rent will be given three days to pay all the rent and remain in the house.

Section 9. This section repeals AS 09.45.496(a) which refers to Civil Rule 85. The procedure for eviction will now appear in AS 09.45.060-.160 and AS 34.03. Besides, AS 09.45.496 appears in the wrong title of the statutes.

AS 22.15.030(a)(8) repeals the district court's jurisdiction of certain eviction actions, i.e. those where the value involved does not exceed \$10,000. All actions removing a tenant should be heard in superior court.

Section 10. A number of Civil Rules are altered, i.e. those on eviction procedures, motions, and information required on the summons. Therefore, a two-thirds vote is required.

3. Amendment.

There is a drafting error in this bill. On p. 2, line 7, "3403.390(a) or (b)" should read "34.03.290(a) or (b)".

HB 827 and HB 828

Mr. Chairman, members of the Committee, I am Bernard L. Marsh, Executive Secretary of Alaska Landlord and Property Managers Association. Although the membership has not had an opportunity to study these proposals some of the officers have seen them, and parts of both are familiar to me, as they were amended out of the Landlord-Tenant Relationship Act of 1974.

In general, ALPMA is opposed to both these bills. At best they are unnecessary, and at worst HB 828 creates a possessory interest in one persons property by another person without compensation. I am referring here to Sec. 09.45.135 of HB 828.

In 1974 the landmark legislation passed by this body was the Landlord-Tenant Relationship Act, which became Chapter 3 of Title 34, Alaska Statutes. This comprehensive bill was heard very extensively, and had voluminous testimony by both landlord and tenant groups. The final result was a law, which on balance has successfully mitigated many of the problems that existed between landlords and tenants. HB 827 now seeks to enact into law a collection of the items that were most objectionable to landlords, and were amended out of the Landlord-Tenant Act.

HB 827 is anti-landlord legislation throughout. It is one-sided and punitive, and has no justification. Landlords as a group are small businessmen trying to realize a return on invested capital, and who rely on rental income from tenants. They do not victimize or prey on tenants.

To look at the bill in detail, consider Sec. 3 (d). This awards a fine for violation to the tenant, not the state. It is also a gimmick for victimizing a landlord; The violation is a technical one that does not harm the tenant. Only failure to return the deposit harms the tenant. The section is an attempt to force the landlord to pay a tenant for occupying his premises. The new subsection (1) of Sec. 3 (a) is similar to language amended out of the Landlord-Tenant Act. It would give the tenant control over the landlord's property, and allow him to run up charges against the landlord without even giving the landlord a chance to make corrections. In Paragraph (2), line 3, page 2, the question arises, who pays the appraiser that determines the diminution of value? Sec. 34.03.310, page 2, is another tenant windfall which was in an early version of the Landlord-Tenant Act, and was amended to the present language. If the tenant is entitled to \$1000 from the landlord if he is unlawfully excluded from the premises, then why should not the landlord be entitled to punitive payment if the tenant willfully damages his property?

Sec. 34.03.215 on Page 3 is unnecessary. If an act is a violation of another statute, then it is a violation, It is ridiculous to state it here.

HB 828 was apparently written by a lawyer, and is very difficult to understand. However, it again creates a possessory interest in another's property by setting up a situation where a tenant can retain possession of premises against the owner's will. (Sec. 09.45.135). As I read this, the tenant would have a perpetual lease on the premises, not a month-to-month agreement. We feel that there is now ample law on the books covering forceable detainer, action to recover possession, and action for recovery after unlawful exclusion.

There is one section of HB 828 to which we have no objection; that is Sec. 09.45.100 (Requisites of Notice to Quit). I say this with the reservation that the membership of A L P M A may decide differently, but it seems to me that the section clarifies the procedure for notice to quit. We are definitely opposed to the rest of the bill.

HB

829

# COMMITTEE REPORT

## HOUSE

2/17/76

Mr. Speaker:

Date

3/2/76

The Committee on COMMERCE has had KB 829

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT

CS FOR \_\_\_\_\_ DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

[Signature] \_\_\_\_\_

[Signature] \_\_\_\_\_

[Signature] \_\_\_\_\_

\_\_\_\_\_

Members NOT concurring in the Majority report:

[Signature] recommends: no rec

[Signature] recommends: NO REC

[Signature] recommends: [unclear]

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

[Signature] Chairman

LAW OFFICES OF  
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MEMORANDUM

TO: Rep. Bradley, Rep. Parker, and Rep. Miller  
FROM: Donald E. Clocksin  
RE: CSHB 829--Mobile Homes, Floor Debate  
DATE: March 10, 1976

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Introduction

1. This bill recognizes the special situation mobile home dwellers are in and makes some adjustments in the Landlord-Tenant Act of 1974 to take care of some of their problems. There are thousands of people in Alaska who buy mobile homes because they prefer them or can't afford to own their own house. Most of them live in mobile home parks. Because it costs so much to move a mobile home (testimony indicated between \$1,500 and \$2,250) many mobile home dwellers live in constant fear of eviction and unreasonable rules and requirements.

This bill was amended in committee to make sure it was consistent with HB 684 and to assure that park owners would still be able to evict bad tenants and to force the removal of uninhabitable mobile homes. We think the concerns of mobile home dealers and mobile home park owners have been met, at the same time solving the severe problems presented to the House Commerce Committee by mobile home owners.

I have attached an article with notations as to what sections of the bill solve what problems.

2. Section-by-Section Analysis

SECTION 1. Prohibits rental agreements which do not comply with Section 2 below.

SECTION 2. Prohibits mobile home park rental agreements which:

- (a) forbid the tenant from selling the mobile home "in place"; (if Rules amendment is adopted, this subsection will allow a park owner to ban a sale if the mobile

home is uninhabitable and he/she doesn't want it in the park any more, or if the new tenant/buyer refuses to agree with the park's rental agreement or can't pay the space rent); (example: testimony revealed that in Juneau a park owner refused to allow a sale because the buyer was a legislator).

- (b) require the tenant to improve the park owner's property (Ben Marsh from the Alaska Mobile Home Dealers Association supported this); (example: park owner required tenant to roll, seed, and maintain a lawn in the park);
- (c) require the tenant to pay a "transfer fee" if he/she sells or buys a mobile home "in place" (unless actual services were agreed to and provided);
- (d) require a prospective tenant to pay an "entry or exit fee" (unless actual services were agreed to and provided); (Marsh agreed to (c) and (d)).

SECTION 3. Requires the park operator to disclose in advance the improvements the tenant must make. (Marsh agreed to this, too.)

SECTION 4. Allows the park operator to decide what type of improvements are required, but he/she cannot require that the tenant buy materials from him/her. (Marsh agreed to this, also.)

SECTION 5. Allows the park operator to evict the tenant:

- (a) if the tenant doesn't pay rent owed;
- (b) if the tenant has violated a law which relates to the safety of the other tenants and the violation continues (example: tenant who violates a local ordinance banning dumping garbage in public can be evicted);
- (c) if the tenant substantially violates a park rule (example: tenant lets his dogs run loose and bother people in violation of a park rule);
- (d) if the park is being closed.

SECTION 6. Amends the law on sales of mobile homes to forbid a mobile home seller from requiring that a buyer put the mobile home in a certain mobile home

park (Marsh agreed with this).

3. Problems That May Come Up

- (a) Bill creates a perpetual lease and takes away the landlord's control of his/her property (Section 5).  
Answer: If a tenant is doing something wrong, he/she can be evicted. But if they're not doing something wrong, it's economically stupid to evict them; so, what's the complaint? Besides, since it costs \$1,500-\$2,500 to move a mobile home, the park owner should be required to have a good reason before evicting a tenant and forcing them to suffer those costs. (Example: Testimony was that several mobile home tenants were told they would be evicted if they testified on this bill.) Besides, if we reduce needless evictions, we create a more stable mobile home dweller and maybe banks will allow longer term financing of mobile homes (now seven years).
- (b) The bill will discourage development of more mobile home parks (Section 5, page 2, line 28).  
Answer: That was true before the Commerce Committee substitute, but not now. All the language which discouraged mobile home dealers from building mobile home parks was deleted.
- (c) Bill allows park owner to evict a tenant who violates a law. Answer: The intent is to allow an eviction if the tenant is disrupting the park. It is not intended to be general discrimination against people convicted of crimes.
- (d) The bill does not allow a park operator to ban a sale and thereby keep the quality of the park high (Section 2, page 1, line 18 and Section 5). Yes it does. With the Rules Committee amendment the park operator can force the removal of seriously substandard mobile homes and be sure they don't violate local, state or federal standards. Besides, allowing sales "on site" or "in place" makes re-financing the mobile home easier, according to a lobbyist for one of the dealer companies in Anchorage.
- (e) This isn't a problem in Anchorage. Answer: Most of the mobile homes and mobile home parks are in Anchorage. Testimony indicated that mobile home evictions are a real problem in Anchorage as well as transfer fees, entry and exit fees. Besides, we can't solve a Juneau problem without also covering Anchorage. It's good preventive legislation.

MEMORANDUM

TO: JAY KERTTULA

FROM: JAMIE LOVE 

RE: MOBILE HOME LEGISLATION (HB 684 & HB 829)

DATE: APRIL 3, 1976

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The above-mentioned bills are designed to correct serious abuses in the mobile home industry. My interest in mobile home problems dates back to last Spring. At that time, I received a call from a woman who was living in a mobile home court that had been sold. The new owner was converting the court into another land use, and each of the 20 tenants in the court was given a 30-day eviction notice. This woman owned the trailer she lived in. Neither she nor any of the other tenants were able to locate space in another court. When I talked to the woman, she was extremely distraught. She had to move her trailer within a few weeks and could not find a space to move to.

During this period of time, she and the other tenants in the park were approached by an individual who represented a mobile home sales outlet. The sales company was able to use the trailers even though there were no mobile home spaces available for rent in the marketplace. The reason for this was that in the Winter of 1975 the overall vacancy rate for mobile home spaces dipped as the Anchorage area was experiencing a housing shortage. At that time, several of the larger mobile home dealers began quietly buying up the remainder of the vacant spaces including those in independent courts. As an added incentive to the mobile home court operators, the dealers offered a commission, or fee, of approximately \$400 to \$500 for each mobile home which was placed in their court.

In this particular case, almost every tenant of that court sold their mobile homes, at a fraction of their value, to the single mobile home sales dealership. The dealer then resold the mobile homes at their market value, placing them in spaces they had previously tied up.

I discussed the situation with a reporter from the Anchorage Daily News, Pam Milsap. Milsap interviewed this lady and others who were having problems at the time. Her account of the mobile home situation is attached to this memo.

Shortly after the Daily News story, the Alaska Public Interest Research Group asked the State Attorney General's Office for an investigation into the apparent abuses. After being pressed by the local Consumer Protection Office for more facts, a staff person from AkPIRG approached 26 of the largest mobile home courts in Anchorage posing as an individual interested in finding a rental space for a used trailer. The results of that investigation are detailed in a letter, attached to this memo, which was sent to Attorney General Avrum Gross on July 8, 1975.

Attorney General Gross initiated an investigation to determine if the alleged practices were in violation of the State Anti-Trust Act. The investigation into the matter has been slow, hampered apparently by the shortage of staff for the State's Consumer Protection Office. Only in the last two months have industry officials been subpoenaed, and, as of my most recent discussion with the attorneys involved, many important issues have not yet been analyzed.

Since July, other methods of dealing with the problem have been explored. The result is the bill before your committee, HB 684, which makes the tie-in arrangement between mobile home courts and mobile home dealers a violation of the State's Unfair Trade Practices Act. Support for a legislative solution resulted from a sympathy for the situation of the offending mobile home dealers. Even though the tie-in practice is, in my opinion, an unfair and harmful business practice, many of the mobile home dealers were forced into participating when they found out that other mobile home dealers were involved. Being left out of the picture in the rush for tying up spaces meant risking going out of business. Some of us reasoned that since they obviously couldn't trust each other, the State would perform a service by stepping in and forcing everyone to end the practice. Anti-trust litigation is extremely complex, time-consuming, and expensive. The enactment of legislation would relieve the dealers from the burden of paying for legal counsel in an anti-trust action.

It is my understanding that the practice of tying space rentals to sales takes place in Anchorage, Fairbanks, Valdez, Juneau, and Ketchikan, as well as other communities across the state. I am most familiar with the situation in Anchorage. As of last Summer, there were four or five large dealers who had cornered the market of available spaces. I assume the situation has not changed dramatically, although I have heard that the larger dealers are letting the smaller outfits make a few sales from time to time. This is due to a growing concern by the larger dealers over the pending legislation and the Attorney General's investigation.

The smaller dealers have a good deal at stake in a rapid resolution to the problem, but the obvious matter which your committee should address itself to is the effect which this practice has on mobile home consumers. In Anchorage, for example, instead of having dozens of sales outlets competing against each other for sales, there are a few large dealerships which have all the spaces. The price that mobile homes are sold for, now, probably has more to do with the competitive price of conventional home ownership or rentals, than competition among dealers.

This is of particular concern, since the state is experiencing such a crisis in all other areas of housing. The costs of home ownership have skyrocketed beyond the reach of many Alaskans. Rents have also risen dramatically as a result of the housing shortages which plague many areas of the state.

Mobile homes should be an important factor in moderating the effects of the current housing market. Instead, through limited competition, mobile homes have become increasingly more expensive. To illustrate just how expensive mobile homes have become, I am attaching a summary, prepared by AkPIRG, of Anchorage mobile home sales in the month of October 1975 as listed in the trade publication, Alaska Motor Report. The average selling price was \$35,000, with many sales over \$45,000. (Sales are for the trailer without land).

When space rentals are tied in with the purchase of new sales, consumers cannot shop for used homes from private sellers, purchase the homes from Seattle and pay the shipping, or negotiate a selling price from the wide range of dealers. All the best features of the free enterprise system have been compromised and the protection of a free marketplace has been eliminated. There is no doubt that if tie-ins were made illegal, the result would be substantial price savings to consumers on mobile home purchases.

Not surprisingly, the large mobile home dealers and court operators which have been prospering under the present system are mounting an attack against the proposed legislation. The industry lobbyist, Mr. Ben Marsh, has presented their position before the House Commerce Committee. Anticipating a less than sympathetic response to allegations of anti-competitive practices, Mr. Marsh has tried to present their case in its best light.

This was in the form of an argument that restrictions on mobile home tie-ins would eliminate the development of new mobile home courts. The heart of this argument is the questionable assertion that it is uneconomical to develop new mobile home courts, and that courts are developed by dealers at an economic loss to provide a market for their sales. According to Marsh, dealers are the only ones developing new courts and if they are not allowed to tie in sales to their space rental, they will abandon the court development business.

When this argument was first raised by the industry, my instinct was to accept it at face value, and to think of ways we could compromise on the tie-in question. The more analysis I gave the matter, however, the more illogical it seemed. Demand for mobile home spaces was at the root of the problem. The tie-in situation was a reponse to low vacancy rates and high consumer demand for mobile home sales. People are going crazy in Anchorage and other communities, trying to find spaces for their mobile homes. It is, in fact, almost impossible to rent a mobile home space without purchasing a new mobile home. Why then, couldn't a new mobile home court operator simply charge a higher rent to pay for the increased development costs? As long as it was cheaper to pay the court rental and the mobile home mortgage than to buy a conventional house or rent an apartment, people would continue to buy mobile homes and rent the spaces.

A good illustration is the summary of October 1975 mobile home sales obtained from the Alaska Motor Report. Sales which were made in Anchorage included 59 transactions. Of those 59, the average selling price for a mobile home was \$35,000. The largest dealer in that report, Anchorage Trailer Sales, was listed as the vendor for 28 of the 59 sales. Of those 28 sales, 18 were for more than \$40,000. In comparison, Globe Western, one of the smaller vendors, made three sales at an average selling price of \$15,805.

The tie-in between spaces and sales has given the large vendors the opportunity to totally control the market. Not only are prices grossly inflated, but the dealers have been able to control the type of mobile home which is sold. Consumers may prefer the cheaper lower-priced trailers, which have fewer amenities; but the sales companies, which control the availability of court spaces, can make bigger profits on the sale of double wides, and luxury trailers, loaded with the extras that bring the biggest mark ups. This domination of the market by the highest priced units is among the most abusive features of the tie-in practice, and perhaps the biggest incentive to the vendors to retain it.

As a final note, the Committee should take into consideration other factors which have an effect on the supply of spaces. Planning restrictions and community pressures often discourage the development of mobile home courts. It is no secret that a mobile home park is not the most welcome addition to a residential neighborhood. In Anchorage, mobile home courts may only be built by special zoning exemption. Bias against mobile home courts, regardless of their merits, have an important effect on the supply side of the marketplace.

Administration officials from the Department of Commerce and the Department of Law should be able to provide further information on these points. I strongly urge passage of HB 624 and any other measure designed to deal with the tie-in situation.

Many other problems associated with mobile home court rentals are addressed in HB 829. Probably the most important and most controversial feature of the proposed legislation is the section which limits the court owner's right to evict residents of the court. Sec. 34.03.225 sets out four standards for evictions from courts. Currently, it is the practice of almost every mobile home court in Alaska to rent on a month-to-month basis. Mobile homes are treated like other tenants in the State's Landlord-Tenant law. A resident in a court may be evicted, without cause, on 30 days' notice.

It is not untypical for a mobile home owner to have 20 to 30 thousand dollars tied up in the home they are living in. The cost of moving a mobile home, if you can find a place to move to, runs from \$1,000 to \$2,000 on the average; or, approximately one to two years' rent in the average court. There is, obviously, very little security for the mobile home owner under the current situation. If I was living in a court, I would think

# ALASKA PUBLIC INTEREST RESEARCH GROUP

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PHONE 274-6765

July 8, 1975

Mr. Avrum Gross  
Attorney General  
Office of the Governor  
Pouch A  
Juneau, Alaska 99811

Dear Av:

As discussed earlier, I am forwarding an outline of abuses in the marketing of mobile homes which we believe are in violation of the recently enacted State Anti-trust Act.

Earlier this month, one of our staff persons contacted 26 out of the 29 mobile home courts listed in the Anchorage Telephone yellow pages. She explained to the court owners or managers that she was considering the purchase of a used mobile home from a private party, and wanted to reserve a space in their courts. She was turned down in each of the 26 courts.

Approximately half of the courts surveyed refused to place her on a waiting list. When she entered into discussions with court managers, she was told she would have better luck if she purchased a new mobile home from one of the larger dealers. On several occasions, the court manager gave her the name of court dealers that had reserved spaces in their courts.

Confidential conversations with three court owners/managers indicate that the dealers have entered into agreements with the courts to rent all empty spaces (including new or newly vacated spaces) at the going rental rate with the understanding that when the dealer sells a home and places it in the court, the court owner receives a cash kickback on the sale. One court owner receives \$400 per trailer, and we have reason to believe that some court owners are getting more. It is our understanding that the cost of both the month rent on empty spaces and the kickback on the sale are passed on to the consumer as additional costs in each transaction.

Only a handful of mobile home dealers have tied up large amounts of space, and some dealers are completely frozen out of the market. Private individuals trying to sell a mobile home, due to evictions, leaving the state, purchasing new homes, or other reasons, are forced to sell to mobile home dealers who have spaces tied

July 8, 1975

up, usually for a fraction of the home's value. Consumers are forced to purchase homes from a few large dealers, with practically no competition from private parties or independent or small dealers.

We have become aware of trailer courts evicting mobile home owners for frivolous reasons; changes in ownership, changes in court rules, or enforcement of rules that had been ignored for years. We suspect that some of these evictions are motivated by the desire to make profits from the placement of new trailers in empty spaces. Mobile home owners we have contacted panic when they attempt to relocate mobile homes, or market them to private individuals. One trailer court owner received one hundred calls in one day for a single space he had advertised in the evening paper.

In conclusion, we believe that the problem has adverse effects on mobile home consumers, eliminates independent and small dealers from the mobile home market, and creates severe hardships on mobile home owners, faced with evictions or attempting to sell their trailers. We have reason to believe that this problem exists for other parts of the State, particularly in Fairbanks. We feel that mobile home dealers or court owners should not tie the purchase of mobile homes to the rental of a lot. We recommend an anti-trust action that would bar dealers and court owners from engaging in the current practices. As a final note, we urge your office to act immediately on this matter. It is clear that "immediate and irreparable harm" is indeed taking place. If your office decides on pursuing the anti-trust litigation, we strongly urge an immediate, intensive investigation by your staff, so that a preliminary injunction against the dealers and court owners can be granted this summer.

Thank you.

Sincerely,

James Love

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

<u>ANCHORAGE TRAILER SALES, 3745 Mountain View Dr.</u>			<u>DEL</u>	<u>SALANCE</u>	<u>SER. NUMBER</u>
<u>PURCHASER</u>	<u>MAKE</u>	<u>FINANCER</u>	<u>PRICE</u>		
1 Richard Swartz 9004 Hartson Dr. Anchorage 99507	Schult	ASB	48,478.80	43,078.80	136447
2 Ralph Eslinger 1200 W. Dimond Blvd Anchorage 99502	Kit	ASB	82,383.36	63,876.36	sl792
3 Terry Hamilton 1504 E. Bluff Anchorage 99504	Kit	ASB	43,488.48	39,510.48	xl735
4 Johnnie Hammer 365 Dowling Rd #11 Anchorage 99503	Vandyke	ASB	36,082.53	32,582.52	12549
5 Timothy Brown 1200 W. Dimond Blvd #539 Anchorage 99502	Schult	ASB	38,674.80	35,774.80	136483
6 Bonnie Schwenke 4108 Reka Anchorage 99504	Hacienda	ASB	37,250.00	34,350.00	12589
7 Sylvester Dimonde SRA Rt 116-p Anchorage 99562	Kentwood	ASB	33,993.48	30,618.48	kw3406
8 David Heye 7800 DeBarr #75 Anchorage 99504	Schult	ASB	54,082.00	48,450.00	136457
9 John Hutler 1105 W 33rd Ave Anchorage 99503	Schult	ASB	43,907.60	38,967.60	136581
10 Gordon White 7220 E. 32nd Anchorage 99504	Schult	ASB	42,896.00	39,916.00	136509
11 David Schnell 7623 Arctic Blvd Anchorage 99503	Vandyke	ANSAFCU	29,924.96	27,924.96	12731
12 Percy Plummer 3835 Randolph St Anchorage 99504	Vandyke	ASB	36,896.60	33,234.60	12979
13 Fred Blumer, Jr. Box 1856 Anchorage 99510	Schult	ASB	43,373.00	38,094.00	136326

This list obtained from Alaska Motor Report, Motor Statistical Div. for Oct. 1975

OCTOBER 1975 ANCHORAGE AREA  
MOBILE HOME SALES (CONTINUED)

ANCHORAGE TRAILER SALES continued

	<u>PURCHASER</u>	<u>MAKE</u>	<u>FINANCER</u>	<u>DEL PRICE</u>	<u>BALANCE</u>	<u>SER. NO.</u>
14	John Damazio 2403 Eureka #10 Anchorage 99504	Kit	ASB	46,041.80	40,477.80	SL748
15	Earl Cuzzort 3701 Eureka Sp. 80A Anchorage 99503	Schult	ASB	43,464.02	41,990.30	136455
16	Greg/Jayne LaFramboise 1545 S. Hoyt #58 Anchorage, AK 99504	Kit	ASB	37,294.00	33,294.00	SL741
17	Allan Patterson 7800 DeBarr #126 Anchorage 99504	Schult	ASB	43,710.61	37,218.20	136610
18	Douglas Daniels 533A Dyea Ft. Richardson 99505	Schult	ASE	44,081.40	39,911.10	136608
19	Dick's Trucking Inc. 429 Industrial Way Anchorage 99501	Kit	ASB	31,114.00	24,480.00	SL596
20	Eugene Weldon 3007 Arctic #4 Anchorage 99503	Schult	ASB	43,373.00	38,073.00	136490
21	Donald MacDonald 3706 Wilson Ct Anchorage 99509	Kentwood	ASB	35,289.04	31,911.84	KW3408
22	Nancy Kelley 7800 DeBarr #330 Anchorage 99504	Kit	ASB	41,357.00	31,258.30	SL742
23	Youel Smith 5180 Taku Dr #6 Anchorage 99504	Schult	ASB	44,720.00	41,420.00	136576
24	Kent Ramsay 5901 E 6th Sp 170 Anchorage 99504	Kit	ASB	42,583.40	37,403.40	SL738
25	Stephen Wilcox 731 B St. #401 Anchorage 99501	Kentwood	ASB	34,731.00	28,731.00	KW3520
26	Harvey Weldon 1400 Muldoon Rd #265 Anchorage 99504	Schult	ASB	45,010.01	40,932.01	136605

ANCHORAGE AREA  
OCTOBER 1975 MOBILE HOME SALES (CONTINUED)

ANCHORAGE TRAILER SALES continued

	<u>PURCHASER</u>	<u>MAKE</u>	<u>FINANCER</u>	<u>DEP. PRICE</u>	<u>BALANCE</u>	<u>SER. NO.</u>
27	Lance Whaley Rm. 33 Bldg. 10-520 EAFB 99506	Kit	ASB	44,914.20	39,624.20	S4756
28	Scott Stringfellow Box 4-2506 Anchorage 99510	Schult	ASB	42,053.07	37,361.20	136338

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

KATHY O ESTATES, 3602 Arctic Blvd.

<u>PURCHASER</u>	<u>MAKE</u>	<u>FINANCER</u>	<u>DEL. PRICE</u>	<u>BALANCE</u>	<u>SER. NO.</u>
Charles Meddings 909 Chugach #30 Anchorage 99503	Vantage	None	13,700.00	-	6457
Norman Seewald Box 8355 Anchorage 99504	LaGrande	AUSAFPU	23,450.00	23,450.00	5652
James Summers Box 1844 Anchorage 99510	Ridge	AUSAFPU	20,500.00	20,500.00	LoS1154

MOBRIDE TRAVEL HOMES

Walter Compton 4502 Lake Otis Pky Anchorage 99507	Coactman	IBEW	25,354.56	18,977.23	1131094028
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-1 MOBILE HOMES, INC. , 2525 Spenard Rd.

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

MELODY SALES, INC., 3115 Mountain View Dr.

	<u>PURCHASER</u>	<u>MAKE</u>	<u>FINANCER</u>	<u>DEL. PRICE</u>	<u>BALANCE</u>	<u>SER. NO.</u>
1	Charles Quier 1114 Tonga Anchorage 99507	Frontier	P&T	38,915.40	33,320.40	6228
2	Bobby Rasar 1200 W. Dimond Blvd #1448 Anchorage 99502	Portroyal	P&T	38,249.50	32,049.60	6222A
3	LeAnn Kucera. SRA Box 332 S Anchorage 99507	Safeway	ASEFCU.	28,941.00	14,826.00	6109
4	Floyd Brooks 5607 Fiji Anchorage 99507	Portroyal	P&T	38,418.00	32,218.00	6191
5	Delores Thrope 1150 Tonga Anchorage 99507	Sheloy	UCAFCU	30,220.80	32,710.80	6264

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

BUCKHORN HOMES, INC., 4217 Mountain View Dr.

	<u>PURCHASER</u>	<u>MAKE</u>	<u>FINANCER</u>	<u>DEB. PRICE</u>	<u>BALANCE</u>	<u>SER. NO.</u>
1	Michael Simile 21-44 A Citrus EAFB 99506	Flamingo	AUSAFCU	28,937.43	16,900.00	s 7126
2	Edwin Alexander 1307 Hollywood Bldg 44 #2213 Anchorage 99501	Ponderosa	AUSAFCU	29,053.84	25,053.84	S6549
3	Kenneth Lowe - 106 E. 11th, Apt. 4 Anchorage 99501	Flamingo	AUSAFCU	28,672.70	23,972.70	s7114
4	Robt Hawk 705 Muldoon Rd Sp 122 Anchorage 99504	Flamingo	NBA	25,552.50	20,902.50	S 7213
5	Larry Bass PSC #2 Box 4518 EAFB 99506	Brookdale	AUSAFCU	33,887.12	24,600.12	S6525
6	Dennis Taylor 1737 Morena St Anchorage 99504	Ponderosa	AUSAFCU	33,207.83	26,507.83	S6451
7	Doyle Stogner Box 758 Eagle River 99577	4 Seasons	NBA	20,598.48	16,598.48	4982

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

BUDDY'S MOBILE HOME CORRAL, 2423 E. 5th Ave.

	<u>PURCHASER</u>	<u>MAKE</u>	<u>FINANCER</u>	<u>DEL. PRICE</u>	<u>BALANCE</u>	<u>SER. NO.</u>
1	Calvin Blackmon Gen Del Eagle River 99577	4 seasons	USARAL	31,975.80	27,976.80	4840

GLOBE WESTERN, 322 Concrete

	<u>PURCHASER</u>	<u>MAKE</u>	<u>FINANCER</u>	<u>DEL. PRICE</u>	<u>BALANCE</u>	<u>SER. NO.</u>
1.	Larry Foster Box 611 Chatanika Loop Eagle River 99577	Jamboree	AUSAFU	15,405.20	16,405.20	C2114
2	Leslie Horn 2110 Stanford Dr. Anchorage 99501	Jamboree	AUSAFU	16,156.80	13,117.80	A2154
3	Fred Ash 1151 Laland Pl Anchorage 99504	Jamboree	AUSAFU	14,854.00	10,374.00	G2112

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

REY HOMES, INC. 3317 Mountain View Dr.

<u>PURCHASER</u>	<u>MAKE</u>	<u>FINANCER</u>	<u>DETL. PRICE</u>	<u>BALANCE</u>	<u>SER. NO.</u>
1 Robt Ramey Box 484-I Eagle River 99577	Marlette	FNB	23,636.00	23,636.00	50218
2 Michael Pierson 2221 Muldoon Rd #502 Anchorage 99504	Kit	FNB	24,718.00	24,718.00	54591
3 Lamar Steen Box 264B Anchorage 99507	Fleetwood	P&T	23,400.00	23,400.00	51864
4 Ronald Yoppe 2221 Muldoon Rd #561 Anchorage 99504	New Moon	AUSAFCU	27,265.00	27,265.00	57050

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

WENNE MOBILE HOMES, 801 Airport Heights Dr.

<u>PURCHASER</u>	<u>MAKE</u>	<u>FINANCER</u>	<u>DEL. PRICE</u>	<u>BALANCE</u>	<u>SER. NO.</u>
Alan Williamson 501 Airport Heights Sp 281 Anchorage 99504	Lamplight	AUSAFCU	30,237.56	25,732.56	15810
Lionel Hartzog 801 Airport Heights Anchorage 99504	Lamplight	ARRFCU	35,691.60	32,373.60	15325
Edna Brown Box 293 Anchorage 99510	Brookwood	AJSAFCU	51,917.04	43,013.04	24iges1496
Ed Naumann 801 Airport Hgts Dr Sp 318 Anchorage 99504	Gibraltar	ASEFCU	34,834.96	31,048.30	9-1635
Tilman Grigsby Lazy Mt Trl Sp 42 Eagle River 99577	Gibraltar	NBA	33,029.60	26,325.60	9-1876
John Bingham 801 Airport Hgts Sp 313 Anchorage 99504	Lamplight	NBA	37,730.43	33,009.43	15843
Michael Gordon 1545 S Hoyt Anchorage	Lamplight	ACFCU	30,972.00	25,116.00	15895

11-10-75

AKPIRG

630 W. 4<sup>th</sup> Ave  
Anchorage, Alaska

Gentlemen:

There is a situation in the Anchorage Area that should be called to the attention of the powers that be for remedial action.

If an unsuspecting purchaser buys a mobile home he soon finds there is not place he can park or space he can rent.

There are numerous vacancies in many of the mobile home parks but much to the chagrin of the buyer he finds that the retail sales companies of the mobile homes have rented all these spaces for the benefit of their customers. If these companies want increased spaces let them build their own parks, (one has) and not monopolize the market. This not only is unfair to the purchasing public but to the seller as well. He can't sell if the purchaser is unable to find parking space. Investigation has found for example, one park with four vacancies for over three months and yet a private purchaser from a private seller is unable to utilize even one of these spaces.

Isn't there some sort of consumer protection in this respect? With the housing shortage so acute and honest citizens being denied space rent it seems to me there

could be some anti-trust or monopoly law invoked to put a damper on this unfair practice.

Sincerely,

J. Harold Michal

cc. - Anchorage Times

Mr. Chairman, members of the Commerce Committee, I am Bernard L. Marsh, Executive Secretary of the Alaska Mobile Home Association and also the Alaska Trailer Court Association. HB 829 has not been available long enough for our membership to know about it, but I have shown it to the officers of the two associations, and have been asked to comment on the bill to this Committee.

HB 829 seems to have been written by consumer or tenants action groups with the intent of protecting consumers or tenants from abuses and from unfair expenses. In fact, the effect will likely be just the opposite. The cost to the consumer will be greater. A more serious consequence of this bill will be the creation of a new property right for tenants, which is probably unconstitutional, and which in any case will reduce the value of property and further damage the tight economic situation in the mobile home field. Let me explain:

1. Economics prohibit the production of mobile home spaces in any urban area of Alaska by independent court operators; that is, where the space rental is to provide a rate of return that will justify the investment. There have been no such spaces built in Anchorage in the last five years, and there will be none in the future under present conditions. Spaces have been, and are built by mobile home vendors, simply because you can't sell a mobile home unless there is some place to locate it. Spaces are provided by vendors simply to create sales. The spaces themselves are an economic loss to the vendor. The principle is exactly the same as that of J. C. Penney department store building a parking garage that loses money on parking, just to stimulate store sales. The reason for this situation is two fold; The increasing cost of land, and the progressively more restrictive government regulation.

In Anchorage, mobile home courts are allowed only in R-2, R-3, R-4, R-5, and "U" zones. The least costly usable land is unsubdivided R-2 land at about \$24,000 per acre. The raw land is usually marginal, and may cost another \$20,000 per acre to fill or grade. Reduced to cost per space and including utility cost, space development runs from \$7,500 to \$10,000 per space to develop. Current regulations limit spaces to 6 to 6 1/2 per gross acre (Glen Carin Court got 6.5 spaces per acre, and Montegue got 6.2). Using \$8,000 per space as development cost, \$24,000 per acre land cost, and 6.2 spaces per acre, we arrive at \$11,800 per space as the final cost. To support any investment you must have a minimum of 15% return per year, or in this case \$1,770 per space, or \$147.50 per month. The current average space rent in Anchorage is \$105 per month.

The effect of this legislation will be to prohibit the development of mobile home spaces by mobile home vendors, which will either bring space development and therefore new sales to a stop, or in the alternative drive all space rental to \$150 per month. By the time the shortage becomes acute enough to drive up the price and tempt developers to build new spaces, the price will be much higher than that. It takes two years from initial planning to completion, to produce a trailer space.

2. The second bad thing this bill would do is create a possessory interest in the owner's property on the part of the tenant. In Sec 2 (C) (1) and in Sec 5, the owner of land is prohibiting tenancy, except for certain specific acts by the tenant. This literally converts a simple month-to-month tenancy into a perpetual lease, and actually creates a leasehold interest for one person in another person's property without due process and without compensation. Under all principles of property ownership in this country,

forever, even through a change of ownership. It is incredible to me that this legislature would even consider such a proposal.

There are several sections of the bill to which we have no objection, and agree with. We agree with Sec 2 (C) (2), which would prohibit an owner from requiring a tenant to provide permanent improvements to his property. We also agree with (4) of the same section, prohibiting vendor or transfer fees as a condition of tenancy. We have no objection to all of Sec. 3. We also agree with Sec. 45.30.070 (a), beginning on line 16, page 3 of the bill. But we disagree with subsect. (b) of this section, which prohibits a perfectly legal and prudent practice on the part of a mobile home vendor. Any vendor who shipped mobile homes to Alaska at \$4700 each, and had no spaces to locate them on, would be pretty foolish. Also, it would seem that creating a class of persons (mobile home vendors) who are prohibited from leasing spaces is highly discriminatory and in violation of the state Human Rights Act.

LAW OFFICES OF  
ALASKA LEGAL SERVICES CORPORATION  
315 FIFTH STREET, SUITE 8  
JUNEAU, ALASKA 99801  
TELEPHONE 586-6163 X6425

MEMORANDUM

TO: Representative Bradley  
House Commerce Committee

FROM: Donald E. Clocksin

DATE: February 24, 1976

RE: House Bill 829 - Mobile Home Parks

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This bill adds several sections and subsections to the Residential Landlord and Tenant Act of 1974 (Ch. 10, SLA 1974) and adds a new section to the mobile home standards statute (AS 45.30). This bill would supplement CSHB 684 which made tying arrangements between mobile home sellers and mobile home park operators a deceptive trade practice and which passed out of this committee on February 18.

1. Section-by-Section Analysis.

Section 1. This section prohibits mobile home rental agreements which do not comply with Section 2 below.

Section 2. This section prohibits mobile home rental agreements which:

- a. forbid the tenant from selling the mobile home "in place;"
- b. require the mobile home tenant to improve the landlord's property;
- c. require the tenant to buy a mobile home from a certain mobile home seller; and
- d. require the payment of a "transfer fee" when a mobile home in the park is sold unless actual services are agreed to and provided.

Section 3. This section requires the mobile home park operator to disclose in advance all the improvements the tenant must make (e.g. skirting, tie-downs, etc.).

Section 4. This section allows the mobile home park operator to determine the type of improvements the tenant must make, but prohibits him/her from requiring the tenant to purchase the necessary equipment from the park operator.

Section 5. This section limits the mobile home park operator's right to evict a mobile home or mobile home tenant to the following situations:

- a. the rent is due and unpaid;
- b. the tenant has violated a law or ordinance and the violation continues to injure other tenants;
- c. the tenant has substantially violated a park regulation; or
- d. the use of the property on which the mobile homes sit is being changed (at <sup>least</sup> 90 days notice required).

Section 6. This section amends the mobile home standards statute to prohibit the seller of a mobile home from requiring that it be placed in a certain park and ~~from paying a park operator to hold spaces open.~~

## Mobile Home Bills

Fred  
Spanning

In 1974 the Legislature passed a major new law recognizing the rights of landlords and tenants and clarifying the obligations they both had to each other. However, since it went into effect, we have ~~learned~~ <sup>discovered</sup> that it did not take into account the special situation of tenants who live in mobile homes. Three bills have been filed this session to adjust the landlord-tenant act to make special provision for mobile home dwellers.

The special ~~pro~~ circumstances of mobile home tenants are:

1. the cost of moving them - (testimony indicated \$1500 to \$2200 to move one)
2. the refusal of some landlords to allow tenants to sell the mobile home "in place"
3. the power, thru threat of eviction, to impose unreasonable rules, ~~and~~ regulations, & fees.
4. the fact mobile home dealers and mobile home park operators are making ~~re~~ agreements which force people wanting mobile homes to buy them from certain dealers. ~~But~~ The agreements also result in mobile home spaces sitting empty while tenants are begging for places to put their homes -
5. ~~the~~ People who choose to live in mobile homes ~~however~~ are treated as second class citizens, completely at the mercy of their park operator.

1. HB 827. This bill adds new remedies to the landlord-tenant act. The last section grants the Consumer Protection division of the A-G's office jurisdiction over landlord-tenant disputes. This solves a ~~the~~ problem presented to my committee <sup>members of</sup> by mobile home tenants associations. Many of them are not rich, but not poor either. ~~I~~ IF their ~~park~~ park operator violates the Landlord-Tenant Act, they need an attorney, but they can't afford a private attorney but are not always eligible for ~~an~~ legal aid. With this amendment, the Attorney-General could get into the dispute on the tenant's behalf.

2. HB 684. This bill would make it illegal <sup>(for a park operator,</sup> to require a tenant to buy a mobile home from a certain dealer in order to put it in that park. These tying arrangements force tenants to buy only from the bigger mobile home dealers and may force the smaller dealers, who don't have places to put their homes, out of business. The bill helps <sup>a)</sup> tenants who have mobile homes but no place to put them, b) tenants being evicted w/ no place to go, and c) smaller mobile home dealers.

3. HB 829 - This bill

**RONALD G. NELSON**  
*Professional Civil Engineer*  
1500 AIRPORT WAY  
FAIRBANKS, ALASKA 99701  
  
(907) 456-4854

March 19, 1976

The Honorable Bob Bradley  
Alaska State House Of Representatives  
Pouch V, State Capitol Building  
Juneau, Alaska 99811

Dear Representative Bradley:

REF: House Bills 684 & 829

I would like to express very strong opposition to the referenced bills which I believe are unnecessary, unwise and in certain respects unconstitutional.

I'm presently developing and operating a 180 unit mobile home park near Fairbanks and in so doing have acquired a reasonable degree of knowledge concerning the subject addressed by the referenced bills. Had these bills been law when I started development I would not have been able as a private individual, unsubsidized by government, to employ the persons I have, purchase the required goods and create a needed commodity which has added considerably to the Fairbanks North Star Borough tax base.

HB 829 Sec. 2 AS34.03.040 Paragraph C Part 1

I require each tenant in my court to enter into a written lease. This lease is with a particular tenant NOT a mobile home. If a tenant sold his mobile home to a third party who refused to enter into a rental agreement with me this bill would prevent me from requiring that the mobile home be moved resulting in a conveying of my ownership rights in the lot to whoever happens to hold title to the mobile home. Surely this is unconstitutional.

HB 829 Sec. 2 AS 34.03.040 Paragraph C Part 2

I require as a condition of tenancy that each tenant make certain improvements to the lot he leases all of which are associated with landscaping and include such items as planting a lawn, trees and shrubbery, and installation of fences and walks. Since these improvements are fixed to the land and not to the mobile home, I could not as a court owner require that they be done. The result would be in too many cases no effort by the tenant towards maintenance of their lots.

HB 829 Sec. 2 AS34.03.040 Paragraph C Part 4

I currently charge an entry fee for initial placement of each mobile home within my park. This is strictly a result of a superior product, and the law of supply and demand. Legislation which removes the possibility of this form of income for the developer also removes an incentive for further development which is needed if a balance is to be obtained between available housing and a communities need for such housing.

HB 829 Sec. 34.03.225

Wording of this section implies that a mobile home is something other than personal property of an individual and that indeed it can be evicted. Lease or rental agreements are between landlord and tenant NOT landlord and a mobile home.

A fifth part should be added which clearly allows any lease or rental term agreed upon in writing between landlord and tenant. The overall effect of of this section prohibits a normal month to month rental agreement and therefore prohibits a park owner from exercising control over his property. It literally prohibits any owner from terminating a tenancy and thus confers ownership rights to the tenant which is definitely unconstitutional.

Sec. 45.30.070 Part b

This disallows a mobile home dealer from paying a park developer to reserve spaces and would again have the effect of removing an incentive for development of needed mobile home parks and subdivisions. Financial institutions literally REQUIRE before committing funds that a substantial portion of the proposed project have rental commitments. The only practical source of such commitments are the various mobile home dealerships. A condition for financing of my park was such a commitment for reservation and rental of spaces. As an owner I do not believe I should be denied the opportunity of reserving and renting spaces in my park to what is potentially the greatest market.

HB 684 Section 1 AS45.50.471 (b) Part (23)

Again this would prevent a park or subdivision owner from entering into an agreement with a mobile home dealer to reserve spaces or lots on which the dealer could set up homes to sell to the public. As a park owner I've made such an agreement. By so doing I was able to obtain the necessary commitment for rental of spaces, a prerequisite to my being able to obtain financing. I believe it is unconstitutional to deny an owner the right to reserve or rent lots to anyone he so choses.

Additionally this bill would prevent a dealer from constructing his own park or subdivision and placing therein only homes his dealership sells. Perhaps you should pass a law to prevent a developer of conventional housing lots from also being the only builder in any particular development.

I would hope that you consider these comments, keeping in mind that the free enterprise system is the greatest system ever, as long as government controls and regulations do not over control or over regulate.

Thank you for your much valued time.

Sincerely,

*Ronald G. Nelson*

Ronald G. Nelson

HB 832

# STATE OF ALASKA

JAY S. HAMMOND  
GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D — JUNEAU 99811

March 16, 1976

Honorable Bob Bradley, Chairman  
House Commerce Committee  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Bradley:

Pursuant to Phil Hubbard's testimony relating to construction contractor exemptions from regulations by the Alaska Transportation Commission, I would like to reiterate the following:

Section 1 A.S. 42.10.020(4) as proposed to be amended removes the exemption of general contractors hauling for hire at a time that serious consideration is being given to the de-regulation of all operators of dump-type equipment.

Further, the removal of this exemption could be harmful to the small independent general contractor attempting to employ his assets. Construction equipment costs are high -- typically \$25,000 to \$40,000 for a dump truck depending upon capacity and other variables. Financing is only available at high interest rates and short terms of three to five years. Alaska's construction season is short and very few firms can afford to maintain idle equipment. Almost no financing is available for used equipment items unless new cost exceeds \$50,000. Financing, other than private sources, is limited to commercial banks and manufacturers or distributors through subsidiary firms. This compounds the problem of the small independent contractor.

The concern of regulated truckers is that operators of dump-type carriers are bypassing the ATC through licensure as construction contractors, merely to avoid regulation. This problem may be resolved by amending either Sec. 42.10.020(4) or Sec 42.10.420(12) as follows:

...this exemption does not apply to persons licensed as construction contractors for the purpose of evasion of this chapter, whose principal business is operating as a motor carrier of commodities in bulk in dump-type equipment; this exemption does not apply to a person who advertises or by other device which might indicate to the public that he is a motor carrier, or that he is qualified to engage in the business of operating as a motor carrier of freight or bulk-commodities for compensation or gain.

March 16, 1976

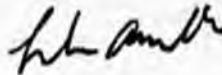
The proponents of HB 832 have indicated that operators of bulk-type dump equipment have been gaining licensure as construction contractors to avoid ATC regulation.

It is our viewpoint that something like the above would:

- A. Remedy the concern of the regulated motor carriers,  
and
- B. Preserve the exemption for small construction contractors  
needing to employ their assets.

We would appreciate receiving word of further action planned for HB 832.

Sincerely,



Langhorne A. Motley  
Commissioner

PROPOSED SPONSOR SUBSTITUTE FOR HB 832

AS 42.10.020(4) is amended to read:

(4) vehicles operated by a construction contractor while actively engaged as a construction contractor in a project of constructing, repairing or removing any kind of private or public facility. This exemption is not applicable to any vehicles used by a construction contractor for a construction contractor unless both are actively engaged on the same project.

hauling trailers only for a certain dealer and no one else, and that he had agreed to haul plaintiffs' trailer after they had been referred to him by such dealer, and there was no evidence that he undertook to serve the public generally—that within the limits of his operations he was available to everyone who desired his service, the trial judge did not

err in finding that he was not a common carrier. *Schenderline v. Robertson*, Sup. Ct. Op. No. 232 (File No 469), 394 P.2d 395 (1964)

Am. Jur. and C.J.S. references.—9 Am. Jur., Carriers, § 1 et seq.; 37 Am. Jur., Motor Transportation, § 1 et seq.; 43 Am. Jur., Public Utilities and Services, §§ 192 to 223.

13 C.J.S. Carriers §§ 2 to 14.

**Sec. 42.10.020. Exempt vehicles.** This chapter shall apply to all vehicles unless specifically exempted by this section. This chapter, except when specifically otherwise provided, does not apply to

(1) motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers or periodicals alone or in conjunction with an express service delivering packages not to exceed 100 pounds to any one receiver;

(2) motor vehicles owned and operated by the United States, the state, or a borough, city, town, or municipality in the state, or by a department of any of them, except when the vehicles are used to transport property of the general public for compensation in competition with other common carriers subject to this chapter, and to the extent regulation of vehicles operated by the United States is permitted by the laws of the United States;

(3) motor vehicles not exceeding a total gross weight of 12,000 pounds, owned and operated by a rancher, farmer, or dairyman in the transportation of his own ranch, farm, or dairy products from the point of production to market or to the point of transportation to market, or of supplies, commodities, or equipment used on his own ranch, farm, or dairy. Motor vehicles operating under this classification shall be identified as farm vehicles in accordance with regulations prescribed by the commissioner of revenue;

(4) ~~vehicles operated by a construction contractor while performing such a business as defined in § 420(12) of this chapter~~ except that weight fees in an amount as provided by § 240 of this chapter shall be paid for each vehicle designed to be operated on a public highway. (§ 5 ch 166 SLA 1960; am § 4 ch 121 SLA 1961; am § 1 ch 103 SLA 1963; am § 1 ch 107 SLA 1970)

Effect of amendments.—The 1963 amendment added the present first sentence, added all of the language beginning with the word "alone" in (1) and rewrote (3).

The 1970 amendment added paragraph (4).

Legislative committee report.—For report on ch. 107, SLA 1970

(HCSCSSE 271 am H), see 1970 House Journal, p. 902. Also refer to 1970 House Journal, p. 1244 (re HCSSB 543).

Quoted in *Alaska Transp. Comm'n v. Harcock*, Sup. Ct. Op. No. 578 (File No. 1044), 458 P.2d 1012 (1969).

Am. Jur. reference.—37 Am. Jur., Motor Transportation, §§ 53 to 65.

**Sec. 42.10.030. Compliance enjoined.** It is unlawful for any per-

HB 623  
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a 24(5)

tion of property for compensation over the public highways as a broker or forwarder;

(4) "exempt carrier" means a person operating a vehicle exempted from certain provisions of this chapter under § 20 of this chapter;

(5) "motor carrier" includes common carrier, contract carrier, private carrier and exempt carrier;

(6) "motor vehicle" means a truck, tractor, wrecker, tow car, hearse, ambulance or other self-propelled or motor-driven vehicle used upon any public highway of this state for the purpose of transporting property;

(7) "private carrier" is:

(A) a person who transports by motor vehicle, with or without compensation, property which is owned or is being bought or sold by him, or property of which he is the seller, purchaser, lessee or bailee, and the transportation is incidental to and in furtherance of some other primary business conducted by the person in good faith;

(B) a person who rents, leases, or otherwise provides a motor vehicle for the use of others in transporting passengers or property, but who does not provide, procure, or arrange for, directly, indirectly or by course of dealing, an operator for the vehicle.

(11) "property" means all commodities, articles and cargo, of whatever nature or value, excluding garbage, refuse, trash or other waste material;

(12) "construction contractor" means a contractor licensed by the state as a general contractor under AS 08.18 to engage in and who is actively and regularly engaged in the business of constructing, repairing or removing any kind of private or public facility or structure and does not include "contract carriers" authorized to transport commodities in bulk in dump-type equipment ~~unless the "contract carrier" is also actively engaged in the business of constructing, repairing or removing private or public facilities or structures as a licensed general contractor under AS 08.18.~~

(am § 1 ch 89 SLA 1971; am § 10 ch 120 SLA 1972; am § 3 ch 52 SLA 1973; am § 4 ch 76 SLA 1973)

Effect of amendments.

The 1971 amendment deleted

"trailer, semi-trailer" following "truck" in paragraph (6).

The 1972 amendment, in paragraph (12), inserted "as a general contractor under AS 08.18," inserted "and regularly," inserted "general" following "licensed," and added "under AS 08.18."

The first 1973 amendment rewrote paragraph (7).

The second 1973 amendment rewrote paragraph (11).

As the rest of the section was not affected by the amendments, it is not set out.

## Senate Rules Committee Recommendation

Dump trucks/or their replacements operated by construction contractors as of December 30, 1975; provided that construction contractors operating vehicles under the provision of this exception shall comply with the provisions of 3 AAC 64.170 excepting the provisions of 3 AAC 64.170(12) within 30 days from the effective date of this act; and further provided that in addition any contractor operating vehicles under this section shall comply with the provision of 3 AAC 64.170(12) prior to expanding his levels of dumping operations beyond those existing on December 30, 1975.

Permits construction contractors who have operated dump trucks for hire under the "contractors exemption" rule 30 days to apply for ASC operating authority without need to show public convenience and necessity.

1. GENERAL INFORMATION

AS 42.10.130 reads: (a) ". . . no common carrier, contract carrier, or temporary carrier may operate for the transportation of property for compensation in the state without a permit . . ."

AS 42.10.420 Definitions. In this chapter (only the applicable terms listed)

(2) "common carrier" includes:

(A) a person who undertakes to transport property for the general public by motor vehicle for compensation, over regular or irregular routes, on regular or irregular schedules. . .;

(B) a person who leases, rents, or provides a motor vehicle for the use of another in transporting property, and who provides, procures, or arranges for, directly or indirectly, or by course of dealing, a driver or operator for the motor vehicle or the necessary authority for the use of it on a public highway, except when the motor vehicle is leased to an authorized common carrier or contract carrier or by a construction contractor as defined in (12) of this section to another construction contractor as so defined, under rules and regulations to be prescribed by the commission;

(C) a person engaged in the business of providing, contracting for or undertaking to provide transportation of property for compensation over public highways as a broker or forwarder;

(3) "contract carrier" includes all motor vehicles not included under the term "common carrier" or "private carrier" and includes any person who under special and individual contracts or agreements transports property by motor vehicle for compensation; contract carrier includes a person engaged in the business of providing, contracting, for or, undertaking to provide transportation of property for compensation over the public highways as a broker or forwarder;

(note: as a practical matter in the hauling of bulk construction materials in dump type equipment, the "contract carrier" functions in the same manner as the "common carrier" and is subject to the same basic regulatory laws.)

(4) "exempt carrier" means a person operating a vehicle exempted from certain provisions of this chapter under Sec. 42.10.420 of this chapter;

(7) "private carrier" is a person who, in his own vehicle, transports only property owned or being bought or sold by him in good faith when the transportation is on incidental adjunct to some other established primary private business, other than transportation, owned or operated by him in good faith, and also includes all persons who rent, lease, or otherwise provide a motor vehicle for use of others in transporting property, and who, in connection therewith, do not provide, procure, or arrange for, directly, indirectly, or by course of dealing, a driver or operator for the motor vehicle.

AS 42.10.020 exempts certain vehicles and states, "This chapter shall apply to all vehicles unless specifically exempted from this section. This chapter, except when specifically or otherwise provided does not apply to (1) transportation of United States mail (2) motor vehicles operated by federal, state, borough, city or other municipalities (except where used to transport property of the general public for compensation in competition with other common carriers), (3) motor vehicles under 12,000 pounds gross weight operated by ranchers, farmers or dairymen for transportation of his own products and (4) vehicles operated by a construction contractor, while performing such a business as defined in (AS Section 42.10) 420 (12) . . . which reads:

(12) "construction contractor" means a contractor licensed by the state as a general contractor under AS 08.18 to engage in and who is actively and regularly engaged in the business of constructing, repairing or removing any kind of private or public facility or structure and does not include "contract carriers" authorized to transport commodities in bulk in dump-type equipment unless the "contract carrier" is also actively engaged in the business of constructing, repairing or removing private or public facilities or structures as a licensed general contractor under AS 08.18.

AS Section 08.18.171 (2) - "Contractor" means a person who, in the pursuit of an independent business, undertakes or offers to perform, or claims to have the capacity to perform, or submits a bid for a project to construct, alter, repair, move or demolish a building, highway, road, railroad, or any type of fixed structure, including excavation and site development and erection of scaffolding; a general contractor whose business operations require the use of more than two distinct trades whose work the general contractor superintends; the terms "general contractor" and "builder" are synonymous; a "specialty contractor" is a contractor whose operations do not fall within the definition of "general contractor".

## 2. PROPOSED CHANGES

House Bill amends AS Section 42.10.420 by adding a new paragraph to read:

(13) "~~actively engaged in the business of constructing, repairing or removing private or public facilities or structures~~" means engaging in the business of ~~and taking responsibility for~~ erecting, installing, repairing or dismantling of facilities or structures as a primary business throughout the year; the term does not include hauling of structures of facilities whether disassembled or intact, nor does it include transportation of construction materials for another construction contractor.

## 3. PURPOSE OF AMENDMENT

To eliminate the existing economic hardship and operational discriminations caused to the dump truck industry by the "contractors exemptions"; to replace under regulatory laws a large part of for-hire transportation presently done by exempted dump truck operators; and put the law back as it was intended by the Alaska Motor Freight Carrier Act.

4. HISTORY OF "CONTRACTORS EXEMPTION"

During construction of the Anchorage-Fairbanks Highway the remoteness of the area created a problem of both economy and convenience best solved by the interchange of equipment. The Alaska Motor Freight Carrier Act prevented this practice but dump truck operators and contractors agreed to and sought a change in the law to permit this practice. Like other laws, times and conditions make them obsolete. The exemption of contractors from the law is certainly obsolete, if not in fact unconstitutional.

5. SOME OBVIOUS INEQUITIES TO THE DUMP TRUCK INDUSTRY CAUSED BY THE "CONTRACTORS EXEMPTION"

(1) The Alaska Transportation Commission, as respects "contract carriers", is required by law to (a) supervise and regulate every contract carrier in the state (b) to develop fair and reasonable rules and regulations (c) to assess fair and reasonable rates and charges (d) regulate accounts, service and safety of operations (e) requires filing of reports and other data and (f) supervise and regulate in all other matters affecting its (contract carrier) relationship with shipping and the general public. Violators can be fined up to \$500 and costs of prosecution.

Construction contractors owned vehicles are subject only to supervision and regulation of its safety of operation. Noncompliance subject to fine up to \$150.

(2) Contract carriers must have identification signs on each vehicle, as prescribed by law. These signs can cost up to \$80 each vehicle. Noncompliance subject to fine up to \$150.

Construction contractor exempt.

(3) Contract carrier applicants for operating authority (permits) are required to submit (a) total fees of \$90 (b) name and address (c) Alaska state business license number (d) record of affiliation with any other motor carrier in Alaska, the United States or Canada (e) type of service to be provided (f) types and amounts of insurance carried or to be acquired (g) current financial statement (h) type and number of pieces of equipment to be used (i) zones to be served (j) anticipated annual volume of business (k) experience (l) schedule of intended rates (m) prove service is essential to the public needs and interests and (n) statement he has read, understands and intends to comply with the Alaska Motor Freight Carrier Act, Alaska Administrative Code and Alaska Traffic Regulations.

Exempt specialty contractor required to submit (a) total fees of \$50 (b) name and address (c) social security number (d) type of contracting activity (e) bond in the amount of \$2000.

(4) Contract carrier subject to prescribed lease requirements. Violators subject to fine and costs of prosecution.

Construction contractor exempt.

(5) Contract carriers must carry current vehicle identification cards prescribed by state.

Construction contractor exempt.

(6) Contract carriers required to file and maintain tariff rates with commission. (see "Tariff" rate explained below). Construction contractor exempt.

"Tariff" rate explained . . . the hourly cost of operating a dump truck is based on a formula which includes costs for vehicle, taxes, license, insurance, fuel, etc., plus the actual Teamster labor rate package and an average of 950 maximum working hours per year. The resulting rate may after due process of law, become the minimum "tariff" permit holders are required to file with the Alaska Transportation Commission. This "tariff" rate then becomes the generally accepted rate used by the construction industry. It is the rate charged to the public.

It is worth noting that we are in full accord with the rate making process and requirement to file a minimum rate, although at this point it begins to work against us. For example, dump truckers working under the "contractors exemption" know we cannot by law, charge less than the published tariff and because they are not required to file rates, are free to cut rates enough to get the job. It is not difficult to see who works first and longest. In another situation, the construction contractor bids a job to the public using our published "tariff" plus his profit, overhead, etc, and can then hire dump truckers working under this "contractors exemption" for less than our filed rates or lease non permitted carriers at a "cut rate". Many other such variations are used.

Since it is generally agreed that 90% of the work done by dump truckers is done for construction contractors, we can also agree that our "tariff" is generally the minimum charged to the public so in either case the public pays the same and the only benefit is to the construction contractor.

## 6. CONCLUSIONS

It is worth noting that the construction industry in this state, or at least those doing the greater part of earth moving, is comprised of large and economically powerful construction operations. Conversely, the dump truck industry is comprised generally of many small operators whose economic power is such that they cannot hope to compete with that of the large construction concerns. Case in point . . . in the Alaska Dump Truckers Association 53% of our members operate 1 dump truck, 16% own 2, 19% - 3 to 5, 9% 6 to 10 and only 4 members have more than 10 trucks.

Given this situation, large construction companies operating dump trucks under the "contractors exemption" are free to bring their economic power to bear on the small dump truck operator and force him to work at non-compensatory rates, if he was to work at all, and effectively bankrupt or otherwise strangle an industry that is important to Alaska economy. The declaration of policy under Section 42.10.010 of the Alaska Motor Freight Carrier Act cites as its purpose to provide the shippers and receivers of freight in the state with a stabilized service and rate structure; to foster sound economic conditions among the carriers which will guarantee transportation in the public interest; to promote adequate, economical and efficient service by motor carriers, and reasonable charges without

(5)

unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices; to preserve the common carrier of commodities by motor carrier in the public interest; to improve and coordinate the relations between, and transportation by and regulation of, motor carriers and other carriers so that the highways of the state may be properly developed and preserved, and the public assured of adequate, complete, dependable and stable transportation service.

Further, under Section 42.10.120 the Alaska Transportation Commission is charged to administer and enforce all provisions of this chapter and may inspect the vehicles, books, and documents of motor carriers, and the books, documents, and records of persons using the service of the carrier, for the purpose of discovering discrimination, rebates, and other information pertaining to this chapter. The commission shall prosecute violations of this chapter.

It is the feeling of this Association that the "contractors exemption" (AS Sec. 42.10.420 (12)) is inconsistent with the declared policy of the Alaska Motor Freight Carrier Act as was intended by the legislature when it was originally written and even when the "exemption" was added in 1970. As the "exemption" directly affects the dump truck industry it is our opinion that the "exemption" is unjust, unreasonable, preferential, prejudicial and that it creates an opportunity for a large segment of non-regulated carriers in Alaska to employ unfair competitive practices and to offer concessions or preferences to any shipper and thereby prejudice other users of the service. Users of dump truck service (which is 90% to construction contractors) to pit one carrier against another and could well adversely effect the economic condition of the entire industry.

Our 107 members seek to correct the unfair part of AS Sec. 42.10.420 (12) and ask your support in passage of House Bill 832.

ALASKA DUMP TRUCKERS ASSOCIATION, INC.



Richard E. Dunham  
Executive Director

RED/ld

February 23, 1976

Mr. Richard E. Dunham  
Alaska Dump Truckers, Association  
P. O. Box 4-2417  
Anchorage, Alaska 99503

Dear Mr. Dunham:

This is to notify you that the House Commerce Committee will discuss House Bill No. 832, Construction Contractor Exemption, on March 5, 1976 at 8:00 A.M. The meeting will be held in Room 623 of the Court Building.

Sincerely,

Representative Bob Bradley  
Chairman, House Commerce Committee

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

TO: ATC

DATE: 2/15

(SENATE - HOUSE) BILL 832

RE: Construction Contractor (ademption)

Check One:

- 1. TOP PRIORITY - in favor of \_\_\_\_\_
- 2. FAVOR - in favor of, but not top priority X
- 3. OK - no definite stand \_\_\_\_\_
- 4. NOT IN FAVOR \_\_\_\_\_
- 5. TOP PRIORITY - "Strongly Opposed" \_\_\_\_\_
- 6. BILL DOES NOT PERTAIN TO DIVISION \_\_\_\_\_
- 7. Bill does not directly pertain to division, but I am interested in its progress. Keep me informed. \_\_\_\_\_

COMMENTS: (Justification must be stated for #1 - #6 above. Continue on another page if needed).

SEE ATTACHEMENT

RECEIVED  
FEB 25 1976



STATE OF ALASKA  
DEPARTMENT OF COMMERCE  
AND ECONOMIC DEVELOPMENT

Writer's Signature: [Signature]  
Writer's Title: [Signature]  
(DEADLINE 24 hours)

(Note: Please return to Information Officer/Leg. Asst., Office of the Commissioner)

AS 42.10.020(4). Instead of the broad exemption presently granted to construction contractors by this statute, the revision will allow total utilization of the vehicles operated by construction contractors operating on the same project. A substantial number of persons have obtained general contractors licenses as a free pass to transport property for other general contractors without first having obtained a permit from the Commission as other carriers have had to do. This practice imposes a financial burden on permit holders who are subject to the Motor Freight Carrier Act and promotes destructive rate cutting, non-adherence to minimum safety and insurance standards. The limited staff of the Commission's enforcement section has not been able to cope with the increased workload this caused.

AS 42.10.420(12). The present statute allows contract carriers of bulk commodities in dump type equipment, who are also construction contractors, to intermingle their two businesses and equipment. Regulations are difficult, if not impossible, to enforce unless carrier and non-carrier identities can be established. Commission orders granting authority to operate as a carrier for-hire require the separation of business records between a person's carrier and non-carrier business. This conflicts somewhat with the existing statutory language. The removal of this section will not prevent a construction contractor, who is also an authorized carrier from taking advantage of the exemption in AS 42.10.020(4).

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(C) a person engaged in the business of providing, contracting for or undertaking to provide transportation of property for compensation over public highways as a broker or forwarder;

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*See Bill Attached*

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Given this situation, large construction companies operating dump trucks under the "contractors exemption" are free to bring their economic power to bear on the small dump truck operator and force him to work at non-compensatory rates, if he was to work at all, and effectively bankrupt or otherwise strangle an industry that is important to Alaska economy. The declaration of policy under Section 42.10.010 of the Alaska Motor Freight Carrier Act cites as its purpose to provide the shippers and receivers of freight in the state with a stabilized service and rate structure; to foster sound economic conditions among the carriers which will guarantee transportation in the public interest; to promote adequate, economical and efficient service by motor carriers, and reasonable charges without

unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices; to preserve the common carrier of commodities by motor carrier in the public interest; to improve and coordinate the relations between, and transportation by and regulation of, motor carriers and other carriers so that the highways of the state may be properly developed and preserved, and the public assured of adequate, complete, dependable and stable transportation service.

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ALASKA DUMP TRUCKERS ASSOCIATION, INC.



Richard E. Dunham  
Executive Director

RED/ld



**ALASKA DUMP TRUCKERS  
ASSOCIATION, INC.**

**RICHARD E. DUNHAM**  
Executive Director

P.O. Box 4-2417  
Anchorage, Alaska 99503  
Phone: (907)272-0568

HOUSE BILL 832

HB 832 was introduced at the request of the Alaska Dump Truckers Association for the intended purpose of seeking equal application of regulatory laws for dump truck operators.

At the time of its adoption the Alaska Motor Freight Carriers Act required all trucks operating in the State to obtain operating authority with the exception of motor vehicles:

- (1) "...operated exclusively in the transportation of United States mail...newspaper or periodicals..."
- (2) "...owned and operated by the United States, the State, or a borough, city, etc..."
- (3) "...not exceeding a total gross weight of 12,000 pounds, owned and operated by a rancher, farmer or dairyman..."

In 1970 the act was amended to exempt:

- (4) "vehicles operated by a construction contractor..."

At the present time about 50% of dump truck work is done by persons operating under the "contractors exemption" and the balance by persons holding state permits.

This situation creates economic hardship and operational discrimination for those who in good faith subscribe to the laws of the State by holding operating authority.

The persons affected by HB 832 would continue to transport their own commodities in vehicles owned and operated by them but would be required to obtain operating authority to haul for others (as was intended by the original Alaska Motor Freight Carrier Act).

The procedures for obtaining State permits is simple and generally easy to obtain. Attesting to this is the fact that during the past 18 months 28 permits were applied for and 22 were issued. Further, the following is a quote from the Alaska Transportation Commission which reflects their attitude on the matter of permits:

"Although the legislature includes some dump truck operations within certain of the economic regulatory provisions, including AS 42.10.130, it nevertheless appears that it has at the same time prescribed

virtually unlimited dump truck competition by the construction industry with the regulated carrier. The overriding mandate by the legislature appears to be that very little restriction is to be placed on availability of dump truck services to the construction industry..."

Finally, since it appears evident that persons who operate dump trucks for hire under the "contractors exemption" would have permits available to them, the principle effect of HB 832 would be the removal of a discrimination provision of law and place operators of dump trucks for hire on an equal economic and operational basis.

We ask your support by a yes vote on HB 832.

ALASKA DUMP TRUCKERS ASSOCIATION, INC.

Richard F. Dunham  
Executive Director

RED/ce

HB

834

"An Act relating to liquor licenses."

COMMITTEE REPORT

HOUSE

2/19/76

Mr. Speaker:

Date

2/27/76

The Committee on COMMERCE has had HB 834

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT

CS FOR \_\_\_\_\_ DO PASS

(X) "and" recommends it BE REFERRED TO THE Finance

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	<u>do not pass unless am.</u>	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____	recommends:	_____
_____	recommends:	_____
_____	recommends:	<u>DO NOT PASS</u>
_____	recommends:	_____
_____	recommends:	<u>DO NOT PASS</u>
_____	recommends:	_____

Chairman

H3834,735

Linda Brown HCU

High number of licenses already  
people offended at sight of alcohol  
Rural community need to protect

many stores have competitive advantage  
Extra <sup>pry</sup> ~~rem~~ <sup>side</sup> ~~side~~ difficult

Rep. Huntington

Letting in alcohol to villages. Increase ~~production~~ ~~sales~~ ~~of~~ ~~alcohol~~

Letting in alcohol to villages

... ~~... to ...~~ ~~... to ...~~  
also change

Rep. ...

... ~~... to ...~~ ~~... to ...~~

Harry Farrell

... ~~... to ...~~

... ~~... to ...~~

Typical ... ~~... to ...~~

... ~~... to ...~~



... ~~... to ...~~

... ~~... to ...~~ communities that

... ~~... to ...~~ than

... ~~... to ...~~

Hughes, Alaska  
99745  
February 4, 1976

Gentlemen:

On February 3, 1976, a community meeting was held in the village of Hughes for the purpose of discussing the possibility of being joined to Bettles, Allakaket, and Tanana via twice weekly flights by Frontier Air Service. All village adults were represented in this meeting with the exception of three men absent on their traplines. All present were encouraged to express their views on this subject.

After considerable discussion it is the unanimous decision of the village of Hughes that we do not wish to be included in Frontier's proposal.

Most villagers feel it would be of benefit to have regular direct flights to Tanana, but we have no desire to establish a direct link with the community of Bettles Field. There are several reasons for this decision, but the most important deals with the fact that Frontier Flying Service owns and operates a package liquor store in Bettles. Although Frontier representatives have said that they would avoid carrying liquor on regular flights, we know that this service would locally increase alcohol consumption and have a negative impact on our community. We have much to lose by such a situation.

Over the past twelve months villages in this area have experienced numerous tragic deaths, injuries, and destruction of homes and property. The consumption of large amounts of alcohol has been a major contributing factor in all of these occurrences. While we do not blame Frontier Flying Service for these disasters, it is a fact that most of the liquor in question was purchased in their store and transported on their chartered aircraft.

We, the people of Hughes, are trying to make our town a good place to live in and bring up our children. We do not want, at this time, a direct airline service to Bettles which we believe would hurt our village.

Sincerely,

Attachments: Signed petition

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



HB

841



# *National Automatic Sprinkler and Fire Control Association, Inc.*

P.O. BOX 719 • 45 KENSICO DRIVE • MT. KISCO, N. Y. 10549 • (914) 241-2400

March 17, 1976

Representative Bob Bradley, Chairman  
House Commerce Committee  
State House  
Juneau, Alaska

Dear Representative Bradley:

The members of the Legislature of the great State of Alaska should be commended for their forward looking posture they have assumed in the area of fire protection.

Recognizing that the members of the Legislature are willing to accept comments on pending legislation from industry as well as the fire protection community at large, we offer the following suggestion with respect to House Bills #818 and #841, for your consideration.

We suggest inserting the following at line 13 of both Bills, "This section does not apply to living units equipped with an approved automatic fire extinguishing system".

The reasons for this suggestion are many and we offer the following supportive documentation.

The National Safety Council some years ago issued the following statement, "automatic sprinkler systems provide the greatest single 'safety to life' feature available in the fire protection field. Not only can they sound an alarm, but, they will immediately start fighting the fire when activated. The automatic sprinklers are by far the most reliable and effective means of fire extinguishment. Other forms of protective equipment, as well as automatic alarms, have their special place, but, none can be an effective substitute for an automatic sprinkler system." It further states:

"An automatic alarm system is not a substitute for an automatic sprinkler system and should be considered only as a necessary minimum."

After studying numerous fires the National Fire Protection Assn. has incorporated the following conclusion in the Life Safety Code: "Experience shows that automatic sprinklers properly installed and maintained, are the most effective of any of the various safeguards against loss of life by fire."

In 1959 and 1960 the Ford Foundation's Educational Facilities Laboratories conducted a series of 228 fire tests in 5 Los Angeles schools. Among their conclusions were the following:

March 17, 1976

- 1) untenable smoke conditions invariably preceded untenable heat conditions in every test. Any deaths which could have occurred (by pre-established criteria) would have resulted from smoke and toxic gases, a by-product of combustion.
- 2) In every instance where complete automatic sprinkler protection was tested neither untenable smoke nor untenable heat conditions existed anywhere in the building.
- 3) Automatic smoke and heat detectors (automatic alarms) did not protect against loss of life in 29% of the cases in which automatic alarms were tested.

The National Fire Protection Association in its January 1974 Fire Journal, published an article entitled, The Effect of Structural Characteristics on Dwelling Fire Fatalities, by W. J. Christian, consulting engineer, Underwriters' Laboratories, Inc. From this analysis of 1 and 2 family dwelling fires nationwide, it was determined that, "...unconsciousness and incapacitation are the main reasons victims do not escape from dwelling fires." It was also determined that "A large percentage of fatal dwelling fires (36%) involve victims who would have been unable to escape even if they had been warned in time, and, apparently control of the generation and transmission of toxic fire products would be required to improve the survival chances of such occupants."

Smoke detection devices certainly do provide a limited amount of fire warning, but, an automatic sprinkler system accomplished much more. Each sprinkler in the system serves a dual purpose, first it responds individually to fire as a detector and then as an expellant of water which is the extinguishing agent, and, both acts are performed automatically.

It is my most sincere hope that you will review the above supportive documentation as it applies to the pending legislation. Should you have any questions please do not hesitate to contact me.

Cordially yours,

*William G. Woodrow*

William G. Woodrow *W*  
Regional Executive Coordinator

WGW/vjn

cc: Raymond J. Casey  
Edward J. Reilly  
John A. Viniello

HB 544

"An Act increasing the license fee for financial institutions: and providing for an effective date."

# COMMITTEE REPORT

HOUSE

2/25/76

FINANCE

Mr. Speaker:

Date 4/1/76

The Committee on COMMERCE has had HB 846

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT

CS FOR \_\_\_\_\_ DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

(x) "other"

Members signing the Majority report:

<u>[Signature]</u>	<u>Do Pass</u>	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____	recommends:	<u>Do not pass</u>
_____	recommends:	<u>Do not pass</u>
_____	recommends:	<u>Do not pass</u>
_____	recommends:	_____
_____	recommends:	_____

[Signature] Chairman

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5 - JUNEAU 99811

March 8, 1976

The Honorable Bob Bradley  
Chairman  
House Commerce Committee  
Alaska State Legislature  
State Capitol Building  
Juneau, Alaska

Re: House Bill No. 844

Dear Mr. Bradley:

House Bill No. 844, an Act increasing the license fee for financial institutions was introduced in the House on March 26, 1976 and was referred to the House Commerce and Finance Committees.

For the consideration of the House Commerce Committee, I am enclosing a copy of a Fiscal Note and accompanying memorandum prepared by Gary L. Jenkins, Director, Audit Division advising of effect on Treasury and that there would be no additional cost of administration.

If you or any members of the House Commerce Committee have any questions on the material submitted, please telephone the writer at 465-2397 and I will contact Mr. Jenkins for further information or testimony at a hearing.

Very truly yours,



R. D. Stevenson  
Special Assistant

### Enclosures

cc: The Honorable Hugh Malone  
Chairman  
House Finance Committee

Gary L. Jenkins  
Director, Audit Division  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
FISCAL NOTE  
 Second Session - Ninth Legislature

I. REQUEST

Bill No. House Bill No. 844  
 Title: An act increasing the license fee for financial institutions  
 Requested by: R. D. Stevenson Date: February 27, 1976  
 Return Date Requested: March 5, 1976  
 Agency: Department of Revenue Program: \_\_\_\_\_

II. FISCAL DETAIL

Budget Request Unit(s) Affected: None

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	None	None	None	None	None	None

B. FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						

POSITIONS: \_\_\_\_\_

# MEMORANDUM

# State of Alaska

TO: R. D. Stevenson  
Special Assistant

DATE: March 9, 1976

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins  
Director  
Audit Division

SUBJECT: House Bill No. 844

This bill would increase the business license tax on banks and other financial institutions from 7 percent to 9 percent. Based on the 1974 returns, this would have generated an increase in the amount of tax paid by banks of \$231,849. The amount paid by banks for that year at the 7 percent rate was \$811,472.

Since this tax is on the net income of the financial institutions, it is very difficult to predict an exact income increase in the future. There would be no additional cost of administration of the program.

GLJ:lc



JUNEAU ALASKA

# Alaska State Legislature House

March 11, 1976

## MEMORANDUM

TO: Rep. Bob Bradley

FROM: Terry Berman  
Administrative Assistant

SUBJECT: House Bill No. 844

House Bill No. 844 increases the license fee for financial institutions from seven to nine per cent of net income. The license fee is paid in lieu of income tax.

Raising the license fee will serve to correct an inequity that presently exists between banks and corporations. Corporations must pay a license fee amounting to approximately one-quarter of one percent of their gross profits and are also taxed on net income at an approximate rate of nine percent. Banking institutions pay only a flat seven per cent of their ~~taxable~~ income. If the fee is raised to nine percent the effective tax will be in line with that of corporations, creating a more equitable tax structure.

This fee increase will increase state revenues by over 200,000 dollars annually.

HB 845

Telephone 907/274-4726

George L. Benesch  
Attorney at Law



*but of notification  
when bill is coming  
up again.*

608 West Fourth Avenue, Suite 30

Anchorage, Alaska 99501

March 10, 1976

Honorable Bob Bradley, Chairman  
House Commerce Committee  
Pouch V  
Juneau, Alaska 99811

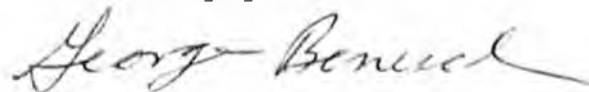
Dear Mr. Bradley:

I have reviewed a copy of House Bill No. 845 introduced by the House Commerce Committee. It is not apparent whether the bill is sponsored by the Committee, a few members of the Committee or whether it is in fact an Administration bill.

In any event, in my opinion, the bill can only be described as totally irresponsible.

I would appreciate it if you would see to it that I am informed of when public hearings are to be held on the bill. It is clear that the public interest and the purposes of transportation regulation have been completely overlooked.

Sincerely yours,



George L. Benesch

cc: Chairman, House Judiciary Committee