

916 HJ HB 350 - SB 354 (FILE NO.

Chapter 30. Mobile Homes and Mobile Home Parks.

Section

- 10. Mobile home standards
- 20. [Repealed]
- 30. Administration
- 40. Enforcement of compliance

Section

- 50. Penalty
- 60. [Repealed]
- 70. Certain landlord-vendor agreements prohibited

Effective date of chapter. — Section 3, ch. 80, SLA 1971, provides: "This act takes effect on September 1, 1971."

Editor's note. — Section 1, ch. 80, SLA 1971, effective September 1, 1971, provides: "In order to safeguard life, health and

property, and to promote the public welfare, construction standards of mobile homes in the state are hereby declared to be subject to regulation in the public interest."

Sec. 45.30.010. Mobile home standards. (a) The Department of Commerce and Economic Development shall, by regulations adopted under the Administrative Procedure Act (AS 44.62), set minimum mobile home standards for the state at least as stringent as those set out in the American National Standards Institute Code A119.1 — 1972 for mobile homes. The department may adopt that code by reference, specifying appropriate modifications, if any, of it.

(b) The regulations adopted under (a) of this section apply to all mobile homes constructed in the state and to new and used mobile homes brought into the state after July 1, 1974. The regulations adopted under (a) of this section do not apply to travel trailers primarily designed as temporary living accommodations for recreational, camping or travel use drawn by another vehicle and which meet the legal highway requirements without permit: pickup campers, motor homes, or vehicular, portable structures with the dimensions of 35 feet in length and eight feet in width, or less.

(c) No mobile home may be brought into the state, sold or offered or exposed for sale after July 1, 1974 unless it complies with the regulations adopted under (a) of this section.

(d) The regulations adopted under (a), (b) and (c) of this section do not apply to mobile homes brought into the state before September 1, 1971. (§ 2 ch 80 SLA 1971; am § 1 ch 123 SLA 1972; am §§ 1, 2 ch 114 SLA 1974; am § 107 ch 218 SLA 1976)

Effect of amendments. — The 1972 amendment rewrote this section.

The 1974 amendment rewrote subsection (b) and added subsections (c) and (d).

The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of

Commerce" in the first sentence of subsection (a).

Editor's note. — Copies of the code referred to in this section may be obtained by writing to the American National Standards Institute at 1430 Broadway, New York, New York 10018.

Sec. 45.30.020. Duties of department.

Repealed by § 5 ch 123 SLA 1972.

Editor's note. — The repealed section derived from § 2, ch. 80, SLA 1971.

Sec. 45.30.030. Administration. (a) Repealed by § 5 ch 123 SLA 1972.

(b) The department is responsible for inspecting mobile homes constructed in the state and new and used mobile homes coming into the state after September 10, 1972 and may adopt regulations for the enforcement of this chapter. A mobile home which meets the specification of the regulations adopted under § 10 of this chapter shall have affixed to it a state approval tag stating that it meets state requirements. The cost of the tag is \$25 and shall be paid by the manufacturer or owner of the mobile home to the department.

(c) A mobile home manufacturer or owner of a mobile home may make application for plan approval to the department in accordance with the regulations adopted under (b) of this section. The filing fee for each application is \$100 with an annual renewal fee of \$50 and shall be paid to the department. Each manufacturer constructing mobile homes for sale in the state shall deposit a performance bond with the department to assure construction compliance before plan approval will be given. Performance bonds required under this section shall be in the following amounts and based on the number of units shipped into the state during the previous 12 months: (1) one to 50 units, \$20,000; (2) in excess of 50 units, \$50,000; (3) new manufacturers obtaining plan approval for the first time, \$20,000. A manufacturer who discontinues constructing mobile homes for sale in the state shall maintain a performance bond in the required amount for a period of 24 months after the date the last mobile home was brought into the state. (§ 2 ch 80 SLA 1971; am §§ 2, 5 ch 123 SLA 1972; am §§ 3, 4 ch 114 SLA 1974)

Effect of amendments. — The 1972 amendment repealed subsection (a). In subsection (b), the amendment substituted "the effective date of this Act and may adopt regulations for the enforcement of this chapter" for "September 1, 1971" in the first sentence, and substituted "regulations adopted under § 10 of this chapter" for "Code" in the second sentence.

The 1974 amendment, in subsection (b), deleted "of this Act" following "September 10, 1972" in the first sentence, substituted "state approval tag" for "state inspection tag" in the second sentence, and "\$25" for "\$10" in the third sentence. The amendment also added subsection (c).

Sec. 45.30.040. Enforcement of compliance. (a) A department inspector shall give written notice to the owner or manufacturer of a mobile home of each violation of the regulations adopted under § 10 of this chapter. The notice of violation shall accurately describe the violation and give specific reference to the section and paragraph of the regulations.

(b) A mobile home found in violation of this chapter shall be marked

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or tagged by the inspector indicating that it is rejected. Mobile homes rejected by the department remain subject to the control of the rejecting authority until the violation is corrected. The owner or manufacturer of a rejected mobile home shall correct the violation within 30 days or a longer period when authorized by the department, or the owner or manufacturer may dispose of it in a manner authorized by the department. Rejected mobile homes may not be offered or exposed for sale until officially reexamined or until specific written permission for their sale is issued by the department. (§ 2 ch 80 SLA 1971; am § 3 ch 123 SLA 1972; am § 5 ch 114 SLA 1974)

Effect of amendments. — The 1972 amendment designated the former section as subsection (a) and added subsection (b). In subsection (a), the amendment substituted "regulations adopted under § 10 of this chapter" for "Code" in the first sentence, and substituted "regulations" for "Code" in the second sentence.

The 1974 amendment inserted "or manufacturer" following "owner" once in the first sentence of subsection (a) and twice in the second sentence of subsection (b).

Sec. 45.30.050. Penalty. A person who violates a provision of this chapter or the regulations adopted under § 10 of this chapter, or who, after receiving the notification required by § 40 of this chapter, refuses or fails to correct the violation, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000. Each mobile home constructed or brought into the state in violation of those regulations is a separate violation. (§ 2 ch 80 SLA 1971; am § 4 ch 123 SLA 1972; am § 6 ch 114 SLA 1974)

Effect of amendments. — The 1972 amendment substituted "regulations adopted under § 10 of this chapter, or" for "Code, and" in the first sentence, inserted "or fails" in that sentence, substituted "those regulations" for "this chapter" in

the second sentence, and deleted "of this chapter" following "separate violation" at the end of that sentence.

The 1974 amendment inserted "this chapter or" following "a provision of" near the beginning of the first sentence.

Sec. 45.30.060. Definitions.

Repealed by § 5 ch 123 SLA 1972.

Editor's note. — The repealed section derived from § 2, ch. 80, SLA 1971.

Sec. 45.30.070. Certain landlord-vendor agreements prohibited. A vendor of mobile homes may not require as a condition of sale that a purchaser locate the mobile home in a particular mobile home park or in one of a particular group of mobile home parks. (§ 6 ch 138 SLA 1976)

Legislative committee report. — For am S [re-engrossed], see 1976 Senate report on ch. 138, SLA 1976 (SCS CSHB 829 Journal, p. 1368.

To: House Judiciary Committee Members

From: Berck

Re: Virginia Law Requested

§ 46.1-547.1

1978 CUMULATIVE SUPPLEMENT

§ 46.1-547.1

§ 46.1-547.1. Warranty obligations of manufacturer, etc., and dealer. — (a) Each motor vehicle manufacturer, factory branch, distributor or distributor branch, shall specify in writing to each of its motor vehicle dealers licensed in this State the dealer's obligations for preparation, delivery and warranty service on its products, shall compensate the dealer for warranty service required of the dealer by the manufacturer, and shall provide the dealer the schedule of compensation to be paid such dealers for parts, work and service in connection with warranty service, and the time allowances for the performance of such work and service. In no event shall such schedule of compensation fail to include reasonable compensation for diagnostic work as well as repair service and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to be given consideration shall be the prevailing wage rates being paid by the dealer, and the prevailing labor rate being charged by the dealer, in the community in which the dealer is doing business, and in no event shall such compensation of a dealer for warranty service be less than the rates charged by such dealer for like service to retail customers for nonwarranty service and repairs.

(b) It is a violation of this chapter for any motor vehicle manufacturer, factory branch, distributor or distributor branch to fail to perform any of its warranty obligations including tires with respect to a motor vehicle, to fail to assume all responsibility for any liability resulting from structural or production defects, or to fail to include in written notices of factory recalls to vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of such defects, to fail to compensate any of the motor vehicle dealers licensed in this State for repairs effected by such dealer of merchandise damaged in manufacture or transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor or distributor branch, or to fail to compensate its motor vehicle dealers licensed in this State for warranty parts, work and service in accordance with the schedule of compensation provided the dealer pursuant to subsection (a) above, or for legal costs and expenses incurred by such dealers in connection with warranty obligations for which the manufacturer, factory branch, distributor or distributor branch is legally responsible or which the manufacturer, factory branch, distributor or distributor branch impose upon the dealer, to misrepresent in any way to purchasers of motor vehicles that warranties with respect to the manufacture, performance or design of the vehicle are made by the dealer, either as warrantor or co-warrantor, or to require the dealer to make warranties to customers in any manner related to the manufacture, performance or design of the vehicle.

(b1) Notwithstanding the terms of any franchise agreement, it shall be a violation of this chapter for any motor vehicle manufacturer, factory branch, distributor or distributor branch to fail to indemnify and hold harmless its motor vehicle dealers against any losses and/or damages arising out of complaints, claims or suits relating to the manufacture, assembly, or design of motor vehicles, parts or accessories, or other functions by the manufacturer, factory branch, distributor or distributor branch beyond the control of the dealer, including, without limitation, the selection by the manufacturer, factory branch, distributor or distributor branch of parts or components for the vehicle or any damages to merchandise occurring in transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor or distributor branch. The dealer shall give notice to the manufacturer of pending suits in which allegations are made which come within this subsection whenever reasonably practicable to do so. Every motor vehicle dealer franchise issued to, amended, or renewed for motor vehicle dealers in Virginia on or after July one,

nineteen hundred seventy-eight, shall be deemed to incorporate provisions consistent with the requirements of this subsection.

(c) In the event there is a dispute between the manufacturer, factory branch, distributor or distributor branch and the dealer with respect to any matter referred to in subsections (a), (b) and (b1) above, either party may petition the Commissioner in writing, within thirty days after either party has given written notice of the dispute to the other, for a hearing on the subject and the decision of the Commissioner shall be binding on the parties, subject to rights of judicial review and appeal as provided in chapter 1.1 (§ 9-6.1 et seq.) of Title 9 of the Code of Virginia; provided, however, that nothing contained herein shall give the Commissioner any authority as to the content or interpretation of any manufacturer's or distributor's warranty. (1972, c. 698; 1974, c. 188; 1977, c. 163; 1978, c. 662.)

Code Commission note. — Chapter 1.1 (§ 9-6.1 et seq.) of Title 9 of the Code of Virginia, referred to at the end of subsection (c), was repealed by Acts 1975, c. 503. For present provisions covering the subject matter of the repealed chapter, see § 9-6.14:1 et seq.

The 1977 amendment inserted "diagnosis and" in the third sentence of subsection (a), substituted "principal factors to be given consideration shall be" for "factors to be given consideration shall include, among others, the compensation being paid by other manufacturers to their dealers" in the fourth sentence of that subsection, and added the language beginning "to misrepresent in any way" to the end of subsection (b)

The 1978 amendment added at the end of subsection (a) "and in no event shall such compensation of a dealer for warranty service be less than the rates charged by such dealer for like service to retail customers for nonwarranty

service and repairs." In subsection (b), the amendment substituted "a violation of this chapter" for "unlawful" and inserted "including tires" near the beginning of the subsection, inserted "or" preceding "to fail to include in written notices" and inserted "to fail to compensate any of the motor vehicle dealers licensed in this State for repairs effected by such dealer of merchandise damaged in manufacture or transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor or distributor branch" near the middle of the subsection. The amendment also inserted subsection (b1) and added the reference to subsection (b1) near the beginning of subsection (c).

Law Review.

For a discussion of the amendments to this act in the survey of Virginia law on business associations for the year 1976-77, see 68 Va. L. Rev. 1373 (1977)

§ 46.1-547.2. Operation of dealership by manufacturer, etc. — It is unlawful for any motor vehicle manufacturer, factory branch, distributor, distributor branch or subsidiary thereof, to own, operate or control any motor vehicle dealership in this State, provided that this section shall not be construed to prohibit (1) the operation by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, of a dealership for a temporary period, not to exceed one year, during the transition from one owner or operator to another, or (2) the ownership or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, during a period while such dealership is being sold under a bona fide contract or purchase option to the operator of the dealership, or (3) the ownership, operation or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, if such manufacturer, factory branch, distributor, distributor branch, or subsidiary has been engaged in the retail sale of motor vehicles through such dealership for a continuous period of three years prior to July one, nineteen hundred seventy-two, and if the Commissioner determines, after a hearing on the matter at the request of any party, that there is no independent dealer available in the community to own and operate the franchise in a manner consistent with the public interest, or (4) the ownership, operation or control of a dealership by manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof if the Commissioner determines, after a hearing on the matter at the request of any party, that there is no independent

vehicle dealer franchise in this State shall be deemed the engaging in business in this State for purposes of this section, and no new motor vehicle may be sold or offered for sale in this State unless the franchisor of motor vehicle dealer franchises for that line make in this State (whether such franchisor be a manufacturer, factory branch, distributor, distributor branch, or otherwise) is licensed under this chapter. In the event a license issued under this chapter to a franchisor of motor vehicle dealer franchises shall be suspended or revoked or shall not be renewed, nothing in this section shall be deemed to prevent the sale of any new motor vehicle of such franchisor's line make manufactured in or brought into this State for sale prior to the suspension, revocation or expiration of the license. (Code 1950, § 46-514; 1958, c. 541; 1974, c. 189; 1976, c. 362.)

The 1976 amendment inserted "new" preceding "motor vehicle dealer," substituted "used motor vehicle dealer" for "whether dealing in new or used vehicles or both" and inserted "distributor" preceding "distributor branch," all in the first sentence, and added the third and fourth sentences.

§ 46.1-525.1. Bond of dealer; right of action for fraudulent acts. — Before any motor vehicle dealer's license shall be issued by the Commissioner to any applicant therefor, such applicant shall procure and file with the Commissioner a good and sufficient bond in the amount of five thousand dollars with corporate surety duly licensed to do business within the State, approved by the Attorney General and conditioned that said applicant shall not practice fraud, make any fraudulent representation or violate any of the provisions of this chapter in the conduct of the business for which he is licensed.

If any person shall suffer any loss or damage by reason of any fraud practiced on him or fraudulent representation made to him by a licensed used motor vehicle dealer or one of such dealer's salesmen acting for the dealer or within the scope of the employment of such salesman, or shall suffer any loss or damage by reason of the violation by such dealer or salesman of any of the provisions of this chapter, such person shall have a right of action against such dealer and the sureties upon his bond, and may recover such damages, as a court or jury may assess against such dealer as a proximate result of such fraud or fraudulent misrepresentation, from such surety who shall be subrogated to the rights of such person against such dealer. (1970, c. 298; 1972, c. 353; 1976, c. 363.)

The 1976 amendment, in the first paragraph, deleted "used" preceding "motor vehicle" near the beginning and deleted the former two provisions pertaining to the exception to the bond requirement for dealers in business for at least one year and requirement for filing an affidavit that there were no standing judgments against such dealer.

§ 46.1-528. License fees; additional to other licenses and fees required by law. — (a) The license fee for each fiscal year or part thereof, shall be as follows:

- (1) For motor vehicle dealers, distributors and wholesalers, fifty dollars for each principal place of business, plus fifteen dollars for a supplemental license for each carlot more than twenty-five yards distant from a principal place of business.
- (2) For manufacturers, fifty dollars, and for each branch factory in this State, fifty dollars.
- (3) [Repealed.]
- (4) For motor vehicle salesmen, five dollars.
- (5) For factory representatives, or distributor branch representatives, five dollars.

(b) The licenses and fees required by this chapter are in addition to licenses, taxes and fees imposed by other provisions of law and nothing contained in this

dealer available in the community or trade area to own and operate the franchise in a manner consistent with the public interest, or (5) the ownership, operation or control of a dealership dealing exclusively with school buses by a school bus manufacturer or school bus parts manufacturer or a person who assembles school buses. (1972, c. 698; 1975, c. 303; 1976, c. 369.)

The 1975 amendment substituted "this State" for "a community or trade area of this State already served by a motor vehicle dealer under a franchise for the same line make from such manufacturer, factory branch, distributor or

distributor branch, or subsidiary" near the beginning of the section and inserted "or trade area" following "available in the community" in clause (4).

The 1976 amendment added clause (5).

§ 46.1-550. Salesman selling for other than his employer prohibited.

Code Commission note. — Acts 1976, c. 362, reenacted this section without change.

§ 46.1-550.1. Hearings before Commissioner; when Commissioner to initiate investigations, etc.; other remedies. — A. In every case of a hearing before the Commissioner authorized under this article, the Commissioner shall give reasonable notice of each such hearing to all interested parties, and the Commissioner's decision shall be binding on the parties, subject to the rights of judicial review and appeal as provided in chapter 1.1 (§ 9-6.1 et seq.) of Title 9 of the Code of Virginia.

B. Notwithstanding any provision of this article to the contrary, the Commissioner shall initiate investigations, conduct hearings, and determine the rights of parties under this article whenever he is provided information by the Motor Vehicle Dealers' Advisory Board or any party indicating a possible violation of any provision of this article. Before rendering any decision under this article, the Commissioner shall obtain recommendations on the subject from the Motor Vehicle Dealers' Advisory Board, such recommendations to be provided within fifteen days after the Commissioner's request for recommendations.

C. The availability of administrative procedures under this article, including hearing procedures before the Commissioner, shall not preclude the utilization of other remedies for violation of this article which are available to the affected parties, including actions for injunctive relief or damages.

D. For purposes of any matter brought to the Commissioner under this article with respect to which the Commissioner is to determine whether there is good cause for a proposed action or whether it would be unreasonable under the circumstances, the Commissioner shall consider, among other relevant factors, (i) the volume of the affected dealer's business in the trade area; (ii) the nature and extent of the dealer's investment in its business; (iii) the adequacy of the dealer's service facilities, equipment, parts, supplies and personnel; (iv) the effect of the proposed action on the community; (v) the extent and quality of the dealer's service under motor vehicle warranties; (vi) the dealer's performance under the terms of its franchise agreement; and (vii) the recommendations of the Motor Vehicle Dealers' Advisory Board. (1972, c. 698; 1975, c. 305; 1977, c. 163; 1978, c. 223.)

Code Commission note. — Chapter 1.1 (§ 9-6.1 et seq.) of Title 9 of the Code of Virginia, referred to at the end of subsection A, was repealed by Acts 1975, c. 503. For present provisions covering the subject matter of the repealed chapter, see § 9-6.14:1 et seq.

The 1975 amendment designated the former provisions of this section as subsection A and added subsections B and C.

The 1977 amendment added the second sentence of subsection B.

The 1978 amendment added subsection D.

(6) An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.

(c) "*Motor vehicle salesman*" or "*salesman*" means any person who is employed as a salesman by, or has an agreement with, a motor vehicle dealer to sell or exchange motor vehicles.

(d) "*Distributor*" or "*wholesaler*" means a person, resident or nonresident in this State, who in whole or in part, sells or distributes motor vehicles to motor vehicle dealers in this State or who maintains a distributor representative in this State.

(e) "*Factory branch*" means a branch office, maintained by a person for the sale of motor vehicles to distributors or for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives in this State.

(f) "*Distributor branch*" means a branch office maintained by a distributor or wholesaler for the sale of motor vehicles to motor vehicle dealers or for directing or supervising, in whole or in part, its representatives in this State.

(g) "*Factory representative*" means a person employed by a person who manufactures or assembles motor vehicles or by a factory branch for the purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in this State.

(h) "*Distributor representative*" means a person employed by a distributor or wholesaler, or by a distributor branch, for the purpose of making or promoting the sale of motor vehicles dealt in by it or for supervising or contacting its dealers, prospective dealers, or representatives in this State.

(i) "*Established place of business*" means a salesroom in a permanent enclosed building or structure, either owned in fee or leased, at which a permanent business of bartering, trading and selling of motor vehicles will be carried on as such in good faith and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business at such place. It shall not mean residence, tents, temporary stands or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement, devoted principally to the business of a motor vehicle dealer, as herein defined.

(j) Reserved.

(k) "*Retail instalment sale*" means and includes every sale of one or more motor vehicles to a buyer for his use and not for resale, in which the price thereof is payable in one or more instalments over a period of time and in which the seller has either retained title to the goods or has taken or retained a security interest in the goods under form of contract designated either as a conditional sale, bailment lease, chattel mortgage or otherwise. (Code 1950, § 46-503; 1950, p. 1304; 1956, c. 120; 1958, c. 541; 1962, c. 368; 1964, c. 375; 1974, c. 189.)

The 1974 amendment substituted "partnership, association, corporation or entity which" for "who" in the introductory paragraph of subdivision (a) and "or arranges or offers or attempts to solicit or negotiate on behalf of others a sale, purchase" for "or offers or

attempts to negotiate a sale" and added the language beginning "whether or not such motor vehicles" at the end of paragraph (1) of subdivision (a). The amendment also added paragraph (6) to subdivision (b).

§ 46.1-517. **General powers of Commissioner.** — (a) The Commissioner shall promote the interest of the retail buyers of motor vehicles.

(b) The Commissioner may prevent unfair methods of competition and unfair or deceptive acts or practices. (Code 1950, § 46-504; 1958, c. 541.)

Law Review. — For survey of Virginia law on administrative law for the year 1971-1972, see 58 Va. L. Rev. 1159 (1972).

§ 46.1-518. Powers with respect to hearings, legal proceedings, witnesses, etc. — The Commissioner may, in hearings arising under this chapter, determine the place in the State where they shall be held; subpoena witnesses; take depositions of witnesses residing without the State in the manner provided for in civil actions in courts of record; pay such witnesses the fees and mileage for their attendance as is provided for witnesses in civil actions in courts of record; and administer oaths. (Code 1950, § 46-505; 1958, c. 541.)

§ 46.1-519. Suit to enjoin violations. — The Commissioner may, whenever he shall believe from evidence submitted to him that any person has been or is violating any provision of this chapter, in addition to any other remedy, bring action in the name of the State against such person and any other persons concerned or in any other way participating in, or about to participate in, practices or acts so in violation, to enjoin such person and such other persons from continuing the same. (Code 1950, § 46-506; 1958, c. 541.)

§ 46.1-520. Rules and regulations. — The Commissioner may make such rules and regulations, not inconsistent with the provisions of this chapter, as he shall deem necessary or proper for the effective administration and enforcement of this chapter, provided that a copy of such rules and regulations shall be mailed to each new vehicle dealer licensee ten days prior to the effective date of such rules and regulations. (Code 1950, § 46-507; 1958, c. 541.)

§ 46.1-521. Examination of licensee; complaints; costs. — (a) The Commissioner may inspect the pertinent books, records, letters and contracts of a licensee relating to any written complaint for a violation of this chapter made to him against such licensee. If such licensee is found to have violated this chapter or any lawful order of the Commissioner, the actual cost of such examination shall be paid by such licensee so examined within thirty days after demand therefor by the Commissioner. The Commissioner may maintain an action for the recovery of such costs in any court of competent jurisdiction.

(b) No licensee shall be subject to examination or audit by the Commissioner except as provided in this section. (Code 1950, § 46-508; 1958, c. 541.)

§ 46.1-522. Penalties. — Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not exceeding five hundred dollars or to undergo imprisonment for not to exceed six months, or by both such fine and imprisonment. (Code 1950, § 46-509; 1958, c. 541.)

ARTICLE 2.

Licenses.

§ 46.1-523. Licenses required. — It is unlawful for any person, partnership, association, corporation, or other entity to engage in business in this State as a motor vehicle dealer, whether dealing in new or used vehicles or both, trailer or semitrailer dealer, motor vehicle salesman, manufacturer, factory branch, distributor branch, or factory or distributor representative without first obtaining a license as provided in this chapter. If any motor vehicle dealer acts as motor vehicle salesman, he shall obtain a motor vehicle salesman's license in addition to a motor vehicle dealer's license. (Code 1950, § 46-514; 1958, c. 541; 1974, c. 189.)

The 1974 amendment substituted the language beginning "person, partnership," and ending "used vehicles or both" for "new motor vehicle dealer" near the beginning of the first sentence and deleted "used motor vehicle dealer" following "semitrailer dealer," and "to

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 294
 Title "An Act relating to mobile homes"
 Requested by House Judiciary Committee Date 3-6-79

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development
 Program Category Affected Public Protection
 Budget Request Unit(s) Affected Weights & Measures

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		74.8	79.3	84.1	89.2	94.6
200 TRAVEL		15.0	15.9	16.0	17.0	18.0
300 CONTRACTUAL		4.5	4.8	5.1	5.4	5.7
400 COMMODITIES						
500 EQUIPMENT		0.5	0.5	0.6	0.6	0.7
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		94.8	100.5	105.8	112.2	119.0

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND		94.8	100.5	105.8	112.2	119.0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME	3	3	3	3	3	3
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Personal Services

12 months, Mobile Home Inspector, R-16 22,656
 12 months, Mobile Home Inspector, R-14 19,548
 12 months, Clerk-typist, R-8 13,296
 Benefits=9,435 FICA=4,764 Health Insurance=5,087 19,286

Travel

74,786
 15,000

Contractual

Vehicle: 1 sedan \$13,500/mi @ .23/mi usage 3,105
 \$115/mo x 12 fixed 1,380
 4,485

Equipment:

1 desk=250 1 chair=100 1 file cabinet=150 500

IV. DATE March 6, 1979 PREPARED BY J. Swanson
 AGENCY Weights & Measures, Dept. of Commerce
 Original: Legislative Finance PHONE 279-0508
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

from Dept. of Law
Consumer Protection

March 6, 1979

MOBILE HOME WARRANTY
PROBLEMS IN ALASKA

Statistical records of the Consumer Protection Section of the Attorney General's Office show that more than 68 consumers filed complaints within the past 24 months about structural and warranty problems with new mobile homes. (Anchorage - 40+; Fairbanks - 16+; Juneau - 12+)

There appear to be 12 major problem areas. The following is a summary of those areas about which consumers most often complained:

1. Defects in Interior Construction of mobile home (flooring/walls/cabinets/paneling/doors/ceilings) At least 43 consumers complained of up to 15 such defects in the interior of their mobile home. Some of the more serious complaints involve loose, damaged or missing wall and ceiling paneling; interior doors that do not fit and therefore will not open or shut properly; and cabinets that pull away from the walls leaving gaps of 1 inch or more.
2. Defects in Exterior Construction of mobile home (Doors/walls/trim/raingutters) At least 35 consumers complained of up to 5 defects in the exterior construction of their mobile home. Those complaints include windows improperly installed, exterior doors warped so that they do not open or shut properly, and damaged or bowed exterior paneling and trim.
3. Lack of Response from Dealers and Manufacturers to consumer complaints. At least 36 consumers complained that they got little or no assistance from the dealer or manufacturer when they contacted them about problems with a newly purchased mobile home. Among the major complaints were months of waiting before any one would even come and look at the problem; incompetent repair personnel; and consumers being told that their problem was "normal" with mobile homes and the consumer would just have to live with it.
4. Leaks in windows/ceiling/doors/exhaust fans. At least 37 or more consumers complained of leaks from various areas of their mobile homes. Some complainants had 9 or more places in their mobile homes that leaked. Although up to 6 attempts were made to repair some of these leaks, nearly all of them were chronic situations that were never satisfactorily repaired.

5. Interior Damage due to water leakage/mold/ condensation. At least 35 consumers each had up to 4 complaints about water damage caused by leaks or melting ice around windows and doors. Those complaints include water-soaked carpets, insulation and electrical wiring; water running down walls from leaking or thawing windows; mold growing on ceilings and walls due to dampness and condensation.

6. Defects in Furniture or Appliances. At least 29 consumers have had up to 2 complaints each about the furniture and/or appliances in their mobile home. Those complaints include appliances installed improperly so that they are inoperative; defects in furniture at time of delivery of mobile home; and furniture falling apart after a few months use.

7. Defects in Plumbing (leaky pipes/condensation/ lack of sealant/bathroom fixtures) At least 26 consumers complained of up to 9 plumbing problems in their mobile home. Among those complaints are leaks from bathroom and kitchen fixtures; hot and cold water lines reversed; and loud knocking noises in water pipes.

8. Doors and Windows Freezing Over due to ice buildup. At least 20 consumers complained that some or all of the doors and windows of their mobile home froze shut in the winter time due to condensation and leaks. Not only is this condition unacceptable under ordinary circumstances, it poses a grave threat to occupants of the mobile home in case of a fire.

9. Defects in Electrical System/light fixtures/ exhaust fans. At least 20 consumers complained of 3 or more electrical problems in their mobile home. Among those complaints are improper wiring which leaves live wires exposed, inoperable electrical sockets improperly installed light fixtures, and unexplained electrical power surges.

10. Drafts from tip out seams/windows/doors. At least 15 consumers complained of drafts from various spots in their mobile home. The most frequent complaint was of drafts from poorly connected "tip-outs" or "expando" units attached to the mobile home. Other complaints were of drafts from poorly fitting windows and doors.

11. Defects in Heating System. At least 15 consumers complained of defects in the heating system in their mobile home. The main complaints were insufficient heat being produced by heating system, complete furnace failure within a few months of purchasing the mobile home, and damaged heating ducts.


12. Inadequate Insulation. At least 12 consumers complained of inadequate insulation. The main complaints were ice buildup on the roof and sides of the mobile home because of heat loss due to inadequate insulation, and insufficient insulation for Alaska climate zone.

Case Examples

As an example of the magnitude of problems that occur, a new mobile home that cost the purchaser \$56,037.60 had a total of no less than 34 separate defects that fell within the above listed categories.

Another consumer who paid \$50,532.60 for her new mobile home had 12 defects that fall within the above listed categories. Her major complaint was that the furniture that came with the mobile home was falling apart and becoming unusable after only a few months use.

Another mobile home for which the purchaser paid \$51,205.40 had so many leaks and condensation problems that the mobile home was virtually uninhabitable within a year. Some of the problems were musty smelling carpets; warped flooring; stained draperies; walls and ceilings; rusty hinges; bubbles in linoleum; mold growing on walls and ceilings in closets.



HB 294 -

furniture - appliances

DOT PF

\$ note -

one m.h. inspector -
range - 16

HB

350

(9)

COMMITTEE REPORT

HOUSE

4/23/80

FURTHER:

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had SSHE 350

"An Act relating to limited entry permits for hand trolling."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s) same title
- replace with CS for _____ new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

COMMITTEE REPORT

(9)

HOUSE

4/23

2/21/80

FURTHER: JUDICIARY

Date: 4/17/80

Mr. Speaker:

The Committee on RESOURCES has had SSHB 350

"An Act relating to limited entry permits for hand trolling."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SSHB 350 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" ~~New~~ Fiscal Note
- reports it back without ^{individual} ~~with~~ recommendations
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature] DO PASS

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] - Do Not Pass

[Signature] - Do Not Pass

[Signature]
CHAIRMAN

ALASKA STATE LEGISLATURE

ELEVENTH Legislature SECOND Session

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 350

By DUNCAN AND ELIASON

"An Act relating to limited entry permits for hand trolling."

Permits for hand trolling

Introduced in the House, 19....

HISTORY IN THE HOUSE

19 80	Read first time and referred to Committee on										
Feb. 21	Resources and Judiciary										
	Reported back with recommendation that										
	Read second time and										
	Read third time and										
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reconsideration										
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reported correctly engrossed										
	Signed by Speaker										
	Sent to Senate										
	CHIEF CLERK OF THE HOUSE										

HISTORY IN THE SENATE

19	Read first time and referred to Committee on										
	Reported back with recommendation that										
	Read second time and										
	Read third time and										
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reconsideration										
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reported correctly engrossed										
	Signed by President										
	Returned to House										
	SECRETARY OF THE SENATE										

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor by Governor
	Filed with Lt. Governor
	Chapter No.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. CS for SS HB 350 (*card memo attached*)
 Title Limited Entry Permits for Handtrolling
 Requested by Duncan and Eliason Date 04/17/80

II. FISCAL DETAIL
 Agency Affected Office of the Governor--Alaska Commercial Fisheries Entry
 Program Category Affected NRMEC Commission
 BRU, Program, or Subprogram(s) Affected Alaska Commercial Fisheries Entry Commission
 (Note: If more than one budget component is affected, separate line-item amount and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES			79.7	269.6	269.6	269.6
200 TRAVEL			5.0	10.0	10.0	10.0
300 CONTRACTUAL			18.4	89.5	89.5	89.5
400 COMMODITIES			3.0	9.0	9.0	9.0
500 EQUIPMENT			34.0	20.7	2.0	2.0
600 LAND & STRUCTURES					-0-	-0-
700 GRANTS, CLAIMS, ETC.					-0-	-0-
Inflation 10%/year				39.9	79.8	125.4
TOTAL			140.1	438.7	459.9	505.4

FUNDING (Thousands of Dollars)

GENERAL FUND			140.1	438.7	459.9	505.4
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME			5	8	8	8
PART TIME			0	0	0	0
TEMPORARY			0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill would direct an entirely new system for implementation of entry limitation. While total implementation of this proposed transfer system may be one year away the Commission will begin the necessary research and methodology development to carry out the legislative intent.

IV. DATE 04-17-80 PREPARED BY Derrill L. Johnson
 AGENCY Commercial Fisheries Entry Commission
 PHONE 465-4081
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

MEMORANDUM

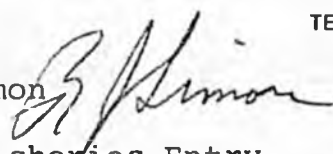
State of Alaska

TO: The Honorable Jim Duncan
House of Representatives

DATE: April 17, 1980

FILE NO:

TELEPHONE NO:

FROM: Robert J. Simon 
Chairman
Commercial Fisheries Entry
Commission

SUBJECT: Fiscal Note Revision
of CS for SS HB 350 -
Limited Entry for Hand
Troll

Following is a chronological outline of steps leading to regulation of entry into the salmon handtroll fishery:

1. Discussion of ranking system with hand troll associations.
2. Draft proposed point system regulations.
3. Hold public hearings on the proposed regulations in mid-summer of 1980.
4. Adopt regulations before January 1, 1981.
5. Promulgate entry limitation regulations in the hand troll fishery.
6. Develop applications and establish an application period for entry limitation in the hand troll fishery.
7. Begin issuing permanent entry permits.

The Commission anticipated implementing entry limitation in the first half of FY 81 under existing law. The operating budget request includes FY 1981 implementation costs under our existing legislation. The Bill would establish an entirely new system. It would impose an additional administrative workload due to increases in the applications processed and hearings required, and the need to respond rapidly to annual permit and applicant classification demands. First-year funding is requested for expediting the application process and development work preparatory to the new transfer system.

The original fiscal note (see Attachment A) was developed for a full fiscal year based on draft CS SS HB 350. Under the current draft of HB 350 the Commission has revised this estimate and believes that \$140.1 (see Attachment B) of the original \$426.7 will be needed in FY 81.

The Honorable
Jim Duncan

(2)

April 17, 1980

At this funding level, the Commission is concerned about a bottleneck that likely will occur if a substantial portion of permit forfeitures and annual application hearings must be adjudicated by the full Commission. Consequently, we ask that you consider amending HB 350 to provide for special adjudicatory procedures for hand troll forfeiture and reissuance hearings. 1/

By January 1981, the Commission will have a much better idea of the total workload attributable to the implementation of HB 350 and will be better able to analyze its total fiscal impact which can be addressed in the Governor's FY 82 budget document. Meanwhile, our best estimate for FY 82 fiscal impact is \$426.7 plus inflationary factors.

Attachments

1/ We suggest the following language:

AS 16.43.100(a) is amended by adding the following:

(16) utilize administrative law judges to adjudicate the forfeiture and reissuance of hand troll entry permits.

MEMORANDUM


State of Alaska

TO: Robert J. Simon
Chairman
Commercial Fisheries Entry
Commission

DATE: March 14, 1980

FILE NO:

TELEPHONE NO:

FROM: Derrill L. Johnson 
Director of Administration
Commercial Fisheries Entry
Commission

SUBJECT: Financial Analysis of
CS for SS HB 350 -
Limited Entry Permits
for Handtrolling

You asked that I prepare a preliminary estimate of the incremental costs should the draft CS for SS HB 350 be enacted. I utilized the following assumptions:

1. We will receive approximately 10,000 hand troll applications to be reviewed and classified in FY 81 (5,000 will make application based upon initial eligibility; 5,000 will want to register for the permit recipient list);
2. over 800 hearings will be held in issuing the original permanent permits;
3. there will be a permit turnover rate of 30% each licensing year;
4. 150 hearings will be held each year to determine if good cause prevented a permit holder from achieving active participation; and
5. Section 10 will be deleted.

This estimate doesn't provide for application assistance or other professional services.

It is my understanding that the current version of HB 350 is to be amended in a manner which may affect the fiscal impact. I hope this memorandum will suffice until a formal fiscal note is required. Because of the complexity of this bill and the short time allowed to complete this estimate, I believe there could be a 10% adjustment factor in the final figure of \$426.7 (see attached), even if the bill is not amended.

Attachment

Fiscal Note - CS for SS House Bill No. 350

PERSONAL SERVICES

	#	Salary
1. Hearing Officer (20A) @ 3039/mo.	2	\$ 72,936
2. Programmer III (18A) @ 2640/mo.	1	31,680
3. Application Tech. (13A) @ 1870/mo.	3	67,320
4. Secretary I (10A) @ 1564	1	18,768
5. Clerk Typist III (8A) @ 1393/mo.	<u>1</u> 8	<u>16,716</u> 207,420

Benefits @ 30%

62,226
\$269,646

269.6

TRAVEL

\$ 10,000

10.0

CONTRACTUAL

310 - Phone Charges/Long Distance \$ 3,600
 Installations of new phones 2,500
 Postage 12,000

320 - Forms, Cards, Apps. 5,000
 Central Duplicating 5,000
 Advertising 18,000

330 - Space Leasing @ 110 sq.ft./
 person, 110 X 8 = 880 sq.ft.
 X \$1.60 = 16,896

200 sq.ft. storage and file
 space @ \$1.60/sq.ft. = 3,840

360 - General Leasing:

Xerox 3,000

Data Processing Services:
 2 terminals @ \$300/mo.
 Transaction processing @
 \$228/mo./terminal/mo. 5,472
 Network charges \$124/mo./
 terminal/mo. 2,976
 Disk storage \$3.58/meg. -
 40 megs. \$143.20/mo. 1,800

Maintenance:

Pitney Bowes Postage Machine 3,500

Xerox

Word Processing Equipment:

6/452 @ \$175/mo. 2,100

6/420 @ \$107.50/mo. 1,290

CONTRACTUAL (cont'd)

390 - Staff Development: 2,500

Training in Administrative Law and Procedures, secretarial training and records management, instruction and investigation procedures in accordance with the Administrative Procedures Act.

\$ 89,474 89.5

COMMODITIES \$ 9,000 9.0

General Office Supplies
Paper, ribbons, card stock, envelopes, letterhead, etc.

EQUIPMENT

Purchase one IBM System 6
Word Processing Center:

1 6/452 Information Processer			\$ 15,370
@ \$15,370			
1 Processing Feature @ \$750			750
1 6/420 Information Processer			
@ \$7,050/ea.			7,050
Installation Charge - one time			1,000

Office Setup:

Executive Desks @ \$472.00	(6)		2,832
Desk Chairs @ 450.00	(6)		2,700
Coat Racks @ 48.00	(4)		192
File Cabinets-			
4-Drawer LL @ 307.00	(2)		614
4-Drawer SL @ 272.00	(5)		1,360
2-Drawer SL @ 198.50	(6)		1,191
5-Drawer Lt.L @ 752.00	(5)		3,760
Bookcase-			
3 Shelves @ 168.00	(6)		1,008
Working Table @ 95.00	(3)		285
4-Tier Out-			
baskets @ 17.00	(8)		136
Wastebaskets @ 20.00	(8)		160
Pentaflex Frms @ 8.00	(13)		104
(Legal)			
Pentaflex Frms. @ 6.00	(36)		216
Tape Recorders-			
(Portable) @ 296.00	(2)		592

EQUIPMENT (cont'd)

Sec. Desk	@ 662.00	(2)	1,324	
Chair	@ 346.00	(2)	692	
Typing Stand	@ 166.00	(2)	332	
Transcriber*	@ 537.00	(2)	1,074	
Dictation*	@ 537.00	(6)	3,222	
*Dictaphone 2500 Model				
Typewriter-Correcting				
Selectric	@ 1000.00	(2)	2,000	
Calculators	@ 150.00	(4)	600	
			<u>\$ 48,564</u>	48.6

GRAND TOTAL: 426.7

ATTACHMENT B

FY 81 FISCAL BREAKDOWN
FOR SECOND HALF OF THE YEAR

Personal Services*	79.7
Travel	5.0
Contractual*	18.4
Commodities	3.0
Equipment	<u>34.0</u>
	140.1

* Based on 6 mos. costs.

HB

354

misc.

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

March 7, 1979

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 354

"An Act making misc. amendments to the revenue statutes; eff. date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

Charles E. Parnell

W. B. Underhill

James C. ...

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

Charles E. Parnell

CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. House Bill No. 354
 Title An Act making miscellaneous amendments to the Revenue Statutes
 Requested by _____ Date 2/27/79

II. FISCAL DETAIL
 Agency Affected _____ Revenue _____
 Program Category Affected _____ Fiscal Services _____
 BRU, Program, or Subprogram(s) Affected _____ Audit Division _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars) None

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

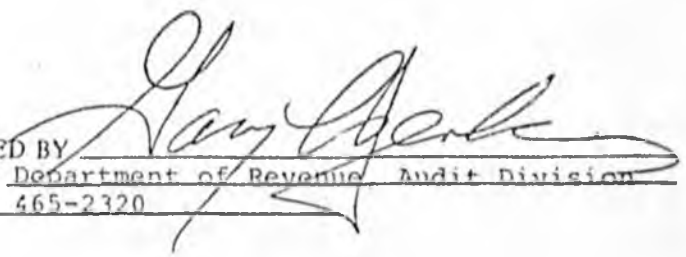
FUNDING (Thousands of Dollars) None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 2/27/79 PREPARED BY 
 AGENCY Department of Revenue Audit Division
 PHONE 465-2320
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

HB 354

March 30, 1979

how retroactive are laws?

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 12, 1980

SUBJECT: Miscellaneous amendments to the tax and
revenue laws -- CSHB 354

TO: Representative Charles H. Parr, Chairman
House Judiciary Committee
Attn: Sandra Stringer, A.A.

FROM: John B. Chenoweth
Legislative Counsel

House Bill 354 was an administration bill. Your request for the preparation of a committee substitute required that the original bill and your suggested additions and changes necessarily receive close attention by this office for the first time. I have made a number of editorial changes in addition to those specifically requested by the committee in its committee substitute. All are intended to clarify changes requested in the original bill or put forward by the committee.

I strongly urge that you share a copy of the proposed CS in draft with Gary Jenkins or others in the Department of Revenue to verify that, in redrafting, we have not misunderstood what was intended by the change suggested by the administration.

I want to call your attention to several points that should have attention from the committee and the department.

(1) The original bill and the committee substitute both expanded on criminal penalties (see AS 43.05.290) but included, in the section on criminal penalties, a civil penalty for errors in accounting and paying over a tax. I have removed this subsection (subsection "(g)" of AS 43.05.-290 of the original bill) and placed it in AS 43.05.220 with the other civil penalties.

(2) I was puzzled by the "recorders" sections, AS 43.10.032 and AS 43.10.042, added by sec. 6 of this bill. I assume the reference to "recorder" is a reference to the general

Representative Charles H. Parr
Page 2
February 12, 1980

recording function, presently in the process of being transferred to the Department of Natural Resources (see Executive Order 47), and that reference to equipment being furnished simply means that the Department of Revenue will provide the lien index and file equipment to that recorder.

(3) In supplementary materials provided to the department, suggested * Sec. 30 constitutes no more than a revision of the title to a section. I am omitting this provision; the revisors of statutes will correct the title when the pamphlet supplement is reprinted.

(4) To avoid possible claim of enactment of a law ex post facto, changes in sections and subsections enacting criminal sanctions are given an immediate effective date. The criminal provisions repealed are not given retroactive effect, as the administration's bill provided, but are separately repealed on the same date as the new provisions take effect. (These latter are separately stated in * Sec. 39 of this bill draft.)

I am prepared to meet with you or representatives of the department to review this work draft. I apologize for the delay in returning the bill: I have been concentrating on individual bill requests and wanted to take time to review this particular bill carefully, with the benefit of revisors comments and instructions, to produce a clean draft.

JBC:ljb

Enclosure

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

April 9, 1979

The Honorable Charles Parr
Chairman
House Judiciary Committee
Room 124, Capitol Building
Juneau, AK 99811

Re: HB 354
Miscellaneous Amendments
to Revenue Statutes
Our File: J-66-602-79

Dear Representative Parr:

You have requested an opinion concerning whether § 15 of HB 354 relating to tax treatment of limited entry permit purchase-sale transactions can be made retroactive generally, and specifically whether it could be made retroactive to either January 1, 1976, or January 1, 1977. In our opinion, the proposed amendment can be made retroactive to January 1, 1977.

AS 43.20.031(a) presently reads:

"A taxpayer who purchases an entry permit under AS 16.43 in carrying on a trade or business is entitled to a deduction of the amount of the price paid during the tax year as if it were allowable under § 162 of the Internal Revenue Code (26 USC § 162)."

Section 15 of the proposed legislation adds the following sentence to subsection (h):

The basis of the entry permit shall be reduced by the amount of the deduction which the taxpayer is entitled to claim under this subsection.

Subsection (h) was originally added to the state income tax code by § 8, Ch. 73, SLA 1977. Although its effective date was May 29, 1977, it was made retroactive to December 31, 1976. As of that date, purchasers of limited entry permits would be entitled to deduct the purchase price of the said permit. No corresponding change was made for purposes of the determination of the capital gains upon resale of the permit. Thus, a fisherman who purchased the permit in 1977 for \$20,000.00 would be able to take a \$20,000.00 deduction for that tax year, and assuming he resold it in 1978 for \$30,000.00, he would be liable for capital gains only on the \$10,000.00 increment. The suggested amendment would require that fisherman to pay capital gains on the entire \$30,000.00 resale price.

The retroactive imposition of this change of tax treatment would give rise to due process questions under the state and federal constitutions. The leading case in this area is the decision of the U. S. Supreme Court in Welch v. Henry, 305 U.S. 134 (1938). That case involved a Wisconsin statute, enacted on March 27, 1935, which imposed a tax on corporate dividends received by taxpayers in 1933 at rates different from those applicable in that year to other types of income tax and without deductions which were allowed in

computing the tax on other income. The Supreme Court rejected both equal protection and due process challenges to this Wisconsin tax law which involved a retroactive period of some 2-1/4 years.

In discussing the due process challenge, the Supreme Court noted retroactivity does not per se give rise to any constitutional problems. The court indicated that taxation is neither a penalty imposed on a taxpayer nor a contractual liability. It is instead the apportioned cost of the taxpayer's enjoyment of the privileges and benefits conferred by the taxing authority.

Since no citizen enjoys immunity from that burden, its retroactive imposition does not necessarily infringe due process, and to challenge the present tax it is not enough to point out that the taxable event, the receipt of income, antedated the statute. 305 U.S. at 147, 83 L.Ed. at 93.

Rather, the analysis was said to focus on the voluntariness of the transaction and on whether the retroactive clause was arbitrary or unduly oppressive in its operation. The court distinguished earlier decisions dealing with gift and inheritance taxes which, when retroactively imposed, unfairly operated to alter the effects of a transaction voluntarily concluded and essentially irrevocable.

The court observed that it was the established legislative practice of Congress to tax retroactively income and profits received the year of the session and sometimes the year preceding the session. It should be noted that

this is also the practice of the Alaska State Legislature, both with regard to tax laws and other amendments.

We cannot say that the due process which the Constitution exacts denies . . . that opportunity [to retroactively reapportion the tax burden] to legislatures; that it withholds from them, more than in the case of a prospective tax, authority to distribute the increased tax burden in the light of experience and in conformity with accepted notions of equal protection; or that in view of well established legislative practice, both state and national, taxpayers can justly assert surprise or complain of arbitrary apportionment of tax burdens to income at the first opportunity after knowledge of the nature and the amount of the income is available. 305 U.S. at 149-150, 83 L.Ed. at 94-95.

The court went on to extend the "recent transactions" rule discussed in Cooper v. United States, 280 U.S. 409, 74 L.Ed. 516 (1930) to cover the facts of the Wisconsin case.

The holding in Welch v. Henry was followed by the California Supreme Court in Holmes v. McColgan, 110 P.2d 428 (Cal. 1941), which commented that the "constitutional validity of such retroactive provisions is now too well established to be questioned". 110 P.2d at 431. Therefore, the general rule is that retroactive application of tax laws will be upheld as long as they do not disturb vested rights or impair obligations of contracts. Accord, Matter of Cartridge Television, Inc., 535 F.2d 1388 (2nd Cir. 1976); Shanahan v. United States, 447 F.2d 1082 (10th Cir. 1974); Philadelphia Life Insurance Co. v. Commonwealth of Penn.,

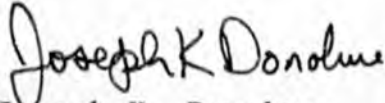
309 A.2d 811 (Pa. 1973); Wisconsin Dept. of Revenue v. Dziubek, 173 N.W.2d 642 (Wis. 1970); Colonial Pipeline Co. v. Commonwealth of Virginia, 145 S.E.2d 227 (Va. 1965); and Mecham v. State Tax Commission, 410 P.2d 1008 (Utah 1966).

In our view, the holding in Welch v. Henry, supra, is controlling and would permit the retroactive amendment of AS 43.20.031 as proposed in the § 15 of HB 354. That section should be made retroactive to December 31, 1976, (rather than January 1, 1977) to make it more exactly coincide with the retroactive application of the present AS 43.20.031(h).

You further requested whether or not it would be permissible to make this section apply retroactively to January 1, 1976. Since subsection (h) was not in effect, nor was it made retroactively applicable to the 1976 tax year, such a retroactive application would be unnecessary.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: 
Joseph K. Donohue
Assistant Attorney General

JKD/lm

STATE OF ALASKA

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING

POUCH SA - JUNEAU 99811

April 5, 1979

JAY S. HAMMOND, GOVERNOR

*Members files
on HB 354*

The Honorable Charles H. Parr
Chairman, Judiciary Committee
House of Representatives
Alaska State Legislature
Juneau, Alaska 99811

Re: House Bill No. 354

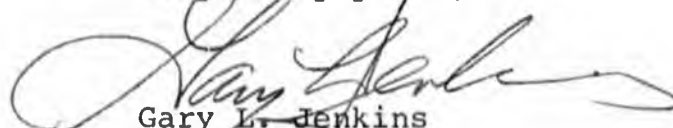
Dear Mr. Parr:

With regard to Section 30 of the referenced bill on which your committee held a hearing last Friday, March 30, the question arose as to how much fish was flown out of the State of Alaska in a fresh condition, thus not being subject to the Alaska fish processors tax. As I mentioned in the meeting, the Commercial Fisheries Division of the Department of Fish and Game does not maintain this specific information. In discussing this with some of the staff members of Fish and Game, however, it was their estimate that as high as 4.8 million pounds of salmon may have been flown out of the State in a fresh condition during 1978. At an approximate value of \$.93 per pound and assuming a tax rate of 1 percent of value, this would mean that \$44,640 of revenue was lost because we could not tax the transaction.

This procedure of flying fish out of the State in a fresh condition escalated substantially during 1978 and the trend is expected to continue.

If there is any further information I can provide you regarding this bill, please feel free to contact me.

Very truly yours,



Gary L. Jenkins
Director
Audit Division

GLJ:mh

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING / POUCH SA - JUNEAU 99811

April 6, 1979

The Honorable Charles H. Parr
House of Representatives
Chairman, House Judiciary Committee
Pouch V
Juneau, AK 99811

Dear Mr. Parr:

I am writing to expand upon my testimony on HB 354 before the House Judiciary Committee on March 30, 1979. At that time you questioned why the enforcement sections of Title 43 have not been updated and if there is any logic to a more restricted list of exempt property for tax collection purposes than that for the execution of a judgment.

AS 43.20.270 is the section which allows the Department of Revenue to collect taxes, with interest, penalties and other additional amounts permitted by law, by the distraint and sale of the taxpayer's property. AS 43.10.030 extends the distraint remedy to all State Revenue Statutes.

Collection by Distraint on Personal Property was permitted under Sec. 12 D ch 132 SLA 1951. Prior to that act the remedy for non-payment of tax was a lien foreclosure or court proceeding in the same manner as any other debt in like amount. Sec. 12 ch 115 SLA 1949. The 1951 act allowed for the distraint of personal property and levy and set out the exempt property as it is in the statute today. The remedy of distraint was extended to real property in 1962. Sec. 1 ch 115 SLA 1962.

1962 was the last time AS 43.20.270 was amended. In the 17 years since then, even considering the limited amount of exempt property, neither the legislature nor the department have sought and been successful in obtaining amendments to this section. Why?

AS 43.20.270 (a): "The department may collect taxes... by distraint and sale...." The key word is "may." "May" gives the department some discretion in the methods it uses to collect the taxes due the State. The department has worked to take a reasonable approach to tax collection. Realizing that the mail from one point in Alaska to another may take longer than ten days and therefore a seizure after the ten days authorized by statute would be unreasonable, the department will usually give a longer period for the taxpayer to pay before enforcing collection action. There will be cases in which the department may wish to use every statutory remedy available, such

as the case where the taxpayer has caused the collection of the tax to be put in jeopardy, but the department can exercise its discretion on a case by case basis. Naturally the statutes have to be written for the extreme case but the selection and use of the available remedies is left to departmental discretion.

There can be no doubt that the taxpayer who is left with only his exempt property under AS 43.20.270 (b) would be in real trouble. Again the discretion of the department has been used to not distraint to this extent. The primary function of the enforcement division is to promote voluntary compliance with State Revenue Laws and judgment calls must be made to determine whether a course of action will reach this goal or cause such resentment that the fires of tax protest might be fueled. An example of a seizure which seemed to cause more harm than good was here in Juneau where the IRS seized a boat belonging to a tax protester. There was quite a bit of unfavorable publicity surrounding that seizure and the subsequent tax protestor meetings were attended by a broad spectrum of Juneau citizenry. We cannot be so narrow as to collect the tax at all costs to the taxpayer, or the department; we are seeking voluntary compliance with the State tax laws, not the strict punishment of delinquent taxpayers.

Regarding the second issue, why have a stricter limit to exempt property for tax collection than those exemptions from execution under AS 09.35.080? Perhaps it is grounded in the sentiment put into words by the US Supreme Court:

"Indeed one may readily acknowledge that the existence of the levy power is an essential part of our self-assessment tax system and that it enhances voluntary compliance in the collection of taxes that this Court has described as the life blood of Government; and their prompt and certain availability an imperious need."
G M Leasing Corp. v US 429 US 338 at 350, 50 L Ed 2d 530 at 542.

The court was writing of two things, 1) voluntary compliance with the collection of taxes and 2) their prompt and certain availability. The remedy of distraint reaches both goals. It can be a quick and efficient way of securing revenue as well as a warning against others who may be considering not filing returns or paying taxes. Title 9 provides for the execution of judgments out of ordinary civil causes of action, but taxes are "the life blood of government." Taxes are more integrally connected with the functions of our democratic system than those judgments under Title 9, therefore the delinquent taxpayer should only receive minimum consideration from a system he is hindering by not paying. How much consideration the delinquent taxpayer will get is determined by the legislature which must strike the balance between what is "fair" to the taxpayer and the prompt and certain availability of Revenue to the government.

April 6, 1979

Quite frankly the limited list of exempt property is an inducement to voluntarily comply with tax laws. True, the department rarely, if ever, would leave a delinquent taxpayer with only his exempt property, but what taxpayer would see how close he might come.

It can certainly be argued that the list be updated to today's values. However, since the department is planning to introduce next session a revised enforcement section to Title 43, it would seem that that would be the appropriate time to address the issue.

If you have further questions on this matter, please contact me.

Sincerely,



Michael S. McCormick
Director
Enforcement Division

21-354
March 7, 1979

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill which makes several miscellaneous amendments to the taxation statutes in AS 43.

Most of these amendments are of a very technical nature and are for the most part, self-explanatory. Perhaps the most significant aspect of this bill is the establishment of uniform criminal penalties for all tax violations. This is accomplished in sec. 4 of the bill which transfers the criminal penalties from the income tax provisions in AS 43.20 and adapts them to the broader range of tax and licensing violations encompassed by the entire title.

Another important part of this amendment is the substantial increase in the criminal fines which can be imposed on defendants found guilty of wilful violations of the revenue statutes. These fines have been increased from \$5,000 to either \$25,000 or \$50,000 in the case of felonies. The fines for the misdemeanor violations are increased to \$2,000 or \$5,000 to reflect the department's judgment as to the relative seriousness of each type of offense.

The increase in the criminal fines is thought to have a greater deterrent value than an increase in the potential term of imprisonment. It is felt that superior court judges would be more likely to impose a heavy criminal fine for tax fraud than they would be to impose substantial terms of imprisonment. Unfortunately, this latter reluctance is typical of trial court judges throughout the nation involved in sentencing defendants for tax fraud for white collar crimes in general.

The bill would also make two significant additions to the provision which requires strict confidentiality of tax returns and reports filed under AS 43. AS 43.05.230(a) would be amended to expressly make it unlawful for former officers, employees, or agents of the state to divulge any of the particulars set out on tax returns or reports. In addition, a new subsection (g) would be added, which would clarify the application of the provision to information found on the face of licenses issued by the department, such as business licenses, and fish processing licenses. Since this information is also found on reports and returns, this subsection would make it clear that that information is in fact public information and can be released by the Department of Revenue to any interested party who might inquire as to the proper licensure of a particular business or firm.

Section 6 of the bill would incorporate provisions formerly contained in AS 43.20 to make it expressly applicable to the liens recordation and filing procedures under AS 43 as a whole.

Section 8 of the bill would transfer the review of bonding and bond waiver applications to the Department of Revenue from the Department of Law. In addition, AS 43.10.160(b) would be amended to allow waiver of the bonding requirement when there is "good cause" rather than "undue hardship." Good cause is a more appropriate standard since it would more clearly authorize waiver in the cases of dutiful and good faith taxpayers who have a history of compliance with the state tax and revenue laws. These taxpayers frequently could not meet the undue hardship standard if literally and strictly construed. The Department of Revenue is required to adopt regulations defining good cause for the purposes of the bond waiver applications.

Section 9 of the bill would amend the tax tables contained in AS 43.20.011(c). This change would correct a series of translation errors (from the federal tables) reflected in the previous version. It would have the indirect effect of decreasing tax liability in the lower income tax brackets and increasing tax liability of those in the higher income tax brackets and subject to that provision as head of household.

The bill would also amend AS 43.20.031(h) which presently allows fishermen a deduction for the purchase price of a limited entry permit. That section would be changed to make it clear that the taxpayer would not be given the double benefit of both a deduction and an increase in the basis of that asset.

AS 43.20.071 would be amended by sec. 23, to clarify the apportionment rules pertaining to water transportation carriers, and expand the application of that section to transportation carriers other than water transportation carriers. These latter were previously treated under the standard three-factor apportionment formula.

AS 43.20.170(b) would be modified to reflect that the State of Alaska incorporates sec. 3402 of the Internal Revenue Code of 1954 in its entirety with the exceptions of subsecs. m and n and other sections referring to those sections. Those sections provide that taxpayers may, under certain circumstances, file excess exemptions on the basis of itemized deductions. The Department of Revenue has concluded that this device has been abused by taxpayers who wish to wilfully or fraudulently evade the tax. This was especially true during the pipeline construction years when high-income taxpayers would claim an inordinate number of exemptions in order to maximize their paycheck, while at the same time intending to leave the state in the near future and to avoid paying proper Alaska state income taxes.

Finally, another change which is of some note is the reduction in the redemption period for real property distrained by the Department of Revenue pursuant to AS 43.20.270(f). That redemption period has been reduced from two years to 120 days.

Sincerely,

SJSH

Jay S. Hammond
Governor

Copy as amended
by com.

Introduced: 3/7/79
Referred: Judiciary and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 354

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act ^{relating to taxes and} making miscellaneous amendments to the revenue
7 ~~and tax laws statutes~~; and providing for an effective date."

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

9 * Section 1. AS 43.05.220 is amended to read:

10 Sec. 43.05.220. CIVIL PENALTIES [PENALTY]. (a) Five per cent
11 shall be added to a tax for each 30-day period or fraction of the
12 period during which the taxpayer fails to file at the time or times
13 required by law or regulation a return or report, or pay the full
14 amount of the tax, or a portion or a deficiency of the tax, as finally
15 determined by the department and required by this title, unless it is
16 shown that the failure is due to a reasonable cause and not to wilful
17 neglect. The penalty shall not exceed 25 per cent in the aggregate.
18 [THE PENALTY SHALL BE COLLECTED AT THE SAME TIME, IN THE SAME MANNER
19 AND AS A PART OF THE ORIGINAL TAX; BUT IF THE ORIGINAL TAX IS PAID
20 BEFORE THE NEGLECT IS DISCOVERED, THE PENALTY SHALL BE COLLECTED IN
21 THE SAME MANNER AS THE ORIGINAL TAX.] The department shall prescribe
22 by regulation circumstances which constitute reasonable cause for
23 purposes of this section.

24 (b) If any part of a deficiency due under this title is due to
25 negligence or intentional disregard of law or regulations, but without
26 intent to defraud, five per cent of the total amount of the deficiency,
27 in addition to the deficiency, shall be assessed, collected, and paid
28 in the same manner as if it were a deficiency.

29 (c) If any part of a deficiency due under this title is due to

1 fraud, there shall be added to the tax a civil fraud penalty in an
2 amount equal to 50 per cent of the tax due and in no event less than
3 \$500. This penalty is in addition to any amount determined under (a)
4 or (b) of this section.

5 (d) A penalty imposed by this section shall be collected at the
6 same time, in the same manner and as a part of the original tax; but
7 if the original tax is paid before the neglect or fraud is discovered,
8 the penalty shall be collected in the same manner as the original tax.
9 No interest may be collected upon the amount of a penalty imposed by
10 this section.

11 * Sec. 2. AS 43.05.230(a) is amended to read:

12 (a) Except in connection with official investigations or proceed-
13 ings of the department, whether judicial or administrative, involving
14 taxes due under this title, except in connection with official investi-
15 gations or proceedings of the child support enforcement agency, whether
16 judicial or administrative, involving child support obligations imposed
17 or imposable under AS 25 or AS 47, and except as otherwise provided in
18 this section, it is unlawful for a current or former [AN] officer,
19 employee or agent of the state to divulge the amount of income or the
20 particulars set out or disclosed in a report or return made under this
21 title.

22 * Sec. 3. AS 43.05.230 is amended by adding a new subsection to read:

23 (g) The information contained in any license issued in accordance
24 with AS 43.50, 43.60, 43.65, 43.70, and 43.75 by the commissioner of
25 revenue is public information. The licenses issued under these chapters
26 must contain (1) the name and address of the licensee; (2) the type of
27 business to be conducted; (3) the year of the license; and (4) any
28 other information specifically required by statute.

29 * Sec. 4. AS 43.05 is amended by adding new sections to read:

1 Sec. 43.05.245. ASSESSMENT OF TAX, PENALTIES AND INTEREST. If
2 a taxpayer fails to file a return or report required by this title in
3 the time required by law or by regulation adopted under authority of
4 law, or makes an erroneous or fraudulent return, the department shall
5 proceed to assess the license fees, tax, penalties, or interest and
6 make a return from information which it obtains. A return made and
7 subscribed by the department is prima facie good and sufficient for
8 all legal purposes. The assessment of license fees, tax, penalties,
9 or interest occurs at the time the department issues a notice and
10 demand for payment of the license fees, tax, penalties, or interest.
11 The notice and demand for payment are issued when the notice is
12 delivered in person to the taxpayer or placed in the United States
13 mail, addressed to his last known address. Penalties and interest
14 assessed under this title must be collected in the same manner and
15 using the same procedures as provided in this title for the collection
16 of tax or license fees.

17 Sec. 43.05.275. LIMITATION ON PROCESSING REFUND CLAIMS. (a)
18 Except as provided in AS 43.20.021, a claim for credit or refund of
19 any tax in this title, for which the taxpayer is required to file a
20 return, may be filed by the taxpayer within three years from the time
21 the return was filed or two years from the time the tax was paid
22 whichever of those periods expires later, or if no return was filed,
23 within two years from the time the tax was paid.

24 (b) Where the department and the taxpayer have consented to
25 extend the period for assessment of tax as provided in AS 43.05.260(c)-
26 (3), the tax may be refunded at any time before the expiration of the
27 period agreed upon.

28 Sec. 43.05.290. PENALTIES. (a) A person who wilfully attempts
29 to evade ^athe tax imposed by this title is, in addition to other penal-

1 ties provided by this title, guilty of a felony and, upon conviction,
2 shall be fined not more than \$50,000, or imprisoned for not more than
3 five years, or both.

4 (b) A person required under this title to collect, account for,
5 and pay over ~~the~~^a tax imposed by this title who wilfully fails to
6 collect or truthfully account for and pay over the tax at the time or
7 times required by law or regulation is, in addition to other penalties
8 provided by this title, guilty of a felony and, upon conviction, shall
9 be fined not more than \$50,000, or imprisoned for not more than five
10 years, or both.

11 (c) A person required under this title to pay a tax, make a
12 return, keep records, or supply information, who wilfully fails to pay
13 the tax or estimated tax, make the return, keep the records, or supply
14 the information at the time or times required by law or regulation is,
15 in addition to other penalties provided by this title, guilty of a
16 misdemeanor and, upon conviction, shall be fined not more than \$5,000,
17 or imprisoned for not more than one year, or both.

18 (d) A person who wilfully makes and subscribes a return, state-
19 ment, or other document required under this title which contains or is
20 verified by a written declaration that it is made under the penalties
21 of perjury which he does not believe to be true and correct as to
22 every material matter is, in addition to other penalties provided by
23 this title, guilty of a felony and, upon conviction, shall be fined
24 not more than \$25,000, or imprisoned for not more than three years, or
25 both.

26 (e) A person who wilfully and knowingly aids or assists in, or
27 procures, or counsels the preparation or presentation in connection
28 with any matter arising under this title of a return, affidavit,
29 claim, or other document, which is fraudulent or is false as to any

1 material matter is guilty of a felony whether or not the falsity or
2 fraud is with the knowledge or consent of the person required to
3 present the return, affidavit, claim, or document, and, upon conviction,
4 shall be fined not more than \$25,000, or imprisoned for not more than
5 three years, or both.

6 (f) A person who wilfully delivers or discloses to the commis-
7 sioner or the department under this title any list, return, account,
8 statement, or other document, known by him to be fraudulent or to be
9 false as to any material matter is guilty of a misdemeanor and, upon
10 conviction, shall be fined not more than \$5,000, or imprisoned for not
11 more than one year, or both.

12 (g) A person required to collect or truthfully account for a tax
13 imposed by this title who wilfully fails to collect the tax or to
14 truthfully account for and pay over the tax, or wilfully attempts in
15 any manner to evade the tax or the payment of it is, in addition to
16 other penalties provided by law, liable for a civil penalty equal to
17 the total amount of the tax evaded, not collected, not accounted for,
18 or not paid over. This penalty is in place of the tax not otherwise
19 paid to the state. The civil penalty shall be paid upon demand by the
20 commissioner or his designee, and shall be assessed and collected in
21 the same manner as taxes are assessed and collected under this title.
22 Any reference in (a) - (f) of this section to "tax" imposed refers
23 also to the civil penalty provided under this subsection.

24 ~~(h) The penalties and liabilities provided in (g) of this section~~
25 ~~shall be paid upon notice and demand by the commissioner of revenue or~~
26 ~~his designee or agent and shall be assessed and collected in the same~~
27 ~~manner as taxes. A reference to "tax" imposed also refers to the~~
28 ~~penalties and liabilities provided by this section.~~

29 (h) A person required to supply information to his employer under

(h)

1 this title who wilfully supplies false information or who wilfully
2 fails to supply information under that section which would require an
3 increase in the tax to be withheld under that section is, in addition
4 to other penalties specified in this chapter, guilty of a misdemeanor
5 and, upon conviction, is punishable by a fine of not more than \$5,000,
6 or imprisonment for not more than one year, or both.

7 (i) ~~It~~ A person engaging in or carrying on or attempting to engage
8 in or carry on a business, trade, profession or occupation for which
9 a license is required as a condition precedent, ~~without obtaining~~ ^{who wilfully fails to obtain} the
10 license, is guilty of a misdemeanor, and, upon conviction, is punish-
11 able by a fine of not more than \$2,000, or by imprisonment for not
12 more than six months, or both.

13 (k) In this section "person" includes, but is not limited to, an
14 officer or employee of a corporation or a member or employee of a
15 partnership, who, as officer, employee, or member, is under a duty to
16 perform the act in respect to which the violation occurs.

17 * Sec. 5. AS 43.10 is amended by adding a new section to read:

18 Sec. 43.10.031. ENFORCEMENT. A tax due and unpaid under this
19 title, the interest, penalty, additional amount, or addition to the
20 tax, and the tax (or interest, penalty, additional amount, or addition
21 to the tax) which has been erroneously refunded is a debt to the state
22 and may be collected by lien foreclosure or sued for and recovered in
23 an action by the state.

24 * Sec. 6. AS 43.10.040 is repealed and re-enacted to read:

25 Sec. 43.10.040. RECORDING LIEN AND CERTIFICATE OF DISCHARGE.

26 (a) The lien is not valid as against a mortgagee or other lien holder,
27 pledgee, purchaser, or judgment creditor until notice of it is filed
28 in the office of the recorder of the recording district where the
29 property subject to the lien is situated; except that a lien arising

1 out of a tax due under AS 43.56 and 43.75 and the penalties and interest
2 on the tax are a lien prior, paramount, and superior to all other
3 liens, mortgages, hypothecations, conveyances, and assignments, upon
4 all the real and personal property of the person liable for the tax,
5 and upon all the real and personal property used with the permission
6 of the owner to carry on the business, regardless of the date the
7 liens are recorded.

8 (b) When a notice of the lien is filed, the recorder shall
9 immediately enter the notice in an alphabetical state tax lien index,
10 showing on one line the name and residence of the taxpayer named in
11 the notice, the department's serial number of the notice, the date and
12 hour of filing, and the amount of tax, including interest, penalty,
13 additional amount, or addition to the tax, and costs. The recorder
14 shall file and keep all original notices so filed in numerical order
15 in a file or files, designated state tax lien notices.

16 (c) When a certificate of discharge of a tax lien issued by the
17 department is filed in the office of the recorder, where the original
18 notice of lien is filed, the recorder shall enter the certificate with
19 the date of filing in the state tax lien index on the line where
20 notice of the lien so discharged is entered, and permanently attach
21 the original certificate of discharge to the original notice of lien.

22 (d) The state tax lien index and file for state tax lien notices
23 shall be furnished to the recorder in this state in the manner provided
24 by law for the furnishing of books in which deeds are recorded.

25 * Sec. 7. AS 43.10 is amended by adding a new section to read:

26 Sec. 43.10.045. SUSPENSION OF LICENSES. In addition to the
27 other penalties imposed in this title, the license of a person who is
28 authorized to conduct a business by a license issued under the laws of
29 the state, whether he is a resident or not, is, if he fails to pay the

1 tax levied under this title, suspended until the tax imposed by this
2 ~~chapter~~ ^{title}, together with interest and penalties, is paid in full.

3 * Sec. 8. AS 43.10.160(b) is amended to read:

4 (b) If the value of the taxpayer's interest in the real estate
5 is not equal to twice the amount of the estimated tax and license fees
6 for which the taxpayer will be liable to the state, the taxpayer shall
7 file with the Department of Revenue a bond or other security approved
8 by the commissioner [ATTORNEY GENERAL] in a sum equal to twice the
9 estimated amount of the taxes and license fees, but in no event less
10 than \$1,000. However, the bond requirement may be waived, in whole or
11 in part, if the taxpayer shows in writing to the satisfaction of the
12 commissioner [ATTORNEY GENERAL] that there is good cause for such a
13 waiver [THE AMOUNT OF THE BOND WOULD BE AN UNDUE HARDSHIP]. The
14 Department of Revenue shall adopt regulations defining good cause for
15 the purposes of this section.

16 * Sec. 9. AS 43.20.011(c) is amended to read:

17 (c) There is imposed for each taxable year upon the taxable
18 income of every resident, nonresident and part-year resident head of
19 a household (as defined in section 2(b) of the Internal Revenue Code),
20 taxes computed according to the following table.

21 If the taxable income is:	Then the tax is:
22 Not over \$2,000	3 per cent of the taxable 23 income
24 Over \$2,000 but not over \$4,000	\$60 plus 3.5 per cent of 25 excess over \$2,000
26 Over \$4,000 but not over \$6,000	\$130 plus 4.0 per cent of 27 excess over \$4,000
28 Over \$6,000 but not over \$8,000	\$210 plus <u>4.0</u> [4.5] per cent 29 of excess over \$6,000

1	Over \$8,000 but not over \$10,000	<u>\$290</u> [\$300] plus 5.0 per cent
2		of excess over \$8,000
3	Over \$10,000 but not over \$12,000	<u>\$390</u> [\$400] plus <u>5.0</u> [5.5] per
4		cent of excess over \$10,000
5	Over \$12,000 but not over \$14,000	<u>\$490</u> [\$510] plus 6.0 per cent
6		of excess over \$12,000
7	Over \$14,000 but not over \$16,000	<u>\$610</u> [\$630] plus <u>6.0</u> [6.5] per
8		cent of excess over \$14,000
9	Over \$16,000 but not over \$18,000	<u>\$730</u> [\$760] plus <u>6.5</u> [7.0] per
10		cent of excess over \$16,000
11	Over \$18,000 but not over \$20,000	<u>\$860</u> [\$900] plus 7.0 per cent
12		of excess over \$18,000
13	Over \$20,000 but not over \$22,000	<u>\$1,000</u> [\$1,040] plus 7.5 per
14		cent of excess over \$20,000
15	Over \$22,000 but not over \$24,000	<u>\$1,150</u> [\$1,190] plus 8.0 per
16		cent of excess over \$22,000
17	Over \$24,000 but not over \$28,000	<u>\$1,310</u> [\$1,350] plus 8.5 per
18		cent of excess over \$24,000
19	Over \$28,000 but not over \$32,000	<u>\$1,650</u> [\$1,690] plus <u>8.5</u> [9.0]
20		per cent of excess over \$28,000
21	Over \$32,000 but not over \$38,000	<u>\$1,990</u> [\$2,050] plus <u>9.0</u> [9.5]
22		per cent of excess over \$32,000
23	Over \$38,000 but not over \$44,000	<u>\$2,530</u> [\$2,430] plus 10.0 per
24		cent of excess over \$38,000
25	Over \$44,000 but not over \$50,000	<u>\$3,130</u> [\$3,030] plus 10.5 per
26		cent of excess over \$44,000
27	Over \$50,000 but not over \$60,000	<u>\$3,760</u> [\$3,660] plus 11.0 per
28		cent of excess over \$50,000
29	Over \$60,000 but not over \$70,000	<u>\$4,860</u> [\$4,760] plus 11.5 per

	cent of excess over \$60,000
1	
2	Over \$70,000 but not over \$80,000
3	<u>\$6,010</u> [\$5,910] plus <u>11.5</u> [12.0]
4	per cent of excess over \$70,000
5	Over \$80,000 but not over \$90,000
6	<u>\$7,160</u> [\$7,110] plus <u>12.0</u> [12.5]
7	per cent of excess over \$80,000
8	Over \$90,000 but not over \$100,000
9	\$8,360 plus <u>13.0</u> per cent of
10	excess over \$90,000
11	Over \$100,000 but not over \$150,000
12	\$9,660 plus <u>13.0</u> [13.5] per
13	cent of excess over \$100,000
14	Over \$150,000 but not over \$200,000
15	<u>\$16,160</u> [\$16,410] plus 14.0 per
16	cent of excess over \$150,000
17	Over \$200,000 but not over \$300,000
18	<u>\$23,160</u> [\$23,410] plus 14.5 per
19	cent of excess over \$200,000
20	Over \$300,000
21	<u>\$37,660</u> [\$37,910] plus 14.5 per
22	cent of excess over \$300,000

* Sec. 10. AS 43.20.011(d) is repealed and re-enacted to read:

(d) The department shall compute and publish Alaska income tax liability tables for taxpayers.

* Sec. 11. AS 43.20.021(d) is amended to read:

(d) Where a credit allowed under the Internal Revenue Code is also allowed in computing Alaska income tax, it is limited to 16 per cent [OF THE AMOUNT OF THE CREDIT DETERMINED FOR FEDERAL INCOME TAX PURPOSES] for individuals and fiduciaries and 18 per cent for corporations of the amount of credit determined for federal income tax purposes, which is attributable to Alaska.

* Sec. 12. AS 43.20.021 is amended by adding a new subsection to read:

(g) For purposes of calculating the accumulated earnings tax as provided for in the Internal Revenue Code, sec. 531, the rate is 4.95 per cent of the first \$100,000 of accumulated taxable income and 6.93

1 per cent of accumulated taxable income in excess of \$100,000.

2 * Sec. 13. AS 43.20.031(a)(3) is amended to read:

3 (3) the benefits of nonrecognition of gain on the sale,
4 [OR] exchange, or other disposition of certain property under secs.
5 1031, 1033, and 1034 of the Internal Revenue Code (26 U.S.C. secs. 1031,
6 1033, and 1034) are allowed only to taxpayers who purchase or exchange
7 the property within the state, except that the benefits of sec. 1034
8 shall be allowed regardless of the location of the property for
9 taxpayers who have attained the age of 65 on or before the time of the
10 purchase or exchange; for purposes of this paragraph, the gain that
11 results is subject to the benefits of the Internal Revenue Code, secs.
12 1201, 1202, 1221, and 1231 as if the gain had been recognized for
13 federal tax purposes; in addition, the basis of the acquired property
14 shall be adjusted as provided in the Internal Revenue Code, sec. 1016
15 as if the gain had been recognized for federal tax purposes;

16 * Sec. 14. AS 43.20.031(e) is amended to read:

17 (e) An affiliated group of corporations may make or the commis-
18 sioner may require them to make a consolidated [OR COMBINED] return
19 for the taxable year in place of separate returns. For purposes of
20 calculating the amount of tax payable by the group under a consolidated
21 filing, Internal Revenue Code secs. 1501 - 1552, as amended, apply.

22 * Sec. 15. AS 43.20.031(h) is amended to read:

23 (h) A taxpayer who purchases an entry permit under AS 16.43 in
24 carrying on a trade or business is entitled to a deduction of the
25 amount of the price paid during the tax year as if it were allowable
26 under sec. 162 of the Internal Revenue Code (26 U.S.C. sec. 162). The
27 basis of the entry permit shall be reduced by the amount of the deduc-
28 tion which the taxpayer is entitled to claim under this subsection.

29 * Sec. 16. AS 43.20.031 is amended by adding a new subsection to read:

1 (1) A corporation which is a member of a group of unitary cor-
2 porations which collectively has income from business activity which
3 is taxable both inside and outside the state or income from other
4 sources both inside and outside the state shall determine its income
5 from sources in this state by use of the combined method of accounting.

6 * Sec. 17. AS 43.20.035(a) is amended to read:

7 (a) The taxable income of nonresidents or part-year residents of
8 this state is taxable income as determined under AS 43.20.031 [SEC.
9 31 OF THIS CHAPTER] when attributable to sources in the state as
10 provided in AS 43.20.040 [SEC. 40 OF THIS CHAPTER] with the following
11 modifications:

12 (1) a nonresident or part-year resident of this state shall
13 be allowed a deduction, in place of the deductions [WHO HAS NO EXCESS
14 ALASKA ITEMIZED DEDUCTIONS AS DEFINED IN (4) OF THIS SUBSECTION IS
15 ALLOWED THE MINIMUM DEDUCTION] provided by AS 43.20.031(a)(4) and
16 excess itemized deductions provided under the Internal Revenue Code,
17 in the amount of the minimum deduction and excess itemized deductions
18 [SEC. 31(a)(4) OF THIS CHAPTER] in the proportion provided in (b) of
19 this section;

20 (2) a nonresident or part-year resident is allowed a deduc-
21 tion equal to the personal exemption deduction as defined in sec. 151
22 of the Internal Revenue Code in the proportion provided in (b) of this
23 section. [;]

24 [(3) A NONRESIDENT OR PART-YEAR RESIDENT WHO HAS EXCESS
25 ALASKA ITEMIZED DEDUCTIONS IS ALLOWED HIS ENTIRE ALASKA ITEMIZED
26 DEDUCTIONS;

27 (4) "ALASKA ITEMIZED DEDUCTIONS" AS USED IN THIS SECTION
28 ARE THOSE ITEMIZED DEDUCTIONS ALLOWED UNDER THE INTERNAL REVENUE CODE
29 WHICH ARISE FROM SOURCES IN THE STATE EXCEPT THOSE ITEMS DESCRIBED IN

1 SEC. 31(c) OF THIS CHAPTER; "EXCESS ALASKA ITEMIZED DEDUCTIONS" MEANS
2 THE EXCESS (IF ANY) OF:

3 (A) ALASKA ITEMIZED DEDUCTIONS, OVER

4 (B) THE MINIMUM DEDUCTION AS DEFINED IN SEC. 31(a)(4)
5 OF THIS CHAPTER.]

6 * Sec. 18. AS 43.20 is amended by adding a new section to read:

7 Sec. 43.20.037. TAXABLE INCOME OF FIDUCIARY. The taxable income
8 of a fiduciary is its taxable income as determined under AS 43.20.031
9 when attributable to sources in the state as provided in AS 43.20.040.

10 * Sec. 19. AS 43.20.038(a) is amended to read:

11 (a) An individual is allowed as a credit against the tax due
12 under this chapter five per cent of his residential fuel expenses paid
13 during the year, but not less than a minimum credit of \$10. For
14 married taxpayers filing separate returns, the minimum credit is \$5
15 for each return. Part-year resident and nonresident individual tax-
16 payers shall prorate the credit allowed in this section as provided by
17 AS 43.20.035(b) [ACCORDING TO THE NUMBER OF MONTHS RESIDED IN THE
18 STATE].

19 * Sec. 20. AS 43.20.039(c) is amended to read:

20 (c) Part-year resident and nonresident individuals shall prorate
21 the credits provided in this section as provided by AS 43.20.035(b)
22 [ACCORDING TO THE NUMBER OF MONTHS DURING WHICH THE TAXPAYER RESIDED
23 IN THE STATE].

24 * Sec. 21. AS 43.20 is amended by adding a new section to read:

25 Sec. 43.20.045. PRORATION OF PART-YEAR RESIDENT AND NONRESIDENT
26 INDIVIDUAL CREDITS. Unless otherwise provided, credits allowable to a
27 part-year resident and nonresident individuals are limited to the
28 amount of the credit computed according to AS 43.20.021(d), if appli-
29 cable, and prorated as provided by AS 43.20.035(b).

1 * Sec. 22. AS 43.20.065 is amended to read:

2 Sec. 43.20.065. ALLOCATION AND APPORTIONMENT. A taxpayer who
3 has income from business activity which is taxable both inside and
4 outside the state or income from other sources both inside and outside
5 the state shall allocate and apportion his net income as provided in
6 [ART. IV OF] the Multistate Tax Compact (AS 43.19[.010]), ^{OR AS OTHERWISE} ~~and as pro-~~
7 ^{provided in this chapter} ~~vided in AS 43.20.071~~ [SEC. 71 OF THIS CHAPTER FOR WATER TRANSPORTA-
8 TION CARRIERS].

9 * Sec. 23. AS 43.20.071 is repealed and re-enacted to read:

10 Sec. 43 20.071. TRANSPORTATION CARRIERS. (a) All business
11 income of water transportation carriers shall be apportioned to this
12 state in accordance with the Multistate Tax Compact (AS 43.19) as
13 modified by the following:

14 (1) the numerator of the property factor shall be the sum
15 of the value for property in a fixed location such as buildings and
16 land used in the business and intrastate equipment and personal
17 property determined according to the Multistate Tax Compact (AS 43.19)
18 and the value of interstate mobile property be determined on a days-
19 spent-in-ports basis as provided in (4) of this subsection; the
20 denominator of the property factor shall be determined according to
21 the Multistate Tax Compact;

22 (2) the numerator of the payroll factor shall be the sum of
23 the wages and salaries of employees assigned to fixed locations deter-
24 mined according to the Multistate Tax Compact (AS 43.19) and the wages
25 and salaries of employees assigned to interstate mobile property
26 determined on a days-spent-in-ports basis as provided in (4) of this
27 subsection; the denominator of the payroll factor shall be determined
28 in accordance with the Multistate Tax Compact;

29 (3) the numerator of the sales factor shall be the sum of

1 all revenues from intrastate activities and revenues from interstate
2 activities determined on a days-spent-in-ports basis as provided in
3 (4) of this subsection; the denominator shall be determined in accord-
4 ance with the Multistate Tax Compact;

5 (4) the portions of the numerator of the property, payroll,
6 and sales factors which are directly related to interstate mobile
7 property operations shall be determined by a ratio which the number of
8 days spent in ports inside the state bears to the total number of days
9 spent in ports inside and outside the state; the term "days spent in
10 ports" does not include periods when ships are tied up because of
11 strikes or withheld from Alaska service for repairs, or because of
12 seasonal reduction of service; days in port are computed by dividing
13 the total number of hours in all ports by 24.

14 (b) Transportation carriers other than water carriers shall
15 apportion their income to this state by means of formulas prescribed
16 by ~~regulations~~ of the department which are to ensure that the total
17 income subject to apportionment has been apportioned only to those
18 states having jurisdiction to tax.

19 * Sec. 24. AS 43.20.170(b) is amended to read:

20 (b) The rules with respect to withholding of tax set out in
21 secs. 3402 (except that Internal Revenue Code subsecs. 3402(2)(1)(F),
22 3402(m) and 3402(n) are not incorporated and do not apply for Alaska
23 tax purposes); 3502(b); 6414 of the Internal Revenue Code of 1954
24 as amended, apply with respect to this section as though fully set out
25 in this section. Remittance of taxes withheld shall be accompanied by
26 returns on forms prescribed by the department.

27 * Sec. 25. AS 43.20.200(a) is amended to read:

28 (a) As soon as practicable after a return is filed, the depart-
29 ment may [SHALL] examine it and determine the correct amount of the

1 tax. If an error is disclosed by the examination, the department
2 shall so notify the taxpayer by first-class mail. The taxpayer may
3 petition for redetermination of deficiency as provided in AS 43.05.240
4 [SEC. 280 OF THIS CHAPTER].

5 * Sec. 26. AS 43.20.270(f) is amended to read:

6 (f) The property distrained shall be restored to the owner or
7 possessor if, before the sale, payment of the amount due is made to
8 the deputy or agent charged with the collection, together with the
9 fees and other charges; but in case of nonpayment, the said deputy or
10 agent shall proceed to sell the property at public auction. The owner
11 of real property sold under this section, his heir, executor, or
12 administrator, or a person in his behalf may redeem the property sold
13 or a particular tract of the property at any time within 120 days [TWO
14 YEARS] after the sale thereof. The property or tract may be redeemed
15 upon payment to the purchaser or, if he cannot be found in the state,
16 then to the commissioner of revenue for the use of the purchaser, his
17 heirs, or assigns, the amount paid by the purchaser and interest on it
18 at the rate of 12 [SIX] per cent a year. If land sold is redeemed
19 under this subsection, the commissioner shall cause entry of the fact
20 to be made upon the record mentioned in (g)(6) of this section and the
21 entry shall be evidence of such redemption.

22 * Sec. 27. AS 43.31.141 is amended to read:

23 Sec. 43.31.141. WHEN TAX DUE, EXTENSION AND INTEREST. The tax
24 imposed by this chapter is due and payable 15 months after the dece-
25 dent's death, and shall be paid by the executor to the department. If
26 the department finds that the payment on the due date of tax or any
27 part of the tax would impose undue hardship upon the estate, the
28 department may extend the time for payment of any part, but no extension
29 may be for more than one year and the aggregate of extensions with

1 respect to an estate may not exceed five years from the due date. In
2 that case the amount in respect of which the extension is granted
3 shall be paid on or before the date of the expiration of the period of
4 the extension unless a further extension is granted. If the time for
5 the payment is extended there shall be collected, as part of this
6 amount, interest on the tax at the rate provided in AS 43.05.225 [OF
7 SEVEN PER CENT A YEAR] from the due date of the tax to the date the
8 tax is paid.

9 * Sec. 28. AS 43.50.150 is amended to read:

10 Sec. 43.50.150. ADMINISTRATION. (a) The department shall (1)
11 administer [SECS. 10 - 180 OF] this chapter, and (2) collect, super-
12 vise, and enforce the collection of taxes [AND PENALTIES] due under
13 [SECS. 10 - 180 OF] this chapter and penalties as provided in AS 43.05.

14 (b) The department may adopt [PUBLISH] ~~publish~~ regulations
15 necessary for the administration of [SECS. 10 - 180 OF] this chapter
16 [(1) TO ENFORCE SECS. 10 - 180 OF THIS CHAPTER, AND (2) TO COLLECT THE
17 TAXES, FEES, AND PENALTIES IMPOSED BY SECS. 10 - 180 OF THIS CHAPTER].

18 * Sec. 29. AS 43.50.190(b) is amended to read:

19 (b) The tax levied by this section is in addition to the tax
20 levied by AS 43.50.010 - 43.50.180 [SECS. 10 - 180 OF THIS CHAPTER].
21 The tax shall be administered and collected in the same manner as the
22 tax levied by AS 43.50.010 - 43.50.180 [SECS. 10 - 180 OF THIS CHAPTER],
23 except that receipts from the tax shall be deposited in the general
24 fund. The penalties provided in AS 43.05 [ESTABLISHED IN SECS. 10 -
25 180 OF THIS CHAPTER] apply to the tax levied in this section.

26
27 / * Sec. 30. AS 43.40.030 is amended to read:

28 Sec. 43.40.030. REFUND OF MOTOR FUEL TAX. [FOR
29 NONHIGHWAY USE]. (a) Except as specified in sec. 10(j)
30 of this chapter, a person who uses motor fuel to operate an
31 internal combustion engine is entitled to a refund of six
32 cents a gallon if

33 (1) the tax on the motor fuel has been paid;

1 (2) the motor fuel is not aviation fuel, or motor
2 fuel used in or on watercraft; and

3 (3) the internal combustion engine is not used
4 in or in conjunction with a motor vehicle licensed to be
5 operated on public ways.

6 (b) The entire tax levied by [SECS. 10 - 100 OF]
7 this chapter shall be refunded to the purchaser on that
8 part of the motor fuel used in a foreign country on which
9 duty is paid when the fuel is sold and delivered in the
10 state for nonhighway use in a foreign country. The Depart-
11 ment of Revenue shall establish the necessary regulations
12 and prescribe the appropriate forms to prove that the motor
13 fuel is taken to and used in foreign countries.

14 (c) A person who obtains fuel on which the tax
15 on motor fuel has been paid, the use of which is exempt
16 from tax, is entitled to a refund of the tax paid.

17 * Sec. 31. AS 43.40.050 is amended to read:

18 Sec. 43.40.050. REFUND CLAIM BY AFFIDAVIT. (a) A
19 person who claims a refund as provided in [SECS. 10 - 100 OF]
20 this chapter shall present his claim to the commissioner
21 of revenue by affidavit upon a form provided by the
22 commissioner. The claim shall contain the name, address,
23 and occupation of the applicant, the nature of the business,
24 and a sufficient description for identification of the
25 machines or equipment in which the motor fuel was used for
26 which refund is claimed. [WITH THE INFORMATION THE
27 COMMISSIONER REQUIRES.] The claim shall be accompanied
28 by each invoice issued to the claimant at the time the

1 motor fuel was [IS] purchased. The commissioner may require
2 any additional information which he considers necessary for
3 the administration of [SECS. 10 - 100 OF] this chapter.

4 (b) A claim for refund shall be filed within one
5 year from the date of the purchase of the motor fuel as
6 indicated on the invoice, and failure to file within the
7 one year period is a waiver of the right to the refund.

8 A claim is considered to be filed when the claim is mailed
9 or personally presented to an office of the Department
10 of Revenue.

11 * Sec. 32. AS 43.20.011(e) is amended to read:

12 (e) There is imposed for each taxable year upon
13 the entire taxable income of every corporation derived
14 from sources within the state a tax consisting of a
15 normal tax equal to 5.4 per cent of a taxable income,
16 and a surtax which is equal to 4.0 per cent of taxable
17 income. For purposes of this chapter the surtax exemption
18 for years beginning after December 31, 1979 shall be
19 \$50,000. In the case of certain controlled corporations
20 as described in secs. 1561 - 1563 of the Internal Revenue
21 Code, only one surtax exemption shall be allowed for
22 the controlled group [A TAXABLE YEAR FOLLOWS SECS. 1561
23 AND 1563 OF THE INTERNAL REVENUE CODE]. The tax of a
24 corporation engaged in the production or transportation
25 of crude oil or natural gas shall be determined and paid
26 in accordance with ch. 21 of this title.

1 * Sec. 33. AS 47.23.250(d) is amended to read:

2 (d) The order to withhold and deliver shall be
3 served upon the person, political subdivision or
4 department of the state possessing the property
5 in the manner provided for service of liens under
6 Section 240 of this chapter. The order shall state the
7 amount of the obligor's liability and shall state in
8 summary the terms of Sections 260 and 270 of this chapter.
9 The order to withhold and deliver shall continue to
10 operate and require said person, political subdivision
11 or department of the state to withhold the nonexempt
12 portion of earning at each succeeding earning disbursement
13 interval until the entire amount of the support debt
14 stated in the withhold and deliver has been withheld.

15 * Sec. 34. AS 47.23.250(f) is amended to read:

16 (f) If any person, political subdivision, or
17 department of the state upon whom service of an order
18 to withhold and deliver has been made possesses property
19 due, owing, or belonging to the obligor, that person,
20 subdivision or department shall withhold the property
21 immediately upon receipt of the order and shall deliver
22 the property to the agency [UPON DEMAND] after the expira-
23 tion of the 30-day period from the date of service of
24 the order. In the case of an employer or other person,
25 subdivision, or a department which continually accrues
26 property of the obligor, the property so accrued shall be
27 withheld and delivered to the agency every 30 days thereafter

1 until the total amount of the debt stated in the order
2 is satisfied. The agency shall hold the property delivered
3 under this subsection in trust for application against the
4 liability of the obligor under sec. 130 of this chapter or
5 for return, without interest, depending on final determina-
6 tion of liability or nonliability under this chapter. The
7 agency may accept a good and sufficient bond conditioned
8 upon final determination of liability in lieu of requiring
9 delivering of property under this subsection.

10 * Sec. 35. AS 25.25.010 is amended to read:

11 Sec. 25.25.010. DEFINITIONS. As used in this
12 chapter, unless the context otherwise requires,

13 (1) "state" includes the State of Alaska
14 and a state, territory or possession of the United
15 States, [AND] the District of Columbia, the Commonwealth
16 of Puerto Rico and any foreign jurisdiction in which this
17 or a substantially similar reciprocal law has been enacted;

18 (2) "initiating state" means a state in which a
19 proceeding under this or a substantially similar reciprocal
20 law is commenced;

21 (3) "responding state" means a state in which a
22 proceeding under the proceeding in the initiating state is
23 or may be commenced;

24 (4) "court" means and includes a court having
25 jurisdiction to determine the liability of persons for
26 the support of dependents in this state and a state

1 having a substantially similar reciprocal law;

2 (5) "law" includes both common and statute law;

3 (6) "duty of support" includes a duty of
4 support imposed or imposable by law, or by a court order,
5 decree or judgment, whether interlocutory or final, whether
6 incidental to a proceeding for divorce, legal separation,
7 separate maintenance or otherwise, and includes the duty
8 to pay arrearages of support past due and unpaid;

9 (7) "obligor" means a person owing a duty
10 of support;

11 (8) "obligee means a person to whom a duty of
12 support is owed;

13 (9) "foreign support order" means any support
14 order defined in (10) of this section issued by a court
15 of competent jurisdiction in another state;

16 (10) "support order" means any judgment, decree,
17 or order of support in favor of an obligee, whether
18 temporary or final or subject to modification, revocation,
19 or remission, regardless of the kind of action or proceeding
20 in which it is entered.

21 * Sec. 36. AS 23.20.110 is amended by adding a new subsection
22 to read:

23 (e) Upon request of the Child Support Enforcement
24 Agency, the department shall provide, in addition to the
25 information provided for in subsection (c), the present
26 or previous employer's name and address of any obligor
27 responsible for the payment of child support.

33

* Sec. ~~37~~. The following laws are repealed: AS 43.05.100(a); 43.10.050; 43.20.150; 43.20.160(b); 43.20.220; 43.20.240; 43.20.260; 43.20.335; 43.26.060; 43.31.171; 43.31.360; 43.31.370; 43.31.380; 43.31.390; 43.35.080; 43.40.020; 43.40.040; 43.40.080(b); 43.40.090; 43.45.060; 43.50.100(a), (c), and (e); 43.50.160; 43.55.120; 43.55.130; 43.56.190; 43.58.120; 43.58.130; 43.60.040(d), (e), and (f); 43.65.050; 43.70.060; 43.70.100; 43.75.050; 43.75.090; 43.75.120; 43.75.140(8) 43.80.020; and 43.80.030.

* Sec. ³⁴~~38~~. Section 15 of this Act is retroactive to taxable years beginning after December 31, 1976.

* Sec. ³⁵~~39~~. Sections 1 through 14 and 16 through ³³~~31~~ of this Act are retroactive to January 1, 1980.

* Sec. ³⁶~~40~~. This Act takes effect immediately in accordance with AS 01.10.070(c).

I took a copy
of this to
Gary Jenkins' office
at 9:30 am ~~to~~
Wed Feb 13 —
asked for his
review

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 12, 1980

SUBJECT: Miscellaneous amendments to the tax and
revenue laws -- CSHB 354

TO: Representative Charles H. ~~Peck~~, Chairman
House Judiciary Committee
Attn: Sandra Stringer, A.A.

FROM: John B. Chenoweth
Legislative Counsel

House Bill 354 was an administration bill. Your request for the preparation of a committee substitute required that the original bill and your suggested additions and changes necessarily receive close attention by this office for the first time. I have made a number of editorial changes in addition to those specifically requested by the committee in its committee substitute. All are intended to clarify changes requested in the original bill or put forward by the committee.

I strongly urge that you share a copy of the proposed CS in draft with Gary Jenkins or others in the Department of Revenue to verify that, in redrafting, we have not misunderstood what was intended by the change suggested by the administration.

I want to call your attention to several points that should have attention from the committee and the department.

(1) The original bill and the committee substitute both expanded on criminal penalties (see AS 43.05.290) but included, in the section on criminal penalties, a civil penalty for errors in accounting and paying over a tax. I have removed this subsection (subsection "(g)" of AS 43.05.-290 of the original bill) and placed it in AS 43.05.220 with the other civil penalties.

(2) I was puzzled by the "recorders" sections, AS 43.10.032 and AS 43.10.042, added by sec. 6 of this bill. I assume the reference to "recorder" is a reference to the general

Representative Charles H. Parr
Page 2
February 12, 1980

recording function, presently in the process of being transferred to the Department of Natural Resources (see Executive Order 47), and that reference to equipment being furnished simply means that the Department of Revenue will provide the lien index and file equipment to that recorder.

(3) In supplementary materials provided to the department, suggested * Sec. 30 constitutes no more than a revision of the title to a section. I am omitting this provision; the revisors of statutes will correct the title when the pamphlet supplement is reprinted.

(4) To avoid possible claim of enactment of a law ex post facto, changes in sections and subsections enacting criminal sanctions are given an immediate effective date. The criminal provisions repealed are not given retroactive effect, as the administration's bill provided, but are separately repealed on the same date as the new provisions take effect. (These latter are separately stated in * Sec. 39 of this bill draft.)

I am prepared to meet with you or representatives of the department to review this work draft. I apologize for the delay in returning the bill: I have been concentrating on individual bill requests and wanted to take time to review this particular bill carefully, with the benefit of revisors comments and instructions, to produce a clean draft.

JBC:ljb

Enclosure

Chenoweth ✓

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 354

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to taxes and making miscellaneous
7 amendments to the revenue and tax laws; and providing
8 for an effective date."

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

10 * Section 1. AS 43.05.220 is amended to read:

11 Sec. 43.05.220. CIVIL PENALTIES [PENALTY]. (a) Five percent
12 shall be added to a tax for each 30-day period or fraction of the period
13 during which the taxpayer fails to file at the time or times required
14 by law or regulation a return or report, or pay the full amount of the
15 tax, or a portion or a deficiency of the tax, as finally determined by
16 the department and required by this title, unless it is shown that the
17 failure is due to a reasonable cause and not to wilful neglect. The
18 penalty shall not exceed 25 percent in the aggregate. [THE PENALTY
19 SHALL BE COLLECTED AT THE SAME TIME, IN THE SAME MANNER AND AS A PART OF
20 THE ORIGINAL TAX; BUT IF THE ORIGINAL TAX IS PAID BEFORE THE NEGLECT IS
21 DISCOVERED, THE PENALTY SHALL BE COLLECTED IN THE SAME MANNER AS THE
22 ORIGINAL TAX.] The department shall prescribe by regulation circum-
23 stances which constitute reasonable cause for purposes of this section.

24 (b) If a tax deficiency or part of a tax deficiency is due to
25 negligence or intentional disregard of law or regulation without intent
26 to defraud, five percent of the total amount of the tax deficiency
27 shall be assessed, collected, and paid in the same manner as a tax
28 deficiency.

29 (c) If a tax deficiency or part of a tax deficiency is due to

1 fraud, a civil fraud penalty equal to 50 percent of the tax due or \$500,
2 whichever is greater shall be added to the tax. This penalty is in
3 addition to penalties determined under (a) or (b) of this section.

4 (d) A person required to collect or account for a tax imposed by
5 this title who wilfully fails to collect the tax or to truthfully
6 account for and pay over the tax, or wilfully attempts to evade payment
7 of the tax is, in addition to other penalties provided by law, liable
8 for a civil penalty equal to the total amount of the tax not collected,
9 not accounted for, not paid over or evaded. The penalty imposed by this
10 subsection is in place of the tax not paid to the state. This penalty
11 shall be paid upon demand by the commissioner or his designee, and shall
12 be assessed and collected in the same manner as taxes are assessed and
13 collected under this title.

14 (e) A penalty imposed by this section shall be collected at the
15 same time, in the same manner, and as a part of the original tax.
16 However, if the original tax is paid before neglect or fraud is
17 discovered, the penalty shall be collected in the same manner as the
18 original tax. Interest may not be collected on a penalty imposed by
19 this section.

20 * Sec. 2. AS 43.05.230(a) is amended to read:

21 (a) Except in connection with official investigations or proceed-
22 ings of the department, whether judicial or administrative, involving
23 taxes due under this title, except in connection with official investi-
24 gations or proceedings of the child support enforcement agency, whether
25 judicial or administrative, involving child support obligations imposed
26 or imposable under AS 25 or AS 47, and except as otherwise provided in
27 this section, it is unlawful for a current or former [AN] officer,
28 employee or agent of the state to divulge the amount of income or the
29 particulars set out or disclosed in a report or return made under this

1 title.

2 * Sec. 3. AS 43.05.230 is amended by adding a new subsection to read:

3 (g) The information contained in a license issued by the com-
4 missioner of revenue under AS 43.50, AS 43.60, AS 43.65, AS 43.70, and
5 AS 43.75 is public information.

6 * Sec. 4. AS 43.05 is amended by adding new sections to read:

7 Sec. 43.05.245. ASSESSMENT AND COLLECTION OF TAX, PENALTIES AND
8 INTEREST. If a taxpayer fails to file a return or report required by
9 this title in the time required by law or regulation, or makes an
10 erroneous or fraudulent return, the department shall proceed to assess
11 the license fees, tax, penalties, or interest and make a return from
12 information which it obtains. A return made and subscribed by the
13 department in accordance with this section is prima facie sufficient for
14 all legal purposes. The assessment of license fees, tax, penalties, or
15 interest under this section occurs when the department issues a notice
16 and demand for payment of the license fees, tax, penalties, or interest.
17 The notice and demand for payment issue when the notice and demand is
18 delivered to the taxpayer in person or placed in the United States mail,
19 addressed to his last known address. Penalties and interest assessed
20 under this title shall be collected in the same manner as provided in
21 this title for the collection of tax or license fees.

22 Sec. 43.05.275. CREDIT AND REFUND CLAIMS. (a) Except as provided
23 in AS 43.20.021, a claim for credit or refund of a tax in this title for
24 which a taxpayer is required to file a return or pay a tax may be filed
25 by the taxpayer

26 (1) before the later of

27 (A) three years from the time the return was filed; or

28 (B) two years from the time the tax was paid; or

29 (2) within two years from the time the tax was paid, if no

1 return was filed.

2 (b) If the department and the taxpayer have consented to extend
3 the period for assessment of tax as provided in AS 43.05.260(c)(3), a
4 tax refund claim may be filed at any time before the expiration of the
5 period agreed upon.

6 * Sec. 5. AS 43.05 is amended by adding a new section to read:

7 Sec. 43.05.290. CRIMINAL PENALTIES. (a) A person who wilfully
8 attempts to evade a tax imposed by this title is, in addition to other
9 penalties provided by this title, guilty of a class C felony.

10 (b) A person required under this title to collect, account for,
11 and pay over a tax imposed by this title who wilfully fails to collect
12 or truthfully account for and pay over the tax at the time or times
13 required by law or regulation is, in addition to other penalties pro-
14 vided by this title, guilty of a class C felony.

15 (c) A person required under this title to pay a tax, make a re-
16 turn, keep records, or supply information, who wilfully fails to pay the
17 tax or estimated tax, make the return, keep the records, or supply the
18 information at the time or times required by law or regulation is, in
19 addition to other penalties provided by this title, guilty of a class A
20 misdemeanor.

21 (d) A person who wilfully makes and subscribes a return or other
22 document required under this title which contains or is verified by a
23 written declaration that it is made under the penalties of perjury which
24 he does not believe to be true and correct as to every material matter
25 is, in addition to other penalties provided by this title, guilty of a
26 felony and, upon conviction, punishable by a fine of not more than
27 \$25,000, or by imprisonment for not more than three years, or by both.

28 (e) A person who wilfully and knowingly aids or assists in, or
29 procures, or counsels the preparation or presentation in connection with

1 a matter arising under this title of a return, affidavit, claim, or
2 other document which is fraudulent or is false as to a material matter
3 is guilty of a felony whether or not the falsity or fraud is with the
4 knowledge or consent of the person required to present the return,
5 affidavit, claim, or document. Upon conviction, the person is punish-
6 able by a fine of not more than \$25,000, or by imprisonment for not more
7 than three years, or by both.

8 (f) A person who wilfully delivers or discloses to the commis-
9 sioner or the department a list, return, account, statement, or other
10 document known by him to be fraudulent or to be false as to a material
11 matter is guilty of a class A misdemeanor.

12 (g) When required to provide information under AS 43.20.170 or
13 AS 43.45, a person who wilfully supplies false information or who
14 wilfully fails to supply information which would require an increase in
15 a tax to be withheld under this title is, in addition to other penalties
16 specified in this chapter, guilty of a class A misdemeanor.

17 (h) A person engaging in or attempting to engage in a business
18 profession or occupation for which a license is required under this
19 title, who wilfully fails to obtain the license, is guilty of a misde-
20 meanor, and, upon conviction, is punishable by a fine of not more than
21 \$2,000, or by imprisonment for not more than six months, or by both.

22 (i) In this section "person" includes, but is not limited to, an
23 officer or employee of a corporation or a member or employee of a
24 partnership, who, as officer, employee, or member, is under a duty to
25 perform the act in respect to which the violation occurs.

26 * Sec. 6. AS 43.10 is amended by adding new sections to read:

27 Sec. 43.10.032. ENFORCEMENT. (a) Each of the following is a debt
28 to the state:

29 (1) a tax levied by this title which is due and unpaid;

1 (2) the interest, penalty, additional amount, or addition to.
2 the tax under (1) of this subsection;

3 (3) a tax levied by this title which has been erroneously
4 refunded; and

5 (4) the interest, penalty, additional amount or addition to
6 the tax which has been erroneously refunded.

7 (b) A debt under (a) of this section may be

8 (1) collected by lien foreclosure; or

9 (2) recovered in a civil action brought by the state.

10 Sec. 43.10.042. RECORDING LIEN AND CERTIFICATE OF DISCHARGE. (a)
11 A lien imposed under this title is not valid as against a mortgagee or
12 other lien holder, pledgee, purchaser, or judgment creditor until notice
13 of it is filed in the office of the recorder of the recording district
14 where the property subject to the lien is situated. However regardless
15 of the date the liens are recorded, a lien arising out of a tax due
16 under AS 43.56 and AS 43.75, including the penalties and interest on the
17 tax is a lien prior, paramount, and superior to all other liens, mort-
18 gages, hypothecations, conveyances, and assignments, upon all the real
19 and personal property of the person liable for the tax, and upon all the
20 real and personal property used with the permission of the owner to
21 carry on the business which is subject to the tax.

22 (b) When a notice of a lien is filed, the recorder shall immedi-
23 ately enter the notice in an alphabetical state tax lien index, showing
24 on one line the name and residence of the taxpayer named in the notice,
25 the department's serial number of the notice, the date and hour of
26 filing, and the amount of tax, including interest, penalty, additional
27 amount, or addition to the tax, and costs. The recorder shall file and
28 keep all original notices in numerical order in a file designated as
29 state tax lien notices.

1 (c) When a certificate of discharge of a tax lien issued by the
2 department is filed in the office of the recorder where the notice of
3 lien is filed, the recorder shall enter the certificate of discharge and
4 the date of its filing in the state tax lien index on the line where
5 notice of the discharged lien is entered. The original certificate of
6 discharge shall be permanently attached to the original notice of lien.

7 (d) The state tax lien index and file of state tax lien notices
8 shall be furnished by the department to the recorder in the state in the
9 manner provided by law for the furnishing of books in which deeds are
10 recorded.

11 Sec. 43.10.045. SUSPENSION OF LICENSES. In addition to the other
12 penalties imposed in this title, if a person who is authorized to con-
13 duct a business by a license issued under the laws of the state fails to
14 pay a tax levied under this title, the license of the person is sus-
15 pended until the tax imposed by this title, together with interest and
16 penalties, is paid in full.

17 * Sec. 7. AS 43.10.160(b) is amended to read:

18 (b) If the value of the taxpayer's interest in the real estate is
19 not equal to twice the amount of the estimated tax and license fees for
20 which the taxpayer will be liable to the state, the taxpayer shall file
21 with the department [DEPARTMENT OF REVENUE] a bond or other security
22 approved by the commissioner of revenue [ATTORNEY GENERAL] in a sum
23 equal to twice the estimated amount of the taxes and license fees, but
24 in no event less than \$1,000. However, the bond requirement may be
25 waived, in whole or in part, if the taxpayer shows in writing to the
26 satisfaction of the commissioner of revenue [ATTORNEY GENERAL] that
27 there is good cause for the waiver [THE AMOUNT OF THE BOND WOULD BE AN
28 UNDUE HARDSHIP]. For purposes of this subsection, the department shall
29 adopt a regulation defining "good cause."

1 * Sec. 8. AS 43.20.011(c) is amended to read:

2 (c) There is imposed for each taxable year upon the taxable income
3 of every resident, nonresident and part-year resident head of a house-
4 hold (as defined in section 2(b) of the Internal Revenue Code), taxes
5 computed according to the following table.

6 If the taxable income is:

Then the tax is:

7 Not over \$2,000	3 percent of the taxable 8 income
9 Over \$2,000 but not over \$4,000	\$60 plus 3.5 percent of 10 excess over \$2,000
11 Over \$4,000 but not over \$6,000	\$130 plus 4.0 percent of 12 excess over \$4,000
13 Over \$6,000 but not over \$8,000	\$210 plus <u>4.0</u> [4.5] percent 14 of excess over \$6,000
15 Over \$8,000 but not over \$10,000	<u>\$290</u> [\$300] plus 5.0 percent 16 of excess over \$8,000
17 Over \$10,000 but not over \$12,000	<u>\$390</u> [\$400] plus <u>5.0</u> [5.5] per- 18 cent of excess over \$10,000
19 Over \$12,000 but not over \$14,000	<u>\$490</u> [\$510] plus 6.0 percent 20 of excess over \$12,000
21 Over \$14,000 but not over \$16,000	<u>\$610</u> [\$630] plus <u>6.0</u> [6.5] per 22 cent of excess over \$14,000
23 Over \$16,000 but not over \$18,000	<u>\$730</u> [\$760] plus <u>6.5</u> [7.0] per 24 cent of excess over \$16,000
25 Over \$18,000 but not over \$20,000	<u>\$860</u> [\$900] plus 7.0 percent 26 of excess over \$18,000
27 Over \$20,000 but not over \$22,000	<u>\$1,000</u> [\$1,040] plus 7.5 per 28 cent of excess over \$20,000
29 Over \$22,000 but not over \$24,000	<u>\$1,150</u> [\$1,190] plus 8.0 per

1		cent of excess over \$22,000
2	Over \$24,000 but not over \$28,000	<u>\$1,310</u> [\$1,350] plus 8.5 per
3		cent of excess over \$24,000
4	Over \$28,000 but not over \$32,000	<u>\$1,650</u> [\$1,690] plus <u>8.5</u> [9.0]
5		percent of excess over \$28,000
6	Over \$32,000 but not over \$38,000	<u>\$1,990</u> [\$2,050] plus <u>9.0</u> [9.5]
7		percent of excess over \$32,000
8	Over \$38,000 but not over \$44,000	<u>\$2,530</u> [\$2,430] plus 10.0 per
9		cent of excess over \$38,000
10	Over \$44,000 but not over \$50,000	<u>\$3,130</u> [\$3,030] plus 10.5 per
11		cent of excess over \$44,000
12	Over \$50,000 but not over \$60,000	<u>\$3,760</u> [\$3,660] plus 11.0 per
13		cent of excess over \$50,000
14	Over \$60,000 but not over \$70,000	<u>\$4,860</u> [\$4,760] plus 11.5 per
15		cent of excess over \$60,000
16	Over \$70,000 but not over \$80,000	<u>\$6,010</u> [\$5,910] plus <u>11.5</u> [12.0]
17		percent of excess over \$70,000
18	Over \$80,000 but not over \$90,000	<u>\$7,160</u> [\$7,110] plus <u>12.0</u> [12.5]
19		percent of excess over \$80,000
20	Over \$90,000 but not over \$100,000	\$8,360 plus 13.0 percent of
21		excess over \$90,000
22	Over \$100,000 but not over \$150,000	\$9,660 plus <u>13.0</u> [13.5] percent
23		of excess over \$100,000
24	Over \$150,000 but not over \$200,000	<u>\$16,160</u> [\$16,410] plus 14.0 per-
25		cent of excess over \$150,000
26	Over \$200,000 but not over \$300,000	<u>\$23,160</u> [\$23,410] plus 14.5 per-
27		cent of excess over \$200,000
28	Over \$300,000	<u>\$37,660</u> [\$37,910] plus 14.5 per-
29		cent of excess over \$300,000