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Further proposed changes, on page 3, lines 1 & 2, clarifies, in accordance with the intent of the Legislature's 1977 amendment, that persons making expenditures for advertising must report when attempting to influence initiative, referendum or recall petition efforts, as well as clarifying that expenditures both for or against candidates and issues must be reported.

Section 5 — The changes in this section are coupled with the proposed elimination of the requirement that "major" contributors file reports in Section 4 of this bill. Removes the language requiring the Form 15-5 be filed in 10 days.

Section 6 — This proposed change would eliminate the need for the supplier of Campaign Services (newspapers, radio and television stations, printers, pollsters, etc.) to file reports with the Commission.

Section 7 — This section proposes new language which would allow the candidate who does not intend to spend money or raise money (i.e., no financial campaign activity) to be able to state that fact at the outset of his or her campaign and not have to file any reports, unless the candidate does later begin spending or raising funds during the campaign.

Section 8 — Actually, there are no proposed language changes in this section. What this section does is remove most of the language which is currently found in AS 15.13.130(3), which defines a "group," and places it here in AS 15.13.050, which specifically deals with the registering and reporting requirements of groups. This "move" is suggested so that people may read about groups in one section. People often do not read the definition section, where a substantial portion of the important information about campaign groups is currently found. This would solve that confusion.

Section 9 — This section proposes new language requiring groups organized in support or opposition to ballot issues or petition drives to register before beginning campaign activity. The law currently requires groups supporting or opposing candidates to register prior to commencement, but is silent on when other groups should register.

An additional new section is proposed, which would require "on-going" groups, like political parties and political action committees, to annually renew their registration. This is necessary, as treasurers and officers change often, and there is no required procedure for updating the original registrations.

Section 10 — The proposed language in this section clarifies that a candidate is responsible for the performance of not only his treasurer, but also any deputy treasurers the candidate or treasurer may appoint to assist in the campaign.

Section 11 — This section removes the confusion over the intent of the phrase "competing candidates," and also clarifies that the subdivisions of a political party are exempt from the $1,000 limitation so long as they are not, in actuality, acting as a candidates's campaign committee.

In addition, and in accordance with the 1977 amendment to AS 15.13.110(e), this clearly states that more than $1,000 may be contributed to groups attempting to influence a petition drive.

Section 12 — The intent of the proposed changes in this section is to allow candidates to raise and spend money for their campaign prior to formally declaring for office, so long as that activity is reported when required. The current language basically prohibits campaign activity prior to filing for office.

Section 13 — The proposed additional language in this section would eliminate the need for municipal candidates and groups to file the 30 day pre-election report, and would also eliminate the need for legislative candidates to file the 30 day report, so long as they had not experienced over $1,000 in contribution or expenditure activity.

Section 14 — The amendment would eliminate the need to report expenditures on a 24 Hour Report Form during the week prior to an election.

Section 15 — This section proposes new language which names the 10 day post-election report as the final campagin disclosure report, if the campaign has ceased and all debts are paid, and stipulates the reporting requirements upon groups who must remain in active status after the 10 day report is filed.

Section 16 — This section, and the following section, attempts to clarify the criminal penalty section of the Campaign Disclosure Law. This section limits the scope of the penalty section, and views as misdemeanors only those items specifically enumerated. The current law makes any violation of AS 15.13 a criminal offense.

Section 17 — The changes proposed here eliminate the (probably) unconstitutional provision that voided a candidate's election if he or she were found guilty of a violation of the Campaign Disclosure Law, and replaces that provision with language requiring the Lieutenant Governor to withhold certification of a candidate's election pending resolution of a suit against a candidate for a certain alleged violation of the Campaign Disclosure Law.

Section 18 — This section is basically housekeeping, eliminating language in conjunction with the proposed changes discussed in Section 4, and clarifying that the Commission should report to the Attorney General the names of both candidates and groups when they have failed to file a report.

Section 19 — This section is not actually proposed new language. This language already exists in the statute as AS 15.13.120(d). However, in order to make it easy for people to find the complaint procedures, the language in (d) has been placed in a new section by itself and entitled "complaints."

Section 20 — This section substantially amends and expands the civil penalty section of the law. In conjunction with the limitations to the scope of the criminal penalty section proposed in Section 16 of this bill, an expansion of the civil penalty section is proposed here. The Commission's ability to more quickly and fairly administer the Campaign Disclosure Law rests with its ability to assess civil penalties for violations previously considered criminal violations. In addition to current civil penalties for the filing of late reports, this section proposes penalties for failing to register when required or failing to properly identify political campaign communcications.

Section 21 — The proposed language in this section would allow the Commission to also request the Attorney General to appoint a special prosecutor, and limit that choice to the private bar.

Section 22 — This section would considerably expand the definition of the word candidate, and encompasses the numerous alternative ways of becoming a "candidate."

Section 23 — This section clarifies what is meant by the word "group" and, in addition, removes most of the information about groups, which was transferred to AS 15.13.080 in Section 8 of this bill (see Section 8 analysis).

Section 24

This is the "repealer" section and repeals the following:

AS 15.13.070(f), (g) and (h) - these are the subsections of the law which set out the limitation on expenditures later declared unconstitutional by the U. S. Supreme Court.

AS 15.13.080 - this is the section which required major contributors to file a report of their contributions within 10 days (see Section 4 analysis).

AS 15.13.110(d) - this section required the supplier of campaign services to file reports of their business transactions within 30 days of an election (see Section 6 analysis).

AS 15.13.120(d) - this is the subsection dealing with complaints, which was placed into a separate section (see Section 19 analysis).

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

ALASKA PUBLIC OFFICES COMMISSION

610 C STREET, SUITE 209
ANCHORAGE, ALASKA 99501
PHONE: 276-4176 AND 274-0321

SECTION ANALYSIS OF HB 423

"An Act relating to the regulation of lobbying;..."

Prepared for: State Affairs Committee
Alaska State House of Representatives

Prepared by: Randall P. Burns RPB
Executive Director
Alaska Public Offices Commission

Date: April 3, 1979

AMENDMENT	EFFECT
Section 1	This amendment proposes new language in recognition of the two reasons for registering as a lobbyist: 1) because a person is specifically employed, contracted with, or retained to lobby, or 2) because a person expends more that $100 on public officials while attempting to influence the decisions of public officials.
Section 2	The language in this section proposes to reduce the number of unnecessary copies of the lobbyists' registration statements that are currently required to be distributed by the Commission.
Section 3	This is a new section of the law, and creates what has been labeled a "representational lobbyist" category. Section 16 of this bill defines a "representational lobbyist." This new section requires a representational lobbyist to register before lobbying, but the represenational lobbyist does not have to file reports. Only the "employer" (the person or group reimbursing the representational lobbyist) must report.
Section 4	This section proposes new language that sets out what a lobbyist is required to report. The current section is poorly written and confusing. This new language clearly states what is required, although it does not expand what is now required of lobbyists. Subsection (5) has been amended to increase the dollar threshold from $100 to $1000.
Section 5	This section amends the law to clarify the reporting requirements of employers of lobbyists. Generally, the proposed new wording makes it clear that groups employing lobbyists must file reports

as employers. The current language is unclear. In addition, the amendments will require the employer to report on the accrual basis rather than on the cash basis, and also will clarify the reporting of gifts to public officials or members of their immediate family.

Section 6 — This amendment creates a new subsection which stipulates that the Commission may not accept an employer of a lobbyist's registration until all delinquent reports from the previous year have been filed. This new language parallels already existing language regarding the annual renewal of a lobbyist's registration.

Section 7 — This section of the bill proposes a new section of the law, and would require the "employer" of a representational lobbyist to register as the source of the reimbursement within 15 days (also see Section 3 of this bill).

Section 8 — This proposed new language considerably simplifies the current section setting out the reporting periods, and amends the section so that both lobbyists and employers of lobbyists need only report quarterly. This amendment eliminates the lobbyist's monthly reporting requirement. This amendment does, however, require that the reports be filed within 15 days of the end of each calendar quarter, instead of the present one-month time frame allowed for the filing of reports.

Section 9 — This proposed amendment parallels the changes in Section 2 of this bill by eliminating the unnecessary duplication and distribution of reports filed.

Section 10 — This amendment would create a new section which gives the Commission discretionary powers to revoke or suspend the registration of a lobbyist or an employer of a lobbyist when they have refused or failed to file a required report. This language requires that an opportunity for a hearing must be afforded before the Commission can take such action.

Section 11 — This proposed language amends the exemption section of the law by making it clear that an individual who lobbies <u>without compensation</u> and does not spend over $100 on behalf of public officials or their immediate families should not register and report as a lobbyist. Current language requires that an individual, in order to remain exempt for registering as a lobbyist, must confine his or her comments to public hearings and appearances before legislative committees. This restriction upon uncompensated individuals seems overburdensome; therefore, its removal has been proposed.

Section 12 — The definition of what is considered "administrative" lobbying has been a major source of trouble for the Commission. The proposed language in this section attempts to place limits on the overbroad scope of what is currently considered reportable administrative lobbying by excluding from consideration those activities that are routine and necessary when dealing with the bureacracy, and those appearances at proceedings which are public and for which a record is generally kept.

Section 13 — This amendment narrows the scope of the law to the immediate family of public officials, not any individual in government.

Section 14 — The proposed changes in this section further emphasize the Commission's attempts to exclude from consideration as reportable lobbying activities those activities which are mandated by existing laws and regulations.

Section 15 — This proposed new language more clearly and simply defines a lobbyist. The current definition is vague and difficult to administer and enforce.

Section 16 — The proposed changes in this section only correct references to language in another statute (AS 39.50 - the Conflict of Interest Law) that do not exist as referenced

Section 17 — This section proposes additions to the definition section of the law, it sets out definitions for "representational lobbyist" (i.e., one who lobbies without compensation but who receives reimbursement for expenses), and for the term "source of income" (i.e., either the person or group directly paying the lobbyist, or other entities making payments through the direct employer).

Introduced: 3/22/79
Referred: State Affairs and Judiciary

BY THE STATE AFFAIRS COMMITTEE BY REQUEST (for the Special Sub-Committee on Elections)

IN THE HOUSE

HOUSE BILL NO. 423

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of lobbying; and providing for an effective date."

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

* Section 1. AS 24.45.041(a) is repealed and re-enacted to read:

(a) Registration with the commission in accordance with the provisions of this section is required of

(1) a lobbyist, before he engages in lobbying; or

(2) an individual who is exempt from registration under AS 24.45.161(a)(1) and who loses the exemption, within 15 days after he loses the exemption.

* Sec. 2. AS 24.45.041(e) is amended to read:

(e) Within 45 days after the convening of each regular session of the legislature, the commission shall publish a directory of registered lobbyists, containing the information prescribed in (b) of this section for each lobbyist, and the photograph, if any, furnished by a lobbyist under (c) of this section. <u>The</u> [FROM TIME TO TIME THEREAFTER THE] commission <u>may</u> [SHALL] publish [THOSE] supplements to the directory that [IN] the <u>commission considers</u> [COMMISSION'S JUDGMENT MAY BE] necessary. The directory shall be made available to public officials and to the public at [THE FOLLOWING LOCATIONS:] a public place adjacent to the legislative chambers in the state capitol<u>. If no district office is maintained by the commission in the capital, the directory shall be made available at</u> [BUILDING,] the office of the lieutenant governor[,] <u>and in</u> the legislative reference library of the Legislative Affairs

161 A2 - is exempt

Agency [AND THE COMMISSION'S CENTRAL OFFICE].

* Sec. 3. AS 24.45 is amended by adding a new section to read:

Sec. 24.45.043. REPRESENTATIONAL LOBBYIST. Before engaging in lobbying, a representational lobbyist shall register on a form prescribed by the commission.

* Sec. 4. AS 24.45.051 is repealed and re-enacted to read:

Sec. 24.45.051. REPORTS. (a) A lobbyist registered under AS 24.45.041 shall file a report with the commission concerning his activities during each reporting period, or portion of a reporting period, in which he remains registered with the commission, regardless of the amount of expenditures made or payments received by him. The report shall be made on a form prescribed by the commission and filed in accordance with AS 24.45.071 and 24.45.081. The report shall contain the following:

(1) the amount of income, including but not limited to salary, fee, retainer, or other things of value, together with the full name and complete address of each source of income;

(2) the amount of expenditures made or indebtedness incurred during the reporting period and during the calendar year to date by the lobbyist, or by the lobbyist and payable by the employer of the lobbyist, or reimbursable to the lobbyist by his employer, including but not limited to expenditures for

(A) food and beverages;

(B) living accommodations;

(C) travel;

(D) office expenses, including rent and utilities; and

(E) secretarial services;

(3) the date, nature, and monetary value of any gift or gifts exceeding $100 in value in the aggregate made to a public official, or to a member of the immediate family of a public official, during the

calendar year and the full name and official position of the public official, and the name of each member of the immediate family of the public official who is a recipient of a gift;

(4) the name and official position of each public official, and the name of each member of the immediate family of the public official, with whom the lobbyist has exchanged money, goods, services or anything of more than $100 in value, the nature and date of each of these exchanges, and the monetary values exchanged;

(5) the name and address of any business in which the lobbyist knows or has reason to know that a public official is a proprietor, partner, director, officer or manager, or has controlling interest, with whom the lobbyist exchanged money, goods, services, or anything of value and the nature and date of each exchange and the monetary value exchanged, if the total value of these exchanges is $1,000 or more in a calendar year; and

(6) a notice of termination, if the lobbyist has ceased the lobbying activity which required his registration under this chapter and if the report is the final report of his activities.

(b) A report required to be filed under this section shall include all amounts which are received by the lobbyist or which are due to him as consideration for, or directly or indirectly in support of, or in connection with, influencing legislative or administrative action.

* Sec. 5. AS 24.45.061 is amended to read:

Sec. 24.45.061. REPORTS BY EMPLOYERS OF LOBBYISTS. (a) Within 15 days after employing, retaining or contracting for the employment or retention of a lobbyist, the person <u>or group employing, retaining, or contracting</u> [WHO EMPLOYES, RETAINS, OR WHO CONTRACTS] for the services of a lobbyist shall file a statement with the commission authorizing or verifying that employment, retention or contract for lobbying services.

(b) A person or group who employs, retains or who contracts for the services of one or more lobbyists, whether independently or jointly with others [OTHER PERSONS], and who directly or indirectly makes payments to influence legislative or administrative action shall file a [QUARTERLY] report containing

(1) the full name, complete business address and telephone number of the person or group making the report;

(2) information sufficient to identify the nature and interests of the person or group making the report;

(3) the total amount of payments made or indebtedness incurred during the period to influence legislative or administrative action [DURING THE PERIOD], and the name and address of each person to whom these payments have been made or for whom the indebtedness was incurred [DURING THE PERIOD BY THE MAKER OF THE REPORT], together with the [DATE AND] amount of payment;

(4) the date, [AND] nature and value of any gift exceeding $100 in value made during the reporting period to any public official, or to a member of the immediate family of a public official, and the full name and official position of the public official, along with the name of each member of the immediate family of the public official who is a recipient of a [EACH] gift;

(5) a general description of the legislative or administrative action which the person or group making the report has attempted to influence;

(6) the name of each lobbyist employed or retained by the person or group making the report, together with the total amount paid to each lobbyist and the portion of that amount, if any, which was paid for specific purposes, including salary, fees, and reimbursement for expenses; and

(7) a notice of termination if the person or group filing a report has ceased employing or retaining a lobbyist registered under this chapter and if this report constitutes the final report of the lobbyist's activities on behalf of the maker of the report.

* Sec. 6. AS 24.45.061 is amended by adding a new subsection to read:

(c) Annual statements of authorization may not be accepted by the commission until the employer has filed all reports or statements which he has failed to file for a previous reporting period.

* Sec. 7. AS 24.45 is amended by adding a new section to read:

Sec. 24.45.063. REPORTS BY PERSONS REIMBURSING REPRESENTATIONAL LOBBYISTS. A person or group reimbursing the travel and personal living expenses of a representational lobbyist shall, within 15 days after providing reimbursement, file a statement with the commission verifying that the person or group has retained the services of a person as a representational lobbyist.

* Sec. 8. AS 24.45.081 is repealed and re-enacted to read:

Sec. 24.45.081. REPORTING PERIODS. (a) Each calendar quarter is a reporting period. Reports shall be filed with the commission not later than the 15th day of the end of each reporting period by

(1) persons registered as lobbyists; and

(2) persons or groups who, under AS 24.45.061, employ lobbyists or representational lobbyists.

(b) The reports filed shall cover the period from the date of registration, or from the final date of the last report filed under this chapter, through the date of the end of the calendar quarter for which the report is being filed. The period covered may not include any months covered in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated both for the period covered by the report and for the entire calendar year to date.

* Sec. 9. AS 24.45.091 is amended to read:

Sec. 24.45.091. PUBLICATION OF REPORTS. Copies of the statements and reports filed under this chapter shall be made available to the public at the commission's district [CENTRAL] office[,] in the state capital. If no district office is maintained by the commission in the state capital, the statements and reports shall be made available in the office of the lieutenant governor, and in the legislative reference library of the Legislative Affairs Agency [, AND AT THE COMMISSION'S DISTRICT OFFICES PRESCRIBED IN AS 15.13.020(j) AS SOON AS PRACTICABLE AFTER EACH REPORTING PERIOD].

* Sec. 10. AS 24.45 is amended by adding a new section to read:

Sec. 24.45.146. REVOCATION AND SUSPENSION. If the commission finds that a lobbyist or an employer of a lobbyist is in violation of a provision of this chapter, the commission may require the lobbyist or employer of a lobbyist to file a statement or report due under this chapter. If the lobbyist or employer of a lobbyist fails or refuses to comply with an order of the commission to file a statement or report, the commission may, after giving notice and affording an opportunity for a hearing, revoke or suspend the registration of a lobbyist or employer of a lobbyist.

* Sec. 11. AS 24.45.161(a)(1) is amended to read:

(1) an individual [(A)] who lobbies without payment, [OF] compensation, or any economic [OTHER] consideration or who lobbies without the promise of payment, compensation or economic consideration, and who does not expend more than $100 in the aggregate during a calendar year [MAKES NO DISBURSEMENT OR EXPENDITURE] for or on behalf of a public official, or a member of the immediate family of a public official, to influence legislative or administrative action [OTHER THAN TO PAY HIS REASONABLE PERSONAL TRAVEL AND LIVING EXPENSES; AND (B) WHO LIMITS HIS

LOBBYING ACTIVITIES TO APPEARANCES BEFORE PUBLIC SESSIONS OF THE LEGISLATURE, OR ITS COMMITTEES OR SUBCOMMITTEES, OR TO PUBLIC HEARINGS OR OTHER PUBLIC PROCEEDINGS OF STATE AGENCIES];

* Sec. 12. AS 24.45.171(1) is repealed and re-enacted to read:

(1) "administrative action" means a proceeding, decision or action by a public official of a state agency; the term excludes

(A) a proceeding or action to determine the rights or duties of a person under existing laws, regulations or policies;

(B) a proceeding involving the issuance, amendment or revocation of a permit, license or other entitlement for use;

(C) a proceeding or action to enforce compliance with existing law or to impose sanctions for violations of existing law;

(D) a proceeding involving the purchase or sale of property, goods, or services by the state agency;

(E) a proceeding awarding a grant or contract;

(F) a proceeding involving the issuance of a legal opinion.

* Sec. 13. AS 24.45.171(4) is amended to read:

(4) "immediate family" means the spouse and dependent children of <u>a public official</u> [AN INDIVIDUAL];

* Sec. 14. AS 24.45.171(6) is amended to read:

(6) "influencing legislative or administrative action" means promoting, advocating, supporting, modifying, opposing or delaying or <u>attempting</u> [SEEKING] to do <u>any of these</u> [THE SAME] with respect to any legislative or administrative action by means including but not limited to the provision or use of information, statistics, studies, analyses in written or oral form or format; <u>the term excludes inquiries about or activity conforming to procedures required by law</u>;

* Sec. 15. AS 24.45.171(8) is repealed and re-enacted to read:

(8) "lobbyist" means a person who, for the purpose of influencing legislative or administrative action

(A) is employed and receives direct or indirect payments, or who contracts for economic consideration, including reimbursement for expenses, to communicate directly or through his agent with any public official; or

(B) who makes disbursements for or on behalf of a public official, or for or on behalf of a member of the immediate family of a public official;

* Sec. 16. AS 24.45.171(12) is amended to read:

(12) "public official" or "public officer [OFFICE]" means a public official or public officer [OFFICE] as defined in AS 39.50.200(1) and includes an employee of the legislature; the term excludes [HOWEVER, IT DOES NOT INCLUDE A] judicial and municipal officers; [OFFICER OR AN ELECTED OR APPOINTED MUNICIPAL OFFICER.]

* Sec. 17. AS 24.45.171 is amended by adding new paragraphs to read:

(13) "representational lobbyist" means an individual who is not employed as a lobbyist and who receives no economic consideration for attempting to influence legislative or administrative action except reimbursement for travel and personal living expenses;

(14) "source of income" means

(A) the person or group for which lobbying services are performed; or

(B) the person or group which is the origin of payment for lobbying services, or the direct employer of the lobbyist, or both.

* Sec. ~~18.~~ This Act takes effect January 1, 1980.

Sec. 18. This section repeal 16(A)2 which exempts public employees of govt employees or non-profit organizations and Boards and Commissions.

State Supported Agencies - Various Boards - Women Personal Comm
dlb Plan

ALPHABETICAL LISTING OF EMPLOYERS OR CLIENTS OF LOBBYISTS

ON FILE WITH THE ALASKA PUBLIC OFFICES COMMISSION

AS OF MARCH 30, 1979

Employer or Client	Name of Lobbyist
Abused Women's Aid in Crisis	Kit Evans
AFCO Credit Corporation	M.T. Thomas
Air Line Pilots Assn.	Allan S. Anderson ** Ross Carswell ** William Hately ** Thomas Richards, Sr. **
Alaska Action Trust	Thomas B. Tiss
Alaska Air Carriers Assn.	James M. Dodson, Jr.
Alaska Airlines	Trust Consultants
Alaska Bank of Commerce	Burr, Pease & Kurtz
Alaska Bankers Assn.	Wes Coyner
Alaska Bar Assn.	Ely, Guess & Rudd
Alaska Cabaret Hotel and Restaurant Assn.	Rex Cooper
Alaska Chapter, Associated General Contractors	Marcus Jensen Richard Pittenger Hubert Glenzer, Jr.
Alaska Chapter, National Assn. of Social Workers	Cecilia Kleinkauf
Alaska Conservation Society	Virginia dal Piaz
Alaska Council of School Administrators	Ronald W. Hohman
Alaska Credit Union League	Sharyn Campbell David Chatfield
Alaska Dental Society	Joshua J. Wright
Alaska Ferry - Bellingham Terminal Task Force	Phil R. Holdsworth
Alaska Health Coalition	Jana Varrati

Alaska Hospital and Medical Center	Emmitt L. Wilson
Alaska Independent Insurance Agents & Brokers	Ely, Guess & Rudd
Alaska International Industries	Trust Consultants
Alaska Landlord & Property Managers Assn.	Bernard Marsh
Alaska Land Title Assn.	John W. Real Groh, Eggers, Robinson, Price & Johnson
Alaska League of Savings & Loan Associations	Richard B. Lauber
Alaska Legal Services Corp.	Donald E. Clocksin
Alaska Lumber & Pulp	J.F. Clark F.O. Eastaugh M.T. Thomas Marcus Jensen Resa King D. Elizabeth Cuadra *
Alaska Mortgage Bankers Assn.	Robert W. Fritz
Alaska Municipal League	Virginia Chitwood Marilyn Miller Susan King
Alaska Mutual Savings Bank	Robert W. Sullivan
Alaska Nurses Assn.	Barbara Walker
Alaska Oil & Gas Assn.	Keith Arnold O. K. Gilbreth William Hopkins
Alaska Petrochemical Company	Burr, Pease & Kurtz Ronald R. Dagon Henry S. Pratt
Alaska Professional Hunters Assn.	Thomas B. Biss **
Alaska Public Employees Association	Cherie Shelley Patrick E. Murphy
Alaska Public Interest Research Group	James Love
Alaska Retail Assn.	Donald R. Magnusson
Alaska Rural Electric Cooperative Assn.	David Hutchens

Alaska Society of CPA's	Edward S. Foster
Alaska State AFL/CIO	Dwayne Carlson
Alaska State Chamber of Commerce	Don Dickey Ruth M. Harris
Alaska State District Council of Laborers	Jim Robison David McDonald
Alaska State Hospital Assn.	Max F. Kersbergen
Alaska State Medical Assn.	Jeffrey Landry
Alaska Student Lobby	Rob Mourant
Alaska Surplus Line Brokers Assn.	Ely, Guess & Rudd
Alaska Telephone Assn.	Sharon Macklin
Alaska Trailer Court Assn.	Bernard Marsh
Alaska Trucking Association	P. W. Benediktsson
Alaska Visitors Association	Dean Ehrich
Alaska Wood Products	Al Anderson
Alaska Youth Advocates	Marilee Fletcher
Alaskans for Litter Control & Recycling	Eric Ekvall
Alliance of American Insurers	Thomas Findley Thomas Conneely
American Assn. of Retired Persons	Florence Barnhardt
American Council of Life Insurance	F.O. Eastaugh M.T. Thomas
American Insurance Assn.	F.O. Eastaugh M.T. Thomas
American Legion	Warren C. Colver
Anchorage Assn. of Independent Insurance Agents	Ely, Guess & Rudd
Anchorage Child Abuse Board	Melinda G. Gruening
Anchorage School Board	Darlene Chapman Heather Flynn

Association of Alaska School Boards	Robert C. Greene Susan G. Murphy
Atlantic Richfield Company	Dave Harbour Charles L. Cavness Hugh R. Motley
Beneficial Management Corp.	Douglas Bisbee F. O. Eastaugh M. T. Thomas
Blue Cross of Washington & Alaska	Curt Fortney Joan Gaumer Wes Coyner
Borough Residents for Autonomy	Dick Juelson Lorna-Lee L. Arndt **
C H R A Chevron	Forrest Smith Eugene Wiles
Chignik Boatowners Assn.	Jan Van Dort
Chugach Electric Assn.	Lawrence D. Markley
City of Kodiak	Robert L. Hartig
City of Valdez	Trust Consultants
Colonial Penn Franklin Insurance Co.	Arthur B. Becker
Colonial Penn Insurance Co.	Arthur B. Becker
Colonial Penn Life Insurance Co.	Arthur B. Becker
Continental Telephone Co.	E. Ken Larsen
Eklutna, Inc.	Burr, Pease & Kurtz
Eklutna Utilities	Burr, Pease & Kurtz
Exxon Co., USA	James R. Howell Steven J. Kettlekamp Robert J. Walker, Jr. W. Monte Taylor Roy A. Baze * D. Bruce Brunson * Judd Miller, Jr. *
Five Star Consulting & Research	Joseph A. Sonneman

	Lew Dischner
General Teamsters Local #959	Junior J. Ramos Rose Palmquist Trust Consultants
Glacier Highway Electric Assn.	W. G. Ruddy
Household Finance Corp.	Faulkner, Banfield, Doogan & Holmes
Inland Boatmens's Union	Greg O'Claray Homer Sarber
International Brotherhood of Electrical Workers, Local #1547	Thomas E. Cashen
Kodiak Island Borough	Dale Tubbs Joan M. Katz
Kodiak Lumber Mills	Marcus Jensen
League of Women Voters	Margaret Holland Susan Clark
Lower Kuskokwim School District	Susan G. Murphy
Matanuska-Susitna Borough	Burr, Pease & Kurtz Dale Tubbs C.A. Champion
Mobil Oil Corp.	C. Waco Shelley
Motion Picture Assn. of America	Faulkner, Banfield, Doogan & Holmes
Motor Vehicle Manufacturers Assn.	James Austin
Municipality of Anchorage	Don M. Berry
NEA/Alaska, Inc.	Robert Cooksey Robert Van Houte Susan Stitham
National Federation of Independent Business	David Olerud
National Retired Teachers Assn.	Florence Barnhardt
North Slope Borough	Trust Consultants w/o Jon Buckholtz
Northwest Alaskan Pipeline Co.	Michael D. Bradner Jack D. Bachman

ODOM Corporation	J.B. Hanford
Olympic Resource Management	Joseph A. Weber
Pacific Alaska LNG Associates	Ely, Guess & Rudd
Pacific Alaska LNG Co.	William Cole
Pacific Gas & Electric	Ken Dorking
Pacific Seafood Processors Assn.	Richard B. Lauber
Pioneer National Title Insurance Co.	Richard C. Mohler
Port of Seattle Plumbers & Pipefitters, Local #262	Dale L. Green
Public Employees Local #71	Ken Spray
Rand Dawson	Thomas B. Biss
RCA Alascom	Sam Kito, Jr. Charles Robinson George Shaginaw Bill Maguire Tom Jensen Henry S. Pratt Trust Consultants
Resource Development Council of Alaska	Paula P. Easley
Robert Wold Co.	Robert Wold Gene Deck Gail Kurosaki
Safeco Title Insurance Co.	Frank Soderling
Sealaska Corporation	Chris E. McNeil, Jr.
Security Title & Trust	John W. Real
Shell Oil Company	Dennis Lohse
Sohio Petroleum Company	T.A. Bradner K.E. Showalter
Southeastern Conference	Phil R. Holdsworth
Southern California Gas Company	William L. Cole
Standard Oil Co. (Ohio)	Richard M. Donaldson Charles W. Karcher

Tobacco Institute	John P. Irvine
Tobacco Tax Council	Trust Consultants
Union Alaska Pipeline Co.	Burr, Pease & Kurtz
Union Oil of California	Larry Vavra Burr, Pease & Kurtz
United Bank Alaska	Eugene Erskine
United Fishermen of Alaska	Shari Gross
United Southeast Alaska Gillnetters	Warren W. Wiley
United States Brewers Assn.	Richard Lauber
University of Alaska - University Land Management	Dale P. Tubbs
Usibelli Coal Mines/Alaska Miners Assn.	Phil R. Holdsworth
Village Ventures, Inc.	Dale Tubbs
Washington-Alaska Group Services	Curt Fortney Joan Gaumer
Whittier Road Development Assn.	Bernard L. Marsh
Wien Air Alaska	Jack Weise
Wine Institute	Jack Matthews

** As of the date of this list, these individuals have terminated their lobbying activity for the employer indicated.
* New registration

133 Registered employers or clients of lobbyists

Original sponsor: State Affairs Committee by request

Offered: 4/5/79
Referred: Judiciary

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 421

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to conflict of interest; and providing for an effective date."

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

* Section 1. AS 39.50.020(a) is amended to read:

(a) A judicial officer, commissioner, chairman or member of a state commission or board specified in AS 39.50.200(9), person hired or appointed as head or deputy head of, or director of a division within, a department in the executive branch, person appointed as assistant to the governor, and a municipal officer, shall file a statement giving his income sources and business interests, under oath and on penalty of perjury, within 30 days after he takes office as a public official. A candidate [CANDIDATES] for state elective office shall file such a statement at the time of filing a declaration of candidacy or within 30 days of the filing of any nominating petition, or within 30 days of becoming a candidate by any other means, unless he files for office during a year other than the year in which he seeks nomination or election to office. If a candidate files for office during a year other than the year in which he seeks nomination or election to the office he shall file a statement required by this subsection between January 1 and on or before January 10 of the election year. Candidates for elective municipal office shall file such a statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office. A public official who files for state elective office is not required to file a statement at the time he becomes a candidate,

but a municipal officer who files for state elective office shall file a copy of the statement which he has filed for municipal office with the commission. Refusal or failure to file within the time prescribed shall require that the candidate's filing fees, if any, and filing for office be refused or that his previously accepted filing fee be returned and his name removed from the filing records. A statement shall also be filed by public officials no later than April 15 [OR 15 DAYS AFTER THE PERSON FILES HIS FEDERAL INCOME TAX RETURN] in each following year. A person who is subject to the reporting provisions of this chapter and who leaves that position shall file a statement covering the period from the date of the last previous statement that he filed in accordance with this subsection through the date of his termination from the position [, WHICHEVER SHALL COME FIRST. PERSONS WHO, ON OR AFTER DECEMBER 11, 1974, WERE MEMBERS OF BOARDS OR COMMISSIONS NOT NAMED IN AS 39.50.200(9) ARE NOT REQUIRED TO FILE FINANCIAL STATEMENTS].

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

ALASKA PUBLIC OFFICES COMMISSION

610 C STREET, SUITE 209
ANCHORAGE, ALASKA 99501
PHONE: 276-4176 AND 274-0321

SECTION ANALYSIS OF HB 421

"An Act relating to Conflict of Interest;..."

Prepared for: State Affairs Committee
Alaska State House of Representatives

Prepared by: Randall P. Burns RPB
Executive Director
Alaska Public Offices Commission

Date: April 3, 1979

AMENDMENT	EFFECT
Section 1	This amendment would require individuals who formally file for State elective office during an off-election year to file a "current" Conflict of Interest Statement before June 1 of the actual election year, thus guaranteeing that all candidates will have Statements on file covering the same preceding year.
Section 2	The proposed language would require that public officials subject to the Conflict of Interest Law who resign from their hired, appointed or elected positions file a Statement covering the period from the final date of their last Conflict of Interest Statement through the date of their termination. Current law does not require the public official leaving government to disclose his business and financial interests for any part of the period that he was in office since his previous Statement was filed. Thus, an official who resigns prior to April 15th can now have worked, at maximum, fifteen months for which there is no Statement from the official for his last year and one-quarter in office.

(Detailed rationale for these two proposed Amendments can be found on pages 10-13 of the Commission's 1977 Annual Report.)

01-A9LH

cut out
lost frame

HB 422

Further proposed amendment to Section 7 of the bill, subsection (b), page 4:

AS 15.13.042(b) should read:

(b) A candidate who receives contributions or makes expenditures after certifying to no campaign activity under (a) of this section is no longer exempt from the reporting requirements of this chapter. The candidate who loses his exemption shall amend his registration and shall file reports of his activities when required by AS 15.13.110.

HB

421

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

ALASKA PUBLIC OFFICES COMMISSION

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(Detailed rationale for these two proposed Amendments can be found on pages 10-13 of the Commission's 1977 Annual Report.)

01-A9LH

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SECTION ANALYSIS OF HB 422

"An Act relating to the regulation of election campaigns;..."

Prepared for: State Affairs Committee
Alaska State House of Representatives

Prepared by: Randall P. Burns RPB
Executive Director
Alaska Public Offices Commission

Date: April 3, 1979

AMENDMENT	EFFECT
Section 1	The proposed language makes clear that citizens of a municipality, when voting on exemption from AS 15.13, are voting to exempt all parties potentially subject to the Campaign Disclosure Law. In addition, the Legislature, in 1977, amended AS 15.13 to require groups sponsoring initiative, referendum or recall petitions to file Campaign Disclosure reports (see AS 15.13.110(e)). This language simply amends the "Applicability Section" to state that this law does apply to attempts to influence an initiative, referendum or recall effort.
Section 2	This section adds a single word ("purpose") to clarify that candidates should briefly identify the purpose of campaign expenditures. (Candidates are already providing this information to the public. However, in light of the Commission's recommended change in Section 6 of this bill -- which eliminates the need for suppliers of campaign services to file reports -- it is particularly important that the statute clearly require candidates to briefly state the purpose of expenditures.)
Section 3	This section requires the same reporting requirement of groups, as described above in Section 2 for candidates (i.e., that a group breiefly state the purpose of its expenditures).
Section 4	This amendment, in conjunction with the repeal of AS 15.13.080 listed in Section 24 of this bill, proposes to eliminate the requirement that individuals, person or groups contributing over $250 must file a Contributor's Statement (APOC Form 15-5) with the Commission.

01-A9LH

Further proposed changes, on page 3, lines 1 & 2, clarifies, in accordance with the intent of the Legislature's 1977 amendment, that persons making expenditures for advertising must report when attempting to influence initiative, referendum or recall petition efforts, as well as clarifying that expenditures both for or against candidates and issues must be reported.

Section 5 — The changes in this section are coupled with the proposed elimination of the requirement that "major" contributors file reports in Section 4 of this bill. Removes the language requiring the Form 15-5 be filed in 10 days.

Section 6 — This proposed change would eliminate the need for the supplier of Campaign Services (newspapers, radio and television stations, printers, pollsters, etc.) to file reports with the Commission.

Section 7 — This section proposes new language which would allow the candidate who does not intend to spend money or raise money (i.e., no financial campaign activity) to be able to state that fact at the outset of his or her campaign and not have to file any reports, unless the candidate does later begin spending or raising funds during the campaign.

Section 8 — Actually, there are no proposed language changes in this section. What this section does is remove most of the language which is currently found in AS 15.13.130(3), which defines a "group," and places it here in AS 15.13.050, which specifically deals with the registering and reporting requirements of groups. This "move" is suggested so that people may read about groups in one section. People often do not read the definition section, where a substantial portion of the important information about campaign groups is currently found. This would solve that confusion.

Section 9 — This section proposes new language requiring groups organized in support or opposition to ballot issues or petition drives to register before beginning campaign activity. The law currently requires groups supporting or opposing candidates to register prior to commencement, but is silent on when other groups should register.

An additional new section is proposed, which would require "on-going" groups, like political parties and political action committees, to annually renew their registration. This is necessary, as treasurers and officers change often, and there is no required procedure for updating the original registrations.

Section 10 — The proposed language in this section clarifies that a candidate is responsible for the performance of not only his treasurer, but also any deputy treasurers the candidate or treasurer may appoint to assist in the campaign.

Section 11 — This section removes the confusion over the intent of the phrase "competing candidates," and also clarifies that the subdivisions of a political party are exempt from the $1,000 limitation so long as they are not, in actuality, acting as a candidates's campaign committee.

In addition, and in accordance with the 1977 amendment to AS 15.13.110(e), this clearly states that more than $1,000 may be contributed to groups attempting to influence a petition drive.

Section 12 — The intent of the proposed changes in this section is to allow candidates to raise and spend money for their campaign prior to formally declaring for office, so long as that activity is reported when required. The current language basically prohibits campaign activity prior to filing for office.

Section 13 — The proposed additional language in this section would eliminate the need for municipal candidates and groups to file the 30 day pre-election report, and would also eliminate the need for legislative candidates to file the 30 day report, so long as they had not experienced over $1,000 in contribution or expenditure activity.

Section 14 — The amendment would eliminate the need to report expenditures on a 24 Hour Report Form during the week prior to an election.

Section 15 — This section proposes new language which names the 10 day post-election report as the final campagin disclosure report, if the campaign has ceased and all debts are paid, and stipulates the reporting requirements upon groups who must remain in active status after the 10 day report is filed.

Section 16 — This section, and the following section, attempts to clarify the criminal penalty section of the Campaign Disclosure Law. This section limits the scope of the penalty section, and views as misdemeanors only those items specifically enumerated. The current law makes any violation of AS 15.13 a criminal offense.

Section 17 — The changes proposed here eliminate the (probably) unconstitutional provision that voided a candidate's election if he or she were found guilty of a violation of the Campaign Disclosure Law, and replaces that provision with language requiring the Lieutenant Governor to withhold certification of a candidate's election pending resolution of a suit against a candidate for a certain alleged violation of the Campaign Disclosure Law.

Section 18 — This section is basically housekeeping, eliminating language in conjunction with the proposed changes discussed in Section 4, and clarifying that the Commission should report to the Attorney General the names of both candidates and groups when they have failed to file a report.

Section 19 — This section is not actually proposed new language. This language already exists in the statute as AS 15.13.120(d). However, in order to make it easy for people to find the complaint procedures, the language in (d) has been placed in a new section by itself and entitled "complaints."

Section 20 — This section substantially amends and expands the civil penalty section of the law. In conjunction with the limitations to the scope of the criminal penalty section proposed in Section 16 of this bill, an expansion of the civil penalty section is proposed here. The Commission's ability to more quickly and fairly administer the Campaign Disclosure Law rests with its ability to assess civil penalties for violations previously considered criminal violations. In addition to current civil penalties for the filing of late reports, this section proposes penalties for failing to register when required or failing to properly identify political campaign communcications.

Section 21 — The proposed language in this section would allow the Commission to also request the Attorney General to appoint a special prosecutor, and limit that choice to the private bar.

Section 22 — This section would considerably expand the definition of the word candidate, and encompasses the numerous alternative ways of becoming a "candidate."

Section 23 — This section clarifies what is meant by the word "group" and, in addition, removes most of the information about groups, which was transferred to AS 15.13.080 in Section 8 of this bill (see Section 8 analysis).

Section 24

This is the "repealer" section and repeals the following:

AS 15.13.070(f), (g) and (h) - these are the subsections of the law which set out the limitation on expenditures later declared unconstitutional by the U. S. Supreme Court.

AS 15.13.080 - this is the section which required major contributors to file a report of their contributions within 10 days (see Section 4 analysis).

AS 15.13.110(d) - this section required the supplier of campaign services to file reports of their business transactions within 30 days of an election (see Section 6 analysis).

AS 15.13.120(d) - this is the subsection dealing with complaints, which was placed into a separate section (see Section 19 analysis).

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

ALASKA PUBLIC OFFICES COMMISSION

610 C STREET, SUITE 209
ANCHORAGE, ALASKA 99501
PHONE: 276-4176 AND 274-0321

SECTION ANALYSIS OF HB 423

"An Act relating to the regulation of lobbying;..."

Prepared for: State Affairs Committee
Alaska State House of Representatives

Prepared by: Randall P. Burns RPB
Executive Director
Alaska Public Offices Commission

Date: April 3, 1979

AMENDMENT	EFFECT
Section 1	This amendment proposes new language in recognition of the two reasons for registering as a lobbyist: 1) because a person is specifically employed, contracted with, or retained to lobby, or 2) because a person expends more that $100 on public officials while attempting to influence the decisions of public officials.
Section 2	The language in this section proposes to reduce the number of unnecessary copies of the lobbyists' registration statements that are currently required to be distributed by the Commission.
Section 3	This is a new section of the law, and creates what has been labeled a "representational lobbyist" category. Section 16 of this bill defines a "representational lobbyist." This new section requires a representational lobbyist to register before lobbying, but the represenational lobbyist does not have to file reports. Only the "employer" (the person or group reimbursing the representational lobbyist) must report.
Section 4	This section proposes new language that sets out what a lobbyist is required to report. The current section is poorly written and confusing. This new language clearly states what is required, although it does not expand what is now required of lobbyists. Subsection (5) has been amended to increase the dollar threshold from $100 to $1000.
Section 5	This section amends the law to clarify the reporting requirements of employers of lobbyists. Generally, the proposed new wording makes it clear that groups employing lobbyists must file reports

as employers. The current language is unclear. In addition, the amendments will require the employer to report on the accrual basis rather than on the cash basis, and also will clarify the reporting of gifts to public officials or members of their immediate family.

Section 6 — This amendment creates a new subsection which stipulates that the Commission may not accept an employer of a lobbyist's registration until all delinquent reports from the previous year have been filed. This new language parallels already existing language regarding the annual renewal of a lobbyist's registration.

Section 7 — This section of the bill proposes a new section of the law, and would require the "employer" of a representational lobbyist to register as the source of the reimbursement within 15 days (also see Section 3 of this bill).

Section 8 — This proposed new language considerably simplifies the current section setting out the reporting periods, and amends the section so that both lobbyists and employers of lobbyists need only report quarterly. This amendment eliminates the lobbyist's monthly reporting requirement. This amendment does, however, require that the reports be filed within 15 days of the end of each calendar quarter, instead of the present one-month time frame allowed for the filing of reports.

Section 9 — This proposed amendment parallels the changes in Section 2 of this bill by eliminating the unnecessary duplication and distribution of reports filed.

Section 10 — This amendment would create a new section which gives the Commission discretionary powers to revoke or suspend the registration of a lobbyist or an employer of a lobbyist when they have refused or failed to file a required report. This language requires that an opportunity for a hearing must be afforded before the Commission can take such action.

Section 11 — This proposed language amends the exemption section of the law by making it clear that an individual who lobbies <u>without compensation</u> and does not spend over $100 on behalf of public officials or their immediate families should not register and report as a lobbyist. Current language requires that an individual, in order to remain exempt for registering as a lobbyist, must confine his or her comments to public hearings and appearances before legislative committees. This restriction upon uncompensated individuals seems overburdensome; therefore, its removal has been proposed.

Section 12 — The definition of what is considered "administrative" lobbying has been a major source of trouble for the Commission. The proposed language in this section attempts to place limits on the overbroad scope of what is currently considered reportable administrative lobbying by excluding from consideration those activities that are routine and necessary when dealing with the bureacracy, and those appearances at proceedings which are public and for which a record is generally kept.

Section 13 — This amendment narrows the scope of the law to the immediate family of public officials, not any individual in government.

Section 14 — The proposed changes in this section further emphasize the Commission's attempts to exclude from consideration as reportable lobbying activities those activities which are mandated by existing laws and regulations.

Section 15 — This proposed new language more clearly and simply defines a lobbyist. The current definition is vague and difficult to administer and enforce.

Section 16 — The proposed changes in this section only correct references to language in another statute (AS 39.50 - the Conflict of Interest Law) that do not exist as referenced.

Section 17 — This section proposes additions to the definition section of the law, It sets out definitions for "representational lobbyist" (i.e., one who lobbies without compensation but who receives reimbursement for expenses), and for the term "source of income" (i.e., either the person or group directly paying the lobbyist, or other entities making payments through the direct employer).

HB

422

(7)

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

March 22, 1979 Date: 4-3-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 422

"An Act relating to the regulation of election campaigns; eff. date."

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Ray McCarthy - Do Rec
Terry Martin - Do Rec.
Jerrell Gardner - Do Pass

CHAIRMAN

H 60 (Rev. 12/78)

Memo to Bill file:HB 422 Date: April 23, 1979
By: Berck

See HB 421 for a sectional analysis of HB 422.

HB
423

(7)

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

March 22, 1979 Date: 4-4-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 423

"An Act relating to the regulation of lobbying; eff. date."

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[X] do pass [ ] do not pass

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[ ] 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:

Terry Martin no rec.

CHAIRMAN

H 60 (Rev. 12/78)

AMENDMENT

OFFERED IN THE HOUSE: BY: State Affairs

TO: _____ HOUSE BILL No. 423

SENATE BILL No. _____

PAGE: _____ LINE: _____

Page 4, line 13:

Delete "for" and insert "with" in its place

Page 7, line 6:

Delete "of" and insert "or" in its place

Page 8, line 13:

Delete "an employee" and insert "professional staff" in its place

HB
439

House Judicial Committee

Room 124 Capitol

HAND CARRY

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 439

"An Act relating to shelter programs for victims of domestic or sexual assault; and providing for an effective date."

This Bill would amend AS 47.35.020 to exempt from licensure programs providing emergency or short-term lodging, housing or services for victims of domestic or sexual assault.

AS 47.35.020 requires, among other things, that foster homes, group homes or institutions providing care for dependent adults must be licensed. Shelters for victims of domestic and sexual assault had been identified by the Department as falling under the purview of this statute. The Department has recognized, however, significant differences between these shelters and other programs falling under the statute and had planned to make extensive revisions in the draft regulations to accommodate these differences.

The Department supports passage of this Bill. The Department's primary concern with regard to these programs is that minimum environmental health and fire safety standards be met.

RECOMMENDED BY: Art Holmberg DATE: 4/16/79
Art Holmberg, Director
Division of Social Services

APPROVED BY: Helen D. Beirne DATE: 4/17/79
Helen D. Beirne, Commissioner
Department of Health and Social Services

HB

452

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

POUCH D
JUNEAU, ALASKA 99811

Wednesday night

February 11, 1980

Honorable Charles Parr
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Parr:

Re: Proposed CS HB 452, The Credit Union Bill

This letter is in response to your request for me to submit detailed comments on the proposed committee substitute introduced by Representative Joe McKinnon to HB 452, a bill which provides for state-chartered credit unions.

As you know, Representative McKinnon stated that the proposed committee substitute ("proposed bill") uses the federal credit union act as a guide in setting out the powers of state-chartered credit unions. In addition, the proposed bill incorporates a number of the features recommended by the division in hearings on previous versions of state-chartered credit union enabling legislation.

My comments are set out below and keyed to the sections of the proposed bill.

Sec. 06.45.010 - 06.45.030. No objections or comment.

could be accomplished by regs.

Sec. 06.45.040. I suggest that the prohibition should be against using a name that is "deceptively similar or the same as" the name of an existing credit union.

Sec. 06.45.050 - 06.45.060. No objections or other comments.

Sec. 06.45.070. Paragraph (8) of this section refers to AS 06.45.276, but that section is not included in my copy of the proposed bill. Paragraph (9), (17) and (18) appear to go beyond the provisions of the Federal Credit Union Act. In particular with regard to (18) the provisions for full trust powers under AS 06.25 go beyond the federal act. The provisions for "Keogh" and "Ira" plans (P.L. 89-809 and 93-406) are allowed for federal credit unions. The provisions of paragraph (21) are often contained in the bylaws of a federal credit union.

ok in CS

#18 not in CS

?

#9017 - claims beyond Fed. Credit Union Act.

08-H14LH

Sec. 06.45.080. No objections or other comment.

Sec. 06.45.090. In (d)(5) of the section, the reference to AS 06.40.290 should be changed to AS 06.45.280 using the numbering system of the proposed bill. NO longer IN CS.

Sec. 06.45.100 - 06.45.125. No objections or other comments.

Sec. 06.45.130. The reference to AS 06.45.150 in (e) of the section should be changed to AS 06.45.140 under the numbering system of the proposed bill. OK IN CS

Sec. 06.45.140 - 06.45.160. No objections or other comments.

Sec. 06.45.170. In (a)(4) of the section, the reference to AS 06.45.330 should be changed to AS 06.45.130 - 06.45.140 under the numbering system of the proposed bill. OK IN CS

Sec. 06.45.180. No objections or other comments.

Sec. 06.45.190. Missing from my copy of the proposed bill. OK IN CS

Sec. 06.45.200. No objection or other comment.

Sec. 06.45.200. This section number is redundant with respect to the previous section. No other objection or comment. OK IN CS

Sec. 06.45.210 - 06.45.240. Missing from my copy of the proposed bill. OK IN CS

Sec. 06.45.250. No objections or other comment.

Sec. 06.45.220. This section number is out of sequence. No other objections or comments. OK IN CS

Sec. 06.45.230 - 06.45.270. No objections or other comment.

2.* Sec. 06.45.280. It appears that the provisions of paragraph (5) go beyond the federal act.

Sec. 06.45.290 - 06.45.320. No objections or other comments.

Sec. 06.45.330. The reference to AS 06.45.360 in (b) of the section should be changed to AS 06.45.340 under the numbering system of the proposed bill. No other objections or other comments. OK IN CS

Sec. 06.45.340 - 06.45.470. No objections or other comments.

Sec. 06.45.480. The definition of "commissioner" should be changed to "'commissioner' means the commissioner of commerce and economic development or his designee;". this IS NOT IN the CS

In summary, the proposed bill contains a number of provisions which the division has recommended for inclusion in previous drafts of credit union legislation. The bill has many similarities to the credit union bill presently before the Senate Commerce Committee (proposed CSSB 225) although the organization of the two bills is quite different in that the proposed CS HB 452 follows the format of a bill that has been in the Legislature in one form or another since 1976 and proposed CSSB 225 follows the outline of the Federal Credit Union Act. It is my understanding that a concensus has been reached by the various interests in credit union legislation on the proposed CSSB 225 and that action is to be taken shortly by the Senate Commerce Committee on that bill.

I would be happy to answer further questions by the committee on the proposed bill as you direct.

Sincerely,

Julius J. Brecht
Director

JJB/s122K

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

POUCH D
JUNEAU, ALASKA 99811

February 11, 1980

Honorable Charles Parr
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

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My comments are set out below and keyed to the sections of the proposed bill.

Sec. 06.45.010 - 06.45.030. No objections or comment.

Sec. 06.45.040. I suggest that the prohibition should be against using a name that is "deceptively similar or the same as" the name of an existing credit union.

Sec. 06.45.050 - 06.45.060. No objections or other comments.

Sec. 06.45.070. Paragraph (8) of this section refers to AS 06.45.276, but that section is not included in my copy of the proposed bill. Paragraph (9), (17) and (18) appear to go beyond the provisions of the Federal Credit Union Act. In particular with regard to (18) the provisions for full trust powers under AS 06.25 go beyond the federal act. The provisions for "Keogh" and "Ira" plans (P.L. 89-809 and 93-406) are allowed for federal credit unions. The provisions of paragraph (21) are contained in the bylaws of a federal credit union.

08-H14LH

Sec. 06.45.080. No objections or other comment.

Sec. 06.45.090. In (d)(5) of the section, the reference to AS 06.40.290 should be changed to AS 06.45.280 using the numbering system of the proposed bill.

Sec. 06.45.100 - 06.45.125. No objections or other comments.

Sec. 06.45.130. The reference to AS 06.45.150 in (e) of the section should be changed to AS 06.45.140 under the numbering system of the proposed bill.

Sec. 06.45.140 - 06.45.160. No objections or other comments.

Sec. 06.45.170. In (a)(4) of the section, the reference to AS 06.45.330 should be changed to AS 06.45.130 - 06.45.140 under the numbering system of the proposed bill.

Sec. 06.45.180. No objections or other comments.

Sec. 06.45.190. Missing from my copy of the proposed bill.

Sec. 06.45.200. No objection or other comment.

Sec. 06.45.200. This section number is redundant with respect to the previous section. No other objection or comment.

Sec. 06.45.210 - 06.45.240. Missing from my copy of the proposed bill.

Sec. 06.45.250. No objections or other comment.

Sec. 06.45.220. This section number is out of sequence. No other objections or comments.

Sec. 06.45.230 - 06.45.270. No objections or other comment.

Sec. 06.45.280. It appears that the provisions of paragraph (5) go beyond the federal act.

Sec. 06.45.290 - 06.45.320. No objections or other comments.

Sec. 06.45.330. The reference to AS 06.45.360 in (b) of the section should be changed to AS 06.45.340 under the numbering system of the proposed bill. No other objections or other comments.

Sec. 06.45.340 - 06.45.470. No objections or other comments.

Sec. 06.45.480. The definition of "commissioner" should be changed to "'commissioner' means the commissioner of commerce and economic development or his designee;".

In summary, the proposed bill contains a number of provisions which the division has recommended for inclusion in previous drafts of credit union legislation. The bill has many similarities to the credit union bill presently before the Senate Commerce Committee (proposed CSSB 225) although the organization of the two bills is quite different in that the proposed CS HB 452 follows the format of a bill that has been in the Legislature in one form or another since 1976 and proposed CSSB 225 follows the outline of the Federal Credit Union Act. It is my understanding that a concensus has been reached by the various interests in credit union legislation on the proposed CSSB 225 and that action is to be taken shortly by the Senate Commerce Committee on that bill.

I would be happy to answer further questions by the committee on the proposed bill as you direct.

Sincerely,

Julius J. Brecht
Director

JJB/s122K

STATE
of ALASKA

MEMORANDUM

TO: Members of the Committee

DATE: January 24, 1980

FILE NO:

TELEPHONE NO:

FROM: Julius J. Brecht, Director
Division of Banking & Securities
Department of Commerce and
Economic Development

SUBJECT: Comments on Proposed Substitute for SB 225, The Credit Union Bill

This committee has before it a proposed substitute ("new bill") for an earlier revision of CSSB 225 ("old bill"), a bill providing for state-chartered credit unions. The old bill was presented to the committee this past summer and commented on by the division. The draft of the new bill is dated December 14, 1979.

As you know, a great amount of time and effort has been spent on the old bill on both the House side and the Senate side of the Alaska Legislature and by this division. Much of the language of the old bill came from the credit union laws of other states, the CUNA Model Credit Union Act, and the Federal Credit Union Act. During this past summer, the new bill was drafted and presented to this committee, however, I have not had the opportunity until now to offer comment on the provisions of that bill.

My comments on the new bill are as follows. The numbering of the comments corresponds to the numbering of the sections in the new bill.

ARTICLE I. I note that, while there is an Article I, entitled "General Provisions," in the new bill, there are no other article titles in it. Furthermore, I note that the bill intermingles provisions on formation and management of a credit union, supervision and regulation of credit unions by the department, financial practices of credit unions, and conversion and receivership provisions. In this respect the outline used in the old bill would be preferable from a drafting style standpoint and from the standpoint of a user of the proposed credit union act. I am aware that the proposed substitute is based on the Federal Credit Union Act. While I can see no reason to propagate that disorganized drafting style in the Alaska statutes the outline of the new bill is not fatal to the general intent to establish a state-chartered credit union system in Alaska. I shall, therefore, confine the bulk of my further comments to the substance of the bill and not the general outline of it.

Sec. 06.45.010. RESPONSIBILITY OF DEPARTMENT. In (a) of this section, the reference to the "Department of Commerce and Economic Development" should be replaced by "department," and "department" should be appropriately defined in the definition section at the end of the bill (Sec. 06.45.300). In (b) of the section, the term "commissioner" is used. That term is defined as the "commissioner of commerce and economic development" in the definition section. I would suggest that the term be defined as "the commissioner of commerce and economic development or his designee." In this way, the provisions of Sec. 06.45.010(c) may be eliminated. Similarly, the phrase "by a person designated" can be eliminated in Sec. 06.45.050 if "commissioner" is so defined.

Sec. 06.45.020. FORMATION OF CREDIT UNION. Throughout this section there is reference to an "organization certificate" and an "association." Both of these terms are foreign to the nomenclature of AS 06. It is my recommendation that "organization certificate" be replaced by "articles of incorporation" in lines 5, 16, 18, 22, and 25 of page 2 of the new bill and anywhere else that it is used in that bill. In addition, the term "association" should be replaced by "credit union" in lines 7, and 14 of page 2 of the new bill.

Sec. 06.45.030. APPROVAL OF ORGANIZATION CERTIFICATE. The title of this section should be changed to "CERTIFICATES OF INCORPORATION AND AUTHORITY" in that the phrases "certificate of incorporation" and "certificate of authority" are those which are generally used in AS 06. The language used in (a) of the section raises a number of questions from an administrative standpoint. I would suggest that the language of the old bill be used in its place, in that it clearly sets out the responsibilities of the incorporators and of the department in the application process, including requiring that the department make a finding of fact that the articles of incorporation and bylaws of the applicant credit union conform to the provisions of the chapter and that the name of the proposed credit union is not deceptively similar to the name of another credit union doing business in the state. The language that I propose to replace Sec. 06.45.030(a) of the new bill is as follows:

"CERTIFICATES OF INCORPORATION AND AUTHORITY. (a) The incorporators shall submit to the commissioner an application to establish a credit union, including the proposed articles of incorporation, bylaws, and required fees. The commissioner shall approve the application if he determines that:

(1) the articles of incorporation and bylaws conform to the provisions of this chapter and regulations that may be adopted by the commissioner;

(2) the incorporators and directors of the proposed credit union are of good general character;

(3) the proposed credit union is economically feasible;

(4) the name of the proposed credit union is not deceptively similar to the name of any other credit union doing business in the state; and

(5) any conditions imposed by the department in granting a certificate of incorporation have been fulfilled."

For reasons similar to those expressed regarding Sec. 30(a) of the new bill, I suggest that the language of (b) of that section be replaced by the language of the old bill in that it clearly sets out the responsibilities of the department and the organizers. The language that I propose to replace Sec. 06.45.030(b) of the new bill is as follows:

"(b) The commissioner shall, within 60 days of receipt from the incorporators of all information requested by him under (a) of this section, either approve of disapprove the application. If the commissioner approves the application, he shall within the same 60-day period issue a certificate of incorporation and return a copy of the articles of incorporation and a copy of the bylaws to the incorporators to be preserved in the permanent files of the credit union.

"(c) The department shall issue a certificate of authority to engage in a credit union business to the proposed credit union if the credit union has obtained shares insurance as required under sec. 260 of this chapter and has satisfied other requirements imposed by the department."

Finally, I would suggest that the following be added to Sec. 06.45.030 of the new bill:

"(d) A credit union may not transact credit union business until the department has issued a certificate of authority to the credit union and a credit union must discontinue that business if the department revokes that certificate."

In this way, the act will clearly provide that the organizers may not conduct business as a credit union until final approval has been obtained from the department.

Sec. 06.45.040. OPERATING FEES. This section provides for the assessment of fees based on total assets of a credit union and that those fees are to pay for the administration of the Act. Under AS 06.01.010, all other financial institutions subject to regulation of the department must pay the expenses of the department reasonably incurred in the examination or investigation of those institutions. The proposed assessment of operating fees as set out in Sec. 040 of the new bill would treat credit unions differently from all other financial institutions regulated under AS 06. My recommendation is that the entire Sec. 040 be replaced by the following language:

"EXAMINATION AND INVESTIGATION FEES. (a) Expenses incurred by the department in processing an application for approval of a proposed credit union, a branch of a credit union, or a conversion or merger of a credit union, shall be charged to and paid by the applicant in accordance with AS 06.01.010.

"(b) A credit union examined under AS 06.45.050 shall pay an examination fee as provided in AS 06.01.010.

"(c) Failure of a credit union to pay an amount provided in (b) of this section within 30 days of receipt of billing from the department is grounds for the revocation of the certificate of authority of the credit union."

Sec. 06.45.050. REPORTS AND EXAMINATIONS. As stated in my comments to Sec. 06.45.010, the phrase "by a person designated" in (a) of the section on lines 8 and 9 of page 4 of the new bill should be deleted with the appropriate addition to the definition of commissioner at the end of the bill. Furthermore, provision should be made for the department to share examination reports with the National Credit Union Administration as the insuring agency, and provision should be made for the commissioner to accept an NCUA examination report in place of an independent state examination. I hasten to point out, however, that the state should take full responsibility for the examination of state-chartered credit unions and that the deferral to the federal agency should be used sparingly if at all. In addition, it should be noted that this section is rather brief. It is unclear whether the commissioner would, given the language of this section, have the authority to subpoena witnesses, administer oaths, compel the giving of testimony, and require the submission of documents. There is no provision for an examiner to take an oath that he will honestly and impartially examine and report the condition of credit unions. Finally, the acronym "NCUA" should be used in place of the National Credit Union Administration in that that agency is referred to several times within Secs. 50 and 260. An appropriate definition of NCUA should be added to Sec. 06.45.300. I, therefore, propose the following language for Sec. 50:

"REPORTS AND EXAMINATIONS. (a) A credit union organized, converted or merged into a state-chartered credit union under this chapter is under the supervision of the commissioner, must make an annual financial report to the commissioner, and must make other financial reports required by regulation adopted by the commissioner.

"(b) A credit union is subject to examination by the commissioner. The commissioner shall upon request made available reports of condition and examination reports to NCUA and may accept examination reports made on behalf of NCUA in place of the commissioner's examination report required by this subsection.

"(c) A credit union, its officers and agents are required to give the commissioner full access to all books, papers, securities, records and other sources of information under their control. For purposes of examination, the commissioner has the power to (1) subpoena witnesses, (2) administer oaths, (3) compel the giving of testimony, and (4) require the submission of documents.

"(d) The examiners of the department who examine credit unions shall take an oath that they will honestly and impartially examine and report the condition of credit unions as to assets and liabilities, and that they will report other information as may be required by the department, that they will not disclose the information they obtain through the examination to any person other than the department, and that they are not and will not serve as officers or employees of credit unions conducting business in the state and subject to the regulation of the department while there are examiners."

Sec. 06.45.060. POWERS. Under (a)(5)(A)(i) of this section, the department is to determine the median sales price of single family residential real property in the various geographical areas in the state and to maintain that information so that the credit union may determine a sales price which is not more than 150% of that median sales price. The provisions of this subsection are extremely cumbersome in that they involve the department in making evaluations of the financial marketplace. It is my recommendation that (a)(5)(A)(i) of this section be replaced by the provisions of the old bill which are as follows:

"A credit union may make real estate loans under the following conditions:

(1) a residential real estate loan to finance a one-to-four family dwelling, for the residence of a credit union member, may have a maturity in excess of 12 years but not to exceed 30 years, if

(A) the loan is secured by a first lien on the real property in favor of the credit union;

(B) the loan does not exceed 80 percent of the value of the real property determined by an independent qualified appraiser, except that

(i) the loan amount of an insured or guaranteed loan may equal the maximum percentage of the value of the real property acceptable to the insuring or guaranteeing agency;

(ii) the loan amount may equal up to 95 percent of the value of the real property if mortgage insurance on the real property is obtained from a private mortgage insurance company, and that insurance covers the amount of the loan in excess of 75 percent of the value of the real property and remains in force until the mortgage is reduced to 80 percent of the value of the real property; and

(C) the loan is consistent with regulations that may be adopted by the commissioner.

(2) The total dollar amount of real estate loans outstanding may not exceed 25 percent of the assets of the credit union without prior written consent to the commissioner. However, this limitation does not include real estate loans with securities not exceeding 12 years.

(3) A credit union with assets less than $3 million may make real estate loans only with prior written consent of the commissioner."

I also note under (a)(5)(A)(ii) of this section which deals with mobile home loans that there is no provision for an aggregate dollar limit based on assets of the credit union. I would suggest that the guidelines for residential real estate loans be looked to for mobile home loans as well. That is, I suggest that in line five on page five of the new bill the following language be added after the word "home":

"where the loan conforms to the provisions of (a)(5)(A)(i) of this section and [WHICH]."

I would also note that in line nine of page five of the bill there is reference to a 15-year limitation. This may be a typographical error in that the limitation provided in (a)(5) of this section is 12 years.

Under (a)(5)(A)(vi) of the section, I note that the rate of interest charged on unpaid balances may not exceed 12% per annum. It should be pointed out that under 12 U.S.C. §85 a national bank may charge interest on loans at the rate allowed in the state where the bank is located. This language was enacted in the late 1800's and has been interpreted to mean that a national bank may charge the highest rate available notwithstanding any restrictions imposed on state-chartered banks in the state. Therefore, if the usury ceiling set out in AS 45.45.010(b) were to slip below 12 percent at some time in the future, state-chartered banks, savings and loan associations, mortgage companies, and all other persons in the state would be subject to the usury ceiling while national banks could charge the higher rate of 12 percent. If those circumstances should occur, I would then recommend that the legislature reconsider the 12 percent ceiling.

I note in (a)(5)(D) and (E) of Sec. 60 that the phrase "credit union associations" is used and is defined in Sec. 06.45.300(3). The phrase is somewhat broad and may need further clarification.

I note in (a)(6) of Sec. 60 on line 6 of page 7 of the new bill that a credit union is authorized to "receive from its members and from <u>others</u> payments on shares...." [Emphasis added] The term "others" needs to be defined or eliminated.

Under (a)(7)(G) of Sec. 60 there is provision for investment in the shares or deposits of a "central credit union." It should be noted that this bill does not provide for a central credit union in Alaska, and therefore the provisions of (G) will favor investment out of the state.

Sec. 06.45.100. COMPENSATION. I recommend that as a matter of clarification, the second sentence of this section be changed to the following:

"Reasonable health, accident, and similar insurance protection are not considered compensation for purposes of this chapter."

Sec. 06.45.120. BOARD OF DIRECTORS. Under (b) of this section there is listed a number of actions which the board of directors must take or address. I suggest that, in addition to those listed, the following language be added:

"(9) perform or authorize any action consistent with this chapter not specifically reserved by the bylaws for the members."

In this way a board will have the flexibility to address other matters which it should consider in setting policy of its credit union.

In addition, I question the advisability of including paragraph (b)(8) of Sec. 120 requiring the board to set the compensation for officers and employees. That is, the board is responsible for hiring a general manager who in turn is responsible for hiring and compensating other officers and employees of the credit union.

Sec. 06.45.220. RECEIVERSHIP. This section deals with suspension and receivership. The term "receivership" is used in this section, however, it is foreign to the liquidation and dissolution of a credit union. I recommend that the following two sections paraphrased from the old bill replace Sec. 220:

Sec. 06.45.220. SUSPENSION. (a) If it appears that a credit union is insolvent, or has wilfully violated the provisions of this chapter, or is operating in an unsafe or unsound manner, the commissioner may issue an order as provided in AS 06.01.030(a) taking possession of the credit union and temporarily suspending the operations of the credit union. The board of directors shall be given notice of the suspension, and the notice shall include a list of the reasons for the suspension and a list of the specific violations of this chapter.

"(b) If after a hearing under AS 06.01.030(a), at which the credit union may submit a plan to continue operations, the commissioner determines that one or more of the conditions listed in (a) of this section have occurred or are occurring, the commissioner may issue a permanent order to cease the activity causing the conditions or may revoke the certificate of authority of the credit union, appoint a liquidating agent and liquidate or cause the liquidation of the credit union in accordance with AS 06.45.225.

"(c) The department shall set out further procedures for the suspension of a credit union.

"Sec. 06.45.225. DISSOLUTION AND LIQUIDATION. At a meeting called to consider the matter, a majority of the membership of a credit union may dissolve the credit union, provided notice of the meeting and the proposed action was mailed to the members of the credit union and the commissioner at least 30 days before the meeting. The procedure for the dissolution and liquidation of a credit union shall be set out by the commissioner by regulation."

Sec. 06.45.250. CONVERSIONS. This section provides for conversion of a federal credit union to state-charter and visa versa. However, it does not provide for the department to conduct an investigation of an application for conversion, nor does it specify that the converting federal credit union pay the reasonable costs incurred by the department in investigating the conversion application. I recommend that the following language be added after the word "chapter" at the end of (a) of the section:

"[.]; provided that the credit union submits to the commissioner an application to convert, the commissioner conducts an investigation of the proposed conversion and approves it."

Sec. 06.45.260. INSURANCE OF MEMBER ACCOUNTS. This section makes the obtaining of insurance of accounts discretionary on the part of the credit union. Such a provision may lead to very serious consequences, if the credit union should choose not to obtain insurance either through the NCUA or some alternative insurer. Considerable testimony has been taken on this question before the Senate Commerce Committee this past summer. It is my recommendation that insurance of accounts through NCUA be mandatory with no alternatives at this time. The issue of alternative insurance is a complex one that needs careful review and can be raised at a subsequent legislative session after appropriate research has been conducted. I, therefore, recommend the following language to replace Section 260:

"SHARE INSURANCE. (a) All credit unions chartered under this chapter, or credit unions in operation at the time of issuance of a certificate of authority under this chapter must submit evidence of share insurance coverage from NCUA. If a credit union is closed because of insolvency, the commissioner may appoint the NCUA as the liquidating agent.

"(b) Credit unions that do not maintain share insurance coverage as specified in this section, shall be liquidated by the commissioner or his designee in accordance with AS 06.45.225."

Sec. 06.45.300. DEFINITIONS. Under (1) of this section the term "commissioner" is defined as "the commissioner of commerce and economic development." I recommend that this definition include "or his designee." In this way, the proposed act will use the same nomenclature as is found in other acts under AS 06.

In addition, I recommend that "NCUA" be defined as the National Credit Union Administration for reasons stated in my discussion of Sec. 06.45.050.

In addition to the above comments, I find that the new bill is silent on a number of issues that were addressed in the old bill. For example, there are no provisions spelling out the procedures for merger of credit unions, conflict of interest of directors, branching, departmental authority to require directors meetings, unauthorized conduct of credit union business, transfer of credit union property to preferred creditors, deception of the department or its employees by a credit union or representative of a credit union, false reporting to the department, receipt of deposits by a credit union while insolvent, liability of members, directors, officers and employees, and other penalties. I, therefore, recommend the following additions be made to the new bill at the general locations indicated by the proposed section numbers so as to provide for prudent regulation of credit unions:

"Sec. 06.45.125. CONFLICT OF INTEREST. (a) A director, committee member, officer, agent or employee of the credit union may not, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his pecuniary interest or the pecuniary interest of a corporation, partnership or association, other than the credit union in which he is directly or indirectly interested.

"(b) In addition to other penalties, a person who violates this section may not serve as an officer, agent, or employee of a credit union.

"Sec. 06.45.255. MERGER. A credit union, with the approval of the commissioner after conducting an investigation and after the payment of a fee by the credit union in accordance with AS 06.01.010, may merge with another credit union under the charter or existing certificate of authority of that other credit union and under a plan agreed upon by a majority of the boards of directors of each merging credit union and approved by the affirmative vote of at

least a majority of the members of each credit union present at the meeting legally called to approve the plan. A merging credit union shall call a meeting to approve the plan. The commissioner shall, by regulation, set out the procedure for mergers of credit unions.

"Sec. 06.45.256. BRANCH OFFICE FACILITIES. (a) With the written approval of the commissioner, a credit union may establish a branch office at a location other than at its main office. The commissioner may, by regulation, establish the content of the application for a branch office. The cost of the investigation incurred by the department shall be paid by the applicant in accordance with AS 06.01.010.

"(b) The commissioner shall approval an application by a credit union under (a) of this section and issue a certifcate of authority if he determines that

(1) the branch office proposal is economically feasible;

(2) the name of the branch office is not deceptively similar to another credit union doing business in the state;

(3) the requirements of this chapter have been satisfied; and

(4) any conditions imposed by the department have been fulfilled or agreed to.

"(c) A credit union may not conduct a credit union business through a branch until the department has issued a certificate of authority to the credit union and a credit union must discontinue that business through the branch if the department revokes that certificate.

"Sec. 06.45.271. REQUIRED DIRECTORS' MEETINGS AND STATEMENTS TO THE DEPARTMENT. When the department considers it necessary, it may require a meeting of the board of directors of a credit union to be held in the manner and at the time and place the department directs. A report of an examination required or allowed by this chapter, the conclusions drawn from the examination by the department, and any other matters concerning the operation and condition of the credit union may be presented to the board of directors by the department. Each member of the board of directors shall furnish to the department a statement that he has read and is familiar with the documents referred to in this section and any recommendations of the department contained in them.

"Sec. 06.45.272. UNAUTHORIZED CONDUCT OF CREDIT UNION BUSINESS. It is a class A misdemeanor for a person, except corporations formed under the provisions of this chapter or another credit union

law, or an association of credit unions and its chapters, to conduct business under a name or title which contains the word "credit union" or a derivation of them, or to represent himself in his advertising or otherwise as conducting business as a credit union.

"Sec. 06.45.273. TRANSFER OF CREDIT UNION PROPERTY TO PREFERRED CREDITOR IS VOID. The transfer by a credit union of its property, money or assets, after it becomes insolvent in order to prefer one creditor over another, or to prevent the equal distribution of its property and assets among its creditors, is void.

"Sec. 06.45.274. DECEPTION OF THE DEPARTMENT OR ITS EMPLOYEES. A person who knowingly subscribes to, or makes or causes to be made, a false statement, or enters a false figure, or entry in the books of a credit union in the state or who knowingly subscribes, makes or circulates a false report or statement about the condition of a credit union in the state, with intent to deceive the department or a person authorized to examine the affairs of the credit union is guilty of a class C felony.

"Sec. 06.45.275. FALSE REPORT TO DEPARTMENT. A persons who certifies and subscribes a report which is wilfully false in any material effect is guilty of a class A misdemeanor.

"Sec. 06.45.276. RECEIPT OF DEPOSITS WHILE INSOLVENT. A director, officer, or employee of a credit union who fraudulently receives a deposit knowing that the credit union is insolvent is guilty of a class A misdemeanor.

"Sec. 06.45.277. LIABILITY OF MEMBERS, DIRECTORS, OFFICERS AND EMPLOYEES. (a) The members of a credit union are not personally or individually liable for the debts of the credit union.

"(b) A director, officer or employee of a credit union who knowingly approves or permits money of the credit union to be invested or loaned in an excessive, careless or dishonest manner is personally liable for all damages for which the credit union, members, depositors, or any other person sustains because of the violation. The liability may be enforced against the director, officer, or employee by action in the Superior Court.

"Sec. 06.45.278. PENALTY. A person who knowingly violates a provision of this chapter for which no specific penalty is provided is guilty of a class A misdemeanor. In case of violation by a corporation, the corporation is punishable by not more than $5,000."

The above comments are somewhat detailed and lengthy, however, I believe that, if the Legislature is to establish a state-chartered credit union system, these proposed changes will be necessary at a minimum to provide for a viable, sound, and competitive credit union system in the best interests of the Alaskan public.

I would be happy to answer questions regarding the above comments or other questions that members of the committee may have with regard to establishing a state-chartered credit union system in Alaska.

JJB/s126G

HB

454

(9)

COMMITTEE REPORT

HOUSE

FURTHER:

April 11, 1979 Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 454

"An Act relating to the regulation of pricing of alcoholic beverages."

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 HB 454 [ ] new title

and recommends Do Pass

[ ] 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

H 60 (Rev. 12/78)

*[384 US 35]

*JOSEPH E. SEAGRAM & SONS, Inc., et al., Appellants,

v

DONALD S. HOSTETTER, etc., et al.

384 US 35, 16 L ed 2d 336, 86 S Ct 1254, reh den
384 US 967, 16 L ed 2d 679, 86 S Ct 1583

[No. 545]

Argued February 23, 1966. Decided April 19, 1966.

SUMMARY

The plaintiffs, distillers, wholesalers, and importers of distilled spirits, commenced the present action in a New York state court for an injunction and declaratory judgment upon the ground that the 1964 changes made in the New York Alcoholic Beverage Control Law were unconstitutional. The principal object of the attack was a provision requiring that the monthly price schedules for sales to wholesalers and retailers filed with the New York Liquor Authority by brandowners, their agents, and related persons, must be accompanied by an affirmation that the bottle and case price of liquor is no higher than the lowest price at which sales were made anywhere in the United States during the preceding month. In addition, the statutory definition of "related person" was attacked as unconstitutionally vague, and some minor provisions of the statute were also alleged to be unconstitutional. The trial court upheld the constitutionality of the law (45 Misc 2d 956, 258 NYS2d 442), and its judgment was affirmed by the Appellate Division (23 App Div 2d 933, 259 NYS2d 644) and by the New York Court of Appeals (16 NY2d 47, 262 NYS2d 75, 209 NE2d 701).

On appeal, the Supreme Court of the United States affirmed. In an opinion by STEWART, J., expressing the unanimous view of the Court, it was held that the 1964 amendments to the New York Alcoholic Beverage Control Law were constitutional on their face.

HEADNOTES

Classified to U. S. Supreme Court Digest, Annotated

Statutes § 12 — validity — upon face

1. Where a statute the constitutionality of which is attacked has not yet been put into effect, the Supreme

ANNOTATION REFERENCES

State power to regulate price of intoxicating liquors. 14 ALR 1699.

Judicial decisions since Twenty-first Amendment relating to state power over intoxicating liquor. 84 L ed 137, 88 L ed 614.

Federal constitutional and legislative provisions as to intoxicating liquor as affecting state legislation. 10 ALR 1587, 11 ALR 1320, 26 ALR 661, 70 ALR 132.

Vagueness or indefiniteness of statute as rendering it unconstitutional or inoperative. 70 L ed 322.

Court of the United States is concerned only with the question whether the statute is constitutional upon its face.

Intoxicating Liquors § 9.4 — state power

2. The Twenty-first Amendment bestows upon the states broad regulatory power over the liquor traffic within their territories.

Intoxicating Liquors § 9.4 — state power — commerce clause

3. By virtue of the Twenty-first Amendment, a state is totally unconfined by traditional commerce clause limitations when it restricts the importation of intoxicants destined for use, distribution, or consumption within its borders.

Intoxicating Liquors § 12 — price regulation

4. As part of its regulatory scheme for the sale of liquor, a state may constitutionally insist that liquor prices to domestic wholesalers and retailers be as low as prices offered elsewhere in the country.

States § 16 — extent of power

5. The mere fact that state action may have repercussions beyond state lines is of no judicial significance so long as the action is not within that domain which the Federal Constitution forbids.

Commerce § 209 — liquors — price regulation

6. A state statute providing that the monthly price schedules for sales of liquors to wholesalers and retailers filed by brandowners with the state liquor authority must be accompanied by an affirmation that the bottle and case price is no higher than the lowest price at which sales were made anywhere in the United States during the preceding month, places, upon its face, no unconstitutional burden on interstate commerce.

States § 21 — conflict with federal law

7. Conflicts between state and federal regulations are not to be sought out where none clearly exists.

Intoxicating Liquors § 12 — state price regulation — antitrust laws

8. No clear conflict exists between the federal antitrust laws—specifically the Sherman Act, as amended (15 USC §§ 1–7), and § 2 of the Clayton Act, as amended by the Robinson-Patman Act (15 USC § 13)—and a state statute providing that the monthly price schedule for sales of liquor to wholesalers and retailers filed by brandowners with the state liquor authority must be accompanied by an affirmation that the bottle and case price of liquor is no higher than the lowest price at which sales were made anywhere in the United States during the preceding month.

Restraints of Trade and Monopolies § 33 — price information

9. The bare assembly, without more, of price information on liquor sales to wholesalers and retailers to support affirmations filed with a state liquor authority pursuant to the maximum price provisions of a state statute does not, of itself, violate the Sherman Anti-Trust Act (15 USC §§ 1–7).

Restraints of Trade and Monopolies § 36 — liquor price

10. Nothing in the Twenty-first Amendment prevents enforcement of the Sherman Anti-Trust Act (15 USC §§ 1–7) against a conspiracy to raise the prices at which liquor is sold.

Intoxicating Liquors § 12 — state price regulation — antitrust laws

11. Merely potential conflicts between the provisions of the Robinson-Patman Act (15 USC § 13) prohibiting price discrimination and a state maximum-price law for sale of liquors to wholesalers and retailers are too speculative to support a conclusion that a state is foreclosed from enacting such a law.

Evidence § 248 — presumption — administrative acts

12. The United States Supreme Court cannot presume that the statu

tory discretion of a state liquor authority to modify schedule requirements will not be exercised to alleviate any friction that might result should the state maximum-price law for the sale of liquors to wholesalers and retailers chafe against the Robinson-Patman Act (15 USC § 13) or any other federal statute.

Courts § 141 — regulation of business

13. It is not the province of courts to draw on their own views as to the morality, legitimacy, and usefulness of a particular business in order to decide whether a statute bears too heavily upon that business and by so doing violates due process.

Courts § 103 — inquiry into wisdom of legislation

14. Under the system of government created by the Federal Constitution it is up to legislatures, not courts, to decide on the wisdom and utility of legislation.

Constitutional Law 513 — due process — functions of courts

15. Due process does not authorize courts to hold laws unconstitutional when they believe the legislature has acted unwisely.

Courts § 103 — appropriateness of legislation

16. Courts do not substitute their social and economic beliefs for the judgment of legislative bodies.

Intoxicating Liquors §§ 6, 9.4 — regulation of liquor business

17. Nothing in the Twenty-first Amendment or any other part of the Federal Constitution requires that state laws regulating the liquor business be motivated exclusively by a desire to promote temperance.

Constitutional Law § 744 — due process — liquor — maximum prices

18. The due process clause of the Fourteenth Amendment is not violated by a state statute providing that the monthly price schedules for sales to wholesalers and retailers filed by brandowners with a state liquor authority must be accompanied by an affirmation that the bottle and case price of liquor is no higher than the lowest price at which sales were made anywhere in the United States during the preceding month.

Statutes § 17 — liquor price regulation — vagueness

19. A state statute requiring that a price affirmation must be filed with the state liquor authority by a brandowner, his agent, or any "related person" is not rendered unconstitutionally vague by the statutory definition of "related person" as including any person whose exclusive, principal, or substantial business is the sale of brands of liquor purchased from such brandowner or wholesaler designated as agent, where, insofar as the determination of "related person" is unclear, an affected party has access to the authority for a ruling to clarify the issue.

Administrative Law § 15 — validity of grant of power

20. If substantiality of an activity is the statutory guide to administrative action in regard to that activity, the limits of such action are sufficiently definite or ascertainable so as to survive challenge on the grounds of unconstitutionality.

Constitutional Law § 744 — due process — liquor — maximum prices

21. A state statute requiring that the monthly price schedules for sales to wholesalers and retailers filed with the state liquor authority must be accompanied by an affirmation, verified by the brandowner, his agent, or any related person, that the bottle and case price of liquor is no higher than the lowest price at which sales were made anywhere in the United States during the preceding month, does not impose an unconstitutional burden, in violation of the due process clause of the Fourteenth Amendment, on distillers or wholesalers in ascertaining the wholesalers who satisfy the "related person" criterion or in obtaining

information on prices charged by such wholesalers.

Constitutional Law § 432 — equal protection — regulation of price of liquor

22. The equal protection clause of the Fourteenth Amendment is not violated by a state statute which, while requiring brandowners, their agents, or related persons, to file monthly maximum-price affirmations with the state liquor authority, excepts consumer sales and private label brands of liquor from the maximum-price requirement, and reduces the scope of price affirmation required with respect to sales made to wholesalers and retailers by those who are not "related persons."

Statutes § 12 — validity

23. A statute is not invalid under the Federal Constitution because it might have gone farther than it did, or because it may not succeed in bringing about the result that it tends to produce; the reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind.

Appeal and Error § 711 — state court's construction of statute

24. The Supreme Court of the United States will accept the construction by the highest state court of a state statute fixing maximum prices of liquor as being concerned only with practices within the state, and as authorizing the state liquor authority, if sales in other states have no relevancy to enforcement, to waive the general prohibition against sales to wholesalers in the absence of the required price schedules.

Intoxicating Liquors § 6 — price regulation — validity

25. In the exercise of its constitutional power to regulate the sale of liquor within its borders, a state may validly enact provisions in a maximum-price statute which require the price schedules to be filed by brandowners with the state liquor authority (1) to cover sales to wholesalers irrespective of the place of sale or delivery, and (2) as to sales to both wholesalers and retailers, to include the net bottle and case price paid by the seller, where the statute, as construed by the highest state court, is concerned only with practices within the state and authorizes the state liquor authority, if sales in other states have no relevancy to enforcement, to waive the general prohibition against sales to wholesalers in the absence of the required price schedules.

APPEARANCES OF COUNSEL

Thomas F. Daly and Jack Goodman argued the cause for appellants.

Ruth Kessler Toch argued the cause for appellees.

Briefs of Counsel, p 1194, infra.

OPINION OF THE COURT

*[384 US 37]

*Mr. Justice Stewart delivered the opinion of the Court.

This appeal draws in question certain provisions of Chapter 531, 1964 Session Laws of New York, which worked substantial changes in the State's Alcoholic Beverage Control Law. The appellants are distillers, wholesalers, or importers of distilled spirits, who commenced this action in a New York court for an injunction and declaratory judgment against the appropriate state officials, upon the ground that § 9 of Chapter 531 violates the Federal Constitution in several respects.[1] The trial court upheld the constitu-

1. The appellants also challenged two minor provisions of § 7 of Chapter 531, 1964 Session Laws of New York. See pp. 347, 348, infra. The relevant provisions of §§ 7, 8 and 9 of Chapter 531 are set out in the Appendix to this opinion.

*[384 US 38]
tionality of the law,[2] and its *judgment was affirmed by the Appellate Division[3] and by the New York Court of Appeals.[4] The appellants brought the case here,[5] and we now affirm the judgment of the Court of Appeals.

Chapter 531 was enacted as the result of a sweeping redirection of New York's policy regulating the sale of liquor in the State. For more than 20 years the Alcoholic Beverage Control Law (hereinafter ABC Law) had required brand owners of Alcoholic beverages or their agents to file with the State Liquor Authority monthly schedules listing the bottle and case price to be charged to wholesalers and retailers within the State. These schedules were publicly displayed, and sales were prohibited except at the listed prices.[6] In 1950 the ABC Law was amended by the addition of a section which required brand owners or their agents to file price schedules listing the minimum retail price at which each brand could be sold to consumers and which prohibited retail sales at prices less than those fixed in the schedules.[7] The enforcement of these mandatory minimum retail prices was entrusted to the State Liquor Authority rather than to private action, but the Authority was given no power to determine the reasonableness of the prices that were fixed.

In 1963, against a background of irregularities within the State Liquor Authority and extensive dissatisfaction with the operation of the ABC Law, the Governor of New York appointed a Commission to study the sale and distribution of alcoholic beverages within the State.

*[384 US 39]
The *Commission sponsored various study papers and issued a series of reports and recommendations.[8] It found unequivocally that compulsory resale price maintenance had had "no significant effect upon the consumption of alcoholic beverages, upon temperance or upon the incidence of social problems related to alcohol." It also found that New York liquor consumers had been the victims of serious discrimination because of the higher prices and reduced competition fostered by the mandatory minimum price maintenance provision of the law.[9] The Commission therefore recommended the repeal of that provision,[10] and the ultimate response of the legislature was the enactment of Chapter 531.

The legislature did not stop, how-

2. 45 Misc 2d 956, 258 NYS2d 442.

3. 23 App Div 2d 933, 259 NYS2d 644.

4. 16 NY2d 47, 209 NE2d 701.

5. 382 US 924, 15 L ed 2d 338, 86 S Ct 316.

6. Laws 1942, c. 899, § 1, Alcoholic Beverage Control Law, §§ 101-b-3(a)-(d) (1946 ed.).

7. Laws 1950, c. 689, § 1, Alcoholic Beverage Control Law, § 101-c (1964 Supp.).

8. See New York State Legislative Annual 401-408, 484-489, 498-500 (1964); Breuer, Moreland Act Investigations in New York: 1907-65, pp. 131-169 (1965). The Commission's Study Paper Number 5 ("Resale Price Maintenance in the Liquor Industry") and Report and Recommendations No. 3 ("Mandatory Resale Price Maintenance") are part of the record in this case.

9. Based upon the comparative price data it assembled, including examples of wholesale liquor prices in New York higher than retail prices elsewhere, the Commission concluded that, because of the mandatory resale price maintenance provision, New Yorkers were subsidizing the liquor industry by $150,000,000 a year.

10. The Commission made various other recommendations, including relaxation of certain restrictions on package store licenses and elimination of some of the conditions imposed on establishments serving liquor by the drink.

ever, with repeal of the mandatory resale price maintenance provision of the law.[11] In § 9 of Chapter 531 it imposed the additional requirement that the monthly price schedules for sales to wholesalers and retailers filed with the State Liquor Authority must be accompanied by an affirmation that "the bottle and case price of liquor . . . is no higher than the lowest price" at which sales were made anywhere in

*[384 US 40]

*the United States during the preceding month. It is this provision that is the principal object of the appellants' constitutional attack in this litigation.

Section 9 effects the "no higher than the lowest price" requirement by the addition of paragraphs (d)–(k) to § 101–b–3 of the ABC Law. The affirmation required by paragraph (d), which must be filed and verified by brand owners or their agents who sell to wholesalers in New York, must cover all sales to wholesalers anywhere in the United States by the brand owner, his agent, or any "related person." The less extensive affirmation required by paragraph (e), which applies to persons other than brand owners or their agents who file schedules for sales to wholesalers, need only cover sales elsewhere by the person filing the schedule. The affirmation required by paragraph (f), which must be filed by brand owners, their agents, or "related persons" who sell to retailers in New York, must be verified by the brand owner or his agent and must cover all sales to retailers anywhere in the United States by the brand owner, his agent, or any "related person." The less extensive affirmation required by paragraph (g), which applies to wholesalers who are not "related persons," need only cover sales elsewhere by the person filing the schedule.[12]

The term "related person" is defined in paragraphs (d) and (f) to include any person, the "exclusive, principal or substantial business of which is the sale of a brand or brands of liquor purchased from" the brand owner or his agent. In consequence, before a "related per-

*[384 US 41]

son" *wholesaler may sell a particular brand of liquor to a New York retailer, he must secure an affirmation from the brand owner or his agent that the price charged by the wholesaler is no higher than the lowest price at which the brand was sold to any retailer in any other part of the country by any wholesaler doing "substantial" business with the band owner. Thus, a brand owner doing business in New York must keep himself informed of the prices charged by all "related persons" throughout the United States.

The scheme of § 9 of Chapter 531 is rounded out by the addition to § 101–b–3 of the ABC Law of paragraph (h), which prohibits sales to wholesalers and retailers of brands for which no affirmation has been filed; paragraph (i), which requires the "lowest price" to reflect all discounts and other allowances to wholesalers and retailers, with the exception of state taxes and delivery costs; and paragraphs (j) and (k),

11. The mandatory resale price maintenance provision, § 101–c, was repealed by § 11 of Chapter 531.

12. Sellers seeking to take advantage of the milder affirmations required by paragraphs (e) and (g) must file a representation that they are not "related persons." See Alcoholic Beverage Control Law, Appendix, Rule 16 of the State Liquor Authority, § 65.7(e) (1965 Supp.), 9 NYCRR 65.7(e). The schedule requirements of § 101–b do not apply to sales of private label brands of liquor. Alcoholic Beverage Control Law, § 101–b–3(c).

which impose criminal penalties for the filing of a false affirmation.

[1] As a result of a series of stays granted throughout this litigation, the provisions of § 9 have not yet been put into effect. Our concern here, therefore, is only with the constitutionality of those provisions on their face. The appellants attack § 9 on many constitutional fronts. They contend that its provisions place an illegal burden upon interstate commerce, conflict with federal antitrust legislation and thus fall under the Supremacy Clause, and violate both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment. We find all these contentions without merit.

[2, 3] Consideration of any state law regulating intoxicating beverages must begin with the Twenty-first Amendment, the second section of which provides that: "The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in

*[384 US 42]

violation of the laws thereof, *is hereby prohibited." As this Court has consistently held, "That Amendment bestowed upon the states broad regulatory power over the liquor traffic within their territories." United States v Frankfort Distilleries, 324 US 293, 299, 89 L ed 951, 956, 65 S Ct 661. Cf. Nippert v Richmond, 327 US 416, 425, note 15, 90 L ed 760, 765, 66 S Ct 586, 162 ALR 844. Just two Terms ago we took occasion to reiterate that "a State is totally unconfined by traditional Commerce Clause limitations when it restricts the importation of intoxicants destined for use, distribution, or consumption within its borders." Hostetter v Oldewild Liquor Corp. 377 US 324, 330, 12 L ed 2d 350, 355, 84 S Ct 1293. See State Board of Equalization v Young's Market Co. 299 US 59, 81 L ed 38, 51 S Ct 77; Mahoney v Joseph Triner Corp. 304 US 401, 82 L ed 1424, 58 S Ct 952; Ziffrin, Inc. v Reeves, 308 US 132, 84 L ed 128, 60 S Ct 163; California v Washington, 358 US 64, 3 L ed 2d 106, 79 S Ct 116. Cf. Indianapolis Brewing Co. v Liquor Comm'n, 305 US 391, 83 L ed 243, 59 S Ct 254; Joseph S. Finch & Co. v McKittrick, 305 US 395, 83 L ed 246, 59 S Ct 256. As the Idlewild case made clear, however, the second section of the Twenty-first Amendment has not operated totally to repeal the Commerce Clause in the area of the regulation of traffic in liquor. In Idlewild the ultimate delivery and use of the liquor was in a foreign country, and the Court held that under those circumstances New York could not forbid sales made under the explicit supervision of the United States Customs Bureau, pursuant to laws enacted by Congress under the Commerce Clause for the regulation of commerce with foreign nations. Cf. Dept. of Alcoholic Beverage Control v Ammex Warehouse Co. 378 US 124, 12 L ed 2d 743, 84 S Ct 1657; Collins v Yosemite Park Co. 304 US 518, 82 L ed 1502, 58 S Ct 1009.

[4, 5] Unlike Idlewild, the present case concerns liquor destined for use, distribution, or consumption in the State of New York. In that situation, the Twenty-first Amendment demands wide latitude for regulation by the State. We need not now decide whether the mode of liquor regulation chosen by a State in such circumstances could ever constitute so grave an interference

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with a *company's operations elsewhere as to make the regulation invalid under the Commerce Clause.[13]

13. Cf. United States v Frankfort Distilleries, 324 US 293, 299, 89 L ed 951, 956,

See Baldwin v G. A. F. Seelig, 294 US 511, 79 L ed 1032, 55 S Ct 497, 101 ALR 55. No such situation is presented in this case. The mere fact that § 9 is geared to appellants' pricing policies in other States is not sufficient to invalidate the statute. As part of its regulatory scheme for the sale of liquor, New York may constitutionally insist that liquor prices to domestic wholesalers and retailers be as low as prices offered elsewhere in the country. The serious discriminatory effects of § 9 alleged by appellants on their business outside New York are largely matters of conjecture. It is by no means clear, for instance, that § 9 must inevitably produce higher prices in other States, as claimed by appellants, rather than the lower prices sought for New York. It will be time enough to assess the alleged extraterritorial effects of § 9 when a case arises that clearly presents them. "The mere fact that state action may have repercussions beyond state lines is of no judicial significance so long as the action is not within that domain which the Constitution forbids." Osborn v Ozlin, 310 US 53, 62, 84 L ed 1074, 1078, 60 S Ct 758. Cf. Hoopeston Canning Co. v Cullen, 318 US 313, 87 L ed 777, 63 S Ct 602, 145 ALR 1113; South Carolina Highway Dept. v Barnwell Bros. 303 US 177, 189, 82 L ed 734, 741, 58 S Ct 510; Baldwin v G. A. F. Seelig, 294 US 511, 528, 79 L ed 1032, 1041, 55 S Ct 497, 101 ALR 55.

Moreover, as the Court of Appeals observed, the regulatory procedure followed by New York is comparable to that practiced by those States, 17 in number, in which liquor is sold by the State itself and not by private enterprise. Each of these monopoly States, we are told, requires distillers to warrant that the price

*[384 US 44]

charged the *State is no higher than the price charged in other States. In at least one of these States, the distillers are required to adjust the sales price to include all rebates and other allowances made to purchasers elsewhere, and the State has taken positive precautions to insure that the contractual commitments

*[384 US 45]

are fulfilled.[14] In some respect, *the burden of gathering information for

65 S Ct 661, where we stated that the Twenty-first Amendment "has not given the states plenary and exclusive power to regulate the conduct of persons doing an interstate liquor business outside their boundaries." See also Note, The Twenty-first Amendment Versus the Interstate Commerce Clause, 55 Yale LJ 815 (1946).

14. The executive vice-president of one of the appellants testified that "We and other distillers have freely entered into contracts with these monopoly states in which we warrant that the f. o. b. prices at which our brands are offered to those states are no higher than the lowest price at which we sell in other states."

The Deputy Commissioner of the State Liquor Authority testified that "[I]n a number of other States e. g., in the State of Pennsylvania, some of these same plaintiffs have been warranting for some time past that the price quoted to the Pennsylvania Liquor Control Board is 'the lowest current price quoted to any other customer,' or 'to any purchaser, dealer, agent or agency of any nature or kind anywhere in the United States of America.'" The same witness later added that '[A]s part and parcel of the offerings of their products in, for example, the State of Pennsylvania, they warrant that 'if and when special cash or commodity allowances, post-offs or discounts are offered to purchasers in any other State or the District of Columbia, the same' shall also be offered the Pennsylvania Liquor Control Board."

The Chairman of the Commission testified at a public hearing before a joint legislative committee that "We have, for example, the State of Pennsylvania which is the largest purchaser of liquor in the world. I think they purchase almost $400,000,000 worth of liquor a year—one customer. They swing a very big bit of leverage, and you cannot be convinced that that Pennsylvania customer does not insist