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(ii) for a store having gross annual sales in excess of \$20,000 - \$600;

(B) beverage dispensary license:

(i) in cities and unincorporated communities having a population of less than 1,500 persons - \$500;

(ii) in cities and unincorporated communities having a population in excess of 1,500 persons - \$1,000;

(C) restaurant license - \$1,000;

(D) road house license - \$300;

(E) club license - \$150;

(i) for a club whose gross alcoholic beverage sales for the previous year were less than \$5,000 - \$200;

(ii) for all other clubs - \$400;

(F) common carrier dispensary license - \$250;

(G) recreational site license - \$300;

(H) pub license - \$300;

(I) conditional canteen license - \$300;

(2) Wholesale licenses -

(A) general wholesale license - \$500 as a minimum license fee and in payment for the first \$50,000 of business transacted, and, in addition, on business transacted during any year

| | |
|---|------------------|
| above \$50,000 and not over \$75,000..... | a fee of \$ 250 |
| above \$75,000 and not over \$100,000..... | a fee of \$ 500 |
| above \$100,000 and not over \$125,000..... | a fee of \$ 750 |
| above \$125,000 and not over \$150,000..... | a fee of \$1,000 |
| above \$150,000 and not over \$175,000..... | a fee of \$1,250 |
| above \$175,000 and not over \$200,000..... | a fee of \$1,500 |
| above \$200,000 and not over \$250,000..... | a fee of \$2,000 |
| above \$250,000 and not over \$300,000..... | a fee of \$2,500 |

1 above \$300,000 and not over \$350,000.....a fee of \$3,000
2 above \$350,000 and not over \$400,000.....a fee of \$3,500
3 above \$400,000 and not over \$500,000.....a fee of \$4,500
4 above \$500,000.....a fee of \$5,000

5 (B) wholesale malt beverage and wine license - \$100
6 as a minimum license fee and in payment of the fee on the first
7 \$10,000 of business transacted, and, in addition, on business
8 transacted during any year

9 above \$10,000 and not over \$25,000.....a fee of \$ 150
10 above \$25,000 and not over \$50,000.....a fee of \$ 500
11 above \$50,000 and not over \$75,000.....a fee of \$ 750
12 above \$75,000 and not over \$100,000.....a fee of \$1,000
13 above \$100,000 and not over \$150,000.....a fee of \$1,500
14 above \$150,000 and not over \$200,000.....a fee of \$2,000
15 above \$200,000 and not over \$300,000.....a fee of \$3,000
16 above \$300,000 and not over \$400,000.....a fee of \$4,000
17 above \$400,000a fee of \$5,000

18 (C) in-flight catering license - \$600;

19 (3) Manufacturer's licenses -

- 20 (A) distillery license - \$100;
- 21 (B) bottling works license - \$100;
- 22 (C) brewery license - \$100;
- 23 (D) wirery license - \$100;

24 (b) With respect to fees under (a)(1)(A) and (a)(2) of this
25 section, by February 28 of the year following the year for which a
26 license is in effect, the licensee shall file with the director an
27 affidavit showing as appropriate the amount of gross annual sales or
28 business transacted, for the license year and the location of the
29 premises from which the business was done. At the time of filing

1 the affidavit, the licensee shall pay to the director any license
2 fees accrued for the year. Upon failure of the licensee to file the
3 affidavit and pay the fees accrued, a license outstanding in the
4 name of the applicant lapses. It may be reinstated within three
5 years of the date of lapsing upon payment of the fees and a penalty
6 of \$500; a lapsed license shall otherwise be treated in the manner
7 provided in sec. 230(a)(6) - (7) of this chapter. Failure to file
8 an affidavit, pay accrued fees or renew a license does not relieve
9 a licensee of the obligation of paying the fees.

10 Sec. 04.11.175. PERMIT FEES. Fees for special permits authorized
11 in sec. 145 of this chapter shall be deposited in the general fund and
12 shall be as follows:

- 13 (1) retail stock sale permit - \$100;
- 14 (2) special events permits - \$25 per day;
- 15 (3) caterer's permit - \$25;

16 Sec. 04.11.180. REFUND OF FEE. A license or permit fee de-
17 signated in sections 170 and 175 of this chapter may be refunded only
18 if the license or permit is not issued.

19 ARTICLE 6. APPLICATIONS.

20 Sec. 04.11.190. CONTENTS OF LICENSE OR PERMIT APPLICATION. (a)
21 An applicant for a license issuance or transfer or a permit shall file
22 with the director a written application which includes information
23 and affidavits conforming to this title as the director may prescribe.
24 The director shall make application forms available to persons re-
25 questing them.

26 (b) An application shall be signed and sworn to by the appli-
27 cant; if the applicant is a corporation, the application shall be
28 signed and sworn to by the duly authorized officers of the corporation.

29 (c) An application for transfer of ownership of a license shall

1 include an affidavit of the transferor stating the amount of taxes and
2 other debts owed a creditor of the business and identify each creditor
3 and taxing authority. Upon receipt of the affidavit, the director
4 shall promptly inform each creditor and taxing authority of the
5 application and the amount owed the creditor or taxing authority.

6 (d) The applicable license or permit fee established under sec-
7 tions 170 and 175 of this chapter, and any application fee established
8 by the board under AS 04.06.070(5), shall accompany an application for
9 a license or permit.

10 Sec. 04.11.200. OMISSIONS AND MISSTATEMENTS. (a) The director
11 shall deny the issuance or transfer of a license or issuance of a
12 permit if the application

- 13 (1) omits the required information or fees, or
14 (2) contains an untrue statement of material fact.

15 (b) After granting a license or permit, if the director finds
16 that a statement of material fact of the applicant is untrue, he may
17 in his discretion enter an order cancelling the license or permit.
18 However, this subsection may not be enforced so as to penalize a bona
19 fide purchaser of the license who had no knowledge of the untrue
20 statement in the application.

21 Sec. 04.11.210. LICENSING CRITERIA. In addition to considera-
22 tions presented at hearings or otherwise, the following factors, as
23 appropriate, may be considered by the director in acting on an appli-
24 cation for license issuance or transfer:-

- 25 (1) adequacy of licensed premises in the area of the pro-
26 posed premises, with particular consideration of
27 (A) the clientele, seating, business volume and menu
28 of existing outlets;
29 (B) size, design and decor of the proposed premises, and

1 (C) changes in population and economic conditions of
2 the area;

3 (2) customer parking;

4 (3) suitability of inventory, equipment, and fixtures of
5 proposed premises;

6 (4) effect of granting the license on traffic and traffic
7 controls, with particular consideration of hazards in the area,
8 such as dangerous crossings, school crossings, or children riding
9 bicycles in the area;

10 (5) proximity of the proposed premises to schools, churches
11 and other public institutions;

12 (6) effect of granting the license on public health and
13 local law enforcement, with particular consideration of whether location
14 of the licensed premises in proximity to other licensed premises would
15 tend to cause or aggravate public health or law enforcement
16 problems;

17 (7) effect of granting the license on law enforcement or
18 public health in areas bordering or neighboring the area of the
19 proposed premises and in which the sale of alcoholic beverages has
20 been prohibited or restricted by local option election;

21 (8) effect of granting the license on property values in
22 the area;

23 (9) objections to granting the license, with particular
24 consideration of the number of objectors and their proximity of
25 residence to the premises;

26 (10) accuracy and completeness of information furnished by
27 the applicant;

28 (11) criminal convictions of the applicant for violations of
29 law, or prior discipline of the applicant for violations of alcoholic

1 beverage control laws or regulations;

2 (12) financial capability and resources of the applicant;

3 (13) other considerations required in this title or
4 specified by regulation of the board;

5 (14) other considerations which the director determines to
6 be in the best interests of the public.

7 Sec. 04.11.220. PUBLIC HEARINGS. (a) The director or the board
8 may hold public hearings to obtain information for decisions on license
9 applications and related matters. At least 20 days notice of a public
10 hearing shall be given by posting in the locations designated for
11 applications under sec. 060 of this chapter and by additional notice
12 as the director may determine to be appropriate.

13 (b) At a public hearing all interested persons shall be heard
14 in a manner designed to elicit new information and avoid repetition,
15 and the applicant shall answer pertinent questions of the board or
16 director. Insofar as feasible the hearing shall be held in the area
17 in which the premises which are the subject of the hearing are located.

18 ARTICLE 7. RENEWALS, TRANSFERS,
19 SUSPENSIONS, REVOCATIONS.

20 Sec. 04.11.230. LICENSE RENEWAL. (a) Subject to AS 04.11.040(c)
21 and AS 04.14.010, a license issued under this chapter is renewable
22 automatically, or lapses, is forfeited, and may be reinstated, in the
23 manner provided in this section. A certificate to operate is renewable,
24 or lapses, is forfeited, and may be reinstated, in the same manner as
25 a license under this section except that, in addition to payment of the
26 license fee, an affidavit must be completed and returned to the director
27 on a form available from him which states any convictions of the appli-
28 cant (or the absence of convictions) of a violation of federal, state
29 or local law or regulation governing sale of alcoholic beverages during

1 the pending term of the license and the time of returning the affidavit.

2 (b) For renewal of a license issued for the calendar year ending
3 December 31:

4 (1) by November 1, the director shall mail to each licensee
5 at his licensed premises or at a mailing address designated by the
6 licensee, a statement of the annual license fee due under sec. 170 of
7 this chapter;

8 (2) by December 31, the licensee shall make payment of the
9 annual fee;

10 (3) if by December 31, the annual fee has not been paid, the
11 license lapses;

12 (4) by January 15, the director shall mail a notice of
13 lapsing of license to a licensee who has neither renewed his license as
14 provided in this section nor notified the director of intent not to re-
15 new; failure to mail the notice does not continue the right to a license;

16 (5) after December 31 and within three years of that date,
17 a lapsed license may be reinstated upon payment of the annual fee
18 and a penalty of \$500;

19 (6) if a license which lapses under this subsection is
20 not reinstated within three years of the date of lapsing, the
21 license is forfeited;

22 (7) a license lapsing under this subsection continues
23 to be included in the computation of quota requirements under sec. 050
24 of this chapter until it is forfeited or otherwise revoked;

25 (c) For renewable licenses issued for the duration of less than a
26 calendar year under sec. 160 of this chapter, the director shall
27 provide for renewals in the same manner as provided for other licenses
28 in this section.

29 (c) Nothing in this chapter requires operation of licensed

1 premises during the term, or part of it, for which a license is in
2 effect.

3 Sec. 04.11.240. TRANSFER OF LOCATION UNDER LICENSE. (a) A
4 license may not be transferred outside the election district for the
5 state house of representatives within which the license was issued,
6 except within an organized borough or unified municipality.

7 (b) No license may be transferred if the transfer would result
8 in exceeding a quota limitation in sec. 050 of this chapter, except
9 that licenses already issued on April 25, 1960 and thereafter conti-
10 nuously renewed are transferrable to another location authorized
11 under (a) of this section irrespective of the limitation.

12 (c) A licensee is entitled, subject to this chapter, to transfer
13 his license to other suitable premises if

14 (1) because of termination of his lease, or condemnation
15 or substantial destruction of the licensed premises, transfer becomes
16 necessary, or

17 (2) public convenience is better served by transfer than by
18 retention of the premises at the existing location, and

19 (3) the licensee applies for transfer, or gives notice of
20 intent to apply for transfer, within 90 days of the time grounds for
21 transfer are established under this subsection; the director may grant
22 an extension of time for filing the application or notice of intent
23 upon request of the licensee.

24 Sec. 04.11.250. SUSPENSION AND REVOCATION OF RIGHT TO OPERATE
25 BUSINESS UNDER LICENSE. (a) The following are grounds of possible
26 suspension or revocation of a licensee's certificate to operate the
27 business under the license:

28 (1) the plea, verdict, or judgment of guilty entered by or
29 against a licensee to

1 (A) a felony or crime of violence and committed
2 on the licensed premises;

3 (B) a violation of a law or regulation concerning
4 the manufacture, barter, sale and possession of alcoholic
5 beverages by a licensee, or the agent or employee of a licensee,
6 or

7 (C) a violation under AS 04.90.010(b).

8 (2) a violation of a board regulation by a licensee, or
9 the agent or employee of a licensee;

10 (3) the misrepresentation of a material fact by an appli-
11 cant in obtaining a license;

12 (4) failure by a licensee to correct objectionable conditions
13 within a prescribed time after receipt of notice to make the correction
14 given by the director;

15 (5) failure of a licensee to comply with the laws and regu-
16 lations pertaining to public health in the state;

17 (6) a determination that continuation of a license would
18 be contrary to the best interests of the public.

19 (b) The director may act to suspend or revoke the licensee's
20 certificate to operate under a provision of (a)(1) - (a)(6) of this
21 section by giving the licensee notice of intention to suspend
22 or revoke setting forth grounds and otherwise proceeding in accordance
23 with AS 04.90.020. Failure to timely request a hearing waives the
24 licensee's right to hearing and review.

25 (c) License suspensions imposed shall be for a period of time,
26 and a fine may not be substituted for a suspension.

27 CHAPTER 14. LOCAL OPTION.

28 Sec, 04.14.010. ELECTION IN CITIES. (a) If 35 percent of the
29 total number of voters in the last regular municipal election held in

1 a city petition the governing body to do so, it shall place on the
2 ballot at the next regular municipal election the following questions:

3 (1) Should the sale of alcoholic beverages be permitted
4 within this city? YES [-]

5 NO []

6 (2) If you favor the sale of alcoholic beverages within
7 this city, should the sale be permitted under privately-owned
8 licenses or only under a community-run license? Check only one.

9 PRIVATELY-OWNED []

10 COMMUNITY-RUN []

11 (3) If you voted for a community-run license in question
12 (2), which type of license would you favor? Check only one.

13 PACKAGE STORE []

14 TAVERN []

15 BOTH []

16 (b) The city election officials shall canvass the ballots cast
17 on questions and certify the election results to the board.

18 (c) If a majority of the votes cast on question (1) opposes
19 the sale of alcoholic beverages within the city, no licenses may
20 be issued, renewed or transferred within the city, and a new license
21 for a beverage dispensary or retail package store may not be issued
22 within five miles of the city. The expiration date of licenses in
23 effect within the city is coterminous with the date of election
24 certification. However, a licensee within the city is entitled to
25 retail stock permits, as authorized in AS 04.11.145(1) but without pay-
26 ment of the permit fee and irrespective of the type of license he holds.

27 (d) If a majority of the votes cast on question (1) favors the
28 sale of alcoholic beverages within the city, licenses may be issued,
29 renewed or transferred within the city or five miles of it in

1 accordance with the provisions of this title.

2 (e) If a majority of the votes cast on question (2) favors the
3 sale of alcoholic beverages only under a community-run license, no
4 licenses may be issued, renewed or transferred within the city, ^{except that} but a
5 community liquor license may be issued for a retail package store or
6 beverage dispensary, or both, as authorized by the voters at the
7 election. However, a license already issued within the city on Septem-
8 ber 10, 1972 and thereafter continuously renewed may be renewed or its
9 ownership transferred within the city irrespective of the restriction
10 of this subsection. The duration of other licenses within the city is
11 coterminous with the date of election certification; however, holders of
12 retail package store licenses within the city are entitled to retail
13 stock sales permits, as authorized in AS 04.11.145(1) and without pay-
14 ment of the permit fee.

15 (f) If, following an election prohibiting or limiting the sale
16 of alcoholic beverages within the city under (a) of this section, a
17 majority of the voters at a subsequent regular municipal election under
18 (a) of this section authorize the sale of alcoholic beverages under
19 private licenses, the director upon application may issue only the same
20 number and type of licenses to the same or other premises within the
21 city as were in effect on the date of certification of the previous
22 election. Those applicants who were licensees and whose licenses were
23 not continued by reason of the previous election have priority in
24 license issuance over other applicants. A license shall be issued to a
25 prior licensee notwithstanding a resulting restriction, whether under
26 AS 04.11.050 or otherwise, which arose subsequent to the election.

27 Sec. 04.14.020. LOCAL OPTION ELECTION MANDATORY IN CERTAIN
28 CITIES. No new license for the sale of alcoholic beverages may
29 be issued within a city in which there is no licensed premises on

1 the effective date of this Act, unless a local option election
2 under sec. 010 of this chapter is first conducted and sale
3 authorized by the voters.

4 Sec. 04.14.030. LOCAL OPTION ELECTION IN CERTAIN UNINCOR-
5 PORATED AREAS. (a) In an area outside a municipality, if the
6 director finds that protest of a license issuance, renewal or
7 transfer has been made in the manner provided in AS 04.11.080
8 by at least 35 percent of the qualified voters having permanent
9 places of abode within a village and within two miles of the
10 boundaries of the village, the Department of Community and
11 Regional Affairs shall conduct a special election within the
12 village on the question of whether any licenses may be
13 issued, renewed or transferred within the village and within two
14 miles of its boundaries.

15 (b) An election under this section shall be conducted in
16 conformity with the applicable provisions of AS 15. The effect
17 of the election within the village and within two miles of its
18 boundaries is the same as the effect of a local option election
19 within a city as provided for in sec. 010(c), (d) and (f) of this
20 chapter. Upon petition of the same number of voters from the
21 same area as prescribed in (a) of this section, the department
22 shall conduct the subsequent election on the question.

23 Sec. 04.14.040. SALE IN VIOLATION OF LOCAL OPTION. (a) A
24 person who barter, sells or offers for sale an alcoholic beverage
25 in an area where a local option election has made these activities
26 illegal is guilty of a Class A misdemeanor.

27 (b) Nothing in this section prohibits mail and telephone
28 order for alcoholic beverages placed from the local option area

1 to a retail package store licensee in another area and the
2 satisfaction of such orders from his licensed premises, if the
3 sale is made in good faith and without knowledge or reason to
4 believe that the alcoholic beverages ordered are intended for
5 sale or offering for sale in violation of (a) of this section.
6 A sale under this subsection shall be considered a sale made
7 on the licensed premises.

8 Sec. 04.14.050. SEIZURE, FORFEITURE AND SALE OF CONVEYANCE.

9 (a) A conveyance used, or intended for use, to transport or in
10 any manner to facilitate the transportation, sale, receipt, pos-
11 session or concealment of an alcoholic beverage sold in an area
12 where a local option election has made its sale illegal may
13 be seized when the seizure is incident to an arrest or a search
14 under a search warrant.

15 (b) Upon conviction of the offender or upon judgment of the
16 court having jurisdiction that a conveyance was used or intended for
17 use to transport or in any manner to facilitate the transportation,
18 sale, receipt, possession or concealment of an alcoholic beverage
19 sold in an area where a local option election has made its sale
20 illegal, it is forfeited and shall be disposed of to the community
21 in the local option area most directly affected by the sale or to
22 the state, as directed by the court. If the conveyance is sold
23 for the benefit of the state, the proceeds of the sale shall be trans-
24 mitted to the proper state officer for deposit in the general fund.
25 If not ordered disposed of by the court, a seized conveyance shall
26 be returned after completion of the case and payment of the fine,
27 if any.

28 (c) No conveyance used as a regularly-scheduled common carrier
29 in the transaction of business as a common carrier is forfeited under

1 this section unless the owner or other person legally in charge of the
2 conveyance consented to or had knowledge or reason to know of the
3 illegal conduct.

4 (d) No conveyance is forfeited under this section because of con-
5 duct of a person, other than the owner, having unlawfu. possession of it.

6 Sec. 04.14.060. APPEARANCE BY PERSON HAVING INTEREST IN
7 CONVEYANCE. A person holding a lien, mortgage, or conditional sales
8 contract on a conveyance seized under sec. 050 of this chapter may
9 appear before the court in the proceeding involving the forfeiture to
10 petition for remittance or mitigation of the forfeiture. The court
11 shall remit or mitigage the forfeiture if it finds that the petitioner
12 has an interest in the conveyance which he acquired in good faith and
13 without knowledge or reason to believe that the conveyance was being
14 used or would be used in the transportation of an illegally sold
15 alcoholic beverage.

16 CHAPTER 16. REGULATION OF SALES AND DISTRIBUTION.

17 ARTICLE 1. OPERATION OF PREMISES.

18 Sec. 04.16.010. POSTING OF LICENSE AND INSPECTION OF PREMISES.

19 (a) A license nd certificate to operate shall be posted conspicuously
20 on the licensed premises.

21 (b) Licensed premises, or other storage premises of a licensee,
22 shall be readily accessible for inspection by ABC enforcement and
23 other peace officers during all regular business hours and other
24 reasonable times.

25 Sec. 04.16.020. HOURS OF SALE. (a) No person may consume,
26 sell, offer for sale, give, furnish or deliver from a licensee an
27 alcoholic beverage on a licensed premises between the hours of
28 5:00 a.m. and 8:00 a.m. each day of the week.

29 (b) Municipalities may by ordinance provide for more restrictive

1 hours of operation than those authorized in (a) of this section.

2 Sec. 04.16.030. SALES ON ELECTION DAY. (a) During polling
3 hours, no person may give, barter, sell, or dispose of an alcoholic
4 beverage on licensed premises

5 (1) on a day on which an election is held throughout the
6 state for the purpose of voting for a candidate for public office;

7 (2) in a municipality, an election district, or a state
8 senate district on a day on which an election is held in the muni-
9 cipality, election district, or senate district for the purpose of
10 voting for a candidate for public office;

11 (3) in a city on the day of a local option election held
12 under AS 04.14.010.

13 (b) The governing body of a municipality may provide by ordi-
14 nance that the provisions of (a)(2) of this section do not apply in
15 the municipality when elections are being held.

16 (c) The board shall adopt regulations governing the sale of
17 alcoholic beverages on election days in areas of the state outside
18 municipalities.

19 Sec. 04.16.040. UNAUTHORIZED CLASS OF BEVERAGES. No licensee
20 may permit the consumption of alcoholic beverages within the licensed
21 premises except beverages authorized under the classification of his
22 license.

23 Sec. 04.16.050. VISIBLY INTOXICATED PERSONS. (a) No person
24 may give, barter, sell, serve, or furnish an alcoholic beverage to
25 a visibly intoxicated person. No licensee may permit, within the
26 licensed premises, the giving, bartering, selling, serving or furnish-
27 ing, of an alcoholic beverage to, or the drinking of an alcoholic
28 beverage by, a visibly intoxicated person.

29 (b) A licensee may not permit a visibly intoxicated person to

1 remain on the licensed premises, except to avoid unreasonable risk
2 of bodily harm to the person.

3 ARTICLE 2. MINORS.

4 Sec. 04.16.060. MINORS ON PREMISES. (a) No person under the
5 age of 19 years may enter or remain upon licensed premises, unless
6 accompanied by his parent, guardian or spouse who has attained the
7 age of 19 years or by another person 19 years of age or over who
8 has the implied or express consent of the minor's parent or guardian.

9 (b) A person 16 through 18 years of age may enter and remain
10 upon the licensed premises of a hotel or restaurant in the course of
11 his employment if

12 (1) the employment does not require or involve the
13 serving, mixing, delivering or dispensing of alcoholic beverages, and

14 (2) the person has the written consent of a parent or
15 guardian and an exemption by the Department of Labor for the employ-
16 ment.

17 (c) No licensee or his employee may permit to remain upon
18 licensed premises a person under the age of 19 years in violation of
19 this section.

20 Sec. 04.16.070. MINORS' POSSESSION OR CONSUMPTION. (a) No
21 person under the age of 19 years may have in his possession or control
22 an alcoholic beverage.

23 (b) No person under the age of 19 years may knowingly consume
24 an alcoholic beverage, except as permitted under (e) of this section.

25 (c) No person may give, barter, sell, serve or deliver an
26 alcoholic beverage to a person under the age of 19 years.

27 (d) No licensee or his employee may permit consumption of
28 alcoholic beverages on the licensed premises by persons under the
29 age of 19 years.

1 (e) This section does not prohibit the furnishing of an alcoholic
2 beverage

3 (1) by a licensed physician or nurse giving medical treat-
4 ment;

5 (2) between spouses, or by a parent or guardian to his
6 child or his ward, in a place other than a public place where furnish-
7 ing is not prohibited by law. However, this paragraph does not exempt
8 a parent, guardian or spouse from prosecution for contributing to the
9 delinquency of a minor when the delinquency of the minor arises in
10 part or in full from their giving alcoholic beverages to the minor.

11 (f) Alcoholic beverages which are found in the possession or
12 control of a person under 19 years of age are contraband and subject
13 to confiscation by a peace officer.

14 Sec. 04.16.030. PURCHASE BY MINORS AND PROOF OF AGE. (a) No
15 person under the age of 19 years may solicit the purchase of or in any
16 way attempt to purchase or otherwise secure alcoholic beverages.

17 (b) No person may influence or attempt to influence the sale,
18 giving or serving of alcoholic beverages to a person whom he knows or
19 has reason to believe is under the age of 19 years, by misrepresenting
20 the age of the person or by any artifice or device.

21 (c) No person may request, receive, or procure alcoholic
22 beverages from a licensee, or other person, for the purpose of selling,
23 giving, or serving it to the person under 19 years of age, except as
24 provided in AS 04.16.070(e).

25 (d) No person under the age of 19 years may enter a licensed
26 premises and offer or present to a licensee or his employee a fraudu-
27 lent or false certificate of birth or other written evidence of age
28 which is not actually his own or otherwise misrepresent his age, for
29 the purpose of inducing the licensee or his employee to sell, give,

1 serve, or furnish alcoholic beverages.

2 (e) If a licensee, or the agent or employee of a licensee,
3 questions or has reason to question whether a person entering a
4 licensed premises, or ordering, purchasing, attempting to purchase
5 or otherwise procuring or attempting to procure an alcoholic beverage,
6 has attained the age of 19 years, he shall request the person to show
7 identification. If the person questioned does not show identification
8 adequate under sec. 090 of this chapter, or if there is question of
9 the validity or accuracy of the identification shown, then the li-
10 censee, or the agent or employee of the licensee, shall require the
11 person to sign a statement that he is 19 years of age or older. If a
12 licensee, or the agent or employee of a licensee, in good faith secures
13 the signed statement, he is not subject to criminal prosecution for
14 violation of sections 060(d) and 070(c) - (d) of this chapter.

15 (f) The statement provided for under (e) of this section shall
16 be made in a form prescribed by the director. It is the responsibility
17 of the licensee to have proper forms available for the use of his
18 agents and employees.

19 Sec. 04.16.090. DRIVER'S LICENSE AS PROOF OF AGE. (a) A valid
20 Alaska driver's license or an identification card issued under
21 AS 18.65.310(a) is acceptable as proof of age when used for identi-
22 fication in the purchase of alcoholic beverages and for presence
23 in establishments where alcoholic beverages are sold, if the license
24 or identification card is made of or encased in plastic and contains
25 a photograph of the license holder and a statement of his age or date
26 of birth.

27 (b) A licensee is not subject to criminal prosecution for
28 violation of sections 060(d) and 070(c) - (d) of this chapter if
29 such a driver's license or identification card presented as proof of

1 age under (a) of this section indicates that its owner and possessor
2 is 19 years of age or over.

3 Sec. 04.16.100. MINOR TREATED AS ADULT. (a) If a minor is
4 accused of a violation under this chapter he may be arrested, charged,
5 prosecuted and sentenced in the same manner as an adult, except that
6 a parent, guardian or legal custodian shall be present at all pro-
7 ceedings against the minor.

8 (b) If a minor is intoxicated or incapacitated by alcohol he
9 may be arrested or placed in protective custody under the provisions
10 of AS 47.37.170.

11 ARTICLE 3. DISTRIBUTION.

12 Sec. 04.16.100. STOCK FOR SALE. No licensee may carry for sale
13 a stock of alcoholic beverages except on the premises designated on
14 his license. However, stocks of beer carried in a delivery truck for
15 the purpose of sale by a wholesaler to licensees and delivery to
16 their licensed premises are not subject to this section.

17 Sec. 04.16.110. STORAGE. (a) No licensee may stock, warehouse,
18 or otherwise store alcoholic beverages in a place other than the
19 premises designated on his license unless

20 (1) the premises to be used for storage are inspected and
21 approved by the director before their use;

22 (2) the use of the premises for storage is authorized by
23 applicable zoning ordinances; and

24 (3) the premises are accessible for inspection as provided
25 in sec. 010 of this chapter.

26 (b) No alcoholic beverage sales or other alcoholic beverage
27 business may be transacted from premises approved for storage under
28 this section.

29 (c) Alcoholic beverages stored on unlicensed premises or

1 or remises not approved under this section, are contraband and subject
2 to confiscation by the state. Alcoholic beverages seized shall be
3 sold as provided in sec. 110(b) of this chapter.

4 Sec. 04.16.110. SHIPMENTS TO UNLICENSED PERSONS. (a) Alcoholic
5 beverages shipped into or within the state for sale other than to a
6 licensee are contraband and subject to confiscation by the state,
7 except as permitted under AS 04.14.040(b) and board regulation.

8 (b) Alcoholic beverages seized shall be sold under the order
9 of the director and the proceeds of the sale deposited in the general
10 fund.

11 Sec. 04.16.120. KNOWLEDGE. (a) Licensees selling to the
12 general public are charged with the knowledge that the person selling
13 alcoholic beverages on a wholesale basis from whom they purchase
14 alcoholic beverages is properly licensed.

15 (b) Licensees selling alcoholic beverages on a wholesale basis
16 are charged with the knowledge that the person or entity to whom
17 they are selling is a licensee. They shall note on the invoice for
18 each sale the name, license number and address of the licensee who
19 is making the purchase.

20 CHAPTER. 85. MISCELLANEOUS PROVISIONS.

21 Sec. 04.85.010. MUNICIPAL ELECTIONS. (a) A municipality may
22 by ordinance govern the sale, barter, and possession of alcoholic
23 beverages within the municipality, but the ordinance must be
24 consistent with, and not impede directly or indirectly implementation
25 of, specific policy of this title or regulations adopted under it.

26 (b) No municipality may impose taxes other than property taxes
27 on alcoholic beverage inventories and sales taxes on alcoholic
28 beverage sales unless the taxes are levied on other property and
29 sales within the municipality.

1 (c) The provisions of AS 04.90.010 relating to penalties for
2 violation of this title apply also with respect to penalties for
3 violation of municipal ordinances adopted under (a) of this section.

4 CHAPTER 90. GENERAL PROVISIONS.

5 Sec. 04.90.010. PENALTIES. (a) Unless a different penalty is
6 provided in this title, a person who violates a provision of this
7 title or a regulation adopted by the board, is guilty of a misde-
8 meanor, and upon conviction is punishable by imprisonment of not more
9 than one year, or by a fine of not more than \$500, or by both. Each
10 violation is a separate offense.

11 (b) Upon conviction of a licensee for a violation under (a) of
12 this section, or for violation of a municipal ordinance adopted by
13 a municipality in conformity with AS 04.85.010, the judge having
14 jurisdiction shall send a notification of conviction together with a
15 certified copy of the record of conviction to the director. The
16 director may suspend the license as provided in this section for
17 the first and second violations and upon a third violation, the
18 director may revoke the license.

19 (1) first violation, the license of the premises involved
20 may be suspended for not more than 45 days;

21 (2) second violation, the license of the premises involved
22 may be suspended for a period of 30 days and not more than 90 days.

23 (c) For the purpose of (b) of this section, the terms "second
24 violation" and "third violation" include only those violations which
25 occur within five years of the first violation, but are not limited
26 to repeated violations of the same statutory provision or municipal
27 ordinance.

28 Sec. 04.90.020. HEARING AND APPEAL OF DIRECTOR'S ACTIONS. (a)
29 Actions of the director in administering the provisions of this title

1 and regulations adopted under it are subject to review and appeal
2 at the request of an aggrieved party in the same manner as provided
3 in AS 04.11.090 for review and appeal of decisions on license appli-
4 cations, except as provided in (b) of this section.

5 (b) No hearing or appeal is required for a summary license sus-
6 pension duly authorized by regulation and enabling the director to
7 suspend the operation of premises immediately for a period of 7 days
8 or less when he considers it necessary to enforce compliance with
9 this title and regulations adopted under it.

10 Sec. 04.90.030. PEACE OFFICERS TO ENFORCE PROVISIONS. (a)
11 Peace officers, including but not limited to ABC enforcement officers,
12 are charged with enforcement of the provisions of this title,
13 regulations adopted under it, and state laws or regulations or local
14 ordinances governing the manufacture, barter, sale or possession of
15 alcoholic beverages.

16 (b) Board members, the director, and employees and other persons
17 designated by him are ABC enforcement officers under this section.

18 (c) The powers of ABC enforcement officers include, but are not
19 limited to, the following:

20 (1) power of arrest when violations of this title occur in
21 their presence;

22 (2) authority to demand identification from patrons of
23 licensees;

24 (3) right to inspect a portion of a licensed premises at a
25 reasonable time and without a search warrant, and

26 (4) additional powers which may be authorized by board
27 regulations.

28 (d) If an arrest is made by an ABC enforcement officer, the
29 officer shall transport the person arrested to the local law enforce-

1 ment facility in the jurisdiction in which the arrest was made.

2 Sec. 04.90.040. DEFINITIONS. As used in this title, unless
3 the context otherwise requires,

4 (1) "ABC" means Alcoholic Beverage Control;

5 (2) "alcoholic beverage" includes but is not limited to whis-
6 key, brandy, rum, gin, wine, ale, porter, beer and all other spirituous,
7 vinous, malt and other fermented or distilled liquors intended for hu-
8 man consumption and containing more than one percent alcohol by volume;
9 the term also includes powdered alcohol and any other nonliquid sub-
10 stance having alcoholic content and intended for human consumption; the
11 term excludes alcoholic beverages used for religious, industrial,
12 pharmaceutical, or medical purposes, as defined by board regulations;

13 (3) "board" means the Alcoholic Beverage Control Board;

14 (4) "certificate to operate" means a certificate to operate
15 an alcoholic beverage business under a license, as provided in

16 AS 04.11.120;

17 (5) "city" means an incorporated city established under AS 29;

18 (6) "community liquor license" means a beverage dispensary
19 or retail package store license held by a first or second-class city,
20 as authorized in AS 04.11.150 and AS 04.14.010(e);

21 (7) "conveyance" means a vessel, motor vehicle, trailer,
22 aircraft or other means of transporting goods or people;

23 (8) "knowledge" means a person's acting "knowingly" as de-
24 fined in AS 11.81.900(a)(2);

25 (9) "license" means a license authorized under this title
26 and "license" as provided in AS 04.11.120;

27 (10) "licensed premises" or "premises" means the designated
28 room, building, structure or real estate where the licensee is
29 authorized to conduct the alcoholic beverage business for which he is

1 licensed by the director;

2 (11) "licensee" means a person licensed by the director in
3 accordance with this title and the regulations adopted under it;

4 (12) "municipality" means a home rule or general law city or
5 organized borough, or a unified municipality, established under AS 29;

6 (13) "new license" means a license initially applied for
7 and does not include a renewal or transfer of a license;

8 (14) "notice" means written notice

9 (A) mailed postage paid to the party to be notified at
10 his last known address; notice is complete upon mailing;

11 (B) handed personally to the party to be notified;

12 (C) delivered personally to the party to be notified
13 at his office, or to a person in charge of the office, or

14 (D) if the party to be notified has no office, delivered
15 personally to the party at his usual place of abode or dwelling
16 house, or to a person of suitable age and discretion residing there;

17 (15) "peace officer" means peace officer as defined in
18 AS 11.81.900(a)(38);

19 (16) "permit" means a special permit specified in
20 AS 04.11.145;

21 (17) "qualified voter" means a person qualified to vote
22 in state elections who is registered as required by law and who is
23 not disqualified under art. V, Alaska State Constitution;

24 (18) "radius" means a straight line extending outward from
25 the public entrance of the proposed licensed premises which is the
26 origin;

27 (19) "recreational event" means baseball game, car race,
28 hockey game, dog-sled racing event, curling match, or other similar
29 sporting event which is open to the public and conducted at either

1 an indoor or outdoor location;

2 (20) "selling alcoholic beverages on a wholesale basis" means
3 selling as a wholesaler, distillery, brewery, bottler or winery;

4 (21) "transfer" means

5 (A) transfer of the location of the licensed premises,
6 and

7 (B) transfer of ownership of the license by

8 (i) addition to the license of a newly-named
9 licensee, or

10 (ii) replacement of the named licensee by a
11 newly-named licensee;

12 (22) "village" means an unincorporated area having bounda-
13 ries and a population of at least 25 persons residing as a social unit
14 as determined by the Department of Community and Regional Affairs in
15 consultation with village leaders.

16 * Section 2. AS 47.37.050(a) is amended to read:

17 Sec. 47.37.050. INTERDEPARTMENTAL COORDINATING COMMITTEE. (a)
18 The interdepartmental coordinating committee is created, composed of
19 the coordinator, [AND] the commissioners of health and social services,
20 education, highways, labor and public safety and the director of the
21 Alcoholic Beverage Control Board. The committee shall meet at least
22 twice annually at the call of the commissioner of health and social
23 services who is its chairman. The committee shall provide for the
24 coordination and exchange of information on all programs relating to
25 alcoholism, and act as a permanent liaison among state departments
26 engaged in activities affecting alcoholics and intoxicated persons.
27 The committee shall assist the commissioner of health and social
28 services and the coordinator in formulating a comprehensive plan for
29 prevention of alcoholism and for treatment of alcoholics and intoxi-

1 cated persons.

2 * Section 3. TRANSITION. (a) Nothing in this Act affects the duration
3 of licenses in effect on the effective date of this Act or applications or
4 actions pending under laws repealed by this Act. The applications and
5 actions shall be resolved under the applicable provisions of the former
6 law.

7 (b) Regulations in effect under former law and consistent with this
8 Act remain in effect until amended or rescinded.

9 (c) Other provisions of this Act notwithstanding, terms of members
10 of the Alcoholic Beverage Control Board holding office on the effective
11 date of this Act are not affected by this Act.

12 * Section 4. AS 04.05, 04.10, 04.15, 04.20 and AS 44.62.330(17) are
13 repealed.

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21 TENTATIVE DRAFT NO. _____
22 FOR DISCUSSION PURPOSES ONLY.
23 4/18/79
24 DATE

SB

277

COMMITTEE REPORT

(9)

HOUSE

FURTHER:

5/15/80

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had CSSB 277

"An Act making corrective amendments in the Alaska Statutes as recommended by the revisor of statutes."

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^{its own} CS for SS 277 same title
 new title
- and recommends No 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:

PROCEEDING: To Pass
Burghardt
Neil G. Anderson
Frank...
Charles...

Charles R.
 CHAIRMAN

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 22, 1980

SUBJECT: CSSB 277 - "An Act making corrective amendments in the Alaska statutes as recommended by the revisor of statutes."

TO: Alaska Legislative Council

FROM: Donna Spragg Pegues *DS*
David T. Walker *DW*
Co-Revisors of Statutes

This committee substitute was prepared by the revisor of statutes under AS 01.05.036 which provides in part that the revisor of statutes shall

"prepare for submission to the legislature legislation for the correction or removal of . . . deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of . . . the statute law of this state."

It is suggested that this explanatory memorandum accompany the bill through its legislative course.

SECTIONAL ANALYSIS

Section 1 repeals an obsolete section of AS 02.15.180. The underlying federal law (Veterans' Readjustment Assistance Act of 1952) on which this section relies was repealed in 1958.

Section 2 amends AS 05.15.030(a) to delete obsolete language. The "15-day period" referred to in AS 05.-15.030(a) was a suspense period previously set out in AS 05.15.020 which was deleted by sec. 1, Chapter 182, SLA 1976.

Section 3 amends AS 06.30.445(b) to correct a reference in that statute. A 1978 amendment to the section included a reference to "Federal Savings and Loan Insurance Corporation regulations." In fact, the applicable regulations are the responsibility of the Federal Home Loan Bank Board. See also the corrective regulation at 3 AAC 05.150 (adopted April 4, 1979).

Section 4 corrects an incorrect statute reference in AS 06.-30.665. The statute now refers to AS 06.01.660 which was repealed in 1978.

Section 5 repeals a provision of the Alaska Integrated Bar Act relating to disciplinary proceeding and review which was inadvertently left out of the repealer contained in Chapter 181, SLA 1976, involving amendments to the statute act.

Sections 6 and 7 correct an error in the repeals made by Chapter 177, SLA 1978, which is an act relating to malpractice insurance. That act repealed AS 08.80.115 which had nothing to do with malpractice insurance but rather involved the registration of pregraduate and postgraduate intern pharmacists. However, AS 08.80.117 does relate to malpractice insurance and was not repealed in Chapter 177, SLA 1978. It is apparent that a repeal of 08.80.117 was intended and that the repeal of 08.80.115 was inadvertent.

Section 8 corrects an internal citation in AS 08.80.295(a).

Section 9 corrects a mistake in AS 09.55.238(b). The word "visitation" is substituted for "violation" to make the section consistent with the other sections relating to an action for failure to permit visitation with a minor child. See AS 11.51.125(b).

Section 10 removes an archaic provision from the applicability section of the chapter regulating non-profit corporations. (AS 10.20). The class of corporations referred to by the provision being repealed is now regulated under AS 10.40 (religious corporations).

Section 11 inserts a statutory reference in the definition contained in AS 14.12.170 to clarify the coverage of the definition of school districts.

Section 12 eliminates a reference in AS 14.17.140(b) to a section of AS 28.10 which was repealed in 1978. The correct succeeding code section has been substituted.

Section 13 removes an obsolete reference to the state pay plan in the statute relating to the Postsecondary Education Commission.

Section 14 deletes an obsolete reference to "State Operated Schools" in AS 14.36 relating to community schools. A reference to "regional educational attendance areas" is substituted.

Section 15 repeals the tuition grant program which was held unconstitutional in Sheldon Jackson College v. State, 599 P.2d 127 (1979).

Sections 16 and 17 amends the section relating to sport fishing and hunting so as to properly relocate an existing provision relating to big game tags.

Section 18 repeals an obsolete section in Title 17. AS 17.-05.040 would punish violations of AS 17.05.030 which was repealed in 1968.

Section 19 updates the language of AS 18.50.280 (relating to court reporting requirements under the Vital Statistics Act) to include the reports of dissolution of a marriage.

Section 20 corrects an incorrect internal citation. Facility procurement policy development procedures are found at AS 35.10.160 -- not AS 35.10.060.

Section 21 repeals an obsolete section which refers only to a repealed section which was in former AS 07.

Section 22 repeals a section relating to nonconforming highway advertising which expired by its own terms on July 1, 1971.

Section 23 repeals a section relating to the removal of nonconforming junk yards. This effect of this section expired September 14, 1979.

Section 24 corrects two statute references in AS 21.-
27.420(2).

Section 25 repeals an obsolete reference to the jurisdiction of the district court over proceedings under the defunct Village Incorporation Act.

Section 26 repeals certain sections of the Alaska World War II Veterans' Act (AS 26.15) which have expired. Most of these sections relate to payment of bonuses which have terminated. One of these sections provides for repayment of a loan to the veterans' revolving fund from the general fund. This loan was long ago paid. The title of the Act is also repealed since AS 26.15 now relates to veterans other than veterans of World War II.

Sections 27 and 28 amend the description of an eligible veteran in AS 26.15 to adopt the termination date (plus six months) of the "Viet Nam era" established by Presidential Proclamation No. 4373 (40 Fed. Reg. 20257).

Section 29 corrects obsolete and repealed statute citations in AS 28.35.030(a).

Section 30 corrects obsolete and repealed internal statute citations in AS 28.35.155(a).

Sections 31 and 32 remove obsolete references to "weighted voting" from the Municipal Code. Weighted voting by a borough assembly is no longer allowed under Alaska statutes.

Sections 33 and 34 correct mistaken internal citations in AS 31.05.027 and AS 31.05.110(p).

Section 35 repeals AS 38.05.066 (preference to uplands land for persons for fishery purposes), as the application period for a preference right under that section expired in July 1973.

Section 36 amends the definition of "veteran" in AS 38.-05.067 (veterans' preference in state land transactions) to adopt the termination date (plus 6-months) of the "Viet Nam era" established by Presidential Proclamation No. 4373 (40 Fed. Reg. 20257).

Section 37 repeals the laws requiring local hire under state leases. These statutes were held unconstitutional by the United States Supreme Court in Hicklin v. Orbeck, 437 U.S. 518 (1978).

Section 38 amends AS 39.05.020 relating to the confirmation of gubernatorial appointments. The amendment conforms this statute to the holding of the Alaska Supreme Court in Bradner v. Hammond, 553 P.2d 1 (1976).

Section 39 amends the section which allows for veterans' preference in state employment to adopt the termination date of (plus 6 months) of the "Viet Nam era" established in Presidential Proclamation 4373 (40 Fed. Reg. 20257).

Sections 40 through 44 correct the list of boards and commissions which are included under the conflict of interest provisions of state law. The defunct Board of Fish and Game is eliminated and the Board of Fisheries and Board of Game are added. The following repealed or obsolete boards are eliminated from the list:

- (1) State Section of Joint Federal-State Land Use Planning Commission (no longer in existence);
- (2) Board of Directors, State-Operated Schools (repealed in 1975);
- (3) Alaska Salary Commission (repealed 1980).

Section 45 repeals the statutes which establish the Joint Federal-State Land Use Planning Commission for Alaska. The Commission expired on June 30, 1979.

Section 46 amends the law relating to the Public Utilities Commission to conform AS 42.05.171 to the quorum requirement in 42.05.071. In Chapter 213, SLA 1973, the commission was increased from three to five members and the requirement for a quorum was increased to three members. However, the section establishing the number of commissioners which may conduct a formal hearing was apparently overlooked. The amendment also conforms to present commission practice.

Section 47 corrects an incorrect definition in the amendment made to the fisheries taxes in 1979. For purposes of the

taxing statutes, (43.75) year was defined as "fiscal year". This definition was related to an earlier version of the fisheries tax bill and when the bill was rewritten all other references to "fiscal year" were deleted. Retaining the definition was a drafting oversight.

Section 48 clarifies the application of limitations in AS 44.47.140. As that section now reads, the limitations could be read as applying to all programs of the Department of Community and Regional Affairs. However, a close reading of the statutes and investigation of the legislative history makes it clear that the limitations were only intended to apply to programs of the department in rural areas.

Section 49 corrects the terminology describing the coverage of the definition of "municipality" contained in AS 44.74.-150(g).

Section 50 deletes the reference to the requirement of United States Citizenship as a qualification of appointment as a notary public. This requirement was deleted from AS 44.-50.020 in the 1976 amendment of that section (section 1, Chapter 160, SLA 1976).

Sections 51 and 52 delete references to nonexistent Alaska permanent fund "guarantees" from the Alaska Power Authority statutes. The sections of AS 37.13 referred to in AS 44.46 were not enacted.

Section 53 removes the Department of Natural Resources functions relating to oil and gas conservation from the list of officers and boards which must comply with hearing procedures of the Administrative Procedures Act. Chapter 158, SLA 1978 transferred these functions to the Oil and Gas Conservation Commission. Chapter 160, SLA 1978, established specific provisions for hearings, etc. by the Oil and Gas Conservation Commission. (See AS 31.05.060(b) added by Ch. 160, SLA 1978.)

Section 54 amends AS 45.55.140(b)(viii) to correct an internal inconsistency which apparently resulted from a technical oversight in 1977 legislation. (See also AS 45.-55.140(b)(A)(v))

Sections 55, 56, 57, and 58 amend the Uniform Gifts to Minors Act to define a minor under that Act as a person under 18 years of age. This conforms with AS 25.20.010 which sets the age of majority in this state as 18 years of age. (See Chapter 63, SLA 1977)

Section 59 corrects a reference to the wrong rules of court.

Sections 60 and 61 clarify the age of the child who comes under the child protection laws. One reference is to a "child under 18" and the other is to a "person under 16". The revisor's bill would change the second reference to a "person under 18."

Section 62 changes references to "inmate of the Alaska Pioneers' Home" to "resident of Alaska Pioneers' Home" to conform with policy embodied in Chapter 11, SLA 1979.

Section 63 relates to the advisory board on alcoholism and repeals obsolete and incorrect provisions relating to the terms of board members.

DSP:DTW:ljb

Enclosure

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 23, 1980

SUBJECT: The Revisors Bill
(CSSB 277)

TO: Representative Charles H. Parr
Chairman, House Judiciary Committee

FROM: David T. Walker
Co-Revisor of Statutes

I believe the Revisors bill will soon be scheduled for hearing. I know your schedule is hectic now, but I have attached a copy of the bill and its accompanying sectional analysis for you to look over if you have time.

Donna Pegues (Co-Revisor of Statutes) and I are anxious for the bill to pass this session and stand ready to help. Please do not hesitate to call, or have your staff call, if you have questions.

Donna's telephone number is 465-3825; my telephone number is 465-3896.

DTW:ljb

Enclosures

cc: Margaret Berck
Sandra Stringer

*This is the package delivered
to the Committee members.*
DTW

A M E N D M E N T

TO: CSSB 277

Page 17, line 14:

Add the following:

* Sec. 64. All references in the Alaska Statutes to "workmen's compensation" and "workman's compensation" are amended to read "workers' compensation". The revisor of statutes is directed to implement this amendment so that as statutes are amended or scheduled for reprinting the change to "workers' compensation" will be accomplished.

MEMORANDUM

April 22, 1980

SUBJECT: CSSB 277 - "An Act making corrective amendments in the Alaska statutes as recommended by the revisor of statutes."

TO: Alaska Legislative Council

FROM: Donna Spragg Pegues
David T. Walker
Co-Revisors of Statutes

This committee substitute was prepared by the revisor of statutes under AS 01.05.036 which provides in part that the revisor of statutes shall

"prepare for submission to the legislature legislation for the correction or removal of . . . deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of . . . the statute law of this state."

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April 22, 1980

Section 3 amends AS 06.30.445(b) to correct a reference in that statute. A 1978 amendment to the section included a reference to "Federal Savings and Loan Insurance Corporation regulations." In fact, the applicable regulations are the responsibility of the Federal Home Loan Bank Board. See also the corrective regulation at 3 AAC 05.150 (adopted April 4, 1979).

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Sections 6 and 7 correct an error in the repeals made by Chapter 177, SLA 1978, which is an act relating to malpractice insurance. That act repealed AS 08.80.115 which had nothing to do with malpractice insurance but rather involved the registration of pregraduate and postgraduate intern pharmacists. However, AS 08.80.117 does relate to malpractice insurance and was not repealed in Chapter 177, SLA 1978. It is apparent that a repeal of 08.80.117 was intended and that the repeal of 08.80.115 was inadvertent.

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Section 10 removes an archaic provision from the applicability section of the chapter regulating non-profit corporations. (AS 10.20). The class of corporations referred to by the provision being repealed is now regulated under AS 10.40 (religious corporations).

Section 11 inserts a statutory reference in the definition contained in AS 14.12.170 to clarify the coverage of the definition of school districts.

Section 12 eliminates a reference in AS 14.17.14C(b) to a section of AS 23.10 which was repealed in 1978. The correct succeeding code section has been substituted.

Section 13 removes an obsolete reference to the state pay plan in the statute relating to the Postsecondary Education Commission.

Section 14 deletes an obsolete reference to "State Operated Schools" in AS 14.36 relating to community schools. A reference to "regional educational attendance areas" is substituted.

Section 15 repeals the tuition grant program which was held unconstitutional in Sheldon Jackson College v. State, 599 P.2d 127 (1979).

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April 22, 1980

Section 24 corrects two statute references in AS 21.-
27.420(2).

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Section 26 repeals certain sections of the Alaska World War II Veterans' Act (AS 26.15) which have expired. Most of these sections relate to payment of bonuses which have terminated. One of these sections provides for repayment of a loan to the veterans' revolving fund from the general fund. This loan was long ago paid. The title of the Act is also repealed since AS 26.15 now relates to veterans other than veterans of World War II.

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Section 36 amends the definition of "veteran" in AS 38.-
05.067 (veterans' preference in state land transactions) to adopt the termination date (plus 6-months) of the "Viet Nam era" established by Presidential Proclamation No. 4373 (40 Fed. Reg. 20257).

Section 37 repeals the laws requiring local hire under state leases. These statutes were held unconstitutional by the United States Supreme Court in Hicklin v. Orbeck, 437 U.S. 518 (1978).

Section 38 amends AS 39.05.020 relating to the confirmation of gubernatorial appointments. The amendment conforms this statute to the holding of the Alaska Supreme Court in Bradner v. Hammond, 553 P.2d 1 (1976).

Section 39 amends the section which allows for veterans' preference in state employment to adopt the termination date of (plus 6 months) of the "Viet Nam era" established in Presidential Proclamation 4373 (40 Fed. Reg. 20257).

Sections 40 through 44 correct the list of boards and commissions which are included under the conflict of interest provisions of state law. The defunct Board of Fish and Game is eliminated and the Board of Fisheries and Board of Game are added. The following repealed or obsolete boards are eliminated from the list:

- (1) State Section of Joint Federal-State Land Use Planning Commission (no longer in existence);
- (2) Board of Directors, State-Operated Schools (repealed in 1975);
- (3) Alaska Salary Commission (repealed 1980).

Section 45 repeals the statutes which establish the Joint Federal-State Land Use Planning Commission for Alaska. The Commission expired on June 30, 1979.

Section 46 amends the law relating to the Public Utilities Commission to conform AS 42.05.171 to the quorum requirement in 42.05.071. In Chapter 213, SLA 1973, the commission was increased from three to five members and the requirement for a quorum was increased to three members. However, the section establishing the number of commissioners which may conduct a formal hearing was apparently overlooked. The amendment also conforms to present commission practice.

Section 47 corrects an incorrect definition in the amendment made to the fisheries taxes in 1979. For purposes of the

April 22, 1980

taxing statutes, (43.75) year was defined as "fiscal year". This definition was related to an earlier version of the fisheries tax bill and when the bill was rewritten all other references to "fiscal year" were deleted. Retaining the definition was a drafting oversight.

Section 48 clarifies the application of limitations in AS 44.47.140. As that section now reads, the limitations could be read as applying to all programs of the Department of Community and Regional Affairs. However, a close reading of the statutes and investigation of the legislative history makes it clear that the limitations were only intended to apply to programs of the department in rural areas.

Section 49 corrects the terminology describing the coverage of the definition of "municipality" contained in AS 44.74.-150(g).

Section 50 deletes the reference to the requirement of United States Citizenship as a qualification of appointment as a notary public. This requirement was deleted from AS 44.50.020 in the 1976 amendment of that section (section 1, Chapter 160, SLA 1976).

Sections 51 and 52 delete references to nonexistent Alaska permanent fund "guarantees" from the Alaska Power Authority statutes. The sections of AS 37.13 referred to in AS 44.46 were not enacted.

Section 53 removes the Department of Natural Resources functions relating to oil and gas conservation from the list of officers and boards which must comply with hearing procedures of the Administrative Procedures Act. Chapter 158, SLA 1978 transferred these functions to the Oil and Gas Conservation Commission. Chapter 160, SLA 1978, established specific provisions for hearings, etc. by the Oil and Gas Conservation Commission. (See AS 31.05.060(b) added by Ch. 160, SLA 1978.)

Section 54 amends AS 45.55.140(b)(viii) to correct an internal inconsistency which apparently resulted from a technical oversight in 1977 legislation. (See also AS 45.-55.140(b)(A)(v)).

Sections 55, 56, 57, and 58 amend the Uniform Gifts to Minors Act to define a minor under that Act as a person under 18 years of age. This conforms with AS 25.20.010 which sets the age of majority in this state as 18 years of age. (See Chapter 63, SLA 1977)

Section 59 corrects a reference to the wrong rules of court.

Sections 60 and 61 clarify the age of the child who comes under the child protection laws. One reference is to a "child under 18" and the other is to a "person under 16". The revisor's bill would change the second reference to a "person under 18."

Section 62 changes references to "inmate of the Alaska Pioneers' Home" to "resident of Alaska Pioneers' Home" to conform with policy embodied in Chapter 11, SLA 1979.

Section 63 relates to the advisory board on alcoholism and repeals obsolete and incorrect provisions relating to the terms of board members.

DSP:DTW:ljb

Enclosure

SB

287

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 17, 1980

SUBJECT: CSSB 287 (Judiciary) - Shoplifting liability
TO: Senator Terry Stimson,
FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have asked for an explanation of the civil liability computation under this bill. Sec. 09.65.110(a) provides liability for the shoplifter and sec. 09.65.110(b) provides liability of a person having legal custody of an unemancipated minor.

Under (a), there are three liability factors which are additive

1. Provides liability for actual damages. Actual damages are compensatory and are measured by the loss or injury suffered.
2. Provides a penalty equal to the retail value of the merchandise or \$1,000 whichever is less. This penalty applies whether or not the owner of the merchandise sustains an actual loss. For example, in a situation where the shoplifter is caught immediately, the stolen goods are recovered and returned to the owner unharmed, the actual loss to the owner could be minimal; but the shoplifter is still liable.
3. Provides an additional penalty of not less than \$100 or more than \$200. Again this is a penalty and actual loss is not a required element.

Under (b) the person having legal custody is not made liable for actual damages but is liable for

1. A penalty equal to the retail value of the merchandise or \$500 whichever is less; and

2. A penalty of not less than \$100 or more than \$200.

As in (a) neither require actual loss to the owner and are additive.

Some examples may clarify the point.

1. Assume that a shoplifter steals an electronic device valued at \$2,500 and the device is dropped and ruined. The shoplifter would be liable for \$2,500 under (a)(1) (the loss to owner) for \$1,000 under (a)(2) (since this is less than the value) and \$100 to \$200 under (a)(3) for a total liability of \$3,600 to \$3,700. A person having legal custody would be liable under the assumption for \$500 under (b)(1) and \$100 - \$200 under (b)(2) for a total liability of \$600 - \$700.

2. Under the same assumption as in (1) except assuming the device was returned unharmed, the actual damages are minimal, if any, since proof of actual loss from being deprived of use of the device for a period is usually impossible to show. The shoplifter would have minimal liability under (a)(1) and the same liability under (a)(2) and (a)(3) for a total of \$1,100 - \$1,200. The person having legal custody of a minor would have the same liability as in (1), that is \$600 - \$700.

3. Assume that a shoplifter steals an item valued at \$25 and it is returned unharmed. The shoplifter would be liable for no or minimum damages under (a)(1), \$25 under (a)(2) since this is the lesser and \$100 - \$200 under (a)(3) for a total of \$125 - \$225. The person having legal custody would have the same liability as the shoplifter in this example since the value of the merchandise taken is also under \$500.

These liabilities are in addition to the award of costs and attorneys fees which may be made to a prevailing party under Rule 82 of the Rules of Civil Procedure.

BGB:jdn



NORTHERN REGION OFFICE
7101 Empire Way So., Seattle, Washington 98118

725-7200

In the Northwest it's "MY-TE-FINE"

February 18th, 1980

Terry Stimson
Alaska State Senator
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 287 (Civil Penalties for Shoplifting)

Senator Stimson,

I am writing to you in response to Senate Bill No. 287, regarding proposed civil penalties recoverable by a merchant from those who shoplift on their premises.

Because shoplifting is an ever increasing cost factor that is ultimately born by the vast majority of our honest customers the concept of civil penalties, I believe, is a valid one for the following reasons:

1. That small percentage of persons who shoplift help to bear the cost of their activity.
2. The civil penalties can be a catalyst for a positive shoplifting prevention campaign.
3. We believe those persons who have paid the civil penalties have a much lower recidivism rate than those who have not.

Having reviewed the proposed legislation, it is similar to that enacted into law in Washington State. Our experience in Washington State has been as follows:

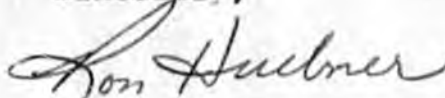
1. Civil Penalties have accounted for about 12% of the total cost of our store detectives expenses.
2. We believe that even in those instances where a person is "suit proof" there is a deterrent effect to their returning to our store to shoplift.
3. Those persons who have paid the civil penalties after being apprehended seems to be positive "I'll never do it again - IT'S TOO EXPENSIVE".

It is integral to an understanding of the shoplifting problem that the great majority of shoplifters are not "hardened criminals" but rather persons whose lives and values are pretty much average. It must also be understood that the greatest number and dollar amount of loss is sustained as a result of these "amateurs".

I might mention also that we have not dramatically reduced the number of shoplifting cases involving the criminal justice system, especially where large dollar amounts and/or perceived history of shoplifting is obvious. We believe the civil and criminal remedies are both appropriate.

We heartily endorse your efforts on this legislation, Senator, feeling that it is in the best interest of the total community.

Sincerely,

A handwritten signature in cursive script that reads "Ron Huebner".

Ronald G. Huebner
Security Manager
Northern Region
Fred Meyer

RGH:df

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 287
 Title "An Act Relating to Civil Liability for Shoplifting; and Providing
 Requested by Senator Stimpson Date 2/12/80

for an Effective Date"

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected General Government
 BRU, Program, or Subprogram(s) Affected Legal Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |
| | | | | | | |

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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

This bill provides for civil action on the part of owners of merchandise to collect damages and penalties from shoplifters. Since the Department of Law is not involved in this process, there will not be a fiscal impact for legal services.

Richard I. Pegues

IV. DATE February 13, 1980 PREPARED BY Richard I. Pegues, Admin. Officer

AGENCY Department of Law

Original: Legislative Finance PHONE 465-3695

cc. Budget and Management
 Prime Sponsor (First Legislator Named)

American Society
for Industrial Security



Please Reply to: Alaska Chapter
P. O. Box 2339
Anchorage, Alaska 99510

February 14, 1980

The Honorable Terry Stimson
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Subject: Senate Bill No. 287, Civil Liability for Shoplifting

Dear Senator Stimson:

In October, 1979, Dic Gribbon, Loss Prevention Manager, Pay'n Save Corporation, informed the membership of the Alaska Chapter, American Society for Industrial Security, of the contents and purpose of this bill. The membership voted to support the legislation.

The American Society for Industrial Security is the nation's foremost organization for security professionals. The Alaska Chapter, although relatively new, includes among its membership a significant number of the security professionals in Alaska.

We are pleased to go on record in support of legislation which would help to reduce the tremendous losses due to shoplifting which are suffered by retail stores in Alaska.

Very truly yours,



J. P. Goldsmith
Chapter Chairman
Alaska Chapter

JPG:bjc
cc: Dic Gribbon

PAY'n SAVE

C O R P O R A T I O N

2002 WEST BENSON BLVD.
ANCHORAGE, ALASKA 99503

May 9, 1980

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

Dear Mr. Parr:

Pay'n Save Corporation ardently supports SB #287, "An Act Relating to Civil Liability for Shoplifting," and urges passage.

Shoplifting cost consumers and retailers billions of dollars every year. The losses that retailers suffer, as well as the costs of security measures to protect our merchandise, ultimately is passed onto the consumer. We feel that when SB #287 passes, it will provide a definite deterrent to the major shoplifting problem which plagues ALASKA MERCHANTS STATEWIDE, and also help defray the costs that consumers must pay, by having those that cause the problem, pay for the problem.

An informal survey of the major retailers in the Anchorage area shows that approximately 5,000 people have been apprehended for shoplifting over the past two years. That is approximately 2½ percent of the population of the Anchorage bowl. National statistics show that for every shoplifter caught, ten are successfully shoplifting and getting away, and that 1 out of 10 customers that enter a retail store, shoplift. On 1/9/80, the Anchorage Times ran a "Ripley's Believe It or Not!", which stated, "Business crimes such as shoplifting and employee pilfering, by adding 15% to consumer prices, costs every man, woman and child in the country \$200.00 a year."

Laws similar to SB#287, have been passed in other states, Washington, Oregon, and California, to name a few. In the state of Washington where Pay'n Save Corporation has been utilizing the Civil Restitution Law for two years, we have found it not only to be an excellent deterrent, but we have offset the costs of our store detective programs by 25% the first year, and 47% last year. This is a significant amount of money that we did not have to pass along to the consumer.

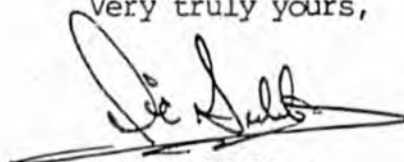
This bill has been endorsed by the Anchorage Chamber of Commerce, American Society for Industrial Security, the major retailers in the state, Pay'n Save Corporation (Pay'n Save and Lamonts), Fred Meyer, Carrs-Payless, Sears, Nordstroms, The Market Place, Safeway, Montgomery Wards, and Longs Drugs, as well as smaller merchants such as Brown Jug Liquors, Reeni's Shoes, Carls Jewelers, Nobby, and many more, too numerous to list. This bill is designed to help the smaller retailer who often can ill-afford to take a full-time person off the sales floor to apprehend a shoplifter, call the police and appear in court. The sales dollars lost by this person's absence does not warrant the apprehension to be

made. So the retailer takes the loss, and marks up other merchandise to cover the loss while the shoplifter goes free to steal elsewhere. With passage of CSSB#287, the merchant will have a method of recouping these losses.

Again, we heartily endorse SB#287 and urge it's passage.

We would like to thank you, Representative Parr and the other members of the House Judiciary Committee for their time and consideration in reviewing SB#287, "An Act Relating to Civil Restitution for Shoplifting."

Very truly yours,

A handwritten signature in black ink, appearing to read "Dic Gribbon", written over a horizontal line.

DIC GRIBBON
Loss Prevention Manager
Pay'n Save Corporation

DG/ts

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SB 287
 Title "An Act Relating to Civil Liability for Shoplifting; and Providing
 Requested by Senator Stimson Date 2/12/80

for an Effective Date"

II. FISCAL DETAIL
 Agency Affected Department of Law
 Program Category Affected General Government
 BRU, Program, or Subprogram(s) Affected Legal Services
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |
| | | | | | | |

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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

This bill provides for civil action on the part of owners of merchandise to collect damages and penalties from shoplifters. Since the Department of Law is not involved in this process, there will not be a fiscal impact for legal services.

IV. DATE February 13, 1980 PREPARED BY Richard I. Pegues, Admin. Officer
 AGENCY Department of Law
 PHONE 465-3695
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Richard I. Pegues

SB

293

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 7, 1980

SUBJECT: Snow Skiing (CSHB 860)

TO: Representative Charles H. Parr
Chairman, House Judiciary Committee

FROM: Richard A. Bradley **B**
Legislative Counsel

The bill requested by the committee is enclosed.

Certain observations are useful.

The title is changed to reflect the fact that the bill is no longer limited to the "inherent risks of skiing."

Sec. 3 of the bill adds material to AS 18. The snow safety material did not relate to civil procedure or the risks of skiing and therefore did not seem appropriate to AS 09.

The addition of the material to AS 18 means that the definitions should be added to the new chapter. Thus I have defined "ski area" and "ski area operator."

But I should call to your attention additional terms that are not self-explanatory and thus should, perhaps, be defined. I refer to the phrases "snow skiing industry" and "recognized standards and usages" of that industry. Or, put differently, I suggest that the material contained within sec. 18.76.010(c) of the bill does not establish clear standards by which to determine whether a ski area operator is responsible for an injury to a skier or whether the skier was injured in an accident that is part of the inherent risks. That result may be anticipated in any case but the bill would be clearer if the suggested language in (c) were deleted.

Note also that I changed the definition of "skier" to "skiing." I did this at the suggestion of the Revisor who noted that while skier was defined to include tobogganing,

Representative Charles H. Parr
Page 2
May 7, 1980

etc., the limitation on claims for injuries received applied to "snow skiing." However, "snow skiing" was not defined to include the tobaggans and they are not naturally included in the term.

RAB:jdn

Enclosure

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 7, 1980

SUBJECT: Presumptive death
(Work Order Number 8544)

TO: Representative Charles H. Parr
Chairman, House Judiciary Committee

FROM: Kenneth E. Vassar
Legislative Counsel *KEV*

You have requested assistance in determining whether and to what extent Senate Bill 293 amended satisfies Judge Keene's request in his letter to Senator Ziegler (a copy of which was presented to you by Senator Ziegler). You have also asked whether the reference in Senate Bill 293 amended to "six consecutive years" should be changed to "five consecutive years" to coordinate with AS 13.06.035.

Senator Ziegler supplied you with a copy of my memo to him dated January 15, 1980. The last sentence of that memo states:

It [AS 13.06.035] appears to accomplish Judge Keene's goal.

I would stress "appears". Under present law, there are two groups of statutes which address the subject of missing persons and presumptions of death. In AS 09.55.020 - 09.55.060, a person may be presumed to be dead, and a judge or magistrate may enter an order to that effect, after a jury unanimously returns a verdict that sufficient evidence has been presented to fairly support that presumption. The second group of statutes consists of various sections of AS 13.06 (part of Alaska's probate code) which indicate that the probate code is intended to apply to missing persons. Specifically, AS 13.06.035 provides that a person "is presumed to be dead" after a continuous absence of five years.

The first sentence of AS 09.55.050 appears to connect these two groups of statutes. It states:

After the judge or magistrate has entered an order declaring that the person is presumed to be dead either under secs. 20 - 60 of this chapter or under the laws dealing with missing persons, the judge or magistrate shall make out and sign a certificate entitled "Presumptive Death Certificate" in the form and manner and containing the information required by the Bureau of Vital Statistics. (Emphasis added).

The remainder of the section indicates that after the filing of the certificate, the missing person's estate may be administered in accordance with the laws applicable to the administration of the estates of deceased persons.

From these two groups of statutes, the following conclusions may be reached:

- (1) a person is presumed to be dead after a continuous, unexplained absence of five years;
- (2) the presumption of (1) is clearly applicable only as it relates to the probate code; and
- (3) the administration of the missing person's estate can begin only after a judge or magistrate makes out and signs a Presumptive Death Certificate under AS 09.-55.050.

These statutes also raise some questions, however. Two of those questions are:

- (1) Does the presumption of death provided in AS 13.-06.035 allow a judge or magistrate to make and sign a Presumptive Death Certificate without the necessity of calling a jury?
- (2) Is the presumption of death applicable to anything other than the probate code?

With regard to the first question above, I think the intent was probably to avoid the jury requirement but the language certainly does not express that conclusion, and the power of the judge or magistrate is limited by the provisions of AS 09.55.030, which requires a jury verdict before the judge or magistrate can enter the order of presumptive death.

Representative Charles H. Parr
Page 3
May 7, 1980

With regard to the second question, AS 13.06.035 states that it applies to "proceedings under this [the probate] code". That would seem to resolve the matter; however, the reference in AS 09.55.050, which is part of the civil code, to an order "under the laws dealing with missing persons", which almost certainly means the probate code, creates some reasonable basis for a determination that the presumption applies to other matters as well. Logic would require that a person considered dead for one purpose be considered dead for all purposes.

Senate Bill 293 amended would resolve these problems by specifically allowing a judge or magistrate, under certain circumstances, to make and sign a Presumptive Death Certificate without requiring a jury verdict and by making it clear that this presumption is applicable for purposes which include but are not limited to probate. I think this satisfies Judge Keene's request while also clarifying some confusing sections of law; on the other hand, existing law could be said to accomplish Judge Keene's goal if the declaration of presumptive death under the circumstances provided in AS 13.-06.035 can be made without a jury verdict and if that presumption applies to more than strictly probate matters.

As to your question about the length of time a person must be missing before the presumption of his death arises, I know of no reason why five years should not be inserted instead of six years; and, considering the confusion which could arise if that change were not made, I think it would probably be advisable.

Finally, as my memo to Senator Ziegler would indicate, I did not locate the presumptive death language of AS 13.06.035 until Senate Bill 293 had already been drafted; therefore, certain additional amendments which would further clarify the relationship between AS 13 06 and AS 09.55 were not included in the bill. For the committee's consideration, I would suggest the following amendments:

Page 1, line 17

Insert the following new language:

* Sec. 2. AS 09.55.050 is amended to read:

Sec. 09.55.050. EFFECT OF PRESUMPTIVE DEATH CERTIFICATE. After the judge or magistrate has entered an order declaring that the person is presumed to be dead [EITHER] under AS 09.55.020 - 09.55.060 [OR UNDER THE LAWS DEALING WITH MISSING PERSONS], the judge or magistrate shall make out and sign a death certificate entitled "Presumptive Death Certificate" in the form and manner and containing the information required by the Bureau of Vital Statistics. The certificate shall be recorded by the judge or magistrate and then filed with the Bureau of Vital Statistics. Upon the entry of the order and the recording and filing of the "Presumptive Death Certificate" as herein provided, the missing person is presumed to be dead, and his estate may be administered in accordance with the then existing provisions of law applicable to the administration of the estates of deceased persons.

* Sec. 3. AS 03.06.035(3) is amended to read:

(3) A person for whom a Presumptive Death Certificate is recorded under AS 09.55.050 [WHO IS ABSENT FOR A CONTINUOUS PERIOD OF FIVE YEARS, DURING WHICH HE HAS NOT BEEN HEARD FROM, AND WHOSE ABSENCE IS NOT SATISFACTORILY EXPLAINED AFTER DILIGENT SEARCH OR INQUIRY IS PRESUMED TO BE DEAD; HIS DEATH] is presumed to have died at the time the Presumptive Death Certificate is recorded [OCCURRED AT THE END OF THE PERIOD] unless there is sufficient evidence for determining that death occurred earlier.

KEV:ljb



Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

February 1, 1980

Clem V. Tillion,
President of the Senate
Room 101 Capital Building
Juneau, Alaska

Re: SB 293.


Dear Mr. President:

When the Senate Judiciary Committee considered the captioned bill at its regularly scheduled hearing on January 29, 1980, Donald P. Koch of the Division of Insurance testified before us, advising us that the Division was not opposed to the legislation.

However, Mr. Koch stated that there had been an occasion when a life insurance company, notwithstanding the double indemnity provision for accidental death contained in its policy, had paid the beneficiary only the face amount of the policy.

It is the intent of the Senate Judiciary Committee that a presumptive death certificate shall have the same force and effect as a regularly issued death certificate insofar as ascertaining the amount of insurance proceeds payable is concerned.

Respectfully submitted,



SENATOR ZIEGLER, CHAIRMAN



SENATOR BENNETT, MEMBER



SENATOR RAY, MEMBER



SENATOR MELAND, MEMBER



SENATOR DANKWORTH, MEMBER

MEMORANDUM

State of Alaska

TO: Honorable Robert Ziegler, Chairman
Senate Judiciary Committee

DATE: January 31, 1980

THRU: Kenneth C. Moore
Director

FILE NO:

TELEPHONE NO:

FROM: Donald P. Koch
Chief of Market Surveillance
Division of Insurance
Department of Commerce
and Economic Development

SUBJECT: Presumptive Death Certificates
Senate Bill 293

DK
KCM

On January 29, 1980, I appeared before your committee concerning Senate Bill 293, an Act relating to presumptive death. After our testimony you requested that we provide information to you in memo form. The information follows.

The Division of Insurance is not opposed to this legislation, but we do have some concerns relating to the impact of a presumptive death certificate under AS 09.55.020-060.

The primary concern relates to the effect of a presumptive death certificate on the contractual obligation of a life insurer to discharge the coverage amount on its policy with the issue of a presumptive death certificate. AS 09.55.050 states, in part:

Upon the entry of the order and the recording and filing of the "presumptive death certificate" as herein provided, the missing person is presumed to be dead, and his estate may be administered in accordance with the then existing provisions of law applicable to the administration of the estates of deceased persons.

The phrase "may be administered" raises the question of whether an insurer must discharge its coverage amount in the absence of a phrase "shall be administered." We are not suggesting that this language change be made since there are other reasons for the use of that particular permissive language rather than mandatory language. The loophole created, however, for insurers is one that should be sealed.

We have no evidence that insurers are failing to respond upon issuance of a presumptive death certificate, but we are aware of at least one situation where an amount was paid which may not have been the correct amount, which brings us to our second concern. Some policies have a provision whereby the death benefit is doubled or tripled if the death is accidental. About eight years ago, a presumptive death certificate was issued when a fisherman was presumed dead after the wreckage of his fishing boat was found. No body was ever recovered. The insurer paid the face amount of its policy, \$10,000, but refused to consider the double indemnity provision even though the circumstances surrounding the issuance of the certificate suggests that the loss of life had to have been accidental.

Honorable Robert Ziegler

-2-

January 31, 1980

The proposed amendment is not disturbing to the division since there is the six year requirement. While it may be possible that the person presumed deceased is actually a deserter, that situation could exist under the present law and is not a real concern. In checking with the Bureau of Vital Statistics, the State Registrar, Joan Brooks, advises that there has never been a case in Alaska where a presumptive death certificate has been reversed because the person was later found to be alive.

We believe that some legislative clarification or statement of intent would be useful and an aid to the public. We appreciate your interest in this issue, and we will be happy to assist you in whatever way you feel would be helpful.

DPK/sa

ALASKA STATE LEGISLATURE

ELEVENTH Legislature .. SECOND Session

SENATE ... BILL ... NO. 293...

By ... ZIEGLER

"An Act relating to presumptive death."

Introduced in the Senate ... 1/14/ 19... 80

#17316 - Nassau

HISTORY IN THE SENATE

19 80 Read first time and referred to Committee on

1 14 Judiciary

1 30 Reported back with recommendation that *Jud 5 to pass Amend. Act of Intent to Dulles*
 1 31 *Dulles: Calendar 2/1*

2 1 Read second time and amended, *adv*

2 1 Read third time and

2 1 **PASS** *adv* Effective Date
 Yeas 19 Yeas
 Nays 0 Nays
 Absent / Absent
 Excused — Excused

Reconsideration
PASS Effective Date
 Yeas Yeas
 Nays Nays
 Absent Absent
 Excused Excused

2 1 Reported correctly engrossed
 1 1 Signed by President
 1 1 Sent to House

Roger Mulligan
 SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19 80 Read first time and referred to Committee on

Feb 4 Judiciary

Reported back with recommendation that

Read second time and

Read third time and

PASS Effective Date
 Yeas Yeas
 Nays Nays
 Absent Absent
 Excused Excused

Reconsideration
PASS Effective Date
 Yeas Yeas
 Nays Nays
 Absent Absent
 Excused Excused

Reported correctly engrossed
 Signed by Speaker
 Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19 Received from House

Reported correctly enrolled

Sent to Governor

..... By Governor

Filed with Lt. Governor

Chapter No.

POSITION PAPER
ON
SENATE BILL NO. 293 am

"An Act relating to presumptive death."

This bill permits a district judge or magistrate to declare legally dead a person who has not been seen or heard from for six years without impaneling a coroner's jury. The resultant presumptive death certificate would be treated in the same manner as one prepared after a jury's verdict.

Such cases will be very rare since most presumptive death certificates are filed within a year of the disappearance. It would be cost saving to the court system because no jury is required.

This Department proposes that S.B. 293 am be passed.

Recommended by:

Joan P. Brooks
Joan P. Brooks/
State Registrar
Office of Information Systems

2/20/80
(DATE)

Approved by:

Helen D. Beirne
Helen D. Beirne, Commissioner
Department of Health and Social
Services

3/16/80
(DATE)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 293 am
 Title An Act Relating to Presumptive Death
 Requested by _____ Date _____

II. FISCAL DETAIL

Department of Health and Social Services
 Agency Affected _____
 Program Category Affected Vital Statistics
 BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|----------|----------|----------|----------|----------|----------|
| 100 PERSONAL SERVICES | 0 | 0 | 0 | 0 | 0 | 0 |
| 200 TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| 300 CONTRACTUAL | 0 | 0 | 0 | 0 | 0 | 0 |
| 400 COMMODITIES | 0 | 0 | 0 | 0 | 0 | 0 |
| 500 EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |
| | | | | | | |

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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

No fiscal impact

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Prepared by: John P. Breda Date: 2/13/80
 Division/Office: Vital Statistics PH: 465-3393
 Department of Health & Social Services

SB

303

(9)

COMMITTEE REPORT

HOUSE

3/19/80

FURTHER:

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had CSSB 303

"An Act relating to arson information."

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for CSSB 303 same title
 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:

D. P. ... D. P. ...
Terry ...
...
...
...
...
...
...

...
 CHAIRMAN



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

TO: Legislative Affairs Agency

FROM: Margaret W. Berck, Staff

DATE: May 12, 1980

RE: Request for CS for SB 303.

Please provide the Committee with a CS for SB 303 that incorporates the Committee's intent as expressed in the attached mark-up.

Original sponsor: Bradley by request

Offered: 3/12/80
Referred: Rules

1 IN THE SENATE

House
BY THE JUDICIARY COMMITTEE

2

HCS for CS FOR SENATE BILL NO. 303

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to arson information."

7

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

8

* Section 1. AS 21.89 is amended by adding new sections to read:

9

Sec. 21.89.050. ARSON INFORMATION. (a) When an insurer has reason to believe that a fire loss in which it has an interest may have been caused by other than accidental means, it shall immediately supply a written report of that fact to the Department of Public Safety.

(b) When requested in writing by an authorized agency, an insurer shall supply all available information relating to a particular fire loss to the agency. The information requested may include

(1) insurance policy information pertaining to a fire loss under investigation and any application for the policy;

(2) policy premium payment records;

(3) a history of previous claims made by the insured; and

(4) material relating to the investigation of the loss,

including statements of a person who may have information about the loss and any proof of the loss.

23

(c) Notification to the Department of Public Safety under (a) of this section does not relieve the insurer of the duty to respond to a request for information from an authorized agency under (b) of this section.

27

(d) An authorized agency provided with information under (a) or (b) of this section may release the information to another authorized agency.

29

1 (e) An authorized agency shall share with the insurer all relevant
2 information relating to an instance of suspected arson when

3 (1) the ^{Department of LAW} agency has determined that release of the information
4 would not jeopardize the success of an ongoing investigation and that
5 there are adequate safeguards to insure the confidentiality of the
6 information;

7 (2) the agency has completed its investigation and a decision
8 not to prosecute has been made; or

9 (3) criminal prosecution has been brought and the defendant
10 has pled guilty, or the jury or other trier of fact has returned a
11 verdict, and no appeal has been taken.

12 (f) As used in (a) - (d) of this section "authorized agency" means
13 a fire department, a local or federal law enforcement agency responsible
14 for the investigation of fires, the Department of Law, the state fire
15 marshal, the United States attorney's office, and the Department of
16 Public Safety. As used in (e) of this section "authorized agency" means
17 a fire department, a local law enforcement agency responsible for the
18 investigation of fires, the Department of Law, the state fire marshal,
19 and the Department of Public Safety.

20 Sec. 21.89.060. IMMUNITY. A person is not civilly liable or
21 subject to criminal prosecution for releasing information under AS 21.-
22 89.050 unless the act constitutes a malicious attempt to injure an
23 insured.

Commerce
THE NEED FOR THIS LEGISLATION IS CLEAR AND COMPELLING.
PRESENTLY, INSURERS MUST FIRST SUBSTANTIATE ALL OF THE FACTS IN A CASE BEFORE GIVING KEY INFORMATION TO THE PROPER AUTHORITIES.

MUCH OF THE INFORMATION DEVELOPED BY INSURERS IN SUSPECTED ARSON CASES IS UNSUBSTANTIATED (AT LEAST IN THE EARLY STAGES), BUT IT MAY PROVIDE EXACTLY THE LEAD THAT INVESTIGATING AUTHORITIES NEED TO DEVELOP MORE SUBSTANTIVE EVIDENCE. IF INSURERS MUST FIRST SUBSTANTIATE THE FACTS TO AVOID BEING SUED FOR LIBEL, KEY INFORMATION MAY NEVER REACH THE PROPER AUTHORITIES. AT THE VERY LEAST IT WOULD BE DELAYED.

ALASKA LEADS THE NATION IN FIRE LOSSES. 1978 ALONE SAW 28 FIRE DEATHS AND \$16,684,326 IN PROPERTY LOSSES. THIS TRANSLATES INTO 68 DEATHS PER MILLION POPULATION, AS COMPARED TO A NATIONAL AVERAGE OF 35 DEATHS PER MILLION AND \$40.30 VERSUS \$19.50 PER CAPITA IN DOLLARS LOSSES.

FOR THE YEAR 1979, IN ANCHORAGE ALONE, THERE WERE 28 ARSON ARRESTS. THE ANCHORAGE FIRE INVESTIGATION UNIT INFORMED ME THAT 3 OUT OF THE 5 DEATHS IN ANCHORAGE CAN BE ARSON RELATED AND THAT ARSON HAS COST THE CITY OF ANCHORAGE OVER \$2,000,000 FOR 1979.

THE RATHER RECENT FIRE IN ANCHORAGE AT A POPULAR RESTAURANT AND DISCO IS A GOOD EXAMPLE OF WHY THIS LEGISLATION IS NEEDED. THE INVESTIGATORS ARE HAVING A DIFFICULT TIME GETTING INFORMATION FROM THE INSURANCE COMPANIES.

SIMILAR LEGISLATION HAS ALREADY BEEN PASSED IN 37 STATES AND THIS BILL IS MODELED AFTER SIMILAR LEGISLATION DESIGNED BY THE ALLIANCE OF AMERICAN INSURERS, THE UNITED STATES FIRE ADMINISTRATION, AND THAT OF OTHER STATES.

THIS BILL HAS THE SUPPORT OF THE DEPARTMENT OF PUBLIC SAFETY, THE DIVISION OF INSURANCE, ALL MAJOR ALASKAN CITY FIRE DEPARTMENTS, FIREFIGHTERS ASSOCIATION, AND FIRE PREVENTION ASSOCIATIONS THROUGHOUT THE STATE.

1. WHEN AN INSURER HAS REASON TO BELIEVE THAT A FIRE LOSS MAY NOT BE ACCIDENTAL, IT SHALL IMMEDIATELY SUPPLY A WRITTEN REPORT TO THE DEPARTMENT OF PUBLIC SAFETY.
2. WHEN REQUESTED BY AN AUTHORIZED AGENCY, AN INSURER SHALL SUPPLY THAT AGENCY WITH ALL AVAILABLE INFORMATION PERTAINING TO A PARTICULAR FIRE LOSS.
3. AN AUTHORIZED AGENCY MAY RELEASE THE INFORMATION TO ANOTHER AUTHORIZED AGENCY.
4. AN AUTHORIZED AGENCY SHALL SHARE WITH THE INSURER ALL RELEVANT INFORMATION WHEN
 - (1) INFORMATION WILL NOT JEOPARDIZE INVESTIGATION
 - (2) COMPLETED INVESTIGATION AND DECIDED NOT TO PROSECUTE
 - (3) DEFENDANT HAS PLED GUILTY OR JURY HAS RETURNED A VERDICT AND NO APPEAL TAKEN.
5. DEFINITION OF AN "AUTHORIZED AGENCY"
 - (A) FIRE DEPARTMENT
 - (B) LOCAL OR FEDERAL LAW ENFORCEMENT AGENCY
 - (C) DEPARTMENT OF LAW
 - (D) STATE FIRE MARSHAL
 - (E) U S ATTORNEY
 - (F) DEPARTMENT OF PUBLIC SAFETY

SENATE BILL 303 & CS SB 303 "AN ACT RELATING TO ARSON INFORMATION"

THE MAJOR CHANGES BETWEEN THE ORIGINAL BILL AND THE COMMITTEE SUBSTITUTE ARE VERBAL TRANSLATIONS AND REPORTING RESPONSIBILITIES OF INSURERS AND AUTHORIZED AGENCIES. THE COMMITTEE SUBSTITUTE IMPROVES THE LANGUAGE AND CONCEPT OF THE ORIGINAL BILL.

ON LINE 9 OF THE ORIGINAL BILL, THE CS CHANGES PROPERTY INSURER TO INSURER. PROPERTY INSURER WAS TOO RESTRICTIVE AND LEFT ROOM FOR MIS-INTERPRETATION.

ON LINE 9-10-11, THE SENTENCE STRUCTURE HAS BEEN CHANGED FOR CLAIRTY, BUT IT ACCOMPLISHES THE SAME THING.

ON LINE 12, AUTHORIZED AGENCY HAS BEEN CHANGED TO DEPARTMENT OF PUBLIC SAFETY. THIS GIVES CLEARER REPORTING INSTRUCTIONS TO THE INSURER.

ON LINE 13, THE CS DELETES THE WORD PROPERTY, AND FURTHER DEFINES THE TYPE OF INFORMATION THAT WILL BE SUPPLIED BY THE INSURER TO THE REQUESTING AGENCY.

ON LINE 18 OF THE ORIGINAL BILL, THIS SECTION HAS BEEN REDEFINED IN SECTION 1(E) OF THE CS ON PAGE 2, LINES 1 THRU 11. THE CS MORE CLEARLY DEFINES WHEN AN AUTHORIZED AGENCY SHALL SHARE INFORMATION WITH THE INSURER.

ON LINE 24, THIS SECTION OF THE ORIGINAL BILL DEFINED AUTHORIZED AGENCIES. THIS HAS BEEN FURTHER EXPANDED AND PLACED IN SECTION 1(F) OF THE CS ON PAGE 2, LINES 12 THRU 19.

SEC. 21.89.070 OF THE ORIGINAL BILL HAS BEEN INCORPORATED INTO SEC 1(E), LINES 1 THRU 11 OF THE CS.

AND AS TO SEC. 21.89.080 OF THE ORIGINAL BILL, THE DIVISION OF INSURANCE ALREADY HAS PENALTY POWERS UNDER TITLE 21, SEC. 21.69.390 AND FURTHER THE DEPARTMENT OF LAW STATES THAT CRIMINAL PENALTIES ARE INCONSISTENT WITH THE SPIRIT OF VOLUNTARY COOPERATION THAT THE BILL ATTEMPTS TO

Sent to Leg. Affairs
May 13, 1980

Original sponsor: Bradley by request

Offered: 3/12/80
Referred: Rules

1 IN THE SENATE

House
BY THE JUDICIARY COMMITTEE

2 HCS for CS FOR SENATE BILL NO. 303

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to arson information."

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

8 * Section 1. AS 21.89 is amended by adding new sections to read:

9 Sec. 21.89.050. ARSON INFORMATION. (a) When an insurer has
10 reason to believe that a fire loss in which it has an interest may have
11 been caused by other than accidental means, it shall immediately supply
12 a written report of that fact to the Department of Public Safety.

13 (b) When requested in writing by an authorized agency, an insurer
14 shall supply all available information relating to a particular fire
15 loss to the agency. The information requested may include

16 (1) insurance policy information pertaining to a fire loss
17 under investigation and any application for the policy;

18 (2) policy premium payment records;

19 (3) a history of previous claims made by the insured; and

20 (4) material relating to the investigation of the loss,
21 including statements of a person who may have information about the loss
22 and any proof of the loss.

23 (c) Notification to the Department of Public Safety under (a) of
24 this section does not relieve the insurer of the duty to respond to a
25 request for information from an authorized agency under (b) of this
26 section.

27 (d) An authorized agency provided with information under (a) or
28 (b) of this section may release the information to another authorized
29 agency.

1 (e) An authorized agency shall share with the insurer all relevant
2 information relating to an instance of suspected arson when

3 (1) the ^{Department of LAW} agency has determined that release of the information
4 would not jeopardize the success of an ongoing investigation and that
5 there are adequate safeguards to insure the confidentiality of the
6 information;

7 (2) the agency has completed its investigation and a decision
8 not to prosecute has been made; or

9 (3) criminal prosecution has been brought and the defendant
10 has pled guilty, or the jury or other trier of fact has returned a
11 verdict, and no appeal has been taken.

12 (f) As used in (a) - (d) of this section "authorized agency" means
13 a fire department, a local or federal law enforcement agency responsible
14 for the investigation of fires, the Department of Law, the state fire
15 marshal, the United States attorney's office, and the Department of
16 Public Safety. As used in (e) of this section "authorized agency" means
17 a fire department, a local law enforcement agency responsible for the
18 investigation of fires, the Department of Law, the state fire marshal,
19 and the Department of Public Safety.

20 Sec. 21.89.060. IMMUNITY. A person is not civilly liable or
21 subject to criminal prosecution for releasing information under AS 21.-
22 89.050 unless the act constitutes a malicious attempt to injure an
23 insured.
24
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26
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THIS [] BILL [] RESOLUTION [] CITATION

has been prepared by the staff of the Legislative Affairs Agency in response to the request and at the direction of the sponsoring member or committee. The staff has attempted to place the document in proper legal and clerical form, subject to any special limitations or instructions of the requestor.

If we may be of further assistance in this matter, please contact the Director of Legal Services or the Director of Research Services, as appropriate.

Delivered to requestor

5-14-80