



SEN. COMMERCIAL

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.

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 I 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

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

SB

308

# COMMITTEE REPORT

## HOUSE

2/26/80

FURTHER:

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on JUDICIARY has had CSSB 308

"An Act shifting to the state the burden of proving that a challenged regulation is valid."

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

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

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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\_\_\_\_\_  
CHAIRMAN

Original sponsors: Hackney and Stinson

Offered: 2/13/80  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 308

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act shifting to the state the burden of proving  
7 that a challenged regulation is valid."

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

9 \* Section 1. AS 44.62.300 is amended by adding a new subsection to read:  
10 *delete (a)*

11 (b) In an action under (a) of this section, the state has the  
burden of proving

12 (1) that the facts alleged are untrue; or

13 (2) that the facts alleged, even if true, do not constitute  
14 grounds upon which the regulation may be invalidated.

15 *insert*

16  
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28  
29 COMMITTEE COPY



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

*Ruled  
for  
com. Copy*

Pouch V  
State Capitol  
Juneau, Alaska 99811

February 14, 1980

#### LETTER OF INTENT

#### SENATE JUDICIARY COMMITTEE

The Senate Judiciary Committee, in reporting out SB 308, "Relating to the Validity of Regulations", feels that various state agencies and departments from time to time promulgate regulations which are totally out of line and beyond the pale of reason.

The bureaucrats of the state are running roughshod over the people and do not seem to understand the ever-increasing public resentment for which the regulations are directly responsible. The public is sick unto death of the amount of unprovoked good that is being done for them.

It is the unanimous opinion of the committee that by compelling the state to uphold the validity of regulations when they are challenged that, although it may be true that the agencies and departments involved may become swamped with litigation and challenges, much better the onus on their backs to justify the validity of regulations than on the backs of the 400,000 some-odd citizens of the state to have the regulations adjudicated invalid.

Strong letter follows!

Respectfully submitted,

*Ziegler*  
\_\_\_\_\_  
Senator Ziegler, Chairman

*Meland*  
\_\_\_\_\_  
Senator Meland, Member

*Bice Ray*  
\_\_\_\_\_  
Senator Ray, Member

*M. E. Dankworth*  
\_\_\_\_\_  
Senator Dankworth, Member

*Don Bennett*  
\_\_\_\_\_  
Senator Bennett, Member

ALASKA STATE LEGISLATURE

ELEVENTH Legislature SECOND Session

SENATE BILL NO. 308

By HACKNEY

"An Act shifting to the state the burden of proving that a challenged regulation is valid."

7416 - Outside

Introduced in the Senate 1/14/80

HISTORY IN THE SENATE

19 80	Read first time and referred to Committee on										
1 14	JUDICIARY										
2 13	Reported back with recommendation that <i>Just replace w/ps, 5 do pass to Rules.</i>										
2 19	<i>Rules: Calendar 2/20</i>										
2 20	Read second time and <i>CS adp.</i>										
2 25	<i>held one day w/ amend. and withdrawn adp.</i>										
2 20	Read third time and										
2 21	<i>Held 1 reg. day.</i>										
2 22	<i>Held one more day</i>										
2 25	<i>Ret. 2nd for amend. read 3rd time</i>										
2 20	<table border="0"> <tr> <td>PASS <i>ed</i></td> <td>Effective Date</td> </tr> <tr> <td>Yeas 18</td> <td>Yeas</td> </tr> <tr> <td>Nays 2</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS <i>ed</i>	Effective Date	Yeas 18	Yeas	Nays 2	Nays	Absent	Absent	Excused	Excused
PASS <i>ed</i>	Effective Date										
Yeas 18	Yeas										
Nays 2	Nays										
Absent	Absent										
Excused	Excused										
2 20	<i>Reconsideration taken up</i>										
2 25	<table border="0"> <tr> <td>PASS <i>ed</i></td> <td>Effective Date</td> </tr> <tr> <td>Yeas - 15</td> <td>Yeas</td> </tr> <tr> <td>Nays - 5</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS <i>ed</i>	Effective Date	Yeas - 15	Yeas	Nays - 5	Nays	Absent	Absent	Excused	Excused
PASS <i>ed</i>	Effective Date										
Yeas - 15	Yeas										
Nays - 5	Nays										
Absent	Absent										
Excused	Excused										
2 25	Reported correctly engrossed										
2 25	Signed by President										
2 25	Sent to House										

*Ray Mulligan*  
SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19 80	Read first time and referred to Committee on										
Feb 26	<i>Judiciary</i>										
	Reported back with recommendation that										
	Read second time and										
	Read third time and										
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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PASS	Effective Date										
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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
	To enrolling
	Reported correctly enrolled
	Sent to Governor
	..... by Governor
	Filed with Lt. Governor
	Chapter No. ....

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

POUCH K-STATE CAPITOL  
JUNEAU, ALASKA 99811

February 26, 1980

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature

The Honorable Samuel Cotten  
Chairman  
Rules Committee  
House of Representatives

The Honorable Charles Parr  
Chairman  
Judiciary Committee  
House of Representatives

The Honorable Mike Miller  
Chairman  
State Affairs Committee  
House of Representatives

Re: SB 308 (burden of proving  
validity of regulations)

Gentlemen:

This bill passed the Senate by a substantial vote. (1980 S.J., p. 359) If enacted into law, it will create extremely serious problems. A floor amendment which would have alleviated some of these problems was offered yesterday and then withdrawn. I am writing in the hope that you will consider these problems before any definitive House action on the subject. I understand that the Senate recognizes that there are serious problems in this bill and anticipates substantial amendment in the House.

This bill would require that, when an administrative regulation is challenged under AS 44.62.300, the state bear the burden of "proving" it valid. There are two areas of difficulty: (1) the basic policy the bill reflects, and (2) more-or-less technical, legal difficulties. I am convinced that this bill would be inimical to the interests of the State of Alaska, not just of the executive branch.

*Copies to members  
packets SRS 308*

The Honorable Terry Gardiner  
The Honorable Samuel Cotten  
The Honorable Charles Parr  
The Honorable Mike Miller

February 26, 1980

- 2 -

In reversing the presumption of validity of administrative regulations, the bill destroys the presumption heretofore applicable to statutes, regulations, and other governmental actions. Singling out regulations for a presumption of invalidity attacks an essential means of assuring governmental fairness in dealing with all people. Administrative regulations serve two fundamental governmental functions: (1) since statutes must speak in more-or-less general terms, regulations provide the details necessary to deal with the complexities of a highly technical, highly populous twentieth century society; and (2) they establish a standard for people in dealing with their government and with each other, to avoid their being subjected to possible arbitrary, ad hoc decision making by that government.

Numerous statutes expressly require the adoption of administrative regulations, and numerous statutes expressly authorize the adoption of others. In addition, several supreme court decisions have indicated that agency action taken in the absence of administrative regulations is invalid. Even the ombudsman has filed complaints about the absence of regulations. Administrative agencies thus required to adopt regulations would be unable to execute the statutes for which they are responsible if the regulations necessary to implement those statutory functions do not have the benefit of the presumption of validity.

A bill such as this, essentially stating that administrative regulations are presumed invalid, invites challenges. A complaint need not even be well founded in order to force the state through the hoops of "proving" validity. The attendant expense of such a proposal is difficult to predict precisely, but it is evident that it would be substantial. With the great number of challenges certain to be inspired by this bill if it passes, the witness fees, attorney fees, and related litigation costs would require greatly expanded agency budgets. In addition, the already crowded court dockets would become even more unmanageable. Thus the bill would increase the court overload, increase the cost to the state, and provide a windfall to lawyers.

The Honorable Terry Gardiner  
The Honorable Samuel Cotten  
The Honorable Charles Parr  
The Honorable Mil. Miller

February 26, 1980

- 3 -

While there is certainly a popular sentiment against government regulation, it appears most logical to deal with regulations in a way that allows one to distinguish between good ones and bad ones. This bill, in a wholesale fashion, would establish a presumption applicable to all regulations -- from fish and game season opening dates to oil and gas lease provisions to rules of the road to public assistance application procedures, etc.

Many people have in mind a favorite example of a regulation that appears unnecessary or unwise, but the literally thousands of regulations which are essential to the functioning of statutorily created programs, and which raise little if any controversy, would be as affected by this bill as the controversial or questionable ones.

It has been said in support of the bill that one of its purposes is to avoid having people "presumed guilty" under some regulation and to enable them to enjoy the traditional presumption of innocence until proven guilty. But most regulations do not deal with a question of guilt or innocence. They establish procedures, set standards, set prerequisites for application for some state benefit, regulate relationships among people, and do many things unrelated to a presumption of guilt or innocence.

Moreover, the bill creates internal conflicts within the Administrative Procedure Act. The presumption of invalidity is established by this bill in AS 44.62.300. But the bill does not amend AS 44.62.100 which embodies a presumption of validity. There is thus a conflict between the bill and the existing statute in that a presumption of validity is not operable if, in fact, the agency has the burden of proving that the plaintiff's alleged facts are untrue or that if true are not sufficient grounds for invalidating the regulation.

In addition, it is not really clear what the bill means by the "burden of proving." The general concept of "burden of proof" has two essential parts: the burden of "going forward" and the burden of "persuasion." In traditional legal concepts, a presumption, such as the presumption of invalidity established by this bill, would operate only on the burden of going forward. But it is not clear whether that is what the bill means.

The Honorable Terry Gardiner  
The Honorable Samuel Cotten  
The Honorable Charles Parr  
The Honorable Mike Miller

February 26, 1980

- 4 -

Another point left unclear by the bill is the standard for "proving" the regulation's validity. In reviewing various kinds of administrative actions, the courts have developed four standards. The one applicable to administrative regulations is known as the "reasonable and not arbitrary" test. But that goes to the substance of a regulation rather than to the procedure followed in adopting it. The bill leaves the point untouched.

It has also been asserted in support of this bill that it will make agencies more concerned about citizens' rights. It has been my experience through many years of dealing with state agencies that a concern for citizens and their rights is directly related to the quality of people working for the agency, and would have no relation whatsoever to statutes establishing burden of proof tests in future lawsuits. Of course, the mere fact that an agency reaches a policy decision different from the one some individual citizen or some legislator might make does not mean that the agency is not concerned about citizens' rights or that it is disregarding opinions that were expressed during the regulations-adoption process. Obviously, both houses of the legislature often have quite different opinions of what their respective constituencies require but that does not mean that either house is disregarding the needs of the people.

It has been suggested that this bill would provide a means that would be more expeditious and less expensive for individuals to relieve themselves of the requirements of regulations they do not like (whether or not thousands of other people, as well as the agency involved and perhaps a majority of the legislators, think that the regulation is wise and generally beneficial). The other avenues of protest open to an individual are AS 44.62.210's opportunity to comment; AS 44.62.230's procedure for petitioning for the adoption, amendment or repeal of a regulation; AS 44.62.060's legal review by the Department of Law; AS 44.62.300's opportunity for declaratory relief; and, of course, working with the legislature for enactment of a statute that would supersede the regulation. None of these methods is necessarily time-consuming or expensive to the individual, and they have the advantage of not interfering with the regular performance of functions by various administrative agencies. This bill, on the other hand, would be a serious disruption to the very programs mandated by the legislature and would be very expensive to the taxpayers of the state.

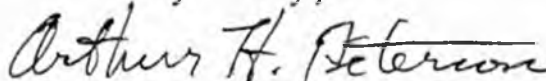
The Honorable Terry Gardiner  
The Honorable Samuel Cotten  
The Honorable Charles Parr  
The Honorable Mike Miller

February 26, 1980

- 5 -

There is certainly a good deal of sentiment today against the multitude of regulations that affect our lives. However, before taking drastic action to respond to that sentiment, it is well to reflect on the fact that most, if not all, of these regulations, have been adopted because the legislature directed the agencies to do so. There are other ways to deal with the problem, and I would be happy to discuss them with you, but this approach would create many more serious problems that it would solve.

Yours very truly,



*for* Avrum M. Gross  
Attorney General

AMG:md

cc: The Honorable Clem V. Tillion  
President  
Alaska State Senate

The Honorable Robert H. Ziegler, Sr.  
Alaska State Senate

The Honorable Glenn Hackney  
Alaska State Senate

Keith Specking  
Legislative Assistant  
Office of the Governor

Don Koch  
Division of Insurance  
Department of Commerce & Economic  
Development

Karen Bernstein  
Department of Fish & Game

Alaska State Legislature

Copies to members  
packets

HOME ADDRESS  
1136 SUNSET DRIVE  
FAIRBANKS, ALASKA 99701  
HOME PHONE: 456-4610



SENATOR  
GLENN HACKNEY  
REPRESENTING  
SENATE DISTRICT 0  
"ALASKA'S GOLDEN HEART"

WHILE IN JUNEAU  
POUCH V  
JUNEAU, ALASKA 99811  
HOME PHONE 586-3593  
OFFICE PHONE 465-3788

COMMITTEES  
FINANCE  
HEALTH, EDUCATION & SOCIAL SERVICES  
CHAIRMAN

State Senate

March 3, 1980

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature

The Honorable Samuel Cotten  
Chairman  
Rules Committee  
House of Representatives

The Honorable Charles Parr  
Chairman  
Judiciary Committee  
House of Representatives

The Honorable Mike Miller  
Chairman  
State Affairs Committee  
House of Representatives

Re: SB 308 (burden of proving  
validity of regulations)

Gentlemen:

You will have received under date of February 26 a letter from the office of the Attorney General couched in apocalyptic terms relative to the subject bill. I think the office of the AG is indulging in flim-flam not to mention a generous school of red herrings.

Paragraphs II and III of the AG's letter attack the reversal of the assumption that regulations are automatically valid because they have been promulgated by the Administration. This is a lot of hooey. These regulations will be assumed as valid, the only question will come if a regulation is challenged. There is no conceivable reason to challenge regulations that are well drawn and applied in a fashion that is not arbitrary or capricious. They quite properly establish a standard for people in dealing with their government, it is only when they run amok that they should be challenged.

Reference to "several Supreme Court decisions" and complaints by the Ombudsman concerning the absence of regulations are immaterial to this discussion. If regulations should be adopted, then they should be adopted. The whole point of this exercise is that there should be great care taken to see that those regulations are reasonable.

The statement in paragraph V that passage of this bill would invite challenges and provide a windfall to lawyers is an interesting statement. To me, it presupposes that the majority of the regulations that are now on the books are of such an arbitrary nature as to invite challenge. There is no foundation to that statement. If the office of the Attorney General has a collective guilty conscience about wholesale numbers of regulations which, after all, are shunted through that office as their final step before adoption, then perhaps they should be reassessing their role in regulatory proceedings.

In paragraph VII the AG states, quite by accident I assume, the whole purpose of this bill. It is designed to enable the public to get at those "favorite example" cases of "a regulation that appears unnecessary or unwise." If the AG had substituted asinine and arbitrary in the case of unnecessary or unwise the example would be acceptable. Again, there are thousands of regulations within whose constraints the people can function quite comfortably, this bill only seeks to get at the mavericks.

In paragraph IX of his missive the AG mentions an internal conflict within the APA. I fail to see this conflict. This bill speaks only to regulations which are challenged. If the state cannot prove that that regulation is valid and necessary then it should be vaporized.

Paragraph X repeats the tiresome canard about "presumption of invalidity." It is not immediately apparent from this paragraph that the AG is clear about what he is unclear about.

Paragraph XII deals with the question of concern for citizens rights. Who, pray tell, gives to a regulatory agency decisional infallibility in its regulations, often pushed through with a callous disregard for the vehement objections of the citizenry affected? We all know of cases where this callous disregard has been exhibited, with no way to reverse it except through legislative action and that action has apparently been nullified by the recent Supreme Court decision.

Paragraph XIII details the cumbersome methods of protest now open to challenge of a regulation. This paragraph then goes on to say that passage of this bill would be "very expensive to the taxpayers of the state." This may come as a shock to the AG, but I cannot forbear to point out that it is

the taxpayers who are now paying the very expensive cost of abiding by arbitrary and capricious regulations.

In his whole letter, it is only in paragraph VI that the AG points out, again quite accidentally, an area that should be corrected. Those regulations affecting Fish and Game, and Oil and Gas, and issued as emergency regulations for the short term cure of a particular situation should be exempted from the provisions of this bill. It is interesting to note, however, that no one appeared at the Senate Judiciary hearing on SB 308 with testimony dealing with this aspect of the regulatory process.

In summation, as the AG might say, his letter of February 26th to you gentlemen is shot full of inconsistencies, conjecture and plain scare talk. Somehow I had expected something of a more positive nature to deal with what has become a valid concern to the people in this state who must daily deal with onerous regulation.

Sincerely,



Glenn Hackney  
State Senator

cc: The Honorable Clem V. Tallion  
President  
Alaska State Senate

The Honorable Robert H. Ziegler, Sr.  
Alaska State Senate

Keith Specking  
Legislative Assistant  
Office of the Governor

Don Koch  
Division of Insurance  
Department of Commerce & Economic  
Development

Karen Bernstein  
Department of Fish & Game

S B

332

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Judiciary Committee

To: HCS for CS for HOUSE BILL No. \_\_\_\_\_

SENATE BILL No. 132 (Judiciary)

PAGE: 2

LINE: 5

Between "for" and "long-term", insert "sale of"



AB 332 -

still  
awaiting FN  
from M. Clemens -  
hope by Sp on Tues,  
otherwise Wed am



# Greater Fairbanks

## CHAMBER OF COMMERCE

330 PARK AVENUE

U. S. Chamber of Commerce  
Alaska State Chamber of Commerce  
Pacific Northwest Trade Ass'n.  
National Better Business Bureau

May 19, 1980

### A RESOLUTION RELATIVE TO THE USAGE OF THE NORTH SLOPE HIGHWAY.

WHEREAS the State of Alaska has agreed to assume the responsibility for the operation and maintenance of the North Slope Highway effective October 15, 1978; and

WHEREAS the State of Alaska has not resolved the question concerning the public use of this highway; and

WHEREAS the State of Alaska has not resolved the question of service facilities for the public use of this road; and

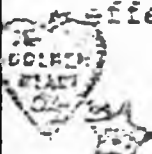
WHEREAS continued funding for the operation and maintenance of the North Slope Highway is of vital importance to commercial and industrial users of this highway along with the general public usage; and

WHEREAS several bills introduced during the past few years to try to remedy these situations have not proven successful; and

WHEREAS a number of these bills contained objectional precedent setting items that are and should continue to be, under the direction of State agencies, these include:

1. Restriction on hunting
2. Restriction on use of fire arms
3. Restriction on use of off-road vehicles
4. Disposition of state land
5. Restriction on public use of public highways

NOW THEREFORE BE IT RESOLVED BY THE GREATER FAIRBANKS CHAMBER OF COMMERCE that a bill be approved this session which will insure the continued funding and year around maintenance of the North Slope Highway for commercial and industrial use and for utilization by the general public. The above notwithstanding, the Greater Fairbanks Chamber of Commerce will consent to interim public restriction beyond Detrich and a closure to the public beyond the Yukon river bridge from September 1 to May 31. The effective date of this bill should be the date of the bill.



*Copies members*

*SB 332*

# THE ALASKAN BOWHUNTERS ASSOCIATION, INC.



Charles Parr  
 Alaska State Legislature  
 Pouch V (MS 3100)  
 Juneau, Alaska 99811

Dear Representative Parr:

Our Association is opposed to CSSB 332 or any other similar legislation. This bill would close all hunting within 5 miles of both sides of the Trans-Alaska Pipeline north of the Yukon River. We are opposed to this bill for several reasons.

The Alaskan Bowhunters Association, Inc. was formed in 1971. After a few years of very little action the Association was reorganized in 1977 and has built from that time to what it is today. We presently have in excess of 350 members whose single goal is that of Fostering and Perpetuating Fair Chase Hunting with the Bow and Arrow. We do this by being the voice of all bowhunters in Alaska on conservation and legislative issues that affect us all. Our membership is made up of people from all areas of Alaska and from all walks of life.

As stated earlier we are opposed to this legislation for several reasons. First our Association is opposed to any direct legislative action that directs or controls game management. The current regulatory process used for fish and game management in Alaska is in our minds the most democratic and fair process used anywhere. We have worked with this process for years and have found that while at times it is frustrating it is the best and most flexible system possible that balances the concerns of people and the resource needs of our fish and game.

At the recent regulation hearings held the end of March in Fairbanks, the pipeline problem was discussed. First it was recognized by everyone concerned that the security of the pipeline is important but that eliminating hunting will do nothing to protect the pipeline. Only preventing the discharge of firearms or other similar activities will do this. There are many compatible activities such as bowhunting which do not endanger the pipeline yet provide a valuable recreation opportunity to many people at a time when such things are disappearing at to fast a rate.

- PRESIDENT**  
 Curt Lynn  
 9329 Emerald  
 Anchorage, Alaska 99502  
 243-1718
  
- VICE PRESIDENT**  
 Dennis L. Lattery  
 P.O. Box 775  
 Eagle River, Alaska 99577  
 668-2093
  
- SECRETARY/TREASURER**  
 Donald L. Poole  
 P.O. Box 2200  
 Soldotna, Alaska 99662  
 262-4947
  
- DIRECTORS:**
  
- Rendezvous/Education**  
 Ed Russell  
 Pouch 8600  
 Anchorage, Alaska 99502  
 349-2846
  
- Banquet/Awards**  
 George Moerlein  
 Star Route Box 2740  
 Anchorage, Alaska 99507  
 344-1740
  
- Area Rep. Cordinator/  
 Membership**  
 Dave Neel  
 3311 Ambur Bay Lp.  
 Anchorage, Alaska 99502  
 344-7791
  
- Public Relations**  
 John F. Sumrall  
 3001 Yale Drive  
 Anchorage, Alaska  
 272-6772
  
- Legislative/Conservation**  
 Ron Swanson  
 Box 2328 P.O. Verde  
 Eagle River, Alaska 99577  
 694-9564

Dedicated to Fostering and Perpetuating Fair  
 Chase Hunting with the Bow and Arrow.

We also spent time discussing the wildlife that is found in this area. Currently in some areas it has been found that some animals do congregate along the pipeline. This is not because of the pipeline but because of the human activity.

This congregation of animals is not good for the wildlife and should not be encouraged to continue as only the wildlife will eventually suffer. Some moderate hunting activity would in fact be good in that the nuisance animals in this area would be harvested in a recreational manner rather than in a defense of life and property situation. Other wildlife, because of the hunting activity, would then tend to return more to their natural areas of use and way of life.

The Game Board in recognizing this fact recommended that bowhunting be allowed in this corridor. We are as sure as the Game Board that the end result will be beneficial to the wildlife and to the recreational sportsmen. We ask that you give the current regulation process a reasonable time to work and see if what is said above will not be proven true.

We encourage you not to support any legislation that forever closes the options available to wildlife or any resource managers. We also encourage you to support the game management and regulation system that Alaska now has. We are sure that over time both the needs of Alaskans and its wildlife resources will best be met.

Sincerely,



Ron Swanson, Chairman  
Legislation/Conservation Committee

see HC 552

+

MB 207

of friends of  
currently work  
up on the

subject - Sandra S  
405 3082

Original sponsor: Sackett

*file*

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 332 (Judiciary)

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 the highway between the Yukon River  
7 and the Arctic Ocean, and to state management and  
8 control of resources affected by the highway between  
9 the Yukon River and the Arctic Ocean; and providing for  
10 an effective date."

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

12 \* Section 1. AS 16.05 is amended by adding a new section to read:

13 Sec. 16.05.785. PROHIBITION ON HUNTING ADJACENT TO HIGHWAY BETWEEN  
14 YUKON RIVER AND ARCTIC OCEAN. (a) Hunting with firearms is prohibited  
15 north of the Yukon River in the area within five miles on either side of  
16 the highway between the Yukon River and the Arctic Ocean.

17 (b) A person who violates this section is guilty of a class A mis-  
18 demeanor.

19 \* Sec. 2. AS 19.40 is amended by adding new sections to read:

20 Sec. 19.40.074. OPENING OF HIGHWAY. (a) The department shall  
21 keep the highway open all year for industrial and commercial vehicles.

22 (b) The public may use the highway from the Yukon River to  
23 Dietrich from June 1 through September 1.

24 Sec. 19.40.076. HIGHWAY MAINTENANCE AND PUBLIC CONVENIENCES. (a)  
25 The department shall acquire land useful for maintenance of the highway  
26 and for services for the convenience of travelers

27 (1) in the vicinity of Dietrich;

28 (2) at a point approximately halfway between the Yukon River  
29 and Dietrich; and

1 (3) at the Yukon River.

2 (b) The land acquired under (a)(3) of this section shall be ad-  
3 jacent to the Yukon River and be suitable for access by river barges.

4 (c) The department shall make the land acquired under (a) of this  
5 section available for long-term <sup>SP/2 or</sup> leasing to persons to provide services  
6 for the convenience of travelers on the highway.

7 Sec. 19.40.078. OFF-ROAD VEHICLES. The Department of Environmental  
8 Conservation shall adopt regulations in accordance with the Adminis-  
9 trative Procedure Act (AS 44.62) to regulate the use of off-road vehicles  
10 on land within five miles on either side of the highway. The regula-  
11 tions may not prohibit the use of off-road vehicles if they are necessary  
12 for access to mining claims.

13 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-  
14 070(c).

# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY

DIVISION OF ADMINISTRATIVE SERVICES

*Lawson*  
JAY S. HAMMOND, GOVERNOR

465-4322

POUCH N - JUNEAU 99811

May 29, 1980

Honorable Charles H. Parr  
Chairman  
House Judiciary Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Parr:

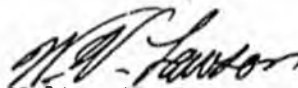
Enclosed is information describing in detail the costs projected in our fiscal note for HCS CSSB 332 (Judiciary). It should be noted that the enclosure indicates \$5,000 for replacement equipment but that this has been increased to \$5,400 for the first year in which this funding would be needed (FY 82) to reflect the 7% inflation factor used throughout.

With regard to our projected need for permanent full-time positions, several factors are involved. Practical considerations dictate that enforcement personnel cannot be hired on a seasonal basis or rotated for haul road duty, as case continuity is vital to an effective enforcement program.

Although the bill under consideration stipulates the highway would open to the general public only during the summer season, other (commercial) users will become accustomed to services provided seasonally and will expect them. Such services will include investigations, ambulance, towing and emergency services. Additionally, once the highway is opened, it will be necessary to provide surveillance year round to ensure compliance with general as well as seasonal use restrictions.

Thank you for the opportunity to express Departmental concerns on this issue.

Sincerely,



Walter V. Lawson  
Director

Enclosure

PERSONAL SERVICE 100

Deadhorse	(2)		76,715		
M.P. 133 (MC 119-4)	(2)		76,715		
Cold foot	(2)		76,715	1 FWP	1 AST
5 Mile	(3)	Presently in budget	115,218	1 FWP	2 AST
TOTAL			345,363		

TRAVEL 200 18,000

CONTRACTUAL 300

H W C F			45,000		
Transfers			0,000		
Aircraft P.E			60,000		
Other (including aircraft, vehicle maintenance)			90,000		
TOTAL			205,000		

COMMODITIES 400

Clothing	800 per man x 9		7,200		
Fuel	(Heat and Lights)		45,000		
Fuel	(Aircraft)		33,000		
Fuel	(Helicopter)		30,000		
Winter survival gear			3,600		
Emergency gear for vehicles			5,000		
Flares			1,000		
Maintenance supplies			8,000		
Professional supplies			4,000		
Office supplies			3,000		
Fuel vehicles			15,000		
TOTAL			155,200		

500 Another Page

CAPITOL 600

Housing					
5 Mile	3 units		600,000	1 FWP	2 AST
Cold foot	2 units		400,000	1 FWP	1 AST
MP 133 (MC 119-4)	2 units		400,000		
Prudhoe (Deadhorse)	2 units		400,000		
Hangar					
Cold foot	2 units		150,000		
TOTAL			1,950,000		

TOTAL FIRST YEAR EXPENSES 3,165,363

ANNUAL EXPENSES 728,563

## EQUIPMENT 500

## START-UP

## ANNUAL

4 Adding machines	400	
6 Typewriters	4,800	
4 Desk Dictaphones	2,200	
9 Recorders	1,800	
6 Cameras	1,800	
4 Breathalyzers	5,000	
4 Calibrators	600	
9 Handguns	1,125	
6 Rifles	2,100	
11 Shotguns	1,375	
4 File Cabinets	800	
4 Main Generators	32,000	
4 Stand by Generators	32,000	
4 Diesel Tanks (2500 Gals.)	3,800	
2 Aviation Gas Tanks (1000 Gals.)	2,000	
4 Gasoline Tanks (1000 Gals.)	4,000	
6 Gasoline Pumps	2,700	
1 River Boat w/twin jets 50 hp. w/outboard spare	10,000	
1 Boat Trailer	1,000	
8 Sno machines	19,200	
4 Sno machine trailers (Dbl)	2,000	
RADIOS		
4 Base and 11 Mobile	37,300	
1 Bell Helicopter 206 B	300,000	
TOTAL	491,800	

Replacement equipment in future years.

5,000

Individually as a Division, Fish and Wildlife would require funding at a level estimated as follows:

100	2 Wildlife Officers (Coldfoot, Five Mile)	76,764
		4,000
200	Travel	65,000
300	Contractual	33,000
400	Commodities	45,000
500	Equipment	
600	Capital Housing - 2 units	400,000
	TOTAL	623,764

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HCS CSSB 332 (Judiciary)  
 Title "An Act relating to the highway between the Yukon River and the Arctic Ocean..."  
 Requested by House Judiciary Date 5/28/80

II. FISCAL DETAIL

Agency Affected Department of Public Safety  
 Program Category Affected NRMEC, Administration of Justice  
 BRU, Program, or Subprogram(s) Affected Fish & Wildlife Protection, Alaska State Troopers  
 (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		345.4	369.6	395.5	423.2	452.8
200 TRAVEL		18.0	19.3	20.2	22.1	23.6
300 CONTRACTUAL		205.0	219.4	234.8	251.2	268.8
400 COMMODITIES		155.2	166.1	177.7	190.1	203.4
500 EQUIPMENT		491.8	5.4	5.8	6.2	6.6
600 LAND & STRUCTURES		1,950.0				
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>3,165.4</b>	<b>779.8</b>	<b>834.5</b>	<b>892.8</b>	<b>955.2</b>

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		3,165.4	779.8	834.5	892.8	955.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME		9	9	9	9	9
PART TIME						
TEMPORARY						

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

Funding will be required for 9 permanent full-time positions (7 State Troopers and 2 Fish & Wildlife Protection Officers) and associated costs. Funding for FY 81 includes equipment required to operate the surveillance program necessitated by public access to the highway, including a helicopter to be used for emergency transportation as well as monitoring activities. Replacement costs for equipment are included for FY 82 onward. Capital funding will be required in FY 81 for housing facilities to be constructed at 5 mile, Coldfoot, MP 133, and Prudhoe, and a hangar at Coldfoot.

All costs shown beyond FY 81 reflect a 7% inflation factor.

IV. DATE May 28, 1980

PREPARED BY Marcia Lynn McKenzie  
 AGENCY Department of Public Safety  
 PHONE 465-4349

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

Title amended to identify committee offering the substitute, i.e. Judiciary

STATE OF ALASKA  
Inter-Department Route Slip

TO:  
MAIL STATION NUMBER \_\_\_\_\_

DEPARTMENT Room 124 Capital Bldg

ATTENTION Ms. Stringer / Rep. Parr

- |  |  |
|--|--|
| <input type="checkbox"/> Approval      | <input type="checkbox"/> Note & Return       |
| <input type="checkbox"/> Signature     | <input type="checkbox"/> Initial & Return    |
| <input type="checkbox"/> Comment       | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me    | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action    |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> Your Information    |

Remarks:

FROM:  
MAIL STATION NUMBER 2500

DEPARTMENT DOT/PE

BY Ron Lind DATE 5/23/80

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HCS CSSB 332 (Judiciary)

Title Use of Highway North from Yukon River

Requested by House Judiciary Committee

Date 5/23

II. FISCAL DETAIL

Agency Affected Department of Transportation and Public Facilities

Program Category Affected \_\_\_\_\_

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		39.2	43.1			
200 TRAVEL		2.5	2.8			
300 CONTRACTUAL		10.0	11.0	64.9		
400 COMMODITIES		1.0	1.1			
500 EQUIPMENT		21.0	1.0			
600 LAND & STRUCTURES		1295.0	6120.0	4750.0		
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>*4368.7</b>	<b>6179.0</b>	<b>4814.9</b>		

FUNDING (Thousands of Dollars)

		4368.7	6179.0	4814.9		
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME		3	3	3	3	3
TEMPORARY						

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

Funds are not included to increase the level of maintenance. The increased traffic use by the general Alaskan public, as well as tourists, will likely cause a demand for an increased level of maintenance, especially for dust control. The increased level of service could cause an increase in costs from 10% to 15% in the maintenance budget (the total request for the North Slope Haul Road is approximately \$5 million).

Funds are not included for Section 19.40.076 since we are not now able to estimate costs for providing this service. This responsibility is more in line with the duties of the Department of Natural Resources.

Agencies other than the Department of Transportation and Public Facilities may also have costs impacts and these are not included in this fiscal note.

IV. DATE April 23, 1980 PREPARED BY John C. Bates, Deputy Commissioner

AGENCY DOT/PE

PHONE 465-3900

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Operating Budget

<u>100</u>	3 WG 57 Laborers (Litter Control Source: Interior M & O	\$ 39,200
<u>200</u>	(Air fare, Fairbanks to Dietrich)	2,500
<u>300</u>	1 pickup, 4 months, 5,000 miles Pump out vault toilets at end of season Repeater Station Maintenance	10,000
<u>400</u>		1,000
<u>500</u>	1 pickup 4 X 4 with radio 1 base station radio Office equipment, furniture Miscellaneous	12,500 5,000 2,000 <u>1,500</u>
	Total Operating Budget	\$ 73,700

Capital Improvements /tributed to Public Use

	Modular camp unit (portable) 4 person to be used as a check point 2,000 sq. ft. @ 300.00/G' Includes: 1,200 sq. ft. living space 400 sq. ft. office, public 400 sq. ft. utility 1 trailer mounter water/sewer treatment 1 trailer mounter generator (2 units) Source: General Design & Construction	600,000
	8 roadside rest areas (2 with vault toilets) Source: General Design & Construction Repeater Station for radio communication	175,000  20,000
	Total Capital Improvements	\$ 795,000

In response to demand from general public for better driving surface, dust control and overall safety needs, Maintenance & Operations' operating budget could increase by 10% to 15%. This would amount to \$500,000 - \$755,000 in the FY 81 Maintenance & Operating Highways maintenance request.

Additional Capital Funds

FY 81	Sag River camp (additional funds needed for phase 2)	2,090.0
	Chandalar remodel Old Alyeska and DOT/PF buildings in need of remodeling to make them livable	1,430.0
FY 82	Deadhorse Shop	6,120.0
FY 83	Prospect camp relocation Existing Prospect camp must be moved to site out of floodplain by BLMs order	4,750.0
	SUBTOTAL.	<u>\$14,390.0</u>
	TOTAL:	<u>\$15,165.0</u>

SB

355

(9)

# COMMITTEE REPORT

## HOUSE

4/24/80

FURTHER: FINANCE

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on JUDICIARY has had CSSS SB 355(Fin)

"An Act establishing the Alaska Administrative Journal; and providing for an effective date."

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

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

**MEMBERS SIGNING  
DO PASS**

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

[Signature] No Rec.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]  
CHAIRMAN

*Copies members  
SB 355*

OF COUNSEL  
M. E. MONAGLE

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

ROBERT B. BAKER  
LEROY J. BARKER  
L. G. BERRY  
C. R. RICH  
WM. RONALD HULEN

R. E. ROBERTSON (1885-1961)  
F. C. EASTAUGH  
J. B. BRADLEY  
WILLIAM G. RUDDY  
L. B. JACOBSON  
MICHAEL T. THOMAS  
JAMES F. CLARK  
PAUL M. HOFFMAN  
J. P. TANGEN  
DEBORAH A. HOLBROOK  
D. ELIZABETH CUADRA  
HAROLD E. SNOW, JR.  
PAMELA L. FINLEY

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW  
POST OFFICE BOX 1211  
JUNEAU, ALASKA 99802

ANCHORAGE OFFICE

601 WEST FIFTH, SUITE 510  
ALASKA MUTUAL BANK BLDG.  
POST OFFICE BOX 679  
ANCHORAGE, ALASKA 99510  
PHONE (907) 277-6693  
CABLE ROMEA  
TELEX 090-26-486

JUNEAU OFFICE

200 NBA BUILDING  
POST OFFICE BOX 1211  
JUNEAU, ALASKA 99802  
PHONE (907) 586-3340  
CABLE ROMEA  
TELEX 099-45-376

May 19, 1980

HAND DELIVERED

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

Re: CS SB 355

Dear Mr. Parr:

This is to express our support for SB 355, which would establish the Alaska Administrative Journal and require that certain proposed regulatory and other actions be published therein.

Adoption of CS SB 355 would greatly improve the possibilities for public participation in state agency rule making. Even our corporate clients sometimes have difficulty being reliably notified of proposed agency regulations in time to develop comments on them. The situation must be far more difficult for individual citizens. Adoption of CS SB 355 would regularize the process of public notification of proposed agency actions and regulations. The overall expense to the state government probably would be decreased, compared to the present agency custom of mailing copies of proposed regulations to each person who has indicated an interest in a topic, particularly as the publication of the Journal would be required to be self-supporting. With respect to proposed regulations and other proposed agency actions, executive orders and administrative orders, the Alaska Administrative Journal would fulfill the same function for the State of Alaska as the Federal Register performs for the federal government.

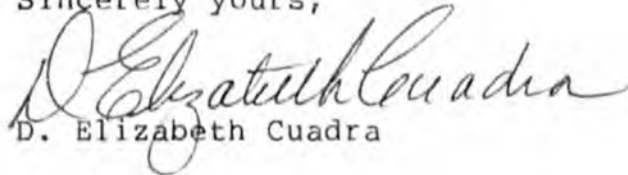
The Honorable Charles Parr  
Page Two

May 19, 1980

With respect to state agency requests for proposals and notices of solicitations to bid, the Alaska Administrative Journal would fulfill the same regularizing function as the Commerce Business Daily fulfills for Federal agencies. Judging from controversies reported in the press over state bid solicitation procedures over the last year or so, some such process is needed, and publication of all state agency RFP's and notices of solitation to bid in an Alaska Administrative Journal would go a long way toward equalizing the chances for various bidders.

In summary, we support enactment of CS SB 355.

Sincerely yours,



D. Elizabeth Cuadra

DEC/pl



# 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 21, 1980

-----

Please provide the Committee with a CS in final version form that incorporates the Committee's intent as expressed in the attached mark up.

Original sponsors: Fahrenkamp and Sumner

Offered: 4/17/80

*by House Judiciary*

1 THE SENATE

*HCS*

BY THE FINANCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 355 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Administrative Journal;  
7 and providing for an effective date."

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

9 \* Section 1. AS 44.62 is amended by adding a new section to article 3 to  
10 read:

11 Sec. 44.62.175. ADMINISTRATIVE JOURNAL. (a) The lieutenant  
12 governor shall publish an Alaska Administrative Journal every two weeks.  
13 The journal shall include but is not limited to the following:

14 (1) notices of proposed actions <sup>given</sup> ~~made~~ under AS 44.62.190(a);

15 (2) 3 notices of state agency meetings required under AS 44.-  
16 62.310(e);

17 (3) 4 notices of solicitations to bid issued under AS 37.05.-  
18 230;

19 (4) 5 notices of state agency requests for proposals, <sup>under</sup>  
20 (5) 6 executive orders and administrative orders <sup>AS 37.05.230</sup> issued by the

21 governor; and

22 (6) 7 written delegations of authority made by the governor or  
23 by the head of a principal department under AS 44.17.010.

24 (b) When (1) a state agency <sup>gives</sup> ~~makes~~ a notice which is to be pub-  
25 lished in the journal under (a)(1) - (4) of this section, (2) the  
26 governor issues an executive or administrative order, or (3) the  
27 governor or the head of a principal department makes a written dele-  
28 gation of authority under AS 44.17.010, a copy of the notice, order, or  
29 delegation shall also be sent at the same time to the lieutenant

*(2) When it becomes available, the text of regulations for which notice is given under AS 44.62.190 if the regulations do not exceed 16 legal-size typewritten pages; in order to remain within budgetary limits, the Lt. governor may reduce this page limitation;*

1 governor for publication in the Alaska Administrative Journal and to  
2 every person who has filed a request for a copy of the notices, orders  
3 or delegations with the state agency and has indicated that he wishes to  
4 receive it for the purpose of publishing it. If the notice sent to the  
5 person is for a proposed regulation, an amendment to a regulation or  
6 repeal of a regulation, the state agency shall also furnish a copy of  
7 the proposed regulation, amendment, or order of repeal, except that

8 (1) if the regulation exceeds 16 legal-sized, typewritten  
9 pages, a copy need not be furnished, and in order to remain within  
10 budgetary limits, the ~~lieutenant governor~~ may reduce this page limita-  
11 tion; *adopting agency*

12 (2) if the regulation has not yet been drafted in its en-  
13 tirety, a copy need not be furnished at the time notice is ~~made~~ but,  
14 subject to (1) of this subsection, a copy must be furnished at the same  
15 time as one is furnished to the Department of Law under AS 44.62.190-  
16 (a)(5).

17 (c) The lieutenant governor shall sell subscriptions to the Alaska  
18 Administrative Journal at a price reasonably calculated to offset the  
19 cost of its publication and distribution.

20 (d) If the lieutenant governor determines that the journal's  
21 purpose of providing an all-inclusive medium for publishing public  
22 notice of proposed agency actions for which public notice is required by  
23 law is being met by private publication and is likely to continue to be  
24 so met, he shall discontinue publication of the Alaska Administrative  
25 Journal.

26 (e) A regulation, amendment to a regulation, or order of repeal,  
27 except an emergency regulation or order of repeal, adopted under AS 44.-  
28 62.250, may not take effect unless notice of the proposed action has  
29 been published in the Alaska Administrative Journal as prescribed by

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this section.

\* Sec. 2. AS 44.62.200 is amended by adding a new subsection to read:

(c) The summary specified in (a)(3) of this section must be approved by the lieutenant governor as adequate for publication in the Alaska Administrative Journal before notice may be made under AS 44.62.-190.

\* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c), except that the lieutenant governor shall begin publication of the Alaska Administrative Journal during the week of September 15, 1980.

Background information

The purpose of this legislation is to place in one publication all information required to be made public by state agencies. The publication would be available on a subscription basis and would provide a service to the people of the state without increasing the drain on public coffers. The bill, as now written, has the support of the lieutenant governor's office and the Attorney General's office.

The bill would increase the political openness in the state. Alaska is too large to continue the word-of-mouth network of communication that exists when there is no single place in which to gather all notifications.

The bill is intended to emphasize the policy stated in AS 44.62.312.

"It is the policy of the state that

- (1) The governmental units mentioned in 310(a) of this chapter exist to aid in the conduct of the people's business;
- (2) It is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;
- (3) The people of this state do not yield their sovereignty to the agencies which serve them;
- (4) The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;
- (5) The people's right to remain informed shall be protected so that they may retain control over the instruments they have created."

Analysis

Section 1. New section added to article 3, AS 44.62:

Sec. 44.62.175. ADMINISTRATIVE JOURNAL.

- a) The journal shall be published every two weeks and will include notices of action, state agency meetings, bid invitations, requests for proposals, and executive and administrative orders.
- b) Any notice required under a) will be sent to the lt. governor and to any person requesting a copy for the purposes of publication, unless:
  - 1) any regulation exceeds 16 legal-sized, typewritten pages, in which case the summary included with the notice will be sufficient for publication;
  - 2) the regulation has not been drafted, in which case it must be sent at the time it is submitted to the Department of Law.
- c) The lt. governor shall sell subscriptions to the journal at a price to offset the cost of publishing.
- d) The lt. governor may discontinue publication of the journal if the requirements for the journal are met by a private publication.

CSSS SB 355, (cont.)

- e) No regulation, amendment to a regulation or order of repeal, except emergency regulations or repeals, will take effect unless notice is published in the journal.

Section 2. Amends AS 44.62.200 to add a new subsection to the notice requirements. A summary prepared under this section must be approved by the lt. governor's office.

Section 3. Publication begins January, 1981.

Section 4. Effective date is December, 1980.

Discussion.

Although the bill does not go as far as the original bill because it specifies those items which are to be included in the journal and the original did not, it still goes a long way towards identifying those items of public interest which the public has difficulty obtaining from one source. The committee substitute was prepared with the aid of the Department of Law and the Lt. Governor's office.

Recommended changes.

Page 2, line 18, after the word "price," delete the word "sufficient" and insert the words "reasonably calculated."

Page 2, line 19, after the word "distribution," insert the words "~~insofar as is practicable.~~"

These changes could prevent the lt. governor from being forced to sell subscriptions at an extremely high price. The intent of this section is for the cost of the journal to be offset as much as possible while retaining public access through reasonable pricing. The present wording could create a problem during the first period of publication and until such time as the journal is widely recognized as an information source.

Page 3, renumber sections.

Page 3, consideration. An earlier date of publication is desired. However, without either a special appropriation for this year, or the position approved prior to July 1 with everything else ready to go (this includes recruiting, bid announcements, etc.). In either of these cases, publication of the journal could begin as early as September 15.

*early publication  
is not possible*

SB

365

(9)

# COMMITTEE REPORT

2/4/80

## HOUSE

FURTHER:

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on JUDICIARY has had SB 365am

"An Act imposing penalties on persons who deal in intoxicating liquors without a license; and providing for an effective date."

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

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

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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*Charles H. ...*

CHAIRMAN

2 HCS for SENATE BILL NO. 365 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act imposing penalties on persons who deal in

7 intoxicating liquors without a license; ~~and providing~~  
8 ~~providing for the prohibition of possession AND importation of alcoholic~~ beverages into local communities by

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA: ~~the forfeiture of conveyances~~ local option; and providing for  
utilized in violation of local  
option provisions.

\*Section 1. AS 04.10.430 is repealed and re-enacted to read:

Sec. 04.10.430.

ELECTION IN CITIES. (a) If 35 percent of the

total number of voters in the last regular municipal election held in

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

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

NO [ ]

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

PRIVATELY-OWNED [ ]

COMMUNITY-RUN [ ]

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

PACKAGE STORE [ ]

TAVERN [ ]

BOTH [ ]

(4) Should the possession of alcoholic beverages be prohibited  
within this city? YES ( )

NO ( )

(5) Should the importation of alcoholic beverages into this city  
be prohibited? YES ( )

NO ( )

(6) Should the importation of alcoholic beverages into this  
city only be permitted during the following holiday periods:

from Decmeber <sup>23</sup> ~~26~~ to January 1, from July 3 to July 4, and from  
the fourth Thursday in November ( known as Thanksgiving Day) to the

following day? YES ( )

NO ( )

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, <sup>except that</sup> 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. <sup>10. 140</sup> ~~11.145(1)~~ and without pay-

3

(f) ~~6~~ If, upon receipt of certification of the results of a vote on the proposition set out in (a)(<sup>4</sup>~~1~~) of this section, the city clerk finds that a majority of the voters is against the possession of intoxicating liquor in the city, a person may not possess intoxicating liquor in the city ~~for one year~~, beginning on the first day of the month following certification of the results of the election.

(g) If, upon receipt of certification of the results of a vote on the proposition set out in (a)(<sup>5</sup>~~1~~) of this section, the city clerk finds that a majority of the voters is against the importation of intoxicating

liquor into the city, a person may not knowingly transport or import intoxicating liquor into the city, or receive or possess intoxicating liquor transported or imported into the city, ~~for one year~~, beginning on the first day of the month following certification of the results of the election.

(h) If a majority of the votes cast on question (6) favors the importation of alcoholic beverages into the city only during the specified holiday periods, a person may not import alcoholic beverages into the city except during those specified holiday periods beginning on the first day of the month following the certification of the results of the election.

(I) ~~3~~ If, following an election prohibiting or limiting the sale of alcoholic beverages within the city under (a) of this section, a majority of the voters at a subsequent regular municipal election under (a) of this section authorize the sale of alcoholic beverages under private licenses, the director upon application may issue only the same number and type of licenses to the same or other premises within the city as were in effect on the date of certification of the previous election. Those applicants who were licensees and whose licenses were not continued by reason of the previous election have priority in license issuance over other applicants. A license shall be issued to a prior licensee notwithstanding a resulting restriction, ~~whether under AS 04.01.050 or otherwise~~ which arose subsequent to the election.

(J) ~~199~~ If, upon receipt of certification of the results of a vote in a subsequent election on the proposition set out in (a)<sup>(4)</sup>~~(7)~~ of this section at an election held under this section, the city clerk finds that a majority of the voters favors the possession of intoxicating liquor, the prohibition on possession terminates on the first day of the month following certification of the results of the election.

(K) ~~200~~ If, upon receipt of certification of the results of a vote in a subsequent election on the proposition set out in (a)<sup>(5)</sup>~~(8)~~ of this section at an election held under this section, the city clerk finds that a majority of the voters favors the importation of intoxicating liquor, the prohibition of importation terminates on the first day of the month following certification of the results of the election.

(1) If, upon receipt of certification of the results of a vote in a subsequent election on the proposition set out in (a)(6) of this section at an election held under this section, the city clerk finds that a majority of the voters is opposed to limiting importation of alcoholic beverages during the specified holiday periods, the prohibition of importation terminates on the first day of the month following certification of the results of the election,



(m) ~~11~~ A license may not be suspended under this section during the year for which it was issued except for cause.

\*Section 2. Amend Title 4 to add a new section to read:

Sec. 04.10.435.

LOCAL OPTION ELECTION MANDATORY IN CERTAIN

CITIES. No new license for the sale of alcoholic beverages may be issued within a city in which there is no licensed premises on

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

\* Sec. 3. AS 04.15.110 is repealed and re-enacted to read:

Sec. 04.15.110. SALE, POSSESSION, AND IMPORTATION IN VIOLATION OF LOCAL OPTION. (a) A person who unlawfully sells or offers for sale an intoxicating liquor in an area where the local option election has made these activities illegal is, upon conviction,

CLASS A

(1) guilty of a<sup>A</sup> misdemeanor if the quantity sold or offered for sale is less than 12 liters of distilled spirits, 24 liters of wine, or 45 liters of malt beverages; or

CLASS C

(2) guilty of a<sup>A</sup> felony if the quantity sold or offered for sale is 12 liters or more of distilled spirits, 24 liters or more of wine, or 45 liters or more of malt beverages.

(b) A person who unlawfully possesses an intoxicating liquor in a community where a local option election has prohibited that activity is, upon conviction, guilty of a<sup>A</sup> misdemeanor.

CLASS B

(c) A person who unlawfully imports an intoxicating liquor in a community where a local option election has prohibited that activity is, upon conviction,

CLASS A

(1) guilty of a<sup>A</sup> misdemeanor if the quantity imported is less than 12 liters of distilled spirits, 24 liters of wine, or 45 liters of malt beverages; or

CLASS C

(2) guilty of a<sup>A</sup> felony if the quantity possessed is 12 liters or more of distilled spirits, 24 liters or more of wine, or 45 liters or more of malt beverages.

\* Section 4. AS 04.15 is amended by adding a new section to read:

Sec. 04.15.095. PENALTIES FOR VIOLATIONS BY UNLICENSED PERSONS. A person who violates AS 04.10.010 is, upon conviction, guilty of

(1) a <sup>CLASS A</sup> misdemeanor, ~~and punishable by imprisonment for not more than one year, or by a fine of not more than \$5,000, or by both,~~

(2) a <sup>CLASS C</sup> felony ~~and punishable by imprisonment for not more than five years, or by a fine of not more than \$30,000, or by both,~~ if, in addition to the manufacture, sale, offer for sale, possession for sale, trafficking in, barter, or exchange for goods,

(A) the prohibited conduct involved a sale, barter, or exchange to a person under the age of 19 years, or

~~(B) the person had previously been convicted under this section.~~

\* Sec. 5. AS 04.15.100(a) is amended to read:

(a) A person who violates any provision of this title other than ~~AS 04.15.100~~ <sup>OR AS 04.15.110</sup> ~~or AS 04.15.080~~, is guilty of a misdemeanor, and upon conviction is punishable by imprisonment of not more than one year, or by a fine of not more than \$500. Each violation is a separate offense.

\*Section 6 Title 4 is amended by adding the following ~~sections~~ <sup>Sections</sup>  
to read:

*Sec. 04.15.115*

SEIZURE, FORFEITURE AND SALE OF CONVEYANCE.

(a) A conveyance used, or intended for use, to transport or in any manner to facilitate the transportation, sale, receipt, possession or concealment of an alcoholic beverage sold in an area where a local option election has made its sale <sup>possession, or importation</sup> illegal may be seized when the seizure is incident to an arrest or a search under a search warrant.

(b) Upon conviction of the offender or upon judgment of the court having jurisdiction that a conveyance was used or intended for use to transport or in any manner to facilitate the transportation, sale, receipt, possession or concealment of an alcoholic beverage sold in an area where a local option election has made its sale, <sup>possession</sup> <sup>or importation</sup> illegal, it is forfeited and shall be disposed of to the community in the local option area most directly affected by the sale or to the state, as directed by the court. If the conveyance is sold for the benefit of the state, the proceeds of the sale shall be transmitted to the proper state officer for deposit in the general fund. If not ordered disposed of by the court, a seized conveyance shall be returned after completion of the case and payment of the fine, if any.

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

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

(d) No conveyance is forfeited under this section because of conduct of a person, other than the owner, having unlawful possession of it.

*Sec. 04.15.120.*

APPEARANCE BY PERSON HAVING INTEREST IN

CONVEYANCE. A person holding a lien, mortgage, or conditional sales contract on a conveyance seized under sec. 050 of this chapter may appear before the court in the proceeding involving the forfeiture to petition for remittance or mitigation of the forfeiture. The court shall remit or mitigate the forfeiture if it finds that the petitioner has an interest in the conveyance which he acquired in good faith and without knowledge or reason to believe that the conveyance was being used or would be used in the transportation of an illegally sold alcoholic beverage.

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

*file copy*  
JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811

May 28, 1980

The Honorable Charles H. Parr  
Chairman  
House Judiciary Committee  
Room 124 - Capitol Building  
Juneau, Alaska 99811

Dear Mr. Chairman:

Re: House Committee Substitute for Senate Bill 365

House Committee Substitute for Senate Bill 365, an Act relating to alcoholic beverages, has passed in the Senate and has been referred to the House Judiciary Committee.

For the consideration of the House Judiciary Committee, I am enclosing a copy of a Fiscal Note prepared by Pat Sharrock, Director, Alcoholic Beverage Control Board, Anchorage concerning the proposed legislation.

Sincerely,



R. D. Stevenson  
Special Assistant

cc: The Honorable Russ Meekins  
Chairman  
House Finance Committee

The Honorable John Sackett  
Chairman  
Senate Finance Committee

Joseph K. Donohue  
Deputy Commissioner, Taxation  
Department of Revenue

Patrick Sharrock, Director  
Alcoholic Beverage Control Board  
Department of Revenue

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HCSSB 365

Title Relating to local options and penalties for violation of liquor law

Requested by House Judiciary Committee Date \_\_\_\_\_

Original sponsor: Senator Ray, Title 4 Code Revision Committee

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Alcoholic Beverage Control Board

(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.						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE May 28, 1980

PREPARED BY Patrick L. Sharrock, Director  
AGENCY Alcoholic Beverage Control Board

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

PHONE Anchorage 277-8638  
Juneau 465-2300

*file copy*

I. REQUEST

Bill/Resolution No. HOUSE CS FOR SENATE BILL NO 365  
Title "An Act relating to local option and establishing penalties for  
Requested by House Judiciary Committee Date May 28, 1980

violation of liquor laws."

II. FISCAL DETAIL

Agency Affected Department of Law  
Program Category Affected Administration of Justice  
BRU, Program, or Subprogram(s) Affected Prosecution

(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

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME						
PART TIME						
TEMPORARY						

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

This fiscal note should be read in conjunction with our comments provided in the fiscal note to SB 239. We originally provided a fiscal note for SB 365 on January 29, 1980. Since that date, the bill has been revised to provide for additional prohibitions concerning possession and transportation of intoxicating liquors. These new provisions will have a fiscal impact on prosecution activities which are detailed in our fiscal note to SB 239.

*Richard I. Pegues*

IV. DATE May 29, 1980

PREPARED BY Richard I. Pegues, Admin. Officer  
AGENCY Department of Law  
PHONE 465-3695

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

### III. ANALYSIS (cont'd)

of Title 4. This strengthening of the local option penalties, found in Sec. 04.16.200(e)(f), has a valuable social purpose, but, it is one which will have a price. The major impact of this change will be felt in the Bethel judicial services area where the majority of communities having local option ordinances are located. This area is currently served by two attorneys, one bilingual paralegal and one secretary. The addition of new cases and an increase in the severity of cases will place a substantial new burden on the Bethel Office. This burden will be felt particularly by the single support staff person. Although the attorneys and the paralegal should be able to cope with this change in Title 4, at least until the full impact of the change is felt by the end of FY 81, there will be immediate impact on available clerical services. For this reason we are requesting the addition of a clerk/typist III at Bethel to handle the additional services which will be required by this part.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House CS for CS for Sponsor Substitute for Senate Bill No. 239  
 Title "An Act relating to Alcoholic beverages; and providing for an effective date."  
 Requested by House Judiciary Committee Date May 28, 1980

II. FISCAL DETAIL

Agency Affected Department of Law  
 Program Category Affected Administration of Justice  
 BRU, Program, or Subprogram(s) Affected Prosecution

(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		23.4	25.3	27.3	29.5	31.9
200 TRAVEL						
300 CONTRACTUAL		3.3	3.6	3.9	4.2	4.5
400 COMMODITIES		.5	.5	.6	.6	.7
500 EQUIPMENT		1.3				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>28.5</b>	<b>29.4</b>	<b>31.8</b>	<b>34.3</b>	<b>37.1</b>

FUNDING (Thousands of Dollars)

GENERAL FUND		28.5	29.4	31.8	34.3	37.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1.0	1.0	1.0	1.0	1.0
PART TIME						
TEMPORARY						

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

There are two parts of this act which will have substantial impact on prosecution activities. The first is Sec. 04.16.040 which provides a misdemeanor penalty for an intoxicated person to knowingly enter or remain on premises licensed under Title 4. The extent to which this provision may be enforced is unknown. The impact, however, could be felt statewide and would be substantial if a program of selective enforcement were adopted as a local policy matter. Because the extent to which this provision may be enforced is unknown, the fiscal impact cannot be calculated at this time. The second part having an impact is that which provides for both misdemeanor and felony penalties for the possession and transportation of alcoholic beverages within local jurisdictions which have prohibited the sale and distribution of alcoholic beverages under the local option provisions

IV. DATE May 29, 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)

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 365  
 Title An Act imposing penalties on persons who deal in intoxicating liquors without a license  
 Requested by Senator Sackett Date 1/28/80

II. FISCAL DETAIL

Agency Affected Department of Law  
 Program Category Affected Administration of Justice  
 BRU, Program, or Subprogram(s) Affected Prosecution  
 (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.						
<b>TOTAL</b>	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

<u>GENERAL FUND</u>						
<u>FEDERAL FUNDS</u>						
<u>OTHER (Specify Fund Source)</u>						

POSITIONS

<u>FULL TIME</u>						
<u>PART TIME</u>						
<u>TEMPORARY</u>						

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

This bill, which increases penalties on persons who deal in intoxicating liquors without a license, can be effectively enforced by state prosecutors without additional staffing, provided the Governor's FY81 budget recommendations are adopted. These recommendations concentrate prosecution efforts at the trial level and increase prosecution services in rural areas of the state. This bill is very similar to that portion of the Governor's proposed legislation consolidating and revising the laws relating to drug abuse which deals with intoxicating liquors. Both measures have the full endorsement of the Department of Law.

*Richard I. Pegues*

IV. DATE January 29, 1980 PREPARED BY Richard I. Pegues, Admin. Officer  
 AGENCY Law  
 PHONE 465-3695  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

Guthrie  
5-23-80 ✓

Original sponsors: Ferguson, Ray,  
Colletta, et al

*House*  
BY THE JUDICIARY COMMITTEE

1 IN THE SENATE

2 HOUSE CS FOR SENATE BILL NO. 365

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 local option, and establishing  
7 certain penalties for violations of liquor laws."

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

9 \* Section 1. AS 04.10 is amended by adding new sections to read:

10 Sec. 04.10.431. PROHIBITION OF THE SALE OF INTOXICATING LIQUOR.

~~or together with the questions authorized under AS 04.10.435 and AS 04.10.436~~

11 (a) The following question, appearing singly, may be placed before the  
12 voters of a first or second class city or an established village in  
13 accordance with AS 04.10.438: "Shall the sale of intoxicating liquor in  
14 .....(name of city or village) be prohibited? (yes or no)"

15 (b) If a majority of the voters vote "yes" on the question author-  
16 ized in (a) of this section, the board shall be notified immediately  
17 after certification of the results of the election and thereafter may  
18 not issue, renew, or transfer between holders or locations a license for  
19 licensed premises located within the boundaries of a city, the perimeter  
20 of an established village, or in an unincorporated area outside of but  
21 within five miles of the boundaries of a city or the perimeter of an  
22 established village. As of midnight on the date the results of the  
23 election are certified, licenses in effect within the boundaries of a  
24 city, the perimeter of an established village, or in an unincorporated  
25 area outside of but within five miles of the boundaries of a city or the  
26 perimeter of an established village are void. However, if a retail  
27 license is voided under this subsection, the holder of the voided retail  
28 license shall be issued, upon application, a retail stock sale license  
29 without the payment of the retail stock sale license fee if he fulfills

1 all other requirements for the issuance of a retail stock sale license.

2 (c) If a majority of the voters vote "no" on the question author-  
3 ized in (a) of this section or vote "yes" on a question authorized in  
4 AS 04.10.432 or 04.10.437 in an election conducted in accordance with  
5 AS 04.10.438 after an election in which the voters voted "yes" on the  
6 question authorized in (a) of this section, the board shall be notified  
7 immediately after certification of the results of the election. There-  
8 after, the prohibitions imposed under (b) of this section on the issu-  
9 ance, renewal, or transfer of licenses between holders and location as a  
10 result of the earlier election in which the voters voted "yes" on the  
11 question authorized in (a) of this section are removed.

12 Sec. 04.10.432. COMMUNITY HELD LICENSE. (a) The following ques-  
13 tion, appearing singly or together with questions authorized under  
14 AS 04.10.435 and 04.10.436, may be placed before the voters of a first  
15 or second class city in accordance with AS 04.10.438: "Shall the sale  
16 of intoxicating liquor be prohibited in .....(name of city) unless sol  
17 under a .....(either a beverage dispensary or package store, or both)  
18 license held by the city? (yes or no)"

19 (b) If a majority of the voters vote "yes" on the question autho-  
20 ized in (a) of this section, the board shall be notified immediately  
21 after certification of the results of the election and thereafter may  
22 not issue, renew, or transfer between holders or locations a license  
23 licensed premises located within the boundaries of a city or within a  
24 unincorporated area outside of but within five miles of the boundari-  
25 of a city, with the exception of beverage dispensary or retail licen-  
26 held by the city. As of midnight on the date the results of the ele-  
27 tion are certified, licenses in effect within the boundaries of a ci-  
28 or an unincorporated area outside of but within five miles of the  
29 boundaries of a city are void. However, if a retail license is voi-

1 under this subsection, the holder of the voided retail license shall be  
2 issued, upon application, a retail stock sale license without payment of  
3 the retail stock sale license fee if he fulfills all other requirements  
4 for the issuance of a retail stock sale license.

5 (c) If a majority of the voters vote "yes" on the question author-  
6 ized in (a) of this section, the city council of the city shall apply  
7 for a beverage dispensary or retail liquor store license, or both,  
8 depending on the terms of the question.

9 (d) If a majority of the voters vote "no" on the question author-  
10 ized in (a) of this section or vote "yes" on a question authorized in  
11 AS 04.10.431 or 04.10.433, ~~X~~ 04.10.<sup>434</sup>~~433~~ or 04.10.437 in an election con-  
12 ducted in accordance with AS 04.10.438 after an election in which the  
13 voters voted "yes" on the question authorized in (a) of this section,  
14 the board shall be notified immediately after a certification of the  
15 results of the election. As of midnight on the date the results of the  
16 election are certified, a beverage dispensary or retail license held by  
17 a city is void and thereafter the prohibitions imposed under (b) of this  
18 section on the issuance, renewal, or transfer of licenses between  
19 holders and locations as a result of the earlier election are removed.

20 Sec. 04.10.433. PROHIBITION OF POSSESSION AND IMPORTATION OF  
21 INTOXICATING LIQUOR. (a) The following question, appearing singly, may  
22 be placed before the voters of a first or second class city or an estab-  
23 lished village in accordance with AS 04.10.438: "Shall the possession  
24 and importation of intoxicating liquor be prohibited in .....(name of  
25 city or village)? (yes or no)"

26 (b) If a majority of the voters vote "yes" on the question author-  
27 ized in (a) of this section, a person, beginning on the first day of the  
28 month following certification of the results of the election, may not  
29 possess intoxicating liquor in the city or knowingly send, transport,

1 bring intoxicating liquor into the city or established village. The  
2 board shall be notified immediately after certification of the results  
3 of the election and thereafter may not issue, renew, or transfer between  
4 holders or locations a license for licensed premises located within the  
5 boundaries or perimeter of a city or village, as well as within an  
6 unincorporated area outside of but within five miles of the boundaries  
7 or perimeter of the city or village. As of midnight on the date the  
8 results of the election are certified, licenses in effect within the  
9 boundaries of a city or an unincorporated area outside of but within  
10 five miles of the boundaries of a city are void. However, if a retail  
11 license is voided under this subsection, the holder of the voided retail  
12 license shall be issued, upon application, a retail stock sale license  
13 without the payment of the retail stock sale license fee if he fulfills  
14 all other requirements for the issuance of a retail stock sale license.

15 (c) If a majority of the voters vote "no" on the question author-  
16 ized in (a) of this section or vote "yes" on the questions authorized in  
17 AS 04.10.432 or 04.10.435 - 04.10.437 in an election conducted in ac-  
18 cordance with AS 04.10.438 after an election in which the voters voted  
19 "yes" on the question authorized in (a) of this section, the prohibition  
20 on the possession and importation of intoxicating liquor imposed as a  
21 result of the earlier election in which the voters voted "yes" on the  
22 question authorized in (a) of this section is removed effective on the  
23 first day of the month following certification of the results of the  
24 election.

25 Sec. 04.10.434. PROHIBITION OF IMPORTATION OF INTOXICATING LIQUOR.

26 (a) The following question, appearing singly, may be placed before the  
27 voters of a first or second class city or an established village in  
28 accordance with AS 04.10.438: "Shall the importation of intoxicating  
29 liquor into .....(name of city or village) be prohibited? (yes or no)"

1 (b) If a majority of the voters vote "yes" on the question author-  
2 ized in (a) of this section, a person may not knowingly send, transport,  
3 or bring intoxicating liquor into the city or village, or receive or  
4 possess intoxicating liquor sent, transported, or brought into the city  
5 or village, beginning on the first day of the month following certifica-  
6 tion of the results of the election. The board shall be notified im-  
7 mediately after certification of the results of the election and there-  
8 after may not issue, renew, or transfer between holders or locations a  
9 license for licensed premises located within the boundaries or perimeter  
10 of the city or village, respectively, as well as in an unincorporated  
11 area outside of but within five miles of the boundaries or perimeter of  
12 the city or village. As of midnight on the date the results of the  
13 election are certified, licenses in effect within the boundaries or  
14 perimeter of the city or village, as well as the unincorporated area  
15 outside of but within five miles of the boundaries or perimeter of the  
16 city or village are void. However, if a retail license is voided under  
17 this subsection, the holder of the voided retail license shall be  
18 issued, upon application, a retail stock sale license without the pay-  
19 ment of the retail stock sale license fee if he fulfills all other  
20 requirements for the issuance of a retail stock sale license.

21 (c) If a majority of the voters vote "no" on the question author-  
22 ized in (a) of this section or vote "yes" on the question authorized in  
23 AS 04.10.432, 04.10.435 or 04.10.437, in an election conducted in accor-  
24 dance with AS 04.10.438 after an election in which the voter voted "yes  
25 on the question authorized in (a) of this section, the prohibition on  
26 importation of intoxicating liquor imposed as a result of the earlier  
27 election is removed effective the first day of the month following  
28 certification of the results of the election.

29 Sec. 04.10.435. PROHIBITION OF IMPORTATION OF INTOXICATING LIQUOR

1 EXCEPT DURING HOLIDAY PERIODS. (a) The following question, singly or  
2 ~~the question authorized under AS 04.10.431, if the same holiday periods are authorized, or~~  
3 ~~together with questions authorized under AS 04.10.431, 04.10.432, or~~  
4 ~~04.10.436 if the same holiday periods are listed on the ballot, or under~~  
5 AS 04.10.437, may be placed before the voters of a first or second class  
6 city or an established village in accordance with AS 04.10.438: "Shall  
7 the importation of intoxicating liquor into .....(name of city or vil-  
8 lage) be prohibited, except during .....(listing of holiday periods  
9 during which the importation of intoxicating liquors would be permitted  
10 if the measure passes)? (yes or no)"

11 (b) If a majority of the voters vote "yes" on the question author-  
12 ized in (a) of this section, a person, except during the holiday periods  
13 listed in the question, may not knowingly send, transport, or bring  
14 intoxicating liquor into the city or village, or receive or possess  
15 intoxicating liquor sent, transported, or brought into the city or  
16 village beginning on the first day of the month following certification  
17 of the results of the election. The board shall be notified immediately  
18 after certification of the results of the election and thereafter may  
19 not issue, renew, or transfer between holders or locations a license for  
20 licensed premises located within the boundaries or perimeter of a city  
21 or village, as well as an unincorporated area outside of but within five  
22 miles of the boundaries or perimeter of a city or village. As of mid-  
23 night on the date the results of the election are certified, license in  
24 effect within the boundaries or perimeter of the city or village, as  
25 well as in an unincorporated area outside of but within five miles of  
26 the boundaries or perimeter of a city or village are void. However, if  
27 a retail license is voided under this subsection, the holder of the  
28 voided retail license shall be issued, upon application, a retail stock  
29 sale license without the payment of the retail stock sale license fee if  
he fulfills all other requirements for the issuance of a retail stock

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sale license.

(c) If a majority of the voters vote "no" on the question authorized in (a) of this section or vote "yes" on the question authorized in AS 04.10.433, 04.10.434, or 04.10.435 if different holiday periods are listed, in an election conducted in accordance with AS 04.10.438 after an election in which the voters voted "yes" on the question authorized in (a) of this section, the prohibition on importation imposed as a result of the earlier election is removed effective on the first day of the month following certification of the results of the election.

Sec. 04.10.436. PROHIBITION OF POSSESSION AND IMPORTATION OF INTOXICATING LIQUOR EXCEPT DURING HOLIDAY PERIODS. (a) The following question, singly or together with questions authorized under <sup>either</sup> AS 04.10.432 ~~and~~ <sup>or</sup> 04.10.437 if the same holiday periods are listed on the ballot, may be placed before the voters of a first or second class city or an established village in accordance with AS 04.10.438: "Shall the possession and importation of intoxicating liquor be prohibited in .....(name of city or village), except during .....(listing of holiday periods during which the possession of intoxicating liquors would be permitted if the measure passes)? (yes or no)"

(b) If a majority of the voters vote "yes" on the question authorized in (a) of this section, a person, except during the holiday periods listed in the question, may not possess intoxicating liquor in the city or village or knowingly send, transport, or bring intoxicating liquor into the city or village, beginning on the first day of the month following certification of the results of the election. The board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or location a license for licensed premises located within the boundaries or perimeter of a city or village, as well as in an unincorporated area

1 outside of but within five miles of the boundaries or perimeter of a  
2 city or village. As of midnight on the date the results of the election  
3 are certified, licenses in effect within the boundaries or perimeter of  
4 the city or village, as well as an unincorporated area outside but  
5 within five miles of the boundaries or perimeter of a city or village  
6 are void. However, if a retail license is voided under this subsection,  
7 the holder of the voided retail license shall be issued, upon appli-  
8 cation, a retail stock sale license without payment of the retail stock  
9 sale license fee if he fulfills all other requirements for the issuance  
10 of a retail stock sale license.

11 (c) If a majority of the voters vote "no" on the question author-  
12 ized in (a) of this section or vote "yes" on the question authorized in  
13 ~~AS 04.10.434 or AS 04.10.435 and AS 04.10.436 if different holiday periods are listed on the~~  
AS 04.10.433 in an election conducted in accordance with AS 04.10.438 <sup>ballot</sup>  
14 after an election in which the voters voted "yes" on the question autho-  
15 rized in (a) of this section, the prohibition on possession or importa-  
16 tion imposed as a result of the earlier election is removed effective on  
17 the first day of the month following certification of the results of the  
18 election.

19 Sec. 04.10.437. PROHIBITION OF THE SALE OF INTOXICATING LIQUOR  
20 EXCEPT BY SELECTED LICENSES. (a) The following question, appearing  
21 ~~or together with the questions authorized under AS 04.10.435 and AS 04.10.436~~  
singly, may be placed before the voters of a first or second class city  
22 or an established village in accordance with AS 04.10.438: "Shall the  
23 sale of intoxicating liquor be prohibited in .....(name of city or  
24 village) except by .....(listing of the types of licenses which premises  
25 would be exempted from the prohibition on the sale of liquor if the  
26 measure passes)? (yes or no)"

27 (b) If a majority of the voters vote "yes" on the question author-  
28 ized in (a) of this section, the board shall be notified immediately  
29 after certification of the results of the election and thereafter may

1 not issue, renew, or transfer between holders or locations a license for  
2 licensed premises located within the boundaries or perimeter of a city  
3 or village, as well as in an unincorporated area outside of but within  
4 five miles of the boundaries or perimeter of the city or village, except  
5 those types of licenses listed in the question. As of midnight on the  
6 date the results of the election are certified, licenses in effect  
7 within the boundaries or perimeter of the city or village, as well as in  
8 an unincorporated area outside of but within five miles of the boundaries  
9 or perimeter of a city or village, except those types of licenses listed  
10 in the question, are void. However, if a retail license is voided under  
11 this subsection, the holder of the voided retail license shall be issued  
12 upon application, a retail stock sale license without the payment of the  
13 retail stock sale license fee if he fulfills all other requirements for  
14 the issuance of a retail stock sale license.

15 (c) If a majority of the voters vote "no" on the question author-  
16 ized in (a) of this section or vote "yes" on the questions authorized in  
17 AS 04.10.431 - 04.10.436 <sup>434 or AS 04.10.437 if different licenses are listed</sup> in an election conducted in accordance with  
18 AS 04.10.438 after an election in which the voters voted "yes" on the  
19 question authorized in (a) of this section, the board shall be notified  
20 immediately after certification of the results of the election. As of  
21 midnight on the date the results of the election are certified, licenses  
22 in effect in the city or village which were excepted from the prohib-  
23 ition on sale in accordance with the results of the earlier election are  
24 void and thereafter the board may not issue, renew, or transfer between  
25 holders or locations a license for licensed premises located within the  
26 boundaries or perimeter of the city or village, or in an unincorporated  
27 area outside of but within five miles of the boundaries or perimeter of  
28 a city or village, unless issued to a first or second class city under  
29 AS 04.10.432.

1           Sec. 04.10.438. PROCEDURE FOR LOCAL OPTION ELECTIONS. (a) The  
2 city council of a first or second class city, whenever a number of  
3 registered voters equal to at least 35 percent of the number of votes  
4 cast at the last regular city election petition the city council to do  
5 so, shall place upon a separate ballot at the next regular election  
6 whichever question or combination of questions authorized under AS 04.-  
7 10.431 - 04.10.437 constitute the subject of the petition. The votes  
8 shall be canvassed in accordance with election ordinances adopted under  
9 AS 29.28.010 and the vote certified.

10           (b) The lieutenant governor, whenever 35 percent of the registered  
11 voters residing within an established village petition the lieutenant  
12 governor to do so, shall place upon a separate ballot at a special  
13 election that question or combination of questions authorized under  
14 AS 04.10.431, or 04.10.433 - 04.10.437 which constitutes the subject of  
15 the petition. The lieutenant governor shall conduct the election in the  
16 general manner prescribed by the Alaska Election Code (AS 15.05 - 15.60).

17           Sec. 04.10.439. REINSTATEMENT OF LICENSES. If a prohibition  
18 imposed on the issuance, renewal, or transfer of licenses between holders  
19 and locations under AS 04.10.431 - 04.10.437 is removed by a vote of  
20 "no" on a question for which the majority of the people voted "yes" in  
21 an earlier election, the board shall, upon application, issue the same  
22 number and type of licenses which were in effect in the city on the date  
23 of certification of the earlier election. If the prohibition imposed on  
24 issuance, renewal, or transfer of licenses between holders and locations  
25 is removed by a "yes" vote on a question authorized under AS 04.10.431 -  
26 04.10.437, the board may issue the types of licenses specified in the  
27 question presented to the voters in the subsequent election. Licenses  
28 shall be issued for the same or other premises within the city or village  
29 which were licensed on the date of certification of the earlier election

1 In issuing licenses, the board shall accord priority to those applicants  
2 who held licenses which were voided on the date of certification of the  
3 earlier election. The director of the board shall notify persons who  
4 held licenses in the city or village on the date of certification of the  
5 earlier election of their priority under this section.

6 Sec. 04.10.441. NOTICE OF THE RESULTS OF A LOCAL OPTION ELECTION.

7 (a) If a majority of the voters vote "yes" on a question authorized  
8 under AS 04.10.431 - 04.10.437, the board shall immediately notify the  
9 Department of Law and the Department of Public Safety of the results of  
10 the election.

11 (b) If a majority of the voters vote "yes" on a question author-  
12 ized under AS 04.10.433 - 04.10.436, the following actions, in addition  
13 to those prescribed in (a) of this section, shall be undertaken before  
14 the date the prohibition on importation or possession becomes effective:

15 (1) the board shall notify by registered mail all licensees  
16 of the prohibition;

17 (2) the first or second class city or established village  
18 shall post notice of the prohibition in the city or village.

19 \* Sec. 2. AS 04.10 is amended by adding a new section to article 3 to  
20 read:

21 Sec. 04.10.315. LOCAL OPTION ELECTION REQUIRED IN DRY AREAS. (a)  
22 The board may not issue a license for a premises to be located in a  
23 first or second class city in which there are no licensed premises on  
24 the effective date of this Act unless a majority of voters in a local  
25 option election conducted in accordance with AS 04.10.438 have voted  
26 "no" on the question authorized in AS 04.10.431, or have voted "yes" on  
27 a question authorized in AS 04.10.432 or 04.10.437.

28 (b) The board may not issue a license for a premises to be located  
29 in an established village in which there are no licensed premises on the

1 effective date of this Act unless a majority of the voters in a local  
2 option election conducted in accordance with AS 04.10.438 have voted  
3 "no" on the question authorized in AS 04.10.431, or have voted "yes" on  
4 the question authorized in AS 04.10.437.

5 \* Sec. 3. AS 04.15.070(a) is amended to read:

6 (a) A municipality may by ordinance provide rules and regulations  
7 governing the barter, sale and possession of intoxicating liquor within  
8 the municipality necessary to the orderly conduct of the business of  
9 selling intoxicating liquor. If, as a result of an election held in  
10 accordance with AS 04.10.438 within a first or second class city, the  
11 board is prohibited from issuing, renewing, or transferring between  
12 holders or locations a license within the city or the possession or  
13 importation of intoxicating liquor is prohibited within the city, the  
14 city may adopt an ordinance making the sale, possession, or importation  
15 of intoxicating liquor a misdemeanor, whether the sale, possession, or  
16 importation is under a license or otherwise. [WHEN, UNDER A LOCAL  
17 OPTION ELECTION, THE CITY CLERK FINDS THE MAJORITY OF THE VOTERS ARE  
18 AGAINST THE SALE OF INTOXICATING LIQUOR, THE MUNICIPALITY, BY ORDINANCE  
19 MAY MAKE THE SALE OF INTOXICATING LIQUOR WITHIN THE MUNICIPALITY A  
20 MISDEMEANOR WHETHER THE SALE IS MADE PURSUANT TO LICENSE OR OTHERWISE.,  
21 The ordinance may not be inconsistent with this title or the rules and  
22 regulations promulgated under this title. No municipality may impose  
23 taxes other than property taxes on liquor inventories and sales taxes on  
24 liquor sales when these taxes are levied on other property and sales  
25 within the municipality.

26 \* Sec. 4. AS 04.15 is amended by adding a new section to read:

27 Sec. 04.15.095. PENALTIES FOR UNLAWFUL SALE, POSSESSION, AND  
28 IMPORTATION. (a) A person who violates AS 04.10.010 is upon conviction  
29 guilty of a class A misdemeanor.

1 (b) A person who violates AS 04.10.010 in an area where the result  
2 of a local option election have, under AS 04.10.431 - 04.10.437, pro-  
3 hibited the board from issuing, renewing or transferring any licenses or  
4 permits under this title in the area is upon conviction guilty of a  
5 class C felony, if

6 (1) he has previously been convicted of a violation of AS 04.  
7 10.010;

8 (2) the sale or offer for sale was made to a person under 19  
9 years of age and the quantity of intoxicating liquor manufactured, sold,  
10 offered for sale, possessed for sale, trafficked in, bartered, or ex-  
11 changed for goods is 12 liters or more of distilled spirits, 24 liters  
12 or more of wine, or 45 liters or more of malt beverages.

13 (c) A person who possesses intoxicating liquor in violation of  
14 AS 04.10.433(b) and 04.10.436(b) is, upon conviction, guilty of a class  
15 misdemeanor.

16 (d) A person who transports or imports intoxicating liquor into a  
17 city or village in violation of AS 04.10.434 or 04.10.435, or receives  
18 or possesses intoxicating liquor transported or imported into the city  
19 or village in violation of AS 04.10.434 or 04.10.435 is, upon conviction

20 (1) guilty of a class A misdemeanor if the quantity imported  
21 is less than 12 liters of distilled spirits, 24 liters of wine, or 45  
22 liters of malt beverages; or

23 (2) guilty of a class C felony if the quantity possessed is  
24 12 liters or more of distilled spirits, 24 liters or more of wine, or 45  
25 liters or more of malt beverages.

26 \* Sec. 5. AS 04.15.100(a) is amended to read:

27 (a) Except as provided in AS 04.15.095, a [A] person who violates  
28 any provision of this title other than AS 04.15.080 is guilty of a  
29 misdemeanor, and upon conviction is punishable by imprisonment of not

1 more than one year, or by a fine of not more than \$500. Each violation  
2 is a separate offense.

3 \* Sec. 6. AS 04.15 is amended by adding a new section to read:

4 Sec. 04.15.115. SEIZURE, FORFEITURE, AND SALE OF CONVEYANCE. (a)  
5 An aircraft, vehicle, or vessel is subject to forfeiture if used to  
6 transport or facilitate the transportation of

7 (1) intoxicating liquor manufactured, sold, offered for sale,  
8 possessed for sale, trafficked in, bartered, or exchanged for goods in  
9 violation of AS 04.10.010 in a first or second class city or established  
10 village where the results of an election held in accordance with AS 04.-  
11 10.438 on a question authorized under AS 04.10.431 - 04.10.437 have  
12 prohibited the board from issuing, renewing, or transferring a license  
13 between holders or locations;

14 (2) intoxicating liquor possessed in a city or village in  
15 violation of AS 04.10.433(b) and 04.10.436(b); or

16 (3) intoxicating liquor transported or imported into a city  
17 or village in violation of AS 04.10.434 and 04.10.435.

18 (b) Property subject to forfeiture under this section may be  
19 actually or constructively seized under an order issued by the superior  
20 court upon a showing of probable cause that the property is subject to  
21 forfeiture under this section. Constructive seizure is effected upon  
22 posting a signed notice of seizure on the item to be forfeited, stating  
23 the violation and the date and place of seizure. Seizure without a  
24 court order may be made if

25 (1) the seizure is incident to a valid arrest or search;

26 (2) the property subject to seizure is the subject of a prior  
27 judgment in favor of the state; or

28 (3) there is probable cause to believe that the property is  
29 subject to forfeiture under (a) of this section; property seized under

1 this paragraph may not be held over 48 hours or until an order of for-  
2 feiture is issued by the court, whichever is earlier.

3 (c) Within 30 days of a seizure under this section the Department  
4 of Public Safety shall make reasonable efforts to ascertain the identity  
5 and whereabouts of any person holding an interest or an assignee of a  
6 person holding an interest in the property seized, including a right to  
7 possession, a lien, mortgage, or conditional sales contract. The Depart-  
8 ment of Public Safety shall notify the person ascertained to have an  
9 interest in property seized of the impending forfeiture, and before  
10 forfeiture the Department of Law shall publish, once a week for four  
11 consecutive calendar weeks, a notice of the impending forfeiture in a  
12 newspaper of general circulation in the judicial district in which the  
13 seizure was made, or if no newspaper is published in that judicial  
14 district, in a newspaper published in the state and distributed in that  
15 judicial district.

16 (d) Property subject to forfeiture under (a) of this section may  
17 be forfeited

18 (1) upon conviction of a person under AS 04.10.010, 04.10.-  
19 433(b), 04.10.434, 04.10.435, or 04.10.436(b);

20 (2) upon judgment by the superior court in a proceeding in  
21 rem that the property was used in a manner subjecting it to forfeiture  
22 under (a) of this section.

23 (e) The owner of property subject to forfeiture under (a) of this  
24 section is entitled to relief from the forfeiture in the nature of  
25 remission of the forfeiture if in an action under (d) of this section  
26 the owner shows that he was not a party to the violation and had no  
27 actual knowledge that the property was used or was to be used in viola-  
28 tion of the law.

29 (f) A person, other than the owner, holding or the assignee of a

1 lien, mortgage, conditional sales contract on, or the right to possess-  
2 ion to property subject to forfeiture under (a) of this section is  
3 entitled to relief from the forfeiture in the nature of remission of the  
4 forfeiture if in an action under (d) of this section the person shows  
5 that he was not a party to the violation subjecting the property to  
6 forfeiture and had no actual knowledge that the property was used or was  
7 to be used in violation of the law.

8 (g) It is no defense in an in rem forfeiture action brought by the  
9 Department of Law under (d)(2) of this section that a criminal proceed-  
10 ing is pending or has resulted in conviction or acquittal of a person  
11 charged with violating AS 04.10.010, 04.10.433(b), 04.10.434, 04.10.435,  
12 or 04.10.436(b).

13 (h) Property forfeited under this section shall be placed in the  
14 custody of the commissioner of public safety for disposition according  
15 to an order entered by the court. The court shall order destroyed any  
16 property forfeited under this section which is harmful to the public.  
17 Other property shall be ordered sold and the proceeds used for payment  
18 of expenses of the proceedings for forfeiture and sale, including ex-  
19 penses of seizure, custody and court costs. The remainder of the pro-  
20 ceeds shall be deposited in the general fund.

21 \* Sec. 7. AS 04.20.010 is amended to read:

22 Sec. 04.20.010. INTOXICATING LIQUOR DEFINED. As used in this  
23 title,

24 (1) "intoxicating liquor" includes whiskey, brandy, rum, gin,  
25 wine, ale, porter, beer and all other spirituous, vinous, malt and other  
26 fermented or distilled liquors intended for human consumption and con-  
27 taining more than one percent alcohol by volume.

28 (2) "established village" means an unincorporated area that

29 (A) is within the perimeter of a circle described by

1 drawing a five-mile radius around a post office station; and

2 (B) has 25 or more permanent residents.

3 \* Sec. 8. AS 04.10.110, 04.10.139, 04.10.300(b), 04.10.300(d), and 04.10.  
4 430 are repealed.

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Original sponsors: Ferguson, Ray,  
Colletta, et al

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 365

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 local option and establishing  
7 penalties for violations of liquor laws."

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

9 \* Section 1. AS 04.10 is amended by adding new sections to read:

10 Sec. 04.10.431. PROHIBITION OF THE SALE OF INTOXICATING LIQUOR.

11 (a) The following question, alone or with the questions set out in  
12 AS 04.10.435 and 04.10.436, may be placed before the voters of a first  
13 or second class city or an established village in accordance with  
14 AS 04.10.438: "Shall the sale of intoxicating liquor in .....(name of  
15 city or village) be prohibited? (yes or no)".

16 (b) If a majority of the voters vote "yes" on the question set out  
17 in (a) of this section, the board shall be notified immediately after  
18 certification of the results of the election and thereafter may not  
19 issue, renew, or transfer between holders or locations a license for  
20 licensed premises located within the boundaries or perimeter of a city  
21 or an established village or in an unincorporated area outside of but  
22 within five miles of the boundaries of a city. As of midnight on the  
23 date the results of the election are certified, licenses in effect  
24 within the boundaries or perimeter of a city or an established village,  
25 and in an unincorporated area outside of but within five miles of the  
26 boundaries of a city, are void. However, if a retail license is voided  
27 under this subsection, the holder of the voided retail license shall be  
28 issued, upon application, a retail stock sale license without the pay-  
29 ment of the retail stock sale license fee if he fulfills all other