

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1313 HESS EXECUTIVE ORDER # 51 - HB 11 13

1 AND] regulations.

2 \* Sec. 14. AS 03.45.080 is amended to read:

3 Sec. 03.45.080. RECORD AND PAYMENT OF VALUE OF DESTROYED DAIRY  
4 CATTLE. The Department of Administration shall keep a record of the  
5 appraised value of all dairy cattle slaughtered or destroyed and of the  
6 salvage value thereof, stating the date when the animal was slaughtered  
7 or destroyed and the name of the inspector who ordered the animal  
8 slaughtered or destroyed. The Department of Administration, with the  
9 approval of the Department of Environmental Conservation [NATURAL RE-  
10 SOURCES] shall pay the owner of the animal slaughtered or destroyed  
11 two-thirds of the difference between the appraised value and the salvage  
12 value of the animal slaughtered or destroyed. The appraised valuation  
13 of each slaughtered animal may not exceed \$175 in the first judicial  
14 district and not more than \$200 in the second and third judicial dis-  
15 tricts and not more than \$250 in the fourth judicial district. No  
16 payment may be made if at the time of inspection, test or destruction,  
17 the animal was upon the premises of any person to which it had been  
18 sold, shipped or delivered for the purpose of being slaughtered. No  
19 payment may be made unless the owner has complied with all lawful  
20 quarantine regulations.

21 \* Sec. 15. AS 03.53.010 is amended by adding a new subsection to read:

22 (c) The following persons are authorized to enforce the provisions  
23 of this section:

- 24 (1) the commissioner of environmental conservation;  
25 (2) a state employee authorized by the commissioner of envi-  
26 ronmental conservation.

27 \* Sec. 16. AS 03.60.005 is amended by adding a new subsection to read:

28 (b) The commissioner of environmental conservation is responsible  
29 for enforcing this section, and may delegate his authority as he consi-

1 ders appropriate. This does not limit the authority of peace officers.

2 \* Sec. 17. AS 03.60.010 is amended to read:

3 Sec. 03.60.010. "DEPARTMENT" AND "COMMISSIONER" DEFINED. In this  
4 title, unless otherwise indicated,

5 (1) "department" means the Department of Natural Resources;

6 (2) "commissioner" means the commissioner of natural resour-  
7 ces.

8 \* Sec. 18. AS 17.05.160(4) is amended to read:

9 (4) "department" means the Department of Environmental  
10 Conservation [HEALTH AND SOCIAL SERVICES];

11 \* Sec. 19. AS 17.20 is amended by adding new sections to read:

12 Sec. 17.20.072. ENFORCEMENT AUTHORITY FOR AS 17.20.010 -- 17.20.-  
13 075. The commissioner is responsible for enforcing AS 17.20.010 --  
14 17.20.075, and may delegate his authority as he considers appropriate.  
15 This does not limit the authority of peace officers.

16 Sec. 17.20.075. DEFINITIONS FOR AS 17.20.010 -- 17.20.075. In  
17 AS 17.20.010 -- 17.20.075,

18 (1) "commissioner" means the commissioner of environmental  
19 conservation;

20 (2) "department" means the Department of Environmental  
21 Conservation.

22 Sec. 17.20.132. ENFORCEMENT AUTHORITY FOR AS 17.20.080 -- 17.20.-  
23 135. The commissioner is responsible for enforcing AS 17.20.080 --  
24 17.20.135, and may delegate his authority as he considers appropriate.  
25 This does not limit the authority of peace officers.

26 Sec. 17.20.135. DEFINITIONS FOR AS 17.20.080 -- 17.20.135. In  
27 AS 17.20.080 -- 17.20.135,

28 (1) "commissioner" means the commissioner of health and  
29 social services;

1 (2) "department" means the Department of Health and Social  
2 Services.

3 Sec. 17.20.152. ENFORCEMENT AUTHORITY FOR AS 17.20.140 -- 17.20.-  
4 155. The commissioner of environmental conservation is responsible for  
5 enforcing AS 17.20.140 -- 17.20.155, and may delegate his authority as  
6 he considers appropriate. This does not limit the authority of peace  
7 officers.

8 Sec. 17.20.155. DEFINITION FOR AS 17.20.140 -- 17.20.155. In  
9 AS 17.20.140 -- 17.20.155, "department" means the Department of Environ-  
10 mental Conservation.

11 Sec. 17.20.172. ENFORCEMENT AUTHORITY FOR AS 17.20.160 -- 17.20.-  
12 175. The commissioner is responsible for enforcing AS 17.20.160 --  
13 17.20.175, and may delegate his authority as he considers appropriate.  
14 This does not limit the authority of peace officers.

15 Sec. 17.20.175. DEFINITIONS FOR AS 17.20.160 -- 17.20.175. In  
16 AS 17.20.160 -- 17.20.175,

17 (1) "commissioner" means the commissioner of health and  
18 social services;

19 (2) "department" means the Department of Health and Social  
20 Services.

21 \* Sec. 20. AS 17.20.180 is amended to read:

22 Sec. 17.20.180. REGULATIONS. The Department of Environmental  
23 Conservation and the Department of Health and Social Services (DEPART-  
24 MENT) may adopt [PROMULGATE] regulations for the efficient enforcement  
25 of their respective portions of this chapter. Each [THE] department  
26 may make the regulations conform, in so far as practicable, with those  
27 adopted [PROMULGATED] under the federal act.

28 \* Sec. 21. AS 17.20.200 is amended to read:

29 Sec. 17.20.200. INSPECTIONS AND EXAMINATIONS. (a) The commis-

1 sioner of environmental conservation or his agent shall have free ac-  
2 cess at reasonable hours to a factory, warehouse, or establishment in  
3 which foods [, DRUGS, DEVICES,] or cosmetics are manufactured, proces-  
4 sed, packed, or held for introduction into commerce, or to enter a  
5 vehicle being used to transport or hold these foods [, DRUGS, DEVICES,]  
6 or cosmetics in commerce, in order to

7 (1) inspect a factory, warehouse, establishment, or vehicle  
8 to determine if the provisions of his respective portions of this  
9 chapter are being violated, and

10 (2) secure samples or specimens of a food [, DRUG, DEVICE,]  
11 or cosmetic after paying or offering to pay for the sample.

12 (b) The commissioner of environmental conservation shall make or  
13 have made examinations of samples secured under this section to deter-  
14 mine whether or not a provision of his respective portions of this  
15 chapter is being violated.

16 (c) The commissioner of health and social services has the same  
17 powers and duties with respect to drugs and devices as the commissioner  
18 of environmental conservation has with respect to food and cosmetics  
19 under (a) and (b) of this section.

20 \* Sec. 22. AS 17.20.210 is amended to read:

21 Sec. 17.20.210. REIMBURSEMENT FOR EXPENSES. The Department  
22 of Environmental Conservation and the Department of Health and Social  
23 Services [DEPARTMENT] may make expenditures from money appropriated for  
24 the administration of their respective portions of this chapter to  
25 reimburse authorized employees or agents for amounts expended without  
26 receipt, covering purchases or services obtained in securing evidence  
27 of a violation of their respective portions of this chapter, upon  
28 vouchers certified by the disbursing and certifying officers of the  
29 appropriate department. Disbursement shall not exceed \$800 in any

1 biennium.

2 \* Sec. 23. AS 17.20.220 is amended to read:

3 Sec. 17.20.220. PUBLICATION OF REPORTS AND INFORMATION. (a) The  
4 commissioner of environmental conservation and the commissioner of  
5 health and social services may have published from time to time reports  
6 summarizing judgments, decrees, and court orders which have been ren-  
7 dered under their respective portions of this chapter, including the  
8 nature of the charge and the disposition of it.

9 (b) The commissioner of environmental conservation may have dis-  
10 seminated information regarding food [, DRUGS, DEVICES,] and cosmetics  
11 which he considers necessary in the interest of public health and the  
12 protection of the consumer against fraud. This section does not prohi-  
13 bit the commissioner from collecting, reporting, and illustrating the  
14 results of his investigations.

15 (c) The commissioner of health and social services has the same  
16 power with respect to drugs and devices as the commissioner of environ-  
17 mental conservation has with respect to food and cosmetics under (b) of  
18 this section.

19 \* Sec. 24. AS 17.20.230 is amended to read:

20 Sec. 17.20.230. DETENTION OR EMBARGO OF GOODS. (a) Whenever the  
21 commissioner of environmental conservation finds or has probable cause  
22 to believe that a food [, DRUG, DEVICE,] or cosmetic is adulterated, or  
23 so misbranded as to be dangerous or fraudulent within the meaning of  
24 this chapter, he shall affix to it a tag or other appropriate marking,  
25 giving notice that it is or is suspected of being adulterated or mis-  
26 branded and has been detained or embargoed, and warn all persons not  
27 to remove or dispose of it by sale or otherwise until permission for  
28 removal or disposal is given by the commissioner or the court. It is  
29 unlawful for a person to remove or dispose of a detained or embargoed

1 article by sale or otherwise without this permission.

2 (b) The commissioner of health and social services has the same  
3 duty with respect to drugs and devices as the commissioner of environ-  
4 mental conservation has with respect to food and cosmetics under (a) of  
5 this section.

6 \* Sec. 25. AS 17.20.240 is amended to read:

7 Sec. 17.20.240. PETITION FOR LIBEL FOR CONDEMNATION. When an  
8 article detained or embargoed under AS 17.20.230 has been found by the  
9 commissioner of environmental conservation or the commissioner of  
10 health and social services, as the case may be, to be adulterated or  
11 misbranded, he shall petition the superior court for a libel for con-  
12 demnation of the article. When that [THE] commissioner finds that a  
13 detained or embargoed article is not adulterated or misbranded, he  
14 shall remove the tag or other marking.

15 \* Sec. 26. AS 17.20.250 is amended to read:

16 Sec. 17.20.250. DESTRUCTION OF ADULTERATED OR MISBRANDED GOODS.  
17 If the superior court finds that a detained or embargoed article is  
18 adulterated or misbranded, it shall, after entry of the decree, be  
19 destroyed at the expense of the claimant, under the supervision of the  
20 commissioner of environmental conservation or the commissioner of  
21 health and social services, as the case may be. Court costs and fees  
22 and storage and other proper expenses shall be taxed against the claim-  
23 ant of the article.

24 \* Sec. 27. AS 17.20.260 is amended to read:

25 Sec. 17.20.260. EXEMPTION FROM DESTRUCTION. When the adultera-  
26 tion or misbranding can be corrected by proper labeling or processing  
27 of the article, and after entry of the decree and after costs, fees,  
28 and expenses have been paid and a good and sufficient bond, conditioned  
29 that the article will be properly labeled or processed has been exe-

1       cuted, the court may order that the article be delivered to the claimant for labeling or processing under the supervision of the commissioner of environmental conservation or the commissioner of health and social services, as the case may be. The claimant shall pay the expense of supervision. The bond shall be returned to the claimant of the article on representation to the court by the appropriate commissioner that the article is no longer in violation of this chapter, and that the expenses of supervision have been paid.

9       \* Sec. 28. AS 17.20.270 is amended to read:

10           Sec. 17.20.270. IMMEDIATE DESTRUCTION OF CONTAMINATED FOOD.

11       Meat, sea food, poultry, vegetable, fruit, or other perishable article  
12       in any room, building, vehicle of transportation or other structure  
13       which is unsound, or contains filthy, decomposed, or putrid substance,  
14       or a substance that may be poisonous or deleterious to health or other  
15       wise unsafe, is a nuisance. Whenever the commissioner of environmental  
16       conservation finds such an article, he shall immediately condemn or  
17       destroy it or in any other manner render it unsalable as human food.

18       \* Sec. 29. AS 17.20.280 is amended to read:

19           Sec. 17.20.280. INJUNCTION PROCEEDINGS. The commissioner of  
20       environmental conservation and the commissioner of health and social  
21       services may apply to the superior court for, and the court has jurisdiction to grant, a temporary or permanent injunction restraining a person from violating their respective portions of AS 17.20.290.

24       \* Sec. 30. AS 17.20.290 is amended by adding new subsections to read:

25           (b) The commissioner of environmental conservat' his designee is responsible for enforcing the provisions of paragraphs (a)(1), (2), (3), (4), (6), (7), (8), (9), and (10) of this section, if the subject of the prohibited act involves food or cosmetics, and the provisions of paragraph (a)(12) of this section. This does not limit

1 the authority of peace officers.

2 (c) The commissioner of health and social services or his desig-  
3 nee is responsible for enforcing the provisions of paragraphs (a)(1),  
4 (2), (3), (4), (6), (7), (8), (9), and (10) of this section, if the  
5 subject of the prohibited act involves drugs or devices, and the provi-  
6 sions of paragraphs (a)(5), (11), and (13) of this section. This does  
7 not limit the authority of peace officers.

8 \* Sec. 31. AS 17.20.330 is amended to read:

9 Sec. 17.20.330. LIABILITY FOR DISSEMINATION OF FALSE ADVERTISING.

10 No publisher, radio-broadcast licensee, or agency or medium for the  
11 dissemination of an advertisement, except the manufacturer, packer,  
12 distributor, or seller of the article to which a false advertisement  
13 relates, is liable under AS 17.20.310 for the dissemination of the  
14 false advertisement, unless he has refused [, ON] the request of the  
15 commissioner of health and social services to furnish [THE COMMISSIONER]  
16 the name and post office address of the manufacturer, packer, distri-  
17 butor, seller, or advertising agency, residing in the state who caused  
18 him to disseminate the advertisement.

19 \* Sec. 32. AS 17.20.350 is amended to read:

20 *only Sec 32*  
21 *Sec of the new law*  
22 *can be introduced to*  
23 *require reporting viol-tions*  
24 *minor or major*  
25 *Don't start up.....*  
26 *Consumer Protection*  
27 *only Sec 32*  
28 Sec. 17.20.350. REPORT OF MINOR VIOLATIONS. Nothing in this  
29 chapter requires either the commissioner of environmental conservation  
or the commissioner of health and social services, as the case may be,  
to report minor violations of their respective portions of this chapter  
for prosecution, or for the institution of libel or injunction pro-  
ceedings, when that [THE] commissioner believes that the public interest  
will be adequately served by a suitable written notice or warning.

27 \* Sec. 33. AS 17.20.360 is amended to read:

28 Sec. 17.20.360. HEARING BEFORE REPORT OF CRIMINAL VIOLATION. The  
29 attorney general, to whom the commissioner of environmental conservation

1 or the commissioner of health and social services, as the case may be,  
2 reports a violation of this chapter, shall institute appropriate pro-  
3 ceedings in the superior court without delay and prosecute them in the  
4 manner required by law. Before a violation of this chapter is reported  
5 to the attorney general, the person against whom the proceeding is con-  
6 templated shall be given appropriate notice and an opportunity to  
7 present his views before the appropriate commissioner, orally or in  
8 writing, in person or by attorney, with regard to the contemplated pro-  
9 ceeding.

10 \* Sec. 34. AS 18.05.040(a)(18) is amended to read:

11 (18) the regulation of quality and purity of commercially com-  
12 pressed [AIR AND] oxygen sold for human respiration;

13 \* Sec. 35. AS 18.35.090(2) is amended to read:

14 (2) "department" means the Department of Environmental  
15 Conservation [HEALTH AND SOCIAL SERVICES].

16 \* Sec. 36. AS 18.35.230(1) is amended to read:

17 (1) "department" means the Department of Environmental  
18 Conservation [HEALTH AND SOCIAL SERVICES];

19 \* Sec. 37. AS 18.35 is amended by adding new sections to read:

20 Sec. 18.35.350. ENFORCEMENT AUTHORITY. The commissioner of  
21 environmental conservation or his designee is responsible for enforcing  
22 the provisions of AS 18.35.300 -- 18.35.340 and the provisions of  
23 regulations adopted under AS 18.35.360. This does not limit the  
24 authority of peace officers.

25 Sec. 18.35.360. REGULATIONS. The Department of Environmental  
26 Conservation may adopt regulations to implement the provisions of  
27 AS 18.35.300 -- 18.35.350.

28 \* Sec. 38. AS 44.62.330(a)(27) is amended to read:

29 (27) Department of Health and Social Services and Department

1 of Environmental Conservation under Alaska Food, Drug, and Cosmetic Act  
2 (AS 17.20), and Department of Health and Social Services in connection  
3 with the licensing of embalmers under AS 08.44.010

4 \* Sec. 39. AS 44.62.330(a)(30) is amended to read:

5 (30) Department of Environmental Conservation [HEALTH AND  
6 SOCIAL SERVICES], under AS 18.35.010 -- 18.35.090, concerning the  
7 regulations of tourist and trailer camps, motor courts, and motels

8 \* Sec. 40. AS 44.46.020 is amended by adding a new paragraph to read:

9 (5) adopt regulations for

10 (A) the prevention and control of public health nui-  
11 sances;

12 (B) the regulation of sanitation and sanitary practices  
13 in the interest of public health;

14 (C) standards of cleanliness and sanitation in connec-  
15 tion with the construction, operation, and maintenance of a camp,  
16 cannery, food handling establishment, food manufacturing plant,  
17 mattress manufacturing establishment, industrial plant, school,  
18 barbershop, hairdressing or cosmetology establishment, soft drink  
19 establishment, beer and wine dispensaries, and for other similar  
20 establishments in which lack of sanitation may create a condition  
21 which causes disease;

22 (D) the regulation of quality and purity of commer-  
23 cially compressed air sold for human respiration.

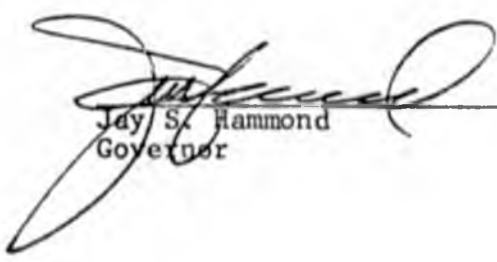
24 \* Sec. 41. AS 17.20.370(1) and (2); AS 18.05.040(a)(2), (3), and (9);  
25 and AS 44.29.020(4) are repealed.

26 \* Sec. 42. TRANSITION. All litigation, hearings, investigations and  
27 other proceedings pending under a law amended or repealed by this order, or  
28 in connection with functions transferred by this order, continue in effect  
29 and may be continued and completed notwithstanding a transfer or amendment

1 or repeal provided for in this order. Certificates, orders, and regulations  
2 issued or adopted under authority of a law amended or repealed by this order  
3 remain in effect for the term issued, until revoked, vacated, or otherwise  
4 modified under the provisions of this order. All contracts, rights, liabil-  
5 ities, and obligations created by or under a law amended or repealed by this  
6 order, and in effect on the effective date of this order, remain in effect  
7 notwithstanding this order's taking effect. Records, equipment, and other  
8 property of agencies of the state whose functions are transferred under this  
9 order shall be transferred commensurate with the provisions of this order.

10 \* Sec. 43. This order takes effect July 1, 1981.

11  
12 DATED: Jun 12, 1981

13   
14 Jay S. Hammond  
15 Governor

January 12, 1981

Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting to you Executive Order No. 51, dated January 12, 1981. This order transfers certain statutory functions from the Departments of Natural Resources and Health and Social Services to the Department of Environmental Conservation, as described below. Under art. III, sec. 23, of the Alaska Constitution, the legislature has 60 days of a regular session, or a full session if of shorter duration, to disapprove this executive order by resolution concurred in by a majority of the members in joint session; if not disapproved, this executive order will become effective on July 1, 1981.

The purpose of consolidating these various functions in DEC is to eliminate the costs associated with the provision of duplicate services by the state in the field of environmental health and to reduce the burden on industry resulting from potentially duplicate regulation by two or three state agencies. Consolidation was first suggested in May of 1976 in the form of a recommendation from my Management and Efficiency Review Committee. The Legislative Audit Division conducted a performance audit of these inspection programs in 1979 as part of the legislature's sunset review process. The division strongly recommended in its January 29, 1980 letter to me that all three inspection functions be placed in a single agency. During its deliberations on the fiscal year 81 budget, the legislature did centralize the budget for these programs in the Department of Environmental Conservation. However, the necessary statutory changes were not made at that time.

The transfer of functions from DNR to DEC involves the provisions of AS 03. The responsibilities transferred to DEC involve functions generally related to environmental health, such as the inspection of meat, fish, and poultry

offered for sale to the public. The state veterinarian and associated functions are also transferred from DNR to DEC. DNR will retain responsibility for activities related to the development of agriculture in the state, including marketing milk.

The transfer of functions from H&SS to DEC involves the provisions of AS 17.05, AS 17.20, AS 18.05, and AS 18.35. Specifically, DEC receives full responsibility for enforcing the provisions of AS 17.05 relating to flour and bread standards. Under AS 17.20, the Alaska Food, Drug and Cosmetic Act, DEC receives responsibility for enforcing the provisions relating to food and cosmetics, while H&SS retains control over drugs and devices and the false advertising provisions of the Act. Under AS 18.05, DEC assumes authority for adopting regulations relating to health and sanitation, such as regulations establishing standards for canneries. And, under AS 18.35, DEC assumes control over public accommodations and facilities, such as restaurants.

Sincerely yours,

S/JSH

Jay S. Hammond  
Governor

March 10, '81

The Honorable Jim Duncan  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to transfer a penalty provision corresponding to the transfer of four of the public health functions which were transferred in Executive Order No. 51.

This provision was inadvertently left out of that order. However, one of the co-revisors of statutes has informed the Department of Law that this cannot be treated as a "manifest clerical error" or an omission which could be corrected by the revisor under AS 01.05.031(b)(7). Therefore, I am transmitting this bill to solve the problem.

In secs. 34, 40, and 41 of Executive Order No. 51, four public health functions are transferred from the Department of Health and Social Services to the Department of Environmental Conservation. The substance of the transferred functions is set out in sec. 40.

The four paragraphs in sec. 40 are based on current AS 18.05.040(a)(2), (3), (9), and (18), respectively. Under current law (AS 18.05.060), a violation of a regulation adopted under those provisions is a misdemeanor, with a penalty of up to \$500 or one year's imprisonment. However, a corresponding penalty provision, applicable to those provisions in their new location in AS 44.46.020, was inadvertently left out of the executive order.

If the new provisions had been located in AS 46.03 (where many Department of Environmental Conservation functions are set out), certain penalty provisions already in that chapter would have been applicable. A draft of the order did locate the new provisions there. However, AS 46.03's penalty provisions establish a penalty structure quite different from the one in the present AS 18.05.060. That

IV. DATE March 11, 1981

*Richard I. Pegues*  
PREPARED BY Richard I. Pegues, Dir., Admin. Svcs.

AGENCY Department of Law

PHONE 465-3695

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

change of penalties would not have been appropriate in an executive order. Unfortunately, although the function provisions were relocated to AS 44.46, an appropriate penalty provision was not included in the final version of the order.

Since I do not believe that it would be appropriate for me to change a penalty provision substantively by means of an executive order issued under art. III, sec. 23, of the Alaska Constitution, the provision I would have included in Executive Order No. 51 would have very closely paralleled AS 18.05.060. But, since I am proposing a bill to transfer the penalty provision, AS 18.05.060 has been used as the base and then updated to conform to the new criminal code.

The attached bill characterizes violations as class A misdemeanors. This means that violators would be subject to a fine of up to \$5,000 (AS 12.55.035(b)(3)) and imprisonment of up to one year (AS 12.55.135(a)) rather than AS 18.05.060's \$500 or one year. (Also see AS 12.55.015.) AS 18.05.060 was originally enacted in 1946 (see ch. 4 SLA 1946). Clearly, inflation during the intervening three and one-half decades has made the \$500 figure ridiculously obsolete.

Under the new criminal code, the next lower classification -- class B misdemeanor -- does not seem appropriate. It would entail a penalty of up to \$1,000 and 90 days imprisonment.

I believe that the attached bill appropriately transfers and updates the penalty for violations of a regulation pertaining to any of the four public health functions cited above, and I urge your prompt passage of this bill with the effective date of Executive Order No. 51 (July 1, 1981).

Sincerely,

*S/SSH*

Jay S. Hammond  
Governor

-2-

IV. DATE March 11, 1981 PREPARED BY *Richard I. Pegues* Dir., Admin. Svcs.  
AGENCY Department of Law  
PHONE 465-3695  
Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. HOUSE BILL NO. 322  
 Title "An Act relating to the enforcement of certain public health functions"  
 Requested by The Governor Date 3/10/81  
of the Department of Environmental Conservation; and providing for an effective date."

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 81	FY 82	FY 83	FY 84	FY 85	FY 86
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)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

This bill transfers the penalty provisions corresponding to the transfer of the four public health functions transferred in Executive Order No. 51. These penalties are currently covered by AS 18.05.060 and this bill brings the penalty provisions within the state's revised criminal code. The current provision, which has not been changed since 1946, sets the penalty at \$500 or one year's imprisonment. The bill changes the provision to \$5,000 and one year's imprisonment. Since the department is already responsible for prosecuting violations under the current provision, no additional fiscal impact is anticipated.

*Richard I. Pegues*

IV. DATE March 11, 1981 PREPARED BY Richard I. Pegues, Dir., Adm. Svcs.  
 AGENCY Department of Law  
 PHONE 465-3695  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)



# Alaska State Legislature

## House of Representatives

Committee on

Health, Education & Social Services

Rep. Don Clocksin, Chairman  
465-3797

Pouch V  
State Capitol  
Juneau, Alaska 99811

March 5, 1981

Rep. Jim Duncan  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Mr. Speaker:

The Health, Education and Social Services Committee has reviewed Executive Order 51 and recommends that no action be taken to disapprove it.

However, two points should be made regarding the Executive Order. First, it appears that reorganization of various functions has already occurred by administrative fiat and that most of the necessary adjustments in the budgets of the affected agencies were made last year. Thus, if we were to disapprove the Executive Order, it would cause major upheaval in the agencies. When a reorganization of state government requires changes in statutes - as this one does - and is implemented before an Executive Order is proposed to the Legislature, then the intent of Article III, Sec. 21 of the Alaska Constitution is being frustrated. We recommend the Governor review the process by which reorganizations are implemented.

Second, Article III, Sec. 21 allows reorganization for "efficient administration." Examples arose during hearings which raise questions as to how efficient the reorganization really is:

1. While the Department of Environmental Conservation is given responsibility over false or misleading food advertising (AS 17.20.040), the Department of Health and Social Services also has responsibility over false advertising of foods and drugs (AS 17.20.160; AS 17.20.330).
2. While the Department of Natural Resources has the responsibility for eggs (AS 03.05.010(a)), the Department of Environmental Conservation has responsibility for chickens (AS 03.05.010(c)).

Rep. Jim Duncan  
March 5, 1981  
Page Two

3. While the Department of Health and Social Services is responsible for "commercially compressed oxygen sold for human respiration" (AS 18.05.040(a)(18)), the Department of Environmental Conservation is responsible for "commercially compressed air sold for human respiration" (AS 44.46.020).

However, considering that the reorganization is a fait accompli and that the Legislature could later pass a bill to change the statutes altered by an Executive Order if problems arise, the committee has chosen not to disapprove the Executive Order.

Sincerely,



Rep. Don Clocksin

DC:am

cc: Governor Jay S. Hammond  
Rep. Terry Gardiner  
Rep. Fred Zharoff



# Alaska State Legislature

## House of Representatives

Committee on

Health, Education & Social Services

Donald E. Clocksin, Chairman  
465-3797  
465-3777

Pouch V  
State Capitol  
Juneau, Alaska 99811

February 12, 1981

MEMO

TO: ALL HOUSE HESS COMMITTEE MEMBERS

FROM: REP. DON CLOCKSIN, Chair

RE: EXECUTIVE ORDER #51

Please find enclosed back-up material for Executive Order #51 as provided by the Department of Environmental Conservation on February 11, 1981.



Rep. Don Clocksin, Chairman  
465-797

# Alaska State Legislature

## House of Representatives

### Committee on Health, Education & Social Services

February 19, 1981

Pouch V  
State Capitol  
Juneau, Alaska 99811

MEMO

TO: ALL HESS COMMITTEE MEMBERS

FROM: DON CLOCKSIN, CHAIR *DC*

RE: EXECUTIVE ORDER #51- fiscal information

Please find enclosed the fiscal information the Hess Committee requested at the February 13 hearing on Executive Order #51.

# STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH 0 - JUNEAU 99811

February 18, 1981

The Honorable Donald E. Clocksin  
House of Representatives  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Clocksin:

At the February 13 hearing on Executive Order 51, you requested certain fiscal information on the transfer of regulatory programs from the Department of Natural Resources and the Department of Health and Social Services to the Department of Environmental Conservation. As mentioned, much of that change was initiated by Governor's Budget Amendment B18-2, which was approved by the Legislature, and included in the FY 1981 operating budgets of the affected agencies. The budget amendment was introduced at the behest of several legislators, in part in response to the reports prepared by the Division of Legislative Audit on the inspection functions of the Division of Agriculture, Environmental Health Section, and the Department of Environmental Conservation.

The budget amendment transferred \$839,100 and 17 permanent full-time positions from the Division of Agriculture to the Department of Environmental Conservation, Office of the Commissioner, inspection project BRU. That budget transfer represented the animal industry and seafood industry components of the agricultural inspection BRU in the public protection category. The remainder of that BRU, the plant industry component, was retained in the Department of Natural Resources, but transferred from the public protection category to the development category.

Also transferred to the inspection office BRU was \$1,050,700, 27 permanent full-time and three permanent part-time positions from the general sanitation component of the environmental health BRU in the health category. The remaining \$383,700 and seven permanent full-time positions and 2.0 permanent part-time positions were retained in the general sanitation component. Additionally, \$125,000 was appropriated to pay for one-time transition expenditures.

February 18, 1981

Once the budget transfer was formally made, the agencies negotiated which exact functions were to be transferred to DEC; these negotiations ultimately resulted in Executive Order 51. As a result of these negotiations, the Department of Health and Social Services transferred to DEC an additional \$213,644 and five full-time and one part-time permanent positions. Thus, remaining in the general sanitation component were two full-time and two part-time positions and \$170,056. The reason this action was taken by RSA rather than included in the budget amendment was that we did not have sufficient time during the last few days of the 1980 legislative session to develop an exact budget proposal based on a close analysis of the functions transferred.

I hope that this information adequately responds to the committee's questions on the fiscal implications of the Executive Order. I have enclosed a copy of the budget amendment, the Reimbursable Services Agreement, and the budget pages from the FY 1981 budget. If there are any further questions we might answer, please contact me.

Sincerely,



Ernst W. Mueller  
Commissioner

Enclosures

cc: Dale Wallington  
Keith Specking w/encl

18-53-3

06-16-01-00-00 (00-00-0-00-00-00)

STATE OF ALASKA -- COMPONENT BUDGET ANALYSIS

17:25

6/13/80

CATEGORY: PUBLIC PROTECTION  
AGENCY: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

PROGRAM: COMMISSIONER'S OFFICE  
SUB-PROGRAM: INSPECTION PROJECT

\*\*\* F.C.C. ANALYSIS \*\*\*

GOVERNORS F&C 90.0

OBJECT GROUP	VARIATION		DESCRIPTION: F.C. ., VERSUS GOVERNOR
01 PERS. SERV.	1474.4	100.0%	
02 TRAVEL	127.2	100.0%	
03 CONTRACTUAL	238.0	100.0%	
04 COMMODITIES	35.1	100.0%	
05 EQUIPMENT	3.6	100.0%	
06 LANDS/BLDGS	10.3	100.0%	
07 GRANTS, CLMS	1.0	100.0%	
08 MISC.	129.0	100.0%	
MM TOTAL	2014.8	100.0%	

F.C.C. FIGURE \$2,014.8

THIS IS A NEW COMPONENT ESTABLISHED BY GOVERNOR'S BUDGET AMENDMENT B18-2 AND APPROVED BY THE F.C.C. IT IS A COMBINATION OF \$1050.7, 27 PFT AND 3 PPT POSITIONS FROM D.H.S.S. GENERAL SANITATION UNIT, \$629.3 AND 13 PFT POSITIONS FROM THE D.H.R. ANIMAL INDUSTRY COMPONENT, AND, \$209.8 AND 4 PFT POSITIONS FROM THE D.N.R. SEAFOOD INDUSTRY COMPONENT. THERE ALSO IS \$125.0 FOR ONE TIME REORGANIZATION COSTS.

65

13  
7

114

96.9  
7.6  
629.3  
209.8  
-----  
943.5

GF 5/11/80  
FF 2/11/80

15  
12  
78

06-10-01-02-00 (10-53-3-17-02-00)

STATE OF ALASKA -- COMPONENT\_BUDGET\_SUMMARY

17:24

6/13/80

CATEGORY: PUBLIC PROTECTION  
 AGENCY: DEPARTMENT OF NATURAL RESOURCES

PROGRAM: AGRICULTURAL INSPECTION  
 SUB-PROGRAM: ANIMAL INDUSTRY

EXPENDITURES & FUNDING	FISCAL YEAR 1981												
	(01) FY77 ACT	(02) FY80 ATH	(03) FY80 RP	(04) FY80 SUP	(05) CONT	(06) REQUEST	(07) GOV AMD	(08) GOVERNOR	(09) HOUSE	(10) SENATE	(11) F.C.C.	(12) BILLS	(13) LEG.REC.
01 PERS. SERV.	512.2	515.8			470.1	470.1	-504.2	504.2	504.2	504.2	504.2		
02 TRAVEL	38.8	33.5			51.7	51.7	-35.8	51.7	35.8	33.8			
03 CONTRACTUAL	131.1	68.8			127.0	127.0	-62.9	127.0	62.9	64.6			
04 COMMODITIES	9.8	16.8			21.8	21.8	-21.8	21.8	21.8	17.5			
05 EQUIPMENT	2.3				3.6	3.6	-3.6	3.6	6				
06 LANDS/BLOGS	2.2	2.2											
07 GRANTS, CLMS		81.0			1.0	1.0	-1.0	1.0	1.0	1.0			
08 MISC.													
09 TOTAL EXPEND	696.4	718.1			675.2	675.2	-629.3	709.3	629.3	621.1			
09 I-A TRANSFER	5.7	5.0			29.0	29.0		29.0	29.0	29.0			
10 FED. RECEIPT	245.6	213.6			227.5	227.5	-245.6	236.5	245.6	236.5			
11 G. F. MATCH	245.6	218.6			227.5	227.5	-245.6	252.6	245.6	252.6			
12 GENERAL FUND	205.2	294.9			220.2	220.2	-138.1	220.2	138.1	132.0			
13 PGM RECEIPTS													
14 OTHER FUNDS													
15 FULL-TIME		14.0			13.0	13.0	-13.0	13.0	13.0	13.0			
16 PART-TIME													
17 TEMPORARY													
18 MAN-MONTHS		173.0			159.2	159.2	-152.0	159.2	159.2	159.2			

FOOTNOTES

1 TRANSFERRED TO DEPT. OF ENV. CONS., COMM. OFFICE INSPECTION PROJECT.

REVISED PROGRAMS, GOVERNOR AMENDMENTS, SUPPLEMENTAL & SPECIAL APPROPRIATIONS AND FISCAL NOTES...

GOVERNOR AMENDMENTS: 18- 2 6629.3-

*Handwritten notes:*  
 18-53-3 1/1  
 6:13  
 11/11/80  
 (unclear)

06-10-02-03-20 10-53-3-17-03-00)

## STATE OF ALASKA -- COMPONENT BUDGET ANALYSIS

17-24

6/13/80

CATEGORY: PUBLIC PROTECTION  
AGENCY: DEPARTMENT OF NATURAL RESOURCESPROGRAM: AGRICULTURE INSPECTION  
SUB-PROGRAM: SEAFOOD INDUSTRY

## \* \* \* \* F.C.C. ANALYSIS \* \* \* \*

GOVERNORS REC \$209.8

OBJECT GROUP	VARIATION	
01 PERS. SERV.	-110.8	-100.0%
02 TRAVEL	-29.3	-100.0%
03 CONTRACTUAL	-62.0	-100.0%
04 COMMODITIES	-7.7	-100.0%
** TOTAL	-209.8	-100.0%
F.C.C. FIGURE	00.0	

## DESCRIPTION: F.C.C. VERSUS GOVERNOR

THIS COMPONENT FUNDED IN THE AMOUNT OF 209.8 IS TRANSFERRED TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, COMMISSIONER'S OFFICE, INSPECTION PROJECT COMPONENT AS REQUESTED IN GOVERNOR'S BUDGET AMENDMENT B18-2 AND APPROVED BY THE F.C.C.

\* \* \* \* HOUSE ANALYSIS \* \* \* \*

\* \* \* \* SENATE ANALYSIS \* \* \* \*

10-01-03-00 (10-93-3-17-03-00)

STATE OF ALASKA -- COMPONENT\_BUDGET\_SUMMARY

17:24

6/13/80

CATEGORY: PUBLIC PROTECTION  
 AGENCY: DEPARTMENT OF NATURAL RESOURCES

PROGRAM: AGRICULTURE INSPECTION  
 SUB-PROGRAM: SEAFOOD INDUSTRY

PENDING FUNDING	FISCAL YEAR 1981												
	(01) FY79 ACT	(02) FY80 ATH	(03) FY80 RP	(04) FY80 SUP	(05) CCNT	(06) REQUEST	(07) GOV AMD	(08) GOVERNOR	(09) HOUSE	(10) SENATE	(11) F.C.C.	(12) BILLS	(13) LEG.REC.
PERS. SERV.	76.1	104.8			103.8	103.8	-110.8	110.8	110.8	110.8			
TRAVEL	16.2	23.0			29.4	29.3	-29.3	29.3	29.3	29.3			
CONTRACTUAL	9.7	14.5			19.5	62.0	-62.0	62.0	62.0	62.0			
COMMODITIES	1.2	1.2			1.	7.7	-7.7	7.7	7.7	7.7			
EQUIPMENT	1.3												
LANDS/BLDG													
GRANTS, CLMS													
MISC.													
TOTAL EXPEND	104.5	144.3			146.0	202.8	-209.8	209.8	209.8	209.8			
I-A TRANSFER	2.6	4.6			4.9	4.9		4.0	4.9	4.9			
FED. RECEIPT													
G. F. MATCH													
GENERAL FUND	104.5	144.3			146.0	202.8	-209.8	209.8	209.8	209.8			
PGM RECEIPTS													
OTHER FUNDS													
FULL-TIME	4.0	4.0			4.0	4.0	-4.0	4.0	4.0	4.0			
PART-TIME													
TEMPORARY													
MAN-MONTHS	48.0	48.0			48.0	48.0	-48.0	48.0	48.0	48.0			

FOOTNOTES

1 TRANSFERRED TO DEPT. OF ENV. CONS., COMM. OFFICE INSPECTION PROJECT.

REVISED PROGRAMS, GOVERNOR AMENDMENTS, SUPPLEMENTAL & SPECIAL APPROPRIATIONS AND FISCAL NOTES...

GOVERNOR AMENDMENTS: 18- 2 6209.8-

01-00-00 (00-00-0-00-00-00)

STATE OF ALASKA -- COMPONENT\_BUDGET\_SUMMARY

17:25

6/13/80

CATEGORY: PUBLIC PROTECTION  
AGENCY: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

PROGRAM: COMMISSIONER'S OFFICE  
SUB-PROGRAM: INSPECTION PROJECT

FISCAL YEAR 1981

ITEMS	(01)	(02)	(03)	(04)	(05)	(06)	(07)	(08)	(09)	(10)	(11)	(12)	(13)
DESCRIPTION	FY79 ACT	FY80 ATH	FY80 RP	FY80 SUP	CONT	REQUEST	GOV AMD	GOVERNOR	HOUSE	SENATE	F.C.C.	BILLS	LEG.REC.
S. SERV.							1474.4				1474.4		
VEH							127.2				127.2		
STRUCTUAL							238.0				238.0		
MODITIES							35.1				35.1		
EQUIPMENT							3.6				3.6		
VEH/BLDGS							10.5				10.5		
INSTR. CLMS							1.0				1.0		
GRANT							125.0				125.0		
GENERAL EXPEND							2014.8				2014.8		
TRANSFER											33.9		
FED. RECEIPT							245.6				245.6		
FED. MATCH							245.6				245.6		
FEDERAL FUND							1460.5				1460.5		
RECEIPTS							63.1				63.1		
GR FUNDS							- 0				- 0		
LEAVE TIME							44.0				44.0		
LEAVE TIME							3.0				3.0		
PROV. MONTHS											559.0		

NOTES

COMPONENT ESTABLISHED BY GOVERNOR'S BUDGET AMENDMENT B18-2 DATED 5/21/80.

PROGRAMS, GOVERNOR AMENDMENTS, SUPPLEMENTAL & SPECIAL APPROPRIATIONS AND FISCAL NOTES...

BY 4 AMENDMENTS: 18- 2 62014.8.

AV 04570

JV 04570

AMENDMENT NO. 00

B & M RSA LOG NO. 5714

I. DESCRIPTION:

THE Department of Health and Social Services

(AGENCY)

HEREBY REQUESTS THE FOLLOWING

SERVICES TO BE PERFORMED BY THE Department of Environmental Conservation

(AGENCY)

PROJECT OR PROGRAM TITLE: DEC Commissioner's Office/Inspection Projects R21

DESCRIPTION OF SERVICE TO BE PROVIDED: To complete consolidation of environmental health inspectional activities initiated by Governor's budget amendment R18-2 dated 5/21/80

2/10

TERMS AND MECHANICS OF REIMBURSEMENT: Interagency transfer by adjustment voucher for \$21,644 upon execution of this RSA

DATE WORK TO COMMENCE: July 1, 1980 DATE COMPLETION REQUIRED: June 30, 1981

II. BUDGETING AND ACCOUNTING INFORMATION:

THIS SERVICE REQUIREMENT [ ] WAS [X] WAS NOT DOCUMENTED IN THE REQUESTING AGENCY'S BUDGET. (REF: FY \_\_\_\_\_ BUDGL. PAGE NO. \_\_\_\_\_)

THIS SERVICE REQUIREMENT [ ] WAS [X] WAS NOT DOCUMENTED IN THE SERVICING AGENCY'S BUDGET. (REF: FY \_\_\_\_\_ BUDGET PAGE NO. \_\_\_\_\_)

REQUESTING AGENCY ACCOUNT NUMBER(S) TO BE CHARGED: (1) 06-31-1-500 CONTINUING FUNDS? [ ] YES [X] NO IF YES, AUTHORITY? (2) \_\_\_\_\_ CONTINUING FUNDS? [ ] YES [ ] NO IF YES, AUTHORITY?

REQUESTING AGENCY ENCUMBRANCE NUMBER: RS 06-0699

SCHEDULE OF MAXIMUM COSTS TO BE INCURRED:

DECISION

OBJECT OF EXPENDITURE	ORIGINAL AGREEMENT	ALL PREVIOUS AMENDMENTS	THIS AMENDMENT	TOTAL
PERSONAL SERVICES	200,424		0	200,424
EQUIPMENT			0	
LANDS AND BUILDINGS			0	
OTHER (ITEMIZE):				
Contractual	10,720			10,720
Commodities	2,500			2,500
TOTAL MAXIMUM COST:	213,644			213,644

1. APPROVALS AND CERTIFICATIONS:

18-53-3-550  
551  
552

1. REQUESTING AGENCY:

IN ADDITION TO AGREEING TO THE ABOVE STIPULATIONS, I CERTIFY, BASED ON THE ABOVE COST SCHEDULE, THAT SUFFICIENT FUNDS ARE AUTHORIZED AND AVAILABLE TO PAY THIS OBLIGATION, THAT THE ACCOUNTING CODE(S) TO BE CHARGED HAS (HAVE) A BALANCE SUFFICIENT TO COVER THIS OBLIGATION AND THAT A BALANCE WILL BE MAINTAINED IN THIS (THESE) ACCOUNT(S) SUFFICIENT TO PAY ANY AGENCY OBLIGATIONS ESTABLISHED BY THIS AGREEMENT.

[Signature]  
AUTHORIZED SIGNATURE

7/3/80  
DATE

2. SERVICING AGENCY APPROVAL:

[Signature]  
AUTHORIZED SIGNATURE

8/1/80  
DATE

3. BUDGET AND MANAGEMENT APPROVAL:

[Signature]  
AUTHORIZED SIGNATURE

9/1/80  
DATE

May 21, 1980

The Honorable John Sackett  
Chairman, Senate Finance Committee  
Alaska State Legislature  
Pouch Y  
Juneau, Alaska 99811

FY 81 Budget Amendment # B18-2

<u>Category</u>	<u>Department</u>	<u>BRU</u>
NRMEC	Dept. of Environmental Conservation	Commissioner's Office
Health	Dept. of Health and Social Services	Inspections Project General Sanitation
Public Protection	Dept. of Natural Resources	Agricultural Inspection

Components: Various as listed on attachment. Transfer of various appropriation to DEC  
Workbook Form 4A, page 243 (Health), 940, 966 (Public Protection)

Dear Senator Sackett:

Please amend the Governor's budget to transfer portions of the Agricultural Inspection (DHR) and Environmental Health (DH&SS) BRU's to the Commissioner's Office/Inspection Project BRU within the Department of Environmental Conservation. These transferred programs will be part of the Commissioner's Office and will be in the Public Protection Category. Once work plans have been written by DEC, these programs will be removed from the Commissioner's Office and integrated into other appropriate areas within the Department. The specific amounts to be transferred are outlined on the attached sheets.

Briefly, this transfer will consolidate certain inspection functions involving sanitation and health standards, water quality, wastewater disposal, solid waste disposal, insect and rodent control, animal health and nuisances that impact public health from both the Environmental Health Section of the Department of Health and Social Services, and the Division of Agriculture, Department of Natural Resources into the Department of Environmental Conservation.

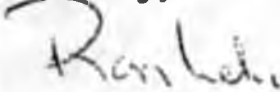
Senator Sackett

-2-

May 21, 1980

The purpose of this consolidation is to eliminate the burden placed on the public by multiple agency inspection visits, to reduce the overall cost of the State's inspection program through elimination of duplication and to provide more effective regulatory service.

Sincerely,

  
Dr. Ronald D. Lehr  
Director

---

RD/LR/psp

May 21, 1980

The Honorable Russ Meekins  
Chairman, House Finance Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

FY 81 Budget Amendment # B18-2

<u>Category</u>	<u>Department</u>	<u>BRU</u>
NR/IEC	Dept. of Environmental Conservation	Commissioner's Office Inspections Project
Health	Dept. of Health and Social Services	General Sanitation
Public Protection	Dept. of Natural Resources	Agricultural Inspection

Components: Various as listed on attachment. Transfer of various  
appropriation to DEC  
Workbook Form 4A, page 243 (Health), 940, 906 (Public Protection)

Dear Representative Meekins:

Please amend the Governor's budget to transfer portions of the Agricultural Inspection (DNR) and Environmental Health (DH&SS) BRU's to the Commissioner's Office/Inspection Project BRU within the Department of Environmental Conservation. These transferred programs will be part of the Commissioner's Office and will be in the Public Protection Category. Once work plans have been written by DEC, these programs will be removed from the Commissioner's Office and integrated into other appropriate areas within the Department. The specific amounts to be transferred are outlined on the attached sheets.

Briefly, this transfer will consolidate certain inspection functions involving sanitation and health standards, water quality, wastewater disposal, solid waste disposal, insect and rodent control, animal health and nuisances that impact public health from both the Environmental Health Section of the Department of Health and Social Services, and the Division of Agriculture, Department of Natural Resources into the Department of Environmental Conservation.

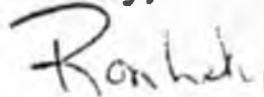
Representative Meekins

-2-

May 21, 1980

The purpose of this consolidation is to eliminate the burden placed on the public by multiple agency inspection visits, to reduce the overall cost of the State's inspection program through elimination of duplication and to provide more effective regulatory service.

Sincerely,



Dr. Ronald D. Lehr  
Director

---

RDL/LW/psp

HEALTH CATEGORY  
Department of Health and  
Social Services  
Environmental Health BRU  
General Sanitation Component

1434.4	To Public Protection Category	383.7
34 PFT	(1,050.7) To DEC	7 PFT
5 PFT	(27 PFT)	3 PPT
	(3 PPT)	

PUBLIC PROTECTION CATEGORY  
Department of Natural Resources  
Agricultural Inspection BRU  
Plant Industry

112.7	To Development Category	112.7
2 PFT	-0-	2 PFT

Animal Industry

629.3	No Category Change to DEC	-0-
13 PFT	(629.3)	-0-
	(13 PFT)	

Seafood Industry

209.8	No Category Change to DEC	-0-
4 PFT	(209.8)	-0-
	(4 PFT)	

PUBLIC PROTECTION CATEGORY  
Department of Environmental Conservation  
Commissioner's Office - Inspection Project BRU

-0-	Public Protection Category	
	1050.7 From H&SS	
	44 PFT	
	3 PPT	

839.1 From DNR  
17 PFT

One-Time Organizational Expenses  
125.0

2014.8  
44 PFT  
3 PPT

BUDGET AMENDMENT NO. B 18-2

CATEGORY: Public Protection

DEPARTMENT: Natural Resources

BRANCH: Agricultural Inspection

COMPONENT: Seafood Industry

CODE	EXPENDITURE BY OBJECT	CURRENT GOVERNOR'S BUDGET	REVISION	AMENDED GOVERNOR'S BUDGET
00	PERSONAL SERVICES	110.8	(110.8)	-0-
00	TRAVEL	29.3	(29.3)	
00	CONTRACTUAL SERVICES	62.0	(62.0)	
00	COMMODITIES	7.7	(7.7)	
00	EQUIPMENT			
00	LANDS, BUILDINGS ETC.			
00	GRANTS, CLAIMS ETC.			
00	MISCELLANEOUS			
	TOTAL	209.8	(209.8)	
FEDERAL RECEIPTS				
REQUIRED GENERAL FUND MATCH				
	OTHER GENERAL FUND	209.8	(209.8)	-0-
INTER-AGENCY TRANSFERS				
OTHER: _____				
	TOTAL			
PERMANENT FULL-TIME POSITIONS				
	PERMANENT PART-TIME POSITIONS	4	(4)	-0-
TEMPORARY (FULL-TIME) EQUIV.				
	NUMBER OF STAFF MONTHS	48	(48)	-0-

BUDGET AMENDMENT NO. B18-2

CATEGORY: Public Protection

DEPARTMENT: Natural Resources

BRANCH: Agricultural Inspection

COMPONENT: Animal Industry

CODE	EXPENDITURE BY OBJECT	CURRENT GOVERNOR'S BUDGET	REVISION	AMENDED GOVERNOR'S BUDGET
00	PERSONAL SERVICES	504.2	(504.2)	-0-
00	TRAVEL	35.8	(35.8)	
00	CONTRACTUAL SERVICES	62.9	(62.9)	
00	COMMODITIES	21.8	(21.8)	
00	EQUIPMENT	3.6	(3.6)	
00	LANDS, BUILDINGS ETC.			
00	GRANTS, CLAIMS ETC.	1.0	(1.0)	
00	MISCELLANEOUS			
	TOTAL	629.3	(629.3)	
	FEDERAL RECEIPTS	245.6	(245.6)	-0-
	REQUIRED GENERAL FUND MATCH	245.6	(245.6)	-0-
	OTHER GENERAL FUND	138.1	(138.1)	
	INTER-AGENCY TRANSFERS			
	OTHER:			
	• House Figure TOTAL	629.3*	(629.3)	
	PERMANENT FULL-TIME POSITIONS	13	(13)	-0-
	PERMANENT PART-TIME POSITIONS			
	EMPLOYEES (FULL-TIME) EQUIV.			
	NUMBER OF STAFF MONTHS	152.2	(152.2)	

AMENDMENT NO. B18-2

SUBJECT: Public Protection

DEPARTMENT: Department of Environmental Conservation

PROJECT: Commissioner's Office/Inspection Project

COMPONENT: \_\_\_\_\_

DESCRIPTION	CURRENT GOVERNOR'S BUDGET	REVISION	AMENDED GOVERNOR'S BUDGET
PERSONAL SERVICES	-0-	1474.4	1474.4
TRAVEL	-0-	127.2	127.2
CONTRACTUAL SERVICES	-0-	238.0	238.0
COMMODITIES	-0-	35.1	35.1
EQUIPMENT	-0-	3.6	3.6
LANDS, BUILDINGS ETC.	-0-	10.5	10.5
GRANTS, CLAIMS ETC.	-0-	1.0	1.0
MISCELLANEOUS	-0-	125.0	125.0
<b>TOTAL</b>		<b>2,014.8</b>	<b>2,014.8</b>
FEDERAL RECEIPTS		245.6	245.6
REQUIRED GENERAL FUND MATCH		245.6	245.6
OTHER GENERAL FUND		1,460.5	1,460.5
INTER-AGENCY TRANSFERS			
OTHER: <u>Medical Transfer</u>		63.1	63.1
<b>TOTAL</b>		<b>2,014.8</b>	<b>2,014.8</b>
PERMANENT FULL-TIME POSITIONS		44	44
PERMANENT PART-TIME POSITIONS		3	3
TEMPORARY (FULL-TIME) EQUIV.			
NUMBER OF STAFF MONTHS			

*City of Fairport  
Contract  
10/28/88 Receipts*

AMENDMENT NO. B 18-2

ORY: Health

ARTMENT: H & SS

U: Environmental Health

OMPONENT: General Sanitation

DE	EXPENDITURE BY OBJECT	HOUSE BUDGET ACCEPTED BY FCC	REVISION	AMENDED GOVERNOR'S BUDGET
00	PERSONAL SERVICES	1186.4	(859.4)	327.0
00	TRAVEL	73.1	(62.1)	.11-0
00	CONTRACTUAL SERVICES	138.6	(113.1)	25.5
00	COMMODITIES	9.1	(5.6)	3.5
00	EQUIPMENT			
00	LANDS, BUILDINGS ETC.	27.2	(10.5)	16.7
00	GRANTS, CLAIMS ETC.			
00	MISCELLANEOUS			
	TOTAL	1434.4	(1050.7)	383.7
<hr/>				
	FEDERAL RECEIPTS			
	REQUIRED GENERAL FUND MATCH			
	OTHER GENERAL FUND	1371.3	(987.6)	383.7
	INTER-AGENCY TRANSFERS			
	OTHER: <i>City of Fairbanks Contract</i> <i>Weekend Transfers</i> <i>Programs Receipts</i>	63.1	(63.1)	-0-
	TOTAL			
<hr/>				
	PERMANENT FULL-TIME POSITIONS	34.0	(27)	7.0
	PERMANENT PART-TIME POSITIONS	5.0	(3)	2.0
	TEMPORARY (FULL-TIME) EQUIV.			
	NUMBER OF STAFF MONTHS			

As early as July of 1975 the possibility of having all food related inspection functions conducted by a single individual or job class was being considered.

The remainder of 1975 and 1976 saw periodic discussions between Department of Health and Social Services and Department of Natural Resources regarding the possibility of combining some or all of their related inspection functions into DHSS. No definite steps were taken. In December of 1976, EC entered the discussions involved with inspections of public water and sewage systems and the relationship between water, sewer and public health. Representatives of Department of Natural Resources, Office of the Governor, Department of Health and Social Services, Department of Environmental Conservation and Department of Labor met in January of 1977 to discuss consolidation and other options such as cross-training and sharing inspectors. In February of 1977 the question of the legality of delegation of duties between departments arose and the Attorney General's office was consulted. The resulting opinion stated that an employee of DEC, DNR or DHSS may inspect for the other, but only DNR and DEC could enforce for another agency. (The regulations of DHSS were written in such a manner as to prohibit their enforcing another agency's regulations.)

In 1978, the Office of the Governor requested specific information regarding the feasibility of consolidation or entering into a memorandum of understanding. A draft memorandum of understanding was proposed, but not agreed to because it did not resolve all the issues involved.

Various legislators introduced HR 825, an act relating to certain state health inspection functions which would have transferred food product, food handling, standard setting, regulation and enforcement authority from Department of Natural Resources to Department of Health and Social Services and delegating a portion of DEC's authority regarding public water supply protection and sewage disposal to DHSS.

The Office of the Governor opposed HB 825.

In October of 1978, Legislative Affairs entered the picture pointing out an overlap of regulatory authority in the area of water pollution control and water quality protection between the Departments of Fish and Game, Environmental Conservation, Natural Resources and Health and Social Services. The possibility of an MOU between DEC and DHSS for involvement in water analysis and waterborne disease outbreaks was discussed.

The Second Session of the 11th Alaska Legislature saw the introduction of HB 189. (HB 189 was an act relating to certain health inspection functions which would combine within a single agency all authority for regulation and inspection of certain food animals, poultry, fish, dairy products and derivative food products and the power to inspect and enforce state standards for sewage disposal and water supply in a broad variety of establishments.)

Towards the end of 1979, three Legislative Audits were performed: Department of Health and Social Services, Division of Public Health, Environmental Health Section; Department of Natural Resources, Division of Agriculture, Agricultural Inspection Program and Department of Environmental Conservation, Water Inspection Program. These three audits shared a common recommendation -- "responsibilities for sanitation inspections of business establishments on a routine basis should be centralized under one agency."

The reviews were mixed. Although the agencies agreed that consolidation was probably a viable alternative they seemed to prefer a program of interagency cooperation. This would include an MOU to allow agency cross-inspection and development of uniform class specifications for inspectors in the three departments and cross-training of inspectors. This plan allowed for an evaluation after about 10 months to determine

if this method of coping with the overlap of responsibilities was working. If not, consolidation would be again considered.

In early 1980, two legislators - Joe McKinnon and Clem Tillion - expressed interest in the proposed consolidation of programs within Department of Environmental Conservation, Department of Natural Resources and Department of Health and Social Services. In April of 1980, Governor Hammond stated his intent to consolidate environmental health and agricultural inspections into the Department of Environmental Conservation.

With the decision finally made, the wheels began to turn - amazingly quickly for a bureaucracy - and between April and July a task force of representatives from the three departments developed and implemented a plan to merge environmental health and agricultural inspections into DEC.

In June 1980, Commissioner Helen Beirne delegated authority for inspection and enforcement of the following items:

AS 17.05 Food and Drink Standards

AS 18.05.040 regulations for definition, reporting & control of diseases of public health significance;

prevention and control of public health nuisances;

regulation of sanitation and sanitary practices in the interest of public health and prevention of disability and mortality;

standards of cleanliness and sanitation;

the conduct of its business and for carrying out provisions of laws of the United States and the state relating to public health;

regulation of quality and purity of commercially compressed air and oxygen sold for human respiration; and

AS 18.35 Public Accommodations and Facilities.

Commissioner Robert LaResche delegated authority for:

inspection and enforcement of AS 03.05.010 - AS 03.05.100 with regard to food, animal, fish, poultry, milk and derivative food products to protect the public against fraud, disease and spoilage.

Consolidation officially occurred on July 1, 1991 by Executive Order #51.

The Office of Seafood and Animal Inspection Services was established under the Office of the Commissioner. This office is comprised largely of positions from Department of Natural Resource's Agricultural Inspection Program and is responsible for inspection and/or permit issuance for seafood processing plants, importation of animals, milk processors, milk products, frozen dessert manufacturers, sale of biological products, and meat production from slaughter to retail.

The environmental health sanitarians located in 11 field offices were merged with sister DEC offices with DEC gaining an office in Tok, Kodiak and Nome. These sanitarians were placed in the existing Division of Environmental Quality Operations. An environmental sanitation management position was established in the Water Quality and Environmental Sanitation Section in the, again, existing Division of Environmental Quality Management.

Work continues on integrating DHSS and DNR regulations into DEC's regulations. These regulations are being updated at the same time. Sanitarians are being cross-trained to assist with water and sewer inspections while seafood and meat inspectors are each being cross-trained to assume the duties of the other job class. DEC has included within its budget request several increments to expand both the sanitation and seafood and animal health programs.



# Alaska State Legislature

## House of Representatives

Committee on

Health, Education & Social Services

Donald E. Clocksin, Chairman  
465-3797  
465-3777

Pouch V  
State Capitol  
Juneau, Alaska 99811

February 12, 1981

MEMO

TO: ALL HOUSE HESS COMMITTEE MEMBERS

FROM: REP. DON CLOCKSIN, Chair

RE: EXECUTIVE ORDER #51

Please find enclosed back-up material for Executive Order #51 as provided by the Department of Environmental Conservation on February 11, 1981.

January 12, 1981

Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting to you Executive Order No. 51, dated January 12, 1981. This order transfers certain statutory functions from the Departments of Natural Resources and Health and Social Services to the Department of Environmental Conservation, as described below. Under art. III, sec. 23, of the Alaska Constitution, the legislature has 60 days of a regular session, or a full session if of shorter duration, to disapprove this executive order by resolution concurred in by a majority of the members in joint session; if not disapproved, this executive order will become effective on July 1, 1981.

The purpose of consolidating these various functions in DEC is to eliminate the costs associated with the provision of duplicate services by the state in the field of environmental health and to reduce the burden on industry resulting from potentially duplicate regulation by two or three state agencies. Consolidation was first suggested in May of 1976 in the form of a recommendation from my Management and Efficiency Review Committee. The Legislative Audit Division conducted a performance audit of these inspection programs in 1979 as part of the legislature's sunset review process. The division strongly recommended in its January 29, 1980 letter to me that all three inspection functions be placed in a single agency. During its deliberations on the fiscal year 81 budget, the legislature did centralize the budget for these programs in the Department of Environmental Conservation. However, the necessary statutory changes were not made at that time.

The transfer of functions from DNR to DEC involves the provisions of AS 03. The responsibilities transferred to DEC involve functions generally related to environmental health, such as the inspection of meat, fish, and poultry

offered for sale to the public. The state veterinarian and associated functions are also transferred from DNR to DEC. DNR will retain responsibility for activities related to the development of agriculture in the state, including marketing milk.

The transfer of functions from H&SS to DEC involves the provisions of AS 17.05, AS 17.20, AS 18.05, and AS 18.35. Specifically, DEC receives full responsibility for enforcing the provisions of AS 17.05 relating to flour and bread standards. Under AS 17.20, the Alaska Food, Drug and Cosmetic Act, DEC receives responsibility for enforcing the provisions relating to food and cosmetics, while H&SS retains control over drugs and devices and the false advertising provisions of the Act. Under AS 18.05, DEC assumes authority for adopting regulations relating to health and sanitation, such as regulations establishing standards for canneries. And, under AS 18.35, DEC assumes control over public accommodations and facilities, such as restaurants.

Sincerely yours,

S/JSH

Jay S. Hammond  
Governor

H B

5

COMMITTEE REPORT

HOUSE

2/2/81

FURTHER: JUDICIARY

(5)

Date: March 19, 1981

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 5

"An Act removing the prohibition on intoxicated persons entering premises licensed to serve alcoholic beverages."

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

- do pass  do not pass
- do pass with attached amendments(s)
- 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

[Signature]

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]  
CHAIRMAN

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FEB 26 1981

JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811

February 26, 1981

The Honorable Donald E. Clocksin  
Chairman  
House Health, Education and Social  
Services Committee  
Room 106 - Capitol Building  
Juneau, Alaska

Dear Mr. Clocksin:

Re: House Bill No. 5

House Bill No. 5, an Act removing the prohibition on intoxicated persons entering premises licensed to serve alcoholic beverages, was introduced in the House on February 4, 1981 and was referred to the House Health, Education and Social Services and Judiciary Committees.

For the consideration of the House Health, Education and Social Services Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Patrick L. Sharrock, Director, Alcoholic Beverage Control Board, Department of Revenue, Anchorage concerning the proposed legislation.

Sincerely,



R. D. Stevenson  
Special Assistant

cc: The Honorable Fred E. Brown  
Chairman  
House Judiciary Committee

Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Patrick L. Sharrock, Director  
Alcoholic Beverage Control Board  
Department of Revenue  
Anchorage, Alaska

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB#5  
 Title Remove prohibition on intoxicated persons entering licensed premises  
 Requested by Representative Rogers Date \_\_\_\_\_

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

There will not be any fiscal impact on this BRU with passage of this legislation.

February 4, 1981

Representative Brian Rogers  
State of Alaska  
Pouch V  
Juneau, Alaska 99811

Dear Representative Rogers:

The Legislative Affairs Committee of the Northern Alaska Health Resources Association is studying HB 5, of which you are the prime sponsor. In order for us to understand your bill thoroughly, we need to have a clear idea of your reasons for filing the bill.

Please send us your statement of intent or other explanatory materials which will help us understand HB 5.

Thank you

Sincerely,

  
Paul Sherry  
President

PS/SEM/bh

REPRESENTATIVE  
**BRIAN ROGERS**  
*Alaska State Legislature*

10 February 1981 .

Paul Sherry, President  
Northern Alaska Health Resources Assoc., Inc.  
529 5th Avenue, Suite 8  
Fairbanks, Alaska 99701

Dear Mr. Sherry,

Thank you for your letter of February 4 regarding my intent in writing and introducing House Bill 5.

The spark for HB 5 was brought about by bar owners complaining that the present law prohibiting intoxicated persons on the premises forced them into a position where they had to order obviously drunk people out of the building and probably into their cars to drive home. What they wanted was the right to serve a cup of black coffee and maybe something to eat to these people in hopes of getting them into a position where they were more apt to be able to take care of themselves.

The law stands that forbids giving alcohol to intoxicated persons but I felt some provision should be made whereby a bartender or other worker would have more options in helping without possibly violating the law. I hope this explains the purpose of this bill to your satisfaction.

Thank you for your attention and concern.

Sincerely,



Rep. Brian Rogers

BR/vb

HB

10

COMMITTEE REPORT

HOUSE

<sup>4</sup>  
2/7/81  
(5)

FURTHER:

Date: May 20, 1981  
~~April 20, 1981~~

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HR 10

"An Act prohibiting smoking in certain businesses in which food is sold."

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 HR 10  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 SI.  
DO PASS

John Clack  
Scott Gato  
Larry Martin  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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

John Clack  
 CHAIRMAN

6 copies  
for HB  
10  
/

LAW OFFICES

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PESTINGER AND ANDERSON

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LYDIA V. ANDERSON  
W. BRUCE MONROE  
RODNEY E. CARRAN  
MICHAEL R. SPART  
JOSEPH W. CROMBIE  
DOUGLAS J. BERDAHELY  
WINSTON S. BURGANS  
CAROL A. JOHNSON  
JOSEPH W. EVANS  
E. BUDD SIMPSON  
CONSTANCE F. BROOKS  
JACK D. CLARK  
PAUL W. GRANT  
MIRIAM M. OWEN  
DANIEL W. WESTERBURG  
WILLIAM P. HORTON  
C. FLOYD MATHEWS  
KATHRYN A. BLACH  
PAUL L. BILLEN  
STANLEY T. LEWIS  
MARC W. JUNE  
SUSAN P. BEHRE

March 2, 1981

The Honorable Mike Miller  
Alaska House of Representatives  
Pouch V  
Juneau, Alaska 99911

Re: House Bill No. 10 - An Act Prohibiting  
Smoking in Certain Businesses in Which Food  
Is Sold.

Dear Mike:

I am the registered lobbyist for the Tobacco Institute. We are interested in House Bill 10 which proposes to amend AS 18.35.300 by adding a new paragraph which reads as follows: "(7) A place of business which sells food for consumption other than the premises of the business."

In attempting to analyze the bill, I find that its meaning and intent is not clear. I have been told the intent is to prohibit smoking in grocery stores. If that is the case, it is suggested that perhaps a redrafting of the bill would be in order because that intent is not clear. In the event the bill is adopted in its present form, it could cause confusion.

To date, the Tobacco Institute has not formed a position on the merits of the bill and do not feel it would be possible until the intent of the bill is clarified. I would very much appreciate your comments as to the intent of the bill and perhaps

The Honorable Mike Miller  
March 2, 1981  
Page 2

a legislative redrafting for clarification. In any event, I respectfully request that the Tobacco Institute's interest in the bill be noted and that your staff be requested to notify me when any legislative action is scheduled on the bill.

May I thank you in advance for your kind attention to this matter.

Very truly yours,

BRUCE, HORTON, BITTNER, MONROE,  
PESTINGER AND ANDERSON



Bruce Monroe

BM:pc



DONALD J. ALLAN, Special Agent

Martin S. Polhemus, CLU, General Agent

April 24, 1981

Representative Don Clocksin  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Clocksin:

This letter is to express support for HB 10 entitled "An Act prohibiting smoking in certain businesses in which food is sold" and to request scheduling of the bill in the HESS Committee at the earliest possible date.

Legislation to provide a smoke-free environment in supermarkets and grocery stores is long overdue. I hope that you will consider the following needs for this legislation when HB 10 is reviewed in the HESS Committee:

1. Supermarkets and grocery stores, unlike cocktail lounges, restaurants and most retail stores, provide the basic necessities of life and must be visited by smokers and non-smokers alike. The very young, the very old and those with especially vulnerable lungs have no choice but to visit these stores which provide the essentials of life. Now that second hand smoke has been demonstrated to be dangerous to non-smokers, we should not require people to breathe it in the course of shopping for the food they need.
2. Smoking presents a very real danger of fire in supermarkets and grocery stores. I have observed people with cigarettes concentrate on what they are looking for on the shelves and forget about the cigarette in their hand off to the side which has come close to igniting the highly combustible paper products on other nearby shelves.
3. Smoking in food stores prevents cleanliness, not only of the air but of the floor and shelves as well. One supermarket owner mentioned to me a problem with ashes found in the fresh produce.
4. The contamination of the air can be substantial at times. This unnecessary exposure of meats before they are packaged detracts from their purity. Similarly, the fresh produce accumulates some contaminants from the air.

Representative Don Clocksin  
April 24, 1981  
Page Two

5. One supermarket owner I talked to said he was concerned about losing business as a result of complaints from smokers if he would put up NO SMOKING signs and the other supermarkets did not do the same. At the same time, he said he was surprised there was not already a health law prohibiting smoking in supermarkets. He acknowledged a real problem with cleanliness resulting from the smoking. He felt the state would be doing the supermarket owners a favor by prohibiting smoking in supermarkets for health reasons. He favors a law that would require smoking to be prohibited in all food stores. If fear of competition prevents food store owners from taking steps toward maximum cleanliness, they truly need legislation to protect the public interest.
6. Last spring in one specific incident in a large supermarket in Juneau, the pungent odor of "something burning" filled the air around the check-out lanes. Several customers inquired about this odor to the store managers who were unable to account for the odor. Finally, the burning odor was traced to a push-broom and pile of trash in a back room. The hairs on the push-broom had ignited after it had been used to sweep the aisles in the store; a lighted cigarette butt was among the sweepings. If this trash pile had smoldered until after the closing hours of the store, a devastating fire might have resulted.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Don Allan". The signature is written in a cursive style with a long horizontal stroke at the end.

Donald J. Allan

# Fairbanks Clinic

1867 Airport Road • P.O. Box 1330 • Fairbanks, Alaska 99707 • (907) 452-1761

April 29, 1981

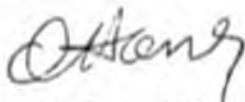
Representative Don Clocksin  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Clocksin:

I urge you to support House Bill #10 entitled, "An Act Prohibiting Smoking in Certain Businesses in which Food is Sold". In my specialty of pulmonary medicine, a large number of my patients with asthma, emphysema, obstructive lung disease, and cardiac conditions are extremely sensitive to the aggravating effect of cigarette smoke on their disease. They are able to avoid many other occasions where the smoke of others is polluting the air, but it is hard for them to avoid supermarkets and grocery stores. They have no choice but to patronize these stores which provide the essentials of life.

I would appreciate your efforts to schedule this bill before the Health Education and Social Services Committee.

Sincerely,



Owen Q. Hanley, M.D.  
Internal Medicine

OQH:cmu

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January 21, 1981

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LEONARD V. ANDERSON  
W. BRUCE HORTON  
ROBERT H. GARMAN  
MICHAEL R. SPAAN  
JOSEPH M. CHOMSKI  
DOUGLAS J. BERDAHEL  
WINSTON S. BURHANK  
CAROL A. JOHNSON  
JOSEPH W. TSAI  
E. JUDY SIMPSON  
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WILLIAM P. HORTON  
C. FLOID MATHEWS  
HARRIS A. BEACH  
PAUL L. DILLON  
STANLEY I. LEWIS  
MARC W. JUIE  
SUSAN P. BEHLKE

Mr. Joe Cladouhos, Chief  
Environmental Sanitation  
Alaska Department of Environmental Conservation  
Pouch O  
Juneau, Alaska 99811

Re: Proposed Regulations 18 AAC 55.010-070

Dear Mr. Cladouhos:

We represent the Tobacco Institute. Thank you for the opportunity to comment regarding the proposed new regulations effecting smoking in public places. This testimony is prepared on behalf of the Tobacco Institute and reflects their concern that the proposed regulations are poorly drafted. Further, they violate established principles of law, procedure and statutory construction. Additionally, the proposed regulations are ambiguous in part, unnecessarily redundant of existing law and exceed the scope of legislation incorporated in AS 18.35.300-340.

The proposed regulations are presented in an uncommon fashion. Two distinct departments of the state government, the Department of Health and Social Services and the Department of Environmental Conservation, are promulgating regulations jointly. Together the departments have solicited public comments on the regulations through the Alaska Department of Environmental Conservation. The legislative language the regulations address is found at AS 18.35.300, et seq. Title 18 is captioned "Health and Safety" and grants power to the Department of Health and Social Services to carry out designated duties.

The Department of Environmental Conservation receives its grant of authority in Title 46 of the Alaska Statutes captioned as "Water, Air and Environmental Conservation." A reading of DEC's declaration of policy found in AS 46.03.010(a) reveals:

"It is the policy of the state to conserve, improve and protect its natural resources and environment and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the state and their overall economy and social well-being."

Mr. Joe Cladouhos, Chief  
Environmental Sanitation  
January 21, 1981  
Page 2

While Title 46 mentions the word: "health and safety," it is in the context of the Department of Environmental Conservation's purpose. That purpose is to conserve, improve and protect the natural resources and environment of the state. The proposed regulations cite as authority AS 46.03.020(10)(A), AS 46.03.020(10)(B) and AS 46.03.140 as properly enabling the Department of Environmental Conservation to promulgate the proposed regulations. Use of these sections of the Alaska Statutes is an overreaching attempt by the Department of Environmental Conservation to regulate conduct of the general public. The Department's authority is relegated to pollution problems within the context of the natural environment.

A review of relevant Alaskan law reveals no authority for the Department of Environmental Conservation's regulation of smoking. What authority exists can only be located in Title 18 as it impacts on the health of Alaskan citizens. For the above enumerated reasons, there is no question that the only agency lawfully able to promulgate regulations with respect to AS 18.35.300-340 is the Alaska Department of Health and Social Services. Executive order number 51 introduced in the Alaska Senate on January 13, 1981, by Governor Hammond recognizes and acknowledges that the Department of Health and Social Services and not the Department of Environmental Conservation has sole authority relating to Title 18 under present law. Executive order number 51 will not be effective until July 1, 1981, if at all. Until then, the Department of Environmental Conservation has no authority to adopt or enforce regulations under AS 18.35.300-370.

With respect to proposed 18 AAC 55.010, it is not apparent what purpose is served by including this section. The proposed regulations in this section are an almost verbatim quote of AS 18.35.300. The proposed regulations do not clarify any possible ambiguities existing in current law. At best the inclusion of this portion of the regulations would be unnecessarily duplicative of existing law.

If the Department of Health and Social Services believes there is a need to clarify the existing statute, then an effort should be made in that direction. Proposed 18 AAC 55.010(3), (AS 18.35.300(3)) provides a splendid example of this need for clarification as opposed to redundancy. The proposed regulation omits the word "state" following the words "under the control." While the statute seemingly contemplates a broad categorical

Mr. Joe Gladouhos, Chief  
Environmental Sanitation  
January 21, 1981  
Page 3

inclusion of the smoking ban during public meetings, at state facilities, the regulations retreat from this standard. By excluding "state" and including "state departments and agencies," the condition of selective enforcement is created. The regulation, if enacted, would create a judicial double standard. Additionally, section 18 AAC 55.010(3) of the proposed regulations greatly confuses the already ambiguous statutory language. For example, does the smoking ban apply to any meeting at a state facility, or to a state meeting at any place (public or private facilities included) or both? If there is a need to regulate at all, this is a section that requires extensive clarification. As written, however, this portion of the proposed regulations does nothing to promote understanding of the law. In fact it tends to cloud the issue.

Likewise, proposed 18 AAC 55.020, part (a) suffers from a needless duplication of existing statutory law. This portion of the proposed regulation is so nearly identical to AS 18.35.310 as to be unnecessary. What benefit is gained by simply quoting a statute in a regulation? If the purpose of regulations is to implement or to flesh out the statute, then copying the language of the statute in the regulation accomplishes nothing. We certainly question the need to add to the burgeoning body of regulatory law in such a manner.

Subsection (b) of proposed 18 AAC 55.020 raises additional questions. ASHRAE standards are given the unconditional force of law with respect to air circulation. This incorporation of industrial standards in both the present and as to the future is an impermissive allocation of regulatory power. Nowhere in the current statute is an industry association granted future regulatory decision-making authority. The blanket incorporation of ASHRAE standards without durational limit is vague, indefinite and violates state law. One reason for the prohibition against delegation of the future lawmaking power of the state to private groups is that when amendments are adopted by those groups, the public does not necessarily receive notice of or have an opportunity to comment on or criticize the amendments, as it does when they are adopted by the legislature or promulgated under law. Northern Lights Hotel, Inc. v. Sweeney, 561 P.2d 1176, aff'd on rehearing 563 P.2d 256 (Alaska 1977).

Subsection (b)(?) of the proposed 18 AAC 55.020 also provides for an exemption of part of the standards upon documentation by a mechanical engineer registered in Alaska. In view of

Mr. Joe Gladounos, Chief  
Environmental Sanitation  
January 21, 1981  
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recent U.S. Supreme Court decisions striking down protectionist legislation in Alaska, it is possible that a regulation specifying an Alaskan engineer is violative of the commerce clause and other portions of the U.S. Constitution.

The most troublesome part of the entire proposed regulations is 18 AAC 55.060, entitled "enforcement procedure." Nowhere does AS 18.35.300, et seq., empower the Alaska Health and Social Services Department or any other Department to promulgate enforcement procedures with respect to smoking violations. Indeed the agency has omitted any citation of general statutory authority under which the regulation may be adopted, as required by AS 44.62.040(b).

The proposed enforcement procedure regulations are a blatant intrusion into existing criminal and civil procedure portions of the Alaska Statutes and Supreme Court Rules of Procedure. The Supreme Court of Alaska in reviewing regulations will first ascertain whether the regulation is consistent with and reasonably necessary to the purposes of the statutes, and second whether the statute is reasonable and not arbitrary. Kelly v. Zamarello, 486 P.2d 906 (1971). The proposed enforcement procedure portion of the regulations fails both parts of the test articulated by the Supreme Court. Lacking authority to regulate procedure, the Department also arbitrarily tramples substantive rights of possible defendants charged under the proposed scheme. The regulatory scheme outlined at 18 AAC 55.060(c) purports to charge costs and fees against a person violating any of the portions of the smoking in public places statute. The Courts, not the Department, have the authority to award costs and fees as outlined in Alaska Civil Rule 79. Because the enforcement procedure provision is clearly outside the scope of the Department's regulatory authority, it should not be included in any regulatory scheme.

The provision under which defendants may be charged with court costs, also raises substantial questions with respect to the right to a jury trial. Despite the nominal "civil" nature of the penalty, any fine which may indicate criminality can only be levied after trial by jury. Small claims court procedure does not provide for jury trial. Therefore, since court costs obviously may exceed the dollar limitation for nonjury matters, the regulations may violate a defendant's right to a jury trial. Again, the wisdom of leaving the enforcement mechanism in the hands of the courts becomes apparent.

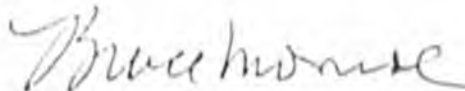
Mr. Joe Cladouhos, Chief  
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In conclusion, while there may be some need to clarify the existing state smoking statute, the proposed regulations are a long way from providing meaningful clarity. As written, the regulations serve to confuse existing rights instead of illuminating the public purpose under the law. The unnecessary intrusion of the Department into the Court's procedural area is troublesome, as is the repetitive nature of the proposed regulations. Regulations should do more than mirror existing state law. The regulations should clarify statutory language within the scope of the enacted legislation.

For the reasons outlined above, we believe that a substantial revision of the proposed regulations is in order. If you have further questions, please feel free to call me at your earliest convenience.

Very truly yours,

BIRCH, HORTON, BITTNER, MONROE,  
PESTINGER AND ANDERSON



Bruce Monroe

BM:pc

## DEPT. OF ENVIRONMENTAL CONSERVATION

POUCH 0  
 JUNEAU, ALASKA 99811  
 PHONE:

February 11, 1981

Mr. Bruce Monroe  
 BIRCH, HORTON, BITTNER, MONROE,  
 PESTINGER AND ANDERSON  
 130 Seward Street, Suite 411  
 Juneau, AK 99801



Dear Mr. Monroe:

Re: Proposed Regulations:  
 "Smoking In Public Places"

Thank you for your helpful comments on the subject regulations. Many comments and recommendations have been incorporated into the attached revision. Some suggestions were not legally possible (e.g. control of smoking in airline terminals, restaurants, food stores, etc.) because regulations may not exceed the authority of the statute.

You will be notified if further modifications are made or if the Department intends to adopt the attachment (after July 1, 1981).

Thanks again for your interest and assistance.

Sincerely,

*Joe Cladouhos*  
 Joe Cladouhos, Chief  
 Environmental Sanitation

Enclosure

P.S. Please feel free to contact me  
 at your convenience (465-2656)  
 after March 2<sup>nd</sup> if you have  
 further comments or recommendations. Thanks.

Chapter 55. SMOKING IN  
PUBLIC PLACES

Section

- 10. Exemptions
- 20. Smoking Areas
- 30. Signs
- 40. Penalties
- 50. Complaint Procedure
- 60. Waiver of Requirements
- 70. Definitions

18 AAC 55.010. EXEMPTIONS. (a) Smoking is permitted in the vehicles and places set out in AS 18.35.300 only if

(1) the smoking is confined to areas which are specifically designated under 18 AAC 55.030 as smoking areas by the owner, manager, proprietor or other person who has control over the premises;

(2) the place or vehicle is being used for a private gathering or affair which is privately sponsored and is not open to the general public;

(3) the smoking is done by performers upon the stage as part of a theatrical production; or

(4) The department has granted a written exemption under (b) of this section for a building or room, on the basis that it is sufficiently well-ventilated by natural or mechanical means.

(b) Written exemptions for well ventilated buildings or rooms will be granted

(1) upon documentation by a mechanical engineer registered in Alaska that the building or room has total air circulation the minimum standards established by ASHRAE Standards 62-73 (1973).

(2) upon documentation by a mechanical engineer registered in Alaska that devices, such as electrostatic precipitator or high efficiency filters, yield air quality which meets the minimum standards established by ASHRAE standard 62-73 (1973).

(c) Application for a written exemption under (b) of this section must be made in writing and must include

(1) a description, including the location, of the vehicle, room or building for which the written exemption is defined; and

(2) a description of the ventilation equipment or other device which is the basis for the application.

(d) All requests for a written exemption under (b) of this section will be answered in writing.

(c) A designated smoking area which is required by (b) of this section must be a separate room, hallway, or entrance area, except as provided by (d) of this section.

(d) In a building covered by AS 35.300(5) and in a building which contains a room covered by that subsection, the designated smoking area which is required by (b) of this section may not be a lobby or hallway.

(e) If a smoking area is designated in a bus it must be clearly separated from the part of the bus in which smoking is prohibited. The smoking area may not occupy more than half the total area of the bus.

(Eff. Reg. )

AUTHORITY: AS 18.35.320

AS 18.35.360

AS 46.03.020

AS 46.03.140

18 AAC 55.030. SIGNS. (a) Every owner, manager, proprietor or other person who has control of a vehicle or place covered by AS 18.35.300(1)-(5) shall conspicuously display in the vehicle or place signs reading "Smoking Prohibited by Law", unless the vehicle or place is exempted under 18 AAC 55.010. At least one sign must be visible and legible from any part of the vehicle or place. A sign required by this subsection must include the international no smoking symbol.

(b) Every owner, manager, proprietor, or other person who has control of a vehicle or place in which a smoking area has been designated under 18 AAC 55.020 shall conspicuously display in the smoking area signs reading "Smoking Permitted in this Area". These signs must be identical in size to the "Smoking Prohibited by Law" signs in the same building. A sign required by this subsection must include the international smoking permitted symbol.

(c) Additional signs of the appropriate type may be posted at entrances to vehicles and areas. (Eff. Reg. )

AUTHORITY: AS 18.35.330

AS 18.35.360

AS 46.03.020

AS 46.03.140

18 AAC 55.040. PENALTIES. A person who violates this chapter is subject to civil fines as provided by AS 18.35.340. (Eff. Reg. )

AUTHORITY: AS 18.35.340

AS 18.35.360

AS 46.03.020

AS 46.03.140

18 AAC 55.050. COMPLAINT PROCEDURE. (a) Any person who observes a violation of THIS CHAPTER OR OF AS 18.35.300 - 18.35.360 may notify any office of the department.

(b) The department will provide an affidavit in which the complainant may describe the observed violation, and a form agreement in which the complainant may promise to testify in court under subpoena concerning the observed violation, if testimony becomes necessary.

(c) If the complainant executes both documents, the department, with the assistance of the attorney general's office, may file a complaint in small claims court for a civil fine and any court costs and attorney's fees against the person who was observed violating this chapter or AS 18.35.300 - 18.35.360. (Eff. 1/1/81, Reg. )

- AUTHORITY: AS 18.35.340
- AS 18.35.350
- AS 18.35.360
- AS 46.03.020
- AS 46.03.140

18 AAC 55.060. WAIVER OF REQUIREMENTS. (a) The department may, at its discretion, waive a requirement of 18 AAC 55.010 - 18 AAC 55.070 if it determines that the public health and welfare and the satisfaction of the purpose of the requirement is reasonably assured.

(b) Application for a waiver must be made in writing and must include

(1) identification of the provision for which waiver is requested;

and

(2) reasons why the provision cannot be met; and

(3) a description of any alternative method proposed for meeting the purpose of the provision to be waived.

(c) All requests for waiver will be answered in writing. (Eff. Reg.

)

Authority: AS 18.35.350

AS 18.35.360

AS 46.03.020

AS 46.03.140

18 AAC 55.070. DEFINITIONS. (a) In this chapter

(1) "ASHRAE" means the American Society of Heating, Refrigeration and Air Conditioning Engineers;

(2) "complainant" means a person who has observed a violation of this chapter and notifies the department.

(3) "Department" means the Department of Environmental Conservation.

(b) In AS 18.35.300 - 18.35.360

(1) "public meeting" means any regular or special meeting or hearing of the state or any department, division, agency, board, commission, council or committee of the executive or legislative branches of state government<sup>f.</sup> exercise, consider, or discuss any governmental power.

(c) In this chapter and in AS 18.35.300 - 18.35.360

(1) "bus" means a bus or motor bus as defined in 3 AAC 66.39.;

(2) "limousine for hire" means a limousine common carrier as defined in 3 AAC 66.380(3).

(3) "other person who has control" means the agent of the owner, manager or proprietor authorized to perform administrative direction to and general supervision of the activities in a vehicle or place at any given time. In a state office, "other person who has control" means the division director with authority over the office or his designee.

(4) "room" means any indoor area which is bordered on all sides by walls or partitions which are continuous and solid except for door portals for entry and exit;

(5) "smoking" includes holding or carrying a lighted cigar, cigarette, pipe or other lighted smoking equipment or material.

(Eff. / /81, Reg. )

ARTICLE 4. HEALTH NUISANCES.

Section

Section

300. Smoking in public places, vehicles prohibited  
310. Exemptions

320. Smoking areas provided  
330. Display of smoking prohibited signs  
340. Penalties

Sec. 13.25.200. Smoking in public places, vehicles prohibited. Smoking in any form may constitute a nuisance and is prohibited in the following areas, unless otherwise exempted by this chapter:

- (1) a train, limousine for hire, bus, state operated ferry vessel, or elevator;
- (2) a library, indoor theater, museum, lecture or concert hall, gymnasium, or swimming pool or other indoor publicly owned and operated place of entertainment or recreation;
- (3) a public school; or in a room, chamber, place of meeting or public assembly under the control of the state, or a department or agency of the state, while a public meeting held under the auspices of the state, or a department or agency of the state, is in progress;
- (4) the public waiting room of laboratories associated with health care or the healing arts;
- (5) the waiting room, restroom, lobby or hallway of a hospital, nursing home, rest home or other health care institution or facility; or
- (6) a place of business in which the owner, manager, proprietor, or other person who has control of the premises posts a sign conveying the message that smoking is prohibited by law. (S 1 ch 125 SLA 1975)

Sec. 13.25.310. Exemptions. Smoking in the places or vehicles set out in 300 of this chapter is permitted if

- (1) the smoking is confined to areas which are specifically designated as smoking areas;
- (2) the place, vehicle, or passenger caton is being used for a private gathering or affair which is privately sponsored and is not open to the general public;
- (3) the smoking is done by performers upon the stage as part of a theatrical production; or
- (4) the state, or a department or agency of the state, has exempted the building or room in which it has control on the basis that the building or room is sufficiently well ventilated by natural or mechanical means. (S 1 ch 125 SLA 1975)

Sec. 13.25.320. Smoking not prohibited. (a) In a building covered by § 300(1), (3) or (4) of this chapter, reasonable smoking areas must be provided, unless prohibited for the protection of the public safety, or the protection and preservation of the building and its contents.

(b) To the extent practicable, the state shall require its leases or subleases to provide separate smoking areas. (S 1 ch 125 SLA 1975)

Sec. 13.25.330. Display of smoking prohibited sign. Every owner, manager, proprietor or other person who has control of a place or vehicle set out in § 300(1) - (4) of this chapter shall conspicuously display in the place or vehicle a sign reading, "Smoking Prohibited by Law" (S 1 ch 125 SLA 1975)

Sec. 13.25.340. Penalties. (a) A person who willfully violates the provisions of § 300 of this chapter is punishable by a civil fine of not less than \$5 nor more than \$25 for each offense.

(b) A person who willfully violates § 310 of the chapter is punishable by a civil fine of not less than \$10 nor more than \$100 for each offense.

(c) Punishment under this section shall be assessed only by civil complaint or citation. The court may establish procedures for payment of fines by instalment. (S 1 ch 125 SLA 1975)

POSITION PAPER

HOUSE BILL NO. 10

"An Act prohibiting smoking in certain businesses in which food is sold."

HB No. 10 expands that category of Public Health nuisances dealing with smoking in public places.

Public Health Impact

Annually the secondary effects of smoking take a tremendous toll of our state's resources in the form of illness and death. With the illnesses associated with smoking there is a high financial cost.

We are beginning to receive reports from the U. S. Department of Health and Human Services (formally DHEW) of a much higher than anticipated health risk to nonsmokers when they are forced to breathe the smoke generated by smokers.

Public Acceptance of Smoking Laws

We are finding, as the public becomes more aware of the laws covering smoking in public places, we are receiving more contacts from the public requesting assistance.

Applicability of Proposed Law

The proposed law as worded could effect businesses such as: food stores, bakeries, liquor stores, take-out restaurants with no seating capacity, delicatessens, meat and fish markets, dairies, food warehouses selling retail, candy shops and other similar operations.

Department Position

The Department of Health and Social Services is aware of the public health problems associated with inhaling cigarette smoke and does recognize the discomfort of nonsmokers who, in public places, are forced to inhale this cigarette smoke. We endorse the passage of this bill.

**POSITION PAPER/Department of Health & Social Services**

Recommended by:

David Bruce  
David Bruce, Deputy Director  
Division of Public Health

Date:

January 20, 1981

Approved by:

Helen D. Beirne  
Helen D. Beirne  
Commissioner

Date:

Feb 1, 1981

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NGTE

**I. REQUEST**

Bill/Resolution No. House Bill No. 10  
 Title "An Act prohibiting smoking in certain businesses in which food is prepared"  
 Requested by Commissioner's Office Date 01/22/81

**II. FISCAL DETAIL**

Agency Affected Department of Health & Social Services  
 Program Category Affected Health/Division of Public Health  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_

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

**EXPENDITURES** (Thousands of Dollars)

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

**TOTAL**

**FUNDING** (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

**POSITIONS**

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

IV. DATE 04/20/81 PREPARED BY David Bruce  
 AGENCY Public Health Administration  
 PHONE 465-3000  
 Original: Legislative Finance  
 Budget and Management  
 cc: Prime Sponsor (First Legislature Named) 1/23/81

## FACTS ABOUT NONSMOKERS

It just seems as if everyone smokes. Most people don't.

More than 30 million adult Americans have kicked the cigarette habit. Millions more are trying. Among adults, only one in three still smokes. In the population as a whole, it's one in four. Even counting cigar and pipe smokers, nonsmokers are a clear majority.

Nonsmokers are no longer a silent majority, though. They mind if you smoke. And they're speaking up. They see tobacco smoke as a pollutant that defiles their air. And new research gives them ammunition to defend themselves. It shows that second-hand smoke can have harmful effects on nonsmokers.

## OPEN BURNING

Tobacco smoke is a very complex mixture of gases, liquids, and particles. There are hundreds of chemical compounds in tobacco and hundreds more created when tobacco burns.

Some of the most hazardous compounds are tar, nicotine, carbon monoxide, cadmium, nitrogen dioxide, ammonia, benzene, formaldehyde, and hydrogen sulphide. And dozens of others. Any one alone can assault the body and cause trouble. Together, they make smoking the menace it is.

Even when a smoker inhales, researchers have calculated that two-thirds of the smoke from the burning cigarette goes into the environment. The percentage of pollution from cigar and pipe smoke is even higher.

The amount of carbon monoxide generated from one cigar, in fact, is twice as high as from three cigarettes smoked simultaneously.

## SIDESTREAM SMOKE

Every time anyone lights a cigarette or cigar or pipe, tobacco smoke enters the atmosphere from two sources. Most important for nonsmokers, there is sidestream smoke, which goes directly into the air from the burning end. Then, there is mainstream smoke, which the smoker pulls through the mouthpiece when he or she inhales or puffs. Non-

smokers are also exposed to mainstream smoke after the smoker exhales it.

A cigarette smoker inhales—and exhales—mainstream smoke eight or nine times with each cigarette for a total of about 24 seconds. But the cigarette burns for 12 minutes and pollutes the air continuously with sidestream smoke. Smokers can keep cigars and pipes burning for a much longer time. The pollution lingers long after.

The fascinating fact is that sidestream smoke—the smoke from the burning end—has higher concentrations of noxious compounds than the mainstream smoke inhaled by the smoker. Some studies show there is *twice* as much tar and nicotine in sidestream smoke compared to mainstream. And *three* times as much of a compound called 3-4 benzpyrene, which is suspected as a cancer-causing agent. *Five* times as much carbon monoxide, which robs the blood of oxygen. And *50* times as much ammonia.

There is also evidence that there is even more cadmium in sidestream smoke than in mainstream. Cadmium is now under investigation as one of the compounds in cigarette smoke that damages the air sacs of the lungs and causes emphysema. Once cadmium gets into your lungs, it stays there.

## CARBON MONOXIDE

Carbon monoxide is a colorless, odorless gas created by incomplete combustion. Car exhaust puts it in the air. So does tobacco smoke.

While it is extremely difficult to measure the amount of tar or cadmium in someone's lungs or body before death, it is relatively easy to measure the levels of carbon monoxide in the blood.

When you inhale carbon monoxide, the gas bumps oxygen molecules out of your red blood cells and forms a new compound called carboxyhemoglobin, which can be measured. As the amount of this compound increases in your blood, the cells of the body become starved for oxygen.

One study shows that after only thirty min-

utes in a smoke-filled room the carbon monoxide level in the nonsmoker's blood increases as well as the blood pressure and heart beat.

## HAZARDOUS LEVELS

What levels of carbon monoxide are hazardous? In industry, the maximum concentrations of carbon monoxide in the air cannot average out to more than 50 p.p.m. (parts per million); and efforts are now underway to reduce the maximum to 25. The Federal Air Quality Standards for the *outside air* limit concentrations to an average of 9 p.p.m.

Given this as a baseline, how much carbon monoxide do cigarettes send into the air?

Researchers have found that smoking seven cigarettes in one hour—even in a ventilated room—created carbon monoxide levels of 20 p.p.m. In the seat next to the smoker, the level shot up to 90 p.p.m., almost twice the maximum set for industry. Smoking ten cigarettes in an enclosed car also produced carbon monoxide levels up to 90 p.p.m. The carbon monoxide level in the blood of nonsmokers as well as smokers in the car doubled.

When nonsmokers were exposed to these levels, the carbon monoxide level in their blood not only doubled within the first hour, but doubled again during the second hour.

When nonsmokers leave a smoky environment, it takes hours for the carbon monoxide to leave the body. Unlike oxygen which is breathed in and then out again in minutes, carbon monoxide in the blood lasts for hours. After three or four hours, half of the excess carbon monoxide is still in the bloodstream.

## EFFECTS OF THE GAS

Some studies indicate that with these levels of carbon monoxide in the blood, people—including drivers—cannot distinguish relative brightness, lose some ability to judge time intervals, and take longer to respond to tail lights. They also show impaired performance on some psychomotor tests. These levels of carbon monoxide in the blood create physiologic stress in heart disease patients. The re-

sultant lack of oxygen can also add distress for people who already have lung disease.

Animals exposed to carbon monoxide (levels from 50 to 100 p.p.m.) continuously for weeks showed damage to heart and brain.

## OTHER COMPOUNDS

Not enough research has been done yet on the effects on nonsmokers of other compounds in tobacco smoke. For example, hydrogen cyanide is a poison that attacks respiratory enzymes. It is not found in ordinary air pollution. But the concentration in cigarette smoke itself is 1600 p.p.m. Long-term exposure to levels above 10 p.p.m. is considered dangerous.

Nitrogen dioxide is an acutely irritating gas that can damage the lungs. Levels of 5 p.p.m. in the air are considered dangerous. Cigarette smoke contains 250 p.p.m.

## ANIMAL RESEARCH

Some researchers have exposed mice to second-hand smoke over a period of one or two years. A significant number of mice developed severe bronchitis, an inflammation of the bronchial tubes that connect the windpipe with the lungs. Rabbits exposed to smoke from 20 cigarettes per day for two to five years developed emphysema, destruction of the air sacs in the lungs.

Dogs exposed to cigarette smoke ten times per week for one year suffered a breakdown in lung tissues. Rats exposed to second-hand smoke for 45 minutes a day for two to six months showed twice as many lung tumors as a control group.

The exact parallel between animal and human exposure in smoke-filled rooms is difficult to determine at this stage of research. But some of the implications are serious indeed.

## EFFECTS ON CHILDREN AND ASTHMATICS

Parents who smoke at home can aggravate symptoms in some asthmatic children and even trigger asthma attacks. There are millions of people, adults as well as children,

who are sensitive to tobacco smoke and suffer smoke-caused asthma attacks. Parents should limit their smoking to separate rooms away from these children or, better yet, should quit smoking altogether.

Even among nonasthmatic children, a team of researchers found that respiratory illnesses happened twice as often to young children whose parents smoked at home compared to those with nonsmoking parents.

In a study of 441 nonsmokers divided into two groups—those with a history of allergies and those without—70 percent of *both* groups suffered from eye irritations caused by smoke. Even among the nonallergic groups, 30 percent developed headaches and nasal discomfort, while 25 percent experienced coughs as a result of the smoke.

#### TOBACCO SMELLS

Contamination and odors are immediately created by such elements in tobacco smoke as ammonia and pyridine. Pyridine is a strong irritant that is produced when nicotine burns. The presence of a minute amount in the air produces distinctly unpleasant odors.

The contamination is so intense that when someone lights a cigarette, cigar or pipe in an air-conditioned environment, the air-conditioning demands can jump as much as 600 percent to control odor.

Another intriguing finding from air-conditioning research is that the human body attracts tobacco smoke. Burning tobacco smoke creates a high electrical potential, whereas the water-filled human body has a low one. The smoke in a room gravitates and clings to people in much the same way as iron filings are drawn to a magnet.

And the odors linger on. Chemicals in tobacco smoke called aldehydes and ketones supply the penetrating smell, while the tars hold them to your skin and your clothes. But the smoker is not sensitive to the smell because of the destructive effects of smoke on the inner lining of his or her nose.

#### BILL OF RIGHTS

In January, 1974, the National Interagency Council on Smoking and Health signed and adopted a Nonsmoker's Bill of Rights. The Council is composed of 34 organizations, including the American Lung Association, concerned about the effects of tobacco smoking. The Bill declared these three basic rights:

##### The Right to Breathe Clean Air

Nonsmokers have the right to breathe clean air, free from harmful and irritating tobacco smoke. This right supersedes the right to smoke when the two conflict.

##### The Right to Speak Out

Nonsmokers have the right to express—firmly but politely—their discomfort and adverse reactions to tobacco smoke. They have the right to voice their objections when smokers light up without asking permission.

##### The Right to Act

Nonsmokers have the right to take action through legislative channels, social pressures or any other legitimate means—as individuals or in groups—to prevent or discourage smokers from polluting the atmosphere and to seek the restriction of smoking in public places.

Here's what nonsmokers can do:

- Let family, friends, co-workers and strangers know you mind if they smoke.
- Put stickers, buttons, and signs in your home, car, and office.
- Always request seating in nonsmoking sections when you travel.
- Support legislation to restrict smoking or set up smoke-free areas in public places.
- Ask your doctor and dentist to restrict smoking in their waiting rooms and to establish no-smoking regulations in all health care facilities, including hospitals.
- Propose no-smoking resolutions at organizations and club meetings.
- Encourage hotels and restaurants to establish no-smoking areas.
- Contact your lung association to organize a group to help provide a smokeless environment for most people, who do not smoke.



Ask your Lung Association for any of these leaflets

Air Pollution  
Asthma  
Bronchiectasis  
Chronic Bronchitis  
Chronic Cough  
Cigarette Smoking  
Cocci (Coccidioidomycosis)  
Common Cold  
Dust Disease  
Emphysema  
Farmer's Lung  
Flu (Influenza)

Hay Fever  
Histoplasmosis  
Pipe & Cigar Smoking  
Pleurisy  
Pneumonia  
Sarcoidosis  
Second-Hand Smoke  
Shortness of Breath  
TB Outside the Lungs  
Tuberculosis  
Your Lungs

A community service paid for by "Christmas Seals"

Distributed by  
**AMERICAN LUNG ASSOCIATION**  
Affiliate  The Christmas Seal Program  
Use a new seal of safety for each year.

# Second-Hand Smoke

Are you a nonsmoker who is shy about defending yourself against inconsiderate smokers?

Or are you a smoker who doesn't realize the distress you inflict on nonsmokers?

Find out the effects of tobacco smoke on nonsmokers.

## Take A Look At The Facts

H B

| |

COMMITTEE REPORT

HOUSE

(5)

FURTHER: FINANCE

3/17/82

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

Mr. Speaker:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had 2d SSB 11

"An Act relating to midwifery."

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 2d SSB 11  same title  new title

and recommends \_\_\_\_\_

AND attains a "Letter of Intent"  New Fiscal Note (x) with Zero fiscal impact

reports it back without recommendation

referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING DO PASS

Terry M. ...  
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MEMBERS HAVING OTHER RECOMMENDATIONS:

J. ...  
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\_\_\_\_\_  
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\_\_\_\_\_

J. ...  
CHAIRMAN

# COMMITTEE REPORT

## HOUSE

4/27/81

FURTHER:

(5)

Date: May 20 1981

Mr. Speaker:

HEALTH, EDUCATION &  
SOCIAL SERVICES

The Committee on

has had

SSHB 11

"An Act relating to midwifery."

under consideration and reports it back as follows:

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:

[Signature]  
[Signature]  
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[Signature]  
CHAIRMAN



Official Business

# Alaska State Legislature

## House of Representatives

Committee on

Health, Education & Social Services

Pouch V  
State Capitol  
Juneau, Alaska 99811

April 1, 1982

The Hon. Joe Hayes, Speaker  
House of Representatives

Dear Mr. Speaker:

It is the intent of this Committee that this bill, CS2dSS HB 11, establish a legislative basis for licensure of midwives in Alaska. This optional licensure is expected to result in an upgrading of the services provided by all midwives in the state.

The examination provided for in this legislation should be structured so as to uphold the standards of the occupation. Whenever possible, the examination should include oral, written and practical components. This Committee recognized that the unique features of Alaskan geography and culture demand flexibility in the implementation of this intent.

Sincerely,

Mike Beirne, Chairman  
House H.E.S.S. Committee

Introduced: 4/27/81  
Referred: health, Education &  
Social Services

1 IN THE HOUSE

BY ROGERS AND VASKA

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 11

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to midwifery."

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

8     • Section 1. FINDINGS AND INTENT. The legislature recognizes the unique  
9 physical and emotional aspects of childbirth, and the need to protect and  
10 enhance the religious, cultural, and individual freedoms in the manner,  
11 setting, and cost of childbirth. The legislature finds that the traditional  
12 and cultural use of midwives continues and that the demand for midwifery  
13 service is increasing in Alaska without adequate regulation and licensure.  
14 Therefore, the legislature intends that midwifery be regulated in the public  
15 interest to assure that users of midwifery services are aware of the com-  
16 petency levels of their health care providers, and that licensing of mid-  
17 wives does not remove from the parents the responsibility for choosing  
18 where, when, how, and with whom to del'ver their babies.

19     • Sec. 2. AS OS is amended by adding a new chapter to read:

CHAPTER 69. MIDWIFERY.

20     Sec. .69.010. LICENSED MIDWIFE PRACTICE. A person who practices  
21 a licensed midwife shall obtain a license granted by the Department  
22 of Commerce and Economic Development as provided in this chapter and  
23 shall practice midwifery in accordance with this chapter.

24     Sec. 08.69.020. UNLAWFUL REPRESENTATION. It is unlawful for a  
25 person to represent oneself as a licensed midwife unless the person is  
26 currently licensed under this chapter.

27     Sec. 08.69.030. DUTIES OF THE DEPARTMENT. The department shall  
28 (1) license persons to practice midwifery;

Should not  
prohibited  
No requirement for  
birth attendants be  
licensed - only those  
representing self  
(no Assumption  
action)

1 (2) prepare and administer examinations which test compe-  
2 tence in midwifery;

3 (3) prescribe a biennial license fee for licensed midwives  
4 not to exceed \$25;

5 (4) develop, publish, and make available to interested  
6 parties at a reasonable cost, a bibliography and guide to the examina-  
7 tion administered to applicants;

8 (5) require the compliance of licensed midwives with vital  
9 statistic recording requirements;

10 (6) require licensed midwives to maintain statistics relating  
11 to births they attend.

12 *Insufficient requirements*

13 Sec. 08.69.040. LICENSURE AS A MIDWIFE. A person is eligible for  
14 licensure as a midwife if that person

15 (1) is at least 18 years of age;

16 (2) furnishes proof of having received a high school degree  
17 or its equivalent;

18 *National Midwives Assoc.*

19 *recommend 50 births* \* (3) furnishes proof of having attended at least 20 births as  
20 a midwife in the two-year period immediately preceding the date of  
21 application or has completed a midwife apprenticeship; proof is by  
22 affidavit of the applicant for births which occurred before January 1,  
23 1987;

24 (4) passes an examination administered by the department  
25 meeting the requirements of AS 08.69.060;

26 (5) pays the license fee prescribed in this chapter.

27 Sec. 08.69.050. LICENSURE BY ENDORSEMENT. A person who is li-  
28 censed as a midwife by another state may be licensed as a midwife if  
29 the requirements for that license are essentially the same as the  
30 requirements for licensure under AS 08.69.040.

31 Sec. 08.69.060. EXAMINATION OF APPLICANTS. (a) The examination