



AMERICAN ASSOCIATION  
ALASKA



OF UNIVERSITY WOMEN

DIVISION

Susan R. Clark  
1109 C Street  
Juneau, Ak. 99801

1 June 1981

To: Alaska State Senators  
Re: CS HB 356 (Judiciary) Prohibiting discrimination in housing  
on the basis of parenthood

A.A.U.W. supports the bill for we have a national position supporting the the reinforcement of families through legislation and improved accessibility to housing not only for the elderly, the economically disadvantaged, and minorities, but also for middle-income families.

We are in the midst of a housing shortage, both nationally and in Alaska, and during such periods landlords can afford to be more selective because full occupancy is almost assured. On the other hand, such situations present the greatest problem to a family with children because only a portion of the already small number of vacant units will be open to them, forcing the family, in many cases, into unsuitable, overpriced or poorly located apartments. That portion of units available to families can even reach zero in areas where the housing shortage is most acute, as was pointed out on C.B.S. program "60 Minutes": "No Kids Allowed."

Love of children in general is no longer the common denominator of public opinion it was just twenty years ago. The "baby boom" has gone bust. Today the availability of family planning, the unwillingness to make economic and social sacrifices for children, the decision to have later or no children have all helped to bring about a sharp increase in housing discrimination against children. The 1960 census showed for the first time that a majority of American homes contained less than three members, and the 1970 census indicated that over 60% of all rental households had no children. Yet as private homes continue to be priced beyond the reach of more and more Americans, apartment complexes and condominiums will provide a major portion of our housing needs. The failure to rent to families with children - whether by private landowners or by direction of government units which may create special zoning classifications for the elderly or prevent large increases in the number of school children in a certain area to maintain educational quality and low taxes - is a form of action resulting from economic self-interest rather than any intent to injure families with children. But injury is in fact the result.

We are rapidly becoming a nation which segregates its citizens on the basis of age as more and more people separate themselves from those with different needs. As our population begins to accomodate a higher percentage of people of retirement age who draw off to themselves into segregated communities, a growing percentage of singles and couples without children who

do not identify closely with families raising children, such families begin to collect in concentrations where they, too, are not exposed to the multi-generational neighborhoods that can provide richness and understanding between peoples. In a highly mobile society where adult children have left their parents in far distant states, youngsters are raised without experiencing or understanding anyone older than they by more than a score of years. As contact and understanding goes, we become pockets of self-interest - socially, economically, politically and even racially - too often losing the vision of the common good.

Housing that segregates by age can have the unfortunate side effect of racial segregation as well. A court in Missouri found that prohibiting children would constitute a prima facie case of racial discrimination, because recent national statistics indicate that 48% of black familial renters have children while less than 37% of white families living in rental units have children. These statistics may show an even further discrepancy when considering Native or Hispanic families. Thus, the refusal to rent to families with children has a disproportionate effect on non-whites. In addition, indigenous families are more likely to have an elderly person or multi-generations living in the same home, a fact that could result in discrimination against both ends of the age spectrum in terms of housing if children are prohibited. Again, this would also be felt more strongly by non-white families.

There are six states which have legislation prohibiting housing discrimination against families with children, legislation which has been in effect for over fifty years (Ariz., Ill., N.J., N.Y., Mass., and Del.). In fact, while Alaska does not now prohibit discrimination against children in rental property, the Alaska civil rights statutes include a provision that the "opportunity to obtain...housing accommodations and other property without discrimination because of ... pregnancy or parenthood... is a civil right." It would seem only just to follow our own good lead, and truly mean what we have written. Even Congress, which has generally held that the problem could best be handled at local or state levels, did provide in 1976 housing program mortgage insurance benefits to landlords who could certify that they did not discriminate against families with children.

Discrimination based on age, as on race, sex, creed, etc..., is discrimination not founded on actual basis, because individual differences between humans result in some children being disruptive, but so are some adults, some Blacks, some whites, some men, some women, some Protestants, some atheists. Others of these same samplings make excellent tenants. A landlord offering housing to the public should make a decision directly related to issues of merit - past rental history, ability to pay, references - not on the basis of one's age, race, gender, etc....

One of the recommendations from the White House Conference of Families where there was agreement at all three national conferences, was the need to "improve fair housing laws and enforcement - [with] no discrimination against families with children..." A.A.U.W. strongly supports this recommendation and the bill now before you.

MSG 81-00019853 PRTY 1 06/04/81 16:18:06 ORIG: LM00 IN= 0005 OUT= 0071  
FROM: MARTIE/MATSU TO: JUNEAU INFORMATION  
TARGET: LJH2 SUBJ: P.O.M. PAGE 0005

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TO: SENATORS RODEY, BENNETT, HOHMAN, FARR AND RAY

FROM: CLIFF CAMPBELL, PO BOX 269, PALMER 99645

RE: CS HB 356 (JUD)

PLEASE ACT ON THIS BILL. I WOULD LIKE TO SEE IT PASSED AS SOON AS POSSIBLE.

MSG 81-00019853 PRTY 1 06/04/81 16:18:06 ORIG: LM00 IN= 0005 OUT= 0071  
FROM: MARTIE/MATSU TO: JUNEAU INFORMATION  
TARGET: LJH2 SUBJ: P.O.M. PAGE 0003

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TO: SENATORS RODEY, BENNETT, HOHMAN, FARR AND RAY

FROM: ANNE TAYLOR, PO BOX 400, PALMER 99645

RE: CS HB 356 (JUD)

I AM VERY INTERESTED IN SEEING THIS BILL PASSED OUT OF COMMITTEE, AND I WOULD LIKE TO SEE IT PASSED.

MSG 81-00019853 PRTY 1 06/04/81 16:18:06 ORIG: LM00 IN= 0005 OUT= 0071  
FROM: MARTIE/MATSU TO: JUNEAU INFORMATION  
TARGET: LJH2 SUBJ: P.O.M. PAGE 0002

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TO: SENATORS RODEY, BENNETT, HOHMAN, FARR AND RAY

FROM: JODY ROZKYDAL, 3804 LOIS DR., ANCHORAGE 99502

RE: CS HB 356 (JUD)

PLEASE PASS THIS BILL OUT OF THE COMMITTEE. I WOULD LIKE TO SEE ITS PROVISIONS BEFORE CAN.

MSG 81-00019853 PRTY 1 06/04/81 16:18:06 ORIG: LM00 IN= 0005 OUT= 0071  
FROM: MARTIE/MATSU TO: JUNEAU INFORMATION PAGE 0001  
TARGET LQH2 SUBJ: P.O.M.

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TO: SENATORS RODEY, BENNETT, HOHMAN, PARR AND RAY

FROM: RITA CAMOBELL, PO BOX 269, PALMER 97645

RE: CS HB 356 (JUD)

I WOULD LIKE TO SEE THIS BILL REGARDING UNLAWFUL PRACTICES IN RENTING PASSED  
OUT OF COMMITTEE AND BROUGHT TO A VOTE IN THE SENATE. I FEEL IT IS IMPOR-  
TANT THAT IT BE PASSED.

MSG 81-00019853 PRY 1 06/04/81 16:18:06 ORIG: LM00 IN= 0005 OUT= 0071  
FROM: MARTIE/MATSU TO: JUNEAU INFORMATION  
TARGET: LNH2 SURJ: F.O.M. PAGE 0004

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TO: SENATORS RODEY, BENNETT, HOHMAN, PARR AND RAY

FROM: VINCENT ROZKYDAL, BOX 400, PALMER 99645

RE: CS HB 356 (JUD)

WOULD URGE YOU TO ACT ON THIS BILL AS SOON AS POSSIBLE. IT IS IMPORTANT THAT  
IT BE PASSED.

# WHERE HAVE ALL THE CHILDREN GONE?

TODAY, THROUGHOUT THE U.S., 27% OF ALL RENTAL HOUSING IS NOT OPEN TO PARENTS WITH MINOR CHILDREN. IN JUNEAU THE FIGURE IS MUCH HIGHER. WE ARE WORKING TO GIVE ALL FAMILIES THE SAME OPPORTUNITIES THAT SINGLES AND COUPLES WITHOUT CHILDREN HAVE.... BELOW ARE A FEW QUESTIONS AND ANSWERS ABOUT FAIR HOUSING.... PLEASE GIVE IT SOME THOUGHT.

2 br. apt.; adults only, no pets. \$500 plus \$150 cleaning deposit. Call between 7-9 p.m. Available Nov. 1st.

from, JUNEAU EMPIRE 10/9/80



ANCHORAGE DAILY NEWS 6/1/81

COZY 2-3 BR. 1 1/2 bath, excellent cond. near West High, fireplace, carpet, w/d, dw, gd. \$650/mo no pets or child. Call Joyce. 276-8010, or 344-1041.

**DOWNTOWN WALK TO WORK**

**NOW RENTING!**  
Apartments in newly renovated building. 1 blk from park Strip, off street parking and laundry room for your convenience, no dogs or children.  
EFFICIENCY/\$275  
1 BR./\$315  
2 BR./\$340  
ALL UTIL. INCLUDED  
Resident Manager. 777-7151

from, JUNEAU EMPIRE 10/15/80

2 br. unfurnished and 1 br. furnished, in West Juneau. Carpeting, dishwasher, garbage disposal, off street parking. No pets or children. Mature adult preferred. 586

- Q: AREN'T MAINTAINENCE COSTS HIGHER WHEN YOU RENT TO FAMILIES WITH CHILDREN?
- A: ACCORDING TO A NEW YORK COMPANCY WHICH SUPPLIES THE INSURANCE INDUSTRY WITH NATIONWIDE STATISTICS ON DAMAGES, THERE IS NO EMPIRICAL DATA TO PROVE THAT THE PRESCENCE OF FAMILIES RESULTS IN GREATER DESTRUCTION TO PROPERTY.
- Q: WOULDN'T A FAIR HOUSING LAW FORCE LANDLORDS TO OVERCROWD THEIR APARTMENTS?
- A: NO. FAIR HOUSING LAWS ARE REASONABLE AND ARE NOT WRITTEN IN AN ARBITRARY MANNER. A LANDLORD WOULD NOT HAVE TO RENT A ONE BEDROOM APARTMENT TO A PARENT OR PARENTS WHO HAD THREE CHILDREN. OR, A PROJECT DESIGNED FOR THE ELDERLY OR HANDICAPPED WOULD NOT BE FORCED TO ACCEPT TENANTS WHO HAD CHILDREN. A FAIR HOUSING LAW WOULD BE REASONABLE AND GIVE EQUAL OPPORTUNITIES TO PARENTS AND INSURE THAT AN ADEQUATE SIZED APARTMENT WOULD NOT BE DENIED TO THEM BECAUSE OF PARENTHOOD.
- Q: ISN'T THE SOLUTION TO BUILD MORE HOUSING?
- A: THIS SOLUTION IGNORES THE FACT THAT OFTEN NEW BUILDINGS WILL NOT RENT TO FAMILIES WITH CHILDREN. ALSO, THERE IS NOTHING TO PREVENT EXISTING BUILDINGS TO ADOPT NEW RULES BANNING CHILDREN. IN THE LAST TWO MONTHS TWO APARTMENT BUILDINGS IN JUNEAU HAVE CHANGED THE RULES AND NOW EXCLUDE CHILDREN.
- Q: DON'T INSURANCE COMPANIES CHARGE HIGHER RATES FOR BUILDINGS THAT ALLOW CHILDREN?
- A: NO. PRUDENTIAL, SAFECO, AETNA, REPUBLIC, NORTHWESTERN, AND CONTINENTAL INSURANCE COMPANIES SAY THAT IT IS THE CONDITION OF THE BUILDING THAT DETERMINES THE RATES, NOT THE AGE OF THE TENANTS. (IT IS IMPORTANT TO NOTE THAT IF TENANT AGE WERE A FACTOR IN SETTING ACCIDENT LIABILITY RATES, THE HEAVIEST BURDEN MIGHT FALL ON THE ELDERLY).
- Q: WOULDN'T FAIR HOUSING LAWS FORCE LANDLORDS TO ACCEPT CHILDREN IN BUILDINGS THAT ARE UNSAFE FOR THEM?
- A: THIS ISSUE IS MISLEADING. ACCORDING TO OUR STATE AND LOCAL BUILDING CODES, ANY BUILDING WHICH IS UNSAFE FOR A CHILD IS ALSO UNSAFE FOR ADULTS. THE REAL SAFETY ISSUE IS THAT ANTI-CHILD RENTAL POLICIES FORCE MANY FAMILIES TO LIVE IN THE MOST DILAPIDATED, UNSAFE, AND OVERCROWDED HOUSING.
- Q: ARE THERE FAIR HOUSING LAWS IN OTHER AREAS OF THE COUNTRY?
- A: YES. LAWS TO PROTECT RENTERS WITH CHILDREN HAVE BEEN PASSED IN MANY AREAS THROUGHOUT THE UNITED STATES. ARIZONA, MICHIGAN, ILLINOIS, NEW JERSEY, NEW YORK, DELAWARE, CONNECTICUT, MINNESOTA, AND THE DISTRICT OF COLUMBIA HAVE PASSED FAIR HOUSING LAWS. NUMEROUS CITIES HAVE ENACTED LAWS THAT PROTECT FAMILIES AND CHILDREN, THEY INCLUDE SAN FRANCISCO, SPOKANE, LOS ANGELES, OAKLAND, AND SEATTLE.

Donate Judiciary  
 Wednesday, June 3, 1981

Sign-up Sheet

Bill #	NAME	ADDRESS / PHONE #
356	GAIL A. BILLS	536 PARK ST APT A 586-9566 - JUNEAU
356	Judy Brakel	440 E. 1 <sup>ST</sup> ST., JUNEAU 586-6561
(535)	Walt Jones	HHS - Corrections (Observer)
356	James E Fisher	
356	BOYCE HOROWITZ	419 6 <sup>TH</sup> ST. JUNEAU 586-3021
354	LENN M. GILLESPIE	419 2 <sup>ND</sup> ST #6 (99861) 586-6026
356	Joyce Mansfield Rivers	2741 W. 42 <sup>ND</sup> Place, Anchorage, AK 99503
"	SUSAN R. CLARK (AAUW)	1109 E ST 99801 JUNEAU C. CASE

All testifying on 356 except  
 for Walt Jones on 534.

D45

The bill does not  
attempt to solve  
housing shortages - and  
it won't solve them.

It just makes sure  
everyone gets the same  
chance.

Hy  
( I must return to a  
committee meeting;  
Thank You!  
K )

H B

3 7 7

**COMMITTEE REPORT**  
**SENATE**

FURTHER: None

5/19/81

Date: April 7, 1982

Mr. President:

The Committee on JUDICIARY has had CSHL 377(Jud) am  
presumptive terms of imprisonment for felonies

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

INDIVIDUAL

- 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

\_\_\_\_\_  
\_\_\_\_\_  
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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Charles J. ...  
John G. ...  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
CHAIRMAN



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

APRIL 5, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

- SB 327 - "An Act relating to parole of offenders; continuing the existence of the Board of Parole; and providing for an effective date."
- HB 377 - "An Act relating to factors in aggravation for purposes of imposing presumptive terms of imprisonment for felonies."
- SB 686 - "An Act relating to the return of property recovered or seized by law enforcement agencies or acquired as evidence in a criminal proceeding."
- SB 864 - "An Act continuing the existence of the Alaska Code Revision Commission and amending the statutes relating to its responsibilities."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:40 P.M. Committee members present were: Senators Rodey, Ray, Parr, and Anderson. Senator Bennett was absent.

002 - Call to order.

005 - Chairman Rodey brought SB 327 before the committee.

027 - Senator Anderson moved to delete [\$100] and insert \$150 on Page 3, Line 1. Senator Ray objected.

076 - Senator Anderson's amendment was adopted with Senator s Rodey, Parr, and Anderson a yes vote. Senator Ray voted no.

124 - Senator Parr moved to pass SB 327 with individual recommendations. There was no objection.

184 - Chairman Rodey brought SB 864 before the committee.

220 - Mr. Bruce goes over language.

417 - Senator Parr moved that beginning on Page 2, Line 24 the following language be added: Each draft of legislation submitted by the commission shall be accompanied by a sectional analysis; the commission shall prepare the sectional analysis using language that is understandable to a layman. There was no objection.

531 - Senator Ray moved to strike Sec. 4 of the committee substitute beginning on Page 2, Line 21: [(2) establish one or more subcommissions to assist it in the performance of its duties; the commission may appoint any person to serve on a subcommission established under this paragraph.] There was no objection.

547 - Senator Ray moves to pass SB 864 with individual recommendations. There was no objection.

558 - Chairman Rodey brought HB 377 before the committee.

560 - Mr. Bruce explains the committee substitute.

640 - Senator Anderson moved to adopt the committee substitute for HB 377. Senator Ray objected on the basis that the committee substitute is not germane to the original bill.

659 - Senator Anderson moved to pass HB 377 pending the chair's decision on germaneness.

675 - Chairman Rodey brought SB 686 before the committee.

677 - Pat Conheady, Department of Law, testified, giving the changes in the bill.

107 - Don Magneson, representing the Alaska Retailers Association, testified in favor of photographing evidence.

180 - SB 686 returned to file.

183 - Adjourned at 3:15 P.M.

# Municipality of Anchorage

## MEMORANDUM

DATE: February 2, 1982

TO: Ken Lythegoe, Executive Assistant, Municipal Manager's Office

FROM: Richard L. Waller, Assistant Municipal Attorney<sup>RLW</sup>

SUBJECT: State of Alaska v. Municipality of Anchorage, Suit for Judicial Services, File No. 1630.500-78, Court No. 3AN-78-7663

In 1978 the State of Alaska brought suit against the Municipality of Anchorage for approximately \$262,000.00 representing the costs incurred by the State for judicial services in connection with the processing of criminal cases brought pursuant to municipal ordinance. This amount covers the expense of District Court judges, clerical staff, space rental, phone, postage equipment rental, equipment repair and administrative overhead. The services were rendered to the Municipality from January of 1975 through June of 1976, after which the Municipality paid these costs until July 1, 1978 when AS § 22.15.270 was amended placing this responsibility on the State. Initially the State agreed not to sue if the Municipality could cause a bill to be passed and signed by the Governor forgiving this debt. In 1977 the Municipality did obtain the passage of House Bill No. 214 forgiving this debt, however, the bill was vetoed by the Governor. Thereafter the State subsequently sued. Very little has happened in the case based on an agreement between the State and the Municipality to once again attempt to pass forgiving legislation. An up to date copy of the house bill for introduction in the 1982 Legislature has been prepared to include in the Municipality's legislative package.

RLW/kjw

**Municipality  
of  
Anchorage**



OFFICE OF THE MAYOR

POUCH 6-650  
ANCHORAGE, ALASKA 99502  
(907) 274-2525

GEORGE M. SULLIVAN,  
MAYOR

March 21, 1978

Senator Joseph L. Orsini, Chairman  
Community & Regional Affairs Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator <sup>Joe</sup> Orsini:

Your committee is presently considering HB 214 entitled "An Act forgiving amounts owed by political subdivisions for judicial services; and providing for an effective date". The Municipality of Anchorage strongly supports this legislation and urges its adoption by the Senate at the earliest possible time.

Prior to 1976, AS 22.15.270 required municipalities to pay to the state "such sums as will pay for the judicial services rendered to the political subdivision by the district judge or magistrate rendering the services." Chapter 219 SLA 1976 deleted the above quoted language but, unfortunately, did not expressly deal with amounts owed to the state by municipalities for pre-1976 judicial services. Since 1976, the state has indicated that it will file suit to recover outstanding amounts incurred prior to 1976 unless the Legislature acts to clarify the situation and excuse municipalities from such debts. I understand that a number of municipalities would benefit from the proposed bill. Anchorage has approximately \$250,000 in outstanding debt that would be forgiven if HB 214 becomes law.

Since the State of Alaska is actively encouraging the provision of local law enforcement and other criminal justice services by programs such as revenue sharing, it seems odd that the State should seek to make municipalities pay costs for judicial services incurred as an essential part of the criminal justice process. For example, this year, Anchorage will receive approximately \$1,470,280 in revenue sharing for police services under AS 43.18.010(a)(1). However, under the 1978 budget for police and prosecution functions, Anchorage taxpayers will contribute approximately \$10,325,300 for those services. Anchorage taxpayers are therefore doing at least their fair share to provide an adequate criminal justice system for over half the people of Alaska.



Senator Joseph L. Orsini  
March 21, 1978  
Page 2

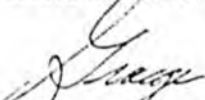
In addition, the Assembly in 1976, adopted a comprehensive penal code and began an intensive effort to control criminal activity such as prostitution and drunk driving (OMVI) at the local level. Many of the criminal activities controlled through local police and local prosecutors were formerly the responsibility of the State Troopers and District Attorney. Thus, by mounting an intensive local effort against crime, Anchorage is, in essence, saving the state considerable costs that it would otherwise incur.

Based on these facts, I do not feel that it is inequitable or unreasonable for municipalities such as Anchorage to be excused from outstanding debts for judicial services. This is particularly true in light of the fact that, by enacting Ch. 219, SLA 1976, the Legislature has indicated that such costs are properly the responsibility of the state.

If you have any additional questions concerning this legislation, please contact Mr. Ted Berns, Municipal Attorney at 264-4237. Thank you for your attention to this bill and for an opportunity to comment.

Sincerely,

MUNICIPALITY OF ANCHORAGE



George M. Sullivan  
Mayor

GMS:TDB:gml

CSHB 193 am, HB 424, HB 273 am

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

May 12, 1977

Present: Chairman Orsini, Senators Hackney and Willis; Reed Stoops, Community & Rural Affairs Department; Margo Dick, Day Care Assistance; Palmer McCarter, Dept. C&RA.

Absent: Senators Ferguson and Sumner

The hearing began with CSHB 193 am concerning day care assistance. Reed Stoops, Community and Rural Development, testified in favor of the bill and explained that the proposed changes in the bill would (1) reverse the licensing requirements of day care facilities; (2) redefine definitions of "child"; (3) eliminate the current system of providing assistance to AFDC families and; (4) provide for an effective date.

Mr. Stoops informed the committee that those AFDC families who were receiving 100% funding for day care assistance would henceforth be subjected to eligibility standards determined on a sliding scale income basis coinciding with the formula used to determine how much non-AFDC families will receive in assistance. Stoops stated that enactment of this bill would provide a savings of \$132,000 to the state.

He also stated that changing the required age limit from seven years of age to 11 years of age for non-AFDC recipients, and AFDC recipients from age 14 to 11 years would be an equitable compromise so that more children could benefit from day care assistance without incurring any additional expense. He stated that they estimate 8% more children would be eligible.

Margo Dick, from the Day Care Assistance in Juneau supported Mr. Stoops comments.

Senator Hackney moved that the committee pass the bill out with individual recommendation, and Senator Willis voted "do pass", and Senators Orsini and Hackney voted "no rec".

Chairman Orsini asked Palmer McCarter to testify on HB 424, and he explained that this bill provides reimbursement to municipalities for payments made after July 1, 1975 for judicial services. Senator Hackney moved for a "do pass" vote from the Committee, and the bill was unanimously passed out.

SENATE COMMUNITY AND REGIONAL AFFAIRS  
COMMITTEE MEETING

May 18, 1978

Present: Senators Orsini, Hackney and Willis; Don M. Berry, Municipality of Anchorage; Floyd Johnson, Division of Emergency Services, Dept. of Military Affairs; Peter Froehlich, Attorney General's Yvonne M. Alford, Municipality of Anchorage; Mitchell Gravo, Municipality of Anchorage; Jim Rolle, Municipal League; Lisa Rudd, Representative.

Absent: Senators Ferguson and Sumner

The meeting was called to order at 3:07 p.m. House Bill 214 and CSHE 941 were the bills before the Committee.

HOUSE BILL 214

Mitchell Gravo, Municipality of Anchorage, explained that the effect of the legislation passed in 1976 was to relieve municipalities for judicial services rendered by the state. Prior to that time municipalities had to pay the state for judicial services such as magistrates and court judges. He further explained that when this legislation was passed it said nothing about amounts owed prior to 1976. HB 214 would relieve the political subdivisions from paying for judicial services rendered prior to 1976.

Senator Hackney moved that the Committee passed out HB 214 with a "DO PASS" recommendation. There was no objection.

CS FOR HOUSE BILL 941

Mitchell Gravo, explained that the bill concerns a 1974 lease agreement between the State of Alaska and, at that time, the City of Anchorage on 3rd and Post. He stated that the lease called for rent of \$100,000 a year plus \$10,000 for the option to purchase the facilities after 10 years. The property was appraised in 1974 at \$1 million. In 1976 after the lease had been functioning for 2 years the State wanted to rescind the lease and filed suit against the City. Mr. Gravo stated that it would probably take 1 1/2 to 2 years before the question can be legally resolved. He stated that the State alleged that the lease was illegal on three grounds: 1) the Commissioner of Highways lacked authority to enter into the lease-purchase agreement because the Director of the Division of Lands was the only official who could execute such an agreement, 2) appropriate public notice was lacking, 3, the property was appraised six rather than three months prior to the lease-purchase agreement.

He stated that this bill would ratify the lease purchase agreement between the State and the city of Anchorage and would direct the Director of the Division of Lands and the Commissioner of Highways to recognize the lease-purchase agreement.

He stated that the State is relying on loopholes and technicalities to rescind the lease-purchase agreement while claiming that the State is in need of the property. Mr. Gravo further stated that the People

Introduced: 2/14/77  
Referred: Finance

1 IN THE HOUSE

BY MALONE

2 HOUSE BILL NO. 214

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act forgiving amounts owed by political subdivisions  
7 for judicial services; and providing for an effective  
8 date."

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

10 \* Section 1. FORGIVENESS OF JUDICIAL SERVICES DEBTS. All debts incurred  
11 and outstanding against political subdivisions for payment to the state for  
12 judicial services under AS 22.15.270 as it read before 1976 are forgiven.

13 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-  
14 070(c).

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3d  
CS Senator Colletta moved and asked unanimous consent that  
HB the roll call on the passage of 3d COMMITTEE SUBSTITUTE FOR  
54 HOUSE BILL NO. 54 be considered the roll call on the  
effective date clause. Without objection, it was so  
ordered.

3d COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 54 was signed  
by the President and Secretary and returned to the House.

HB HOUSE BILL NO. 214 (forgiving amounts owed by political  
214 subdivisions for judicial services) was read the second  
time.

Senator Colletta moved and asked unanimous consent that  
the Files be suspended and HOUSE BILL NO. 214 be advanced  
to third reading and placed on final passage. Without  
objection, it was so ordered.

HOUSE BILL NO. 214 was read the third time.

The question being: "Shall HOUSE BILL NO. 214 (forgiving  
amounts owed by political subdivisions for judicial  
services) pass the Senate?" The roll was taken with the  
following result:

Yeas:	15	Bradley, Butrovich, Colletta, Croft, Ferguson, Hackney, Hohman, Huber, Meland, Orsini, Poland, Ray, Sackett, Willis, Ziegler
Nays:	2	Rader, Sumner
Absent:	3	Kerttula, Rodey, Tillion

and so, HOUSE BILL NO. 214 passed the Senate.

Senator Colletta moved and asked unanimous consent that  
the roll call on the passage of HOUSE BILL NO. 214 be  
considered the roll call on the effective date clause.  
Without objection, it was so ordered.

HOUSE BILL NO. 214 was signed by the President and  
Secretary and returned to the House.

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of citizens' right to support enforcement Revenue,

referred to the Health, Education and the Judiciary

82 amended, by the Commerce

Aeronautics Board to service between

referred to the Commerce and the Judiciary Committee.

REFERENCE OF HOUSE BILLS

HOUSE BILL NO. 647 by the Finance

between FY 78 appropriations for royalty oil purchase program expenditures of the Alaska Lands; and providing

referred to the Resources Committee.

HOUSE BILL NO. 837 amended, by

interpreters for deaf criminal litigation or findings; and providing

referred to the Judiciary

HOUSE BILL NO. 969 by the Finance

mental appropriations capital expenses of and providing for an

was read the first time and referred to the Finance Committee.

CSHR 969

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 980 by the Finance Committee, entitled:

CSHB 980

"An Act making supplemental appropriations to the Legislative Affairs Agency and the legislative finance division; and providing for an effective date."

was read the first time and referred to the Finance Committee.

STANDING COMMITTEE REPORTS

The Resources Committee has had SENATE CONCURRENT RESOLUTION NO. 108 (use of royalty gas within the state) under consideration and the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR SENATE CONCURRENT RESOLUTION NO. 108 and that it do pass. The report was signed by Senator Poland, Chairman, and concurred in by Senators Butrovich, Sumner, Croft, Huber, Meland and Tillion.

SCR 108

SENATE CONCURRENT RESOLUTION NO. 108 was referred to the Finance Committee.

The Finance Committee has had HOUSE BILL NO. 24 amended (eff. date added) (compensation of election officers) under consideration and the committee recommends it do pass. The report was signed by Senator Sackett, Chairman, and concurred in by Senators Hohman, Butrovich, Orsini Tillion and Meland.

HB 24 am

HOUSE BILL NO. 24 amended (eff. date added) was referred to the Rules Committee.

The Finance Committee has had HOUSE BILL NO. 214 (forgiving amounts owed by political subdivisions for judicial services) under consideration and a majority of the committee recommends it do pass. The report was signed by Senator Sackett, Chairman, and concurred in by Senators Hohman, Orsini, Tillion and Meland. Senator Butrovich signed "no recommendation".

HB 214

HOUSE BILL NO. 214 was referred to the Rules Committee.

HB 214 The Community and Regional Affairs Committee has had HOUSE BILL NO. 214 (forgiving amounts owed by political subdivisions for judicial services) under consideration and the committee recommends it do pass. The report was signed by Senator Orsini, Chairman, and concurred in by Senators Willis and Hackney.

HOUSE BILL NO. 214 was referred to the Finance Committee.

CS The Judiciary Committee has had COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 596 (Fin) (non-renewable resource revenues; to legislative oversight) under consideration and recommends (Fin) it be replaced with SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 596, entitled:

"An Act relating to the Alaska loan program fund, the Alaska permanent fund, the renewable resources development fund, and other state revenues; and providing for an effective date."

and reports it back as follows: Senator Hohman, Chairman, and Senator Tillion signed "do pass". Senator Rodey signed "no recommendation".

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 596 (Finance) was referred to the Finance Committee.

CS The Judiciary Committee has had COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 784 (jurisdiction of magistrates) under consideration and recommends it do pass. The report was signed by Senator Hohman, Chairman, and concurred in by Senators Ziegler and Colletta.

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 784 was referred to the Rules Committee.

CS The Commerce Committee has had COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 809 (practice of dental hygiene) under consideration and the committee recommends it be replaced with SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 809 and that it do pass. The report was signed by Senator Bradley, Chairman, and concurred in by Senators Hackney, Poland and Summer.

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 809 was referred to the Rules Committee.

HB 212 AN ACT RELATING TO STATE AID FOR SCHOOLS; AND PROVIDING FOR AN EFFECTIVE DATE

AMENDED TITLE: SCS CS \*  
 PRIME SPONSORS: SCHAEFFER  
 CO-SPONSORS: NAKAK SNIDER

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
02/14/77	01	0290	FIRST READING -- COMMITTEE REPORTS	04/30/77	12	1022	FIRST READING -- COMMITTEE REPORTS
04/13/77	02	0849	MESS -- CS03, NR02	05/19/77	13	1321	FIN -- OP(AM)J1, CS06
04/27/77	03	1054	FIN -- CS07	05/20/77	14	1338	RLS -- OTHER03
04/29/77	04	1107	SECOND READING	05/23/77	15	1372	SECOND READING
04/29/77	05	1107	FIN CS ADOPTED BY UNAN CONSENT	05/23/77	16	1372	FIN CS ADOPTED BY UNAN CONSENT
04/29/77	06	1107	AMC1 ADOPTED BY DIV 32-02-06	05/23/77	17	1372	AM01 NOT ADOPTED BY VOICE VOTE
04/29/77	07	1107	ADVANCED TO 3RD READING BY UNAN CONSENT	05/23/77	18	1372	ADVANCED TO 3RD READING BY UNAN CONSENT
04/29/77	08	1137	THIRD READING	05/23/77	19	1372	THIRD READING
04/29/77	09	1138	PASSED BY DIV 34-00-06	05/23/77	20	1373	PASSED BY DIV 19-01-00
04/29/77	10	1108	EFFECTIVE DATE VOTE SAME AS PASSAGE	05/23/77	21	1373	EFFECTIVE DATE VOTE SAME AS PASSAGE
05/25/77	22	1509	CONCURRED IN SENATE AMS BY DIV 36-03-01	04/30/77	11	1022	HSE SUPPL 55 FISCAL NOTE
05/27/77	23	1595	TRANSMITTED TO GOVERNOR				
** 06/03/77	24	1668	SIGNED BY GOVERNOR-CHC090, EFF 07/01/77				

HB 213 AN ACT RELATING TO HOUSING ASSISTANCE

PRIME SPONSORS: MALONE

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
** 02/14/77	01	0290	FIRST READING -- COMMITTEE REPORTS				
** 03/03/77	02	0438	CRA -- DPO4, DNP01, OP(AM)01, NR01 FINANCE RULES				

HB 214 AN ACT FORGIVING AMOUNTS OWED BY POLITICAL SUBDIVISIONS FOR JUDICIAL SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSORS: MALONE

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
02/14/77	01	0290	FIRST READING -- COMMITTEE REPORTS	05/04/77	08	1085	FIRST READING -- COMMITTEE REPORTS
04/22/77	02	0968	FIN -- DPO6	05/18/77	09	1301	JUD -- DPO4
05/03/77	03	1161	SECOND READING	05/19/78	10	1032	CRA -- DPO3
05/03/77	04	1161	ADVANCED TO 3RD READING BY UNAN CONSENT	06/05/78	11	1229	FIN -- DPO5, NR01
05/03/77	05	1161	THIRD READING	06/07/78	12	1275	RLS -- OTHER03
05/03/77	06	1161	PASSED BY DIV 32-00-08	06/08/78	13	1328	SECOND READING
05/03/77	07	1161	EFFECTIVE DATE VOTE SAME AS PASSAGE	06/08/78	14	1328	ADVANCED TO 3RD READING BY UNAN CONSENT
06/10/78	18	1575	TRANSMITTED TO GOVERNOR	06/08/78	15	1328	THIRD READING
07/22/78	19	FJ12	VETOED BY GOVERNOR	06/08/78	16	1328	PASSED BY DIV 32-02-03
** 07/22/78	20	FJ12	GOV LTR RE: VETO	06/08/78	17	1328	EFFECTIVE DATE VOTE SAME AS PASSAGE

HB 215 AN ACT

AMENDED

PRIME SE

DATE S

02/15/77	
02/23/77	
03/03/77	
03/04/77	
03/04/77	
03/04/77	
03/04/77	
03/04/77	
03/04/77	
04/21/77	
** 04/23/77	
** 04/29/77	

HB 216 AN ACT

PRIME SPON

CO-SPONSOR

DATE SEQ

** 02/15/77	01
-------------	----

HB 217 AN ACT

PRIME SPONS

DATE SEQ

** 02/15/77	01
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HB 218 AN ACT

PRIME SPONSOR

DATE SEQ

** 02/15/77	01
03/31/77	02

## AN ACT RELATING TO STATE AID FOR SCHOOLS; AND PROVIDING FOR AN EFFECTIVE DATE

FILED TITLE: SCS CS \*

FILE SPONSORS: SCHAEFFER

SPONSORS: NAKAK SNIDER

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
1/77	01	0290	FIRST READING -- COMMITTEE REPORTS	04/30/77	12	1022	FIRST READING -- COMMITTEE REPORTS
1/77	02	0849	HSS -- CS03, NRO2	05/19/77	13	1321	FIN -- DP(AM101, CS06
1/77	03	1054	FIN -- CS07	05/20/77	14	1338	RLS -- OTHER03
1/77	04	1107	SECOND READING	05/23/77	15	1372	SECOND READING
1/77	05	1107	FIN CS ADOPTED BY UNAN CONSENT	05/23/77	16	1372	FIN CS ADOPTED BY UNAN CONSENT
1/77	06	1107	AM01 ADOPTED BY DIV 32-02-06	05/23/77	17	1372	AM01 NOT ADOPTED BY VOICE VOTE
1/77	07	1107	ADVANCED TO 3RD READING BY UNAN CONSENT	05/23/77	18	1372	ADVANCED TO 3RD READING BY UNAN CO
1/77	08	1177	THIRD READING	05/23/77	19	1372	THIRD READING
1/77	09	1167	PASSED BY DIV 34-00-06	05/23/77	20	1373	PASSED BY DIV 19-01-00
1/77	10	1108	EFFECTIVE DATE VOTE SAME AS PASSAGE	05/23/77	21	1373	EFFECTIVE DATE VOTE SAME AS PASSAG
3/77	22	1509	CONCURRED IN SENATE AMS BY DIV 36-03-01	04/30/77	11	1022	HSE SUPPL 55 FISCAL NOTE
1/77	23	1595	TRANSMITTED TO GOVERNOR				
3/77	24	1668	SIGNED BY GOVERNOR-CH0090, EFF 07/01/77				

## AN ACT RELATING TO HOUSING ASSISTANCE

FILE SPONSORS: MALONE

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
14/77	01	0290	FIRST READING -- COMMITTEE REPORTS				
03/77	02	0438	CRA -- DPO4, DNP01, DP(AM101, NRO1 FINANCE RULES				

## AN ACT FORGIVING AMOUNTS OWED BY POLITICAL SUBDIVISIONS FOR JUDICIAL SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE

FILE SPONSORS: MALONE

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
1/14/77	01	0290	FIRST READING -- COMMITTEE REPORTS	05/04/77	08	1085	FIRST READING -- COMMITTEE REPORT:
1/22/77	02	0968	FIN -- DPO6	05/18/77	09	1301	JUD -- DPO6 CRA FINANC RULES
1/03/77	03	1161	SECOND READING				
1/03/77	04	1161	ADVANCED TO 3RD READING BY UNAN CONSENT				
1/03/77	05	1161	THIRD READING				
1/03/77	06	1161	PASSED BY DIV 32-00-08				
1/03/77	07	1161	EFFECTIVE DATE VOTE SAME AS PASSAGE				

HB 142 The Finance Committee has had HOUSE BILL NO. 142 (transferring the Alaska Historical Commission to the Department of Natural Resources; effective date) under consideration and a majority of the members recommend it do pass. Concurring: Freeman (Vice Chairman), Rhode, Guy, Schaeffer, Meekins and Swanson. Not concurring: Buchholdt and Duncan have no recommendation.

HB 142 was referred to the Rules Committee for placement on the calendar.

INTRODUCTION, FIRST READING AND REFERENCE  
OF HOUSE BILLS

HB 520 HOUSE BILL NO. 520 by Anderson, entitled:  
"An Act making a special appropriation to the Department of Transportation and Public Facilities for erosion control; and providing for an effective date."

was introduced, read the first time and referred to the Committee on Finance.

HB 521 HOUSE BILL NO. 521 by Anderson, entitled:  
"An Act making a special appropriation to the Department of Transportation and Public Facilities for erosion control; and providing for an effective date."

was introduced, read the first time and referred to the Committee on Finance.

CONSIDERATION OF THE DAILY CALENDAR

SECOND READING OF HOUSE RESOLUTIONS

HCR 63 HOUSE CONCURRENT RESOLUTION NO. 63 (congratulating Lisa Ann Granath) was read the second time.

The question being: "Shall HCR 63 pass the House?" On unanimous voice vote, HCR 63 passed the House and was referred to the Chief Clerk for engrossment.

SECOND READING OF HOUSE BILLS

HOUSE BILL NO. 214 (forgiving amounts owed by political subdivisions for judicial services; effective date) was read the second time with the Finance Committee report (page 968 of the journal).

HB  
214

Mr. Miller moved and asked unanimous consent that HB 214 be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered, and HB 214 was read the third time.

The question being: "Shall HB 214 pass the House?" The roll was taken with the following result:

Yeas: 32 Akers, Anderson, Bennett, Bradley, Brown, Buchholdt, Carpenter, Chatterton, Cotten, Dankworth, Duncan, Eliason, Freeman, Gardiner, Guy, Hayes, Kelly, Lethin, McKinnon, Malone, Miles, Miller, Ose, Osterback, Parr, Phillips, Rhode, Rudd, Schaeffer, Smith, Swanson, Urion.

Nays: 0

Excused: 7 Beirne, Cowper, Gruening, Haugen, Meekins, Nakak, Snider.

Vacancy: 1

And so, HB 214 passed the House.

Mr. Miller moved and asked unanimous consent that the roll call on the passage of HB 214 be considered the roll call on the effective date clause. There being no objection, it was so ordered.

HB 214 was referred to the Chief Clerk for engrossment.

HOUSE BILL NO. 424 (special appropriation to political subdivisions of the state for reimbursement of payments made after July 1, 1975 for judicial services; effective date) was read the second time with the Finance Committee report (page 969 of the journal).

HB  
424

Mr. Miller moved and asked unanimous consent that HB 424 be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered, and HB 424 was read the third time.

The question being: "Shall HB 424 pass the House?" The roll was taken with the following result:

MESSAGES FROM THE GOVERNOR

Message of May 16 was read stating the Governor has signed the following bill and transmitted the enrolled and engrossed copies to the Lieutenant Governor's Office for permanent filing:

SCS  
CSHB  
77

SENATE COMMITTEE SUBSTITUTE FOR  
COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 77  
(procedures for executing anatomical gifts)  
Chapter 38, SLA 1977

Message of May 17 was read stating the Governor has read the following resolutions and transmitted the enrolled and engrossed copies to the Lieutenant Governor's Office for permanent filing:

CS  
HCR  
26

COMMITTEE SUBSTITUTE FOR  
HOUSE CONCURRENT RESOLUTION NO. 26  
(Eligibility for food stamps)

HCR  
43

HOUSE CONCURRENT RESOLUTION NO. 43  
(Tesoro-Alaskan Petroleum Company  
agreement to purchase royalty crude oil)

HCR  
60

HOUSE CONCURRENT RESOLUTION NO. 60  
(Value of prizes awarded in raffles and lotteries)

HCR  
63

HOUSE CONCURRENT RESOLUTION NO. 63  
(Congratulating Lisa Ann Granath)

HCR  
68

HOUSE CONCURRENT RESOLUTION NO. 68  
(Congratulating Joe D. Montgomery)

SCR  
26

SENATE CONCURRENT RESOLUTION NO. 26  
(Increase of State Troopers)

MESSAGES FROM THE HOUSECS  
SB  
27  
am

Message of May 17 was read stating the House has receded from its amendment to COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 27 amended (new Capital Site Planning Commission; eff. date), namely:

HOUSE COMMITTEE SUBSTITUTE FOR  
COMMITTEE SUBSTITUTE FOR SENATE BILL  
NO. 27 (Rules) Amended House

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 27 amended was signed by the Speaker and Chief Clerk and returned to the Senate.

The above bill was referred to the Secretary for enrollment.

STANDING COMMITTEE REPORTS

The Judiciary Committee has had SENATE BILL NO. 79 (Uniform Disposition of Unclaimed Property Act) under consideration and the committee reports it back without recommendation. The report was signed by Senator Hohman, Chairman, and concurred in by Senators Ziegler, Tillion and Rodey. SB 79

SENATE BILL NO: 79 was referred to the Finance Committee.

The Judiciary Committee has had COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 67 amended (Uniform Land Sales Practices Act) under consideration and the committee reports it back as follows: Senator Hohman, Chairman, and Senator Ziegler signed "no recommendation". Senators Tillion and Rodey signed "do pass". CS HB 67 am

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 67 amended was referred to the Finance Committee.

The Commerce Committee has had COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 185 (regulating theatrical production and sports exhibition promoters) under consideration and the committee recommends it be replaced with SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 185, entitled:

"An Act regulating concert promoters."

and reports it back as follows: Senator Bradley, Chairman, signed "do pass". Senators Hackney, Poland and Ray signed "no recommendation".

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 185 was referred to the Rules Committee.

The Judiciary Committee has had HOUSE BILL NO. 214 (forgiving amounts owed by political subdivisions for judicial services) under consideration and the committee recommends it do pass. The report was signed by Senator Hohman, Chairman, and concurred in by Senators Ziegler, Tillion and Rodey. HB 214

HOUSE BILL NO. 214 was referred to the Community and Regional Affairs Committee.

CSHB 377, AN ACT FORGIVING DEBTS OWED BY POLITICAL SUBDIVISIONS FOR JUDICIAL SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.

CSHB 377 would forgive amounts owed by political subdivisions to the State for judicial services provided by the State to those political subdivisions prior to 1976.

Prior to 1976, AS 22.15.270 required municipalities to pay to the State "such sums as will pay for the judicial services rendered to the political subdivision by the district judge or magistrate rendering the services". Chapter 219 SLA 1976 deleted the above quoted language.

However, Chapter 219 SLA 1976 did not expressly deal with amounts owed to the State by municipalities for pre-1976 judicial services. Since 1976, the State has indicated that it will file suit to recover outstanding amounts for judicial services incurred prior to 1976 unless the Legislature clarifies the situation by excusing municipalities from such debts. CSHB 377 would benefit a number of municipalities.

H B

406

A M E N D M E N T

OFFERED IN THE <sup>Senate</sup> HOUSE:

By: \_\_\_\_\_

To: \_\_\_\_\_ HOUSE BILL No. CS for HB406 (HESS)

SENATE BILL No. \_\_\_\_\_

PAGE: 1

LINE: 21-23, 24, 26, 27, 28, & 29

Delete Sec. 2. (b) in its entirety. [A licensee may not knowingly purchase alcoholic beverages from a wholesaler who has not purchased the alcoholic beverages from a primary source of supply.]

Renumber Sec. 2 (c) to Sec. 2 (b) line 24

Renumber Sec. 2 (d) to Sec. 2 (c) line 26

Renumber Sec. 2 (e) to Sec. 2 (d) line 28

Insert in Section 2. (c) the following:

[(d)] (c) This section does not apply to the sale or purchase of alcoholic beverages that are not available to any Alaska wholesaler from a primary source of supply.

Insert in Section 2. (d) the following:

[(e)] (d) For the purposes of this section,  
(1) "primary source of supply means the distiller, vintnor, brewer, producer, .....

A M E N D M E N T

OFFERED IN THE SENATE:

By: \_\_\_\_\_

To: \_\_\_\_\_ SENATE BILL No. \_\_\_\_\_

HOUSE BILL No. ~~CS for HB406 (HESS)~~

PAGE: 2

LINE: 2, 3 and 4

beginning with page 2, line 2:

product, [and] the bottler, prime importer, trademark owner, or  
brand owner. (end line 2)

[or a person who is authorized in writing to act as the exclusive agent  
of a distiller, producer, owner, or bottler;] (end lines 3 & 4)



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

FEBRUARY 10, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

SB 610 - "An Act relating to smoking in public places."

HB 406 - "An Act relating to sales of alcoholic beverages to and by licensed wholesalers."

SB 626 - "An Act relating to certificates of birth."

The meeting of the Senate Judiciary Committee was called to order by acting Chairman Ray at 1:40 P.M. Committee members present were: Senators Ray, Bennett, and Parr. Senator Rodey was absent.

Acting Chairman Ray first brought before the committee SB 610. Joseph Geldhof, representing the Tobacco Institute, testified against the bill.

Dr. Rabeau, Department of Health & Social Services, addressed the committee on the health ramifications to nonsmokers when smoking is permitted in crowded public places.

After brief discussion, Senator Parr suggested moving the bill from committee with individual recommendations. This action failed; Senators Parr and Bennett voting to move the bill, Senator Ray voting against moving the bill.

Acting Chairman Ray next brought HB 406 before the committee. Doug Metz, Wine and Spirits Wholesaler of America, Inc., and Russel Shannon, Distilled Spirits Council of the U.S. Inc., testified in favor of this bill.

Mr. Hanford, representing Odom Corporation, offered amendments to HB 406 without testimony.

Next, Joe Donohue, Department of Revenue, addressed the committee and offered his assistance to the committee on any questions which he could help answer. The Department had no recommendation on the bill.

Acting Chairman Ray next called Mr. King, representing the Juneau Retail Dealers Assoc., to testify. Mr. King expressed the local retailers

opposition to HB 406, stating that it would only cause an increase in prices to the consumer. Mr. Thibideau and Mr. Tallman, both local retailers, joined Mr. King and stated their opposition to this legislation.

Maurice Druhe, representing DISCUS, testified in favor of HB 406.

After discussion, acting Chairman Ray asked if any member of the committee wished to suggest action on the bill. There was no motion.

SB 626 was not addressed by the committee today.

Acting Chairman Ray adjourned the meeting at 2:50 P.M.

# TELEGRAM

ALASCOM, INC.

PHONE: 580-6442

JUNEAU, AK 99802

#

02082 ANCHORAGE AK 50 02-09 144P AST

PMS SEN PAT RODEY

JUNEAU **0953**

WE ARE STRONGLY OPPOSED TO THE PRIMARY SOURCE SPECIAL INTEREST  
LEGISLATION. ANTI-FREE ENTERPRISE. ANTI-CONSUMER. UNFAIR TO  
ALASKAN BASED WHOLESALERS. PRIMARY SOURCE IS NOT A POPULAR  
ISSUE IN THE LOWER 48 DUE TO DEREGULATION. KEEP THE FREE  
ENTERPRISE SYSTEM WORKING.

ED ONEILL, PRESIDENT BROWN JUG INC

272-7517 OR 276-4483

BOX 2000 ANCHORAGE AK 99510

Baranof Liquor Store	586-1050✓
Billikan Liquor Store	586-2761✓
Budget Liquor Division of Mark n' Pak	789-4251✓
Commercial Liquor Store	586-2232✓
DeHart's Auke Bay Store	789-7342✓
Home Liquor & Deli	586-2415✓
Liquor Mart	586-3660✓
Liquor Nook	586-1065✓
Percy's Liquor Store	586-2320✓
Tribodeau's Liquor & Deli	586-6657✓
Valley Liquor Mart	789-0770✓
Village Liquor Store	789-9290✓

It is the declared policy of the state to prohibit the purchase, sale, or delivery for sale or shipment, or otherwise introduce for use in this state, any alcoholic beverages, except in conformity with the Alcoholic Beverage Laws of this State and such regulations as may be prescribed; to protect the Public Health and Safety by safeguarding against products which are falsely or deceptively advertised, mislabeled, misbranded, adulterated, counterfeited, or illegally produced or diverted, ~~(including alcohol produced for fuel purposes)~~ to promote vigorous inter-brand competition among such product to provide consumers with the widest choice of brands and sizes; to aid in the control and protection of tax revenue; and to provide for the orderly marketing of such products and the efficient and effective administration of the Alcoholic Beverage Laws of the State.

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2300

January 12, 1982

The Honorable Patrick M. Rodey  
Chairman  
Senate Judiciary Committee  
Room 125 - Capitol Building  
Juneau, AK 99811

Dear Senator Rodey:

Re: CS for House Bill No. 406 (HESS)

CS for House Bill No. 406 (HESS), an Act relating to sales of alcoholic beverages to and by licensed wholesalers, was introduced in the Senate on June 4, 1981, and was referred to the Senate Judiciary and Finance Committees.

For the consideration of the Senate Judiciary 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

RDS:jas

Enclosure

cc: The Honorable Don Bennett  
The Honorable M. E. Dankworth  
Co-Chairmen  
Senate Finance Committee

Joseph K. Donohue  
Deputy Commissioner, Taxation  
Department of Revenue

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

I. REQUEST  
 Bill/Resolution No. CSHB 400 (HESS)  
 Title Relating to sales of alcoholic beverages to and by licensed wholesalers  
 Requested by House Rules Committee Date May 29, 1981

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 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.						
TOTAL	-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)

Enactment of this legislation will not have any impact on this BRU

COMMENT/SUGGESTION:

Because wholesale licensees and all other licensees who purchase from wholesalers are charged with purchasing primary source products, it would seem appropriate that wholesale licensees be required to post in their licensed premises and file with the board the names of each primary source from whom they purchase alcoholic beverages and brands purchased from those sources.

IV. DATE December 16, 1981 PREPARED BY Patrick L. Sharrock  
 AGENCY Alcoholic Beverage Control Board  
 PHONE 277-8638

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

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S  
JUNEAU, ALASKA 99811

May 16, 1981

The Honorable Donald E. Clocksin, Chairman  
House HESS Committee  
Pouch V  
Juneau, Alaska 99811

Re: HB 406

Dear Mr. Chairman:

House Bill No. 406 would ban anyone other than a "primary source" from selling alcoholic beverages to an Alaska wholesale licensee, would forbid Alaska wholesalers from buying from anyone other than a "primary source" and would make it illegal for an Alaska retail licensee to purchase alcoholic beverages knowingly from a wholesaler that had not purchased the beverages from a "primary source." Violations of these requirements would be punished by a suspension of the violator's license for up to one year.

This Bill appears to have the support of the large wholesalers serving the Alaska market. It is in response to a situation in which at least one fairly large Anchorage retailer is or has been involved. I recall that, two or three years ago, the Kut Rate Kid liquor store was retailing Kahlua at \$8.88 a fifth. I was told at the time by friends who worked with a competing retailer that their wholesale cost was more than \$9 a fifth from the wholesaler having the "exclusive" Kahlua franchise for Alaska. In other words, Kut Rate Kid was selling Kahlua to the public at a lower price than his competition could get it for from the Alaska wholesaler. The reason, I was told, that Kut Rate Kid could afford to sell at such a low price was that he had bought it through Oklahoma, which I understand allows Oklahoma wholesalers to resell liquor in interstate commerce to wholesalers licensed in states other than Oklahoma. Presumably, some Alaska wholesale licensee other than the one with the Kahlua "exclusive" was cooperating

with Kut Rate Kid in bringing the liquor into the state.

I know that the retailer where my friends were working complained to the Alaska-franchised wholesaler in an attempt to get a lower wholesale price that would allow the retailer to retail competitively with Kut Rate Kid. I do not know whether the franchised wholesaler did lower the price for Kahlua, but I am quite sure that no retailer was ever able to match Kut Rate Kid's price and still make money. Certainly the retailer my friends worked for was never able to do it.

It is argued in support of the "primary source" legislation that franchise distribution agreements between suppliers (the would-be "primary sources") and wholesalers enhance competition by stimulating vigorous interbrand competition. I cannot disagree with this proposition. However, I think the Kut Rate Kid example that I just gave suggests that there may well be some cost to the consuming public in fostering competition through a "primary source" law, which would confer a statutory dimension to such franchise agreements.

A better argument in favor of HB 406 is that it will help ensure that the state's liquor excise taxes are paid for all alcoholic beverages brought into Alaska and sold. While the Bill would not augment the deterrents to bootlegging that already exist in present law,\* it would eliminate opportunities for would-be bootleggers to engage in that practice.

Shipments coming into Alaska from Outside are typically in sealed containers, which are opened upon delivery. For someone being supplied by an Outside wholesaler (say, one in Oklahoma), the opportunity could exist to fill an otherwise partially filled container with unreported alcoholic beverages, which would escape the tax. The Oklahoma wholesaler may be much more willing to aid (or turn a blind eye to) such bootlegging than would one of the wholesalers franchised in Alaska, because the latter is subject to our laws and could lose his license if he is caught. The Oklahoma wholesaler, in contrast, is outside Alaska's jurisdiction, and proving a federal case against him might become considerably complicated since the container will surely have been consigned to one or more intermediaries en route to Alaska (the Oklahoma wholesaler probably is not licensed to do business outside Oklahoma). He would doubtless assert in his defense that one of those intermediaries was responsible,

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\* AS 43.05.290 provides criminal sanctions for a number of kinds of violations of Alaska's tax laws. In addition, the Alcoholic Beverage Control Board can suspend or even revoke the license of anyone convicted of violating the state's liquor excise tax laws. As a deterrent to bootlegging, these existing provisions go beyond the penalty proposed in HB 406 (namely, a license suspension for up to a year). The penalty in HB 406 would be a new penalty only to a non-bootlegger who pays his state taxes but does not buy his alcoholic beverages from a "primary source" or from a wholesaler franchised by a "primary source."

and to win a conviction we would have to prove beyond a reasonable doubt that he was the miscreant and that they weren't.

Under HB 406 it would no longer be necessary to catch the Alaskan bootlegger in the act, as it seems to be in order to win a conviction for tax evasion. It would only be necessary to establish that he was selling alcoholic beverages that had not been brought into the state directly from a "primary source" or by a wholesaler franchised by the "primary source." While this would still not help in getting a conviction against an Outside wholesaler suppling a bootlegging operation, it would facilitate shutting such operations down by putting their Alaska end out of business.

Thus, HB 406 would aid the enforcement of Alaska liquor excise tax laws in two ways. First, it would limit the wholesalers bringing alcoholic beverages into the state to those who are subject to Alaska's laws and would find it in their own self-interest to ensure that the state's taxes are fully reported and paid for the alcoholic beverages they bring into the state. Second, it would simplify the closing down of any bootlegging operation by putting the Alaskan end out of business upon a showing that they were not being supplied from a "primary source" or by a wholesaler franchised by a "primary source."

In summary, then, it appears that HB 406 would limit competition in the marketing of certain nationally advertised brands, such as Kahlua, which can currently be brought into the state from Oklahoma at lower prices than those offered by the wholesalers franchised to supply those brands to Alaska. This might well result in higher prices to the consumer for these products. To be balanced against this consideration, however, is the possibility that Alaskans may not enjoy as wide a variety of brands in the future without HB 406 as they do now, because the Alaska-franchised wholesalers may have to limit their inventories of less profitable merchandise in order to be able to afford to meet the competition from the Oklahoma wholesalers. In addition, there is the likelihood that HB 406 would cut down the amount of alcoholic beverages being bootlegged into this state, which must be balanced against the question of how serious that problem is.

Before closing I would like to add one personal comment. I enjoy fine wine. Older vintages of fine wine are generally not available through channels like those being contemplated in HB 406. When such wines become available, it is often through an auction or the liquidation of the cellar of a collector or wine merchant. It would be most unusual for these to be "primary sources" as that term is defined in HB 406. Rather than cut Alaska off from access to such wines as they become available, perhaps HB 406, if it is to pass, could be amended appropriately to accomodate this admittedly limited situation.


Hon. Donald E. Clocksin

May 16, 1981

Page 4

Thank you for this opportunity to express my views on this Bill to you and your committee. Please do not hesitate to call me if you have any questions.

Sincerely,



Thomas K. Williams  
Commissioner

TKW:tw

cc: Patrick L. Sharrock  
Director, ABC Board

THE CRISIS IN BEVERAGE ALCOHOL DISTRIBUTION:  
THE PUBLIC NEED FOR PRIMARY SOURCE PROTECTION

THE PROBLEM

In every state where beverage alcohol is distributed by private enterprise, except Oklahoma and Minnesota, distribution is by brand franchise agreement between suppliers and wholesalers. The wholesaler gives financial, service and marketing support to a brand in return for the brand owner's promise to sell the brand to him alone in his primary zone of responsibility. The U.S. Supreme Court, in its Sylvania decision, has found franchise agreements of this type to be pro-competitive by stimulating vigorous interbrand competition.

One State Frustrates the Right of Brand Owners and Wholesalers to Offer Consumers the Competitive Advantages of Franchised Distribution.

The peculiar laws of Oklahoma, however, not only prohibit franchising of beverage alcohol, require suppliers to sell at the lowest national price to any Oklahoma wholesaler, but permit resale and transshipment of liquor in interstate commerce to non-franchised wholesalers in other states. Out of the many thousands of wines, spirits and malt beverages offered to consumers, these non-franchised wholesalers, with no franchise investment and brand-building obligations, "cherry pick" only the highly advertised national brands and discount them heavily to carefully selected and generally large retailers. Faced with reduced margins on his leading brands, the franchised, full-service wholesaler -- obligated, typically, to carry two to three thousand other brands in inventory and to serve both large and small retailer accounts -- must cut costs, services, inventory and personnel. Thousands of jobs in distribution are in jeopardy. At stake is the ability of a dynamic and competitive industry to continue to offer consumers a variety of existing and new brands of wines, spirits and malt beverages at prices which for a decade have lagged far behind increases in the consumer price index.

A Majority of States Have Taken Action to Protect Competition, Consumer and State Revenue

A majority of license states, in order to defend the efficiencies and consumer advantages of the franchised method of distribution and to protect state alcoholic beverage revenue and the public health, have enacted primary source laws. These laws require, in effect, that all beverage alcohol imported into the state must come from the primary, licensed and regulated source of supply, i.e., the manufacturer or, in the case of imported items, its designated U.S. agent. Because of a recent upsurge in

transshipments of beverage alcohol from one state -- Oklahoma -- the value of franchises and the consumer benefits of interbrand competition are being undermined and destroyed in many markets lacking primary source protection.

A. State Court has Cast a Cloud on the Right of States to Protect their Interests in Beverage Alcohol Distribution

A California state court has ruled that California's wholesaler designation statute offends national antitrust laws. This decision has spawned similar challenges in other states, and is now before the U.S. Supreme Court on petition for certiorari. The high court recently affirmed a Kansas Supreme Court decision holding that a similar and more stringent statute presented no substantial federal question.

Unless further legislative action is taken at the federal and state levels, the vital interests of consumers, wholesalers, retailers, suppliers, and government officials charged with maintaining orderly, regulated markets for this socially sensitive product and collecting huge sums of taxes from the sale of alcoholic beverages will be jeopardized.

PRIMARY SOURCE IS PRO-CONSUMER

- By protecting the franchised method of distribution, a primary source requirement assures the consumer of convenient access to thousands of competitively priced brands of alcoholic beverages to meet his or her preferences.
- In Oklahoma, which prohibits franchises, hundreds of brands sold in other states are unavailable to consumers. New brands introduced elsewhere are not distributed in Oklahoma. The number of wholesalers in competition for the retail trade has declined from twenty to not more than six, two of whom account for 60 percent of all sales in that state. Posted wholesale markups have become identical.
- In contrast, Kansas, which prohibited franchises until 1979, enacted a system mandating exclusive franchises together with a primary source requirement. The U.S. Supreme Court upheld this law in 1980. Within one year after its enactment, the number of line items of alcoholic beverages increased from 4,366 to 14,883 and the number of wine and spirits suppliers furnishing these items from 99 in 1979 to 169. According to

a study made by the Kansas Attorney General, prices on selected popular brands declined significantly and -- became more competitive in a majority of instances with prices in Missouri, an adjoining state.

- For consumers, beverage alcohol is one of the most dynamic industries in America -- marked, for example, by the explosion of interest in wine and the entrance of hundreds of entrepreneurs to the marketplace offering new brands and products. When deprived of the opportunity and commercial right of franchised distribution, producers will have little incentive to bring new products to market and to support secondary brands.
- By requiring that all beverage alcohol imported into a state originate from the primary source of supply, consumers are further protected against misbranded, illegal and impure beverages. This danger increases with thousands of federal permits being issued for "backyard" distillation of alcohol for gasohol.

#### PRIMARY SOURCE IS ANTI-INFLATIONARY

- Primary source laws protect the consumer from monopolistic pricing which inevitably follows when a few highly advertised brands which survive a chaotic market are offered consumers by a few high volume retailers capable of dictating the terms of trade to suppliers.
- Primary laws, by protecting the right of franchised distribution, foster vigorous interbrand competition, which has made liquor the best bargain on the consumer price index for over 10 years.

#### PRIMARY SOURCE SIMPLIFIES AND REDUCES THE COST OF REGULATION

- Based on historical experience and political realities, liquor, because of the potential for abuse and serious social consequences, will continue to be regarded as a "sensitive" commodity, subject to public regulation. The challenge, in a climate of deregulation, is to minimize regulatory cost and to maximize public protection. Primary source laws offer this opportunity.
- By requiring that all beverage alcohol imported into a state originate with the licensed manufacturer or his authorized agent, government's task of collecting billions of dollars of tax revenue is simplified. Similarly, the task of enforcing liquor control, health and consumer protection laws is facilitated by a system which holds manufacturers and their distributors fully accountable for compliance.

- Primary source laws help hold down the cost of regulation by reducing the universe of licensees to be controlled, establishing clear and easily verifiable paper audit trails of all merchandise sold and distributed under license, and minimizing the need for personal government inspection of liquor shipped into a state.

BOTH STATE AND FEDERAL ACTION ARE NEEDED

- Pending remedial federal action, states lacking primary source protection should enact primary source laws to protect consumers, interbrand competition, and state revenues.
- For similar reasons, and to prevent the laws of one State from overriding the public policy of another state which may favor the franchised method of distribution and regulation, the Congress should require that all purchases of beverage alcohol in interstate commerce be from licensed suppliers.

May 5, 1981

TESTIMONY OF

RICHARD LOEB, PRESIDENT

ALASKA DISTRIBUTORS CO.

RE: HOUSE BILL 406

The first thing that I would like to discuss is what primary source isn't. Primary source is not franchise protection legislation. There is nothing in this bill that prevents the supplier from changing, at any time he wants, the wholesaler representation that he has in the state of Alaska. The misconception that primary source is a franchise protection bill for the wholesaler is something that should be laid to rest right now.

At least 23 states have laws or regulations which directly or indirectly require that alcoholic beverages imported into the state must come from the original or primary source of supply.

The purpose of primary source laws, the first of which was enacted in Texas in 1971, is to require licensed wholesalers to purchase alcoholic beverages for resale only from the primary American source of supply. As stated in House Bill 406, "The primary source of supply is the distiller, producer, or owner of the alcoholic beverage at the time it becomes a marketable product and the bottler, prime importer, trademark owner, brand owner or person who is authorized in writing as the exclusive agent of a distiller, producer, owner or bottler."

The 21st amendment, federal law and state law, all recognize that alcohol is a unique commodity, the distribution and consumption of which has social implications. Each state has the power to control alcoholic beverage trade under this amendment, within its borders. States set up requirements for the

licensing and operation of wholesalers and many control the types of people allowed to engage in the business. An effective primary source law channels the traffic of beverage alcohol from this primary source, through a wholesaler licensed in the state, thus enabling the state to control the traffic more effectively in accordance with the goals of the local statutes and regulations. More importantly, all states impose tax and derive substantial revenue from the sale of alcoholic beverages. It is in this specific field that primary source laws give the state much greater control over the flow of the product and make it much more difficult for alcohol to move into the state without payment of all applicable taxes.

Primary source legislation further guarantees that the wholesale operations will be carried out by those wholesalers licensed by the state and not from without the state. Wholesale operations presently in the state of Alaska employ many hundreds of people and it has been proven that in states where goods have come in outside of the normal wholesaler channels, many jobs have ceased to exist.

While at the outset of my testimony I pointed out that this legislation does not effect franchises, I am certain there are those who will differ with me. Let me point out, however, that there is no federal law that requires that all liquor wholesalers have access to the purchase of all liquor brands. The Sherman Act does not restrict the long recognized right of a trader or manufacturer engaged in an entirely private business the freedom to exercise its own independent discretion as to parties with whom he will deal. In the United States versus Arnold Schwinn & Co., the Supreme Court reiterated the freedom of a supplier to select his customers and to sell only to them. The Court recognized that the exclusive practice can enhance competition overall

by heightening the thrust of supplier's product in inter-brand competition with those of competing suppliers. The Court, in this case, also found this allowed the manufacturer to achieve certain efficiencies in the distribution of his products.

A few years ago, people in Minnesota thought that there was monopoly in exclusive distributorships because eight wholesalers controlled 70% of the volume. A law has been passed that outlawed exclusive distributorships. What happened? Four wholesalers now control 90% of the volume.

In Oklahoma, every wholesaler has the right to purchase any brand sold to any other wholesaler in the state. The wholesaler chooses what he wants. Under this no franchise arrangement thousands of brands available elsewhere are not available in Oklahoma. New brands introduced elsewhere are not introduced in Oklahoma. The number of wholesalers in Oklahoma has declined from more than 20 to only six, Only those who are extremely strong financially continue to survive.

The same effect takes place in the retail segment of the business as the wholesaler does not have the resources to service all accounts in the same manner that he did previously. Retailing becomes concentrated in the hands of the major stores and the small outlets suffer and many close. In summary, persons who thought the no exclusive franchise type of law would be pro-consumer have now realized that it is anti-consumer.

May 5, 1981

Primary source will insure that this does not happen in the state of Alaska.  
Primary source will protect the large and small wholesaler and retailer. House  
Bill 406 will protect the revenue due the state of Alaska.

I strongly urge the passage of House Bill-406 for the good of all concerned.

## BENEFITS OF PRIMARY AMERICAN SOURCE LAWS

✓  
X  
The first primary source of supply law was enacted in Texas in 1971. Following an unsuccessful attempt in 1972, a primary source law was finally enacted in Louisiana in June 1973. Similar requirements are now in effect, either by statute or regulation, in Arizona, Arkansas, California, Colorado, the District of Columbia, Florida, Kansas, Maryland, Nebraska, North Dakota, Rhode Island and Wisconsin. Primary source laws were passed in Massachusetts but vetoed, and a primary source law is being proposed in Missouri.

DISCUS has supported each of these primary source laws. This is a summary of the benefits that result from such statutes, which are the reasons for DISCUS' support.

### I.

#### PRIMARY SOURCE OF SUPPLY LAWS FOSTER COMPETITION

The supplier level (manufacturers and importers) of the distilled spirits industry is highly fragmented. There are a large number of small companies and tens of thousands of brands. The wholesaler level of the industry, however, is relatively concentrated in most states. It is the public policy of all

license states to preserve and regulate the wholesale segment of the industry and to maintain effective competition among wholesalers. Competition at the wholesale level will ultimately result in better service and prices for both retailers and consumers.

An effective primary source law discourages undue concentration at the wholesale level. Allowing suppliers to select the wholesalers of their products assures that there will be a larger number of wholesalers competing with each other, and that the less popular brands will have an opportunity to compete with the industry leaders.

Without a primary source law, the interaction of laws of the various states would make it possible for the most powerful wholesalers to obtain the most popular brands from out-of-state wholesalers. By concentrating on large-quantity purchases of these few brands, these powerful wholesalers would be able to use their superior economic resources to cripple weaker wholesalers selling those same brands. If these practices are permitted to continue for a sufficient time, they will lessen both the number of wholesalers and the number of brands in the state.\*

In the long run, such practices would lessen wholesale competition at the expense of both retailers and consumers.

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\* In this respect, the situation would be similar to that in Kansas, Minnesota and Oklahoma, where all wholesalers can obtain all brands directly from the suppliers. The number of wholesalers has shrunk significantly, concentrating that level of the industry in the hands of a few powerful wholesalers.

widely from state to state, most state laws have as one of their primary purposes the encouragement of temperance. An effective primary source law channels the traffic in beverage alcohol from properly licensed suppliers through a wholesaler properly licensed in the state, thus enabling the state to control that traffic more effectively in accordance with the social goals of local statutes and regulations.

III.

PRIMARY SOURCE LAWS FOSTER  
MORE EFFECTIVE TAX COLLECTION

All states impose substantial taxes and derive significant revenue from the sale of beverage alcohol. Primary source laws give the state greater control over the flow of beverage alcohol into the state and make it more difficult for beverage alcohol to move into the state without payment of all applicable taxes.

Further concentration at the wholesaler level can only weaken the smaller suppliers, making it more difficult for them to find wholesalers willing and able to handle their products. This could result in the failure of small suppliers and greater concentration at the supplier level with attendant anti-competitive results.

The Federal Alcohol Administration Act reflects the philosophy of the antitrust laws and contains provisions designed to foster competition at both the supplier and wholesaler levels. By promoting competition and preventing concentration at the wholesaler level, primary source laws further this policy.

## II.

### PRIMARY SOURCE LAWS FOSTER MORE EFFECTIVE BEVERAGE ALCOHOL REGULATION

The 21st Amendment and federal and state statutes all recognize that beverage alcohol is a unique commodity, the distribution and consumption of which has important social implications. Under the 21st Amendment, each state has the power to control the alcohol beverage trade within its borders. Each state has set up detailed requirements for the operations and licensing of wholesalers and controlling the types of people allowed to engage in the business. Although the types of social goals sought to be accomplished by these requirements vary

DRAFT MEMORANDUM

RE: PRIMARY AMERICAN SOURCE OF SUPPLY

The purpose of primary source of supply laws and/or regulations is to require wholesalers to purchase alcoholic beverages for resale only from the primary American source of supply. The primary American source of supply is defined as the owner of a particular brand of liquor at the time it first becomes a marketable product in the United States.

These laws have become necessary in some states in order to protect local wholesaler's legitimate franchise; to distribute particular brands of alcoholic beverages. Due to a unique provision of the laws of the State of Oklahoma an Oklahoma wholesaler can, in effect, export his purchases to out-of-state buyers. Sales representatives of an Oklahoma wholesaler call on out-of-state wholesalers and offer to sell them merchandise for which they (the out-of-state wholesalers) do not have distributional franchises--to the great detriment of those who do.

Due to the great <sup>buying</sup> power and lack of overhead expense of the Oklahoma seller, the non-franchised buyer of his goods can usually afford to under-sell (to local retailers) the legitimate franchisee and thus destroy his market and his business. The authorized franchise distributor has spent a great deal of his time and his money to build up his business; he has hired salesmen and other personnel, spent advertising and promotional money, invested heavily in his warehouse; inventory and his delivery trucks. The non-franchised dealer who now carries the same merchandise has not invested a penny yet he reaps the rewards of the authorized franchise's labors.

To permit such a practice is unconscionable. Liquor franchises are a legitimate and proper means of liquor wholesale distribution and they are

recognized as valuable property rights. To permit the destruction of franchised liquor distribution is to create utter chaos in a market that public interest demands be kept orderly. To permit out-of-state interests to destroy an existing stable market is obviously contrary to the best interests of all concerned, the dealer, the state, and the consuming public.

Since the inauguration of this franchise-breaking practice many states have been quick to take corrective action. Primary source of supply laws or regulations are now in effect in Arkansas, California, Colorado, the District of Columbia, Louisiana, Maryland, Nebraska, and Texas. Additionally, the states of Massachusetts, Rhode Island, and Wisconsin now have such laws or regulations pending for adoption.

Primary source of supply laws appear to be the most effective means of combatting this grossly unfair method of competition and preserving a healthy and orderly economic climate in the liquor market. Failure to adopt such a law can only result in irreparable harm and injury to local wholesale business interests.

The state, too, has a vital interest in this matter. Carried to its logical conclusion, the liquor wholesale function will no longer remain vested in Minnesota business interests. It will be completely controlled by Oklahoma interests over which the State of Minnesota has no jurisdiction. As the Oklahoma distributors are not distillers themselves, their own supplies are of at least questionable duration. It is thus quite possible for severe shortages of particular brands to occur in Minnesota, and for both Minnesota authorities and distillers to be powerless to prevent it.

Once the control of liquor distribution falls into out of state hands, the beverage authority's control of the state liquor traffic has been very gravely compromised.

## BENEFITS TO THE PUBLIC OF PRIMARY AMERICAN SOURCE LAWS

It protects the interests of the states. Under the 21st Amendment each state has the power to control the alcohol beverage trade within its borders. Each state has set up detailed requirements for the operations and licensing of wholesalers and control the types of people allowed to engage in the business. Without a primary source law out-of-state wholesalers not subject to the state's control, are free to sell into the state either to local licensed wholesalers or in effect directly to retailers in those states where a retailer can hold a wholesaler's license.

All states impose heavy taxes and derive substantial revenue from the sale of alcohol beverages. Primary source laws give the state better control over the flow of alcohol beverages into the state and makes it more difficult for alcohol beverages to move into the state without paying taxes, e.g. from a low tax to a high tax state.

It is the public policy of all license states to preserve and regulate the wholesale segment of the industry and to maintain effective competition among wholesalers. Without a primary source law it becomes possible for one or two powerful wholesalers to obtain all the popular brands from out of state wholesalers and eventually cripple weaker wholesalers who are franchised to sell these brands. In the long run such practices would lessen competition at the expense of both retailers and consumers. An effective primary source law discourages undue

concentration at the wholesale level. For example, in Minnesota and Kansas where all wholesalers can obtain all brands, the number of wholesalers has shrunk significantly so that all power at that level of the industry is concentrated in a few hands.

The 21st Amendment, Federal law and state law all recognize that alcohol is a unique commodity, the distribution and consumption of which has serious social implications. Most state laws have as one of their primary purposes the encouragement of temperance to the extent that a primary source law enables a state more effectively to regulate the trade. The state is better able to carry out its policies concerning alcohol.

The supplier level (manufacturers and importers) of the industry is highly fragmented. There are a large number of small companies and tens of thousands of brands in the market place. The wholesale level of the industry, however, is relatively concentrated in most states. For the concentration at the wholesale level can only weaken the smaller suppliers making it less easy for them to find wholesalers willing and able to handle their products.

Thus concentration at the wholesale level may lead to the failure of small suppliers and greater concentration at the supplier level with attendant anti-competitive results.

*Legislative*  
Policy and relevant history of the Federal Alcohol Administration Act reflect the philosophy of the antitrust laws in the United States and contain provisions designed to maintain competition in the industry horizontally on the supplier and wholesale levels, and vertically by preventing suppliers and wholesalers from having "any interest in any licenses with respect to the permises of a retailer" "or by otherwise gaining control of a retailer." (Section 5(b))

To the extent that primary source laws prevent competition on the wholesale level they further the policies of the antitrust laws and the Federal Alcohol Administration Act. *and prevent competition*

Competition at the wholesale level ultimately will result in better service and prices for both retailers and wholesalers.

CSNB 406

1.) Mr. Metz } WINE AND SPIRITS WHOLESALERS OF AMERICA

PROTECT EFFICIENT DISTRIBUTION / TAXATION  
(WHOLESALE → DISTRIBUTION → RETAILER)  
(DISTILLER → WHOLESALE → RETAILER)  
ANTI TRUST - TEMPERANCE - TAXATION  
1971 - 1985 (1st) 2nd now have 3rd and 4th provisions

2.) MR. SHANNON - DISTILLED SPIRITS COUNCIL OF THE UNITED STATES  
IN FAVOR - TAXATION - SWANNECK  
BREWING INTERESTS PROTECTED - PRICES HAVE GONE DOWN  
3 tier system - IN SEPARATE  
PROTECTS BRAND COMPETITION, QUOTES RETAILER ON PRODUCTS

\* PAGE

FRANCHISED STATES PROMOTE TEMPERANCE, NOT A MONOPOLY BILL.

~~WINE~~ COTE SYLVANIA INTERSTATE COMPETITIVE DIST. INTER-BRAND  
(SUPPORTED BY RETAILERS!)

3.) BROOKS HANFORD - OFFERS AMENDMENTS

4.) JOE DONOHUE - DEPT. REVENUE - NO POSITION ON BILL  
DON'T GIVE MUCH WEIGHT TO ARGUMENT OF BOOTLEGGING PROBLEM.

5.) CLARK KING - QUOTED LIQUOR MERCHANTS  
OPPOSES BILLS: BELIEVES MONOPOLISTIC, ANTI CONSUMER  
ANTI FREE ENTERPRISE

6.) KEN TRUMFAN -  
KEN TIBBETOU - NO LUMP SUMS OF LIQUOR.  
MONOPOLY ON ALL FOREWARDS

Mary Drew - DISCUSS

2b IS DELETED

Sec. 3

H B

4 0 9

File

# COMMITTEE REPORT SENATE

4/7/82

FURTHER: None

Date: April 3, 1982

Mr. President:

The Committee on JUDICIARY has had CSSSHB 409(R1s) relating to hunting

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 119  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

John G. Anderson, District

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

CHAIRMAN

AMENDMENT TO SCSSSB 409(Resources)

Page 1, Line 13:

Insert the words "Class A" between "or" and "assistant".

Original sponsors: Hurlbert, Zharoff  
and Grussendorf

Offered: 4/7/82  
Referred: Judiciary

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 409 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to hunting; and providing for an  
7 effective date."

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

9 \* Section 1. AS 16.05.407 is amended by adding new subsections to read:

10 (d) It is a class A misdemeanor for a nonresident alien to hunt,  
11 pursue or take walrus or a big game animal as defined by the Board of  
12 Game unless personally accompanied by a person who is licensed as a  
13 master guide, registered guide, or <sup>11/25/82</sup> assistant guide under AS 08.54.

14 (e) A nonresident alien when purchasing a big game tag for the  
15 taking of an animal specified in this section shall first furnish to the  
16 state, on a form provided by the state, an affidavit showing that he  
17 will be accompanied in his hunt by a person who is qualified under the  
18 terms of this section. A nonresident alien shall have a copy of the  
19 affidavit in his possession while in the field hunting. A person who  
20 falsifies the required affidavit is guilty of perjury under AS 11.56.200.

21 \* Sec. 2. AS 16.05.940 is amended by adding a new paragraph to read:

22 (29) "nonresident alien" means a person who is not a citizen  
23 of the United States and whose permanent place of abode is not in the  
24 United States.

25 \* Sec. 3. This Act takes effect July 1, 1982.

26  
27  
28  
29

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 26, 1982

SUBJECT: Big game hunting by nonresidents  
(SCS CSSSHB 409 (Judiciary))

TO: Senator Patrick M. Rodey  
Chairman, Senate Judiciary Committee

FROM: Edward H. Hein *EH*  
Legislative Counsel

Enclosed is the Judiciary Committee Substitute for HB 409. After discussions with your administrative assistant, Kevin Bruce, I made certain changes to the bill, for the reasons noted below.

1. The title of the bill has been changed to more accurately express the subject of the bill, as required by Article II, Sec. 13 of the Alaska Constitution.
2. An amendment to AS 16.05.407(a) has been inserted as a new Section 1 of the bill to make clear that the affidavit required under (a) relates only to the animals and guides listed in (a), not the animals and guides specified in (d). Also, a reference to AS 11.56.200 was inserted to be consistent with the language of (d).
3. Subsection (e) was amended to clarify that the affidavit refers to animals and guides listed in (d), not the ones listed in (a).
4. It should be noted that this bill raises substantial constitutional questions.

Section 2 of the bill would amend AS 16.05.407 to discriminate against nonresident aliens, as opposed to other nonresidents, in at least five ways. First, the list of big game species for which nonresident aliens must be accompanied is expanded to include not only the four species that apply

to nonresidents, but also black bear, bison, caribou, Sitka black tail deer, elk, mountain goat, moose, musk oxen, walrus, wolf and wolverine. 5 AAC 90.020(3). Second, a violation by a nonresident alien carries a maximum \$5,000 fine -- twice the amount that other nonresidents could be fined for the same offense. Third, unlike other nonresidents, nonresident aliens must be accompanied by a licensed guide, not merely a relative who is 19 and an Alaska resident. Fourth, nonresident aliens may not comply with the law by being accompanied by an assistant guide, whereas other nonresidents may do so. Fifth, nonresident aliens must carry the affidavit required by AS 16.05.407(e) with them in the field, whereas other nonresidents are not required to do so.

The Fourteenth Amendment to the United States Constitution provides, "[N]or shall any State . . . deny to any person within its jurisdiction the equal protection of its laws". It has long been settled that the term "person" in this context encompasses aliens as well as citizens of the United States and entitles both citizens and aliens to the equal protection of the laws of the state. Yick Wo v. Hopkins, 118 U.S. 356 (1886); Truax v. Raich, 239 U.S. 33 (1915); Takahashi v. Fish and Game Commission, 334 U.S. 410 (1948). In addition, the United States Supreme Court's opinions have established that classifications based on alienage, like those based on nationality or race, are inherently suspect and subject to strict judicial scrutiny. Graham v. Richardson, 403 U.S. 365 (1971); Nyquist v. Mauclet, 432 U.S. 1 (1977). The court has stated that aliens as a class are a prime example of a "discrete and insular" minority (see United States v. Carolene Products Co., 304 U.S. 144 (1938)) for whom such heightened judicial solicitude is appropriate. Graham, U.S., at 372.

Prior to the Graham decision, the court had upheld statutes that, in the absence of overriding treaties, limited the right of noncitizens to engage in exploitation of a state's natural resources. McCready v. Virginia, 94 U.S. 391 (1877); Patsone v. Pennsylvania, 232 U.S. 138 (1914). The theory underlying those cases was that the state had a "special public interest" in favoring its own citizens over aliens in the distribution of limited resources. The special public interest doctrine was heavily grounded on the notion that "[w]hatever is a privilege, rather than a right, may be made dependent upon citizenship". People v. Crane, 214 N.Y. 154, 164 (1915). However as the court noted in Graham,

This Court now has rejected the concept that constitutional rights turn upon whether a governmental benefit is characterized as a "right" or as a "privilege".

403 U.S. at 374.

Classifications based on alienage are inherently suspect and subject to strict judicial scrutiny regardless of whether a fundamental right is involved.

For this bill to be upheld as constitutional under the Equal Protection Clause, the state would have to demonstrate to the court that the discriminations against nonresident aliens are necessary to achieve a compelling state interest.

The state has a legitimate and perhaps compelling interest in preserving and conserving its natural resources, including wildlife. The Alaska Constitution requires the legislature to do so. Article VIII. It is reasonable to conclude, however, that the discrimination against nonresident aliens provided for in this bill is not necessary in order to conserve big game and that the discriminatory provisions of the bill would be struck down as unconstitutional if challenged in court.

EHH:ljb



Official Business

# Alaska State Legislature

Senate

Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

## MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

APRIL 23, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

### Legislation Before Committee:

- SB 437 - "An Act relating to the confidential communications between students and teachers."
- HB 409 - "An Act relating to hunting; and providing for an effective date."
- SB 861 - "An Act relating to rights of persons who report violations of law; and providing for an effective date."
- SJR 61 - Proposing amendments to the Constitution of the State of Alaska relating to appropriations and the retention, investment and expenditure of certain state revenues; and superseding the amendments proposed by Legislative Resolve No. 1, First Special Session of the Twelfth Legislature (FSS FCCS SJR 4).

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:05 P.M. Committee members present were: Senators Rodey, Ray, Parr, and Anderson. Senator Bennett was absent.

003 - Call to order.

009 - Chairman Rodey brought SJR 61 before the committee.

013 - Mr. Bruce explains the changes in the committee substitute.

088 - Representative Malone testified stating that the language in the committee substitute was somewhat limiting and offered attached amendments.

120 - Tom Williams, Commissioner of Revenue, testified, answering questions by the committee.

560 - Senator Parr asked for opinions from the Attorney General's office and Legislative Affairs regarding the need for Sec. 26 of Sec. 4.

SIDE TWO

235 - Senator Ray moved the Representative Malone's amendment #1 be adopted. There was no objection. (see attached amendments.)

245 - Senator Ray reconsidered his motion. There was no objection. Senator Rodey moved that on Page 2, Line 3, "or appropriations are" be inserted between the words "appropriation" and the word "approved". The word "is" is to be struck. There was no objection and it was adopted.

673 - The committee discussed the other amendments at length, but took no further action.

678 - SJR 61 returned to file for committee review.

687 - Chairman Rodey brought SB 437 before the committee.

736 - Bob Cooksey, NEA, testified in favor of SB 437.

TAPE #2

106 - Mr. Kirk, Ak. Statewide Student Assoc., testified in favor of the bill and submitted written testimony.

180 - Senator Anderson states that this legislation would be a threat to parents. Senator Ray objected to the confidentiality privilege being extended to teachers.

210 - Senator Anderson requested that SB 437 be tabled at this time. There was no objection.

244 - SB 437 laid on the table.

252 - Chairman Rodey next brought HB 206 before the committee.

268 - Senator Ray moved that HB 206 be passed from committee with individual recommendations. There was no objection.

277 - Chairman Rodey brought HB 409 before the committee.

323 - Senator Ray moved that on Pg. 1, Line 3, the word "alien" be inserted after "non-resident". There was no objection.

362 - Mr. Zibel, Department of Public Safety testified in favor of HB 409, and requested that the words "Class A" be inserted between the words "or" and "guide" on Line 13, Page 1. Senator Ray moved the amendment. There was no objection.

383 - Senator Anderson moved to include Sec. 2 of the House Rules Committee substitute. There was no objection and it was adopted. Senator Anderson moved to pass the Judiciary committee substitute as amended. There was no objection.

491 - The last item on the calendar was SB 861.

512 - After brief discussion, it was moved to return SB 861 to State Affairs committee.

532 - Adjourned at 3:00 P.M.

RESOURCE FUND  
SEC. 17 CONSTITUTION

P2 L3

DELETE [ IF THE APPROPRIATION IS ]

( MAKES IT CLEAR THAT  
SEVERAL APPROPRIATIONS  
ARE POSSIBLE )

---

L 6-7 DELETE [ WHICH ARE OWNED BY STATE ]  
L 13 " [ OWNED BY STATE ]

( MAY WANT TO INSERT  
PUBLICLY OWNED INSTEAD )

— PROVIDES MORE FLEXIBILITY

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P2 L8

DELETE [ AMOUNT ]  
INSERT VALUE

( MAKES SURE VALUE OF  
INVESTMENT IS REPAYED  
IN DOLLARS THAT ARE  
OF EQUAL VALUE — THAT IS,  
ADJUSTED FOR INFLATION )

---

P 17, AFTER THE WORD " FUND "  
INSERT: IN EXCESS OF THE AMOUNT  
NECESSARY TO PRESERVE THE VALUE OF THE FUND  
AGAINST THE EFFECTS OF INFLATION AND  
REALIZED LOSSES

SEC 16

## GENERAL FUND

PAGE 1  
LINE 26ADD A NEW SENTENCE  
TO READ:

ALL REVENUES IN EXCESS  
OF APPROPRIATIONS UNDER THIS  
SECTION SHALL BE INVESTED  
AT NATIONALLY COMPETITIVE  
MARKET RATES.

PERMANENT FUND  
SEC 15PAGE 3  
LINE 16

AFTER THE WORD "FUND"

ADD: , IN EXCESS OF THE AMOUNT  
NECESSARY TO PRESERVE THE  
VALUE OF THE FUND AGAINST  
THE EFFECTS OF INFLATION  
AND REALIZED LOSSES,

409

CLASS A ASSISTANTS 08.54.  
SPECIAL GUIDE

407(a)

SUBSECTION A

LICENSED UNDER 08.54

\*

LINE 13 [MASTER . . . . . ASSISTANT] GUIDE

FISCAL NOTE

I. REQUEST CSSSHB 409(R1s)  
 Bill/Resolution No. CSSSHB 409(R1s)  
 Title An act relating to non-resicent hunters and providing an effective date  
 Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
 Agency Affected Dept. of Public Safety  
 Program Category Affected NRMEC  
 BRU, Program, Or Subprogram(s) Affected Fish & Wildlife Protection  
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0	0	0	0

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY	0	0	0	0	0	0

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

IV. DATE 4/15/82 PREPARED BY Colonel Robert J. Stickles  
 AGENCY Fish & Wildlife Protection  
 Original: Legislative Finance PHONE 29-5534  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)



# Alaska State Legislature

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

March 29, 1982

To: Senator Fahrenkamp, Chairwoman, Senate Resources Committee  
Senator Pat Rodey, Chairman, Senate Judiciary Committee  
Representative Charles Anderson, House Judiciary Committee

From: Representative Vern Hurbert

Re: HB 409

In regard to the above bill which your committee is reviewing, I would like to offer the following for your consideration in your reviewing process:

I received a telephone call yesterday from the Director of Nunam Kitlutsiski, a regional organization serving the Yukon and Kuskokwim River areas. He informed me that the village of Line Village had contacted the Association of Village Council Presidents in Bethel (of which Nunam Kitlutsiski is a subsidiary) for assistance. The village of Line Village was concerned with the devastating depletion of their game resources by hunter fly-ins. My concern is not with the Alaskan hunters, but with unguided non-resident hunters who are flown into rural Alaska and are dropped off in an environment they are not familiar with, to take and kill Alaskan game.

Line Village is a community of about sixty people on the Stony River. It has mail plane service from McGrath once or twice a week, and is otherwise totally isolated from the outside world. Because of its geographic isolation, the cost of flying fuel, food and other supplies into the village is extremely high. The economic base and the per-capita income level of the community is extremely low.

If this situation continues, with unguided non-resident hunters being dropped off near and around the community of Line Village, and hunting and taking large numbers of game, the depletion of the game resources could create devastating circumstances for the residents of the village. As the Representative from District 18, which includes Line Village, I am extremely concerned about this situation.

Thank you for your consideration in this matter.

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B

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COMMITTEE REPORT

SENATE

1/26/82

FURTHER: None

Date: May 13, 1982

Mr. President:

The Committee on JUDICIARY has had CSRB 473 (Jud)

changing the classification of and punishment for certain crimes against the person

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

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

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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CHAIRMAN

Original sponsors: Barnes, Hayes,  
Abood, et al

Offered: 5/15/82  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 473 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to sentencing for class A felonies."

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

8 \* Section 1. AS 12.55.125(c) is repealed and reenacted to read:

9 (c) A defendant convicted of a class A felony may be sentenced to  
10 a definite term of imprisonment of not more than 20 years, and shall be  
11 sentenced to the following presumptive terms, subject to adjustment as  
12 provided in AS 12.55.155 - 12.55.175:

13 (1) if the offense is a first felony conviction, other than  
14 for manslaughter, and the defendant possessed a firearm, used a dangerous  
15 instrument, or caused serious physical injury during the commission of  
16 the offense, seven years; *→ CURRENTLY 6 years*

17 *CURRENT NO PRESUMPTIVE* (2) if the offense is a first felony conviction and does not  
18 involve circumstances described in (1) of this subsection, five years;

19 *CURRENT IS 10* (3) if the offense is a second felony conviction, 10 years;

20 *CURRENT IS 15* (4) if the offense is a third felony conviction, 15 years.

21 \* Sec. 2. AS 12.55.125(g) is amended to read:

22 (g) If a defendant is sentenced under (c) [(c)(1), (c)(2), (c)(3)],  
23 (d)(1), (d)(2), (e)(1), or (e)(2) of this section, except to the extent  
24 permitted under AS 12.55.155 - 12.55.175,

25 (1) imprisonment may not be suspended under AS 12.55.080  
26 [AS 12.55.80]; *CORRECTIVE AMENDMENT*

27 (2) imposition of sentence may not be suspended under AS 12.-  
28 55.085 [AS 12.55.85]; *CORRECTIVE AMENDMENT*

29 (3) terms of imprisonment may not be otherwise reduced.

1 \* Sec. 3. 12.55.155(a) is amended to read:

2 (a) If a defendant is convicted of an offense and is subject to  
3 sentencing under AS 12.55.125(c) [AS 12.55.125(c)(1), (c)(2), (c)(3)],  
4 (d)(1), (d)(2), (e)(1), or (e)(2) and

5 (1) the presumptive term is four years or less, the court may  
6 decrease the presumptive term by an amount as great as the presumptive  
7 term for factors in mitigation or may increase the presumptive term up  
8 to the maximum term of imprisonment for factors in aggravation;

9 (2) the presumptive term of imprisonment is more than four  
10 years, the court may decrease the presumptive term by an amount as great  
11 as 50 percent of the presumptive term for factors in mitigation or may  
12 increase the presumptive term up to the maximum term of imprisonment for  
13 factors in aggravation.

14 \* Sec. 5. AS 12.55.165 is amended to read:

15 Sec. 12.55.165. EXTRAORDINARY CIRCUMSTANCES. If the defendant is  
16 subject to sentencing under AS 12.55.125(c) [AS 12.55.125(c)(1), (c)(2),  
17 (c)(3)], (d)(1), (d)(2), (e)(1), or (e)(2) and the court finds by clear  
18 and convincing evidence that manifest injustice would result from failure  
19 to consider relevant aggravating or mitigating factors not specifically  
20 included in AS 12.55.155 or from imposition of the presumptive term,  
21 whether or not adjusted for aggravating or mitigating factors, the court  
22 shall enter findings and conclusions and cause a record of the proceed-  
23 ings to be transmitted to a three-judge panel for sentencing under AS  
24 12.55.175.

25 \* Sec. 5. AS 33.15.180 is amended to read:

26 Sec. 33.15.180. PERSONS ELIGIBLE FOR PAROLE. (a) A state prisoner  
27 other than a juvenile delinquent, wherever confined and serving a defin-  
28 ite term of over 180 days or a term the minimum of which is at least 181  
29 days, and who is not imprisoned in accordance with AS 12.55.125(c)

1 [AS 12.55.125(c)(1), (c)(2), (c)(3)], (d)(1), (d)(2), (e)(1), or (e)(2),  
2 whose record shows that he has observed the rules of the institution in  
3 which he is confined, may, in the discretion of the board, be released  
4 on parole, subject to the limitation prescribed in AS 33.15.080 and  
5 33.15.230(a)(1).

6 (b) A state prisoner who has been imprisoned in accordance with  
7 AS 12.55.125(a) or (b) may not be released on parole until he has served  
8 at least the prescribed minimum term of imprisonment.

9 (c) A state prisoner imprisoned in accordance with AS 12.55.125(c)  
10 [AS 12.55.125(c)(1), (c)(2), (c)(3)], (d)(1), (d)(2), (e)(1), or (e)(2)  
11 who is released under AS 33.20.030 shall be placed on parole for the  
12 period specified in the certificate of deduction, subject to written  
13 rules and conditions imposed by the board or his parole officer.  
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Official Business

# Alaska State Legislature

## House of Representatives

Pouch V  
State Capitol  
Juneau, Alaska 99811

FOR IMMEDIATE RELEASE  
Contact: Rep. Ramona Barnes  
465-3718

May 19, 1982

House Judiciary Committee Chairman Ramona Barnes today blasted the Senate for being "soft on crime." She specifically singled out Senate Judiciary Committee Chairman Pat Rodey for "ignoring the desires of a majority of Alaskans to fight the growing crime rate." She said, "Senator Rodey has proven he won't take a tough stance against criminals by the bill stripping action taken in his committee."

Barnes referred to HB 473 which she sponsored to establish minimum mandatory sentences for sexual assault in the first degree and combinations of unclassified felonies such as kidnap and murder. Under the Barnes version of the bill, sexual assault in the first degree would be raised from a class A felony to an unclassified felony. The Senate Judiciary Committee has altered the bill to an act relating to class A felonies. The Senate Co was largely drafted by the Department of Law which stated the House version would lighten sentences in many cases.

Barnes said, "The Department's claims are simply not true. While both the Department and the Senate Judiciary Chairman seem to believe sentences now handed out are adequate to punish those who commit multiple violent crimes, statistics show just the opposite."

Barnes pointed to the following examples:

In the Klinkhart case in Anchorage where a <sup>Hillside</sup> teenager was <sup>featured</sup> beaten, sexually assaulted and murdered, a judge could have given a 258 year sentence which was sought by the prosecution. The judge gave a 75 year sentence with parole eligibility in 25 years. Under the Barnes bill there would have been a mandatory sentence of ~~99~~ years and no parole.

In the Walatka murder trial, none of the defendants were convicted of murder but were convicted on two counts of kidnapping. The judge can sentence the offenders to a 5 year minimum sentence with parole eligibility in 1½ years. Under the Barnes bill there would have been a 50 year minimum sentence and no parole.

In Fairbanks where a <sup>drunk driver</sup> ~~person~~ killed 2 people and seriously injured another in a multiple murder in the second degree case, the offender was sentenced to 20 years with parole eligibility in 6½ years. Under the Barnes bill there would have been a fifty year minimum sentence with no parole.

Barnes added, "Current sentencing practices show judges are not handing out stiff penalties. My version of HB 473 would assure that those who commit the most serious violent crimes are severely punished and that they are not released back on the streets almost as soon as they are imprisoned. A recent study showed that the average sentence for first time offenders committing sexual assault in the first degree was 3.5 years with parole eligibility after only 1.2 years. My bill would have provided for a minimum 5 year sentence for first offenders with no parole eligibility.

Barnes continued, "The Department of Law's and the Senate Judiciary Committee's statement that sexual assault in the first degree should not be made an unclassified felony is a slap in the face to the dozens of women who have endured the nightmare of rape. Further the Senate Judiciary bill proves plainly that those on that committee are not willing to fight crime in this state but may be willing to subject the public to needless danger by prematurely releasing those who commit violent crimes. Should the Senate pass their version of this legislation without sufficient time to remedy the problems in conference, I expect I would likely prefer to see the bill die than to pass a bill which I consider to be an insult to Alaskan citizens who deserve to be protected from violent crime."

# # # # #

# Officials say state handing out longer jail terms for offenders

By DEBBIE CARTER  
Staff Writer

Convicted rapists set free from Alaska jails in 1976 spent less time behind bars than those in any other state surveyed except Nevada, the National Law Journal says.

Using statistics which compare 37 states and the federal system, the newspaper said rapists from Alaska and Nevada spent an average of 14 months in jail before finishing their sentence or getting out on parole.

On the other end of the scale, rapists freed in Arkansas in 1976 were jailed an average of almost 10 years—eight times as long as in Alaska, the weekly newspaper for lawyers said.

More recent information on how long Alaska criminals are staying in jail for rape and other violent crimes is not available.

But Fairbanks Presiding Superior

Court Judge James Blair and other court officials predict that jail time has drastically increased within the past five years.

Court officials also say the Alaska cases are so few in comparison to other states that meaningful figures and conclusions can not be generated.

Blair estimates there were probably only a half dozen to a dozen rapists paroled in Alaska in 1976—the year which the National Law Journal chose as an example.

He also points to an Alaska Judicial Council study released in November that says sentences meted out in Alaska almost doubled for certain violent crimes in the late 1970s, compared to an earlier three-year period.

That study said sentences for violent crimes increased 82 per cent but no specific breakdown was available by crime. The only category to decrease

was drug offenses.

The judicial council study also noted a sharp drop in the number of probationary sentences given out instead of jail time.

In another category, the National Law Journal shows that in only one other state persons convicted of manslaughter were released in as short a time.

Inmates in Missouri spent an average of eight months in jail for manslaughter. Alaskans were jailed an average of 11 months.

The average Alaskan felon paroled in 1976 spent 22 months in jail, three months shorter than the national average and five months shorter than prisoners convicted in the federal system.

Sam Trivette, executive director of the Alaska Parole Board, questioned  
(See SENTENCES, page 6)

## Bill calls for harsher rape terms

Associated Press

Juneau — Much harsher sentences would be allowed for people convicted of rape under a bill introduced today by Rep. Ramona Barnes, R-Anchorage.

Under the bill (HB473), a person convicted of rape or assault with intent to rape could be sentenced to up to 99 years in prison. The bill would require a minimum five-year sentence for forcible rape, and no parole or probation would be allowed until after five years.

Existing law allows a maximum sentence of 20 years.

Barnes said she introduced the bill to "keep rapists off the streets."

"Right now, under Alaska law, a first-time forcible rape offender can be paroled after six months in prison, the sentence mitigated or suspended by judicial or parole board discretion," Barnes said in a speech from the House floor.

Barnes cited a national law journal article that said the national average for prison time served for forcible rape is 52 months. She said her bill's "approach to minimum mandatory sentences at 60 months is quite reasonable and responsible."

The bill also redefines other sexual offenses, including incest and statutory rape, but penalties are not changed.

According to a recent study by the state's Criminal Justice Planning Agency, Alaska had more rapes per capita in 1978 and 1979 than any other state in the nation.

Eleven Republicans co-sponsored the bill introduced by Barnes.