

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1740 HLC 1/20/82 HB 146 - 1/25/82 HB 159

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 1/20/82

Place: _____

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	X		1:00	
Rep. D. Randolph	X		1:02	2:32
Rep. B. Rogers	X		1:03	
Rep. T. Gardiner	X		1:02	2:16
Rep. T. Martin, Chair	X		1:00	

Subject Matter:

House Bill No. HB 595 ~~HB 146~~ _____

Senate Bill No. _____

Special Orders:

MEMORANDUM

State of Alaska

TO: Board of Welding Examiners

DATE: May 28, 1981

FILE NO:

TELEPHONE NO: 465-2535

FROM:  Nick Coti, Management Analyst
Division of Occupational Licensing

SUBJECT: HB 595

Attached for your review is a copy of HB 595, relating to the continuation of the Board of Welding Examiners. I would appreciate receiving your comments on this bill. Please respond on this memorandum, or on an attached sheet, and mail it to me as soon as possible, Thank you.

COMMENTS:

3 Jun 81

Yes, I do support passage of HB 595. I feel that the Board has has been effective in increasing the quality of welding within the State of Alaska.

I do not feel however, that the Board has ^{NOT} been as effective as it could have been in the last couple of years since so much effort has been spent in replying to Sunset requirements. If HB 595 was passed the Board could devoted full time to serving the public in regards to the welding industry.

The Board has managed to effectively operate on what I feel is a very minimal budget. A great service has been provided to the taxpayers of this State at a very low cost. I see no reason that this low level of funding would not be sufficient to addequately meet the publics needs in the future.

I am adamantly opposed to the creation of a bureaucracy, such as a Welding Bureau to over see the welding industry in the State. The cost would be enormous and would probably be no more effective than the present Board.

Please forgive the typos, I had to do this myself.



Don H. Delk
Secretary,
Board of Welding Examiners

MEMORANDUM

State of Alaska

TO: Board of Welding Examiners

DATE: May 28, 1981

FILE NO:

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Division of Occupational Licensing

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COMMENTS:

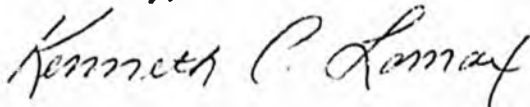
Dear Mr. Coti:

I feel the continuation of the Board of Welding Examiners is essential to the construction and Petro-Chemical Industry in Alaska.

As a supervisor for a major oil company I have had an opportunity to see positive results from the licensing of welding inspectors. Of course, as with any licensing requirement, there are some rough edges to smooth over but that is what the board is for. I think the board should have the opportunity to finish what it started several years ago when the laws were still in the draft form.

Thank you for the opportunity to speak out.

Sincerely,



KENNETH C. LOMAX
Quality Assurance Supervisor
ARCO Oil and Gas Co.

MEMORANDUM

State of Alaska

TO: Board of Welding Examiners

DATE: May 28, 1981

FILE NO:

TELEPHONE NO: 465-2535

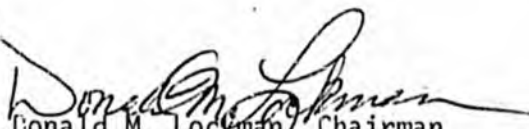
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COMMENTS:

I am in favor of HB 595 to continue the Board of Welding Examiners. Our state is in its infancy of an oil and mineral revolution in which welding will play a dramatic roll for both public and environmental safety. Our state can not afford to relax the requirements of quality at the expense of safety. The Welding Board has made tremendous strides compared to other states where legislation has not been enacted to insure the public's protection, and if continued, will be improving on the existing regulations to be more meaningful to both public and industry.


Donald M. Lockman, Chairman
Board of Welding Examiners

MEMORANDUM

State of Alaska

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DATE: May 28, 1981

FILE NO:

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Division of Occupational Licensing

SUBJECT: HB 595

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COMMENTS: I believe the Board of Welding Examiners is worth continuing. The cost has been very, very minimal to the state especially when compared to the accomplishment of the Board. Alaska by far leads the nation for the number of certified welding inspectors per capita as a result of regulations adopted by the Board. There is no doubt in my mind that licensing welding inspectors whom monitor welders has upgraded welding throughout the state all of which has been accomplished with very little cost to the state.



PETER MILLAR

Member - Board of Welding Examiners.

1-21-82

HB 634

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 21, 1982
1:14 p.m.

Members Present: Rep. Bylsma, Vice-Chairman
Rep. Rogers
Rep. Gardiner
Rep. Randolph.

Members Absent: Rep. Martin, Chairman

COMMITTEE CALENDAR

TELECONFERENCE HEARING

HB 634 An Act limiting the amount of damages which may be awarded for personal injury or death in an action brought against an ATC-registered air carrier.

WITNESS REGISTER

Representative Jack Fuller
Prime Sponsor of HB 634
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-3764
Position Statement: Reasons for introducing bill.

Representative Rick Halford
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4924
Position Statement: Took part in discussion.

Kent Woodman
ACPA and Alaska Airmen's Association
Box 2386 SRA
Anchorage, Alaska 99507
345-1356
Position Statement: Supported bill.

Bill De Creeft
Katchemak Air Service
Homer, Alaska
Position Statement: Wanted air taxis included in bill.

Wade Cothran
Air Center

PO Box 4340
Mt. Edgecumbe, Alaska 99835
Position Statement: Supported bill with reservations.

Pand Dawson
Attorney
Anchorage, Alaska
Position Statement: Opposed legislation.

Chuck Weir
Alexander & Alexander Insurance Brokers
Anchorage, Alaska
Position Statement: Felt legislation would increase awards for damages and raise insurance costs.

Cindy Andrecheck
Executive Air Taxi and Charter
Bethel, Alaska
Position Statement: Supported legislation.

Paul Karreck
commercial pilot and flight instructor
Box 60355
Fairbanks, Alaska 99706
456-6787
Position Statement: Didn't believe bill addressed real cause of high insurance rates.

Lee Daniels
Delta Aviation
Box 81633
Fairbanks, Alaska 99706
479-2588
Position Statement: Supported bill.

Ken Ward
Ward Air
2331 Meadow Lane
Juneau, Alaska 99801
789-9150
Position Statement: Went over insurance cost increases in past few years.

De Koch, Chief
Market Surveillance
State Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2577
Position Statement: Division has taken neutral position.

Jon Larson
Nome Bar Association
Box 61

Nome, Alaska

Position Statement: Opposed bill.

PREVIOUS ACTION

HB 634

No previous action. Statutory reference: AS 09.65. No amendments formally considered during this hearing.

ACTION NARRATIVE

Tape #004
Recording
Number 0075

The meeting of the House Labor & Commerce Committee was called to order by Vice-Chairman Bylsma at 1:14 p.m. Committee members present were Representatives Bylsma, Gardiner, Rogers, and Randolph. Chairman Martin was absent. Also attending for various portions of the hearing were Representatives Fuller, Vaska, Halford, and Malone. This committee hearing was teleconferenced statewide. The committee schedule called for the consideration of HB 634.

Number 0083

REPRESENTATIVE JACK FULLER, as prime sponsor of HB 634, gave an introduction to the bill and why it is needed. He introduced this legislation to relieve commercial air carriers from the high cost of insurance, which is forcing many air carriers out of business.

Number 0127

KENT WOODMAN, executive vice president of Alaska Airmens Association, Inc., and regional representative of Aircraft Owners and Pilots Organization (AOPA), supported the bill. He explained that most aviation insurance is placed in London (Lloyd's), and gave a synopsis of how policies are sold. Woodman felt that individuals wanting excessive insurance should take out their own policies and not put the burden on the flight service. He warned against legislating different damage limits for commercial and private operators. Rep. Rogers asked if carriers should be required to notify passengers of liability limits; Woodman felt this would not change the situation drastically. Rep. Rogers also expressed concern that "vending machine" and other easily obtainable insurance was not

available at many air carrier locations; he asked if the Association would consider selling flight insurance or providing names of agents, in order to protect consumers. Woodman said this could be easily accommodated. Rep. Rogers felt some type of protection should be provided for passengers.

Number 0335

BILL DE CREEFT of Katchemak Air Service in Homer (testifying via LTN from Hawaii), wanted to be sure air taxis were included in legislation.

Number 0351

WADE COTHRAN of Air Center, Mt. Edgecumbe, representing Southeast Alaska Aviation Association, favors HB 634 with reservations that the private sector and flight schools are not addressed.

Number 0385

RAND DAWSON, an Anchorage attorney, pilot, and member of AOPA and Alaska Airmens Association, testified as an individual and as an attorney who has had the opportunity to see the impact of litigation. He explained the costs (often very high) incurred by the victim of an aircraft accident. He said the impact of this bill is an attack on the jury system of Alaska; the effect will be to deny victims the right to seek compensation for injuries they did not cause. He felt the bill tries to establish a limit without factual data. He said the impact of this legislation would be felt by victims with catastrophic injuries. Dawson said he failed to see the correlation between insurance premiums and personal injury settlements. He feels the Committee has an obligation to potential victims to provide more information before reaching a decision on this legislation. Rep. Rogers asked if Dawson felt the limitation on payments in Workers Compensation statutes also has catastrophic impact. Dawson said the premise behind Workers Compensation is different and is designed to protect the victim. He said many victims receive additional compensation through third party actions. Rep. Bylsma requested a copy of Dawson's testimony.

Number 0525

CHUCK WEIR, Alexander & Alexander Insurance Brokers, Anchorage, addressing Rep. Halford, asked if research indicated it would be

unconstitutional to limit legislation to air carriers; he felt it ought to extend to all operators and carriers, as well as to all personal injury actions statewide. He went on to say the \$250,000 limitation would increase awards, as most air taxis now insure for only \$100,000 per seat. He said HB 634 would more than double insurance costs for most carriers. He noted that the international award limitation is \$50,000. Rep. Halford responded that initial research indicated there could be constitutional problems if legislation is limited to air carriers. Weir said that, in reference to Workers Compensation, if an employee felt there was gross negligence on the part of the, the employee could refuse the Workers Compensation and sue the employer. Weir felt this could be written into HB 634. Rep. Randolph said premiums are high because awards are high; Weir disputed this. Rep. Randolph and Weir agreed that, in cases of gross negligence, the air carrier should not be protected. Rep. Gardiner asked if juries generally award to the limit of insurance; Weir said they generally do. Discussion continued between Reps. Randolph and Gardiner, and Weir.

Number 0727

CINDY ANDRECHECK, of Executive Air Taxi and Charter, Bethel, gave a specific breakdown on increases in insurance rates for the past five years. She said the air taxi businesses would not be able to stand these increases if they continued, and reiterated that nothing is preventing individuals from providing themselves extra coverage.

Number C350

PAUL KARKECK, commercial pilot and flight instructor in Fairbanks, said he doesn't believe the bill will solve their problems as it doesn't address the real causes of outlandish insurance rates; it doesn't affect other aspects of air travel in the state; and the rights of the public and victims would be impaired. He felt the high accident rate is the major culprit of high insurance rates in Alaska. Karkeck stated that 75-80% of all air carrier accidents in the U.S. occur in Alaska. He felt the cost could also be traced to state law, and said laws need to be changed to encourage competition among insurance agencies to bring costs down. He was also concerned

that the bill doesn't address the needs of other aircraft owners; eg, private pilots, flight schools, instructors. He urged the committee to vote against the bill and to create a panel of aviators to study needs. Rep. Randolph requested a letter giving specifics of how Karkeck felt the problem should be approached.

Number 0940

LEE DANIELS, Delta Aviation air taxi operator, Fairbanks, supported the bill. He would like to see the committee follow IATC guidelines, and said carriers should notify passengers of liability limitations and give them the option to purchase additional insurance or find alternate means of transportation.

Number 0979

KEN WARD, Ward Air, Juneau, went over increases in costs over the past few years.

Number 1029

DON KOCH, Chief, Market Surveillance, State Division of Insurance, said the Division has taken a neutral position with regard to HB 634. He was unsure whether or not the legislation would affect insurance rates. He said it might be possible to use the Workers Compensation approach outlined by statute, which might attract workers compensation carriers to the aviation insurance market. Rep. Rogers asked if group insurance would be possible; Koch said it would be statutorily possible. Rep. Gardiner asked what kind of information the Division has on the aviation industry; Koch replied they had very little. Rep. Gardiner felt more information was needed on whether HB 634 would actually reduce insurance rates. Rep. Halford said that an insurance broker in Alaska has no incentive not to write a policy for a bad risk client, because losses are spread evenly and everyone's rates are affected. He asked Koch if it would be possible to institute procedures that would require premiums and losses to be made public through the Division of Insurance, in order to encourage a more fair allocation of costs. Koch said the Division has a reporting system, but accurate loss figures have not been available. He said there are not that many syndicates participating.

Number 1235

JON LARSON, an attorney speaking for the

local Bar Association in Nome, opposed the bill. He said it doesn't address the real cause (lack of safety), and protects carriers at the expense of the public. He felt the burden of this legislation would be borne by victims of accidents.

Number 1282

No action was taken on HB 634, and the teleconferenced meeting was adjourned by Vice-Chairman Bylsma at 3:02 p.m.

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 1/21/82

Place: _____

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	✓		12:58	3:02
Rep. D. Randolph	✓		1:17	3:02
Rep. B. Rogers	✓		1:04	3:02
Rep. T. Gardiner	✓		1:06	3:02
Rep. T. Martin, Chair		✓		

Subject Matter:

House Bill No. HB 634 _____

Senate Bill No. _____

Special Orders:

MSG 82-00002772 PRTY 1 01/21/82 15:04:36 ORIG: LI00 IN= 0006 OUT= 0013
FROM: ANNA MAY IN DILLINGHAM TO: JUNEAU T/C
TARGET: LJE1 SUBJ: AIR TAXI INSURANCE T/C PAGE 0001

JUNEAU
WOULD YOU PLEASE BE ABLE TO LET US KNOW THE NAMES OF THE
LAST SPEAKERS FROM FAIRBANKS AND NOME????
THANK YOU VERY MUCH.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002766 PRTY 1 01/21/82 15:02:19 ORIG: LF00 IN= 0008 OUT= 0014
FROM: DEBBIE/FBX TO: JUNO LTN
TARGET: LJE1 SUBJ: LABOR AND COMMERCE T/C - AIR TAX PAGE 0001

OTHER OBSERVERS FOR TODAY'S T/C:
GAYLEN HILKE, BOX 30300, FBX, 99701 479-4036
BOB BURSIEL, WRIGHT'S AIR SERVICE, BOX 60142, FBX, 99701 456-5502
L. CHENAILLE, LARRYS FLYING SERVICE, BOX 2348, FBX, 99707 452-5169
DENNIS MILLER, BOX 2648, FAIRBANKS, AK 99707 479-2189

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002762 PRTY 1 01/21/82 14:55:58 ORIG: LA04 IN= 0006 OUT= 0015
FROM: BARBARA TO: JUNEAU, JELLO, LJHY
TARGET: LJE1 SUBJ: HOUSE LABOR AND COMMERCE TELECONFERENCE PAGE 0001

ANCHORAGE HAS MORE WITNESSES. IF THEY CAN NOT TESTIFY TODAY, PLEASE INDICATE
WHEN YOUR NEXT TELECONFERENCE ON THIS SUBJECT WILL BE.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002759 PRTY 1 01/21/82 14:51:05 ORIG: LN00 IN= 0010 OUT= 0016
FROM: BOB IN NOME TO: T/C
TARGET: LJE1 SUBJ: TAXI PAGE 0001

WE ARE GETTING CLOSE TO TIME LIMIT FOR WITNESS IN NOME
THEY WERE WONDERING IF JUNEAU COULD BE TAKEN LATER.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002754 PRTY 1 01/21/82 14:41:16 ORIG: LO00 IN= 0005 OUT= 0017
FROM: KODIAK TO: JELLO & LJHY
TARGET: LJE1 SUBJ: T/C PAGE 0001

MARILYN BUKER FROM FLIRITE WOULD LIKE TO TESTIFY.

MSG 82-00002744 PRTY 1 01/21/82 14:16:44 ORIG: LS00 IN= 0014 OUT= 0018
FROM: SITKA TO: MODERATOR
TARGET: LJE1 SUBJ: ANOTHER WITNESS PAGE 0001

WITNESS, WISHING TO TESTIFY:
KENNETH A. BELLOWS, BELAIR AVIATION, BOX 204, SITKA, AK. 99835.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002693 PRTY 1 01/21/82 13:21:27 ORIG: LI00 IN= 0003 OUT= 0011
FROM: DILLINGHAM LIO TO: JELLO
TARGET: LJE1 SUBJ: TELECONFERENCE PAGE 0001

JOANNE ARMSTRONG IS AN OBSERVER AND MAY POSSIBLY TESTIFY ON THE
TELECONFERENCE ON ATC. PRESENTLY GOING ON. ADDRESS: BOX 204,
DILLINGHAM, ALASKA 99576, OF ARMSTRONG AIR SERVICE.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002690 PRTY 1 01/21/82 13:15:45 ORIG: LN00 IN= 0006 OUT= 0012
FROM: BOB IN NOME TO: TC
TARGET: LJE1 SUBJ: TAXI PAGE 0001

WE DID NOT GET WHO WAS CHAIRING THE COMMITTEE?

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002688 PRTY 1 01/21/82 13:13:41 ORIG: LA04 IN= 0003 OUT= 0019
FROM: BARBARA TO: JUNEAU: JELLO AND LJHY
TARGET: LJE1 SUBJ: HOUSE LABOR AND COMMERCE TELECONFERENCE PAGE 0001

ADDITIONAL WITNESS IN ANCHORAGE:
10. GEORGE PAPPAS

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002683 PRTY 1 01/21/82 13:12:01 ORIG: LR00 IN= 0007 OUT= 0020
FROM: FLORENCE IN BARROW TO: JUNEAU T/C
TARGET: LJE1 SUBJ: PARTICIPANT PAGE 0001

GRANT THOMPSON FROM CAPE SMYTHE AIR SERVICE INC., BOX 549, BARROW 99723
IS HERE TO PARTICIPATE.
I COULD NOT ACCESS LJHY

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002680 PRTY 1 01/21/82 13:10:00 ORIG: LN00 IN= 0005 OUT= 0021
FROM: BOB IN NOME TO: TC
TARGET: LJE1 SUBJ: TAXI PAGE 0001

ADDITIONAL WITNESS IN NOME
JOHN VAN WINKLE ATTORNEY BOX 61, NOME, AK
OBSERVERS:
TIM COCHRAN RADIO KNOM
KATHY MCCOY NOME NUGGET PAPER

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002678 PRTY 1 01/21/82 13:09:34 ORIG: LS00 IN= 0012 OUT= 0022
FROM: SITKA TO: MODERATOR
TARGET: LJE1 SUBJ: TELECONF. PAGE 0001

OBSERVERS:
WILLIAM BOYCE AND RICHARD WOLLENBERG, BOX C, SITKA AK. (BOTH ATTORNEYS).

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002677 PRTY 1 01/21/82 13:06:06 ORIG: LN00 IN= 0004 OUT= 0009
FROM: BOB IN NOME TO: T/C
TARGET: LJE1 SUBJ: AIR TAXI PAGE 0001

ONE WITNESS
JON LARSON NOME BAR ASSN. BOX 61 NOME, ALASKA

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002676 PRTY 1 01/21/82 13:07:00 ORIG: L000 IN= 0004 OUT= 0010
FROM: KODJAK TO: JELLO & LJHY
TARGET: LJE1 SUBJ: HB 634 T/C PAGE 0001

RALPH WRIGHT WITH FLIRITE MAY WANT TO TESTIFY
MARTILYN BUKER " " " " " "

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002675 PRTY 1 01/21/82 13:04:52 ORIG: LS00 IN= 0011 OUT= 0023
FROM: SITKA TO: MODERATOR
TARGET: LJE1 SUBJ: PARTICIPANT PAGE 0001

TO TESTIFY **IF** HE CAN BE CALLED BEFORE 1:45, WHEN HE MUST LEAVE:
WADE R. COTHRAN, AIR CENTER, PO 4340, MT. EDGE CUMBE, AK. 99835.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002672 PRTY 1 01/21/82 13:05:47 ORIG: LA04 IN= 0002 OUT= 0024
FROM: BARBARA *Anchorage* TO: JELLO LJHY
TARGET: LJE1 SUBJ: HOUSE LABOR AND COMMERCE TELECONFERENCE PAGE 0001

TODAY PARTICIPATE ARE:

1. RAND DAWSON, ATTORNEY AND PILOT
2. R.D. REEVE, REEVE ALEUTIAN
3. CHUCK WEIR
4. AMES LUCE
5. REX BISHOPP
6. BOB CURTIS
7. GEORGE ROGERS
8. STEVE WILBUR
9. WALLY KUBLEY

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002671 PRTY 1 01/21/82 13:04:15 ORIG: LK00 IN= 0004 OUT= 0025
FROM: BONNIE/KETCHIKAN TO: JUNEAU T/C
TARGET: LJE1 SUBJ: PART. LIST FOR HB 634 T/C PAGE 0001

PARTICIPATES ARE

MICHAEL SALZAR, KETCHIKAN AIR SERVICE, BOX 6900, KETCHIKAN, 225-6608

OBSERVERS ARE:

- KIRK THOMAS, TYEE AIRLINES, BOX 8331, KETCHIKAN, 225-6118
ALVIN MITCHELL, TYEE AIRLINES, BOX 8331, KETCHIKAN, 225-6118
TIMOTHY BUSH, TEMSCO HELICOPTERS, BOX 5057, KETCHIKAN, 225-5141
MR. THOMAS AND MR. MITCHELL MAY WISH TO TESTIFY LATER ON.
THATS IT FOR KETCHIKAN. I AM EXPECTING MORE. EOM. BCP

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002669 PRTY 1 01/21/82 13:01:43 ORIG: LS00 IN= 0010 OUT= 0001
FROM: ELAINE TO: JUNEAU
TARGET: LJE1 SUBJ: TELECONFERENCE PAGE 0001

I HAVE ONE OBSERVER IN SITKA AT THIS TIME:
RICHARD SUNDE, CORROON, BLACK/DAWSON INSURANCE, BOX B, SITKA, AK.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002668 PRY 1 01/21/82 13:11:55 ORIG: LF00 IN= 0005 OUT= 0026
FROM: DEBBIE/FBX TO: JUNO LTN
TARGET: LJE1 SUBJ: HOUSE LABOR AND COMMERCE T/C PAGE 0001

PARTICIPANTS FOR TODAY'S TELECONFERENCE ON AIR TAX INSURANCE:
PAUL KAPKECK, BOX 60355, FAIRBANKS, 99706 456-6787
LEE DANIELS, DELTA AVIATION, BOX 81633, FBX, 479- 2588
BOB BURSIEL, WRIGHT AIR SERVICE, BOX 60142, FBX 456-5502
WE ARE EXPECTING MORE PARTICIPANTS. WILL NOTIFY.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002666 PRY 1 01/21/82 13:03:57 ORIG: L000 IN= 0003 OUT= 0002
FROM: KODIAK TO: JELLO
TARGET: LJE1 SUBJ: HB 634 T/C PAGE 0001

RALPH WRIGHT REPRESENTING FLIRITE MAY WANT TO TESTIFY
MARILYN BUKER WITH FLIRITE ALSO *****

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002662 PRY 1 01/21/82 12:59:07 ORIG: L800 IN= 0004 OUT= 0003
FROM: WALLY IN BETHEL TO: JELLO AND LJHY
TARGET: LJE1 SUBJ: T/C PARTICIPANT PAGE 0001

CINDY ANDRECHECK, REPRESENTING EXECUTIVE CHARTER SERVICE, BETHEL

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002656 PRY 1 01/21/82 12:51:38 ORIG: LI00 IN= 0002 OUT= 0004
FROM: ANNA MAY IN DILLINGHAM TO: JUNEAU T/C
TARGET: LJE1 SUBJ: HB 634 AIR TAXI INSURANCE T/C PAGE 0001

WE HAVE JOANN ARMSTRONG OF ARMSTRONG AIR SERVICE INC BOX 204 OF
DILLINGHAM, AK 99576 TO OBSERVE AND POSSIBLY TESTIFY.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002655 PRY 1 01/21/82 12:51:49 ORIG: LZ00 IN= 0003 OUT= 0005
FROM: MARY/OTZ TO: DEBRA
TARGET: LJE1 SUBJ: T/C PARTICIPANTS PAGE 0001

DUE TO THE BLIZZARD WE HAD YESTERDAY, I DON'T EXPECT TO HAVE
ANY PARTICIPANTS FOR THE AIR TAXI INSURANCE T/C THIS MORNING.
EVERYONE IS TOO BUSY DIGGING THEIR AIRPLANES OUT OF THE SNOW.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002637 PRY 1 01/21/82 12:22:21 ORIG: LA02 IN= 0001 OUT= 0006
FROM: MICKI IN ANCHORAGE TO: JELLO/JUNEAU T/C
TARGET: LJE1 SUBJ: PARTICIPANTS FOR TODAYS T/C PAGE 0001

*****HOUSE LABOR & COMMERCE. HB634 "ATC-REGISTERED AIR CARRIERS"
THE FOLLOWING PEOPLE HAVE CALLED TO REGISTER TO TESTIFY TODAY:
1. RAND DAWSON, ATTORNEY & PILOT ,
2. STEVE WILBUR, WILBUR FLIGHT OPERATIONS, EXEC. VICE-PRES. WILBUR INC.
3. AMES LUCE, SELF
ANCHORAGE IS EXPECTING A VERY LARGE TURNOUT TODAY

COMMITTEE MINUTES

COMMITTEE House Labor & Commerce

HEARING DATE January 21, 1982

TAPE NO. 4, Side A

The meeting was called to order by Vice-Chairman Bylsma at 1:14 pm in the Labor & Commerce Committee Room, Behrends Building, Juneau, Alaska. Committee members present in addition to Vice-Chairman Bylsma were Representatives Randolph, Rogers, and Gardiner. Chairman Martin was absent. Committee staff in attendance were Joan Mathews, Jeff Barry, and Mary Isaacs. Also attending for various portions of the hearing were Representatives Fuller, Vaska, Halford, and Malone. This committee hearing was teleconferenced statewide.

The committee schedule called for the consideration of HB 634 regarding Air Taxi Insurance. Prime sponsor of this legislation was Rep. Fuller. Legislators testifying before the committee were Rep. Fuller and Rep. Halford.

REP. FULLER (meter no. 0083), as sponsor of HB 634, gave an introduction to the bill and why it is needed. He introduced this legislation to relieve commercial air carriers from the high cost of insurance, which is forcing many air carriers out of business.

KENT WOODMAN (meter no. 0127), executive vice president of Alaska Airmens Association, Inc., and regional representative of Aircraft Owners and Pilots Organization (AOPA), supported the bill. He explained that most aviation insurance is placed in London (Lloyd's), and gave a synopsis of how policies are sold. Woodman felt that individuals wanting excessive insurance should take out their own policies and not put the burden on the flight service. He warned against legislating different damage limits for commercial and private operators. Rep. Pogers (meter no. 0284) asked if carriers should be required to notify passengers of liability limits; Woodman felt this would not change the situation drastically. Rep. Rogers also expressed concern that "vending machine" and other easily obtainable insurance was not available at many air carrier locations; he asked if the Association would consider selling flight insurance or providing names of agents, in order to protect consumers. Woodman said this could be easily accommodated. Rep. Rogers felt some type of protection should be provided for passengers.

BILL DE CREEFT of Katchemak Air Service in Homer (testifying via LTN from Hawaii, meter no. 0335), wanted to be sure air taxis were included in legislation.

WADE COTHMAN of Air Center, Mt. Edgecumbe (meter no. 0351), representing Southeast Alaska Aviation Association, favors HB 634 with reservations that the private sector and flight schools are not addressed.

RAND DAWSON, an Anchorage attorney, pilot, and member of AOPA and Alaska Airmens Association (meter no. 0385), testified as an individual and as an attorney who has had the opportunity to see the impact of litigation. He explained the costs (often very high) incurred by the victim of an aircraft accident. He said the impact of this bill is an attack on the jury system of Alaska; the effect will be to deny victims the right to seek compensation for injuries they did not cause. He felt the bill tries to establish a limit without factual data. He said the impact of this legislation would be felt by victims with catastrophic injuries.

(Dawson testimony, continued.) Dawson said he failed to see the correlation between insurance premiums and personal injury settlements. He feels the Committee has an obligation to potential victims to provide more information before reaching a decision on this legislation. Rep. Rogers asked if Woodman felt the limitation on payments in Workers Compensation statutes also has catastrophic impact (meter no. 0477). Dawson (meter no. 0490) said the premise behind Workers Compensation is different and is designed to protect the victim. He said many victims receive additional compensation through third party actions. Rep. Bylsma requested a copy of Woodman's testimony.

CHUCK WEIR of Alexander & Alexander Insurance Brokers, Anchorage (meter no. 0525), addressing Rep. Halford, asked if research indicated it would be unconstitutional to limit legislation to air carriers; he felt it ought to extend to all operators and carriers, as well as to all personal injury actions statewide. He went on to say the \$250,000 limitation would increase awards, as most air taxis now pay only \$100,000 per seat. He said HB 634 would over double insurance costs for most carriers. He noted that the international award limitation is \$50,000. Rep. Halford responded that initial research indicated there could be constitutional problems if limited to air carriers. Weir said that, in reference to Workers Compensation, if an employee felt there was gross negligence on the part of the employer, the employee could refuse the Workers Compensation and sue the employer. Weir felt this could be written into HB 634. Rep. Randolph said premiums are high because awards are high; Weir disputed this. Rep. Randolph and Weir agreed that in cases of gross negligence, the air carrier should not be protected. Rep. Gardiner asked if juries generally award to the limit of insurance; Weir said they generally do. Discussion continued between Reps. Randolph and Gardiner, and Weir (through meter no. 0684).

CINDY ANDRECHECK of Executive Air Taxi and Charter, Bethel (meter no. 0727), gave a specific breakdown on increases in insurance rates for the past five years. She said the air taxi businesses would not be able to stand these increases if they continued, and reiterated that nothing is preventing individuals from providing themselves extra coverage.

PAUL KARKECK, commercial pilot and flight instructor in Fairbanks (meter no. 0850), said he doesn't believe the bill will solve their problems: it doesn't address the real causes of outlandish insurance rates; doesn't affect other aspects of air travel in the state; and the rights of the public and victims would be impaired. He felt the high accident rate is the major culprit of high insurance rates in Alaska. Karkeck stated that 75-80% of all air carrier accidents in the U.S. occur in Alaska. He felt the cost could also be traced to state law, and said laws needed to be changed to encourage competition (among insurance agencies) to bring costs down. He was also concerned that the bill doesn't address the needs of other aircraft owners; eg, private pilots, flight schools, instructors. He urged committee to vote against bill and create a panel of aviators to study needs. Rep. Randolph requested a letter giving specifics of how Karkeck felt problem should be approached.

LEE DANIELS, Delta Aviation (meter no. 0940), air taxi operator, supported bill. He would like to see the committee follow IATC guidelines, and said carriers should notify passengers of liability limitations and give them the option to purchase additional insurance or find alternate means of transportation.

KEN WARD, Ward Air, Juneau (meter no. 0979), went over increases in costs over past few years.

DON KOCH, Chief, Market Surveillance, State Division of Insurance (meter no. 1029) said the Division has taken a neutral position with regard to HB 634. He was unsure whether or not the legislation would affect insurance rates. He said it might be possible to use the Workers Compensation approach outlined by statute, which might attract workers compensation carriers to aviation insurance market. Rep. Rogers asked if group insurance would be possible; Koch said it would be statutorily possible. Rep. Gardiner asked what kind of information the Division has on the aviation industry; Koch replied they had very little. Rep. Gardiner felt more information was needed on whether HB 634 would actually reduce insurance rates. Rep. Halford said that an insurance broker in Alaska has no incentive not to write a policy for a bad risk client, because losses are spread evenly and everyone's rates are affected. He asked Koch if it would be possible to institute procedures that would require premiums and losses to be made public through the Division of Insurance, in order to encourage a fairer allocation of costs. Koch said the Division has a reporting system, but accurate loss figures have not been available. He said there are not that many syndicates participating.

JON LARSON, an attorney speaking for the local Bar Association in Nome (meter no. 1235), opposed the bill. He said it doesn't address the real cause (lack of safety), and protects carriers at the expense of the public. He felt the burden of this legislation would be borne by victims.

No action was taken on HB 634, and the teleconferenced meeting was adjourned by Vice-Chairman Bylsma at 3:02 p.m.

Alaska State Legislature



MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783
OFFICIAL BUSINESS

House of Representatives LABOR AND COMMERCE COMMITTEE

MEMO

From: Rep. Terry Martin, Chairman
House Labor & Commerce Committee

To: Interested Parties

Date: February 19, 1982

Subject: Teleconference regarding Air Taxi Insurance

The House Labor & Commerce Committee has scheduled a teleconference hearing on HB 634, which deals with air taxi insurance. The teleconference will be held on February 26, 1982, at 1:00 PM PST (Juneau time). This will be the second time this bill has been heard by this committee. We have scheduled this second teleconference because of the great interest expressed by people throughout the state. This hearing will allow additional public input before the committee acts on the bill.

The intention of HB 634 is to lower the insurance rates of commercial air carriers by limiting the amount of damages which may be awarded for personal injury or death in an action brought against an ATC-registered air carrier. Previous public testimony dealt with the impact of liability limits on litigation, whether to include private operators and flight schools, and actual impact on insurance rates and carriers.

If you are interested in testifying or listening in on this teleconference, please contact your local Legislative Information Office, or contact the House Labor & Commerce Committee at 465-3657. Copies of the bill and minutes of the previous teleconference meeting are available.

Alaska State Legislature



MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783
OFFICIAL BUSINESS

House of Representatives

February 22, 1982 LABOR AND COMMERCE COMMITTEE

Contact: Joar Mathews
465-3657/3783

FOR IMMEDIATE RELEASE

AIR TAXI INSURANCE SUBJECT OF TELECONFERENCE

Air taxi insurance will be the subject of a teleconference hearing of the House Labor & Commerce Committee on Friday, February 26, at 1.00 p.m. PST (Juneau time).

This is the second time House Bill 634 has been heard by the committee. Testimony was taken on the legislation in late January, but not all those who wished to testify were able to because of time limitations. This hearing will allow additional public input before the committee acts on the bill.

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TERM ID=LJBO DATE=82.027 TIME=10:46:06 HELP DESK=(907) 465-3883
ALASKA LEGISLATIVE COMPUTER SYSTEMS

The following services are available:

1. Text Management (AIMS)
2. Systems Development (ROSCOE)
3. Information Retrieval (STAIRS)
4. Computer Availability (NEWS)
5. Bill Status (BASIS)
6. Teleconference Schedule (TELE)
7. Electronic mail (OMNICON)
8. UMBUDSMAN Caseload System (UMBD)
9. Statute Inquiry Ref. Sys. (SIRS)
10. Juneau Data Center (ADMIN)
11. How to sign-off these systems.

For more detailed information regarding an individual service enter the number in the input area below and press the ENTER key. To proceed directly to the desired application enter the service name (shown in parentheses next to the service above) in the input area below and press the ENTER key.

INPUT LINE =====>

MSG 82-00003995 PRTY 1 01/27/82 10:52:11 ORIG: LM00 IN= 0003 OUT= 0001
FROM: MARY/MATSU TO: JOAN/H. L & C
TARGET: LJHY SUBJ: ADDRESSES REQUESTED PAGE 0001

AS I PROMISED, FINALLY:

BIG LAKE AIR SERVICE, P O BOX 17379, B', LAKE 99687

AKLAND HELICOPTER, INC., TALKEETNA 99676

ROCKY MOUNTAIN, HELICOPTERS, INC., P O BOX 1896, PALMER 99645

TALKEETNA AIR TAXI, TALKEETNA 99676

VALLEY AIR TRANSPORT, INC., DRAWER 2170, WASILLA 99687

MATANUSKA AIR SERVICES, SR BOX 3137, WASILLA 99687

EYAK AIRCRAFT, WILLOW, 99688

NANCY LAKE MARINA, WILLOW 99645

MSG 82-00003995 PRTY 1 01/27/82 10:52:11 ORIG: LM00 IN= 0003 OUT= 0001
FROM: MARY/MATSU TO: JOAN/H. L & C
TARGET: LJHY SUBJ: ADDRESSES REQUESTED PAGE 0002

WOODS AIR SERVICE, BOX 840, PALMER 99645

WILLOW AIR SERVICE, BOX 42, WILLOW 99688

NORTH STAR AVIATION, WILLOW 99688

WILLIAMS AIR SERVICE, ATTN: RICHARD WILLIAMS, P O BOX 390, WASILLA 99687

IT MIGHT BE WORTH CHECKING WITH THE AGENCY THAT LICENSES THESE PEOPLE
TO SEE IF THEY HAVE THEM LISTED BY ZIP CODE OR ELECTION DISTRICT. WE
ARE ONLY SENDING THE ONES THAT WERE IN THE YELLOW PAGES OF THE TELEPHONE
BOOK SO I KNOW WE ARE NOT CATCHING THEM ALL.

STEVE IS HERE AND WANTS TO KNOW IF YOU HAVE FOUND HIM A JOB. THINK HE
IS READY TO "COME ON DOWN" TO SOME INSPIRING EMPLOYMENT.

DID YOU CHECK WITH DEB IN TELECONFERENCING ABOUT APPLYING FOR POSITION?

MSG 82-00003995 PRY 1 01/27/82 10:52:11 ORIG: LM00 IN= 0003 OUT= 0001
FROM: MARY/MATSU TO: JOAN/H. L & C
TARGET: LJHY SUBJ: ADDRESSES REQUESTED PAGE 0003

SEE A MESSAGE FROM JACK ON A H. ST. AFFAIRS COMMITTEE TELECONFERENCE
WITH OFF-NET CALL TO ANJAK FOR A MR. JOHN HALL. HOPE HE WAS GIVEN THE
WRONG NAME AND IT IS OUR MR. HALE. WOULD LOVE TO HEAR HIM ON THE LTN.

LET ME KNOW IF YOU RECEIVE THIS AS OUR COMPUTER IS STILL NOT DOING ALL
THE WONDEROUS THINGS IT SHOULD BE.

GOOD DAY TO YOU!

COMMITTEE MINUTES

COMMITTEE House Labor & Commerce

HEARING DATE January 21, 1982

TAPE NO. 4, Side A

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No action was taken on HB 634, and the teleconferenced meeting was adjourned by Vice-Chairman Bylsma at 3:02 p.m.

MINUTES REVIEWED AND APPROVED:

Representative Terry Martin, Chairman
House Labor & Commerce Committee

Alaska State Legislature

REPRESENTATIVE

TERRY MARTIN

DISTRICT 8

CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465 3873

Contact: Joan Mathews
465-3657/3783



3960 REKA DRIVE—D6
ANCHORAGE, AK 99504
PHONE 333-8990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

FOR IMMEDIATE RELEASE

AIR TAXI INSURANCE SUBJECT OF TELECONFERENCE

Air taxi insurance will be the subject of a teleconference hearing of the House Labor & Commerce Committee on Friday, February 26, at 1:00 PM AST.

Testimony was taken on the legislation, HB 634, in late January. Many people were not able to testify because of committee scheduling conflicts. As there was so much interest expressed in the bill, both for and against, Labor & Commerce Chairman Terry Martin scheduled another teleconference hearing to allow additional public input before the committee acts on the bill.

House Bill 634 is designed to relieve commercial air carriers from the high cost of insurance, which is forcing many air carriers out of business. Previous public testimony dealt with the impact of liability limits on litigation, whether to include private operators and flight schools, and actual impact on insurance rates and insurance carriers.

Chairman Martin invites anyone interested in testifying to contact the nearest Legislative Information Office or the House Labor & Commerce Committee at 465-3657 for details and a copy of the legislation or minutes of the previous meeting.

Alaska State Legislature



MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783
OFFICIAL BUSINESS

House of Representatives LABOR AND COMMERCE COMMITTEE

February 8, 1982

Kent Woodman
Box 2386 SRA
Anchorage, Alaska 99507

Dear Mr. Woodman:

I wanted to let you know that our committee will again be taking testimony on HB 634, the air taxi insurance bill introduced by Rep. Fuller. The hearing will be teleconferenced statewide to allow input by those who didn't have a chance to testify last time.

This second hearing will be on Friday, February 26, at 1:00 PM AST. If you would like more information, please contact our office. I have enclosed a copy of the press release we sent out, for your information.

Sincerely,

A handwritten signature in cursive script that reads "Joan Mathews".

Joan Mathews
Committee Secretary

enc.

BETHEL

MSG 82-00002662 PRTY 1 01/21/82 12:59:07 ORIG: LB00 IN= 0004 OUT= 0004
FROM: WALLY IN BETHEL TO: JELLO AND LJHY
TARGET: LJHY SUBJ: T/C PARTICIPANT PAGE 0001

CINDY ANDRECHECK, REPRESENTING EXECUTIVE CHARTER SERVICE, BETHEL

SITKA

MSG 82-00002669 PRTY 1 01/21/82 13:01:43 ORIG: LS00 IN= 0010 OUT= 0005
FROM: ELAINE TO: JUNEAU
TARGET: LJHY SUBJ: TELECONFERENCE PAGE 0001

I HAVE ONE OBSERVER IN SITKA AT THIS TIME:

RICHARD SUNDE, CORROON, BLACK/DAWSON INSURANCE, BOX R, SITKA, AK.

KODIAK

MSG 82-00002666 PRTY 1 01/21/82 13:03:57 ORIG: L000 IN= 0003 OUT= 0002
FROM: KODIAK TO: JELLO
TARGET: LJE1 SUBJ: HB 634 T/C PAGE 0001

RALPH WRIGHT REPRESENTING FLIRITE MAY WANT TO TESTIFY
MARILYN BUKER WITH FLIRITE ALSO

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002675 PRTY 1 01/21/82 13:04:52 ORIG: LS00 IN= 0011 OUT= 0006
FROM: ~~SITKA~~ TO: MODERATOR
TARGET: LJHY SUBJ: PARTICIPANT PAGE 0001

SITKA

TO TESTIFY **IF** HE CAN BE CALLED BEFORE 1:45, WHEN HE MUST LEAVE:

WADE R. COTHRAN, AIR CENTER, PO 4340, MT. EDGECLUMBE, AK. 99835.

Z. DILL

MSG 82-00002656 PRTY 1 01/21/82 12:51:38 ORIG: L100 IN= 0002 OUT= 0004
FROM: ANNA MAY IN DILLINGHAM TO: JUNEAU T/C
TARGET: LJE1 SUBJ: HB 634 AIR TAXI INSURANCE T/C PAGE 0001

WE HAVE JOANN ARMSTRONG OF ARMSTRONG AIR SERVICE INC BOX 204 OF
DILLINGHAM, AK 99576 TO OBSERVE AND POSSIBLY TESTIFY.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002672 PRTY 1 01/21/82 13:05:47 ORIG: LA04 IN= 0002 OUT= 0007
FROM: BARBARA TO: JELLO LJHY
TARGET: LJHY SUBJ: HOUSE LABOR AND COMMERCE TELECONFERENCE PAGE 0001

TODAY PARTICIPATE ARE:

- ✓ 1. RAND DAWSON, ATTORNEY AND PILOT
- 2. ~~R. D. REEVE, REEVE ALEUTIAN~~
- ✓ 3. ~~CHUCK WEIR~~
- 4. AMES LUCE
- 5. REX BISHOPP
- 6. BOB CURTIS
- 7. GEORGE ROGERS
- 8. STEVE WILBUR
- 9. WALLY KUBLEY

ANCH

Geo Pappas ~~_____~~ ~~_____~~

KOTZ

MSG 82-00002655 PRTY 1 01/21/82 12:51:49 ORIG: LZ00 IN= 0003 OUT= 0005
FROM: MARY/OTZ TO: DEBRA
TARGET: LJE1 SUBJ: T/C PARTICIPANTS PAGE 0001

DUE TO THE BLIZZARD WE HAD YESTERDAY, I DON'T EXPECT TO HAVE
ANY PARTICIPANTS FOR THE AIR TAXI INSURANCE T/C THIS MORNING.
EVERYONE IS TOO BUSY DIGGING THEIR AIRPLANES OUT OF THE SNOW.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002637 PRTY 1 01/21/82 12:22:21 ORIG: LA02 IN= 0001 OUT= 0006
FROM: MICKI IN ANCHORAGE TO: JELLO/JUNEAU T/C
TARGET: LJE1 SUBJ: PARTICIPANTS FOR TODAYS T/C PAGE 0001

*****HOUSE LABOR & COMMERCE, HB634 "ATC-REGISTERED AIR CARRIERS"
THE FOLLOWING PEOPLE HAVE CALLED TO REGISTER TO TESTIFY TODAY:
1. RAND DAWSON, ATTORNEY & PILOT,
2. STEVE WILBUR, WILBUR FLIGHT OPERATIONS, EXEC. VICE-PRES. WILBUR INC.
3. AMES LUCE, SELF
ANCHORAGE IS EXPECTING A VERY LARGE TURNOUT TODAY

ANCH

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002677 PRTY 1 01/21/82 13:06:06 ORIG: LN00 IN= 0004 OUT= 0008
FROM: BOB IN NOME TO: T/C
TARGET: LJHY SUBJ: AIR TAXI PAGE 0001

ONE WITNESS

JON LARSON NOME BAR ASSN. BOX 61 NOME, ALASKA

NOME

one below

MSG 82-00002544 PRTY 1 01/21/82 09:58:25 ORIG: LK00 IN= 0002 OUT= 0007
FROM: BONNIE/KETCHIKAN TO: ANCHORAGE T/C AND JUNEAU T/C
TARGET: LVE1 SUBJ: DNSS T/C PART. LIST PAGE 0001

I HAVE ONE PARTICIPANT FOR THIS MORNINGS T/C. SHE IS SISTER BARBARA HASSE
ADMINISTRATOR, KETCHIKAN GENERAL HOSPITAL, 3100 TONGASS AVE., 225-5171.
THATS ALL. EDM/BCP

NXT MSG U/R/S .. PREV MSG U/R/S .. RESEND .. CANCEL ..

MSG 82-00002634 PRTY 1 01/21/82 13:07:00 ORIG: L000 IN= 0004 OUT= 0009
FROM: KODIAK TO: JELLO & LJHY
TARGET: LJHY SUBJ: HB 634 T/C PAGE 0001

RALPH WRIGHT WITH FLIRITE MAY WANT TO TESTIFY
MARILYN BUKER

REPENT

MSG 82-00002678 PRTY 1 01/21/82 13:09:34 ORIG: LS00 IN= 0012 OUT= 0010
FROM: SITKA TO: MODERATOR
TARGET: LJHY SUBJ: TELECONF. PAGE 0001

OBSERVERS:

WILLIAM ROYCE AND RICHARD WOLLENBERG, BOX C, SITKA AK. (BOTH ATTORNEYS).

SITKA

MSG 82-00002680 FRTY i 01/21/82 13:10:00 ORIG: LN00 IN= 0005 OUT= 0011
FROM: BOB IN NOME 10: TC
TARGET: LJHY SUBJ: TAXI PAGE 0001

ADDITIONAL WITNESS IN NOME

JOHN VAN WINKLE ATTORNEY BOX 61, NOME, AK

OBSERVORS:
TIM COCHRAN RADIO KNON
KATHY MCCOY NOME NUGGET PAPER

NOME



MEDIA CHECKLIST

<u>Anchorage</u>	<u>Haines</u>	<u>Petersburg</u>
<input type="checkbox"/> Alaska Journal of Commerce	<input type="checkbox"/> Lynn Canal News	<input type="checkbox"/> Petersburg Pilot
<input type="checkbox"/> Alaska Review	<input type="checkbox"/> KHNS Radio	<input type="checkbox"/> Petersburg Cablevision
<input checked="" type="checkbox"/> Anchorage Daily News	<input type="checkbox"/> Haines Cable TV	<input type="checkbox"/> KFSK Radio
<input checked="" type="checkbox"/> Anchorage Times		
<input type="checkbox"/> Associated Press	<u>Homer</u>	<u>Sand Point</u> (no media)
<input type="checkbox"/> Chugiak-Eagle River Star	<input type="checkbox"/> Homer News	
<input type="checkbox"/> Great Lander Shopping News	<input type="checkbox"/> KBBI Radio	<u>Seward</u>
<input type="checkbox"/> Tundra Times	<input type="checkbox"/> KGTL Radio	<input type="checkbox"/> Phoenix Log News
<input type="checkbox"/> KAKM - TV		<input type="checkbox"/> KRXA Radio
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<input type="checkbox"/> KTUU - TV	<input type="checkbox"/> Alaska Fisherman	<u>Sitka</u>
<input type="checkbox"/> KTVA - TV	<input checked="" type="checkbox"/> Juneau Empire	<input type="checkbox"/> Daily Sitka Sentinel
<input type="checkbox"/> KANC Radio	<input type="checkbox"/> KINY Radio/TV	<input type="checkbox"/> SATV Cable TV
<input type="checkbox"/> KBYR/KNIK Radio	<input type="checkbox"/> KJNO Radio/TV	<input type="checkbox"/> KCAW Radio (Raven Radio)
<input type="checkbox"/> KENI Radio	<input type="checkbox"/> KTOO Radio/TV	<input type="checkbox"/> KIFW Radio/TV
<input type="checkbox"/> KFQD Radio	<u>Ketchikan</u>	<u>Soldotna</u>
<input type="checkbox"/> KHAR/KKLV Radio	<input type="checkbox"/> Ketchikan Daily News	<input type="checkbox"/> Cheechako News
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<input type="checkbox"/> KSKA Radio	<input type="checkbox"/> KRBD FM Radio	<input type="checkbox"/> KSRM Radio
<input type="checkbox"/> KYAK/KGOT Radio	<input type="checkbox"/> KTKN Radio	
<u>Barrow</u>	<u>Kodiak</u>	<u>Valdez</u>
<input type="checkbox"/> Barrow Cable TV	<input type="checkbox"/> Kodiak Times	<input type="checkbox"/> Valdez Vanguard
<input type="checkbox"/> KBRW Radio	<input type="checkbox"/> Kodiak Daily Mirror	<input type="checkbox"/> KEEI Radio
<u>Bethel</u>	<input type="checkbox"/> KMXT FM Radio	<u>Wrangell</u>
<input type="checkbox"/> Tundra Drums	<input type="checkbox"/> KVOK Radio	<input type="checkbox"/> Wrangell Sentinel
<input type="checkbox"/> KYUK - TV/Radio	<u>Kotzebue</u>	<input type="checkbox"/> KSTK Radio
<u>Delta Junction</u>	<input type="checkbox"/> Manueluk Media	
<input type="checkbox"/> Delta Paper	<input type="checkbox"/> KOTZ Radio	
<u>Dillingham</u>	<u>Mat-Su</u>	
<input type="checkbox"/> Bay Advertiser	<input type="checkbox"/> Frontiersman (The)	
<input type="checkbox"/> Bristol Bay Times	<input type="checkbox"/> Valley Sun	
<input type="checkbox"/> KDLG Radio	<input type="checkbox"/> KABN Radio	
<u>Fairbanks</u>	<u>Nome</u>	
<input type="checkbox"/> All Alaska Weekly	<input type="checkbox"/> Bering Straights	
<input type="checkbox"/> College Polar Star	<input type="checkbox"/> Nome Nugget	
<input checked="" type="checkbox"/> Daily News Miner	<input type="checkbox"/> KICY Radio	
<input type="checkbox"/> KTTU - TV	<input type="checkbox"/> KNOM Radio	
<input type="checkbox"/> KTVF - TV		
<input type="checkbox"/> KUAC - TV		
<input type="checkbox"/> KCBF Radio		
<input type="checkbox"/> KJAR Radio		
<input type="checkbox"/> KIAK Radio		



or



Committee staff ~~has sent~~ *will send* attached publicity to those media checked.*

Please have LTN staff send attached publicity to those media checked.

* pls send to all media except those checked; I will send announcements to the daily papers in Anc, Fbx, & Jnu next week, but would like all other media to receive release ASAP. Tx - Joan Mathews

~~Due to~~

The House Labor & Commerce Committee will hold another teleconferenced hearing on HB 634 regarding air taxi insurance on Friday, Feb 26, at 1 pm PST. Response to the first ~~teleconferenced~~ hearing on HB634 was overwhelming

COMMITTEE MINUTES

COMMITTEE House Labor & Commerce

HEARING DATE January 21, 1982

TAPE NO. 4, Side A

The meeting was called to order by Vice-Chairman Bylsma at 1:14 pm in the Labor & Commerce Committee Room, Behrends Building, Juneau, Alaska. Committee members present in addition to Vice-Chairman Bylsma were Representatives Randolph, Rogers, and Gardiner. Chairman Martin was absent. Committee staff in attendance were Joan Mathews, Jeff Barry, and Mary Isaacs. Also attending for various portions of the hearing were Representatives Fuller, Vaska, Halford, and Malone. This committee hearing was teleconferenced statewide.

The committee schedule called for the consideration of HB 634 regarding Air Taxi Insurance. Prime sponsor of this legislation was Rep. Fuller. Legislators testifying before the committee were Rep. Fuller and Rep. Halford.

REP. FULLER (meter no. 0083), as sponsor of HB 634, gave an introduction to the bill and why it is needed. He introduced this legislation to relieve commercial air carriers from the high cost of insurance, which is forcing many air carriers out of business.

KENT WOODMAN (meter no. 0127), executive vice president of Alaska Airmens Association, Inc., and regional representative of Aircraft Owners and Pilots Organization (AOPA), supported the bill. He explained that most aviation insurance is placed in London (Lloyd's), and gave a synopsis of how policies are sold. Woodman felt that individuals wanting excessive insurance should take out their own policies and not put the burden on the flight service. He warned against legislating different damage limits for commercial and private operators. Rep. Rogers (meter no. 0284) asked if carriers should be required to notify passengers of liability limits; Woodman felt this would not change the situation drastically. Rep. Rogers also expressed concern that "vending machine" and other easily obtainable insurance was not available at many air carrier locations; he asked if the Association would consider selling flight insurance or providing names of agents, in order to protect consumers. Woodman said this could be easily accommodated. Rep. Rogers felt some type of protection should be provided for passengers.

BILL DE CREEFT of Katchemak Air Service in Home (testifying via LTN from Hawaii, meter no. 0335), wanted to be sure air taxis were included in legislation.

WADE COCHRAN of Air Center, Mt. Edgecumbe (meter no. 0351), representing Southeast Alaska Aviation Association, favors HB 634 with reservations that the private sector and flight schools are not addressed.

RAND DAWSON, an Anchorage attorney, pilot, and member of AOPA and Alaska Airmens Association (meter no. 0385), testified as an individual and as an attorney who has had the opportunity to see the impact of litigation. He explained the costs (often very high) incurred by the victim of an aircraft accident. He said the impact of this bill is an attack on the jury system of Alaska; the effect will be to deny victims the right to seek compensation for injuries they did not cause. He felt the bill tries to establish a limit without factual data. He said the impact of this legislation would be felt by victims with catastrophic injuries.

(Dawson testimony, continued.) Dawson said he failed to see the correlation between insurance premiums and personal injury settlements. He feels the Committee has an obligation to potential victims to provide more information before reaching a decision on this legislation. Rep. Rogers asked if Woodman felt the limitation on payments in Workers Compensation statutes also has catastrophic impact (meter no. 0477). Dawson (meter no. 0490) said the premise behind Workers Compensation is different and is designed to protect the victim. He said many victims receive additional compensation through third party actions. Rep. Bylsma requested a copy of Woodman's testimony.

CHUCK WEIR of Alexander & Alexander Insurance Brokers, Anchorage (meter no. 0525), addressing Rep. Halford, asked if research indicated it would be unconstitutional to limit legislation to air carriers; he felt it ought to extend to all operators and carriers, as well as to all personal injury actions statewide. He went on to say the \$250,000 limitation would increase awards, as most air taxis now pay only \$100,000 per seat. He said HB 634 would over double insurance costs for most carriers. He noted that the international award limitation is \$50,000. Rep. Halford responded that initial research indicated there could be constitutional problems if limited to air carriers. Weir said that, in reference to Workers Compensation if an employee felt there was gross negligence on the part of the employer, the employee could refuse the Workers Compensation and sue the employer. Weir felt this could be written into HB 634. Rep. Randolph said premiums are high because awards are high; Weir disputed this. Rep. Randolph and Weir agreed that in cases of gross negligence, the air carrier should not be protected. Rep. Gardiner asked if juries generally award to the limit of insurance; Weir said they generally do. Discussion continued between Reps. Randolph and Gardiner, and Weir (through meter no. 0684).

CINDY ANDRECHECK of Executive Air Taxi and Charter, Bethel (meter no. 0727), gave a specific breakdown on increases in insurance rates for the past five years. She said the air taxi businesses would not be able to stand these increases if they continued, and reiterated that nothing is preventing individuals from providing themselves extra coverage.

PAUL KARKECK, commercial pilot and flight instructor in Fairbanks (meter no. 0850), said he doesn't believe the bill will solve their problems: it doesn't address the real causes of outlandish insurance rates; doesn't affect other aspects of air travel in the state; and the rights of the public and victims would be impaired. He felt the high accident rate is the major culprit of high insurance rates in Alaska. Karkeck stated that 75-80% of all air carrier accidents in the U.S. occur in Alaska. He felt the cost could also be traced to state law, and said laws needed to be changed to encourage competition (among insurance agencies) to bring costs down. He was also concerned that the bill doesn't address the needs of other aircraft owners; eg, private pilots, flight schools, instructors. He urged committee to vote against bill and create a panel of aviators to study needs. Rep. Randolph requested a letter giving specifics of how Karkeck felt problem should be approached.

LEE DANIELS, Delta Aviation (meter no. 0940), air taxi operator, supported bill. He would like to see the committee follow IATC guidelines, and said carriers should notify passengers of liability limitations and give them the option to purchase additional insurance or find alternate means of transportation.

KEN WARD, Ward Air, Juneau (meter no. 0979), went over increases in costs over past few years.

DON KOCH, Chief, Market Surveillance, State Division of Insurance (meter no. 1029) said the Division has taken a neutral position with regard to HB 634. He was unsure whether or not the legislation would affect insurance rates. He said it might be possible to use the Workers Compensation approach outlined by statute, which might attract workers compensation carriers to aviation insurance market. Rep. Rogers asked if group insurance would be possible; Koch said it would be statutorily possible. Rep. Gardiner asked what kind of information the Division has on the aviation industry; Koch replied they had very little. Rep. Gardiner felt more information was needed on whether HB 634 would actually reduce insurance rates. Rep. Halford said that an insurance broker in Alaska has no incentive not to write a policy for a bad risk client, because losses are spread evenly and everyone's rates are affected. He asked Koch if it would be possible to institute procedures that would require premiums and losses to be made public through the Division of Insurance, in order to encourage a fairer allocation of costs. Koch said the Division has a reporting system, but accurate loss figures have not been available. He said there are not that many syndicates participating.

JON LARSON, an attorney speaking for the local Bar Association in Nome (meter no. 1235), opposed the bill. He said it doesn't address the real cause (lack of safety), and protects carriers at the expense of the public. He felt the burden of this legislation would be borne by victims.

No action was taken on HB 634, and the teleconferenced meeting was adjourned by Vice-Chairman Bylsma at 3:02 p.m.

MINUTES REVIEWED AND APPROVED:

Representative Terry Martin, Chairman
House Labor & Commerce Committee

Alaska Air Carriers Association

TESTIMONY
OF
TULINDA DEEGAN
PRESIDENT

ALASKA AIR CARRIERS ASSOCIATION

on

House Bill 634 - An Act to Limit Awards
for Personal Injury or Death in Aircraft Accidents
Before the
House Labor and Commerce Committee

January 21, 1982

The Alaska Air Carriers Association (AACA), founded in 1966, represents air carriers engaged in the transportation of passengers, cargo and mail. The membership includes certificated air carriers, commuter and air taxi operators.

The AACA wholly endorses House Bill 634. The AACA Board of Directors passed the following resolution at their November 14, 1981 meeting:

WHEREAS, the Alaska air carrier industry is facing escalating insurance premiums;

BE IT RESOLVED, that the AACA endorses legislation to limit liability in the event of wrongful death or injury.

The members of this committee are well aware of the importance of aviation in Alaska. Air transportation is essential to Alaska. Outside of the major population centers there are virtually no roads. Almost everything that is needed for survival, including food, clothing and medicine, must be brought in by air.

Escalating Insurance Costs

The air carrier industry has been faced with skyrocketing insurance premiums. In 1980, air carriers could purchase \$5 million single limit liability insurance for \$600 per seat. Air carriers renewing insurance today are facing between \$3,000 and \$4,000 per seat for the same coverage. In the last quarter of 1981, 19 air carriers suspended operation because they could not afford the insurance premiums. None of these carriers have a history of suspended operations during the winter months when business generally is slow.

Accident Rate Is Steady: Liability Limit Needed

AACA has found that the Alaskan aviation accident rate has remained fairly steady over the past five years. The chart below shows that the industry had 11 fatal accidents last year compared with 10 fatal accidents in 1980. In both years, the industry suffered 30 fatalities.

	12 Months 1981	12 Months 1980	5 Yr. Avg.
GENERAL AVIATION			
TOTAL ACC	236	236	257.4
FATAL ACC	38	30	36.8
FATALITIES	94	66	82.6
AIR TAXI/COMM			
TOTAL ACC	60	68	59.2
FATAL ACC	11	10	9.4
FATALITIES	30	30	29.6

Source: FAA

Clearly, our accident rate does not warrant the steady escalation in insurance premiums. The million dollar awards in the Alaskan aviation accident cases have contributed to the high cost of insurance.

Consumer Hurt

AACA estimates that 15% of air carrier rates charged the public goes to pay the insurance bill. Two years ago only 3% of the rates charged went to insurance payments.

Although it is hard to be dispassionate about the loss of life, it is difficult to understand why the loss of life in an aircraft accident is worth over \$1 million, while the loss of life in other accidents depend upon the extent of an individual's own insurance. AACA doubts that the individuals who have received high awards carried more than a few thousand dollars in life insurance.

Limit of Liability Is Needed

The provisions of House Bill 634 will help to put a stop to the skyrocketing cost of insurance. AACA has been assured by several insurance brokers and underwriters that insurance premiums would be reduced by 15% to 40%, if House Bill 634 is enacted.

In 1949, Alaska had a law limiting the amount recovered when the death of a person is caused by the wrongful act or omission of another. This limit was set at \$10,000. The claimants had two years to commence such action and the amount recovered was to be exclusively for the benefit of the decedent's husband or wife and children.

In 1959, the limit was raised to \$55,000. In 1960, the Alaska State Legislature eliminated the dollar amount and revised the statute to allow the courts to determine the amount to be awarded.

Attached is the existing law, the 1959 law and the 1949 law.

Federal Actions

The large air carriers and aircraft manufacturers are promoting similar legislation and hope to have it introduced in Congress early in the year. The basic thrust of this legislation is to establish uniform federal law applicable to air crashes and to limit and apportion the damages resulting from such crashes. The proposed bill would add a new Title XIV to the Federal Aviation Act. Some of the highlights of the bill are as follows.

It would only apply to any occurrence which results in the death or hospitalization of five or more persons. Commuter flights, defined as flights on an aircraft with 30 or fewer seats and a payload capacity of 7,500 pounds or less, would be excluded from coverage by the bill. Although there would be no monetary ceiling on compensation under the bill, the types of damages which could be claimed would be limited.

Litigation would be divided into two rounds. Victims would present their claims on a no-fault basis in round one and the liability of persons who may have caused the accident would be determined and apportioned in round two. Interim payments for lost salaries or medical expenses and other expenses would be part of the system. Also, no contingent fees for lawyers would be permitted. The court would make a separate award of the attorney's fee which would be in addition to the compensation otherwise awarded. In round one, the victim would show the connection between the accident and the victim's claimed losses and the amount of the losses. The amount of damages awarded would be limited in various ways. No punitive damages would be allowed. The victim could recover for loss of earnings, cost of medical and rehabilitation services, and expenses incurred in replacing services which would otherwise be provided by an injured person or a decedent. Governmental payments to the victim would be deducted from the award and the recovery for loss of prospective earnings would take account of the fact that such earnings would be subject to income tax whereas the recovery will not be subject to income taxes. Pain and suffering of a decedent prior to death would not be recoverable, nor would recovery on account of emotional distress of a decedent's family be permitted. Recovery for pain and suffering would be permitted for a survivor of the accident if there is a serious and permanent disfigurement or injury or more than 90 days of total disability.

On an interim basis, until the liability was apportioned in the second round, the airline and airframe manufacturer would advance out-of-pocket losses to the victims on a 50-50 basis. If more than two companies were involved, these payments would be divided accordingly. Prior to the conclusion of round two when the damages would be finally apportioned among

the defendants, there could be a preliminary hearing to decide on a temporary apportionment on other than a pro rata basis. If one party were ultimately determined to have made excess payments, the would be entitled to interest on the excess amounts paid.

Air carriers would be required to provide financial protection (either through their own financial resources or insurance) against liability in amounts equal to the amount of insurance determined by the Secretary of Transportation to be available on reasonable terms in the private market. There would be for any given accident an aggregate limit on the liability of all persons who might be legally responsible for the accident. This limit would be equal to the highest amount of financial protection required of any air carrier involved in the accident. Above this limit, funds for compensation of accident victims would be provided by a Surcharge Advances Facility established in the Department of Transportation. This fund would be financed through surcharges imposed by the Secretary of Transportation on the carriage of passengers or freight in domestic commercial air transportation. Thus, the ultimate costs of accidents in excess of private coverage would be distributed among all users.

law in Alaska
SLA 1967)

jury alone does not raise a presumption of the physician's or dentist's negligence. (§ 1 ch 49 SLA 1967)

Legislative committee report.—For report on ch. 49, SLA 1967 (CSSB 12), see 1967 House Journal, p. 492.

Article 7. Actions by or Against Deceased Persons.

Section
7.1 All causes of action survive
7.2 Action for wrongful death

Sec. 09.55.570. All causes of action survive. All causes of action by one person against another, whether arising on contract or otherwise, except those involving defamation of character, survive to the personal representatives of the former and against the personal representatives of the latter, but this shall not be construed so as to abate an action for a wrong where any party has died after the verdict or to defeat or prejudice the right of action given by AS 09.15.010. The personal representatives may maintain an action thereon against the party against whom the cause of action accrued, or, after his death, against his personal representatives. (54 ch 78 SLA 1972; am § 34 ch 56 SLA 1973)

Revisor's note (1972).—This section was taken from former AS 09.20.330 which, in turn, was taken from § 61-7-1, ACLA 1949, as amended.

Effect of amendment.—The 1973 amendment substituted "personal representatives" for "executors or administrators" in the second sentence.

Legislative committee report.—For report on ch. 56, SLA 1973 (HCS SB 12), see 1973 Senate Journal Supplement No. 9; 1973 House Journal, p. 419.

Legislative intent.—The intent of

the legislature inferred from the 1973 amendment to this section, is that actions no longer abate when the wrongdoer dies, but do abate when the injured party succumbs from noncausally connected matters. O'Dey v. Matson, 17 Alaska 763 (1958).

Section 43-3-10, ACLA 1949, did not repeal by implication this section and AS 13.20.310, Andersen v. Pacific S.S. Co., 8 Alaska 291 (1931).

Am. Jur. reference.—1 Am. Jur., Abatement and Revival, § 68 et seq.

Sec. 09.55.580. Action for wrongful death. (a) When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefor against the latter, if the former might have maintained an action, had he lived, against the latter for an injury done by the same act or omission. (The action shall be commenced within two years after the death, and the damages therein shall be such damages as the court or jury may consider fair and just, and the amount recovered, if any, shall be exclusively for the benefit of the decedent's husband or wife and children when he or she leaves a husband, wife or children, him or her surviving, or other dependents.) When the decedent leaves no husband, wife or children surviving him or her or other dependents, the amount recovered

Supplement

shall be administered as other personal property of the deceased person but shall be limited to pecuniary loss. When the plaintiff prevails, the trial court shall determine the allowable costs and expenses of the action and may, in its discretion, require notice and hearing thereon. The amount recovered shall be distributed only after payment of all costs and expenses of suit and debts and expenses of administration.

(b) The damages recoverable under this section shall be limited to those which are the natural and proximate consequence of the negligent or wrongful act or omission of another.

(c) In fixing the amount of damages to be awarded under this section, the court or jury shall consider all the facts and circumstances and from them fix the award at a sum which will fairly compensate for the injury resulting from the death. In determining the amount of the award, the court or jury shall consider but is not limited to the following:

(1) deprivation of the expectation of pecuniary benefits to the beneficiary or beneficiaries, without regard to age thereof, that would have resulted from the continued life of the deceased and without regard to probable accumulations of what the deceased may have saved during his lifetime;

(2) loss of contributions for support;

(3) loss of assistance or services irrespective of age or relationship of decedent to the beneficiary or beneficiaries;

(4) loss of consortium;

(5) loss of prospective training and education;

(6) medical and funeral expenses.

(d) The death of a beneficiary or beneficiaries before judgment does not affect the amount of damages recoverable under this section.

(e) The right of action granted by this section is not abated by the death of a person named or to be named the defendant. (§ 4 ch 78 SLA 1972)

- I. General Consideration.
- II. Nature of Right Conferred by Section.
- III. Parties.
- IV. Negligence.
- V. Damages.

I. GENERAL CONSIDERATION.

Editor's note. — This section was taken from former AS 13.20.340 which, in turn, was taken from § 61-7-3, ACLA 1949, as amended.

Section 61-7-3, ACLA 1949, was taken from the Oregon Code, Kreidler v. Ketchikan Spruce Mills, 10 Alaska 365 (1943).

Authority of Oregon decisions. — Where there is no surviving husband, wife or children, then this section may be and has been construed to the same effect as the Oregon law. But the authority of the Oregon decisions ends there. Dralle v. Stebbins, 13 Alaska 680 (1952).

Any decision based upon the Oregon law, as it existed on June 6,

Title 9
Code of Civil Procedure

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§ 09.10.220

CODE OF CIVIL PROCEDURE

§ 09.15.010

allegedly acknowledging a mortgage debt were not recorded, they cannot revive any time-barred remedies based on a deed of trust, which is an "instrument affecting real estate" within the meaning of this section. Walker v. White, Sup. Ct. Op. No. 2196 (File No. 4574), 618 P.2d 561 (1980).

Sec. 09.10.220. When nonresident's cause of action barred.

NOTES TO DECISIONS

Creditor's efforts to enforce money judgment obtained in state of Washington were not time barred. — See Hamilton v. Seattle Marine & Fishing Supply Co., Sup. Ct. Op. No. 1401 (File No. 2695), 562 P.2d 333 (1977).

Sec. 09.10.230. Certain actions relating to real property.

NOTES TO DECISIONS

Cited in United States v. Puceo, 564 F.2d 306 (9th Cir. 1977).

Sec. 09.10.240. Commencement of action after dismissal or reversal.

NOTES TO DECISIONS

Dismissal of claim without prejudice. — An action was not time-barred when brought within one year after a timely action on the same claim was dismissed without prejudice. Atlas Enterprises, Inc. v. Consolidated Constr. Co., Sup. Ct. Op. No. 1526 (File No. 2982), 572 P.2d 68 (1977).

Chapter 15. Parties.

Section

- 10. Parents or guardian may sue for injuries or death to child
- 20. Parents or guardian may sue for abduction of child
- 30. (Repealed)

Sec. 09.15.010. Parents or guardian may sue for injuries or death to child. A parent may maintain an action as plaintiff for the injury or death of a child below the age of majority. A guardian may maintain an action as plaintiff for the injury or death of his ward. (§ 30.01 ch 101 SLA 1962; am § 62 ch 127 SLA 1974)

Effect of amendments. — The 1974 amendment substituted "parent" for "father or, in case of his death or desertion of his family, the mother" in the first sentence.

NOTES TO DECISIONS

This section is a mere procedural device allowing the parent to bring an action on behalf of the estate of the child and creates no independent right of recovery in the parent. *State Farm Mut. Ins. Co.*

v. Wainscott, 439 F. Supp. 840 (D. Alas. 1977).

Applied in *Macey v. United States*, 454 F. Supp. 684 (D. Alas. 1978).

Sec. 09.15.020. Parents or guardian may sue for seduction of child. A parent may maintain an action as plaintiff for the seduction of a child below the age of majority. The guardian may maintain an action as plaintiff for the seduction of a ward. The action may be maintained even though the child or ward is not living with or in the service of the plaintiff at the time of the seduction or afterwards and there is no loss of service. (§ 30.02 ch 101 SLA 1962; am § 63 ch 127 SLA 1974)

Effect of amendments. — The 1974 amendment substituted "parent" for "father or, in the case of his death or

desertion of his family, the mother" in the first sentence and "child" for "daughter" in the first and third sentences.

Sec. 09.15.030. Unmarried females may sue for seduction.

Repealed by § 64 ch 127 SLA 1974.

Editor's notes. — The repealed section derived from § 30.03, ch. 101, SLA 1962.

Chapter 16. Contribution Among Joint Tortfeasors.

NOTES TO DECISIONS

Chapter is remedial in nature. — AS 09.16.010 — 09.16.060 are remedial in nature, designed to provide a remedy where none existed before. *City of Juneau v. Alaska Elec. Light & Power Co.*, Sup. Ct. Op. No. 2265 (File No. 4775), 622 P.2d 954 (1981).

Application of chapter. — AS 09.16.010 — 09.16.060 are intended to apply where two or more parties inadvertently become joint tortfeasors. Nothing in it evidences an intent to preclude parties from contracting, in good faith, as to contribution or indemnification

liability. *City of Juneau v. Alaska Elec. Light & Power Co.*, Sup. Ct. Op. No. 2265 (File No. 4795), 622 P.2d 954 (1981).

Contract providing for indemnity liability not precluded. — A contract executed in good faith, providing for a measure of indemnity liability, is not precluded by this section. *City of Juneau v. Alaska Elec. Light & Power Co.*, Sup. Ct. Op. No. 2265 (File No. 4795), 622 P.2d 954 (1981).

Cited in *Kastner v. Toomba*, Sup. Ct. Op. No. 2087 (File No. 4119), 611 P.2d 62 (1980).

Article 7. Actions by or Against Deceased Persons.

Sec. 09.55.570. All causes of action survive.

NOTES TO DECISIONS

Joinder of parents as third party defendants. — In an action for the wrongful death of a minor without dependents brought by the parents of the minor in their representative capacity, the parents could be joined in the individual capacity as third party defendants and were liable for their negligent supervision of the child. *Macey v. United States*, 454 F. Supp. 684 (D. Alas. 1978).

No portion of settlement attributable to survivorship claim. — The superior court correctly determined that no portion of the total settlement should be attributed to the survivorship claim for

relief where there was nothing in the record which indicated that any pain and suffering which decedent may have suffered was other than momentary. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 777 (1977).

Applied in *Anderson v. Edwards*, Sup. Ct. Op. No. 2274 (File No. 4586), 625 P.2d 282 (1981).

Cited in *Larman v. Kodiak Elec. Ass'n*, Sup. Ct. Op. No. 950 (File No. 1827), 614 P.2d 1275 (1973); *State Farm Mut. Ins. Co. v. Waincott*, 439 F. Supp. 840 (D. Alas. 1977).

Sec. 09.55.580. Action for wrongful death.

NOTES TO DECISIONS

VI. Beneficiaries.

I. GENERAL CONSIDERATION.

History of section. — See *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Model for statute. — The Alaska wrongful death statute is closely modeled after the precursor of most wrongful death statutes, Lord Campbell's Act, 9 & 10 Vict. Ch. 93 (1846). *State Farm Mut. Ins. Co. v. Waincott*, 439 F. Supp. 840 (D. Alas. 1977).

The Alaska Wrongful Death Statute was adopted substantially from the Oregon statute. *Macey v. United States*, 454 F. Supp. 684 (D. Alas. 1978).

Purpose of wrongful death action. — Examination of this section and its statutory predecessors suggests that the purpose of creating the action was primarily to compensate those who had suffered direct losses as a result of decedent's death. *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

The primary purpose of the wrongful death statute is to compensate those who suffer a direct loss. *Haakanson v. Wakefield Seafoods, Inc.*, Sup. Ct. Op. No. 1943 (File Nos. 3428, 3492), 600 P.2d 1087 (1979).

Strict construction. — Actions, like

wrongful death, which arise by legislative fiat are to be strictly construed. *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Limitation period in wrongful death statute construed in pari materia with general limitations provisions. — See *Haakanson v. Wakefield Seafoods, Inc.*, Sup. Ct. Op. No. 1943 (File Nos. 3428, 3492), 600 P.2d 1087 (1979).

AS 09.10.070 and this section compared. — See *Haakanson v. Wakefield Seafoods, Inc.*, Sup. Ct. Op. No. 1943 (File Nos. 3428, 3492), 600 P.2d 1087 (1979).

The disability of a minor statutory beneficiary tolls the running of the two-year time limit for commencing a wrongful death action until the disability is concluded. *Haakanson v. Wakefield Seafoods, Inc.*, Sup. Ct. Op. No. 1943 (File Nos. 3428, 3492), 600 P.2d 1087 (1979).

Cross-claim relating back to original answer not barred. — Cross-claim filed more than two years after the cause of action arose but less than two years after the original answer was filed related back to when the original answer was filed and was not barred by this section. *Estate of Thompson v. Mercedes-Benz, Inc.*, Sup. Ct.

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Op. No. 952 (File No. 1672), 514 P.2d 1269 (1973).

Joinder of parents as third party defendants. — In an action for the wrongful death of a minor without dependents brought by the parents of the minor in their representative capacity, the parents could be joined in the individual capacity as third party defendants and were liable for their negligent supervision of the child, *Macey v. United States*, 454 F. Supp. 684 (D. Alas. 1978).

Cited in *Larman v. Kodiak Elec. Ass'n*, Sup. Ct. Op. No. 950 (File No. 1827), 514 P.2d 1275 (1973).

III. PARTIES.

Under this section, only the personal representative may institute a wrongful death action on behalf of the deceased person. While under some circumstances the action might benefit only the estate's creditors, this result is not necessarily inconsistent with the legislative scheme. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Personal representative sustains, etc.

While the personal representative is the party who brings suit for wrongful death in Alaska, he or she is a nominal party only and holds any recovery as trustee for the statutory beneficiaries. *Hankanson v. Wakefield Seafoods, Inc.*, Sup. Ct. Op. No. 1943 (File Nos. 3428, 3492), 600 P.2d 1087 (1979).

Administrator as nominal party.

If the decedent is survived by a spouse, child or dependent, the action is brought on behalf of the statutory beneficiary and damages are measured by the loss to the survivors. The personal representative is then a nominal party only and holds the recovery in trust. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977); *State Farm Mut. Ins. Co. v. Wainscott*, 439 F. Supp. 840 (D. Alas. 1977).

And as real party.

If the decedent is not survived by the beneficiaries named in the statute, the personal representative is the real party in interest in the wrongful death action. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977); *State Farm Mut. Ins. Co. v. Wainscott*, 439 F. Supp. 840 (D. Alas. 1977).

Metlakatla Indian Community. — Congress, by virtue of its enactment of 28 U.S.C. § 1360(a), did not waive the sovereign immunity of the Indian tribes and

consequently, the Metlakatla Indian Community has sovereign immunity with respect to wrongful death action on the reservation. *Atkinson v. Haldane*, Sup. Ct. Op. No. 1495 (File No. 2981), 569 P.2d 151 (1977).

IV. NEGLIGENCE.

Joinder of parents as third party defendants. — See note under this catchline under analysis line I, "General Consideration."

V. DAMAGES.

The correct measure of damages.

Under Alaska's wrongful death statute damages are required to be assessed according to the loss suffered by each statutory beneficiary. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Where the decedent leaves no wife or children, etc.

Where the decedent is not survived by the beneficiaries named in the statute, damages are limited to the loss to the estate and are distributed as other personal property of the decedent. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

An action for wrongful death of a child below the age of majority may be commenced by the parents of the child or the personal representative of the child. When the child leaves no husband, wife, children or other dependents the measure of damages is limited to pecuniary loss and must be administered as other personal property of the decedent. *State Farm Mut. Ins. Co. v. Wainscott*, 439 F. Supp. 840 (D. Alas. 1977).

Where the decedent is not survived by the statutory beneficiaries, damages are limited to the loss to the estate. *Macey v. United States*, 454 F. Supp. 684 (D. Alas. 1978).

Subsection (c) does not apply to actions by minors without dependents. *Macey v. United States*, 454 F. Supp. 684 (D. Alas. 1978).

If subsection (c) of this section applied to persons without statutory dependents the court would be required by the term "shall" to consider noncompensable items. The only sensible manner to avoid this result is to conclude that subsection (c) of this section does not apply to those without dependents. This reading of the statute is supported by the use of the term "benefit" in subsection (d) of this section when referring to the distribution to dependents and the use of similar terms in subsection

(c)(1) of this section. *Macey v. United States*, 454 F. Supp. 684 (D. Alas. 1978).

Thus, net accumulations theory may be used. — Under Alaska law, damages in a wrongful death action brought on behalf of the estate of a minor with no dependents are determined under a net accumulations theory. *Macey v. United States*, 454 F. Supp. 684 (D. Alas. 1978).

Wage tables for the year in which a trial occurs may be utilized to calculate probable net accumulations in an action for wrongful death on behalf of a minor with no dependents. *Macey v. United States*, 454 F. Supp. 684 (D. Alas. 1978).

Reduction of damages to present value. — Under Alaska law, damages in a wrongful death action on behalf of a decedent with no beneficiaries are not reduced to present value when assessed against a private party; such damages are reduced to present value as against the United States in an action based upon the Federal Tort Claims Act, 28 U.S.C. § 1346. *Macey v. United States*, 454 F. Supp. 684 (D. Alas. 1978).

In calculating damages in an action for wrongful death on behalf of a decedent with no dependents, the award will not be reduced to present value and general inflationary trends will not be considered. *Macey v. United States*, 454 F. Supp. 684 (D. Alas. 1978).

Superior court may order distribution of the proceeds of a wrongful death recovery. *Engbroth v. Moore*, Sup. Ct. Op. No. 1472 (File No. 3120), 567 P.2d 305 (1977).

No error in refusing to distribute according to intestate succession laws. — The superior court did not err in refusing to distribute the proceeds of the wrongful death settlement in accordance with Alaska's laws of intestate succession. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

The legislature intended that damages in a wrongful death case are to be assessed according to the actual losses of each qualified surviving beneficiary. It is illogical to infer that the legislature further intended that distribution of such damages was to be based on the fortuitous application of Alaska's laws controlling inheritance of intestate estates. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Only one instance where damages administered as part of decedent's estate. — Alaska's Wrongful Death Act explicitly provides for only one instance,

namely, when there are no statutory beneficiaries, where the damages recovered are to be administered as part of the decedent's estate. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Awards to surviving beneficiaries to be separate. — In determining awards under the Wrongful Death Act, the trier of fact should make a separate award for each surviving beneficiary. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Although section is silent on that issue. — Alaska's wrongful death statute is silent as to whether or not the trier of fact should determine the loss suffered by each surviving beneficiary and then make a separate award for each, or calculate the loss suffered by each beneficiary, total such losses, and then enter a lump sum verdict. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Court to make allocations. — When confronted with allocation problems arising in the context of a settlement of a wrongful death claim the court should make the necessary allocation. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Subsection (c)(1) provides for consideration of deprivation of pecuniary benefits to the beneficiaries without regard to their ages. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Formula. — In making allocations of wrongful death settlements under certain circumstances, the supreme court has approved the use of a formula whereby appropriate proportions can be arrived at by totaling the number of years of reasonably expectable dependency or loss suffered by all beneficiaries. This figure is to be used as the denominator and the proportionate share of each beneficiary is that fraction of the proceeds which is arrived at by using each beneficiary's individual years of reasonably significant loss or dependency as the numerator. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Such formula does not conflict with subsection (c)(1). — Application of the allocation formula totaling number of years of reasonably expectable dependency or loss suffered by all beneficiaries was not in irreconcilable conflict with the "without regard to age" phraseology of subsection (c)(1), since there is an adequate rationale for, as well as flexibility embodied in, the

no statutory damages recovered as part of the award. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Beneficiaries to pecuniary awards. — Under the Trier of Fact Act, the trier of fact may award for a child. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Element on that death statute. — The trier of fact may award for loss suffered by a child and then make an award or calculate the award for the beneficiary. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

When. — When an award is made, the court should award for a child. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Award for pecuniary loss without award. — *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Allocations of award under certain circumstances. — The court has authority whereby an award may be arrived at on the basis of reasonableness or loss. This figure is arrived at and the beneficiary is that arrived at an individual award loss or award. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Conflict with award of the number of dependents. — The award was not the "without" of subsection (c)(1) if the rationale died in, the

formula to reconcile it with the provisions of subsection (c)(1). *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Since the legal obligation to support children ordinarily terminates at approximately the age of majority and because the reasonable expectations of a child for pecuniary contributions from his parents terminate under ordinary circumstances at about the same time, the formula's employment as the years of significant damages for a child only those years between the age of the child at the time of his parent's death and the age of majority has a rational basis. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

If there is evidence of circumstances indicating a longer period of dependency or evidence furnishing a basis for finding a continued expectation of pecuniary contributions beyond the age of majority, then the formula can be adjusted or, if necessary, abandoned. *Horsford v. Estate of Horsford*, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

VI. BENEFICIARIES.

No provision for direct recovery by those who would take by intestate succession. — Although the wrongful death statutes of some states specifically provide for direct recovery of the proceeds of the action by those who would take by intestate succession, Alaska's does not. *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Purpose of 1960 amendment of former § 61-7-3, ACLA 1949. — In 1960 the statute (then former § 61-7-3, ACLA 1949) was amended to its present form. At that time, the legislature added "other dependents" to the class of statutory beneficiaries. Considering the history and purposes of the statute, this amendment appears designed to protect the interest of those who, like children and spouses, will suffer financial loss. *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977); *Greer Tank & Welding, Inc. v. Boettger*, Sup. Ct. Op. No. 2065 (File Nos. 4457, 4495), 609 P.2d 548 (1980).

An action may be brought directly on behalf of the surviving parent. *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

But only if she shows that she is also a dependent. *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Dependency is question of fact. — The term "dependent" provides for all persons who will suffer financial loss without creating either an excessively narrow or an overboard classification. Thus, dependency is a question of fact. *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977); *Greer Tank & Welding, Inc. v. Boettger*, Sup. Ct. Op. No. 2065 (File Nos. 4457, 4495), 609 P.2d 548 (1980).

"Dependent" does not include those who can show they would have been dependent on the decedent had he survived. *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Necessary showing. — The legislature, by adding "other dependents" to the categories of spouse and children, intended to embrace those who occupy a position similar to those in the specified classes and who were actually dependent upon the decedent for support at the time of his death. A showing must be made of actual dependency for significant contributions of support over a sufficient period of time to justify the assumption that such contributions would have continued. *Greer Tank & Welding, Inc. v. Boettger*, Sup. Ct. Op. No. 2065 (File Nos. 4457, 4495), 609 P.2d 548 (1980).

Where the mother of the deceased was the sole surviving heir and was not dependent on the deceased at the time of death, the proceeds of a statutory wrongful death action pass into the estate and are subject to the control and distribution of the court and to the claims of general creditors. *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Mother of decedent did not have the right to receive directly the proceeds of the wrongful death action as a statutory beneficiary by virtue of AS 25.20.030, which requires each child to maintain his parents when they are poor and unable to work and maintain themselves. *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Although AS 25.20.030 establishes a duty running between parent and child under specific factual circumstances, it does not create a right of action in the parent against a third-party tort-feasor. Nor does it establish dependency as a matter of law. *In re Estate of Pushruk*, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Step children. — Because of the lack of precision in the language of this section, the status of stepchildren as potential beneficiaries is not clear. *Brown v. Estate of Jonz*, Sup. Ct. Op. No. 1808 (File Nos. 3216, 3223) 191 P.2d 532 (1979).

Superior court's ruling excluding the nonadopted stepchildren from recovery was not plainly erroneous, and therefore supreme court did not review the court's instruction, unobjected to at trial, that the word "heir" included deceased's widow and daughter, with no mention of the stepchildren. *Brown v. Estate of Jonz*, Sup.

Ct. Op. No. 1808 (File No. 3216, 3223), 591 P.2d 532 (1979).

Decedent's divorced wife and nonadopted stepson were "dependents" under this section where the factual findings of the trial court which were supported by the evidence not only indicated the close familial relationship of the wife and stepson to the deceased, but also their actual dependency upon him for support. *Greer Tank & Welding, Inc. v. Bortger*, Sup. Ct. Op. No. 2065 (File Nos. 4457, 4493), 609 P.2d 548 (1980).

Article 8. Removal of Disabilities of a Minor.

Section

590. Removal of disabilities of minority

Sec. 09.55.590. Removal of disabilities of minority. (a) A minor who is a resident of this state and is at least 16 years of age, who is living separate and apart from his parents or guardian, capable of self-support and of managing his own financial affairs, may petition the superior court to have the disabilities of minority removed for limited or general purposes.

(b) A minor may institute this petition under this section in his own name.

(c) The petition for removal of disabilities of minority must state:

- (1) the name, age, and residence address of the petitioner;
- (2) the name and address of each living parent;
- (3) the name and address of the guardian of the person and the guardian of the estate, if any;
- (4) the reasons why removal would be in the best interest of the child; and
- (5) the purposes for which removal is sought.

(d) The petitioner must obtain the consent of each living parent or guardian having control of the person or property of the petitioner. If the person who is to consent to the petition is unavailable or his whereabouts are unknown, or if a parent or guardian unreasonably withholds consent, the court, acting in the best interest of petitioner, may waive this requirement of consent as to that parent or guardian.

(e) The court may appoint an attorney or a guardian ad litem to represent the interests of the petitioner at the hearing.

(f) The court may remove the disabilities of minority as requested in the petition if found to be in the best interest of the petitioner, after a hearing. The removal may be for general purposes or the limited purposes specified in the decree.

(g) Except for specific constitutional and statutory age requirements for voting and use of alcoholic beverages, a minor whose disabilities are

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§ 61-7-1

PROBATE CODE

- § 61-7-4. Corepresentatives considered as one person: Judgment and execution where part only served.
- § 61-7-5. When judgment deemed evidence of assets.
- § 61-7-6. Inventory as evidence.
- § 61-7-7. Executor of his own wrong.
- § 61-7-8. Time within which actions brought.
- § 61-7-9. Presentation of claim as prerequisite to action: Limitation of liability.
- § 61-7-10. Provisional remedies.

§ 61-7-1. Cause of action not surviving. A cause of action arising out of an injury to the person dies with the person of either party, except as provided in section 61-7-3, but the provisions of this chapter shall not be construed so as to abate the action mentioned in section 55-3-13, or to defeat or prejudice the right of action given by section 55-3-8. [CLA 1913, § 1183; CLA 1933, § 3843.]

CROSS REFERENCES

Equitable actions by or against representatives, heirs, devisees or legatees: §§ 61-8-1-61-8-17.

COLLATERAL REFERENCES

1 Am Jur 63.

NOTES OF DECISIONS

Workmen's Compensation Act § 10 section by implication. Andersen v (§ 43-3-10 herein) did not repeal this Pacific S. S. Co. (1931) 8 A 291.

§ 61-7-2. Causes of action surviving. Executor's or administrator's right of action. All other causes of action by one person against another, whether arising on contract or otherwise, survive to the personal representatives of the former and against the personal representatives of the latter. When the cause of action survives, as herein provided, the executors or administrators may maintain an action thereon against the party against whom the cause of action accrued, or, after his death, against his personal representatives. [CLA 1913, § 1184; CLA 1933, § 3844.]

COLLATERAL REFERENCES

1 Am Jur 63.

NOTES OF DECISIONS

Workmen's Compensation Act, § 10 section by implication. Andersen v (§ 43-3-10 herein) did not repeal this Pacific S. S. Co. (1931) 8 A 291.

§ 61-7-3. Action for wrongful death: Disposition of amount recovered. When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefor against the latter, if the former might have maintained an action, had he lived, against the latter for an injury done by the same act or omission. Such action shall be commenced within two years after the death, and the damages

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therein shall not exceed ten thousand dollars, and the amount recovered, if any, shall be exclusively for the benefit of the decedent's husband or wife and children when he or she leaves a husband, wife, or children, him or her surviving; and when any sum is collected it must be distributed by the plaintiff as if it were unbequeathed assets left in his hands, after payment of all debts and expenses of administration, and when he or she leaves no husband, wife, or children, him or her surviving, the amount recovered shall be administered as other personal property of the deceased person; but the plaintiff may deduct therefrom the expenses of the action, to be allowed by the proper court upon notice, to be given in such manner and to such persons as the court deems proper. [CLA 1913, § 1185; CLA 1933, § 3845.]

COLLATERAL REFERENCES

16 Am Jur 35 et seq.

NOTES OF DECISIONS

1. In General.
2. Nature of Action.
3. Defenses.
4. Damages.
5. Parties.
6. Pleadings.
7. Limitations.

1. IN GENERAL

This section was taken from the Oregon Code. *Kreidler v Ketchikan Spruce Mills* (1943) 10 A 385.

Where plaintiff's decedent had been aboard a schooner towed by a steamer in Alaskan waters, the tow-line parted, and the schooner was wrecked on the Alaskan shore, the cause of decedent's death was not the parting of the tow-line but the steamer's continuing failure to come to the relief of the schooner, and the breach of duty occurred within the Territory of Alaska regardless of whether the vessels were within or beyond the three-mile limit when the steamer abandoned her tow. *Alaska Com. Co. v Williams* (CCA9th 1904) 128 F 362, 63 CCA 92.

Where decedent's widow and administratrix of his estate failed in an action seeking damages for the destruction of decedent's property, and a special finding negatived defendant's negligence, the judgment was not res judicata in a second action against the same defendant to recover for decedent's death in the same occurrence. *Koski v Alaska Juneau G. M. Co.* (1921) 6 A 334.

2. NATURE OF ACTION

A wrongful death action is purely

statutory; there was no such civil action at common law. *Koski v Alaska Juneau G. M. Co.* (1921) 6 A 334.

The right of action is given to the administrator or executor in his representative capacity, and is in the nature of an asset of the estate; heirs have no interest in the recovery on account of any right of action for a pecuniary injury sustained by them, and no common-law right of action is available to them. *The Princess Sophia* (DC, WD Wash ND 1929) 35 F2d 736.

3. DEFENSES

The contributory negligence of the decedent is a defense to an action under this section in whatever court such action may be prosecuted. *Kimball S. S. Co., In re* (DC, ND Calif 1903) 123 F 838.

4. DAMAGES

Where the decedent leaves no wife or children, the amount recoverable by his personal representatives is for the benefit of the estate, and the damage to the estate is the value of the life to the estate, measured by the earning capacity, thriftiness, probable length of life of the decedent, and the consequent amount of probable accumulations during such life expectancy. *Jennings v Alaska Treadwell G. M. Co.* (CCA9th 1909) 170 F 146, 95 CCA 388.

The true measure of damages in actions brought under this section is the pecuniary loss suffered by the estate, without any solatium for the

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§ 61-7-1

PROBATE CODE

ADMIN

CHAPTER 7
ACTIONS BY OR AGAINST EXECUTORS
OR ADMINISTRATORS

Article 1
Generally

§ 61-7-1. Survival of cause of action arising out of injury to person or death after death of wrongdoer. Causes of action arising out of personal injury or death, caused by the wrongful act or negligence of another, shall not abate upon the death of the wrongdoer, and the injured person or the personal representatives of one meeting death, as above stated, shall have a cause of action against the executor, administrator or trustee of the estate of the deceased wrongdoer. [am L 1949, ch 102, § 1, p 260, app Mar. 24, 1949.]

Amendments. L 1949 amended section generally.

§ 61-7-3. Action for wrongful death: Disposition of amount recovered. When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefore against the latter, if the former might have maintained an action, had he lived, against the latter for an injury done by the same act or omission. Such action shall be commenced within two years after the death, and the damages therein shall not exceed fifty thousand dollars, and the amount recovered, if any, shall be exclusively for the benefit of the decedent's husband or wife and children when he or she leaves a husband, wife or children, him or her surviving; and when he or she leaves no husband, wife or children, him or her surviving, the amount recovered shall be administered as other personal property of the deceased person. When the plaintiff prevails, the trial court shall determine the allowable costs and expenses of the action and may, in its discretion, require notice and hearing thereon. The amount recovered shall be distributed only after payment of all costs and expenses of suit and debts and expenses of administration.

The damages recoverable under this section shall be limited to those which are the natural and proximate consequence of the negligent or wrongful act or omission of another.

In fixing the amount of damages to be awarded under this

section, the Court shall determine the amount to be compensated for the loss of the decedent's services and from the estate of the decedent, but is not limited to the amount which the decedent would have saved during his lifetime.

(1) Deprivation of services of decedent as beneficiary or beneficiary of a trust which would have resulted from the decedent's services without regard to the amount which the decedent would have saved during his lifetime.

(2) Loss of contribution to the support of the decedent.

(3) Loss of support of decedent.

(4) Loss of contribution to the support of the decedent.

(5) Loss of property of decedent.

(6) Medical and funeral expenses of decedent.

The death of a person shall not affect the amount of the estate of the decedent.

The right of action for wrongful death of a person shall be limited to the amount which the decedent would have saved during his lifetime.

1949, ch 89, § 1, p 315, app Mar. 1957.]

Amendments. L 1955 amended section. L 1949 amended section. L 1955 amended section. L 1949 amended section. L 1955 amended section.

L 1955 amended section. L 1949 changed amount to \$15,000.

1. Construction. Cause of action. 1st Supp 688.

2. Generally. Among the beneficiaries of a trust or estate of a decedent who has died, the court shall determine the amount to be distributed to each beneficiary.

The decision of the court shall be final and binding on all parties.

Under this statute, the amount of the loss to the decedent's estate shall be determined by the court.

section, the Court or jury shall consider all the facts and circumstances and from them fix the award at such sum as will fairly compensate for the injury resulting from the death. In determining the amount of the award, the Court or jury shall consider but is not limited to the following:

(1) Deprivation of the expectation of pecuniary benefits to the beneficiary or beneficiaries, without regard to age thereof, that would have resulted from the continued life of the deceased and without regard to probable accumulations or what the deceased may have saved during his lifetime.

(2) Loss of contributions for support.

(3) Loss of assistance or services irrespective of age or relationship of decedent to the beneficiary or beneficiaries.

(4) Loss of consortium.

(5) Loss of prospective training and education.

(6) Medical and funeral expenses.

The death of a beneficiary or beneficiaries before judgment shall not affect the amount of damages recoverable hereunder.

The right of action hereby granted shall not be abated by the death of a person named or to be named the defendant. [Am L 1949, ch 89, § 1, p 222, app Mar. 23, 1949; L 1955, ch 153, § 1, p 315, app Mar. 28, 1955; L 1957, ch 6, § 1, p 7, app Feb. 20, 1957.]

Amendments. L 1957 amended provisions relating to distribution when decedent leaves no spouse or children surviving, so that the amount recovered will be administered as other personal property instead of for the benefit per capita of the child or children of decedent's child or children, if any, and the surviving parent or parents of the decedent.

L 1955 amended section generally.

L 1949 changed maximum amount that may be recovered under section from \$10,000 to \$15,000.

1. Construction. This statute is not a survival statute, but creates a new cause of action. *Ishmael v City Electric of Anchorage* (1950) 12 A 721, 91 F Supp 688.

2. Generally. A deceased employee's heir, such as daughter not included among the beneficiaries listed in the Workmen's Compensation Act, has no cause of action under this statute for employee's death from injury covered by Compensation Act. *McKenna v Evans-Jones Coal Co.* (1950) 12 A 692.

The decision of the Alaska Industrial Board in a proceeding for compensation for the death of an employee, as to which of three companies was the decedent's employer, was binding in widow's subsequent death action against one of them. *Hazel v Alaska Plywood Corporation* (1957) 16 A 542.

Under this statute the measure of damages where the decedent was survived by a spouse and children was the pecuniary loss to the survivors, and not the loss to the decedent's estate. *Wier. Alaska Airlines v Simmonds* (1957) 16 A 679, 241 F2d 57.

every hair seal inhabiting the inland waters and all water adjacent to the southern coast of Alaska east of the 152nd Meridian, and the waters of Bristol Bay and the coastal waters within three miles off the Mainland from Cape Newenham to Cape Krusenstern, inclusive, a bounty of \$3.00.

such sum to be paid in accordance with the provisions following.

Sec. 2. **Effective Date.** This Act shall become effective retroactive to January 1, 1960, upon its passage and approval or upon its becoming law without such approval.

Approved April 22, 1960

CHAPTER 163

AN ACT

Relating to damages in actions for wrongful death; and amending the first paragraph of Sec. 61-7-3, ACLA 1949, as amended by Ch. 89, SLA 1949, Ch. 153, SLA 1955, and Ch. 6, SLA 1957.

(H.B. 329)

Be it enacted by the Legislature of the State of Alaska:

Section 1. The first paragraph of Sec. 61-7-3, ACLA 1949, as amended by Ch. 89, SLA 1949, Ch. 153, SLA 1955, and Ch. 6, SLA 1957, is amended to read as follows:

Sec. 61-7-3. **Action for Wrongful Death; Disposition of Amount Recovered.** When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefore against the latter, if the former might have maintained an action had he lived, against the latter for an injury done by the same act or omission. Such action shall be commenced within two years after the death, and the damages therein shall, be such

damages as the court or jury may deem fair and just and the amount recovered, if any, shall be exclusively for the benefit of the decedent's husband or wife and children when he or she leaves a husband, wife or children, him or her surviving or dependents; and when he or she leaves no husband, wife or children, him or her surviving, or other dependents, the amount recovered shall be administered as other personal property of the deceased person but shall be limited to pecuniary loss. When the Plaintiff prevails, the trial court shall determine the allowable costs and expenses of the action and may, in its discretion, require notice and hearing thereon. The amount recovered shall be distributed only after payment of all costs and expenses of suit and debts and expenses of administration.

Approved April 22, 1960

CHAPTER 164

AN ACT

Relating to the furnishing of return transportation by employers upon termination of employment; amending Sec. 1, Ch. 67, SLA 1949 as amended by Ch. 136, SLA 1959; and providing for an effective date.

(H.B. 348)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Sec. 1, Ch. 67, SLA 1949, as amended by Ch. 136, SLA 1959, is amended to read as follows:

Section 1. Any employer who furnishes, finances, or agrees to furnish or finance, or who in any way provides transportation for any person from the place of hire to any point within or

animous consent that Messrs. ness.

TION

by Messrs: Giersdorf and ability of using certain and rescue operations in ntatives in First ne Senate concurring, juct a study to determine SARAH by all state-owned i in intra-state traffic l, read the first time 'fairs.

ITTEES

as referred HOUSE BILL ecommendation that it Hope, Chairman, and Jones and Hammond. LL NO. 420 was referred

whom was referred HOUSE the recommendation that l be accepted in lieu ned by Douglas Gray, s, Franz, Erwin, McCombe, d to the Committee on

ducation to whom was ame back with the was signed by James s. McSmith and Messrs: Charles Jones. SENATE on Finance.

ducation to whom was ne back with the was signed by James l. McSmith and Messrs: 396 was referred to

ucation to whom was eported the same . The report was signed in by Mrs. McSmith RRENT R. SOLUTION NO. 50

as referred HOUSE BILL emendation that it urley, Chairman, and sen. HOUSE BILL NO.405

was referred to the Committee on Judiciary.

The Committee on State Affairs to whom was referred HOUSE BILL NO. 418 reported the same back with the recommendation that it do pass. The report was signed by James J. Hurley, Chairman, and concurred in by Messrs: Hansen, Haag and Freeman. HOUSE BILL NO. 418 was referred to the Committee on Rules.

The Committee on State Affairs to whom was referred HOUSE BILL NO. 403 reported the same back with the recommendation that it do pass with the following amendment:

Page 1, line 12: after word "appointed" strike "his" and insert therefore the words "the Governor shall declare the"; strike word "is".

The report was signed by James J. Hurley, Chairman, and concurred in by Messrs: Freeman, Haag and Hansen. HOUSE BILL NO. 403 was referred to the Committee on Rules.

The Committee on Judiciary to whom was referred HOUSE BILL NO. 329 reported the same back with the recommendation that it do pass with the following amendment:

Page 1, lines 23 and 24: Strike "be determined on the basis of the proof adduced at the trial; substitute "not exceed one hundred thousand dollars."

The report was signed by John S. Hellenthal, Chairman, and concurred in by Messrs: Roady, Fisher and Kendall. Do not pass: Robert Giersdorf. HOUSE BILL NO. 329 was referred to the Committee on Rules.

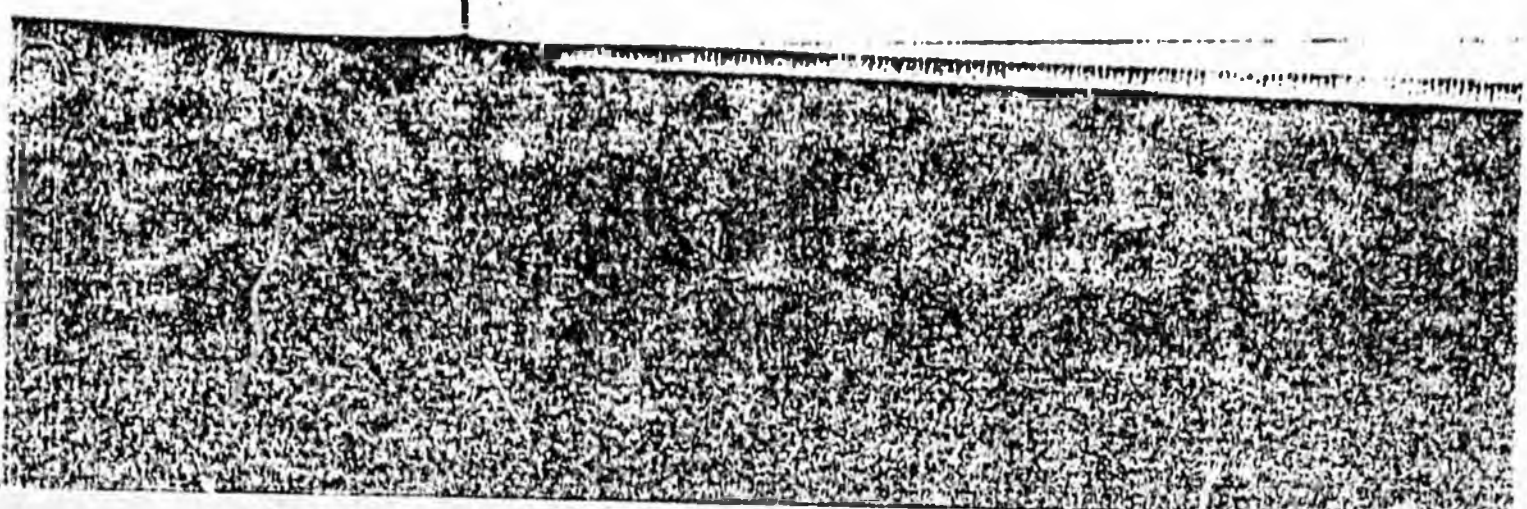
The Committee on Judiciary to whom was referred HOUSE BILL NO. 311 reported the same back with the recommendation that it be amended and that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 311 containing the amendments be adopted in lieu of HOUSE BILL NO. 311. The report was signed by Messrs: Fisher, Giersdorf, Kendall and Roady. No Recommendation: John S. Hellenthal, Chairman. HOUSE BILL NO. 311 was referred to the Committee on Rules.

The Committee on Local Government to whom was referred HOUSE BILL NO. 437 reported the same back with the recommendation that it do pass. The report was signed by Douglas Gray, Chairman, and concurred in by Messrs: Franz, Erwin, Haag, McCombe and Curtis. HOUSE BILL NO. 437 was referred to the Committee on Rules.

The Committee on Federal Relations to whom was referred HOUSE JOINT MEMORIAL NO. 55 reported the same back with the recommendation that it do pass. The report was signed by Helen M. Fischer, Chairman, and concurred in by Messrs: Roady, Franz and Sheldon. HOUSE JOINT MEMORIAL NO. 55 was referred to the Committee on Rules.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

March 10, 1960
Forty-Sixth Day



House Journal 1960

The question being: "Shall HOUSE JOINT MEMORIAL NO. 59 pass?" On voice vote HOUSE JOINT MEMORIAL NO. 59 passed and was referred to the Committee on Engrossment and Enrollment for engrossment.

HOUSE CONCURRENT RESOLUTION NO. 50 was read.

The question being: "Shall HOUSE CONCURRENT RESOLUTION NO. 50 pass?" On voice vote HOUSE CONCURRENT RESOLUTION NO. 50 passed and was referred to the Committee on Engrossment and Enrollment for engrossment.

HOUSE CONCURRENT RESOLUTION NO. 51 was read.

The question being: "Shall HOUSE CONCURRENT RESOLUTION NO. 51 pass?" On voice vote HOUSE CONCURRENT RESOLUTION NO. 51 passed and was referred to the Committee on Engrossment and Enrollment for engrossment.

HOUSE CONCURRENT RESOLUTION NO. 52 was read.

The question being: "Shall HOUSE CONCURRENT RESOLUTION NO. 52 pass?" On voice vote HOUSE CONCURRENT RESOLUTION NO. 52 passed and was referred to the Committee on Engrossment and Enrollment for engrossment.

HOUSE MEMORIAL NO. 13 was read.

The question being: "Shall HOUSE MEMORIAL NO. 13 pass?" On voice vote HOUSE MEMORIAL NO. 13 passed and was referred to the Committee on Engrossment and Enrollment for engrossment.

"SECOND READING OF HOUSE BILLS

HOUSE BILL NO. 329 was read the second time.

The Committee on Judiciary offered the following amendment:

Page 1, lines 23 and 24: Strike "be determined on the basis of the proof adduced at the trial"; substitute "not exceed one hundred thousand dollars"

Mr. Fisher moved and asked unanimous consent that the amendment be adopted. There being no objection, the amendment to HOUSE BILL NO. 329 was adopted.

Mr. Hansen moved and asked unanimous consent that HOUSE BILL NO. 329 as amended be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

March 15, 1960
Fifty-First Day

concur in the Senate's amendments to COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 as amended. There being no objection, it was so ordered.

A message was ordered sent to the Senate advising that the House concurred in the Senate's amendments to COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 as amended. Thereupon the Speaker and Chief Clerk signed COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 as amended by the Senate and it was referred to the Committee on Engrossment and Enrollment for enrollment.

A message from the Senate, dated March 25, 1960, stating that the Senate passed HOUSE BILL NO. 329 as amended with the following amendments; was read:

Page 1, line 23: Strike "not exceed (FIFTY) Thousand dollars" and add "be such damages as the court or jury may deem fair and just".

Page 1, line 27: After word "surviving" insert words "or dependents".

Page 1, line 28: After word "surviving," insert words "or other dependents".

Page 1, line 28: After word "surviving," insert words "or other dependents."

Page 2, line 1: After word "person" insert "but shall be limited to pecuniary loss".

Mr. Fisher moved that the House concur in the Senate's amendments to HOUSE BILL NO. 329 as amended. Mr. Greuel seconded. On voice vote the motion carried and the House concurred in the Senate's amendments to HOUSE BILL NO. 329 as amended.

A message was ordered sent to the Senate stating that the House concurred in the Senate's amendments to HOUSE BILL NO. 329 as amended. Thereupon the Speaker and Chief Clerk of the House signed HOUSE BILL NO. 329 as amended by the Senate and it was referred to the Committee on Engrossment and Enrollment for enrollment.

A message from the Senate, dated March 25, 1960, stating that the President and Secretary signed the enrolled copies of HOUSE BILL NO. 258, HOUSE BILL NO. 461, HOUSE BILL NO. 288, COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 271 as amended, HOUSE BILL NO. 325, HOUSE BILL NO. 410, HOUSE BILL NO. 464 as amended by the Senate, HOUSE BILL NO. 457, COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 320, COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 318 as amended by the Senate, COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 251 as amended by the Senate, SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 223 as amended and COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 300 as amended by the Senate and they were ordered transmitted to the offices of the Governor and Secretary of State.

REPORTS OF STANDING COMMITTEES

March 25, 1960
Sixty-First Day

The Engrossment and Enrollment Committee to whom was referred HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 149 reported to the Senate they had compared the same with the original bill and found it correctly enrolled. The report was signed by Senator Metcalf, Chairman and concurred in by Senator Bradshaw.

The enrolled copy of HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 149 was ordered sent to the House for the signatures of the Speaker and Chief Clerk.

Senator Moody moved and asked unanimous consent that HOUSE BILL NO. 424, as amended, be considered at this time. There being no objection, it was so ordered.

HOUSE BILL NO. 424, as amended, was considered again in second reading.

There being no amendments, Senator Moody moved and asked unanimous consent that HOUSE BILL NO. 424, as amended, be advanced to third reading and final passage. There being no objection, it was so ordered.

HOUSE BILL NO. 424, as amended, was read the third time.

The question being, "Shall HOUSE BILL NO. 424, as amended, pass the Senate?" The roll was called with the following result:

Yeas: 7 - Bucklew, McKabb, Metcalf, Orbeck, Ryan, Weise, Mr. President.

Nays: 9 - Bradshaw, Bronson, Hopson, Logan, McNealy, Moody, Nolan, Smith, Stewart.

Absent: 4 - Coghill, McKees, Owen, Peratrovich.

And so HOUSE BILL NO. 424, as amended, failed to pass the Senate.

Senator Moody asked for the personal privilege of the floor, and informed members of the Senate the House had agreed to meet with the Senate in a majority party caucus at 4:30.

HOUSE BILL NO. 325, as amended, was considered again.

Senator McNealy offered the following amendment:

Page 1, line 17: after word "surviving" insert words "or dependents"

Page 2, line 1: after word "person" insert "but shall be limited to pecuniary loss"

Senator McNealy moved for the adoption of the amendment. Senator Bradshaw seconded. On voice vote the amendment was adopted.

Senator Bucklew offered the following amendment:

Page 1, line 23: strike NOT EXCEED one hundred FIFTY THOUSAND DOLLARS and add be such damages as the court or jury may deem fair and just.

March 24, 1960
Sixtieth Day

Senate Journal 1960

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March 2
Sixtieth

Senator Buckalew moved for the adoption of the amendment, and asked unanimous consent. Senator McNealy objected and seconded.

Senator Stewart asked unanimous consent for a short recess. There being no objection, it was so ordered.

AFTER RECESS

Senator Buckalew asked unanimous consent for the adoption of his amendment. There being no objection, it was so ordered.

There being no further amendments, Senator Moody asked the concurrence of the Senate to advance HOUSE BILL NO. 329, as amended in the Senate, to third reading and final passage. There being no objection, it was so ordered.

HOUSE BILL NO. 329, as amended in the Senate, was read the third time.

The question being, "Shall HOUSE BILL NO. 329, as amended in the Senate, pass the Senate?", the roll was called with the following result:

Yeas: 16 - Bradshaw, Bronson, Buckalew, Hopson, Logan, McNabb, McNealy, Metcalf, Moody, Nolan, Orbeck, Ryan, Smith, Stewart, Weise, Mr. President.

Nays: 0

Absent: 4 - Coghill, McKees, Owen, Peratrovich.

And so HOUSE BILL NO. 329, as amended in the Senate, passed the Senate.

HOUSE BILL NO. 329, as amended in the Senate, was referred to the Committee on Engrossment and Enrollment for engrossment.

Senator Moody asked unanimous consent for a recess until the call of the Chair. There being no objection, it was so ordered.

AFTER RECESS

The Senate reconvened at 3:30 p.m.

Without objection, the Senate reverted to

COMMUNICATIONS

Telegram of March 24, 1960 to President Beltz from Clarence King, President, Ketchikan Chamber of Commerce urging enactment of bonding authority bills, was read and referred to the State Affairs Committee.

Letter of March 24, 1960 to the President of the Senate, from Mrs. Eugene G. Roguska, Secretary Democratic South Central District Committee, advising that John A. Burns, former Delegate in Congress from Hawaii, would be the keynote speaker for the Second Session of the Democratic State Convention to be held in Anchorage on April 2 and 3, was read.

March 24, 1960
Sixtieth Day

1-25-82

HB 159

Sofa ✓✓✓

January 25, 1982

Original sponsor: Rules/Legislative Council

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 159 (L&C)

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 workers' compensation; and provid-
7 ing for an effective date."

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

9 ^{Sec 66 P44}
* Section 1. AS 18.80.220(a)(4) is amended to read:10 (4) an employer, labor organization or employment agency to
11 discharge, expel or otherwise discriminate against a person because he
12 has13 (A) opposed any practices forbidden under AS 18.80.200 -
14 18.80.280; [OR BECAUSE HE HAS]15 (B) filed a complaint, testified or assisted in a pro-
16 ceeding under this chapter; or17 (C) filed a claim for workers' compensation benefits
18 under AS 23.30; ^{Sec 13 P13}

19 * Sec. 2. AS 23.30.025 is amended by adding a new subsection to read:

20 (c) An insurer may issue a policy of insurance insuring the payment
21 of benefits under this chapter which provides for a deductible amount to
22 be paid by the employer. A policy with a deductible provision must be
23 approved by the director of insurance and must provide that the deduct-
24 ible amount be paid by the insurer to the employee on behalf of the
25 employer. After payment of the deductible by the insurer, the insurer
26 may recover the deductible amount from the employer. The failure of an
27 employer to reimburse an insurer for the deductible amount does not
28 relieve the insurer from any other obligation it may have under the
29 policy of insurance. An insurer is not required to apply for a deviation

1 under AS 21.39.070 in order to issue a policy under this subsection.
 2 This subsection does not apply to a policy of excess insurance purchased
 3 by a self-insurer.

4 * Sec. 3. AS 23.30.045(c) is amended to read:

5 (c) For a person eligible for vocational rehabilitation service
 6 under this chapter or AS 23.15.080 [AND] who is placed with an employer
 7 for service [WITHOUT WAGES] at the request of the board or the division
 8 [OFFICE] of vocational rehabilitation to give him on the job training,
 9 work readiness, [OR] work therapy experience [,] or work sampling, the
 10 liability set out in (a) of this section applies to the state rather
 11 than to the employer.

12 * Sec. 4. AS 23.30.080 is amended by adding a new subsection to read:

13 (d) If an employer fails to insure or provide security as required
 14 by AS 23.30.075, the board may issue a stop order prohibiting the use of
 15 employee labor by the employer until the employer insures or provides
 16 security as required by AS 23.30.075. If an employer fails to comply
 17 with a stop order issued under this section, the board shall assess a
 18 civil penalty of at least \$1,000 per day. The employer may not obtain a
 19 public contract with the state or any of its political subdivisions for
 20 one year following the violation of the stop order.

21 * Sec. 5. AS 23.30.095(a) is amended to read:

22 (a) The employer shall furnish medical, surgical, and other atten-
 23 dance or treatment, nurse and hospital service, medicine, crutches, and
 24 apparatus for the period which the nature of the injury or the process
 25 of recovery requires [, NOT EXCEEDING TWO YEARS FROM AND AFTER THE DATE
 26 OF INJURY TO THE EMPLOYEE. HOWEVER, IF THE CONDITION REQUIRING THE
 27 TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR PERIOD
 28 RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS
 29 DISABILITY AND ITS RELATIONSHIP TO HIS EMPLOYMENT AND AFTER-DISABLEMENT.

1 IT SHALL BE ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT OR CARE
2 OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE
3 HAS THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED
4 TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE]. When
5 medical care is required, the injured employee may designate a health
6 care provider [LICENSED PHYSICIAN] inside the state to render the care
7 except in cases where, in the judgment of the board, care or treatment
8 or both can best be administered by the selection of another health care
9 provider [PHYSICIAN]. Upon procuring the services of a health care
10 provider [PHYSICIAN], the injured employee shall give proper notifica-
11 tion of his selection to the employer within a reasonable time after
12 first being treated. [IF FOR ANY REASON DURING THE PERIOD WHEN MEDICAL
13 CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO ANOTHER PHYSICIAN, HE
14 MAY DO SO IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD.]

15 * Sec. 6. AS 23.30.095(b) is amended to read:

16 (b) If the employee is unable to designate a health care provider
17 [PHYSICIAN] and the emergency nature of the injury requires immediate
18 medical care, or if he does not desire to designate a health care pro-
19 vider [PHYSICIAN] and so advises the employer, the employer shall desig-
20 nate the health care provider [PHYSICIAN]. Designation under this
21 subsection, however, does not prevent the employee from subsequently
22 designating a health care provider [PHYSICIAN] for continuance of re-
23 quired medical care.

24 *sec 31 P 24+25*

24 * Sec. 7. AS 23.30.095(c) is amended to read:

25 (c) No claim for medical or surgical treatment is valid and en-
26 forceable as against the employer unless, within 20 [TWENTY] days follow-
27 ing the first treatment ~~and following the time set by the board for~~
28 ~~notice of subsequent treatments~~, the health care provider [PHYSICIAN]
29 giving the treatment or the employee receiving it furnishes to the

1 employer and the board notice of the injury and treatment, preferably on
2 a form prescribed by the board. The board shall [MAY], however, excuse
3 the failure to furnish notice within 20 days wher. it finds it to be in
4 the interest of justice to do so, and it may, upon application by a
5 party in interest, make an award for the reasonable value of the medical
6 or surgical treatment so obtained by the employee.

7 * Sec. 8. AS 23.30.095(e) is amended to read:

8 (e) The employee shall, after an injury, at reasonable times
9 during the continuance of his disability if requested by his employer
10 or, when ordered by the board, submit himself to an examination by a
11 health care provider [PHYSICIAN OR SURGEON] authorized to practice
12 [MEDICINE] under the laws of the state in which the employee may be
13 found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE
14 RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE
15 EXAMINATION OR EXAMINATIONS.] No fact relative to the injury or claim
16 communicated to or otherwise learned by a health care provider [PHYSI-
17 CIAN OR SURGEON] who may have attended or examined the employee, or who
18 may have been present at an examination is privileged, either in the
19 hearings provided for in this chapter or an action to recover damages
20 against an employer who is subject to the benefits [COMPENSATION] provi-
21 sions of this chapter. If an employee refuses to submit himself to any
22 examination provided for in this section [HEREIN], his rights to compen-
23 sation shall be suspended until the obstruction or refusal ceases, and
24 his compensation during the period of suspension may, in the discretion
25 of the board or the court determining an action brought for the recovery
26 of damages under this chapter [HEREUNDER], be forfeited. The board in
27 any case of death may require an autopsy at the expense of the party
28 requesting the autopsy. No autopsy may be held without notice first
29 being given to the widow or widower or next of kin if they reside in the

1 state or their whereabouts can be reasonably ascertained, of the time
2 and place of the autopsy and reasonable time and opportunity given the
3 widow or widower or next of kin to have a representative present to
4 witness the autopsy. If no adequate notice is given, the findings from
5 the autopsy may be suppressed on motion made to the board or to the
6 superior court, as the case may be.

7 * Sec. 9. ^{Sec 36 P 26} AS 23.30.105(a) is amended to read:

8 (a) The right to benefits [COMPENSATION FOR DISABILITY] under this
9 chapter is barred unless a claim for them [IT] is filed within two years
10 after the employee has knowledge of the nature of his disability and its
11 relation to his employment and after disablement. The [HOWEVER, THE
12 MAXIMUM TIME FOR FILING THE CLAIM IN ANY EVENT OTHER THAN ARISING OUT OF
13 AN OCCUPATIONAL DISEASE SHALL BE FOUR YEARS FROM THE DATE OF INJURY, AND
14 THE] right to benefits [COMPENSATION] for death is barred unless a claim
15 for benefits [THEREFORE] is filed within one year after the death. If [,
16 EXCEPT THAT IF] payment of compensation has been made without an award
17 on account of the injury or death, a claim may be filed within two years
18 after the date of the last payment. It is additionally provided that,
19 in the case of a latent injury [DEFECTS PERTINENT TO AND CAUSING COMPEN-
20 SABLE DISABILITY], the injured employee has full right to claim as shall
21 be determined by the board, time limitations notwithstanding.

22 * Sec. 10. ^{Sec 40 P 30} AS 23.30.110(c) is amended to read:

23 (c) The board shall make the investigation which it considers
24 necessary in respect of the claim, and upon application of an interested
25 party shall order a hearing on it. If a hearing on a claim is ordered,
26 the board shall give the claimant and other interested parties at least
27 10 days' notice of the hearing, served personally upon the claimant and
28 other interested parties or sent by registered mail, and shall, within
29 30 [20] days after the hearing is held [HAD], by order, reject the claim

1 or make an award in respect to it. If a hearing is continued by the
 2 board, additional notice under this subsection is not required. [IF NO
 3 HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN
 4 (b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE
 5 AN AWARD IN RESPECT TO IT.]

6 * Sec 11. AS 23.30.155(j) ^{Sec 45 P 33} is amended to read:

7 (j) If an employer has made advance payments or overpayments of
 8 compensation, he is entitled to be reimbursed, after approval by the
 9 board, out of any unpaid installment or installments of compensation
 10 due.

11 * Sec. 12. AS 23.30.155 is amended by adding new subsections to read:

12 (n) Compensation owed to an injured employee in the state shall be
 13 paid by a check or draft that may be cashed on the first banking day
 14 after it is received by the employee and on any succeeding banking day.

15 (o) If the board determines that it is in the interest of an
 16 injured employee and that a substantial hardship will not be imposed on
 17 the employer, the liability of the employer for all or part of compensa-
 18 tion payable under AS 23.30.190 may be discharged by the payment of a
 19 lump sum. ^{Sec 51 P 36}

20 * Sec. 13. AS 23.30.175(b) is repealed and reenacted to read:

21 (b) After June 30 and before December 1 of each year, the commis-
 22 sioner shall adopt and publish the average weekly wage for each jurisdic-
 23 tion for the preceding calendar year as published by the United States
 24 Secretary of Labor for the purposes of unemployment insurance. In
 25 determining the rate of compensation the commissioner shall use the
 26 average weekly wage figure for each jurisdiction, including Alaska, for
 27 which the Secretary of Labor computes an average weekly wage. These
 28 figures are the applicable average weekly wages for those jurisdictions
 29 for the following calendar year.

SEC. 52 P 36, 37

1 * Sec. 14. AS 23.30.175(c) is repealed and reenacted to read:

2 (c) The following rules apply to recipients who do not reside in
3 Alaska:

4 (1) The weekly rate of compensation shall be calculated by
5 multiplying the recipient's average weekly wage times the ratio of the
6 average weekly wage of the jurisdiction in which the recipient resides
7 to the average weekly wage of Alaska. The rate is based on the average
8 weekly wages in effect when the recipient leaves Alaska and shall be
9 adjusted annually upon publication of the average weekly wages for all
10 jurisdictions.

11 (2) The calculation required by this subsection does not
12 apply if the recipient is absent from Alaska for medical or rehabilita-
13 tion services not reasonably available in Alaska.

14 (3) If the average weekly wage of the recipient and the
15 resulting compensation rate is determined under AS 23.30.220(2) the
16 calculation required by this subsection applies to only those wages
17 earned in Alaska.

18 (4) Application of this subsection may not result in a reduc-
19 tion of the weekly compensation rate to less than \$65 a week except as
20 provided in (e) of this section.

SEC 53 P 37

21 * Sec. 15. AS 23.30.175(d) is repealed and reenacted to read:

22 (d) In a jurisdiction for which no average weekly wage is computed
23 by the United States Secretary of Labor for the purposes of unemployment
24 insurance, the average weekly wage shall be as determined by the commis-
25 sioner.

SEC 55 P 38, 39, 40

26 * Sec. 16. AS 23.30.190(a)(20) is amended to read:

27 (20) in all other cases in this class of disability the
28 compensation is 66-2/3 percent of the difference between his average
29 weekly wages and his wage-earning capacity after the injury in the same

1 employment or otherwise, payable during the continuance of the partial
 2 disability, but subject to reconsideration of the degree of the impair-
 3 ment by the board on its own motion or upon application of a party in
 4 interest; [WHENEVER THE BOARD DETERMINES THAT IT IS IN THE INTEREST OF
 5 JUSTICE, THE LIABILITY OF THE EMPLOYER FOR COMPENSATION, OR ANY PART OF
 6 IT AS DETERMINED BY THE BOARD, MAY BE DISCHARGED BY THE PAYMENT OF A
 7 LUMP SUM;]

8 * Sec. 17. AS 23.30.191^{SEC 56 P40} is repealed and reenacted to read:

9 Sec. 23.30.191. EXPENSES FOR REHABILITATING INJURED EMPLOYEES. An
 10 employee, who, as a result of injury, is or may be expected to be totally
 11 or partially incapacitated for his normal occupation and who, under the
 12 direction of the board, is being rehabilitated to engage in a remunera-
 13 tive occupation, may receive compensation necessary for his rehabilita-
 14 tion of 66-2/3 percent of his average weekly wage subject to the maximum
 15 payable under AS 23.30.175.

16 * Sec. 18. AS 23.30.215(a)(1)^{SEC 58 P41} is amended to read:

17 (1) reasonable and necessary funeral expenses not exceeding
 18 \$2,500 [\$1,000];

19 * Sec. 19. AS 23.30.220(2)^{SEC 59 P41, 42} is amended to read:

20 (2) the average weekly wage is [THAT MOST FAVORABLE TO THE
 21 EMPLOYEE] calculated by dividing 456 [52] into the total wages earned,
 22 including self-employment, in the highest paid three consecutive years
 23 out of [ANY ONE OF] the five [THREE] calendar years immediately preced-
 24 ing the injury;^{SEC 63 P43}

25 * Sec. 20. AS 23.30.250 is amended to read:

26 Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who wil-
 27 fully makes a false or misleading statement or representation for the
 28 purpose of obtaining a benefit or payment under this chapter is guilty
 29 of theft as defined in AS 11.46.100(3) and is punishable as provided in

1 AS 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON CONVICTION IS PUNISH-
2 ABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT FOR NOT MORE
3 THAN ONE YEAR, OR BY BOTH].

4 * Sec. 21. AS 23.30.265(16) is amended to read: *Sec 68 P 45*

5 (16) "medical and related benefits" includes but is not
6 limited to physicians' fees, nurses' charges, pain clinic services,
7 hospital services, hospital supplies, medicine and prosthetic devices,
8 physical rehabilitation, and treatment for the fitting and training for
9 use of such devices as may reasonably be required which arises out of or
10 is necessitated by an injury, and transportation charges to the nearest
11 point where adequate medical facilities are available;

12 * Sec. 22. AS 23.30.265(20) is amended to read: *Sec 70 P 45, 46*

13 (20) "wages" means the money rate at which the service ren-
14 dered is recompensed under the contract of hiring [IN FORCE AT THE TIME
15 OF THE INJURY,] and includes the reasonable value of board, rent,
16 housing, lodging, or similar advantage received from the employer, and
17 gratuities received in the course of employment from other [OTHERS] than
18 the employer;

19 * Sec. 23. AS 23.30.265 is amended by adding new paragraphs to read: *Sec 71. P 45, 46*

20 (29) "benefits" means compensation and medical and related
21 benefits;

22 (30) "health care provider" means a chiropractor licensed
23 under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist
24 licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing
25 optician licensed under AS 08.71; an optometrist licensed under AS 08.72;
26 a pharmacist licensed under AS 08.80; a physical therapist licensed
27 under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a
28 psychologist and a psychological associate licensed under AS 08.86; and
29 a hospital as defined in AS 18.20.130, including a governmentally owned

1 or operated hospital; a corporate entity covered under AS 21.88.050-
 2 (b)(12); an employee of a health care provider acting within the course
 3 and scope of his employment; and persons comparably licensed in other
 4 jurisdictions to provide health care;

5 (31) "in the course of employment" includes travel to and from
 6 a remote job site but does not include activities outside of working
 7 hours off a site provided by the employer that are not under the super-
 8 vision or control of the employer.

Sec 72 P46

9 * Sec. 24. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), and
 10 23.30.225(b) are repealed.

Sec 72 P46

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

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 25, 1982
1:20 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph
Rep. Gardiner

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 159 An act relating to workers' compensation,
and providing for an effective date.

WITNESS REGISTER

Tom Sofo
LAA Legal Services
State Capitol, Pouch Y
Juneau, Alaska 99811
465-3867

Position Statement: Gave overview of workdraft changes and
amendments.

Jeff Barry, Administrative Assistant
House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811
465-3669

Position Statement: Available to answer questions and present
results of research.

Jacquelyn McClintock, Director
Division of Workers Compensation
Department of Labor
PO Box 1149
Juneau, Alaska 99811
465-2790

Position Statement: Available to answer questions.

Don Koch
Division of Insurance
Department of Commerce & Economic Development
Pouch D
Juneau, Alaska 99811
465-2577

Position Statement: Available to answer questions.

Jack Thompson
WCCA/ACE
2216 Post Road
Anchorage, Alaska 99501
272-0536

Position Statement: Observing; available to answer questions.

M.C. Morgan
Division of Vocational Rehabilitation
Department of Education
9170 Glacierwood Drive
Juneau, Alaska 99801
586-6500

Position Statement: Overview of function of vocational rehabilitation; answered questions.

PREVIOUS ACTION

HB 159

No previous action. No amendments formally considered this date.

Statutory reference: AS 18.80; AS 23.30.

ACTION NARRATIVE

Tape #005
Recording
Number 0004

The meeting was called to order by Chairman Martin at 1:20 p.m. All committee members were present. Chairman Martin introduced Jeff Barry, administrative aide to the Committee, and Tom Sofo of LAA Legal Services. Chairman Martin gave a brief recap of work completed so far, and went over the week's agenda. He was hopeful that the committee would be ready for final action on HB 159 by the week of 2/14-18.

Number 0118

TOM SOFO, LAA Legal Services, went over the workdraft committee substitute for HB 159. He said all references to self-insurance are omitted from this workdraft. He noted that the bill contains a parallel section to each section of the governor's bill, HB 659, and compared the workdraft to the governor's bill section by section.

Section 1 (of HB 159): Includes form for ascertaining discrimination.

Section 2: Deals with insurance matters; allows insurers to use deductible. This was