

ALASKA LEGISLATURE COMMITTEES FOR 2002

1783 HLC SB 548 - SB 746

S

B

5

4

8

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 548
 Title An act relating to the medical indemnity corporation of Alaska
 Requested by Colletta Date 5/5/81 (as. 21.2)

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development
 Program Category Affected Public Protection
 BRU, Program, or Subprogram(s) Affected DIVISION OF INSURANCE
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE May 12, 1981 PREPARED BY Kenneth C. Moore Director of
 AGENCY Commerce & Economic Development Insurance
 PHONE 465-2515

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

March 10, 1982

Dear _____ :

As a member of the medical community, you may be interested in a bill I am sponsoring that would change portions of the law relating to the Medical Indemnity Corporation of Alaska.

I believe Senate Bill 548 makes several technical changes that would make MICA more competitive and benefit its policy holders.

First, it would remove uncertainty over the floating premium rate relating to malpractice insurance. Currently, the director of insurance can increase the premium retroactively from zero to 150 percent, depending on the risk factor. My bill gives the director the authority to fix the rate at a prudent level, so that the physician, when he signs a contract, knows in advance the maximum level of increase in his policy.

Second, Senate Bill 548 gives MICA the authority to pick up claims handled by a prior insurance company, so that the physician is covered at all times.

Third, the bill would cover related malpractice liabilities. For example, a medical facility would be protected against a patient who falls and breaks a leg in the facility and claims the staff, in some way, was negligent.

If Senate Bill 548 interests you, I would suggest you contact the Senate Finance Committee and urge co-chairmen Ed Dankworth and Don Bennett to schedule the bill for public hearings.

If I can be of any further assistance, don't hesitate to contact me in Juneau.

Sincerely,

Mike Colletta



Official Business

Alaska State Legislature

File Copy

M. Leahy Chair
Hohmann v. Chair
Fahrenheit
Rodey
Zigler

Senate

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

CS SB 548; Sectional Analysis:

"An act relating to the Medical Indemnity Corporation of Alaska"

Section 1): Amends AS 21.88.030(a) (3) to read: (3) Two professionals from the insurance industry who are authorized to do business in the State. The current statute reads "insurance companies authorized" and the proposed change would allow for persons who are agents or brokers (insurance industry professionals) to have board membership.

Section 2): Amends AS 21.88.050(a) (1) provides for a substantive change to permit "tail coverage" (retroactive insurance) to cover malpractice claims. New language states: at the option of the corporation, if approved by the director, and for an additional premium the contract may cover claims against the physician or hospital that arise out of professional services performed by the physician for any period before the contract is issued except that coverage will not be provided for a claim already filed or of which the physician or hospital had or reasonably should have had notice at the time the retroactive insurance was purchased.

Section 3): Amends AS 21.88.050 (b) (3): Provides coverage to insureds for other hazards when approved by the director; Encompasses insurance coverage for premises liability for circumstances in which an injury occurs on the premises as a result of "an omission of health care" by a physician or medical staff. Example: Inadvertantly, the rail on a hospital bed is left down, and a patient sleeping under medication falls from the bed, injuring himself on the premises. The injury resulted from an "omission in health care" by the attending nurse, and should be covered as such.

Section 4): Repeals and reenacts AS21.88.050(b) (12) to extend coverage to a person, entity, or facility that renders health care services in the state under the supervision of a physician. Expanded coverage for health care providers such as "bush medicine teams" who don't ordinarily fall within the conventional definition.

Section 5): Repeals and reenacts AS21.88.080 (17): Major change allows for a sliding

scale" assessment levied upon insureds in the event that the earned premiums for any given year are less than the incurred claims, claim expenses, underwriting expenses, and reserves. Presently, by statute, the director of the Division of Insurance must assess 150% on the premiums for all insureds if the earned premiums fall beneath incurred claims and expenses. Although this condition has never occurred, if it were to happen in the future, and if the director determines there is sound actuarial basis for the extinguishment of the assessment, the director would be able to extinguish all or a portion of the assessment.

Section 6: Amends AS 21.88.900 (17) (a) Deletes the phrase (DURING THE SAME PERIOD OF CONTINUOUS COVERAGE) to provide consistency throughout the MICA statutes for the ability to offer "tail coverage" (retroactive insurance) to insureds to cover claims which occurred prior to MICA coverage.

Section 7: Relates to the purpose of the bill which would allow MICA to remain more competitive within the marketplace and better fulfill its obligations to the medical community.

Section 8: Amends section 21(b), CH 177, SIA 1978; Technical change to permit "tail coverage" through the deletion of the following language: (WHICH OCCUR AFTER THE EFFECTIVE DATE OF THIS ACT).

Additional Information: The Division of Insurance estimates there are 400 licensed physicians in the State, including part time and retired physicians. There are presently 137 MICA insured physicians, with 33 new enrollees this quarter, demonstrating more faith among the medical community in the program.

S

B

552

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(5)

3/22/82

Date: 4-7-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSB 552(Fin)

"An Act exempting certain child care workers from the Alaska Wage and Hour Act."

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

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

MEMBERS SIGNING
DO PASS

Terry Mander

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Don Rogers No Rec
Ch... To Rec

Terry Mander
 CHAIRMAN



Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Representative Terry Martin, Chairman
House Labor & Commerce Committee

FROM: Senator *Bob Mulcahy*
Bob Mulcahy

SUBJ: SB 552

DATE: March 24, 1982

This bill will exempt certain employees of non-profit educational or child care facilities who are required to reside year-round at the facility from the Alaska Wage and Hour Act.

This is needed to solve certain conflicts with the Wage and Hour Act, and is patterned after federal law, United States Code 29:213 (24), which is enclosed along with other background material.

Thank you.

Kodiak
Baptist
Mission

P. O. Box 785, Kodiak, Alaska 99615

b.



February 22, 1981

Senator Bob Mulcahy
Pouch V (MS 3100)
Juneau, Alaska
99811

Dear Bob:

Thank you for the time to took with me, while I was in Juneau, to discuss possible legislation to ease the difficulty of wage and hour pay for employees who are working in a program such as we have here at the Mission.

The labor law as outlined in the United States Code 29:213 (24) is a good starting point for similar state legislation. As discussed, the only shange that would need to be made would be in the first sentence. It would need to read "...a non-profit educational and/or child care institution...".

The State Department of Labor said that the exemption would need to go in Sec. 23.10.055 of the Alaska Statutes.

I believe the base salary figure given in the Federal exemption should be raised in the State exemption from \$10,000. to \$15,000.

If I can be of any help to you or you need any information in support of such an exemption, please let me know. I am willing to travel to Juneau to testify concerning such legislation.

I really appreciate all the effort you have put forth for us.

Cordially,

A handwritten signature in cursive script that reads "David L. Cook".

David L. Cook

DL:dc



**Kodiak
Baptist
Mission**

P. O. Box 785, Kodiak, Alaska 99615

January 27, 1981

Senator Bob Mulcahy
Representative Fred Zharoff
Senator Glenn Hackney
Bouch V (MS 3100)
99811

Dear Friend:

Robert L. Childs wrote you last May 13, 1980 that the DHSS raised the issue of minimum wage and our compliance to the regulation. DHSS did make it an issue in the final audit report for Kodiak Baptist Mission FY 79.

We are now in the process of agreeing to a voluntary audit to be in compliance with the minimum regulations. However, I believe that the arbitrary drawing of lines dividing on/off duty hours as required by minimum wage requirements is not conducive to the effectiveness of our program. The drawing of these lines also is the beginning of the disintegration of a lifestyle that is a part of our treatment program.

The Federal Government recognizes the difficulty involved with minimum wage and "live-in" personnel involved in child-care. I have enclosed a copy of the Federal regulation which does not provide complete exemption but a different compensation method. I would appreciate it if such a regulation could be established for Alaska Statutes so effective child-care programs do not have to be compromised.

I appreciate the efforts extended on our behalf last spring.

Cordially,

David L. Cook
David L. Cook

DLC:dc

23:10:055

*Effect 3
Kodiak
Duncan
Bet*



STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811

Phone: 465-2700

May 20, 1981

Mr. Michael Thill
Senate Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Thill: *Michael*

Reference our discussions on Senate Bill No. 552, I would recommend the following language for Section 1, as Exemption Number 12 to AS 23.10.055.

"An employee or an employee and spouse employed by a non-profit educational or child care facility to serve as a parent or parents of children while the children are in residence at the facility, if the employee resides in the facility and is compensated on a cash basis at an annual rate of not less than \$5,000 exclusive of room and board, or if the employee and spouse reside in the facility and are together compensated on a cash basis at an annual rate of not less than \$10,000 exclusive of room and board."

My apologies for the delay in preparing this exemption. I did attempt other language only to create more confusion. Call if you have questions.

Sincerely,

Judy

Judy Knight
Legislative Liaison

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for Senate Bill No. 552 (Finance)
 Title All Act exempting child care workers from the Wage & Hour. . ."
 Requested by House Labor & Commerce Committee Date 3/31/82

II. FISCAL DETAIL

Agency Affected Labor
 Program Category Affected Public Protection
 BRU, Program, or Subprogram(s) Affected Labor Standards & Safety

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

No fiscal impact.

IV. DATE 3/31/82 PREPARED BY Nico Bus, Finance Officer
 AGENCY Labor
 PHONE 465-2720
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

S

B

6

|

|

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

(5)

3/5/82

Date: 4-8-82

Mr. Speaker: (Taken from Judiciary 3/5/82)

The Committee on LABOR & COMMERCE has had SB 611

"An Act revising the criminal penalties for unlawful operation of an aircraft."

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

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

MEMBERS SIGNING
DO PASS

Terry Master

Al Prohoma

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Master

CHAIRMAN

Introduced: 1/11/82
Referred: Labor & Commerce
and Judiciary

IN THE SENATE

BY RAY AND DANKWORTH

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 611

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act revising the criminal penalties for unlawful operation of an aircraft."

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

* Section 1. STATEMENT OF INTENT CONCERNING CHAPTERS 30 & 35 OF TITLE 2, ALASKA STATUTES. It is recognized by the Legislature, that from time to time certain Statutes require revision in order that they comply with Federal provisions, state of the art and public concern and safety. For these reasons, the intent of the Legislature in this bill is to make those revisions to the two above noted Chapters of Alaska Statutes which will at once cause them to operate in concert with applicable Federal Aviation Regulations, actual operating characteristics of the aircraft and aircrews involved, and to focus attention on the several areas of violation which the Legislature perceives as areas of major public concern. The Legislature recognizes that Air Commerce is an invaluable portion of the activities of the State, but that safety and operations of those aircraft so involved are such that without a high degree of professionalism and carefully prepared and enforced controls, the public is hopelessly at the mercy of the various operators. Therefore the following provisions are hereby enacted to provide workable statutes which do not provide duplication of penalties without genuine purpose.

* Section 2 AS 02.30.010 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 3. AS 02.30.030 (a) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 4. AS 02.30.030 (b) is amended to read:

Sec. 02.30.010 (a) No person may operate an aircraft occupied by a crew member [or passenger] who is obviously under the influence of intoxicating intoxicating liquor or [habit-forming] drugs.

* Section 5. AS 02.30.030 (c) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 6. AS 02.30.030 (d) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 7. AS 02.30.040 is repealed and reenacted to read:

Sec. 02.30.020. PENALTIES A person violating AS 02.30.010 shall be guilty of a class B misdemeanor.

* Section 8. AS 02.35.010 is amended to read:

Sec. 02.35.010. Federal law followed. It is declared that the policy, principals, and practices established by the United States Air Commerce Act of 1958 [1926], and all amendments to it are adopted and extended and made applicable to cover all air traffic in this state, so far as not covered by federal law.

* Section 9. AS 02.35.020 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 10. AS 02.35.030 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 11. AS 02.35.040 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 12. AS 02.35.050 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 13. AS 02.35.060 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 14. AS 02.35.070 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 15. AS 02.35.080 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 16. AS 02.35.090 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.100 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.110 is amended to read:

Sec. 02.35.020. Emergency rations and equipment. (a) No airman may make a flight inside the State with an aircraft unless emergency equipment is carried as follows:

(1) The minimum equipment to be carried during the summer months is as follows:

(A) food for each occupant sufficient to sustain life for two weeks;

(B) one axe or hatchet;

(C) One first aid kit with capacity for each passenger and crew-member carried, as stated by the kit manufacturer;

(D) one pistol, revolver, shotgun or rifle, and ammunition for same in the following minimum quantities: pistol or revolver: 50 rounds
shotgun or rifle: 20 rounds;

(E) one small gill net, and an assortment of tackle such as hooks, flies, lines, sinkers etc.;

(F) one knife with a blade at least 5" long;

(G) [two small boxes of matches] two waterproof containers of matches each containing at least 25 matches, or equal;

- (H) one mosquito headnet for each occupant;
- (I) [two] four small signaling devices [such as] to include 2 colored smoke bombs, [railroad fuses] and 2 colored rocket or flare devices or Very pistol shells, in sealed metal containers, accompanied by the appropriate pistol or launching device.

(2) In addition to the above, the following must be carried as minimum equipment from October 15 to April 1 of each year:

- (A) one pair of snowshoes or one pair of cross country skis with proper bindings, poles and boots;
- (B) one sleeping bag;
- (C) one wool blanket for each occupant over four years of age, for whom a sleeping bag is not provided;

(b) However, operators of multi-engine aircraft licensed to carry more than 15 passengers need carry only the food, mosquito nets and signalling equipment at all times other than the period from October 15 to April 1 of each year, when two sleeping bags, and one blanket for every two passengers shall be carried. All of the above requirements as to emergency rations and equipment are considered to be minimum requirements which are to remain in full force and effect, except as further safety measures may be from time to time imposed by the department, in the form of published regulations.

* Section 18. AS 02.35.115 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 19. AS 02.35.120 is repealed and reenacted to read:
Sec. 02.35.030. Penalties for violation of this chapter. A person who violates a provision of this chapter shall be guilty of a class B misdemeanor.

* Section 20. AS 02.35.130 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 21. AS 02.35.140 is amended by changing its identification to AS 02.35.040.

* Section 22. AS 02.35.150 is amended by adding a second paragraph to read:

AS 02.35.050 (b) "AIRCRAFT" is defined in this chapter means a device that is used or intended to be used for flight in the air, and includes helicopters, gyrocopters, airplanes, sailplanes and gliders.

RATIONALE' AND EXPLANATION

SEC. 02.30.010. Two-way radios required.

Inasmuch as this section refers to "Commercial" aircraft operations with passengers, the applicable portions of the FAR's are found in Part 135. We note that those commercial operations that do not carry passengers, are not covered in the present language, thus allowing training flights with crew or ferry flights in uncontrolled airspace, and we feel that this is correct and needs no attention.

Part 135.157, however, provides that:

(a) No person may operate, under VFR, an aircraft carrying passengers at night, in a control zone or, except as provided in paragraph (c) of this section, over-the-top unless that aircraft has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.

This part goes on with additional, similar language for other conditions, as shown in parts (b) and (c), but they are redundant for these purposes.

RATIONALE': The FAR is much more comprehensive and far better wording. The State statute is vague and sloppy. As one simple example, almost no aircraft radio will work 50 miles on the ground, and no other provision is allowed in the State language. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

Finally, the effect of SB 611, as written, would add CRIMINAL penalties to what is basically a technical equipment area of concern. As a practical matter, all part 121 (airline) aircraft always comply. Additionally, it would be a rare situation to find a part 135 (air-taxi/Charter) operator without at least one such aircraft radio; they often have 2 or more!

SEC. 02.30.030. (a) Reckless operation.

This section is also found, almost verbatim in several FAR's, and is redundant.

Part 91.8, provides:

No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.

Part 91.9, provides:

No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

RATIONALE': The FAR's more than adequately cover the problem and provide penalties for violation. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

If the desire is to provide stiffer penalties, then this may be accomplished by simply making reference to the specific FAR and provide Class A or B misdemeanor status.

Sec. 02.30.030 (b) (liquor or drugs)

The Alaska Airmen's Association and AOPA both heartily agree that aircrew members who violate this or parallel FAR's are a serious threat to public safety and are a discredit to an honorable profession. We have no objection to the State tacking on Criminal penalties to his portion.

We do however, have problems with the language of the present section, wherein

"No person may operate an aircraft occupied by a crew member or passenger who is obviously under the influence of intoxicating liquor or habit-forming drugs." (emphasis added)

Part 91.11, provides:

(a) No person may act as a crewmember of a civil aircraft-

- (1) Within 8 hours after the consumption of any alcoholic beverage;
- (2) While under the influence of alcohol; or
- (3) While using any drug that affects his faculties in any way contrary to safety.

(b) Except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or drugs (except a medical patient under proper care) to be carried in that aircraft. (emphasis added)

Part 135.115, provides:

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft if that person appears to be intoxicated.

(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft. (emphasis added)

RATIONALE: Inasmuch as the FAR's are explicit and more comprehensive than the current State statute section, recommend they be the controlling directive; especially in light of Sec. 02.35.010 Specifically adopting the FAR's for State compliance.

We do however, have difficulty in making it a CRIMINAL offence as relates to the passengers. Terms such as "obviously under the influence" also include those suffering a hangover from the previous night, and they do not offer a threat to the Public traveling aboard an aircraft. As a matter of fact, they are docile. Terms such as "appears to be intoxicated" and the like are often used in this context. We submit that rigid enforcement of this portion would, as a practical matter, cut air commerce in this state in half over night.

Recommend that the FAR's be adopted and that the more severe penalty for Air Crew members be adopted on its own.

Sec. 02.30.030 (c) (over water)

This section is more than adequately covered in the FAR's, with little confusion and excellent language:

Part 91.33 (11) provides:

If the aircraft is operated for hire over water and beyond the power-off gliding distance from shore, approved floatation gear readily available to each occupant, and at least one pyrotechnic signaling device. (is required)

Part 91.79 (a) provides:

Except when necessary for takeoff or landing, no person may operate an aircraft lower than the following altitudes:

(a) ANYWHERE. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

Part 135.167 provides:

No person may operate an aircraft in extended overwater operations unless it carries:

(note: This section is extremely long, and contains all manner of specific relations to rafts, floatation and signalling devices and the like. None of that is required here to make the point that there is no reference to any specific distances from land; only equipment required when flying off shore.)

RATIONALE': To begin with, the current State language, if enforced, would halt approximately 50% of the air commerce in the State immediately. Here are several obvious examples:

1. A single-engine land plane flying from Anchorage to Kodiak. (not uncommon)

To comply with this part, the aircraft would need to fly higher than 25,000 feet! Only those aircraft equipped with both turbochargers and pressurization could possibly comply.

2. A single-engine land plane flying from Anchorage to Juneau or Ketchikan. (not uncommon)

After Yakutat, heading southeasterly, the beach rapidly ends, replaced by beautiful mountains, covered with large trees, ending in rocks and surf. There is no beach; no "landing" is possible. One ditches in the Gulf of Alaska near shore and wades ashore with survival gear.

We feel that the Federal regulations more than adequately cover this contingency, with far better language, in all instances. Inasmuch as Sec. 02.35.010 adopts the FAR's for compliance by the State, it is redundant and confusing to establish still another, poorly worded criteria.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deleting the section.

Sec. 02.30.030 (d) (snow and ice)

This section is more than adequately covered by FAR's:

Part 135.85, provides:

(a) No pilot may take off an aircraft that has-

(1) Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings, or stabilizing control surfaces; or

(3) Any frost adhering to the wings, or stabilizing control surfaces, unless that frost has been polished to make it smooth.

(there are additional sections, but they are redundant for these purposes)

Part 91.209 provides virtually identical text.

RATIONALE': The FAA language is far more comprehensive. Inasmuch as Sec. 02.35.010 adopts the FAR's for State compliance, it is redundant and confusing to establish yet another, less comprehensive and confusing standard.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs to be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deletion of this section.

Sec. 02.35.010 Federal law followed

Good
This is an excellent section, and would and is referred to above and in other sections not herein noted. Unfortunately the United States Air Commerce Act of 1926 has been void since it was replaced with the 1958 edition. Recommend adoption of the current one.

Sec 02.35.040 Registration of Aircraft

This section provides that all the registration and documentation already required by applicable FAR's, and already on file with the FAA in Oklahoma City, and already available to the public upon request, and already printed in a government circular at least semi-annually, also be duplicated and filed with the Department of Transportation and Public Facilities.

We are unaware of any general aviation pilot who is aware of this provision or complies. We are unaware of any attempts by DOTPF to implement this section. We are unaware of any requirement for it. Recommend its deletion as an unnecessary, expensive and duplicating bureaucratic requirement with no valid requirement.

Sec. 02.35.050, Registration of Airmen

See section 02.35.040 above. Recommend deletion of this ineffective portion as well for the same reasons.

Sec. 02.35.060, 070 & 080.

See items above. Recommend deletion of these sections, which provide administrative control of the previous sections.

COMMENT: Inasmuch as these four (4) sections appear to have been in Public Law since 1949, and no attempt to comply has ever been initiated to our certain knowledge, this fact alone attests to the lack of requirement.

Sec. 02.35.090 License and permit to be exhibited on request.

Part 61.3, provides:

(a) *No person shall act as pilot in command or in any other capacity as a required pilot flight crew member of a civil aircraft of United States registry unless he has in his personal possession a current pilot certificate issued to him under this part.*

(h) *Each person who holds a pilot certificate, flight instructor certificate, medical certificate, authorization, or license required by this part shall present it for inspection upon request of the Administrator, an authorized representative of the National Transportation Safety Board, or any Federal, State, or local law enforcement officer.*

Part 91.27, provides:

(a) *Except as provided in part 91.23 (foreign aircraft), no person may operate a civil aircraft unless it has the following.*

(1) *An appropriate and current airworthiness certificate. Each U.S. airworthiness certificate used to comply with this subparagraph (except a special flight permit, a copy of the applicable operations specifications issued under 21.197(c) of this chapter, appropriate sections of the air carrier manual required by parts 121 or 127 of this chapter containing that portion of the operations specifications under 21.187(c), or an authorization under 91.45), must have on it the registration number assigned to the aircraft under part 47 of this chapter. However, the airworthiness certificate need not have on it an assigned special identification number before 10 days after that number is first affixed to the aircraft. A revised airworthiness certificate having on it an assigned special identification number, that has been affixed to an aircraft, may only be obtained upon application to an FAA flight standards district office.*

(2) *a Registration Certificated issued to its owner.*

(b) *No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under 91.28 is displayed at the cabin or cockpit entrance so that it is legible to passengers or crew.*

RATIONALE' Obviously the Federal language more than adequately covers the entire situation and others not even dreamt of by State officials. Recommend deleting it and relying on Sec. 02.35.010 for application of the FAR's in Alaska.

Sec. 02.35.100 Temporary permit.

This entire section covers an area expressly preempted by the Federal Government. There simply is no legal way for the State of Alaska to license pilots under any circumstances. This is 100% an FAA matter.

As a practice matter, here is what would happen should there be an earthquake, major fire, flood or other State emergency: The authorized State official on the scene (Civil Defense Director, member of the National Guard etc), invoking whatever emergency authority may be available under other statutes, would notify the pilot/owner of an aircraft that it was required for service to say, send a generator to Bethel, evacuate something, haul medicine or supplies or the like. At that moment, the operator of the aircraft is under control and contract of the State of Alaska, and may operate any aircraft with no licenses at all.

He or she is operating in what is called the PUBLIC SERVICE, much the same as FAA pilots, military pilots, and even State pilots.

Recommend deletion of this entire section.

Sec. 02.35.110 Emergency rations and equipment.

This is an important part of the aviation Safety field in Alaska, and it should remain. There are, however, two (2) items which require updating:

Good 1. Item (2) (A) requires showshoes. We recognize that a pair of cross-country skis, poles and boots are superior to snowshoes for survival travel, and recommend addition of the skis as shown on the attached proposed amended bill.

2. Item (1)(D) requires a firearm and ammunition. While this is an excellent suggestion, there are two (2) problems with the provision:

a. In most cases a hand-gun is not a suitable survival weapon. Of far more value would be a lightweight shotgun and a supply of slugs and shot. We will not, however, offer this as an amendment at this time, as we have been counseled that it may be a controversial enough issue to log down passage of the more important safety items. We urge consideration, however.

b. There is no specified amount of ammunition, and one round could qualify. Recommend a minimum amount such as 25 or 50 rounds.

Sec. 02.35.115 Downed aircraft transmitting devices. (ELT's)

Sec. 91.52, provides

(a) *Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c) and (d) of this section.*

(b) *To comply with paragraph (a) of this section, each U.S. registered civil airplane must be equipped as follows:*

(1) *For operations governed by the supplemental air carrier and commercial operator rules of part 121 of this chapter, or the air travel club rules of part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicability requirements of TSC-C91;*

(2) *For charter flights governed by the domestic and flag air carrier rules of Part 121 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in*

operable condition and meets the applicable requirements of TSO-C91;

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91; and

(4) For operations other than those specified in subparagraphs (1), (2) and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91.

(Note: there are 2 more pages of technical details that are not required to demonstrate sufficiency here.)

RATIONALE' There is obviously very complete and thorough Federal regulation to cover the installation, maintenance and operation of ELT's in all aircraft operations in this state; commercial and private. This is an area over which the state has no authority whatsoever, and where the state regulations CONFLICT with the appropriate Federal regulations.

Additionally, and as a much more practice matter, one notes that under the FAR's, such ELT is inspected each year during the annual inspection of the aircraft under FAA criteria, and the aircraft is grounded if the ELT is not present, not in proper order or has an expired battery date. There is no such inspection system established or required under State authority.

OK Recommend that the item be deleted in its entirety and that reference to the FAR's via Sec. 02.35.010 for application in Alaska be sufficient.

Sec. 02.35.120, Penalties for violation of Chapter

might delete This section will be reduced in scope by the actions above. The only requirement for the section remaining in in those areas which the State desires to inflict CRIMINAL penalties on top of Federal penalties. These are reflected in the attached, proposed substitute bill.

Sec. 02.35.130, Penalty for violation of 90 or 110 of this chapter.

Same as above.

Sec. 02.35.150, Deffinitions

Because of difficulties in interpretation, we suggest that "aircraft" and "airplane" be defined here precisely as they are in FAR's.

OK. AIRCRAFT means: a device that is used or intended to be used for flight in the air, and when used in air traffic control terminology, may include the aircrew. (includes aircraft, helicopters, gyrocopters and all other heavier-than-air equipment, as well as gliders and sail planes)

AIRPLANE means: a divice such as above, but not including helicopters or gyrocopters.

GENERAL: Penalties under the FAR's are found in two (2) areas:

Sec. 609: wherein the Administrator has authority to revoke, suspend, or modify certificates. This includes pilot certificates, aircraft certificates and operator certificates. This is considered severe and serious penalty authority, and exceeds anything the State is empowered to do.

Sec. 901; wherein the FAA may impost Civil penalties. Such penalties are limited in current law to \$1,000 for each violation.



AIRCRAFT
OWNERS
AND
PILOTS
ASSOCIATION

The Honorable Terry Martin
State House of Representatives
The Behrends Building, Room 211
Pouch V, Juneau, Alaska 99 11
Interdepartmental mail stop: 3100

Atten: Ms Mary Isaacs

081-27

Dear Mary,

22 March 1982

Thank you so much for your call this morning concerning our interest in SB 611, the "Drunk Pilot Bill".

Yes indeed, I have made some input on the matter. I think that it swept through the Senate without comment because the bill is so simple and so short. There is no reference to airplanes or pilots, and I think most folks did what I did; put a copy off to the side to research at the "first spare moment". Well, the Associated Press did the basic research and it was their item in the paper that got our attention. We were first concerned because of two aspects of the report to the press:

- a. The drunk pilot language currently on the books includes passengers under the influence, and they need to be separated because slapping a class A misdemeanor on a pilot with a hungover passenger is STEEP!
- b. The report incorrectly stated that the criteria for a single engine aircraft offshore, related to "Fixed Gear". That would indicate that a retractable gear, single engine bird was o.k.

So the research began, and what to our wondering eyes appeared, but a whole raft of statutes dealing with aircraft and pilots, all of which needed complete overhaul! It is terrible, and in many cases, in direct conflict with the Federal Aviation Administration Regulations.

What I attempted to do was to re-write the two chapters of title 2 to fix every-thing and update it. As you can see from the package attached, the Alaska Airmen's Association has already endorsed the proposed changes. At this writing the Alaska Air Carriers Association is reviewing it, and preliminary indications this morning were that they would also endorse the proposal. The FAA Regional Counsel has a copy, at his request, and you may receive some input there, and if he does not generate it, you may consider asking for it.

I will be in Juneau from about noon on Thursday the 1st of April through 5 pm on Friday the 2nd, and will be pleased to visit with you and any staff or committee members on this bill. I will also be there to work on HB 634 and the new work in progress in Senator Mulcahy's Committee to increase the aviation fuel tax in support of the Alaskan Aviation Safety Foundation.

Thank you again; I look forward to seeing you all next week!

KENT LEE WOODMAN,
Regional Representative

encl: SB 611 package

Alaska Air Carriers Association

March 22, 1982

The Honorable Terry Martin
Chairman
House Commerce Committee
Pouch V
Juneau, AK 99811

RE: SB611

Dear Mr. Martin:

The Alaska Air Carriers Association supports the amendments to Title 2 prepared by the Aircraft Owners and Pilots Association.

AACA agrees that the entire Title 2, especially chapters 30 and 35, are in need of revision.

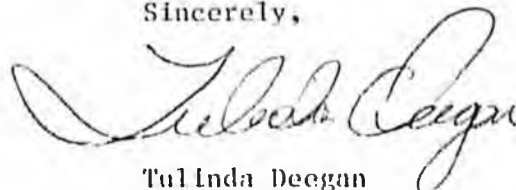
AACA is particularly concerned that Sec. 02.30.030 as written in SB611 and Title 2 will have a severe impact on air commerce in Alaska. AACA believes limitations on overwater flight are covered in the Federal Air Regulations. AACA recommends deleting this section.

AACA is also concerned with the wording of Section 02.30.030(b) (liquor or drugs). Air carriers would find it difficult to enforce the prohibition on transporting passengers "obviously under the influence" of alcohol or drugs.

The Aircraft Owner's and Pilots Association proposed several other important changes in Title 2.

AACA recommends that your committee adopt the proposed changes.

Sincerely,



Tulinda Deegan
Executive Director



ALASKA AIRMEN'S ASSN., INC.

P.O. Box 4-1287

Anchorage, Alaska 99509



THE HONORABLE RAMONA L BARNES
chairperson, House Judiciary Committee
The Capitol Building, Room 122
Pouch V, Juneau, Alaska 99811

Atten: Mr Dave Stancliff

Dear Mr Stancliff,

06 March 1982

This letter is to confirm that the Alaska Airmen's Association, Inc. supports the position and the work done by the AOPA representative on SB 611.

The entire Title 2 and especially chapters 30 and 35, were in need of work. As Mr Woodman has indicated, there certainly would not be 1 pilot in 50 that was aware of many of the requirements of the two chapters. Indeed, the DOTPF, even before it was emasculated by the present structure, never made any effort to establish the procedures, forms and formats for the various requirements under the current statute.

We suspect that had a pilot actually turned in certified copies of his aircraft registration, pilots license and the like, requesting his certified receipt, that the DOTPF would have been hard-pressed to develop any reasonable response. Similarly, the issuance of a temporary airmen's (pilot's) certificate in an emergency situation would certainly be a shock to them as well as to the FAA, who has the preemptive authority.

We are pleased that Mr Woodman has taken the time and effort to go through both chapters in detail and update them all at one massive effort, rather than just respond to what we might have perceived as a threat to our members and their operations from SB 611. In this way we feel that we have made a genuine effort to assist the State and the public by the effort.

Please call upon us if you should require additional materials or if you should have any questions. Thank you very much in advance for your assistance. I have taken the liberty of enclosing one of our membership applications.

Best personal regards,

JIM WOOD,
President

encl: application

cy to: AOPA
Alaska Air Carriers Association.



**AIRCRAFT
OWNERS
AND
PILOTS
ASSOCIATION**

FEDERAL AVIATION ADMINISTRATION
Office of the Regional Counsel
701 C Street
Anchorage, Alaska 99501

068-23

Atten: Don Boberick

Dear Mr Boberick,

09 March 1982

Thank you so much for the conversation Friday concerning State House Bill 611 and its impact on Alaskan aircraft and airmen operations.

As you can see from the attached documents, which you requested, I undertook to do a complete review of the whole of Chapters 30 & 35 of Alaska Statutes Title 2. As you can also see, most of the work leans towards simple adoption of the applicable FAR's and away from any confusion with two sets of rules covering the same areas....one of which is weak.

The reception from Representative Romona Barnes' office to date has been excellent and I have high hopes that the proposed House Committee Substitute may be introduced at least similar to the attached. If this bill should make it through the House and be accepted by the Senate, it will go a long way towards cleaning up the Statutes, and at the same time give them the heavier penalties they felt they needed for drinking and flying.

As you can also see, the Alaska Airmen's Association has already endorsed the submittal. The Alaska Air Carriers Association is currently studying it and I anticipate similar endorsement. If you feel you can provide an FAA endorsement as well, then I am certain Representative Barnes will appreciate it very much and it will go a long way towards helping this bill through expeditiously.

Good reading! and thank you again,

KENT LEE WOODMAN
Regional Representative

encl: Proposed bill
Rationale
cy AOPA ltr
cy Airmen ltr
cy Statutes



AIRCRAFT
OWNERS
AND
PILOTS
ASSOCIATION

THE HONORABLE RAMONA L BARNES
Chairperson, House Judiciary Committee
The Capitol Building, Room 122
Pouch V, Juneau, Alaska 99811

Atten: Mr Dave Stancliff

064-22

Dear Dave,

05 March 1982

This letter, with attachments, will confirm our several conversations, and provide the input to SB 611 from both the Alaska Airmen's Association (the largest general aviation organization in the State of Alaska, representing the interests of over 12,500 pilots) and the AOPA (the largest general aviation organization in the world).

We were alarmed by press reports of some of the impact of SB 611 on certain Alaskan flying operations, and this caused the research. First let me tell you that that research into Title 2 of Alaska Statutes was an eye-opener for me, a pilot in Alaska for over 20 years! Virtually every pilot I have spoken to had absolutely no knowledge of Alaskan flying regulations with the exception of 02.35.110; Emergency rations and equipment.

As it turns out, the Associated Press coverage of the intent and effects of the bill were incorrect, but we completed our researches in any event, with the idea of allowing this opportunity to present a complete review of the Statute and to update and fix it all in one shot. Attached to this letter are two documents:

- a. A proposed amendment to SB 611, containing all the "repairs" we feel are required to update.
- b. A description sheet providing all the rationale and references for each of the proposed changes.

Thank you so much for the opportunity of visiting with you on the bill. It would be our pleasure to participate in teleconference, in-person testimony on the bill and/or subcommittee efforts to complete proper language for a substitute. Please be advised that we feel strongly enough about these provisions to lobby as required, and this is not casual input. After you have reviewed the materials herein, please comment on the timing and appropriateness of releasing it to the Senate sponsors so that they may be ready for joint committee. We intend to go public with the positions as required.

KENT LEE WOODMAN
Regional Representative

encl: Amended SB 611
Data sheets

cy to: Alaska Airmen's Association
Alaska Air Carriers Association

Alaska State Legislature



PAT CARNEY
DISTRICT 6
WASILLA, ALASKA 99637

POUCH V
JUNEAU, ALASKA 99911

COMMITTEES

FINANCE
RESOURCES

House of Representatives

March 22, 1982

Arthur J. Petersen
Great Northern Construction
Box 509
Wasilla, Alaska 99687

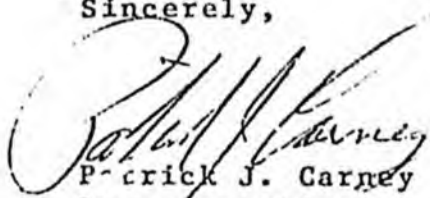
Dear Art:

Thank you for writing to me to inform me of some of the concerns you have with Senate Bill 611. I have talked with some people who are familiar with the area and they have indicated that they too have been concerned with the requirements that the proposed legislation would impose on pilots.

The bill is up for hearing in the House Labor and Commerce Committee on Thursday, March 25, 1982. I have sent a copy of your letter to Representative Martin so that he, too, may be aware of your suggestions. You may wish to call him directly at 465-3783.

If I can be of further assistance, please don't hesitate to contact me.

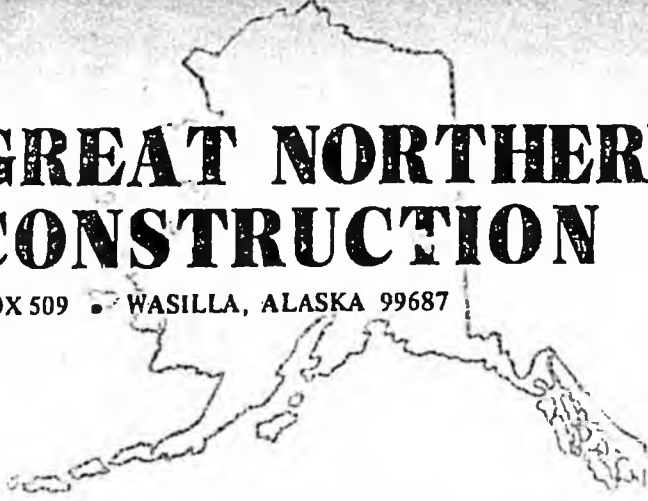
Sincerely,


Patrick J. Carney
Representative

GREAT NORTHERN CONSTRUCTION

BOX 509 • WASILLA, ALASKA 99687

MAR 16 1982



March 8, 1982

Representative Pat Carney
Pouch N
Wasilla, AK 99687

Dear Representative Carney:

Last week i read in the Anchorage Daily News that Senate Bill 611 recently passed had a stipulation and a stiff penalty for flying a single engine wheel plane over water at a low altitude as to making it impossilbe if the engine quite and you could not glide to shore.

If this is so, I feel then the House should hold some hearings on this bill in both the Anchorage and Mat-Su Valley areas. Becuase flying between Point McKenzie and Anchorage fields a private plane has to go over or under Elmendorfs Airspace. Most small planes use what is called the Ship Creek departure and cross the inlet from the mouth of Ship Creek to Point McKenzie at the 600 foot level and use the same return. This route is flown many times a day. If these planes were required to climb over the military corridor, they would have to circle over Anchorage to get to the required altitude and this in turn will thoroughly conjest and already crowded air space. If the paragraph states as was stated in the News, I really don't see its reasoning for it.

Sincerely,

Arthur J. Petersen, Private Pilot

*Thurs.
Pat.*



AIRCRAFT
OWNERS
AND
PILOTS
ASSOCIATION

THE HONORABLE RAMONA L BARNES
Chairperson, House Judiciary Committee
The Capitol Building, Room 122
Pouch V, Juneau, Alaska 99811

Atten: Mr Dave Stancliff

064-22

Dear Dave,

05 March 1982

This letter, with attachments, will confirm our several conversations, and provide the input to SB 611 from both the Alaska Airmen's Association (the largest general aviation organization in the State of Alaska, representing the interests of over 12,500 pilots) and the AOPA (the largest general aviation organization in the world).

We were alarmed by press reports of some of the impact of SB 611 on certain Alaskan flying operations, and this caused the research. First let me tell you that that research into Title 2 of Alaska Statutes was an eye-opener for me, a pilot in Alaska for over 20 years! Virtually every pilot I have spoken to had absolutely no knowledge of Alaskan flying regulations with the exception of 02.35.110; Emergency rations and equipment.

As it turns out, the Associated Press coverage of the intent and effects of the bill were incorrect, but we completed our researches in any event, with the idea of allowing this opportunity to present a complete review of the Statute and to update and fix it all in one shot. Attached to this letter are two documents:

- a. A proposed amendment to SB 611, containing all the "repairs" we feel are required to update.
- b. A description sheet providing all the rationale and references for each of the proposed changes.

Thank you so much for the opportunity of visiting with you on the bill. It would be our pleasure to participate in teleconference, in-person testimony on the bill and/or subcommittee efforts to complete proper language for a substitute. Please be advised that we feel strongly enough about these provisions to lobby as required, and this is not casual input. After you have reviewed the materials herein, please comment on the timing and appropriateness of releasing it to the Senate sponsors so that they may be ready for joint committee. We intend to go public with the positions as required.

KENT LEE WOODMAN
Regional Representative

Box 2386 Star Road
Anch. AK 99507

encl: Amended SB 611
Data sheets

cy to: Alaska Airmen's Association
Alaska Air Carriers Association

Introduced: 1/11/82
Referred: Labor & Commerce
and Judiciary

IN THE SENATE

BY RAY AND DANKWORTH

HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 611

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act revising the criminal penalties for unlawful operation of an aircraft."

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

* Section 1. STATEMENT OF INTENT CONCERNING CHAPTERS 30 & 35 OF TITLE 2, ALASKA STATUTES. It is recognized by the Legislature, that from time to time certain Statutes require revision in order that they comply with Federal provisions, state of the art and public concern and safety. For these reasons, the intent of the Legislature in this bill is to make those revisions to the two above noted Chapters of Alaska Statutes which will at once cause them to operate in concert with applicable Federal Aviation Regulations, actual operating characteristics of the aircraft and aircrews involved, and to focus attention on the several areas of violation which the Legislature perceives as areas of major public concern. The Legislature recognizes that Air Commerce is an invaluable portion of the activities of the State, but that safety and operations of those aircraft so involved are such that without a high degree of professionalism and carefully prepared and enforced controls, the public is hopelessly at the mercy of the various operators. Therefore the following provisions are hereby enacted to provide workable statutes which do not provide duplication of penalties without genuine purpose.

* Section 2 AS 02.30.010 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 3. AS 02.30.030 (a) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 4. AS 02.30.030 (b) is amended to read:

Sec. 02.30.010 (a) No person may operate an aircraft occupied by a crew member [or passenger] who is obviously under the influence of intoxicating intoxicating liquor or [habit-forming] drugs.

* Section 5. AS 02.30.030 (c) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 6. AS 02.30.030 (d) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 7. AS 02.30.040 is repealed and reenacted to read:

Sec. 02.30.020. PENALTIES A person violating AS 02.30.010 shall be guilty of a class B misdemeanor.

* Section 8. AS 02.35.010 is amended to read:

Sec. 02.35.010. Federal law followed. It is declared that the policy, principals, and practices established by the United States Air Commerce Act of 1958 [1926], and all amendments to it are adopted and extended and made applicable to cover all air traffic in this state, so far as not covered by federal law.

* Section 9. AS 02.35.020 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 10. AS 02.35.030 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 11. AS 02.35.040 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 12. AS 02.35.050 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 13. AS 02.35.060 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 14. AS 02.35.070 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 15. AS 02.35.080 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 16. AS 02.35.090 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.100 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.110 is amended to read:

Sec. 02.35.020. Emergency rations and equipment. (a) No airman may make a flight inside the State with an aircraft unless emergency equipment is carried as follows:

(1) The minimum equipment to be carried during the summer months is as follows:

(A) food for each occupant sufficient to sustain life for two weeks;

(B) one axe or hatchet;

(C) One first aid kit with capacity for each passenger and crew-member carried, as stated by the kit manufacturer;

(D) one pistol, revolver, shotgun or rifle, and ammunition for same in the following minimum quantities: pistol or revolver: 50 rounds
shotgun or rifle: 20 rounds;

(E) one small gill net, and an assortment of tackle such as hooks, flies, lines, sinkers etc.;

(F) one knife with a blade at least 5" long;

(G) [two small boxes of matches] two waterproof containers of matches each containing at least 25 matches, or equal;

- (H) one mosquito headnet for each occupant;
- (I) [two] four small signaling devices [such as] to include 2 colored smoke bombs, [railroad fuses] and 2 colored rocket or flare devices or Very pistol shells, in sealed metal containers, accompanied by the appropriate pistol or launching device.

(2) In addition to the above, the following must be carried as minimum equipment from October 15 to April 1 of each year:

- (A) one pair of snowshoes or one pair of cross country skis with proper bindings, poles and boots;
- (B) one sleeping bag;
- (C) one wool blanket for each occupant over four years of age, for whom a sleeping bag is not provided;

(b) However, operators of multi-engine aircraft licensed to carry more than 15 passengers need carry only the food, mosquito nets and signalling equipment at all times other than the period from October 15 to April 1 of each year, when two sleeping bags, and one blanket for every two passengers shall be carried. All of the above requirements as to emergency rations and equipment are considered to be minimum requirements which are to remain in full force and effect, except as further safety measures may be from time to time imposed by the department, in the form of published regulations.

* Section 18. AS 02.35.115 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 19. AS 02.35.120 is repealed and reenacted to read:
Sec. 02.35.030. Penalties for violation of this chapter. A person who violates a provision of this chapter shall be guilty of a class B misdemeanor.

* Section 20. AS 02.35.130 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 21. AS 02.35.140 is amended by changing its identification to AS 02.35.040.

* Section 22. AS 02.35.150 is amended by adding a second paragraph to read:

AS 02.35.050 (b) "AIRCRAFT" is defined in this chapter means a device that is used or intended to be used for flight in the air, and includes helicopters, gyrocopters, airplanes, sailplanes and gliders.

RATIONALE' AND EXPLANATION

SEC. 02.30.010. Two-way radios required.

Inasmuch as this section refers to "Commercial" aircraft operations with passengers, the applicable portions of the FAR's are found in Part 135. We note that those commercial operations that do not carry passengers, are not covered in the present language, thus allowing training flights with crew or ferry flights in uncontrolled airspace, and we feel that this is correct and needs no attention.

Part 135.157, however, provides that:

(a) No person may operate, under VFR, an aircraft carrying passengers at night, in a control zone or, except as provided in paragraph (c) of this section, over-the-top unless that aircraft has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.

This part goes on with additional, similar language for other conditions, as shown in parts (b) and (c), but they are redundant for these purposes.

RATIONALE': The FAR is much more comprehensive and far better wording. The State statute is vague and sloppy. As one simple example, almost no aircraft radio will work 50 miles on the ground, and no other provision is allowed in the State language. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

Finally, the effect of SB 611, as written, would add CRIMINAL penalties to what is basically a technical equipment area of concern. As a practical matter, all part 121 (airline) aircraft always comply. Additionally, it would be a rare situation to find a part 135 (air-taxi/Charter) operator without at least one such aircraft radio; they often have 2 or more!

SEC. 02.30.030. (a) Reckless operation.

This section is also found, almost verbatim in several FAR's, and is redundant.

Part 91.8, provides:

No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.

Part 91.9, provides:

No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

RATIONALE': The FAR's more than adequately cover the problem and provide penalties for violation. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

If the desire is to provide stiffer penalties, then this may be accomplished by simply making reference to the specific FAR and provide Class A or B misdemeanor status.

Sec. 02.30.030 (b) (liquor or drugs)

The Alaska Airmen's Association and AOPA both heartily agree that aircrew members who violate this or parallel FAR's are a serious threat to public safety and are a discredit to an honorable profession. We have no objection to the State tacking on Criminal penalties to his portion.

We do however, have problems with the language of the present section, wherein

"No person may operate an aircraft occupied by a crew member or pas-

Part 91.11, provides:

(a) No person may act as a crewmember of a civil aircraft-

- (1) Within 8 hours after the consumption of any alcoholic beverage;
- (2) While under the influence of alcohol; or
- (3) While using any drug that effects his faculties in any way contrary to safety.

(b) Except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or drugs (except a medical patient under proper care) to be carried in that aircraft. (emphasis added)

Part 135.115, provides:

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft if that person appears to be intoxicated.

(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft. (emphasis added)

RATIONALE: Inasmuch as the FAR's are explicit and more comprehensive than the current State statute section, recommend they be the controlling directive; especially in light of Sec. 02.35.010 Specifically adopting the FAR's for State compliance.

We do however, have difficulty in making it a CRIMINAL offence as relates to the passengers. Terms such as "obviously under the influence" also include those suffering a hangover from the previous night, and they do not offer a threat to the Public traveling aboard an aircraft. As a matter of fact, they are docile. Terms such as "appears to be intoxicated" and the like are often used in this context. We submit that rigid enforcement of this portion would, as a practical matter, cut air commerce in this State in half over night.

Recommend that the FAR's be adopted and that the more severe penalty for Air Crew members be adopted on its own.

Sec. 02.30.030 (c) (over water)

This section is more than adequately covered in the FAR's, with little confusion and excellent language:

Part 91.33 (11) provides:

If the aircraft is operated for hire over water and beyond the power-off gliding distance from shore, approved floatation gear readily available to each occupant, and at least one pyrotechnic signaling device. (is required)

Part 91.79 (a) provides:

Except when necessary for takeoff or landing, no person may operate an aircraft lower than the following altitudes:

(a) ANYWHERE. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

Part 135.167 provides:

No person may operate an aircraft in extended overwater operations unless it carries:

(note: This section is extremely long, and contains all manner of specific relations to rafts, floatation and signalling devices and the like. None of that is required here to make the point that there is no reference to any specific distances from land; only equipment

RATIONALE': To begin with, the current State language, if enforced, would halt approximately 50% of the air commerce in the State immediately. Here are several obvious examples:

1. A single-engine land plane flying from Anchorage to Kodiak. (not uncommon)

To comply with this part, the aircraft would need to fly higher than 25,000 feet! Only those aircraft equipped with both turbochargers and pressurization could possibly comply.

2. A single-engine land plane flying from Anchorage to Juneau or Ketchikan. (not uncommon)

After Yakutat, heading southeasterly, the beach rapidly ends, replaced by beautiful mountains, covered with large trees, ending in rocks and surf. There is no beach; no "landing" is possible. One ditches in the Gulf of Alaska near shore and wades ashore with survival gear.

We feel that the Federal regulations more than adequately cover this contingency, with far better language, in all instances. Inasmuch as Sec. 02.35.010 adopts the FAR's for compliance by the State, it is redundant and confusing to establish still another, poorly worded criteria.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deleting the section.

Sec. 02.30.030 (d) (snow and ice)

This section is more than adequately covered by FAR's:

Part 135.85, provides:

(a) *No pilot may take off an aircraft that has-*

(1) *Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;*

(2) *Snow or ice adhering to the wings, or stabilizing control surfaces; or*

(3) *Any frost adhering to the wings, or stabilizing control surfaces, unless that frost has been polished to make it smooth.*

(there are additional sections, but they are redundant for these purposes)

Part 91.209 provides virtually identical text.

RATIONALE': The FAA language is far more comprehensive. Inasmuch as Sec. 02.35.010 adopts the FAR's for State compliance, it is redundant and confusing to establish yet another, less comprehensive and confusing standard.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs to be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deletion of this section.

Sec. 02.35.010 Federal law followed

This is an excellent section, and would and is referred to above and in other sections not herein noted. Unfortunately the United States Air Commerce Act of 1926 has been void since it was replaced with the 1958 edition. Recommend adoption of the current one.

Sec 02.35.040 Registration of Aircraft

This section provides that all the registration and documentation already required by applicable FAR's, and already on file with the FAA in Oklahoma City, and already available to the public upon request, and already printed in a government circular at least semi-annually, also be duplicated and filed with the Department of Transportation and Public Facilities.

We are unaware of any general aviation pilot who is aware of this provision or complies. We are unaware of any attempts by DOTPF to implement this section. We are unaware of any requirement for it. Recommend its deletion as an unnecessary, expensive and duplicating bureaucratic requirement with no valid requirement.

Sec. 02.35.050, Registration of Airmen

See section 02.35.040 above. Recommend deletion of this ineffective portion as well for the same reasons.

Sec. 02.35.060, 070 & 080.

See items above. Recommend deletion of these sections, which provide administrative control of the previous sections.

COMMENT: Inasmuch as these four (4) sections appear to have been in Public Law since 1949, and no attempt to comply has ever been initiated to our certain knowledge, this fact alone attests to the lack of requirement.

Sec. 02.35.090 License and permit to be exhibited on request.

Part 61.3, provides:

(a) *No person shall act as pilot in command or in any other capacity as a required pilot flight crew member of a civil aircraft of United States registry unless he has in his personal possession a current pilot certificate issued to him under this part.*

(h) *Each person who holds a pilot certificate, flight instructor certificate, medical certificate, authorization, or license required by this part shall present it for inspection upon request of the Administrator, an authorized representative of the National Transportation Safety Board, or any Federal, State, or local law enforcement officer.*

Part 91.27, provides:

(a) *Except as provided in part 91.28 (foreign aircraft), no person may operate a civil aircraft unless it has the following.*

(1) *An appropriate and current airworthiness certificate. Each U.S. airworthiness certificate used to comply with this subparagraph (except a special flight permit, a copy of the applicable operations specifications issued under 21.197(c) of this chapter, appropriate sections of the air carrier manual required by parts 121 or 127 of this chapter containing that portion of the operations specifications under 21.187(c), or an authorization under 91.45), must have on it the registration number assigned to the aircraft under part 47 of this chapter. However, the airworthiness certificate need not have on it an assigned special identification number before 10 days after that number is first affixed to the aircraft. A revised airworthiness certificate having on it an assigned special identification number, that has been affixed to an aircraft, may only be obtained upon application to an FAA flight standards district office.*

(2) *a Registration Certificated issued to its owner.*

(b) *No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under 91.28 is displayed at the cabin or cockpit*

RATIONALE' Obviously the Federal language more than adequately covers the entire situation and others not even dreamt of by State officials. Recommend deleting it and relying on Sec. 02.35.010 for application of the FAR's in Alaska.

Sec. 02.35.100 Temporary permit.

This entire section covers an area expressly preempted by the Federal Government. There simply is no legal way for the State of Alaska to license pilots under any circumstances. This is 100% an FAA matter.

As a practical matter, here is what would happen should there be an earthquake, major fire, flood or other State emergency: The authorized State official on the scene (Civil Defense Director, member of the National Guard etc), invoking whatever emergency authority may be available under other statutes, would notify the pilot/owner of an aircraft that it was required for service to say, send a generator to Bethel, evacuate something, haul medicine or supplies or the like. At that moment, the operator of the aircraft is under control and contract of the State of Alaska, and may operate any aircraft with no licenses at all.

He or she is operating in what is called the PUBLIC SERVICE, much the same as FAA pilots, military pilots, and even State pilots.

Recommend deletion of this entire section.

Sec. 02.35.110 Emergency rations and equipment.

This is an important part of the aviation Safety field in Alaska, and it should remain. There are, however, two (2) items which require updating:

1. Item (2) (A) requires showshoes. We recognize that a pair of cross-country skis, poles and boots are superior to snowshoes for survival travel, and recommend addition of the skis as shown on the attached proposed amended bill.
2. Item (1)(D) requires a firearm and ammunition. While this is an excellent suggestion, there are two (2) problems with the provision:
 - a. In most cases a hand-gun is not a suitable survival weapon. Of far more value would be a lightweight shotgun and a supply of slugs and shot. We will not, however, offer this as an amendment at this time, as we have been counseled that it may be a controversial enough issue to bog down passage of the more important safety items. We urge consideration, however.
 - b. There is no specified amount of ammunition, and one round could qualify. Recommend a minimum amount such as 25 or 50 rounds.

Sec. 02.35.115 Downed aircraft transmitting devices. (ELT's)

Sec. 91.52, provides

(a) Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c) and (d) of this section.

(b) To comply with paragraph (a) of this section, each U.S. registered civil airplane must be equipped as follows:

- (1) For operations governed by the supplemental air carrier and commercial operator rules of part 121 of this chapter, or the air travel club rules of part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicability requirements of TSC-C91;*

operable condition and meets the applicable requirements of TSO-C91;

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91; and

(4) For operations other than those specified in subparagraphs (1), (2) and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91.

(Note: there are 2 more pages of technical details that are not required to demonstrate sufficiency here.)

RATIONALE' There is obviously very complete and thorough Federal regulation to cover the installation, maintenance and operation of ELT's in all aircraft operations in this state; commercial and private. This is an area over which the state has no authority whatsoever, and where the state regulations CONFLICT with the appropriate Federal regulations.

Additionally, and as a much more practical matter, one notes that under the FAR's, such ELT is inspected each year during the annual inspection of the aircraft under FAA criteria, and the aircraft is grounded if the ELT is not present, not in proper order or has an expired battery date. There is no such inspection system established or required under State authority.

Recommend that the item be deleted in its entirety and that reference to the FAR's via Sec. 02.35.010 for application in Alaska be sufficient.

Sec. 02.35.120, Penalties for violation of Chapter

This section will be reduced in scope by the actions above. The only requirement for the section remaining in in those areas which the State desires to inflict CRIMINAL penalties on top of Federal penalties. These are reflected in the attached, proposed substitute bill.

Sec. 02.35.130, Penalty for violation of 90 or 110 of this chapter.

Same as above.

Sec. 02.35.150, Definitions

Because of difficulties in interpretation, we suggest that "aircraft" and "airplane" be defined here precisely as they are in FAR's.

AIRCRAFT means: a device that is used or intended to be used for flight in the air, and when used in air traffic control terminology, may include the aircrew. (includes aircraft, helicopters, gyrocopters and all other heavier-than-air equipment, as well as gliders and sail planes)

AIRPLANE means: a device such as above, but not including helicopters or gyrocopters.

GENERAL: Penalties under the FAR's are found in two (2) areas:

Sec. 609: wherein the Administrator has authority to revoke, suspend, or modify certificates. This includes pilot certificates, aircraft certificates and operator certificates. This is considered severe and serious penalty authority, and exceeds anything the State is empowered to do.

Sec. 901; wherein the FAA may impose Civil Penalties. Such penalties are limited in current law to \$1,000 for each violation.

SEC. 02.30.010. Two-way radios required.

Inasmuch as this section refers to "Commercial" aircraft operations with passengers, the applicable portions of the FAR's are found in Part 135. We note that those commercial operations that do not carry passengers, are not covered in the present language, thus allowing training flights with crew or ferry flights in uncontrolled airspace, and we feel that this is correct and needs no attention.

Part 135.157, however, provides that:

(a) No person may operate, under VFR, an aircraft carrying passengers at night, in a control zone or, except as provided in paragraph (c) of this section, over-the-top unless that aircraft has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.

This part goes on with additional, similar language for other conditions, as shown in parts (b) and (c), but they are redundant for these purposes.

RATIONALE': The FAR is much more comprehensive and far better wording. The State statute is vague and sloppy. As one simple example, almost no aircraft radio will work 50 miles on the ground, and no other provision is allowed in the State language. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

Finally, the effect of SB 611, as written, would add CRIMINAL penalties to what is basically a technical equipment area of concern. As a practical matter, all part 121 (airline) aircraft always comply. Additionally, it would be a rare situation to find a part 135 (air-taxi/Charter) operator without at least one such aircraft radio; they often have 2 or more!

SEC. 02.30.030. (a) Reckless operation.

This section is also found, almost verbatim in several FAR's, and redundant.

Part 91.8, provides:

No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.

Part 91.9, provides:

No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

RATIONALE': The FAR's more than adequately cover the problem and provide penalties for violation. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

If the desire is to provide stiffer penalties, then this may be accomplished by simply making reference to the specific FAR and provide Class A or B misdemeanor status.

Sec. 02.30.030 (b) (liquor or drugs)

The Alaska Airmen's Association and AOPA both heartily agree that aircrew members who violate this or parallel FAR's are a serious threat to public safety and are a discredit to an honorable profession. We have no objection to the State tacking on Criminal penalties to his portion.

We do however, have problems with the language of the present section, wherein

"No person may operate an aircraft occupied by a crew member or passenger who is obviously under the influence of intoxicating liquor or habit-forming drugs." (emphasis added)

(a) No person may act as a crewmember of a civil aircraft-

- (1) Within 8 hours after the consumption of any alcoholic beverage;
- (2) While under the influence of alcohol; or
- (3) While using any drug that effects his faculties in any way contrary to safety.

(b) Except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or drugs (except a medical patient under proper care) to be carried in that aircraft. (emphasis added)

Part 135.115, provides:

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft if that person appears to be intoxicated.

(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft. (emphasis added)

RATIONALE: Inasmuch as the FAR's are explicit and more comprehensive than the current State statute section, recommend they be the controlling directive; especially in light of Sec. 02.35.010 Specifically adopting the FAR's for State compliance.

We do however, have difficulty in making it a CRIMINAL offence as relates to the passengers. Terms such as "obviously under the influence" also include those suffering a hangover from the previous night, and they do not offer a threat to the Public traveling aboard an aircraft. As a matter of fact, they are docile. Terms such as "appears to be intoxicated" and the like are often used in this context. We submit that rigid enforcement of this portion would, as a practical matter, cut air commerce in this State in half over night.

Recommend that the FAR's be adopted and that the more severe penalty for Air Crew members be adopted on its own.

Sec. 02.30.030 (c) (over water)

This section is more than adequately covered in the FAR's, with little confusion and excellent language:

Part 91.33 (11) provides:

If the aircraft is operated for hire over water and beyond the power-off gliding distance from shore, approved floatation gear readily available to each occupant, and at least one pyrotechnic signaling device. (is required)

Part 91.79 (a) provides:

Except when necessary for takeoff or landing, no person may operate an aircraft lower than the following altitudes:

(a) ANYWHERE. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

Part 135.167 provides:

No person may operate an aircraft in extended overwater operations unless it carries:

(note: This section is extremely long, and contains all manner of specific relations to rafts, floatation and signalling devices and the like. None of that is required here to make the point that there is no reference to any specific distances from land; only equipment required when flying off shore.)

RATIONALE': To begin with, the current State language, if enforced, would halt approximately 50% of the air commerce in the State immediately. Here are several obvious examples:

1. A single-engine land plane flying from Anchorage to Kodiak. (not uncommon)

To comply with this part, the aircraft would need to fly higher than 25,000 feet! Only those aircraft equipped with both turbochargers and pressurization could possibly comply.

2. A single-engine land plane flying from Anchorage to Juneau or Ketchikan. (not uncommon)

After Yakutat, heading southeasterly, the beach rapidly ends, replaced by beautiful mountains, covered with large trees, ending in rocks and surf. There is no beach; no "landing" is possible. One ditches in the Gulf of Alaska near shore and wades ashore with survival gear.

We feel that the Federal regulations more than adequately cover this contingency, with far better language, in all instances. Inasmuch as Sec. 02.35.010 adopts the FAR's for compliance by the State, it is redundant and confusing to establish still another, poorly worded criteria.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deleting the section.

Sec. 02.30.030 (d) (snow and ice)

This section is more than adequately covered by FAR's:

Part 135.85, provides:

(a) *No pilot may take off an aircraft that has-*

(1) *Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;*

(2) *Snow or ice adhering to the wings, or stabilizing control surfaces; or*

(3) *Any frost adhering to the wings, or stabilizing control surfaces, unless that frost has been polished to make it smooth.*

(there are additional sections, but they are redundant for these purposes)

Part 91.209 provides virtually identical text.

RATIONALE': The FAA language is far more comprehensive. Inasmuch as Sec. 02.35.010 adopts the FAR's for State compliance, it is redundant and confusing to establish yet another, less comprehensive and confusing standard.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs to be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deletion of this section.

Sec. 02.35.010 Federal law followed

This is an excellent section, and would and is referred to above and in other sections not herein noted. Unfortunately the United States Air Commerce Act of 1926 has been void since it was replaced with the 1958 edition. Recommend adoption of the current one.

Sec 02.35.040 Registration of Aircraft

This section provides that all the registration and documentation already required by applicable FAR's, and already on file with the FAA in Oklahoma City, and already available to the public upon request, and already printed in a government circular at least semi-annually, also be duplicated and filed with the Department of Transportation and Public Facilities.

We are unaware of any general aviation pilot who is aware of this provision or complies. We are unaware of any attempts by DOTPF to implement this section. We are unaware of any requirement for it. Recommend its deletion as an unnecessary, expensive and duplicating bureaucratic requirement with no valid requirement.

Sec. 02.35.050, Registration of Airmen

See section 02.35.040 above. Recommend deletion of this ineffective portion as well for the same reasons.

Sec. 02.35.060, 070 & 080.

See items above. Recommend deletion of these sections, which provide administrative control of the previous sections.

COMMENT: Inasmuch as these four (4) sections appear to have been in Public Law since 1949, and no attempt to comply has ever been initiated to our certain knowledge, this fact alone attests to the lack of requirement.

Sec. 02.35.090 License and permit to be exhibited on request.

Part 61.3, provides:

(a) *No person shall act as pilot in command or in any other capacity as a required pilot flight crew member of a civil aircraft of United States registry unless he has in his personal possession a current pilot certificate issued to him under this part.*

(h) *Each person who holds a pilot certificate, flight instructor certificate, medical certificate, authorization, or license required by this part shall present it for inspection upon request of the Administrator, an authorized representative of the National Transportation Safety Board, or any Federal, State, or local law enforcement officer.*

Part 91.27, provides:

(a) *Except as provided in part 91.23 (foreign aircraft), no person may operate a civil aircraft unless it has the following:*

(1) *An appropriate and current airworthiness certificate. Each U.S. airworthiness certificate used to comply with this subparagraph (except a special flight permit, a copy of the applicable operations specifications issued under 21.197(c) of this chapter, appropriate sections of the air carrier manual required by parts 121 or 127 of this chapter containing that portion of the operations specifications under 21.187(c), or an authorization under 91.45), must have on it the registration number assigned to the aircraft under part 47 of this chapter. However, the airworthiness certificate need not have on it an assigned special identification number before 10 days after that number is first affixed to the aircraft. A revised airworthiness certificate having on it an assigned special identification number, that has been affixed to an aircraft, may only be obtained upon application to an FAA flight standards district office.*

(2) *a Registration Certificate issued to its owner.*

(b) *No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under 91.28 is displayed at the cabin or cockpit entrance so that it is legible to passengers or crew.*

RATIONALE' Obviously the Federal language more than adequately covers the entire situation and others not even dreamt of by State officials. Recommend deleting it and relying on Sec. 02.35.010 for application of the FAR's in Alaska.

Sec. 02.35.100 Temporary permit.

This entire section covers an area expressly preempted by the Federal Government. There simply is no legal way for the State of Alaska to license pilots under any circumstances. This is 100% an FAA matter.

As a practice matter, here is what would happen should there be an earthquake, major fire, flood or other State emergency: The authorized State official on the scene (Civil Defense Director, member of the National Guard etc), invoking whatever emergency authority may be available under other statutes, would notify the pilot/owner of an aircraft that it was required for service to say, send a generator to Bethel, evacuate something, haul medicine or supplies or the like. At that moment, the operator of the aircraft is under control and contract of the State of Alaska, and may operate any aircraft with no licenses at all.

He or she is operating in what is called the PUBLIC SERVICE, much the same as FAA pilots, military pilots, and even State pilots.

Recommend deletion of this entire section.

Sec. 02.35.110 Emergency rations and equipment.

This is an important part of the aviation Safety field in Alaska, and it should remain. There are, however, two (2) items which require updating:

1. Item (2) (A) requires snowshoes. We recognize that a pair of cross-country skis, poles and boots are superior to snowshoes for survival travel, and recommend addition of the skis as shown on the attached proposed amended bill.

2. Item (1)(D) requires a firearm and ammunition. While this is an excellent suggestion, there are two (2) problems with the provision:

a. In most cases a hand-gun is not a suitable survival weapon. Of far more value would be a lightweight shotgun and a supply of slugs and shot. We will not, however, offer this as an amendment at this time, as we have been counseled that it may be a controversial enough issue to bog down passage of the more important safety items. We urge consideration, however.

b. There is no specified amount of ammunition, and one round could qualify. Recommend a minimum amount such as 25 or 50 rounds.

Sec. 02.35.115 Downed aircraft transmitting devices. (ELT's)

Sec. 91.52, provides

(a) Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c) and (d) of this section.

(b) To comply with paragraph (a) of this section, each U.S. registered civil airplane must be equipped as follows:

(1) For operations governed by the supplemental air carrier and commercial operator rules of part 121 of this chapter, or the air travel club rules of part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicability requirements of TSC-C91;

(2) For charter flights governed by the domestic and flag air carrier rules of Part 121 of this chapter, there must be attached to the

operable condition and meets the applicable requirements of TSO-C91;

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91; and

(4) For operations other than those specified in subparagraphs (1), (2) and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91.

(Note: there are 2 more pages of technical details that are not required to demonstrate sufficiency here.)

RATIONALE' There is obviously very complete and thorough Federal regulation to cover the installation, maintenance and operation of ELT's in all aircraft operations in this state; commercial and private. This is an area over which the state has no authority whatsoever, and where the state regulations CONFLICT with the appropriate Federal regulations.

Additionally, and as a much more practice matter, one notes that under the FAR's, such ELT is inspected each year during the annual inspection of the aircraft under FAA criteria, and the aircraft is grounded if the ELT is not present, not in proper order or has an expired battery date. There is no such inspection system established or required under State authority.

Recommend that the item be deleted in its entirety and that reference to the FAR's via Sec. 02.35.010 for application in Alaska be sufficient.

Sec. 02.35.120, Penalties for violation of Chapter

This section will be reduced in scope by the actions above. The only requirement for the section remaining in in those areas which the State desires to inflict CRIMINAL penalties on top of Federal penalties. These are reflected in the attached, proposed substitute bill.

Sec. 02.35.130, Penalty for violation of 90 or 110 of this chapter.

Same as above.

Sec. 02.35.150, Deffinitions

Because of difficulties in interpretation, we suggest that "aircraft" and "airplane" be defined here precisely as they are in FAR's.

AIRCRAFT means: a device that is used or intended to be used for flight in the air, and when used in air traffic control terminology, may include the aircrew. (includes aircraft, helicopters, gyrocopters and all other heavier-than-air equipment, as well as gliders and sail planes)

AIRPLANE means: a divice such as above, but not including helicopters or gyrocopters.

GENERAL: Penalties under the FAR's are found in two (2) areas:

Sec. 609: wherein the Administrator has authority to revoke, suspend, or modify certificates. This includes pilot certificates, aircraft certificates and operator certificates. This is considered severe and serious penalty authority, and exceeds anything the State is empowered to do.

Sec. 901; wherein the FAA may impost Civil Penalties. Such penalties are limited in current law to \$1,000 for each violation.

S

B

6

3

0

COMMITTEE REPORT

HOUSE

(5)

FURTHER:

4/22/82

Date: 4-23-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSSB 630(SA) and

"An Act relating to the legislative oversight procedures relating to state agencies, boards, and commissions under AS 08.03 and AS 44.66; and providing for an effective date."

under consideration and reports it back as follows:

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

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

Handwritten signatures of committee members under the 'DO PASS' column.

Blank lines under the 'OTHER RECOMMENDATIONS' column.

Handwritten signature of the Chairman under the 'OTHER RECOMMENDATIONS' column.

CHAIRMAN

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

*Rec'd. 11.20
2nd
2 - Commission*

M E M O R A N D U M

April 24, 1982

SUBJECT: Sunset of state agencies, boards and
commissions (HCS CSSSSB 630 (Labor and
Commerce))

TO: Representative Terry Martin
Chairman, House Labor and
Commerce

FROM: Edward H. Hein *EHH*
Legislative Counsel

At the request of your administrative aide, Mary Isaacs, I have redrafted the committee substitute you requested for SB 630. As I pointed out in another memorandum today, the version you first submitted presented substantial legal and constitutional problems.

I have given you the State Affairs Committee version of the bill with the following changes:

1. Page 1, line 8: "AS 08.03 and" has been deleted because the bill no longer affects that chapter;
2. Page 1, line 17: "1985" was deleted because the continuation of a board or commission in this bill, which is essentially a "cleanup" bill to clarify the language of AS 44.-66.010, constitutes a violation of the single subject rule of Article II, Sec. 13 of the Alaska Constitution; and
3. Page 2, lines 14 ~ 16: the new language proposed in the State Affairs Committee version was deleted at your request.

EHH:ljb

Enclosure

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

*Rec'd 10:00 AM
1/2
Commission*

MEMORANDUM

April 24, 1982

SUBJECT: Sunset of state agencies, boards and
commissions (HCS CSSSB 630 (Labor and
Commerce))

TO: Representative Terry Martin
Chairman, House Labor and
Commerce Committee

FROM: Edward H. Hein *EH*
Legislative Counsel

Enclosed is the draft committee substitute you requested for SB 630. This bill has two serious defects.

1. Sec. 1 of the bill extends the life of the Alcoholic Beverage Control Board, the state Board of Parole, and the Alaska Code Revision Commission. AS 44.66.060(e) provides that

No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board, commission or agency board or program shall be mentioned in the title of the bill.

This bill violates that section and, if challenged in court, the bill would therefore likely be struck down.

2. This began as a "cleanup" bill to clarify language of AS 44.66.010 and to make the language consistent with similar provisions in AS 08.03. The bill has now been turned into a substantive bill which continues or shortens the life of four boards or commissions. This is not reflected in the title of the bill, as required by Article II, Sec. 13 of the Alaska Constitution. More important, perhaps, the bill appears to be in violation of the single subject rule, Article II, Section 13 of the Alaska Constitution. The question of violation of the constitutional provision is a

Representative Terry Martin
Page 2
April 24, 1982

matter ultimately determined by the Court. If a violation
was found the act would be void.

EHH:ljb

Original sponsor: Sturgulewski

Offered: 2/25/82
Referred: Labor & Commerce

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 630 (State Affairs) am
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 the legislative oversight procedures
7 relating to state agencies, boards, and commissions
8 under AS 08.03 and AS 44.66; and providing for an
9 effective date."

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

11 * Section 1. AS 44.66.010 is amended to read:

12 Sec. 44.66.010. TERMINATION OF STATE AGENCIES, BOARDS, AND COMMIS-
13 SIONS. (a) A state agency, board, or commission [BOARDS AND COMMIS-
14 SIONS] listed in this subsection is terminated on the date established
15 by this subsection [EXPIRE ON THE DATE SET OUT AFTER EACH]:

16 (1) Alcoholic Beverage Control Board (AS 04.06.010) --
17 June 30, ~~1986~~; [1983] 1982

18 (2) Alaska Transportation Commission (AS 42.07.011) --
19 June 30, ~~1983~~ [1982]

20 (3) State Board of Parole (AS 33.15.010) -- June 30, 1985 [1982]

21 (4) Alaska Public Utilities Commission (AS 42.05.010) --
22 June 30, 1985;

23 (5) (repealed)

24 (6) Alaska Council on Science and Technology (AS 44.21.241 -
25 44.21.255) -- June 30, ~~1986~~; ~~1980~~

26 (7) Alaska Renewable Resources Corporation (AS 37.12.010) --
27 June 30, ~~1982~~; ⁶1986

28 (8) Alaska Code Revision Commission (AS 24.20.075) -- June 30,
29 ~~1986~~; ~~1984~~ [1984]

1 (9) Rural Development Council (AS 44.47.160 - 44.47.190) --
2 June 30, 1987;

3 (10) Older Alaskans Commission (AS 44.21.200 - 44.21.240) --
4 June 30, 1985;

5 (11) Council on Domestic Violence and Sexual Assault (AS 18.-
6 66.010) -- June 30, 1985.

7 (b) Upon termination, a state agency, board, or commission listed
8 in (a) of this section shall continue in existence until June 30 of the
9 next succeeding year for the purpose of concluding its affairs. During
10 this period, termination does not reduce or limit the powers or authority
11 of the state agency, board, or commission.

12 (c) A state agency, board, or commission scheduled for termination
13 under this chapter may be continued or reestablished by the legislature
14 for a period not to exceed four years unless the state agency, board, or
15 commission is continued or reestablished for a longer period under
16 AS 44.66.050(e).]

17 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
18 070(c).

Office Copy

Original sponsor: Sturgulewski

Offered: 2/25/82
Referred: Labor & Commerce

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 630 (State Affairs) am

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 the legislative oversight procedures
7 relating to state agencies, boards, and commissions
8 under AS 08.03 and AS 44.66; and providing for an
9 effective date."

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

11 * Section 1. AS 44.66.010 is amended to read:

12 Sec. 44.66.010. TERMINATION OF STATE AGENCIES, BOARDS, AND COMMIS-
13 SIONS. (a) A state agency, board, or commission (BOARDS AND COMMIS-
14 SIONS) listed in this subsection is terminated on the date established
15 by this subsection [EXPIRE ON THE DATE SET OUT AFTER EACH]:

16 (1) Alcoholic Beverage Control Board (AS 04.06.010) --
17 June 30, 1985; {1983}

18 (2) Alaska Transportation Commission (AS 42.07.011) --
19 June 30, ⁸²1983;

20 (3) State Board of Parole (AS 33.15.010) -- June 30, 1984; 4

21 (4) Alaska Public Utilities Commission (AS 42.05.010) --
22 June 30, 1985;

23 (5) ^{ab}(repealed) *Pipeline Comm.*

24 (6) Alaska Council on Science and Technology (AS 44.21.241 -
25 44.21.255) -- June 30, 1983;

26 (7) Alaska Renewable Resources Corporation (AS 37.12.010) --
27 June 30, 1982;

28 (8) Alaska Code Revision Commission (AS 24.20.075) -- June 30,
29 1983;
4

1 (9) Rural Development Council (AS 44.47.160 - 44.47.190) --
2 June 30, 1987;

3 (10) Older Alaskans Commission (AS 44.21.200 - 44.21.240) --
4 June 30, 1985;

5 (11) Council on Domestic Violence and Sexual Assault (AS 18.-
6 66.010) -- June 30, 1985.

7 (b) Upon termination, a state agency, board, or commission listed
8 in (a) of this section shall continue in existence until June 30 of the
9 next succeeding year for the purpose of concluding its affairs. During
10 this period, termination does not reduce or limit the powers or authority
11 of the state agency, board, or commission.

12 (c) A state agency, board, or commission scheduled for termination
13 under this chapter may be continued or reestablished by the legislature
14 for a period not to exceed four years [unless the state agency, board, or
15 commission is continued or reestablished for a longer period under
16 AS 44.66.050(e).]

17 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
18 070(c).

S

B

6

4

8

COMMITTEE REPORT

HOUSE

FURTHER:

(5)

3/22/82

Date: 4-7-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSB 8 (L&C)

"An Act relating to workers' compensation coverage of certain persons providing community work service."

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HCS same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" ^{new} Fiscal Notes
(2)
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Dr. S. Rogers
Gerry M. ...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

Terry M. ...
CHAIRMAN

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION
PRETRIAL SERVICES SECTION

JAY S. HAMMOND, GOVERNOR

465-3678

POUCH KC - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3428

Feb. 15th 1982

The Honorable Robert Mulcahy
Chairman, Labor and Commerce Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

In response to your request for a position on the proposed committee substitute for Senate Bill 648 whereby the State of Alaska would assume the total cost of worker's compensation for individuals placed in community work service, the Department of Law supports the additional provision of the committee substitute.

In the memorandum of advise on the issue of liability for injuries to offenders performing community work service, dated February 4, 1982, and made available to your committee, analysis of the current provisions of the Worker's Compensation Act indicated that these offenders are excluded from worker's compensation coverage as they are not "employees" within the meaning of the Act. Exclusion of these offenders from coverage under the Act was problematic in that an offender injured in the performance of community work service could only recover damages for the injury by proving both fault and negligence in a common law tort suit action contrary to the underlying purposes of worker's compensation statutes. Additionally, in that this class of individuals is not within the coverage provisions of the Worker's Compensation Act, the exclusive remedy provisions (AS 23.30.055) are not applicable, thus greatly increasing the potential liability for employers in those instances where fault and negligence are proven. The original version of SB 648, requested by the governor at the behest of the Department of Law, attempted resolution by merely redefining "employee" for purposes of the Worker's Compensation Act to include offenders performing community work service. However, as was pointed out at hearings on SB 648 in your committee, merely redefining "employee" to include this class of individual could result in significant problems in implementation. Chief among these problems is the premium rate that would be charged employers for worker's compensation coverage for offenders

performing community work service. In that offenders processed by the State into community work service perform a variety of functions, each of which may require a differing level of job injury risk (the method by which worker's compensation insurance premiums are determined), the result would be a separate risk premium determination for each placement rather than a standardized risk premium that had been assumed to be the result. Alternatively, if placements were limited to a few risk classes, the ability of the community work service referral program to creatively place these offenders by matching their existing job skills or interest areas with community referral needs would be severely hampered. Similarly, the risk assessments are comparatively higher for certain job classes which positively impact a greater segment of a community than for other classes which do not; e.g., litter pickup along the highways commands a substantially higher premium than performing janitorial duties in a local agency.

This uncertainty of premium rates likewise results in a continued reticence on the part of agency-employers to accept such referrals, although these agency-employers derive a substantial benefit from the labor provided. Agencies accepting community work service referrals either would need to restrict the type of work to be performed or would have to budget uncertain amounts of funds to pay increased risk premiums should they determine in the course of the budget year that they could substantially benefit from another type of work. This uncertainty would result in the agency-employers realizing a substantially diminished benefit from the program.

The alternative to this legislation is the maintenance of the status quo, whereby the State would continue to assume the excess of any tort liability that would result from community work service placements. As this state of the law promotes lawsuits to enable recovery, and is an uncertain remedy for injured individuals, it belies the purposes of worker's compensation and is unacceptable to the Department of Law.

The proposed committee substitute appears to be the best alternative in terms of achieving statewide acceptance of the program, and thus meaningful implementation. With the proposed committee substitute no determination as to premium rates needs to be accomplished as the State is a self-insurer under the Worker's Compensation Act. As there won't be a variance in premium rates for the type of community work service assigned, the placements can continue to be creative, sensible and worthwhile. Furthermore, with over 2,000 referrals and 50,000 hours of community work service performed to date under the aegis of the State, we have not yet experienced any liability situations, thus making even a speculative cost of this assumption extremely low.

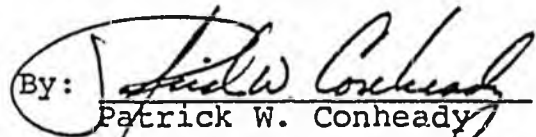
In conclusion, as a matter of strong public policy, the Department supports the proposed committee substitute and views it as a vehicle for uniform implementation of an innovative alternative in the criminal justice system. The speculative costs which attend this version are far outweighed by the benefits provided to both the recipients of the community work service and to the individuals performing it.

If you have further questions regarding this legislation, please feel free to contact me.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By: 
Patrick W. Conheady
Assistant Attorney General
Chief, Pretrial Services

PWC/ks

MEMORANDUM

State of Alaska

file # 58648

TO Wilson L. Condon
Attorney General
and
Daniel W. Hickey
Chief Prosecutor
FROM Patrick W. Conheady
Assistant Attorney General
Pretrial Intervention
Program Director

DATE February 4, 1982
FILE NO
TELEPHONE NO
SUBJECT Liability During Performance
of Community Work Service

A number of questions have been raised concerning the potential for liability for offenders who are placed in a community work service alternative at both the pretrial (diversion) or post trial (conviction) stages. These questions have primarily arisen as a result of a reluctance on the part of placement agencies to accept community work service referrals if there is an attendant assumption of liability on the part of the agency. Although placements made through the Department of Law's Pretrial Intervention Program (diversion) have not elicited the level of concern about liability that judicially authorized placements have, the liability issue is nonetheless of major concern in continuing an important component of the diversion program.

The liability issue is a double faceted question. First, what type of liability can potentially result, and to whom, for injuries to the offender in the course of performing community work service. Second, where does liability lie for injuries to others, or to property, for tortious conduct on the part of an offender during the performance of community work service. Resolution of these questions should facilitate implementation of the community work service alternative under AS 12.55.055.

During the last several months, I have worked with both the court system and the Division of Risk Management of the Department of Administration on these problems. I have additionally prepared and submitted legislation to ensure that offenders performing community work service are included within the coverage of the Worker's Compensation Act.

I. Factual Basis

An offender can be required to perform community work service in one of four ways: (1) attendant to a diversion agreement between the state and the offender for a felony or

misdemeanor offense; (2) attendant to a diversion agreement between a municipality and the offender for a misdemeanor offense; (3) resulting from a sentence for a felony offense pursuant to AS 12.55.015 (a)(6) and AS 12.55.055; and (4) resulting from a sentence for a misdemeanor offense pursuant to AS 12.55.015 (a)(6) and AS 12.55.055. This department's Pretrial Intervention Program administers the former three possibilities while having only peripheral involvement with the latter one.

To be eligible for pretrial diversion, an offender must be a first offender, or if previously convicted, the prior offense must be sufficiently in the past so as to be considered stale, and the prior conviction must be of a nature that when considered conjointly with the instant offense, it does not evince a pattern of habituation to crime. The offense charged must be a property crime or a drug offense, or, in rare situations a crime of domestic violence. All other violent crimes are excluded. In post-conviction situations, eligibility is determined by the sentencing judge, relying upon the presentence report prepared by probation personnel in the Division of Corrections for felony offenders. For misdemeanants, community work service is totally within the sentencing judge's discretion with no presentence reports or recommendations. There are no eligibility guidelines for post conviction community work service referrals.

All individuals referred to the Pretrial Intervention Program for community work service are subject to an intake interview. For state diversion referrals, this interview is in-depth and also serves as a screening device; for the other referrals, the interview is in the nature of matching the offender with appropriate community work. The majority of placements are with private, non-profit corporations, although a number are with state or municipal government agencies.

After placement, the Pretrial Intervention Program requires only that the agency report back that the offender is undertaking the requisite community work service on a satisfactory basis; the Pretrial Program does not supervise or otherwise control offenders in the performance of community work.

II. Liability for Injuries to Individuals
Performing Community Work Service
Resulting from "Employment" Related
Accidents.

The first issue that needs to be resolved is whether offenders placed in community work service are "employees" within the meaning of AS 23.30.265(11). If so, they are then subject to the provisions of the Worker's Compensation Act, AS 23.30. This is an issue that has not been directly resolved by Alaska's courts, although there is sufficient precedent to provide considerable guidance on the question..

The definition of employee for purposes of AS 23.30 is not sufficiently clear in determining an offender's status as an employee. AS 23.30.265 provides:

(11) "employee" means an employee employed by an employer as defined in paragraph (12);

(12) "employer" means the state or its political subdivision or a person employing one or more persons in connection with a business or industry coming within the scope of this chapter and carried on in this state.

Previous opinions of this office delineated the test for an employee. 1963 Op. of the Attorney General, No. 8. Citing both Larson, Workmen's Compensation, (1C, p. 8-1, §43 and p. 8-231, §47) and Ferrell v. Industrial Commission of Arizona 79 Ariz. 278, 288 P.2d 492, the opinion stated the rule that a contract of hire, expressed or implied, is essential to create the status of an employee generally, and the word "hire" connotes payment of some kind. This test was likewise utilized by the Alaska Supreme Court:

The relationship of employer-employee can only be created by a contract which may be expressed or implied.

Solid Construction Co. v. Guarantee Ins. Co., 355 P.2d 329, 393 (Alaska 1960).

The existence of an employee-employer relationship is critical for unless that relationship exists between the offender and the placement agency, or the state, or both, then the exclusiveness of liability remedy provided in AS 23.30.055 is not applicable. The Supreme Court of Alaska has emphasized:

. . .the [Worker's Compensation] act's coverage extend[s] only to persons occupying the status of an employee under either an express or implied contract of hire

City of Seward v. Wisdom, 413 P.2d 931, 939 (Alaska 1966). Further support for the "contract of hire" requirement is implicit in AS 23.30.020.

The elements of the "contract of hire" concept were discussed in a subsequent opinion of this office on the issue of worker's compensation for state prisoners working voluntarily on governmental projects. 1965 Op. of the Attorney General, No. 3. After citing numerous authorities denying coverage to prisoners including a similar case before the Alaska Workmen's Compensation Board, the opinion found the lack of an employee-employer relationship when (1) there was an absence of any pecuniary remuneration for the services performed, and (2) the nature of the services performed were involuntary. In sum, for the establishment of an employee-employer relationship, a "contract of hire" encompassing (1) voluntary acts in return for (2) some type of remuneration needs to be present. See, Larson, §47 et seq.

In the instant case, remuneration can be found for both classes of offender performing community work service. For those individuals participating in the Pretrial Intervention Program where community work service is a portion of the offender's treatment plan, it can be said that the recompense realized in part for performance of community work service is the ultimate dismissal of criminal charges pending against the offender, a valuable, albeit unquantifiable, benefit. Similarly, those offenders sentenced to community work service under AS 12.55.015(a)(6) and AS 12.55.055 can be said to be receiving remuneration in the form of substituted or reduced periods of confinement. However, the absence of voluntariness in either instance precludes a conclusion that a contract of hire is present.

It is quite clear that offenders sentenced to community work service are not free to bargain and contract for their services. The apparent voluntariness present in the offender's choice to refuse to perform community work service when sentenced under AS 12.55.015(a)(6) and AS 12.55.055 is belied by the residual right of compulsion present with the sentencing authority. A refusal on the part of the

sentenced offender to perform community work service would most likely lead to the offender's incarceration, a significantly more onerous result.

Likewise, offenders in the Pretrial Intervention Program who "voluntarily" agree to perform community work service as part of an individualized treatment plan developed for them are free to negotiate the place and manner of performance of that obligation, but there is no voluntariness present with respect to what that performance will encompass and how long it will last. While participation in the Pretrial Intervention Program is clearly in the offender's best interest and entry is on a voluntary basis, the alternative to diversion, prosecution, belies a freedom for offenders to bargain and contract for their services.

Consequently, the lack of any express provision in the Alaska Worker's Compensation Act, AS 23.30, according offenders performing community work service the status of employees in conjunction with the absence of a true contract of hire between the offender and the state or a referral agency, precludes recovery for offenders performing community work service under worker's compensation. Absent coverage under the Worker's Compensation Act, an offender who is injured performing community work service must bring a common law action in tort to recover for injuries sustained.

III. Tort Liability

A determination of potential liability for tortious conduct occurring either by or to an offender is a much more difficult question. This is due to the large number of variations as to questions of fact that may occur in any given situation. As a matter of law, fact situations can be hypothesized which give rise to liability on the part of the state, political subdivisions of the state, placement agencies and the offender. Similarly, those situations can be altered to exclude tort liability as a matter of law for any of the potentially liable parties. Consequently, the tort liability issue should be resolved in a manner consistent with the legislative intent embodied in AS 12.55.055, that is, to institute a workable community work service program in the state. To this end, two approaches have been formally proposed.

A. HB 255 and SB 285. Under this proposed legislative solution, the state would automatically assume all liability

for tortious conduct to others, or to property, by an offender sentenced to community work service. This approach, however, would only include offenders sentenced by a court under AS 12.55.055, therefore excluding a large portion of offenders performing community work service under diversion agreements. It would additionally place the total financial burden upon the state, ignoring current levels of liability coverage maintained by political subdivisions of the state and non-profit corporations which serve as placement agencies and receive the benefits of the community work service. Moreover, it would hold the state strictly liable, irrespective of the conduct of the various parties involved.

5. Assumption of Excess Liability. The second, and preferable, alternative is that embodied in John Haywood's memoranda of November 20, 1981 and January 6, 1982, copies of which are attached. The Division of Risk Management has determined that it is appropriate for the state to assume all liability for tortious conduct in excess of the liability coverage currently provided by placement agencies. For private, non-profit organizations and political subdivision of the state serving as placement agencies currently providing liability coverage, there will be no change. Assumption of placement will not cause an increase in coverage, as the state assumes the excess. Similarly, for those private, non-profits not currently providing liability coverage, the state will assume any liability resulting from placements. This alternative eliminates the possibility of increased costs to placement agencies for accepting referrals while allowing those agencies to directly benefit from the community work service performed. It has the added advantage, however, of retaining the responsibility of those agencies for their interaction with and supervision of offenders performing community work service. Lastly, it eliminates any necessity for the state to underwrite the complete cost of the community work service program.

IV. Conclusion

The questions posed by the implementation of the community work service program are not insoluble. For tort liability, a change in policy as evidenced by Mr. Haywood's memoranda is sufficient, and is an equitable manner in which to ensure the proper functioning of the community work service program. For injuries sustained by offenders themselves,

Wilson L. Condon &
Daniel W. Hickey

-7-

February 4, 1982

a legislative resolution is necessary. This legislation has been submitted and we are working with the appropriate committees on it.

PWC/gb

Attachments

cc: John Haywood
Director
Division of Risk Management
Department of Administration

1981
10 10 10
10 10 10

1981
10 10 10

1981

1981

1981

1981

1981

1981

1981

1981

1981

1981

1981

1981

1981

1981

MEMORANDUM

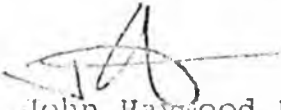
State of Alaska

SB 648

TO Patrick W. Conheady
Assistant Attorney General
Pretrial Intervention Program

DATE January 6, 1982

TELEPHONE NO

FROM  John Haywood, Director
Division of Risk Management
Department of Administration

SUBJECT Community Work Service

This memo is to further clarify my letter of November 20, 1981 to Arthur H. Snowden regarding liability of the State for community work service. It is the intention of the Division that the coverage provided will extend likewise to community work service arranged by the Department of Law, Criminal Division, Pretrial Intervention Program.

I trust this clarifies this matter.

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

Office Copy
File Copy

I. REQUEST

Bill/Resolution No. House CS for CS for Senate Bill No. 648 (L & C)
 Title "An Act relating to workers' compensation, and providing for an effective "
 Requested by House Labor and Commerce Committee Date 4/8/82

II. FISCAL DETAIL

Agency Affected Labor
 Program Category Affected Worker Protection
 BRU, Program, or Subprogram(s) Affected Workers' Compensation
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		161.8	178.0	195.8	215.4	236.9
200 TRAVEL		20.0	22.0	24.2	26.6	29.3
300 CONTRACTUAL		122.3	71.3	78.4	86.2	94.9
400 COMMODITIES		3.4	3.7	4.1	4.5	4.9
500 EQUIPMENT		10.4	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	317.9	275.0	302.5	332.7	366.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	(132.3)	(197.2)	(216.9)	(238.6)	(262.5)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
**Second Injury Fund		450.2	472.2	519.4	571.3	628.5

POSITIONS

FULL TIME	0	4	4	4	4	4
PART TIME						
TEMPORARY						

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

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

This fiscal note provides that the state administrative costs for rehabilitation under the proposed AS 23.30.041 be paid from the Second Injury Fund. This includes the costs of four new positions, plus the cost of four existing positions which entails a transfer in funding source from General Funds to Second Injury Funds.
 (Continued page 2)

IV. DATE April 8, 1982 PREPARED BY Nico Bus.
 AGENCY Labor
 PHONE 465-2720
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE (Continued)

TITLE: An Act relating to workers' compensation, and providing for an effective . . ."

Agency Affected: Department of Labor

Page 2

1. Assumes an inflation rate of 10% per annum after FY '83.
2. Assumes an effective date of July 1, 1982.
3. The total cost for FY'83 for the four new positions is detailed on attached forms 13. In addition the following items are included in the FY '83 costs.

A Workers' Compensation Officer I reclassification to a Workers' Compensation Officer II with related travel and contractual services. Cost \$16.6

100 Personal Services	\$ 5.5
200 Travel	5.0
300 Auto, Lease, Indirect, etc.	6.1
	<u>\$16.6</u>

The data processing operations cost will increase by \$14.0 because of enhancements for a tickler system, running two systems parallel and the files expansion to retain the addresses of all claimants.

The printing of 10,000 Workers' Compensation Acts and 25,000 Employer Information booklets. \$35.0

The design and printing of new forms. \$2.5

Computer program modifications to implement the changes introduced by the bill. \$20.0

Equipment expense for computer terminals, panelling, cabinets, and files. \$5.0

Included one-time items in FY '83

Equipment	\$10.4
Booklets and Acts	35.0
Design and printing of new forms	2.5
Computer programs	20.0
	<u>\$67.9</u>

Funding Change

Items included in the FY 83 Governor's budget that will change funding sources from General Fund to the Second Injury Fund.

4 positions (including benefits)	\$141.3
Non-personal service costs relating to these 4 existing positions	
200: travel	9.9
300: contractual	25.8
400: commodities	2.3
	<u>179.3</u>

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE (Continued)

TITLE: An Act relating to workers' compensation, and providing for an effective . . ."

Agency Affected: Department of Labor

Page 3

FY'83 Component Breakdown:

<u>Workers' Compensation Administration</u>		<u>Second Injur.' Fund</u>	
PS			\$161.8
Travel			20.0
Contract*	\$47.0		75.3
Commodities			3.4
Equipment			10.4
TOTAL	<u>\$47.0</u>		<u>\$270.9</u>
<u>Funding</u>		General Fund	Second Injury
Funding transfer		(179.3)	179.3
Rehabilitation Services/ delivery system		47.0	270.9
		<u>132.3</u>	<u>450.2</u>

*\$35,000 Workers Compensation Acts and Information Booklets; \$12,000 Data Processing

**Second Injury Fund is currently being reviewed to determine whether revenues are sufficient to cover the cost of rehabilitation. It may be necessary to amend AS 23.30.040 to increase the maximum percentage contribution rate.

1	POSITION TITLE Rehabilitation Administrator			RANGE/STEP 22A	BARG. UNIT.	LOCATION EBA	GOV.	APPROV.	DIBAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. N/A	PCN No. New Position	PRIORITY	FORM 12 N/A	PAGE/LINE	LEG.	

3	TYPE OF EXPENDITURE	AMOUNT
	1	2
4	PERSONAL SERVICES: SALARY 3714 x 12	44,568
5	BENEFITS .1592	7,095
6	SBS .0613	2,138
7	FIXED BENEFITS 183 x 12	2,196
8	TOTAL PERSONAL SERVICES 01	56,047
9	TRAVEL 02	10,000
10	CONTRACTUAL 03	15,607
11	COMMODITIES 04	850
12	EQUIPMENT 05	1,600
13	OTHER	
14	TOTAL COST	84,104

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The rehabilitation administrator is necessary to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

Extensive travel within the state is necessary to provide assistance to approximately 12,000 employers in developing programs for re-employment of injured workers and coordinating counselor services with workers, insurers/employers, labor unions, and rehabilitation providers.

- 9. Travel: \$10,000 (20 trips @ \$500 per trip)
- 10. Contractual: Space \$3,100 (to be transferred to DOA)
Auto Lease & Operating Costs \$5,600
Indirect (11.46% x 44,568 = \$5,107)
Other costs which include communications, equipment rental, etc., \$1,800
- 11. Commodities: Cost per position
- 12. Equipment: Desk, desk chair, side chairs, bookcase, file - \$1,600

	RECEIPT CODE	FUNDING SOURCE
15		FED RCPTS. 1002
16		GF MATCH. 1003
17	100	GEN. FUND 1001
18		I-A RCPTS. 1005
19		PGM RCPTS 1028
20		OTHER
21	CONTINUATION	
22	ADDITION	X

FOR R&M USE ONLY

4A KEY NUMBER

COLUMN NO.

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

1	POSITION TITLE Workers Compensation Officer II	RANG/STEP 18A	BRG. UNIT. GBU	LOCATION JBA	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. N/A	PCN No. New Position	PRIORITY	FORM 12 N/A	PAGE/LINE

3	TYPE OF EXPENDITURE	AMOUNT
	1	2
4	PERSONAL SERVICES: SALARY 3249 x 12	38,988
5	BENEFITS .1592	6,207
6	SBS .0613	2,180
7	FIXED BENEFITS 183 x 12	2,196
8	TOTAL PERSONAL SERVICES 01	49,579
9	TRAVEL 02	5,000
10	CONTRACTUAL 03	14,968
11	COMMODITIES 04	850
12	EQUIPMENT 05	1,395
13	OTHER	0
14	TOTAL COST	71,792

JUSTIFICATION:
It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The workers' compensation officer is necessary to coordinate with workers, employers, insurers and rehabilitation providers to expedite the retraining and re-employment of injured workers. Travel within the Fairbanks and Northern regions will be necessary to coordinate this effort.

	RECEIPT CODE	FUNDING SOURCE
15		FED RCPTS. 1002
16		GF MATCH. 1003
17	100	GEN. FUND 1004
18		I-A RCPTS. 1005
19		PGM RCPTS 1028
20		OTHER
21	CONTINUATION	
22	ADDITION	X

- 9. Travel: \$5,000 (10 trips @ \$500 per trip)
- 10. Contractual: Space \$3,100 (to be transferred to DOA) Auto Lease, Maintenance Agreement & Operating Costs \$5,600 Indirect Costs (11.46% x 38,988 = \$4,458) Other costs which include communications, equipment rental, etc. \$1,800
- 11. Commodities: Cost per position
- 12. Equipment: Desk, desk chair, side chair, file, work-table, bookcase \$1,395

FOR B&M USE ONLY

4A KEY NUMBER COLUMN NO.

AGENCY Labor PROGRAM Worker Protection

DRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

FY 83

1	POSITION TITLE	RANGE/STEP	BARG. UNIT.	LOCATION	APPROV.	DISAPP.
1	Clerk Typist III	8B	GBU	AWA	GOV.	
2	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE
2	PFT	12	N/A	New Position		N/A
3	TYPE OF EXPENDITURE			AMOUNT		
	1	2	3			

4	PERSONAL SERVICES:		
4	SALARY 1530 x 12	18,360	
5	BENEFITS .1592	2,923	
6	SBS .0613	1,125	
7	FIXED BENEFITS 183 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01	24,604	
9	TRAVEL 02		
10	CONTRACTUAL 03	7,004	
11	COMMODITIES 04	850	
12	EQUIPMENT 05	700	
13	OTHER		
14	TOTAL COST	33,158	

JUSTIFICATION:
 It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk III position will provide clerical assistance to the Workers' Compensation Officer in the Juneau Second Injury Fund office and will be responsible for providing and coordinating distribution of information from the claim files to the other regions.

10. Contractual: Space \$3,100 (to be transferred to DOA)
 Indirect (11.46% x 18,360 = \$2,104)
 Other costs which include communications, equipment rental, etc. \$1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair \$700

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	33,158
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	

21	CONTINUATION		
22	ADDITION	X	FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

FY 83

1	POSITION TITLE Clerk IV	RANGE/STEP 9B	BARG. UNIT. GBU	LOCATION ERA	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. N/A	PCN No. New Position	PRIORITY	FORM 12 N/A	PAGE/LINE

3	TYPE OF EXPENDITURE	AMOUNT
	1	2
4	PERSONAL SERVICES: SALARY 1627 x 12	19,524
5	BENEFITS .1592	3,108
6	SBS .0613	1,197
7	FIXED BENEFITS 183 x 12	2,196
8	TOTAL PERSONAL SERVICES 01	26,025
9	TRAVEL 02	0
10	CONTRACTUAL 03	7,137
11	COMMODITIES 04	850
12	EQUIPMENT 05	700
13	OTHER	
14	TOTAL COST	34,712

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk IV position will provide clerical assistance to the Rehabilitation Administrator and Workers' Compensation Officer and will be responsible for maintaining follow-up on all rehabilitation files.

10. Contractual: Space \$3,100 (to be transferred to DOA) Indirect (11.46% x \$19,524 = \$2,237) Other costs which include communications, equipment rental, etc. \$1,800

11. Commodities: Cost per position

12. Equipment: Desk and desk chair \$700

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	34,712
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	

21	CONTINUATION	
22	ADDITION	X

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

FY 83

S

B

746

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

33)

3/15/82

Date: 4-6-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSB 746 (Fin)

"As Am making a special appropriation to the Department of Commerce and Economic Development, Office of Mineral Development, for production of a documentary film on Alaska's mining history and potential; making a special appropriation to the Office of the Governor for participation of the Alaska game unit in the Arctic Winter Games; and providing for an effective date."

under consideration and reports it back as follows:

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

PROPOSAL FOR A DOCUMENTARY ON
ALASKA'S MINING HISTORY AND POTENTIAL

The American Mining Congress recently sponsored a survey of citizen attitudes towards mining. While only 16% of those polled felt at all familiar with mining, 43% believed it was damaging to the environment, 62% felt it was dangerous and unhealthy, and an incredible 96-97% felt mining was unnecessary to the national economy, unnecessary for the national defense and unnecessary to the quality of life.

As suggested by many industry spokesmen, such shockingly erroneous attitudes stem from the profound failure of America's educational system to teach its students the singular and immutable fact that modern civilization is made possible by, and remains dependent upon, the production and utilization of mineral resources. The resultant ignorance has fostered the misconception that mining is a dangerous and destructive enterprise that should be generally discouraged and locally forbidden. It is this ignorance which has allowed the piecemeal but cumulatively devastating withdrawal of public lands from mineral entry. It is this ignorance that has delivered to the country the specter of a national resource crisis.

The proposed documentary, which will be an accurate portrayal of historical and present mining activity in Alaska, will contribute to redressing this pervasive ignorance. It will show mines to people who have never seen a mine. It will take people underground. It will show them what a billion dollar orebody looks like in its natural disguise. They will be fascinated by a subject of which their only previous experience has been through souvenir shops and tourist displays. For the viewer, mining in Alaska will cease to be a cliched recitation of sourdough sagas and will begin to assume its true dimension and importance. The educational process will have begun.