

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 8672

2707 SLC HB 225 (FILE 2) - HB 241

SPECIFIC LEGISLATION: 32 States

The list (and dates of enactment) of the 32 states with current legislation specifically authorizing optometrists to utilize pharmaceutical agents is as follows:

| <u>STATE</u> | <u>DATE OF ENACTMENT</u> |
|-----------------|--------------------------------|
| Rhode Island | July 16, 1971 |
| Pennsylvania | March 1, 1974 |
| Tennessee | May 8, 1975 |
| Oregon | May 20, 1975 |
| Maine | June 24, 1975 |
| Louisiana | July 6, 1975 |
| Delaware | July 10, 1975 |
| West Virginia* | March 4, 1976 |
| California | July 9, 1976 |
| Wyoming | February 17, 1977 |
| New Mexico | March 4, 1977 |
| Montana | April 12, 1977 (at 10:10 a.m.) |
| Kansas | April 12, 1977 (at 2:00 p.m.) |
| North Carolina* | June 3, 1977 |
| Kentucky | March 29, 1978 |
| Wisconsin | April 29, 1978 |
| Nebraska | February 13, 1979 |
| South Dakota | March 15, 1979 |
| Utah | March 21, 1979 |
| North Dakota | March 22, 1979 |
| Arkansas | April 2, 1979 |
| Nevada | May 25, 1979 |
| Iowa | June 8, 1979 |
| Georgia | February 14, 1980 |
| Arizona | April 25, 1980 |
| Idaho | March 23, 1981 |
| Oklahoma | April 6, 1981 |
| Washington | April 23, 1981 |
| Missouri | July 24, 1981 |
| Minnesota | March 3, 1982 |
| Mississippi | March 17, 1982 |
| Virginia | February 25, 1983 |

*both diagnostic and therapeutic use

NOTE: None of these laws has ever been repealed. However, a July 30, 1982 opinion of the Texas state attorney general has rendered that state's unusual provision (an amendment to the medical practice act), which was enacted on August 5, 1981, inoperative.

GENERAL LEGISLATION: 4 states

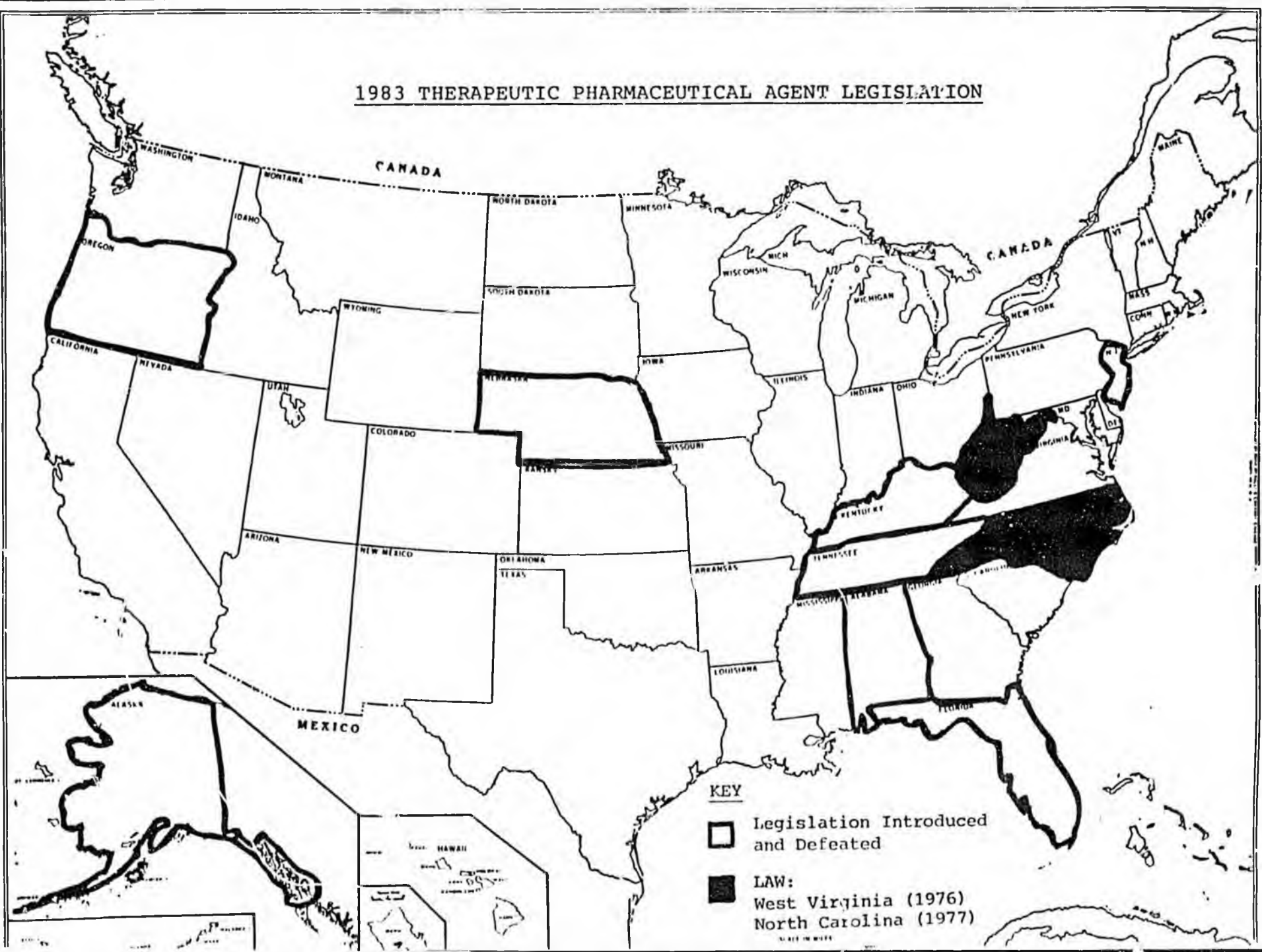
There are four states which authorize the use of pharmaceutical agents by optometrists by extant general law or favorable attorney general opinion:

| | |
|------------|----------------------------------|
| Alabama | (diagnostic use) |
| Florida | (diagnostic and therapeutic use) |
| Indiana | (diagnostic use) |
| New Jersey | (diagnostic use) |

NOTE: In addition, in Michigan, while there is no statutory prohibition of the use of pharmaceutical agents by optometrists, there is a negative opinion of the state attorney general.

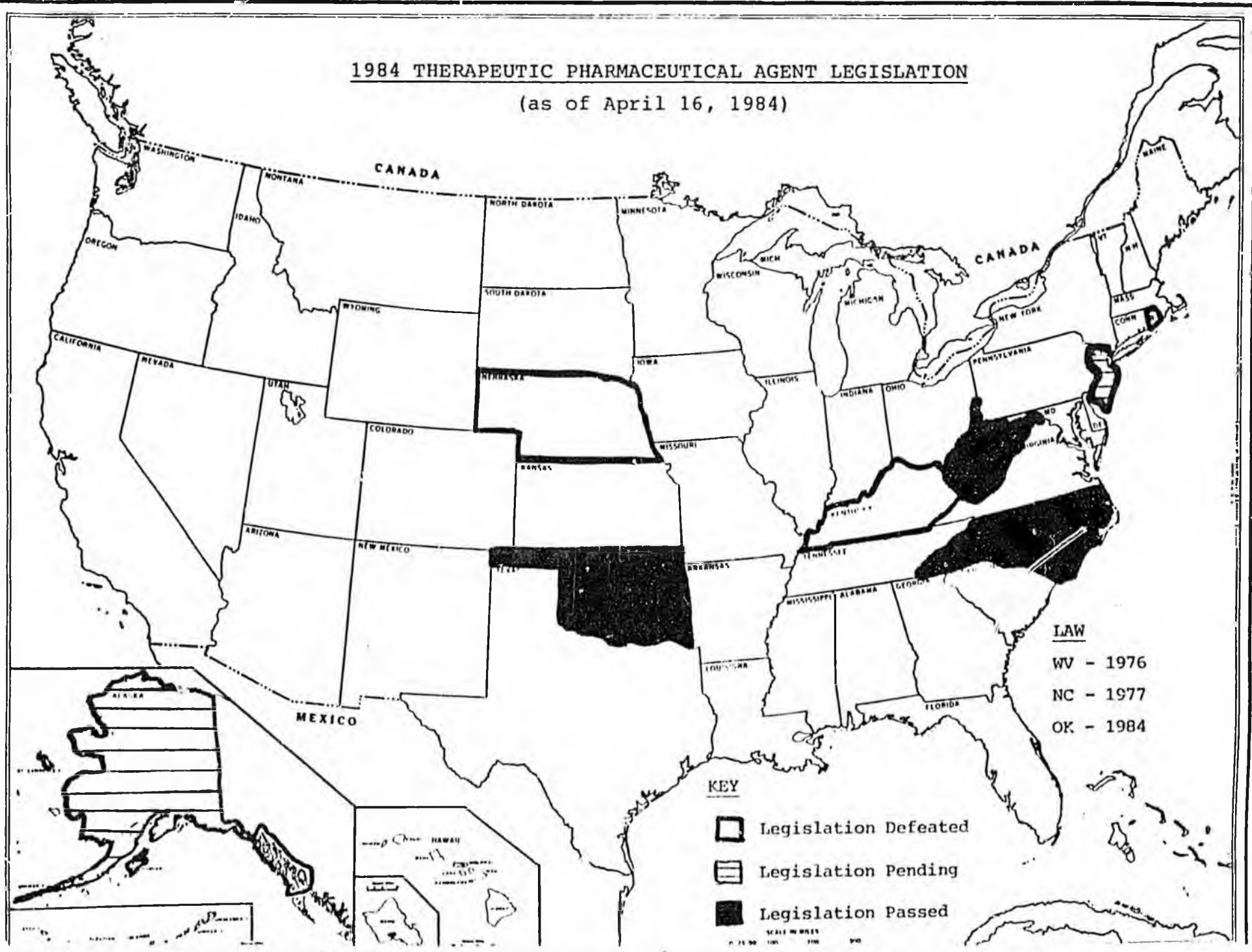
For your information we are including an updated map showing, geographically, the utilization of pharmaceutical agents by optometrists.

1983 THERAPEUTIC PHARMACEUTICAL AGENT LEGISLATION



KEY
□ Legislation Introduced and Defeated
■ LAW:
West Virginia (1976)
North Carolina (1977)

1984 THERAPEUTIC PHARMACEUTICAL AGENT LEGISLATION
(as of April 16, 1984)



LAW
WV - 1976
NC - 1977
OK - 1984

KEY
[White Box] Legislation Defeated
[Horizontal Lines] Legislation Pending
[Solid Black] Legislation Passed

SCALE IN MILES
0 50 100 200 300 400

H B

236

Folta
4-27-83 ✓

Original sponsors: Lacher, Koponen
and Clocksin

Drafted, but never discussed

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 SENATE CS FOR HOUSE BILL NO. 236 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing a definition for 'trade or
7 commerce' in the Unfair Trade Practice and Consumer
8 Protection Act; and providing for an effective date."

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

10 * Section 1. AS 45.50.561 is amended by adding a new paragraph to read:

11 (9) "trade or commerce" includes the advertising, offering
12 for sale, sale, barter, or distribution of any services or any prop-
13 erty, tangible or intangible, real, personal or mixed, and any other
14 article, commodity, or thing of value wherever situated, and includes
15 any trade or commerce directly or indirectly affecting the people of
16 this state.

17 * Sec. 2. Section 1 of this Act is retroactive to May 4, 1974.

18 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
19 10.070(c).

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: HB 236
 Title: A definition for "trade or commerce"
 Sponsor: Repr. Lacher
 Requestor: House Labor and Commerce

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected: Consumer Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|-------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

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

POSITIONS:

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | -0- | -0- | -0- | -0- | -0- | -0- |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: March 30, 1983
 Approved by Commissioner: Norman C. Gorsuch, Attorney General Date: March 30, 1983
 Department: Department of Law

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor

Fiscal Note



ALASKA STATE LEGISLATURE - SENATE
COMMITTEE ON LABOR AND COMMERCE

TOR RICHARD I. ELIASON
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811
(907) 465-3844

OFFICIAL BUSINESS

MEMORANDUM

TO: Senator Jan Faiks, Chair
Senate Rules Committee

From: Senator Dick Eliason, Chair *Dick Eliason*
Senate Labor and Commerce Committee

Re: SB 432

Date: May 7, 1984

The following proposed amendment for SB 432 is intended to address a current gap in Alaska State Law. The Consumer Protection Agency had been in vigorous pursuit of cases of real estate fraud until the recent Alaska Supreme Court Decision of Brown v. State of Alaska, 12/3/82, which held that the Consumer Protection Act did not cover the sale of real property.

This amendment is very important because there are far too many "real property" transactions which could fall between the cracks if the Unfair Trade Practice Act cannot cover those transactions.

* Section 1. AS 45.50. is amended by adding a new paragraph to read:

(9) "trade or commerce" includes the advertising, offering for sale, sale, barter, or distribution of any services or any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this state.

Enclosed you will find additional back-up information outlining the necessity of this amendment. I recommend that the Rules Committee consider amending SB 432 to include this proposal.

MEMORANDUM

State of Alaska

TO: Senate Labor & Commerce Committee DATE: April 21, 1983
Pouch V
Juneau, AK

FILE NO.

TELEPHONE NO: 279-0428

FROM: Connie J. Sipe
Assistant Attorney General
Chief, Consumer Protection Section
AGO/Anchorage

SUBJECT: House Bill 236

1. HISTORY. The Unfair Trade Practices and Consumer Protection Act (UTP&CPA) prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce. Twenty-five non-exclusive examples are listed as particular types of prohibited acts. Last December, the Supreme Court held that the UTP&CPA is "directed at regulating practices relating to transactions involving consumer goods and services" and does not encompass the sale of real property. That case involved a major land development in the Matanuska Valley which was located in a flood plain, a fact well known to the developers but misrepresented to purchasers.

Following the Supreme Court decision, Representative Lacher, at the urging of Mat-Su Borough Attorney Steve Morrisett, introduced House Bill 236 (copy attached) adding a definition to the UTP&CPA defining "trade or commerce" to include real property and any commerce directly or indirectly affecting commerce in the state. (Previously we relied on case law definitions of "trade or commerce," as there was no definition in the statute.)

2. IMPORTANCE. There is great ambiguity as to how far the supreme court's exclusion of "real property" operates. Does it include condominiums, builder/developer sales of homes and lots, mobile homes, time shares (resorts), and tenant leasehold interests, or is it limited to raw land sales?

This office receives numerous telephone inquiries from the public concerning real estate. So far in FY 83 thirty-four consumer complaints have been filed in Anchorage in the areas of land development sales (including in-state lots, out-of-state lots, and time shares); real property (including houses and condominiums); and home construction. We have formally opened investigative files in FY 83 for fifteen "real property" transactions in those same categories. [I have not included mobile homes in these statistics, an industry in which we have had a large volume of complaints.]

Many other states specifically include real property within the coverage of their Consumer Protection Acts. A

recent Colorado Supreme Court decision held that a builder/developer selling a home and a piece of property is subject to the jurisdiction of the Consumer Protection Act of that state, although a recent Massachusetts decision has ruled that landlord/tenant disputes are not within Consumer Protection jurisdiction.

It has always been this office's interpretation, prior to the supreme court opinion, that we do have jurisdiction over real property. Our act is a mini-Federal Trade Commission Act and real property has always been covered by the Federal Trade Commission. Hence, the recent decision alters our long standing practice and opens the door for the development of future case law further expanding the types of "real property" transactions which are not covered under the UTP&CPA or under any other Alaska statute.

3. PRIVATE CONSUMER RIGHTS. This bill affects not only public law enforcement against frauds involving real property, but also insures that individual consumers hurt in such transactions will continue to have the private cause of action set out in the Unfair Trade Practices Act, AS 45.50.531. This statutory private cause of action allows for up to triple damages and attorneys' fees for successful consumer plaintiffs bringing private suits against fraud.

4. ALASKA UNIFORM LAND SALES PRACTICES ACT. We understand that some developers may oppose this amendment because ALSPA (AS 34.55.004 et. seq.) governs misrepresentations and fraud in land transactions. It is true that ALSPA does cover some of these transactions; however, its coverage is severely limited. To begin with, ALSPA only covers formally subdivided, undeveloped land and would not cover un-subdivided or developed parcels, resulting in totally unregulated contractor/developer sales wherein a home is sold with land.

Also, ALSPA exempts land sellers from registration if less than 50 lots are sold in-state over 12 months, or less than 10 lots are sold out-of-state. We know of at least one State Trooper investigation wherein a developer is deliberately selling under 50 lots per year in order to escape scrutiny under ALSPA. This particular developer was previously registered under ALSPA and has chosen to let the registration lapse and sell only 48 lots per year.

5. DUPLICATION OF REGULATION. The Unfair Trade Practices Act coverage of real property does not duplicate other state regulation, such as the real estate licensing laws. Whenever a licensed real estate agent violates a real estate statute prohibiting fraud, that activity is exempt from the UTP&CP Act, by action of AS 45.50.485(1). The attorney general has usually interpreted this section (.485)

to exempt real estate brokers and agents from the direct jurisdiction of the UTP&CP Act. A licensed agent may become involved in an investigation under the UTP&CP Act when the realtor is part of, or witness to, land fraud by un-licensed, non-regulated individuals, such as a land developer.

6. SUMMARY. This amendment is very important because there are far too many "real property" transactions which could fall between the cracks if the UTP&CPA does not cover those transactions. The language on lines 15 and 16 of the bill focuses on the need to extend the Act to not only those activities which occur in-state but which "affect commerce in the state" even though they may happen elsewhere.

This language, combined with the real property coverage, is very important in the current time share resort sales programs sweeping the country. These programs (which are frequently sold through various deceptive advertising campaigns) offer a property interest in a piece of resort property for a number of weeks per year; for instance, two weeks a year in a Hawaii condominium.

The suggested definition of "trade or commerce" would not only get us over the hurdle of a challenge to the attorney general filing a real property case, but would also bolster our jurisdictional claim in a challenge of our long arm jurisdiction against an out-of-state business.

CJS/aw



Matanuska-Susitna Borough

BOX 8, PALMER, ALASKA 99645 • PHONE 745-3288-1

BOROUGH ATTORNEY'S OFFICE

February 8, 1983

The Honorable Barbara Lacher
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Barbara:

The recent Supreme Court decision of Brown v. State of Alaska, Opinion No. 2591 (December 3, 1982) effectively limits the Unfair Trade Practices and Consumer Protection Act by excluding real estate development transactions.

The Brown case involved alleged fraudulent misrepresentations to purchasers of lots in Windsong Subdivision in the Matanuska-Susitna Borough, that flooding possibilities were remote and that flood and mortgage insurance was available. Purchasers were given the second page of the Windsong Subdivision plat, but they never received the first page, which had a flood warning notation placed on it by the Platting Board. Although the Army Corps of Engineers concluded that the subdivision was in a high-hazard area, the developer represented that experts, including the Corps, had concluded the possibility of flooding was remote.

The Supreme Court ruled that the scope of the Unfair Trade Practices Act did not include the sale of real property. The decision was based on statutory interpretation. The Court noted that, unlike certain other states, Alaska did not have a definition of "trade or commerce" which includes real property. It noted that none of the list of prohibited acts in A.S. 45.50.471 mentions real property. Without clear legislative direction, the Court declined to apply the Act to real property transaction.

This does not entirely eliminate remedies for a purchaser of a lot based on fraudulent misrepresentations. The Uniform Land Sales Practices Act, A.S. 34.55.004--34.55.046 provides for individual relief. However, in the Brown case, the Court found that the State could not sue the developer directly for fraud, but had to bring suit as representative of defrauded consumers, "in the nature of a class action." This requires costly and time-consuming steps to assure individual notices to all consumers, who then may be treated as parties in the lawsuit.


Common law fraud is also a basis for suit. However, this does not provide for the clear authority of the Attorney General to prosecute fraudulent land developers and obtain injunctive relief in the manner provided by the Unfair Trade Practices Act.

The result of the Brown decision may be to eliminate any easy remedy to a homeowner who purchases a home based on knowing, fraudulent misrepresentations. The Consumer Protection Division of the Department of Law has declined to pursue a recent case in this Borough involving possible fraud in the sale of homes to consumers in this Borough. Although sympathetic, that office indicated that the problems created by the Brown decision would make it inadvisable to use its scarce legal resources on such a problem.

The attached bill has been drafted to rectify this problem. It includes a definition for "trade or commerce" similar to that in the Massachusetts consumer act of similar nature. The bill was prepared after consultation with Connie Sipe at the State Consumer Protection Division, who provided valuable comment. The bill, as proposed, would provide the legislative direction which the Supreme Court has found to be absent.

I would be happy to discuss this matter further at your convenience.

Sincerely,



Steven H. Morrisett
Borough Attorney

er

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
PO BOX 478
PALMER, ALASKA 99645
(907) 376-4215



WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

MEMORANDUM

TO: Senator Eliason

FROM: REPRESENTATIVE BARBARA LACHER *BL*

SUBJECT: HB 236

DATE: April 12, 1983

House Bill 236 was introduced to address a current gap in Alaska State Law. The Consumer Protection Agency has been in vigorous pursuit of cases of real estate fraud until the recent Alaska Supreme Court decision of Crown v. State of Alaska [5006/5107] which favored a fraudulent developer due to an unclear definition of "trade or commerce" in the Statutes.

HB 236 amends this gap in the Statutes to protect the citizens of the state from further cases of fraud in their lifetime home investments.

This legislation passed all House Committees of referral with all Representatives recommending "do pass" and passed the House Floor with unanimous consent.

I urge your support of this worthy legislation.

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215



WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

MEMORANDUM

TO: Senator Richard Eliason
Chairman, Senate Labor & Commerce

FROM: Representative Barb Lacher *BL*

DATE: February 22, 1984

RE: HB 236

Dear Richard,

HB 236, an Act providing a definition for "trade or commerce" in the Unfair Trade Practice and Consumer Protection Act is currently awaiting action in the Senate Labor & Commerce committee. I respectfully request that a hearing be scheduled for this bill. Thank you.

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE



P.O. BOX 143
SITKA, ALASKA 99835
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

MEMORANDUM

TO: Representative Barb Lacher

FROM: Senator Dick Eliason, Chair
Senate Labor and Commerce

DATE: March 15, 1984

RE: HB 236

In response to your concern regarding HB 236, I want to let you know that this bill is now incorporated into SB 488, relating to unfair trade practice. Introduced on 2/13/84, this bill cleans up existing statutes and clarifies business/consumer relationships. It is also supported by the Administration.

If any problems arise with the final passing of SB 488, the Senate Labor and Commerce Committee will reconsider HB 236. For your information, the Committee will be hearing SB 488 in the near future.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
DUNELAU, ALASKA 99511
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 4, 1983

SUBJECT: Definition of "trade or commerce" in Unfair
Trade Practice and Consumer Protection Act
(HB 236)

TO: Representative Barbara Lacher

FROM: Richard C. Folta
Legislative Counsel

Following is the sectional analysis you requested for
HB 236.

Section 1 of the above referenced bill provides for a definition of "trade and commerce" for the Consumer Protection Act, AS 45.50.471 - 45.50.561. The provision is identical to the statutory provisions of the State of Massachusetts, and includes the words "real property". On December 3, 1982, the Alaska Supreme Court in Alaska v. Brown, No. 2591, held that the Consumer Protection Act did not cover the sale of real property. HB 236 will provide for real property transaction remedies.

The definition of "trade and commerce" will not include strictly private transactions. In defining the words "trade and commerce" it was intended to clarify the scope of the words rather than expanding the coverage of the Consumer Protection Act. The relief provided under the Consumer Protection Act is in addition to, not an alternative to, tort and contract remedies. Like the Alaska Uniform Land Sales Practice Act (AS 34.55.004 - 34.55.046) the Consumer Protection Act provides for filing of class actions by the Alaska Attorney General.

Section 2 of the bill provides for an immediate effective date.

RCF:ljb
13/012

Sectional Analysis

MEMORANDUM

State of Alaska

TO: Senate Labor & Commerce Committee DATE: April 21, 1983
Pouch V
Juneau, AK FILE NO.
TELEPHONE NO: 279-0428

FROM: Connie J. Sipe SUBJECT: House Bill 236
Assistant Attorney General
Chief, Consumer Protection Section
AGO/Anchorage

1. HISTORY. The Unfair Trade Practices and Consumer Protection Act (UTP&CPA) prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce. Twenty-five non-exclusive examples are listed as particular types of prohibited acts. Last December, the Supreme Court held that the UTP&CPA is "directed at regulating practices relating to transactions involving consumer goods and services" and does not encompass the sale of real property. That case involved a major land development in the Matanuska Valley which was located in a flood plain, a fact well known to the developers but misrepresented to purchasers.

Following the Supreme Court decision, Representative Lacher, at the urging of Mat-Su Borough Attorney Steve Morrisett, introduced House Bill 236 (copy attached) adding a definition to the UTP&CPA defining "trade or commerce" to include real property and any commerce directly or indirectly affecting commerce in the state. (Previously we relied on case law definitions of "trade or commerce," as there was no definition in the statute.)

2. IMPORTANCE. There is great ambiguity as to how far the supreme court's exclusion of "real property" operates. Does it include condominiums, builder/developer sales of homes and lots, mobile homes, time shares (resorts), and tenant leasehold interests, or is it limited to raw land sales?

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Letter of Support

recent Colorado Supreme Court decision held that a builder/developer selling a home and a piece of property is subject to the jurisdiction of the Consumer Protection Act of that state, although a recent Massachusetts decision has ruled that landlord/tenant disputes are not within Consumer Protection jurisdiction.

It has always been this office's interpretation, prior to the supreme court opinion, that we do have jurisdiction over real property. Our act is a mini-Federal Trade Commission Act and real property has always been covered by the Federal Trade Commission. Hence, the recent decision alters our long standing practice and opens the door for the development of future case law further expanding the types of "real property" transactions which are not covered under the UTP&CPA or under any other Alaska statute.

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Also, ALSPA exempts land sellers from registration if less than 50 lots are sold in-state over 12 months, or less than 10 lots are sold out-of-state. We know of at least one State Trooper investigation wherein a developer is deliberately selling under 50 lots per year in order to escape scrutiny under ALSPA. This particular developer was previously registered under ALSPA and has chosen to let the registration lapse and sell only 48 lots per year.

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The suggested definition of "trade or commerce" would not only get us over the hurdle of a challenge to the attorney general filing a real property case, but would also bolster our jurisdictional claim in a challenge of our long arm jurisdiction against an out-of-state business.

CJS/aw



Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-32201

BOROUGH ATTORNEY'S OFFICE

February 8, 1983

The Honorable Barbara Lacher
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Barbara:

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The Supreme Court ruled that the scope of the Unfair Trade Practices Act did not include the sale of real property. The decision was based on statutory interpretation. The Court noted that, unlike certain other states, Alaska did not have a definition of "trade or commerce" which includes real property. It noted that none of the list of prohibited acts in A.S. 45.50.471 mentions real property. Without clear legislative direction, the Court declined to apply the Act to real property transaction.

This does not entirely eliminate remedies for a purchaser of a lot based on fraudulent misrepresentations. The Uniform Land Sales Practices Act, A.S. 34.55.004--34.55.046 provides for individual relief. However, in the Brown case, the Court found that the State could not sue the developer directly for fraud, but had to bring suit as representative of defrauded consumers, "in the nature of a class action." This requires costly and time-consuming steps to assure individual notices to all consumers, who then may be treated as parties in the lawsuit.

Background Letter

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The result of the Brown decision may be to eliminate any easy remedy to a homeowner who purchases a home based on knowing, fraudulent misrepresentations. The Consumer Protection Division of the Department of Law has declined to pursue a recent case in this Borough involving possible fraud in the sale of homes to consumers in this Borough. Although sympathetic, that office indicated that the problems created by the Brown decision would make it inadvisable to use its scarce legal resources on such a problem.

The attached bill has been drafted to rectify this problem. It includes a definition for "trade or commerce" similar to that in the Massachusetts consumer act of similar nature. The bill was prepared after consultation with Connie Sipe at the State Consumer Protection Division, who provided valuable comment. The bill, as proposed, would provide the legislative direction which the Supreme Court has found to be absent.

I would be happy to discuss this matter further at your convenience.

Sincerely,



Steven H. Morrisett
Borough Attorney

er

MEMORANDUM

State of Alaska

TO: Honorable Dick Eliason
Chairman
Senate Labor & Commerce Committee
Alaska State Legislature

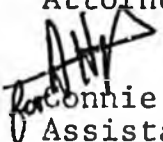
DATE: April 22, 1983

FILE NO:
TELEPHONE NO: 465-3600

FROM: ATTN: Sheila Peterson
Researcher

SUBJECT: Attached proposed
SCSHB 236 (L&C) --
defining "trade or
commerce"

Norman C. Gorsuch
Attorney General

By: 
Connie J. Sipe
Assistant Attorney General
Anchorage

Sheila, while I was drafting the retroactivity clause, Art Peterson advised that I also submit a suggested committee report on this Act and its retrospective effect. Since I had to return to Anchorage this p.m., I am taking the liberty of sending you this draft report, without our having had a chance to discuss it. Please call me in Anchorage, 279-0428 if you have any questions.

The proposed committee substitute and committee report are attached.

CJS/jb

cc w/enc.: Representative Barbara Lacher
ATTN: Sara Robinson

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907.465.3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 28, 1983

SUBJECT: Retroactive provision
(SCSHB 236 (L&C))

TO: Senator Richard I. Eliason

FROM: Richard C. Folta 
Legislative Counsel

The Senate Committee Substitute for HB 236 request provides for a retroactive section. Based on the rationale of State v. Brown, Op. No. 2591 (1982), it is our opinion that the retroactive provision is likely to be held unconstitutional. Regardless of the merits of that case, the Court decided that real property fraud was not covered by the Consumer Protection Act. The passage of SCSHB 236 will create a change in the law affecting substantive rights of parties which may not be retrospectively applied. Matanuska Maid, Inc. v. State, 620 P.2d 182 (1980).

RCF:ljb
17/001

Re: Retroactive clause

MEMORANDUM

State of Alaska

TO: Honorable Dick Eliason
Chairman
Senate Labor & Commerce Committee
Alaska State Legislature

DATE: Apr: *Rm*
FILE NO: *417*
TELEPHONE NO: 465

FROM: ATTN: Sheila Peterson
Researcher

SUBJECT: Attached
SCSHB 236 (L&C) --
defining "trade or
commerce"

Norman C. Gorsuch
Attorney General

By: *[Signature]*
Connie J. Sipe
Assistant Attorney General
Anchorage

Sheila, while I was drafting the retroactivity clause, Art Peterson advised that I also submit a suggested committee report on this Act and its retrospective effect. Since I had to return to Anchorage this p.m., I am taking the liberty of sending you this draft report, without our having had a chance to discuss it. Please call me in Anchorage, 279-0428 if you have any questions.

The proposed committee substitute and committee report are attached.

CJS/jb

cc w/enc.: Representative Barbara Lacher
ATTN: Sara Robinson

DRAFT

LABOR AND COMMERCE
COMMITTEE REPORT

The Senate Labor and Commerce Committee, having considered HB 236 and the testimony of the Department of Law in support of that bill, ~~the committee~~ is offering a committee substitute that provides for retroactive application of the definition contained in HB 236. When the 1974 Alaska Legislature enacted the Unfair Trade Practices and Consumer Protection Act, it indicated, at AS 45.50.545, "Interpretation," a strong intent that the UTP&CP Act was to be interpreted in accordance with decades of federal court decisions regarding the Federal Trade Commission Act. Since the "trade or commerce" clause of that federal Act had been interpreted to include transactions in real property, the Alaska Legislature apparently meant to include real property within the scope of the parallel Alaska Act.

However, in a case decided in December of 1982, the Supreme Court of Alaska announced a contrary interpretation, finding that, since much of the Alaska Act deals with "consumer goods and services," real property is not included in the type of "trade or commerce" covered by the Act. To the extent that the court's decision interpreted original legislative intent, this committee thinks that the court made an incorrect decision. The committee believes that the attached committee substitute cures

whatever defect or omission in the original Act the court may have relied upon in reaching that decision.

The committee also finds that it is necessary to protect the public interest by clarifying that real property has always been included in the coverage of the UTP&CP Act, since its passage in 1974. The committee substitute includes a retroactivity provision in order to insure that the public interest in enforcement against real property frauds which may have occurred before the enactment of this amendment will not be thwarted by the supreme court's decision. (However, it is not the committee's intent that the state re-prosecute the parties involved in the case already decided by the supreme court. The intent behind the retroactivity clause is only to avoid future challenges to the applicability of the UTP&CP Act to real property frauds which may have occurred before enactment of this amendment.)

Based on these considerations, this committee supports not only the intent of the original House Bill 236, but also the inclusion of a retroactivity clause. This clause makes this remedial legislation retroactive to the effective date of the original UTP&CP Act, May 4, 1974.

Dick Eliason
Chairman

HB

241

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST Senate CS for FISCAL DETAIL
 Bill/Resolution No.: CS for HB 241 Agency Affected: Commerce & Economic Dev.
 Title: An Act relating to the Program Category Affected: Public Protection
 creation of the AK Boxing Commission;...
 Sponsor: Labor & Commerce Committee BRU, Program or Subprogram(s) Affected:
 Requestor: Division of Occupational Licensing
 Date of Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 |
|-----------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | 65.3 | 69.9 | 31.7 | 33.9 | 36.3 |
| 200 TRAVEL | | 10.1 | 10.8 | 11.6 | 12.4 | 13.3 |
| 300 CONTRACTUAL | | 3.6 | 3.8 | 4.1 | 4.4 | 4.7 |
| 400 SUPPLIES | | 1.0 | 1.1 | 1.1 | 1.2 | 1.3 |
| 500 EQUIPMENT | | 7.4 | | | | |
| 600 LAND & STRUCTURES | | 5.4 | | | | |
| 700 GRANTS, CLAIMS | | | | | | |
| 800 MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | | 92.3 | 85.6 | 48.5 | 51.9 | 55.6 |
| CAPITAL | | | | | | |
| REVENUE | | 1.0 | 1.1 | 1.2 | 1.3 | 1.3 |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|------|------|------|------|------|
| GENERAL FUND | | 92.8 | 85.6 | 48.5 | 51.9 | 55.6 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|---|---|---|---|---|
| FULL-TIME | | 2 | 2 | 1 | 1 | 1 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Jennifer Strickler, Mgr. Analyst

Phone: 465-2144

Division: Occupational Licensing

Date: 3/19/84

Approved by Commissioner: Richard A. Lyon

Date: 3/23/84

Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

SENATE CS for CS for HOUSE BILL 241 (L&C)

(Note: 7% inflation factor projected for FY '86 through FY '89 for operating costs)

100 PERSONAL SERVICES:

| | |
|---|---------------------------|
| 1 Licensing Examiner, Range 12A, GGU, 12 months to be located in Juneau | \$31,721.83 |
| 1 Regulations Specialist I, Range 13A, GGU, 2 year duration only, to be located in Juneau | _33,588.12 \$65,309.95 |

200 TRAVEL:

| | | |
|---|--|-------------|
| License Examiner: | 2 board meetings (2 days ea. @ \$80 per day/ per diem = \$160 x 2) | \$320.00 |
| | Transportation - 2 board mtgs @ \$400 ea. | 800.00 |
| Board Members: | 5 board members - 2 board meetings (2 days ea. @ \$80 per day/ per diem = \$160 x 5 x 2) | 1,600.00 |
| | Transportation - 2 board mtgs @ \$400 ea. x 5 board members | 4,000.00 |
| (Additional Board- Travel to supervise events): | 4 events: (2 days ea. @ \$80 per day/ per diem = \$160 x 4) | 640.00 |
| | Transportation - 4 events @ \$400 ea. | 1,600.00 |
| Support Staff: (Regs. Spec.): | 2 board meetings (2 days ea. @ \$80 per day/ per diem = \$160 x 2) | 320.00 |
| | Transportation - 2 board mtgs @ \$400 ea. | 800.00 |
| | | \$10,080.00 |

300 CONTRACTUAL:

| | |
|--|----------------------|
| Postage, telephone, printing, publication and operating cost: | \$5,000.00 |
| Meeting rooms for board meetings (2 meetings 2 days ea @ \$150 per day = 2 x \$150 x 2) | 600.00 \$3,600.00 |

400 COMMODITIES:

| | |
|---|------------|
| Stationery, typewriter ribbons, pens, pencils, and other miscellaneous desk top supplies | \$1,000.00 |
|---|------------|

500 EQUIPMENT: (one time costs only)

| | |
|---|--------------------|
| 2 desks, double pedestal, 70"x36" @ 711.50 ea. | \$ 1,423.00 |
| 2 chairs, swivel with arms @ 225.42 ea. | 450.84 |
| 2 typewriters, IBM Selectric II @ 1242.09 | 2484.18 |
| 2 typewriter tables @ 135.65 ea. | 271.30 |
| 2 chairs, side, without arms @ 114.16 ea. | 228.32 |
| 1 desk calculators @ 364.66 ea. | 364.66 |
| 1 recorder, Lanier @ 775.87 ea. | 775.87 |
| 2 storage cabinets, 36"x18"x78" @ 288.66 ea. | 577.32 |
| 2 filing cabinets, 5 drawer, legal w/lock @ 406.91 ea | 813.82 |
| | <u>\$ 7,389.31</u> |

600 LAND & STRUCTURES: (one time costs only)

2 positions = 150 sq. ft. x 1.50 x 12 = 2700 5,400.00

GRAND TOTAL \$ 12,789.31

| | | | | | | | | | |
|-----|--------------------------------------|-----------------------|-----------|-------------------|--|----------------------|--------------------------|---------|---------|
| 1. | POSITION TITLE License Examiner I | | | RANGE/STEP 12A | BARG. UNIT GGU | FORM 12 PAGE/LINE | GOV. | APPROV. | DISAPP. |
| 2. | TYPE OF POSITION PFT | STAFF MONTHS 12 | RP NUMBER | PCN NUMBER | BRU PRIORITY | LOCATION AWA | ELECTION DISTRICT ALL | LEG. | |
| 3. | CONTINUATION LEVEL | | | ADDITION | JUSTIFICATION | | | | |
| 4. | TYPE OF EXPENDITURE | | | AMOUNT | <p>This position would be required under Senate CS for CS for House Bill 241 (L&C), "An Act relating to the creation of the Alaska Boxing Commission and the regulation of professional boxing; and providing for an effective date."</p> <p>The position is necessary to implement the provisions of AS 08.15, to provide necessary support to the Alaska Boxing Commission in the organization of the Commission, initial licensing and renewal of applicants, establishing license files, Commission records, computer entry of license data, conducting commission meetings (providing administrative support for such meetings), communicate with other professional boards and commissions, provide budget input to the Division as to Commission needs for funding, and all other duties as needed.</p> | | | | |
| | PERSONAL SERVICES | | | | | | | | |
| 5. | Salary | | 23.7 | | | | | | |
| 6. | Benefits | | 3.9 | | | | | | |
| 7. | Supplemental Benefits | | 1.5 | | | | | | |
| 8. | Fixed Benefits | | 2.7 | | | | | | |
| 9. | TOTAL PERSONAL SERVICES | | 01 | 31.8 | | | | | |
| 10. | Travel | | .02 | 1.1 | | | | | |
| 11. | Contractual | | 03 | 1.5 | | | | | |
| 12. | Commodities | | 04 | .5 | | | | | |
| 13. | Equipment | | 05 | 4.3 | | | | | |
| 14. | Other | | | 2.7 | | | | | |
| 15. | TOTAL COST | | | 41.9 | | | | | |
| | RECEIPT CODE | FUNDING SOURCE | | | | | | | |
| 16. | | Federal Receipts 1002 | | | | | | | |
| 17. | | G.F. Match 1003 | | | | | | | |
| 18. | | General Funds 1004 | | 41.9 | | | | | |
| 19. | | I-A Receipts 1005 | | | | | | | |
| 20. | | Program Receipts 1028 | | | | | | | |
| 21. | | Other | | | | | | | |

FOR BSM USE ONLY
4A. KEY NUMBER _____

AGENCY Commerce & Economic Development
 PROGRAM Consumer Protection
 BRU Occupational Licensing
 COMPONENT Administration

13 REQUEST FOR
NEW POSITION

Page 1 of 2
Revised Date _____

FY 85

| | | | | | | | | | | | |
|---------------------|--|--------------------|-----------|------------|-------------------|---|--------------------------|-----------|---------------|---------|---------|
| 1. | POSITION TITLE Regulations Specialist I | | | | RANGE/STEP 13A | BARG. UNIT GGU | FORM 12 | PAGE/LINE | GOV. | APPROV. | DISAPP. |
| 2. | TYPE OF POSITION PFT | STAFF MONTHS 12 | RP NUMBER | PCN NUMBER | BRU PRIORITY | LOCATION AWA | ELECTION DISTRICT ALL | | LEG. | | |
| 3. | CONTINUATION LEVEL | | | | ADDITION | | | | JUSTIFICATION | | |
| 4. | TYPE OF EXPENDITURE | | | AMOUNT | | <p>This position would be required under Senate CS for CS for House Bill 241 (L&C), "An Act relating to the creation of the Alaska Boxing Commission and the regulation of professional boxing; and providing for an effective date."</p> <p>The position is necessary to implement the provisions of AS 08.15, by providing necessary support to the Alaska Boxing Commission in assisting to draft, public notice and process regulations in accordance with the Administrative Procedure Act. The Bill requires the Commission to promulgate regulations necessary to carry out the chapter.</p> <p>It is anticipated that this position will be needed for two years to assist in establishing the basic guidelines for licensure and to assist in implementation of all provision of AS 08.15.</p> | | | | | |
| | 1 | 2 | 3 | | | | | | | | |
| | PERSONAL SERVICES | | | | | | | | | | |
| 5. | Salary | 25.2 | | | | | | | | | |
| 6. | Benefits | 4.1 | | | | | | | | | |
| 7. | Supplemental Benefits | 1.5 | | | | | | | | | |
| 8. | Fixed Benefits | 2.7 | | | | | | | | | |
| 9. | TOTAL PERSONAL SERVICES | 01 | 33.5 | | | | | | | | |
| 10. | Travel | 02 | 1.1 | | | | | | | | |
| 11. | Contractual | 03 | 1.5 | | | | | | | | |
| 12. | Commodities | 04 | .5 | | | | | | | | |
| 13. | Equipment | 05 | 3.1 | | | | | | | | |
| 14. | Other | | 2.7 | | | | | | | | |
| 15. | TOTAL COST | | 42.4 | | | | | | | | |
| | RECEIPT CODE | FUNDING SOURCE | | | | | | | | | |
| 16. | | Federal Receipts | 1002 | | | | | | | | |
| 17. | | G.F. Match | 1003 | | | | | | | | |
| 18. | | General Funds | 1004 | 42.4 | | | | | | | |
| 19. | | I-A Receipts | 1005 | | | | | | | | |
| 20. | | Program Receipts | 1020 | | | | | | | | |
| 21. | | Other | | | | | | | | | |
| FOR BSM USE ONLY | | | | | | | | | | | |
| 4A KEY NUMBER _____ | | | | | | | | | | | |

13 REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development
 PROGRAM Consumer Protection
 BRU Occupational Licensing
 COMPONENT Administration

Page 2 of 2
 Revised Date _____

FY 85

STATE OF ALASKA
FISCAL NOTE

Revision Date June 14, 1983

I. REQUEST

Bill/Resolution No.: CSHB NO. 241 (Fin)amS
 Title: "Alaska Boxing Commission"
 Sponsor: Labor and Commerce Committee
 Requestor: _____

II. FISCAL DETAIL

Commerce and
 Agency Affected: Economic Development
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|-------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | 30.5 | 32.6 | 34.9 | 37.4 | 40.0 |
| 200 TRAVEL | | 13.3 | 14.0 | 15.2 | 16.3 | 17.4 |
| 300 CONTRACTUAL | | 10.0 | 10.7 | 11.4 | 12.2 | 13.1 |
| 400 COMMODITIES | | .4 | .4 | .5 | .5 | .5 |
| 500 EQUIPMENT | | 3.4 | -0- | -0- | -0- | -0- |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC | | | | | | |
| TOTAL OPERATING | | 57.6 | 57.9 | 62.0 | 66.4 | 71.0 |
| CAPITAL | | | | | | |
| REVENUE | | 1.1 | 1.1 | 1.1 | 1.1 | 1.1 |

FUNDING: (Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|------------------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND | | 57.6 | 57.9 | 62.0 | 66.4 | 71.0 |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS:

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|-----------|-------|-------|-------|-------|-------|-------|
| FULL-TIME | | 1 | 1 | 1 | 1 | 1 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by the sponsor

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Darrell Miller Phone: 465-2535
 Division: Occupational Licensing Date: June 14, 1983
 Approved by Commissioner: Richard A. Lyon Date: 6/21/83
 Department: Commerce & Economic Development

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

Fiscal Impact: "An Act relating to the creation of the Alaska Boxing Commission and the regulation of professional boxing."

100 PERSONAL SERVICES - FY'83 salary schedule
(7% inflation factor projected for subsequent fiscal years.)

One Licensing Examiner, Range 12, GGU, 12 months, to be located in Juneau \$30,452.00

200 TRAVEL

Four board meetings annually (2 days each @\$80.00 per day per diem for five board members and one administrative staff; \$80.00 x 2 = \$160.00 x 6 = \$960.00 x 4 = \$3,890.00. Two board meetings for one administrative staff = 2 x \$80.00 = \$160.00 x 2 = \$320.00. \$ 4,160.00

Transportation: Four board meetings annually (\$350.00 each x board members and one administrative staff = \$2,100.00 x 4 = \$8,400.00. Two board meetings for one administrative staff = 2 x \$350.00 = \$700.00. \$ 9,100.00

300 CONTRACTUAL

Portage, telephone, development of licensing forms, licenses, printing, contracting for licensed physician at boxing events, computer terminal use (pro-rated share), publications and other operating costs. \$10,000.00

400 COMMODITIES

Stationery, typewriter, ribbons, pens, pencils and all miscellaneous desk top supplies. \$ 400.00

500 EQUIPMENT (One time cost - FY'84 only)

| | |
|--|--------------------|
| 1 desk, double pedestal, 60 x 30" | \$ 427.00 |
| 1 chair, swivel with arms | 202.00 |
| 1 typewriter, IBM Selectric II | 1,129.00 |
| 1 typewriter, table | 94.00 |
| 1 chair, side without arms | 104.00 |
| 1 desk calculator | 332.00 |
| 1 recorder, Lanier | 705.00 |
| 1 book case | 138.00 |
| 1 file cabinet, 4 drawer, legal size with lock | 306.00 |
| | <u>\$ 3,437.00</u> |

TOTAL FISCAL IMPACT: \$57,549.00

REVENUE:

The last three fiscal years, 81, 82 and 83 show a total revenue of \$3,180.00 for licensing. This averages \$1,060.00 per year, however, the trend for licensing shows declining revenue. FY'81 revenue shows \$1,700.00, 82 \$930.00 and 83 \$550.00

| | | | | | | | | | |
|------------------|--------------------------------------|--------------------|-----------|-------------------|-------------------|-------------------|--------------------------|---------|---------|
| 1. | POSITION TITLE Licensing Examiner | | | RANGE/STEP 12A | BARG. UNIT GGU | FORM 12 PAGE/LINE | GOV. | APPROV. | DISAPP. |
| 2. | TYPE OF POSITION PFT | STAFF MONTHS 12 | RP NUMBER | PCN NUMBER | BRU PRIORITY | LOCATION AWA | ELECTION DISTRICT A11 | LEG. | |
| 3. | CONTINUATION LEVEL | | | ADDITION | JUSTIFICATION | | | | |
| 4. | TYPE OF EXPENDITURE | | | AMOUNT | | | | | |
| | 1 | 2 | 3 | | | | | | |
| | PERSONAL SERVICES | | | | | | | | |
| 5. | Salary | 22.7 | | | | | | | |
| 6. | Benefits | 3.5 | | | | | | | |
| 7. | Supplemental Benefits | 1.4 | | | | | | | |
| 8. | Fixed Benefits | 2.9 | | | | | | | |
| 9. | TOTAL PERSONAL SERVICES | 01 | 30.5 | | | | | | |
| 10. | Travel | 02 | -0- | | | | | | |
| 11. | Contractual | 03 | -0- | | | | | | |
| 12. | Commodities | 04 | .4 | | | | | | |
| 13. | Equipment | 05 | 3.4 | | | | | | |
| 14. | Other | | | | | | | | |
| 15. | TOTAL COST | | 34.3 | | | | | | |
| | RECEIPT CODE | FUNDING SOURCE | | | | | | | |
| 16. | | Federal Receipts | 1002 | | | | | | |
| 17. | | G.F. Match | 1003 | | | | | | |
| 18. | | General Funds | 1004 | 34.3 | | | | | |
| 19. | | I-A Receipts | 1005 | | | | | | |
| 20. | | Program Receipts | 1028 | | | | | | |
| 21. | | Other | | | | | | | |
| FOR DSM USE ONLY | | | | | | | | | |
| 4A KEY NUMBER | | | | | | | | | |

This position would be required to implement the provisions of CSHB NO. 241.

13 REQUEST FOR
NEW POSITION

AGENCY COMMERCE & ECONOMIC DEVELOPMENT
PROGRAM CONSUMER PROTECTION
BRU OCCUPATIONAL LICENSING
COMPONENT ADMINISTRATION

FY 84

Page 1 of 1
Revised Date June 14, 1983

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE BUDGET AND AUDIT COMMITTEE

June 20, 1983

SUMMARY OF: A Report on the Office of the Governor, State Athletic Commission, For the Period July 1, 1975 - April 30, 1983.

PURPOSE OF THE REPORT

In accordance with a Legislative Budget and Audit Committee request and Title 24 of the Alaska Statutes, this special report has been prepared to document and evaluate the activities of the State Athletic Commission for the period July 1, 1975 through April 30, 1983.

Statutorily, the State Athletic Commission (SAC) should have a role in a myriad of sporting and athletic events (see discussion of statutes and the Commission's role in the Organization and Function section of this report). However, the Commission role is best defined and most visible in its regulatory responsibility over combative sports - primarily boxing. As a result, the primary focus of this report is the past and current roles that the Commission has played in the regulation of boxing in the State of Alaska. In addition, we examined the prospective status of boxing in the State and discuss possible alternatives of the nature and extent of the Athletic Commission in regulating the sport.

SUMMARY OF HISTORICAL PERFORMANCE

The history of the State Athletic Commission has been one of neglect on the part of the Executive Branch. It is amazing that the Commission accomplished as much supervision and regulation as it has. The situation, as it has been allowed to exist, is fraught with potential for abuse. Indeed, we have identified one situation where license fees were not remitted to the State, largely due to neglect on the part of the Office of the Governor.

FINDINGS AND RECOMMENDATIONS

1. The Office of the Governor and the Department of Commerce and Economic Development, in conjunction with the Department of Law, should clarify both the legal status of the State Athletic Commission and the extent of its jurisdiction.

In short term, we believe it is in the best interests of the State to develop a legally defensible policy and approach towards the regulation of combative sports under the current statute. The lack of a clear, legally sound approach to regulation has the potential for abuse by unscrupulous promoters, and may place the State in legal jeopardy. We recommend the Department of Law consider the issues raised by Director of Occupational Licensing's inquiries and those involved with legal exposure of the State in order to advise and act to protect the interests of the State.

2. The Governor, upon considering the State's responsibility for the welfare and protection of the participants and spectators of combative sports, should develop proposed legislation to do one of the following:
 - a. Introduce legislation to more clearly define the nature and extent of the SAC's responsibilities and fund it accordingly.
 - b. Introduce legislation to abolish SAC and repeal its statutes.
 - c. Request funding for the current SAC in order that it can adopt and enforce regulations to more effectively regulate combative sports.

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STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

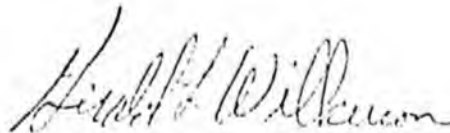
June 20, 1983

Members of the
Legislative Budget and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes and your special request, the attached report is submitted for your review.

A REPORT ON THE
OFFICE OF THE GOVERNOR
STATE ATHLETIC COMMISSION

For the Period July 1, 1975 - April 30, 1983



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

ORGANIZATION AND FUNCTION

The State Athletic Commission (SAC) was created by the first State Legislature in 1959. The Commission is made up of five members, all appointed by the Governor. The statutes require that there be an appointee from each of the four major Senate districts described in Article XIV of the State Constitution. The four appointees serve overlapping two-year terms. The fifth member, designated as the State Commissioner of Athletics is appointed by the Governor for a five-year term. The Commissioner of Athletics serves as chairman of the State Athletic Commission.

AS 05.05.020(b) allows the Commissioner of Athletics, "with the aid and counsel of the Commission" broad discretionary powers over athletics in the State. The Commissioner may adopt regulations, with the force and effect of law, to govern athletics, athletic programs, and events as he considers necessary.

SAC has extensive statutory rights and duties concerning the regulation of combative sports in the State, such as boxing and wrestling. The Commission has authority to license boxers, wrestlers, referees, trainers, event judges, seconds, and attending physicians. It also has authority to certify and license promoters of events, and may require the posting of adequate performance bonds. The statutes give SAC the authority to select the referee for combative sports events.

In past years the legislature, in conjunction with the Governor, have used the State Athletic Commission as a vehicle for directing State funds to special athletic events. In FY'75 the Arctic Winter Games received \$15,000 in support from the Commission. In FY'76 the Games received \$90,000 in funding support and the Special Olympics was appropriated \$27,000 through the auspices of SAC.

HISTORICAL BACKGROUND

For the period that we conducted our review, (1975-1983) we found that the State Athletic Commission (SAC) has not operated as a body in fulfilling its function to oversee athletics and athletic programs. The primary reason the Commission has been inactive is that it has received no appropriations for operations since FY'77. As a result, the Commission has met irregularly over the past five years and has done little work developing regulations and procedures, especially in the area of boxing regulation, its primary statutory responsibility.

Rudimentary oversight of combative sports, essentially boxing, has been provided through the efforts of individual Commissioners acting independently. In fact, members have acted so independently that their files and records of their activity are much more comprehensive than any of those retained by the State. There are no uniform procedures governing Commissioner activities. What an individual Commissioner does and how he does it is left to his own discretion.

We could find no State record of issued licenses, sanctioned fights, evidence of promoter's performance bonding, or other requirements of SAC under their statutes, for the period that it was administered by the Office of the Governor. Revenues generated by boxer, promoter, referee, etc. licenses were not accounted for by the State. Administrative expenses for SAC operations were borne individually by Commissioners or were offset with the collection of the aforementioned, unreported receipts (see Recommendation No. 2 for further discussion of this lack of control over receipts and expenditures).

The history and current status of the State Athletic Commission is further clouded by the countermandate of the statutes and former Governor Hammond's memorandum of July 30, 1980. The statutes assign administrative responsibility for the Commission to the Office of the Governor. The July 30, 1980 memorandum of Governor Hammond assigned administrative responsibility for the Commission to the Department of Commerce and Economic Development's Division of Occupational Licensing (DOL). Once DOL assumed authority, they began issuing licenses to promoters, boxers, trainers, etc. as specified in AS 05.10.120.

However, the DOL's authority to do this is unclear. There have been no regulations promulgated setting forth criteria for licensing, and it appears that the authority to license may rest solely with the Commission. Indeed, Governor Hammond's memorandum states "...official transfer cannot be made without legislative approval." Legislative

ratification of the transfer had not yet been made as of the date of this report.

There are currently no licensing requirements other than a completed application, a license fee, and for a promoter, the posting of a performance bond. However, under present conditions, if a Commissioner denies an applicant a license, the applicant could circumvent the Commission and apply directly to DOL. It is difficult to ascertain what regulatory purpose the current licensing procedures serve. License fees are essentially a tax on participants of boxing.

The Alaska statutes also require boxing promoters to submit to the State pre and post-fight reports. Reports include such things as the names of boxers involved in the event, results of matches, and ticket revenue received. We were able to locate only two such reports in our examination of DOL's records and none in our search of the Office of the Governor's files.

In summary, the history of the State Athletic Commission has been one of neglect on the part of the Executive Branch. It is amazing that the Commission accomplished as much supervision and regulation as it has. The situation, as it has been allowed to exist, is fraught with potential for abuse. Indeed, we have identified one situation where license fees were not remitted to the State, largely due to neglect on the part of the Office of the Governor.

CURRENT AND PROSPECTIVE STATUS OF BOXING IN ALASKA

Currently, the only combative sporting event which is being held on a regular basis is what is termed "rough house" boxing. At the time of field work for this report rough house boxing cards were being held weekly in Anchorage at two different locations, weekly in the spring and summer in Fairbanks, and bi-weekly in Kenai. It appears that the revenue generated from these events is limited. One promoter told us that he typically grosses \$1,000 in receipts on a given evening and incurs expenses in the range of \$750 to \$800.

Rough house boxing has been likened to the club fights of the 1940s and 1950s by its proponents. They claim that "rough house" provides an opportunity for individuals to learn and practice boxing on a regular basis and improve their skills and expertise.

Detractors claim that rough house boxing is little more than organized brawling. Generally, untrained individuals, mostly men, come weekly to a bar or saloon where the events are held. They sign up to fight that night and are ostensibly matched with an opponent along the lines of skill, weight, and experience. Winners of fights are awarded nominal purses, generally less than \$100.

Critics we interviewed in the course of our audit feared for the safety of the participants and reported what they felt were abuses or dangerous practices that go on at rough house events. Cited abuses and concerns expressed include the following:

1. No follow-up of knocked out boxers. - One interviewee said that he had seen a boxer who had been knocked out at one rough house event, return within a week to fight at another location. Standard procedure in other states is not to allow a boxer who has been knocked out to fight for at least 30 days in order to reduce the possibility of serious head injury.
2. Mismatches. - An interviewee reported he had seen matches between savvy veteran boxers and inexperienced street fighters. He and others also told us there were often weight differentials of up to 25 lbs. between opponents. Such a difference between heavyweights is considered insignificant but between boxers in the middle range weight classes such a difference is substantial.
3. Lack of adequate medical attention. - Critics claim that there are not adequate medical precautions taken and that ringside paramedics are not sufficiently trained to insure the safety of participants in the event of an emergency.

Other criticisms leveled at rough house boxing include the excessive cigarette smoking present in the barroom setting, disregard of the loss of protective mouthpieces, and inexperienced referees.

In Fairbanks, the SAC Commissioner said that in the past he or his designee have attended rough house fights, but he did not really believe this was a function of SAC. He felt the SAC presence at the events kept the promoters from taking too many "shortcuts" and served to make the event safer for the participants. However, he indicated that he would probably reduce even this limited role in the future.

In Anchorage, where the greatest amount of the State's boxing activity occurs, the Athletic Commissioner responsible for that area does not attempt to regulate rough house boxing. As a result, he limits his activities to the monitoring of the infrequently occurring "big event" matches.

In recent years, there have been few "big event" matches which feature quality boxers and are usually held in an Anchorage area sports arena. Attempts by several promoters to hold these events in Anchorage on a more regular basis have been limited due to the lack of profitability.

It is possible that the new George M. Sullivan Sports Arena in Anchorage will result in a greater number of "big-name" events. However, many of the people whom we talked to that are knowledgeable about Alaskan boxing, expressed doubts about Alaska ever being able to profitably support "big event" matches. They feel that the small population and the remoteness of the State will always make "big event" boxing infeasible.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Office of the Governor and the Department of Commerce and Economic Development, in conjunction with the Department of Law, should clarify both the legal status of the State Athletic Commission and the extent of its jurisdiction.

The current legal status of the State Athletic Commission (SAC) and the manner in which it is operated by the State is unclear. The statutes that created SAC and its responsibilities have been rendered meaningless by the Governor's transfer of administrative responsibility and the lack of funding for operations or meetings. Questions and issues of legality that result from this collection of circumstances were identified by the Director of Occupational Licensing in a request for opinion from the Attorney General dated August 19, 1982. The questions asked of the Attorney General in that request are as follows:

1. Does the function of licensing continue without the Legislature providing the funding?(1)
2. Is it legal and in compliance with [law] for [the Division of Occupational Licensing] to issue licenses without a commission to function because of lack of funding?
3. Does the lack of funding dissolve the commission and thereby terminate the required license?
4. Can resources of [the Division of Occupational Licensing] legally be used for the licensing of applicants or would the position of using resources (i.e., personnel, equipment, mail, telephone, etc.) budgeted for other functions be in error?

As of the date of this report, these questions have remained unanswered. We believe that the interpretation of these questions are crucial to the proper administrative functioning of SAC. In addition, the Department of Commerce and Economic Development should seek clarification of the jurisdiction and responsibilities of SAC as they pertain to the current primary boxing activity in the State.

(1) In Executive Budget documents for FY's 1977 - 1980 the Office of the Governor requested no funding for SAC administration. In FY'81 some activity was carried out using funds from the Governor's Contingency Fund. In FY'82 DOL requested \$10,000 for meeting and travel costs but the request was deleted in Free Conference Committee deliberations. No request for funding was made in FY'83.

As described in the Current Status of Boxing Section, there is a great deal of boxing activity being conducted that can be generically described as "rough house". Generally, untrained individuals are matched together in events for nominal prize money ranging from \$20 to \$200. Admission is charged and the events are generally held in bars or saloons. Under strict definition, the participants in these matches are professional. The Attorney General's office has indicated to us that these and other circumstances surrounding these events could be interpreted as to put them under the current statutorily prescribed jurisdiction of SAC (AS 05.10.010-.030).

None of the promoters of these events have a current valid promoter license as required by AS 05.10.070. Only the more experienced and accomplished of the participants have licenses as required under AS 05.10.120. The Commission has not exercised any authority over referees as required by AS 05.10.120(e). In short, under our understanding of the statute and based on discussions with the Attorney General's office, these rough house events in the State are not in compliance with the letter of the law.

An April 21, 1983 memorandum (see Appendix J) from the Attorney General's office states that there is "definite liability exposure in the existing [State Athletic Commission] statutory scheme..." The memorandum goes on to say that the State can be held liable for breach of duties owed to persons who are injured by such breach. The State's neglect in not effectively regulating "rough house" events may be interpreted as breach.

In short term, we believe it is in the best interests of the State to develop a legally defensible policy and approach towards the regulation of combative sports under the current statute. The lack of a clear, legally sound approach to regulation has the potential for abuse by unscrupulous promoters, and may place the State in legal jeopardy. We recommend the Department of Law consider the issues raised by Director of Occupational Licensing's inquiries and those discussed above in order to advise and act to protect the interests of the State.

Recommendation No. 2

The Governor, upon considering the State's responsibility for the welfare and protection of the participants and spectators of combative sports, should develop proposed legislation to do one of the following:

- a. Introduce legislation to more clearly define the nature and extent of the SAC's responsibilities and fund it accordingly.

- b. Introduce legislation to abolish SAC and repeal its statutes.
- c. Request funding for the current SAC in order that it can adopt and enforce regulations to more effectively regulate combative sports.

As recounted and discussed in prior parts of this report, SAC historically has not been supervised nor administered in a very professional manner by the Office of the Governor. Evidence of neglect is provided by the following:

1. Lack of supervision of receipts and expenses. - The Office of the Governor provided no guidance to individual commissioners on how to remit receipts to the State or account for expenses. One commissioner related to us that he collected license fees as required by statute and retained them to offset the expense of his SAC duties. He made no attempt to submit to the State an accounting for his receipts or expenses.
2. No requesting of funding. - In the Executive Budgets for FY's 1978-1981, the Governor requested no funding for SAC to carry out its statutory responsibilities.
3. Lack of general guidance. - Commission members we spoke to said that the Office of the Governor often talked about developing a more active commission but there was little active commitment.
4. Duplicate appointments. - On at least two occasions the Office of the Governor had to retract appointments because the subsequent composition of the commission did not comply with statutes.

Since assuming administrative responsibility for SAC, the Division of Occupational Licensing (DOL) has taken steps to improve fiscal controls over SAC. In addition, DOL has requested funding for travel and meetings in FY'82, but had the request denied in the Free Conference Committee. However, steps should be taken to clarify the legal status of SAC in both the short (essentially as discussed in Recommendation No. 1) and long run (which involves issues discussed in this Recommendation).

In the following pages we discuss issues and alternatives involved with the contemplation of changing SAC's role. The course of action selected turns on arguments of the State's role in regulatory matters, and an assessment of potential legal liability to the State. Our discussion of issues and alternatives are as follows:

- a. Introduce legislation to more clearly define the nature and extent of the SAC's responsibilities and fund it accordingly.

As stated in the Historical Background Section of this report, the statutes that set forth the duties and responsibilities were adopted almost 25 years ago. The statutes have changed little and were in all likelihood developed with no contemplation of rough house boxing or telecommunication television coverage and the larger prize purses involved with current day "big event" boxing.

Development of new statutes would force debate and reconsideration of the State's policy towards all forms of combative sport regulation given the new circumstances that surround the competition in modern Alaska. The proposed statutes could speak directly to rough house boxing, including or excluding the sport from SAC jurisdiction.

Consideration may be given to the recommendation of the American Medical Association's (AMA) Council on Scientific Affairs, when contemplating new legislation. In the January 14, 1983, issue of the Journal of the American Medical Association the Council recommended to the AMA that it implement the following measures:

1. Inform State legislatures that unsupervised boxing competition between unlicensed boxers in "tough man" contests is a most dangerous practice that may result in injury or death to contestants, and should be condemned.
2. Urge State and local boxing commissions to mandate the use of safety equipment, such as plastic safety mats and padded corner posts, and encourage continued development of safety equipment.
3. Urge State and local boxing commissions to upgrade, standardize, and strictly enforce medical evaluations for boxers.

It is these recommendations and issues that are pertinent to the debate of the proper role of the State in the regulation and supervision of boxing. The Governor, in conjunction with the Legislature, should consider these issues in the current context of professional boxing as it is being conducted in the State, when determining if new statutes are needed. The outcome of the debate may result in the choice of another option, (see the following discussions) but the future regulatory role of the State should be considered.

- b. Introduce legislation to abolish SAC and repeal its statutes.

Boxing is regulated by State or local boxing commissions established under law in forty-six states, five territories, and the District of Columbia. However, the states of Georgia, Oklahoma, South Carolina, and Wyoming have no boxing statutes. Alaska may want to consider joining those states in electing not to have statutory regulation of boxing.

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An alternative to boxing regulation by a centralized state affiliated SAC is advanced by the Alaska Boxing Association (ABA). ABA proponents advocate their non-profit corporation made up licensed boxers, judges, referees, managers, trainers, promoters, and time-keepers would be the chief oversight group and regulator of boxing in the State. The DOL would still serve as recordkeeper and issuer of licenses but would do so under the guidelines and rules established by the ABA. As envisioned by advocates, the working relationship between DOL and ABA would be similar to that the Division maintains with other professional licensing boards in medical, dental, and accounting professions.

Critics of this regulatory model claim that it would not be independent enough to protect the interests of the participants and the State. They feel that promoters would have too much influence over the rules set by such a body. They feel an independently appointed board which is knowledgeable of, but not financially involved with, the sport of boxing would better serve the interests of the State.

Abolishing the boxing statutes may also reduce the State's liability for not regulating events as stated in statutes. As discussed, current statutes suggest more regulative responsibility than is actually taking place. Elimination of boxing statutes and SAC would bring reality and the statutes closer together. It would also eliminate the obligation for funding required by the other two options.

- c. Request funding for the current SAC in order that it can adopt and enforce regulations to more effectively regulate combative sports.

As stated in the Historical Background Section of this report, SAC as a group, has done virtually nothing over the last eight years. They have had few meetings, sketchy agendas, and proposals have never really advanced beyond the preliminary discussion stages. The Commission's inactivity as a body can be attributed almost entirely to a lack of appropriations over the past six fiscal years.

The Governor, after the recommended consideration, may feel that the current regulatory apparatus is adequate to protect the interest of the State. By funding that apparatus, with adequate appropriations for travel and meetings the SAC may begin acting in the regulatory role envisioned by the original statutes. Regulations establishing criteria for licenses may be adopted. Procedures for the supervision of combative sports events may be made uniform for all commissioners. Better system for monitoring the health of participants may be implemented. The current statutes are broad enough to allow all these activities, but lack of recent funding commitment has rendered them inoperative.

Summarizing Remarks and Conclusion

When considering the State's prospective role in regulating boxing, the following should be considered:

1. Even if rough house boxing is to be considered a part of the State's regulatory jurisdiction, the total boxing activity in Alaska would at most be described as light. If the rough house variety of boxing is excluded from the Commission's jurisdiction, then professional boxing activity in the State would be minimal. In either case, the Governor, and/or the Legislature should be wary of devoting an undue amount of resources to regulating boxing.
2. To best regulate boxing, a commissioner should have a thorough understanding of the sport. Many of those involved in Alaskan boxing feel that past commissioners lacked this expertise.
3. Participant safety could be jeopardized if rough house boxing events were to be run by unscrupulous promoters. If a fatality or severe accident were to occur as a result, the reputation of boxing in Alaska, as a whole, would suffer. While many people involved with boxing would like to see some safety regulations imposed on these events, most do not want to see rough house boxing eliminated. These observers fear that excessive regulation would put an end to the rough house sport.

In summary, it is time to re-examine what has become an uncoordinated regulatory effort. A determination needs to be made what role, if any, the State should play in monitoring and licensing participants in combative sports. We feel that there should be some change in the current status where the SAC is implicitly regulating boxing by statute, but actually it is providing only rudimentary, unstructured supervision.

NOTE ON APPENDIXES

As discussed in the report, the State has only recently begun to keep some records regarding licensure by the State Athletic Commission (SAC). As a result, in order to compile Appendixes A-E we had to consult sources outside of State records for the time prior to July, 1980.

Appendix A was compiled through a review of Anchorage and Juneau newspapers carrying reports of events. We then attempted to confirm if these events were sanctioned by SAC by consulting individual Commissioner records. If confirmation was provided by the records we indicate such with a "Yes" in the Sanction Designation column of Appendix A. If sanction status was not confirmed by a review of the available records we indicate the lack of verification in the same column.

For Appendixes B-E information for the earlier years is drawn from those participating in all sanctioned events. Records were not detailed enough to see a complete listing of all issued licenses, but we were verbally assured that all participants in sanctioned events were appropriately licensed. Thus, we use the term "circa" to indicate the approximate time that the listed individuals participated in sanctioned events and were reportedly licensed by SAC.

APPENDIX A

STATE OF ALASKA
OFFICE OF THE GOVERNOR
STATE ATHLETIC COMMISSION
PROFESSIONAL BOXING EVENTS, DATES, LOCATIONS, AND PARTICIPANTS
July 2, 1975 - April 30, 1983

| <u>Date of Event</u> | <u>Location</u> | <u>Contestants on the Event Card</u> | <u>Weight Class</u> | <u>Promoter</u> | <u>Sanction Designation</u> |
|----------------------|--------------------------------------|---|---|--|-----------------------------|
| July 2, 1975 | Anchorage Sports Arena | Gary "Hebo" Miller v. Ibar Arrington Mike Kettleson v. Jesse James Toro Bob Patterson v. Eddie Ostavich Billy Corbett v. Beau Jackson (1) | Heavyweight Middleweight Lightweight Unknown | Unknown | Unable to Verify (2) |
| February 2, 1977 | Anchorage Sports Arena | Jerry Quarry v. Mike Quarry Ibar Arrington v. "Big" Bill Jackson Joe "King" Roman v. James "Slugger" Anthony Bruce "K.O." Hannon v. Bob Patterson Jo Thomas v. Betty Rogers | Heavyweight Heavyweight Heavyweight Heavyweight Unknown | Global Productions Joe Williams | Yes |
| March 23, 1977 | Anchorage Sports Arena | Ron Bailey v. Jeff Lopez Al Banks v. Dale Grant Mike Quarry v. Fred "Cookie" Wallace Bob Patterson v. Bruce "K.O." Hannon Ernie Smith v. Joe "King" Roman | Heavyweight Heavyweight Light/Heavyweight Heavyweight Heavyweight | Global Productions Joe Williams | Yes |
| May 25, 1977 | Anchorage Sports Arena | Tony Gardner v. "Sugar" Ray Seales Terry Daniels v. Joe "King" Roman Dale Grant v. Fred "Cookie" Wallace Lee Black v. Bruce "K.O." Hannon | Middleweight Heavyweight Light/Heavyweight Heavyweight | Global Productions Joe Williams | Yes |
| June 29, 1977 | Anchorage Sports Arena | Vincent Medina v. "Sugar" Ray Seales Dale Grant v. Bobby Rascon Bruce "K.O." Hannon v. Mike Kallivosky Ronnie Bailey v. Les Vegas | Middleweight Light/Heavyweight Heavyweight Middleweight | Global Productions Joe Williams | Yes |
| July 8, 1977 | Centennial Building Sitka, Alaska | Ronnie Bailey v. Wellington Grant Dave Brown v. Russ Dailey J.J. Johnson v. Jeff Lopez James Johnson v. Gary "Hebo" Miller | Jr. Middleweight Light/Heavyweight Welterweight Heavyweight | H & B, Incorporated Anchorage, Alaska | Yes |
| August 10, 1977 | Anchorage Sports Arena | Bruce "K.O." Hannon v. Mike Kallivosky Rich Peterson v. Eugene "Windmill" White Dave Brown v. Russ Dailey | Heavyweight Jr. Middleweight Light Heavyweight | H & B, Incorporated Anchorage, Alaska | Yes |
| September 13, 1977 | Anchorage Sports Arena | Bruce "K.O." Hannon v. John Balla Mike Weaver v. David Martinez Ronnie Bailey v. J.J. Johnson Victor Van Fleet v. Travis Pickering Dave Brown v. Randy Bailey James Johnson v. Mike Kallivosky | Heavyweight Heavyweight Welterweight Heavyweight Heavyweight Heavyweight | Big H. Productions Anchorage, Alaska | Yes |
| October 5, 1977 | Anchorage Sports Arena | Jose Peterson v. Tony Dawling Bob Patterson v. Victor Van Fleet Buff Gillian v. Ron "Schoolboy" Bailey Russ Dailey v. Mike Kettleson | Welterweight Heavyweight Jr. Middleweight Light/Heavyweight | Big "H" Productions Bob Haag | Yes |
| November 9, 1977 | Anchorage Sports Arena | Jose Peterson v. "Irish Paddy" Wilson Bruce "K.O." Hannon v. Stan Johnson Ronnie J.J. Johnson v. Eddie Rogers Tony Lear v. "Speedy" Ruth Maynard Infa Jee v. Travis "Howdy" Pickering | Welterweight Heavyweight Welterweight Unknown Heavyweight | Big "H" Productions Bob Haag | Yes |
| January 18, 1978 | Anchorage Sports Arena | Mike Stuart v. Raul Pacheco Freddie Washington v. Hector Fernandez Paul Murray v. Victor Van Fleet Ronnie Bailey v. Jesse James Castlebury | Flyweight Middleweight Heavyweight Welterweight | Grizzly Promotions Tom Gravely | Yes |
| February 22, 1978 | Anchorage Sports Arena | Monroe Brooks v. Rafael "Apollo" Lopez Russ Dailey v. Harry Ochs Al Newman v. Vic Van Fleet Franco Thomas v. Travis Pickering (3) Franco Thomas v. Bruce "K.O." Hannon (3) | Welterweight Light/Heavyweight Heavyweight Heavyweight Heavyweight | Grizzly Promotions Tom Gravely | Yes |

(1) Exhibition match between boxer Beau Jackson and karate expert Billy Corbett.

(2) Unable to determine whether the match was sanctioned by the State Athletic Commission.

(3) Franco Thomas fought both Travis Pickering and Bruce "K.O." Hannon in two six round matches.

Source of Information: Anchorage Times, Juneau Empire, past State Athletic Commission member Junior Amos' records, and State records.

| <u>Date of Event</u> | <u>Location</u> | <u>Contestants on the Event Card</u> | <u>Weight Class</u> | <u>Promoter</u> | <u>Destination</u> |
|----------------------|--|--|---|--|----------------------|
| March 15, 1978 | Anchorage Sports Arena | Michael Stuart v. Santos Rinez Balthazar Telon Delgado v. Ramon Aquinaza Ronnie Bailey v. Kraig Porteus Franco Thomas v. Al Newman J.J. Johnson v. Bruce "K.O." Hannon | Flyweight Bantamweight Middleweight Heavyweight Heavyweight | Grizzly Promotions Tom Gravely | Yes |
| April 12, 1978 | Anchorage Sports Arena | Howard Jackson v. Anthony Daniels Franco Thomas v. Vic Van Fleet Travis Pickering v. J.J. Johnson Mark Junior v. Johnie Johnson | Welterweight Heavyweight Heavyweight Light/Heavyweight | Grizzly Promotions Tom Gravely | Unable to Verify (2) |
| June 14, 1978 | Anchorage Sports Arena | Nandu Lugo v. Howard Jackson J.J. Johnson v. Ron Dailey Frona Leora v. Mark Junior Willy Baldwin v. Rocky Torres | Welterweight Heavyweight Light/Heavyweight Light/Heavyweight | Grizzly Promotions Tom Gravely | Unable to Verify (2) |
| June 7, 1979 | Olympic Boxing Club Anchorage | J.J. Johnson v. Arnold Sab Travis Pickering v. Lew Lockwood Maurice Rice v. Mustafa Alami Bruce Hannon v. Lincoln Engytojow | Heavyweight Heavyweight Heavyweight Heavyweight | Olympic Boxing Club Rudy Medina | Unable to Verify (2) |
| July 26, 1979 | Olympic Boxing Club Anchorage | Gerry Pittman v. Jesse James Castlebury Scotty Welsh v. Wayne Bobick George Jerome v. Nate Stewart | Welterweight Heavyweight Heavyweight | Olympic Boxing Club Rudy Medina | Unable to Verify (2) |
| July 19, 1980 | National Guard Armory, Juneau | Jerry Reddick v. Mustafa El Amin Solomon Nongoose v. Vic Lee | Middleweight Welterweight | Juneau Boxing Club Daniel McClinton Mike Kelly | Yes |
| March 29, 1981 | Midnight Express Nightclub, Anch. | Garry Giron v. Lenny Thomas Harold Neveah v. Manny Gonzales Ronny Johnson v. Dave "Yukon Crusher" Rush Jim Patton v. Danny Cotter Tony Stevens v. Jean Rochon | Welterweight Welterweight Unknown Middleweight Unknown | Midnight Express Rudy Medina | Yes |
| May 7, 1981 | Midnight Express Nightclub, Anch. | Gary Giron v. Sultan Saladin J.J. Johnson v. Travis Pickering Zachary Vincent v. Steve Young Jim Patton v. Dino Sik | Middleweight Heavyweight Welterweight Welterweight | Olympic Promotions Rudy Medina | Unable to Verify (2) |
| September 20, 1981 | Ben Book Arena Anchorage | David Rivisto v. Sunfista Muhammad (4) J.J. Johnson v. Tony Samon Phillip Mikes v. Kevin Hardy (4) Dan Cotter v. Jim Patton Richard Mason v. John Chankunthod Victor Soller v. Vitthaya Chevapanyanonta (4) | Heavyweight Light/Heavyweight Middleweight Middleweight Light/Heavyweight Lightweight | Crosby Productions Dan Crosby Steve Fouse | Yes |
| February 26, 1982 | Gussie L'Amours Nightclub, Anch. | Noel Arriego v. Jimmy Patton Bill McConkey v. Jim Howard Brett Hughes v. Dale Strong Dino Sika v. Johnny Owens Kyle Miller v. Mitch Gullik Curtis Thrasher v. Randy Pointer | Welterweight Unknown Cruiserweight Middleweight Welterweight Lightweight | Big "B" Promotions Bob Haag | Yes |
| April 16 & 17, 1982 | National Guard Armory, Juneau | Noel Arriego v. Curtis Thrasher Dale Strong v. Brett Hughes | Welterweight Cruiserweight | Big "B" Promotions Alaska Boxing Assoc. Yancey Derringer's | Yes |
| April 29, 1982 | National Guard Armory, Anch. | Al Yuzen v. Johnny Owens Vince Davis v. Jimmy Patton Curtis Thrasher v. Ronnie Johnson Jeff Rush v. Brett Hughes Noel Arriego v. Jesse James Castlebury | Middleweight Welterweight Welterweight Cruiserweight Welterweight | Big "B" Promotions Bob Haag Bill McConkey | Unable to Verify (2) |
| February 12, 1983 | Buckner Fieldhouse, Fort Richardson, Anchorage | Mickey Goodwin v. Ron Brown Harry Arroyo v. Kelvin Lampkins Brett Hughes v. Dale Strong Curtis Thrasher v. Ronnie Johnson Mike Curnow v. Johnny Owens Darin Wood v. Steve Williams Bector Canacho v. John Fontes | Middleweight Middleweight Cruiserweight Lightweight Middleweight Welterweight Jr. Lightweight | Last Front Door Events Bob Uchitel | Yes |

(2) Unable to determine whether the match was sanctioned by the State Athletic Commission.
(4) Kickboxing matches

APPENDIX B

STATE OF ALASKA
OFFICE OF THE GOVERNOR
STATE ATHLETIC COMMISSION
LICENSED BOXERS
Circa 1976-1977 - April 11, 1983

Circa 1976-1977

Anthony, James "Slugger"
Arrington, Ibar
Bailey, Ronnie
Banks, Al
Black, Lee
Daniels, Terry
Gardner, Tony
Grant, Dale
Hannon, Bruce "K.O."
Jackson, "Big" Bill
Kolivosky, Mike
Medina, Vincent
Patterson, Bob
Quarry, Jerry
Quarry, Mike
Rascon, Bobby
Rogers, Betty
Roman, Joe "King"
Seales, "Sugar" Ray
Smith, Ernie
Thomas, Jo
Vegas, Les
Wallace, Fred "Cookie"

Circa 1977-1978

Aquinaza, Roman
Bailey, Randy
Bailey, Ronnie
Balla, Johny
Balthazar, Santos Nunez
Brown, Dave
Brooks, Monroe
Castleburry, Jesse James
Dailey, Russ
Delgado, Telon
Dowling, Tony
Fernandez, Hector
Furvor, Greg
Gilliam, Buff
Grant, Wellington
Hannon, Bruce "K.O."
Jee, Infra

Circa 1977-1978 (cont'd)

Johnson, James
Johnson, Johnie
Johnson, J.J.
Johnson, Ronnie
Johnson, Stan
Kettleson, Mike
Kolivosky, Mike
Lear, Tony
Lopez, Jeff
Lopez, Rafael "Apollo"
Martin, Jack
Martinez, David
Maynard, Speedy
Murray, Paul
Newman, Al
Ochs, Harry
Pachecho, Paul
Patterson, Bob
Peterson, Jose
Peterson, Rich
Pickering, Travis "Plowboy"
Porteur, Kraig
Rogers, Eddie
Stuart, Mike
Thomas, Franco
Van Fleet, Victor
Washington, Freddie
Weaver, Mike
White, Eugene "Windmill"
Wiler, Gary "Hobo"
Wilson, "Irish Paddy"

Circa 1979-1980

Bobick, Wayne
Castleburry, Jesse James
Jerome, Gerry
Stewart, Nate
Welch, Scotty

Fiscal Year 1981

Asinas, James E.
Benbow, Donald
Berg, Michael A.
Bibby, Jimmie
Brideforth, Gregory
Buell, Ken P.
Bumpus, Donald L.
Caddell, Michael S.
Cardwell, Russell
Carr, Clayton
Carter, Al
Clarke, John R.
Cotter, Dan
Daetwiler, Gary
Davidson, Mark
Diamond, Tim
Duvan, Ernie
Dykstra, Dennis
Elley, Clarence
Faotusin, Paula
Felton, Charles
Fishback, John C.
Freese, Sam
Giron, Gary
Glester, Willie
Gonzales, Manny
Hall, Cornell
Higgins, Russ
Hughes, Brett
Johnson, James
Johnson, J.J.
Johnson, Ronnie
Kilifi, Wally
Lux, Archie
Lyden, Mike
Madison, Terry
Maurer, Joe
McGuire, Bob
McGowan, Robert
Miller, John R.
Miller, Robert
Moore, Craig W.

Sources of Information: 1. Interviews with and records of Jr. Ramos, former State Athletic Commission member.

2. Division of Occupational Licensing's license records.

Fiscal Year 1981 (cont'd)

Navarro, Raymond E.
Nelson, Rick Blair
Neveah, Harold
Nickarz, George
Nieto, Darwin
Patton, Jim
Perkins, Ronald
Pickering, Travis
Porter, Phillip
Ransom, Don
Roberts, Kenneth Ray
Rochon, Jean
Rush, Dave "Yukon Crusher"
Schneider, Steve
Stack, Ronald J. Jr.
Stevens, Tony
Steward, Wendall
Sullivan, Tim
Sura, Fred
Tapous, Kurtis A.
Thomas, Lenny
Thurman, Tim
Weikune, Fautare
Vertheen, Tom
Vincent, Zachary
Weatherly, Pat
Whatley, Kenneth B.
Wilson, Amiel K.
Witherspoon, Bill
Wood, Ken
Young, Evans B.
Young, Steven

Fiscal Year 1982

Allen, Jim
Alt, Miles
Bain, Allen
Barr, Chuck
Brawley, William
Britton, Roscoe
Brock, Geoff
Como, Bob
Couture, Mike
Evanson, Tom
Hannon, Bruce
Howard, James, Jr.
Jackson, Dave
Jackson, Nathan
Jones, Roa
Jorgensen, Dennis
Lauder, Shelton
Leaf, Kerry
Leal, Dante A.
Lilly, Keith
McConkey, William C.
Molinar, Ruben
Naulte, Larry
Olsen, Ken
Owens, Johnny W.
Pimental, Adrian
Ranh, David
Ryan, Shawn Patrick
Samber, Ronald
Sharp, Todd
Sharp, Wayne
Smith, Herman
Smithers, Tim
Sorden, Dan
Spencer, Devon K.
Stevens, Louis
Stokes, David
Stolls, Jim
Stotts, John
Strong, Dale
Thrasher, Curtis
Turk, Michael
Valentine, Albert
Vonda, Rudy
White, Delvert
White, Rodger

Fiscal Year 1983

Arebie, Stanford
Davis, Leonard
Camacho, Hector
Connacher, Kirk
Corder, Paul
Goodwin, Mickey
Hughes, Brett
Johnson, Ronnie
Kirsman, Kenny
Kwasniewski, Mike
Lampkin, Kevin
Montes, John, Jr.
Poncheco, Dave
Perez, Steve
Perrotte, Frank
Remington, Jim
Rucker, Robert
Smith, James
Strong, Dale
Taylor, Duanne
Thrasher, Curtis
Walsh, James
Wright, Willie

APPENDIX C

STATE OF ALASKA
OFFICE OF THE GOVERNOR
STATE ATHLETIC COMMISSION
LICENSED REFEREES AND JUDGES
Circa 1976-1977 - April 11, 1983

JUDGES

Circa 1976-1977

Bailey, Coy
Branca, Ralph
Hauser, Phil
Henderer, Jim
Jackson, Brady
Peak, Joe

Circa 1977-1978

Bailey, Coy
Henderer, Jim
Jackson, Brady
Peak, Joe
Sanchez, Antonio
Turi, Joe
White, Ray

Circa 1979-1980

Miller, Jerry

REFEREES

Circa 1977-1978

Branca, Ralph
Gladson, Gordie
Mendez, Tony

Circa 1979-1980

Miller, Jerry

Fiscal Year 1981

Carothers, J.H. "Pat"
Cheek, Dale
McConkey, William C.
Miller, Jerry
Walden, Fred

Fiscal Year 1983

Buck, Harold
Green, Richard, Jr.
McClinton, Daniel
McConkey, William
Miller, Jerry
Pearl, Davey

- Sources of Information:
1. Interviews with and records of Jr. Ramos, former State Athletic Commission member.
 2. Division of Occupational Licensing's license records.

APPENDIX D

STATE OF ALASKA
OFFICE OF THE GOVERNOR
STATE ATHLETIC COMMISSION
LICENSED MANAGERS AND PROMOTERS
Circa 1976-1977 - April 11, 1983

PROMOTERS

Circa 1976-1977

Global Productions, Joe Williams

Circa 1977-1978

Big H Promotions, Bob Haag
H & B Productions (later Promotions)
Bob Haag & Ralph Branca
Great Northern Sports, Joey Lopez
& Dennis Powell
Grizzly Promotions, Thomas E. Gravely
Midnight Sun Promotions, Bob D. Beasley

Circa 1979-1980

Olympic Boxing Club, Rudy Medina

Fiscal Year 1981

Grizzly Promotions, Thomas E. Gravely
& Tim Abena
Juneau Boxing Club, Michael Kelly
& Dan McClinton
Olympic Boxing Productions, Rudy Medina
Rockslide Productions, Steve Skinner

Fiscal Year 1982

CDS Enterprises, Clarence A. Mercer
Last Front Tear Events

Fiscal Year 1983

Last Front Tear Events

Sources of Information:

1. Interviews with and records of Jr. Ramos, former State Athletic Commission member.
2. Division of Occupational Licensing's license records.

MANAGERS

Circa 1977-1978

Baines, Hezzie Alexander
Cox, Robert D.
Lopez, Joey

Fiscal Year 1983

Geirgino, Bennie
Giles, William
Pederson, Richard
Tomkin, Tony
Vaner, Randy

APPENDIX E

STATE OF ALASKA
OFFICE OF THE GOVERNOR
STATE ATHLETIC COMMISSION
LICENSED ATTENDING PHYSICIANS, TRAINERS, SECONDS
Circa 1976-1977 - April 11, 1983

ATTENDING PHYSICIANS

Circa 1976-1977

Arrons, Doug
Babon, Ken
Beachman, Sherman
Bobson, Ronald
Mayer, William
Morris, Gerald
Paulus, Richard
Snyder, John

Circa 1977-1978

Mettinger, Dr.
Slisco, Andrew
Snyder, Dr.
White, Dr.

TRAINERS

Fiscal Year 1981

Walden, Fred

Fiscal Year 1982

Hill, Willie
Jackson, Derrick
Poole, Lawrence
Sharp, Claude

Fiscal Year 1983

Buenafe, Davie
Casler, Nathan
Hubbs, James
McClinton, Daniel
Medina, Rodolfo
Montes, John, Sr.
Patton, Jim
Setora, Davis

SECONDS

Fiscal Year 1981

Hueser, Kent
Young, Steven

Fiscal Year 1983

McClinton, Daniel

- Sources of Information:
1. Interviews with and records of Jr. Ramos, former State Athletic Commission member.
 2. Division of Occupational Licensing's license records.

APPENDIX F

STATE OF ALASKA
 OFFICE OF THE GOVERNOR
 STATE ATHLETIC COMMISSION
SCHEDULE OF EXPENDITURES
 July 1, 1974 - April 30, 1983

| <u>Name of Payee</u> | <u>Date</u> | <u>Fiscal Year</u> | <u>Amount</u> | <u>Classification</u> |
|--|-------------|--------------------|---------------------|------------------------|
| Arctic Winter Games | 3/18/75 | 75 | \$ 15,000.00 | Grants and Assistance |
| Arctic Winter Games Corp. | 2/25/76 | 76 | 75,000.00 | Travel |
| Alaska Special Olympics | 7/7/75 | 76 | 27,000.00 | Grants and Assistance |
| Arctic Winter Games Corp. | 12/17/75 | 76 | 15,000.00 | Grants and Assistance |
| Arctic Winter Games Corp. | 5/3/77 | 77 | 15,000.00 | Grants and Assistance |
| Alaska Special Olympics | 8/25/76 | 77 | 7,500.00 | Grants and Assistance |
| | | 78 | -0- | |
| | | 79 | -0- | |
| | | 80 | -0- | |
| Various Commissioners | (1) | 81 | 1,269.56 | Travel |
| Global Travel Service | (1) | 81 | 520.00 | Travel |
| Marjorie Odland | (1) | 81 | 406.00 | Travel |
| Professional Travel | 11/20/80 | 81 | 294.00 | Travel |
| Juneau Travel | 5/16/81 | 81 | 225.76 | Travel |
| North American Boxing | 6/5/81 | 81 | 100.00 | Contractual Services |
| Miscellaneous Payees | (1) | 81 | 87.50 | Supplies and Materials |
| | | 82 | -0- | |
| | | 83 | -0- | |
| <u>Total Expenditures</u> (FY'75 - April 30, 1983) | | | <u>\$157,402.82</u> | |

(1) Various disbursement checks

APPENDIX G

STATE OF ALASKA
 OFFICE OF THE GOVERNOR
 STATE ATHLETIC COMMISSION
SCHEDULE OF REVENUES
 July 1, 1974 - April 30, 1983

| Fiscal Year | Unrestricted Receipts | | Restricted Receipts | | | Total Receipts |
|-------------------------------|-----------------------|----------------|---------------------|----------|----------------|----------------|
| | Estimates | Receipts | Estimates | Receipts | Transfers | |
| <u>1975</u> | | | | | | |
| Licenses | \$ 200 | \$ 140 | \$ -0- | \$-0- | \$ -0- | \$ 140 |
| <u>1976</u> | | | | | | |
| Licenses | 300 | -0- | -0- | -0- | -0- | -0- |
| <u>1977</u> | -0- | -0- | -0- | -0- | -0- | -0- |
| <u>1978</u> | -0- | -0- | -0- | -0- | -0- | -0- |
| <u>1979</u> | -0- | -0- | -0- | -0- | -0- | -0- |
| <u>1980</u> | -0- | -0- | -0- | -0- | -0- | -0- |
| <u>1981</u> | | | | | | |
| Licenses | -0- | 1,230 | -0- | -0- | -0- | 1,230 |
| Office of the Governor(1) | -0- | -0- | 10,000 | -0- | 1,993 | 1,993 |
| <u>1982</u> | | | | | | |
| Licenses | -0- | 850 | -0- | -0- | -0- | 850 |
| <u>1983 (through 4/30/83)</u> | | | | | | |
| Licenses | 2,200 | 640 | -0- | -0- | -0- | 640 |
| <u>Totals</u> | | <u>\$2,860</u> | | | <u>\$1,993</u> | <u>\$4,853</u> |

(1) A Reimbursable Service Agreement was used to transfer funds from the Office of the Governor's contingency fund to the Department of Commerce and Economic Development. Funds were used by the State Athletic Commission to fulfill its combative sports regulatory responsibilities.

MEMORANDUM

State of Alaska

| | | | |
|-------|---|--------------|--|
| TO | Jerry Reinwand Executive Assistant Office of the Governor | DATE | January 5, 1991 |
| THRU: | Pete Jeans, Deputy Commissioner Department of Commerce and Economic Development | FILE NO | |
| FROM | Harry D. Treager, Director Division of Occupational Licensing | TELEPHONE NO | |
| | | SUBJECT | Athletic Commission Request for Contingency Funds |

Pursuant to Governor Hammond's memorandum of July 30, 1980, transferring the staff responsibility of the Athletic Commission from the Governor's Office to the Division of Occupational Licensing, a meeting with the commission was held on November 3, 1980 in Juneau.

The commission is presently composed of Sam Taguchi-Juneau; Don Dennis-Fairbanks; and Robert Vogt of Anchorage. They reviewed all existing statutes and procedures. The Athletic Commission statutes presently are contained in AS 05. They are vague, broad and require updating to distinguish authority and responsibility.

Since the Athletic Commission has been nonfunctional, all aspects of formulating new regulations, forms, publications, applications and informing the Alaska consumers and athletic community of regulating authority will be costly initially. The expense for the first meeting was \$253.00. No funding is available in this division's FY '81 budget.

The cost for the remainder of FY '81 is estimated to be for three additional meetings with a commission of five members. Statute also requires a commission member to be present at licensed events of boxing and wrestling. Anticipated cost is for board member travel, per diem and initial printing and publications, expected cost is \$10,000.00.

Instructions received was to request funding after the commission's first meeting.

This division is waiting for the Executive Order affecting the change of responsibility. There is also an anticipated change in statutory authority.

Budget amendment for FY '82 is being prepared.

HDT/jar2/2

Attachment

cc: Don Argetsinger, Office of the Governor
Rod Mourant, Director, Administrative Services,
Office of the Governor

MEMORANDUM

State of Alaska

TO: Harry Treaquer, Director
Division of Occupational Licensing
Department of Commerce and
Economic Development

DATE: November 5, 1980

FILE NO.

TELEPHONE NO.

FROM: Bebbie McAdams
Licensing Examiner

SUBJECT: Athletic Commission

The Athletic Commission conducted its first Board meeting November 3, 1980 to review Title 5, Chapter 05 governing the Athletic Commission. During this meeting the members encountered various difficulties in their attempts to restructure the outdated statutes. They found the material too vague and encompassing, and the lack of regulations a serious handicap. The Commission is as yet in the organizational stages and some research is felt necessary to achieve a functioning unit as soon as possible. Applications previously used are outdated and new ones must be designed for each license category. However, before licenses can be issued, guidelines must be formulated for each regulated sport under the Athletic Commission's jurisdiction. Here again a problem arises as the statutes do not address specific sports but "athletics". The members are uncertain as to which sports should be regulated and to what degree.

The Commission felt a representative should be sent to the Athletic Commission in Olympia, Washington to research the statutes and regulations and investigate the organizational aspects of that Commission to provide some guidelines for Alaska's Commission.

It is therefore requested that monies be appropriated for a member of the Alaska Athletic Commission to travel to Olympia, Washington for the purpose of researching statutes, regulations and organization.

Thank you for your consideration.

APPENDIX I

STATE OF ALASKA
Athletic Commission
Department of Commerce & Economic Development
Pouch D, Juneau, Alaska 99811

Minutes of Meeting
April 8, 1981

A workshop of the Alaska Athletic Commission was held April 8, 1981, in Juneau, Alaska, in Conference Room #2 on the 10th Floor of the Alaska State Office Building.

Commission members present were:

Sam Taguchi, Commissioner
Robert Vogt

Commission members absent were:

Reginald Joule
Don Dennis

Also present from the Department of Commerce and Economic Development, Division of Occupational Licensing, were Barbara Branson, Licensing Examiner, Marjorie Odland, Regulations Specialist, and Nick Coti, Management Analyst.

Washington Athletic Commission: Robert Vogt discussed his recent visit with the Washington State Athletic Commission. A booklet of the Washington Rules and Regulations regarding boxing and copies of the Washington application forms were passed around for review.

It was generally agreed the commission should refer to the Washington Commission rules and regulations where applicable when writing the Alaska regulations. It was agreed Mr. Vogt would edit the application forms and return them to the licensing examiner for printing. A judge's scoresheet was given to the licensing examiner for printing. The Washington rules and regulations booklet was given to the regulations specialist for referral when drafting regulations for the commission.

Telephone Policy: The licensing examiner was requested to find out what policy should be used for reimbursing commission members' long-distance calls.

Vogt's Correct Address: It was requested that the licensing examiner give the Governor's Office Mr. Vogt's correct address: 1800 Stanford Drive, Anchorage, Alaska 99504.

Minutes of Meeting
Athletic Commission

North American Boxing Federation: All states except Alaska have joined the federation. It was requested, providing funds are available, that the Alaska Athletic Commission join. The dues are \$100 annually. The licensing examiner was given an application form for completion and approval by the appropriate authority. The federation will provide the commission with information regarding ratings of fighters in North America, formulates U.S. regulations, sets standards states may adopt and officer training for commission members regarding their duties.

Inspector: It was requested an ID card be issued to Phil Hauser who is an inspector in the Anchorage area. It was also requested a list of inspectors be mailed to the commission members.

Stationery: Mr. Vogt requested that a supply of Occupational Licensing stationery be mailed to him for official use.

Snowmobile Races: Snowmobile races and the need for commission approval was discussed. It was generally agreed since the Alaska State Troopers and the Department of Highways had to approve the commission should not get involved.

Bonding: It was agreed the bonding statutes should be amended to include provisions of a cash deposit in lieu of bond.

Insurance: A medical coverage and death benefit surety fund was discussed. A fund where the promoter and the boxer both gave a percentage of their purse was felt to be the best option. Further investigation through an insurance company maintaining a surety fund for the State should be made.

Licenses: The discussion of issuing licenses led to the agreement that the individual members should review the applications for their area and approve as applicable. The money would continue to be receipted by the commission members who would issue a receipt which would also be recognized as a temporary license. The application and monies would, in turn, be forwarded to the Division of Occupational Licensing for receipting records and issuance of a division license. This system will be worked out by the division; forms and receipting instructions will be forwarded as soon as possible.

Records: It was agreed a central record should be maintained in the Division of Occupational Licensing for all those licensed under the commission and a record of all commission correspondence. It is the responsibility of the individual commission members to supply the division with their records to date and continue to forward applicable information in the future.

Minutes of Meeting
Athletic Commission

Applicant Examinations: It was agreed some type of written exams should be developed for referees and judges. Judges should be examined regarding the point system being used and referees should be knowledgeable of the rules of the game. At present, there are no standards which must be met by the applicant. This was to be considered for inclusion in the regulations.

Next Meeting: It was suggested for the next meeting a request that one of the Washington Commission members be requested to attend. Mr. Vogt felt it would be helpful for all the board members to understand Washington's rules and regulations and for further questions regarding regulations. The Washington commission members for consideration would be:

Don Muse, Commissioner
1417 Columbia Way
Olympia, Washington 98504

or

Dale Ashley - Inspector
6267 N.E. 203rd Place
Seattle, Washington 98151

Telephone number for commission information is (206) 753-3713

As there was no further business, the meeting adjourned at 3:45 p.m.

By: _____
Barbara Branson
Licensing Examiner

For: _____
Sam Taguchi, Commissioner

MEMORANDUM

State of Alaska

TO: Catherine Wallen
Information Officer
Department of Commerce
& Economic Development

DATE: April 21, 1983

FILE NO.

TELEPHONE NO 465-3603

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: State liability
exposure upon
passage of HB 241

Bill Mellow

By: William G. Mellow
Assistant Attorney General
Special Litigation-Juneau

I have reviewed HB 241 for the purpose of assessing state liability exposure should this bill become law. As you are aware, there presently exists statutory provision for an Athletic Commission in AS 05.05.010 -- 05.05.040 which would be repealed by this bill. There is definite liability exposure both in the existing statutory scheme and under HB 241. Actual liability is, of course, dependent upon the extent of implementation and consequent contest activity which are unknown factors.

In a nutshell, the state can be held liable for breach of duties owed to persons who are injured by such breach. Thus, the failure of the state to maintain a road surface in the wintertime creates liability for injuries to motorists involved in accidents caused by icy road conditions. State v. Abbott, 498 P.2d 712 (Alaska 1972). HB 241 imposes a number of duties which are the measure of potential state liability. For example, the commissioner is obligated to adopt regulations for the safe conduct of contests (AS 05.05.080(b)), must provide for attendance of physicians (AS 05.05.090(b)), and may not permit participation by intoxicated persons (AS 05.05.140(a)(1)). Assuming hypothetically that a contestant was killed during an event in which the commissioner had not provided a physician in attendance, the state could be liable for the death if on site medical assistance might have prevented death. Likewise, death or serious injury to an intoxicated contestant could be state liability although comparative negligence of the contestant might diminish that liability somewhat.

In the approximate seven years that I have been involved in state tort defense litigation only one lawsuit was based upon Athletic Commission negligence. In that case, a boxing match was cancelled on the evening of the fight because (according to the promoter) neither the commissioner nor a

physician was in attendance. This forced the promoter to cancel and refund admissions resulting in a claimed loss in excess of \$50,000. The "facts" more accurately appeared to be that other problems unconnected with Athletic Commission negligence were the cause of plaintiff's losses so that the case was eventually resolved without payout, although defense cost probably exceeded \$15,000.

If HB 241 does become law and additionally if athletic contests become regular events in the state, there will of course be considerably more state liability exposure than has been seen in the preceding seven years. The most obvious liability exposure would be death and brain damage injury to boxing contestants. Drawing upon my own experience in statewide personal injury litigation, I would approximate a fiscal note cost of not more than \$100,000/year. This is only a stab in the dark. I recommend that you confer with John Haywood, Director of the State Division of Risk Management (465-2180) should you need a more precise liability cost evaluation.

WGN:jal

cc: John Haywood

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

August 3, 1983

Mr. Gerald Wilkerson, CPA
Legislative Audit
Division of Legislative Audit
Legislative Affairs Agency
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

RE: Preliminary Report
State Athletic Commission

We would like to take this opportunity in responding to your report to identify our position on several issues and assure you this Administration is concerned first with the health and safety of contestants participating in combative sports, the public as spectators and consumers, and to prevent the exploitation of Alaska by those who would injure the State or its citizens.

RECOMMENDATION #1

The Office of the Governor and the Department of Commerce and Economic Development, in conjunction with the Department of Law, should clarify both the legal status of the State Athletic Commission and the extent of its jurisdiction.

We agree with your statement and recommendation, however, we would be remiss if we did not suggest the legislative branch of our State Government must also be included. During the first session of the Twelfth Legislature, SB 513 defining the Athletic Commission was introduced. This bill failed to be released from the House Labor and Commerce Committee. The agency supported that legislation and determined it would have resolved the questions in your recommendation, and allowed for fiscal appropriations.

As stated in your recommendation, the department has been aware of the concerns and has addressed them.

During the most recent legislative session, this Administration has been working with the House Labor and Commerce Committee and its Chairman on HB 241 for the proper establishment of a commission. We still have some concerns regarding the State's liability even with this legislation.

RECOMMENDATION #2

The Governor, upon considering the State's responsibility for the welfare and protection of the participants and spectators of combative sports, should develop proposed legislation to do one of the following:

- (a) Create new statutes to more clearly define the nature and extent of the SAC's responsibilities and fund it accordingly.
- (b) Abolish SAC and repeal its statutes.
- (c) Request funding for the current SAC in order that it can adopt and enforce regulations to more effectively regulate combative sports.

We have been working with legislative committees to develop legislation that will address the State's responsibility in the regulating of the boxing industry. HB 241 was introduced this session. Its success or failure will also reflect on AS 05. Passage would repeal AS 05 as it presently exists, and introduce the Alaska Boxing Commission.

Responding to item #1 under Recommendation #2, we cannot agree or disagree since there is no date period your report refers to. However, we will point out that since November 3, 1980, the division has instructed board members in remitting licensing fees, there is also correspondence to the commission members from the Department of Law, with instructions to the commission regarding AS 37.10.010 and the members' responsibility.

This agency does not have the information to submit an informed response to items #2 and #4 under Recommendation #1.

In regard to item #3, we would not concur in the statement there has been little "active commitment" to development of an active commission by the Administrative branch. Without adequate knowledge, we cannot respond to specifics regarding commission members' statements. We can only assume the statements would be coming from the current members or those recently replaced as commission members. We would disagree with the statement based on the lack of reciprocal communications from commission members.

We should mention that to eliminate a licensing requirement does not cause the type of activity to cease. The elimination of the licensing requirement could cause an increase in the number of events by unscrupulous promoters. We could support a law to make it illegal to conduct or sponsor these events in a bar under laws enforced by the State Alcoholic Control Board (AS 04). This would eliminate the "rough

Mr. Gerald Wilkerson

-3-

August 3, 1983

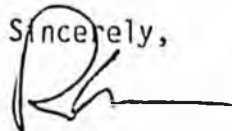
house boxing" events, thereby eliminating the danger of those not qualified to participate. At the present time, this agency does not have an informed opinion as to the training and qualifications of those participating in the "rough house boxing." Members of the staff have researched the "strong-man contest" and would not endorse that type of contest in Alaska. Contests of that type are without safeguards of any type until well into the final stages of the elimination (quarter and semi-final events) bouts.

We could also support a position that would allow professional boxing events to be held in arenas (ex. George M. Sullivan Arena) where alcoholic beverages are not the primary source of revenue. We would also endorse the position that all participants requiring a license obtain one no later than two weeks in advance of the event.

At the present time, the legal advice this agency has received because of the unanswered liability questions has been to seek repeal of existing statutes and nonsupport of legislation that would establish an Alaska Boxing Commission. Based on the current circumstances and the failure to properly fund the existing commission, we would concur with the legal advice.

Thank you for the opportunity to share this agency's opinion.

Sincerely,



Richard A. Lyon
Commissioner

RAL/k:k/H6
8383a

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 9, 1984

SUBJECT: Sectional analysis of
SCS CSHB 241(L&C)
(Alaska Boxing Commission)

TO: Representative Walt Furnace

FROM: *RJ* Russ Josephson
Legislative Counsel

The sectional analysis of SCS CSHB 241(L&C) that you requested follows:

Section 1 This section adds the Alaska Boxing Commission to the list of boards under the central licensing statutes and under the administration of the Department of Commerce and Economic Development.

Section 2 This section adds a termination date for the Alaska Boxing Commission to the list of termination dates for regulatory boards that are part of the central licensing scheme within the Department of Commerce and Economic Development.

Section 3 Adds a new chapter entitled "Boxing" to Title 8 of the statutes. Each new section of law is described below.

AS 08.15.010 establishes the boxing commission in the Department of Commerce and Economic Development.

AS 08.15.020 details the composition of the commission and the terms of membership.

AS 08.15.030 sets out the duties of the commission, including an annual report to the governor.

AS 08.15.040 details the powers of the commission, including the supervision of professional boxing in the state, the licensing of persons involved with the boxing profession,

and the establishment of the qualifications and duties of persons required to be licensed under this Act.

AS 08.15.050 provides for designated representatives to supervise contests when a member of the boxing commission is unable to do so.

AS 08.15.060 requires a commissioner or a designated representative of a commissioner to be in attendance at, and to supervise, all professional boxing contests in this state.

AS 08.15.070 requires the boxing commission to maintain a list of qualified contest officials (attending physicians, timekeepers, referees, and judges). It further provides that the commissioner supervising a contest shall provide those officials at a contest, at the expense of the promoter.

AS 08.15.080 pertains to the meetings and compensation of the commission. The key provisions of this section are the annual meeting, service on the commission without compensation except for per diem and travel expenses, and the requirement that at least one commissioner who is not a member of the profession be in attendance at a meeting in which official action is taken. Also note that this section prevents voting at a meeting by a participant who is out of the state at the time of the meeting.

AS 08.15.090 requires a number of persons involved in the boxing profession to obtain biennial licenses. Authority for temporary licenses and for regulations governing application procedures and qualifications is provided in this section.

AS 08.15.100 sets the license fees at \$200 for promoters, \$100 for managers, and \$25 for all others except attending physicians.

AS 08.15.110 requires the filing of a bond by a promoter before the promoter is licensed. The bond is to ensure the compliance of the promoter with the provisions of the chapter (created by this Act) governing boxing, the payment of the contestants, and the good faith effort to conduct a contest for which tickets have been sold.

AS 08.15.120 lists a number of restrictions on contestants pertaining to the use of alcoholic beverages or controlled

substances, written agreements to participate in contests, a minimum age for contestants, and substitutions of contestants.

AS 08.15.130 requires an examination of a contestant before a contest and requires CAT scans (or equivalent examinations) of contestants at regular intervals. It also provides for the disqualification of a contestant considered physically unfit to participate in a boxing contest.

AS 08.15.140 requires that an attending physician be on duty throughout a contest. The physician has both the authority and the duty to stop a contest.

AS 08.15.150 pertains to cancellation of a contest. Depending upon the reason for the cancellation of the contest, it requires either the scheduled contestant's manager and the promoter of the contest, or the examining physician, to notify either the supervising commissioner or the commission of a cancellation. Public notice of a cancellation is also required.

AS 08.15.160 provides that the failure by a promoter to pay the contestants and the contest officials is grounds for the suspension of the promoter's license.

AS 08.15.170 requires the promoter to file with the commission at least 14 days before a contest a statement indicating the names of the contestants, the managers' names, and other information the commission may require. It also provides for the suspension of the promoter's license for failing to file the statement.

AS 08.15.170 requires the promoter to file within a week after a contest a report indicating how many tickets were sold, the price of the tickets, and other information the commission may require. The report must also certify that the fees required under AS 08.15.160 have been paid, or the reasons for the failure to make the payments must be stated.

AS 08.15.180 is a penalty provision making it a class B misdemeanor for a person to act without a license required under AS 08.15.090(a) (the licensing provision in this Act).

AS 08.15.190 prohibits the conduct or participation in a sham or false contest. Penalties are provided for first and

Representative Walt Furnace
Page 4
March 9, 1984

second offenses by licensed persons and for offenses by unlicensed persons.

AS 08.15.200 provides for forfeiture of a license under this chapter if the licensee promotes or participates in a contest while the licensee's license is under suspension.

AS 08.15.210 indicates that forfeiture of a license is permanent and that a licensee who has forfeited a license may not ever hold any license issued under this chapter.

AS 08.15.220 is a general penalty section providing that, when no other penalty is provided, a violation of a provision of this chapter or of a regulation of the commission is a class B misdemeanor.

AS 08.15.230 makes clear that the Alaska Boxing Commission has jurisdiction over professional boxing events only.

AS 08.15.240 makes the Administrative Procedure Act (AS 44.62) applicable to regulations and proceedings under this chapter.

AS 08.15.900 is a definitions section for the chapter.

Section 4 Section 4 adds the Alaska Boxing Commission to the list in the Administrative Procedure Act of commissions subject to provisions of that act.

Section 5 This section repeals provisions of law concerning boxing, wrestling, and the existing athletic commission.

Section 6 The initial terms of service of the Alaska Boxing Commission members are indicated in this section of temporary law.

Section 7 This section requires the commission to compile a list of designated representatives (to substitute for a supervising commissioner at a contest if necessary). It also directs the commission to adopt comprehensive regulations within one year after the effective date of this Act.

Section 8 Provides an immediate effective date for the Act.

RJ:ojb
J4/063



April 1, 1983
1:30 p.m. (AST)

Anchorage LIO
1024 W 6th Ave.

Members present

Senator Vic Fischer, Chair
Senator Pat Rodey
Senator Tim Kelly
Senator Arliss Sturgulewski

Other Legislators present and testifying

Senator Joe Josephson
Representative Terry Martin
Representative Walt Furnace
Representative Milo Fritz

SB 166 - creating a boxing commission

Senator Fischer opens the meeting with a brief statement of introduction of the bill and explains that there is a teleconference hookup with Representative Walt Furnace's office in Juneau and that legislators and staff will be hearing the Anchorage testimony.

Senator Josephson presented a sectional analysis of SB 166. He explained the scope and authority of the proposed boxing commission and expressed his concern that unregulated boxing could harm Alaska's image, invited unscrupulous promoters, and would result in someone being seriously injured.

Representative Martin said Anchorage people are primarily concerned with regulating boxing and that it was good to hold hearings there. He said he introduced HB 241 (the House version of SB 166) in response to the governors bill SB 513, essentially changing the duties of the Athletic Commission. He said he felt the commission had been negligent and that regulations were needed to assure boxing remained a clean industry.

Previous Minutes on SB in
State Affairs

Representative Martin offered an amendment to provide for licensed inspectors along with additional suggestions for amending SB 166 in response to constituent inquiries and correspondence.

Representative Milo Fritz testified in favor of the bill. He said boxing is the only sport where the whole object is to inflict bodily injuries on your oponent. He outlined the history of boxing from the Roman Empire to the present, spoke about human brains, their capacity, and the effects of blows to the head, and offered several amendments to clarify provisions in the bill.

Wayne Cates owns a local Anchorage bar that offers outlaw boxing. he said if SB 166 passes it will shut down boxing in his bar. He defended current barroom boxing operations and said he felt they were being run ethically and safely.

Dick Angell, a boxing sponsor and promoter, opposed SB 166, saying the bill shows lack of understanding of the boxing and promoting business. He said the bill, if passed, would prevent any professional boxing in Alaska. He said he has closely observed the boxing events going on in Anchorage and felt they were conducted safely, and, in many cases, under rules stricter than SB 166 seeks to enforce.

Bill McConkey said he wants reasonable regulations that are workable and safe. He felt SB 166 was neither. He defended past and current operations of both barroom and professional boxing events in Anchorage over the last several years. He had observed them closely, participated in many, and felt they were safely and ethically conducted. He pointed out provisions in SB 166 that could have prohibitive or onerous effects on professional boxing in Alaska. He offered written suggestions and recommendations for establishing and enforcing boxing regulations.

Dr. Rodman Wilson testified that boxing is bad for your brain and should be outlawed along with other blood sports like cock-fighting. He said blows to the head injures the brain and that repeated blows will result in brain damage. He said there was no safe way to conduct a boxing match and had advised the Mayor, in his capacity as Municipal Health Director, to prohibit boxing events from being scheduled in the new Sullivan Arena.

Art Herbert said he represents amature boxing in Alaska and anticipated problems with SB 166 giving the Athletic Commission such broad authority over both amature and professional boxing. He said he opposes mingling professional and amature sports and fears such a mingling may occur under SB 166.

Coy Baily is a former state Athletic Commissioner and said he felt there may be a problem with the current commissioners boxing-specific experience. He suggested lowering the age limit to 16 and allowing use of lighter gloves. He also suggested eliminating the distinction between professional and semiprofessional boxers.

Phil Pleasant said there is a need to regulate professional boxing in Alaska and felt there should be a commissioner that represented the boxers themselves, preferably a black, male commissioner.

Rudy Williams said he's not a barbarian but that he does box in barroom boxing in Anchorage. He said he can vouch that Anchorage barroom boxing is conducted safely on a voluntary basis. He said he would not be able to box under SB 166 because he couldn't afford the medical exams, time and equipment required to be legal.

Don Keech is a local businessman and boxing spectator. He said he attends nearly every bar boxing match in Anchorage and has never seen anyone fight drunk. He said he believes it's ok the way it is under voluntary rules.

Mike Curnow is a boxer who said he has fought in Anchorage bars for 2 years and has never seen a safety infraction. He said he could not afford to box under provisions in SB 166.

Larry Folsim is a private citizen who said he observes bar bouts regularly and has never seen anything illegal or unsafe. He said he doesn't fight but his roommate does to eat.

Steve Williams is a professional boxer training in Anchorage who said he could not afford to box under provisions in SB 166, specifically the cost of the required CAT scans.

Dr. Jay Caldwell is a sports medicine specialist and has been the attending physician in local bar bouts occasionally. He said he can vouch for the professionalism and good intentions of local people managing and promoting fights. He felt there were serious problems with boxing and that the committee and the general public should address the issue of attempting to regulate a sport that cannot be made safe, and whose purpose is to inflict bodily injury.

Dr. Caldwell made specific suggestions for amending SB 166 including limiting most regulations to boxing instead of general combative sports, to require headgear, and to prohibit smoking where athletic events are taking place.

Bill Davenport is a boxing organizer, judge and referee. He said he doesn't want to restrict outlaw boxing but if we don't regulate it it

will destroy itself. He said there was a real problem with drunk boxers and drunk judges in bar fighting and that we must have workable rules in place before we get some unscrupulous promoters.

Steven Rouse designed two local Anchorage bars outlaw boxing programs. He said neglect and complacency had been the rule and it must be changed now. He said it's only the concern of current promoters that has thus far prevented severe accidents and injuries. He felt we need strong and prudent regulations and without them Alaska is the loophole waiting for an unscrupulous promoter.

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