

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 86/2

2723 SLC HB 426 - HB 508 (FILE 1)

Testimony notes. HB 426

Administration favors bill

The bill liberalizes constitution of a group for purposes of group life insurance.

The ceiling on amounts of group life insurance for dependants is removed. Current maximum ranges from \$100 for a family member under age 6 months to \$2,000 at age 5 or older.

Premium contribution requirements by employer/policyholder are eliminated.

Provides expanded availability of group life insurance by giving a broader base of our population the means of acquiring life insurance on a more economical basis.

Examples of groups newly eligible would be groups such as:
bar associations;
commercial fishermen's associations;
medical associations; and,
pilots associations.

MEMORANDUM

State of Alaska

TO: Kenneth C. Moore, Director

DATE: November 26, 1982

FILE NO:

TELEPHONE NO:

FROM: Jim Jordan 

SUBJECT: Group Life Insurance
Proposed Legislated Changes

Attached, please find the draft of the Act which amends AS 21.48, Group Life Insurance.

The proposed amendments to AS 21.48 accomplish the following:

- 1) The definition regarding who constitutes a duly formed group for the purposes of group life insurance is liberalized;
- 2) The ceiling on amounts of group life insurance for dependents is removed;
- 3) The group definitions applicable to group disability insurance contracts are indirectly liberalized pursuant to AS 21.54.060(4);
- 4) The provisions requiring some premium contribution by an employer/policyholder are eliminated; and
- 5) AS 21.48.060, debtor groups, and AS 21.48.070, credit union groups, remain intact and unchanged due to their unique character and relationship to credit life and credit disability (AS 21.57).

Of course, the underlying intent of the proposal is to provide for expanded availability of group life insurance. Conceivably, a broader based portion of our population will have expanded means of acquiring life insurance coverage on an economical basis.

In my opinion, this proposal will not require increased appropriations for administration. In fact it may result in increased premium tax revenue. Master group contracts heretofore delivered in other states, covering Alaskan residents, in order to circumvent unfavorable provisions in our law, may, in the future, be issued in this state. By so doing, taxable, Alaska premiums could increase.

It should be noted that some unfavorable federal income tax implications could arise in the area of dependent group life. For amounts of dependent group life insurance provided by an employer in excess of \$2,000, the premiums paid by the employer for such coverage would be taxed as income to the employee.

Opposition, if any, to this proposal would most likely come from the life insurance agent specializing in the sale of individual life insurance products. This opposition would be primarily "protectionist" in nature and easily countered.

Let me know if you would like to discuss this proposal in greater detail.

MEMORANDUM

State of Alaska

TO: Mr. Jeff Day DATE: May 18, 1983
Assistant to the Speaker
THRU: Kenneth C. Moore FILE NO:
Director of Insurance
THRU: Richard Lyon TELEPHONE NO:
Commissioner of Commerce &
FROM: Economic Development SUBJECT: Proposed Group Life
FROM: Jim Jordan Insurance Legislation
Insurance Market Analyst III

Per our telephone conversation of May 10, 1983, the following will serve to explain certain defects in the current law which the proposed legislation is intended to rectify.

AS 21.48.010-230 set forth the various criteria regarding group life insurance. Similarly, AS 21.54.010-070 sets forth the criteria which apply to group disability insurance. Each of these chapters respectively establishes what types of entities or collections of persons constitutes a duly formed group. It is only these defined entities that may have a group master contract issued to it within the state. Most frequently, group life insurance and group accident and health insurance is marketed and issued as a "package".

AS 21.48 is constructed to define those eligible groups of persons within very narrow parameters. Conversely AS 21.54 is constructed so that a broader range of entities form duly constituted groups. In other words, it is possible for some types of groups to be proper groups for the purposes of group accident and health but not be eligible for group life insurance. An example of this situation is an "association" group for which group accident and health coverage may be legally written (AS 21.54.060(2)) but may not be eligible for group life insurance (AS 21.48.040).

This holds true for associations that are comprised of members who may not be necessarily employers. Examples of such associations could be bar associations, medical associations, pilots associations, or commercial fishermen's associations. When interested in obtaining group insurance coverages, these types of associations are able to obtain coverage. This is accomplished by joining other associations outside of Alaska that have such coverages provided via group master contract delivered in other jurisdictions. Alaska's insurance laws do not extend extra-territorially, so residents covered under these arrangements lose, to a certain degree, the local regulatory protection. (However, they may go to the insurance department in the state in which the master contract is delivered for consumer assistance.) Additionally, such arrangements may also result in less premium taxes being collected in Alaska.

AS 21.48.090 imposes maximum amounts of group life insurance which may be extended to the dependents of covered employees or members of a group. The amount is scheduled and increases by the age of the family member from \$100 at under the age of 6 months to a maximum of \$2,000 at

ages 5 years and older. These amounts were established by law in 1966 and certainly inflationary pressures alone would dictate the maximum amounts of coverage be increased. The proposed language would remove all maximums. Group insurance is primarily an employee benefit and may be subject to collective bargaining. It was felt that the insurance laws should not impose any artificial barriers in the negotiation or determination of employee benefits. Again, an employer may provide amounts of dependents group life insurance greater than that allowed by Alaska law by joining a multiple employer trust located in state allowing higher amounts. (We know this has been done.) Many states exist which have no such maximum for dependents group life insurance. One of the reasons for limiting the amount of dependent group life to \$2,000 is due to federal income tax implications. In the situation where an employer pays the entire premium for dependents group life insurance, the IRS has ruled that so long as the coverage amount is incidental, no additional taxable income is incurred by the employee. The amount determined by the IRS as being incidental is up to a maximum of \$2,000. (The same holds true for the amounts of group life insurance provided to employees except that no federal income tax liability accrues until the amounts of coverage exceeds \$50,000.)

In general, AS 21.48 requires that the premium can not be entirely paid by employee contributions. The proposed language removes this requirement. This change was included for several reasons. First, an employer can in effect make this meaningless by contributing only 1¢ toward the premium cost for each employee. Second, some employee benefit programs contain a basic amount of group life insurance paid for entirely by the employer and an optional amount paid for entirely the employee. Current construction of AS 21.48 forces such coverages to be underwritten by one insurer in one master group contract. This may impede competition to a certain degree, particularly for larger employers. An example of this could be the State of Alaska plan for its employees where the various segments of the benefit package go out to competitive bid. One insurer may submit the lowest bid for the optional group life but may not be the lowest bidder on the basic group life. Therefore, the state could not award the contract for the optional group life to that insurer who is the lowest bidder and award a separate contract to another insurer who was the lowest bidder on the basic group life. Third, again,, an employer may circumvent this situation by joining an association or multiple employer trust situated in another state. Last, AS 21.54 imposes no such requirement for group accident and health coverages.

It is felt that the proposed changes would help facilitate the extension of life insurance protection to a broader section of our population with no material loss in regulatory protection. Typically, group insurance is less costly than individual insurance contracts due to the administrative economies realized. Therefore, this proposal should help to provide a broader base of coverage at a cost more beneficial to the Alaskan resident.

Also, for your information, the proposed language is patterned after Colorado's group life law.

Please let me know if I may be of any further assistance.

Sincerely,

James J. Jordan
Insurance Market Analyst

JJJ/gw

Group Life
Insurance

HOUSE BILL NO. 426, by Rep. Hayes. Amends laws governing the issuance of group life insurance policies (AS 21.48) to provide that no policy may be delivered in Alaska insuring the lives of more than one individual unless "(1) the policyholder was formed for purposes other than obtaining insurance, or is a trust established by one or more employers or labor unions; (2) the policy covers at least two individuals at the date of issue; (3) an individual eligible for coverage is subject to uniformly applied standards of insurability imposed by the insurer; (4) amounts of group life insurance are determined based on some plan that will preclude individual selection; and (5) the group life insurance contract is in compliance with the other applicable provisions of this chapter." Currently, the section (AS 21.48.010) reads that no life insurance policy may be delivered in Alaska insuring the lives of more than one individual unless delivered to one of the groups as provided for in AS 21.48.020 - 060 (employee groups, labor union groups, trustee groups, public employee groups, or debtor groups), and unless in compliance with the other applicable provisions of AS 21.48.

Adds to AS 21.48.010: "Insurance under a group life insurance policy may be extended to insure dependents. Notwithstanding AS 21.48.070 [Credit Union Group], only one certificate need be issued for delivery to an insured person if a statement concerning a dependent's coverage is included in the certificate. . . . In this section, 'dependents' means the spouse and dependent children of an employee or member of the group." (The bill repeals existing law dealing with coverage for dependents. Existing law contains more explicit requirements for issuance of such coverage.)

Repeals AS 21.48.020 (Employee Groups), AS 21.48.030 (Labor Union Groups), AS 21.48.040 (Trustee Groups), AS 21.48.050 (Public Employee Associations), and AS 21.48.090 (Dependent's Coverage).

Provides for an immediate effective date.

The L&C substitute states that "A group life insurance policy may not be delivered in this state insuring the lives of more than one individual unless (1) the policyholder was formed for purposes other than obtaining insurance, or is a trust established by one or more employers or labor unions or by one or more employers and labor unions; . . . (3) an individual eligible for coverage is subject to uniformly applied standards of insurability as may be imposed by the insurer; . . ." (underlined language added by L&C).

One other technical change is made in section 2 of the bill. States that Insurance under a group life insurance policy may be extended to insure dependents, and notwithstanding AS 21.48.170 (Group Life Insurance. Certificate), only one certificate need be issued for delivery to an insured if a statement concerning a dependent's coverage is included in the certificate (statute cited previously was AS 21.48.070 (Group Life Insurance. Credit Union Group)).

Summary



Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

MEMORANDUM

April 28, 1983

To: Don Koch
 Division of Insurance 3720

From: Jeff Day *JD* 3721
 Assistant to the Speaker 3740

Re: Proposed Group Life Insurance legislation

Attached is proposed legislation which I briefly mentioned to you before. I have not requested formal drafting of this yet. I have been told, and you will see by a notation, that Division of Insurance supports this and basically wrote it.

I need that confirmed and I also need to know why this is needed and what it will accomplish. I wanted you to look it over and give me your thoughts or opinions.

Thanks.

MEMORANDUM

State of Alaska

TO: Kenneth C. Moore
Director, Division of Insurance

DATE: May 26, 1983

FILE NO:

TELEPHONE NO:

FROM: Jim Jordan
Insurance Market Analyst

SUBJECT: HB 426 - comments

Handwritten: STELA ROOM (HIT)

Handwritten initials: JY

In the most part, the bill as introduced is substantially the same as my original draft. Some re-ordering was done but does not change the substance. However, I would recommend that four changes be made. Two of the changes, if not made, would make no difference in the meaning but are suggested to add more clarity. However, the other two suggested changes need to be made.

Suggested Amendments

1. p. 1., line 10; immediately following the word "A" add the word "group". (Not critical but would add more clarity.)
2. p. 1., line 14; following the word "unions" add the following words ", or by one or more employers and labor unions".

(This is a necessary change to recognize the combination of employers and labor unions which represent the employees of that employer(s).)

3. p. 1., line 18; between the words "insurability" and "imposed" insert the words "as may be".

(This is not critical but it adds more clarity. Without the amendment, it might appear that an insurer must apply evidence of insurability standards. Many group life contracts are issued without any requirements that evidence of insurability or good health be provided for each group member. It is a basic tenet of group insurance that with a large enough group of insureds a sufficient spread of risk is realized, thus obviating the necessity of individually, medically underwriting each person. I don't believe we want to impose this on the public or insurers when it is an actuarially sound principal.)

4. p. 1., line 28; change the cite "AS 21.48.070" to the correct cite "AS 21.48.170".

(This is a necessary change. The citation in HR 426 is incorrect.)

HB 426 leaves in the specific criteria for debtor groups (AS 21.48.060) and for credit union groups (AS 21.48.070). The original draft did the same thing. This was done because of the unique nature of these types of groups and their specific relationship to AS 21.57. This is particularly the case for debtor groups.

I am attaching a marked up copy of HB 426, which includes the suggested amendments, as well as copies of my memoranda of November 26, 1982 to you and of May 18, 1983 to Jeff Day, and of my original draft.

1 IN THE HOUSE

BY HAYES

2

HOUSE BILL NO. 426

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to group life insurance; and provid-
7 ing for an effective date."

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

9 * Section 1. AS 21.48.010(a) is amended to read:

10 (a) ^{group} A [NO] life insurance policy may not be delivered in this
11 state insuring the lives of more than one individual unless

12 (1) the policyholder was formed for purposes other than
13 obtaining insurance, or is a trust established by one or more
14 employers or labor unions; ^{or by one or more employers and labor unions}

15 (2) the policy covers at least two individuals at the date
16 of issue;

17 (3) an individual eligible for coverage is subject to
18 uniformly applied standards of insurability; ^{as may be} imposed by the insurer;

19 (4) amounts of group life insurance are determined based on
20 some plan that will preclude individual selection; and

21 (5) the group life insurance contract is in compliance with
22 the other applicable provisions of this chapter [DELIVERED TO ONE OF
23 THE GROUPS AS PROVIDED FOR IN SECS. 20 - 60 OF THIS CHAPTER, AND
24 UNLESS IN COMPLIANCE WITH THE OTHER APPLICABLE PROVISIONS OF THIS
25 CHAPTER].

26 * Sec. 2. AS 21.48.010 is amended by adding new subsections to read:

27 (c) Insurance under a group life insurance policy may be
28 extended to insure dependents. Notwithstanding AS 21.48.070¹⁷⁰, only one
29 certificate need be issued for delivery to an insured person if a

1 statement concerning a dependent's coverage is included in the certif-
2 icate.

3 (d) In this section, "dependents" means the spouse and dependent
4 children of an employee or member of the group.

5 * Sec. 3. AS 21.48.020 - 21.48.050 and AS 21.48.090 are repealed.

6 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
7 10.070(c).

MEMORANDUM

State of Alaska

TO: Kenneth C. Moore, Director

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TELEPHONE NO:

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MEMORANDUM

State of Alaska

TO: Mr. Jeff Day
Assistant to the Speaker

DATE: May 18, 1983

THRU: Kenneth C. Moore
Director of Insurance

FILE NO:

THRU: Richard Lyon
Commissioner of Commerce &
Economic Development

TELEPHONE NO:

FROM: Jim Jordan
Insurance Market Analyst III

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Also, for your information, the proposed language is patterned after Colorado's group life law.

Please let me know if I may be of any further assistance.

Sincerely,

James J. Jordan
Insurance Market Analyst

JJJ/gw

H B

495

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 495

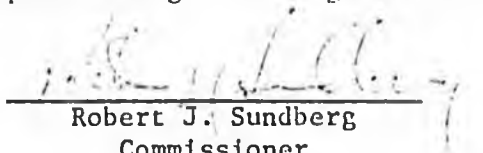
Opposed

January 24, 1984

HB 495, An Act providing for prisoner of war special registration plates.

The Department is opposed to this piece of legislation. Issuing special registration plates to any select group of individuals requires more documentation, and more employee effort than a normal registration. With any one group the effort may not be large, but with several groups the effort expended in proportion to the total number of registrations can be excessive.

Since there are so many groups deserving of recognition, the problem with this type legislation is where to stop once it's started. The reasoning would be that since one group has the plates, another group is just as deserving of special recognition and so on. For these very same reasons over the years the Department has successfully opposed special registration plates for Medal of Honor winners, National Guard members, Emergency Medical Technicians, Volunteer Firemen, etc. There is no argument that each of these groups is deserving of recognition, but the various types of special plate designs and registrations could become quite large.



Robert J. Sundberg
Commissioner

Position Paper

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 2

REQUEST

Bill/Resolution No.: SS HB 495
Title: An Act providing for
prisoner of war special registration....
Sponsor: Liska
Requestor: House State Affairs
Date of Request: 2-22-84

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Life and Property
BRU, Program or Subprogram(s) Affected: Motor Vehicles/Field Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<u>OPERATING</u>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		1.0	.5	.6	.6	.7
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<u>TOTAL OPERATING</u>		1.0	.5	.6	.6	.7
<u>CAPITAL</u>						
<u>REVENUE</u>		(3.0)	(3.0)	(3.0)	(3.0)	(3.0)

FUNDING: (Thousands of Dollars)

GENERAL FUND		1.0	.5	.6	.6	.7
FEDERAL FUNDS						
OTHER						
<u>TOTAL</u>		1.0	.5	.6	.6	.7

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor.

ANALYSIS: Attach a separate page for analysis

Prepared By: Charles R. Hosack Phone: 269-5551
Division: Motor Vehicles Date: 2-23-84

Approved by Commissioner: [Signature] Date: 2/27/84
Agency: Public Safety

Distribution (by Agency preparing fiscal note):

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

Fiscal Note

12/1/83

SS HB 495 Page 2 of 2
Fiscal Note Analysis

These estimates are based on the assumption that there will be 100 persons applying for POW registration plates.

FY85 Costs:

300 - Contractual

100 pair POW plates @\$5.00	.5
Programming changes	.5
	<hr/>
	1.0

Revenue:

Loss of revenue from 100 vehicle registrations @ \$30.00	(3.0)
--	-------

8 495 TITLE & SPONSOR SUMMARY

17:13 5/04/84 PAGE 1 OF 3

RENDED TITLE: SSH2 495

ACT PROVIDING FOR PRISONER OF WAR SPECIAL REGISTRATION
DATES

GENERAL DOLLARS: \$1,000 (F. NOTE)

PRIME SPONSOR: LISKA.

OTHER DOLLARS: 40

CO-SPONSORS: FURNACE, SZYHANSKI.

CURRENT STATUS: 5/30/84 PASSED (S)

8 495 HOUSE ACTION

17:13 5/04/84 PAGE 2 OF 3

DATE SEQ PAGE

LEGISLATIVE ACTION

02/21/84	01	2654	FIRST READING -- COMMITTEE REPORTS
02/22/84	02	2663	S.A. -- 0P07
03/01/84	03	2773	F.A. F/NOTE HSE SUPPL #100
03/14/84	04	2814	FIN -- DPOS, NR03
03/16/84	05	2851	SECOND READING
03/16/84	06	2851	ADVANCED TO 3RD READING BY UNAN CONSENT
03/16/84	07	2851	THIRD READING
03/16/84	08	2851	PASSED BY DIV 75-00-07
XXX	XX	XX	XXX XXX XXX

8 495 SENATE ACTION

17:13 5/04/84 PAGE 3 OF 3

DATE SEQ PAGE

LEGISLATIVE ACTION

03/19/84	09	2808	FIRST READING -- COMMITTEE REPORTS
04/25/84	10	2817	L&C -- 0P03
05/18/84	11	3153	FIN -- DI 04, DNPC1, NR02
05/30/84	12	3313	RLC -- 0T-HER04
			TAKEN UP IMMEDIATELY
07/20/84	13	3390	SECOND READING
07/30/84	14	3390	ADVANCED TO 3RD READING BY UNAN CONSENT
07/30/84	15	3390	THIRD READING
07/30/84	16	3390	PASSED BY DIV 17-02-01
XXX	XX	XX	XXX XXX XXX

HOUSE BILL 495

THE PURPOSE OF HOUSE BILL 495 IS TO HONOR EX - POW'S.

UNDER THIS BILL, EACH QUALIFYING VETERAN IN THE STATE OF ALASKA WILL BE ENTITLED TO ONE SET OF "POW" LICENSE PLATES.

THERE WILL BE NO CHARGE FOR THE PLATES BY THE DIVISION OF MOTOR VEHICLES, HOWEVER, THE USUAL PERMIT FEES MUST BE PAID TO THE VETERAN'S CITY OR TOWN OF RESIDENCE.

THE NEW LICENSE PLATE WILL BE DESIGNED BY THE DIVISION OF MOTOR VEHICLES.

PRESENTLY THERE ARE APPROXIMATELY 41 OTHER STATES IN THE UNITED STATES WHICH ARE CURRENTLY HONORING THEIR EX-POW'S IN THIS MANNER.

I recommend passage of this
legislation.

COMMITTEE REPORT

SENATE

FURTHER:

Date 7/29/84

Mr. President

The Committee on LABOR AND CONFERENCE considered _____

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title _____
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

Alaska State Legislature

COMMITTEES

vice Chairman -- Judiciary
Vice Chairman -- Legislative
Regulations Review
Resources
Finance Sub Committee on Labor



While in Session
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3733

Home - District 15
Star Route Box 421
Eagle River, Alaska 99577
(907) 688-2526

House of Representatives

John J. Liska

March 22, 1984

MEMORANDUM

REF: House bill 495, "An Act providing for prisoner of war special registration plates."

The purpose of this Act is to honor ex-POW's.

Under this bill, each qualifying veteran in the State of Alaska will be entitled to one set of "POW" license plates.

There will be no charge for the plates by the Division of Motor Vehicles, however, the usual permit fees must be paid to the veteran's city or town of residence.

The new license plate will be designed by the division of Motor Vehicles.

Presently there are approximately 41 other States in the United States which are currently honoring their ex-POW's in this manner.

- Enclosures: 1. HB 495
2. Article from National News.
3. Alaska Statute - sec. 28.10.171
sec. 28.10.181
sec. 28.10.201
sec. 28.10.421
sec. 28.10.431

JJL/tm

NATIONAL NEWS

EX-POW LICENSE PLATES

The state of New Hampshire has become the most recent state to pass legislation providing for an ex-POW license plate. Latest information available designates it as the 40th state with special plates for its former prisoners of war residents. Each qualifying veteran in New Hampshire is entitled to one set of the new plates. There will be no charge for the plates by the Division of Motor Vehicles. However, the usual permit fees must be paid to the veteran's city or town of residence. Any questions regarding these plates should be referred to the office of Assistant Director Kenneth H. Lewis, PH: (603)271-2764.

Believed to be a first, the state of Illinois now provides special license plates for widows of POWs. The bill was sponsored by Sen. Watson and is effective immediately.



Pictured, left to right, is Robert Pelka, Director of the VAMC in Wichita, Kansas, and Jon Nelson, artist. Jon is the son of ex-POW Carl A. and Joyce Nelson of Cheney, Kansas. He did the painting, titled "The Good King", out of appreciation of the help Mr. Pelka has given the Nelsons and other veterans. He presented the painting, a blue ribbon winner at the County Fair, to Mr. Pelka. Jon is 15 years old.

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MEMORIAL AT TOMB OF THE UNKNOWN SOLDIER

At 3:05 p.m. on Wednesday, September 21, 1983, a wreath was placed on the Tomb of the Unknown Soldier by PNC Charles Miller and NC Earl Derrington, in quiet salute to the 17,026 Americans captured during WWI, WWII, Korea and Vietnam, who died during confinement. Living former POWs honor their comrades-in-arms who first gave their freedom and then their lives in service to their country.

NEWS FROM ST. LOUIS VAMC

On August 19, 1983, the John Cochran Division of the St. Louis VA Medical Center held groundbreaking ceremonies for a clinical addition and ward renovation project. This 42.5 million dollar project will add more beds and more than 148,000 square feet of new construction and 83,000 square feet of renovated space. Ex-prisoners of war present to help with the ceremonies were ND Peter L. Choma, Wally Branks and, leading those present in the Pledge of Allegiance along with Congressional Medal of Honor Recipient Russell E. Dunham, were the St. Louis Chapter members Santiago Varela, Clyde Baker, and E. Lynn Cosgrove.



MedSearch packets were donated to the VAMC by the OKAW Chapter of Illinois. Pictured left to right are Krista Ludenia, Ph.D., Acting Associate Medical Center Director; ND Peter Choma, Dep/Rep VAVS representing Chapter Cmdr. Morris Lacy; and Sidney F. Ford, St. Louis Medical Center Director.

EVENTS CALENDAR

DEPARTMENT OF TEXAS MID-WINTER CONFERENCE

November 4-5, 1983
Quality Inn, I-35 & Oltorf Rd.,
Austin, Texas

of the license plate or contained on a suitable sticker or tab device issued by the department.

(c) The department may not adopt a new or altered passenger vehicle registration plate unless it substantially embodies the specifications of this section. (§ 7 ch 178 SLA 1978)

Am. Jur. and C.J.S. references. — 5 Am. Automobiles and Highway Traffic, § 85.
Jur., Automobiles, § 111; 5A Am. Jur., 60 C.J.S., Motor Vehicles, §§ 105 to 108.

Sec. 28.10.171. Display of registration plates. (a) When two registration plates are issued for a vehicle, they shall be attached to the vehicle for which issued, one in front and the other in the rear. When one registration plate is issued, it shall be attached to the rear of the vehicle for which issued.

(b) Every registration plate issued under this chapter shall be securely fastened to the vehicle to which it is assigned, with the upper edge of the plate horizontal, at a height of not less than 12 inches from the ground measuring from the bottom of the plate, and maintained in a location and condition so as to be clearly legible. However, when considered necessary to insure legibility, the commissioner may provide by regulation for another method of installation. (§ 7 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur.,
Automobiles, § 111.

Sec. 28.10.181. Registration of unique and special vehicles and vehicles used for special purposes. (a) The department shall register unique and special vehicles and vehicles used for special purposes and issue registration plates as provided in this section. Notwithstanding other provisions of this chapter, registration plates issued under this section remain with the person or organization to whom they are issued when vehicle ownership is transferred or title or interest in the vehicle is assigned, except for plates issued under (b), (h) and (i) of this section. Registration plates issued under this section may not be used on, or transferred to, a vehicle other than the vehicle for which the plates are issued without the approval of the department and payment of any required fees and taxes prescribed in §§ 421(d), 431 and 441 of this chapter; however, if the plates issued under (c), (f) and (j) of this section are transferred to a vehicle for which the registration fee is more than the fee for the vehicle from which the plates are transferred, the owner shall pay the difference between the two fees. Registration plates issued under this section to which a person is no longer entitled or the transfer of the plates to another vehicle which the department does not approve shall be returned immediately to the department by the person or organization to whom the plates were originally issued.

(b) Historic vehicles. The owner of an historic vehicle may make application for special registration under this subsection. The department, when satisfied that the vehicle meets the requirements for historic vehicle registration under regulations adopted by the commissioner, shall register the vehicle and issue two permanent registration plates of distinctive design and color bearing no date. These plates remain with the vehicle as long as it is registered under this subsection. Vehicles qualifying for registration under this subsection shall be issued registration plates numbered in a separate numerical series beginning with "Historic Vehicle No. 1."

(c) Special request plates. Upon application by the owner of a passenger vehicle, noncommercial van or pick-up truck, or motor home, the department may design and issue registration plates containing a series of not more than six letters or numbers or combination of letters and numbers as requested by the owner. The department may, in its discretion, disapprove the issuance of registration plates under this subsection when the requested symbols are a duplication of an existing registration or when the symbols are considered unacceptable by the department.

(d) Vehicles owned by disabled veterans and handicapped persons. A person who presents to the department written proof that he is at least 70 per cent disabled or medically handicapped and should be given special consideration by the public with respect to the parking or standing of his vehicle in designated spaces, may register one passenger vehicle without charge. The proof required under this subsection may consist of evidence that the person receives at least 70 per cent disability compensation from a government agency at the time of registration or an affidavit signed by a physician licensed to practice medicine in this state. Upon the request of the applicant the department shall issue a specially designed registration plate which displays

(1) recognition of the disabled veteran if the applicant's disability originated from his service with the armed forces of the United States; or

(2) the standard handicap symbol (the wheelchair logo).

(e) Vehicles owned by the state, municipalities, and charitable organizations of the state. Every certificate of registration and registration plate issued to the state, a municipality or charitable organization of the state is in effect until the vehicle for which the registration certificate and plate were issued is no longer owned and operated by the state, the municipality or the charitable organization of the state or until the department, in its discretion, declares its expiration. The state, municipality or charitable organization of the state shall maintain a current listing of all vehicles registered to it in the order of the registration number assigned to each vehicle, and shall provide a copy of the listing to the department upon its request. The listing shall include a description of each vehicle and other identifying information

required by the department. Registration plates issued under this subsection shall be of a distinctive design and numbering system. For the purposes of this subsection, "charitable organization" means a nonprofit association, corporation, society or other entity organized, incorporated or headquartered in the state for educational, cultural, scientific or other charitable purposes, as prescribed in regulations of the department.

(f) Vehicles owned by elected state officials. The department shall issue special registration plates to each incumbent elected state official for display on noncommercial motor vehicles owned and driven by the official. The department shall number or design the plates so that registration by an elected state official is indicated upon the plates. The registration plates issued under this subsection remain with the owner of the vehicle only during his term of office.

(g) Vehicles owned by consular officers of foreign governments. A vehicle owned by a consular officer of a foreign government shall be issued registration plates displaying the title "consular corps" or "cc." However, the commissioner may waive the registration of consular vehicles and the payment of fees and taxes when consistent with international treaties or agreements.

(h) Vehicles owned by ranchers, farmers, and dairymen. A vehicle not exceeding an unladen total gross weight of 16,000 pounds, owned by a person deriving his primary source of livelihood from the operation of a ranch, farm, or dairy where he maintains his full-time residence, and which vehicle is used exclusively to transport his own ranch, farm, or dairy products to and from the market or to transport supplies, commodities or equipment to be used on his ranch, farm or dairy, may be registered under this subsection and may be issued registration plates of a distinctive design or system of numbering.

(i) Amateur mobile radio station vehicles. A validly licensed amateur radio operator who presents satisfactory proof that the owner holds an unexpired Federal Communications Commission amateur radio operator's license of any renewable class, and who presents satisfactory proof that the vehicle contains or carries an amateur radio transmitter and receiving unit of a type applicable to the license class applied for, and who is permitted by law to operate a fixed station, may register one amateur mobile radio station vehicle for each radio license issued by the federal government and may receive for the vehicle distinctive registration plates instead of regular registration plates. The number on the plates shall be the radio call sign of the owner.

(j) Vehicles owned by dealers. A state-registered and bonded vehicle dealer may apply for dealer registration plates. A plate issued under this subsection may be used only on dealer-owned vehicles during the routine and normal course of the dealer's business, excluding service vehicles, or for transporting an unregistered vehicle from a port of entry to the dealer's facilities or from one dealer to another or, in the case of a house

trailer, from the retail facility to a trailer space. If the dealer sells or transfers the vehicle, the dealer plates may be used on the vehicle by the new owner or transferee for a period of not more than five days after the sale or transfer. The department may seize the dealer plates if it has reason to believe that the plates are being used to defeat the purposes of, or are in violation of, this chapter. (§ 7 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur.,
Automobiles, §§ 108, 136.

Article 2. Title.

Section	Section
201. Title required; exceptions	241. Delivery and effect of certificate of title
211. Application for title	251. Lost, stolen or mutilated certificate of title
221. Refusal, suspension, and revocation of title	261. Evidence
231. Certificate of title contents	

Sec. 28.10.201. Title required; exceptions. (a) Except as otherwise provided in (b) of this section or in §§ 131 — 141 of this chapter, every owner of a vehicle subject to registration in this state shall apply for a certificate of title under this chapter.

(b) The owner of a vehicle described in § 11 of this chapter as being exempt from registration and the owner of a snowmobile or off-highway vehicle may not apply for, nor may the department issue, a certificate of title for such a vehicle. However, the department may issue a certificate of title to the owner of a vehicle exempt from registration under § 11(6) of this chapter, upon application by that owner.

(c) The certificate of title issued may, when there is more than one owner, state the name of each owner in the conjunctive or in the disjunctive in order to indicate that the owners own the vehicle together or in the alternative.

(d) Except for vehicles registered under §§ 131(b) and 141 of this chapter, the department may not register a vehicle unless the applicant for registration at the same time applies for and obtains a certificate of title under this chapter, or presents satisfactory evidence that a certificate of title was previously issued to him. The department may not accept the application for the original certificate of registration or title to a vehicle unless the vehicle is in the state at the time of application. However, the department may accept an application for registration and certificate of title for a vehicle which is not in the state when the application is made by a registered and bonded dealer or by a resident of the state when the application is accompanied by a manufacturer's statement of origin, or in the case of a used vehicle, when the application is accompanied by a certificate of title issued in another jurisdiction and a certificate of inspection by a peace officer of that jurisdiction stating that the vehicle has been determined to be...

Title 35
Public Buildings, Works,

Title 36
Public Contracts

Sec. 28.10.216. Inadequate evidence of ownership. (a) When the department is not satisfied as to the ownership of a vehicle or believes that there may be undisclosed security interests in it, the department may register the vehicle but shall either

(1) withhold issuance of a certificate of title until the applicant presents documents sufficient to satisfy the department

(A) as to the ownership of the vehicle by applicant, and

(B) that there are no undisclosed security interests in the vehicle; or

(2) require the applicant, as a condition of the issuance of a certificate of title, to file with the department either

(A) a bond in the form prescribed by the department and executed by the applicant, or

(B) a deposit of cash.

(b) A bond or cash deposit filed under (a)(2) of this section shall be equal in amount to one and one-half times the value of the vehicle as determined by the department and be conditioned to indemnify former owners, secured parties, and subsequent purchasers of the vehicle and their successors against loss resulting from a defect in or undisclosed security interest on the title of the applicant. An injured party may sue on the bond for a breach of its conditions, but the liability of the surety or the department may not exceed the amount of the bond or deposit.

(c) The bond or deposit shall be returned (1) at the end of three years from its filing, or (2) when the vehicle is no longer registered in the state if (2) is earlier and if the certificate of title is surrendered to the department. Service on the department of notice that action is pending to recover on the bond or the deposit extends the periods established in this subsection until 45 days after a final decision in the action on the bond or on the deposit. (§ 3 ch 54 SLA 1979)

Article 5. Fees and Charges.

Section

421. Registration fee rates

~~Sec. 28.10.421~~ Registration fee rates. Unless otherwise provided by law, the fees prescribed in this section shall be paid to the department at the times provided under AS 28.10.101 — 28.10.111.

The annual registration fees under this subsection are imposed within the following classifications for:

(1) a passenger vehicle or motor home not used or maintained for the transportation of persons or property for hire or for other commercial use

(2) a pick-up truck or a van not exceeding 6,000 pounds unladen weight and not used or maintained for the transportation of persons or property for hire or for other commercial use

Title 35
Public Buildings, Works,

Title 36
Public Contracts

Title 27

tion the fee required for that vehicle under (b) or (c) of this section;

(B) in recognition of his service to the public: a mobile amateur radio station owned by an amateur with general class or higher license, on at least five bands between 160 through 10 meters, must have an antenna, and must have a power supply and wiring as a permanent part of the vehicle; the transmitting unit may be removed from the car for service or dry storage none for a mobile amateur radio station vehicle included in b(1) or (2) of this section;

(10) dealer registration plates,

(A) the initial set of plates \$10;

(B) each subsequent set of plates \$20;

(11) a vehicle owned by a municipality or charitable organization meeting the requirements of AS 28.10.181(e) \$5;

(12) an occasional use vehicle under AS 28.10.181(k) \$15;

(e) A vehicle registered under this section which, by the removal of seats, a camper unit, a canopy or other equipment, may be converted into a vehicle on which the registration fee is computed on a different basis or in a different amount may not be driven or moved with the camper unit, canopy or other equipment removed unless the other applicable registration fee is paid. (§ 7 ch 178 SLA 1978; am §§ 4, 5 ch 54 SLA 1979)

Effect of amendments. — Section 4, ch. 54, SLA 1979 added the language beginning "the fee required by this paragraph" to the end of paragraph (2) of subsection (d). Section 5 of ch. 54 added paragraph (12) of subsection (d).

Editor's notes. — Section 8, ch. 54, SLA 1979, provides: "A person who paid a fee in 1979 for special request plates other than

the fee authorized under AS 28.10.421(d)(2) as amended in sec. 4 of this Act is entitled to a refund of the amount collected in excess of the fee authorized under that section."

Section 9, ch. 54, SLA 1979, provides: "Refunds due under sec. 4 of this Act shall be paid on or before July 1, 1979."

Article 6. Registration and Title Violations.

Section

- 491. Felonies relating to title, registration, identification number, and removal and representation of vehicles
- 493. Misdemeanors relating to transfers

Sec. 28.10.471. Driving vehicle when registration suspended or revoked or permit expired.

NOTES TO DECISIONS

Cited in *Lowry v. State*, Ct. App. Op. No. 181 (File Nos. 6328, 6434), P.2d (1982).

- (10) dealer registration plates,
 - (A) the initial set of plates \$40;
 - (B) each subsequent set of plates \$20;
- (11) a vehicle owned by a municipality or charitable organization meeting the requirements of § 181(e) of this chapter \$ 5.

(e) A vehicle registered under this section which, by the removal of seats, a camper unit, a canopy or other equipment, may be converted into a vehicle on which the registration fee is computed on a different basis or in a different amount may not be driven or moved with seats, camper unit, canopy or other equipment removed unless the other applicable registration fee is paid. (§ 7 ch 178 SLA 1978)

Sec. 28.10.431. Annual motor vehicle registration tax. (a) There is levied a motor vehicle registration tax within each municipality which elects, by passage of an appropriate ordinance, to come under this section. A municipality shall file a written notice of election with the department and may not rescind the notice for a subsequent fiscal year. The notice must be filed on or before January 1 of the year preceding the year election under this section is to become effective. If a municipality has, before October 15, 1978, levied a motor vehicle registration or ad valorem tax which has been repealed by a vote of the people at any regular or special municipal election, then the election provided for in this subsection is not effective until the ordinance passed by the local governing body has been approved by the people at the next regularly scheduled general or special municipal election.

(b) The tax is levied upon motor vehicles subject to the license tax under §§ 411 and 421 of this chapter, not including mobile homes, and is based upon the age of vehicles as determined by model year according to the following schedule:

	Tax According to Age of Vehicle							
	Since Model Year:							
	1st	2nd	3rd	4th	5th	6th	7th	8th or over
Motor Vehicle								
(1) motorcycle	\$ 8	\$ 7	\$ 6	\$ 5	\$ 4	\$ 3	\$ 2	\$ 2
(2) vehicles specified in § 421(b)(1) of this chapter	60	50	40	30	20	15	10	5

§ 28.10.431

MOTOR VEHICLES

§ 28.10.431

Tax According to Age of
Vehicle
Since Model Year:

	1st	2nd	3rd	4th	5th	6th	7th	8th or over
Motor Vehicle (3) vehicles specified in § 421(b)(3) of this chapter	60	50	40	30	20	15	10	5
(4) vehicles specified in § 421(c)(1) - (4) of this chapter 5,000 pounds or less	60	50	40	30	20	15	10	5
5,001- 12,000 pounds	100	80	60	50	40	30	20	10
12,001- 18,000 pounds	150	120	100	80	60	40	30	20
18,001 pounds or over	200	160	130	100	80	60	40	20
(5) vehicles specified in § 421(b)(4) of this chapter	100	80	60	50	40	30	20	10
(6) vehicles specified in § 421(b)(6) of this chapter	8	7	6	5	4	3	2	2

		Tax According to Age of Vehicle Since Model Year:							
		1st	2nd	3rd	4th	5th	6th	7th	8th or over
Motor Vehicle (7) vehicles specified in § 421(d)(9) of this chapter		60	50	40	30	20	15	10	5
(8) vehicles specified in § 421(b)(2) of this chapter		60	50	40	30	20	15	10	5
(9) vehicles specified in § 421(d)(10) of this chapter		40							

(c) The registration tax shall be levied, collected, enforced and otherwise administered in the same manner as provided for the registration fees in this chapter. Only one registration tax may be collected with respect to the same motor vehicle in the year for which the tax is paid.

(d) If a person has paid both the registration fee levied in §§ 411 and 421 of this chapter and the registration tax levied in this section, and the department determines that the payor is entitled to a refund in whole or in part of the registration tax, the department shall make the refund to which the person is entitled. No refund may be made unless application for a refund is filed with the department by December 31 of the year following the year for which the refund is claimed.

(e) The department shall refund money collected under this section, less five per cent as collection costs, to a municipality for which the money was collected, as determined by (1) the address of residence of an individual required to pay the tax, or (2) the situs of the vehicle if the vehicle is not owned by an individual; the tax situs is the location at which the motor vehicle is usually, normally, or regularly kept or used. For the first year in which the tax is levied within a municipality,

the department may retain actual costs of collection of the tax within the municipality as determined by the department.

(f) Money received by an organized borough under this section shall be allocated by the borough by ordinance for city, area outside city, and service area purposes within the borough.

(g) Payment of the registration tax is in lieu of all local use taxes and ad valorem taxes on motor vehicles subject to the tax. No municipality which elects to come under the provisions of this section may levy use or ad valorem taxes on motor vehicles subject to the registration tax during a fiscal year in which the election is in effect. (§ 7 ch 178 SLA 1978)

Sec. 28.10.441. Schedule of other fees and charges. The following fees and charges are imposed by the department for the stated services which it provides:

- (1) title fee (including transfer of title) \$ 5;
 - (2) lien filing fee \$ 5;
 - (3) replacement of any registration plate set, including special request plates \$ 5;
 - (4) duplicate of original certificate of title \$ 5;
 - (5) duplicate of certificate of registration \$ 2;
 - (6) temporary preregistration permit issued under § 31 of this chapter none;
 - (7) special transport permit issued under § 151 of this chapter. \$ 5;
 - (8) special permit for vehicle used for transport of disabled or handicapped person as provided in AS 28.10.215 none.
- (§ 7 ch 178 SLA 1978)

Article 6. Registration and Title Violations.

Section	Section
451. Unlawful to violate provisions requiring registration and title	481. Improper use of evidence of registration or certificate of title
461. Driving vehicle without evidence of registration	491. Felonies relating to title, registration, identification number, and removal and representation of vehicles
471. Driving vehicle when registration suspended or revoked or permit expired	

Sec. 28.10.451. Unlawful to violate provisions requiring registration and title. No person may wilfully attempt to defeat the provisions of this chapter or wilfully fail to title or register a vehicle as required by this chapter, or otherwise wilfully fail to comply with the requirements of this chapter. (§ 7 ch 178 SLA 1978)

Sec. 28.10.461. Driving vehicle without evidence of registration. Except as otherwise expressly permitted in this chapter, no person may drive or move, nor may an owner knowingly permit to be driven or

HP

505

SB 505 TITLE & SPONSOR SUMMARY

17:14 6/04/84 PAGE 1 OF 3

RENDED TITLE: CS02 505(JUD)

ACT RELATING TO INSURANCE, AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: MARTIN.

CO-SPONSORS:

CURRENT STATUS: 6/02/84 PASSED (S)

SB 505 HOUSE ACTION

17:14 6/04/84 PAGE 2 OF 3

DATE SEQ PAGE

LEGISLATIVE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
1/10/84	01	2222	FIRST READING -- COMMITTEE REPORTS
4/03/84	02	3177	L&C -- CS02, NR04
4/03/84	05	3179	L&C F/NOTE EQUALS ZERO
4/30/84	04	3512	JUD -- CS02, NR02
4/30/84	05	3536	MOVED FROM FIN TO RLS BY UNAN CONSENT
5/06/84	06	3701	SECOND READING
5/06/84	07	3701	JUD CS ADOPTED BY UNAN CONSENT
5/06/84	08	3701	FAILED TO ADV 3RD READING BY DIV 26 12-02
5/07/84	09	3727	THIRD READING
5/07/84	10	3727	PASSED BY DIV 37-00-84
5/07/84	11	3728	EFFECTIVE DATE VOTE SAME AS PASSAGE

SB 505 SENATE ACTION

17:14 6/04/84 PAGE 3 OF 3

DATE SEQ PAGE

LEGISLATIVE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
5/08/84	12	3187	FIRST READING -- COMMITTEE REPORTS
5/25/84	13	3261	JUD -- CS02, NR03
5/29/84	14	3349	L&C -- DP02, NR01
5/02/84	15	3590	RLS -- OTHER05
			TAKEN UP IMMEDIATELY
6/02/84	16	3513	SECOND READING
6/02/84	17	3514	ADVANCED TO 3RD READING BY UNAN CONSENT
6/02/84	18	3514	THIRD READING
6/02/84	19	3514	PASSED BY DIV 18-01-93
6/02/84	20	3514	EFFECTIVE DATE VOTE SAME AS PASSAGE

COMMITTEE REPORT

SENATE

5/23/64

FURTHER:

Date 5/23/64

Mr. President

The Committee on LABOR AND PENSION considered CS 505 (703)
Insurance, et al.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

CSHB 505(JUD)

COMMITTEE SUBSTITUTE FOR HB 505(JUD), WHILE LENGTHY, IS A RELATIVELY STRAIGHTFORWARD CLEANUP AND UPDATE OF THE PENALTY PROVISIONS IN THE INSURANCE CODE. THE FIRST FUNCTION OF THIS BILL IS TO CONSOLIDATE THE CRIMINAL PENALTIES OF THE INSURANCE CODE IN A SINGLE SECTION, SEC.21,36,360. THERE ARE NO NEW CRIMINAL PENALTIES CREATED, BUT THERE ARE SOME UPGRADES.

THE SECOND FUNCTION OF THIS BILL IS TO ESTABLISH AN ADMINISTRATIVE PENALTY FOR ANY VIOLATION OF THE INSURANCE CODE. IN MANY CASES THERE IS NO ADMINISTRATIVE OR CIVIL PENALTY FOR A VIOLATION OF THE CODE. AS A DISTRICT ATTORNEY IS OFTEN TIMES INVOLVED IN MORE PRESSING MATTERS, VIOLATIONS OF THE INSURANCE CODE GO UNPUNISHED.

THE THIRD ELEMENT OF THIS BILL DEALS WITH A GROWING CONCERN AMONGST INSURANCE REGULATORS CONCERNING INFORMATION SOUGHT DURING INVESTIGATIONS OF CRIMINAL ACTIVITIES. THIS NEW PROVISION WOULD GRANT IMMUNITY TO INDIVIDUALS PARTICIPATING IN AN INVESTIGATION.

CSHB 505(JUD) IS SUPPORTED BY THE DIVISION OF INSURANCE. I RECOMMEND PASSAGE OF THIS LEGISLATION.

ADDITIONAL INFORMATION

SENATOR PETTYJOHN HAS BEEN REVIEWING THIS TOPIC AND WOULD BE HAPPY TO ANSWER ANY PERTINENT QUESTIONS.

This proposal, while lengthy, is a relatively straightforward cleanup and update of the penalty provisions in the insurance code. The first function of this bill is to consolidate the criminal penalties of the insurance code in a single section, Sec. 21.36.360. There are no NEW criminal penalties created, but there are some upgrades. Currently, any violation of Title 21 (the insurance code), is a misdemeanor unless otherwise specifically labeled.

The second function of this bill is to establish an administrative penalty for any violation of the insurance code. In many cases there is no administrative or civil penalty for a violation of the code. This means that the violator gets away with the act, since a district attorney is going to be less than enamored with prosecuting as a misdemeanor some of the technical violations we see in the administration of the code. This bill sets up a dual course, where an administrative remedy and a criminal remedy will be available for any violation of the code. This is accomplished by changing all the present criminal language to civil penalty language. In doing this, the penalty levels, which have not been changed since 1966, have been reviewed and upgraded. Language to clarify that a hearing must be held before imposition of penalties was added in House Judiciary

The third element of this bill deals with a growing concern amongst insurance regulators concerning information sought during investigations of criminal activities. In recent months a number of fraud investigations have commenced in the west, some in which our division is participating. The challenge we currently face is that there is no immunity available for persons sharing or providing information. This fact has impeded a number of investigations across the country. In some cases other insurance regulators are willing to act as our agent in securing information but have no protection if they do so. Presently two states have adopted legislation that deals with this issue. We have used a model that tracks a National Association of Insurance Commissioners model.

Section 1. Page 1, lines 9-16.

This is a new civil penalty section that fines an insurer who fails to submit its annual financial statement when due. It also gives the director the authority to suspend the activities of an insurer who fails to submit the statement when due. The concern here is that the statement is the director's principal tool in determining the financial health of an insurer and its absence leaves that health in question.

Section 2. Page 1, lines 17-26.

This section establishes a new civil penalty. The section deals with violations of AS 21.09.220-250, which is the section on the countersignature law which is in the process of repeal, and with writing through unlicensed agents. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(1)].

Section 3. Page 1, lines 27-29 & page 2, lines 1-11.

This section establishes a new civil penalty. AS 21.22 is the insurance holding company act which is concerned with the acquisition of, control of, or merger with a domestic insurance company. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(h)].

Section 4. Page 2, lines 12-17.

This section establishes a new civil penalty. AS 21.27 is the insurance agents, brokers, solicitors, and adjusters licensing act. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(j)].

Section 5. Page 2, lines 18-24.

This section establishes a new civil penalty. It deals with reporting of premiums to an insurer by a licensee. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(n)].

Section 6. Page 2, lines 25-29 & page 3, lines 1-4.

This section establishes a new civil penalty. It is concerned with the monies a licensee receives as premium from an insured or as return premium from an insurer. These are trust funds and their misuse or misappropriation is a matter of particular concern to the division. The current criminal provision is transferred to Section 10 [see Sec. 21.36.360(b)(5)].

Section 7. Page 3, lines 5-17.

This section deals with the penalties for violation of the licensing law. The principal change here is an upgrading of the amount of penalty.

Section 8. Page 3, lines 18-27.

This section upgrades the fine applied in lieu of suspension, revocation, of refusal to renew a license from \$500 to \$2500.

Section 9. Page 3, lines 28-29 & page 4, lines 1-9.

This section establishes a new civil penalty. It deals with persons refusing examination by the director of their activities in the surplus lines market. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(l)].

Section 10. Page 4, lines 10-29, all of pages 5-9 & page 10, lines 1-21.

This section centralizes the criminal provisions of the insurance code. The chapter into which this has been inserted is the trade practices and frauds chapter, a logical place to look for these provisions. The new section also deals with investigation information confidentiality and immunity.

Sec 21.36.360(a). Page 4, lines 10-16.

This subsection prohibits fraudulent and criminal acts and provides that

the criminal penalties are in addition to civil penalties. We have made a distinction between fraudulent and criminal because of the connotation associated with the term "fraudulent". The word as used in this section generally means to intentionally injure, defraud, or deceive.

Sec 21.36.360(b)(1). Page 4, lines 17-22.

This section is drawn from the current AS 21.36.180(a), which is repealed in Section 22. No substantive change.

Sec 21.36.360(b)(2)-(3). Page 4, lines 23-29 & page 5, lines 1-2.

These sections are drawn from the current AS 21.36.200, which is repealed in Section 22. No substantive change.

Sec 21.36.360(b)(4). Page 5, lines 3-9.

This section is drawn from the current AS 21.36.180(b), which is repealed in Section 22. No substantive change.

Sec 21.36.360(b)(5). Page 5, lines 10-12.

This section is drawn from the current AS 21.27.360(c) which is amended in Section 6. No substantive change.

Sec 21.36.360(b)(6). Page 5, lines 13-14.

This section effectively upgrades the criminal offense of failing to pay a tax liability under this title, depending on the amount the person has failed to pay. It is currently a misdemeanor under the general penalty section of the insurance code, AS 21.90.020.

Sec 21.36.360(c). Page 5, lines 15-23.

This section is drawn from the current AS 21.69.060 which is amended in Section 14. It deals with solicitation to form an insurer without a solicitation permit. No substantive change.

Sec 21.36.360(d)-(e). Page 5, lines 24-29 & page 6, lines 1-5.

These sections are drawn from the current AS 21.06.170(e) which is repealed in Section 22, and deals with perjury in an examination, investigation or hearing of the division. No substantive change.

Sec 21.36.360(f). Page 6, lines 6-10.

This section is drawn from the current AS 21.69.210 and deals with false accounts, documents, or advertisements in forming an insurer. See Section 15. No substantive change.

Sec 21.36.360(g). Page 6, lines 11-14.

This section is drawn from the current AS 21.69.390 and deals with the removal or concealment of records of a domestic insurer. See Section 16. No substantive change.

Sec 21.36.360(h). Page 6, lines 15-16.

This section is drawn from the current AS 21.22.170 and deals with insurance holding companies. See Section 3. No substantive change.

Sec 21.36.360(i). Page 6, lines 17-28.

This section is drawn from the current AS 21.09.250-260 and deals with the writing of business by insurance companies through persons not licensed by this state. See Section 2. No substantive change.

Sec 21.36.360(j). Page 6, line 29 & page 7, lines 1-12.

This section is drawn from the current AS 21.27.010(d), AS 21.66.160, and AS 21.84.420(a) and deals with agents, brokers, solicitors, and adjusters licensing. See Sections 4, 12, and 18. No substantive change.

Sec 21.36.360(k). Page 7, lines 13-21.

This section is drawn from the current AS 21.27.370 in the licensing chapter which requires all parties to the insurance transaction have the appropriate license. The penalty is drawn from the general penalty section, AS 21.90.020. No substantive change.

Sec 21.36.360(l). Page 7, lines 22-26.

This section is drawn from the current AS 21.33.320 dealing with examination of surplus lines transactions. See Section 9. No substantive change.

Sec 21.36.360(m). Page 7, lines 27-29 & page 8, line 1.

This section is drawn from the current AS 21.69.510(a) dealing with unauthorized dividends of a domestic insurer. See Section 17. No substantive change.

Sec 21.36.360(n). Page 8, lines 2-6.

This section is drawn from the current AS 21.27.360 dealing with agents and brokers trust accounts. See Section 5. No substantive change.

Sec 21.36.360(o). Page 8, lines 7-10.

This section is drawn from the current AS 21.36.200 which is repealed in Section 21. It deals with false applications for insurance. No substantive change.

Sec 21.36.360(p). Page 8, lines 11-12.

This section is drawn from the current AS 21.90.020, the general penalty section of the insurance code. See Section 20. No substantive change.

Sec 21.36.360(q). Page 8, lines 13-28.

This subsection establishes the level of criminal violation in each of

the activities described in the section. i.e., whether it is a class B felony, class C felony, class A misdemeanor, or a class B misdemeanor.

Sec 21.36.370. Page 8, line 29 & page 9, lines 1-9.

This section is drawn from the current AS 21.36.180(b) which is repealed in Section 22. No substantive change.

Sec 21.36.380. Page 9, lines 10-16.

This is a new provision which requires that claims forms contain a warning that falsification is a felony.

Sec 21.36.390. Page 9, lines 17-27.

This is a new requirement requiring insurers to advise the director when they have knowledge of a fraudulent claim. It also provides immunity from civil liability for persons providing such information without malice.

Sec 21.36.400. Page 9, lines 28-29 & page 10, lines 1-13.

This is a new section. It provides confidentiality for data received under Sec.21.36.390. Presently investigations are considered examination of the insurer and are confidential while necessary, but this is not true when an insurer is not involved thus impeding investigation.

Sec 21.36.410. Page 10, lines 14-21.

This is an important new provision that enables the director to effectively share investigative functions with other states. It allows the director to designate another state to act on his behalf and vice-versa. The information would be in the participating state as well as the principle state. This would be a valuable tool in investigating violations of the insurance code by non residents. Further, the sharing of the data will better enable us to head off problems before they are sufficiently entrenched and cause loss to the insureds in this state and the insurer.

Section 11. Page 10, lines 22-29 & page 11, lines 1-5.

This section upgrades the rate law penalty provisions to make them more meaningful. Presently the gain from a violation of that law may well exceed the loss from a penalty application. With this new provision, that would no longer be the case.

Section 12. Page 11, lines 6-17.

This section establishes a new civil penalty. It deals with doing a title insurance business without an effective certificate of authority. The current criminal provision is transferred to Section 10 [see Sec. 21.36.350(j)].

Section 13. Page 11, lines 18-29 & page 12, lines 1-3.

This section substantially upgrades the title insurance rate law

penalties. The gain from writing a title insurance policy at an inappropriate rate is far more profound than in a property/casualty situation. It is also more likely to occur.

Section 14. Page 12, lines 4-9.

This section establishes a new civil penalty. AS 21.69 deals with the organization and corporate procedures of domestic insurers. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(c)].

Section 15. Page 12, lines 10-19.

This section establishes a new civil penalty. This section deals with deliberate falsification of company records. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(f)].

Section 16. Page 12, lines 20-29 & page 13, lines 1-2.

This section establishes a new civil penalty. This section deals with the removal or concealment of the records of a domestic insurer. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(g)].

Section 17. Page 13, lines 3-12.

This section establishes a new civil penalty. It deals with the unauthorized payment of dividends. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(m)].

Section 18. Page 13, lines 13-21.

This section establishes a new civil penalty. It deals with the unlicensed agent of a fraternal benefit society. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(j)].

Section 19. Page 13, lines 22-29 & page 14, lines 1-6.

This section establishes a new civil penalty. It deals with misrepresentations under the fraternal benefit society chapter. The current criminal penalty is transferred to Section 10 [see Sec. 21.36.360(p)].

Section 20. Page 14, lines 7-24.

This section is needed in view of the transfer of the criminal penalty in Section 19. AS 21.84 is an exclusive chapter that incorporates the other provisions of AS 21 only by specific reference within that chapter. No substantive change.

Section 21. Page 14, lines 25-29 & page 15, lines 1-6.

This section establishes a new general civil penalty for violations of the insurance code not specifically carrying a stated civil penalty. The current criminal general penalty is transferred to Section 10 [see Sec. 21.36.360(p)]. The effect of this change is to have a civil penalty and a criminal penalty for any violation of the insurance code. This fact will

provide options that do not now exist for dealing with the bad actors in the insurance industry.

Section 22. Page 15, lines 7-8.

AS 21.06.170(e) is repealed and has been transferred to Section 10 [see Sec. 21.36.360(d) and 21.36.360(e)].

AS 21.36.180 is repealed and has been transferred to Section 10 [see Sec. 21.36.360(b)(1) and 21.36.360(b)(4)].

AS 21.36.200 is repealed and has been transferred to Section 10 [see Sec. 21.36.360(b)(2), 21.36.360(b)(3), and 21.36.360(o)].

AS 21.51.340 is repealed because it is redundant and is covered in Section 10 in the general penalty section [see Sec. 21.36.360(p)].

Section 23. Page 15, line 9.

Effective date clause.

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STATUS REPORT: PLASTIC PIPE EIR

**PRELIMINARY STUDY CONFIRMS HAZARDS AND
RECOMMENDS TESTING**

STATUS REPORT: PLASTIC PIPE EIR

PRELIMINARY STUDY CONFIRMS HAZARDS AND
RECOMMENDS TESTING

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INTRODUCTION

SRI International has concluded that plastic pipe is a fire hazard when used for drain, waste and vent pipe and that its use should not be approved unless safe mitigation measures can be proposed, tested and approved. SRI has also recommended that CPVC and PB pipe should not be approved for drinking water until they are subject to further leaching tests. Prior leaching tests have shown carcinogenic chemicals leaching from CPVC pipe.

SRI International also concluded that use of plastic pipe does not save a significant amount of money in home construction and that metal pipe is generally safe. SRI recommends testing of the solvents which are used to glue together pieces of plastic pipe. Those solvents may be harmful to workers who install pipe and breathe the solvent fumes or get the solvents on their hands.

This Status Report reviews the key issues and provides excerpts from SRI's "Environmental Review Document" (ERD) of March, 1983. The ERD is the first stage of a three-stage process culminating in an Environmental Impact Report on plastic pipe. The California Department of Housing and Community Development is proposing to approve the expanded use of plastic pipe for drinking water and drain, waste and vent pipe. The Department has hired SRI International, as its consultant, to prepare the ERD. The second stage of the process will consist of performing the testing recommended by SRI. The third stage of the process will be preparation of an EIR based on the ERD and on the test results.

DRINKING WATER CONTAMINATION

One of the key issues is how much toxic chemicals leach from plastic pipe into drinking water. The ERD carefully analyzed the few tests that have been performed on plastic pipe. The plastics industry submitted several of its own tests for review by SRI. The industry claimed their tests proved the safety of plastic pipe. After examination of the industry tests, the ERD found that industry tests did not prove much at all. The ERD describes these tests with such phrases as: "Unfortunately, little can be inferred from the data;..." (p. IV A-37); "These data have limited use, however because of the lack of quality assurance..." (p. IV A-48); and "This report suffers from serious limitations." (p. IV A-50).

However, the ERD does confirm leaching of carcinogens from plastic pipe into water and recommends further testing. SRI states:

"Scores of chemicals have been reported as leaching from plastic pipe and solvent cements into drinking water, but substantial disagreement exists about both the validity of the findings and the interpretation of the concentrations found. Existing data are adequate to establish substantial leaching for only a few chemicals. Of these, carbon tetrachloride, perchloroethylene, and trichloroethylene appear to have sufficient toxicity to be of possible cumulative concern at the levels suspected. However, we recommend additional water quality testing to clarify both the levels of those substances and those of other suspected and as yet unknown ones." (p. 2)

With respect to CPVC, a type of plastic pipe, the ERD confirmed the presence of a number of cancer-causing substances:

"...chloroform, dichloromethane, carbon tetrachloride, tetrachloroethene, trichloroethene, and toluene were found to have significantly higher concentrations in the test samples than in the controls." (p. IV A-26)

With respect to carbon tetrachloride, the ERD expressed significant concerns:

"The health effect of primary concern for carbon tetrachloride is cancer. (p. IV B-41)

"...the plausible risk limit from exposure to carbon tetrachloride alone from CPVC pipe is at the commonly accepted threshold of regulatory significance." (p. IV B-43)

The ERD confirmed the presence of some toxic chemicals, and stated that the presence of other toxic chemicals could not be ruled out. More testing is recommended to try to determine whether additional carcinogens might be leached into the water from CPVC:

"Finally, because of the inadequacies of existing leaching data, it is unclear that these are the only carcinogens that may leach into drinking water from CPVC pipe or that the reported leachate concentrations are representative of values that would be obtained in real life situations." (p. IV B-74)

With respect to Pb, another type of plastic pipe, the existing data was so poor that more testing was needed to resolve legitimate health concerns:

"The leachability studies of Pb were generally lower in quality than those of CPVC." (p. IV A-56)

Thus, the ERD demonstrates that there is real concern about the addition of toxic and carcinogenic chemicals to drinking water from plastic pipe and that further testing is needed before such pipe can be evaluated for safety.

Toxic chemicals in the soil can penetrate buried plastic pipe. The ERD noted that several of the tested compounds are carcinogens and that further testing was needed. (pp. IV B-76 to B-77) Surprisingly, the ERD does not recommend specific testing to resolve these questions. Testing plastic pipe for permeation by toxic chemicals in the soil is critically important. It is a major unresolved issue at this stage of the plastic pipe EIR.

FIRE HAZARDS

Because plastic pipe burns easily, an important issue is whether the web of plastic drain, waste and vent (DWV) pipe running through the walls and ceilings of fire-rated construction is safe. The ERD concluded that plastic pipe cannot be safely substituted for metal pipe in fire-rated construction:

"Fire safety is a very real concern with plastic DWV pipe; ABS is combustible, and PVC and CPVC will at least soften and slump in lines. If these plastics are installed as direct substitutes for metal, as they already are in non-fire-rated residences, they will degrade the fire resistance of structures. (p. V-3)

"A fire test conducted in late 1982 (Warnock-Hersey, 1982) illustrated quite effectively that plastic DWV systems can drastically reduce the fire resistance of a wall when the penetrations are not protected. In this test, metal plumbing was replaced with plastic counterparts, including the pipes that penetrated the gypsum-board wall to support plastic traps directly exposed to the test fires. Although the report makes no mention of sealing the penetration, this detail is probably of little consequence because the large amount of exposed plastic soon caught fire and carried the flames into and through the wall. Plastic pipe cannot be installed in such a fashion without destroying the fire endurance of the wall." (p. IV D-8; emphasis added)

Measures to reduce or mitigate fire hazards are absolutely necessary. However, the ERD observes that there are no proven mitigation measures:

"Special and as yet undeveloped or unproven construction measures involving additional cost and care are needed to satisfy code performance standards [with plastic pipe]. (p. IV D-3)

"Suitable fire-stopping systems have not been demonstrated for [plastic] pipe materials, sizes, and orientations; particularly of concern are large pipes and vertical penetrations." (p. IV D-22)

Not only are these measures unproven, but they are also likely to create serious problems for building inspectors who will need to insure that plastic pipe has been safely installed:

"However, at present there do not appear to be specific observable features that would assure a fire inspector that a fire wall would retain its rating with plastic plumbing. (p. III-50)

"Code enforcement is likely to be a significant problem with plastic pipes, and the resources for enforcement must be carefully weighed in developing code provisions." (p. IV D-4)

New mitigation measures and more inspection time will almost certainly lead to increased costs:

"In view of the more stringent design and inspection requirements that are needed to achieve an equivalent level of fire safety, the difference in cost of plastic, compared to metal, systems may be less than some believe." (p. IV D-27)

SMOKE TOXICITY

Not only does plastic pipe create openings for flame spread when it burns, but it also produces toxic smoke. The ERD repeatedly notes both the potential toxic smoke hazards from plastic pipe and the need for further testing of the

smoke toxicity. For example, the ERD describes the hazard from plastic pipe in just one dwelling unit:

"However, if the plastic pipe components were about equally divided between ABS and PVC, we would expect between 10 and 15 pounds of HCl to be generated [in a fire]. This represents a serious toxicant load...10 to 15 pounds of HCl could poison the air of 1,500 rooms." (p. IV E-14)

That amount of toxic gas released into the ventilation system of a multi-unit, multi-story building would increase deaths in the event of a serious fire.

Lethal exposure to toxic gas is not the only concern from combustion effects. Long-term risks, such as cancer, are also possible:

"There have been concerns expressed that, in addition to acute, potentially lethal effects of toxic gases, long-term irreversible effects, including cancer, may result from exposure to combustion products (Autian, 1970; PRC, 1980). Such effects might arise from exposure to one fire or to many, as in the case of fire fighters.... Some components given off during degradation of PVC plastics, such as benzene and vinyl chloride, are known carcinogens;..." (p. IV E-19)

ABS produces hydrogen cyanide (HCN) gas when it burns. (ABS is the most common plastic used for drain, waste and vent.) The ERD describes hydrogen cyanide as follows:

"Without question, HCN is one of the most lethal substances known. The gas produces a type of anoxia referred to as histotoxic.... Other sources indicate that between 300 and 350 ppm can cause death within 10 minutes.... The short-term exposure limit for HCN is 15 ppm." (p. IV E-20)

Of course, in fires individuals may be exposed to smoke other than from plastic pipe, and it is extremely difficult to estimate the specific role of toxic gas from plastic pipe.

Nevertheless, the ERD estimates that these chemicals may contribute to 10 or 20 percent of the deaths:

"Epidemiological data from real fires are insufficient for concluding anything other than that CO is the major cause of fire death, and that HCN or other toxic gases may contribute to death to some currently unquantifiable extent, but certainly no more than 20%--and probably on the order of 10% or less, based on currently available information."
(p. IV E-26)

The ERD concludes its analysis of the fire issue by indicating that a standardized testing technique for smoke toxicity is required. Until that is accomplished, conservative countermeasures are recommended. These include closing off wall penetrations or using combined metal and plastic systems. The ERD indicates that all countermeasures need to be subjected to full-scale tests before they are adopted. (p. IV E-35)

WORKER HEALTH HAZARDS

Another important issue in the plastic pipe controversy is the exposure of workers to toxic substances used in the glues and solvents used to join plastic pipe. Workers include not only professional plumbers, but the do-it-yourself homeowners as well.

The ERD recommends further testing of the hazards to plumbers. The glues used to join plastic pipe pose a health hazard:

"The solvent of greatest concern is DMF, which though relatively nonvolatile, is readily absorbed through the intact skin. Reports available to date indicate that DMF is neither mutagenic nor carcinogenic, but human exposures have resulted in liver damage, pancreatitis, skin sensitization, and alcohol intolerance. DMF is metabolized to two compounds that have been teratogenic in animal tests: formamide and N-methyl formamide. There is also concern that these compounds might affect male fertility, although adequate testing has not yet been conducted." (p. IV C-28)

Inhaling solvents is dangerous, particularly when working in small spaces. The ERD observed that a plumber working under floors may sometimes install pipe with his nose right under the pipe joints. (p. IV C-10) Under these circumstances, inhalation of high doses can be expected. In addition to inhalation, the solvents are absorbed through the plumber's skin:

"On a site where plastic is used, the journeyman or advanced apprentice usually doing the actual installation would have relatively intimate and constant contact with the cement throughout the day. This exposure would result not only from the vapor exposure as he cemented the joints, but also from the residual cement on his hands (or gloves) and clothing." (pp. IV C-10 to 11)

The ERD also recommends further testing on the exposure of plumbers to vapor from one of the solders used with metal pipe (lead based solder). However, with plastic pipe, the plumbers are at risk not just from inhalation but also through absorption of chemical contaminants through the skin. Thus, the testing needs in the area of worker safety are substantial:

"There can be no doubt that the widespread introduction of plastic pipe in California will affect occupational health and safety. Unfortunately, for the purposes of this environmental review, a reasonable judgment of the net impact of that introduction cannot be made at this time. Insufficient information is available to evaluate the impact on any of the occupational groups that might be affected. This is true even for the group with the greatest potential for exposure--the plumbers." (p. IV C-51)

In addition, the ERD recommended several changes in current practice in order to improve worker safety such as the elimination of n-hexane and benzene from solvents, new disclosure requirements on solvent labels and possibly ventilation requirements.

NO ECONOMIC ADVANTAGE

The industry defends itself with a single, consistent theme: the battle over plastic pipe is an economic issue, not a health or environmental issue. The ERD completely disposes of this myth. Not only does the ERD substantiate the potential health and environmental hazards of plastic pipe, but it also concludes that there will be virtually no economic benefit from approval of plastic pipe:

"First, the reduction in the cost of housing construction that would result from use of the newly permitted plastics in place of currently approved plumbing materials is so small that it would have virtually no effect on the sales price or rent of dwelling units in the state...."

"Second, the plumbing material substitutions that are likely to result from the proposed code change would not significantly affect employment opportunities in the state..." (p. V-13)

SAFETY OF METAL PIPE

Numerous plastics industry public relations statements attack the safety of metal pipe. The ERD puts this issue to rest as well. Copper is the most common form of drinking pipe in use. Despite the plastics industry's scare tactics regarding copper, the ERD finds as follows:

"...[C]opper is an essential nutrient for which people have evolved adequate homeostatic mechanisms that handle occasional excesses and deficiencies. While the metal can be toxic at high doses, SRI concurs with the assessment of the National Academy of Sciences that, 'the potential for toxicity (from copper in drinking water at observed levels) is virtually nonexistent for humans' (NAS, 1977)." (p. IV B-62 to 63)

The same finding applies to zinc which is commonly used in metal drinking water pipe:

"While zinc does produce chronic toxic effects at high doses (e.g., several thousand ppm in the diet), it is unlikely to present a significant risk of chronic toxicity in drinking water from either copper or galvanized iron pipe. It is essential for human nutrition, and homeostatic controls have evolved to regulate absorption and excretion. Zinc levels in drinking water are a small fraction of those in food. In general, zinc deficiency is a more serious health problem than zinc toxicity. The National Academy of Sciences recently concluded that, '[t]he possibility of detrimental health effects arising from zinc consumed in food and drinking water is extremely remote' (1980)." (p. IV B-64 to 65)

The ERD does recommend further testing of lead that may be present in one type of solder which is used to join copper pipe. The ERD describes commonly available alternative solders that have no adverse health effects. The most common is tin antimony solder. With the single qualification that there should be more examination of one type of solder, the

ERD substantiates the long recognized safety of metal pipe.

Thus the report states:

"In view of the results of the leaching data and the current state of knowledge about the toxicity of leachates from both copper and galvanized steel pipes, there appears to be little likelihood of any significant health risk from either of these kinds of pipe, with the possible exception of lead leachates from lead/tin solder." (p. IV B-75)

In addition, it is clear that cast iron DWV poses no fire hazard.

CONCLUSION

Why are Californians being asked to approve plastic pipe? It is not to make housing more affordable. The ERD confirms that approval of plastic pipe will have virtually no effect on housing prices or rents. It is not because of problems with current materials. The ERD confirms the general safety and adequacy of existing materials. Approval of plastic pipe is being pursued for one reason and one reason only: the plastics industry wants to expand its market. No one opposes the introduction of new products. The industry that proposes a new product should pay for the testing to prove its safety. The plastics industry bears the burden of proof and they can afford it. According to the ERD, the plastic pipe industry had gross sales revenue in 1980 of \$1.5 billion.

Despite the need for testing, despite the revenue to pay for testing, the plastics industry continues to resist testing. Instead, they have launched a multi-million dollar public relations campaign to distort the facts and avoid their

responsibility. Their position is clear: a fortune for public relations and barely a dollar for testing.

It is a position which has been demonstrated as bad public policy. Asbestos was permitted in schools and homes without testing. Now that its hazards are understood, it represents a built-in danger that cannot be economically removed.

The ERD recommends additional testing before plastic pipe is approved. That testing should be fair and thorough. The industry that advocates a product's use must be prepared to pay for the tests to demonstrate its safety.

HAZARDS OF PLASTIC PIPE
FOR
WATER SERVICE AND WATER DISTRIBUTION SYSTEMS

The following is an overview of major public health questions surrounding the use of plastic pipe plumbing products for various applications. Each public health issue has received intense governmental scrutiny and decision. Various documentation of such governmental action is included here as exhibits to illustrate both the serious nature of the public health questions and the level of scientific research that is yet to be completed.

I

PLASTIC PIPE FOR WATER SERVICE

Recent tests in California have duplicated field and laboratory experiences of water utility districts and environmental health experts that PVC, PE and PB water service lines can be and are permeated (infiltrated) by gasoline, petroleum distillates and industrial solvents. (Items 1, 14)

The public health impact can be serious enough to require the removal of an entire underground network of plastic water service lines (Item 2) and cause serious health consequences for its consumers. Because of the pervasive occurrence of toxic chemical spills and soil contamination with residues of pesticides and herbicides, California is embarking on a comprehensive analysis of the problem. (Item 3) The problem is amplified by the specter of frequently used garden and household products that may permeate these plastic pipe.

Permeation of plastic pipe by toxic chemicals is all the more serious because of the existing threat to water quality by the pipes themselves and the quality of our current water supply. The California Department of Health found that the pipes themselves leach large amounts of chloroform, carbon tetrachloride, DEHP and a host of solvents used to grease and glue the pipes. If these toxic chemicals are added to the already high level of contamination of many water supplies, then a truly dangerous prospect for the quality of our potable water systems emerges. (Item 4)

One further recent accumulation of data deserves comment. Plastic water service lines are failing at an alarming rate. (Item 5) In a handful of jurisdictions, plastic pipe water service lines are cracking and breaking, causing health problems and severe economic dislocation. The combined damage estimate from just these half a dozen or so jurisdictions exceeds \$100 million. One can only guess at the total economic impact should all failures come to light.

II

PLASTIC PIPE FOR WATER DISTRIBUTION WITH- IN A STRUCTURE

Since 1977, the State of California has reviewed Industry requests for unlimited usage of plastic pipe for water distribution. Industry assertions of economic feasibility and product safety were thoroughly and comprehensively reviewed by California Departments of Health, Consumer Affairs, Housing and Community Development and the State Fire Marshal. The

results are aptly summarized (Item 6) by the determination of the State Department of Housing and Community Development in consultation with other State agencies. Housing concluded that there was substantial evidence that unlimited use of plastic pipe may have a significant effect on the environment.

These conclusions were reached because of the presence of toxic chemicals (dimethylformamide, tetrahydrofuran, DEHP, carbon tetrachloride, chloroform and many others) in drinking water passed through the pipe. (Item 7 and 13) An equally dramatic conclusion was reached by the State Fire Marshal: plastic pipe in high rise construction may pose an unreasonable fire risk. (Item 8)

III

ENVIRONMENTAL IMPACT REPORT AND OTHER RELEVANT LEGAL ACTIONS

Since plastic pipe was found to have a potentially adverse effect on the environment because of its threat to water quality and fire safety, State agencies in California will not allow its expanded use until all scientific and public health questions have been answered. (Item 9) The State Architect has also warned all the design professions and school districts throughout California of the potential hazards of plastic pipe. (Item 10)

Because the International Association of Plumbing and Mechanical Officials (IAPMO) proceeded with the expanded use of plastic pipe in its 1982 Uniform Plumbing Code, a coalition of State public and private consumers, environmental

and labor organizations sued IAPMO (Item 11) and forced a notice disclaimer at each location in the Code where plastic pipe is mentioned. (Item 12) The lawsuit is still in progress over complaints that IAPMO misrepresents its product evaluation to the general public. Depositions were taken of the National Sanitation Foundation (NSF) at which time it was documented that NSF does not test any of the plastic pipe products, which carry the NSF seal of approval, for the more dangerous organic chemicals.

IV

CONCLUSIONS

The above provides a brief overview of the hazards associated with the use of plastic pipe for various plumbing applications. While further research is clearly necessary, a fair characterization of current data leads one closer to the conclusion that plastic pipe may not only pose grave public health risks, but may well be simply too expensive to utilize.

LIST OF EXHIBITS

1. ANLAB Abstract for Pilot Pipe Study,
dated November 29, 1982 Item #1
2. Letter from F.J.J. Brinkmann dated
February 11, 1983 re: Lekkerkerk Item #2
3. Richard Spohn letter of December 30, 1982
to President Pro Tem Roberti and Speaker
Willie Brown with attachments Item #3
4. Chula Vista Correspondence: 3 letters Item #4
5. Plastic Pipe Water Service Failures Item #5
6. Plastic Plumbing Pipe EIR: PROJECT HISTORY Item #6
7. Wang Study on 2-Butanone and Tetrahydrofuran
Contamination in the Water Supply Item #7
8. State Fire Marshal Summary of May 1, 1980 Item #8
9. Housing and Community Development Technical
Bulletin dated November 10, 1982 Item #9
10. Bulletin from the Office of the State Architect
dated December 31, 1982 Item #10
11. DCA v. IAPMO - First Amended Complaint Item #11
12. April 1, 1982 Supreme Court Decision on DCA
v. IAPMO Item #12
13. Indoor Pollution Compendium from Dept. of
Consumer Affairs dated February 1982 Item #13
14. East Bay Municipal Utility District Report
by Donald Crum dated October 30, 1981 Item #14



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A DIVISION OF DEWANTE & STOWELL

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November 29, 1982

Leonardini and Fathy
400 Capitol Mall, Suite 221
Sacramento, CA 95814

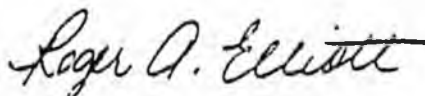
ATTN: Mr. Paymond J. Leonardini

-- ABSTRACT --

PILOT PIPE STUDY

Three plastic water supply pipes: polyvinylchloride (PVC), polyethylene (PE), and polybutylene (PB), were exposed to selected compounds to determine permeability. Copper pipe was included as a quality control sample. The exposure chemicals were: 1,2-Dichloropropane; 1,1,1-Trichloroethane; Chlordane (72% formulation diluted 1:100 v:v in water); Chevron Super-Unleaded Gasoline; and Tap Water as a quality control blank. Exposure time was one week.

Results indicate that PVC is permeated by 1,2-Dichloropropane and 1,1,1-Trichloroethane; PE and PB were permeated by 1,2-Dichloropropane, 1,1,1-Trichloroethane, and Gasoline. In addition, results of the control samples indicate that several compounds leach into the water from the pipe material; sealants, glues, joining compounds, flux, etc. The data indicates that as the compounds permeate the pipe they also extract and carry with them other soluble compounds in the pipe material. Comparison of small quantities of leachate compounds to exposed pipes was not always possible due to necessary dilutions of the samples because of the high concentrations of other compounds.



Roger A. Elliott

RAE:lk



rijksinstituut voor drinkwatervoorziening

Voorburg, Nieuwe Havenstraat 6

telefoon 070-69 42 51

telegramsadres 'rijkswater'

tele 33604

postzegeling 3447

bereikbaar van station HS met busen 44 en van de stations CS en Voorburg met de busen 26, 45 en 46

postadres
postbus 150
2260 AD Ridschendam

Dr. G.A. Koehler,
Department of Consumer Affairs,
Research and Special Projects,
1020 N Street, Room 501,
Sacramento, California 95814

datum February 11, 1983
kenmerk: Nr. 106.275
onderwerp:

uw brief

Dear Dr. Koehler,

The first problems that have been met in Lekkerkerk were leakages of the plastic drinking water pipe system, caused by attack from the organic solvents (toluene, ethylbenzene, etc.) present in the soil.

The drinking water quality in the houses had been controlled from a date several months before the decision to dig up the waste.

A few days after the observation of permeation through the piping system (polyethylene) in the houses (see annex) it has been decided to carry out the digging operation. The penetration to drinking water was one of the reasons.

In some other cases in our country, in especially concerning industrial sites, penetration of organic solvents through plastic pipes has been observed.

My institute has no practical experience with studies on the permeability of plastic pipes to organic solvents, pesticides etc.

Research on permeability has been carried out by KIWA research and testing institute, Groningerhaven 7, Nieuwegein, 3433 PE, The Netherlands. By order of the Department of Environment KIWA investigated the influence of methylbromide on plastic piping.

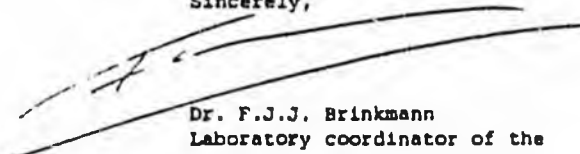
KIWA also investigated the influence of organic solvents on plastic piping and has experience in determining permeability coefficients.

The project leader at KIWA is Dr. G. Veenendaal. please contact him.

For his information I have sent a copy of this letter to Dr. Veenendaal.

Apologizing that I cannot reply your letter completely.

Sincerely,


Dr. F.J.J. Brinkmann
Laboratory coordinator of the
Chemical Biological Division

4.2. Drinkwater afkomstig van _____ en _____

In tabel 3 is een overzicht samengesteld van de metingen naar organische microverontreinigingen in beide drinkwatermonsters. In beide monsters werden slechts lage concentraties aan gechloreerdeverbindingen aangetroffen waarbij alleen het gehalte van 0,3 µg/l dichloorbenzeen in het water te spvalt. In beide monsters drinkwater waren benzeen en tetrachloormethaan niet aanwezig in hoeveelheden boven 0,01 µg/l.

Tabel 3

Organische verontreinigingen in het na stilstand bemonsterde leidingwater op te Lakkerkerk d.d. 21 april 1980

Kwaliteitsaspect	Concentratie (microgram/liter)	
Reukgetal (verduunning)	2	10
Vluchtig Organisch Chloor (µgCl/l)	0.2	0.3
Chloroform	0.1	0.15
Trichloormethaan	0.8	1.1
Tetrachloormethaan	< 0.01	0.01
Dichloorbenzeen	0.3	< 0.01
Bis(2-chloorisopropyl)ether	0.03	0.1
Benzeen	< 0.01	< 0.01
Cyclohexaan	< 0.01	< 0.01
Tolueen	1	100
Ethylbenzeen	0.3	25
m/p-Xyleen	1	100
o-Xyleen	0.3	10
C ₃ -benzenen (som 8 isomeren)	1	3
C ₄ -benzenen (som 13 isomeren)	0.1	0.2
Indaan of methylstyreen	< 0.01	0.05
Methylindaan of etylstyreen	< 0.01	< 0.01

Beide monsters bleken verontreinigd met hetzelfde patroon aan aromatische koolwaterstoffen met als hoofdcomponenten toluen en m/p-xyleen, doch de concentratie aan deze stoffen van het water te _____ was globaal een factor 100 hoger. Dit laatste kwam ook tot uitdrukking in het voor drinkwater bijzonder hoge reukgetal van 10 bij het te Molenwerf 6 bemonsterde stagnante drinkwater.



DEPARTMENT OF 445-4465
1020 N STREET, SACRAMENTO, CALIFORNIA 95814



December 30, 1982

The Honorable David A. Roberti
President Pro Tem
State Capitol, Room 205
Sacramento, CA 95814

The Honorable Willie L. Brown, Jr.
Speaker of the Assembly
State Capitol, Room 219
Sacramento, CA 95814

Dear President Pro Tem Roberti and Speaker Brown:

This letter is to alert you to a serious and immediate health hazard confronting California consumers. The hazard involves potential contamination of portions of the vast network of underground potable water conduit systems throughout the State by toxic and carcinogenic chemicals. My staff, working with a team of experts, has found that plastic pipe used to convey potable water is readily permeated by chlorinated solvents, petroleum distillates (including gasoline), and agricultural residues. Some of these are animal carcinogens.

In the following paragraphs, I will outline (1) the nature of this previously unrecognized health risk; (2) the current inadequate regulatory protection of our water conduit systems; and (3) the legislative actions to create appropriate protection for potable water throughout the State.

As you well know, dissemination and spread of toxic substances in California water is both a growing consumer issue and a pressing public health problem of substantial importance. The Department of Consumer Affairs has attempted by regulatory means to protect consumers in the State by urging the International Association of Plumbing and Mechanical Officials (IAPMO), the promulgators of the Uniform Plumbing Code, to adopt language in their code that would prohibit the use of any plumbing "material capable of leaching known carcinogens or toxic materials into the potable water supply." On two occasions the code change was rejected. (Attachment 1.) Because the unsuspecting consumer needs notification of these potential hazards, I initiated litigation against IAPMO to warn consumers against these serious abuses. The State Supreme Court has ordered such a warning to be inserted in the code or references to plastic pipe to be

December 30, 1982

deleted at least until the lawsuit is resolved. (Attachment 2.)

While the degree and extent to which plastic pipes themselves contribute to contaminants in potable water is presently being reviewed by SRI International, through an Environmental Impact Report for the State Housing and Community Development Department, I wish to alert you to a risk posed by the use of plastic pipes as conduits carrying water underground: chemicals in the soil go through intact pipes and can contaminate otherwise potable water.

A report has just reached me based on two series of tests conducted under the supervision of Dr. Marc Lappe', Adj. Assoc. Prof. of Public Health, University of California, Berkeley, and currently a consultant to the Department of Consumer Affairs (and previously a Department of Health Services toxicologist), which appears to show that gasoline, petroleum distillates, and a wide spectrum of chlorinated solvents, including those most commonly associated with ground contamination from agricultural and industrial operations, readily permeates plastic pipe. (Attachment 3.)

In carefully controlled studies designed to assess the likelihood of infiltration of otherwise intact plastic pipes carrying potable water under normal pressure, the report documents that agricultural residues from soil sterilizants, chlorinated solvents and petroleum distillates penetrate polybutylene and polyethylene pipes of standard grade and quality used in service lines to residents throughout the state. Certain of the test chemicals penetrated polyvinylchloride pipe as well.

Some of these chemicals have already been shown to be carcinogenic in one or more species of animals.

While these reports show dramatically how readily these chemicals can permeate plastic pipe water systems, they would not have warranted this urgent letter were it not for the fact that analogous studies were performed by the East Bay Municipal Utility District (EBMUD) fully four years ago on gasoline. These studies were of such concern that EBMUD dispatched an urgent letter to the Department of Health Services asking that they amend the Department's Waterworks Standards to prohibit the use of plastic pipes wherever "solvent, gasoline or other petroleum distillates" may be present in the ground through which the pipes could pass. (Attachment 4.) EBMUD adopted a policy of replacing plastic pipes with copper pipes when gasoline is detected in the water or the

December 30, 1982

possibility of such contamination exists. Some other jurisdictions have adopted a similar policy, although we have not found a concerted policy among the water utilities for the collecting of data on infiltration of water lines.

The work conducted by the Lappe' team repeated the EBMUD's experiments as part of their work. Their findings confirmed that gasoline will indeed permeate the two pipe systems most commonly used (polyethylene and polybutylene), but not a third (polyvinylchloride). Of great concern is the follow-up analytic work which identified the components of gasoline which traversed the pipes: this data showed unequivocally that benzene, a human leukemia-causing agent passes through the pipes. (I note parenthetically that the levels detected (100/parts per million) are substantially above the permissible limit set by EPA based on human leukemia data (0.66 parts per billion)). The critical questions of how much benzene actually goes through under field conditions remain undetermined, as do the respective quantitative data on the other solvents.

The EBMUD data is all the more troubling because of EBMUD's stance toward polybutylene when this department announced in public hearings before the State Housing Commission the potential contamination with DEHP in polybutylene water pipes itself. EBMUD never publically disclosed their findings nor alluded to the field failures and 1978 experiments on polybutylene (Attachment 5.)

For reasons which have not yet become clear, the Department of Health Services determined that the language of the revised code 22 Cal. Admin. Code 64624 should only identify petroleum distillates as potential hazards to plastic pipe installation, not the solvents which are of much greater health concern. (Attachment 6.) Moreover, we have discussed these recent developments with the Department of Health Services and they agree with our assessment of the potential widespread health hazard. Additionally, the Department of Health Services is in possession of extensive case studies from Europe documenting experiences with this serious problem, in which human health has apparently been seriously adversely affected.

Thus, the Department of Health Services' present waterworks regulation leaves unclear both the public health rationale and the enforcement mechanisms for excluding other hazardous substances besides gasoline, as well as the full roster of chemicals which may now be appropriate to acknowledge as disqualifying

December 30, 1982

conditions for the use of plastic pipe as conduits for underground water service lines, aqueducts, and well lines. (In many instances wells are lined with plastic casings.)

But from the admittedly pilot and preliminary studies that I have had my staff carefully review, in concert with a University of California soil scientist at Davis, these findings are cause for substantial concern: we may be creating the conditions for widespread consumer contamination through permeation of their subsoils with toxic chemicals--chemicals that find their way into homes through an unanticipated route--namely, that of their underground water conduit systems.

Since our water supplies present a chronic and unavoidable source of potential contaminants, the most stringent public health measures have traditionally been taken to ensure its purity. Now that good work is potentially jeopardized by having an unforeseen additional source of contamination enter the picture: the infiltration with hazardous chemicals of the conduit systems increasingly used throughout the state to carry potable water.

The risk that through-permeation of plastic pipe allows ingress of environmental hazards of the first order (i.e. the priority pollutants listed by EPA or the present list generated by the Department of Health Services in its carcinogen policy document), is certainly cause for dispassionate, scholarly review at the highest levels. The fact that such a review has not occurred since the uncovering of this hazard in 1978 is all the more reason for an expeditious and competent panel of experts to do so now. The potential risks are so large and affect such a broad cross-section of our public--particularly those who have bought new homes served by the pipes in question--that to ignore the problem any longer courts genuine danger.

If the Legislature and appropriate state departments do not act now, consumers may well be forced at some later time to pay millions of dollars to avoid a potent health hazard that could be prevented now. In light of the widespread ground contamination with all of these compounds (Attachment 7) and still untested pesticides and structural pest control agents, I urge you to conduct an urgent and immediate review of these findings. In particular, the Legislature should closely monitor the activities and actions taken by the Department of Health Services and Department of Consumer Affairs.

December 30, 1982


Therefore, the Department of Consumer Affairs strongly urges the following actions be taken by the Legislature:

1. The Environmental Impact Report on plastic piping now being prepared by SRI International must include an analysis of the potential for plastic pipes to absorb organic solvents, petroleum distillates, and other agricultural and industrial residues in the soil.
2. As an immediate interim measure, pending answers to the significant health issues raised in this letter, the Department of Health Service should immediately amend its regulation (22 Cal. Admin. Code 64624) which currently prohibits the use of plastic pipe in soil contaminated by petroleum distillates to:
 - (a) also prohibit the use of plastic pipe in soil contaminated by organic solvents or pesticides;
 - (b) require certification by the installers of the plastic pipe that the soil has been tested prior to installation and found to be uncontaminated;
 - (c) require the installers to notify the end-users of the plastic pipe, residents or businesses, that plastic pipes are part of their water delivery system and that in the event of soil contamination by absorption of the pollutants.
3. Because the Department of Health Services' Waterwork Standards apply only to water purveyors in the public right of way, the State Department of Housing and Community Development should promulgate on an emergency basis the same regulations for private property water service piping.
4. This issue must not be seen in isolation. The health questions raised by this issue and, in particular, the difficulties we face in answering them are common problems across the spectrum of toxic hazards. For the specific issue of absorption of solvents by plastic pipes, the consumers of California enjoy the participation of the responsible industry in a large ongoing study (EIR). In many cases they do not. I believe that the Legislature must give consideration to a mechanism whereby the state can require the participation of the responsible industry in studies

December 30, 1982

necessary to determine if a product or substance poses a health hazard to the public. Without the ability to fairly and consistently require the participation of the responsible industries in such studies, the state will be unable to adequately protect the public's health from the myriad of potential hazards being used in or introduced into the market place today.

Sincerely,

A handwritten signature in cursive script that reads "Richard B. Spohn, Jr." with a long horizontal flourish extending to the right.

RICHARD B. SPOHN
Director

ITEM 70 — Section 1004

(c) No water pipe or fittings manufactured of materials capable of leaching known carcinogens or toxic materials into the potable water supply shall be used anywhere in the potable water distribution system.

REASON FOR CODE REVISION:

For consumer protection. Protection of the water supply is one of the major purposes of a plumbing code.

Code Committee's Recommendation: **REJECT**

REASON: Impossible to enforce.

Approved Reject Refer to appropriate Committee

2 CIVIL No. 64671

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA
IN BANK

SUPREME COURT
FILED

APR 1 1982

J. P. Gil Clerk

SPOHN, AS DIRECTOR, ETC., ET AL

v.

INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL
OFFICIALS, ETC., ET AL.

Petition for hearing is granted. Cause and application for stay pending appeal are transferred to this Court. Pending final determination of the appeal herein, distribution within the state of the 1982 edition of the Uniform Plumbing Code is hereby enjoined, unless listings of the varieties of plastic pipe known as PB, PVC, and CPVC are omitted, or such listings are accompanied by a warning substantially in the form suggested by the Department of Consumer Affairs with respect to the possible toxicity of, and pending Environmental Impact Report concerning, such varieties of plastic pipe. The cause is re-transferred to the Court of Appeal, Second District, Division Four.

Bird

Chief Justice

Richardson

Justice

Newman

Justice

Keene

Justice

Shannon

Justice

Torgler

Justice

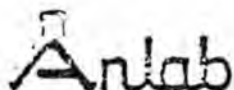
Justice

(Addendum I)

QUANTITATIVE ASSESSMENT OF PERMEATION OF SPECIFIC CHEMICALS
FOLLOWING ONE WEEK DWELL TIMES FOR PIPE SYSTEMS*

<u>Chemical:</u>	1,1 Dichloro- ethylene	1,2 Dichloro- ethane	Trichloro- ethylene	1,1,1 Trichloro- ethane	1,2 Dichloro- propane	Gasoline
<u>Pipe Composition</u>						
Polyethylene (PE)	2.4×10^{-2}	9.4×10^{-3}	2.7×10^{-3}	4.6×10^{-5}	1.8×10^{-6}	(1.3×10^{-4})
Polybutylene (PB)	2.9×10^{-2}	1.2×10^{-2}	5.0×10^{-3}	2.5×10^{-5}	3.1×10^{-7}	(7.8×10^{-5})
Polyvinylchloride (PVC)	saturated	saturated	ND	2.2×10^{-9}	9.8×10^{-10}	ND
Copper (Cu)	ND	ND	8.0×10^{-7}	4.6×10^{-9}	ND	(5.7×10^{-7})

*Concentrations in Water (10^{-2} = %; 10^{-3} = parts per 1,000; 10^{-4} = parts per 10,000;
 10^{-5} = parts per 100,000; 10^{-6} = parts per million; 10^{-7} = parts per 10 million
 10^{-8} = parts per 100 million; 10^{-9} = parts per billion)



ANALYTICAL LABORATORY
A DIVISION OF DEWANTE & STOWELL

1814 S STREET, SACRAMENTO, CALIFORNIA 95814 • 916-447-2946

November 29, 1982

Leonardini and Fathy
400 Capitol Mall, Suite 221
Sacramento, CA 95814

ATTN: Mr. Raymond J. Leonardini

-- ABSTRACT --

PILOT PIPE STUDY

Three plastic water supply pipes: polyvinylchloride (PVC), polyethylene (PE), and polybutylene (PB), were exposed to selected compounds to determine permeability. Copper pipe was included as a quality control sample. The exposure chemicals were: 1,2-Dichloropropane; 1,1,1-Trichloroethane; Chlordane (72% formulation diluted 1:100 v:v in water); Chevron Super-Unleaded Gasoline; and Tap Water as a quality control blank. Exposure time was one week.

Results indicate that PVC is permeated by 1,2-Dichloropropane and 1,1,1-Trichloroethane; PE and PB were permeated by 1,2-Dichloropropane, 1,1,1-Trichloroethane, and Gasoline. In addition, results of the control samples indicate that several compounds leach into the water from the pipe material; sealants, glues, joining compounds, flux, etc. The data indicates that as the compounds permeate the pipe they also extract and carry with them other soluble compounds in the pipe material. Comparison of small quantities of leachate compounds to exposed pipes was not always possible due to necessary dilutions of the samples because of the high concentrations of other compounds.

A handwritten signature in cursive script that reads 'Roger A. Elliott'.

Roger A. Elliott

RAE:lk

log, ZWO will be allowed to allocate part of the observing time to Dutch astronomers. It has not yet been decided precisely how the Netherlands will help to solve the manpower shortage. When the observatory is fully operational, Professor Smith estimates that about 30 technical staff will be needed in La Palma at any one time. The difficulty is in persuading sufficient British scientists to uproot themselves for three years at a time.

ZWO has decided to pay its share out of its existing budget of about £40 million a year. Most of the money will come from the £6 million a year now spent on astronomy, implying a major shift in astronomy funding. Although most Dutch astronomers are expected to welcome the agreement, radioastronomers may feel hard done by.

The next step is for Professor van Lieshout, director of ZWO, to obtain the approval of the Dutch minister for science, who is reported to be enthusiastic. But the imminent Dutch election could mean that the issue will have to be decided by a new minister. All being well, however, Professor van Lieshout hopes that an agreement could be signed and sealed within the next four months.

Judy Redfearn

Toxic waste

Dutch dumps

Amsterdam

The cost to the Netherlands of dealing with chemical waste from years of heavy industrialization is mounting. So far about 3,000 dumps containing chemical waste have been found, 500 of them a recognized danger to public health. The Minister for Public Health and Environmental Protection estimated a few months ago that it would cost about £200 million to clear the 500 dangerous dumps, and this estimate is now £400 million.

In the village of Lekkerkerk, not far from the heavily concentrated chemical industries of Rotterdam, many buildings were found to have been built on a chemical waste dump. About 1,700 drums were recovered from the site, containing materials such as toluene and xylene from the dye industry and metals such as cadmium, zinc and lead. Some 300 houses were evacuated and 150,000 tons of polluted soil have had to be removed, while medical examinations may yet be carried out on the population. Several more chemical waste dumps have since been found in the same area.

After cases of cattle infertility and the discovery of dead birds, an investigation by the municipal environmental laboratory of Amsterdam has revealed that the Volgermeerpolder, a marshy area 5 miles from the centre of Amsterdam, contains about 10,000 drums of chemical waste from a 2,4,5-T factory previously owned by the Dutch Ministry. The factory ceased

production in 1969 and was completely dismantled and dumped in the Atlantic, but its waste remained.

According to Dr H. Heida, director of the Amsterdam environmental laboratory, the drums contain a wide range of chemicals, including chlorobenzene and chlorophenyl. However, some of the drums are known to contain 2,4,5-T and possibly the dioxin 2,3,7,8-tetrachloro-cyclo-dibenzo-*p*-dioxin (2,3,7,8-TCDD), and it is this latter compound which it is feared may form the real danger.

Analysis of soil, water and livestock and of produce from gardens in the area has revealed the presence of chemicals from the dump in concentrations of tenths to hundredths of milligrammes per kilogramme weight.

However, the future of the dump rests on the problem of clearly identifying 2,3,7,8-TCDD. Samples from the drums have been analysed by Professor O. Hutzinger's team at Amsterdam University



The clearing of Lekkerkerk

and have also been sent to Milan for analysis by the laboratory involved in investigating the Seveso incident. A definite solution to the problem is not expected before the summer.

These pollution scandals prompted a national inventory of chemical waste in the Netherlands due to be completed by the end of 1980. So far, however, only two of the eleven Dutch provinces have reported their findings.

The problems of the Netherlands have also attracted international interest. Dr David Cosile, administrator of the US Environmental Protection Agency, visited the Lekkerkerk dump while he was in the Netherlands to sign a memorandum on cooperation between the two countries. Dr Tolba of the United Nations Environmental Programme, a regular visitor to the country, is particularly interested in the chemical pollution problems.

The latest revelation was in December of last year, when small amounts of the toxic substance methyl bromide were found in drinking water in the horticultural area

chemical is used by market gardeners to decontaminate the soil, and an estimated 2,000 tons a year are used in this area — 30 per cent of the total consumption in the European Community. The poison had apparently seeped through the PVC tubes used for private water distribution. As a result, the Minister for Public Health has made public water supply companies responsible also for private supply pipes. However, it now turns out that PVC tubes are widely used in the Netherlands for transporting water which has been tested for pollutants such as methyl bromide.

Casper Schuurings

Genetic engineering

Planning bugs

Washington

Echoes of the fierce public debates of four years ago are being heard once again in and around Cambridge, Massachusetts, as local city councils discuss the conditions they will place on the genetic engineering companies springing up in their midst.

The tones of the debate are more muted than before. And in each of the four communities — Cambridge, Waltham, Somerville and Newton — the talk this time is of negotiation rather than confrontation. Nevertheless, there is sufficient concern among the companies for the head of at least one to suggest the need for a "more coherent policy" towards local regulation, possible at the state level.

The most significantly affected so far seems to have been Genetics Institute. This is the company which has been set up by Dr Mark Ptashne, professor of molecular biology at Harvard University, and a local management consultant, Mr Tom Hexner, on privately-raised venture capital, after the Harvard faculty voted against university participation (see *Nature* 27 November 1980). Its backers include Ventrock, a venture capital firm owned by the Rockefeller family, and Mr William Paley of Columbia Broadcasting.

Now the company faces a new hurdle — gaining acceptance in the local community. Last November, it applied to build a laboratory in Somerville, just inside the city's border with Cambridge and a few blocks from the university biology laboratories. The application has kindled a fierce public debate. At one point, for example, local citizens had suggested that research should be limited to P1 and P2 physical containment facilities, even stricter than restrictions in Cambridge, which allow work up to the P3 level.

City council members who were originally in favour of granting permission for the new laboratories with few strings attached have backed off in the face of the public controversy, many are preoccupied with severe budget cuts that have resulted from a recent reduction in property taxes.

At a public meeting last Thursday, the

EAST BAY MUNICIPAL UTILITY DISTRICT

Attachment #4

November 28, 1978

RECEIVED

NOV 29 1978

Mr. Richard H. Koppes
State Department of Health Services
Office of Regulations
174 "P" Street, Room 840
Sacramento, CA 95814

DEPT. OF HEALTH SERVICES
LEGAL SERVICES

Dear Mr. Koppes:

Thank you for your invitation to comment on proposed changes in the regulations of the State Department of Health Services, Title 22, Division 4, Waterworks Standards (R-1-78). The draft is satisfactory from my viewpoint except for one addition I recommend:

Based on our field experience and laboratory tests with plastic pipe materials, the following addition to the standards is proposed:

Section 64624

- "(g) Copper service installations shall be used where the service lateral or distribution pipe may be exposed to gasoline, solvents or other petroleum distillates."

Laboratory tests studying gasoline diffusion through polybutylene (PB), polyethylene (PE), and polyvinyl chloride (PVC) service lateral tubing showed that PE and PB pipe under 40 psi water pressure and embedded in gasoline-soaked vermiculite were penetrated by gasoline in one to three weeks. PVC pipe was not permeable to gasoline during a six-week exposure. At least three instances of petroleum distillate penetration of polybutylene pipe have been encountered in the field by District Water System Inspectors. There is some indication that PVC is softened by some solvents and petroleum distillates, thereby reducing pipe strength.

Please contact Mr. Keith Carns, Manager of our Water Quality Division, if you have any questions regarding this addition to the regulations.

Very truly yours,



D. G. LARKIN

cc: Steve Nelson, DHS
2151 Berkeley Way
Berkeley, CA 94704

RECEIVED

DEC 1 1978

For Distribution to
the Commissioners
4-3-81

200 11



Attachment #5

EAST BAY MUNICIPAL UTILITY DISTRICT

March 23, 1981

Department of Housing & Community Development
Division of Codes and Standards
6007 Folsom Blvd., 2nd Floor
Sacramento, CA 95819

Attention: Ms. Grace Sung

Dear Ms. Sung:

I have recently been informed of the action by the Department of Housing and Community Development which effectively excludes the use of polybutylene plastic piping in plumbing systems. This has occurred because polybutylene is normally joined by flare fittings and the Department's action in excluding flare connections effectively excludes the use of polybutylene.

You may be interested to know that this District, which has been a pioneer for more than twenty years in the use of plastic piping for water systems, has used polybutylene for its smaller residence type services for more than ten years. During these past ten years, we have installed approximately 35,000 services thru-out the District's distribution system ranging from Crockett to Hayward, and Oakland to Walnut Creek. The majority of these services are polybutylene utilizing a flare connection at the main and at the meter. During this period, our experience with this system has been excellent. The very few problems we have had were primarily due to workmanship or an off-size fitting.

From our experience, it appears that the action to exclude the use of flare connections on polybutylene piping was taken without due regard for the excellent service history this material with flare fittings has earned thru-out the United States.

Very truly yours,

D. E. CRUM, Manager
Distribution Maintenance Division

DEC/pcs



BOARD OF DIRECTORS: JON O. REYNOLDS, President; WALTER R. MILLAN, Vice President;
HELEN BURKE, JACK HILL, KENNETH ROFMAN, KENNETH M. SIMMONS, SANICORD M. SARGIUS

TITLE 22

ENVIRONMENTAL HEALTH

§ 64024

Register 78, No. 12-6-78

(p 1735)

Table II

Type of Coating or Lining	Standard
Cement Mortar Coating or Lining	AWWA C205-71 or Federal Specification SS-P-385a
Coal Tar Coating, Lining or Wrapping	AWWA C203-73
Asphalt Mastic Coating	Asphalt Institute M-2 CS-96
Extruded Plastic Coating	Federal Specification L-C-530B (1972)
Rubber-Alkyd Paint Coating	AWWA C204-75
Cold Applied Tape Coating	AWWA C209-76
Coal Tar-Epoxy Coating	AWWA C210-78
Asphalt Coating and Wrapping	Standard Specifications for Public Works Construction (1973), Section 207-10.4.4

NOTE: Authority cited: Sections 208 and 4010.1 (h), Health and Safety Code. Reference: Sections 4010.1 (b), 4012, 4013 and 4018, Health and Safety Code.

64024. Water Main Selection and Installation.

(a) Steel pipe shall be selected and installed in accordance with American Water Works Association (AWWA) Manual M-11 (1964), "Steel Pipe—Design and Installation". The design shall comply with Sections 6.1 and 6.2 of the manual, except that the minimum design pressure shall be at least the maximum anticipated system pressure, but in no case less than 150 psig (1,030 kPag).

(b) Asbestos-cement, cast iron and ductile iron pipe shall be selected and installed in accordance with the standards listed in Table III.

(c) Polyvinyl chloride pipe shall be selected and installed in accordance with Appendix A of AWWA Standard C900-75 as published in the *American Water Works Association Journal*, 67(12): 701-704 (December 1975).

(d) Polybutylene pipe shall be selected and installed in accordance with Appendix A of AWWA Standard C902-78 as published by the American Water Works Association (Denver, Colorado, 1978).

(e) Polyethylene pipe shall be selected and installed in accordance with Appendix A of AWWA Standard C901-78 as published in the *American Water Works Association Journal*, 70(4): 222-226 (April 1978).

(f) Plastic pipe shall not be used in areas subject to contamination by petroleum distillates.