

ALABAMA LEGISLATIVE COMMITTEES      HOUSE      COMMITTEE

3262      HJUD      HB 27 - HB 34

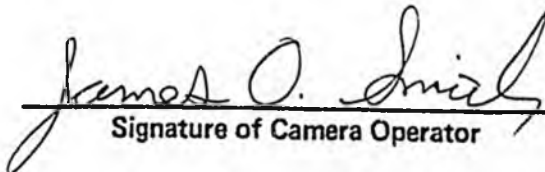
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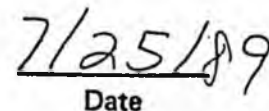


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STATE OF ALASKA  
THE LEGISLATURE

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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary 1-25-85

1:30 pm

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

JAN 24 1985

REQUEST

Bill/Resolution No.: HB 27  
 Title: Failure to Adequately  
Maintain Animals  
 Sponsor: Rep. M.M. Miller  
 Requestor: H. Judiciary  
 Date of Request: 1-23-85

FISCAL DETAIL

Agency Affected: Public Safety  
 Program Category Affected: \_\_\_\_\_  
Administration of Justice  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Paul Conger Phone: 465-4338  
 Division: Administrative Services Date: 1-23-85

Approved by Commissioner: *[Signature]* Date: 1/23/85  
 Agency: J.L. Public Safety

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

STATE OF ALASKA 1985-LEGISLATIVE SESSION  
FISCAL NOTE

JAN 21 1985

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 27  
 Title: "An Act relating to failure to adequately maintain animals..."  
 Sponsor: Repr. M. M. Miller  
 Requestor: House Judiciary  
 Date of Request: 1/16/85

FISCAL DETAIL

Agency Affected: Department of Law  
 Program Category Affected: Administration of Justice  
 BRU, Program or Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This bill amends AS 11.61.140(2) to provide that a person commits the crime of cruelty to animals if the person recklessly neglects to provide a confined animal with a sufficient quantity of good and wholesome food and water. Although enactment of this bill may result in some additional prosecutions, the Department of Law does not believe that their number will have a significant fiscal impact.

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: 1/22/85  
 Approved by Commissioner: Richard I. Pegues / for Date: 1/22/85  
 Agency: Norman C. Gorsuch  
Department of Law

- Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

DEPARTMENT OF LAW PROPOSED CS FOR SECTION 2 OF HB 27

Sec. 2. AS 12.55.015 is amended by adding a new subsection to read:

(e) A court, in imposing sentence on a defendant convicted of cruelty to animals or promoting an exhibition of fighting animals, may, in addition to any other sentence allowed by law, order the defendant to forfeit any rights in the animal and to make restitution, as allowed under AS 12.55.045, for the reasonable costs incurred before conviction by a person or agency caring for the animal. When a court orders a defendant's rights in an animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the state or an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. This subsection does not limit the right of the person or agency to whom the defendant's rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership.

§ 12.55.005

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37), 653 P.2d 1052  
Ct. App. Op. No.  
P.2d 1308 (1982);  
Op. No. 183 (File  
(1982); Tazruk v.  
5 (File No. 6954).

§ 12.55.010

CODE OF CRIMINAL PROCEDURE

§ 12.55.015

655 P.2d 788 (1982); Graybill v. State, Ct. App. Op. No. 300 (File Nos. 674-6746), 672 P.2d 138 (1983); Clemans v. State, Ct. App. Op. No. 358 (File No. 7584), P.2d (1984).

Quoted in Kelly v. State, Ct. App. Op. No. 251 (File No. 6311), 663 P.2d 967 (1983).

Stated in Erhart v. State, Ct. App. Op. No. 185 (File No. 6244), 656 P.2d 1199 (1982); State v. Rastopsoff, Ct. App. Op. No. 228 (File No. 6295), 659 P.2d 630 (1983).

Cited in Nukapigak v. State, Ct. App. Op. No. 90 (File No. 5820), 645 P.2d 275 (1982); Howard v. State, Ct. App. Op. No. 260 (File Nos. 6027, 6123), 664 P.2d 603 (1983); Martin v. State, Ct. App. Op. No. 261 (File No. 6665), 664 P.2d 612 (1983); Heathcock v. State, Ct. App. Op. No. 293 (File No. 6803), 670 P.2d 1155 (1983); Pickens v. State, Ct. App. Op. No. 332 (File No. 6829), 675 P.2d 665 (1984).

*Sec. 12.55.010. Imprisonment on judgment for payment of fine. [Repealed, § 21 ch 166 SLA 1978. For present provisions, see AS 12.55.035(a).]*

**Sec. 12.55.015. Authorized sentences.** (a) Except as limited by AS 12.55.125 — 12.55.175, the court, in imposing sentence on a defendant convicted of an offense, may singly or in combination

(1) impose a fine when authorized by law and as provided in AS 12.55.035;

(2) order the defendant to be placed on probation under conditions specified by the court which may include provision for active supervision;

(3) impose a definite term of periodic imprisonment;

(4) impose a definite term of continuous imprisonment;

(5) order the defendant to make restitution as provided in AS 12.55.045;

(6) order the defendant to carry out a continuous or periodic program of community work as provided in AS 12.55.055;

(7) suspend execution of all or a portion of the sentence imposed as provided in AS 12.55.080;

(8) suspend imposition of sentence as provided in AS 12.55.085.

(b) The court, in exercising sentencing discretion as provided in this chapter, shall impose a sentence involving imprisonment when

(1) the defendant deserves to be imprisoned, considering the seriousness of the present offense and the defendant's prior criminal history, and imprisonment is equitable considering sentences imposed for other offenses and other defendants under similar circumstances;

(2) imprisonment is necessary to protect the public from further harm by the defendant; or

(3) sentences of lesser severity have been repeatedly imposed for substantially similar offenses in the past and have proven ineffective in deterring the defendant from further criminal conduct.

(c) In addition to the penalties authorized by this section, the court may invoke any authority conferred by law to order a forfeiture of property, suspend or revoke a license, remove a person from office, or impose any other civil penalty.

(d) A court, in imposing sentence on a defendant convicted of misconduct involving a controlled substance in the first, second, third, fourth, fifth, or sixth degree, may, in addition to any mandatory minimum sentence required by law, order the defendant to participate in a program for treatment of drug abusers if the court determines that the defendant is a drug abuser. Participation in such a program may be imposed as a condition of probation, a condition of suspended execution of sentence, or a condition of suspended imposition of sentence. Nothing in this subsection shall be construed to reduce any mandatory minimum sentence. (§ 12 ch 166 SLA 1978; am § 37 ch 102 SLA 1980; am § 3 ch 45 SLA 1982).

**Cross references.** — For offenses relating to controlled substances, see AS 11.71.010 — 11.71.080.

**Effect of amendments.** — The 1980 amendment rewrote paragraph (3) of subsection (b).

The 1982 amendment, added subsection (d).

**Legislative history reports.** — For report on ch. 102, SLA 1980 (HCS CSSB 511), see 1980 Senate Journal Supplement, No. 44, (May 29, 1980) or 1980 House Journal Supplement, No. 79, (May 29, 1980).

#### NOTES TO DECISIONS

There is no authority which would sanction the expansion of the superior court's jurisdiction to pass sentence into a realm of review and modification which is statutorily vested in either the supreme court or the executive branch of government. Therefore, the superior court lacks jurisdiction to review its own sentence, after it has entered a judgment on the matter, more than 60 days after it has imposed sentence. *Davenport v. State*, Sup. Ct. Op. No. 1212 (File No. 2202), 543 P.2d 1204 (1975); *Szeratics v. State*, Sup. Ct. Op. No. 1525 (File No. 3390), 572 P.2d 63 (1977).

**Test to be used in determining whether multiple offenses can be punished separately.** — See *State v. Occhipinti*, Sup. Ct. Op. No. 1405 (File No. 3084), 562 P.2d 348 (1977).

**Separate sentences were called for where defendant's conduct in kidnapping and raping his victim and assaulting her**

with a deadly weapon constituted the commission of three distinct offenses, each of which violated a different societal interest. *State v. Occhipinti*, Sup. Ct. Op. No. 1405 (File No. 3084), 562 P.2d 348 (1977).

**Applied in** *Austin v. State*, Ct. App. Op. No. 18 (File No. 5341), 627 P.2d 657 (1981).

**Quoted in** *Leuch v. State*, Sup. Ct. Op. No. 2419 (File No. 5255), 633 P.2d 1006 (1981).

**Stated in** *Kimbrell v. State*, Ct. App. Op. No. 101 (File No. 5944), 647 P.2d 618 (1982); *Erhart v. State*, Ct. App. Op. No. 185 (File No. 6244), 656 P.2d 1199 (1982).

**Cited in** *Whittlesey v. State*, Sup. Ct. Op. No. 2231 (File No. 5155), 626 P.2d 1066 (1980); *Juneby v. State*, Ct. App. Op. No. 72 (File No. 5606), 641 P.2d 823 (1982); *Lacquement v. State*, Ct. App. Op. No. 85 (File No. 5741), 644 P.2d 856 (1982).

*Sec. 12.55.020. Enforcing judgment to pay money. [Repealed, § 21 ch 166 SLA 1978. For present provisions, see AS 12.55.025(f), AS 12.55.035(a), (d) and AS 12.55.051.]*

**Sec. 12.55.022. Victim impact statement.** As part of the presentence report prepared on each felony offender, the probation officer shall prepare a victim impact statement reporting the following information:

Fdwads  
1/21/85 ✓

Original sponsors: M.M.Miller, Goll,  
Grussendorf and Duncan

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IN THE HOUSE

BY THE JUDICIARY COMMITTEE

( FOR HOUSE BILL NO. 27 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: An Act relating to failure to adequately maintain animals, forfeiture of inadequately maintained animals, and protection from liability for persons aiding such animals."

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

\* Section 1. AS 11.61.140(a) is amended to read:

(a) A person commits the crime of cruelty to animals if the person

(1) intentionally inflicts severe and prolonged physical pain or suffering on an animal;

(2) recklessly neglects an animal and, as a result of that neglect, causes the death of the animal or causes severe pain or suffering to the animal; [OR]

(3) kills an animal by the use of a decompression chamber;

or

(4) recklessly neglects to provide an animal with a sufficient quantity of good and wholesome food and water.

\* Sec. 2. AS 11.61 is amended by adding a new section to read:

Sec. 11.61.148. FORFEITURE OF ANIMALS. (a) In addition to any other sentence it may impose, a court may require a defendant convicted under AS 11.61.140 - 11.61.145 to forfeit any rights in the animal and to repay the reasonable costs incurred before judgment by a person or agency caring for the animal.

(b) When a court orders a defendant's rights in an animal to be

1 forfeited, the court may further order that those rights be given over  
 2 to an appropriate person or agency demonstrating a willingness to  
 3 accept and care for the animal or to the state or an appropriate  
 4 animal care agency for further disposition in accordance with accepted  
 5 practices for humane treatment of animals. This subsection does not  
 6 limit the right of the person or agency to whom the defendant's rights  
 7 are granted to resell or otherwise make disposition of the animal. A  
 8 transfer of rights under this subsection constitutes a transfer of  
 9 ownership.

10 \* Sec. 3. AS 09.65 is amended by adding a new section to read:

11 Sec. 09.65.093. LIABILITY FOR VOLUNTARY CARE OF ANIMALS. (a)

12 When an animal is not provided with a sufficient quantity of good and  
 13 wholesome food and water for more than 24 consecutive hours any person  
 14 may enter another's property, other than a dwelling, to supply food  
 15 and water to the animal.

16 (b) A person is not liable for civil damages as a result of  
 17 entering another's property, other than a dwelling, to supply food and  
 18 water under this section. The person is entitled to reimbursement  
 19 from the animal's owner for the reasonable cost of the food, water,  
 20 and service provided. The owner's failure to reimburse the provider  
 21 subjects the animal involved to attachment and sale upon execution  
 22 following judgment.

23 (c) This section does not preclude liability for civil damages  
 24 as a result of gross negligence or reckless or intentional misconduct.  
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John L. GRAYBILL, Appellant,

v.

STATE of Alaska, Appellee.

No. 2386.

Supreme Court of Alaska.

Jan. 23, 1970.

Avrum M. Gross, Atty. Gen., Juneau, Joseph D. Balfe, Dist. Atty., Stephen G. Dunning, Asst. Dist. Atty., Anchorage, for appellee.

Before BOOCHEVER, Chief Justice, and RABINOWITZ, CONNOR, ERWIN and BURKE, Justices.

Defendant was convicted in the Superior Court, Third Judicial District, Anchorage, C. J. Occhipinti, J., of possession and attempted transportation of bear hide by airplane, and he appealed. The Supreme Court, Connor, J., held that superior court had authority to order forfeiture of aircraft used in violation of game laws.

Affirmed.

#### 1. Forfeitures ⇨ 1

Forfeiture is civil remedy unless otherwise provided by statute. AS 16.05.190, 16.05.195(a).

#### 2. Forfeitures ⇨ 3

Superior Court had authority in prosecution of defendant for attempted transportation of bear hide by airplane to order forfeiture of aircraft. AS 16.05.190, 16.05.900, 16.05.920.

McRoy J. Barker, Robertson, Monagle, Castaugh & Bradley, Anchorage, for appellant.

<sup>1</sup> The airplane was referred to in the complaint as a "Piper Aircraft No. N3373B."

<sup>2</sup> AS 16.05.920 provides in part:

"(a) Unless permitted by this chapter or by regulation made under this chapter, it is unlawful for a person to take, possess, transport, sell, offer to sell, purchase, or offer to purchase fish, game or marine aquatic plants, or any part of fish, game or aquatic plants, or a nest or egg of fish or game."

<sup>3</sup> This was the sentence imposed by the trial court in open court. We note, however, that in the judgment and order of probation of

<sup>4</sup> August 1972 and the amended judgment and order of probation of 14 February 1973 refer to conviction on only the possession count, and impose revocation of the hunting license and forfeiture of the aircraft as special conditions of probation. The record shows that

### OPINION

CONNOR, Justice.

This appeal questions the procedure by which an aircraft was ordered forfeited because it was used in violation of the game laws.

Appellant Graybill was charged on two counts: (I) possession and (II) attempted transportation of a bear hide by airplane<sup>1</sup> when not permitted to do so by applicable regulations, in violation of AS 16.05.920.<sup>2</sup> After a jury trial, Graybill was convicted on both counts. On Count I (possession) he was given a six-month suspended sentence. On Count II (attempted transportation) he was sentenced to a one-year revocation of his hunting license and forfeiture of his aircraft.<sup>3</sup>

Following his conviction, Graybill appealed to this court, urging that the superior court lacked the authority in a criminal proceeding to order a forfeiture of the aircraft.<sup>4</sup> We dismissed the appeal as

the jury returned a guilty verdict as to both counts, and Graybill does not dispute conviction for both possession and attempted transportation. The trial judge carefully considered the form by which he imposed sentence in court. We must remand the case to allow entry of judgment, pursuant to Alaska R. Crim.P. 36 concerning clerical mistakes, in accordance with the sentence actually imposed in open court. Therefore, we do not reach the issue of whether forfeiture of an aircraft could validly be imposed as a special condition of probation.

<sup>4</sup> In superior court Graybill challenged the modification of his probation order to include specifications as to which aircraft was to be forfeited. His argument there was that AS 16.05.900 provides for penalties of up to \$1,000 fine and six months imprisonment, but

untimely,<sup>6</sup> and suggested that Graybill proceed under Alaska R.Crim.P. 35(b) for post-conviction relief. He did so, but the state prevailed in superior court by way of summary disposition pursuant to Alaska R.Crim.P. 35(g)(3). From that summary disposition Graybill brings this second appeal.

Graybill's appeal rests upon his reading of the forfeiture section of AS 16.05.190, which in relevant part states:

"[A]ircraft . . . seized under the provisions of this chapter . . . , unless forfeited by order of the court, shall be returned . . . ."

While he does not deny that aircraft can be forfeited under the statute, Graybill contends that the proviso "unless forfeited by court order" refers to an order rendered pursuant to a civil proceeding in rem against the aircraft, and does not include sentences imposed upon offenders as part of criminal proceedings.

Graybill relies on *United States v. Poliastrine*, 8 Alaska Rpts. 104 (D.Ak.1929),

that section does not provide for forfeiture of the aircraft. Forfeiture is provided for in AS 16.05.100, which provides:

"Guns, traps, nets, fishing tackle, boats, aircraft, automobiles or other vehicles, sleds, and other paraphernalia used in or in aid of a violation of this chapter, or rule or regulation of the department may be seized under a valid search, and all fish and game, or parts of fish and game, or nests or eggs of birds, taken, transported, or possessed contrary to the provisions of this chapter, or rule or regulation of the department shall be seized by any person designated in § 150 of this chapter. Upon conviction of the offender or upon judgment of the court having jurisdiction that the item was taken, transported, or possessed in violation of this chapter or rule or regulation of the department, all fish and game, or parts of them are forfeited to the state and shall be disposed of as directed by the court. . . . Guns, traps, nets, fishing tackle, boats, aircraft, or other vehicles, sleds, and other paraphernalia seized under the provisions of this chapter, or rule or regulation of the department, unless forfeited by order of the court, shall be returned, after completion of the case and payment of the fine, if any."

5. *Graybill v. State*, 522 P.2d 539 (Alaska 1974).

which interpreted the territorial predecessor to AS 16.05.190.<sup>6</sup> The court there said:

". . . [N]o criminal court has the jurisdiction upon conviction of an offender for violation of the act to enter a decree of forfeiture, where a forfeiture is not prescribed as part of the penalty, but such procedure can be had legally only after a full hearing upon motion and opportunity to defend." 8 Alaska at (6).

Since the penalty provision, AS 16.05.900,<sup>7</sup> applicable to the statute under which he was convicted, AS 16.05.920(a),<sup>8</sup> does not mention forfeiture as part of the prescribed penalty, Graybill argues that the state must file a separate action in rem. See *United States v. \$3,236*, 167 F.Supp. 495, 498 (D.Alaska 1958) (*dictum*).<sup>9</sup>

[1,2] Under the territorial statute, the United States Attorney was required to institute an in rem action for forfeiture of seized property.<sup>10</sup> In 1959 the Alaska legislature enacted a statute substantially sim-

6. 48 U.S.C. § 102 *et seq.*

7. AS 16.05.900(n) provided in part:

"A person who violates §§ 830, 840-845, or 920 of this chapter or any rule or regulation promulgated under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both . . . ."

8. See note 2, *supra*.

9. Graybill also relies on *Rubino v. State*, 301 P.2d 940 (Alaska 1964). That case is not helpful here, for there forfeiture was disallowed because the state had failed to seize Rubino's nets at the time of his arrest. Here Graybill's airplane was seized when he was arrested.

10. 48 U.S.C. § 201 provides in part:

"It shall be the duty of the United States attorney for the division . . . in which any . . . aircraft . . . has been seized because used in the transportation of any wild animal, game fish, wild bird, or part thereof, or any nest or egg of such bird, illegally bought, sold, or possessed contrary to the provisions of [this title], to institute an action in rem against it for the forfeiture thereof to the United States in any case in which the disposition of such article is not involved in a criminal prosecution."

ilar to the law applied to Graybill.<sup>11</sup> The territorial law providing for forfeiture exclusively by mandatory in rem action was specifically repealed.<sup>12</sup> Thus Graybill's reliance on Alaska territorial cases is misplaced. [While we agree that forfeiture is a civil remedy unless otherwise provided by statute, we believe that AS 16.05.190 as it applied to Graybill did so provide.]

AS 16.05.190<sup>13</sup> distinguishes between mandatory forfeiture of contraband (fish, game, birds) upon conviction, and discretionary forfeiture of paraphernalia (guns, traps, aircraft, etc.). Such paraphernalia "unless forfeited by order of the court, shall be returned, after completion of the case and payment of the fine, if any." Since the "case" and "fine" referred to in this section concern criminal proceedings, we find it reasonable to interpret an "order of the court" as likewise referring to orders rendered subsequent to a criminal conviction, as well as those following a separate civil action. The distinction which the legislature sought to draw between contraband and paraphernalia is between mandatory and discretionary forfeiture, not between requiring criminal or civ-

il forfeiture proceedings as Graybill contends.<sup>14</sup>

[It is commonly understood that forfeitures, even when civil in form, are basically criminal in nature.<sup>15</sup>] At least one other state has held that a statute providing for forfeitures authorized either criminal or civil proceedings.<sup>16</sup> No case from any other jurisdiction has been cited to us which requires a separate in rem proceeding to effect a valid forfeiture, absent a specific statutory provision similar to that provided under Alaska territorial law.<sup>17</sup> Furthermore, we do not understand how such a separate civil proceeding, if judicially implied, could benefit Graybill.<sup>18</sup> Any arguments available to him to prevent forfeiture could have been presented in the context of his criminal trial and sentencing.<sup>19</sup> Thus we find that it was not necessary for the state to institute a separate civil in rem proceeding against Graybill's aircraft. The order of the trial judge is affirmed and the case remanded for entry of judgment in accordance with the sentence imposed.<sup>20</sup>

Affirmed.

Act No. 78 of 1946), a construction not present in the Alaska statute. The court stated in dictum that the language "may be forfeited by order of the court" referred to an order following a criminal proceeding under the Louisiana statute. 36 So.2d at 2-3. That statute has since been codified into two sections, 50 La.Rev.Stat. §§ 507, 508.

17. Appellant cites *People ex rel. Hanrahan v. One 1965 Oldsmobile*, 52 Ill.2d 37, 284 N.E.2d 646 (1972); *State v. Kaufman*, 201 N.W.2d 722 (Iowa 1972) (see Iowa Code Ann. § 751.10.3); *Commonwealth v. One 1970 2 Dr. H. T. Lincoln Automobile*, 212 Va. 597, 186 S.E.2d 270 (1972); *Vasile v. District of Columbia*, 206 A.2d 443 (D.C.App. 1972); *Gatewood v. State*, 264 Md. 301, 285 A.2d 623 (1972). In each of these cases a statute explicitly required separate forfeiture proceedings.

18. This is especially true in light of the doctrine of collateral estoppel, which would prevent retrial of the crucial issues.

19. Indeed, Graybill's counsel requested, and the court granted, the return of certain items (two pair of snowshoes, a shotgun, two pairs of coveralls, and snowpack boots) which were not properly forfeitable under the statute.

20. See note 3, *supra*.

11. Ch. 94 SLA 1950 § 23.

12. Ch. 94 SLA 1950 Art. IV, § 1; see Annot., ACLA 104b 639-10-1 (Cum.Supp.1F 18, Supp. 1959); ACLA 639-6-16.

13. Quoted note 4, *supra*.

14. Since Graybill's conviction, the legislature has clarified the statute with the enactment of the present AS 10.05.195(a), which explicitly provides for forfeiture alternatively through civil or criminal proceedings.)

15. *Boyd v. United States*, 116 U.S. 616, 634, 6 S.Ct. 524, 29 L.Ed. 746 (1886); *Compton v. United States*, 377 F.2d 408, 411 (8th Cir. 1967). Their purpose is to penalize commission of offenses, *One 1958 Plymouth Sedan v. Pennsylvania*, 380 U.S. 693, 700, 85 S.Ct. 1246, 14 L.Ed.2d 170 (1965); *United States v. One 1960 Ford Four-Door Galaxie Sedan*, 202 F.Supp. 841, 843 (E.D.Tenn.1962), and to deter future infractions. *People v. Reulman*, 62 Cal.2d 92, 41 Cal.Rptr. 290, 293 (1964).

16. *Department of Wildlife & Fisheries v. The Trawler I-Minore*, 213 La. 956, 36 So.2d 1 (1948), holding forfeiture of a fishing trawler in a civil proceeding proper, despite the fact that it was not preceded by a criminal trial. The court relied on the separate sections of La.Act No. 143 of 1942 § 17 (as amended by

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Oregon Revised Statutes  
167.860

In addition to any other sentence it may impose, a court may require a defendant convicted under HS 11.61.140-145 to forfeit any rights of the defendant in the animal and to repay the reasonable costs incurred by any person or agency ~~prior to judgment~~ <sup>per. to judgment</sup> caring for the animal.

O.R.S.

167.862

When ~~the~~ <sup>a</sup> court orders ~~the~~ <sup>a</sup> defendant's rights in an animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the state or an appropriate animal care agency for further disposition, in accordance with accepted practices for humane treatment of animals. This subsection shall not ~~constitute any limitation~~ constitute any limitations upon the right of the person or agency to whom rights are granted to recall or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership.

Decomp  
Cahil ~~§1~~  
Code  
Penal 597(e)

A person commits the crime of confinement without food and water if the person confines any animal without a ~~sufficient~~ quantity of good and wholesome food and water, to maintain the animal in good health. sufficient

AS.4.

In case any ~~domestic~~ animal is at any time so ~~is~~ confined and continues to be without ~~proper~~ necessary food and water for more than 12 consecutive hours, it is lawful for any person, from time to time as necessary, to enter ~~into~~ ~~and upon~~ the place of confinement and to supply it with necessary food and water so long as it remains ~~so~~ confined. The ~~person~~ person is not liable for the entry and may collect the reasonable cost of the food, water and service provided from the owner of the animal. The animal is subject to enforcement of a money judgment for the ~~reasonable~~ cost.

RCWA  
9.08.010

A person commits the crime of allowing dangerous animals at large if the person recklessly allows a dangerous animal ~~to~~ to escape or run at large ~~in any place~~ so as to endanger the safety of any person

Oregon  
167.860

deprives such animal of <sup>necessary & adequate</sup> food and <sup>sufficient for good health,</sup> water <sup>for more than</sup> 24 hours

11.61.145 (b)

If there is probable cause to believe that subsection ( ) is being violated and a search warrant has been issued, a peace officer may ~~enter the premises where the animal is being kept~~ and enter the premises where the animal is being kept and impound it.

If after reasonable search the owner or person having custody of the animal cannot be found and notified of the impoundment, notice shall be posted on the premises. & a copy shall be sent ~~by certified mail~~ by ~~see~~ within 72 hours after the impoundment by certified mail to the address at which the animal was impounded.

Revised Code of  
Washington Annotated

Confinement without food and water

16.52.100

A person commits the crime of confinement without food and water if the person

recklessly neglects to provide  
imprisons or confines any domestic animal without providing the animal sufficient food and water to promote good health.

In case any domestic animal ~~is~~ is imprisoned or confined for more than <sup>12</sup> ~~24~~ ~~hours~~ consecutive hours without sufficient food and water to promote good health, it is lawful for any person, from time to time as necessary, to supply food and water.

The person shall not be liable for entering <sup>the owner's</sup> ~~another's~~ property to supply food and water and shall be entitled to reimbursement from the owner for ~~for~~ the reasonable cost of the food ~~and~~, water, and the service provided.

The owner's failure to reimburse the provider shall subject the animal involved to attachment and sale upon execution ~~and~~ following ~~upon~~ a judgment.

~~The investigating officer may remove the animal to protective custody~~

# STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

## LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 19, 1984

SUBJECT: Inadequately maintained animals  
(Work Order No. 14-0220)

TO: Representative M. Mike Miller

FROM: George Edwards *GE*  
Legislative Counsel

In response to your request we have prepared legislation requiring that confined animals receive sufficient food and water, that animals treated cruelly may be forfeited and that voluntary providers may not ordinarily be held liable for trespass.

AS 11.61.140 (a)(4) includes within the offense of cruelty to animals the reckless failure to feed and water. It is a class A misdemeanor.

AS 11.61.148 is a new section which provides for the forfeiture of abused animals and gives the court a simple practical means of permanently transferring the animal to more suitable owners or to state authorities.

AS 09.65.093 is another new section which authorizes an interested person to voluntarily feed a neglected animal and to collect back from the owner. It further shields the person from civil liability for reasonable conduct in entering onto another's property to aid the animal. The remaining question we have about the bill is whether the volunteer should be protected only when acting out of doors or whether it is your intent that the person should be shielded when actually entering the dwelling of another to care for an animal.

It is certainly foreseeable that a starving animal could be locked in a dwelling and in need of immediate care. However, permitting a citizen to ignore legal remedies and perhaps break into the dwelling may be inviting litigation if

Representative M. Mike Miller  
December 19, 1984  
Page 2

not disaster. As a practical matter, the presence of a suffering or poorly fed animal should provide sufficient probable cause to believe a crime is being committed to permit a magistrate to issue a search warrant for entry by the authorities. So unless there is something we've missed here, the limitation on entry probably should remain.

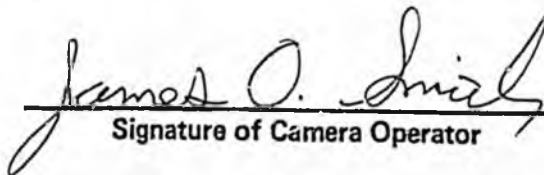
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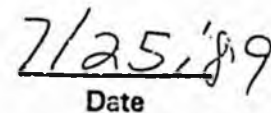


# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

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# STATE OF ALASKA THE LEGISLATURE

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

## LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	4/19/85	1:15 pm
" "	4/17/85	1:30 pm



STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 31  
 Title: Obstruction or hindrance of  
hunting, fishing or trapping  
 Sponsor: Shultz and Marrou  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Fish and Game; FWP  
 Program Category Affected: \_\_\_\_\_  
Natural Resource Management  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Game

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Phil Koehl  
 Division: Game

Phone: 465-4190  
 Date: 4/19/85

Approved by Commissioner: *James H. Poyser*  
 Agency: Fish and Game

Date: 4-22-85

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 31  
 Title: "An Act relating to obstruction of lawful hunting, fishing or trapping."  
 Sponsor: Rep. Shultz  
 Requestor: H. Judiciary  
 Date of Request: 4/19/85

FISCAL DETAIL

Agency Affected: Public Safety  
 Program Category Affected: NRMEC  
 BRU, Program or Subprogram(s) Affected: Fish & Wildlife Protection

of lawful

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Marcia Lynn McKenzie  
 Division: Administrative Services

Phone: 465-4349  
 Date: 4/19/85

Approved by Commissioner: Robert J. Sindberg  
 Agency: Department of Public Safety

Date: 4/19/85

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
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 Impacted Agency(ies)

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 546

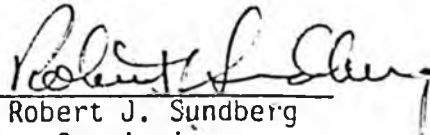
Support

"HB 546 - An Act relating to harassment of persons lawfully engaged in hunting, fishing, or trapping."

The Department of Public Safety supports passage of HB 546.

This bill adequately addresses conduct that is illegally aimed at interfering with lawful hunting, fishing or trapping.

British Columbia has had severe problems between legal hunters and anti-hunting groups that have led to armed confrontations. The potential for that to occur in Alaska is evident and I think enacting a law to address this problem would be a good start toward prevention.

  
Robert J. Sundberg  
Commissioner

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

JAN 16 1985

June 19, 1984

The Honorable Joe L. Hayes  
Speaker of the House  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

Re: CSHB 546(Res) am S  
(An Act relating to the  
obstruction or  
hindrance of lawful  
hunting, fishing, or  
trapping.)

Dear Representative Hayes:

Under the authority granted in art. II, sec. 15, of the Alaska Constitution, I have vetoed CSHB 546(Res) am S -- a bill that would have made it a misdemeanor for a person "to perform an act with the intent to obstruct or hinder hunting, fishing, or trapping engaged in lawfully by another person." As you may recall, I vetoed a similar bill (2d SCS CSHB 163(Jud)) last year.

I have decided to veto this legislation for the following reasons:

First, an amendment to the bill made on the House floor (the insertion of the language "possessing a valid State of Alaska license or permit" which appears on page 1, lines 13 -- 14, of the final bill) creates both a potential constitutional problem and a public policy problem.

The amendment was made to ensure that a person who obstructs the capture of orca whales in Alaskan waters by Sea World could not be prosecuted under this law. The overall result of this amendment is that if a person obstructs a hunter holding a valid state license or permit, that person can be prosecuted under this law, whereas, if a person obstructs a hunter who is lawfully hunting with only a federal permit, (this includes orca capture, as well as any other kind of hunting, fishing, or trapping requiring a federal permit only) that person is

exempt from prosecution. Such disparate treatment of similar offenders, with no apparent rational basis for the distinction, raises an equal protection question under the constitution.

On a policy basis, I question the wisdom of granting -- just because we want to specifically exempt from prosecution those who might attempt to obstruct the capture of orca whales -- blanket immunity to persons who obstruct hunters, fishermen, and trappers who are hunting, fishing, or trapping lawfully without a state license or permit. This provision should be given more thoughtful consideration.

Secondly, it may be difficult to effectively prosecute an offender under the bill. The new law would not apply to obstruction or hindrance that is "incidental" to a person's lawful use of public or private land or water. This exception was included so that hunting activities would not be given a clear priority over other lawful outdoor activities such as camping, hiking, birdwatching, etc. Although adding this provision serves a laudable purpose, especially since last year's bill included no recognition of the validity of such competing uses, this language is likely to make it more difficult to prosecute some cases. That is, it may be difficult to prove that obstructive acts were deliberate as opposed to being the incidental result of another person's lawful use of the land.

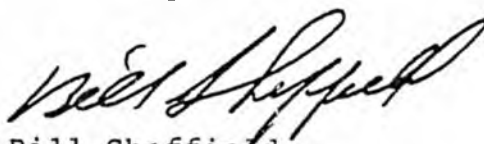
Thirdly, there have apparently been no verified reports in Alaska of the types of "sabotage" tactics that the proponents of this bill seek to prohibit. I am not convinced of the need to establish a new crime prohibiting conduct that has yet to occur in this state.

Fourthly, as I stated in last year's veto letter, existing criminal statutes provide adequate coverage for physical interference with lawful hunting and fishing. In particular, the crimes of assault, criminal mischief, and harassment provide criminal penalties similar to those imposed under this bill.

Finally, creating such a crime in the Alaska statutes gives the impression that Alaska seeks to give hunting, fishing and trapping of wildlife, (whether it be for sport, commercial purposes, or subsistence use) priority over efforts to protect and preserve wildlife. Despite the fact that I myself have participated in sport hunting and fishing, I do not believe that it is appropriate to make such a strong statement in our laws.

For these reasons, I have vetoed this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

# STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907.465.3800

## LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

November 20, 1984

SUBJECT: Draft bill reintroducing HB 546, An Act relating to the obstruction or hindrance of lawful hunting, fishing or trapping. (WO 14-0063)

TO: Rep. Richard Shultz

FROM: George Edwards  
Legislative Counsel

The draft bill for reintroduction of HB 546 from last session has been completed with some modifications I wish to point out. The modifications are responsive to objections set out in the Governor's veto letter of June 19, 1984.

The initial objection went to language in section (a) which limited the protected group to persons holding valid Alaska licenses. The constitutional argument against this language is compelling and my reaction has been to eliminate the suspect phrase.

Thus, where the former version read:

"(a) a person may not perform an act with the intent to obstruct or hinder hunting, fishing, or trapping engaged in lawfully by another person possessing a valid State of Alaska license or permit or exempted from license requirements under AS 16.05.044,"

the current draft reads:

"(a) a person may not perform an act with the intent to obstruct or hinder hunting, fishing, or trapping engaged in lawfully by another person."

The Governor's other objection which can be responded to in the proposed legislation is the interpretation of section (d) which formerly read:

Representative Shultz  
Page 2  
November 20, 1984

"This section does not apply to obstruction or hindrance that is incidental to the lawful use of public or private land or water."

If this section was incorporated to protect commercial fishermen who may inadvertently hinder other fishermen in the ordinary course of their work, it appears to be unnecessary. The affirmative defenses cover such a situation as well as others in which legitimate rights conflict. Thus, I have simply deleted the original section (d).

The only other substantive change occurs in Sec. 16.05.927 (formerly 926) where "costs for" has been inserted before "special equipment and supplies."

If you have questions or further suggestions, please don't hesitate to contact me.

GE:mkr  
Enclosure  
017:M1



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

April 13, 1984

MEMORANDUM

TO: Representative M. Mike Miller

FROM: Nancy Pease *Nancy Pease*  
Legislative Analyst

RE: HB 546 Harassment of Hunters  
Research Request 84-081

You requested information on statutes prohibiting the harassment of hunters in other states. Specifically, you asked how other states define harassment of hunters, what penalties other states prescribe for the harassment of hunters, and how many people have actually been prosecuted in each state in which these laws are in place.

Statutory Definitions of Harassment

Nine states currently have statutes which prohibit persons from intentionally interfering with the lawful taking of fish and game.<sup>1</sup> Most of the states' statutes use fairly broad language to prohibit persons from intentionally:

- harassing persons engaged in lawful hunting, trapping, and/or fishing; or
- interfering with the process of the lawful taking of fish or game; or
- disturbing fish or game in order to hinder fishermen or hunters from lawful taking.

In most of these states, the language of the statutes does not define "harassment", "interference", or "disturbance" in terms of specific activities which are disallowed. There are some instances in which states mention activities that would constitute harassment under the

---

<sup>1</sup>Arizona, Illinois, Louisiana, Maine, Michigan, Nevada, Pennsylvania, South Dakota and Vermont. Arkansas repealed a law prohibiting the harassment of hunters after landowners protested that the law, as written, might have legalized trespassing on private lands.

Representative Miller  
April 13, 1984  
Page 2

law: Pennsylvania prohibits persons from tampering with, mutilating, destroying or removing traps, and from removing animals from traps; Louisiana prohibits the disturbing of wild animals by placing any object or substance intended to alter the behavior of the animals to the detriment of hunters; Vermont, Arizona and Pennsylvania specify that the "driving" of animals with the intent to hinder hunters constitutes illegal interference with a hunt. Nevada frames illegal interference with hunters in narrow terms by prohibiting "a group of people, acting together, [from] intentionally interfering with a person who is lawfully hunting or trapping."

The statutes of several states also mention specific activities which the law does not curtail even though the activities may, in some instances, hinder hunters, fishermen or trappers. For example, the Pennsylvania statutes specify that landowners may remove traps which have been set on their private property without their permission; in Maine the law does not prevent private landowners from keeping hunters off their property; and in several states, the law "may not be construed to prohibit incidental interference arising from lawful activity by land users such as farmers and recreationists (Vermont) or ranchers and miners (Nevada).

For the most part, states have either not defined "harassment", or have set out very general circumstances under which activities of many types might be construed as "harassment" of hunters. As an example of the broad language common to these statutes, Louisiana and Illinois forbid persons from disturbing any hunter, trapper or fisherman who is "engaged in the lawful taking of a wild animal or who is engaged in the process of taking (including travel, camping or other hunt preparations) with intent to dissuade or otherwise prevent the taking." In addition, other parties may not act to "prevent such person's enjoyment of the outdoors." Also, other parties may not enter or remain on state-managed or private lands or waters with the intent to disturb game or harass hunters.

#### Actual Incidents of Harassment

I talked with game wardens or legal specialists in the Fish and Game Departments of fifteen states to try to compile a list of activities which might commonly be considered interference in the lawful taking of fish and game. It appears that Fish and Game personnel have differing and uncertain impressions, under the broadly written statutes, of what activities might constitute intentional harassment of hunters or interference in the taking of game. Several of the fish and game officers with whom I spoke emphasized that they would not charge a

person with interference unless his presence and activities in a hunting area were blatantly intended to disrupt a hunt. The wardens mentioned planned, publicized disruptions by anti-hunting groups as instances in which they would charge participants with interference in the lawful taking of game.

Game wardens in Maine and South Dakota mentioned incidents of disturbance to hunters where charges were considered but not filed. In Maine, game wardens issued warnings to a person who drove a deer out of a clearing, interrupting the stalk of a bow hunter; and to an elderly couple dressed in blaze-orange clothing and carrying a red umbrella who settled themselves in lawnchairs right behind a duck blind where hunters were hunting over decoys. In South Dakota, state conservation officers investigated two incidents between competing sportsmen and failed to file charges because the harassment appeared to have been mutual and of unverifiable origin. The first such incident involved two parties of fishermen throwing rocks at one another in a dispute over access to a creek on private land. The second incident occurred when a goose hunter was ordered to leave a section line by a farmer who owned the land on either side of the right-of-way and charged hunters to hunt on his property.

Only two states report that persons have been convicted under their statutes prohibiting interference with the lawful taking of fish and game.<sup>2</sup> These cases apparently did not involve serious challenges to the vagueness of the statutes; to date, there have been no court rulings to further define what activities and circumstances constitute intentional harassment of hunters.

Because anti-harassment statutes have resulted in few actual charges, officials in most states explained the scope and intent of the statutes by mentioning past instances of harassment of hunters in their states, or incidents that have occurred in other states. Following is a list of instances of harassment of hunters mentioned by fish and game officials as contributing to the passage of anti-harassment legislation, or as defining the application of such laws.

Arizona. According to Assistant Attorney General Joe Clifford, three incidents of harassment of hunters in Arizona led to his state's passage in 1981 of the first law prohibiting interference with the legal taking of game. The earliest incident involved Arizona's small bison

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<sup>2</sup>Vermont's Chief Warden of Fish and Game reported that four complaints of interference with the taking of game in the second half of 1983 resulted in three convictions, all related to trapping. In Illinois, since the anti-harassment law took effect on January 1, 1984, one person has been convicted of tampering with traps.

Representative Miller

April 13, 1984

Page 4

herd. Approximately 10 years ago, anti-hunting groups began to protest the annual permit hunt by which the Arizona Game Department culls the bison herd to keep the herd's population stable. The protest escalated year by year until the anti-hunters were threatening to lie down between the herd and the hunters. A second protest was sparked over Arizona's desert bighorn sheep, which Mr. Clifford called "a rare animal", highly valued by both trophy hunters and wildlife conservationists. Individuals opposed to the sheep hunt attempted to protect a herd of bighorns in the Tucson area by hiking in the mountains and beating pots and pans. The final incident which contributed to passage of an anti-harassment law in Arizona involved a shootout between a hunter and a ranch owner over the locking of a gate on grazing lands owned by the state.

Because the conflicts in Arizona primarily involved organized protests, the anti-harassment law in Arizona was drafted specifically to prevent harassment of hunters by organized groups. The Arizona law becomes effective only in instances where the game commission (1) "finds that a significant interference or disruption of a hunt is likely to occur," and (2) establishes a designated hunting area where harassment is illegal. This law passed unanimously. There have been no arrests under the Arizona law.

Illinois. Jennifer Breedlove, an officer of the Illinois Department of Conservation's Law Enforcement Division, stated that anti-harassment legislation was instigated in Illinois by incidents involving duck hunters along the Mississippi River. The hunting of animals by drawing them to bait or feed is illegal in Illinois, and hunting protesters would attempt to protect waterfowl by spreading grain in popular hunting areas to make hunting illegal there.

Since the law went into effect on January 1, 1984, there has been one incident of arrest; a person was convicted of tampering with traps, and fined.

Louisiana. In 1982, Louisiana adopted a very broad law prohibiting interference with the lawful taking of game. According to Major Tommy Candize of the Louisiana Department of Wildlife and Fisheries, there have been no reported incidents of interference in Louisiana before or after the passage of the law; the law was passed as a preventive measure.

Michigan. According to Dick Elden, Assistant Chief of the Wildlife Division of Michigan, there were no incidents in his state which led to the introduction of an anti-harassment bill, and there have been no reported incidents since its enactment. The bill was inspired by hunting protests in the western states and by the CBS documentary "Guns of Autumn" which portrayed a negative image of hunters. Mr. Elden characterizes his state as having a high potential for conflicts

between hunters and anti-hunters because of Michigan's large urban population for whom hunting is not traditional, and the state's healthy wildlife resource which attracts hunters from many areas.

Maine. In Maine, the passage of a law to prohibit interference with the taking of fish and game was largely a preventive measure. According to Dave Allen, Executive Director and lobbyist for the Sportsmen's Alliance of Maine, Maine hunters were inspired to campaign for a protective law by two out-of-state events: the disruption of a trophy hunt in British Columbia by Greenpeace protesters, and the distribution in the Northeast of a tip sheet of tactics for "hunt saboteurs". Within Maine, there was debate over whether or not to hold a moose hunting season, but according to Mr. Allen, the moose hunt was challenged only by ballot referendum; and the sportsmen's fears of a protest in the woods were not confirmed.

Mr. Allen stated that the terms "willful" and "harassment" used in Maine's anti-harassment law were not discussed at any length during hearings on the bill; the terms draw on their standard legal definitions. Mr. Allen did offer his opinion that the law would not prevent landowners from keeping hunters off their private land, or prevent someone from walking in the woods with a radio unless a prosecutor could prove that the action was willful disruption of a hunt.

Nevada. The staff specialist in law enforcement with the Nevada Division of Fish and Game could recall no instances of harassment of hunters in his state before or after the passage of a law to prohibit such harassment.

Pennsylvania. John Plowman, legislative liaison with Pennsylvania Fish and Wildlife, reports that there have been no direct confrontations between hunters and hunt protesters in his state. Pennsylvania has had for many years a law protecting law-abiding trappers from interference; protection for hunters was instituted in 1983 as a preventive measure, with the backing of the Federation of Sportsmen and the Wildlife Legislative Fund of America. No charges have been filed under the new law.

South Dakota. South Dakota appears to be the only state that has prohibited interference with hunters partly because of conflicts among the hunters themselves. According to state conservation officer Bob Pract, the primary conflicts with hunters in South Dakota have involved pay-to-hunt operations run by farmers who own the wheat and corn fields on the bluffs above the wildlife refuges in the bottomlands of the Missouri River. These farmers construct duck blinds along their bluffs and charge hunters fees to hunt the ducks and geese that fly out of the bottomlands to feed in the grain fields. Hunters who choose not to pay to hunt from private lands have legal access to the bluff hunting areas only along the public right-of-way of the section lines.

Representative  
April 13, 1984  
Page 6

The competition for ducks and geese, pitting nonpaying hunters against farmers and their client-hunters, has led to confrontations--verbal threats and physical blows. The anti-interference statute seeks to discourage harassment of hunters by competing hunters. Officer Pract added that while he knows of no anti-hunting groups in South Dakota, this law was also intended to prevent such groups from establishing themselves in the state.

Vermont. The Vermont State Constitution (written in 1777) guarantees that all citizens have the right to hunt, fish, and trap the state's wildlife. In 1981, the Vermont legislature adopted an anti-harassment law to safeguard that constitutional right by prohibiting disturbance of hunters and fishermen. (Trappers in Vermont had been protected by the statute for over 20 years.) The new statute seeks to minimize restrictions on other legitimate users of public lands by exempting from the ban "any incidental interference arising from lawful activity by land users including farmers and recreationists."

Vermont's Chief Warden Roger Whitcomb reports that the anti-harassment law is actively enforced in Vermont because trapping and hunting are activities traditional to the Vermont lifestyle. During the six-month period from July 1 to December 1, 1983, the warden's office pursued four complaints of harassment, leading to three convictions in trapping cases. The harassment problem in Vermont has been limited primarily to instances of individuals tampering with traps.

In summary, of the nine states which have adopted laws to prohibit interference with the lawful taking of fish and game,

- only two states have convicted persons of violating the law, in a total of four cases,
- a few states have used the authority of the law to issue warnings rather than to make arrests, and
- in over half of the states which have passed a law to prohibit harassment of hunters, there have never been major, reported instances of harassment of hunters, trappers or fishermen.

Representative Miller  
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#### Comments from Advocacy Groups

In addition to talking with Fish and Game Department officials and legislative specialists, I contacted several organizations dedicated to the protection of wildlife and several organizations that promote hunting, fishing and trapping.<sup>3</sup> While these groups were not aware of further incidents or arrests involving interference with hunters, they did offer a few comments on the issue. Susan Russell, Director of Friends of Animals (a national animal protection agency) cautioned that the "intent" of persons who disrupt a hunt may be difficult to prove. She added that legislation to prohibit interference with a hunt may be unconstitutional in its vagueness and in its infringement upon a person's rights to use public lands. From the opposite point of view, the Wildlife Legislative Fund of America (a hunters lobby) argues that, when charges of interference arise, a non-hunter who is using a hunting area should have the burden of justifying his activities. The Wildlife Legislative Fund is sending us a copy of a "model" statute, proposed by their organization, which would make interference with hunting a felony; we will forward a copy to you.

#### Incidents in States Without Anti-Harassment Laws

The confrontations between hunters and hunt protesters have become most heated in the northeastern states. Fish and game officials or legislative specialists in other states commonly cited conflicts in New York, Massachusetts, Connecticut or New Jersey in explaining the intent and scope of laws passed in their own states. The major conflicts that have occurred in these states are summarized below.

New York. The New York Director of Fish and Wildlife stated that most instances of alleged harassment of hunters in his state were not well-documented. He recalled two protests involving the "peaceful, though noisy" picketing of deer hunts in state parks by the Committee Against Sports Hunting. A third incident involved the special Ripley Hunt to curtail deer damage to orchards in a deer wintering area; hunters' car tires were punctured by unidentified persons. Partly on the basis of these three incidents of potential violence between hunters and hunt protesters, the New York legislature is now considering legislation to prohibit interference with the taking of game.

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<sup>3</sup>Greenpeace, USA; Fund for Animals; Friends of Animals; Animal Protection Institute of America; National Rifle Association; National Shooting Sports Foundation; Wildlife Legislative Fund of America; Game Conservation International.

Massachusetts. Fisheries and Wildlife Director Richard Cronin characterized hunting conflicts in his state as involving a core group of no more than 200 sophisticated protesters who achieve major disruption by playing to the media. Their strategies have included picketing deer check stations, playing music at duck hunting lakes, and announcing that they would place themselves in hunters' lines-of-fire in order to halt a hunt scheduled for the culling of the deer herd on a private nature preserve at Cranes Beach. Legislation has been proposed to prohibit such activities, but Mr. Cronin estimated that it has only a slim chance of passage.

New Jersey. Legislation to prohibit hunt interference is much closer to passage in New Jersey, where a bill has been introduced with 21 co-sponsors (in an 81-member House). According to the game department's legislative specialist, Bob Hitchmoney, New Jersey has experienced isolated incidents in which duck blinds have been contaminated through methods advocated by wildlife protection groups. In addition, Mr. Hitchmoney says a group of protesters from New York City annually picket the Great Swamp deer hunt, attracting considerable media attention.

Connecticut. The Director of Wildlife said that incidents of harassment were common several years ago (although legislation failed to pass at that time), but Connecticut has experienced no major problems within the past year. Past incidents have involved the New York-based protection society Friends of Animals, whose tactics include walking in the woods with loud radios, beating on pots and pans, and sprinkling lighter fluid along deer trails. There was also an incident where anti-hunters launched a raft in Long Island Sound from which they shot flares and played martial music to alarm ducks and geese, and an incident where limbs were sawed through on a deer stand, resulting in a hunter's falling and injuring himself. Connecticut's Director of Wildlife said that, in the absence of a statute to prohibit such harassment, Connecticut conservation officers would in the future arrest hunt protesters on other applicable charges; for example, a person pouring lighter fluid along deer trails could be charged with illegal disposal of flammable substances.

#### Penalties

Most states classify intentional interference with the lawful taking of fish or game as a misdemeanor offense, punishable by a fine in the range of \$100 to \$500, or a jail term in the general range of 30 to 90 days, or both. (See attached table.) The severity of the penalty usually depends on whether or not the violator actively disrupted a hunt, refused an enforcement officer's order or a court injunction not to disturb a hunt, or was only present in the hunting area with the

Representative Miller  
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Page 9

intent to disrupt the hunt. In addition to civil penalties, a convicted violator may be liable for court costs, for punitive damages, and for damages incurred by the affected hunter when the interference rendered his hunting efforts and expenditures futile. (For example, the affected hunter might collect the cost of his license and permit fees, travel, guides, special equipment and supplies.)

I hope this information is helpful to you. If you have further questions, please let us know how we can be of assistance.

NP

Attachment

PENALTIES FOR  
INTERFERENCE WITH THE LAWFUL TAKING OF FISH & GAME

Arizona Actual interference is a Class 2 misdemeanor punishable by a fine not to exceed \$750.00.

Presence in a hunting area with intent to disrupt a hunt is a Class 3 misdemeanor punishable by a fine not to exceed \$500.00.

A hunter may claim reimbursement for expenses related to an interrupted hunt.

Illinois Failure to obey a peace officer's orders to cease interference or to leave a hunting area is a Class B misdemeanor punishable by a fine of up to \$500, or a jail term of up to 6 months, or both.

Actual interference with a hunt, or presence in a hunting area with the intent to interfere, is a Class C misdemeanor, punishable by a fine of up to \$500, or 30 days in jail, or both.

A hunter may claim punitive damages and damages for expenditures that were rendered futile by the actions of the person who disrupted the hunt.

Louisiana Actual interference with a hunt, or presence in a hunting area with intent to interfere is a Class 2 violation.

Failure to obey an enforcement officer's orders not to engage in disruptive activities or to cease disruptive activities is a Class 3 violation.

The first such offense is punishable by a fine of \$25 to \$100, or 10 to 60 days of imprisonment, or both. A subsequent offense is punishable by a fine of \$100 to \$300, or 30 to 90 days in jail, or both.

Maine. Interference with the taking of fish and game in Maine is a civil violation punishable by a fine of \$100 to \$300.

A hunter may collect damages for costs related to the interrupted hunt.

PENALTIES (continued)

- Michigan Interference with a hunt is a misdemeanor violation of game laws which may result in a fine of not more than \$100 plus the costs of prosecution, or jail for up to 90 days, or both.
- Nevada The law makes no provision for penalties.
- Pennsylvania Interference with the lawful taking of game is punishable by a fine of up to \$500, or jail for up to 30 days, or both.
- South Dakota Failure to heed a peace officer's warning not to engage in, or to cease, an act disruptive to hunters is a Class 1 misdemeanor.
- Interfering with hunters, the process of the hunt, or the hunted game is a Class 2 misdemeanor.
- A violation may draw a fine of not more than \$500, or a jail sentence of not more than one year, or both.
- Damages may include an award for punitive damages as well as license fees, travel or other expenses which were rendered futile by the interference.
- Vermont Violators of minor hunting laws in Vermont are generally penalized by a fine of not more than \$100.

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Source: State statutes, and telephone conversations with Fish and Game enforcement officers in the respective states.

Prepared by: House Research Agency, April 1984.



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith  
Signature of Camera Operator

7/25/89  
Date

HPB

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STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3801

LEGISLATIVE AFFAIRS AGENCY  
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May, 1985

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House	Judiciary	4/8/85	1:30 pm
"	"	4/13/85	9:Am
"	"	4/14/85	1: pm

File

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL BOARD

January 30, 1984

Commissioner, Department  
of Revenue

Robert D. Heath

Deputy Commissioners,  
Department of Revenue:

Taxation  
Treasury

Bruce M. Botelho  
Milton B. Barker

Members of the  
Alcoholic Beverage Control Board

Chairman  
Member  
Member  
Member  
Member

William K. Smith  
Wesley D. Wallace  
Donald J. House  
E. L. Holloway  
Jane C. Perkins

**THE LEGISLATURE**

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

January 30, 1984

Members of the  
Legislative Budget and Audit Committee:

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

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL BOARD

January 30, 1984



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

## PURPOSE OF THE REPORT

In accordance with the provisions of Alaska Statutes 24.20.271(1) and 44.60.050 (Sunset legislation) an examination of the Alcoholic Beverage Control Board was conducted to determine if the Board has been operating in an efficient and effective manner and if the Board should be reestablished.

As required by legislative intent, this report should be considered during the legislative oversight function in determining if the Alcoholic Beverage Control Board should be reestablished. Per the 1983 amendment to AS 44.66.010(A)(1), the Board is scheduled to terminate on June 30, 1984.

## ORGANIZATION AND FUNCTION

The Alcoholic Beverage Control Board (hereinafter referred to as the ABC Board or the Board) was established in 1959 by Title 4 of the Alaska Statutes as a regulatory, quasi-judicial agency. The Board is vested with the powers, duties, and responsibilities for the control of alcoholic beverages, including the power to propose and adopt regulations, and to hear appeals.

Members are appointed for three-year terms by the Governor and serve at his pleasure subject to confirmation by the Legislature. Membership is limited by statute to five persons (two liquor industry representatives, three non-industry representatives). A director, also appointed by the Governor, serves as executive officer and is responsible for enforcement of Title 4 liquor laws and regulations developed by the Board. Although he is not a member of the Board, the director may cast a tie-breaking vote. Under the direction of the Board, the director may issue, renew, transfer, revoke or suspend licenses or permits.

Title 4 prescribes the type of licenses, fees, and specific activities allowed under each license classification (see schedule of license types and fees in Appendix C). Fees are payable at the time of application. To renew an already existing liquor license, the application must be filed (and the corresponding fees paid) on or before February 28. On January 1, 1984 the Board adopted emergency regulations to set a moratorium on the issuance of certain new license within the State. The primary purpose of the moratorium is to avail time to the Board to reevaluate its current criteria for license application approvals. This moratorium will be in effect until April 30, 1984.

The staff of the ABC Board is divided into three major functions: administration, licensing, and enforcement. A brief description of the services provided by those functions follows.

Administration. The director of the ABC Board provides all administrative support needed by the Board including overseeing all staff functions, preparing budget documents, and directing the preparation and implementation of administrative and public hearings, and directing special enforcement investigations.

Licensing. The licensing staff currently consists of three full-time employees responsible for issuing and receiving application forms, maintaining records and files for all licenses, collecting fees, issuing all licenses and permits authorized by the Board, and answering inquiries from the general public on routine licensing matters.

Enforcement. The ABC Board currently employs five investigators - three operating from the Anchorage central office, one operating from the Fairbanks field office, and one operating from the Juneau field office. One Anchorage Investigator position is vacant. Services provided include (1) surveillance and inspections of licensed premises, (2) investigations to obtain information to be used in criminal and civil proceedings and investigations into suspected licensing violations, (3) public appearances relating to ABC laws and regulations, and (4) assisting the licensing staff in handling inquiries from the general public.

## REPORT CONCLUSION

### Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting those practices are not within the scope of this review but require legislative consideration. In debating these decisions the legislative oversight committees should take into consideration the findings and recommendations presented in this report, so that the potential impact of the policy changes can be evaluated.

### Report Conclusions

Title 4 of the Alaska Statutes established the ABC Board to control the manufacture, barter, possession and sale of alcoholic beverages in the State in order to protect the public's health, safety, and welfare. We believe that there is a demonstrated need for this control to continue to exist. In order to operate in a more efficient and effective manner the following recommendations should be implemented:

1. The ABC Board should improve documentation of its enforcement efforts.
2. The ABC Board should strengthen communications with law enforcement officers.
3. The ABC Board should establish procedures to monitor license fee refunds.
4. The ABC Board should improve its activity reporting system.
5. The Department of Revenue should review the ABC Board's transmittal of receipt procedures and establish procedures to transmit funds more efficiently.

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The ABC Board should improve documentation of its enforcement efforts.

The ABC Board is mandated by statute to control the manufacture, barter, possession, and sale of alcoholic beverages in the State. When a violation is observed or reported, the ABC Board staff would issue a notice of violation, initiate an investigation, or file a criminal complaint. An enforcement file is maintained by the ABC Board to document actions taken. Our review of these files disclosed weaknesses in the following areas:

#### Investigations

Upon completion of an investigation by the enforcement staff a written report is prepared. The report is reviewed by the enforcement supervisor and submitted to the Director and/or Board for final action. Our review disclosed that adequate documentation is not maintained on enforcement activity. For instance, 16 of 25 enforcement files reviewed did not contain documentation of final action resulting from the Director and/or Board review. In addition, a review of 25 administrative files maintained by the Director showed that 17 files did not contain documentation of the informal conference held with the licensee and final resolutions made.

In order to improve the efficiency and effectiveness of operations, the ABC Board should implement procedures to ensure files are complete. Enforcement files should contain documentation of enforcement activity from inception to final resolution.

#### Notice of Violation (NOV)

The ABC Board utilizes an NOV to communicate to licensees that a violation allegedly occurred. NOVs of an by themselves carry no penalty, and present regulations do not require the licensee to respond to the NOV. Our review of 25 NOVs showed only 9 responses were received from licensees.

An NOV or an accumulation of NOVs could lead to the filing of an accusation or could initiate an investigation. In addition, NOVs may be reviewed by the Board in considering whether to suspend, revoke, or renew a license.

To provide for fair and balanced consideration by the Board, Director or enforcement officers, all licensees should be required to provide a written response to an NOV. The response should become a part of the decision on whether or

not additional action is warranted. Consideration should also be given to the assessment of a penalty to the licensee when no response is received after the issuance of an NOV.

Recommendation No. 2

The ABC Board should strengthen communications with law enforcement officers.

Our review of the ABC Board's law enforcement activities showed that the staff relies primarily on the services of local law enforcement officers to aid in enforcing liquor laws. To promote local enforcement, annual license fees, excluding wholesale fees, collected from licenses issued within a municipality are refunded semi-annually to the municipality.

Total license fees refunded to 40 municipalities in Fiscal Year 1983 was \$809,980. According to the ABC Board staff, they are unsure of what services are provided by several municipalities. No reports have been submitted by 20 of the 40 municipalities.

Alaska Statute 04.11.610(b) states that if the officers of a municipality fail to actively enforce local ordinances, laws of the United States and the State, and the regulations relating to the manufacture and sale of alcoholic beverages, the Commissioner of Revenue may deny the refund, until the Board finds the enforcement of the ordinances, laws and regulations is resumed. Alaska Statute 04.11.610(c) also provides for the recovery of any amount erroneously refunded.

As of January 1984, the ABC Board implemented procedures to monitor the number of reports received from law enforcement officers. We encourage the Board to continue this effort. In addition, the Board should review its enforcement requirements and inform all municipalities of the types of reports and/or services expected from each to ensure liquor law enforcement.

Recommendation No. 3

The ABC Board should establish procedures to monitor license fee refunds.

If an application for an alcoholic beverage license or permit is denied by the ABC Board, the applicant is required by Board procedures to submit a claim for a refund of the license fee paid. Upon receipt, the claim is reviewed and endorsed by the ABC Board's staff. The claim is then forwarded to the Department of Revenue for processing.

Recommendation No. 5

The Department of Revenue should review the ABC Board's transmittal or receipt procedures and establish procedures to transmit funds more efficiently.

Revenues collected by the ABC Board consisting of application and license fees are deposited approximately once a week in a non-interest bearing bank account. Due to staff limitations and time allotted for bank verification, a check for the amount deposited is not prepared until several days later and forwarded to the Division of Treasury.

A review of the ABC Board's bank statements showed that the average monthly balance for Fiscal Year 1983 was \$87,828. Interest income is lost as a result of transmittal delays by the ABC Board. The Department of Revenue should establish procedures to have funds wire transferred to the Division of Treasury upon deposit or authorize the establishment of an interest bearing depository account to be maintained by the ABC Board.

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analysis indicates both positive and negative attainments of the ABC Board and how its activities relate to the public need factors defined by AS 44.66.050. This analysis is not intended to be comprehensive in nature.

I. The extent to which the board, commission or program has operated in the public interest.

Public protection gained through licensing to control the manufacture, possession and sale of alcoholic beverages has been adequately provided by the ABC Board. However, operational efficiency and effectiveness should be improved. See Recommendations 1 through 5 of this report.

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personal matter.

The 1980 revisions to Title 4 have, for the most part, been beneficial to the operation of the ABC Board. However, those sections which deal with suspension and revocation of licenses and permits place severe restrictions upon the ability of ABC to suspend and revoke licenses for the illegal act of licensee employees.

The Board is also restricted in meeting its statutory responsibilities in protecting the public health, safety and welfare by the size of the enforcement staff which consists of one agent in Juneau, one in Fairbanks and three, including a supervisory agent in Anchorage. Including the supervisory agent, there are only five agents with inspection and enforcement responsibilities for 1,513 licensed premises. However, one other Anchorage Investigator position is vacant.

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

The last major revisions to Title 4 of the Alaska Statutes were the result of action by the 1980 session of the Legislature. The ABC Board participated in the process of developing those revisions.

- IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

The ABC Board has met an average of ten times during 1982 and 1983. During each year they have met at least once in each of the four judicial districts. Each meeting has been adequately advertised and open to all interested persons. Staff of the ABC Board are located in Anchorage, Juneau and Fairbanks and are available to answer inquiries of the general public during all normal business hours. We believe this has provided an adequate forum for allowing public input on Board regulations and decisions.

- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

As noted in IV above, the Board has provided an adequate forum for obtaining input from the public.

- VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

As noted in past reviews the number of formal hearings continue to be few in number. However, the ABC Board has the authority to hold its own hearings on protests which it exercises as a part of its regularly scheduled meetings. Hearings in this manner have been accomplished in a timely manner since the Board meets at least ten times each year.

- VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

Our review of licensing activity of the ABC Board to determine whether all statutory qualifications of licensees were being met revealed no exceptions. The Board has therefore, presented qualified applicants to serve the public.

- VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

No discrepancies were noted during our review of the ABC Board affirmative action program.

- IV. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to I and II above and to the previous section, Findings and Recommendations.

APPENDIXES

APPENDIX A

STATE OF ALASKA  
DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL BOARD  
REVENUE COMPARED WITH EXPENDITURES  
Fiscal Years 1981, 1982 and 1983  
(UNAUDITED)  
(Note 1)

	<u>1981</u>	<u>1982</u>	<u>1983</u>
Revenue (See Schedule 1)	\$1,494,489	\$1,548,393	\$1,592,957
Expenditures	<u>(556,589)</u>	<u>(562,178)</u>	<u>(605,131)</u>
<u>Excess of Revenue</u> <u>Over Expenditures</u>	<u>\$ 937,900</u>	<u>\$ 986,215</u>	<u>\$ 987,826</u>

Schedule 1  
Revenue Collected

<u>Types of License</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
Liquor License Application	\$ 83,250	\$ 86,350	\$ 86,950
Pub	100	400	400
Beverage Dispensary	771,050	773,200	799,050
Club	39,500	39,300	41,200
Common Carrier	25,800	29,050	30,500
Restaurant	60,750	69,600	73,550
Roadhouse	-0-	-0-	-0-
Retail Store	330,700	335,400	341,500
Wholesale General	138,500	156,000	146,700
Wholesale Malt Beverage	13,200	21,600	27,900
Miscellaneous (Note 2)	<u>31,639</u>	<u>37,493</u>	<u>45,207</u>
<u>Total</u>	<u>\$1,494,489</u>	<u>\$1,548,393</u>	<u>\$1,592,957</u>

Note 1

This revenue/expenditure comparison was prepared from available records and discussions with ABC Board personnel. The records were not audited by us and accordingly we do not express an opinion on the ABC Board Revenue Compared with Expenditures, nor the Schedule of Revenue Collected.

Note 2

Includes recreational-site licenses, caterer's special events and conditional contractor's permits.

APPENDIX B

STATE OF ALASKA  
DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL BOARD  
NUMBER OF LICENSES BY TYPE  
Fiscal Years 1981, 1982, and 1983

<u>Types of License</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
Pub	1	1	1
Beverage Dispensary	620	634	645
Club	63	65	65
Common Carrier	72	88	94
Restaurant	182	215	223
Roadhouse	-0-	-0-	-0-
Retail Store	438	445	448
Wholesale General	15	16	16
Wholesale Malt Beverage	7	7	8
Miscellaneous (Note 1)	<u>9</u>	<u>12</u>	<u>13</u>
<u>Total</u>	<u>1407</u>	<u>1483</u>	<u>1513</u>

Note 1

Includes recreational-site licenses, caterer's special events, and conditional contractor's permits.

APPENDIX C

STATE OF ALASKA  
DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL BOARD  
DESCRIPTION OF LICENSE TYPES AND FEES

<u>Source</u>	<u>Description</u>	<u>Annual Fee</u>
Application Fee	For each license application.	\$ 50
Beverage Dispensary	To sell or serve on the licensed premises alcoholic beverages for consumption on the licensed premises only.	1,250
Restaurant or Eating Place	To sell beer and wine for consumption only on the licensed premises.	300
Club	To sell alcoholic beverages for consumption only on the licensed premises.	600
Bottling Works	To operate a bottling works where beer and wine may be bottled and sold.	250
Brewery	To operate a brewery where beer is manufactured and bottled or barreled for sale.	500
Winery	To operate a winery where wine is manufactured and bottled or barreled for sale.	250
Package Store	To sell alcoholic beverages to a person in response to a verbal solicitation for purchase received from the person present on the licensed premises or in response to a written solicitation made by a person known to the license for a purchase to be received by the person making the solicitation.	750
Retail Stock	To sell the remaining stock of a package liquor store when the owner wishes to close or terminate business. Sale may only be to licensed persons.	100

<u>Source</u>	<u>Description</u>	<u>Annual Fee</u>
General Wholesale	To sell alcoholic beverages in the original package, and wine in bulk, in quantities of not less than five gallons to holders of licenses.	\$1,000 First \$100,000 of sales plus \$500 - 10,000 on additional sales
Wholesale Malt Beverage and Wine	To sell malt beverages and wine in the original packages in quantities of not less than five wine gallons to holders of licenses.	200 First \$20,000 of sales plus \$300 - 10,000 based on additional sales
Distillery	To operate a distillery where alcoholic beverages are distilled and bottled or barreled for sale.	500
Community Liquor	Authorizes a municipality to operate a beverage dispensary or a package store or both subject to the same conditions and fees applicable to beverage dispensary or package liquor store licenses.	1,250 Beverage Dispensary 750 Package Store
Common Carrier Dispensary	To sell alcoholic beverages for consumption aboard a vehicle, boat, aircraft, or railroad buffet car licensed by the State or federal agency for passenger travel.	350 Per vehicle, boat, aircraft or railroad car
Recreational Site	To sell beer and wine at a recreational site during and one hour before and after a recreational event which is not a school event, for consumption on designated areas at the site.	400
Pub	To sell beer and wine for consumption only at designated premises located on the campus of an accredited college or university.	400
Caterer	Authorizes the holder of a beverage dispensary license to sell or dispense alcoholic beverages at conventions, picnics, social gatherings,	50

<u>Source</u>	<u>Description</u>	<u>Annual Fee</u>
	sporting events or similar affairs held off the holder's licensed premises.	
Special Events	To sell or dispense beer or wine for consumption at designated premises for a specific occasion and limited period of time. Only a nonprofit organization may acquire the permit.	\$50 Per day
Conditional Contractor	To sell beer or wine for consumption only on designated premises for one year from the date of issuance of the permit at construction sites which are located outside a city and inside the boundaries of a military or naval reservation.	600

**DEPARTMENT OF REVENUE**

OFFICE OF THE COMMISSIONER

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

February 24, 1984

Mr. Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit  
Pouch W  
Juneau, AK 99811



Dear Mr. Wilkerson:

This letter is in response to recommendations contained in your Performance Report of the Alcoholic Beverage Control Board dated January 30, 1984.

Recommendation No. 1 - The A.B.C. Board should improve documentation of its enforcement efforts.

We agree. Conclusions for and final actions from investigations, informal conferences and administrative hearings will be more precisely documented and recorded in pertinent files.

Recommendation No. 2 - The A.B.C. Board should strengthen communications with law enforcement officers.

We agree. This is an ongoing task for the board and its staff. We hope the monitoring procedures implemented recently will produce improved communications with other agencies.

Recommendation No. 3 - The A.B.C. Board should establish procedures to monitor license fee refunds.

We agree. Procedures to process and assess disposition of denied applications and related refund of license fees will be established.

Recommendation No. 4 - The A.B.C. Board should improve its activity reporting system.

We agree.

Item A. A man-hour reporting system for investigators is in place.

Item B. The discrepancy for total investigations reported resulted from "information only" notations by investigators on their daily reports erroneously recorded by clerical staff as "completed" investigations. Improved communication and control within the enforcement staff has begun to prevent this kind of error from reoccurring.

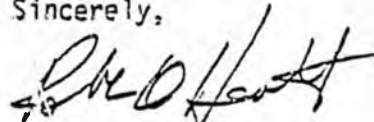
Mr. Gerald L. Wilkerson, CPA  
Legislative Auditor  
February 24, 1984  
Page 2

Recommendation No. 5 - The Department of Revenue should review the A.B.C. Board's transmittal of receipt procedures and establish procedures to transmit funds more efficiently.

We agree. The department is vigorously reviewing cash receipt management in all departments at the present time.

On behalf of the A.B.C. Board and its staff we commend your staff who performed this audit for their professionalism and conduct. Thank you for your constructive and appropriate recommendations.

Sincerely,



Robert D. Heath  
Commissioner of Revenue

RDH:PLS:m11

cc: Patrick L. Sharrock, Director  
A.B.C Board  
A.B.C Board Members

COMMITTEE REPORT  
HOUSE

4/15

(7)

FURTHER: FINANCE

2/25/85

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on JUDICIARY has had HB 34

"An Act relating to the limitation of certain types of liquor licenses."

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 34 (JUD)  same title  
 new title
- and recommends do not pass
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Edwin Taylor no Rec  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

CHAIRMAN

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 24, 1985

SUBJECT: Liquor Licenses; CSHB 34 (Jud)

TO: Representative M. Mike Miller  
Chairman, House Judiciary Committee

FROM: George W. Edwards *GWE*  
Legislative Counsel

This is in response to your request for a sectional analysis of CSHB 34 (Jud) offered on April 15, 1985.

Section 1 AS 04.06.100(b) is amended by adding a new paragraph permitting the Alcoholic Beverage Control Board (the board) to adopt regulations that require partnerships that hold liquor licenses, including limited partnerships, to submit reports that include notice of any change of a partnership interest of 10 percent or more.

Section 2 AS 04.11.040(c) is amended to prohibit transfer of controlling interest in a liquor license held by a partnership except with the written consent of the board.

Section 3 AS 04.11 is amended by adding a new section 04.11.055, REPORTS REQUIRED OF PARTNERSHIPS. Subsection (a) requires that a partnership holding a liquor license report a transfer of a partnership interest of 10 percent or more or a change of general partners.

Subsection (b) provides that such a report be submitted to the board in duplicate within 10 days of the change in interest or change of general partners.

Section 4 AS 04.11.100 is amended by adding a new subsection that permits renewal of a restaurant or eating place license only if the licensee provides evidence to the board's satisfaction that gross receipts from the sale of food on the licensed premises constitute no less than 50

percent of the gross receipts of the premises for the preceding license year.

Section 5 AS 04.11.260(a) is amended by replacing the pronoun "him" with the sex-neutral term "applicant's" and by providing that the application for a liquor license for a partnership shall be executed by an authorized general partner.

Section 6 AS 04.11.260 is amended by adding a new subsection that requires partnerships applying for a liquor license to provide information required by the board including the names and addresses of all general partners and all other partners with an interest of 10 percent or more.

Section 7 AS 04.11.310 is amended by adding a new subsection requiring that upon receipt of an application for issuance, renewal, relocation, or transfer of ownership of a liquor license within an area of a municipality under the jurisdiction of a community council established by charter or ordinance to advise the municipality, the board shall provide notice of the application to the community council and, at least 10 days in advance, advise the council of the date and time of any proposed action on the application.

Section 8 AS 04.11.340 is amended by substituting the term "relocation" for the term "transfer." The change eliminates possible confusion caused by the current usage of "transfer" as applicable both to the sale of an existing liquor license and to the relocation of licensed premises. Since there is a critical difference between the two acts, this section substitutes the term "relocation" for "transfer" with reference to the relocation of licensed premises. The term "transfer" remains applicable to sales of licenses.

Paragraph (2) of the section requires that relocation of a license be denied if prohibited under AS 04.11.400 (a) or (b).

Paragraph (3) of the section requires that relocation of a license be denied if the license would be relocated outside of the established village, incorporated city, unified municipality, or population area established under AS 04.11.400(a) within which it is located.

Paragraph (10) of the section requires that relocation of a license be denied if the license was issued under

AS 04.11.400(g), (h), or (j).

Section 9 AS 04.11.400(a) is amended to substitute "relocation" language for "transfer" language.

Paragraph (1) provides for retention of the population requirement, outside a specified governmental unit including an established village and organized borough, at 1,500 or a fraction of 1,500 for each restaurant or eating place license that may be issued and for raising the population requirement to 3,000 or a fraction of 3,000 for each other license that may be issued within a five mile radius of the licensed premises, excluding the populations of established villages, incorporated cities, unified municipalities, and organized boroughs that are wholly or partly included within the radius.

Paragraph (2) provides for retention of the population requirement, inside a specified governmental unit including an established village, organized borough and unified municipality, at 1,500 or a fraction of 1,500 for each restaurant or eating place license that may be issued and for raising the population requirement to 3,000 or a fraction of 3,000 for each other license that may be issued within the unit.

Paragraph (3) provides for a population limitation inside an organized borough but outside an established village or incorporated city within the borough of 1,500 or a fraction of 1,500 for each restaurant or eating place license that may be issued and 3,000 or a fraction of 3,000 for each other license that may be issued within the area, excluding the population of those established villages that have conducted an election under AS 04.11.490, 04.11.496, or 04.11.500 and the population of incorporated cities within the organized borough.

Section 10 AS 04.11.400(b) is amended to provide that when the five-mile radius described in subsection (a) encompasses all of a governmental unit, including an established village, incorporated city, or unified municipality, and the population inside and outside of the unit but inside the five-mile radius is less than 3,000, rather than the former 1,500, the board may deny issuance or relocation of a liquor license.

Section 11 AS 04.11.400(e) is amended to define "population," as used in subsection (a)(1), as persons residing within the five-mile radius not later than the date the application is received by the board and not earlier than 60 days before the application is received.

Section 12 AS 04.11.400(f) is amended to include within the "population" referred to in subsection (a)(2) and (3) only those persons who resided in a specified governmental unit, including an organized borough, as of December 31 of the year preceding the date of application.

Section 13 AS 04.11.400(g) is repealed and reenacted to provide for the issuance or transfer of ownership of a beverage dispensary license or a restaurant or eating place license without regard to subsection (a) population restrictions to encourage tourism. A license may be issued under this section to an airport terminal or to a hotel-type business that has a dining room or kitchen facilities if:

(a) it is within a population area of less than 1,501 and has at least 15 rental rooms;

(b) it is within a population area of 1,501 to 2,500 and has at least 20 rental rooms;

(c) it is within a population area of 2,501 to 5,000 and has at least 25 rental rooms;

(d) it is within a population area of 5,001 to 15,000 and has at least 30 rental rooms;

(e) it is within a population area of 15,001 to 25,000 and has at least 35 rental rooms;

(f) it is within a population area of 25,001 to 50,000 and has at least 40 rental rooms; or

(g) it is within a population area of greater than 50,000 and has at least 50 rental rooms.

Section 14 AS 04.11.400(h) is amended to restate the board's authority to issue a restaurant or eating place license without regard to subsection (a) under certain circumstances.

Section 15 AS 04.11.400(i) is amended to make the license transfer provision of this section applicable to licenses limited under either subsection (a) or (b).

Section 16 AS 04.11.400(j) is amended to provide that the board may approve the issuance or transfer of a restaurant or eating place license in a municipality without regard to subsection (a) if necessary for the public convenience.

Section 17 AS 04.11.430 (a) is amended to include partnerships and limited partnerships among entities that may hold liquor licenses.

Section 18 AS 04.11.504(a) is amended by the insertion of the term "relocation" to indicate the relocation of licensed premises.

Section 19 AS 04.21.010 is amended by adding a new subsection that requires that at least 10 days before a date set for municipal action on an application for the issuance, renewal, relocation, or transfer of ownership of a liquor license, the municipality provide written notice of the time and place of hearing to a community council, with jurisdiction over the affected area, established by charter or ordinance to advise the municipality.

Section 20 provides for an immediate effective date.

GWE:ojb  
J14/025

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HB 34

Page 1, line 7, after "licenses":

Insert "and the licensing of partnerships"

Page 1, after line 8, insert new bill sections to read:

\* Section 1. AS 04.06.100(b) is amended by adding a new paragraph to read:

(16) required reports from partnerships and limited partnerships licensed under this title, including reports of transferred interests of 10 percent or more.

\* Sec. 2. AS 04.11.040(c) is amended to read:

(c) A person may not receive or transfer controlling interest in a liquor license issued to a partnership, including a limited partnership, or a corporation under this title except with the written consent of the board.

\* Sec. 3. AS 04.11 is amended by adding a new section to read:

Sec. 04.11.055. REPORTS REQUIRED OF PARTNERSHIPS. (a) A partnership, including a limited partnership, issued a license under this title shall report to the board when a partnership interest of 10 percent or more is transferred and shall report a change of general partners.

(b) The report to the board shall be made in writing in

duplicate and shall be sent within 10 days after the change in interest or change of general partners.

\* Sec. 4. AS 04.11.260(a) is amended to read:

(a) An applicant for a new license or permit shall file with the director a written application, signed and sworn to by the applicant, giving the applicant's [HIS] name and address. If the applicant is a corporation, the application shall be executed by the authorized officers of the corporation. If the applicant is a partnership, including a limited partnership, the application shall be executed by an authorized general partner. The application shall include:

- (1) the type of license or permit desired;
- (2) a description of the premises for which the license or permit is desired, giving the address by street and number, or other information, so that the location of the premises can be definitely determined;
- (3) a statement of the residency of the applicant;
- (4) the license fee;
- (5) the duration of the license or permit desired;
- (6) any other information required by the board.

\* Sec. 5. AS 04.11.260 is amended by adding a new subsection to read:

(d) A partnership, including a limited partnership, that applies for a license or permit shall provide information required by the board including the names and addresses of all general partners and all partners with an interest of 10 percent or more."

Renumber succeeding sections accordingly.

Page 6, after line 6, insert a new bill section to read:

"\* Sec. 11. AS 04.11.430(a) is amended to read:

(a) Each license shall be issued to a specific individual or individuals, to a partnership, including a limited partnership, or to a corporation. If the license is issued to a corporation, the registered agent of the corporation must be an individual resident of the state."

Renumber succeeding sections accordingly

A M E N D M E N T

Offered in the HOUSE

By Clocksin and Gruenberg

TO: CSHB 34(SA)

Page 1, following line 15, insert a new bill section to read:

"\* Sec. 2. AS 04.11.310 is amended by adding a new subsection to read:

(b) Upon receipt of an application for the issuance, renewal, relocation, or transfer of ownership of a license within an area of a municipality under the jurisdiction of a community council established by municipal charter or ordinance to advise the municipal governing body, the board shall

(1) immediately provide to the community council written notice of the application; and

(2) at least 10 days before the date set for board action on the application provide to the community council written notice of the proposed action and the time and place for a hearing."

Renumber remaining bill sections accordingly.

Page 7, following line 19, insert a new bill section to read:

"\* Sec. 13. AS 04.21.010 is amended by adding a new subsection to read:

(d) At least 10 days before the date set for municipal action on an application for the issuance, renewal, relocation, or transfer of ownership of a proposed license, the municipality shall provide written notice of the proposed action and the time and place for a hearing

to a community council that

(1) is established by municipal charter or ordinance to advise the municipal governing body; and

(2) has jurisdiction over the area affected by the proposed action."

Renumber remaining bill section accordingly.

POSITION PAPER

CS FOR HOUSE BILL 34 (STATE AFFAIRS)

"An Act relating to the administration of liquor licenses; and providing for an effective date."

Section 1

This section would attempt to require that a restaurant or eating place license derive at least 50% of its gross receipts from the sale of food. This provision is currently in regulation, 15 AAC 104.305. While this idea is laudable it is uncertain how the ABC Board will effectively monitor licensees' receipts. Since the intent of this classification of license is to allow patrons to consume beer or wine with meals, the Department recommends consideration be given to using the pre 1980 title 04 language in this section.

"A restaurant or eating place licensee may sell beer and wine in a restaurant or eating place with meals furnished in good faith to patrons."

This should assist in avoiding the proliferation of restaurants that are promoting the sale of beer and wine regardless of whether patrons are eating food. In effect, some establishments have a beer and wine tavern in a section of their restaurant. Again, this does not appear to be consistent with the intent of this category of license.

Sections 3 and 4

The Department supports Sections 3 and 4, the population requirement change from 1500 to 3000 for beverage dispensary or package store licenses.

The Alaska State Plan (84-86) indicates that on a per capita basis Alaska has over twice the number of licensed liquor outlets as other states. In 1983 the national average for the ratio of licenses to each 1000 population was 1.18 while the Alaska ratio was 2.55. The attachment is from the Liquor Handbook 1984 and details all states relationships of liquor licenses to population for 1983. Passage of this bill would tend to move Alaska more towards the norm of the national experience with respect to the ratio of licenses to population. Furthermore, this action should assist in stabilizing Alaska's near nation leading per capita consumption rate of beverage alcohol, with its attendant related problems, including driving while intoxicated.

The Alaska Chapter of Mothers Against Drunk Driving is supportive of this bill and the Anchorage Mayor's Task Force on Drunk Driving of 1984 contained the following recommendation:

"The accessibility of alcohol should be limited by reducing liquor outlets (licenses) from 1-1500 population to 1-3000 population."


Additionally, the Governor's Task Force on Drunk Driving heard testimony favoring the concept contained in HB 34, however did not take action on this idea when they were advised this bill would be introduced to the legislature this session.

Section 7

This section more fully defines the number of rental rooms and population ratio applicants for beverage dispensary, or restaurant or eating licensee must demonstrate in order to be considered for a license designated to encourage tourist trade. The Department is supportive of this section since its passage would tend to limit the issuance of additional new licenses.

The Department will be pleased to provide additional information regarding CS for HB 34 and urges its passage.

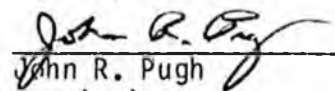
Recommended by:

  
Matthew C. Felix  
Coordinator  
Office of Alcoholism/  
Drug Abuse

Date:

3/13/85

Approved by:

  
John R. Pugh  
Commissioner  
Dept. of Health &  
Social Services

Date:

3/14/85

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1985

I. REQUEST

Bill/Resolution No.: CS for HB 34  
 Title: "An Act relating to the administration"  
 Sponsor: M.M. Miller  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: \_\_\_\_\_  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program of Subprogram(s) Affected: \_\_\_\_\_

Date of Request: 1/28/85

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

\*of liquor licenses; and providing for an effective date."

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Matthew C. Felix  
 Division: Alcoholism and Drug Abuse

Phone: 586-6201  
 Date: 3/13/85

Approved by Commissioner: [Signature]  
 Department: HEALTH & SOCIAL SERVICES

Date: 3/14/85 JCC

Distribution:

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

Special Licenses For Sale of Distilled Spirits

State	Number of Licenses			Total Licenses	Estimated Population (thousands) 7/1/83	Number of Licenses per 1,000 Population			
	On-Premise	Off-Premise	On- & Off-Premise			On-Premise	Off-Premise	On- & Off-Premise	Total Licenses
<b>Control States</b>									
Alabama	801	463	-	1,264	479	1.67	0.97	-	2.64
Arizona	1,275	1,361	1,523	4,159	2,953	0.43	0.46	0.51	1.40
Arkansas	591	682	-	1,273	2,328	0.25	0.29	-	0.55
California	14,581	11,501	-	26,082	25,174	0.58	0.46	-	1.04
Colorado	3,587	1,373	-	5,060	3,139	1.17	0.44	-	1.61
Connecticut	3,426	1,810	-	5,246	3,138	1.09	0.56	-	1.65
Delaware	443	290	181	914	606	0.73	0.48	0.30	1.51
Dist. of Columbia	746	710	-	1,016	623	1.70	0.55	-	1.74
Florida	1,299	677	6,298	8,274	10,630	0.12	0.16	0.59	0.77
Georgia	1,905	1,669	-	3,574	5,732	0.33	0.29	-	0.62
HAWAII	1,070	781	-	1,851	1,023	1.05	0.76	-	1.81
Illinois	-	-	17,783	17,783	11,486	-	-	1.55	1.55
Iowa	1,147	1,695	3,739	6,581	5,479	0.21	0.31	0.68	1.20
Kansas	1,220	1,085	-	2,305	2,425	0.50	0.48	-	0.95
Kentucky	1,260	944	84	2,288	3,714	0.34	0.25	0.02	0.62
Louisiana	6,902	2,950	-	9,852	4,438	1.56	0.66	-	2.22
Maryland	556	1,026	3,217	4,799	4,304	0.13	0.24	0.75	1.12
Massachusetts	6,210	1,799	-	8,009	5,767	1.08	0.31	-	1.39
Minnesota	2,375	700	1,112	4,187	4,144	0.57	0.17	0.27	1.01
Missouri	-	4,110	4,295	8,405	4,970	-	0.83	0.86	1.67
Nebraska	452	585	2,031	3,068	1,597	0.28	0.37	1.27	1.92
Nevada	926	599	839	2,364	891	1.04	0.67	0.94	2.65
New Jersey	1,535	1,939	8,012	11,486	7,469	0.21	0.26	1.07	1.54
New Mexico	217	79	1,308	1,604	1,399	0.16	0.06	0.93	1.15
New York	23,672	4,098	-	27,770	17,667	1.34	0.23	-	1.57
North Dakota	110	95	1,075	1,280	680	0.16	0.14	1.58	1.86
Oklahoma	-	846	-	846	3,298	-	0.26	-	0.26
Rhode Island	1,449	308	-	1,757	955	1.52	0.32	-	1.84
South Carolina	1,571	1,196	-	2,767	3,264	0.48	0.37	-	0.85
South Dakota	158	615	-	1,573	700	1.37	0.88	-	2.25
Tennessee	1,045	506	-	1,551	4,681	0.22	0.11	-	0.33
Texas	11,213	3,474	-	14,687	15,724	0.52	0.12	-	0.74
Wisconsin	12,706	1,731	-	14,437	4,751	2.67	0.41	-	3.08
<b>Total Control</b>	<b>162,376</b>	<b>59,460</b>	<b>54,401</b>	<b>276,237</b>	<b>233,981</b>	<b>0.82</b>	<b>0.41</b>	<b>0.31</b>	<b>1.54</b>
<b>Control States</b>									
Alabama	1,673	140	752	2,565	3,471	0.47	0.04	0.19	0.70
Idaho	924	132	-	1,056	919	0.93	0.13	-	1.07
Iowa	4,598	214	-	4,812	2,905	1.58	0.07	-	1.66
Maine	1,211	132	-	1,343	1,146	1.06	0.12	-	1.17
Michigan	9,335	3,942	-	13,277	9,069	1.03	0.43	-	1.46
Mississippi	593	667	-	1,260	2,587	0.23	0.26	-	0.49
Montana	-	141	1,557	1,698	817	-	0.17	1.91	2.08
New Hampshire	1,014	70	-	1,084	959	1.06	0.07	-	1.13
North Carolina	1,216	368	-	1,584	6,082	0.20	0.06	-	0.26
Ohio	11,834	426	-	12,260	10,746	1.10	0.04	-	1.14
Oregon	1,569	231	-	1,800	2,662	0.59	0.09	-	0.68
Pennsylvania	19,010	713	-	19,723	11,895	1.60	0.05	-	1.66
Utah	159	168	118	445	1,619	0.10	0.10	0.07	0.27
Vermont	1,108	65	-	1,173	525	2.11	0.12	-	2.23
Virginia	1,960	236	-	2,196	5,550	0.35	0.04	-	0.40
Washington	2,481	376	-	2,857	4,300	0.58	0.09	-	0.66
West Virginia	1,276	158	-	1,434	1,965	0.65	0.03	-	0.73
Wyoming	654	96	180	930	514	1.27	0.19	0.35	1.81
<b>Total Control</b>	<b>60,615</b>	<b>8,275</b>	<b>2,607</b>	<b>71,497</b>	<b>68,289</b>	<b>0.89</b>	<b>0.12</b>	<b>0.04</b>	<b>1.05</b>
<b>Grand Total</b>	<b>162,973</b>	<b>59,044</b>	<b>54,104</b>	<b>276,821</b>	<b>233,981</b>	<b>0.70</b>	<b>0.26</b>	<b>0.23</b>	<b>1.18</b>

\*Totals may not add because of rounding.

Note: Georgia and New York data are for 1979. New Mexico data are for 1980. The number of off-premise licenses in Control States represents state stores and agencies with the following exceptions: North Carolina represents county and city stores, Michigan includes specially designated distributors and Mississippi and Wyoming cover private licenses since these states operate a monopoly at wholesale level only.

Source: DISCUS

# Alaska State Legislature



## House of Representatives House Judiciary Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990

### HB 34 Limitation of Liquor Licenses

File Contents - 3/14/85

CSHB 34 (State Affairs) with referral letter from Chair  
Hurley

3 fiscal notes:

- \$0 - Revenue
- \$0 - Health & Social Services
- \$0 - Community & Regional Affairs

Sectional Analysis of CSHB 34 (SA)  
Comparison of HB 34 & HB 150 (Governor's version)

Liquor license fees

Population statistics/Alcohol Beverage Control Board 1/24/85

ABC Board Proposed Regulation Changes 1/25/85  
ABC Performance Report 1/30/85

Analysis of Availability: Alcohol Consumption  
Alaska Council on Prevention of Alcohol & Drug  
Abuse 2/85

*Statistical breakdowns*