

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4727 HJUD HB 374 - HB 388

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374

STATE OF ALASKA
THE LEGISLATURE

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

May, 1988

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

Mary Van Nimwegen

House Judiciary:

2-25-88

2-29-88

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/3/88

FURTHER REFERRALS: Finance

DATE: Feb 29, 1988

The Judiciary Committee has considered HB 374

~~HOUSE BILL NO. 374~~

"An Act relating to selection of the jury list."

RECOMMENDS:

- replace with CS HB 374 (Jud) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 2/3/88
- zero with analysis

SIGNING DO PASS:

Danora K. Baker
[Signature]
[Signature]
Edwin L. Taylor
[Signature]

SIGNING OTHER RECOMMENDATIONS:

Jan. cont. no rec.

[Signature]
 Chairman's signature

Original sponsor: State Affairs
Committee

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 374 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to selection and maintenance of the
7 jury list."

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

9 * Section 1. AS 09.20.050(b) is amended to read:

10 (b) The jury list shall be based on [A LIST OF ALL PERSONS WHO
 11 PURCHASED A RESIDENT TRAPPING, HUNTING OR FISHING LICENSE DURING THE
 12 PRECEDING CALENDAR YEAR WHICH SHOWED AN ALASKAN ADDRESS (TO BE PRE-
 13 PARED BY THE DEPARTMENT OF FISH AND GAME),] a list prepared by the
 14 Department of Revenue of all persons who filed an application for a
 15 distribution of Alaska permanent fund income under AS 43.23.005 -
 16 43.23.100 [AS 43.23.010 - 43.23.100] during the preceding calendar
 17 year which showed an Alaskan address [(TO BE PREPARED BY THE DEPART-
 18 MENT OF REVENUE), A LIST OF ALL PERSONS WHO HAVE REGISTERED TO VOTE IN
 19 THIS STATE (TO BE PREPARED BY THE DIRECTOR OF ELECTIONS)], and, if
 20 considered necessary by the administrative director of courts, a list
 21 prepared by the Department of Public Safety of all persons who hold a
 22 valid Alaska driver's [DRIVERS'] license [(TO BE PREPARED BY THE
 23 DEPARTMENT OF PUBLIC SAFETY)]. The departments [AND THE DIRECTOR OF
 24 ELECTIONS] shall submit their respective lists to the Alaska Court
 25 System [DEPARTMENT OF ADMINISTRATION] not later than January 15 of
 26 each year. To the extent that it is available, the [LISTS SUBMITTED
 27 BY THE] departments [AND THE DIRECTOR OF ELECTIONS] shall include
 28 [CONTAIN] the following information for each person on a [THE] list
 29 for the preceding calendar year: first name, middle initial, and last

*Judge
took out
fish +
game
lists
at
request
of
court
system.
These
lists
are
inaccurate
(because
people
falsify
residence
for
fish +
hunting
license)*

1 name; residence address as well as mailing address, including the zip
2 code for each; birth date; and the number of years and months that
3 person has been a resident of the state. The lists [SUBMITTED BY THE
4 DEPARTMENTS AND THE DIRECTOR OF ELECTIONS] shall be recorded on mag-
5 netic tape compatible with Alaska Court System [DEPARTMENT OF ADMINIS-
6 TRATION] data processing equipment.

7 * Sec. 2. AS 18.50.230 is amended by adding a new subsection to read:

8 (e) To assist the Alaska Court System to remove the names of
9 deceased persons from jury lists under AS 09.20.050(c), the sta-
10 registrar of vital statistics shall forward to the administrati-
11 director of the Alaska Court System the names of persons for whom
12 certificates of death were issued and reported to the registrar.
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Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

JANALEE R. STRANDBERG
Staff Counsel

February 1, 1988

303 K Street
Anchorage, AK 99501
(907) 264-8228

Representative Fran Ulmer
Chair, House State Affairs
Alaska State Legislature
Room 102, Capitol
Juneau, AK 99811

Re: HB 374

Dear Representative Ulmer:

The court system has several comments on HB 374. First, the court system suggests that it be the recipient of the lists that will comprise the jury list, so that "court system" should replace "Department of Administration" in section one, lines 23 and 24. Second, the court system would like each person's sex and social security number (if available) included on the list as well as the date the information was received by the transmitting agency (section one, line 2, page 3). Third, for administrative efficiency the court system would like to specify the format of the magnetic tape on which the lists will be entered.

Finally, we suggest adding a provision requiring vital statistics to transmit to the court system a list of death certificates including each decedent's date of death filed the preceding calendar year. Without a provision of this nature, we have no way of purging our jury lists of the names of those persons who have died.

Thank you for considering these comments. I would be happy to discuss them with you or to answer any questions you may have.

Sincerely,

Janalee R. Strandberg
Janalee R. Strandberg
Staff Counsel

JRS:bh

2/1/88-2

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/20/88

FURTHER REFERRALS:

Judiciary
Finance

DATE: 2-1-88

The State Affairs Committee has considered HB 374

"An Act relating to selection of the jury list."

RECOMMENDS:

- replace with CS HB 374 the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature]

 Chairman's signature



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

JANALEE R. STRANDBERG
Staff Counsel

February 18, 1988

303 K Street
Anchorage, AK 99501
(907) 264-8228

Representative John Sund
Chair
House Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Re: CSHB 374 - An Act relating to the selection and
maintenance of the jury list

Dear Representative Sund:

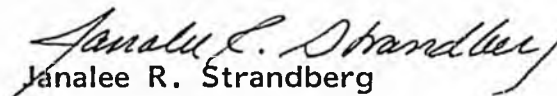
The court system would like to offer these comments on CSHB 374. We generally support this bill which provides the mechanism for the technical services staff of the court system to construct and maintain the jury lists. Technical services has found that the Fish and Game lists are very inaccurate and cause more work than justifies the information gleaned from them. The court system would like to delete that list from Section 1, lines 10-14 of the bill and rely solely on the permanent fund application list unless the administrative director considers other lists necessary.

We also suggest adding to Section 1, p. 2, line 2, the social security number, sex and date the information was captured to the potential juror's identifying information. These identifiers greatly enhance the accuracy and ease of compilation of the jury lists. We would also like to specify the format in which the information comes to the court system. If the information is received in a format inconsistent with our software, technical services spends an inordinate amount of time reformatting it.

Finally, we would prefer to receive the names and dates of death of persons who have died the previous calendar year from the register of vital statistics in the form of a magnetic tape once a year, rather than to receive a paper list on a monthly basis. This suggestion would merely formalize our present cooperative arrangement with vital statistics.

If you have any questions or comments about these suggestions, I would be happy to discuss them with you.

Very truly yours,


Janalee R. Strandberg
Staff Counsel

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HB 374
PUBLISH DATE: 1/20/88

REQUEST: FISCAL NOTE

Revision Date: 1/29/88
Title: An Act relating to selection of the jury list.
Sponsor: STATE AFFAIRS COMMITTEE
Requestor: House State Affairs

Agency Affected: _____
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Linda Edgeworth Phone: 465-4611
Division: Division of Elections Date: _____

Approved by Commissioner: [Signature] Date: 2/1/88
Agency: Office of the Governor

Distribution (by preparer): 2/1/88

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to victims
of crime, etc.
Sponsor: Donley, et al.
Requestor: House Judiciary

Agency Affected: Public Safety
BRU: Council on Domestic Violence
and Sexual Assault
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

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: Barbara Miklos, Executive Director *Bm* Phone: 465-4356
Division: Council on Domestic Violence & Sexual Date: 1/20/88
Assault

Approved by Commissioner: Paul G. Avelos, Dep. Comm. Date: 1-28-88
Agency: Public Safety

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

FISCAL NOTE

REQUEST: _____

Revision Date: 2/25/88
Title: An Act relating to Selection of the Jury List
Sponsor: State Affairs Committee
Requestor: Judiciary Committee

Agency Affected: Revenue
BRU: Permanent Fund Dividend
Components: Permanent Fund Dividend Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: (Attach a separate page if necessary)

The Permanent Fund Dividend Division will be able to provide a tape listing of Permanent Fund Dividend applicants with the following information: first name, middle initial, last name, mailing address and birthdate. We will not be able to provide a separate residence address or years and/or dates of residence. However, each applicant on file states that they were a resident of Alaska since at least prior to October 1.

Prepared By: Erwin B. Jones, Director Phone: 465-2323
Division: Permanent Fund Dividend Date: February 25, 1988

Approved by Commissioner: Hugh Malone Date: February 25, 1988
Agency: Department of Revenue

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

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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, 1988

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

Mary Van Nimwegen

House Judiciary:

2-17-88

2-22-88

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/22/88

FURTHER REFERRALS: Finance

DATE: Feb 22 - 1988

The Judiciary Committee has considered HB 386

"An Act relating to rewards to promote the apprehension and conviction of certain offenders; and providing for an effective date."

RECOMMENDS:

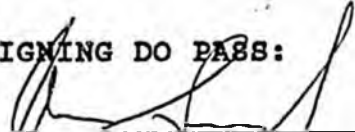
- replace with CS HB 386 (Jud) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

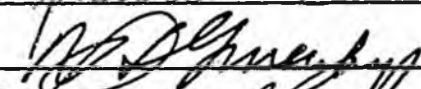
ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

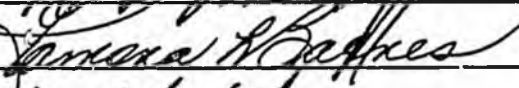
SIGNING DO PASS:



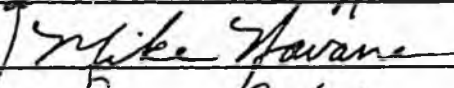
 Ron Ulmer



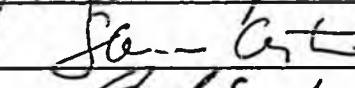
 J. D. Humphrey



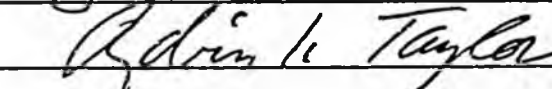
 Tamara K. Baffes



 Mike Havens

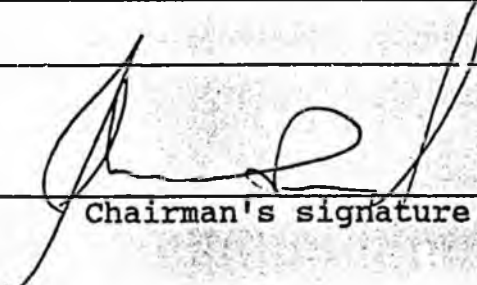


 Sam Arts



 Edwin L. Taylor

SIGNING OTHER RECOMMENDATIONS:



 Chairman's signature

Original sponsor: Hoffman

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 386 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to enforcement of alcoholic beverage
7 control laws; and providing for an effective date."

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

9 * Section 1. AS 18.65.085 is amended to read:

10 Sec. 18.65.085. NARCOTIC DRUGS AND ALCOHOL ENFORCEMENT. (a)

11 There is established in the Department of Public Safety, division of
12 state troopers, a narcotic drugs and alcohol enforcement unit for the
13 purpose of investigating and combating the illicit sale and dis-
14 tribution of narcotic drugs and alcoholic beverages in the state.
15 Enforcement of the alcoholic beverage control laws shall focus primar-
16 ily on the investigation, apprehension, and conviction of persons who
17 violate AS 04.11.010 by selling, importing, or possessing alcoholic
18 beverages in violation of an ordinance adopted by a municipality or
19 established village under AS 04.11.490 - 04.11.500.

20 (b) The commissioner of public safety shall submit to the legis-
21 lature, within 30 days from the date the legislature convenes, a
22 report concerning the activities of the narcotic drugs and alcohol
23 enforcement unit. The report shall include, but is not limited to,
24 the number of arrests made, the kind, amount and value of narcotic
25 drugs and alcoholic beverages seized, the sentences received by nar-
26 cotic drug and alcohol offenders, and an overall view of the narcotic
27 drug and illicit alcohol problem in the state.

28 * Sec. 2. AS 18.65.085 is amended by adding a new subsection to read:

29 (c) The Department of Public Safety may establish and administer

1 a reward program, and provide grants to municipalities and established
2 villages for reward programs, leading to the apprehension and con-
3 viction of persons who violate AS 04.11.010 by selling, importing, or
4 possessing alcoholic beverages in violation of an ordinance adopted by
5 a municipality or established village under AS 04.11.490 - 04.11.500.

6 * Sec. 3. This Act takes effect July 1, 1988.
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5-1661B
Utermohle
2/22/38

Original sponsor: Hoffman

Adopted 2-22

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 386 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to enforcement of alcoholic beverage
7 control laws; and providing for an effective date."

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

9 * Section 1. AS 18.65.085 is amended to read:

10 Sec. 18.65.085. NARCOTIC DRUGS AND ALCOHOL ENFORCEMENT. (a)
11 There is established in the Department of Public Safety, division of
12 state troopers, a narcotic drugs and alcohol enforcement unit for the
13 purpose of investigating and combating the illicit sale and dis-
14 tribution of narcotic drugs and alcoholic beverages in the state.
15 Enforcement of the alcoholic beverage control laws shall focus primar-
16 ily on the investigation, apprehension, and conviction of persons who
17 violate AS 04.11.010 by selling, importing, or possessing alcoholic
18 beverages in violation of an ordinance adopted by a municipality or
19 established village under AS 04.11.490 - 04.11.500.

20 (b) The commissioner of public safety shall submit to the legis-
21 lature, within 30 days from the date the legislature convenes, a
22 report concerning the activities of the narcotic drugs and alcohol
23 enforcement unit. The report shall include, but is not limited to,
24 the number of arrests made, the kind, amount and value of narcotic
25 drugs and alcoholic beverages seized, the sentences received by nar-
26 cotic drug and alcohol offenders, and an overall view of the narcotic
27 drug and illicit alcohol problem in the state.

28 * Sec. 2. AS 18.65.085 is amended by adding a new subsection to read:

29 (c) The Department of Public Safety may establish and administer

1 a reward program, and provide grants to municipalities and established
2 villages for reward programs, leading to the apprehension and con-
3 viction of persons who violate AS 04.11.010 by selling, importing, or
4 possessing alcoholic beverages in violation of an ordinance adopted by
5 a municipality or established village under AS 04.11.490 - 04.11.500.

6 * Sec. 3. This Act takes effect July 1, 1988.
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IN THE HOUSE

BY HOFFMAN

PROPOSED

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 386

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the investigation of violations of alcohol control laws; establishment of a reward program to promote the apprehension of alcohol law violators; and providing for an effective date."

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

* Section 1. AS 18.65.085 is amended to read:

Sec. 18.65.085. Narcotic Drugs and Alcohol Enforcement.

(a) There is established in the Department of Public Safety, division of state troopers, a narcotic drugs and alcohol enforcement unit for the purpose of investigating and combating the illicit sale and distribution of narcotic drugs and alcoholic beverages in the state. Alcohol law enforcement efforts shall be primarily focused on the investigation, apprehension, and conviction of persons who violate AS 04.11.010 by selling, importing, or possessing alcoholic beverages in a community that has prohibited the

DRAFT

sale, importation, or possession of alcoholic beverages
under AS 04.11.490 - 04.11.500.

(b) The commissioner of public safety shall submit to the legislature, within 30 days from the date the legislature convenes, a report concerning the activities of the narcotic drugs and alcohol enforcement unit. The report shall include, but is not limited to, the number of arrests made, the kind, amount and value of narcotic drugs and alcoholic beverages seized, the sentences received by narcotic drug and alcohol offenders, and an overall view of the narcotic drug and illicit alcohol problem in the state.

(c) The Department of Public Safety is authorized to establish and administer a reward program, and to provide grants to municipalities and established villages for reward programs, leading to the investigation, apprehension, and conviction of persons selling, importing, or possessing alcoholic beverages in violation of an ordinance adopted under AS 04.11.490 - 04.11.500.

* Sec. 2. This Act takes effect July 1, 1988.

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IN THE HOUSE

BY HOFFMAN

PROPOSED

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 387

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Public Safety for a unit to investigate violations of alcohol control laws and for a reward program to promote the apprehension of persons who violate alcohol control laws; and providing for an effective date."

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

* Section 1. The sum of \$250,000 is appropriated from the general fund to the Department of Public Safety to establish a unit to investigate violations of alcohol control laws, to establish a reward program, and to provide grants to municipalities and established villages for local programs to offer rewards for information leading to investigation, apprehension, and conviction of persons who violate AS 04.11.010 by selling, importing, or possessing alcoholic beverages in a community that has prohibited the sale, importation, or possession of alcoholic beverages under AS 04.11.490 - 04.11.500.

DRAFT

* Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1989.

* Sec. 3. This Act takes effect on the effective date of an Act authorizing the Department of Public Safety to establish a unit to investigate violations of alcohol control laws, to offer rewards, and to provide grants to local governments to offer rewards for information leading to the investigation, apprehension, and conviction of persons who violate AS 04.11.010 by selling, importing, or possessing alcoholic beverages in a community that has prohibited the sale, importation, or possession of alcoholic beverages under AS 04.11.490 - 04.11.500.

Description of Combined Drug and Alcohol Enforcement Unit

There is presently a program within the Alaska State Troopers that is responsible for providing assistance to local agencies and villages in Western Alaska with their drug enforcement efforts. The program is called the Western Alaska Narcotics Team (W.A.N.T.). One state trooper drug investigator is responsible for coordinating primarily narcotics investigations; he assists in bootlegging investigations as time and resources allow. W.A.N.T. was established in late 1982.

Based on the area of responsibility and the vast travel requirements, the W.A.N.T. trooper investigator works out of Anchorage. The W.A.N.T. area includes communities located along the Alaska Peninsula and the Aleutian Islands, and those communities in Bristol Bay, the Kuskokwim Delta, Norton Sound, Seward Peninsula, and the Kotzebue Sound. The investigator's role is to provide leadership, guidance, assistance, direction, informants, undercover agents, buy money, expense funds, and to act in undercover capacities whenever possible. The investigator's office is located at the Anchorage airport, which allows increased effectiveness in disrupting the flow of drugs to Western Alaska.

In the five years of its existence, the Western Alaska team has seized over a million dollars worth of drugs and made over 300 arrests for drug and alcohol violations in its area.

Because a single trooper is responsible for covering such a large area, he can give his attention to a certain area for only a short period of time. He must divide his efforts so as to provide, on a rotating basis, enforcement in as many different communities as possible. Generally, his concentration has been on drugs first and alcohol second. In either case, he encourages those communities with enforcement resources to conduct their own investigations with his assistance and some AST funding. Consistent and continuous clandestine investigative pressure on drug and alcohol violators is simply not possible under current staffing levels, even though such an effort is badly needed.

The alcohol problems in Western Alaska need to be addressed on a full-time basis, and in combination with full-time drug enforcement efforts. The procedures for conducting investigations for either type of violation are very similar. The best way to address this problem would be the development of a team of investigators who can concentrate 100 percent on west coast alcohol and drug problems. The

team members should be capable of working undercover either together or singly, be able to deal with interdiction at the airports, provide assistance and guidance in clandestine operations, share intelligence information, conduct training for law enforcement officers, VPSOs, and VPOs, and participate in school and other prevention programs.

A joint drug and alcohol investigative unit would support local law enforcement efforts. A no-cost alcohol and drug information hot line could be established to receive confidential tips from citizens. This information can be evaluated, and payment from a "reward fund" awarded to individuals based on their participation and the reliability of their information.

We suggest the creation of a full-time Western Alaska Alcohol and Narcotics Team (W.A.A.N.T.). We suggest the addition of two trooper investigators and a clerk typist to the existing one-trooper W.A.N.T. unit. The scope of the unit's enforcement efforts would then be expanded to include full-time ongoing investigation of alcohol violations.

The desirability of having three investigators dealing with related problems and working in the same area of Alaska was well illustrated by the recently concluded enforcement effort in Western Alaska. That effort was conducted by the W.A.N.T. unit trooper investigator, local officers, local troopers, a VPSO, VPOs, and two additional state trooper narcotics investigators temporarily assigned to assist the W.A.N.T. unit.

The following costs are anticipated (based upon the level of funding now proposed in HB 386):

Personal Services:

A. Investigator I (PFT - Range 77A)		
Salary	\$42,880	
Overtime (180 hours per year)	5,800	
Benefits	<u>18,211</u>	
Investigator I Cost		65.9
B. Investigator I (PFT - Range 77A)		
Salary	\$42,880	
Overtime (180 hours per year)	5,800	
Benefits	<u>18,211</u>	
Investigator I Cost		65.9

C. Clerk Typist II (PFT - 7A)		
Salary	\$18,540	
Overtime (120 hours per year)	1,712	
Benefits	<u>9,185</u>	
Clerk Typist II Cost		<u>29.4</u>
Total Personal Services		\$161.2

Travel:

Extensive travel would be necessary to conduct investigations, oversee undercover operatives, and coordinate with local law enforcement authorities.

In-State Transportation	10.0	
In-State Per Diem	<u>10.0</u>	
Total Travel		20.0

Contractual:

Much of the unit's activities will involve conducting undercover operations. Costs include informant pay, buy funds, and expense funds. These costs are paid outside the normal state purchasing system to assure the confidentiality of the operations.

Professional Services	38.0	
Communications (telephone, etc.)	6.0	
Printing/binding - training and school instruction material	8.0	
Miscellaneous (clothing allowance, etc.)	<u>2.0</u>	
Total Contractual		54.0

Supplies:

Office supplies (stationery, etc.)	4.0	
Professional supplies (ammunition, etc.)	3.0	
Miscellaneous	<u>1.0</u>	
Total Supplies		8.0

Equipment: (First Year Cost Only)

Desks (2)	1.1	
Chairs (3)	1.0	
Bookcase	0.4	
File cabinet	0.6	
Firearms	0.7	
Word Processor (shared)	<u>3.0</u>	
Total Equipment		<u>6.8</u>
Total Cost		\$250.0

STATE OF ALASKA



LYMAN F. HOFFMAN
REPRESENTATIVE

P.O. BOX V
UNEAU, ALASKA 99811
(907) 465-4530, 465-4453

HOUSE OF REPRESENTATIVES

DISTRICT 25

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NAPASKIAK
NEWTOK
NIGHTMUTE
NUNAPITCHUK
OSCARVILLE
PLATINUM
QUINHAGAK
TOKSOOK BAY
TUNTUTLIAK
TUNUNAK

MEMORANDUM

TO: Representative John Sund
Chairman, House Judiciary Committee

FROM: Representative Lyman Hoffman *Lyman*

DATE: February 17, 1988

RE: HB 386/387

Please find attached the following.

Friday, January 15th issue of the Anchorage Daily News' special report on the problems of alcohol. This article describes in detail the atrocities bootleggers commit. The story of Willie Fancyboy is only one reason why this legislation should be enacted.

Proposed substitute for HB386.

Position paper and fiscal note from Health and Social Services.

Other position papers/fiscal notes have not been delivered yet.

Thank you for your favorable consideration.

POSITION PAPER
ON
HOUSE BILL NO. 386

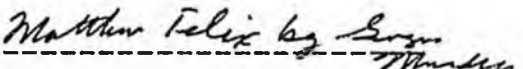
"An Act relating to rewards to promote the apprehension and conviction of certain offenders; and providing for an effective date."

The Department of Health and Social Services is fully supportive of House Bill 386. The human and financial costs associated with illegal alcohol sales in rural Alaska are significant, and have been repeatedly documented by a variety of sources. According to the Department of Public Safety 1986 Crime in Alaska Report, 1800 persons age 18 and over, and 1039 persons under age 18 were arrested for liquor law violations. Bootlegging arrests are included as liquor law violations in this report.

Providing a financial incentive for reporting illegal alcohol sales should improve upon the present situation. Because of the vast distances in rural Alaska, the capability of law enforcement officers is limited. In hub communities the problem becomes overwhelming; bootleggers are smart, and arrests with sufficient evidence for convictions are frequently difficult to obtain.

House Bill 387 is a companion bill to House Bill 386 and will provide a \$250,000 appropriation to the Department of Public Safety to establish this program.


Myra M. Munson
Commissioner


Matthew C. Felix
Coordinator

2/18/88

STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

REQUEST: _____

Bill Version: House Bill 386
Publish Date: _____

Revision Date: _____
Title: "An Act relating to rewards to promote the apprehension and conviction of certain offenders; and providing for an effective date."

Agency Affected: Health & Social Services
BRU: Alcoholism & Drug Abuse

Sponsor: Hoffman
Requestor: N/A

Components: Alcohol Abuse Grant

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Matthew Felix by George Mundell
Division: Alcoholism and Drug Abuse

Phone: 586-6201
Date: 2/16/88

Approved by Commissioner: *Theresa M. Munson*
Agency: *Matthew Felix by George Mundell*

Date: 2-17-88

Distribution (by preparer):

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

Anchorage Daily News

VOL. XLIII, NO. 15 80 PAGES

ANCHORAGE, ALASKA, FRIDAY, JANUARY 15, 1988

A SPECIAL REPORT

Moving booze to the Bush can mean big profits if you know how to play the game and don't spend much time fretting about the well-being of your clientele.

Haven for bootleggers

By HAL BERTON
Daily News reporter

BETHEL — On a damp Sunday in October, two youthful brothers from a village along the Kuskokwim River motored up to Bethel for whiskey to drink with the second game of the World Series. To make the bootleg buy, they didn't have far to go.

They pulled up their boat on a beach littered with empty plastic bottles of Windsor Canadian and walked across a sandy boardwalk to a collection of plywood shacks and A-frame huts.

One of the two disappeared into a hut, then reappeared a few minutes later. He had a bottle hidden under his clothes, his brother said. They hopped back into the boat and turned downriver for the half-hour trip home.

Such sales are the mainstay of Alaska's bootleg liquor industry, and Bethel is its capital. Bootleggers find the city's tentative approach to prohibition — allowing the importation of alcohol, but not its sale — and its role as an air and river crossroads, an ideal climate.

The cases of liquor that arrive each day from Anchorage are sold, bottle by bottle, from riverfront shacks, the trunks of taxi cabs, abandoned freezer vans or the backpacks of teen-agers. Law enforcement

officials estimate the illegal trade at \$2 million to \$5 million a year.

"Right now we see pallets, literally pallets of alcohol arrive at the airport," said Bethel Police Chief Kevin Clayton. "We know where it's going. We know what's going to happen with it, but we're powerless to stop it."

Much of the liquor is sold to local residents or the people who visit Bethel from the villages that dot the broad delta of the Yukon and Kuskokwim rivers. Some are social drinkers, but many are binge alcoholics unwilling to wait for liquor to arrive by air freight from Anchorage. They want their whiskey immediately, and will pay up to \$40 for a \$7 bottle of it.

Other bootleggers use Bethel as a base from which to smuggle booze into villages where both importation and sale are banned. In the "dry" villages, that same \$7 bottle can sell for \$120.

Aniak, a village along the middle Kuskokwim River that also allows unlimited importation of liquor, is another distribution hub for bootleggers. Cargo and passenger planes bring in daily shipments of booze, which a half-dozen bootleggers sell to local clients or send up and down the river.



Anchorage Daily News/Rob Heilman

See Page A-8, BOOTLEG A bottle near the Bethel cemetery



Anchorage Daily News/Rob Heilman

With the village of St. Marys in the background, Francine Ella holds a picture of her boyfriend, Willie Fancyboy, who committed suicide.

St. Marys loses a life in frustrating battle

By RICHARD MAUER
Daily News reporter

ST. MARYS — Nov. 22, 1986, was a Saturday that seemed like a turning point for St. Marys.

Larry Ledlow, an Alabamian reputed to be one of western Alaska's biggest bootleggers, was sitting in jail on felony liquor sale charges. In the cell with him was his alleged runner, Paul Johnson Jr.

Willie Fancyboy, a 20-year-old with a responsible job, a future, a girlfriend and an alcohol problem he was

starting to control, had put them there.

Come the following May, everything was upside-down.

Ledlow and Johnson were walking the streets as free men, all charges dismissed because of error and inattention by officials.

And Willie Fancyboy was dead, the victim of months of harassment, of neglect by the authorities he helped, and finally of a shotgun he himself wielded.

See Page A-10, ST. MARYS

A PEOPLE



IN PERIL

TODAY

Though more than 70 villages have sought to control alcohol consumption by enacting dry laws, their efforts are often foiled by bootleggers. Our stories for the sixth day of the Daily News' 10-day series on self-destruction in the Bush examine this lucrative, underground industry, a throwback to the Prohibition era.

Reporter Hal Berton focuses on Bethel, Western Alaska's regional hub, where bootleggers operate with impunity from freezer vans, taxis and shacks around town. From St. Marys, a dry village on the Yukon River, reporter Richard Mauer looks at how the justice system completely fell apart in a recent bootlegging case, leaving one young man dead and a village strayed in its efforts to control whiskey.

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Anchorage Daily News/Bob Halonen

Brass Buckle nightclub only sells soft drinks, but it is still a major gathering place for drinkers in Bethel.

Continued from Page A-1

In both towns, the bootleggers operate just out of sight, often using "runners," some as young as 12 years old, to make the actual sales. The runners dispense bottles from small packs, then turn over the cash, minus a \$5- to \$10-a-bottle commission, to the bootleggers.

Bootleggers who sell directly to customers protect themselves by refusing to deal with strangers.

In the early '80s, some of the biggest bootleggers were ethnic Albanians from Yugoslavia.

"I remember when Albanians from Bethel came in they would buy about 10 cases of Windsor whiskey in plastic bottles," recalls Edith Turkington, a former employee of Party Time Liquor in Anchorage. "That is 10 cases for each person."

A BIG MARKET

"There's plenty of business for it," said one bootlegger in his early 20s who agreed to be interviewed only if his name were withheld. He is a handsome man who would look more at home on a California surfing beach than the soggy tundra of the delta. He tried a 9-to-5 job, he said, but bootlegging proved more alluring, first as a way to earn quick cash, and then as a full-time occupation. Today he peddles whiskey from a small freezer van in the seedy section of town known as Bootlegger's Alley.

"I just kind of got into this and things started working out real good," he said.

He spent on a Friday evening while at the Bethel airport awaiting a shipment of beer. The order was for another bootlegger, who planned to smuggle it into a dry village.

The young man said he



Anchorage Daily News/Bob Halonen

The party is over: A man sleeps on the floor of a house in Bethel where a party had been going on.

launched his bootlegging operation two years ago with a special introductory offer: \$25-a-bottle whiskey, which he hoped would quickly attract a core of customers. The price created "quite a bit of conflict" with other bootleggers, he said, so he raised it to \$30.

Now, in a good day, he may sell two 12-bottle cases of whiskey at a profit of more than \$500. Less enterprising bootleggers, the ones he calls "subsistence bootleggers," order only a half-dozen bottles at a time, earning just enough to support their own alcohol habits.

At first, he said, he used his van as both an illicit liquor store and a tiny, one-room apartment. But last fall he finally tired of drunken clients pestering him through the night — even after the booze was all gone — and moved out. Now he operates only part of the day from a different van. But that approach has caused him other hassles: "I've had problems with break-ins three or four times. And my windows have been shot up."

He also had trouble with alcoholic runners who drank his booze instead of selling it. Now he uses only sober ones. In early October, his three runners were aged 16, 17 and 25.

Despite the problems, he estimates he earned more than \$20,000 last year. "When I didn't drink," he said, "it was really quite profitable."

Sales of bootleg booze peak in July as hundreds of fishermen converge on Bethel to sell their catches. On the fourth of July alone, he said, he earned more than \$2,000. Demand stays strong through the summer, then drops off sharply as villagers stalk moose in September. As permanent fund dividends begin to arrive in October, business picks up again and remains brisk through New Year's.

On a typical weekend, he gathers with other bootleggers in the parking lot of the town shopping mall. They smoke, drink, talk and watch for potential clients across the street at the Brass Buckle, a low, ranch-style building that serves as the delta's only nightclub. By midnight, the Brass Buckle is jammed with Eskimo, Indian and white rock 'n' rollers.

The bar can't sell alcohol, just soft drinks, but that isn't obvious from the customers. Many are staggeringly drunk. On the crowded dance floor, two women argue over a man; across the room, two men fight over a woman, or would, if they were sober enough to manage a serious scuffle.

"It's a hot spot," the bootlegger said. "People don't go there unless they're really f---d up."

At 1:30 a.m., as closing time approaches, the action shifts outside. Around the back of the building, amid a clutter of 55-gallon drums and fuel

tanks, a young Eskimo woman sips from a cup. "I'm getting drunk and looking for a good piece of a—," she says with a laugh.

Out front, the parking lot of the Brass Buckle looks like a giant block party. "I'm on shruuums," says one woman who apparently has been eating psilocybin mushrooms. A young man standing nearby pulls out a plastic bottle of Windsor Canadian from his blue-jean jacket. When he draws a few stares, the bottle quickly disappears behind his back.

A half-dozen cabs ring the parking lot, the drivers ready to make quick runs for booze, and the ever-present, backpack-clad runners wander through the crowd.

The bootleggers stay as long as there is money to be made.

'THERE'S NO FUTURE'

"People will beg you and beg you," the bootlegger said. "They pay in food stamps... everything they got. One guy gave \$65 in food stamps for one bottle." Sometimes they trade ivory.

Asked whether he worries about the ravages of alcohol on his customers and their community, he replied: "When it gets to the younger neighborhood kids, that makes you feel kind of bad. Knowing you are f---ing these kids' lives up."

Briefly last summer, he said, he feared a police bust.

Then the heat slacked off. "Bootleggers are winning the war now... It seems like nobody cares," he said.

Does he ever think about quitting? "I just got into this and things started working out real good." He thought about it some more. "This is so easy... But there's no future."

'THE BUSH AIR COMPLEX'

Carl Berger spends much of his time trying to heal the wounds caused by alcohol. The Yukon-Kuskokwim Health Corp., which he directs, provides suicide prevention and rape counseling, and helps villages cope with accidental death and acts of violence.

From the second-story window of his riverfront office, Berger can look down at the beachfront conglomeration of A-frames and shacks with a reputation as one of the town's most notorious bootlegging sites. Locals call it "the Bush Air complex" because of the air taxi headquartered there.

During the fishing season, Berger recalled, he watched in frustration as village selmers, their pockets stuffed with cash from salmon sales, lined up to buy bootleg whiskey and then scattered up and down the river to drink.

Some headed down the beach toward the neighborhood of state Sen. John Binkley, a forceful

See Page A-9, BOOTLEGG

BETHEL

POPULATION: 4,462, including Yukon Selmers, Aleut, Chukchee and others.

DESCRIPTION: Located 90 miles from the mouth of the Kuskokwim River and 400 miles west of Anchorage, Bethel is the hub city of Western Alaska. The first trading post on the site was opened in the early 1870s. The Lutheran Church set up a mission in 1885 and constructed the first school in 1895. Fishing and timber are major industries.

MAPS: Alaska Department of Communications, Planning & Cultural Affairs; "The Bush Air Complex" by Bob Halonen

spokesman for local option laws that allow voters to ban alcohol. Others milled around the health corporation building. "It got to the point where we had to hire security so that people could get in and out of the building without getting harassed," Berger recalled.

The complex sits on a half-acre of land owned by the Moravian Church. The Moravians came to Western Alaska in the 1830s and helped found Bethel. The federal government deeded 129 acres of land to them in 1911. A church was built on one part, a school on another. Some of the land has been washed away by the river; much of what remains is being "held in trust for the Native people," according to Kurt H. Vitt, director of theological education for the church.

For the last 13 years, a portion of the "trust" land has been leased to Ron Peltola, the 44-year-old proprietor of Bush Air. Peltola has been charged with flying booze into a dry village and is awaiting trial. He has a history of problems with authorities.

In 1974, he pleaded guilty to a misdemeanor charge of selling wild game illegally and was fined \$2,400. The state temporarily shut down his charter operation in 1985 because he lacked the required insurance.

Last year, his pilot's license was permanently revoked for doctoring his medical records, according to the Federal Aviation Administration. On June 22, he pleaded no contest to a misdemeanor charge of harassment for repeatedly threatening to kill a police officer.

The Moravians first gave Peltola a 10-year lease in 1974, according to court records. He built a plywood shack to serve as an air taxi office, and a collection of other shacks and A-frames, some of which he later sold.

When the lease expired in 1984, the Moravians sued to evict Peltola for non-payment of rent. So far they have been unsuccessful.

'ONE-STOP SHOPPING'

In the meantime, the complex has developed into a base for bootlegging, according to Berger and Bethel Police Chief Clayton. It is the base for one of a half-dozen major bootlegging operations in Bethel, Clayton said, with revenue estimated at more than \$100,000 a year.

Because the beach at Bush Air is one of the few breaks in a riverfront largely walled off by old cars and metal pilings, it is a favorite pull-in spot for villagers arriving by boat. The beach also serves as a waiting area for charter passengers traveling to or from nearby villages.

"It was easy to get customers, when you knew (Bush Air) could give you a bottle and fly you," said Simon Brown, a state trooper who investigated Bush Air. "This was one-stop shopping."

On Aug. 2, troopers, with the aid of an undercover agent, busted Bush Air. They seized Peltola's floatplane and arrested him on



The riverfront complex that includes the office of Bush Air is a hotbed of bootlegging, says Bethel Police Chief Kevin Clayton. Anchorage Daily News/Bob Hallman



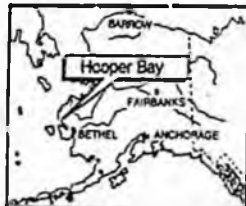
The Moravian Church has been trying to evict Bush Air owner Ron Peltola from its property. Anchorage Daily News/Bob Hallman

misdemeanor charges of importing alcohol into the dry village of Tuntutuliak and enlisting a minor to aid in the crime.

The minor was a young female employee of the air service. She told Trooper Brown she went to the Bethel airport to pick up liquor and delivered it to Peltola, who handed it over to Joe Newman, an occupant of an A-frame next to the Bush Air office, according to an affidavit by Brown.

Peltola instructed the employee to send any liquor customers to the A-frame. Brown said she told him. After the booze was sold, Newman brought the money to her, and she put it in a Bush Air money bag.

Bush Air still has a



floatplane, and the charter service is open for business. Peltola spoke indignantly of his arrest, and flatly denied the employee's statements to police. He said passengers may have carried liquor on his planes, but he didn't know about it.

Peltola sold two of the three A-frames in May 1982, according to Peltola and his

attorney. Some huts may be used for bootlegging, Peltola said, but they have no connection to Bush Air.

\$120 A BOTTLE

Hooper Bay, a community of 776 people spread along the Bering Sea coast, is one of more than 30 villages along the Kuskokwim River that prohibits the importation and sale of alcohol.

But the prohibition, rather than stemming the flow of liquor, has merely altered its course by creating a powerful economic incentive for bootlegging. A bottle of whiskey that sells for \$7 in Anchorage or \$40 in Bethel can sell for \$120 in a village like Hooper Bay. As a result, subsistence or professional bootleggers bring booze into virtually every village — by snowmobile or skiff, in the baggage of air charter passengers, or in a concealed package through the U.S. mail.

In Holy Cross, a village on the lower Yukon River, bootleggers use private planes to fly in liquor shipments from the nearby wet village of Anvik, or smuggle it in on cargo flights delivering groceries and other essentials. "We get it every Friday. . . . There'd be a lot of repacked boxes for people," said Bill Turner, a convicted Holy Cross bootlegger who recently went through an Anchorage alcohol rehabilitation program. "Like, it might be a milk box or an egg box. And it'll be all taped up so you can't get in it real easy. And inside the egg box would be booze."

Where cash is scarce, drinkers often turn to sour-tasting batches of home-brew made from crackers, yeast, sugar and fruit cocktail.

Last summer in Hooper Bay, a teen-age boy killed himself during a game of Russian roulette, and four

other youths attempted suicide, according to Ed Graham, the principal of Hooper Bay High School. Only one of the attempted suicides was directly linked to drinking, Graham said, but "without any question, the real problem is alcohol."

"Everybody in the village is affected by even one single drunk," he said. "The village is so small and so close that every little incident has an effect on everybody."

Much of the hard liquor sold in Hooper Bay is imported by homegrown entrepreneurs lured by the easy money. While fishing, firefighting and basket weaving all provide some income, much of life is still subsistence hunting and fishing. So when someone needs a new snowmachine, bootlegging is a quick way to raise the cash. A bootlegger can buy a round-trip ticket to Anchorage, party in the city for a few days and still turn a profit on the trip by bringing home a single, 12-bottle case of whiskey purchased for \$86.

Other village bootleggers go only as far as Bethel, where an established bootlegger will, for a fee, order booze from Anchorage and have it delivered to the airport. From there, it can be concealed in luggage and flown into a dry village.

Once in a dry village, bootleggers offer liquor to a select group of customers, or use runners to peddle it. A case of whiskey can be sold in a half-hour or less, according to one part-time bootlegger. Sometimes, the last bottle in a shipment is auctioned off to the highest bidder.

The bootleggers "know the people who like to drink," said one 30-year-old resident of Hooper Bay, "and they know the power of the craving. They know people need it."



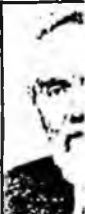
Bill Turner, a convicted bootlegger who went through an alcohol rehabilitation program, says getting booze into the Bush was no big problem. Anchorage Daily News/Bob Hallman



The Bush Air complex with the Yukon-Kuskokwim Health Corporation in the background. Anchorage Daily News/Bob Hallman

What role
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DR. ROBERT G. O'CONNEL, Alaska Psychiatric Institute, says an expert on alcoholism and self-destructive among Natives

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ROY HUHDORF, president of Ozo Pagan Inc., Alaska's most prosperous corporation

Additional series stories on following pages.

In a part of the state where bootlegging is rampant and prosecution often ineffective or non-existent, the case of Fancyboy and Larry Ledlow is more than the story of a tragic young man who fell apart under pressure, or of a middle-aged man who got lucky. It is an illustration of the frustrations faced by the people who want to combat the effects of alcohol as an agent of death and despair in the Bush.

"It's demoralizing the community, because nothing can be done," says St. Marys Mayor Andrew Paukan. "We know who the people are, but we can't get them."

Ledlow, a pilot with his own plane, is chief among them, Paukan said.

St. Marys is a regional hub on the Yukon-Kuskokwim Delta, a village of 563 people with a huge barge dock on the Yukon River, a jetport five miles out of town, two general stores, a three-man police force, one state trooper and a courthouse staffed by a part-time, resident magistrate.

It is also a place where the sale and importation of alcoholic beverages have been banned since a village-wide referendum on Sept. 22, 1981.

"I don't miss any chance I get to flaunt that law, because I don't believe in it," Ledlow says. "No matter what the authorities do, attempting to enforce importation, you can't take just a small area, like the village of St. Marys, and surround it with a barbed wire fence and keep all the avenues of approach out. When people want it, they'll find ways to get it."

'EXCITING DAYS'

Six months after the charges against him were dismissed, Ledlow was wintering with his family in a small town near Montgomery, Ala., while others were taking care of his business in St. Marys.

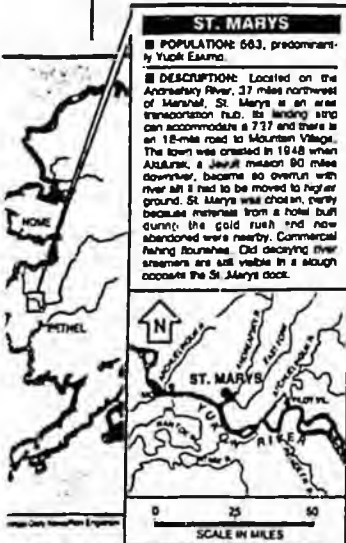
In a telephone interview, he said the charges against him were unjustified because he doesn't sell booze. But over the years, his name has been associated with whiskey.

Ledlow, 55, is the son of a Baptist minister. Both his parents are teetotalers. He arranged to be interviewed at a pay phone so his parents wouldn't overhear him talk about whiskey and his troubles with the law.

He first came to Alaska during the post-war years as an Air Force signals specialist. As a civilian, he followed the military White Alice communications system to Aniak. The place was booming and wide open, two conditions that appealed to Ledlow.

"Yeah, those were exciting days. When I first came there, there was only one or two marshals for the whole area. I tell you what, a man could do about anything he was man enough to defend his ground on."

That's just what he was doing in 1959 or 1970, when a preacher armed with a movie camera tried to get evidence he was bootlegging. Ledlow had just returned from a booze run to the Red Devil liquor store upriver when he saw the preacher "tip-toeing" around his plane, trying to film the liquor inside.



Larry Ledlow's home in St. Marys

Anchorage Daily News/Bob Hallinan



St. Marys Police Chief Bob Bullard with evidence seized when Larry Ledlow was arrested.

Anchorage Daily News/Bob Hallinan

"I went out and hollered at him. When I saw what he was doing, I was going to get the camera and bust it up. I started chasing him and he took a swing at me with the camera, and the strap on the camera broke from his wrist. The camera hit the ground, so I gave it a couple kicks and figured that was probably good enough."

Ledlow moved to St. Marys in 1971. He set up an air taxi service and eventually a commuter airline to Bethel. The Internal Revenue Service seized his business in 1983 for failure to pay taxes. He hasn't worked a regular job since.

On July 2, 1985, just before the big Fourth of July weekend and the usual drunken bashes that accompany it, a cargo supervisor at the Sealr terminal in Bethel noticed some damaged baggage come off a flight from Anchorage. There were five large Styrofoam containers labeled frozen foods, and they were checked by a passenger flying on to St. Marys.

Three of the containers were smashed. The supervisor looked inside. They were filled with R&R Canadian whiskey, one of the popular Bush brands. He called the troopers.

SMUGGLING CHARGE

Ledlow turned out to be the passenger who had checked in the whiskey, but he denied it was his. The troopers didn't believe him, and he was charged with smuggling liquor into St. Marys, a misdemeanor punishable by up to a year in jail.

The trial was originally set for Nov. 12, 1985. But Ledlow complained of ailments and the trial was reset and reset again. On Oct. 15, 1986, the charges were dismissed by the district attorney's office when, two days before trial, prosecutors realized they didn't know how to find one of their main witnesses, an ex-trooper.

People in town marvel at the luck and economic well-being of a man whose sole apparent business is a one-car taxi company and some rental property. Said Bob Bullard, the village police officer: "He has no employment, his wife doesn't work. They just put new siding up on the house. He owns his own plane, a (Cessna) 207. He just remodeled the apartment. He owns six houses, including his own. In '85, he went overseas to visit some relatives, and he took his whole family there."

Ledlow acknowledges his reputation as the biggest bootlegger on the Yukon Delta. "I go about my business and let those rumors go right on over my head," he said.

He agrees that he seems to be well off for someone who doesn't work. He says the airplane belongs to his brother-in-law, though his brother-in-law doesn't have a pilot's license. Ledlow attributes his well-being to frugality, "a subsistence-style life," and state assistance programs that subsidize energy consumption for Bush residents. Because he still owes about \$70,000 to the IRS, he said, he wouldn't provide any details of his personal finances.

"It all just adds up from all over," he said. "I always got some kind of little something going on."

SETTING UP A BUST

The authorities in town suspect Ledlow made as many as two booze flights a week, bringing in five to 10 cases of whiskey at a time, perhaps from Nome or Galena, maybe from as far away as Anchorage. At \$60 a bottle, the going price in St. Marys and surrounding villages, that would produce a gross weekly profit of \$3,000 to \$6,000.

Ledlow is hard to bust, Bullard said, because he only sells through intermediaries, and they sell only to people they know.

That's where Willie Fancyboy fit in.

On Nov. 19, 1986, St. Marys then-city manager, Gary Oba, got a tip from the vice mayor, Wilfred Stevens, that Ledlow was off on a booze run. Oba told police officer Bullard, who drove to the airport and confirmed that Ledlow's Cessna was gone.

Bullard passed on the tip to Trooper Craig Macdonald in Bethel.

That night, Fancyboy was busted for consuming alcohol as a minor. Sometime before daylight, Ledlow's plane landed at the airport.

Macdonald flew to St. Marys. He met privately with Fancyboy, and asked where he got his booze. When the conversation was over, Fancyboy had agreed to make a buy for the police.

The operation was set up for that afternoon. Bullard hid in the magistrate's office, across the street from the house of Paul Johnson Jr., 25, a suspected runner for Ledlow. Macdonald stationed himself on a hill. Another officer watched Ledlow's place.

Fancyboy had \$60 in marked money when he walked into Johnson's house at 5:40 p.m. Johnson took the money, and said he would get the whiskey, according to affidavits. The police watched Johnson get on his three-wheeler and drive over to Ledlow's house. He walked inside, then came out carrying a camouflage pack. Johnson drove back to his house and handed Fancyboy a bottle of R&R.

Two hours later, Fancyboy bought a second bottle from Johnson, the police say.

Ledlow and Johnson were arrested the next day and charged with two felony counts each of selling liquor to a minor. Ledlow also was charged with importing alcohol into a dry village. They spent two days in jail before making bail.

Normal police procedure is to conceal the identity of the "buy agent" in narcotics or bootleg busts as long as possible. If Johnson or Ledlow had any doubt about who turned them in, it would have been erased when they were handed the criminal complaint. The police agent was identified as "W.F." Fancyboy's picture might just as well have been pasted to the complaint.

Francine Ella, a junior at the Catholic Mission High School, was out of town on a school trip when the bust occurred. When she returned, she didn't understand why people were saying bad things about her boyfriend Fancyboy.

"They were the guys who are friendly with Ledlow. They'd say things like, 'You're going with a narc. How could you do that?' I wouldn't say anything. I'd just walk off."

They were saying it to Fancyboy's face, too.

But it was more than just words. Fancyboy's snowmachine was vandalized. First the wires were ripped out. Then, in succession, the windshield was smashed, the seat cut, his helmet stolen.

Fancyboy wanted it to stop. He talked to the St. Marys magistrate. Can I change my mind about testifying, he asked. He called up Ledlow. I'm sorry, he said. He spoke to Johnson. I recognize, he said.

But mostly he wouldn't talk about it, not to his girlfriend, not to the people at work.

NO PLACE TO TURN

Before the bust Fancyboy thought poorly of himself, his girlfriend said, and he withdrew deeper with each passing day.

No one offered him counseling, and because he lived in neighboring Pitkas Point, he didn't have the protection of St. Marys police. Fancyboy was struggling with alcohol too, Francine said. Still, he held a responsible job — assistant grocery manager at the Yukon Traders general store.

At the same time, the bust was starting to go wrong. In January, the police and

witnesses assembled in Bethel for a session before the grand jury. The troopers were seeking a felony indictment against Ledlow and Johnson. "Everyone was there and was sober," Macdonald said. But five minutes before the case was to be presented, District Attorney Bryan Schuler walked into the room and announced that it would be prosecuted as a misdemeanor, Macdonald said. Schuler gave no reason, he recalled.

In a recent interview from his new home in Honolulu, Schuler said he couldn't remember why he reduced the charge.

The case went back to St. Marys, and the DA's office promptly forgot about it.

Magistrate Denise Beans, a non-lawyer, re-arrested the pair on the misdemeanors on Feb. 18. She set a trial date in April. She didn't realize that April was too late under Alaska's speedy trial rule.



Willie Fancyboy

Beans said she thought the speedy-trial clock started ticking when the pair was arrested on the reduced charges. No one told her she was wrong — that the clock starts with the initial arrest, in this case, November. When the defense attorneys brought it up, it was too late to fix. The charges were dismissed April 20.

"We should track those kinds of things, but we were handling 1,300 cases a year," Schuler said.

Ledlow said he would have won the case anyway. There was no evidence he sold whiskey to anyone, he said.

In an interview, Johnson said he was drunk and couldn't remember what happened that day.

A DEADLY OUTBURST

On May 2, Wilfred Stevens, the vice mayor who provided the tip on Ledlow, committed

the crime of manslaughter. Stevens had been severely depressed since his brother Eddie drowned the year before. Eddie's birthday would have been the next day.

"It was hard on Willie," Francine said. "After that happened, he hardly ever talked."

Two weeks later, on a night that was supposed to be a celebration, a grand reunion for graduates of the St. Marys Mission School, Fancyboy got terribly drunk and frightfully angry. He shoved his girlfriend into the dirt, went home and threatened his family with a shotgun. Then he turned the weapon on himself and blew out his guts.

How much of a part did the Ledlow bust play in his death? The troopers, police and officials who have an opinion say it played a role, but no one knows how much.

Ledlow blames Fancyboy's death entirely on the police. "They forced him into doing something he didn't want to do," he said. "They should have put him in a counseling program and accepted the fact that he's underage. They ultimately caused him to get in such a mental state that he ended up committing suicide."

The failure of either of the Ledlow cases to even reach trial has proved frustrating for St. Marys officials. Bethel-based troopers say the problems encountered in St. Marys are repeated all over the huge region they patrol.

Trooper Simon Brown, who investigated Fancyboy's death, said most agents used by police to buy alcohol and drugs don't understand the depth of the problems they will face, even if those problems are explained beforehand.

"A lot of men I talk to, they'll never talk to a cop again after they make a buy. It turns them off to police, to the whole system, and we lost them."

PROBLEMS IN DA'S OFFICE

Macdonald said police agents frequently are harassed by the subjects of a bust, or their friends who no longer have a source of liquor or drugs. "They're well aware that if they can keep the informant from talking, they can walk." Law enforcement in the Bush is so thin that there is little protection for an informant who remains in a village.

Other followers of the case harshly criticize Schuler, who held the post of DA from February 1985 until he was caught shoplifting more than \$100 worth of stereo tapes on



Mayor Andrew Paukan: "We know who the people are, but we can't get them."



Anchorage Daily News/Bob Hansen

A mistake by Magistrate Denise Beans resulted in freedom for Larry Ledlow.

July 2, 1987. The city of St. Marys twice complained to the attorney general's office about his conduct in office, but got no serious response, said Mayor Paukan and Gary Oba, the former city manager.

"There was a consistent dissatisfaction with his reluctance or refusal to prosecute cases coming out of St. Marys," said Oba, now in the foreign service of the U.S. State Department. "In the early stages, it seemed to be friction between Mr. Schuler

and our police officer. We worked with Mr. Bullard and attempted to get him to follow the procedures that Mr. Schuler set down, and it didn't seem to make any further difference."

Schuler seemed to demand such high standards of evidence gathering that he would take only sure cases, "nothing that would require any effort to prosecute," Oba said.

The problems in the DA's office were not lost on

criminal defendants.

"You see, these people are getting smart," Ledlow said. "They know now there's only so many cases that can be tried in the Yukon-Kuskokwim Delta. And so they're entering a plea of not guilty, no matter whether they're guilty or not. This puts a further load on the district attorney's office. If they end up with the ones they can plea bargain away, well they do, and the ones that they can't, a lot of times they go and dismiss them, and the ones they can take to trial, they do."

Schuler said his office went from a three-attorney staff in 1985 to just himself in 1986. That made a tough job tougher.

"We had historically about 10 times the national homicide rate. We had no roads. Not only did a lot of our witnesses not speak English, a lot of jurors don't speak English. It's not their fault, but it's not exactly like being in rural Indiana," Schuler said.

For the St. Marys residents trying to follow the example set in 1981 by Patrick Beans Sr., who initiated the movement to make it a dry village, the recent past has been filled with frustration.

"We'd like to see it dry, but the bootleggers are bringing the booze in," said Mayor Paukan. "We're helpless in getting the bootleggers caught because they're so smart. We're frustrated about the law. We can't do nothing."

State law allows communities to restrict flow of booze

By DON HUNTER
Daily News reporter

Carrying a hip flask of brandy — or any kind of liquor, wine or beer — into many Alaska villages can get you up to a \$1,000 fine or a year in jail.

The penalties are the product of a decade of legislative wrangling with Alaska's No. 1 rural public safety problem: alcohol abuse and the self-destruction it brings to Bush villages.

In 1980, lawmakers passed a bill that allowed villages to control alcohol use in four ways:

- The community can select a particular private licensee to sell liquor;

- The village government can set up a government store to sell liquor;

- The village can forbid the sale of alcoholic beverages, but still allow liquor to be brought in for private use; or

- The village can vote to prohibit both the sale and importation of alcoholic beverages.

In 1986, the law was expanded. Now, villages can vote to forbid even the

possession of alcoholic beverages.

To date, more than 60 villages have prohibited importation of alcohol. At least eight — Anaktuvuk Pass, Atkasuk, Fort Ledge, Gambell, Mekoryuk, Nulqsut, Nunipatchuk and Togalak — have gone dry. An exception is made for wine for religious purposes, but even that must be limited and closely controlled.

Once a village votes to ban alcohol, the state Alcoholic Beverage Control Board, which regulates alcohol sales in Alaska, cannot issue, renew

or transfer a liquor license to the village, or to an unincorporated area within five miles of the village.

Violations of the local option laws are Class A misdemeanors, punishable by a maximum sentence of a year in jail and a \$1,000 fine.

The crime escalates to a Class C felony, however, if the importer or seller brings more than 12 liters of liquor or wine, or more than 45 liters of beer, into a dry village. Class C felonies carry penalties of up to five years in prison and a maximum fine of \$50,000.

Violating the possession ban is a civil offense — similar to a speeding ticket — punishable by a fine up to \$1,000. The violator may pay off the fine through community work at a rate of \$5 an hour.

Subsequent convictions for the same offense are still misdemeanors, unless the amount of liquor involved exceeds the 12-liter ceiling.

The local option law also allows the state to seize cars, boats, airplanes or any other equipment or materials used to make, transport, sell or store liquor.

ALCOHOL IN ALASKA: A CHRONOLOGY

■ Late 1700s-Early 1800s: Initial contacts between Natives and Russian traders and American whalers, who often use alcohol as a trading commodity with Alaska Native people.

■ 1867: The United States buys Alaska from Russia.

■ 1884: The First Organic Act specifically prohibits the importation, manufacture and sale of liquor in Alaska. But in practice whites do not prosecute other whites for violations. The Alaska Commercial Co. continues to trade liquor for furs and successfully undermines the prohibition by withholding supplies from enforcement personnel.

■ 1885: A territorial Indian police force is established to promote "cleanliness, sobriety and good order among the Indians."

■ Late 1880s: For whites, prohibition is replaced by high license fees, but Natives, intoxicated persons or habitual drunkards are still prohibited from buying or selling liquor.

■ 1915: The territory of Alaska votes approval of the "Bone Dry Law," primarily because of the problems of Natives. The same year, the

territorial legislature passes a law making it a misdemeanor to sell or give alcohol to a Native.

■ 1919: The National Prohibition Amendment passes. It forbids manufacture, importation, exportation, transportation or sale of alcoholic beverages anywhere in the United States.

■ 1933: National prohibition is repealed. The 1915 territorial law forbidding the sale or gift of liquor to Natives remains in effect.

■ 1953: Federal laws prohibiting drinking by Indians are abolished. (From the purchase of Alaska by the U.S. in 1867 until 1953, alcoholic beverages were banned in villages; Alaska was treated as an Indian reservation.)

■ 1980: The Alaska Legislature passes a local option law that allows villages to vote to prohibit the sale of alcohol; prohibit the sale and importation of alcohol; limit liquor licenses; or limit alcohol sales to community-owned liquor stores.

■ 1986: Legislature passes a law allowing villages to vote to impose a complete ban on alcohol.

A PEOPLE IN PERIL: SERIES AT A GLANCE

Sunday	Atkasuk, the village that endured a terrible series of suicides
Monday	Death and despair reach every corner of Alaska.
Tuesday	Rage and alcohol turned this 15-year-old boy into a multiple killer. A death brings temporary harmony to Sleetmute.
Wednesday	Fatal Alcohol Syndrome victimizes the unborn.
Thursday	The legal river of booze to the Bush. Nulato's effort to restrict the flow of booze.
TODAY	Willie Fancyboy, Larry Ledlow: One is dead, the other a free man. How bootleggers get booze to the Bush.
Saturday	Venets has fought the importation of liquor for years. Three communities — one wet, one dry, one demo.
Sunday	For 12,000 Native residents, Anchorage is a different village. Five lives that show the diverse experience of Anchorage Natives.
Monday	"Closest sobriety" keeps Kake a troubled town. Alut Laka and the long, hard road to sobriety.
Tuesday	A sobriety movement grows throughout Alaska.

Bethel Judge Gail Fraties gives sympathetic advice to the accused

by Michael Fagan

Superior Court Judge Gail Fraties offered many alleged bootleggers and drug dealers in court last week what can be safely and conservatively described as a considerable amount of sympathy for their new plight.

Analysis

Last week's defendants are those arraigned Feb. 2 and 3 as a result of the recent law enforcement sweep staged here in Bethel.

Fraties mentioned more than a couple of times his brush with the law (he talked in court of his DWI conviction two years ago), his problem with alcohol, and his confidence in the state-appointed defense attorneys.

Further, Fraties offered a liberal amount of unsolicited advice to the defendants about how to interpret the cases filed against them by the district attorney's office.

One well-placed individual close to the court calls Fraties' monologues "gibberish."

The monologues are known to not be restricted to these most recent cases. The 'parental talks' are known to have been voiced by Fraties since he's been on the bench for the past several months.

Following are verbatim

quotes and paraphrased statements offered by Fraties in his courtroom on Feb. 2 and 3, the days when most of the alleged Bethel bootleggers and drug dealers were being arraigned.

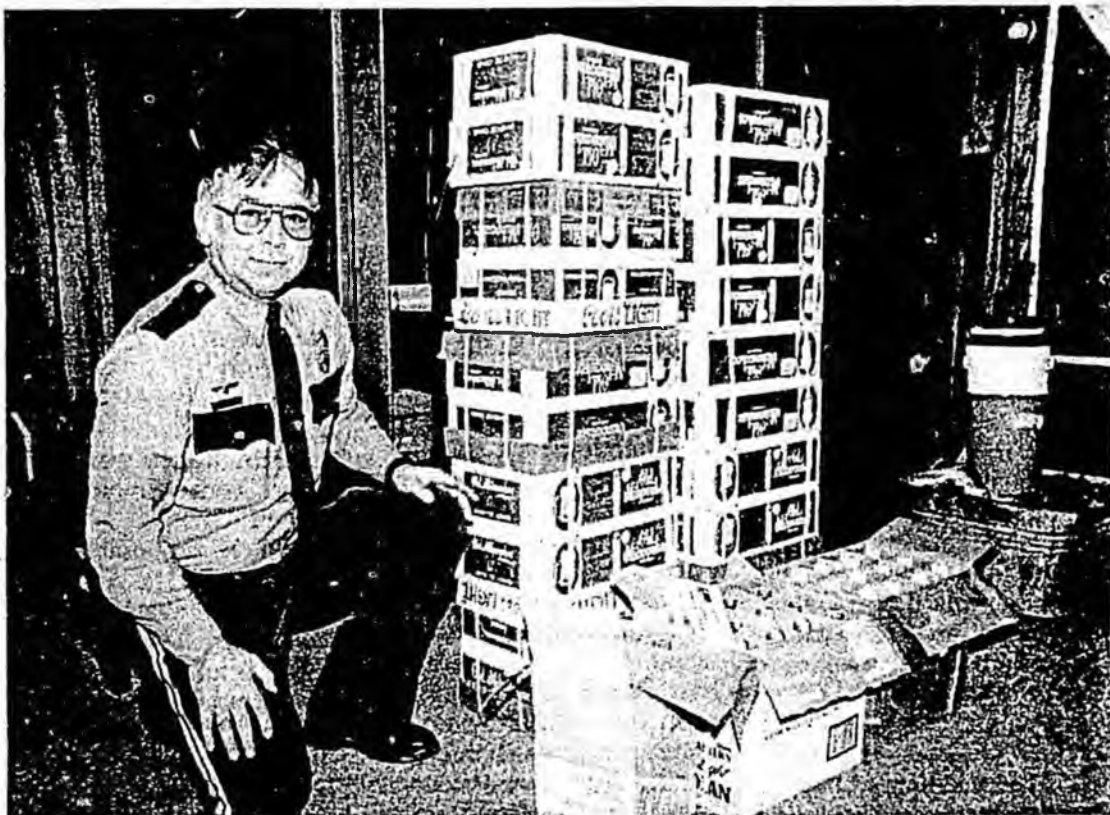
Before a 19-year-old defendant, in context about the importance of appearing in

court upon being released on his own recognizance: ". . . Well, let me tell you something. You know, a class A misdemeanor is no joke. I've been arrested and convicted of a class A misdemeanor. But you can survive it all right. There's not going to be all that much of

problem in your life."

Before a 22-year-old defendant: "You can survive a class A misdemeanor all right. I've been arrested and convicted of one of those myself, and I didn't enjoy it,

See FRATIES page 26



Yet more booze seized

Seized from the Bethel airport on the evening of Wednesday, Feb. 3 was the above-photographed booze and beer, amounting to 28 bottles of liquor and 20 cases of beer. The alcohol was destined for Larry D. Stanley, who was arrested on the day before during the big law enforcement sweep here of bootleggers and drug dealers. Stanley was charged Tuesday morning with one class C felony and three Class A misdemeanors, all linked to the sale of alcohol. The booze was discovered to be coming in to Stanley after police officers found a money order receipt during the Feb. 2 search of his hospital housing apartment. The seized alcohol will be used as evidence to support criminal charges already filed against Stanley. The alcohol had been ordered at a cost of \$510; sold here, it would have brought an estimated \$1,540.

TUNDRA DRUMS THURS FEB 11th

FRATIES from page 4

but I survived it."

Before a group being arraigned: "You trial rights will be jealously preserved by this court and the attorneys that practice before it. You're not in a position to judge the strength of your own case. You're presumed by the law to be innocent until proven guilty, and it's not easy to prove people guilty."

Before a group being arraigned: "Guilt or innocence in the eyes of the law is not whether you actually did the act you're not supposed to do. By legislative mandate, it's whether or not the DA can prove you did it. A

person can have done all kinds of things in their life, but if the DA does not have the evidence against you, then in the eyes of the law you're innocent of crime. You are certainly not guilty."

Before a 20-year-old defendant: "I don't want any one to get the idea that a Public Defense is a second class lawyer. (The public defenders) are very excellent."

Before another 20-year-old defendant, Fraties asked the defendant about the identity of his father, naming a specific individual.

Said Bethel Public Defender Brian Easton to Fraties:

"This case is one of 40-some that the state troopers are milking for all the publicity they can." Responded Fraties: "I care less about what the papers say. Papers had a field day with me two years ago when I was busted for DWI, convicted and sent to jail. I mean, what more have I got to lose? If somebody is going to say I'm easy on bootleggers, who cares? At my age, why should I fear what a newspaper is going to say to me?"

In a later arraignment, Fraties said that it is the "absolute truth" that anything that the defendant says to anyone can and will be used against them in trial.

And in yet a later arraignment, Fraties commented to Easton about the state troopers having reportedly

seized a defendant's hearing aide: "They always grab the glasses and the hearing aid, you know that."

Said Easton to Fraties on another, later occasion during an arraignment: This "whole matter is a farce blown way out of proportion by the troopers and the press. The troopers will be the laughingstock of Alaska if they don't make all this stick." Responded Fraties: "Your client is my fellow citizen. I don't give a damn how the troopers (unintelligible) or what the newspapers do. If somebody's unfair to him I'll deal with it."

During a hearing not related to the bootleggers' trial, but also deliberated on one of those two days, Fraties offered the following comments:

Referring to the alcoholic, "Their story is my story. .

. . . I feel a lot of compassion (for the defendant). . . . I've attended dozens of AA (Alcoholics Anonymous) meetings with many Public Defender clients. . . . I am presently surviving alcoholism. . . . If I miss an AA meeting I'm in trouble with my own sobriety. . . . I'm not just some *Kass'ag* (his emphasis) that's telling you to go to AA because I think it's for your own good. I'm an alcoholic who goes to AA myself. . . . You're an alcoholic just like I am. . . . We've saved a lot of lives. I like to say 'we' when I talk about AA."

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE HOFFMAN

NAME: DON STURLOCK
TITLE: PROBATION OFFICER

ADDRESS: PO BOX 1694

CITY: BETHEL, ALASKA

ZIP: 99559

PHONE: 543-2056

BILL NO: SB 51

SUBJECT: SALE OF ALCOHOL IN LOCAL OPTION AREA

MESSAGE: THIS BILL WILL NO DOUBT CAUSE MANY OF US IN THE CORRECTIONAL
FIELD TO BE OUT OF WORK, BECAUSE 90% OF THE CRIME IN THIS
AREA IS SOMEHOW ALCOHOL RELATED. HOWEVER, I WAS LOOKING FOR
A JOB WHEN I FOUND THIS ONE. KEEP UP THE GOOD WORK!!

POMID: 05162414

DATE: 02/12/88

TIME: 16:24:14

LIONAME: BETHEL LIO

COPIES: REPRESENTATIVES SENATORDONLEY
ELLIS
GRUENBERG
HANLEY
HUDSON
KOPONEN
PHILLIPS
BARNES
COTTEN
NAVARRE
SUND
TAYLOR
ULMER
BINKLEY

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE HOFFMAN

NAME: DON STURLOCK
TITLE: PROBATION OFFICER

ADDRESS: PO BOX 1694

CITY: BETHEL, ALASKA

ZIP: 99559

PHONE: 543-2056

BILL NO: SB 371

SUBJECT: PROHIBIT ALCOHOL DELIVERY TO NONLICENSEE

MESSAGE: THIS BILL WILL NO DOUBT CAUSE MANY OF US IN THE CORRECTIONAL
FIELD TO BE OUT OF WORK, BECAUSE 90% OF THE CRIME IN THIS AREA
IS SOMEHOW ALCOHOL RELATED. HOWEVER, I WAS LOOKING FOR A JOB
WHEN I FOUND THIS ONE. KEEP UP THE GOOD WORK!!

POMID: 05162746

DATE: 02/12/88

TIME: 16:27:46

LIONAME: BETHEL LIO

COPIES: SENATORSBINKLEY
DUNCAN
FISCHER
HALFORD
HENSLEY
UEHLING
ZHAROFF

HB 386

1003

11

100

Original sponsor: Hoffman

Funding Information

General Fund	\$250,000
Other Funds	-0-
	<u>\$250,000</u>

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 387 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Depart-
7 ment of Public Safety for enforcement of alcoholic
8 beverage control laws and for a reward program to
9 promote the apprehension and conviction of persons
10 who violate certain alcohol control laws; and provid-
11 ing for an effective date."

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

13 * Section 1. The sum of \$250,000 is appropriated from the general fund
14 to the Department of Public Safety for enforcement of alcoholic beverage
15 control laws and for grants to municipalities and established villages for
16 local programs to offer rewards for information leading to the apprehension
17 and conviction of persons who violate AS 04.11.010 by selling, importing,
18 or possessing alcoholic beverages in violation of an ordinance adopted by a
19 municipality or established village under AS 04.11.490 - 04.11.500.

20 * Sec. 2. The unexpended and unobligated portion of the appropriation
21 made by this Act lapses into the general fund June 30, 1989.

22 * Sec. 3. This Act takes effect on the effective date of an Act passed
23 by the Fifteenth Alaska State Legislature relating to the enforcement of
24 alcoholic beverage control laws and authorizing the Department of Public
25 Safety to offer rewards and to provide grants to municipalities and estab-
26 lished villages to offer rewards for information leading to the apprehen-
27 sion and conviction of persons who violate AS 04.11.010 by selling, import-
28 ing, or possessing alcoholic beverages in violation of an ordinance adopted
29 by a municipality or established village under AS 04.11.490 - 04.11.500.

5-1655B
Utermohle
2/22/88

Original sponsor: Hoffman

<u>Funding Information</u>	
General Fund	\$250,000
Other Funds	-0-
	<u>\$250,000</u>

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 387 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

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24 alcoholic beverage control laws and authorizing the Department of Public
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27 sion and conviction of persons who violate AS 04.11.010 by selling, import-
28 ing, or possessing alcoholic beverages in violation of an ordinance adopted
29 by a municipality or established village under AS 04.11.490 - 04.11.500.

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IN THE HOUSE

BY HOFFMAN

PROPOSED

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 386
IN THE LEGISLATURE OF THE STATE OF ALASKA
FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the investigation of violations of alcohol control laws; establishment of a reward program to promote the apprehension of alcohol law violators; and providing for an effective date."

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

* Section 1. AS 18.65.085 is amended to read:

Sec. 18.65.085. Narcotic Drugs and Alcohol Enforcement.

(a) There is established in the Department of Public Safety, division of state troopers, a narcotic drugs and alcohol enforcement unit for the purpose of investigating and combating the illicit sale and distribution of narcotic drugs and alcoholic beverages in the state. Alcohol law enforcement efforts shall be primarily focused on the investigation, apprehension, and conviction of persons who violate AS 04.11.010 by selling, importing, or possessing alcoholic beverages in a community that has prohibited the

DRAFT

sale, importation, or possession of alcoholic beverages
under AS 04.11.490 - 04.11.500.

(b) The commissioner of public safety shall submit to the legislature, within 30 days from the date the legislature convenes, a report concerning the activities of the narcotic drugs and alcohol enforcement unit. The report shall include, but is not limited to, the number of arrests made, the kind, amount and value of narcotic drugs and alcoholic beverages seized, the sentences received by narcotic drug and alcohol offenders, and an overall view of the narcotic drug and illicit alcohol problem in the state.

(c) The Department of Public Safety is authorized to establish and administer a reward program, and to provide grants to municipalities and established villages for reward programs, leading to the investigation, apprehension, and conviction of persons selling, importing, or possessing alcoholic beverages in violation of an ordinance adopted under AS 04.11.490 - 04.11.500.

* Sec. 2. This Act takes effect July 1, 1988.

DRAFT

IN THE HOUSE

BY HOFFMAN

PROPOSED

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 387
IN THE LEGISLATURE OF THE STATE OF ALASKA
FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Public Safety for a unit to investigate violations of alcohol control laws and for a reward program to promote the apprehension of persons who violate alcohol control laws; and providing for an effective date."

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

* Section 1. The sum of \$250,000 is appropriated from the general fund to the Department of Public Safety to establish a unit to investigate violations of alcohol control laws, to establish a reward program, and to provide grants to municipalities and established villages for local programs to offer rewards for information leading to investigation, apprehension, and conviction of persons who violate AS 04.11.010 by selling, importing, or possessing alcoholic beverages in a community that has prohibited the sale, importation, or possession of alcoholic beverages under AS 04.11.490 - 04.11.500.

DRAFT

* Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1989.

* Sec. 3. This Act takes effect on the effective date of an Act authorizing the Department of Public Safety to establish a unit to investigate violations of alcohol control laws, to offer rewards, and to provide grants to local governments to offer rewards for information leading to the investigation, apprehension, and conviction of persons who violate AS 04.11.010 by selling, importing, or possessing alcoholic beverages in a community that has prohibited the sale, importation, or possession of alcoholic beverages under AS 04.11.490 - 04.11.500.

Description of Combined Drug and Alcohol Enforcement Unit

There is presently a program within the Alaska State Troopers that is responsible for providing assistance to local agencies and villages in Western Alaska with their drug enforcement efforts. The program is called the Western Alaska Narcotics Team (W.A.N.T.). One state trooper drug investigator is responsible for coordinating primarily narcotics investigations; he assists in bootlegging investigations as time and resources allow. W.A.N.T. was established in late 1982.

Based on the area of responsibility and the vast travel requirements, the W.A.N.T. trooper investigator works out of Anchorage. The W.A.N.T. area includes communities located along the Alaska Peninsula and the Aleutian Islands, and those communities in Bristol Bay, the Kuskokwim Delta, Norton Sound, Seward Peninsula, and the Kotzebue Sound. The investigator's role is to provide leadership, guidance, assistance, direction, informants, undercover agents, buy money, expense funds, and to act in undercover capacities whenever possible. The investigator's office is located at the Anchorage airport, which allows increased effectiveness in disrupting the flow of drugs to Western Alaska.

In the five years of its existence, the Western Alaska team has seized over a million dollars worth of drugs and made over 300 arrests for drug and alcohol violations in its area.

Because a single trooper is responsible for covering such a large area, he can give his attention to a certain area for only a short period of time. He must divide his efforts so as to provide, on a rotating basis, enforcement in as many different communities as possible. Generally, his concentration has been on drugs first and alcohol second. In either case, he encourages those communities with enforcement resources to conduct their own investigations with his assistance and some AST funding. Consistent and continuous clandestine investigative pressure on drug and alcohol violators is simply not possible under current staffing levels, even though such an effort is badly needed.

The alcohol problems in Western Alaska need to be addressed on a full-time basis, and in combination with full-time drug enforcement efforts. The procedures for conducting investigations for either type of violation are very similar. The best way to address this problem would be the development of a team of investigators who can concentrate 100 percent on west coast alcohol and drug problems. The

team members should be capable of working undercover either together or singly, be able to deal with interdiction at the airports, provide assistance and guidance in clandestine operations, share intelligence information, conduct training for law enforcement officers, VPSOs, and VPOs, and participate in school and other prevention programs.

A joint drug and alcohol investigative unit would support local law enforcement efforts. A no-cost alcohol and drug information hot line could be established to receive confidential tips from citizens. This information can be evaluated, and payment from a "reward fund" awarded to individuals based on their participation and the reliability of their information.

We suggest the creation of a full-time Western Alaska Alcohol and Narcotics Team (W.A.A.N.T.). We suggest the addition of two trooper investigators and a clerk typist to the existing one-trooper W.A.N.T. unit. The scope of the unit's enforcement efforts would then be expanded to include full-time ongoing investigation of alcohol violations.

The desirability of having three investigators dealing with related problems and working in the same area of Alaska was well illustrated by the recently concluded enforcement effort in Western Alaska. That effort was conducted by the W.A.N.T. unit trooper investigator, local officers, local troopers, a VPSO, VPOs, and two additional state trooper narcotics investigators temporarily assigned to assist the W.A.N.T. unit.

The following costs are anticipated (based upon the level of funding now proposed in HB 386):

Personal Services:

A. Investigator I (PFT - Range 77A)		
Salary	\$42,880	
Overtime (180 hours per year)	5,800	
Benefits	<u>18,211</u>	
Investigator I Cost		65.9
B. Investigator I (PFT - Range 77A)		
Salary	\$42,880	
Overtime (180 hours per year)	5,800	
Benefits	<u>18,211</u>	
Investigator I Cost		65.9

C. Clerk Typist II (PFT - 7A)		
Salary	\$18,540	
Overtime (120 hours per year)	1,712	
Benefits	<u>9,185</u>	
Clerk Typist II Cost		<u>29.4</u>
Total Personal Services		\$161.2

Travel:

Extensive travel would be necessary to conduct investigations, oversee undercover operatives, and coordinate with local law enforcement authorities.

In-State Transportation	10.0	
In-State Per Diem	<u>10.0</u>	
Total Travel		20.0

Contractual:

Much of the unit's activities will involve conducting undercover operations. Costs include informant pay, buy funds, and expense funds. These costs are paid outside the normal state purchasing system to assure the confidentiality of the operations.

Professional Services	38.0	
Communications (telephone, etc.)	6.0	
Printing/binding - training and school instruction material	8.0	
Miscellaneous (clothing allowance, etc.)	<u>2.0</u>	
Total Contractual		54.0

Supplies:

Office supplies (stationery, etc.)	4.0	
Professional supplies (ammunition, etc.)	3.0	
Miscellaneous	<u>1.0</u>	
Total Supplies		8.0

Equipment: (First Year Cost Only)

Desks (2)	1.1	
Chairs (3)	1.0	
Bookcase	0.4	
File cabinet	0.6	
Firearms	0.7	
Word Processor (shared)	<u>3.0</u>	
Total Equipment		<u>6.8</u>
Total Cost		\$250.0

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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, 1988

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

Mary Van Nimwegen

House Judiciary:

3-9-88

3-11-88



Official Business

Alaska State Legislature

House

P.O. BOX V
State Capitol
Juneau, Alaska 99811

REPRESENTATIVE RANDY PHILLIPS
HOUSE DISTRICT 15
(907) 465-4949

MEMORANDUM

TO: House Judiciary Committee

FROM: Representative Randy Phillips *R.E.P.*

DATE: March 8, 1988

RE: Committee Substitute for House Bill 388 (HESS)
An Act relating to irradiated food

Committee Substitute for House Bill 388 (HESS) would prohibit the sale of irradiated foods within the State of Alaska. As indicated by the attached sectional analysis (Attachment 1), this bill excludes irradiated spices from being considered as irradiated foods. Additionally advice from Ms. Banniser with regard to the original bill indicated that while this particular bill does not prohibit the manufacturing of irradiated food, AS 17.20.340 indicates that such manufacturing would also be prohibited (See Attachment 2). There were also some questions about the state's right to limit "interstate commerce" and I have attached another memorandum from Ms. Bannister concerning this question (See Attachment 3).

The provisions contained in Committee Substitute for House Bill 388 (HESS) would be added to the Alaska Food, Drug, and Cosmetic Act and this would mean that certain enforcement provisions included in that act would follow with the adoption of the language in this bill. Criminal penalties would be those as set out in AS 17.20.310 (See Attachment 4) and injunctive relief would be as provided in AS 17.20.280 (See Attachment 5). The bill does not include provisions for embargo and destruction of these items.

While the Food and Drug Administration was requested to participate in the teleconference hearing today, it declined for the reasons outlined in Attachment 6. Attachment 7 is a press release issued by the U.S. Department of Health and Human Services on December 12, 1985, concerning the "final rule to broaden the approved used of radiation. Attachment 8 is a copy of the statement that FDA Commissioner Young gave before the U. S. House Committee on Energy and Commerce, Subcommittee on Health and Environment concerning the current federal proposal on food irradiation. Attachment 9 is a copy of Congressman Bosco's statement before that same committee (Congressman Bosco is the prime sponsor of the measure on the House side).

The language in the original bill is based on a law adopted in Maine in 1987. Maine is the first state to ban the sale of irradiated foods.

In 1987 the New Jersey Legislature adopted a food irradiation ban; however, the Governor vetoed the bill. Vermont has enacted strict labeling requirements in the event the federal requirements are lifted. Legislation proposing a ban irradiated food has been reintroduced in New Jersey and is also being considered in New Hampshire, New York, Pennsylvania and Vermont. A list of the states considering food irradiation legislation is attached as Attachment 10. There is legislation also pending in the United States Congress regarding both the food irradiation and labeling issues (H.R. 956 and S. 461).

Food irradiation is being considered as a possible food preservation method. The actual process involves the use of cobalt-60 (an isotope that must be manufactured in nuclear reactors from nonradioactive cobalt-59) or cesium-137 (a water soluble byproduct of both nuclear weapons production and nuclear power generation). (See Attachment 11 for an article explaining this process and Attachment 12 for a history of food irradiation.) In 1958, Congress classified food irradiation as a food additive. This meant that before the process could be used, it had to be approved by the FDA under the Federal Food, Drug, and Cosmetic Act. While the FDA has approved food irradiation for five different uses [control of insects in wheat (1963), inhibit sprouts in potatoes (1964), control of trichinosis in pork (1985), slow growth and ripening and control pests in produce, and to kill insects and microorganisms in herbs and spices (1986)] the only use in the United States at the present time is in some spices and herbs. I have attached a list of spices and herbs that are being irradiated at the present time (See Attachment 13).

The greatest concerns I have with the food irradiation process are as follows:

1. Safety of the process and effect on humans ingesting irradiated foods.

2. Questions about the wholesomeness of irradiated foods (See Attachment 14).

3. Risks to the environment from the irradiator plants. There is danger both to the workers in an irradiation plant as well as residents of the surrounding area. I have attached a list of incidents that have occurred at some of the forty irradiation plants that currently operated within the United States (See Attachment 15). Attachment 16 shows the location of the forty irradiation facilities in the U.S.

3. Possible creation during the process of mutant and/or radiation resistant bacteria and the effect of the elimination of nonresistant bacteria making it easier for the mutant bacteria to survive.

4. Possible creation during the process of potent carcinogens called aflatoxins.

5. Possible elimination of the organisms that produce signals and odors that alert people to food spoilage while the bacteria that causes food poisoning may be more resistant to radiation and therefore still present.

6. Radioactive food may occur if the process is not handled properly.

8. Transportation of radioactive materials. If Alaska were to have an irradiator plant, and this is one of the areas being researched by the University of Alaska at Fairbanks, the radioactive materials would have to be brought in from somewhere. To my knowledge, the nearest stockpile of cesium-137 is at Richland, Washington, near the Hanford plant and this would mean that such products would have to be trucked, barged or flown to Alaska. In addition, since cesium-137 is water soluble, if there were an accident enroute or at any such plant, the results could be devastating.

9. Safety questions exist concerning the storage of the radioactive material.

You might also be interested to know that irradiated food does get on the shelves. See the attached information regarding the Rice-A-Roni/Noodle-Roni matter. (See Attachment 17).

For your information, I have also attached a list of articles that I have available on this subject (See Attachment 18). If you wish to do further review on the matter, please do not hesitate to contact me.

I would appreciate your support of this legislation.

STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 7, 1988

SUBJECT: Sectional analysis of CSHB 388 (HESS)
TO: Representative Randy Phillips
FROM: Theresa L. Bannister *TB*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 prohibits the knowing sale of irradiated food. Defines "irradiated" as having been treated with gamma radiation or other ionizing radiation. Excludes irradiated spices from being considered irradiated food, and excludes food from being considered irradiated food if the only irradiated ingredients are irradiated spices.

Section 2 indicates that the commissioner of environmental conservation (or the commissioner's designee) is responsible for enforcing the prohibition against the knowing sale of irradiated food.

TLB:bb
wkb3/079

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 21, 1988

SUBJECT: Scope of irradiated food bill
(Work Order No. 5-1671)

TO: Representative Randy Phillips

FROM: Theresa L. Bannister *TB*
Legislative Counsel

This memo accompanies the bill on irradiated food that you requested. Although sec. 1 of the bill does not prohibit the manufacturing of irradiated food, AS 17.20.340 indicates that the manufacturing would also be prohibited. AS 17.20.340 reads as follows:

Sec. 17.20.340. SCOPE OF PROVISIONS DEALING WITH SALE. The provisions of this chapter regarding the sale of food, drugs, devices, or cosmetics include the manufacture, production, processing, packing, exposure, offer, possession, and holding of them for sale; the sale, dispensing, and giving of them, and the supplying or applying of them in the conduct of a food, drug, or cosmetic establishment.

Using the Alaska Food, Drug, and Cosmetic Act (AS 17.20) means that certain enforcement provisions in that Act, including criminal penalties (AS 17.20.310) and injunctive relief (AS 17.20.280), will apply to the enforcement of the irradiated food prohibition. Certain other provisions, including embargo and destruction of the items, would not apply to this prohibition as the bill is presently written; if you wish to have these provisions apply also, please advise.

If I may be of further assistance, please advise.

Attachment

TLB:gc
WKG1:036

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 1, 1988

SUBJECT: HB 388 and the Commerce Clause
TO: Representative Randy Phillips
FROM: Theresa L. Bannister *TB*
Legislative Counsel

You have requested a written opinion on whether the prohibition in HB 388 against selling irradiated food in the state violates the Commerce Clause of the U.S. Constitution. The prohibition applies only to food sold in the state, and it does not directly regulate or discriminate against interstate commerce. The state has a legitimate interest in protecting the health and welfare of its citizens, and the bill appears to be a reasonable exercise of this power. Although the prohibition will affect interstate commerce, I cannot think of an interstate commerce effect of this bill that would be considered to clearly exceed the protection of the physical health of the state's citizens. Since the benefits of this legislation are intangible and cannot be effectively measured against its effects on interstate commerce, and since the effects on interstate commerce do not clearly exceed the benefits of the bill, it is likely that a court would uphold the legislature's decision to exercise the state's police power in this manner. For the above reasons it is my opinion that HB 388 would not be held to violate the Commerce Clause of the U.S. Constitution.

If I may be of further assistance, please advise.

TLB:gc
WKG1:058

because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account among other things representations made or suggested by statement, word, design, device, sound or combination of them, and the extent to which the labeling or advertisement fails to reveal facts material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement or under customary or usual conditions of use. (§ 2(l) ch 129 SLA 1949)

Collateral references. — Products liability of manufacturer or seller for injury or death allegedly caused by failure to warn regarding danger in use of vaccine or prescription drug, 94 ALR3d 748.

scription drug manufacturer's liability for product-caused injury, 94 ALR3d 1080.

What constitutes "false advertising" of food products or cosmetics within §§ 5 and 12 of the Federal Trade Commission Act (15 USCS §§ 45, 52), 50 ALR Fed. 16.

Promotional efforts directed towards prescribing physician as affecting pre-

Sec. 17.20.310. Penalties. A person who violates the provisions of AS 17.20.290, upon conviction, is punishable by imprisonment for not more than six months, or by a fine of not more than \$500, or by both. If the violation is committed after a conviction under this section has become final, the person is punishable by imprisonment for not more than one year, or by a fine of not more than \$500, or by both. (§ 5(a) ch 129 SLA 1949)

Sec. 17.20.320. Effect of written guaranty. A person is not subject to the penalties of AS 17.20.310 for having violated AS 17.20.290(1) or (3) if that person establishes a guaranty or undertaking signed by and containing the name and address of the person residing in the state from whom the article was received in good faith, to the effect that it is not adulterated or misbranded within the meaning of this chapter. (§ 5(b) ch 129 SLA 1949)

Sec. 17.20.330. Liability for dissemination of false advertising. No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, is liable under AS 17.20.310 for the dissemination of the false advertisement, unless the publisher, licensee, agency or medium has refused the request of the commissioner of health and social services to furnish the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the state who caused dissemination of the advertisement. (§ 5(c) ch 129 SLA 1949; am Executive Order No. 51, § 31 (1981))

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any room, building, vehicle of transportation or other structure which is unsound, or contains filthy, decomposed, or putrid substance, or a substance that may be poisonous or deleterious to health or otherwise unsafe, is a nuisance. Whenever the commissioner of environmental conservation finds such an article, the commissioner shall immediately condemn or destroy it or in any other manner render it unsalable as human food. (§ 6(d) ch 129 SLA 1949; am Executive Order No. 51, § 28 (1981))

Effect of amendments. — The 1981 amendment added "of environmental con-
servation" following "the commissioner" in the second sentence.

Sec. 17.20.280. Injunction proceedings. The commissioner of environmental conservation and the commissioner of health and social services may apply to the superior court for, and the court has jurisdiction to grant, a temporary or permanent injunction restraining a person from violating their respective portions of AS 17.20.290. (§ 4 ch 129 SLA 1949; am Executive Order No. 51, § 29 (1981))

Effect of amendments. — The 1981 amendment added "of environmental con-
servation and the commissioner of health and social services" following "commis-
sioner" and added "their respective por-
tions of" following "person from violating."

Article 6. Prohibited Acts and Penalties.

Section	Section
290. Prohibited acts	320. Effect of written guaranty
300. Determination of misleading labeling or advertisement	330. Liability for dissemination of false advertising
310. Penalties	

Collateral references. — 25 Am. Jur. 2d, Drugs, Narcotics, and Poisons, § 40 et seq; 35 Am. Jur. 2d, Food, §§ 63 et seq., 74 et seq.

Sec. 17.20.290. Prohibited acts. (a) The following acts and the causing thereof are prohibited:

- (1) the manufacture, or sale, or delivery, holding, or offering of sale of food, drug, device, or cosmetic that is adulterated or misbranded;
- (2) the adulteration or misbranding of food, drug, device or cosmetic;
- (3) the receipt in commerce of food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery of them for pay or otherwise;
- (4) the sale, delivery for sale, holding for sale, or offering for sale of an article in violation of AS 17.20.050 — 17.20.070 and 17.20.100;



Official Business

Alaska State Legislature

House

REPRESENTATIVE RANDY PHILLIPS
HOUSE DISTRICT 15
(907) 465-4949

P.O. BOX V
State Capitol
Juneau, Alaska 99811

Memorandum

TO: Representative John Sund
Chairman, House Judiciary Committee

FROM: Representative Randy Phillips *RCP*

DATE: March 7, 1988

RE: Food and Drug Administration
House Bill 388

At the request of Peggy Sepulveda of your office, my staff contacted the Food and Drug Administration with a request that it provide someone to testify at the upcoming hearing on CSHB 388 (HESS).

Carl Dasser of the Federal-State Relations Division of Food and Drug Administration has advised me that the FDA cannot testify on this matter. According to Mr. Dasser, the Code of Federal Regulations prohibits the FDA from testifying before state courts, administrative hearings, state legislative committees, etc. unless (1) there is an official request (preferably written) from the person or committee requesting such testimony and (2) agency has had a chance to approve the testimony that is to be given. The FDA has been requested by other states to provide testimony on the issue of food irradiation and has uniformly refused to testify; therefore, it is, at this time, refusing our request to present testimony.

Mr. Dasser indicated that if you had any questions about the testimony process that he would be happy to address your questions. His telephone number is (301) 443-6200. If you wish to present the FDA with a written request for testimony and questions that you would like answered, please address this to: Heinz Wilms, Director, Division of Federal-State Relations (HFC-151), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. If you or a member of your staff wishes to discuss the subject of food irradiation on an informal basis, please contact Mr. Dasser and he can make arrangements for someone from the Center of Food Safety to contact you.

Again, Mr. Dasser emphasized that since the FDA had turned down similar requests from other states, it felt it could not honor a request to participate in the hearing to be held this coming Wednesday.

HHS NEWS

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SENT TO YOU BY YOUR
UNITED STATES SENATOR

Ted Stevens

ALASKA

P85-48
FOR IMMEDIATE RELEASE
December 12, 1985

Food and Drug Administration
James Greene (202) 245-1144
(Home) (202) 544-1581

HHS Secretary Margaret M. Heckler today announced that she has approved for publication a Food and Drug Administration final rule to broaden the approved uses of radiation in foods.

"This process can lead to reduced use of pesticides on foods," Secretary Heckler said as she signed a final regulation allowing the use of microwaves (low-level ionizing energy) to kill insects in harvested fresh fruits and vegetables.

"I began work on this issue -- years ago -- as a member of Congress," Secretary Heckler said. "This regulation is an important step forward for consumers -- a proven, safe method to protect fresh fruits and vegetables from insects, and to inhibit spoilage and extend shelf life.

"Treatment of fruits and vegetables with microwaves may make some foods more available or less expensive. Unlike chemical pesticides--some of which are now under attack--irradiation leaves no residue in food. It does not make food radioactive, nor does it pose any radioactivity danger to the consumer."

Approval of the regulation will expand the uses of low-level radiation already allowed by the Food and Drug Administration. The process has been approved for use in the United States for two decades to kill insects in wheat and to slow the development of sprouts in potatoes. In addition, the use of radiation was approved in 1983 for herbs and spices, and in July 1985, for pork.

FDA Commissioner Frank E. Young, M.D., commented, "In all, the United States and 20 other countries allow the use of microwaves on foods."

-MORE-

Secretary Heckler said that "30 years of research have shown this process to be safe." The secretary said that foods exposed at the picowave level allowed under the regulation (or at much higher levels, as well) do not become radioactive. Consumers are not exposed to radiation. Nutritional values are not significantly changed, she said.

The regulation will permit:

--fresh fruits and vegetables to be picowaved at up to one kiloGray* to kill arthropod pests (insects) and to inhibit spoilage;

--dry or dehydrated vegetable substances (herbs and spices) to receive up to 30 kiloGray to kill insects and bacteria. The limit for the use has been 10 kiloGray.

Under the regulation, manufacturers, food processors and food retailers must label fresh fruit and vegetables which have been exposed to picowaves. At the retail level, signs may be placed over bins, or on boxes if the items are displayed in the box, or items may be individually labeled.

All retail level labels will include the international logo first used in the Netherlands (see attached).

In addition, retail level labeling or displays must carry the statement "PICOWAVED," and may include the reason, such as: "PICOWAVED TO CONTROL SPOILAGE" or "PICOWAVED TO EXTEND SHELF LIFE."

After two years, FDA will consider whether the international logo is well enough known by the American public to be used without written labeling.

The regulation signed today will be published in the Federal Register following review by the Office of Management and Budget.

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*EDITORS NOTE: Gray (abbreviated Gy) is the international unit for expressing the amount of energy absorbed from irradiation. It replaced the older rad unit. One Gy equals 100 rad. Thus, one kiloGray is the same as 100 kilorads (used in earlier releases).

INTERNATIONAL LOGO





STATEMENT BY
FRANK E. YOUNG, M.D., PH.D.
COMMISSIONER
FOOD AND DRUG ADMINISTRATION
PUBLIC HEALTH SERVICE
DEPARTMENT OF HEALTH AND HUMAN SERVICES

BEFORE THE
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT
COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES

June 19, 1987

SENT TO YOU BY YOUR
UNITED STATES SENATOR

Led Stevens
ALASKA

FOR RELEASE ONLY UPON DELIVERY

Mr. Chairman:

I welcome the opportunity to be here today to testify about the activities of the Food and Drug Administration (FDA) in the area of food irradiation.

Background

Our involvement with irradiation technology to preserve food goes back many years. The possibility that benefits could be derived from irradiated food was explored as early as the late 1930's. It was studied in earnest by the United States government in the 1950's as a potential preservative for military food rations as well as a means of eliminating microorganisms from food, controlling insects, and extending the shelf life of fruits and vegetables under the Atomic Energy Commission's "atoms for peace" program. Although FDA had not yet acquired the specific regulatory authority over the application of this new technology that the Agency possesses today, FDA became involved nonetheless by advocating that wholesomeness testing be conducted before any irradiated foods be marketed or otherwise routinely used.

FDA's involvement in the development of food irradiation became pivotal in 1958, when the Congress mandated in effect, that food irradiation be subject to Federal premarket approval. This involvement was accomplished through a change in the Federal Food, Drug, and Cosmetic Act to prohibit the use of a new food additive until its sponsor established the additive's safety and FDA issued a regulation

specifying its conditions of use. The definition of a food additive was drafted to specifically include sources of radiation intended for use in processing food because this use may affect the characteristics of food.

Since then, FDA has approved food irradiation for five different uses:

- o The first was to control insects in wheat and wheat flour in 1963.
- o The second, in 1964, was to inhibit sprout development in white potatoes.
- o In 1985 FDA approved a third use for food irradiation -- to control the organism that causes trichinosis in pork.
- o The most recent approvals, which occurred simultaneously in 1986, involved two uses. These were:
 - to slow growth and ripening and to control insects in fresh fruits and vegetables and
 - to kill insects and control microorganisms in dry or dehydrated herbs, spices, seeds, teas and vegetable seasonings.

As I will describe later in my testimony, FDA's principal focus in evaluating each of these uses was to ensure the safety of the irradiated food.

As these approvals indicate, many different technical effects can be accomplished by irradiating food. Irradiation can extend a

product's shelf life by inhibiting the growth and ripening of fresh produce, and by reducing the number of microorganisms that spoil food. Complete sterilization of food by irradiation results in a shelf-stable product similar to canned food. Pathogenic organisms, parasites, and insects found in food can be controlled by irradiation. Additionally, irradiation can change certain physical properties, such as decreasing the rehydration time of dehydrated vegetables, increasing the yield of fruit juice, and tenderizing meat. Other means available for accomplishing the same purposes as the permitted uses in our food irradiation regulations include cooking and chemical treatments.

When food is irradiated, most of the radiation passes through the food without being absorbed. It kills or sexually sterilizes any insects, and prevents fruits or vegetables from ripening too fast thereby extending shelf life. Irradiation leaves no residue in food. It does not make the food radioactive, nor does it pose any danger of radioactivity to consumers. Consumers are not exposed to radiation through handling or ingesting irradiated food.

The ionizing radiation used to accomplish food irradiation can come from various sources, including gamma rays, x-rays and electron beams derived from electron beam accelerators. While radioactive sources that produce gamma rays are currently the most commercially used sources in producing the desired energy levels, these other non-radioactive sources (i.e. electron beams and x-rays) can substitute for them quite well in many instances.

The amount of radiation necessary to treat foods varies depending upon the intended use. Multicell organisms are affected more readily than single cell organisms; growing organisms are affected more readily than dormant organisms. Thus, doses sufficient to slow the ripening process, inhibit sprouts and kill insects would not be enough to kill organisms such as the kind that cause trichinosis. In turn, microbes simpler than trichinella spiralis require a higher dose. Viruses, which are smaller than a biological cell, are very resistant to the effects of radiation.

With a few exceptions for minor dry ingredients, food irradiation permitted by FDA involves technologically low levels of radiation. For example, the amount of radiation necessary to sterilize food is approximately 50 times higher than the amount needed to control insects. It is true, of course, that food irradiation does require levels that are far too high to directly apply to humans, such as the levels used in chest x-rays, for example, but this fact has no bearing on the safety of food for human consumption that is treated with radiation.

A Spectrum of Concerns

Even so, the fact that this process exposes food to ionizing radiation understandably singles it out for more public attention and

concern than most food additives receive. And as with any controversial subject, there is a broad spectrum of views.

On one hand, we have heard expressions of frustration that, in the most technologically advanced country in the world, the full potential of food irradiation is not being met, especially compared with its use in other countries. Many of these concerns have been reflected in recent legislative efforts by Representative Morrison and others to facilitate research and development leading to commercial use as well as enhance public acceptance of food irradiation.

At the other end of the spectrum, some people have expressed the view that all of the safety issues related to food irradiation have not been resolved. These concerns are reflected in legislative efforts by Representative Bosco and others that would repeal some of FDA's approvals of food irradiation and require the National Academy of Sciences to study the risk to human health and the environment presented by the irradiation of food.

I can appreciate both points of view and welcome the opportunity to address these concerns today.

FDA's mission is to determine the safety of the process under specific conditions of use. In summary, I remain convinced that our actions in accomplishing this mission have been scientifically sound. I would characterize our approach over the years as fundamentally cautious and conservative.

We are, perhaps, situated even more toward the cautious end of the spectrum when compared with other nations. The Codex Alimentarius Commission, of the World Health Organization and Food and Agricultural Organization, based on a recommendation of its Joint FAO/IAEA/WHO Expert Committee has reviewed and assessed all data on the wholesomeness of irradiated foods, and has recommended that member nations permit the use of irradiation on food in doses up to 10 times higher than those that FDA has approved.

The Regulation of Food Additives

In carrying out its responsibilities, FDA has followed the same general procedures in the development of regulations for the use of sources of radiation that it follows in the development of regulations for other food additives. Congress' decision to include irradiated food in the food additive provisions of our statute clearly shows that it intended FDA to be responsible for regulating the use of irradiation by requiring a rigorous review of the potential hazards associated with this food treatment process.

As I stated earlier, the burden of demonstrating that a source of radiation can be used safely to irradiate foods was, as with other additives, placed on the proponents of its use. The principal procedure established for premarket approval of an additive's safe use

is the filing of a food additive petition. Such a petition must contain adequate data to demonstrate the safety of the use.

In addition, under the food additive provisions of the act, there is a second procedure by which food additive approvals may come about. The government may, on its own motion, propose to approve a particular set of conditions of use. The evidence supporting the safety of these conditions of use must meet the same standard for demonstrating safety as the evidence in a petition from industry. Generally speaking, the latter procedure is used far less frequently than the petition process. It is generally reserved for circumstances in which the Agency believes that proposing to approve a particular use will be of clear benefit to public health or will allow the Agency to operate more efficiently. In the case of food irradiation, both procedures have been utilized, for reasons that I will explain shortly.

The principal issue associated with the approval of an additive by either procedure is, of course, safety -- and the quality and quantity of scientific evidence needed to establish safety. As with any product or process, it is impossible to prove beyond any doubt that no harm will ever result under any conceivable circumstance. Congress recognized this fact in 1958. In the Committee reports from both Houses on the Food Additives Amendment, Congress said that safety requires proof of a reasonable certainty that no harm will result from the proposed use of any additive.

Food Irradiation and Safety Testing: Early Developments

Since the 1960's, when the first petition for the treatment of food with radiation sources was submitted, the Agency has been confronted with questions about what test procedures are appropriate to establish to a reasonable certainty that no harm will result from the use of radiation sources in the treatment of food.

Traditionally, high dose animal feeding studies are used to determine the safety of a food additive. Such testing requires a determination of the highest "no-effect level" for the tested substance and consideration of the amount of the substance likely to be consumed. To allow for uncertainty in relating data gained from laboratory animals to humans, a 100-fold safety factor is typically applied. In other words, the Agency will not approve human consumption at a level that is any higher than 1 percent of the highest level of consumption of which there was no adverse effect in animals.

Initial efforts by FDA and industry to establish the safety of irradiated foods relied on feeding irradiated food to laboratory animals. In effect, irradiated food was to be tested as if it were a discrete chemical entity similar to a "conventional" food additive. The initial philosophy of the FDA scientists was to develop a core of wholesomeness studies on different types of foods to provide a matrix from which the safety of other foods could be deduced. This approach yielded enough data to permit the Agency in the 1960's to approve

petitions for certain specified uses of ionizing radiation for inspecting food, controlling insect infestation in wheat and wheat flour, and inhibiting sprouting in white potatoes.

Other early petitions did not result in regulations for a variety of reasons. Petitions for the use of radiation for microbial control on citrus fruit, strawberries, fish and fish products, and ham were withdrawn without prejudice because they lacked sufficient data to support the effectiveness or the safety of the process. FDA did not act on other petitions for irradiation of other foods because they were clearly incomplete.

As scientists were discovering, evaluating the safety of irradiated foods by traditional testing methods was impractical for several reasons. The most significant problem was the inability to obtain the 100-fold safety factor. Because the irradiated food itself was considered the substance to be tested in these studies, it was impossible in most instances to feed the exaggerated amounts of food that are necessary for the purpose of traditional toxicological testing.

FDA found that more than half of the petitions that it was receiving on irradiation, as originally presented, did not provide necessary and persuasive evidence to support the requested regulations. As a result, the Agency's Bureau of Science conducted a seminar in 1967 for government scientists and administrators interested in the

processing and review of petitions involving irradiation of food. The seminar presentations were compiled into a report that was used as an aid to evaluation. The 1967 seminar noted the need for more basic research in various disciplines to improve safety evaluation.

Perhaps the low point for food irradiation occurred shortly thereafter, when in 1968 FDA revoked three regulations for irradiating bacon. This revocation reflected a culmination of FDA's concerns about the quality of the safety data being submitted in many irradiated food petitions. When FDA received a petition for irradiating ham that relied heavily on reports originally submitted with respect to bacon, the Agency chose to require submission of the relevant raw data on which the original reports were based. The Agency's reevaluation resulted in FDA concluding that the safety of radiation-preserved bacon had not been sufficiently demonstrated. This conclusion, and resulting revocations, discouraged interest in food irradiation for several years.

Food Irradiation and Safety Testing: An Evolution of Thought

Since 1963, however, scientists have learned much about radiation chemistry of foods, and new scientific data addressing the earlier questions and problems have become available. In the late 1970's, these developments resulted in a renewed interest in irradiation as a possible safe alternative to the use of chemicals in food -- which in turn led FDA to review of the complex issue of irradiated foods. An

internal FDA task force, the Bureau of Foods Irradiated Food Committee, was formed to evaluate the Agency's policy on irradiated foods in light of the then current knowledge in toxicology and radiation chemistry and to recommend criteria for safety evaluation.

The first question confronting the Committee was: what should be tested? Or, more appropriately, what is the difference between an irradiated food and an unirradiated food? The Committee concluded that the only difference of toxicological relevance was the products formed during the irradiation process.

The Committee then asked whether all such products should be of concern, or whether concern should be limited to some smaller portion of these products. Working with data from the U.S. Army's High Protein Food Sterilization Program, the Committee found that of 65 substances produced by irradiation that had been identified by Army scientists, most were also found in cooked meats and in other foods. Only six substances (or about 10 percent) could not be verified in the literature as being present in non-irradiated food, although these six were similar to natural food constituents. The Committee thus concluded that possibly up to 10 percent of all radiolytic products may be unique to irradiated food, although not enough is known about components of nonirradiated foods at such low concentrations to conclude that these 10 percent are indeed unique.

Nonetheless, the Committee decided to assume that unique radiolytic products (URP's) are formed during food irradiation. Based on a considerable body of data on radiation chemistry of foods the Committee then deduced that at an absorbed dose of 1 "kilogray" (kGy) of radiation, about 3 parts per million in a food substance could be unique to irradiated food. Because more than 10 different URP's are likely to be formed, the concentration of any one URP would thus be less than one part per million. The Committee concluded that the chances of a single URP of unusual toxicity being formed in significant amounts at doses below 1 kGy would be negligible, especially since the identified products presumed to be unique are chemically similar to other food components. The Committee also pointed out that its estimates probably overstated the total number of URP's.

The Committee concluded that food irradiated at a dose not exceeding 1 kGy is safe for human consumption and that below this dose, animal feeding tests are not necessary to establish safety. The Committee's finding of safety applied even to a diet where a substantial proportion of the food was irradiated at 1 kGy. Annual feeding and other toxicity tests were recommended, however, for foods irradiated above 1 kGy.

The Committee further concluded that a food that comprises only a small fraction of the human diet (e.g. nutmeg) and that is irradiated at doses up to 50 kGy would necessarily contribute far fewer radiolytic

products to the daily diet than a food representing a significant fraction of the diet irradiated at 1 kGy. Consequently the Committee also recommended that foods comprising no more than 0.01% of the daily diet and irradiated at 50 kGy or less also be considered safe for human consumption without toxicological testing.

As a check on the Committee's findings, FDA's Bureau of Foods established a second team of scientists, the Irradiated Foods Task Group, to review all available toxicological data concerning foods treated with irradiation. The major objectives of this Task Group were to compile and summarize the toxicology data pertaining to irradiated foods, identify any consistencies with respect to adverse findings, look for patterns or trends in results among the studies, and summarize the experimental results at the end of the review. They also tried to determine whether food irradiated at a dose above 1kGy could be considered safe without additional testing, as recommended by Codex Alimentarius. The review involved identifying from FDA files and from open literature all relevant toxicology studies (over 400). The Task Group examined all the studies, paying special consideration to those that appeared to raise questions about adverse effects. The Task Group concluded that studies with irradiated foods had not shown adverse toxicological effects and agreed with the previous Committee's conclusion that there was an adequate margin of safety for foods irradiated below 1 kGy. Hence, the Task Group agreed that toxicology tests on food irradiated at 1 kGy or below are not needed to support

a conclusion that such foods are safe. However, this data base was not adequate to support a broad decision that foods may be irradiated safely at higher doses.

Regulatory Efforts

In March of 1981, FDA announced in the Federal Register the availability of the first Committee's report and invited the public to comment on it. The Agency also stated that it was considering several options, including the possible issuance of regulations on the Commissioner's initiative to permit irradiation of food at doses not exceeding 1 kGy. Such an Agency-initiated regulation would be predicated on the view that since safety had been established at the 1 kGy level, a review of petition after petition for uses within that dose range would be an unnecessary burden and expense to the taxpayers.

Three years later, in February 1984, FDA published a proposal for its cornerstone regulation on food irradiation. Among other things, the Agency proposed to permit the use of irradiation at levels not to exceed 1 kGy for insect disinfestation of food and for the inhibition of growth and maturation of fresh fruits and vegetables. We designed our proposal to assure that no outstanding safety questions remained with regard to four important issues: radioactivity, radiolytic products, nutritional and microbiological concerns.

The Agency simultaneously proposed to permit the use of irradiation at higher doses as well -- 30 kGy -- for microbial disinfection of dried spices and dried vegetable seasonings. This higher dosage level was consistent with the recommendation of the Committee that foods comprising only a small fraction of the human diet could be safely irradiated at 50 kGy. Also, such foods are not sources of nutrients and, being dry, cannot support microbial growth.

In this case, as an additional safety factor, the Agency further noted that because spices are dry, irradiation would likely cause formation of fewer URP's than it would in a moist food. This is because most of the radiolytic products formed in food result from reactions of the hydroxyl radical with other food components -- and water is the primary source of hydroxyl radicals in food.

The Agency did lower the permitted dosage level for spices and seasonings in the proposal to 30 kGy from the 50 kGy that the Committee felt would be safe. FDA is obligated to set a limitation on the levels of use of any food additive substance so that the maximum levels are no higher than reasonably required to accomplish the intended technical effect. In this case, 30 kGy was considered sufficient from an effectiveness standpoint.

The final regulation for these uses was published two years later with only minor modifications. In the interim, FDA approved the use of irradiation not to exceed 1 kGy to kill trichinae in pork based on a petition that it received.

Lingering Misperceptions

Since then, we have discovered that two common misperceptions have developed about FDA's basis for approving these uses and I am happy to have this opportunity to address them. The first is that the regulations were deficient -- and even illegal -- because they were not based on animal testing, even though the law does not mandate any specific type of test.

We can all agree that there must be sufficient testing to support the conclusion that a reasonable certainty exists that no harm will result from the expected use of an additive. Logically, any test that would not contribute to this conclusion should not be required. FDA has not required animal testing in the past in those situations where, by chemical or other testing and sound reasoning, it could conclude that the use of an additive was safe without animal testing. We are satisfied that low doses and for minor uses of food irradiation, this is the case. Animal testing is simply too insensitive to show an effect from irradiation of food at low doses and, thus, would not contribute additional information to the evaluation of the safety of such uses.

As it turned out, our Task Force's review of the existing toxicological data led to the second misperception -- that the data to support the regulations were inadequate because only five of the 409 studies reviewed by FDA were considered by Agency scientists to be

properly conducted and reported. It is true that most of the reports were inadequate by present-day standards and could not stand alone to support safety. Nonetheless, many contained individual experimental components which, when examined either in isolation or collectively, allowed the conclusion that consumption of foods treated with low levels of irradiation did not appear to cause adverse toxicological effects.

Further, many of the studies were deemed useful for resolving certain questions. For example, if a potent toxic material were present at any level of toxicological significance in irradiated foods ingested by test animals, some consistent toxicological signs would be manifest in the studies reviewed. However, agency scientists saw no consistent patterns or trends of adverse effects that might be attributable to exposure to food irradiated at low dose levels.

Thus, while the animal feeding studies were consistent with a finding that the process is safe, it should also be remembered that FDA did not rely on any of the reports of animal feeding studies as the basis for its regulations. Rather, we relied primarily on data we had on the effect of radiolytic products.

Conclusion

The future of food irradiation will be determined primarily by the actions of consumers and the food industry rather than by FDA. It is important to remember that FDA's responsibility in the evaluation of

food irradiation is limited to the determination of the safety of the process under specific conditions of use. FDA has no proper role as a promoter of a specific food additive or food process. The primary responsibility for such activities remains with industry and consumers who choose irradiated food. In addition, industry's role is to assess the feasibility of this technology and to determine its commercial potential.

Our present posture is to refrain from initiating any more across-the-board rulemaking at dosage levels higher than 1 kGy and to review any petitions that may be submitted to us on a case-by-case basis. At this time, two toxicity considerations prevent the Agency from proposing a general regulation allowing doses up to 10 kGy as recommended by the Codex Alimentarius Standard. First, doses sufficiently above 1 kGy irradiation may be able to retard microbial spoilage without killing all spores of *Clostridium botulinum*, the pathogen/bacterium that causes botulism. We must ensure that *C. botulinum* cannot grow and produce a toxin that constitutes a health hazard. If irradiation kills the bacteria that cause the symptoms of spoilage, such as a spoiled odor, but fails to kill all the botulinum spores, a particularly dangerous situation could result. Based on current knowledge, FDA is unable to prescribe generic conditions of irradiation for all foods at all feasible doses to ensure that *C. botulinum* would not develop and produce toxin without obvious spoilage.

At dosage levels not exceeding 1 kGy there is no such risk because food would spoil in the same manner as nonirradiated food. This is because a dose of 1 kGy or below helps extend shelf life by retarding ripening or sprouting, but is not enough to kill bacteria that cause spoilage.

Second, FDA reviewed a number of animal feeding studies to determine whether foods that are irradiated at doses above 1 kGy could be considered safe without additional toxicological studies. The Agency found this data base, taken alone, is not yet adequate to support a broad decision that all foods may be irradiated safely at higher doses.

Finally, as with any food processing, irradiation can reduce the level of nutrients somewhat, depending on the condition. Based on our earlier review, nutrient loss due to irradiation at doses below 1 kGy appear to be of no dietary significance. FDA has not yet permitted a food that is a good source of vitamins to be irradiated at higher doses. We believe that these should be evaluated on a case-by-case basis.

HISTORY OF FDA ACTIONS ON FOOD IRRADIATION

- February 1963: FDA approved gamma radiation preservation of canned bacon.
- August 1963: FDA approved gamma radiation for control of insect infestation of wheat and wheat products.
- August 1963: FDA approved electron beam radiation for the radiation preservation of canned bacon.
- October 1964: FDA approved gamma radiation for sprout inhibition of white potatoes.
- December 1964: FDA approved X-radiation for the radiation of preservation of canned bacon.
- July 1966: FDA approved electron beam radiation for the control of insect infestation of wheat and wheat products.
- July 1966: FDA approved labeling requirements for food treated by radiation.
- October 1968: FDA rescinded the bacon regulations.
- September 1979: Director, Bureau of Foods established the Irradiated Food Committee to provide a total reassessment of all relevant issues applicable to irradiated foods.
- March 1981: Advance Notice of Proposed Procedures for the Regulation of Irradiated Foods for Human Consumption (ANPR) published in the Federal Register.
- Autumn, 1981: FDA offered the opportunity for use of irradiation for insect disinfection during the California Medfly situation based on certain conditions. However, no firm furnished evidence of meeting these conditions.
- July 1983: FDA approved gamma radiation for microbial decontamination of a specific list of spices and vegetable seasonings.
- February 1984: Proposed rule published in the Federal Register for the use of gamma radiation for sprout inhibition and shelf-life extension of fresh fruits and vegetables, for insect disinfection of food, and for sterilization of spices.
- June 1984: FDA approved gamma radiation to control insect infestation in garlic powder, onion powder, and certain dried spices.

- April 1985: FDA expanded the specific list of dried spices and vegetable seasoning to include additional herbs, spices, and vegetable seasonings, and blends of these seasonings.
- June 1985: FDA approved gamma radiation to control insect and microbial infestation in certain dried enzyme preparations.
- July 1985: FDA approved gamma radiation treatment of pork to control Trichinella spiralis.
- April 1986: FDA issued final rule approving ionizing radiation for maturation inhibition of fresh food, insect disinfection of food, and sterilization of spices. The final rule included labeling requirements for both retail and non-retail use, and Current Good Manufacturing Practice (CGMP) provisions. The Agency received objections to the final rule during the objection period.
- February 1987: FDA denied requests for a stay of the regulation for pork (1985) and for the general regulations (1986).