

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
4778 HJUD SB 351 - SB 413

33

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351

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

H. JUD. 5-4-88 1:30p.m.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to arbitration
of medical malpractice claims."
Sponsor: Senator Sturgulewski
Requestor: Senate HESS

Agency Affected: Department of Law
BRU: Legal Services
Components: Operations

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 | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND | -0- | -0- | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Richard I. Peeues

Prepared by: Richard I. Peeues, Director
Division: Administrative Services Division

Phone: 465-3672
Date: February 15, 1988

Approved by Commissioner: Grace Berg Schaible, Atty. Gen.
Agency: Department of Law

Date: February 15, 1988

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 351

This bill amends AS 09.55.535(e) by providing that the requirement of subsection (e), that a voluntary agreement to arbitrate must be reexecuted each time a person is admitted to a hospital, applies only to agreements between a patient and a hospital. The voluntary arbitration statute otherwise applies to any health care provider. Because this bill deals with patients and hospitals, it will not have a fiscal impact on the Department of Law.

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

3903 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508

While in Juneau
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3818

M E M O R A N D U M

Senate

27 April 1988

TO: Representative John Sund
FROM: Senator Arliss Sturgulewski *AS*
RE: Senate Bill 351

I would appreciate your scheduling Senate Bill 351 - "An Act relating to arbitration of medical malpractice claims" for a hearing before the House Judiciary Committee. This legislation is designed to make it more clear that of the arbitration agreements that patients sign with doctors and with hospitals, only the agreement signed with a hospital needs to be re-executed each time a patient enters a hospital.

Hospitals wish to have this clarified so that they are not obliged to perform the paperwork necessary to re-execute an agreement between a patient and a doctor when a patient enters the hospital.

I am attaching a sample of the documents used for arbitration agreements, a copy of the current statute governing medical arbitration, and a letter of support for this bill from the Health Association of Alaska. I am also attaching a letter from Janet K. Temple, a Soldotna attorney who made the original bill request, outlining the concerns of some physicians in the Soldotna area.

Jay Livey, Legislative Liaison for the Department of Health & Social Services says this bill is not applicable to that department. There is a zero fiscal note from the Department of Law attached.

Please call me or Melissa Fouse of my staff at 465-3818 if you have any questions.

JANET K. TEMPEL
Attorney at Law
P.O. Box 2073
Soldotna, Alaska 99669
Telephone (907) 262-4604

January 27, 1988

Senator Arliss Sturgulewski
2957 Sheldon Jackson
Anchorage, Alaska 99508

Dear Senator Sturgulewski:

On behalf of Marcus C. Deede, M.D., I previously requested that AS 09.55.535(e) be amended so as to clarify that this particular provision applied only to an arbitration agreement between a patient and a hospital, and not to an agreement between a patient and a physician.

There are at least two physicians in the Soldotna area who have been routinely using patient/physician arbitration agreements for a considerable period of time. Routinely, the patients sign the agreements at the doctor's offices during their initial visits. The agreements are then in effect until revoked by the patients, under the guidelines set out in the statute.

As long as the patients are not hospitalized, there would be no controversy concerning the interpretation of AS 09.55.535(e). However, if patients are hospitalized, the statute as written is unclear whether the requirement to re-execute an arbitration agreement is solely applied to patient/hospital agreements (which seems to be the intent) or whether it also applies to patient/physician agreements.

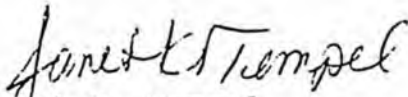
Since most people are rarely hospitalized, it is logical and desirable to require a new patient/hospital agreement on each admittance, if the hospital is using the agreements. A previously signed agreement between a patient and a physician, however, contemplates that all future care provided by the physician, including hospitalizations, would be governed by the existing agreement. Having to present a new agreement on each hospitalization, therefore, is not only confusing to the patient, but generates unnecessary paperwork and expense, and requires administrative personnel from the doctor's office (or the hospital) to take additional time to re-explain the agreement and obtain new signatures.

Senator Arliss Sturgulewski
January 27, 1988
Page Two

As I indicated to you in a prior letter dated May 5, 1987, it appears that MICA, as well as the Attorney General's Office is of the understanding that the legislative intent was to have subsection (e) apply only to patient/hospital agreements, and not to patient/physician agreements. (Copy enclosed for your information.) Based on this, the local physicians have not been having their patients with existing arbitration agreements execute new agreements on admission to the hospital. The local physicians are concerned, however, that the existing language in subsection (e) leaves a loophole if a patient later attempts to void the agreement.

I hope this letter will be of assistance to you. Please let me know if I can assist further. Thank you for your consideration and assistance in this matter.

Yours truly,


Janet K. Tempel
Attorney at Law

JKT/rmc

cc: Marcus C. Deede, M.D.

Michael Lockwood, Administrator
Central Peninsula General Hospital

****PLEASE READ THIS DOCUMENT CAREFULLY****

**ARBITRATION AGREEMENT
FOR
PHYSICIANS AND PATIENTS**

1. EXECUTION OF THIS AGREEMENT IS NOT A PREREQUISITE FOR YOU, THE PATIENT, TO RECEIVE MEDICAL CARE OR TREATMENT.

2. The attending physician will provide medical care and services to the patient to the best of his skill or knowledge which medical care in the light of circumstances is possible and practical. The patient will cooperate fully with the attending physician by obtaining such medications as are prescribed, by following the instructions or the attending physician, by adhering to such treatment regimen or course of action as may be set forth and by paying all fees and charges in full as billed or as provided by prior special arrangement.

3. In the event that any malpractice claim or other dispute, controversy or issue may arise out of the rendition of care or treatment by the undersigned physician, during the period that this Agreement is in force, it is hereby agreed that such will be submitted to an arbitration board selected and governed by rules as hereinafter provided.

4. This arbitration agreement may be revoked by the person receiving the rendition of care or treatment within thirty (30) days after the execution of this Agreement by notifying the undersigned physician in writing. The thirty (30) day period of revocation is extended by any period that you are physically unable to execute a revocation. The physician is not entitled to revoke this Agreement.

5. The arbitration board shall consist of three arbitrators: one designated by the physician; one designated by the party claiming malpractice by the physician; one to be selected by mutual agreement between the physician and the party claiming malpractice. If mutual agreement on the third arbitrator cannot be reached, the Superior Court in the district in which the doctor is a resident, pursuant to A.S. 09.55.535(f), shall provide a choice of three or more persons who might serve. The party claiming malpractice and the physician may each alternatively strike one or more names until one remains, thereby providing a basis for final selection by the court. The third arbitrator selected pursuant to this procedure shall serve as the chairman of the arbitration board.

6. The provisions of the Uniform Arbitration Act as contained in A.S. 09.43.010 -.180, and A.S. 09.55.535, shall apply to arbitration pursuant to this agreement, if not in conflict with specific provisions of this agreement. The arbitration board shall render its decision in accordance with the laws and legal precedence of the State of Alaska. Discovery shall be afforded to the parties pursuant to the Alaska Rules of Civil Procedure and the hearing shall be conducted according to the Rules of Evidence as they are applied by the courts of Alaska. A.S. 09.55.540 -.548 and .554 -.560 and A.S. 09.65.090 shall apply to the arbitration procedure in addition to the other laws, legal precedence, Rules of Civil Procedure and Rules of Evidence of the State of Alaska.

7. The undersigned parties hereby acknowledge that they have read the foregoing arbitration agreement and understand the provisions contained therein.

8. This agreement is to remain in full force for all disputes, controversies, issues, or claims by the undersigned parties relating to care or treatment for the foregoing:

9. Wherever used, the term "physician" includes the physician and all employees, agents and associates of the physi-

This agreement terminates when the above-described care and treatment has been completed or on the ___ day of _____ 19___, whichever occurs first.

DATED this ___ day of _____, 19___.

PATIENT

PHYSICIAN

This form is hereby approved by the Office of the Attorney General for the State of Alaska.

DATED this 29 day of March, 1978.

OFFICE OF THE ATTORNEY GENERAL

By Robert M. Marshall

****PLEASE READ THIS DOCUMENT CAREFULLY****

**ARBITRATION AGREEMENT
FOR
HOSPITALS OR CLINICS AND PATIENTS**

1. EXECUTION OF THIS AGREEMENT IS NOT A PREREQUISITE FOR YOU, THE PATIENT, TO RECEIVE MEDICAL CARE OR TREATMENT. THIS AGREEMENT MUST BE RE-EXECUTED EACH TIME YOU ARE ADMITTED TO THE HOSPITAL.

2. The health care provider will provide medical care and services to the patient to the best of his skill and knowledge which medical care in the light of circumstances is possible and practical. The patient will cooperate fully with the health care provider by obtaining such medications as are prescribed, by following the instructions of the health care provider, by adhering to such treatment regimen or course of action as may be set forth and by paying all fees and charges in full as billed or as provided by prior special arrangement.

3. In the event that any malpractice claim or other dispute, controversy or issue may arise out of the rendition of care or treatment by the undersigned health care provider, during the period that this agreement is in force, it is hereby agreed that such will be submitted to an arbitration board selected and governed by rules as hereinafter provided.

4. This arbitration agreement may be revoked by the person receiving the rendition of care or treatment within thirty (30) days after the execution of this agreement by notifying the undersigned health care provider in writing. The thirty (30) day period of revocation is extended by any period that you are physically unable to execute a revocation. The health care provider is not entitled to revoke this agreement.

5. The arbitration board shall consist of three arbitrators: One designated by the health care provider; one designated by the party claiming malpractice by the health care provider; one to be selected by mutual agreement between the health care provider and the party claiming malpractice. If mutual agreement on the third arbitrator cannot be reached, the Superior Court in the district in which the health care provider is situated pursuant to A.S. 09.55.535(f), shall provide a choice of three or more persons who might serve. The party claiming malpractice and the health care provider may each alternatively strike one or more names until one remains, thereby providing a basis for final selection by the court. The third arbitrator selected pursuant to this procedure shall serve as the chairman of the arbitration board.

6. The provisions of the Uniform Arbitration Act as contained in A.S. 09.43.010 -.180, and A.S. 09.55.535, shall apply to arbitration pursuant to this agreement, if not in conflict with specific provisions of this agreement. The arbitration board shall render its decision in accordance with the laws and legal precedence of the State of Alaska. Discovery shall be afforded to the parties pursuant to the Alaska Rules of Civil Procedure and the hearing shall be conducted according to the Rules of Evidence as they are applied by the courts of Alaska. A.S. 09.55.540 -.548 and .554 -.560 and A.S. 09.65.090 shall apply to the arbitration procedure in addition to the other laws, legal precedence, Rules of Civil Procedure and Rules of Evidence of the State of Alaska.

SS AND HOLMES
ATTORNEYS AT LAW
AN ASSOCIATION OF
FEDERAL CORPORATION

CHRISTENSEN DRIVE
ANCHORAGE, ALASKA 99503
PHONE 263-1111

7. The undersigned parties hereby acknowledge that they have read the foregoing arbitration agreement and understand the provisions contained therein.

8. This agreement is to remain in force for all disputes, controversies, issues, or claims by the undersigned parties relating to care or treatment for the following:

9. The term "health care provider" includes the hospital or clinic and all agents, employees, servants, officers and directors of the hospital or clinic and physicians employed by or associated with the hospital or clinic.

This agreement terminates when the above-described care or treatment has been completed or on the ____ day of _____ 19____, whichever occurs first.

DATED this ____ day of _____, 19____.

PATIENT

HEALTH CARE PROVIDER

This agreement is extended to apply to outpatient care for the treatment described in paragraph 8 of this agreement.

DATED this ____ day of _____, 19____.

PATIENT

HEALTH CARE PROVIDER

This form is hereby approved by the Office of the Attorney General for the State of Alaska.

DATED this 29 day of March, 1978.

OFFICE OF THE ATTORNEY GENERAL

By [Signature]

health
association
of alaska

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790
REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

Chairman of the Board
John Vowell
Wrangell General Hospital

January 22, 1987


Chairman-Elect
Jim Gingerich
Fairbanks Memorial
Hospital

Memo To:

Senator Arliss Sturgulewski

Immediate Past Chairman
Mike Lockwood
Central Peninsula
General Hospital
Soldotna

From:

Harlan R. Knudson 
Executive Director
Health Association of Alaska

Secretary/Treasurer
C. Keith Campbell
Seward General Hospital

Subject:

Support - SB 351, Amending Arbitration Act

Delegate to the American
Hospital Association
Sister Barbara Haase
Ketchikan General Hospital

The Health Association of Alaska has reviewed and

Alternate Delegate to the
American Hospital Assoc.
Ed Zeine
Cordova Community
Hospital

supports SB 351, amending the arbitration act to require that

Delegate to the American
Health Care Association
Tom Boling
Our Lady of Compassion
Care Center
Anchorage

the arbitration agreement between the patient and the hospital

be re-executed at each admission.

#

Alternate Delegate to the
American Health Care
Association
Ronald Olthoff
Denali Center
Fairbanks

Delegate to the Healthcare
Forum
Ed Matewski
Sitka Community Hospital

Delegate to the National
Congress of Hospital
Governing Boards
Jan Treltner
Seward General Hospital

Government Institutions
Representative
Frank Sutton
Mt. Edgumbe Hospital
Sitka

Outpatient Facilities
Representative
Avis Hayden
Alaska Treatment Center
Anchorage

Executive Director
Harlan R. Knudson

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to arbitration
of medical malpractice claims."
Sponsor: Senator Sturgulewski
Requestor: Senate HESS

Agency Affected: Department of Law
BRU: Legal Services
Components: Operations

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 | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND | -0- | -0- | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Peques, Director Phone: 465-3672
Division: Administrative Services Division Date: February 15, 1988
Approved by Commissioner: Richard I. Peques
Grace Berg Schible, Atty. Gen. Date: February 15, 1988
Agency: Department of Law

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 351

This bill amends AS 09.55.535(e) by providing that the requirement of subsection (e), that a voluntary agreement to arbitrate must be reexecuted each time a person is admitted to a hospital, applies only to agreements between a patient and a hospital. The voluntary arbitration statute otherwise applies to any health care provider. Because this bill deals with patients and hospitals, it will not have a fiscal impact on the Department of Law.

HOUSE COMMITTEE REPORT

(7)

Date referred: 3/11/88

FURTHER REFERRALS:

HESS
Judiciary

DATE: _____

The Labor & Commerce Committee has considered SB 351

"An Act relating to arbitration of medical malpractice claims."

RECOMMENDS:

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

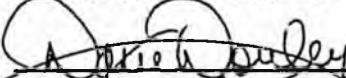
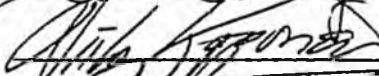
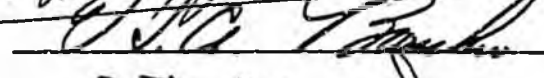
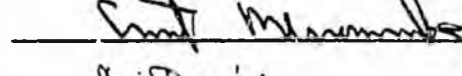
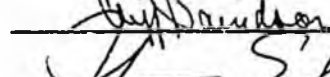
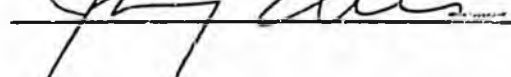
ADOPTS: _____ letter of intent


ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
 zero fiscal note same as previous zero fiscal note published 2/22/88
 zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:


Chairman's signature

SB

371

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

H. JUD.

5-4-88

1:30 P.M.

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/25/88

FURTHER REFERRALS: Finance

DATE: May 4, 1988

The Judiciary Committee has considered CSSB 371(Fin)

"An Act relating to alcoholic beverages in an area that has prohibited or restricted the sale of alcoholic beverages by local option election; and to delivery, purchase, and municipal regulation of alcoholic beverages."

RECOMMENDS:

- replace with HCS CS SB 371 (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:

[Handwritten signatures]

SIGNING OTHER RECOMMENDATIONS:

[Handwritten signature]

Chairman's signature

Original sponsors: Halford, Binkley,
Kelly, et al.

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 371 (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 alcoholic beverages in an area
7 that has prohibited or restricted the sale of alco-
8 holic beverages by local option election; and to
9 delivery, purchase, and municipal regulation of
10 alcoholic beverages."

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

12 * Section 1. AS 04.11.010 is amended by adding a new subsection to read:

13 (c) In a criminal prosecution for possession of alcoholic bever-
14 ages for sale in violation of (a) of this section, the fact that a
15 person possessed more than 12 liters of distilled spirits, 24 liters
16 or more of wine, or 45 liters or more of malt beverages in an area
17 where the sale of alcoholic beverages is prohibited under AS 04.11.-
18 490, 04.11.492, 04.11.496, or 04.11.500 creates a presumption that the
19 person possessed the alcoholic beverages for sale.

20 * Sec. 2. AS 04.11 is amended by adding a new section to read:

21 Sec. 04.11.015. PURCHASE FROM NONLICENSEE PROHIBITED. (a) A
22 person may not purchase alcoholic beverages from a person who is not a
23 licensee, permittee, or an agent or employee of a licensee or permit-
24 tee.

25 (b) A person who violates this section is guilty of a violation.

26 * Sec. 3. AS 04.11.150(a) is amended to read:

27 (a) Except as provided under (h) of this section, a [A] package
28 store license authorizes the holder to sell alcoholic beverages to a
29 person in response to a verbal solicitation for purchase received from

1 the person present on the licensed premises or in response to a writ-
2 ten solicitation made by a person known to the licensee for a purchase
3 to be received by the person making the solicitation.

4 * Sec. 4. AS 04.11.150 is amended by adding new subsections to read:

5 (h) A package store licensee, agent, or employee may not ship
6 more than eight liters of distilled spirits within a monthly period to
7 a purchaser off the licensed premises if the shipment is to an area
8 that has restricted the sale of alcoholic beverages under
9 AS 04.11.490, 04.11.492, or 04.11.500.

10 (i) A package store licensee, agent, or employee may not divide
11 or combine shipments of alcoholic beverages so as to circumvent the
12 limitation imposed under (h) of this section.

13 * Sec. 5. AS 04.11.502 is amended by adding a new subsection to read:

14 (d) Notwithstanding any other provisions of law, an election
15 under (a) or (b) of this section to remove a restriction on the sale,
16 importation, or possession of alcoholic beverages previously imposed
17 under AS 04.11.490 - 04.11.500 may not be conducted more than once
18 every 12 months.

19 * Sec. 6. AS 04.16.030 is amended by adding a new subsection to read:

20 (b) A person receiving compensation for transporting alcoholic
21 beverages may not knowingly deliver alcoholic beverages to a drunken
22 person.

23 * Sec. 7. AS 04.16.051(a) is amended to read:

24 Sec. 04.16.051. FURNISHING OR DELIVERY OF ALCOHOLIC BEVERAGES TO
25 PERSONS UNDER THE AGE OF 21. (a) A person may not furnish or deliver
26 an alcoholic beverage to a person under the age of 21 years.

27 * Sec. 8. AS 04.16.051(b) is amended to read:

28 (b) This section does not prohibit the furnishing or delivery of
29 an alcoholic beverage

1 (1) by a parent to the parent's child, by a guardian to the
2 guardian's ward, or by a person to the legal spouse of that person if
3 the furnishing occurs off licensed premises; or

4 (2) by a licensed physician or nurse to a patient in the
5 course of administering medical treatment.

6 * Sec. 9. AS 04.16 is amended by adding a new section to read:

7 Sec. 04.16.125. ALCOHOLIC BEVERAGES TRANSPORTED BY COMMON CAR-
8 RIER. (a) A person may not use a common carrier to transport alco-
9 holic beverages into an area that has restricted the sale of alcoholic
10 beverages under AS 04.11.490, 04.11.492, or 04.11.500 unless

11 (1) the shipping container holding the alcoholic beverages
12 is clearly labeled as containing alcoholic beverages with letters that
13 contrast in color to the shipping container and that are at least two
14 inches in height; and

15 (2) an itemized invoice showing the purchase value of the
16 alcoholic beverages is attached to the outside of the shipping con-
17 tainer.

18 (b) This section does not apply to a person transporting not
19 more than two liters of wine or malt beverages, or not more than one
20 liter of distilled spirits.

21 (c) In this section, "common carrier" means a motor vehicle,
22 watercraft, aircraft, or railroad car available for public hire to
23 transport freight or passengers.

24 * Sec. 10. AS 04.16.180(a) is amended to read:

25 (a) Except as provided in AS 04.11.015 and AS 04.16.200 - 04.-
26 16.210, a person who violates a provision of this title or a regula-
27 tion adopted by the board is guilty, upon conviction, of a class A
28 misdemeanor. Each violation is a separate offense.

29 * Sec. 11. AS 04.21.010(a) is amended to read:

1 (a) A municipality may adopt ordinances governing the importa-
2 tion, barter, sale, and consumption of alcoholic beverages within the
3 municipality [AS NECESSARY FOR THE ORDERLY CONDUCT OF THE BUSINESS OF
4 SELLING ALCOHOLIC BEVERAGES WITHIN THE MUNICIPALITY] and may ban
5 possession of alcoholic beverages under AS 04.11.498(d) or (e). An
6 ordinance adopted under this section may not be inconsistent with this
7 title or regulations adopted under this title.

8 * Sec. 12. AS 04.21.010(c) is amended to read:

9 (c) A municipality may not impose taxes on alcoholic beverages
10 except a

11 (1) property tax [TAXES] on alcoholic beverage inventories;

12 (2) sales tax [TAXES] on alcoholic beverage sales if sales
13 taxes are imposed on other sales within the municipality; [AND]

14 (3) sales tax [TAXES] on alcoholic beverage sales that was
15 [WERE] in effect before July 1, 1985; and

16 (4) sales and use tax on alcoholic beverages if the sale of
17 alcoholic beverages within the municipality has been prohibited under
18 AS 04.11.490.

5-1706P

Ford

5/2/88

Original sponsors: Halford, Binkley,
Kelly, et al.

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 371 (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 alcoholic beverages in an area
7 that has prohibited or restricted the sale of alco-
8 holic beverages by local option election; and to
9 delivery, purchase, and municipal regulation of
10 alcoholic beverages."

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

12 * Section 1. AS 04.11.010 is amended by adding (a new subsection) to read:

13 (c) In a criminal prosecution for possession of alcoholic bever-
14 ages for sale in violation of (a) of this section, the fact that a
15 person possessed more than 12 liters of distilled spirits, 24 liters
16 or more of wine, or 45 liters or more of malt beverages in an area
17 where the sale of alcoholic beverages is prohibited under AS 04.11.-
18 490, 04.11.492, 04.11.496, or 04.11.500 creates a presumption that the
19 person possessed the alcoholic beverages for sale.

20 * Sec. 2. AS 04.11 is amended by adding a new section to read:

21 Sec. 04.11.015. PURCHASE FROM NONLICENSEE PROHIBITED. (a) A
22 person may not purchase alcoholic beverages from a person who is not a
23 licensee, permittee, or an agent or employee of a licensee or permit-
24 tee.

25 (b) A person who violates this section is guilty of a violation.

26 * Sec. 3. AS 04.11.150(a) is amended to read:

27 (a) Except as provided under (h) of this section, a [A] package
28 store license authorizes the holder to sell alcoholic beverages to a
29 person in response to a verbal solicitation for purchase received from

1 the person present on the licensed premises or in response to a writ-
 2 ten solicitation made by a person known to the licensee for a purchase
 3 to be received by the person making the solicitation.

4 * Sec. 4. AS 04.11.150 is amended by adding new subsections to read:

5 (h) A package store licensee, agent, or employee may not ship
 6 more than ~~12~~ ⁸ liters of distilled spirits [an amount equivalent to 168
 7 twelve-ounce bottles of malt beverages, or 18 liters of wine] within a
 8 ~~30-day~~ ^{calendar month} period to a purchaser off the licensed premises if the shipment
 9 is to an area that has restricted the sale of alcoholic beverages
 10 under AS 04.11.490, 04.11.492, or 04.11.500.

11 (i) A package store licensee, agent, or employee may not divide
 12 or combine shipments of alcoholic beverages so as to circumvent the
 13 limitation imposed under (h) of this section.

14 * Sec. 5. AS 04.11.502 is amended by adding a new subsection to read:

15 (d) Notwithstanding any other provisions of law, an election
 16 under (a) or (b) of this section to remove a restriction on the sale,
 17 importation, or possession of alcoholic beverages previously imposed
 18 under AS 04.11.490 - 04.11.500 may not be conducted more than once
 19 every 12 months.

20 * Sec. 6. AS 04.16.030 is amended by adding a new subsection to read:

21 (b) A person receiving compensation for transporting alcoholic
 22 beverages [by motor vehicle, watercraft, aircraft, or railroad car] may
 23 not knowingly deliver [the] alcoholic beverages to a drunken person.

24 * Sec. 7. AS 04.16.051(a) is amended to read:

25 Sec. 04.16.051. FURNISHING OR DELIVERY OF ALCOHOLIC BEVERAGES TO
 26 PERSONS UNDER THE AGE OF 21. (a) A person may not furnish or deliver
 27 an alcoholic beverage to a person under the age of 21 years.

28 * Sec. 8. AS 04.16.051(b) is amended to read:

29 (b) This section does not prohibit the furnishing or delivery of

1 an alcoholic beverage

2 (1) by a parent to the parent's child, by a guardian to the
3 guardian's ward, or by a person to the legal spouse of that person if
4 the furnishing occurs off licensed premises; or

5 (2) by a licensed physician or nurse to a patient in the
6 course of administering medical treatment.

7 * Sec. 9. AS 04.16 is amended by adding a new section to read:

8 Sec. 04.16.125. ALCOHOLIC BEVERAGES TRANSPORTED BY COMMON CAR-
9 RIER. (a) A person may not use a common carrier to transport alco-
10 holic beverages into an area that has restricted the sale of alcoholic
11 beverages under AS 04.11.490, 04.11.492, or 04.11.500 unless

12 (1) the shipping container holding the alcoholic beverages
13 is clearly labeled as containing alcoholic beverages with letters that
14 contrast in color to the shipping container and that are at least two
15 inches in height; and

16 (2) an itemized invoice showing the purchase value of the
17 alcoholic beverages is attached to the outside of the shipping con-
18 tainer.

19 (b) This section does not apply to a person transporting not
20 more than two liters of wine or malt beverages, or not more than one
21 liter of distilled spirits.

22 (c) In this section, "common carrier" means a motor vehicle,
23 watercraft, aircraft, or railroad car available for public hire to
24 transport freight or passengers.

25 * Sec. 10. AS 04.16.180(a) is amended to read:

26 (a) Except as provided in AS 04.11.015 and AS 04.16.200 - 04.-
27 16.210, a person who violates a provision of this title or a regula-
28 tion adopted by the board is guilty, upon conviction, of a class A
29 misdemeanor. Each violation is a separate offense.

1 * Sec. 11. AS 04.21.010(a) is amended to read:

2 (a) A municipality may adopt ordinances governing the importa-
3 tion, barter, sale, and consumption of alcoholic beverages within the
4 municipality [AS NECESSARY FOR THE ORDERLY CONDUCT OF THE BUSINESS OF
5 SELLING ALCOHOLIC BEVERAGES WITHIN THE MUNICIPALITY] and may ban
6 possession of alcoholic beverages under AS 04.11.498(d) or (e). An
7 ordinance adopted under this section may not be inconsistent with this
8 title or regulations adopted under this title.

9 * Sec. 12. AS 04.21.010(c) is amended to read:

10 (c) A municipality may not impose taxes on alcoholic beverages
11 except a

- 12 (1) property tax [TAXES] on alcoholic beverage inventories;
13 (2) sales tax [TAXES] on alcoholic beverage sales if sales
14 taxes are imposed on other sales within the municipality; [AND]
15 (3) sales tax [TAXES] on alcoholic beverage sales that was
16 [WERE] in effect before July 1, 1985; and
17 (4) sales and use tax on alcoholic beverages if the sale of
18 alcoholic beverages within the municipality has been prohibited under
19 AS 04.11.490.

A M E N D M E N T

Offered in the HOUSE

By Hoffman

TO: CSSB 371(Finance)

Page 1, line 15, after "possessed":

Insert "more than"

After "12 liters":

Delete "or more"

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: CSSB 371(Finance)

Page 2, line 4:

Delete "two"

Insert "12"

Delete "48"

Insert "~~96~~ 168"

Page 2, line 5:

Delete "12"

Insert "18"

Page 2, line 6:

Delete "seven-day"

Insert "30-day"

A M E N D M E N T

#2

Adopted

Offered in the HOUSE

TO: CSSB 371(Finance)

By Gruenberg

Page 2, line ~~20~~ ²¹ 22:

Delete "by motor vehicle, watercraft, aircraft, or railroad car"

Page 2, line ~~21~~ ²³ 22:

Delete "the"



Official Business

Alaska State Legislature

SENATE

Committee on Finance

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

LETTER OF INTENT CSSB 371 (FINANCE)

CSSB 371 (FIN) represents the compilation of a number of pieces of legislation introduced this session and ideas expressed during hearings and work sessions on those bills. It is the intent of the Legislature, through this piece of legislation, to assist those communities which have elected to adopt one or more of the local option provisions authorized under AS 04.11.490 -.500 by allowing for more local control once the option is adopted, and by clarifying other provisions of Title 4.

It is also the intent of the Legislature that the Alcohol Beverage Control Board review its regulations to identify those areas which might be in conflict with the purpose of this bill or unclear as to intent with regard to the local option provisions in Title 4. The Alcohol Beverage Control Board should also ensure that those package licensees which do business with local option communities are aware of and, as much as possible, understand the statutory and regulatory provisions of Alaska local option laws.

Senator Rick Halford

Senate District 1
Chugiak, Eagle River, East Anchorage, Fort Richardson



Senate Finance Committee
Co-Chairman

April 29, 1988

MEMORANDUM

TO: Representative John Sund, Chairman
House Judiciary Committee

FROM: Senator Rick Halford, Co-Chairman
Senate Finance Committee

SUBJECT: Senate Bill 371 - Alcohol Bill

The committee substitute before your committee combines the ideas expressed in SB 371, SB 404, SB 412 and those expressed during work sessions on the bill.

* Section 1 shifts the burden of proof to the individual who is undergoing prosecution for unlawful sale of alcoholic beverages if the amount found in their possession exceeds a designated amount. This concept was originally found in SB 412.

* Section 2 is intended to make the purchase of bootlegged alcohol illegal. Under current law only the sale is prohibited.

* Sections 3 and 4 limit the amount of alcohol that can be shipped to an area that has restricted the sale of alcoholic beverages to a designated amount within a seven day period. It also prohibits a package store from dividing or combining shipments in an effort to get around the restriction.

* Section 5 amends AS 04.11.502 by prohibiting a local option election to remove a restriction on the sale, importation, or possession of alcohol to occur more than once every 12 months.

* Sections 6, 7, and 8 are intended to ensure that alcohol is not knowingly delivered to an intoxicated person or a person under the age of 21.

Page Two

* Section 9 limits the amount of alcohol a person can transport into an area that has restricted the sale of alcoholic beverages unless the container is clearly labeled and has an itemized invoice stating the purchase value of the alcoholic beverages on the outside of the container.

* Sections 10 and 11 allows a municipality to adopt ordinances governing the importation of alcohol and to impose a sales and use tax on alcohol if the sale of alcoholic beverages has been prohibited by an election of the community.

LIST OF CITIES WHO HAVE VOTED TO BAN
THE SALE AND IMPORTATION OF ALCOHOLIC BEVERAGES
December 16, 1987

| <u>City</u> | <u>Date of Election</u> | <u>Results</u> | <u>Date of Certification</u> | <u>Effective Date</u> |
|------------------|-------------------------|----------------|------------------------------|-----------------------|
| Alakanuk | 7-20-81 | 94-24 | 7-27-81 | 8-1-81 |
| Ambler | 12-15-81 | -- | 12-15-81 | 1-1-82 |
| Atmautluak | 10-6-81 | 60-12 | 4-29-82 | 5-1-82 |
| Brevig Mission | 3-8-83 | 26-14 | 3-8-83 | 4-1-83 |
| Buckland | 5-10-82 | 52-6 | 5-11-82 | 6-1-82 |
| Chalkyitsik | 7-20-82 | 21-2 | 7-28-82 | 8-1-82 |
| Chefornak | 10-14-82 | 48-29 | 10-15-82 | 11-1-82 |
| Deering | 5-26-82 | 32-24 | 6-1-82 | 7-1-82 |
| Diomede | 9-10-81 | 27-11 | 9-29-81 | 10-1-81 |
| Emmonak | 10-12-81 | 54-12 | 10-12-81 | 11-1-81 |
| Eek | 11-27-82 | 90-15 | 11-27-82 | 12-1-82 |
| Ekwok | 6-10-82 | 20-3 | 6-10-82 | 7-1-82 |
| Elim | 8-24-81 | 49-17 | 8-81 | 9-1-81 |
| Golovin | 1-16-84 | 31-22 | 1-17-84 | 2-1-84 |
| Goodnews Bay | 11-8-83 | 36-25 | 11-8-83 | 12-1-83 |
| Grayling | 3-5-85 | 43-37 | 3-12-85 | 4-1-85 |
| Holy Cross | 6-12-83 | 70-44 | 6-13-83 | 7-1-83 |
| Hooper Bay | 3-1-83 | 103-44 | 3-1-83 | 4-1-83 |
| Kasigluk | 10-4-83 | 74-3 | 10-17-83 | 11-1-83 |
| Kiana | 12-10-87 | 81-38 | 12-17-87 | 1-1-88 |
| Kipnuk | 10-5-82 | 82-7 | 10-25-82 | 11-1-82 |
| Kivalina | 1-8-85 | 79-33 | 1-9-85 | 2-1-85 |
| Kwethluk | 2-1-82 | 82-30 | 2-1-82 | 3-1-82 |
| Kokhanok | 9-18-84 | 38-19 | 9-27-84 | 10-1-84 |
| Kongiganak | 7-13-82 | 50-9 | 7-28-82 | 8-1-82 |
| Koyuk | 8-25-81 | 57-8 | 8-25-81 | 9-1-81 |
| Kwigillingok | 8-9-83 | 63-5 | 9-1-83 | 10-1-83 |
| Minto | 7-12-83 | 59-34 | 7-21-83 | 8-1-83 |
| Mountain Village | 3-13-84 | 72-52 | 3-19-84 | 4-1-84 |
| Napaskiak | 11-1-82 | 55-4 | 11-8-82 | 12-1-82 |
| Newtok | 10-30-84 | 37-9 | 11-2-84 | 12-1-84 |
| Noatak | 12-7-82 | 69-53 | 12-22-82 | 1-1-83 |
| Noorvik | 4-28-87 | 103-58 | 4-28-87 | 5-1-87 |
| Pilot Station | 3-8-85 | 67-58 | 3-20-85 | 4-1-85 |
| Point Hope | 6-29-82 | 62-39 | 7-2-82 | 8-1-82 |
| Platinum | 1-14-82 | 12-9 | 1-25-82 | 2-1-82 |
| Point Lay | 7-1-86 | 30-15 | 7-11-86 | 8-1-86 |
| Russian Mission | 10-6-87 | 46-22 | 10-27-87 | 11-1-87 |
| Saint Marys | 9-22-81 | 63-48 | 9-28-81 | 10-1-81 |
| Saint Michael | 8-4-86 | 39-21 | 8-7-86 | 9-1-86 |
| Savoonga | 10-14-81 | 103-18 | 10-14-81 | 11-1-81 |
| Scammon Bay | 12-7-81 | 57-10 | 12-8-81 | 1-1-82 |
| Selawik | 12-17-86 | 89-69 | 12-22-86 | 1-1-87 |

LIST OF CITIES WHO HAVE VOTED TO BAN
THE SALE AND IMPORTATION OF ALCOHOLIC BEVERAGES
December 16, 1987

| <u>City</u> | <u>Date of Election</u> | <u>Results</u> | <u>Date of Certification</u> | <u>Effective Date</u> |
|-----------------|-------------------------|----------------|------------------------------|-----------------------|
| Shageluk | 3-8-84 | 31-25 | 3-84 | 4-1-84 |
| Shaktolik | 3-13-84 | 34-28 | 3-15-84 | 4-1-84 |
| Stebbins | 8-25-87 | 89-14 | | |
| Sheldon Point | 8-26-86 | 26-7 | 8-27-86 | 9-1-86 |
| Shishmaref | 1-4-83 | 82-47 | 1-4-83 | 2-1-83 |
| Shungnak | 10-6-87 | 46-44 | 10-10-87 | 11-1-87 |
| Stevens Village | 6-5-84 | 31-11 | 6-15-84 | 7-1-84 |
| Tatitlek | 8-23-83 | 28-15 | 9-13-83 | 10-1-83 |
| Teller | 5-16-83 | 47-31 | 5-16-83 | 6-1-83 |
| Tetlin | 12-7-82 | 54-7 | 12-22-82 | 1-1-83 |
| Toksook Bay | 11-23-81 | 78-32 | 11-23-81 | 12-1-81 |
| Tuluksak | 10-5-82 | 61-16 | 10-5-82 | 11-1-82 |
| Tununak | 8-12-81 | 90-11 | 8-81 | 9-1-81 |
| Wales | 8-14-81 | 29-21 | 8-17-81 | 9-1-81 |
| Wainwright | 7-8-82 | 61-42 | 7-14-82 | 8-1-82 |

LIST OF CITIES WHO HAVE VOTED
TO BAN POSSESSION OF ALCOHOLIC BEVERAGES
December 16, 1987

| <u>City</u> | <u>Date of Election</u> | <u>Results</u> | <u>Date of Certification</u> | <u>Effective Date</u> |
|----------------|-------------------------|----------------|------------------------------|-----------------------|
| Anaktuvuk Pass | 11-4-86 | 59-45 | 12-16-86 | 1-1-87 |
| Atqasuk | 10-7-86 | 28-21 | 10-9-86 | 11-1-86 |
| Birch Creek | 10-6-87 | 13-2 | 10-22-87 | 11-1-87 |
| Gambell | 12-23-86 | 72-13 | 12-29-86 | 1-1-87 |
| Kotlik | 3-24-87 | 51-22 | 3-25-87 | 4-1-87 |
| Marshall | 10-7-86 | 37-34 | 10-8-86 | 11-1-86 |
| Mekoryuk | 10-7-86 | 49-29 | 10-8-86 | 11-1-86 |
| Napakiak | 5-5-87 | 62-14 | 5-5-87 | 6-1-87 |
| Nuiqsut | 11-4-86 | 60-56 | 11-10-86 | 12-1-86 |
| Nunapitchuk | 10-7-86 | 75-23 | 10-13-86 | 11-1-86 |
| Quinhagak | 10-6-87 | 71-27 | 10-12-87 | 11-1-87 |
| Scammon Bay | 10-6-87 | 76-29 | 10-87 | 11-1-87 |
| Togiak | 10-7-86 | 80-38 | 10-31-86 | 11-1-86 |
| Tuntutliak | 10-6-87 | 41-22 | 10-28-87 | 11-1-87 |

LIST OF CITIES WHO HAVE VOTED
TO BAN THE SALE OF ALCOHOLIC BEVERAGES
December 16, 1987

| <u>City</u> | <u>Date of Election</u> | <u>Results</u> | <u>Date of Certification</u> | <u>Effective Date</u> |
|-------------|-------------------------|----------------|------------------------------|-----------------------|
| Barrow | 10-4-77 | 221-135 | 10-6-77 | 11-1-77 |
| Bethel | 10-4-77 | 611-207 | 10-6-77 | 11-1-77 |
| Iliamna | 10-5-82 | 35-24 | 10-25-82 | 1-23-83 |
| Kotzebue | 10-6-87 | 427-404 | 10-12-87 | 1-10-87 |
| Nondalton | 11-10-86 | 46-30 | 12-30-86 | 1-28-87 |

LIST OF CITIES WHO HAVE
COMMUNITY LIQUOR LICENSES
December 16, 1987

DBA

Fort Yukon Community Liquor
Kake Community Liquor Store
Liquor Store

CITY

Fort Yukon
Kake
Tanana

FISCAL NOTE

REQUEST

Revision Date: _____
Title: "An Act relating to the sale of
alcoholic beverages"
Sponsor: Sen. Halford
Requestor: Senate Finance

Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments and the Criminal
Investigation Bureau

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY88 | FY89 | FY90 | FY91 | FY92 | FY93 |
|-------------------|------|------|------|------|------|------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|---|---|---|---|---|---|
| GENERAL FUNDS | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No additional enforcement activities are anticipated to result from the passage of this legislation.

Prepared by: Francis C. Allan *F.C.A.*
Division: Alaska State Troopers

Phone: 269-5691

Date: 2/11/88

Approved by Commissioner: Arthur English *A.H.*
Agency: Public Safety

Date: 2/11/88

Distribution: (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: 2/4/88
 Title: An Act Relating to the Sale of
Alcoholic Beverages
 Sponsor: Sen. Halford
 Requestor: Senate Finance

Agency Affected: Revenue
 BRU: Alcoholic Beverage Control Board

Components: _____

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)

Prepared By: Patrick L. Sharrock, Director

Phone: 277-8638

Division: Alcoholic Beverage Control Board

Date: February 4, 1988

Approved by Commissioner: Hugh Malone

Date: February 4, 1988

Agency: Department of Revenue

Distribution (by preparer):

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

CITY OF BARROW

RECEIVED FEB 9 1988

"farthest north incorporated city"
BOX 629
BARROW, ALASKA 99723
PHONE (907) 852-5211

RESOLUTION 88-6

"A RESOLUTION OF THE CITY COUNCIL OF BARROW, ALASKA ENDORSING SENATE BILL NO. 371, AN ACT RELATING TO THE SALE OF ALCOHOLIC BEVERAGES."

WHEREAS, the Alaska State Senate has introduced a bill to prohibit the sale of alcohol by phone or mail to nonlicensees; and,

WHEREAS, the City Council of Barrow understands that a need exists to address the alcohol abuse problem that exists within its City; and,

WHEREAS, the City Council of Barrow feels that the Senate bill will assist Barrow in dealing with its alcohol abuse problem; and,

WHEREAS, the City Council of Barrow suggests that Senate Bill No. 371 will be more effective if it was amended to include TELEX sales as being prohibited ; and,

WHEREAS, the City Council of Barrow suggests that the bill be amended to prohibit the delivery of alcohol through air freight shipment;

NOW, THEREFORE, BE IT RESOLVED that the City Council of Barrow endorses Senate Bill No. 371 with an amendment to include TELEX orders as prohibited sales; and,

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of Barrow endorses Senate Bill No. 371 with an amendment to prohibit the delivery of liquor through airfreight shipment.

INTRODUCED: FEBRUARY 4, 1988

ADOPTED: FEBRUARY 4, 1988

Nathaniel Olemaun, Jr., Mayor
CITY OF BARROW

Attest:

Karen Bunnell
City Clerk

Daily News - Jan 31, 1988 G-2

One solution to mail order booze

The war on alcoholism in Alaska's villages must be waged on many fronts, but Sen. Rick Halford has launched a frontal assault that promises immediate gains. In a one-sentence bill co-sponsored by 10 Senate colleagues, Sen. Halford proposes flatly prohibiting telephone and mail liquor orders. An amendment may be added in committee that would include telegram orders, as well.

Repeated examples show that such shipments play a major part in both bootlegging and the binge drinking that spawns so much violence and misery in the Bush. Too often, existing regulations are skirted for the "convenience" of customers — and for the profits of urban liquor stores.

Under Sen. Halford's bill, SB 371, only licensed distributors could order shipments by phone or mail. Bush residents who want liquor would have to travel to the nearest package store to buy it.

Certainly, a lot of determined souls will snowmobile their way several miles through the wilderness to get their hands on a bottle. But many others would be dissuaded by the cost and inconvenience — and they would no longer have cases of liquor virtually delivered to their doors.

Already, support for SB 371 has started coming in from the Bush. And the fact of 10 co-sponsors — including two Bush senators, John Binkley of Bethel and Willie Hensley of Kotzebue — virtually guarantees Senate passage.

A hearing on the measure is scheduled before the Senate Finance Committee at 9 a.m. Friday. The committee should make that a teleconference hearing. This measure obviously is aimed at the Bush, and Bush residents deserve an opportunity to be heard on it.

But concerned urban dwellers need to show their support to the Senate, too. Powerful forces can be expected to oppose Sen. Halford's bill; Alaskans need to demonstrate to the Senate the support SB 371 needs.

For too long state regulations have blindly catered to the demand for alcohol while overlooking the obvious side effects of such a policy — and its dire social and economic costs. Sen. Halford's bill would reverse that woefully wrong-headed approach, and help stop the river of booze drowning much of Alaska.



Another one tha

Try this idea for size: Let's give the oil companies operating in Alaska an extra \$150 million to add to their growing profits, and then tap into our permanent fund to pay for education in the state.

Sound crazy to you? Me, too, but that's precisely what Gov. Steve Cowper and Big Oil's buddies in the Alaska State Senate have planned for this legislative session. It's the dumbest idea since Mike Gravel suggested using blimps to take tourists to Mt. McKinley, but it's got a good chance of becoming real in the funhouse in Juneau this session.

Gov. Cowper, to give him credit, doesn't think the oil companies deserve that gift. He tried last session to take it back, and got the state House to go along with him, but ran afoul of the Senate Oil Slick and skidded off course. Senate President Jan Faiks and the other Slickers managed to hold off every effort to repeal the ELF (economic limit factor) law that cuts taxes on the vastly profitable oil operations at Prudhoe Bay.

But although the governor would rather see Alaskans get back the fair share legislators gave away, he's offering the



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Maybe the FBI is

NEW YORK — The latest FBI horror story is about the pranks white agents in Omaha played on Donald Rochon, the only black agent in the office.

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tigated and the Justice Equal Empl nity Comm course FBI S. Sessions : not be tolera

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ions. g cuts of the for a cant problem to the public. Commercial vessels have high frequency radio transmitters that will enable them to reach other distress receivers still in operation, he said.

Alaska n this inated radio Guard : costs recre- ie loss ignifi- .A 30 percent cut in the sea time of high- and medium-endurance cutters and a 15 percent reduction in fixed-wing aircraft time already is in place in Alaska, Moreth said. There are no plans to move cutters now working in Alaska.

The Coast Guard has been working since its fiscal year started Oct. 1 to reduce its expenses. "Life-saving missions shouldn't be affected by the cuts," Moreth said.

or seat belt users

River, said he ; the mandatory might be consid- enate. mp's incentive line, but it's no : a mandate, Cot-

e point of having ry to encourage se safety equip- uldn't be against 't think it would ve as a mandato- w," he said.

r administration neutral position tive bill after l potential prob-

outlined by Bill s acting commis- ionic safety when : introduced in

Nix said the bill might prompt more use of seat belts, but police officers and troopers might have a hard time enforcing it. They would not be able to tell if a driver and passengers were wearing seat belts all along or had just buckled up after being stopped.

The state would lose a small amount of fine revenues if the bill becomes law.

The 10 percent reduction would apply to bail or fines connected with such violations as speeding, ignoring a stop sign or having faulty equipment. It would apply only to infractions that do not carry jail time.

legislative news

Coghill goes to bat for small utilities

JUNEAU — Sen. Jack Coghill is trying again to get small phone and electric companies freed from oversight by the Alaska Public Utilities Commission, a proposal vetoed last year by Gov. Steve Cowper. Coghill has introduced a bill (SB36) that would halt automatic commission oversight of rate changes made by utilities with fewer than 500 customers. The Nenana Republican says the small utilities cannot afford to go through the regulatory process. Cowper said at the time he did not believe blanket exemptions from oversight would benefit ratepayers. The governor's office has not taken any position on new proposal, said Cowper spokesman David Ramseur.

Bill would ban mail-order liquor sales

JUNEAU — Sen. Rick Halford wants the state to ban the sale of alcoholic beverages by phone or mail order. The Chugiak Republican on Tuesday introduced a bill (SB371) that would prohibit liquor license holders from taking phone or mail orders. The bill would allow such sales between license holders, such as one store selling to another outlet in a different town.

Senators want state history in schools

JUNEAU — A dozen senators have sponsored a resolution asking the state Board of Education to require Alaska history and government instruction in high school. The resolution (SCR39) says 33 percent of Alaska's high school seniors reported in a 1987 survey that they received no school instruction in state history. The Board of Education requires high school students to take at least three years of social studies, but Alaska history and government are not included in the requirement. The resolution asks the state board to require at least one semester of Alaska history and government for graduation.

Daily News wire reports

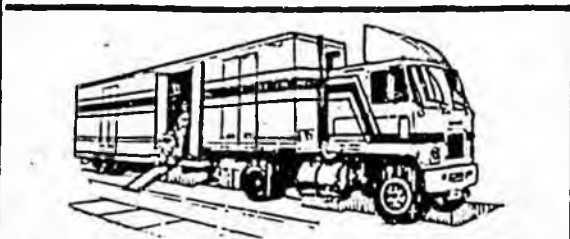
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Lawmakers offer few measures against alcohol abuse in villages

By HAL SPENCER
Daily News reporter

1-24-88 analysis

JUNEAU — Between bites of a turkey sandwich, Sen. Arliss Sturgulewski remembered Harold Napoleon, a rising Native leader until he was imprisoned for the drunken slaying of his 4-year-old son in 1984.

Sturgulewski's words were tinged with genuine sadness as she recalled Napoleon's eloquence in a 1979 speech seeking more local control in village Alaska.

"Harold's words were beautiful, like poetry," the Anchorage Republican said of the former head of the Bethel-based Association of Village Council Presidents. Now Napoleon is serving a 40-year sentence for a murder he didn't remember, Sturgulewski said.

Alaska legislators travel the state more than most, and many are intimately acquainted with the devastation



Halford Hoffman Binkley

that regularly visits Native villages: alcohol-fueled self-destruction, suicide, homicide, drownings, freezings. One lawmaker talks with quiet anger of a Bethel bootlegger, a man who swaps booze for food stamps he then uses to buy groceries, a man who

spends four months of the year in Hawaii on his illegal earnings. Another mentions the liquor store at Red Devil, and the misery its alcohol spreads up and down the Kuskokwim River. Somebody, in-

See Back Page, LEGISLATORS

LEGISLATORS: They're aware of alcohol and despair in villages, but not sure what they can do

Continued from Page A-1

dividual legislators say, should do something.

But this Alaska Legislature, like its predecessors, has yet to truly address the deep social problems of rural Alaskans, or to give village Alaska the tools it might use in the struggle with a modern plague of alcohol and despair now killing its young.

And perhaps, some lawmakers say, the legislature cannot. It knows, for example, that the state law permitting villages to ban or regulate the flow of booze is, in Sturgulewski's words, "a joke." The legislature also knows that big petrodollars alone cannot, indeed have not, helped mend the torn cultural fabric of Bush Alaska. The task does get discouraging, legislators say.

Two events during the first days of the 1988 session reminded lawmakers once again

that Alaska Natives are being swept away in a gray river of alienation and despair. Yet there was scarcely a ripple in Juneau. One event was Kotzebue Sen. Willie Hensley's special Senate committee draft report on an epidemic of Native suicide, complete with recommendations. A few reporters, Sturgulewski, and executive branch officials showed up at the report's unveiling late last Monday afternoon. Few lawmakers are aware of what is in the report, and fewer still are prepared to take action on problems it identified, ranging from too much red tape in preventive programs to the lack of residential treatment facilities for suicidal youth.

The other was a 10-day Daily News series that focused in part on the ruined lives among a generation of Natives battling forces beyond their control. Many legislators read at least parts of it, a few made floor speeches, but that was all.

A \$20,000 report commissioned by Gov. Steve Cowper focusing on child care and other needs of Alaska children, drew far more attention as politically connected backers scurried around "touching bases" with the right people.

Sen. Fred Zharoff, an Aleut who represents southwest Alaska from Kodiak to the Aleutians, said he pays little attention to Native social problems because "The problem is pretty much in western Alaska," not in his district, he asserted. Zharoff is by no means the only legislator to view his role in that light.

Cowper called the problems of village Alaska a terrible tragedy, but said he wanted the villages themselves to propose solutions.

Health and Social Services Commissioner Myra Munson said the fiscal year 1989 budget, to be effective July 1, will contain no new money or ideas to address rural social problems. It's too late and money is too scarce this time

around, she said.

That isn't to say the Cowper administration is doing nothing. Cowper's assistant for Native affairs is Rosita Worl, a Tlingit and anthropologist. Worl is behind Cowper's basic position that ideas and solutions must flow from the villages to government.

Worl is busy these days working on issues such as the village of Kipnuk's efforts to search visitors for alcohol and drugs. How can the state help the village, and remain within the law as it applies to individual rights, Worl asked. "We're trying to help the village find a way," she said. But, Worl added, Kipnuk leaders told the state what needed to be done, not the other way around. That, Worl said, is the only truly workable approach.

Among lawmakers, there are a handful who have been working, some of them for years, on the complex needs of rural Alaska.

One is Rep. Jayman Hoff-

man, D-Bethel, who on Friday introduced a bill to come down a little harder on bootleggers. Among other things, the bill would appropriate \$250,000 to finance undercover operations and to amply reward tipsters. Current law allows rewards of only \$200 for tips leading to the arrest and conviction of bootleggers. Sen. John Binkley, R-Bethel, is working on similar legislation.

Binkley on Friday introduced legislation requiring insurance companies to cover the cost of treatment of alcoholism. Many rural Alaskans can ill afford the kind of help they need to defeat the disease, Binkley said.

Republican Sen. Rick Halford of Chugiak said he is working on legislation to ban mail-order sale of booze in Alaska. This is the only state that allows such sales. Halford said it would not stop the flow of booze from urban liquor stores to dry villages, but would establish a better

paper trail to nail bootleggers, and would make alcohol harder to get. "I don't even know if, legally, I can do this. But we're looking into it," he said.

If anything, though, legislators voice a sense of helplessness. "We've thrown big money at alcohol treatment, for instance, and the situation just doesn't seem to get any better," said Rep. Pat Pourchot, D-Anchorage.

"Anything's worth a try at this stage," he said.

But as a whole, the legislature is preoccupied with other issues, those that matter most to urban voting blocs. Legislators are bickering over a proposed \$150 million "jobs bill" aimed primarily at white, urban Alaska. They're fretting over who gets credit for a bill to fatten dividend checks. They're readying for the 1988 elections, and in the capital press room, the flow of self-promoting press releases is picking up.

HOUSE COMMITTEE REPORT

7-6

Date referred: 4/13/88

FURTHER REFERRALS:

Judiciary
Finance

DATE: 4-26-88

The Health, Education and Social Services Committee has considered CSSB 371(Fin)

"An Act relating to alcoholic beverages in an area that has prohibited or restricted the sale of alcoholic beverages by local option election; and to delivery, purchase, and municipal regulation of alcoholic beverages."

RECOMMENDS:

- replace with _____ 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:

SIGNING OTHER RECOMMENDATIONS:

[Handwritten signatures: Steve Kasper, Bill Hud, Bill E. Kelly, J. Ellis]

[Handwritten notes: Joyce Kinley - do rec, Measurement - do pass with amendment to section six]

[Handwritten signature: J. Ellis]
 Co chairman's signature
[Handwritten signature: Steve Kasper]

Senator Rick Halford



Senate District 1
Chugiak, Eagle River, East Anchorage, Fort Richardson

Senate Finance Committee
Co-Chairman

April 22, 1988

MEMORANDUM

TO: Johnny Ellis, Co-Chairman
Niilo Koponen, Co-Chairman
House Health, Education, and Social Services
Committee

FROM: Senator Rick Halford, Co-Chairman
Senate Finance Committee

SUBJECT: Senate Bill 371 - Alcohol Bill

Rick Halford

The committee substitute before your committee combines the ideas expressed in SB 371, SB 404, SB 412 and those expressed during work sessions on the bill.

- * Section 1 shifts the burden of proof to the individual who is undergoing prosecution for unlawful sale of alcoholic beverages if the amount found in their possession exceeds a designated amount. This concept was originally found in SB 412.
- * Section 2 is intended to make the purchase of bootlegged alcohol illegal. Under current law only the sale is prohibited.
- * Sections 3 and 4 limit the amount of alcohol that can be shipped to an area that has restricted the sale of alcoholic beverages to a designated amount within a seven day period. It also prohibits a package store from dividing or combining shipments in an effort to get around the restriction.
- * Section 5 amends AS 04.11.502 by prohibiting a local option election to remove a restriction on the sale, importation, or possession of alcohol to occur more than once every 12 months.
- * Sections 6, 7, and 8 are intended to ensure that alcohol is not knowingly delivered to an intoxicated person or a person under the age of 21.

Page Two

* Section 9 limits the amount of alcohol a person can transport into an area that has restricted the sale of alcoholic beverages unless the container is clearly labeled and has an itemized invoice stating the purchase value of the alcoholic beverages on the outside of the container.

* Sections 10 and 11 allows a municipality to adopt ordinances governing the importation of alcohol and to impose a sales and use tax on alcohol if the sale of alcoholic beverages has been prohibited by an election of the community.

A culture in crisis, a people in peril

If it happened in any city in the country, it would make headlines nationwide: a rash of suicides and violent deaths punctuated by rapes, beatings and child abuse.

But the crisis in Alaska's villages is a quiet crisis. When hope dies, it dies silently. And the epidemic of despair that is robbing an entire generation of its birthright happens far from city lights.



Today, the Daily News begins a series that will detail that crisis. These stories run not as a criticism but as a warning to us all. The Native culture that is the heritage of all Alaskans is endangered, threatened by alcoholism, helplessness and despair. From Fort Yukon to Kake, Alaska Natives are dying in vastly disproportionate numbers.

The causes are complicated and varied, but one constant appears over and over again — booze.

In rural Alaska, alcohol is misery's mask. One hundred economic and social problems may lie behind it, but until the mask is laid aside no one can see them clearly.

Make no mistake, Alaska's predominantly white cities offer their own share of grief. Violence born of liquor is no stranger here. But the the statistics gradually emerging from the Bush point inexorably to an entire culture in peril.

- Alaska Natives are four times as likely to commit suicide as other Alaskans.

- Alaska Native men between the ages of 20 and 24 are 10 times more likely to kill themselves than non-Natives nationwide.

- Fetal Alcohol Syndrome, where a pregnant woman's drinking damages her unborn child, is 2½ more times more common among Native women than non-Natives.

- Natives comprise only 16 percent of Alaska's population, but make up 34 percent of its prison inmates.

- While the official U.S. Department of Labor unemployment figure for the Yukon-Koyukuk region is 15.5 percent, experts say that if "discouraged workers" — those who have given up — were included, that figure would be two or three times higher.

- And even when they come to the cities in search of jobs or a new life, Natives in Anchorage are three times more likely to be raped, four times more likely to die violent deaths than non-Natives.

Yet the numbers remain cold and impersonal. One cannot remain impersonal in the bush. There are no statistics in the villages, there are husbands and wives, cousins and neighbors — entire families whose potential is lost, and whose despair passes from one generation to the next.

Gradually, though, the code of silence is being broken and the people themselves are talking, exploring ways to break the cycle. By confronting the hegemony of the white culture, they hope to retain their own. It is a sobriety movement born of pain, and it is the best hope for village Alaska.

We talked to many villagers in preparing these articles, including a woman who has lost two sons to suicide. Adeline Edmund's son, Louis, was 22 and a former Alakanuk honor student when he shot himself in the heart on the tundra behind his village. Louis' brother, Paul, was 21 when he killed himself 14 months

By RICHARD MAUER
and HAL BERTON
Daily News reporters

BETHEL — A sole Alascom telegram office has survived the communications revolution that brought telephones to nearly every village in the Bush.

The office is in Bethel, and it owes its staying power to a steady accumulation of crumpled currency shoved through a slot beneath tinted, bullet-proof glass.

The cash, \$100 and \$200 at a time, comes from bootleggers and whiskey drinkers wiring money orders to Anchorage liquor stores.

The office is a humming pump, nourishing the headwaters of Alaska's fearsome river of booze.

Though Alascom shut its other Bush telegram counters over the past decade, the Bethel office is different. The continuous flow of alcohol money orders and

Page A-6, RIVER OF BOOZE

Continued from Page A-1

represents 95 percent of the money wires out of Bethel. Though the liquor stores are 225 miles away, the network linking them with Alascom and the airlines guarantees same-day delivery and mocks Bethel's voter-approved ban on in-town liquor sales.

Alascom is one of dozens of legitimate enterprises whose decisions and policies, sometimes passively, sometimes not, have kept the floodgates wide open for bootleggers and consumers of low-grade whiskey in villages, both wet and dry.

Alascom, like most of the others, says it shouldn't be asked to play policeman and go beyond the restrictions imposed by society itself. "It's a judgment call we can't make," said spokesman Tom Jensen.

Yet the aftermath of those business choices is widespread death, violence, abuse and neglect — for adults whose choice it is to binge, and for children and other victims who find themselves trapped inside another's nightmare.

A passive state liquor agency with a history of toothless regulations, an ineffective local option law, flagrant bootlegging and ambiguous community standards have kept the flood of liquor unchecked. Because liquor starts out as a legal commodity, unlike marijuana or cocaine, gray- and black-market

In recognition of the role of alcohol in human misery, the legislature has offered communities a menu of options for its control, ranging from community-owned liquor stores to a complete ban on possession. Some 82 places, from the Kuskokwim Delta center of Bethel, population 4,462, to the Athabaskan hamlet of Birch Creek, population 40, have chosen to restrict the sale or possession of booze.

But residents of those places and the authorities who enforce the laws readily admit that even in the most restrictive villages, where arriving travelers are frisked for flasks, there are still ways for the booze to get in.

Some of it is due to the ingenuity of bootleggers. By uncorking a jug and filling it to the brim before hiding it in a suitcase, they can avoid the telltale gurgle a conscientious baggage handler might detect. Plastic bottles have eliminated the risk of breakage — and the giveaway odor.

It is 1:15 p.m. on a Friday afternoon in October. A steady flow of customers has journeyed to the silver-sided building, beside the huge satellite dish, where Alascom conducts its telegram business. It is just up a dirt street from the Kuskokwim River and the office of Bush Air Service, whose owner was recently charged with transporting liquor to a dry village.

In walks a man with bushy-blond hair. "You must be glad it's Friday," says the Alascom agent, making small talk. "What difference does it make to me?" replies the customer. "One day of the week is the same as the next." He wires \$172 to Party Time Liquor in Anchorage.

The next customer, a Native man with the smell of liquor on his breath, sends \$219.74 to

International Liquor, also in Anchorage.

"Hello, Al," a clerk says to another man. "\$189.50, Party Time," he replies. He pushes a wad of bills through the window; she gives him back some change. Then she walks to the teletype machine. In seconds, the message beams from the dish outside to the satellite Aurora, and back down to the Alascom office in Anchorage. In minutes, a check is ready for Party Time.

ORDERS FROM ANIAK

Like Bethel and a half-dozen other communities in Alaska, the Kuskokwim River village of Aniak has banned the sale of booze, but not its possession or

On a Friday afternoon last October, Postmaster Leonard Morgan was on the phone to a customer. The weather outside was rotten — snow, wind and low clouds — and Morgan told his customer that the Northern Air Cargo plane would be late, so there was still time to get a postal money order shipped by Express Mail to a liquor store in Anchorage.

The one-day Express Mail service provided by the Aniak post office attracts booze customers from as far away as Kalskag, 25 miles downriver. In the summer, they make the two-hour journey by boat, and in winter, in a quarter of the time, by snowmachine or truck on the frozen river. If they make the mail deadline, they'll be back the next day to pick up their shipments at 1:30 p.m. when the Northern Air Cargo DC-6 roars into town.

Where do those orders go?

Primarily to a half-dozen liquor stores in Anchorage and Fairbanks that specialize in the Bush trade, some of which have teamed up with

airlines to offer drinkers a package deal.

20-GALLON LIMIT

Since territorial days, Alaska has allowed people to place orders for alcoholic beverages through the mail for shipment by common carrier. In 1980, the legislature revamped the liquor code and eliminated restrictions on the amount that can be shipped.

Alcoholic Beverage Control Board regulations that went into effect in November require the liquor store to notify the board when an order is 20 gallons or more — the equivalent of about 8½ cases of Windsor Canadian in plastic bottles. Though the rule was supposed to detect bootleggers, loopholes remain, conceded Bill Roche, the commission's chief investigator. Bootleggers selling a case or two a week don't need to place single orders in such a large quantity, he said, and even if they did, they could avoid detection by splitting their orders among several stores, or having confederates place orders.

If 20 gallons proves too loose a restriction, Roche said, the board may change it.

The new rules will mainly affect the few stores that specialize in mail-order sales. In Anchorage, according to ABC board staff, they are

According to reports from the Alaska Department of Revenue, Party Time on Spenard Road, where Bush sales are made, sold an average of 1,400 gallons of hard liquor a month over the past year, the equivalent of 5,000 "jugs." That's more than twice its nearest mail-order competitor.

Liquor No. 3 on Jewel Road.

The records don't show the proportion of liquor sold on the counter as opposed to mail order, and Party Time owners Michael and Paul Gallagher won't discuss business. But their competitors estimate that as much as 75 to 80 percent of their sales from the Spenard store goes to the Bush.

In an interview in Bethel, self-described bootlegger he prefers Party Time because it understands his needs. Clerks ship the bottles in innocuous cartons, like those for potato chips, he said. "no one can see what you're getting in the box."

And evidence now in court indicates that Party Time may have been increasing sales by actively courting bootleg trade. In addition to opening the operations of Party Time to public view, the unusual lawsuit, brought in Superior Court in Bethel, has shown the state liquor board to be ineffective in policing mail-order sales.

The suit, filed in 1986 and not yet tried, was brought by the parents of Moses Strauss Jr., a 20-year-old minor who he was struck by a Bethel school bus on Jan. 14, 1986, and suffered severe head injuries. The suit charges that Strauss was drunk at the time and that he bought his liquor from Malachy Polty, a customer of Party Time.

The Gallaghers declined to be interviewed. Through their attorney, they denied the Strausses' allegations. "We are confident we will be found blameless when all of the facts are presented to a judge and jury. However, we and our attorneys believe it is highly inappropriate to try cases in the press," they said in a prepared statement.

Depositions and documents obtained by the Strausses'

attorney, Kneeland Taylor, include the record of a previously undisclosed 1985 investigation by the beverage commission into allegations that Party Time flouted mail-order rules, shipped to customers from dry villages, and was likely dealing with bootleggers.

In visits to Party Time's store at 4008 Spenard Road over a six-month period, agency investigator Virginia Holland found that the store was helping its large-order customers over regulatory hurdles designed to slow the flow of booze to the Bush, keep liquor from the hands of minors and discourage impulse consumption and binge drinking.

Among the requirements of the law then and now, according to Roche, the beverage board's enforcement officer, was that mail-order customers send the liquor store a signed, written request for each purchase.

Party Time took a creative approach to the rule. According to the depositions, it told customers to mail a batch of signed order forms filled in with huge quantities of anything they could possibly want. Then, when they decided to actually make a purchase, they called Party Time, directed which part of the order to fill, and wired the cash by Alascom. The Party Time clerk scratched off the portion of the order that was filled, leaving the remainder for the next call.

About 2:30 each afternoon, the Party Time truck would leave the liquor store for the MarkAir SpeedMark package express window at the airport for same-day delivery to Bethel.

On a single day, April 12, 1985, most of the orders that left Party Time for the Bush

See Page A-7, RIVER OF BOOZE

came from forms with matching handwriting but different names, according to the investigation report. In a later visit to the store, Holland uncovered orders from residents of Napakiak and Nunapitchuk, two dry villages in the Yukon-Kuskokwim Delta.

On Jan. 6, 1986, ABC board Executive Director Patrick Sharrock signed the report of his investigators recommending suspension or revocation of Party Time's license for a pattern of on-going violations: accepting telephone orders, shipping liquor to customers in dry villages and failing to correct deficiencies pointed out during the course of the investigation.

Three days later, Party Time attorney Dan Coffey responded that the fault was not with the store, but with vague regulations. He accused investigator Holland of writing "rules and regulations herself."

In a letter to the beverage board on March 10, 1986, Assistant Attorney General Kay Gouwens recommended against prosecution.

"I understand and sympathize with your concerns about package stores such as this that have a large volume of Bush sales and seem undaunted by the fact that some of what they sell almost certainly finds its way to villages that have banned importation, to bootleggers, and to individuals with drinking problems," she wrote. "However, our existing statutes and regulations are poorly equipped to deal with the problem."

The ABC case was shelved. It took a year and a half to implement new regulations that clarify the absolute ban on telephone orders.

PLENTY OF 'LOOPHOLES'

Holland quit her job in March 1986 and moved to Seattle. In a recent interview, she said her tenure at the liquor board was an exercise in futility. The kinds of violations she observed at Party Time could be found in other liquor stores that ship to the Bush, she said.

"My foremost frustration was the way the regulations were written. They were very vague and nebulous and although anyone can read them and know the intent of the law, they leave all sorts of loopholes for someone who doesn't have a conscience to violate them," she said.

She said she didn't find much official support from either the attorney general's office or the ABC board. The people in positions of authority didn't seem to want to make the effort to fight bootlegging by controlling sales.

"If there is a general consensus, it is that (bootlegging) is one of those victimless crimes. People up there want liquor. People in Anchorage are willing to send it. And nobody gets hurt."

Roche and Sharrock said they sympathized with Holland's frustrations, but they said she quit before the last chapter of her investigation was written.

Roche said the liquor board saw the need for tighter rules, and responded with the new regulations.

AMAZING NUMBERS

In their suit against Party Time, the Strausses built their case upon the ABC investigation. By using a computer to examine subpoenaed records, they've taken it much further.

During 1986, the Strausses reported, Party Time shipped \$175,445.19 in booze to Bethel.

They also documented that the 11 biggest Party Time customers bought 12,175 bottles of whiskey and 2,430 cases of beer during the year, for a total of \$125,775.89.

That averages out to three bottles of whiskey and 72 cans of beer a day for each buyer.

Assuming the proportions of beer to whiskey are roughly comparable among all buyers as they are with the top 11, Party Time's sales to Bethel would translate to a

hard liquor per capita consumption rate of 10.5 gallons — more than one half times the national rate.

Party Time's sales of five Anchorage liquor stores selling directly to Bethel. Adding to the consumption would be whiskey carried in luggage purchased over the counter and shipped by individuals themselves.

It all goes to a town where the sale of liquor is officially outlawed.

Between Jan. 6 and July 18, 1986, defendant Party Time spent \$8,471.46 at Party Time and among his purchases were 480 bottles of whiskey according to the court records.

To preserve the privacy of the other Party Time patrons their names were not disclosed in the court filing. But a computer printout showed that one of them, identified as "Customer 1," bought 283 bottles of whiskey between June 2 and July 1, 1986, a period that include

the busy Fourth of July holiday. The most orders went to "Customer 11," who spent \$23,239.47 during the calendar year on 2,423 bottles of whiskey, six bottles of other hard liquor and 21 cases of beer.

The July 14, 1987, affidavit of a former employee, Edith Turkington, accused the Gallagher's son-in-law, Richard Marietta, of forging signatures on Bush order forms.

From a back-room office crammed to the ceiling with booze, she and Marietta would take orders over the telephone or by mail. "Each day we would call Alascom and see who had sent money in," she testified.

When a phone order arrived from a regular customer, she or Marietta searched the customer's file for an order form. The forms were often blank, with only the signature of the customer at the bottom, she said.

"On many occasions, we would not have a signed blank order form and Richard just forged the signature," she said.

The Gallaghers kept a ledger for each customer, Turkington testified. "On some of the pages in the book, the word 'bootlegger' was written. I asked Richard Marietta what that meant, and he just said it was a person who sold booze out in the Bush.

"We shipped large liquor orders to persons who were marked as 'bootleggers' in the book. As far as I know, we treated bootleggers just the same as anyone else, although Mike Gallagher often would give discounts and free booze to persons ordering large amounts of liquor."

Attempts to locate Marietta were unsuccessful. An employee of Party Time said Marietta was in California, but didn't know where. Paula Gallagher said she couldn't provide his location or a way to reach him.

AIRLINES' ROLE

In Aniak one Friday afternoon in October, a Northern Air Cargo DC-8 touches down on the runway in the center of town, a few

See Page A-8, RIVER OF BOOZE

minutes behind a MarkAir jet. It taxis to the terminal area. A forklift goes to work on the freight pallets. Within an hour, both planes are back in Aniak.

The Northern Air Freight plane leaves four shipments of booze, three of them — cases of whiskey and beer — for men suspected of bootlegging by the local police. Shipping records show that one of the men has received three cases of whiskey over the past six days.

Outside, two men, each with a case of beer tucked under an arm, tread from the MarkAir terminal toward a river slough. They are met by a woman, who helps them load the beer into a pair of

boats. After pausing for a drink, they take off up the slough and disappear around the bend, a tiny current in the big river of booze.

Half an hour later, Tommy Toms of Aniak is perched on a bluff above the same slough. He and a friend are holding the cases of beer and whiskey that arrived under his name at Northern Air, and they have cracked the beer case and are drinking.

He's no bootlegger, Toms says, but he also doesn't believe it is wrong for anyone to buy or sell liquor. "It's their money, they could do what they want. There should be no law in spending money the way you want."

A third friend emerges from the thicket below. He ambles up the hill, chats for a few minutes, then hoists the two cases to his shoulders and turns back the way he came.

The next day, Aniak police report a complaint from Kalskag that Toms was bootlegging there.

FLIGHTS FOR BOOZE

Airlines large and small are huge channels for Alaska's river of booze. Their role was recognized last year by an elders council of the Seward Peninsula and the northern Bering Sea islands. In a formal resolution, they asked air carriers to refuse liquor shipments to the Bering Straits villages.

A more discreet role is played by private planes.

James Michelangelo, chief of the National Transportation Safety Board's office in Anchorage, said he believes that booze is the cargo aboard some of the hundreds of planes that take off each day from Merrill Field, one of the nation's busiest airports. The only time anyone knows for sure, though, is when something goes wrong.

That happened Jan. 24, 1987, when a single-engine plane crashed on takeoff at Merrill. The pilot survived, but was uncooperative with authorities, Michelangelo said. He gave his address as General Delivery, Bethel.

When authorities went through the plane, they found

it loaded with liquor.

"They had booze up the kazoo," Michelangelo said.

Michelangelo said alcohol, in small amounts, is suspected as a hidden cargo on a Yute Air mail plane that crashed and exploded May 7, 1987, on a hillside near Cheformak, killing the pilot. The flight manifest listed no volatile liquids, yet the plane burned with a ferocity that could only have been fueled by an extremely flammable cargo, he said.

Most booze, at least to Bethel and the surrounding wet villages, moves on scheduled airlines and air taxis. For some, the business can be an important part of the profit picture.

Phil Hoversten, once an official for now-defunct Wien Air Alaska, said the expedited booze packages that arrived on Fridays brought in enough money to cover the entire weekly payroll of the Bethel staff. "We'd get 100 to 150 packages at 50 bucks a crack," he said.

Audi Air, a commuter airline based in Fairbanks that serves the Inupiat and Athabascan communities of the North Slope and Interior, has a pad of order forms from International Liquor of Fairbanks stuck on the wall of its Fort Yukon terminal.

MarkAir has had promotions with liquor stores. Brown Jug has distributed flyers saying has teamed up with Mark to bring speedy and convenient service to Bethel. MarkAir will pick up cash and money orders at its counter in Bethel, which is to Anchorage for delivery Brown Jug, and have the booze waiting for the customer by the next day with no Alascom charges.

MarkAir's express parcel rates are the best to Bethel. Clerks at Party Time and Liquor in Anchorage recommend the price and convenience of the daily 11 p.m. MarkAir flight to Bethel. The cost for up to 10 pounds is \$36.75 for a SpeedMark versus \$47 for Alaska Airlines Goldstream they said.

MarkAir's former Bethel

station manager, Kent Harding, says the airlines should shoulder more responsibility for controlling booze.

"Anyone that lives in a community — manager, employees — should like to see bootlegging controlled," said Harding, now a sergeant with the Bethel police department.

But that attitude got him in trouble when he worked for MarkAir, he said.

"When a box (not marked

See Page A-9, RIVER OF BOOZE

Continued from Page A-8

as liquor) came in that would go slosh, that had obvious signs of liquor, we would bring it to the attention of police. They would get a search warrant. And it would be safe to say that what was reported turned out 100 percent of the time to be alcohol."

Harding said the concealment of the liquor indicated that it was bound for the bootleg market and justified a search warrant.

But his attitude made his bosses unhappy, he said.

"You can either be an employee of MarkAir and keep the revenue, or go back to being a cop," he quoted them as saying. So he quit.

MarkAir President Ralph Brumbaugh declined to respond to Harding's comments.

Officials of airlines in Alaska say they refuse to ship liquor to dry villages. But most say they are duty-bound to carry all legal cargo — and booze to Bethel and most

western Alaska villages is legal.

MAKING A STAND

Bering Air decided to just say no.

The airline offers commuter service to 17 northwest villages out of Nome and serves as a contract carrier for continuing Alaska Airlines passengers and cargo.

Bering Air President Jim Rowe said the airline will carry no booze to any village, wet or dry.

"It was my choice," said Rowe, who has flown in the area for 14 years.

"I'm responsible for the impact of this company on the people it serves. The fact is that we do provide a lot of services for the troopers, and we're on medevac duty. When there's an emergency call to go out to a village, if you're the pilot and it's 2 o'clock in the morning, and you're looking at somebody about to go into a body bag, and the

troopers ask where they got the booze, I don't want them pointing their fingers at me.

"Anytime I get a call that someone's hurt in a village, it's somebody I know. There are villages where there are 13-, 14-year-old kids having alcohol problems, and I may have flown the mother to the hospital to have those kids. So it's personal."

Rowe said he has no delusion that his action is diminishing the flow of booze into the villages. With the exception of Little Diomedes, at least one other carrier serves each of his destinations, and none flies by his rules.

Alaska Airlines was not happy with his decision because of concerns that it would run afoul of common carrier regulations. Rowe said he sympathizes with their concerns.

"Even though we're certified the same as MarkAir or Alaska, it's harder politically (for them) to make the stand we have. Alaska

he tells the ticket counter clerk, with a note of disgust in his voice. "I'm not doing any more."

Nome, he talks about the last straw: a flight chartered the previous day by two women to the nearest liquor store. It was in Galena, 130 miles away.

"People's permanent checks have just come in, and they're taking charters to get booze," he says. "They don't have food for their kids at home. Their kids don't have good shoes and jackets for the winter. I don't want to be a part of it anymore. It makes me feel guilty."

"You just got to draw the line," he says. "I'm just tired of seeing the kids of parents I've taken sitting outside crying because their parents are home drunk."

If recent history is any example, Twedo's action would only divert the business somewhere else, like a small weir in the river of booze.

Airlines doesn't support our stand. They're a publicly held company. If they make a stand such as we have, it goes all the way back to Washington, D.C. When Bering Air does it, there's only one person it comes back to, Jim Rowe.

"One hundred percent of all the mail we had was positive," he said, including letters from local councils and elders. "No one has even suggested we were out of line. Having alcohol in the villages is not a position that's easily defended. There are not many good points for alcohol abuse."

While other airline companies have not followed Rowe's example, some individual pilots have.

NO MORE BOOZE FLIGHTS

It is a cool, windy morning in October, 8 a.m., and there is no hint yet of dawn. Pilot Jim Twedo walks into the Ryan Air Service terminal at Unalakleet.

"No more booze flights,"

By [unclear]
Daily News reporter

NULATO — The trouble started simply, as a dispute over a liquor store. Most people here didn't want one in the village, and they let Elmer Manook know it.

Yet over the past 18 months, this small, local confrontation has tangled itself into an ever larger and more frustrating knot that now includes a state agency, federal law, Native corporation politics and a gaggle of lawyers. Meanwhile, people keep dying because of booze.

Over the protests of a majority of registered voters in Nulato, a village of 350 people on the middle Yukon River, the state Alcoholic Beverage Control Board gave Elmer Manook a license to open a liquor store a few miles outside the municipal boundaries of the village.

Nulato Mayor Victor Nicholas, a leader of the movement against Manook's store, was dumbfounded when the ABC board ignored a petition opposing the new license. The petition had been signed by nearly all the village's registered voters and hand-carried to Anchorage by Nicholas late in 1986.

"After the petition, the testimony we gave, I just figured they wouldn't give it to him. There was enough of a concern that we spent the city's money to send someone down to Anchorage to testify," he said.

Nicholas was outraged when he found that the Gana-a' Yoo village corporation, which represents Native shareholders in Galena, Kaltag, Koyukuk and Nulato, helped the liquor store along by leasing Manook the land he needed.

"To me, that was really underhanded," said Nicholas. "Geez, I was upset. That's kind of odd. It's our land, our corporation. They should have asked us for input."

So how did it happen? Why would a state board ignore such strong protests from a community? And by what logic do village corporation leaders support the sale and distribution of a substance that is killing their neighbors, families, friends and shareholders?

"To whom it may concern: My concern in Nulato is alcohol. One thing I hate about alcohol is that it killed my aunt. I don't really want to talk about it that much so I will tell you a little. See, she was drunk, she was coming in town and because she was drinking she got sleepy and fell asleep in the cold. She froze. . . . It was a very sad moment in my life. There was another, my uncle. He was walking down town, some people were drunk driving and they ran into him. Thanks for listening."

DEATH TOLL GROWS

In Nulato, six deaths have been blamed on alcohol, directly or indirectly, in the

350 people, that's nearly 2 percent of the population. Anchorage, the equivalent would be about 3,700 people.

Three of the deaths wiped out most of a family — two brothers and a sister. One brother, while drunk, accidentally strangled him in September 1986. His sister, despondent, hanged herself within a month. The third sibling, an older brother, when a drunken driver on a snowmachine rammed into him.

Two more of the deaths came on successive nights in August. A man shot himself and his closest friend hanged himself within hours.

No one blames the death on the opening of Manook's store. Booze is available at Last Chance, a store 13 miles above Nulato, and at Gale 40 miles away. Booze comes

by boat, snowmachine and airplane on a regular basis. Bootleggers sell it in town.

Nulato's people have been unable to stem the flow of booze from outside sources, but they don't want it sold in town.

Manook grew up in Nulato but has lived in Anchorage for 30 years. When he first proposed to open a liquor store in town, local pressure and an official citywide vote against a store forced him back down.

He then decided to open a store outside the municipal boundaries near Nine Mile Bluff, a well-known landmark below Nulato where many villagers own land and many others fish cut wood.

Manook went to Gana-a' Yoo, the village corporation, told them his plan and asked to lease about two acres of

land. Although members of the Gana-a' Yoo board knew about the opposition to a liquor store, and all of them knew that alcoholism and alcohol-related death is epidemic in the area, Manook got the lease for \$432 a year, according to papers filed with the ABC board.

"Any and all of our land for lease to anyone," said Paul Kiler, Gana-a' Yoo's chief executive. "If it is a remote area, such as where Elmer was, we're willing to lease it as long as it isn't in conflict with the subsistence activities of our shareholders. . . . We didn't get into the right or wrong of the alcohol issue. If it's right or wrong, our intent was to lease it, whatever he wanted."

Not all Native corporation

TANANA Regional Corp. closed the bar in its hotel in Kotzebue, a move that made the business instantly unprofitable. Other corporations have instituted no-alcohol policies for corporate functions in recognition of the problems among shareholders and their families.

Gana-a' Yoo's board did not consider the issue.

A BUSINESS MATTER

Frederic Stickman, a former mayor of Nulato, was a member of the board that approved the lease. This was a business matter, he said, and a profit-making corporation has to keep its mind on business if it is to succeed.

"This is my opinion on

See Page A-12, NULATO

Continued from Page A-11

Elmer," said Stickman, a firm, fit and imposing community leader and businessman. "It's free enterprise. He leased the land. He went through the procedures, and no one should have the right to object to any business, liquor store or whatever."

"To Whom May Concern: I feel un happy Because I hate to see my mom and dad Drink. When I come home from School I see them Drunk. Our house is missy when they Drink. My Baby Brother is one year old. I have to take care of him. I till my mom and dad to quit drinking and go to bed. But they do not listing to me so I clean up the house and dress up my house and go up to my grandad ———'s house. I tell them what them what they are doing to theirselves and to us.

"Sometimes I don't even have any food to eat."

— Letter to the ABC board from a child in Nulato Nov. 14, 1986

After acquiring the site, Manook went before the ABC board, a five-member panel of citizens appointed by the governor. The board has the power to grant and renew liquor licenses, and otherwise regulate the industry in Alaska. Two of the five seats are reserved for industry representatives.

Mike Gordon, the current chairman, owns Chilkoot Charlie's, a popular Anchorage bar. In his view, the board has a difficult, dual role. It should "rationally, intelligently assist the industry, nudging it in the right direction as far as meeting local concerns, and keeping the industry healthy, too."

Even non-industry board members feel they serve in a cooperative as well as a regulatory role. "You just weigh the pros and cons. You've got to protect the guy that has the substantial investment," says James McNamee, an insurance executive from Fairbanks.

In short, the board, over the years, has acted as more of a self-policing arm of the industry than as an activist watchdog. While board members and executive director Patrick Sharrock express familiarity with the problems caused by alcohol in the Bush, they do not feel the board should try to address the broad public policy issues raised by alcohol abuse in rural Alaska.

"We're not legislators," Gordon said.

ROUTINE APPROVAL

Alcoholism was not discussed when Elmer Manook came before the board. Manook's license was handled and approved routinely. No one testified at the hearing before the board granted Manook a license on Oct. 16, 1986.

Where were the opponents?

The people in Nulato knew that Manook planned to open a store somewhere, at some point, but they expected to be officially notified before it happened. They had, after all, voted in April 1986 against a liquor store.

But no official notice ever came. It wasn't required because Manook's site was outside Nulato's official municipal boundaries. Manook did, as required by law, advertise his intentions in two newspapers, but neither circulates frequently or is read regularly in Nulato.

Moreover, because of a technical reading of the state's liquor laws, the village's April vote did not apply to Manook's application, according to both Sharrock and the board's legal counsel.

The week after the application was approved

without debate, many of Nulato's residents were both shocked and angered.

Dear Mr. Sharrock: The approval of Elmer Manook's liquor application was received in Nulato as a complete surprise and indignation. . . .

His family does not live in the village. . . . His family will therefore not be subjected to the troubles that alcohol abuse causes among rural Natives. They will not have to personally experience the accidents and fatalities that frequently occur due to alcohol accessibility. They will be insulated and isolated from future effects. That Mr. Manook will assure his family's protection, but willingly subject the people here and their families to additional miseries is completely incomprehensible."

— Letter to the ABC board from a Nulato resident, Oct. 24, 1986.

OPPOSITION FORMS

Although it was a little late for protest, it wasn't too late. Local residents began eventually carried about 100 signatures, representing nearly all the adults in Nulato.

In the school, a teacher organized a letter-writing campaign by students, who sent a package of wrenching letters about alcohol and death in their families. The letters included crayon drawings of people flying off snowmachines into open water on the river and stick figures clutching beer cans while other, smaller figures peeked from behind curtains in the background.

Mayor Nicholas took the petition to Anchorage for the December meeting of the ABC board. Accompanying him was Mike Walleri, an attorney from the Tanana Chiefs Conference, a regional non-profit group that offers legal and social assistance to Interior villages.

Nicholas and Walleri asked the board to reconsider its earlier vote. The board's attorney said that was possible. Walleri encouraged the board to consider the

public safety issue. Nicholas asked the board to come to Nulato for a proper hearing. The board listened politely for about an hour, then held desultory discussion.

One board member endorsed the idea of a hearing in Nulato, but the idea was dropped because the board figured it would cost too much. The discussion ended abruptly and the board voted to deny the requests of Nicholas and Walleri. At the same meeting, the board gave Manook an extension on a requirement that his business open within 30 days after approval of the license.

Sharrock explained that Nulato can, under current local option law, vote to ban the sale or importation of alcohol in the village. If residents imposed a ban, it would extend five miles

beyond the official boundaries. That would put Manook out of business at his current site.

However, opponents say, this dodges a larger question: What if someone wanted to open a liquor store a mile or even one foot outside the buffer zone? Would that be another loophole in the law?

Walleri says there are too many loopholes. He has filed a lawsuit in federal District Court on behalf of the Nulato tribal council, a group organized under federal law and independent of the state-chartered village government.

The suit claims that the tribe has jurisdiction over liquor regulation on all the lands owned or selected by the village corporation, Gana-a' Yoo, and says federal law gives the tribal council the right to regulate liquor

outside traditional boundaries.

Naturally, Gana-a' Yoo sees the suit as a threat. Only Manook was named as a defendant, but the court has allowed Gana-a' Yoo to intervene as a second defendant.

Nulato has never been a hotbed of tribal rights activism, a fact that villagers and Walleri acknowledge. It is unfortunate, Walleri said, that he and the village council have had to resort to such a controversial alternative. Tribal rights, he said, are really "a secondary issue."

"Where the state system is responsive to the needs of the villages, I don't think we have any problem," he said. But, he added, when villages hit dead ends with the state and their own corporations, they have only federal law left to turn to.

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STATE OF ALASKA
THE LEGISLATURE

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

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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

H. JUD. 5-7-88 1:30 p.m.

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/21/88

FURTHER REFERRALS:

DATE: May 7, 1988

The Judiciary Committee has considered CSSB 399(RIs)

"An Act relating to the Alaska automated fingerprint system and to the inclusion of fingerprint information in that system."

RECOMMENDS:

- replace with HCS CSSB 399(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 3/29/88
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Chairman's signature

5-1746X
Chenoweth
5/7/88

Original sponsors: Szymanski, Zharoff,
Eliason, et al.

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 399 (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 the Alaska automated fingerprint
7 system and to the inclusion of fingerprint informa-
8 tion in that system."
9

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

11 * Section 1. AS 44.41.025 is amended to read:

12 Sec. 44.41.025. FINGERPRINTS [FEES FOR FINGERPRINT INFORMATION].

13 (a) The Department of Public Safety may maintain an automated finger-
14 print system.

15 (b) The commissioner of public safety may establish by regu-
16 lation and the Department of Public Safety may charge a reasonable fee
17 to be paid by a person requesting information from the Alaska automat-
18 ed fingerprint system and by a person submitting fingerprints under
19 (d) of this section. The commissioner of administration shall sepa-
20 rately account for fees collected under this section that the Depart-
21 ment of Public Safety deposits in the general fund. The annual es-
22 timated balance in the account may be used by the legislature to make
23 appropriations to the department to carry out the purposes of this
24 section.

25 * Sec. 2. AS 44.41.025 is amended by adding new subsections to read:

26 (c) The department may enter into the Alaska automated finger-
27 print identification system the fingerprints of a minor whose finger-
28 prints are taken under AS 47.10.097.

29 (d) Each of the following may submit a complete set of finger-
prints of the person designated for inclusion in the Alaska automated

1 fingerprint system:

2 (1) a person may submit the person's own fingerprints;

3 (2) the parent or guardian of a minor who is two years of
4 age or older may submit the minor's fingerprints; and

5 (3) the guardian or conservator of a person under AS 13.26
6 may submit the fingerprints of the person protected by the guardian or
7 conservator.

8 (e) The commissioner may maintain the fingerprint sets of minors
9 who are under 14 years of age submitted under (d)(2) of this section
10 in a file separate from the general file for all other fingerprints
11 maintained under (a) of this section.

12 (f) Upon request by a person who is 18 years of age or older,
13 the commissioner shall remove from the records of the Alaska automated
14 fingerprint system the complete set of the person's fingerprints
15 submitted by the parent or guardian of the person under (d)(2) of this
16 section. The regulations must establish a procedure for the sub-
17 mission of a request under this subsection and for notification that
18 the fingerprint set has been removed from the records in response to
19 the request.

20 * Sec. 3. AS 47.10 is amended by adding a new section to read:

21 Sec. 47.10.097. FINGERPRINTING OF MINORS. (a) Except as pro-
22 vided in (b) of this section, a minor in the custody of the department
23 or of a law enforcement agency may not be fingerprinted for reference
24 to or entry into the Alaska automated fingerprint system without a
25 court order upon good cause shown.

26 (b) A law enforcement officer may fingerprint a minor who is 16
27 years of age or older for reference to or entry into the Alaska au-
28 tomated fingerprint system without a court order when the minor is
29 convicted of, or adjudicated a delinquent for, an offense that is a

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felony.

(c) Fingerprint records under this section are not subject to AS 47.10.090.

5-1746X
Chenoweth
5/6/88

Original sponsors: Szymanski, Zharoff,
Eliason, et al.

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 399 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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15 lation and the Department of Public Safety may charge a reasonable fee
16 to be paid by a person requesting information from the Alaska automat-
17 ed fingerprint system and by a person submitting fingerprints under
18 (c) of this section. The commissioner of administration shall sepa-
19 rately account for fees collected under this section that the Depart-
20 ment of Public Safety deposits in the general fund. The annual es-
21 timated balance in the account may be used by the legislature to make
22 appropriations to the department to carry out the purposes of this
23 section.

24 * Sec. 2. AS 44.41.025 is amended by adding new subsections to read:

25 ~~(c) If a minor fingerprinted under AS 47.10.097 is 14 or 15~~
26 ~~years of age, the fingerprints taken under AS 47.10.097(b) may be~~
27 ~~checked through the Alaska automated fingerprint identification system~~
28 ~~once and then shall be immediately destroyed. If the minor is 16 or~~
29 ~~17 years of age, the fingerprints may be entered in the Alaska~~

1 ~~automated fingerprint identification system.~~

2 (d) Each of the following may submit a complete set of finger-
3 prints of the person designated for inclusion in the Alaska automated
4 fingerprint system:

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18 submitted by the parent or guardian of the person under (d)(2) of this
19 section. The regulations must establish a procedure for the sub-
20 mission of a request under this subsection and for notification that
21 the fingerprint set has been removed from the records in response to
22 the request.

23 * Sec. 3. AS 47.10 is amended by adding a new section to read:

24 Sec. 47.10.097. FINGERPRINTING OF ^{CONVICTED} ~~ARRESTED~~ MINORS. (a) Except
25 as provided in (b) of this section, a minor in the custody of the
26 department or of a law enforcement agency may not be fingerprinted for
27 reference to or entry into the Alaska automated fingerprint system
28 without a court order upon good cause shown.

29 (b) A law enforcement officer may fingerprint a minor who is ¹⁶ ~~14~~

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years of age or older for reference to or entry into the Alaska automated fingerprint system without a court order when the minor is arrested for an offense that is a felony if committed by an adult.

Convicted (c) Fingerprint records under this section are not subject to AS 47.10.090.

2838

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

1 years of age or older for reference to or entry into the Alaska
2 automated fingerprint system without a court order when the minor is
3 arrested for an offense that is a felony if committed by an adult.

4 *Convicted* (c) Fingerprint records under this section are not subject to
5 AS 47.10.090.
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Original sponsors: Szymanski, Zharof.,
Eliason, et al.

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 25 prints of the person designated for inclusion in the Alaska automated
 26 fingerprint system:

27 (1) a person may submit the person's own fingerprints;

28 (2) the parent or guardian of a minor who is two years of
 29 age or older may submit the minor's fingerprints; and

Tough Love
Judy Rich

SB0399c

CSSB 399(R1s)

Add: if the minor voluntarily agrees submits to the Procedure

Guardians of
incap. & persons

1 (3) the guardian or conservator of a person under AS 13.26
2 may submit the fingerprints of the person protected by the guardian or
3 conservator.

4 (d) The commissioner ^{shall} maintain the fingerprint sets of minors
5 who are under 14 years of age submitted under (c)(2) of this section
6 in a file separate from the general file for all other fingerprints
7 maintained under (a) of this section.

8 (e) Upon request by a person who is 18 years of age or older,
9 the commissioner shall remove from the records of the Alaska automated
10 fingerprint system the complete set of the person's fingerprints
11 submitted by the parent or guardian of the person under (c)(2) of this
12 section. The regulations must establish a procedure for the sub-
13 mission of a request under this subsection and for notification that
14 the fingerprint set has been removed from the records in response to
15 the request.

check w/
(c) of SB 37

Original sponsor: Fischer

1 IN THE SENATE BY THE RULES COMMITTEE

2 CS FOR SENATE BILL NO. 37 (Rules)
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 fingerprinting of minors."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 47.10 is amended by adding a new section to read:

9 Sec. 47.10.097. FINGERPRINTING OF ARRESTED MINORS. (a) Except
10 as provided in this section, a minor in the custody of the department
11 or of a law enforcement agency may not be fingerprinted without a
12 court order upon good cause shown. [Good cause exists if the minor is
13 in custody for a serious offense against persons or property, or if
14 identification of the minor is necessary for the safety of the minor
15 or of other persons.]

16 (b) A law enforcement officer may fingerprint a minor who is 14
17 years of age or older without a court order

18 (1) when the minor is arrested for an offense that is a
19 felony if committed by an adult, or

20 (2) immediately after the minor is institutionalized upon
21 adjudication for delinquency.

22 (c) If the minor is 14 or 15 years of age, the fingerprints
23 taken under (b) of this section may be checked through the Alaska
24 automated fingerprint identification system once and then shall be
25 immediately destroyed. If the minor is 16 or 17 years of age, the
26 fingerprints may be entered in the Alaska automated fingerprint iden-
27 tification system.

28 (d) Fingerprint records under this section are not subject to

29 AS 47.10.090.

Records of Minors
Confidential

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

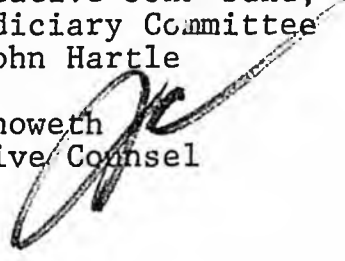
MEMORANDUM

May 6, 1988

SUBJECT: Draft HCS CSSB 399 (Judiciary)

TO: Representative John Sund, Chair
House Judiciary Committee
ATTN: John Hartle

FROM: Jack Chenoweth
Legislative Counsel



There are changes in this bill that do not appear in either SB 37 or SB 399, the provisions from which this bill is taken. The changes, appearing in AS 47.10.097(a) and (b), are offered so that the committee substitute complies with Uniform Rule 41(b).

When you first inquired several days ago as to whether these bills could be put together under SB 399, I responded in the affirmative. Now, I am advised that they should not be put together under the title of the version of SB 399 unless the provisions of AS 47.10.097, derived from SB 37, are modified to more closely relate them to the Alaska automated fingerprint system.

The modifications in the bill, drafted to respond to that suggestion, do change, in my view, the substantive provisions of AS 47.10.097, set out in bill section 3 of this draft. The changes may not meet the committee's requirements or expectations. Without them, however, the committee substitute would not conform to that requirement of article II, section 13 requiring that "[t]he subject of each bill . . . be expressed in the title."

Because of the modifications, I ask that you review the draft carefully to ascertain that it accomplishes your purpose(s).

Enclosure
JC:gc
WKG3:066



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4978/4979

Interim
3111 C Street
Suite 150
Anchorage, AK 99503
(907) 276-6739

M E M O R A N D U M

To: Representative John Sund, Chair
House Judiciary

From: *Mike Szymanski*
Senator Mike Szymanski

Date: April 21, 1988

Subject: Scheduling of hearing for SB 399

165 E. Parks Hwy.
Suite 104
Wasilla, AK 99687
(907) 376-MIKE

I am the sponsor of SB 399, "An Act relating to the automated fingerprinting system and to the inclusion of fingerprint information in that system."

This bill just passed the House State Affairs Committee yesterday, April 20, and has passed on to your House Judiciary Committee.

Because of the lateness of the session, I would like to request that you consider scheduling the bill in your Committee at your earliest possible convenience.

I submitted this bill this session as a follow-up to another fingerprinting bill in the legislative hopper when I realized that there was no opportunity for people who wished to do so to voluntarily add their prints to the state system. The Senate Judiciary CS made some adjustments in language at the request of the Department of Public Safety, who supports the bill. The Senate Rules CS allows the Department to collect fees for the service in areas of the state where the service cannot be provided by private enterprise, and the DPS position paper goes into some detail resolving the concern as to how the confidentiality and privacy of voluntary submitters remain protected and not mixed with criminal records.

As you can see from the attached backup, the bill has the support of the Department; it passed the Senate on a 20-0 vote. Any efforts you could make to hasten its passage through the House would be appreciated.



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4978/4979

M E M O R A N D U M

To: All Senators
Alaska State Legislators

From: Senator Mike Szymanski

Date: February 4, 1988

Subject: Bill Allowing Additions of Fingerprint information in the criminal justice information system.

Interim
3111 C Street
Suite 150
Anchorage, AK 99503
(907) 276-6739

165 E. Parks Hwy.
Suite 104
Wasilla, AK 99687
(907) 376-MIKE

Attached is a bill I will be introducing on Monday, February 8. Currently, there are no statutory means by which the people of Alaska who wish to can have their fingerprints added to the state's criminal justice computerized fingerprint system.

There are people who want this information to be on file for a variety of personal reasons: for identification purposes in case of accidents or kidnappings or abductions, to identify runaways, amnesia cases, people suffering from Alzheimer's disease, etc. There are private groups in Alaska that currently keep fingerprint information on their own for identification purposes, but none of this information is allowed in the present system, and much of it is not of good quality.

The Alaska Automatic Fingerprint Identification System is governed under regulations by the Governor's Commission on the Administration of Justice. The bill would allow the Commission to set up regulations governing things like the quality of the prints being submitted (under the age of 2 the quality is too poor), procedures for taking prints, the age of the person whose prints are submitted, method of removing prints from the system and what fees (if any) would be charged to users. The Department of Public Safety fiscal note should be zero.

Because the AAFIS is a system based on absolute measurements, it cannot automatically allow for increased print size of children due to growth up to about 14 years of age. Hence, children's prints would be kept in a special file to be retrieved in case of need and enlarged manually to be searched against any current prints. Children from approximately the age of 14-18 would be in the regular system files with the prints of offenders. However, because the automatic print matcher works only through file numbers and not names, and all court records are kept separate, there would be no pejorative connotation of criminality just because someone's prints were in the system.

Anyone wishing to co-sponsor this legislation please contact Roger Poppe in my office at 465-4978 before 10:00 am February 8.

BILL NO: CSSB 399 (JUD)

DATE: March 25, 1988

TITLE: An Act relating to the Alaska automated fingerprint system and to the inclusion of fingerprint information in that system.

CONTACT: Kenneth E. Bischoff
Division of Admin. Services
465-4336

DEPARTMENT OF PUBLIC SAFETY

Passage of this legislation would allow people to submit fingerprints for entry into the Alaska Automated Fingerprint Identification System (AAFIS). Fingerprints from an adult would be entered at his or her own request; fingerprints of a minor over two years old or of a person under the protection of a guardian would be entered upon request of the parent or guardian.

Fingerprints entered into AAFIS under this bill would be contained in the AAFIS data base, but the actual fingerprint cards would be maintained separately and indexed so that a person whose fingerprints were entered by a parent or guardian can have those fingerprints removed upon reaching age 18, if the person requests.

The Alaska Automated Fingerprint Identification System is a separate ("stand alone") computer system; it is not connected to the Alaska Public Safety Information Network (APSIN) or any other state, regional, or national criminal justice information system. Criminal history record information is contained on APSIN and other criminal justice information systems, not on AAFIS. AAFIS is an identification device which will positively confirm, based upon fingerprints, the identity of an individual whose fingerprints are submitted for identification or verification. The FBI is not hooked up to AAFIS. The FBI maintains a central national storehouse of fingerprint cards of serious criminals. The FBI's basic purpose is to maintain a clearinghouse allowing positive identification of serious criminals who cross state lines. The FBI would not be interested in knowing if a person has voluntarily submitted fingerprints into AAFIS.

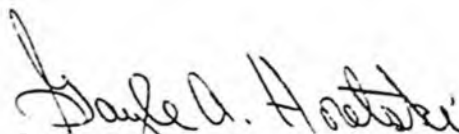
The Department of Public Safety controls access to AAFIS, and intends to continue to use the AAFIS data base for law enforcement purposes only. Law enforcement purposes would include, for example, using fingerprints on file to identify dead bodies.

Existing language in Title 44 allows the Department to charge a "reasonable fee" to a person requesting information from AAFIS. We understand that the Senate Rules Committee is considering an amendment that would add, on page 1, line 17, after "fingerprint system," "and by a person submitting fingerprints under (c) of this section." This would allow the Department to charge a reasonable fee to a person who wishes to submit his (or his child's) prints to the AAFIS system.

Generally, the Department of Public Safety staff does not take fingerprints for other than law enforcement purposes. Therefore, individuals desiring to take advantage of this bill's provisions would ordinarily be required to have their fingerprints taken by a qualified fingerprint technician in business for such purposes. Businesses offering these services exist in many of the larger communities in the state. In those areas where such services do not exist, procedures would be established to allow state troopers, VPSOs, or other trained DPS personnel to perform this service, probably for a modest fee.

Position Paper, CSSB 399 (Jud)
Department of Public Safety
Page 2

The Department of Public Safety supports this bill, including the proposed amendment discussed above.


for Arthur A. English
Commissioner

Fy I + File SB 399

BILL NO: SB 399

DATE: March 1, 1988

TITLE: An Act Relating to the Inclusion of Fingerprint Information in the Criminal Justice Information System

CONTACT: Ken Bischoff 465-4336

DEPARTMENT OF PUBLIC SAFETY

Passage of this legislation would allow fingerprints of persons, including minors to be maintained in a "Criminal Justice Identification System."

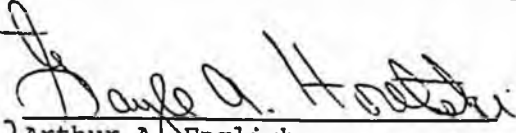
This legislation discusses a "Criminal Justice Information System" but apparently refers to the Alaska Automated Fingerprint Identification System (AAFIS) which is not a criminal justice information system, but a data base of fingerprint minutia. Federal definitions of "Criminal History Record Information" exclude fingerprint information "to the extent that such information does not indicate involvement of the individual in the criminal justice system." While AAFIS contains fingerprints from criminals, it does not contain any information related to that person's offense, arrest, or disposition. Therefore, the legislation should be amended to substitute the term "Fingerprint Identification System" instead of "Criminal Justice Information System."

Since the AAFIS is not a criminal justice information system, it would be more appropriate to place the proposed new statute in another portion of the Alaska Statutes such as Title 44, which already contains a provision discussing "Fees for Fingerprint Information", AS 44.41.025. Therefore, the Commissioner of Public Safety would be the appropriate authority to establish regulations for this subject.

Section 1(d) of the legislation provides specific details which are more appropriate to program administration of the AAFIS rather than to be embodied in a statute. For example, if fingerprints submitted for any purpose are not of sufficient quality or clarity to be read into the machine, they are rejected and the originating agency is advised of the poor print quality. While subparagraph 2 is appropriate, it should be part of program administration rather than embodied in statute.

Section 2 of the bill also should be amended to eliminate the "Commission" and substitute "the Department of Public Safety" as well as to eliminate the term "Criminal Justice Information System" and substitute the term "Fingerprint Identification System," as well as other rewording required by placement of this legislation in Title 44.

The Department supports this bill. It is difficult for us to determine the number who would take advantage of the opportunity to submit fingerprints. No fiscal impact is estimated presently; but if volumes were to reach high levels, additional resources would be needed.

for 
Arthur A. English
Commissioner

FISCAL NOTE

REQUEST

Revision Date: 3/23/88
Title: "An Act relating to the Alaska Automated Fingerprint System ..."
Sponsor: Sen. Szymanski, Zharoff, etc.
Requestor: Senate Judiciary

Agency Affected: Public Safety
BRU: DPS Administration
Components: Administrative Services

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 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|---|---|---|---|---|
| GENERAL FUNDS | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No additional funds are needed to handle the relatively small number of fingerprints anticipated under this bill.

Prepared by: Ken Bischoff *KSB*
Division: Administrative Services

Phone: 465-4336
Date: 3/28/88

Approved by Commissioner: Arthur English *A.A. Jr*
Agency: Public Safety

Date: 3-28-88

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

FISCAL NOTE

REQUEST

Revision Date: 2/12/88 Agency Affected: Public Safety
 Title: "An Act relating to the inclusion ... information system" BRU: DPS Administration
 Sponsor: Sen. Szymanski, Zharoff, etc. Components: Administrative Services
 Requestor: Senate Judiciary

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 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|---|---|---|---|---|
| GENERAL FUNDS | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: M. J. Clemens Phone: 465-4336
 Division: Administrative Services Date: _____

Approved by Commissioner: Arthur English Date: 3-1-88
 Agency: Public Safety

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

S B

4 13

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

| | | |
|---------|---------|----------|
| H. JUD. | 5-3-88 | 1:30p.m. |
| H. JUD. | 4-29-88 | 1:30p.m. |

Date referred: 4/8/88

FURTHER REFERRALS:

DATE: May 3, 1988

The Judiciary Committee has considered CSSB 413 (Jud) am

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

RECOMMENDS:

- replace with HCS CSSB 413 (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 3/16/88
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

 Chairman's signature

STATE OF ALASKA
THE LEGISLATURE

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

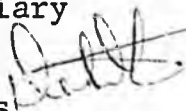
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 3, 1988

SUBJECT: HCS CSSB 413(Jud) (5/3/88 draft)

TO: Representative John Sund
Chair, House Judiciary

FROM: David R. Dierdorff 
Revisor of Statutes

Enclosed is a new draft HCS CSSB 413(Jud) for your consideration. This draft is the product of the May 2 subcommittee meeting and contains some technical and form and style changes on pages 3, 4, and 6, new sections 32 - 36, and 39 on pages 14 - 16, and an addition to the repealer on page 18.

With the permission of John Hartle, I have distributed a copy of this draft to Senators Kerttula, Josephson, Sturgulewski, and Fahrenkamp to expedite Senate concurrence in the House amendments.

When your committee passes out the bill, I will immediately send over a revised sectional analysis for publication in the House Journal.

Thank you for your prompt and thorough attention to the bill. I have appreciated very much your assistance, and the assistance of the members of your committee and staff, in making this annual chore a pleasant experience.

cc: Representative Max Gruenberg
Representative Ramona Barnes

Enclosure

DRD:bb
b5/089

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 3, 1988

SUBJECT: HCS CSSB 413(Judiciary)

TO: Representative John Sund
Chair, House Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

This memo discusses the House Judiciary committee substitute for SB 413, the 1988 revisor's bill. This bill incorporates six new sections (secs. 32 - 36 and 39) and adds AS 41.30 to the repealer. The new sections relating to AS 41 deal with material discovered when I completed my routine review of AS 41; the section dealing with AS 44.27 was brought to our attention by the Department of Law. In addition, minor form and style changes have been made in existing sections of the bill.

SUMMARY OF EFFECT

To assist you in understanding the bill, I have summarized the contents by grouping sections that have similar effects.

Sections that delete or repeal obsolete provisions:

Sections 23, 24, 29, 30, 32, 33, 35, 36, 42 and 43 of the bill delete or repeal provisions that have become obsolete either through the passage of time or other legislative action. Please note that all of the repealers are in sec. 43, a departure from the style of previous revisor's bills, in which we located repealed provisions in numerical order. The change was made to accommodate our automated "statutes affected" program in BASIS. The text of each substantive AS section proposed for repeal is attached to this memorandum as an Appendix.

Sections that update obsolete or archaic provisions:

The following sections of the bill substitute new provisions for provisions that are obsolete, archaic, or otherwise outdated, and make conforming changes in related provisions as necessary: 1-6, 8 (in part), 11, 16, 21, 22, 28, and 31.

Sections that correct errors or oversights:

The following sections of the bill correct errors or oversights in drafting, or make conforming amendments to harmonize laws passed during the same legislative session that could not be harmonized editorially: 7, 8 (in part), 9, 10, 12-15, 17-20, 25-27, 38, 39, 40, and 41.

Sections that improve the form of the statutes:

Section 34 eliminates redundant provisions. Section 37 adds a definition section applicable to all of AS 41. Related repealers in sec. 43 repeal individual definitions in portions of AS 41 that would be unnecessary with the enactment of the new provision.

SECTIONAL ANALYSIS

Sections 1 - 6. These sections change the phrase "wine gallons" to "gallons" in six sections of AS 04. Webster's New World Dictionary, 2nd college ed., defines "wine gallon" as "the old English gallon of 231 cu. in., now the standard gallon in the U.S." Consequently, these sections of the bill delete the archaic usage.

Sec. 7. This section amends AS 06.05.095 to correct an error in the original 1951 enactment. As enacted, the section was internally contradictory and did not say what it meant. If the amendment is enacted, the language of the section will conform to the interpretation that the section has always been given by the financial community.

Sec. 8. This section of the bill amends five paragraphs in AS 06.05.180, setting out the authorized trust powers of banks. Paragraph (2) is amended to substitute "person" for "woman" in conformity with the legislature's policy on gender-neutral laws. Paragraph (3) is amended to substitute "custodian" for "guardian" to conform to current legal usage. Paragraph (4) is amended to update the language used in referring to incapacitated persons. Paragraph (9) is amended to conform to current style.

Paragraph (10), added to AS 06.05.180 by sec. 1, ch. 7, SLA 1988, is amended to correct a misunderstanding of the effect of an amendment adopted last year by the House Labor and Commerce Committee. The error was not discovered until the Department of Law reviewed the bill for the governor last month. By copy of the review letter, the revisor was asked to consider making an editorial correction under AS 01.05.031. Based upon a review of the bill file and the legislative history of the bill, it was determined that the correction needed to be made by the legislature.

As enacted, the provision of AS 06.05.180(10) that allows certain investments "for short-term cash management purposes" modifies both direct investments and investments in the form of certain securities and other interests. The intent was, apparently, to modify only investments in the form of certain securities and other interests. Thus, direct investments could be for purposes other than short-term cash management. The proposed amendment, suggested by the Department of Law, changes the location in the paragraph of the conditioning language in order to carry out the intent of the proponents of the legislation and makes a minor change to clarify the reference to U.S. government obligations.

Secs. 9 and 10. These sections amend two provisions relating to unclaimed property upon voluntary liquidation of a bank to reflect the 1986 enactment of new laws on unclaimed or abandoned property.

Sec. 11. This section proposes an amendment to AS 06.-25.140, relating to the powers of trust companies, to update the language used to refer to incapacitated persons.

Sec. 12. Section 48, ch. 94, SLA 1987 deleted the reference to the Board of Electrical Examiners from the list in AS 08.01.010 that sets out the regulated occupations and professions that are subject to the centralized licensing provisions of AS 08.01. Instead of deleting the reference to the board (which was eliminated through repeal in the same legislation), the provision should have been amended to refer to the regulation of the occupation. This section corrects this oversight.

Sec. 13. The language proposed for deletion became redundant when AS 08.01.010 was amended in 1987 to include

the Real Estate Commission. AS 08.01.110(1) defines "board" to include a commission listed in AS 08.01.010.

Sec. 14. AS 08.01.065(c) was amended by sec. 1, ch. 87, SLA 1987, and repealed and reenacted by sec. 5, ch. 94, SLA 1987. The first amendment, however, had a later effective date than the repeal and reenactment, and because it added a sentence to the subsection, it was determined by the revisor that the ch. 94 amendment did not supersede the ch. 87 amendment. The Department of Law had advised the governor, in its bill review letters on the two Acts, that if the governor signed CSHB 222(Fin) am S (which became ch. 94) after he signed SCS CSHB 70(Jud) am S (which became ch. 87), the former would supersede the latter under the later enactment theory. The proposed amendment in sec. 14 of the bill would delete the language added by sec. 1, ch. 87, which is redundant to the provisions of the subsection as repealed and reenacted by ch. 94, and carry out the apparent legislative intent of the 1987 legislation.

Sec. 15. This section corrects an oversight in drafting ch. 94, SLA 1987, by substituting "department" for a reference to the Board of Electrical Administrators, which was eliminated by repeal in ch. 94.

Sec. 16. This section substitutes the word "unintentional" for the word "casual" in AS 09.45.730. In Matanuska Elec. Ass'n v. Weissler, 723 P.2d 600, the supreme court of Alaska construed the term "casual" to mean "unintentional," but noted that the usage was derived from an 1848 New York code, later used as a model for an early Oregon law and then Alaska's law, and had a 19th century meaning. The amendment is suggested to update the language in conformity with the court's construction. The section is also amended to substitute current Alaska usage for the terms "village, town, or city" and to make other changes to conform to current style.

Sec. 17. This section amends AS 09.63.040(c) to correct an oversight in the original drafting of the subsection, which sets out the statutory form for verifications. As originally enacted, the form does not conform to the requirements of AS 09.63.040(b). That subsection requires the person making a verification to sign it, but the form set out in (c) does not include a signature line for that person. The proposed amendment adds a signature line for