

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4840 HLAB SB 93 - SB 146

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9 3

A M E N D M E N T

Offered in the SENATE

By Duncan

TO: CSSB 93(Judiciary)

Page 2, line 29, to page 3, line 1:

Delete "with the approval of the trustor"

Page 3, line 1, following "obligations":

Insert ", for short-term cash management purposes,"

Page 3, line 2, following "in,":

Insert "a money market mutual fund operating as"

Original sponsor: Duncan

1 IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 93 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to investments by financial insti-  
7 tutions."

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

9 \* Section 1. AS 06.05.180 is amended to read:

10 Sec. 06.05.190. POWERS AS TRUSTEE AUTHORIZED. Every bank organ-  
11 ized under this chapter, subject to the restrictions and limitations  
12 of laws and the regulations of the department, may

13 (1) act as trustee under any mortgage or bond issued by the  
14 state, or any municipality, body politic, or corporation, foreign or  
15 domestic, and accept and execute any municipal or corporate trust not  
16 prohibited by the laws of this state;

17 (2) accept a trust from, and execute a trust for a married  
18 woman in respect to the married woman's [HER] separate property, and  
19 act as agent in the management of the property or transact any busi-  
20 ness in relation to the property;

21 (3) act under the order or appointment of a court of compe-  
22 tent jurisdiction including any probate court as guardian, receiver,  
23 or trustee of the estate of a minor, and as depository of money paid  
24 into court for the benefit of any person, corporation, or party, and  
25 in any other fiduciary capacity;

26 (4) act under the order or appointment of a court of compe-  
27 tent jurisdiction including any probate court as trustee, guardian,  
28 receiver or committee of the estate of a lunatic, idiot, spendthrift,  
29 person of unsound mind or habitual drunkard, or as receiver or

1 committee of the property or estate of any person in insolvency  
2 bankruptcy proceedings;

3 (5) act as executor or administrator with or without  
4 will annexed of the estate of a deceased person;

5 (6) accept and execute any legal trust, duty and power  
6 regard to the holding, management and disposition of any estate, real  
7 or personal, wherever located, and the rents and profits from it,  
8 the sale of it, as may be granted or confided to it by a court  
9 competent jurisdiction including any probate court or by any person  
10 corporation, municipality or other authority, and is accountable  
11 all parties in interest for the faithful discharge of every trust  
12 duty, or power which it may accept;

13 (7) accept and execute any trust or power conferred upon  
14 by any person or any body politic or domestic or foreign corporation  
15 or any other authority, grant, assignment, transfer, devise, bequest  
16 or otherwise, or which may be entrusted or committed or transferred  
17 it by order of a court of competent jurisdiction including any probate  
18 court;

19 (8) receive, manage, hold and dispose of according to  
20 terms of any trust or power any property or estate, real or personal  
21 which may be the subject of any such trust or power;

22 (9) act as the fiscal or transfer agent of the United  
23 States or of any state, territory, municipality, or other body po-  
24 tic, and in this capacity may receive and disburse moneys, transfer  
25 register and countersign certificates of stocks, bonds, or other  
26 evidences of indebtedness;

27 (10) whenever the instrument or power governing the fi-  
28 ciary relationship directs, requires, authorizes, or permits inve-  
29 stment in obligations of the United States government, invest in

1 obligations, for short-term cash management purposes, either directly  
2 or in the form of securities of, or other interests in, a money market  
3 mutual fund operating as an open-end management type investment com-  
4 pany or investment trust registered under 15 U.S.C. 80a-1 - 80a-64  
5 (Investment Company Act of 1940), if

6 (A) the portfolio of the investment company or invest-  
7 ment trust is limited to obligations of the United States govern-  
8 ment and repurchase agreements fully collateralized by the obli-  
9 gations; and

10 (B) the investment company or investment trust takes  
11 delivery of the collateral directly or through an authorized  
12 custodian.

13 \* Sec. 2. AS 06.05.270(a) is amended to read:

14 (a) In addition to loans and acquisitions expressly authorized  
15 by this chapter, a state bank may deal in, underwrite, and invest in  
16 for its own account

17 (1) direct or guaranteed obligations of the United States,  
18 either directly or in the form of securities of, or other interests  
19 in, an open-end management type investment company or investment trust  
20 registered under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of  
21 1940), if

22 (A) the portfolio of the investment company or invest-  
23 ment trust is limited to obligations of the United States govern-  
24 ment and repurchase agreements fully collateralized by the obli-  
25 gations; and

26 (B) the investment company or investment trust takes  
27 delivery of the collateral directly or through an authorized  
28 custodian;

29 (2) general obligations of the State of Alaska and its

1 political subdivisions;

2 (3) general obligations of a state of the United States or  
3 its political subdivisions;

4 (4) revenue obligations of the State of Alaska or its  
5 political subdivisions subject to the limitation of (b) of this sec-  
6 tion;

7 (5) revenue obligations of a state of the United States or  
8 its political subdivisions subject to the limitation of (b) of this  
9 section;

10 (6) obligations of instrumentalities of the United States  
11 government including, but not limited to Federal Intermediate Credit  
12 Banks, Federal Land Banks, the Federal National Mortgage Association,  
13 and Banks for Cooperatives;

14 (7) commercial paper of prime or equivalent quality as  
15 rated by a recognized national rating service subject to the limita-  
16 tion of (b) of this section;

17 (8) secured corporate obligations rated within the three  
18 highest grades of a national rating service subject to the limitation  
19 of (b) of this section;

20 (9) obligations of the International Bank for Reconstruc-  
21 tion and Development or the Inter-American Development Bank subject to  
22 the limitation of (b) of this section;

23 (10) stock in the Federal National Mortgage Association or a  
24 Federal Reserve Bank.  
25  
26  
27  
28  
29

# HOUSE COMMITTEE REPORT

(7)

Date referred: 4/1/87

FURTHER REFERRALS: Judiciary

DATE: 5/15/87  
CS\$B 93(Jud)

The Labor & Commerce Committee has considered  
"An Act relating to investments by financial institutions."

**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 TO PASS:**

*Alvin Korman*  
*D. W. Bombardieri*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

*David Conley* NO REC  
*David Conley* NO REC  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*David Conley*  
Chairman's signature

11064

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 93  
Publish Date: \_\_\_\_\_

REQUEST: \_\_\_\_\_

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

Title: Investments by Financial  
Institutions

Sponsor: \_\_\_\_\_

Requestor: \_\_\_\_\_

Agency Affected: Comm. & Econ. Dev.  
Banking, Securities & Corp.

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

POSITIONS:

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

ANALYSIS :

Prepared by: Willis F. Kirkpatrick, Director Phone: 465-2521  
Division: Banking, Securities & Corporations Date: \_\_\_\_\_

Approved by Commissioner: J. Anthony Smith, Commissioner Date: \_\_\_\_\_  
Agency: Department of Commerce and Economic Development

Distribution (by preparer):

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

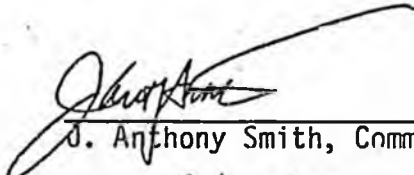
SB 93: "An Act relating to investments by financial institutions."

The Department of Commerce and Economic Development supports this bill if amended in the following manner. Page 2 line 29 after government insert "with approval of the trustor(s), . . . ."

Section 1 of the bill allows a trustee of a bank to invest in a mutual fund made up of government securities when the trust customer of the bank grants authority for the trustee to invest in government securities. This provision expands the trust power beyond that of the trustee agreement without allowing the trustor to make the determination as to whether this investment accords with the trustors' wishes. If the bank's trust customer gives the bank fiduciary freedom to invest in government securities the trustee of the trust should do just that. As SB 93 is now written, if the bank customer did not want government securities in the form of shares in a mutual fund the trust agreement would have to so state. There are a number of reasons why a trustor might choose not to have the trustee invest in mutual funds, one of which is that the trustor ends up paying double fees for the investment, one for the trustee administration cost and another for mutual fund management fees.

The department favors Section 2 of the bill as written. This section allows bank management to invest, as part of the bank's investment portfolio, mutual funds as long as the mutual fund limits its portfolio to legal investments. This allows a small financial institution the ability to have greater use of expertise of the mutual fund's managers, thus, diversifying some market risk.

This bill will have no affect on the program of regulating financial institutions nor will it have a fiscal impact.

  
J. Anthony Smith, Commissioner  
DATE: 2/25/87



# Alaska State Legislature

APR 8 1987

SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811

(907) 465-4766

COMMITTEES:  
FINANCE  
RESOURCES  
BUDGET AND AUDIT

## MEMORANDUM

April 8, 1987

TO: Representative Dave Donley  
Chairman, House Labor & Commerce

FROM: Senator Jim Duncan

SUBJECT: Hearing SB 93

Senate Bill 93, An Act relating to Investments By Financial Institutions has passed the Senate and was assigned to your committee in the House. I would like to request that you schedule this legislation for a hearing before your committee at the earliest convenience.

I have attached some backup material for your review.

Sen. Duncan

Senate Bill 93 proposes two statutory amendments to Alaska banking laws.

Amendment to AS 06.05.180.

The proposed amendment to AS 06.05.180(10) provides that where an Alaska domiciled bank or national bank holds assets under a trust agreement, that said assets can be invested in shares of a "money market mutual fund" limited to short term U.S. Treasury obligations.

Reason for Amendment.

In the course of its examination of national banks and trust departments, the U.S. Office of the Comptroller of the Currency has construed trust instruments that permit or require investments in U.S. Obligations not to authorize investments in money market funds limited to short term U.S. Treasury Obligations. The regulations of the Office of Comptroller of the Currency applicable to fiduciary activities provides that funds held by a national bank, in a fiduciary capacity, shall be invested in accordance with the instrument establishing the fiduciary relationship and local law. In making their own interpretation of state law, the Office of Comptroller of the Currency has consistently rejected contrary views of local bank counsel and has required national banks in some states to remove their assets from the money market mutual funds, with a subsequent loss to the bank's underlying account of the cost-effectiveness, convenience and liquidity afforded by the trust. The Office of the Comptroller of the Currency nonetheless has said that it will yield on the issue in the event of appropriate state legislation action. The decision of the Office of the Comptroller to yield to clarifying legislation has prompted introduction of legislation similar to the proposed amendment to AS 06.05.180(10) in many states.

Similar legislation has now been adopted by twenty (20) states: Alabama, California, Connecticut, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Minnesota, Missouri, New Jersey, New York, North Carolina, Oklahoma, Ohio, Texas & Virginia.

Amendment to AS 06.05.270.

The proposed amendment to AS 06.05.270(a)(1) formalizes the position taken by the Director of Banking for the State of Alaska which allows Alaska domiciled banks to invest their own assets in money market mutual funds which are limited to short term U.S. Treasury Obligations.

Reason for Amendment, Senate Bill 93.

1) Formalizes statutory amendment, the practice currently authorized by the State of Alaska's Director of Banking and 2) clarifies existing law.

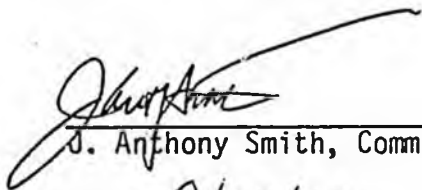
SB 93: "An Act relating to investments by financial institutions."

The Department of Commerce and Economic Development supports this bill if amended in the following manner. Page 2 line 29 after government insert "with approval of the trustor(s), . . . ."

Section 1 of the bill allows a trustee of a bank to invest in a mutual fund made up of government securities when the trust customer of the bank grants authority for the trustee to invest in government securities. This provision expands the trust power beyond that of the trustee agreement without allowing the trustor to make the determination as to whether this investment accords with the trustors' wishes. If the bank's trust customer gives the bank fiduciary freedom to invest in government securities the trustee of the trust should do just that. As SB 93 is now written, if the bank customer did not want government securities in the form of shares in a mutual fund the trust agreement would have to so state. There are a number of reasons why a trustor might choose not to have the trustee invest in mutual funds, one of which is that the trustor ends up paying double fees for the investment, one for the trustee administration cost and another for mutual fund management fees.

The department favors Section 2 of the bill as written. This section allows bank management to invest, as part of the bank's investment portfolio, mutual funds as long as the mutual fund limits its portfolio to legal investments. This allows a small financial institution the ability to have greater use of expertise of the mutual fund's managers, thus, diversifying some market risk.

This bill will have no affect on the program of regulating financial institutions nor will it have a fiscal impact.

  
\_\_\_\_\_  
J. Anthony Smith, Commissioner

DATE: 2/25/87

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

Bill Version : SR 93

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

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

Title : Investments by Financial  
Institutions

Agency Affected: Comm. & Econ. Dev.

BRU: Banking, Securities & Corp.

Sponsor : \_\_\_\_\_

Requestor : \_\_\_\_\_

Components : \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

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

<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
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<b>REVENUE</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
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**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

<b>FULL-TIME</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>PART-TIME</b>						
<b>TEMPORARY</b>						

**ANALYSIS :** (Attach a separate page if necessary)

Prepared by: Willis F. Kirkpatrick, Director  
 Division: Banking, Securities & Corporations

Phone: 465-2521  
 Date: \_\_\_\_\_

Approved by Commissioner: J. Anthony Smith, Commissioner  
 Agency: Department of Commerce and Economic Development

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

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Imp. ed Agency(ies)
  - Senate Secretary

(10) whenever the instrument or power governing the fiduciary relationship directs, requires, authorizes, or permits investment in obligations of the United States government, with the approval of the trustor, invest in the obligation, for short term cash management purposes ~~with~~, <sup>104</sup> either directly or in the form of securities of, or other interests in, a money market mutual fund operating as an open-end management type investment company or investment trust registered under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940), if

(A) the portfolio of the investment company or investment trust is limited to obligations of the United States government and repurchase agreements fully collateralized by the obligations; and

(B) the investment company or investment trust takes delivery of the collateral directly or through an authorized custodian.

OK  
2/28/87  
4/30/87

S B

108

Original sponsor: Coghill

1 IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 108 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to decisions of the commissioner of  
7 natural resources regarding the eligibility of an  
8 applicant for a pipeline right-of-way permit."

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

10 \* Section 1. AS 38.35.100 is amended to read:

11 Sec. 38.35.100. DECISION ON APPLICATION. (a) The commissioner  
12 shall promptly determine, in a written finding, on an application  
13 filed under AS 38.35.050 whether the applicant is fit, willing, and  
14 able to perform the transportation or other acts proposed in a manner  
15 that will be required by the present or future public interest. In  
16 making a determination the commissioner shall consider whether or not

17 (1) the proposed use of the right-of-way will unreasonably  
18 conflict with existing uses of the land involving a superior public  
19 interest;

20 (2) the applicant has the technical and financial capabil-  
21 ity to protect state and private property interests;

22 (3) the applicant has the technical and financial capabil-  
23 ity to take action to the extent reasonably practical to

24 (A) prevent any significant adverse environmental  
25 impact, including but not limited to, erosion of the surface of  
26 the land and damage to fish and wildlife and their habitat;

27 (B) undertake any necessary restoration or revegeta-  
28 tion; and

29 (C) protect the interests of individuals living in the

1           general area of the right-of-way who rely on fish, wildlife, and  
2           biotic resources of the area for subsistence purposes;

3           (4) the applicant has the financial capability to pay  
4           reasonably foreseeable damages for which the applicant may become  
5           liable on claims arising from the construction, operation, mainte-  
6           nance, or termination of the pipeline;

7           (5) the applicant has agreed that in the construction and  
8           operation of a pipeline within the right-of-way the applicant will  
9           comply with, and require contractors and their subcontractors to  
10           comply with, applicable and valid laws and regulations regarding the  
11           hiring of residents of the state then in effect or that take effect  
12           subsequently.

13           (b) If the commissioner makes the [THESE] determinations under  
14           (a) of this section favorably to the applicant, then the commissioner  
15           may grant the whole or part of the application. If the commissioner  
16           makes the determinations under (a) 1) - (5) of this section favorably  
17           to the applicant but determines that the applicant is not then fit,  
18           willing, and able to perform under the application, the commissioner  
19           may grant the application under a conditional lease subject to con-  
20           ditions established by the commissioner that will ensure that the  
21           applicant will, within a prescribed period of time not exceeding 10  
22           years, establish that the applicant is fit, willing, and able, under  
23           (a) of this section, to perform the transportation or other acts that  
24           will be required by the present or future public interest. An appli-  
25           cant is not entitled to a notice or authorization to proceed to con-  
26           struction, or its equivalent, under a conditional lease until the  
27           commissioner determines in writing that the applicant has satisfac-  
28           torily established that the applicant is then fit, willing, and able  
29           to perform under (a) of this section. Otherwise, the commissioner

1 shall deny the application.

2 (c) The commissioner may offer the applicant a lease or a condi-  
3 tional lease under this section. If the applicant does not accept a  
4 lease offered under this section within 30 days, the lease offered is  
5 withdrawn [IN ORDER TO GRANT THE WHOLE OR PART OF THE APPLICATION THE  
6 COMMISSIONER SHALL OFFER A LEASE TO THE APPLICANT FOR ITS ACCEPTANCE  
7 THROUGH SIGNING OF THE LEASE AND AGREEING TO COMPLY WITH ITS TERMS,  
8 CONDITIONS, AND OBLIGATIONS. ONLY UPON PROPER ACCEPTANCE OF OFFERED  
9 LEASE BY THE APPLICANT WITHIN 30 DAYS AFTER ITS HAVING BEEN PRESENTED  
10 IS THE GRANT OF THE APPLICATION CONSUMMATED].

11 \* Sec. 2. AS 38.35.100 is amended by adding new subsections to read:

12 (d) The commissioner shall include in a conditional lease each  
13 requirement and condition of the covenants established under AS 38.-  
14 35.120. The commissioner may also require that the lessee agree to  
15 additional conditions that the commissioner finds to be in the public  
16 interest. In place of the covenant established under AS 38.35.-  
17 120(a)(9), the commissioner shall require the lessee to agree that it  
18 will not transfer, assign, pledge, or dispose of in any manner, di-  
19 rectly or indirectly, its interest in a conditional right-of-way lease  
20 or a pipeline subject to the conditional lease, unless the commis-  
21 sioner, after considering the public interest and issuing written  
22 findings to substantiate a decision to allow the transfer, authorizes  
23 the transfer. The commissioner shall also require the lessee to agree  
24 not to allow the transfer of control of the lessee without the  
25 approval of the commissioner; as used in this subsection, "transfer of  
26 control of the lessee" means the transfer of 30 percent or more, in  
27 the aggregate, of ownership interest in the lessee in one or more  
28 transactions to one or more persons by one or more persons.

29 (e) The commissioner shall require a conditional lessee to agree

1 that

2 (1) in the absence of the approval of the commissioner, a  
3 transfer may not relieve the lessee of an obligation assumed under the  
4 lease;

5 (2) a transfer, including the transfer of lessee, that  
6 occurs without the approval of the commissioner is ineffective to  
7 transfer interests in and obligations under the lease; and

8 (3) a transfer constitutes a default under the lease.

9 (f) In an application for the approval under (d) of this section  
10 of a transfer of an interest, the commissioner shall consider whether  
11 the proposed transferee will be fit, willing, and able to perform the  
12 transportation or other acts proposed under the conditions established  
13 in the conditional lease and whether the transfer is in the public  
14 interest. In approving the transfer of an interest under (d) of this  
15 section and this subsection, the commissioner may impose any condition  
16 on the transfer that the commissioner considers in the public inter-  
17 est.

18 (g) If, during the term of a conditional lease, the commissioner  
19 determines under (a) of this section that the applicant is fit, will-  
20 ing, and able to perform the transportation or other acts proposed in  
21 a manner that will be required by the present or future public inter-  
22 est, the commissioner may amend the conditional right-of-way lease to  
23 insert the covenant established in AS 38.35.120(a)(9) in place of the  
24 covenant against a transfer established under (d) and (e) of this  
25 section.

26 (h) The issuance of a conditional lease does not prevent the  
27 commissioner from issuing other conditional or unconditional leases  
28 for the same right-of-way. A conditional lease may be revoked at any  
29 time that the commissioner determines that the applicant or

1 conditional lessee will not be fit, willing, and able to perform  
2 during the term of the lease or when another applicant or conditional  
3 lessee is determined to be fit, willing, and able to perform under an  
4 application or lease for all or part of the right-of-way. An appli-  
5 cant or conditional lessee accrues no rights, including preference or  
6 priority rights, to a particular right-of-way until the commissioner  
7 makes a determination that the applicant or conditional lessee is then  
8 fit, willing, and able to perform the transportation or other acts  
9 proposed under (a) of this section.

10 (1) The commissioner shall insert a provision implementing the  
11 requirements of (a)(5) of this section into each agreement entered  
12 into by the commissioner for the construction and operation of a  
13 pipeline within the state.  
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# HOUSE COMMITTEE REPORT

(7)

Date referred: 5/13/87

FURTHER REFERRALS: Finance

DATE: 5/14/87  
CSSB 108(Res)

The Labor. & Commerce Committee has considered

"An Act relating to decisions of the commissioner of natural resources regarding the eligibility of an applicant for a pipeline right-of-right permit."

**RECOMMENDS:**

- replace with HCS CS SB 108(4c)  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
- zero fiscal note
- zero with analysis
- same as previous fiscal note published \_\_\_\_\_
- same as previous zero fiscal note published \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_

Cliff Davidson

W. Furrace

Mike Kozan

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

David Duley NOREC

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\_\_\_\_\_

David Duley  
Chairman's signature

# HOUSE COMMITTEE REPORT

5/13  
Labor & Commerce

(9)

5/11/87

Date referred:

FURTHER REFERRALS:

Finance

(L&C added 5/12)

DATE: \_\_\_\_\_

The Resources Committee has considered CSSB 108 (Res)

"An Act relating to decisions of the commissioner of natural resources regarding the eligibility of an applicant for a pipeline right-of-way permit."

### 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:

Tom Hoffa  
Gene Vance  
Kevin Spry  
Cliff Davidson  
Mike Favano  
Dick Stutz  
Jan Cote

Adelheid Herrmann No Rec.

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\_\_\_\_\_

Jan Cote

Chairman's signature

# STATE OF ALASKA



SENATE

Letter of Intent

CSSB 108(RES)

The Judiciary committee, in considering SB-108, was made aware by a principal proponent of the bill (Yukon-Pacific Corporation) that in the corporation's project description and its scopeing document, it has signified its intention to encourage local hire at all "TAGS" facilities; to provide training for operation and maintenance personnel; to comply with State and Federal standards which are applicable or which will become applicable for the Alaska labor market and to use qualified Alaska labor in construction.

The committee welcomes these assurances. It is intended that in the administration of this chapter, the commissioner will encourage the utilization of qualified Alaska workers to the maximum possible extent.

Adopted May 9, 1987.

HOUSE RESOURCES COMMITTEE AMENDMENT TO CSSB 108 (Res)  
Adopted May 12, 1987

AMENDMENT ONE

To establish requirements for written findings related to conditional uses:

1. p. 1, line 12, after "determine,", insert:

in a written finding

2. p. 3, line 20, after "interest", insert:

and issuing written findings to substantiate a decision to allow the transfer

HOUSE RESOURCES COMMITTEE AMENDMENT TO CSSB 108 (Res)  
Adopted May 12, 1987

AMENDMENT TWO

To clarify some distinctions between conditional and regular leases:

1. p. 2, line 19, after "application", insert:

under a conditional lease

2. p. 3, line 1, after "lease", insert:

or a conditional lease

3. p. 4, line 16, after "If", insert:

during the term of a conditional lease

HOUSE RESOURCES COMMITTEE AMENDMENT TO CSSB 108 (Res)  
Adopted May 12, 1987

AMENDMENT THREE

To clarify that the conditional lease is revocable and carries no preference or priority rights

1. p. 4, line 25, after "right-of-way.", insert:

A conditional lease may be revoked at any time that the commissioner determines that the applicant or conditional lessee will not be fit, willing, and able to perform during the term of the lease or when another applicant or conditional lessee is determined to be fit, willing, and able to perform under an application or lease for all or part of the right-of-way.

2. p. 4, line 26, delete "priority" and insert after "rights":

, including preference or priority rights,

February 16, 1987

The Honorable Lloyd Jones  
Chairman  
Senate Transportation Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99801

Dear Senator Jones:

Subject: Senate Bill 108, relating to decisions on right-of-way lease applications.

Position: The Department of Natural Resource supports the amendment to the oil and gas pipeline right-of-way leasing statute (AS 38.35.100(b)) described in this bill.

Background: Senate Bill 108 would allow the commissioner to issue a conditional pipeline right-of-way lease even if the applicant is not presently "fit, willing and able."

The existing "fit, willing and able" standard requires the applicant to be nearly ready to begin construction before a right-of-way lease can be issued. In other words, financing has to be reasonably assured, gas sale contracts and markets in place, and construction designs substantially completed.

The commissioner currently has only one alternative to finding an applicant "fit, willing and able," and that is to deny the application. This bill would provide the commissioner with an additional alternative; the ability to issue a conditional right-of-way lease, subject to conditions that ensure the applicant will become "fit, willing and able."

This bill would have a positive effect on the economic development of pipeline projects in Alaska and would not reduce the "fit, willing and able" standards an applicant would be required to meet prior to actual construction of a pipeline.

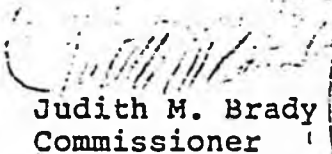
The Honorable Lloyd Jones -2-

February 16, 1987

Recommendation: To ensure that the applicant is required to become "fit, willing and able" within a reasonable period of time, add the words "within a prescribed amount of time" to line 15, after the word able.

Please let me know if you would like additional information.

Sincerely,



Judith M. Brady  
Commissioner

cc: Committee members.  
Governor's Legislative Liaison

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version: SB 108

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

Revision Date: February 16, 1987

Agency Affected: Natural Resources

Title: Right-of-way Lease Decisions

BRU: Land and Water Management

Sponsor: Senator Cochill

Components: \_\_\_\_\_

Requestor: Senate Transportation

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Carol J. Wilson Phone: 465-2400  
 Division: Commissioner's Office Date: 2/16/87

Approved by Commissioner: *Walt Cochill* Date: 2/16/87  
 Agency: Natural Resources

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

# STATE OF ALASKA

SB108

STEVE COWPER, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400

March 26, 1987

The Honorable Jay Kerttula  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Senator Kerttula:

The purpose of this letter is to provide an explanation of how the proposed change in the right-of-way leasing statute (SB 108) will affect the processing of oil and gas pipeline applications.

Under the existing statute, before an application is accepted by the department, it must be complete. That is, it must contain any and all data, information, plans, and exhibits deemed necessary by the commissioner to accomplish the pre-public hearing analysis, and the final decision to issue or deny, which follows the public hearing. A major element of the final decision is the commissioner's determination that the applicant is "fit, willing, and able" to perform in a manner consistent with the public interest.

The "fit, willing, and able" determination is an in-depth analysis of the applicant's financial and technical capability to perform as expected. Some considerations addressed under the "fit, willing, and able" standard include:

1. The status of financing arrangements;
2. Whether there will be oil or gas sales contracts dedicated in sufficient quantities to support the project; and
3. Whether the extent of preparation shows that this applicant can build the project as planned.

If the commissioner decides favorably for the applicant with regards to the "fit; willing, and able" determination, a right-of-way lease can then be offered. However, a negative determination results in an outright denial.

The proposed statutory amendment (SB 108) would provide an additional option by allowing the commissioner to issue a conditional right-of-way lease. What follows is the state's understanding of how the adjudication process will work with the passage of SB 108.

Project review, adjudication, and monitoring will take place in five stages. Those stages are:

1. Pre-application, application, and conditional right-of-way issuance.
2. Preconstruction (including field programs).
3. Construction (including rehabilitation).
4. Maintenance and operations monitoring.
5. Abandonment.

Stage 1 is characterized by the identification of issues, scoping, and development of work programs. A great deal of time is devoted to coordination with federal, state, and local government agencies to develop a consistent approach to the development of lease language, the administration of lands within the corridor, and a joint monitoring and surveillance program. Examples of Stage 1 tasks are presented below:

1. Identification of key technical personnel needed to resolve resource related issues. Included is the development of agency budget needs for Stages 2 and 3 of the project.
2. Development of a State Administrative Order to establish the roles of the participating state agencies, and their relationship to each other, and to establish appropriate authority.
3. Expedited resolution of general route issues.
4. Extensive coordination with the appropriate federal agencies to develop the following:
  - (a) Consistent language (terms and conditions) between the state right-of-way lease and the federal right-of-way grant.
  - (b) A joint agreement on the administration of lands along the pipeline corridor; and

- (c) A joint monitoring and surveillance agreement to cover the entire life of the pipeline project.
5. Expedited review and comment on the draft and final environmental impact statements, the Corps of Engineers Section 10/404 permits, and coastal zone consistency determinations on various aspects of the project.
  6. Development of list of issues and concerns that must be resolved prior to issuance of the Authorization to Construct. Included are the procedures necessary to implement the program. This work essentially sets the work plan for Stage 2.
  7. Identification of special technical studies that must be completed prior to final design approval. Such studies include, but are not limited to, stream crossings, cold or hot pipe effects on surface or subsurface waters, air and water quality monitoring, and pipeline integrity.
  8. Review the permitting strategy provided by the applicant. This information is incorporated in the lease terms and conditions and used as milestones to be accomplished prior to issuance of Authorization to Proceed.
  9. Establish a conceptual agreement with the applicant about facilities use, maintenance, and repair. This agreement forms the basis for reimbursement to the state for repair or reconstruction of roads, airports, or other state facilities.
  10. Establish procedures for preventing conflicts between existing and proposed facilities, including but not limited to, ANGTS, TAPS, and state highways.

To protect the various state interests, the lease would be conditioned in such a way that the commissioner's "fit, willing, and able" determination would be made during Stage 2. In any case, the determination will be made prior to the issuance of the Authorization to Construct. A process and schedule will be established through the terms and conditions to establish explicit deadlines for resolving issues and making the necessary determination. The overall intent is to ensure that issues are resolved well in advance of actual construction.

Stage 2 involves a high level of involvement of agency personnel. Depending on the size and scope of the project it is appropriate to consider establishing a State Pipeline

March 26, 1987

Office. This office would be staffed by personnel from participating state agencies having the responsibility to collect data (fish and wildlife, habitat, air and water quality, geotechnical, hydrological, etc.) necessary for final design approval, and will authorize the beginning of construction. Baseline studies will be conducted, and review of design concepts, criteria, and specifications will be conducted.

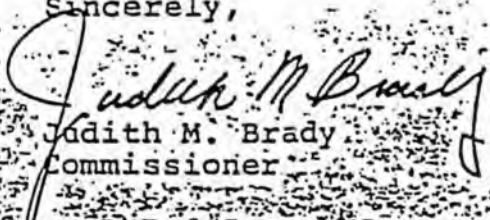
Stage 2 will culminate with the commissioner's "fit, willing, and able" determination, and the issuance of the Authorization to Construct.

Stages 3, 4, and 5 will proceed normally, unaffected by the statutory change represented in SB 108.

Under AS 38.35.140(b) the lessee is obligated to "reimburse the state for all reasonable costs incurred in processing an application filed under AS 38.35.050 and in monitoring the construction of the pipeline on the right-of-way." Accordingly, state agencies such as the Alaska Departments of Law, Natural Resources, Fish and Game, Environmental Conservation, and Transportation and Public Facilities expect to enter into a reimbursement agreement with any applicant. A reimbursable services agreement shall include, but not be limited to, pre and post application stages, pre-construction and construction, and maintenance and operation monitoring. Pre and post application activities include inter-agency negotiations and review of relevant documents. Agencies may require the lessee to provide direct services, such as transportation and lodging, in lieu of reimbursement.

The Department of Natural Resources supports SB 108. Passage of the bill into law will likely result in an increase in applications for pipeline rights-of-way and a corresponding work load. I believe it is in the state's interest to do so as it introduces a higher level of consistency to the department's adjudication process, encourages the participation of smaller companies while not discouraging participation of larger ones, and provides protection against speculation by incorporating terms and conditions requiring performance standards, which if not met, could void the lease.

Sincerely,

  
Judith M. Brady  
Commissioner

cc: Rod Swope, Governor's Office  
George Sullivan, Governor's Office

S B

1 1 0

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Economic Dev.  
Title: An Act relating to the practice of architecture, engineering & land surveying, BRU: Occupational Licensing  
Sponsor: Senate Labor & Commerce Committee Components: \_\_\_\_\_  
Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

New funding is not required to implement the provisions of this bill.

Prepared by: Jennifer Strickler, Management Analyst  
Division: Occupational Licensing

Phone: 465-2144  
Date: January 22, 1988

Approved by Commissioner: J. Anthony Smith  
Agency: Commerce and Economic Development

Date: 1-26-88

Distribution (by preparer):

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

No. 189

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: <sup>CS</sup> SB 110 L+C  
Publish Date: ~~2/16/87~~ 3-2

REQUEST: \_\_\_\_\_

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

Title: An Act relating to regulation of architect.

Sponsor: Senator Faiks

Requestor: \_\_\_\_\_

Agency Affected: Commerce & Economic Dev.  
BRU: Occupational Licensing

Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

SB 110 is not expected to require new funding to be implemented. Civil penalties assessed will be received as revenues but cannot be estimated at this time. The authority to impose civil penalties is granted to the board. Guidelines will need to be established before a civil penalty is imposed in order to maintain consistency from case to case.

Prepared by: Jennifer Strickler, Management Analyst

Division: Occupational Licensing

Phone: 465-2144

Date: 2/17/87

Approved by Commissioner: J. Anthony Smith

Agency: Commerce & Economic Development

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

Distribution (by preparer):

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

CSSB 110: An Act relating to the practice of architecture, engineering and land surveying.

The department supports CSSB 110 which amends AS 08.48 relating to the registration of architects, engineers and land surveyors.

Section one increases the enforcement power of the board by authorizing the board to set civil penalties not to exceed \$5,000.00 for unlawful practice. This provision will increase the disciplinary actions available to the board.

Section two authorizes the department to issue citations to stop unlicensed practice. Under current law, the department is only authorized to issue cease and desist orders which are ineffective because they provide for a hearing under the Administrative Procedures Act. Hearings are a very time consuming and expensive process. Citations, on the other hand, require a mandatory court appearance and provide for penalties should the individual continue to practice without a registration.

*for* *John Brown*  
J. Anthony Smith, Commissioner  
DATE: 3-27-87

KM/wfs5687W  
32787b

*Back-up CSSB110*

# Alaska State Legislature



PRESIDENT  
907-465-3755

JAN FAIKS  
POST OFFICE BOX V  
JUNEAU, ALASKA 99811

## Senate

April 7, 1987

### MEMORANDUM

TO: All Senators

FROM: Senator Jan Faiks  
President of the Senate

SUBJECT: Background on Senate Bill 110  
An Act relating to regulation of architects,  
engineers and land surveyors.

Senate Bill 110 is before the Senate for consideration. The purpose of this bill is to increase enforcement of existing Alaska laws relating to the unlawful practice of architecture, engineering and land surveying.

I am concerned that individuals in Alaska who are not architects, engineers or land surveyors, and have not received training in these areas, are in effect practicing these professions without a license. They classify themselves under a variety of titles, such as "building designers" who provide services similar to those of an architect, yet do not have the education or certification necessary to assure safety to the public. These individuals are actually misleading the public as to their competency, which can have catastrophic results. This problem is enhanced by licensed professionals who will stamp the work product of these individuals, for a fee, without the "direct supervision" required by statute. Although that licensed professional assumes liability for the work, there is no assurance that the work is sound. Ultimately, it is the public who suffers.

The committee substitute for SB 110 from the Senate Labor and Commerce Committee strengthens the existing statutes which regulate these professions in the following manner:

OUT OF SESSION

6030 YUKON DRIVE ANCHORAGE, ALASKA 99516 907-274-6611

Section 1. REGULATIONS; BYLAWS; CODE OF ETHICS.

AS 08.48.101(a) is amended by the addition of two new sections which enable the State Board of Registration for Architects, Engineers and Land Surveyors to establish procedures for the notice, hearing, assessment, and appeal of civil penalties for the unlawful practice of these professions, and to assess civil penalties of up to \$5,000 per violation.

The effect of this section is to set up two systems for violations under this chapter. The board will continue to reprimand licensed professionals, who are already subject to its disciplinary actions.

The board also is given the authority to set up an investigation and civil citation process for violations by unlicensed persons. This system would be similar to that employed by construction contractors under AS 08.18.116 - 08.18.141.

Section 2. ISSUANCE OF CITATIONS. AS 08.48 is amended to include new sections which enumerate the procedures for the issuance of citations.

Section 3. DEFINITIONS. Defines "department" as the Department of Commerce and Economic Development under AS 08.48.431.

# Alaska State Legislature



PRESIDENT  
907-465-3755

JAN FAIKS  
POST OFFICE BOX V  
JUNEAU, ALASKA 99811

Senate

April 10, 1987

## MEMORANDUM

TO: Representative Dave Donley, Chairman  
House Labor and Commerce Committee

FROM: Senator Jan Faiks  
President of the Senate *Jan Faiks*

SUBJECT: Background on Senate Bill 110  
An Act relating to regulation of architects,  
engineers and land surveyors.

Senate Bill 110 is before the House Labor and Commerce Committee for consideration. The purpose of this bill is to increase enforcement of existing Alaska laws relating to the unlawful practice of architecture, engineering and land surveying.

I am concerned that individuals in Alaska who are not architects, engineers or land surveyors, and have not received training in these areas, are in effect practicing these professions without a license. They classify themselves under a variety of titles, such as "building designers" who provide services similar to those of an architect, yet do not have the education or certification necessary to assure safety to the public. These individuals are actually misleading the public as to their competency, which can have catastrophic results. This problem is enhanced by licensed professionals who will stamp the work product of these individuals, for a fee, without the "direct supervision" required by statute. Although that licensed professional assumes liability for the work, there is no assurance that the work is sound. Ultimately, it is the public who suffers.

OUT OF SESSION

6060 YUKON DRIVE ANCHORAGE, ALASKA 99516 907-274-6611

The committee substitute for SB 110 from the Senate Labor and Commerce Committee strengthens the existing statutes which regulate these professions in the following manner:

Section 1. REGULATIONS; BYLAWS; CODE OF ETHICS.

AS 08.48.101(a) is amended by the addition of two new sections which enable the State Board of Registration for Architects, Engineers and Land Surveyors to establish procedures for the notice, hearing, assessment, and appeal of civil penalties for the unlawful practice of these professions, and to assess civil penalties of up to \$5,000 per violation.

The effect of this section is to set up two systems for violations under this chapter. The board will continue to reprimand licensed professionals, who are already subject to its disciplinary actions.

The board also is given the authority to set up an investigation and civil citation process for violations by unlicensed persons. This system would be similar to that employed by construction contractors under AS 08.18.116 - 08.18.141.

Section 2. ISSUANCE OF CITATIONS. AS 08.48 is amended to include new sections which enumerate the procedures for the issuance of citations.

Section 3. DEFINITIONS. Defines "department" as the Department of Commerce and Economic Development under AS 08.48.431.

Upon further review of the current statutes in this chapter, I have discovered an error in AS 08.48.291, relating to violations and penalties. This statute provides that a person who violates any of the provisions of this chapter, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$10,000, or by imprisonment for not more than one year, or by both.

This language is incorrect, as no class of misdemeanor has a fine of \$10,000. The maximum fine for a class A misdemeanor is \$5,000. (AS 12.55.035(b)(3)).

I ask that the committee consider amending this language to provide that a violation of this chapter is a class A misdemeanor, punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both.

I would appreciate the committee's consideration of this bill at its earliest convenience. Should you need any additional information, please let me know.

Thank you.

S B

1 2 6

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811


(907) 465-3892



February 29, 1988

## M E M O R A N D U M:

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair   
House Labor and Commerce Committee

Re: Request to schedule SB 126

The Chairman of the House Finance Committee has made several requests to the House Labor and Commerce Committee to schedule and hear SB 126, relating to overtime wages. SB 126 is not currently on the House "priority" list of legislation for consideration prior to adjournment.

SB 126 deletes the word "voluntary" from a current law that exempts certain employees from overtime wage provisions when their work is performed under a voluntary flexible work hour plan. The effect of this single word change is obviously substantial, and SB 126 is strongly opposed by organized labor in Alaska.

I am writing to ask whether you support SB 126 and whether you wish to have the measure scheduled for a hearing before the House Labor and Commerce Committee. If so, I ask that you put that request to the Committee in writing.

S B

131

# HOUSE COMMITTEE REPORT

(7)

Date referred: 3/11/87

FURTHER REFERRALS: Resources

DATE: 3/24/87

The Labor & Commerce Committee has considered SB 131 am

"An Act regulating the sale and use of TBT-based marine antifouling paints and coatings; and providing for an effective date."

**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:**

\_\_\_\_\_  
*Ellis*  
\_\_\_\_\_  
*Cliff Davidson*  
\_\_\_\_\_  
*Scott Robinson*  
\_\_\_\_\_  
*Alto Korman*  
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*Walter Dowley*  
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*Walter Dowley*  
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*Walter Dowley*  
Chairman's signature

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

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

May, 1988

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

Mary Van Nimwegen

HL+C

3-24-87

1:30 p.m.

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version : \_\_\_\_\_  
Publish Date : \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act Regulating to the sale and use of TBT-based marine anti-fouling paints & coatings  
Sponsor: Senator Zharoff  
Requestor: Senator Zharoff

Agency Affected: Environmental Conservation  
BRU: Environmental Health  
Components: Sanitation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	-0-	10.7	10.7	5.3	5.3	5.3
TRAVEL	-0-	1.4	1.4	1.0	1.0	1.0
CONTRACTUAL	-0-	2.0	2.0	1.0	1.0	1.0
SUPPLIES	-0-	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	-0-	0.8	0.8	0.5	0.5	0.5
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	15.9	15.9	8.8	8.8	8.8

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

GENERAL FUND	-0-	15.9	15.9	8.8	8.8	8.8
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	15.9	15.9	8.8	8.8	8.8

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary) This fiscal note assumes that the department will only monitor the sale of TBT. This will entail on-site inspection and monitoring of wholesale and retail outlets. It will also involve the investigation and preparation of appropriate enforcement actions. SEE ATTACHED

Prepared by: Doug Donegan  
Division: Environmental Health

Phone: 465-2600  
Date: 3-6-87

Approved by Commissioner: *Anna O'Keefe*  
Agency: Environmental Conservation

Date: 3/6/87

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requester
  - Office of Management and Budget
  - Impacted Agency(ies)
  - Senate Secretary

ATTACHMENT

Based on a recent survey, there are approximately 1000 wholesale and retail distributors in the categories likely to be carrying paints and coatings. In FY 88 the Department will conduct a public information campaign directed at these types of outlets.

~~The Department will also inspect approximately 250 establishments per year to monitor compliance with the law. This inspection rate will decline in FY 90 to 125 inspections/year.~~



SENATOR FRED F. ZHAROFF  
ALASKA STATE LEGISLATURE

P.O. BOX 101 KODIAK, ALASKA 99615 (907) 488-5259

DURING SESSION:

P.O. BOX V. JUNEAU, ALASKA 99811 (907) 485-3473 • 488-3471

DISTRICT N

LAKE PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGON ISLANDS

MEMORANDUM

TO: Rep. David Donley  
Chairman  
House Committee on Labor and Commerce

FROM: Senator Fred F. Zharoff

DATE: March 19, 1987

RE: Senate Bill No. 131 am, "An Act regulating the sale and use of TBT-based marine antifouling paints and coatings; and providing for an effective date."

SB 131 amends the Prohibited Acts and Penalties article in the Environmental Conservation chapter of Title 46 by adding a new section to prohibit the sale and use in Alaska of marine paints and coatings that contain the chemical tributyltin (TBT).

TBT is a highly toxic pesticide. It is very effective at killing all the marine organisms that attach themselves to boat hulls painted with TBT paint. Research has shown that it is also poisonous to other forms of life in the marine environment, such as oysters and salmon smolt.

SB 131 was introduced as part of joint effort by legislators in Washington, Oregon, California and Idaho -- coordinated through the Pacific Fisheries Legislative Task Force -- to ban the use of TBT marine paint on the west coast. A companion measure, HB 138, was introduced in the House and is now pending before the House Resources Committee. Bills also are pending in the U.S. Congress and the Maryland legislature. TBT already has been banned or restricted in France, England, Germany, Switzerland, Japan, and the State of Virginia. The alternative to TBT marine paint is copper oxide marine paint, used as the industry standard before TBT products were introduced.

Section 1, part (a) of SB 131 bans the use and sale of TBT.

Part (b) allows people who have already painted their vessel or gear with TBT paint on the effective date of this bill to leave the paint on. They will not, however, be able to apply more TBT paint. Nets treated with TBT may be used for five years, which, on the average, is the life of a net.

Part (c) provides for exemptions for U.S. government vessels (because of lack of jurisdiction), foreign vessels temporarily in Alaska waters, vessels over 5,000 gross tons, and passenger vessels over 3,000 gross tons. The latter three exemptions were included primarily to avoid some of the practical

problems of enforcement. The research indicates that most of the environmental problem is related to its use on small commercial and recreational vessels.

Part (d) lists the definitions.

Attached are additional background materials, as follows:

1. Sectional analysis.
2. Department of Environmental Conservation fiscal note.
3. Department of Environmental Conservation position paper.
4. Pacific Fisheries Legislative Task Force research and position paper.
5. Article from Pacific Coast Federation of Fishermen's Associations newsletter about effects of TBT on salmon.
6. Article from Alaska Fisherman's Journal.
7. Article from San Francisco Chronicle.
8. Guidelines for physical handling of TBT paint from University of Alaska Cooperative Extension Service.
9. List of marine paint containing TBT.



SENATOR FRED F. ZHAROFF  
ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

POUCH V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474 • 465-3844 (Labor and Commerce Committee)

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

SECTIONAL ANALYSIS

SB 131 -- "An Act regulating the sale and use of TBT-based marine antifouling paints and coatings; and providing for an effective date."

Section 1

46.03.715: SALE AND USE OF TBT-BASED ANTIFOULING PAINT.

- (a) Bans the sale and use of TBT-based antifouling paint in the state. Prohibits a person from importing into the state or selling, renting, or leasing in the state, or using in state water, any vessel or fishing gear or other item that is put into the water, if the vessel, gear, or item has already been treated with TBT paint.
- (b) Persons who have already applied TBT paint to their boats, gear, or other items before the bill becomes law do not have to remove the paint, but they may not reapply the TBT paint. Fish pen nets that have been treated may continue to be used for five years after the bill becomes law.
- (c) Exempts four classes of vessels from the TBT ban: (1) United States government vessels; (2) foreign vessels temporarily in state water; (3) vessels of 5,000 gross tons or more, which covers commercial ships other than commercial fishing and processing vessels; and (4) passenger vessels of 3,000 gross tons, which covers the vast majority of cruise ships. The purpose of these exemptions is to avoid running afoul of federal preemption, in the case of U.S. government vessels, and to avoid the practical problems of trying to prohibit TBT use on foreign vessels and on large commercial and cruise ships. Current statistics indicate that 70 percent of the TBT paint is used on small recreational vessels and 28 percent on commercial ships.
- (d) Definition of "TBT-based" and "vessel".

Section 2 Effective date.

The injunction, penalty, and liability provisions of AS 46.03.760, 46.03.765, 46.03.780, and 46.03.790 would automatically apply to violations under this bill because the new statute is a part of AS 46.03 (Water, Air, Energy, and Environmental Conservation).

# STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

STEVE COWPER, GOVERNOR

February 27, 1987

## POSITION PAPER

Bill No: SB 131

Contact: Amy D. Kyle  
465-2600

Title: An Act regulating the role and use of TBT-based marine anti-fouling paints and coatings.

### Department's Position

The Department supports the intent of the bill to prohibit sale and use of TBT-based paints and coatings. The Department is prepared to enforce a prohibition on the sale of the coatings.

### Bill Analysis

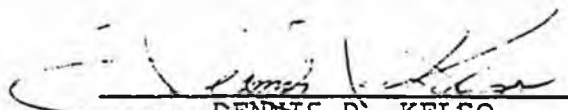
The bill would prohibit the sale and use of TBT-based anti-fouling paint. Such coatings have been shown to release TBT into waters. TBT is a harmful and toxic substance. DEC supports the ban on introduction of the substance into waters of the state. (Since 1985, DEC has prohibited use of TBT as an anti-fouling agents in hatcheries, through conditions placed on state certifications of federal permits for hatcheries.)

The bill does not propose a specific role for any agency in enforcing a ban on sale or use of TBT-based coatings. Rather, the bill establishes general prohibitions.

### Effect on the Agency

DEC understands that it is the intent of the bill's sponsors primarily to prohibit the sale of TBT in the state. DEC can play an active role in enforcing this prohibition through notification to retail outlets and marketplace inspections to confirm that the ban is complied with. TBT is a pesticide under the federal pesticide laws. The ban would be imposed and enforced as an extension of the state's pesticide program. A fiscal note for resources needed to enforce this aspect of the bill is being prepared.

The Department understands that the bill's sponsors do not intend that any additional activities be undertaken by DEC in response to the legislation in order to detect or take enforcement action under other provisions. In light of this understanding, no resources beyond those required to enforce the ban on sale are included in the fiscal note.

  
DENNIS D. KELSO  
COMMISSIONER

TRIBUTYLTINS/TBT

Tributyltins (TBT) have been called the most toxic compounds ever deliberately introduced by societies into natural waters.<sup>1</sup> A growing body of scientific research indicates that TBT may seriously affect non-target organisms and have unknown effects on humans who eat marine organisms containing TBT or are exposed to it in the workplace.

In the United States, many bodies of water have concentrations of TBT that have reached levels which may cause lethal and sublethal effects in non-target organisms. For example, TBT levels in San Diego Bay have been measured at levels which could cause lethal effects in fish, mollusks, crustaceans, and algae.<sup>2</sup>

TBT is used in antifouling paints and is primarily applied to boat and ship hulls to control the growth of fouling organisms such as barnacles, tubeworms, algae, bacteria, and sponges. These organisms increase hull friction and weight, which in turn increases fuel consumption by reducing vessel speed. The antifouling paints are also used to control fouling organisms on docks, buoys, and other marine structures. TBT has been used in antifouling paints for almost 10 years and replaced the copper-based antifouling paints. The paints with tributyltins last approximately 5-7 years, whereas the copper-based paints last approximately two years.

There are two types of antifouling paints containing TBT: copolymer paints and free association paints. The copolymer antifouling paints contain TBT which is chemically bonded to the paint polymer and is released through a chemical bond breaking process called hydrolysis. New TBT molecules are exposed and released by the gradual erosion of the paint as the vessel moves through the water. The release rate is slow except during the initial one month "conditioning" period and can be controlled by

altering the paint's water absorption characteristics. The free association paints contain TBT which is physically incorporated into the paint matrix; the TBT is released through diffusion as surface paint particles dissolve. This type of paint has a short time period of protection and is characterized by a high initial release.

Antifouling paints containing TBT are registered, in the United States, for use on aluminum, steel, fiberglass, wood and cement hulls.<sup>3</sup> These paints are used on commercial and recreational vessels and some military ships. However, the Navy is the major domestic user of antifouling paints. The Navy is planning to replace the copper-based paints it is currently using on its steelhulled vessels with antifouling paints containing TBT compounds. This Navy conversion would take approximately 5 years and add an additional 90,000 pounds of TBT active ingredients to the environment. Economically, if all the Navy ships are painted, it would annually save the Navy \$150 million.<sup>4</sup> However, this cost does not include the cost to the marine environment.

Currently, there are 340 federally registered antifouling paints containing TBT active ingredients. U.S. domestic usage of TBT in antifouling paints range from 250,000 to 300,000 pounds.<sup>5</sup> In addition to antifouling paints, TBT compounds are registered for use as disinfectants, textile biocides, wood preservatives, paper and pulp mills, leather processing and as plastics stabilizers, etc. In the United States, total usage of TBT pesticides (for all uses) ranges from 730,000 to 860,000 pounds of active ingredients.<sup>6</sup>

In 1981 France banned the use of TBT paints on all vessels less than 80 feet in length because of shellfish deformations, particularly in Arcachon Bay.<sup>7</sup>

England researched and then combined their studies with France's experience and banned the use of free association paints and copolymer formulations with more than 7.5 percent TBT on January 1, 1986.<sup>8</sup> Germany and Switzerland have banned TBT paints for fresh water usage. Japan has banned the use of TBT compounds in household products such as house paints and textiles, but has not restricted its use in vessel antifouling paints.<sup>9</sup>

In the United States, Senators Cohen and Tribble introduced Senate Resolution 272 in December 1985 calling for "public hearings to determine if further action is warranted with respect to the future use of TBT compounds" and "urging EPA to accelerate its investigation into the environmental and health effects of organotin bearing paints...." The resolution has been referred to the Senate Committee on Environment and Public Works.

On June 11, 1986 Congressman Parris introduced HR 5015, calling for a temporary ban on TBT-based paints on the hulls for commercial and recreational vessels until, "EPA has completed their ongoing studies to determine the safety of such paints and their impact on the aquatic environment.

Currently, only North Carolina has limited the input of TBT into its waters. North Carolina instituted regulations on January 1, 1985 to limit discharges from industries to 2 ppt for salt water and 8 ppt for fresh water.<sup>10</sup> These regulations were initiated because it was determined that hundreds of North Carolina companies were using TBT to control odor-causing bacteria in textiles or to control slime in piping. Some of the discharges from the textile mills were high enough to kill aquatic organisms.

On January 8, 1986, EPA commenced a special review of the nine most common TBT antifoulant paint formulations. EPA's support

document indicates that EPA is concerned about the acute and chronic toxicity potential of tributyltin compounds to nontarget aquatic organisms. Water samples have been found to contain TBT levels that may have direct effects on aquatic organism populations (mollusks). The TBT compounds may bioaccumulate in aquatic habitat and may pose a hazard to the food chain. Absorption of tributyltin compounds to sediment may have long-term toxicity effects on benthic browsing organisms such as crustaceans and snails. Contamination of estuarine areas at sublethal concentrations can influence the reproduction of several aquatic groups from fish to plankton, thus impacting the marine environment. The present use of tributyltin in antifouling paints presents a potential hazard to nontarget aquatic organisms.

The Pacific Fisheries Legislative Task Force, working in coordination with the Pacific Coast Federation of Fishermen's Associations, has passed three task force resolutions offered by Assemblyman Dan Hauser, the Task Force Vice Chairman, regarding TBT. The resolutions:

1. Urged and encouraged the Environmental Protection Agency to take the lead in creating a public information education brochure about TBT that could be distributed to every boat owner in America. The pamphlet concept is based on a similar project done in the United Kingdom entitled, Don't Foul Things Up. Short of a Congressional ban on the use of TBT, a nationwide public information awareness program is thought to be the next best alternative for controlling the amount of TBT introduced into the marine environment. It is thought by some scientists that this type of education program could reduce the amount of active TBT in the marine environment by 50%.<sup>12</sup>

2. Memorializes the Food and Drug Administration, the Environmental Protection Agency and the National Marine Fisheries Service to impose an immediate ban on all salmon imported into or produced in the United States in pens treated with TBT. This is important because TBT levels for safe human consumption have not been established. TBT was found in the flesh of salmon that were pen-reared in TBT-treated pens. Moreover, the study found that cooking does not remove the TBT from the fish.<sup>13</sup>
3. Memorializes Congress to enact an immediate ban on the use of TBT-based bottom paints on all military, commercial, and recreational vessels until such time, and if, methods of use of TBT-based bottom paints or derivatives of organotin paints are developed that pose no threat to the marine environment.

In addition to the resolutions passed by the task force, it is anticipated that the participating states may introduce state legislation to further regulate TBT usages in their states. Currently, efforts are underway to explore legislation to monitor dry docks, set water quality standards, ban or restrict the uses of TBT, or regulate the amount of TBT used in antifouling paints.

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4. Ibid.
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9. Ibid.
10. Peter J. Kuch, Oceans 86 Proceedings, Volume 4, Organotin Symposium, Page 1114, September 1986.
11. EPA Tributyltin Support Document, Page II-21, December 1985.
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13. Jeffrey W. Short & Frank P. Thrower, Oceans 86 Proceedings, Volume 4, Organotin Symposium, Page 1117, September 1986.

### TRIBUTYL TIN CONTAMINATION OF PEN-REARED SALMON?\*

Pen-reared salmon contaminated with tributyltin (TBT) are entering U.S. seafood markets according to a recent report released by the National Marine Fisheries Service's Auke Bay Laboratory. According to a report by Jeffery W. Short and Frank P. Thrower, salmon reared in sea pens treated with TBT, sold as aquaculture products and purchased in public markets were found to contain concentrations of 0.081-0.20 ug/g of TBT.

TBT has been described as the most toxic compound ever deliberately introduced by society into natural waters. TBT, an organotin, is used as a wood preservative, an additive to bottom paints, and to treat netting used in salt water pens for rearing salmon. It can be toxic in levels as low as 5 parts per trillion (see FRIDAY, 17 October, pp. 5-7).

The most common pen-reared salmon products entering the U.S. market are the so-called "pan-sized" or "baby" coho, Oncorhynchus kisutch, harvested as juveniles from pens in places such as Puget Sound, and the Norwegian Salmon, an Atlantic salmon or salmon trout, Salmo salar or Salmo trutta, raised in salt water pens in fjords in Norway. The farmed salmon has proved popular with some restaurants and markets seeking to promote "fresh" fish year-round.

The research of Short and Thrower on TBT contamination of salmon began when they sought to determine the rate of mortality of salmon transferred into TBT-treated marine pens. According to them, TBT compounds "are emerging as the leading compounds in the effective control of marine fouling of sea pens, a serious problem in the salmon farming industry."

In their paper "Tri-N-Butyltin Caused Mortality of Chinook Salmon, Oncorhynchus tshawtscha, on Transfer to a TBT-Treated Marine Net Pen," Short and Thrower reported that, "TBT compounds are widely used in the salmon aquaculture industry....Salmon at aquaculture facilities are raised to market size in marine pens for 1 to 3 years, during which they gain most of their body mass. Nets must be periodically cleaned or chemically coated to retard fouling by marine organisms; fouling will reduce sea water exchange and result in fish kills. Antifoulants are much more economical than manual cleaning and are therefore preferred by the industry. Several antifoulant formulations are used to treat nets, but TBT compounds are among the most effective ingredients. These compounds have low solubility in seawater, are exceptionally toxic to marine fouling organisms, and can be formulated for slow release."

In their study, Short and Thrower used chinook salmon raised for one year in fresh water and acclimated to sea water for four months before testing. The chinook salmon died in all doses of TBT oxide tested, "but none died in the clean water control tank during or immediately after the bioassay. Only five salmon in the lowest exposure dose survived the bioassay; of these, three died within the next 24 hours in clean seawater," reported the researchers.

They went on to say that "juvenile salmon are very sensitive to TBT poisoning in sea water....TBT concentrations in salmon that died during the bioassay were nearly constant for all doses, suggesting that TBT continues to accumulate until a threshold concentration is reached in critical tissues and causes death....low doses of TBT can impair the immune system of rats, which suggests that salmon raised in TBT-treated marine net pens may be more susceptible to disease."

In this first report on TBT, Short and Thrower concluded that "juvenile chinook salmon are very sensitive to TBT poisoning in sea water, that they rapidly accumulate TBT to high concentration in tissues, and that lethal effects are dose and time dependent."

Recognizing that aquaculturists would not likely use high dosages of TBT that may be found in the flesh of pen-reared salmon in the marketplace that was exposed to lower amounts of TBT, (i.e., those that survived the pens). They purchased both Atlantic salmon (e.g., Norwegian) and coho salmon in addition to chinook; all the fish was advertised as farm (pen-reared) raised aquaculture fish. They found no traces of TBT in the chinook but concentrations in the muscle tissue of both coho and Atlantic salmon of organotins as TBT as high as 0.81 ug/g.

The purchases of the fish were from markets in Seattle and Portland. The results were published in their report "Accumulation of Butylins in Muscle Tissue of Chinook Salmon Reared in Sea Pens Treated with Tri-N-Butyltin." The following is Short and Thrower's summary in this report of their research:

Rearing salmon in sea pens treated with antifoulant containing TBT compounds resulted in the accumulation of organotins in the muscle tissue of salmon. Organotins were detected in several fish from different countries purchased from the marketplace and advertised as products of aquaculture. Additionally, cooking was found to be ineffective in destroying or removing accumulated organotins. We believe this is the first evidence of entry of organotins into the human diet in the United States.

The report of TBT-laced pen-reared salmon is not the first indicating tainting of these aquaculture-bred fish. There have also been reports received by PCFFA that farmed salmon from Norway and Scotland may contain the artificial coloring agent, canthaxanthin, an agent added to the feeding stuffs of the pen-reared fish (see FRIDAY, 16 August 1985, pp. 10-11). Although canthaxanthin is banned by the U.S. Food & Drug Administration, there is no evidence that PCFFA has received that the FDA is checking imported pen-reared salmon for traces of this substance used to give the fish their deep-red coloring.

The use of TBT as an additive to bottom paints has already been restricted in both France and Great Britain following the die-offs of shellfish beds attributed to TBT paints on vessel bottoms. The PCFFA Board of Directors at their 9-10 October meeting called for a ban on the use of TBT (see FRIDAY, 17 October, pp. 5-7).

In Great Britain, Environment Minister William Waldergrave announced last year that nation's intent to place new controls on paints with the TBT additive including a proposed ban on the use of those paints on vessels less than 12 meters long, and "free association" paints with high levels of organotin were banned. The Government action was "prompted by complaints from the fisheries industry that such paints are responsible for declining catches," according to the 13 March 1985 issue of the International Environmental Reporter. France has imposed a complete ban on such paints.

According to that issue of IER, "research carried out by the British Ministry of Agriculture, Fisheries & Food, and the French Institute Scientifique et Technique des Pêches Maritimes, the effects of organotin compounds, the active agents in anti-fouling paints, are especially acute where pleasure craft and fisheries share the same waters."

High levels of TBT have been found in most marinas along the California coast, indicating that action similar to that taken by Britain and France should be taken. Fortunately, TBT has a short half-life and, unlike toxics such as DDT, the beneficial affects of a ban could be seen within a short time on the marine environment.

\* From PCFFA Friday, October 31, 1986

6

# Toxic Anti-Foulant Under Fire The Move to Ban TBT

by Peter Kenyon

A fledgling mariculture industry, commercial and recreational fishing groups, aquaculture organizations, and legislators from Juneau to Sacramento are rapidly joining a movement to ban the toxic anti-fouling agent TBT from West Coast waters.

Anti-foulants such as TBT (for trin-butyltin) are proven labor and cost saving devices for boat and net owners. The chemical keeps boat hulls and nets clean of marine foulants such as algae, barnacles, and other organisms. But as scientists investigate mysterious fish and shellfish mortalities up and down the Pacific coast, it's become clear that TBT is doing more than keeping things clean.

"It's one of the most toxic chemicals to marine life we know of," said Rep. John Sund, D-Ketchikan, sponsor of a bill to ban TBT in Alaska. "Research shows it's devastating to shellfish, and can be toxic to salmon and other fish as well. We're not sure of the impacts on humans, but I think it's time to get ahead of the game and prohibit its use until we know more about it."

A few scientists have been raising questions about TBT for several years. Some of the first research on TBT in Alaska was done by Dr. Jeff Short of the National Marine Fisheries Service Lab at Auke Bay. Short said there's no question TBT is an effective anti-foulant.

"Unfortunately the reason it's extraordinarily effective is that it's extraordinarily toxic. We found for example that juvenile chinook salmon are sensitive at about 1.5 parts per billion. And that translates into about twelve drops

in an Olympic-sized swimming pool.

The fact that TBT is so toxic in such minute quantities worries Senator Dick Ellason. "There's so many unknowns here. I'm thinking about the herring fishery in my community of Sitka. They're practically fishing right next to the boat harbor some years. We don't really know what's happening to those fish swimming around these boats that may have TBT all over their hulls."

Short's research leaves little doubt about TBT's toxicity. His paper with Frank Thrower on the subject states that "chinook salmon died in all doses of TBT tested, but none died in the control tank... only five salmon in the lowest exposure dose survived... of these, three died within the next 24 hours in clean seawater."

TBT tended to accumulate in the muscle tissue of those fish it didn't kill, leading to Short's next step in the research process: he determined

that pen-reared salmon being sold on the market contain the chemical.

"We bought fish in Seattle and Portland that were advertised as products of aquaculture," he said, "and about half of them turned up quantities of TBT... we tried pan frying, micro-waving, and boiling the fish, and we didn't eliminate the TBT."

Short's proof that TBT has entered the human diet for the first time, along with a slew of other data from the U.S. and western Europe about TBT dangers, has provided solid ammunition for the proposed ban on its use. The movement is being coordinated by the Pacific Fisheries Legislative Task Force. Staff Assistant Mary Morgan has been collecting data on the chemical.

"TBT has been called by many scientists the worst chemical ever deliberately introduced into the marine environment," she said. "The concentrations are measured in parts per trillion. And I think any time you have to measure something at that low a level, you're talking about a bad molecule that probably ought to be banned."

Morgan said the Environmental Protection Agency currently limits safe levels of TBT to 50-80 parts per trillion.

"Already several marinas in California have been measured at a thousand parts per trillion or more," she said.

While those kinds of numbers have not been documented in Alaska yet, the newly created Alaska Mariculture Association isn't waiting around to find out. Executive Director Rodger Painter says AMA has endorsed a statewide ban on the chemical.

"We're very concerned by the information presented on the human health hazards of TBT. It would be a real disaster for farm industries in Alaska to be tainted with the possibility that their product carries that stuff," he said.

Painter said the cost savings are

insignificant, especially considering the added protections needed for workers who apply the chemical to nets. Health officials say TBT has caused rashes, dizziness and retching; and humans may become sensitized to the chemical, so that increasingly smaller exposures may prove harmful.

That situation also applies to boat owners and shipyard employees using TBT-based bottom paints. For most boats (with the possible exception of aluminum hulls) alternative copper-based paints are available. Boat owners generally like the results of TBT bottom paints: 10 percent greater speed and 40 percent greater fuel efficiency, among other things. (The U.S. Navy, for example, says it can save up to \$150 million a year in fuel costs alone; but it's currently abiding by an EPA moratorium on TBT paints.)

The environmental horror stories—which include dead salmon, dead or deformed shellfish, highly toxic harbors and estuaries, and TBT-laden fish in the marketplace—have prodded several groups to agree to voluntary bans on the chemical. The last holdout among the state's private non-profit aquaculture groups, the Southern Southeast Aquaculture Association, agreed to stop using TBT last November. General Manager Don Amend said the risks are just too great.

"We feel the environmental concerns and the public perception of what this might mean might have a real adverse effect on our fisheries resource," he said.

A report on mariculture in British Columbia known as the Gillespie Report also raises questions about the use of TBT. At least one union has called for a ban on the chemical there.

Meanwhile, state legislatures from Juneau to Sacramento introduced bills to ban TBT on March 18th. Senator Fred Zharoff (D-Kodiak), sponsored the Senate companion measure to Sund's House bill.

AMA's Rodger Painter hopes the TBT ban will move quickly up and down the coast, before concern about the chemical spreads to consumers.

"The whole public relations aspect of this thing has everybody worried," he said. "One case of TBT reaching consumers could have the effect of a botulism incident, or mercury in tuna. It's real scary."

Sund thinks there's no need to panic, but it is time to move. "I see this as an opportunity to get a real toxic chemical out of the water, and avoid any economic impact on the industry," he said. □

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## ■ THE FISHMONGER

**Salmon Farming Technique Could Prove to Be Dangerous**

BY JAY HARLOW

**W**ith aquacultured salmon from various countries showing up in our markets in increasing quantities, there is growing concern over tributyl tin, a chemical used to treat the pens where the salmon are reared.

Tributyl tin compounds (TBTs) are part of a larger group of compounds known as organotins, which combine the metal tin with various organic constituents.

As a group, the organotins are extremely toxic to certain marine organisms, particularly mollusks. In recent years, their most important commercial use has been in "antifoulant" paint for boat hulls. These paints slowly release TBTs from the surface, preventing the growth of barnacles and similar organisms. But once in the marine environment, TBTs also can kill "non-target organisms" such as oysters, mussels and clams, especially in shallow waters with heavy boat traffic.

In order to protect commercial shellfish beds, both France and Britain have banned the use of TBT paints on commercial and pleasure boats, and there is a growing call for similar legislation in this country.

Of greatest concern, however, are the TBT antifoulants used in salmon aquaculture. In a typical salmon farm, the fish are raised to maturity in ocean water, then enclosed in pens made of fine nylon mesh. If the nets become clogged by fouling organisms, water flow through the pens is impaired, and the oxygen supply can fall to dangerous or lethal levels. Fouling can be controlled by periodic manual cleaning, but that adds labor costs. A less costly alternative has been to treat the pens with TBT compounds, and this method has been standard throughout the salmon aquaculture industry.

There are two crucial questions posed by the

use of TBTs in salmon farming: 1) Are they taken up by the fish, and if so, 2) are they potentially dangerous to humans?

While the toxic effects of TBTs in mollusks are dramatic and well-documented, the evidence on other organisms is less clear. So far, there is no solid evidence that TBTs are dangerous to humans, but little research has been done.

According to the manufacturers of TBT-based paints, these compounds are not toxic to fish, crustaceans or mammals except in very large amounts; unlike the mollusks, these animals can metabolize and excrete tri-organotins

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### **To protect shellfish beds, both France and Britain have banned the use of TBT paints**

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without any accumulation. However, other research by a National Marine Fisheries Service laboratory in Alaska has shown that TBTs can accumulate in the flesh of salmon reared in TBT-treated pens, and that accumulation increases with concentration of the chemical in the water and with time. Sufficient accumulation can kill the fish, especially young fish.

In the meantime, the fishing industry appears to be taking an extremely cautious approach. Both the Pacific Fisheries Legislative Task Force, a group of legislators from several western states, and the Pacific Coast Federation of Fishermen's Associations passed a resolution late last year asking Congress to ban both the use

of TBT paints and the sale of fish raised in TBT-treated pens.

According to Mary Morgan of the state Senate Office of Research, the resolution comes in the absence of a known safe level of TBT consumption in the human diet. "Until we find out (what is a safe level), maybe we should look into alternative methods," said Morgan.

For salmon farmers, the main alternative method is manual cleaning.

Meanwhile, there will be salmon coming to market over the next few years that have spent part of their lives in TBT-treated pens. Whether these fish will have any measurable residues of TBTs in their flesh is an open question. TBT antifoulants are still in use in Norway, although in greatly reduced amounts and circumstances, according to an importer of Norwegian salmon. An importer of New Zealand salmon said TBTs were "absolutely not" in use at that country's salmon farms.

It is a complex issue, and there is no simple answer. So far, TBTs seem to pose a danger mainly to shellfish, although that danger alone is sufficient to restrict their use. They are being phased out in aquaculture mainly for their effects on the environment at large, rather than on the farmed fish. Based on the very limited evidence to date, there is no clear and present danger in eating aquacultured salmon. Still, there could be long-term effects of even slight exposure.

If there is sufficient public concern, the state or federal government could require inspection and regulation of TBTs in salmon aquaculture. At this point, however, individual consumers will have to decide the safety issue for themselves.

---

Jay Harlow is co-author of the "California Seafood Cookbook" (Aris Books).

COOPERATIVE EXTENSION SERVICE

UNIVERSITY OF ALASKA  
FAIRBANKS ALASKA 99701

Marine Advisory Programs  
2651 Providence Avenue  
Anchorage, Alaska 99504  
(907) 263-1890

June 29, 1981

MEMORANDUM

TO: Brian Paust, Agent.  
FR: John Ball, Safety Specialist *John Ball*  
RE: Tributyl-Tin-Fluoride (TBF)

This is a response to your question about the toxicity and special handling of this anti-fouling compound. Since it is not uncommon and is a nasty item, I am taking the liberty of circulating this information to other friends in MAP/CES/Sea Grant.

For more information on this or other compounds there are several places to turn to in the future:

- ① Carl Harmon, Environmental Engineer with the State Department of Environmental Conservation in Anchorage (the person who helped me with this)--phone: 274-2533.
- ② Environmental Protection Agency (EPA)--phone: 271-5083.
- ③ Poison Center at Providence Hospital in Anchorage--phone: 274-6535.
- ④ Chemical Transportation Emergency Center (CHEMTREC)  
Phones: (800) 424-9300 (supposedly toll free)  
(202) 483-7616 (call collect 24 hours a day).

I did not have the occasion to call the Coast Guard on this, but on materials that are recognized hazardous materials, the Coast Guard does have some references.

① Well, basically this is a substance not unrelated to 2,4-D and agent orange. ② It operates as an anti-fouling agent by breaking down the cell walls of living tissue. It will do this in people too. ③ It can be absorbed through the skin, inhaled, ingested, etc. ④ If it gets into the eyes and remains there for any appreciable period of time, it can affect vision and cause blindness. ⑤ Using this material in a confined space can lead to unconsciousness and presumably death. ⑥ For physical as well as health reasons this material should not be applied in a spray. It should be painted onto the surface to be protected (and I would go try to find my worst enemy to do the work).

Brian Paust.  
Page 2  
June 29, 1981

⑦ The material collects in fatty tissue and therefore has a considerable impact upon kidneys and livers.

⑧ If one is going to use it, it is recommended that the application be done under controlled conditions, in open air (so others can share in the bounty?), with a respirator, protective clothing, gloves, etc.

I did not get the recommended solvent, but at all cost one ought to avoid getting this material in contact with the skin and it might be a good idea to be prepared with the recommended solvents and eye washes.

Basically, the stuff sounds almost too dangerous to use. The only other thing to add is that several brands have been removed from the market, and one ought to check with the CHEMTREC number above to see if specific brands are even allowed in the market anymore. Apparently, many of the earlier editions have been recalled. Keep the stuff in Petersburg, eh?

Hope this helps.

ee

ANTI-FOULING PAINTS FOR VESSEL BOTTOMS AND HULLS  
CONTAINING TBT METHACRYLATE

Carboline Company  
40600 Albrae Street  
Fremont, CA 94538

Carboline Super Tropical anti-fouling red 1240-31  
Carboline Super Tropical anti-fouling black 1240-30

Hempel's Marine Paints, Inc.  
Foot of Currie Ave  
Wallington, NJ 07057

Hempel's antifouling nautic 7690-5030 red  
Hempel's antifouling nautic 7690-5111 red  
Hempel's antifouling nautic 7680-1221 gray  
Hempel's antifouling nautic 7687-4222 green  
Hempel's antifouling nautic 7685-1000 white  
Hempel's antifouling nautic 7680-1999 black  
Hempel's antifouling nautic 7685-1999 black  
Hempel's antifouling nautic 7695-5030 red  
Hempel's antifouling nautic 7695-5111 red  
Hempel's antifouling nautic 7695-1999 black  
Hempel's antifouling sleek 7650 Brown 6464  
Hempel's antifouling nautic 7695-6464 Brown  
Hempel's antifouling nautic 7697-5030 Red  
Hempel's antifouling nautic Hi 7695-5030 Red

Pettit Paint Company, Inc.  
36 Pine Street  
Rockaway, NJ 07866

Pettit marine paint offshore antifouling Red 1680  
Pettit marine paint offshore antifouling Black 1880  
Pettit marine paint offshore antifouling Brown 1580  
Pettit marine paint offshore antifouling Blue 1280  
Pettit marine paint offshore antifouling Green 1380

ANTI-FOULING PAINTS FOR VESSEL BOTTOMS AND HULLS  
CONTAINING TBT OXIDE

Carboline Company  
40600 Albrae Street  
Fremont, CA 94538

Carboline Super Tropical anti-fouling red 1240-18  
Carboline Super Tropical anti-fouling black 1240-1

Devoe Marine Coatings Co.  
4000 Dupont Circle  
Louisville, KY 40207

Devoe Marine Super Tropical anti-fouling ship bottom paint MD-2771  
Triple "C" Cape Cod Copper Compound MD-8024  
Devoe Marine Tropical anti-fouling ship bottom paint MD-1754  
Devoe Marine Devran 216 permanent red anti-fouling paint MD-3873  
Devoe Marine Forumula 218 Devran permanent red anti-fouling paint  
MD-3888  
Devoe Marine ABC anti-fouling coating formula 8 MD-4755  
Devoe Marine ABC Anti-fouling coating formula 2 red MD 4754  
Devoe Marine ABC anti-fouling coating formula 8 black MD-5027  
Devoe Marine Devchlor lt. red anti-fouling paint MD-5188  
Devoe Marine Devran 222 Allseas permanent red anti-fouling paint  
MD-4312  
Devoe Marine Devchlor anti-fouling paint red MD-4366  
Devoe Marine ABC Anti-fouling coating formula 2 red MD-4754  
Devoe Marine Devran 222 Allseas light blue Anti-fouling paint  
MD-5023  
Devoe Marine ABC anti-fouling coating formula 2 black MD-4883  
Devoe Marine ABC anti-fouling coating formula 2 light blue  
MD-5100

Dupont De Nemours, E.I. & Co. Inc.  
Agricultural Products Department  
Attn: Phillie Lynn Rach  
Barley Mill Plaza  
Wilmington, DE 19898

Du Pont Chlorinated Rubber anti-fouling red 360-Y-782  
Du Pont Chlorinated Rubber anti-fouling red 360-78-2  
Du Pont Extended Life anti-fouling red 360-Y-785  
Du Pont Extended Life anti-fouling red 360-785

Glidden Coatings and Resins  
Div. of SCM Corporation  
Attn: James Wuebkenberg  
16651 Sprague Road  
Strongsville, OH 44136

178-R-401 red vinyl-cote no-cop anti-fouling coating  
Vinyl-Cote no-cop anti-fouling coating 7082 red (178-R-401)  
178-B-404 Black Vinyl Cote no-cop anti-fouling coating  
Vinyl-cote no-cop anti-fouling coating 7081 black (178-B-404)  
178-R-401B Red vinyl-cote no-cop anti-fouling coating  
Vinyl-cote no-cop anti-fouling coating 7083 (DGL 3 191)  
178-W-401 White vinyl-cote no-cop anti-fouling coating  
Vinyl-cote no-cop anti-fouling coating 7080 white (178-W-401)

Hempel's Marine Paints, Inc.  
Foot of Currie Ave  
Wallington, NJ 07057

Hempel's antifouling nautic 7690-5030 red  
Hempel's antifouling nautic 7690-5111 red  
Hempel's antifouling nautic 7680-1221 gray  
Hempel's antifouling nautic 7687-4222 green  
Hempel's antifouling nautic 7685-1000 white  
Hempel's antifouling nautic 7680-1999 black  
Hempel's antifouling nautic 7685-1999 black  
Hempel's antifouling nautic 7695-5030 red  
Hempel's antifouling nautic 7695-5111 red  
Hempel's antifouling nautic 7695-1999 black  
Hempel's antifouling sleek 765U Brown 6464  
Hempel's antifouling nautic 7695-6464 brown  
Hempel's antifouling nautic 7697-5030 red  
Hempel's antifouling nautic HI 7695-5030 red

International Paint Co. (California) Inc.  
220 S Linden Avenue  
South San Francisco, CA 94080

Copper-lux antifouling paint 80 red  
Latenac high builo antifouling red extra 3022/3021  
Copper-lux antifouling paint 82 blue  
International tropex antifouling paint 1600  
Interlux antifouling 62T bottom paint red  
Interlux antifouling 62T bottom paint blue  
Intermooth self polishing copolymer antifouling blue BFA042  
Intermooth SPC self polishing copolymer antifouling green BFA043  
Intermooth SPC self polishing copolymer antifouling pink BFA206  
Intermooth SPC self polishing copolymer antifouling plum BFA 204

Interspeed special copolymer antifouling brown BHA 018  
Interspeed special copolymer antifouling red BHA017

Intersmooth spc self polishing copolymer antifouling pink BFA096  
Intersmooth spc self polishing copolymer antifouling plum BFA094  
Micron 22 organo-metallic polymer anti-fouling paint 450 blue  
Micron 22 organo-metallic polymer anti-fouling paint 451 green  
Micron 22 organo-metallic polymer anti-fouling paint 452 red  
Micron 22 organo-metallic polymer anti-fouling paint 453 black  
Micron 22 organo-metallic polymer anti-fouling paint 454 white  
Micron 33 an organo-metallic polymer anti-fouling paint for  
brush or roller application 460 blue  
Micron 33 an organo-metallic polymer anti-fouling paint for  
brush or roller application 461 green  
Micron 33 an organo-metallic polymer anti-fouling paint for  
brush or roller application 462 red  
Micron 33 an organo-metallic polymer anti-fouling paint for  
brush or roller application 463 black  
Micron 33 an organo-metallic polymer anti-fouling paint for  
brush or roller application 464 white

Pettit Paint Company, Inc.  
36 Pine Street  
Rockaway, NJ 07866

Pettit marine paint anti-fouling 1970 starline bronze  
Pettit marine paint unepoxy anti-fouling 1626 red inland formula  
Pettit marine paint unepoxy anti-fouling 1326 green inland formula  
Pettit marine paint unepoxy anti-fouling 1226 blue inland formula  
Pettit marine paint unepoxy anti-fouling 1920 bronze tropic formula  
Pettit marine paint unepoxy anti-fouling 1926 bronze inland formula  
Pettit marine paint unepoxy anti-fouling 1924 bronze pacific formula  
Pettit marine paint unepoxy anti-fouling 1324 green pacific formula  
Pettit marine paint unepoxy anti-fouling 1320 green tropic formula  
Pettit marine paint unepoxy anti-fouling 1224 blue pacific formula  
Pettit marine paint unepoxy anti-fouling 1624 red pacific formula  
Pettit marine paint unepoxy anti-fouling 1220 blue tropic formula  
Pettit marine paint unepoxy anti-fouling 1620 red tropic formula  
Pettit marine paint unepoxy anti-fouling 1126 white inland formula  
Pettit marine paint anti-fouling 1130 alumacide white  
Pettit marine paint anti-fouling 1805 alumacide black  
Pettit marine paint anti-fouling 1205 alumacide blue  
Pettit marine paint anti-fouling 1649 alumacide red  
Pettit marine paint unepoxy 1124 anti-fouling white pacific

Pro-Line Paint Manufacturing Company  
2646 Main Street  
San Diego, CA 92113

1077 vinyl anti-fouling paint  
1025-03-E red seven seas copperbotcom anti-fouling paint

U.S. Paint Division/Grow Group, Inc.  
831 South 21st Street  
St. Louis, MO 63103

Awlgrip awlstar anti-fouling blue label 73134 red  
Awlgrip awlstar anti-fouling blue label 73132 black  
Awlgrip awlstar anti-fouling blue label 73133 lt. blue

Woolsey Marine Industries, Inc.  
183 Lorraine Street  
Brooklyn, NY 11231

Woolsey neptune anti-fouling 710 royal red  
Woolsey self-spraying anti-fouling for outboard lower units  
321 white  
Woolsey maxitox fiber-glass anti-fouling 775 blue  
Woolsey maxitox fiber-glass anti-fouling 774 green  
Woolsey maxitox fiber-glass anti-fouling 773 red  
Woolsey blue streak vinelast 200 sr blue

ANTI-FOULING PAINTS FOR VESSEL BOTTOMS AND HULLS  
CONTAINING TBT FLUORIDE

Carboline Company  
40600 Albrae Street  
Fremont, CA 94538

Carboline Super Tropical anti-fouling red 1240-18  
Carboline Super Tropical anti-fouling black 1240-1B  
Carboline Super Tropical anti-fouling 1240-31

DeSoto, Inc  
1700 S. Mt. Prospect Road  
Des Plaines, IL 60017

Sears Best anti-fouling bottom paint - gold bronze  
Sears Best anti-fouling bottom paint - red  
Sears Best anti-fouling bottom paint - copper bronze  
Sears Best anti-fouling bottom paint - white  
Sears Best anti-fouling bottom paint - green  
Sears Best anti-fouling bottom paint - blue

DeVoe Marine Coatings Co.  
4000 Dupont Circle  
Louisville, KY 40207

Navicote anti-fouling vinyl anti-fouling white MD-3095  
Navicote anti-fouling vinyl anti-fouling gray MD-3883  
Navicote anti-fouling vinyl anti-fouling black MD-3761

Gibson Paint Co.  
1199 East 12th Street  
Oakland, CA 94606

Gibson Paints Copper Bottom Paint

Hempel's Marine Paints, Inc.  
Foot of Currie Avenue  
Wallington, NJ 07057

Hempel's antifouling oceanic 0733  
Hempel's antifouling oceanic 0733-5140 red  
Hempel's antifouling oceanic 0733-3084 blue  
Hempel's antifouling nautic 7680-1999 black  
Hempel's antifouling nautic 7685-1999 black  
Hempel's antifouling nautic 7695-6464 brown

International Paint Co. (California) Inc.  
220 S. Linden Avenue  
South San Francisco, CA 94030

International red hand wide spectrum antifouling red  
Mark II 3210  
Interantioanl wide spectrum antifouling gray Mark I 3201  
International red hand wide spectrum antifouling  
Tri-Lux Vinyl-Base paint antifouling paint 64 wide spectrum  
red (TBIF) Mark I  
Tri-Lux Vinyl-Base paint antifouling paint 65 wide spectrum  
dark green (TBIF) Mark I  
Tri-Lux Vinyl-Base paint antifouling paint 66 wide spectrum  
dark blue (TBTF) Mark I  
Tri-Lux Vinyl-Base paint antifouling paint 67 wide spectrum  
black (TBTF) Mark I  
Tri-Lux Vinyl Base paint antifouling paint 68 wiide spectrum  
white (TBTF) Mark I  
Interlux outboard/outdrive antifouling paint 263 white  
Interlux outboard/outdrive antifouling paint 267 black  
Tri-lux vinyl base paint antifouling paint 63 wide spectrum  
light green mark I (TBTF)  
Tri-lux vinyl base paint antifouling paint GI wide spectrum  
light blue Mark I (TBTF)

Koppers Company, Inc  
1201 Kippers Building  
Pittsburgh, PA 15219

Brolite Z-spar colortox bottom paint antifouling B-43 green  
Brolite 2-spar colortox hard vinyl type antifouling paint  
B-43 green  
Brolite Z-spar colortox bottom paint antifouling B-42 blue  
Brolite 2-spar colortox hard vinyl type antifouling paint B-42 blue  
Brolite Z-spar colortox bottom paint B-41 red  
Brolite 2-spar colortox hard vinyl type antifouling paint b-41 red  
Brolite z-spar colortox bottom paint antifouling B-40 white  
Brolite 2-spar colortox hard vinyl type antifouling paint B-40 white  
Brolite z-spar colortox bottom paint antifouling B-44 black  
Brolite 2-spar colortox hard vinyl type antifouling paint B-44 black  
Brolite Z-spar B-70 supertox red antifouling paint  
Brolite Z-spar B-71 supertox blue antifouling paint  
Brolite Z-spar supertox hard type antifouling paint B-71 blue  
Brolite Z-spar B-90 antifouling paint semi-hard type  
Brolite Z-spar the protector hard type antifouling paint B-90 red  
Brolite Z-spar B-60 racing bronze antifouling paint  
Brolite Z-spar B-60 racing bronze hard racing type antifouling paint  
Brolite Z-spar colortox bottom paint antifouling B-45 international orang  
Brolite 2-soar colortox hard vinyl type antifouling  
paint B-45 international orange  
Brolite Z-spar supertox hard type antifouling paint. B-73 brown  
Brolite Z-spar the protector B-901 blue antifouling paint semi-hard type

Brolite Z-spar the protector hard type antifouling paint B-91 blue  
Brolite Z-spar supertox hard type antifouling paint B-74 black

Porter Coatings Division of Porter Paint Co  
400 South 13th Street  
Louisville, KY 40201

Chlorinated rubber antifouling paint 1195 red  
Chlorinated rubber antifouling paint 11958K black

Pro-Line Paint Manufacturing Co  
2446 Main Street  
San Diego, CA 92113

1077 Vinyl Antifouling paint  
1088 Hi-speed antifouling paint

Sears Roebuck and Co.  
Attn. L.D. Hurse  
Sears Tower Dept. 766  
Chicago, IL 60634

Sears Marine anti-fouling bottom paint gold bronze  
Sears Marine antifouling bottom paint red  
Sears Marine antifouling bottom paint copper bronze  
Sears Marine antifouling bottom paint white  
Sears Marine antifouling bottom paint green  
Sears Marine antifouling bottom paint blue

The Valspar Corporation  
Attn. B.C. Heath,  
Technical Manager  
1101 Third Street South  
Minneapolis, MN 55415

Valspar Vinyl antifouling bottom paint 3548 bright red  
Valspar vinyl antifouling bottom paint 3537 coho blue  
Valspar vinyl antifouling bottom paint 3505 white

Woolsey Marine Industries Inc.  
183 Lorraine Street  
Brooklyn, N.Y. 11231

Woolsey Lumalast antifouling finish 678 white  
Woolsey super vinelast 723 permanent red  
Woolsey lumilast antifouling finish 679 black  
Woolsey super vinelast 724 permanent blue

ALL TBT RESINATE

Woolsey Marine Industries Inc.  
183 Lorraine Street  
Brooklyn, NY 11231

Woolsey antifouling hard racing finish T 758 blue  
Woolsey antifouling hard racing finish T 754 white  
Woolsey antifouling hard racing finish T 755 red  
Woolsey antifouling hard racing finish T 759 green  
Woolsey antifoulin hard racing finish T 756 black

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

No. 81

**REQUEST**

Bill/Resolution No. : SB 131  
 Title: TBT-based marine Antifouling  
paints  
 Sponsor: Sen. Zharoff  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

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

**FISCAL DETAIL**

Agency Affected: Department of Environmental Con.  
BRU: Environmental Health  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

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

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

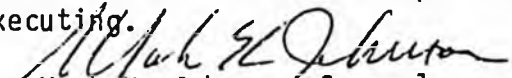
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :**

The committee believes that the provisions of the bill will be largely self-executing.

  
 Mark K. Johnson, Counsel

Prepared by: \_\_\_\_\_ Phone: 465-3822  
 Division: Senate Labor & Commerce Committee Date: 3-2-87

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

S B

146

Date referred: 5/14/87

DATE: 5/14/87

The Labor & Commerce Committee has considered CSSB 146 (Trsp)

"An Act relating to weights and measures; citation authority of employees enforcing weights and measures limitations; and providing for an effective date."

RECOMMENDS:

- replace with HCSCS SB 146 (Trasp)  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 4/9/87
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

\_\_\_\_\_

*J. Ellis*

*Cliff Davidson*

*Steve Korman*

*David Douley*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*David Douley*

Chairman's/signature

# ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman  
Sen. John B. "Jack" Coghill, Vice Chairman  
Sen. Mitch Abood  
Sen. Bettye Fahrenkamp  
Sen. Tim Kelly

P.O. Box V  
Juneau, AK 99811

907-465-4921

## Senate Transportation Committee

### MEMORANDUM

TO: Representative David Donley, Chairman  
House Labor & Commerce Committee

FROM: Senator Lloyd Jones, Chairman *LJ*  
Senate Transportation Committee

DATE: May 14, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

---

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

In 1982, when the enforcement of weights and measures was transferred from the Department of Public Safety to the Department of Commerce; the penalty provisions were not transferred to commerce. During the past five years, the Department of Commerce has issued citations. However, the Alaska Supreme Court has dropped the bail forfeiture from the bail schedule because of no statutory authority.

The status quo is not in the state or industry's best interest. In Fairbanks a mandatory court appearance is necessary. This causes needless delays of truckers and overtime problems for the Department of Commerce. In Anchorage the situation is even worse, the courts are not enforcing the citations.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

I encourage the House Labor and Commerce Committee to approve this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.

Original sponsor: Transportation Committee

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 146 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to weights and measures; citation  
7 authority of employees enforcing weights and measures  
8 limitations; and providing for an effective date."

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

10 \* Section 1. AS 45.75.050(b) is amended to read:

11 (b) The regulations may include

12 (1) standards of net weight, measure, or count, and reason-  
13 able standards of fill, for a [ANY] commodity in package form;

14 (2) rules governing the technical and reporting procedures  
15 to be followed, and the report and record forms and marks of approval  
16 and rejection to be used by inspectors of weights and measures in the  
17 discharge of their official duties;

18 (3) exemptions from the sealing or marking requirements of  
19 AS 45.75.120 for [WITH RESPECT TO] weights and measures of a character  
20 or size that sealing or marking would be inappropriate, impracticable,  
21 or damaging to the apparatus in question; [AND]

22 (4) for [WITH RESPECT TO] classes of weights and measures  
23 of a character that retesting is unnecessary to continued accuracy,  
24 exemptions from the requirements of AS 45.75.070 and 45.75.080 for  
25 testing, and schedules fixing the frequency of required retests for  
26 classes of devices exempted; and

27 (5) in the implementation of AS 44.33.020(25), provisions  
28 governing the size, weight, and load limitations established under  
29 AS 19.10.060; the issuance of permits for overweight and oversize

1 vehicles; and the operation of weigh stations.

2 \* Sec. 2. AS 45.75 is amended by adding new sections to read:

3 Sec. 45.75.131. ISSUANCE OF CITATIONS. (a) A peace officer or  
4 an employee of the Department of Commerce and Economic Development who  
5 is authorized by the commissioner of commerce and economic development  
6 to enforce the size, weight, and load limitations adopted by the  
7 Department of Transportation and Public Facilities under AS 19.10.060  
8 may issue a citation to a person who violates

9 (1) a weight, size, or load limitation;

10 (2) the terms of an overweight or oversize vehicle permit  
11 issued under AS 44.33.020(25); or

12 (3) a regulation adopted under AS 28.05.011(2) or under  
13 AS 44.33.020(25) and AS 45.75.050(b)(5).

14 (b) A citation issued under this section must be in writing. A  
15 person receiving the citation is not required to sign a promise to  
16 appear in court.

17 (c) The time specified in the notice to appear on a citation  
18 issued under this section must be at least 15 days after the issuance  
19 of the citation, unless the person cited requests an earlier hearing.

20 (d) The commissioner of public safety is responsible for the  
21 issuance of books containing appropriate citations and shall maintain  
22 a record of each book and each citation contained in it. The commis-  
23 sioner of public safety shall require and retain a receipt for every  
24 book issued to an employee of the Department of Commerce and Economic  
25 Development designated by the commissioner of commerce and economic  
26 development to provide investigative services to enforce provisions of  
27 this chapter.

28 (e) A peace officer or an employee who issues a citation under  
29 this section shall deposit the original or a copy of the citation with

1 a court having jurisdiction over the alleged offense. Upon its  
2 deposit with the court, the citation may be disposed of only by trial  
3 in the court or other official action taken by the magistrate, judge,  
4 or prosecutor. The peace officer or employee who issued the citation  
5 may not dispose of it or copies of it or of the record of its issuance  
6 except as required under this subsection and (f) of this section.

7 (f) The commissioner of public safety shall require the return  
8 of a copy of every citation issued under this section and of all  
9 copies of every citation that has been spoiled or on which an entry  
10 has been made and not issued to an alleged violator. The commissioner  
11 of public safety shall also maintain in connection with every citation  
12 issued a record of the disposition of the charge by the court in which  
13 the original or copy of the citation was deposited.

14 (g) If the form of citation issued under this section includes  
15 the essential facts constituting the offense charged and is sworn to  
16 as required under the laws of this state for a complaint charging  
17 commission of the offense alleged in the citation, the citation when  
18 filed with a court having jurisdiction is considered to be a lawful  
19 complaint for the purpose of prosecution.

20 (h) Unless the citation has been voided or otherwise dismissed  
21 by the magistrate, judge, or prosecutor, or bail has been forfeited  
22 under AS 45.75.133, a person who fails to appear in court to answer a  
23 citation issued under this section, regardless of the disposition of  
24 the charge for which the citation was issued, is guilty of a class B  
25 misdemeanor.

26 Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall  
27 specify by rule or order those violations that are appropriate for  
28 disposition without court appearance, and shall establish a schedule  
29 of bail amounts. The maximum bail forfeiture amount for an offense

1 may not exceed the maximum fine specified by law for that offense. If  
2 the person who has been cited can dispose of the violation without  
3 court appearance, the issuing peace officer or employee shall write on  
4 the citation the amount of bail forfeiture applicable to the viola-  
5 tion.

6 (b) A person cited for a violation for which a bail forfeiture  
7 amount has been established under (a) of this section may, within 15  
8 days after the date of the citation, mail or personally deliver to the  
9 clerk of the court in which the citation is filed by the employee

10 (1) the amount of bail indicated on the citation for that  
11 offense; and

12 (2) a copy of the citation indicating that the right to an  
13 appearance is waived, a plea of no contest is entered and the bail is  
14 forfeited.

15 (c) When the cited person has forfeited bail under (b) of this  
16 section, the court shall enter a judgment of conviction. Forfeiture  
17 of bail is a complete satisfaction for the violation. The clerk of  
18 the court accepting the bail forfeiture shall provide the offender  
19 with a receipt stating that fact.

20 (d) A cited person who fails to pay the bail forfeiture amount  
21 established under (a) of this section or to appear in court as re-  
22 quired, is guilty of a class B misdemeanor.

23 (e) Notwithstanding other provisions of law, if a person cited  
24 for a violation for which a bail forfeiture amount has been estab-  
25 lished under (a) of this section appears in court and is found guilty,  
26 the court may not impose a penalty that exceeds the bail forfeiture  
27 amount for that offense established under (a) of this section.

28 \* Sec. 3. AS 45.75.380 is amended to read:

29 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a

1 violation subject to the penalty specified in AS 12.55.035(b)(5) if  
2 the person does one or more of the following acts [WHO, PERSONALLY OR  
3 BY A SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PER-  
4 FORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR AND  
5 UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A FINE OF  
6 NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR NOT MORE  
7 THAN THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT CONVIC-  
8 TION, THE PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE  
9 THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

10 (1) uses or has in possession for the purpose of using for  
11 a [ANY] commercial purpose specified in AS 45.75.080, sells, offers,  
12 or exposes for sale, or hire, or has in possession for the purpose of  
13 selling or hiring, an incorrect weight or measure or a device or  
14 instrument used to or calculated to falsify a weight or measure;

15 (2) uses or has in possession for current use, in buying or  
16 selling a commodity or thing, or for hire or award, or in the computa-  
17 tion of a basic charge or payment for services rendered on the basis  
18 of weight or measurement, or in the determination of weight or mea-  
19 surement when a charge is made for determination, a weight or measure  
20 that has not been tested and sealed by the appropriate authority  
21 within one year, [(A)] unless

22 (A) the person gives written notice [IS GIVEN] to the  
23 appropriate authority to the effect that the weight or measure is  
24 available for examination, or is due for reexamination [RE-EXAMI-  
25 NATION], as the case may be; [,]

26 (B) the person receives [UNLESS] specific written  
27 permission to use the weight or measure [IS RECEIVED] from the  
28 appropriate authority; [,] or

29 (C) [UNLESS] the weight or measure is exempt from