

ALASKA LEGISLATURE

5283

SHEES

COMMITTEE FILES

HB 22

-

HB 32

1987-1988

8672

813

HB

22

BASIS

Bill/Resolution History

10:18 AM 02/16/87

BILL: HB 22

NAME:

TITLE: "An Act relating to hazardous physical agents in the workplace."

PRIME SPONSOR: POURCHOT

CO-SPONSOR: BOYER, ELLIS, DAVIS, KOPONEN, DAVIDSON, BROWN, DONLEY, GOLL

FISCAL NOTE: \$000 GENERAL(FNOTE) \$000 OTHER(FNOTE)

CURRENT STATUS: (S) HES STATUS DATE: 02/12/87

PRESS <ENTER> TO VIEW ACTION

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	ACTION	EXIT	MENU	TEXT	PRINT						QUIT
HB	22										

Bill/Resolution Action
Current Status: (S) HES

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Date		Page	Action
01/12/87	(H)		PREFILE RELEASED
01/19/87	(H)	23	READ THE FIRST TIME - REFERRAL(S)
01/19/87	(H)	23	LABOR & COMMERCE AND HESS
01/21/87	(H)	44	HES REFERRAL WAIVED, FINANCE ADDED
01/21/87	(H)	45	CO-SPONSOR(S) ADDED
01/22/87	(H)	54	CO-SPONSOR(S) ADDED
02/04/87	(H)	144	L&C RPT 6L 1NR
02/04/87	(H)	144	ZERO FISCAL NOTE PUBLISHED 2/4/87
02/09/87	(H)	177	CO-SPONSOR ADDED: DAVIDSON
02/11/87	(H)	185	FIN RPT 7DP 2NR
02/11/87	(H)		RULES TO CALENDAR 2/11/87
02/11/87	(H)	203	READ THE SECOND TIME
02/11/87	(H)	204	ADVANCED TO THIRD READING UNAN CONSENT
02/11/87	(H)	204	READ THE THIRD TIME HB 22
02/11/87	(H)	204	PASSED Y33 N6 A1
02/11/87	(H)	208	CO-SPONSOR(S) ADDED: BROWN, DONLEY, GOLL
02/11/87	(H)	208	TRANSMITTED TO (S)
02/12/87	(S)	276	READ THE FIRST TIME - REFERRAL(S)

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU	TEXT	PRINT	BWD	FWD		FIRST	LAST	QUIT
HB	22										

Bill/Resolution Action
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Date		Page	Action
02/12/87	(S)	276	HESS & LABOR & COMMERCE

Alaska State Legislature

REPRESENTATIVE
PAT POURCHOT

HOUSE FINANCE COMMITTEE
COMMITTEE ON OIL AND GAS




ANCHORAGE
P.O. BOX 104836
ANCHORAGE, AK 99510
(W) (907) 276-6818
(H) (907) 338-2425

JUNEAU
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
(907) 465-3712

House of Representatives

MEMORANDUM

DATE: February 10, 1987
TO: All House Members
FROM: Representative Pat Pourchot 
SUBJECT: House Bill 22, Hazardous Physical Agents in the Workplace

HOUSE BILL 22 would amend the current "Worker Right to Know" law by adding ten (10) specific "physical agents" to the existing several hundred hazardous and toxic substances of which employers must inform their employees if the substances or agents are in their workplace.

Existing law (AS 18.60) directs the Department of Labor to prepare information data sheets on hazardous and toxic materials. Employers are required to post this information and provide basic training for employees. These same requirements would be applied to "physical agents" under House Bill 22. "Physical agents" are only those identified by the American Conference of Governmental Industrial Hygienists (ACGIH) having documented health hazards and thresholds for safe exposure. Physical agents include ionizing radiation (x-rays), microwave and ultraviolet radiation.

Enactment of this bill could reduce industrial accidents significantly. For example, accidents such as the microwave exposure which occurred at Clear Air Force Station several years ago may be avoided if workers are better informed of the radiation to which they may be exposed and of preventative and safety precautions. Many occupations are not readily associated with exposure to dangerous levels of physical agents. Welders and pipe fitters, for example, are often unknowingly exposed to hazardous ionizing radiation (x-rays) when examining welds and joints.

It should be emphasized that the burden of providing required information falls to the Department of Labor and not to individual employers. This bill also does not require employers or employees to implement any specific safety practices or measures. The Department of Labor supports this measure and has provided a zero (\$0) fiscal note as the needed information is currently available.

Thank you for your consideration on this proposal.

EXAMPLES OF IMPACTS RESULTING FROM EXPOSURE
TO CERTAIN PHYSICAL AGENTS

Physical Stress	Occupation Examples	Effects
Microwave Radiation	Telecommunication station employee	Superheated body core Questionable effects include: cardiac arrhythmia, cataracts, and psychoneurological dysfunction
Ionizing Radiation (x-rays)	Hospital employees Welders	Cancer of many kinds including: bone, lung, liver, leukemia, chromosomal damage and reproductive abnormalities
Ultraviolet Radiation	Outdoor construction work	Skin cancer
Infrared Radiation	Welders Glass blowers	Flash burns to the retina, cataracts
Lasers	Hospital employees	Eye damage and burns, blindness
Heat Stress	Outdoor physical work	Heat stroke, overheating of the body, extreme conditions may cause loss of consciousness and death
Cold Stress	Oil field service workers	Frostbite, hypothermia, death
Noise	Forest products (sawmill employees and loggers)	Deafness
Hand/Arm Vibration	Construction workers Jackhammer operators Drill operators	"White finger" damage to nerve sensors that regulate circulation causing arterial spasms, chronic lack of blood to muscles causing muscle waste
Airborne Upper Sonic and Ultrasonic Acoustic Radiation	Major doses: as an industrial cleaner (industrial hygienists are not aware of such an application in Alaska)	Deafness

AN ACT RELATING TO HAZARDOUS PHYSICAL AGENTS IN THE WORKPLACE.....

DEAR SENATORS:

THE DISTRICT COUNCIL OF LABORERS IS IN SUPPORT OF HB-22. WE ALSO SUPPORTED A LIKE BILL (HB-319) LAST SESSION WHICH PASSED THE HOUSE BUT RAN OUT OF TIME ON THE SENATE SIDE. THIS LEGISLATION WOULD EDUCATE THE EMPLOYEES ON THE POTENTIAL IRREVERSIBLE DISABILITIES THAT THOSE PHYSICAL AGENTS COULD CAUSE IF SAFE WORK PRACTICES ARE NOT FOLLOWED.

THE LEGISLATION WOULD ALSO EDUCATE THE EMPLOYERS TO THE POTENTIAL DANGERS OF THESE AGENTS- - AND PROPER MEASURES COULD BE PUT INTO EFFECT. THE ADDITION OF THESE PHYSICAL AGENTS TO THE CURRENT "RIGHT TO KNOW" LAW IS NOT A COST FACTOR TO THE EMPLOYER NOR TO THE EMPLOYEE OR TO THE DEPT. OF LABOR.

I KNOW THE SPONSOR OF THIS BILL, REP. POURCHOT, HAS WORKED WITH MANY GROUPS IN SATISFYING EVERYONES CONCERNS AND CAN HONESTLY SAY I CANNOT RECALL ANY OPPOSITION TO THIS BILL OR LAST YEAR'S BILL.

WE URGE THIS COMMITTEE TO PASS THIS RESPONSIBLE PIECE OF LEGISLATION.

THANK YOU.

SINCERELY,



DON ROULEAU

DISTRICT COUNCIL OF LABORERS

710 W. 9TH ST.

JUNEAU, ALASKA

586-3707

SUMMARY HOUSE BILL 22
WORKER RIGHT-TO-KNOW TO INCLUDE
HAZARDOUS PHYSICAL AGENTS

House Bill 22 amends the "worker right-to-know" statutes to include "physical agents" with other toxic and hazardous substances about which employers must inform their employees.

The existing statute (AS 18.60) directs the Department of Labor to prepare for employers information data sheets on hazardous and toxic materials to which employees may be exposed in the workplace. Information which is compiled by the Department is transmitted to the workers by employers and includes: description of the substantial effects of the substance, known threshold levels where effects occur, activities and situations where the substances are encountered and practices, technology and preventative measures which are available to the workers which will reduce or eliminate the negative impacts of the substance. Safety training for new employees is also required.

The same notice and training requirements for hazardous and toxic substances would be applied to "physical agents" under House Bill 22. Physical Agents are only those identified by the American Conference of Governmental Industrial Hygienists (ACGIH) and include:

- Ionizing radiation (x-rays)
- Heat and cold stress
- Impulsive and impact noise
- Radiofrequency, microwave, ultraviolet, and infrared radiation
- Lasers
- Hand-arm vibrations

With enactment of this bill industrial accidents could be reduced in number and severity. For example, accidents such as the microwave exposure which occurred at Clear Air Force Station several years ago may be avoided if workers are better informed of the substances to which they may be exposed and are not aware of preventative and safety precautions. Many occupations are not readily associate with exposure to dangerous levels of physical agents. Welders and pipe fitters, for example, are often exposed to hazardous exposures of ionizing radiation (x-rays) when examining welds and joints.

It should be emphasized that the bill requires only the dissemination of information and safety training by employers. It does not require that employers or employees implements any safety practices or measures.

I anticipate the fiscal note for the bill to be \$0 because the Department of Labor essentially will be editing existing information from national organizations relating to health and safety in the workplace, including the ACGIH, the Center for Disease Control, and the Occupational Safety and Health Administration.

Bill No. House Bill 22

Date January 22, 1987

Title "An Act relating to hazardous physical agents in the workplace."

Contact: Eileen Plate
465-2700

Richard Arab
465-4856

Under existing law, employers are required to provide information and training to employees on certain toxic and hazardous substances. This bill seeks to expand this "Right-to-Know" law to include physical agents.

Physical agents are defined as those listed in the "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment" as published by the American Conference of Governmental Industrial Hygienists. The latest edition of this publication lists the following physical agents:

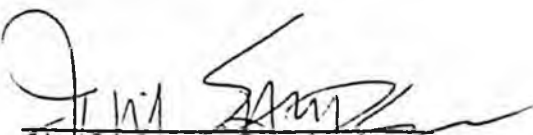
- Heat Stress
- Ionizing Radiation
- Lasers
- Noise
- Impulse or Impact Noise
- RF/Microwave Radiation
- Ultraviolet Radiation
- Airborne Upper Sonic and Ultrasonic Acoustic Radiation
- Cold Stress
- Hand-Arm (Segmental) Vibration

Exposure to physical agents can result in permanent disabilities, such as deafness. Often employers and employees are not aware of the harmful effects of a particular hazard present in the workplace, and the training and information requirements provided in this bill would assist in filling this void. This would, in turn, effect implementation of protective measures by the employer to safeguard employees, as well as provide employees with an understanding of the importance of following safe and healthful work practices.

As part of its Occupational Safety and Health program, the Department of Labor enforces regulations to protect employees from certain physical hazards (ionizing radiation, lasers, noise, RF/Microwave radiation, and ultraviolet radiation). The information and training requirement of this bill would, therefore, enhance the Department's efforts to protect Alaska's workers.

The Department of Labor supports House Bill No. 22. It will not have a fiscal impact on the Department.

APPROVED:


Jim Sampson, Commissioner
Department of Labor

POSITION PAPER/Department of Labor

The Right-to-Know Law

In the summer of 1983, Gov. Bill Sheffield signed into law a bill which provides you the right to know about hazardous substances you are working with.

While other federal and state occupational health and safety laws give you access to your workplace medical and exposure records, this new law requires that your employer provide you with information about health effects and proper handling procedures for about 800 hazardous exposures.

Beginning July 1984, each year the Alaska Department of Labor Occupational Safety and Health Section (OSHS) will assemble a list of toxic and hazardous substances to be regulated. The OSHS will include substances on both the U.S. Occupational Safety and Health Administration Toxic and Hazardous Substances List and the American Conference of Governmental Industrial Hygienists' list of hazardous chemicals and physical agents.

If you work with a product containing one of these hazardous substances, your employer must:

- ▶ post information relating to your rights under this law, as well as the chemical name of each toxic or hazardous substance you may be exposed to and
- ▶ conduct a safety education program for each new work assignment informing you of a) the location and properties of the hazardous substance, b) the known or suspected health effects, c) the nature of any operation that could result in exposure to hazardous or toxic substances, d) any necessary handling or hygienic practices or precautions, and e) the location, proper use, and limitation of personal protective equipment used in the workplace.

If you believe you might be exposed to a hazardous substance, you may request safety and health information about the product or exposure from your employer. The employer must supply an OSHA form 20 material safety data sheet (MSDS) or equivalent in-

Note: This new law gives you only the right to know the identity of the hazardous substances with which you are working. It does not provide enforcement of procedures to avoid hazardous exposures. If you believe your work conditions are not safe and healthful, talk with your supervisor and/or union representative. If that doesn't help, file a complaint with OSHS.

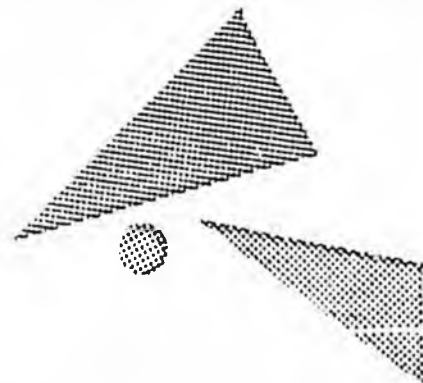


Some supporters of the right-to-know legislation watch Gov. Sheffield sign the bill into law. Pictured left to right are Dave Allison, Alaska Environmental Lobby; Resa King, Associated General Contractors; Judy Knight and Richard Arab, Department of Labor; Marlene Neve, Alaska AFL-CIO; and Richard Neve, Department of Environmental Conservation.

formation. This should include: the product name and chemical name, the name and address of the manufacturer, principal hazardous components, fire and explosion hazard data, health hazard information, precautions to follow during spills and leaks, proper disposal methods, and handling and storage practices.

If your employer does not have this information available, he/she must contact either OSHS or the product's manufacturer within three days of your request. OSHS will have an information retrieval system to assist employers. Workers also may use this system to obtain health and safety information about hazardous workplace exposures.

If you do not receive the information within 15 days of your request, the employer should eliminate the hazardous workplace exposure.



CAUTION!

Every year hundreds of Alaskan men and women work with chemicals that are potentially dangerous to their health. What kinds of chemicals are YOU exposed to at work???

You Have a Right to Know About Hazardous & Toxic Substances in Your Work Place

Q: What gives me this right?

The Alaska Right To Know Law (AS. 60.068) requires employers, as of July 1, 1984, to collect information on hazardous substances used at their job sites and train workers on those hazards.

Q: Do all Alaskan workers have this right?

YES! The law requires that all Alaskan employers maintain information on the chemicals they use at work and communicate this information to you.

Q: What are my rights?

As an Alaskan worker you have the right to know about the hazards associated with the chemicals you use at work. You have the right to request this information from your employer who must provide you with this information during your work shift. If the information is not immediately available, your employer has 15 days to obtain this information and present it to you. If you do not receive the information within this time period your employer must take measures to prevent your exposure to that substance or substances. Such measures might include removing workers or the substance from the work site. Your employer will provide you with chemical hazard information in the form of a Material Safety Data Sheet (MSDS).

Q: What is a Material Safety Data Sheet (MSDS)?

An MSDS is a form describing chemical health hazard information on a particular chemical product. It also explains emergency handling procedures, disposal information, provides a list of chemical ingredients, and other such information. Of note, a MSDS only provides general information and may not include all the information about a chemical product. Use the MSDS as a stepping stone to obtain more information about the chemicals with which you work. Contact Alaska Health Project if you need assistance.

Q: What responsibility does my boss have?

These are your boss' major responsibilities under the law:

A. Collect and maintain, post, or post notice of the workplace location of MSDSs and provide them to you upon request.

B. Post a poster informing you of your rights under the law (available from the Department of Labor and the Alaska Health Project).

C. Train new employees and other employees who are not aware of the law and who have not received health and safety instruction about the chemicals they may be exposed to at work. See the regulations for specific training requirements.

Q: What should I do with the information once I have it?

Save and study it, then learn as much as you can about the chemicals you work with.

Compare the product name on the MSDS with the name of the chemical you are actually using and make sure they are the same. If not, alert other workers, your foreman, and/or your steward.

Give this information to your doctor when you go for annual check ups and/or emergency situations. This information will help your doctor diagnose any illness or injury that you might have.

Q: How can I get more information on the law and about hazards I may face on the job?

Pick up the phone and call:

Alaska Health Project
276-2864
or

Alaska Department of Labor
264-2594



————— Please Duplicate & Post —————

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration

Form Approved
OMB No. 44-R1387

MATERIAL SAFETY DATA SHEET

Required under USDL Safety and Health Regulations for Ship Repairing,
Shipbuilding, and Shipbreaking (29 CFR 1915, 1916, 1917)

SECTION I

MANUFACTURER'S NAME WAYNE CHEMICAL CORP.		EMERGENCY TELEPHONE NO. 1-800-424-9300
ADDRESS (Number, Street, City, State, and ZIP Code) 300 So. Barclay Street, Milwaukee, Wisconsin 53204		
CHEMICAL NAME AND SYNONYMS Lead Chromate; Yellow-34; C.I. 77600		TRADE NAME AND SYNONYMS Chrome Yellow Med. Code 89
CHEMICAL FAMILY Inorganic Pigments	FORMULA PbCrO₄	

SECTION II - HAZARDOUS INGREDIENTS

PAINTS, PRESERVATIVES, & SOLVENTS	%	TLV (Units)	ALLOYS AND METALLIC COATINGS	%	TLV (Units)
PIGMENTS Lead as Pb	60	0.15mg/m³	BASE METAL		
CATALYST			ALCOYS		
VEHICLE			METALLIC COATINGS		
SOLVENTS			FILLER METAL PLUS COATING OR CORE FLUX		
ADDITIVES			OTHERS		
OTHERS Chromate as CrO₃	30	0.10mg/m³			
HAZARDOUS MIXTURES OF OTHER LIQUIDS, SOLIDS, OR GASES				%	TLV (Units)
Actual compound is PbCrO ₄ and components as given above are one way of expressing the contents of the product.					

SECTION III - PHYSICAL DATA

BOILING POINT (°F.)	N/A	SPECIFIC GRAVITY (H ₂ O=1)	5.52
VAPOR PRESSURE (mm Hg.)	N/A	PERCENT VOLATILE BY VOLUME (%)	1.0
VAPOR DENSITY (AIR=1)	N/A	EVAPORATION RATE (_____ =1)	N/A
SOLUBILITY IN WATER	slight		
APPEARANCE AND ODOR	Fine Yellow Powder; Odorless		

SECTION IV - FIRE AND EXPLOSION HAZARD DATA

FLASH POINT (Method used)	N/A	FLAMMABLE LIMITS	Lel	Uel
EXTINGUISHING MEDIA	Water			
SPECIAL FIRE FIGHTING PROCEDURES	N/A			
UNUSUAL FIRE AND EXPLOSION HAZARDS	N/A			

SECTION V - HEALTH HAZARD DATA

THRESHOLD LIMIT VALUE See Section II

EFFECTS OF OVEREXPOSURE
No immediate harmful effects. Repeated breathing of excessive concentrations can cause minor irritation of skin and mucus membranes.

EMERGENCY AND FIRST AID PROCEDURES

Wash thoroughly with soap and water, especially when exposed to open cuts.
Consult physician if ingested.

SECTION VI - REACTIVITY DATA

STABILITY	UNSTABLE		CONDITIONS TO AVOID
	STABLE	X	

INCOMPATIBILITY *(Materials to avoid)*

HAZARDOUS DECOMPOSITION PRODUCTS

HAZARDOUS POLYMERIZATION	MAY OCCUR		CONDITIONS TO AVOID
	WILL NOT OCCUR	X	

SECTION VII - SPILL OR LEAK PROCEDURES

STEPS TO BE TAKEN IN CASE MATERIAL IS RELEASED OR SPILLED Wear respirator; vacuum into receptacle for disposal. Wash area with water.

WASTE DISPOSAL METHOD Sanitary landfill in accordance with local, state, and federal regulations.

SECTION VIII - SPECIAL PROTECTION INFORMATION

RESPIRATORY PROTECTION *(Specify type)* Dust respirators approved by NIOSH

VENTILATION	LOCAL EXHAUST Required	SPECIAL
	MECHANICAL <i>(General)</i>	OTHER

PROTECTIVE GLOVES Leather gloves **EYE PROTECTION** Safety goggles

OTHER PROTECTIVE EQUIPMENT Throw away plastic inserts in leather gloves.

SECTION IX - SPECIAL PRECAUTIONS

PRECAUTIONS TO BE TAKEN IN HANDLING AND STORING Store in dry area; keep containers tightly closed; protect from physical damage; avoid dust.

OTHER PRECAUTIONS Change clothes before eating, wash face and hands before eating or smoking; keep away from food or food products. Periodic blood tests.

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Alaskan workers should have a basic understanding of this document in order to effectively utilize their right to know about hazardous materials in the workplace.

For more information, contact Alaska Health Project, P.O. Box 10-1037, Anchorage, Alaska 99510, or phone (907) 276-2864

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

REQUEST: _____

Bill Version: HB 22

Publish Date: _____

Revision Date: _____
Title: "An Act relating to hazardous
physical agents in the workplace."

Agency Affected: Labor
BRU: Occupational Safety & Health

Sponsor: Pourchot and Boyer et al.
Requestor: House Labor & Commerce

Components: Occupational Safety
and Health

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: Tom Stuart, Director
Division: Labor Standards and Safety

Phone: 465-4870
Date: 1/23/87

Approved by Commissioner: Jim Sampson
Agency: Labor

Date: 1/23/87

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

Chapter 60. Safety.

Article

1. Prevention of Accident and Health Hazards (§§ 18.60.010 — 18.60.105)
2. Search and Rescue (§§ 18.60.120 — 18.60.175)
3. Boilers (§§ 18.60.180 — 18.60.395)
4. Refrigerators and Similar Equipment (§§ 18.60.400 — 18.60.460)
5. Radiation Protection (§§ 18.60.475 — 18.60.545)
6. Electrical Safety (§§ 18.60.580 — 18.60.660)
7. High Voltage Lines (§§ 18.60.670 — 18.60.895)
8. Plumbing Code (§§ 18.60.705 — 18.60.740)
9. Safety Glazing (§§ 18.60.750 — 18.60.780)
10. Elevators (§§ 18.60.800 — 18.60.820)
11. Snow Safety (§ 18.60.822)
12. Alaska Safety Advisory Council (§§ 18.60.830, 18.60.835)
13. Piping Codes (§ 18.60.850)
14. Miscellaneous Provisions (§ 18.60.950)

Opinions of attorney general. — The state has occupational safety and health jurisdiction over all non-maritime employment activities within the state's territorial waters as defined by law. February 16, 1982 Op. Att'y Gen.

Article 1. Prevention of Accident and Health Hazards.

Section	Section
10. Legislative intent	81. Temporary variance
20. Regulations	83. Right of entry and inspection
30. Duties of Department of Labor	85. Prohibition of unauthorized notice of inspection
40. Report to legislature	87. Employer and employee participation
55. Division of labor standards and safety	89. Employee requests for special inspection
57. Occupational Safety and Health Review Board	89. Prohibition against retribution
58. Reporting of injuries and illnesses	91. Citations
59. Legal counsel	93. Enforcement procedures
60. Cooperation with other state agencies	95. Penalties
65. Importation of toxic and hazardous substances	96. Imminent dangers
66. Employee safety education programs	97. Judicial review
67. Information provided on employee's request	98. Employee compensation for appearances
68. Posting of information in workplace	99. Confidentiality of trade secrets
70. Control of funds	100. Nonabrogation of powers of Department of Health and Social Services
75. Safe employment	105. Definitions
77. Variance of a standard	
80. Contributions	

Opinions of attorney general. — This article applies equally to agencies of state government and to private sector employers. March 27, 1980 Op. Att'y Gen.
The Alaska Department of Labor has sufficient authority under Alaska law to administer and enforce safety and health regulations as to employment conditions on state-operated vessels which are not separately regulated by the federal Occupational Safety and Health Administration, the United States Coast Guard or

any other federal agency. February 16, 1982 Op. Att'y Gen.

The state's strong interest in providing occupational safety and health coverage for all of its employees, combined with the primarily local operation of most state ferries and vessels, provides a substantial basis for applying state laws to employment conditions on State of Alaska vessels. February 16, 1982 Op. Att'y Gen.

With respect to state employees working on vessels which are too small to qualify for the Coast Guard's certification requirements, or which are otherwise exempted from Coast Guard inspections, the Department of Labor retains jurisdiction to enforce any applicable existing safety and health standards, as may be supplemented by eventual maritime standards. February 16, 1982 Op. Att'y Gen.

The Department of Labor cannot cite a partnership as a violation of the Occupational Safety and Health Act where the only exposed workers are partners of the partnership; where the facts indicate a bona fide partnership and the only exposed workers are partners who share equally in the control and operation of the partnership, there are no exposed employees under this article and the partnership is not in violation. February 20, 1985 Op. Att'y Gen.

Collateral references. — 61 Am. Jur.

Sec. 18.60.010. Legislative intent. (a) The legislature finds that personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, the people of the state in terms of loss of production, wage loss, medical expenses and disability compensation payments.

(b) For these reasons it is found and declared necessary to undertake a program to reduce the incidence of work-related accidents and health hazards in the state. (§ 2 ch 109 SLA 1955; am § 1 ch 72 SLA 1973)

Cross references. — For employment in underground mines, see AS 23.10.405.

NOTES TO DECISIONS

Duty to enforce safety provisions. — Due to the 1973 amendments, this title now imposes upon the state a duty to enforce the safety provisions once violations have been discovered. Wallace v. State, Sup. Ct. Op. No. 1352 (File No. 2683), 557 P.2d 1120 (1976).

The state is liable for a failure to enforce safety regulations once it has undertaken an inspection and has discovered safety violations in the course of that investigation. Wallace v. State, Sup. Ct. Op. No. 1352 (File No. 2683), 557 P.2d 1120 (1976).

The state Department of Labor, by conducting safety inspections of the pre installation site, voluntarily assumed a duty, owed to decedent, to use due care in attempting to remedy the unsafe condition discovered in the course of inspection. *Wallace v. State*, Sup. Ct. Op. No. 1352 (File No. 2683), 557 P.2d 1120 (1976).

And has no immunity under AS 09.60.260. — See *Wallace v. State*, Sup. Ct. Op. No. 1352 (File No. 2683), 557 P.2d 1120 (1976).

Sec. 18.60.020. Regulations. (a) The Department of Labor shall issue the orders and adopt the regulations necessary to carry out the purposes of AS 18.60.010 — 18.60.105.

(b) Upon adopting a regulation or standard, or granting any variance under this chapter, the commissioner shall include a statement of the reasons for the action, forward a copy to the OSHA Review Board, cause a copy to be published in newspapers and submit a news release to the electronic news media in the state so as to receive statewide coverage. (§ 4 ch 109 SLA 1955; am § 2 ch 148 SLA 1967; am § 2 ch 72 SLA 1973; am § 1 ch 276 SLA 1976)

NOTES TO DECISIONS

Action for damages by injured workman not authorized. — Nowhere in either AS 18.60.010 — 18.60.105 or regulations can there be found authorization for a claim for relief and award of civil damages to an injured workman for harm resulting from the breach of AS 18.60.010 — 18.60.105 or the General

Safety Code. *Morris v. City of Soldotna*, Sup. Ct. Op. No. 1296 (File No. 2286), 553 P.2d 474 (1976).

Quoted in *Bachner v. Rich*, Sup. Ct. Op. No. 1291 (File No. 2309), 554 P.2d 430 (1976); *Wallace v. State*, Sup. Ct. Op. No. 1352 (File No. 2683), 557 P.2d 1120 (1976).

Sec. 18.60.030. Duties of Department of Labor. The Department of Labor shall

(1) study ways and means for prevention of accidents to persons on the streets and highways, in and on the water, in aircraft usage, in homes, on the farms, at schools, industrial and commercial plants, and in public places;

(2) plan and execute safety programs, including educational campaigns, designed to reduce accidents in every field of activity;

(3) work in cooperation with official and unofficial organizations and instrumentalities in the state that are interested in the promotion of safety so that possible resources can be marshalled and utilized to reduce the menace of accidental death and injury;

(4) work toward obtaining better observance and enforcement of laws governing street and highway traffic, and assist in bringing about, wherever feasible, the application of modern engineering measures for the prevention of traffic accidents;

(5) advise with the public agencies responsible for safeguarding the people against accidents, and especially with the Department of Transportation and Public Facilities, the Department of Public Safety, the Department of Education, Department of Natural Resources, Department of Health and Social Services, and the heads or representatives of federal departments and agencies operating in the state particularly concerned with safety programs and accident prevention;

(6) establish and enforce occupational safety and health standards that prescribe requirements for safe and healthful working conditions for all employment, including state and local government employment, and the requirements are to be at least as effective as those requirements adopted by the United States Secretary of Labor under § 6 of Public Law 91-596;

(7) require an employer to maintain records and submit reports to the department which records and reports are necessary or appropriate for the enforcement of AS 18.60.010 — 18.60.105 and to maintain records and submit reports to the United States Secretary of Labor in the same manner and to the same extent as set out in federal law and regulations;

(8) require an employer to maintain records and submit reports appropriate for use in developing information regarding the causes and prevention of occupational accidents and illnesses;

(9) require an employer to make periodic inspections when necessary to carry out the record and reporting requirements of (7) and (8) of this section;

(10) participate in occupational safety and health programs if it finds they are necessary to meet the occupational health and safety needs of the state;

(11) execute on behalf of the state agreements or contracts necessary or desirable to enable the state to participate in occupational safety and health programs, and to receive and expend funds made available for programs of the state;

(12) annually publish a list of toxic and hazardous substances;

(13) maintain a current set of OSHA form 20's or equivalent information for toxic and hazardous substances, and other information relevant to toxic and hazardous substances;

(14) assist employers, upon request, to identify and obtain information on toxic and hazardous substances and develop employee safety education programs. (§ 5 ch 109 SLA 1955; am § 6 ch 104 SLA 1971; am § 3 ch 72 SLA 1973; am § 11 E.O. No. 39 (1977); am § 1 ch 93 SLA 1983)

Effect of amendments. — The 1983 amendment added paragraphs (12)-(14).

Editor's notes. — Section 6 of Public Law 91-596, referred to in paragraph (6) of this section, may be found in 29 U.S.C. § 655.

Legislative history reports. — For adoption of letter of intent relating to ch. 93 SLA, 1983, see 1983 Senate Journal, p. 1148 and 1983 House Journal, p. 1859.

Opinions of attorney general. — The Department of Labor can publish its list of designated toxic and hazardous substances pursuant to paragraph (12) and

AS 18.60.105(a) without going through the promulgation proceeding in the Administrative Procedure Act. The list is merely a compilation of chemicals and substances from sources already identified by the legislature. July 18, 1984 Op. Att'y Gen.

As the list to be published by the Department of Labor under (12) includes those chemicals and substances described in AS 18.60.105(a)(8)(A), (B), (C) and (D), they are coextensive. July 13, 1984 Op. Att'y Gen.

NOTES TO DECISIONS

The 1973 amendments to this title made mandatory the enforcement of safety regulations in most instances. *Wallace v. State*, Sup. Ct. Op. No. 1352 (File No. 2683), 557 P.2d 1120 (1976).

What paragraphs (3) and (5) require. — The statutory language of paragraphs (3) and (5) of this section merely requires that the Department of Labor should work in cooperation with and advise other public agencies in safety matters. *State v. Morris*, Sup. Ct. Op. No. 1330 (File Nos. 2218, 2253), 555 P.2d 1216 (1976).

Paragraphs (3) and (5) do not delegate certain legislative and executive duties. — Paragraphs (3) and (5) of this

section did not delegate to the former Department of Highways [now Department of Transportation and Public Facilities] any part of the duty of the executive and legislative branches of government to allocate money, personnel and other resources to the various departments, to instruct them in their various tasks and to determine the priorities of competing governmental policies in the absence of general legal mandates. *State v. Morris*, Sup. Ct. Op. No. 1330 (File Nos. 2218, 2253), 555 P.2d 1216 (1976).

Applied in *Woods & Rohde, Inc. v. State*, Dep't of Labor, Sup. Ct. Op. No. 1433 (File No. 2903), 565 P.2d 138 (1977).

Sec. 18.60.040. Report to legislature. Before the sixth day of each regular legislative session the Department of Labor shall submit to the legislature a report showing the accomplishments in this state toward reductions in accidents of all types, and recommendations for legislation, together with a plan for the proposed safety program for the succeeding year. Copies of the report shall be available for public information. (§ 6 ch 109 SLA 1955)

Sec. 18.60.050. Employment for education and enforcement purposes. [Repealed, § 9 ch 72 SLA 1973.]

Sec. 18.60.055. Division of labor standards and safety. As established by AS 23.10.075, there is in the department a division of labor standards and safety. Minimum qualifications must be established for employees of the department acting as safety inspectors under AS 18.60.010 — 18.60.105. These qualifications must include, as a minimum requirement, at least five years general work experience in the field they are assigned to inspect. Training in safety principles, codes and standards may be substituted for work experience up

to a maximum of three years. (§ 4 ch 72 SLA 1973; am § 2 ch 276 SLA 1976; am E.O. No. 52, § 2 (1982))

Effect of amendments. — The 1982 amendment added "As established by AS 23.10.075" to the beginning of the section, deleted "established" preceding "in the department" and substituted "division of labor standards and safety" for "division of occupational safety and health to be administered by a director responsible to the

commissioner" in the first sentence, substituted "must be established" for "shall be established" and added "under AS 18.60.010 — 18.60.105" to the end, in the second sentence, and substituted "must include" for "shall include" in the next-to-last sentence.

NOTES TO DECISIONS

The 1973 amendments to this title made mandatory the enforcement of safety regulations in most instances. *Wallace v. State*, Sup. Ct. Op. No. 1352 (File No. 2683), 557 P.2d 1120 (1976).

Applied in *Woods & Rohde, Inc. v. State*, Dep't of Labor, Sup. Ct. Op. No. 1433 (File No. 2903), 565 P.2d 138 (1977).

Sec. 18.60.057. Occupational Safety and Health Review Board. (a) There is created the Occupational Safety and Health Review Board within the Department of Labor, referred to in this chapter as the OSHA Review Board. The board shall consist of three members appointed by the governor and confirmed by the legislature in joint session. One member of the board shall represent labor, one member shall represent industry, and the other shall represent the public. Each appointee must have adequate experience in the area of appointment. A member of the board may not be an employee of the state in another capacity nor may a member of the OSHA Review Board be a member or officer of another board or commission for which compensation other than per diem and travel expenses is paid.

(b) The members of the board serve staggered terms of four years. A vacancy caused by the death, resignation, or removal of a member before the expiration of the term for which the member was appointed shall be filled only for the remainder of the unexpired term. A member of the board may be removed by the governor for inefficiency, neglect of duty or malfeasance in office.

(c) The governor shall designate one member of the board as chairman. This member shall serve as chairman for a term of one year, but may be appointed for successive terms.

(d) Members of the board are entitled to compensation in the amount of \$50 a day for each day or portion of each day spent in actual meeting or on authorized official business incident to their duties and, in addition, they are entitled to all other transportation and per diem as provided by law for members of other state boards and commissions.

(e) The board may employ persons, subject to legislative appropriation, it considers necessary for the purpose of performing its duties under this chapter. (§ 4 ch 72 SLA 1973; am § 36 ch 37 SLA 1986)

Cross references. — For transportation and per diem expenses for members of boards and commissions, see AS 39.20.180.

Effect of amendments. — The 1986 amendment rewrote subsection (b).

Sec. 18.60.058. Reporting of injuries and illnesses. In the event of an employment accident that is fatal to one or more employees or that results in the overnight hospitalization of one or more employees, the employer shall report the accident by telephone, telegram, radio, or in person to the nearest office of the division of labor standards and safety. The report must relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. The report must be made immediately but in no event later than 24 hours after receipt by the employer of information that the accident has occurred. In the event of an employment accident that is fatal to one or more employees or that results in the overnight hospitalization of two or more employees, no equipment, material, or product related to the injury or fatality may be moved or altered until clearance is given by the department, except when compliance with this requirement would interfere for an unreasonable length of time with work or create additional hazards. If equipment, material, or products must be moved or altered before department clearance, the employer shall submit a detailed investigative report of the accident to the division. (§ 3 ch 276 SLA 1976; am E.O. No. 52, § 3 (1982))

Effect of amendments. — The 1982 amendment deleted the subsection (a) designation, and substituted "the employer" for "their employer" and "division of labor

standards and safety" for "division of occupational safety and health" in the first sentence.

Sec. 18.60.059. Legal counsel. (a) The attorney general is legal counsel for the OSHA Review Board. The attorney general shall advise the board on legal matters arising in the discharge of its duties and represent the board in actions to which it is a party. If, in the opinion of the board, the public interest is not adequately represented by counsel in a proceeding, the attorney general, upon request of the board, shall represent the public interest.

(b) Subject to the approval of the attorney general, the board may employ temporary legal counsel from time to time in matters in which the board is involved. (§ 4 ch 72 SLA 1973)

Sec. 18.60.060. Cooperation by other state agencies. The agencies of the state shall cooperate with the Department of Labor in its program of safety activities, and shall make available information needed by the Department of Labor relative to the accident problems and methods employed or recommended for accident prevention. The agencies may lend the personnel who may be spared from their regu-

lar duties for short periods to assist in safety programs. (§ 3 ch 109 SLA 1955)

Sec. 18.60.065. Importation of toxic and hazardous substances. Toxic and hazardous substances imported into the state shall be accompanied by a federal Occupational Safety and Health Administration (OSHA) form 20 or equivalent information. This requirement does not apply to a substance for which the in-state purchaser has already received the most current information. (§ 2 ch 93 SLA 1983)

Opinions of attorney general. — Cosmetic products, when used by employees in a commercial establishment, do not fall within the exemption for products intended for personal consumption under

AS 18.60.105(a)(9)(B); therefore, this section requires that material safety data sheets be provided for cosmetics to be used in commercial establishments. November 1, 1985 Op. Att'y Gen.

Sec. 18.60.066. Employee safety education programs. (a) An employer shall conduct a safety education program for an employee before the employee performs a new work assignment that may result in the employee being exposed to a toxic or hazardous substance for which the employee has not received safety instruction as provided under (b) of this section.

(b) An employee safety instruction program shall inform the employee of

(1) the location, properties, and known or suspected acute and chronic health effects of the hazardous or toxic substances to which the employee is exposed in the workplace;

(2) the nature of the operations that could result in exposure to hazardous or toxic substances, as well as any necessary handling or hygienic practices or precautions; and

(3) the location, purpose, proper use, and limitations of personal protective equipment used in the workplace. (§ 2 ch 93 SLA 1983)

Sec. 18.60.067. Information provided on employee's request.

(a) An employer shall make available to an employee on request a copy of the most recent OSHA form 20 or equivalent written information for a toxic or hazardous substance to which the employee may be exposed. If the employer does not have the copy or information requested, the employer shall request a copy from the department or the manufacturer of the substance within three state government working days after receiving the request.

(b) If the copy or information requested under (a) of this section is not made available to the employee within 15 calendar days after the request is received, the employer shall take measures to assure that employees are not exposed to the substance to which the copy or infor-

mation pertains until the copy or information is made available to the employee who made the request. This subsection applies only to substances for which an OSHA form 20 or equivalent information is required under OSHA regulations. This subsection does not alter, deny, or abrogate any right an employee may have under law to refuse to work under hazardous circumstances. (§ 2 ch 93 SLA 1983)

Sec. 18.60.068. Posting of information in workplace. (a) The department shall print and make available to employers posters that contain notice of the provisions of this chapter relating to toxic and hazardous substances.

(b) An employer whose employees are or may be exposed in the workplace to a toxic or hazardous substance shall display the following information in a manner designed to notify the employees:

- (1) a poster printed by the department under (a) of this section; and
- (2) an OSHA form 20 or equivalent information for each toxic or hazardous substance to which an employee may be exposed in the workplace

(A) under normal conditions of work; or

(B) during a reasonably foreseeable emergency, including equipment failure and rupture of containers.

(c) Instead of posting the information required under (b)(2) of this section, an employer may post a list of the chemical name and product name of each toxic or hazardous substance to which an employee may be exposed in the workplace, together with an identification of a location, in or near the workplace and accessible to employees, where an employee may inspect the information listed under (b)(2) of this section. (§ 2 ch 93 SLA 1983)

Sec. 18.60.070. Control of funds. Funds appropriated by the legislature for AS 18.60.010 — 18.60.105, and contributions shall be spent only for the purposes of AS 18.60.010 — 18.60.105. (§ 9 ch 109 SLA 1955; am § 5 ch 148 SLA 1957; am § 37 ch 37 SLA 1988)

Effect of amendments. — The 1986 amendment deleted "funds in the boiler fund created for AS 18.60.380" following "AS 18.60.010 — 18.60.105."

Editor's notes. — AS 18.60.380, re-referred to in this section, was repealed by § 3, ch. 29, SLA 1968.

Sec. 18.60.075. Safe employment. (a) An employer shall do everything necessary to protect the life, health and safety of employees including, but not limited to:

- (1) complying with all occupational safety and health standards and regulations adopted by the department;
- (2) furnishing and prescribing the use of suitable protective equipment, safety devices and safeguards as are prescribed for the work and work place;

(3) adopting and prescribing control or technological procedures, and monitoring and measuring employee exposure in connection with hazards, as may be necessary for the protection of employees; and

(4) furnishing to each employee employment and a place of employment that are free from recognized hazards that, in the opinion of the commissioner, are causing or are likely to cause death or serious physical harm to the employees.

(b) An employee shall comply with occupational safety and health standards and all regulations issued under AS 18.60.010 — 18.60.105 that are applicable to the employee's own actions and conduct.

(c) [Repealed, § 9 ch 72 SLA 1973.] (§ 43-2-21 ACLA 1949; am § 3 ch 148 SLA 1957; am § 1 ch 104 SLA 1970; am §§ 5, 6, 9 ch 72 SLA 1973; am § 4 ch 276 SLA 1976)

NOTES TO DECISIONS

Scope of duty to provide safe work-site. — There is a common-law duty to provide a safe worksite running to whomever supplies and controls that worksite, which duty protects all workers on the site and not just the employees of the defendant. *Parker Drilling Co. v. O'Neill*, Sup. Ct. Op. No. 2759 (File No. 6999, 7436), 674 P.2d 770 (1983).

AS 18.60.010 — 18.60.105 and the General Safety Code unquestionably impose duties on the general contractor. *Bachner v. Rich*, Sup. Ct. Op. No. 1291 (File No. 2309), 554 P.2d 430 (1976).

The state is not an "employer" for purposes of civil liability *per se* under the Alaska "Safe Place to Work Act," and various administrative safety regulations. *State v. Morris*, Sup. Ct. Op. No. 1330 (File Nos. 2218, 2253), 555 P.2d 1216 (1976).

Action for damages by injured workman not authorized. — Nowhere in either AS 18.60.010 — 18.60.105 or regulations can there be found authorization for a claim for relief and award of civil damages to an injured workman for harm resulting from the breach of AS 18.60.010 — 18.60.105 or the General Safety Code. *Morris v. City of Soldotna*, Sup. Ct. Op. No. 1296 (File No. 2286), 553 P.2d 474 (1976).

Tort liability does not flow from a breach of statutory and regulatory duties

as a matter of course. *Morris v. City of Soldotna*, Sup. Ct. Op. No. 1296 (File No. 2286), 553 P.2d 474 (1976).

Section held not applicable in action pursuant to Wrongful Death Act. — This section and the provisions of the Alaska General Safety Code were held not applicable in an action for damages pursuant to the Alaska Wrongful Death Act. *Morris v. City of Soldotna*, Sup. Ct. Op. No. 1296 (File No. 2286), 553 P.2d 474 (1976).

Negligence of a servant does not excuse the master from liability to a co-servant for an injury which would not have happened had the master performed his duty. *Johnson v. Steamship Zelandia*, 3 Alaska 682 (1909).

If the negligence of the company contributed to, it must necessarily have been an immediate cause of, the accident, and it is no defense that another was likewise guilty of wrong. *Johnson v. Steamship Zelandia*, 3 Alaska 682 (1909).

For case discussing duties of employer regarding safety of employees decided prior to the enactment of this section, see Allen v. Knight's Island Concol. Copper Co., 3 Alaska 651 (1909).

Applied in Wallace v. State, Sup. Ct. Op. No. 1352 (File No. 2683), 557 P.2d 1120 (1976); Woods & Rohde, Inc. v. State, Dep't of Labor, Sup. Ct. Op. No. 1433 (File No. 2903), 555 P.2d 138 (1977).

Collateral references. — Non-delegable duty of employer in respect of work which will in the natural course of events produce injury, unless certain precautions are taken. 23 ALR 1016.

Duty of master providing machine of standard make and in common use to equip same with safety device or guard. 36 ALR 1477.

Construction and application of statute, imposing upon employer or owner general duty regarding safety of building. 101 ALR 408.

Violation of statute or ordinance regarding safety of building or premises as creating or affecting liability for injuries or death. 132 ALR 863.

Duty of owner of premises to furnish independent contractor or his employee a safe place of work, where contract is for repairs. 31 ALR2d 1375.

Duty and liability of employer to domestic servant for personal injury or death. 49 ALR2d 317.

Sec. 18.60.077. Variance of a standard. (a) An employer who is affected by AS 18.60.010 — 18.60.105 may apply to the commissioner for a variance from a provision of the safety and health standards adopted by the department. Employees who are affected by an application for variance shall be given notice of the application for variance and an opportunity to participate in the hearing. The commissioner shall issue the variance if the commissioner determines on the basis of the hearing record, after opportunity for an inspection where appropriate, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to employees that are as safe and as healthful as those that would prevail if the employer complied with the provisions of the safety and health standards adopted by the department. The variance shall prescribe the conditions the employer must maintain and the practices, means, methods, operations, and processes that the employer must adopt and utilize to the extent they differ from the standard in question. The variance may be modified or revoked upon application by an employer, by employees, or by motion of the commissioner, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

(b) When the commissioner grants a variance, the commissioner shall include in this grant a statement of the reasons for the action, and the statement shall be published in a newspaper of statewide circulation and in a newspaper of local circulation in the area where the variance will be implemented. A copy of the statement shall be sent to the OSHA Review Board. (§ 7 ch 72 SLA 1973)

Sec. 18.60.080. Contributions. The Department of Labor may accept contributions of funds, property, materials, supplies and other forms of aid from business firms, organized groups or individuals for furthering the safety program. (§ 10 ch 109 SLA 1955)

Sec. 18.60.081. Temporary variance. (a) An employer who is affected by AS 18.60.010 — 18.60.105 may apply to the commissioner for a temporary variance from a provision of the safety and health standards adopted by the department. A temporary variance shall be issued only if the employer files an application fulfilling the requirements of (b) of this section and the employer establishes that the employer

(1) is unable to comply with a standard by its effective date because of unavailability of the professional or technical personnel or of the materials and equipment needed to come into compliance or because necessary construction or alteration of facilities cannot be completed by the effective date;

(2) is taking all available steps to safeguard employees against the hazards covered by the standard;

(3) has an effective program for coming into compliance with the standards as quickly as practicable.

(b) An application for a temporary variance must contain

(1) a specification of the standard from which the employer seeks a temporary variance;

(2) a representation by the employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that the employer is unable to comply and a detailed statement of the reasons for this inability;

(3) a statement of the steps the employer has taken and will take, including specific dates, to protect employees against the hazard covered by the standard;

(4) a statement of when the employer expects to be able to comply with the standard and what steps the employer has taken and what steps the employer will take, including specific dates, to come into compliance;

(5) a certification that the employer has informed employees of the application for temporary variance and of their right to request a hearing by giving a copy of the application and a written statement of the right to a hearing to the employees' authorized representative, by posting a statement giving a summary of the application and stating the employees' right to a hearing and specifying where a copy of the application and notice of right to a hearing may be examined at the place or places where notices to employees are normally posted, and by other appropriate means.

(c) A temporary variance issued under this section must prescribe the practices, means, methods, operations and processes that the em-

ployer shall adopt and use while the variance is in effect and state in detail the employer's program for coming into compliance with the standard. A temporary variance may be granted only after notice to affected employees and an opportunity for hearing. However, the commissioner may issue one interim order to be effective until a decision is made on the basis of a hearing. A temporary variance may not be in effect for longer than the period needed by the employer to achieve compliance with the standard or one year, whichever is shorter, except that a temporary variance may be renewed no more than twice if the requirements of (a) and (b) of this section are met and the application for renewal is filed at least 90 days before the expiration date of the variance. An interim renewal of an order may not remain in effect for longer than 180 days. (§ 7 ch 72 SLA 1973)

Sec. 18.60.083. Right of entry and inspection. (a) A representative of the department, upon presenting appropriate credentials to the owner, operator, or agent in charge, may

(1) enter without delay and at reasonable times a factory, plant, establishment, construction site, or other area, work place or environment where work is performed by an employee of an employer; and

(2) inspect and investigate during regular working hours and at other reasonable times, and with reasonable limits and in a reasonable manner, a place of employment and all pertinent conditions, structures, machines, devices, equipment and materials, and to question privately an employer, owner, operator, agent or employee.

(b) In making inspections and investigations under (a) of this section the department may issue subpoenas compelling the attendance of witnesses and the production of papers and records. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the state. If a person fails to grant a right of entry and inspection, the department may seek an order from the superior court compelling the person to submit to entry and inspection. If a person fails to comply with a subpoena or a witness refuses to testify to a matter regarding which the witness may be lawfully interrogated, a superior court may compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify before it. (§ 7 ch 72 SLA 1973)

NOTES TO DECISIONS

The 1973 amendments to this title made mandatory the enforcement of safety regulations in most instances. *Wallace v. State*, Sup. Ct. Op. No. 1352 (File No. 2683), 557 P.2d 1120 (1978). Paragraphs (1) and (2) of subsection

(a) parallel 29 U.S.C. § 657(a). — Paragraphs (1) and (2) of subsection (a), authorizing the right of entry and inspection, substantially parallel the federal counterpart, 29 U.S.C. § 657(a). *Woods & Rohde, Inc. v. State*, Dep't of Labor, Sup. Ct. Op.

No. 1433 (File No. 2903), 565 P.2d 138 (1977).

Warrantless inspection is unconstitutional. — A warrantless Occupational Safety and Health Act inspection, as authorized by subsection (a), constitutes an unconstitutional search in that it is violative of Alaska Const., art. I, § 14. *Woods & Rohde, Inc. v. State*, Dep't of Labor, Sup. Ct. Op. No. 1433 (File No. 2903), 565 P.2d 158 (1977).

In light of the expansive protections afforded to citizens of Alaska by virtue of Alaska Const., art. I, §§ 14 and 22 against warrantless searches and seizures and invasions of privacy, the Alaska Constitution prohibits warrantless administrative inspections of private business premises. *Woods & Rohde, Inc. v. State*, Dep't of Labor, Sup. Ct. Op. No. 1433 (File No. 2903), 565 P.2d 138 (1977).

Since violations of Alaska's Occupational Safety and Health Act can result in significant fines and imprisonment, the self-protection and private interests of the owner of business premises are deserving of, although not equivalent to, the significant constitutional solicitude and protection afforded Alaska's citizens in criminal

prosecutions, for broad statutory safeguards are inadequate substitutes for individualized judicial review of applications for search warrants. *Woods & Rohde, Inc. v. State*, Dep't of Labor, Sup. Ct. Op. No. 1433 (File No. 2903), 565 P.2d 138 (1977).

Burden of obtaining warrant will not frustrate purpose of inspections. — Authority to inspect and search one's business premises should be evidenced by a warrant, and the burden of obtaining a warrant is not likely to frustrate the purpose of Occupational Safety and Health Act inspections. *Woods & Rohde, Inc. v. State*, Dep't of Labor, Sup. Ct. Op. No. 1433 (File No. 2903), 565 P.2d 138 (1977).

For discussion of federal and state decisional law in the area of administrative search and seizure, as well as the federal decisional law relating specifically to the Federal Occupational Safety and Health Act, see *Woods & Rohde, Inc. v. State*, Dep't of Labor, Sup. Ct. Op. No. 1433 (File No. 2903), 565 P.2d 138 (1977).

Cited in *Howard v. State*, Sup. Ct. Op. No. 1707 (File No. 3089), 583 P.2d 827 (1978).

Sec. 18.60.085. Prohibition of unauthorized notice of inspection. No unauthorized notice of a department safety or health inspection may be given. A person who gives unauthorized notice of a safety or health inspection, upon conviction, is punishable by a fine of not more than \$1,000, or by imprisonment for not more than 180 days, or by both. (§ 7 ch 72 SLA 1973)

Sec. 18.60.087. Employer and employee participation. (a) A representative of the employer and a representative authorized by the employees shall be given an opportunity to accompany the representative of the department during the physical inspection of a work place for the purpose of aiding the inspection. If the authorized representative is an employee, time spent aiding the inspection shall be considered as time worked and the employee shall be compensated accordingly. When there is no authorized employee representative, there shall be consultation with a reasonable number of employees concerning matters of health and safety in the work place.

(b) Comments relating to an employer's compliance with the provisions of AS 18.60.010 — 18.60.105 made by an employee or an employee representative to the representative of the department during the course of an inspection, and the name of any employee or employee representative making these comments to a representative of the department, are confidential and may not be made available by the

department to the employer without the consent of the employee or the employee representative. (§ 7 ch 72 SLA 1973; am § 5 ch 276 SLA 1976)

NOTES TO DECISIONS

Applied in *Woods & Rohde, Inc. v. State, Dep't of Labor*, Sup. Ct. Op. No. 1433 (File No. 2903), 665 P.2d 138 (1977).

Sec. 18.60.088. Employee requests for special inspection. (a) An employee or a representative of employees who believes that a violation of a safety or health standard exists that threatens physical harm or that an imminent danger exists, may request an inspection by giving notice of the violation or danger to the department. The notice shall be in writing and set out with reasonable particularity the grounds for the notice and be signed by the employee or the representative of the employees. If, upon receipt of the notice, the department determines that there are reasonable grounds to believe that a violation or danger exists, the department shall make a special inspection as soon as practicable. If the department determines there are no reasonable grounds to believe that a violation exists, the department shall notify in writing the employee or the representative of the employees of that determination.

(b) If the department makes a special inspection, or an inspection under AS 18.60.083, a copy of an employee notice shall be provided the employer no later than at the time of the inspection. Unless expressly consented to by the person giving the notice, the person's name and the name of employees referred to in the notice shall be kept confidential and may not appear in the copy provided the employer or in any record available to the employer.

(c) The department shall furnish the notifying person a written explanation of why a citation was not issued after a special inspection.

(d) The department shall, by regulation, establish a review procedure for a failure to issue a citation after a special inspection and shall provide the employees requesting a review a written statement of the final disposition of the case. (§ 7 ch 72 SLA 1973; am § 6 ch 276 SLA 1976)

NOTES TO DECISIONS

The 1973 amendments to this title made mandatory the enforcement of safety regulations in most instances. *Wallace v. State*, Sup. Ct. Op. No. 1362 (File No. 2683), 557 P.2d 1120 (1976).

Sec. 18.80.089. Prohibition against retribution. (a) A person may not discharge or discriminate against an employee because the employee has filed a complaint or instituted or caused to be instituted a proceeding related to the enforcement of occupational safety and health standards, or has testified or is expected to testify in a proceeding relating to occupational safety and health or because an employee has exercised personally or on behalf of others a right afforded under AS 18.60.010 — 18.60.105.

(b) An employee who has been discharged or discriminated against by a person in violation of this section may, within 30 days after the violation occurs, file a complaint with the commissioner alleging the discrimination. Upon receipt of the complaint, the commissioner shall investigate the matter as the commissioner considers appropriate. If, upon investigation, the commissioner determines that this section has been violated, the commissioner shall request the attorney general to bring an action in the superior court against the violator. The superior court has jurisdiction to restrain violations of (a) of this section and to order all appropriate relief including rehiring or reinstatement of the employee to the employee's former position with back pay.

(c) Within 90 days of the receipt of a complaint filed under this section, the commissioner shall notify the complainant of the determination under (b) of this section. (§ 7 ch 72 SLA 1973)

Sec. 18.60.090. Penalty for violations. [Repealed, § 9 ch 72 SLA 1973.]

Sec. 18.60.091. Citations. (a) If, upon inspection or investigation, the department believes that an employer has violated a provision of AS 18.60.010 — 18.60.105 that is applicable to the employer, the department shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and must describe with particularity the nature of the violation, including reference to the provisions of the chapter or any order or regulation alleged to have been violated, and must fix a reasonable time for abatement of the violation. The department may prescribe procedures for the issuance of a notice instead of a citation with respect to minor violations that have no direct or immediate relationship to safety or health, or violations that are not serious and that the employer agrees to correct within a reasonable time. If an employer does not, within a reasonable time set out in the notice, correct a violation that is not serious, the department shall issue a citation to the employer.

(b) Upon receipt by the employer, each citation issued under this section, or a copy of the citation, shall be immediately and prominently posted, at or near each place the violation referred to in the citation occurred.

(c) A citation may not be issued for a particular violation under this section after the expiration of 180 days following the discovery of the violation by the department or correction of a violation. (§ 7 ch 72 SLA 1973; am § 1 ch 26 SLA 1983)

Effect of amendments. — The 1983 amendment, in subsection (a), deleted "rule" preceding "or regulation" in the second sentence, added the language beginning, "or violations which are not serious" to the end of the third sentence, and added the last sentence.

NOTES TO DECISIONS

The 1973 amendments to this title made mandatory the enforcement of safety regulations in most instances. *Wallace v. State*, Sup. Ct. Op. No. 1352 (File No. 2683), 567 P.2d 1120 (1976).

Sec. 18.60.093. Enforcement procedures. (a) If, after an inspection or investigation, or after an employer's failure to correct a violation for which the employer has been issued a notice, the department issues a citation, the commissioner shall, at a reasonable time after the termination of the inspection or investigation, or expiration of the time period set out in the notice, notify the employer by certified mail of the penalty proposed to be assessed and that the employer has 15 working days within which to notify the commissioner and the OSHA Review Board that the employer wishes to contest the citation or proposed assessment of penalty. If, within 15 working days after receipt of the penalty notice issued by the commissioner, the employer fails to notify the OSHA Review Board that the employer intends to contest the citation, or proposed assessment of penalty, the citation and the assessment, as proposed, are considered final and not subject to review by any court.

(b) If the commissioner has reason to believe that an employer has failed to correct, within the period allowed, a violation for which a citation has been issued, the commissioner shall notify the employer by certified mail of the failure, of the penalty proposed to be assessed because of the failure, and that the employer has 15 working days within which to notify the commissioner and the OSHA Review Board of a wish to contest the commissioner's notification of the proposed assessment of penalty. If, within 15 working days from the receipt of the notification issued by the commissioner, the employer fails to give notice of an intention to contest the notification or proposed assessment of penalty, the notification and assessment as proposed shall be considered a final order and not subject to review by any court.

(c) If an employer gives notice of an intention to contest the citation or notification issued under (a) or (b) of this section, the OSHA Review Board shall afford an opportunity for a hearing and thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the original citation or proposed penalty, or directing other appropriate relief, and the order is final 30 days after its issuance.

(d) The OSHA Review Board shall notify the authorized representative of the affected employees that an employer is contesting a citation or notification issued under (a) or (b) of this section and afford the representative an opportunity to participate in the hearing on the matter.

(e) An employer, an affected employee or a representative of affected employees has 15 working days from the receipt of a citation within which to notify the commissioner and the OSHA Review Board that the period of time fixed in the citation for the abatement of a violation is unreasonable. The OSHA Review Board shall afford an opportunity for a hearing and thereafter issue an order, based on findings of fact, affirming or modifying the original period for abatement, and the order is final 30 days after its issuance. If the contest is initiated by the employer, the OSHA Review Board shall notify the employees in the same manner as provided by (d) of this section. If the contest is initiated by the employees, the OSHA Review Board shall notify the employer and afford the employer an opportunity to participate in the hearing on the matter. (§ 7 ch 72 SLA 1973; am § 2 ch 26 SLA 1983)

Effect of amendments. — The 1983 amendment, in subsection (a), inserted "or after an employer's failure to correct a violation for which the employer has been issued a notice" and "or expiration of the time period set out in the notice" in the first sentence, substituted "after receipt of the penalty notice" for "from the receipt of the notice" in the second sentence, removed personal pronouns from the first and second sentences, and made a minor word change in the second sentence.

Opinions of attorney general. — Agencies assessed penalties under this section and AS 18.60.095 must, as a general rule, pay those penalties, within the limits of available appropriations, from their operating budgets. In the event an agency wishes to contest a citation, the agency may be represented by its assigned counsel in the Attorney General's Office before the Occupational Safety and Health Act Review Board; if the agency chooses to contest an adverse determination by the review board, outside counsel, funded by the agency, will have to be employed. March 27, 1980 Op. Att'y Gen.

NOTES TO DECISIONS

The 1973 amendments to this title made mandatory the enforcement of safety regulations in most instances. *Wallace v. State*, Sup. Ct. Op. No. 1352 (File No. 2683), 567 P.2d 1120 (1976).

Sec. 18.60.095. Penalties. (a) An employer who wilfully or repeatedly violates a provision of AS 18.60.010 — 18.60.105 that is applicable to the employer or a standard or regulation adopted under AS 18.60.010 — 18.60.105 may be assessed by the commissioner a civil penalty of not more than \$10,000 for each violation.

(b) An employer who receives a citation for a serious violation of a provision of AS 18.60.010 — 18.60.105 that is applicable to the employer or of a standard or regulation adopted under AS 18.60.010 — 18.60.105 shall be assessed by the commissioner a civil penalty of up

to \$1,000 for each violation. For purposes of this subsection, a serious violation is considered to exist if the violation creates in the place of employment a substantial probability of death or serious physical harm. However, a serious violation is not considered to exist if the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(c) An employer who receives a citation for a violation of a provision of AS 18.60.010 — 18.60.105 that is applicable to the employer of a standard or regulation adopted under AS 18.60.010 — 18.60.105, and the violation is specifically determined not to be of a serious nature, may be assessed by the commissioner a civil penalty of up to \$1,000 for each violation.

(d) An employer who fails to correct a violation within the period permitted for its correction for which a citation has been issued may be assessed by the commissioner a civil penalty of not more than \$1,000 for each day during which the failure to correct the violation continues.

(e) An employer who wilfully or repeatedly violates a provision of AS 18.60.010 — 18.60.105 that is applicable to the employer or a standard or regulation adopted under AS 18.60.010 — 18.60.105, and the violation causes death to an employee, upon conviction, is punishable by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both. However, upon a second conviction after a prior conviction for a violation causing death, an employer is punishable by a fine of not more than \$20,000, or by imprisonment for not more than one year, or by both.

(f) A person who knowingly makes a false statement, representation, or certification in an application, record, report, plan or other document filed or required to be maintained under AS 18.60.010 — 18.60.105, upon conviction, is punishable by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both.

(g) An employer who violates the posting requirements of this chapter shall be assessed by the commissioner a civil penalty of up to \$1,000 for each violation.

(h) In assessing a civil penalty, the commissioner shall give due consideration to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations. (§ 7 ch 72 SLA 1973)

Opinions of attorney general. — Agencies assessed penalties under AS 18.60.093 and this section must, as a general rule, pay those penalties, within the limits of available appropriations, from their operating budgets. In the event an agency wishes to contest a citation, the

agency may be represented by its assigned counsel in the Attorney General's Office before the Occupational Safety and Health Act Review Board; if the agency chooses to contest an adverse determination by the review board, outside counsel, funded by the agency, will have to be employed. March 27, 1980 Op. Att'y Gen.

The state may enforce the criminal penalties set out in subsections (e) and (f) on

the Annette Islands Reserve. May 3, 1983 Op. Att'y Gen.

NOTES TO DECISIONS

Section and former AS 18.60.090 compared. — See *Krall v. Royal Inns of Am., Inc.*, 374 F. Supp. 146 (D. Alaska 1973).

Whereas former AS 18.60.090 set forth "fines" and "imprisonment" as penalties, this section, which replaced the former section, now specifies "civil penalties" for most violations, saving "fines" and "imprisonment" for serious violations only. *Krall v. Royal Inns of Am., Inc.*, 374 F. Supp. 146 (D. Alaska 1973).

Neither mention tort remedies or nonavailability of contributory negligence. — See *Krall v. Royal Inns of Am., Inc.*, 374 F. Supp. 146 (D. Alaska 1973).

Defense of contributory negligence not abolished. — See *Krall v. Royal Inns of Am., Inc.*, 374 F. Supp. 146 (D. Alaska 1973).

From indicia concerning former AS 18.60.090 the federal district court was not persuaded the legislature intended to abolish the defense of contributory negligence for a violation of the Alaska General Safety Code or in any way intended to depart from the normal practice of allowing the defense. *Krall v. Royal Inns of Am., Inc.*, 374 F. Supp. 146 (D. Alaska 1973).

The Alaska legislature did not intend to deny the defense of contributory negligence to negligence per se based on violations of the Alaska General Safety Code. *Krall v. Royal Inns of Am., Inc.*, 374 F. Supp. 146 (D. Alaska 1973).

The effect of the Alaska General Safety Code and the enabling legislation is not to place the entire responsibility for the harm on the defendant employer. *Krall v. Royal Inns of Am., Inc.*, 374 F. Supp. 146 (D. Alaska 1973).

Action by injured workman for damages not authorized. — Nowhere in either AS 18.60.010 — 18.60.105 or regulations can there be found authorization for a claim for relief and award of civil damages to an injured workman for harm resulting from the breach of AS 18.60.010 — 18.60.105 or the General Safety Code. *Morris v. City of Soldotna*, Sup. Ct. Op. No. 1296 (File No. 2286), 563 P.2d 474 (1976).

The worker's limited ability to exercise self-protective care because of economic duress did not persuade the federal district court to construe this article to eliminate the defense of contributory negligence. *Krall v. Royal Inns of Am., Inc.*, 374 F. Supp. 146 (D. Alaska 1973).

Fact finder to sift through facts of each case. — By retaining the defense of contributory negligence, it remains to the finder of fact to sift through the facts and circumstances of each case and determine whether the employee met that duty. *Krall v. Royal Inns of Am., Inc.*, 374 F. Supp. 146 (D. Alaska 1973).

Applied in *Woods & Rohde, Inc. v. State, Dep't of Labor*, Sup. Ct. Op. No. 1433 (File No. 2903), 565 P.2d 138 (1977).

Sec. 18.60.096. Imminent dangers. (a) The commissioner, or a designated agent as authorized by the commissioner, may issue orders restraining a particular condition or practice in any place of employment that constitutes a danger that could reasonably be expected to immediately cause death or serious physical harm. The terms of an order issued under this section may require steps to be taken as necessary to avoid, correct, or remove the imminent danger and may prohibit the employment or presence of an individual in locations or under conditions where imminent danger exists. The terms of the order may allow the presence of individuals necessary to avoid, correct, or remove the imminent danger.

(b) When and as soon as a representative of the department concludes that conditions or practices described in (a) of this section exist

in any place of employment, the representative shall inform the affected employees and employer of the danger and that the representative is recommending to the commissioner, or a designated agent as authorized by the commissioner, the issuance of a restraining order.

(c) The attorney general shall, when requested by the commissioner, seek an injunction in superior court to enforce a restraining order issued under this section.

(d) If the commissioner arbitrarily or capriciously fails to issue a restraining order under this section, an employee who may be injured by reason of the failure, or the representative of the affected employees, may bring an action against the commissioner in superior court to compel the commissioner to issue a restraining order and for further relief as may be appropriate. (§ 7 ch 72 SLA 1973; am § 32 ch 127 SLA 1974)

Sec. 18.60.097. Judicial review. (a) A person affected by an order of the OSHA Review Board under AS 18.60.093(c) or (e) or of the commissioner under AS 18.60.096 may obtain a review of the order by filing a notice of appeal in the superior court as provided in Rule 45 of the Rules of Appellate Procedure of the State of Alaska.

(b) The department may obtain review of an order of the OSHA Review Board under AS 18.60.093(c) or (e) by filing a notice of appeal in the superior court as provided in Rule 45 of the Rules of Appellate Procedure of the State of Alaska.

(c) An order of the OSHA Review Board under AS 18.60.093(c) or (e) or of the commissioner under AS 18.60.096 becomes final and is not subject to review by any court if a notice of appeal is not filed with the superior court within the period provided for by Rule 45 of the Rules of Appellate Procedure of the State of Alaska.

(d) An employer seeking judicial review of an order of the OSHA Review Board or of the commissioner must inform the affected employees of the fact that the employer is seeking judicial review.

(e) The court shall review an order of the OSHA Review Board or of the commissioner on a substantial-evidence basis. (§ 7 ch 72 SLA 1973; am § 7 ch 276 SLA 1976)

Sec. 18.60.098. Employee compensation for appearances. (a) The employer shall compensate any of the employer's employees who appear at a board hearing under AS 18.60.010 — 18.60.105 for loss of wages if the employee appears at the hearing as the result of a request of the employer or as the result of a subpoena issued at the employer's request.

(b) The employer shall compensate any of the employer's employees who appear at a judicial proceeding under AS 18.60.010 — 18.60.105

for loss of wages if the employee appears at the proceeding as the result of a request of the employer or as the result of a subpoena issued at the employer's request.

(c) An employee who appears at a board hearing under AS 18.60.010 — 18.60.105 as the result of a request of the state or the OSHA Review Board or as the result of a subpoena issued at the request of the state or the OSHA Review Board shall be compensated at the rate of \$30 a day and transportation costs. (§ 7 ch 72 SLA 1973)

Sec. 18.60.099. Confidentiality of trade secrets. Information obtained by the department in connection with an inspection or proceeding related to enforcement of occupational safety and health standards that contains or that might reveal a trade secret referred to in 18 U.S.C. 1905 is confidential. However, the information may be disclosed to other officers or employees concerned with carrying out occupational safety and health enforcement activities. In a proceeding, the commissioner or the court as may be applicable shall issue orders as may be appropriate to protect the confidentiality of trade secrets. (§ 7 ch 72 SLA 1973)

NOTES TO DECISIONS

Applied in *Woods & Rohde, Inc. v. State, Dep't of Labor, Sup. Ct. Op. No. 1433 (File No. 2903), 565 P.2d 138 (1977).*

Sec. 18.60.100. Nonabrogation of powers of Department of Health and Social Services. AS 18.60.010 — 18.60.105 are not intended to abrogate the powers, duties and responsibilities of the Department of Health and Social Services in carrying out the provisions of this title and AS 17. (§ 7 ch 148 SLA 1967; am § 6 ch 104 SLA 1971)

Sec. 18.60.105. Definitions. (a) In AS 18.60.010 — 18.60.105 (1) "be exposed" means to ingest, inhale, or absorb through the skin or eyes a substance, or fumes or other potentially harmful aspect of a substance;

- (2) "commissioner" means the commissioner of labor;
- (3) "department" means the Department of Labor;
- (4) "employee" means a person who works for an employer;
- (5) "employer" means a person, including the state and political subdivisions of the state, who has one or more employees;
- (6) "OSHA" means the federal Occupational Safety and Health Administration;
- (7) "suitable protective equipment" includes such personal protective equipment as is required by regulation issued under this chapter;

(8) "toxic or hazardous substance" includes

(A) a chemical listed in 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, "General Industry Standards", Occupational Safety and Health Administration;

(B) a chemical listed in "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment", American Conference of Governmental Industrial Hygienists (Latest Edition);

(C) a substance for which an OSHA form 20 or equivalent information is required under OSHA regulations; and

(D) a substance determined by the department, in accordance with the Administrative Procedure Act (AS 44.62), to be a health hazard to an employee who is exposed to the substance, including a carcinogen, reproductive toxin, irritant, corrosive, sensitizer, hepatotoxin, nephrotoxin, neurotoxin, agent that acts on the hematopoietic system, agent that damages the lungs, a cutaneous hazard and an eye hazard;

(9) "toxic or hazardous substance" does not include

(A) substances that because of their physical state, volume, or concentration do not pose a health hazard upon exposure;

(B) substances that are goods, food, drugs, cosmetics, or tobacco products intended for personal consumption; or

(C) substances in transit;

(10) "transit" means conveyed in a sealed or unopened container by a mode of transportation.

(b) *Id.* AS 18.60.030(14), 18.60.065 — 18.60.068, and 18.60.105(a)(9)

(1) "employee" means a person who works for an employer, but not in a place used primarily as a personal residence;

(2) "employer" means a person, including the state and a political subdivision of the state, who has one or more employees working in a place not used primarily as a personal residence;

(3) "health hazard" means a substance capable of causing acute or chronic adverse effects to health;

(4) "workplace" means a place of employment other than a place used primarily as a personal residence. (§ 43-2-21 ACLA 1949; am § 3 ch 148 SLA 1957; am § 8 ch 72 SLA 1973; am §§ 3, 4 ch 93 SLA 1983)

Revisor's notes. — Subsection (a) was reorganized in 1983 to alphabetize the defined terms.

Effect of amendments. — The 1983 amendment added the paragraphs defining "be exposed," "OSHA," "toxic or hazardous substance," and "transit" to subsection (a) and added subsection (b).

Opinions of attorney general. — The Department of Labor can publish its list of designated toxic and hazardous substances pursuant to AS 18.60.030(12) and subsection (a) without going through the

promulgation proceeding in the Administrative Procedure Act. The list is merely a compilation of chemicals and substances from sources already identified by the legislature. July 18, 1984 Op. Att'y Gen.

As the list to be published by the Department of Labor under AS 18.60.030(12) includes those chemicals and substances described in paragraph (a)(8), they are co-extensive. July 18, 1984 Op. Att'y Gen.

The Department of Labor does not have the authority, under subparagraph (a)(9)(A), to promulgate regulations ex-

cluding from its list of toxic and hazardous substances those described under subparagraph (a)(8)(A) or "(B). July 18, 1984 Op. Att'y Gen.

Cosmetic products, when used by employees in a commercial establishment, do not fall within the exemption for products

intended for personal consumption under subparagraph (a)(9)(B); therefore, AS 18.60.065 requires that material safety data sheets be provided for cosmetics to be used in commercial establishments. November 1, 1985 Op. Att'y Gen.

NOTES TO DECISIONS

AS 18.60.010 — 18.60.105 and the General Safety Code unquestionably impose duties on the general contractor. *Bachner v. Rich*, Sup. Ct. Op. No. 1291 (File No. 2309), 554 P.2d 430 (1976).

Activities covered. — The Alaska Occupational Safety Health Act, AS 18.60.010 — 18.60.105, embraces an enormous number of "unrelated and disparate

activities" which make up private enterprise in the State of Alaska and reaches many commercial undertakings which have no history of regulation, let alone a history of intensive regulation. *Woods & Rohde, Inc. v. State*, Dept of Labor, Sup. Ct. Op. No. 1433 (File No. 2903), 565 P.2d 138 (1977).

Article 2. Search and Rescue.

<p>Section 120. Search and rescue parties 130. Expenses of search and rescue parties 140. Limitation of amount of expenditure for search and rescue 145. Search and rescue fund 146. Civil air patrol 148. Transfer of forfeited aircraft to civil air patrol</p>	<p>Section 150. Report of mysterious disappearance or separation from companions 160. Violation a misdemeanor 170. Report and investigation of disappearance 175. Regulations</p>
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Collateral references. — 1 Am. Jur. 2d, Absentees, § 10; 22 Am. Jur. 2d, Death, §§ 304, 305, 310, 313.

Sec. 18.60.110. Fund for rescue and relief of lost persons. [Repealed, § 1 ch 15 SLA 1968.]

Sec. 18.60.120. Search and rescue parties. Upon being notified that a person is lost, injured, killed, or is in need of immediate rescue, the commissioner of public safety or a designee may appoint a competent person to organize, direct, and guide a search and rescue party for the purpose of rescuing or retrieving the person or the person's remains. (§ 40-8-3 ACLA 1949; am § 3 ch 24 SLA 1966; am § 1 ch 57 SLA 1970; am § 1 ch 109 SLA 1980)

HB

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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P. O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-1991

December 29, 1986

MEMORANDUM

FROM: Penelope Weyhrauch^W
Legislative Analyst

RE: Parimutuel Wagering
Research Request 87.055

You asked for a discussion of state parimutuel wagering programs and revenues received from the programs. You were particularly interested in state fair parimutuel programs, and in the type of people who attend parimutuel wagering activities. In regard to Alaska, you were interested in the amount of revenues that could be generated by parimutuel wagering in the state, and whether or not dedicating parimutuel wagering revenue would violate Alaska's constitutional prohibition on dedicated revenues.

Parimutuel Wagering in the United States

In parimutuel wagering events, all bets on a given race are placed in a common pool, which is proportionally divided among those holding winning tickets after the race is run. Parimutuel wagering events are usually horse and dog races. Some form of horse racing is legal in 36 states, and actually in operation in 30 states. Thoroughbred racing is legal in 36 states, harness racing in 28 states and quarter horse racing in 23 states. Greyhound racing is legal in 15 states and is operative in 14 states. Attachment A lists by state: parimutuel turnover (gross "handle"), number of racing days, number of races, and race attendance.

Parimutuel Wagering Revenues. Prior to distributing the pool among the winners, a specified percentage, or "takeout", is withheld. The takeout percentage in the western states ranges from 15 to 25 percent. The takeout percentage may be a constant percentage for all wagering pools or may depend on the type of bet, track, or type or number of horses. It may also vary according to whether the meet has a commercial or nonprofit purpose. The takeout is divided between the horse or dog owners' purses, the track, and the state in which the racing is conducted. Table 1 lists the western states and the distribution of the takeout in each state.

TABLE 1 (Continued)

State	Total Takeout	State	Meet Operator	Purses	Purse/Breeding Supplements	Other
NEVADA						
State Fair, others receiving state or local aid	18	1	17			
All others	18	2	8	8		
NEW MEXICO						
Daily Handle						
1st 250,000	18.75	2	16		.75	
Amount bet. \$250-350,000	18.75	2.5	15.5		.75	
Amount bet. \$350-400,000	18.75	3.5	14.5		.75	
Amount over \$400,000	18.75	6	12		.75	
State Fair	18.75	2	16		.75	
OREGON						
Commercial	18-22	4.5-5.5	6.05-8.75	6.25-6.925	1	.2
State Fair	19-25	.9-2.9	11.5-13.5	5.4-7.4	1	.2
Non-Commercial	16-22	.9-2.9	8.5-11.5	5.4-7.4	1	.2
Non-profit, all others	16-22	1.2-4.2	14.8-17.8			
WASHINGTON						
Daily Handle						
1st \$200,000	15-24.5	.5-4.0	14.5-20.5		1	
Amount bet. \$200-400,000	15-24.5	1-4.5	14.0-20		1	
Amount over \$400,000	15-24.5	4-7.5	11.0-17		1	
WYOMING						
	20	1	19			

SOURCE: National Association of Racing Commissioners, Pari-Mutuel Racing, 1985, pp. 13-16, and state statutes.

CORRECTION

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



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P. O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

December 29, 1986

MEMORANDUM

FROM: Penelope Weyhrauch
Legislative Analyst

RE: Parimutuel Wagering
Research Request 87.055

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Parimutuel Wagering Revenues. Prior to distributing the pool among the winners, a specified percentage, or "takeout", is withheld. The takeout percentage in the western states ranges from 15 to 25 percent. The takeout percentage may be a constant percentage for all wagering pools or may depend on the type of bet, track, or type or number of horses. It may also vary according to whether the meet has a commercial or nonprofit purpose. The takeout is divided between the horse or dog owners' purses, the track, and the state in which the racing is conducted. Table 1 lists the western states and the distribution of the takeout in each state.

TABLE 1

Takeout Percentages and Distribution
in the Western States

State	Total Takeout	State	Meet Operator	Purses	Purse/Breeding Supplements	Other
ARIZONA						
Ave. Handle < \$200,000						
1st \$100,000	18-25	2	15-22		1	
All Additional	18-25	5	12-19		1	
Ave. Handle > \$200,000						
1st \$100,000	18-25	3	14-21		1	
All Additional	18-25	5	12-19		1	
CALIFORNIA						
Thoroughbreds						
Total Handle < \$250 M.	15-19.75	4.8-6.85	5.26-6.98	4.30-5.88	.34	
Total Handle > \$250 M.	15-19.75	5.7-7.45	4.93-6.49	4.03-5.47	.34	
Quarterhorses	15-19.75	2.5-5.55	6.16-8.43	5.04-7.06		
Harness	16-23.75	1.5-4.79	7.26-12.19	5.28-8.31		
Fair Meets						
Daily Handle < \$650,000	16-20.75	2.0-5.75	5.76-9.32	6.24-9.68		
Daily Handle > \$650,000	16-20.75	4.65-6.40	5.45-7.01	5.90-7.34		
COLORADO						
Commercial Tracks	18.5	3.5	15			
Non-profit Tracks	22.5-23	4	13	5.5	.5	
IDAHO	20-20.75	1.25-2.0	15.5-17.5		1	.25-2.25
MONTANA	20-22	1-1.6	19		0-1.4	

TABLE 1 (Continued)

State	Total Takeout	State	Meet Operator	Purses	Purse/Breeding Supplements	Other
NEVADA						
State Fair, others receiving state or local aid	18	1	17			
All others	18	2	8	8		
NEW MEXICO						
Daily Handle						
1st 250,000	18.75	2	16		.75	
Amount bet. \$250-350,000	18.75	2.5	15.5		.75	
Amount bet. \$350-400,000	18.75	3.5	14.5		.75	
Amount over \$400,000	18.75	6	12		.75	
State Fair	18.75	2	16		.75	
OREGON						
Commercial	18-22	4.5-5.5	6.05-8.75	6.25-6.925	1	.2
State Fair	19-25	.9-2.9	11.5-13.5	5.4-7.4	1	.2
Non-Commercial	16-22	.9-2.9	8.5-11.5	5.4-7.4	1	.2
Non-profit, all others	16-22	1.2-4.2	14.8-17.8			
WASHINGTON						
Daily Handle						
1st \$200,000	15-24.5	.5-4.0	14.5-20.5		1	
Amount bet. \$200-400,000	15-24.5	1-4.5	14.0-20		1	
Amount over \$400,000	15-24.5	4-7.5	11.0-17		1	
WYOMING						
	20	1	19			

SOURCE: National Association of Racing Commissioners, Pari-Mutuel Racing, 1985, pp. 13-16, and state statutes.

As shown in Table 1, the states' percentage of the takeout ranges from .5 to 7.5 percent. Takeout revenues received by state governments include revenues from track licenses, occupational licenses, parimutuel taxes, breakage (monies in excess of actual payoffs for winning tickets--calculated to the nearest nickel or dime), and admission taxes. Attachment B lists the total revenue and categorized revenue received by states from parimutuel wagering in 1982.

The states apply their percentage of takeouts from parimutuel wagering to different purposes. Table 2 lists the western states' application of their percentage of takeout. State takeout is distributed primarily to a state's general fund and to the State Racing Commission. Some states also fund their fair commissions through parimutuel revenues. Attachment C summarizes tax methods applied by states on partimutuel wagering activities.

Parimutuel Wagering Participants

According to a demographic study done by Dr. John Koza, parimutuel wagering is most likely to occur among white collar workers with one or more years of higher education and with household income of \$35,000 or more. It is less likely to occur among black or hispanic persons with household income of \$7,500 or less. According to Dr. Koza, the poor under-participate in horse racing probably because of the expense of transportation to the races and the relatively high playing expenses.

In regard to particular groups involved in parimutuel wagering, Dr. Koza found that "achievers" more frequently participate in parimutuel wagering than other groups. Achievers are defined as managers, administrators, and leaders in business, government, education, and politics. Dr. Koza estimates that 22 percent of Americans are achievers. Attachment D lists gambling groups identified by Dr. Koza and indexes the gambling activities they frequent.

The Commission on the Review of the National Policy Toward Gambling prepared information on demographic characteristics of on-track bettors in 1974. Table 3 shows that (in 1974) 14 percent of the adult population bet on horse races and four percent of the adult population bet on dog races. Proportionately more men than women bet, with betting increasing as income and educational levels increased.

The family income and horse race betting chart (the lower portion of Table 3) shows that families earning under \$5,000 a year spent a higher percentage of their income on horse races than those earning more money.¹ However, a 1976 survey completed by the National Gambling Commission found that persons in the under \$5,000 family income category had the lowest level of participation in racetrack betting of any income category.

¹The 1985 Consumer Price Index was 52.6 percent greater than the 1974 Consumer Price Index. 1974 Family Income listed on Table 3 should be multiplied by 152.6 percent to reach equivalent 1985 income levels. For example, a family with an income level of under \$5,000, becomes a family with an income level of under \$7,630.

TABLE 2
Distribution of State
Takeout Share

State	Use or Recipient	Percentage or Amount
Arizona	General Fund	61%
	Agriculture Promotion Fund	12%
	Breeders Awards	9.5%
	Fair Racing Betterment Fund	7.5%
	Coliseum Support Fund	6%
	Commission Expenses	4%
California	Fairs and Exposition Fund*	.63%
	General Fund	99.37*
Colorado	Commission Expenses	varies
	General Fund	all remaining funds
Idaho	Commission Expenses	100%
Montana	Commission Expenses	100%
Nevada	Commission Expenses	varies
	County Agriculture Assns.	all remaining funds
New Mexico	General Fund**	100%
OREGON	County Fair Commission	10.5%
	Counties	\$22,000+ each
	Various local shows & events	\$1,000 to \$8,000
	Commission expenses	varies
	OSU School of Vet. Medicine	.1% of gross handle
	General Fund	all remaining funds
Washington	General Fund	47%
	County fair fund	30%
	Commission Expenses	20%
	State Trade Fair Fund	3%
Wyoming	Commission Expenses	100%

SOURCE: National Association of Racing Commissioners,
Pari Mutuel Racing, 1985, pp. 13-16 and state statutes.

* Commission expenses are paid from this fund.

** The commission is funded from the general fund.

Source: John Houser, "Racing Takeout in the Western States" Research
Monograph 86:153, Oregon Legislative Research, August 13, 1986.

TABLE 5-25.—DEMOGRAPHIC CHARACTERISTICS OF ON-TRACK BETTORS, 1974

	Percent who bet at	
	Horseraces	Dograces
Total Sample	14	4
Sex		
Men	16	6
Women	12	2
Region		
Northeast	20	5
North Central	12	4
South	10	3
West	16	4
Income		
Under \$5,000	6	2
\$ 5,000-\$10,000	12	3
\$10,000-\$15,000	10	5
\$15,000-\$20,000	16	3
\$20,000-\$30,000	19	5
\$30,000 and over	22	5
Education		
Grade school	8	2
High school	15	4
Some college	14	5
College degree	23	6
Age		
Under 25	14	6
25-44 years	17	5
45-64 years	13	6
Over 65 years	3	2

TABLE 3

TABLE 5-26.—FAMILY INCOME AND HORSERACE BETTING

	Family income						Total
	Under \$5,000	\$5,000-10,000	\$10,000-15,000	\$15,000-20,000	\$20,000-30,000	\$30,000 & over	
Residents of States with legal tracks							
Percent who bet	8.7	15.5	11.2	17.2	20.9	20.3	15.3
Average annual bet per bettor	\$186	\$294	\$396	\$577	\$294	\$436	\$513
Average annual bet per capita	\$16	\$46	\$44	\$99	\$61	\$88	\$78
Average annual takeout per capita (Takeout rate: 16.6%)	\$2.63	\$7.55	\$7.36	\$16.49	\$10.21	\$14.69	\$13.02
Residents of all States							
Percent of income bet at track in 1974 per capita	0.63	0.61	0.35	0.57	0.25	0.22	0.50
Percent of income taken out per capita	0.105	0.101	0.059	0.094	0.041	0.037	0.083
All types of gambling combined							
Percent of income bet in 1974 per capita	2.53	1.55	1.07	1.16	0.67	1.09	1.15
Percent of income taken out per capita	0.62	0.42	0.29	0.23	0.14	0.18	0.25

Source: Gambling in America, Commission on the Review of the National Policy Toward Gambling, Washington, 1976.

State Parimutuel Wagering Programs

States that allow parimutuel wagering that were surveyed include: Montana, Oregon, Arizona, California, and Washington. These states allow parimutuel wagering at their county or state fairs. In general, commercial parimutuel wagering facilities are more financially successful than state fair parimutuel wagering activities.

Montana. Fairs in Montana often offer horse racing as a fair event. Statistical information on horse racing at Montana fairs can be found as Attachment E. One of the most successful fair racing programs is held in Great Falls during the State Fair. In 1986, racing was held for ten days with an attendance of 43,000 people (approximately one-third of the people attending the fair). The total parimutuel handle (i.e. gross revenue) during this time was \$1,193,000.

The takeout for fair races in Montana is 20 percent. Of this amount, the state takes one percent, purses take between seven and nine percent, and the remainder goes to the tracks to pay track overhead. Steve Meloy, Executive Secretary with the Montana Board of Horse Racing, said that (in a good year) one percent or more remains after paying track overhead. This profit generally goes to the county operating fund.

Dog racing is not allowed in Montana, though Mr. Meloy believes it would be a more lucrative parimutuel program than horse racing. He said that start-up costs, maintenance and overhead costs for dog racing would all be considerably cheaper than horse racing. He also said that fewer dogs are required for races than horses; dogs require only a few days between races to recuperate, while horses require a resting period of ten days to two weeks between races.

Oregon. The Oregon State Fair operates a successful horse racing program during fair days. Don Hillman, Deputy Director of the Alaska State Fair, said that racing events are successful because the fair operates the events as a business and has been doing so for over a hundred years. In 1986, racing was held for 11 days with an attendance of 67,500 people (approximately nine percent of the people attending the fair). The total parimutuel handle during this time was \$2,228,659.

The takeout for fair races in Oregon is 19 percent. Of this amount, the State Fair takes 11 percent, purses take 5.4 percent, .9 percent goes to the State Racing Commission, and the remainder is divided between special track improvements and people raising race horses in Oregon. Mr. Hillman said that the state usually takes five to six percent of the takeout on commercial tracks.

Dwight Butz, also with the Oregon State Fair, said that maintaining and operating horse racing facilities is very expensive. Initial start-up expenses at a minimum include: track surface--a hard base topped by four inches of a fairly loose sand and soil mixture, grandstand and backstretch construction, wagering equipment, and stables. Operating expenses include horse trainers, clockers and timers, staff to operate parimutuel equipment,

officials, judges, and concession staff as well as maintenance. Statistical information on horse racing at the Oregon State Fair in 1985 appears as Attachment F. The 1985 actual figures list horse racing revenue and expenditures for the 36 days racing occurred at the fairgrounds.

Arizona. The State Department of Racing allows horse racing at county fairs for four days a year at each fair. The state provides some of the staff necessary to conduct the races and supplies funding for capital improvements for fair racing. State aid for fair racing totals approximately \$1 million a year. According to Dawn Sinclair, Assistant Director of the Department of Racing, some county fairs make as little as \$2,000 in profit a year from racing events. Statistical information on county fair horse racing in Arizona appears as Attachment G. Ms. Sinclair said that areas surrounding fairs usually experience an increase in hotel and restaurant use, and veterinarian services.

California. Lynn Foote, Executive Secretary for the California Horse Racing Board, said that horse racing has been successful in the past, but rising costs, an increase in the number of private racetracks and the state lottery has decreased horse racing attendance. Mr. Foote said that operating fair races is costly and many county racing facilities are run down as a result of inadequate funding for repair. He also said that because racing at county fairs is not an on-going or important fair event, track staff often lack expertise needed to successfully operate parimutuel races. Mr. Foote believes that racing is more successful if handled by a private entity. Statistical information on fair races in California can be found as Attachment H.

Washington. Washington state and county fairs are authorized to operate horse racing during fair days. A percentage of state taxes on wagering is divided among the fairs. No parimutuel wagering revenue is retained by local governments. Will Bachofner, Executive Secretary of the Washington State Horse Racing Commission, said that a considerable amount of state aid is required to regulate and supervise fair racing, probably because fair racing does not generate enough revenue to support itself. Mr. Bachofner believes this is because only a limited number of the people who watch racing actually place bets. Mr. Bachofner does not believe that areas surrounding fairs are significantly affected as a result of racing events.

Mr. Bachofner said that for a fair race to make a profit in the first few years, established race horses would have to be run. He does not believe that people will bet on horses that do not have records or a history. Mr. Bachofner also said that start-up and operating costs for horse racing are more expensive than for dog racing. Limited facilities are needed for dogs, while horses require more elaborate stables and equipment.

Parimutuel Wagering in Alaska

Parimutuel wagering is currently not allowed in Alaska. There is interest by some groups in Alaska in legalizing parimutuel wagering on horse racing and dog sprint, sled, and chariot racing. Marsha Melton, Manager of the Alaska State Fair, is interested in seeing parimutuel racing as an event offered by the State Fair.

Horse Racing. According to Richard Tozier, President of the Alaska Sled Dog Racing Association, horse racing occurred at the state fair as recently as ten years ago. At that time, race horses were raised in the area, although there are currently few race horses in Alaska. Ms. Melton said that a 5/8-mile race track and stables that house 102 horses are already installed at the fairgrounds. The track requires some remodelling and additional stalls (perhaps 200) if racing were to occur again. Ms. Melton also said that some Alaskans own race horses but keep them out of state. She believes that if racing were offered at the fair, these horses would be brought up to Alaska to race. Ms. Melton believes that offering racing at the state fair would increase revenue to the local economy.

Dog Racing. Sled dog racing is an established activity in Alaska, but greyhound and chariot dog races are unfamiliar to the state. Mr. Tozier, speaking for the Alaska Sled Dog Racing Association, said that the association believes a one-mile, open-to-view track would be necessary for parimutuel wagering on sled dog and chariot dog races. Races that are not open to view could not be regulated and bettors might not want to risk money on an unregulated race. Mr. Tozier suggested Palmer, Fairbanks, and Anchorage as potential track locations.

Projected Revenues from Parimutuel Wagering. It is difficult to project revenues from parimutuel wagering in Alaska because it differs from other states with parimutuel wagering programs. Many race tracks in other states have race participants, spectators and bettors who travel to races in different states. It is not known how many horsemen would bring their horses to Alaska to race, or how many bettors will travel to Alaska to wager. It is also not known how many established race horses are stabled in Alaska or how many people in Alaska are interested in parimutuel wagering. These and other variables make it difficult to project revenues from parimutuel wagering at the Alaska State Fair.

According to Ms. Melton, 175,000 people attended the 11 days of the 1986 Alaska State Fair. In Montana, approximately one-third of the people attending the fair attended racing events. The total parimutuel handle during this time was \$1,193,000. If one-third of the Alaska State Fair attendance attended fair racing events, approximately 58,000 people may participate in parimutuel racing at an Alaska State Fair. Using the parimutuel handle figure of the Montana State Fair, a parimutuel handle of \$1,609,000 is projected for races attended by 58,000 people at the Alaska State Fair. The takeout in Montana is 20 percent. If the takeout were 20 percent in Alaska, \$321,800 would be available to pay the purses, track overhead and state or municipal taxes. In Montana, approximately eleven percent of the takeout is used for track overhead and expenses. Using the Montana figure, the Alaska State Fair could expect to receive \$35,400 gross revenue from a parimutuel wagering program during the Alaska State Fair. We have no way to project net revenues.

In Oregon, 67,500 people attended racing events at the State Fair--nine percent of the total number of people attending the fair. The total parimutuel handle during this time was \$2,228,659. Nine percent of the 175,000 people who attended the 1986 Alaska State Fair is 15,750 people.

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Using the parimutuel handle figure from the Oregon State Fair, the parimutuel handle for 15,750 people attending the Alaska State Fair would be \$520,000. The takeout in Oregon is 19 percent, with eleven percent of the total takeout going to the State Fair. Eleven percent of the projected Alaska State Fair parimutuel handle is \$57,200. Thus, using the Oregon figures, \$57,200 could be expected as gross revenue from an Alaska State Fair parimutuel program.

We have no way to project net revenue for the Alaska State Fair because we cannot project racing expenditures. The Oregon State Fair received \$325,400 in net fair racing revenue in 1985 for 36 days of racing, as can be seen on Attachment F. The Oregon State Fair is considered to be very successful in its horse racing activities. Mr. Hillman, of the Oregon State Fair, said that the State Fair's takeout of eleven percent contributes to the fair's racing success.

Dedicating Parimutuel Wagering Revenues. According to John Rubini of the Alaska Attorney General's Office, the constitutional prohibition on dedicated revenues applies to revenues received by the State. The prohibition does not extend or apply to revenues received by municipalities. Lee Sharp, the Matanuska-Susitna Borough attorney, agreed that the constitutional restrictions on dedicated revenue does not apply to municipalities.

The Alaska State Fair is operated by the State of Alaska. If the state operated parimutuel races at the fair, the revenue would be put into the State general fund and could then be appropriated, but not dedicated, to a specific purpose. If the Matanuska-Susitna Borough operated parimutuel races at the fair, the borough could appropriate or dedicate revenues to a specified purpose.

* * *

I hope this information is helpful to you. Attachment I is a study completed for the Oregon State Fair on the horse racing market in Oregon which you may find informative. If you would like additional information, or if we can be of further assistance, please contact our office.

PW

Attachments

ATTACHMENT A

Parimutuel Turnover
Number of Racing Days
Number of Races
Race Attendance
by State

SOURCE: Parimutuel Racing 1982: A Statistical Summary, prepared by the
National Association of State Racing Commissioners, 1982.

PARI-MUTUEL AND DAILY AVERAGE TURNOVER

A STATISTICAL SUMMARY PREPARED BY THE NAT. ASSN. OF STATE LOTTERY COMMISSIONS

State	PARI-MUTUEL TURNOVER (\$)					DAILY AVERAGE TURNOVER (\$)				
	Total	Thoroughbred	Harness	Qtr. Horse	Mixed	Total	Thoroughbred	Harness	Qtr. Horse	Mixed
Arizona	85,533,616	✓		✓	85,533,616	392,356	✓		✓	392,356
Arkansas	159,295,877	159,295,877				2,844,569	2,844,569			
California	2,048,354,886	1,547,222,583	162,835,884	193,400,730	144,895,689	2,054,518	3,348,967	786,647	957,429	1,149,966
Colorado	48,032,339	30,638,584		8,969,407	8,424,348	218,329	319,152		242,416	96,832
Connecticut-OTB	185,985,910	117,587,569	68,398,341			299,977	378,195	221,354		
Delaware	89,284,194	41,294,062	47,990,132			279,013	565,672	194,292		
Florida	461,639,067	398,423,203	52,779,085	10,436,779		891,195	1,106,731	502,658	196,920	
Idaho	10,062,552	✓		✓	10,062,552	87,500	✓		✓	87,500
Illinois	974,457,548	498,471,465	175,986,083			794,827	998,941	654,726		
Kentucky	293,336,964	237,144,140	56,192,824			456,911	812,137	160,551		
Louisiana	502,848,075	✓		✓	502,848,075	838,080	✓		✓	838,080
Maine	27,936,461		27,936,461			92,505		92,505		
Maryland	388,646,676	300,471,510	88,175,166			690,314	978,735	344,434		
Massachusetts	312,018,099	243,445,493	68,572,606			604,686	851,208	298,142		
Michigan	347,489,410	137,014,725	209,717,401		757,284	509,515	721,130	463,977		18,932
Montana	10,648,753	✓		✓	10,648,753	85,190	✓		✓	85,190
Nebraska	187,287,476				187,287,476	666,503	✓		✓	666,503
Nevada			N/A					N/A		
New Hampshire	4,947,698		4,947,698			81,110		81,110		
New Jersey	949,079,913	395,416,477	553,663,436			1,234,174	1,412,202	1,132,236		
New Mexico	129,015,755	✓		✓	129,015,755	417,527	✓		✓	417,527
New York	1,617,470,441	975,009,346	642,461,095			988,070	2,096,794	548,175		
New York-OTB	1,711,283,545	1,253,333,193	457,950,352			1,044,740	2,689,556	390,743		
Ohio	395,020,791	223,284,469	168,216,072	3,520,250		320,374	572,524	206,400	125,723	
Oregon	49,523,136	✓		✓	49,523,136	442,171	✓		✓	442,171
Pennsylvania	540,693,706	360,031,793	180,661,913			473,048	617,550	322,611		
South Dakota	3,527,022	✓		✓	3,527,022	71,980	✓		✓	71,980
Vermont	538,752		538,752			67,344		67,344		
Washington	205,063,436	205,063,436				638,827	638,827			
West Virginia	147,367,966	147,367,966				305,743	305,743			
Wyoming	1,507,963			1,507,963		83,776			83,776	
Totals	11,887,998,027	7,270,515,891	3,267,023,301	217,835,129	1,132,523,706	879,087	1,413,947	546,234	644,483	549,236

NOTE: Includes turnover from simulcasting in Colorado, Illinois, Kentucky Harness, New York, Ohio, Pennsylvania Thoroughbred, and West Virginia

TOTAL HORSE RACING DAYS AND TOTAL RACES

State	RACING DAYS					NUMBER OF RACES				
	Total	Thoroughbred	Harness	Qtr. Horse	Mixed	Total	Thoroughbred	Harness	Qtr. Horse	Mixed
Arizona	218	✓		✓	218	2,341	✓		✓	2,341
Arkansas	56	56				528	528			
California	997	462	207	202	126	9,689	4,142	2,170	1,889	1,488
Colorado	220	96		37	87	2,194	969		335	890
Delaware	320	73	247			2,914	691	2,223		
Florida	518	360	105	53		5,180	3,600	1,050	530	
Idaho	115	✓		✓	115	1,224	✓		✓	1,224
Illinois	1,226	499	727			11,999	4,618	7,381		
Kentucky	642	292	350			6,297	2,674	3,623		
Louisiana	600	✓		✓	600	5,768	✓		✓	5,768
Maine	302		302			3,370		3,370		
Maryland	563	307	256			5,405	2,769	2,636		
Massachusetts	516	286	230			31,135	28,605	2,530		
Michigan	682	190	452		40	6,830	1,910	4,520		400
Montana	125	✓		✓	125	1,262	✓		✓	1,262
Nebraska	281	✓		✓	281	2,599	✓		✓	2,599
Nevada			N/A					N/A		
New Hampshire	61		61			661		661		
New Jersey	769	280	489			7,717	2,520	5,197		
New Mexico	309	✓		✓	309	3,641	✓		✓	3,641
New York	1,637	465	1,172			15,983	4,188	11,795		
Ohio	1,233	390	815	28		12,330	3,900	8,150	280	
Oregon	112	✓		✓	112	1,576	✓		✓	1,576
Pennsylvania	1,143	583	560			11,033	5,373	5,660		
South Dakota	49	✓		✓	49	517	✓		✓	517
Vermont	8		8			80		80		
Washington	321	321				3,194	3,194			
West Virginia	482	482				4,917	4,917			
Wyoming	18			18		169			169	
Totals	13,523	5,142	5,981	338	2,062	160,553	74,598	61,046	3,203	21,706

ATTENDANCE AND DAILY AVERAGE ATTENDANCE

State	ATTENDANCE					DAILY AVERAGE ATTENDANCE				
	Total	Thoroughbred	Harness	Qtr. Horse	Mixed	Total	Thoroughbred	Harness	Qtr. Horse	Mixed
Arizona	871,253	✓		✓	871,253	3,997	✓		✓	3,997
Arkansas	1,296,735	1,296,735				23,156	23,156			
California	12,777,283	8,958,000	1,280,219	1,406,676	1,132,388	12,816	19,390	6,185	6,964	8,987
Colorado	572,568	313,971		102,387	156,210	2,603	3,271		2,767	1,796
Delaware	1,028,782	380,434	648,348			3,215	5,211	2,625		
Florida	3,144,250	2,481,075	538,174	125,001		6,070	6,892	5,125	2,359	
Idaho	245,089	✓		✓	245,089	2,131	✓		✓	2,131
Illinois	7,537,160	3,731,094	3,806,066			6,148	7,477	5,235		
Kentucky	2,864,567	2,135,753	728,814			4,462	7,314	2,082		
Louisiana	3,385,861	✓		✓	3,385,861	5,643	✓		✓	5,643
Maine			NO RECORD			—		—		
Maryland	3,271,849	2,354,198	917,651			5,811	7,668	3,585		
Massachusetts	2,758,440	2,066,225	692,215			5,346	7,225	3,010		
Michigan	2,558,468	968,659	1,572,590		17,219	3,751	5,098	3,479		430
Montana	1,125,000	✓		✓	1,125,000	9,000	✓		✓	9,000
Nebraska	1,703,609	✓		✓	1,703,609	6,063	✓		✓	6,063
Nevada			N/A					N/A		
New Hampshire	118,775		118,775			1,947		1,947		
New Jersey	7,077,115	3,098,967	3,978,148			9,203	11,068	8,135		
New Mexico	1,146,126	✓		✓	1,146,126	3,705	✓		✓	3,709
New York	11,014,761	6,147,601	4,867,160			6,729	13,221	4,153		
Ohio	3,672,395	1,797,178	1,833,261	41,956		2,978	4,608	2,249	1,498	
Oregon	390,860	✓		✓	390,860	3,490	✓		✓	3,490
Pennsylvania	4,926,273	3,132,581	1,793,692			4,310	5,373	3,203		
South Dakota	59,639	✓		✓	59,639	1,217	✓		✓	1,217
Vermont			NO RECORD			—		—		
Washington	1,805,500	1,805,500				5,625	5,625			
West Virginia	1,475,145	1,475,145				3,060	3,060			
Wyoming	30,472			30,472		1,693			1,693	
Totals	76,857,975	42,143,116	22,775,113	1,706,492	10,233,254	5,684	8,196	3,808	5,049	4,963

GREYHOUND RACING IN THE U.S. 1983

State	Racing Days	Number of Races	Attendance	Daily Average Attendance	Pari-Mutuel Turnover (\$)	Daily Average Turnover (\$)
Arizona	572	8,504	1,192,528	2,085	121,024,021	211,580
Arkansas	116	1,702	1,119,037	9,647	121,173,887	1,044,602
Colorado	354	5,672	1,437,014	4,059	165,116,384	466,430
Connecticut	451	5,718	912,977	2,024	109,210,216	242,151
Florida	1,872	2,667	8,867,509	4,737	880,621,829	470,418
Massachusetts	770	9,240	2,376,532	3,086	247,430,127	321,338
New Hampshire	651	11,067	970,197	1,490	82,301,083	126,423
Oregon	95	1,046	611,745	6,439	48,511,002	510,642
Rhode Island	297	5,346	1,190,828	4,010	110,519,418	372,119
South Dakota	290	3,579	411,602	1,419	33,262,119	114,697
Vermont	161	2,034	183,239	1,138	12,500,436	77,642
West Virginia	305	5,431	916,706	3,006	103,578,412	339,601
Green County, Ala.	283	3,962	535,669	1,893	68,992,477	243,790
Mobile County, Ala.	282	4,667	649,055	2,302	74,720,585	264,967
Totals	6,499	70,635	21,374,638	3,289	2,178,961,996	335,277

ATTACHMENT B

Total Revenue and
Categorized Revenue Received
by State

SOURCE: Parimutuel Racing: A Statistical Summary, 1984 and 1982, prepared
by the National Association of State Racing Commissioners

Table 4: State Government Horse Racing Revenue, By State, 1984*

State	Total Revenue		Revenue by Categories						
	Amount	Percent Change ¹	Pari-Mutuel Taxes	Breakage ²	Track Licenses	Admission Taxes	Occupational Licenses	Miscellaneous	
Arizona.....	\$ 2,698,031	1	\$ 2,613,595	5	---	\$ ---	\$ ---	\$ 84,436	\$ ---
Arkansas.....	12,495,348	7	10,786,458	1,384,182	---	31,000	62,290	61,132	170,286
California.....	157,068,219	12	146,710,170	7,811,179	---	---	---	1,048,456	1,498,414
Colorado.....	598,580	(-)60	447,601	---	---	---	---	60,612	90,367
Connecticut-OTB.....	12,555,181	(-) 2	---	---	---	---	---	---	---
Delaware.....	459,354	---	323,637	---	2,250	---	---	24,812	108,655
Florida.....	12,864,073	7	11,155,621	---	518,300	738,280	314,269	137,603	---
Idaho.....	324,130	(-) 5	235,176	---	2,625	---	83,004	3,325	---
ILLINOIS.....	65,012,028	(-) 3	52,715,562	8,939,890	299,340	1,326,473	371,364	1,359,399	---
Kentucky.....	13,783,404	(-)35	12,060,901	---	1,132,935	281,811	287,447	20,310	---
Louisiana.....	21,744,485	(-) 5	20,442,152	---	---	274,259	163,117	864,957	---
Maine.....	505,400	1	479,140	---	675	---	17,030	8,555	---
Maryland.....	17,316,068	(-)10	14,826,404	313,227	272,625	652,259	161,764	1,089,789	---
Massachusetts.....	13,522,502	(-) 9	12,332,074	49,332	233,899	---	177,788	729,409	---
MICHIGAN.....	22,412,751	(-) 3	20,802,545	810,298	4,200	---	201,750	594,003	---
Montana.....	236,942	62	169,595	---	1,200	---	59,617	6,530	---
Nebraska.....	9,873,807	82	9,214,865	---	42,630	441,372	106,135	68,805	---
New Hampshire.....	1,712,960	14	1,223,326	288,776	89,468	---	94,567	16,823	---
New Jersey.....	7,940,860	(-)36	4,552,929	---	---	988,697	829,627	1,569,607	---
New Mexico.....	2,207,120	1	1,904,702	---	95,650	101,096	76,597	29,075	---
New York.....	93,324,719	8	73,700,914	3,215,233	12,134,425	1,880,300	527,831	1,865,956	---
New York-OTB.....	129,789,775	3	---	---	---	---	---	---	---
Ohio.....	15,968,756	(-)39	15,502,236	3,735	780	---	462,005	---	---
Oklahoma.....	1,312,358	---	941,938	---	7,000	14,920	337,500	11,000	---
Oregon.....	897,101	(-)51	671,505	---	10,750	---	70,610	144,236	---
Pennsylvania.....	19,267,401	11	17,294,921	509,396	---	304,500	376,721	781,863	---
South Dakota.....	38,035	(-) 9	22,714	---	325	---	13,849	1,147	---
Vermont.....	25,120	3	21,296	---	40	---	2,724	1,060	---
Washington.....	10,388,274	1	9,947,343	---	111,030	161,437	140,894	27,570	---
West Virginia.....	3,880,133	(-)25	3,672,752	---	101,500	---	94,666	11,215	---
Wyoming.....	39,937	31	17,125	---	1,600	1,124	10,701	9,387	---
TOTAL.....	\$650,262,852	2%	\$444,789,197	\$ 23,325,248	\$15,094,247	\$7,228,878	\$ 6,260,890	\$ 11,219,346	---

*Thoroughbred, harness, quarter horse and mixed racing events. Data includes simulcasting/telephone betting in Arizona, California, Colorado, Connecticut, Illinois, Kentucky, Louisiana, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Washington and West Virginia; OTB (Off-Track Betting) in Connecticut and New York.

¹Percent change from prior year.

²"Breakage" — odd cents not paid winning pari-mutuel bettors because of exceeding a payoff figure that is calculated at a multiple of 5 or 10.

Source: National Association of State Racing Commissioners, *Pari-Mutuel Racing 1984: A Statistical Summary*.

REVENUE TO GOVERNMENT AND STAKES AND PURSE DISTRIBUTION

State	Total Revenue (\$)	% Increase Decrease	Track Licenses (\$)	Occupational Licenses (\$)	Pari-Mutuel Taxes (\$)	Breakage (\$)	Admission Taxes (\$)	Misc. (\$)	Total Money Distributed (\$)
Arizona	6,928,433	+25%	—	12,399	6,916,034	—	—	—	3,455,546
Arkansas	7,955,079	-37%	34,800	10,556	7,270,433	465,723	54,209	119,358	2,621,055
Colorado	7,922,062	-1%	—	11,235	7,909,672	—	—	1,155	4,946,559
Connecticut	9,334,974	+6%	20	13,996	8,880,289	152,594	101,158	186,917	2,627,086
Florida	69,443,423	+3%	2,576,720	207,927	61,860,130	2,472,996	1,032,728	1,292,922	24,894,531
Massachusetts	20,952,766	+29%	268,921	9,935	19,732,186	448,907	—	492,817	8,660,054
New Hampshire	7,338,720	-12%	200,350	22,045	6,763,119	181,303	—	171,903	3,140,791
Oregon	3,773,412	+9%	8,550	8,175	3,634,734	—	—	121,953	1,435,069
Rhode Island	7,505,383	+2%	—	—	7,172,165	204,342	—	128,876	3,594,068
South Dakota	2,564,992	-1%	8,092	9,011	2,476,231	69,738	—	1,920	27,260,224
Vermont	856,460	-23%	550	5,209	829,173	—	—	21,528	381,992
West Virginia	6,634,367	+12%	45,750	14,048	6,422,157	—	—	152,412	2,930,552
Green County, Ala.	2,930,627	+10%	1,000	8,116	2,775,975	—	82,551	62,985	1,864,297
Mobile County, Ala.	6,222,089	+5%	100	5,608	5,977,647	138,617	62,626	37,491	2,030,228
Totals	160,362,787	+6%	3,144,853	338,260	148,619,945	4,174,220	1,333,272	2,792,237	89,842,052

*Satelite

ATTACHMENT C

State Tax Methods Applied
on Parimutuel Wagering Activities

SOURCE: Parimutuel Racing, 1982: A Statistical Summary, prepared by the
National Association of State Racing Commissioners

BRIEF SUMMARY OF TAX METHODS BY STATES

Arizona

Total take-out 18%. State receives 3% of first \$100,000 and 5% all over \$100,000 daily average; 1% to state from tracks who do not exceed \$200,000. Breakage 10 cents, 50% to track, 25% Arizona Bred Purses Structure. FAIRS: County in which fair is located receives pari-mutuel tax revenue, instead of state. Net under pay to state at end of meet.

Arkansas

Total take-out 18%. Pari-mutuel tax to state 6%, \$500 daily license fee, 10 cents on paid admissions. Breakage 10 cents, divided 1/2 to association, 1/4 to city where track is located with a portion going to the county.

California

Take-out 15% for thoroughbred and quarter horse, 16% for harness and fairs, additional 4.75% for exotic pools. THOROUGHBRED: Handle of \$250 million or more — 5.7% to state, 4.93% to track, 4.03% to purses, .34% to breeder and stallion awards; handle less than \$250 million — sliding scale beginning with 4.8% to state and balance shared 55% to tracks, 45% to purses, .34% to awards. QUARTER HORSE: Sliding scale from 2.5% to 3.8% to state, 55% to tracks, 45% to purses. HARNESS: Sliding scale of 1.5% to 3.04% to state, balance distributed 59.5% to tracks, 40.5% to purses. FAIRS: Handle of \$650,000 and over, 4.65% to state, 3.45% to tracks, 5.9% to purses. Breakage at harness to Sire Stakes Program. Breakage to all other meetings handling \$250 million distributed 50% to state, 27.5% to track, 22.5% to purses on first \$24 million, 100% to purses from \$24 million to \$50 million, 100% to state over \$50 million.

Colorado

Total take-out 18 1/2%. State tax revenue is paid at a rate of 3 1/2% of the gross mutuel handle. Breakage 10 cents, all to association.

Delaware

THOROUGHBRED: Total take-out 17% plus 2% on daily doubles and exactas, plus 8% on exotic wagers. Daily license fee \$10,000. Additional tax to state on a graduated basis from 20% to 90% of the track's average daily income in excess of \$145,000. Breakage 10 cents, all to association. Uncashed pari-mutuel tickets revert to state after one year. HARNESS: Total take-out 18% on straight bets, 20% on multiple bets on 8-horse field, 25% on multiple bets on 9-horse field. State receives .75% of the first \$400,000; 3% of \$400,000 to \$600,000, 5.5% of all over \$600,000. Delaware Standardbred Development Fund receives 1/2 of 1% from tracks handling more than \$300,000 per day. Breakage to 10 cents reverts to track. Uncashed pari-mutuel tickets revert to state after one year.

Florida

Total take-out permitted: 17.8% on regular wagering (win/place/show); 19% on exotic wagering (wagers involving two or more animals in a single wager); an additional 1/2% on regular wagering and an additional 1% on exotic wagering may be taken out for capital-improvement fund. Tax on handle: 3.3% of handle in excess of \$300,000 each performance, except as follows: SECOND PERIOD/WINTER THOROUGHBRED: 3.3% of handle in excess of \$175,000 per performance, and tracks with under \$400,000 average daily handle in preceding season; 3.3% of handle in excess of \$500,000 per performance. (An additional 1% of handle is collected on Quarter Horse solely for the Florida Quarter Horse Racing Promotional Trust Fund). Daily license fee of \$100 per race if average daily handle was greater than \$100,000 per performance for preceding season; \$50 per race if average daily handle was less than \$100,000 per performance for preceding season. Breakage 10 cents, 100% for Florida Thoroughbred Breeders Promotional Trust Fund, Florida Harness Horse Racing Promotional Trust Fund, Florida Quarter Horse Racing Promotional Trust Fund. Admissions 15% of entrance gate admission or 10 cents per person, whichever is greater. Purses: The minimum purse provision is the minimum amount that a horse racing permit holder must contribute from commission for purses: Thoroughbred 7.5%; Harness 7.5% of handle; Quarter Horse 6% of handle.

Idaho

Total take-out 20%. Racing Commission receives 1 1/4%; 1/2% to Owners and Breeders Awards; 1/2% to small track purses. Public schools receive 1/2% to 2 1/2% based on a sliding scale. Balance to associations. Association accrues all monies in unclaimed tickets at termination of time allowed by rule of the commission. Daily license fee \$25, fairs exempt.

Illinois

Total take-out: Win, place, show wagering 17%; Daily Double, Quinella, Perfecta wagering 20.5%; Trifecta wagering 25%. State receives on a sliding scale of daily pari-mutuel handle 1.75% up to and including the first \$200,000 to 7.75% over \$3,000,000. Breakage 100% to state for regular meet; 50% to state for charity meets.

KENTUCKY

THOROUGHBRED: Total take-out to tracks over \$900,000 daily average, 16% on straight betting and 19% on Daily Double, Exacta, Quinella; Take-out to tracks under \$900,000, 17 1/2% on straight betting and 19% on Daily Double, Exacta, Quinella, 1/2 to 1% to Backside Improvement Fund, State receives 4%; From state share Ky. Thoroughbred Development Fund receives 75%. Daily license \$500 if average daily handle at track during year does not exceed \$450,000; \$1,000 at tracks with average daily handle \$450,000 to \$600,000, \$2,500 at tracks where sum exceeds \$600,000. Breakage 10 cents, all to association. Unclaimed pari-mutuel tickets revert to Ky. Racing Health and Welfare Fund after two years. HARNESS: Total take-out 18%, 25% on exotics. State receives 4%, Standardbred Development Fund 1%. Daily track license \$100. Breakage 10 cents, all to association. Unclaimed tickets used for purses at county fair racing.

BRIEF SUMMARY OF TAX METHODS BY STATES (continued)

Louisiana

Total take-out 17%, 20% exotic pools. State receives: On total daily pool up to \$201,000, 4% exceeding \$201,000; \$201,000 to \$401,000, \$5,840 plus 5% exceeding \$201,000 up to \$401,000; \$401,000 and over, \$15,840 plus 6% exceeding \$401,000. When two or more conflicting race meetings occur within the state, state receives: On Total daily pool up to \$201,000, 4% exceeding \$100,000; \$201,000 to \$401,000, \$4,040 plus 5% exceeding \$201,000 up to \$401,000; \$401,000 and over, \$14,040 plus 6% exceeding \$401,000. Minimum daily license fee \$1,000 thoroughbreds; \$500 quarterhorses. Admission 10 cents. Breakage 10 cents, 1/2 to association, 1/2 to Louisiana Breeders Funds to supplement purses.

Maine

Total take-out on straight betting 16%; .87% to State Commission, 1.13% Agricultural Stipend, 1% to purse supplement, 13% to association. Total take-out on exotic betting 25%; 5.37% to State Commission, 1.13% Agricultural Stipend, 1 1/4% Sire Stake Fund, 2 1/2% Purse Supplement, 14 1/2% to association. All breaks and outis tickets retained by the association.

Maryland

THOROUGHBRED: Total take-out 15% on straight bets, 19% on two-horse pools, 25% on more than two. State receives 4.09%, Maryland Bred Fund 1%, other funds, 75%. Breakage 10 cents, 50% to tracks, 45% to purses, 5% to Maryland Bred Fund. HARNESS: Take-out 17% on straight bets, 19% on two-horse bets, 25% on more than two. State receives 3.5% of the first \$125,000, 6% in excess of \$125,000. At tracks handling less than \$125,000 daily, state receives 3%.

Massachusetts

THOROUGHBRED (MAJOR TRACKS ONLY): Total take-out 19%; 5% to state, 7% to association, 7% to horsemen. License fee \$100 per day. THOROUGHBRED RACING AT FAIRS: Total take-out 19%. State receives 4% to \$100,000; 9%, \$100,000 to \$300,000; 10% to \$300,000 to \$500,000 and over. License fee \$50 per day. HARNESS (MAJOR TRACKS AND FAIRS): Total take-out 19%; 3% to state, 8% to association, 8% to horsemen. License fee major tracks \$200 per day, fairs \$50 per day. All breakage from Suffolk Downs and New England Harness Raceway goes into the improvement Trust Fund, 11-18-81; THOROUGHBRED AT COMMERCIAL TRACKS: Total take-out 19%; 5% to state, 7% to association, 7% to horsemen; 1/2 of 1% to breeding taken from state. THOROUGHBRED RACING AT FAIRS: Total take-out 19%; 7% to state if raced at a track owned and operated by fair. HARNESS (COMMERCIAL TRACKS AND FAIRS): Total take-out 19%; 3% to state, 8% to association, 8% to horsemen, 1/2 of 1% to Standardbred Breeders taken from state, 1/2 of 1% of handle for preceding calendar year shall be paid to city or town in which track is located not to exceed 3% of the levy limit determined by the Revenue Commission.

Michigan

Total take-out 17% on straight wagering, 20% on multiples except 25% on "special sweepstakes" (selection to win in 4 or more races). Breakage 10 cents, 1/2 to state, 1/2 to association. THOROUGHBRED: State receives 8% on all wagers except "special sweepstakes" where state receives 10%. HARNESS, QUARTER HORSE AND APPALOOSA: State receives 8% on all wagers except at tracks in counties with a population less than 200,000 where state receives 5% and except "special sweepstakes" where state receives 10% at all tracks.

Montana

Total take-out 20% plus breakage. The licensee shall pay to the Board of Horse Racing 1% of all gross receipts on each days pari-mutuel betting at each race meet, which sum shall be paid to Board within five days after the end of race meet. If underpayments exceed overpayments at the end of each race meet, the balance shall be paid to the Board. Breakage 10 cents, all to licensee. All unclaimed winning tickets 30 days after the end of a race meet are paid to the Board. (No tax paid to State of Montana)

Nebraska

Total take-out 15%. No tax first million; thereafter, state receives 5%. Tax on admissions 30 cents which, along with monies received in license fees, is distributed among counties of state for county fair premiums. Breakage 10 cents, all to association.

Nevada

Total take-out 18% with 2% to state and 1% to racing commission for administrative work. Any amount over \$10,000 is to be distributed to agricultural districts conducting horse racing proportionately to the amount contributed by each district. Breakage 10 cents, all to association.

BRIEF SUMMARY OF TAX METHODS BY STATES (continued)

New Hampshire

THOROUGHBRED: Total take-out 18% — Win-Place-Show, State receives 2 1/2%, association 18 1/2%. Total take-out 25% Multiple Wagering, State receives 5%; association 20%. Horsemen's purse — 7 1/4% of pari-mutuel sales. No license fee, but bond not exceeding \$300,000 required. Breakage 10 cents divided equally between state and association. **HARNESS:** Total take-out 19% — Win-Place-Show and 25% Multiple Wagering. Divided as follows: Of Total Pari-Mutuel Sales for any one day, State receives on first \$100,000 of sales — 1% of Win-Place-Show and 2% of Multiple Wagering, next \$150,000 — 4% of Win-Place-Show and 8% of Multiple Wagering, \$250,000 and over 5 1/2% of Win-Place-Show and 8% of Multiple Wagering. Track licenses paid to township where track is located. Breakage 10 cents, divided equally between state and association.

New Jersey

THOROUGHBRED: Total take-out 17% on straight betting, 19% on two-horse selections, 25% on three-horse selections. State's share of take-out at private tracks averaging less than \$1,000,000 in total mutual handle, 30% to 1.30%, private tracks averaging more than \$1,000,000 in total mutual handle prior to June 1, 30% to 1.30% after May 31, 2.22% to 3.22%, at Sports Complex, 5%; tracks share of take-out at private tracks averaging less than \$1,000,000 in total mutual handle 9.73% to 13.21%, tracks share of take-out at private tracks averaging more than \$1,000,000 in total mutual handle prior to June 1 9.73% to 13.21%; after May 31 7.81% to 11.29%, at Sports Complex 12.11% to 18.61%; remainder to purses and breeders programs. Breakage 10 cents, at private tracks averaging less than \$1,000,000 in total mutual handle used to supplement average daily purses up to a maximum of \$65,000, at private tracks averaging more than \$1,000,000 in total mutual handle used to supplement average daily purses up to a maximum of \$85,000, remainder reverts to State, at Sports Complex reverts to tracks. **HARNESS:** Total take-out same as thoroughbred. State share of take-out at private tracks 1.30% to 5.50%, at Sports Complex, 5%, track share of take-out at private tracks 7.20% to 9.40%, at Sports Complex 10.50% to 16.50%; remainder to purses and sire program; Breakage 10 cents, at private tracks reverts to state, at Sports Complex reverts to track.

New Mexico

Total take-out 18%. State receives 2 1/2% over \$250,000 to \$350,000; 3 1/4% over \$350,000 to \$400,000; 6% over \$400,000, except State Fair which pays a maximum 2% on total handle. Tax on admissions, 10 cents. Daily license fee \$300, half to state and half to county in which track is located. State Fair charge is \$10 per race day. Breakage 10 cents, all to association. New Mexico Breeders Award 1/2%; tracks for Capital Improvements 2% of first \$250,000.

New York

THOROUGHBRED: Total take-out on regular betting at the New York Racing Association Tracks (Aqueduct, Belmont and Saratoga) is 14% from 1/1/80 - 5/31/80. Total take-out from 6/1/80 on is 17% on regular betting. On exotic betting (3 or more horses) total take-out 25%. The State receives 2% on regular through 5/31/80. From 6/1/80 on, the State receives 5%. On exotic betting, the State receives 7 1/2%. At Finger Lakes, total take-out was 17% on regular and 25% on exotic. The State receives 3.6% regular and 8.83% of exotic. The Breeder's Fund receives 0.40% of all pools at all Thoroughbred Tracks. Breakage 10 cents on regular and 50 cents on exotic with State receiving 20% at the New York Racing Association Tracks and 55% at Finger Lakes. State receives a minimum of \$30,000 per racing day as franchise fee from Aqueduct, Belmont and Saratoga, and \$100 per day license fee from Finger Lakes. **HARNESS:** Total take-out on regular betting is 17%. On multiple betting (i.e. on 2 horses: Daily Double, Exacta, Quinella) total take-out is 19%; on exotic betting (3 or more horses) total take-out is 25%. At Roosevelt and Yonkers, State receives 6 1/2% on regular betting, 7 1/2% on multiple and 11 1/2% on exotic if 10 races or more are held. For programs at which less than 10 races are held, State receives 7 1/2% on regular, 8 1/2% on multiple and 12 1/2% on exotic. At all other Harness Tracks, State receives 3% regular, 3 1/2% on multiple, and 8% on exotic through 11/30/80. From 12/1/80, the State receives 2% regular, 2 1/2% on multiple, and 7% on exotic. Breeder's Fund receives 1/2% of all betting pools. At all harness tracks, breakage 10 cents on regular and multiple, and 50 cents on exotic, with State and association each receiving 50%. State receives a license fee of \$100 per day.

Ohio

Total take-out 18% on straight win, place, show wagers; 2 1/2% on all other wagers. **THOROUGHBRED:** State receives 6 1/8% thru July 12, 1982, 5 11/18% thru July 12, 1983 and 5 1/2% thereafter, of which 1/2% goes to Ohio Fairs Fund and 5/8% thru July 12, 1982, 1 1/16% thru July 12, 1983 and 1/2% thereafter to Ohio Thoroughbred Race Fund; purses 5 15/16% thru July 12, 1982, 6 5/32% thru July 12, 1983 and 6 3/8% thereafter plus 40% of breakage. **HARNESS:** State's share on sliding scale from 2 1/4% of first \$50,000 to 5 1/2% of all over \$200,000 thru July 12, 1982, 2% of first \$50,000 to 5% of all over \$200,000 thru July 12, 1983 and thereafter 1 1/2% of first \$50,000 to 4 1/4% of all over \$200,000. Ohio Standardbred Development Fund receives 5/8%; purses, effective January 1, 1982 and thereafter, 50% of pari-mutuel revenues retained by permit holder after payment of state tax, plus 40% of breakage. **QUARTER HORSE:** State's share on a sliding scale from 0% of first \$50,000, 2% of next \$50,000, 4% of next \$100,000, 6% of next \$250,000 and 6 1/2% of all over \$550,000; 5/8% to Ohio Quarter Horse Development Fund. Breakage 10 cents, of which state receives 25% of all in excess of \$2,000 in a calendar year. Taxes of associations that make capital improvements are reduced by 4%. Of the additional 3 1/2% take-out on all wagers other than win, place and show, state receives 2%, Ohio Fairs Fund 1/2%, Thoroughbred or Standardbred or Quarter Horse Funds 1/4%, permit holders 1/4%, retained purses 1/4%.

BRIEF SUMMARY OF TAX METHODS BY STATES (continued)

Oregon

Total take-out 18%. State receives 4% from commercial race meets and 1.2% from non-profit race meets (includes fairs) 0.9% where the daily average pari-mutuel handle is over \$150,000 during preceding year. Daily license for commercial race meets \$100. Non-profit (includes fairs) meets \$25. per race meet. State receives unclaimed winning tickets 90 days after meet ends and all underpays. Breakage 10 cents — Track retains 45% and 55% to be used for breeder's awards, stallion awards, horsemen education and promotion and development of horse breeding and racing. The following applies only to race meets where the average daily gross mutual wagering during the preceding year exceeded \$150,000; 1% of the gross mutual wagering is apportioned among the owners of Oregon-bred horses as purse supplements in the same ratio that each owner's purses bears to the total purses won by Oregon-bred horses at the race meet; 5 1/4% of mutual handle is paid for purses, 0.2% is earmarked for backside improvements. Effective 8-2-81: Total take-out is 18% except on any wager that requires the selection of three or more separate wagering interests. Total take-out is 22%. State receives 4% of wagering from commercial meets (6% on wagers with selection of three or more separate wagering interests); 9% from non-profit meets if average daily wagering exceeds \$150,000 (2 9% on wagers with selection of three or more separate wagering interests); and 1 2% from all other non-profit meets (4.2% on wagers that require selection of three or more separate wagering interests). Daily license fee \$100 for commercial meets, \$25 for entire meet for fairs and non-profit meets. State receives all monies for unclaimed winning mutual tickets 90 days after conclusion of race meet. Breakage 10 cents except to five cents (5¢) when the first dollar only computes to less than 10 cents, with race meet licensee retaining 45% and horsemen's association 55%, to be used for breeders awards, stallion awards, horsemen's education, promotion and development of horse breeding and racing. At any race meet with daily average of \$150,000 or more, after completion of race meet, 1% of wagering is distributed to owners of Oregon-bred horses in proportion to the total purses earned by such Oregon-bred horses. For purses at any meet with daily average of \$150,000 or more, 5 1/4% of wagering except 7 0% plus an additional 4% for a total of 7 1/4% of any wagering where the selection of three or more separate wagering interests is required. The additional 4% shall be used only to supplement purses of races consisting exclusively of Oregon-bred horses. 2% is earmarked for back-side improvements only at any meet where the daily average handle exceeds \$150,000.

Pennsylvania (before amendment in December 1981)

THOROUGHBRED: Total take-out 17 1/2-19%. Penn National and Keystone (average daily handle is greater than \$300,000) take-out is 17% on straight wagering; 19% on exactas, quinellas, and doubles; 25% on trifectas. Commodore Downs and Pocono Downs (average daily handle is less than \$300,000) take-out is 19% on all wagering; 25% on trifectas. State receives 4 7/8% track 11 7/8% - 13.75%, breeders fund 0.5%. Breakage 10 cents, 5 cents on minus pools, divided equally by state and track. Track license, \$1,000 per association track retains balance. **HARNESS:** In first-class school district, take-out 17% on straight wagering, 19% on multiple and exotic. State receives 1% school district 4%. Sire Stakes Fund 0.5%, track retains balance. Distribution in other than first-class districts: take-out 17% on straight wagering, 19% on multiple and exotic. State receives 3%. Department of Commerce 1 9/16%. Sire Stakes Fund 25%. Track retains balance when handle is less than \$300,000. Take-out 19% on straight and multiple wagering, 25% on exotic. State receives 3%. Department of Commerce 1 9/16%. Sire Stakes Fund 0.5%, track retains balance. Breakage 10 cents, shared equally by state and track. State money from breakage designated to Sire Stakes Funds. In a minus pool, track must distribute 5 cents on each dollar wagered.

South Dakota

Total take-out 18 1/2%. Of first \$2 million, state 3%; breeders fund 1%; track 14 1/2%; \$2 million and over, state 3%; breeders fund 1%; track 13%; county 1 1/2%. On daily handles under \$100,000, state 2.25%; breeders fund .75%; track 15 1/4% of first \$2 million, \$2 million and over, state 2.25%, breeders fund .75%; track 14%; county 1 1/2%; 3% additional take-out on multiple wagering — all retained by the track. Breakage 10 cents, to association.

Vermont

Take-out for flat racing 18%, 19% on Sunday; harness 19%, 20% on Sunday, 25% on exotics. **THOROUGHBRED:** State receives 5 1/2% on weekdays, 6 1/2% on Sundays. **HARNESS:** State receives 3% to 8% on sliding scale on weekdays, 4% to 8% on Sundays.

Washington

MAJOR TRACKS: Total take-out 18%. State receives 4% from daily handle less than \$500,000. For handle in excess of \$500,000, state receives 4 1/2% of the first \$500,000, plus 5% of handle above \$500,000. Take-out on exotic races is 19%, the extra 3% is split 1% to state and 2% to association. **MINOR TRACKS:** Total take-out 15%, with 1% to state. Take-out on exotic races is an additional 1% to the state. Breakage 5 cents, all to association.

West Virginia

Total take-out 17 25% on straight bets, 25% on multiples. March thru October: State receives 5.75%, horsemen's purses 5.75%, association 5.65%, county 10%. On multiples state receives 5.75%, horsemen's purses 9.75%, association 9.40%, county 10%. November thru February: On straight bets state receives 5.25%, horsemen's purses 6.75%, association 5.15%, county 10%. On multiples state receives 5.25%, horsemen's purses 10.75%, association 6.90%, county 10%. State receives unclaimed winning ticket money to pay breeder's awards and supplement certain state races. Breakage 10 cents, all to association. Daily license tax of \$250, all to the state.

Wyoming

Total take-out 20%, with 1% to Pari-Mutuel Board for operating expenses (none to state or city), 19% to racing association. Breakage 10 cents, all to association.

GREYHOUND BRIEF SUMMARY OF TAX METHODS BY STATES

Arizona	Total take-out 15%. In counties with population 180,000 or more state receives 6%, association 9%; in counties under 180,000 population state receives 4%; association 11%. If handle over \$65,000, state 6%, association 9%. Breakage 10c, all to association. Net underpay to state at end of meet.	no triple wagering) to be applied first to bring purses up to 3% of handle; any excess in funds once 3% purse cap has been met may be applied to capital improvement fund.
Arkansas	Total take-out 16%, pari-mutuel tax to state 6%; \$300 daily license. Breakage 10c, 33 1/3% to state, 66 2/3% to city in which track located.	Massachusetts Total take-out 18%. State receives percentages based on daily handle as follows: MAJOR tracks, to \$150,000, 5% to state, 10% to association, 3% to dogmen, \$150,000 and over, 10% to state, 5% to association, 3% to dogmen; if handle is over \$150,000 but does not exceed \$200,000, 5% to state, 10% to association, 3% to dogmen. FAIRS: To \$100,000, 4% to state; \$100,000 to \$300,000, 9% to state; \$300,000 to \$500,000 and over, 11% to state. Breakage 10c, divided equally between state and association. Daily license fees, major tracks \$200, fairs \$50. 11-18-81: Total take-out 19%; 4 1/2% to 9 1/2% to association; 3 1/2% to dogmen. If daily handle to \$200,000 state receives 6%; \$200,000 and over, state receives 11%. 1/4 of 1% of handle for preceding calendar year shall be paid to city or town in which track is located not to exceed 3% of levy limit determined by the Revenue Commission.
Colorado	Total take-out 15%; 5% to state, 10% to association. Breakage 10c, all to association. 1% of total handle at Mile High Kennel Club goes to local government.	Nevada Total take-out 18%; 3% to state, 1% to City of Henderson. Breakage 10c, retained by association as well as unclaimed winning tickets. Underpayments revert to state.
Connecticut	Total take-out is 18%; 10% to association, 7 1/2% to State, 1/2% to local municipalities. Breakage is distributed 50% to the association and 50% to the State. 10% of admission tax is paid to the city on all admissions and 10% is paid to the State on all charges over \$1.00. The State receives all unclaimed winning mutual tickets after one year. Computation errors resulting in underpayment are remitted to the State.	New Hampshire Total take-out 19% on straight betting, 25% on exotic betting. Of the 19% take-out, state receives 6% to \$100,000; 7% to \$200,000; 9% to \$300,000; 10% to \$400,000. The additional 6% take-out on exotic betting, state receives 4%. Breakage 10c, divided between state and association. Tax relief is given tracks with handle under \$100,000 in form of credit at \$175 for each race run on program, provided not less than \$500 is paid to state.
Florida	Total take-out permitted: 17.6% on regular wagering (win/place/show); 18% on doubles (perfectas); 19% on triples (trifectas); additional 1% on triple wagering may be taken out for capital improvement fund. Tax on handle: 7.6% on total handle in excess of first \$25,000 of wagers per performance. Daily license fee of \$80 per race if average daily handle was greater than \$100,000 per performance for preceding season; \$50 per race if average daily handle was less than \$100,000 per performance for preceding season. Breakage 10c, 100% to state. Admissions 15% of entrance gate admission or 10c per person, whichever is greater. Purses: An additional 1% on triple wagers may be taken out (or 1/2% on all exotic wagering if	Vermont Take-out 19%, 25% on exotics. Breakage to licensee. State receives 5% of handle on weekdays, 6% on Sunday. From exotic bets states receives additional 1% to 5% based on number of programs.
Oregon	Total take-out 16%. State receives 6.5% from commercial meets and 2 1/2% from fairs and non-profit meets. Daily license fee \$100; Fairs and non-profit \$25 for meet. State receives unclaimed winning mutual tickets 90 days after meet ends and all underpay. Breakage 10c, 1/2 to track, 1/2 for purses and 1/2 for the benefit of Oregon Grayhound Industry. 0.1% earmarked for building and maintaining training track. 8-2-81: Total take-out 16% except on any wager requiring the selection of three or more separate wagering interests, 22% total take-out. State receives 6.3% from commercial meets (10.3% on any wager requiring the selection of three or more separate wagering interests) and 2 1/2% (7.5% on any wager requiring selection of three or more separate wagering interests) from fairs and non-profit meets. Daily license fee \$100, fairs and non-profit meets \$25 for entire meet. State receives unclaimed winning mutual tickets 90 days after conclusion of race meet. Breakage 10c except when the breaks compute to less than 10c for each dollar wagered, the race meet licensee shall pay five cents (5c) for each dollar wagered. 1/2 of breaks to race meet licensee, 1/2 of breaks for purses and 1/2 of breaks for the benefit of greyhound industry. Also, .1% of all wagering is set aside for construction and operation of a training track.	West Virginia Total take-out is 16.25%. State's share of handle increases on a sliding scale from 4% to 8%; Association's share of handle decreases on a sliding scale from 12% to 8%. State also receives \$150.00 license tax per actual race day. State receives unclaimed winning tickets' money and supplements certain stake races therewith. Prices are calculated to the dime with breakage retained wholly by the Association. Purse money is paid by the Association from its share of the handle.
Rhode Island	Total take-out 18%. State receives 5 1/2%; 1/2 of 1% to local government. Additional 1% of multiple pools to the Capital Improvement Fund. Breakage 10c, divided equally between state and association.	Greene County, Al. Total take-out 18%; 14% to association, 4% to county. Breakage 10c, all to association. 15% or 10c, whichever is greater, admission tax to county. Unclaimed winning tickets retained by association.
South Dakota	Total take-out 16 1/4% to 17 1/4%, depending on handle. State's share increases on sliding scale from 4% to 7%; track's share decreases on sliding scale from 12 1/4% to 9%; and county receives 1 1/4% of handle over \$2 million. Tracks with daily averages under \$25,000: the state receives 3%, track receives 12%-13 1/4%, and county receives 1 1/4% of total handle exceeding \$2 million. 1% of total handle on all multiple wagering; 1/2 of the 1% retained by track, 1/4 of the 1% to Breeders' Fund and 1/4 of the 1% to Racing Revolving Fund. Breakage 10c, all to track on handle up to \$8 million; all over \$8 million to the state.	Mobile County, Al. Total take-out 18%; 10% to association, 8% to county. Breakage 10c, divided equally between county and association. 15% or 10c, whichever is greater, admission tax to county. Unclaimed winning tickets divided equally between county and association.

ATTACHMENT D

Types of Gambling Groups and
Gambling Activities

SOURCE: Public Gaming Magazine, May 1984.



A: SURVIVORS

Activity	Index
Pick 3 (Daily Lottery)	261
Trading Stamps	221
Bingo	183
Lottery Subscription	169
Pick 4 Lottery	139
Legal Video Blackjack Slots	138
Sports Betting with Friend	125
Giveaway Games	115
Rub-Off Instant Lottery	106
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Atlantic City Casino Gaming	99
Break-Open or Pull Tab Tickets	98
Slot Machines	96
Cents-Off Coupons	94
Poker	79
Pick 6 (Lotto) Lottery	66
Non-Skill Contest	65
Legal Video Poker Slots	63
Likely Video Lottery Players	58
Progressive Slots	57
Skill Contest	55
Horse Races	54
Cards for Money with Friends	52
Roulette	49
Raffles	49
Blackjack at Table	43
Video Games at Home	27
Pinball	23
Coin-Operated Video Outside Home	0
Craps	0
Big Six	0
Illegal Video Gray Machines	0
Bet with a Bookie	0



B: SUSTAINERS

Activity	Index
Bet with a Bookie	343
Legal Video Poker Slots	263
Pinball	217
Sports Betting with Friend	196
Pick 4 Lottery	184
Illegal Video Gray Machines	183
Pick 6 (Lotto) Lottery	178
Non-Skill Contest	174
Poker	159
Legal Video Blackjack Slots	159
Horse Races	158
Progressive Slots	157
Cards for Money with Friends	155
Coin-Operated Video Outside Home	154
Rub-Off Instant Lottery	154
Pick 3 (Daily Lottery)	154
Bingo	148
Break-Open or Pull Tab Tickets	147
Craps	142
Big Six	138
Giveaway Games	137
Video Games at Home	125
Likely Video Lottery Players	125
Slot Machines	112
Raffles	111
Atlantic City Casino Gaming	103
Trading Stamps	102
Cents-Off Coupons	100
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Blackjack at Table	99
Skill Contest	76
Lottery Subscription	52
Roulette	45



C: BELONGERS

Activity	Index
Lottery Subscription	161
Trading Stamps	138
Pick 3 (Daily Lottery)	136
Bingo	136
Cents-Off Coupons	127
Pick 4 Lottery	125
Rub-Off Instant Lottery	114
Pick 6 (Lotto) Lottery	109
Slot Machines	104
Non-Skill Contest	98
Atlantic City Casino Gaming	98
Big Six	98
Raffles	97
Poker	95
Progressive Slots	88
Cards for Money with Friends	85
Break-Open or Pull Tab Tickets	82
Giveaway Games	77
Likely Video Lottery Players	76
Illegal Video Gray Machines	73
Legal Video Poker Slots	72
Legal Video Blackjack Slots	68
Blackjack at Table	68
Video Games at Home	67
Horse Races	62
Bet with a Bookie	61
Skill Contest	54
Roulette	48
Coin-Operated Video Outside Home	39
Craps	38
Pinball	38
Sports Betting with a Friend	35



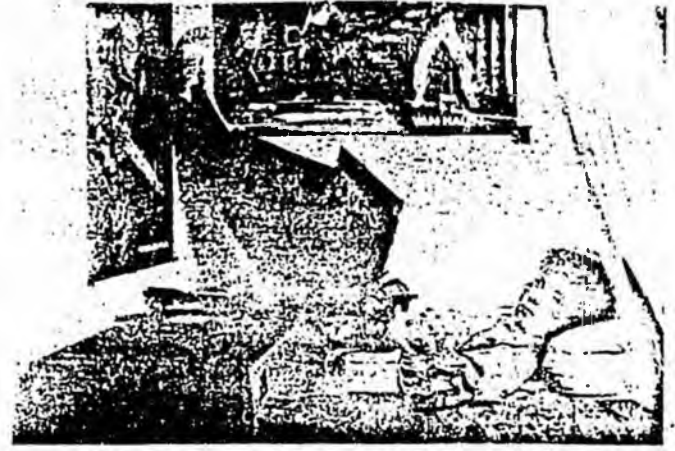
D: EMULATORS

Activity	Index
Pinball	205
Sports Betting with Friend	192
Big Six	166
Poker	163
Legal Video Blackjack Slots	162
Coin-Operated Video Outside Home	161
Roulette	158
Bet with a Bookie	159
Video Games at Home	156
Pick 3 (Daily Lottery)	150
Pick 6 (Lotto) Lottery	148
Illegal Video Gray Machines	147
Pick 4 Lottery	144
Likely Video Lottery Players	141
Progressive Slots	137
Legal Video Poker Slots	135
Blackjack at Table	132
Break-Open or Pull Tab Tickets	130
Rub-Off Instant Lottery	129
Giveaway Games	127
Horse Races	127
Slot Machines	122
Non-Skill Contest	118
Cards for Money with Friends	117
Craps	115
Bingo	110
Atlantic City Casino Gaming	109
Skill Contest	105
Raffles	97
Cents-Off Coupons	90
Lottery Subscription	84
Trading Stamps	47



E: ACHIEVERS

Activity	Index
Roulette	149
Craps	137
Horse Races	127
Blackjack at Table	122
Trading Stamps	117
Lottery Subscription	116
Raffles	116
Break-Open or Pull Tab Tickets	112
Video Games at Home	111
Slot Machines	106
Progressive Slots	106
Sports Betting with Friend	105
Non-Skill Contest	104
Casino Gaming	104
Cards for Money with Friends	102
Likely Video Lottery Players	100
Skill Contest	98
Rub-Off Instant Lottery	96
Cents-Off Coupons	96
Big Six	95
Pick 6 (Lotto) Lottery	94
Coin-Operated Video Outside Home	91
Legal Video Poker Slots	89
Illegal Video Gray Machines	88
Giveaway Game	88
Legal Video Blackjack Slots	84
Pick 4 Lottery	83
Pinball	77
Poker	74
Bingo	71
Pick 3 (Daily Lottery)	69
Bet with a Bookie	69



F: I-AM-ME

Activity	Index
Coin-Operated Video Outside Home	255
Pinball	210
Legal Video Blackjack Slots	205
Sports Betting with Friend	191
Legal Video Poker Slots	189
Giveaway Games	174
Illegal Video Gray Machines	164
Progressive Slots	150
Roulette	148
Likely Video Lottery Players	146
Cards for Money with Friends	140
Break-Open or Pull Tab Tickets	130
Blackjack at Table	127
Atlantic City Casino Gaming	119
Video Games at Home	117
Poker	105
Bet with a Bookie	105
Slot Machines	102
Craps	102
Big Six	99
Horse Races	96
Raffles	92
Skill Contest	91
Non-Skill Contest	81
Rub-Off Instant Lottery	80
Pick 6 (Lotto) Lottery	62
Bingo	60
Pick 3 (Daily Lottery)	55
Cents-Off Coupons	52
Pick 4 Lottery	46
Trading Stamps	24
Lottery Subscription	0

Who Is Playing

been prepared by SRI as part of the VALS program.

An excellent description of the VALS typology is contained in the recently published book "The Nine American Lifestyles - Who We Are And Where We Are Going" by Arnold Mitchell (MacMillan Publishing Co., 1983).

The Need-Driven Group

The first major consumer group is called "Need-Driven."

In general, Need-Driven consumers

Survivors

The first VALS type in the Need-Driven group is the Survivors type.

Survivors are the most disadvantaged portion of American society, by reason of extreme poverty, low education, old age, and little access to the channels of upward mobility. Many, now infirm, once lived lifestyles associated with higher levels of the VALS hierarchy. Many generation-after-generation Survivors are ensnared in the so-called culture of poverty. For these people

participation in gambling activities reflect this goal.

Sustainers are a group struggling at the edge of poverty. They are better off and younger than Survivors, and many have not given up hope. Their values are very different from those of Survivors. They have advanced from the depression and hopelessness typical of Survivors to also embrace anger at the system they see as repressing them and a street-wise determination to get ahead. Many operate in the underground economy.

The Sustainer is often young. This group includes people in a variety of situations, including marginally employed young blacks, the divorced mother struggling to raise her children, and other similar "street-wise" individuals.

The Outer-Directed Group

The second major group in the VALS consumer typology is called "Outer-Directed."

Outer-Directed consumers conduct their lives in response to signals, real or fancied, from others. The consumption, activities, and attitudes of Outer-Directed people are all guided by what other people think (or what they think other people will think). These "other people" to whom Outer-Directed persons direct their efforts include other members of the family, the company, the church, the union, the club, etc.

In their purchase decisions, Outer-Directed consumers buy with an eye to appearance. In making purchase decisions, this concern about what "other people" think is often more important to these consumers than their own "inner" satisfaction from the purchase. Their spending patterns are dominated by "outer" rather than "inner" measures.

The psychological needs of Outer-Directed consumers tend to be of a

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are so limited in resources (especially financial resources) that they lead lives driven more by need than by choice. Most have incomes at or below the poverty level.

The Need-Driven are the farthest removed from the cultural mainstream, are the least psychologically flexible, are least aware of the events of our times, and are most inclined to be depressed and withdrawn. Values center around survival, safety, security, and tradition. Such people tend to be distrustful, dependent, and unplanning.

It is estimated that about 11 percent of the national population aged 18 and over are Need-Driven consumers. This amounts to some 15 million adults.

This group is divided into two VALS types - "Survivors" and "Sustainers." There are about 4 million Survivors and 11 million Sustainers.

the struggle for survival is the dominant force in their lives.

Survivors tend to think of their lives and their future as a matter either of fate or luck. In any case, they do not perceive having control of it.

Since they are money-restricted, Survivor consumers tend to spend relatively little on private transportation, recreation, leisure, education, or luxuries.

Sustainers

The second VALS type in the Need-Driven group is the Sustainer type.

Sustainers are distinguished from Survivors by having a longer perspective. They wish not only to survive but to sustain - and hopefully improve - their position over time. The severe economic constraints under which they operate often make this difficult. As will be seen, their attitudes and

Who Is Playing

sort that can be satisfied by tangible things. This is in contrast to the more physiologically oriented Need-Driven consumers and the more psychological inwardly-directed attitude characterizing Inner-Directed consumers.

Since external measures are so important to them, Outer-Directed consumers tend to buy in accord with established norms. Indeed, what they buy helps to establish national norms. As distinct from Need-Driven people, most Outer-Directed consumers have the resources to express many of their preferences in their buying behavior.

Outer-Directed people are the heart of contemporary mass consumer markets. They are the dominant group in America today and have been for generations.

We estimate their numbers at 68 percent of the population – around 112 million adults. This group is divided into 3 VALS types: Belongers, Emulators, and Achievers. There are approximately 63 million Belonger adults, 16 million Emulator adults, and 33 million Achiever adults. This traditional “mainstream” group is estimated to be declining as a percentage of the population.

Belongers

Belongers comprise the large, solid, comfortable, middle-class group of Americans who are the main stabilizers of society and the preservers and defenders of the moral status quo. Belongers tend to be socially conservative, conventional, nostalgic, sentimental, puritanical, and conforming. The key drive is to fit in – to belong – and not to stand out. Their world is well posted and well lit, and the road is straight and narrow.

Family, church, and tradition loom large among Belongers. Belongers are people who know what is right, and they adhere to the rules. They are not much interested in sophistication or intellectual affairs. All the evidence

suggests that Belongers lead contented, happy lives relatively little vexed by the stresses and mercurial events that swirl around them.

Belongers seek to become part of the group through their purchases. Group norms, accepted traditions, and mass movements dominate the purchase decisions and behavior of Belongers. Belongers are driving forces behind such movements as patriotic upswellings, church membership, fraternal organizations, and a myriad of other traditional Middle American activities.

Belongers comprise the large, solid, comfortable, middle class group of Americans who are the main stabilizers of society and the preservers and defenders of the moral status quo.

The need to belong is one of the most powerful forces in the marketplace. Belongers respond to advertising appeals based on popularity. Abhorrence of being different inclines Belongers to select the standard design, the established product, and the usual store.

Belongers respond to authority, be it the government, the church, the corporation, the union, or the product endorsement of a popular personality.

Belongers tend to be middle income or lower middle income. They tend to have average, or slightly below-average education. They include a disproportionate percentage of blue collar workers. They are socially conservative, as contrasted with being economically conservative. Archie Bunker is a Belonger.

Emulators

Emulators live in a wholly different world from that of Belongers. Emulators are trying to burst into the upper levels of the system – to make it big. The object of their emulation is the Achiever lifestyle. They are ambitious,

upwardly mobile, status-conscious, macho, and competitive. Many see themselves as coming from the other side of the tracks. Hence, many are intensely distrustful, are angry with the way things are, and have little faith that “the system” will give them a fair shake.

The stereotype is that of the “social climber,” the “young man in a hurry,” and the person “on the make.”

The prime characteristic of Emulators is their emulation of the buying patterns of those they consider to be richer or more successful than them-

selves. In as much as Emulators often have no first-hand knowledge of the purchasing patterns of the rich and successful (learning of them from such sources as Hollywood films, popular publications, gossip columns, fashion magazines, and dramatic advertisements), they often wind up buying much more conspicuously and flamboyantly than those they seek to emulate.

Emulators put their money where it shows. They spend heavily on highly visible items such as clothes, cars, or office furniture. They are attracted to the latest “in” labels and chic activities that represent the fad of the moment. In a style sense, Emulators prefer overstatement to the understatement characteristic of the purchases of people with more money.

Emulators are often young, well-educated, and have above-average incomes and white collar jobs. In addition to the “young man in a hurry,” the Emulator type also includes many people in minority groups and women who have joined the work force and are pursuing a career.

Who Is Playing

Achievers

Achievers are the pacesetters for the Emulators. They are the leaders and builders of the American dream and the good life. Achievers represent the "establishment" and are economically conservative. Achievers are the managers, administrators, and leaders in business, government, education, and politics.

The Achiever is the driving and often the driven person, oriented to success, who commonly expends much of his or her wealth, activity, and energy on the good things in life. Achievers want the best and are willing to work hard to get it. The work ethic and the Puritan ethic are central to the Achiever. Achievers tend to be materialistic, hardworking, oriented to attaining success and recognition for their success, and comfort-loving.

Estimates indicate that 22 percent of Americans are Achievers. Their numbers make them the second largest subgroup (after Belongers) in the VALS typology.

Achievers are, in the main, traditional buyers. They are, however, willing to experiment in the direction of new and improved products, especially technologically based products.

Greater affluence is, of course, correlated with greater age. Consequently, the Achiever type tends to be older than average. And, of course, Achievers have above-average educational levels. Achievers, while economically conservative, can be less conservative and easy-going on social issues. In this sense, they are the mirror image of the Belonger.

The Inner-Directed Group

Unlike the large traditional Outer-Directed group and the impoverished Need-Driven group, the Inner-Directed is the *only growing group* in the VALS typology.

Inner-Directed consumers are primarily concerned with their own inner satisfaction. They buy things

and do things that give themselves satisfaction and pleasure, without regard to what other people may think about their actions.

Inner-Directed people are individualistic, person-centered, self-expressive, and impassioned. They will state and hold their opinions regardless of what "others" think, and they will "do their own thing."

The Inner-Directed group has developed since World War II and reflects a new kind of consumer.

This group is divided into three VALS types - I-Am-Me, Experientials, and Societally Conscious. There are approximately 32 million Inner-Directed adults (about 19 percent of the population) including 5 million I-Am-Me's, 8 million Experientials, and 19 million Societally Conscious consumers.

I-Am-Me

The I-Am-Me consumer is fiercely individualistic, insisting on buying what appeals to his or her whims - and the whims are made of iron. Such consumers are emphatic in buying things avant-garde, funky, far-out, classic, nostalgic, etc. Typically the result is distinctly show-off.

The I-Am-Me type is a transitional type that is often an early stage in the development of inward-oriented living. As such, it is a stage through which many pass but in which few linger.

I-Am-Me consumers loom large in many of the "far out" fringe markets, especially those of a faddish type. Like Emulators, they spend much of their money on noticeable items.

I-Am-Me consumers are worth watching because I-Am-Me tastes sometimes spawn ideas or products that subsequently spread to the rest of the society.

The I-Am-Me consumers are young. Many are single. Many are students or just starting on their first job.

It is interesting to note that many I-Am-Me's are the children of Achievers.

Experiential

An important emerging lifestyle pattern is the Experiential type. The Experiential is the person who avidly seeks direct experience, intense personal relationships, deep involvement, and a rich inner life. These kinds of people are leaders in many avant-garde movements. They are active in a wide range of participatory, experience-rich activities and pursuits.

Experiential consumers are strongly person-centered, often a bit intellectual, frequently mystical, sometimes esthetically inclined, and usually highly active. Sensuality and hedonism loom large. The core drive is for direct, often unusual, experience. They tend to welcome the new and different. Distinctly "right-brained," these people are intuitive, alert to nuance, and more accepting than most people of events with no logical explanation.

The key to the buying habits of Experiential consumers is their preference for "process over product." What is most important is the act and experience of doing something - the thrill or joy of the moment - rather than the tangible product or ownership per se. They are active in such sports as hang-gliding, backpacking, rock climbing, cross-country skiing, and scuba diving. At home they indulge their taste for direct participation via winemaking, gardening, crafts, home remodeling, and a host of other do-it-yourself activities.

Societally Conscious

Societally Conscious consumers are people acutely aware of societal issues. They are imbued with a "space-ship earth" philosophy, and are adamant about living in a socially responsible way. These people are often active in consumer and environmental movements. Many are engaged in politics, volunteer work, and other forms of social participation. They are mission-oriented and are out to change the world.

ATTACHMENT E

Montana
State Fair Parimutuel Racing Statistics

SOURCE: Skip Sherman, Montana State Fair

1986 DAYS	1986 TOTAL HANDLE	1986 TRACE CORRL	1986 BOARD CORRL	22 EXOTIC RACING	302	DIRT RACING	PATROE	1985 DAYS	1985 TOTAL HANDLE	1985 BOARD CORRL
11	1,003,218	205,011.62	10,072.18	4,406.00	6,260.12	865,160.76	14	14	1,197,623	11,976.23
12	310,507	60,516.33	3,185.07	2,666.69	1,162.07	268,011.26	16	16	382,060	3,020.60
13	1,290,561	617,507.79	72,506.61	35,062.20	15,950.98	1,511,012.60	29	29	3,215,010	27,150.10
14	50,765	9,565.52	503.55	405.62	173.62	456.50	9	9	98,165	981.65
15	112,083	25,209.77	1,126.03	1,207.62	551.06	1,157.26	5	5	152,727	1,527.27
16	56,563	10,363.10	565.63	606.70	133.65	591.56	3	3	60,962	609.62
17	4,507,077	856,696.63	68,761.15	20,009.07	20,226.28	1,508,665.10	36	36	5,197,600	51,976.60
18	19,092	3,779.60	190.92	137.06	58.76	210.62	3	3	19,001	193.01
19	19,500	3,705.00	195.00	167.92	63.60	15,112.70	3	3	23,563	235.63
20	75,077	71,266.63	3,750.77	3,510.25	1,512.97	3,600.88	6	6	612,175	4,121.75
21	892,969	169,666.11	8,929.69	8,628.31	3,697.05	696,500.60	6	6	666,268	6,662.68
22	96,922	18,615.10	969.22	767.10	320.00	1,162.12	5	5	101,123	811.23
23	10,801,976	2,052,375.07	108,019.76	112,065.2	8,019.67	8,581.56	111	111	11,606,656	110,066.56

11/6/86

11/6/86

As Northeast Race Fair - Figure is 011 17.00 due to overpayment
 As Northeast Race Fair - Figure is 011 17.00 due to overpayment

ATTACHMENT F

Oregon
State Fair Parimutuel Racing Statistics

SOURCE: Dwight Butz, Director, Oregon State Fair Race Meet

Horseracing Analysis

3/27/86

DH

	New GS	1985	OPTION A	OPTION B	OPTION C	OPTION D	
	No Grants	Actual	GS "As Is"	New GS	GS "As Is"	New GS	
REVENUES	11-21-21	11-25	11-21-0	11-21-0	11-21-21	11-21-21	
1	Parimutuel Receipts	1,112,078	735,705	708,279	849,935	1,086,279	1,539,936
2	Brokers	33,284	22,628	20,096	25,096	33,284	33,284
3	Backstretch Fund	18,534	12,578	11,804	14,166	18,105	22,566
4	General Admissions	389,976	194,822	194,888	233,866	389,976	467,771
5	Box Seats	17,385	17,385	17,385	51,278	17,385	76,478
6	Concessions	136,250	120,584	115,250	150,000	136,250	207,700
7	Program Sales	17,755	12,065	10,720	12,864	17,755	21,306
8	Miscellaneous	3,168	3,168	3,168	3,168	3,168	3,168
9							
10		1,377,430	943,606	906,190	1,124,893	1,351,202	1,765,209
11							
12	Parimutuel Personnel		171,871	153,234	153,234	251,031	251,031
13	Race Personnel		98,903	88,638	88,638	141,999	141,999
14	Tolycor Equipment		88,481	72,480	72,480	120,045	120,045
15	Armored Car Service		4,000	3,360	3,360	6,720	6,720
16	Stable Insurance		17,533	15,378	15,378	25,528	25,528
17	Contract Security		22,853	22,244	22,244	37,924	37,924
18	Motion Services		37,555	33,071	6,742	5,387	10,734
19	Advertising		20,111	19,200	29,200	31,800	41,800
20	Cleanup Personnel		4,435	3,942	9,884	6,259	13,058
21	Admission Personnel		3,880	3,450	5,174	5,713	8,570
22	Security Personnel		3,880	3,450	3,450	5,713	5,713
23	Ambulance Personnel		7,538	7,103	7,103	12,857	12,857
24	Equipment Rentals		42,935	10,000	10,000	17,400	17,400
25	Manure Removal (M)		43,000	13,000	13,000	24,000	24,000
26	Utilities (M)		15,500	19,500	19,500	36,000	36,000
27	Miscellaneous		19,862	20,000	20,000	28,000	28,000
28	Communications		5,267	6,000	6,000	8,500	8,500
29	Track Maintenance		4,516	6,000	6,000	12,000	12,000
30	TOTAL DIRECT	801,919	548,220	470,750	789,747	776,876	804,919
31							
32	Maintenance	64,000	50,000	50,000	40,000	80,000	64,000
33	Administration	24,000	10,000	20,000	15,000	16,000	24,000
34	Public Relations	32,000	10,000	20,000	20,000	16,000	32,000
35	SG 498 Take Out	278,626	188,870	177,870	212,484	291,576	328,484
36	Net Income	177,491	395,386	435,440	347,662	190,756	564,800
37			325,386				
38	Debt Load	510,271	0	0	510,271	0	510,271
39		(-)					(+)
40							
41							
42							
43							
44							
45							
46							
47							
48							
49							
50							

10 includes Rent on Parking Stalls

EXHIBIT III

ATTACHMENT G

Arizona
County Fair Horse Racing Statistics

SOURCE: Arizona Department of Racing 37th Annual Financial Report, July 1,
1985 - June 30, 1986.

REVENUES

The Department collects pari-mutuel commission, license fee and fine revenues which are deposited to six separate funds.

REVENUES AND DISPOSITION

	<u>1984-85</u>	<u>1985-86</u>
Receipts*		
Mutuel commission	\$11,440,129	\$12,066,652
License fees	63,000	225,848
Fines	37,675	23,725
Other	<u>60,352</u>	<u>8,322</u>
Total	\$11,601,156	\$12,324,547
Disposition		
General Fund (67.5%)	\$7,802,676	\$8,326,432
Arizona County Fairs Racing and Breeder's Award Fund (14%)	1,670,400	1,723,962
County Fairs Livestock and Agriculture Promotion Fund (10%)	1,150,313	1,229,250
Arizona Coliseum and Exposition Center Fund (5%)	575,156	614,625
County Fairs Racing Fund (3%)	345,094	368,815
Administration of the Arizona County Fairs Racing and Breeder's Award Fund (.5%)	<u>57,517</u>	<u>61,463</u>
Total	\$11,601,156	\$12,324,547

*Excludes revenues earned during 1985-86 but not received until after June 30, 1986.

COUNTY FAIR RACE MEETS
1985-1986

	Days of Racing	Number of Races	Mutuel Handle	Rhcrease/ (Decrease)	Track Commission	Breakage to Track	Returned to Public	Purses Paid
Apache	4	42	185,246	+10.7	33,344	2,166	149,736	61,656
Cochise	4	40	243,138	+9.2	43,765	2,172	197,201	53,056
Coconino	4	40	564,882	+23.2	101,679	5,973	453,308*	70,844
Gila	4	43	245,544	+23.4	44,198	2,745	198,601	77,487
Graham	4	44	227,290	+22.5	40,912	2,029	184,349	91,589
Greenlee	4	40	168,050	+17.0	30,249	1,764	136,037	57,502
Mohave	4	44	224,460	-15.6	40,403	2,093	181,964	87,435
Navajo	4	40	227,952	+16.2	41,031	1,745	185,176	75,222
Santa Cruz	4	44	491,256	+22.7	88,426	6,104	396,726	131,914
Yuma	4	40	201,766	+2.3	36,318	1,989	163,459	53,288
Subtotal-Meets at Non-Commercial Tracks								
	40	417	2,779,584	+14.9	500,325	28,780	2,246,557	759,993
Maricopa	4	44	2,262,976	+15.0	407,336	15,005	1,840,635	177,000
Yavapai	3	36	501,792	-4.5	90,323	4,797	406,672	143,485
Subtotal-Meets at Commercial Tracks								
	7	80	2,764,768	+10.9	497,659	19,802	2,247,307	320,485
Totals	47	497	5,544,352	+12.5	997,984	48,582	4,493,864	1,080,478

*\$3,922. Underpay

COUNTY FAIR RACE MEETS
1983-1984

	Days of Racing	Number of Races	Mutuel Handle	%Increase/ (Decrease)	Track Commission	Breakage to Track	Returned to Public	Purses Paid
Apache	4	38	153,138	+8.9	27,565	1,494	124,079	41,857
Cochise	4	39	212,116	-1.6	38,181	1,913	172,023	38,506
Coconino	4	34	442,400	+9.8	80,145	4,744	357,511	52,720
Gila	4	40	210,726	+15.1	37,931	2,079	170,717	8
Graham	4	40	181,966	+8.9	32,754	1,813	147,399	-
Greenlee	4	40	146,186	+18.8	26,313	1,703	118,169	36,109
Mohave	4	37	182,036	-0.2	32,766	2,305	146,964	68,734
Navajo	4	30	169,758	+13.3	30,556	1,702	137,500	70,858
Santa Cruz	4	44	429,939	+22.9	77,389	4,595	347,955	101,757
Yuma	4	39	171,096	+1.6	30,892	1,630	138,574	44,555
Subtotal-Meets at Non-Commercial Tracks								
	40	389	2,299,361	+11.2	414,492	23,978	1,860,891	605,833
Maricopa	4	44	2,094,847	-4.1	423,562	14,800	1,656,485	138,400
Pima*	4	45	1,477,625	*	299,765	11,455	1,166,406	181,700
Yavapai	3	36	505,310	+1.9	90,956	4,027	410,328	139,051
Subtotal-Meets at Commercial Tracks								
	11	125	4,077,782	+52.2	814,283	30,282	3,233,219	459,151
Total	51	514	6,377,143	+34.4	1,228,755	54,260	5,094,110	1,064,984

*Did not sponsor races in previous fiscal year.

CORRECTION

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

COUNTY FAIR RACE MEETS
1985-1986

	Days of Racing	Number of Races	Fuller Handle	Rhiorase/ (Decrease)	Track Commission	Breakage to Track	Returned to Public	Purses Paid
Apache	4	42	185,246	+10.7	33,344	2,166	149,736	61,656
Cochise	4	40	243,138	+9.2	43,765	2,172	197,201	53,056
Coconino	4	40	564,882	+23.2	101,679	5,973	453,308*	70,844
Gila	4	43	245,544	+23.4	44,198	2,745	198,601	77,487
Graham	4	44	227,290	+22.5	40,912	2,029	184,349	91,569
Greenlee	4	40	168,050	+17.0	30,249	1,764	136,037	57,502
Mohave	4	44	224,460	-15.6	40,403	2,093	181,964	87,435
Navajo	4	40	227,952	+16.2	41,031	1,745	185,176	75,222
Santa Cruz	4	44	491,256	+22.7	88,426	6,104	396,726	131,914
Yuma	4	40	201,766	+2.3	36,318	1,989	163,459	53,288
Subtotal-Meets at Non-Commercial Tracks								
	40	417	2,779,584	+14.9	500,325	28,780	2,246,557	759,993
Maricopa	4	44	2,262,976	+15.0	407,336	15,005	1,840,635	177,000
Yavapai	3	36	501,792	-4.5	90,323	4,797	406,672	143,485
Subtotal-Meets at Commercial Tracks								
	7	80	2,764,768	+10.9	497,659	19,802	2,247,307	320,485
Totals	47	497	5,544,352	+12.5	997,984	48,582	4,493,864	1,080,478

* \$3,922. Underpay

COUNTY FAIR RACE MEETS
1984-1985

	Days of Racing	Number of Races	Mutuel Handle	Change/ (Decrease)	Track Commission	Breakeage to Track	Returned to Public	Purses Paid
Apache	4	38	167,362	+9.3	30,125	1,677	135,559	35,568
Cochise	4	40	222,616	+5.0	40,071	2,245	180,301	51,131
Coconino	4	38	458,420	+3.6	82,516	4,963	370,941	49,921
Gila	4	39	199,012	-5.6	35,822	2,508	160,669*	63,326
Graham	4	40	185,474	+1.9	33,385	1,784	150,305	76,532
Greenlee	4	39	143,612	-1.8	25,850	1,631	116,130	43,180
Mohave	4	45	266,010	+46.1	47,882	2,969	215,159	94,886
Navajo	4	39	196,244	+15.6	35,324	1,578	159,342	75,156
Santa Cruz	4	43	400,314	-6.9	72,057	3,714	324,543	108,956
Yuma	4	39	197,198	+15.3	35,496	2,238	159,465	38,660
Subtotal—Meets at Non-Commercial Tracks								
	40	400	2,436,262	+5.6	438,528	25,307	1,972,414	637,316
Maricopa	4	44	1,968,180	-6.0	354,272	12,481	1,601,427	163,900
Yavapai	3	36	525,231	+3.9	94,542	4,170	426,520	138,752
Subtotal—Meets at Commercial Tracks								
	7	80	2,493,411	-38.9	448,814	16,651	2,027,947	302,652
Total	47	480	4,929,673	-22.7*	887,342	41,958	4,000,361	939,968

* \$13 Underpay

COUNTY FAIR RACE MEETS
1983-1984

	Days of Racing	Number of Races	Mutuel Handle	% Increase/ (Decrease)	Track Commission	Breakage to Track	Returned to Public	Purses Paid
Apache	4	38	153,138	+8.9	27,565	1,494	124,079	41,857
Cochise	4	39	212,116	-1.6	38,181	1,913	172,023	38,506
Coconino	4	34	442,400	+9.8	80,145	4,744	357,511	52,720
Gila	4	40	210,726	+15.1	37,931	2,079	170,717	81,461
Graham	4	40	181,966	+8.9	32,754	1,813	147,399	69,376
Greenlee	4	40	146,186	+18.8	26,313	1,703	118,169	36,109
Mohave	4	37	182,036	-0.2	32,766	2,305	146,964	68,734
Navajo	4	38	169,758	+13.3	30,556	1,702	137,500	70,858
Santa Cruz	4	44	429,939	+22.9	77,389	4,595	347,955	101,757
Yuma	4	39	171,096	+1.6	30,892	1,630	138,574	44,555
Subtotal—Meets at Non-Commercial Tracks								
	40	389	2,299,361	+11.2	414,492	23,978	1,860,891	605,833
Maricopa	4	44	2,094,847	-4.1	423,562	14,800	1,656,485	138,400
Pima*	4	45	1,477,625	"	299,765	11,455	1,166,406	181,700
Yavapai	3	36	505,310	+1.9	90,956	4,027	410,328	139,051
Subtotal—Meets at Commercial Tracks								
	11	125	4,077,782	+52.2	814,283	30,282	3,233,219	459,151
Total	51	514	6,377,143	+34.4	1,228,755	54,260	5,094,110	1,064,984

*Did not sponsor races in previous fiscal year.

ATTACHMENT H

California
State and County Fair Racing Statistics

SOURCE: California Racing Board, Annual Statistical Report, 1985

CALIFORNIA HORSE RACING BOARD — ANNUAL STATISTICAL REPORT

	RACING DATES	NUMBER OF DAYS	DAYS PER WEEK	REPORTED ATTENDANCE	AMOUNT WAGERED	AVERAGE			AMOUNT RETAINED	RETURNED TO PUBLIC
						DAILY ATTENDANCE	DAILY HANDLE	PER CAPITA WAGERING		
THOROUGHBRED RACE MEETINGS										
LOS ANGELES TURF CLUB <small>SANTA ANITA AND ADIA</small>	12/26/84 - 4/22/85	89	5	2928253	\$ 531,091,571	32902	\$5967321	\$181	\$ 96,791,171	\$ 434,300,400
BAY MEADOWS RACING ASSOCIATION <small>BAY MEADOWS, SAN MATEO</small>	12/26/84 - 2/4/85	31	5	313,472	6,063,396	10,112	2,131,077	211	12,112,552	53,950,844
PACIFIC RACING ASSOCIATION <small>GOLDEN GATE FIELDS, ALBANY</small>	2/5/85 - 5/5/85	65	5	640,847	130,943,321	9859	2,014,513	294	24,457,133	106,486,188
HOLLYWOOD PARK OPERATING CO. <small>HOLLYWOOD PARK, INGLEWOOD</small>	4/24/85 - 7/22/85	67	5	1,722,294	367,573,583	25,706	5,486,173	213	69,065,149	298,506,434
TARFORAN RACING ASSOCIATION <small>GOLDEN GATE FIELDS, ALBANY</small>	5/8/85 - 6/23/85	35	5	365,605	76,223,303	10,446	2,177,609	206	14,245,765	61,975,518
DEL MAR THOROUGHBRED CLUB <small>DEL MAR</small>	7/24/85 - 9/11/85	42	6	830,615	150,115,233	19,777	3,574,172	181	27,623,582	122,491,651
TARFORAN RACING ASSOCIATION <small>BAY MEADOWS, SAN MATEO</small>	9/17/85 - 10/14/85	21	5	176,442	35,878,497	8,402	1,708,500	203	6,556,058	29,322,439
OAK TREE RACING ASSOCIATION <small>SANTA ANITA, ARIZONA</small>	10/2/85 - 11/1/85	32	5	858,652	157,504,086	26,833	4,922,603	163	28,567,176	128,936,910
BAY MEADOWS RACING ASSOCIATION <small>BAY MEADOWS, SAN MATEO</small>	10/17/85 - 12/23/85	50	5	621,602	124,789,725	12,432	2,495,795	201	22,811,631	101,978,094
HOLLYWOOD PARK OPERATING CO. <small>HOLLYWOOD PARK, INGLEWOOD</small>	11/13/85 - 12/24/85	30	5	633,876	135,851,498	21,129	4,528,381	214	25,478,021	110,373,477
TOTALS		462		9,091,658	\$1,776,034,213	19,679	\$3,644,230	\$195	\$327,708,238	\$1,448,325,975
HANNESS HORSE MEETINGS										
WESTERN HANNESS RACING ASSN. <small>HOLLYWOOD PARK, LOS ANGELES</small>	1/13/85 - 4/27/85	74	5	383,325	\$ 60,454,848	5,180	\$ 816,957	\$158	\$ 13,100,998	\$ 47,354,850
CAL EXPO RACING ASSN. <small>SAN MATEO</small>	5/9/85 - 7/28/85	49	4	209,906	14,608,872	4,284	298,140	70	3,088,647	11,526,225
WESTERN HANNESS RACING ASSN. <small>LOS ANGELES</small>	8/16/85 - 10/19/85	48	5	272,018	42,190,985	5,667	878,979	155	9,200,358	32,950,627
TOTALS		171		865,249	\$ 117,254,705	5,060	\$ 685,700	\$136	\$ 25,389,013	\$ 91,865,922
QUARTER HORSE MEETINGS										
HORSEMEN'S QUARTER HORSE ASSN. <small>LOS ANGELES</small>	12/25/84 - 1/15/85	19	5	106,844	\$ 15,363,679	5,623	\$ 808,615	\$144	\$ 2,936,226	\$ 12,427,453
MINISULA HORSE RACING ASSN. <small>BAY MEADOWS</small>	2/21/85 - 4/28/85	49	5	192,626	28,830,602	3,931	588,386	150	5,458,465	23,372,137
LOS ANIMTOS RACE COURSE <small>LOS ANIMTOS</small>	5/1/85 - 8/14/85	91	6	623,993	93,003,254	6,857	1,022,014	149	17,687,455	75,315,799
HORSEMEN'S QUARTER HORSE ASSN. <small>LOS ANIMTOS</small>	11/5/85 - 12/23/85	42	6	182,362	30,727,968	4,342	711,618	168	5,822,746	24,905,222
TOTALS		201		1,105,825	\$ 167,925,503	5,502	\$ 815,450	\$152	\$ 31,904,892	\$ 136,020,611
FAIR RACE MEETINGS										
ALAMEDA COUNTY PLACERVILLE	6/25/85 - 7/7/85	13	7	134,486	\$ 19,557,297	10,345	\$1,504,407	\$145	\$ 3,824,301	\$ 15,732,996
SILVERADO COUNTY VALLEJO	7/9/85 - 7/21/85	13	7	110,282	15,450,663	8,483	1,188,513	140	3,033,501	12,417,162
SUBOTOMA COUNTY SANTA FE	7/22/85 - 8/4/85	13	6	130,624	15,431,935	10,048	1,187,072	118	2,983,009	12,448,926
SAN JOAQUIN COUNTY STOCKTON	8/6/85 - 8/18/85	12	6	71,068	9,403,467	5,924	783,622	132	1,827,619	7,575,848
HUMBOLDT COUNTY FERROVILLE	8/8/85 - 8/17/85	9	6	37,290	1,478,126	4,143	164,236	40	286,069	1,192,057
CAL EXPO & STATE FAIR SACRAMENTO	8/20/85 - 9/2/85	13	6	101,550	11,040,287	7,812	849,753	109	2,160,248	8,880,033
SAN MATEO COUNTY SAN MATEO	8/31/85 - 9/14/85	13	6	111,191	21,584,757	8,553	1,660,356	194	4,226,998	17,357,756
LOS ANGELES COUNTY GEMMA	9/12/85 - 9/29/85	18	7	264,840	45,029,323	14,713	2,501,129	170	8,806,466	36,222,871
FRESNO DISTRICT FRESNO	10/7/85 - 10/20/85	13	6	106,755	8,247,590	8,211	634,330	77	1,406,051	6,641,539
GRABBE COUNTY GRABBE	11-21/85 - 11/4/85	13	6	78,387	14,402,047	6,030	1,107,890	184	2,694,326	11,507,721
TOTALS		130		1,146,493	\$ 161,625,492	8,819	\$1,433,273	\$141	\$ 31,648,588	\$ 129,976,634
MIXED RACE MEETING										
VALLEY RACING ASSN. FRESNO	5/3/85 - 6/17/85	27	4	84,328	\$ 11,868,117	3,123	\$ 439,560	\$141	\$ 2,423,299	\$ 9,444,818
TOTALS		911		12,293,953	\$2,234,766,616	12,309	\$2,770,001	\$170	\$486,746,000	\$1,986,631,444

ATTACHMENT I

"The Horse Racing Market in Oregon"
Oregon, 1985

Bardsley & Haslacher, Inc.
Marketing Research Consultants

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Appendix:

 The Questionnaires

INTRODUCTION

This is a report to the Oregon State Fair & Exposition Center on pari-mutuel horse racing.

The research was conducted and compiled by Bardsley & Haslacher, Inc., an independent and impartial research organization with offices in the Western United States.

Objectives

Purpose of the project was to.

- Identify the wagering individual, according to attitudes and demographic characteristics;
- Determine potential to create awareness and patronship of the Spring Racing Meet to be held at the State Fairgrounds;
- Assess the appeal of a Spring Racing Meet in Salem; and,
- Chart a strategy for broadening the pari-mutuel horse racing market.

Methodology

Two sample surveys were conducted to fulfill the objectives of the research.

- Cross-section sample of Oregonians; and,
- Sample of patrons attending the State Fair Horse Racing or Lone Oak Meets.

Cross-section Sample. Population for this survey consisted of residents of telephone households in 23 Oregon counties containing 80% of the state's population.

INTRODUCTION

Sample was a multi-stage probability type, consisting of 804 interviews conducted by telephone. The sample was stratified by county, and randomly selected at the household level, using systematic sampling procedures and random digit dialing (RDD+1) to remove biases from the sample resulting from lack of representation of unlisted or unpublished telephone numbers.

The unit of analysis was the attitudes and behaviors of the household spokesperson.

Interviewing for this study was conducted from October 4 to 15, 1985, under constant monitoring of an interviewer-supervisor. Calls were made between 5:00 p.m. and 9:00 p.m. on weekdays, 10:00 a.m. to 6:00 p.m. on Saturdays, and on Sundays from 12:00 p.m. to 8:00 p.m.

State Fair/Lone Oak Patrons. Population for this survey consisted of customers of the Oregon State Fair Horse Racing Meet during hours of operation on August 28 to 31, 1985, and attendees at the subsequent Lone Oak Meet on September 5 to 9, and October 3 to 5, 1985.

Sample was an accidental type, comprised of 301 interviews administered face-to-face near the Fairgrounds horse racing gates. An attempt was made to minimize bias by instructing interviewers to select respondents according to the following rigid procedure.

"Station yourself some place near the gate where there are people walking by as they exit. Make a 45 degree turn to the right, and then attempt to conduct an interview with the party closest to you. If this potential respondent is unavailable to be interviewed, take the next closest person. After you complete an interview, move to a different point near the gate and proceed in the same manner until you reach your quota."

Unit of analysis was the attitudes and opinions of horse racing meet patrons interviewed using this procedure.

INTRODUCTION

Sampling Variability

Surveys of the kind reported here are subject to variability due to sampling factors, and other possible sources of influence on their accuracy.

Sample results for the cross-section sample of 801 Oregon telephone households have a maximum sampling tolerance of 3.5%, plus or minus.

Results from the sample surveys of horse racing patrons are subject to sampling error, but it cannot be precisely calculated because the samples are non-probability types.

The reader should also be aware of other possible sources of error for which exact estimates cannot be made.

For example, different results might have been obtained from different question wording, and undetected flaws in the way the sampling and interviewing procedures were carried out could have a significant effect on the findings.

Good research practices tend to diminish the chances of such errors, but they can never be entirely ruled out. Bardsley & Haslacher, Inc., makes every attempt to carefully manage each stage of the research according to the highest standards of quality to ensure that all sources contributing to error in a survey are controlled.

Copies of the research instruments are appended to this report.