

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5702 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CS SSSB 358 (Fin.) (a)
PUBLISH DATE: 3/1/90

FISCAL NOTE

REQUEST:

Revision Date: February 6, 1990 Agency Affected: DH&SS
Title: An Act Relating to Fingerprinting BRU: Youth Services
of Minors
Sponsor: Senators Fisher & Kelly Components: Probation Services
Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on the Department in FY90. SSSB358 permits the fingerprinting of minors arrested for an offence that is a felony if committed by an adult. Fingerprinting of minors 16 years of age and older could be entered into the Alaska automated fingerprint identification system. Arresting law enforcement agencies would take the fingerprints and the Department of Public

Prepared by: Russ Webb Phone: 465-3170
Division: Family and Youth Services Date: _____

Approved by Commissioner: [Signature] Date: 2/20/90
Agency: _____

Distribution (by preparer):

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

Changes in CS SSSB 358 (Fin.)
have no fiscal impact.
This fiscal note is
appropriate.

[Signature]

Changes in SSSB 358 (Fin.)
have no fiscal impact
this fiscal note is
appropriate. 3/1/90

SSB358 An Act Relating to the Fingerprinting of Minors (con't.)

Safety would do the entries. This Department would not be fiscally impacted.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSSB 358 (Fin)(b)
PUBLISH DATE: 3/1/90

FISCAL NOTE

REQUEST:

Revision Date: 2/23/90
Title: An Act Relating to the
Fingerprinting of Minors
Sponsor: Sen. Fischer
Requestor: Senate Judiciary

Agency Affected: Public Safety
BRU: DPS Statewide Support
Component: AK Criminal Records
& ID

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	9.1	9.1	9.1	9.1	9.1	9.1
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	9.1	9.1	9.1	9.1	9.1	9.1

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

GENERAL FUND	9.1	9.1	9.1	9.1	9.1	9.1
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	9.1	9.1	9.1	9.1	9.1	9.1

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

The Records and Identification Section operates the Alaska Automated Fingerprint Identification System (AAFIS) and maintains criminal history record information used by police and other criminal justice agencies.

(continued on attached)

Prepared by: Ken Bischoff
Division: Administrative Services

Phone: 465-4336
Date: 02/26/90

Approved by Commissioner: Arthur English
Agency: Department of Public Safety

Date: 02/26/90
Page 1 of 2

Changes in CSSSB 358 (Fin)
have no fiscal impact
This fiscal note is
appropriate. 2/22/90 sub

FISCAL NOTE - CSSSSB 358
Department of Public Safety
(Analysis - Page 2 of 2)

This bill would allow the fingerprinting of juveniles age 14 or older who are arrested for criminal offenses. These fingerprints would be compared with latent (crime scene) prints contained in the Alaska Automated Fingerprint Identification System (AAFIS).

This bill should have a positive impact on the ability of police to solve cases involving juvenile offenders. A large percentage of theft and burglary offenses are committed by juveniles. Fingerprint evidence is frequently found at the scene of these offenses, but is not matched to any suspect because juveniles are not fingerprinted. AAFIS records indicate that a large number of theft and burglary offenses are cleared when adults are arrested and their fingerprints matched to latents from crimes committed when the offender was a juvenile. Had these persons been fingerprinted as juvenile offenders they could have been identified, clearing additional cases and enabling the court to consider the offender's complete conduct when deciding the disposition of a case.

Existing AAFIS staff are not able to keep current with their present workload. Additional funding is required in Personal Services to increase the staff months of a part-time position approved for this unit for FY91 under a fiscal note for HB 52 (Chp 7 SLA 1990). The increased workload expected as a result of this bill is estimated as follows:

Estimated Number of Juvenile Fingerprint Cards	=	2,700
Total time to complete 15 processing steps	=	436 hrs
Clerk IV - Range 9A (3.5 months)		
Salary		\$6,059
Benefits		<u>2,999</u>
Total Salary & Benefits		\$9,058

FISCAL NOTE

REQUEST:

Revision Date: February 6, 1990
Title: An Act Relating to Fingerprinting
of Minors
Sponsor: Senators Fisher & Kelly
Requestor: _____

Agency Affected: DH&SS
BRU: Youth Services
Components: Probation Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This bill has no fiscal impact on the Department in FY90. SSSB358 permits the fingerprinting of minors arrested for an offence that is a felony if committed by an adult. Fingerprinting of minors 16 years of age and older could be entered into the Alaska automated fingerprint identification system. Arresting law enforcement agencies would take the fingerprints and the Department of Public

Prepared by: Russ Webb Phone: 465-3170
Division: Family and Youth Services Date: _____

Approved by Commissioner: *M. M. M.* Date: 2/20/90
Agency: _____

Distribution (by preparer):

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

SSB358 An Act Relating to the Fingerprinting of Minors (con't.)

Safety would do the entries. This Department would not be fiscally impacted.

FISCAL NOTE

REQUEST:

Revision Date: February 6, 1990
Title: An Act Relating to Fingerprinting
of Minors
Sponsor: Senators Fisher & Kelly
Requestor: _____

Agency Affected: DH&SS
BRU: Youth Services
Components: Probation Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
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TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

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Prepared by: Russ Webb Phone: 465-3170
Division: Family and Youth Services Date: _____

Approved by Commissioner: [Signature] Date: 2/20/90
Agency: _____

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- Legislative Finance
- Legislative Sponsor
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Changes in CS SSSB 358 (JAD)
have no fiscal impact.
This fiscal note is
appropriate.

CK

page 2

FISCAL NOTE - CSSSSB 358
Department of Public Safety
(Analysis - Page 2 of 2)

This bill would allow the fingerprinting of juveniles age 14 or older who are arrested for criminal offenses. These fingerprints would be compared with latent (crime scene) prints contained in the Alaska Automated Fingerprint Identification System (AAFIS).

This bill should have a positive impact on the ability of police to solve cases involving juvenile offenders. A large percentage of theft and burglary offenses are committed by juveniles. Fingerprint evidence is frequently found at the scene of these offenses, but is not matched to any suspect because juveniles are not fingerprinted. AAFIS records indicate that a large number of theft and burglary offenses are cleared when adults are arrested and their fingerprints matched to latents from crimes committed when the offender was a juvenile. Had these persons been fingerprinted as juvenile offenders they could have been identified, clearing additional cases and enabling the court to consider the offender's complete conduct when deciding the disposition of a case.

Existing AAFIS staff are not able to keep current with their present workload. Additional funding is required in Personal Services to increase the staff months of a part-time position approved for this unit for FY91 under a fiscal note for HB 52 (Chp 7 SLA 1990). The increased workload expected as a result of this bill is estimated as follows:

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Total time to complete 15 processing steps	-	436 hrs

Clerk IV - Range 9A (3.5 months)

Salary	\$6,059
Benefits	<u>2,999</u>
Total Salary & Benefits	\$9,058

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSSSB 358 (Jud)(b)
PUBLISH DATE: 2/27/90

FISCAL NOTE

REQUEST:

Revision Date: 2/23/90
Title: An Act Relating to the
Fingerprinting of Minors
Sponsor: Sen. Fischer
Requestor: Senate Judiciary

Agency Affected: Public Safety
BRU: DPS Statewide Support
Component: AK Criminal Records
& ID

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	9.1	9.1	9.1	9.1	9.1	9.1
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	9.1	9.1	9.1	9.1	9.1	9.1

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

GENERAL FUND	9.1	9.1	9.1	9.1	9.1	9.1
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	9.1	9.1	9.1	9.1	9.1	9.1

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

The Records and Identification Section operates the Alaska Automated Fingerprint Identification System (AAFIS) and maintains criminal history record information used by police and other criminal justice agencies.

(continued on attached)

Prepared by: Ken Bischoff Phone: 465-4336
Division: Administrative Services Date: 02/26/90
Approved by Commissioner: Arthur English Date: 02/26/90
Agency: Department of Public Safety

FISCAL NOTE - CSSSSB 358
Department of Public Safety
(Analysis - Page 2 of 2)

This bill would allow the fingerprinting of juveniles age 14 or older who are arrested for criminal offenses. These fingerprints would be compared with latent (crime scene) prints contained in the Alaska Automated Fingerprint Identification System (AAFIS).

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Benefits		<u>2,999</u>
Total Salary & Benefits		\$9,058

FISCAL NOTE

REQUEST:

Revision Date: 4/10/90
Title: An Act Relating to the
Fingerprinting of Minors
Sponsor: Sen. Fischer
Requestor: Senate Finance

Agency Affected: Public Safety
BRU: DPS Statewide Support
Component: AK Criminal Records
& ID

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	9.1	9.1	9.1	9.1	9.1	9.1
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		9.1	9.1	9.1	9.1	9.1

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

GENERAL FUND	9.1	9.1	9.1	9.1	9.1	9.1
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	9.1	9.1	9.1	9.1	9.1	9.1

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

The Records and Identification Section operates the Alaska Automated Fingerprint Identification System (AAFIS) and maintains criminal history record information used by police and other criminal justice agencies.

(continued on attached)

Prepared by: Ken Bischoff
Division: Administrative Services

Phone: 465-4336
Date: 04/10/90

Approved by Commissioner: S.A.H. Arthur English
Agency: Department of Public Safety

Date: 04/10/90
Page 1 of 2

Ken
4/10/90

FISCAL NOTE - CSSSSB 358 (Fin)
Department of Public Safety
(Analysis - Page 2 of 2)

This bill would allow the fingerprinting of juveniles age 14 or older who are arrested for criminal offenses. These fingerprints would be compared with latent (crime scene) prints contained in the Alaska Automated Fingerprint Identification System (AAFIS).

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Clerk IV - Range 9A (3.5 months)		
Salary		\$6,059
Benefits		<u>2,999</u>
Total Salary & Benefits		\$9,058

Original sponsor(s): SEN. FISCHER, Kelly

1 IN THE SENATE BY THE HESS COMMITTEE
2 HOUSE CS FOR CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 358 (HESS)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to fingerprinting of minors; and
7 providing for an effective date."

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

9 * Section 1. INTENT. It is the intent of the amendment made to AS 44.-
10 41.025(c) by sec. 2 of this Act that, consistent with the current manner of
11 managing the Alaska automated fingerprint system, the commissioner of
12 public safety manage and strictly limit use of the fingerprints of minors
13 taken under AS 47.10.097 for purposes of identification. The commissioner
14 may not maintain those fingerprints for the purpose of developing or aug-
15 menting a criminal record for the minor.

16 * Sec. 2. AS 44.41.025(c) is amended to read:

17 (c) The department may enter into the Alaska automated finger-
18 print identification system the fingerprints of a minor whose finger-
19 prints are taken under AS 47.10.097. The commissioner of public
20 safety shall assure that fingerprints entered into the Alaska auto-
21 mated fingerprint system under AS 47.10.097 are not cross-referenced
22 with a record showing that the minor has been arrested or adjudicated
23 a delinquent.

24 * Sec. 3. AS 47.10.097(a) is amended to read:

25 (a) Except as provided in (b) of this section, a minor in the
26 custody of the department or of a law enforcement agency may not be
27 fingerprinted for reference to or entry into the Alaska automated
28 fingerprint system without a court order upon good cause shown. Good
29 cause exists if the minor is in custody for an offense that is a

1 felony or if identification of the minor is necessary for the safety
2 of the minor or of other persons.

3 * Sec. 4. AS 47.10.097(b) is amended to read:

4 (b) A law enforcement officer may fingerprint a minor who is 14
5 [16] years of age or older for reference to or entry into the Alaska
6 automated fingerprint system without a court order when the minor is
7 arrested [CONVICTED OF, OR ADJUDICATED A DELINQUENT] for [,] an of-
8 fense that is a felony.

9 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801
907-463-3600

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

Mary Van Nimwegen

SB 372

H. HESS

-1/3/90

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 23, 1990

FURTHER REFERRALS:

FILANCE

Date of Committee Action: 4/3/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: SB 372

SENATE BILL NO. 372 EXTEND BD OF NURSING HOME ADMINISTRATORS

"An Act continuing the existence of the Board of Nursing Home Administrators; and providing for an effective date."

RECOMMENDATIONS:

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

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): _____
(Dept)

APPROVES PREVIOUS: _____
(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) 1/8/90 IXEN
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not Pass No Rec Amend

[Handwritten signatures]

Patricia Jones

Mark Boyer

[Signature]

	Do Not Pass	No Rec	Amend

[Handwritten signature]

Chairman's Signature



372

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to continue the existence of the Board of Nursing Home Administrators (AS 08.70) for four years. Under current law, the board is scheduled to "sunset" June 30, 1990 (AS 08.03.010(c)(9)). There is a "wind-down" period of one year under AS 08.03.020.

If the board is allowed to "sunset," Alaska could not comply with federal law. 42 U.S.C. 1395i-3(e)(4) requires the state to implement and enforce skilled nursing facility administrator standards developed by the secretary of the United States Department of Health and Human Services. Under AS 08.70.050(a) and (b), the Board of Nursing Home Administrators is responsible for adopting regulations setting standards for the licensing of nursing home administrators and adopting regulations "necessary . . . to meet the requirements" of Title 19 of the Social Security Act (42 U.S.C.).

Furthermore, the board's responsibilities have been somewhat increased by amendments to 42 U.S.C. 1396 contained in the Omnibus Budget Reconciliation Act ("OBRA") of 1987 (P.L. 100-203), which established stricter criteria for the federal certification and licensing of nursing homes. Compliance with OBRA is necessary in order for nursing homes to continue to receive federal reimbursement for services provided for their medicaid-eligible residents.

The Board of Nursing Home Administrators is responsible for maintaining a high standard of skill for those who administer our state's nursing homes. Many of our senior citizens rely on nursing homes for their care, and nursing home administrators serve a critical function in assuring that this care is of the highest caliber.

Our senior citizens deserve the very best care possible, and I believe that the board's activities in administering, implementing, and enforcing our nursing home administrator laws are essential. I urge your prompt and favorable consideration of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written in a cursive style.

Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
 Title: An Act continuing the existence of BRU: Occupational Licensine
the Board of Nursing Home Administrators;...
 Sponsor: Rules Committee Components: Admin., Boards, Inv.
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Funding for continuation of the Board of Nursing Home Administrators is included in the department's FY 91 operating budget request. For information purposes only, attached shows the division's FY 91 budget allocation for the Board of Nursing Home Administrators.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: January 3, 1990

Approved by Commissioner: Larry Mercurieff Date: 4 Jan 90
 Agency: Commerce and Economic Development

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. _____

DIVISION OF OCCUPATIONAL LICENSING
FY 91 Budget Allocation for the Board of Nursing Home Administrators

PERSONAL SERVICES	\$ 6.7
TRAVEL	1.1
CONTRACTUAL SERVICES	1.6
SUPPLIES	<u>.1</u>
Total Allocation	\$ 9.5

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3 7 4

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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Mary Van Nimwegen

SB 374

H. HESS

5/2/90

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 27, 1990

FURTHER REFERRALS:

Date of Committee Action: 5/2/90

The HESS Committee considered:

CSSB 374 (JUDICIARY)

CS SB NO. 374 (Jud)

DEFINITION OF ALCOHOLIC BEVERAGES

"An Act amending the definition of 'alcoholic beverage'; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] a new title
[] have attached amendment(s)
[X] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
[] zero fiscal note _____
[] zero with analysis _____

- [] fiscal note(s) _____
2 [X] zero fiscal note(s) 3/2/90 / Rev. Ops
[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass
No Rec
Amend

J. Ellis
W. J. Chambers
Mark Boyer
George J.

	Do Not Pass	No Rec	Amend
<i>Cheri Davis</i>		X	

J. Ellis
Chairman's Signature

HOUSE COMMITTEE REPORT

4/27

(5)

Date Referred: March 12, 1990

FURTHER REFERRALS:

Date of Committee Action: 4/27/90

HESS

The COMMUNITY & REGIONAL AFFAIRS Committee considered: CSSB 374 (JUD)

CS SB NO. 374 (Judiciary) DEFINITION OF ALCOHOLIC BEVERAGES

"An Act amending the definition of 'alcoholic beverage'; and providing for an effective date."

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

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

-] fiscal impact
-] zero fiscal note *Printed in the Senate*
-] zero with analysis'

APPROVES PREVIOUS:

-] fiscal note(s) published:
-] zero fiscal notes(s) published:
Our Safety & Rec 3/2/90

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Eileen P. McKeon Maclean

Eugene A. Kubina Kubina

Cheri Davis C. DAVIS

Eileen P. McKeon

Chairman's signature

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

374

January 8, 1990

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that amends the definition of "alcoholic beverage" in AS 04. The bill will resolve a difficulty that has arisen in connection with prosecuting certain local-option law violations.

In 1986, the legislature amended the definition of "alcoholic beverage" to mean fermented or distilled beverages that contained any amount of alcohol. Section 10, ch. 80, SLA 1986. This created an inconvenience with respect to the distribution of so-called "non-alcoholic" beverages which, in reality, contain some trace amounts of alcohol. The 1986 definition had the practical effect of limiting the distribution of "non-alcoholic" beverages to establishments that had liquor licenses issued under AS 04. This difficulty was resolved by CSHB 181(Jud), enacted in 1989, which changed the definition of "alcoholic beverage" to mean fermented or distilled beverages that contain one-half of one percent or more of alcohol by volume, whether produced commercially or privately. Section 2, ch. 88, SLA 1989.

An unintended difficulty was created in that definition amendment. In areas that have voted, under AS 04.11.498, for example, to completely ban the possession of alcoholic beverages, the criminal division of the Department of Law has recognized that practical problems arise in prosecuting individuals who violate the law by producing "homebrew" alcoholic beverages. For example, if law enforcement officers seize a vat of homebrew as evidence and ship a sample to the state crime laboratory for analysis to determine the percentage of alcohol, fermentation of the

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: Definition of Alcohol BRU: Alaska State Troopers
 Sponsor: Rules Committee Component: _____
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	'94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Enforcement of the changes made in this bill is not expected to have any fiscal impact on the State Troopers.

Changes in CS SB 374 (Juo) have no fiscal impact. This fiscal note is appropriate. *CK*

Prepared by: Gavle A. Horetski, Deputy Commissioner Phone: 465-4322
 Division: Commissioner's Office Date: 11/02/89

Approved by Commissioner: *AE* Arthur English Date: 11/02/89
 Agency: Department of Public Safety

CORRECTION

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

STEVE COWPER
GOVERNOR



374

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 8, 1990

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that amends the definition of "alcoholic beverage" in AS 04. The bill will resolve a difficulty that has arisen in connection with prosecuting certain local-option law violations.

In 1986, the legislature amended the definition of "alcoholic beverage" to mean fermented or distilled beverages that contained any amount of alcohol. Section 10, ch. 80, SLA 1986. This created an inconvenience with respect to the distribution of so-called "non-alcoholic" beverages which, in reality, contain some trace amounts of alcohol. The 1986 definition had the practical effect of limiting the distribution of "non-alcoholic" beverages to establishments that had liquor licenses issued under AS 04. This difficulty was resolved by CSHB 181(Jud), enacted in 1989, which changed the definition of "alcoholic beverage" to mean fermented or distilled beverages that contain one-half of one percent or more of alcohol by volume, whether produced commercially or privately. Section 2, ch. 88, SLA 1989.

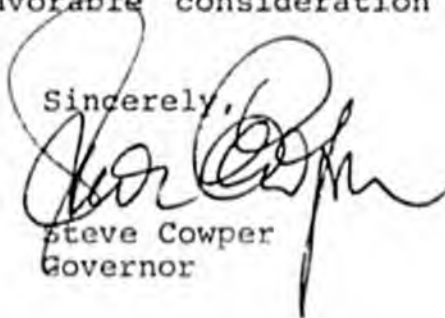
An unintended difficulty was created in that definition amendment. In areas that have voted, under AS 04.11.498, for example, to completely ban the possession of alcoholic beverages, the criminal division of the Department of Law has recognized that practical problems arise in prosecuting individuals who violate the law by producing "homebrew" alcoholic beverages. For example, if law enforcement officers seize a vat of homebrew as evidence and ship a sample to the state crime laboratory for analysis to determine the percentage of alcohol, fermentation of the

beverage would continue during the shipment and until the time of analysis. The rate of fermentation is not constant and varies for each vat of homebrew, and it would be very difficult to determine the percentage of alcohol at the time of seizure. As a result, prosecution of offenders for possession of homebrew in such a local-option area is difficult if the "threshold" level of alcohol in an "alcoholic beverage" is anything other than zero percent. If an "alcoholic beverage" is one that contains any amount of alcohol, "homebrew" prosecutions in such local option areas would be relatively simple because additional fermentation occurring between the time of seizure and the time of laboratory analysis would be irrelevant. It would be sufficient to prove that the homebrew contained alcohol in any amount.

For local-option areas, the attached bill creates an exception to the "general" definition of "alcoholic beverage." In such areas, any fermented or distilled beverage containing alcohol in any amount, whether produced commercially or privately, constitutes an "alcoholic beverage." To be consistent with the apparent intent of AS 04.21.015, relating to private manufacture of alcoholic beverages, this definition will apply in areas that have adopted any of the local-option prohibitions under AS 04.11.490 -- 04.11.500.

I urge your prompt and favorable consideration of this bill.

Sincerely,



Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Definition of Alcohol

Agency Affected: Public Safety
BRU: Alaska State Troopers

Sponsor: Rules Committee
Requestor: Governor

Component: _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Enforcement of the changes made in this bill is not expected to have any fiscal impact on the State Troopers.

Changes in CS SB 374 (Jul) have no fiscal impact. This fiscal note is appropriate. *CK*

Prepared by: Gayle A. Horetski, Deputy Commissioner
Division: Commissioner's Office

Phone: 465-4322
Date: 11/02/89

Approved by Commissioner: *AE* Arthur English
Agency: Department of Public Safety

Date: 11/02/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Amend definition of alcoholic beverage and provide an effective date
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Dept. of Revenue
BRU: Alcoholic Beverage Control Board
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Patrick L. Sharrock, Director
Division: Alcoholic Beverage Control Board
Approved by Commissioner: [Signature]
Agency: Department of Revenue

Phone: 277-8638
Date: October 31, 1989
Date: Nov 3, 1989

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

Changes in CSSB 374 (Ju)
have no fiscal impact.
This fiscal note is
appropriate.

CAC

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

REPLY TO

X CRIMINAL DIVISION CENTRAL OFFICE
P.O. BOX KC
JUNEAU, ALASKA 99811-0310
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 278-7424

April 26, 1990

The Honorable Eileen P. MacLean
Alaska State Representative
P.O. Box V
Juneau, Alaska 99811

Re: CSSB 374(Jud) -- definition of
"alcoholic beverage"

Dear Representative MacLean:

Yesterday your legislative assistant, Rena Bukovich, asked that we provide you with an explanation of why the Governor introduced SB 374, a bill that redefines the "alcoholic beverage." As set out in the Governor's transmittal letter, the bill was introduced to correct an unintended problem that was caused by the new definition of "alcoholic beverage" that was adopted last year in CSHB 181(Jud). In order to understand the Governor's concern, it is useful to consider why, prior to passage of last year's law, the definition of "alcoholic beverage" applied to beverages intended for human consumption that contained any amount of alcohol.

Before 1986, communities had the authority to ban the sale or importation, but not the possession, of alcoholic beverages. During extensive committee hearings on whether legislation to ban possession should be considered, many rural residents testified that people circumvented bans on importation by manufacturing homebrew. In part, horror stories about the abusive use of homebrew led to the legislative decision that allowed communities to ban possession of alcohol. To make the law banning possession of alcoholic homebrew enforceable, the definition of "alcoholic beverage" was amended in 1986 to include any substance intended for human consumption that contained alcohol.

For prosecutions under the definition of "alcoholic beverage" that passed during the 1989 session, the state is required to prove that a beverage contained more than 0.5% by volume of alcohol at the time of possession. In cases involving commercially produced alcoholic beverages, proof of percent of alcohol by volume is simple. In contrast, proving the percent of

The Honorable Eileen P. MacLean

April 26, 1990
Page 2

alcohol in homebrew at one particular point in time is more difficult.

For example, if law enforcement officers seized a vat of homebrew as evidence and shipped a sample to the state crime laboratory for analysis of the percent of alcohol, fermentation of the beverage would continue during shipment and until analysis. Further, the rate of fermentation is not constant and varies for each vat of homebrew. As a result, if the definition of alcoholic beverage includes a threshold level of anything other than 0.0% alcohol by volume, prosecution of offenders for possession of homebrew in local option areas will be more difficult.

The current definition of alcoholic beverage weakens local option laws banning possession of alcohol, and may undercut the state's ability to prosecute local option violations based on possession of homebrew. As a result, in order to make local bans on the possession of alcohol enforceable, the governor introduced SB 374 to clarify that in local option areas, it is not necessary to prove the percent of alcohol that is contained privately produced alcoholic beverages.

Please let me know if I can provide you with any additional information about CSSB 374 (Jud).

Very truly yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By: 

Laurie M. Otto
Assistant Attorney General

LHO:me-198

en
er

s
d

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

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

Mary Van Nimwegen

SB 375

H. HESS

3/22/90

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 22, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 3/22/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: SB 375

SENATE BILL NO. 375

EXTEND ALCOHOLIC BEVERAGE CONTROL BOARD

"An Act continuing the existence of the Alcoholic Beverage Control Board; and providing for an effective date."

RECOMMENDATIONS:

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

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) 1/8/90 / Revenue
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Mark Bayum

Chris Davis

	Do Not Pass	No Rec	Amend

J. H. Ellis

Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Continue existence of the
Alcoholic Beverage Control Board
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Dept. of Revenue
BRU: Alcoholic Beverage Control
Board
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	618.8	618.8	618.8	618.8	618.8	618.8
TRAVEL	43.7	43.7	43.7	43.7	43.7	43.7
CONTRACTUAL	68.1	68.1	68.1	68.1	68.1	68.1
SUPPLIES	7.8	7.8	7.8	7.8	7.8	7.8
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	738.4	738.4	738.4	738.4	738.4	738.4

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	1,729.0	1,729.0	1,729.0	1,729.0	1,729.0	1,729.0
---------	---------	---------	---------	---------	---------	---------

FUNDING: (Thousands of Dollars)

GENERAL FUND	738.4	738.4	738.4	738.4	738.4	738.4
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	738.4	738.4	738.4	738.4	738.4	738.4

POSITIONS:

FULL-TIME	12	12	12	12	12	12
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS : (Attach a separate page if necessary)

Revenue projections and operating costs are contained in the proposed operating budget and revenue projections submitted by the Alcoholic Beverage Control Board for FY 91.

Prepared by: Patrick L. Sharrock, Director
Division: Alcoholic Beverage Control Board

Phone: 277-8638
Date: _____

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: 12.21.89

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

SUNSET

Under sunset statutes the board expires on June 30, 1990. Unless the board is extended during the 1990 legislative session, this budget reflects estimated costs for the board's operations to terminate its affairs by June 30, 1991.

Under the 21st amendment to the federal constitution all 50 states have chosen to regulate alcoholic beverages at the state, and not the local level. The purpose of state regulation/control is to provide a system for enforcing laws which authorize approved responsible persons to sell and distribute alcohol to the public. Alcohol, if reasonably consumed, is not dangerous. Responsible distribution is an essential step in helping to insure responsible consumption by the public.

Alaska at one time granted issuance of liquor licenses to local governments. This delegation led to an overabundance of licenses in a number of Alaskan communities. If local governments were to establish local controls by ordinance, laws would vary from city to city and confuse the public. Local governments, under current statute, have an ability to impose controls consistent with state law and provide valuable input to the board on licensing matters. However, with few exceptions, cities and boroughs have chosen to develop controls that only assure collection of revenues.

If Alaska abandoned its current system of state level control in favor of local level control, it is inevitable that distribution of alcohol in some locations would be taken over by powerful interests who, unfortunately, have been known to exert undue control over the local governing body. It is essential, therefore, that control be retained at the state level where the administrators are less susceptible to undue and improper local political pressures.

Without some form of control over alcoholic beverages, sale and distribution would be rapidly overtaken by unscrupulous operators who are not held responsible for placing public interest above self-interest. The board has taken action against several such unscrupulous licensees over the years.

If Alaska's alcoholic beverage control board were to be discarded, current liquor licenses would terminate on December 31, and alcohol could not be legally sold thereafter because no organization would exist to administer the law. Repeal of present state law would allow indiscriminate sale/distribution within Alaska i.e. to underage persons, drunken persons, and in villages which have a stated preference to ban sale or importation of alcohol and promote other activities contrary to the public interest. Neither approach would be acceptable to the public or in the public interest.

An independent quasi-judicial organization is necessary to review and administer the conduct of sellers of alcoholic beverages in view of the public interest, and in light of the serious social ills that follow when alcohol is not distributed responsibly.



375

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 8, 1990

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to continue the existence of the Alcoholic Beverage Control Board for four years (AS 44.66.010(c)). Under current law, the board is scheduled to "sunset" June 30, 1990 (AS 44.66.010(a)), and will go into its "wind-down" year under AS 44.66.010(b).

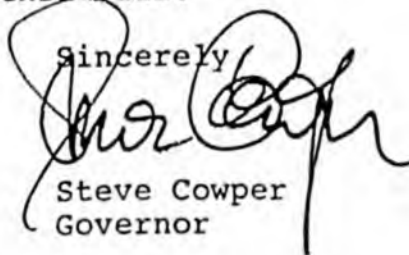
If the board is allowed to "sunset," many of the liquor control laws in AS 04 could not be implemented or enforced by the state, although municipalities could, under AS 04.21.010, adopt their own liquor control ordinances. Virtually all states, however, regulate the sale of alcohol at the state level, with some input from local authorities. Such a system avoids situations in which locally powerful special interests could exert undue influence over local officials who might be more vulnerable to such pressure than would a state-level administrative body.

Policing liquor vendors is a critical government function given the grave social ills that result when liquor is not responsibly dispensed. Alaska has experienced much grief brought on by unscrupulous liquor vendors. In view of the tremendous profitability of liquor sales, a system of exclusive local control could too often result in liquor licensing decisions being made for financial reasons, at the expense of the public interest. At one time, Alaska liquor licenses were issued at the local level; an overabundance of licenses resulted in many locations.

Additionally, local control would very likely mean inconsistency in regulation from area to area, which would confuse the public and make enforcement difficult in the court system.

In light of the alcohol abuse problems that exist now in our state, I believe that the board's activities in administering, implementing, and enforcing our liquor control laws are essential. I urge your prompt and favorable consideration of this bill.

Sincerely

A handwritten signature in black ink, appearing to read "Steve Cowper". The signature is written in a cursive style with a large, looping initial "S".

Steve Cowper
Governor

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

June 30, 1989

Audit Control Number

04-1374-90-R

Commissioner, Department
of Revenue

Hugh Malone

Deputy Commissioner,
Department of Revenue

Milton B. Barker

Assistant Commissioner
Department of Revenue

Royce Weller

Members of the
Alcoholic Beverage Control Board

Chairman
Vice-Chairman
Member
Member
Member

Michael W. Gordon
Robert J. Klein
Andy Durny
Jane C. Perkins
Richard Stitt

STATE OF ALASKA

THE LEGISLATURE BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
PO. BOX W
JUNEAU, ALASKA 99811-3300

September 26, 1989

Members of the Legislative Budget
and Audit Committee:

According to the provisions of Titles 24 and 44 of the Alaska Statutes, the Division of Legislative Audit is required to conduct a "Sunset" review of the Alcoholic Beverage Control Board.

At the request of the Chairman, the Audit Division's budget was revised in Fiscal Year 1988 to reflect certain changes in the organization of the Committee's two Divisions. The revised budget of the Audit Division reflected efficiencies that might be obtained by utilizing the staff of the Legislative Finance Division on selected audit assignments during the interim.

As a result, this report has been prepared by the Legislative Finance Division. We feel the audit examination conducted by Legislative Finance and the accompanying report discharges our responsibility under Titles 24 and 44. The report is submitted for your review.



Randy S. Welker, CPA
Legislative Auditor
Division of Legislative Audit

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
P.O. BOX WF
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

September 26, 1989

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and 44 of the
Alaska Statutes, the attached report is submitted for your
review.

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

June 30, 1989

Audit Control Number

04-1374-90-R



Mike Greany, Director
Division of Legislative Finance

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PURPOSE AND SCOPE OF THE REPORT

Purpose

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

Legislative intent requires consideration of this report during legislative hearings to determine whether the ABC Board should be reestablished. The law now specifies that the Board will terminate June 30, 1990 and has one year from that date to conclude its affairs.

Scope

The major areas of our examination were: licensing, inspections, investigations and administrative functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Tests of files and documents of licenses.
3. Interviews with the staff of the ABC Board.
4. Complaints filed with the Attorney General's office and the Ombudsman's office.
5. Discussions with Board members.
6. Minutes of Board meetings and Board correspondence files.
7. Attorney General opinions and advisements applicable to the Board.
8. Surveys submitted to law enforcement agencies and municipalities.

ORGANIZATION AND FUNCTION

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

Members are appointed for three-year terms by the Governor and are subject to confirmation by the Legislature. Membership is specified by statute to five persons (two liquor industry representatives and three non-industry representatives). A director, serves as executive officer and is responsible for enforcement of Title 4 liquor laws and regulations. Under the direction of the Board, the director is capable of issuing, renewing, transferring, revoking or suspending licenses or permits.

Title 4 prescribes the type of licenses, fees, and specific activities allowed under each license classification. The availability of licenses throughout the State is determined by the population within designated areas. For calendar year 1988, a total of 1,762 licenses were issued.

The staff of the ABC Board is divided into three major functions: administration, licensing, and enforcement. The following narratives briefly describe the services provided within the three functions.

Administration. The director of the ABC Board has the responsibility of managing the administrative support for the Board. The responsibilities consist of: overseeing all staff work, preparing budget documents, directing the preparation and implementation of administrative and public hearings, and directing special enforcement investigations.

Licensing. The licensing staff is responsible for processing application forms, maintaining records and files for all licenses, collecting fees and answering inquiries from the general public on routine licensing matters.

Enforcement. The ABC Board currently employs six investigators - four operating from the Anchorage central office and one each operating in the Fairbanks and Juneau field offices. Investigative duties consist of: surveillance and inspections of licensed premises for suspected licensing violations, public appearances relating to ABC laws and regulations, and responding to inquiries from the general public.

REPORT CONCLUSION

Policy Issues

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

Implementation of Prior Audit Recommendations

In order to operate in a more efficient and effective manner, the ABC Board incorporated administrative procedures or promulgated regulations to implement the recommendations in the prior Sunset audit, dated August 25, 1985.

Report Conclusions

In our opinion, the ABC Board should be reestablished. Title 4 of the Alaska Statutes established the ABC Board to control the manufacture, barter, possession, and sale of alcoholic beverages in the State in order to protect the public's health, safety, and welfare. Protection of the public's health, safety and welfare is provided by the Board through active investigation of complaints and revocation or suspension of licenses when appropriate.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Department of Revenue, Income and Excise Audit Division and the Alcoholic Beverage Control Board (ABC Board) should coordinate more on matters relating to revenue sharing and compare records of liquor license files to ensure that revenues collected for licenses are shared with municipalities in accordance with the law.

As required by AS 04.11.610, annual liquor license fees (excluding annual wholesale license fees and miscellaneous permits) collected from businesses operating within the boundaries of a municipality shall be refunded to the municipality. The only requirement is that the municipality enforce laws and regulations relating to the sale and manufacture of alcoholic beverages.

The Department of Revenue, Income and Excise Audit Division (hereinafter referred to as the Division) provides administrative support to the ABC Board relative to revenue sharing. The Division obtains a copy of each liquor license from the staff of the ABC Board. Based upon information on the license, a clerk posts a record of the license to a written schedule for each municipality. During December and June of each year, the Department refunds an amount based upon the number and type of licenses for each municipality.

However, there has never been a comparison of records between the Division's revenue sharing accounts and liquor licenses of the ABC Board. Since there is no comparison of records or coordination of administrative effort, the potential exists for a material error or irregularity to occur and it would not be found during the normal administrative processing of revenue sharing.

In the course of our review, several items came to our attention which can be attributed to the lack of coordination between the agencies. Contrary to law, miscellaneous permits have been shared with municipalities; conversely brewery and distillery licenses have not been shared. In addition, Division personnel have stated that their records indicate that certain liquor license fees have not been shared with municipalities.

To determine if revenue is accurately shared with municipalities we used as a test sample the FY89 license and shared revenue records of four municipalities. For three of the four communities we found a number of discrepancies. Although the items are not material in value, it demonstrates how an error or irregularity could occur and it would not be discovered during the course of conducting business.

Anchorage - Fees relating to miscellaneous permits (\$2,400) were erroneously shared. The Division's records did not indicate that two liquor licenses totaling \$600 were shared. The revenue associated with a distillery license had not been shared (\$500).

Fairbanks - Fees for miscellaneous permits (\$350) were incorrectly disbursed to municipalities.

Juneau - Fees associated with miscellaneous permits (\$650) were incorrectly shared. The Division's own records indicate that a liquor license fee of \$400 was not shared. The brewery license fees have never been shared with the municipality (\$500 annually).

Because of the discrepancies disclosed in the previous paragraphs, the disbursement of revenue to other municipalities in FY89 and previous fiscal years should be reviewed. According to AS 04.11.610 (c), the Department of Revenue is required to recover any revenue erroneously shared. If during the review the Department finds that a municipality was not refunded the total amount due, the Department should request a special appropriation to fund the disbursement to the municipality.

The municipalities hold in trust and confidence that liquor license revenues will be accurately shared. Therefore, the Division and the ABC Board should coordinate more on matters relating to revenue sharing and develop a means of cross checking the amount of revenues shared with municipalities and the number of licenses issued by the ABC Board.

Recommendation No. 2

The ABC Board should reconsider the issuance of recreational site liquor licenses to businesses engaged in selling meals to tourists.

The recreational site license allows the holder to sell beer and wine at a recreational site during and one hour before and after a recreational event. Furthermore, AS 04.11.210 (c), reads as follows:

"In this section, recreational site means, but is not limited to, a location where baseball games, hockey games, dog sled racing events, or curling matches are regularly held during a season."

Complicating the issuance of recreational site licenses is the fact that the Board has issued three recreational site licenses to enterprises whose primary business is selling meals/beverages to tourists during the summer months. One of the licenses issued has been returned to the Board and the business is now operating under a beverage dispensing license. The remaining two licenses are currently active.

The issuance of a recreational site license has been the subject of an Attorney General's memorandum on the type of activities that would qualify for recreational site license.

The Attorney General in a memorandum dated February 3, 1983 stated:

"The activities listed in AS 04.11.210 (c) are distinctly and exclusively athletic in nature. Note that the statute specifies that the athletic event, whatever it may be, must be held regularly and during a season. Both qualifiers evince a legislative intent to confine recreational site licenses to athletic events only."

It is our opinion that it is not the intent of the statute to issue a recreational site license to an enterprise whose primary business purpose is selling meals/beverages to tourists. These businesses are similar to a restaurant operation and the Board should re-license them under the public convenience license statute which would allow them to continue to sell beer and wine. While the Board did not act illegally or grossly improper in issuing these as recreational rather than public convenience licenses, it is our fear they could be cited as precedences for patently questionable operations. Further, the Board should reconsider the criteria for issuing recreational site licenses and establish the necessary regulations to ensure that the intent of the statute is complied with.

ANALYSIS OF PUBLIC NEED

Limited Analysis

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

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

The health, safety, and welfare of the public is protected by the Board through active investigation of complaints and revocation or suspension of licenses when appropriate.

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

A large number of respondents to the enforcement agency questionnaire (Appendix D) indicated a need for more investigators. Including the supervisory agent, there are presently six agents available for inspecting and investigating 1,762 licensed premises. In addition, the enforcement section does not have clerical support.

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

Senate Bill No. 157, which was introduced by the Governor during the first session of the Sixteenth Legislature, amends AS 04.11 by imposing a civil fine for the violation of a statute, regulation, or ordinance related to alcoholic beverages.

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

The Board has met at least seven times for fiscal years 1988 and 1989. During each fiscal year, the Board has held meetings in each of the four judicial districts. Each meeting has been adequately advertised and open to the public.

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

As noted in number IV the board has provided an adequate forum for obtaining input from the public.

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

Since July 1985, ten complaints have been filed with the Ombudsman's Office concerning Board activity. Only one of these complaints, alleging "conflict of interest" by a board member, was found to be justified. Subsequent to this infraction, the Board has been cognizant of situations that may be construed as a conflict of interest.

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

Our review of licenses issued by the Board consisted of determining whether the licensees met statutory qualifications. The review disclosed no material infractions of the law.

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

No discrepancies were noted in this area during our review of the Board.

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

The Board has discussed the possibility of proposing legislation that would require a biennial renewal of most liquor licenses, rather than annual. A biennial renewal would streamline the licensing process and lessen the workload of the administrative staff.

APPENDIXES

APPENDIX A

STATE OF ALASKA
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
REVENUE COMPARED WITH EXPENDITURES
Fiscal Years 1987, 1988, 1989
(Unaudited-See Note 1)

	<u>1987</u>	<u>1988</u>	<u>1989</u>
<u>Revenue</u> (See Schedule 1)	\$ 1,665,950	\$ 1,793,977	\$ 1,748,593
Less: Transfers to Municipalities (Note 2)	< 885,875>	< 884,517>	< 874,050>
<u>Net Revenue</u>	780,075	909,460	874,543
Less: Expenditures	< 570,646>	< 633,759>	< 690,124>
<u>Excess of Revenues Over Expenditures</u>	<u>\$ 209,429</u>	<u>\$ 275,701</u>	<u>\$ 184,419</u>

Schedule 1
Revenue Collected
(Note 2)

	<u>1987</u>	<u>1988</u>	<u>1989</u>
Liquor License Application	\$ 104,550	\$ 224,470	\$ 206,175
Common Carrier License	36,925	49,725	42,775
Retail Stock Sale	100	-0-	-0-
Wholesale General	127,100	126,100	116,000
Wholesale Malt Beverage	10,000	7,300	7,900
Pub License	400	400	400
Brewery License	500	1,000	1,000
Distillery License	-0-	-0-	1,000
Beverage Dispensary License	828,288	839,594	821,950
Club License	47,800	51,666	51,850
Recreational-Site License	4,800	5,400	5,400
Restaurant/Eating Place License	97,300	94,166	93,100
Package Store License	360,475	347,791	341,625
Miscellaneous (Note 3)	<u>47,712</u>	<u>46,365</u>	<u>59,418</u>
 <u>Total Revenues</u>	 <u>\$1,665,950</u>	 <u>\$1,793,977</u>	 <u>\$1,748,593</u>

The accompanying notes are an integral part of the above statement and schedule.

APPENDIX A (CONTINUED)

STATE OF ALASKA
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
NOTES TO STATEMENT OF REVENUE COMPARED
WITH EXPENDITURES AND SCHEDULE OF REVENUE COLLECTED

Note 1

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

Note 2

Revenues consist of receipts collected on various licenses, permits, and miscellaneous items. In accordance with AS.04.11.610, annual license fees (excluding wholesale license fees) collected within a municipality are to be refunded to the municipality. The amount of revenue transferred to municipalities is represented by a deduction from revenues, "Transfers to Municipalities". If a municipality fails to enforce laws relating to the manufacture or sale of alcoholic beverages or the licensed premises are located outside city limits, the annual license fee would not be shared with the municipality and would be deposited in the general fund. Other revenues that should be deposited in the general fund are those associated with permits, applications and wholesale licenses.

Note 3

The "miscellaneous" revenue account includes caterer's permit, special events permit, conditional contractor's permits, and restaurant caterer's dinner permit.

APPENDIX B

STATE OF ALASKA
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
NUMBER OF LICENSES BY CATEGORY
Calendar Years 1986, 1987, and 1988

<u>License Categories</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
Distillery	-0-	-0-	1
Brewery	1	2	2
Pub	1	1	1
Beverage Dispensary	699	698	690
Club	78	82	85
Common Carrier	139	144	150
Restaurant	322	320	317
Retail Store	492	488	475
Wholesale General	19	16	16
Wholesale Malt Beverage	8	8	7
Recreational-Site	<u>17</u>	<u>17</u>	<u>18</u>
<u>Total Licenses</u>	<u>1,776</u>	<u>1,776</u>	<u>1,762</u>

APPENDIX C

STATE OF ALASKA
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
DESCRIPTION OF LICENSES, PERMITS AND FEES

<u>DESCRIPTION</u>	<u>FEE</u>
Application Fee	\$ 100
Restaurant Designation Fee	50
Pub License	400
Brewery License	500
Distillery License	500
Brewpub License	250
Beverage Dispensary License-Half Year	625
Beverage Dispensary License-Tourism Half Year	625
Beverage Dispensary License	1,250
Beverage Dispensary License-Duplicate	1,250
Beverage Dispensary License-Tourism	1,250
Beverage Dispensary License-Tourism Duplicate	1,250
Beverage Dispensary License-Public Convenience	1,250
Beverage Dispensary License-Community License	1,250
Club License	600
Club License-Half Year	300
Common Carrier License	350
Common Carrier License-Half Year	175
Restaurant/Eating Place (Beer & Wine Only)	300
Restaurant/Eating Place (Beer & Wine Only)-Half Year	150
Restaurant/Eating Place (Beer & Wine Only)-Tourism	300
Restaurant/Eating Place (Beer & Wine Only)-Public Convenience	300
Theater License (Beer & Wine Only)	300
Package Store License	750
Package Store License-Tourism	750
Package Store License-Half Year	375
Package Store License-Community License	750
Retail Stock Sale License	100
Wholesale License-General (\$1,000 first \$100,000 of sales, plus \$500 on each additional \$50,000 of sales)	1,000
Wholesale License-Malt Beverage & Wine (\$200 first \$20,000 of sales, plus, \$300 on additional \$30,000 of sales and thereafter \$500 on each additional \$50,000 of sales)	200
Bottling Works License	250
Recreational Site License	400
Recreational Site License-Half Year	200
Winery License	250
Conditional Contractor's Permit	600
Caterer's Permit	50
Restaurant Caterer's Dinner Permit	50
Special Events Permit	50

APPENDIX D

SUMMARY OF QUESTIONNAIRE SENT TO STATE OF
ALASKA LAW ENFORCEMENT AGENCIES

1. Are you aware of the existence of the Board of Alcoholic Beverage Control (ABC), its operation and its role in the enforcement of ABC laws, rules and regulations?

Number of respondents commenting

- 20 Yes
 Enforcement role is not well known.
 1 Aware of Board but have never seen any enforcement.
 Not aware of its role in enforcement.

2. Do you feel the enforcement staff of the ABC Board complements, duplicates or conflicts with the efforts of your law enforcement personnel?

Number of respondents commenting

- 15 Complements
 Duplicates
 1 Conflicts
 3 None of the above.
 1 Other (please respond and cite specific instances)

Respondent Comments

In some cases it is the only source of regulation or enforcement there is.

The enforcement effort is so minor that it isn't worth noting. The Board is functioning more as a regulatory agency issuing licenses and issuing meaningless notices of violations.

Would compliment if enough unscheduled inspections were made on licensed premises.

We support additional funding for State-Wide enforcement.

3. Do you have a cooperative working agreement with the ABC Board enforcement staff, such as, sharing investigative information and notification of arrests made on licensed premises?

Number of respondents commenting

- No, never share information.
16 Yes, always share information.
 5 Occasionally, ABC is sent copies of liquor related arrests and reports.
 1 ABC is notified, but we never receive a response.

4. Are there any existing alcoholic beverage control laws or regulations that are obsolete, vague, unduly restrictive and/or inadequate?

Number of respondents commenting

11 No
8 Yes

Respondent Comments

AS 04.16.051(b)(1)

AS 04.11.410 The process of measuring should be the same for the State or City/Borough.

Serving intoxicated persons, intoxicated persons on premises.

License protests by local government should be considered an automatic denial by the Board.

It is extremely hard to take closure action against a license holder.

Minors being allowed inside a bar that doesn't serve food even accompanied by parent or guardian. Minors should not be allowed in a bar with persons drinking.

5. Any comments you would like to make?

Respondent Comments

I strongly recommend continuation of the ABC Board.

I would like to see additional staff "investigators" hired. ABC staff are surely understaffed.

Keep up the good work.

The most obvious is Sale To A Drunken Person. This needs to be changed in order for it to be an effective tool in dealing with the problem it was hoped to address.

They do a good job given the available staff.

If the Board is to continue they must become more active in enforcement.

Give them more investigators.

I think ABC fills a real need. It is badly understaffed, but does a good job with the resources it has. It's funding should be increased.

I would like to see the ABC Board personnel increased.
We need more enforcement on licensed premises by them.

I have called them on 2 occasions within the last 4
months and received prompt attention to the problems. I
am pleased with their service.

Recommend: State-Wide reduction of license beverage
hours of operation.

APPENDIX E

SUMMARY OF QUESTIONNAIRE
SENT TO MUNICIPALITIES

1. Is your city or borough given adequate notice by the Board of Alcoholic Beverage Control (ABC) of proposed issuances of new licenses and/or transfers of existing licenses?

Number of respondents commenting

Yes 33 No 2

2. Has your city or borough protested the issuance of a new or renewal of a license or the transfer of a license?

Number of respondents commenting

Yes 21 No 12

If yes, what criteria has the city or borough used to protest a license?

Typical Response

- A. Delinquent taxes.
- B. Too many liquor establishments.
- C. License not operated 30 days as required by law.
- D. Disapproval by police department.

3. Have protests lodged by the city or borough resulted in a hearing by the ABC Board or by a hearing officer appointed by the Governor?

Number of respondents commenting

Yes 12 No 12

4. Does the current system of notification/protest/hearing enable local government's opinions to be heard during the licensing process?

Number of respondents commenting

Yes 25 No 4

If not, should local governing bodies be
 4 more involved in the licensing process?
 less involved in the licensing process?

5. Are there existing alcoholic beverage control laws or regulations that are obsolete, vague, unduly restrictive and/or inadequate?

Number of respondents commenting

Yes 5 No 17

If yes, please cite the law or regulations.

Two "yes" respondents did not cite any specific laws or regulations that were obsolete, vague, unduly restrictive or inadequate. One respondent cited the Bottle Club law AS 04.16.090. Another respondent stated that there should be provisions for license suspension when taxes are unpaid. The last respondent cited the law limiting the number of licenses are too low for tourism towns.

6. What changes in the ABC Board's policies or alcoholic beverage control laws and regulations could be made that would enable your local governing body to better serve the public? (Please write in the space below.)

Typical Response

- A. More enforcement effort by ABC Board investigative staff and enforcement of AS 04.11.330(a)(3) - days of operation requirement.
- B. Repeal the population limitations on the number of liquor licenses allowed in a community.
- C. The ABC staff is very helpful and knowledgeable.
- D. The ABC Board's notification/protest/hearing process does not allow enough time for local governments to respond or it would be helpful to have more time.
- E. ABC Board hearings concerning local licenses should be held locally.
- F. The ABC Board should develop instructions to help municipalities understand their role in the licensing process.

7. Any comments you would like to make?

Typical Response

- A. The Board is needed and should be continued.
- B. The Board staff is always very helpful.
- C. The ABC Board should conduct more inspections of liquor establishments.

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

P.O. BOX 5
JUNEAU, ALASKA 99811-0400
PHONE: (907) 465-2300
TELEFAX: (907) 465-2389

October 2, 1989

Tom Sutton
Fiscal Analyst
Division of Legislative Finance
P.O. Box WF
Juneau, AK 99811-3300

Dear Mr. Sutton:

Following is our response to your Interim Letter No. 2 dated September 26, 1989 related to a review of the Alcoholic Beverage Control Board.

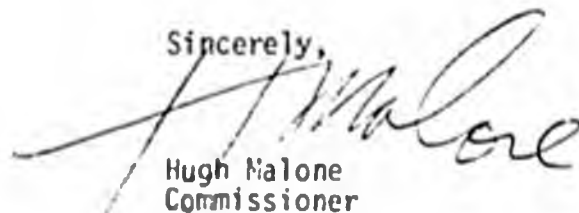
Recommendation No. 1

The Department of Revenue, Division of Income and Excise Audit Division and the Alcoholic Beverage Control Board (ABC Board) should coordinate more on matters relating to revenue sharing and compare records of liquor license files to ensure that revenues collected for licenses are shared with municipalities in accordance with the law.

The department agrees with your recommendation. I will ensure that staff personnel from both the ABC Board and the Income and Excise Audit Division work closely this year to coordinate on matters relating to revenue sharing of annual license fees collected by the ABC Board.

Although immaterial, I will ensure that Income and Excise Audit Division staff rectify amounts over or undershared with municipalities as pointed out, and that brewery and distillery license fees are shared in the future.

Sincerely,



Hugh Malone
Commissioner

HM:PED:m11
69-212

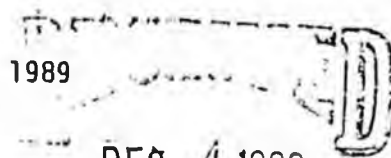
STEVE COWPER, GOVERNOR

DEPARTMENT OF REVENUE

550 W. 7TH AVE
ANCHORAGE, ALASKA 99501-6698

ALCOHOLIC BEVERAGE CONTROL BOARD

December 1, 1989



DEC 4 1989

LEGISLATIVE
AUDIT

Mr. Randy S. Welker, Legislative Auditor
P. O. Box W
Juneau, Alaska 99811-3300

RE: Response to audit report, A Performance Report on the Department of Revenue, Alcoholic Beverage Control Board June 30, 1989

Dear Mr. Welker:

Thank you for the courtesy of an opportunity to comment.

The board concurs with the report conclusion that the board is accomplishing its role to serve the public and the public interest. This conclusion is buttressed by the survey results from law enforcement agencies and municipalities in appendixes "D" and "E".

Comments from survey participants indicate a request that the board's investigative staff be increased to expand enforcement efforts and provide for greater presence at licensed premises. Having this support, the board will pursue additional funding for investigators in its FY 91 budget.

The following remarks respond to the specific recommendations:

Recommendation No. 1:

Agree. This issue is being resolved and a separate response will be submitted by the Commissioner of Revenue.

Recommendation No. 2:

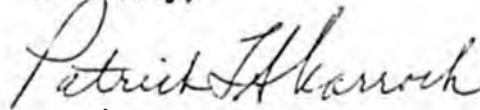
Disagree. Without going into a great deal of background detail, the recommended solution to a perceived problem could cause more difficulty than the situation warrants. In essence, the recommendation questions the board's interpretation/discretion regarding issuance of recreational site licenses.

December 1, 1989
Mr. Randy S. Welker, Legislative Auditor

The Alcoholic Beverage Control Board will discuss the matter upon issuance of the audit report.

If I can provide any additional information or clarification, please do not hesitate to let me know.

Sincerely,



Patrick L. Sharrock
Director, ABC Board
277-8638

PS/cl
cc: Hugh Malone, Commissioner of Revenue
ABC Board Members

CTS 89-244

S B

W 8 9

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

Mary Van Nimwegen

S13 389

H HESS

3/28/90

H. HESS

4/3/90

H HESS

4/17/90

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 21, 1990

FURTHER REFERRALS:

Date of Committee Action: 4/17/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: SSSB 389

SS SENATE BILL NO. 389

ADMISSION CRITERIA FOR PIONEERS' HOME

"An Act relating to the Pioneers' Home."

RECOMMENDATIONS:

- be replaced with HCS, SSSB 389 (HESS) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS: _____ (Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis 2/8/90 / DOA

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not Pass
No Rec
Amend

J. Ellis
Peter...
...
Cheri D...
Mark B...

	Do Not Pass	No Rec	Amend

J. Ellis
Chairman's Signature

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 7, 1990

FURTHER REFERRALS:

HESS

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

SSSB 389

SS SENATE BILL NO. 389

ADMISSION CRITERIA FOR PIONEERS' HOME

"An Act relating to the Pioneers' Home."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
- [] have attached amendment(s) [] a new title
- [X] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____

- [] fiscal note(s) _____
- [] zero fiscal note(s) _____
- [X] zero fn/analysis 2/8/90 - DOA

SIGNING DO PASS:

Wayne Venlet

Samuel M. ...

John ...

Lillian ...

Ch. C. ...

SIGNING:
(Check approp. column)

	Do Not Pass	No Rec	Amend

Ch. C. ...
Chairman's Signature

Item 2

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to the
Pioneers' Home"
Sponsor: Sen. Kerttula
Requestor: _____

Agency Affected: Dept. of Administration
BRU: Pioneers' Benefits

Components: Pioneers' Homes

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	FY92	FY93	FY94	FY95	FY96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Adding priority admission of persons in need of the care and benefits of the Home but who are not destitute would very slowly increase the revenues. This is very difficult to predict since the Division has very few admissions into Nursing and Assisted Living where priority now applies. Also most applicants who are destitute have some level of income.

Prepared by: Barbara Bathony *Barbara Bathony*
Division: Pioneers' Benefits

Phone: 465-4400

Date: 2-7-90

Approved by Commissioner: Frank S. Baxter *Frank S. Baxter*

Date: 2/7/90

Agency: Department of Administration

Distribution (by preparer):

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

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 7, 1990

The Honorable Bill Ray
165 Behrends Avenue
Juneau, AK 99801

Dear Bill,

I support proposed changes to the Pioneers' Home statute which would set the minimum age of admission at 65, require that all applicants be in need of the service offered and remove the admission priority given to the indigent.

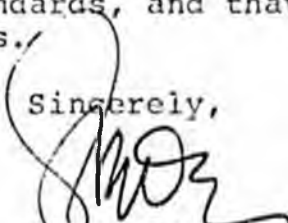
The average age of a resident in the Pioneers' Home is near 90, and the average age on admission is well over 80. Setting a minimum age of 65 for admission will ensure the ability to focus on specialized geriatric services.

Requiring that all new residents need the level of care offered will help us use limited resources appropriately.

Abolishing the admission priority given to the indigent will permit better employment of State health care dollars and improve access by moderate-income seniors to needed long-term residential care.

The changes will improve our ability to manage services in the homes and will make the long-term care system in the state more cost effective. They will also permit more understandable admission standards, and that will allow better planning by applicants.

Sincerely,



Steve Cowper
Governor

cc: Barbara Rathony, Director
Division of Pioneers' Benefits
Department of Administration

An Analysis of the Need for

SSSB 389

*for committee
files
in SSB 389
HESB Committee*

The following is a narrative relating (1) the history of the procedure for admittance to Alaska's Pioneer Homes; and (2) explaining the suggested corrective legislation SSSB 389.

ORIGINAL PROCEDURE: When the Pioneer Homes were originally started the admittance procedure was two-pronged. They were open to anyone 65 yrs of age who had been a resident of the state continuously for 15 years immediately preceding application, and (1) "....were destitute and in need of the aid and benefit of the home because of physical disability or other cause...."; or, (2) "....who is not destitute....and upon agreement to pay to the state a sum each day...for the cost of care and support of the person at the home."

ADMINISTRATIVE INTERPRETATION: At some point in time, cloudy in most people's minds, it became an administrative determination that those persons who were destitute should have priority in admission to the homes. Regulations were promulgated and adopted providing for this type of priority admission procedure. One line of reasoning as to why this happened was that there were, at some time, too many residents of the homes who were paying for their care, in the manner of a hotel or boarding house, and did not really need the unique type of service the homes were intended to provide. This was considered inappropriate even though they were legally entitled to the opportunity as provided by the existing law. Another theory, suggested by some, was that the homes were really meant for indigents and that those other older Alaskans, with the financial means, should find private nursing or retirement homes and not look to the state for this type of care. Whatever the actual reason the administrative bureaucracy adopted, and put into actuality, the admission procedure that provides that indigents would be first if they were destitute irrespective of whether they were incapacitated or not.

ADMISSION INEQUITY: Needless to say the admission procedure presently in force, which has previously been described, is not only highly unsatisfactory, but is considered by many as grossly discriminatory. This is especially true when considering the concept upon which the homes were originally established. Presently the home's administrator has adopted two admission lists. One is an "indigents" list, the second list, I suppose, is labeled "others". No matter how long someone, who is in all other respects qualified for admis-

sion, is at the head of the "others" list, anyone who is judged destitute can apply and be placed on the "indigents" list and become admitted before anyone on the "others" list irrespective of how long that person has been waiting. Some seniors signed everything over to their heirs and declared themselves destitute in order to beat the system. The administrators responded by putting a requirement of being an indigent for two years prior to being allowed admittance. Obviously a problem exists and there is an urgency that it be resolved as rapidly as possible. The administrators recognize the need also and are hopefully looking to the legislature to rectify it.

CORRECTING THE PROBLEM: The Governor, the Pioneer Benefits Division, and the Pioneers of Alaska are all in agreement that SSSB 389 will go a long way in resolving the admittance problem. By removing the word "destitute" and defining the existing language "physical disability or other cause" this proposal appears to remove the discriminatory admission practice while at the same time equally protecting the rights of all our citizens. If SSSB 389 is adopted all applicants for entry to the Pioneers Homes will be judged equally (except in certain instances explained later). This judgement will be on their inability to maintain a household without regular assistance in shopping, housekeeping, meal preparation, dressing, or personal hygiene because of physical or medical impairment, infirmity, or disability and not on their ability to pay. The spouse of a person who qualifies for admission may also make application for admission at the same time the disabled person applies if the spouse is 65 yrs. of age and has been resident in the state continuously for 15 yrs. (This is the exception mentioned above.) The Dept. of Administration shall establish monthly rates of reasonable compensation a resident may be required to pay for his or her care if the person is financially capable of doing so. Under no circumstance will a person be refused admittance because of their failure of being able to pay. Conversely applicants who have alternate means of care will be encouraged to make use of them rather than overtake the limited space available in the Pioneers Homes.

ENDORSEMENT: The Pioneers of Alaska most heartily endorse SSSB 389 and recommend its earliest passage.

Bill Ray, Registered Lobbyist
Pioneers of Alaska

Item 3



Alaska State Legislature

SENATE

Official Business

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

MEMORANDUM

Hells,
Jay

TO: Representative Red Boucher, Chairman
House State Affairs Committee

FROM: Senator Jalmar Kerttula

DATE: March 9, 1990

SUBJ: Senate Bill 389--
Admission to Pioneers' Homes

Senate Bill 389 makes three basic changes to current law to ensure that admission to the pioneers' homes is handled on an equitable and humane basis:

1. This bill provides that all in need would have equal access to the pioneers' homes, thus eliminating the current priority that the destitute have for admission to the homes.

Years ago, the priority for admission to the Pioneers' Homes was conferred on the destitute on humanitarian grounds -- there was no other place for the destitute to go. Today, with Medicaid assistance and other social programs, the destitute are about the only people who can afford to go to for-profit nursing homes. Eliminating this unnecessary priority improves access to long-term care for all of our pioneers.

Currently, there are two lists for admission to the Pioneers' Homes: one list for the destitute and one list for the non-destitute. Under current law, there are many long-time Alaskans who are not actually destitute (but are close and are just making it) and who have been waiting for admission for many years. These people are continually bumped by a person who has been on the destitute list for a matter of weeks or months. This is simply not right. It should be noted, that this statutory amendment does not limit the ability of the destitute to apply for admission to the homes, but it does eliminate their priority. Under this bill, admissions would generally be need-based and would be based on the chronological date of application.

2. This bill adds an age requirement of 65 for all admissions to the homes. Under current law, those who are

Representative Boucher
March 13, 1990
Page Two

destitute can be admitted earlier than age 65, and those who are not destitute can only be admitted after age 65. The bill would also allow spouses of residents to be admitted, if the spouse is not in need, if the spouse is at least 65.

3. This bill makes some housekeeping changes to the statutes dealing with debt collectibility of residents of the homes. Under this bill, the department could not require a payment for debt by a resident in any one month which is greater than the monthly amount for care which is set out in statute, except for debts incurred under AS 47.25.070. Under this bill, also, the collectibility of debts of former residents would be governed by the Probate Code.

Senate Bill 389 is supported by senior citizens as well as the Department of Administration, and the bill has a "0" fiscal note.

I appreciate your consideration of my request.

JK:kh

Original sponsor(s): SEN. KERTTULA, Szymanski, Pourchot, Duncan, Zharoff, Uehling, Frank, Jones, Coghill, Binkley, Sturgulewski, Kelly; REP. SHARP, Collins

1 IN THE SENATE

BY THE HESS COMMITTEE

2 HOUSE CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 389 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Pioneers' Home."

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

8 * Section 1. AS 47.25.010(a) is amended to read:

9 (a) The state shall maintain an institution, [FOR THE CARE OF
10 NEEDY PERSONS,] known as the Alaska Pioneers' Home. Principal homes
11 [THE PRINCIPAL HOME] shall be maintained at Sitka [,] and at other [A
12 BRANCH MAY BE MAINTAINED AT A SITE OR] sites designated by the commis-
13 sioner of administration.

14 * Sec. 2. AS 47.25.020 is amended to read:

15 Sec. 47.25.020. ADMISSION TO HOME. (a) Every [WORTHY] person
16 residing in the state who is 65 years of age or older, has been a
17 resident of the state continuously for more than 15 years immediately
18 preceding application for admission, and [WHO] is [DESTITUTE AND] in
19 need of residence at [THE AID OR BENEFIT OF] the home because of
20 physical disability or other reason [CAUSE], is eligible for [ENTITLED
21 TO] admission [TO THE HOME] under [THE] conditions [, LIMITATIONS AND
22 PENALTIES] prescribed in [BY THE] regulations of the Department of
23 Administration. The spouse of a person who is eligible for admission
24 under other provisions of this subsection is also eligible for admis-
25 sion to the home under conditions prescribed by the department if the
26 spouse is 65 years of age or older and has been a resident of the
27 state continuously for more than 15 years immediately preceding appli-
28 cation for admission. In this subsection, "physical disability or
29 other reason" means inability to maintain a household without regular

1 assistance in shopping, housekeeping, meal preparation, dressing, or
2 personal hygiene because of physical or medical impairment, infirmity,
3 or disability [A PERSON MAY NOT BE ADMITTED AS A RESIDENT OF THE
4 ALASKA PIONEERS' HOME UNDER THE PROVISIONS OF AS 47.25.010 - 47.25.100
5 IF THE SUPPORT AND MAINTENANCE OF THE PERSON IS IMPOSED BY LAW UPON A
6 RELATIVE OR MEMBER OF THE FAMILY OF THE PERSON'.

7 (b) Every person admitted to the Pioneers' Home [, EXCEPT A
8 PERSON ADMITTED UNDER AS 47.25.030.] who receives income from any
9 source in excess of \$100 per month may be required by the Department
10 of Administration to pay the excess to the department [DEPARTMENT OF
11 ADMINISTRATION] immediately upon receipt of the money in payment, or
12 part payment, of the cost of the person's care. However, the depart-
13 ment may not require in any month the payment of an amount greater
14 than the monthly rate set under AS 47.25.030(b) except to satisfy an
15 indebtedness incurred under AS 47.25.070 [MAINTENANCE].

16 (c) At the end of each month the payments made under (b) of this
17 section shall be transmitted to the commissioner of revenue [TOGETHER
18 WITH THE NAMES OF THE PERSONS MAKING THEM AND THE AMOUNT PAID BY
19 EACH]. The Department of Administration may pay to a resident without
20 funds the sum of \$100 per month.

21 (d) The money received by the commissioner of revenue under this
22 section shall be deposited in the general fund. The commissioner of
23 administration shall separately account for money deposited under this
24 section. The annual estimated balance in the account may be used by
25 the legislature to make appropriations to the Department of Adminis-
26 tration to carry out the purposes of AS 47.25.010 - 47.25.100.

27 * Sec. 3. AS 47.25.030(a) is amended to read:

28 (a) A person eligible for admission under AS 47.25.020 [CITIZEN
29 OF THE UNITED STATES OVER 65 YEARS OF AGE WHO IS A RESIDENT OF THE

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STATE AND HAS BEEN A RESIDENT FOR NOT LESS THAN 15 YEARS CONTINUOUSLY IMMEDIATELY PRECEDING APPLICATION, BUT WHO IS NOT DESTITUTE,) may on application be admitted to the home upon the person's agreement to pay to the state [A SUM FOR] each month an amount set by [DAY AS] the Department of Administration [CONSIDERS SUFFICIENT] to compensate the state for the cost of care for [AND SUPPORT OF] the person at the home. When this agreement is entered into the Department of Administration may require [RECEIVE THE] security for the payments [, WHICH IT CONSIDERS EXPEDIENT].

* Sec. 4. AS 47.25.030(b) is amended to read:

(b) The Department of Administration shall adopt regulations establishing a [DAILY OR] monthly rate for the compensation a resident is to be charged under (a) of this section. The rate [CHARGED] need not fully compensate the state for the cost of care [AND SUPPORT]. The commissioner of administration shall review the rate each year.

* Sec. 5. AS 47.25.030(c) is amended to read:

(c) The Department of Administration shall provide to all residents of the Pioneers' Home written notice of any proposed change in the rate charged for care [AND SUPPORT] of persons at the home. Notice under this section shall be given not less than 60 days before a change is adopted. The notice must [SHALL] include the time, date, and place of a hearing to be held by the Department of Administration under (d) of this section. The department may not change the rate [CHARGED] more than once in a fiscal year.

* Sec. 6. AS 47.25.035 is amended to read:

Sec. 47.25.035. EXCEPTION TO ADMISSION CRITERIA. An applicant for admission to the home who has been a resident of the state for 30 years and is otherwise qualified for admission under AS 47.25.020 [OR 47.25.030] may not be disqualified for admission because of absence

1 from the state if the commissioner of administration determines the
2 absence was reasonable and admission is consistent with the intent of
3 AS 47.25.010 - 47.25.100 [THIS CHAPTER].

4 * Sec. 7. AS 47.25.070(a)(3), 47.25.070(a)(6), 47.25.070(b), 47.25.-
5 070(c), 47.25.070(d), and 47.25.070(e) are repealed.
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