

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
5739 HOUSE JUDICIARY



Official Business

**COMMITTEE:**

HOUSE JUDICIARY

**DATE:** 2/22/89

**SIGN-IN**

**Subject of meeting:**

HB 75 CONSTRUCTION CONTRACTORS  
(REVISION)

HB 91 PROTECTION OF CONSTITUTION

NAME	ADDRESS FULL ADDRESS PLEASE	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? WHICH BILL?
Resa Terrell	104 No. Front St. Anchorage, Alaska	225-114	State of Alaska	Yes HB 75
Kenneth	PO Box 22151	448-1185 11-5 3300	AK Law Lobby	HB 91
David Otto	Post Office 201 Juneau, Alaska	4430	Dept. of Education	91
Randall Prunty	P.O. Box D-110 Juneau AK 99811	2535	Dept of Commerce	HB 75
Franklin	107 35th St Juneau, Alaska		Alaska State Dept. of Education	HB 75
Jacque McClintock	Juneau	42796	Dept. of Labor W.C. Division	HB 75
Ginger Bain	L+C		AK LIC	HB 91
Kim Elton	Organization Office			HB 91

32  
12

**STATE OF ALASKA**  
**1989 LEGISLATIVE SESSION**

**BILL VERSION:** HB 75 No. 1  
**PUBLISH DATE:** HOUSE 1/9/89

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Labor  
 Title: "An Act relating to construction contractor licensing..." BRU: Labor Standards & Safety  
Workers' Compensation  
 Sponsor: Rules Committee Components: Wage & Hour  
 Requestor: Governor Workers' Compensation

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

\_\_\_\_\_

Prepared by: Jim Sampson Phone: 465-2790  
 Division: Department of Labor Date: 12-19-88

Approved by Commissioner: Jim Sampson Date: 12-19-88  
 Agency: Department of Labor

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

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act relating to construction contractor licensing requirements and exemptions...  
Sponsor: Rules Committee  
Requestor: Governor

Agency Affected: Commerce & Economic Dev. BRU, Occupational Licensing  
Components: Administration

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICE	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
GR. NTS. 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	**					

**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 separate page if necessary)**

This bill is not expected to increase the operating costs of the division.

\*\*Revenues: Because there is no sure way to find out the actual number of contractors who, in past years, have performed work under AS 08.18.161(8), the federal project exemption, we are unable to estimate the revenues which would be generated through licensing fees from those contractors.

Prepared by: Jennifer Strickler, Admin. Officer Phone: 465-2144  
Division: Occupational Licensing Date: 12/19/89

Approved by Commissioner: Larry Merculieff Date: 12/20/89  
Agency: Commerce and Economic Development

**Distribution (by preparer):**

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

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 75 (Jud.)

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

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to construction  
 contractor licensing requirements..."  
 Sponsor: Rules Committee  
 Requestor: House Judiciary

Agency Affected: Labor  
 BRU: Workers' Compensation  
 Components: Workers' Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jacquie McClintock Phone: 465-2790  
 Division: Workers' Compensation Date: 2/23/89  
 Approved by Commissioner: Jim Sampson Date: 2/23/89  
 Agency: Department of Labor

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

AMENDMENT

BY REP. SPOHNHOLZ

TO: HB 75

Page 1 Line 11 after insurance require (a)

Page 1 Line 27

(b)SECTION A (1) dose not apply to sole proprietors  
or partners who do not elect under AS 23. 30.239 to  
utilize workers compensation coverage as an employee.

A M E N D M E N T

BY REP. SPOHNHOLZ

TO: HB 75

Page 1, line 11: after "INSURANCE REQUIRED", insert "(a)"

Page 1, line 27: insert a new subsection to read:

"(b) Sec. (a)(1) does not apply to sole proprietors or partners who do not elect under AS 23.30.239 to utilize workers compensation coverage as an employee."



go0639hE  
Ford  
2/20/89

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 75 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to construction contractor licensing  
7 requirements and exemptions; and providing for an  
8 effective date."

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

10 \* Section 1. AS 08.18.101 is amended to read:

11 Sec. 08.18.101. INSURANCE REQUIRED. Each applicant, at the  
12 time of applying for registration or renewal of registration, shall  
13 file with the commissioner satisfactory evidence that the applicant  
14 has in effect

15 (1) workers' compensation insurance that is purchased from  
16 a private insurer who is admitted to do business in the state and that  
17 shows coverage in this state, appropriate employee classifications,  
18 and rates applicable in this state, or a valid workers' compensation  
19 self-insurance certificate issued by the Alaska Workers' Compensation  
20 Board; and

21 (2) public liability and property damage insurance covering  
22 the applicant's contracting operations in this state in the sum of not  
23 less than \$20,000 for damage to property, \$50,000 for injury, includ-  
24 ing death, to any one person and \$100,000 for injury, including death,  
25 to more than one person.

26 \* Sec. 2. AS 08.18.101 is amended by adding a new subsection to read:

27 (b) Subsection (a)(1) of this section does not require evidence  
28 of coverage that is not required under AS 23.30, including coverage of  
29 a sole proprietor or partner who does not elect workers' compensation



1 coverage as an employee under AS 23.30.239.

2 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

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Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 75 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to construction contractor licensing  
7 requirements; and providing for an effective date."

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

9 \* Section 1. AS 08.18.101 is amended to read:

10 Sec. 08.18.101. INSURANCE REQUIRED. Each applicant, at the  
11 time of applying for registration or upon renewal of registration,  
12 shall file with the commissioner satisfactory evidence that the  
13 applicant has in effect

14 (1) to the extent required under AS 23.30, workers' compen-  
15 sation insurance that is purchased from a private insurer who is  
16 admitted to do business in the state and that shows coverage in this  
17 state, appropriate employee classifications, and rates applicable in  
18 this state, or a valid workers' compensation self-insurance certifi-  
19 cate issued by the Alaska Workers' Compensation Board; and

20 (2) public liability and property damage insurance covering  
21 the applicant's contracting operations in this state in the sum of not  
22 less than \$20,000 for damage to property, \$50,000 for injury, includ-  
23 ing death, to any one person and \$100,000 for injury, including death,  
24 to more than one person.

25 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

HOLADAY-PARKS, INC.



CORPORATE and SALES OFFICES  
616 First Ave., Suite 600, Seattle, WA 98104  
(206)292-1160

SEATTLE PLANT  
6601 South Glacier St., Seattle, WA 98188  
(206)292-1160

ALASKA DIVISION  
1820 Marika, Fairbanks, AK 99704  
(907)452-7151

HB 75

February 09, 1989

House Judiciary Committee  
P.O. Box V  
Juneau, AK 99811

Reference: HB-75.

Gentlemen:

I understand this bill either is in your committee at present, or will be, shortly.

I urge you to support HB-75 relating to the requirements for Licensed Contractors to carry Workmens Compensation Insurance. I urge your support for this bill, as written, with no amendments.

I believe this bill, if enacted will do much to "level the playing field" within the construction industry in the State. Repeal of Sec. 2. AS 08.18.161(7) is a very important part of this bill. I also feel there should be no exemptions from the requirements of this act.

Very truly yours,

HOLADAY-PARKS, INC.

Phil Nelson  
Vice President

PN:da

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

cc  
24B75

January 9, 1989

The Honorable Sam Cotten  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will make changes to the contractor licensing statutes.

Current law requires that all contractors working in Alaska either be self-insured or carry workers' compensation insurance that covers their employees working here. AS 23.30.075(a). Some out-of-state contractors have been able to avoid this requirement. When these contractors purchase workers' compensation insurance that does not have Alaska coverage, they avoid higher premium costs and thus have a cost advantage over resident contractors and others who comply with the law. Also, the state is deprived of insurance premium taxes, and any employees who are injured in Alaska might not be fully compensated.

While present law also requires contractors to carry certain liability and property damage insurance, it does not specify that this insurance must cover Alaska risks. AS 08.18.101. This can give out-of-state contractors another cost advantage over resident firms.

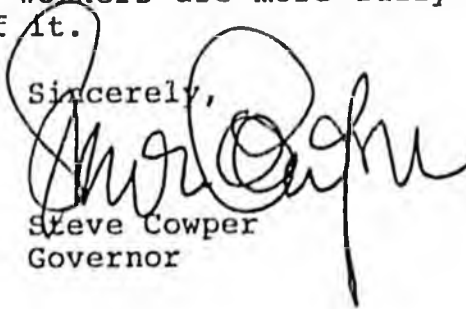
Finally, current law also exempts contractors who work on federal government job sites from our licensing, bonding, and insurance requirements. AS 08.18.161(7). This is another way for out-of-state contractors to compete at a cost advantage and to avoid requirements that protect workers, suppliers, and other creditors.

The first section of the bill will help enforce the insurance requirements by requiring applicants for contractor licenses to show proof of worker's compensation, liability, and property coverage that applies to Alaska. Language has also been added to clarify that the workers' compensation and insurance requirements apply to registration renewals, as well as to initial registration.

The second section of the bill repeals the federal project exemption.

Because this bill will place Alaska contractors on a more equal footing when competing with nonresident contractors and will ensure that injured workers are more fully compensated, I urge your passage of it.

Sincerely,

  
Steve Cowper  
Governor



## ASSOCIATED GENERAL CONTRACTORS of ALASKA

1015-1111 • ANCHORAGE, ALASKA 99501  
1015-2849 • JUNEAU, ALASKA 99801  
TELEPHONE 907-463-1111 • FAX 907-463-1111

February 22, 1989

Representative Peter Goll  
Co-Chairman  
House Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Dear Representative Goll:

When I testified today, regarding HB 75, we had sought additional language to require insurance companies to notify the Department of Commerce and Economic Development, Division of Occupational Licensing when workers compensation insurance was cancelled or terminated. As I noted, I had just been informed by the Department of Labor that the language we had suggested conflicted with notice provisions under the Workers Compensation statutes. At your request all of the interested parties met to seek a resolution to the issue.

In our meeting Mr. Burns noted that the agency under AS 08.18.121 (enclosed) has the authority to suspend or revoke a contractor's registration for not having insurance presently required under AS 08.18.101. His agency now receives notices from insurance companies under the existing requirements. This information is provided because on the Department's "Certificate of Insurance Coverage" form (enclosed), that the insurance companies issue, it states in part:

"In the event the above policy is cancelled for any reason, we agree to furnish the Department of Commerce and Economic Development, Construction Contractors' Section at the above address, a NOTIFICATION OF CANCELLATION at least THIRTY (30) days prior to the effective date of such cancellation"

HB 75 adds workers compensation insurance as an additional insurance requirement for registration under AS 08.18.101. Mr. Burns stated that if HB 75 passes into law they plan on having a form similar to the certificate of insurance coverage with the same requirement that the agency is to be notified if the workers compensation insurance is cancelled or terminated.


Representative Goll  
February 22, 1989  
Page: 2

Originally, we sought a notice provision to insure that the department would be aware of a contractors Alaska Workers Compensation coverage being terminated or cancelled in order for them to notify the contractor to take corrective action. It appears the departments present system of having the notice requirement on the certificate of insurance is working. Mr. Burn assured, those at the meeting, that they intend to administer the addition of workers compensation to existing insurance requirements in the same manner.

Since the Department has an system that appears to be working and plan of administering the addition of workers compensation insurance in the same manner, we withdraw our request for the notice provision to be included in HB 75.

If you have any questions please do not hesitate to contact me.

Sincerely,

  
Resa Jerrel, Director  
Governmental Relations

Enclosures



State of Alaska  
Department of Commerce and Economic Development  
Division of Occupational Licensing  
Construction Contractor's Section  
P.O. Box D-LIC, Juneau, Alaska 99811

**CERTIFICATE OF INSURANCE COVERAGE REQUIRED BY  
THE CONTRACTORS' REGISTRATION ACT, AS 08.18**

This is to certify that we are a duly authorized casualty insurer eligible to write business in the State of Alaska and have written a public liability policy of not less than the limits required under AS 08.18 on behalf of \_\_\_\_\_

DBA: \_\_\_\_\_  
for registration as a construction contractor, under policy numbers  
\_\_\_\_\_ effective from \_\_\_\_\_

to \_\_\_\_\_. In the event the above policy is cancelled for any reason, we agree to furnish the Department of Commerce and Economic Development, Construction Contractors' Section at the above address, a NOTIFICATION OF CANCELLATION at least THIRTY (30) days prior to the effective date of such cancellation.

\_\_\_\_\_  
Name of Insurance Carrier

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature of Authorized Agent

\_\_\_\_\_  
Date

the respective department, a record of the disposition of the charge by the court where the original or copy of the citation was deposited.

(f) If the form of citation issued under this chapter includes the essential facts constituting the offense charged, and if the citation is sworn to as required under the laws of this state for a complaint charging commission of the offense alleged in the citation, then the citation when filed with a court having jurisdiction is considered to be a lawful complaint for the purpose of prosecution. (§ 5 ch 83 SLA 1985)

**Sec. 08.18.119. Failure to obey citation.** Unless the citation has been voided or otherwise dismissed by the magistrate, judge, or prosecutor, a person who without lawful justification or excuse fails to appear in court to answer a citation issued under this chapter, regardless of the disposition of the charge for which the citation was issued, is guilty of a class B misdemeanor. (§ 5 ch 83 SLA 1985)

**Sec. 08.18.121. Suspension and revocation of registration.** (a) If the insurance required in AS 08.18.101 ceases to be in effect, the registration of the contractor shall be suspended until the insurance has been reinstated.

(b) If a final judgment impairs the liability of the surety upon the bond or depletes the cash deposit so that there is not in effect a bond undertaking or cash deposit in the full amount prescribed in AS 08.18.071, the registration of the contractor involved shall be suspended until the bond liability in the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

(c) If a bonding company cancels its bond of a contractor the contractor's registration shall be revoked. The contractor may again obtain registration by complying with the requirements of this chapter.

(d) If a licensed contractor fails to fulfill the contractor's obligations as set out in AS 08.18.071 the contractor's license shall be suspended for a period of time the commissioner determines is appropriate. After three suspensions the contractor's license may be permanently revoked.

(e) Proceedings to suspend or revoke a license issued under this chapter are governed by the Administrative Procedure Act (AS 44.62).

(f) If the Department of Commerce and Economic Development or the Department of Labor determines that a contractor or a person acting in the capacity of a contractor, is in violation of this chapter, that department may give written notice to the person prohibiting further action by the person as a contractor. The prohibition continues until the person has submitted evidence acceptable to that department showing that the violation has been corrected.

(g) A person affected by an order issued under this chapter may seek equitable relief preventing the Department of Commerce and

Collateral references. — Recovery of money paid to unlicensed person required by law to have occupation or business license or permit to make contract. 74 ALR3d 637.

Sec. 08.18.160. (Repealed, § 1 ch 100 SLA 1964.)

Article 4. General Provisions.

Section  
161. Exemptions  
171. Definitions

Sec. 08.18.161. Exemptions. This chapter does not apply to:

- (1) an authorized representative of the United States government, the State of Alaska, or a political subdivision or agency of the state;
- (2) an officer of a court when acting within the scope of office;
- (3) a public utility operating under the regulations of the public service commission in construction, maintenance or development work incidental to its own business;
- (4) a construction, repair or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning or other operation of a petroleum or gas well or a surface or underground mine or mineral deposit when performed by an owner or lessee;
- (5) the sale or installation of finished products, materials or articles of merchandise which are not actually fabricated into and do not become a permanent, fixed part of a structure;
- (6) construction, alteration, or repair of personal property;
- (7) construction, alteration, or repair carried on within the boundaries of a site under legal jurisdiction of the federal government;
- (8) a person who only furnished materials, supplies or equipment without fabricating them into, or consuming them in the performance of, the work of the contractor;
- (9) work on one project under one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than \$10,000, this work being considered as of a casual, minor, or inconsequential nature; this exemption does not apply when the work is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or when the work is divided into contracts of amounts less than \$10,000 for the purpose of evasion of this chapter or otherwise; this exemption does not apply to a person who advertises or puts out a sign or card or other device which might indicate to the public that the person is a contractor, or that the person is qualified to engage in the contracting business; a contractor who performs work priced at \$2,500 or more, under this exemption, shall nevertheless keep in force public liability and property damage

person acting in a court of this nature of work or required under this actor was a regis- rformance of the

Op. No. 2259 (File No. P.2d 291 (1981)).  
statutory bar. — The is section may be abro- al contractor's substan- ith AS 08.18.011. Jones Op. No. 2916 (File No. 665 (1985)).  
where registered name lated. — The penalty for 18.061 is contained in AS makes it a misdemeanor provision of the chapter; should only be applied to hen the contractor has not l at the time of contract- 'rotection Servs., Inc. v. able, Inc., Sup. Ct. Op. No. 7562, 7609), 680 P.2d 1119

under Little Miller Act is section. — Recovery un- Miller Act. AS 36.25.020, is d not independent of, the ex- of this section. State ex rel. nek Timber, Inc., Sup. Ct. (File Nos. 7170, 7256), 680 P.2d 1119 (1984).  
n Fomby v. Whisenhunt, Sup. 2801 (File No. 7434), 690 P.2d Gross v. Bayshore Land Co., No. 3902 (File Nos. S-711, P.2d 1007 (1985)).  
n Balboa Ins. Co. v. Senco ., Sup. Ct. Op. No. 1468 (File 567 P.2d 295 (1977)).  
Lost Valley Timber, Inc. v. y Constr., Inc., 809 F.2d 590 (1987).

HB

76

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

HB 74

H. Resources

1/30/89

# HOUSE COMMITTEE REPORT

2/15

(7)

Date Referred: February 1, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 2/14/89

The JUDICIARY Committee recommends that:

HB 76

HOUSE BILL NO. 76 [FISH & GAME LICENSE AGENTS]

"An Act relating to compensation for, penalties against, and proceeds, fees, forms, and reports transmitted by agents who sell or collect fees for certain licenses, tags, and permits; 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
- zero with analysis

APPROVES PREVIOUS:

[ ] fiscal note(s) published:

zero fiscal notes(s) published:  
7+6 1/9 + Rev 1/9 (2nd/11)

SIGNING DO PASS:

Michael Davis M. DAVIS  
Max Gruenberg GRUENBERG  
J. Ellis ELLIS  
Pete Gore GORE

SIGNING OTHER THAN DO PASS:

(Do Not Pass, No Recommendation, Amend)

M. Miller No Rec MILLER  
Terry Martin " 9 MARTIN

Pete Gore / Max Gruenberg  
 CO Chairman's signature







# HOUSE COMMITTEE REPORT

2/1

(9)  
Date Referred: January 9, 1989

FURTHER REFERRALS ( JUDICIARY )  
FINANCE

Date of Committee Action: 1-30-89

HB 76

The RESOURCES Committee recommends that:

HOUSE BILL NO. 76 [ FISH & GAME LICENSE AGENTS ]

"An Act relating to compensation for, penalties against, and proceeds, fees, forms, and reports transmitted by agents who sell or collect fees for certain licenses, tags, and permits; 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~~ zero fiscal note ~~10-19-88~~
- ~~zero~~ zero with analysis ~~10-19-88~~

APPROVES PREVIOUS:

- [ ] fiscal note(s) published:
- 2
- ] zero fiscal notes(s) published:  
7+6 - Rev 1/9

SIGNING DO PASS:

[Signature] JACKO

[Signature] NAVARRE

[Signature] FOSTER

[Signature] SHARP

[Signature] M. DAVIS

SIGNING OTHER THAN DO PASS:

(Do Not Pass, No Recommendation, Amend)

[Signature] FURNACE

[Signature] NO REC HUDSON

[Signature]  
VICE Chairman's signature  
( JACKO )

# HOUSE COMMITTEE REPORT

(9)

Date Referred: January 9, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 1-30-89

The RESOURCES Committee recommends that:

EXECUTIVE ORDER NO. 73

Transferring the function of issuing certain fishing, hunting, and trapping licenses, tags and identification cards from the Department of Revenue to the Department of Fish and Game.

[ ] 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: Hs. Res. letter of ~~intent~~ approval

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact
- zero fiscal note
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published:
- zero fiscal notes(s) published:  
2 ea - ~~1 ea~~ 1-9-89

SIGNING ~~DO PASS~~ APPROVE:

[Signature]  
[Signature]  
Richard [Signature]  
W. Furnace  
Ben Sharp  
Bill [Signature]  
Mike Davis

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

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[Signature]  
Chairman's signature

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: An act relating to compensation  
for, penalties against, proceeds...  
 Sponsor: Bulas  
 Requestor: Steve Cowper

Agency Affected: Fish and Game  
 BRU: \_\_\_\_\_  
 Components: \_\_\_\_\_

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

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

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

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

See Bill Analysis. Changes in funding due to this transfer are included in the Fish and Game operating budget.

Prepared by: Beverly Reame *Beverly Reame*  
 Division: Administration

Phone: 465-4120  
 Date: 12-16-88

Approved by Commissioner: Donnell K. Smith  
 Agency: Department of Fish and Game

Date: 12-19-88

**Distribution (by preparer):**

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

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: HB 76 & EX ORDER 73  
PUBLISH DATE: HOUSE 1/9/90

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act transferring issuance of fishing, hunting, trapping licenses..."  
Sponsor: Rules Committee  
Requestor: GOVERNOR

Agency Affected: Revenue  
ARU: Income and Excise Audit  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
<b>OPERATING</b>						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: See attached analysis.

Prepared By: Steven E. Kettel *Steven E. Kettel*  
Division: Income and Excise Audit

Phone: (907) 465-2320  
Date: December 19, 1988

Approved by Commissioner: Hugh Malone *Hugh Malone*  
Agency: Department of Revenue

Date: December 19, 1988

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

Prepared By: Steven E. Kettel  
Income and Excise Audit Division  
Department of Revenue  
December 19, 1988

At the time of drafting this fiscal note an executive order was being drafted for Governor Cowper's signature transferring the Fish and Game Licensing Program from Department of Revenue to Department of Fish and Game. To effect the transfer, legislation amending the statutory responsibility is also necessary.

The Department of Revenue supports this legislation transferring the fish and game licensing program to the Department of Fish and Game.

This program consists of the following features:

- 1) coordination of statewide sales of fish and game licenses, tags, permits and duck stamps through over 900 private vendors;
- 2) design and mailout of licenses and forms;
- 3) data capture of monthly, quarterly, and annual sales reports from the vendors;
- 4) processing and deposit of cash receipts;
- 5) reconciliation of vendor reports to cash receipts; and
- 6) paying additional compensation to vendors based upon the number of licenses sold.

To effect the transfer, the Department of Revenue will give the Department of Fish and Game the resources it has allocated to the program. Funding for the resources is being transferred through the Department's budget as a C-4 Transfer within Adjusted Base. Transferred resources include:

- 1) Data processing software and documentation including file layouts, flow chart, program listing, data file tapes, etc., assuring that Fish and Game would convert the data from a Wang file structure to an IBM file structure and the Wang COBOL programs to IBM COBOL programs.
- 2) Transfer of funding will include:

A) Personal Services

The following positions will transfer from the Income and Excise Audit Division with associated funding of \$188.1:

<u>Position</u>	<u>Range/Step</u>	<u>FY 89 Budget</u>
Revenue Licensing Supervisor	16K	\$54.3
Accounting Supervisor I	14J	\$46.7
Clerk Typist II	13	\$26.9
Accounting Clerk II	10	\$31.4
Clerk Typist III	8B	\$28.8
		<u>\$188.1</u>

The following position will transfer from the Administrative Services Division with associated funding of \$38.7:

<u>Position</u>	<u>Range/Step</u>	<u>FY 89 Budget</u>
Data Entry Center Supervisor	14A	\$38.7

B) Contractual

The following associated funds will transfer from the Income and Excise Audit Division:

Vendor Compensation:	\$356.6
Printing, Postage, Telephone:	\$36.3
	<u>\$393.4</u>

C) Supplies

The transfer of associated supply funds from the Income and Excise Audit Division will be \$2.5.

The transfer of associated supply funds from the Administrative Services Division will be: \$.1

SUMMARY OF TRANSFERS:

Personal Services	\$226.8
Contractual	\$393.4
Supplies	\$2.5
Total Transfer:	<u>\$622.8</u>





# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

POUCH V  
JUNEAU, ALASKA 99811  
19071 468-3718

January 10, 1989

Dear Mr. Speaker:

The House Resources Committee has reviewed Executive Order 73, transferring the function of issuing certain fishing, hunting and trapping licenses, tags and identification cards from the Department of Revenue to the Department of Fish and Game.

The Committee heard testimony from the Departments of Fish and Game and Revenue and finds Executive Order 73 to be in the state's best interest for the efficient administration of the program.

Best Regards,

A handwritten signature in cursive script, appearing to read "George Jacko".

Representative George Jacko  
Vice-Chair  
Resources Committee



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

LC  
1413 76  
EO 73

January 9, 1989

The Honorable Sam Cotten  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Cotten:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting Executive Order No. 73, transferring the functions of issuing fishing, hunting, and trapping licenses, tags, and identification cards from the Department of Revenue to the Department of Fish and Game.

Also, under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a related bill that would make some changes and additions to AS 16.05.390, 16.05.460, and 16.05.470, concerning agents appointed to serve as private license vendors.

The Executive Order will make the operation of state government more efficient because the transfer of the fish and game licensing function places that function in the department that is responsible for the resource management programs that are partially funded by the license revenue. Also, that department, the Department of Fish and Game, can more efficiently gather the most appropriate information during the license issuance process to assist in its management functions. The transfer will reduce the number of departments an individual must contact if the individual intends to take fish or game. At the same time, because the Department of Fish and Game has more field offices than does the Department of Revenue, the transfer will probably make the contact more convenient.

In addition, the transfer will enable the Department of Revenue to focus more of its attention and resources on its primary responsibility -- collecting revenue owed to our state government.

Sections 1 -- 12 of the Executive Order delete references in AS 16.05.335 -- 16.05.826 to the commissioner of revenue and to the Department of Revenue, leaving only references to the "commissioner" and the "department." Those terms are then defined in AS 16.05.940(6) and (7), respectively, as the commissioner of fish and game and the Department of Fish and Game.

Sections 13 and 14, respectively, of the Order delete the power to issue fish and game licenses from the Department of Revenue powers listed in AS 44.25.020 and add it to the Department of Fish and Game powers set out in AS 44.39.020. Section 15 of the Order sets out transition provisions regarding regulations relating to the transferred function.

The only other changes made by the Executive Order are a few housekeeping clarifications in AS 16.05.390 and 16.05.470, and in AS 44.25.020 (secs. 6, 11, and 13 of the Order). No substantive changes, other than the transfer itself, are made by this Order.

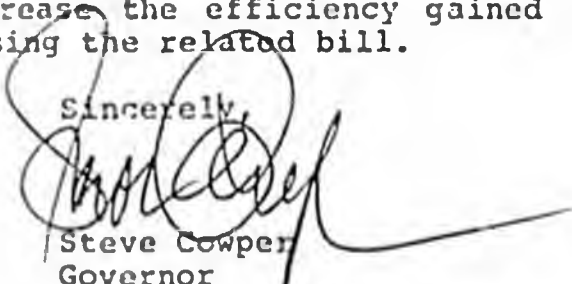
Sections 1, 2, and 4 of the related bill amend AS 16.05.390 (concerning vendors of all licenses but commercial fishing licenses) and 16.05.470 (concerning vendors of commercial fishing licenses), to allow penalties to be assessed against license vendors or agents who do not transmit to the Department of Fish and Game, in a timely manner, the license fees that they collect.

Sections 2 and 4 of the related bill also specify that the monthly reports and fee transmittals that are already required from vendors must be made by the last day of the month after fees are collected, unless an alternative schedule is set by contract for vendors covered by AS 16.05.390, or unless an extension is granted for vendors covered by AS 16.05.470.

Finally, secs. 3 and 5 of the related bill delete reference in AS 16.05.460 and 16.05.470 to issuance of interim-use and entry permits by vendors. This deletion merely eliminates possible confusion, and conforms the statute to the reality that private vendors have not issued limited entry permits since 1979.

I urge you to further increase the efficiency gained from the Executive Order by passing the related bill.

Sincerely,



Steve Cowper  
Governor

## MEMORANDUM

## STATE OF ALASKA

TO: Judiciary Committee  
House of Representatives

DATE: February 9, 1989

FILE NO:

FROM: Commercial Fisheries Entry  
Commission  
Bruce Twomley, Chairman  
Rich Listowski, Commissioner  
Phil Smith, Commissioner

TELEPHONE NO: 465-4081

SUBJECT: House Bill 76

Attached hereto, please find a copy of our Memorandum (1/27/89) to the House Resources Committee. The Memorandum explains in detail the reasons the Commission is in full support of HB 76, especially those sections which delete the authority of the Commissioner to appoint agents to assist in the completion of annual application and renewal forms for interim-use permits and entry permits ("Limited Entry Permits") issued under AS 16.43.

The Commission will be in attendance at your scheduled hearing on this matter (1:15 pm, February 14, 1989) to answer any questions you may have.

Thank you for your consideration of our position.

cc: Hon. Max Gruenberg  
Hon. Peter Goll  
Hon. Mike Davis  
Hon. Cliff Davidson  
Hon. Johnny Ellis  
Hon. Terry Martin  
Hon. Mike Miller

TO: Resources Committee  
House of Representatives

DATE: January 27, 1989

FILE NO:

FROM: Commercial Fisheries Entry  
Commission  
Bruce Twomley, Chairman  
Rich Listowski, Commissioner  
Phil Smith, Commissioner

TELEPHONE NO: 465-4081

SUBJECT: House Bill 76

By this Memorandum, we wish to express our support for the bill as submitted by Governor Cowper. The proposed statutory changes (supporting Executive Order 73) are clearly in the public interest. The Commission's direct interest in the bill is prompted by the proposed deletions to authority for the Commissioner of Fish and Game to appoint agents to assist in the completion of annual application and renewal forms for interim-use permits and entry permits issued under AS 16.43. These deletions are found in Sections 3, 4, and 5 of the bill, and we support them.

In 1979, the last time any vendors assisted with permit applications, a number of problems were encountered, as follows:

1. Confusion over the service being provided.

An individual seeking a commercial fishing (crewman) license or a sport hunting or fishing license fills out the application form (a copy of which, when certified by the vendor, constitutes the actual license), pays the appropriate fee, and is then authorized to engage in the licensed activity.

In contrast, an applicant for an interim-use or entry permit can only complete an application for the permit; actual issuance of the permit card must be accomplished by the Commission. For this purpose, there are only three embossing machines in the state (in Juneau and Kodiak, and a portable machine which can be linked to Juneau through on-line computer ports) which work in conjunction with the state main-frame computer. The design of the card itself is unique (for instance, use of a "black light" reveals the signature of the Commission Chairman) to guard against forgery or other fraud. Only after all relevant information is entered and verified will the computerized system allow the card to be issued and delivered to the fisherman (who cannot legally fish unless the card is in his or her possession).

When vendors assisted individuals with applications for their permits, great confusion frequently ensued, with the fishermen frequently under the illusion that they could legally fish with a copy of the application.

2. The commission cannot issue a card until the application is properly completed and the fees have been paid and recorded.

Mistakes in the application (improper fishery code, permit number, etc.) were found to be common. Even more commonplace was the miscalculation of the appropriate fees (depending on the residency and economic status of the permit applicant and the fishery, there are 11 different fee categories, ranging from \$15.00 to \$750.00). When mistakes were made, it was almost impossible to know whether to contact the vendor or the applicant fisherman. This was especially troubling when the mistake was in fee calculation, since the agent would have already deducted the 15% service charge before sending the money to the Commission. As a result, contrary to the intent, fishermen were frequently disadvantaged by the system and were required to wait much longer before getting their cards and going fishing.

3. Vendor compensation is difficult to compute, because of the absence of a uniform fee structure.

When vendors were authorized to assist in the preparation of applications for permits, a vendor could receive up to \$112.50 for assisting a non-resident to complete an application for certain permits, but only \$37.50 for assisting a resident to apply for the same class of permit (and only \$2.50 for assisting a resident to obtain a permit under the poverty fee provisions). In all cases, the amount of actual work was the same; i.e., insuring that the fishery code(s) were correct, that residency information was properly understood and sworn to, and that correct fees were assessed.

4. The Commission can neither train nor supervise the vendors, but is responsible for their actions.

When the vendor authority was being exercised, a significant problem was that the Commission had no control or authority over the agents and they, in turn, were not required to have any knowledge of the Commission's requirements.

For all of the above reasons, we urge your favorable consideration of HB 76, in particular those portions which would delete the authority of the Commissioner of Fish and Game to appoint agents to assist fishermen to apply for interim-use and entry permits issued by the Commission.

HB

86



STATE OF ALASKA  
THE LEGISLATURE

POUCHY - 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

HB 86

H. LSC

1/31/89

H. State affairs

2/14/89

# HOUSE COMMITTEE REPORT

Item 2

(5)

Date Referred: 1/17/89

FURTHER REFERRALS: STATE AFFAIRS  
JUDICIARY

Date of Committee Action: 1/31/89

The LABOR & COMMERCE Committee recommends that:

HOUSE BILL NO. 86 [EMPLOYEE ACCESS TO OWN PERSONNEL FILE]  
"An Act requiring employers to permit employees and former employees to have access to their personnel files."

[ ] 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
- [ ] zero with analysis

APPROVES PREVIOUS:

- [ ] fiscal note(s) published: \_\_\_\_\_
- [ ] zero fiscal notes(s) published: \_\_\_\_\_

SIGNING DO PASS:

David Donley

Mark Boyer

Mr. [unclear]

Bill [unclear]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SIGNING OTHER THAN DO PASS:

(Do Not Pass, No Recommendation, Amend)

James [unclear] no rec

Alvin [unclear] no rec

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

David Donley

Chairman's signature

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: HB 86  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Labor  
Title: "An Act requiring employers to  
permit ...access to ...personnel files." BRU: Labor Standards & Safety  
Sponsor: House Labor & Commerce Components: Wage & Hour  
Requestor: House Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

\_\_\_\_\_

Prepared by: Tom Stuart, Director Phone: 465-2725  
Division: Labor Standards & Safety Date: 1/26/89

Approved by Commissioner: Jim Sampson Date: 1/26/89  
Agency: Department of Labor

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

# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 1, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: \_\_\_\_\_

The STATE AFFAIRS Committee recommends that:

HOUSE BILL NO. 86 [EMPLOYEE ACCESS TO OWN PERSONNEL FILE]  
"An Act requiring employers to permit employees and former employees to have access to their personnel files."

[ ] 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
- [ ] zero with analysis

APPROVES PREVIOUS:

- [ ] fiscal note(s) published: \_\_\_\_\_
- zero fiscal notes(s) published:  
2/1/89 Labor

SIGNING DO PASS:

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

\_\_\_\_\_  
*Donna Douley*  
 \_\_\_\_\_  
*Ch. J. [unclear]*  
 \_\_\_\_\_  
*Steve P. [unclear]*  
 \_\_\_\_\_  
*Ch. A. [unclear]*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
*Alyce [unclear] (No-Rec)*  
 \_\_\_\_\_  
 \_\_\_\_\_  
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 \_\_\_\_\_  
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 \_\_\_\_\_

\_\_\_\_\_  
*Ch. A. [unclear]*  
 \_\_\_\_\_  
 Chairman's signature

Item 4

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE  
Chairman - Representative Dave Donley

P.O. BOX V, JUNEAU 99811

(907) 465-3892



January 10, 1989

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

To: Members, House Labor and Commerce Committee

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

Re: Proposed Committee Legislation - Access to Personnel Files

The attached bill, identical to the final version of HB 540 from last year, authorizes employees to have access (including copying) to any information contained in their personnel files.

The bill covers all employees in Alaska including the state, the University of Alaska, the Alaska Railroad and political subdivisions of the state.

Bill No. House Bill 86

Date January 30, 1989

Title "An Act requiring employers to permit employees and former employees to have access to their personnel files."

Contact: Tom Stuart  
264-2452  
Eileen Plate  
465-2700

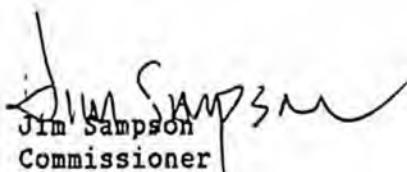
House Bill 86 requires employers to provide an employee or former employee access to his or her respective personnel records and to permit the employee to make copies of the records. The employer may charge the employee for the costs of duplicating the records.

Employees should have access to employer kept personnel records as provided in this bill. The accuracy of such records may have a direct bearing on a worker's employability should a prospective employer contact the worker's current or former employer as a reference. Under the provisions of this bill, a worker would have an opportunity to at least be aware of any discrepancies in the employer's personnel records.

The Department supports the provisions of this bill which provide workers a right to access and copy employer kept personnel records.

House Bill 86 would not have a fiscal impact on the Department of Labor.

APPROVED

  
Jim Sampson  
Commissioner

Item 6

STATE OF ALASKA  
THE LEGISLATURE

COURT HOUSE  
JANUARY 20, 1989  
307 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 13, 1989

SUBJECT: Scope of HB 86  
(Access to personnel files)  
TO: Representative Dave Donley  
FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

You have asked whether HB 86 requires an employer to keep personnel files on employees. In my opinion, the answer is no. Under subsection (a), if an employer maintains personnel files, the employer must allow access to the information. There is nothing that affirmatively requires that the information be maintained in the first place.

If I may be of further assistance, please advise.

TC:kb  
wkk1/119



**Sec. 01.10.060. Definitions.** In the laws of the state, unless the context otherwise requires,

(1) "action" includes any matter or proceeding in a court, civil or criminal;

(2) "daytime" means the period between sunrise and sunset;

(3) "month" means a calendar month unless otherwise expressed;

(4) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

(5) "nighttime" means the period between sunset and sunrise;

(6) "oath" includes affirmation or declaration;

(7) "peace officer" means any officer of the state troopers, members of the police force of any incorporated city or borough, United States marshals and their deputies, and other officers whose duty it is to enforce and preserve the public peace;

(8) "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;

(9) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(10) "property" includes real and personal property;

(11) "real property" is coextensive with land, tenements, and hereditaments;

(12) "signature" or "subscription" includes the mark of a person who cannot write, with the name of that person written near the mark by a witness who writes the witness's own name near the name of the person who cannot write; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names to the sworn statement;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968; am § 19 ch 74 SLA 1985)

**Revisor's notes.** — Reorganized in 1985 to alphabetize the defined terms.

**Effect of amendments.** — The 1985 amendment added paragraph (4).

#### NOTES TO DECISIONS

Cited in *Foltz-Nelson Architects v. Kobyk*, Sup. Ct. Op. No. 3273 (File No. S-2050), P.2d (1988).

Applied in *Clark v. State*, Ct. App. Op. No. 716 (File No. A-1840), 738 P.2d 765 (1987).

Quoted in *Hull v. Alaska Fed. Sav. & Loan Ass'n*, Sup. Ct. Op. No. 2605 (File No. 6346), 658 P.2d 122 (1983).



TO TESTIFY:

... (faint text) ...

... (faint text) ...

... (faint text) ...

... (faint text) ...

... (faint text) ...

... (faint text) ...

... (faint text) ...

... (faint text) ...

... (faint text) ...

DELIM ;  
INBOX

SUBJECT: FS; (H)JUD;HB86;2-27;ANC

SENT 02/27/89 16:45

FROM: LIOCINE

FOLDER: SECURITY LEVEL: 2 RETENTION PERIOD: PERM

.....2.....+.....3.....+.....4.....+.....5.....+.....6.....+.....7.....+.....8.. 001/01  
ANCHORAGE FINAL STATS 001/02

DATE: FEBRUARY 27, 1989 001/03

SITE: ANCHORAGE 001/04

TC #: 89-02-336 001/05

SPONSOR: HOUSE JUDICIARY 001/06

SUBJECT: HB 86 - EMPLOYEE ACCESS TO OWN PERSONNEL FILE 001/07

MODERATOR: INEZ 001/08

\*\*\*\*\* 001/09

\*\*\*\*\* 001/10

\*\*\*\*\* 001/11

TESTIFIED: 001/12

NAME\REPRESENTING ADDRESS PHONE 001/13

MR. JAMIE BOLLENBACH, ACLU POBOX 201844 ANCH 99520 276-2258 001/14

DENNIS DOUGHTY 2501 BLUEBERRY #200 ANCH 99503 276-2829 001/15

001/16

001/17

001/18

MORE...

HB

88

**HOUSE COMMITTEE ON STATE AFFAIRS**

**RECAP OF  
HB 88**

**Making Possession of Marijuana Illegal**

Received January 18, 1989  
by The State Affairs Committee

Heard January 31, 1989 (Work Session)  
Heard February 21, 1989  
Heard March 16, 1989  
Heard April 4, 1989  
Heard April 5, 1989

Committee Substitute adopted April 5, 1989

Passed Out of Committee April 5, 1989  
5 Do Pass  
1 No Recommendation

## TABLE OF CONTENTS

### HB 88: Making Possession of Marijuana Illegal

#### Item 1:

- A. CSHB 88 (SA) by The State Affairs Committee
- B. Sectional Analysis, April 6, 1989
- C. Letter of Intent
- D. Fiscal Note and Analysis
- E. Letter from Dr. Segal, March 31, 1989
- F. Boucher Narrative

#### Item 2:

- A. HB 88 by The State Affairs Committee
- B. Sectional Analysis, March 12, 1989
- C. Fiscal Notes and Analyses by Departments of Corrections, Law, and Public Safety
- D. Memorandum from Dennis Burns, January 26, 1989
- E. Response to Memorandum from Jack Chenoweth, January 30, 1989



# HOUSE COMMITTEE REPORT

Date Referred: January 18, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: \_\_\_\_\_

The STATE AFFAIRS Committee recommends that:

HOUSE BILL NO. 88 [MAKING POSSESSION OF MARIJUANA ILLEGAL]  
"An Act amending the definition of the offense of misconduct involving a controlled substance in the seventh degree to make possession of less than four ounces of marijuana illegal as a violation, and relating to the disposition of offenses of misconduct involving a controlled substance in the seventh degree."

[X] be replaced with CS HB88(SA) [ ] the same title  
[X] a new title

[ ] have attached amendment(s)

- [X] do pass
- [ ] do not pass
- [ ] no recommendation
- [ ] individual recommendations
- [X] additional referral to the Finance Committee

ADOPTS: House State Affairs letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [X] fiscal impact w/analysis by Dept of Law
- [ ] zero fiscal note
- [ ] zero with analysis

APPROVES PREVIOUS:

- [ ] fiscal note(s) published: \_\_\_\_\_
- [ ] zero fiscal notes(s) published: \_\_\_\_\_

SIGNING DO PASS:

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

\_\_\_\_\_  
Dave Harley  
 \_\_\_\_\_  
Jim Swank  
 \_\_\_\_\_  
Richard P. MacLean  
 \_\_\_\_\_  
W.C. [unclear]  
 \_\_\_\_\_  
Tom [unclear]  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
W. Spal "PASS ONLY WITH  
 FUNDING FOR LAW ENFORCEMENT,  
 DRUG RESEARCH AND PREVENTION  
 + INTERVENTION PROGRAMS FOR  
 FAMILIES AND YOUTH"  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
W.C. [unclear]  
 Chairman's signature

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

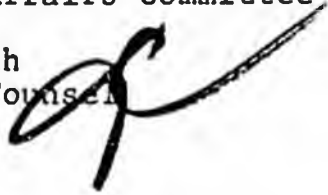
Item 1 B  
POUCHY STATE CAPITOL  
BUILDING ALASKA 99511  
907 465 3800

MEMORANDUM

April 6, 1989

SUBJECT: CSHB 88 (State Affairs), relating to  
marijuana -- sectional analysis

TO: Representative H.A. "Red" Boucher, Chair  
House State Affairs Committee

FROM: Jack Chenoweth  
Legislative Counsel 

CSHB 88 (State Affairs), adopted by the committee, addresses the subject of possession of marijuana in small quantities. Possession of marijuana in quantities of less than four ounces in other than a public place is not now subject to state criminal law. \*/ Under the principal changes proposed in this bill, possession of one ounce or more up to four ounces would be

---

\*/ Under current law,

-- possession of eight ounces or more of marijuana anywhere is a class A misdemeanor; AS 11.71.050(a)(2);

-- possession of four ounces or more of marijuana is a class B misdemeanor; AS 11.71.060(a)(4);

-- possession in a public place of one ounce or more but less than four ounces of marijuana is also a class B misdemeanor; AS 11.71.060(a)(1).

Also, under current law, possession of less than one ounce of marijuana in a public place constitutes "misconduct involving a controlled substance in the seventh degree," a violation. AS 11.71.070. A "violation" is an offense that is not a crime. For conviction of a violation, no jail sentence may be imposed. See AS 11.81.900(a)(56). A fine may be

made a class B misdemeanor, while possession of less than one ounce would be defined as an offense and treated as a "violation."

Principal provisions of CSHB 88 (State Affairs):

The bill's title and purpose section, bill section 1, provide a summary of the principal features of the legislation.

Bill sections 2 - 5 directly relate to the disposition under state criminal law of possession of small amounts of marijuana.

Bill section 2 redefines possession and makes it an element of the offense of "misconduct involving a controlled substance in the sixth degree," a class B misdemeanor, if one "uses, displays, or possesses" one or more ounces but less than four ounces of marijuana. For a person's first offense of use, display, or possession of between one and four ounces (and for a minor's first offense of use, display, or possession of any amount less than four ounces), imposition of a term of imprisonment is not authorized. Rather, bill section 3 directs that, for these first offenses, the court may require participation in a drug abuse treatment program or performance of community service.

Bill section 4 redefines possession, adds to it the elements of "use" and "display," and makes those three the elements of the offense of "misconduct involving a controlled substance in the seventh degree," a violation, if one uses, displays, or possesses less than one ounce of marijuana. For committing that violation, bill section 5 authorizes imposition of a fine of not more than \$300 (repealing the

---

imposed. While, generally, the maximum fine for a violation may not exceed \$300, AS 12.55.035(b)(5), under current law applicable to possession of small amounts of marijuana, the fine may not exceed \$100. AS 11.71.-070(b).

Finally, because there is no statute that declares it illegal, possession of less than four ounces of marijuana other than in a public place is not currently defined as a criminal offense.

Representative H.A. "Red" Boucher  
Page 3  
April 4, 1989

current maximum fine of \$100 applicable to violations involving possession of marijuana).

Bill sections 6 and 7 authorize and direct the use of citations as the means of handling and disposing of violations under AS 11.71.070. Bill section 6 adds a new section, AS 11.71.075, to authorize the use of citations (rather than arrest warrants) for these offenses. Bill section 7 amends AS 12.25.190(c) by adding this proposed AS 11.71.075, which relates to the offenses that constitute misconduct involving controlled substances in the seventh degree, to the list of the types of complaints that may be resolved and disposed of through the use of citations. The net effect of this pair of changes is that persons who possess less than one ounce of marijuana may be cited (rather than arrested), and may dispose of their citations by payment of bail in lieu of fine in an amount determined in a bail schedule by court rule.

Finally, bill sections 8 and 9 make technical changes to two existing sections that contain references to prosecutions brought under those statutes that define crimes of misconduct involving controlled substances. The changes are necessary because of the addition of new material in proposed AS 11.71.075.

\*

As this measure was developed, I thought it useful to try to summarize within the text of the bill the elements of it that relate to the change in the treatment of small amounts of marijuana proposed by this bill. To do that, I included bill section 1. That section briefly notes the significant change in the treatment accorded possession of a small amount of marijuana made by bill sections 2 and 4, the violation penalty amendment made by bill section 5, and the use of citations, authorized by bill sections 6 and 7 as a primary means of enforcement of that change in treatment.

JBC:kb  
wkk3/071

Enclosure

Item 1C



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

Official Business

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


April 5, 1989

### HOUSE STATE AFFAIRS COMMITTEE

#### LETTER OF INTENT For CSHB 88(SA)

Compared to other states, Alaska rates high in the use of marijuana and other drugs by youth. Expert testimony and research reveals, however, that legislation alone cannot solve this drug problem. The House State Affairs Committee respectfully requests that the legislature, in considering the passage of legislation to criminalize the use and possession of marijuana, adequately fund drug enforcement agencies, drug research activities, and state programs providing drug prevention/ intervention to families and youth victimized by drug abuse.

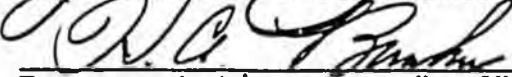
  
\_\_\_\_\_  
Representative Ann Spoonholz

  
\_\_\_\_\_  
Representative Curt Menard

  
\_\_\_\_\_  
Representative Eileen MacClean

  
\_\_\_\_\_  
Representative Alice Hanley

  
\_\_\_\_\_  
Representative Jim Zawacki

  
\_\_\_\_\_  
Representative H.A. "Red" Boucher  
Chair, House State Affairs

Item 17

FISCAL NOTE

REQUEST:

Revision Date: April 3, 1989  
Title: "AN ACT AMENDING... OFFENSES...  
involving a controlled substance..."  
Sponsor: House State Affairs  
Requestor: House State Affairs

Agency Affected: Department of Law  
BRU: Prosecution

Components: Third District, Fourth  
District, Crim. Appeals & Spl. Prosc.,  
Criminal Justice Litigation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		133.6	137.6	141.7	146.0	150.4
TRAVEL		3.6	3.7	3.8	3.9	4.0
CONTRACTUAL		72.7	74.9	44.3	45.6	47.0
SUPPLIES		10.8	7.4	7.6	7.8	8.0
EQUIPMENT		12.5	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	233.2	233.6	197.4	203.3	209.4

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	233.2	233.6	197.4	203.3	209.4
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	2	2	2	2	2
PART-TIME	-0-	1	1	1	1	1
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

*Richard I. Peques*

Prepared by: Richard I. Peques, Director Phone: 465-3672  
Division: Administrative Services Date: April 3, 1989

Approved by Commissioner: Douglas B. Bailly, Attorney General Date: April 3, 1989  
Agency: Department of Law

Distribution (by preparer):

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



# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

The committee substitute for HB 88 recriminalizes the possession and use of small amounts of marijuana. The bill would make possession of one ounce or more but less than four ounces of marijuana a class B misdemeanor, and the bill would make possession of less than one ounce of marijuana a violation. The maximum penalty for such a violation would be raised from \$100 to \$300. The legislature is also considering a joint resolution proposing a constitutional amendment at the next general election in November of 1990, which would provide that an individual's right to privacy does not extend to the possession or use of controlled substances. The bill would be effective 90 days after it becomes law, or sometime during the summer of 1989, if it is approved.

The passage of CSHB 88 will have a fiscal impact on the Department of law in three general areas: (1) the cost of processing additional new criminal cases; (2) the cost of educating the public about the new law; (3) approval of the proposed constitutional amendment will have the effect of repealing the Alaska Supreme Court's decision in Ravin. However, because the bill would be effective about 18 months before the constitutional amendment would become effective, it is anticipated that the bill will come under a vigorous constitutional challenge.

## 1. New Criminal Cases

Much of the behavior that the bill would classify as either a class B misdemeanor or a violation is not now an offense of any kind. In the past, some law enforcement officers who work primarily in the drug enforcement area indicated that recriminalizing marijuana could potentially result in "thousands" of new criminal cases a year. The police now doubt this but, nonetheless, a large number of the new cases would arise from situations where law enforcement officers now commonly discover small amounts of marijuana (as when an officer responds to a domestic disturbance call and sees some marijuana plants in a person's home, or when a person is arrested for a minor offense and a routine search for weapons reveals some marijuana cigarettes in the person's pocket, for example). Incidents of this sort occur frequently now, but do not generally result in any criminal prosecution for the marijuana possession. Many of these cases are likely to be referred for criminal prosecution if CSHB 88 becomes law because police officers will not ignore evidence of wrongdoing that is in plain view. Many of these defendants are middle-class people who can be expected to vigorously resist having a criminal record. Class B misdemeanors entitle a defendant to a jury trial and court-appointed counsel. Although the bill provides that possession of less than one ounce of marijuana will be handled as a violation, some unknown yet substantial number of these lesser offenses can be expected to be disputed, requiring attorney time to prosecute.



# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Prosecutors generally predict a substantially lesser number of new potential criminal cases under CSHB 88 than the "thousands" that were once predicted. Once the public becomes aware of the new law, some people are likely to become more careful about not allowing marijuana or smoking paraphernalia to be exposed in plain view in their homes; for example. Judging from the number of minor marijuana offenses prosecuted prior to the Ravin decision in 1975, prosecutors still expect at least a "few hundred" new criminal cases a year. Possession of small amounts of marijuana for personal use has been legal since the Ravin decision in 1975. Consequently, there is no accurate way to predict the number of new offenses that will occur when this current behavior is outlawed. Nor is there any accurate means to determine, in advance, the number of new offenses that will constitute class B misdemeanors, as opposed to violations. All of the department's prosecution offices are working at maximum capacity. Past budget cuts have left little time available to handle minor offenses, and the department has had to focus its remaining resources on major offenses, particularly crimes of violence. Prosecution of a whole new block of crime, although relatively minor, simply cannot be undertaken without some additional resources. The department's current estimate of a "few hundred" offenses is very conservative. The actual number of new cases may be significantly higher. It certainly will not be less.

Class B misdemeanor cases and disputed violations which are accepted for prosecution will require attorney time both at trial and in preparation for trial (i.e., preparation of search warrants, response to defense motions, evaluation of results of laboratory analysis, pretrial witness preparation, etc.). To handle screening of the expected case referrals, and to prosecute the additional misdemeanors and disputed violations, the criminal division will require the addition of at least one Attorney III position and one Legal Secretary I position in Anchorage. It is anticipated that a half-time attorney will also be needed in the Fairbanks District Attorney's office.

## 2. Public Education

In order to inform the public of the changes in the law, the Department of Law will develop and disseminate public notices explaining the new law. These notices will include newspaper ads and brochures, and will be modeled upon the public education notices which were distributed statewide in connection with the new drug law in 1982 and the new DWI and drinking age laws in 1983. Based upon experience with these earlier notices, approximately \$25,000 will be needed to cover the costs of writing, layout, typesetting, publication, and distribution.

In addition to the costs explained above, it is anticipated that the passage of this bill will result in increased costs to other components of the criminal justice system, including law enforcement, the courts, the public defender agency, the Office of Public Advocacy, and corrections.

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

## 3. Defending the New Law

In 1975 the Alaska Supreme Court in the case of Ravin v. State, 537 P.2d 497 (Alaska 1975), ruled that under Art. I, Sec. 22 of the Alaska Constitution the state could not prohibit possession of marijuana by adults in their own homes for personal use. The court held that the state had not demonstrated the existence of a legitimate state interest which was strong enough to justify the regulation of this conduct.

Since passage of CSHB 88 would make it a crime for an adult to possess any amount of marijuana anywhere, including in his or her own home, the constitutionality of the new law is certain to be challenged. An appellate court will have to decide whether the state has proved that there is a "compelling state interest" in the prohibition of the use of marijuana which is sufficient to outweigh an individual's right to privacy under the state constitution. It is extremely important, therefore, that the legislature's consideration of this bill include extensive public hearings, debate on the social policy merits of the proposal, and the collection of the results of the most recent scientific, medical, and pharmacological studies regarding the physical, emotional, and social effects of marijuana usage.

In addition to the necessary legislative hearings, evidentiary hearings at the trial court level can be expected when a challenge to the new law is filed. Challenges to the new law will most likely arise in the context of a defendant's pretrial motion to dismiss a criminal prosecution. When responding to such a defense motion, the prosecutor would, in essence, have to convince a court to reverse the ruling in the Ravin case. In order to demonstrate that the result in Ravin is no longer correct, the prosecutor would have to present convincing, scientifically accurate, evidence that the effects of marijuana usage are so injurious to a person's mental and physical health as to justify the legislative decision to totally prohibit use of marijuana by anyone at any time (as opposed to use by minors or use by a person who is operating a motor vehicle--both of which are already prohibited under current law).

The presentation of this convincing evidence will require the prosecution to present expert testimony from authorities who have conducted recent research in this area. Out-of-state witnesses in medical and scientific fields charge a fee for their services. These fees will vary from individual to individual, but are expected to average at least \$150 per hour. This would include services for consultation, witness preparation and actual testimony. Costs will be incurred for expert witness transportation, food and lodging, and other incidental expenses. Additionally, there will be some costs for preparation of exhibits and written reports. To the extent possible, the Department of Law would attempt to present written testimony in situations where it is not feasible to fly a person to Alaska to testify

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

in person. We estimate that a minimum of six expert witnesses will be required to attempt to successfully defend the new law at the trial court level.

Hearings at the trial court level can reasonably be expected to take several days. A substantial commitment of attorney time will be required for scientific and legal research in preparation for the hearings, actual court time, legal briefing, and the preparation of proposed findings of fact. Since prosecutions under the new law will occur statewide, defense challenges may be raised at the same time in different parts of the state. The extensive hearings described above may have to be held in more than one judicial district in the state.

Regardless of which side prevails at the trial court level, the lower court ruling would almost certainly be followed by an appeal. At a minimum, such an appeal (or appeals) would require additional legal research, a thorough review of the record, the drafting of briefs, and oral argument before the appellate court and the Supreme Court.

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

1. New Criminal Cases

Third Judicial District - Anchorage

<u>Total</u>	<u>Atty III (PFT)</u>	<u>Legal Sec I (PFT)</u>	<u>Total</u>
Personal Services	63.8	32.9	96.7
Travel - Witness travel subsistence, atty. travel	1.8	-0-	1.8
Contractual Services			
office commo. equip. repai	2.4	1.2	3.6
copy - postage	1.2	1.2	2.4
Office Space rent/lease	4.0	2.2	<u>6.2</u>
			12.2
Commodities - Ongoing			
office consumables	1.8	1.2	3.0
Law library	1.2	-0-	1.2
Commodities - one time			
New position materials	1.2	1.2	<u>2.4</u>
			6.6
Equipment - one time			
New position equipment	2.0	8.5	10.5
	<hr/>	<hr/>	<hr/>
	79.4	48.4	71.1

Costs beyond FY 90 include a 3% inflation factor, less one-time items.

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

Fourth Judicial District - Fairbanks

	Atty. III <u>(PPT)</u>	<u>Total</u>
Personal Services	36.9	36.9
Travel - Witness travel subsistence, Atty. travel	1.8	1.8
Contractual Services		
office commo., equip. repair	2.4	2.4
copy - postage	1.2	<u>1.2</u>
		3.6
Commodities - Ongoing		
office consumables	1.8	1.8
Law library	1.2	1.2
Commodities - one time		
New position materials	1.2	<u>1.2</u>
		4.2
Equipment - one time		
New position equipment	2.0	2.0
		<hr style="width: 100%; border: 0.5px solid black;"/>
		48.5

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

2. Public Education

Criminal Justice Litigation Component/Prosc. BRU

<u>Object</u>	<u>Total</u>
Contractual Services - one time writing, layout, typesetting, publication and distribution of public notices and information brochures describing the changes in the law.	25.0
	25.0

3. Defending the New Law

Criminal Appeals & Special Prosecution Component/Prosc. - BRU

<u>Object</u>	<u>Total</u>
Contractual Services - Professional fees scientific experts 120 hrs. X \$150 =	\$18,000
Experts' staff support, preparation of exhibits, written testimony 50 hrs. X \$60 =	3,000
Experts' travel to attend hearings and offer testimony 6 trips X 4 days X \$80 = \$1,920 subsistence 6 trips X \$1,500 = \$9,000 travel	1,920 9,000
	\$31,920

This amount will be required for both FY 90 and FY 91, to cover both trials and appeals.

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 88

## Summary of Expenses (All Components)

	Defending the new <u>Law</u>	New Criminal <u>Cases</u>	Public <u>Education</u>	<u>Total</u>
Personal Services		133.6		133.6
Travel		3.6		3.6
Contractual	31.9	15.8	25.0	72.7
Commodities		10.8		10.8
Equipment		12.5		12.5
	<u>31.9</u>	<u>176.3</u>	<u>25.0</u>	<u>233.2</u>



Position Title Attorney III		No. of Positions 1	Range/Step 22A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location EBA - Anchorage		Election District 8
Justification				
This full-time attorney position is required at Anchorage to handle the influx of new cases that will result when marijuana possession or use is recriminalized. Prosecutors expect that at least a few hundred such offenses will occur each year as a result of the enactment of this bill. This position will be responsible for prosecuting those new cases that are brought in the Third Judicial District and handling appellate briefs and appeals hearings. Because these new cases will be classed as misdemeanor offenses and violations, allocation of the position to the Attorney III level is appropriate.				
Type of Expenditure		Amount		
1	2	3		
Salary	49,140			
Benefits	14,657			
Premium Pay				
Other				
Total Personal Services		63,797		
Travel		1,800		
Contractual		7,600		
Commodities		4,200		
Equipment		2,000		
Other				
Total Cost		79,397		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	79,397		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

Request For  
New Position

Agency Department of Law  
 DRU Prosecution  
 Component Third Judicial District.

Page 1 of 3  
 Revised Date

FY 90

Position Title Legal Secretary I		No. of Positions 1	Range/Step 10P	Org. Unit GGU
Time Status PFT	Staff Months 12	Location Anchorage		Election District 8
Type of Expenditure		Justification		
1	2	3		
Salary	22,716	This Legal Secretary I position will be needed to handle the paperwork and scheduling requirements for the influx of new trials that will occur when the possession or use of small amounts of marijuana is outlawed. At the least a "few hundred" new offenses are expected. This estimate is very conservative, and the actual number of new cases may be somewhat higher. It certainly will not be any less. The support staff in the Anchorage District Attorney's Office was cut severely in FY 87, and any additional caseload will require an increase in support staff. Allocation to the Legal Secretary I level is appropriate because of the legal and trial documentation necessary to try these cases.		
Benefits	10,220			
Premium Pay				
Other				
Total Personal Services	32,936			
Travel	-0-			
Contractual	4,600			
Commodities	2,400			
Equipment	8,500			
Other				
Total Cost	48,436			
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	48,436		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

Request For  
New Position

Agency Department of Law  
 BRU Prosecution  
 Component Third Judicial District.

Page 2 of 3  
 Revised Date

FY 90

Position Title <b>Attorney III</b>		No. of Positions ;	Range/Step <b>22A</b>	Harg. Unit <b>PX</b>	
Time Status <b>PPT</b>	Staff Months <b>12</b>	Location <b>JBA - Fairbanks</b>		Election District <b>16</b>	
Type of Expenditure		Justification			
		<p>This permanent part-time position at Fairbanks is required to handle the influx of new cases that will result when the use or possession of small amounts of marijuana is recriminalized. Prosecutors expect that at least a few hundred offenses will occur each year as a result of the enactment of this bill. This position will be responsible for prosecuting those new cases that are brought in the Fourth Judicial District. Because these new cases will be classed as misdemeanor and violation offenses, allocation of the position to the Attorney III level is appropriate.</p>			
	Amount				
<b>1</b>	<b>2</b>				<b>3</b>
Salary	28,122				
Benefits	8,826				
Premium Pay					
Other					
<b>Total Personal Services</b>					<b>36,948</b>
Travel					1,800
Contractual					3,600
Commodities		4,200			
Equipment		2,000			
Other					
<b>Total Cost</b>		<b>48,548</b>			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	48,548			
I-A Receipts	1006				
CIP Receipts	1061				
Other					

**Request For  
New Position**

Agency Department of Law  
 BRU Prosecution  
 Component Fourth Judicial District

Page 3 of 3  
 Revised Date

**FY 90**

Item 1 E



# UNIVERSITY OF ALASKA, ANCHORAGE

3211 Providence Drive  
Anchorage, Alaska 99508

CENTER FOR ALCOHOL  
AND ADDICTION STUDIES

March 31, 1989

Rep. Red Boucher  
House State Affairs Committee  
PO Box V  
Juneau, AK 99811

ATT: Dennis Burns

Dear Rep. Boucher:

I am writing to thank you for your efforts to combat drug abuse in the State of Alaska. The rationale viewpoint with which you have approached the problem will help to create an atmosphere in the state to eradicate the problem.

To this extent I would like to express my full support for the Letter of Intent that accompanies House Bill 88. The requests are more than reasonable, and without appropriate funds the problem will continue unabated. The direction set fourth in the letter are very appropriate, and you can count on me to assist in any way possible to help to reduce the problem of drug abuse in the state.

Very truly Yours,

Bernard Segal, Ph.D., Director  
Health Sciences, and The Center for  
Alcohol and Addiction Studies

Item 1F

RECEIVED

MAR 17 1989

Proposed Committee Substitute for HB 88: Making Possession of Marijuana Illegal

Representative H.A. "Red" Boucher

Findings

There is no Alaska law that makes possession of 4 ounces or less of marijuana (VIA controlled substance) in the home a crime. As such, the public perception is that possession of marijuana in the home is legal in Alaska. Technically, possession of marijuana anywhere is illegal by federal law. That difference in state and federal law creates confusion -it sends the wrong message to adults, youth and children in Alaska and elsewhere that we condone its use.

Sub-Committee Preliminary Report

The sub-committee on HB 88 (Item 1A) - composed of Representatives Hanley, Spohnholz, Swackhammer, Shirley Warner (APOA) and a public member Sandy Spargo - have met and discussed with Legislative Legal Services attorney Jack Chenoweth the issues outlined at the "work session" held on January 31, 1989. Our focus has centered on three questions:

- 1) Should small quantities of marijuana be illegal?
- 2) If we make small quantities illegal, what is the appropriate penalty?
- 3) Does Alaska's Constitution preclude prohibition of small quantities of marijuana?

In our discussions and review of the provisions in HB 88, we have tentatively come to the conclusion that HB 88 may not go far enough in addressing the concerns of the subcommittee and the testimony we have heard to date. Consequently we are considering a committee substitute based on the following considerations:

Small Quantities

Testimony has shown that one ounce of marijuana is roughly equal to 40 or 50 joints with a street value of between \$250 and \$300. Possession of 4 ounces of marijuana has an estimated street value of \$1400 in Juneau. Like most products, however, value is dependent upon availability.

Taking into consideration current Alaska law regarding possession of less than one ounce in a public place (treated as a 7th degree violation) and the street value of this substance, defining a "small quantity" of marijuana as less

than one ounce seems reasonable.

The subcommittee generally agreed that possession of one to four ounces of marijuana, in other than a public place, should not be viewed as a "small quantity" as defined above.

#### Appropriate Penalty

Item 3D compares current law with HB 88 and a proposed committee substitute (Item 3C). This comparison was prepared by Jack Chenoweth and modified for the purpose of this memorandum. As Jack Chenoweth notes, the committee substitute combines a criminal provision for possession of one to 4 ounces (a class B misdemeanor) with a non-criminal provision for possession of less than one ounce (a violation), and it eliminates the public/private distinction.

#### Constitutional Issues

The committee substitute (Item 3C) discussed above does not include a comprehensive set of medical findings as are found in SB 18 and HB 22 (Item 2A,B). It is my understanding that we must demonstrate a need based on proof that the public health or welfare will suffer if controls are not applied to marijuana's use. While I personally believe there are sufficient social and medical/health reasons to recriminalize marijuana, it is not clear we are yet at a point where "findings" could withstand a court test - findings such as those listed in SB 18 and HB 22.

You will also note there is a companion bill - a constitutional amendment (Item 3A) - which proposes to amend article I, section 22 of the Alaska Constitution to exclude from the right to privacy a person's possession or use of marijuana. This would allow the legislature to regulate without the concern for a violation of the constitutional right to privacy. The effective date of the proposed committee substitute (Item 3C) is tied to passage of the constitutional amendment.

Penalties For Possession Of Marijuana

Place	Amount	Classification	Penalty Up To
<u>Current Law</u>			
Anywhere	> 8 oz	A misdemeanor	\$5,000/1 yr
Anywhere	> 4 < 8 oz	B misdemeanor	\$1,000/90 days
Public	> 1 < 4 oz	B misdemeanor	\$1,000/90 days
Public	< 1 oz	7th degree violation	\$100
Private	< 4 oz		no penalty

HB 38

Anywhere	> 8 oz	A misdemeanor	\$5,000/1 yr
Anywhere	> 4 < 8 oz	B misdemeanor	\$1,000/90 days
Anywhere	up to 4 oz	7th degree violation	\$100/citation

Note: possession of up to 4 oz. of marijuana anywhere is a violation, enforceable only by a fine, using a citation system

Proposed CSHB 88

Anywhere	> 8 oz	A misdemeanor	\$5,000/1 yr
Anywhere	> 4 < 8 oz	B misdemeanor	\$1,000/90 days
Anywhere	> 1 < 4 oz	B misdemeanor	\$1,000/no jail time for first offense *
Anywhere	< 1 oz	7th degree violation	\$300/citation

Note: this approach combines a criminal provision for possession of 1 to 4 oz. - class B misdemeanor - with a non-criminal provision for possession of less than 1 oz. - a violation - and eliminating the public/private distinction

\*

subsequent offenses may result in jail time up to 90 days, drug treatment/community work service at the discretion of the court



STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 12, 1989

4258  
SUBJECT: Work order 6-0469A -- sectional analysis  
TO: Representative H.A. "Red" Boucher, Chair  
House State Affairs Committee  
FROM: Jack Chenoweth  
Legislative Counsel

The work draft addresses the subject of possession of marijuana in small quantities. Possession of marijuana in quantities of less than four ounces in other than a public place is not now subject to state criminal law. Under one of the changes proposed in this bill, that possession would be made an offense and treated as a "violation."

Other sections provide for the disposition of offenses involving possession of small amounts of marijuana that are classed as violations.

Background:

The following information may be useful.

Under current Alaska law, a person's possession of less than one ounce of marijuana in a public place constitutes misconduct in the seventh degree. Misconduct in the seventh degree is an offense, specifically a violation.

An offense is defined or regarded as a "violation" when it carries no jail sentence and is punishable wholly by payment of a fine. AS 11.81.900(a)(56). State law sets a maximum fine for a violation of \$300. AS 12.55.035(b)(5). However, under AS 11.71.070(b), the maximum fine for a violation involving marijuana is set at \$100.

A person's possession of less than four ounces of marijuana in a place other than a public place is not a crime.



Principal provisions of the bill:

Bill section 2 affects the status of possession of marijuana. That section redefines possession and makes it an element of the offense of "misconduct involving a controlled substance in the seventh degree", a violation, if one possesses less than four ounces of marijuana in other than a public place.

Bill sections 3 and 4 authorize and direct the use of citations as the means of handling and disposing of violations under AS 11.71.070.

Bill section 3 adds a new section, AS 11.71.075, to authorize the use of citations (rather than arrest warrants) for these offenses. Bill section 4 amends AS 12.25.190(c) by adding this proposed AS 11.71.075, which relates to the offenses that constitute misconduct involving controlled substances in the seventh degree, to the list of the types of complaints that may be resolved and disposed of through the use citations.

The net effect of these changes is that persons who possess less than one ounce of marijuana in a public place or who possess less than four ounces of marijuana in other than a public place may be cited (rather than arrested), and may dispose of their citations by payment of bail in lieu of fine in an amount determined in a bail schedule by court rule.

Finally, bill sections 5 and 6 make technical changes to two existing sections that contain references to prosecutions brought under those statutes that define crimes of misconduct involving controlled substances. The changes are necessary because of the addition of new material in proposed AS 11.71.075.

\*

As this measure was developed, I thought it useful to try to summarize within the text of the bill the elements of it that relate to the charge in the treatment of small amounts of marijuana proposed by this bill. To do that, I included bill section 1. That section briefly notes the significant change in the treatment accorded possession of a small amount of marijuana made by bill section 2, and the use of citations, authorized by bill sections 3 and 4, as primary means of enforcement of that change in treatment.

\*

Representative H.A. "Red" Boucher  
Page 3  
January 12, 1989

If this memorandum or the bill to which it relates prompts questions, please contact me.

Enclosure

JC:gc:kb  
WKG5/080

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: HB 88  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE  
REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
Title: Making possession of marijuana BRU: Alaska State Troopers  
illegal  
Sponsor: House State Affairs Component: Detachments, C.J.B. and  
Requestor: House State Affairs V.P.S.O.

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This bill makes possession of small amounts of marijuana (less than four ounces) a "violation", punishable by a fine. The "ball amount" (fine) will be set by the state supreme court by court rule.

It is anticipated that the majority of new criminal cases under this bill would arise from situations where a State Trooper contacts a person on another matter, and the use or possession of marijuana is discovered during the contact. For this reason, we believe the fiscal impact of these additional cases can be absorbed within existing resources.

Prepared by: Francis C. Allan  
Division: Alaska State Troopers

Phone: 269-5691  
Date: 01/27/89

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

Date: 1/30/89

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: "An Act amending the definition of the  
offense of misconduct."  
 Sponsor: State Affairs Committee  
 Requestor: \_\_\_\_\_

Agency Affected: Department of Corrections  
 BRU: \_\_\_\_\_  
 Components: \_\_\_\_\_

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

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

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

This legislation will have no fiscal impact on the Department of Corrections.

*Susan E. Knighton*

Prepared by: Susan E. Knighton, Director Phone: 465-3376  
 Division: Administrative Services Date: 2-1-89

Approved by Commissioner: Susan Hemphrey - Barnett Date: 2-1-89  
 Agency: Department of Corrections

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

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Department of Law  
 Title: "An Act ... making possession of  
less than four ounces of marijuana illegal... BRU: Prosecution  
 Sponsor: House State Affairs Components: All  
 Requestor: House State Affairs

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

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

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

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: January 30, 1989  
 Approved by Commissioner: Grace Berg Schaible, Actv. Gen. Date: January 30, 1989  
 Agency: Department of Law

Distribution (by preparer):

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

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 88

This bill amends AS 11.71 by making the personal possession of less than four ounces of marijuana illegal as the offense of misconduct involving a controlled substance in the seventh degree. Misconduct involving a controlled substance in the seventh degree is, under current state law, a violation punishable by a fine. The bill also provides that a law enforcement officer who stops or contacts a person for possession for a small amount of marijuana may issue a citation for that offense, and the person who receives the citation may waive a court appearance and remit a payment as satisfaction of the offense. This bill will not have a fiscal impact on the Department of Law because prosecution of violations does not usually involve the department's staff resources.



# Alaska State Legislature

House of Representatives  
COMMITTEE ON STATE AFFAIRS

TO: Jack Chenoweth  
Legal Services

FROM: Dennis J. Burns, <sup>DJB</sup> Committee Aide  
House State Affairs Committee

DATE: January 26, 1989

RE: HB 88 Making Possession of Marijuana Illegal

-----

I have been requested to ask the following questions regarding HB 88:

- 1) If possession of marijuana in the home under HB 88 is a violation, would it be subject to constitutional (court) review? If so, would it stand?
- 2) If HB 88 passed, what affect would it have on the attached proposed initiative/bill?

I

Marie G. Majewske, Chair  
Marijuana Initiative Committee  
4002 Kingston Drive  
Anchorage, AK 99504  
(907) 333-0717

The Honorable Stephen McAlpine  
Lieutenant Governor, State of Alaska  
P.O. Box AA  
Juneau, AK 99811

STATE OF ALASKA  
**R E C E I V E D**  
DEC 16 1988

Dear Lt. Governor McAlpine:

LIEUTENANT GOVERNOR

We are enclosing an application proposing an initiative which relates to repeal of personal usage of marijuana, and a \$100.00 deposit. Under AS 15.45.30 this application must include and does include:

- 1) The proposed bill.
- 2) A statement that the sponsors are qualified voters.
- 3) The designation of an initiative committee.
- 4) The signatures and addresses of sponsors, with additional signatures to be received in the next two weeks.
- 5) A resolution requesting repeal of the existing law.

Inasmuch as there has been a tremendous amount of concern about the permissive statute that allows consumption of marijuana in the home and its potential harmful effects on individuals, and the cost to society within the family and outside the home; and inasmuch as we feel that the Legislature for over four years while having bills to correct the problem has failed to act according to the vast majority of the people of Alaska; and whereas numerous local governments and community representative groups have asked the Legislature to repeal the law that condones personal possession and usage; we now ask your approval of this initiative for the people of the State of Alaska to vote on this issue.

We are aware that you and the Governor have expressed support for affirmative action on this issue by the Legislature, and therefore we find it necessary to request your cooperation in approving this application, and expediting the issuing of the petition booklets through the Director of the Division of Election.



It is our understanding that should this not be proper form for certification you could assist us in conforming to the Constitution and proper statutes. We would most appreciate any help or advice you would offer.

Sincerely yours,

Nancy Hutchins  
Sponsor

Maile L. Majewski  
Sponsor

Denise L. Williams  
Sponsor

Sandra K. Spargo  
Sponsor

- Edward P. Young

- Linda Douglass "Just Say No!"  
Alaska Area Organizer

- David P. Runkhaki

- Marsha L. Haas

- Maurice W. Collins

- Bryce A. Hanley

- Terrence H. Martin  
D. H. Martin

-  
-

1           A Bill Enacted By The People of The State of Alaska  
2 Under Their Authority Granted By The Constitution Article  
3 XI Section 1, 2, 3, and 4; Alaska Statute AS 15.45.010

4   A BILL

5 For an Act entitled: "An Act relating to marijuana."

6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

7       Sec. 1   AS 11.71.060(a) is amended to read:

8           (a)       Except as authorized in AS 17.30, a person  
9                    commits the crime of misconduct involving a  
10                   controlled substance in the sixth degree if the  
11                   person

12                   (1)       uses or displays any amount of a  
13                    schedule VIA controlled substance or possesses  
14                    one or more preparations, compounds, mixtures,  
15                    or substances of a aggregate weight of less than  
16                    one-half pound containing a scheduled VIA controlled  
17                    substance; or

18                   (2)       refuses entry into a premises for an  
19                    inspection authorized under AS 17.30.

20       Sec. 2   AS 11.71.070 is repealed.