

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

5909 HOUSE LABOR & COMMERCE

813

1 (1) provided the day before the effective date of this Act, when  
2 applied to determine the person's position before the effective date of  
3 this Act;

4 (2) provides on the effective date of this Act, when applied to  
5 determine the person's position on the effective date of this Act.

6 (b) The State Board of Registration for Architects, Engineers, and  
7 Land Surveyors may extend the deadline established in (a) of this section  
8 for up to one year for a specific person if the person applies to the board  
9 for the extension and demonstrates that circumstances beyond the person's  
10 control prevent the person from registering before the deadline, and if the  
11 board finds that the extension will not pose a significant threat of harm  
12 to public health, welfare, or safety.

13 \* Sec. 11. This Act takes effect immediately under AS 01.10.070(c).  
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HB

204

# HOUSE COMMITTEE REPORT

(7)

Date Referred: March 6, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 4-25-89

The LABOR & COMMERCE Committee considered:

HB 204

HOUSE BILL NO. 204 [AMENDMENTS TO NEW CORPORATIONS CODE]

"An Act relating to corporations; and providing for an effective date."

### RECOMMENDATIONS:

- be replaced with CS HB 204(L+C)  the same title
- have attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact \_\_\_\_\_
- zero fiscal note \_\_\_\_\_
- zero with analysis \_\_\_\_\_

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

### SIGNING DO PASS:

### SIGNING:

(Check approp. column)

Mark Boyer  
Bob A. ...  
David A. ...  
...  
...  
...  
...

	Do Not Pass	No Rec	Amend

d. ...

Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act relating to corporations

Agency Affected: Commerce & Economic Dev.  
BRU: Banking, Securities and Corporations

Sponsor: Rules Committee  
Requester: Legislative Council

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						
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)



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

Phone: 465-2521  
Date: 4-25-89

Approved by Commissioner: Larry Mercurieff  
Agency: Department of Commerce & Economic Development

Phone: 465-2500  
Date: 4/25/89

Distribution (by preparer):

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

3963D-2/042589a

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: Delaying the effective date of  
the new corporations code  
Sponsor: Rules Committee/  
Requester: Legislative Council  
House Labor & Commerce

Agency Affected: Commerce & Economic Dev.  
BRU: Banking, Securities and  
Corporations  
Components: Corporations

**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

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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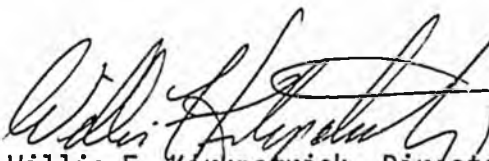
**FUNDING: (Thousands of dollars)**

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

**POSITIONS:**

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

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



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

Phone: 465-2521  
Date: 4-26-89

Approved by Commissioner: Larry Mercurieff  
Agency: Department of Commerce & Economic Development

Phone: 465-2500  
Date: 4-26-89

**Distribution (by preparer):**

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

HB204 File

Carr-Gottstein Properties  
6401 A Street  
Anchorage, Alaska 99518  
(907) 564-2424

April 12, 1989

Ginger Baim  
Attn: Labor and Commerce Committee  
c/o Representative Dave Donley  
House of Representatives  
PO Box 5  
Juneau, Alaska 99811

Dear Ms. Baim:

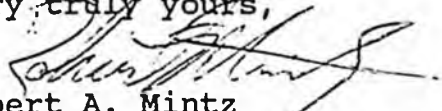
Thank you for the information respecting House Bill 204 and Senate Bill 204. In our opinion, there is a serious deficiency in the new Alaska Corporation's Code (effective July 1, 1989) treatment of Shareholder Agreements that the proposed Amendments to House Bill 204 and Senate Bill 204 fail to rectify or properly address.

We believe it is imperative the new code expressly and precisely authorize shareholders to enter into agreements. The code should spell out clearly the types of provisions a Shareholders Agreement may contain. As currently written, the new code, with the proposed amendments, is unacceptably vague and ambiguous on this issue.

The long-standing use, both within and outside of Alaska, of unanimously written shareholder agreements to express and enforce extremely helpful and efficient arrangements made among small independent entrepreneurs/owners, and their family or small corporations, regarding the sharing of corporate control, buy-sell (death, disability, new owners, etc.) plans, and other logical and traditional matters of vital concern to non-publicly traded or small enterprises, is simply not appropriately recognized, or sanctioned, by the new Alaska Corporations Code.

Accordingly, on behalf of Carr-Gottstein, Inc., I strongly urge you to include the enclosed Shareholder Agreement section in the pending Amendments in both bills. If such an amendment pertaining to shareholder agreements cannot be passed this year, then the July 1, 1989, effective date of the new Alaska Corporations Code should be postponed.

Very truly yours,

  
Robert A. Mintz  
Director of Commercial Development  
and Finance

**CARR  
GOTTSTEIN INC.**

HB204 FILE

Carr-Gottstein Properties  
6401 A Street  
Anchorage, Alaska 99518  
(907) 564-2424

April 24, 1989

Representative Dave Donley  
Attn: Ginger Baim  
House of Representatives  
Labor and Commerce Committee  
PO Box V  
Juneau, Alaska 99811

via Facsimile

RE: H.B. 204

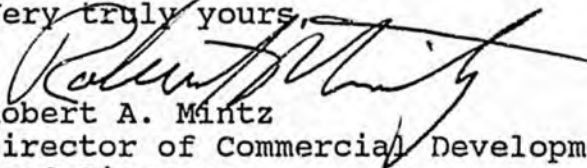
Dear Representative Donley:

Enclosed find a revised shareholder agreement amendment for the Corporation Code. In substance, this is identical to the amendment previously provided to you. However, some additions have been made to the enclosed amendment in order to better integrate them with the new Alaska Corporation Code. We made the revisions in response to an objection by John Abbott of the Code Revision Commission.

We understand that you are considering a bill to postpone the effective date of the new Corporation Code. If it is too late for the Legislature to consider and pass the substantive amendments to the new Corporations Code, then we strongly support postponing the effective date of the Code.

In summary, we would prefer that either the Corporation Code effective date be postponed, or the enclosed shareholder agreement amendment be incorporated into the new code. We are strongly opposed to allowing the new corporation code to go into effect without the amendment addressing shareholder agreements.

Very truly yours,

  
Robert A. Mintz  
Director of Commercial Development  
and Finance  
RAM/ms

cc: Stan Reitman  
BJG  
LJC

**CARR  
GOTTSTEIN INC.**

10.06.424(a) The shareholders of a corporation may enter into an agreement among all the shareholders of a corporation which agreement may:

- (1) Impose restriction on the transfer or registration of shares of the corporation to:
    - (A) Maintain the corporations's status, including, but not limited to, election of S Corporation status under the Internal Revenue Code, when that status is dependent on the number or identity of its shareholders;
    - (B) To preserve exemptions under Federal or State securities laws;
    - (C) To ensure that shareholders will be able to control who may participate in the corporation's business;
    - (D) To ensure that shareholders who wish to retire will be able to liquidate their investment without disrupting corporation affairs;
    - (E) To ensure that estates of deceased shareholders will be able to liquidate the decedent's shares in the corporation;
    - (F) Obligate the shareholder first to offer to the corporation or other persons (separately, consecutively, or simultaneously) an opportunity to acquire the restricted shares;
    - (G) Obligate the corporation or other persons (separately, consecutively or simultaneously) to acquire the restricted shares;
    - (H) Require the corporation, the holder of any class of its shares, or any other person, to approve the transfer of restricted shares, if the requirement is not manifestly unreasonable;
    - (I) For any other reasonable purpose.
  - (2) Provide for selection of Directors and officers.
- (b) The existence of a shareholders agreement consistent with

this section shall be noted conspicuously on the front or back of each stock certificate together with a statement that the agreement (or a copy thereof) is on file at the principal office of the corporation and the corporation will allow inspections or furnish a copy thereof without charge. If the stock of a corporation is certificateless, pursuant to \_\_\_\_\_, there shall be a statement sent within a reasonable time to each shareholder which references the existence of a shareholders agreement.

(c) Shares issued before compliance with subsection (b) of this section shall, if acquired by a person without knowledge of the shareholders agreement, not be subject to such shareholders agreement.

(d) For purposes of this sections "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

(e) Provisions contained in a shareholders agreement may not alter or waive the following provisions of this chapter:

§.350 (Information contained on certificates)

§.358 - .360 (Distributions)

§.430 Inspection Books/Records

§.438 Liability of shareholders

§.544 Approval of merger

§.570 Approval of Transaction not in regular course

§.633 + .648 Involuntary Dissolution

§.653 Claims Against Corporation Article II Reports, Fees and Penalties

HR 204 FILE

ROBERT H. HUME, JR.  
3101 Brookside Drive  
Anchorage, Alaska 99517

N

April 13, 1989

11/106  
248-4995 -H  
276-5152 -W

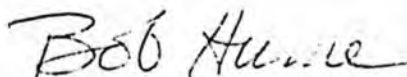
Representative Dave Donley  
P.O. Box V  
Juneau, Alaska 99811

Re: Revisions to Alaska Corporation Code

Dear Representative Donley:

I understand that your committee is considering the proposed amendments to the new Alaska Corporations Code. I am familiar with the amendments. They will make operations under the new corporations code easier for the various corporations which I work with. On behalf of those companies, my friends and neighbors in Spenard, and myself, I request that you schedule a hearing so that those amendments and any other appropriate amendments can become law. Last year the Alaska Corporations Code was passed over the objections and without input from the Bar. However, there was a promise that amendments would be passed this year. It is very important that amendments be approved this session. If you have any questions about the bill, you might consider speaking with Senator Rodey, who also represents us in Spenard.

Sincerely,



Robert H. Hume, Jr.

RHH\misc\ltdon:ah

COPELAND, LANDYE, BENNETT AND WOLF

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

420 L STREET, SUITE 302  
ANCHORAGE, ALASKA 99501

(907) 276-5152

TELECOPIER 19071 276-8433

MARK G. COPELAND, P.C.\*\* ROBERT H. HUME, JR., INC.\*\*  
THOMAS M. LANDYE, P.C. MITCHEL R. COHEN, P.C.  
J. DAVID BENNETT, P.C. DAVID N. GOULDER  
DAVID P. WOLF, INC.\* P. STEPHEN RUSSELL III  
ROBERT B. HOPKINS, P.C. THOMAS M. DILLON\*\*\*  
RICHARD L. SADLER, P.C. MARK J. DAVIS  
RANDALL L. DUNN, P.C.\*\*\*\* MARGOT POZNANSKI  
JAMES S. CRANE, INC.\*

OREGON OFFICE

3500 FIRST INTERSTATE TOWER  
PORTLAND, OREGON 97201  
15031 224-4100

\*ALASKA STATE BAR  
\*\*ALASKA STATE AND OREGON STATE BARS  
\*\*\*ALASKA STATE AND WASHINGTON STATE BARS  
\*\*\*\*WASHINGTON STATE AND OREGON STATE BARS  
ALL OTHERS OREGON STATE BAR ONLY

April 19, 1989

VIA FACSIMILE 465-3700

Dave Donley  
House of Representatives  
P. O. Box V  
Juneau, AK 99811

Re: Alaska Corporations Code

Dear Representative Donley:

I represent the Alaska Federation of Natives with respect to amendments to the Alaska Corporations Code.

There are significant problems with the Alaska Corporations Code as passed last year. Assurances were given that the amendments would be made to the Code before it became effective this July.

The Code as it was passed last year, without amendments, would cause great difficulty for Native corporations.

If the Code is not going to be amended this year, then at the very least the effective date of the Code should be postponed at least one year.

Sincerely,

COPELAND, LANDYE, BENNETT and WOLF

*David*  
David P. Wolf

cc: Alaska Federation of Natives  
DPW\749\LDONLEY.01:mv

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH V STATE CAPITOL  
JUNEAU ALASKA 99801  
907 465 2800

March 3, 1989

The Honorable Mike Davis  
Chair, Alaska Legislative Council  
Pouch V, State Capitol  
Juneau, Alaska 99811

Re: Bill on the Alaska Corporations Code (AS 10.06)  
(6-0953A and 6-0395A)

Dear Representative Davis:

The attached bills (one for the House and one for the Senate) are submitted to the Alaska Legislative Council pursuant to AS 24.20.075 with the request that they be introduced in the Sixteenth Legislature. A sectional analysis accompanies the bills.

The bills are the product of work done by the Alaska Code Revision Commission and the Task Force for the Alaska Corporation Code and represent a consensus of changes and additions to AS 10.06 which passed the Legislature during the second session of the Fifteenth Legislature.

By way of background, AS 10.06 (CSHB 322(Jud)(efd am S)), passed the House by a vote of 38-0 and the Senate by a vote of 14-4. During the final week of consideration of this bill, both individuals and groups indicated to various legislative members that they had not had sufficient time to consider the wholesale revision of the Alaska's for-profit corporation code (bills virtually identical to the bill that finally passed the Legislature were introduced and considered by the Legislature beginning in 1982 through 1988). In an effort to allow additional comments on AS 10.06, Senator Kelly offered an amendment in the Senate to postpone the effective date of the bill until July, 1989. The Legislature approved the amendment and the bill was forwarded to Governor Cowper where it was signed into law.

The purpose of the delayed effective date was to allow for the creation of a task force (the ACC Task Force) representing those interests which wanted additional time to consider

AS 10.06 to propose changes and amendments to the bill as passed for consideration by the Legislature prior to the July 1989 effective date. The Task Force was comprised of the following interests:

1. Erik LeRoy representing the Alaska Bar Association's Business Law Committee and the interests of Native Village Corporations;
2. Willis Kirkpatrick, Director of the Division of Banking, Corporations and Securities (Mr. Kirkpatrick chaired the Task Force);
3. David Wolf representing the Alaska Federation of Natives and the interests of the Native Regional Corporations;
4. J.P. Tangen representing the interests of the State Chamber of Commerce;
5. John W. Abbott representing the Alaska Code Revision Commission.

The Task Force was also to have included Elizabeth Johnstone because she had earlier led a group of five attorneys designed by the Alaska Federation of Natives to work with the Code Revision Commission in tailoring the new code so that it reflected the interests of Alaska Native Corporations. Her whereabouts were unknown and, as such, she did not participate. A representative of the Anchorage Chamber of Commerce was also contacted to participate in the Task Force but did not do so.

The Task Force first met in November of 1988 and essentially finished its work (which was approved by the Alaska Code Revision Commission) on February 28, 1989. The draft bill accompanying this letter of transmittal is basically the work product of the Task Force. Although the Task Force has not seen the final form of the bill, it is our understanding that the Task Force agrees with the changes proposed by the bill.

Although the bill appears lengthy, in fact the number of changes is minimal. In many instances sections of AS 10.06 which are being modified are duplicated in their entirety, even though only two or three words are added or deleted. New sections have been added to clarify the duties of offi-

Representative Mike Davis  
Page 3  
March 3, 1989

cers and directors so that the duties appear in respective sections dealing with directors or officers (the provisions generally mirror each other in language). In other sections of the bill, substantive changes have been made to AS 10.06, which substantive changes are reflected in the sectional analysis accompanying this letter of transmittal. A member of the Alaska Code Revision Commission will be available to testify as to the legal ramifications of each such change at any committee hearings.

The work of the Task Force has enhanced the clarity of AS 10.60 by the addition of new language spelling out what corporate conduct is acceptable. It also reflects the needs of a cross-section of the Alaskan community that will be operating under the corporations code. We feel that the changes made are good ones, are defensible and should be made to make AS 10.06 an even better statutory product. I would encourage the Legislative Council to give this bill serious consideration and to encourage its expeditious passage in both houses of the Legislature.

Because time is short for consideration of this bill, and because there may be questions concerning the changes and amendments, I can make myself available for telephone or teleconference consultation concerning the draft bill. Again, the Commission would appreciate your consideration of this bill which, if passed by the Legislature, will take effect at the same time that AS 10.06 is scheduled to become law in Alaska.

Respectfully submitted,

*Tamara Cook for*

---

John Abbott  
Chair  
Alaska Code Revision Commission

JA:gc  
WKG7/087

Enclosure

Sec. 10.06.424 SHAREHOLDER AGREEMENTS.

(a) An agreement among all the shareholders of a corporation may:

(1) impose restrictions on the transfer or registration of shares of the corporation to:

(A) maintain the corporation's status when it is dependent on the number or identify of its shareholders:

(B) to preserve exemptions under federal or state securities laws:

(C) to ensure that shareholders will be able to control who may participate in the corporation's business:

(D) to ensure that shareholders who wish to retire will be able to liquidate their investment without disrupting corporation affairs:

(E) to ensure that estates of deceased shareholders will be able to liquidate the decedent's shares in the corporation:

(F) to ensure that the election of S Corporation status under federal and state corporate income tax laws can be effected and preserved:

(G) obligate the shareholder first to offer to the corporation or other persons (separately, consecutively or simultaneously) an opportunity to acquire the restricted shares:

(H) obligate the corporation or other persons (separately, consecutively or simultaneously) to acquire the restricted shares:

(I) require the corporation, the holder of any class of its shares, or any other person, to approve the transfer of restricted shares, if the requirement is not manifestly unreasonable: and

(J) for any other reasonable purpose:

(2) provide for selection of directors and officers.

(b) The existence of a shareholders agreement consistent with this section shall be noted conspicuously on the front or back of each stock certificate together with a statement that the agreement (or a copy thereof) is on file at the principal office of the corporation and the corporation will allow inspection or furnish a copy thereof without charge.

(c) Shares issued before compliance with subsection (b) of this section shall, if acquired by a person without knowledge of the shareholders agreement, not be subject to such shareholders agreement.

(d) For purposes of this section "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

STATE OF ALASKA  
THE LEGISLATURE

POUCH V STATE CAPITOL  
JUNEAU ALASKA 99808  
907 465 3810

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 3, 1989

SUBJECT: Sectional analysis  
(Work Orders 6-0395 and 6-0953)

TO: Representative Mike Davis  
Chair, Legislative Council

FROM: Theresa L. Bannister *TB*  
Legislative Counsel

This provides a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 (AS 10.06.010). Eliminates an inconsistency with AS 10.06.485 by making the loan approval requirement applicable to employee loans as well as loans to officers and directors. Clarifies that a corporation has the power to make guarantees to eliminate a question that they were included in corporate powers. Gives corporations the powers of a limited or general partner. Corrects the term for joint ventures.

Section 2 (AS 10.06.020). The current content is designed to protect third parties from an ability of the corporation, or any shareholder asserting a derivative claim, to evade liability for an act or undertaking of a corporate agent by claiming that it was done without real authority. The amendment allows the corporation to assert limitations on the powers of corporate agents set forth in the articles but not to assert limitations found in its bylaws or board resolutions as a defense to the third party's claim. This change would protect shareholders to the extent that the articles of the corporation contained such limitations on either the nature of agency power or the manner of its exercise.

Section 3 (AS 10.06.025(a)). Deletes language that created an internal conflict within AS 10.06.

Section 4 (AS 10.06.105(c)). Clarifies that the subsection is not intended to prevent a limited partnership from using the word "limited" in its name.

Section 5 (AS 10.06.130). Eliminates the need for a corporation to take any other steps to protect the exclusivity of its name and allows the corporation to enjoy the use of the same or a deceptively similar name.

Section 6 (AS 10.06.343). States that the corporation may issue stock purchase rights or options for shares of any class or classes. Substitutes "shall" for "must" as a technical change.

Section 7 (AS 10.06.348). Coordinates AS 10.06.348 with the proposed new AS 10.06.349.

Section 8 (AS 10.06.349). Allows a corporation to issue shares without certificates and establishes a procedure for notifying the shareholder of certain information that is usually disclosed on certificates under other sections of AS 10.06.

Section 9 (AS 10.06.353). Coordinates section with new ability to issue certificateless shares.

Section 10 (AS 10.06.355). Coordinates section with new ability to issue certificateless shares.

Section 11 (AS 10.06.356). Allows a corporation to establish procedures by which the beneficial owner of shares that are registered in the name of a nominee is recognized by the corporation as the shareholder. The purpose of the section is to facilitate communication between the corporation and the beneficial owner.

Section 12 (AS 10.06.358(c)). Eliminates the unqualified requirement that the amount of distributions payable in property be based on generally accepted accounting principles.

Section 13 (AS 10.06.358(d)). Eliminates the unqualified requirement that the eligibility to make certain

distributions is limited to corporations that classify their assets under generally accepted accounting principles.

Section 14 (AS 10.06.358(e)-(f)). Allows a board to determine that a distribution is not prohibited either by generally accepted accounting principles or by accounting practices and principles that are fair and reasonable in the circumstances. States that statements and determinations prepared or arrived at under generally accepted accounting principles are fair and reasonable, but that the fairness and reasonableness of statements and determinations made under other practices and principles must be proved by the corporation.

Section 15 (AS 10.06.360). Changes the insolvency test. Allows existing directors to make the distribution and then determine whether the distribution did, in fact, render the corporation unable to meet its current debts. If it does, the corporation could theoretically recover the illicit dividend from the shareholders.

Section 16 (AS 10.06.385(b)). Coordinates subsection with new ability to issue certificateless shares.

Section 17 (AS 10.06.385(d)). Coordinates subsection with new ability to issue certificateless shares.

Section 18 (AS 10.06.405). States that the failure of a corporation to hold an annual meeting at the required time does not cause the corporation to forfeit its status, does not cause a dissolution of the corporation, and does not affect the validity of corporate action. Restores to the new corporations code the section from the former corporations code that indicated that the failure did not affect the validity of corporate action.

Section 19 (AS 10.06.410). Substitutes a ten-day minimum notice of shareholders' meeting for the current twenty-day requirement because some corporations find it difficult to know 20 days ahead that a meeting will be necessary. Makes a minor change relating to the mailing of the meeting notice to a shareholder's new address.

Section 20 (AS 10.06.418(b)). Makes two minor changes relating to revocation of a proxy.

Representative Mike Davis  
Page 4  
March 3, 1989

Section 21 (AS 10.06.418(e)). Defines the term "pledgee" and makes a citation change to coordinate with the changes to AS 10.06.425.

Section 22 (AS 10.06.418(f)). Coordinates the section with the changes in AS 10.06.425.

Section 23 (AS 10.06.418(g)). Gives to a transferee (of a share having an otherwise irrevocable proxy) title clear of the proxy unless the transferee knows about the proxy provision or the proxy, or the irrevocability or notice of the proxy appears on the certificate.

Section 24 (AS 10.06.420(c)). Allows a shareholder's authorized attorney-in-fact to vote for the shareholder in person or by written proxy.

Section 25 (AS 10.06.420(e)). Clarifies the intent of the subsection. States that shares may not be voted if they are owned, directly or indirectly, by a second corporation, domestic or foreign, and if the first corporation owns, directly or indirectly, a majority of the shares entitled to vote for the directors of the second corporation. This section is based on a public policy objection to permitting a corporate subsidiary that is presumably under the direct or indirect control of the parent to vote shares of the parent at a meeting of the parent corporation's shareholders.

Section 26 (AS 10.06.420(i)). Coordinates subsection with new ability to issue certificateless shares.

Section 27 (AS 10.06.421). Based on the Revised Model Business Corporation Act, its purpose is to provide guidelines for election judges and directors when deciding whether to accept certain documents.

Section 28 (AS 10.06.425(a)). Indicates that the subsection doesn't invalidate an irrevocable proxy that complies with AS 10.06.418(e).

Section 29 (AS 10.06.425(b)). Rewrites the subsection to expressly allow shareholders to enter into a voting agreement or any other agreement if the agreement is consistent with this chapter.

Section 30 (AS 10.06.430(a)). Makes technical wording changes to make the use of the term "books and records of account" consistent throughout the section.

Section 31 (AS 10.06.430(b)). Conforms the section to the demand and scope provisions of Sec. 16.02(b)-(c) of the Revised Model Business Corporation Act. Requires that a shareholder's demand to inspect the books and records of a corporation be made with reasonable particularity. Places some burden on the shareholder making the request in order to avoid harassment requests. Substitutes "directly connected" for "relevant". Makes a technical wording change to make the use of the term "books and records of account" consistent throughout the section.

Section 32 (AS 10.06.430(c)). Makes technical wording changes, including one to make the use of the term "books and records of account" consistent throughout the section.

Section 33 (AS 10.06.433(a)). Exempts a corporation with less than 100 shareholders from the requirement of sending out an annual report, unless its articles or bylaws impose the requirement.

Section 34 (AS 10.06.435(a)). Coordinates subsection with new ability to issue certificateless shares.

Section 35 (AS 10.06.450(c)). Is taken from Sec. 8.30(c) of the Revised Model Business Corporation Act and indicates when a director cannot be considered to be acting in good faith.

Section 36 (AS 10.06.450(f)). Follows the suggestion of the ALI Statement on Corporate Governance and articulates the business judgment defense for directors. No jurisdiction has, to this point, ever attempted a statutory formulation of the business judgment rule. The reader is referred to the official comments of the ALI statement for a fuller understanding of the relationship between the duties of care and loyalty and the business judgment rule.

Section 37 (AS 10.06.453(a)). States that the board consists of one or more members. Establishes how the number of directors is fixed. Restricts changing the number of directors to amendment of the articles, if the articles fix the number of directors. Sets the number of directors at three if the number is not otherwise set.

Section 38 (AS 10.06.453(b)). Coordinates subsection with new language of AS 10.06.453(a).

Section 39 (AS 10.06.465(d)). Allows a director to resign at any time.

Section 40 (AS 10.06.470(a)). Coordinates subsection with new language of AS 10.06.453(a).

Section 41 (AS 10.06.470(b)). Allows a corporation to establish in its bylaws the machinery for holding a special board meeting or a meeting of a committee designated by the board. Shortens the general provision relating to the minimum required written notice of the meeting from 20 to 10 days and notice by other listed means from 72 to 24 hours. The general requirement that notice of a special meeting must disclose the proposed agenda is made subject to bylaw provisions.

Section 42 (AS 10.06.483(d)). Corrects a citation. Deletes the reference to "share certificates" because they are covered by another section and there was a conflict.

Section 43 (AS 10.06.483(e)). Allows officers a limited right to rely on legal counsel and public accountants.

Section 44 (AS 10.06.483(f)-(g)). Follows the suggestion of the ALI Statement on Corporate Governance and articulates the business judgment defense for officers. No jurisdiction has, to this point, ever attempted a statutory formulation of the business judgment rule. The reader is referred to the official comments of the ALI statement for a fuller understanding of the relationship between the duties of care and loyalty and the business judgment rule.

Section 45 (AS 10.06.576(f)). Coordinates subsection with new ability to issue certificateless shares.

Section 46 (AS 10.06.576(g)). Coordinates subsection with new ability to issue certificateless shares.

Section 47 (AS 10.06.578(c)). Coordinates subsection with new ability to issue certificateless shares.

Section 48 (AS 10.06.580(f)). Coordinates subsection with new ability to issue certificateless shares.

Representative Mike Davis  
Page 7  
March 3, 1989

Section 49 (AS 10.06.605(b)). In addition to technical changes, indicates that a corporation may dissolve if one of the three listed situations occurs.

Section 50 (AS 10.06.528(d)). Coordinates subsection with changes to AS 10.06.425(d).

Section 51 (AS 10.06.530(e)). Coordinates subsection with changes to AS 10.06.425(e).

Section 52 (AS 10.06.633(a)). Allows the commissioner to dissolve a corporation if the corporation is delinquent six months in paying its biennial corporation tax. Deletes paragraph (8) since AS 10.06.155 (registration of agent by nonresident with controlling interest) is repealed by sec. 57 of the bill.

Section 53 (AS 10.06.828). Makes an application for a certificate of authority or any other application subject to a filing fee.

Section 54 (AS 10.06.855). Requires that fees and charges provided for in AS 10.06 be paid in advance.

Section 55 (AS 10.06.960). Updates the citation for the Alaska Native Claims Settlement Act.

Section 56 (AS 10.06.960(e)-(f)). Grants the boards of native corporations the authority to amend their articles without the necessity of a vote of the shares if the purpose is to bring the articles into conformity with federal law. Defines "act" for the section.

Section 57 (AS 10.06.990(12)). Deletes the term "controlling interest" since it is not used in AS 10.06.

Section 58 (AS 10.06.990(47)). Defines "entire board" for the chapter.

Section 59 (AS 10.06.155). Repeals AS 10.06.155, "Registration of agent by non-resident with controlling interest".

Section 60 gives the bill an effective date.

TLB:lmb  
L7/024

6-0395E  
Bannister  
4/14/89

Original sponsor: Rules/Legislative Council

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 204 (L&C)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act delaying the effective date of the new corpo-  
7 rations code; and providing for an effective date."

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

9 \* Section 1. Section 37, ch. 166, SLA 1988, is amended to read:

10 Sec. 37. This Act takes effect July 1, 1990 [JULY 1, 1989].

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



# Representative Dave Donley, Chair House Labor & Commerce Committee

SUBJECT OF MEETING:

HJ 445      HB 204  
 SB 51      HB 286  
 HB 245      HB 284

DATE: 4/25

PLACE: C#17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT WHICH BILL?
Richard Arab	Dept of Labor	Box 21149, Juneau, AK <del>99801</del>	99802		465-7856	(Y) N	HB 286
Willis F Kulepatnick	Div Corporations	DCED			465 2501	(Y) N	HB 204
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

H B

2 2 5

# HOUSE COMMITTEE REPORT

(7)

Date Referred: April 20, 1989

FURTHER REFERRALS:

Date of Committee Action: 5-2-89

The LABOR & COMMERCE Committee considered:

HB 225

HOUSE BILL NO. 225 [PAYMENT OF DISABILITY INSURANCE CLAIMS]  
"An Act relating to payment of disability insurance claims."

RECOMMENDATIONS:

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

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [ ] fiscal impact \_\_\_\_\_
- [ ] zero fiscal note \_\_\_\_\_
- [ ] zero with analysis \_\_\_\_\_

- [ ] fiscal note(s) \_\_\_\_\_
- [  ] zero fiscal note(s) \_\_\_\_\_
- [ ] zero fn/analysis \_\_\_\_\_

SIGNING DO PASS:

David Donley Donley  
Mark Boyer Boyer  
Cliff Baucher Baucher  
Mike Gruenberg Gruenberg

SIGNING:

(Check approp. column)

	Do Not PASS	No Rec	Amend
<u>Baron A. Aronow</u> Aronow		<input checked="" type="checkbox"/>	
<u>Collins</u> Collins		<input checked="" type="checkbox"/>	

David Donley

Chairman's Signature

# State of Alaska

## Committees

CO-CHAIR, HOUSE JUDICIARY  
E-CHAIR, HOUSE LABOR AND COMMERCE  
HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES



P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4712  
465-4968/4986  
(SESSION)

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

April 19, 1989

## MEMORANDUM

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

FROM: Representative Max Gruenberg

RE: CSHB 225 (HESS)

CSHB 225 (HESS) provides that an insured under a disability insurance policy can require the insurer to pay a provider of health services directly. Under current law, direct payments are at the insurer's option. The bill adds that if a patient asks for direct payments and the insurer instead pays the patient, the insurer remains liable to the provider.

These minor changes in the current law will make insurance payments responsive to the needs of consumers.

I would appreciate your scheduling CSHB 225 (HESS) as soon as possible.

Thank you.

# State of Alaska

## Committees

CO-CHAIR, HOUSE JUDICIARY  
CE-CHAIR, HOUSE LABOR AND COMMERCE  
HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES



P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4712  
465-4968/4986  
(SESSION)

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

April 26, 1989

## MEMORANDUM

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

FROM: Representative Max Gruenberg

RE: HB 225, Relating to Payment of Disability Insurance  
Claims

HB 225 deals with the "direct payment" provisions of Title 21, which governs Alaska insurance contracts. Insurance contracts are indemnity contracts; they generally provide that payments are made to the person who owes the bill, rather than to the person who provided services. Alaska law, however, has "direct payment" provisions which enable an insurance company to pay most health care providers directly if the patient so requests.

HB 225 was drafted in response to concerns raised by the Alaska Dental Society. Dentists are not specifically included in the list of health care providers who may be paid directly by the insurance company. The bill adds dentists to that list.

In addition, the bill strengthens the "direct payment" provisions of a current law. A patient who has received insurance payments that the patient asked be paid to a health care provider might not pay the medical bill. In that situation, under current law, the health care provider would bear the cost rather than the insurance company, which mistakenly paid the patient.

Under HB 225 the insurance company loses the option to disregard a patient's instructions to pay the provider directly. In addition, the bill mandates that if an insurance company ignores the patient's written directive, it remains liable to the provider.

These changes will make the insurance company, rather than the health care provider, bear the risk that a payment improperly sent to the patient will leave a medical bill unpaid.

An insurance company would retain the right to collect any amounts mistakenly paid to a patient from that person. Under current law a health care provider could collect from the patient in the same situation.

In addition to placing the risk of loss on the proper party, HB 225 adds a specific time limit within which medical bills must be paid.

Taken together, these changes in current law will make the Alaska insurance industry more responsive to consumers' needs and to their legitimate requests.

BILL: HB 225

NAME:

TITLE: "AN ACT RELATING TO PAYMENT OF DISABILITY INSURANCE  
CLAIMS."

PRIME SPONSOR: GRUENBERG

CO-SPONSOR: MENARD

CURRENT STATUS: (H) L&C

STATUS DATE: 04/20/89

HEARING: (H) L&C APR 27 03:00 PM

<PENDING REFERRAL>

03/17/89	00653	(H)	READ THE FIRST TIME - REFERRAL(S)
03/17/89	00653	(H)	HESS, LABOR & COMMERCE
04/20/89	01135	(H)	HES RPT CS(HES) 2DP 2NR
04/20/89	01136	(H)	ZERO FISCAL NOTE (COMMERCE) 4/20/89
04/20/89	01136	(H)	REFERRED TO LABOR & COMMERCE

# HOUSE COMMITTEE REPORT

(7)  
Date Referred: March 17, 1989 FURTHER REFERRALS: LABOR & COMMERCE

Date of Committee Action: 4/19/89

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 225

HOUSE BILL NO. 225 [PAYMENT OF DISABILITY INSURANCE CLAIMS]  
"An Act relating to payment of disability insurance claims."

### RECOMMENDATIONS:

- be replaced with CS HB 225 (HESS)  the same title
- have attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

- |   |   |
|---|---|
| ATTACHES NEW FISCAL NOTE(s):<br>(Dept)                                      | APPROVES PREVIOUS:<br>(Date/Dept)                         |
| <input type="checkbox"/> fiscal impact _____                                | <input type="checkbox"/> fiscal note(s) _____             |
| <input checked="" type="checkbox"/> <u>zero</u> fiscal note <u>Commerce</u> | <input type="checkbox"/> <u>zero</u> fiscal note(s) _____ |
| <input type="checkbox"/> <u>zero</u> with analysis _____                    | <input type="checkbox"/> <u>zero</u> fn/analysis _____    |

### SIGNING DO PASS:

\_\_\_\_\_  
*Rep. R. Menchey*  
 \_\_\_\_\_  
*J. Ellis*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend
_____			
<i>Cheri Davis</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>		<input checked="" type="checkbox"/>	
_____			
_____			
_____			
_____			
_____			
_____			

\_\_\_\_\_  
*J. Ellis*  
 \_\_\_\_\_  
 Chairman's signature

Original sponsors: Gruenberg and Menard

*Marked up to show changes from original bill  
(sections 1, 2 and 5);  
and from existing law (sections 3 and 4)*

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 225 (HESS)

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 payment of disability insurance  
7 claims."

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

9 \* Section 1. AS 21.51.120 is repealed and reenacted to read:

10 Sec. 21.51.120. PAYMENT OF CLAIMS. (a) A disability policy  
11 delivered or issued for delivery must contain the following provi-  
12 sions:

13 (1) indemnity for loss of life shall be paid according to  
14 the beneficiary designation and payment provisions contained in the  
15 policy that are effective at the time of payment; if a beneficiary has  
16 not been designated, indemnity shall be paid to the estate of the  
17 insured; accrued indemnities unpaid at the insured's death shall be  
18 paid to either the beneficiary or the estate, at the option of the  
19 insurer; all other indemnities shall be paid to the insured;

20 (2) the insurer may, and upon request of the insured shall,  
21 within 30 working days after receiving a proof of loss statement, pay  
22 indemnities for hospital, nursing, medical, dental, or surgical  
23 services directly to the provider of the services; an insurer who pays  
24 indemnities to an insured, after the insured has given the insurer  
25 written notice in the proof of loss statement of an election of direct  
26 payment of indemnities to the provider of the services, shall also pay  
27 indemnities to the provider of the services; this paragraph does not  
28 require that services be provided by a particular hospital or person.

29 (b) A disability policy delivered or issued for delivery may, at

*Unchanged  
from  
original  
bill*

1 the option of the insurer, require that an indemnity in an amount not  
2 to exceed \$1,000 that is payable to the estate of the insured, an  
3 insured or beneficiary who is a minor, or an insured who is not compe-  
4 tent to give a valid release, be paid to a relative by blood or mar-  
5 riage, or a beneficiary that the insured determines is equitably  
6 entitled to the payment. A good faith payment by the insurer under  
7 this subsection fully discharges the insurer to the extent of the  
8 payment.

9 \* Sec. 2. AS 21.54.020 is repealed and reenacted to read:

10 Sec. 21.54.020. DIRECT PAYMENT OF HOSPITAL, MEDICAL SERVICES.

11 An insurer may, and upon request of the covered person shall, within  
12 30 working days after receiving a <sup>[complete and final billing]</sup> proof of loss statement, pay indem-  
13 nities under a <sup>[or blanket]</sup> group disability policy directly to the provider of the  
14 hospital, nursing, medical, dental, or surgical services. The policy  
15 may not contain a provision requiring that services be provided by a  
16 particular hospital or person. If the insurer pays indemnities to the  
17 covered person after the covered person has given the insurer written  
18 notice in the proof of loss statement of an election of direct payment  
19 of indemnities to the provider of the service, the insurer shall also  
20 pay those indemnities to the provider of the service.

21 \* Sec. 3. AS 21.54.050 is repealed and reenacted to read:

22 Sec. 21.54.050. PAYMENT OF BLANKET DISABILITY POLICY BENEFITS.

23 All benefits under a blanket disability policy shall be paid to (1)  
24 the person insured; (2) the designated beneficiary or beneficiaries of  
25 the person insured; (3) the estate of the person insured; (4) the  
26 parent, guardian, or other person actually supporting the person  
27 insured, if the person insured is a minor or otherwise not competent  
28 to give a valid release; or (5) the employer, if the entire cost of  
29 the insurance has been paid by the employer. An insurer may, and upon

*[at the insured's option]*

1 request of the covered person shall, within 30 working days after  
2 receiving a proof of loss statement, pay benefits directly to the  
3 provider of the hospital, nursing, medical, dental, or surgical  
4 services. The policy may not contain a provision requiring that  
5 services be provided by a particular hospital or person. If the  
6 insurer pays indemnities to the insured after the covered person has  
7 given the insurer written notice in the proof of loss statement of an  
8 election of direct payment of indemnities to the provider of the  
9 service, the insurer shall also pay those indemnities to the provider  
10 of the service. *[Payment so made discharges the insurer.]*

11 \* Sec. 4. AS 21.87.340 is amended to read:

12           Sec. 21.87.340. OTHER PROVISIONS APPLICABLE. In addition to  
13 the provisions contained or referred to previously in this chapter,  
14 the following chapters and provisions of this title also apply with  
15 respect to service corporations to the extent applicable and not in  
16 conflict with the express provisions of this chapter and the reason-  
17 able implications of the express provisions, and for the purposes of  
18 the application the corporations shall be considered to be mutual  
19 "insurers":

- 20           (1) AS 21.03
- 21           (2) AS 21.06
- 22           (3) AS 21.09, except AS 21.09.090
- 23           (4) AS 21.18.010
- 24           (5) AS 21.18.030
- 25           (6) AS 21.18.040
- 26           (7) AS 21.18.120
- 27           (8) AS 21.21.321
- 28           (9) AS 21.36
- 29           (10) AS 21.69.400

- 1 (11) AS 21.69.520
- 2 (12) AS 21.69.600, 21.69.620, and 21.69.630
- 3 (13) AS 21.78
- 4 (14) AS 21.90
- 5 (15) AS 21.42.345 - 21.42.365
- 6 (16) AS 21.89.040
- 7 (17) AS 21.89.060;
- 8 (18) AS 21.51.120. *(applies the new "direct payment" provisions to*
- 9 \* Sec. 5. This Act applies to policies of disability insurance entered *hospital and medical service*
- 10 into or renewed after the effective date of this Act. *corporations (i.e., Blue Cross))*

*Marked up to show changes  
from existing law*

1 IN THE HOUSE BY GRUENBERG AND MENARD

2 HOUSE BILL NO. 225

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 payment of disability insurance  
7 claims."

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

9 \* Section 1. AS 21.51.120 is repealed and reenacted to read:

10 Sec. 21.51.120. PAYMENT OF CLAIMS. (a) A disability policy  
11 delivered or issued for delivery must contain the following provi-  
12 sions:

13 (1) indemnity for loss of life shall be paid according to  
14 the beneficiary designation and payment provisions contained in the  
15 policy that are effective at the time of payment; if a beneficiary has  
16 not been designated, indemnity shall be paid to the estate of the  
17 insured; accrued indemnities unpaid at the insured's death shall be  
18 paid to either the beneficiary or the estate, at the option of the  
19 insurer; all other indemnities shall be paid to the insured;

20 (2) the insurer may, and upon request of the insured shall,  
21 within 30 days after receiving a complete and final billing, pay  
22 indemnities for hospital, medical, <sup>[nursing]</sup> dental, or surgical services  
23 directly to the provider of the services; an insurer who pays indemni-  
24 ties to an insured, after the insured has given the insurer written  
25 notice of an election of direct payment of indemnities to the provider  
26 of the services, shall also pay indemnities to the provider of the  
27 services; this paragraph does not require that services be provided by  
28 a particular hospital or person.

29 (b) A disability policy delivered or issued for delivery may, at

*current  
25. 21. 51.120(9)  
substantively  
unchanged*

*current  
25. 21. 51.120(5)(2)*

*[at the Insurer's opt.]*

1 the option of the insurer, require that an indemnity in an amount not  
2 to exceed \$1,000 that is payable to the estate of the insured, an  
3 insured or beneficiary who is a minor, or an insured who is not compe-  
4 tent to give a valid release, be paid to a relative by blood or mar-  
5 riage, or a beneficiary that the insured determines is equitably  
6 entitled to the payment. A good faith payment by the insurer under  
7 this subsection fully discharges the insurer to the extent of the  
8 payment.

*Current  
AS 21.51.120(b)  
(substantively  
unchanged)*

9 \* Sec. 2. AS 21.54.020 is repealed and reenacted to read: *2 [at the insurer's option]*

10 Sec. 21.54.020. DIRECT PAYMENT OF HOSPITAL, MEDICAL SERVICES.

11 An insurer may, and upon request of the insured shall, within 30 days  
12 after receiving a complete and final billing, pay indemnities under a  
13 group or blanket disability policy directly to the provider of the  
14 hospital, nursing, medical, dental, or surgical services. The policy  
15 may not contain a provision requiring that services be provided by a  
16 particular hospital or person. If the insurer pays indemnities to the  
17 insured after the insured has given the insurer written notice of an  
18 election of direct payment of indemnities to the provider of the  
19 service, the insurer shall also pay those indemnities to the provider  
20 of the service. *[Payment so made discharges the insurer.]*

21 \* Sec. 3. This Act applies to policies of disability insurance entered  
22 into or renewed after the effective date of this Act.

STATE OF ALASKA  
THE LEGISLATURE

POLKBY STATE CAPITAL  
JUNEAU ALASKA 99801  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 10, 1989

SUBJECT: Disability insurance claims - HB 225  
TO: Representative Max Gruenberg  
FROM: Michael F. Ford *M.F.*  
Legislative Counsel

You have asked how the existing law under AS 21.51.120 and AS 21.54.020 is changed by HB 225. Existing law is changed by requiring payment of insurance claims 30 days after final billing, and by requiring that an insurer who pays the insured after receiving written notice that direct payment should be made to the service provider, must also make payment to the service provider. Finally, "dental" has been added to the list of service providers, in both sections of law.

I have also attached an amendment to HB 225 that will add "nursing" to the list of service providers, contained in AS 21.51.120. This term exists in present law and was inadvertently omitted in the repeal and reenactment of AS 21.51.-120.

Please contact me if you have further questions.

MF:kb  
wkk3/084

Enclosure

HB 225: An Act relating to payment of disability

This Act pertains to the payment of both group and individual disability insurance claims. It provides for a requirement that, when benefits are assigned to a medical care provider, the benefits must be paid within 30 days after receipt of a final and complete billing, and, if the insurer mistakenly pays the insured, then the insurer must also pay the medical care provider.

Section 1 - AS 21.52.120 - Individual Disability Contracts

Essentially, the repeal and reenactment of AS 21.51.120 does not change the existing law's intent. This section pertains to required contract provisions pertaining to payment of claims in individual disability insurance contracts. Two elements have been added in the situation when benefits have been assigned to a medical care provider:

1. payment must be made within 30 days after receipt of final and complete billing; and
2. if the insurer mistakenly pays benefits to the insured, it must also make payment to the medical care provider. It is assumed that the insurer is penalized for this mistake by the required double payment. Assumedly, both payments would tend to increase future rates.

It should be noted that this section does not create an irrevocable assignment and the insured could change his or her mind and request in writing that the insurer now pay direct to him or her (under AS 21.42.270 and AS 21.51.150). Furthermore, it should be noted that individual subscriber contracts issued by a hospital or medical service corporation that provide indemnity benefits would not be covered by this proposed change in the law.

Section 2 - AS 21.54.020 - Group Disability Contracts

Direct payment of benefits to medical care providers by insurers may provide for:

1. medical care providers not requiring patients to pay for treatment before treatment is given so as not to create a barrier to receiving appropriate medical care; and
2. assurance that at least some portions of the charges for medical care will be paid to the medical care provider.

Most group disability insurance contracts will allow the choice of direct payment to medical care providers to be made by the individual persons covered under the group contract. This election is required to be made in writing and may only be changed by a subsequent written request received before claim payment is made. However, many insurers do retain the contractual option of whether paying direct to the person covered or to a medical care provider. If the covered person has made the written election for direct payment to a provider, the insurer will pay to the provider. If the covered person does not make the written election for direct payment, the insurer must pay any benefits to the covered person.

However, if no direct payment election is made and the amount of the claim is substantial, many insurers will require the covered person to provide proof that the medical care provider has been paid. (An insurer will do this because, if a covered person is paid but the provider ultimately is not paid, those reimbursed charges will be factored into and result in higher charges being made for future medical service.

The new language removes the insurer's discretion in regard to making direct payment to a provider. If the insurer allows for the election of direct payment, then the direct payment must be made unless the election is revoked in writing. It's assumed that the term "insured" means the covered person and not the group policyholder (e.g. the employer, association, union, or trust). If it does include the group policyholder, the policyholder may also make the election of whether or not direct payment must be made. If that is the case, it would seem if the group policyholder made the decision that all payments would be made direct, the covered person would not have the option. Additionally, in such a circumstance, if a provider required full payment before rendering service, the provider would receive double payment and would have to reimburse the covered person the amount in excess of the total charges.

Included in the new language is reference to blanket disability policies. This reference provides conflict with AS 21.54.050 which pertains to payment of benefits under disability policies. This reference either needs to be removed or AS 21.54.050 needs to be amended.

The same 30-day criteria for payment of claims and the double payment features are evident in this amended provision as are in the section pertaining to individual disability contracts.

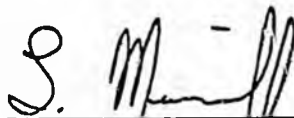
It should also be noted that group subscriber contracts issued by a hospital or medical service association that provide indemnity benefits would not be affected by this Act. Additionally, it should be noted that this Act would not have any effect on self-insureds nor on group contracts issued in another state even though coverage is provided to Alaska residents.

The department's position is neutral.

#### Amendments Proposed

1. If it is the sponsor's intent to include both individual and group subscriber contracts issued by a hospital or medical service corporation that provide indemnity benefits, then AS 21.87 would need to be amended. This could be accomplished by adding references to AS 21.51.120 and AS 21.54.020 to the list of other applicable provisions found in AS 21.87.340.
2. AS 21.54.050 needs to be amended so it does not conflict with the proposed language in AS 21.87.340.

3. AS 21.54.020 should be amended to clarify that the option of the election of direct payment is up to each covered person as opposed to the group policyholder if that is the intent. This is required because technically the "insured" is the group policyholder.
4. In both AS 21.51.120 and AS 21.54.020, the proposed language would trigger the 30-day claim payment upon the insurer receiving a "complete and final billing." Technically this is but one element of the required "proof of loss." For example, other elements include whether or not the person was an eligible group member at the time the loss was incurred either through being employed full time or having premiums paid up-to-date. Therefore, it is recommended that the term "complete and final billing" be replaced with the term "proof of loss."



\_\_\_\_\_  
Larry Mercurieff, Commissioner

Date: 4/12/89

LM/JB/3829D  
041289a

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Economic Dev.  
 Title: Payment of Disability Insurance  
Claims BRU: Insurance  
 Sponsor: Gruenberg and Menard Components: \_\_\_\_\_  
 Requester: House HESS

**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

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

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

**FUNDING: (Thousands of dollars)**

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

**POSITIONS:**

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

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

Prepared by: Paul Roller, Director  
 Division: Insurance

Phone: 465-2515  
 Date: 4-10-89

Approved by Commissioner: Larry Mercurieff *S.M.*  
 Agency: Department of Commerce & Economic Development

Phone: 465-2500  
 Date: 4/10/89

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

HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES  
STANDING COMMITTEE  
April 13, 1989  
12:00 p.m.

MEMBERS PRESENT

Rep. Johnny Ellis, Chairperson  
Rep. Mark Boyer, Vice Chair  
Rep. Cheri Davis  
Rep. Peter Goll  
Rep. Max Gruenberg

MEMBERS ABSENT

Rep. Furnace  
Rep. Jacko

COMMITTEE CALENDAR

SJR 23: Relating to the labeling of irradiated food

PASSED WITH INDIVIDUAL RECOMMENDATIONS

SB 209: "An Act relating to the sale of organic foods."

PASSED WITH INDIVIDUAL RECOMMENDATIONS

HB 225: "An Act relating to payment of disability insurance claims."

HELD OVER

HJR 16: Relating to medical benefits for veterans.

PASSED WITH INDIVIDUAL RECOMMENDATIONS

SB 73: "An Act relating to retirement incentive programs for the public employees' retirement system and the teachers' retirement system; and providing for an effective date."

HELD OVER

FLOOR/PREVIOUS ACTION

BILL: SJR 23

PRIME SPONSOR: KERTTULA

CO-SPONSOR: SZYMANSKI

JRN-DATE

JRN-PG

ACTION

02/06/89

00329

(S)

READ THE FIRST TIME/REFERRAL(S)

Joan Wilkerson  
Alaska Public Employees Association  
340 North Franklin St.  
Juneau, AK 99801  
Phone: 586-2334  
Position: SUPPORTS SB 73

Dana Olsen  
P.O. Box 5438  
Wasilla, AK 99687  
Phone: 373-4612  
Position: n/a

Dr. Robert Robinson  
P.O. Box 871687  
Wasilla, AK 99687  
Phone: 373-0747  
Position: SUPPORTS HB 225

Dr. William Guy  
506 Marine Way  
Kodiak, AK 99615  
Phone: 486-4095  
Position: SUPPORTS HB 225

Larry LaBolle  
Office of Representative Foster  
P.O. Box V  
Juneau, AK 99811  
Phone: 465-3789  
Position: SPONSOR SPOKESPERSON FOR HJR 16

Bob Stalnaker  
Deputy Director  
Division of Retirement and Benefits  
Department of Health and Social Services  
P.O. Box CR  
Juneau, AK 99811  
Phone: 465-4470  
Position: AVAILABLE FOR QUESTIONS

Mary Bohanan  
P.O. Box 1164  
Delta Junction, AK 99737  
Phone: 895-4379  
Position: SUPPORTS SB 73

Representative Gruenberg  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811  
Phone: 465-4968  
Position: PRIME SPONSOR OF HB 225

Paul Roller  
Director  
Division of Insurance  
Department of Commerce and Economic Development  
P.O. Box D  
Juneau, AK 99811  
Phone: 465-2515  
Position: AVAILABLE FOR QUESTIONS

ACTION NARRATIVE

TAPE 56, SIDE ONE  
Number 000

The House Committee on Health, Education and Social Services was called to order by Chairperson Ellis at 12:00 p.m. Members present were Representatives Ellis, Davis, Goll, and Gruenberg. Representative Boyer arrived after the call to order. Representatives Furnace and Jacko were absent.

The first item of business before the committee was SB 73.

SENATOR JIM DUNCAN, sponsor of SB 73, spoke to the bill. He recalled that the legislature established a retirement incentive program (RIP) in 1986. The stated purpose at that time was to reduce the hardship of layoffs and to resolve a net reduction in personal service costs to the state or other employers during periods of declining revenue. He stated that SB 73 aims toward those goals. He described the crediting system and emphasized that the program was optional for the employer and employee. The savings to the state as a result of the program over a three year period exceeded roughly \$25 million, and over a five year period roughly \$60 million. Senator Duncan said that the school districts, municipalities and the University of Alaska had saved millions. He commented that due to abuse of the system in the past, a special provision had been placed in the bill which would prevent certain high ranking state officials from participating in the program. He said that an indirect benefit of the early retirement incentive program was that compensation dollars are retained in the Alaska economy which might otherwise have been lost if employees had to be laid off. Senator Duncan said that 70% of retirees remain in Alaska, and close to 95% of the RIP retirees choose to remain in Alaska after retirement.

Number 165

Rep. Davis asked if court system employees were eligible for the program.

established guidelines. She remarked that her products would conform to other states and she would like to see Alaska adopt those minimal standards. Ms. Olsen expressed concern that agricultural substances do not break down as quickly in Alaska as they do in warmer climates. She stated that she would like to see a voluntary certification program in Alaska.

Chairperson Ellis referred Ms. Olsen's testimony to the next committee of referral - House Resources. He stated that there may be an additional referral to the Judiciary Committee.

Number 583

Rep. Davis moved that CSSB 209 be passed with individual recommendations.

Hearing no objections, it was so ordered.

The next item of business before the committee was HB 225.

Rep. Gruenberg, prime sponsor, stated that HB 225 would include dentists in the statute. He added that the bill reenacts the statute to require that if the insured requests that the insurer pays the provider and the provider fails to do so and pays the insured instead of the provider, the insurer will have to pay again if the insured skips out. He said that the bill aimed to protect the provider.

PAUL ROLLER, Director, Division of Insurance, Department of Commerce and Economic Development, testified on HB 225. He stated that it was the administration's understanding that the bill would not abridge the additional right that claimants would have under the new unfair claims settlement practice regulations. Mr. Roller said that the only other technical amendment was that the administration used 30 working days and the bill reads 30 calendar days, and the Division recommends changing that.

TAPE 56, SIDE TWO  
Number 000

DR. ROBERT ROBINSON, Dentist, testified on HB 225 from Wasilla. He stated that he was concerned with the payment to the provider. He described typical cases where patients spent the check that should have gone to the provider. He said that the doctor not only loses payment for their labor, but loses payment to staff and materials. Dr. Robinson noted that the average cost of these cases was about \$1400. He would like to see the 30 calendar days provision maintained. He commented that he and other

doctors spend considerable time waiting for insurance companies to pay them.

Number 054

DR. WILLIAM GUY, Dentist, testified on HB 225 from Kodiak. He concurred with Dr. Robinson and remarked that he has problems with the situation involving the insurance companies and the doctors. He said that the companies don't want to open their books, and they blame the liability crisis on the lawyers and the litigious public. Now, when an error is made in the assignment of benefits, the companies don't want to reimburse the doctors. Dr. Guy felt that insurance companies don't have much fiscal responsibility. He urged support of the bill.

Rep. Gruenberg referred to a series of amendments before the committee and requested that his office present a CS at the bill's next hearing.

The request was granted and the bill was held over by Chairperson Ellis.

SJR 23 was brought back to the table for final action.

Rep. Davis moved that SJR 23 pass out of committee with individual recommendations.

Hearing no objection, it was so ordered.

Number 131

HJR 16 was brought back to the committee for a formal vote.

Rep. Davis formally moved that HJR 16 pass out of committee with individual recommendations.

Hearing no objection, it was so ordered.

Chairperson Ellis made one final announcement.

Since there was no further business to come before the House HESS Committee, Chairperson Ellis adjourned the meeting at 12:55 p.m.

HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES  
STANDING COMMITTEE  
April 19, 1989  
8:30 a.m.

MEMBERS PRESENT

Rep. Johnny Ellis, Chairperson  
Rep. Mark Boyer, Vice Chair (left early)  
Rep. Cheri Davis  
Rep. Walter Furnace  
Rep. Max Gruenberg (arrived late)

MEMBERS ABSENT

Rep. Peter Goll  
Rep. George Jacko

COMMITTEE CALENDAR

SCR 2: Establishing a Family Support Task Force.

NO ACTION TAKEN - HELD OVER

HB 35: "An Act relating to entry of persons under age 21 to licensed premises."

PASSED OUT WITH INDIVIDUAL RECOMMENDATIONS

HB 225: "An Act relating to payment of disability insurance claims."

PASSED OUT WITH INDIVIDUAL RECOMMENDATIONS

HB 236: "An Act relating to the offense of driving while intoxicated and establishing presumptions of intoxication arising against persons 21 years of age or older and persons under 21 years of age in civil and criminal actions; and providing for an effective date."

NO ACTION TAKEN - HELD OVER

WITNESS REGISTER

Ms. Janet Kowalski  
Professional Assistant  
Sen. Rick Uehling  
P.O. Box V  
Juneau, Alaska 99811  
Phone: 465-4821  
Position Statement: Explained proposed amendment to SCR 2

Ms. K. Michael Ward  
Administrative Assistant  
Rep. Dave Donley  
P.O. Box V  
Juneau, Alaska 99811  
Phone: 465-3892  
Position Statement: Testified regarding HB 236

Andy Hemenway, Staff  
Rep. Max Gruenberg  
P.O. Box V  
Juneau, Alaska 99811  
Phone: 465-4968  
Position Statement: Explained proposed changes to HB 225

Mr. Stan Garlington  
Insurance Market Analyst  
Department of Commerce and Economic Development  
Division of Insurance  
P.O. Box D  
Juneau, Alaska 99811  
Phone: 465-2595  
Position Statement: Supported HB 225

PREVIOUS ACTION

BILL: SCR 2  
PRIME SPONSOR: UEHLING  
CO-SPONSOR: STURGULEWSKI, PEARCE

JRN-DATE	JRN-PG		ACTION
01/10/89	00062	(S)	READ THE FIRST TIME - REFERRAL(S)
01/10/89	00062	(S)	HES, THEN FINANCE
03/13/89	00751	(S)	HES RPT CS 4DP SAME TITLE
03/13/89	00752	(S)	LETTER OF INTENT WITH HES REPORT
03/13/89	00752	(S)	FISCAL NOTE TO SCR PUBLISHED
03/20/89	00859	(S)	THREE ZERO FISCAL NOTES TO SCR PUBLISHED
03/15/89	00790	(S)	FISCAL NOTE TO CS PUBLISHED
03/20/89	00859	(S)	ZERO FISCAL NOTE TO HES CS PUBLISHED

Chairperson Ellis stated that HB 236 would be held over for further consideration. He referred to the amendments, and asked Ms. Ward to explain which reports substantiate which findings for the next meeting on HB 236.

Number 330

The next item of business was HB 225.

REP. GRUENBERG, prime sponsor of HB 225, asked ANDY HEMENWAY of his staff to explain the proposed changes in the draft CSHB 225.

Mr. Hemenway stated that the word "nursing" was added to page 1, line 22. A new section 3 was added which deals with the blanket disability policies regarding direct payment provision. A new section 4 was added which extends the direct payment provisions to hospital service corporations. He referred to section 2, on page 2. He stated that in the past, direct payment provisions were brought in on request of the insured. The change to section 2 now changes from insured to covered persons so that direct payments would be made at the patient's request. The 30-day time limit for payment of bills by the insurance company was added to conform with the draft regulations from the Division of Insurance.

Number 370

Chairperson Ellis asked for a motion to adopt the CSHB 225.

Rep. Gruenberg moved that the CSHB 225 be adopted for discussion. Hearing no objection, it was so ordered.

Chairperson Ellis invited MR. STAN GARLINGTON, Market Analyst with the Division of Insurance, to testify before the committee.

Number 384

Mr. Garlington testified in support of the proposed changes to HB 225, and urged their adoption.

Rep. Gruenberg moved that the CSHB 225 be moved from the HESS Committee with individual recommendations. Hearing no objection, it was so ordered.

Number 399

Chairperson Ellis brought HB 35 back before the committee.

Rep. Furnace moved that the CSHB 35 be adopted. Hearing no objection, it was so ordered.

by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at (insert the location of the office which the insurer designates for the purpose), or to an authorized agent of the insurer, with information sufficient to identify the insured, shall be considered notice to the insurer."

(b) In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the provision in (a) of this section:

"Subject to the qualifications set out below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, the insured shall, at least once in every six months after having given notice of the claim, give to the insurer notice of continuance of the disability, except in the event of legal incapacity. The period of six months following a filing of proof by the insured or a payment by the insurer on account of the claim or a denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of notice shall not impair the insured's right to indemnity which would otherwise have accrued during the period of six months preceding the date on which the notice is actually given." (§ 1 ch 120 SLA 1966)

**Sec. 21.51.090. Claim forms.** There shall be a provision as follows:

"Claim Forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant forms which are usually furnished by it for filing proofs of loss. If the forms are not furnished within 15 days after the giving of notice the claimant shall be considered to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made." (§ 1 ch 120 SLA 1966)

**Sec. 21.51.100. Proofs of loss.** There shall be a provision as follows:

"Proofs of Loss: Written proof of loss must be furnished to the insurer at its office in case of claim for loss for which this policy provides periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the insurer is liable and in case of claim for any other loss within 90 days after the date of that loss. Failure to furnish proof within the time required shall not invalidate or reduce a claim if it was not reasonably possible to give proof within that time, provided that the proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required." (§ 1 ch 120 SLA 1966)

**Sec. 21.51.110. Time of payment of claims.** There shall be a provision as follows:

"Time of Payment of Claims: Indemnities payable under this policy for a loss other than loss for which this policy provides a periodic payment, will be paid immediately upon receipt of due written proof of the loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof." (§ 1 ch 120 SLA 1966)

**Sec. 21.51.120. Payment of claims.** (a) There shall be a provision as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting the payment which may be prescribed herein and effective at the time of payment. If no designation or provision is then effective, the indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to the beneficiary or to the estate. All other indemnities will be payable to the insured."

(b) The following provisions, or either of them, may be included with the provision in (a) of this section at the option of the insurer:

(1) "If an indemnity of this policy is payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay the indemnity, up to an amount not exceeding \$ (insert an amount which shall not exceed \$1,000), to a relative by blood or connection by marriage of the insured or beneficiary who is considered by the insurer to be equitably entitled thereto. Payment made by the insurer in good faith under this provision shall fully discharge the insurer to the extent of the payment."

(2) "Subject to written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proof of the loss, be paid directly to the hospital or person rendering the services; and it is not required that the service be rendered by a particular hospital or person." (§ 1 ch 120 SLA 1966)

**Sec. 21.51.130. Physical examination, autopsy.** There shall be a provision as follows:

"Physical Examinations and Autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law." (§ 1 ch 120 SLA 1966)

sidered representations and not warranties, and that a statement made for the purpose of effecting insurance may not void the insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to the policyholder or to the insured person or the beneficiary of the insured person;

(2) a provision that the insurer will furnish to the policyholder for delivery to each employee or member of the insured group, a statement in summary form of the essential features of the insurance coverage of the employee or member and to whom benefits are payable; if dependents are included in the coverage, only one certificate need be issued for each family unit;

(3) a provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy. (§ 1 ch 120 SLA 1966)

*Collateral references.* — Group medical and hospital service plan as constituting insurance, 167 ALR 323.

**Sec. 21.54.020. Direct payment of hospital, medical services.** A group disability policy may on request by the group policyholder provide that all or a portion of any indemnities provided by the policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering the services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid. (§ 1 ch 120 SLA 1966)

**Sec. 21.54.030. Required provisions of blanket policies.** An insurer authorized to write disability insurance in this state shall have the power to issue blanket disability insurance. A blanket policy may not be issued or delivered in this state unless a copy of the form of the policy has been filed in accordance with AS 21.42.120. Every blanket policy shall contain provisions which in the opinion of the director are at least as favorable to the policyholder and the individual insured as the following:

(1) a provision that the policy, including endorsements and a copy of the application, if any, of the policyholder and the persons insured shall constitute the entire contract between the parties, and that any statement made by the policyholder or by a person insured shall in the absence of fraud be considered a representation and not a warranty, and that no statements shall be used in defense to a claim under the policy, unless contained in a written application; the person, a beneficiary, or assignee, shall have the right to make written request to the

**Sec. 21.54.040. Application and certificates not required.** An individual application may not be required from a person covered under a blanket disability policy or contract, nor is it necessary for the insurer to furnish each person a certificate. (§ 1 ch 120 SLA 1966)

**Sec. 21.54.050. Insurable interest.** All benefits under a blanket disability policy shall be payable to the person insured, the designated beneficiary or beneficiaries of the person insured, or the estate of the person insured; except, that if the person insured is a minor or otherwise not competent to give a valid release, the benefits may be made payable to the parent, guardian, or other person actually supporting the person insured; or if the entire cost of the insurance has been borne by the employer the benefits may be made payable to the employer. Provided however, that the policy may provide that all or a portion of any indemnities provided by the policy on account of hospital, nursing, medical or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time for filing proofs of the loss, be paid directly to the hospital or person rendering the services. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance paid. (§ 1 ch 120 SLA 1966)

**Sec. 21.54.060. Group disability insurance defined.** Group disability insurance is that form of disability insurance covering groups of persons as defined below, with or without one or more members of their families or one or more of their dependents, or covering one or more members of the families or one or more dependents of the groups of persons and issued upon the following basis:

(1) under a policy issued to an employer or trustees of a fund established by an employer, who shall be considered the policyholder, insuring employees of the employer for the benefit of persons other than the employer; in this paragraph the term "employees" includes the officers, managers, and employees of the employer, the individual proprietor or partner if the employer is an individual proprietor or partnership, the officers, managers, and employees of subsidiary or affiliated corporations, the individual proprietors, partners and employees of individuals and firms, if the business of the employer and the individual or firm is under common control through stock ownership, contract, or otherwise; in this paragraph "employees" may include retired employees; a policy issued to insure employees of a public body may provide that the term "employees" includes elected or appointed officials; the policy may provide that the term "employees" includes the trustees or their employees, or both, if their duties are principally connected with the trusteeship; a policy issued to insure employees of a corporation may provide that the term "employees" includes directors of the corporation, whether or not the directors receive compensation;

H

B

2

3

5

1 Street

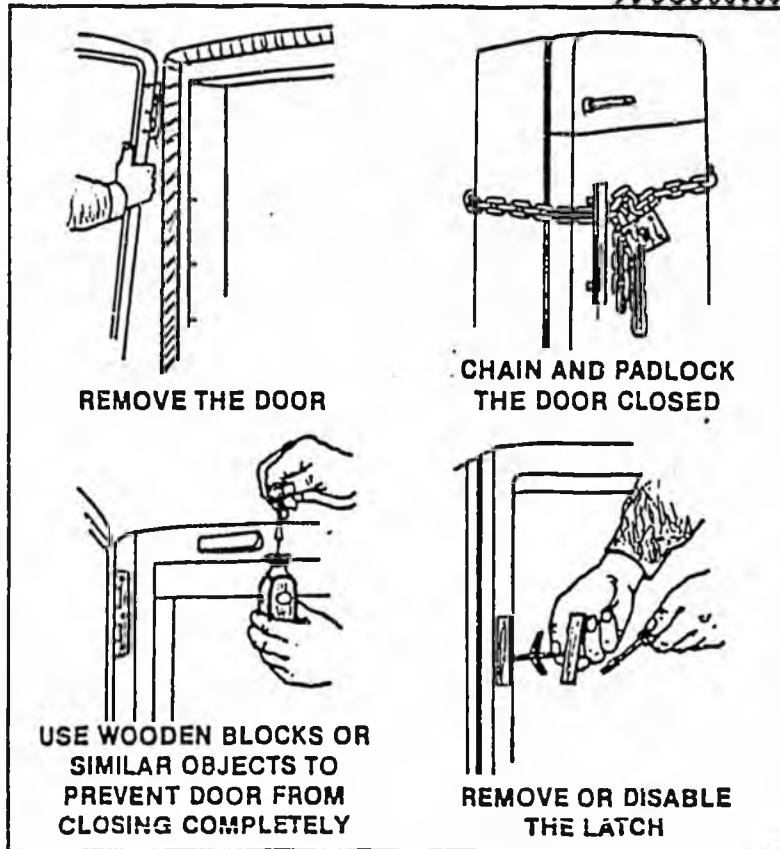
**Consumer Product SAFETY ACT**  
FROM THE U.S. CONSUMER PRODUCT SAFETY COMMISSION, WASHINGTON, D.C. 20207  
June 1984

*Under laws administered by CPSC, an estimated 325 million potentially hazardous products have been called back from the marketplace and consumers since 1973 (when CPSC was created). Most of these were voluntarily recalled by manufacturers who established programs to repair or replace the products, or to refund the purchase price.*

**CPSC Warns About Suffocation  
and Death of Children  
in Old Refrigerators**

L.S. & S  
ANCHORAGE

JUL 27 1988



The U.S. Consumer Product Safety Commission (CPSC) urges that all unused old-style refrigerators around the home be rendered "child-proof" or, if on public property, appropriate authorities be called to safely dispose of the products. CPSC continues to receive reports about the tragic deaths of young children who are suffocated because of entrapment in old refrigerators.

The Refrigerator Safety Act was enacted August 2, 1956. The

Act's regulations which became effective October 30, 1958 require a mechanism (usually a magnetic latch) which enables the door to be opened from the inside in the event of accidental entrapment. This type of latch, therefore, makes the hazardous refrigerators manufactured before that date easy to identify. The serious entrapment hazard occurs when children, during play, climb inside the old abandoned or carelessly stored refrigerators to hide. Many of these refrigerators are still in

RECEIVED  
JUN 27 1988  
OSH Anchorage

## Suffocation and Death of Child in Old Refrigerators

(continued)

57  
10

use, and when they are carelessly discarded or stored where they are accessible to children, they become a danger.

The CPSC has record of 96 children's deaths since 1973 caused by suffocation resulting from entrapment in those old refrigerators. Children in the 3 and 4 year age brackets have been the most vulnerable.

While there has been some decline in deaths in recent years, 8 children died during 1983 from refrigerator entrapment. Three of these instances were double deaths occurring in Missouri, Texas and West Virginia. The other deaths were separate, involving two 3 year olds in California.

The grim statistics from refrigerator entrapments have already begun for 1984. CPSC has recently received a report of the deaths on January 31, 1984 of cousins, ages 3 and 4 in an old refrigerator in Berkley Township, New Jersey. The refrigerator was one of the old prestandard models with the self-latching mechanism on the door and was stored in an unused neighborhood garage. The children apparently both sat down on the single metal shelf near the bottom of the empty, unplugged refrigerator and the door became latched.

Double deaths are not uncommon because children naturally enjoy playing together, and old refrigerators provide an interesting place to share this fun. However, when the door slams shut, there is sudden darkness, and the normally innocent and familiar refrigerator becomes a

death trap. Suffocation then ensues because the tight fitting gasket, which is on the inside of the door to seal in the cold, cuts off the child's air. This along with the insulated construction of a refrigerator also prevents the children's screams for help from being heard.

There are several ways to "child-proof" these old discarded refrigerators. The surest method is to take off the door completely and in most cases this is a simple process using a screwdriver. If the door will not come off, chain and padlock the door permanently and tightly closed. A third alternative is to remove or disable the latch completely so the door will no longer lock when closed. A wooden block screwed to the door to keep it from closing is also a possibility. Another helpful deterrent is to leave the shelves in the refrigerator to discourage children from getting inside. Also, it is unlawful in many local jurisdictions to discard old refrigerators without first removing the door.

Old electric refrigerators are not the only killer of children. The CPSC is aware of the death of a 3 year old because of suffocation in a self-locking ice refrigerator in a camper. The parents had probably never realized that an ice box which cannot be opened from the inside presents a suffocation hazard to small children.

Consumers wishing additional information should call CPSC's toll-free Hotline at 800-638-CPSC. A teletypewriter number for the hearing impaired is 800-638-8270. (Maryland only, 800-492-8104.)

6-0645E  
Lauterbach  
4/6/89

Original sponsors: Gruenberg and  
Hoffman

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 235 ( )

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 safety involving certain kinds of  
7 equipment and containers."

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

9 \* Section 1. AS 18.60.400 is repealed and reenacted to read:

10 Sec. 18.60.400. CONTAINER SAFETY REQUIREMENTS. A person may not  
11 dispose of an icebox, refrigerator, freezer, or other equipment or  
12 container of a kind and size sufficient to permit the entrapment or  
13 suffocation of a child under the age of 11 inside the container with-  
14 out first removing the latches, hinges, or cover or otherwise render-  
15 ing it safe. A person may not maintain a container described in this  
16 section in an area that is unattended by an adult and accessible to a  
17 child unless the person ensures that the container does not present an  
18 unreasonable hazard to the safety of a child under the age of 11. A  
19 person may not allow a violation of this section on premises or in an  
20 area under the person's control.

21 \* Sec. 2. AS 18.60.410 is repealed and reenacted to read:

22 Sec. 18.60.410. NEW EQUIPMENT TO HAVE OPENING DEVICE ON INSIDE.  
23 A person may not offer for sale an icebox, refrigerator, freezer, or  
24 other equipment or container of a kind and size sufficient to permit  
25 the entrapment or suffocation of a child under the age of 11 unless  
26 the door can be opened easily from the inside, either by application  
27 of an outwardly directed force to the inside of the door or by the  
28 rotation of a knob similar to a conventional door knob.

29 \* Sec. 3. AS 18.60.420 is amended to read:

1           Sec. 18.60.420. ADMINISTRATION OF AS 18.60.400 - 18.60.460. The  
2 Department of Labor shall administer AS 18.60.400 - 18.60.460. It may  
3 appoint inspectors and [SHALL] inspect all iceboxes, refrigerators,  
4 freezers, and other equipment or containers of a kind and size suffi-  
5 cient to permit the entrapment or suffocation of a child under the age  
6 of 11 if the equipment or containers are [SIMILAR EQUIPMENT] shipped  
7 into the state.

8 \* Sec. 4. AS 18.60.440 is amended to read:

9           Sec. 18.60.440. REVIEW [APPEALS]. A person aggrieved by an  
10 order or act of the Department of Labor or of an inspector under  
11 AS 18.60.400 - 18.60.460 may, within 15 days after notice of the order  
12 or act, request a hearing under AS 44.62.330 - 44.62.640 [APPEAL IN  
13 THE MANNER PRESCRIBED BY AS 18.60.370].

14 \* Sec. 5. AS 18.60.450 is amended to read:

15           Sec. 18.60.450. VIOLATIONS AND PENALTIES. A person who violates  
16 a provision of AS 18.60.400 - 18.60.460 is guilty of a class B misde-  
17 meanor. The mental states that must be proved for a violation under  
18 this section are those described in AS 11.81.610(b) [AND IS PUNISHABLE  
19 BY A FINE OF NOT LESS THAN \$50 NOR MORE THAN \$500].

6-0645D  
Lauterbach  
4/13/89

Original sponsors: Gruenberg and  
Hoffman

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 235 ( )

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 safety involving certain kinds of  
7 equipment and containers."

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

9 \* Section 1. AS 18.60.400 is repealed and reenacted to read:

10 Sec. 18.60.400. CONTAINER SAFETY REQUIREMENTS. A person may not  
11 dispose of an icebox, refrigerator, freezer, or other equipment or  
12 container of a kind and size sufficient to permit the entrapment or  
13 suffocation of a person inside the container without first removing  
14 the latches, hinges, or cover or otherwise rendering it safe. A  
15 person may not maintain a container described in this section in an  
16 area that is unattended by an adult and accessible to others unless  
17 the person ensures that the container does not present an unreasonable  
18 hazard to the safety of a person. A person may not allow a violation  
19 of this section on premises or in an area under the person's control.

20 \* Sec. 2. AS 18.60.410 is repealed and reenacted to read:

21 Sec. 18.60.410. EQUIPMENT TO HAVE OPENING DEVICE ON INSIDE. A  
22 person may not offer for sale an icebox, refrigerator, freezer, or  
23 other equipment or container of a kind and size sufficient to permit  
24 the entrapment or suffocation of a person unless the door can be  
25 opened easily from the inside, either by application of an outwardly  
26 directed force to the inside of the door or by the rotation of a knob  
27 similar to a conventional door knob.

28 \* Sec. 3. AS 18.60.420 is amended to read:

29 Sec. 18.60.420. ADMINISTRATION OF AS 18.60.400 - 18.60.460. The

1 Department of Labor shall administer AS 18.60.400 - 18.60.460. It may  
2 appoint inspectors and [SHALL] inspect all iceboxes, refrigerators,  
3 freezers, and other equipment or containers of a kind and size suffi-  
4 cient to permit the entrapment or suffocation of a person if the  
5 equipment or containers are [SIMILAR EQUIPMENT] shipped into the  
6 state.

7 \* Sec. 4. AS 18.60 is amended by adding a new section to read:

8 Sec. 18.60.435. EXEMPTION. Equipment or containers of less than  
9 1.5 cubic feet in capacity are exempt from the provisions of AS 18.-  
10 60.400 - 18.60.460.

11 \* Sec. 5. AS 18.60.440 is amended to read:

12 Sec. 18.60.440. REVIEW [APPEALS]. A person aggrieved by an  
13 order or act of the Department of Labor or of an inspector under  
14 AS 18.60.400 - 18.60.460 may, within 15 days after notice of the order  
15 or act, request a hearing under AS 44.62.330 - 44.62.640 [APPEAL IN  
16 THE MANNER PRESCRIBED BY AS 18.60.370].

17 \* Sec. 6. AS 18.60.450 is repealed and reenacted to read:

18 Sec. 18.60.450. VIOLATIONS AND PENALTIES. (a) Except as pro-  
19 vided in (b) of this section, a person who violates a provision of  
20 AS 18.60.400 - 18.60.460 is guilty of a violation.

21 (b) A person who violates a provision of AS 18.60.400 - 18.60.460  
22 who has previously been convicted of violating AS 18.60.400 - 18.60.-  
23 460 is guilty of a misdemeanor for which the maximum term of imprison-  
24 ment that may be imposed is 30 days and the maximum fine that may be  
25 imposed is \$500.

26 (c) The mental states that must be proved for an offense under  
27 (a) or (b) of this section are those described in AS 11.81.610(b).  
28  
29



# Representative Dave Donley, Chair House Labor & Commerce Committee

SUBJECT OF MEETING:

HB 155      AB 72  
HB 235      AB 166

DATE: 4-6-89

PLACE: C#17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT WHICH BILL?
John Manning	H&SS	Box H-O.G.C. Junction	99811		465-23027	Y <input checked="" type="checkbox"/>	
Kim Smith	MICA	10301 GLACIAL HWY TUNGSTON	99801	789-0631	789-2910	<input checked="" type="checkbox"/> N	HB 166
Bob Kerttula	AG's	AGO				Y <input checked="" type="checkbox"/> N	HB 166
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

HB

250

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

### ALCOHOLIC BEVERAGE CONTROL BOARD

STEVE COWPER, GOVERNOR

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

April 11, 1989

The Honorable Dave Donley, Chairman  
Labor & Commerce Committee  
Alaska State House of Representatives  
P.O. Box V  
Juneau, AK 99811

RE: HB 250

Dear Representative Donley:

Representative Gruenberg suggested that I convey my suggestion to you in writing.

House bill 250 raises liquor license fees but does not provide an effective date.

All license fees cover a calendar year period. Additionally, wholesale license fees are based on gross sales by a wholesale licensee in a calendar license year. If wholesale license fees are changed during a license year, fees must be computed using both the old and new fee schedule. This is burdensome and confusing for completion of annual sales affidavits by wholesale licensees under AS 04.11.160(c). A similar situation occurred in 1980 when Alaska Statute Title 4 was rewritten and the effective date was July 1, 1980.

I suggest that the bill show an effective date of January 1, 1990.

If I can provide additional clarification, please do not hesitate to call.

Sincerely,



Patrick L. Sharrock  
Director  
(907) 277-8638

PLS:cr

cc: Representative Max Gruenberg, Vice-Chairman

CTS: 89-112

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

### ALCOHOLIC BEVERAGE CONTROL BOARD

STEVE COWPER, GOVERNOR

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

April 12, 1989

The Honorable Dave Donley, Chairman  
Labor & Commerce Committee  
Alaska State House of Representatives  
P.O. Box V  
Juneau, AK 99811

RE: HB 250

Dear Representative Donley:

Because HB 250 concerns liquor license fees, your memo of April 7 to Steve Kettel, Director of Income Excise Tax, has been referred to me for response.

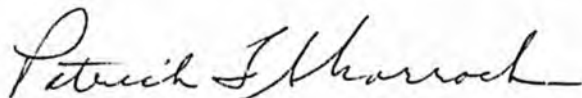
The enclosed schedule reflects annual fee revenues by type of license. Because we treat gross sales information as proprietary information from wholesale licensees, I cannot provide sales dollars by specific wholesalers. However, I am providing a brief summary which shows sales ranges and the number of wholesale licensees within each range.

Answers to specific questions in your second paragraph are:

1. Current fees collected from wholesale licensees for calendar year 1988 132.9 (thousands)
2. Fees proposed in HB 250 265.8
3. Approximate fees at 2% of gross sales 2,695.1

If I can provide you with any clarification or additional information, please do not hesitate to call.

Sincerely,



Patrick L. Sharrock  
Director  
(907) 277-8638

PLS:cr  
Enclosure

CTS: 89-115

LICENSE TYPES AND FEES

<u>License Type</u>	<u>Number</u>	<u>Annual Fee</u>	<u>Total</u>
Pub	1	\$ 400.00	\$ 400.00
Brewery	2	500.00	1,000.00
Distillery	1	500.00	500.00
Beverage Dispensary	647	1,250.00	808,750.00
Beverage Disp. 1/2 yr	42	625.00	26,250.00
Club	86	600.00	51,600.00
Club 1/2 yr	1	300.00	300.00
Common Carrier	112	350.00	39,200.00
Common Carrier 1/2 yr	46	175.00	8,050.00
Restaurant/Eat. Place	309	300.00	92,700.00
Restaurant/Eat. 1/2 yr	10	150.00	1,500.00
Package Store	456	750.00	342,000.00
Package Store 1/2 yr	18	375.00	6,750.00
Wholesale	16	1,000.00	16,000.00
Wholesale Malt Bev. & Wine	7	200.00	1,400.00
Recreational Site	10	400.00	4,000.00
Recreational Site 1/2 yr	9	200.00	1,800.00
 Grand Total.....	 <u>1,773</u>		 <u>\$1,402,200.00</u>

SUMMARY

Wholesale Liquor License Gross Sales  
Calendar Year 1988

AS 04.11.160(a)  
General Wholesale

<u>Range</u>	<u>Number of Licenses</u>	<u>Sales</u>
0-5,000,000.	6	\$ 2,956,442.00
5,000,000.-15,000,000.	6	55,716,359.00
over 15,000,000.	3	75,615,765.00

AS 04.11.160(b)  
Wholesale Malt Beverage & Wine

<u>Range</u>	<u>Number of Licenses</u>	<u>Sales</u>
0-160,000.	9	\$462,713.00

March 27, 1989

TO: Ron Larson, co-chairman  
House of Representatives  
House Finance Committee  
PO Box V  
Juneau, AK 99811

FROM: Gary Griffeth  
Specialty Imports, Inc.  
1143 East 70th Avenue  
Anchorage, AK 99518  
(907) 344-2020

SUBJECT: House Bill No. 6-0983A - <sup>HB 250</sup> "An Act increasing the tax on alcoholic beverages"

Dear Representative Larson,

I would like to call your attention to a problem with the proposed amendment to Section 9. AS 04.11.160 paragraphs (a) and (b). These paragraphs refer to gradations of fees assessed on wholesale licenses based on business transacted during the calendar year.

The intent of the legislature in establishing this tax schedule was to minimize the impact on small wholesale businesses by assessing a fee of 1% of the gross income up to \$1,000,000. However, this cap has proven to be a great advantage to the three large Seattle based wholesalers that dominate the industry in the state. A small Alaskan company such as Specialty Imports, which is in the 1.5 to 2 million dollar range, has paid the same amount as large wholesalers conducting business in the 20 to 50 million dollar range. This inequity will now be greatly increased with the tripling of the fee in this bill. The \$30,000 fee would only represent .06% of the Seattle based wholesaler's gross income while Specialty Imports would be paying up to 2.0%.


This inequity will only exacerbate the problems of a small wholesaler faced with a sagging economy and a nationwide industry trend towards consolidation of brands into a few large wholesale companies. Since Specialty Imports began business in 1979, we have seen six small Alaskan wholesalers go out of business (one in the last few weeks). This only leaves K&L, Alaska Distributors, Odom, Specialty Imports and Fine Wines as wholesalers with warehouse and delivery facilities. Only Fine Wines falls below the \$1,000,000 cap.

Rather than increase fees for sales up to \$1,000,000, why not maintain fees at current levels but remove the cap so that all wholesalers are paying the same 1% of their gross receipts.

Another matter that may be germane to this bill and has been receiving a great deal of press lately is the issue of non-alcoholic products. As you may be aware, the Alcoholic Beverage Control Board is interpreting current regulations to mean that any beverage meant for human consumption and containing any amount of alcohol is subject to regulation. This prohibits non-alcoholic wines and malt beverages from being sold in grocery stores. We have laboratory evidence that indicates many food products, soft drinks and fruit juices contain minimal amounts of alcohol (some exceeding that of non-alcoholic products). I would appreciate it if language could be included in this bill clarifying that only beverages over one half of one percent alcohol be considered an alcoholic beverage and subject to regulation.

Please make a copy of this letter available to other members of the House Finance Committee.

Thank you,

  
Gary Griffeth

# Anchorage Daily News



Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Gerald E. Grilly  
Publisher

Howard Weaver  
Managing Editor

Michael Carey  
Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983  
Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1946 by Norman C. Brown

## A non-alcoholic haze

A sloppily written law sometimes mocks the intentions of its author. Look at the statute governing the definition of alcoholic beverages.

In 1986, concerned but careless lawmakers decided that any beverage with even a miniscule amount of alcohol in it should meet the same sales restrictions as beer, wine and the hard stuff. The law also implicitly required the same taxes for real and imitation alcoholic beverages.

Meanwhile, supermarkets, groceries and gourmet shops already were selling beers and wines containing traces of alcohol. That made them lawbreakers, although the Alcoholic Beverage Control Board never enforced the law — and distributors, until at least perhaps a few days ago, never paid taxes.

Near-beers and non-alcoholic wines have less than a half a percent of alcohol in them. Vanilla extract (35 percent alcohol) or Nyquil (25 percent) are far more potent common supermarket products. A tippler will become exhausted drinking fake beer and wine substitutes long before feeling even the slightest effects of alcohol.

Lawmakers should go back and make the statute congruent with common sense. Why not adopt the federal standard that defines an alcoholic beverage as anything with .5 percent or more alcohol? That standard would at least make present practices legal.

Customers who want near-beer and wine substitutes shouldn't have to patronize liquor stores. Let them pick up bread, milk and a punchless six-pack in a supermarket that's not violating a flaky section of the law.

HB

275

# HOUSE COMMITTEE REPORT

(7)

Date Referred: April 7, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 3/29/90

The LABOR & COMMERCE Committee considered:

HB 275

HOUSE BILL NO. 275 [WORKPLACE SAFETY FOR ALL-NIGHT FRANCHISES]  
"An Act relating to workplace safety for certain franchises."

**RECOMMENDATIONS:**

- be replaced with CS HB 275 (L+C)  the same title
- have attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact Labour
- zero fiscal note \_\_\_\_\_
- zero with analysis \_\_\_\_\_

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING:**

(Check approp. column)

Do Not Pass  
No Rec  
Amend

David Duley, Duley  
John Finkulstein  
Barbara Bacher  
Steven Greenberg

SIGNING	Do Not Pass	No Rec	Amend
<u>Collins</u>			X
<u>Leman</u>			X

David Duley

Chairman's Signature

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: CSHB 275 (L&C)  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Labor  
Title: "An Act relating to workplace safety for certain franchises." BRU: Labor Standards & Safety  
Spousor: Spohnholz Components: \_\_\_\_\_  
Requestor: House Labor & Commerce Occupational Safety & Health

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	43.6	43.6	43.6	43.6	43.6	43.6
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	11.4	11.4	11.4	11.4	11.4	11.4
SUPPLIES	0.8	0.8	0.8	0.8	0.8	0.8
EQUIPMENT	3.0	3.0	3.0	3.0	3.0	3.0
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	63.8	63.8	63.8	63.8	63.8	63.8

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	63.8	63.8	63.8	63.8	63.8	63.8
FEDERAL FUNDS						
OTHER						
TOTAL	63.8	63.8	63.8	63.8	63.8	63.8

POSITIONS:

FULL-TIME						
PART-TIME	2.0	2.0	2.0	2.0	2.0	2.0
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Note: There is no fiscal impact in FY90.

see attached

Prepared by: Tom Stuart, Director Phone: 264-2452  
Division: Labor Standards & Safety Date: 3/30/90

Approved by Commissioner: Jim Sampson Date: 3/30/90  
Agency: Department of Labor

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

Fiscal Note Analysis  
for

"An Act relating to workplace safety for certain franchises."

This bill would increase the number and frequency of inspections required for every all night grocery and gasoline station in the state. In order to accomplish this the department would have to hire one part time compliance officer and a part time clerk. Because of the penalties involved, we expect an increase in the number of contested violations which would mean an increase in the costs for the OSHA Review Board. Additional legal support would also be required. The costs are summarized as follows:

Personal Services	43.6
Compliance Officer (29.3)	
Clerk Typist (14.3)	
Travel for Compliance Officer	5.0
Contractual	11.4
OSHA Review Board (2.5)	
Legal Support (2.5)	
Costs for positions (6.4)	
Commodities for positions	.8
Equipment for positions	3.0
<u>Total Cost</u>	<u>63.8</u>

This analysis assumes a start date of 7/1/90 with no fiscal impact to FY'90.

Contractual, Commodities, and Equipment costs for positions shown above are normal costs for these positions which include: phone & postage costs, office space rent, indirect costs, office supplies, and office equipment.

Position Title <b>Occupational Safety Compliance Officer IA</b>		No. of Positions <b>1</b>	Range/Step <b>50B</b>	Barg. Unit <b>LTC</b>
Time Status <b>PPT</b>	Staff Months <b>6</b>	Location <b>Anchorage</b>		Election District
Type of Expenditure		Amount		
1	2	3		
Salary	<b>\$22,100</b>			
Benefits	<b>\$7,200</b>			
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>\$29,300</b>		
Travel		<b>\$5,000</b>		
Contractual		<b>\$9,200</b>		
Commodities		<b>\$500</b>		
Equipment		<b>\$1,500</b>		
Other				
<b>Total Cost</b>		<b>\$45,500</b>		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	<b>\$45,500</b>		
GP Program Receipts	1005			
Other				

**Justification**

**This position would inspect every all night grocery and gasoline station in Anchorage every two months and inspect on a semi-annual basis, all night groceries and gasoline stations in other parts of Alaska.**

**Travel costs would allow the officer to cover all parts of the state.**

**Contractual, commodity, and equipment costs are average per-employee costs.**

**Request For  
New Position**

Agency Department of Labor  
 BRU Labor Standards & Safety  
 Component Occupational Safety & Health

Page 3 of 4  
 Revised Date

**FY 91**

Position Title <b>Clerk Typist III</b>			No. of Positions <b>1</b>	Range/Step <b>8A</b>	Barg. Unit <b>GGU</b>
Time Status <b>PPT</b>	Staff Months <b>6</b>		Location <b>Anchorage</b>		Election District
Type of Expenditure			Amount		
1	2	3			
Salary	<b>\$9,800</b>				
Benefits	<b>\$4,500</b>				
Premium Pay					
Other					
<b>Total Personal Services</b>		<b>\$14,300</b>			
Travel					
Contractual		<b>\$2,200</b>			
Commodities		<b>\$300</b>			
Equipment		<b>\$1,500</b>			
Other					
<b>Total Cost</b>		<b>\$18,300</b>			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	<b>\$18,300</b>			
GF Program Receipts	1005				
Other					
Justification					
<p>This position would provide the clerical support for this program.</p> <p>Contractual, commodity, and equipment costs are average per-employee costs.</p>					

**Request For  
New Position**

Agency Department of Labor  
 BRU Labor Standards & Safety  
 Component Occupational Safety & Health

Page 4 of 4

Revised Date

**FY 91**

#1 by Gruenberg

Department of Labor  
Proposed Amendments to HB 275

1. Amend page 1, line 9 to read:

\* Section 1. AS 18. is amended by adding a new chapter to read:

2. Amend page 1, line 10 to read:

\* Sec. 18.61.010. SAFETY REQUIREMENTS FOR ALL-NIGHT FRANCHISES.

3. Replace language in lines 25-29 on page 1 and line 1 on page 2 with:

*not*  
(c) A franchisor who violates (a) of this section is subject to a civil penalty not to exceed \$1,000 as determined by the commissioner of labor.

4. Add a new subsection (e) after line 3 on page 2 to read:

(e) The department of labor may adopt regulations necessary to implement the provisions of this chapter.

5. On line 4 of page 2, change the reference to AS 18.60.062 to AS 18.61.010.

6. On line 5 of page 2, change the phrase "an employer" to "a franchisor".

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: HB 275  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Labor  
Title: "An Act relating to workplace  
safety for certain franchises." BRU: Labor Standards & Safety  
Sponsor: Spohnholz Components: \_\_\_\_\_  
Requestor: House Labor & Commerce Occupational Safety & Health

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	43.6	43.6	43.6	43.6	43.6	43.6
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	11.4	11.4	11.4	11.4	11.4	11.4
SUPPLIES	0.8	0.8	0.8	0.8	0.8	0.8
EQUIPMENT	3.0	3.0	3.0	3.0	3.0	3.0
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	63.8	63.8	63.8	63.8	63.8	63.8

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	63.8	63.8	63.8	63.8	63.8	63.8
FEDERAL FUNDS						
OTHER						
TOTAL	63.8	63.8	63.8	63.8	63.8	63.8

POSITIONS:

FULL-TIME						
PART-TIME	2.0	2.0	2.0	2.0	2.0	2.0
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

see attached

Prepared by: Tom Stuart, Director Phone: 465-2712  
Division: Labor Standards & Safety Date: 3/23/90  
Approved by Commissioner: Jim Sampson Date: 3/23/90  
Agency: Department of Labor

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

Fiscal Note Analysis  
for

"An Act relating to workplace safety for certain franchises."

This bill would increase the number and frequency of inspections required for every all night grocery and gasoline station in the state. In order to accomplish this the department would have to hire one part time compliance officer and a part time clerk. Because of the penalties involved, we expect an increase in the number of contested violadons which would mean in increase in the costs for the OSHA Review Board. Additional legal support would also be required. The costs are summarized as follows:

Personal Services	43.6
Compliance Officer (29.3)	
Clerk Typist (14.3)	
Travel for Compliance Officer	5.0
Contractual	11.4
OSHA Review Board (2.5)	
Legal Support (2.5)	
Costs for positions (6.4)	
Commodities for positions	.8
Equipment for positions	3.0
<u>Total Cost</u>	<u>63.8</u>

This analysis assumes a start date of 7/1/90 with no fiscal impact to FY'90.

Contractual, Commodities, and Equipment costs for positions shown above are normal costs for these positions which include: phone & postage costs, office space rent, indirect costs, office supplies, and office equipment.

Position Title <b>Occupational Safety Compliance Officer IA</b>			No. of Positions <b>1</b>	Range/Step <b>50B</b>	Barg. Unit <b>LTC</b>
Time Status <b>PPT</b>	Staff Months <b>6</b>		Location <b>Anchorage</b>		Election District
Type of Expenditure			Justification		
1		2	3		
Salary		<b>\$22,100</b>	<p>This position would inspect every all night grocery and gasoline station in Anchorage every two months and inspect on a semi-annual basis, all night groceries and gasoline stations in other parts of Alaska.</p> <p>Travel costs would allow the officer to cover all parts of the state.</p> <p>Contractual, commodity, and equipment costs are average per-employee costs.</p>		
Benefits		<b>\$7,200</b>			
Premium Pay					
Other					
Total Personal Services		<b>\$29,300</b>			
Travel		<b>\$5,000</b>			
Contractual		<b>\$9,200</b>			
Commodities		<b>\$500</b>			
Equipment		<b>\$1,500</b>			
Other					
Total Cost		<b>\$45,500</b>			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	<b>\$45,500</b>			
GF Program Receipts	1005				
Other					

**Request For  
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Position Title <b>Clerk Typist III</b>			No. of Positions <b>1</b>	Range/Step <b>8A</b>	Barg. Unit <b>GGU</b>
Time Status <b>PPT</b>	Staff Months <b>6</b>		Location <b>Anchorage</b>		Election District
Type of Expenditure			Amount		
1	2	3			
Salary	<b>\$9,800</b>				
Benefits	<b>\$4,500</b>				
Premium Pay					
Other					
<b>Total Personal Services</b>			<b>\$14,300</b>		
Travel					
Contractual			<b>\$2,200</b>		
Commodities			<b>\$300</b>		
Equipment			<b>\$1,500</b>		
Other					
<b>Total Cost</b>			<b>\$18,300</b>		
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004		<b>\$18,300</b>		
GF Program Receipts	1005				
Other					
Justification					
<p>This position would provide the clerical support for this program.</p> <p>Contractual, commodity, and equipment costs are average per-employee costs.</p>					

**Request For  
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6-1200E  
Cramer  
3/28/90

Original sponsor(s): REP. SPOHNHOLZ

1 IN THE HOUSE

BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 275 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to workplace safety for certain  
7 franchises."

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

9 \* Section 1. AS 18 is amended by adding a new chapter to read:

10 CHAPTER 61. SAFETY REQUIREMENTS FOR ALL-NIGHT FRANCHISES.

11 Sec. 18.61.010. SAFETY REQUIREMENTS FOR ALL-NIGHT FRANCHISES.

12 (a) A franchisee whose industry is defined by the United States  
13 office of management and budget in the 1972 standard industrial clas-  
14 sification code manual as number 5411 (grocery stores) or 5541 (gaso-  
15 line service stations), and who remains open for 24 hours a day, shall

16 (1) equip the workplace with sound alarm equipment that  
17 signals to the peace officer in the jurisdiction within which the  
18 workplace is located that a robbery is taking place; and

19 (2) provide training for each employee, beginning within 30  
20 days after the employee is first hired, in how to minimize the danger  
21 of or prevent a robbery or other violence on the franchised premises.

22 (b) A franchisor that requires a franchisee to remain open 24  
23 hours a day is liable for the cost of complying with (a) of this sec-  
24 tion.

25 (c) An employer who violates this section is liable for civil  
26 penalties under AS 18.60.095. In addition, an employer who knowingly  
27 refuses or fails to provide an employee with training required by this  
28 section is liable to the employee who did not receive training for a  
29 civil penalty in the amount of \$100 and for costs and attorneys fees