

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7115 HOUSE LABOR & COMMERCE

HEALTH INSURANCE
POOLING PROVISIONS IN STATES

	<u>UTAH</u>	<u>VERMONT</u>	<u>VIRGINIA</u>	<u>WASHINGTON</u>
Cite	§§ 31A-29-103 to 31A-29-123 (1990)	No action to date	No action to date	§§ 48.41.101 to 48.41.910 (1987/1989)
Based on NAIC Model?	No			Yes
Eligibility Requirements	Rejected by insurer, resident of state 1 yr.			Rejected by at least one insurer within last 6 mo., resident of state + family
Maximum Benefits	\$1,000,000			\$500,000
Premium Cap	Initial rate of 125% standard risk, may not be raised to more than 200% standard risk for individual policies			150% standard risk for group policies
Additional Financing	State funds			Assess insurers, other members
Cost Containment Provisions	Board may include cost containment measures, utilize managed care systems			None specified
Preexisting Condition Limitation	No coverage for 6 mo. for conditions had within last 6 mo.			No coverage for 6 mo. for condition had within last 6 mo.
Benefit Package	Established by board			Major medical, model Alternative 1
When Eligible for Medicare	Not eligible for coverage			Supplement, Medicare
Miscellaneous	May exclude specific medical conditions and procedures to protect viability of pool			

HEALTH INSURANCE
POOLING PROVISIONS IN STATES

	<u>WEST VIRGINIA</u>	<u>WISCONSIN</u>	<u>WYOMING</u>	<u>TOTALS</u>
Cite	No action to date	§§ 619.10 to 619.18 (1979/1990)	§§ 26-43-101 to 26-43-113 (1990)	
Based on HAIC Model?		Partially	Yes	12 - Based on model 3 - Partially 10 - Not based on model
Eligibility Requirements		Notice of rejection from at least one insurer, resident of state last 3 mo.	Rejected by at least one insurer, resident of state	
Maximum Benefits		\$500,000	\$250,000	3 - 1,000,000 11 - 500,000 3 - 250,000 8 - Other or none
Premium Cap		150% standard risk for individual policy, provides for lower premium based on income	Initial rate 150% standard risk, may not exceed 200% standard risk for individual policies	14 - Maximum 150% or less standard risk 10 - Maximum over 150% standard risk 1 - Other
Additional Financing		Assess insurers	Assess insurers and other insurance arrangements to extent not pre-empted by federal law	20 - Assess insurers, etc. 4 - Other
Cost Containment Provisions		Exclusions in model Alternative 1 are considered cost containment measures	Does not cover organ transplants or cosmetic surgery, implement cost containment measures	
Preexisting Condition Limitation		No coverage for 6 mo. for condition had within last 6 mo.	No coverage for 6 mo. for condition had within last 6 mo.	18 - 6 mo. 7 - Other
Benefit Package		Major medical, similar to model Alternative 1	Major medical, similar to model Alternative 2	
When Eligible for Medicare		Offer Medicare supplement policy	Not eligible for pool	
Miscellaneous			Excess to other benefits recovered	

THE CRISIS IN HEALTH INSURANCE

In the U.S., the ticket to health care is insurance. If you are in good health and have a well-paying job with a large firm, chances are you have a ticket, and your employer pays for it. But if you work for yourself, have a low-paying job, or are sick, chances are you'll have to pay for the ticket yourself—if you can buy one at all.

Tickets are becoming harder to get. Between 31 million and 37 million people have no health insurance, either because they can't afford it or because insurance companies refuse to sell them a policy at any price.

Others lose their tickets. People who once had insurance may suddenly find themselves without it when employers discontinue health-care coverage or go out of business; or when insurance companies cancel policies or become insolvent.

Millions more have no protection against a catastrophic illness. They may have some insurance, but lack coverage for the very conditions that will one day require unusually heavy expenditures.

"If the employed population knew how vulnerable they were, they'd be up in arms demanding national health insurance," says Bonnie Burns, a counselor with Califor-


nia's insurance counseling program. "Most of these people are three paychecks away from disaster."

The health-insurance crisis is a fairly recent phenomenon. At the beginning of World War II, few Americans owned a health-insurance policy. As recently as 1965, most had coverage only for hospital stays. The health-insurance system as we know it today evolved in the 1960s and 1970s. Under that system, workers came to expect their employers to supply medical coverage for them, with employers and employees splitting the cost.

That worked well for a while. More workers had health insurance, and their coverage broadened to include doctors' visits, prescription drugs, and even treatment for mental illness. But now the system stitched together over the last 50 years is unraveling, and people are being deprived of needed health care.

In this, the first of a two-part report, we look at why people lose their health coverage, and we rate the major medical and hospital-surgical policies that are available to individuals—a temporary remedy for some people. Next month we will examine some possible cures for the health-insurance crisis.

WHO LOSES IT? WHAT HAPPENS?

 People without health insurance include men and women who work for small businesses, the self-employed, part-time workers, young people just starting their careers, the disabled, the divorced, and those taking early retirement but still too young for Medicare. Some of the uninsured are also poor. Medicaid, the Federal and state program that covers medical expenses for the indigent, currently pays the bills for only 38 percent of the nation's poor.

People without health insurance may not get medical care. One million families each year try to obtain care when they are sick, but cannot afford to pay for it. Even if they are not ill, people without insurance postpone preventive care until more costly treatment is necessary—or until it's too late.

Two-thirds of all people with hypertension fail to have their disease controlled, largely because they can't afford medications. Half of those with hypertension haven't seen a doctor within the past year.

A Roper poll has found that the proportion of Americans going to doctors in any one month has fallen to a 15-year low.

Women are particularly at risk. Uninsured women are much less likely than insured women to have screening tests for breast and cervical cancer or for glaucoma. If they are pregnant, they often do without prenatal care. Some five million women between the ages of 15 and 44 are covered by private health-insurance policies that don't include maternity coverage.



Crisis: Locked in

Kay Nichols, a fitness counselor at a Gainesville, Fla., health club, is in the pink of health except for glaucoma, an eye disease that can cause blindness if not treated. Not long ago, her employer wanted to switch insurance carriers to take advantage of lower premiums. When the health club found another insurer, the agent told Nichols that she would not be covered, even though her glaucoma is under control.

Nichols looked into a conversion policy from her present company but found she would have to pay \$6000 for six months of coverage for her family. She tried Blue Cross, but its policy would have excluded coverage for glaucoma.

When her employer learned of her plight, he decided to keep the current policy despite its higher premiums. "If the premiums get phenomenally high, they can't keep the policy just for me, and I understand that," Nichols says. At the same time, she realizes she has a problem that won't go away. "Maybe I don't want to stay with this company the rest of my life," she says. "It makes me worry."

Nichols is 38.

profit, and they can increase their odds of success by insuring good risks who are unlikely to have health problems. Competition among carriers for the healthiest risks has become cutthroat.

In large businesses with many employees, it doesn't matter if some employees have serious medical conditions. The risk they pose can easily be spread among the healthy workers. But in a small group with few employees, insurance companies cannot collect enough in premiums to pay the claims of those who are sick. So the rules for insuring workers in small businesses are more rigorous.

Insurers use a controversial scheme to insulate themselves from risk. They offer to insure employees in a small firm (usually those with fewer than 25 workers) at a "low-ball" premium for at least the first year. If members of the group experience costly health problems in the second and third years, the carrier tosses the firm into a pool with other groups whose health-care costs are high and jacks up its premiums as much as 200 percent.

By placing firms into several "rate tiers," insurance companies can bid for the healthiest groups with rock-bottom premiums. But employers and their employees who have had serious health problems are stuck with their present insurance carrier; they can't move to another because no other company is likely to take them at any premium. Worse, the present carrier may decide not to renew the group's coverage, forcing

employers and employees to find other insurance. And that may be impossible.

No coverage for the sick

Companies insuring small groups require employees and their dependents to meet tough health requirements, just as they do for individuals buying policies on their own. No carrier wants to insure employees and dependents who have had heart attacks or cancer. They will either exclude them from the policy or decline to insure the group altogether. Sometimes a single employee with a serious disease is enough to earn a rejection slip for the whole group.

Increasingly, insurance companies are turning down people with far less serious health conditions than cancer or heart disease, excluding everyone except those in perfect or near-perfect health. "We don't want to buy a claim," is how one company official puts it.

Many people who become ill while they are working may find themselves without insurance when they leave the security of their employer's policy. Indeed, many are held hostage to their current job just to keep their insurance.

Susan Turner (not her real name) knows how vulnerable a person can be. Turner, who asked us not to identify her, earns \$19,000 as a secretary for a small accounting firm in Texas. Her daughter, who's now 20, was born with an immune deficiency disease that makes her susceptible to infections. Every four to

five weeks, she needs a lifesaving infusion of antibodies that costs about \$2400.

The firm's Blue Cross policy has been paying most of the bills. But as a result of those expenses, the cost of coverage has risen sharply—both for the firm, which pays the premiums for its employees, and for the employees, who must pay the premiums for their dependents.

"When I was given my review, I was told I might look around to see if I can find another job," Turner says. "They intimated that if I did leave, it could lower the cost of their insurance."

If Turner leaves her job, it's unlikely her daughter will ever again have coverage. And there's no way she can pay for the monthly infusions herself. "Without the medicine, my daughter dies. That's the black and white of the situation," Turner says. *Continued*

CRISIS IN HEALTH INSURANCE

holder pays the first \$5000 of covered expenses.

Other companies require policyholders to pay more. You might find policies with a 70/30 percent or even a 50/50 percent cost-sharing arrangement, especially if you don't use doctors and hospitals specified by the insurer.

Coinsurance maximums. Most policies specify a maximum dollar amount of coinsurance, typically \$1000 (but it can be as much as \$2500 or \$5000), that policyholders must pay annually. After they've reached that amount, the carrier pays 100 percent of all additional, eligible medical expenses.

A few policies tie coinsurance maximums to the size of the deductible you select. The higher the deductible, the lower the maximum.

Several policies give a break to families. Usually two members must each pay the maximum coinsurance amount. The company will then pay 100 percent of all eligible expenses for other members who have not reached their maximums.

Lifetime maximums. Most major-medical and hospital-surgical policies cap the benefits they'll pay over a lifetime at \$1-million or sometimes \$2-million. A few have no cap, and others have a separate lifetime maximum for each illness or injury.

A company will sometimes give new lifetime benefits to policyholders who have generated enough claims to reach their lifetime cap. This is an important feature if the cap is low.

Deductibles. Most companies require policyholders to satisfy deductibles each year before benefits are paid. (Some hospital-surgical policies have no deductibles.) Deductibles can be as low as \$100 or as high as \$20,000. That means a policyholder must pay the first \$100 (or \$20,000) of expenses before the company pays any benefits. Obviously, a \$20,000 deductible buys only catastrophic protection.

Sometimes a policy links the deductible to an illness or health condition; you would have to satisfy the deductible with each new illness. If the deductible is large and you have several different illnesses, you may never collect any benefits.

Some companies no longer offer low deductibles. "If somebody can afford to buy our product, he can afford a \$1000 deductible," says John Hartmedy, the chief actuary at

Golden Rule. "You don't want first-dollar coverage. It may cost \$80 to take care of a \$50 bill."

As with most insurance, the higher the deductible, the lower the premium. A 45-year-old man in Chicago who chooses a \$500 deductible for Benefit Trust Life's *Tele-Med* policy would pay an annual premium of \$1443. If he selected a \$2500 deductible, he would pay only \$839.

Sometimes, for a small, extra premium, companies will waive the deductible or a portion of it if you are injured in an accident.

Can you renew?

Few companies will guarantee to renew your coverage. Of those in our study, only American Republic, Benefit Trust Life, and Metropolitan sell "guaranteed renewable" policies. The company can raise the premium, but it must continue your coverage.

Most policies, however, are now "conditionally renewable." The company can refuse to renew your policy only if it also refuses to renew all other similar policies in your state. You have some protection because the company can't single you out for cancellation. But you can still lose your coverage.

Some insurance companies use conditionally renewable policies as a lever to force insurance regulators to grant the rate increases those companies want. Certified Life, First National Life, Golden Rule, and Washington National told us they had canceled policies. In some cases, they offered policyholders alternative coverage.

A few policies are "optionally renewable." A company can opt not to renew your insurance whether or not it renews coverage for others who have the same policy. Prudential, State Farm, and Blue Cross and Blue Shield plans in Illinois, Kansas, Ohio, and Oklahoma have optionally renewable policies. (Prudential and Blue Cross and Blue Shield of Oklahoma at least say they won't cancel your policy if your health has deteriorated.)

Many companies also give themselves the option of not renewing if they find you have another policy that is similar.

Are you insurable?

People who have medical problems, however minor, are second-class citizens in the world of health insurance.

Virtually no commercial carriers

and only a handful of Blue Cross and Blue Shield plans will sell policies to anyone who has had heart disease, internal cancer, diabetes, strokes, adrenal disorders, epilepsy, or ulcerative colitis. Treatment for alcohol and substance abuse, depression, or even visits to a marriage counselor can also mean a rejection.

If you have less serious conditions, you may get coverage, but on unfavorable terms.

Conditions that usually affect one part of the body are candidates for "exclusion riders." That is, companies will offer a policy, but exclude coverage for those conditions or that body part, either for a short period or for as long as the policy is in force. If you have had a recent knee operation, glaucoma, migraine headaches, varicose veins, arthritis, a cesarean delivery, or if your child suffers from chronic ear infections, your policy will probably carry an exclusion rider. "Any condition that would produce an immediate claim would be ridered out," says Frank Fugiel, a vice president at Washington National.

If you have a medical condition that affects your general health—for example, you're significantly overweight or have mild high blood pressure—you may get coverage, but at a price 15 to 100 percent higher than the standard premium.

Companies in our survey told us that between one-quarter and one-half of all their policies carry exclusion riders, higher-than-standard premiums, or both.

Insurers, however, are not restrictive in identical ways. Washington National will exclude coverage for your eyes if you had a cataract operation a year ago. Prudential will not. If you suffered from migraine headaches in the past but have had no treatment for the last two years, Central States Health and Life will cover future treatment for such headaches; Time will issue a policy but exclude coverage for migraines.

If a company rejects you, that fact will be recorded at the Medical Information Bureau in Boston, an industry clearinghouse. The next time you apply for coverage, the new carrier may check your file at the bureau. If it finds you've been turned down, that rejection could trigger further scrutiny of your health.

Even if your health is perfect, you still may be a less-than-perfect risk. In their quest for applicants who are

Truth will out
When you fill out
an application for
health insurance,
be honest about
your medical condition.
If you don't
reveal all your
health problems
and the company
finds out about
them when you file
a claim, it could
rescind your policy
and leave you
without coverage
when you need it
most.

unlikely to file claims, insurance companies blackball people in certain occupations. Some companies have long lists of jobs that are unacceptable, either for an individual policy or for a policy sold to employees in small firms. Chances are the insurance company won't cover you if it considers your work hazardous or if people in your profession are more likely to file claims or switch jobs frequently.

Better off at the Blues?

Historically, most Blue Cross and Blue Shield plans took all comers for individual health insurance, offering "open-enrollment" policies that anyone could buy. Even if your health was bad, you could count on getting a policy from the Blues.

Today, only 22 of the 74 Blue Cross and Blue Shield plans in the U.S. still make policies available to everyone. But their "open-enrollment" policies may require policyholders to pay a larger portion of their expenses than policies offered to those in good health. For example, the open-enrollment major-medical plan sold by Empire Blue Cross Blue Shield in New York requires 20 percent coinsurance for all services. By contrast, its high-rated *Tradition Plus Wraparound* policy, sold only to those with no medical problems, requires no coinsurance on hospital services and also offers a much lower deductible.

Most Blue Cross and Blue Shield organizations now "underwrite." That is, they evaluate an applicant's health much the same way their commercial competitors do. They decline people with cancer and heart disease and sometimes issue policies with exclusion riders and higher premiums.

It's hard to say whether you'll have an easier time buying coverage from the Blues than from commercial insurers. Most of the Blue Cross plans we contacted refused to respond to our survey. Through other sources, we obtained the plans sold by uncooperative Blues and evaluated them along with the others.

Blue Cross plans that do not exclude health conditions or charge higher premiums for them may simply refuse to sell you a policy. On the other hand, a Blue Cross plan might be more lenient than a commercial insurer. Empire Blue Cross Blue Shield does not require blood tests to detect AIDS. Kentucky Blue Cross and Blue Shield insures

women with fibrocystic breast disease. Commercial carriers often require blood tests and almost always exclude coverage for fibrocystic breasts.

Preexisting conditions

If you get a policy from Blue Cross and Blue Shield or a commercial insurer, you still may have to wait a year or two to be covered for

medical conditions you already have.

Most policies say that a preexisting condition is one for which a policyholder has received treatment or for which a reasonably prudent person should have sought treatment during the previous two years. Some policies have shorter or longer "look-back" periods. Those are noted in the Ratings. *Continued*

THE LAST RESORT

HIGH-RISK POOLS

If you can't buy health insurance and you live in one of 23 states listed below, your insurer of last resort is a high-risk pool created for the people insurance carriers don't want. Similar to the high-risk plans for drivers who've been in accidents, health insurance pools originated in the 1970s as the industry's alternative to national health insurance. But only in the last few years have states begun to get serious about them.

To obtain coverage, you usually must be a state resident for at least six months (a year in some states), and must have received a rejection notice from at least one carrier (Montana and Florida require two rejections).

If a carrier will insure you only at a premium exceeding the price of coverage from the pool, or if the insurance you're offered carries exclusion riders, you will also be eligible for a pool policy in most states.

The 23 states with high-risk pools are: California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Maine, Minnesota, Montana, Louisiana, Nebraska, New Mexico, North Dakota, Oregon, South Carolina, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming. (

Florida, Illinois, Iowa, Minnesota, North Dakota, Tennessee, Washington, and Wisconsin make Medicare-supplement policies available through their pools. That's a boon to the disabled under age 65 who rely on Medicare but can't find insurance to fill Medicare's gaps.

Pool coverage is similar to that offered by a major medical policy, although benefits for mental and nervous disorders, organ transplants, and pregnancy may be less comfortable. You may, however, pay more out-of-pocket than you would with a major medical policy.

Premiums are no bargain, which is not surprising since policyholders in the pool will almost certainly file claims. For example, a policy with a \$500 deductible from the Illinois pool will cost a 45-year-old man living in Chicago \$3844 a year. That's twice as much as he'd pay for the most expensive individual policy in our study available to Chicagoans.

The wrong job
Occupations so
insurance companies consider
unacceptable to
health coverage

- Tree trimmers
- Explosives handlers
- House painters
- Window cleaner
- Heavy-equipment operators
- Rodeo performers
- Police officers
- Doormen
- Models
- Freelance artists
- Waiters
- Massagers
- Hospital aides
- Maids
- Musicians
- Barenders
- Fry cooks
- Janitors
- Street cleaner
- Doctors
- Lawyers
- Pro athletes
- Fishermen
- Railroad workers
- Taxi drivers
- Car-wash workers
- Dancers
- Beauticians
- Movers
- Zoo attendant

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Date Referred: April 14, 1992

FURTHER REFERRALS:

Date of Committee Action: 5/5/92

The LABOR AND COMMERCE Committee considered:

CSSB 119(CRA)

CS FOR SENATE BILL NO. 119(CRA)

REGIONAL ELECTRICAL AUTHORITY TAX EXEMP.

"An Act relating to regional electrical authorities' exemption from taxes and assessments."

RECOMMENDATIONS: the same title
be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

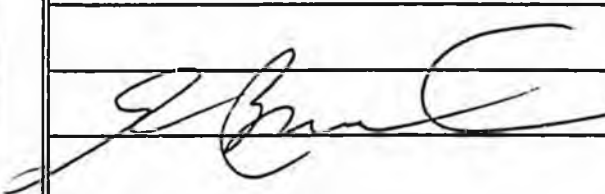
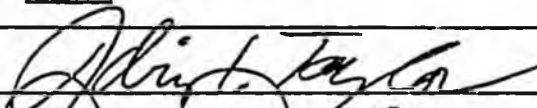
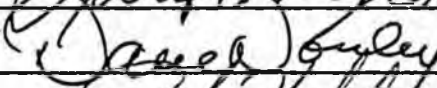
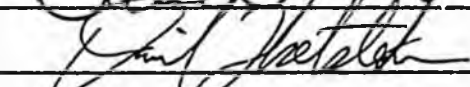
APPROVES PREVIOUS: (Dept/Date)

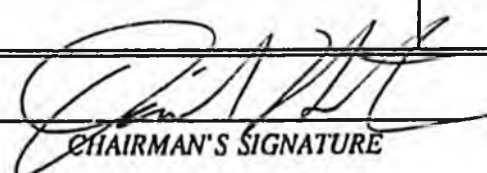
fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

^{Senate} zero fiscal note(s) DCRA 3/6/92

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
				X	
				X	
				X	


CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 119

Revision Date: _____
Title: "...Act relating to exemption from taxes and assessments...regional electrical authorities."
Sponsor: Senator Duncan
Requestor: (S) CRA

Department Affected: Community and Regional Affairs
BRU: _____
Component: _____

COMPONENT SERIAL NO.

0	0	0	0
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond' Handerson
Division: Administrative Services Division

Phone: 465-4708
Date: 3/2/92

Approved by Commissioner: E. R. R. R.
Agency: Department of Community and Regional Affairs

Date: 3-2-92/

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).



Alaska State Legislature

SENATOR JIM DUNCAN

COMMITTEES:

VICE CHAIR --
FINANCE
VICE CHAIR --
STATE AFFAIRS
RULES
BUDGET & AUDIT
ETHICS REFORM

MEMORANDUM

TO: Representative David Finkelstein, Chairman
House Labor and Commerce Committee

FROM: Senator Jim Duncan

DATE: April 21, 1992

SUBJECT: Hearing for Senate Bill 119.

I request that you schedule Senate Bill 119, "relating to the exemption from taxes and assessments of regional electrical authorities," for a hearing before the House Labor and Commerce Committee at your earliest convenience.

SB 119 will allow for the continuation of the tax exemptions available to regional electrical authorities under AS 18.57.030. Electrical authorities created under AS 18.57.030 are political subdivisions and as such are tax exempt entities. This change in the statute is necessary to clean up the enabling statute which was enacted in 1975. The effects of regionalization for such activities was unknown at the time; as a result the exemption is due to expire in 1995. The successes of the existing authorities indicates that this limitation should be eliminated.

I thank you in advance for your favorable consideration of this request.



Alaska State Legislature

SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811-3100
(907) 465-4766

COMMITTEES:
VICE CHAIR –
FINANCE
VICE CHAIR –
STATE AFFAIRS
RULES
BUDGET & AUDIT
ETHICS REFORM

MEMORANDUM

TO: Representative Jerry Mackie, Chairman
House Community and Regional Affairs Committee

FROM: Senator Jim Duncan

DATE: April 6, 1992

SUBJECT: Hearing for Senate Bill 119.

I request that you schedule Senate Bill 119, "relating to the exemption from taxes and assessments of regional electrical authorities," for a hearing before the House Community and Regional Affairs Committee at your earliest convenience.

SB 119 will allow for the continuation of the tax exemptions available to regional electrical authorities under AS 18.57.030. Electrical authorities created under AS 18.57.030 are political subdivisions and as such are tax exempt entities. This change in the statute is necessary to clean up the enabling statute which was enacted in 1975. The effects of regionalization for such activities was unknown at the time; as a result the exemption is due to expire in 1995. The successes of the existing authorities indicates that this limitation should be eliminated.

I thank you in advance for your favorable consideration of this request.

Tax Exemption For Regional Electrical Authorities

The regional electrical authority structure was authorized by the Legislature in 1975 as a potential solution for rural electrical energy problems. The structure was designed to allow rural communities to jointly address the complex task of financing, constructing, operating and maintaining electrical systems in rural Alaska. Entities formed under the legislation would enjoy improved economies of scale, reduced duplication of effort, lower fixed costs and the ability to hire and retain professional expertise. A variety of financing vehicles were enabled, including bonding, state and federal loans, and grants.

Electrical authorities were meant to be specialized organizations whose sole purpose was to provide adequate, safe and reliable electrical service in the rural areas. An important distinction was status as a political subdivision of the state, because that provided the opportunity to use tax-exempt bonding as a financing vehicle and because it meant freedom from taxation by other political subdivisions. A 20-year sunset provision on tax exemption was included in the 1975 legislation as a check on any problems that might arise as experience was gained with the electrical authority structure.

In 1977 Tlingit Haida Regional Electrical Authority (THREA) was formed as the first, and thus far only, active regional electrical authority in Alaska. Over the past 15 years, THREA has proven to be a success. Rates have steadily declined and Power Cost Equalization (PCE) assistance has been reduced by a combination of increased efficiency and decreased fixed costs. THREA serves as a model for joint action by rural communities in providing their residents with essential electric service.

There are three other types of electric utilities in Alaska: Private for-profit, electric cooperatives and municipal. The private systems pay the same taxes as any private business. Cooperatives are exempt from taxes except for a gross-receipts tax of \$0.0005/kwh which is paid to the state. Municipal systems pay no taxes unless they are assessed by the individual municipalities. Anchorage, for instance, has a "municipal utility service assessment" based on net book value of the utility systems there. Most municipal systems pay no taxes except for collection of sales taxes. THREA collects and pays sales taxes to the individual communities it serves.

The success of THREA, a not-for-profit entity, is due in part to the tax exemption which is due to expire in 1995. If THREA is to continue its success, and if new electrical authorities are to be successful, it is important to preserve the tax exemption as provided in SB 119. Moreover, a tax on electrical authorities would become part of operating costs that are now being offset by PCE.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

- 150 THIRD STREET
JUNEAU, ALASKA 99801-1291
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

February 27, 1992

POSITION PAPER

RE: SB 119

SPONSOR: Senator Duncan

Program Effects of Bill:

SB 119 proposes to make permanent a 20 year property tax exemption adopted in 1975. This exemption applies to the property of regional electrical authorities located within property taxing jurisdictions across the state. As nearly as we can determine, there is only one regional electrical authority in the state whose property is located within a property taxing jurisdiction. For this reason, this proposal would have a very minimal effect on municipal governments.

Comments:

The Department of Community and Regional Affairs takes no position on the proposed bill.

Ed. Blatchford

Edgar Blatchford, Commissioner

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Date Referred: April 14, 1992

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/23/92

The LABOR AND COMMERCE Committee considered:

CSSB 125(HES)

CS FOR SENATE BILL NO. 125 (HES)

REGISTRATION OF OUT OF STATE PHARMACIES

"An Act relating to pharmacies located outside of the state."

RECOMMENDATIONS: the same title
be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) DLED

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Walter D. Bulley	✓				
Kevin P. O'Donnell	✓				
	✓				
	✓				

CHAIRMAN'S SIGNATURE

1992 LEGISLATIVE SESSION

Revision Date: 03/24/92 Department Affected: Commerce & Economic Development
 Title: An Act relating to pharmacies located outside BRU: Occupational Licensing
of the state. Component: Administration
 Sponsor: Senator Menard
 Requestor: Senate HES COMPONENT SERIAL NO.

0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	3.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	3.0	3.0	3.0	3.0	3.0	3.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	3.0	3.0	3.0	3.0	3.0	3.0
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER - GF/PR	3.0	3.0	3.0	3.0	3.0	3.0
TOTAL	3.0	3.0	3.0	3.0	3.0	3.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

The bill establishes a registration requirement for out-of-state pharmacies who regularly deliver drugs to consumers in Alaska. There have been many inquiries made to the Board of Pharmacy about licensing requirements for out-of-state pharmacies; however, there is no way to estimate the numbers that may apply. (Continued on attached page)

Prepared By: Jennifer Strickler Phone: 465-2144
 Division: Occupational Licensing Date: 03/24/92
 Approved by Commissioner: Glenn A. Olds
 Agency: Commerce & Economic Development Date: 3.24.92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Continuation of Fiscal Note Analysis - CSHB 125(HES)

The contractual services cost of \$3.0 will provide funding for public notices of the new requirement, printing of applications, postage, communication expenses, and other contractual needs.

Information received by the division indicate that some States which currently regulate out-of-state pharmacies experience that most applicants come from the nearest surrounding states. Although we have no way of knowing the numbers of applicants that may seek registration under this bill, the division anticipates on establishing a registration fee that will cover program costs.



Alaska State Legislature

Senator Curt Menard



While in
Session:
P.O. Box V
Juneau, Alaska
99811
(907)465-2679

Interim:
165 E. Parks
Highway
Wasilla, Alaska
99687
(907)373-2878

Senate
District
E

SPONSOR STATEMENT

SB 125 "An Act relating to pharmacies located outside of the state"

There is a growing number of mail order pharmacies doing business in the state who are not accountable to their Alaskan customers. SB 125 addresses this consumer protection problem and provides reassurance to Alaskans who rely on those services.

SB 125 requires any pharmacy located outside of the state that ships, mails, or delivers prescription drugs into Alaska on a routine basis to register with the Alaska State Board of Pharmacy.

In order to register the pharmacy must provide specific documents that indicate compliance with licensing requirements in their home jurisdiction. The bill sets reasonable standards of disclosure to the Alaska Board of Pharmacy.

The most important requirement of this bill is the provision for out of state pharmacies to provide a toll free telephone service at least 40 hours a week and at least six days a week. When questions or problems resulting from prescription medication arise, it is imperative that the customer or medical responder be able to contact the dispensing pharmacist.

This legislation provides important measures to protect the health, safety and welfare of Alaskan consumers. Your support is greatly appreciated.

When an individual has questions about medication they receive from a mail order drug house the first place they go to is their local neighborhood pharmacist who can not provide adequate answers because they didn't fill the prescription. This bill has been introduced to eliminate that problem. It will not hinder the ability Alaskans now have to freely choose to do business through the mails with a reputable mail order pharmacist.

The bill requires out-of-state pharmacies to register with the state of Alaska. In order to do so they would have to provide:

- . Proof of a current valid license in the jurisdiction in which it is located and a sworn statement indicating compliance with the regulating authority of that jurisdiction. The majority of other states regulate pharmaceutical practices considerably more closely than Alaska and all of them regulate at least as closely as Alaska.

- . Proof that records of prescription drugs dispensed to Alaska residents are readily retrievable.

The most important provision, though, is the requirement for a toll-free telephone service. This will provide at least a minimum amount of customer service.

Most of the customers using out-of-state pharmacies are on maintenance medication. The form that the medication comes in may change with each purchase, the customer must be able to contact the dispensing pharmacist to verify that this is the same, and correct, medication.

Or maybe a prescription comes in the mail with "take as directed" on the label. Alaskan consumers need to be able to check the specifics of that instruction with the dispensing pharmacist.

If a problem arises, the doctor that attends to the patient must have immediate access to that vital information.

The bill has the support of the Dept. of Commerce and Economic Development, individual pharmacists and the Alaska Association of Pharmacists. It has a zero fiscal note and although the amount is not estimated--would generate revenue through an established registration fee.

This legislation was originally introduced late in the Sixteenth Legislature. The bill reference at that time was HB 508, the information in your packets that refers to HB 508 applies now to SB 125, the bill before you.

(7)

HOUSE COMMITTEE REPORT

Date Referred: March 30, 1992

FURTHER REFERRALS:

Labor & Commerce
Finance

Date of Committee Action: 4-13-92

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: CSSB 125(HES)

CS FOR SENATE BILL NO. 125 (HES) REGISTRATION OF OUT OF STATE PHARMACIES

"An Act relating to pharmacies located outside of the state."

RECOMMENDATIONS: the same title
be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) Commerce 3/24

zero fiscal note _____

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>Betty Davis</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>Cheri Davis</i>	<input checked="" type="checkbox"/>				

[Signature]
CHAIRMAN'S SIGNATURE

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

March 2, 1992

SUBJECT: State's potential for liability under CSSB 125(HES)

TO: Senator Drue Pearce
Attn: Bill

FROM: Theresa L. Bannister *TB*
Legislative Counsel

You have asked for a brief memo addressing whether the state is exposing itself to liability by enacting a bill requiring the registration of out-of-state pharmacies. It is my understanding from your questions that you mean liability for personal injury, not liability for contractual obligations.

Initially, please be aware that this memo addresses only the state's potential liability under the bill. Determination of actual liability depends on the specific facts of each case. The state's potential for liability for personal injury is generally governed by AS 09.50.250. In that statute, the state indicates to what extent and in what cases it waives its sovereign immunity from liability.

Generally, a claim could not be maintained against the state for injuries suffered by a person if the claim was based on the state's failure to exercise or perform a discretionary function or duty under the registration procedures enacted by the bill. Discretionary acts are those acts that rise to the level of planning or policy formulation. They would include such acts as management decisions on how to implement the new registration requirements.

On the other hand, under AS 09.50.250 the state would have a potential for liability if state employees did not use due care when carrying out the registration provisions. This type of liability only arises when there is negligence in the performance of activities that are merely operational in nature, thereby implementing policy decisions, and are not discretionary acts discussed in the preceding paragraph. Just because a person is injured by a pharmacy registered under bill (e.g. pharmacy sends the wrong prescription) does not mean the state is potentially liable for the injury. The state

Senator Drue Pearce
March 2, 1992
Page 2

must be negligent in these operational activities before the potential for liability arises.^{1/}

If I may be of further assistance, please advise.

TLB:pl
92-148.plm

^{1/}And, of course, other requirements for liability must be present, such as a connection between the state negligence and the injury.


SB 125: An Act relating to pharmacies located outside of the state.

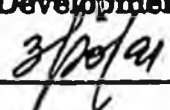
SB 125 establishes requirements for pharmacies located outside of Alaska to register with the Alaska Board of Pharmacy, if the pharmacy ships, mails, or delivers prescription drugs into the state.

The out-of-state pharmacy will be required to meet certain criteria established in the bill, including 1) registration of the names and locations of pharmacists who dispense prescription drugs to Alaska residents, 2) proof of maintenance of a current license and active pharmacy inspection in the jurisdiction in which the pharmacy is located, 3) compliance with all laws of the licensing authority within the jurisdiction where the pharmacy is located, and 4) proof that the pharmacy may readily retrieve the records of drugs prescribed to Alaska residents.

Currently, Alaska is not able to monitor or identify the out-of-state pharmacies who distribute prescription drugs to residents within the state. SB 125 will allow the Alaska Board of Pharmacy to require registration of outside pharmacies, thus providing some level of oversight -- albeit minimal -- of their activities in Alaska. The current lack of any review of outside pharmacies that mail, ship or deliver prescription drugs in Alaska raises consumer protection concerns.

Pharmacies located in Alaska are regulated by law to protect the health, safety and welfare of Alaskan consumers. Pharmacies located outside the state who service Alaska residents with prescription drugs should be subject to some degree of regulatory oversight. For this reason, the department supports SB 125.


Glenn A. Olds, Commissioner
Department of Commerce and
Economic Development

Date: 

GAO/RPB/JS/wfd2162W
31891b

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

WALTER J. HICKEL, GOVERNOR

P.O. BOX 110806
JUNEAU, ALASKA 99811-0806
PHONE: (907) 465-2534

April 6, 1992

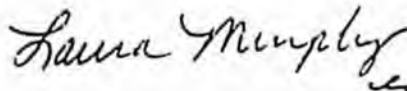
The Honorable Curt Menard
Alaska State Senate
State Capitol
Juneau, AK 99801-1182

Dear Senator Menard:

The Board of Pharmacy supports your bill CS 125 HES concerning registration of pharmacies located outside the state mailing prescriptions to patients located in Alaska.

Please keep me abreast of the bill's activity.

Sincerely,



Laura Murphy, Secretary
Board of Pharmacy
551 Raven View Court
Fairbanks, AK 99712

LM/rs2790s
040692a

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

PLEASE REPLY TO:

P.O. BOX CR
JUNEAU, ALASKA 99811-0203
PHONE: (907) 465-4460

Fax# 465-3086

701 EAST TUDOR ROAD, SUITE 240
ANCHORAGE, ALASKA 99503-7445
PHONE: (907) 563-5885

Public Employees Retirement System
Teachers Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees Voluntary Dental-Vision-Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

STEVE COWPER, GOVERNOR

March 19, 1990

The Honorable Curt Menard
Alaska House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Menard:

Your staff requested an analysis from this division of the impact HB 508 would have on the health insurance plan for State of Alaska employees.

The health insurance plan that was negotiated last summer by the Alaska State Employees Association (ASEA) includes a provision for prescription drugs to be obtained through the mail. I have reviewed HB 508 and do not see any provisions that would be at cross purposes with the current negotiated agreement with ASEA or increase the cost of health insurance premiums.

The mail order prescription drug plan is provided by National Pharmacies, Inc. through a subcontract with Aetna, our health insurance carrier. I have also discussed the bill's requirements with Aetna and have been informed that National Pharmacies would currently be able to satisfy these requirements.

Sincerely,



Michael B. Coughlin
Deputy Director

MBC/ksl

cc: Sally Smith
Director
Division of Retirement and Benefits

Lynn Withrow
Aetna Life Insurance
Seattle, WA 98111

Representative Curt Menard
March 19, 1990
Page 2

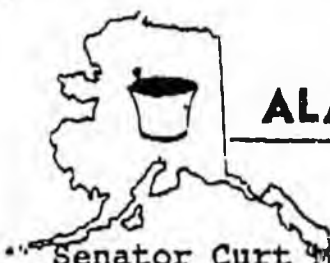
cc: (continued)

Frank S. Baxter, CPA
Commissioner
Department of Administration

Gary Bader
Deputy Commissioner
Services to State Agencies
Department of Administration

Sioux Plummer
Special Assistant
Department of Administration

RB90-017

**ALASKA PHARMACEUTICAL ASSOCIATION**

Box 10-1185 Anchorage, Alaska 99510

Senator Curt Menard
Alaska State Legislature
Juneau, Alaska FAX 465-3756

March 25, 1991

Dear Senator Menard:

The members of the Alaska Pharmaceutical Association wish to convey to you their support of your bill SB 125. Mail-order pharmacy involves many significant realities, especially in the state of Alaska.


One very important reality is that the State has the duty to protect the health and welfare of its citizens. SB 125 addresses that duty with respect to those pharmacy businesses which are not resident in the state of Alaska and which do a preponderance of their prescription volume through mail-order dispensing.

The issue of mail-order pharmacy is of great concern to the members of the Alaska Pharmaceutical Association. The Association and its Board of Directors appreciate your efforts to address this concern. It is gratifying to have a Senator who not only listens to his constituents, but who also acts.

The Association will participate in your hearings tomorrow (March 26th) through Katy Fishel, Past President of the Association. We will continue to watch the progress of SB 125 with interest and support.

Please contact me if I can be of help as SB 125 continues toward passage, hopefully this term. I can be reached at 261-3078 or via FAX 261-3048. Or, you may write to me at the Association's address given above.

Sincerely,



Lynn E. Rodda
President, Alaska Pharmaceutical Association

cc: Association Board of Directors



RETIRED PERSONS SERVICES, INC.

March 25, 1991

The Honorable Curt Menard
Senate of Alaska
State Capitol
P.O. Box V
Juneau, Alaska 99811

Re: Support for SB.125--Pharmacies Located
Outside of the State

Dear Senator Menard:

I am writing in my capacity as Director of Governmental Affairs of the AARP Pharmacy Service and its Oregon subsidiary, the Oregon Retired Persons Pharmacy of Beaverton, Oregon. Our Oregon facility provides service to approximately 5,000 AARP members living in Alaska. This is to commend you for authoring and introducing SB.125, a bill to require the registration of out-of-state pharmacies which provide pharmacy services to residents of Alaska. The AARP Pharmacy Service strongly supports the enactment of SB.125.

Your bill represents a significant contribution toward enhancing and improving professional relations between pharmacies engaged in interstate commerce and the Alaska Board of Pharmacy. Just as important, the bill will serve to improve cooperation and communication between the Alaska Board and the boards of other states. Finally, the regulatory framework adopted by SB.125 is reasonable, realistic and based on sound constitutional principles.

Very truly yours,

A handwritten signature in cursive script that reads "F. Nicholas Willard".

F. Nicholas Willard
Director, Governmental Affairs

cc: AARP Alaska State Legislative
Committee

500 Montgomery Street
Alexandria, Virginia 22314-1563
(703) 684-0244 Fax: (703) 684-0246

SENIOR VOICE
APRIL 1990

HEALTH & MEDICINE

Seniors: More drug use, more adverse reactions

by Jeffrey R. Richardson
Older adults use 25 percent of prescription drugs, more than people in younger age brackets. This makes them, as a group, proportionately more susceptible to adverse drug reactions, according to Cameale Johnson, clinical pharmacist at Humana Hospital-Alaska.

"Older adults are more frequently hospitalized due to adverse drug reactions," Johnson said. And medication misuse accounts for two-thirds of adverse drug reactions in the senior population, she said.

Drug side-effects that may be mild to nonexistent in younger people "may be significant in older adults," Johnson noted.

The phrase "adverse drug reaction" refers to any effect occurring from the use of a drug that is undesirable, including the failure to absorb the drug properly so it can address the targeted problem. A side-effect is a form of adverse reaction which can usually be anticipated because of the constituents of drugs and their known impact on the human organism.

Johnson said there are a number of reasons why people handle drugs differently as they age:

- To be effective, all drugs must be absorbed. Often changes in the gastro-intestinal system prevent

drugs from being readily absorbed.

- Drug effectiveness is dependent on good circulation. Throughout the aging process there are changes in the circulatory system which affect the ability of drugs to go to get where they are needed.

- Body composition, that is, the amount of fat or lean muscle tissue in a person, is a factor in the way the body handles drugs, since many drugs are taken up and stored in fat tissue.

"Probably the most significant one is the way we metabolize and excrete the drug," Johnson said. "The activity of the liver declines with age. Also, the kidneys don't always work quite as well. If they don't eliminate them, they're going to be subject to the toxic effect."

Johnson acknowledged it's easy to get prescription drugs confused, especially if a person is being treated for more than one condition. This raises the problem of adverse drug reactions resulting from drug interactions.

A number of steps can be taken to prevent harmful drug interactions. The most important is to utilize the services of one pharmacist who is familiar with your medical history and all of the drugs being utilized. In this way,

'Medication misuse accounts for two-thirds of adverse drug reactions in the senior population.'

- Cameale Johnson

interactions can be spotted that might be missed because doctors, or other pharmacists, don't know all the drugs a person is taking.

Johnson cautioned against storing prescription drugs in the bathroom, where they can rapidly deteriorate.

"It's the worst place you can store medications. It's a damp, humid environment," Johnson said. She suggested a ball closet, out of the reach of children.

Johnson also urges people to pay attention to the age of medications.

"I think it's important when you're no longer taking a medication to discard it."

Generally, drugs should not be kept longer than one year from the date the prescription was filled.

Johnson also warns people who tend to lose track of their dosages:

"In general, you should not double up on medications if you think you've skipped a dose."

Johnson concluded. *This information is presented by Senior Health Exchange, co-sponsored by Humana Seniors Association and Older Persons Action Group, Inc.*

S B

1 8 3

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 183

Revision Date: _____ Department Affected: Revenue
 Title: Authority to stock alcoholic beverages in guest rooms. BRU: Alcoholic Beverage Control Board
 Component: _____

Sponsor: Senate Labor & Commerce Comm.
 Requestor: Senate Labor & Commerce Comm.

COMPONENT SERIAL NO.

0	1	0	0
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Patrick L. Sharrock, Director Phone: 277-8638
 Division: Alcoholic Beverage Control Board Date: March 12, 1991

Approved by Commissioner: _____
 Agency: Department of Revenue Date: 3-18-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 183

Revision Date: _____ Department Affected: Commerce & Economic Development
 Title: "An act related to the authority of certain beverage dispensary licenses" BRU: Tourism
 Component: Tourism development
 Sponsor: Senate Labor Commerce Committee
 Requestor: Senator Drue Pearce COMPONENT SERIAL NO.

1	0	1	7
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

This bill does not impact operations of the Division of Tourism.

Prepared By: Wendy Wolf Phone: 465-2012
 Division: Division of Tourism Date: 3/20/91
 Approved by Commissioner: Glenn A. Clds *[Signature]* Asst Comm
 Agency: Department of Commerce & Economic Development Date: 3-21-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

STATE OF ALASKA

DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

WALTER J. HICKEL, GOVERNOR

550 W. 7TH AVE
ANCHORAGE, ALASKA 98501-6098

March 26, 1991

The Honorable Drus Pearce, Chair
Labor and Commerce Committee
Alaska State Senate
P. O. Box V
Juneau, Alaska 99811

RE: SB 183


Dear Senator Pearce:

Ken Erickson of your office asked that I provide you with the ABC Board's position concerning SB 183.

The board has discussed the subject of mini-bars in hotel rooms on several occasions during the last few years. The board concluded that it neither supports nor opposes mini bars. However, it has indicated that it should have a role in reviewing proposals from licensees who want to provide mini-bar service in their facilities. Senate Bill 187 does provide for board approval.

Thank you for the opportunity to comment. If I can provide any additional information, please do not hesitate to call.

Sincerely,

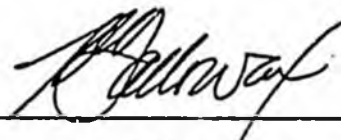

Patrick L. Sharrock
Director, ABC Board

PS/cl

91-42

SB 183: "An Act related to the authority of certain beverage dispensary licensees to stock alcoholic beverages in guest rooms."

The department has no opposition to this bill, as it does not affect any of the department's programs.



Glenn A. Olds, Commissioner

Date: 3-22-91



*Alaska Cabaret, Hotel,
Restaurant & Retailers Association*

*575 W. 23rd Street • Anchorage, Alaska 99510
401 K Street • (907) 272-8194 • Fax: (907) 272-8640*

March 8, 1991

Position Paper on Hotel Mini-Bars

The Alaska Cabaret, Hotel, Restaurant & Retailers Association endorses legislation that amends Alaska State Liquor Laws to permit the placement of mini-bars in hotel and motel rooms. As a major part of the hospitality and visitor industry of the state, the Association feels that the availability of this amenity to the traveling public is necessary to maintain our competitive edge as a visitor destination. Mini-bars are available in hotel rooms in many areas of the world and we believe that Alaska's lodging industry should be able to participate fully in the modern world of hospitality.



ALASKA VISITORS ASSOCIATION

501 West Northern Lights, Suite 201 • Anchorage, Alaska 99503

Tel: (907) 276-6663 • Fax: (907) 258-4036

1988-89

Executive Officers

President

Tom Dow

AVANA Development Corp
Anchorage, Alaska

1st Vice-President

Robert Dindinger

Alaska Travel Adventures
Juneau, Alaska

2nd Vice-President

Ray Pedersen

Princess Tours
Seattle, Washington

Vice-President/
Government Relations

Robert Jacobsen

Wings of Alaska
Juneau, Alaska

Secretary

Cheri McGuire

Quinnat Landing Hotel
King Salmon, Alaska

Treasurer

Bob Berto

Southwest Stevedoring
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Captain Jim Binkley

Alaska Riverboat
Discovery

Dennis Brandon

Westmark Hotels

Bob Brennan

Signature Travel

Bill Bubbel

The Pump House

Ruth Burnett

Palais Hotel

Bill Elander

Anchorage Convention
& Visitors Bureau

P. G. Engelbrecht

TEMSCO Helicopters

Pete Gherini

Waterfall Resort

Tim Kirschbaum

Kirschbaum Corporate
Marketing

Len Laurance

Mariner, Inc.

Alan LeMaster

Gakona Junction Village

John Litten

Silka Tours

Ralph Nestor

Travel Industry
Management, UAF

Dave Palmer

Alaska Airlines

Brad Phillips

Phillips Cruises & Tours

Tom Watson

Kodiak Island Convention
& Visitors Bureau

Richard West

Alaska Sightseeing

Dana Brockway
Executive Director

#89-1

A Resolution of the Board of Directors of the Alaska Visitors Association regarding:

The presence of mini-bars in hotel and motel rooms.

WHEREAS, the Hotel/Motel Association of Alaska and CHARR are seeking passage of a statute by the Alaska legislature amending Alaska State liquor laws to permit the placement of mini-bars in hotel and motel rooms;

THEREFORE BE IT NOW RESOLVED, that the Board of Directors of the Alaska Visitors Association supports this legislation and encourages the Alaska State Legislature to amend the necessary laws to permit the use of hotel room mini-bars.

ADOPTED BY THE AVA BOARD OF DIRECTORS ON FEBRUARY 7, 1989.



Ralph Nogal
Anchorage Hilton Hotel
Bill Elander
Anchorage Convention &
Visitors Bureau
Forest Paulson
Sheraton Anchorage Hotel
Bob Coe
Duty Free Shoppers
Gordon Godfred
Arctic Circle Enterprises
Wally Hickel, Jr.
Hotel Captain Cook
Masao Ishii
Japan Air Lines
Rolf Klug
Holland America Westours
Bill MacKay
Alaska Airlines
Jeff Ripley
Princess Tours
Shinobu Shimojima
Selbu Alaska, Inc.
Kay Sugimoto
A & P Tours

By FAX 463-5352

March 25, 1991

Senator Drue Pearce
P.O. Box V
Juneau, AK 99811

Dear Senator Pearce:

On behalf of the Alaska International Airport and Tourism Marketing Council, Inc., please be advised we strongly support Senate Bill No. 183 in order to offer more convenience to our international and domestic travelers.

In stocking alcoholic beverages and snacks, as well as cold drinks, in a room refrigerator, we will offer the same privileges our international and domestic guests have in locations other than Alaska. These units are separately keyed and only offered to persons 21 years of age or older.

Please also remember that these units only sell about 17% liquor and the balance is for snacks and non-alcoholic beverages.

Senator Pearce, passage of this bill will put us on a plane with other states and countries.

Sincerely,

Ralph C. Nogal
President

RCN/eh



THE ANCHORAGE HILTON

March 25, 1991

Senator Drue Pearce
P.O. Box V
Juneau, AK 99811

Dear Senator:

On behalf of the Anchorage Hilton, please accept our most vigorous plaudits for a marvelous opportunity to bring more business to the State of Alaska. Needless to say, we are strongly in favor of Senate Bill number 183.

As stated in SB183, travellers of all sophistications now expect first class and complete hospitality accommodations. In-room food and beverage availability was once a novelty. It is now a must!

As you know the State of Alaska competes with many destinations, not only for the summer tourist, but company meetings and conventions as well. We can ill afford to allow our competition the slightest edge.

Thank you again for your work on this long over due piece of legislation.

Sincerely,

Jim Garvin
Director of Food and Beverage

JG/eh



APR 17 1991

ALASKA HOTEL
PROPERTIES, INC. 

bill file - let's put
in floor packet

April 15, 1991

Senator Drue Pearce
P. O. Box V
Juneau, AK 99811

Dear Senator Pearce:

Re: Senate Bill 183

Alaska Hotel Properties, Inc. owner of the Harper Lodge Princess at Denali National Park, the Kenai Princess Lodge, Cooper Landing and soon to be (1993) the Fairbanks Princess Hotel, support Senate Bill 183.

We feel that the hoteliers in Alaska will best serve the requirements of their guests and be on a par with the lodging industry in other states if this bill is enacted.

Yours Truly,

PRINCESS TOURS



Don Grandy
Vice President
Alaska Hotel Properties, Inc.

DWG:tm
DWG:068:91

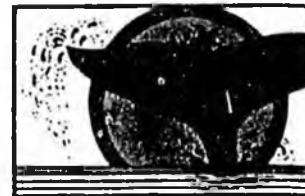
APR 2 1991



Hotel Seward

"Independently owned & operated"

221 5th Ave., P.O. Box 670 • Seward, Alaska 99664 • (907) 224-BEST (2378)



March 27th, 1991

SENATOR PEARCE
P. O. Box V
Juneau, Alaska 99811

Re: Senate Bill No. 183

Dear Senator Pearce;

We would like to take this opportunity to express our support of your Senate Bill No. 183.

We operate the Best Western Hotel Seward, as well as the New Seward Hotel in Seward, Alaska, and would like to see this bill passed in the Senate as well as the House of Representatives.

If we can help you further, please do not hesitate to let us know.

Thank you.

Sincerely,

Brad Snowden
Owner/Manager

BS/dr

APR 5 1991



DENALI NATIONAL PARK HOTEL
McKINLEY CHALET RESORT
McKINLEY VILLAGE LODGE
ARA Denali National Park Company

KEN

April 3, 1991

Senator Pearce
Box V
Juneau, AK 99811

Senator Pearce,

I wish to express our companies support of Senate Bill 183.
We find it to be a courtesy that traveller's are accustomed
to receiving such services in their Hotel Rooms.

Sincerely,

A handwritten signature in dark ink, appearing to read 'C. W. Fleharty', written over the word 'Sincerely,'.

Carson W. Fleharty
ARA Denali Park Hotels

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 165-3991
Fax: (907) 163-3351

March 20, 1991

MEMORANDUM

TO: Senator Drue Pearce

FROM: Linda J. Snow *LJ Snow*
Legislative Analyst

RE: Regulation of Hotel Mini-Bars
Research Request 91.200

You asked this office how other states regulate hotel mini-bars. You specifically asked if other states require special licenses or permits for mini-bars, how they restrict access by minors and drunken persons, and how they control sale hours. You also asked if proposed mini-bar legislation would conflict with Alaska's "Happy Hour" law.

We spoke with representatives of alcoholic beverage control authorities in California, Illinois, Nevada, New York, Texas, and Wisconsin. Our discussions with these people are summarized below. Attached to this memorandum are relevant statutes from the various states.

California

According to David Wright, assistant chief of business practices for the California Department of Alcoholic Beverage Control, special controlled-access cabinet permits may be issued to California hotels which have an on-sale liquor license.¹ Mini-bar cabinets must be locked, and no access key may be issued to minors. Hotel employees allowed to stock the cabinets must be at least 21 years of age. Cabinets may not be stocked between 2:00 a.m. and 6:00 a.m., the hours during which the state prohibits sales of alcohol.

Illinois

Mr. Eric Wisette, chief of investigations for the Illinois Liquor Control Commission, reported that his state does not require separate mini-bar permits if hotels have a general liquor license. However, local municipalities have

¹On-sale refers to establishments which sell liquor for consumption on the premises (i.e., restaurants and bars). Off-sale refers to establishments which sell packaged liquor for consumption off the premises (i.e., grocery stores and liquor stores).

Senator Pearce
March 20, 1991
Page 2

the option to require permits or licenses for mini-bars. Illinois lacks legislation regarding mini-bars. The authority to regulate them comes from a Liquor Control Commission policy statement. The state has no regulations regarding hours of sale, although local governments may regulate them. Regarding access by drunken persons, the liquor license holder is ultimately responsible and risks the loss of his or her license if abuses occur. Illinois recently passed legislation (attached) which makes any person who rents a hotel room for the purpose of consumption of alcohol by minors guilty of a class C misdemeanor.

Nevada

The State of Nevada does not regulate alcoholic beverages. According to Jody Cummings of the Nevada Game and Control Board, both city and county governments regulate alcoholic beverages in Nevada. We spoke with Art Besser, chief of licensing for the Clark County Department of Business Licenses about mini-bars in Las Vegas. He reported that hotels with 100 or more rooms and a bar liquor license may receive "individual access licenses" (for mini-bars). Each license costs \$1,000 per three-month period. The cabinets are locked, and upon proof of age, a guest will be given a mini-bar key on a ring with the room key. The mini-bar key cannot be removed from the cabinet without locking it, so it is assured that the cabinet will be locked when the occupant is not in the room. Las Vegas allows sale of alcohol 24 hours a day, seven days a week. Employees of an establishment with a liquor license must take a course in liquor awareness training, which may help them identify abuses of mini-bars. According to Mr. Besser, Clark County has not had any serious problems with abuse of mini-bar privileges.

New York

New York law does not require special licenses or permits for hotel mini-bars beyond a general hotel liquor license. The law requires that mini-bar cabinets have a lock, and that keys will not be issued to minors or persons who are visibly intoxicated. According to Steven Kalinsky, attorney with the New York State Liquor Authority, nothing in the New York law addresses regulation of hours when the mini-bar may be used.

Texas

Ms. Jeannene Fox, director of licensing for the Texas Alcoholic Beverage Commission, reported that Texas legislation passed in 1989 requires a special permit to operate mini-bars in hotels with a current "mixed beverage" liquor license. Fees for these permits begin at \$2,000 annually, and decrease incrementally to \$750 annually for the third and all subsequent renewals. Local governments have the authority to charge up to the same amount for permits that the state charges. Prior to issuance of a permit, mini-bars must

Senator Pearce
March 20, 1991
Page 3

be inspected. The cabinets must lock with a key separate from the room key, and the drinks in the cabinets must be miniature (between one and two fluid ounces) for hotels to pass inspection. Upon registration for a room with a mini-bar, every occupant of the room must present proof of age. Restocking of mini-bars cannot occur between 9:00 p.m. and 9:00 a.m. daily, or all day Sunday, and employees who restock must be at least 18 years of age.

According to Ms. Fox, Texas law views hotel rooms more like residences than licensed premises. Persons may become intoxicated, as long as they remain in their hotel room. Also, Texas law allows minors to consume alcohol in their home under the supervision of a parent or legal guardian. This pertains to hotel rooms as well. Ms. Fox also reported that prior to passage of the 1989 legislation, the commission researched control of mini-bars in other states, and found that no other states had trouble regulating access of alcohol from mini-bars by minors and drunken persons.

Wisconsin

We interviewed Roger Johnson, a representative of Alcohol and Tobacco Enforcement in the Wisconsin Department of Revenue. He reported that Wisconsin authorities initially had concerns about the control of alcoholic beverages sold in hotel mini-bars, but that no major problems have occurred.

Hotels with a general bar liquor license may operate mini-bars without any special permits or licenses. Generally, only expensive resort hotels in Wisconsin have mini-bars. According to Mr. Johnson, this tends to preclude minors from obtaining access to them simply because few minors can afford to rent the rooms. The mini-bar cabinets must be locked and proof of age is required before a key will be issued. Some hotels have remote locking devices and can therefore control access to the liquor during certain hours. However, Wisconsin law states that although liquor may be furnished at the time the guest occupies the room, the sale of the liquor furnished is considered to occur at the time and place the guest pays for it. Most state laws address only hours of sale of liquor, not hours of consumption.

Bob Frohling, an analyst with the National Conference of State Legislatures who specializes in alcohol issues, stated that he has no knowledge of problems in controlling access to mini-bars by minors and drunken people. David Wright of the California Department of Alcoholic Beverage Control stated that new technology is emerging which will make control of mini-bar access easier. Hotels are now able to lock mini-bar cabinets remotely, stopping access during prohibited hours or when questions arise about the age or drunkenness of a room guest. Also, mini-bar cabinets may now be equipped with remote sensors which indicate exactly what liquor has been removed from a cabinet.

Senator Pearce
March 20, 1991
Page 4

Conflict with Alaska's "Happy Hour" Law

We spoke with Mike Ford, an attorney with the Legislative Affairs Agency Legal Services Division, who is familiar with state liquor laws. He stated that the "happy hour" law prohibits delivery of a drink to a person with two or more drinks already in his possession. Technically, a guest serving himself a drink from an open-access mini-bar could not be considered delivery. Therefore, it appears there would be no conflict with Alaska's "happy hour" law.

I hope this information is sufficient to answer your questions. If you need further assistance, please call this office.

Attachments

BUSINESS AND PROFESSIONS CODE

ating
or ves-
icent 360.00 per year
use for
d rest
56.00 per year

in 1985 ch 319 § 1.

(1)(a) which read: "(a) Steam beer manufacturer exclusively

(2) substituted "7,000" for "10,000" in (35).

complimentary alcoholic beverages to any interested adult
at the same time charging for product provided or service
thereby necessitating alcoholic beverage license. (1985) 68

licating liquor statutes, 100 ALR3d 850.

in 23320, each license shall bear an annual renewal
Section 23320. All money collected from the fees
city into the General Fund in the State Treasury,
as provided in Section 2 761.

licable to the annual fees provided for in Section

proportionate to the fee charged to each licensee
nount which is sufficient to pay the actual costs
istrative Hearings for administrative hearings. The
annual fees provided for in Section 23320, but shall
ient amounts are collected to pay these costs.

in this section shall be deposited directly into the
ic Alcoholic Beverage Control Fund as provided in

ion 23320, the department shall collect a surcharge

eposited in the Motor Vehicle Account in the State
Department of the California Highway Patrol's
Department of the California Highway Patrol for

blic eating place intermittent dockside license to

ermittent dockside license for vessels of more than
of more than 7,000 tons displacement with cabin
issuable under this section shall be used only in the
section may be issued such a license in more than
23397, the licensee under each such license shall
nal public aboard the vessel respecting which the
berth in the county for which the license is issued,
r operations of such vessel and such beverages are
rages for resale in this state. In no event shall the
any during more than 100 calendar days in any
is 2 (commencing with Section 23815) of Chapter
than provided in this section, on the number of
plicants who meet its requirements. Except as
visions of this division shall apply to any license
revisions apply to an on-sale general license issued
Merch's permit may be issued pursuant to Section
provided further that any duplicate license issued
bear the same fee specified by subdivision (39) of

CALIFORNIA

BUSINESS AND PROFESSIONS CODE

§ 23356.2

Amendments:

1981 Amendment Substituted "100" for "43" before "calendar days" in the fourth sentence.

1985 Amendment: Amended the first sentence by (1) substituting "7,000" for "10,000" wherever it appears; and (2) deleting ", respecting which vessel a duplicate license has also been issued under Section 23321.6" at the end of the sentence.

License fee: B & P C § 23954.7.

§ 23355.2. Sale of alcoholic beverages by hotel or motel by means of controlled access beverage cabinet

(a) For purposes of this section, "controlled access alcoholic beverage cabinet" means a closed container, either refrigerated, in whole or in part, or nonrefrigerated, and access to the interior of which is (1) restricted by means of a locking device which requires the use of a key, magnetic card, or similar device, or (2) controlled at all times by the licensee.

(b) Notwithstanding any other provision of this division, a hotel or motel having an on-sale license may sell alcoholic beverages to its registered guests by means of a controlled access alcoholic beverage cabinet located in the guestrooms of those registered guests, provided that each of the following conditions is met:

(1) Access to a controlled access alcoholic beverage cabinet in a particular guestroom is provided, whether by furnishing a key, magnetic card, or similar device, or otherwise, only to the adult registered guest, if any, registered to stay in the guestroom.

(2) Prior to providing a key, magnetic card, or other similar device required to attain access to the controlled access alcoholic beverage cabinet in a particular guestroom to the registered guest thereof, or prior to otherwise providing access thereto to the registered guest, the licensee shall verify, in accordance with Article 3 (commencing with Section 25657), of Chapter 16 of this division, that each registered guest to whom a key, magnetic card, or similar device is provided, or to whom access is otherwise provided, is not a minor.

(3) All employees handling the alcoholic beverages to be placed in the controlled access alcoholic beverage cabinet in any guestroom, including, but not limited to, any employee who inventories or restocks and replenishes the alcoholic beverages in the controlled access alcoholic beverage cabinet, shall be at least 21 years of age.

(4) There is no replenishing or restocking of the alcoholic beverages in any controlled access alcoholic beverage cabinet between the hours of 2 a.m. and 6 a.m. of the same day.

(c) Notwithstanding any other provision of this division, a hotel or motel having an on-sale general license may, upon issuance of a permit from the department, sell from its controlled access alcoholic beverage cabinets distilled spirits in containers of 50 milliliters or less, or in containers of comparable size. The department shall charge an annual fee for a permit issued pursuant to this subdivision equal to the annual renewal fee applicable to an off-sale general license pursuant to Section 23320.

(d) Notwithstanding any other provision of this division, a hotel or motel having an on-sale general license and an off-sale general license may sell from its controlled access alcoholic beverage cabinets distilled spirits in containers of 50 milliliters or less, or in containers of comparable size, without having to obtain the permit specified in subdivision (c).

(e) A controlled access alcoholic beverage cabinet may be part of another cabinet or similar device, whether refrigerated, in whole or in part, or nonrefrigerated, from which nonalcoholic beverages or food may be purchased by the guests in hotel or motel guestrooms. However, in that event, the portion of the cabinet or similar device in which alcoholic beverages are stored shall be a controlled access alcoholic beverage cabinet, as defined in this section.

(f) For purposes of this section, "hotel" or "motel" shall mean an establishment which is licensed to sell alcoholic beverages and which contains guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this subdivision, the existence of other legal relationships as between some occupants and the owner or operator thereof shall be immaterial.

Added Stats 1985 ch 280 § 1; Amended Stats 1986 ch 458 § 1.

Amendments:

1986 Amendments: (1) Added "having an on-sale license" in the introductory clause of subd (b); (2) deleted former subd (b)(5) which read: "(5) Distilled spirits shall not be sold by means of a controlled access alcoholic beverage cabinet unless an off-sale general license is also issued for the premises."; (3) added subds (c) and (d); and (4) redesignated former subds (c) and (d) to be subds (e) and (f).

Note—Stats 1985 ch 280 provides:

SEC. 2. The Legislature declares that nothing in this act shall be construed in any manner whatsoever as modifying, revoking, repealing, or otherwise altering the prohibitions of Article 2 (commencing with Section 25631) of Chapter 16 of this division.

Hours of sale and delivery of alcoholic beverages: B & P C §§ 25631 et seq.

§ 23356.2. Beer manufactured for personal or family use

No license or permit shall be required for the manufacture of beer for personal or family use, and not for sale, by a person over the age of 21 years. The aggregate amount of beer with respect to any household shall not exceed (a) 200 gallons per calendar year if there are two or more adults in such household, or (b) 100 gallons per calendar year if there is only one adult in such household.

Any beer manufactured pursuant to this section may be removed from the premises where manufactured

DRAM SHOPS

P.A. 84-551, which revised terminology and extended a statute of limitations (ch. 10, § 13-214), in the third from the last paragraph, substituted "allow" for "suffer".

P.A. 84-816 inserted the paragraph relating to provision of alcohol in long term care facilities.

P.A. 84-1081, in the first paragraph, added sentence relating to sales in fire protection district buildings.

P.A. 84-1111, which incorporated the amendments to this paragraph by all earlier Acts of the 84th General Assembly, inserted two paragraphs relating to sales of alcoholic liquor at the Willard Ice Building; and also inserted the paragraph relating to the use of catering establishments to sell or dispense alcoholic liquors at authorized functions.

Section 2 of P.A. 84-1111, approved Feb. 28, 1986, provided:

"This Act takes effect upon becoming a law."

P.A. 84-1228, which incorporated the amendments to this paragraph by all earlier Acts of the 84th General Assembly, inserted the paragraph relating to beer and wine sales at entertainment events on premises owned by the Kane County Forest Preserve District.

Section 2 of P.A. 84-1228, approved July 24, 1986, provided:

"This Act shall take effect upon becoming law."

References

Decisions

Individual who leases concession space in a state park must obtain both local and state license before selling alcoholic liquors. 1979 Op.Atty.Gen. No. S-1469.

This paragraph merely constitutes an exemption from general prohibition against sale or delivery of alcoholic beverages in any building belonging to or under control of state or any political subdivision thereof; it does not provide exemption from licensing. Id.

An Illinois Municipal Corporation may not lease or otherwise permit its facilities to be used by a charitable organization for a function where alcoholic beverages will be distributed either by the sale of tickets or

ILLINOIS

LIQUOR CONTROL ACT

43 ¶ 131

gratuitous disbursement. 1976 Op.Atty. Gen. No. S-1139.

131. Sales to and possession by persons under 21, intoxicated persons, persons under legal disability or in need of mental treatment—Proof of identity and age—Gatherings where one or more persons are under 18—Violations and penalties—Renting hotel or motel rooms

§ 6-16. (a) No licensee nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of 21 years, or to any intoxicated person or to any person known by him or her to be under legal disability or in need of mental treatment. No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to another person under the age of 21 years, except in the performance of a religious ceremony or service. Whoever violates the provisions of this paragraph of this subsection (a) is guilty of a Class A misdemeanor.

For the purpose of preventing the violation of this section, any licensee, or his agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is over the age of 21 years.

Adequate written evidence of age and identity of the person is a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act,¹ or an identification card issued to a member of the Armed Forces. Proof that the defendant-licensee, or his employee or agent, demanded, was shown and reasonably relied upon such written evidence in any transaction, forbidden by this Section is competent evidence and may be considered in any criminal prosecution therefor or to any proceedings for the suspension or revocation of any license based thereon.

Any person who sells, gives, or furnishes to any person under the age of 21 years any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of 21 years evidence of age and identification of any other person is guilty of a Class A misdemeanor.

Any person under the age of 21 years who presents or offers to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent written,

printed, or photostatic evidence of age and identity, is guilty of a Class B misdemeanor.

Any person under the age of 21 years who has any alcoholic beverage in his possession on any street or highway or in any public place or in any place open to the public is guilty of a Class B misdemeanor. This Section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his or her parent or in pursuance of his or her employment.

(b) Except as otherwise provided in this Section whoever violates this Section shall, in addition to other penalties provided for in this Act, be guilty of a Class B misdemeanor.

(c) Any person shall be guilty of a petty offense where he or she knowingly permits a gathering at a residence which he or she occupies of two or more persons where any one or more of the persons is under 18 years of age and the following factors also apply:

(1) the person occupying the residence knows that any such person under the age of 18 is in possession of or is consuming any alcoholic beverage; and

(2) the possession or consumption of the alcohol by the person under 18 is not otherwise permitted by this Act; and

(3) the person occupying the residence knows that the person under the age of 18 leaves the residence in an intoxicated condition.

For the purposes of this subsection (c) where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee.

(d) Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of 21 years shall be guilty of a Class C misdemeanor.

Laws 1933-34, 2nd Sp.Sess., p. 57, art. VI, § 12, eff. Jan. 31, 1934. Amended by Laws 1951, p. 1557, § 1, eff. July 16, 1951; Laws 1953, p. 1182, § 1, eff. July 13, 1953; Laws 1961, p. 2479, § 1, eff. Aug. 1, 1961; Laws 1963, p. 2529, § 1, eff. Aug. 7, 1963; P.A. 77-2410, § 1, eff. Jan. 1, 1973; P.A. 78-26, art. VI, § 1, eff. Oct. 1, 1973; P.A. 78-630, § 1, eff. Oct. 1, 1973; P.A. 78-1297, § 15, eff. March 4, 1975; P.A. 81-212, § 1, eff. Jan. 1, 1980. Renumbered § 6-16 and amended by P.A. 82-783, Art. VI, § 2, eff. July 13, 1982. Amended by P.A. 83-706, § 27, eff. Sept. 23, 1983; P.A. 83-834, § 1, eff. July 1, 1984; P.A. 83-1362, Art. II, § 54, eff. Sept. 11, 1984; P.A. 84-272, § 6, eff. Jan. 1, 1986; P.A. 84-1379, § 1, eff. Jan. 1, 1987.

¹ 50 U.S.C.A. App. § 451 et seq.

Historical Note

This paragraph is derived from R.S. 1874, p. 438, §§ 6, 6½.

As originally enacted the paragraph read:

"No licensee shall sell, give or deliver alcoholic liquor to any minor, or to any intoxicated person or to any person known

and identity, is guilty of a Class B

who has any alcoholic beverage
 away or in any public place or in
 of a Class B misdemeanor. This
 by a person under the age of 21
 the beverage in pursuance of the
 nature of his or her employment.
 This Section whoever violates this
 provisions provided for in this Act, be

petty offense where he or she
 residence which he or she occupies of
 more of the persons is under 18
 also apply:

one knows that any such person
 is or is consuming any alcoholic

the alcohol by the person under
 the Act; and

one knows that the person under
 is in intoxicated condition.

(c) where the residence has an
 a rebuttable presumption that the
 is the tenant or lessee.

a motel room from the proprietor
 with the knowledge that such room
 contains alcoholic liquor by persons under
 a Class C misdemeanor.

12, eff. Jan. 31, 1934. Amended by
 Laws 1953, p. 1182, § 1, eff. July 13,
 1961; Laws 1963, p. 2529, § 1, eff.
 1973; P.A. 78-26, art. VI, § 1, eff.
 1973; P.A. 78-1297, § 15, eff. March
 1973. Renumbered § 6-16 and amended
 1982. Amended by P.A. 83-706,
 eff. July 1, 1984; P.A. 83-1362, Art.
 § 6, eff. Jan. 1, 1986; P.A. 84-1379,

by him to be an habitual drunkard, spend-
 thrift or insane, feeble-minded or distracted
 person."

The 1951 amendment substituted "men-
 tally ill, mentally deficient or in need of
 mental treatment" for "feeble-minded or
 distracted person".

The 1953 amendment made the para-
 graph applicable to officers, agents, employ-
 ees and others acting for a licensee, and it
 provided a penalty for violation of the para-
 graph.

The 1961 amendment substituted "person
 under the age of 21 years" for "minor".

The 1963 amendment in the first para-
 graph added what is now the second sen-
 tence.

P.A. 77-2410 provided that a person vio-
 lating the paragraph was guilty of a Class B
 misdemeanor.

The amendment by P.A. 77-2410 was
 necessary to conform penalties under this
 paragraph with the Unified Code of Corre-
 ctions, see ch. 38, § 1001-1-1 et seq.

Section 2 of P.A. 77-2410 provided an
 effective date of January 1, 1973.

P.A. 78-26 designated the subdivisions of
 the paragraph; inserted subd. (b) which
 read:

"(b) Subsection (a) of this Section does
 not apply to the sale, gift or delivery of beer
 and wine to persons under the age of 21
 years but at least 19 years of age."

and in subd. (a) referred to the exception of
 subd. (b).

P.A. 78-630 in what is now the first para-
 graph of subd. (a) following "21 years"
 inserted "or in the case of beer and wine,
 under the age of 19 years"; and in subd. (a)
 added the second to sixth paragraphs.

P.A. 78-1297, the 1974 Revisory Act,
 declared in its title that it related to "certain
 nonsubstantive revisions of the law to re-
 solve differences among the several forms of
 certain Sections amended by more than one
 Act of the 78th General Assembly".

P.A. 81-212, in subd. (a), in the first,
 second, fifth and sixth paragraphs deleted
 "or in case of beer and wine, under the age
 of 19 years" where it appeared following
 "21 years"; deleted former subd. (b) as
 added by P.A. 78-26, and designated a
 penalty provision as subd. (b).

P.A. 82-783, Art. VI renumbered Sec-
 tions of the Liquor Control Act of 1934 and
 amended other Acts to revise cross referenc-
 es to the renumbered Sections.

For provisions of P.A. 82-783, Art. I,
 § 1 relating to intent and supersedure and
 Art. XII, § 1 relating to effective dates and
 extension or revival of repealed Acts, see
 Historical Note following ch. 23, ¶ 4-2.

P.A. 83-706 revised statutory terminol-
 ogy related to persons under legal and devel-
 opmental disabilities; deleted references to
 conservator or substituted references to
 guardians; and inserted gender references.

P.A. 83-834, in subd. (b), inserted "Ex-
 cept as otherwise provided in this Section";
 and added subd. (c).

P.A. 83-1362, Art. II, the 1984 Revisory
 Act provided in § 0.1:

"This Article provides for the nonsub-
 stantive revision or renumbering or repeal
 of Sections of Acts necessitated by the
 amendment, addition or repeal of Sections
 by two or more Public Acts of the 83rd
 General Assembly, which multiple action
 was not resolved by one of the Acts of the
 83rd General Assembly affecting the particu-
 lar Section."

For provisions of P.A. 83-1362, Art. I,
 § 1 relating to intent and Art. V, § 1 relat-
 ing to effective date and nonacceleration,
 see Historical Note following ch. 5, ¶ 55.19.

P.A. 84-272, in the first paragraph of
 subd. (a), added "Whoever violates the pro-
 vision of this paragraph of this subsection
 (a) is guilty of a Class A misdemeanor."

P.A. 84-1379, which incorporated the
 amendment by P.A. 84-272, added subd.
 (d).

Cross References

Liquor in jails, see ch. 75, ¶ 118.

Local licenses, revocation or suspension, see ¶ 149 of this chapter.

State licenses, revocation or suspension, see ¶ 108 of this chapter.

Note

"No licensee shall sell, give or deliver
 alcoholic liquor to any minor, or to any
 intoxicated person or to any person known

Reprint of
Chapter 8.20
LIQUOR LICENSE REGULATIONS

CLARK COUNTY CODE
NEVADA
1990

BOOK PUBLISHING COMPANY
201 Westlake Avenue North
Seattle, Washington 98109

8.20.020

INDIVIDUAL ACCESS LICENSE. "Individual access license" means a license which allows a hotel to stock a locked cabinet or refrigerator in a hotel room or suite with alcoholic liquor, the key to which is given to the adult transient guest. The liquor cabinet key must be on the keyring to which the room key is attached and the liquor cabinet lock must be so designed that the key may not be removed therefrom without first locking the cabinet. The hotel must have at least one hundred rooms or suites, a full-service twenty-four-hour restaurant with a service bar and a tavern or main bar, room service of meals to all guestrooms, a recreation facility as defined in Section 8.04.010(X)(6) and a convention pavilion as part of the same operation and complex.

I EWD. "Lewd" means:

(a) The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the covered male genitals in a discernibly turgid state with the intent to arouse or excite the sexual desire of the viewer;

(b) The touching of the genitals, buttocks or female breast of oneself or another person for purposes of sexual arousal, gratification or affront;

(c) An act of sexual intercourse, including actual or simulated, genital-genital, oral-genital, anal-genital or oral-anal, with or between persons of the same sex or opposite sex, or an act of masturbation, bestiality or sado-masochistic abuse.

LICENSEE. "Licensee" means any corporation or association or a natural person to whom a valid alcoholic liquor license and/or import-wholesale alcoholic liquor license has been issued and is used herein in the plural as well as the singular sense.

LIQUOR CATERER LICENSE. A liquor caterer license permits the operator of a portable bar at events for which the caterer has obtained a permit.

LIQUOR STORE. "Liquor store" is a specialty retail store which deals exclusively in alcoholic liquors and related items including magazines, newspapers and packaged snack foods. Minors are not allowed entry into liquor stores. A liquor license shall not be granted to a liquor store if it is located within a one-thousand-five-hundred-foot radius of the entry door of any other liquor store.

LOUNGE. "Lounge" means a room or designated and separate area adjacent to and operated in connection with a hotel, supper club, casino or tavern wherein the patrons of said businesses meet in an informal setting at tables, booths or easy chairs for conversation or entertainment, and into which room or area minors are not permitted entry.

MANAGER/GENERAL MANAGER. A "manager" is the individual responsible for liquor sales and code compliance whose responsibilities are limited to a shift. "General manager" means a key employee who is designated by the licensee as the individual responsible for all liquor sales, employee supervision and liquor code requirement compliance.

MAIN BAR. "Main bar" means a bar where alcoholic liquors are dispensed by the drink by retail sales to customers at such bar in an establishment licensed for gaming other than Class A slot machines, resort hotel, or to a hotel having at least one hundred fifty rooms, providing sleeping accommodations to transient guests for valid consideration, and a restaurant.

MINOR. "Minor" means, for the purposes of this chapter, a natural person under the age of twenty-one years.

MORAL TURPITUDE. "Moral turpitude" is defined as any crime, including conspiracy to commit the crime, which:

8.20.465

parking lot over which the licensee has ownership or contractual parking privileges. (Ord. L-92-89 §, 1989; Ord. L-89-89 § 1, 1989; Ord. L-81-88 § 4, 1988; Ord. L-55-85 § 1, 1985)

8.20.470 License fees. It is unlawful for any person, firm, association or corporation to engage in the retail business of selling, distributing, dispensing or giving away intoxicating, spirituous, vinous, malt (fermented) or other liquors, wines or beers in the county, outside the incorporated cities and towns therein, without first having procured a license and paid the applicable fees in advance to the county department of business license as follows:

(a) For retail liquor licenses:

(1) For each and every main bar operated by an establishment for on-premises consumption, including room service of package goods to hotel guests in rooms by a porter within the establishment, a fee of five hundred twenty-five dollars per quarter-annual period;

(2) For each and every service bar and portable bar operated by an establishment a fee of three hundred dollars per quarter-annual period;

(3) For each and every individual access license, the fee of one thousand dollars per quarter-annual period;

(4) For a tavern, a fee of three hundred dollars per quarter-annual period;

(5) For retail beer, a fee of one hundred twenty-five dollars per quarter-annual period;

(6) For retail beer and wine, a fee of one hundred fifty dollars per quarter-annual period;

(7) For a club liquor license, a fee of thirty-four dollars and seventy-five cents per quarter-annual period;

(8) For a supper club license, a fee of three hundred dollars per quarter-annual period;

(9) For a liquor caterer license, the fee of one hundred fifty dollars per quarter-annual period and a semiannual fee based on gross revenue pursuant to Title 6, with a permit fee of ten dollars for each portable bar operated per day at each event.

(b) For package licenses:

(1) For package liquor, a fee of four hundred fifty dollars per quarter-annual period unless operated in conjunction with a tavern by the same licensee at the same location, in which case the fee shall be one hundred fifty dollars per quarter-annual period;

(2) For package beer, a fee of one hundred twenty-five dollars per quarter-annual period;

(3) For package beer and wine, a fee of one hundred seventy-five dollars per quarter-annual period;

(c) Import-wholesale. For an import-wholesale alcoholic license, a fee of six hundred fifty dollars per quarter-annual period.

(d) For a special events permit, the fee shall be the same fee as set forth above for a quarter-annual period for the type of service for which the special events permit is issued, except that charitable organizations which meet the requirements for issuance of special events permits shall not be required to pay any fee.

A separate license is required for each fictitious name used by an entity in the conduct of liquor sales, distribution or gift. (Ord. L-96-89 § 3, 1989; Ord. L-62-87 §

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or permit such premises to become disorderly, any part thereof, for the sale of lottery tickets, or as a simulcast facility or simulcast theater wagering and breeding law, when duly authorized, shall not constitute gambling within the

ses consumption shall suffer or permit any the health, safety, and welfare of any person violation of this section shall be subject to the see's license to sell alcoholic beverages for ones of this section, the term "dwarfism" means all which is caused by heredity, endocrine efficiency or skeletal diseases that result in lt height of less than four feet ten inches.

operated on regularly scheduled flights by a nsed to sell liquors and/or wines for on-itted to sell liquors and/or wines only to except that a railroad operating licensed cars wines from portable carts located on station rand Central Station, Jamaica, Hunterspoint icensed railroad cars depart.

consumption shall be interested, directly or rs, wines or beer are manufactured or sold at ocking directors, mortgage or lien on any ier means, except that liquors, wines or beer : by the person licensed as a manufacturer or ed by an interstate railroad corporation or a i retail license for on-premises consumption, *usiness constituting an overnight lodging and he boundaries of the town of North Elba, ard's survey, great lot numbers two hundred e, two hundred eight, two hundred ninety- e hundred, three hundred eighteen, three enty, three hundred thirty-five and three ve, Thorn's survey, great lot numbers one as shown on the Adirondack map, compiled state of New York - nineteen hundred sixty- : at page twenty-seven in the Essex county t, provided that such facility maintains not id suites for overnight lodging. Any lien, w held by said retail licensee on or in the cturer or wholesaler, which mortgage, lien, ore December thirty-first, nineteen hundred the provisions of this subdivision; provided, the time of the accrual of the interest,*

comprehended by this subdivision shall be upon the person who claims to be entitled to the protection and exemption afforded hereby.

[For sub 14, see parent volume]

15. All retail licensed premises shall be subject to inspection by any peace officer, acting pursuant to his special duties, or police officer and by the duly authorized representatives of the liquor authority, or the appropriate board during the hours when the said premises are open for the transaction of business.

(Added, L 1988)

16. No retail license to sell liquor and/or wine for consumption on the premises shall be granted for any public billiard or pocket billiard room, or for establishments of any description in which billiards is played or which maintains any apparatus or paraphernalia for the playing of billiards or pocket billiards and is conducted as a public place of business for profit. Notwithstanding any prohibition to the contrary, a license may be issued to an establishment wherein billiards or pocket billiards are played or may be played on a table which measures not more than three feet by six feet provided that not more than two such tables are in the establishment at any one time and further provided that the cue sticks used, and available for use, are made of light plexiglass or some similar light material.

(Added, L 1989)

17. Notwithstanding any other provision of law, a retail licensee for on-premises consumption that is a person or corporation operating a hotel shall be permitted to sell liquors, beer, and/or wines through a mechanical device or vending machine placed in the lodger's rooms and to which access to such device or machine is restricted by means of a locking device which requires the use of a key, magnetic card or similar device provided, however, that no such key, card or similar device shall be provided to any person under the age of twenty-one or to any person who is visibly intoxicated.

HISTORY:

Sub 1, amd, L 1985, ch 48, § 3, eff June 16, 1985.

Sub 6, amd, L 1986, ch 919, § 22, eff Dec 29, 1986.

Sub 6-b, add, L 1990, ch 759, § 1, eff Aug 21, 1990.

Sub 11, amd, L 1983, ch 445, § 1, eff July 15, 1983, L 1985, ch 545, § 1, eff July 24, 1985.

Sub 13, amd, L 1988, ch 209, § 3, eff July 1, 1988.

Sub 15, amd, L 1980, ch 843, § 108, eff Sept 1, 1980.

Sub 16, add, L 1988, ch 64, § 20, eff April 24, 1988.

Sub 17, add, L 1989, ch 217, § 1, eff June 26, 1989.

NOTES:

Editor's Notes:

See 1988 note under § 101.

CROSS REFERENCES:

This section referred to in §§ 64-b, 97, 98, 130.

RESEARCH REFERENCES AND PRACTICE AIDS:

Annotations:

Criminal liability of member or agent of private club or association, or of owner or lessor of its premises, for violation of state or local liquor or gambling laws thereon. 98 ALR3d 694.

§ 50.02. Fee

(a) The annual state fee for an original limousine service beverage permit is \$100 for each limousine operated by the limousine service.

(b) The annual state fee for the renewal of a limousine service beverage permit is \$50 for each limousine operated by the limousine service.

Added by Acts 1987, 70th Leg., ch. 482, § 1, eff. Sept. 1, 1987.

§ 50.03. Recordkeeping; Display of Permit; Rulemaking

The commission shall adopt rules governing the conduct of the holder of a limousine service beverage permit, including defining the term "limousine service," requirements for recordkeeping, display of the permit, and prohibitions against removal from a limousine of alcoholic beverages in their original containers in which purchased.

Added by Acts 1987, 70th Leg., ch. 482, § 1, eff. Sept. 1, 1987.

§ 50.04. Taxes

(a) The taxes imposed by this code shall be paid on all alcoholic beverages in a limousine or in a storage area maintained by a limousine service beverage permittee in accordance with rules prescribed by the commission.

(b) The preparation and service of alcoholic beverages by the holder of a limousine service beverage permit is exempt from the tax imposed by the Limited Sales, Excise, and Use Tax Act (Section 151.001 et seq., Tax Code). A limousine service beverage fee of five cents is imposed on each individual serving of an alcoholic beverage served by the permittee inside the state. The fee accrues at the time the container containing the alcoholic beverage is delivered to the passenger. The permittee shall remit the fees to the commission each month under a reporting system prescribed by rules of the commission.

Added by Acts 1987, 70th Leg., ch. 482, § 1, eff. Sept. 1, 1987.

§ 50.05. Operation in Dry Area

A limousine service beverage permit is inoperative in a dry area.

Added by Acts 1987, 70th Leg., ch. 482, § 1, eff. Sept. 1, 1987.

CHAPTER 51. MINIBAR PERMIT [NEW]

Section

- 51.01. Eligibility for Permit.
- 51.02. Authorized Activities.
- 51.03. Limited Access to Minibar.
- 51.04. Stocking Restrictions.
- 51.05. Fee.

Section

- 51.06. Prohibited Interests.
- 51.07. Mixed Beverage Permit is Primary.
- 51.08. Distilled Spirits Purchases.
- 51.09. Coin-Operated Machines Prohibited.
- 51.10. Commission May Adopt Rules.

§ 51.01. Eligibility for Permit

The commission or the administrator may issue a minibar permit only to the holder of a mixed beverage permit issued for operation in a hotel.

Added by Acts 1989, 71st Leg., ch. 692, § 2, eff. June 14, 1989.

§ 51.02. Authorized Activities

The holder of a minibar permit may sell the following alcoholic beverages out of a minibar:

- (1) distilled spirits in containers of not less than one ounce nor more than two ounces;
- (2) wine and vinous liquors in containers of not more than 13 fluid ounces; and
- (3) beer, ale, and malt liquor in containers of not more than 12 fluid ounces.

Added by Acts 1989, 71st Leg., ch. 692, § 2, eff. June 14, 1989.

§ 51.03. Limited Access to Minibar

(a) Minibars shall be of such design as to prevent access to alcoholic beverages to all persons who do not have a minibar key. The minibar key shall be different from the hotel

LICENSES AND PERMITS
Title 3

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LICENSES AND PERMITS
Title 3

§ 51.07

guestroom key, and the permittee shall not provide the minibar key to any person who is not of legal drinking age.

(b) A permittee may not provide a minibar key to any person other than an employee of the permittee or a registered guest of the hotel.

Added by Acts 1989, 71st Leg., ch. 692, § 2, eff. June 14, 1989.

§ 51.04. Stocking Restrictions

(a) All employees handling distilled spirits, wine, beer, ale, and malt liquor being stocked in the minibar must be at least 18 years of age.

(b) A minibar may not be restocked or replenished between the hours of 9 p.m. and 9 a.m. or on any Sunday, and it may contain no more than 40 individual containers of alcoholic beverages at any one time.

(c) A minibar may only be maintained, serviced, or stocked with alcoholic beverages by a person who is an employee of the holder of a minibar permit, and no other person shall be authorized to add alcoholic beverages to a minibar or, with the exception of a registered hotel guest consumer, to remove alcoholic beverages from a minibar.

(d) The holder of a minibar permit shall adhere to standards of quality and purity of alcoholic beverages prescribed by the commission and shall destroy any alcoholic beverages contained in a minibar on the date which is considered by the manufacturer of the alcoholic beverage to be the date the product becomes inappropriate for sale to a consumer.

Added by Acts 1989, 71st Leg., ch. 692, § 2, eff. June 14, 1989.

§ 51.05. Fee

The annual state fee for an original minibar permit is \$2,000. The annual state fee for the first renewal of a minibar permit is \$1,500. The annual state fee for the second renewal of a minibar permit is \$1,000. The annual state fee for the third and each subsequent renewal of a minibar permit is \$750.

Added by Acts 1989, 71st Leg., ch. 692, § 2, eff. June 14, 1989.

§ 51.06. Prohibited Interests

The holder of a minibar permit may not have a direct or indirect interest in a package store permit, and no package store may be located on the premises of a hotel in which a mixed beverage permittee holds a minibar permit.

Added by Acts 1989, 71st Leg., ch. 692, § 2, eff. June 14, 1989.

§ 51.07. Mixed Beverage Permit is Primary

All purchases made by a minibar permittee shall be made under the authority of and subject to the limitations imposed on the mixed beverage permit held by the permittee. All sales made by a minibar permittee shall, for tax purposes, be considered sales under the mixed beverage permit held by the permittee and shall be taxed accordingly. To ensure that the marketing of alcoholic beverages for stocking minibars is not used by suppliers for purposes of inducement or unauthorized or illegal advertising, it is further provided that:

(1) No person who holds a permit or license authorizing sale of any alcoholic beverage to mixed beverage permittees may sell or offer to sell alcoholic beverages to a minibar permittee at a cost less than the seller's laid-in cost plus the customary and normal profit margin applicable to other container sizes. The laid-in cost shall be defined as the manufacturer's or supplier's invoice price, plus all applicable freight, taxes, and duties.

(2) Proof of laid-in cost shall become a part of the permanent records of each permittee or licensee supplying alcoholic beverages to minibar permittees and be available for a period of two years for inspection by the commission.

(3) No alcoholic beverages offered for use in a minibar may be sold in connection with or conveyed as part of any promotional program providing a discount on the purchase of any other type, size, or brand of alcoholic beverage.

§ 51.07

LICENSES AND PERMITS
Title 3

(4) Distilled spirits in containers with a capacity of more than one but less than two fluid ounces must be invoiced separately from any other alcoholic beverage, and the price must be shown on the invoice.

(5) Distilled spirits in containers with a capacity of more than one but less than two fluid ounces may not be returned by the holder of a minibar permit. Neither may the beverages be exchanged by the holder of a minibar permit or redeemed for any reason other than damage noted at the time of delivery and approved by the commission. Claims for breakage or shortage after delivery to a minibar permittee shall not be allowed.

(6) No person holding a wholesaler's, local distributor's, or package store permit may participate in the cost of producing any room menu, beverage list, table tent, or any other device or novelty, written or printed, relating to the sale of distilled spirits in containers with a capacity of more than one but less than two fluid ounces. No permittee or licensee authorized to sell alcoholic beverages to a minibar permittee may pay for or contribute to the cost of providing in-house television or radio announcements to be used by any holder of a minibar permit to promote the sale of alcoholic beverages.

Added by Acts 1989, 71st Leg., ch. 692, § 2, eff. June 14, 1989.

§ 51.08. Distilled Spirits Purchases

Distilled spirits purchased for resale in a minibar must be purchased in unbroken cases, and the cases shall bear the appropriate identification stamps.

Added by Acts 1989, 71st Leg., ch. 692, § 2, eff. June 14, 1989.

§ 51.09. Coin-Operated Machines Prohibited

Nothing in this chapter shall be construed as authorizing nor may the commission or administrator authorize the sale of any alcoholic beverage from a coin-operated machine or similar device.

Added by Acts 1989, 71st Leg., ch. 692, § 2, eff. June 14, 1989.

§ 51.10. Commission May Adopt Rules

The commission may adopt rules necessary to regulate the use and operation of minibars.

Added by Acts 1989, 71st Leg., ch. 692, § 2, eff. June 14, 1989.

SUBTITLE B. LICENSFS

Cross References

Judges of County Courts at Law Nos. 2 and 3 of Bexar County, grants or denials of licenses

under this code, see V.T.C.A. Government Code, § 25.0172(b).

CHAPTER 61. PROVISIONS GENERALLY APPLICABLE TO LICENSES

SUBCHAPTER B. APPLICATION AND ISSUANCE OF LICENSES

Section

- 61.311. Masters in Certain Counties.
- 61.312. Delegation of Duties of County Judge. [New]
- 61.381. Notice by Sign.

Section

SUBCHAPTER C. CANCELLATION AND SUSPENSION OF LICENSES.

- 61.711. Retail Dealer: Conviction of Offense Relating to Discrimination.
- 61.712. Grounds for Cancellation or Suspension: Sales Tax.

Cross References

Food service establishments, standards enforced by counties and public health districts, conflict with provisions of this code, see Vernon's Ann.Civ.St. art. 4476-6g, § 5.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

WISCONSIN

the original package or container. In addition, wine may be sold in the original package or container in any quantity to be consumed off the premises where sold. This paragraph does not apply in municipalities in which the governing body elects to come under par. (b) or to a winery that has been issued a "Class B" license. Paragraph (am) applies to all wineries that have been issued a "Class B" license.

(am) A "Class B" license issued to a winery authorizes the sale of wine to be consumed by the glass or in opened containers only on the premises where sold and also authorizes the sale of wine in the original package or container to be consumed off the premises where sold, but does not authorize the sale of fermented malt beverages or any intoxicating liquor other than wine.

(b) In all municipalities electing by ordinance to come under this paragraph, a retail "Class B" license authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold and also authorizes the sale of intoxicating liquor in the original package or container, in multiples not to exceed 4 liters at any one time, and to be consumed off the premises where sold. Wine, however, may be sold for consumption off the premises in the original package or otherwise in any quantity. This paragraph does not apply to a winery that has been issued a "Class B" license. Paragraph (am) applies to all wineries that have been issued a "Class B" license.

125.51(3)(a) (bm) Notwithstanding pars. (a) and (b) and s. 125.04 (3) (a) 3 and (9), a "Class B" license authorizes a person operating a hotel to furnish a registered guest who has attained the legal drinking age with a selection of intoxicating liquor in the guest's room which is not part of the "Class B" premises. Intoxicating liquor furnished under this paragraph shall be furnished in original packages or containers and stored in a cabinet, refrigerator or other secure storage place. The cabinet, refrigerator or other secure storage place must be capable of being locked. The cabinet, refrigerator or other secure storage place shall be locked, or the intoxicating liquor shall be removed from the room, when the room is not occupied and when intoxicating liquor is not being furnished under this paragraph. A key for the lock shall be supplied to a guest who has attained the legal drinking age upon request at registration. The hotel shall prominently display a price list of the intoxicating liquor in the hotel room. Intoxicating liquor may be furnished at the time the guest occupies the room, but for purposes of this chapter, the sale of intoxicating liquor furnished under this paragraph is considered to occur at the time and place that the guest pays for the intoxicating liquor. Notwithstanding s. 125.68 (4) (c), the guest may pay for the intoxicating liquor at any time if he or she pays in conjunction with checking out of the hotel. An individual who stocks or accepts payment for alcohol beverages under this paragraph shall be the licensee, the agent named in the license if the licensee is a corporation or the holder of a manager's or operator's license or be supervised by one of those individuals.

S B

187

FISCAL NOTE

No. 1

Bill Version: SB 187

(S) Publish Date: 4/12/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: 3/27/91 Department: Occupational Licensing *Sonya Acheson*
Title: An Act relating to the disclosure of certain facts in real property transactions BRU: Occupational Licensing *Tonya*
Component: Administration *Wasil*

Sponsor: Senate Labor & Commerce
Requestor: Senate Labor & Commerce

COMPONENT SERIAL NO.

0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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

Changes in CS SB 187 (Jud) have no fiscal impact. This fiscal note is appropriate.
5-7-91 date *D. Sain* Comte Aide (initial)

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.) The bill releases liability of an owner, the owner's agent, and the agent of the transferee with an interest in real property, from disclosing certain facts in real property transactions. Although the bill affects real estate licensees, the bill does not impact the licensing of real estate agents.

Prepared By: Jennifer Strickler, Administrative Officer Phone: 465-2144
Division: Occupational Licensing Date: 3/22/91
Approved by Commissioner: Glenn A. Olds *Glenn A. Olds* Asst. Comm.
Agency: Department of Commerce & Economic Development Date: 3-22-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 187

Revision Date: _____ Department Affected: Commerce & Economic Dev.
 Title: An Act relating to the disclosure of certain facts in real property transactions BRU: Occupational Licensing
 Component: Administration

Sponsor: Senate Labor & Commerce
 Requestor: Senate Labor & Commerce

COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.) The bill releases liability of an owner, the owner's agent, and the agent of the transferee with an interest in real property, from disclosing certain facts in real property transactions. Although the bill affects real estate licensees, the bill does not impact the licensing of real estate agents.

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**SENATE BILL 187
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION**

**LETTER OF INTENT OF SENATE JUDICIARY
COMMITTEE**

It is the intent of this committee, by prohibiting liability for disclosures which would be contrary to the Federal Fair Housing Act of 1968 as amended, to protect real property owners and their agents from lawsuits regarding a failure to disclose the handicapped condition of any present or former owner or occupant of the real property.

It is this committee's intent to include in the meaning of "handicapped" those persons infected with or who have died from Human T-Lymphotropic Virus Type III - Lymphadenopathy Virus or Acquired Immune Deficiency Syndrome ["AIDS"]. This interpretation is consistent with federal law and is based in part on a recommendation of the General Counsel for the United States Department of Housing and Urban Development.

Alaska State Legislature

Senator Drue Pearce, Chair
Senator Virginia Collins, Vice Chair
Senator Dick Ellason
Senator Rick Halford
Senator Jay Kerttula



WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3844

3111 C STREET, SUITE 150
ANCHORAGE, ALASKA 99504
(907) 561-2018

SENATE LABOR AND COMMERCE COMMITTEE

TO: Representative David Finkelstein
FROM: Senator Drue Pearce *DP*
DATE: May 14, 1991
RE: Scheduling of Psychologically Impacted Properties Bill
(SB-187).

Senate Bill 187 was requested by the Alaska Association of Realtors in an effort to bring state law into compliance with federal law.

Currently, under federal law, if a seller or his agent directly or inadvertently discloses that a previous inhabitant of a property had AIDS he is in violation of the Federal Fair Housing Act of 1968 Amendment. The federal law's intent is to protect handicapped individuals from unfair housing discrimination.

Under Alaska state tort law, if a seller or his agent does not disclose "material" facts that affect the value of the property under negotiation, he can be sued for the difference in perceived value. A "material" fact is broadly defined by state courts to mean anything that affects the price a reasonable consumer is willing to pay for a product or service.

Senate Bill 187 will make the following fact "immaterial": The disclosure of any information that is deemed discriminatory under the U.S. Fair Housing Act (42 U.S.C. 3601 - 3631).

Would you please consider waiving this bill from your House Labor and Commerce Committee. If a waiver is not possible please schedule this bill as soon as possible.

Alaska State Legislature


Senator Drue Pearce, Chair
Senator Virginia Collins, Vice Chair
Senator Dick Eliason
Senator Rick Halford
Senator Jay Kerttula



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SENATE LABOR AND COMMERCE COMMITTEE

TO: Senator Halford
FROM: Senator Drue Pearce 
DATE: April 11, 1991
RE: Scheduling hearing of Psychologically Impacted
Properties Bill (SB-187) in Senate Judiciary.

Senate Bill 187 was requested by the Alaska Association of Realtors in an effort to bring state law into compliance with federal law.

Currently, under federal law, if a seller or his agent directly or inadvertently discloses that a previous inhabitant of a property had AIDS he is in violation of the Federal Fair Housing Act of 1968 Amendment. The federal law's intent is to protect handicapped individuals from unfair housing discrimination.

Under Alaska state tort law, if a seller or his agent does not disclose "material" facts that affect the value of the property under negotiation, he can be sued for the difference in perceived value. A "material" fact is broadly defined by state courts to mean anything that affects the price a reasonable consumer is willing to pay for a product or service.

Senate Bill 187 will make the following three facts "immaterial".

- 1) The fact that a death occurred on the property more than three years from the date the buyer offers to buy or rent the property.
- 2) The manner in which the death occurred.
- 3) The fact that a former occupant had AIDS or an AIDS related virus.

Would you please schedule this bill for a hearing as soon as possible.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 35 (JUDICIARY)

Page 3, line 27:

Delete "a new section"

Insert "new sections"

Page 4, following line 1:

Insert a new section to read:

"Sec. 09.45.137. COMPUTATION OF TIME. In computing any period of days for which notice must be given under AS 09.45.060 - 09.45.160,

(1) the day on which notice is given is not to be included;

(2) the last day of the period is to be included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday; and

(3) intermediate Saturdays, Sundays, and legal holidays are excluded from the computation."

Page 6, line 29, after "days":

Insert "as determined under AS 09.45.137,"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 35 (JUDICIARY)

Page 2, line 10:

Delete "five"

Insert "six"

Page 2, line 12:

Delete "five"

Insert "six"

Page 2, line 19:

Delete "five"

Insert "six"

Page 3, line 13:

Delete "five"

Insert "six"

Page 3, line 27:

Delete "a new section"

Insert "new sections"

Page 4, following line 1:

Insert a new section to read:

"Sec. 09.45.137. COMPUTATION OF TIME. In computing any period of days for which notice must be given under AS 09.45.060 - 09.45.160,

(1) the day on which notice is given is not to be included;

(2) the last day of the period is to be included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday; and

(3) intermediate Saturdays, Sundays, and legal holidays are excluded from the computation."

Page 6, line 29:

Delete "five"

Insert "six"

Page 6, line 29, after "days":

Insert ", as determined under AS 09.45.137,"

REQUEST FOR DUPLICATING

LA-A 1

Date Submitted: 5-14-91 Acct. No.: _____

Date Required: 5-14-91

Department: _____ Division: _____

Contact Person: Hse. L+C - Cliff Goss Phone No.: 4954

WORK DESCRIPTION: _____

No. of Masters: 1 No. of Copies: 10 sets

Original size: 8 1/2 x 11 // 8 1/2 x 13 // // Other: _____

Finished size: 8 1/2 x 11 // 8 1/2 x 13 // // Other: _____

Color and Type of Paper: // 20# White // Other: _____

Printing: One Side // Collate // Drill //

Book // Staple // Pad //

Journal // Fold // Trim //

Tumble //

Special Instructions: _____

Time In: _____
Time Out: _____

SIGNED *Cliff Goss*

To: Cliff Groh

From: Richard Illgen *Richard Illgen*

Date: May 15, 1991

Re: Comments on Report to Representative Ramona Barnes on SB 35

I have reviewed some of the information on eviction time frames in other states contained in the Chenoweth Report to Representative Ramona Barnes dated December 28, 1990. I note that there are inaccuracies in the eviction time periods for California which were included in footnotes 3 and 5.

Footnote 5 shows California has having a five day period between service of the summons and the eviction trial. This is not correct. An eviction trial in California is by statute set within 20 days after the tenant has filed an answer to the summons and complaint and the landlord has filed a request to set the trial date. It is that answer by the tenant which is filed within 5 days after service of the summons. Therefore, by statute there can be 25 days before the trial is held (in actual practice, trials are rarely if ever scheduled within this time period due to court backlogs).

Footnote 3 shows the period in California for the tenant to pay rent or quit as 3 days. This is not entirely correct; it frequently is 8 days. When service of a notice to quit has been made by posting it on the premises, it must also be mailed. Courts have applied a rule that extends the time by an additional 5 days because the notice was mailed. Therefore, unless the notice was personally served, the tenant may have 8 days to pay rent or quit.

I am not familiar with the specific timetables for evictions in other states. However, because of these significant discrepancies in the representation of California law, it is possible there are similar problems with the representations regarding the time frames for other states.

I would also like to note that in the timetable presented on Alaska eviction procedures, it is largely based on the landlord giving the tenant a 6 day grace period to pay rent. Such a grace period is entirely discretionary on the part of landlord. There is nothing to prevent a landlord from serving a notice to quit on the day after the rent is due. The landlord makes the decision to allow a grace period based on his or her business judgment. Even when a landlord does include a grace period in a rental agreement, it does not prevent a landlord from serving a ten day notice within the grace period. Many grace periods only give the tenant a period of time before the landlord imposes a late fee and do not affect the landlord's ability to serve a 10 day notice the day after the rent is due.

Conrad Reinke

ASHBURN AND MASON
LAWYERS

A PROFESSIONAL CORPORATION
1130 WEST SIXTH AVENUE, SUITE 100
ANCHORAGE, ALASKA 99501

MARK E. ASHBURN
LEWIS F. GORDON
JULIAN L. MASON III
JOHN C. McCARRON
DONALD W. McCLINTOCK III
A. WILLIAM SAUPE
KIRSTEN TINGLUM

TELEPHONE
(907) 276-4331
TELECOPIER
(907) 277-8235

Hand Deliver

January 30, 1990

Ms. Dea Turner
Alaska Association of Realtors
741 Sesame Street, Suite 100
Anchorage, Alaska 99503

Dear Dea:

Re: Proposed Legislation Regarding
Psychologically-Impacted Properties
Our File No. 90-7152.003

The following are three different drafts of proposed legislation regarding psychologically-impacted properties. I found three logical places for its insertion into the existing statutes: in the Real Estate Brokers and Salesmen Chapter (A.S. 08.88); in the Miscellaneous Chapter of the Code of Civil Procedure A.S. 09.65); and in the Real Property Chapter of the Code of Civil Procedure (A.S. 09.45). I doubt that insertion in all three places is necessary. I drafted each one a bit differently, to illustrate to you the various possibilities. The versions are generally interchangeable. I have highlighted "disposable portions." In no version did I include language that I consider to be unwise or overly ambiguous.

An Act Relating To Businesses and Professions --
Real Estate Brokers and Salesmen

IT IS ENACTED that:

Section 1, Title 8, Chapter 88 is amended to include Section .992:

.992 Duty to Disclose Certain Facts Regarding Real Property.

(a) Nothing in this chapter should be construed to impose a duty upon a real estate broker, agent, or salesperson to investigate or disclose the existence of the following facts or suspicions;

Ms. Dea Turner
January 30, 1990
Page 2

(1) that an occupant of real property is or was infected with Human Immunodeficiency Virus or diagnosed with Acquired Immune Deficiency Syndrome ("AIDS"), [or any other disease which has been determined by medical evidence to be highly unlikely to be transmitted by occupying a building or dwelling]; or

(2) [that the real property was the site of a felony or suicide];

(b) no cause of action shall arise against the owner of real property or his or her agent for failure to disclose the facts or suspicions described in this section.

*** *** ***

IT IS ENACTED that:

Section 1, Title 9, Chapter 45, Article 9 is amended to include Section .796:

.796 Civil Liability for Failure to Disclose Certain Facts in Real Property Transactions.

(a) No cause of action shall arise against an owner of real property or the agent of such owner, or any agent for the transferee of real property, for the failure to disclose in any real property transaction the fact or suspicion that the property;

(1) was or is occupied by a person infected with [Human Immunodeficiency Virus or diagnosed with Acquired Immune Deficiency Syndrome ("AIDS")] [or any other disease which has been determined by medical evidence to be highly unlikely to be transmitted by occupying a building or dwelling presently or previously occupied by an infected person], provided that;

(2) [an owner and his or her agent shall answer truthfully to the best of his or her knowledge any questions concerning the provisions of this section.]

Ms. Dea Turner
January 30, 1990
Page 3

IT IS ENACTED that:

Section 1, Title 9, Chapter 65 is amended to include Section .112:

.112 Civil Liability for Failure to Disclose Certain Facts in a Real Property Transaction.

(a) No cause of action arises against an owner of real property or his or her agent, or any agent of a transferee of real property, for the failure to disclose to the transferee the occurrence of a person's death upon the real property or the manner of death [where the death occurred more than three years prior to the date the transferee offers to purchase, lease, or rent the real property]; or

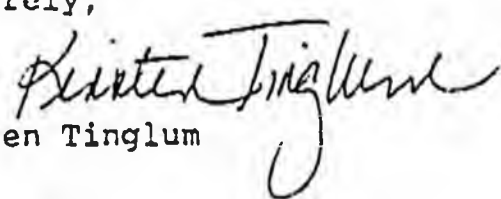
(b) that an occupant of the property was or is affected with, or died from, Human T-lymphotropic Virus Type III-Lymphadenopathy Virus or Acquired Immune Deficiency Syndrome ("AIDS");

(c) as used in this section, "transferee" includes a purchaser, lessee, renter, or easement holder of or on real property;

(d) [nothing in this section shall be construed to immunize an owner or his or her agent from making an intentional misrepresentation in response to a direct inquiry from a transferee or prospective transferee of real property, concerning the conditions or events, facts or suspicions described in this section.]

I will be happy to discuss with you these alternatives at your earliest convenience.

Sincerely,


Kirsten Tinglum

jpjv

Proposed

SENATE OF MARYLAND

11r0727
SB 668/90 - JPR

No. 131

N1

By: Senator Dorman
Introduced and read first time: January 9, 1991
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 Real Estate Brokers - Disclosures - History of Property

3 FOR the purpose of specifying that, for purposes relating to disciplinary actions against
4 licensed real estate brokers, licensed real estate salespersons and applicants of
5 certain licenses, ~~certain facts are~~ material facts relating to property for sale or
6 lease; providing immunity for a licensed real estate broker or licensed real estate
7 salesperson and an owner or seller of real property for failure to disclose a fact that
8 an owner or occupant of property is, was, or is suspected to be infected with
9 certain virus, diagnosed with a certain disease, or that certain acts occurred on the
10 property; and generally relating to the disclosure of material facts relating to
11 property for sale or lease.

12 BY adding to

13 Article - Business Occupations and Professions
14 Section 16-322.1
15 Annotated Code of Maryland
16 (1989 Volume and 1990 Supplement)

17 BY adding to

18 Article - Real Property
19 Section 2-120
20 Annotated Code of Maryland
21 (1988 Replacement Volume and 1990 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 Article - Business Occupations and Professions

25 16-322.1.

26 (A) FOR PURPOSES OF § 16-322(A) OF THIS SUBTITLE, IT IS NOT
27 MATERIAL FACT RELATING TO PROPERTY OFFERED FOR SALE OR LEASE
28 THAT:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
(Brackets) indicate matter deleted from existing law.

2

SENATE BILL No. 131

1 (1) AN OWNER OR OCCUPANT OF THE PROPERTY IS, WAS, OR IS
2 SUSPECTED TO BE:

3 (I) INFECTED WITH HUMAN IMMUNODEFICIENCY VIRUS;
4 OR

5 (II) DIAGNOSED WITH ACQUIRED IMMUNODEFICIENCY
6 SYNDROME; OR

7 (2) A HOMICIDE, SUICIDE, NATURAL DEATH, OR FELONY
8 OCCURRED ON THE PROPERTY.

9 (B) (1) IT IS NOT GROUNDS FOR A DISCIPLINARY ACTION AGAINST
10 A LICENSEE UNDER THIS SUBTITLE, THAT A LICENSEE DID NOT DISCLOSE
11 TO A PROSPECTIVE PURCHASER OR LESSEE, A FACT CONTAINED IN
12 SUBSECTION (A) OF THIS SECTION.

13 (2) A LICENSEE MAY NOT BE HELD PERSONALLY LIABLE FOR
14 FAILURE TO DISCLOSE A FACT CONTAINED IN SUBSECTION (A) OF THIS
15 SECTION.

16 Article - Real Property

17 2-120.

18 (A) UNDER THIS TITLE, IT IS NOT A MATERIAL FACT OR A LATENT
19 DEFECT RELATING TO PROPERTY OFFERED FOR SALE OR LEASE THAT:

20 (1) AN OWNER OR OCCUPANT OF THE PROPERTY IS, WAS, OR IS
21 SUSPECTED TO BE:

22 (I) INFECTED WITH HUMAN IMMUNODEFICIENCY VIRUS;
23 OR

24 (II) DIAGNOSED WITH ACQUIRED IMMUNODEFICIENCY
25 SYNDROME; OR

26 (2) A HOMICIDE, SUICIDE, NATURAL DEATH, OR FELONY
27 OCCURRED ON THE PROPERTY.

28 (B) AN OWNER OR SELLER OF REAL PROPERTY OR THE OWNER'S
29 OR SELLER'S AGENT SHALL BE IMMUNE FROM CIVIL LIABILITY OR
30 CRIMINAL PENALTY FOR FAILURE TO DISCLOSE A FACT CONTAINED IN
31 SUBSECTION (A) OF THIS SECTION.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 July 1, 1991.

Vermont

S/P

BILL AS INTRODUCED
1991 (0051B)

H.51
Page 1

1 H.51

2 Introduced by Representative O'Brien of Stowe

3 Referred to Committee on

4 Date:

5 Subject: Professions and occupations; real estate; disclosure

6 Statement of purpose: This bill proposes that real estate brokers

7 and salespersons and sellers shall not be responsible for disclosing

8 the fact that property has been occupied by a person with a disease

9 which is unlikely to be transmitted through occupancy of the

10 dwelling or that the property was the site of a felony or a suicide.

11 AN ACT RELATING TO DISCLOSURE OF INFORMATION IN A REAL ESTATE
12 TRANSACTION

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 26 V.S.A. § 2302 is added to read:

15 § 2302. FACTS NOT MATERIAL TO A REAL ESTATE TRANSACTION

16 (a) The following facts are not material to a real estate

17 transaction, and failure to disclose such facts shall not be a

18 violation of this chapter:

- 1 (1) The property is or was inhabited by a person infected with
2 human immunodeficiency virus or diagnosed as having acquired immune
3 deficiency syndrome, or any other disease which has been determined
4 by medical evidence to be highly unlikely to be transmitted through
5 the occupancy of a dwelling place.
- 6 (2) The property was the site of a felony or a suicide.
- 7 (b) No cause of action shall arise against an owner of real
8 estate or his or her agent for the failure to disclose to the
9 transferor the facts referred to in subsection (a) of this section.