

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8137 HOUSE STATE AFFAIRS

703

A 100 – YEAR TRADITION OF EXCELLENCE

The National Conference Of Commissioners On Uniform State Laws

In the latter part of the 19th century, about the time a prominent law professor was characterizing state legal systems as "a whimsical diversity of laws," a movement began taking hold for the development of uniform laws among the states.

The Alabama Bar Association took the first formal action to encourage the development of "uniform" laws in 1881. But it was not until August 1889, during the 12th annual meeting of the American Bar Association, that the legal community made a formal resolution to work for "uniformity in the laws" of the then 44 states.

New York was the first state to act. In 1890 it authorized the governor to appoint three commissioners to "examine the subjects of marriage and divorce, insolvency, the form of notarial certificates and other subjects; to ascertain the best means to effect an assimilation and uniformity of the laws of the states; and especially to consider whether it would be wise and practicable for the state of New York to invite other states of the Union to send representatives to a convention to draft uniform laws to be submitted for the approval and adoption of the several states...." A few months later the ABA endorsed the New York action and urged the states, the District of Columbia and territorial legislatures to follow New York's lead.

In the Beginning – Seven States

Six other states heeded the call and joined New York at the first meeting of the "Conference of State Boards of Commissioners on Promoting Uniformity of Law in the U.S." in Saratoga Springs, New York on August 24, 1892. They were Delaware, Georgia, Massachusetts, Michigan, New Jersey and Pennsylvania.

The new Commissioners wasted no time. They immediately completed and urged states and territories to adopt three acts – Relating to Acknowledgments on Written Instruments, Validating Wills Lawfully Executed Without the State, and Recognizing as Valid Wills Probated in Another State.

They also recommended that states enact laws governing payment of notes, validating contracts and divorce and marriage. With great variance in the marriage consent age, they proposed raising the marrying age to 18 for males and 16 for females.

They also adopted a table of weights and measures, noting "it will probably be a surprise to most people to learn that legal weights of a bushel ... with the exception of wheat alone, vary in all the states."

After this burst of activity, the Conference produced no other proposals until 1896, when the Negotiable Instruments Law was completed. The NIL was the first act adopted by every state and the District of Columbia; it later became the basis for Article 3 of the Uniform Commercial Code.

Then There were 33

By 1900, 31 states and two territories had appointed commissioners on uniform laws. During the first decade of the new century the Uniform Law Commissioners (ULC) concentrated on legislation to facilitate interstate commerce, drafting laws concerning sales, warehousing and transportation. A majority of states adopted all of these pioneering acts before they, as well as the Negotiable Instruments Law, were superseded by the Uniform Commercial Code some 40 years later.

By 1910, only Nevada and the Territory of Alaska had not appointed commissioners. They came aboard by 1912.

In its third decade, the Conference considered and adopted legislative proposals on issues ranging from partnerships to child labor. And in 1915, the organization officially became known as the National Conference of Commissioners on Uniform State Laws.

The ULC responded to problems of the 1920s with proposals in such areas as aviation and public utilities. In the 1930s, Commissioners wrestled with machine gun laws as well as torts and trusts.

Fifty-Year Assessment

As the Conference approached its golden anniversary year, its leadership began a reassessment to determine how the ULC could better serve the federal system. Though the past had been productive, Commissioners decided they could play a more useful role in the future if they attacked major problems with comprehensive legal solutions rather than trying to address them piecemeal.

That decision led to the launching of the mammoth project that produced the Uniform Commercial Code (UCC). The ULC officially took on the task of drafting a comprehensive code to provide guidelines for all commercial transactions in 1940. Work on some of its components had already begun. In 1947 the ULC and the American Law Institute joined in a partnership that put all the components together in a Uniform Commercial Code that was offered to the states for their consideration in 1951. More than a decade of difficult battles for adoption in every state followed. But by 1967, all the states had enacted the Code except for Louisiana, which remains the lone holdout on several code provisions.

The breadth and depth of the UCC are difficult to grasp. It guarantees that commercial transactions in California are subject to the same law as transactions in Maine. A child purchasing penny candy in a neighborhood shop and a manufacturer buying robot welders for his assembly line both complete their transactions within the framework of the UCC. In UCC states, the code encompasses every sale of goods from crude oil to autos, every bank check written, and all commercial paper, stock and bond transactions.

The UCC is not set in stone. In 1987 the first new article since 1951 was approved, establishing law for the billion dollar leasing industry. As the Conference embarks on its second century, it is dealing with major changes in state payment system law, including electronic funds transfers, to bring the Code into the 21st century of finance.

The UCC's success as a comprehensive solution inspired Commissioners to produce and work for enactment of a wide variety of legislative solutions to other basic state problems. These have included: the Uniform Probate Code, Uniform Consumer Credit Code, Uniform Marriage and Divorce Act, Uniform Alcoholism and Intoxication Treatment Act and a package of proposals designed to do for land transactions what the UCC did for transactions in the commercial realm — provide modern law to deal with modern problems.

While forging these major broad projects — primarily from the 1960s to the early 1980s — the ULC also completed legislation needed by the states to deal with more specific problems. Among these proposals were the Child Custody Jurisdiction Act, Anatomical Gift Act, a major revision of the Limited Partnership Act and the Determination of Death Act.

Agendas are made by a Scope and Program Committee. Most recently, commercial and family law have been focal areas for drafting efforts. Among the "products" of the 1980s are two new Articles to the Uniform Commercial Code, a Trade Secrets Act, the Transfers to Minors Act, Premarital Agreement and Marital Property Acts, and acts addressing such topical issues as surrogate mother contracts and rights of the terminally ill.

STATE LAWS

UNIFORM

What are they?

Uniform State Laws are the products of a unique organization that has been working for the improvement of state laws since 1892. The National Conference of Commissioners on Uniform State Laws, representing both state government and the legal profession, is a genuine confederation of state interests.

Today there are more than 300 practicing lawyers, judges, law professors and government officials serving as Uniform Law Commissioners (ULC). These state-appointed commissioners, selected for their wide range of legal expertise and experience, provide an immeasurable resource for drafting "uniform" and "model" state laws.

ULC Uniform Acts, Codes and Court Rules — needed where differences in state laws create specific interstate and national problems — have ranged from eliminating jurisdictional child custody disputes to addressing the legalities of electronic transfer of stock ownership.

When uniformity is neither practical nor necessary, ULC Model Acts have provided states with a concisely-structured legislative framework adaptable to their particular needs and problems — in areas such as sentencing and correction reform, and state administrative procedures.

Differences in state laws can deter the free flow of goods, credit and services; restrain full economic growth; and invite federal intervention to compel uniformity. Constitutionally, states have wide latitude for cooperating to solve these problems. ULC is their own cooperative institution for doing so, as well as for contributing to the continuing process of law reform and progress.

Back in 1892

The "Gay Nineties" rolled in on the railroad tracks that were tying the nation together. And Americans were beginning to swap horses for bicycles and motor cars. This new mobility was the prime factor from which ULC sprang.

The Alabama State Bar Association recognized, as early as 1881, the legal tangles created by wide variations in state laws. But it was not until August, 1889, that the American Bar Association decided at its 12th annual meeting to work for "uniformity of the laws" in the 44 states.

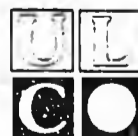
Within a year, the New York legislature authorized the governor to appoint three commissioners to explore the best way to effect uniformity of law to ease problems developing between increasingly interdependent states. The ABA endorsed New York's action. The result was the first meeting of the "Conference of State Boards of Commissioners on Promoting Uniformity of Law in the U.S."

Seven states sent commissioners to that 1892 meeting. By 1900, 32 states and two territories had law commissioners. By 1905, only Nevada and Alaska were holdouts, and they joined the parade in 1911.



National Conference
of Commissioners
on Uniform State Laws

676 North St. Clair Street
Chicago, Illinois 60611
312-915-0195



Uniform Law

Commissioners

UNIFORM

STATE LAWS

Cost and Value

States provide nearly all of the funds for ULC by means of a system of assessments based on population. Most of the money is used to support the work of the drafting committees, and to explain Uniform and Model Acts to legislators, other government officials and specialized and general audiences.

ULC gets maximum results from minimum budgets because its major asset—drafting expertise—is donated. The only compensation received by Uniform Law Commissioners is that of knowing they have provided states with solutions to their legal problems. They receive no salaries or fees for their work as commissioners.

This means that lawyers devote hundreds and even thousands of hours—amounting in some cases to millions of dollars worth of time—to the development of ULC proposals. No state could afford the bills for the legal expertise that goes into the drafting of each ULC Uniform or Model Act.

In appraising ULC's value to the states, it is also important to look at its impact on their treasuries. Most ULC proposals rely on "private law," or law governing individual relationships without intervention or regulation by any state agency—except where redress is sought in state courts for breach of a legal obligation. By contrast, "public law" provides for regulation, generally by an executive agency. ULC helps states avoid the costs of creating new regulatory agencies.

The Hard Job

When drafting is completed on an act, a Uniform Law Commissioner's work has only begun. Commissioners then work for adoption of the proposal by the states. Normal resistance to anything "new" makes this the hardest part of a commissioner's job. But the result can be workable modern state law that helps keep the federal system alive.

GENESIS of a Law

Anyone can ask ULC to draft a law. But not all requests are pressing enough to claim its time and resources. Determining the need for and feasibility of a proposed new law, then, is an important first step. The decision to draft is preceded by a thorough screening process:

- Initial screening of requests for new drafting projects is done by the Scope and Program Committee. This group evaluates the need, urgency, current state of law in the affected area, and feasibility of enactment before making a recommendation to the Executive Committee to further review the request.

- Executive Committee members look at a request in terms of ULC's financial and member resources as well as the availability of additional expertise and funding to insure success of the draft. If these appear favorable to the project, they appoint a special Drafting Committee.

- Foundation and government grants support some of ULC's drafting efforts, making it possible to expand advisory committee participation, and to retain expert reporter-draftsmen—usually lawyers experienced in the field—for maximum input and assistance to the Drafting Committee.

Drafting proceeds at meetings of this special committee held throughout the year. After basic premises and philosophy are decided, a "first tentative draft" is developed for circulation to experts both within and outside the legal profession,

to draw criticism and suggestions that will shape succeeding drafts.

Uniform and Model Acts are a minimum of two years in preparation, since they must be considered at no less than two annual meetings by all commissioners sitting as a Committee of the Whole.

Before any annual meeting presentation, a Review Committee for each act determines: 1) whether the draft conforms to the assignment; 2) what policy decisions were made by drafters; and 3) whether the draft is ready for scrutiny "line by line" by the entire Conference.

Once ULC as a whole approves an act, its final test is by a vote by states—one vote per state. A majority of states present, and no less than 20 states, must vote approval of an act before it can be officially adopted as a Uniform or a Model Act, Code or Court Rule.

This unique and lengthy process of screening, drafting, revising and polishing is responsible for the fine edge of excellence that marks ULC "products." After receiving the ULC stamp of approval, a Uniform or Model Act is officially promulgated for consideration by the states.

Legislatures are urged to adopt *Uniform Acts* exactly as written, to "promote uniformity in law among the several states."

Model Acts, on the other hand, are designed to serve as guideline legislation, which states can borrow from or adapt to suit their individual needs and conditions.

Commissioners

Each of the 50 states, the District of Columbia and Puerto Rico select lawyers to serve on their uniform state law commissions. Since ULC is a confederation of state commissions, each state sets its own rules for selection. Most have at least three, and the governor usually selects them.

Considered non-partisan, many commissioners receive their first appointment from a governor of one party, then continue under another party, thus serving for decades.

Famous commissioners include President Woodrow Wilson; Supreme Court Justices Louis D. Brandeis and William J. Rehnquist, and the Harvard Law legend, Roscoe Pound.

Updating Acts

Exemplifying a Uniform Act, the Uniform Commercial Code (UCC) structures nearly all commercial transactions in every state in the U.S. Another ULC proposal having wide influence is the Model State Administrative Procedure Act (MSAPA). Most states have adopted it, and look to its provisions to guide their state agencies.

Both UCC and MSAPA are successes that states have benefited from. But even the best of laws is outdated by technological and social change. Thus, one of the duties of the ULC leadership is to constantly review past successes, checking their relevance for today.

Several methods insure that needed updating goes on. For the Commercial Code, the problem is solved by a "Permanent Editorial Board" charged with keeping abreast of developments that require changes in the law.

The Model State Administrative Procedure Act, however, required appointment of a new committee to revise quarter century old rules developed before state governments "boomed" in the 60s and 70s.

Whether a ULC proposal is brand new, a revision, or an amendment, state government can be sure that it's in step with the times.

HB

290

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 22, 1993

FURTHER REFERRALS:

State Affairs

Date of Committee Action: 3/15/94

The LABOR AND COMMERCE Committee considered:

HB 290

HOUSE BILL NO. 290

EXEMPT SPORTS OFFICIALS FROM WORKERS COMP

"An Act exempting certain sports officials from workers' compensation coverage."

RECOMMENDATIONS:

be replaced with _____ the same title

have attached amendments(s) a new title

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 LABOR

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian D. Hyter</i>	✓				
<i>Bill Hudson</i>	✓				
<i>W.R. Williams</i>	✓				
<i>Joe Sutton</i>	✓				

Bill Hudson
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO : HB 290

Revision Date: _____
 Title: Exempt sports officials from
workers comp
 Sponsor: Representative Mulder
 Requestor: House Labor & Commerce

Department Affected: Labor
 BRU: Workers' Compensation
 Component: Workers' Compensation

COMPONENT SERIAL NO. 344

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Paul B. Arnoldt *Paul B. Arnoldt* Phone: 465-6059
 Division: Workers' Compensation Date: 3/14/94

Approved by Commissioner: Charles W. Mahlen *Charles W. Mahlen*
 Agency: Department of Labor Date: 3/14/94

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ALASKA STATE LEGISLATURE HOUSE OF REPRESENTATIVES

REPRESENTATIVE ELDON MULDER
DISTRICT 23 MULDOON-F.T. RICHARDSON

CHAIR
LEGISLATIVE COUNCIL

CO-CHAIR
HOUSE SPECIAL COMMITTEE ON
MILITARY AND VETERANS AFFAIRS

CO-CHAIR
MILITARY AFFAIRS FOR
ANCHORAGE CAUCUS

MEMORANDUM

TO: Representative Al Vezey, Chair
House State Affairs Committee

FROM: Representative Eldon Mulder

SUBJ: Hearing of HB 290

DATE: Tue, Mar 15, 1994

Many thanks Al!

I respectfully request that the House State Affairs Committee schedule a hearing on HB 290, exempting certain sports officials from workers' compensation coverage. I have included a copy of the bill, sponsor statement, zero fiscal note from the Department of Labor, and several letters of support. Please contact my office if you have any questions. Thank you.

REQUEST

Sponsor Statement HOUSE BILL 290

OVERVIEW

Recently, the Department of Labor, Division of Workers Compensation, has determined that amateur sports officials must be covered by workers compensation policies, under a ranking of extremely high risk. This decision, according to sports officials' associations, will cause sports organizations which contract with referees, time keepers, and line judges, to pay anywhere between 17 and 54% of their compensation for officiating to cover worker's compensation premiums.

HB 290 is designed to eliminate this problem by exempting amateur sports officials from worker's compensation coverage as we do other contractual groups. Worker's compensation laws were designed to provide medical and income replacement for injured workers. Whereas few, if any, amateur sports officials are injured while officiating, the current high insurance premiums do not accurately reflect the amount of risk they experience as officials.

HB 290 is supported by sporting associations, officials' groups and officials themselves throughout the state. Included in the packets are letters of support from these groups.

This is a serious problem facing amateur sports in Alaska and threatens their future existence. HB 290 will eliminate this problem and allow the greatest number of people to play and officiate the games that they love to be involved in.

SPONSOR STATEMENT

AMATEUR SOFTBALL

ASSOCIATION



PATRICIA A. LILLIAN
Alaska State Commissioner
2950 Drake Drive
Anchorage, Alaska 99508
(907) 272-7683

March 9, 1994

Honorable Eldon Mulder
Alaska House of Representatives
Juneau, AK 99811

Dear Mr. Mulder:

I want to speak in favor of House Bill 290. This bill addresses an extremely important issue, the Worker's Compensation exemption for amateur sports officials.

Speaking for the sport of softball in particular, this issue bears directly on the ability of several Alaska communities to continue to be able to afford the cost of recreation programs. The additional burden of an exorbitant rate for a program which has no history of claims seems less than reasonable.

The number of sports officials, programs, and communities this affects, is significant.

Please continue the efforts to exempt these officials from the Worker's Compensation coverage requirement.

Sincerely,

Patricia A. Lillian
Alaska Commissioner
Amateur Softball Association

Letters of Support



Mat-Su Softball Association, Inc.

P.O. Box 875550
Wasilla, Alaska 99687
(907) 376-9050

March 10, 1994

SUPPORT OF HOUSE BILL NO. 290

To All Members of the House and Senate:

I am writing to urge your support of House Bill No. 290 regarding the exempt status of contracted sports officials working with unpaid athletes. These sports include youth and adult basketball, volleyball, baseball, hockey, broomball, softball, skiing, dog mushing, rodeo and all other amateur sports.

Please keep in mind that the Workman's Compensation requirement did not originate from any sports officials but from insurance audits.

The Mat-Su Softball Association has paid Workman's Compensation on our umpires, scorekeepers, and tournament directors since a 1992-93 insurance audit revealed the requirement.

While researching the insurance requirements, I found that while branches of the state government disagree with the requirement of this insurance, they did agree on the fines for not having it.

I found that there have been no reported instances of injury by any such sports official in this state and that our insurance carrier could find no statistics nation wide to support the need for such insurance (but she was sure there must be some).

I found that the rates seem to be set arbitrarily in order to build an insurance fund "just in case" there ever is such an incident and are based on a National Insurance Code with no geographic nor population variance allowed.

I was also told that the goal of the national insurance board is also to require Workman's Compensation payments for unpaid volunteers and to increase the rates. Please refer to the amateur Anchorage Aces hockey team.

Mat-Su Softball Association, Inc.

pg 2 of 2

Currently, the rates are approximately \$15.99 per \$100.00 earned and there is a \$500.00 wage minimum, ie., if an umpire from Kenai comes to our tournament and earns \$150.00 in a weekend, our Association is required to pay insurance as if he or she had earned \$500. At this time, the rate also applies to a scorekeeper who earns \$5.00 per game, ie., if a person keeps score on 1 game in a tournament and is paid \$5.00 for that service, the workman's compensation insurance for that individual will be \$79.95.

The not-profit sports organizations in this state do not depend on state funding to provide service to our communities. Most communities in this state do not have anything except their imagination and energy to create activities for their people.

The stipend paid amateur officials is not a livable wage. The amateur officials I have met enjoy what they do and realize that without them, participants could not enjoy what they do.

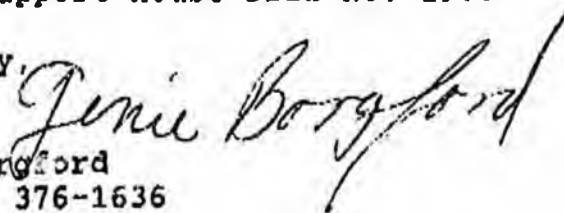
I have coached Little League T-Ball players and continue to coach Junior Softball Players and Youth Bowlers. I have served on the Mat-Su Softball Association Board of Directors for 8 years and was President for 3 years. I am presently the Mat-Su District Commissioner to the Alaska State Softball Association and Vice-President of that Association. I am also the league representative to the Mat-Su Association for our Youth League. My husband, daughter and I play softball, bowl, ride horses, train dogs, and ski.

I understand the costs involved in running recreational activities and in participating. Our goal has always been to keep the costs as low as possible to allow as many people to participate as possible.

This unnecessary and expensive cost will be passed on to participants and will stop many people from becoming active in their communities through these recreational outlets.

Please support House Bill No. 290.

Sincerely,



Genie Borgford
Hm phone 376-1636
Wk phone 272-1457

Rep. Eldon Mulder
Capital Room 116
Juneau, Alaska 99801

March 3, 1994

RE: House Bill #290

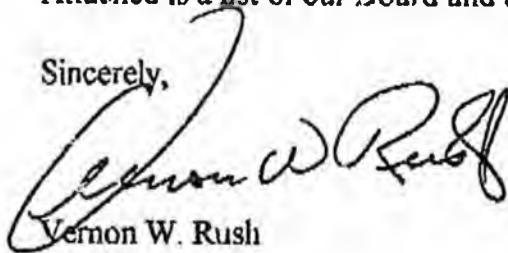
Sir,

The board of directors of the Anchorage Soccer Referee's Association have directed me to write you as to our position on Bill #290. We would like to go on record as to being IN FAVOR of the bill.

We are independent contractors, and are covered under USSF insurance as to accidents/liability, etc. We have no need to be covered under workmen's compensation. We believe that the original concept was never to include groups such as ours. This is a perfect opportunity to clear up the situation.

Attached is a list of our Board and a membership roster for your information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Vernon W. Rush".

Vernon W. Rush
President

PEARSON & HANSON

ATTORNEYS AT LAW

408 OJA WAY - SUITE B

P.O. BOX 98

SITKA, ALASKA 99835

PHONE 907-747-3257 FAX: 907-747-4977

DENTON J. PEARSON
ALASKA / OREGON

BRIAN E. HANSON
ALASKA

March 9, 1994

VIA FAX

Rep. Eldon Mulder
Alaska State Legislative
State Capital (MS 3100)
Juneau, Alaska 99801-1182

Re: HB 290

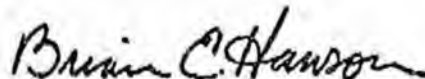
Dear Rep. Mulder:

I am writing this letter on behalf of the Sitka Softball Umpires Association.

We are writing to support HB 290 which would exempt sports officials from the Workers Compensation Act.

Please contact me if more specific information is needed to support our position. Thank you.

Sincerely,



Brian E. Hanson

BEH/rlw
mulder.wp.cn

Guy Warren
Past-President
Juneau-Douglas Officials Assn
4362 Taku Blvd
Juneau, AK 99801

March 7, 1994

The Honorable Eldon Mulder
Alaska State House of Representatives
Room 116
State Capitol
Juneau, Alaska 99811-1182

Dear Representative Mulder:

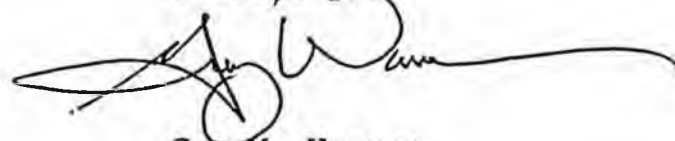
On behalf of the Juneau-Douglas Officials Association, I sincerely appreciate your sponsorship of House Bill 290, "An Act exempting certain sports officials from workers' compensation coverage."

This bill, which is supported by officials, officials groups and amateur sports associations throughout the state, will, if passed, address a serious problem facing amateur sports and amateur sports officials. Recent interpretations of existing law have led to the determination that amateur sports officials must be covered by workers' compensation policies. Further, these interpretations have placed sports officials into extremely high-risk categories. For example, we have been informed that the cost of providing this coverage to our softball umpires will be 17% of our current compensation. For football officials the rate will be 54% of our current compensation. These high rates will force increased costs for amateur sports participants and seriously decreased compensation for sports officials. These increased costs will only serve to decrease the number of individuals willing to officiate or will reduce the number of individuals participating in amateur athletics.

We believe the workers' compensation laws were designed to provide benefits to workers, providing medical and income replacement coverage for workers statewide. However, whereas few, if any amateur sports officials in the state receive a significant amount of their personal income from sports officiating, we cannot justify the high expense of this coverage for the limited benefits it will provide. It should be understood that for most officials, officiating is a hobby, our way of participating in the sports we enjoy. The money we receive, while important to maintaining our participation as officials, is never the sole reason we officiate.

In conclusion, I would once again like to thank you for your sponsorship of House Bill 290, and would like to offer our organizations support for its passage. Please contact us if you would like any assistance in presenting this bill to the Legislature.

Sincerely,

A handwritten signature in black ink, appearing to read "Guy M. Warren", with a long horizontal flourish extending to the right.

Guy M. Warren

FARTHEST NORTH UMPIRES ASSOCIATION
PO BOX 74988
FAIRBANKS, AK 99707-4988

March 5, 1994

RE: House Bill No. 290

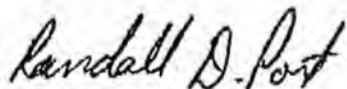
I would like to take this opportunity to voice our organizations support for House Bill No. 290, "An Act exempting certain sports officials from workers' compensation coverage".

Our organization trains umpires in support of recreational slow pitch softball in the Interior of Alaska. Our organization services such groups as Ft. Wainwright Softball Association, Golden Heart Softball Association, Interior Girls Softball Association and North Pole Church Softball Leagues.

Without the passage of House Bill No. 290, an unjust financial burden will be placed on all sports officials. The current rate of workers' compensation is such that continuing in this part-time, seasonal and recreational field would not be justified.

Our organization would appreciate any effort in support of the passage of the House Bill No. 290. On behalf of Farthest North Umpires Association, thank you for your consideration in this matter.

Sincerely,



Randall D. Port
President, Farthest North Umpires Association



GOLDEN HEART SOFTBALL ASSOCIATION, INC.

P.O. Box 74921, Fairbanks, AK 99707
Phone (907) 452-6768

Office located at 2120 Lathrop Street
• Hez Ray Complex •

March 8, 1994

TO: Tim Sullivan
FROM: G.H.S.A, Executive Board of Directors
RE: Worker's Compensation Coverage for Umpires
(HOUSE BILL NO. 290)

The members of the Golden Heart Softball Board of Directors would like to express our unanimous support for House Bill No. 290. The passage of Bill 290, which will exempt certain persons employed as sports officials on a contractual basis from worker's compensation coverage, is a must.

Local softball umpires consider officiating nothing more than a part-time job. Of those polled none expressed a desire to be covered by worker's compensation insurance for officiating.

The current rates of 15 to 17 percent (Surcharged through pool) per \$100 are outrageous. Neither the officials nor the G.H.S.A. can afford to pay the current rates. Slowpitch softball poses little or no risk to officials and no worker's compensation claims have ever been filed.

Thanks for your attention to the above.

Anchorage Amateur Softball Umpires Association
6016 Prosperity Drive
Anchorage, Alaska 99504

March 9, 1994

Representative Eldon Mulder
Capital Room 116
Juneau, Alaska 99801

RE: House Bill #290

Dear Representative Mulder,


The Board of Directors and membership of the Anchorage Amateur Softball Umpires Association have directed me to inform you as to our position on House Bill #290. We would like to go on record as to being IN FAVOR of this bill.

We are independent contractors, and are covered under the Amateur Softball Umpires Association insurance as to accident/liability, etc. We feel no need to be covered under workmen's compensation. We believe that the original concept was never to include groups such as ours. This is a perfect opportunity to clear up this situation.

The membership congratulates you on your energetic efforts to introduce and push for passage of this legislation.

Thank you for a solid representation of your constituency.

Sincerely,


James E. Mason
AASUA President

JUNEAU SPORTS ASSOCIATION

PO Box 22009 Juneau AK 99802 230 S. Franklin St #210. Phone: 463-3633 FAX: 463-3632

Dear Representative,

The Juneau Sports Association (JSA) is a private, non-profit corporation administering the adult softball and soccer programs in Juneau. Our membership includes nearly 100 softball and soccer teams from the Juneau area, representing a total membership of over 2,000 players. JSA's Executive Board, the governing body of JSA, is urging you to support HB 290- "An act exempting certain sports officials from worker' compensation coverage".

Our membership and organization would be adversely affected by the recent movement to bring casual sporting event officials under Workers' Compensation coverage. The current rate of 17% of base pay is particularly burdensome and blatantly unfair, placing contracted softball and soccer officials of casual sporting events in a higher risk category than individuals that work on rooftops for a living.

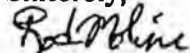
As a rule, JSA's sporting event officials do not umpire professionally for a living, they officiate on a casual basis to provide a public service for the sports programs in which they participate. The most recent result of requiring Workers' Compensation coverage of our game officials has been to call into question whether or not we will be able to continue our current working relationship with our local official's association (the Juneau Douglas Official's Association- JDOA)

In contract negotiations between JSA and JDOA for the current season, JDOA has indicated that they would not be able to survive as an organization if the burden of Workers' Compensation is placed upon them. Not having an official's association would mean an end to JSA's sports programs as they are currently structured, and significantly diminish the quality of the service that we provide our membership.

The movement to cover casual sports-events officials would have far reaching consequences affecting adult and youth sports programs throughout the state. If umpires at adult softball games are required to carry Workers' Comp, what about referees and scorekeepers at high-school and youth basketball games? Will parents who umpire little league baseball, youth soccer and football games be required to carry Workers' Comp? This movement is a serious threat to the organizations that administer recreational sports programs throughout Alaska. JSA's Executive Board urges you to support HB 290.

Thank you for your consideration in this matter.

Sincerely,



Rod Moline
Chairman, Executive Board
Juneau Sports Association

enclosure: Copy of HB 290

Anchorage Volleyball Officials Association
3909 Malaspina #4
Anchorage, Alaska 99517

March 9, 1994

Representative Eldon Mulder
Capital Room 116
Juneau, Alaska 99801

RE: House Bill #290

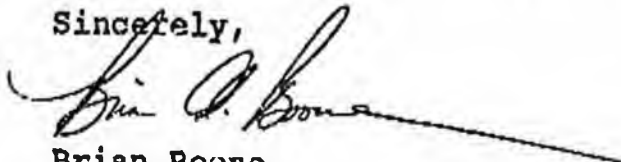
Dear Representative Mulder,

The Board of Directors and membership of the Anchorage Volleyball Officials Association have directed me to inform you as to our position on House Bill #290. We would like to go on record as to being IN FAVOR of this bill.

We are independent contractors, and are covered under the United States Volleyball Association insurance as to accident/liability, etc. We have no need to be covered under workmen's compensation. We believe that the original concept was never to include groups such as ours. This is a perfect opportunity to clear up this situation.

Attached is a list of our Board of Directors and a membership roster for your information.

Sincerely,



Brian Boone
AVOA President

GEORGE H. "Tip" TIPTON

Manager, Ketchikan Terminal



White Pass Alaska

Alaska Only:
1-800-478-7277

P.O. Box 7398, Ketchikan
Alaska 99901
Telephone: (907) 225-2106
Telefax: (907) 225-2104
Residence: (907) 225-6392

File
HB 290

MAR 10 1994

3-8-94

Al Vezey
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1102

Al,

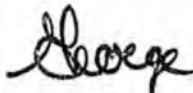
I am writing to solicit your support for House Bill 290. I am the District Softball Commissioner for Ketchikan & Petersburg and the President of the Ketchikan Softball Association & we need an exemption from the workmen's compensation coverage requirements for our Umpires Association.

The Anchorage Sports Association & Mat-Su Softball have already been charged for coverage based upon Gross dollars paid to their officials. This happened after the season, and, of course, was not budgeted for. We were told at the State Softball meeting in late September by a representative of the insurance industry that the workmen's comp rate for umpires would be higher than the person performing field maintenance duties!!

We are a non-profit group and an additional burden of workmens comp insurance for umpires forces us to charge more to sponsors & players alike to recoup the approximate 15-17% that would be charged per \$1000 Gross income. This is an amateur sport and the current requirements for insurance are out of line, thus the proposed bill will help correct this situation.

I appreciate your time and support. Thank you.

Respectfully,



George H. Tipton
Ketchikan Softball Commissioner & President

HB

300

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 300

Revision Date: _____
 Title: 'An Act relating to civil liability for
commercial recreational activities. . . .
 Sponsor: House Labor and Commerce Committee
 Requestor: House Labor and Commerce Committee

Department Affected: Administration
 BRU: Risk Management
 Component: Risk Management
 COMPONENT SERIAL NO. 71

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: J. Brad Thompson, Director
 Division: Risk Management

Phone: 465-5723
 Date: _____

Approved by Commissioner: Nancy Bear Usura
 Agency: Department of Administration

Date: 2/17/94

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DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 23, 1994

SUBJECT: Civil liability for commercial recreational activities - (HB 300)

TO: Representative Bill Hudson

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have asked for a general explanation of the effects of HB 300. The bill would, in my opinion, have its most significant effect in fixing the responsibilities of participants in recreational activities and operators of recreational activities. In sec. 05.45.030 and sec. 05.45.040 the bill lists these responsibilities. This should in some measure reduce the uncertainty regarding the legal responsibility for injuries resulting from recreational activities. While the bill also addresses inherent risks (in sec. 05.45.010) and contributory negligence (in sec. 05.45.020) these provisions are not significantly different from the existing system for allocating fault described under AS 09.17.

This bill will not immunize operators of recreational activities or eliminate litigation over injuries or property damage that occurs during a recreational activity. However, this bill may reduce the time spent in litigation by clearly indicating the responsibilities of each party when an accident occurs during a recreational activity.

Please contact me if you have further questions.

MFF:gc:pl
94-154.glc

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE HUDSON

TO: HB 300

Page 2, line 13, after "person":

Insert ", the participant's children,"

Page 2, after line 31:

Insert a new paragraph to read:

"(1) "children" means persons under 18 years of age;"

Renumber the following paragraphs accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE HUDSON

TO: HB 300

Page 2, lines 24 - 25:

Delete "basic first aid"

Insert "cardiopulmonary resuscitation"

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE HUDSON

TO: HB 300

Page 3, lines 2 - 4:

Delete all material.

Renumber the following paragraph accordingly.

DIVISION OF LEGAL SERVICES

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FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 16, 1994

SUBJECT: Sectional Summary of HB 300

TO: Representative Bill Hudson

FROM: Michael F. Ford *M.F.F.*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Purpose.

Section 2.

Sec. 05.45.010. Establishes that participation in a commercial recreational activity constitutes acceptance of that activity's inherent risks that are apparent to an ordinarily prudent person.

Sec. 05.45.020. Provides that a person who accepts an inherent risk of a recreational activity is contributorily negligent to the extent the inherent risk causes injury, death, or property damage. Requires a reduction in compensatory damages for any contributory negligence.

Sec. 05.45.030. Establishes the responsibilities of participants in a recreational activities.

Sec. 05.45.040. Establishes responsibilities of operators of recreational activities.

Sec. 05.45.050. Provides that AS 05.45 does not affect immunity provided under AS 09.45.795 or AS 09.65.135.

Sec. 05.45.100. Definitions.

Representative Bill Hudson
February 16, 1994
Page 2

Section 3. Applicability section.

Section 4. Effective date.

MFF:lmb
94-058.lmb

Sugar Leaf Packings, Transport
line

2-13-94

P.O. Box 10

Healy, AK 99743-0010

Jeanette James
Alaska State Legislature
MS 31100
Juneau, AK 99801-1182

Ms. James,

I implore you to please help get Bill
HB 300 Civil Liabilities for Commercial
Recreational Activities before the House
Judiciary and passed.

We give horseback tours beside
Denali Park line on the Healy side,
milepost 245. We gave over 2600 rides
last summer for one and two hours.
We paid \$8700.00 for liability coverage
from Cathcart Insurance.

Still we are "always on guard"
for that one frivolous lawsuit that
could ultimately wipe us out of
business.

We have a very good safety record.
Still one person has sent all their
medical bills, for 6 months, to be
paid by our insurance. She fell
off a horse that bolted from the scent of
a bear. She was riding comp (free)
from Greysine to learn about the trail
ride. She was a rail car manager.
She broke 2 fingers in the fall. They
healed & she crushed them later
doing something else. The matter
is pending at this time. She
was 38 yrs old.

another lady client mounted a horse and was waiting for her guide to mount along with 3 other members of her family. She was 65 yrs. She was going to ride because the other members wanted to ride. Her horse moved a step, she panicked, in spite of being asked to let up on the reins, she pulled back hard, continuing to pull. She caused the horse to back up until he triped one foot on a bush. This caused that hip to drop on the horse unbalancing the lady, she slipped off & onto the ground upon her hip.

She was helped up and asked for a different horse. We obliged. She made the one hour ride. State by per "this was the only way to see Alaska" up close. By the time she had returned home by rail, cruise ship & plane to Iowa. She was unable to walk without a walker & was suing us for a gardener, house keeper, pain medication all due to the one hour ride, falling off the horse. She was a gardener, writer & seminar gardener. She had a condition that had deteriorated. Our insurance is handling the matter.

She had become unable to do
seminars. She said the horses
were in poor condition, poor manners,
and she had been poorly treated
by Sugar Loaf employees and Princess
Tour. We are lucky we had
got the horses vet checked,
and their condition was very good.
The amount of riders testified to
the quality of rides and guest
treatment. Safety is number
one in our company. We have
been in business 5 yrs with
Princess. And in horse business
for 9 yrs. We are a reputable
business.

We give safety and information
talks prior to each ride for inform-
ation, horsemanship and to give
each guest a chance to "back"
out gracefully should they choose to
do so.

Generally, we are treated fairly
by most customers. We like
"showing off" Alaska by horseback
but still we feel threatened
by "frivolous" suits by a few "bad
Apples".

We feel we have to watch our
backs all the time.

We employ 8 to 12 employees
every summer May to September
Approximately \$23,000⁰⁰ payroll.

at costs \$1,141⁰⁰ for workmens
comp, \$1,261⁰⁰ for liability for
Clients in our vehicles, and
this summer our liability for
Client riders will be about
\$12,000⁰⁰ or more for coverage.

Horse feed \$15,000⁰⁰

Horses - 15 22,000⁰⁰

land use + CD 1360⁰⁰

licenses 500⁰⁰ (transporter
business, launch
fee)

all of this before we open
the door for business... a business
that could be closed instantly
by one large suit
we work 16 hrs a day
every day and have yet to
profit but this could be the year
we do. We've incorporated
the business.

We would greatly appreciate
your help with \$300... at
least there would be a lite
at the end of the tunnel.

This has been like Russian
Roulette still now.

Sincerely

Thylls A. Stickle
office manager
Rick Stickle Jr.

any Questions? - 907-683-2402
Owner

Sugar Day Bakery's
Importing Inc
P.O. Box 10
Healy, AK 99743-0010
907 483 2702

Rep Bill Hudson
Alaska State Legislature
R5 31100
Juneau, AK 99801-1182

Rep. Bill Hudson

We implore you for your help
in getting AB 300 Civil Liabilities for
Commercial Recreation Activities, before the
House Judiciary and passed.

We give horseback tours north
side of Denali Park milepost 245 at
Healy, AK. This past '93 season some
2600 tourists rode with us for one
to two hrs. This insurance
coverage cost \$8700⁰⁰. This year '94
season coverage will be for approx-
imately \$12,000⁰⁰ for about 5200 clients
we have been doubling for 5 yrs.
I'm afraid to be sued for "frivolous
actions" on the part of Client riders.
Last year was our first year of profit
\$406⁰⁰. We employ 8 to 10 people
for May to September. We pay \$23,000⁰⁰
in wages this past season.

We pay \$1141 - Comp insurance,
\$1500⁰⁰ in vehicle client liability, and
\$15,000 - horse feed, \$22,500 for 15 head of
horses, \$1360⁰⁰ land use & CD, \$500⁰⁰ in
transporter, land use fee, Business license.

This is not the expenses of the
business. This is paid out before the
doors open.

The first ride could be the last
if the client decides to sue.

This past season a train car
manager rode a "comp ride" (free)
The horse bolted from Bear Steer.
She fell, broke 2 fingers, sent
in her bills, became well, crushed
the same fingers, billed but insurance
Some \$4500 - This included, cat scan
KXC, urine tests, xRays, therapy and
office calls. The insurance is
still pending. No safety or negligence ^{error} cited.

Another client boarded her horse
while waiting to leave, her horse took a step
forward, she panicked, pulled hard, bac
backing the horse till finally he tripped
over a small bush, dropped his hip,
she slipped off, after losing ^{her} balance.
"No harm done," she said, "asked for a
different horse, made the ride (I now
signed guest book" This is the only way
to see Alaska close up and left.

She rode the train to the Cruise Ship
took a plane home to Iowa. From
the moment she boarded the train
she deteriorated badly becoming restric
to a walker only. She sued for medic
bills, therapy, gardner, housekeeper,
and pain; Loss of income. She was
a professional writer & gave
gardening seminars.

Lucky for us, we had a vet check
the horses. All received shots and

4 days
later
1-03

were in good shape at all and well-
mannered mounts ~~and~~ said they
were well post conditioned, properly
trained. By this time she also
said she was bucked off. Our
help had been non-existent and
that Princess Tour had not paid
attention to her complaints.

We've had 5 yrs of quality, professional
service for Princess Tour clients.

We stress for safety first, we
give a safety talk, horsemanship talk
and information regarding possibilities
for an accident if you ride. We pull
no punches in case some one is
afraid or wants to change their
mind we encourage them
not to go for the ride.

We generally have been treated
fairly but every bushel has a
"bad apple". We love showing off
Alaska by horseback. But still
we feel "threatened" by the frivolous
lawsuit we need this bill passed
for our protection so we don't
have to give up the idea of
giving rides, overnite trips,
3 day + 5 day trips. Please protect us.

If you have any questions,
Please call - - 907 683-2402
anytime

Phyllis A. Stucke



Marine Adventure Sailing Tours

Representative Bill Hudson
Chair, Labor and Commerce Committee
Alaska State Legislature
State Capital Building
Juneau, Alaska 99801-1182

February 16, 1994

Dear Bill:

There are, this session, a few bills floating around the legislature in which I am interested. As one of your constituents, I thought you would like to know my thoughts on them. I offer also whatever help I can give to you and your staff regarding these actions.

HB 300 "An Act relating to civil liability for commercial recreational activities, and providing for an effective date."

This bill may be uninteresting to many in the times of such fiscal distress, but to me and many other operators of commercial outdoor businesses, this is a desirable action. I do not believe that it will reduce our insurance costs much, but it will offer more protection to us in the case of some legal action. I have been operating for 12 years and have never had an accident, but the possibility always exists.

In my business, I use an informational form which reads very much like HB 300. It simply advises my clients that Alaska can offer some difficult challenges and that if there is any doubt about anything, ask. As a concessionaire for the Glacier Bay National Park, I am advised by NPS to have clients sign a release (enclosed) which reads again like HB 300. The U.S. Forest service also requires guiding insurance and since most of Southeast is in the Tongass, HB 300 could be quite influential on the USFS regulations.

I won't go on about this, but instead urge you to hear the bill and move it out of committee before the rush of other matters befalls you. I don't see any opposition to the bill as it is currently written and I expect a zero fiscal note. This is not a tort reform bill, but rather the recognition that Alaska still has a wild and wonderful outdoors.

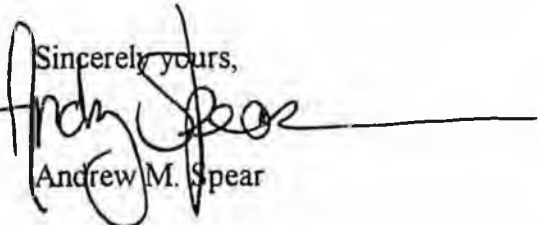
HB 238/SB215 Funding for the Oil and Hazardous Substance Release Response Fund (470 Fund)

I'm sure you know my sentiments on these actions, but I will ask your assistance in keeping the "470 Fund" intact. During my time as the manager of the ADEC Oil Pollution Control Program, I found that small oil spills are by far a more serious problem than is recognized by the public and their representatives. When the *Exxon Valdez* hit the skids, I was introduced to the devastation of both the natural environment, and the very fabric which holds together our local communities. Any defunding and de-emphasis on the prevention and control of oil pollution is a false economy. Take a minute and recall some of the telephone calls you got during the *Exxon Valdez* disaster. I shudder when I do.

Finally as I write this infrequent letter, I must address again a defunding issue; the ATMC. You know that I am a small operator, but that I live and participate in my local community. I spend just about everything here and believe that I help make Alaska a better place. There are many others like me, but because we are small, spending \$5,000 for an ad in a national magazine is a heavy burden. There is little out there to help us compete in a very competitive market, but one thing that does help is the ATMC. I get more business from the "Alaska Planner" than from any other source. Please do not defund us any more. At least, see if we can maintain programs that keep our businesses here rather than favor large, foreign flag operations. If the Governor wants to find some money, maybe he can sell the road to Cordova or perhaps save a little aviation gas and stop the wolf kill. I'm feeling the pinch from the wolf kill boycott so I don't need to take another blow by way of a defunded ATMC. I've said enough.

Thank you for your attention and patience. I will come in to talk to Linda about HB 300 and perhaps we can meet as well. In the mean time, my best to you and your staff. Say hello to Lucy and keep up the good work.

Sincerely yours,



Andrew M. Spear

- NO NEED TO ANSWER, Bill.

Copy AWARTA

JUST WORKING ON
A NEW ONE.

DRAFT

INFORMATION, BILL OF RIGHTS and TERMS

The purpose of this document is to set out the terms and conditions of liability for persons on the sailing vessel *ADVENTURESS* and its auxiliary equipment as operated by Andrew M. Spear who is also the owner of the vessel or his staff. This document does not relieve the owner from operating the vessel in a reasonable manner and does not remove your right to protection from acts of gross negligence. However, The *ADVENTURESS* is a sailing vessel and like most sailing vessels, it has numerous lines, wires, deck fittings and other obstacles which can be dangerous. As with all boats, it rolls, pitches and yaws and while under certain points of sail, it leans considerably. In addition, the *ADVENTURESS* is equipped with a small outboard powered inflatable tender boat. Because this is a light and fast vessel, it provides even greater risks. Life jackets should be worn at ALL TIMES when using this boat. Passengers who use this boat, do so entirely at their own risk. Should you rent, request or bring your own kayaks, MAST will not be liable for

The above conditions are to be expected and by being a passenger on this vessel you are accepting these elements of risk. It is also made clear here that:

It is set out here that the owner of this vessel is not in any way liable for accidents resulting from actions of passengers either to themselves or to other passengers. By way of example such actions include:

1. Injury caused by leaving the vessel without direction from the operator; eg. jumping onto the dock, jumping into the water and jumping into another boat.

2. Burns caused by hot foods or beverages

3. Accidents caused by intoxication

4. Tripping, slipping and falling except where the operator is grossly negligent

5. Rope burns or other line handling injuries

6. Accidents caused by Alaska's different fish and wildlife or the passenger, attempts to catch or photograph them. It is also recognized that passengers unfamiliar with the way of boats present considerable risk to the owner/operator and to the vessel and that risk is accepted, however, passengers will be expected to act in a reasonable manner and will be responsible for injuries and damages they may cause deliberately, by gross negligence or actions of malicious intent. Finally, as passengers, you should be familiar with:

1. The location and operation of all lifesaving equipment,

2. The emergency procedures, and

3. The location and operation of fire extinguishers.

IF YOU DO NOT KNOW, ASK.

I have read and understand this notice _____

VISITOR'S ACKNOWLEDGEMENT OF RISK
(SAMPLE)

I recognize that there is an element of risk in any adventure, sport or activity associated with the outdoors. I am also fully cognizant of the risks and dangers inherent in _____ (activity(s)). Knowing of the inherent risks, (may include specific risks) dangers and rigors required of said activity(s), I certify that I am and my family, including minor children are fully capable of participating in the said activity(s). Therefore, I assume full responsibility for myself, my family, including minor children for bodily injury, death and loss of personal property and expenses thereof as a result of my negligence or the negligence of my family participating in said activity(s) except to the extent such damage or injury may be due to the negligence of _____ (concessioner). I further understand that _____ (concessioner) reserves the right to refuse any person it judges to be incapable of meeting the rigors and requirements of participating in _____ (activity(s)).

Name of Participants:

Self _____

Spouse _____

Minor Children _____

I have read, understand and accept the terms and conditions stated herein and acknowledge that this agreement shall be effective and binding upon the parties during the entire period of participation in the said activity(s).

Parent/Guardian _____

Customer Signature _____

Date _____

It is also understood that due to the unavailability of liability insurance that (concessioner) does not have such coverage and in the event of an accident resulting in bodily injury, death or loss of personal property (concessioner) ability to compensate me or members of my family may be limited.

NOTE: Form may be modified to provide for the signature of each individual member of a group.

INSURANCE AND INDEMNITY

1. GENERAL

The Concessioner shall save, hold harmless, defend and indemnify the United States of America, its agents and employees for losses, damages or judgments and expenses on account of fire or other peril, bodily injury, death or property damage or claims for bodily injury, death or property damage of any nature whatsoever, and by whomsoever made, arising out of the activities of the Concessioner, his employees, subcontractors, or agents under the contract. The types and amounts of insurance coverage purchased by the Concessioner shall be approved by the Secretary.

At the request of the Secretary the Concessioner shall annually, or at the time insurance is purchased, provide the Secretary with a Statement of Concessioner Insurance and Certificate of Insurance as evidence of compliance with this section and shall provide the Secretary thirty (30) days advance written notice of any material change in the Concessioner's insurance program hereunder.

The Secretary will not be responsible for any omissions or inadequacies of insurance coverages and amounts in the event the insurance purchased by the Concessioner proves to be inadequate or otherwise insufficient for any reason whatsoever.

2. PUBLIC LIABILITY

The Concessioner shall provide comprehensive general liability, or protection and indemnity, insurance against claims occasioned by actions or omissions of the Concessioner in carrying out the activities and operations authorized hereunder. Such insurance shall be in an amount commensurate with the degree of risk and the scope and size of such activities authorized herein, but in any event, the limits of liability shall not be less than the following amounts per occurrence covering both bodily injury and property damage:

<u># of passengers</u>	<u>Minimum Amount</u>
Up to 6	\$ 300,000 per occurrence
7 - 12	500,000 " "
13 - 20	1,000,000 " "
21 - 50	1,500,000 " "

If claims reduce available insurance below the required per occurrence limits, the Concessioner shall obtain additional insurance to restore the required limits. An umbrella or excess liability policy, in addition to a Comprehensive General Liability Policy, may be used to achieve the required limits.

From time to time, as conditions in the insurance industry warrant, the Secretary reserves the right to revise the minimum required limits.

All liability policies shall specify that the insurance company shall have no right of subrogation against the United States of America or shall provide that the United States of America is named an additional insured.

The Concessioner shall also obtain the following additional coverages at the same limits as required for Comprehensive General Liability insurance unless other limits are specified below:

- (1) Outfitters and Guides (if shore excursions are planned)
- (2) Liquor Liability (if liquor is served)
- (3) Product Liability (including food)
- (4) Alaska Statutory Workers' Compensation
- (5) Auto Liability (if autos are used in the park)

RE: HB 500

2-14-94

Please help small, local education
businesses by supporting this bill.

Two huge worries we have are:

- 1) The tremendous cost of commercial
liability insurance
- 2) The constant worry about being
sued

We are not organized in a high-profile
way because our energies are focused
on operating our businesses. So please
consider our needs.

-Melinda J. Casper

Reducing Risks

The safety and enjoyment of Alaska's outdoor activities depends on how risk management techniques are used to identify and reduce hazards. Both trip leaders and participants need to become "risk managers." Risk management starts with awareness of hazards and development of an operating method that incorporates safe personal and business practices.

Three primary causes of accidents are: 1) failure to provide or obtain adequate information and/or warning about the inherent hazards involved in the activity; 2) failure to provide or obtain proper or advance instructions about how to prevent or respond to hazards; and 3) failure to make the injured party and other participants feel truly "cared about."

Safety should be an integral part of planning for a trip. Prior to a trip discuss possible health and safety problems such as water, weather, insects, health problems, injury, and one's physical condition. Both back-country operators and clients should have current first aid and CPR skills, recent medical checkups, and carry their own first-aid/medicine kit.

Most operators expect guests to sign a Release of Liability form. Release forms do not take away the rights of guests to sue. They help clients to stop and think about the risks and their obligations to be careful and responsible participants.

Prior to departure, wilderness operators generally check participant's gear to make sure it will meet anticipated trip demands. They also provide a pre-trip orientation and safety briefing. Basic points covered include: 1) introduction of the staff; 2) introduction to the activity and any inherent dangers, 3) demonstration of equipment and check-out on ability to use it, 4) review of the medical situation, and 5) question and answer session.

By working together, operators and clients can assure a safe and outstanding Alaskan wilderness experience.

Group Liability Insurance Available

The high cost and limited availability of insurance for back-country tour operators, hunters and lodges remains a major concern and limiting condition on the development of new businesses. AWRTA membership enables business members to obtain group outfitter & guides insurance through Cathcart, Ltd. For additional information on insurance, contact Julie at Cathcart Ltd. 907-258-6240.

Liability Insurance Legislation

AWRTA requested Rep. Fran Ulmer to submit to the Legislative Drafting Committee a copy of Wisconsin's 1992 Liability Limits legislation. While not depriving client's of their right to sue, the legislation provides some relief to land owners and tour operators by establishing that participants must assume responsibility for their own actions. Current Alaskan rates are very high. AWSS, for example, expects to pay \$7.90/client hour in insurance premiums for guests to walk in the National Forest. Passage of the Wisconsin Bill resulted in a 20% decline in insurance rates.

As part of its campaign to push for passage of a similar bill, AWRTA is seeking funding for a lobbyist.

Announcing the PAW Fund

The "Protect Alaska's Wildlife Fund" has been established for the Alaskan recreation and tourism industry to support wise management of Alaska's wildlife. The fund is managed by the Alaska Conservation Foundation, an Alaskan based organization, with tourism and wildlife professionals on the Board. No funds will be used to support tourism boycotts. Alaska Discovery has announced that it will contribute \$3 to the fund for each of its clients booked on their multi-day trips. AWRTA members to make contributions. For information or to make donations contact: Alaska Conservation Foundation, 430 W. 7th Ave. Suite 215, Anchorage, AK 99501. 907-276-1917.

Consumer Evaluation of Ecotourism

At the 3rd World Congress on Adventure Travel and Ecotourism (Whistler, B.C.), The Ecotourism Society presented preliminary information on its green evaluation program for nature tourism services. Their survey of tour operators indicated a high level of agreement on how an ecotourism program should be defined and evaluated. Six points emerged: 1) operators should contribute directly to local environmental and social causes and offer their visitors an opportunity to contribute; 2) operators should provide clients with information on local environmental issues; 3) local accommodations (lodges, hotels, campsites, fixed campsites) should have a low impact on the local environment; 4) local residents should be employed as staff in the field and office; 5) training should be provided to the local people; and 6) group size should be limited.

Only 60% of the tour operators surveyed currently provided information on local environmental issues. The recommendation was that balanced presentations by local citizens with diverse viewpoints should be encouraged.

On local hiring of guides, it was felt that although visitors want tour guides indigenous to an area, often "local" guides are not local to the area visited. In addition, tour operators must balance their obligations to provide a safe, educational trip against hiring untrained local people.

Finally, there is a divergence of opinion on whether groups should be limited in size arbitrarily or whether group size should be based on the number of participants to leaders, the sense of crowding, and the effects on the environment, such as trail erosion, level of noise, disturbance of wildlife.

The Ecotourism Society expects to have its consumer evaluation forms ready for trial use in the spring of 1993. If you would like to comment on their program or participate, you can write: Megan Epler Wood, The Ecotourism Society, P.O. Box 755, N. Bennington, VT 05257.

February 15, 1994

Honorable Bill Hudson
Chairman, Labor & Commerce Committee
ALASKA STATE LEGISLATURE
State Capitol
Juneau, Alaska 99801-1182

Dear Bill:

We are pleased that your committee is taking comment on HB 300 and that this legislation may move forward.

The legislation would create a fair playing ground for both operators and clients. If adopted as law, HB 300 would alleviate the vast majority of nuisance suits while still allowing parties, injured due to an operators negligence, to recover damages. Attached is a form signed by our Mendenhall River Float clients. Although it states "All personal articles are taken at the participants own risk", we pay for thousands of dollars in cameras and camcorders dropped in the river each year. HB 300 would reduce the likelihood of our having to defend against such claims.


In 1982 a tree fell on one of our clients while on the Whiting River, south of Juneau. It took eight years and tens of thousands of dollars to defend against the subsequent claim for what is certainly an inherent risk of being in the Tongass National Forest. After passage of HB 300 such a claim would likely be dismissed, reducing a substantial burden on the court system and saving Alaska operators and their investors significant resources.

We recommend one change to HB 300. That the word "basic" be replaced by the word "reasonable" or "appropriate". There is a first aid certification of "Basic First Aid". In some cases (real back country trips) Basic First Aid would be insufficient, while in other circumstances (road side, i.e. sightseeing), it would be a burdensome requirement. CPR is the current industry standard for most pedestrian experiences.

We encourage the passage of this legislation and if you feel it appropriate, would be pleased to testify before your committee or later in Judiciary or Finance.

Thank you for your support Bill. It is much appreciated.

Sincerely,


Robert M. Dindinger
President



February 15, 1994

Linda Giguere
Legislative Aide

Dear Linda,

Per our phone conversation yesterday, I want to put a few thoughts in writing regarding HB 300.

This bill is important to me because I know that many people living in the villages want to start small-scale tourism businesses but are stopped, in part, by the high cost of insurance. Anything the legislature can do to relieve or remove this obstacle to rural tourism development would be greatly appreciated by many people.

I am currently working for the City Council of a small Interior Athabaskan village to develop their village as a tourism destination. Several residents there want to start small tourism operations. Insurance costs are inhibiting some of these potential businesspeople. They know the dangers of bush excursions and the terms of HB 300 would suit the kind of clients and activities they want to have.

I hope that you can hold a hearing on HB 300 during this session and move out of committee to a successful vote on the floor. Thank you for your time, attention, and energy on this crucial piece of legislation.

Sincerely,

David Cornberg, Ph.D.
General Manager
LOCAL WORKS, Inc.
P.O. Box 82631
Fairbanks, AK 99708

488-7328



Clearwater Outdoor Services

Peter R. Buist - Registered Guide/Outfitter

P.O. Box 71561 - Fairbanks, Alaska 99707

(907) 457-7189

February 14, 1994

Representative Bill Hudson
State Capitol
Juneau, AK 99801-1182

RE: HB 300 - Civil Liability for Commercial Recreation
Activities

Dear Representative Hudson:

It is my understanding that this bill is currently in your Labor and Commerce Committee. I would appreciate your consideration for an amendment to this bill to include the more traditional Alaskan "supervised commercial outdoor recreation activities," namely hunting, fishing and dogsledding.

I support the concept of the bill, but wish the eco-tourism folks would be a little more fair in their scope. Hunting guides have far more problems with insurance requirements, even though they seem to be killing fewer tourists than the rafters and kyakers!

Thank you.

Sincerely,

Pete Buist
Registered Guide-Outfitter #477



Afognak Wilderness Lodge

SEAL BAY, ALASKA 99697

CATERING TO ADVENTUROUS VACATIONERS • PHOTOGRAPHERS • FISHERMEN • HUNTERS

Radio Phone Contact: (907) 486-6442
FAX: (907) 486-2217

ROY & SHANNON RANDALL
Owners & Operators

FAX: 465-6790

*Honorable Bill Hudson,
Alaska State Legislature,
State Capitol [MS 3100]
Juneau, AK 99801-1182*

February 21st, 1994.

Dear Representative Hudson,

We request that you schedule HB 300 for hearings and move it out of your committee. Alaska's multitude of small "Mom & Pop" businesses are already under tremendous financial burdens to maintain both quality and all legal permits, insurances, etc. and we would like our Alaskan legislators to be more on our side as Wisconsin & Colorado legislators have helped their constituents.

Many thanks, in advance, for your consideration.

Cordially,



*Roy & Shannon Randall,
Afognak Wilderness Lodge.*



GLACIER BAY SEA KAYAKS

P. O. Box 26
GUSTAVUS, ALASKA 99826
(907) 697-2257

15 February 1994

Representative Jerry Mackie
Alaska State Legislature
State Capitol
MS 3100
Juneau, AK 99801-1182

Dear Representative Mackie:

I am writing on behalf of HB 300 Civil Liability for Commercial Recreation Activities, and to let you know that our company supports this bill.

It's my understanding that this bill will help establish the responsibilities of both the people who operate the commercial activity and those that participate in it. In so doing, it's the intent of this bill to reduce uncertainty regarding the legal responsibility for injuries that may result from participation in such activities.

The passage of this bill could dramatically reduce insurance premiums for recreation businesses in Alaska, where profit margins are often borderline anyway due to the seasonal nature of the recreation industry in this state. Further, this bill would help to mitigate the effects that out-of-state accidents have on our insurance premiums. It would clearly reduce the number and amounts of out-of-court settlements.

I urge you give this bill high priority and to schedule a hearing to move this bill out of committee and on to the House Judiciary.

Thank you for your swift attention on this matter.

Sincerely,

Kara Berg
Glacier Bay Sea Kayaks, Inc.



GLACIER BAY SEA KAYAKS

P.O. BOX 26
GUSTAVUS, ALASKA 99826
(907) 697-2257

15 February 1994

Representative Bill Hudson
Alaska State Legislature
State Capitol
MS 3100
Juneau. AK 99801-1182

Dear Representative Hudson:

I am writing on behalf of HB 300 Civil Liability for Commercial Recreation Activities, and to let you know that our company supports this bill.

It's my understanding that this bill will help establish the responsibilities of both the people who operate the commercial activity and those that participate in it. In so doing, it's the intent of this bill to reduce uncertainty regarding the legal responsibility for injuries that may result from participation in such activities.

The passage of this bill could dramatically reduce insurance premiums for recreation businesses in Alaska, where profit margins are often borderline anyway due to the seasonal nature of the recreation industry in this state. Further, this bill would help to mitigate the effects that out-of-state accidents have on our insurance premiums. It would clearly reduce the number and amounts of out-of-court settlements.

I urge you give this bill high priority and to schedule a hearing to move this bill out of committee and on to the House Judiciary.

Thank you for your swift attention on this matter.

Sincerely,

Kara Berg
Glacier Bay Sea Kayaks, Inc.

Printed On Recycled Paper



Dear Representative Hudson -

We urge you to schedule HB300 regarding civil liability for commercial recreation.

Fax - 465-6790

The bill would serve to reduce

insurance costs for operators, a very high cost for us all. Other states have passed similar legislation with good results.

Moving the bill out of committee would do great service to small tourism companies in Alaska.

Thank you for listening,
Dawn Bohlen President

P.O. Box 389 • GIRDWOOD, AK 99587

DIRECT: 907-783-2928 • OUTSIDE ALASKA: 800-334-8730 • WITHIN ALASKA: 800-478-4100

FAX: 907-783-2150


Kenai Peninsula Hike'n'Lunch Tours
203 Pamela Ct.
Kenai, AK 99611
(907) 283-8010

February 21, 1994

Dear Representative Bill Hudson, Chairman House Labor and
Commerce Committee:

It has recently been brought to my attention HB 300 Civil
Liability for Commercial Recreation Activities is in the
committee you chair and furthermore I learn it will be going
up for a hearing on February 24th. I wish to say I strongly
support this bill because it clarifies my obligations to my
clients and will probably reduce my liability insurance
cost. Please help the Tourism Industry's small businesses
by moving this bill through your committee.

Thank-you,



William D. Heath
owner, Hike'n'Lunch Tours

Post-It™ brand fax transmittal memo 7871		# of pages > /
To: <i>HLIO</i>	From: <i>HLIO</i>	
<i>Written testimony</i>	Co. for: <i>HB 300</i>	
Dept.	Phone #	
Fax #	Fax #	



**P.O. Box 1353
Valdez, AK 99686
Phone: 907-835-4300
Fax: 907.835.5679**

February 9, 1994

Honorable Bill Hudson
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Representative Hudson:

I am writing to you on behalf of the Alaska Wilderness Recreation and Tourism Association's members to request that you schedule HB 300 An Act Relating to Civil Liability for Commercial Recreation for hearings and move it out of your committee.

This bill establishes the responsibilities of tour operators and participants. It increases the safety of commercial recreational activities through better preparedness on the part of tour operators to respond to a medical situation and increased awareness by trip participants of the inherent risks. The bill reduces the likelihood of frivolous suits which are becoming a significant problem in the industry elsewhere. At AWRTA's annual meeting last year, a representative from AWRTA's group insurance company gave several examples of insurance scams that "tourists" are running in other states.

Other states, including Wisconsin and Colorado, have passed similar legislation. It has resulted in significant reductions in insurance premiums. Insurance premiums in Alaska are extremely high for small tour operators. Our own company, Alaska Wilderness Sailing Safaris, pays about \$10 a day per person in insurance costs for guests to walk in the Chugach National Forest. This is in addition to our insurance for the time they spend sailing. For Alaskan commercial recreation businesses to remain competitive price-wise with other states, we must have comparable insurance rates.

On behalf of our 230 business members, I encourage you to pass this bill out of committee as soon as possible.

Sincerely,



Nancy R. Lethcoe

HB

302

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 28, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-24-94

The STATE AFFAIRS Committee considered:

HB 302

HOUSE BILL NO. 302

WORKERS COMP FOR RECREATIONAL ACTIVITIES

"An Act excluding certain recreational activities sponsored by an employer from coverage provided under workers' compensation, unless participation is required as a condition of employment; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB-302 (STA) the same title

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 _____

zero fiscal note(s) LABOR

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	X	<i>[Signature]</i>		✓	
<i>[Signature]</i>	X	<i>[Signature]</i>		✓	
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				

[Signature]
CHAIRMAN'S SIGNATURE

WORK DRAFT

WORK DRAFT

WORK DRAFT

8-LS1812E

Ford

3/16/94

CS FOR SENATE BILL NO. 356(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act excluding certain sports officials and certain recreational activities
2 sanctioned by an employer from coverage provided under workers' compensation;
3 and providing for an effective date."

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

5 * Section 1. AS 23.30.230(a) is amended to read:

6 (a) The following persons are not covered by this chapter:

7 (1) part-time baby-sitters;

8 (2) cleaning persons;

9 (3) harvest help and similar part-time or transient help;

10 (4) persons employed as sports officials on a contractual basis

11 and who officiate only at sports events in which the players are not compensated;

12 in this paragraph. "sports official" includes an umpire, referee, judge,

13 scorekeeper, timekeeper, organizer, or other person who is a neutral participant

14 in a sports event;

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(5) persons employed as entertainers on a contractual basis;
(6) [(5)] commercial fishermen, as defined in AS 16.05.940; and
(7) [(6)] individuals who drive taxicabs whose compensation and written contractual arrangements are as described in AS 23.10.055(13), unless the hours worked by the individual or the areas in which the individual may work are restricted except to comply with local ordinances.

* Sec. 2. AS 23.30.265(2) is amended to read:

(2) "arising out of and in the course of employment" includes employer-required or supplied travel to and from a remote job site; activities performed at the direction or under the control of the employer; and employer-sanctioned activities at employer-provided facilities; but excludes activities of a personal nature away from employer-provided facilities; "employer-sanctioned activities" do not include recreational activities unless the activity occurs

- (A) at a remote job site: or
- (B) on the employment premises:

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

MIKE NAVARRE
REPRESENTATIVE

DISTRICT 9

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

DURING SESSION
STATE CAPITOL
JUNEAU, AK 99801-1182
(907) 465-3779

HOME ADDRESS
Box 169 -- KENAI, AK 99611
(907) 262-7042

MEMORANDUM

TO: Representative Al Vezey, Chairman, House State Affairs Committee

FROM: Representative Mike Navarre *Mike*

SUBJECT: House Bill 302, An Act excluding certain recreational activities from workers' compensation coverage.

DATE: February 25, 1994

I would like to request a hearing for House Bill 302, "An Act excluding certain recreational activities sponsored by an employer from coverage provided under workers' compensation, unless participation is required as a condition of employment; and providing for an effective date."

Thank you for your consideration.



REQUEST

FISCAL NOTE

Bill Version: EB 302
(H) Publish Date: 2/28/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO :

Revision Date: _____ Department Affected: Labor
 Title: Workers' Compensation for SRU: Workers' Compensation
Recreational Activities Component: Workers' Compensation
 Sponsor: Representative Navarre
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. 344

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						
FUND SOURCE:						

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Paul Arnoldt, Director *Paul P. Arnoldt* Phone: 465-2790
 Division: Workers' Compensation Date: 2/23/94
 Approved by Commissioner: Charles W. Mahler *Charles W. Mahler*
 Agency: Department of Labor Date: 2/23/94

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MIKE NAVARRE

REPRESENTATIVE

DISTRICT 9

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

DURING SESSION
STATE CAPITOL
JUNEAU, AK 99801-1182
(907) 465-3779

HOME ADDRESS
Box 169 — KENAI, AK 99611
(907) 262-7842

SPONSOR STATEMENT

February 22, 1994

TO: Representative Al Vezey, Chairman, House State Affairs Committee

FROM: Representative Mike Navarre

SUBJECT: House Bill 302, An Act excluding certain recreational activities from workers' compensation coverage.

.....
House Bill 302 offers a solution to recreational sponsorship by saying that as long as the participation is voluntary and not a condition of employment then no workers' compensation liability extends to the employer/sponsor.

Recent interpretations of law have placed generous Alaskan employers in jeopardy concerning team sponsorships. Recreational activities funded by an employer, according to court interpretation, implies liability for injury that occurs while the employee is participating in an optional recreational activity. For example, an employer supplies uniforms, umpiring fees, field rental fees or other team related items, the courts have treated that involvement as an employer-sanctioned activity. The result has been that many employers are reluctant to increase their risk and legal exposure for a recreational activity and are less likely to support recreational leagues throughout Alaska.

House Bill 302 passed the House Labor & Commerce Committee on February 24th with four do pass recommendations.



recycled paper

SPONSOR STATEMENT

APPENDIX—Continued

Villages' subsistence life styles would be minimally affected by the Cascaden disposal. There was a reasonable basis for the decision by DNR to hold the land disposal at Cascaden. The decision was not unreasonable, arbitrary, or an abuse of discretion. The Decision of the DNR is hereby affirmed.

DATED at Fairbanks, Alaska, this 24 day of May, 1990.

/s/ Richard D. Savell
RICHARD D. SAVELL
Superior Court Judge



Judi J. LeSuer-Johnson, Appellant,

v.

ROLLINS-BURDICK HUNTER OF
ALASKA and National Union Fire
Insurance Co., Appellees.

No. 3681.

Supreme Court of Alaska.

April 12, 1991.

Employee who was injured while playing softball on employer-sanctioned team at employer-provided field sought workers' compensation benefits. The Workers' Compensation Board awarded benefits and the Superior Court reversed and remanded. On remand, the Board denied benefits and appeal was taken. The Superior Court, Third Judicial District, Anchorage, Ralph Stemp, J., affirmed and employee appealed. The Supreme Court held that employee was entitled to benefits.

Reversed and remanded.

1. Workers' Compensation §664

Employee who was injured while playing softball on employer-sanctioned team at

field rented by league to which employer paid money for ball field rental was entitled to workers' compensation benefits. AS 23.30.265(2).

2. Workers' Compensation §664

Portion of workers' compensation statute defining "arising out of and in the course of employment" with regard to employer-sanctioned activities at employer-provided facilities is not limited to remote job sites as statute is written. AS 23.30.265(2).

Chancy Croft, Anchorage, for appellant.

Patricia L. Zobel, Deirdre D. Ford, Staley, DeLisio, Cook & Sherry, Anchorage, for appellees.

Before MATTHEWS, C.J., and
RABINOWITZ, BURKE, COMPTON and
MOORE, JJ.

OPINION

PER CURIAM.

[1] Appellant Judi LeSuer-Johnson (LeSuer) was injured on June 4, 1986, while playing softball at an Anchorage ballpark for the Rollins-Burdick Hunter (RBH) team against an "insurance league" opponent. The injury occurred after work hours, on a field rented by the insurance league. LeSuer, an employee of RBH, filed a claim for workers' compensation, alleging that the injury arose out of and in the course of her employment. An Alaska statute enacted in 1982 defines "arising out of and in the course of employment" to include

employer-required or supplied travel to and from a remote job site; activities performed at the direction or under the control of the employer; and employer-sanctioned activities at the employer-provided facilities; but excludes activities of

a personal nature away from employer-provided facilities.

AS 23.30.265(2).

LeSuer's argument that her injury arose out of and in the course of her employment is based on her employer's connection to the softball team. RBH provided balls, bats, T-shirts and caps for the team members. It paid \$250 to the league's organizers who rented the ballfield and purchased bases. RBH encouraged its employees to either play on the team or attend the game as spectators. In her job interview LeSuer was asked if she played softball and if she would like to play on the company team. She stated that joining the team was voluntary, but she personally felt pressured to play by co-employees who wanted to be sure that RBH had enough players to field the team each week.

The Workers' Compensation Board found for LeSuer. The board concluded that participation on the softball team was both employer-sanctioned and that it occurred at an employer-provided facility:

We find RBH gave support and encouragement for their employees to participate on the team. By paying the league fee, providing part of the uniform, providing bats and balls and permitting employees to perform activities such as picking up the T-shirts and hats as part of their work duties RBH sanctioned the activity....

Next we consider whether the injury occurred at an employer-provided facility. Defendants argued that the injury was not on Employer's premises. However, the legislature chose to use the term "facility" and not premises. We find this terminology distinction is important. Thus the injury does not have to occur on an employer's property to be compensable.

The term "provide" is defined in *Webster* at 1144 as "to make available, supply, afford; furnish with...." We find that paying the league fee RBH made available to its employees a field on which to play softball. We conclude that

the softball game was at an employer-provided facility.

RBH appealed the board's decision to the superior court. The court held that where, as here, a remote job site was not involved, a four-part test rather than the two-part test set out in the statute was appropriate. The court stated:

The criteria analyzed in *Larson*, 1A *The Law of Workman's Compensation* § 22.24(a)-(f), for determining whether an injury on a company team is compensable are the appropriate factors to weigh in deciding this case. They are primarily the time and place of the recreation, the degree of the employer initiative and encouragement, the financial support and equipment furnished, and the benefit to the employer.

The court remanded this case to the board for an analysis using these factors. On remand, the board found in favor of RBH with one member dissenting.

LeSuer then appealed to the superior court, which affirmed the board's decision on remand. LeSuer now appeals this decision.

[2] In our view, the first decision of the board was correct. That portion of AS 23.30.265(2) which pertains to employer-sanctioned activities at employer-provided facilities is not limited to remote job sites as the statute is written. If the legislature had intended such a limitation it could have easily been expressed. The board's conclusions that playing for the RBH softball team was employer-sanctioned and that the injury occurred at an employer-provided facility are supported by substantial evidence.

For the above reasons, the decision of the superior court is REVERSED and this case is REMANDED to reinstate the first decision of the board.



HOUSE COMMITTEE REPORT

(7)

Date Referred: May 6, 1993

FURTHER REFERRALS:

State Affairs
Finance

Date of Committee Action: 2/24

The LABOR AND COMMERCE Committee considered:

HB 302

HOUSE BILL NO. 302

WORKERS COMP FOR RECREATIONAL ACTIVITIES

"An Act excluding certain recreational activities sponsored by an employer from coverage provided under workers' compensation, unless participation is required as a condition of employment; and providing for an effective date."

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 LABOR

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bryan D. Porter</i>	✓				
<i>Carol D. Jones</i>	✓				
<i>John H. ...</i>	✓				
<i>Bill Hudson</i>	✓				

Bill Hudson
 CHAIRMAN'S SIGNATURE

HB

307

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SSHB 307

Revision Date: 2/23/94
 Title: An Act relating to the Uniform Probate Code . . .
 Sponsor: Representatives Moses, Ulmer
 Requestor: _____

Department Affected: Commerce and Economic Development
 BRU: Banking, Securities and Corporations
 Component: Securities
 COMPONENT SERIAL NO. 1233

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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 EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Mat. Int.	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: L. P. Carroll, Sr. Securities Examiner
 Division: Banking, Securities and Corporations

Phone: 465-5451
 Date: 2/23/94

Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Date: 3/3/94

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Alaska State Legislature

Representative Carl E. Moses

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HOUSE RULES COMMITTEE

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SESSION:
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FAX: (907) 258-8468

SPONSOR SUMMARY

SSHB 307 would provide a comprehensive upgrade of Alaska's probate code by adopting revisions to AS 13.11 and AS 13.31, as recommended by the National Conference of Commissioners on Uniform State Law (NCCUSL). Revisions to AS 13.11 involve intestacy, Wills, and Dative Transfers. Changes to AS 13.31 involve Nonprobate Transfers. There would also be changes to AS 13.06, General Provisions, and to AS 13.16, Probate of Wills and Administration.

Changes to AS 13.11 are primarily aimed at enhanced spousal and family protection, reduced risk of technical invalidation of wills, and greater harmony of the rules of presumed intent for property transfers at death.

Changes to AS 13.31 center on the clarification of the law of joint tenancy and tenancy in common for deposit accounts held by multiple parties. It also includes Transfer-On-Death provisions for investment security accounts.

The Sponsor Substitute added the changes to AS 13.31, the Nonprobate Transfers. It also deletes some definitions as found in the NCCUSL language, which are duplicative or unnecessary. Other modifications convert NCCUSL language into Alaska's drafting style. This version also places the registry for international wills in the Department of Commerce and Economic Development. Detailed information is available on changes in the Sponsor Substitute.

HB 307 is supported by the Attorney General, the Alaska Uniform Law Commission, and the American Association of Retired Persons. The Alaska Court System is currently reviewing its provisions. It carries zero fiscal notes from DCED, LAW, and the Court System.
CEM/tb/stmt.2

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

- 1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697
- KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317
- P.O. BOX ¹¹⁰³⁰⁰ STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295 465-6735

March 2, 1994

Hon. Carl Moses
Chair
House Rules Committee
Alaska House of Representatives
Room 204, State Capitol
Juneau, AK 99801-1182

RE: Uniform Probate Code
(HB 307)

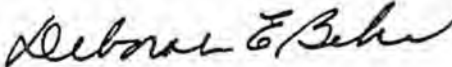
Dear Representative Moses:

We have reviewed HB 307, "An Act relating to the Uniform Probate Code." We find no legal problems.

The bill makes important improvements to our probate statutes. The bill makes our statutes more uniform with other states that have adopted the uniform Act.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Deborah E. Behr
Assistant Attorney General

DEB:cl

cc: Arthur H. Peterson
Uniform Law Commissioner

Raga Elim, Legislative Liaison
Office of the Governor

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SSHB 307

Revision Date: March 1, 1994
Title: "An Act relating to the Uniform Probate Code, including nonprobate transfers..."
Sponsor: Representative Moses
Requestor: House State Affairs Committee

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Division Date: March 1, 1994
Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law Date: March 1, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SSHB 307

ANALYSIS CONTINUATION:

This bill repeals and reenacts the state's laws on probate to conform to the model Uniform Probate Code recommended by the National Conference of Commissioners on Uniform State Laws. The principal subject matter is succession to property at an owner's death, as controlled by will, intestacy statutes, and the probate process. Aspects of non-probate transfers at death by contract, trust, or other lifetime arrangement are also covered as are guardianships and other protective arrangements for minors and others incapable of self-management. The sponsor substitute integrates nonprobate transfers with the model code, thus allowing the payment of pay-on-death clauses in joint tenancy deposit account contracts, avoiding the expense and delay of probate. The probate procedures in the new model code were designed to meet the public's demand for quicker and less expensive settlements of decedents' estates. The bill will not have a fiscal impact on the Department of Law, because it primarily deals with matters between private parties and it should make the settlement of estates less expensive and simpler for survivors.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SS for HB 307

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: An Act relating to the Uniform Probate Code ERU: Trial Courts
 Code _____ Components: _____
 Sponsor: Rep. Moses
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

EXPENDITURES/REVENUES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8226
 Agency: Alaska Court System Date: 02/07/94
 Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 02/07/94
 Agency: Alaska Court System

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 307

Revision Date: January 18, 1994
Title: "An Act relating to the Uniform Probate Code..."
Sponsor: Representative Moses
Requestor: Representative Moses

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division

Phone: 465-3672
Date: January 18, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law

Date: January 18, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. Hb 307

ANALYSIS CONTINUATION:

This bill repeals and reenacts the state's laws on probate to conform to the model Uniform Probate Code recommended by the National Conference of Commissioners on Uniform State Laws. The principal subject matter is succession to property at an owner's death, as controlled by will, intestacy statutes, and the probate process. Aspects of non-probate transfers at death by contract, trust, or other lifetime arrangement are also covered as are guardianships and other protective arrangements for minors and others incapable of self-management. The probate procedures in the new model code were designed to meet the public's demand for quicker and less-expensive settlements of decedents' estates. The bill will not have a fiscal impact on the Department of Law, because it primarily deals with matters between private parties.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 24, 1994

SUBJECT: Sponsor Substitute for HB 307 (Work Order No. 8-LS0982\E)

TO: Representative Carl Moses
Attn: Tim

FROM: *TLB*
Theresa L. Bannister
Legislative Counsel

This memo accompanies a draft of the sponsor substitute that you requested for HB 307. The primary purpose of the sponsor substitute is to include Article VI of the Uniform Probate Code, which revises the chapter on nonprobate transfers. The draft includes this article and makes certain other changes, which are identified below.

1. The draft deletes the definitions at secs. 13.12.106(i)(2), 13.12.706(g)(6), 13.12.707(d)(7), and 13.12.709(f)(3). These definitions were unnecessary since the individual terms are already defined in the draft and the combined usage is not different. This matter was originally raised in no. 3 of my October 20, 1993, memo to you.
2. The definition of "trust" in sec. 13.06.050(52) now includes a reference to "trust accounts that are POD designation accounts under AS 13.33.201 - 13.33.227." This changes the reference in the uniform act to clarify the intent of the reference. This matter was originally raised in no. 11 of my October 20, 1993, memo to you and the new reference is the result of a discussion with Professor Richard Wellman of NCCUSL.
3. Sec. 13.12.114 was redrafted to make the section control whenever there is a conflict between the section and either AS 25.20.05 or AS 25.23.130, which relate to adoption and to establishing the parent and child relationship. This section was originally discussed in no. 18 of my October 20, 1993, memo to you.
4. The bill retains the sections on honorary trusts and trusts for pets. However, a more recent NCCUSL (National Conference of Commissioners on Uniform State

Representative Carl Moses
January 24, 1994
Page 2

Laws) version of sec. 13.12.907 (relating to honorary trusts and trusts for pets) is used in the draft. The new language was recommended by Professor Wellman. The new NCCUSL language was modified to reflect our drafting style. For example, the introduction to sec. 13.12.907(b) is slightly different in wording from the NCCUSL language but is not different in effect.

5. The bill retains the sections on international wills. The depository for the wills is left in the Department of Commerce and Economic Development.

If I may be of further assistance, please advise.

TLB:gc
94-044.glc

Attachment

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 21, 1994

SUBJECT: Sectional summary of SSHB 307 relating to the Uniform Probate Code (Work Order No. 8-LS0982\E)

TO: Representative Carl Moses
Attn: Tim

FROM: *TLB*
Theresa L. Bannister
Legislative Counsel

You have requested a sectional summary of the above described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Establishes six rules to be used in addition to the Alaska Rules of Evidence to determine death and status.

Section 2. Provides definitions for certain terms in the state's probate code.

Section 3. Adds a new chapter to the state's probate code to replace AS 13.11, the current chapter on intestate succession and wills, which is repealed by sec. 9 of the bill. The chapter relates to intestacy, wills, and donative transfers. Article 1. Sections 13.12.101 - 13.12.114 relate to intestate succession.

Sec. 13.12.101 states that a decedent's estate that is not effectively disposed of by will passes by intestate succession to the decedent's heirs under the state's probate code, except as modified by the decedent's will. Authorizes the use of a will to exclude or limit the persons to inherit the property passing by intestate succession, and indicates how the property passes in that situation.

Sec. 13.12.102 indicates how much of the intestate estate, including inalienable Native corporation stock, that the spouse of a decedent receives in various situations.

Sec. 13.12.103 indicates when and how much of an intestate estate the heirs other than the spouse receive in various situations.

sect summary

Sec. 13.12.104 requires an individual to survive the decedent by 120 hours to be considered an heir for the purposes of homestead allowance, exempt property, and intestate succession. Requires the survival to be established by clear and convincing evidence. Prevents these requirements from applying if the result is that the state takes the intestate estate.

Sec. 13.12.105 gives property in the intestate estate to the state if there isn't a taker under this chapter, subject to statutes on unclaimed property and escheated real property.

Sec. 13.12.106 establishes the rules for determining the heirs and allocating shares of an intestate estate when the estate passes "by representation" to the decedent's descendants or to the descendants of the decedent's deceased parents or grandparents.

Sec. 13.12.107 states that relatives of the half-blood inherit as if they were of the whole blood.

Sec. 13.12.108 treats an individual in gestation at a particular time as living at that time if the individual lives 120 hours or more after birth.

Sec. 13.12.109 states that property given to an heir before the decedent's death is not charged as an advance against the heir's share in the decedent's intestate estate unless certain evidence exists to that effect. Establishes how "advanced" property is valued. Prevents, with one exception, the advance from being taken into account for the intestate estate if the recipient of the advanced property does not survive the decedent.

Sec. 13.12.110 states that a debt owed to a decedent is not charged against the intestate share of anyone but the debtor. States that the debt is not considered when computing the intestate share of the debtor's descendants if the debtor fails to survive the decedent.

Sec. 13.12.111 states that being an alien or claiming a share through an alien does not disqualify an individual to take as an heir.

Sec. 13.12.113 states that an individual related to the decedent through two lines takes only a single share, which is based on the relationship that yields the larger share.

Sec. 13.12.114 considers, for the purpose of intestate succession by, through, or from a person, that an individual is the child of the individual's natural parents--without regard to their marital status--except as provided otherwise in the section. Provides that the parent and child relationship may be established under AS 25.20.050. States

that an adopted child is the child of the adopting parents and not the natural parents, except as provided in the section when the child is adopted by the spouse of a natural parent. Precludes inheritance from or through a child by the natural parents or their kindred unless the natural parents satisfy certain conditions. This section governs if it conflicts with two other statutes relating to legitimation and the effect of adoption decrees.

Article 2. Secs. 13.12.201 - 13.12.207 relate to the elective share of a surviving spouse.

Sec. 13.12.201 entitles a surviving spouse to take an elective share of the augmented intestate estate under certain conditions and with certain limitations provided in Article 2. Establishes how the share is calculated. Provides for a supplemental elective share if the result of certain calculations is less than a certain amount. Makes the right to take an elective share of property in this state subject to the law of the decedent's domicile at death if the decedent dies domiciled in another state.

Sec. 13.12.202 states that the augmented estate consists of certain listed amounts of property, including the reduced probate estate and the reclaimable estate. Excludes a transfer, exercise, or release of a power of appointment from the reclaimable estate to a stated extent and under certain circumstances. Establishes how property is valued for this section. Establishes when a payor or other third party is liable for having made a payment or transferred other property that is claimed by a surviving spouse. Establishes notification procedures, property deposit procedures, and court procedures for handling property held by payors or other third parties and claimed for the elective share. Establishes when a payee or recipient is required to return property and when the payee or recipient is personally liable for the amount or value of property. Establishes what happens when a provision of secs. 13.12.201 - 13.12.207 is preempted by federal law with respect to a payment, an item of property, or other benefit included in the decedent's reclaimable estate.

Sec. 13.12.203 states that only a surviving spouse who is living when the petition for the share is filed may exercise the right to take an elective share. Establishes the court procedure when the surviving spouse is incapacitated; the procedure includes appointment of a trustee for the claimed property. Establishes terms for the administration of the trust.

Sec. 13.12.204 states that the right of election and the surviving spouse's rights to homestead allowance, exempt property, and family allowance may be waived before or after marriage, if done by a written contract or waiver signed by the surviving spouse. Indicates that a waiver is not enforceable if the surviving spouse prove certain things. Provides that the unconscionability of a waiver is a matter of law to be decided by a court. Establishes what a waiver of "all rights" covers.