

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8360 SENATE LABOR & COMMERCE

42

BS

TORRISI & SNYDER
ATTORNEYS AT LAW
Box 210 DILLINGHAM, AK 99576
(907) 842-5608

FREDERICK TORRISI

September 14, 1992

DAVID B. SNYDER

George Jacko
Box 47001
Pedro Bay, Alaska 99647

Dear George:

Enclosed is a copy of a draft resolution that I prepared for SWAMC seeking amendment of AS 4.21.010(c), the issue we discussed when you were in Dillingham. Lagos v. City of Sitka was the court decision that made it plain that this statute is an obstacle to taxing the sale of booze at a rate higher than other items.

I'm sure you will be receiving the official version of this from SWAMC later. It is an issue that merits attention, and it will be interesting to see who leads the opposition. Please let me know if I can help on this.

Sincerely,
TORRISI & SNYDER



Fred Torrissi
Attorney

FT:ilk
enclosure

cc: Henry E. Graper, Jr., City Manager

LETTERS OF SUPPORT

Alice J. Ruby
P.O. Box 121

Dillingham, Alaska 99576

November 11, 1992

Senator George Jacko
Alaska State Legislature
3111 C Street, Suite 200C
Anchorage, Alaska 99503-3957

Dear Senator Jacko,

I was given copies of your letters to Mr. Graper and Mr. Torrisi in my recent Council packet. I was very happy to be made aware of your willingness to work on the alcohol taxation issue during the upcoming legislative session. As you may be aware, a resolution submitted by the City of Dillingham supporting this effort was adopted by the South West Alaska Municipal Conference during their Fall Conference.

I would like to offer my support for the effort to amend the statute. Thank you for your time and interest.

Sincerely,



Alice Ruby



Southwest Alaska Municipal Conference

Putting Resources to Work For People

3300 Arctic Blvd., Suite 203 • Anchorage, Alaska 99503 • (907) 562-7380 • FAX (907) 562-0438

RESOLUTION 92-29

A RESOLUTION OF THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE SEEKING REPEAL OF THE LEGISLATIVE PROHIBITION OF HIGHER RATES OF SALES TAX ON THE SALES OF ALCOHOLIC BEVERAGES BY MUNICIPALITIES.

WHEREAS, it is well established that significant sums of money are spent by municipalities as a result of the sale of alcoholic beverages in these municipalities, and

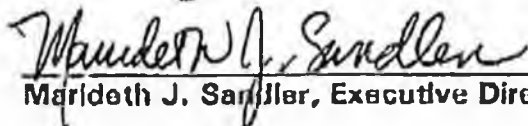
WHEREAS, the members of SWAMC believe that the liquor industry should bear more of the costs associated with such sales, and

WHEREAS, Alaska law apparently does not presently allow the imposition of a sales tax upon alcoholic beverages at a rate higher than the general sales tax rate, now therefore,

BE IT RESOLVED by the Southwest Alaska Municipal Conference that as 4.21.0010(c) be amended to allow a municipality to impose a sales tax on alcoholic beverages only and to allow a sales tax on alcoholic beverages at a higher rate than is imposed on other sales within the municipality.

PASSED this 13th day of September, 1992.


Richard G. Wilson, President


Marideth J. Sanjiler, Executive Director



SWAMC Resolution

Representing the Bristol Bay, Pribilof, Kodiak Island and Aleutian Island areas.





217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325, Fax (907) 463-5480

February 18, 1993

TO: Senator Randy Phillips, Chair
and Members, Senate Community and Regional Affairs Committee

FROM: Kent E. Swisher, Executive Director

RE: SB 42 - Relating to municipal taxation of alcoholic beverages

The Alaska Municipal League supports SB 42, relating to municipal taxation of alcoholic beverages, to the extent that it would expand the authority of local governments to determine the level and type of taxes appropriate to their communities.

As a general policy, the League, which represents over 100 municipalities throughout the state, recognizes that local governments should be given the maximum amount of authority and flexibility to make use of the resources available to them. Removing artificial obstacles such as the existing limit on the municipal sales tax that can be levied on alcoholic beverages is one way to accomplish that.

The League's *1993 Policy Statement* includes the following goal statement:

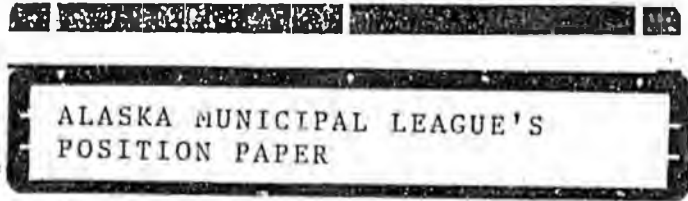
AML further wishes to manage public assets in an efficient and effective way by working with all government officials to . . . increase the revenue base to support the provision of services, collect and redistribute resources in a fair and logical manner, and maintain maximum control of financial prerogatives at the local level of government, which is under the highest level of scrutiny by Alaskans. [Part I, Taxation and Finance]

In addition, Part I, D.1, Tax-Levying Authority, in the *Policy Statement* includes the statement "The League supports broader municipal authority to consider alternatives to property taxes."

SB 42 would provide greater flexibility and autonomy to local governments, and the Alaska Municipal League supports it for that reason.

cc: Senator George Jacko

LEG933:sb42.222



Member of

of Counties

DISTILLED
SPIRITS
COUNCIL
OF THE
UNITED
STATES

February 4, 1993

The Honorable George Jacko
Senate Finance Committee
State of Alaska
State Capitol SBH2
Juneau, Alaska 99801

Dear Senator Jacko:

The Distilled Spirits Council of the United States (DISCUS) represents the producers and marketers of over 85 percent of the liquor sold in this country.

As a result of the nation's sluggish economy, the state of Alaska is facing difficult budget issues. You will probably hear it said that your budget problems can be solved in 1993 by increasing excise taxes on distilled spirits. The seductive argument will be that "it's easy, it's politically expedient and no one will care since it is only the liquor industry that is being taxed."

The fact is that whether one supports or opposes the liquor industry on any given social issue, excise taxes on liquor should be opposed for these fundamental public policy positions -- they are regressive, hitting hardest those least able to pay; they hurt your state by costing jobs (especially in small businesses); reduce state economic activity; increase state costs and have repeatedly produced less revenue than forecast.

The National Governor's Association and the National Conference of State Legislators' draft study "Financing State Government in the 1990's" examined every avenue to help states cope with budget issues in the 90's: business taxes, individual taxes, retail sales and use taxes, value-added taxes and property taxes.

Excise taxes were not mentioned as an avenue of future financial help for the states, perhaps because they do not meet the five principles of good tax policy that are consistently recognized in economics and public administration:

...they do not provide: (1) "appropriate and timely revenues"; they do not (2) "distribute burdens equitably"; they do not (3) "promote economic efficiency and growth"; and a strong case can be made that they are not (4) "easily administered"; and (5) "ensure accountability".

It has been well documented that excise taxes on distilled spirits do not produce the expected revenue. At the Federal level, the eight percent tax increase on liquor passed in 1990 was estimated to produce an additional \$104 million by the end of FY-91. In fact, for the first time ever the Federal government received no new taxes. The eight percent increase actually resulted in \$87 million less in revenues than before the tax. The point of diminishing returns has occurred. The resulting loss in revenue had to be made up by cuts in other parts of the budget, or by increasing the Federal deficit.

Clearly the 1991 excise tax increase did not provide "appropriate and timely revenue." It is not hard to picture the problems Alaska would have if it depended on such an unstable revenue base for a program like Medicaid or universal health care.

Excise taxes are unfair to Alaska residents because they do not "distribute burdens equitably." An excise tax, Federal or state, is paid equally by all regardless of income levels. The poor and middle class pay a larger percentage of their income for the excise tax than do the wealthy. In a word, excise taxes are unfair and heavily regressive since the largest burden falls on those least able to pay.

Excise taxes act as a drag on the state's economy by costing jobs, income, state revenue and increased costs through unemployment compensation.

The 1991 excise tax increase did not "promote economic efficiency and growth." It not only lost revenues for the Federal government, it lost an estimated 26,000 jobs nationwide, because of business cut-backs; it cost state government an extra \$25 million in unemployment compensation; state and local governments lost an additional \$60 million in direct and indirect revenues and state economies overall lost \$1.4 billion in economic output. 30 of those jobs and \$3 million of those dollars belonged to Alaska.

Let me close with a warning from another report by the National Governor's Association and the National Association of State Budget Officers, "The Fiscal Survey of States: October 1992":

"Alcohol taxes. Two states changed alcohol taxes. This category accounts for a net revenue reduction. After both state and Federal increases the past several years, states have reached the limit in the revenue capacity of this tax."

Sincerely,



F. A. Meister
President/CEO

FAM:bp
Attachments

ALASKA VS THE EXCISE TAX

Fact

The beverage alcohol industry in Alaska contributes \$710 million to the gross state product; generates \$5,700 in wages annually; accounts for 6,000 direct and indirect jobs and provides \$36 million in state and local revenues.

Public Policy Question

Recent facts at the Federal and state level indicate that any future excise tax increase in distilled spirits will hurt the residents of Alaska through increasing unemployment, reducing state economic activity and increasing unemployment compensation costs.

Is it good public policy, or does it make political sense, to pass a tax law with this kind of negative economic impact if experience shows it will cost the state jobs; will curtail economic activity; will not meet revenue estimates; and is very regressive by favoring the rich at the expense of low and middle income tax payers?

Excise Tax Increases

Regardless of any social issues concerning beverage alcohol, the fact is that a state hurts itself when it increases the excise tax on distilled spirits.

As the result of an 8% increase in the Federal excise tax on liquor in 1991, the Federal government collected \$87 million less in liquor excise taxes after the tax went into effect than it had in FY-90, before the increase was passed. Alaska lost 30 jobs and \$3 million in economic activity.

The same experience holds in the states as well. Numerous states have found out the hard way that increased liquor taxes are a tax failure.

Excise taxes also are regressive and unfair. They fall heaviest on low and middle income taxpayers. They favor the rich.

Excise taxes are a demonstrated unstable source of revenue and they are hidden from the public because they are paid by manufacturers.

Alaska Considerations

Any decreased revenues, lost jobs and reduced economic activity is especially critical for the State of Alaska, since the liquor tax burden in Alaska already is virtually at the point of diminishing returns and any future increase could produce substantially negative results for Alaska.

Is it good government to hurt your own low and middle income taxpayers, put your own people out of work and run the risk of having to cut other beneficial state programs because revenue estimates are not met? The answer is no, no matter how "easy" or how "popular" it seems to be to raise so-called sin taxes. Economically and politically, the "sin" is in the tax:

Alaska's liquor tax burden is exceptionally high -- another increase would be counterproductive:

- Federal, state and local taxes now account for 29% of the 1992 retail price of a typical bottle of liquor (\$3.49 of the \$12.20 price for a 750 ml bottle at 80 proof).
- State and local taxes alone account for 11% of the Alaska price. Federal taxes account for 18% (\$2.15/750 ml bottle) after the 1991 federal excise tax (FET) increase.
- Liquor taxes constitute 50% of state revenues from all beverage alcohol, but liquor accounts for less than 37% of total alcohol consumed in the state. The liquor revenue burden per gallon of actual alcohol is \$14.70.
- At \$5.60 per gallon, Alaska's revenue burden on liquor is 55% higher than the U.S. license state average.

Liquor tax hikes already have caused sales to fall decreasing state revenues:

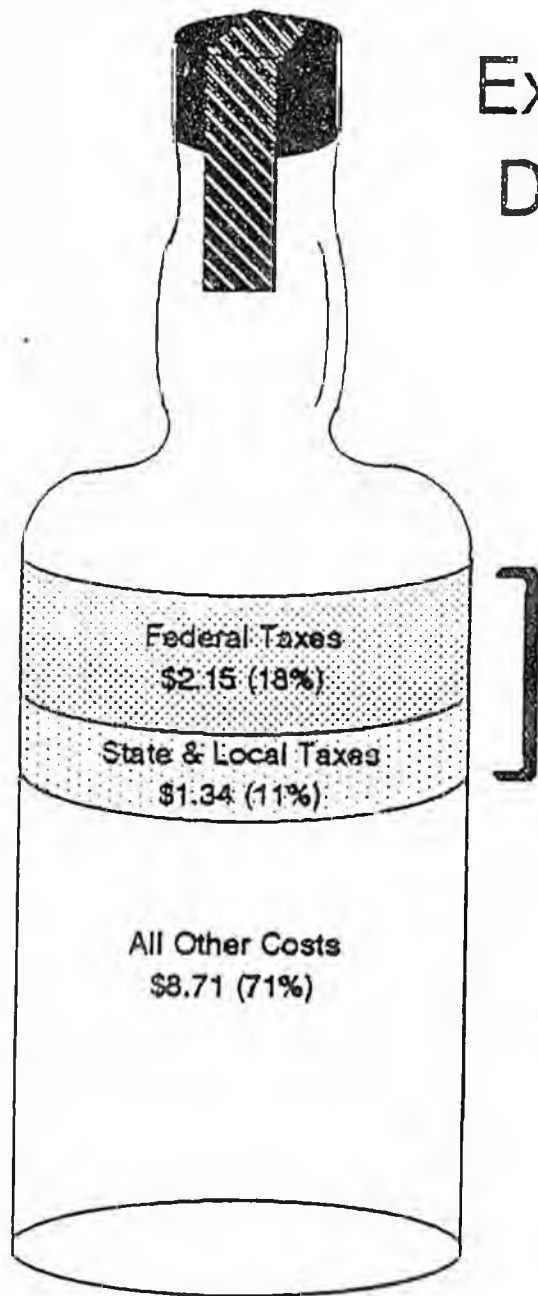
- It is estimated that the January, 1991, 8% Federal tax increase cost the state \$210,000 in state revenue and cut employment in the state by 30 jobs.
- In 1983, when Alaska raised the excise tax rates on liquor to \$5.60 per gallon, liquor consumption in the state declined 11%.
- The 19% liquor FET increase of October, 1985, was followed by a 5.6% decline in the tax base nationwide. Alaska citizens paid an additional \$1.6 million to the federal government in higher liquor taxes.

Alaska's liquor industry is in a persistent downturn -- this means lost revenue:

- Apparent consumption of liquor is down 21% in Alaska since 1983, an average drop of 2.9% per year. Liquor consumption declined 5.6% in 1991 alone.
- Nationwide, liquor apparent consumption has fallen an average of 2.0% annually from 1981 to 1990.

Excessive Tax Burden Distilled Spirits, 1992

ALASKA



**\$3.49 (29%) Goes
to Taxes and Fees**

**Retail Price of a Typical
750-ml Bottle of
80 Proof Spirits:
\$12.20**

STATE OF ALASKA
DEPARTMENT OF COMMUNITY
& REGIONAL AFFAIRS

POSITION PAPER

Bill No.: SB 42
Sponsor: SENATOR JACKO

DCRA FN: Zero (attached)
Position: Support

Title: An Act relating to municipal taxation of alcoholic beverages;
and providing for and effective date.

The bill amends AS 04.21.010(c)(2) to allow municipalities to impose a sales tax "on alcoholic beverages equal to or higher than the sales tax imposed on other sales within the municipality, but may not be lower than the sales tax imposed on other sales within the municipality."

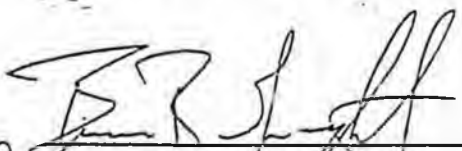
The bill also amends AS 29.45.650(b). This section AS 29.45.650 is the BOROUGH SALES AND USE TAX statute. The amendment removes this section from applying to AS 04.21.010(c). Subsection (b) reads "A borough levying a sales tax may also by ordinance levy a use tax on the storage, use, or consumption of tangible personal property in the borough. The use tax rate must equal the sales tax rate and the use tax shall be levied only on buyers."

The bill has no impact on DCRA programs.

The department supports this legislation for two primary reasons.

- 1) it allows municipalities to place a greater tax on alcoholic beverages; and
- 2) it allows a greater "use" tax to be imposed on alcoholic beverages in communities that do not allow sales of alcohol, but permit importation for personal use.

Alcohol is one of the most destructive drugs in use in rural Alaska today. This bill allows local communities to appropriately discourage its use, and stem the resultant negative impacts on rural families.



Edgar Blatchford
Commissioner

2-18-93

Date

File No.: SB 42/P

C&RA POSITION PAPER

3:48 PM

SENATE COMMITTEE REPORT

DATE: 3/10/93

FURTHER: FINANCE

DATE TURNED INTO OFFICE: 3/16/93

L&C Committee considered SENATE BILL NO. 42

"An Act relating to municipal taxation of alcoholic beverages; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (_____)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

- adopts _____ Letter of Intent
- further referral to the _____

- do pass
- do not pass
- no recommendation
- individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
DC & RA	2/17/93	✓	

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

Tom Kell - No Rec
Alex. P...
J. E. S...
...
Tom Kell - No Rec

Chair: Signature and Recommendation

CS FOR SENATE BILL NO. 42(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 3/10/93
Referred: L&C, FIN

Sponsor(s): SENATORS JACKO, Lincoln

Which communities are dry?

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal taxation of alcoholic beverages; and providing for
2 an effective date."

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

4 * Section 1. AS 04.21.010(c) is amended to read:

5 (c) A municipality may not impose taxes on alcoholic beverages except a

6 (1) property tax on alcoholic beverage inventories;

7 (2) sales tax on alcoholic beverage sales if sales taxes are imposed on

8 other sales within the municipality; a sales tax imposed on alcoholic beverages in a

9 municipality with a population of 2,500 or fewer people or in a municipality that

10 had a population of 2,500 or fewer people on July 1, 1993, may be equal to or

11 higher than the sales tax imposed on other sales within the municipality but may

12 not be lower than the sales tax imposed on other sales within the municipality;

13 (3) sales tax on alcoholic beverage sales that was in effect before

14 July 1, 1985; and

1 (4) sales and use tax on alcoholic beverages if the sale of alcoholic
2 beverages within the municipality has been prohibited under AS 04.11.490.

3 * Sec. 2. AS 29.45.650(b) is amended to read:

4 (b) A borough levying a sales tax may also by ordinance levy a use tax on the
5 storage, use, or consumption of tangible personal property in the borough. The use tax
6 rate must equal the sales tax rate except as otherwise provided under
7 AS 04.21.010(c), and the use tax shall be levied only on buyers.

8 * Sec. 3. This Act takes effect July 1, 1993.

FISCAL NOTE

Revision Date: _____ Dept. Affected: Community and Regional Affairs
 Title: Local Sales Tax on Alcoholic Beverages BRU: _____
 Component: _____
 Sponsor: Jacko
 Requestor: _____ COMPONENT SERIAL NO. N/A

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (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

POSITIONS:

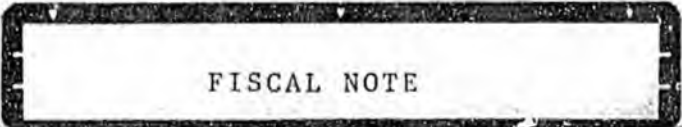
FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current (FY93) Impact \$ _____

ANALYSIS: (Attach a separate page if necessary)
 The bill has no impact on DCRA programs.
 Changes in CS SB 42 (CRA) have no fiscal impact. This fiscal note is appropriate.
3/9/93 date A. Anthony Comte Aide (initial)

Prepared by: Remond Henderson Phone: 465-4708
 Division: Division of Administrative Services Date: 2/17/93
 Approved by Commissioner: [Signature] Deputy Commissioner Date: 2/17/93
 Agency: Community and Regional Affairs

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office



LAGOS v. CITY AND BOROUGH OF SITKA Alaska 641
Cite as 823 P.2d 641 (Alaska 1991)

does not apply to partial indemnity claims based on implied contracts since the contribution act has never applied to implied contract cases. The majority opinion's reliance on the *Vertecs* rule is thus difficult to justify. To repeat, the *Vertecs* rule barred partial non-statutory loss shifting in tort cases because there was a partial statutory loss-shifting remedy. There has never been a partial statutory loss-shifting remedy in implied contract cases, and therefore the rationale of the *Vertecs* rule does not apply to such cases.

In summary, where two parties are at fault and are responsible for an indivisible loss, any rule that provides that one of them must bear the entire loss without the opportunity to shift part of the loss to the other is manifestly unjust. What should happen is that the loss should be shared in proportion to the fault of each party. In accord with this, the trial court should be directed on remand to instruct the jury to apportion the damages which the Borough must pay between the Borough and Roen according to the comparative degree of fault of each.



Mike LAGOS and Mei Fong Lagos, Individually, and d/b/a Marina Restaurant, House of Liquors, Inc. d/b/a House of Liquors, an Alaska corporation; and Pioneer Liquor, Inc., d/b/a Pioneer Bar, an Alaska corporation, Appellants.

v.

CITY AND BOROUGH OF SITKA, Appellees.

No. S-4136.

Supreme Court of Alaska.

Dec. 27, 1991.

Owners of business and businesses which sold alcoholic beverages filed com-

plaint for declaratory judgment and injunctive relief against ordinance of city and borough imposing additional tax on alcoholic beverages above and beyond consumer sales tax imposed on other commodities. The Superior Court, First Judicial District, Sitka, Rodger W. Peques, J., granted summary judgment for city, and owners appealed. The Supreme Court, Rabinowitz, C.J., held that statute authorizing municipalities to impose "sales tax on alcoholic beverages if sales taxes are imposed on other sales within the municipality" prohibits municipality from imposing greater tax on sales of alcoholic beverages than on sales made on other commodities.

Reversed.

1. Statutes ⇄188

Supreme Court does not adhere to plain meaning rule in interpretation of statutes.

2. Statutes ⇄188

In interpreting statute, Supreme Court looks first to language of statute.

3. Intoxicating Liquors ⇄91

Statute authorizing municipalities to impose "sales tax on alcoholic beverages if sales taxes are imposed on other sales within the municipality" prohibits municipality from imposing greater tax on sales of alcoholic beverages than on sales made on other commodities. AS 04.21.010(c), (c)(2).

William G. Royce, Anchorage, for appellants.

Theron J. Cole, Sitka, for appellees.

Barbara J. Blasco, Juneau, for amicus curiae, City and Borough of Juneau.

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

OPINION

RABINOWITZ, Chief Justice.

I. FACTS AND PROCEEDINGS

This appeal raises the question of the validity of 4.08.040 of the Sitka General Code. This ordinance provides,

ANCHORAGE LAW LIBRARY

LAGOS v. SITKA COURT CASE

A consumer sales tax is levied on all sales made in the City and Borough of Sitka at the rate of 4% of the selling price. An additional 4% consumer sales tax is placed upon the sale of alcoholic beverages. Normally the burden of this tax rests upon the consumer.

In 1989, the City and Borough of Sitka ("Sitka") had amended this ordinance to include the additional tax on alcoholic beverages in response to a ballot proposition passed by voters on October 3, 1989. The ballot proposition also provided for "the resulting revenue to be dedicated toward the prevention and treatment of alcohol and drug abuse in Sitka." Just prior to the election, appellants, as owners of business and businesses which sold alcoholic beverages, ("Lagos") filed a complaint for declaratory judgment and injunctive relief, seeking to have the ballot proposition invalidated.

Lagos alleged that the ballot proposition and the ordinance were unlawful on three grounds:

(1) AS 04.21.010(c) prohibits taxing alcoholic beverage sales at a rate higher than the tax on other sales;

(2) The regulation and taxation of alcohol has been preempted by state law except where such power is specifically conferred on municipalities; and

(3) A municipal tax purporting to dedicate resulting revenues violates Article IX, § 7, of the Alaska Constitution.

Lagos filed for summary judgment on the first ground, that Sitka's sales tax was illegal under AS 04.21.010(c). This statute provides,

A municipality may not impose taxes on alcoholic beverages except

(1) property taxes on alcoholic beverage inventories;

(2) sales taxes on alcoholic beverage sales if sales taxes are imposed on other sales within the municipality; and

1. The parties agree that this appeal does not raise any issues of fact, but rather concerns the interpretation of statutes. This court will employ *de novo* review to a grant of summary judgment. *Kollodge v. Stare*, 757 P.2d 1028, 1032

(3) sales taxes on alcoholic beverage sales that were in effect before July 1, 1985.

Lagos read subsection two of this statute to ban discriminatory sales tax rates on alcoholic beverages. In this regard he argued that the legislative history of AS 04.21.010(c) showed that the legislature intended to ban discriminatory rates when it enacted AS 04.21.010(c)(2).

Sitka filed its own motion for summary judgment, requesting the superior court to dismiss Lagos' complaint for declaratory and injunctive relief. Sitka argued that none of the contentions advanced by Lagos raised any "issue as to any material fact and that [Sitka] is entitled to judgment as a matter of law."

The superior court granted summary judgment in favor of Sitka. The court thought Lagos' legislative history argument unpersuasive, and concluded that "[h]ad uniformity in rates of taxation been intended, the language of the legislation could easily have been written to say so.... Some legislators may have opposed a requirement for uniform rates." The superior court did not address Lagos' remaining preemption and unconstitutional dedication arguments. This appeal followed.¹

II. DISCUSSION

In this appeal Lagos raises the same arguments against Sitka's differential alcoholic beverage sales tax as were urged before the superior court.

A. *Does AS 04.21.010(c) prohibit taxing sales of alcoholic beverages at a higher rate than other commodities?*

AS 04.21.010(c)(2) authorizes municipalities to impose a "sales tax on alcoholic beverages if sales taxes are imposed on other sales within the municipality." Lagos interprets this provision to mean "that

(Alaska 1988), and will adopt the rule of law which is "most persuasive in light of precedent, reason and policy." *Langdon v. Champion*, 745 P.2d 1371, 1372 n. 2 (Alaska, 1987) (citations omitted).

sa
lo:
in:
cc

T.
P.
19

m.
U.
P.
w.
m.

ha
de
la
20
in
tic
ur
cc
in
la
73
ci
p.
2

LAGOS v. CITY AND BOROUGH OF SITKA Alaska 643
Cite as 823 P.2d 641 (Alaska 1991)

sales taxes on alcoholic beverages are allowed only to the extent sales taxes are imposed on other sales.”³

on alcohol. It does not explicitly address rates of taxation.

We have stated that the goal of statutory construction is:

1. The legislative history

[T]o give effect to the legislature's intent, with due regard for the meaning the statutory language conveys to others. In this respect, we have repeatedly stated that unless the words have acquired a peculiar meaning, by virtue of statutory definition or judicial construction, they are to be construed in accordance with their common usage.

The language requiring a municipality to tax sales of other commodities before taxing sales of alcoholic beverages was added to AS 04.21.010(c) in 1985. Ch. 74, § 20, SLA 1985. Similar language had been deleted from the statute in 1980.³ Ch. 131, § 4, SLA 1980.

Tesoro Alaska Petroleum Co. v. Kenai Pipeline Co., 746 P.2d 896, 905 (Alaska 1987).

Lagos argues that the legislative history supports his interpretation of the 1985 amendments to AS 04.21.010(c). Senator Eliason sponsored the amendment to AS 04.21.010(c), and the Senate Finance Committee deliberated over the merits of the amendment. In proceedings before the Senate Finance Committee, Senator Eliason asked Senator Ray to “testify on the background of this particular amendment.” Proceedings of the Senate Finance Committee, May 8, 1985 (“Proceedings”) (testimony of Senator Eliason). Senator Ray testified as to his involvement with the 1980 recodification of the code dealing with alcoholic beverages. He noted that the 1980 elimination of the language in the amendment was inadvertent. He then stated, “[i]n fact, two or three years after the bill had passed when ... Juneau ... considered adding an additional tax, it surprised me immensely, and I said, ‘Well, they can’t do that.’” *Id.* Senator Ray went on to explain, “It would seem to me it would be discriminatory to have an additional tax on anything.” *Id.* Because Ju-

[1,2] We do not adhere to the plain meaning rule in interpretation of statutes. *University of Alaska v. Geistauts*, 666 P.2d 424, 428 n. 5 (Alaska 1983). However, we have stated that “where a statute’s meaning appears clear and unambiguous, ... the party asserting a different meaning has a correspondingly heavy burden of demonstrating contrary legislative intent.” *Id.* See also *State v. Alex*, 646 P.2d 203, 208 n. 4 (Alaska 1982) (under Alaska’s sliding scale approach to statutory interpretation, the plainer the language of the statute the more convincing the evidence of contrary legislative intent must be). In interpreting a statute, we look first to the language of the statute. *Ward v. State*, 758 P.2d 87, 89 n. 5 (Alaska 1988). Here, the language of the statute, on its face, proscribes imposition of a sales tax solely

2. Before the superior court Lagos argued in part:

within the municipality—thus requiring an equality of rate.

If one restricts the analysis to the language amending (c)(2), one may argue (as Sitka does) that the statute allows Sitka to tax alcoholic beverages at any rate, so long as sales taxes are imposed on some other sales within the municipality. It is true that (c)(2) contains no discussion regarding the *rate* of taxation on alcoholic beverage sales. Thus, so long as the analysis is restricted to (c)(2), one could argue (as Sitka does) that municipalities are free to single out sales of alcoholic beverages for taxation at a rate greater than taxes imposed on other sales. Others could argue with equal convincing force that sales taxes on alcoholic beverages are allowed *only to the extent sales taxes are imposed on other sales*

Thus, it is necessary to consider the meaning and intended effect of (c)(3) adopted as part of the 1985 amendment....

(Emphasis in original.)

3. The original language read, “nor shall any municipality impose taxes other than property taxes on liquor inventories and sales taxes on liquor sales when such taxes are levied on other property and sales within the community.” Ch. 86, § 1, SLA 1960. Apparently, the language requiring taxes on all commodities was inadvertently eliminated when the code was revised in 1980. See Senate Finance Comm. Proceedings, May 7, 1985 (testimony of Sen. Eliason); *id.*, May 8, 1985 (testimony of Senator Ray).

ANCHORAGE LAW LIBRARY

neau did in fact enact a tax which taxes sales of alcohol at a higher rate than it taxes other commodities, Lagos concludes that Senator Ray was interpreting the missing language to prohibit enactment of differential sales taxes on sales of alcohol.

After listening to Senator Ray's testimony, Senator Eliason explained,

The only limitations we're imposing on local governments is the fact that they cannot take a specific sales tax on a specific industry. What we're saying is that if you want to tax liquor and whatever else you might want to tax, that's alright. But we want to—it's keeping any specific industry—going out and point and saying, "We're going to tax you and no one else." ... They can ... impose a ten percent tax on liquor and tobacco—that wouldn't be in violation of this provision.... If the proposition read, "Shall we impose a ten percent tax on tobacco only?" they couldn't under this provision.

Id. Earlier in the proceedings, Senator Eliason had stated,

Under this language, no they can't discriminate between alcohol or food or clothing or any other commodity that's sold in the market. Its reasoning being that the state does regulate very stringently the alcoholic program in Alaska, so that's what the intent of the legislation is to treat them all equally.

Id. This history suggests that both senators intended to eliminate differential rates of taxation on sales of alcohol.

Additional support for Lagos' position is found in a comment by Senator Ferguson. At the May 7, 1985 proceedings of the Senate Finance Committee, Senator Ferguson

4. After hearing the testimony of the Acting Commissioner, the committee then questioned the drafter of the amendment, Tamara Cook (of the legislative affairs committee staff). She stated, "[a]s I read this language, if a municipality, whether it be a city or a borough, in fact imposed a sales tax on anything other than alcohol, it would be free to then also include alcohol within its sales tax structure." Proceedings, May 7, 1985.

5. The amicus, City and Borough of Juneau, argues in part as follows:

son asked, "Dillingham is thinking about raising the taxes on alcohol, and would they be allowed to continue their movement? I guess they wouldn't be able to after July 1, 1985?" *Id.* Senator Kerttula in response stated that "[a]s long as their ordinance is fully implemented prior to July 1st, they would be grandfathered in." *Id.* Apparently, both these senators believed that the amendment in question prohibited differential rates on alcohol sales tax.

Subsequently, at the same May 7, 1985 Senate Finance Committee meeting, the strongest statement concerning the subject of differential rates of taxation was made by the then Acting Commissioner of the Department of Community & Regional Affairs, in response to the comment by Senator Ferguson. The Acting Commissioner stated, "I understand then in the amendment that this refers to tax equalization and you cannot set a sales tax for alcohol higher than any other commodity within the community." *Id.*

Sitka counters by noting that

the Lagos' are relying upon the statements of individual legislators made in a single committee. There are no committee findings, no report, no journal entries, no indication that the whole legislature knew of or considered the statements or even considered anything beyond the words of the amendment that was part of a much larger bill.... Since there is no indication that the statements made in the committee were before the legislature, the legislature's intent must be presumed to be that expressed in the words of the statute.⁵

Sitka, and the amicus, also rely on an opinion from an Assistant Attorney General

Under the statute, a preexisting sales tax on alcoholic beverages was "grandfathered" regardless of whether the tax was part of a two-tiered sales tax system (such as Juneau's sales tax on alcoholic beverages) or part of a single-tiered system which imposed a tax on the sales of alcoholic beverages only. Thus, the only sales tax system proscribed by the statute is one which would impose a tax on the sales of alcoholic beverages only and which was not in effect before July 1, 1985.

(Emphasis in original.)

al and a me-
ty Director
es for the
of which c
ment to A
the rate of

2. The

Lagos' further clause permits the alcoholic beverage before July legislature rates of amendment asserts that to the com- Kotzebue, in place of alcoholic beverage amendment Lagos point ate Finance the commit- nities were by the gra- of the legi- to AS 04... sales tax c Kotzebue, 010(c)(3) w- pose of pro- sales tax: munities. amt guilty prohibits on sales c by the pr-

The City there is no 04.21.0106 of unequal the comm-

6. In supplements & sources: nn. 6 & 7 of Fisher ("Opinion controlling") are

7. In addition surrounding

al and a memorandum from the then Deputy Director of the Division of Legal Services for the Legislative Affairs Agency, both of which concluded that the 1985 amendment to AS 04.21.010(c) did not speak to the rate of taxation.⁶

2. The effect of AS 04.21.010(c)(3)

Lagos further argues that the grandfather clause of AS 04.21.010(c)(3), which permits the continuation of "sales taxes on alcoholic beverage sales that were in effect before July 1, 1985," demonstrates that the legislature intended to prohibit differential rates of taxation when it enacted its amendments to AS 04.21.010(c). Lagos asserts that this grandfather clause applied to the communities of Craig, Juneau, and Kotzebue, because those communities had in place differential taxes on the sale of alcoholic beverages at the time the 1985 amendments were enacted. Additionally, Lagos points to the discussions of the Senate Finance Committee which indicate that the committee believed these three communities were the only communities affected by the grandfather clause. From a review of the legislative history of the amendment to AS 04.21.010(c)(3), and the differential sales tax ordinances of Juneau, Craig, and Kotzebue, Lagos concludes that AS 04.21.010(c)(3) was enacted for the specific purpose of preserving the two-tiered municipal sales taxes on alcohol in these three communities. Thus, Lagos concludes that any ambiguity as to whether AS 04.21.010(c)(2) prohibits discriminatory rates of taxation on sales of alcoholic beverages is resolved by the provisions of AS 04.21.010(c)(3).

The City and Borough of Sitka reply that there is no indication in the wording of AS 04.21.010(c)(3) that it is limited to instances of unequal taxation or that it is limited to the communities of Craig, Juneau, and Kot-

zebue. "It could just as easily be applied to communities taxing alcohol alone prior to July 1, 1985."

III. CONCLUSION

[3] Our review of the merits leads us to the conclusion that Lagos' position is the more persuasive one. We therefore hold that the Sitka ordinance which taxes the sales of alcoholic beverages at a 4% higher rate than sales made on other commodities within the City and Borough of Sitka is violative of AS 04.21.010(c).

The text of AS 04.21.010(c)(2) is ambiguous in that it fails to clearly indicate whether it prohibits the imposition of discriminatory rates of sales taxes on sales of alcoholic beverages. On the other hand, the text of AS 04.21.010(c)(3) and the relevant legislative history concerning this 1985 amendment to AS 04.21.010(c), indicate that the legislature intended its amendments to prohibit the imposition of discriminatory sales taxes, whether in the form of sales tax rate differentials or a sales tax imposed solely on the sale of alcoholic beverages.⁷ Thus, we conclude that AS 04.21.010(c)(2) and AS 04.21.010(c)(3) when read together, bar a municipality from taxing only the sale of alcoholic beverages and further require that if sales taxes are imposed on other commodities then the rate of taxation on the sale of alcoholic beverages may not exceed the rate of taxation imposed upon such other commodities sales.

REVERSED.⁸



6. In support of its reliance on these two documents Sitka cites *State, Dep't of Natural Resources v. City of Haines*, 627 P.2d 1047, 1049 nn. 6 & 7 (Alaska 1981) and *Carney v. State, Bd. of Fisheries*, 785 P.2d 544, 548 (Alaska 1990) ("Opinions of the Attorney General, while not controlling on matters of statutory interpretation are entitled to some deference.").

7. In addition to the text and legislative history surrounding the adoption of AS 04.21.010(c)(3),

the legislative history of AS 04.21.010(c)(2) noted above, provides evidence that some members of the Senate Finance Committee, including the amendment's sponsor, intended that there be no discrimination in a municipality's rate of taxation concerning alcoholic beverages.

8. Our holding that the ordinance in question is unlawful makes it unnecessary to address any of the remaining issues in this appeal.

To: Bryce Edgemon
Senator Jacko's Office
Fax: 465-2997

From: Alice Ruby
Dillingham

Date: 3/10/93

Re: Alcohol Tax information

I've obtained some information that may be useful in Senator Jacko's effort to pass the alcohol tax legislation. Following is a description of attached info.

1. Memo from Ward Jones to Christy Tilden

Ward Jones is an employee of BBAHC and provided the information in the memo to Christy Tilden at her request - probably in relationship to her grant program. Ward gave me permission to release the information to you. He advises that he will continue to tabulate this kind of information but will not have the results for a while.

The most interesting to me are paragraph's IV, VI and VII on the second page. Adding these figures brings a total of \$180,925 spent per quarter for alcohol related incidents by the Dillingham Police Department and Ambulance. This means that just the City of Dillingham spends an estimated \$723,700 per year on alcohol related incidents.

2. Estimated Alcohol Sales in Dillingham, July - December 1992

I obtained these figures from actual sales tax reports submitted by the businesses who reported in Dillingham. Note that the AhSaVan just recently opened and will be operating under the Captains Table liquor license and is not reported in this group and Ricardo's is not reported (liquor and food are not separated so I didn't count them).

Estimated sales for that six month period were \$997,382. Using this figure to estimate a years sales brings us to \$1,994,764.00. Note that this does not take April - June into account which as you probably know are part of the busiest season for the liquor sales businesses.

I did some rough calculations on sales taxes at the current 5%, 8%, 10% and 15%. You can extend it further by adding any percentage to the Tot. Tax. Sales (which is the total taxable sales for that month).

3. Effect on individual product prices

I did this just out of curiosity. I wondered what the effect of the tax would be on the consumer's price. I used the price sheet from one business in town (who shall remain anonymous). I had to break out the current 5% sales tax to determine the base prices charged for various products. Then I added 8%, 10% and 15% just to see what happened.

I'll have to admit that I was fairly surprised when I saw the price sheet. I haven't been out for a while and hadn't realized how much prices have gone up. If you want to know what some of the drink categories are let me know. (Example: a Premium is the expensive liquors like baileys, sloe gin, etc.).

4. Miscellaneous

I made the Mayor and Manager aware that I was going to send this information to you. As well I let Fred Torrisi know because he has been supportive of this legislation. I'll be passing the information on to them as well.

Please let me know if I can provide more information. Also, I will be happy to testify when appropriate and will probably use some of this info that I am passing on to you.

In case this information is helpful.....I and the City (I think) are convinced that the alcohol tax will not deter alcohol consumption, nor will it solve some of our social problems by itself. It will, however, provide funding to off-set existing alcohol related expenses and maybe allow us to develop some solutions to the problems. You can see, however, that we would have to tax pretty high before we could actually balance out expenses and income. I don't know if the citizens will all support a really high tax - I do think that they would support a moderate tax in Dillingham.

Memo:

TO: Cristy Tilden, Program Director, BBAHC Alcohol Program

FROM: Ward Jones, Injury Prevention Specialist, BBAHC
Environmental Health *WJ*

RE: Costs of alcohol and drugs to BBAHC and Dillingham
community first quarter FY 93 (10/1-12/31)

DATE: February 2, 1993

In my capacity as Injury Prevention Specialist I have been charged with surveillance of serious injuries. The following are alcohol and drug related incidents and costs:

I.	2 Detox admits @		
	A. 72 hr. hospital stay @ \$425/da.	= \$	1275
	B. ER fee	= \$	70
	C. Physician fee	= \$	60
	D. Average lab fee	= \$	200
	E. Average medicine fee	= \$	20
	F. Average supplies	= \$	20
		Total	= \$ 1,645
		Grand Total	= \$ 3,290

II.	25 Title 47 admits @		
	A. 24 hr. hospital stay @ \$425/da.	= \$	425
	B. Other costs as above	= \$	370
		Total	= \$ 785
		Grand Total	= \$19,625

III. In addition to the above there were the following items that were determined to be alcohol and or drug related:

A. Two drug overdoses
 B. One alcohol and drug overdose
 C. One skull fracture
 D. One suicide attempt
 E. One loss of consciousness
 F. One undetermined trauma
 G. One hypothermia
 If we assume one nights stay and similar other expenses to the above the total for these injuries is \$6,360

IV. There were a total of five ambulance runs associated with the above @ \$125 = \$625

V. There are some expenses not documented with the above, such as xray and medevac that would add significantly to the total.

VI. The City of Dillingham Community Service Patrol is run for the sole purpose of alcohol mitigation so its yearly budget of approximately \$176,000 plus \$30,000 in kind services from the city can be divided by four for a quarterly total of \$51,500.

VII. Seventy percent of the Dillingham City Police Department calls are alcohol related. Consequently if we take seventy percent of the approximately \$736,000 and divide by four we have a quarterly total of \$128,800.

The expenses from the above are not all inclusive and can be expanded upon, however they give us a rough total of \$209,670 spent by agencies in the mitigation of alcohol problems.

The above list is rough and by no means comprehensive. Other agencies and departments that are impacted are:

1. BBAHC Alcohol Program 100%
2. BBAHC Mental Health Department
3. SAFE
4. Alaska State Troopers
5. BBAHC EMS Department
6. BBAHC Community Health Aide Program
7. Others?

Estimated
Alcohol Sales
in
City of Dillingham
July-December 1992

Taxable Income figures taken from Sales Tax Reports prepared by businesses
and submitted to City of Dillingham

FAX NO. 8425462

Current Local Businesses	Reported Taxable Sales for July 92 to December 92						Tot. Tax Jul-92 Sales	(Current)			
	Dec-92	Nov-92	Oct-92	Sep-92	Aug-92	Tax@5%		Tax@8%	Tax@10%	Tax@15%	
Cannery Lounge	\$3,827.49	\$6,577.61	\$4,461.54	\$7,621.37	\$12,756.73	NA	\$35,244.74	\$1,762.24	\$2,819.58	\$3,524.47	\$5,286.71
D/g. Liquor	\$55,454.32	\$52,583.30	\$58,986.29	\$62,648.54	\$80,730.31	\$105,908.19	\$416,310.95	\$20,815.55	\$33,304.88	\$41,831.10	\$62,446.64
Olson Liquor	\$21,087.14	\$18,813.72	\$20,332.98	\$19,009.30	\$28,213.33	\$42,453.18	\$149,810.15	\$7,495.51	\$11,892.81	\$14,991.02	\$22,486.52
Sea Inn	\$28,125.02	\$34,989.63	\$34,209.47	\$35,614.20	\$46,271.17	\$57,925.92	\$237,135.41	\$11,856.77	\$18,970.83	\$23,713.54	\$35,570.31
Willow Tree	\$17,589.11	\$20,500.91	\$23,730.76	\$21,179.42	\$31,200.60	\$44,580.01	\$158,780.81	\$7,939.04	\$12,702.46	\$15,878.06	\$23,817.12
Tot. Taxable Sales							\$997,382.08				
Estimated Tax								\$49,889.10	\$79,790.56	\$99,738.21	\$149,607.31

CHOCGIUNG LTD

MAR-10-93 WED 14:23

Estimated effect on individual product prices

Based on prices currently charged by one business in Dillingham

Mar-93

Alcohol Item	Current Price w/5% tax	Base Price	Price w/8% tax	Price w/10%	Price w/15%
House Wine/glass	\$3.50	\$3.33	\$3.60	\$3.67	\$3.83
Can Beer	\$3.00	\$2.86	\$3.09	\$3.14	\$3.29
Bottle Beer	\$3.50	\$3.33	\$3.60	\$3.67	\$3.83
Import Beer	\$4.00	\$3.81	\$4.11	\$4.19	\$4.38
Specials	\$2.50	\$2.38	\$2.57	\$2.62	\$2.74
Well Drinks	\$3.50	\$3.33	\$3.60	\$3.67	\$3.83
Call Drinks	\$4.00	\$3.81	\$4.11	\$4.19	\$4.38
Premium	\$4.50	\$4.29	\$4.63	\$4.71	\$4.93
Super Premium	\$5.00	\$4.76	\$5.14	\$5.24	\$5.48
Mixed Liq (2 or more)	\$5.00	\$4.76	\$5.14	\$5.24	\$5.48
Blended	\$6.00	\$5.71	\$6.17	\$6.29	\$6.57
Multi Liquor	\$7.00	\$6.67	\$7.20	\$7.33	\$7.67

Note: the prices I obtained were the actual cost to consumer, which includes tax. I backed the sales tax out by dividing the price by 1.05 which gives you the base price of the product to the consumer

SB

44

(File 1)

Alaska State Legislature

Senator Tim Kelly, Chair
Senator Steve Rieger, Vice Chair
Senator Drue Pearce
Senator Judy Salo
Senator Georgianna Lincoln



SENATE LABOR AND COMMERCE COMMITTEE

WHILE IN JUNEAU
SENATE LABOR & COMMERCE
STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-3819

3111 C STREET, SUITE 550
ANCHORAGE, ALASKA 99503
(907) 561-7612

MEMORANDUM

TO: Senator Robin Taylor, Chair
Senate Labor & Commerce Committee

FROM: Senator Tim Kelly *TDK*

DATE: January 26, 1993

RE: Hearing Request for CS SB 44 (L&C)
Alaska Ski Safety Act of 1993

I respectfully request you consider scheduling a hearing for CS SB 44 (L&C) at the Senate Judiciary Committee's earliest convenience.

I've attached two zero fiscal notes from DCED and the Court System, my position paper, letters of support, and other back-up material for your reference.

Don't hesitate to call for further information.

Thank you in advance for your consideration.

Alaska State Legislature

Senator Tim Kelly, Chair
Senator Steve Rieger, Vice Chair
Senator Drue Pearce
Senator Judy Salo
Senator Georgianna Lincoln



SENATE LABOR AND COMMERCE COMMITTEE

WHILE IN JUNEAU
SENATE LABOR & COMMERCE
STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-3819

3111 C STREET, SUITE 550
ANCHORAGE, ALASKA 99503
(907) 561-7612

SPONSOR'S STATEMENT ON CSSB 44 (L&C) ALASKA SKI SAFETY ACT OF 1993

CSSB 44 (L&C) attempts to strike a balance between protecting skiers and ski resort operators.

This legislation would remove ski resort operators from liability for injuries caused by the inherent risks and dangers of skiing. It does not absolve ski operators from negligence as outlined by this legislation.

In addition, this legislation would require ski operators to:

- Prepare and obtain approval from the Commissioner of Public Safety or land managing U.S. or State agency for a plan of operation for each ski season, and to provide a qualified ski patrol with qualifications meeting or exceeding the standards of the National Ski Patrol System.

The Labor & Commerce Committee added language requiring that this plan be implemented throughout the ski season, and specific requirements as to what must be in the plan of operation, such as provisions for ski patrol, avalanche control, tramway evacuation, hazard marking, first aid, etc...

- Establish and maintain a tramway sign system for the protection and instruction of passengers.
- Establish and maintain a sign system for ski trails and slopes intended to instruct skiers on the difficulty of the trail or slope.

In addition, the Labor & Commerce Committee added language to require marking for exposed forest growth, rocks, stumps, streambeds, trees, roads, catwalks, or other terrain modifications not readily visible to skiers under conditions of ordinary visibility from a distance of at least 100 feet.

Sponsor's Statement

CSSB 44 (L&C)

Page 2

Passage of CSSB 44 (L&C) could have both minor and major economic impacts in Alaska. First, by attempting to lower insurance costs to ski resort operators throughout the State, these cost savings could be passed on to skiers in the form of lower ticket prices. Second, by recognizing the inherent risks of skiing and balancing the rights of skiers and ski resort operators, this legislation could encourage the continuing development of ski resorts in Alaska.

The Division of Tourism estimates that more than 43,000 tourists visited Alyeska Resort alone from October 1991 to May 1992, spending an average of \$466 a piece while in Alaska. Currently, Seibu Alaska is investing more than \$55 million in its current expansion. With passage of SB 44, Seibu intends to further develop Alyeska by expanding into the Winter Creek area.

Seibu's goal is to transform Alyeska into a world class ski resort which will attract winter travelers to our state from all over the world. This expansion would involve the investment of millions of dollars by Seibu, bring thousands of new tourists into our State at a time of year when we desperately need tourists to use the infrastructure that has been developed to support our summer tourism industry, and increase local employment opportunities.

This legislation would encourage other ski resort operators who are not now in Alaska to consider Alaska equally with the western United States and Canada when determining where next to expand.

CSSB 44 (L&C) has zero fiscal notes from the Department of Commerce & Economic Development and the Court System.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 44

Revision Date: _____

Title: An Act relating to civil liability for skiing accidents

Sponsor: Senator Kelly

Requestor: Senate Labor and Commerce

Department Affected: Commerce and Economic Development

BRU: Insurance

Component: Insurance Operations

COMPONENT SERIAL NO. 354

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE FUND SOURCE:	0	0	0	0	0	0
-------------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	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

POSITIONS:

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

Estimate of current year (FY93) impact: 0.0

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Changes in CSSB 44 (LAC)
have no fiscal impact. This
fiscal note is appropriate.

1/26/93 JPT
date Compt Aide (initial)

Prepared by: Dave Walsh

Division: Insurance

Phone: 465-2515

Date: January 15, 1993

Approved by Commissioner: Paul Fuhs

Agency: Commerce and Economic Development

Date: _____

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill No. SB 44

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to civil liability for BRU: Trial Courts
skiing accidents.. Components: _____
 Sponsor: Kelly
 Requestor: Labor & Commerce COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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						
---------	--	--	--	--	--	--

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Changes in CS544 (LFC) have no fiscal impact. This fiscal note is appropriate.

1/26/93 date [Signature] Comte Aide (initial)

Prepared by: C. S. Christensen III, Staff Counsel

Division: Alaska Court System

Phone: 264-8228

Date: 01/15/93

Approved by: Arthur H. Snowden, II, Administrative Director

Agency: Alaska Court System

Date: 01/15/93

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

**LETTERS OF SUPPORT FOR SB 44 RECEIVED BY THE
SENATE LABOR & COMMERCE COMMITTEE**

Anchorage Convention & Visitors Bureau
Anchorage Economic Development Corporation
Alaska Ski Areas Association
Alaska Visitors Association
Alaska Hotel & Motel Association
Days Inn
Leslye H. Randall
United Brotherhood of Carpenters and Joiners of America
 Local Union No. 1281
Westmark Hotels

**Anchorage!
Convention & Visitors
Bureau**

*Our Community's Way
of Attracting and
Serving Visitors*

1600 A Street, Suite 200
Anchorage, AK 99501-5162
(907) 276-5118
Fax: (907) 278-5589

Officers
Chairman:
LARRY G. ANDERSON
L.G. Anderson

Vice-Chairman:
LINDA McLAUGHLIN
Delta Air Lines

Secretary/Treasurer:
FOREST PALLSON
Sheraton Anchorage Hotel

Immediate Past Chairman:
JOHN C. (JIM) SWALLING
John C. Swalling, CPA, AFC

President & CEO:
BILL ELANDER
*Anchorage Convention &
Visitors Bureau*

Directors
JAMES BARNETT
Anchorage Municipal Assembly
KARRIE A. BOHI
Municipality of Anchorage
TOM BRENNAN
Brennan & Brennan, Inc.
CRAG CAMPBELL
Anchorage Municipal Assembly
DAVID CUDDY
*First National Bank
of Anchorage*
BILL DOSS
J.C. Penney
BILL DUGDALE
Westmark Anchorage Hotel
DALE FOX
*Fox Practical Marketing
& Management*
PERRY GREEN
David Green Master Builders
GERALD E. GRILLY
Anchorage Daily News
WALTER J. HICKEL, JR.
Hoh's Captain Cook
LAURIE HITE
Andland Marketing Group
KETCH KETCHUM
Ketchum Air Service, Inc.
DICK KNAPP
Alaska Railroad Corporation
TONY KNOWLES
Downtown Deli
JOHN KUEHLKAMP
*Alaska Sightseeing Tours
Cruise West*
GINA MARIE LINDSEY
*Anchorage International
Airport*
MAX LOWE
Regal Alaskan Hotel
BILL MACKAY
Alaska Airlines
SUZANNE SLOAN-RUST
Rust's Flying Service, Inc.

#93-01

**Resolution in Support of Ski Safety and
Inherent Risks of Skiing Legislation**

Whereas, skiing in Alaska has inherent risks caused by terrain, weather, equipment and individual skiers, and

Whereas, financially sound ski areas are a significant part of Alaska's winter tourism industry and resident recreation, and

Whereas, the steady growth of winter tourism provides jobs for residents and revenue to the state, and

Whereas, the rising cost of insurance and increasing threat of lawsuits as a result of not recognizing the sport's inherent risk could force the price of skiing to grow so much that the majority of Alaskans and visitors could not afford the sport, threatening the continued operation of many ski areas, and

Whereas, this issue has been recognized by other states, primarily in the western United States, where skiing is an important part of their winter tourism industry, through the enactment of appropriate liability laws, and

Whereas, if the inherent risk of skiing is not recognized and controlled in the state of Alaska, the state will remain non competitive in its efforts to attract winter visitors who would utilize established ski resorts and winter recreational areas,

Now Therefore Be It Resolved, that the Anchorage Convention and Visitors Bureau Board of Directors, on behalf of its more than 900 members, unanimously supports the passage of Senate Bill 44 and House Bill 41.

Adopted by the Anchorage Convention & Visitors Bureau
Board of Directors March 26, 1992

Larry G. Anderson
Chairman
Anchorage Convention & Visitors Bureau





ANCHORAGE
ECONOMIC
DEVELOPMENT
CORPORATION

January 18, 1992

Honorable Tim Kelly
111 Capitol
PO Box V
Juneau, AK 99811

Dear Senator Kelly:

The Anchorage Economic Development Corp. (AEDC) supports SB44, Civil Liability for Skiing Accidents.

As you know, the AEDC's mission is to stimulate economic development. One industry we focus on because of its tremendous potential is tourism. We have fully supported Seibu Alaska's Alyeska Resort expansion and support development of the Glacier/Winner Creek areas as well.

Alaska's ski resort success will depend on how effectively we compete with other developable areas in the northwest United States and Canada. Passing SB44 is critical to Alaska's winter tourism because it will put Alaska on equal footing with its competitors on the issue of skier liability.

Because this bill will so greatly benefit an industry still in its infancy in Alaska, and will only harm a small sector of the economy (trial lawyers) in Alaska, the AEDC fully supports passing SB44.

Sincerely,

A handwritten signature in cursive script, appearing to read "S. Hawkins".

Scott E. Hawkins
President



Alaska Ski Areas Association

7015 ABBOTT ROAD
ANCHORAGE, ALASKA 99516
(907) 346-1446

Alaska State Senate
Senate Labor & Commerce
Juneau, Alaska
Attention: Tim Kelly, Chair

1-20-93

Dear Mr Kelly:

I was at Tuesdays public hearing but did not get a chance to testify so I am writing in support of SB 44. I am the Chairman of the Alaska Ski Areas Association and also the General Manager of Hilltop Ski Area here in Anchorage.

There are 13 downhill ski areas in Alaska: Cleary Summit, Ski Land, Ravenwood and Birch Hill all near Fairbanks. Black Rapids near Delta Junction. Hilltop, Hillberg, Arctic Valley and Alpenglow in Anchorage. Alyeska Resort in Girdwood. The Coast Guard Hill in Kodiak. Mt. Eyak in Cordova, and Eaglecrest near Juneau. In addition there are numerous organizations that prepare and operate Nordic trails: Chena Hot Springs Resort, Hatchers Pass Lodge and Anchorage Nordic Ski Club just to name a few.

There are many inherent risks in any sport. Skiing is no exception. Ski area operators sell access to a winter alpine or nordic environment not to a perfectly groomed danger free slope. This environment includes all manner of risks: weather, slopes, forest growth, snow conditions as well as some man made obstacles. All skiers should recognize that ski area operators and track setters can not modify even a small portion of this environment. There is no way to make skiing absolutely "safe". Individual skiers must bear some of the responsibility for their participation in the sport.

Since 1980 Alaska has had a statute relieving ski area operators of liability for injuries or property damage which arise from the inherent risks of skiing. The purpose of this statute was to recognize that a ski area operator could not eliminate these risks, and to ensure that a ski areas could obtain insurance and continue to provide skiers the opportunity to enjoy their favorite winter outdoor recreation. An effective law will continue to be important in providing the legal climate necessary to further development of winter tourism facilities in Alaska.

In December of 1991 the Alaska Supreme Court interpreted the statute as not preventing suits by injured skiers. Claiming an operator had failed to make the slopes "safe" for patrons. This ruling defeats the purpose of the statute and leaves operators and skiers in substantial danger that Alaska ski areas will not be able to obtain insurance at reasonable rates. Assuming that a ski area can still operate, ticket prices will have to increase substantially in order to cover the increased insurance premiums.

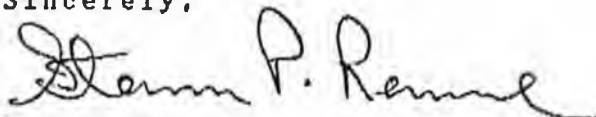
As a result of that Supreme Court decision the City of Valdez can no longer offer it's residents the recreation of downhill skiing. If this legislation does not pass perhaps other ski areas around the state will fall under the load of escalating premiums and frivolous law suits.

There is a segment of the community that believes that this legislation is proceeding only to protect a multinational corporation (Seibu) from liability. Most of the ski areas within the state are very small and most are products of the communities that they are located in. This legislation will affect all of them not just one of them and in most cases if insurance premiums rise as a result of poor legislative protection it will become cost prohibitive to operate. The ski areas are not trying to hide from their responsibilities to provide safety for the skiing public because we recognize that if we fail to do that soon we will be out of business.

Alaska has a lot to be proud of. Last year an Alaskan skier by the name of Hilary Lindh came home from the Olympics with a Silver Medal. If we fail to support this legislation where will the Hilary Lindh's of the future get a chance to practice and excel in this sport?

I urge you to please support this legislation!!

Sincerely,



Steven P. Remme
ASAA Chairman



ALASKA VISITORS ASSOCIATION

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

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

**1991-92
Executive Officers**

President
Bob Berkla

Southern Skidooing
Ketchikan, Alaska

1st Vice-President
Bob Jacobson
Wings of Alaska
Sitka, Alaska

2nd Vice-President
Dennis Brandson
Westmark Hotels
Anchorage, Alaska

Vice-President/
Government Relations
Johnnie Blalock
Riverboat Discovery
Fairbanks, Alaska

Secretary
Stan Stephens
San Stephens Charters
Valdez, AK

Treasurer
Tim Kirschbaum
Alaska Sightseeing/
CruiseWest
Anchorage, Alaska

Board of Directors
Larry Anderson
Murkuk

Dean Brown
Princess Tours
Peter Butz
Special Expeditions

Tim Cenny
Fountainhead
Development
Bob Dladinger
Alaska Travel Adventures

Bill Elander
Anchorage CVB
Bob Engelbrecht
TEASCO Helicopters

Lola Hansen-Paylor
Kodak Island CVB
Len Laurason
Martinez, Inc.

Lynn Leary
Frontier Flying Service
John Litco
Sika Tours

Linda McLaughlin
Delta Air Lines
Ralph Nestor
Travel Industry
Management, UAF

David Palmer
Alaska Airlines
Ray Pedersen
Princess Tours

Brad Phillips
Phillips Cruises & Tours
Terry Underwood
HAL-Wisconsin Inc.

Richard West
Alaska Sightseeing/
CruiseWest
Tim Worthen
Regency Cruises

Karen Cowart
Executive Director

#92-03

RESOLUTION IN SUPPORT OF INHERENT RISKS OF SKIING LEGISLATION

WHEREAS, the sport of skiing is practiced by a large number of Alaskans and attracts visitors to the state who provide significant contributions to the state economy through the construction and operation of skiing facilities, and

WHEREAS, skiing is a critical element of efforts to increase fall/winter/spring visitation, and

WHEREAS, skiing is an exhilarating sport, the enjoyment of which includes several components: exercise, enjoyment of the outdoors, physical and mental challenges, and the excitement of taking risk, and

WHEREAS, skiing is conducted in an environment that includes natural variations of terrain, weather, and snow conditions and necessary man-made amenities created and maintained by ski area operators, and

WHEREAS, the sport of skiing is accompanied by inherent risks of accident and injury, and

WHEREAS, the Alaska Legislature in 1980 recognized these inherent risks and the individual skiers responsibility to assume them by enacting AS 09.65.135, "Limitations on Claims Arising From Skiing," and

WHEREAS, the Alaska Supreme Court, in *Hiltschman vs. City of Valdez et al*, rendered an opinion that undermines the intent and effectiveness of the act, and

WHEREAS, the cost of insurance and defense from suits involving the inherent risks of skiing are certain to rise dramatically as a result of the ruling, causing increases in ticket prices and threatening the continued operation of some areas, and

WHEREAS, legislation has been introduced to clarify provisions of the act and restore its effectiveness,

NOW THEREFORE BE IT RESOLVED, that the Alaska Visitors Association Board of Directors, on behalf of the membership and tourism industry party represents, endorses adoption of revision to AS 09.65.135, "Limitations on Claims Arising From Skiing," and will join public and private organizations seeking passage of Senate Bill 403 and House Bill 491.

Adopted by the Alaska Visitors Association

Board of Directors

February 21, 1992

Juneau, Alaska

Post-It

To
C

Handwritten note: 11/11/92

SENT BY: ANCHORAGE HILTON HOTEL: 1-19-93 12:08PM :

9072657175→

1



Alaska Hotel & Motel Association

PO. BOX 104900 • ANCHORAGE, ALASKA 99510 • (907) 344-4778

January 18, 1993

Senator Tim Kelly
State Capitol
Room 101
Juneau, AK 99801-1182

Dear Senator Kelly:

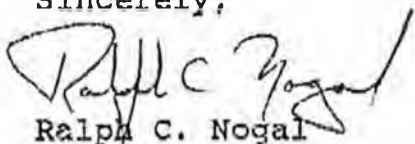
As President of the Alaska Hotel Motel Association, I would like to clarify our position as being POSITIVE in regards to Senate Bill #44 pertaining to civil liability for skiing accidents.

This bill will definitely increase economic development in tourism in our State because it will put our skier liability laws on equal footing with the laws in other Western ski areas in the United States. We will then be able to compete with these States and Canada. Even our own hotel, the Anchorage Hilton, of which I am the General Manager, will benefit because guests will come to ski Alyeska and possibly stay at our property, or any one of the other properties in the downtown area, on their way to or from Alyeska.

On behalf of all our membership, we firmly believe this bill should definitely be passed as quickly as possible to assist Alyeska.

Thank you for your assistance.

Sincerely,


Ralph C. Nogal

RCN/eh

Post-It™ brand fax transmittal memo 7671 # of pages 1
From Ralph C. Nogal



Alaska Hotel & Motel Association

PO BOX 104900 • ANCHORAGE, ALASKA 99510 • (907) 344-4778

January 19, 1993

Subject: SB-44, Civil Liability for Skiing Accidents

The Alaska Hotel and Motel Association supports SB-44 as written. The Alaska Hotel and Motel Association believes that many individual sports, including skiing, have inherent dangers which vary depending upon the individual participants judgement and skills. It would be impossible for a ski area operator to fully guarantee the total safety of every individual skier in every circumstance because of the natural varying inherent dangers of the sport.

The Alaska Hotel and Motel Association believes that ski area operators in the State of Alaska should be permitted to compete fairly with other ski areas throughout the USA and the world. To handicap Alaskan ski area operators through unfair or unnecessary legislation, will only serve to reduce the number of skiers who choose to ski in Alaska. This would certainly have a negative effect on the many supporting businesses of the ski industry, such as hotels and lodges, restaurants, transportation etc...

Max J. Lowe, CHA
Past Chairman
Alaska Hotel and Motel Association



Plaza Inn Hotels, Inc. d/b/a Days Inn - Anchorage
321 East Fifth Avenue
Anchorage, Alaska 99501-2654
(907) 276-7226
Fax (907) 278-6041

January 18, 1992

*Senator Tim Kelly
Capitol Building
Juneau, AK 99801*

Dear Senator Kelly:

RE: SB44

Unfortunately due to prior commitments I will be unable to attend the hearing on the Skier liability law. In lieu of not attending I would like to advise you of my concerns on this law.

As an avid skier and frequent user of the ski trails not only at Alyeska, but Alpenglw and Hilltop, I recommend that Alaska's skier liability law be brought into conformance with laws in other western states. Alaska can not afford to have laws more restrictive than it's competition. The potential for a world class resort, and the further development that it could bring, must be addressed at all levels. This development could be the start of winter tourism to rival other western states and Canada. Please Let's do what we can to remove any barricades to future development.

Thank You.

*Dennis J. Lavey
Managing Partner*

Copy to
Senator Kelly, (Chair)

2552 Susitna Drive
Anchorage, AK 99517
January 19, 1993

Senator Drew Pearce
Alaska State Capitol
Juneau, AK 99801-1182

Dear Senator Pearce:

After several hours attendance of today's teleconference with your committee concerning SR 44, I was quite disappointed that I and many others listening were unable to testify in favor of this bill. As a twenty-four year resident and skier, there are several reasons I favor this slightly improved status for Alaskan ski areas.

First there is the important factor of the inherent risk involved in downhill skiing. Any responsible athlete will readily admit that the nature of downhill skiing involves the chance of injury just as any sport does which uses physical skill, proper equipment and movement. Fortunately I have never been injured in my twenty-four years of skiing at Mt. Alyeska. In my husband's thirty years of skiing in the Anchorage area, he has had two injuries, neither of which were in any way caused by negligence of the local ski area. The key here is that we consider ourselves responsible skiers who always consider our own and others safety through proper physical conditioning, proper working equipment and through continual adherence to safety rules published by our ski area. We feel skiing is as safe as any other sport our two daughters have participated in and we are proud to say that they have enjoyed skiing as a safe and fun sport since they were three years old. Now as teenagers, they are presently attending downhill races at another fine Alaskan resort, Eaglecrest.

Obviously, my husband and I have watched Mt. Alyeska grow over the years to what we now consider a world class resort. Throughout these years, Alyeska Resort has consistently shown a successful effort to maintain an area for safe, public exercise. In our travels to other major ski areas in the lower 48, we have been able to compare our home resort and have found that Alyeska Resort is every bit as safety conscious as any other resort. I strongly feel that Alaska law should be no more restrictive than in other states which have ski areas.

In conclusion on the safety issue, I'd like to emphasize that I feel that downhill skiing is a wonderful sport which I've always felt was more than safe enough for my daughters'

participation. We are a responsible skiing family who is proud to claim Mt. Alyeska as our world-class ski resort.

My second major concern is about the promotion of successful business and tourism in our state. As a proud Alaskan I always try to promote our wonderful state as the greatest place to live, work and visit. Allowing unnecessary restrictions which would discourage future business development and which would hurt our major tourism income is unacceptable by our lawmakers. Therefore it appears that SR44 allows the safe and proper management of Alaska ski areas which will encourage future development, jobs and increased tourism. Please do not let the one tragic death of the boy in 1991 influence you and other lawmakers to make undue restrictions on our ski resorts. I have personally seen Siebu develop Mt. Alyeska into a safe, successful business, adding many jobs and increasing state tourism, and therefore I am in favor of SR44.

Finally, I am also appalled as a taxpayer and voter, that our lawmakers would allow an increase of jury trials to determine responsibility of risk at our ski areas. I do not want to continue to pay the rising fees of litigation when I feel that once I get off the lift I am responsible for my own actions while skiing down the slope. By allowing unnecessary and costly legal fees, all voters and taxpayers will become increasingly angered. Apparently SR44 would disallow reckless skiers their ridiculous claims.

As your constituent and supporter over the years, Senator Pearce, I really appreciate you taking time to read what has become an over-long statement in favor of SR44.

Sincerely,


Leslye H. Randall

copy to Senator Kelly, committee chairperson



UNITED BROTHERHOOD OF
Carpenters and Joiners of America

LOCAL UNION NO. 1281

407 DENALI

PHONE 276-3533

ANCHORAGE, ALASKA 99501
FAX: 276-7962



January 18, 1993

Dear Alaska Legislators:

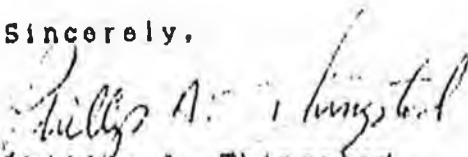
This is a statement of support for SB 44, as submitted by Sen. Kelly

If Alaska is to grow and prosper in the clean, ecologically sound and renewable area of Tourism this bill should be supported.

The bill would put Alaska on even footing with the rest of the western United States. That, coupled with our natural beauty and long winters, should give Alaska a leg up for future economic development.

The only people that I can imagine not supporting SB 44 would be those people not willing to take responsibility for their own actions or lawyers looking for a little action.

Sincerely,


Phillip A. Thingslad
Business Manager
Carpenters Local 1281

PAT/we



Westmark

HOTELS

ALASKA/YUKON

January 19, 1993

Senator Tim Kelly
Alaska State Legislature
Juneau, AK 99801

Dear Senator Kelly:

Please accept this letter as Westmark Hotels support of Bill SB 44 pertaining to civil liability for skiing accidents.

This bill will increase the economic development of tourism in our state during the Winter months and bring our state skiers liability laws on equal footing with those laws in other Western States.

Sincerely,

William J. Dugdale
General Manager
WESTMARK ANCHORAGE HOTEL

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSSB 44 (L&C)

Revision Date: _____

Department Affected: Administration

Title: "An Act relating to civil liability for skiing accidents."

BRU: Risk Management

Component: _____

Sponsor: Senator Kelly

Requestor: _____

COMPONENT SERIAL NO. 0071

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE						
FUND SOURCE:	0	0	0	0	0	0

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	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

POSITIONS:

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

Estimate of current year (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

This bill is directed to down hill ski areas--the c/s excludes cross-country ski trails as sometimes found on State lands. The bill as written will not impact Risk Management budget.

Prepared by: Don Hitchcock, Director *[Signature]*

Phone: (907) 465-2180

Division: Risk Management

Date: 1-29-93

Approved by Commissioner: Nancy Bear Usara *[Signature]*

Date: 2/1/93

Agency: Administration

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTES

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill No. SB 44

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to civil liability for BRU: Trial Courts
skiing accidents... Components: _____
 Sponsor: Kelly
 Requestor: Labor & Commerce COMPONENT SERIAL NO.

000 000	000 768
-----------	-----------

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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						
---------	--	--	--	--	--	--

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary) No fiscal impact.	Changes in <u>CS5544</u> (LFC) have no fiscal impact. This fiscal note is appropriate. 1/26/93 date <u>[Signature]</u> Comte Aide (initial)
--	--

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Division: Alaska Court System Date: 01/15/93

Approved by: Arthur H. Snowden, II, Administrative Director 157 Date: 01/15/93
 Agency: Alaska Court System

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

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 44

Revision Date: _____

Title: An Act relating to civil liability for skiing accidents

Sponsor: Senator Kelly

Requestor: Senate Labor and Commerce

Department Affected: Commerce and Economic Development

BRU: Insurance

Component: Insurance Operations

COMPONENT SERIAL NO. 354

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	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

POSITIONS:

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

Estimate of current year (FY93) impact: 0.0

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

Changes in CSSB 44 (LAC)
have no fiscal impact. This
fiscal note is appropriate.

1/26/93 DPF
date Comptroller Aide (initial)

Prepared by: Dave Walsh

Division: Insurance

Phone: 465-2515

Date: January 15, 1993

Approved by Commissioner: Paul Fuhs

Agency: Commerce and Economic Development Date: _____

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSSB 44

Revision Date: 1/25/93
 Title: Skf Liability, Safety, and Responsibility

Dept. Affected: Natural Resources
 BRU: Resource Development
 Component: Land Development

Sponsor: Senator Kelly
 Requestor: Senate Labor and Commerce
 Committee

COMPONENT SERIAL NO. 431

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0

REVENUE FUND SOURCE:	NA	NA	NA	NA	NA	NA
----------------------	----	----	----	----	----	----

FUNDING:

(Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROG 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

POSITIONS:

FULL-TIME	none	none	none	none	none	none
PART-TIME	none	none	none	none	none	none
TEMPORARY	none	none	none	none	none	none

Estimate of current year (FY 93) impact \$ no fiscal impact anticipated

ANALYSIS: The only additional DNR responsibilities proposed under the bill (and this was proposed by DNR) is that DNR employees can enforce the six specific listed violations. No additional fiscal impacts are anticipated if the bill is approved.

Prepared By: Ron Swanson
 Division: Land Development

Phone: 762-2692
 Date: 1/25/93

Approved by Commissioner: Glenn A. Olds
 Agency: Department of Natural Resources

Date: 1/25/93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO : CS SB 44 (L&C)

Revision Date: _____
 Title: "An Act relating to civil liability for
 skiing accidents ..."
 Sponsor: Senator Kelly
 Requestor: Senate Judiciary

Department Affected: Labor
 BRU: Labor Standards & Safety
 Component: Mechanical Inspection
 COMPONENT SERIAL NO. 346

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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 (FY93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Donald Study, CSP, Director *Donald Study* Phone: 465-6003
 Division: Labor Standards & Safety Date: 2/1/93
 Approved by Commissioner: Charles W. Mahlen *Charles W. Mahlen*
 Agency: Department of Labor Date: 2/1/93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

SB 44: "An Act relating to civil liability for skiing accidents, operation of ski areas, and duties of ski area operators and skiers; and providing for an effective date."

SB 44 sets duties of ski operators and skiers. The bill removes the liability of ski operators for injuries resulting from an inherent danger and risk of skiing. The department has no position on SB 44.

FISCAL NOTE

Bill No. SB 44

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to civil liability for BRU: Trial Courts
skiing accidents... Components: _____
 Sponsor: Kelly
 Requestor: Labor & Commerce COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Division: Alaska Court System Date: 01/15/93

Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System Date: 01/15/93

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

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES

State of Alaska

DIVISION OF LAND
SOUTHCENTRAL REGION

TO: Ron Swanson
Director

DATE: March 26, 1993

TELEPHONE NO.: 762-2253

FROM: Richard B. Thompson
Regional Manager

SUBJECT: Alyeska Title
Transfer

The Division of Land learned of the possible transfer of title to the Alyeska Resort several years ago. The regional office started the preparation process by convening a meeting with resort officials to discuss the transfer of management responsibility and to answer their questions. A similar meeting was arranged separately with U.S. Forest Service personnel.

These initial meetings revealed a variety of concerns issued by the resort owners over the methods and practices the state would use in administering the lease. Since those days many meetings have taken place to discuss and resolve concerns.

In the mean time I took the lead on negotiating a development lease for the proposed \$230 million development of a four-season resort at Hatcher Pass with a large Japanese trading company. I recently completed negotiations with a new developer, the Hatcher Pass Development Company, to construct and operate a destination resort at Hatcher Pass. I attended construction contract administration training; received individualized ski area management training from highly qualified U.S. Forest Service managers in Lakewood, Colorado; and have spent considerable amounts of time acquiring knowledge about the ski industry.

U The southcentral region has joined a national organization of ski area managers and operators. I attended last years convention and intend to go again this year. This organization sponsors training workshops and seminars on many aspects of ski area management. They compile a wide variety of statistics which are invaluable to management and decisionmaking. They provide access to a multitude of training devices such as manuals, videos, books and object achievement kits. Through networking the membership we have direct access to actual people who are considered experts, or at the least extremely knowledgeable about virtually every aspect of ski area operation.

I have assigned Mike Sullivan the primary responsibility for administering the Alyeska Ski Area lease. Mike is a senior adjudicator with an excellent understanding of the state's interest in the management of this area. He is dependable, works well with others and has already established himself as a credible manager.

- MEMO FROM DNR -

Ron Swanson
Ski Bill
March 26, 1993
Page 2

Mike has been shadowing the forest service person currently responsible for administering the Alypheska forest service permit. Mike has been brought in on all management actions and decisionmaking meetings. He has received avalanche control training which involves snow safety as well as munitions handling. Mike has accompanied forest service and resort personnel on many of the avalanche control (firing) missions over the past winter. He has become knowledgeable on the process and procedures necessary to provide a smooth transition with the military which is critical to the resort's avalanche control program.

Mike recently attended a tram and aerial lift operation training school at Keystone, Colorado. Besides being well qualified to administer this project on behalf of the state, Mike is an excellent skier. He routinely skis with members of the National Ski Patrol to learn first hand about the many kinds of management problems faced by resort owners and employees.

The southcentral region wishes to create a Ski Area Operations Unit. Mike will be the sole member of this unit initially and will concentrate on drafting the lease and implementing this management transition as smoothly as possible. Mike will also handle the initial implementation tasks associated with the Hatcher Pass ski area development lease. This unit will be expanded as needed and can operate on a program receipts basis.

Current projections appear to suggest that we can handle our ski area personnel and management costs from revenues to be generated by state leases (Alypheska, and eventually the Hatcher Pass). This revenue will also support moderate responsibilities for any management actions undertaken by the state for ski areas on private lands. If the state's role on private lands increases significantly, additional funding may be necessary.

**NOTATION REFERENCES FOR DELETIONS MADE
IN THE CS FOR SB 44 (L&C)**

NOTATION 1: "the participants could not ski without them"

NOTATION 2:

"it is not reasonable to expect operators to turn wild, natural, alpine terrain into croquet lawns; there will always be rocks, trees, stumps, tree roots, bushes, branches, undergrowth, and other natural alpine features within a property operated by a ski area;"

NOTATION 3:

"(12) there will, therefore, always be natural and artificial hazards in the sport of skiing; it is impractical to expect the operator to eliminate or mitigate these hazards, and skiers must accept these hazards as part of the risks of the sport;"

NOTATION 4: "most injuries are minor, but some injuries impair lifestyle and a very few are fatal, these injuries are ordinary, though unfortunate, consequences of the skier's choice to take part in the sport."

NOTATION 5: "and for which there can be no recovery"

NOTATION 6: "exclude a comparative negligence or comparative fault analysis from the ski context where an injury is the result of an inherent risk of skiing;"

NOTATION 7: "(5) create the necessary conditions to permit ski area operators to continue to offer facilities to Alaskans and nonresidents for the sport of skiing."

NOTATION 8: "this paragraph does not apply in a heavily wooded area or other nonskiable terrain"

NOTATION 9: "this subsection does not apply to cross-country skis"

NOTATION 10: "or while under"

NOTATION 11: "and administered as a single enterprise"

CS FOR SENATE BILL NO. 44(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR KELLY

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to civil liability for skiing accidents, operation of ski areas, and
2 duties of ski area operators and skiers; and providing for an effective date."

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

4 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

5 (1) the sport of skiing is practiced by a large number of citizens of the state
6 and also attracts a large number of nonresidents, providing significant contributions to the
7 economy of the state through construction and operation of skiing facilities, and through the
8 money spent by citizens of the state and nonresidents;

9 (2) the sport of skiing serves important public social and policy goals in the
10 state given the dominance of the winter season; skiing contributes to the health and well-being
11 of Alaskans, including the physically and mentally challenged; it is highly desirable and
12 necessary that Alaskans have convenient and inexpensive access to the sport of skiing;

13 (3) skiing is an active sport conducted in the outdoor alpine environment; this
14 environment consists of several elements, including terrain, weather, snow conditions, and

1 amenities created and maintained by the ski area operator;

2 (4) the terrain necessary for downhill skiing is characterized by large amounts
3 of land, that vary tremendously in steepness and feature bumps, hillocks, drops, cliffs, gullies,
4 ridges, and knobs of infinite variety; the surface and subsurface include trees, bushes,
5 undergrowth, rocks, stumps, branches, roots, and other debris;

6 (5) weather that produces the snow necessary for skiing also produces factors
7 that complicate the sport; weather varies from sunny and warm to bitterly cold and windy,
8 with various forms of precipitation, including sleet, hail, snow of infinite variety, fog, mist,
9 drizzle, rain, and showers; weather complicates the snow surface by constantly altering the
10 snow consistency and snow level, covering, uncovering, and sculpting the terrain features
11 described above:

12 (6) snow is a generic term covering an infinite range of solid precipitation and
13 the frozen state of water as it exists and evolves on the ground; there are many different kinds
14 of snow precipitation; in addition, snow on the ground is constantly changing until it either
15 melts or sublimates; this metamorphism depends on many variable factors and produces snow
16 of substantially different texture and consistency, often in short periods of time; on any given
17 day, the snow conditions vary substantially from location to location and from time to time
18 during the day;

19 (7) in order to facilitate the sport, ski area operators construct facilities,
20 including ski runs, trails, roads, aerial tramways, snowmaking equipment, buildings, and signs;
21 while these facilities may alter the natural conditions, ^[NOTATION 1] the facilities are obvious and necessary
22 to the sport;

23 (8) because of the size, power, and variation of the winter alpine environment,
24 ski area operators are financially and physically incapable of controlling all the conditions
25 under which skiing takes place;

26 (9) ski area operators have a ^[VERY] limited ability to alter terrain features; some
27 terrain features may offer a hazard to the skier but at the same time offer additional challenge
28 or enjoyment for skiers; there will always be natural and artificial hazards in the sport of
29 skiing and the skier must accept these hazards as a part of the risk of skiing;

30 (10) ski area operators do not have control over natural weather conditions;

31 (11) under the proper weather conditions, ski area operators can and do make

1 a form of snow and can spread the snow on the surface of the terrain; however, it is not
2 possible nor is it desirable to groom every inch of snow to a smooth, even finish:

[NOTATION 3]

3 (12) skiing is an exhilarating sport, the enjoyment of which includes several
4 components: exercise, enjoyment of the outdoor environment, physical and mental challenge
5 of a sporting activity, companionship of family and friends, and the excitement of taking
6 physical risks;

7 (13) falling is an ordinary, obvious, and necessary component of the sport; all
8 skiers, even expert skiers, fall on all kinds of terrain; a particular fall is no indication of the
9 risks of a particular slope or set of conditions; the same factors that offer the excitement of
10 skiing contribute to its inherent risks; skiers may slide when they fall, and they may encounter
11 obstacles or other skiers; skiers can be injured while skiing due to the intrinsic risks of the
12 sport, whether natural or man-made. [NOTATION 4]

13 (b) The purpose of this Act is to repeal and revise state law relating to skiing enacted
14 by ch. 80, SLA 1980, as interpreted by the Alaska Supreme Court in *Hiihschman v. City of*
15 *Valdez*, 821 P.2d 1354, (Alaska 1991). It is also the purpose of this Act to

16 (1) define the responsibilities of ski area operators and their agents and
17 employees;

18 (2) define the responsibilities of skiers using ski areas;

19 (3) define those areas of responsibility and affirmative acts for which ski area
20 operators may be liable for loss, damage, injury, or death, and to define those risks that the
21 skier expressly assumes as an inherent danger and risk of skiing; and

22 (4) provide that where an injury is the result only of an inherent risk of skiing,
23 a comparative negligence or comparative fault analysis does not apply.

24 * Sec. 2. AS 05 is amended by adding a new chapter to read: [NOTATION 7]

25 CHAPTER 45. SKI LIABILITY, SAFETY, AND RESPONSIBILITY.

26 Sec. 05.45.010. LIMITATION ON ACTIONS ARISING FROM SKIING;
27 APPORTIONMENT OF FAULT. Notwithstanding any other provision of law

28 (1) a person may not bring an action against a ski area operator for an
29 injury resulting from an inherent danger and risk of skiing;

30 (2) if a person is injured as a result of an inherent danger and risk of
31 skiing and negligence by the ski area operator, in determining percentages of fault the

Replaced
NOTATION
6

1 trier of fact may not treat the inherent danger and risk of skiing, to the extent it
2 contributed to the injury, as part of the fault attributed to the ski area operator.

3 Sec. 05.45.020. VIOLATIONS THAT CONSTITUTE NEGLIGENCE. (a)

4 A person who violates a requirement of this chapter is negligent and civilly liable to
5 the extent the violation causes injury to a person or damage to property.

6 (b) A ski area operator who violates a requirement of this chapter or a
7 regulation adopted by the Department of Labor under AS 05.20.070 is negligent and
8 civilly liable to the extent the violation causes injury to a person or damage to
9 property.

10 Sec. 05.45.030. DUTIES OF PASSENGERS. (a) A passenger may not board
11 a tramway if the passenger does not have

12 (1) sufficient physical dexterity or ability; or

13 (2) knowledge to negotiate or use the facility safely.

14 (b) A passenger may not

15 (1) embark upon or disembark from a tramway except at a designated
16 area unless reasonably necessary to prevent injury to the passenger or others; this
17 paragraph does not apply if the tramway stops and the operator assists the passengers
18 to disembark from the tramway;

19 (2) intentionally throw or expel an object from a tramway while riding
20 on the tramway, except as permitted by the operator;

21 (3) act while riding on a tramway in a manner that may interfere with
22 proper or safe operation of the tramway;

23 (4) engage in conduct that may contribute to or cause injury to a
24 person;

25 (5) intentionally place in an uphill track of a J-bar, T-bar, planter pull,
26 rope tow, or another surface lift an object that could cause another skier to fall;

27 (6) embark upon a tramway marked as closed;

28 (7) disobey instructions posted in accordance with this chapter or oral
29 instructions by the ski area operator regarding the proper or safe use of a tramway
30 unless the oral instructions are contrary to this chapter or contrary to posted
31 instructions.

1 Sec. 05.45.040. REQUIRED PLAN AND PATROL BY SKI AREA
2 OPERATORS. (a) A ski area operator shall prepare a plan of operation for each ski
3 season and shall implement the plan throughout the ski season. A plan of operation
4 must include provisions for ski patrol, avalanche control, avalanche rescue, grooming
5 procedures, tramway evacuation, hazard marking, and first aid. Before the operation
6 of the ski area for that season, the plan shall be reviewed and approved by the

7 (1) commissioner of public safety; or

8 (2) agency of the United States or the state that manages land on which
9 the ski area operates.

10 (b) A ski area operator shall provide a ski patrol with qualifications meeting
11 or exceeding the standards of the National Ski Patrol System, Inc.

12 Sec. 05.45.050. REQUIRED SIGNS FOR TRAMWAYS; DUTIES OF
13 OPERATORS. (a) A ski area operator who operates a tramway shall maintain a sign
14 system with concise, simple, and pertinent information for the protection and
15 instruction of passengers. Signs shall be prominently placed on each tramway,
16 readable in conditions of ordinary visibility, and where applicable adequately lighted
17 for nighttime passengers. Signs shall be posted

18 (1) at or near the loading point of each tramway, regardless of the type,
19 advising that a person not familiar with the operation of the device must ask the
20 operator of the device for assistance and instruction;

21 (2) in the interior of each two-car and multicar tramway showing

22 (A) the maximum capacity in pounds of the car and the
23 maximum number of passengers allowed;

24 (B) instructions for procedures in emergencies;

25 (3) in a conspicuous place at each loading area of two-car and multicar
26 tramways stating the maximum capacity in pounds of the car and the maximum
27 number of passengers allowed;

28 (4) at all chair lifts stating the following:

29 (A) "Prepare to Unload," which shall be located not less than
30 50 feet ahead of the unloading area;

31 (B) "Keep Ski Tips Up," which shall be located ahead of any

1 point where the skis may come in contact with a platform or the snow surface;

2 (C) "Unload Here," which shall be located at the point
3 designated for unloading;

4 (D) "Safety Gate," which shall be located where applicable;

5 (E) "Remove Pole Straps from Wrists," which shall be located
6 prominently at each loading area;

7 (F) "Check for Loose Clothing and Equipment," which shall be
8 located before the "Prepare to Unload" sign;

9 (5) at all J-bars, T-bars, platter pulls, rope tows, and any other surface
10 lift, stating the following:

11 (A) "Remove Pole Straps from Wrists," which shall be placed
12 at or near the loading area:

13 (B) "Stay in Tracks," "Unload Here," and "Safety Gate," which
14 shall be located where applicable;

15 (C) "Prepare to Unload," which shall be located not less than
16 50 feet ahead of each unloading area;

17 (6) near the boarding area of all J-bars, T-bars, platter pulls, rope tows,
18 and any other surface lift, advising passengers to check to be certain that clothing,
19 scarves, and hair will not become entangled with the lift;

20 (7) at or near the boarding area of all lifts, stating the skier's duty set
21 out in AS 05.45.100(c)(2).

22 (b) Signs not specified by (a) of this section may be posted at the discretion
23 of the ski area operator.

24 (c) A ski area operator, before opening the tramway to the public each day,
25 shall inspect the tramway for the presence and visibility of the signs required by (a)
26 of this section.

27 (d) A ski area operator shall post and maintain signs that are required by (a)
28 of this section in a manner that they may be viewed during conditions of ordinary
29 visibility.

30 Sec. 05.45.060. REQUIRED SIGNS FOR TRAILS AND SLOPES; DUTIES
31 OF OPERATORS. (a) A ski area operator shall maintain a sign and marking system

1 as required in this section in addition to that required by AS 05.45.050. All signs
2 required by this section shall be maintained so as to be readable and recognizable
3 under conditions of ordinary visibility.

4 (b) A ski area operator shall post a sign recognizable to skiers proceeding to
5 the uphill loading point of each base area lift that depicts and explains signs and
6 symbols that the skier may encounter at the ski area. The sign must include the
7 following:

8 (1) the least difficult trails and slopes, designated by a green circle and
9 the word "easiest";

10 (2) the most difficult trails and slopes, designated by a black diamond
11 and the words "most difficult";

12 (3) the trails and slopes that have a degree of difficulty that falls
13 between the green circle and the black diamond designation, designated by a blue
14 square and the words "more difficult";

15 (4) danger areas designated by a red exclamation point inside a yellow
16 triangle with a red band around the triangle and the word "danger" printed beneath the
17 emblem;

18 (5) closed trails or slopes designated by an octagonal shaped sign with
19 a red border around a white interior containing a black figure in the shape of a skier
20 with a black band running diagonally across the sign from the upper right-hand side
21 to the lower left-hand side and with the word "Closed" printed beneath the emblem.

22 (c) If applicable, a sign shall be placed at or near the loading point of each
23 tramway as follows:

24 WARNING: This lift services (most difficult)

25 or (most difficult and more difficult) or

26 (more difficult) slopes only.

27 (d) If a particular trail or slope or portion of a trail or slope is closed to the
28 public by a ski area operator, the operator shall place a sign notifying the public of
29 that fact at each identified entrance of each portion of the trail or slope involved. This
30 subsection does not apply if the trail or slope is closed with ropes or fences.

31 (e) A ski area operator shall

1 (1) place a sign at or near the beginning of each trail or slope, which
2 must contain the appropriate symbol of the relative degree of difficulty of that
3 particular trail or slope as described in (b) of this section; this paragraph does not
4 apply to a slope or trail designated "easiest" that to a skier is substantially visible in
5 its entirety under conditions of ordinary visibility before beginning to ski the slope or
6 trail;

7 (2) mark the ski area boundaries in a fashion readily visible to skiers
8 under conditions of ordinary visibility;

9 (3) mark that portion of the boundary with signs as required by (b)(5)
10 of this section if the owner of land adjoining a ski area closes all or part of the land
11 and advises the ski area operator of the closure; [NOTATION 8]

12 (4) mark hydrants, water pipes, and all other man-made structures on
13 slopes and trails that are not readily visible to skiers under conditions of ordinary
14 visibility from a distance of at least 100 feet and adequately and appropriately cover
15 man-made structures that create obstructions with a shock absorbent material that will
16 lessen injuries; any type of marker is sufficient, including wooden poles, flags, or
17 signs, if the marker is visible from a distance of 100 feet and if the marker itself does
18 not constitute a serious hazard to skiers; in this paragraph, "man-made structures" does
19 not include variations in steepness or terrain, whether natural or as a result of slope
20 design, snow making, grooming operations, roads and carwalks, or other terrain
21 modifications;

22 (5) mark exposed forest growth, rocks, stumps, streambeds, trees, or
23 other natural objects that are located on groomed slopes or trails and that are not
24 readily visible to skiers under conditions of ordinary visibility from a distance of at
25 least 100 feet;

26 (6) mark roads, carwalks, or other terrain modifications that are not
27 readily visible to skiers under conditions of ordinary visibility from a distance of at
28 least 100 feet;

29 (7) post and maintain signs that contain the warning notice specified
30 in (g) of this section; the notice shall be placed in a clearly visible location at the ski
31 area where lift tickets and ski school lessons are sold and in a position to be

1 recognizable as a sign to skiers proceeding to the uphill loading point of each base
2 area lift; the signs may not be smaller than three feet by three feet and must be white
3 with black and red letters as specified in this paragraph; the word "WARNING" must
4 appear on the sign in red letters; the warning notice specified in this paragraph must
5 appear on the sign in black letters with each letter to be a minimum of one inch in
6 height.

7 (f) A ski lift ticket sold or made available for sale to skiers by a ski area
8 operator must contain in clearly readable print the warning notice specified in (g) of
9 this section.

10 (g) The signs described in (e)(5) of this section and the lift tickets described
11 in (f) of this section must contain the following warning notice:

12 WARNING

13 Under Alaska law, the risk of an injury to person or property
14 resulting from any of the inherent dangers and risks of skiing
15 ~~rests~~ ^[only] with the skier. A skier may not recover from a ski area
16 operator for an injury resulting from any of the inherent dangers
17 and risks of skiing, including changing weather conditions,
18 existing and changing snow conditions, bare spots, rocks,
19 stumps, trees, collisions with natural objects, man made objects,
20 or other skiers, variations in terrain, and the failure of skiers to
21 ski within their own abilities.

22 Sec. 05.45.070. OTHER DUTIES OF SKI AREA OPERATORS. (a) A ski
23 area operator shall equip a motorized snow-grooming vehicle with a light visible at any
24 time the vehicle is moving on or in the vicinity of a ski slope or trail.

25 (b) When maintenance equipment is being employed to maintain or groom a
26 ski slope or trail while the ski slope or trail is open to the public, the ski area operator
27 shall place a conspicuous notice regarding the maintenance or grooming at or near the
28 top of that ski slope or trail.

29 (c) A snowmobile operated on the ski slope or trails of a ski area shall be
30 equipped with at least

31 (1) one lighted head lamp;

1 (2) one lighted red tail lamp;

2 (3) a brake system maintained in operable condition; and

3 (4) a fluorescent flag at least 40 square inches mounted at least six feet
4 above the bottom of the tracks.

5 Sec. 05.45.080. SKIERS OUTSIDE MARKED BOUNDARIES. A ski area
6 operator does not have a duty arising out of the operator's status as a ski area operator
7 to a skier skiing beyond the area boundaries if the boundaries are marked as required
8 by AS 05.45.060(e)(2).

9 Sec. 05.45.090. REVOCATION OF SKIING PRIVILEGES. A ski area
10 operator, upon finding a person skiing in a careless and reckless manner, may revoke
11 that person's skiing privileges. This section may not be construed to create an
12 affirmative duty on the part of the ski area operator to protect skiers from their own
13 or from another skier's carelessness or recklessness.

14 Sec. 05.45.100. DUTIES AND RESPONSIBILITIES OF SKIERS. (a) A
15 skier is responsible for knowing the range of the skier's own ability to negotiate a ski
16 slope or trail and to ski within the limits of the skier's ability. A skier is responsible
17 for an injury to a person or property resulting from an inherent danger and risk of
18 skiing, except that a skier is not precluded under this chapter from suing another skier
19 for an injury to person or property resulting from the other skier's acts or omissions.
20 Notwithstanding any other provision of law, the risk of a skier's collision with another
21 skier is not an inherent danger or risk of skiing in an action by one skier against
22 another.

23 (b) A skier has the duty to maintain control of the skier's speed and course at
24 all times when skiing and to maintain a proper lookout so as to be able to avoid other
25 skiers and objects. However, a person skiing downhill has the primary duty to avoid
26 collision with a person or object below the skier.

27 (c) A skier may not

28 (1) ski on a ski slope or trail that has been posted as "Closed" under
29 AS 05.45.060(b)(5) and (d);

30 (2) use a ski unless the ski is equipped with a strap or other device
31 capable of stopping the ski should the ski become unattached from the skier, [NOTATION 9]

1 (3) cross the uphill track of a J-bar, T-bar, platter pull, or rope tow
2 except at locations designated by the operator, or place an object in an uphill track;

3 (4) move uphill on a tramway or use a ski slope or trail while the
4 skier's ability is impaired by ^[NOTATION 10] the influence of alcohol or a controlled substance as
5 defined in AS 11.71.900 or other drug;

6 (5) knowingly enter upon public or private land from an adjoining ski
7 area when the land has been closed by an owner and is posted by the owner or by the
8 ski area operator under AS 05.45.060(e)(3).

9 (d) A skier shall stay clear of snow grooming equipment, vehicles, lift towers,
10 signs, and other equipment on the ski slopes and trails.

11 (e) A skier has the duty to heed all posted information and other warnings and
12 to refrain from acting in a manner that may cause or contribute to the injury of the
13 skier or others. Evidence that the signs required by AS 05.45.050 and 05.45.060 were
14 present, visible, and readable at the beginning of a given day creates a presumption
15 that all skiers using the ski area on that day have seen and understood the signs.

16 (f) Before beginning to ski from a stationary position or before entering a ski
17 slope or trail from the side, a skier has the duty to avoid moving skiers already on the
18 ski slope or trail.

19 (g) A skier involved in a collision with another skier or person that results in
20 an injury may not leave the vicinity of the collision before giving the skier's name and
21 current address to an employee of the ski area operator or a member of the voluntary
22 ski patrol, except for the purpose of securing aid for a person injured in the collision.
23 A person who leaves the scene of a collision to obtain aid shall give the person's name
24 and current address as required by this subsection after obtaining aid.

25 (h) A person who violates a provision of (c) or (g) of this section is guilty of
26 a violation as defined in AS 11.81.900. The commissioner of natural resources or an
27 employee of the Department of Natural Resources authorized by the commissioner may
28 issue a citation in accordance with the provisions of AS 41.21.960 to a person who
29 violates (c) or (g) of this section on state land.

30 Sec. 05.45.200. DEFINITIONS. In this chapter,

31 (1) "base area lift" means a tramway that skiers ordinarily use without

1 first using some other tramway;

2 (2) "conditions of ordinary visibility" means daylight or nighttime in
3 nonprecipitating weather;

4 (3) "inherent danger and risk of skiing" means a danger or condition
5 that is an integral part of the sport of skiing, including changing weather conditions;
6 snow conditions as they exist or may change, including ice, hard pack, powder, packed
7 powder, wind pack, corn, crust, slush, cut-up snow, and machine-made snow; surface
8 or subsurface conditions including bare spots, forest growth, rocks, stumps, streambeds,
9 and trees, or other natural objects, and collisions with natural objects; impact with lift
10 towers, signs, posts, fences or enclosures, hydrants, water pipes, other man-made
11 structures, and their components; variations in steepness or terrain, whether natural or
12 as a result of slope design, snowmaking or grooming operations, including roads and
13 catwalks or other terrain modifications; collision with other skiers; and the failure of
14 skiers to ski within their own abilities; the term "inherent danger and risk of skiing"
15 does not include the negligence of a ski area operator under AS 05.45.020(b), or acts
16 or omissions of a ski area operator involving the use or operation of ski lifts;

17 (4) "injury" means property damage, personal injury, or death;

18 (5) "passenger" means a person who is lawfully using a tramway;

19 (6) "ski area" means all downhill ski slopes or trails and other places
20 under the control of a downhill ski area operator; ^[NOTATION 11] "ski area" does not include a cross-
21 country ski trail;

22 (7) "ski area operator" means a person having operational responsibility
23 for a downhill ski area, and includes an agency of the state or a political subdivision
24 of the state;

25 (8) "skier" means an individual using a downhill ski area for the
26 purpose of

27 (A) skiing;

28 (B) sliding downhill on snow or ice on skis, a toboggan, a sled,
29 a tube, a ski-bob, a snowboard, or another skiing device; or

30 (C) using any of the facilities of a ski area, including ski slopes
31 and trails;

1 (9) "ski slopes or trails" means those areas designated by a ski area
2 operator to be used by a skier,

3 (10) "tramway" means a device that is a passenger tramway, aerial or
4 surface lift, ski lift, or rope tow regulated under AS 05.20.

5 Sec. 05.45.210. SHORT TITLE. This chapter may be cited as the Alaska Ski
6 Safety Act of 1993.

7 * Sec. 3. AS 09.65.135 and AS 18.60.822 are repealed.

8 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

Senator Tim Kelly, Chair
Senator Steve Rieger, Vice Chair
Senator Drue Pearce
Senator Judy Salo
Senator Georgianna Lincoln



SENATE LABOR AND COMMERCE
COMMITTEE

WHILE IN JUNEAU
SENATE LABOR & COMMERCE
STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-3819

3111 C STREET, SUITE 550
ANCHORAGE, ALASKA 99503
(907) 561-7612

ADDENDUM TO SENATE LABOR & COMMERCE COMMITTEE REPORT ON CS SB 44 (L&C)

The Senate Labor & Commerce Committee requests that the Senate Judiciary Committee take a close look at the definitions of "ski area" and "ski area operator" on page 12, lines 19 through 24. The Committee is concerned about the potential liability of private property owners with property adjacent to a downhill ski area in the event a skier skis off the slopes under control of the ski resort and onto the private property and hurts him or herself. The Committee wants to ensure a private property owner would not be liable for the injuries in such a case.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Tim Kelly".

Senator Tim Kelly
Committee Chair

**ADDITIONAL LETTERS RECEIVED BY THE SENATE LABOR &
COMMERCE COMMITTEE ON SB 44 - SKI SAFETY ACT OF 1993**

The Anchorage Economic Development Corporation - Support
(Scott Hawkins)

Leslye H. Randall - Support

Dianne Holmes - Opposed



ANCHORAGE
ECONOMIC
DEVELOPMENT
CORPORATION

January 18, 1992

Honorable Tim Kelly
111 Capitol
PO Box V
Juneau, AK 99811

Dear Senator Kelly:

The Anchorage Economic Development Corp. (AEDC) supports SB44, Civil Liability for Skiing Accidents.

As you know, the AEDC's mission is to stimulate economic development. One industry we focus on because of its tremendous potential is tourism. We have fully supported Seibu Alaska's Alyeska Resort expansion and support development of the Glacier/Winner Creek areas as well.

Alaska's ski resort success will depend on how effectively we compete with other developable areas in the northwest United States and Canada. Passing SB44 is critical to Alaska's winter tourism because it will put Alaska on equal footing with its competitors on the issue of skier liability.

Because this bill will so greatly benefit an industry still in its infancy in Alaska, and will only harm a small sector of the economy (trial lawyers) in Alaska, the AEDC fully supports passing SB44.

Sincerely,

Scott E. Hawkins
President

Copy to
Senator Kelly, Chair

2552 Susitna Drive
Anchorage, AK 99517
January 19, 1993

Senator Drew Pearce
Alaska State Capitol
Juneau, AK 99801-1182

Dear Senator Pearce:

After several hours attendance of today's teleconference with your committee concerning SR 44, I was quite disappointed that I and many others listening were unable to testify in favor of this bill. As a twenty-four year resident and skier, there are several reasons I favor this slightly improved status for Alaskan ski areas.

First there is the important factor of the inherent risk involved in downhill skiing. Any responsible athlete will readily admit that the nature of downhill skiing involves the chance of injury just as any sport does which uses physical skill, proper equipment and movement. Fortunately I have never been injured in my twenty-four years of skiing at Mt. Alyeska. In my husband's thirty years of skiing in the Anchorage area, he has had two injuries, neither of which were in any way caused by negligence of the local ski area. The key here is that we consider ourselves responsible skiers who always consider our own and others safety through proper physical conditioning, proper working equipment and through continual adherence to safety rules published by our ski area. We feel skiing is as safe as any other sport our two daughters have participated in and we are proud to say that they have enjoyed skiing as a safe and fun sport since they were three years old. Now as teenagers, they are presently attending downhill races at another fine Alaskan resort, Eaglecrest.

Obviously, my husband and I have watched Mt. Alyeska grow over the years to what we now consider a world class resort. Throughout these years, Alyeska Resort has consistently shown a successful effort to maintain an area for safe, public exercise. In our travels to other major ski areas in the lower 48, we have been able to compare our home resort and have found that Alyeska Resort is every bit as safety conscious as any other resort. I strongly feel that Alaska law should be no more restrictive than in other states which have ski areas.

In conclusion on the safety issue, I'd like to emphasize that I feel that downhill skiing is a wonderful sport which I've always felt was more than safe enough for my daughters'

participation. We are a responsible skiing family who is proud to claim Mt. Alyeska as our world-class ski resort.

My second major concern is about the promotion of successful business and tourism in our state. As a proud Alaskan I always try to promote our wonderful state as the greatest place to live, work and visit. Allowing unnecessary restrictions which would discourage future business development and which would hurt our major tourism income is unacceptable by our lawmakers. Therefore it appears that SR44 allows the safe and proper management of Alaska ski areas which will encourage future development, jobs and increased tourism. Please do not let the one tragic death of the boy in 1991 influence you and other lawmakers to make undue restrictions on our ski resorts. I have personally seen Siebu develop Mt. Alyeska into a safe, successful business, adding many jobs and increasing state tourism, and therefore I am in favor of SR44.

Finally, I am also appalled as a taxpayer and voter, that our lawmakers would allow an increase of jury trials to determine responsibility of risk at our ski areas. I do not want to continue to pay the rising fees of litigation when I feel that once I get off the lift I am responsible for my own actions while skiing down the slope. By allowing unnecessary and costly legal fees, all voters and taxpayers will become increasingly angered. Apparently SR44 would disallow reckless skiers their ridiculous claims.

As your constituent and supporter over the years, Senator Pearce, I really appreciate you taking time to read what has become an over-long statement in favor of SR44.

Sincerely,


Leslye H. Randall

copy to Senator Kelly, committee chairperson

15140 Mesa Place
Anchorage, AK 99516
January 24, 1993

Senator Tim Kelly
Alaska State Legislature
State Capitol
Juneau, Ak 99801-1182

VIA FACSIMILE 465-3756

Dear Senator Kelly:

This letter is a followup to my contact with your office last Tuesday morning at 8:00 am.

I wish to again express my concern with the SB 44 and specifically the language in the bill that would relieve ski resort operators of any liability. Even though ski operators can not change the terrain, I expect them to mitigate hazards dealing with the environment including avalanches, mechanical safety of the lifts, and daily changes in the weather that might cause unsafe skiing conditions. You might assume that ski operators all have a snow safety plan in place, but I know some do not, or they do not follow their plans; therefore there must be a way to ensure that the customer is assured of the safest conditions possible.

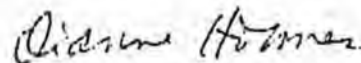
Do not be misled by the ski resort operators who say that the price of lift tickets will go up if they are aren't given immunity from liability; a similarly passed law in Colorado did not result in lower tickets or insurance.

If you believe that giving ski operators immunity from liability is a good thing, would you also agree that air taxi operators should be relieved of liability from accidents resulting from all weather hazards. One reason we have FAA rules is to help mitigate changing weather conditions--passengers can't be expected to do that, and neither can all taxi operators be expected to operate in the safest possible manner unless there are rules with severe consequences for failure to comply.

And so must there also be ramifications for ski operators who might not always act responsibly. They should not be immune, and in fact, many ski operators use public lands for their operations and so are required to operate under detailed management plans. Why then are they asking to be released from such responsibilities on our public lands?

And do you intend to vote to release them from immunity? Do not bother to reply if you can't give me a straight answer. I do not want a generic letter that is meant as a response for people on both sides of the issue.

Sincerely,



Dianne Holmes
345-1514

Senate & Labor Commerce Committee

Letters of Support for SB 44 - Civil Liability for Skiing Accidents

Anchorage Convention & Visitors Bureau

Alaska Visitors Association

Anchorage Economic Development Corporation

United Brotherhood of Carpenters and Joiners of America

Local Union No. 1281

Alaska Hotel & Motel Association

Days Inn

Westmark Hotels

**Anchorage!
Convention & Visitors
Bureau**

*Our Community's Way
of Attracting and
Serving Visitors*

1600 A Street, Suite 200
Anchorage, AK 99501-5162
(907) 276-1118
FAX: (907) 278-5254

Officers
Chairman:
LARRY G. ANDERSON
L.G. Anderson

Vice-Chairman:
LINDA MCLAUGHLIN
Delta Air Lines

Secretary/Treasurer:
FOREST PAULSON
Sheraton Anchorage Hotel

Immediate Past Chairman:
JOHN C. (CHIRIS) SWALLING
John C. Swalling, CPA, APC

President & CEO:
BILL FLANDER
*Anchorage Convention &
Visitors Bureau*

Directors
JAMES BARNETT
Anchorage Municipal Assembly
KARRIE A. BOHI
Municipality of Anchorage
TOM HENNAN
Brewman & Brewman, Inc.
CRAG CAMPBELL
Anchorage Municipal Assembly
DAVID CUDDY
*First National Bank
of Anchorage*
BILL DOSS
J.C. Pomeroy
BILL DUGDALE
Westmark Anchorage Hotel
DALE FOX
*Fox Practical Marketing
& Management*
PERRY GREEN
David Green Master Builders
GERALD E. GRILLY
Anchorage Daily News
WALTER J. HICKEL, JR.
Hotel Captain Cook
LAURIE HITE
Anchorage Marketing Group
KETCH KETCHUM
Ketchum Air Service, Inc.
DICK KNAPP
Alaska Railroad Corporation
TONY KNOWLES
Downtown Deli
JOHN KHEILKAMP
*Alaska Sightseeing Tours/
Cruise West*
GINA MARIE LINDSEY
*Anchorage International
Airport*
MAX LOWE
Regal Alaska Hotel
BILL MACKAY
Alaska Airlines
SUZANNE SLOAN-RUST
Rust's Flying Service, Inc.

#93-01

**Resolution in Support of Ski Safety and
Inherent Risks of Skiing Legislation**

Whereas, skiing in Alaska has inherent risks caused by terrain, weather, equipment and individual skiers, and

Whereas, financially sound ski areas are a significant part of Alaska's winter tourism industry and resident recreation, and

Whereas, the steady growth of winter tourism provides jobs for residents and revenue to the state, and

Whereas, the rising cost of insurance and increasing threat of lawsuits as a result of not recognizing the sport's inherent risk could force the price of skiing to grow so much that the majority of Alaskans and visitors could not afford the sport, threatening the continued operation of many ski areas, and

Whereas, this issue has been recognized by other states, primarily in the western United States, where skiing is an important part of their winter tourism industry, through the enactment of appropriate liability laws, and

Whereas, if the inherent risk of skiing is not recognized and controlled in the state of Alaska, the state will remain non competitive in its efforts to attract winter visitors who would utilize established ski resorts and winter recreational areas,

Now Therefore Be It Resolved, that the Anchorage Convention and Visitors Bureau Board of Directors, on behalf of no more than 900 members, unanimously supports the passage of Senate Bill 14 and House Bill 41.

Adopted by the Anchorage Convention & Visitors Bureau
Board of Directors March 26, 1992

Larry G. Anderson
Chairman
Anchorage Convention & Visitors Bureau





ALASKA VISITORS ASSOCIATION

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

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

**1991-92
Executive Officers**

President
Bob Berkis

*Southeast Stevedoring
Ketchikan, Alaska*

1st Vice-President
Bob Jacobsen
*Wings of Alaska
Juneau, Alaska*

2nd Vice-President
Denise Brandon
*Westmark Hotels
Anchorage, Alaska*
**Vice-President/
Government Relations**
Jolene Binkley
*Riverboat Discovery
Fairbanks, Alaska*

Secretary
Stan Stephens
*San Stephens Charters
Valdez, AK*

Treasurer
Tim Kirschbaum
*Alaska Sighting/
CruiseWest
Anchorage, Alaska*

Board of Directors
Larry Anderson
MarkAir

*Chris Brown
Princess Tours*

*Peter Bultz
Social Expeditions*

*Tim Cerny
Fountainhead
Development*

*Bob Dindinger
Alaska Travel Adventures*

*Bill Elander
Anchorage CVB*

*Bob Engelbrecht
TEASCO Helicopters*

*Lola Hansen-Plyton
Kodiak Island CVB*

*Len Laurson
Marina, Inc.*

*Lynn Lacey
Frontier Flying Service*

*John Litton
Ski's Tours*

*Linda McLoughlin
Delta Air Lines*

*Ralph Nestor
Travel Industry
Managers, UAF*

*David Palmer
Alaska Airlines*

*Bry Pedersen
Princess Tours*

*Brad Phillips
Phillips Cruises & Tours*

*Terry Underwood
HAL-Westours Inc.*

*Richard West
Alaska Sighting/
CruiseWest*

*Tim Worthen
Regency Cruises*

*Karen Cowart
Executive Director*

#92-03

RESOLUTION IN SUPPORT OF INHERENT RISKS OF SKIING LEGISLATION

WHEREAS, the sport of skiing is practiced by a large number of Alaskans and attracts visitors to the state who provide significant contributions to the state economy through the construction and operation of skiing facilities, and

WHEREAS, skiing is a critical element of efforts to increase fall/winter/spring visitation, and

WHEREAS, skiing is an exhilarating sport, the enjoyment of which includes several components: exercise, enjoyment of the outdoors, physical and mental challenges, and the excitement of taking risk, and

WHEREAS, skiing is conducted in an environment that includes natural variations of terrain, weather, and snow conditions and necessary man-made amenities created and maintained by ski area operators, and

WHEREAS, the sport of skiing is accompanied by inherent risks of accident and injury, and

WHEREAS, the Alaska Legislature in 1980 recognized these inherent risks and the individual skiers responsibility to assume them by enacting AS 09.65.135, "Limitations on Claims Arising From Skiing," and

WHEREAS, the Alaska Supreme Court, in *Hübchman vs. City of Valdez et al.*, rendered an opinion that undermines the intent and effectiveness of the act, and

WHEREAS, the cost of insurance and defense from suits involving the inherent risks of skiing are certain to rise dramatically as a result of the ruling, causing increases in ticket prices and threatening the continued operation of some areas, and

WHEREAS, legislation has been introduced to clarify provisions of the act and restore its effectiveness,

NOW THEREFORE BE IT RESOLVED, that the Alaska Visitors Association Board of Directors, on behalf of the membership and tourism industry party represents, endorses adoption of revision to AS 09.65.135, "Limitations on Claims Arising From Skiing," and will join public and private organizations seeking passage of Senate Bill 403 and House Bill 491.

*Adopted by the Alaska Visitors Association
Board of Directors
February 21, 1992
Juneau, Alaska*

Post-It™

To
C

with 11-1



ANCHORAGE
ECONOMIC
DEVELOPMENT
CORPORATION

Honorable Tina Kelly
111 Capitol
PO Box V
Juneau, AK 99811

Dear Senator Kelly:

The Anchorage Economic Development Corp (AEDC) supports SB44, Civil Liability for Skiing Accidents.

As you know, the AEDC's mission is to stimulate economic development. One industry we focus on because of it's tremendous potential is tourism. We have fully supported Seibu Alaska's Alyeska Resort expansion and support development of the Glacier/Winner Creek areas as well.

Alaska's ski resort success will depend on how effectively we compete with other developable areas in the northwest United States and Canada. Passing SB44 is critical to Alaska's winter tourism because it will put Alaska on equal footing with its competitors on the issue of skier liability.

Because this bill will so greatly benefit an industry still in its infancy in Alaska, and will only harm a small sector of the economy (trial lawyers) in Alaska, the AEDC fully supports passing SB44.

Sincerely,

Scott E. Hawkins
President



UNITED BROTHERHOOD OF
Carpenters and Joiners of America

LOCAL UNION NO. 1281

407 DENALI

PHONE 276-3833

ANCHORAGE, ALASKA 99501
Fax: 276-7962



January 18, 1993

Dear Alaska Legislator:

This is a statement of support for SB 44, as submitted by Sen. Kelly

If Alaska is to grow and prosper in the clean, ecologically sound and renewable area of Tourism this bill should be supported.

The bill would put Alaska on even footing with the rest of the western United States. That, coupled with our natural beauty and long winters, should give Alaska a leg up for future economic development.

The only people that I can imagine not supporting SB 44 would be those people not willing to take responsibility for their own actions or lawyers looking for a little action.

Sincerely,

Phillip A. Thingslad
Phillip A. Thingslad
Business Manager
Carpenters Local 1281

PAT/wb

SENT BY: ANCHORAGE HILTON HOTEL; 1-19-93 :12:08PM ;

9072657175-

1



Alaska Hotel & Motel Association

P.O. BOX 104900 • ANCHORAGE, ALASKA 99510 • (907) 344-4778

January 18, 1993

Senator Tim Kelly
State Capitol
Room 101
Juneau, AK 99801-1182

Dear Senator Kelly:

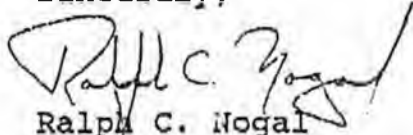
As President of the Alaska Hotel Motel Association, I would like to clarify our position as being POSITIVE in regards to Senate Bill #44 pertaining to civil liability for skiing accidents.

This bill will definitely increase economic development in tourism in our State because it will put our skier liability laws on equal footing with the laws in other Western ski areas in the United States. We will then be able to compete with these States and Canada. Even our own hotel, the Anchorage Hilton, of which I am the General Manager, will benefit because guests will come to ski Alyeska and possibly stay at our property, or any one of the other properties in the downtown area, on their way to or from Alyeska.

On behalf of all our membership, we firmly believe this bill should definitely be passed as quickly as possible to assist Alyeska.

Thank you for your assistance.

Sincerely,


Ralph C. Nogal

RCN/eh

Post-It™ brand fax transmittal memo 7671 # of pages > 1
From D. J. Wood



Alaska Hotel & Motel Association

PO BOX 104900 • ANCHORAGE, ALASKA 99510 • (907) 344-4778

January 19, 1993

Subject: SB-44, Civil Liability for Skiing Accidents

The Alaska Hotel and Motel Association supports SB-44 as written. The Alaska Hotel and Motel Association believes that many individual sports, including skiing, have inherent dangers which vary depending upon the individual participants judgement and skills. It would be impossible for a ski area operator to fully guarantee the total safety of every individual skier in every circumstance because of the natural varying inherent dangers of the sport.

The Alaska Hotel and Motel Association believes that ski area operators in the State of Alaska should be permitted to compete fairly with other ski areas throughout the USA and the world. To handicap Alaskan ski area operators through unfair or unnecessary legislation, will only serve to reduce the number of skiers who choose to ski in Alaska. This would certainly have a negative effect on the many supporting businesses of the ski industry, such as hotels and lodges, restaurants, transportation etc...

Max J. Lowe, CHA
Past Chairman
Alaska Hotel and Motel Association

sp



Plaza Inn Hotels, Inc. d/b/a Days Inn - Anchorage
321 East Fifth Avenue
Anchorage, Alaska 99501-2654
(907) 276-7226
Fax (907) 278-6041

January 18, 1992

*Senator Tim Kelly
Capitol Building
Juneau, AK 99801*

Dear Senator Kelly:

RE: SB44

Unfortunately due to prior commitments I will be unable to attend the hearing on the Skier liability law. In lieu of not attending I would like to advise you of my concerns on this law.

As an avid skier and frequent user of the ski trails not only at Alyeska, but Alpenglow and Hilltop, I recommend that Alaska's skier liability law be brought into conformance with laws in other western states. Alaska can not afford to have laws more restrictive than it's competition. The potential for a world class resort, and the further development that it could bring, must be addressed at all levels. This development could be the start of winter tourism to rival other western states and Canada. Please Let's do what we can to remove any barricades to future development.

Thank You.

*Dennis J. Lavey
Managing Partner*



January 19, 1993

Senator Tim Kelly
Alaska State Legislature
Juneau, AK 99801

Dear Senator Kelly:

Please accept this letter as Westmark Hotels support of Bill SB 44 pertaining to civil liability for skiing accidents.

This bill will increase the economic development of tourism in our state during the Winter months and bring our state skiers liability laws on equal footing with those laws in other Western States.

Sincerely,

A handwritten signature in cursive script, appearing to read "William J. Dugdale".

William J. Dugdale
General Manager
WESTMARK ANCHORAGE HOTEL