

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8631 HOUSE JUDICIARY

responsibility but that the primary responsibility lies with another agency. Since AS 47.37 is the law governing the administration of drug/alcohol programs in the state, the logical presumption is that this is the agency of primary concern.

If this state is going to improve the efficiency and quality of services provided and will provide these services in the most cost-efficient manner, we must understand the scope of the problem, the methods used by communities in dealing with the problem, and what the state agencies involved can do to provide direction for improvement of methods currently employed.

The purpose of this study is to begin the process of discovery. It acts as a starting point for determining how we currently deal with the problem and begins the process of sharing information, techniques and issues of common concern.

#### METHODOLOGY

This study includes only larger population centers in the state, as the problem is assumed to be greater and the diversity of available options greater in larger communities. The principal method of data collection was determined to be survey (Attachment #3); however, discussions with treatment professionals in each of the communities were used for the basis of some of the discussions included in this report.

Community Service Patrols: Sitka does not operate community service patrol (CSP); but instead, relies upon police and emergency services (ambulance) to perform this function. Anchorage, Fairbanks and Juneau all operate CSPs. Each, however, operates and funds these programs differently. Anchorage operates a service under contract with a private for-profit company. Fairbanks operates its service through a private non-profit organization. The City and Borough of Juneau operates its service directly, utilizing city employees. Funding for community services patrols comes from a variety of sources. In Juneau the funding comes from both the state and municipality. In Anchorage funding is provided by the municipality and the Indian Health Service. In Fairbanks the state funds the service. In each case the criteria for operation of the service are determined by the statutes. Incapacitation is determined through orientation by time, place and date. The BAC test is used extensively to support the initial screens at time of pick-up. Interestingly, the average blood alcohol concentration ratios under and over .3 are consistent among the communities studied. All services utilize Emergency Medical Technicians (EMTs) or a combination of EMTs and persons trained in basic first-aid skills and CPR. In Anchorage and Fairbanks the patrols are fully operational 16 hours per day, leaving a combination of CSP and police department coverage for the remaining eight hours. In Juneau the service is operated 24 hours per day but with significantly fewer technicians, as there is only one EMT staffing the patrol at any given time. In Anchorage and Fairbanks,

differentials or a sales tax imposed solely on the sale of alcoholic beverages. There is presently some interest in developing a statewide excise tax on alcohol. Bills have been introduced in the current Legislative session that would impose new taxes or strike down previous legislation prohibiting local taxation (HB52, HB53 and SB42, Attachment #8).

Chronic Alcoholism and Public Inebriates: The cities agree that there are a number of public inebriates who have not or cannot respond to traditional treatment methods currently employed in Alaska. They have made repeated trips to sleep-offs, detoxification and long and short term treatment programs, and have failed to complete the programs or have relapsed immediately after leaving treatment. This group has made many trips to the emergency rooms of local hospitals for treatment of wounds received from falling and fighting. They often are admitted to intensive care units for treatment of seizures or major organ shutdown from their disease. These people traditionally spend a fourth to a third of each year in correctional facilities, usually for minor crimes involving alcohol or other drugs. They appear before the courts on a regular basis. Often they are among the population who experience mental health problems that coexist with their addiction. Invariably they are homeless and jobless. Many are experiencing symptoms of Wernicke's encephalopathy, Korsakof's syndrome, alcoholic dementia and other drug-associated mental impairment. Another health factor that interferes with their

operates detoxification on a space-available basis in the local community hospital. Medical screening for persons picked up by CSP is handled variously in each community. All four communities utilize medical model detoxification programs. Medical personnel monitor withdrawal and drugs are utilized to assist the process. Anchorage and Juneau report similar percentages of persons undergoing detoxification who subsequently enter treatment. This is an important factor. Too often programs concentrate so much on providing detoxification services without focusing on the true goal of detoxification services: to encourage treatment with the aim of reducing chemical dependency in Alaska.

Funding for detoxification programs is varied and includes participation from the state, municipalities, Indian Health Service and the Veteran's Administration. In Sitka, the services are provided as indigent health care provision in the community hospital.

Sleep-Off Centers: None of the communities represented in this survey operate sleep-off centers, nor do any other communities in the state. Until recently, the Municipality of Anchorage operated a "sleep-off" center but discontinued the operation last year. A very interesting study conducted by Michael Huelsman (Attachment #4) concludes:

"Thus the operation of the existing sleep-off facility is highly unsatisfactory. Few if any public inebriates are

taken to the nearest health facility. If no services are available at the health facility, they are placed in protective custody for up to 12 hours, or until services are available at a treatment facility or they are sober enough to no longer present a health or safety problem.

There are not enough detoxification beds available in most communities in the state. Therefore, alternatives are exercised for protective custody for public inebriates. Current data from the Department of corrections indicates that the number of protective custody bookings continues to be reduced from 3115 in 1991 to 2662 in 1992. This reduction, in good part is due to more efficient use of detoxification resources.

The statute is unclear as to the role of acute care hospitals in the protective custody loop.

AS47.37.170.(b) states:

"A person who appears to be incapacitated by alcohol in a public place shall be taken into protective custody by a peace officer or a member of the emergency service patrol and immediately brought to an approved treatment facility, an approved private treatment facility, or another appropriate health facility or service for emergency medical treatment. If no treatment facility or emergency medical service is available, a person who appears to be incapacitated by alcohol in a public place shall be taken to a state or municipal detention facility in the area, if that appears necessary for the protection of the person's health or safety."

referred either to acute care hospitals or correctional facilities for protective custody. In any case, if this paragraph does, in fact, refer to medical screening for protective custody, then medical screening can only be done at the acute care hospitals, since none of the treatment facilities in the surveyed cities (or any other treatment programs in the state) have physicians on duty 24 hours per day, seven days per week. The screening issue creates many problems for the communities as most correctional facilities do not have physicians available, and even in the case of combative incapacitated persons, the acute care hospitals are required to perform all medical screens. They receive no funds for this service and it creates a considerable burden on them.

A recent change has been made in this paragraph which focuses on the problem described above. The changed portion will be underlined for clarity:

"A person voluntarily appears or is brought to an approved public treatment facility shall be examined by a licensed physician or other qualified health practitioner as soon as possible. The department shall, by regulation, determine which health practitioners may be authorized to perform the examination..."

No regulatory direction has been thus far set forth in this matter.

Persons Who Are Combative or Who Refuse Services and Who Are Incapacitated: The current statute does not address how combative persons or persons refusing services but are incapacitated, will be

the rates of public inebriates in latter stages of alcoholism are accurate, then the commitment rate should be similar.

	ALCOHOLICS NEEDING DOMICILIARY CARE RATE PER THOUSAND	COMMITMENTS RATE PER THOUSAND
ANCHORAGE	.42	.06
FIRBANKS	1.33	.04
SITKA	1.4	.00
JUNEAU	.43	.43

NOTE: This is not a completely accurate number as some alcoholics not needing domiciliary care need to be considered for commitment and a very small percentage of those who need domiciliary care do not need commitment. Yet, there is a high correlation between the need for domiciliary care and the need for involuntary commitment as this population's lack of cognitive ability often leaves them with lack of judgement regarding the need for treatment.

The communities who do not or who use the commitment procedure are not derelict in their responsibilities, as there are problems with the system such as: 1) the commitment procedure requires considerable expensive legal time to prepare and bring the cases to trial; 2) clients may demand jury trial which raises legal expenses; 3) The ability of programs to hold people against their will is minimal (in small communities, police can return people who are committed and who leave treatment but in large communities this practice is not practical); and 4) the state does not have adequate long term treatment beds and has no domiciliary beds.

overtaxed but dealing admirably with large numbers of protective custody bookings. Medical facilities are sharing a disproportionate share of the medical screens and in some cases, detoxification duties, which, when offered in that setting, are quite expensive. An unwieldy and confusing legal statute has created more problems in an already untenable situation. Far too many dollars are being spent by all agencies concerned and Alaskans are still left facing legal settlements for lawsuits of discrimination and wrongful death. Although only a handful of cases have gone to the courts, many have been settled out of court and a number that have taken much time and money to resolve without court action or need for out of court settlements.

There are other hidden costs which may, in the long run, create more expense than any thus far mentioned. The criminal justice system is dealing with large numbers of repeat offenders whose principal problem is drug and alcohol abuse. Various reports and studies have pegged the numbers of problem drinkers and persons under the influence of alcohol and other drugs at the time they commit crimes at between 50% and 80% of all persons incarcerated in the state of Alaska. The other hidden and dramatic cost of this problem is the inter-generational problem caused by fetal alcohol syndrome. Treatment programs are finding more and more adult public inebriates who are second and third generation inebriates and who show symptomology consistent with fetal alcohol syndrome and the more common fetal alcohol effect.

D. AS47.37.170 should be rewritten to describe more clearly the requirements of hospitals and correctional facilities in screening and protective custody. In addition, the role of police and CSPs should be described more clearly with respect to use of restraints.

E. The statute must include clear instructions for dealing with individuals who are incapacitated and who are combative or refuse services.

2. The Department of Health and Social Services should issue regulations concerning the provisions of AS47.37.170(c) allowing for a "a licensed physician or other qualified health practitioner...". Strongly recommend that the other qualified health practitioner be a registered nurse. Most programs do not have physicians or nurse practitioners available on a regular basis for screening duties.

3. One of the most glaring issues that became apparent during this survey process was the need for increased coordination and cooperation between agencies administering activities associated with public inebriates. One activity that would help immeasurably is to re-activate the Interdepartmental Coordinating Committee described in AS 47.37.050 to enhance this process.

4. Agency partnerships should be encouraged to establish programs that are mutually beneficial. "Project Hope," proposed by Governor

# Alaska State House of Representatives House District 39

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**Representative Ivan M. Ivan**

## SECTIONAL ANALYSIS - HOUSE BILL 493

**Section 1.** Amends AS 47.37.190(a), Involuntary Commitment. Language is added to include a drug abuser. New language also includes a criteria of symptoms that may be used to demonstrate the need for commitment.

**Section 2.** Amends AS 47.37.190 (b), Involuntary Commitment. Adds an administrator of a private treatment center to the list of those who would be served with a copy of the petition to commit and a court notice of hearing.

**Section 3.** Repeals and reenacts AS 47.37.190 (c), Involuntary Commitment. This section establishes that person who is the subject of a petition to commit to treatment does not have the right to a jury. The exception to this rule is under a petition to recommit a person to treatment.

**Section 4.** Amends AS 47.37.200(a), Hearing on Petition for Involuntary Commitment. This amended section deletes reference to jury hearing for the commitment process.

**Section 5.** Amends AS 47.37.200(b), Hearing on Petition for Irvoluntary Commitment. This amended section deletes jury hearing for a person who is under petition to be committed to a treatment facility. Language is also deleted that would allow the court to not order a commitment if it determined the facility is not able to provide adequate and appropriate treatment.

**Section 6.** Amends AS 47.37.200(c), Hearing on Petition for Involuntary Commitment. The 90 day recommitment procedure is lengthened to 180 days. The director of the treatment facility may obtain a court order, on the grounds set out in Section 1 of this bill, in order to get a recommitment of 180 days before the completion of the 30 day commitment.

**Section 7.** Amends AS 47.37.200(d), Hearing on Petition for Involuntary Commitment. This section allows for a director of a treatment facility to obtain a court order for recommitment for a further period of 180 days before the expiration of the original recommitment.

**Section 8.** Amends AS 47.37.200(e), Hearing on Petition for Involuntary Commitment. Language is added that impanels a jury to hear and consider evidence concerning the condition of the person being recommitted, if a written request is filed with the court at least two days before the date set for recommitment.

**Section 9.** Amends AS 47.37.200(g), Hearing on Petition for Involuntary Commitment. Deletes language pertaining to the Division of alcohol and drug Abuse and inserts, in its place, an approved public or private facility. This applies to the discharge of a person who was committed and certain conditions are met, such as further treatment will not bring significant improvement in the person's condition or treatment is no longer adequate or appropriate.

**Section 10.** Amends AS 47.37.200(h), Hearing on Petition for Involuntary Commitment. Deletes reference to a jury trial. In previous sections of this bill, it is established that a jury trial may already be impaneled for recommitment proceedings. Under this bill, a jury trial is not provided for commitment proceedings.

**Section 11.** Amends AS 47.37.270(1), Definitions. The new definition of a person who may be involuntary committed is broadened to include a drug abuser. New language also includes a criteria of symptoms that may be used to demonstrate the need for commitment.

**Section 12.** Amends AS 47.37.270(10), Definitions. Deletes language in the definition of incapacitated by alcohol. The language that is omitted referenced extreme physical debilitation, physical harm or threats to harm others or the chronic inability to hold regular employment.

**Section 13.** Amends AS 47.37.270(13), Definitions. Adds drugs to the definition of intoxicated person.

**Section 14.** Amends AS 47.37.270(14), Definitions. Adds drug abusers to the definition of treatment.

Alaska State House of Representatives  
House District 39



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**Representative Ivan M. Ivan**

**SPONSOR STATEMENT - HOUSE BILL 493**

I introduced HB 493 as one of the solutions to assist with the public inebriate problem faced by many communities throughout the state.

Under current statute, AS 47.37.190, provisions allow for the involuntary commitment of alcoholics. These provisions allow for 30 day commitments with recommitment for 90 days. This current law has been found to be unwieldy, expensive and treatment options are not readily available. According to a community survey report by the City/Borough of Juneau, in March 1993, communities use the commitment policy sparingly, if they use it at all. This report also stated that the current commitment process simply is not working.

Under HB 493, the involuntary commitment process is similar to those found in the involuntary mental health commitments.

It is not my intent to impose unlawful restrictions on an individual. However, by using the involuntary commitment process, I hope that lives may be saved. It is also my hope that the financial impacts on different agencies may be lessened if the revolving door process many inebriates find themselves when the protective custody statutes are applied.



**AKEELA**  
TREATMENT SERVICES

February 22, 1996

The Honorable Brian Porter  
Chairman, House Judiciary Committee  
Alaska State House of Representatives  
State Capitol  
Juneau, AK 99801-1182

**ACCREDITATIONS**

JOINT COMMISSION ON  
ACCREDITATION OF  
HEALTH CARE ORGANIZATIONS

COMMISSION ON  
ACCREDITATION OF  
REHABILITATION FACILITIES

Re: House Bill No. 493

Dear Mr. Porter:

We have had the opportunity to review House Bill 493, and while we applaud the intent of the legislation, we believe it presents a number of issues that must be addressed before it can be considered for passage.

**LICENSING**

STATE DIVISION OF  
ADDICTION AND  
DRUG ABUSE

MUNICIPALITY OF ANCHORAGE  
DEPARTMENT OF HEALTH  
AND HUMAN SERVICES

The potential clients served under this legislation are those most seriously afflicted by their addiction. Since most treatment facilities lack a detox service, a plan will have to be established to provide detox services prior to admission to the treatment program. In addition, involuntary committals will require significantly more security than the usual voluntary client requires or the law will have to specify some form of penalty for walking away from a treatment facility.

**MEMBERSHIPS**

INTERNETIC COMMUNITIES  
OF AMERICA

SUBSTANCE ABUSE  
DIRECTORS ASSOCIATION

While the initial commitment time is 30 days, recommitment's may add a total of 180 days to the commitment time making long-term residential programs the most likely programs to serve this population. There are only six long-term residential programs in the state and two of them serve only women. If one anticipates that this law will be regularly used, the limited number of beds need to be considered. Finally, without additional funding, the potential is that these clients will displace voluntary clients and that displacement will be a more than a one-to-one ratio because the involuntary clients will consist of the most needy of clients whose severity of addiction makes them the most expensive to serve.

Again, the goal is laudable; the challenge is the implementation.

EXECUTIVE DIRECTOR  
ROBERT P. GALEA, PH.D.

Sincerely,

Robert P. Galea, Ph.D.  
Executive Director

2401 W. BURNS STREET, SUITE 4  
ANCHORAGE, AK 99501-1067

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 493

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: An Act relating to involuntary BRU: Trial Courts  
commitments for alcoholism or drugs abuse Component: \_\_\_\_\_  
 Sponsor: Rep. Ivan  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	13.5	13.5	13.5	13.5	13.5	13.5
TRAVEL						
CONTRACTUAL	61.9	61.9	61.9	61.9	61.9	61.9
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	75.4	75.4	75.4	75.4	75.4	75.4

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	75.4	75.4	75.4	75.4	75.4	75.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	75.4	75.4	75.4	75.4	75.4	75.4

Estimate of any current year (FY 96) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  
 Agency: Alaska Court System

Approved by: Arthur H. Snowden, II, Administrative Director  
 Agency: Alaska Court System

Phone: 264-8228  
 Date: 02/26/96

Date: 02/26/96

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Alaska Court System  
Fiscal Analysis  
HB 493

The court system's present computerized information system does not specifically identify this category of case. We have based our assumptions on inquiries of court personnel and fiscal notes from other agencies. This fiscal note assumes that this legislation will cause the number of petitions to increase by 200% to 180 a year statewide from an estimated 60 petitions filed currently. Each petition requires approximately 4 hours of clerical processing or in-court clerk time. Approximately 20% of the petitions result in a hearing before a master. These hearings are estimated to last 2 hours. We assume that existing resources can accommodate the additional hearings without increasing staff. Clerical processing will be accommodated using overtime.

Personal Services

Amount

Overtime for clerical and in-court staff at a range 12A, statewide usage \$13,500

Contractual

Court appointed attorney for each indigent person being committed, estimated to cost \$420 per appointment. Appointments made for 90% of the petitions. 45,400

Examination by court appointed licensed physician. Estimated to be required in 10% of the petitions at a cost of \$500 per appointment. 6,000

Court appointed guardian ad litem. Estimated to be required in 10% of hearings, at an estimated cost of \$200 an appointment. 480

Court ordered temporary 5-day commitment for diagnostic examination. Estimated to require 2 examinations at a cost of \$5,000 each. 10,000

Total Contractual 61,880

Estimated Total Cost \$75,380

# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO: HB 493**

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Involuntary commitment of alcoholism or BRU: Alaska State Troopers  
drug abuse. Component: Detachments and Judicial Services  
 Sponsor: Representative Ivan  
 Requestor: H Judiciary COMPONENT SERIAL NO. 0799 and 0831

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

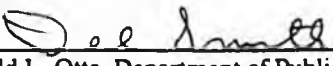
Estimate of current year (FY 96) impact: \$ \_\_\_\_\_

**POSITIONS:**

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

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

This bill will have the impact of state troopers and court services officers being required to attend more commitment hearings or serving additional pieces of process. The impact however is estimated at less than \$500.

Prepared By: Lt. Dan Lowden Phone: 465-5505  
 Division: Alaska State Troopers Date: February 22, 1996  
 Approved by Commissioner:  Date: 2/26/96  
 Agency: Ronald L. Otte, Department of Public Safety

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**HB**

**512**

# Alaska State Legislature House of Representatives

## COMMITTEE ASSIGNMENTS:

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## REVISED SPONSOR STATEMENT

### CS HB 512 (HES): English Use With Public Meetings & Documents

English is the nation's single shared language that crosses all ethnic, racial, cultural, and religious lines, and allows diverse Americans to share their various backgrounds. This bill would simply make official what is already common practice in the State of Alaska, which is the use of English in public meetings and with public documents or records. Public documents include such things as birth, death, marriage, and divorce certificates, as well as records of all public meetings. The bill's intent is not to change any practices already occurring in the State; it is to simply give official recognition to what is already being done.

The bill applies only to state agencies. This includes all State Departments, boards and commissions, the University of Alaska, public corporations, municipalities, and school districts. The bill does not apply to private corporations, or to statewide or local native groups, or to federal agencies or to local groups or agencies not a part of state government. It does not apply to private citizens or private groups or activities.

Aside from making a simple statement that English is the official language of state documents, records, and meetings, it then proceeds to a list of the exceptions that are allowed. The bill is not meant to apply to language classes or curricula in schools or universities, or to bilingual programs authorized under federal law, or to tourism promotion, or if public safety or health issues are involved, or if legal testimony is needed from a non-English speaker.

The bill further provides assurances that it in no way infringes on the rights of people to use English in private activities; they can sue the state on this issue; they cannot be denied employment on the basis of lack of facility in a language other than English; and finally, it allows the state officers and employees to use a language other than English in the scope of their duties.

Numerous amendments have been made to the bill in a HESS Committee CS in an effort to tighten up language and meet public concerns. Chief among these is the addition of a opt-out clause which would allow a municipality, a school district, or an REAA by a simple vote to opt out of the requirements of the bill.



Representative Pete Kott



The Eyak Corporation, P.O. Box 374, Cordova, AK 99574

March 25, 1996

The Honorable Brian Porter  
Chairman  
House Judiciary Committee  
Juneau, Alaska

Dear Chairman Porter:


My name is Nancy Barnes and I am Aleut and Tsimshian. I am writing as President of The Eyak Corporation. Our population is comprised of predominately Aleut (Chugachmiut), Eyak, and other Alaska Native people. My father, the first President of Eyak, named to honor the Eyak people, whose numbers were so few before ANCSA became law. Right now, we have only one Eyak-speaking elder left. I believe this is because of the policies and practices of the past.

I urge your committee to not support House Bill 512, which proposes to "establish English as the official language and related to the use of English in public records and at public meetings of state agencies." This law is simply unnecessary. Our Native languages have suffered enough discrimination and persecution in the past.

Why do we need this bill? There is no threat to the English language in Alaska. We have no problem with written records of state agencies for recording or filing purposes, being in English.

I think this bill is more symbolic in nature, and only opens up the wounds of the past. During the past decade, there has been a resurgence of Native language, dance, and pride in our culture. We are seeing more dance groups with children singing songs in their Native languages. Alaska is rich in its cultural diversity--Please, don't let this divisive bill pass and pull us apart! Please, think of the message you will send.

Respectfully,



Nancy C. Barnes, President  
The Eyak Corporation

cc: The Honorable Tony Knowles  
The Eyak Corporation Board of Directors  
Chugach Alaska Corporation

ALASKA FEDERATION OF NATIVES

1995 ANNUAL CONVENTION

RESOLUTION 95-23

TITLE: DECLARING INDIGENOUS LANGUAGES AS NATIONAL LANGUAGES AND OPPOSE ENGLISH-ONLY LEGISLATION

WHEREAS: the Federal government of the United States has a unique responsibility for Indigenous Languages and Native American Governments while, at the same time, an interest in promoting the use of the English language; and,

WHEREAS: Indigenous Languages have historically been used by Native American governments within the United States from time immemorial and have unique cultural, religious and historical importance; and,

WHEREAS: Indigenous Languages do not have foreign homelands whose governments and institutions can be expected to promote them; and,

WHEREAS: studies indicate that more than half of the indigenous languages of the United States are considered "endangered" and many have only a handful of speakers at the end of this century; and,

WHEREAS: the United States Congress is in the process of introducing legislation to declare English and the Official language of the Government of the United States.

NOW THEREFORE BE IT RESOLVED, by the delegates to the 1995 Annual Convention of the Alaska Federation of Natives, Inc., that they actively oppose the passage of legislation to amend the United States Code to declare English as the official language of the Government of the United States; and

BE IT FURTHER RESOLVED, that the Alaska Federation of Natives will actively support the maintenance, promotion, preservation, study, teaching, artistic use and survival of the Indigenous languages. AFN will also work to oppose legislation which prevents or hinders the maintenance, promotion, preservation, study, teaching, artistic use and survival of the Native languages of the United States of America.

SUBMITTED BY: Alaska Native Educational Council

COMMITTEE ACTION: ~~Do Pass~~

CONVENTION ACTION: PASSED



## FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

## HB 512

An Act establishing English as the common language and related to the use of English in public records and at public meetings of state agencies.

## Consolidated Fiscal Note for Executive Branch

## Operating Expenditures (Thousands of Dollars)

Department	FY 97	FY 98	FY 99	FY 2000	FY 2001	FY 2002
Governor	0.0	0.0	0.0	0.0	0.0	0.0
Administration	0.0	0.0	0.0	0.0	0.0	0.0
DCED	0.0	0.0	0.0	0.0	0.0	0.0
DCRA	0.0	0.0	0.0	0.0	0.0	0.0
Corrections	0.0	0.0	0.0	0.0	0.0	0.0
Education	0.0	0.0	0.0	0.0	0.0	0.0
Postsecondary	0.0	0.0	0.0	0.0	0.0	0.0
DEC	0.0	0.0	0.0	0.0	0.0	0.0
ADF&G	0.0	0.0	0.0	0.0	0.0	0.0
CFEC	0.0	0.0	0.0	0.0	0.0	0.0
DH&SS	0.0	0.0	0.0	0.0	0.0	0.0
Labor	0.0	0.0	0.0	0.0	0.0	0.0
Law	0.0	0.0	0.0	0.0	0.0	0.0
DMVA	0.0	0.0	0.0	0.0	0.0	0.0
DNR	0.0	0.0	0.0	0.0	0.0	0.0
Public Safety	0.0	0.0	0.0	0.0	0.0	0.0
DOR	0.0	0.0	0.0	0.0	0.0	0.0
DOT&PF	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

ANALYSIS: (Attach a separate page if necessary)

This bill would have a zero fiscal impact on all departments.

Prepared by:

Jack Kreinheder

Phone: 465-4676

Division:

Office of the Director

Date: 2/26/96

Approved by Commissioner:

Annalee McConner

*Nancy J. Slagle*

Date:

*2/26/96*

Agency:

Office of Management and Budget

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## FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

HB 512

An Act establishing English as the common language and related to the use of English in public records and at public meetings of state agencies.

## Consolidated Fiscal Note for Executive Branch

## Operating Expenditures (Thousands of Dollars)

Department	FY 97	FY 98	FY 99	FY 2000	FY 2001	FY 2002
Governor	0.0	0.0	0.0	0.0	0.0	0.0
Administration	0.0	0.0	0.0	0.0	0.0	0.0
DCED	0.0	0.0	0.0	0.0	0.0	0.0
DCRA	0.0	0.0	0.0	0.0	0.0	0.0
Corrections	0.0	0.0	0.0	0.0	0.0	0.0
Education	0.0	0.0	0.0	0.0	0.0	0.0
Postsecondary	0.0	0.0	0.0	0.0	0.0	0.0
DEC	0.0	0.0	0.0	0.0	0.0	0.0
ADF&G	0.0	0.0	0.0	0.0	0.0	0.0
CFEC	0.0	0.0	0.0	0.0	0.0	0.0
DH&SS	0.0	0.0	0.0	0.0	0.0	0.0
Labor	0.0	0.0	0.0	0.0	0.0	0.0
Law	0.0	0.0	0.0	0.0	0.0	0.0
DMVA	0.0	0.0	0.0	0.0	0.0	0.0
DNR	0.0	0.0	0.0	0.0	0.0	0.0
Public Safety	0.0	0.0	0.0	0.0	0.0	0.0
DOR	0.0	0.0	0.0	0.0	0.0	0.0
DOT&PF	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

ANALYSIS: (Attach a separate page if necessary)

This bill would have a zero fiscal impact on all departments.

Prepared by: Jack Kreinheder  
 Division: Office of the Director

Approved by Commissioner: Annalee McConnell *Nancy J. Slagle*  
 Agency: Office of Management and Budget

Phone: 465-4676  
 Date: 2/26/96

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**HB**

**517**

# **STATE OF ALASKA**

*Department of Public Safety*

## **SPONSOR STATEMENT HOUSE BILL 517**

Most Alaskans need a driver's license in order to carry on their daily lives. Obtaining license renewals and conducting other business with the Department of Public Safety, division of motor vehicles (DMV), can be time consuming. Most Alaskans have stood in line waiting to take care of business that require them to physically visit the DMV. This bill will make it easier for the Department of Public Safety to serve the public.

HB 517 will simplify procedures for obtaining a driver's license by removing exceptions to the renewal-by-mail program. Also, current law requires a person involved in an accident resulting in \$500 or more in damage to property to report the accident to the local police or the Alaska State Troopers for investigation. This amount was set in 1977; in present value, the slightest scrape can cost that much to repair. This bill raises the amount for required reporting to \$1,500.

HB 517 also provides for administrative hearings to be held by telephone in most instances to avoid costly travel. It allows the Department of Public Safety to keep its records electronically and provides that certified copies of those electronically stored records are admissible in courts and administrative hearings. It also allows a temporary permit issued by a car dealer to be valid for 60 days rather than 30 days, to give the dealer and the Department of Public Safety more time to take care of the necessary paperwork.

This bill also provides for compliance with the Code of Federal Regulations, Title 49, the Federal Motor Carrier Safety Act Program grant requirements, and item 22 of the Commercial Vehicle Safety Act 49 CFR parts 383, 390 and 391 dealing with disqualifying a commercial driver for an out-of-service violation. It makes housekeeping changes for compliance purposes. Failure to adopt the provisions of 49 CFR may result in sanction of 5 percent of federal highway monies and Federal Motor Carrier Safety Assistance Program Grant (MCSAP) funding.

# HOUSE TRANSPORTATION COMMITTEE

## Sectional Analysis

### HOUSE BILL 517

#### Motor Vehicle/Commercial Motor Vehicle Bill

**Section 1.** AS 28.05.061(c) allows the department to keep its records electronically and provides that certified copies of those electronically stored records are admissible in courts and administrative hearings.

**Sections 2, 6 - 8.** AS 28.05.141(b); 28.15.166(d-f); provides for administrative hearings to be held by telephone in most instances to avoid costly travel.

**Section 3.** AS 28.10.031(b) allows for a car dealer to issue 60 day temporary permit rather than 30 days.

**Section 4.** AS 28.10.051(a) allows the department to suspend or revoke the registration of a commercial vehicle if the owner continues to allow it to be operated after an order of repair was issued.

**Section 5.** AS 28.15.101(c) lifts some of the restrictions on renewing a driver's license by mail.

**Sections 9-15 & 22-23.** AS 28.20.050(a),(e); 28.20.100(c); 28.20.230(a); 28.20.250(a); 28.22.021; 28.22.041(h); 28.35.080(a); 28.35.080(b). raises the amount required for reporting of property damage resulting from a motor vehicle accident from \$500.00 to \$1,500.00.

**Sections 16 & 24.** AS 28.32.900(1); 28.40.100(a)(2) repeals the sections relating to exempt areas of the state where the average daily traffic on the roadways is less than 499. Also changes the exemption for vehicle safety inspections for farm vehicles from 300 miles from the farm to 150 miles from the farm.

**Sections 17 & 25.** AS 28.32.900(2); 28.40.100(a)(3) eliminates the requirement that commercial purposes has to be the primary business of the commercial vehicle operator; any business is sufficient

**Section 18.** AS 28.33.130(a) adds a provision placing a person "out-of-service" for violation of a regulation relating to safety equipment required on commercial vehicles and allows a person to be placed "out-of-service" when operating a commercial vehicle without a commercial driver's license.

**Section 19.** AS 28.33.140(a) adds to the list of offenses that the court must disqualify a person from operating a commercial motor vehicle

**Section 20.** AS 28.33.140(j) adds a new subsection relating to the length of time the court must disqualify a person from operating a commercial motor vehicle.

**Section 21.** AS 28.33.190 (11) adds a definition of "out-of-service order".

**Section 26.** AS 28.10.108(b) and (c) repeals outdated statutes to allow for staggered registration, a practice which is in place.

**Section 27.** Effective date of Act.

2/14/96

CS FOR HOUSE BILL NO. 517(TRA)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to records and hearings of the Department of Public Safety;  
2 relating to a temporary permit to drive a motor vehicle; relating to regulation  
3 of motor vehicles and commercial motor vehicles; relating to ownership of certain  
4 abandoned motor vehicles; relating to renewal of a driver's license by mail;  
5 relating to commercial driver training schools; increasing the property damage  
6 amounts for proof of financial responsibility and proof of motor vehicle eligibility  
7 in order to lawfully operate a motor vehicle in the state; relating to certain  
8 notifications in accidents involving property damage; relating to motor vehicle  
9 registration procedures; and providing for an effective date."

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

11 \* Section 1. AS 28.05.061(c) is amended to read:

12 (c) Records maintained by the department under this title or regulations

1 adopted under this title may be stored in any reasonable manner, including  
2 electronic data storage. The commissioner and officers and employees of the  
3 department designated by the commissioner shall, upon request, prepare under the seal  
4 of the department and deliver, unless otherwise prohibited by law, a certified copy of  
5 any record of the department maintained under this title or regulations adopted under  
6 this title, charging a fee for each certified copy. A certified copy of the record stored  
7 under this section is admissible in an administrative [A] proceeding or in a court  
8 in the same manner as the original document.

9 \* Sec. 2. AS 28.05.141(b) is amended to read:

10 (b) A hearing ordered under (a) of this section must [SHALL] be held by  
11 telephone unless the hearing officer finds that a telephonic hearing would  
12 substantially prejudice the rights of the person involved in the hearing or that an  
13 in-person hearing is necessary to decide the issues to be presented in the hearing.  
14 An in-person hearing must be held at the office of the department nearest to the  
15 residence of the person involved in [REQUESTING] the hearing unless the department  
16 and the person agree that the hearing is to be held elsewhere. The department shall  
17 grant a hearing delay if the person presents good cause for the delay. If a person fails  
18 to attend or appear for the hearing at the time and place stated by the department and  
19 if a hearing delay has not been granted, the person's failure to attend or appear is  
20 considered a waiver of the hearing and the department may take appropriate action  
21 with respect to the person.

22 \* Sec. 3. AS 28.10.031(b) is amended to read:

23 (b) A licensed vehicle dealer may issue to the purchaser of a vehicle sold by  
24 the dealer a temporary permit to operate the vehicle. A permit is effective for a period  
25 not to exceed 60 [30] days. The commissioner shall adopt regulations governing the  
26 issuance of permits under this section.

27 \* Sec. 4. AS 28.10.051(a) is amended to read:

28 (a) The department may suspend or revoke the registration of a vehicle, the  
29 certificate of registration or registration plates for a vehicle, or a special permit when  
30 (1) the department determines that the registration or certificate, plate,  
31 or permit was fraudulently procured or erroneously issued;

1 (2) the department determines that a registered vehicle is mechanically  
2 unsafe to be driven or moved on a highway, vehicular way or area, or other public  
3 property in this state and the vehicle has been seized or impounded under  
4 AS 28.05.091;

5 (3) a registered vehicle has been scrapped, dismantled, or destroyed  
6 beyond repair;

7 (4) the department determines that a required fee or tax has not been  
8 paid and the fee or tax is not paid upon reasonable notice and demand;

9 (5) a registration plate, permit, or certificate is knowingly displayed  
10 upon a vehicle other than the vehicle for which issued;

11 (6) the department determines that the owner of a vehicle has  
12 committed an offense under this chapter involving the registration or the certificate,  
13 plate, or permit to be suspended or revoked;

14 (7) the vehicle has been reported to the department as stolen or  
15 unlawfully converted;

16 (8) the department is otherwise required to do so under the laws of this  
17 state; [OR]

18 (9) the department determines that the vehicle owner has violated the  
19 requirements of AS 28.10.146 or 28.10.147;

20 (10) the department determines that a repair to a commercial  
21 motor vehicle, ordered by the department under regulations adopted under  
22 AS 28.05.011, was not completed after the owner or operator represented to the  
23 department that the repair had been completed; or

24 (11) the owner or operator of a commercial motor vehicle has  
25 placed a commercial motor vehicle back in service after it has been placed out of  
26 service by the department without having it reinspected as required under  
27 regulations adopted under AS 28.05.011.

28 \* Sec. 5. AS 28.11 is amended by adding a new section to read:

29 Sec. 28.11.025. CLAIM OF OWNERSHIP BY PRIVATE PROPERTY  
30 OWNER. (a) In addition to removal of an abandoned vehicle under AS 28.11.020,  
31 a vehicle that is left standing or parked on private property without the consent of the

1 private property owner and for a period in excess of three years is presumed to be an  
2 abandoned vehicle and title to the vehicle may be transferred to the private property  
3 owner as provided under this section. A person who claims ownership of an  
4 abandoned vehicle under this section shall provide notice of the claim to the vehicle  
5 owner of record and to lienholders in the manner prescribed for giving notice by the  
6 department under AS 28.05.121. The notice must state the location of the vehicle and  
7 the period of abandonment. If the vehicle is not registered in this state or the name  
8 and address of the registered or legal owner or lienholder cannot be ascertained, notice  
9 shall be given by publication in the manner prescribed in the rules of the court for  
10 service of process by publication.

11 (b) If an abandoned vehicle is not reclaimed within 30 days after notice is  
12 given as required under (a) of this section, the title to the vehicle vests with the owner  
13 of the private property on which the vehicle is located. Upon application, the  
14 department shall issue a new certificate of title to a vehicle whose ownership is  
15 transferred under this section.

16 \* Sec. 6. AS 28.15.101(c) is amended to read:

17 (c) A driver's license may be renewed by mail if the licensee complies with  
18 (a) of this section, except that a license may not be renewed by mail if

19 (1) [THE APPLICANT'S LICENSE, WITHIN THE PREVIOUS FIVE  
20 YEARS, HAS BEEN REVOKED BY A COURT AFTER CONVICTION FOR AN  
21 OFFENSE UNDER AS 28.15.181(a) OR ANOTHER LAW OR ORDINANCE WITH  
22 SUBSTANTIALLY SIMILAR ELEMENTS;

23 (2) THE APPLICANT'S LICENSE, WITHIN THE PREVIOUS FIVE  
24 YEARS, HAS BEEN SUSPENDED, REVOKED, OR DENIED BY THE  
25 DEPARTMENT UNDER AS 28.15.165 OR 28.15.251;

26 (3) THE APPLICANT, WITHIN THE PREVIOUS FIVE YEARS, HAS  
27 BEEN CONVICTED OF A MOVING TRAFFIC VIOLATION;

28 (4) the most recent renewal of the applicant's license was by mail; or

29 (2) [(5)] the applicant is 69 years of age or older on the expiration date  
30 of the driver's license being renewed.

31 \* Sec. 7. AS 28.15.166(d) is amended to read:

1 (d) A person who has requested a hearing under this section and who fails to  
2 attend or appear at the hearing, for reasons other than lack of actual notice of the  
3 hearing or physical incapacity such as hospitalization or incarceration, waives the right  
4 to a hearing. The determination of the department that is based upon the enforcement  
5 officer's report becomes final.

6 \* Sec. 8. AS 28.15.166(e) is amended to read:

7 (e) The [NOTWITHSTANDING AS 28.05.141(b), THE] hearing under this  
8 section must [SHALL] be held by telephone unless the hearing officer finds that  
9 a telephonic hearing would substantially prejudice the rights of the person  
10 involved in the hearing or that an in-person hearing is necessary to decide the  
11 issues to be presented in the hearing. An in-person hearing must be held at the  
12 office of the department nearest to the residence of the person involved in  
13 [REQUESTING] the hearing unless

14 [(1) A DISTRICT COURT JUDGE OR A MAGISTRATE HAS BEEN  
15 DESIGNATED AS A HEARING OFFICER IN THE MATTER BY THE  
16 COMMISSIONER; OR

17 (2)] the department and the person agree that the hearing is to be held  
18 elsewhere.

19 \* Sec. 9. AS 28.15.166(f) is amended to read:

20 (f) A review under this section shall be held before a hearing officer  
21 designated by the commissioner. [UPON THE CONSENT OF THE  
22 ADMINISTRATIVE DIRECTOR OF THE STATE COURT SYSTEM, THE  
23 COMMISSIONER MAY DESIGNATE A DISTRICT COURT JUDGE OR A  
24 MAGISTRATE TO SERVE AS THE HEARING OFFICER.] The hearing officer has  
25 [SHALL HAVE] authority to

- 26 (1) administer oaths and affirmations;  
27 (2) examine witnesses and take testimony;  
28 (3) receive relevant evidence;  
29 (4) issue subpoenas, take depositions, or cause depositions or  
30 interrogatories to be taken;  
31 (5) regulate the course and conduct of the hearing;

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(6) make a final ruling on the issue.

\* Sec. 10. AS 28.17.041(b) is amended to read:

(b) Regulations adopted under this section must state the requirements for a school license, including requirements concerning manner and form of application, location, place of business, facilities, records, equipment, courses and standards of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character and reputation of the operators and instructors, vehicle equipment and condition, inspection during reasonable business hours, insurance or bonds in the sum and with the provisions the commissioner considers necessary, and other matters the commissioner may prescribe for the protection of the public. Regulations regarding courses and standards of instruction for

(1) noncommercial motor vehicles must be consistent with standards adopted by the commissioner; and

(2) commercial motor vehicles must meet or exceed the model curriculum for training tractor-trailer drivers adopted by the United States Department of Transportation.

\* Sec. 11. AS 28.17.061 is repealed and reenacted to read:

Sec. 28.17.061. CIVIL PENALTY. (a) If the department determines a person has violated a provision of this chapter, or a regulation adopted under this chapter, the department may impose a civil penalty not to exceed \$5,000. In determining the amount of a civil penalty imposed under this section, the department shall consider the economic benefit resulting from the violation, the person's prior violations under this section, and the seriousness of the violation.

(b) Before imposing a civil penalty under this section, the department shall provide notice of the civil penalty and an opportunity to request an administrative hearing. If a hearing is not requested within 30 days after notice of the civil penalty is received, the right to a hearing is considered waived. If a hearing is requested, the hearing shall be conducted as provided under AS 28.05.141.

(c) If a person fails to pay a civil penalty imposed under this section within 30 days after the civil penalty is imposed by the department, or if the civil penalty is

1 stayed pending an appeal, within 10 days after the court enters a final judgment in  
2 favor of the department, the department shall notify the attorney general. The attorney  
3 general may commence a civil action to recover the amount of the civil penalty.

4 \* Sec. 12. AS 28.20.050(a) is amended to read:

5 (a) The provisions of this chapter requiring deposit of security and suspension  
6 for failure to deposit security apply to the driver and owner of a vehicle subject to  
7 registration under the laws of this state that is involved in any manner in an accident  
8 in this state resulting in bodily injury to or death of a person or damage to the property  
9 of any one person exceeding \$1,500 [\$500].

10 \* Sec. 13. AS 28.20.050(e) is amended to read:

11 (e) A peace officer investigating an accident that results in bodily injury to or  
12 the death of a person or damage to the property of a person exceeding \$1,500 [\$500]  
13 shall inform persons involved in the accident in writing of the requirements of this  
14 chapter as they apply to suspension of an operator's license or driving privileges.

15 \* Sec. 14. AS 28.20.100(c) is amended to read:

16 (c) If the department evaluates the injuries or damage to a minor in an amount  
17 not more than \$1,500 [\$500], the department may accept, for the purposes of this  
18 chapter only, evidence of a release from liability executed by a parent [NATURAL]  
19 or legal guardian on behalf of the minor without court approval.

20 \* Sec. 15. AS 28.20.230(a) is amended to read:

21 (a) The provisions of this chapter requiring the deposit of proof of financial  
22 responsibility for the future apply to persons who are convicted of or forfeit bail for  
23 certain offenses under motor vehicle laws or who, by ownership or operation of a  
24 vehicle of a type subject to registration under AS 28.10, are involved in an accident  
25 in this state that results in bodily injury to or death of a person or damage to the  
26 property of any one person exceeding \$1,500 [\$500].

27 \* Sec. 16. AS 28.20.260(a) is amended to read:

28 (a) Upon receipt by the department of the report of an accident resulting in  
29 bodily injury to or death of a person, or [PROPERTY] damage to the property of  
30 any one person exceeding \$1,500 [\$500], the department shall suspend the license of  
31 the driver of a motor vehicle involved in the accident unless the driver or owner

1 (1) has previously furnished or immediately furnishes security required  
2 by this chapter, or is excepted from furnishing security under AS 28.20.060; [.] and  
3 (2) maintains proof of financial responsibility for three years following  
4 the accident.

5 \* Sec. 17. AS 28.22.021 is amended to read:

6 Sec. 28.22.021. REQUIREMENT OF PROOF OF MOTOR VEHICLE  
7 LIABILITY INSURANCE. The owner or operator of a motor vehicle required to have  
8 motor vehicle liability insurance that complies with this chapter or a certificate of self-  
9 insurance that complies with AS 28.20.400, shall show proof of this insurance when  
10 that person is involved in an accident that results in bodily injury to or death of a  
11 person, or damage to the property of a person exceeding \$1,500 [\$500].

12 \* Sec. 18. AS 28.22.041(h) is amended to read:

13 (h) Subsection (a) does not apply to a person who is required to provide proof  
14 under AS 28.22.021 if the person

15 (1) is involved in an accident that results in property damage of less  
16 than \$1,500 [\$1,000] and the damage occurs only to the property of the person  
17 required to show proof of insurance;

18 (2) not later than 15 days after the accident, provides proof of motor  
19 vehicle liability insurance that complies with this chapter or a certificate of self-  
20 insurance that complies with AS 28.20.400 to the department; and

21 (3) establishes by a preponderance of the evidence that the failure to  
22 have in effect motor vehicle liability insurance or to self-insure as required by this  
23 chapter at the time of the accident was due to circumstances beyond the control of the  
24 person.

25 \* Sec. 19. AS 28.32.900(1) is amended to read:

26 (1) "commercial motor vehicle" means a motor vehicle or a  
27 combination of a motor vehicle and one or more other vehicles

28 (A) used to transport passengers or property;

29 (B) used upon a highway or vehicular way [CONNECTED TO

30 (i) THE LAND-CONNECTED STATE HIGHWAY  
31 SYSTEM; OR

1 (ii) A LAND HIGHWAY OR VEHICULAR WAY  
2 WITH AN AVERAGE DAILY TRAFFIC VOLUME GREATER  
3 THAN 499]; and

4 (C) which

5 (i) has a gross vehicle weight rating or gross  
6 combination weight rating greater than 10,000 pounds;

7 (ii) is designed to transport more than 15 passengers,  
8 including the driver; or

9 (iii) is used in the transportation of materials found by  
10 the United States Secretary of Transportation to be hazardous for  
11 purposes of 49 U.S.C. 1801 - 1813 (Hazardous Materials Transportation  
12 Act);

13 (D) except that the following vehicles meeting the criteria in  
14 (A) - (C) of this paragraph are not commercial vehicles:

15 (i) emergency or fire equipment that is necessary to the  
16 preservation of life or property;

17 (ii) farm vehicles that are controlled and operated by a  
18 farmer; used to transport agricultural products, farm machinery, or farm  
19 supplies to or from that farmer's farm; not used in the operations of a  
20 common or contract motor carrier; and used within 150 [300] miles of  
21 the farmer's farm;

22 (iii) school buses;

23 (iv) vehicles owned and operated by the federal  
24 government unless the vehicle is used to transport property of the  
25 general public for compensation in competition with other persons who  
26 own or operate a commercial motor vehicle subject to this chapter, and  
27 except to the extent that regulation of vehicles operated by the federal  
28 government is permitted by federal law; and

29 (v) vehicles used exclusively for purposes other than  
30 commercial purposes;

31 \* Sec. 20. AS 28.32.900(2) is amended to read:

1 (2) "commercial purposes" means activities for which a person receives  
2 direct monetary compensation or activities for which a person receives no direct  
3 monetary compensation but which are incidental to and done in furtherance of the  
4 person's [PRIMARY] business;

5 \* Sec. 21. AS 28.33.130(a) is amended to read:

6 (a) A person may not operate a commercial motor vehicle or be on-duty

7 (1) if, within the preceding four hours, the person

8 (A) consumed or was under the influence of

9 (i) an alcoholic beverage;

10 (ii) a controlled substance not prescribed by a physician;

11 or

12 (iii) a controlled substance prescribed by a physician that  
13 might impair a person's ability to operate a commercial motor vehicle;

14 or

15 (B) had any measurable alcohol concentration within the blood  
16 or breath or any detectable presence of alcohol; [OR]

17 (2) while in possession of an alcoholic beverage or a controlled  
18 substance not prescribed by a physician unless

19 (A) the alcoholic beverage or controlled substance is manifested  
20 and documented as part of an authorized shipment of cargo; or

21 (B) under AS 04, the alcoholic beverage may be legally served  
22 to passengers being carried for hire;

23 (3) after being placed out of service for violation of a regulation  
24 adopted under AS 28.05.011; or

25 (4) with an invalid operator's or commercial operator's license.

26 \* Sec. 22. AS 28.33.140(a) is amended to read:

27 (a) In addition to the court action provided in AS 28.15.181, conviction of any  
28 of the following offenses is grounds for immediate disqualification from driving a  
29 commercial motor vehicle for the periods set out in this section:

30 (1) operating a commercial motor vehicle while intoxicated in violation  
31 of AS 28.33.030;

- 1 (2) refusal to submit to a chemical test in violation of AS 28.35.032;  
2 (3) operating a motor vehicle while intoxicated [.] in violation of  
3 AS 28.35.030;  
4 (4) leaving the scene of an accident in violation of AS 28.35.060, or  
5 failing to file, or providing false information in, an accident report in violation of  
6 AS 28.35.110;  
7 (5) a felony under state or federal law, which was facilitated because  
8 the person used a commercial motor vehicle; [OR]  
9 (6) a serious traffic violation; or  
10 (7) driving after being placed out of service in violation of  
11 regulations adopted under AS 28.05.011.

12 \* Sec. 23. AS 28.33.140 is amended by adding a new subsection to read:

13 (j) A court convicting a person of an offense described in (a)(7) of this section  
14 shall disqualify that person from driving a commercial motor vehicle for the following  
15 periods: (1) if the person has not been previously convicted of violating an out-of-  
16 service order, not less than 90 days; (2) if the person has been previously convicted  
17 once of violating an out-of-service order, not less than one year; (3) if the person has  
18 been previously convicted more than once of violating an out-of-service order, not less  
19 than three years. In this subsection, "previously convicted" means having been  
20 convicted in this or another jurisdiction of an offense described in (a)(7) of this section  
21 within 10 years preceding the date of the present offense.

22 \* Sec. 24. AS 28.33.190 is amended by adding a new paragraph to read:

23 (11) "out-of-service order" means an order issued under regulations  
24 adopted under AS 28.05.011 that prohibits an owner or operator of a commercial  
25 motor vehicle from operating a commercial motor vehicle.

26 \* Sec. 25. AS 28.35.080(a) is amended to read:

27 (a) The driver of a vehicle involved in an accident resulting in bodily injury  
28 to or death of a person or total property damage to an apparent extent of \$1,500 [500]  
29 or more shall immediately by the quickest means of communication give notice of the  
30 accident to the local police department if the accident occurs within a municipality,  
31 otherwise to the Department of Public Safety.

1 \* Sec. 26. AS 28.35.080(b) is amended to read:

2 (b) The driver of a vehicle involved in an accident resulting in bodily injury  
3 to or death of a person or total property damage to an apparent extent of \$1,500 [\$500]  
4 or more shall, within 10 days after the accident, forward a written report of the  
5 accident to the Department of Public Safety and to the local police department if the  
6 accident occurs within a municipality. A report is not required under this subsection  
7 if the accident is investigated by a peace officer.

8 \* Sec. 27. AS 28.40.100(a)(2) is amended to read:

9 (2) "commercial motor vehicle" means a motor vehicle or a  
10 combination of a motor vehicle and one or more other vehicles

11 (A) used to transport passengers or property;

12 (B) used upon a land highway or vehicular way [CONNECTED

13 TO

14 (i) THE LAND CONNECTED STATE HIGHWAY  
15 SYSTEM; OR

16 (ii) A LAND HIGHWAY OR VEHICULAR WAY  
17 WITH AN AVERAGE DAILY TRAFFIC VOLUME GREATER  
18 THAN 499]; and

19 (C) that

20 (i) has a gross vehicle weight rating or gross  
21 combination weight rating greater than 26,000 pounds;

22 (ii) is designed to transport more than 15 passengers,  
23 including the driver; or

24 (iii) is used in the transportation of materials found by  
25 the United States Secretary of Transportation to be hazardous for  
26 purposes of 49 U.S.C. 1801 - 1813 (Hazardous Materials Transportation  
27 Act);

28 (D) except that the following vehicles meeting the criteria in  
29 (A) - (C) of this paragraph are not commercial vehicles:

30 (i) emergency or fire equipment that is necessary to the  
31 preservation of life or property;

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(ii) farm vehicles that are controlled and operated by a farmer; used to transport agricultural products, farm machinery, or farm supplies to or from that farmer's farm; not used in the operations of a common or contract motor carrier; and used within 150 miles of the farmer's farm; and

(iii) recreational vehicles used exclusively for purposes other than commercial purposes;

\* Sec. 28. AS 28.40.100(a)(3) is amended to read:

(3) "commercial purposes" means activities for which a person receives direct monetary compensation or activities for which a person receives no direct monetary compensation but that are incidental to and done in furtherance of the person's [PRIMARY] business;

\* Sec. 29. AS 28.10.108(b) and 28.10.108(c) are repealed.

\* Sec. 30. This Act takes effect July 1, 1996.

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB # 517

Revision Date: 2/16/96 Dept. Affected: DOT&PF  
 Title: Regulation of Motor Vehicles / BRU: Department Wide  
Commercial Motor Vehicles Component: Comm. Ofc.  
 Sponsor: Transportation, J. [Signature]  
 Requester: [Signature] COMPONENT SERIAL NO. Comm. Ofc.

(Thousands of Dollars)

EXPENDITURES/REVENUES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

(Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other - All CIP Sources						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost: \$ \_\_\_\_\_

**POSITIONS**

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

Portions of this bill will have a direct and positive impact on the DOT&PF. This legislation will enhance the department's ability to better administer commercial vehicle activities in that it provides clarity to existing law, defines certain violations which will result in the suspension or revocation of vehicle registration and/or special permits, and provides meaningful deterrents to owners and operators of commercial vehicles from operating vehicles that are out of compliance with safety standards and drivers licensing requirements.

Cost savings are not necessarily tangible and will not result in a direct budget reduction. The public safety will however, definitely be enhanced. By keeping commercial vehicles that have been placed out of service by the department off of the road until they have been repaired and reinspected, the public's exposure to unsafe commercial vehicles will be minimized. Subsequently, the state will be less at risk from possible litigation involving unsafe commercial vehicles.

Prepared by: Sam Kito III Phone: 465-3900  
 Special Assistant  
 Division: Office of the Commissioner Date: \_\_\_\_\_  
 Approved by: [Signature] Date: 2/20/96  
 Commissioner  
 Agency: Department of Transportation and Public Facilities

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Federal Motor Carrier Safety Regulations carry sanctions against states failing to pass a bill such as this. The sanction will cause the loss of federal highway funds to the State of Alaska in the amount of \$8.0 million in FFY97 (October 1, 1996). The second year of non-compliance carries a 10% penalty of \$16.0 million for FFY98 (October 1, 1997).

# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO: HB 517**

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: An Act relating to motor vehicles, commercial BRU: DPS Statewide Support  
motor vehicles Component: Commissioner's Office  
 Sponsor: House Transportation Committee  
 Requestor: H TRA COMPONENT SERIAL NO. 0523

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

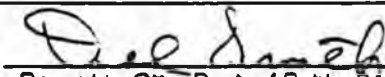
Estimate of current year (FY 95) impact \$ \_\_\_\_\_

**POSITIONS:**

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

ANALYSIS: (Attach a separate page if necessary.)

This bill includes some housekeeping measures that simplify several procedures affecting the operation of the Divisions of Motor Vehicles. It also provides for compliance with the Code of Federal Regulations, Title 49 of the Federal Motor Carrier Safety Assistance Program (MCSAP) and a compliance issue relating to the Commercial Motor Vehicle Safety Act (CMVSA) 49 CFR. Failure to maintain compliance with both the MSCAP grant and CMVSA may result in loss of the MSCAP grant funding and loss of 5 percent of federal highway aid funding.

Prepared By: Juanita M. Hensley Phone: 465-2650  
 Division: Motor vehicles Date: 2/15/96  
 Approved by Commissioner:  Date: 2/15/96  
 Agency: Ronald L. Otto, Dept. of Public Safety

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# FISCAL NOTE

**STATE OF ALASKA**

**BILL NO:**



U.S. Department  
of Transportation  
Federal Highway  
Administration

400 Seventh St., S.W.  
Washington, D.C. 20590

Refer to: HCS-20

Ms. Juxmita M. Hensley  
Chief, Driver Services  
Division of Motor Vehicles  
Alaska Department of Public Safety  
P.O. Box 20020  
Juneau, Alaska 99802-0020

FEB 13 1996

Dear Ms. Hensley:

Thank you for your January 25, 1996 letter to Mr. Robert Redmond requesting confirmation that a State could be found not to be in substantial compliance with the commercial driver's license regulations if the disqualification of a commercial motor vehicle driver for violation of an out-of-service order is not adopted by October 1, 1996.

You are correct in your belief that a State must adopt and implement the new disqualification requirement for a violation of an out-of-service order by October 1, 1996. In both the "Deadline for Compliance" and "Structure" discussions in the preamble to the final rule "State Compliance With Commercial Driver's License Program" (Federal Register, May 18, 1994, Vol. 59, No. 95), the Federal Highway Administration clearly conveys the fact that State compliance with this 22nd requirement for State participation would not be required before October 1, 1996.

The "Substantial Compliance" discussion in the preamble to the final rule "Violations of Out-of-Service Orders by Commercial Motor Vehicle Operators; Disqualification and Penalties" (Federal Register, May 18, 1994, Vol. 59, No. 95), further conveys the fact that States must be in substantial compliance with this 22nd requirement for State participation by October 1, 1996.

While the effective date for this final rule was June 17, 1994, the State compliance deadline was deferred until October 1, 1996 to allow States sufficient time to take the necessary steps to assure compliance. Any State not meeting this deadline would be subject to sanctions as prescribed in 49 CFR 384.

I hope this information is helpful to you.

Sincerely yours,

James E. Scapellato, Director  
Office of Motor Carrier  
Research and Standards

cc: Linda Taylor (HSA-30)

FHWA.HCS20.RRedmond:skb:65014:1/31/96  
cc: HCSRF, HCS20-RF  
H:\HCS\HCS20\LETTERS\4-1\COMPL\HENSLEY  
File: State File - Alaska



U.S. Department  
of Transportation  
Federal Highway  
Administration

Region 10  
Alaska, Idaho,  
Oregon, Washington

401N Central Suite 600  
222 SW Columbia Street  
Portland, Oregon 97201

April 22, 1994

(503)326-4902

Ms. Nita Hensley  
Chief, Driver Services  
Division of Motor Vehicles  
Juneau, Alaska

Dear Ms. Hensley:

This is in reference to our telephone conversation of April 21, 1994, concerning the State of Alaska's regulatory variances, specifically, the 300-mile exemption for farmers. The State of Alaska's 300-mile farm exemption is incompatible with the Federal Motor Carrier Safety Regulations. This involves both interstate and intrastate drivers. The interstate variance could result in preemption [see 49 CFR 355.25(c)] and the intrastate variance could result in the loss of approximately \$125,000 of the State's grant funding under the Motor Carrier Safety Assistance Program [see 49 CFR 350.21(d)(3)].

If you need additional information concerning this matter, please contact State Programs Manager Steve Hurst at (503)326-4902.

Sincerely,

Donald B. Harris  
Acting Regional Director  
Office of Motor Carriers

CC: SGT. Ed Stauber  
Alaska State Troopers

## DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

49 CFR Parts 383, 390, and 391

[FHWA Docket No. MC-92-13]

RIN 2125-AC93

## Violations of Out-of-Service Orders by Commercial Motor Vehicle Operators: Disqualifications and Penalties

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

**SUMMARY:** The FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSRs) by making a conviction of any violation of an out-of-service order by a driver of a commercial motor vehicle (CMV) a disqualifying offense. Such a conviction will result in suspension, revocation, or cancellation of the driver's commercial driver's license (CDL), or disqualification by the FHWA, for a period of time from 90 days to five years. Civil monetary penalties are provided for both drivers and their employers. This rule implements section 4009 of the Motor Carrier Safety Act of 1991 and responds to a petition filed by the Commercial Vehicle Safety Alliance (CVSA) on June 22, 1990. ~~State's failure to adopt the requirements of this rule will result in the withholding of Federal-aid highway funds. This action will deter the illegal operation of CMVs in violation of an out-of-service order.~~

EFFECTIVE DATE: June 17, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. W. Teresa Doggett, Driver Standards Division, Office of Motor Carrier Standards (202) 366-4009, or Mr. David Sett, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

## SUPPLEMENTARY INFORMATION:

## Background

On January 15, 1993, the FHWA published a notice of proposed rulemaking (NPRM) (58 FR 4640) that would amend 49 CFR parts 383, 390, and 391 to make a conviction of any violation of an out-of-service order by a driver of a commercial motor vehicle (CMV) a disqualifying offense. Such a conviction will result in suspension, revocation, or cancellation of the driver's commercial driver's license (CDL), or disqualification by the FHWA,

for a period of time from 90 days to five years. Civil monetary penalties were also proposed for both drivers and their employers. The NPRM responded to section 4009 of the Motor Carrier Act of 1991 (49 U.S.C. app. 2718), which directed the Secretary of Transportation to establish sanctions, penalties, and disqualifications relating to violations of out-of-service orders by persons operating commercial motor vehicles.

The statute specifies that any operator of a CMV who is convicted of a first violation of an out-of-service order is to be disqualified for no less than 90 days. Subsequent violations would lead to disqualification periods of from one to five years. The statute also sets forth civil penalties of not less than \$1,000 for drivers who are convicted of a violation of an out-of-service order, and of not more than \$10,000 for employers who are convicted of knowingly allowing a driver to violate an out-of-service order. Finally, the statute added State adoption and enforcement of the penalties for out-of-service violations to the list of conditions necessary to achieve "substantial compliance" with section 4009(a) of the Commercial Motor Vehicle Safety Act of 1986, and thereby avoid a withholding of apportioned Federal-aid highway funds. 49 U.S.C. app. 2708, 2710.

The NPRM also responded to a June 22, 1990, petition filed by the Commercial Vehicle Safety Alliance (CVSA), to include violations of out-of-service orders as disqualifying offenses under the provisions of the CDL program. The CVSA is an alliance of CMV safety enforcement officials from the United States, the Canadian provinces and territories, and the Federal government of Mexico.

## Applicability

This rulemaking adds to 49 CFR part 383 of the FMCSRs, disqualification periods and civil penalties for drivers, and civil penalties for employers, who violate out-of-service orders. Part 383 generally encompasses every driver of a motor vehicle that—

- (1) Has a gross combination weight rating (GCWR) of 26,001 or more pounds, inclusive of a towed vehicle with a gross vehicle weight rating (GVWR) over 10,000 pounds;
- (2) Has a GVWR of 26,001 pounds or more;
- (3) Is designed to transport 16 or more passengers, including the driver; or
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which is required to be placarded under the Hazardous Materials

Regulations (49 CFR part 172, subpart F).

No exceptions to the applicability of CDL requirements are provided in the regulations. Pursuant to the waiver authority granted in section 12013 of the Commercial Motor Vehicle Safety Act of 1986, however, the FHWA, on September 26, 1988, issued specific waiver provisions covering active-duty military personnel and, at each State's discretion, certain farmers, firefighters, and operators of emergency equipment (53 FR 37313). Similarly, on April 17, 1992, the FHWA issued a notice of final disposition authorizing States to exempt certain employees of farm-related service industries from CDL knowledge and skills testing, allowing them to obtain a restricted CDL (57 FR 13650). Employees of farm-related service industries are still subject to all other CDL requirements. For these groups, the FHWA found that the waivers were not contrary to the public interest and would not diminish the safe operation of commercial motor vehicles.

To preserve consistency between 49 CFR part 383 (the CDL rules) and 49 CFR part 391 (qualifications of drivers), this action will also extend the purview of these regulations requiring disqualifications for violations of out-of-service orders to drivers of CMVs as defined in 49 CFR 390.5. This extension will affect all vehicles with a GVWR or GCWR greater than 10,000 pounds. This extension, based upon the FHWA's authority to establish minimum safety standards for CMVs, 49 U.S.C. 3102, 49 U.S.C. app. 2505, reflects the FHWA's belief that a smaller vehicle operating while designated as an "imminent hazard" presents the same kind of safety risk as a larger vehicle. Drivers of CMVs with a GVWR or GCWR greater than 10,000 pounds are already subject to civil penalties for violating out-of-service orders, as described in appendix A (IV) to part 386. The driver disqualifications set forth in this rulemaking will serve as an additional inducement to refrain from illegally operating a CMV in violation of an out-of-service order.

## Definition

Out-of-service orders are issued in various forms. Operations out-of-service orders result from a Safety or Compliance Review conducted by the FHWA or an authorized enforcement officer of a State or local jurisdiction. Upon a finding of repeated failure to come into compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) despite multiple enforcement actions, operations out-of-service orders direct a motor carrier to cease all or that

**Required timing.** The State shall qualify a driver as expeditiously as possible.

**Recordkeeping requirements.** The State shall maintain such driver records to cause such driver identification to be retained on the CDLIS as the creator of the CDLIS specifies are necessary to the implementation and enforcement of the disqualifications listed for in §§ 384.215 through 384.219.

**384.232 Required timing of record checks.**

The State shall perform the record checks prescribed in §§ 384.205, 384.206, and 384.220, no earlier than 10 days prior to issuance for licenses issued before October 1, 1995. For licenses issued after September 30, 1995, the State shall perform the record checks no earlier than 24 hours prior to issuance if the license is issued to a driver who does not currently possess a valid CDL from the same State and no earlier than 10 days prior to issuance for all other drivers.

**Subpart C—Procedures for Determining State Compliance**

**§ 384.301 Substantial compliance—general requirement.**

To be in substantial compliance with 49 U.S.C. app. 2708(a), a State must meet each and every standard of subpart B of this part by means of the demonstrable combined effect of its statutes, regulations, administrative procedures and practices, organizational structures, internal control mechanisms, resource assignments (facilities, equipment, and personnel), and enforcement practices.

**§ 384.303 State certification for Federal fiscal year 1994 (FY 1994).**

(a) **FY 1994 Certification Requirement.** Prior to July 18, 1994, each State shall review its compliance with this part and certify to the Federal Highway Administrator as prescribed in paragraph (b) of this section. The certification shall be submitted as a signed original and four copies to the State Director or Officer-in-Charge, Office of Motor Carriers, Federal Highway Administration, located in that State.

(b) **FY 1994 Certification Content.** The certification shall consist of a statement signed by the Governor of the State, or by an official designated by the Governor, and reading as follows: "I (name of certifying official), (position title), of the State (Commonwealth) of \_\_\_\_\_, do hereby certify that the State (Commonwealth) is in substantial compliance with all requirements of 49

U.S.C. app. 2708(a), as defined in 49 CFR 384.301, and contemplates no changes in statutes, regulations, or administrative procedures, or in the enforcement thereof, which would affect such substantial compliance through (the last date of the current Federal fiscal year)."

(Approved by the Office of Management and Budget under control number 2125-0542)

**§ 384.305 State certifications for Federal fiscal years after FY 1994.**

(a) **Certification requirement.** Prior to January 1 of each Federal fiscal year after FY 1994, each State shall review its compliance with this part and certify to the Federal Highway Administrator as prescribed in paragraph (b) of this section. The certification shall be submitted as a signed original and four copies to the State Director or Officer-in-Charge, Office of Motor Carriers, Federal Highway Administration, located in that State.

(b) **Certification content.** The certification shall consist of a statement signed by the Governor of the State, or by an official designated by the Governor, and reading as follows: "I (name of certifying official), (position title), of the State (Commonwealth) of \_\_\_\_\_, do hereby certify that the State (Commonwealth) has continuously been in substantial compliance with all requirements of 49 U.S.C. app. 2708(a), as defined in 49 CFR 384.301, since (the first day of the current Federal fiscal year), and contemplates no changes in statutes, regulations, or administrative procedures, or in the enforcement thereof, which would affect such substantial compliance through (the last date of the current Federal fiscal year)."

(Approved by the Office of Management and Budget under control number 2125-0542)

**§ 384.307 FHWA program reviews of State compliance.**

(a) **FHWA Program Reviews.** Each State's CDL program shall be subject to review to determine whether or not the State meets the general requirement for substantial compliance in § 384.301. The State shall cooperate with and provide information in conjunction with any program reviews under this section.

(b) **Preliminary FHWA determination and State response.** If, after review, a preliminary determination is made that a State does not meet one or more of the standards of subpart B of this part, the State will be informed accordingly prior to July 1 of the fiscal year in which the preliminary determination is made. The State will have up to thirty calendar days to respond to the preliminary determination. Upon request by the

State, an informal conference will be provided during this time.

(c) **Final FHWA determination.** If, after reviewing any timely response by the State to the preliminary determination, a final determination is made that the State is not in compliance with the affected standard, the State will be notified of the final determination.

**§ 384.309 Results of compliance determination.**

(a) A State shall be determined not substantially in compliance with 49 U.S.C. app. 2708(a) for any fiscal year in which it:

(1) Fails to submit the certification as prescribed in this subpart; or

(2) Does not meet one or more of the standards of subpart B of this part, as established in a final determination by the FHWA under § 384.307(c).

(b) A State shall be in substantial compliance with 49 U.S.C. app. 2708(a) for any fiscal year in which neither of the eventualities in paragraph (a) of this section occurs.

**Subpart D—Consequences of State Noncompliance**

**§ 384.401 Withholding of funds based on noncompliance.**

(a) **Following first year of noncompliance.** An amount equal to ten percent of the funds required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(5) of title 23, U.S.C., shall be withheld on the first day of the fiscal year following such State's first year of noncompliance under this part.

(b) **Following second and subsequent year(s) of noncompliance.** An amount equal to ten percent of the funds required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(5) of title 23, U.S.C., shall be withheld on the first day of the fiscal year following such State's second or subsequent year of noncompliance under this part.

**§ 384.402 Period of availability; effect of compliance and noncompliance.**

(a) **Period of availability.**

(1) **Funds withheld on or before September 30, 1995.** Any funds withheld under this subpart from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under 23 U.S.C. 104(b)(5)(B) but for the provisions of this subpart, such funds shall remain available until the end of the second fiscal year following the fiscal year for

which such funds are authorized to be appropriated.

(ii) If such funds would have been apportioned under 23 U.S.C. 104(b)(1) or 104(b)(3) but for the provisions of this subpart, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(3) *Funds withheld after September 30, 1995.* No funds withheld under this subpart from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

(b) *Apportionment of withheld funds after compliance.* If, before September 30 of the last fiscal year for which funds withheld under this subpart from apportionment are to remain available

for apportionment to a State under paragraph (a) of this section, the State makes the certification called for in § 384.305 and a determination is made that the State has met the standards of subpart B of this part for a period of 365 days and continues to meet such standards, the withheld funds remaining available for apportionment to such State shall be apportioned to the State on the day following the last day of such fiscal year.

(c) *Period of availability of subsequently apportioned funds.* Any funds apportioned pursuant to paragraph (b) of this section shall remain available for expenditure until the end of the third fiscal year succeeding the fiscal year in which such funds are apportioned. Sums not obligated at the end of such period shall

lapse or, in the case of funds apportioned under 23 U.S.C. 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with 23 U.S.C. 118(b).

(d) *Effect of noncompliance.* If, at the end of the period for which funds withheld under this subpart from apportionment are available for apportionment under paragraph (a) of this section, the State has not met the standards of subpart B of this part for a 365-day period, such funds shall lapse or, in the case of funds apportioned under 23 U.S.C. 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with 23 U.S.C. 118(b).

FR Doc. 94-11843 Filed 5-17-94; 8:45 am  
BILLING CODE 4110-22-9

**HB**

**520**

## HB 520 Sectional Analysis

This bill will establish a unified system within the executive branch for determining cause and manner of deaths which occur in suspicious circumstances or in which the cause of death is unknown. It would abolish the position of coroners and unify appropriate investigative responsibilities in the state medical examiner within the executive branch. Only judicial functions relating to cause of death determinations would remain within the judicial branch. This would eliminate some of the confusion, duplication of effort and inefficiencies of Alaska's hybrid death investigation system.

Alaska is one of 18 states that still utilizes a death-investigation system relying on both medical examiners and coroners to establish cause and manner of death. The Medical Examiner's Office is a part of the executive branch, located within the Department of Health & Social Services, Division of Public Health. Coroners, however, are judicial officers, holding the position *ex officio* as a part of their appointment as magistrates or judges. A hybrid system such as this almost inevitably results in a duplication of efforts, inefficiency and confusion as to the responsibilities and authority of each. Alaska's current law grants coroners more investigative authority than the state medical examiner, even though it is the medical examiner who has the most expertise in establishing the cause and manner of a person's death. This inevitably increases the possibility of errors and oversights in death investigations, which could jeopardize a criminal prosecution. This bill corrects these problems.

Section 1 of the bill is essentially a housekeeping measure, renaming "coroners' inquests" as "death inquests" and moving the authorizing statutes from AS 12.65 to AS 09.55, where the presumptive death statutes are already located. This section authorizes the medical examiner or a district attorney to initiate a death inquest.

Section 2 sets out the circumstances in which the state medical investigator must be notified of a death. These are essentially unanticipated deaths caused by other than natural means or those which appear to result from a disease that may constitute a public health threat. If the state medical examiner concludes that it is appropriate to do so, the examiner will perform a medical death investigation under AS 12.65.020.

Section 3 is a housekeeping measure authorizing the Commissioner of Health and Social Services to appoint a state medical examiner rather than to establish the position - a one time act which was accomplished following authorization in the statutory change of 1993.

Section 4 amends the state medical examiner statute to authorize the state medical examiner to appoint local, regional, or district medical examiners to assist in performing the duties of the office.

Section 5, amending AS 12.65.020, represents the heart of this bill. It transfers jurisdiction over the bodies of those who die unattended by a physician from coroners to the state medical examiner and establishes the responsibility and authority of the state medical examiner to perform actions needed to make a proper determination of the cause and manner of death. The state medical examiner is authorized to view the remains of the deceased person, perform a post mortem examination, and take any other action necessary to make a proper determination of the cause and manner of death, including taking possession of any property deemed necessary to the investigation. The state medical examiner is also authorized to call upon public employees, including peace officers and village public safety officers, to provide assistance necessary to complete the medical death investigation. If the examiner concludes that death may have been caused by criminal means, the medical examiner is required to submit a copy of the report of the medical examiner's findings and conclusions is to be submitted to the district attorney, who is authorized to initiate criminal proceedings.

Section 6 clarifies that the state will pay the costs of transporting a body to the location where a post mortem examination is to be conducted, and then the costs of returning the body to the community where the death occurred or to such other location as relatives may request to the extent that the costs of such transportation do not exceed the costs of returning the body to the place of death.

Sections 8 and 9 transfer the functions of public administrators from the judiciary to the Department of Health & Social Services. A public administrator is empowered to act as the representative of an estate when no one else has stepped forward to perform that function. The department may appoint an employee or contract with an individual to act as a public administrator. In either event, the administrator is required to file a surety bond with the court the same as personal representatives are required to do unless relieved of this obligation by the terms of the deceased person's will. Section 13 exempts a contract between a public administrator and a law firm retained to represent the public administrator from the procurement code. This enables the public administrator to retain a firm that has experience in handling the probate of estates administered by a public administrator.

The remaining sections of the bill amend statutes in the criminal and judicial codes to delete references to coroners that are no longer necessary.

# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO: HB 520**

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Inquests, Coroners, Post Mortems, etc. BRU: Alaska State Troopers  
 Component: Detachments and CIB  
 Sponsor: House Finance Committee  
 Requestor: H. Judiciary COMPONENT SERIAL NO. 0799 and 0830

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ \_\_\_\_\_

**POSITIONS:**

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Lt. Dan Lowden Phone: 465-5505  
 Division: Alaska State Troopers Date: February 27, 1996  
 Approved by Commissioner: *Del Smith* Date: 2/28/96  
 Agency: Ronald L. Otte, Department of Public Safety

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STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 520

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: An act relating to death investigations and BRU: State Health Services  
inquests, coroners, public administrators, etc. Component: State Medical Examiner  
 Sponsor: House Finance COMPONENT SERIAL NO. 293  
 Requestor: House Judiciary See also (SN#): \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	219.8	225.3	230.9	236.7	242.6	248.7
TRAVEL	15.0	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	45.2	45.2	45.2	45.2	45.2	45.2
SUPPLIES	5.0	5.0	5.0	5.0	5.0	5.0
EQUIPMENT	35.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>320.0</b>	<b>290.5</b>	<b>296.1</b>	<b>301.9</b>	<b>307.8</b>	<b>313.9</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	320.0	300.5	306.1	311.9	317.8	323.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<b>TOTAL</b>	<b>320.0</b>	<b>290.5</b>	<b>296.1</b>	<b>301.9</b>	<b>307.8</b>	<b>313.9</b>

Estimate of any current year (FY98) cost: \$0.0

POSITIONS:

FULL-TIME	5	5	5	5	5	5
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note is a funding transfer between the Alaska Court System and the Department of Health and Social Services to accommodate the transfer of responsibilities associated with HB 520.

The Court System is transferring \$320.0 GF for the following Lines:

Line 100 - \$219.8 in Personal Services

- Investigator I, range 14, PFT, GGU, Anchorage
- Investigator I, range 14, PFT, GGU, Juneau
- Investigator I, range 14, PFT, GGU, Fairbanks
- Investigator II, range 16, PFT, GGU, Anchorage
- Administrative Clerk II, range 8, PFT, GGU, Anchorage

Inflation factor of 2.5% is built in for FY98 and later years

Prepared by: Peter M. Nakamura, MD, MPH

Division: Public Health

Phone: (907) 465-3090

Date: 02/27/96

Approved by Com: \_\_\_\_\_

Karen Pardee, Commissioner

Date: 8/22/96

Agency: Department of Health & Social Services

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**ANALYSIS (cont.):**

Line 200 - \$15.0 is allotted in travel for death scene investigations, and for recruiting and training local and regional Medical Examiners and lay investigators.

Line 300 - \$45.2 will be need in the contractual for the lease of three vehicles for use on the road system @ \$6.0/year/vehicle. \$27.2 will be used to contract with attorneys for the disposition of the deceased's estate and contracting with regional Medical Examiners and lay investigators.

Line 400 - \$5.0 in general office supplies.

Line 500 - \$35.0 will be needed for 5 computers, software and a LAN system, and office furniture.

Position Title Investigator I		No. of Positions 3	Range/Step 14A	Bargaining Unit GGU
Time Status PFT	Staff Months 36.0	Location Juneau/Anchorage/Fairbanks		Election District
<b>TYPE of EXPENDITURE</b>		<b>AMOUNT</b>		
Salary		95.6		
Benefits		39.7		
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>135.3</b>		
Travel		15.0		
Contractual		18.0		
Commodities		3.0		
Equipment		15.0		
Other				
<b>Total Cost</b>		<b>186.3</b>		
<b>FUNDING SOURCE for TOTAL COST</b>				
1002	Federal Receipts			
1003	GF Match			
1004	General Fund	186.3		
1005	GF/Program Receipts			
1007	I/A Receipts			
1037	GF/MH			
1061	CIP Receipts			
Other	( )			
Justification  The investigator positions will conduct death scene investigations in place of the coroner. This position will secure the death scene, evaluate whether an autopsy should take place. An investigator will be located in Juneau, Anchorage and Fairbanks.				

**REQUEST for  
NEW POSITION**

AGENCY: Health and Social Services  
 BRU: State Health Services  
 COMPONENT: State Medical Examiner

**FY97**

Page: 3 of 5

Revised Date:

Position Title Investigator II		No. of Positions 1	Range/Step 16A	Bargaining Unit GGU
Time Status PFT	Staff Months 12.0	Location Anchorage		Election District
<b>TYPE of EXPENDITURE</b>		<b>AMOUNT</b>		
Salary		33.3		
Benefits		16.7		
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>50.0</b>		
Travel				
Contractual		27.2		
Commodities		1.0		
Equipment		15.0		
Other				
<b>Total Cost</b>		<b>93.2</b>		
<b>FUNDING SOURCE for TOTAL COST</b>				
1002	Federal Receipts			
1003	GF Match			
1004	General Fund	93.2		
1005	GF/Program Receipts			
1007	I/A Receipts			
1037	GF/MH			
1061	CIP Receipts			
Other ( )				
Justification  This position will serve as the lead death scene investigator. It will also be responsible for the training of lay investigators in the local communities.				

**REQUEST for  
NEW POSITION**

AGENCY: Health and Social Services  
 BRU: State Health Services  
 COMPONENT: State Medical Examiner

**FY97**

Page: 4 of 5

Revised Date:

Position Title <b>Administrative Clerk II</b>		No. of Positions <b>1</b>	Range/Step <b>8A</b>	Bargaining Unit <b>GGU</b>
Time Status <b>PFT</b>	Staff Months <b>12.0</b>	Location <b>Anchorage</b>		Election District
<b>TYPE of EXPENDITURE</b>		<b>AMOUNT</b>		
Salary		23.0		
Benefits		11.5		
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>34.5</b>		
Travel				
Contractual				
Commodities		1.0		
Equipment		5.0		
Other				
<b>Total Cost</b>		<b>40.5</b>		
<b>FUNDING SOURCE for TOTAL COST</b>				
1002 Federal Receipts				
1003 GF Match				
1004 General Fund		40.5		
1005 GF/Program Receipts				
1007 I/A Receipts				
1037 GF/MH				
1061 CIP Receipts				
Other ( )				
<p>Justification</p> <p>This position will give clerical support to the four professional positions. It will arrange travel, type forms, do transcription of the death scene investigation reports, perform filing and general clerical functions.</p>				

**REQUEST for  
NEW POSITION**

AGENCY: **Health and Social Services**  
 BRU: **State Health Services**  
 COMPONENT: **State Medical Examiner**

**FY97**

Page: 5 of 5

Revised Date:

**HB**

**536**

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

### *Committee on Finance*

Official Business

State Capitol  
Juneau, Alaska 99801-1182

#### SPONSOR'S STATEMENT

##### HB 536

(An Act relating to charitable gaming.)

The purpose of government's involvement in charitable gaming is to ensure public benefits by guaranteeing that a fair percentage of proceeds are directed to traditional charities.

In 1993 amendments were adopted to increase the amount of proceeds going to charity. The amendments allowed for expenses to be deducted from gross receipts, giving operators and permittees more latitude to have bigger prizes, more employees, and increased salaries. However, with more allowable expenses less money made its way to the charities than had been anticipated.

Over the last nine years the charitable gaming industry has grown by 471%. In 1994, \$257 million flowed out of people's pockets into gaming establishments - money that normally would be spent on food, services, clothing and shelter was spent in bingo halls and pull tab parlors. Alaska has the dubious distinction of leading the nation in per capita gaming receipts, with an annual average of \$453 being spent by each man, woman, and child living in the state. Compare this to Nevada's \$130 per capita gaming revenues.

Of the \$250 million spent on bingo and pull tabs, only \$19.7 million (7%) went to eligible charities. An additional \$1.8 million went to the state general fund. The bottom line is that under current statute, only 10% of the pull tab dollar and 2% of the bingo dollar go to charity. Of states with charitable gaming, Alaska ranks last in the amount of money realized by charities and the state.

Alaska has 28 gaming "operators" who are hired by many of the 2016 permittees to run their gaming operations. For their services the operators are able to take money off the top after prizes are awarded. The opportunity to make large sums of money in the name of charity appears unsettling.

This concern has been borne out by several audits and numerous investigations. In 1994 alone the Division found that operators owed charities an additional \$699,000 more than had been received. Following 123 investigations conducted that same year, the Division discovered \$470,000 in missing gaming receipts.

To increase the amount of gaming proceeds going to charities, the House Finance Committee introduced HB 536. This bill bases the percentage going to a charity or the state on "gross receipts," rather than on "net proceeds" as required by current statute. Additionally, using "gross receipts" as a base would simplify accounting and auditing activities for operators and permittees as well as the Charitable Gaming Division. It would eliminate the current necessity to "police" operators and permittees expenses to ascertain the "profit" or the "reasonable expenses," that must be determined when "net proceeds" are used as the base for deciding the amount accruing to a charity or to the state.

HB 536 provides for charities to collect 20% and the State to collect 5% of all dollars spent on pull tabs and bingo (Ontario collects 30% of gross gaming receipts). If this legislation is adopted, it is estimated that next year state gaming activities would provide an additional \$11 million general fund revenues and an additional \$30 million for eligible charities.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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

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

## MEMORANDUM

March 23, 1996

**SUBJECT:** Sectional Summary of CSHB 536( ), "F" version, draft, dated 3/11/96. (Work Order No. 9-LS1715\F)

**TO:** Representative Terry Martin  
Attn: Jeanne Larson

**FROM:** Gerald P. Luckhaupt *GLP*  
Legislative Counsel

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

**Section 1** provides that permittees that have over \$20,000 in gross receipts from gaming, other than bingo and pull-tabs, shall annually pay a fee of one percent of the net proceeds from the activity.

**Section 2** requires the Department of Revenue to develop methods of (1) determining the net proceeds from gaming other than bingo or pull-tabs, (2) determining the net proceeds of bingo or pull-tab games conducted by the holders of multiple-beneficiary permit, and (3) accounting for the gross receipts from bingo and pull-tab games conducted by a permittee or an operator.

**Section 3** provides that each permittee must pay to the state a tax of five percent of the total gross receipts derived from bingo and five percent of the ideal gross from pull-tab games.

**Section 4** identifies the information that must be reported to the department from permittees who conduct bingo and pull-tab games and other activities; requires the quarterly tax payment to be submitted with the quarterly report.

**Section 5** identifies the information that must be reported to the department by the holders of a multiple-beneficiary permit that conducts bingo and pull-tab games and other activities; requires the quarterly tax payment to be submitted with the quarterly report; requires the member in charge of a multiple-beneficiary permit to file monthly, quarterly, and annual reports with each permittee that holds the multiple-beneficiary permit (as operators are required to do with authorizing permittees) and identifies the information that must be

Representative Terry Martin

March 23, 1996

Page 2

submitted to the holders and requires that payment for the percentage of the gross receipts from bingo and ideal gross from pull-tabs (or net proceeds from those activities if greater than the percentage amounts) and the net proceeds from other activities due to each permittee be submitted along with the report.

Section 6 identifies the information that must be reported by operators to the department.

Sections 7 and 8 relate to the information that is required to be submitted by operators in their monthly and quarterly reports to their authorizing permittees; requires that the payment of the percentage of gross receipts from bingo and of ideal gross from pull-tabs and the net proceeds from other activities that is due to the authorizing permittee be made with the monthly report.

Sections 9 and 10 provide that a permittee or operator may not conduct a gaming activity in any period in which a tax is delinquent and provides that delinquent taxes earn interest.

Section 11 provides that a permittee shall pay to the department a penalty of one percent per month that a tax is delinquent and that the department can waive the penalty.

Section 12 provides that an operator that fails to pay the required percentages of gross receipts from bingo and ideal gross from pull-tab games and net proceeds from other activities must pay interest to the permittee (as the permittee is required to pay interest to the department under section 10 of the bill) and a penalty to the state equal to the interest due to the permittee.

Section 13 relates to issuance of multiple-beneficiary permits and provides that in AS 05.15 "permit" includes "multiple-beneficiary permittees" unless the context clearly requires otherwise.

Section 14 relates to contracts between permittees and operators and provides that a contract may not contain a provision that requires the permittee to pay to the operator any amount that would result in the permittee realizing less from the gaming activity than the minimum amounts set in statute.

Section 15 provides that the department may void a contract between an operator and a permittee if the contract contains provisions that are contrary to law.

Section 16 requires an operator to pay each authorizing permittee at least 25 percent of the gross receipts from bingo and 25 percent of the ideal gross from pull-tab games each quarter and at least 10 percent of the adjusted gross income from any other activity annually.

Representative Terry Martin

March 23, 1996

Page 3

**Section 17** requires the department, in addition to the monetary penalty provided in AS 05.15.095, to suspend or revoke the licenses of operators that fail to make payments to permittees as provided in section 16.

**Section 18** provides that each proposed holder of a multiple-beneficiary permit must have a valid permit to individually conduct the activities to be permitted under the multiple-beneficiary permit; requires that the holders must enter into a contract regarding the multiple beneficiary permit.

**Section 19** requires the holders of a multiple-beneficiary permit to jointly file reports and provides that the holders are jointly liable for the activities under the permit and any suspension or revocation of the multiple-beneficiary permit also results in suspension or revocation of all individual permits of the holders.

**Section 20** requires the department to suspend or revoke a multiple-beneficiary permit when 25 percent of gross receipts from bingo (or the net proceeds whichever is greater), 25 percent of ideal gross from pull-tab games (or the net proceeds whichever is greater), and 10 percent of adjusted gross income from other activities, is not paid to the holders of the permit; provides a schedule of suspension periods and revocation for failure to pay the minimum amounts to the holders; provides other requirements that multiple-beneficiary permittees have to meet.

**Section 21** prohibits the percentage of gross receipts and of ideal gross and the net proceeds from being used for anything other than the charitable purposes identified and for payment of the bingo and pull-tab tax.

**Section 22** requires permittees that conduct their own gaming to retain at least 25 percent of gross receipts from bingo and 25 percent of ideal gross from pull-tab games for charitable purposes and for payment of the bingo and pull-tab tax; provides for suspension or revocation of permits for violations of the retained earnings requirement pursuant to a schedule.

**Section 23** identifies what are authorized expenses for the conduct of a gaming activity.

**Section 24** requires payments by an operator to a permittee to be by check.

**Section 25** prohibits an operator from engaging in certain activities.

**Sections 26 and 27** relate to the bond required of an operator.

**Sections 28 and 29** provides that a permittee that contracts with a vendor for the sale of pull-tab games must receive at least 25 percent of the ideal gross and how that 25 percent must be paid.

Representative Terry Martin  
March 23, 1996  
Page 4

**Section 30** defines ideal gross.

**Section 31** provides repealers.

**Section 32** provides a statement of legislative intent as to how this bill relates to other acts of the legislature that are passed in 1996.

GPL:lmb:glc  
96-069.lmb

9-LS1715\F  
Luckhaupt  
3/11/96

CS FOR HOUSE BILL NO. 536( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to charitable gaming."

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

3 \* Section 1. AS 05.15.020(b) is repealed and reenacted to read:

4 (b) In addition to the fee provided in (c) of this section, each municipality or  
5 qualified organization that has gross receipts of \$20,000 or more from an authorized  
6 activity, other than bingo or pull-tab games, shall annually pay to the department one  
7 percent of the net proceeds received during the preceding year from that authorized  
8 activity.

9 \* Sec. 2. AS 05.15.060(a) is amended to read:

10 (a) The department shall adopt regulations under AS 44.62 (Administrative  
11 Procedure Act) necessary to carry out this chapter covering, but not limited to,

12 (1) the issuance, renewal, and revocation of permits, licenses, and vendor  
13 registrations;

14 (2) a method of

15 (A) ascertaining net proceeds of

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(i) an activity conducted by a permittee or operator other than bingo or pull-tab games, the determination of items of expense that may be incurred or paid, and the limitation of the amount of the items of expense to prevent the proceeds from the activity permitted from being diverted to noncharitable, noneducational, nonreligious, or profit-making organizations, individuals, or groups;

(ii) bingo or pull-tab games conducted by the holders of a multiple-beneficiary permit, the determination of items of expense that may be incurred or paid, and the limitation of the amount of the items of expense to prevent the proceeds from the activity permitted from being diverted to noncharitable, noneducational, nonreligious, or profit-making organizations, individuals, or groups;

(B) accounting for gross receipts from bingo and the ideal gross from pull-tab games conducted by a municipality or qualified organization or an operator, assuring that payments due to permittees, the holders of a multiple-beneficiary permit, and the department are made at the times and in the amounts or percentages required, and preventing the proceeds from the activity permitted from being diverted to noncharitable, noneducational, nonreligious, or profit-making organizations, individuals, or groups;

(3) the immediate revocation of permits, licenses, and vendor registrations authorized under this chapter if this chapter or regulations adopted under it are violated;

(4) the requiring of detailed, sworn, financial reports of operations from permittees and licensees including detailed statements of receipts and payments;

(5) the investigation of permittees, licensees, registered vendors, and their employees, including the fingerprinting of those permittees, licensees, registered vendors, and employees whom the department considers it advisable to fingerprint;

(6) the method and manner of conducting authorized activities and awarding of prizes or awards, and the equipment that may be used;

(7) the number of activities that may be held, operated, or conducted under a permit during a specified period; however, the department may not allow more

1 than 14 bingo sessions a month and 35 bingo games a session to be conducted under a  
2 permit; the holders of a multiple-beneficiary permit under AS 05.15.100(d) may hold,  
3 operate, or conduct the number of sessions and games a month equal to the number  
4 allowed an individual permittee per month multiplied by the number of municipalities  
5 and qualified organizations that hold [HOLDERS OF] the multiple-beneficiary permit:

6 (8) a method of accounting for receipts and disbursements by operators,  
7 including the keeping of records and requirements for the deposit of all receipts in a  
8 bank;

9 (9) the disposition of funds in possession of a permittee, a person,  
10 municipality, or qualified organization that possesses an operator's license, or a registered  
11 vendor at the time a permit, a license, or a vendor registration is surrendered, revoked,  
12 or invalidated;

13 (10) restrictions on the participation by employees of the Department of  
14 Fish and Game in salmon classics and in king salmon classics, and by employees of  
15 Douglas Island Pink and Chum in king salmon classics;

16 (11) other matters the department considers necessary to carry out this  
17 chapter or protect the best interest of the public.

18 \* Sec. 3. AS 05.15 is amended by adding a new section to read:

19 Sec. 05.15.075. BINGO AND PULL-TAB GAME TAX. Each municipality or  
20 qualified organization that is permitted to conduct, or that is one of the holders of a  
21 multiple-beneficiary permit to conduct, a bingo or pull-tab game shall pay a bingo and  
22 pull-tab game tax in the amount of (1) five percent of the total gross receipts from bingo,  
23 and (2) five percent of the ideal gross from a pull-tab game. The tax shall be paid  
24 monthly at the times and in the manner set by the department. Activities under this  
25 chapter may not be conducted under a permit or multiple-beneficiary permit if the tax  
26 due under this section is delinquent.

27 \* Sec. 4. AS 05.15.080 is amended to read:

28 Sec. 05.15.080. REPORTS AND FEES REQUIRED OF MUNICIPALITIES  
29 AND QUALIFIED ORGANIZATIONS. (a) A municipality or a qualified organization  
30 issued a permit under this chapter shall file a report with the department by the 45th day  
31 following each calendar quarter in which the permittee had gross receipts from bingo  
32 or pull-tab games [OF \$50,000 OR MORE FROM ACTIVITIES] authorized under this

1 chapter. The report must include, for the bingo and pull-tab games [THE TYPE OF  
2 ACTIVITY CONDUCTED], the dates [DATE] and locations [LOCATION] of the  
3 games, the ideal gross for each pull-tab game series placed in service that quarter,  
4 the amount of gross receipts from bingo and [ACTIVITY], the amount of gross  
5 receipts from pull-tab games, the amount of gaming [AUTHORIZED] expenses, the  
6 value of prizes awarded, [THE AMOUNT OF NET PROCEEDS.] and other information  
7 the department may require. The quarterly tax payment required under AS 05.15.075  
8 shall be submitted with the report. A [HOWEVER, IF THE ONLY ACTIVITY  
9 CONDUCTED BY A] municipality or qualified organization that has not conducted  
10 bingo or pull-tab games during a calendar quarter is [A RAFFLE OR LOTTERY,  
11 THEN THE MUNICIPALITY OR QUALIFIED ORGANIZATION IS] not required to  
12 file a report under this subsection [UNTIL THE RAFFLE OR LOTTERY IS  
13 COMPLETED].

14 (b) A municipality or a qualified organization issued a permit under this chapter  
15 shall file an annual report with the department by March 15 of the year following the  
16 year in which activities were conducted, accompanied by the payment of the additional  
17 fee, as may be required under AS 05.15.020(b). The report must list the types of  
18 activities conducted, the ideal gross of pull-tab games placed in service during the  
19 year, the gross receipts from bingo, the gross receipts from pull-tab games, the  
20 amount of gaming expenses and prizes awarded for bingo and pull-tab games, and,  
21 for each other activity, the total amount of gross receipts, the total amount of authorized  
22 expenses, the total value of prizes awarded, and the total amount of net proceeds.

23 \* Sec. 5. AS 05.15 is amended by adding a new section to read:

24 Sec. 05.15.082. REPORTS AND FEES REQUIRED OF MULTIPLE-  
25 BENEFICIARY PERMITS. (a) The holders of a multiple-beneficiary permit shall file  
26 a report with the department by the 45th day following each calendar quarter in which  
27 the multiple-beneficiary permit had gross receipts from bingo or pull-tab games  
28 authorized under this chapter. The report must include for the bingo and pull-tab games,  
29 the dates and locations of the games, the ideal gross for each pull-tab game series placed  
30 in service that quarter, the amount of gross receipts from bingo and the amount of gross  
31 receipts from pull-tab games, the amount of authorized expenses, the value of prizes  
32 awarded, the amount of net proceeds, a completed Internal Revenue Service Form 941,

1 a copy of the employer contributions and wage reports submitted to the Department of  
2 Labor for the quarter for those employed by the holders of the multiple-beneficiary  
3 permits to conduct activities under this chapter, and other information the department  
4 may require. A multiple-beneficiary permittee that has not conducted bingo or pull-tab  
5 games during a calendar quarter is not required to file a report under this subsection.

6 (b) The holders of a multiple-beneficiary permit shall file an annual report with  
7 the department by March 15 of the year following the year in which activities were  
8 conducted, accompanied by the payment of the additional fee, as may be required under  
9 AS 05.15.020(b). The report must list the types of activities conducted, the ideal gross  
10 of pull-tab games placed in service the previous year, the total amount of gross receipts  
11 from bingo and the total amount of gross receipts from pull-tab games, the percentage  
12 of gross receipts from bingo and pull-tab games paid to each municipality and qualified  
13 organization that holds the multiple-beneficiary permit, and the amount of gross receipts,  
14 authorized expenses, prizes awarded, and net proceeds for each activity conducted other  
15 than bingo or pull-tab games. The annual report must also include a completed Internal  
16 Revenue Service Form W-2 for each person employed by the operator during the  
17 preceding year.

18 (c) The member in charge of a multiple-beneficiary permit shall file a monthly  
19 report with each municipality or qualified organization holding the permit if an activity  
20 was conducted during the preceding month. The report must include a daily summary  
21 of activity conducted under the multiple-beneficiary permit and a daily accounting of the  
22 ideal gross of pull-tab games for each series placed in service that month, gross receipts  
23 from bingo, gross receipts from pull-tab games, the amount of authorized expenses, the  
24 value of prizes awarded, and the amount of net proceeds from bingo and pull-tab games,  
25 and gross receipts, expenses, and net proceeds from each activity other than bingo or  
26 pull-tab games conducted that month. A check in the amount of the percentage of ideal  
27 gross for each series of pull-tab games, the percentage of the gross receipts from bingo,  
28 and the net proceeds from activities other than bingo or pull-tabs due to the holders of  
29 the multiple-beneficiary permit for the month must accompany the report. The member  
30 in charge shall file the report by the 15th day after the end of the month covered by the  
31 report.

32 (d) The member in charge of a multiple-beneficiary permit shall file a quarterly

1 report with each municipality or qualified organization holding the permit if an activity  
2 was conducted during the preceding calendar quarter. The report must at a minimum  
3 contain the information required to be submitted to the department under (a) and (b) of  
4 this section. The member in charge shall file the report by the last day of the month  
5 following the end of the calendar quarter.

6 (e) The member in charge of a multiple-beneficiary permit shall file an annual  
7 report with each municipality or qualified organization holding the permit if an activity  
8 was conducted during the preceding calendar year. The report must contain an annual  
9 summary of the information provided under (a) and (b) of this section. The operator  
10 shall file this report by February 28 of the year following the year in which the activities  
11 were conducted.

12 \* Sec. 6. AS 05.15.083 is amended to read:

13 Sec. 05.15.083. REPORTS TO DEPARTMENT BY OPERATORS. (a) An  
14 operator shall file a report with the department by the last business day of the month  
15 following each calendar quarter in which an activity was conducted. The report must  
16 include, for each authorizing permittee on whose behalf an activity was conducted during  
17 the quarter, the date and location of each activity, the type of activity conducted, and,  
18 if the activity was

19 (1) a bingo or pull-tab game, the ideal gross for each pull-tab game  
20 series placed in service that quarter, the amount of gross receipts for bingo and the  
21 amount of gross receipts for pull-tab games, the amount of gaming [AUTHORIZED]  
22 expenses, the value of prizes awarded, the amount of gross receipts [NET PROCEEDS]  
23 paid to the permittee for bingo and the amount of gross receipts paid to the  
24 permittee for pull-tab games, and other information the department may require;

25 (2) other than a bingo or pull-tab game, the amount of gross receipts  
26 for the activity, the amount of authorized expenses, the value of prizes awarded, the  
27 amount of net proceeds paid to the permittee, a completed Internal Revenue Service  
28 Form 941, [; AND] a copy of the operator's employer contributions and wage reports  
29 submitted to the Department of Labor for the quarter, and other information the  
30 department may require; however [ . HOWEVER], if the only activity conducted by  
31 an operator during the calendar quarter is a raffle or lottery, then the operator is not  
32 required to file a report under this subsection until the raffle or lottery is completed.

1 (b) An operator shall file an annual report with the department no later than  
2 February 28 of the year following the year in which activities were conducted. The  
3 report must include, for each authorizing permittee on whose behalf an activity was  
4 conducted, the types of activities conducted, the total amount of ideal gross from pull-  
5 tab game series placed in service, the total amount of gross receipts for each activity  
6 conducted, the total amount of gaming expenses for bingo and pull-tab games, the  
7 total amount of authorized expenses for nonbingo or pull-tab games, the total value of  
8 prizes awarded, the total amount of gross receipts from bingo and the total amount  
9 of gross receipts from pull-tab games paid to each authorizing permittee, and the  
10 total amount of net proceeds from activities other than bingo or pull-tabs paid to each  
11 authorizing permittee. The annual report must also include a completed Internal Revenue  
12 Service Form W-2 for each person employed by the operator during the preceding year.

13 \* Sec. 7. AS 05.15.087(a) is amended to read:

14 (a) An operator shall file a monthly report with each authorizing permittee for  
15 which the operator has conducted an activity during the preceding month. The report  
16 must include a daily summary of activity conducted under the permit issued to the  
17 authorizing permittee and a daily [AN] accounting of the ideal gross of pull-tab games  
18 for each series placed in service that month, the gross receipts from bingo, gross  
19 receipts from pull-tab games, the value of prizes awarded from all activities, and  
20 gross receipts, authorized [,] expenses, and net proceeds from each activity other than  
21 bingo or pull-tab games conducted that [FOR THE] month. A check in the amount  
22 of the gross receipts from bingo and gross receipts from pull-tab games and in the  
23 amount of the net proceeds from activities other than bingo or pull-tabs due to the  
24 authorizing permittee for the month must accompany the report. The operator shall file  
25 the report by the 15th day after the end of the month covered by the report.

26 \* Sec. 8. AS 05.15.087(b) is amended to read:

27 (b) An operator shall file a quarterly report with each authorizing permittee for  
28 which the operator has conducted an activity during the preceding calendar quarter. The  
29 report must at a minimum contain the information required to be submitted to the  
30 department [QUARTERLY SUMMARIES AND YEAR-TO-DATE TOTALS OF THE  
31 INFORMATION PROVIDED] under AS 05.15.083(a) [(a) OF THIS SECTION]. The  
32 operator shall file the report by the last day of the month following the end of the

1 calendar quarter.

2 \* Sec. 9. AS 05.15.095(b) is amended to read:

3 (b) A permittee or operator may not conduct an activity under this chapter during  
4 a period in which a report, tax, or fee is delinquent.

5 \* Sec. 10. AS 05.15.095(c) is amended to read:

6 (c) A delinquent fee or tax bears interest at the rate set by AS 43.05.225.

7 \* Sec. 11. AS 05.15.095(d) is amended to read:

8 (d) A permittee [OR LICENSEE] under this chapter shall pay a penalty of one  
9 percent of the unpaid balance, as determined by the department, of a fee or tax due  
10 under this chapter for each 30-day period or part of a 30-day period that the fee or tax  
11 is delinquent. The department may waive the penalty if the failure to pay the fee or tax  
12 on time is due to a reasonable cause, as defined by regulation adopted by the department.  
13 The amount of the penalty may not exceed 25 percent of the unpaid fee or tax.

14 \* Sec. 12. AS 05.15.095 is amended by adding a new subsection to read:

15 (e) An operator who fails to pay to the authorizing permittee the minimum  
16 percentages of ideal gross from pull-tab games and gross receipts from bingo and the net  
17 proceeds from an activity other than bingo or pull-tab games, at the times specified in  
18 this chapter, shall pay to

19 (1) the authorizing permittee interest in the amount specified under (c)  
20 of this section; and

21 (2) the department a penalty equal to the interest due to the authorizing  
22 permittee under (1) of this subsection.

23 \* Sec. 13. AS 05.15.100(d) is amended to read:

24 (d) The department may issue a multiple-beneficiary permit to two to six  
25 municipalities or qualified organizations or to a combination of two to six municipalities  
26 and qualified organizations that apply jointly for the multiple-beneficiary permit. The  
27 multiple-beneficiary permit gives the permit holders the privilege of jointly conducting  
28 the activities specified in (a) of this section. In this title, unless the context clearly  
29 requires otherwise, "permit" includes a multiple-beneficiary permit.

30 \* Sec. 14. AS 05.15.115(b) is amended to read:

31 (b) The contract between an authorizing permittee and an operator must include  
32 the amount of the fee for services provided [AND FORM OF COMPENSATION] to

1 be paid to the operator, the amount of the percentage of gross receipts from bingo  
 2 and ideal gross from pull-tab games to be paid to the permittee but not less than  
 3 the minimum percentages set under this chapter, the term of the contract, the  
 4 activities to be conducted by the operator on behalf of the permittee, the location where  
 5 the activities are to be conducted, the name and address of the member in charge, and  
 6 other provisions the department may require. The contract may not contain a  
 7 provision that requires the permittee to pay to the operator, whether from gaming  
 8 receipts or proceeds or from other separate funds of the permittee, an amount that  
 9 would result in the permittee realizing less from the gaming activity than the  
 10 minimum percentages of gross receipts from bingo and of ideal gross from pull-tab  
 11 games required to be paid to a permittee and the minimum net proceeds required  
 12 to be paid to a permittee for activities other than bingo and pull-tab games.

13 \* Sec. 15. AS 05.15.115(d) is amended to read:

14 (d) A permittee shall submit by certified mail to the department for review  
 15 [APPROVAL] a copy of each contract with an operator with whom the permittee  
 16 contracts to conduct activities subject to this chapter. The contract must meet the  
 17 requirements of this section. If the contract does not meet the requirements of this  
 18 section or contains provisions that violate this chapter or the regulations adopted  
 19 under it, the [THE] department shall declare [APPROVE OR DISAPPROVE] the  
 20 contract void, and may suspend or revoke the license of the operator and the permit  
 21 of the permittee. Any changes to a contract must be submitted to the department  
 22 for review under this section [. IF THE CONTRACT IS DISAPPROVED, REASONS  
 23 FOR THE DISAPPROVAL SHALL BE PROVIDED IN WRITING TO THE  
 24 PERMITTEE. ACTIVITIES MAY NOT BE CONDUCTED UNDER THE CONTRACT  
 25 BEFORE THE CONTRACT IS APPROVED. SUBSEQUENT AMENDMENTS TO AN  
 26 APPROVED CONTRACT DO NOT TAKE EFFECT UNTIL THE AMENDMENTS  
 27 ARE APPROVED BY THE DEPARTMENT].

28 \* Sec. 16. AS 05.15.128(a) is repealed and reenacted to read:

- 29 (a) An operator shall pay to each authorizing permittee  
 30 (1) quarterly at least 25 percent of the gross receipts from bingo and 25  
 31 percent of the ideal gross from a pull-tab game; or  
 32 (2) annually at least 10 percent of the adjusted gross income from an

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activity other than bingo or pull-tab games.

\* Sec. 17. AS 05.15.128 is amended by adding new subsections to read:

(c) In addition to any applicable penalty under AS 05.15.095, the department shall suspend or revoke the license of an operator who does not pay to an authorizing permittee the minimum amounts specified in (a) of this section, as follows:

- (1) fails to pay on separate occasions within a three-year period  
..... 30-day suspension;
- (2) fails to pay on three separate occasions within a three-year period  
..... 90-day suspension;
- (3) fails to pay on four separate occasions within a three-year period  
..... permanent revocation.

(d) If an operator fails to pay to the authorizing permittee the minimum amounts specified in (a) of this section, the operator shall, within the four quarters immediately following the quarter in which the underpayment was made, pay to the authorizing permittee the difference between the amounts actually paid and the minimum amounts plus interest as required under AS 05.15.095. The department shall permanently revoke the license of an operator who fails to comply with this subsection.

(e) An operator whose license has been suspended under (c) of this section may not operate an activity under this section during the period of suspension. An operator whose license has been revoked under (c) or (d) of this section may not be licensed as an operator.

\* Sec. 18. AS 05.15.145(a) is amended to read:

(a) Two to six municipalities or qualified organizations, or a combination of two to six municipalities and qualified organizations, may jointly apply for a multiple-beneficiary permit under AS 05.15.100(d). The commissioner may not issue or renew a permit except upon satisfactory proof that each joint applicant is a municipality or qualified organization, the activity may be permitted under this chapter, and the issuance of a permit is not detrimental to the best interests of the public. To apply for a multiple-beneficiary permit, each municipality or qualified organization must at the time of application have a valid permit to individually conduct the activities to be conducted under the multiple-beneficiary permit. The application must also include the contract between the municipalities or qualified organizations that will hold the

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multiple-beneficiary permit. The contract must describe how the gaming activity will be conducted and how the distribution of the receipts or proceeds will be conducted and must contain a provision that expenses may not be distributed to the holders of the multiple-beneficiary permit. Upon request of the commissioner, the joint applicants shall prove conclusively each of these requirements before a multiple-beneficiary permit may be issued or renewed.

\* Sec. 19. AS 05.15.145(d) is amended to read:

(d) The holders of a multiple-beneficiary permit shall jointly file reports with the department as required [THAT COMPLY WITH THE REPORTING REQUIREMENTS IMPOSED ON OPERATORS] under AS 05.15.082. The holders of a multiple-beneficiary permit are jointly responsible for the conduct of the activities permitted. Suspension, revocation, or other action by the department against a multiple-beneficiary permit is an action against each holder of the permit. The suspension or revocation of a multiple-beneficiary permit also results in the suspension or revocation of the individual permits of the holders of the multiple-beneficiary permit [AS 05.15.083].

\* Sec. 20. AS 05.15.145 is amended by adding new subsections to read:

(e) The department shall suspend or revoke, as provided in (f) of this section, a multiple-beneficiary permit if the following amounts are not distributed to the holders of the multiple-beneficiary permit:

- (1) for bingo and pull-tab games, quarterly, the greater of
  - (A) at least 25 percent of the gross receipts from bingo and 25 percent of the ideal gross from pull-tab games; or
  - (B) the net proceeds from bingo and pull-tab games; and
- (2) annually, for activities other than bingo or pull-tab games, not less than 10 percent of the adjusted gross income from the activity.

(f) In addition to any applicable penalty under AS 05.15.095, the department shall suspend or revoke the permit of a multiple-beneficiary permittee who does not pay to the holders of the multiple-beneficiary permit the minimum amounts specified in (e) of this section, as follows:

- (1) fails to pay on two separate occasions within a three-year period  
..... 30-day suspension;

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(2) fails to pay on three separate occasions within a three-year period  
..... 90-day suspension;

(3) fails to pay on four separate occasions within a three-year period  
..... permanent revocation.

(g) If a multiple-beneficiary permittee fails to pay the holders of the multiple-beneficiary permit the minimum amounts specified in (e) of this section, the multiple-beneficiary permittee shall, within the four quarters immediately following the quarter in which the underpayment was made, pay to the holders of the multiple-beneficiary permit the difference between the amounts actually paid and the minimum amounts. In addition, a multiple-beneficiary permittee shall pay interest on the underpayment to the holders of the multiple-beneficiary permit and to the department as is required of operators in AS 05.15.095(e). The department shall permanently revoke the permit of a multiple-beneficiary permittee who fails to comply with this subsection.

(h) The holders of a multiple-beneficiary permit may not  
(1) charge losses resulting from bad checks or uncollectible debts against the percentage of gross receipts or the net proceeds due to the authorizing permittee;  
(2) extend credit to players;  
(3) employ house players;  
(4) allow the employees of the holders of the multiple-beneficiary permit to play a game conducted under the multiple-beneficiary permit at the location where the employee works for the holders of the multiple-beneficiary permit.

\* Sec. 21. AS 05.15.150 is amended to read:

Sec. 05.15.150. LIMITATION ON USE OF RECEIPTS OR PROCEEDS. (a)  
The percentage of gross receipts, the ideal gross, and the net proceeds that are required to be paid to, or retained by, a permittee or the holders of a multiple-beneficiary permit for an [AUTHORITY TO CONDUCT THE] activity authorized by this chapter may only be expended by the permittee or the holders of the multiple-beneficiary permit for (1) the payment of the bingo and pull-tab tax under AS 05.15.075, (2) the payment of the federal excise tax on pull-tabs, (3) the payment of the state and federal business income taxes realized from the sale of pull-tabs, (4) the payment of municipal sales taxes on pull-tabs, (5) the purchase of pull-tab games sold by a vendor on behalf of a permittee, and (6) [IS CONTINGENT UPON

1 THE DEDICATION OF THE NET PROCEEDS OF THE CHARITABLE GAMING  
2 ACTIVITY TO THE AWARDING OF PRIZES TO CONTESTANTS OR  
3 PARTICIPANTS AND TO] political, educational, civic, public, charitable, patriotic, or  
4 religious uses in the state. "Political, educational, civic, public, charitable, patriotic, or  
5 religious uses" means uses benefiting persons either by bringing them under the influence  
6 of education or religion or relieving them from disease, suffering, or constraint, or by  
7 assisting them in establishing themselves in life, or by providing for the promotion of the  
8 welfare and well-being of the membership of the organization within their own  
9 community, or through aiding candidates for public office or groups that support  
10 candidates for public office, or by erecting or maintaining public buildings or works, or  
11 lessening the burden on government. "Political, educational, civic, public, charitable,  
12 patriotic, or religious uses" do [, BUT DOES] not include

13 [(1)] the direct or indirect payment of any portion of the gross receipts  
14 paid or retained, the ideal gross paid to a permittee, or the net proceeds of a bingo  
15 or pull-tab game to a person [LOBBYIST] registered as a lobbyist under AS 24.45  
16 during the current or prior calendar year, [;] or

17 [(2)] the erection, acquisition, improvement, maintenance, or repair of real,  
18 personal, or mixed property unless it is used exclusively for one or more of the permitted  
19 uses. The expenditure of gross receipts, ideal gross, or net proceeds paid to, or  
20 required to be retained by, a permittee or the holders of a multiple-beneficiary  
21 permit to pay gaming expenses or for any other purpose, except as specifically  
22 authorized in this section, is prohibited. The commissioner may revoke the permit  
23 of a municipality or qualified organization that expends funds in a manner  
24 prohibited by this section.

25 (b) The percentage of gross receipts from bingo or the ideal gross from pull-  
26 tab games required to be paid to a permittee, the percentage of gross receipts and  
27 ideal gross or the net proceeds from bingo or pull-tab games required to be paid  
28 to the holders of a multiple-beneficiary permit, the percentage of gross receipts or  
29 ideal gross from bingo or pull-tab games required to be retained by a permittee,  
30 and the net proceeds derived from an [THE] activity other than bingo or pull-tab  
31 games must be devoted within one year to one or more of the uses stated in (a) of this  
32 section. A municipality or qualified organization desiring to hold the gross receipts,

1 ideal gross, or net proceeds for a period longer than one year must apply to the  
 2 department for special permission and upon good cause shown the department may grant  
 3 the request. The accumulation and expenditure of funds held more than one year  
 4 must be reported to the department and accounted for by the municipality or  
 5 qualified organization annually.

6 \* Sec. 22. AS 05.15 is amended by adding a new section to read:

7 Sec. 05.15.155. PERCENTAGE OF GROSS RECEIPTS FROM BINGO AND  
 8 IDEAL GROSS FROM PULL-TAB GAMES CONDUCTED BY PERMITTEES. (a)

9 A municipality or qualified organization that conducts a bingo or pull-tab activity must  
 10 retain at least 25 percent of the gross receipts from bingo and 25 percent of the ideal  
 11 gross from pull-tab games for

12 (1) payment of the tax required under AS 05.15.075 and any other taxes  
 13 authorized to be paid in AS 05.15.150(a); and

14 (2) dedication to political, educational, civic, public, charitable, patriotic,  
 15 or religious uses.

16 (b) The commissioner shall suspend or revoke the permit of a municipality or  
 17 qualified organization that fails to retain at least 25 percent of the gross receipts from  
 18 bingo and 25 percent of the ideal gross from pull-tab games as provided in (a) of this  
 19 section as follows:

20 (1) fails to pay on two separate occasions within a three-year period  
 21 ..... 30-day suspension;

22 (2) fails to pay on three separate occasion within a three-year period  
 23 ..... 90-day suspension;

24 (3) fails to pay on four separate occasions within a three-year period  
 25 ..... permanent revocation.

26 (c) If a permittee fails to retain the minimum amounts specified in (a) of this  
 27 section, the operator shall retain the difference between the amounts actually paid and  
 28 the minimum amounts. The department shall permanently revoke the permit of a  
 29 permittee that fails to comply with this subsection.

30 (d) A municipality or qualified organization whose permit has been

31 (1) suspended under (b) of this section may not conduct an activity under  
 32 this chapter during the period of suspension;

1 (2) revoked under (b) or (c) of this section may not be issued a permit  
2 to conduct an activity under this section.

3 (e) In this section, "political, educational, civic, public, charitable, patriotic, or  
4 religious uses" has the meaning given in AS 05.15.150.

5 \* Sec. 23. AS 05.15.160 is amended to read:

6 Sec. 05.15.160. AUTHORIZED EXPENSES. (a) The only expenses that may  
7 be incurred or paid in connection with the conduct [OPERATION] of an activity by

8 (1) the holders of a multiple-beneficiary permit are bona fide  
9 expenses reasonably necessary for

10 (A) goods, wares, and merchandise necessary for the conduct  
11 of the activity;

12 (B) personal services involved with the conduct of the activity,  
13 including those performed by an employee of the holders of a multiple-  
14 beneficiary permit;

15 (2) a permittee or an operator on behalf of a permittee under a permit  
16 issued under this chapter for the conduct of an activity other than bingo or pull-tab  
17 games are bona fide expenses reasonably necessary for

18 (A) [(1)] goods, wares, and merchandise necessary for the  
19 conduct [OPERATION] of the activity;

20 (B) [(2)] personal services involved with the conduct  
21 [OPERATION] of the activity, including those performed by

22 (i) [(A)] an employee of the permittee; or

23 (ii) [(B)] an operator hired by the permittee to conduct the  
24 activity if the compensation is not related to the receipts from the activity.

25 (b) Expenses for personal services under (a) of this section are bona fide if  
26 the [MUNICIPALITIES, QUALIFIED ORGANIZATIONS, AND OPERATORS MAY  
27 PAY THEIR EMPLOYEES A REASONABLE AMOUNT IN] wages or other  
28 compensation for personal services are reasonable in amount [RENDERED BY THEIR  
29 EMPLOYEES WHILE THE EMPLOYEES ARE ENGAGED IN ACTIVITIES  
30 SUBJECT TO THIS CHAPTER]. A reasonable amount of compensation is an amount  
31 approximating the amount ordinarily paid by similar businesses for similar work  
32 performed under similar circumstances.

1 (c) The total amount of authorized expenses that may be incurred under (a)(1)  
2 [(a)] of this section in connection with a bingo or pull-tab game [ACTIVITY] may not  
3 exceed 75 [70] percent of the gross receipts [ADJUSTED GROSS INCOME] from  
4 bingo and 75 percent of the ideal gross from [THAT] pull-tab games [ACTIVITY].

5 (d) The total amount of authorized expenses that may be incurred under (a) of  
6 this section in connection with any gaming activity other than bingo or pull-tab games  
7 [PULL-TABS] may not exceed 90 percent of the adjusted gross income from that  
8 gaming activity.

9 \* Sec. 24. AS 05.15.165(a) is amended to read:

10 (a) An operator shall pay percentages of gross receipts and the net proceeds  
11 to the authorizing permittee by check.

12 \* Sec. 25. AS 05.15.165(f) is amended to read:

13 (f) An operator may not

14 (1) charge losses resulting from bad checks or uncollectible debts against  
15 the percentage of gross receipts or the net proceeds due to the authorizing permittee;

16 (2) extend credit to players;

17 (3) employ house players;

18 (4) allow the operator's employees to play a game conducted by the  
19 operator at the location where the employee works for the operator.

20 \* Sec. 26. AS 05.15.167(a) is amended to read:

21 (a) The bond or security filed under AS 05.15.122(b) must be made payable to  
22 the department and must be conditioned upon payment of the amounts due to the  
23 department and payment of the percentage of gross receipts or the net proceeds due  
24 to the authorizing permittee. If the operator fails to make the required payments, the  
25 operator forfeits the bond or security to the department.

26 \* Sec. 27. AS 05.15.167(b) is amended to read:

27 (b) The amount forfeited under (a) of this section shall be first used to satisfy  
28 delinquent fees, taxes, interest, and penalties due the department under this chapter. If  
29 the bond or security is not exhausted by payment of delinquent fees, taxes, interest, and  
30 penalties, the department may use the remaining amount to pay the percentage of gross  
31 receipts and the net proceeds due an authorizing permittee. The total amount available  
32 for payment of the percentage of gross receipts and the net proceeds shall be prorated

1 among the permittees to whom gross receipts or proceeds are due from that operator.

2 \* Sec. 28. AS 05.15.188(h) is amended to read:

3 (h) If a permittee contracts with a vendor under (a) of this section, the contract  
4 must provide that the permittee shall receive no less than the cost of purchasing the  
5 game from a distributor and 25 [70] percent of the ideal gross [NET].

6 \* Sec. 29. AS 05.15.188(i) is amended to read:

7 (i) An amount equal to the ideal gross [NET] less the compensation owed to the  
8 vendor shall be paid by the vendor to the member-in-charge upon delivery of a pull-tab  
9 series to the vendor for sale. The amount required to be paid by the vendor shall be paid  
10 by check and the check may not be drawn in a manner that the payee is not identified.

11 \* Sec. 30. AS 05.15.690(23) is amended to read:

12 (23) "ideal gross [NET]" means an amount equal to the total amount of  
13 receipts that would be received if every individual pull-tab ticket in a series were sold  
14 at face value [, LESS THE PRIZES TO BE AWARDED FOR THAT SERIES];

15 \* Sec. 31. AS 05.15.128(b) and 05.15.184 are repealed.

16 \* Sec. 32. By amending AS 05.15.150 in this Act, the legislature does not intend for that  
17 amendment to override any amendments to that section that may be contained in other Acts  
18 passed by the Nineteenth Alaska State Legislature in 1996.

Revision Date: March 8, 1996 Dept. Affected: Revenue  
 Title: Charitable Gaming: Percentage to Charity BRU: Revenue Operations  
 Component: Charitable Gaming Division  
 Sponsor: (H) Fin  
 Requestor: (H) Jud COMPONENT SERIAL NO. 1883

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	100.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>100.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

CHANGE IN REVENUES ( )	10,000.0					
------------------------	----------	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	100.0					
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>100.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Division is currently operating a wang mainframe system. In order to increase the effectiveness of how we collect monthly payments of taxes we need to increase the efficiency of the current system.

Prepared by: Dennis R. Poshard, Director  
 Division: Charitable Gaming Division  
 Approved by Commissioner: Wilson L. Condon  
 Agency: Department of Revenue

Phone: 465-2279  
 Date: 3-8-96  
 Date: \_\_\_\_\_

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**FISCAL NOTE**

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 536

Revision Date: \_\_\_\_\_  
Title: "An Act Relating to charitable gaming."  
Sponsor: House Finance Committee  
Requestor: (H) JUD

Department Affected: Administration  
BRU: Public Offices Commission  
Component: Public Offices Commission  
COMPONENT SERIAL NO. 70

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

<b>OPERATING EXPENDITURES</b>	<b>FY 97</b>	<b>FY 98</b>	<b>FY 99</b>	<b>FY 00</b>	<b>FY 01</b>	<b>FY 02</b>
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 96) cost: \$ 0.00

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary.)  
There is no fiscal impact to the Alaska Public Offices Commission.

Prepared by: Karen Boorman Phone: 276-4176  
Division: Public Offices Commission Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer Date: 3/7/96  
Agency: Department of Administration

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# Alaska Charitable Gaming

FY97 Budget

Alaska Department of Revenue  
Charitable Gaming Division

This presentation was adapted from existing documentation  
previously prepared for policy makers.