

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8660 HOUSE LABOR & COMMERCE

billion more than in 1994. They can choose from 34,852 freestanding nail salons across the country—nearly 2,000 more than a year ago—or hundreds of thousands of beauty salons that offer nail services.

The most requested service, according to the *Fact Book*, is artificial nails. Manicures are No. 2. Other popular services include nail jewelry and nail art.

Because of the variety of nail services, the preferred term for a person who pro-

cleansing, beautifying, promoting attractiveness, or altering the appearance." (See "Cosmetic Safety: More Complex Than at First Blush" in the November 1991 *FDA Consumer*.)

By law, nail products sold as cosmetics in the United States must be free of poisonous or deleterious substances that might injure users under the usual or customary conditions of use intended by the manufacturer. These uses are printed on the package or on a package insert

FDA also tracks safety problems through its Cosmetic Voluntary Registration Program, in which cosmetic manufacturers voluntarily report to FDA the types of adverse reactions their customers have reported to them. FDA uses this information to determine a baseline reaction rate for specific product categories, such as cuticle softeners, nail extenders (artificial nail ends), and nail polishes. The agency gives this information to participating companies so they can compare their adverse reaction rates to FDA's determined baseline.

FDA also learns about potentially harmful products from manufacturers' competitors, consumers, doctors, and nail technicians, who report adverse reactions directly to the agency.

Salon Safety

The salons and their technicians are regulated by the states, usually their cosmetology boards. Lois Wiskur, past-president of the National Interstate Council of State Cosmetology Boards, said that as far as she knows, every state has some type of licensing requirements for nail salons, nail technicians, or both.

Under these requirements, salons providing nail services usually must meet certain requirements, such as:

- Employing nail technicians who have had a minimum number of hours of classroom and practical training.
- Properly sterilizing manicure implements. The preferred methods are autoclaving (heat sterilization) or chemical sterilization.
- Undergoing a state inspection periodically.
- Maintaining sufficient equipment, such as at least one manicure table and one sink that runs hot and cold water.
- Making sure that employees wash their hands before beginning work on a customer.

To prevent blood-borne infections, such as HIV and hepatitis, the national Centers for Disease Control and Prevention recommended similar sanitary practices for salon employees in guidelines



vides nail services is "nail technician" rather than manicurist, said Suzette Hill, managing editor for *Nails*, a magazine for professionals and students.

"Twenty years ago, they mainly did manicures," she said. "Now, they're doing so much more."

They use a range of products, including polishes, paints, artificial nails, glues, and laminates, many of which are available for home use, too.

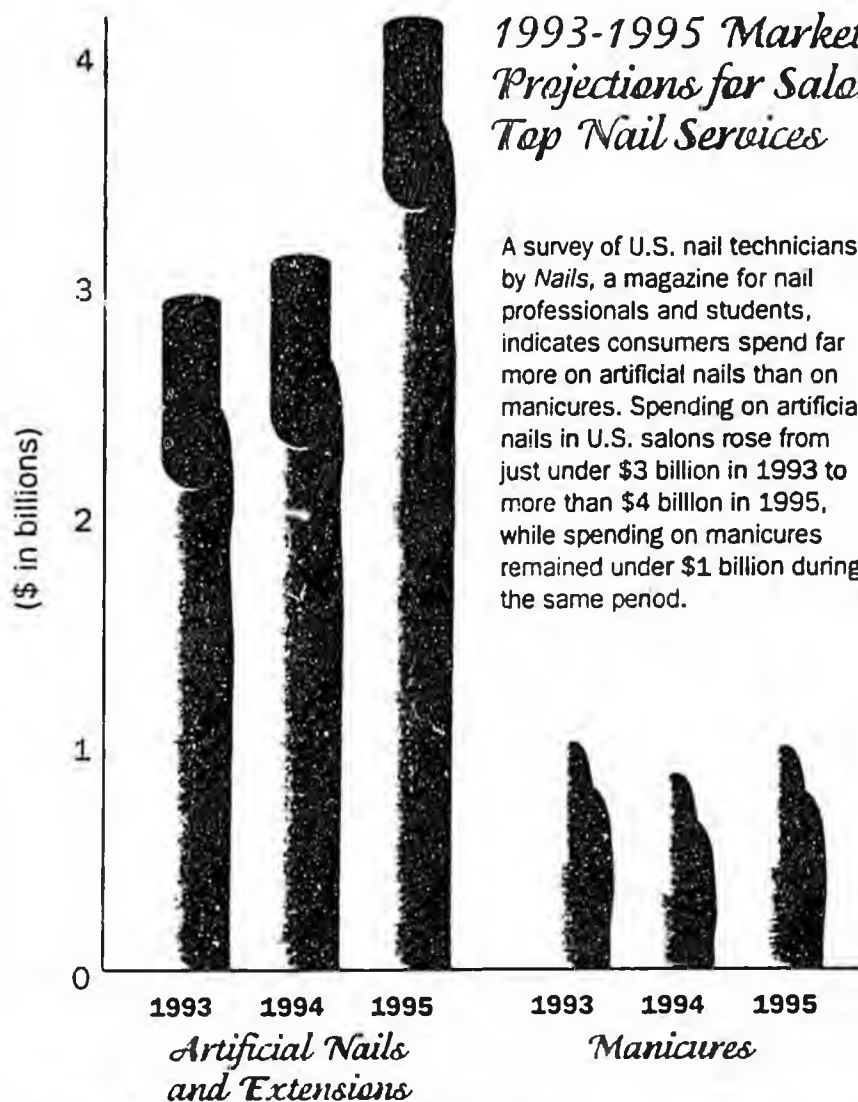
Nail Products as Cosmetics

Nail products for both home and salon use are regulated by the Food and Drug Administration. Under the Federal Food, Drug, and Cosmetic Act, these products are considered cosmetics because they are "articles other than soap which are applied to the human body for

Many nail products contain poisonous substances, such as acetonitrile in glue removers, but are allowed on the market because they are not harmful when used as directed. They're poisonous only when ingested, which is not their intended use.

Products sold for home use also must be labeled properly, with the names of the ingredients listed in descending order of predominance. (See "Decoding the Cosmetic Label" in the May 1994 *FDA Consumer*.)

FDA does not review or approve nail products and other cosmetics before they go on the market. However, the agency inspects cosmetic manufacturers and samples and analyzes cosmetics as needed. If a safety problem arises, the agency can take legal action against the product.



A survey of U.S. nail technicians by *Nails*, a magazine for nail professionals and students, indicates consumers spend far more on artificial nails than on manicures. Spending on artificial nails in U.S. salons rose from just under \$3 billion in 1993 to more than \$4 billion in 1995, while spending on manicures remained under \$1 billion during the same period.

(Sources: *Nails 1994 Fact Book* and *Nails 1995 Fact Book*)

issued in 1985. The guidelines targeted, among others, personal-service workers, such as manicurists and pedicurists. To date, there have been no reports of transmission of blood-borne diseases to or from a personal service worker, according to CDC.

Nail Infections

More common nail problems, dermatologists report, are infections from bacteria, such as *Staphylococcus*; fungi, such as *Candida* (also known as yeast); and skin viruses, such as warts.

Bacterial and fungal infections frequently result from artificial nails, whether applied at home or in a salon. A bump or knock to a long artificial nail may cause it to lift from the natural nail at the base, leaving an opening for dirt to get in. If the nail is reglued without

proper cleaning (with rubbing alcohol, for example), bacteria or fungi may grow between the nails and spread into the natural nail.

Also, as the natural nail grows, an opening develops between the natural nail and artificial nail. If this space is not filled in regularly, it can increase the chances for infection.

A fungal infection can take hold when an acrylic nail is left in place too long—such as three months or more—and moisture accumulates under the nail.

Bacterial, fungal and viral infections also can occur from using insanitary nail implements, especially in a salon, where the same implements are used on many people.

Unclean implements are especially dangerous if the skin around the nail is broken. This can occur with overzealous

manicuring—if, for example, too much of the cuticle is cut or pushed back too far. If the cuticle is cut or separated from the fingernail, infectious agents can get into the exposed area. This is why dermatologists recommend leaving cuticles intact.

Symptoms of an infection include pain, redness, itching, and pus in or around the nail area. Yellow-green, green, and green-black nail discolorations are signs of a *Pseudomonas* bacterial infection. A blue-green discoloration signals a fungal infection.

If an infection appears while wearing artificial nails, they should be removed and the area cleaned thoroughly with soap and water. If symptoms persist, the person should consult a doctor, who may prescribe a topical or oral anti-infective medicine.

There are no approved nonprescription products to treat fungal nail infections, and over-the-counter products to treat other types of fungal infections should not be used for nail infections. In a review of OTC antifungal products, FDA found that fungal infections of the nails respond poorly to topical therapy, partly because of the nail's thickness. So, in 1993, the agency ruled that any OTC product labeled, represented or promoted as a topical antifungal to treat fungal infections of the nail is a new drug and must be approved by FDA before marketing. This rule, which went into effect in 1994, does not include prescription antifungal products.

Despite the rule, some companies continue to sell unapproved OTC nail products, such as nail glues, with antifungal claims. FDA has warned these companies it might take legal action if they don't stop selling the products.

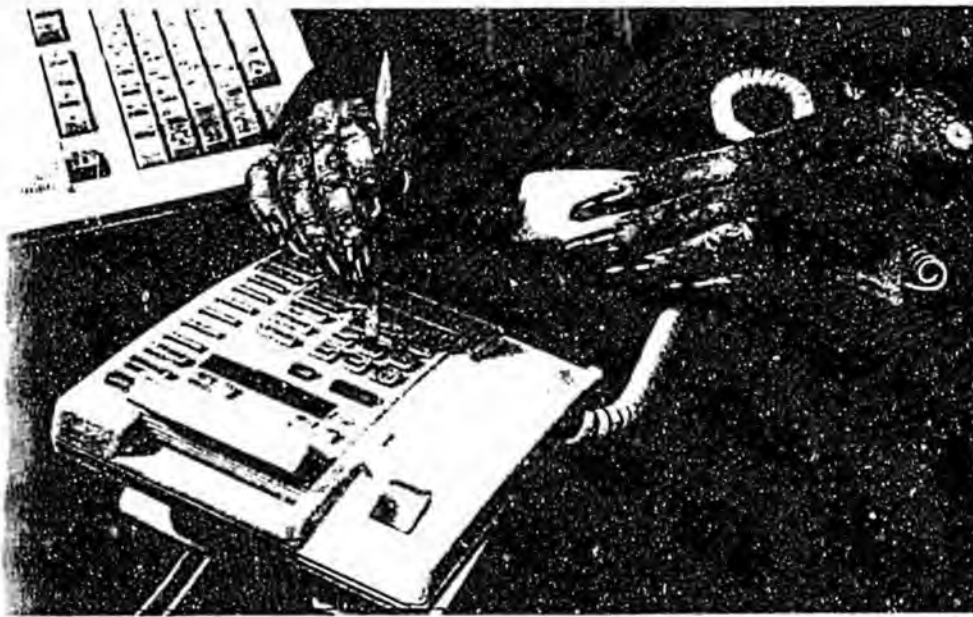
Allergies and Other Hazards

Other common problems associated with nail products are allergic reactions, such as contact dermatitis, a skin rash characterized by redness and itching and sometimes tiny blisters that ooze. (See "Contact Dermatitis: Solutions to Rash Mysteries" in the May 1990 *FDA Consumer*.)

Certain nail ingredients are known for their tendency to cause allergic reactions. Residual traces of the basic building blocks of acrylic resins ("acrylics")

Precautions for Artificial Nails

- If there is any question about sensitivity to the materials in artificial nails, have one nail done as a test and wait a few days to see if a reaction develops.
 - Never apply an artificial nail if the natural nail or skin around it is infected or irritated. Let the infection heal first.
 - Read the directions for do-it-yourself nails before applying them, and follow the directions carefully. Save the ingredient list for your doctor in case you have an allergic reaction or other injury.
 - Treat your artificial nails with care. They may be stronger than your own, but they still can break and separate. Try not to bump or knock them. Find new ways to do ordinary tasks, like using a pencil to dial or depress the numbers on the phone.
 - If an artificial nail separates, dip the fingertip into rubbing alcohol to clean the space between the natural and artificial nails before reattaching the artificial nail. This will help prevent infection.
 - Never use household glues for nail repairs. Use only products intended for nail use, and follow directions.
 - Don't wear artificial nails for longer than three months at a time. Remove them for one month to give nails a rest.
 - Keep nail glues and other poisonous substances out of the reach of children. ■
- P.K.



Reporting Adverse Nail Product Reactions

Doctors, nail technicians, and consumers should report adverse reactions from nail products to the nearest FDA office, listed in the blue section of the telephone book. Or, write to:

Food and Drug Administration
Center for Food Safety and Applied Nutrition
Office of Cosmetics and Colors (HFS-100)
200 C St., S.W.
Washington, DC 20204

used in artificial nails, for example, can cause redness, swelling and pain in the nail bed. In some cases, the reaction is so severe that the natural nail separates from the nail bed, and although a new nail usually grows in, it may be imperfect if the nail root has been damaged.

Nail strengtheners that contain "free formaldehyde" may cause an irritation or reaction, as can certain other chemicals in nail glues and polishes.

In the late 1970s, use of methyl methacrylate, then a common ingredient in artificial nail products, resulted in FDA receiving a number of reports of injuries and allergic reactions, including damage and deformity of fingernails and contact dermatitis. The ingredient now is rarely used because of legal action against a former manufacturer of methyl methacrylate-containing products and numerous seizures and recalls of such products. Methyl methacrylate has since been replaced with other chemicals, such as ethyl methacrylate. However, according to John Bailey, Ph.D., acting director of FDA's office of cosmetics and colors, the replacement chemicals have never been fully studied for safety, and they may be as harmful as methyl methacrylate.

"Our current guidance is that products containing ethyl methacrylate should be used only by trained nail technicians under conditions that minimize exposure and skin contact because of their potential to cause allergies," he said.

Whatever the cause, allergic reactions usually take place where the product has been applied or where it has inadvertently come in contact with other skin surfaces, such as the face, eyelids and neck.

When the offending agent is no longer used, reactions clear up. Sometimes, the user can identify the chemical causing the allergic reaction and avoid it.

Though rare, some nail products can cause illness and even death, particularly if ingested by children. In 1987, a 16-month-old toddler died of cyanide poisoning after swallowing a mouthful of solvent used to remove sculptured artificial fingernails. At least one other youngster was rushed to the emergency room for intensive care after swallowing a similar product. These products

Selecting a Safe Nail Salon

To help you decide if a salon provides sanitary nail services, nail and public health experts suggest considering the following:

- Is the salon licensed? Licenses often are posted. If you don't see one, ask.
- Are the nail technicians licensed? These licenses also are usually posted. Ask if you don't see one for your technician.
- How are nail implements sanitized? Autoclaving (heat sterilization) is best, says Ralph Daniel, M.D., a dermatologist in Jackson, Miss. But most states allow chemical sterilizing as long as the implements are immersed in the solution for at least 10 minutes between custom-

ers. Ask the technician what the salon's practices are. If they're using a chemical solution, check the product's label for words like "germicidal" to indicate that it is **strong enough** to kill bacteria. If in doubt, bring your own implements, Daniel suggests.

- Is there a pre-service scrub? Both the nail technician and the client should wash their hands with an antimicrobial soap before nail work begins.
- Is each customer given a fresh bowl of soapy water to soak their nails in and is a new nail file used for each customer? Both practices should be followed.
- Is the facility neat and clean? Paul Kechijian, M.D., a clinical associate professor of dermatology and chief of

the nail section at New York University, compares selecting a salon to selecting a restaurant. "Ask yourself when you walk in: Would you want to eat there?" he says.

- Is there a strong smell of fumes? If there is, it's a sign that the facility is poorly ventilated, says John Bailey, Ph.D., acting director of FDA's office of cosmetics and colors. Inhaling the fumes from nail products can make you sick.

If you have a complaint about a salon providing nail services, contact your state board of cosmetology. ■

—P.K.

contained acetonitrile, a chemical that breaks down into cyanide when swallowed. Since 1990, the Consumer Product Safety Commission has required household glue removers containing more than 500 milligrams of acetonitrile in a single container to carry child-resistant packaging. This includes glue removers for artificial nails.

Nail products also can be dangerous if they get in the eyes. And they can easily catch on fire if exposed to the free flame of the pilot light of a stove, a lit cigarette, or even the heating element of a curling iron.

Consumers should read labels of nail products carefully and heed any warnings.

Healthy Nails

From current consumer habits, one might surmise that the main function of nails is to look good. But nails serve several physiological purposes: They enhance fine touch and fine motor skills and protect the fingers and toes. Doctors also may examine them for indications of serious underlying diseases; for example, clubbed nails (a condition in

which fingers or toes thicken and the nails wrap around them) is a classic sign of chronic lung and heart disorders. For those reasons, it's important to keep nails healthy.

With proper care and precautions, nails can be both healthy and attractive. ■

Paula Kurtzweil is a member of FDA's public affairs staff.

SCULPTURE QUIK
ARTIFICIAL NAIL REMOVE

- Dissolves all sculptured nails, gels, wraps, and glue.
- Economical: can be used for several rem

WARNING: FLAMMABLE. KEEP AWAY FROM HEAT AND FLAME. DO NOT INGEST. IRRITANT. IF INGESTED, MAY BE HARMFUL OR FATAL. IF INGESTED, OR EYE CONTACT OCCURS, IMMEDIATE MEDICAL HELP. KEEP OUT OF THE REACH OF CHILDREN. DO NOT USE IF FINGERS OR NAILS ARE RED, INFLAMED OR INFECTED.

INGREDIENTS: Acetone, Gamma Butyrolactone, PPG-15 Stearyl Ether, Menthyl Chloroformate, Ethyl

82557

The dangers listed on the label of this artificial nail remover apply to many nail products.

Mariann Stoffel
1352 Pioneer Peak Dr.
Wasilla, Ak. 99654
January 13, 1996

Representative Brice
Legislative Office Bldg
Juneau, Alaska

Dear Representative Brice:

I am writing in regards to house bill 73 referring to
"An Act relating to the licensure of manicurists"

First of all I'd Like to thank you for drafting this bill. As
a Hairdresser working in the industry for nearly 30 years it
is a wonder to me that manicuring ever was taken away from
the regulation of the Board of Barbers and Hairdressers.

I have been serving on the Barber and Hairdresser board since
Nov. 1992 (I was confirmed by the Legislature in '93) ever
since that time the licensing of manicurist in the State of
Alaska has been on our agenda. We have heard testimonies of
others in our industry who come from all over the State to
testify of the need to regulate manicurist. The primary need
is to protect the public from those practicing without proper
training and sanitary skills.

In our March 5th and 6th Board meetings we discussed at
length House Bill 73 I can assure you the the Board is
unanimous in favor of this bill.

If you have any further questions please do not hesitate to
contact me.

Sincerely,

Mariann Stoffel

Mariann Stoffel
Chair. Board of
Barbers and Hairdressers

NEW CONCEPTS BEAUTY SCHOOL INC.
3677 COLLEGE ROAD UNIT IV
FAIRBANKS, AK. 99709

JAN. 11, 1996

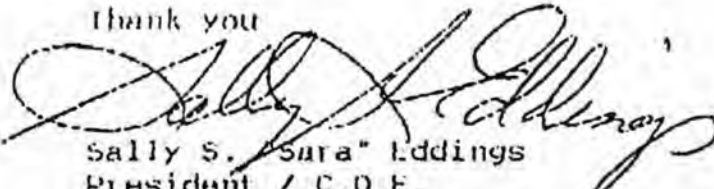
ATTENTION TOM BRICE:

As the owner of New Concepts Beauty School, INC. I have supported House Bill 73 because I feel the the Health, Safety and Trust of the public has been compromised by unlicensed, untrained individuals practicing manicuring in an unsafe and unsanitary manner.

It has been frustrating when a consumer comes to me seeking advise as to whom they should contact to report a person who has caused permanent damage and disfigurement. I have to tell them there is no regulation in this area. I can compare this to a Doctor or Dentist using implements that were just used on another person.

I would ask the committee to look at this Bill seriously and "PASS IT".

Thank you



Sally S. "Sara" Eddings
President / C.O.E.

Representative Tom Brice
ALASKA STATE LEGISLATURE

119 N. Cushman, Ste. 205
Fairbanks, AK 99701
907-456-7423 Fax: 451-9293
While in Juneau
State Capitol
Juneau, AK 99801-1182
907-465-3466

Memorandum

DATE: January 29, 1996
TO: Rep. Con Bunde, Co-Chair
Rep. Cynthia Toohey, Co-Chair
House HESS Committee
FROM: Rep. Tom Brice
RE: CSHB 73 changes

The changes that CSHB 37 makes to the original are relatively simple and are found in sec. 19 and sec. 20 of the bill.

The change to sec. 19 in the CS is an expansion of the definition of manicure to cover those procedures relating to artificial nails. The exact language added in the CS is "affixing by artificial means for the addition to, or extension of the natural nail."

In the CS, sec. 20 provides that applicants for grandfathered licenses must apply within 150 days after the effective date of the Act. People not licensed in the field of manicuring may practice or instruct without a manicuring license for 180 days. The thirty day difference is intended to allow processing of applications. The 180 day period which unlicensed practice of manicure is allowed pertains to the following groups of people. One, people who already have a license under AS 08.13, and two, people who file a notice of intent to apply for a license under sec. 20(a), which requires an examination and proof of 350 hours of manicuring practice in the 12 months preceding the effective date of the act.

The transitional provision will effectively give the Division of Occupational Licensing and the industry nine months to make all necessary preparations and begin the process of licensing. The division has indicated that nine months is sufficient time to make preparations and begin licensing.

NEW CONCEPTS BEAUTY SCHOOL, INC.
3077 COLLEGE ROAD UNIT IV
FAIRBANKS, AK. 99709

JAN. 11, 1996


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I would ask the committee to look at this Bill seriously and "PASS IT".

Thank you



Sally S. "Sma" Eddings
President / C.O.E.

JAN-11-1996 16:46

9874524684

P.03

SUPPORT

Jan. 11, 1996

ATTENTION TOM BRICE :

Dear Sir :

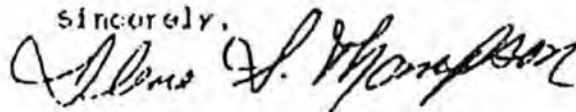
I'm writing to express my concern regarding House Bill 73. I have worked as a wholesale / retail distributor of beauty products for fifteen years, and currently hold three professional licenses in the field. During this time frame I have referred numerous consumers to seek medical assistance due to damage incurred by unlicensed, untrained individuals working out of their homes or in a salon.

The damage and injuries I have seen are not of a minor nature but demanding medical attention. Example, fungus to the degree of nail deformation and infection, nail deformities with furrows and grooves due to improper filing or application of acrylic products.

The implements and products used during basic manicuring and artificial application are very strong chemicals that require proper knowledge of their safe use.

I cannot express strongly enough my concern for the consumer if we continue to allow unlicensed individuals to perform manicuring services to the public. For the safety and well-being of the consumer, I respectfully urge you to pass House Bill 73.

Sincerely,



Ilene S. Thompson

License #
5503 - 7436 - 7435

Debra Long

7529 - 6238

Karmen Shoemaker

9875

Juchelle Wright

5075 - 9106

Mary Kelley

9071

Arnellia O'Neill

Jeffrey Lincoln Nagar apprentice

ATTN: Tom BRICE

All of the above are in
favor of House Bill 73
enforcing nail techs to be licensed.

Mary's Hair 'Em
3419 Airport Way
Fairbanks, AK, 99709

HB

99

-18-95

HOUSE COMMITTEE REPORT

1995

FURTHER REFERRALS:

Finance

of Committee Action: 1-30-95

LABOR AND COMMERCE Committee considered:

HB 99

HOUSE BILL NO. 99

APUC EXTENSION & REGULATORY COST CHARGE

Act extending the Alaska Public Utilities Commission; and relating to regulatory cost charges."

Commends it be replaced the same title
the following committee substitute _____ a new title

Additional referral to _____ Committee
attached amendment(s)

POINTS: _____ Letter of Intent

APPROVES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS (Dept/Date)
fiscal note(s) _____ [✓] fiscal note(s) APUC; Admin (Finance)
_____ ~~Revenue~~
zero fiscal note(s) _____ [✓] zero fiscal note(s) Revenue; Admin (Finance)

OPINION WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Ann Raskaly</i>			✓	
<i>K. V. [unclear]</i>	✓			
<i>Gene Kishina</i>			X	
<i>Brian S. Porter</i>			✓	
<i>Beverly Mason</i>			✓	
<i>Jan [unclear]</i>			✓	
<i>Pete [unclear]</i>	✓			

[Handwritten signature]

#1

Amendments to HB 99

Proposed by Rep. Sanders
1-30-95
Corrected

Amend HB 99 by adding new sections to read:

***Section** . AS 42.05.221 is amended by adding a new subsection to read:

(g) A certificate issued under this section to a public utility providing electric service establishes an exclusive service area for the public utility providing the utility service.

***Section** . AS 42.05.990(3) is amended to read:

(3) "public" or "general public" means

(A) a group of 10 or more customers that purchase the service or commodity furnished by a public utility;

(B) one or more customers that purchase electrical service for use within an area that is certificated to [AND PRESENTLY OR FORMERLY SERVED BY] an electric utility if the total annual compensation that the electrical utility receives for sales of electricity exceeds \$50,000; and

(C) a utility purchasing the product or service or paying for the transmission of electric energy, natural or manufactured gas, or petroleum products that are re-sold to a person or group included in (A) or (B) of this paragraph or that are used to produce the service or commodity sold to the public by the utility;

#2

Amendment to HB 99

Proposed by Rep. Sanders
1-30-95

Amend HB 99 by adding a new Section 1 to read:

*Section 1. AS 42.05.141(a) is amended to read:

(a) The Alaska Public Utilities Commission may **do all things necessary or proper to carry out the purposes and exercise the powers expressly granted or reasonably implied in this chapter, including**

(1) regulate every public utility engaged or proposing to engage in **a utility** [SUCH A] business inside the state, except to the extent exempted by AS 42.05.711 [AND THE POWERS OF THE COMMISSION SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS STATED PURPOSES];

(2) investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services, and facilities for a public utility and hold hearings on them;

(3) make or require just, fair, and reasonable rates, classifications, regulations, practices, services, and facilities for a public utility;

(4) prescribe the system of accounts and regulate the service and safety of operations of a public utility;

(5) require a public utility to file reports and other information and data;

(6) appear personally or by counsel and represent the interests and welfare of the state in all matters and proceedings involving a public utility pending before an officer, department, board, commission, or court of the state or of another state or the United States and to intervene in, protest, resist, or advocate the granting, denial, or modification of any petition, application, complaint, or other proceeding;

(7) examine witnesses and offer evidence in any proceeding affecting the state and initiate or participate in judicial proceedings to the extent necessary to protect and promote the interests of the state.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 99

Revision Date: _____
 Title: "An Act extending the Alaska Public Utilities Commission and relating to regulatory cost charges."
 Sponsor: House Labor and Commerce
 Requestor: _____

Department Affected: Commerce and Economic Development
 BRU: Alaska Public Utilities Commission
 Component: _____
 COMPONENT SERIAL NO. 364

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	2,616.9	2,770.3	2,947.0	3,135.0	3,335.0	3,547.8
TRAVEL	53.6	56.7	60.4	64.2	68.3	72.7
CONTRACTUAL	947.8	1,003.3	1,067.4	1,135.5	1,207.9	1,285.0
SUPPLIES	60.7	64.3	68.4	72.7	77.4	82.3
EQUIPMENT	50.0	52.9	56.3	59.9	63.7	67.8
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	3,729.0¹	3,947.5¹	4,199.4¹	4,467.3¹	4,752.3¹	5,055.5¹

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						
1005 GF/Program Receipts	3,729.0	3,947.5	4,199.4	4,467.3	4,752.3	5,055.5
1006 GF/MHTIA						
Other						
TOTAL	3,729.0²	3,947.5²	4,199.4²	4,467.3²	4,752.3²	5,055.5²

Estimate of current year (FY 95) cost: \$ _____

POSITIONS

FULL-TIME	42	43	43	44	45	46
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

¹Represents ongoing costs of operations as proposed in FY 96 operating budget.
²Represents revenues from the regulatory cost charge mandated by Sections 1 and 3 of HB 99.

This bill extends the life of the APUC until June 30, 1999, and mandates the collection of fees from regulated utilities and pipeline carriers to cover its full authorized budget. Early passage is essential to keep public utilities and pipeline regulation on track. Otherwise, the APUC will shut down June 30, 1995.

Prepared by: Robert A. Lohr, Executive Director
 Division: Alaska Public Utilities Commission
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 276-6222
 Date: 1/25/95
 Date: 1/26/95

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HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182

(907) 465-4954



SPONSOR STATEMENT HB 99

The Alaska Public Utilities Commission is charged with the task of regulating public utilities and pipeline carriers in the State of Alaska. It does so with the goal of promoting the public interest by enhancing the reliable delivery of affordable utility services. It also does so with the objective of achieving minimal impact on the economic coffers of the state by passing on its costs to the utilities it regulates.

The APUC is in its sunset year, and unless the legislature extends its existence, there soon will be no state entity regulating utilities. Because of the unique nature of utility service, this would result in anarchy, conflict among providers, and the possibility of interruptions in utility services. This would not be wise and would ill serve the public. HB 99 acts to avoid this danger in two important respects.

First, it extends the APUC for an additional four years, until June 30, 1999. This ensures that a public body, responsible to Alaska's citizens, will continue to regulate and control the delivery of vital utility services.

Second, HB 99 enacts regulatory cost charges for both traditional utilities and pipeline carriers. The mechanism that is employed is tailored to adjust the charges so as to reflect the amounts appropriated by the legislature. Said charges are collected by the Department of Revenue and go into the General Fund. Utilities may, but need not, pass the charges along to their customers. In the event that regulatory cost charges lapse into the general fund at the end of the fiscal year, the amount of said lapsed funds is determined by the Department of Administration. Thereafter, the Legislature may, but need not, appropriate the amount of lapsed funds into the next fiscal year budget. When that occurs, the APUC must adjust downward regulatory cost charges by an equal amount.

HB 99, by extending the APUC and concomitantly providing for a funding mechanism, acts to ensure the delivery of uninterrupted, affordable utility services to Alaska's people and businesses. Your support is appreciated.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

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

MEMORANDUM

January 23, 1995

SUBJECT: Sectional Summary of HB 99. (Extending the Alaska Public Utilities Commission and relating to regulatory cost charge)

TO: Representative Pete Kott

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

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

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

Section 1 establishes a regulatory cost charge on utilities. Under subsection (a), regulated public utilities pay an annual charge not to exceed .8 percent of in-state gross revenue and exempt public utilities pay the actual cost of services provided by the commission.

Under subsection (b), the commission adopts regulations to set the method for determining the annual amount of the regulatory cost charge. Subsection (c) establishes special rules for utilities selling services at wholesale, local exchange telephone utilities, and electric utilities.

Subsection (d) directs the commission to allocate the total amount of the regulatory cost charge to be paid by electric utilities by using an equal charge per kilowatt hour.

Subsection (e) directs the Department of Revenue to collect and enforce the regulatory cost charge and the Department of Administration to identify how much of the APUC's operating budget lapses into the general fund each year. This will permit the legislature, if it wishes, to appropriate that amount for the following year's budget so that the APUC can set a lower regulatory cost charge for the second year to reflect the surplus from the previous years' collection.

Subsection (f) requires the APUC to allow public utilities to bill their customers for the cost of the regulatory cost charge.

Subsection (g) allows the APUC and the Department of Revenue to adopt regulations.

Subsection (h) defines terms used in the section.

Section 2 directs the APUC to consider the amount that a utility pays as a regulatory cost charge when allocating the costs of a hearing.

Section 3 establishes a regulatory cost charge for pipeline carriers. Under subsection (a), pipeline carriers pay an annual charge not to exceed .8 percent of in-state gross revenue. A regulatory cost charge may not be assessed unless the pipeline carrier operations are within the jurisdiction of the APUC.

Under subsection (b), the commission adopts regulations to set the method for determining the annual amount of the regulatory cost charge.

Subsection (c) directs the Department of Revenue to collect and enforce the regulatory cost charge and the Department of Administration to identify how much of the APUC's operating budget lapses into the general fund each year. This will permit the legislature, if it wishes, to appropriate that amount for the following year's budget so that the APUC can set a lower regulatory cost charge for the second year to reflect the surplus from the previous years' collection.

Subsection (d) allows the APUC and the Department of Revenue to adopt regulations.

Subsection (e) defines "gross revenue" as used in this section.

Section 4 directs the APUC to consider the amount that a pipeline carrier pays as a regulatory cost charge when allocating the costs of a hearing.

Section 5 extends the APUC through June 30, 1999.

Sunset extension

The Alaska Public Utilities Commission recommends that the Legislature quickly pass legislation extending the Commission for four years and continuing its authority to collect its budget. The bill should be specifically tailored to accomplish only these goals, leaving more controversial amendments to other bills. This will avoid the inevitable disruption of public services if legislative action is delayed until the end of the session.

Other legislative priorities

After the issue of Sunset Law extension is addressed, the Commission recommends:

1. Procurement Act exemption for expert witness contracts

Add an exemption to the Procurement Act, 36.30.850 to allow the Commission to hire its expert witnesses for cases in a timely manner. The language proposed parallels the existing exemption granted to state agencies for lawsuits, AS 36.30.850(b)(2).

2. Stagger APUC members' terms of office.

Change date of expiration for future Commissioner terms that now expire concurrently

Consumer seat	October 31, 1996
Finance seat	October 31, 1998
Engineering seat	October 31, 1999
Consumer seat	October 31, 1999
Legal seat	October 31, 2000

The following language added to the temporary and special acts would accomplish this goal:

APUC STAGGERED TERMS. Notwithstanding AS 42.05.030(a), after the expiration in 1999 of the term of the member of the Alaska Public Utilities Commission with a major or experience in engineering, the vacancy shall next be filled for a term of four years in order to adjust the staggering of the terms of the members of the commission so that no more than one commission member's term expires each year.

3. Confirm partially exempt (PX) status for vacant Commissioners' policy analyst positions

The legislature did not designate the Commissioners' Policy Analyst positions as FX positions when they were created.

Amend AS 39.25.120(c)(6), Partially exempt service, to read

The following positions in state service constitute the partially exempt service: . . .

Legislative priorities

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 99

Revision Date: _____
Title: "An Act extending the Alaska Public Utilities Commission; and relating to regulatory cost charges."
Sponsor: (H) L&C
Requestor: Rep. Kott

Department Affected: Administration
BRU: Finance
Component: Finance
COMPONENT SERIAL NO. 59

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
--------------------	-----	-----	-----	-----	-----	-----

FUNDING SOURCE: (Thousands of Dollars)

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

Estimate of any current year (FY 95) cost: \$ 0.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
No impact on the Division of Finance.

Prepared by: Don Wanie *DW*
Division: Finance

Phone: 465-2240
Date: _____

Approved by Commissioner: Mark Boyer *M Boyer*
Agency: Department of Administration

Date: 1/25/95

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Revision Date: January 24, 1995 Dept. Affected: Revenue
 Title: APUC Extension & Regulatory Cost Charge BRU: Audit Operations
 Component: Income and Excise Audit
 Sponsor: (H) L&C
 Requestor: Labor & Commerce COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current (FY94) impact \$ 0.00

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Robert N. Bartholomew, Deputy Director *R. N. Bartholomew* Phone: 465-2320
 Division: Income and Excise Audit Date: 1/24/95
 Approved by Commissioner: *[Signature]* Date: 1/24/95
 Agency: Department of Revenue

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Fiscal Note Analysis Continued

HB 99 (L&C)
APUC Extension & Regulatory Cost Charge
January 24, 1995
Page 2 of 2

Bill Analysis (Analysis for sections impacting the Department of Revenue only)

Sections 1 and 3 reinstitute the regulatory cost charges (RCC) and sets the maximum rate paid by regulated public utilities and pipeline carriers to the APUC at .8% of gross revenues, as adjusted, from operations in the state. The language of the bill is very similar to statutory provisions that were previously in effect but "sunsetting" December 31, 1994. Paragraph (e) appoints APUC to administer the RCC, Department of Revenue to collect the charge and Department of Administration to identify the amount of the APUC operating budget that lapses each year. The legislature may appropriate an amount equal to the lapse to APUC to reduce future RCC charges. Paragraph (g) authorizes APUC and Department of Revenue to adopt regulations to administer this section.

Operating Costs

Department of Revenue is currently charged with collecting and accounting for RCCs. The RCCs were paid quarterly in FY94 and annually in FY95 by approximately 100 public utilities and pipeline carriers. The Department does not envision that the reinstatement of RCCs will have an impact on its operating budget.

Revenue

According to APUC officials revenue derived from this statute will be approximately the same as was collected in FY95. This revenue is used to fund the APUC operating budget and will not generate additional new revenues to the state.



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703 W. Tudor Rd., #200
Anchorage, AK 99503
(907) 561-6103
FAX (907) 561-5547

Electric Service for 300,000 Alaskans

January 30, 1995

Rep. Pete Kott, Chairman
House Labor & Commerce Committee
Juneau, AK

Dear Rep. Kott:

This association supports extending the APUC for the same reasons the commission was established in the first place. The commission came into existence in its present form for the purpose of stopping the wasteful territorial wars the utilities were caught up in. The investment in duplicating facilities by electric utilities was recognized as being uneconomic and resulting in higher total costs to the consumers. Section 221 of the APUC statute was written to give direction to the commission on unsnarling the overlapping service areas that existed at that time and assigning each utility to serve a specific area.

That job of separating the service areas for the electric utilities is essentially complete. Now that the factual situation has changed, it is time to recognize those changes with an amendment to Section 221 that clarifies the direction to the commission to keep it that way.

Attached is an amendment that would clearly state that electric service areas are to be exclusive, and remove a troubling phrase from Section 990(3) that bears on the same subject.

We think the law already presumes that these service areas are exclusive, but there has been some disturbing talk which advocates that the commission should "regulate competition." Our whole regulatory scheme is for the commission to act as a proxy for competition because the service areas are exclusive. This amendment is submitted for the purpose of preserving the current practice.

Sincerely,

David Hutchens

Amendments to HB 99

Proposed by ARECA
1-30-95

Amend HB 99 by adding new sections to read:

***Section** . AS 42.05.221 is amended by adding a new subsection to read:

(g) A certificate issued under this section to a public utility providing electric service establishes an exclusive service area for the public utility providing the utility service.

***Section** . AS 42.05.990(3) is amended to read:

(3) "public" or "general public" means

(A) a group of 10 or more customers that purchase the service or commodity furnished by a public utility;

(B) one or more customers that purchase electrical service for use within an area that is certificated to and [PRESENTLY OR FORMERLY] served by an electric utility if the total annual compensation that the electrical utility receives for sales of electricity exceeds \$50,000; and

(C) a utility purchasing the product or service or paying for the transmission of electric energy, natural or manufactured gas, or petroleum products that are re-sold to a person or group included in (A) or (B) of this paragraph or that are used to produce the service or commodity sold to the public by the utility;

Amendments to HB 99

Proposed by ARECA
1-30-95
Corrected

Amend HB 99 by adding new sections to read:

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HB

109

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 109

Revision Date: May 3, 1995
 Title: An Act relating to telephone directory listings
 and solicitations.
 Sponsor: Brown
 Requestor: House Labor & Commerce

Department: Commerce and Economic Development
 BRU: Alaska Public Utilities Commission
 Component: Alaska Public Utilities Commission
 COMPONENT SERIAL NO. 364

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES						

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ _____

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by:	<u>Don Schroer</u>	Phone: <u>276-6222</u>
Division:	<u>Alaska Public Utilities Commission</u>	Date: <u>5/3/95</u>
Approved by Commissioner:	<u>William L. Hensley</u> <i>W. Hensley</i>	Date: <u>5/3/95</u>
Agency:	<u>Commerce and Economic Development</u>	

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SPONSOR STATEMENT

HB 109

An act relating to telephone directory listings and solicitations.

The multi-billion dollar telemarketing industry has created a situation in which every telephone subscriber in Alaska is potentially part of a captive market. The rapid expansion of telemarketing has created a need for enhanced protection of our privacy rights.

HB 109

• Would require telephone utilities to offer customers an opportunity to avoid telemarketing solicitations. In a practical and economic manner, resolves shortcomings in federal regulation.

This legislation would make it clear that a citizen's right to individual privacy includes the right to be protected from abusive or annoying misuse of telephones.

SECTIONAL ANALYSIS

HB 109

An act relating to telephone directory listings and solicitations.

Section 1.

Amends AS 45.50.471(b) to add the new unlawful unwanted telephone solicitation provisions in AS 45.50.475. Makes a violation of the provisions in this bill an "unlawful act and practice" under the unfair trade practices and consumer protection statute. The penalty is up to \$5,000 per violation.

Section 2.

(a) makes it unlawful to solicit by telephone if the party is identified in the telephone directory as a party that does not wish to receive telephone solicitations.

(b) local exchange telecommunications companies and companies that provide telephone directories shall provide for the identification in the directory of those parties who do not wish to be solicited by telephone.

(c) telephone subscribers shall be informed by the telecommunications company by inserts in billing statements or advertising in the consumer information pages of the directory of the availability of the "no solicitation" service.

(d) defines terms of the bill and makes exemptions for charitable organizations, opinion polling, responding to inquiries, business to business calls and follow ups on previous purchases.



April 28, 1995

Representative Pete Kott
Alaska State Legislature
House Labor and Commerce Committee
State Capitol (MS 3100)
Juneau, AK 99801-1182

Re: HB 109

Dear Representative Kott:

General Communication, Inc. (GCI) requests that HB 109 be amended in order to facilitate compliance with the provisions of the bill that prohibit telephone solicitation of a person who has been identified in a telephone directory as not wishing to receive solicitations. The amendment is needed because telephone solicitors do not generally use telephone directories as a source of numbers for solicitation.

In GCI's case, we use list of numbers, including random numbers, that have been screened to remove "do not call" numbers. It is not feasible (nor even possible in many cases) to look up the number in a directory. However, if the local telephone company provides a list of the phone numbers of the residential customers who do not wish to receive solicitations, then we can add those numbers to the "do not call" list. This process is generally handled electronically, by computers, so the list should be provided in computer format.

Accordingly, GCI request that the bill be amended by adding another subsection to proposed AS 45.50.475, as follows:

(c) A local exchange telecommunications company shall, upon request, provide to a person who engages in telephone solicitation a list of all telephone numbers identified in the telephone directory as residential customers who do not wish to

Representative Pete Kott
April 28, 1995
Continued, Page 2

receive telephone solicitations. If possible and if requested by the person who engages in telephone solicitation, this list shall be provided in computer-readable format.

Thank you for your assistance in this matter. Please feel free to contact me if you have any questions.

Sincerely,
GENERAL COMMUNICATION, INC.

A handwritten signature in cursive script, appearing to read "James R. Jackson".

James R. Jackson
Regulatory Attorney

cc: Representative Kay Brown

AMENDMENT

II (

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HB 109

Page 1, following line 14:

Insert a new subsection to read:

“(c) A local exchange telecommunications company shall, upon request, provide to a person who engages in telephone solicitation a list of all telephone numbers identified in the telephone directory as residential customers who do not wish to receive telephone solicitations. If possible and if requested by the person who engages in telephone solicitation, this list shall be provided in computer-readable format.”

Reletter following subsections accordingly.

HOUSE COMMITTEE REPORT

(7)
Date Referred: January 23, 1995

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 5-1-95

The LABOR AND COMMERCE Committee considered:

HB 109

HOUSE BILL NO. 109

TELEPHONE DIRECTORY LISTING/SOLICITATIONS

"An Act relating to telephone directory listings and solicitations."

recommends it be replaced with the following committee substitute CS HB 109 (L & C) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) CEP

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Pete Kott</i>	X			
<i>Nancy Kotelny</i>	✓			
<i>Beverly Mason</i>			✓	
<i>John Sandeen</i>			✓	
<i>Steve Kasper</i>	✓			
<i>Brian Porter</i>	✓			
<i>K. C. Elms</i>	✓			

CHAIR'S SIGNATURE *Pete Kott*

HB

115

HOUSE COMMITTEE REPORT

Referred: January 25, 1995

FURTHER REFERRALS:

Judiciary

of Committee Action: 2-1-95

LABOR AND COMMERCE Committee considered:

HB 115

HOUSE BILL NO. 115

DAMAGES & ATTY FEES FOR UNPAID WAGES

Act relating to settlement and payment of claims for minimum wage and overtime compensation claims to liquidated damages and attorney fees for minimum wage and overtime compensation claims."

Comments it be replaced the same title
with the following committee substitute _____ a new title

additional referral to _____ Committee
attached amendment(s)

OPTIONS: _____ Letter of Intent

TACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) Dept of Law; zero fiscal note(s) _____

Label

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>		<input checked="" type="checkbox"/>		
<i>[Signature]</i>				<input checked="" type="checkbox"/>
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		

CHAIR'S SIGNATURE

[Signature]

Amendments to HB 99

Proposed by ARECA
1-30-95
Corrected

Amend HB 99 by adding new sections to read:

***Section** . AS 42.05.221 is amended by adding a new subsection to read:

(g) A certificate issued under this section to a public utility providing electric service establishes an exclusive service area for the public utility providing the utility service.

***Section** . AS 42.05.990(3) is amended to read:

(3) "public" or "general public" means

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FAX (907) 561-5547

January 30, 1995

Rep. Pete Kott, Chairman
House Labor & Commerce Committee
Juneau, AK

Dear Rep. Kott:

This association supports extending the APUC for the same reasons the commission was established in the first place. The commission came into existence in its present form for the purpose of stopping the wasteful territorial wars the utilities were caught up in. The investment in duplicating facilities by electric utilities was recognized as being uneconomic and resulting in higher total costs to the consumers. Section 221 of the APUC statute was written to give direction to the commission on unsnarling the overlapping service areas that existed at that time and assigning each utility to serve a specific area.

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We think the law already presumes that these service areas are exclusive, but there has been some disturbing talk which advocates that the commission should "regulate competition." Our whole regulatory scheme is for the commission to act as a proxy for competition because the service areas are exclusive. This amendment is submitted for the purpose of preserving the current practice.

Sincerely,

David Hutchens

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1-30-95

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January 30, 1995

Rep. Pete Kott, Chairman
House Labor & Commerce Committee
Juneau, Alaska

Dear Rep. Kott:

The APUC bill last year contained one very important section that is not in HB 99 at this time, and it is a provision which this association believes should be a part of any legislation extending the APUC as a result of the current sunset review process. A copy is attached as a proposed amendment to HB 99. The effect of this section is to remove the directive that the APUC's statutes shall be "liberally construed" and replace that with a more moderate directive.

The "liberally construed" language has been a part of this statute since the APUC was created in essentially its present form in the 1960's. Historically, this language has been used numerous times by the commission. Sometimes those uses have been for the benefit of the utility involved; sometimes they have been for the detriment of the utility. On several occasions, those uses of "liberally construed" have resulted in appeals to the courts. The result of those appeals is about evenly divided between the commission and the utilities.

Although most of the uses of "liberally construed" are relatively minor in nature, we strongly feel that this change is very important. A classic illustration of why we feel that way came up in 1992 when the commission was considering the licensing of the Healy Clean Coal Project. The position was advocated that, using "liberally construed" as their authority, the commission should write new law by requiring the feasibility study to include calculations of "environmental externalities." Two of the then: five commissioners

agreed to this position. Fortunately, they were the minority, but a different set of individuals could very easily produce a different result. That case was appealed to the Alaska Supreme Court. The Majority of the court upheld the commission decision in not considering "environmental externalities," but Justice Rabinowitz wrote a lengthy dissent in which he came to the opposite conclusion. A letter from our association's attorney on this matter is also attached.

Whenever the authority of the APUC needs to be expanded, it should be the legislature, not the commission and the courts, that makes that decision.

Sincerely,

A handwritten signature in cursive script that reads "David Hutchens". The signature is written in dark ink and is positioned above the printed name.

David Hutchens

Amendment to HB 99

Proposed by ARECA
1-30-95

Amend HB 99 by adding a new Section 1 to read:

***Section 1.** AS 42.05.141(a) is amended to read:

(a) The Alaska Public Utilities Commission may do all things necessary or proper to carry out the purposes and exercise the powers expressly granted or reasonably implied in this chapter, including

(1) regulate every public utility engaged or proposing to engage in a utility [SUCH A] business inside the state, except to the extent exempted by AS 42.05.711 [, AND THE POWERS OF THE COMMISSION SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS STATED PURPOSES];

(2) investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services, and facilities for a public utility and hold hearings on them;

(3) make or require just, fair, and reasonable rates, classifications, regulations, practices, services, and facilities for a public utility;

(4) prescribe the system of accounts and regulate the service and safety of operations of a public utility;

(5) require a public utility to file reports and other information and data;

(6) appear personally or by counsel and represent the interests and welfare of the state in all matters and proceedings involving a public utility pending before an officer, department, board, commission, or court of the state or of another state or the United States and to intervene in, protest, resist, or advocate the granting, denial, or modification of any petition, application, complaint, or other proceeding;

(7) examine witnesses and offer evidence in any proceeding affecting the state and initiate or participate in judicial proceedings to the extent necessary to protect and promote the interests of the state.

NOV 7 1994

LAW OFFICES OF
KEMPEL, HUFFMAN AND GINDER
A PROFESSIONAL CORPORATION

ROGER R. KEMPEL
RICHARD R. HUFFMAN
PETER C. GINDER
DONALD C. ELLIS

255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2094
(907) 277-1804
FAX (907) 276-2493

ANDREW J. FIERRO
BOBBY DEAN SMITH
TONY S. LEE

October 31, 1994

CONFIDENTIAL
ATTORNEY-CLIENT CORRESPONDENCE

David Hutchens
Executive Director
Alaska Rural Electric
Cooperative Association, Inc.
703 W. Tudor Road, Suite 200
Anchorage, AK 99503

Re: APUC "Liberally Construed" Language

Dear Dave:

You should note the recent case of *Trustees for Alaska v. APUC, AIDEA, and GVEA*. While a majority of the Alaska Supreme Court ruled in that case that the APUC was not required to consider "environmental externalities" in granting AIDEA a certificate of public convenience and necessity, Justice Rabinowitz, in a lengthy dissent, closed with the following:

APUC's powers are to be 'liberally construed to accomplish its stated purposes.' AS 42.05.141(a)(1). Under the rules of statutory construction, a grant of express authority carries with it all powers and duties incidental and necessary to exercise of the express authority. As APUC's staff has noted:

The Commission has the authority and duty to ensure: (1) that rates charged are just and reasonable; (2) the service provided is safe and efficient and required for the public convenience and necessity; and (3) that the conservation of resources used in the generation of electric energy is promoted.

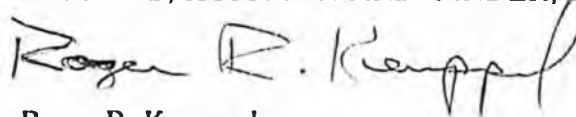
The power to consider environmental externalities follows from these duties. [Op. No. 4115, August 26, 1994.]

David Hutchens
October 31, 1994
Page 2

While the argument did not prevail in this case, this case is another example of a situation where the liberally construed language presently found in AS 42.05 is utilized to support the court, rather than the legislature, conferring new powers upon the APUC.

Sincerely yours,

KEMPEL, HUFFMAN AND GINDER, P.C.

A handwritten signature in cursive script that reads "Roger R. Kempel". The signature is written in dark ink and is positioned above the typed name.

Roger R. Kempel

RRK:lka

64ARECAGenCon110-31-94M

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 115

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...settlement and payment of claims for minimum wages and overtime compensation claims..." BRU: Legal Services
 Component: Operations
 Sponsor: House Labor and Commerce Committee
 Requester: House Labor and Commerce Committee COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends the Alaska Wage and Hour Act to provide in an action to recover unpaid minimum wages, unpaid overtime compensation, or liquidated damages, that if the employer shows to the satisfaction of the court that the act or omission giving rise to the action was made in good faith and that the employer had reasonable grounds for believing that the act or omission was not in violation of the state's minimum wage and overtime laws, the court may decline to award liquidated damages or may award an amount of liquidated damages less than the amount set out in AS 23.10.110(a).

The bill further provides that an employee is entitled to liquidated damages, unless the employee and the employer enter into a written settlement agreement in which the employee expressly waives the right to receive liquidated damages. The waiver would have to be knowing and voluntary. The agreement would also have to contain advice to the employee to consult with an attorney or with the Department of Labor before entering into the agreement, and it must allow the employee at least seven calendar days to consider

Prepared by: Richard T. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 1/27/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 1/27/95
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 115

ANALYSIS CONTINUATION:

whether to accept the offer of settlement, and it must provide for a period of at least five days after the employee enters into the agreement in which the employee may revoke the agreement. In essence, an employer and an employee would be permitted to compromise a wage claim without supervision of the court or the Department of Labor.

These provisions mark a departure from the way wage claims are handled in Alaska. First, current law provides that an employer who violates the state's minimum wage and overtime laws is liable for the unpaid wages and overtime, and the employer is liable for liquidated damages in an amount equal to the amount of unpaid minimum wages and unpaid overtime compensation. The bill has the effect of relieving employers who violate minimum wage and overtime laws from liquidated damages liability and, in the alternative, allowing employers and employees to compromise the amounts owed to employees.

Second, employees are allowed to assign unpaid wage claims to the commissioner of labor under existing AS 23.10.110(b), which permits the commissioner of labor to bring the claims on behalf of employees. In practice, however, substantial wage claims are brought by private counsel, and the commissioner of labor's intervention is usually reserved for small individual wage claims and for claims involving precedential value that have broad impact on the state's workforce. Consequently, the provision allowing costs and fees for prevailing parties, where current laws provide costs and fees only for prevailing plaintiffs, and the provision allowing for the compromise of claims, will probably result in far fewer claims being handled by the private bar.

As a consequence, employees would have the option of accepting settlement offers, in addition to attempting to bring a claim in court through private counsel, pursuing a claim under federal wage and hour law, or assigning the claim to the commissioner of labor for state action. In this latter event, the Department of Law presents the claim on behalf of the commissioner. Because the majority of substantial wage claims are now handled by the private bar, we cannot determine whether an increase in our caseload might occur if the bill discourages the private bar from handling wage and hour claims, or if the voluntary compromise provisions will negate much of the current use of the private bar.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 115

Revision Date: _____
 Title: Damages and attorney fees
for unpaid wages
 Sponsor: House Labor & Commerce
 Requestor: House Labor & Commerce

Department Affected: Labor
 BRU: Labor Standards & Safety
 Component: Wage & Hour
 COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUE						
FUND SOURCE #						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: John A. Abshire *John Abshire* Phone: 465-6003
 Division: Labor Standards & Safety Date: 1/26/95
 Approved by Commissioner: Tom Cashen *Tom Cashen*
 Agency: Department of Labor Date: 1/26/95

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Anchorage, Alaska 99501
(907) 278-2722 FAX 278-6643



January 28, 1995

Representative Pete Kott, Chairman
Labor and Commerce Committee
Alaska House of Representatives
Juneau, Alaska

RE: HB 115 Damages and Attorney Fees for Unpaid Wages

Dear Chairman Kott:

The Alaska State Chamber of Commerce is in support of HB 115, as introduced.

As Alaska law now stands, an employer who is in violation of the state's minimum wage and overtime compensation laws is automatically liable for liquidated damages, regardless of the circumstances.

In the federal Fair Labor Standards Act (FLSA), the court may waive liquidated damages in whole or in part if it can be shown that the employer acted reasonably and in good faith. An Alaska Supreme Court interpretation of Alaska's Wage and Hour Act prevents the courts and the Commissioner of the Alaska Department of Labor from applying this standard of fairness.

Under the provisions proposed in HB 115, employees will still be fully protected under the law, but the courts and the Commissioner will be allowed to consider the circumstances of a case in determining the awarding of liquidated damages.

The Alaska State Chamber of Commerce believes that HB 115 will bring fairness to this section of the law, and we urge passage of this legislation.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Neal".

Pamela Neal
President

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



SPONSOR STATEMENT HB 115

The Alaska Wage and Hour Act (AWHA) requires the payment of minimum wage and overtime compensation under defined conditions and contains procedures for the enforcement of these requirements. The principal statute addressing remedies is AS 23.10.110(a), which provides that employers who violate AWHA are liable to their employees for the amount of unpaid compensation as well as an equal amount of "liquidated damages".

Until recently, aggrieved employees seeking to enforce their rights to overtime compensation and minimum wage rates had several avenues to obtain redress. They could settle the matter directly with their employers. They could file a complaint with the Department of Labor and obtain its assistance in effecting a resolution. In addition, employees could sue their employers in Superior Court.

Employees who elected to settle their claims directly with their employers had the option of waiving all or part of the liquidated damages. Similarly, the Department of Labor could negotiate a settlement containing terms waiving all or part of the liquidated damages. This flexibility tended to encourage employers to settle prior to the filing of a lawsuit because if their cases progressed to court full liquidated damages were mandated.

All of this was changed, though, as a result of a decision rendered by the Alaska Supreme Court in McKeown v. Kinney Shoe Company, 820 P.2d 1068 (Alaska 1991), which modified the law in an extremely important respect. Full liquidated damages are now required in all settlements, even when the employer acted reasonably and in good faith. Furthermore, this is the case when a settlement is negotiated by the Department of Labor.

HB 115 acts to cure certain deficiencies in the law as it now stands. First, it grants the court, in actions filed pursuant to AWAH, discretion to award less than full liquidated damages. It also may altogether decline to award liquidated damages. This discretion may be exercised if, but only if, the employer proves both that it acted in

good faith and with reasonable grounds. The employer has the burden of proof with respect to these elements before the court can exercise its discretion. However, even assuming both elements are proved, the court retains discretion as to whether or not liquidated damages are awarded.

Second, it permits the Department of Labor to negotiate settlements omitting all or part of the liquidated damages. If employee claimants agree to the terms of such negotiated settlements, they waive their right to further assert their claims for unpaid wages and liquidated damages.

Third, employees may directly settle with their employers, provided that certain procedural safeguards are satisfied. Such safeguards are specifically tailored to apprise employees of their rights and the consequences of their actions. If all procedural safeguards are satisfied, the resulting settlements constitute a waiver of claims for unpaid compensation and liquidated damages.

Fourth, HB 115 changes existing law with respect to the award of attorney fees and costs. As the law now stands, reasonable attorney fees and costs are awarded to prevailing plaintiffs. Defendants, when they prevail, are not entitled to costs and attorney fees. Obviously, this creates a climate whereby those with extremely weak and bogus claims have no financial disincentives to bringing lawsuits. HB 115 takes a different approach. It awards attorney fees and costs to whichever party prevails. Moreover, instead of requiring the payment of "reasonable" attorney fees, this bill specifies that such fees are to be determined according to court rule, thus bringing these types of cases in line with the treatment accorded other civil actions.

It respectfully is submitted that HB 115 constitutes a significant improvement on existing law. As recognized by the Alaska Supreme Court in Kenney, "liquidated damages" in the context of wage and hour cases are in reality a type of punitive damages. That being the case, it makes very little sense to punish those who act reasonably and in good faith the same as those who callously and purposefully violate the law. In that regard, it may be noted that the corresponding federal statute grants discretion to federal courts to award no liquidated damages, or partial liquidated damages, when employers establish that they acted reasonably and in good faith.

Thus, this bill acts to bring Alaska law into conformity with federal law.

It is also submitted that according the parties flexibility in negotiating settlements, either directly or through the Department of Labor, is desirable. The preponderant majority of such cases can be settled to the satisfaction of all parties before they enter the judicial system, which would have the effect of relieving an already overburdened court case load. Finally, awarding attorney fees to all prevailing parties, and not just to prevailing plaintiffs, will discourage the filing of bogus lawsuits, thus reducing the drain on Alaska's judicial and economic resources.

Your support is appreciated.

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

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

MEMORANDUM

January 25, 1995

SUBJECT: Sectional Summary of HB 115 (Minimum wage and overtime compensation claims)

TO: Representative Pete Kott
Attention: George Dozier

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

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

Section 1 applies the exceptions enacted in section 3 of the bill to the general rule established in the statute that employers who violate the overtime wage or minimum wage requirements are liable for liquidated damages in the amount of the unpaid minimum wage or overtime compensation.

Sec. 2 permits the court to award attorney fees to the prevailing party, as determined by court rule, rather than only providing for attorney fees for a prevailing plaintiff.

Sec. 3 adds new provisions to permit the court to decline to award liquidated damages or to award an amount less than the amount required under AS 23.10.110(a), which is amended by sec. 1 of this bill. The court may do so if the employer shows to the satisfaction of the court that the employer acted in good faith and had reasonable grounds for believing that it was not violating the minimum wage or overtime requirements. This waiver does not apply to an action brought by the Commissioner of Labor.

Under subsection (e), the commissioner is permitted to supervise the payment of unpaid minimum wage or overtime claims including settlements. Under bill sec. 4(a), subsection (e) applies to agreements entered into on or after the effective date of the Act.

Subsection (f) permits an employee to waive the right to liquidated damages in a written settlement agreement with the employer. The settlement must meet standards listed in the subsection. Under bill sec. 4(b), subsection (f) applies to written agreements entered into on or after the effective date of the Act.

Representative Pete Kott

January 25, 1995

Page 2

Sec. 4 addresses how to apply the provisions of the Act. As noted in the discussion above, sec. 4(a) and (b) apply the settlement provisions to agreements entered into on or after the date the Act takes effect. Under sec. 4(c), to the extent constitutionally permitted, the rest of the Act applies to actions in which a final judgement has not been entered on the date the Act takes effect.

TC:klb

95-014.klb

HB

116

CS FOR HOUSE BILL NO. 116(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON FISHERIES

A BILL

FOR AN ACT ENTITLED

1 "An Act exempting the Alaska Seafood Marketing Institute from the State
2 Procurement Code."

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

4 * Section 1. AS 36.30.015 is amended by adding a new subsection to read:

5 (h) The board of directors of the Alaska Seafood Marketing Institute shall adopt
6 procedures to govern the procurement of supplies, services, and professional services.
7 The procedures must be similar to the procedures prescribed in this chapter and in
8 regulations adopted under this chapter.

9 * Sec. 2. AS 36.30.990(1) is amended to read:

10 (1) "agency"

11 (A) means a department, institution, board, commission,
12 division, authority, public corporation, the Alaska Pioneers' Home, or other
13 administrative unit of the executive branch of state government;

14 (B) does not include

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- (i) the University of Alaska;
- (ii) the Alaska Railroad Corporation;
- (iii) the Alaska Housing Finance Corporation;
- (iv) a regional Native housing authority created under AS 18.55.996 or a regional electrical authority created under AS 18.57.020;
- (v) the Department of Transportation and Public Facilities, in regard to the repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and vehicle transfer facilities of the Alaska marine highway system;
- (vi) the Alaska Aerospace Development Corporation;
- (vii) the Alaska State Pension Investment Board;
- (viii) the Alaska Seafood Marketing Institute;

AMENDMENT /

OFFERED IN THE HOUSE

BY REPRESENTATIVE AUSTERMAN

TO: HB 116

1 Page 1, after line 3:

2 Insert a new bill section to read:

3 **"* Section 1.** AS 36.30.015 is amended by adding a new subsection to read:

4 (h) The board of directors of the Alaska Seafood Marketing Institute shall
5 adopt procedures to govern the procurement of supplies, services, and professional
6 services. The procedures must be similar to the procedures prescribed in this chapter
7 and in regulations adopted under this chapter."

8 Page 1, line 4:

9 Delete **"* Section 1."**

10 Insert **"* Sec. 2."**




Alaska State Legislature

House of Representatives
Special Committee on Fisheries

M E M O R A N D U M

TO: Representative Pete Kott, Chairman
House Labor and Commerce Committee

FROM: Representative Alan Austerman, Chairman 
House Special Committee on Fisheries

DATE: February 6, 1995

RE: HB 116 - "An Act relating to exempting ASMI from the
State Procurement Code"

The House Special Committee on Fisheries respectfully requests that a hearing for HB 116 be scheduled for your Monday, February 27, scheduled meeting time. This long range planning is in order to ensure testimony from Dave Wilder, a key speaker whom will be visiting Juneau then.

Our committee staff, Amy Daugherty, will promptly deliver the bill packet to your staff promptly after the hearing of this bill in our committee, February 13th.

Your assistance with this matter is appreciated.



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

SPONSOR STATEMENT

HB 116 - "EXEMPTING ASMI FROM THE STATE PROCUREMENT CODE"

February 13, 1995

House Bill 116 would exempt the Alaska Seafood Marketing Institute (ASMI) from the state procurement code under AS 36.30.850(b) for all domestic marketing and board-related activities.

ASMI is a state seafood commodity commission which is solely dependent upon fishing industry assessments for supporting domestic marketing. The 1% marketing tax is levied on all commercial salmon fishers -- so only private industry dollars go towards the domestic marketing efforts addressed in this bill.

The institute has four legislative mandates: 1) to promote all species of Alaska seafood worldwide; 2) to maintain and promote quality awareness from point of harvest to final distribution; 3) to disseminate information on prices paid and market conditions for raw salmon and salmon products; and, 4) to investigate new product forms and future markets for Alaska salmon.

The board is seeking to eliminate the restrictive requirements of the state procurement code in marketing Alaska products in the United States. The procurement requirements restrict the

institute's private sector economy. As an example, ASMI cannot advertise and procure services over \$25,000 in the lower 48 states without an elaborate, time consuming and costly bid process that does not adequately consider unique vendor knowledge and abilities.

The delays, restrictions and selection criteria required by the state procedures cripple ASMI efforts in implementing promotional activities and is a barrier to the board in making direct decisions regarding expenditures of industry funds. ASMI's unique mission requires purchasing non-governmental services such as coupon distribution and redemption, advertising, retail store product demonstration, sales representatives, foodservice catering, product sample distribution, market research, consumer education, product development and industry cooperative promotions.

The state procurement procedures are not designed to address these needs and result in significant inefficiencies. The proposed procurement exemption will allow ASMI to purchase marketing services and supplies that meet industry imperatives.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 116

Revision Date: _____
 Title: "An act exempting the Alaska Seafood Marketing Institute
 from the State Procurement Code"
 Sponsor: House Special Committee on Fisheries
 Requestor: House Special Committee on Fisheries

Department: Commerce and Economic Development
 BRU: Alaska Seafood Marketing Institute
 Component: Alaska Seafood Marketing Institute

COMPONENT SERIAL NO. #393

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	00	00	00	00	00	00

CAPITAL EXPENDITURES

CHANGE IN REVENUES

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	00	00	00	00	00	00

Estimate of any current year (FY 95) cost: \$ 00

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 does not have a fiscal impact on the Alaska Seafood Marketing Institute.

Prepared by: Art Scheunemann, Executive Director
 Division: Alaska Seafood Marketing Institute
 Approved by Commissioner: 
 Agency: Commerce and Economic Development

Phone: 465-5560
 Date: _____
 Date: 2/10/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 116

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act exempting the Alaska Seafood Marketing BRU: General Services
Institute from the State Procurement Code." Component: Purchasing
 Sponsor: House Special Committee on Fisheries
 Requestor: _____ COMPONENT SERIAL NO. 60

Expenditures/Revenues: (Thousands of Dollars)

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

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

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

FUNDING:

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

POSITIONS

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

Estimate of current year (FY95) impact: \$ 0

ANALYSIS: (attach a separate page if necessary.)

None.

Prepared By: Vern Jones, Chief Procurement Officer
 Division: General Services

Phone: 465-2250
 Date: _____

Approved by Commissioner: Mark Boyer *Mark Boyer*
 Agency: Department of Administration

Date: 2/5/95

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February 1, 1995

The Honorable Alan Austerman
Chairman, House Special Committee on Fisheries
State Capital Room 343
Juneau, AK 99801

Dear Representative Austerman:

I am requesting your assistance in obtaining an exemption from the onerous requirements of the state procurement laws for the Alaska Seafood Marketing Institute. This request is for the purpose of increasing efficiency and reducing the cost of promoting the consumption of our products within the United States.

The seafood industry is Alaska's largest private employer with the equivalent of over 33,000 full time jobs, which represents one-sixth of all employment within the state. Seafood and its related industries represents a multi-billion dollar impact on the Alaska economy and provides more than \$40 million dollars of tax revenue to state and local governments. The health of the industry and its multiple economic benefits to the state are dependent upon the successful marketing of Alaska products throughout the world.

Currently, the industry is experiencing heavy competition from farmed salmon, foreign seafood production and other protein sources. This competition has significantly eroded Alaska's market share and reduced prices for Alaska products directly affecting the incomes of all those dependent upon a healthy industry.

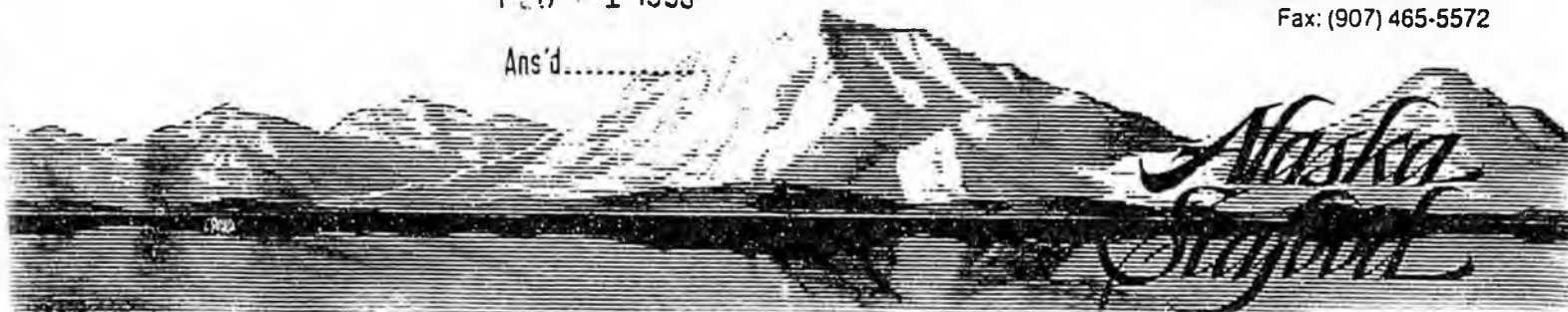
The Alaska Seafood Marketing Institute is the state's seafood commodity commission with offices in Juneau and Seattle, Washington. The institute's domestic marketing activities are solely funded through industry tax assessments from salmon fishermen and Alaska processors. ASMI is governed by a 25 member Board of Directors composed of fishermen and processors who are responsible for managing the finances and marketing services in the best interest of the industry. In meeting these responsibilities, the board has adopted a domestic marketing plan to aggressively promote Alaska products and increase consumption. In pursuing this plan,

Alaska Seafood Marketing Institute
1111 West 8th Street, Room 100
Juneau, Alaska 99801-1895
Tel: (907) 465-5560
In Alaska: 1-800-478-2903
Fax: (907) 465-5572

RECEIVED

FEB 01 1995

Ans'd.....



Representative Austerman

page 2

the board has unanimously decided to seek exemption from the restrictive requirements of the state procurement code. This is necessary in order for the institute to obtain tactical flexibility to effectively compete in a private sector economy.

The state procurement process is not designed to facilitate market promotion services in the private sector, conduct business in a cost effective manner or readily allow the board to participate in management of its own purchases. As an example, ASMI cannot readily advertise and to procure services valued over \$25,000 outside of Alaska. The current marketing plan is based upon contracting with region based sales representatives who have unique knowledge of local foodservice and retail distribution systems. Under the state procurement system, it is impossible for ASMI to contract directly with such individuals without an elaborate, time consuming and costly bid process that does not adequately consider unique knowledge and abilities.

In addition, the procurement requirements place extensive delays and prohibitions on ASMI's ability to act quickly and take advantage of unique promotional opportunities that often arise informally, and or in association with other marketing activities. As an example, if ASMI purchased a service utilizing a small procurement process (value less than \$25,000) and required an expansion above \$25,000. ASMI would have to resolicit or obtain approval from the Department of Administration. During the time required to adhere to these procedures, the promotion opportunity can often be lost.

The delays, restrictions and selection criteria required by the state procedures cripple ASMI efforts in implementing promotional activities and results in increased costs to the industry. ASMI's unique mission requires purchasing non-governmental associated services which state procedures are not designed to address. Any assistance you can provide in obtaining relief from these requirements is greatly appreciated.

Sincerely

A handwritten signature in cursive script that reads "David Wilder". The signature is written in dark ink and is positioned above the typed name and title.

David Wilder, Chairman

Board of Directors



Alaska State Legislature

House of Representatives Special Committee on Fisheries

Analysis of Amendment

to HB 116

Amendment 9-LS0086\C.1 to HB 116 was drafted to add accountability to ASMI's total exemption to the state procurement code. The inclusion of this language will also help ensure consistency, given a variety of procurement situations.

A new section one is inserted instructing the ASMI Board of Directors to adopt substantial procedures governing the procurement of supplies, services, and professional services.

The former section 1 becomes section 2. This section adds ASMI to the list of exempted government entities.

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 116

BY REPRESENTATIVE AUSTERMAN

1 Page 1, after line 3:

2 Insert a new bill section to read:

3 **** Section 1.** AS 36.30.015 is amended by adding a new subsection to read:

4 (h) The board of directors of the Alaska Seafood Marketing Institute shall adopt
5 procedures to govern the procurement of supplies, services, and professional services.
6 The procedures must be substantially equivalent to the procedures prescribed in this
7 chapter and in regulations adopted under this chapter."

8 Page 1, line 4:

9 Delete **** Section 1.**"

10 Insert **** Sec. 2.**"

HB

118

CS FOR HOUSE BILL NO. 118(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 2/22/96

Referred: Labor and Commerce, Finance

Sponsor(s): REPRESENTATIVE AUSTERMAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to seafood marketing, to the definition of 'seafood' for purposes
 2 of the Alaska Seafood Marketing Institute, to an aquatic farm product marketing
 3 assessment, and to the salmon marketing tax; and providing for an effective
 4 date."

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

6 * Section 1. AS 16.51.090 is amended to read:

7 Sec. 16.51.090. POWERS OF BOARD. In carrying out the powers of the
 8 institute, the board may

- 9 (1) adopt, alter, and use a corporate seal;
 10 (2) prescribe, adopt, amend, and repeal bylaws;
 11 (3) sue and be sued in the name of the institute;
 12 (4) enter into any agreements necessary to the exercise of its powers and
 13 functions;
 14 (5) cooperate with a public or private board, organization, or agency

1 (b) A permit holder shall remit to the Department of Revenue by April 1 of
2 each year the total amount of the aquatic farm product marketing assessment owed on
3 the value of aquatic farm products sold by the permit holder in the previous calendar
4 year.

5 (c) In this section,

6 (1) "permit holder" means a person who holds an aquatic farm permit
7 under AS 16.40.100;

8 (2) "value" means the actual price received by a permit holder for the
9 sale of aquatic farm products.

10 * Sec. 4. AS 16.51.170 is amended to read:

11 Sec. 16.51.170. ENFORCEMENT OF ASSESSMENTS. The provisions of
12 AS 43.05 and AS 43.10 apply for the enforcement and collection of

13 (1) the seafood marketing assessment; and

14 (2) the aquatic farm product marketing assessment.

15 * Sec. 5. AS 16.51.180(5) is amended to read:

16 (5) "seafood" means finfish, shellfish, and fish by-products, including but
17 not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, [AND] pollock,
18 and [BUT DOES NOT INCLUDE] aquatic farm products [AS DEFINED IN
19 AS 16.40.199];

20 * Sec. 6. AS 16.51.180 is amended by adding a new paragraph to read:

21 (7) "aquatic farm product" has the meaning given in AS 16.40.199.

22 * Sec. 7. AS 43.76.110 is amended to read:

23 Sec. 43.76.110. SALMON MARKETING TAX. A person holding a limited
24 entry permit, [OR] interim-use permit, or special harvest area entry permit under
25 AS 16.43 shall pay a salmon marketing tax at the rate of one percent of the value, as
26 defined in AS 43.75.290, of salmon that the person removes from the state or transfers
27 to a buyer in the state. The buyer shall collect the salmon marketing tax at the time
28 the salmon is acquired by the buyer.

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

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

CS FOR HOUSE BILL NO. 118(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 2/22/96

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Sponsor(s): REPRESENTATIVE AUSTERMAN

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 8 institute, the board may

- 9 (1) adopt, alter, and use a corporate seal;
 10 (2) prescribe, adopt, amend, and repeal bylaws;
 11 (3) sue and be sued in the name of the institute;
 12 (4) enter into any agreements necessary to the exercise of its powers and
 13 functions;
 14 (5) cooperate with a public or private board, organization, or agency

1 engaged in work or activities similar to the work or activities of the institute, including
2 entering into contracts for joint programs of consumer education, sales promotion, quality
3 control, advertising, and research in the production, processing, or distribution of
4 seafood;

5 (6) conduct, or contract for, scientific research to develop and discover
6 health, dietetic, or other uses of seafood harvested and processed in the state;

7 (7) receive contributions of money from persons;

8 (8) establish offices in the state and otherwise incur expenses incidental
9 to the performance of its duties;

10 (9) appear on behalf of the institute before boards, commissions,
11 departments, or other agencies of municipal, state, or federal government;

12 (10) acquire, hold, lease, sell, or otherwise dispose of property, but such
13 property is limited to that which is necessary to the administrative functioning of the
14 office of the institute;

15 (11) establish and maintain one or more bank accounts for the transaction
16 of the institute's business;

17 (12) prepare market research and product development plans for the
18 promotion of any species of seafood and their by-products that may be harvested in the
19 state and processed for sale;

20 (13) establish committees related to the marketing of seafood [SALMON]
21 and seafood [SALMON] products; the board shall, to the extent practicable, appoint
22 equal numbers of seafood processors and persons engaged in commercial fishing to the
23 committees.

24 * Sec. 2. AS 16.51 is amended by adding a new section to read:

25 Sec. 16.51.161. DEFINITION FOR AS 16.51.120 - 16.51.161. In
26 AS 16.51.120 - 16.51.161, "seafood" has the meaning given in AS 16.51.180, but does
27 not include aquatic farm products.

28 * Sec. 3. AS 16.51 is amended by adding a new section to read:

29 Sec. 16.51.165. AQUATIC FARM PRODUCT MARKETING ASSESSMENT.

30 (a) A person who holds an aquatic farm permit under AS 16.40.100 shall pay an
31 aquatic farm product marketing assessment of three-tenths of one percent of the value
32 of aquatic farm products sold by the permit holder.

1 (b) A permit holder shall remit to the Department of Revenue by April 1 of
2 each year the total amount of the aquatic farm product marketing assessment owed on
3 the value of aquatic farm products sold by the permit holder in the previous calendar
4 year.

5 (c) In this section,

6 (1) "permit holder" means a person who holds an aquatic farm permit
7 under AS 16.40.100;

8 (2) "value" means the actual price received by a permit holder for the
9 sale of aquatic farm products.

10 * Sec. 4. AS 16.51.170 is amended to read:

11 Sec. 16.51.170. ENFORCEMENT OF ASSESSMENTS. The provisions of
12 AS 43.05 and AS 43.10 apply for the enforcement and collection of

13 (1) the seafood marketing assessment; and

14 (2) the aquatic farm product marketing assessment.

15 * Sec. 5. AS 16.51.180(5) is amended to read:

16 (5) "seafood" means finfish, shellfish, and fish by-products, including but
17 not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, [AND] pollock,
18 and [BUT DOES NOT INCLUDE] aquatic farm products [AS DEFINED IN
19 AS 16.40.199];

20 * Sec. 6. AS 16.51.180 is amended by adding a new paragraph to read:

21 (7) "aquatic farm product" has the meaning given in AS 16.40.199.

22 * Sec. 7. AS 43.76.110 is amended to read:

23 Sec. 43.76.110. SALMON MARKETING TAX. A person holding a limited
24 entry permit, [OR] interim-use permit, or special harvest area entry permit under
25 AS 16.43 shall pay a salmon marketing tax at the rate of one percent of the value, as
26 defined in AS 43.75.290, of salmon that the person removes from the state or transfers
27 to a buyer in the state. The buyer shall collect the salmon marketing tax at the time
28 the salmon is acquired by the buyer.

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

SPONSOR STATEMENT

CSHB 118 - "SEAFOOD MARKETING / AQUATIC PRODUCT TAX"

March 3, 1996

CSHB 118 brings ASMI two new sources of revenue to ASMI.

First, this bill imposes an aquatic farm product marketing assessment at the rate of .3 percent on the value of aquatic farmers' product. The aquatic farmers' assessment would be remitted to the Department of Revenue annually by April 1 of the calendar year following the sales. Oysters, mussels and clams are permitted for aquatic farming; however, at present, only oysters are being sold in any significant amount.

Second, CSHB 118 amends AS 43.76.110 so that special harvest area permit holders would be subject to the 1 percent salmon marketing tax. Special harvest area permit holders are those fishermen who harvest cost recovery salmon for the hatcheries. The salmon put on the market through this method enter and effect the salmon market and should contribute to our ailing salmon markets.

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

February 23, 1996

SUBJECT: Sectional Summary of CSHB 118(FSH); An Act relating to seafood marketing, to the definition of "seafood" for purposes of the Alaska Seafood Marketing Institute, to an aquatic farm product marketing assessment, and to the salmon marketing tax.

TO: Representative Alan Austerman

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of CSHB 118(FSH); An Act relating to seafood marketing, to the definition of "seafood" for purposes of the Alaska Seafood Marketing Institute, to an aquatic farm product marketing assessment, and to the salmon marketing tax.

As a preliminary matter, please note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 16.51.090 by authorizing the board of directors of the Alaska Seafood Marketing Institute to establish committees related to the marketing of seafood and seafood products.

Section 2 of the bill adds a new section to AS 16.51 which defines "seafood" for the purposes of AS 16.51.120 - 16.51.161, seafood marketing assessment.

Section 3 of the bill adds a new section to AS 16.51 establishing a marketing assessment of 0.3 percent of the value of aquatic farm products sold by aquatic farms.

Section 4 of the bill amends AS 16.51.170 to provide that AS 43.05 and AS 43.10 apply for the enforcement and collection of the aquatic farm product assessment established by sec. 3 of the bill.

Section 5 of the bill amends the general definition of "seafood" for AS 16.51 to include aquatic farm products.

Section 6 of the bill adds a definition of "aquatic farm product" for purposes of AS 16.51.

Representative Alan Austerman
February 23, 1996
Page 2

Section 7 of the bill amends AS 43.76.110 to provide that persons (private nonprofit hatcheries under AS 16.10.400) who have special harvest area entry permits must pay the salmon marketing tax.

Section 8 of the bill provides that the bill takes effect immediately under AS 01.10.070(c).

GU:glc:klb
96-114.glc

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CS HB 118

Revisor: Date: _____
 Title: An Act relating to seafood marketing, to the
definition of seafood and to an aquatic farm product marketing tax
 Sponsor: Austerman
 Requestor: House Special Committee on Fisheries

Department: Commerce and Economic Development
 BRU: Alaska Seafood Marketing Institute
 Component: Alaska Seafood Marketing Institute

COMPONENT SERIAL NO. _____ 393

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	1.0	1.0	1.5			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1.0	1.0	1.5	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts	1.0	1.0	1.5			
1006 GF/MHTIA						
Other						
TOTAL	1.0	1.0	1.5	0.0	0.0	0.0

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

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

CS HB 118 amends the Alaska Seafood Marketing Institute statutes (AS 16.51.180 (a)) to include aquatic farm products in the seafood marketing assessment. The assessment is a voluntary tax on seafood products levied at .3 percent of the value paid by the processor for the product. Aquatic farm sales in 1995 was valued at \$300,000 which would produce \$900 for the seafood marketing assessment. The value of product in inventory is approximately \$3,000,000 which will provide some future growth in sales.

The assessments are collected by the Department of Revenue and transferred to the ASMI to be utilized to purchase advertising services to promote consumption of Alaska products. In order to receive and expend these funds for the intended purpose, ASMI is requesting additional program receipt authorization of \$1,000 in FY97 with a gradual increase in the subsequent years to meet anticipated increased sales.

Prepared by: Dwayne Peoples
 Division: Alaska Seafood Marketing Institute
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-5571
 Date: 2/2/96
 Date: 2-6-96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
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Revision Date: _____ Dept. Affected: Revenue
 Title: Seafood Marketing / Aquatic Product Tax BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: Rep. Austerman
 Requestor: (H) SCF COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (GF)	124.0	124.0	124.0	124.0	124.0	124.0
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY96) cost \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Paul E. Dick Phone: 465-2320
 Division: Income and Excise Audit Date: 2/20/96
 Approved by Commissioner: Wilson Condon Date: 2/20/96
 Agency: Department of Revenue

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Bill Analysis

Section 1 amends AS 16.51.090 such that powers of the Alaska Seafood Marketing Assessment board would apply to the marketing of seafood products.

Section 2 adds a new section to 16.51 to define "seafood" such that it does not include aquatic farm products for AS 16.51.120 - 16.51.161.

Section 3 of this bill provides for a new aquatic farm product marketing assessment of .3% on the value of aquatic farm product sold by aquatic farm permit holders. Permit holders would be required to file returns and remit assessments to Department of Revenue by April 1 each year.

Section 4 specifies that tax enforcement provisions authorized under AS 43.05 and AS 43.10 would apply to collection of the aquatic farm products assessment.

Section 5 adds language to the definition of "seafood" so that it includes aquatic farm products.

Section 6 adds a new paragraph to AS 16.51.180 so that "aquatic farm product" has the meaning given in AS 16.40.199.

Section 7 amends AS 43.76.110 so that special harvest area permit holders would be subject to the salmon marketing tax.

Section 8 provides for an immediate effective date.

Operating Costs

The Department does not anticipate any additional costs to administer the aquatic farm product marketing assessment or collect salmon marketing tax collections from special harvest area permit holders.

Revenue

According to the Alaska Seafood Marketing Institute (ASMI), a .3% assessment would yield approximately \$1.0 per year. According to Department of Fish and Game data, the total value of salmon harvested under special harvest area permits in 1995 was \$12.3 million. If values remained at the 1995 level, a 1% salmon marketing tax would yield \$123.0.

Total revenue increases from both the assessment and tax under this bill is estimated at \$124.0.

Alaskan Shellfish Growers ASSOCIATION



Amy
File
HB 118

Rep. Alan Austerman
Capitol Building
Juneau, AK 99811

Dear Rep. Austerman:

Thank you for inviting our comments on House Bill 118. The Alaskan Shellfish Growers Association (ASGA) voted unanimously at its annual meeting in October to support this measure if two amendments are adopted. These amendments relate to reporting requirements and the amount of the assessment.

The collection provisions of the legislation would be unduly burdensome and costly to administer. In fact, the Alaska Department of Revenue estimates the administrative cost of the procedures would far exceed the amount collected. These sections would require the reporting to the state of each sale of aquatic farm products, and would impose enormous paperwork requirements on growers and the state.

These sections were based upon the collection requirements of the one percent marketing assessment on salmon fishermen. They work well for that purpose because each purchase of salmon must be recorded on a "fish ticket" and a copy forwarded to the state for other purposes. However, aquatic farmers are not under a "fish ticket" system and to impose a similar system strictly for the marketing assessment would be excessive.

Discussion with Revenue officials suggest that the department would support a single annual report from growers for the purposes of collecting the tax. Shellfish growers currently are required to submit an annual report to the Alaska Department of Fish and Game. The year-end report includes a month-by-month summary of aquatic farm product sales and gross revenues from those sales. It seems that this report could be revised slightly to fit the purposes of this legislation.

The legislation would impose a one percent marketing tax on aquatic farmers to help support the programs of the Alaska Seafood Marketing Institute (ASMI). While we believe that ASMI is doing a very good job in promoting Alaska oysters, ASGA believes the tax should be fair and equitable to everyone in the industry.

Aquatic farmers are classified by the state for all other purposes as seafood, but HB 118 would put us in a new category. Existing statutes allows seafood processors to set the level of the

assessment through a vote of all licensed processing companies. Currently, this assessment is set at .3 percent. ASGA strongly believes that aquatic farmers should be put under the same assessment as all other seafood processors.

Again, ASGA strongly supports ASMI's marketing efforts, but we believe adoption of both of these amendments are vital. I would be pleased to work with you and your staff to develop legislation acceptable to the industry.

Sincerely,


Rodger Painter

c.c. Rep. Carer: Robinson
 Rep. Kim Elton
 Art Scheunemann, ASMI

Table 1. 1995 Aquatic farm permit data.

	<u>Southeast</u>	<u>Southcentral</u>	<u>TOTAL</u>
OPERATIONS			
Aquatic farm permit applications	2	7	9
New Farm Permits issued	1	3	4 ¹⁾
Permits pending or still in process	1	4	5
Total permitted aquatic farms	15	41	56
Shellfish hatcheries/nurseries	1	1	2
Farm/Hatchery Major Amendment Applications	2	1	3
Farms reporting activity	13	31	44
Farm permit renewals received	2	7 ²⁾	9
Farm permit renewals issued	4	11	15
1994 renewals pending/still in process	1	4	5
Acreage permitted for aquatic farming	46	163 ³⁾	209
RESEARCH			
Permit applications	11	26	37
SHELLFISH AND AQUATIC PLANT ACQUISITION/TRANSPORT			
Permit applications	30	47	77
Permits issued	27	44	71
Permits pending or still in process	3	1	4

¹⁾ From 1994 applications.

²⁾ Includes one shellfish hatchery renewal application.

³⁾ Includes 20 acres in Kachemak Bay State Park.

Table 2. 1995 Aquatic farm operations data.

	Southeast	Southcentral	TOTAL
MARKET SALES			
Oysters	599,106	287,886 ¹⁾	866,972
Value	\$185,723	\$110,302	\$296,025
Mussels (lbs)	100	4,235	4,335
Value	— ²⁾	\$10,458	\$10,458
Total aquatic farm market sales			\$306,483
HATCHERY/NURSERY SALES			
Oysters	0	43,370	43,370
Value	\$0	— ³⁾	— ³⁾
SEEDSTOCK PURCHASED			
Oyster spat	1,779,752	2,404,000 ¹⁾	4,183,752
Oyster larvae	0	4,000,000	4,000,000
END OF YEAR INVENTORY ²⁾			
Oysters	3,506,064	6,809,002 ¹⁾	10,315,066.00
Value	\$1,086,879	\$2,655,510	\$3,742,389
Mussels (lbs)	1,000	73,210 ⁴⁾	74,210
Value	— ³⁾	\$179,365	\$179,365
Total End-of-Year Aquatic Farm Inventory Value			\$3,921,754
Oysters(hatchery/nursery)	33,800	94,000	127,800.00
Value	— ³⁾	— ³⁾	— ³⁾
Littleneck clams (hatchery stock)	0	34,000	34,000
Value	\$0	— ³⁾	— ³⁾
EMPLOYMENT SUMMARY			
Number of employees	24	50	74 ⁵⁾
Days worked	1,342	2,887	4,229

1) Southcentral production data preliminary

2) A small inventory of other species, primarily scallops (~5,000 organisms) exists.

3) Single producer, financial information confidential.

4) Estimate. Mussel inventory methods vary widely between farms.

5) Does not include owner/operator work days.