

**ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672**

**9059 SENATE STATE AFFAIRS**

1 (b) In addition to the authority granted under (a) of this section, a peace officer  
2 without a warrant may arrest a person when the peace officer has reasonable cause for  
3 believing that the person

4 (1) has committed a crime under, or violated conditions imposed as part  
5 of the person's release before trial on misdemeanor charges brought under

6 (A) [AS 04.16.050 OR AN ORDINANCE WITH SIMILAR  
7 ELEMENTS;

8 (B)] AS 11.41.270 or AS 11.56.740; or

9 (B) [(C)] AS 11.41, AS 11.46.330, or AS 11.61.120, or has  
10 violated an ordinance with elements substantially similar to the elements of a  
11 crime under AS 11.41, AS 11.46.330, or AS 11.61.120, when the victim is a  
12 spouse or former spouse of the person who committed the crime; a parent,  
13 grandparent, child, or grandchild of the person who committed the crime; a  
14 member of the social unit comprised of those living together in the same  
15 dwelling as the person who committed the crime; or another person who is not  
16 a spouse or former spouse of the person who committed the crime but who  
17 previously lived in a spousal relationship with the person who committed the  
18 crime or is in or has been in a dating, courtship, or engagement relationship  
19 with the person who committed the crime; or

20 (2) has violated AS 04.16.050 or an ordinance with similar elements;  
21 however, unless there is lawful reason for further detention, a person who is under the  
22 age of 18 and who has been arrested for violating AS 04.16.050 or an ordinance with  
23 similar elements shall be cited for the offense and released to the person's parent,  
24 guardian, or legal custodian.

25 • Sec. 8. AS 12.55.125(g) is amended to read:

26 (g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(4),  
27 or (i) of this section, except to the extent permitted under AS 12.55.155 - 12.55.175,

28 (1) imprisonment may not be suspended under AS 12.55.080.

29 (2) imposition of sentence may not be suspended under AS 12.55.085.

30 (3) terms of imprisonment may not be otherwise reduced.

31 • Sec. 9. AS 12.55.155(a) is amended to read:

1 (a) If a defendant is convicted of an offense and is subject to sentencing under  
2 AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(4), or (i) and

3 (1) the presumptive term is four years or less, the court may decrease  
4 the presumptive term by an amount as great as the presumptive term for factors in  
5 mitigation or may increase the presumptive term up to the maximum term of  
6 imprisonment for factors in aggravation;

7 (2) the presumptive term of imprisonment is more than four years, the  
8 court may decrease the presumptive term by an amount as great as 50 percent of the  
9 presumptive term for factors in mitigation or may increase the presumptive term up  
10 to the maximum term of imprisonment for factors in aggravation.

11 • Sec. 10. AS 12.55.165(a) is amended to read:

12 (a) If the defendant is subject to sentencing under AS 12.55.125(c), (d)(1),  
13 (d)(2), (e)(1), (e)(2), (e)(4) [(d), (e)], or (i) and the court finds by clear and  
14 convincing evidence that manifest injustice would result from failure to consider  
15 relevant aggravating or mitigating factors not specifically included in AS 12.55.155 or  
16 from imposition of the presumptive term, whether or not adjusted for aggravating or  
17 mitigating factors, the court shall enter findings and conclusions and cause a record of  
18 the proceedings to be transmitted to a three-judge panel for sentencing under  
19 AS 12.55.175.

20 • Sec. 11. AS 12.75.100 is amended to read:

21 Sec. 12.75.100. REMEDY OF PERSON IN CUSTODY BY VIRTUE OF  
22 CIVIL PROCESS. If it appears on the return of the writ that the prisoner is in custody  
23 by virtue of an order or civil process of a court legally constituted, or issued by an  
24 officer in the course of judicial proceedings before the officer, authorized by law, the  
25 prisoner shall be discharged or granted any other appropriate remedy in any of the  
26 following cases:

27 (1) when the jurisdiction of the court or officer has been exceeded,  
28 either as to matter, place, sum, or person;

29 (2) when, though the original imprisonment was lawful, yet by some  
30 act, omission, or event that has taken place afterwards, the party has become entitled  
31 to a discharge or other remedy;

1 (3) when the order or process is defective in some matter of [OR]  
2 substance required by law, rendering the process void;

3 (4) when the order or process, though in proper form, has been issued  
4 in a case not allowed by law;

5 (5) when the person having the custody of the prisoner under the order  
6 or process is not the person empowered by law to detain the prisoner; or

7 (6) when the order or process is not authorized by a judgment of a  
8 court or by a provision of law.

9 \* Sec. 12. AS 13.26.332 is amended to read:

10 Sec. 13.26.332. STATUTORY FORM POWER OF ATTORNEY. A person  
11 who wishes to designate another as attorney-in-fact or agent by a power of attorney  
12 may execute a statutory power of attorney set out in substantially the following form:

13 GENERAL POWER OF ATTORNEY

14 THE POWERS GRANTED FROM THE PRINCIPAL TO  
15 THE AGENT OR AGENTS IN THE FOLLOWING  
16 DOCUMENT ARE VERY BROAD. THEY MAY INCLUDE  
17 THE POWER TO DISPOSE, SELL, CONVEY, AND  
18 ENCUMBER YOUR REAL AND PERSONAL PROPERTY,  
19 AND THE POWER TO MAKE YOUR HEALTH CARE  
20 DECISIONS. ACCORDINGLY, THE FOLLOWING  
21 DOCUMENT SHOULD ONLY BE USED AFTER CAREFUL  
22 CONSIDERATION. IF YOU HAVE ANY QUESTIONS  
23 ABOUT THIS DOCUMENT, YOU SHOULD SEEK  
24 COMPETENT ADVICE.

25 YOU MAY REVOKE THIS POWER OF ATTORNEY AT  
26 ANY TIME.

27 Pursuant to AS 13.26.338 - 13.26.353, I, (Name of principal),  
28 of (Address of principal), do hereby appoint (Name  
29 and address of agent or agents), my attorney(s)-in-fact to act  
30 as I have checked below in my name, place, and stead in any  
31 way which I myself could do, if I were personally present, with

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respect to the following matters, as each of them is defined in AS 13.26.344, to the full extent that I am permitted by law to act through an agent:

THE AGENT OR AGENTS YOU HAVE APPOINTED WILL HAVE ALL THE POWERS LISTED BELOW UNLESS YOU

DRAW A LINE THROUGH A CATEGORY;  
AND  
INITIAL THE BOX OPPOSITE THAT  
CATEGORY

- (A) real estate transactions ( )
- (B) transactions involving tangible personal property, chattels, and goods ( )
- (C) bonds, shares, and commodities transactions ( )
- (D) banking transactions ( )
- (E) business operating transactions ( )
- (F) insurance transactions ( )
- (G) estate transactions ( )
- (H) gift transactions ( )
- (I) claims and litigation ( )
- (J) personal relationships and affairs ( )
- (K) benefits from government programs and military service ( )
- (L) health care services ( )
- (M) records, reports, and statements ( )
- (N) delegation ( )
- (O) all other matters, including those specified as follows: ( )

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IF YOU HAVE APPOINTED MORE THAN ONE AGENT.

1 CHECK ONE OF THE FOLLOWING:

2 ( ) Each agent may exercise the powers conferred separately,  
3 without the consent of any other agent.

4 ( ) All agents shall exercise the powers conferred jointly, with  
5 the consent of all other agents.

6 TO INDICATE WHEN THIS DOCUMENT SHALL  
7 BECOME EFFECTIVE, CHECK ONE OF THE FOLLOWING:

8 ( ) This document shall become effective upon the date of my  
9 signature.

10 ( ) This document shall become effective upon the date of my  
11 disability and shall not otherwise be affected by my disability.

12 IF YOU HAVE INDICATED THAT THIS DOCUMENT  
13 SHALL BECOME EFFECTIVE ON THE DATE OF YOUR  
14 SIGNATURE, CHECK ONE OF THE FOLLOWING:

15 ( ) This document shall be affected by my subsequent  
16 disability.

17 ( ) This document shall be revoked by my subsequent  
18 disability.

19 IF YOU HAVE INDICATED THAT THIS DOCUMENT  
20 SHALL BECOME EFFECTIVE UPON THE DATE OF YOUR  
21 SIGNATURE AND WANT TO LIMIT THE TERM OF THIS  
22 DOCUMENT, COMPLETE THE FOLLOWING:

23 This document shall only continue in effect for \_\_\_\_ ( )  
24 years from the date of my signature.

25 NOTICE OF REVOCATION OF THE POWERS GRANTED  
26 IN THIS DOCUMENT

27 You may revoke one or more of the powers granted in this  
28 document. Unless otherwise provided in this document, you  
29 may revoke a specific power granted in this power of attorney  
30 by completing a special power of attorney that include the  
31 specific power in this document that you want to revoke. Unless

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otherwise provided in this document, you may revoke all the powers granted in this power of attorney by completing a subsequent power of attorney.

**NOTICE TO THIRD PARTIES**

A third party who relies on the reasonable representations of an attorney-in-fact as to a matter relating to a power granted by a properly executed statutory power of attorney does not incur any liability to the principal or to the principal's heirs, assigns, or estate as a result of permitting the attorney-in-fact to exercise the authority granted by the power of attorney. A third party who fails to honor a properly executed statutory form power of attorney may be liable to the principal, the attorney-in-fact, the principal's heirs, assigns, or estate for a civil penalty, plus damages, costs, and fees associated with the failure to comply with the statutory form power of attorney. If the power of attorney is one which becomes effective upon the disability of the principal, the disability of the principal is established by an affidavit, as required by law.

IN WITNESS WHEREOF, I have hereunto signed my name this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Signature of Principal

Acknowledged [SUBSCRIBED AND SWORN TO OR AFFIRMED] before me at \_\_\_\_\_  
on \_\_\_\_\_

\_\_\_\_\_  
Signature of Officer or Notary

• Sec. 13. AS 15.13.110(f) is amended to read:

(f) During the year in which the election is scheduled, each of the following shall file the campaign disclosure reports in the manner and at the times required by this section:

(1) a person who, under the regulations adopted by the commission to

1 implement AS 15.13.100, indicates an intention to become a candidate for elective  
2 state executive or legislative office;

3 (2) a person who has filed a nominating petition under AS 15.25.140 -  
4 15.25.200 to become a candidate at the primary [GENERAL] election for elective  
5 state executive or legislative office;

6 (3) a person who campaigns as a write-in candidate for elective state  
7 executive or legislative office at the general election; and

8 (4) a group that receives contributions or makes expenditures on behalf  
9 of or in opposition to a person described in (1) - (3) of this subsection.

10 \* Sec. 14. AS 16.05.110 is amended to read:

11 Sec. 16.05.110. COMPOSITION OF FUND. The fish and game fund shall be  
12 made up of the following money and other money the legislature appropriates, which  
13 shall be deposited and retained in the fund until expended:

14 (1) money received from the sale of state sport fishing, hunting, and  
15 trapping licenses, tags, and special permits, [AND] waterfowl conservation tags  
16 purchased by hunters, and anadromous salmon tags purchased by fishermen;

17 (2) proceeds received from the sale of furs, skins, and specimens taken  
18 by predator hunters and other employees;

19 (3) money received in settlement of a claim or loss caused by damage  
20 to the fish and game resources of the state;

21 (4) money received from federal, state, or other governmental unit, or  
22 from a private donor for fish and game purposes;

23 (5) interest earned upon money in the fund;

24 (6) money from any other source.

25 \* Sec. 15. AS 16.05.130(b) is amended to read:

26 (a) Except as provided in (c) of this section, money accruing to the state from  
27 sport fishing, hunting, and trapping licenses, tags, or permit fees may not be diverted  
28 to a purpose other than the protection, propagation, investigation, and restoration of  
29 sport fish and game resources and the expenses of administering the sport fish and  
30 game divisions of the department.

31 \* Sec. 16. AS 16.05.340(a) is amended to read:

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(a) Fees for licenses, permits, and tags are as follows:

(1) Resident sport fishing license . . . . . \$ 15

However, the fee is 25 cents for a resident who is blind.

(2) Resident hunting license . . . . . 25

(3) Resident hunting and trapping license . . . . . 40

(4) Resident trapping license . . . . . 15

(5) Resident hunting and sport fishing license . . . . . 40

(6) Resident hunting, trapping, and sport fishing license . . . . 55;

(A) however, the fee is \$5 for an applicant who

(i) is receiving or has received assistance during the preceding six months under any state or federal welfare program to aid the indigent, or

(ii) has an annual family gross income of less than \$8,200 for the year preceding application;

(B) a person paying \$5 for a resident hunting, trapping, and sport fishing license must provide proof of eligibility under this paragraph when requested by the departments.

(7) Nonresident special sport fishing license - valid for the period inscribed on the license

(A) For 14-day license . . . . . \$ 30

(B) For three-day license . . . . . 15

(C) For one-day license . . . . . 10

(8) Nonresident sport fishing license . . . . . 50

(9) Nonresident hunting license . . . . . 85

(10) Nonresident hunting and sport fishing license . . . . . 135

A nonresident may not take a big game animal without previously purchasing a numbered, nontransferable, appropriate tag, issued under (15) of this subsection. The tag must be affixed to the animal immediately upon capture and must remain affixed until the animal is prepared for storage, consumed, or exported. A tag issued but not used for an animal may be used to satisfy the tagging requirement for an animal of any other species for which the tag fee is of equal or less value.

1	(11) Nonresident hunting and trapping license . . . . .	\$250
2	(12) Fur dealers	
3	(A) Resident fur dealer biennial license . . . . .	150
4	(B) Nonresident fur dealer biennial license . . . . .	500
5	(13) Taxidermists	
6	(A) Resident taxidermy biennial license . . . . .	200
7	(B) Nonresident taxidermy biennial license . . . . .	500
8	(14) Aquatic farming triennial license . . . . .	400
9	(15) Nonresident big game tags	
10	(A) Bear, black, each . . . . .	225
11	(B) Bear, brown or grizzly, each . . . . .	500
12	(C) Bison, each . . . . .	450
13	(D) Caribou, each . . . . .	325
14	(E) Deer, each . . . . .	150
15	(F) Elk, each . . . . .	300
16	(G) Goat, each . . . . .	300
17	(H) Moose, each . . . . .	400
18	(I) Sheep, each . . . . .	425
19	(J) Wolf, each . . . . .	175
20	(K) Wolverine, each . . . . .	175
21	(L) Musk oxen, each . . . . .	1,100
22	(16) Resident big game tags	
23	(A) Bear, brown or grizzly, each . . . . .	\$ 25

The Board of Game may, by regulation effective for not more than one year, eliminate the resident brown or grizzly bear tag and fee for all or a portion of a game management unit.

27	(B) Musk oxen, each . . . . .	500
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However, the Board of Game may by regulation reduce or eliminate the fee for a resident big game tag for musk oxen for an open season.

30	(17) Waterfowl conservation tag . . . . .	\$ 5
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(A) A person may not engage in waterfowl hunting without

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having the current year's waterfowl tag in the person's actual possession, unless that person

- (i) qualifies for a \$5 license fee under (6) of this subsection;
- (ii) is a resident under the age of 16;
- (iii) is 60 years of age or older and is a resident;
- (iv) is a disabled veteran eligible for a free license under AS 16.05.341.

(B) The Board of Game shall by regulation exempt the requirement of a waterfowl conservation tag for waterfowl hunting in areas of the state not likely to benefit from programs described in AS 16.05.130(b)(2) - (4).

(18) Game farming

(A) Game mammal or game reptile farming biennial license

..... \$250

(B) Game bird farming biennial license ..... 50

(19) Nonresident small game hunting license ..... 20

(20) Nonresident alien hunting license ..... 300

A nonresident alien may not take a big game animal without previously purchasing a numbered, nontransferable, appropriate tag, issued under (21) of this subsection. The tag must be affixed to the animal immediately upon capture and must remain affixed until the animal is prepared for storage, consumed, or exported. A tag issued but not used for an animal may be used to satisfy the tagging requirement for an animal of any other species for which the tag fee is of equal or less value.

(21) Nonresident alien big game tags

(A) Bear, black, each ..... \$ 300

(B) Bear, brown or grizzly, each ..... 650

(C) Bison, each ..... 650

(D) Caribou, each ..... 425

(E) Deer, each ..... 200

(F) Elk, each ..... 400

1	(G) Goat, each . . . . .	400
2	(H) Moose, each . . . . .	500
3	(I) Musk oxen, each . . . . .	1,500
4	(J) Sheep, each . . . . .	550
5	(K) Wolf, each . . . . .	250
6	(L) Wolverine, each . . . . .	250
7	(22) Chitina personal use salmon dip net fishing permit . . . . .	10
8	(23) Resident anadromous king salmon tag . . . . .	10

9 A resident may not engage in sport fishing for anadromous king salmon without  
 10 having the current year's anadromous king salmon tag in the resident's actual  
 11 possession, unless that person

12 (A) qualifies for a 25 cent license fee under (1) of this  
 13 subsection;

14 (B) is under the age of 16;

15 (C) is 60 years of age or older and has been a resident of the  
 16 state for at least one year;

17 (D) is a disabled veteran eligible for a free license under  
 18 AS 16.05.341; or

19 (E) qualifies for a \$5 license fee under (6) of this subsection.

20 (24) Nonresident anadromous king salmon tag - valid for the period  
 21 inscribed on the tag

22 (A) for a one-day tag . . . . . \$10

23 (B) for a three-day tag . . . . . 15

24 (C) for a 14-day or annual tag . . . . . 35.

25 A nonresident may not engage in sport fishing for anadromous king salmon  
 26 without having a valid anadromous king salmon tag in the person's actual  
 27 possession, unless that person is under the age of 16. However, members of the  
 28 military service on active duty who are permanently stationed in the state, and  
 29 their dependents, who do not qualify as residents under AS 16.05.940, may  
 30 obtain an annual nonresident military anadromous king salmon tag for \$20.

31 \* Sec. 17. AS 16.05.350 is amended to read:

1           Sec. 16.05.350. EXPIRATION OF LICENSES, PERMITS, AND TAGS. (a)  
2 Licenses, permits, and tags required under AS 16.05.330 - 16.05.430, except biennial  
3 licenses, triennial licenses, the nonresident special sport fishing license, the resident  
4 trapping license, the one, three, or 14-day nonresident anadromous king salmon tag,  
5 [AND] the waterfowl conservation tag, and permits having a different specified  
6 expiration date, expire at the close of December 31 following issuance.

7           (b) Biennial licenses expire after December 31 of the year following the year  
8 of issuance.

9           (c) Triennial licenses expire after December 31 of the second year  
10 following the year of issuance.

11           (d) The resident trapping license expires at the close of September 30 of the  
12 year following the year in which the license is issued.

13           (e) The waterfowl conservation tag expires at the close of January 31 of the  
14 year following the year of issue of the tag.

15 \* Sec. 18. AS 16.05.380 is amended to read:

16           Sec. 16.05.380. COMMISSIONER MAY APPOINT AGENTS. The  
17 commissioner may appoint state employees or other persons to take applications, issue  
18 licenses, permits, and tags, and collect fees. The commissioner is not liable for  
19 defalcation or failure to account for the fees collected by any person so appointed, but  
20 the commissioner shall require a bond in an adequate sum, conditioned upon faithfully  
21 accounting for all money collected. However, the commissioner may waive the bond  
22 requirements of an instrumentality of the United States or its agents and employees [.]  
23 when the instrumentality or its agents or employees sell licenses, permits, or tags  
24 primarily to persons in the armed forces. Each person, upon appointment by the  
25 commissioner, may administer oaths on applications for licenses, permits, and tags.

26 \* Sec. 19. AS 16.05.390(a) is amended to read:

27           (a) Except as provided in (e) of this section, an agent appointed by the  
28 commissioner under AS 16.05.380 to sell licenses, permits, and tags is entitled to

29           (1) retain five percent of the fee that is charged for a license, permit,  
30 or tag or 25 cents for each license, permit, or tag sold, whichever is greater; and

31           (2) compensation of \$50 per year or \$1 for each license, permit, or tag

1 sold during the year, whichever is greater.

2 \* Sec. 20. AS 16.05.390(b) is amended to read:

3 (b) Each agent appointed to sell licenses, permits, or tags under AS 16.05.380  
4 shall, as directed by the commissioner, transmit the proceeds from the sales of licenses,  
5 permits, and tags, except the amount authorized to be retained under (a)(1) of this  
6 section, together with a report of the sales, to the commissioner for deposit in the fish  
7 and game fund or the general fund.

8 \* Sec. 21. AS 16.05.390(c) is amended to read:

9 (c) On March 31, June 30, September 30, and December 31 of each year, the  
10 commissioner shall calculate the compensation earned by an agent under (a)(2) of this  
11 section, minus the penalties assessed under (g) of this section. If the compensation due  
12 exceeds \$50, the commissioner shall pay the compensation not later than 30 days after  
13 the date for which the compensation was calculated. If the compensation due is \$50  
14 or less, the commissioner shall pay the compensation not later than January 30 of the  
15 year following the year in which the compensation was earned. The commissioner  
16 shall pay compensation only for sales of licenses, permits, or tags for which the  
17 commissioner has received the report and proceeds required to be transmitted under  
18 (b) of this section.

19 \* Sec. 22. AS 16.05.390(e) is amended to read:

20 (e) The provisions of (a) of this section do not apply to a state employee  
21 appointed by the commissioner under AS 16.05.380 to sell licenses, permits, and tags.

22 \* Sec. 23. AS 16.05.390(f) is amended to read:

23 (f) Proceeds and reports under (b) of this section shall be transmitted to the  
24 commissioner by the last day of the month following the month in which the licenses,  
25 permits, and tags are sold, unless an alternative reporting schedule has been  
26 established by contract.

27 \* Sec. 24. AS 16.05.405(c) is amended to read:

28 (c) Notwithstanding AS 16.05.420(c), a resident holding a valid noncommercial  
29 fishing license may take fish on behalf of a person who is blind, a person with  
30 physical disabilities, or a person who is 65 years of age or older if the resident  
31 possesses on the resident's person

1 (1) a document signed by the person on whose behalf the fish is taken,  
2 stating that the resident possesses the person's sport fishing license, subsistence fishing  
3 permit, personal use fishing permit, or permanent identification card in order to take  
4 fish on behalf of that person; [AND]

5 (2) the person's

6 (A) resident sport fishing license issued under AS 16.05.403 or  
7 permanent identification card issued under AS 16.05.400(b);

8 (B) resident subsistence fishing permit issued under  
9 AS 16.05.403; or

10 (C) resident personal use fishing permit issued under  
11 AS 16.05.403; and

12 (3) all other documents issued to the person that are required by  
13 law as a condition of taking the fish being pursued.

14 \* Sec. 25. AS 16.05.405(e) is amended to read:

15 (e) A resident who takes, or attempts to take, fish or game on behalf of a  
16 person under this section may also simultaneously engage in fishing or hunting for the  
17 resident's use; however, the resident may not take or attempt to take fish or game by  
18 proxy for more than one person at a time. For the purposes of this subsection, a  
19 resident is engaged in taking, or attempting to take, fish or game by proxy while the  
20 resident has possession of

21 (1) another person's

22 (A) license, permit, or identification card and all other  
23 documents issued to the person that are required by law as a condition of  
24 taking the fish or game being pursued; and

25 (B) [AND THE OTHER PERSON'S] signed document under  
26 (b)(1) or (c)(1) of this section; or

27 (2) fish or game taken on behalf of another person.

28 \* Sec. 26. AS 16.05.405(f) is amended to read:

29 (f) A resident who takes fish or game on behalf of another person under this  
30 section shall

31 (1) complete reports relating to the taking of the fish or game as

1 required by the commissioner of fish and game under AS 16.05.370;

2 (2) deliver all parts of fish and game removed from the field to the  
3 person on whose behalf the fish or game was taken within a reasonable time after the  
4 fish or game is taken; and

5 (3) until the fish or game is delivered to the person on whose behalf  
6 the fish or game was taken, retain the person's

7 (A) license or permit and all other documents issued to the  
8 person that are required by law as a condition of taking the fish or game;  
9 and

10 (B) [THE] signed document required under (b)(1) or (c)(1) of  
11 this section [OF THE PERSON ON WHOSE BEHALF THE FISH OR GAME  
12 IS TAKEN UNTIL THE FISH OR GAME IS DELIVERED TO THAT  
13 PERSON].

14 \* Sec. 27. AS 16.05.420(b) is amended to read:

15 (b) Except as provided in AS 16.05.407(b) and 16.05.408(b)  
16 [AS 16.05.408(b)], a person who knowingly makes a false statement, or knowingly  
17 omits a material fact, in an application for a license, tag, or permit issued under  
18 AS 16.05.330 - 16.05.430 is guilty of unsworn falsification under AS 11.56.210.

19 \* Sec. 28. AS 16.10.010 is amended to read:

20 Sec. 16.10.010. INTERFERENCE WITH SALMON SPAWNING STREAMS  
21 AND WATERS. (a) A person may not, without first applying for and obtaining  
22 a permit or license from the Department of Environmental Conservation,

23 (1) obstruct, divert, or pollute waters of the state, either fresh or salt,  
24 utilized by salmon in the propagation of the species, by felling trees or timber in those  
25 waters, casting, passing, throwing, or dumping tree limbs or foliage, underbrush,  
26 stumps, rubbish, earth, stones, rock, or other debris, or passing or dumping sawdust,  
27 planer shavings, or other waste or refuse of any kind in those waters;

28 (2) erect a dam, barricade, or obstruction to retard, conserve, impound,  
29 or divert the waters described in (1) of this subsection [SECTION] to prevent, retard,  
30 or interfere with the free ingress or egress of salmon into those waters in the natural  
31 spawning or propagation process;

1 (3) render the waters described in (1) of this subsection [SECTION]  
2 inaccessible or uninhabitable for salmon for spawning or propagation.

3 (b) The [WITHOUT FIRST APPLYING FOR AND OBTAINING A PERMIT  
4 OR LICENSE FROM THE DEPARTMENT OF ENVIRONMENTAL  
5 CONSERVATION; THE] application for the permit or license referred to in (a) of  
6 this section must set out the name and style of the person or concern, describe the  
7 waters and location, and state in particular the plans, purpose, and intention for which  
8 the application is made.

9 \* Sec. 29. AS 18.55.230 is amended to read:

10 Sec. 18.55.230. EXEMPTION OF REAL PROPERTY OF CORPORATION  
11 FROM EXECUTION OR OTHER PROCESS. In conjunction with the exercise of a  
12 power authorized by AS 18.55.100 - 18.55.290, the real property of the corporation is  
13 exempt from levy and sale by execution. Execution or other judicial process may not  
14 issue against it and judgment against the corporation may not be a charge or lien upon  
15 its real property. However, this section does not limit the right of an obligee to  
16 foreclose or otherwise enforce a mortgage of the corporation [AUTHORITY] or to  
17 pursue any remedy for the enforcement of a pledge or lien given by the corporation  
18 under AS 18.55.100 - 18.55.290 on its rents, fees, or revenues.

19 \* Sec. 30. AS 18.55.580(b) is amended to read:

20 (b) The corporation may, by resolution, trust, indenture, mortgage, lease, or  
21 other contract confer upon an obligee holding or representing a specified amount in  
22 bonds, the right, in addition to all rights that may be conferred, upon the happening  
23 of an event of default as defined in the resolution or instrument, by an action or  
24 proceeding in a competent court

25 (1) to have possession of a redevelopment project or part of one, title  
26 to which is in the corporation, surrendered to the obligee;

27 (2) to obtain the appointment of a receiver of a redevelopment project  
28 or part of a project, title to which is in the corporation, and of the rents and profits  
29 from the project or part, and, if a receiver is appointed, the receiver may enter and take  
30 possession of, carry out, operate, and maintain the project or a part of the project and  
31 may collect and receive all fees, rents, revenue, or other charges thereafter arising from

1 the project or part, and shall keep this money in a separate account and apply it in  
2 accordance with the obligations of the corporation [AUTHORITY] as the court  
3 directs; and

4 (3) to require the corporation, the members of its board of directors,  
5 officers, agents, and employees to account as if it and they were the trustees of an  
6 express trust.

7 \* Sec. 31. AS 18.56.096(a) is amended to read:

8 (a) The corporation may not make, participate in the making of, purchase, or  
9 participate in the purchase of

10 (1) a first mortgage loan under this chapter for a duplex, triplex, or  
11 four-plex that exceeds the limitations on first mortgage loans for similar housing  
12 purchased by the Federal National Mortgage Association as to principal amount and  
13 loan-to-value ratio;

14 (2) a second mortgage loan for a duplex, triplex, or four-plex the  
15 amount of which, when combined with the principal balance of a first mortgage loan  
16 on the property, exceeds the limitation on the amount set out in (1) of this subsection  
17 or that has a loan-to-value ratio, when considered with the principal balance of the first  
18 mortgage loan, that exceeds 90 percent;

19 (3) a mortgage loan to finance the purchase of new housing or for the  
20 improvement or rehabilitation of existing housing, unless the construction,  
21 improvement, or rehabilitation work has been performed by a contractor who is  
22 registered to work as a contractor under AS 08.18; this paragraph does not apply if the  
23 construction, improvement, or rehabilitation work

24 (A) has been totally or substantially performed by the borrower;

25 (B) has been performed by a borrower who acts as the  
26 contractor for the construction, improvement, or rehabilitation work; or

27 (C) has been performed in an area designated by the corporation  
28 as exempt from the requirements of this paragraph because of the unavailability  
29 of registered contractors in that area;

30 (4) a first mortgage loan for a single-family residence that exceeds the  
31 limitations on first mortgage loans for similar housing purchased by the Federal

1 National Mortgage Association as to principal amount by more than 10 percent, or has  
2 a loan-to-value ratio that exceeds 95 percent, or a second mortgage loan for a single-  
3 family residence, the amount of which, when combined with the principal balance of  
4 a first mortgage loan on the property, exceeds the limitations on loans for similar  
5 housing purchased by the Federal National Mortgage Association as to principal  
6 amount by more than 10 percent, or has a loan-to-value ratio, when considered with  
7 the principal balance of the first mortgage loan, that exceeds 90 percent;

8 (5) a first or second mortgage loan for rental housing unless the  
9 borrower agrees not to discriminate against tenants or prospective tenants because of  
10 sex, marital status, changes in marital status, pregnancy, parenthood, race, religion,  
11 color, national origin, or status as a student;

12 (6) a first mortgage loan if the borrower has an outstanding first  
13 mortgage housing loan under this chapter or an outstanding first mortgage loan for  
14 owner-occupied housing under former provisions of AS 44.47; or

15 (7) a loan to a person who has a past due child support obligation  
16 established by court order or by the child support enforcement division under  
17 AS 25.27.160 - 25.27.220 at the time of application.

18 \* Sec. 32. AS 21.18.110(b)(1) is amended to read:

19 (1) Except as otherwise provided in (c) of this section and (6) of this  
20 subsection, the minimum standard for the valuation of all these policies and contracts  
21 shall be the commissioner's reserve [RESERVES] valuation methods defined in (2),  
22 (5) and (8) of this subsection, three and one-half percent interest, or in the case of  
23 policies and contracts, other than annuity and pure endowment contracts, issued on or  
24 after July 1, 1978, five and one-half percent interest for single premium life insurance  
25 policies and four and one-half percent interest for all other policies, and the following  
26 tables:

27 (A) for all ordinary policies of life insurance issued on the  
28 standard basis, excluding disability and accidental death benefits in the policies  
29 - the Commissioner's 1958 Standard Ordinary Mortality Table, for policies  
30 issued before the operative date of AS 21.45.300(w), of the Standard  
31 Nonforfeiture Law for Life Insurance as amended, except that for a category

1 of policies issued on female risks, all modified net premiums and present  
2 values, referred to in (2) of this subsection may be calculated according to an  
3 age not more than six years younger than the actual age of the insured; and for  
4 policies issued on or after the operative date of AS 21.45.300(w) of the  
5 Standard Nonforfeiture Law for Life Insurance as amended

6 (i) the Commissioner's 1980 Standard Ordinary Mortality  
7 Table, or

8 (ii) at the election of the insurer for any one or more  
9 specified plans of life insurance, the Commissioner's 1980 Standard  
10 Ordinary Mortality Table with 10-year Select Mortality Factors, or

11 (iii) any ordinary mortality table, adopted after 1980 by  
12 the National Association of Insurance Commissioners, that is approved  
13 by regulation promulgated by the director for use in determining the  
14 minimum standard of valuation for the policies;

15 (B) for all industrial life insurance policies issued on the  
16 standard basis, excluding disability and accidental death benefits in the policies  
17 - the 1941 Standard Industrial Mortality Table for the policies issued before the  
18 operative date of AS 21.45.300(l), of the Standard Nonforfeiture Law for Life  
19 Insurance as amended, and for the policies issued on or after the effective date  
20 of AS 21.45.300(l) the Commissioner's 1961 Standard Industrial Mortality  
21 Table or any industrial mortality table, adopted after 1980 by the National  
22 Association of Insurance Commissioners that is approved by regulation  
23 promulgated by the director for use in determining the minimum standard of  
24 valuation for such policies;

25 (C) for individual annuity and pure endowment contracts,  
26 excluding disability and accidental death benefits in the policies - the 1937  
27 Standard Annuity Mortality Table, or, at the option of the insurer, the Annuity  
28 Mortality Table for 1949, ultimate, or any modification of either of these tables  
29 approved by the director;

30 (D) for group annuity and pure endowment contracts, excluding  
31 disability and accidental death benefits in the policies - the Group Annuity

1 Mortality Table for 1951, any modification of the table approved by the  
2 director, or, at the option of the insurer, any of the tables or modification of  
3 tables specified for individual annuity and pure endowment contracts;

4 (E) for total and permanent disability benefits in or  
5 supplementary to ordinary policies or contracts the tables of period 2  
6 disablement rates and the 1930 to 1950 termination rates of the 1952 disability  
7 study of the society of actuaries, with due regard to the type of benefit or any  
8 table of disablement and termination rates adopted after 1980 by the National  
9 Association of Insurance Commissioners that are approved by regulation  
10 adopted by the director for use in determining the minimum standard of  
11 valuation for the policies; the table shall, for active lives, be combined with a  
12 mortality table permitted for calculating the reserves for life insurance policies;

13 (F) for accidental death benefits in or supplementary to policies  
14 - the 1959 Accidental Death Benefits Table or any accidental death benefits  
15 table adopted after 1980 by the National Association of Insurance  
16 Commissioners that is approved by regulation adopted by the director for use  
17 in determining the minimum standard of valuation for the policies combined  
18 with a mortality table permitted for calculating the reserves for life insurance  
19 policies;

20 (G) for group life insurance, life insurance issued on the  
21 substandard basis and other special benefits - tables approved by the director.

22 \* Sec. 33. AS 21.36.095(e) is amended to read:

23 (e) In this section, "insurer" includes

- 24 (1) an insurer, as defined in AS 21.90.900;
- 25 (2) a group health plan, as defined in 29 U.S.C. 1167(l) (Employee  
26 Retirement Income Security Act of 1974);
- 27 (3) a health maintenance organization, as defined in AS 21.86.900;
- 28 (4) a hospital service corporation or medical service corporation, as  
29 defined in AS 21.87.330;
- 30 (5) a writing carrier, as defined in AS 21.55.500; and
- 31 (6) an entity offering a service benefit plan, as referred to in 42 U.S.C.

1        1396g-1 [42 U.S.C. 1396g].

2        • Sec. 34. AS 23.30.025(a) is amended to read:

3                (a) An insurer may not enter into or issue a policy of insurance under this  
4                chapter until its policy form has been submitted to and approved by the director of  
5                the division of insurance [COMMISSIONER]. The director of the division of  
6                insurance [COMMISSIONER] may not approve the policy form of an insurance  
7                company until the company files with it the certificate of the director of the division  
8                [COMMISSIONER] of insurance showing that the company is authorized to transact  
9                the business of workers' compensation insurance in the state. The filing of a policy  
10               form by an insurance company with the board for approval constitutes, on the part of  
11               the company, a conclusive and unqualified acceptance of the provisions of this chapter,  
12               and an agreement by it to be bound by them.

13        • Sec. 35. AS 23.30.030(7) is amended to read:

14                (7) If the insurer fails or refuses to pay a final award or judgment  
15                (except during the pendency of an appeal) made against it, or its insured, or if it fails  
16                or refuses to comply with a provision of this chapter, the director of the division of  
17                insurance [COMMISSIONER] shall revoke the approval of the policy form, and may  
18                not accept further proofs of insurance from it until it has paid the award or judgment  
19                or has complied with the violated provision of this chapter, and has resubmitted its  
20                policy form and received the approval of the form by the director of the division of  
21                insurance [COMMISSIONER].

22        • Sec. 36. AS 29.06.040(c) is amended to read:

23                (c) In addition to the regulations governing annexation by local action adopted  
24                under AS 44.47.567, the Local Boundary Commission shall establish procedures for  
25                annexation and detachment of territory by municipalities by local action. The  
26                procedures established under this subsection must include a provision that

27                        (1) a proposed annexation and detachment must be approved by a  
28                        majority of votes on the question cast by voters residing in the area proposed to be  
29                        annexed or detached;

30                        (2) municipally owned property adjoining the municipality may be  
31                        annexed by ordinance without voter approval; and

1 (3) an area adjoining the municipality may be annexed by ordinance  
2 without an election if all property owners and voters in the area petition the governing  
3 body.

4 \* Sec. 37. AS 33.16.230 is amended to read:

5 Sec. 33.16.230. WAIVER OF HEARING. A prisoner or parolee may waive  
6 the right to a hearing provided under AS 33.16.130 [AS 33.16.120], 33.16.160, or  
7 33.16.220 by submitting a written waiver to the board.

8 \* Sec. 38. AS 33.30.028(a) is amended to read:

9 (a) Notwithstanding any other provision of law, the liability for payment of the  
10 costs of medical, psychological, and psychiatric care provided or made available to a  
11 prisoner committed to the custody of the commissioner is, subject to (b) of this section,  
12 the responsibility of the prisoner and the

13 (1) prisoner's insurer if the prisoner is insured under existing individual  
14 health insurance, group health insurance, or any prepaid medical coverage;

15 (2) Department of Health and Social Services if the prisoner is eligible  
16 for assistance under AS 47.07 or AS 47.25.120 - 47.25.300 [AS 47.25.120 -  
17 47.25.310];

18 (3) United States Department of Veterans Affairs if the prisoner is  
19 eligible for veterans' benefits that entitle the prisoner to reimbursement for the medical  
20 care or medical services;

21 (4) United States Public Health Service, the Indian Health Service, or  
22 any affiliated group or agency if the prisoner is a Native American and is entitled to  
23 medical care from those agencies or groups; and

24 (5) parent or guardian of the prisoner if the prisoner is under the age  
25 of 18.

26 \* Sec. 39. AS 34.35.190 is amended to read:

27 Sec. 34.35.190. DUTY OF RECORDER. Upon the presentation of the notice  
28 to the recorder, the recorder shall record the notice and index it in a book or  
29 computer-readable medium kept for that purpose and called "Index of Liens upon  
30 Chattels." The recorder is entitled to charge and receive from the person recording the  
31 notice of lien a fee provided for recording and indexing chattel mortgages.

1 \* Sec. 40. AS 34.35.410(a) is amended to read:

2 (a) The recorder shall record the lien claim in a record book or computer-  
3 readable medium kept for that purpose. The record book shall be indexed.

4 \* Sec. 41. AS 34.35.440(c) is amended to read:

5 (c) The lien notice shall be indexed in a book or computer-readable medium  
6 kept for that purpose.

7 \* Sec. 42. AS 38.05.180(d) is amended to read:

8 (d) The commissioner may issue oil and gas leases in an area that has not been  
9 included in a leasing program prepared [SUBMITTED.] in accordance with (b) of this  
10 section [, TO THE LEGISLATURE] if the land to be leased

11 (1) was previously subject to a valid state or federal oil and gas lease;

12 (2) is contiguous to land already under state, federal, or private lease,  
13 and the commissioner makes a written finding, after hearing, that leasing of the land  
14 would result in a substantial probability of early evaluation and development of the  
15 land to be leased

16 (3) is adjacent to land owned or controlled by another party on which  
17 a discovery of commercial quantities of oil or gas has been made, and the  
18 commissioner finds, after hearing, that there is a reasonable probability that the land  
19 to be leased contains oil or gas in communication with the oil or gas discovered on the  
20 land of the other party;

21 (4) is adjacent to land included in the federal five-year Outer  
22 Continental Shelf leasing program under 43 U.S.C. 1344, and the commissioner makes  
23 a written finding, after hearing, that coordinated or simultaneous leasing with the  
24 federal government is in the public interest; or

25 (5) is the subject of an oil and gas exploration license issued under  
26 AS 38.05.131 - 38.05.134.

27 \* Sec. 43. AS 39.25.120(c)(9)(J) is amended to read:

28 (J) Alaska [OLDER ALASKANS] Commission on Aging;

29 \* Sec. 44. AS 39.27.012 is amended to read:

30 Sec. 39.27.012. TEMPORARY SALARY SCHEDULES. The director of the  
31 division of personnel may establish salary schedules providing lesser amounts than

1 those in the basic salary schedule in order to meet salary limit requirements for receipt  
2 and expenditure of federal funds. Salary rates established under authority of this  
3 section do not affect the salaries of employees provided for by a collective bargaining  
4 agreement negotiated under the authority of AS 23.40.070 - 23.40.260 (Public  
5 Employment Relations Act).

6 \* Sec. 45. AS 39.27.020(c) is amended to read:

7 (c) The director of the division of personnel shall establish salary differentials  
8 for positions in foreign countries. The differentials shall be adjusted annually,  
9 effective July 1, to maintain equitable relationships between salaries for positions in  
10 foreign countries and salaries for positions in Alaska.

11 \* Sec. 46. AS 41.21.960(d) is amended to read:

12 (d) When bail has been forfeited under this section, a judgment of conviction  
13 shall be entered. Forfeiture [BAIL FORFEITED] under this section of bail and [THE  
14 FORFEITURE OF] items seized from the offender is a complete satisfaction for the  
15 offense, and the clerk of the court shall provide the offender with a receipt stating that  
16 fact if requested.

17 \* Sec. 47. AS 46.04.080(a) is amended to read:

18 (a) The commissioner of environmental conservation or the adjutant general  
19 of the Department of Military and Veterans' Affairs [COMMISSIONER OF  
20 MILITARY AND VETERANS' AFFAIRS] may request the governor to determine that  
21 an actual or imminent occurrence of a catastrophic oil discharge constitutes a disaster  
22 emergency under AS 26.23. The commissioner of environmental conservation and the  
23 adjutant general of the Department of Military and Veterans' Affairs  
24 [COMMISSIONER OF MILITARY AND VETERANS' AFFAIRS] shall respond  
25 appropriately in the relief of the actual or imminent discharge under the relevant  
26 provisions of the applicable incident command system.

27 \* Sec. 48. AS 46.09.030 is amended to read:

28 Sec. 46.09.030. DISASTER EMERGENCIES. The commissioner of  
29 environmental conservation or the adjutant general of the Department of Military  
30 and Veterans' Affairs [COMMISSIONER OF MILITARY AND VETERANS'  
31 AFFAIRS] may request the governor to determine that an actual or imminent release

1 of a hazardous substance constitutes a disaster emergency under AS 26.23. The  
2 commissioner of environmental conservation and the adjutant general of the  
3 Department of Military and Veterans' Affairs [COMMISSIONER OF MILITARY  
4 AND VETERANS' AFFAIRS] shall respond appropriately in the relief of the actual  
5 or imminent release under the relevant provisions of the applicable incident command  
6 system.

7 \* Sec. 49. AS 46.35.070(e) is amended to read:

8 (e) Each state agency having jurisdiction to approve or deny an application for  
9 a permit shall have the power vested in it by law [BEFORE OCTOBER 1, 1977] to  
10 make such determinations. Nothing in AS 46.35.030 - 46.35.070 lessens or reduces  
11 these powers, and AS 46.35.030 - 46.35.070 modify only the procedures to be  
12 followed in the carrying out of the powers.

13 \* Sec. 50. AS 47.10.092(a) is amended to read:

14 (a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian  
15 of a minor subject to a proceeding under AS 47.10.010 - 47.10.142 may disclose  
16 confidential or privileged information about the minor, including information that has  
17 been lawfully obtained from agency or court files, to the governor, the lieutenant  
18 governor, a legislator, the ombudsman appointed under AS 24.55, the attorney general,  
19 and the commissioners of health and social services, administration, or public safety,  
20 or an employee of these persons, for review or use in their official capacities. A  
21 person to whom disclosure is made under this section may not disclose confidential  
22 or privileged information about the minor to a person not authorized to receive it.

23 \* Sec. 51. AS 47.10.460(a) is amended to read:

24 (a) Notwithstanding AS 47.10.090 and 47.10.095, at the request of a local  
25 panel, the department, the child's guardian ad litem, and the court shall furnish to the  
26 local panel relevant records concerning a child and the child's family who are the  
27 subjects of a local panel review. At the conclusion of a review, all copies of records  
28 provided to a local panel under this section shall be returned to the staff that serves  
29 the local panel or to the agency from which the original copy was obtained unless the  
30 panel members need the copies to prepare the reports required under AS 47.10.440(g) -  
31 (i). Copies retained for preparation of the reports shall be returned to the staff that

1 serves the local panel or to the originating agency upon completion of the reports.  
2 Notwithstanding AS 44.62.310, records and reports of the local panel, testimony before  
3 the local panel, and deliberations of the local panel are confidential under  
4 AS 47.10.093 [AS 47.10.090].

5 \* Sec. 52. AS 47.10.990 is amended by adding a new paragraph to read:

6 (13) "commissioner" means the commissioner of health and social  
7 services.

8 \* Sec. 53. AS 12.36.090(3); AS 19.22.030(1); AS 19.25.160(1); AS 19.27.110(2);  
9 AS 19.30.241(1), 19.30.241(3), 19.30.320(2); AS 19.40.290(1); AS 23.30.265(18);  
10 AS 30.13.140; and AS 46.03.900(3) are repealed.

11 \* Sec. 54. APPLICABILITY OF SEC. 5. References to prior convictions in  
12 AS 11.46.484(c), as amended by sec. 5 of this Act, refer to convictions occurring before, on,  
13 or after the effective date of this Act.

14 \* Sec. 55. RELATION TO OTHER LEGISLATION. If any provision of this Act  
15 irreconcilably conflicts with a provision of another Act that (1) is passed by the Second  
16 Session of the Nineteenth Alaska State Legislature and is enacted into law, and (2) takes effect  
17 on or before the effective date of this Act, the provision of the other Act controls,  
18 notwithstanding the effective dates.

19 \* Sec. 56. This Act takes effect immediately under AS 01.10.070(c).

# LEGAL SERVICES

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

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


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

## MEMORANDUM

March 18, 1996

**SUBJECT:** Amendment C. 1 to SB 310, 1996 Revisor's Bill

**TO:** Senator Bert Sharp  
Chair, Senate State Affairs Committee

**FROM:** Pamela Finley   
Revisor of Statutes

Enclosed is a proposed amendment to SB 310, the 1996 revisor's bill. The amendment affects AS 16.05.350 in bill section 17, which sets the annual expiration date for various permits, tags, and licenses. The bill currently sets December 31 as the expiration date for permits, in order to deal with the Chitina personal use salmon dip net permit and any other permits that the legislature may chose to add in the future. However, an employee of the Department of Fish and Game has pointed out to me that the commissioner of fish and game issues certain permits under AS 16.05.340(b)---for collection of fish and game for various purposes, including educational ones--- that may not be annual permits and that may have different expiration dates. Proposed amendment C.1 is intended to keep December 31 as the expiration date for permits in general, but allow other expiration dates to be set.

PF:pl:klb  
96-084.plm

Enclosure

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 310

- 1 Page 15, line 5:
- 2 Delete "and"
- 3 Insert "[AND]"
- 4 After "tag,":
- 5 Insert "and permits having a different specified expiration date,"

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## MEMORANDUM

March 14, 1996

**SUBJECT:** 1996 Revisor's Bill; SB 310

**TO:** Senator Bert Sharp, Chair  
Senate State Affairs Committee

**FROM:** Pamela Finley *PF*  
Revisor of Statutes

You asked for a sectional analysis of SB 310, the 1996 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

...shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of...the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 2, 29 - 31, 33, 39 - 41, 49, and 53 delete, update, or repeal provisions that have become obsolete either through other legislative action or the passage of time.

Sections that correct errors or oversights: Sections 1, 3 - 6, 8 - 27, 34 - 35, 37 - 38, 42 - 45, 47 - 48, and 50 - 52, correct errors or oversights that cannot be corrected editorially.

Sections that improve the form or substance of the law: Sections 7, 28, 32, 36, and 46 propose amendments to improve the form or substance of the statute law of Alaska.

## SECTIONAL ANALYSIS

Section 1. Chapter 101, SLA 1995 amended AS 04.11.480(a) to increase from 30 days to 60 days the time in which a local governing body can protest the renewal, relocation, or transfer of a liquor license. AS 04.11.510(a) contains a cross-reference to the protest period. Section 1 changes the reference from the former 30-day period to the time allowed for protest under AS 04.11.480. This amendment was requested by the Department of Law.

Section 2. Chapter 103, SLA 1994 added AS 08.01.088, which contains a reference to AS 47.24.110. However, ch. 129, SLA 1994 repealed AS 47.24.110 and essentially moved the provisions of AS 47.24.110 to AS 47.24.010. Since AS 47.24.010 is already mentioned in AS 08.01.088, this bill section just removes the referenced to repealed AS 47.24.110.

Sections 3 and 4. Chapter 130, SLA 1994 allowed the Department of Administration, as well as the Department of Health and Social Services, to license certain assisted living facilities. AS 47.33.410(a)-(c). One of the elements of sexual assault in the first and second degrees against a mentally incapable person involves licensure of a facility or program by the Department of Health and Social Services. AS 11.41.410 and 11.41.420. To avoid having the commission of a sexual assault depend on whether a particular facility is licensed by the Department of Administration or the Department of Health and Social Services, AS 11.41.410 and 11.41.420 should have been amended to include a reference to licensure by the Department of Administration under AS 47.33. Bill sections 3 and 4 do this.

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Senator Bert Sharp, Chair

March 14, 1996

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Section 27. Under AS 16.05.407(b) and 16.05.408(b), nonresidents and nonresident aliens who falsify information on a required affidavit are guilty of perjury. In general, AS 16.05.420(b) makes an applicant who provides false information on an application for a license, tag, or permit guilty of unsworn falsification. AS 16.05.420(b) recognizes AS 16.05.408(b) as an exception to the general provision, but does not reference AS 16.05.407(b). This section corrects that error by inserting in AS 16.05.420(b) a reference to AS 16.05.407(b).

Section 28. This section amends AS 16.10.010 (concerning interference with salmon spawning streams and waters) by rearranging it. AS 16.10.010 is derived from sec. 39-2-31, A.C.L.A. 1949, which consisted of one long sentence (the general substance of current paragraphs 1 - 3, up to the last semicolon) and a second sentence setting out the requirements for the application (currently the material following the last semicolon in paragraph (3).) In the 1962 codification, paragraph designations were added, with the requirements for the application being a sentence in paragraph (3). While the 1962 codification did break up an unwieldy sentence, it left the description of the affected waters in paragraph (1) only and the requirement for an application in paragraph (3) only. In the 1992 editorial revision of AS 16, the revisor attempted to fix part of the problem editorially by adding "described in (1) of this section" after "waters" in both paragraphs (2) and (3). While this editorial change did correct part of the error in the 1962 codification, it did not clearly make the permit requirement applicable to paragraphs (1) and (2). Accordingly, this bill section moves the permit requirement to the beginning of the section, retains the editorial change of "waters described in (1)," and designates as subsection (b) the material currently following the last semicolon. This seems the clearest way of correcting technical errors in the 1962 codification.

Sections 29 and 30. These bill sections change "authority" to "corporation" in AS 18.55.230 and 18.55.580(b). This should have been done when, in ch. 4, FSSLA 1992, the Alaska Housing Finance Corporation assumed the duties of the Alaska State Housing Authority.

Section 31. Chapter 4, FSSLA 1992 repealed certain provisions of AS 44.47 that provided for owner-occupied housing loans. However, AS 18.56.096 (concerning limitations on loans) still contains a reference to AS 44.47. To make it clear that the reference is to the former provisions, "former provisions of" is inserted before "AS 44.47."

Section 32. This bill section substitutes "commissioner's reserve valuation methods" for "commissioner's reserves valuation methods" in AS 21.18.110(b)(1) in order to parallel the language in AS 21.18.110(b)(2). The amendment was requested by the Department of Law.

Section 33. This bill section amends AS 21.36.095 (concerning insurance coverage of children), by substituting a reference to current federal law (42 U.S.C. 1396g-1) for a reference to a repealed federal law (42 U.S.C. 1396g). 42 U.S.C. 1396g-1 does contain a reference to a "service benefit plan" and was, according to the Department of Health and Social Services, the correct citation. This corrects an error in ch. 102, SLA 1994.

Sections 34 and 35. These bill sections substitute "director of the division of insurance" for "insurance commissioner" in two workers' compensation statutes, AS 23.30.025(a) and 23.30.030(7). The definition of "insurance commissioner" in AS 23.30.265(18) is repealed in bill section 53. The sections being amended were enacted in ch. 193, SLA 1959. The position of director of the division of insurance was not created until ch. 120, SLA 1966. The amendments made by these bill sections should have been made in ch. 120, SLA 1966. The amendments were requested by the Department of Law.

Section 36. This bill section amends AS 29.06.040(c) (relating to procedures for annexation and detachment of territory by municipalities) by substituting "must include" for "include". This is more consistent with the requirement of the first sentence of the subsection that the Local Boundary Commission establish the procedures.

Section 37. This bill section amends AS 33.16.230, which allows a prisoner or parolee to waive a right to a hearing provided under several enumerated laws. One of those laws--- AS 33.16.120---does not give the prisoner or parolee a right to a hearing, but instead sets out the rights of crime victims. However, AS 33.16.130(b), which is not enumerated in AS 33.16.230, does give a prisoner the right to a hearing. Since it appears the reference to AS 33.16.120 should have been to AS 33.16.130, that change is made in this bill section.

Section 38. This bill section amends AS 33.30.028(a) (relating to payment for medical care of prisoners) to change a spanned reference. Currently, liability for costs of medical care is the responsibility of the prisoner and the Department of Health and Social Services if the prisoner is eligible for assistance under AS 47.07 (medical assistance for needy persons) or AS 47.25.120 - 47.25.310. AS 47.25.120 - 47.25.300 is the article covering general relief

assistance, but AS 47.25.310 is the first section of the article governing aid to families with dependent children. Since a prisoner would not be in a situation where the prisoner is eligible for AFDC, the correct spanned reference should be AS 47.25.120 - 47.25.300. This bill section makes that change. The amendment was requested by the Department of Law.

Sections 39 - 41. These bill sections amend AS 34.35.190, 34.35.410(a), and 34.35.440(c) to allow the recorder to index certain liens on a computer-readable medium instead of a book. According to the Department of Law, the recorder has been keeping the index for personal property liens covered by these statutes on a computer since the early 1970s. These bill sections provide the statutory authority for that practice. The amendments were requested by the Department of Law.

Section 42. Sections 67 and 68, ch. 21, SLA 1995 deleted the requirement that the oil and gas leasing program be submitted to the legislature. AS 38.05.180(b) and (c). However, a reference to the submission in AS 38.05.180(d) was left in statute. This bill section removes that reference.

Section 43. Chapter 131, SLA 1994 changed the name of the Older Alaskans Commission to the Alaska Commission on Aging. AS 44.21.200. This bill section changes the name of the Commission in AS 39.25.120(c)(9)(J).

Sections 44 and 45. These bill sections amend AS 39.27.012 and 39.27.020(c) to give the correct title for the director of the division of personnel.

Section 46. This bill section rewords AS 41.21.960(d) (relating to forfeiture of bail and seized items) to parallel the sentence structure in AS 16.05.165(d). This makes the sentence clearer and avoids the question of whether the verb should be plural or singular.

Sections 47 and 48. These bill sections substitute "adjutant general of the Department of Military and Veterans' Affairs" for "commissioner of military and veterans' affairs" in AS 46.04.080(a) and AS 46.09.030. The principal executive officer of the Department of Military and Veterans' Affairs is called the adjutant general, not the commissioner. AS 44.35.010.

Section 49. This bill section amends AS 46.35.070(e) (relating to environmental procedures coordination) to remove a dated reference. The reference was originally intended to preserve existing law, but is no longer necessary.

Sections 50 and 51. In ch. 113, SLA 1994, the confidentiality provisions for court and agency records concerning juveniles (formerly found in AS 47.10.090) were modified so that provisions relating to court records remained in AS 47.10.090 and provisions relating to agency records were put in a new section, AS 47.10.093. Bill sections 50 and 51 amend AS 47.10.092(a) (relating to allowed disclosures to certain public officials) and

AS 47.10.460(a) (relating to review panels) to include appropriate references to AS 47.10 993.

Section 52. Chapter 98, SLA 1995 added AS 47.10.265, relating to youth courts. In early drafts of the bill, the youth court provisions were placed in AS 18.05, which defined "commissioner" as the commissioner of health and social services. When the provision was moved to AS 47.10 by a floor amendment, the definition of "commissioner" was lost because AS 47.10 does not contain a definition for "commissioner," although it does define "department" as the Department of Health and Social Services. This bill section defines "commissioner" as the commissioner of health and social services for all of AS 47.10, which will cover not only the youth court provisions, but other sections of AS 47.10 as well. Currently, in AS 47.10 "commissioner" refers to either a specifically named commissioner or to the commissioner of health and social services. See AS 47.10.080(d), 47.10.092(a), and 47.10.400(a). Adding a general definition of "commissioner" for the chapter will make it easier to draft in this chapter in the future.

Section 53. This section repeals obsolete or duplicative provisions. The text of these provisions is attached.

AS 12.36.090(3): Defines "peace officer," a term that no longer appears in AS 12.36.

AS 19.22.030(1)

AS 19.25.160(1)

AS 19.27.110(2)

AS 19.30.241(3)

AS 19.30.320(2)

AS 19.40.290(1): Define "department" as the Department of Transportation and Public Facilities. These definitions duplicate AS 19.45.001, which applies to AS 19.05 - 19.40 and contains the same definition of "department."

AS 19.30.241(1): Defines "commissioner" as the commissioner of transportation and public facilities. This duplicates AS 19.45.001, which applies to AS 19.05 - 19.40 and contains the same definition of "commissioner."

AS 23.30.265(18): Defines "insurance commissioner." Because bill sections 34 and 35 substitute "director of the division of insurance" for "insurance commissioner" in all provisions of AS 23.30 that use the term "insurance commissioner," this definition is no longer necessary.

AS 30.13.140. Provides that regional resource development authorities are not subject to the Alaska Transportation Commission. The Alaska Transportation Commission (former AS 42.07) was repealed by 1983 Initiative Proposal No. 2, effective February 28, 1985.

Senator Bert Sharp, Chair

March 14, 1996

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AS 46.03.900(3). Defines "atomic radiation," a term that no longer appears in AS 46.03. The term should have been repealed in ch. 172, SLA 1978.

Section 54. This bill section clarifies that the prior convictions referred to in AS 11.46.484(c), as amended by sec. 5, include those occurring on or before the effective date of this Act.

Section 55. This bill section preserves legislation passed this session that takes effect before or at the same time as the revisor's bill and that irreconcilably conflicts with the revisor's bill. (Conflicting legislation that takes effect after the revisor's bill will override the revisor's bill under normal rules.)

Section 56. Gives the bill an immediate effective date.

Please let me know if you have any questions about the above.

PF:gle

96-164.gle

Attachment

**TEXT OF STATUTES REPEALED**

**AS 12.36.090(3):**

(3) "peace officer" means a public servant vested by law with a duty to maintain public order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders.

**AS 19.22.030(1):**

(1) "department" means the Department of Transportation and Public Facilities;

**AS 19.25.160(1):**

(1) "department" means the Department of Transportation and Public Facilities;

**AS 19.27.110(2):**

(2) "department" means the Department of Transportation and Public Facilities;

**AS 19.30.241(1) and (3):**

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(3) "department" means the Department of Transportation and Public Facilities;

**AS 19.30.320(2):**

(2) "department" means the Department of Transportation and Public Facilities;

**AS 19.40.290(1):**

(1) "department" means the Department of Transportation and Public Facilities;

**AS 23.30.265(18):**

(18) "insurance commissioner" refers to the person who heads the insurance division or section of the Department of Commerce and Economic Development and is charged with the administration of the state insurance laws;

**AS 30.13.140:**

Sec. 30.13.140. NOT SUBJECT TO TRANSPORTATION COMMISSION JURISDICTION. An authority is not subject to the jurisdiction of the Alaska Transportation Commission.

**AS 46.03.900(3):**

(3) "atomic radiation" means all ionizing radiation.

PF:klb

96-191.klb

# LEGAL SERVICES

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

SB 310

(907) 465-3887 or 465-2450  
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130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

March 13, 1996

**SUBJECT:** 1996 Revisor's Bill

**TO:** Senator Mike Miller, Chair  
Senate Rules Committee

**FROM:** Pamela Finley   
Revisor of Statutes

Enclosed is a final for the 1996 revisor's bill, as approved at the March 12, 1996 meeting of Legislative Council. I would appreciate it if the Rules Committee would introduce it as soon as possible. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

...shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of...the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

**Sections that delete, repeal, or update obsolete provisions:** Sections 2, 29 - 31, 33, 39 - 41, 49, and 53 delete, update, or repeal provisions that have become obsolete either through other legislative action or the passage of time.

**Sections that correct errors or oversights:** Sections 1, 3 - 6, 8 - 27, 34 - 35, 37 - 38, 42 - 45, 47 - 48, and 50 - 52, correct errors or oversights that cannot be corrected editorially.

**Sections that improve the form or substance of the law:** Sections 7, 28, 32, 36, and 46 propose amendments to improve the form or substance of the statute law of Alaska.

### SECTIONAL ANALYSIS

**Section 1.** Chapter 101, SLA 1995 amended AS 04.11.480(a) to increase from 30 days to 60 days the time in which a local governing body can protest the renewal, relocation, or transfer of a liquor license. AS 04.11.510(a) contains a cross-reference to the protest period.

Section 1 changes the reference from the former 30-day period to the time allowed for protest under AS 04.11.480. This amendment was requested by the Department of Law.

Section 2. Chapter 103, SLA 1994 added AS 08.01.088, which contains a reference to AS 47.24.110. However, ch. 129, SLA 1994 repealed AS 47.24.110 and essentially moved the provisions of AS 47.24.110 to AS 47.24.010. Since AS 47.24.010 is already mentioned in AS 08.01.088, this bill section just removes the referenced to repealed AS 47.24.110.

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Sections 24 - 26. These sections add a reference to the possession of other documents required by law to AS 16.05.405(c), (e), and (f), which relate to taking fish and game by proxy. These other documents include such things as waterfowl and salmon tags, although the amendments are drafted broadly to include all documents required by law so that documents required by regulation or future legislation would also be included. These bill sections correct errors in past legislation which added tags and other required documents.

Section 27. Under AS 16.05.407(b) and 16.05.408(b), nonresidents and nonresident aliens who falsify information on a required affidavit are guilty of perjury. In general, AS 16.05.420(b) makes an applicant who provides false information on an application for a license, tag, or permit guilty of unsworn falsification. AS 16.05.420(b) recognizes AS 16.05.408(b) as an exception to the general provision, but does not reference AS 16.05.407(b). This section corrects that error by inserting in AS 16.05.420(b) a reference to AS 16.05.407(b).

Section 28. This section amends AS 16.10.010 (concerning interference with salmon spawning streams and waters) by rearranging it. AS 16.10.010 is derived from sec. 39-2-31, A.C.L.A. 1949, which consisted of one long sentence (the general substance of current paragraphs 1 - 3, up to the last semicolon) and a second sentence setting out the requirements for the application (currently the material following the last semicolon in paragraph (3).) In the 1962 codification, paragraph designations were added, with the requirements for the application being a sentence in paragraph (3). While the 1962 codification did break up an unwieldy sentence, it left the description of the affected waters in paragraph (1) only and the requirement for an application in paragraph (3) only. In the 1992 editorial revision of AS 16, the revisor attempted to fix part of the problem editorially by adding "described in (1) of this section" after "waters" in both paragraphs (2) and (3). While this editorial change did correct part of the error in the 1962 codification, it did not clearly make the permit requirement applicable to paragraphs (1) and (2). Accordingly, this bill section moves the permit

requirement to the beginning of the section, retains the editorial change of "waters described in (1)," and designates as subsection (b) the material currently following the last semicolon. This seems the clearest way of correcting technical errors in the 1962 codification.

Sections 29 and 30. These bill sections change "authority" to "corporation" in AS 18.55.230 and 18.55.580(b). This should have been done when, in ch. 4, FSSLA 1992, the Alaska Housing Finance Corporation assumed the duties of the Alaska State Housing Authority.

Section 31. Chapter 4, FSSLA 1992 repealed certain provisions of AS 44.47 that provided for owner-occupied housing loans. However, AS 18.56.096 (concerning limitations on loans) still contains a reference to AS 44.47. To make it clear that the reference is to the former provisions, "former provisions of" is inserted before "AS 44.47."

Section 32. This bill section substitutes "commissioner's reserve valuation methods" for "commissioner's reserves valuation methods" in AS 21.18.110(b)(1) in order to parallel the language in AS 21.18.110(b)(2). The amendment was requested by the Department of Law.

Section 33. This bill section amends AS 21.36.095 (concerning insurance coverage of children), by substituting a reference to current federal law (42 U.S.C. 1396g-1) for a reference to a repealed federal law (42 U.S.C. 1396g). 42 U.S.C. 1396g-1 does contain a reference to a "service benefit plan" and was, according to the Department of Health and Social Services, the correct citation. This corrects an error in ch. 102, SLA 1994.

Sections 34 and 35. These bill sections substitute "director of the division of insurance" for "insurance commissioner" in two workers' compensation statutes, AS 23.30.025(a) and 23.30.030(7). The definition of "insurance commissioner" in AS 23.30.265(18) is repealed in bill section 53. The sections being amended were enacted in ch. 193, SLA 1959. The position of director of the division of insurance was not created until ch. 120, SLA 1966. The amendments made by these bill sections should have been made in ch. 120, SLA 1966. The amendments were requested by the Department of Law.

Section 36. This bill section amends AS 29.06.040(c) (relating to procedures for annexation and detachment of territory by municipalities) by substituting "must include" for "include". This is more consistent with the requirement of the first sentence of the subsection that the Local Boundary Commission establish the procedures.

Section 37. This bill section amends AS 33.16.230, which allows a prisoner or parolee to waive a right to a hearing provided under several enumerated laws. One of those laws--- AS 33.16.120---does not give the prisoner or parolee a right to a hearing, but instead sets out the rights of crime victims. However, AS 33.16.130(b), which is not enumerated in AS 33.16.230, does give a prisoner the right to a hearing. Since it appears the reference to AS 33.16.120 should have been to AS 33.16.130, that change is made in this bill section.

Section 38. This bill section amends AS 33.30.028(a) (relating to payment for medical care of prisoners) to change a spanned reference. Currently, liability for costs of medical care is the responsibility of the prisoner and the Department of Health and Social Services if the prisoner is eligible for assistance under AS 47.07 (medical assistance for needy persons) or AS 47.25.120 - 47.25.310. AS 47.25.120 - 47.25.300 is the article covering general relief assistance, but AS 47.25.310 is the first section of the article governing aid to families with dependent children. Since a prisoner would not be in a situation where the prisoner is eligible for AFDC, the correct spanned reference should be AS 47.25.120 - 47.25.300. This bill section makes that change. The amendment was requested by the Department of Law.

Sections 39 - 41. These bill sections amend AS 34.35.190, 34.35.410(a), and 34.35.440(c) to allow the recorder to index certain liens on a computer-readable medium instead of a book. According to the Department of Law, the recorder has been keeping the index for personal property liens covered by these statutes on a computer since the early 1970s. These bill sections provide the statutory authority for that practice. The amendments were requested by the Department of Law.

Section 42. Sections 67 and 68, ch. 21, SLA 1995 deleted the requirement that the oil and gas leasing program be submitted to the legislature. AS 38.05.180(b) and (c). However, a reference to the submission in AS 38.05.180(d) was left in statute. This bill section removes that reference.

Section 43. Chapter 131, SLA 1994 changed the name of the Older Alaskans Commission to the Alaska Commission on Aging. AS 44.21.200. This bill section changes the name of the Commission in AS 39.25.120(c)(9)(J).

Sections 44 and 45. These bill sections amend AS 39.27.012 and 39.27.020(c) to give the correct title for the director of the division of personnel.

Section 46. This bill section rewords AS 41.21.960(d) (relating to forfeiture of bail and seized items) to parallel the sentence structure in AS 16.05.165(d). This makes the sentence clearer and avoids the question of whether the verb should be plural or singular.

Sections 47 and 48. These bill sections substitute "adjutant general of the Department of Military and Veterans' Affairs" for "commissioner of military and veterans' affairs" in AS 46.04.080(a) and AS 46.09.030. The principal executive officer of the Department of Military and Veterans' Affairs is called the adjutant general, not the commissioner. AS 44.35.010.

Section 49. This bill section amends AS 46.35.070(e) (relating to environmental procedures coordination) to remove a dated reference. The reference was originally intended to preserve existing law, but is no longer necessary.

Sections 50 and 51. In ch. 113, SLA 1994, the confidentiality provisions for court and agency records concerning juveniles (formerly found in AS 47.10.090) were modified so that provisions relating to court records remained in AS 47.10.090 and provisions relating to agency records were put in a new section, AS 47.10.093. Bill sections 50 and 51 amend AS 47.10.092(a) (relating to allowed disclosures to certain public officials) and AS 47.10.460(a) (relating to review panels) to include appropriate references to AS 47.10.093.

Section 52. Chapter 98, SLA 1995 added AS 47.10.265, relating to youth courts. In early drafts of the bill, the youth court provisions were placed in AS 18.05, which defined "commissioner" as the commissioner of health and social services. When the provision was moved to AS 47.10 by a floor amendment, the definition of "commissioner" was lost because AS 47.10 does not contain a definition for "commissioner," although it does define "department" as the Department of Health and Social Services. This bill section defines "commissioner" as the commissioner of health and social services for all of AS 47.10, which will cover not only the youth court provisions, but other sections of AS 47.10 as well. Currently, in AS 47.10 "commissioner" refers to either a specifically named commissioner or to the commissioner of health and social services. See AS 47.10.080(d), 47.10.092(a), and 47.10.400(a). Adding a general definition of "commissioner" for the chapter will make it easier to draft in this chapter in the future.

Section 53. This section repeals obsolete or duplicative provisions. The text of these provisions is attached.

AS 12.36.090(3): Defines "peace officer," a term that no longer appears in AS 12.36.

AS 19.22.030(1)

AS 19.25.160(1)

AS 19.27.110(2)

AS 19.30.241(3)

AS 19.30.320(2)

AS 19.40.290(1): Define "department" as the Department of Transportation and Public Facilities. These definitions duplicate AS 19.45.001, which applies to AS 19.05 - 19.40 and contains the same definition of "department."

AS 19.30.241(1): Defines "commissioner" as the commissioner of transportation and public facilities. This duplicates AS 19.45.001, which applies to AS 19.05 - 19.40 and contains the same definition of "commissioner."

AS 23.30.265(18): Defines "insurance commissioner." Because bill sections 34 and 35 substitute "director of the division of insurance" for "insurance

Senator Mike Miller, Chair

March 13, 1996

Page 8

commissioner" in all provisions of AS 23.30 that use the term "insurance commissioner," this definition is no longer necessary.

AS 30.13.140. Provides that regional resource development authorities are not subject to the Alaska Transportation Commission. The Alaska Transportation Commission (former AS 42.07) was repealed by 1983 Initiative Proposal No. 2, effective February 28, 1985.

AS 46.03.900(3). Defines "atomic radiation," a term that no longer appears in AS 46.03. The term should have been repealed in ch. 172, SLA 1978.

Section 54. This bill section clarifies that the prior convictions referred to in AS 11.46.484(c), as amended by sec. 5, include those occurring on or before the effective date of this Act.

Section 55. This bill section preserves legislation passed this session that takes effect before or at the same time as the revisor's bill and that irreconcilably conflicts with the revisor's bill. (Conflicting legislation that takes effect after the revisor's bill will override the revisor's bill under normal rules.)

Section 56. Gives the bill an immediate effective date.

Please let me know if you have any questions about the above.

PF:klb

96-190.klb

Attachment

## TEXT OF STATUTES REPEALED

### AS 12.36.090(3):

(3) "peace officer" means a public servant vested by law with a duty to maintain public order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders.

### AS 19.22.030(1):

(1) "department" means the Department of Transportation and Public Facilities;

### AS 19.25.160(1):

(1) "department" means the Department of Transportation and Public Facilities;

### AS 19.27.110(2):

(2) "department" means the Department of Transportation and Public Facilities;

### AS 19.30.241(1) and (3):

(1) "commissioner" means the commissioner of transportation and public facilities;

(3) "department" means the Department of Transportation and Public Facilities;

### AS 19.30.320(2):

(2) "department" means the Department of Transportation and Public Facilities;

### AS 19.40.290(1):

(1) "department" means the Department of Transportation and Public Facilities;

### AS 23.30.265(18):

(18) "insurance commissioner" refers to the person who heads the insurance division or section of the Department of Commerce and Economic Development and is charged with the administration of the state insurance laws;

### AS 30.13.140:

Sec. 30.13.140. NOT SUBJECT TO TRANSPORTATION COMMISSION JURISDICTION. An authority is not subject to the jurisdiction of the Alaska Transportation Commission.

### AS 46.03.900(3):

(3) "atomic radiation" means all ionizing radiation;

PF:klb

96-191.klb

**SB**

**314**

Revision Date: March 27, 1996 Dept. Affected: Revenue  
 Title: Restaurant Liquor License Ownership BRU: Alcoholic Beverage Control  
place liquor license Component: Alcoholic Beverage Control  
 Sponsor: Senate Finance Committee  
 Requestor: Senate State Affairs Committee COMPONENT SERIAL NO. 100

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE**

(Thousands of Dollars)

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

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

This bill makes administrative and legal changes in types of liquor license that can be held concurrently and has no negligible fiscal impact on the Alcoholic Beverage Control budget.

Prepared by: Douglas B. Griffin Phone: 277 8638  
 Division: Alcoholic Beverage Control Board Date: March 27, 1996  
 Approved by Commissioner: Wilson L. Condon Date: March 27, 1996  
 Agency: Department of Revenue

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BILL: HB 372                    SHORT TITLE: LIQUOR LICENSES  
BILL VERSION: SCS CSHB 372(JUD) AM S  
SPONSOR(S): REPRESENTATIVE(S) ROKEBERG, B. Davis, Brown

CURRENT STATUS: (H) CONCURRD (S) AM            STATUS DATE: 05/07/96

TITLE: "An Act relating to a restaurant or eating place license; relating to the Alcoholic Beverage Control Board; and providing for an effective date."

12/29/95	2363	(H)	PREFILE RELEASED
01/08/96	2363	(H)	READ THE FIRST TIME - REFERRAL(S)
01/08/96	2363	(H)	STATE AFFAIRS, LABOR & COMMERCE
01/10/96	2405	(H)	COSPONSOR(S): BROWN
03/11/96	3056	(H)	STA RPT 1DP 2NR 2AM
03/11/96	3057	(H)	DP: GREEN
03/11/96	3057	(H)	NR: JAMES, IVAN
03/11/96	3057	(H)	AM: PORTER, ROBINSON
03/11/96	3057	(H)	ZERO FISCAL NOTE (REV)
03/21/96	3235	(H)	L&C RPT CS(L&C) NT 2DP 3NR
03/21/96	3236	(H)	DP: PORTER, ROKEBERG
03/21/96	3236	(H)	NR: SANDERS, ELTON, KOTT
03/21/96	3236	(H)	ZERO FISCAL NOTE (REV) 3/11/96
03/29/96	3481	(H)	RULES TO CALENDAR 3/29/96
03/29/96	3481	(H)	READ THE SECOND TIME
03/29/96	3481	(H)	L&C CS ADOPTED UNAN CONSENT
03/29/96	3482	(H)	AM NO 1 ADOPTED UNAN CONSENT
03/29/96	3482	(H)	ADVANCED TO THIRD READING UNAN CONSENT
03/29/96	3482	(H)	READ THE THIRD TIME CSHB 372(L&C) AM
03/29/96	3483	(H)	PASSED Y29 N8 E1 A2
03/29/96	3483	(H)	EFFECTIVE DATE(S) SAME AS PASSAGE
03/29/96	3483	(H)	DAVIES NOTICE OF RECONSIDERATION
04/01/96	3518	(H)	RECON TAKEN UP - IN THIRD READING
04/01/96	3518	(H)	RETURN TO SECOND FOR AM 2 UNAN CONSENT
04/01/96	3518	(H)	AM NO 2 OFFERED
04/01/96	3520	(H)	AM TO AM 2 ADOPTED Y26 N11 A3
04/01/96	3521	(H)	AM NO 2 FAILED Y20 N20
04/01/96	3521	(H)	AUTOMATICALLY IN THIRD READING
04/01/96	3521	(H)	RETURN TO SECOND FOR AM 3 FLD Y13 N27
04/01/96	3522	(H)	PASSED ON RECONSIDERATION Y29 N11
04/01/96	3522	(H)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/01/96	3553	(H)	TRANSMITTED TO (S)
04/02/96	3009	(S)	READ THE FIRST TIME - REFERRAL(S)
04/02/96	3009	(S)	JUDICIARY
05/04/96	3913	(S)	JUD RPT SCS 2DP 2NR                    NEW TITLE
05/04/96	3913	(S)	TITLE CHANGE TO BE AUTHORIZED BY SCR 34
05/05/96	3971	(S)	ZERO FISCAL NOTE (REV)
05/06/96	4054	(S)	RULES TO CAL 1CAL 3NR 1DNP            5/6/96
05/06/96	4100	(S)	HELD TO 5/7/96
05/07/96	4140	(S)	READ THE SECOND TIME
05/07/96	4141	(S)	JUD SCS ADOPTED UNAN CONSENT
05/07/96	4141	(S)	AM NO 1 ADOPTED UNAN CONSENT
05/07/96	4141	(S)	AM NO 2 ADOPTED UNAN CONSENT
05/07/96	4142	(S)	ADVANCED TO THIRD READING UNAN CONSENT
05/07/96	4142	(S)	READ THE 3RD TIME SCS CSHB 372(JUD) AM S
05/07/96	4142	(S)	PASSED Y16 N4
05/07/96	4143	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
05/07/96	4193	(S)	TRANSMITTED TO (H) AS AMENDED

05/07/96	4555	(H)	HELD UNDER UNFINISHED BUSINESS
05/07/96	4555	(H)	TITLE CHANGE AUTHORIZED BY SCR 34
05/07/96	4582	(H)	CONCUR AM OF (S) Y31 N5 A4
05/07/96	4583	(H)	EFFECTIVE DATE(S) SAME AS PASSAGE
05/07/96	4583	(H)	AWAITING TRANSMITTAL TO GOVERNOR

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 3/20/96

FURTHER: Finance

Date of 5-Day Notice: 3/21/96  
 (in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/22/96

The State Affairs Committee considered SENATE BILL NO. 314

Relating to issuance of a restaurant or eating place liquor license.

and recommends:

- be replaced with CS SB 314 (STA)
- adopt previous CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:  
 name title  
 new title  
 House Bill:  
 name title  
 technical title  
 new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<u>Roll &amp; Roll</u>	<u>✓</u>	<u>[Signature]</u>	<u>✓</u>		
CHAIR: <u>[Signature]</u>		CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
Revenue -			
ABC Board	3/27	0	

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

Revision Date: March 27, 1996 Dept. Affected: Revenue  
 Title: Restaurant Liquor License Ownership BRU: Alcoholic Beverage Control  
place liquor license Component: Alcoholic Beverage Control  
 Sponsor: Senate Finance Committee  
 Requestor: Senate State Affairs Committee COMPONENT SERIAL NO. 100

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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES

CHANGE IN REVENUES ( )

FUND SOURCE

(Thousands of Dollars)

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

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

POSITIONS:

FULL-TIME				
PART-TIME				
TEMPORARY				

*FN applies to CSSB 314 (STAR) as well - Ann*

ANALYSIS: (Attach a separate page if necessary)

This bill makes administrative and legal changes in types of liquor license that can be held concurrently and has no negligible fiscal impact on the Alcoholic Beverage Control budget.

Prepared by: Douglas B. Griffin Phone: 277-8538  
 Division: Alcoholic Beverage Control Board Date: March 27, 1996  
 Approved by Commissioner: Wilson L. Condon *[Signature]* Date: March 27, 1996  
 Agency: Department of Revenue

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CS FOR SENATE BILL NO. 314(STA)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to brewery, brewpub, wholesale, winery, bottling works,  
2 distillery, and restaurant or eating place liquor licenses."

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

4 \* Section 1. AS 04.11.135(a) is amended to read:

5 (a) A brewpub license authorizes the holder of a beverage dispensary license  
6 to

7 (1) manufacture on premises licensed under the beverage dispensary  
8 license not more than 75,000 gallons of beer in a calendar year; [AND]

9 (2) sell beer manufactured on premises licensed under the beverage  
10 dispensary license for consumption only on the licensed premises;

11 (3) sell beer manufactured on the premises licensed under the  
12 beverage dispensary license in quantities of not more than five gallons per day to  
13 an individual who is present on the licensed premises; and

14 (4) provide a small sample of the brewpub's beer manufactured on

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the premises free of charge unless prohibited by AS 04.16.030.

\* Sec. 2. AS 04.11 is amended by adding a new section to read:

Sec. 04.11.455. RESTRICTION ON COMBINATION OF LICENSES. (a)

A person may not hold a wholesale, brewery, winery, bottling works, or distillery license at the same time that the person holds a restaurant or eating place license if, after issuance of the license, there would be more than one person holding a restaurant or eating place license in combination with a wholesale, brewery, winery, bottling works, or distillery license for each 30,000 in population or fraction of population within a radius of 10 miles from the location of premises being licensed.

(b) If the ownership of a license subject to the restriction imposed under (a) of this section is transferred to another person and the person transferring the license receives compensation for the transfer in excess of the fee paid for the license under AS 04.11, the person transferring the license shall pay to the state 75 percent of the amount received in excess of the fee paid under AS 04.11.

9-LS1784G-  
Ford  
4/19/96

CS FOR SENATE BILL NO. 314( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsors: SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to brewery, brewpub, and restaurant or eating place liquor  
2 licenses."

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

4 • Section 1. AS 04.11.130(b) is amended to read:

5 (b) The holder of a brewery license may sell beer in quantities of

6 (1) not more than 2.5 [LESS THAN FIVE] gallons per day to an  
7 individual who is present on the licensed premises;

8 (2) more than 2.5 [FIVE] gallons to a person who is licensed under this  
9 title, or in another state or country.

10 • Sec. 2. AS 04.11.135(a) is amended to read:

11 (a) A brewpub license authorizes the holder of a beverage dispensary license  
12 to

13 (1) manufacture on premises licensed under the beverage dispensary  
14 license not more than 75,000 gallons of beer in a calendar year; [AND]

1 (2) sell beer manufactured on premises licensed under the beverage  
2 dispensary license for consumption only on the licensed premises;

3 (3) sell beer manufactured on the premises licensed under the  
4 beverage dispensary license in quantities of not more than 2.5 gallons per day to  
5 an individual who is present on the licensed premises; and

6 (4) provide a small sample of the brewpub's beer manufactured on  
7 the premises free of charge unless prohibited by AS 04.16.030.

8 \* Sec. 3. AS 04.11.450(b) is amended to read:

9 (b) Except as provided under (g) of this section, a [A] person who holds  
10 [IS] a [REPRESENTATIVE OR OWNER OF A] wholesale [BUSINESS.] brewery,  
11 winery, bottling works, or distillery license may not be issued, solely or together with  
12 others, a beverage dispensary license, a restaurant or eating place license, or package  
13 store license. A holder of a beverage dispensary license may be issued a brewpub  
14 license, subject to the provisions of AS 04.11.135.

15 \* Sec. 4. AS 04.11.450 is amended by adding new subsections to read:

16 (g) The prohibition against issuance of a restaurant or eating place license does  
17 not apply to a person who

18 (1) on the effective date of this Act

19 (A) holds both a restaurant or eating place license and a  
20 brewery license; or

21 (B) holds a brewery license and who has an approved  
22 application for a restaurant or eating place license; or

23 (2) becomes a licensee by transfer of ownership of a restaurant or  
24 eating place license that is described under (1) of this subsection.

25 (h) The provisions of (g) of this section do not apply to a person after the  
26 person has transferred ownership of a restaurant or eating place license described under  
27 (g)(1) of this section.

28 (i) Except as provided under (g) of this section, the board may not issue to a  
29 person described under (g) of this section a second or subsequent license, if the  
30 issuance would result in the person holding both brewery and restaurant or eating place  
31 licenses.

1 \* Sec. 5. AS 04.11 is amended by adding a new section to read:

2           Sec. 04.11.455. LIMITATION ON SALE OF EXEMPT RESTAURANT OR  
3 EATING PLACE LICENSES. If the ownership of a restaurant or eating place license  
4 described under AS 04.11.450(g) is transferred to another person and the person  
5 transferring the license receives compensation for the transfer in excess of the fee paid  
6 for the license under AS 04.11.100(d), the person transferring the license shall pay to  
7 the state 75 percent of the amount received in excess of the fee paid under  
8 AS 04.11.100(d).

9 \* Sec. 6. APPLICABILITY. Sections 3 - 5 of this Act apply to a restaurant or eating place  
10 license issued on or after the effective date of this Act.

CSSB 314 ( )

Version "G" dated 4/19/96

Offer amendment to:

1. Delete Section 1

Amend Section 2 to allow a brewpub on-site sale of up to 5 gallons.

Delete "Exempt" wording on page 3, line 3

**Verify:** A restaurant license holder can get a brewery license; and vice versa - a brewery license holder can get a restaurant license?  
(See Sec. 4)

Questions to ask:

Can current license/application holders grow in future? i.e. expand to other locations in city/state?

Can future (currently non-existent businesses) develop brewery or brewpubs after the effective date of this act?

In a subsequent business, at least allow to businesses grow as a brewpub in the future, (requires beverage dispensary license)  
(Section 3 prohibition)

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 314( ), "C" version, dated 4/18/96

1 Page 1, lines 4 - 9:

2 Delete all material.

3 Page 1, line 10:

4 Delete "\* Sec. 2."

5 Insert "\* Section 1."

6 Renumber the following bill sections accordingly.

7 Page 2, line 4:

8 Delete "of less than two"

9 Insert "not more than five"

10 Page 3, line 2.

11 Delete "EXEMPT"

April 15, 1996

Dear Senate State Affairs Members,

RE : SB 314

Once again I would like to bring to your attention the significance of SB 314 and its affect on my business.

This bill will close down my business, *Railway Brewing Company*. I am in the final construction phase of a \$1,000,000 plus economic investment in downtown Anchorage. I have taken my own money and leveraged everything I own to open a restaurant and brewery within the Alaska Railroad Depot Building. Along with my personal investment, the State of Alaska through the Alaska Railroad Corporation has invested substantial money and over a year in time on the development of this project.

This bill as written, will not allow me to operate or allow me to transfer ownership. As stated previously, in the past year I have followed all statutory requirements of the State Of Alaska, the Municipality of Anchorage, The Bureau of Alcohol, Tobacco and Firearms, as well as attended all public hearings. To have performed all required tasks in good faith laid down by the State of Alaska only to have it swept away by SB 314 on the 11th hour, is *inexcusable* by the Legislature. There is no environmental or economical reason for this bill. In fact, with my investment and the investment of the other two licensees opening this spring in Anchorage, there is a hard cash investment of over \$5,000,000 for construction and materials. Employment opportunities will be created for nearly 200 people. This is not some "pie in the sky" dream by outside investors, but an Alaskan investing everything he has into his dream. It should also be noted that this project is completely privately financed without State aid or "handout".

It makes no logical sense to shut us down. I have followed the legal statues of the State of Alaska and any opposition has been given ample opportunity to voice their objection over the past year and a half. Not one of those presently pushing this bill voiced an opinion or suggested a change in the law during this process. The rational of the State of Alaska/Legislature to change directions at this point, is leaving me puzzled at best.

There is no argument which can be presented to rationalize this bill. It has been made clear to me that these bills have been presented by elected officials whose constituents feel threatened by *Railway Brewing Company's* entrance into "their industry". This goes against everything that Alaskans stand for. I believed that I was living in the land of opportunity, as does my family who chose to move here prior to statchood. The micro-brewery industry is here whether others like it or not.

Company ask you to not endorse this bill. Don't let this bill keep new businesses from developing and generating more income for Alaskans. Encourage them, nurture them, but do not endorse this bill.

Sincerely,

  
Richard Sassara  
President of Railway Brewing Company

Friends of Railway Brewing Company ask you not to support SB 314.

Name	Address	Phone	Registered Vote
1. MIKE MORGANSON	8130 EVANS CIRCLE ANCH	344-2808	yes
2. DAVE LONGLEY	1586 WINTERGARDEN ST. ANCH	258-1202	NO
3. Christine Heaper	PO Box 791515 Eagle River, AK	99507	
4. Donnie Eggleston	3705 Alexander Ave. Anchorage, AK	99508	277-4144 YES
5. Kevin Heuser	2500 Tunusquin Pkwy Anchorage, AK	99517	246-2214 YES
6. CARL JOHNSON	7713 Regal MT DRIVE ANCHORAGE AK	99504	333-3577 - YES
7. Dana Rudbeck	11441 B lower Sunny Circle, Eagle River AK	99577	
8. MATT CHMIELARZYK	4311 NORTHSTAR #2 ANCHORAGE AK	99503	696-0415 YES
9. Vernon O Robbins Jr.	PO Box 231833 Anchorage, AK	99523	
10. Kristi Plovanih	PO BOX 90607 Anch. AK	99507	258-4815 YES
11. Angela Ramirez	3503 Denbarr St Anchorage AK	2724565	YES
12. Eric Mencia	PO BOX 24983 Anch AK	696416	YES
13. Dan Bembenek	1811 Malibu Rd #6 Anchi. AK	99517	215-7146 YES
14. CRUCE HANLKER	500 W. 42 <sup>ND</sup> AVE. ANCH. AK.	99503	563-4359 (9)

15. Kurt Braunsberger 2150 Dartmouth Dr. Anch. AK 99508 2776630 Yes

**Friends of Railway Brewing Company**

Name	Address	Phone	Registered Voter
16. DAN DYER	8701 FLAMINGO, ANCHORAGE, AK	99502	YES
17. Sharon S. Sabin	1728 TOKLAT ST. ANCH. AK	99508	Yes
18. Christopher S. Sabin	1728 Toklat St. Anch AK	99508	YES
19. Debra Brown	7713 Regal Mtn Dr. Anch AK.	99504	Yes.
20. Lori Kane	14445 Buffalo	315-7800	Yes.
21. Susan M. Wilson	6891 Viburnum, Anch.	344-9023	Yes.
22. <del>John E. ...</del>	901 Upper DeAnnam, Anch,	345-4684	YES
23. Jen Dillon	4000 ... Anch AK	99508	2-7286 yes
24. Gary Pater	2721 E 51st Ave Anch	AK 99507	Yes
25. JASON MORNINGSTAR	2317 TULAK ANCHORAGE AK	99517	<u>Yes</u>
26. Elizabeth Paustback	405 Skindish Anch AK	99504	Yes
27. Mike McGEE	3214 EAGLE VISTA DR EAGLE RIVER AK	99577	YES
28. ALAN A NURS	...	...	Yes
29. Doug ...	404 Eklina A	...	Yes
30. Tom Kane	14445 Buffalo	99516	3332011 <u>YES</u>
31. V. Robert Jeffrey	6201 E. 41st Ct	2. 99504	Yes
32. Army Usry	P.O. Box 101953	99510	2434887 yes
33. Robert K Seemof	3605 Bull Ct 99504	336-1076	yes
34. David Hedrick	HC 31, Box 5118	373-7051	
35. ...	1921 Lobe #4	99507	349-3163 yes!
36. ...	9201 Elgin Circle	99515	248-7625 yes!
27. ...	...	99587	783-3369 yes

38. *Barbara Auburn*  
2500 Tornagain Hwy 248-2218 yes  
Ard. 99517

Company ask you to not endorse this bill. Don't let this bill keep new businesses from developing and generating more income for Alaskans. Encourage them, nurture them. but do not endorse this bill.

Sincerely,

Richard Sassara  
President of Railway Brewing Company

Friends of Railway Brewing Company ask you not to support SB 314.

Name	Address	Phone	Registered Vote
1. Max Johnson	12500 MARSHALL AVE AK	345 3567	yes
2. DIANA VAUGHAN	17320 MARSHALL AVE AK	99516 345-3567	
3. Matt Jones	810 W 16th Anch AK	99501 327	yes
4. Rodd Hancock	810 W 16th Anchorage AK	99501 99645	yes
5. Jayne Wallingford	PO Box 2495 Fairbanks	99645	30 Y
6. Jeff Hanson	Box 596 Greenwood AK	99587	yes
7. Anne Sassara	PO Box 596 Greenwood AK	99587	yes
8.			
9.			
10.			
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12.			
13.			
14.			

Call 277-6117

Company ask you to not endorse this bill. Don't let this bill keep new businesses from developing and generating more income for Alaskans. Encourage them, nurture them, but do not endorse this bill.

Sincerely,

  
Richard Sassara  
President of Railway Brewing Company

Friends of Railway Brewing Company ask you not to support SB 314.

	Name	Address	Phone	Registered Vote
1.	George Land	2160 Benning St Anch., AK 99517	277-1127	Yes
2.	John Matney	7-15 Cambridge Way	243-0251	Yes
3.	John Jensen	3001 Atwood Dr. Anch., AK 99517	274-3713	Yes
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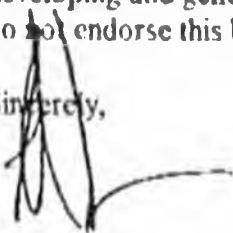
15. Ken McKean 6515 Notting Hill Tr. 3372403 YES-

**Friends of Railway Brewing Company**

Name	Address	Phone	Registered Voter
16.	Ann Kearney 9751 Aurora Dr. Anchorage	276-2761	YES
17.	Beaulieu Shee 12320 Sarome Anchorage	345-1927	YES
18.	John Wilk 12320 Sarome Anchorage	345-1923	YES
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Company ask you to not endorse this bill. Don't let this bill keep new businesses from developing and generating more income for Alaskans. Encourage them, nurture them, but do not endorse this bill.

Sincerely,



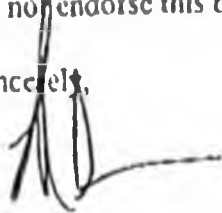
Richard Sassara  
President of Railway Brewing Company

**Friends of Railway Brewing Company ask you not to support SB 314.**

Name	Address	Phone	Registered Vote
1. Alan Baird	Anchorage AK.	222-2898	Yes
2. Frank Janssen	Anchorage AK.	278-3567	Yes
3. Joe Will	Anchorage AK.	315-0888	Yes
4. Carol Ericson		562-4904	Yes
5. Todd E. Leubert		345-6020	Yes
6. Jim Don		349-4170	Yes
7. Linda Haddad		276-2761	Yes
8. Mercedes S. Moore		257-0185	Yes
9. Dan J. Lee		276-2761	Yes
10. [Signature]		257-0108	Yes
11. Dixie Dixon		257-0127	Yes
12. Karen Chamber		257-0147	Yes
13. H. Haavener		349-9973	Yes
14. Cynthia K. Morris		275-8691	Yes

Company ask you to not endorse this bill. Don't let this bill keep new businesses from developing and generating more income for Alaskans. Encourage them, nurture them, but do not endorse this bill.

Sincerely,



Richard Sassara  
President of Railway Brewing Company

Friends of Railway Brewing Company ask you not to support SB 314.

Name	Address	Phone	Registered Vote
1. A Hoah	3224 Cottonwood	276-3224	yes L.J. HOUSE
2. S.K. Dale	4340 Buckhol Anch. AK 99516	907 346-3986	yes
3. Ray Hodge	4072 Hood Ct Anch 99517	248-0366	yes
4. Amlebert	9105 Jewel Test	248 0411	NO
5. Mark	1120 Goldendown #1	95515	NO
6. Roger Rasmussen	P.O. Box 874373		YES ROGER R. RASMUSSEN
7. GILBA OLSEN	WASILLA AK 34776 65TH ANCH	522-1049	yes
8. Kimberley A. Kayum	16518 Mercy Dr. Eagle River, AK 99577	694-7620	no
9. Paula Ekland	2150 Debra Ct. Wasilla, AK 99654		yes
10. Keri Ward	905 W. 80th Ave Anchorage ak 99518		yes
11. Sergei Halterma	7800 DeBar #250	99504	yes
12. Alyndal Prooney Debra	370 Oceanview Dr Anchorage, AK 99515		YES
13. Maugm Sarana	1964 Junco Dr AIA	99517	yes
14. Amie R. Carr	POBOX 90502 Anch AK	99505	YES

Company ask you to not endorse this bill. Don't let this bill keep new businesses from developing and generating more income for Alaskans. Encourage them, nurture them, but do not endorse this bill.

Sincerely,



Richard Sessara  
President of Railway Brewing Company

Friends of Railway Brewing Company ask you not to support SB 314.

Name	Address	Phone	Registered Vote
1. Alton Weaver	8501 Greenhill Dr, AIA	344-5081	✓
2. Cherie Loyd	2160 Belmont Dr, Anchorage	AK 99517	✓
3. Mr. Paris	4111 Blackberry St, Anchorage, AK	243-5524	✓
4. Rod Graves	10250 Jamestown Dr, H20 Anchorage, AK	99508	✓
5. Gail DeLeo	16130 Francesca Dr, Anchorage, AK	561-6707	✓
6. Patty Miller	41420 Bereng #4, Anchorage	AK 99503	✓
7. Clare Johnson	1360 Jackson Dr, AIA, AK	99518	✓
8. Heidi Smith	850 Outlet View St, Jussela	373-3883	✓
9. Dawn Rickerson	8531 Summit Dr, Anchorage	AK 99518	✓
10. Sheila Marchbanks	20340 Philadelphia Way, Eagle River	AK 99577	✓
11. Cindy Broussard	4011 Justin Cir, Anchorage	AK 99507	✓
12. J.M. Balistola	7202 Foxridge Cir, Anchorage	AK 99518	✓
13. Lita Goodgame	4830 Tanya Circle, Anchorage	AK 99503	✓
14. Claudia Cloutier	8041 Nadine St, Anchorage, Alaska	99507	✓

15.

**Friends of Railway Brewing Company**

Name	Address	Phone	Registered Voter
16. Susan M Kenney	2632 FOREST PARK DR.	274-0541	yes
17. <del>Michael D</del>	6401 E 12th	337-5658	yes
18. Mike L. Harvey jr	2550 Doral HAWK 99503-	338-6445	yes
19. Todd Fletcher	8454 Barrett Drive ANCH-	344-3578	yes
20. Sam L. Ost	P.O. Box 243374 ANCH AK 99524	263-5712	yes SANDIA OST
21. <del>Heppner</del>	250 Herod St ANCH AK 99505	271-2811	yes TOM KONIP
22. <del>ESSON</del>	2510 FIELDS ST. ANGELO 99102	263-5725	yes ERIC MADIN
23. Leonard Cullip	MC 31 DERSON ANCH AK 99503	373-3277	yes
24. Tim Stephen <del>Fletcher</del>	118 W. 12th St ANCH AK 99501	258-6418	yes
25. TIM KANAWY	1113 W. Frowood, Anch, AK	99503	yes
26. James Pully	8871 Rendon Dr ANCH AK 99507	314-6724	yes LORNE PHILLEY
27. Susan Leonard	2903 Linnegard Ct. ANCH AK 99512		
28.			
29.			
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# facsimile

TRANSMITTAL

---

**to:** Senator Bert Sharp  
**fax #:** 465-2070  
**re:** Brew pubs  
**date:** March 29, 1996  
**pages:** 10 page(s) total, including this cover sheet

From the desk of

Douglas Griffin

tel (907) 277-5638  
fax (907) 277-0412



April 1, 1996

Senator Bert Sharp  
716 West 4th Avenue  
Anchorage, Alaska 99501  
Fax: (907) 465-2070

Dear Senator Sharp,

I would like to voice my opposition to SB-314, which is directed at eliminating the combination of restaurants and breweries as a new business enterprise in Alaska.

The recent expansion of the restaurant brew pub industry is reflective of a national trend. Alaska joins 37 other states which have adopted statutes allowing for combination restaurant brew pub operations.

Currently, there is significant capital investment being made by several entrepreneurs (including myself) who hope to capitalize on this growing trend.

The facilities will be quality establishments and will also enhance the visitor industry. I believe the statute as written is clear and fair and therefore, I ask for your support by voting "NO" on SB-314.

Sincerely,

*Steve Shropshire*  
*by Sarah Fuggle*

Steven H. Shropshire  
President

3/28/98

To: Bert Sharp

FAX 465 2070

From: John & Jane Hall

2231 Foxhall Drive, Anchorage, AK. 99504

FAX: 337-5777

RE: SB 314

It has come to our attention that your committee will be considering SB-314 . We encourage you to consider carefully this issue . We hope you will vote no on SB 314. We think this legislation will unfairly target new business in the growing tourism market. We believe this particular piece of legislation was written for the protection of special interest, in particular a few competing bars and businesses in the Anchorage and Eagle River areas, and is not good policy for the state in its future growth. The current statutes regarding development of restaurant brewery businesses concur and comply with federal law and have been approved by the Municipality of Anchorage; the restaurant/brewery combinations have the potential to bring in multi-million dollar investments to Alaska. The restaurant/brewery combinations add to and enhance tourism growth, specifically adding to the revitalization of old downtown Anchorage buildings. If SB 314 is passed it can lead to a discouragement of investment in new business in Alaska. It is a protection for special commercial interests and stifles competition. We hope you consider this when you vote on SB 314.

If you disagree with our opinions on this matter, please FAX us your reasons for voting in favor of this proposed legislation. We will expect a speedy reply. Thank you.  
Our fax number is: 907-337-5777. John and Jane Hall

## FAX TRANSMITTAL SHEET

TO:	FROM:
<b>Name: Senator Bert Sharp</b> Firm Juneau Fax No.: 907/465-2070 Phone No.:	<b>Name: Gary Busse</b> Firm: FAX No.: 907/563-3198 Phone No.: 907/261-9730
Date: March 28, 1996	No. of pages including transmittal:

**Please Vote NO on SB-314**

I am an investor in the Snow Goose Restaurant & Brewery project scheduled for downtown Anchorage. I have lived in Anchorage for over 15 years and since visiting several brewpubs outside of Alaska, I've been keenly interested in participating in a brewpub project here in Anchorage. Brewpubs have generally been hugely successful in similar markets. The combination of quality food and locally made, fresh beer is a proven attraction.

I was just informed today of the proposed SB-314, which pertains to Restaurant/Brewery operations in Alaska. As explained to me, the proposed bill could ruin my investment and would defeat a good thing that's happening in Anchorage.

I'm aware of three brewpub projects that are currently in various phases of construction in downtown Anchorage. These projects have brought much needed capital investment to downtown Anchorage and will provide new jobs, Municipal property taxes, and State income in the form of excise taxes, corporate/business taxes, and licenses.

I am also told that special interest group behind this bill are a few competing bars and businesses in Anchorage and Eagle River. Their purpose is apparently to limit competitive restaurant and brewery operations from opening in Alaska. This is unfair!

Thank you in advance for your consideration. **Please vote no on SB-314!**

111 P01 FAX 28 98 11:37

# MCN

Construction Inc.

March 27, 1996

Senator Bert Slurp  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801

RE: SB-314

Gentlemen,

I wish to express my personal concerns and opinions in regards to SB-314. My name is Mark Nystuen and I am the owner of MCN Construction, Inc., a company which specializes in building renovations and new commercial structures. I am currently under contract with the Snow Goose Restaurant and Sleeping Lady Brewery to build their new establishment in downtown Anchorage. The passage of SB-314 will not only kill this project, it will negatively impact my business and quite possibly put me out of business.

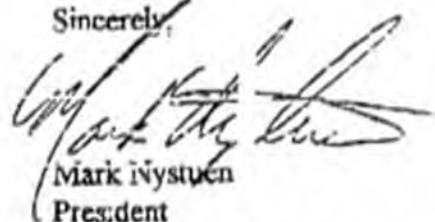
Currently we are two months into the construction of the Snow Goose Restaurant and Sleeping Lady Brewery and therefore have spent a substantial amount of money in labor, materials and equipment required for the construction of this new facility. We have already purchased or paid subcontractors and suppliers for equipment or services such as an elevator, brewery equipment, kitchen equipment, structural steel, asbestos abatement, framing material, mechanical, plumbing, electrical and fire sprinklers. To date we have committed ourselves to approximately \$500,000 worth of construction contracts. Obviously passage of SB-314 which kills our project could create a insurmountable financial liability for MCN Construction, Inc..

The few businesses in the Anchorage and Eagle River areas which have initiated and supported SB-314 are a small group of individuals who wish to have a captive audience by attempting to limit competition through statutory manipulation. This group of businesses tend to operate what I would describe as a bar business, a place for adults but typically not a spot to take the family. The new Snow Goose Restaurant and Sleeping Lady Brewery is being constructed in the theme of a Family Restaurant. For example hard liquor will not be on the menu and \$10,000 has been allocated for the special equipment required to brew root beer to appeal to the non-beer drinkers and children. My family and many others families are excited about the Snow Goose Restaurant and Sleeping Lady Brewery opening this summer.

Due to the large amount of capital that we have committed to the construction of the new Snow Goose Restaurant and Sleeping Lady Brewery passage of SB-314 could put a 25 year Alaskan oil of business.

Please vote NC on SB-314.

Sincerely,



Mark Nystuen  
President  
MCN Construction, Inc.

REF-SB 314

Dear Sirs:

In reference to SB-314, please vote "NO". From the information I have, it appears a few individuals with dispensary licenses, wish to limit new competing enterprises through legislative action.

All the restaurant/bravery combinations SB-314 seeks to limit are small in-state business endeavors. These new ventures will use significant in-state capital investment, create new jobs in state, and generate new tax revenue for the state and municipality.

If SB-314 passes government will stifle competition and allow a few businesses to maintain their market share without having to compete in the market place with new businesses.

Please vote "NO" on 314.

Sincerely,

Bill Pease

*Wm Pease*

Bobbi Jo Bobby

*Bobbi Jo Bobby*

Bret Mason

*Bret Mason*

Jackie Smith

*Jackie Smith*

Larry Smith

*Larry Smith*

Alaska Department of Revenue  
Alcoholic Beverage Control Board  
March 28, 1996

**Bill Analysis SB 314, Restaurant Liquor License Ownership**

**Background/Legislative Intent**

The legislature by enacting this bill would amend the alcoholic beverage control statute which addresses "prohibited financial interest." This bill would prohibit a representative or owner of an alcoholic beverage wholesale or manufacturing business from being licensed to own and operate a restaurant or eating place (beer and wine) business. This expands upon present law which prohibits concurrent ownership of a wholesale or manufacturing business and a beverage dispensary (bar/cocktail lounge) or package store (retail liquor store) licensed business.

**Analysis of Bill/Program Effects**

Generally in alcoholic beverage licensing and regulation, three distinct tiers, manufacture, wholesale, and retail, exist between production and consumption. This system prevents vertical integration of the alcoholic beverage industry (prior to prohibition this was seen as inherent evil with brewery ownership of saloons), discourages the formation of monopolies, and insures easier and more reliable collection of taxes and fees on alcohol. AS 04.11.450 sets out this principle in Alaska State law by not allowing dual ownership of a wholesale business or manufacturing business (brewery, winery, bottling works, or distillery) and a retail outlet (bar/cocktail lounge and liquor store). The one exception to this "wall between wholesale and retail ownership is in the area of restaurant and eating place licenses. The restaurant and eating place licensee can serve beer and wine in a bona fide restaurant setting to accompany and enhance the dining experience. Last year the legislature passed SB 87 which allows 10% of the restaurants in a municipality, with approval of the local governing body, to be exempt from some of the constraints on restaurant licenses. Owners of bars view the restaurant exception as a "loophole" which has spawned a new, unfair concept in Alaska, the micro-brewery/restaurant. Three of these types of businesses, which represent million of dollars of new investment and dozens of new jobs, are scheduled to open in Anchorage this spring. SB 314 would allow these businesses to be "grandfathered" in, but the question of transferability of these types of businesses needs to be addressed. The other policy question is whether the legislature wishes to erect this wall to discourage future entrepreneurship and investment in what appears to be a nationwide trend of small batch, "designer" micro-brews tied to a restaurant setting.

**MEMORANDUM****State of Alaska****Department of Revenue****Date: March 27, 1996****To: Alcoholic Beverage Control Board****Thru: Doug Griffin**  
Director, ABC Board**File No:****Telephone No: 277-8638****From: William R. Roche**  
Enforcement Supervisor**Subject: Brew pubs****1. INTRODUCTION**

In 1980 a complete revision of Alaska's alcoholic beverage statutes were enacted. That revision eliminated contradictory sections of the previous statutes, incorporated many of the boards administrative regulations into statute and provided a basis for the regulation of the Alaska's alcoholic beverage industry as it existed at the time.

In the past 16 years the manner in which alcoholic beverages are delivered and consumed has changed significantly. The legislature and the board have enacted statutes and regulations to accomodate those changes. Perhaps the most controversial change has been the development of a business known as the brew pub. For the purposes of this memo a brew pub is an establishment where beer is brewed and served for consumption on or off the licensed premises. The beer that is brewed can be sold to wholesalers, other retailers, or the public. Brew pubs may also serve food.

**2. BACKGROUND**

In 1988, the legislature created a new class of liquor license called the Brewpub. The license was created in response to a business interest within the alcoholic beverage industry that combined the manufacturing of beer with direct sales by the manufacturer in a "public house" setting. Such businesses existed in California, Washington, Oregon and other states.

Prior to 1988 a beverage dispensary licensee could not brew beer for consumption on the beverage dispensary premises because beer could not be manufactured for sale without a brewery license and the holder of a brewery license could not be issued or have an interest in a beverage dispensary or package store license. This is commonly referred to as a "tied house" restriction.

The brewpub license was created in 1988 to circumvent that restriction. In order to prevent the creation of an additional 160 or more new licensed premises statewide,

only beverage dispensary licensees could apply for brewpub licenses. In order to prevent competition with breweries and package stores, production was limited to 16,000 gallons (7,111 cases) per year, and the holders of brewpub licenses could not sell their product for consumption off the beverage dispensary licensed premises.

Six years passed before anyone applied for a brewpub license. Several people that had initially expressed interest in the brewpub business concluded that the initial capital investment in the necessary brewing equipment could not be offset by projected revenues from the sale of 16,000 gallons of beer per year. For example the owner of Chilkoot Charlie's who had originally planned on operating a brewpub found that by contracting with a Seattle area brewery to manufacture "Chilkoot Charlie's" beer he could get it cheaper than if he made it himself.

In 1995 the legislature increased the production limit for brewpubs from 16,000 gallons per year to 75,000 gallons (33,333 cases) per year<sup>2</sup>. In the mean time, other things had occurred which would affect the brewpub business in Alaska.

In 1988 the legislature amended the brewery license law to allow breweries to sell beer in quantities of less than five gallons directly to the public for consumption off the brewery licensed premises<sup>4</sup>. Prior to this amendment, licensed breweries could only sell their product to Alaska licensed wholesaler's or to other Alaska retail liquor licensees.

The holder of the Mountain Top Spirits distillery liquor license decided that he wanted to open a restaurant where the beer that he brewed in a brewery could be served to his customers. After determining that his interest in the distillery license precluded him from being issued a beverage dispensary and brewpub license he applied for a brewery license and restaurant or eating place (restaurant) license because the "tied house" restriction did not prohibit that arrangement<sup>5</sup>.

In the early 1990's the Alcoholic Beverage Control (ABC) Board became concerned that certain restaurant or eating place licensees, although meeting the 50% food requirement<sup>6</sup> (food sales must equal at least 50% of the total gross receipts) were operating more as "taverns" than as restaurants. The concern centered on two restaurant licensed businesses in Kodiak that offered karaoke. In 1994, the board amended the restaurant or eating place license regulation<sup>7</sup> to prohibit dancing, karaoke and other forms of live entertainment on restaurant or eating place licensed premises except between 6pm and 9pm.

In 1995 the legislature amended the restaurant statute to allow the ABC Board to issue up to 10% of all restaurant licenses as "exempt" licenses<sup>8</sup>. Businesses that are issued exempt licenses do not have to be bona fide restaurants and do not have to comply with the 50% food requirement. Since the board's regulation banning live entertainment before 6pm or after 9pm specifically applied to "bona fide restaurant or

Memo  
March 27, 1996  
Browpubs

eating places", the statutory amendment was understood to also eliminate the entertainment prohibition for exempt licenses.

The Railway Brewery, a combination brewery and restaurant licensed business has been granted exempt status for the restaurant business. Two other restaurant licensed businesses not associated with breweries have also been granted exempt status. Three exempt applications are pending for ABC Board consideration at its April 17, 1996 meeting. All but one of the approved and pending "exempt" licenses are located in Anchorage.

### 3. THE PROBLEM

The process of alcoholic beverage distribution in Alaska has generally followed what has been commonly referred to as the "three tier system". Out of state manufacturer's or their authorized distributors sold to Alaska licensed wholesalers who paid the excise taxes and sold their products to licensed retailers. The licensed retailers sold the alcoholic beverages to the public. The creation of breweries in Alaska such as the Alaskan Brewery in Juneau and the Bird Creek Brewery in Anchorage created a situation that allowed the manufacturer to bypass the licensed wholesaler and sell directly to licensed retailers<sup>9</sup>. Although both breweries distribute through licensed wholesalers the stage was set to fundamentally change the process.

The 1988 amendment which allowed breweries and wineries to sell their product directly to the public in quantities of less than five gallons<sup>10</sup> was not notable at the time it was adopted. However, it also proved to be a further erosion of the three tier system. The cumulative result of the statutory and regulatory changes which occurred between 1980 and 1995 was an alcoholic beverage industry in which there are currently two distinct playing fields with separate and contradictory rules.

On the one hand the beverage dispensary/brewpub licensee operates more within the boundaries of the three tier system. Beer can be brewed for sale only on the licensed premises. Free samples of the beer cannot be provided because the beverage dispensary/brewpub is a premises where alcoholic beverages are sold by the drink<sup>11</sup>. There is a specific limit to the amount that can be produced and all beer that is produced must be consumed on the licensed premises.

On the other hand the brewery/restaurant licensees can distribute their products

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across the traditional distribution system and distribute it in a manner that mimics the specific privileges granted to the holders of various other types of liquor licenses. The brewery/restaurant licensee can brew beer for sale in the restaurant. Free samples of the beer can be provided to the public in the brewery. There is no limitation on the quantity of beer that can be produced. It can be bottled or barreled for sale to other retail licensees or to licensed wholesalers in quantities of more than five gallons in the same manner that a licensed wholesaler operates. It can be sold to the public for consumption off the brewery or restaurant premises in quantities of less than five gallons in much the same manner as a package store licensee may operate. If exempt status is granted, the brewery/restaurant licensee is not required to meet the 50% food sales requirement and can offer live entertainment at any time in the same manner that a beverage dispensary licensee may operate.

The beverage dispensary licensees see the development of the brew pub business through the use of the brewery/restaurant license combination as direct competition. It is also perceived as unfair competition because of the advantage of a brewery license coupled with the exempt restaurant license. Beverage dispensary licensees claim that this license combination diminishes the value of their beverage dispensary licenses which they view as investments as well as privileges to sell alcoholic beverages.

The brewery/restaurant licensees believe that they have played by the rules in existence at the time that they made their plans and invested their funds in their particular businesses. They would naturally oppose any attempts to restrict the privileges that they currently have.

The 1988 amendment which created the brewpub license appears to have been a compromise of interests, in that it attempted to facilitate a new kind of business while also attempting to preserve the integrity of the three tier system. It was clearly recognized at the time that the brewpub license would not enable Alaska licensed businesses to operate as full fledged brew pubs.

Robert Waldman, president of the Raven's Ale brewing company in Bremerton Washington had previously been a research analyst for the Alaska legislature. On April 18, 1988 he wrote to Tom Moyer regarding Senator Bette Farenkamp's Brewpub bill. His letter stated that Senator Farenkamp's bill did not support an independent brewing industry. He said that it favored established businesses that already had beverage licenses and large restaurants. He recommended three amendments to the bill. The first would allow breweries to sell beer for on-site consumption. The second would create brewpubs as a separate license type not tied to a beverage dispensary

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license. The third amendment would raise the production limit from approximately 500 barrels (16,000 gallons or 7111 cases) per year to 2000 - 3000 barrels (62,000 to 93,000 gallons or 139,500 to 209,250 cases) per year.

Some people were looking at the possibility of using the brewery/restaurant combination to create brew pubs in Alaska even as Senator Farenkamp's bill was winding its way through legislative committees. On February 15 1988 attorney Stephen Routh wrote to the ABC Board's director inquiring whether his client could apply for both a brewery license and a restaurant or eating place license. His client's intent was to brew beer which would then be sold in the adjacent restaurant.

Currently, three bills have been introduced to attempt to correct the perceived inequities between beverage dispensary/brewpub licensees and brewery/restaurant licensees. House Bills 372 and 374 propose the elimination of the "exempt" provision for restaurant or eating place licenses. Senate Bill 314 includes restaurant licenses in the tied house prohibition along with beverage dispensary and package store licenses which would effectively preclude dual ownership of breweries and restaurants.

Each of these bills is an attempt to strengthen and preserve the three tier distribution system by limiting or eliminating the brewery/restaurant license combination. The bills do not address other issues that beverage dispensary brewpub licensees have identified as an impediment to their business operations such as the ban on providing free samples or the ban on selling their products to other retailers or licensed wholesalers.

Senator Farenkamp believed that if the brewpub law passed, a new industry would be fostered in Alaska<sup>12</sup>. Our experience since 1988 is that a new industry has been fostered in spite of rather than because of the brewpub law. Only two beverage dispensary licensees have developed brewpubs. However, relatively unfettered by limitations and prohibitions the growth in licensed breweries since 1988 has been phenomenal. In 1988, one licensed brewery existed in Alaska. Today 11 brewery licenses have been approved and at least three more applications are on the horizon.

#### 4.OPTIONS

I contacted liquor administrators in several other states to determine how they were handling the brew pub issue. The following is a summary of my findings.

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Louisiana issues a microbrewery permit which allows the manufacture of up to 12,500 barrels per year. The manufactured product may not be sold at wholesale. However, if the brewer obtains a class A retail license the brewer may sell beer for consumption on or off the licensed premises.

Maine has microbreweries that may sell their product to licensed wholesalers or directly to the public for consumption off the brewery premises. Each micro-brewery may be issued one restaurant license where its beer may be served for consumption on the licensed premises.

Wisconsin allows each brewery two licenses for the sale of beer for on-premises consumption. Beer that the brewer does not sell in its on-premises licensed businesses may only be sold or delivered to a licensed wholesaler.

North Carolina allows its licensed brewers to sell their beer in restaurants owned by the brewers as well as to licensed wholesalers.

Mississippi has attempted to create brewpub licenses but their legislature has not been able to pass enabling legislation.

Oregon's brewery-public house license allows the holder to manufacture an unlimited amount of beer for sale to wholesale licensees; in brewery sealed packages at retail for consumption off the brewery-public house premises; in packages provided by the consumer at retail for consumption off the brewery-public house premises; directly to the consumer for consumption on or off the brewery-public house premises; and to sell wine and cider for consumption on or off the brewery-public house premises.

Colorado currently has microbreweries that sell their beer through restaurants or hotels owned by the breweries. There is currently a bill before the Colorado legislature to create a specific brew pub license. The bill would automatically issue brew pub licenses to any hotel or restaurant licensee currently operating a brewery and would cancel the hotel or restaurant licensee's brewery license. The brew pub license would allow the sale of beer manufactured on the premises: for consumption on the premises; for consumption off the premises in sealed

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containers; and to licensed wholesalers. 15% of gross sales of a licensed brewpub would have to come from food. The bill prohibits brew pub licensees from having a financial interest in a licensed wholesale business.

Conversations with beverage dispensary licensees in Alaska has resulted in a list of suggestions for changes to Alaska's brewpub law that increase profitability and foster the brewpub industry. Those suggestions include: allowing the brewpub operator to provide free samples of beer so the customer can decide whether to purchase a glass full; strengthening the three tier system by allowing brewpub licensees to sell to licensed wholesalers; allowing sales to go in quantities of less than 5 gallons; and allowing sales directly to licensed retailers.

The various states are all over the map in their approach to brew pub business regulation. However a picture of an ideal brew pub can be created from the various pieces. The ideal brew pub would:

- Allow production of up to 5000 barrels (155,000 gallons or 68,888 cases);
- Allow sales to the public for on-premises consumption;
- Allow package sales for off premises consumption;
- Allow sales to the holders of other Alaska liquor licenses either retail or wholesale;
- and require food sales.

It goes without saying that a business with the privileges that I just listed would compete across-the-board with virtually every other type of licensed business in Alaska. If consideration were given to supporting this new method of alcoholic beverage distribution, it might be advisable to consider granting similar marketing privileges to other licensees to allow them to remain competitive. An example might be to allow controlled wine tasting on package store licensed premises.

## 5. CONCLUSION

Any decisions regarding the brew pub business in Alaska will have profound impact on the future of the State's alcoholic beverage industry. Alaska has reached a fork in the road of alcoholic beverage control. One direction protects and strengthens the three tier distribution system at the cost of limiting business opportunity and innovation. The other direction promotes economic investment and growth at the cost of redefining the manner in which alcoholic beverages are distributed, challenges the

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status quo in retail and wholesale beer sales and will probably result in a redistribution of the profits from alcoholic beverage sales. Alaska is not the only state wrestling with the decisions regarding an alcoholic beverage industry that is in the midst of change. The Alaska Legislature and the ABC Board must evaluate the current situation and the future trends of the brew pub industry and set the best course for the regulation of this changing business. This information should assist in understanding the legislative and regulatory issues that brought us to this point. Hopefully it catalogs options that are available and maps the possible results of selecting the various options.

1. Alaska statute 04.11.135
2. Alaska statute 04.11.450(b)
3. § 6, 7 ch 101 sla 1995
4. § 2, ch 85 SLA 1988
5. Alaska statute 04.11.450
6. Alaska statute 04.11.100(e)
7. 15 AAC 104.305(a)(3)
8. § 5, ch 101 SLA 1995
9. Alaska Statute 04.11.130(b)(2)
10. § 2, ch 85 SLA 1988
11. Alaska Statute 04.16.015(a)(1)

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12. Memorandum dated February 24, 1988 from Senator Farenkamp to Senate Finance Committee re: CSSB 276 (JUD)