

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9177 HOUSE JUDICIARY

PROFESSIONAL LIABILITY

10 years statute of repose for design professionals

KANSAS

PERSONAL INJURY

2 years from injury or discovery (reasonably ascertainable), maximum of 10 years from the act; medical malpractice - maximum of 4 years from act.

WRONGFUL DEATH

2 years from injury discovery, maximum of 10 years.

PROPERTY DAMAGE

2 years from injury discovery, maximum of 10 years.

BREACH OF WARRANTY

4 years

PROFESSIONAL LIABILITY

10 years statute of repose for design professionals

KENTUCKY

PERSONAL INJURY

1 year; 5 years for fraud. Accrues on discovery if fact of injury not reasonably ascertainable. One year from discovery but not more than 5 years after act.

WRONGFUL DEATH

1 year

PROPERTY DAMAGE

2 years

BREACH OF WARRANTY

4 years

PRODUCT LIABILITY

3 years

PROFESSIONAL LIABILITY

5 years statute of repose for design professionals

LOUISIANA

ALL TORTS

1 year for medical malpractice, but not more than 3 yrs. from date of injury.

WRONGFUL DEATH

1 year

PROPERTY DAMAGE

1 year

BREACH OF WARRANTY

1 year - sales.

PROFESSIONAL LIABILITY

10 years statute of repose for design professionals

MAINE

PERSONAL INJURY

6 years - all civil actions, except 2 years for assault and battery, false imprisonment, slander, libel. 3 years for medical malpractice.

WRONGFUL DEATH

2 years

PROPERTY DAMAGE

6 years

BREACH OF WARRANTY

4 years

PRODUCT LIABILITY 6 years
PROFESSIONAL LIABILITY 10 years statute of repose for design professionals

MARYLAND

PERSONAL INJURY 3 years for "all civil actions", except 1 year for assault, battery, libel, slander and 5 years from injury or 3 years from discovery for medical malpractice.

WRONGFUL DEATH 3 years

PROPERTY DAMAGE 3 years

BREACH OF WARRANTY 4 years

PRODUCT LIABILITY 3 years

PROFESSIONAL LIABILITY 10 years statute of repose for design professionals

MASSACHUSETTS

PERSONAL INJURY 3 years for torts, contract (personal injuries), replevin medical malpractice, assault, battery, libel, slander, false imprisonment.

WRONGFUL DEATH 3 years (death must occur within two years of death-causing injury).

PROPERTY DAMAGE 3 years

BREACH OF WARRANTY 4 years

PRODUCT LIABILITY 3 years

PROFESSIONAL LIABILITY 6 years statute of repose for design professionals

MICHIGAN

PERSONAL INJURY 2 years, except 1 year for slander or libel. Medical malpractice claims subject to 6 year statute of repose from date of occurrence. For minors injured before 8th birthday, medical liability claims must be brought within 6 years of event with exceptions of some claims brought after 10th birthday and injuries to reproductive system.

WRONGFUL DEATH 3 years (death must occur within two years of death-causing injury).

PROPERTY DAMAGE 3 years

BREACH OF WARRANT 3 years

PROFESSIONAL LIABILITY 10 years statute of repose for design professionals

MINNESOTA

PERSONAL INJURY 2 years - medical malpractice and torts resulting in personal injury.

WRONGFUL DEATH	<u>3 years</u> from death, but no more than <u>6 years</u> after act or omission except, 2 years if medical malpractice
PROPERTY DAMAGE	<u>6 years</u>
BREACH OF WARRANTY	<u>4 years</u>
PRODUCT LIABILITY	<u>4 years</u>
PROFESSIONAL LIABILITY	<u>10 years</u> statute of repose for design professionals

MISSISSIPPI

PERSONAL INJURY Reduced to 3 years in 1989 except 1 year for assault, battery, maiming, false imprisonment, slander, libel and 2 years for medical malpractice

WRONGFUL DEATH	<u>6 years</u>
PROPERTY DAMAGE	<u>6 years</u>
BREACH OF WARRANTY	<u>6 years</u>
PROFESSIONAL LIABILITY	<u>6 years</u> statute of repose for design professionals.

MISSOURI

PERSONAL INJURY 5 years for injury to person or rights of another (from discovery, if fraud, subject to 10 year maximum, except 2 years for libel, slander, assault, battery, false imprisonment, etc. and 2 years for medical malpractice (from discovery if foreign object).

WRONGFUL DEATH	<u>3 years</u>
PROPERTY DAMAGE	<u>5 years</u>
BREACH OF WARRANTY	<u>4 years</u>
PROFESSIONAL LIABILITY	<u>10 years</u> statute of repose for design professionals

MONTANA

PERSONAL INJURY 3 years for actions on liability not founded upon an instrument; from discovery for medical malpractice except 2 years for libel, slander, assault, battery, false imprisonment or seduction and fraud or mistake.

WRONGFUL DEATH	<u>3 years</u>
PROPERTY DAMAGE	<u>2 years</u>
BREACH OF WARRANTY	<u>8 years</u> if written obligation or <u>4 years</u> if contract for sale.
PROFESSIONAL LIABILITY	<u>10 years</u> statute of repose for design professionals

NEBRASKA

PERSONAL INJURY 4 years for injury to rights not arising on contract (from discovery for fraud) except 1 year from discovery for professional malpractice and 1

year for libel, slander, false imprisonment, malicious prosecution and 2 years from act for other professional malpractice.

WRONGFUL DEATH 2 years

PROPERTY DAMAGE 4 years

BREACH OF WARRANTY 4 years

PRODUCT LIABILITY 4 years, but within 10 years of injury or first sale, or 2 years from "being informed" if asbestos-related disease.

PROFESSIONAL LIABILITY 4 years statute of repose for design professionals in cases of patent defects, 10 years statute of repose in cases of latent defects.

NEVADA

PERSONAL INJURY 2 years except 3 years from discovery if fraud or mistake. Four years after injury or 2 years after discovery, whichever occurs first. Statute does not run if injury concealed. Minors: statute does not run until age 10 for brain damage or birth defects; if sterility alleged, statute runs 2 years after discovery.

WRONGFUL DEATH 2 years

PROPERTY DAMAGE 3 years

BREACH OF WARRANTY 4 years

PROFESSIONAL LIABILITY 6 years statute of repose for design professionals in cases of patent defects, 8 years statute of repose in cases of latent defects.

NEW HAMPSHIRE

PERSONAL INJURY 3 years for all personal actions including medical malpractice (from discovery of injury and causal relationship).

WRONGFUL DEATH 3 years

PROPERTY DAMAGE 3 years

BREACH OF WARRANTY Sales contract - 4 years

PRODUCT LIABILITY 3 years from injury, but not more than 12 years after product left control of manufacturer. 12 year statute of repose held unconstitutional, Heath v. Sears, Roebuck & Co. 464 A.2d 288 (N.H. 1983).

PROFESSIONAL LIABILITY 8 years statute of repose for design professionals

NEW JERSEY

PERSONAL INJURY 2 years for injury to person from wrongful act, neglect or default. Two years from accrual of claim (discovery).

WRONGFUL DEATH 2 years

PROPERTY DAMAGE 6 years

BREACH OF WARRANTY	<u>4 years</u>
PROFESSIONAL LIABILITY	<u>10 years</u> statute of repose for design professional
<u>NEW MEXICO</u>	
PERSONAL INJURY	<u>3 years</u> for injury to person or reputation.
WRONGFUL DEATH	<u>3 years</u>
PROPERTY DAMAGE	<u>4 years</u>
BREACH OF WARRANTY	<u>4 years</u> . But see, <u>Chavez v. Kirsch</u> , 374 P.2d 497 (1962) - court applied the 3-year period in a personal injury action prosecuted under warranty.
PROFESSIONAL LIABILITY	<u>10 years</u> statute of repose for design professionals
<u>NEW YORK</u>	
PERSONAL INJURY	<u>3 years</u> ; <u>1 year</u> for assault, batter, false imprisonment, slander, libel; <u>2 years and 6 months</u> for medical malpractice (from discovery for foreign object).
WRONGFUL DEATH	<u>2 years</u>
PROPERTY DAMAGE	<u>3 years</u>
BREACH OF WARRANTY	Sale - <u>4 years</u> ; Other - <u>6 years</u>
<u>NORTH CAROLINA</u>	
PERSONAL INJURY	<u>3 years</u> for injury to person or rights of another; accrues when injury was or should have been apparent. Three years from date of injury but not more than 4 years after injury. Foreign object: 1 year from discovery, but not more than 10 years from last act. The North Carolina Court of Appeals upheld the constitutionality of the statute in <u>Roberts v. Durham County Hospital Corp.</u> , 289 S.E. 2d 875 (N.C. App. 1982)
WRONGFUL DEATH	<u>2 years</u>
PROPERTY DAMAGE	<u>6 years</u>
BREACH OF WARRANTY	<u>4 years</u>
PRODUCT LIABILITY	<u>6 years</u> ; from initial purchase for use or consumption
PROFESSIONAL LIABILITY	<u>6 years</u> statute of repose for design professionals
<u>NORTH DAKOTA</u>	
PERSONAL INJURY	<u>6 years</u> ; <u>2 years</u> for libel, slander, assault, false imprisonment and 2 years from discovery for medical malpractice
WRONGFUL DEATH	<u>2 years</u>
PROPERTY DAMAGE	<u>6 years</u>

BREACH OF WARRANTY 4 years

PRODUCT LIABILITY 10 years in all product liability actions

PROFESSIONAL LIABILITY 10 years statute of repose for design professionals

OHIO

PERSONAL INJURY 2 years for bodily injury; 1 year for slander, libel, malicious prosecution, false imprisonment and medical malpractice (maximum 4 years from occurrence); 4 years for fraud.

WRONGFUL DEATH 2 years

PROPERTY DAMAGE 2 years; 4 years for recovery.

BREACH OF WARRANTY 2 years; if contractual relationship; other - 2 years.

PROFESSIONAL LIABILITY 10 years statute of repose for design professionals

OKLAHOMA

PERSONAL INJURY 2 years for injury to rights of another; 1 year for assault, battery, libel, slander malicious prosecution, false imprisonment. 2 years from discovery for medical malpractice.

WRONGFUL DEATH 2 years

PROPERTY DAMAGE 2 years

BREACH OF WARRANTY 5 years

PROFESSIONAL LIABILITY 10 years statute of repose for design professionals

OREGON

"STATUTE OF ULTIMATE REPOSE" Notwithstanding other longer statutory provisions as a result of tolling or delayed commencement or running of the statute of limitations, all actions for negligent injury to person or property must be brought within 10 years from the date of the act or omission complained of constitutionality upheld, Joseph v. Burns. Action accrues when injury manifests if injury not previously discoverable by exercise of due diligence, O'Gara v. Kaufman.

PERSONAL INJURY 2 years; from discovery if fraud, deceit or medical malpractice (subject to 5 years max. unless fraud/deceit).

WRONGFUL DEATH 3 years from death-causing injury.

PROPERTY DAMAGE 6 years

BREACH OF WARRANTY 4 years

PRODUCT LIABILITY 2 years from date on which death, injury of damage occurs (from

discovery if asbestos related), but not later than 8 years after first purchase of product.

PROFESSIONAL LIABILITY

10 years statute of repose for design professionals

PENNSYLVANIA

PERSONAL INJURY

2 years from injury or discovery. If filed after 4 years, claim will be defended and paid by Medical Professional Liability Catastrophe Fund.

WRONGFUL DEATH

2 years

PROPERTY DAMAGE

2 years

BREACH OF WARRANTY

4 years. But, 2 years for third-party personal injury actions based upon warranty. See Salvador v. Atlantic Steel Boiler Co.

PROFESSIONAL LIABILITY

10 years statute of repose for design professionals

RHODE ISLAND

PERSONAL INJURY

10 years for all civil actions; 3 years for injuries to the person - from discovery for medical malpractice; 1 year for actions for words spoken.

WRONGFUL DEATH

3 years

PROPERTY DAMAGE

10 years

BREACH OF WARRANTY

4 years

PRODUCT LIABILITY

Personal injury - 3 years; Property damage - 6 years; Statute of Repose - 10 years from date of first purchase for consumption - unconstitutional, Kennedy v. Cumberland Co., Inc.

PROFESSIONAL LIABILITY

10 years statute of repose for design professionals

SOUTH CAROLINA

PERSONAL INJURY

3 years for injury to person or rights of another; 3 years from reasonable discovery if medical malpractice; 2 years for libel, slander, assault, battery, false imprisonment.

WRONGFUL DEATH

3 years

PROPERTY DAMAGE

3 years

BREACH OF WARRANTY

3 years

PROFESSIONAL LIABILITY

13 years statute of repose for design professionals

SOUTH DAKOTA

PERSONAL INJURY

3 years for personal injury; 6 years for other injury to rights of another not arising on contract and for fraud; 2 years for libel, slander, assault, battery or false imprisonment; 3 years for legal malpractice. 2 years

from injury for medical malpractice.

WRONGFUL DEATH 3 years
PROPERTY DAMAGE 6 years
BREACH OF WARRANTY 6 years
PRODUCT LIABILITY 3 years from injury, death or damage
PROFESSIONAL LIABILITY 10 years statute of repose for design professionals

TENNESSEE

PERSONAL INJURY 1 year from discovery for medical malpractice, not more than 3 years from date of injury.

WRONGFUL DEATH 1 year

PROPERTY DAMAGE 3 years

BREACH OF WARRANTY 4 years

PRODUCT LIABILITY Governed by personal injury and property damage limitations periods but must be brought within 6 years of date of injury, 10 years from first purchase or 1 year of expiration of anticipated life of products; whichever is shorter.

PROFESSIONAL LIABILITY 4 years statute of repose for design professionals

TEXAS

PERSONAL INJURY 2 years; 1 year for malicious prosecution, slander, libel. Two years from occurrence (discovery—see note below). Minors under 12: until 14th birthday to file suit. Otherwise applies to all regardless of minority or disability. The Texas Supreme Court struck down the original interpretation of the statute of limitations as unconstitutional, essentially changing Texas to a discovery rule state, in Meagle v. Nelson, No. C-2576, slip. op. January 30, 1985; see also Sax v. Vorteler, 645 S.W. 2d 661 (Tex. 1983).

WRONGFUL DEATH 2 years

PROPERTY DAMAGE 2 years

BREACH OF WARRANTY 4 years

PRODUCT LIABILITY 15 years statute of repose fractions against manufacturers or sellers of manufacturing equipment.

PROFESSIONAL LIABILITY 10 years statute of repose for design professionals

UTAH

PERSONAL INJURY 4 years for actions not otherwise covered; 2 years for civil rights actions; 1 year for libel, slander, assault, battery, false imprisonment. Two years from discovery but not more than 4 years from act. Foreign

object or fraud: 1 year from discovery. Applies regardless of minority or disability. The minority provision was held unconstitutional by the Utah Supreme Court in Lee v. Dr. Lynn Craufin; Griffith v. Dr. J. Dallas Van Wagoner, nos. 20995, 21063, 90095, Utah Supreme Court, Nov. 30, 1993. This reversed an earlier decision in Ailen v. International Health Care, Inc., 635 p. 2d 30 (1981)

WRONGFUL DEATH 2 years

PROPERTY DAMAGE 3 years

BREACH OF WARRANTY 4 years

PRODUCT LIABILITY Governed by personal injury and property damage limitations periods. but must be brought within 6 years of initial purchase or 10 years of manufacture.

PROFESSIONAL LIABILITY 12 years statute of repose for design professionals

VERMONT

PERSONAL INJURY 3 year from discovery; medical malpractice - 3 years from incident or 2 years from reasonable discovery.

WRONGFUL DEATH 2 years

PROPERTY DAMAGE 3 years - Personalty. 6 years - Realty

BREACH OF WARRANTY 4 years

PROFESSIONAL LIABILITY 12 years statute of limitations from date of discovery for actions against architects, engineers and builders but not more than 10 years after substantial completion 6 years from date of completion for breach of contract or warranty, and 8 years statute of repose for design professionals held unconstitutional in Condon v. Taggart Brothers Inc. (1989)

VIRGINIA

PERSONAL INJURY 2 years - 1 year for medical malpractice runs from date of discovery, not exceed 10 years from accrual of claim.

WRONGFUL DEATH 2 years

PROPERTY DAMAGE 5 years

BREACH OF WARRANTY 2 years

PRODUCT LIABILITY No general product liability statute of limitations. 10 year statute of repose for construction materials.

PROFESSIONAL LIABILITY 5 years statute of repose for design professionals

WASHINGTON

PERSONAL INJURY 3 years for injury to person or rights of another - fraud accrues on

discovery; 2 years for libel, slander, assault, battery, false imprisonment. Three years from injury or 1 year from discovery, but not more than 8 years after act. Fraud or concealment tolls statute. Foreign object: 1 year from discovery. The Washington Appellate Court has upheld the statute on constitutional ground. Duffy v. King Chiro. Practice Clinic, 565 P.2d 435 (Wash. App. 1977).

WRONGFUL DEATH

2 years

PROPERTY DAMAGE

3 years - Personalty 6 years - Realty

BREACH OF WARRANTY

4 years

PROFESSIONAL LIABILITY

6 years statute of repose for design professionals

WEST VIRGINIA

ALL TORTS

2 years within date of injury or discovery, whichever occurs last. In no event longer than 10 years after date of injury. Minors under 10: 2 years from injury or by 12th birthday, whichever provides a longer period. Statute tolled for any period during which fraud or concealment prevents discovery.

BREACH OF WARRANTY

4 years - Sales; 2 years - Personal injury

PROFESSIONAL LIABILITY

10 years statute of repose for design professionals

WISCONSIN

PERSONAL INJURY

6 years for injury to character or rights of another; 3 years from injuries to the person; 3 years from injury or 1 year from reasonably diligent discovery, subject to maximum of 5 years from act for medical malpractice; 2 years for intentional torts. Discovery rule adopted for all torts, Hansen v. A.H. Robins.

WRONGFUL DEATH

3 years

PROPERTY DAMAGE

6 years

BREACH OF WARRANTY

4 years

PROFESSIONAL LIABILITY

10 years statute of repose for builders making improvements on real property. Actions arising between the 8th and 10th years are subject to a 3 year statute of limitation. 6 year statute of repose for actions brought against accountants, which may be extended to one year if harm discovered during the 6th year of the statute.

WYOMING

PERSONAL INJURY

4 years for injury to rights; 1 year for slander, libel, assault, battery, false imprisonment. Two years from injury but if discovered in 2nd year plaintiff gets 6 mos. extension. If discovered after 2 years, plaintiff has 2 years from discovery.

WRONGFUL DEATH

2 years

PROPERTY DAMAGE	<u>4 years</u>
BREACH OF WARRANTY	<u>4 years</u>
PROFESSIONAL LIABILITY	<u>10 years</u> statute of repose for design professionals

NOTE: For more details on medical liability statutes of limitations, especially medical liability statute of limitation for minors, see ATRA's chart.

Sources:

"Analysis of State Statutes of Repose." The American Institute of Architects State & Local Government Affairs, May 1994.

Department of Health and Human Services, Agency for Health Care Policy & Research, Compendium of State Systems for Resolution of Medical Injury Claims, (1991).

"Product Liability at a Glance--1990," Law and Economics Center, University of Miami, 1990.

"Report of the Joint Subcommittee Studying Statutes of Limitations and Accrual of Actions," HD 55, Commonwealth of Virginia, 1989.

Updated with materials from the American Tort Reform Association, Washington, DC, 1994. Compiled by Anne Allen, Legislative Director, May 1994.

STATUTES OF LIMITATIONS

How Does ALASKA COMPARE?

Includes statute section number

	Fraud	Conversion	Written Contract	Recovery of Land	Malpractice	Attorney	Oral Contract	Wrongful Death	Delegation of Real Property	Accident/Damage	Personal Injury	Foram/Foreign	Judgment	Malpractice	Medical	Property Damage	Forfeiture	Penalty	Libel/Slander	Tortious
Alaska	6/10 1 yr	no info	6 yr	10 yr	6 yr	6 yr	6 yr	6/2 yr †	6 yr	1 yr	6/2 yr †	10 yr	2 yr	2 yr	6 yr	3/2 yr †	2 yr	2 yr	6 yr	
Arizona	3 yr	2 yr	6 yr	10 yr	2 yr	3 yr	3 yr	2 yr	8 yr	3 yr	2 yr	4 yr	1 yr	2 yr	no info	no info	1 yr	1 yr	2 yr	
California	3 yr	3 yr	4 yr	no info	1 yr	2 yr	1 yr	10 yr	4 yr	1 yr	10 yr	no info	3 yr	3 yr	3 yr	1 yr	1 yr	1 yr	3 yr	
Colorado	3 yr	3 yr	3 yr	no info	no info	3 yr	2 yr	2 yr	6 yr	2 yr	no info	2 yr	2 yr	2 yr	2 yr	1 yr	1 yr	1 yr	no info	
Connecticut	3 yr	3 yr	6 yr	15 yr	3 yr	3 yr	2 yr	2 yr	6 yr	3 yr	20 yr	no info	2 yr	2 yr	2 yr	1 yr	1 yr	2 yr	3 yr	
Florida	4 yr	no info	5 yr	no info	2 yr	4 yr	2 yr	4 yr	no info	4 yr	5/20 yr	4 yr	2 yr	2 yr	4 yr	4 yr	4 yr	2 yr	4 yr	
Georgia	2 yr	4 yr	6 yr	no info	no info	4 yr	2 yr	8 yr	4 yr	2 yr	5 yr	2 yr	2 yr	2 yr	4 yr	1 yr	1 yr	1 yr	4 yr	
Illinois	5 yr	5 yr	10 yr	no info	2 yr	5 yr	2 yr	10 yr	no info	2 yr	20 yr	2 yr	2 yr	5 yr	no info	1 yr	1 yr	1 yr	no info	
Indiana	6 yr	no info	6 yr	no info	2 yr	6 yr	2 yr	10 yr	6 yr	2 yr	10 yr	2 yr	2 yr	6 yr	2 yr	2 yr	2 yr	2 yr	6 yr	
Massachusetts	3 yr	3 yr	6 yr	no info	3 yr	6 yr	3 yr	3 yr	no info	3 yr	6 yr	no info	3 yr	3 yr	3 yr	1 yr	3 yr	3 yr	3 yr	
Michigan	6 yr	no info	6 yr	no info	2 yr	6 yr	3 yr	6 yr	no info	3 yr	10 yr	2 yr	2 yr	3 yr	2 yr	1 yr	1 yr	no info	no info	
Missouri	5 yr	no info	5 yr	10 yr	5 yr	5 yr	3 yr	10 yr	5 yr	5 yr	5 yr	2 yr	2 yr	5 yr	3 yr	2 yr	2 yr	2 yr	5 yr	
New Jersey	6 yr	6 yr	6 yr	20 yr	6 yr	6 yr	2 yr	10 yr	6 yr	2 yr	20 yr	6 yr	2 yr	6 yr	2 yr	1 yr	1 yr	1 yr	6 yr	
New York	6 yr	6 yr	6 yr	10 yr	3 yr	6 yr	2 yr	no info	no info	3 yr	20 yr	1 yr	2.5 yr	3 yr	3 yr	3 yr	1 yr	1 yr	1 yr	
North Carolina	3 yr	3 yr	3 yr	20 yr	no info	3 yr	2 yr	6 yr	no info	3 yr	10 yr	no info	3 yr	3 yr	1 yr	1 yr	1 yr	1 yr	3 yr	
Ohio	4 yr	4 yr	15 yr	21 yr	1 yr	6 yr	2 yr	10 yr	no info	2 yr	no info	1 yr	1 yr	2 yr	1 yr	1 yr	1 yr	1 yr	4 yr	
Pennsylvania	2 yr	2 yr	4 yr	21 yr	2 yr	4 yr	2 yr	12 yr	no info	2 yr	4 yr	2 yr	2 yr	2 yr	2 yr	2 yr	1 yr	1 yr	2 yr	
Texas	2 yr	2 yr	4 yr	no info	2 yr	2 yr	2 yr	10 yr	4 yr	2 yr	10 yr	1 yr	2 yr	2 yr	no info	1 yr	1 yr	1 yr	2 yr	
Virginia	2 yr	no info	5 yr	15 yr	no info	3 yr	2 yr	5 yr	no info	2 yr	20 yr	2 yr	2 yr	5 yr	no info	no info	no info	no info	5 yr	
Washington	3 yr	3 yr	6 yr	10 yr	3 yr	3 yr	3 yr	6 yr	no info	3 yr	10 yr	no info	no info	3 yr	3 yr	2 yr	2 yr	2 yr	3 yr	
Wisconsin	6 yr	6 yr	6 yr	30 yr	6 yr	6 yr	3 yr	no info	no info	3 yr	20 yr	6 yr	3 yr	6 yr	2 yr	2 yr	2 yr	2 yr	6 yr	

OTHER STATES KEY:
 * Foreign
 ** Foram
 * 6 Real/2 Personal
 **** Personal

† ALASKA KEY:
 Fraud - 6 yr=09.10.1206 (state, political or public corp), 10 yr=09.10.230 (land patent)
 - 1 yr after discovery=12.10.020 (breach of fiduciary, misconduct by police)
 Wrongful Death - 6 yr=09.10.55 (construction) statute ruled unconstitutional by Sup.Ct. Op. 3290, 2 yr=09.55.580
 Debris - 09.10.055 statute ruled unconstitutional by Sup.Ct. Op. 3290
 Personal Injury - 6 yr=09.10.055 (construction) statute ruled unconstitutional by Sup.Ct. Op. 3290, 2 yr=09.10.070
 Medical Malpractice - 09.10.070 (after age of majority, 09.10.040 for minors)
 Forfeiture - 3 yr=09.10.060, 2 yr=09.10.070

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Togiak, AK 99678

RECEIVED
FEB 14 1997

HB58
file

February 5, 1997

Representative Joe Green
House of Representatives
State Capitol
Juneau, AK 99801-1182

Re: "Tort Reform"

Dear Representative Green:

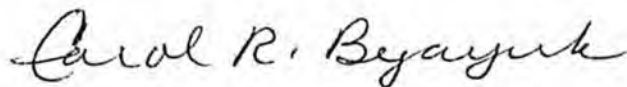
No one expects to be a victim of an accident. It is always some other family that is involved in an accident. You never are prepared for the financial or emotional problems that follow.

My 15 year-old son is a victim of an accident. He was a avid basketball player and his high-school grades were excellent. Because of his accident, he can never play basketball again and his grades are below average and failing. He can never enjoy all the sports he enjoyed so much and will always walk with a limp.

I have been informed that the insurance companies are trying to get a bill passed in the Legislature that would reduce the rights of injured people. Although I do not think any new bills would affect my son because his accident already happened, I am worried about other people who might be injured later. I never really thought about these things before, but I would not want to see other people get cheated out of what is fair because insurance companies do not want to pay. Even if it is not perfect I believe in a system that allows injured people to get fair compensation.

Tort "reform" is an assault on our civil juries by the insurance companies. Please vote against tort reform, a vote against tort reform is a vote for the people.

Sincerely,



Carol R. Byayuk



ASSOCIATED GENERAL CONTRACTORS of ALASKA

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18. February 1997

To
The Honorable Joseph Green
Chm. House Judiciary Committee
House of Representatives
Juneau, AK.

FAX 1-907-465-4316

Subject: SS HB 58 "TORT-reform"

Dear Representative Green:

Please be advised that AGC of Alaska supports the sponsor substitute version of this bill as it is now in your committee. Please enter this letter into the committee record.

Sincerely,

Heinrich Springer
Exec. Director

to L105 2/17/97

ALASKA LAUNDRY INC.
1114 GLACIER AVE.
JUNEAU, AK 99801

REP. BRIAN PORTER
ALASKA HOUSE OF REPRESENTATIVES
JUNEAU, AK 99801

FEBRUARY 20, 1997

RE: HB 58

DEAR REP PORTER,

WE ARE A SMALL FAMILY OWNED LAUNDRY AND DRY-CLEANING BUSINESS THAT HAS BEEN IN BUSINESS IN ALASKA FOR OVER A CENTURY. HAVING JUST CLOSED OUR COMPANY BOOKS FOR LAST YEAR I AM QUITE AWARE OF THE COST OF LIABILITY INSURANCE. I APPLAUD YOUR EFFORTS TO BRING SOME SANITY TO TORT LAW AND HOPEFULLY SLOW THE RISE IN OUR INSURANCE PREMIUMS IF NOT REDUCE THEM.

BEYOND JUST THE COST OF INSURANCE THERE ARE THE COSTS INCURRED IN TRYING TO TORT PROOF OUR BUSINESS. IT IS A REAL SHAME WHEN MANY BUSINESS DECISIONS ARE DRIVEN BY EXPOSURE TO LIABILITY AND NOT ECONOMICS. WHERE FEAR OF FRIVOLOUS LAWSUITS OVERRIDES THE DESIRE TO EXPAND SERVICES AND PRODUCTS. THE ONLY WINNERS IN THE PRESENT SYSTEM ARE THE SHYSTER LAWYERS AND A FEW OF THEIR CLIENTS. THE REST OF THE PUBLIC ONLY GETS TO PAY FOR THEIR OUTRAGEOUS AWARDS. PLEASE BRING SOME SANITY TO THE SYSTEM AND PASS OUT TORT REFORM THIS YEAR.

SINCERELY YOURS,

E. NEIL MACKINNON
PRESIDENT

CC. REP JOE GREEN 465-4316
 REP CON BUNDE 465-3871
 REP NORM ROKEBERG 465-2040
 REP JEANNETTE JAMES 465-2381
 REP ERIC CROFT 465-4419
 REP ETHAN BERKOWITZ 465-2137

UNITED
INSURANCE

P.O. Box 33519
JUNEAU, ALASKA 99803
(907) 789-5208
FAX: (907) 789-1858

February 20, 1997

Rep. Joe Green
Legislative Office Building
Juneau, Alaska 99811

Re: HB 58: Tort Reform

Dear Rep. Green:

I understand that HB 58, Tort Reform legislation is up for consideration again this year and is scheduled to come before the House Judiciary Committee tomorrow, Feb. 21st and Monday, Feb. 24th.

The ever increasing cost of personal injury cases and the unpredictability of juries in awarding damages has had a huge impact on small business in Alaska. I see it in my business, especially when insurance companies are reluctant to quote on liability insurance where there is any product liability involved. If they do quote, the premium is high, and in many cases they refuse to quote. This makes it difficult for the small business person.

I understand this bill does not limit economic damages such as medical costs and lost wages, but it does put a reasonable cap on additional awards for damages such as pain and suffering. I think this bill will make the civil justice system more fair, efficient and less costly.

The bill may not lower the cost of insurance in all cases, but I do think it will help with the availability of insurance, especially product liability coverage.

Sincerely,

Dave Moe

a memo from
David Murrow

MURROW

M E D I A

Date: Thu, Feb 20, 1997 3:44 PM

To: Rep. Joe Green

RE: Tort Reform Bill

Dear Joe:

I'm sure you agree that the Tort Reform bill is one of the most important facing the legislature this year. From what I can tell, Rep. Porter's bill is a winner. I urge you to vote for it, as I'm sure you will.

Please give my warmest regards to Jeanne.



ALARMS -- BURGLAR, FIRE
INTERCOM - TELEPHONE
283-4012

Your Full Line Electrical Supplier
283-4276

LIGHTING FIXTURES - SHOWROOM
RESIDENTIAL - COMMERCIAL
283-4038



KENAI ELECTRIC CO.
11887 Kenai Spur Highway
KENAI, ALASKA
99611

February 20, 1997

To: Representative Joe Green
Re: HB58 - Tort Reform

Dear Sir:

For the good of every citizen of the State
of Alaska, as well as every small business,
we support HB58.

This year we hope you can pass this bill,
veto-proof.

Sincerely,



Glenn J. Kipp

NORTHERN PERFORMANCE**THUMPER & JULIE WILLIAMSON**

e.mail + tccard@alaska.net

S.R. Bpx 300

Mt. 44 Tok Mary

Gakona, Ak, 99345

Telephone 907-822-3545

Fax 507-822-3565

February 20, 1997

Rep. Brian Porter

cc. NFIB/Alaska's state legislative office

Dear Representative,

Northern Performance is a small business in the Copper River Basin. We are an authorized Polaris dealership, handling snowmobiles and atv's. Our 1996 sales were \$835,000. Our customer base is spread throughout Alaska, from the Canadian Boarder to Takotna, and Valdez to Delta Junction. We have no employees, the business is run by myself, and my husband Grant Williamson Jr. aka Thumper.

We feel that the HB 58: Tort Reform is vital to the continued success of small businesses like our own. Operating a business in the Alaskan bush is struggle enough without the threat of losing our hard earned livelihood to a lawsuit, because some person felt the need to sue. Lawsuits in this day and age are entirely out of hand. No person should be entitled to millions in damages because they refuse to accept responsibility for their own actions.

Thank you for your time and attention to this matter.

Sincerely



Julie Williamson

Owner

JW/jw

fc/ NFIB

Chilkat Guides, Ltd.

P.O. Box 170, Haines, Alaska 99827 • Ph. 907-766-2491 • Fax 907-766-2409
E-Mail: RaftAlaska@eworld.com



To: Rep. Brian Porter, and the members of the House Judiciary
Committee

RE: HB58

Dear members of the committee,

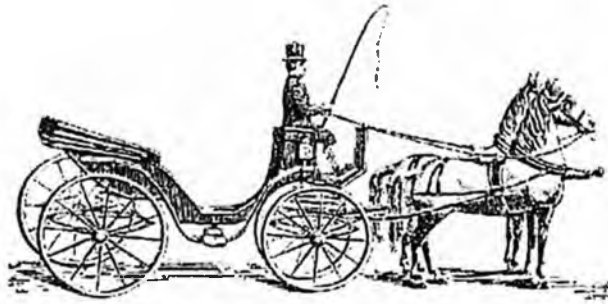
Tort reform is long over due! The present system and it's uncertainty is dragging us all under in an avalanche of insurance and legal costs. Those costs are added to everything we buy and sell, reducing everyone's ability to invest in worthwhile enterprise.

No one argues with the necessity to defend the interests of an injured person, but our system is now so askew that we have created a society that thrives on law suits.

Please pass HB 58 as a first step in reigning in the runaway train before it plunges over the edge.

Thank you


Bart Henderson



HORSE-DRAWN CARRIAGE CO., INC.
P.O. Box 671316, 22012 Blair Ave. Chugiak, Alaska, 99567
(907) 688-6005, Fax 688-1218
Internet: <http://www.goworldnet.com/carriage.htm>

FEBRUARY 20, 1997

Rep. Joe Green;

I urge you to continue your efforts in tort reform in HB 58. As a small business owner, with very little or no profit margin, liability insurance is a major expense item. Since our state doesn't have Equine Liability Law our business is constantly exposed to potential law suits.

We have been doing carriage rides in downtown Anchorage since 1983. We do approximately \$100,000.00 worth of sleigh, hay and carriage rides annually, and typically spend \$10,000.00 to \$20,000 more than that. I spend approximately \$10,000.00 a year for liability insurance alone.

I find it appalling that our laws and lawyers representing those laws continue to feather their nest by supporting long drawn out trials and expensive litigation that only the big companies and very rich can afford. Please continue the fight to help small businesses in Alaska.

Jon Nauman, President

Radio 
Fairbanks

Division of
Communications
Equipment &
Service
Inc.

Radio Fairbanks Building
1010 College Road
Fairbanks, Alaska 99701
(907) 452-1049
FAX: (907) 451-7987

Repz - Porter, Green, Bunde, Rokeberg, James, Craft,
Berkowitz

↓ support HB58 - Reform of tort.

The unpredictability of juries and their awards of damages Plus the costs increases of personal injury cases have had a huge ^{adverse} impact on small businesses. These costs need to be controlled. Compensation still needs to be made to some degree to persons injured if proven to be caused by others.

Please support this bill.

Sid Childers



WASILLA REALTY

P.O. Box 870237
Wasilla, Alaska 99687
Office: (907) 376-5346
Fax: (907) 373-2553



Saturday, February 22, 1997 7:44 AM

Alaska State Legislature
Juneau, Alaska

Dear Members of the Alaska House of Representatives:

We appreciate of all your efforts with respect to tort reform.

Wasilla Realty was formed in 1960. It has been successful and a corner stone in the Mat-Su Valley real estate industry. Wasilla Realty has been active in the development in both the City of Wasilla and Mat-Su Borough. I was mayor of Wasilla during the 1980's. I am an informed leader in this state.

During my 50+ years I have seen many instances of the threat and actual frivolous lawsuits. I have also seen court awards of "damages" beyond reason. I have been concerned for many years about the run-away legal system and the extreme hardship that it has caused small business owners like myself.

It is important to the next generation that we control the legal system before it strangles small business. Please do everything you can to pass HB 58 -- NOW. We were so close during the last legislative session. Many Alaskan small business were very disappointed with the Governor's veto of tort reform. Let's pass the bill as it currently read.

It is in the best interest of Alaska to pass HB 58.

Sincerely,

Harold S. Newcomb, Owner
Wasilla Realty
Wasilla, Alaska

Ketchum

**AIR SERVICE, INC.**

MAIL: P.O. BOX 190588

ANCHORAGE, ALASKA 99519-0588

On the North Shore of Lake Hood

907-243-5525

800-433-9114

FAX 907-243-8311

E-mail: ketchum@alaska.net

Rep. Joe Green

2-21-97

Dear Congressman Green,

We support HB 58 regarding Tort Reform. The escalating costs of litigating and the awards for aviation accidents continue to hamstring our industry.

It has become increasingly difficult to factor our costs due to the unpredictable insurance rates. Currently the market of available insurances are so limited that many small operators are being forced out of business or are uninsuring.

This added cost effects all other aspects of our business. This fluctuating cost detracts from maintenance, pilot training, new equipment acquisitions, payrolls, etc.,etc.

We support protecting the traveling public with liability coverages ccmparable with the rest of the country.

Sincerely,

Craig Ketchum
President

ACVB

Home Page- <http://www.alaska.net/~ketchum/KETCHUMFLYINALASKA.html>

HELP PROTECT OUR WILDERNESS RESOURCES

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CHANNEL CORPORATIONS

Channel Construction, Inc.
Channel Landfill

W.R. Tonsgard Logging and Lumber, Inc.
Channel Equipment Rental, Inc.

W.R. "SHORTY" TONSGARD, CHAIRMAN OF THE BOARD

Facsimile transmittal to 465-4316

2/21/97
10:12 am

February 20, 1997

The Honorable Joe Green
Chairman, House Judiciary Committee
Alaska State House of Representatives
Juneau, Ak 99801

Dear Representative Green:

Please be advised that Channel Corporations supports House Bill No. 58 regarding tort reform.

Channel Corporations is four family-owned and -operated businesses which have been in operation for more than 20 years. The businesses provide diverse services such as disposal of garbage refuse, refuse and soils incineration, commercial and residential construction and demolition, a logging and sawmill enterprise, and equipment rental, service and sales.

The ever-increasing cost of personal injury cases and the unpredictability of juries in awarding damages have had a huge impact on small business. We believe this very important bill can control these costs, while assuring appropriate compensation for persons injured through the fault of others. We believe the legislation makes the civil justice system more fair, more efficient and less costly.

I would very much appreciate your support of House Bill No. 58. Thank you.

Very truly yours,

W. R. Tonsgard, Jr.
Chairman of the Board

WRT:dk

CITY OF SEWARD

P.O. BOX 167
SEWARD, ALASKA 99664



- Main Office (907) 224-3331
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- Fax (907) 224-3248

February 18, 1997

Representative Brian Porter
Alaska State Legislature
State Capitol
M/S 3100
Juneau, Alaska 99801-1182

FAXED & MAILED

Dear Representative Porter:

The City of Seward continues to support your tort reform legislation, including the revisions to date. Municipalities and taxpayers are deeply impacted by rising costs associated with claims. Since 1986, insurance and claim costs have been a major factor in municipal tax increases and have, in some cases, influenced communities to limit or eliminate recreation and other public services.

We are concerned for our youth, yet due to the increase in public liability, municipalities are reducing and/or eliminating recreational facilities and activities, such as skateboard parks, that would provide our youth with constructive activities instead of idle time which causes many of our youth to get in trouble in their communities.

The City supports tort reform legislation that will:

- ▶ Relieve hospitals of liability for negligent acts of an emergency room contract physician if the doctor carries malpractice insurance.
- ▶ Decrease the statute of limitations from 6 to 3 years for contract disputes, attorney malpractice and damages to personal property.
- ▶ Set a "statute of repose" which is like a statute of limitations, at 8 years for damages caused by exposure to hazardous substances, defective products or fraud. The limit is currently 15 years.
- ▶ Establish a pilot program for alternative dispute resolution.
- ▶ Cap a punitive damage award by tying it to the compensatory award in the case, with limits.

REPRESENTATIVE PORTER

Tort Reform Legislation

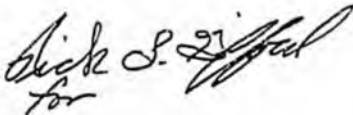
Page 2

We should work together to provide services the public wants in the safest, most cost-efficient manner. High insurance premiums and claims interfere with local government's ability to do our part of the job. We all want to do more for our citizens, but must not be afraid to provide needed services like skate parks because of punitive legal actions.

Thanks for your help!

Sincerely,

City of Seward

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

Ronald A. Garzini,
City Manager

RAG:rg

cc: Governor Tony Knowles
Senator John Torgerson
Representative Gary Davis
Seward Mayor and Council Members
Alaska Municipal League
Alaska Municipal League Joint Insurance Association



February 21, 1997

Representative Brian Porter
Alaska State Legislature
State Capital, Room 118
Juneau, AK 99801-1182

Dear Representative Porter:

The Ounalashka Corporation is a small village corporation in the land leasing business.

We are very supportive of HB58 for several reasons.

1. It puts a reasonable cap on punitive damages.

Almost all small businesses do not have insurance that covers punitive damages, therefore the outrageous award's being given can put a small business out of business.

2. It will most certainly keep nuisance lawsuits out of the court system.

3. I also believe that the legal cost per case will decline and therefore keep some cost control on insurance costs.

Please keep this bill on track and persuade the Governor to sign it this time.

Sincerely,

A handwritten signature in cursive script that reads "Richard L. Davis, Jr." The signature is written in dark ink and is positioned above the printed name and title.

Richard L. Davis, Jr.
Chief Executive Officer

STUTZMANN ENGINEERING ASSOC., INC.

P.O. BOX 1429
FAIRBANKS, ALASKA 99707
(907) 452-4094

February 20, 1997

House Judiciary Committee

Re: HB 58, Tort Reform

Dear Sir:

Please support HB 58, the tort reform bill.

We are a small engineering firm and while we have not had legal problems, I do think there should be a limit in personal injury cases, especially where a plaintiff sues a firm that many not be even remotely connect with the injury. You will still be required to hire an attorney and defend yourself, which adds to the cost of business.

There should also be a time limit. Someone who sues years and years later should not be allowed to do so.

Many times an insurance company will pay just to get rid of the nuisance, which in turn makes business costs go up.

Lost wages and medical costs are not limited by this bill so please support it.

Sincerely,



Paul E. Stutzmann, President

Alaska State Legislature



Official Business
Fax: (907) 465-3472

State Capitol
Juneau, AK. 99801-1182
(907) 465-3720
(907) 465-2689

Speaker of the House of Representatives

February 19, 1997

Mr. Willem S. Van Hemert
CRW Engineering Group
3900 Arctic Blvd., Suite 203
Anchorage, AK 99503-5781

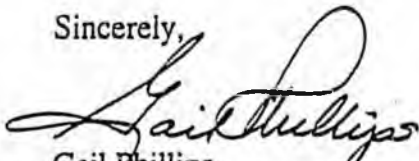
Dear Mr. Van Hemert:

Although I look forward to meeting with constituents and friends, sometimes the busy schedule here in Juneau and last minute changes make that impossible. I sincerely appreciate your taking the time to stop by and am glad that you were willing to meet with my aide, Judi Jordan, when I couldn't be there.

From what Judi tells me, the Alaska Professional Design Council emphasizes its support for a change to the Statute of Repose to 8 years as presented in Rep. Porter's bill as well as the mandatory arbitration provision in the Governor's version. In addition, she mentioned the need to extend the AELS for 6 years and to change the Mining Engineer position to a non-designated position. I will keep in mind AELS' desire to add the Landscape Architects for licensing under the AELS and the need for changing the current examiners position to an Executive Director position as well. Your position statement is very helpful, and I will refer to it often and the various issues come up during the session.

Again, I would like to thank you for bringing your concerns to my attention. I hope that you will continue to let me know the issues that are important to you. Whenever I can be of help, please feel free to call on me.

Sincerely,


Gail Phillips
SPEAKER OF THE HOUSE

GP:jmj

cc: Representative Brian Porter - re: HB 58

Kennedy & Co. LLC

Dan F. Kennedy, CPA, MBA and Janet C. Kennedy CPA
Lakeview Professional Building
851 E. Westpoint Dr., Suite 108
Wasilla, Alaska 99654

work phone: 907.376-1272
fax: 907.373-1272

Internet Home Page: <http://www.corecom.net/~kennedpp>
Internet Email Address: kennedpp@corecom.net

February 22, 1997

To: Representatives of the Alaskan Legislature

Re: Support of HB 58 - Tort Reform

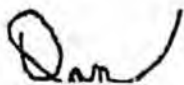
Thank you for your hard work on HB 58. We appreciate all of your efforts with helping Alaskans create a sensible tort framework.

Kennedy & Co. LLC is a family owned certified public accounting firm. We serve many small businesses. Kennedy & Co. LLC is a small firm that emphasizes the support of emerging businesses.

The future of economic expansion and change will be fueled by such emerging businesses. These successful entrepreneurs are fearful of lawyers (truly) and of the current tort system. Please change it. In our discussions with clients there is overwhelming support for tort reform. Just do it! - is the message from small business and Kennedy & Co. LLC.

Please approve HB 58.

Sincerely,



Dan F. Kennedy CPA, MBA and Janet C. Kennedy CPA



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

February 21, 1997

Representative Brian Porter
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative Porter,

Last year the AML urged the implementation of the Tort Reform bill. The AML continues its support of the adoption of a meaningful tort reform bill.

Municipalities have considerably broader liability exposures than almost any private business because of the extremely broad nature of municipal services and public safety responsibilities. Also, municipalities are seen as "deep pockets", however, a municipality must pass costs on to residents directly through taxes. It is clearly in the interest of residents of municipalities to reasonably limit their municipality's liability exposures.

Much of what SSHB 58 (JUD) proposes for general liability is similar to the way the Workers Compensation laws works, i.e. by more clearly defining liability and remedies, injured workers are more effectively served and protracted and expensive legal processes are kept to a minimum. The Workers Compensation laws were established because the existing process was too costly, complicated, and ineffective. It is time to apply similar principles more broadly to tort reform.

The AML Legislative Committee has not reviewed the provisions of the bill and may comment on specific provisions at a later date. Please keep the AML informed of any issues specifically relevant to municipalities and the AML will be pleased to continue to participate in the process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Ritchie', with a long horizontal line extending to the right.

Kevin Ritchie
Executive Director

CC: AML Legislative Committee
C:Legcomm:297tortreformhb58

G.T. Construction, Inc.
P.O. Box 190329
Anchorage, AK. 99519
(907) 248-9243
fax (907) 248-9341

Brian Porter

FAX TO:

FAX FROM:

Guy Turner

DATE:

2/20/97

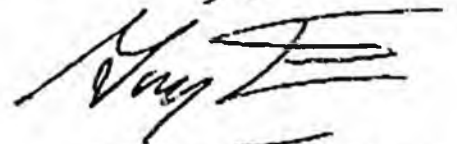
1 pages including this page.

Reference: Support for HB 58

I have a small Mom + Pop Business.
The ever increasing costs of personal
injury cases have had a huge impact
on small business. The ever
increasing costs of Insurance,
and the overhead has to come
under control.

I would like your support for
HB 58.

Sincerely,


Guy Turner

NORTHERN PERFORMANCE

THUMPER & JULIE WILLIAMSON
e.mail - thumper@alaska.net
S.R. Box 300
Mt. 44 Tok Hwy
Galena, Ak, 99501

Telephone 907-822-3545
Fax 907-822-3565

February 20, 1997

Rep. Brian Porter
cc. NFIB/Alaska's state legislative office

Dear Representative,

Northern Performance is a small business in the Copper River Basin. We are an authorized Polaris dealership, handling snowmobiles and atv's. Our 1996 sales were \$835,000. Our customer base is spread throughout Alaska, from the Canadian Boarder to Tokona, and Valdez to Delta Junction. We have no employees, the business is run by myself, and my husband Grant Williamson Jr. aka Thumper.

We feel that the HB 58: Tort Reform is vital to the continued success of small businesses like our own. Operating a business in the Alaskan bush is struggle enough without the threat of losing our hard earned livelihood to a lawsuit, because some person felt the need to sue. Lawsuits in this day and age are entirely out of hand. No person should be entitled to millions in damages because they refuse to accept responsibility for their own actions.

Thank you for your time and attention to this matter.

Sincerely



Julie Williamson
Owner

JW/jw
fc/ NFIB

CORDOVA OUTBOARD, INC.
P. O. BOX 960
CORDOVA, ALASKA 99574-0960

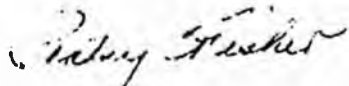
FEBRUARY 20, 1997

REP. BRIAN PORTER
ALASKA STATE CAPITAL
JUNEAU, ALASKA 99801

REPRESENTATIVE PORTER:

WE ARE A SMALL MARINE AND AUTO PARTS CORPORATION THAT DOES SERVICE WORK ON BOATS IN OUR AREA. WE SUPPORT HB 58: TORT REFORM. TORT REFORM IS VERY IMPORTANT TO THE SMALL AND INDEPENDENT BUSINESS COMMUNITY. WE REPRESENT THE ECONOMIC BACK BONE OF OUR NATION. PLEASE CONTINUE TO WORK TOWARD PROTECTING US IN COURT AGAINST THE EVER INCREASING COST OF PERSONAL INJURY CASES AND THE UNPREDICTABILITY OF JURIES IN AWARDED DAMAGES WHICH HAVE HAD HUGE IMPACT ON SMALL BUSINESS.

SINCERELY,



PATSY FISHER, SECRETARY

REP. JOE GREEN
REP. CON BUNDE
REP. NORM ROKEBERG
REP. JEANNETTE JAMES
REP. ERIC CROFT
REP. ETHAN BERKOWITZ

SOUTHEAST MARINE

5306 HALIBUT POINT ROAD
SITKA, ALASKA 99835
(907) 747-6786 FAX (907) 747-6062

February 20, 1997

Rep. Brian Porter

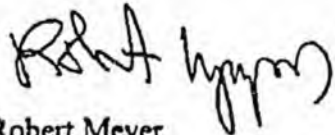
RE: HB 58 Tort Reform

Dear Mr. Porter,

I own a marine business here in Sitka and in Juneau. I wholeheartedly support your Tort Reform Bill HB 58. This bill will assist in keeping the cost of doing business down for insurance and unduely high damages awarded to unscrupulous people.

Sincerely,

SOUTHEAST MARINE INC.



Robert Meyer
Owner

Cordova District Fishermen United

Celebrating 62 Years of Service to Commercial Fishermen in Cordova, Alaska
P.O. Box 939 Cordova, Alaska 99574 / Telephone (907) 424-3447 / Fax (907) 424-3430

February 21, 1997

Oral testimony given to House Judiciary Committee re: HB 58 (Tort Reform)
Sent via facsimile to (907) 465-4316

Good afternoon. Mr. Chairman and committee members, my name is Cheri Shaw. I hold the position of executive director for Cordova District Fishermen United and occupy the chairmanship of the tort reform committee for United Fishermen of Alaska. I will be speaking on behalf of both organizations today.

Neither CDFU nor UFA support HB 58. The punitive damage portion of this bill we find to be the major problem in the drafting. Section 9 states punitive damages will not be awarded, "unless supported by clear and convincing evidence of malice or conscious acts showing deliberate disregard of another person by the person from whom the punitive damages are sought." To prove clear and convincing malice in court is almost an impossibility.

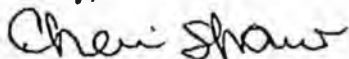
In discussing HB 58 with other UFA committee members, it was decided that if this bill were to pass as is, it would open the door for Exxon in the appellate court. Exxon's attorney's will cite the legislation as support for their argument that the punitive damages award in this case is a violation of public policy. Even without a retroactive clause, this argument can *and will* be used by their counsel.

We would like to recommend language to be included in this bill making an exception for damage to natural resources. Three to four times the amount of compensatory damages or \$300,000 to \$600,000, whichever is greater, will not be sufficient in punishing for a disaster such as the Exxon Valdez incident. This type of natural resource disaster effects so many people for a very long time and should not be held to the confines of the punitive portion of this bill. We would be happy to lend support in the drafting of such an amendment.

May I direct you to Section 10 (d) which states "If a person receives an award of punitive damages, the court shall require that 50 percent of the award be deposited into the general fund of the state." If you read the sponsor statement which accompanies this bill, Representative Porter states that a consulting firm reported in 1992 that "only about 50 percent of damage awards of some \$132 billion nationwide went to the injured party. The remaining 50 percent went to the cost of litigation and attorney fees. From the foregoing, it is apparent that if the tort system is judged as a method of compensating accident victims for their losses, it is both inefficient and unfair. Inefficient because only about half of the cost goes toward any form of compensation for victims. It is unfair because many injured victims receive insufficient compensation to no compensation at all." If Rep. Porter sees this as unjust, how can he draft in his bill that the State will receive 50 percent of punitive damage awards. Do attorney fees and litigation costs come from the remaining 50 percent of the victims share? This seems to me to be more unfair than the status quo.

Mr. Chairman and committee members, please take this testimony into consideration when voting on this bill. I urge you not to pass this out of committee. I will be happy to answer any questions you may have. Thank you for the opportunity to testify.

Sincerely,



Cheri Shaw, Executive Director
Cordova District Fishermen United

Alaska State Legislature

Representative Brian S. Porter

HOUSE MAJORITY LEADER



SESSION:
STATE CAPITOL, ROOM 216
JUNEAU, ALASKA 99801-1182
PHONE: (907) 465-0930
FAX: (907) 465-3834

INTERIM:
716 W. 4TH AVE., SUITE 360
ANCHORAGE, AK 99501-2134
PHONE: (907) 258-8197
FAX: (907) 258-5510

MEMBER
HOUSE JUDICIARY COMMITTEE
HOUSE RULES COMMITTEE
HEALTH, EDUC. & SOCIAL SERVICES COMMITTEE
LEGISLATIVE COUNCIL JOINT COMMITTEE

DISTRICT 20

SPONSOR STATEMENT OF SSHB 58 (JUD): Tort Reform Bill

Many individuals and businesses have already experienced the nightmare of litigation that drags on for years and the high legal costs that go with them. Lawsuits in this country have proliferated. Litigation has become an industry. Contingent fee contracts give up to 40% of injured victims' damage recoveries to trial lawyers. The incentives to create the most litigious society on earth are firmly in place. As a consequence, the cost of liability insurance has become unaffordable to many. In some areas of this state, there are no domestic insurance companies which will write a liability insurance policy for any price. Across the country, and throughout Alaska, there is an outcry for reforming our civil justice system. Ordinary people and businesses of all sizes seek relief from a flawed system. Consistent with the foregoing, a more efficient and fair method of compensating wrongly injured victims must be crafted and maintained.

Tilinghast, a consulting actuarial firm reported in 1992 that only about 50% of damage awards of some \$132 billion nationwide went to the injured party. The remaining 50% went to the cost of litigation and attorney fees. From the foregoing, it is apparent that if the tort system is judged as a method of compensating accident victims for their losses, it is both inefficient and unfair. Inefficient because only about half of the cost goes toward any form of compensation for victims. It is unfair because many injured victims receive insufficient compensation to no compensation at all.

In contrast with the foregoing deficiencies, the workers' compensation system returns about 70% of the workers' compensation insurance premium dollars to the injured party. The efficiencies enjoyed in the health insurance industry are even higher, with about 85% of health insurance premium dollars being returned to the beneficiary. The most efficient of them all is Social Security, with 99% of social security taxes collected being returned to the beneficiaries of that system. The relative certainty of recovery, and the certainty in the amount of recovery under these systems, stands in stark contrast to the uncertainties inherent in the litigation of claims and defenses. The absence of uncertainty and high costs of litigation in these alternative

systems makes clear that there is a compelling need for substantial reforms in the civil justice system.

A more specific statement of legislative intent is found in Section 1 of the Act. This Act addresses many of the areas which must be reformed if we are to create an environment which is conducive to rational economic development, a positive business climate, the creation of jobs, and a higher standard of living for all Alaskans. We are all personally responsible for the attainment of these goals, and we are all personally accountable if we fail.

Kirsch

HOUSE MAJORITY LEADER



SESSION
STATE CAPITOL ROOM
JUNEAU, ALASKA 99901
PHONE (907) 465-4000
FAX (907) 465-4004

CLERK
700 K CHAVEZ SUITE
450 HOOPER AVENUE
JUNEAU, ALASKA 99901
PHONE (907) 248-5107
FAX (907) 248-5100

MEMBER
HOUSE FINANCIAL COMMITTEE
HOUSE REVENUE COMMITTEE
HEALTH CARE & SOCIAL SERVICES COMMITTEE
LEGISLATIVE COUNCIL ON NATURAL RESOURCES

DISTRICT 20

Sectional Summary
of
SSHB 58 (JUD)

An Act Relating to Civil Actions

Section 1. **Legislative intent.** This section generally sets forth the legislative intent of this Act.

Section 2. **Minor consistency change.** This section clarifies that no change is being made to the Alaska Banking Code by the change in Section 23 of this Act, relating to a floating interest rate on judgments.

Section 3. **Certain property actions to be brought in six years.** This section is taken verbatim from the report of the Governor's Task Force on Civil Justice Reform ("Governor's Task Force"). It removes the existing six year statute of limitations for recovery of, or damages to, personal property, and reduces it to 2 years in Section 7.

Section 4. **Contract actions to be brought in three years.** This section is taken verbatim from the Governor's Task Force report. It adds a new section which imposes a three year statute of limitations on contract actions, thereby reducing it from the existing six year statute of limitations.

Section 5. **Statute of repose of eight years.** This section adds a new section which generally imposes an eight year statute of repose.

In this section, the statute of repose in design and construction cases begins to run on the earlier of the date of substantial completion of a construction project or of the last act alleged to have caused the personal injury, death or property damage. This changes existing law by reducing the time to bring an action from 15 years to eight.

In medical malpractice cases, the statute of repose is tolled until the actual discovery of a foreign object in the body of the injured person.

This section does not apply if the cause of action resulted from:

- (a) intentional or reckless disregard of plans and specifications or building codes in the design-construction area;
- (b) hazardous waste exposure;
- (c) intentional act or gross negligence;
- (d) fraud or fraudulent misrepresentation;

- (e) breach of express warranty or guarantee;
- (f) a defective product;
- (g) intentional concealment of facts;
- (h) where a shorter statute of limitations applies.

Section 6. Limitation of actions against health care providers. This section amends AS 09.10 by adding a new section. It generally requires that actions for medical malpractice involving children under the age of six at the time of the alleged negligent act or omission be brought before the child's eighth birthday, including actions involving birth injuries. This statute is tolled in cases where fraud or collusion, or intentional concealment of facts can be shown. It is also tolled until the actual discovery of a foreign object in the body of the injured person.

Section 7. Actions for torts, for certain statutory liabilities, and against peace officers and coroners to be brought in two years. This section amends AS 09.10.070(a) by including in the two year statute of limitations actions for recovery of, or damages to, personal property. Such actions previously were limited to a six year statute of limitations under AS 09.10.050. The report of the Governor's Task Force recommended this reduction.

This section also eliminates the conflict between existing subsections AS09.10.070(a)(2) - (3) with AS 09.10.090, to make clear the shorter statute of limitations of AS 09.10.090 controls in cases involving penalties and forfeitures to the state.

Language is added indicating that ordinary negligence and other non-intentional actions are covered by the two year statute of limitations.

Section 8. Noneconomic damages. This new section replaces an earlier version of this statute pertaining to noneconomic damages. This section generally places more stringent limits on the amounts which may be awarded for noneconomic damages. It also specifically adds loss of consortium to the list of items for which noneconomic damages may be sought.

This section lowers the recovery cap from \$500,000 to \$300,000 for pain, suffering, inconvenience, physical impairment, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary damage, unless the personal injuries are so severe that the claimant is a hemiplegic, paraplegic, quadriplegic, or has other specified disabilities, in which case the cap remains at \$500,000.

Section 9. Punitive damages. This new section replaces an earlier version of this statute, which defines the circumstances in which punitive damages may be awarded. This section incorporates the language used by the Alaska Supreme Court to require malice or conscious acts showing a deliberate disregard of another person from whom the punitive damages are sought.

Handwritten note: This doesn't add up.

Handwritten note: also includes PI & death

Handwritten notes: 09.17.010, 09.10.070(a)(2) - (3), 09.10.090, 09.10.050

Section 10. **Punitive damages.** This section relates to new subsections which are added to the preceding Section 9 in order to clarify and cap the amount of punitive damages which may be awarded.

Subsection (b) generally limits punitive damages to the greater of three times compensatory damages, or \$300,000.

Subsection (c) carves out an exception to subsection (b) in cases where the wrongful conduct arose in connection with commercial activities motivated by financial gain, and the likelihood of injury was previously known by the persons who made the subsequent policy decisions, but they nonetheless went forward with selling the product, or otherwise engaged in the commercial activities that resulted in serious personal injuries or death. Under these circumstances, the cap on punitive damages would be four times compensatory damages, or \$600,000, whichever is greater.

Subsection (d) requires that one half of any punitive damage award be paid into the general fund of the State of Alaska.

Section 11. **Award of damages; ~~periodic payments~~.** This section clarifies that an award for personal injuries is intended to include damages for death.

This section also includes in a new subsection (2) which requires that the amount of any judgment awarded shall be reduced by the amount of federal and state income taxes which would have been paid on the judgment under tax rates in effect on the date of the injury or death. Should the current federal income tax laws change in the future, with the result that the current tax treatment of personal injury awards (now not includible in gross income) changes, the reduction of judgment effect of this subsection automatically terminates without having to amend the statute.

Section 12. **Award of damages; periodic payments.** This section clarifies that cases involving judgments in excess of \$100,000 may be paid in periodic payments (structured settlements or annuities) rather than in a lump sum payment if either party to the action requests payment by periodic payments.

This subsection also provides that if part of the judgment is owed to an attorney under a contingent fee agreement, those fees shall be reduced to present value if necessary, and paid to the attorney in a lump sum, leaving the rest of the judgment to be paid to the client in periodic payments.

Section 13. **Award of damages; ~~periodic payments~~.** This section requires that if a structured settlement type of periodic payment is selected by the injured party, the court must require security be posted in the form of U.S. government obligations to ensure that the funds are available when they become due. Excepted from the posting of security requirement are the State of Alaska, self-insured municipalities, and insurance companies authorized to do business in the state if their financial strength is in the highest two categories as measured by any two nationally recognized independent rating services.

TAX REDUCTION

Tax

benefit to Δ
would have
paid
tax

SECURITY FOR PAYMENTS

→ em, if increase periodic pmts.

This section also clarifies that annuities are also a recognized method of making periodic payments, and that it is the injured party who decides whether to take a structured settlement or annuity type of periodic payment. However, an annuity type of periodic payment can only be issued by authorized insurers of the same quality as those which offer structured settlement type of periodic payments.

INFLATION ADJUST

Section 14. Award of damages; ~~periodic payments~~. This section clarifies that damage awards for personal injury or death are controlled by this statute.

This section also requires that either type of periodic payments provide for increases in future payments to compensate for inflation. It uses the Consumer Price Index for Anchorage as the standard for measuring increases in the rate of inflation.

Section 15. Collateral benefits. This section repeals and reenacts the collateral source statute, AS 09.17.070, which prevents double recovery by plaintiffs. In general, the award realized by an injured person is reduced by the amount of money the injured person has already received, or will likely receive in the future, from collateral sources.

Under the provisions of the existing collateral benefits statute, no evidence may be offered at the trial that the plaintiff was receiving, or would in the future receive, funds from various collateral sources. It is only after the verdict is in that the defense may offer evidence to show how much the plaintiff has received, or will receive in the future, from collateral sources.

This section will allow the defendant at trial to introduce evidence that the plaintiff has received, or will likely receive in the future, the types of collateral benefits appearing in subsection (b) of this section. However, the defendant is still precluded from offering at trial evidence of worker's compensation benefits received, life insurance death benefits received, and various federally funded collateral sources which by law must seek subrogation from the plaintiff's recovery under subsection (a).

The new subsection (c) prevents persons who pay the collateral benefits enumerated in subsection (b) from seeking reimbursement from the injured party, either directly or through subrogation rights.

The existing statute specifically excepts the collateral benefit statute from medical malpractice actions under AS 09.55. The new statute does not make that exception, with the result that the collateral benefit statute will apply in medical malpractice cases.

Section 16. Apportionment of damages.

By substituting the word "person" for the phrase "party to the action", this section extends apportionment of fault to nonparties to the action, thereby overruling Benner v. Wichman, 874 P.2d 949, 957 (Alaska 1994). Thus, this section requires state courts in the future to determine each person's share of the fault, whether or not that person is a party to the suit.

The elimination of two references to AS 09.16.040 is done because that statute was repealed by the 1987 Initiative Proposal.

Section 17. Apportionment of damages. This section amends AS 09.17.080(b) by allowing the trier of fact to assign a percentage of fault to two or more persons if their conduct was a cause of the damages claimed and the separate act or omission of each person cannot be distinguished.

Section 18. Apportionment of damages. This section eliminates a reference to AS 09.16.040 since that statute was repealed by the 1987 Initiative Proposal.

This section also anticipates and resolves an issue left open by Section 16, which would otherwise have been resolved in the future by the Alaska Supreme Court. Under existing law the nonparty employer would have been entitled to full reimbursement of its worker's compensation lien under AS 23.30.015(g), which would be unfair in instances where the employer was found in the third-party action to be mostly at fault. This section makes clear that the employer's lien is only recoverable from the injured employee's recovery in the third-party action to the extent that the lien exceeds the dollar amount of fault attributed to the employer in the third-party action.

Section 19. Definition; intentional torts. This section is taken verbatim from the Report of the Governor's Task Force. This section amends AS 09.17.900 to clarify its application to intentional acts.

Section 20. Expert witness qualification. This section requires that certain minimal standards be met by persons who testify in professional malpractice cases, including medical malpractice cases. The legislative purpose of this section is to maintain the integrity of testimony by expert witnesses in professional malpractice cases. Under existing law, it is easier to qualify expert witnesses who are more in the nature of "hired guns" than an expert in the particular profession.

If there is no certification board in the area, this clarifies that the expert witness must still be licensed and trained as set forth in this section.

Section 21. Offers of judgment. This section builds upon the approach taken from the Governor's Task Force report to encourage early settlements. This section places significantly more pressure on the parties to settle a case within 60 days after the Rule 26(a)(1) discovery disclosures have been made.

The approach taken in this section is to assess reasonable actual attorney fees against the offeree which are incurred after the date the offer is tendered, if the judgment finally entered is at least 5% less favorable to the offeree than the offer, whether the offer is tendered by the party making the claim, or the party defending against the claim. The phrase "reasonable actual attorney fees" is intended to mean the actual attorney's time expended, as

evidenced by time sheets and billing statements. That phrase is not intended to mean Rule 82 fees.

The encouragement to settle early is furnished by the sliding scale percentages of reasonable actual attorney fees expended, based on the time the offer is made. The maximum amount of settlement pressure will occur within 60 days after the Rule 26(a)(1) disclosures are made, since 100% of the reasonable actual attorney fees should provide a heavy inducement to settle, particularly against frivolous suits.

ATTORNEY FEES

Section 22. **Offers of judgment.** The first new subsection addresses cases where one party is entitled to attorney fees under the offer of judgment rule, but the other party technically prevailed at the trial. In those rare instances, it is the party making the successful offer of judgment under Civil Rule 68 that overrides any claims by the other party to a set off by the amount of Civil Rule 82 attorney fees. Further, no party is ever allowed to claim attorney fees under both Civil Rule 68 and Civil Rule 82, in instances where a party both made a successful offer of judgment and was the prevailing party at trial.

The second subsection makes clear that if a party makes multiple offers of judgment, the most recent offer revokes an earlier offer by operation of law.

FLOATING INT.

Section 23. **Interest on judgments; prejudgment interest.** This section provides for a floating or variable interest rate on judgments and prejudgment interest by making it three hundred basis points above the discount rate at the 12th Federal Reserve District as of January 2 of the year in which the judgment or decree is entered. Once set by this section, the interest rate does not change until satisfaction of the judgment or decree. Using the discount rate of the 12th Federal Reserve District is consistent with the way interest rates are determined under the usury statute, AS 45.45.010(b).

Risk
now
8%

The Governor's Task Force report recommends a floating interest rate on judgments and prejudgment interest. This section should satisfy those concerns.

Section 24. **Prejudgment interest.** This new section is intended to preclude prejudgment interest from being awarded for future economic and future noneconomic damages, as well as for punitive damage awards. It is consistent with existing Alaska case law. McConkey v. Hart, Alaska Supreme Court Opinion No. 441, November 29, 1996; Anderson v. Edwards, 625 P.2d 282, 289 (Alaska 1981).

Section 25. **Judgment for plaintiff; punitive damages.** This section contains a consistency change that applies the Section 23 interest rate to judgments against the State of Alaska.

Section 26. **Interest in condemnation proceedings.** This section contains a technical consistency change which leaves the interest rate in condemnation proceedings unchanged at 10.5%, notwithstanding the interest rate change in Section 23.

Section 27. Voluntary arbitration. This section modifies subsection (k) of the statute to make a consistency change regarding the repeal of AS 09.55.548, pertaining to collateral source set offs in medical malpractice arbitrations. That statute was repealed for the reason that it is no longer necessary in view of AS 09.17.070, which operates to adjust damages in all tort cases, including arbitrated medical malpractice cases.

Section 28. Medical advisory panels. This section is taken verbatim from the report of the Governor's Task Force. This provision amends AS 09.55.536(a) by making expert advisory panels available to state health care providers.

Section 29. Expert advisory panel; panel questions. This section is taken verbatim from the report of the Governor's Task Force. The proposed changes are intended to clarify that omissions as well as commissions are within the purview of the questions to be answered by the medical advisory panel.

Section 30. Expert advisory panel; discovery. This section is taken verbatim from the report of the Governor's Task Force. The change allows discovery to proceed within 60 days after the selection of a panel, irrespective of whether the panel has rendered its report. The change is intended to expedite reporting of answers to improve the usefulness of the medical advisory panel system.

Section 31. Expert advisory panel; public sector provider. This section is taken verbatim from the Governor's Task Force report. It should be read in tandem with AS 09.55.536(a), in that this provision makes clear the access of government healthcare providers to the expert medical advisory panel. The clarification is sought because some trial judges do not refer such cases, usually stemming from healthcare extended to prisoners in correctional facilities, to the expert advisory panel.

Section 32. Definitions; health care provider. This section amends the existing definition of health care providers to include various entities recently formed, and which will be formed, to provide health care services in the wake of the health care reforms which are taking place.

Section 33. Definitions; professional negligence and professional services. This section adds new subsections to define professional negligence and professional services in the health care area.

Section 34. Attorney contingent fee agreements. This section adds a new section AS 09.60.080 which clarifies that the 50% of punitive damage awards which are payable to the State of Alaska under Section 10 shall pass free and clear of any contingent fees which otherwise would have been deducted

under the terms of a contingent fee agreement between the attorney and the client. This section is also intended to protect the client from paying for contingent attorney fees calculated from the State's share of the punitive damages recovery.

Section 35. Civil liability of hospitals for nonemployees. This section adds a new section designated AS 09.65.096. This statute grants immunity to hospitals from liability for the acts or omissions of emergency room physicians who are independent contractors. Current law allows a claimant to sue only the hospital rather than the independent contractor who may have less ability to satisfy a judgment. This section will provide immunity to the hospital if it posts a notice of limited liability in all admission areas, and publishes a notice annually in a local newspaper. This section is intended to overrule the case of Jackson v. Powers, 743 P.2d 1376 (Alaska 1987).

Subsection (c) imposes, however, an additional condition of immunity to the hospital by requiring the emergency room physician to carry liability insurance in the amount of at least \$500,000 per incident.

Section 36. Damages resulting from commission of a felony, or while under the influence of alcohol or drugs. In general, the Governor's Task Force report recommends that a person who sustains personal injuries or death during the commission, or attempted commission of a felony, should be barred from recovering damages for those injuries.

This section goes further than the Governor's Task Force report, and extends the bar to recovery to those instances where the injured perpetrator is convicted of operating a motor vehicle, aircraft or watercraft while under the influence of intoxicating liquor or a controlled substance in violation of AS 28.35.030. This section also extends the bar to recovery to cases where the injured perpetrator was not convicted, but was nonetheless engaged in conduct that would constitute a violation of AS 28.35.030 if shown by clear and convincing evidence.

This section applies to survival and wrongful death actions which might otherwise have been brought by the personal representative of the perpetrator.

Section 37. Collection of settlement information. This section is taken verbatim from the Governor's Task Force report. It amends AS 09.68 by adding a new section which requires civil litigants who settle cases to file information about the settlements, including amounts paid to settle.

Section 38. Insurance report. This section is intended to require insurance companies to report information necessary to evaluate the impact of tort reform. This statute empowers the division of insurance to require reporting, by insurers doing business in this state, of information relating to premiums, claims, losses, expenses, and solvency of the company as a whole. This section obtains most of the information sought from the report of the

Governor's Task Force, while minimizing the regulatory burden on the insurance industry.

The June 1, 2000 commencement date for the reports to the governor and legislature is suggested by the division of insurance as a realistic starting date considering existing regulatory reporting deadlines.

Section 39. Appointment of independent counsel; conflicts of interest.

This section makes an insurer responsible only for the costs and attorney fees incurred by an independent counsel defending against claims for which the insurer has either accepted coverage or reserved its right to deny coverage. The insurer is not responsible for costs and attorney fees incurred in defending against claims for which the insurer has denied coverage.

Section 40. Appointment of independent counsel; conflicts of interest. In the context of an insured represented by independent counsel, this section allows an insurer to settle directly with a plaintiff as to claims for which the insurer has either accepted coverage or reserved its right to deny coverage, even though the claims for which the insurer denied coverage are not settled.

Section 41. Workers' compensation lien. This section is a consistency change to the workers' compensation statutes required by the change in Section 18 of this Act. The employer's workers' compensation lien is reduced by the amount of fault attributed to the employer in the third-party action.

Section 42. Motion to set trial and certificate. This section is taken verbatim from the report of the Governor's Task Force. It is intended to improve upon existing Superior Court fast track procedures by providing for a meeting of the parties and a pretrial conference.

Section 43. Alaska Rule of Civil Procedure 16.1(k)(4). This section is repealed as a consistency change to the foregoing section 42.

Section 44. Alaska Rule of Civil Procedure 16.1(n). This section also is a consistency change to the foregoing section 42. It replaces the pretrial order section of the existing fast track rule with a meeting of parties requirement.

Section 45. Settlement information. This section is taken verbatim from the report of the Governor's Task Force. It amends Civil Rule 41(a) by adding a new paragraph to require collection of settlement information as required by the new AS 09.68.130.

Section 46. Medical advisory panel; discovery. This section is taken verbatim from the report of the Governor's Task Force. It amends Civil Rule 72.1(g) by allowing discovery to proceed after 60 days after the selection of the panel in order to expedite obtaining panel reports.

Section 47. **Sanctions for rule violations.** This section modifies Civil Rule 95 by imposing increased sanctions against attorneys and their clients for any infraction of the rules, including Civil Rule 11. It permits fines of up to \$10,000 against attorneys, increased from \$1,000 under the existing rule.

Section 48. **Sanctions for rules violations.** This section also modifies Civil Rule 95 by allowing the trier of fact to enter judgment against a party intentionally making a false statement of a material fact on the issue to which the false statement relates.

Section 49. **Settlement information.** This section is taken verbatim from the report of the Governor's Task Force. This section changes Appellate Rule 511 to require the gathering of settlement information at the appellate level.

Section 50. **Civil Rule 16.1(k)(4).** This rule is repealed as a consistency change to Section 42.

09.55.548 < Section 51. **Collateral benefits.** This section was repealed because it is no longer necessary in view of AS 09.17.070, which operates to adjust damages in all tort cases, including in medical malpractice arbitrations.

Section 51. **Apportionment of damages.** This section changes Civil Rule 49 to conform to the changes made to AS 09.17.080(a)(2).

Section 52 - Section 60. **Technical changes.** These sections denote which civil and evidence rules have to change to be consistent with the statutory changes in this Act.

Section 61. **Alternative dispute resolution.** This section requires the Alaska Judicial Council to see what alternative dispute resolution programs have been used in other states and the federal courts in order to efficiently and economically structure such a program in the Alaska Court System. The report shall be ready in time for the second term of this 20th Legislature.

While the Governor's Task Force report proposes a pilot program, it seems prudent to see first what the experience has been in other jurisdictions before putting any program into operation.

Section 62. **Applicability.** This Act will apply to all causes of action accruing on or after the effective date of this Act.

Section 63. **Severability.** If any section of this Act is held invalid, the remainder of this Act shall not be affected.

Section 64. **Effective date.** This Act takes effect July 1, 1997.

CORDOVA OUTBOARD, INC.
P. O. BOX 960
CORDOVA, ALASKA 99574-0960

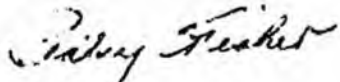
FEBRUARY 20, 1997

REP. BRIAN PORTER
ALASKA STATE CAPITAL
JUNEAU, ALASKA 99801

REPRESENTATIVE PORTER:

WE ARE A SMALL MARINE AND AUTO PARTS CORPORATION THAT DOES SERVICE WORK ON BOATS IN OUR AREA. WE SUPPORT HB 58: TORT REFORM. TORT REFORM IS VERY IMPORTANT TO THE SMALL AND INDEPENDENT BUSINESS COMMUNITY. WE REPRESENT THE ECONOMIC BACK BONE OF OUR NATION. PLEASE CONTINUE TO WORK TOWARD PROTECTING US IN COURT AGAINST THE EVER INCRASING COST OF PERSONAL INJURY CASES AND THE UNPREDICTABILITY OF JURIES IN AWARDDING DAMAGES WHICH HAVE HAD HUGE IMPACT ON SMALL BUSINESS.

SINCERELY,



PATSY FISHER, SECRETARY

REP. JOE GREEN ✓
REP. CON BUNDE
REP. NORM ROKEBERG
REP. JEANNETTE JAMES
REP. ERIC CROFT
REP. ETHAN BERKOWITZ



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
committee name

committee on H.B. 58, dated February 21, 1997
bill/subject

1. I believe that there should not be any
punitive damages unless the action was proven
to be premeditated.

2. Punitive damages should be no more than
2 times compensatory.

Thank you,

Signed: Walter Wood Walter Wood
Testifier

Self
Representing (Optional)

P.O. Box 868, Valdez ALASKA
Address

907-835-2408
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary committee name
 committee on HB 65, dated Feb 21, 1997.
 bill/subject

Please give enthusiastic support to HB 65. Partial-birth infanticide exists for two heinous reasons. One; for money. The fetal tissue research program will pay big bucks for the organs of unborn children. This is a big money industry that Clinton has ear-marked our tax dollars for, that masquerades as a developer of wonderful cures for heretofore untreatable conditions with fetal tissues. Claims that these tissues help Parkinsons and other diseases is totally unsubstantiated. These organs are barbarously ripped out of living, feeling, viable unborn babies for profit!

The other reason is that other abortion methods sometimes result in a live birth. Partial birth procedures assure infanticide.

Signed: Rebecca Perry
 Testifier

Kenai Soldatna Right to Life
 Representing (Optional)

PO Box 3623, Soldatna, AK 99669
 Address

907-260-3887
 Phone No.

GREGORY J. GREBE**ATTORNEY AT LAW****1015 WEST 7TH AVENUE
ANCHORAGE, ALASKA 99501****(907) 277-0077
FAX (907) 277-4864**

February 21, 1997

Representative Green
House Judiciary Committee

Dear Representative Green:

Let me see if I got this right about tort reform. The insurance company will not agree to reduce premiums with the passage of tort reform legislation. However, individual plaintiffs who have been catastrophically injured and others will have their rights lessened or eliminated by the tort reform legislation.

Those least able to handle evisceration of their rights will have their claims gutted. In exchange for this individual punishment, society as a whole receives zero benefit.

That is not what I call legislative responsibility. If I am missing the picture some how, I would like to have it explained to me how society in general or Anchorage in particular can receive some measurable benefit from this legislation if the insurance companies will not agree to lower their premiums. And if the insurance companies will not agree to lower the premiums, aren't we just making sure that the insurance companies will receive regular and large profits from the citizenry?

I would appreciate your thoughts.

Very truly yours,

LAW OFFICE OF GREGORY J. GREBE

Gregory J. Grebe

Rep/GJG:sc

To: Representative Joe Green and Lisa Kirsch
From: Jim Sourant

February 20, 1997

Re: HB 58

Lisa:

Please note the following witnesses will appear on the following days in support of HB 58:

A. Friday, February 21:

1. David McGuire, MD. *Andh*

Jeff Bush

Tom Stewart

~~Frank Ertle~~

Yould

B. Monday, February 24

Ketch → 1. David Johnson, MD. *Ketch*

A → 2. Dick Cattnach — *Amor*

A → 3. Ardie Gray — A

4. Mike Lessmeier

5. Mike Barcott

A — 6. A.L. Tamagni Sr.

7. Marianne K. Burke

8. Robert Valliant

A — 9. John Wheatley

A — 10. Colin Maynard

A — 11. Orin Seibert

A — 12. Glen Smith

13. Kevin Richie

A — 14. Steffani Galbraith-Moore

A → 15. Frank Dillon

16. Pam La Bolle

17. Neal McKinnon

A — Steve Burrell

cc: Brian Porter

Marlene Johnson

Mike Burns

Charlie Cole

2/24 Kent Dawson

Mike Schneider

HOUSE JUDICIARY COMMITTEE MEETING 2/26/97

HB 58

REP. GREEN - "H-1 has to do with the civil liability of electrical utility companies. I would like to amend this amendment, on line 8, remove the (.) after utility and add the following words: relating to the production and delivery of electrical service.

1014

REP. PORTER - Move the amendment to the amendment

1030

REP. PORTER - there has not been a case in this state that has determined that a electrical utility is strictly liable for the incidence resulting from their delivery and production of electrical service, but there have been some in the states. It has been that finding seems to be contrary to our law. There is a case currently in the state that has not yet been decided. That this allegation is being made, this obviously would not affect that case but it is for that reason that the utilities thought it appropriate to think ahead instead of waiting for the ax to fall. The additional language relating to the production and delivery of electrical services is basically added so that we're sure that we're not exempting the utilities from other strict liability they may have in relation to some other activity that their utilities might find themselves involved in. I don't know what other strict liability they may have but obviously here we're only referring to the production & delivery of their electrical service not some leaky storage tank that for whatever other federal consideration might provide some other standard.

1122

REP. GREEN - It is actually a little bit of belt and suspenders. We do have the (b) section which would probably exclude any of those, but it's innocuous and it does make sure that we are talking about only those generating electricity.

1137

REP. BERKOWITZ - I don't.. It's been along time since I've played in the realm of strict liability. I seem to recall that if there was inherently dangerous

material that created a problem, and usually the case is dynamite that explodes somewhere then strict liability attaches.

1161

REP. PORTER- That is in many cases the truth. Having read the Hornbook recitation. That recitations thought is that in many instances they do not find strict liability in the providing of the service that is required and regulated. As opposed to handling something that is inherently dangerous because you choose too. Utility service is regulated and it is a requirement that it be provided.

GREEN - Substations would follow under the same category they're inherently dangerous

1210

REP. CROFT - That was part of my concern too, on strict liability that there are inherently dangerous activities and it's too late in the game for Rep. Porter to be doing the 'ahw shucks I'm not a lawyer but' (ha ha ha) it's obvious he's been studying Prosser at night. I guess we can limit this sort of by our discussion here today. We understand the intent to be that electricity that providing electricity is a service rather than a product under the strict product liability rules and although I think we're jumping the gun a little seeing as there's no case that's determined otherwise and ah, this wouldn't affect the case that is, ah, it doesn't cause me much problem. I'd be more comfortable with language that talked about strict products liability rather than all the other portions liability, section (b) comes some ways towards that. But, not um gonna fight about this language with the understanding, that we're putting on the record that we're really talking about products liability and that we think of electricity as a service rather than a product.

GREEN - "That's right" Any other discussion? Rep. Berkowitz

1273

REP. BERKOWITZ - One other, and you can tell by the way I'm going to say this, that it's something that happens alot in the law. Is that in the amendment that Mr. Chair, you put forward, you talked about the production and delivery of electrical services. I'm always real leery of the conjunctive "and" instead of the disjunctive "or". And I, ... no hypothetical springs to mind but I'd much prefer "or" because what you do when you have "and" is that you impose two elements of proof on somebody instead of one.

1303

REP. GREEN - I would accept that as a friendly amendment. Any other discussion? Would there... are you offering that as an amendment?

BERKOWITZ - it's a friendly amendment

REP. GREEN - Is there objection to changing the conjunction "and" to "or"? Hearing none, we have modified that. What is the wish of the committee about this amendment?

REP. BUNDE - Has the amendment been moved? I thought the amendment was moved. Amendment #1

REP. GREEN - Is there objection? Hearing none that amendment is adopted. We go to amendment #2. It is entitled Rokeberg



Alaska State Legislature

Please enter into the record my testimony to the HJUD
 committee name
 committee on HB 58, dated 2-26-97
 bill/subject

On February 26, 1997 I spent some non-quality time listening to a legislative teleconference of the House Judiciary Committee impassionately plotting their goals for tort reform (HB 58). I was soon conscious of a predisposed assumption that, as a legislator, one has an honored right to claim an inherent wisdom to evaluate and limit the value of all other persons' loss of body parts, pain, suffering, disfigurement and / or mental anguish. This implies a wisdom able to project a responsible "fits all" guess that is accepted as superior to the reflected discussion that is the cumulation of all of those who are privy to all relevant, timely facts.

These legislators have demanded, and are prepared to establish, their designed governmental controlled, price-fixing rules defining the parameters that establish liabilities and the extent of harmful loss inflicted on all victims. They questioned the extent of a real disabling handicap resulting from a disfigurement. To me this appears as an ignorance of the habitual intolerance in a society that refuses equal consideration for those who are viewed as different. The legislators discussed the comparable loss values of different body parts. One legislator offered an opinion that the loss of both eyes was more acceptable than the loss of both legs. At that point I wanted to puke into the teleconference microphone; instead, I got up and left.

I suggest that legislative hearings be assigned ratings. I believe this hearing's tape be labelled: "Warning! Contains explicit audio of man's inhumanity to man."

Signed by a bleeding heart liberal,

Nale Bondurant

HCI Box 1197 Soldotna AK 99669

Address

262-0818

Phone No.



**LEGISLATIVE AFFAIRS AGENCY
INFORMATION & TELECONFERENCING**

130 Seward St., Suite 313

Juneau, AK 99801

Phone: 465-4648 Fax: 465-2864

February 26, 1997

Mr. Stephen Conn
PO Box 101093
Anchorage, Alaska 99510

Dear Mr. Conn:

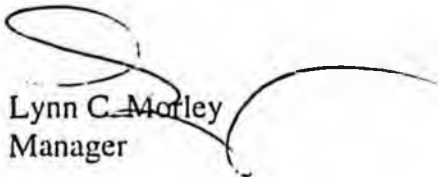
To ensure that everyone is treated respectfully and without prejudice at the Legislative Information Offices, there are certain criteria established for participating in a teleconferenced committee hearing.

First and foremost, teleconferences are extensions of the formal committee hearings and the chair of a committee determines the parameters of the meeting. We at the LIO do our utmost to enforce his or her wishes to enable those testifying to speak to the issues. Furthermore, when another person is testifying - whether you agree with what they are saying or not - you are not to disrupt them: This includes passing them notes, or interfering with their testimony in other ways.

On Friday, February 21, you participated in a House Judiciary Committee meeting via teleconference without incident. On Monday, February 24, you attended another meeting of the committee. Testimony pertaining to HB58 continued to be taken and it is my understanding that at that time not only did you interfere with a testifier, you directed inappropriate language toward other participants in the Anchorage meeting room, and finally made physical contact with Mr. Frank Dillon. Although you apologized to the LIO, I have instructed the Anchorage Legislative Information Office to ask you to leave should a situation such as this arise again.

Your cooperation in adhering to the protocols during teleconferences would be greatly appreciated.

Sincerely,


Lynn C. Motley
Manager

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

Date: February 26, 1997

To: Becky Hulse, Juneau LIO Office
Fax: 465-2864

From: Lisa Kirsch, House Judiciary Committee
Fax: 465-4316

Re: HCR 11 & HB 58
Meeting Today, 2/26/97, 1pm--Backup material

TCN No.: 70316

These materials are for the LIOs for today's meeting
Thanks for your assistance.

~~18 PAGES on HCR 11~~ SENT
10 → PAGES on HB 58

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

Date: February 25, 1997

To: Becky Hulse, Juneau LIO Office
Fax: 465-2864

From: Lisa Kirsch, House Judiciary Committee
Fax: 465-4316

Re: **HB 58**
Meeting Tomorrow, 2/26/97, 1pm--Backup material

TCN No.: 70316

These materials are for the LIOs for today's meeting
Thanks for your assistance.

31 PAGES TOTAL
→ 15 PAGES IN THIS GROUP



Alaska State Legislature

Written Testimony Form

Please enter into the record my testimony to the HOUSE JUDICIARY COMMITTEE
(committee name)

committee on HB 50, dated 2/24/1997
(bill/subject)

TO: HOUSE
RECORDS
465 2267
FROM: HOUSE
JUDICIARY
465-4316

Signed: ROSS MULLINS
Testifier Name

PWS FISHERMANS PLAINTIFF'S COMMITTEE + SELF
Representing (Optional)

P.O. BOX 1249 CORDOVA, AK, 99574
Address

907-424-3664 Fax 424-3937
Phone Number



Alaska State Legislature

Please enter into the record my testimony to the HJUD
 committee name
 committee on HB 58, dated 2-24-97
 bill/subject

I am against HB 58. I am not thoroughly up to speed on the issue, but I think it is wrong that the state would make money off of an individual's litigation and / or problems. A \$300,000. cap on litigation only hurts the "little man." It would wipe me out financially, but a big company of rich individuals would not be hurt proportionately. There needs to be something in the bill that addresses damages to nature or the environment. A great example would be the Exxon litigation. And finally, I would not want this legislation to be retroactive back to litigation that is currently in progress.

Signed: Gay L. Walker

Testifier —self—

Representing (Optional)

P.O. Box 2965 Seldovia - AK 99665
 Address

Phone No.



Alaska State Legislature

Written Testimony Form

Please enter into the record my testimony to the Judiciary - House
(committee name)

committee on HR 58, dated 2/24/97
(bill/subject)

Signed: Chen Show
Testifier Name

CDFW + UFA
Representing (Optional)

P.O. Box 939, Cordova
Address

907-424-3447
Phone Number

02/24/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1401
08:00:46 N CONFERENCE DISPLAY PAGE 01 - ORDER SUMMARY L357
TCN 70308 T/C DATE: 02/24/97 TIME: 13:00 to 15:00 STATUS: 3 ANNOUNCED

SPONSOR: HJUD HOUSE JUDICIARY CHAIRS: GREEN
PURPOSE: PUB PUBLIC-HEARING LEGISLATIVE
1ST ITEM: HB 58 CIVIL ACTIONS & ATTY PROVIDED BY INS CO. 1 ITEMS ON AGENDA
CONTACT: LISA KIRSCH TEL: (907)465-4990 MODERATOR: ZZZ
LOCATION STAFF
CHAIRING SITE: JUNEAU CAPITOL ROOM: CAP120 PRINTER: L900
PARTICIPATING LIOS: 4 VOLUNTEER SITES: 0 OFFNETS: 0

SPONSOR REMARKS(PUBLIC): TESTIMONY ALLOWED: Y 3 MINUTE LIMIT:
TESTIMONY WILL BE TAKEN WITH A 3 MINUTE LIMIT.
SEE COMMITTEE SCHEDULE IN BASIS
BACKUP MATERIAL: N

UPDATE NO: 2 ENTERED BY: LHSCJUD LAST UPDATED BY: LIOCBLK
REQUESTED ON: 02/18/97 ON: 02/18/97 ON: 02/21/97

MSG:
ENTER Pg# 02 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF6 Print PF12 Quit

*Anon
Junoau
Kenai
Ketelikan*

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

Date: February 24, 1997

To: Becky Hulse, Juneau LIO Office
Fax no. 465-2864

From: Lisa Kirsch, House Judiciary Committee
Fax no. 465-4316

Re: HB 58
Meeting Today 1pm--Backup material

These materials are for the LIOs for today's meeting

Thanks for your assistance.

PLEASE DELIVER

TO: Joe Green, Alaska State Legislature - House Judiciary Com.
Fax number: 1907-465-4316
From: Wasilla Realty - Wasilla, Alaska
Total number of pages: 2



Saturday, February 22, 1997

Tort reform is extremely important to Alaska. I hope you consider my attached comments.



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Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

Date: February 21, 1997
To: Legislative Legal
From: Lisa Kirsch, House Judiciary Committee
Re: Amendment to HB 58

Representative Green has asked that you put the following proposed amendment in proper form.

AS 09.65.____ Civil liability of electric utilities

(a) A public utility providing electric service to consumers pursuant to a certificate of public convenience and necessity issued by the Alaska Public Utilities Commission may not be held strictly liable for any property damage, death or personal injury suffered by any person as a result of the acts or omissions of the public utility.

(b) Nothing in this section shall be read to preclude the recovery of damages for the intentional, reckless or negligent acts or omissions of the electric utility.

We need this amendment by Monday afternoon. Thanks very much. Any problems or questions, call me at 4990.

to the pub
Samuel
92.05.22

MEMORANDUM

HB 58 file

Date: February 20, 1997
To: Joe Green
From: Lisa Kirsch
Re: **HB 58**
Proposed amend from Larry Markley for
Alaska Rural Electric Cooperative

Larry says he gave you a copy of the attached amendment proposal and you were considering sponsoring it. Is this true? Do you want me send it down to legislative. legal and request a draft?

He talked to me about this, but he suggested it was a definition change, not an immunity clause like the attached. the idea he gave me was that it the amend changed the definition of "electricity" from "a product" (which invokes strict liability) to "a service" (which invokes negligence--a higher hurdle for plaintiff).

The first obvious problem I see is the use of the phrase, "**shall not be strictly liable... .**" As you recall, that "shall not" violates the drafting rules. The next problem I see is that we may be giving the utility more protection than it needs to operate effectively. This amendment appears to be a grant assuring that the utility would **never** be strictly liable. Say the utility's power plant malfunctions somehow and people are injured. What if the injured people can show that the plant must be the source of the problem and that a well maintained plant wouldn't have this problem, but no one can pinpoint the exact cause because the system is so complex?

Electricity is inherently dangerous energy; the existing law may have been designed to hold a power utility to higher standard to assure that they will be motivated to take adequate precautions to protect the public. There may be circumstances where it would be good public policy to hold the utility strictly liable for injuries, even if the injured party cannot prove negligence and causation.

Perhaps the motivation of this amend comes from the clause "certificate of public convenience." Perhaps this certificate already provides for some accountability on the part of the utility that would be adequate to protect the public.

Let me know if you want me to dig deeper or send this to legislative legal for a draft.

1/27
BP - fax to
Harry Markley -
Thanks -
H

AMENDMENT TO TORT REFORM BILL
Proposed by Alaska Rural Electric Cooperative Association (ARECA)

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

AS 09.65 is amended by adding a new section to read:

AS 09.65.*** Civil liability of electric utilities.

(a) A public utility providing electric service to consumers pursuant to a certificate of public convenience and necessity issued by the Alaska Public Utilities Commission shall not be strictly liable for any property damage, death, or personal injury suffered by any person as a result of the acts or omissions of the public utility.

(b) Nothing in this section shall be read to preclude the recovery of damages for the intentional, reckless or negligent acts or omissions of the electric utility.

Joe - Would you please include this language in the Tort Reform bill - makes a lot of sense - requested by the Utilities. Thanks -
(Markley) Gail

Gail was - talked to
... patches around it
... be returned
Gail

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

Date: February 21, 1997

To: Becky Hulse, Juneau LIO Office
Fax: 465-2864

From: Lisa Kirsch, House Judiciary Committee
Fax: 465-4316

Re: **HB 58**
Meeting Today, 2/21/97, 1pm--Backup material

TCN No.: ~~70281~~ 70282

These materials are for the LIOs for today's meeting
Thanks for your assistance.

02/14/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1401
10:24:13 N CONFERENCE DISPLAY PAGE 01 - ORDER SUMMARY L357
TCN 70282 T/C DATE: 02/21/97 TIME: 13:00 to 15:00 STATUS: 1 REQUESTED

SPONSOR: HJUD HOUSE JUDICIARY CHAIRS: GREEN
PURPOSE: PUB PUBLIC-HEARING LEGISLATIVE
1ST ITEM: HB 58 CIVIL LIABILITY 1 ITEMS ON AGENDA
CONTACT: LISA KIRSCH TEL: (907)465-4990 MODERATOR: ZZZ
LOCATION STAFF

CHAIRING SITE: JUNEAU CAPITOL ROOM: CAP120 PRINTER: L900
PARTICIPATING LIOS: 3 VOLUNTEER SITES: 0 OFFNETS: 0

SPONSOR REMARKS(PUBLIC): TESTIMONY ALLOWED: Y 2 MINUTE LIMIT:
SEE COMMITTEE SCHEDULE IN BASIS
SEE COMMITTEE SCHEDULE IN BASIS
BACKUP MATERIAL: Y

UPDATE NO: 0 ENTERED BY: LHSCJUD LAST UPDATED BY: LHSCJUD
REQUESTED ON: 02/14/97 ON: 02/14/97 ON: 02/14/97

MSG:
ENTER Pg# 02 PF2 NexCC# ynnnn PF3 Exit PF4 Menu PF6 Print PF12 Quit

HB 58
FRIDAY

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

Date: February 20, 1997
To: Juneau LIO Office
Fax: 465-2864
From: Lisa Kirsch, House Judiciary Committee
TCN: 70282
Re:

Here are some additional backup materials for tomorrow's meeting.
Thanks for your assistance.

*THIS IS 2 SIDED
YOU WILL GET ODD PAGES
— THEN THE EVEN ONES*

02/14/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1401
10:21:35 N CONFERENCE DISPLAY PAGE 01 - ORDER SUMMARY L357
TCN 70281 T/C DATE: 02/19/97 TIME: 13:00 to 15:00 STATUS: 3 ANNOUNCED

SPONSOR: HJUD HOUSE JUDICIARY CHAIRS: GREEN
PURPOSE: PUB PUBLIC-HEARING LEGISLATIVE
1ST ITEM: HB 58 CIVIL LIABILITY 4 ITEMS ON AGENDA
CONTACT: LISA KIRSCH TEL: (907)465-4990 MODERATOR: ZZZ
LOCATION STAFF

CHAIRING SITE: JUNEAU CAPITOL ROOM: CAP120 PRINTER: L900
PARTICIPATING LIOS: 3 VOLUNTEER SITES: 0 OFFNETS: 0

SPONSOR REMARKS(PUBLIC): TESTIMONY ALLOWED: N 0 MINUTE LIMIT:
THIS IS LISTEN ONLY.
SEE COMMITTEE SCHEDULE IN BASIS
BACKUP MATERIAL: N

UPDATE NO: 1 ENTERED BY: LHSCJUD LAST UPDATED BY: LIOCLBK
REQUESTED ON: 02/14/97 ON: 02/14/97 ON: 02/14/97

MSG:
ENTER Pg# 02 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF6 Print PF12 Quit

HB 58

02/19/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1401
08:45:25 N CONFERENCE DISPLAY PAGE 01 - ORDER SUMMARY L357
TCN 70281 T/C DATE: 02/19/97 TIME: 13:00 to 15:00 STATUS: 3 ANNOUNCED

SPONSOR: HJUD HOUSE JUDICIARY CHAIRS: GREEN
PURPOSE: PUB PUBLIC-HEARING LEGISLATIVE
1ST ITEM: HB 58 CIVIL ACTIONS& ATTY PROVIDED BY INS CO. 4 ITEMS ON AGENDA
CONTACT: LISA KIRSCH TEL: (907)465-4990 MODERATOR: ZZZ
LOCATION STAFF
CHAIRING SITE: JUNEAU CAPITOL ROOM: CAP120 PRINTER: L900
PARTICIPATING LIOs: 6 VOLUNTEER SITES: 0 OFFNETS: 1

SPONSOR REMARKS(PUBLIC): TESTIMONY ALLOWED: N 0 MINUTE LIMIT:
THIS IS LISTEN ONLY.
SEE COMMITTEE SCHEDULE IN BASIS
BACKUP MATERIAL: Y

UPDATE NO: 5 ENTERED BY: LHSCJUD LAST UPDATED BY: LIOCBLK
REQUESTED ON: 02/14/97 ON: 02/14/97 ON: 02/18/97

MSG:
ENTER Pg# 02 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF6 Print PF12 Quit

02/19/97 LEGISLATIVE TELECONFERENCE NETWORK LTN1403
08:46:04 N CONFERENCE DISPLAY PAGE 03 - PARTICIPATING LIOs L357
TCN 70281 T/C DATE: 02/19/97 TIME: 13:00 to 15:00 STATUS: 3 ANNOUNCED

* LIO	NAME	ROOM ADDRESS	ROOM#	MODERATOR
ANC	ANCHORAGE	716 W 4TH, #200	ZZZ	ZZZ LOCATION STAFF
BAR	BARROW	COURTHOUSE #305	ZZZ	ZZZ LOCATION STAFF
COR	CORDOVA	705 2ND STREET	ZZZ	ZZZ LOCATION STAFF
FBX	FAIRBANKS	119 N CUSHMAN ST	ZZZ	ZZZ LOCATION STAFF
* JNU	JUNEAU	CAPITOL	CAP120	ZZZ LOCATION STAFF
KEN	KENAI LIO	145 MAIN ST LOOP	ZZZ	ZZZ LOCATION STAFF

MSG: 1410 NO FURTHER INFORMATION
ENTER Pg# 04 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF5 Update PF7 Bwd PF8 Fwd

02/19/97

LEGISLATIVE TELECONFERENCE NETWORK

LTN1402

08:45:49 N

CONFERENCE DISPLAY PAGE 02 - AGENDA

L357

TCN 70281

T/C DATE: 02/19/97 TIME: 13:00 to 15:00

STATUS: 3 ANNOUNCED

REF#	BILL	BILL TITLE/SUBJECT
01	HB 58	CIVIL ACTIONS& ATTY PROVIDED BY INS CO.
02	HB 3	DISCLOSURES RE FELONY ARRESTS OF MINORS
03	HB 6	RELEASE OF INFORMATION ABOUT MINORS
04	HCR 4	SEPARATE RECORDS FOR DELINQUENTS & CINA

MSG:

ENTER Pg# 03 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF5 Update

PF12 Quit

Lisa -

I didn't want to break in
on Daveed's briefing -

We'd like to have (for HB 58
hearings) ~~Jeff Bush~~

Jeff Bush

+ Judge Tom Stewart -
Chair of Task Force

testify on Friday.

Please schedule Markere Johnson
for Monday. She was TF Vice Chair

I may have Mike Burns +/or
Charlie Cole to work in too -
or maybe they've called directly
to you - Thanks -

Crystal Smith

x 2132

Kennedy & Co. LLC

Dan F. Kennedy, CPA, MBA and Janet C. Kennedy CPA
Lakeview Professional Building
851 E. Westpoint Dr., Suite 108
Wasilla, Alaska 99654

work phone: 907.376-1272
fax: 907.373-1272

Internet Home Page: <http://www.corecom.net/~kennedpp>
Internet Email Address: kennedpp@corecom.net

February 22, 1997

To: Representatives of the Alaskan Legislature

Re: Support of HB 58 - Tort Reform

Thank you for your hard work on HB 58. We appreciate all of your efforts with helping Alaskans create a sensible tort framework.

Kennedy & Co. LLC is a family owned certified public accounting firm. We serve many small businesses. Kennedy & Co. LLC is a small firm that

BBFM
Engineers Inc.

510 L Street, Suite 200
P.O. Box 91139
Anchorage, AK 99509-1139
(907) 274-2236
(907) 274-2520 FAX

Facsimile Cover Sheet

To: REP. JOE GREEN Fax No.: _____

Company: ALASKA HOME OF REP. Project No.: HBSB

From: COLIN MAYNARD Project Name: TORT REFORM

Pages including Cover Page: 2 Date/Time: _____

Comments: _____

CC: SHARON MACKLIN, DWAYNE ADAMS

Dennis L. Berry, PE

Forrest Braun, PE

Troy J. Feller, PE

Colin Maynard, PE



UNIT COMPANY, 8101 OLD SEWARD HWY, ANCHORAGE, AK 99518

FAX

Date: February 24, 1997

Number of Pages: _____

Project: _____

To: Jim Sourant

Company: _____

Phone: _____

Fax: _____

From: _____

Company: UNIT COMPANY

Phone: (907) 349-6666

Fax: (907) 522-3484

Remarks:

Attached is the information that was requested from my testimony. On the surface, the information may be a little difficult to understand, but I believe that I can easily explain the meaning.

In any event, I believe that the information shows that 8 years provides plenty of protection for most claims.

Dick

COPY FAXED TO: _____

FILE: _____



Alaska State Legislature

Please enter into the record my testimony to the All House Members
committee name .

committee on HB 65 / Partial Birth Abortion dated 3/3/97
bill/subject

*It occurs to me that the trend is going
toward if the umbilical cord is attached abortion
is still an option.*

*Do Not Allow Partial Birth, or any other
type of Abortions.*

Signed: M. W. Schuur M. W. Laburne.
Testifier

Representing (Optional)

Box 6369 Sitka AK 99835

Address

907 747-4850

Phone No.

Alaska State Legislature

Representative Brian S. Porter

HOUSE MAJORITY LEADER

MEMBER
HOUSE JUDICIARY COMMITTEE
HOUSE RULES COMMITTEE
HEALTH, EDUC. & SOCIAL SERVICES COMMITTEE
LEGISLATIVE COUNCIL JOINT COMMITTEE



DISTRICT 20

SESSION:
STATE CAPITOL ROOM 216
JUNEAU, ALASKA 99501-1182
PHONE: (907) 465-4930
FAX: (907) 465-3834

INTERIM:
716 W. 4TH AVE., SUITE 360
ANCHORAGE, AK 99501-2133
PHONE: (907) 258-8197
FAX: (907) 258-5510

To: All majority Representatives and Senators

Fm: Brian Porter *Brian*

Subj: HB 58 tort reform

April 9, 1997

No doubt each of you have received a copy of Representative Berkowitz's April 8 memorandum about the standards for punitive damages.

Suffice it to say, his interpretation of the standards for the imposition of punitive damages in *Cummings v. Sea Lion Corporation* makes a distinction without a difference. In any event, to the extent there is a difference, an amendment was already in the works which will satisfy his concerns.

This is a non-issue. Let us move forward.

LAW OFFICES OF,
COWAN GERRY & AARONSONRobert Merle Cowan
Daniel L. Aaronson909 Cook Avenue • Kenai, AK 99611
110 Laurel St. • San Diego, CA 92101-1486Telephone 907-283-7187
Facsimile 907-283-4753Richard F. Gerry*
of Counsel
*not admitted in Alaska

April 9, 1997

MEMORANDUM*Corrected copy
3rd paragraph
2nd sentence*

TO: Representative Brian Porter
FROM: Robert M. Cowan, Exxon Plaintiffs Committee
SUBJECT: H.B. 58, Tort Reform and Rep. Porter's memo of April 4, 1997 on said subject.

Dear Representative Porter:

I received a copy of your April 4, 1997 memorandum to all majority Representatives and Senator's regarding H.B. 58 and have been asked to respond to some of the legal contentions contained therein. First, we would like to state that we do not adopt the governors advisory Task Force Bill either. The Exxon plaintiffs feel that it is unneeded and unnecessary legislation. Secondly we would note that we do not believe this task force was dominated by trial lawyers, in as much as no Exxon attorneys were even invited to participate. Nor were any fisherman or other of our clients invited to participate and Bill Allen, Judith Brady & Mike Burus were members of the task force. We also disagree with its recommendations as going too far and doing too much.

You also state in your memorandum that H.B. 58 would not apply to an Exxon Valdez situation, because Federal Maritime law preempts Alaska law. Someone has provided you with absolutely incorrect legal advise regarding this issue. The Alaska Supreme court on March 7, 1997 of this year handed down a decision in Hughes v. Foster Wheeler Company, (Supreme Court Number S-6928) [No. 4790 - March 7, 1997], which clearly stated that Alaska state law would be applied in a Federal Maritime law context, such as the Exxon Valdez, so long as there was no direct federal maritime or admiralty law with which it conflicted. In this case, there is none, that H.B. 58 directly conflicts with. Therefore, H.B. 58 could in fact be applied in a future Exxon Valdez situation unless it is re-written.

Your memorandum also indicates that under the terms of H.B. 58 that damages in an Exxon Valdez situation would be not affected. Once again we believe that you have been given incorrect legal advice regarding this issue. H.B. 58 would not allow for the inclusion of any settlements, such as those the State of Alaska entered into. Take away the 50% that would go to the State of Alaska, the leftover balance under H.B. 58 for the Exxon Valdez case would be significantly less than you project!

The next thing we would like to take issue with is what we have called the "Hazelwood Exception" in H.B. 58. This is section 09.17.020, which requires malice or conscious acts showing deliberate disregard of another person by the person from whom the punitive damages are sought". We again believe that you have been given incorrect legal advice regarding what the Alaska Supreme Court's holding was in the case of, Cummings v. Sea Lion Corporation, 924 P.2d 1011 (Alaska 1996). That case clearly stands for the proposition that malice and reckless indifference are two separate concepts and are treated as such by the Alaska Supreme Court. If it is your contention that H.B. 58 stands for that proposition, then there should be no objection to amending that Bill to clearly state that malice includes reckless indifference to the rights of others.

The Exxon Valdez plaintiffs respectfully request you seek additional and supplementary legal advice relating to the issues we have raised in our memorandum. H.B. 58 is presently structured to be potentially disastrous to not only the pending appeals in the Exxon Valdez litigation, but to any future similar disaster that may occur. By the way, there are over 400 attorneys involved in the Exxon case and over 60 law firms.

Thank you for your consideration.

Sincerely,



Robert Merle Cowan
Exxon Valdez Plaintiffs

cc: All Representatives
All Senators
Governor's Office