

**ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672**

**9197 HOUSE JUDICIARY**

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. HB203 (L&C)

Revision Date: \_\_\_\_\_  
Title: Actions for Unlawful Trade Practices

Department: Commerce and Economic Development  
BRU: Banking, Securities and Corporations  
Component: Banking, Securities and Corporations

Sponsor: Rep. Dyson  
Requestor: House Judiciary

COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES</b>	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/Mental Health						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 98) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by: Willis F. Kirkpatrick, Director  
Division: Banking, Securities and Corporations  
Approved by Commissioner: Deborah B. Sedwick  
Agency: Commerce and Economic Development

Phone: 465-2521  
Date: 1-28-98  
Date: 2/1/98

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## NOTES TO DECISIONS

**Constitutionality.** — Absent a history or strong likelihood of uneven application, this article cannot be said to be unconstitutionally vague. *State v. O'Neill Investigations, Inc.*, 609 P.2d 520 (Alaska 1980).

Any defects in the constitutional sufficiency of the warning provided by this article is cured by authoritative administrative interpretations of the Federal Trade Commission which clarify obscurities or resolve ambiguities. *State v. O'Neill Investigations, Inc.*, 609 P.2d 520 (Alaska 1980).

**Article not applicable to sale of real property.** — This article does not apply at all to the sale of real property; rather, the entire thrust of this article is directed at regulating practices of relating to transactions involving consumer goods and services. *State v. First Nat'l Bank*, 660 P.2d 406 (Alaska 1982).

**Liberal construction.** — The provisions of this article should not be strictly construed, for it is basic that remedial civil statutes are to be accorded a liberal

construction. *State v. O'Neill Investigations, Inc.*, 609 P.2d 520 (Alaska 1980).

The act is remedial, and therefore it is to be liberally construed. *State v. First Nat'l Bank*, 660 P.2d 406 (Alaska 1982).

This article, as applied, is not a punishment. *State v. O'Neill Investigations, Inc.*, 609 P.2d 520 (Alaska 1980).

This article embraces independent collection practices. *State v. O'Neill Investigations, Inc.*, 609 P.2d 520 (Alaska 1980).

The exemption clause of AS 45.50.481(a)(1) withdraws the activities of independent collection agencies from the scope of the Unfair Trade Practices and Consumer Protection Act. *State v. O'Neill Investigations, Inc.*, 609 P.2d 520 (Alaska 1980).

Cited in *Vertecs Corp. v. Reichhold Chemicals, Inc.*, 671 P.2d 1273 (Alaska 1983); *Shooshanian v. Wagner, Borden, Inc.*, 672 P.2d 455 (Alaska 1983).

**Collateral references.** — When statute of limitations commences to run on an action under state deceptive trade practice or consumer protection act, 18 ALR4th 1340.

*Sec. 45.50.470. [Repealed, § 1 ch 246 SLA 1970.]*

**Sec. 45.50.471. Unlawful acts and practices.** (a) Unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce are declared to be unlawful.

(b) The terms "unfair methods of competition" and "unfair or deceptive acts or practices" include, but are not limited to, the following acts:

- (1) fraudulently conveying or transferring goods or services by representing them to be those of another;
- (2) falsely representing or designating the geographic origin of goods or services;
- (3) causing a likelihood of confusion or misunderstanding as to the source, sponsorship, or approval, or another person's affiliation, connection, or association with or certification of goods or services;
- (4) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have;
- (5) representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, secondhand, or seconds;
- (6) representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;
- (7) disparaging the goods, services, or business of another by false or misleading representation of fact;
- (8) advertising goods or services with intent not to sell them as advertised;
- (9) advertising goods or services with intent not to supply reasonable expectable public demand, unless the advertisement prominently discloses a limitation of quantity;
- (10) making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;
- (11) engaging in any other conduct creating a likelihood of confusion or of misunderstanding and which misleads, deceives or damages a buyer or a competitor in connection with the sale or advertisement of goods or services;
- (12) using or employing deception, fraud, false pretense, false promise, misrepresentation, or knowingly concealing, suppressing, or omitting a material fact with intent that

- (29) violating AS 45.45.910(a), (b), or (c);
- (30) failing to comply with AS 45.50.473;
- (31) violating the provisions of AS 45.45.400;
- (32) knowingly selling a reproduction of a piece of art or handicraft to a resident of the state unless the reproduction is clearly labeled as a reproduction in a separate paragraph, "reproduction" means a copy of an original if the copy is
- (A) substantially the same as the original; and
- (B) not made by the person who made the original;
- (33) violating AS 08.66.010 — 08.66.090 (motor vehicle dealers);
- (34) violating AS 08.66.200 — 08.66.350 (motor vehicle buyers' agents);
- (35) violating AS 45.63 (telephonic solicitations);
- (36) violating AS 45.68 (charitable solicitations);
- (37) violating AS 45.50.474 (on board promotions);
- (38) referring a person to a dentist or a dental practice that has paid or will pay a fee for the referral unless the person making the referral discloses at the time the referral is made that the dentist or dental practice has paid or will pay a fee based on the referral;
- (39) advertising that a person can receive a referral to a dentist or a dental practice without disclosing in the advertising that the dentist or dental practice to which the person is referred has paid or will pay a fee based on the referral if, in fact, the dentist or dental practice to which the person is referred has paid or will pay a fee based on the referral;
- (40) violating AS 45.50.477(a) — (c);
- (41) failing to comply with AS 45.50.475.
- (c) The unlawful acts and practices listed in (b) of this section are in addition to and do not limit the types of unlawful acts and practices actionable at common law or under any other state statutes.
- (d) [Repealed, § 21 ch 166 SLA 1978.] (§ 2 ch 246 SLA 1970; am § 1 ch 53 SLA 1971; am § 1 ch 138 SLA 1974; am § 1 ch 183 SLA 1975; am § 2 ch 146 SLA 1976; am § 1 ch 181 SLA 1976; am § 3 ch 234 SLA 1976; am § 21 ch 166 SLA 1978; am § 12 ch 181 SLA 1986; am § 2 ch 59 SLA 1990; am § 3 ch 82 SLA 1990; am § 1 ch 92 SLA 1992; am § 1 ch 118 SLA 1992; am § 6 ch 10 SLA 1993; am § 3 ch 60 SLA 1993; am § 4 ch 108 SLA 1994; am § 2 ch 22 SLA 1995; am § 1 ch 69 SLA 1995; am § 3 ch 142 SLA 1996)

**Revisor's notes.** — Paragraph (b)(24) was enacted as (b)(23) and paragraph (b)(25) was enacted as (b)(22); renumbered in 1976. Paragraph (b)(28) was enacted as (b)(27); renumbered in 1986. Paragraphs (b)(24) and (25) were enacted as (b)(23) and (b)(22), respectively; renumbered in 1976. Paragraph (b)(28) was enacted as (b)(27); renumbered in 1986. Paragraph (b)(30) was enacted as (b)(29); renumbered in 1990. Paragraph (b)(32) was enacted as (b)(31); renumbered in 1992, at which time "AS 45.45.400" was substituted for "AS 45.45.410" to correct a manifest error in § 2, ch. 118, SLA 1992. Paragraphs (b)(35) and (36) were enacted as (b)(33) and (34), respectively; renumbered in 1993. Paragraph (b)(40) was enacted as (b)(38); renumbered in 1995.

**Effect of amendments.** — The first 1990 amendment added paragraph (b)(29).

The second 1990 amendment added paragraph (b)(30).

The first 1992 amendment, effective October 1, 1992, added paragraph (b)(32).

The second 1992 amendment, effective September 20, 1992, added paragraph (b)(31).

The first 1993 amendment, effective May 5, 1993, added paragraphs (b)(33) and (b)(34).

The second 1993 amendment, effective September 16, 1993, added paragraphs (b)(35) and (b)(36).

The 1994 amendment, effective June 11, 1994, added paragraph (b)(37).

The first 1995 amendment, effective August 8, 1995, in subsection (b), added paragraphs (38) and (39).

The second 1995 amendment, effective September 3, 1995, added paragraph (b)(40).

The 1996 amendment, effective November 4, 1996, added paragraph (b)(41).

**Legislative history reports.** — For report on ch. 246, SLA 1970 (FCCS 2d HCS CSSB 352), see 1970 House Journal Supplement 10, following p. 743 of the 1970 House Journal; for report of the conference committee, see either 1970 House Journal, p. 1546, or 1970 Senate Journal, p. 1296.

#### NOTES TO DECISIONS

This statute did not chill constitutionally protected speech, where the speech in question involved communications regarding alleged debts and thus fell within the rubric of commercial speech.

others rely upon the concealment, suppression or omission in connection with the sale or advertisement of goods or services whether or not a person has in fact been misled, deceived or damaged;

(13) failing to deliver to the customer at the time of an installment sale of goods or services, a written order, contract, or receipt setting out the name and address of the seller and the name and address of the organization that the seller represents, and all of the terms and conditions of the sale, including a description of the goods or services, which shall be stated in readable, clear, and unambiguous language;

(14) representing that an agreement confers or involves rights, remedies or obligations which it does not confer or involve, or which are prohibited by law;

(15) knowingly making false or misleading statements concerning the need for parts, replacement, or repair service;

(16) misrepresenting the authority of a salesman, representative or agent to negotiate the final terms of a consumer transaction;

(17) basing a charge for repair in whole or in part on a guaranty or warranty rather than on the actual value of the actual repairs made or work to be performed on the item without stating separately the charges for the work and the charge for the guaranty or warranty, if any;

(18) disconnecting, turning back or resetting the odometer of a vehicle to reduce the number of miles indicated;

(19) using a chain referral sales plan by inducing or attempting to induce a consumer to enter into a contract by offering a rebate, discount, commission, or other consideration, contingent upon the happening of a future event, on the condition that the consumer either sells, or gives information or assistance for the purpose of leading to a sale by the seller of the same or related goods;

(20) selling or offering to sell a right of participation in a chain distributor scheme;

(21) selling, falsely representing or advertising meat, fish or poultry which has been frozen as fresh food;

(22) failing to comply with AS 45.02.350;

(23) failing to comply with AS 45.45.130 — 45.45.240;

(24) counseling, consulting or arranging for future services relating to the disposition of property upon death whereby certain personal property, not including cemetery lots and funeral services, will be furnished or the professional services of a funeral director or embalmer will be furnished, unless the person receiving money or property deposits the money or property and money or property is received, within five days of its receipt, in a trust in a financial institution whose deposits are insured by an instrumentality of the federal government designating the institution as the trustee as a separate trust in the name of the person on whose behalf the arrangements are made with a provision that the money or property may only be applied to the purchase of designated merchandise or services and should the money or property deposited and any accrued interest not be used for the purposes intended on the death of the person on whose behalf the arrangements are made, the money or property in the trust shall become part of that person's estate; provided that if the person on whose behalf the arrangements are made, all money or property in the trust including accrued interest, shall be paid to that person; this paragraph does not prohibit the charging of a separate fee for consultation, counseling or other services if the fee is disclosed to the person making the arrangement; any arrangement under this paragraph which would constitute a contract of insurance under the provisions of AS 21;

(25) failing to comply with the terms of AS 45.50.800 — 45.50.850 (Alaska Gasoline Marketing Act);

(26) failing to comply with AS 45.30 relating to mobile home warranties and mobile

(27) failing to comply with AS 14.48.060(b)(13);

(28) failing to comply with AS 08.55;

**FISCAL NOTE**

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. HB 267**

Revision Date: (Note if correction)  
 Title: An Act relating to domestic violence and sexual assault  
 Sponsor: Representative Kelly  
 Requestor: (H) JUD

Department Affected: Administration  
 BRU: Public Defender Agency  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1C37 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 98) cost: \$ none

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

This bill does not fiscally impact the Public Defender Agency.

Prepared by: Barb Brink  
 Division: Public Defender Agency

Phone: 264-4400  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 2/9/98

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LTN1100-R01  
01/30/98

LEGISLATIVE TELECONFERENCE NETWORK

PAGE 01  
14:13:24

TCN: 80184 DATE & TIME: 01/30/98 13:00 TO 15:00 STATUS:5 IN PROG.

\*\*\*\* ORDER SUMMARY \*\*\*\*

SPONSOR: HJUD HOUSE JUDICIARY CHAIRS: GREEN  
PURPOSE: PUB PUBLIC HEARING LEGISLATIVE  
CONTACT: KEVIN JARDELL TEL#: (907)645-4990  
CHAIRING SITE: JUNEAU CAPITOL CAP120  
TOLL FREE: (800)478-7612 DIAL-UP: LIO: (800)478-9908

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

SPONSOR REMARKS (LIO): BACKUP MATERIAL:N MEETING IN PROGRESS:N MAX. SITES: 5  
TESTIMONY BY INVITATION ONLY.  
OTHER SITES CAN ADD TO LISTEN IN.  
TCN REQUESTED ON 01/30/98 AND HAS 4 UPDATES

\*\*\*\* AGENDA \*\*\*\*

1 HB 203 ACTIONS FOR UNLAWFUL TRADE PRACTICES

\*\*\*\* PARTICIPATING LIOS \*\*\*\*

ANC ANCHORAGE 716 W 4TH, #200 LOCATION STAFF  
FBX FAIRBANKS 119 N CUSHMAN ST LOCATION STAFF  
\* JNU JUNEAU CAPITOL CAP120 LOCATION STAFF

\*\*\*\* VOLUNTEER & OFFNET SITES \*\*\*\*

ZZZ OF1 OFFNET 1 FAIRBANKS DEVILLE SCHULTZ (907)269-5265

PARTICIPANTS IN:ANCHORAGE

ANC

1	THELMA LANGDON	ANCHORAGE	UNABL HB 203	
	2363 CAPTAIN COOK DR	ANCHORAGE	AK 99517 (907)248-0834	* ✓
2	JAMES BEVERIDGE	ANCHORAGE	UNABL HB 203	
	507 E ST, #202	ANCHORAGE	AK 99501 (907)278-3661	* ✓
3	LES GARA	ANCHORAGE	UNABL HB 203	
	1242 W 10TH	ANCHORAGE	AK 99501 (907)274-6730	* ✓
4	RON HAMMETT	ANCHORAGE	UNABL HB 203	
	3512 STANFORD DR	ANCHORAGE	AK 99508 (907)279-2339	* ✓
5	FLOYD E. HEIMBUCK	ANCHORAGE	OBSV. HB 203	
	2140 SARATOGA	ANCHORAGE	AK 99517 (907)276-1059	* ✓
6	ELLA CRIS	ANCHORAGE	OBSV. HB 203	
	1416 BIRCHWOOD	ANCHORAGE	AK 99508 (907)279-2818	* ✓
7	LOLA J. REED	ANCHORAGE	OBSV. HB 203	
	831 W 19TH AVE	ANCHORAGE	AK 99503 (907)279-3006	* ✓

\*\*\*\* SCHEDULING NOTES \*\*\*\*

GAVE KEVIN 800# FOR OFFNET. BH

*For Kevin*

\*\*\*\* UPDATES \*\*\*\*

01 01/27/98 14:20:07 ANNOUNCING TELECONFERENCE  
02 01/29/98 13:41:47 DROPPED INVITATION TESTIMONY ONLY.  
02 01/29/98 13:41:48 TESTIMONY IS ALLOWED WITH A 3 MINUTE  
03 01/30/98 12:07:28 FAIRBANKS ADDED ON  
04 01/30/98 13:46:07 TELECONFERENCE HAS BEEN CANCELED

01/30/98  
13:15:53

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN:80184 SCHEDULED FOR:01/30/98 13:00 TO 15:00  
PUBLIC HEARING HOUSE JUDICIARY

LTN1150  
BY:ANC  
FOR:ANC

LOCATION: ANCHORAGE

HB 203	THELMA	LANGDON	TESTIFY
HB 203	JAMES	BEVEERIDGE	TESTIFY
HB 203	LES	GARA	TESTIFY
HB 203	RON	HAMMETT	TESTIFY

Floyd  
Heimbuck  
is present in  
Anchorage  
BUT does not  
WANT TO TESTIFY  
Today



COMMITTEE: House Judiciary

Subject of meeting:  
HB 203 - ACTIONS FOR UNLAWFUL TRADE PRACTICES

DATE: January 30, 1998

# SIGN-IN

PLEASE PRINT!  
NAME

ADDRESS (MAILING / ZIP)

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY?

NAME	ADDRESS (MAILING / ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Vera A Gazaway	415 Willoughby Ave # 414 Juneau	586-1777	Older Persons Action Group	✓
Marie Darlin	415 Willoughby # 506 Juneau	586-3137	NARFE	✓
Bea Shepard	12565 Glacier Hwy Juneau 99801	789-7354	Juneau Co Aging	✓
Eugene Daw	Box 20995 Juneau 99802	586-3816	CARRP Eugene Daw	
Robin Lown	POB 33885 Juneau 99803	463-7188	Air Peace Officers Assn	

0-LS0553L  
Bannister  
4/24/97

CS FOR HOUSE BILL NO. 203( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES DYSON, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to actions for unlawful trade practices."

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

3 \* Section 1. AS 45.50.473(c) is amended to read:

4 (c) A violation of this section constitutes an unfair or deceptive act or practice  
5 under AS 45.50.471. It [NOTWITHSTANDING AS 45.50.531(a), IT] is presumed  
6 that actual damages to the consumer under AS 45.50.531(a) are equal to the cost of  
7 the service provided plus \$200. Additional damages must be proved.

8 \* Sec. 2. AS 45.50.531(a) is amended to read:

9 (a) A person who suffers an ascertainable loss of money or property, or who  
10 is otherwise aggrieved, as a result of another person's act or practice declared  
11 unlawful by AS 45.50.471 may bring a civil action to recover for each unlawful act  
12 or practice three times the actual damages or \$500 [S200], whichever is greater.  
13 [THE COURT MAY, IN CASES OF WILFUL VIOLATION, AWARD UP TO  
14 THREE TIMES THE ACTUAL DAMAGES SUSTAINED.] The court may provide  
15 other relief it considers necessary and proper. Nothing in this subsection prevents

1 a person who brings an action under this subsection from pursuing other  
2 remedies available under other law, including common law.

3 \* Sec. 3. AS 45.50.531(f) is amended to read:

4 (f) A person may not commence an action under this section more than two  
5 years after the person discovers or reasonably should have discovered that the cause  
6 of action arose [THE LOSS RESULTED] from an act or practice declared unlawful  
7 by AS 45.50.471.

8 \* Sec. 4. AS 45.50 is amended by adding new sections to read:

9 Sec. 45.50.535. Private injunctive relief. (a) Subject to (b) of this section  
10 and in addition to any right to bring an action under AS 45.50.531 or other law, any  
11 person may bring an action to obtain an injunction prohibiting a seller or lessor from  
12 continuing to engage in an act or practice declared unlawful under AS 45.50.471.

13 (b) A person may not bring an action under (a) of this section unless

14 (1) the person first provides written notice to the seller or lessor who  
15 engaged in the unlawful act or practice that the person will seek an injunction against  
16 the seller or lessor unless the seller or lessor fails to promptly stop the unlawful act  
17 or practice; and

18 (2) the seller or lessor fails to promptly stop the unlawful act or  
19 practice after receiving the notice.

20 (c) It is not necessary that a person suffer damages or otherwise be injured by  
21 the unlawful act or practice in order to bring an action under (a) of this section.

22 Sec. 45.50.537. Attorney fees, costs, and damages. (a) Notwithstanding  
23 AS 09.60.015 and except as provided otherwise in this section, in an action brought  
24 under AS 45.50.471 - 45.50.561, a prevailing plaintiff, whether the state or a private  
25 plaintiff, shall be awarded costs as provided by court rule and full reasonable attorney  
26 fees at the prevailing reasonable rate, and a private plaintiff, who is not the prevailing  
27 party, may not be required to pay attorney fees or costs to the defendant unless the  
28 court determines that the cause of action brought by the plaintiff is frivolous.

29 (b) In an action brought under AS 45.50.471 - 45.50.561, the court shall award  
30 the defendant costs as provided by court rule and full reasonable attorney fees at the  
31 prevailing reasonable rate if the action is found to be frivolous.

- 1           (c) In an action brought under AS 45.50.471 - 45.50.561, if the court finds that  
2           the action was brought by the plaintiff to obtain a competitive business advantage and  
3           the plaintiff is not the prevailing party, the court shall award the defendant costs as  
4           provided by court rule, full reasonable attorney fees at the prevailing reasonable rate,  
5           and any damages suffered by the defendant as a result of the plaintiff's allegations.  
6           \* Sec. 5. AS 45.50.531(g) is repealed.

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 203

- 1 Page 1, lines 9 - 10:
- 2 Delete "or who is otherwise aggrieved."
  
- 3 Page 2, lines 3 - 7:
- 4 Delete all material.
  
- 5 Renumber the following bill sections accordingly.

OLDER PERSONS ACTION GROUP  
325 E. THIRD AVENUE, SUITE 300  
ANCHORAGE, ALASKA 99501

January 31, 1998

MEMO:

TO: HOUSE JUDICIARY COMMITTEE

✓ Joe Green, Con Bunde, Jeannette James, Brian Porter, Norman  
Rokeberg, Ethan Berkowitz, Eric Croft

FROM: Thelma P. Langdon, Co-Chair, OPAG Legislative Committee

*Thelma P. Langdon*

I was present along with Ella Craig, President of OPAG and Floyd Heimbuch, Executive Director of OPAG and others at the scheduled hearing for CSHB 203, Unlawful trade practices on Friday, Jan. 30 at 1PM. We were disappointed that it was cancelled and I wish to offer the testimony that I was prepared to present at that time as follows:

I AM THELMA LANGDON, CO-CHAIR OF THE OLDER PERSONS ACTION GROUPS LEGISLATIVE COMMITTEE.

OPAG IS COMMITTED TO STRENGTHENING CONSUMER PROTECTION IN THE STATE AND IN FAVOR OF THIS TYPE OF LEGISLATION.

WE HAVE NO DEFINITIVE STATEMENT ON THIS SPECIFIC BILL AS OUR COMMITTEE HAS NOT DISCUSSED IT, HOWEVER WE WILL BE DISCUSSING IT AT OUR MEETING NEXT TUESDAY.

OPAG HAS SUBMITTED A PROPOSAL TO THE LEGISLATURE OUTLINING OUR COMMITMENT TO CONSUMER PROTECTION/EDUCATION IN ALASKA AND WE ARE WILLING TO SPEND ENERGY AND RESOURCES TO THIS END.

**HB**

**207**

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 9, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/11/97

The JUDICIARY Committee considered:

HB 207

HOUSE BILL NO. 207

EMPLOYER DRUG TESTING PROGRAM

"An Act relating to employer drug and alcohol testing programs."

recommends it be replaced with the following committee substitute CSHB 207 (JUD)  the same title  a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

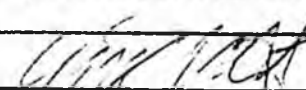
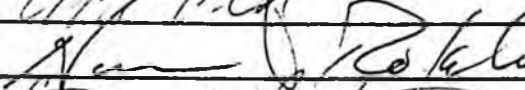
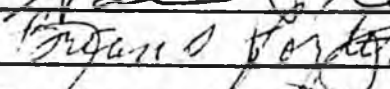

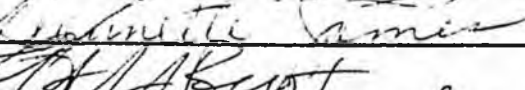
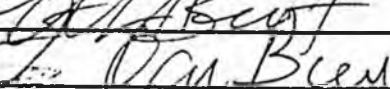
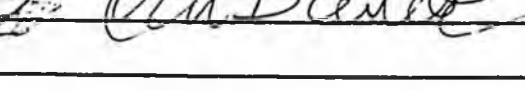
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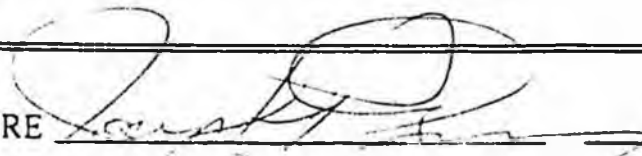
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SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
 CRAFT			✓	
 ROKEBERG	✓			
 PORTER	✓			
 GREEN	✓			
 JAMES			✓	
 BERKOWITZ			✓	
 BUNDE			✓	

CHAIR'S SIGNATURE



CS FOR HOUSE BILL NO. 207(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVE GREEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to employer drug and alcohol testing programs."

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

3 \* Section 1. AS 23.10 is amended by adding new sections to read:

4 Article 9. Drug and Alcohol Testing by Employers.

5 Sec. 23.10.600. Employer protection from litigation. (a) If an employer has  
6 established a drug and alcohol testing policy and initiated a testing program under  
7 AS 23.10.600 - 23.10.699, a person may not bring an action for damages against the  
8 employer for

9 (1) actions in good faith based on the results of a positive drug test or  
10 alcohol impairment test;

11 (2) failure to test for drugs or alcohol impairment or failure to test for  
12 a specific drug or another controlled substance;

13 (3) failure to test or, if tested, failure to detect a specific drug or other  
14 substance, a medical condition, or a mental, emotional, or psychological disorder or  
15 condition; or

1 (4) termination or suspension of a drug or alcohol prevention or testing  
2 program or policy.

3 (b) A person may not bring an action for damages based on test results against  
4 an employer who has established and implemented a drug and alcohol testing program  
5 under AS 23.10.600 - 23.10.699 unless the employer's action was based on a false  
6 positive test result and the employer knew or clearly should have known that the result  
7 was in error and ignored the true test result because of reckless or malicious disregard  
8 for the truth or the wilful intent to deceive or be deceived.

9 (c) In a claim, including a claim under AS 23.10.600 - 23.10.699, if it is  
10 alleged that an employer's action was based on a false positive test result,

11 (1) there is a rebuttable presumption that the test result was valid if the  
12 employer complied with the provisions of AS 23.10.600 - 23.10.699; and

13 (2) the employer is not liable for monetary damages if the employer's  
14 reliance on a false positive test result was reasonable and in good faith.

15 (d) A person may not bring an action for damages against an employer for an  
16 action taken related to a false negative drug test or alcohol impairment test.

17 (e) A person may not bring an action against an employer based on failure  
18 of the employer to establish a program or policy on substance abuse prevention or to  
19 implement drug testing or alcohol impairment testing.

20 **Sec. 23.10.610. Limits on causes of action for disclosures.** A person may  
21 not bring an action for defamation of character, libel, slander, or damage to reputation  
22 against an employer who has established a program of drug testing or alcohol  
23 impairment testing under AS 23.10.600 - 23.10.699 if the action is based on drug or  
24 alcohol testing unless

25 (1) the results of the test were disclosed to a person other than the  
26 employer, an authorized employee, agent or representative of the employer, the tested  
27 employee, the tested prospective employee, or another person authorized or privileged  
28 by law to receive the information;

29 (2) the information disclosed was a false positive test result;

30 (3) the false positive test result was disclosed negligently; and

31 (4) all elements of an action for defamation of character, libel, slander,

1 or damage to reputation as established by law are satisfied.

2 **Sec. 23.10.615. Employer's compliance voluntary.** Compliance with  
3 AS 23.10.600 - 23.10.699 by employers is voluntary.

4 **Sec. 23.10.620. Employer policy.** (a) Under AS 23.10.600 - 23.10.699, an  
5 employer may only carry out the testing or retesting for the presence or evidence of  
6 use of drugs or alcohol after adopting a written policy for the testing and retesting and  
7 informing employees of the policy. The employer may inform employees by  
8 distributing a copy of the policy to each employee subject to testing or making the  
9 policy available to employees in the same manner as the employer informs its  
10 employees of other personnel practices, including inclusion in a personnel handbook  
11 or manual or posting in a place accessible to employees. The employer shall inform  
12 prospective employees that they must undergo drug testing.

13 (b) The written policy on drug and alcohol testing must include, at a minimum,

14 (1) a statement of the employer's policy respecting drug and alcohol  
15 use by employees;

16 (2) a description of those employees or prospective employees who are  
17 subject to testing;

18 (3) the circumstances under which testing may be required;

19 (4) the substances as to which testing may be required;

20 (5) a description of the testing methods and collection procedures to be  
21 used, including an employee's right to a confirmatory drug test to be reviewed by a  
22 licensed physician or doctor of osteopathy after an initial positive drug test result in  
23 accordance with AS 23.10.640(d);

24 (6) the consequences of a refusal to participate in the testing;

25 (7) any adverse personnel action that may be taken based on the testing  
26 procedure or results;

27 (8) the right of an employee, on the employee's request, to obtain the  
28 written test results and the obligation of the employer to provide written test results  
29 to the employee within five working days of a written request to do so, provided the  
30 written request is made within six months of the date of the test;

31 (9) the right of an employee, on the employee's request, to explain in

1 a confidential setting, a positive test result; if the employee requests in writing an  
2 opportunity to explain the positive test result within 10 working days after the  
3 employee is notified of the test result, the employer must provide an opportunity, in  
4 a confidential setting, within 72 hours of receiving the employee's written notice, or  
5 before taking adverse employment action;

6 (10) a statement of the employer's policy regarding the confidentiality  
7 of the test results.

8 (c) An employer may require the collection and testing of a sample of an  
9 employee's or prospective employee's urine or breath for any job-related purpose  
10 consistent with business necessity and the terms of the employer's policy, including

11 (1) investigation of possible individual employee impairment;

12 (2) investigation of accidents in the workplace; an employee may be  
13 required to undergo drug testing or alcohol impairment testing for an accident if the  
14 test is taken as soon as practicable after an accident and the test is administered to  
15 employees who the employer reasonably believes may have contributed to the accident;

16 (3) maintenance of safety for employees, customers, clients, or the  
17 public at large;

18 (4) maintenance of productivity, the quality of products or services, or  
19 security of property or information;

20 (5) reasonable suspicion that an employee may be affected by the use  
21 of drugs or alcohol and that the use may adversely affect the job performance or the  
22 work environment.

23 (d) In addition to tests required under (c) of this section, an employer may  
24 require employees or groups of employees to undergo drug testing on a random or  
25 chance basis.

26 (e) If an employer institutes a policy of drug testing or alcohol impairment  
27 testing under AS 23.10.600 - 23.10.699, the policy must identify which employees or  
28 positions are subject to testing. An employer must test all or part of the work force  
29 based on consideration of safety for employees, customers, clients, or the public at  
30 large. An employer may not initiate a testing program under AS 23.10.600 - 23.10.699  
31 until at least 30 days after the employer notifies employees of the employer's intent

1 to implement the program and makes written copies of the policy available as required  
2 by (a) of this section. Each employer shall ensure that at least one designated person  
3 receives at least 60 minutes of training on alcohol misuse and at least an additional 60  
4 minutes of training on the use of controlled substances. The training will be used by  
5 the designee to determine whether reasonable suspicion exists to require an employee  
6 to undergo testing under AS 23.10.630.

7 (f) The provisions of AS 23.10.600 - 23.10.699 may not be construed to  
8 encourage, discourage, restrict, limit, prohibit, or require on-site drug testing or alcohol  
9 impairment testing.

10 **Sec. 23.10.630. Collection of samples.** (a) An employer may require an  
11 employee to undergo a test for the presence of drugs or for alcohol impairment. An  
12 employer may require a prospective employee to undergo a test for the presence of  
13 drugs.

14 (b) In order to test reliably, an employer may require an employee or  
15 prospective employee to provide a sample of the individual's urine or breath and to  
16 present reliable individual identification to the person collecting the sample. Collection  
17 of the sample must conform to the requirements of AS 23.10.600 - 23.10.699. The  
18 employer may designate the type of sample to be used for testing.

19 (c) An employer shall normally schedule a drug test or an alcohol impairment  
20 test of employees during, or immediately before or after, a regular work period.  
21 Alcohol impairment or drug testing required by an employer is considered to be work  
22 time for the purposes of compensation and benefits for current employees. Sample  
23 collection shall be performed in a manner that guarantees the individual's privacy to  
24 the maximum extent consistent with ensuring that the sample is not contaminated,  
25 adulterated, or misidentified.

26 (d) An employer shall pay the entire actual costs for drug testing and alcohol  
27 impairment testing required of employees and prospective employees. An employer  
28 shall also pay reasonable transportation costs to an employee if the required test is  
29 conducted at a location other than the employee's normal work site.

30 **Sec. 23.10.640. Testing procedures.** (a) Sample collection and testing for  
31 alcohol impairment and drugs under AS 23.10.600 - 23.10.699 shall be performed

1 under reasonable and sanitary conditions. The person collecting samples shall  
2 document the sample, including labeling the sample to preclude to the extent  
3 reasonable the possibility of misidentification of the person tested in relation to the test  
4 result provided, and shall provide the person to be tested with an opportunity to  
5 provide medical information that may be relevant to the test, including identifying  
6 current or recently used prescription and nonprescription drugs.

7 (b) Sample collection, storage, and transportation to the place of testing shall  
8 be performed in a manner reasonably designed to preclude the possibility of sample  
9 contamination, adulteration, or misidentification.

10 (c) Sample testing must comply with scientifically accepted analytical methods  
11 and procedures. Drug testing shall be conducted at a laboratory approved or certified  
12 by the Substance Abuse and Mental Health Services Administration or the College of  
13 American Pathologists, American Association of Clinical Chemists.

14 (d) For employees, drug testing must include confirmation of a positive drug  
15 test result. The confirmation must be by use of a different analytical process than was  
16 used in the initial drug screen. The second or confirmatory drug test shall be a gas  
17 chromatography mass spectrometry. An employer may not rely on a positive drug test  
18 unless the confirmatory drug test results have been reviewed by a licensed physician  
19 or doctor of osteopathy. The physician or osteopath shall

20 (1) contact the employee within 48 hours and offer an opportunity to  
21 discuss the confirming test result;

22 (2) interpret and evaluate the positive drug test results for legal use; and

23 (3) report test results that have been caused by prescription medication  
24 as negative.

25 (e) A drug test conducted under this section for a drug for which the United  
26 States Department of Health and Human Services has established a cutoff level shall  
27 be considered to have yielded a positive result if the test establishes the presence of  
28 the drug at levels equal to or greater than that cutoff level. For a drug for which the  
29 United States Department of Health and Human Services has not established a cutoff  
30 level, the employer shall, in the written policy under AS 23.10.620, inform employees  
31 of the cutoff level that the employer will use to establish the presence of the drug.

1           **Sec. 23.10.650. Disciplinary procedures.** (a) An employer may take adverse  
2 employment action based on

3                   (1) a positive drug test or alcohol impairment test result that indicates  
4 a violation of the employer's written policy;

5                   (2) the refusal of an employee or prospective employee to provide a  
6 drug testing sample; or

7                   (3) the refusal of an employee to provide an alcohol impairment testing  
8 sample.

9           (b) Adverse employment action under (a) of this section may include

10                   (1) a requirement that the employee enroll in an employer provided or  
11 employer approved rehabilitation, treatment, or counseling program; the program may  
12 include additional drug testing and alcohol impairment testing; the employer may  
13 require participation in the program as a condition of employment; costs of  
14 participating in the program may or may not be covered by the employer's health plan  
15 or policies;

16                   (2) suspension of the employee, with or without pay, for a designated  
17 period of time;

18                   (3) termination of employment;

19                   (4) in case of drug testing, refusal to hire a prospective employee; and

20                   (5) other adverse employment action.

21           **Sec. 23.10.660. Confidentiality of results; access to records.** A  
22 communication received by an employer relevant to drug test or alcohol impairment  
23 test results and received through the employer's testing program is a confidential and  
24 privileged communication and may not be disclosed except

25                   (1) to the tested employee or prospective employee or another person  
26 designated in writing by the employee or prospective employee;

27                   (2) to individuals designated by an employer to receive and evaluate  
28 test results or hear the explanation of the employee or prospective employee; or

29                   (3) as ordered by a court or governmental agency.

30           **Sec. 23.10.670. Effect of mandatory testing obligations.** An employer who  
31 is obligated by state or federal requirements to have a drug testing or alcohol

1 impairment testing policy or program shall receive the full benefits of AS 23.10.600 -  
2 23.10.699 even if the required policy or program is not consistent with AS 23.10.600 -  
3 23.10.699, so long as the employer complies with the state or federal requirements  
4 applicable to the employer's operations.

5 **Sec. 23.10.699. Definitions.** In AS 23.10.600 - 23.10.699,

6 (1) "alcohol" means ethanol, isopropanol, or methanol;

7 (2) "drugs" means a substance considered unlawful under AS 11.71 or  
8 the metabolite of the substance;

9 (3) "drug testing" means testing for evidence of the use of a drug;

10 (4) "employee" means a person in the service of an employer;

11 (5) "employer" means a person who employs one or more full-time  
12 employees under a contract of hire, express or implied, oral or written;

13 (6) "good faith" means reasonable reliance on fact, or that which is held  
14 out to be factual, without the intent to deceive or be deceived and without reckless or  
15 malicious disregard for the truth;

16 (7) "prospective employee" means a person who has made application  
17 to an employer, whether written or oral, to become an employee;

18 (8) "random" means a scientifically valid method that ensures that all  
19 covered employees have an equal chance of being selected;

20 (9) "sample" means urine or breath from the person being tested.

AMENDMENT

#1  
Adopted

OFFERED IN THE HOUSE

BY REPRESENTATIVE GREEN

TO: CSHB 207(JUD)

- 1 Page 2, line 23, following "23.10.699":
- 2 Insert "if the action is based on drug or alcohol testing"

**DRAFT**

**DRAFT**

**DRAFT**

**CS FOR HOUSE BILL NO. 207(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE GREEN**

**A BILL**

**FOR AN ACT ENTITLED**

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14 substance, a medical condition, or a mental, emotional, or psychological disorder or  
15 condition; or

1 (4) termination or suspension of a drug or alcohol prevention or testing  
2 program or policy.

3 (b) A person may not bring an action for damages based on test results against  
4 an employer who has established and implemented a drug and alcohol testing program  
5 under AS 23.10.600 - 23.10.699 unless the employer's action was based on a false  
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9 (c) In a claim, including a claim under AS 23.10.600 - 23.10.699, if it is  
10 alleged that an employer's action was based on a false positive test result,

11 (1) there is a rebuttable presumption that the test result was valid if the  
12 employer complied with the provisions of AS 23.10.600 - 23.10.699; and

13 (2) the employer is not liable for monetary damages if the employer's  
14 reliance on a false positive test result was reasonable and in good faith.

15 (d) A person may not bring an action for damages against an employer for an  
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22 against an employer who has established a program of drug testing or alcohol  
23 impairment testing under AS 23.10.600 - 23.10.699 unless

24 (1) the results of the test were disclosed to a person other than the  
25 employer, an authorized employee, agent or representative of the employer, the tested  
26 employee, the tested prospective employee, or another person authorized or privileged  
27 by law to receive the information;

28 (2) the information disclosed was a false positive test result;

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31 or damage to reputation as established by law are satisfied.

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8 policy available to employees in the same manner as the employer informs its  
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10 or manual or posting in a place accessible to employees. The employer shall inform  
11 prospective employees that they must undergo drug testing.

12           (b) The written policy on drug and alcohol testing must include, at a minimum,

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21 licensed physician or doctor of osteopathy after an initial positive drug test result in  
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3 a confidential setting, within 72 hours of receiving the employee's written notice, or  
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13 test is taken as soon as practicable after an accident and the test is administered to  
14 employees who the employer reasonably believes may have contributed to the accident;

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16 public at large;

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20 of drugs or alcohol and that the use may adversely affect the job performance or the  
21 work environment.

22 (d) In addition to tests required under (c) of this section, an employer may  
23 require employees or groups of employees to undergo drug testing on a random or  
24 chance basis.

25 (e) If an employer institutes a policy of drug testing or alcohol impairment  
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2 receives at least 60 minutes of training on alcohol misuse and at least an additional 60  
3 minutes of training on the use of controlled substances. The training will be used by  
4 the designee to determine whether reasonable suspicion exists to require an employee  
5 to undergo testing under AS 23.10.630.

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11 include additional drug testing and alcohol impairment testing; the employer may  
12 require participation in the program as a condition of employment; costs of  
13 participating in the program may or may not be covered by the employer's health plan  
14 or policies;

15 (2) suspension of the employee, with or without pay, for a designated  
16 period of time;

17 (3) termination of employment;

18 (4) in case of drug testing, refusal to hire a prospective employee; and

19 (5) other adverse employment action.

20 **Sec. 23.10.660. Confidentiality of results; access to records.** A  
21 communication received by an employer relevant to drug test or alcohol impairment  
22 test results and received through the employer's testing program is a confidential and  
23 privileged communication and may not be disclosed except

24 (1) to the tested employee or prospective employee or another person  
25 designated in writing by the employee or prospective employee;

26 (2) to individuals designated by an employer to receive and evaluate  
27 test results or hear the explanation of the employee or prospective employee; or

28 (3) as ordered by a court or governmental agency.

29 **Sec. 23.10.670. Effect of mandatory testing obligations.** An employer who  
30 is obligated by state or federal requirements to have a drug testing or alcohol  
31 impairment testing policy or program shall receive the full benefits of AS 23.10.600 -

1 23.10.699 even if the required policy or program is not consistent with AS 23.10.600 -  
2 23.10.699, so long as the employer complies with the state or federal requirements  
3 applicable to the employer's operations.

4 **Sec. 23.10.699. Definitions.** In AS 23.10.600 - 23.10.699,

5 (1) "alcohol" means ethanol, isopropanol, or methanol;

6 (2) "drugs" means a substance considered unlawful under AS 11.71 or  
7 the metabolite of the substance;

8 (3) "drug testing" means testing for evidence of the use of a drug;

9 (4) "employee" means a person in the service of an employer;

10 (5) "employer" means a person who employs one or more full-time  
11 employees under a contract of hire, express or implied, oral or written;

12 (6) "good faith" means reasonable reliance on fact, or that which is held  
13 out to be factual, without the intent to deceive or be deceived and without reckless or  
14 malicious disregard for the truth;

15 (7) "prospective employee" means a person who has made application  
16 to an employer, whether written or oral, to become an employee;

17 (8) "random" means a scientifically valid method that ensures that all  
18 covered employees have an equal chance of being selected;

19 (9) "sample" means urine or breath from the person being tested.

# Alaska State Legislature



House of Representatives  
House Judiciary Committee

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

## MEMORANDUM

**Date:** April 9, 1997  
**To:** Terry Cramer, Legislative Legal Services  
**Fax:** 465-2029  
**From:** Lisa Kirsch, House Judiciary Committee  
**Fax:** 465-4316  
**Re:** HB 207 amendments

---

Please prepare us a committee substitute amending 0-LS0760\B with your amendment 0-LS0760\B.1; 0-LS0760\B.2 and our amendment #3 (attached).

Thanks for your help.

AMENDMENT #3

OFFERED IN THE HOUSE

BY REPRESENTATIVE GREEN

TO: CSHB 207(L&C)

1 Page 5, line 1, following "."

2

3 Insert "Each employer shall ensure that at least one designated person shall  
4 receive at least 60 minutes of training on alcohol misuse and receive at least  
5 an additional 60 minutes of training on <sup>the use of</sup> controlled substances ~~use~~. The  
6 training will be used by the designee(s) to determine whether reasonable  
7 suspicion exists to require an employee to undergo testing under 23.10.630."

*to per draft revision*

# FISCAL NOTE

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO. HB 207**

Revision Date: \_\_\_\_\_  
 Title: Employer Drug Testing Program  
 Sponsor: Representative Joseph Green  
 Requestor: House L&C

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

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

<b>CHANGE IN REVENUE</b>						
<b>FUND SOURCE #</b>						

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: \$ NONE

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

This legislation will have no effect on Wage and Hour programs, nor any fiscal impact, as we are not named in any oversight or enforcement capacity.

Prepared by: Alan W. Dwyer, Director *[Signature]* Phone: 465-4855  
 Division: Labor Standards & Safety Date: 3/26/97

Approved by Commissioner: Tom Cashen, Commissioner *[Signature]*  
 Agency: Department of Labor Date: 3/26/97

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AMENDMENT #3

OFFERED IN THE HOUSE

BY REPRESENTATIVE GREEN

TO: CSHB 207(L&C)

1 Page 5, line 1, following "."

2

3 Insert "Each employer shall ensure that all persons designated to supervise  
4 employees receive at least 60 minutes of training on alcohol misuse and  
5 receive at least an additional 60 minutes of training on controlled substances  
6 use. The training will be used by the supervisors to determine whether  
7 reasonable suspicion exists to require an employee to undergo testing under  
8 23.10.630."

*at least one*

*designee(s)*

*4/9/97*

*passed  
as  
Amended.*

AMENDMENT #2 *Adopted*

OFFERED IN THE HOUSE

BY REPRESENTATIVE GREEN

TO: CSHB 207(L&C)

1 Page 6, following line 16:

2 Insert a new subsection to read:

3 "(e) A drug test conducted under this section for a drug for which the United  
4 States Department of Health and Human Services has established a cutoff level shall  
5 be considered to have yielded a positive result if the test establishes the presence of  
6 the drug at levels equal to or greater than that cutoff level. For a drug for which the  
7 United States Department of Health and Human Services has not established a cutoff  
8 level, the employer shall, in the written policy under AS 23.10.620, inform employees  
9 of the cutoff level that the employer will use to establish the presence of the drug."

AMENDMENT #1 *Adopted*

OFFERED IN THE HOUSE

BY REPRESENTATIVE GREEN

TO: CSHB 207(L&C)

- 1 Page 5, line 17, following ".":
- 2       Insert "Sample collection shall be performed in a manner that guarantees the
- 3 individual's privacy to the maximum extent consistent with ensuring that the sample is not
- 4 contaminated, adulterated, or misidentified."

CS FOR HOUSE BILL NO. 207(L&C)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE GREEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to employer drug and alcohol testing programs."

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

3 \* Section 1. AS 23.10 is amended by adding new sections to read:

4 Article 9. Drug and Alcohol Testing by Employers.

5 Sec. 23.10.600. Employer protection from litigation. (a) If an employer has  
6 established a drug and alcohol testing policy and initiated a testing program under  
7 AS 23.10.600 - 23.10.699, a person may not bring an action for damages against the  
8 employer for

9 (1) actions in good faith based on the results of a positive drug test or  
10 alcohol impairment test;

11 (2) failure to test for drugs or alcohol impairment or failure to test for  
12 a specific drug or another controlled substance;

13 (3) failure to test or, if tested, failure to detect a specific drug or other  
14 substance, a medical condition, or a mental, emotional, or psychological disorder or  
15 condition; or

1 (4) termination or suspension of a drug or alcohol prevention or testing  
2 program or policy.

3 (b) A person may not bring an action for damages based on test results against  
4 an employer who has established and implemented a drug and alcohol testing program  
5 under AS 23.10.600 - 23.10.699 unless the employer's action was based on a false  
6 positive test result and the employer knew or clearly should have known that the result  
7 was in error and ignored the true test result because of reckless or malicious disregard  
8 for the truth or the willful intent to deceive or be deceived.

9 (c) In a claim, including a claim under AS 23.10.600 - 23.10.699, if it is  
10 alleged that an employer's action was based on a false positive test result,

11 (1) there is a rebuttable presumption that the test result was valid if the  
12 employer complied with the provisions of AS 23.10.600 - 23.10.699; and

13 (2) the employer is not liable for monetary damages if the employer's  
14 reliance on a false positive test result was reasonable and in good faith.

15 (d) A person may not bring an action for damages against an employer for an  
16 action taken related to a false negative drug test or alcohol impairment test.

17 (e) A person may not bring an action against an employer based on failure  
18 of the employer to establish a program or policy on substance abuse prevention or to  
19 implement drug testing or alcohol impairment testing.

20 **Sec. 23.10.610. Limits on causes of action for disclosures.** A person may  
21 not bring an action for defamation of character, libel, slander, or damage to reputation  
22 against an employer who has established a program of drug testing or alcohol  
23 impairment testing under AS 23.10.600 - 23.10.699 unless

24 (1) the results of the test were disclosed to a person other than the  
25 employer, an authorized employee, agent or representative of the employer, the tested  
26 employee, the tested prospective employee, or another person authorized or privileged  
27 by law to receive the information;

28 (2) the information disclosed was a false positive test result;

29 (3) the false positive test result was disclosed negligently; and

30 (4) all elements of an action for defamation of character, libel, slander,  
31 or damage to reputation as established by law are satisfied.

1           Sec. 23.10.615. **Employer's compliance voluntary.** Compliance with  
2 AS 23.10.600 - 23.10.699 by employers is voluntary.

3           Sec. 23.10.620. **Employer policy.** (a) Under AS 23.10.600 - 23.10.699, an  
4 employer may only carry out the testing or retesting for the presence or evidence of  
5 use of drugs or alcohol after adopting a written policy for the testing and retesting and  
6 informing employees of the policy. The employer may inform employees by  
7 distributing a copy of the policy to each employee subject to testing or making the  
8 policy available to employees in the same manner as the employer informs its  
9 employees of other personnel practices, including inclusion in a personnel handbook  
10 or manual or posting in a place accessible to employees. The employer shall inform  
11 prospective employees that they must undergo drug testing.

12           (b) The written policy on drug and alcohol testing must include, at a minimum,

- 13                   (1) a statement of the employer's policy respecting drug and alcohol  
14 use by employees;
- 15                   (2) a description of those employees or prospective employees who are  
16 subject to testing;
- 17                   (3) the circumstances under which testing may be required;
- 18                   (4) the substances as to which testing may be required;
- 19                   (5) a description of the testing methods and collection procedures to be  
20 used, including an employee's right to a confirmatory drug test to be reviewed by a  
21 licensed physician or doctor of osteopathy after an initial positive drug test result in  
22 accordance with AS 23.10.640(d);
- 23                   (6) the consequences of a refusal to participate in the testing;
- 24                   (7) any adverse personnel action that may be taken based on the testing  
25 procedure or results;
- 26                   (8) the right of an employee, on the employee's request, to obtain the  
27 written test results and the obligation of the employer to provide written test results  
28 to the employee within five working days of a written request to do so, provided the  
29 written request is made within six months of the date of the test;
- 30                   (9) the right of an employee, on the employee's request, to explain in  
31 a confidential setting, a positive test result; if the employee requests in writing an

1 opportunity to explain the positive test result within 10 working days after the  
2 employee is notified of the test result, the employer must provide an opportunity, in  
3 a confidential setting, within 72 hours of receiving the employee's written notice, or  
4 before taking adverse employment action;

5 (10) a statement of the employer's policy regarding the confidentiality  
6 of the test results.

7 (c) An employer may require the collection and testing of a sample of an  
8 employee's or prospective employee's urine or breath for any job-related purpose  
9 consistent with business necessity and the terms of the employer's policy, including

10 (1) investigation of possible individual employee impairment;

11 (2) investigation of accidents in the workplace; an employee may be  
12 required to undergo drug testing or alcohol impairment testing for an accident if the  
13 test is taken as soon as practicable after an accident and the test is administered to  
14 employees who the employer reasonably believes may have contributed to the accident;

15 (3) maintenance of safety for employees, customers, clients, or the  
16 public at large;

17 (4) maintenance of productivity, the quality of products or services, or  
18 security of property or information;

19 (5) reasonable suspicion that an employee may be affected by the use  
20 of drugs or alcohol and that the use may adversely affect the job performance or the  
21 work environment.

22 (d) In addition to tests required under (c) of this section, an employer may  
23 require employees or groups of employees to undergo drug testing on a random or  
24 chance basis.

25 (e) If an employer institutes a policy of drug testing or alcohol impairment  
26 testing under AS 23.10.600 - 23.10.699, the policy must identify which employees or  
27 positions are subject to testing. An employer must test all or part of the work force  
28 based on consideration of safety for employees, customers, clients, or the public at  
29 large. An employer may not initiate a testing program under AS 23.10.600 - 23.10.699  
30 until at least 30 days after the employer notifies employees of the employer's intent  
31 to implement the program and makes written copies of the policy available as required

1 by (a) of this section.

2 (f) The provisions of AS 23.10.600 - 23.10.699 may not be construed to  
3 encourage, discourage, restrict, limit, prohibit, or require on-site drug testing or alcohol  
4 impairment testing.

5 **Sec. 23.10.630. Collection of samples.** (a) An employer may require an  
6 employee to undergo a test for the presence of drugs or for alcohol impairment. An  
7 employer may require a prospective employee to undergo a test for the presence of  
8 drugs.

9 (b) In order to test reliably, an employer may require an employee or  
10 prospective employee to provide a sample of the individual's urine or breath and to  
11 present reliable individual identification to the person collecting the sample. Collection  
12 of the sample must conform to the requirements of AS 23.10.600 - 23.10.699. The  
13 employer may designate the type of sample to be used for testing.

14 (c) An employer shall normally schedule a drug test or an alcohol impairment  
15 test of employees during, or immediately before or after, a regular work period.  
16 Alcohol impairment or drug testing required by an employer is considered to be work  
17 time for the purposes of compensation and benefits for current employees.

18 (d) An employer shall pay the entire actual costs for drug testing and alcohol  
19 impairment testing required of employees and prospective employees. An employer  
20 shall also pay reasonable transportation costs to an employee if the required test is  
21 conducted at a location other than the employee's normal work site.

22 **Sec. 23.10.640. Testing procedures.** (a) Sample collection and testing for  
23 alcohol impairment and drugs under AS 23.10.600 - 23.10.699 shall be performed  
24 under reasonable and sanitary conditions. The person collecting samples shall  
25 document the sample, including labeling the sample to preclude to the extent  
26 reasonable the possibility of misidentification of the person tested in relation to the test  
27 result provided, and shall provide the person to be tested with an opportunity to  
28 provide medical information that may be relevant to the test, including identifying  
29 current or recently used prescription and nonprescription drugs.

30 (b) Sample collection, storage, and transportation to the place of testing shall  
31 be performed in a manner reasonably designed to preclude the possibility of sample

1 contamination, adulteration, or misidentification.

2 (c) Sample testing must comply with scientifically accepted analytical methods  
3 and procedures. Drug testing shall be conducted at a laboratory approved or certified  
4 by the Substance Abuse and Mental Health Services Administration, <sup>OR</sup> the College of  
5 American Pathologists, ~~or the~~ American Association of Clinical Chemists.

6 (d) For employees, drug testing must include confirmation of a positive drug  
7 test result. The confirmation must be by use of a different analytical process than was  
8 used in the initial drug screen. The second or confirmatory drug test shall be a gas  
9 chromatography mass spectrometry. An employer may not rely on a positive drug test  
10 unless the confirmatory drug test results have been reviewed by a licensed physician  
11 or doctor of osteopathy. The physician or osteopath shall

12 (1) contact the employee within 48 hours and offer an opportunity to  
13 discuss the confirming test result;

14 (2) interpret and evaluate the positive drug test results for legal use; and

15 (3) report test results that have been caused by prescription medication  
16 as negative.

17 **Sec. 23.10.650. Disciplinary procedures.** (a) An employer may take adverse  
18 employment action based on

19 (1) a positive drug test or alcohol impairment test result that indicates  
20 a violation of the employer's written policy;

21 (2) the refusal of an employee or prospective employee to provide a  
22 drug testing sample; or

23 (3) the refusal of an employee to provide an alcohol impairment testing  
24 sample.

25 (b) Adverse employment action under (a) of this section may include

26 (1) a requirement that the employee enroll in an employer provided or  
27 employer approved rehabilitation, treatment, or counseling program; the program may  
28 include additional drug testing and alcohol impairment testing; the employer may  
29 require participation in the program as a condition of employment; costs of  
30 participating in the program may or may not be covered by the employer's health plan  
31 or policies;

1 (2) suspension of the employee, with or without pay, for a designated  
2 period of time;

3 (3) termination of employment;

4 (4) in case of drug testing, refusal to hire a prospective employee; and

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27 (5) "employer" means a person who employs one or more full-time  
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29 (6) "good faith" means reasonable reliance on fact, or that which is held  
30 out to be factual, without the intent to deceive or be deceived and without reckless or  
31 malicious disregard for the truth;

1  
2  
3  
4  
5

(7) "prospective employee" means a person who has made application to an employer, whether written or oral, to become an employee;

(8) "random" means a scientifically valid method that ensures that all covered employees have an equal chance of being selected;

(9) "sample" means urine or breath from the person being tested.

Alaska State Legislature



Representative Joe Green  
District 11

Sorry  
10 minutes and  
running

What is his last name?

Fagnano

Sponsor Statement

**HB 207 - Drug and Alcohol Testing Programs**

**Problem:** The use of psychoactive drugs--including alcohol, prescription and over-the-counter drugs--may affect safety and productivity in the workplace. To address these concerns, many employers have instituted alcohol and drug use testing programs. Though more than 53,000 Alaskans are being tested, there is no state policy establishing test guidelines for employers or employees.

**Solution:** HB 207 establishes guidelines for employers to voluntarily test employees and prospective employees for drug or alcohol use. HB 207 does not mandate drug or alcohol testing. Instead it provides employers who comply with the provisions of the bill limited immunity from litigation. Specifically, a civil action could not be filed against an employer who complies with the new law for: a) actions taken in good faith as a result of a positive drug or alcohol test; b) failure to test for drugs or alcohol, or failure to test for a specific drug; c) failure to detect a specific drug; or, d) terminating or suspending a drug or alcohol prevention program or policy.

HB 207 establishes a policy stating that prevention programs should be implemented in a fair, consistent, and equitable manner with due consideration of the rights, responsibilities, and privacy interest of all concerned parties.

The benefits that could accrue from this legislation are: a) early identification of drug or alcohol abuse, which could reduce the tragic consequences of injury to the user, co-workers, and/or family of the user; b) a more profitable and safer business environment by reducing the mistakes, poor performance, and accidents associated with drug and alcohol abuse; and c) fewer legal actions filed against employers who may terminate drug and alcohol abusers.

I would appreciate your support of HB 207.



April 2, 1997

Representative Joe Green  
State Capitol Building  
Room 118  
Juneau, AK 99801

ALASKA COUNCIL ON  
PREVENTION OF  
ALCOHOL AND DRUG  
ABUSE, INC.

3333 DENALI STREET  
SUITE 201

ANCHORAGE, ALASKA  
99503

PHONE  
907-258-6021

STATEWIDE  
800-478-7738

FAX  
907-258-6052

E-MAIL  
prevent@alaska.net

Dear Rep. Green:

Greetings! This letter concerns HB 207--*an Act relating to employer drug and alcohol testing programs*. On behalf of the Alaska Council on PREVENTION of Alcohol and Drug Abuse, I would like to provide some information which hopefully will assist in the decision-making process.

- Alcohol and other drug use costs American businesses an estimated \$102 billion every year in lost productivity, accidents, employee turnover, and related problems.
- Drug users at a minimum consume almost twice the medical benefits as non users, are absent 1.5 times as often, and make more than twice as many workers' compensation claims.

A drug-free workplace reduces employee absenteeism, tardiness, discipline problems, and workers' compensation costs. Improvements include customer satisfaction, productivity, employee morale and motivation.

This bill's passage would greatly reduce the employer's liability from positive drug and alcohol tests. Therefore, more companies may chose to drug test their employees. Through the procedures outlined in HB 207, an employer can establish a clear drug testing standard while promoting a safe and drug-free working environment .

I am enclosing "Making Your Workplace Drug-Free: A Kit for Employers" for your review. Please don't hesitate to call me with your feedback or comments. I can be reached at (800) 478-7738.

Thank you for your time and attention to this important inatter.

Respectfully,

Joseph DiMatteo  
Executive Director

enc: Making Your Workplace Drug-Free: A Kit for Employers, SAMHSA

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# SeaLand

Sea-Land Service, Inc.  
1717 Tidewater Road, P.O. Box 101939  
Anchorage, Alaska 99510  
(907) 274-2671

April 7, 1997

Representative Norm Rokeberg, Chairman  
Labor & Commerce Committee  
State Capital  
Juneau, Alaska 99801

Subject: House Bill 207

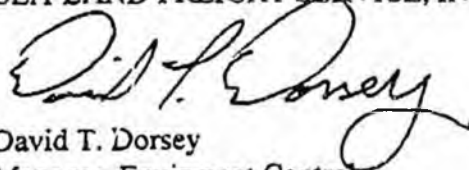
Please consider this as a letter of support for House Bill 207.

Our experience has been that employers need the protection afforded by this legislation .  
The bill as currently drafted also gives employees access to an established company  
policy.

Thank you for considering this innovative approach to drug and alcohol testing.

Sincerely,

SEA-LAND FREIGHT SERVICE, INC.



David T. Dorsey  
Manager, Equipment Control

DTD\jpy

cc: Representative John Cowdery, VC  
Representative Bill Hudson  
Representative Jerry Sanders  
Representative Joe Ryan  
Representative Tom Brice  
Representative Gene Kubina  
Representative Joe Green

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**STAFF**

Karen Cowart  
General Manager



# THE ALLIANCE

4220 'B' Street, Suite 200 • Anchorage, Alaska 99503-5911  
Phone (907) 563-2226 • Fax (907) 561-8870

April 4, 1997

Representative Norm Rokeberg  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

RE: Alliance Supports House Bill 207

Dear Representative Rokeberg,

The Alaska Support Industry Alliance (The Alliance) is a non-profit trade association whose 300+ member companies provide the majority of support services for oil and gas exploration, production, transportation, refining and marketing. Our mission is to foster and promote the safe and environmentally sound development of natural resources and to enhance and stimulate the business climate for our membership.

The Alaska Support Industry Alliance Board of Directors *strongly supports* House Bill 207, "An Act relating to employer drug and alcohol testing programs".

This legislation will greatly reduce an employer's liabilities from drug and alcohol testing, resulting from a positive test. Further, this legislation protects employees by establishing company policy and standardized procedures for testing. This bill, while not mandatory, allows an employer the protection of the statute when specific steps outlined are followed.

We encourage support and passage of this important legislation.

Sincerely,

John Wheatley  
Vice President - Policy

cc: Members, House Labor and Commerce:  
Representatives Cowdery, Hudson, Sanders, Ryan, Brice, Kubina

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**cc:Mail for: Representative Joe Green**

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**Subject:** HB207

**From:** rbailey@Alaska.NET at CC2MHS1 4/2/97 3:51 PM

**To:** Representative Norman Rokeberg at LAA\_TRANS

**cc:** Representative Joe Green at LAA\_TRANS

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Norm,

I wanted to drop you a note in support of HB207. As an employer of drivers with CDL's, Alaska Distributors Co. is very concerned about the liability involved with mandatory drug testing. HB207 will do a great deal to protect the responsible employer. Please support this bill.

Bob Bailey  
Operations Manager  
Alaska Distributors Co.



## Allvest Laboratories, Inc.

341 West Tudor Road, Suite 106 Anchorage, Alaska 99503

Phone (907) 563-8378

Fax (907) 563-8380

April 7, 1997

Labor and Commerce Committee  
Representative Norm Rokeberg, Chairman  
State Capital  
Juneau, Alaska 99801

Dear Representative Rokeberg:

Thank you for allowing me the opportunity to speak before the Labor and Commerce committee last Friday April 4. As I indicated then, your continued support is needed in passing House Bill 207 " An Act relating to employer drug and alcohol testing programs". As you are aware on March 21, 1997, Representative Joe Green introduced House Bill (HB) 207. This Bill, when it becomes law, will establish guidelines for employer policies and limit an employer's liability from litigation resulting from a positive test result.

**This is great news for Alaskan employers and employees!** This legislation will greatly reduce an employer's liabilities from drug and alcohol testing, resulting from a positive test result. For the employee, this legislation helps protect them by establishing company policy and standardized procedures for testing. **This bill is not a mandatory statute.** however, if an employer wants the protection of the statute, then the steps to follow are easy.

- Have a written policy
- Use a U. S. Department of Health and Human Services, College of American Pathologist certified laboratory
- Use established collection procedures that protect against misidentification of the donor's sample
- Establish means for confidentiality of test results
- Use a physician for review of positive test results

*"Enhancing employee safety, productivity, and efficiency through drug testing."*

I urge you and the other Labor and Commerce members to move quickly and refer HB 207 to Judiciary. Then your assistance is needed again to follow this legislation through to make sure this important legislation is passed into law this session.

Thank you for your assistance. If you have additional questions do not hesitate to contact me.

Sincerely,

ALLVEST LABORATORIES, INC.



Matthew T. Fagnan  
President

CC/ Rep. Joe Green

**HB**

**212**

SPONSOR PROPOSES A  
TITLE AMENDMENT  
TO ADD VILLAGES  
IN ORGANIZED  
BOROUGH.

HOUSE BILL NO. 212

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KUBINA

Introduced: 3/25/97

Referred: Community and Regional Affairs, Judiciary

TITLE AMENDMENT  
PROPOSED TO ADD  
VILLAGES IN ORGAN-  
IZED VILLAGES.  
BOROUGH.

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to determination of an established village for purposes of  
2 regulating the sale, use, and possession of alcoholic beverages in the unorganized  
3 borough; and providing for an effective date."

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

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

6           Sec. 04.11.508. Establishment of perimeter of established village. (a)  
7           Except as provided under (b) and (c) of this section, for purposes of AS 04.11.491,  
8           04.11.497, and 04.11.503, the perimeter of an established village is a circle around the  
9           established village that includes an area within a five-mile radius of the post office of  
10           the established village. If the established village does not have a post office, the  
11           perimeter of an established village is a circle around the established village that  
12           includes an area within a five-mile radius of another site selected by the local  
13           governing body or by the board if the established village does not have a local  
14           governing body.

1           (b) If the perimeter of an established village determined under (a) of this  
2 section includes any area that is within a municipality or within the perimeter of  
3 another established village, the perimeter described under (a) of this section is limited  
4 to an area that includes only the established village.

5           (c) If the board determines that the perimeter of an established village as  
6 provided under (a) and (b) of this section does not accurately reflect the perimeter of  
7 the established village, the board may establish the perimeter of the established village  
8 for purposes of applying a local option selected under this chapter.

9 \* Sec. 2. This Act takes effect July 1, 1997.

# Alaska State Legislature



## Committees

Labor & Commerce  
Legislative Council  
World Trade  
Trade & Tourism  
Special Committee  
on Fisheries

**Representative Eugene Kubina**  
House Minority Leader

During Session:  
Alaska State Capitol  
Juneau, Alaska 99801-1182

During Interim:  
P.O. Box 2463  
Valdez, Alaska 99686

## SPONSOR STATEMENT - HB 212

HB 212, "An act relating to determination of an established village for the purposes of regulating the sale, use, and possession of alcoholic beverages in the unorganized borough," gives the Alcoholic Beverage Control (ABC) Board greater flexibility in defining actual boundary dimensions for the purpose of enforcing the local option law.

As Villages throughout Alaska have voted themselves dry over the years, their relative isolation has minimized regional conflicts. But when the Native Village of Gulkana decided to ban all alcoholic beverages within the communities' borders, the situation became more problematic. The five-mile radius perimeter effects businesses that exist along the highway system, several residents of the Village of Gakona, as well as general traffic along the highway. As a consequence, these people did not get the opportunity to cast a vote, but they are effected by the law.

This bill would give the ABC Board authority to set the boundary of the established village when circumstances such as these occur. This legislation will resolve the Village of Gulkana problem, as well as provide a permanent solution for those villages in similar circumstances that wish to go dry in the future.

Representative Gene Kubina

Alaska House of Representatives

State Capitol

Juneau, Alaska 99801-1182

Fax: (907) 465-3799

RE: House Bill No. 212

Dear Representative Kubina:

I have reviewed HB 212, a bill you introduced on March 25, 1997 relating to determination of an established village for purposes of enforcing local option alcohol restrictions in the unorganized borough.

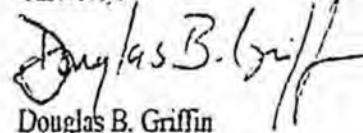
This bill is in response to a very real situation that exists relating to the ban on sale, importation, and possession of alcohol in the village of Gulkana. Gulkana is the first community adjacent to a major Alaska highway to enact such a ban by public vote. In the process of working to establish enforcement jurisdiction for this community it became clear that statutory and regulatory direction which has worked well in rural Alaskan communities off the road system does not adapt itself as well to regulate alcohol possession and use in road system villages.

HB 212 gives the Alcoholic Beverage Control Board discretion to take into account facts and situations that are unique in defining the enforcement area of and around a village that approves local option alcohol restrictions. I support this flexibility because it allows the ABC Board to consider local opinions, geography, impacts on tourism related activities, established land uses, land ownership, access, and settlement and residency patterns in and around a village when it establishes a perimeter other than the five-mile radius standard.

This role of balancing the right of citizens and communities to protect themselves from alcohol abuse with the privilege of conditionally selling and responsibly enjoying alcoholic beverages is one the ABC Board is accustomed to performing. I believe the ABC Board and its staff have the experience and judgement to fairly use the authority delegated to it in HB 212 and make the regulation of alcoholic beverages even more responsive to local concerns. While the ABC Board has not taken a formal position on this legislation, I believe it would concur that the approach of HB 212 to resolve conflicts is sound.

I will be available to speak in support of HB 212 at the April 4 hearing before the House Community and Regional Affairs Committee. I will also be happy to respond to any questions you may have on this issue.

Sincerely,



Douglas B. Griffin  
Director

cc: ABC Board Members  
Bob Bartholomew, Legislative Liaison, Dept. of Revenue

Box 8  
Gakona, Alaska 99586  
April 3, 1997

Rep. Gene Kubina  
Alaska State Capitol  
Juneau, AK 99801-1182  
FAX: 907-465-3799

Dear Gene;

Thank you for your letter and copy of HB 212 which deals with the Local Option decision at Gulkana Village and the problems with boundaries. This bill seems to correct the problem here with the proposed wording of section (c) especially.

We appreciate your prompt attention to this matter which concerns many folks living in this area. We trust that you will be able to garner enough support to get the bill passed. We are in sympathy with the alcohol problem and are aware of the fact that the folks in Gulkana Village did not intend to try to regulate anybody outside the village boundaries.

Thanks again for all you do for this area.

Sincerely,

Kenneth Hughes  
907-822-3896

Robert A. Frisbie  
P.O. Box 635  
Glennallen  
Alaska 99588  
February 21, 1997

Shelly Growden, Elections Supervision  
Central Region, Div. of Elections  
675 7th Ave, Station H  
Fairbanks, Alaska 99701-4594

Dear Ms Growden,

I feel there are some major problems regarding the recent vote taken in the village of Gulkana. While I applaud their efforts to keep alcohol out of their community, the law that permits this type of vote was written for bush communities, not areas accessible by the road system. If the five-mile radius provided in this law is observed, there are a great many more people affected than just those living in Gulkana village.

I live at Mile  $\frac{1}{2}$ , on the Tok Cut-off. I have always assumed I lived in the community of Gakona. If there is to be some determination of "wet" or "dry" that affects me, I feel I should be able to vote on it. I know several people who are residents of Gulkana that did not receive ballots. There are a lot of people in the five-mile radius who did not receive ballots.

I read the Draft Enforcement Plan written by Doug Griffin, the Director of the Alcoholic Beverage Control Board. He proposes the area for enforcement of the ban be the 300 acre townsite occupied by the village of Gulkana. I agree with this, since they are the only people who were allowed to vote on this issue.

The problem with this is that the law clearly provides for a five-mile radius. It is my feeling that a new election must be held, with ballots going to every legal voter in the affected area. The only other solution is for a new law to be written that will cover only the people in a village.

Yours truly,

*Robert A. Frisbie*

cc: Senator Lincoln  
Representative Kubina  
Representative Nicholia  
Doug Griffin

Emilie Frisbie  
P O Box 635  
Glennallen, Alaska 99588

February 22, 1997

Representative Gene Kubina  
State Capitol Room 404  
Juneau, Alaska 99801-1182

Dear Representative Kubina,

I am writing to you with a request to help the people of Gakona and the village of Gulkana. I have great respect for the people of Gulkana and their efforts to help themselves by voting to become a dry village. As you are aware, this is a village on the road system and therefore there are no statutes to help enforce the law without taking in the surrounding area. This is where the people of Gakona come into the equation. We would like to support the village, but not at the expense of giving up our constitutional rights of freedom of choice. We have had no choice in the local option, and the village of Gulkana had no intentions of the community of Gakona being pulled into the dry area.

Please help us keep the peace in our two communities. The community of Gakona has worked hard for the past four years to form a volunteer fire department. The people of Gulkana have given us their support in our efforts and they are in our service area. This issue has the potential of disrupting our easy coexistence. There were approximately 46 ballots sent out for the vote on local option. These to the people of Gulkana because the ABCB and the Division of Elections felt that the boundaries were distinct. If they elect to go with the current law on local option, approximately 230 people will be effected that had no voice in the vote.

Please give this issue your consideration. I would like to give the people of Gulkana my support in solving a very real problem in their village. Thank you for your time.

*Emilie Frisbie*

CC: Representative Irene Nicholia  
Senator Georgianna Lincoln  
Fran Ulmer, Lieutenant Governor  
Shelly Growden, Elections Supervisor  
Doug Griffin, ABCB Director

Feb. 24, 1997

Rep. Gene Kubina  
P.O. Box 2463  
Valdez, Alaska 99686

Dear Mr. Kubina,

It is with sincere urgency I write this letter.

You are probably most aware that Gulkana Village at Mile 127, on the Richardson Highway, voted to ban alcohol in their village. The voted was certified as of January 28, 1997. The citizens of the Gakona Community have been pulled into this decision because of the 5 mile radius portion of this law. The entire body of people that are affected by this law did not get a chance to vote.

It would seem that though we would defend the rights for the Gulkana citizens to have a say in what happens in their community, we of Gakona Community would not be granted the same equal rights by our own State Government, which in all fairness has gone against the US Constitution.

This law is how Gulkana Village has chosen to deal with issues within their village. This law for the residents of Gakona is not an alcohol issue nor should it be misconstrued as a prejudicial issue. We people of Gakona feel our Civil Rights have been violated.

It would seem that the reason we have no defense against this law is because there are no boundaries set or established for a Gakona Community. This is false, anyone who has lived in this area for any length of time knows there have always been boundaries that have been backed up by the state. Since the time of State Operated Schools and up to the present, our community has been defined by school attendance areas and School bus routes. We are

also defined by the State of Alaska through our Volunteer Fire Department. Which according to State Guidelines had to register a service area, which pretty much sums up the area that was and is still recognized by School boundaries, bus routes and most especially the people that live here.

This law that is being forced upon us, is not the wish of the people of Gulkana Village, it is not the wish of the people who live in the Gakona Community.

Why does the State of Alaska and the ABC Board feel compelled to impose problems upon the people of these communities? Is there any kind of contingencies by the State to deal with this law? If not, WHY?

It would seem obvious, at some point in time, this law was bound to have an adverse effect on many citizens in the State of Alaska.

Hopefully, this matter can be resolved quickly, reasonably and with the consideration of everyone concerned.

Sincerely,  
Mark and Sandra Lappi  
P.O. Box 207, Mile 2.5 Tok Hwy.  
Gakona, Alaska 99586

JH

P.O. Box 1  
Gakona AK 99586  
February 28, 1997

Representative Gene Kubina  
House of Representatives  
Room 406  
State Capitol  
Juneau AK 99801-1182

Dear Representative Kubina:

The recent vote in Gulkana Village to become dry has created, perhaps unforeseen, problems. The current statutes and regulations were written with bush communities, who wished to restrict alcohol, in mind. Gulkana Village, however, is on the road system and bordered by a sizeable non-native population. This population, including us, is also affected by the Gulkana decision and was not given an opportunity to vote.

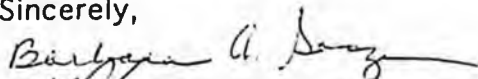
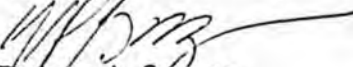
The citizens of Gakona respect the decision of Gulkana to become a dry village. We do not wish to change that. From testimony given at the February 25th meeting, it is clear that Gulkana natives had no intention of having any liquor ban imposed outside the village limit.

It seems that our communities are united in the action that must be taken. The statutes and regulations need to be rewritten to serve native and non-native communities on the road system. Please support legislation and revision of the Alcohol Beverage Control Board regulations to permit native villages the right to be dry and the enforcement area be limited to their townsite. The five mile radius circle of imposition needs to be eliminated for dry villages on the road system.

Doug Griffin, head of the State Alcohol Beverage Control Board, listened well to everyone's concerns and did a very respectable job answering questions and providing information. We feel that he now understands the complexity of the situation.

The citizens of Gulkana have requested a Village Safety Officer. We support that request without, however, giving up any authority of the Alaska State Troopers.

Sincerely,

  
  
Barbara A. Goozen  
Eric P. Goozen

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cc:Mail for: Katrina Matheny

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Subject: Gulkana Village Alcohol Law

▷ Forwarded: Representative Gene Kubina 2/26/97 2:15 PM

To: Katrina Matheny

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Representative Gene Kubina  
P.O. box 2463  
Valdez, AK 99686

Dear Mr. Kubina,

I have recently become aware of a law that has been voted on and passed that will have a very real effect on the community in which I live. Since all the people that this law will impact, were not given the opportunity to vote on the law, I feel, very strongly that our rights, as citizens of the State of Alaska and the United States have been seriously violated.

I am referring to the law which will ban the sale and/or possession of alcohol in the Gulkana Village. I fully support Gulkana Village's right to impose such restrictions on their Village, however, the law will also affect an area outside of the perimeter of Gulkana Village. The residents of the Gakona community, which is adjacent to Gulkana Village will be effected by this law as well and had no chance to give their input on the issue or to cast their vote.

This law, as it stands at the present time, would have numerous and far-reaching results on the residents of the Gakona community and other Alaska residents as well. It is not inconceivable that property values and the tourist industry would be adversely affected.

I strongly believe that this issue should have and warrants the immediate attention of our State government. The Rights of the people of the State of Alaska are being abused and that is an unacceptable situation.

Thank you,  
Steve and Linda Smythe  
P.O. Box 338  
Gakona, AK 99586

# FISCAL NOTE

Revision Date: \_\_\_\_\_ Dept. Affected: Community & Regional Affairs  
 Title: An Act relating to determination of BRU: none  
an established village for purposes ... Component: none  
 Sponsor: Rep. Kubina  
 Requestor: House C&RA Committee COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>REVENUE FUND SOURCE:</b>						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current (FY97) impact \$ none

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

This legislation would have no fiscal impact on the department.

Prepared by: Remond Henderson, Director Phone: 465-4708  
 Division: Division of Administrative Services Date: 4/4/97  
 Approved by Commissioner: \_\_\_\_\_ Date: 4/4/97  
 Agency: Community & Regional Affairs

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For further distribution information call the Governor's Legislative Office

# ***Gakona Junction Village, Inc.***

**P. O. Box 222**

**GAKONA, AK 99586**

Phone: (907) 822-3664 FAX: (907) 822-3696 Watts: (800) 962-1933 E-mail: [gakona@alaska.net](mailto:gakona@alaska.net)

## **Memorandum**

To: Hon. Gene Kubina, Representative - District 35

From: L. Alan LeMaster, President - Gakona Junction Village, Inc.

Subject: Local Option - Gulkana Village

Date: February 26, 1997

Good Morning,

As you are aware, a meeting was held in Gulkana Village last evening to discuss the recent vote for local option by the Gulkana community. There were in excess of 100 souls in attendance including, from the ABD: Mr. Douglas Griffin, Director, Mr. Bert Cottle, Board Member, Mr. Bill Roach, Inspector, and Ms. Bannon, Dept. of Law; from the Alaska State Troopers, Trooper Ridling, Sgt. Maynard and Capt. Savage; members of the Gulkana Village Council and about seventy-five people from this community that reside outside the village.

Some thirty persons testified and during the question and answer period the discussion was lively and continued for about 1½ hours. The testimony included substantial concern over the violation of civil liberties in terms of being governed by a law wherein only a select few were able to vote. Other testimony addressed the inadequacy of the law as it is written when applied to communities other than remote villages.

A good deal of discussion was concerning several questions the ABD Director and the Board had about how we felt the issues should be handled and response from the community on those concerns.

Near the end of the meeting a lively work session was held to try to definitively determine the real boundaries of the Gulkana Village. Some progress was made but there is concern that the village wishes to extend the boundary beyond the legal descriptions to include private lands adjoining their jurisdiction. That question is important and should be carefully considered in making any final determination so we do not encourage court challenges. In the final analysis the meeting was orderly, intense, and productive.

By consensus of the those in attendance, three areas of agreement became evident. First the law, as written, is not enforceable and vulnerable to legal challenge at many levels, both state and federal. Second, the regulations, as written, must also be revised and up-dated to conform to any new statutory language that might be effected by the legislature. And third, the law should be revised to allow a regulatory agency to set the boundaries of the area seeking local option, especially when the area affected is surrounded by other communities that have not vote on the issue. Which agency was left open to those of you that are better equipped to make that judgement but the Alcoholic Control Board, the Boundary Commission, and the Alaska Department of Community and Regional Affairs were three that were mentioned.

Now is the time to begin to make some sense of this law and the place to start is with your office. I would like to see the 1997 Legislature address the law with a bill revising the law this session. Being a bi-partisan issue and with everyone in agreement as to the definition of the problem, the practical solutions, and the need for change, it should help to make it relatively easy to place on the Fast-Track and get a law pushed through this session. Without an effective law, my business and that of Gakona Lodge is in jeopardy.

Director Griffin, Inspector Roach and Attorney Bannon all agreed that this is priority one on their desk. They committed to me that they will lend full cooperation to your office in defining the law the problem and revising. There is little left to do but to get started.

I know you are fully aware of the need and willing to do your part to effect a solution. If there is any thing we constituents can do to assist you, please do not hesitate to call on us. We all stand ready to help. With diligent work of your office, the cooperation of the ABID staff and board and the support of the community, I am certain we will succeed.

I am enclosing a copy of the testimony I presented at the meeting

Sincerely,

L. Alan LeMaster, President  
Gakona Junction Village, Inc.

cc: Mr. Douglas Griffin, Director - Alcoholic Control Board  
Mr. Bert Cottle, Board Member - Alcoholic Control Board  
Mr. Jeremy Weld, Publisher - Copper River Country Journal  
File

FEB-26-1997 11:08

3078223636

F.02

## ***Gakona Junction Village, Inc.***

**P. O. Box 222  
GAKONA, AK 99586**

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Phone: (907) 822-3664 FAX: (907) 822-3696 Watts: (800) 962-1933 E-mail: [gakona@alaska.net](mailto:gakona@alaska.net)

### Testimony

To: Alcoholic Beverage Control Board

From: L. Alan LeMaster, President  
Gakona Junction Village, Inc.  
dba Bunny's Café -  
Holder of a Restaurant/Eating Place License

Subject: Restriction of Possession, Procurement and Consumption of  
Alcoholic Beverages - Gulkana Village.

Gentlemen:

Thank you for coming into our community to discuss the recent election held here in Gulkana Village. My name is Alan LeMaster. I am the owner of Gakona Junction Village dba Bunny's Café. We hold one of two ABC licenses in our area and feel our business is in jeopardy.

As you can see from tonight's attendance, we as a community, are concerned about the method and means used in the recent election held here in Gulkana Village. We are pleased to have this opportunity to respond to the issue.

To preface my suggestion for reaching a palatable solution, first let me say that after reading Title IV of the Alaska Statutes it is my belief that no matter how one tries to interpret the law, bend the rule or regulate the outcome of the election to not effect our community as a whole, we are, indeed directly effected by an election that was held without our advise, consent or participation. It is because of the fact that we have not been included in the process that we feel the election was not legal, and cannot be binding on our community as a whole.

I know that there is a lot of work going into the questions of defining the boundaries of the Gakona community; what is the difference between an "established village", an unorganized community or an established community. In the final analysis, none of this is really relevant. The law clearly states the sale, possession and consumption of alcoholic beverages is restricted within a five mile radius of the point considered to be the center of the community in question.

If we are to have any hope of allowing communities like Gulkana Village to meet their goals of a ban within their community, a goal that we all support, **this law must be changed.**

I think that the change must come from first, the community advisory council (those of us here tonight) meeting with representatives of the ABC, DCRA, and Boundary Commission to develop a plan to petition the legislature to pass a bill that gives the regulatory agencies the ability to define the perimeters of the villages requesting the ban.

Second, we all must follow through with the plan and begin a campaign to lobby our legislators to work with us on a solution.

The issue at Gulkana is only the tip of the iceberg. Klu-ti-kah, in Copper Center, is in the process of petitioning for a similar ban. There are other villages in our valley with similar thoughts and without question, many other villages on and off the highway system across Alaska will be watching closely to see the results of our efforts.

We need to solve the problem, not only for Gulkana, but we must look for a solution that will be effective for the state as a whole. Bending the rules, working within the loose structure of the current law, or ignoring it will only make us advisories in the future and give our courts one more case to adjudicate. Let us look for viable, permanent solutions now that will work for everyone. We simply cannot rely on our personal interpretations of the law for our guidelines to enforcement. That will, without doubt open the door for trouble in coming years.

**Now for a solution. Let us change the law** Let us either completely eliminate the five mile radius or, allow the ABC Board or some other regulatory agency the latitude of defining the perimeters according to the intent of those petitioners looking for solutions to their individual community problems.

A rather simple solution might be to define the boundaries with an addendum to 15 AAC 404.645 j (page 79 of Title IV) as follows:

For purposes of this section and AS 04.11.491, 04.11.497 and 04.11.503, "perimeter" means a line around an established village, the line is a circle with a five-mile radius, having at its center a post office station or, if there is not a post office station, another site reasonably designated by the local governing body or by the board if there is no local governing body, but excluding from that circle

- 1) any area that is within an incorporated city; and
- 2) any area that is within another established village

*"or, when a five mile radius is not an applicable solution because it encompasses other communities that would prohibit passage of the local option law, a line, which ever is smaller may be drawn, around an established village as defined by the Boundary Commission and the Alcoholic Beverage Control Board."*

The intent of this wording, or wording similar to it, is to allow those who wish to restrict sale, possession or consumption of alcoholic beverages within their communities the opportunity to do so without infringing on the rights of citizens beyond their boundaries.

Of course, I am not a constitutional lawyer and obviously, other wording will be required but my hope is that you, in concert with all of us in this community can appeal to our elected representative and the Department of Law to first place a moratorium on the enforcement of the recent election at Gulkana Village and then develop the proper language for the passage of a bill during this 1997 session in Juneau.

This is a bi-partisan issue. Everyone seems to be in agreement as to the need. The ABC, DCRA, Dept. of Law, the Gulkana Village community and all of us in the unorganized community of Gakona see the need for change. We are all pointing in the same direction. We only need to sharpen our arrows and implement a plan. Working together we can and will get the attention and cooperation of our legislators. For, after all, isn't it their job and duty to respond to our needs and demands?

Thank you for the time. I am happy to address any questions you may have.

**PUBLIC NOTICE**

**15 AAC 104.645(j)**

**Enforcement of Local Option Elections**

Notice is also given that any person interested may present written comments relevant to the proposed action, including potential costs to private persons of complying with the proposed action by writing to Douglas B. Griffin, director, Alcoholic Beverage Control Board 550 W 7th

Avenue, STE 350, Anchorage, Alaska 99501, so that they are received no later than April 30,

1997. Additionally, any interested person may present oral or written comments relevant to the proposed action, including the potential costs to private persons of complying with the proposed action, at a public hearing on the proposed regulations that will be held at the Legislative Information Office site, at the State Office Building, room 13, Valdez, Alaska 99686 for teleconference hearings on the proposed regulations dealing with local option enforcement for communities on the highway system. The hearing will be held on Monday, April 14, 1997 starting at 6:30 p.m. from the Valdez LIO office. The public hearing will have teleconference connections to Legislative Information offices at the following locations that will allow persons interested in commenting to submit oral comments relevant to the proposed regulations from the following locations:

Glennallen LIO	Community Library	Phone #	822-5588
Gakona Hotel	128.5 Richardson Hwy	Phone #	822-3664
Anchorage LIO	716 W. 4th Ave., STE 200	Phone #	258-8111

Interested persons may submit oral comments relevant to the proposed regulations at any of the Legislative Information Offices listed above locations, at the time and specified above.

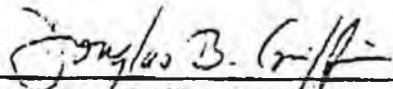
This action is not expected to require an increase appropriation.

If you are a person with a disability who may need a special modification or special assistance in order to comment on the proposed regulation, please contact Verna Hallett at 277-8638 by April 10, 1997.

copies of the proposed regulations may be obtained by writing to the Alcoholic Beverage Control Board, 550 W. 7th Ave., STE 350, Anchorage, Alaska 99501.

After the close of the public comment period, the Department of Revenue will either adopt these or other proposals dealing with the same subject, without further notice, or decide to take no action on them. You should comment during the time allowed if your interest could be affected.

DATE: March 26, 1997

  
\_\_\_\_\_  
Douglas B. Griffin, Director  
Alcoholic Beverage Control Board

c:\douglass\enforce.mer

Register \_\_\_\_\_, \_\_\_\_\_ 1997 REVENUE

15 AAC 104.645(j) is amended to read:

(j) For purposes of this section and AS 04.11.491, 04.11.497 and 04.11.503, "perimeter" means a line around an established village; the line is a circle with a five-mile radius, having at its center a post office station or, if there is no post office station

site reasonably designated by the local governing body or the board if there is no local governing body. But excluding from that circle

- (1) any area that is within an incorporated city; and
- (2) any area that is within another established village.

If, however, the established village is accessible by a regular (not modified) passenger motor vehicle from a road or highway as defined herein, the perimeter is not a five mile radius surrounding the village, but shall be limited to the area generally considered to constitute the village, and includes the entire contiguous growth and development area of the village. For purposes of this subsection, road or highway means one of the following located in Alaska: Alaska Highway, Cooper River Highway, Dalton Highway, Denali Highway, Edgerton Highway, McCarthy Road, Elliot Highway, George Parks Highway, Glenn Highway, Haines Highway, Klondike Highway, Richardson Highway, Seward Highway, Steese Highway, Chena Hot Springs Road, Sterling Highway, Taylor Highway, and the Top of the World Highway.

(Eff. 11/29/81, Register 80; am 3/31/85, Register 93; am 10/24/87, Register 104; am 7/30/89, Register 111; am 5/1/94, Register 130; am 5/11/96, Register 138; am \_\_/\_\_/\_\_, Register \_\_)

Authority: AS 04.06.090 AS 04.11.491 AS 04.16.052  
AS 04.06.100 AS 04.11.497 AS 04.16.060  
AS 04.11.010 AS 04.11.503 AS 04.16.125  
AS 04.11.150 AS 04.16.051

Post-IT™ brand fax transmittal memo 7671		# of pages ▶	2
To	REP. KUBINA	From	Doug Griffin
Co.	ATTN: KATRINA	Co.	ABC Animal
Dept.		Phone #	277-8638
Fax #	465-3798	Fax #	272-9412

APR-04-1997 11:44

P.01

Rep. Gene Kubina  
P.O. Box 2463  
Valdez, Alaska 99686

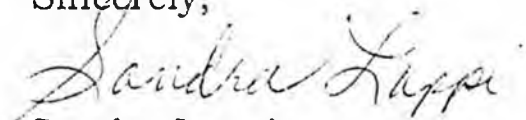
Dear Mr. Kubina,

Enclosed is a petition representing Gakona Community's decision regarding the Local Options Law that Gulkana Village voted in recently. Our community should NOT be confused with Gakona Village. I know you have been here as you have stood in my front yard one day (next to the Gakona Post Office) when I was out working with my dogs. You complimented me on how they behaved.

Early last week my husband & I faxed you a letter in reference to this issue also. Hopefully, you received it. This is a big issue in our community.

Please keep us as up-to-date as you can regarding this situation? It would be greatly appreciated.

Sincerely,



Sandra Lappi  
Box 207  
Gakona, Ak. 99586

Ph# (907) 822-3320  
email- lappi@alaska.net  
fax# 907-822-5946

WE, THE UNDERSIGNED, DO HEREBY REJECT ANY ACTION BY ANY FEDERAL OR STATE LAW THAT WOULD INFRINGE UPON OUR CIVIL RIGHTS.

WE SUPPORT GULKANA VILLAGE'S DECISION TO BAN LIQUOR FROM THEIR VILLAGE.

WE DO NOT SUPPORT ANY DECISION THAT EXCEEDS THE EXACT GULKANA VILLAGE PROPERTIES!

SIGNATURE                  PRINT                  PHYSICAL ADD.                  PHONE #

- SR 7022-1*
- ✓ *[Signature]* Bruno Bourer's Mile 8 Toklatoff 822 5947
  - ✓ *[Signature]* Gordon R Brown 17 MILE POST 1/10 TOK CUT OFF
  - ✓ *[Signature]* John Gata MI 2.5 TOK CUT OFF 822 5021
  - ✓ *[Signature]* BOB Flint Mile 9 TOK CUT OFF 822-3070
  - ✓ Joe LeFaire 11 CO 2 Box 157 Gulkana, AK 99701  
Mile 4.7 Tok Road 822-3303
  - ✓ Fred Herz Box 125 Gulkana AK 99586
  - ✓ Jim Hopkin Box 303 MI 2 1/2 TOKENY GULKANA AK 99586 822 5496
  - ✓ *[Signature]* A. [unclear] Box 8 Gulkana, AK 99586 822 3996
  - ✓ *[Signature]* [unclear] Box 207 Gulkana AK 99586
  - ✓ *[Signature]* [unclear] Box 247 Gulkana AK 99586
  - ✓ *[Signature]* GREG SMITH PO Box 245 Glennallen, AK 99588
  - ✓ *[Signature]* Barbara F. Strong Gulkana, AK 99586-0255
  - ✓ *[Signature]* [unclear] PO Box 209 [unclear] 99586
  - ✓ *[Signature]* [unclear] Box 132 Mile 4.25 Tok Cut off

WE, THE UNDERSIGNED, DO HEREBY REJECT ANY ACTION BY ANY FEDERAL OR STATE LAW THAT WOULD INFRINGE UPON OUR CIVIL RIGHTS.

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SIGNATURE                  PRINT                  PHYSICAL ADD.                  PHONE #

✓ *Warren Ulrich* WARREN ULRICH *MJ 132* RICHARDSON AVE 822-3071

✓ *Heidi McMahan* Heidi McMahan Mi 1.5 Tok Cutoff 822-3441

✓ *Francine McMahan* Francine McMahan Mi. 1.5 Tok RD. 822-3441

✓ *Harley McMahan* Harley McMahan 1.5 Tok Rd 822-3441

✓ *Christine Egbert* Christine Egbert Mi 2.5 Tok cutoff 822-5016

✓ *Annalee Egbert* Annalee Egbert Mi. 2.5 Tok cutoff 822-5991

✓ *Steve TROLL* STEVE TROLL Mi. 1.28.5 Rd H 822-3168

✓ *GAIL TROLL* GAIL TROLL Mi. 2.5 Tok cutoff 822-3634

✓ *TERESA GUATES* TERESA GUATES MILE <sup>822-5071</sup> 2.5 Tok Cutoff Hwy

✓ *MARY SCHLENKER* MARY SCHLENKER MILE <sup>822-3103</sup> .5 Tok RD

✓ *Hilary Lappi* Hilary Lappi Mi. 2.5 Tok rd. 822-3320

✓ *Cathy King* Cathy King mi 2.5 Tok Rd. 822-3391

✓ *BILL TOLSON* Bill TOLSON 1.5 Tok 822-3181


✓ *TERRY SPANGLER* Terry Spangler Mi. 2.5 Tok C. L. 822-3652

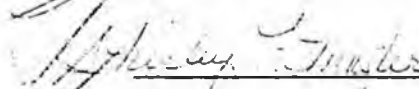
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SIGNATURE                      PRINT                      PHYSICAL ADD.                      PHONE #

 ALAN LESTER MILE 108.5 RICHARDSON 822-3664

 SHIRLEY A. MILLER MILE 135.5 RICHARDSON 822-3664

BRYAN R. COLANG GREGORY R. COLANG MILE 117.5 RICH 822-3968

CINDY L. RHODES CINDY L. RHODES 1/2 MILE 135.5 GLENN HWY 822-3663

✓ DOUGLAS RHODES P.O. Box 110 Glennallen AK 99588

✓ RAY D. HONDEK HCO-1 POX 275 GAKONA, AK. 99586 5174

✓ DEAN BRINGTON 1981 2.5 TOK CUTOFF 822-3981  
Gakona AK

✓ BARBARA BRINGTON BARBARA BRINGTON MILE 2.5 TOK CUTOFF 822-3981

✓ EMILIE FRISBIE EMILIE FRISBIE 1/2 MILE TOK CUTOFF 822-3062

✓ MARK HONDEK 1/2 MILE TOK CUTOFF NO PHONE

✓ R.A. FRISBIE Schultz Drive Mile 1/2 Tok Rd. Gakona 822-3062

✓ GERALD W. STRANG GERALD W. STRANG MILE 2 TOK RD GAKONA, AK  
99586

✓ DONOVAN MAHER DONOVAN MAHER S. S TOK CUTOFF 822-5512

✓ NELLIE R. YHRICH NELLIE R. YHRICH MILE 132 RICHARDSON HWY 822-3071

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SIGNATURE	PRINT	PHYSICAL ADD.	PHONE #
<i>[Signature]</i>	JULIE SWE	MI 2.2 TOK CUTOFF	822-3015
<i>[Signature]</i>	William Leonard	129 Richardson	822-5380
<i>[Signature]</i>	Kari E. Paquard	MI 2 Tok Cutoff	822-5087
<i>[Signature]</i>	CHET FERRELL	MI 1295 RICHARDSON	822-3168
<i>[Signature]</i>	LINDA SMYTHE	MI 1289 Old Richardson	822-5073
<i>[Signature]</i>	Michael A. Shelton	MP 1.25 Tok Cut-off	822-3471
<i>[Signature]</i>	Judy A. Shelton	MP 1 3/4 Tok CutOff Gulkana	822-3471
<i>[Signature]</i>	John J Strang	MI 2 tok Cutoff Gulkana	822-3482
<i>[Signature]</i>	Benny J. Bozwick	M. 5 TOKCUTOFF GULKANA	822-3600(W)
<i>[Signature]</i>	Sandra Lappi	MI 2.5 Tok Hwy	822-3320
<i>[Signature]</i>	MARK LAPPI	M. 2.5 Tok Hwy	822-3320
<i>[Signature]</i>	Don Bedarek	M.P. 2.6 Tok Hwy	822-3170
<i>[Signature]</i>	MW Jenkins	MP 2.5 TOK Hwy	822-3935
<i>[Signature]</i>	MARIE E. JENKINS	MP. 5 TOK Hwy	822-3935
<i>[Signature]</i>	RONALD N. SIMPSON	Jerry Rd Copper Pt	822-3647

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SIGNATURE                  PRINT                  PHYSICAL ADD.                  PHONE #

~~Michael Hansen~~ Michael Hansen <sup>mile 182</sup> <sup>Box 29 P. 18111</sup> Gladwyne 822-3780

Richard L. Cross P.O. Box 204 Glenallen, Pa 2-5153

Lee De Wilson <sup>mile 8.9 Tuckertown</sup> P.O. Box 322 Copper Center Pa 2-3706

~~Richard L. Cross~~ P.O. Box 110 Glenallen Pa

Frederick B. Reed <sup>mile 18.5 Gladwyne</sup> P.O. Box 483 Glenallen Pa

Ken M. Sprinkle Ken M. Sprinkle Mile 2.5 Tok Cutoff 907-822-3652  
907-822-3440

Barbara A. Gozzen Barbara A. Gozzen Mile 2.5 Tok Cutoff  
522 3440

ERIC P. GOZZEN Mile 2.5 Tok Cutoff

\_\_\_\_\_

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**SIGNATURE      PRINT      PHYSICAL ADD.      PHONE #**

*Margaret Palmer* Margaret Palmer Mile 117 1/2 Richardson Hwy. Alaska

*Rosan Wharton* Rosan Wharton Tazlina Trailer Ct. Glennallen  
561 #16

*Dennis D Petty* Dennis D Petty Mile 188 Glennallen Glennallen  
907 800-3454

*Larry D Huelskoetter* Larry D Huelskoetter Mile 101 Richardson Hwy 822-3479

*ERIK MAXWELL* Mile 137 Glennallen

*Dore Beckler* Dore Beckler Tazlina Sp Rd. 822-3887

*John Downes* John Downes Box 309 Copper Center AK 99573

*Lisa Downes* Lisa Downes Box 309 Copper Center AK 99573

*David B. Bell* David B. Bell Box 154 Gakona, AK. 99586

*Sue Strang* Sue Strang Box 194 Gakona, AK 99586

*Logan Lappi* Logan Lappi Box 194 Gakona, AK 99586

*Alan Heger* Alan Heger Box 141 Gakona, AK 99586

*Amy Kalkway* Amy Kalkway Box 283 Gakona AK 99586  
822 50 51

# MEMORANDUM

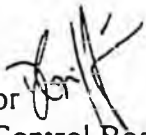
**ALCOHOLIC BEVERAGE CONTROL BOARD**

**PHONE: 907-277-8638 FAX: 907-277-9412**

**ANCHORAGE, ALASKA 99501**

**To:** Distribution List

**Thru:**

**From:** Doug Griffin, Director   
Alcoholic Beverage Control Board

**Subject:** Draft Enforcement Plan for Gulkana Village Local Option Election

**Date:** February 3, 1997

The attached **DRAFT ENFORCEMENT PLAN** is being sent to you for your review and comments. A public meeting is scheduled for Tuesday, February 25, 1997. The meeting will begin at 7 p.m. at the Gulkana Village Community Hall. Written comments and suggestions will be received until February 28, 1997 by writing to the:

Alcoholic Beverage Control Board  
550 W 7th Avenue, STE 350  
Anchorage, Alaska 99501  
Fax: 907-272-9412

## DISTRIBUTION LIST:

Eileen L. Ewan, President  
Gulkana Village Council  
PO Box 254  
Gakona, Alaska 99586

L. Alan Le Master, President  
Gakona Junction Village, Inc.  
PO Box 222  
Gakona, Alaska 99586

Bob Klein, Chair  
Alcoholic Beverage Control Board  
10381 Treetop Lane  
Anchorage, Alaska 99516

Bert Cottle, Vice Chair  
Alcoholic Beverage Control Board  
PO Box 1049  
Valdez, Alaska 99686

Ellen Ganley, Member  
Alcoholic Beverage Control Board  
4454 Chena Hot Springs Road  
Fairbanks, Alaska 99717

Evelyn Beeter, Member  
Alcoholic Beverage Control Board  
Star Route Box 224  
Chistochina, Alaska 99586