

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9298 HOUSE LABOR & COMMERCE

HB

140

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 140

Revision Date: _____ Department: Commerce and Economic Development
 Title: An Act relating to the Board of Public Accountancy; BRU: Occupational Licensing
 extending the termination date... Component: Operations
 Sponsor: House Rules
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. 1844

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	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/MHTIA						
Other 1091 Designated PR						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 139.5

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 HB 140 extends the Board of Public Accountancy to June 30, 2003 and makes other amendments to AS 08.04. Funding for continuation of the board in the amount of \$139.5 is included in the department's FY 98 operating budget request; therefore, new funds are not required to implement this bill. The program is required to cover its costs with licensing fees under AS 08.01.065, and revenue generated by board fees are anticipated to cover its full operating costs.

Prepared by: Jennifer Strickler, Administrative Manager *JS* Phone: 465-2144
 Division: Occupational Licensing *CAZ* Date: 3/14/97
 Approved by Commissioner: William L. Hensley *W. Hensley* Date: 3-14-97
 Agency: Commerce and Economic Development

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STATE OF ALASKA
Boards and Commissions

ACCOUNTANCY BOARD

BOARD: Alaska State Board of Public Accountancy

BOARD IDENTIFICATION NUMBER: 001

DEPARTMENT: DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

AUTHORITY: AS 08.04.010; Chapter 187, SLA 1960

STATUS: Active

SUNSET DATE: June 30, 1997

REQUIREMENTS: Legislative Confirmation

PROHIBITIONS: Cannot serve more than all or part of two consecutive terms.

TERM: 4 years

DESCRIPTION: 7 members appointed by the Governor - 5 certified public accountants or public accountants (must hold current certificate or license and be eligible to receive permits under chapter); plus 2 public members (may not be employed by a person licensed under this chapter or business entity holding permit under chapter); must be at least 1-year Alaska resident; vacancies filled within 60 days; member serves until reappointed or replaced.

FUNCTION: Regulates and controls applications, licenses, and permits of accounting profession.

CHAIR: Selected by board.

SPECIAL FACTS: Serve at the pleasure of the Governor; board elects officers; quorum - majority; annual report to Governor. Members serve until a successor is appointed. An appointment to fill a vacancy is for the remainder of the unexpired term. A member who has served all or part of two successive terms may not be reappointed unless four years have elapsed since the person has last served.

COMPENSATION: Standard Travel and Per Diem. No additional compensation.

MEETINGS: At least 4 meetings per year; meetings are 2 days each.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Snyder, Division of Occupational Licensing, DCED, P.O. Box 110806 M/S 0606, Juneau, AK, 99811 0806, Phone: 907 465 2580, Fax: 907 465 2974

STATE OF ALASKA
Boards and Commissions

Membership Roster
ACCOUNTANCY BOARD (001)

Member	Appointed	Reappointed	Term Exp.
Elaine Damm Public P.O. Box 1668 Kodiak, AK 99615	11/14/91	05/12/92	04/25/96
Charles R. Griffin CPA/PA P.O. Box 670 Palmer, AK 99645	02/14/90	04/25/93	04/25/97
Dean W. Nelson CPA/PA Audit Partner Deloitte & Touche LLP 550 West Seventh Avenue, Suite 1500 Anchorage, AK 99501	05/31/95		04/25/99
Jean Schmitt CPA/PA P.O. Box 607 Fairbanks, AK 99707	11/04/91	04/25/93	04/25/97
Bradley L. Shaffer CPA/PA 479 Katlian Avenue, Suite 3 Sitka, AK 99835	08/14/91	04/25/93	04/25/97
Joanne Stoots Public c/o GVEA, Inc. P.O. Box 71249 Fairbanks, AK 99707	01/27/92	11/01/95	04/25/99
Linda Thomas CPA/PA P.O. Box 20905 Juneau, AK 99802	06/25/96		04/25/00

Mar-19-97 01:45 PM

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
2864	OK	09	Sent	Mar-19	01:39P	00:05:25	002585030022

FEB 0 5 1997

WORK ORDER REQUEST FORM

W.O. [20] LS-0524

KEYWORDS: BOARDS AND COMMISSIONS ASSIGNED: Lauterbach

LICENSING

PROFESSIONS

REQUEST FOR: New Bill

TAKEN BY: Lauterbach

SUBJECT: Regulation of Accountants

REQUESTED FOR: HC HL&C BY: Shirley PHONE: 465-4954

DELIVER TO: Rep. Rokeberg, Cap. 24

INSTRUCTIONS: Draft a House duplicate of SB 75, relating to accountants.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED []
AUTHORIZED TO CONFER WITH _____

RETURN _____
_____ TO REQUESTOR

APPROVED: X DIRECTOR, LEGAL SERVICES

REVIEWED _____

IN 02/05/97 DUE _____

TYPED: Draft _____ Date _____

Final _____ Date _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS to TYPING/PROOFING

By Request _____

Request for DRAFT

Appendment 1/30/97 1pm

CHARLES R. GRIFFIN

CERTIFIED PUBLIC ACCOUNTANT

at Westmark Juneau
586-6900x 703

P.O. BOX 670 • PALMER, ALASKA 99645 • (907) 745-3239

AN ACT

Tim Kally
Saw Rules
Tim B... to do

JAN 30 1997

Relating to the regulation of accountants; and providing for an effective date.

Test New &
MAY
Semi-annual

* Section 1. AS 08.04.130 is amended to read:

Sec. 08.04.130. EXAMINATION. (a) An applicant shall pass a written examination in accounting and reporting, in auditing, and in other related subjects that the board determines appropriate. The examination shall be designated in advance by the board as an examination for the certificate of certified public accountant. The board shall use the uniform certified public accountant examination and advisory grading service, if available.

(b) The board shall, by regulation, prescribe the minimum educational and/or experience requirements for applicants to qualify to sit for the certified public accountant examination.

* Section 2. AS 08.04.150 is repealed:

Sec. 08.04.150. Repealed. [PREREQUISITE FOR CERTIFICATE. AN APPLICANT WHO IS WITHIN 18 SEMESTER HOURS OF MEETING OR HAS MET THE UNDERGRADUATE EDUCATIONAL REQUIREMENTS OF AS 08.04.120 MAY TAKE THE EXAMINATION WHETHER OR NOT THE APPLICANT HAS MET THE OTHER REQUIREMENTS OF THAT SECTION. HOWEVER AN APPLICANT SHALL MEET THE OTHER REQUIREMENTS OF AS 08.04.120 BEFORE THE APPLICANT IS ENTITLED TO RECEIVE A CERTIFICATE.]

* Section 3. AS 08.04.540 is amended to read:

Sec. 08.04.540. USE OF DECEPTIVE TITLE OR ABBREVIATION. An individual, partnership, limited liability company, or corporation may not assume or use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title or designation likely to be confused with "certified public accountant", or any of the abbreviations "CA", "EA", except as it relates to the term "enrolled agent" as defined by the Internal Revenue Service, "LA", "RA", or similar abbreviations likely to be confused with "CPA" or "PA"; however, an individual, partnership, limited liability company, or corporation holding a live permit and whose offices in this state for the practice of public accounting are maintained as required by AS 08.04.360 - 08.04.380 may hold out to the public as an accountant or auditor.

* Section 4. Sections 1 - 3 of this Act take effect immediately under AS 01.10.070(c).

ALASKA STATE BOARD OF PUBLIC ACCOUNTANCY

BOARD RECOMMENDATIONS FOR PROPOSED REGULATIONS

The State of Alaska is the only jurisdiction providing the AICPA exam without any minimum education or work experience requirements. The present regulations require a lower standard to sit for the exam than required to become licensed as a certified public accountant.

The lower standards provide the opportunity for applicants to sit for the exam in Alaska rather than other jurisdictions. Historically 150 applicants sit for the CPA exam twice a year. The number of applicants approved for the November 1996 exam is approximately 750. The dramatic increase is the result of Alaska's lower standards to sit for the exam.

The Board's primary concerns with the increase are twofold:

1. The State is legally bound to administer the exam and meet very high standards of security. Every effort of the administration is to prevent disclosure of the contents of the exam. The board is concerned applicants may take the exam to obtain first hand knowledge of the contents of the exam and to share the information with other interested parties.

The board is committed to the administration of the exam for individuals who want to become licensed as a certified public accountant.

2. Transcripts of the applicants from other jurisdictions reveal little or no accounting and auditing classes. The applications reveal that most of these applicants are not employed in public accounting nor intend to become licensed as a certified public accountant.

The board is committed to the administration of the exam for individuals who have obtained certain educational or work experience that demonstrates their intent to become licensed as a certified public accountant.

The proposed statute change provides the board the authority to define the minimum educational or experience requirements for application to sit for the exam by regulation.

The proposed regulation changes will provide the minimum educational or work experience.

The State will benefit from providing the minimum educational or work experience requirements to sit for the exam. The State will be in conformity with other jurisdictions by adopting these changes. There will not be any additional cost to the State from the adoption of these changes.



ALASKA SOCIETY OF CPA'S
341 W. TUDOR #105
ANCHORAGE, AK 99503
(907) 562-4334
800-478-4334
FAX (907) 562-4025

JAN - 4 1997

January 2, 1996

Charles Griffin, CPA
Chair, Alaska Board of Public Accountancy
Division of Occupational Licensing
P.O. Box 670
Palmer, Alaska 99645

Dear Mr. Griffin:

The Board of Directors of the Alaska Society of Certified Public Accountants has reviewed the statute and regulations proposed by the Board of Public Accountancy to increase the Alaskan requirements to sit for the CPA exam. We understand the recent developments which prompted your call for change. Several of our members were involved with the administration of the November 1996 exam. The tremendous increase in applicants did cause considerable problems. The ability of our state to administer the exam under conditions of high security must be a priority concern.

We believe the statute and regulations changes outlined in your proposal should be adopted. The statute change will give the Board the authority to regulate the exam through education and experience regulations. This will not only allow the Board to act in the current situation, but will also provide the statutory authority to react to future problems that might arise. The revised educational/experience regulations will bring our state into closer conformity with other jurisdictions with minimum impact on Alaskans who plan to sit for the exam. Alaskan students majoring in accounting will continue to be qualified to sit for the exam in the final semester of their baccalaureate programs. We believe your proposal will provide a practical and fair solution to our current exam administration problems.

The Board of Directors of the Alaska Society of Certified Public Accountants unanimously voted to support your proposal at our December 6, 1996 Board meeting and authorized this letter of public support. We stand ready to provide any additional support that might be necessary as this proposal moves through the legislative process.

On another matter, we are in receipt of the December 17, 1996 "Regulations Notice" from Regulation Specialist, Joanne Cummings regarding various other regulation changes including Quality Review regulations. We worked closely with you as these Quality Review regulations were drafted and are pleased to see them moving through your due process procedures. We continue to strongly support the adoptions of these Quality Review requirements.

Please contact us if we can be of any further assistance with regard to any of the matters referred to in this letter. We appreciate the opportunity to work with you as you strive to administer the Accountancy Statute and Regulations to protect the public interest.

Sincerely,

Alaska Society of CPAs

Alaska Society of Certified Public Accountants, Inc.

cc: Mark Schnieter

CHAPTER 04. BOARD OF PUBLIC ACCOUNTANCY.

(Words underlined indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted. Complete new sections are not underlined.)

12 AAC 04 is amended by adding a new section to read:

12 AAC 04.195. QUALIFICATION FOR EXAMINATION. A candidate is qualified to sit for the certified public accountant examination if the candidate either

(1) has a baccalaureate degree or its equivalent conferred by a college or university acceptable to the board with

(A) an accounting concentration or the equivalent as defined in 12 AAC 04.185;

(B) a minimum of 15 semester credit hours or 22 quarter credit hours of accounting subjects; or

(C) one year of public accounting experience under the direct supervision of a certified public accountant; or

(2) has met or is within 18 semester credit hours or 27 quarter credit hours of meeting the undergraduate educational requirements of AS 08.04.120 and has completed at least 15 semester hours or 22 quarter hours of accounting subjects. (Eff. / / , Register)

Japanese count on taking CPA exam here

By Margaret Thomas
Staff writer, The Paper

State officials are scrambling to accommodate a sudden surge in the number of people planning to take the certified public accountant licensing exam in Alaska next month. And here's the weird part: Almost 80 percent of the applicants are Japanese.

Some 700 people have applied to take the two-day test in Alaska, with 295 of them scheduled to sit in Juneau. Organizers here have reserved the Centennial Hall ballroom to make room for the crowd. Last time the twice-yearly test was offered in Juneau, 15 people signed up.

The recent influx is a result of the prestige that Japanese businesses attach to passing

the U.S. exam, combined with an emergency change in Montana regulations that made Alaska the easiest place to qualify for the test. Now, Alaska's Board of Public Accountancy is pushing to close the door here, too.

The problem is that most of the foreign test takers have no intention of fulfilling up to three years of work experience required to become licensed, practicing CPAs in Alaska. Worse yet, the change in Montana law could make Alaska a target for "ringers" -- those who just want a peek at the standardized test in order to help their clients cheat.

"Alaska currently has the lowest requirements for eligibility to sit for the exam,"

said Chuck Griffin, head of the state Public Accountancy Board. "The more people we let in who will have no ultimate chance of being licensed, it seems the greater our exposure is."

Officials at the state Division of Occupational Licensing worry too that application fees won't cover the cost of processing more paperwork, renting larger facilities and hiring extra proctors for administering the test to so many, said state licensing supervisor Judy Weske. "We will have to look at our costs for this exam and compare it to what we charge candidates."

Montana had the least-restrictive exam eligibility requirements in the country, until this year. Applicants were not required to

meet education, experience or residency requirements before taking the test, which is administered at the same time nationwide and in three U.S. protectorates.

More than 800 applicants signed up for the May test in Helena, said Sue Criswell, administrator for the Montana Board of Public Accountants. Many of them were from Japan and other foreign countries.

What made the crowd so daunting was the fact that national rules for administering the test had undergone a major change. In the past, the national organization that publishes the exam rewrote the questions every six months. Students and teachers were allowed to use old versions of the test to

Please turn to page 7

CPA exam Continued from page 3

prepare. No more.

The American Institute of Certified Public Accountants decided it would be fairer if the test was always the same. The change also would allow the institute to cut the costs of continually writing, pre-testing and evaluating new exam questions.

The result is a level of anxiety over security that is normally reserved for shipments of jewels, furs and bundles of big bills. Security guards now deliver the exams to testing sites in armored trucks.

Montana officials stationed armed guards at exits during that state's first "non-disclosed" test in May. Monitors were assigned to the bathrooms and chaperons accompanied anyone who wanted to step outside for a smoke during the 15½-hour, two-day test.

Officials in every test jurisdiction sweat over the possible consequences of a breach. The institute could declare exam scores invalid nationwide and have to begin the expensive process of developing a new test. The jurisdiction that allowed the leak could be held liable for those costs and lose its authorization to give future exams.

Once Montana officials understood the implications, they moved quickly to cull candidates who have no intention of getting

licensed. The state board approved emergency regulations requiring applicants to complete a minimum number of accounting and other business credits before taking the test.

Overnight, there was a new reason for foreigners to come to Alaska. A bachelor's degree in any subject is all that's required to take the test here. "Word travels fast among the different nationalities," said Criswell. "They publicize it all over the country."

Representatives of state and national CPA organizations are unclear about why the Japanese and other foreigners value a versing in U.S. tax law. There are probably a variety of reasons, said Martha Renaud of the New York City-based National Association of State Boards of Accountancy. "It's a mark of status to be able to pass the exam, whether you actually

plan to practice in the U.S. or not."

State licensing examiner Steve Snyder knew he was in for it when Tokyo's Tanoramon Accounting School phoned to request 60 applications for the Alaska CPA exam last spring. Calls from several other Japanese accounting schools followed. The din of desk clerks shouting half-speed English into the phone became common at the division's Juneau office this summer and soon an avalanche of applications threatened to bury Snyder.

"It's a lot more overwhelming," said Snyder of his job these days. "I don't have a lot of time to do other things that need to be done."

Division director Catherine Reardon has reassigned a half-time employee to help Snyder dig out. Division officials also have contacted the state attorney general's office for an opinion on whether it's legal to charge foreign candidates more than Americans to take the test.

"They're not supporting the superstructure that everyone else pays for," said Reardon. "We're protecting our licensees from carrying extra costs."

The Alaska Supreme Court already has nixed state residency requirements, but the Alaska CPA board is devising another strategy for diverting the stampede, said

chairman Griffin. Board members will petition the Legislature to add new exam eligibility requirements -- they're suggesting 15 semester hours in accounting subjects, or a year of relevant work experience.

Griffin doesn't anticipate trouble, but it's unlikely a new law and matching regulations could be in effect before test time in May. Not everyone is in a hurry.

The Westmark Juneau, next to the Centennial Hall test site, is already more than three-quarters full for Nov. 6-7. Admits Weske, "It's certainly great for the Juneau economy."




Emily Kane
DOCTOR OF
NATUROPATHIC
MEDICINE
LICENSED
ACUPUNCTURIST

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'94 Dodge Shadow ES 6 Cylinder \$8,995	'88 Ford Taurus Automatic \$3,750														

League of Women Voters Juneau & KTOO-FM Radio Present

Juneau Legislative Candidates Forum
Tuesday, October 8, 1996 at 6:30 pm
Live on KTOO-FM Radio

<p style="text-align: center;"><i>The Panel</i></p> <p>Beth Galea - Moderator Suzanne Downing - Juneau Empire Joaquin Estus - KTOO Marcy Ackerman - JDHS Lionel Ward - JDHS</p>	<p style="text-align: center;"><i>The Candidates</i></p> <p>Kim Eiton Ann House Bill Hudson Caren Robinson</p>
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05/05/97

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

16:37:44

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:ANC

TCN:70761

SCHEDULED FOR:05/05/97 15:15 TO 18:15

FOR:ANC

PUBLIC HEARING

HOUSE LABOR & COMMERCE

LOCATION:ANCHORAGE

OVERSIGHT

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HB 142

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ALL ITEMS

JERRY

KURTZ

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HB178

UNABLE

ALL ITEMS

DOUGLAS

LOTTRIDGE

T HB 178

UNABLE

Exams draw crowd

Japanese take state CPA test

By DIRK MILLER
The Associated Press

JUNEAU — When Alaska offers a national certified public accountant exam next month, state officials are expecting an influx of Japanese test takers.

About 700 of the 900 applicants are Japanese applicants, said Catherine Reardon, the state's occupational licensing director.

The May test takers should be the last big wave of foreigners taking the licensing exam in Alaska. A bill signed into law Wednesday by Gov. Tony Knowles puts stricter requirements that must be met by people who wish to take the exam. Previously Alaska had the lowest standard of eligibility among the states offering the exam.

The new law requires test takers to have a college de-

Please see Page E-2, TEST

TEST: State requirements toughened up

Continued from Page E-1

gree and to have a minimum amount of accounting credits or experience. It will take effect June 1, before the next exam in November.

Reardon said the U.S. certificate is desirable for accountants and other professionals in Japan.

"When a Japanese school calls up and asks for 200 applications, it's kind of an exciting day," Reardon said. "It must be a valuable credential because it's not cheap to fly over here."

Alaska became a magnet for future foreign accountants when Montana tightened up its eligibility requirements for the test last year.

Susanne Criswell, administrator of the Montana Board of Public Accountants, said the numbers of foreigners taking the exam dropped considerably once the requirements changed.

Criswell said last year she began directing Japanese applicants and other foreigners to Alaska, where eligibility requirements were less stringent.

The Japan Times reported last month that Alaska was the sole state where foreign applicants could take the course without U.S. college credits.

The Senate Rules Committee filed the bill that changes Alaska's eligibility requirements. Chairman Tim Kelly, R-Anchorage, said the state accountancy board requested the legislation because it was getting swamped with foreign applicants.

Reardon said the additional numbers of test takers meant the state had to rent larger facilities and hire additional monitors to handle the increase.

The state is adding a Ketchikan test site for the May 7-8 exams. Jeff Bush of the state Department of Commerce said the hope is that Ketchikan, where a pulp mill recently closed, will benefit from the visitors and that it might help future tourism efforts.

Next month's exams are also being held in Anchorage, Fairbanks and Juneau.

Anch Daily News 4/24/97

Audit Report

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF PUBLIC ACCOUNTANCY

September 15, 1996



Audit Control Number:

08-1440-96

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Anchorage or Juneau.

BUDGET AND AUDIT COMMITTEE

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Representative Con Bunde
Representative John Davies
Representative Gary Davis
Representative Vic Kohring
Representative Mark Hanley (alternate)

Senator Randy Phillips, Vice Chair
Senator Al Adams
Senator Steve Frank
Senator Rick Halford
Senator Steve Rieger
Senator Fred Zharoff (alternate)

DIVISION OF LEGISLATIVE AUDIT

Randy S. Welker, CPA
Legislative Auditor
Merle R. Jenson, CPA
Deputy Legislative Auditor

P.O. Box 113300
Juneau, Alaska 99811-3300

(907) 465-3830, Juneau
(907) 561-1445, Anchorage
(907) 465-2347, Juneau FAX

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



September 15, 1996

P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF PUBLIC ACCOUNTANCY

September 15, 1996

Audit Control Number
08-1440-97

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(1), the Board of Public Accountancy is scheduled to terminate on June 30, 1997. The board would be allowed one year in which to conclude its administrative affairs.

According to Article IX, Section 14 of the Alaska Constitution, the position of Legislative Auditor is required to be a licensed certified public accountant (CPA). Likewise, the professional staff at the Division of Legislative Audit are either licensed or are pursuing licensure as CPAs. Accordingly, our agency may be perceived as not being independent. As required by generally accepted government auditing standards, we are disclosing this perceived lack of independence.

In our opinion, the Board of Public Accountancy should be reestablished. The regulation and licensure of public accountants is necessary to the protection of the public's welfare. We recommend the legislature extend the Board of Public Accountancy until June 30, 2003.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are set out on page one of this report.

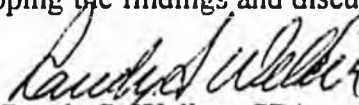

Randy S. Welker, CPA
Legislative Auditor

TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology	1
Organization and Function	3
Report Conclusions	5
Findings and Recommendations	7
Analysis of Public Need	11
Agency Response:	
Alaska State Board of Public Accountancy	17
Department of Commerce and Economic Development.....	19

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Public Accountancy. As required by AS 44.66.050(a), the committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(1) states that the board will terminate on June 30, 1997, and will have one year from that date to conclude its affairs.

Objectives

There are two central, interrelated, objectives of our report. They are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest.¹ The assessment of the operations and performance of the board, was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

Our audit reviewed the operations and activities of the Board of Public Accountancy for the period of FY 94 through FY 96.

During the course of our examination, we reviewed and evaluated the following:

1. Compliance with statutes and regulations related to the certification of public accountants. Our evaluation addressed considerations of applications, testing of candidates, and continuing education necessary for an individual to maintain his/her license in good standing.
2. Minutes of meetings of the Board of Public Accountancy.
3. Annual reports issued by the board.

¹ AS 08.04.005, which relates specifically to the Board of Public Accountancy, states that the public interest requires that:

(1) persons professing special competence in accountancy or who offer assurance as to the reliability or fairness of presentation of financial information should demonstrate their qualifications to do so, and that persons who have not demonstrated and maintained adequate qualifications should not be permitted to hold themselves out as having special competence or to offer assurance about their actions;

(2) the professional conduct of persons licensed as having special competence in accountancy should be regulated in all aspects of the practice of public accountancy;

(3) a public authority competent to prescribe and assess the qualifications and to regulate the professional conduct of practitioners of public accountancy should be established; and

(4) the use of titles relating to the practice of public accountancy that are likely to mislead the public as to the status or competence of the persons using these titles should be prohibited.

4. Complaints filed with the Division of Occupational Licensing and the Department of Law.
5. Office of the Ombudsman closed case file.
6. Other documents deemed pertinent.

We also conducted interviews with employees of the Division of Occupational Licensing within the Department of Commerce and Economic Development, the Board of Public Accountancy, and members of related national and state professional organizations.

ORGANIZATION AND FUNCTION

The Board of Public Accountancy is established under the authority of AS 08.13.010. The seven member board is appointed by the governor to four-year staggered terms. Five of the members must be certified public accountants or public accountants currently licensed in the State of Alaska. Two members represent the general public.

The board is responsible for safeguarding the public interest by ensuring the competence and integrity of those who hold themselves out to the public as certified public accountants. The board evaluates the qualifications of candidates, administers examinations, issues certificates and licenses to practice, promulgates rules of professional conduct, and takes disciplinary action.

The board is charged by statute with granting a certificate of "Certified Public Accountant" (CPA) to individuals at least 19 years of age and of good moral character that:

- 1) have satisfied the applicable education requirements;
- 2) have passed written examination requirements; and
- 3) have provided evidence of satisfactory work experience.

Department of Commerce and Economic Development, Division of Occupational Licensing

The department of Commerce and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Public Accountancy. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065 mandates the department, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of fees for applications, examinations, licenses, registration, permits, investigations, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to act on its own initiative or in response to a complaint. The Division may conduct an investigation if it appears a person engaged or is about to engage in a practice, bring an action in Superior Court to enjoin the act, examine the books and records of an individual, and issue subpoenas for the attendance of witnesses and records.

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REPORT CONCLUSIONS

In our opinion, the Board of Public Accountancy is operating in an efficient and effective manner and should continue to regulate certified public accountants. We believe the board is safeguarding the public interest by ensuring the competence and integrity of those who hold themselves out to the public as CPAs.

The Board of Public Accountancy has been found to serve a public purpose and has demonstrated an ability to conduct its business in a satisfactory manner. The board continues to propose changes to regulations to improve the effectiveness of the board and ensure that certified public accountants licensed in the State of Alaska are competent and capable of maintaining the integrity of the profession.

Alaska Statute 08.03.010(c)(1) requires termination of the Board of Public Accountancy on June 30, 1997. Under AS 08.03.020, the board has a one-year period to administratively conclude its affairs. We recommend legislation be enacted to extend the board's termination date to June 30, 2003.

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should consider amending statutes related to the Board of Public Accountancy to clarify aspects of the licensing process.

Administration of current Board of Public Accountancy operations has resulted in practices that are seemingly inconsistent with the language contained in the board's governing statutes. Although in our view these practices by the Division of Occupational Licensing are appropriate and within the spirit and content of the statute, we recommend the legislature amend relevant law to make current practice clearly consistent with the requirements of statute.

One inconsistency has been most cogently pointed out by the Department of Law in the course of reviewing proposed regulations. The Department of Law objected to the lack of distinction made by the Board between a certificate of public accountancy and a permit to practice. In the view of the Department of Law the legislature provided for such a distinction by adopting language at AS 08.04.200 stating that to be a certified public accountant a person must have "... received a certificate from the board as a certified public accountant and ... holds a current permit issued under [Board of Public Accountancy statutes]." [Emphasis added.] In the Department of Law analysis this distinction requires the Division of Occupational Licensing and the Board of Public Accountancy to separate and distinguish between certificates of public accountancy and permits to practice public accounting.

Currently, the Division of Occupational Licensing/Board of Public Accountancy makes no such distinction. Essentially, individuals either obtaining or renewing the public accountancy licenses are being both certified and permitted to practice public accountancy. The Department of Law suggests that the statute requires a distinction and suggests as possible remedy an amendment of AS 08.04 to reflect the division's and the board's current operational practice.

In addition, there are other minor changes that could benefit from amendment and clarification in statute. The items are as follows:

1. Repealing AS 08.04.260 Temporary Certificate as a certified public accountant. Under AS 08.04.260 the board may issue a temporary certificate to an applicant who "meets all the requirements for certificate except the requirement that the applicant have a place of business in the state or be an employee regularly employed in this state." The intent of this statute was to permit qualified professionals to obtain a certificate in order to provide service in Alaska on a temporary basis. In practice, this temporary certification provision has been unnecessary since the board essentially certifies all applicants in the same manner that meet the State's requirements.

No temporary certificates have ever been issued. An individual is not required to either have a place of business in the state or be an employee regularly employed in the state to receive a "regular" certificate.

Since the approval by the Board must be obtained prior to the issuing of a temporary certificate, we do not see a need to issue a temporary one because all of the requirements for regular certification must be met.

2. The language of AS 08.04 should be amended to reflect current practice. AS 08.04 has several references to annual fees and annual registration. Currently, fees are assessed and licenses issued on a biennial basis.

While individually these items are seemingly minor and have little impact on the operations of the Board of Public Accountancy or Division of Occupational Licensing, we suggest that such clarifications or repeal of pertinent statutes will be of benefit to the operations of both the board and the division.

Recommendation No. 2

The legislature should review and eliminate conflicting statutory provisions regarding board member terms and eligibility for reappointment.

On April 25, 1996, two board members' terms expired. Both members were appointed originally in 1991 to complete established terms. Both were reappointed in 1992 to new terms. Under the statutes, related specifically to the board (AS 08.04), these individuals were eligible for reappointment. AS 08.04.030 states "*a person who has served two successive complete terms may not be re-appointed until one year from the expiration of the term to which appointed.*" [Emphasis added.] Since the board members had not yet served two successive complete terms they were reappointed by the governor.

Under the professional licensing statutes (AS 08.01) that related to licensing board administration in general, the reappointment of the two members would seem to be precluded. Alaska Statute 08.01.035 states "*a member who has served all or part of two successive terms on a board may not be re-appointed to that board unless four years have elapsed since the person has last served on the board.*" [Emphasis added.] This statute would suggest the members are not eligible for reappointment to the board.

It is unclear whether AS 08.01.035 would preclude these members from re-appointment or if AS 08.04.030 would enable each to serve another term. It is our understanding that generally, when there is a conflict in statutory directive or requirement, the "more specific" statute is given more weight and authority over the "more general" statute. Notwithstanding this general rule of legal interpretation, we suggest that the legislature either eliminate the specific statutory reference for the Board of Public Accountancy at AS 08.04.030 or specifically provide in statute that that section supersedes the general requirements of AS 08.01.035.

Recommendation No. 3

The Board of Public Accountancy should continue to pursue the implementation of a quality review program.

In 1991 legislation was adopted which allowed the Board of Public Accountancy to implement a quality review program as an important means of maintaining the general quality of professional practice. The American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy agree that periodic quality reviews are an important means of maintaining the general quality of professional practice.

The board initially drafted regulations to implement a quality review program but were unable to resolve some of the logistics of implementation. Additionally, it was determined that most firms are currently participating in some form of quality review.

We recommend the board continue to pursue the implementation of a quality review program in conjunction with existing programs to help promote consistency, efficiency and help assure the professional standards maintained in the State are consistent with the rest of the nation.

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A ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law, AS 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

The Board of Public Accountancy has operated in the public interest. The board adopted or revised regulations regarding residency, professional education requirements, and further defining "University Acceptable to the board"² as set out in statute.

In response to concerns expressed by both the state professional organization and graduating students in the field of accounting, the board supported 1996 legislation amending the statute related to the education requirements for certification as a public accountant.³ The 1996 amendment postponed the effective date of the statute's education requirement to 2001. This section, which had been scheduled to be effective in 1997, increases the amount of formal education credits necessary to be completed before an individual can be certified. Testimony before the board indicated that implementation of this measure would be unfair and a hardship on currently enrolled and graduating accounting students.

The board has served the public by examining and licensing qualified applicants. Several changes to regulations were adopted to protect the public welfare and ensure the competence of the State's practicing Certified Public Accountants (CPA). Other modifications to regulations clarified criteria used by the board in evaluating applications.

²State regulation 12 AAC 04.185(e) interprets the statutory phrase at AS 08.04.120, "a college or university acceptable to the board" to mean the following:

(1) the University of Alaska;

(2) a college or university accredited by a regional accrediting association that is recognized by the University of Alaska; or

(3) a foreign college or university whose degree program has been evaluated by an approved credentials evaluation service and determined to be equivalent to the degree program of an institution acceptable under (1) or (2) of this subsection; an approved credentials evaluation service must be

(A) a member of the National Association of Credentials Evaluation Services, Inc.; or

(B) recognized by the University of Alaska.

³ The statutes related to CPA licensure were revised in 1991 to require more formal education as a condition for licensure. At that time, the effective date was set for 1997 to provide enough lead time to accommodate this change. As the 1997 effective date approached, the necessary implementation action apparently was still not in place, requiring another legislative extension.

The board initiated a policy that no incomplete applications for the CPA examination or for a license to practice public accountancy will be reviewed by the board. In prior years, the board would approve an application pending certain information such as official transcripts or verification of successful completion of the ethics examination. Although this policy may delay the approval of some applicants, objectivity in reviewing the applications will be maintained with consistent application of the policy.

The extent to which the operation of the board has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

In 1991, legislation was adopted allowing the board to adopt quality review regulations. The board however, tabled an initial draft of these regulations because of logistics. The small number of practicing "units" in the State created concern whether the program would be cost effective. Additionally, the results of a survey of active licensees indicated a high degree of voluntary compliance. The board continues to explore its options in implementing a quality review program (See Recommendation No. 3).

The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of services, economy of service, and availability of services that it has provided.

The location, date, and time of upcoming board meetings and notices of proposed changes in regulations are published in the Anchorage Daily News, the Fairbanks Daily News-Miner and the Juneau Empire. In many instances proposed regulations are circulated to those affected.

Professional accounting organizations regularly attend these meetings and complete informational research projects at the request of the board.

Time for public comment is provided at all meetings of the board.

The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

No statutory changes have been introduced by the board during the period of our review. The Alaska Society of Certified Public Accountants (ASCPA) has sought legislation that proposed changes to statutes that the board endorsed prior to submission by the ASCPA. The proposed changes include providing for reciprocal recognition of licensees of other states and allowing a limited liability company to practice public accounting in the State of Alaska.

The board continues to address issues dealing with continuing professional education, and a quality review program. Relevant statutory and regulatory changes will be proposed as necessary.

The extent to which the board has encouraged public participation in making of its regulations and decisions.

Public notice of proposed regulations are published in major newspapers. Meetings are adequately advertised, and time was set aside for public testimony.

Major proposed regulation changes were circulated through the professional community by either mailing directly to the affected license holders, or providing the proposed changes to the State's accounting organizations. Feedback resulted in changes to the proposed regulations addressing the profession's concerns. The Alaska Society of Certified Public Accountants has requested board support for legislation sought by the Society.

The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

Between FY 94 and FY 96, the Division of Occupational Licensing investigated 27 complaints related to the practice of public accounting. Two-thirds of the complaints were related to licensing issues. These complaints related to whether an individual either: (1) met standards established for receiving a license; or, (2) practiced "public accounting" without the appropriate license. For the most part, these complaints involved allegations which could be evaluated using objective, well-established standards. Accordingly, at the time of our fieldwork, all these complaints had been resolved.

Of the remaining nine investigations, of which were six were still open at the time of our fieldwork, the allegations typically were more subjective issues and, as a result generally took more time to investigate and resolve. These complaints involved allegations such as incompetence, negligence, violations in another jurisdiction, and unethical practice.

We reviewed a sample of nine investigations. From our review we determined that the Division of Occupational Licensing was investigating and resolving complaints in a timely manner, given the budgetary constraints and the degree of subjectivity involved in each of the various allegations.

The extent to which the board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

Listed below is a summary of new licenses and permits issued by the board for the period under review.

New Permits Issued (Excluding Renewals)	FY 94	FY 95	FY 96 Current	Total
Certified Public Accountants	65	48	54	167
Resident Partnerships and Corporations	12	11	13	36
General Permits	9	18	1	28

Overall, the application process for licensing appears reasonable and appropriate. The licensing process is neither unduly restrictive nor too lax. Continuing education is required and adequately monitored by the board to promote a high level of quality performance and to help ensure the integrity of the profession.

Each applicant is required to satisfy the requirements for licensing. Board meeting minutes reflect that the board considers each application and verifies the licensing requirements are satisfied prior to issuing a license.

The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

No complaints regarding the Division of Occupational Licensing were received by the Ombudsman. We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action in qualifying applicants. In no instances has the board denied an applicant a license based on personal attributes.

The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection [of Alaska Statutes].

The board, with the assistance of national and state organizations, continues to explore implementing a cost effective quality review program for the State. Additional changes the board is considering include a revision in the experience requirements for licensing. Regulations implementing this change in experience requirements have been forwarded to the Department of Law for review.

The board recognized the need to evaluate the Americans With Disabilities Act and the North American Free Trade Agreement and determine their impact on the profession. The board will consider whether any statutory or regulatory changes are needed to ensure compliance.

New legislation will allow a certified public accountant with sufficient experience to obtain a license based on experience gained in another jurisdiction.

Nationally, the public accounting profession continually considers issues that may have an impact on industry standards. The State board continues to be active in addressing these issues ensuring that certified public accountants licensed in the State of Alaska are represented.

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CHARLES R. GRIFFIN

CERTIFIED PUBLIC ACCOUNTANT

P O BOX 670 • PALMER, ALASKA 99645
TELEPHONE (907) 745-3239

November 23, 1996

RECEIVED
NOV 20 1996

LEGISLATIVE AUDIT

Members of the Legislative Budget
and Audit Committee
Alaska State Legislature
Juneau, Alaska

Re: Sunset Review - Audit Control Number 08-1440-97
Alaska State Board of Public Accountancy

Ladies and Gentlemen:

The State Board of Public Accountancy reviewed, discussed and responded to Management Letter No. 1, dated July 1, 1996, as part of the audit process in the development of the preliminary audit report cited above.

Our response, in summary, was one of general agreement with the findings and recommendations with a suggestion for additional clarification in several areas.

In this regard I now offer the following responses on behalf of the Board to this September 15, 1996, preliminary audit report.

We concur with Recommendations No. 1 and 2. We recognize the need for statutory clarification between certificate and permit; the statutory requirements for annual fees and registration which conflict with our (the Division's) biennial practice; and the two conflicting statutory provisions with regard to Board terms and eligibility for reappointment.

We have noted several other statutory conflicts or provisions which do not reflect current Board or professional practice. We conclude that a comprehensive review and rewrite of the entire Accountancy Act (AS 08.04) is desired. Desired - yes; priority - no; likely - not at this time. Our Board simply does not have the additional time and/or staff/Division resources to undertake such a time consuming project.

We also concur with Recommendation No. 3 to continue to pursue the implementation of a quality review program. I note that, in this regard, we adopted for public notice revised/draft regulations to implement such a program at our July 1996 meeting. The revised/draft regulations have been forwarded to the Division's Regulations Specialist and will hopefully be noticed for public hearing in connection with our January 1997 meeting. It is the Board's intent that implementation will commence on January 1, 1998, on a prospective basis.

In addition to these responses to the specific recommendations in the preliminary audit report, I offer the following comments for clarification of the Board's agreement with certain conclusions in the report's analysis of public need.

On page 12, under the heading related to recommended statutory provisions, I note that the initial impetus for CSSB 305 (enacted and signed by the Governor in 1996) was from university (UAA and UAF)

November 23, 1996
Members of the Legislative Budget
and Audit Committee
Alaska State Legislature

student communities who initially sought regulatory deferral of increased educational requirements. Our Board responded that statutory relief would be required, identified two other areas of desired legislative change (limited liability company permits and permissive reciprocity for licensees of other states who seek to obtain Alaska certificates) and enlisted the support of the Alaska Society of Certified Public Accountants to assist the Board in achieving the desired legislative changes.

On page 13, under the heading related to inquiries or complaints, we take little solace in the report conclusion that investigating and resolving complaints are being done in a timely manner given the budgetary constraints and degree of subjectivity involved. I suggest a more appropriate conclusion would state that technical and/or minor licensing complaints are resolved in a timely manner but performance and/or quality related complaints are not. This is due, in part, to budgetary constraints on the Division's Investigations Unit. I believe it is also due because of the too frequent changes in the Board's assigned investigator which makes substantive or subjective issues difficult to resolve. I also believe the Division's policy of sanitizing complaints prevents the Board from properly exercising its oversight responsibilities over our enforcement processes.

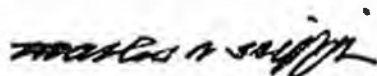
I conclude with regard to inquiries and complaints that, in my own opinion, the Board has been consistently under-represented by its assigned AAGs in its enforcement efforts and that we clearly do not share the preliminary audit report conclusion.

Finally, we note that this preliminary audit report makes no reference to the omission of any discussion of the Board's fee setting analyses, budgets or finances or the stewardship of the Division/Department in administering the Board's operations. We believe such an analysis is required by AS 44.62.050(c)(2) and, if presented, would reflect that the Board of Public Accountancy provides excess program receipts on a biennial basis. The Board continues to feel victimized in that our appropriations are not determined by either our needs or program receipts; rather, they are subject to Division, Department and Legislative limitations.

We appreciate the preliminary opinion that our Board should be extended. We only regret that this re-establishment will not enable us to be more efficient or autonomous.

Please do not hesitate in contacting me should have any questions or should you seek any additional information regarding the audit report or my response and comments.

Very truly yours,



Charles R. Griffin, C.P.A., Chairman
Alaska State Board of Public Accountancy

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

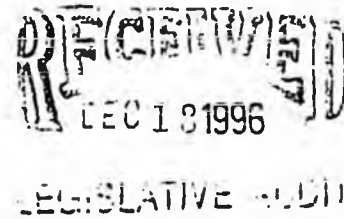
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

P.O. BOX 110800
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500
FAX: (907) 465-5442
TDD: (907) 465-5437

December 17, 1996

Mr. Randy S. Welker
Legislative Auditor
Division of Legislative Audit
Legislative Budget and Audit Committee
P.O. Box 113300
Juneau, AK 99811-3300



Dear Mr. Welker:

Thank you for the opportunity to respond to the preliminary audit report on the Board of Public Accountancy.

The Department of Commerce and Economic Development agrees that the Board of Public Accountancy is operating in the public interest and should be extended until at least June 30, 2003. The following is the Department's response to the analysis and recommendations contained in the preliminary audit.

Recommendation No. 1: The legislature should consider amending statutes related to the Board of Public Accountancy to clarify aspects of the licensing process

The Department concurs with this recommendation. The Board discussed these issues during its July, 1996, meeting and agrees with the proposed statute changes.

Recommendation No. 2: The legislature should review and eliminate conflicting statutory provisions regarding board member terms and eligibility for reappointment

The Department supports the repeal of AS 08.04.030. This would eliminate a possible contradiction with AS 08.01.035 and create consistency in appointment rules among all the licensing boards.

Recommendation No. 3: The Board of Public Accountancy should continue to pursue the implementation of a quality review program

The Board has been working with the Alaska Society of Certified Public Accountants and is interested in developing a quality review program that is equitable and effective. The Department supports the Board's efforts.

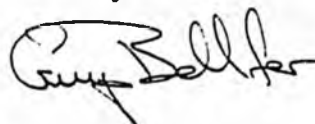
Randy Welker

-2-

December 17, 1996

In conclusion, the Department appreciates the effort required to produce a thorough and balanced audit, and thanks the Legislative Budget and Audit Committee for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Guy Bell" or similar, written in a cursive style.

William L. Hensley
Commissioner

WLH/CR/kg

CORRECTION

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



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

124

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

**Introduced:
Referred:**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the regulation of accountants; and providing for an effective
2 date."

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

4 * **Section 1.** AS 08.04.150 is repealed and reenacted to read:

5 **Sec. 08.04.150. Qualifications to take examination.** A person is qualified
6 to take the examination for certified public accountants if the person either

7 (1) has a baccalaureate degree or its equivalent conferred by a college
8 or university acceptable to the board with

9 (A) an accounting concentration or the equivalent, as defined
10 in regulations of the board;

11 (B) a minimum of 15 semester credit hours or 22 quarter credit
12 hours of accounting subjects; or

13 (C) one year of public accounting experience under the direct
14 supervision of a certified public accountant; or

1 (2) has met or is within 18 semester credit hours or 27 quarter credit
2 hours of meeting the undergraduate educational requirements of AS 08.04.120 and has
3 completed at least 15 semester hours or 22 quarter hours of accounting subjects.

4 * Sec. 2. AS 08.04.540 is amended to read:

5 **Sec. 08.04.540. Use of deceptive title or abbreviation.** An individual,
6 partnership, limited liability company, or corporation may not assume or use the title
7 or designation "certified accountant", "chartered accountant", "enrolled accountant",
8 "licensed accountant", "registered accountant", or any other title or designation likely
9 to be confused with "certified public accountant" or "public accountant", or any of the
10 abbreviations "CA", "EA", "LA", "RA", or similar abbreviations likely to be confused
11 with "CPA" or "PA" except that "EA" may be used to the extent that it relates to
12 the term "enrolled agent" as defined by the federal Internal Revenue Service;
13 however, an individual, partnership, limited liability company, or corporation holding
14 a live permit and whose offices in this state for the practice of public accounting are
15 maintained as required by AS 08.04.360 - 08.04.380 may hold out to the public as an
16 accountant or auditor.

17 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

HB

142

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SSB 142 | _____

Revision Date (Note if correction) _____	Dept. Affected <u>Law</u>
Title <u>"An Act relating to the sale or transfer of new or used motor vehicles... establishing...unlawful trade practices"</u>	BRU <u>Civil Division</u>
Sponsor <u>Representative Davis</u>	Component <u>Fair Business Practices</u>
Requester <u>House Labor and Commerce Committee</u>	Component Serial No. <u>2206</u>

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time						
Temporary						

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

SSHB 142 makes several changes to the state's consumer protection and antitrust laws, none of which will have a fiscal impact on the Department of Law. First, the bill amends the consumer protection statute at AS 45.45.400(a) to require a used car dealer to provide a buyer with a copy of a certificate of motor vehicle emission inspection for a used vehicle before the buyer enters into a binding sales contract with the dealer. Under existing statute, a used car dealer is prohibited only from transferring title or ownership interest in a used vehicle without such a certificate. A sales contract is generally completed many days and sometimes weeks before title transfer paperwork is prepared. Used car dealers sometimes wait to either obtain or release the emission certificate of inspection until after the buyer has signed a binding sales contract.

Prepared by <u>Joan M. Kasson</u>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date <u>2/2/98</u>
Approved by Commissioner <u>Bruce M. Botelho, Attorney General</u>	Date <u>2/2/98</u>
Agency <u>Department of Law</u>	

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SSB 142

ANALYSIS CONTINUATION

Currently, consumers often do not learn, until after entering into a binding sales contract, that the vehicle they just purchased does not comply with motor vehicle emission standards. The cost to the buyer of bringing a used vehicle into compliance is often prohibitive, leaving many used car buyers saddled with monthly payments on an unregistered vehicle that cannot be lawfully driven. This simple statute change will protect buyers by informing them of the emission status of a used vehicle before a sale.

Second, the bill amends Alaska's Unfair Trade Practices and Consumer Protection Act by requiring motor vehicle dealers, before sale, to disclose in writing to a motor vehicle buyer information that the dealer knows or could have known through the exercise of reasonable diligence on any material problems with the vehicle. This bill would provide protection for consumers by ensuring they are fully informed, before sale, of any defects that make the vehicle being offered for sale dangerous or inoperable, or that seriously diminish the value of the vehicle but are not obvious to the average consumer. Neither of these changes will have a fiscal impact for the Department of Law.

Third, SSB 142 would clarify that the state's consumer protection and antitrust investigative files are not available for inspection under Alaska's Public Records Act, AS 09.25.100.

Fourth, the bill amends the mail order catalog exemption contained in Alaska's telemarketing law at AS 45.63.080(14). Alaska's law requires telemarketers to register with the Department of Law before making most telemarketing sales in this state. The law contains a number of exemptions, one of which is for sales from a mail order catalog. Recently, a telemarketer headquartered outside Alaska attempted to rely on this exemption to avoid registration, asserting that the catalog exemption can be satisfied without mailing or distributing catalogs in Alaska. This bill requires a telemarketer relying on the exemption to have the indices of a legitimate mail order business (e.g., a catalog distributed in Alaska; name, address, telephone number, and ordering instructions included in the catalog; catalog company awaiting calls from consumers rather than initiating telemarketing sales calls to consumers). Legitimate mail order businesses should have no difficulty complying with the statutory clarifications contained in this bill. These clarifications will not have a fiscal impact on the Department of Law. The bill would also eliminate a separate, confusing telemarketing exemption relating to the telephonic sale of securities.

Finally, SSB 142 creates a new, comprehensive statute regulating the sale of business opportunities. "Business opportunities" are prepackaged small business deals offered mainly to novice entrepreneurs through classified and radio ads, TV infomercials, home seminars, and business opportunity expositions. Typical business opportunity deals involve the sale of vending machines, pay telephones, amusement devices, greeting card display racks, "900 number" telephone lines, tee shirt businesses, and distressed merchandise businesses. Millions of Americans earn income from small business opportunities. Many choose to do so in the privacy of their own home by starting a home business.

However, the sale of business opportunities is a field in which investment problems, unfair methods of competition, and unfair or deceptive acts or practices are common. The number of companies offering home business opportunities is on the rise, and Alaskans are continually subjected to high pressure sales pitches from such companies that often try to take unfair advantage of the entrepreneurial spirit of our citizens.

Unlike roughly half of the states, Alaska has no business opportunity disclosure act that would enable would-be investors to become fully informed in advance of making an investment of the facts surrounding the business opportunities being offered for sale. The proposed legislation provides both criminal and civil remedies for customers, and would be an important consumer protection safeguard for entrepreneurial-minded Alaskans. Passage of these proposed business opportunities statutes would have no fiscal impact on the Department of Law.

4:12 p.m.
APR 25 1997

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SSHB 142

Revision Date: _____ Dept. Affected: Department of Law
 Title: An Act relating to the sale or transfer of new or use BRU: Criminal Division & Civil Division
motor vehicles; . . . establishing additional unlawful trade practices . . . Component: Criminal Division
 Sponsor: Representative Davis General Legal Services
 Requester: House Labor and Commerce Committee COMPONENT SERIAL NO. 2085/2087

Expenditures/Revenues (Thousands of Dollars)

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

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

SSHB 142 makes several changes to the state's consumer protection and antitrust laws, none of which will have a fiscal impact on the Department of Law. First, the bill amends the consumer protection statute at AS 45.45.400(a) to require a used car dealer to provide a buyer with a copy of a certificate of auto emissions compliance or noncompliance for a used vehicle before the buyer enters into a binding sales contract with the dealer. Under existing statute, a used car dealer is prohibited only from transferring title or ownership interest in a used vehicle without such a certificate. A sales contract is generally completed many days and sometimes weeks before title transfer paperwork is prepared. Used car dealers sometimes wait to either obtain or release the emissions certificate of compliance or noncompliance until after the buyer has signed a binding sales contract.

Currently, consumers often do not learn, until after entering into a binding sales contract, that the vehicle they just purchased does not comply with auto emissions standards. The cost to the buyer of bringing a used vehicle into compliance is often prohibitive, leaving many used car buyers saddled with monthly payments on an

Prepared by: Joan M. Kasson *Joan M. Kasson*
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho *Bruce M. Botelho*
 Agency: Department of Law

Phone: 465-5370
 Date: 4/24/97
 Date: 4/24/97

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ANALYSIS CONTINUATION:

unregistered vehicle that cannot be lawfully driven. This simple statute change will protect buyers by informing them of the emission status of a used vehicle before a sale.

Second, the bill amends Alaska's Unfair Trade Practices and Consumer Protection Act by requiring motor vehicle dealers, before sale, to disclose in writing to a motor vehicle buyer information that the dealer knows or could have known through the exercise of reasonable diligence on any material problems with the vehicle. This bill would provide protection for consumers by ensuring they are fully informed, before sale, of any defects that make the vehicle being offered for sale dangerous or inoperable, or that seriously diminish the value of the vehicle but are not obvious to the average consumer. Neither of these changes will have a fiscal impact for the Department of Law.

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Finally, SSHB 142 creates a new, comprehensive statute regulating the sale of business opportunities. "Business opportunities" are prepackaged small business deals offered mainly to novice entrepreneurs through classified and radio ads, TV infomercials, home seminars, and business opportunity expositions. Typical business opportunity deals involve the sale of vending machines, pay telephones, amusement devices, greeting card display racks, "900 number" telephone lines, tee shirt businesses, and distressed merchandise businesses. Millions of Americans earn income from small business opportunities. Many choose to do so in the privacy of their own home by starting a home business.

However, the sale of business opportunities is a field in which investment problems, unfair methods of competition, and unfair or deceptive acts or practices are common. The number of companies offering home business opportunities is on the rise, and Alaskans are continually subjected to high pressure sales pitches from such companies that often try to take unfair advantage of the entrepreneurial spirit of our citizens.

Unlike roughly half of the states, Alaska has no business opportunity disclosure act that would enable would-be investors to become fully informed in advance of making an investment of the facts surrounding the business opportunities being offered for sale. The proposed legislation provides both criminal and civil remedies for customers, and would be an important consumer protection safeguard for entrepreneurial-minded Alaskans. Passage of these proposed business opportunities statutes would have no fiscal impact on the Department of Law.

Alaska State Legislature

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(907) 262-7574 (h)

Session:

State Capitol
Juneau, Alaska 99801
(907) 465-2693
(fax) (907) 465-3835

Representative Gary L. Davis

SPONSOR STATEMENT

HB 142

"An act relating to the sale of new or used motor vehicles; relating to the confidentiality of certain information related to attorney general investigations of unlawful trade practices and antitrust activities; establishing additional unlawful trade practices; relating to the mail order catalog exemption from telephonic solicitation regulation; regulating the sale of business opportunities; amending Rules 4 and 73, Alaska Rules of Civil Procedure; and providing for an effective date."

HB would strengthen Alaska's consumer protection and antitrust statutes in several important ways.

First, this bill would require a used car dealer to provide a prospective buyer with a copy of an auto emissions certificate of inspection or noncompliance before the sales contract is signed. Current law requires only that a used vehicle have a certificate of compliance or noncompliance before the dealer can transfer title to the buyer, yet sales contracts are commonly signed days before title transfer.

Some used car dealers have, on occasion, withheld information about a car's ability to pass emissions tests until after a sales contract is signed. Consumers often learn too late that the vehicle that they just purchased does not comply with auto emissions standards, and that they face unanticipated significant expenses, above and beyond the purchase price, to bring the vehicle into compliance. This bill would therefore protect consumers and satisfy the legislature's intent that dealers inform buyers regarding the emissions status of a used vehicle prior to sale.

Second, this bill would require car dealers, before sale, to disclose in writing to a buyer information that the dealer knows or could have reasonably known, concerning the accident history of the vehicle and any safety problems with the vehicle. The written disclosure requirement is consistent with a recent Alaska

Representing House District 8

Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward

Superior Court case involving deceptive sales practices by a car dealer. It would provide important protection for consumers by ensuring they are fully informed, before sale, of any defects that make a vehicle dangerous or inoperable, or that seriously diminish the value of the vehicle but are not obvious to the average customer.

Third, the bill would clarify existing statutes providing that the state's consumer protection and antitrust investigative files are not available for inspection under Alaska's Public Records Act. The extent to which the State's investigative records are shielded from the public scrutiny was called into question in a recent Alaska Superior Court case, and important confidentiality issues remain unresolved.

Individuals and companies will be less likely to cooperate with state enforcers if records and testimony could at some point be widely disseminated to the public at large. This bill would ensure that state enforcers can carry out their duties efficiently, effectively, and without undue interference, to the ultimate benefit of Alaska's consumers.

Fourth, this bill clarifies the existing mail order catalog exemption contained in Alaska's telemarketing law. Most telemarketers are required under current law to register with the state so that they can be tracked down if they defraud consumers. This registration requirement is a powerful enforcement tool in the fight against telemarketing fraud. But some telemarketers have attempted to avoid this registration requirement by claiming to be a mail-order firm even though they are primarily telemarketers. Recently, a telemarketer headquartered outside Alaska asserted that the mail-order exemption can be satisfied without mailing or distributing any catalogs to Alaska. Consistent with a 1997 Alaska Supreme Court ruling, this bill would clarify that a telemarketer relying on the catalog exemption must operate a legitimate mail order business.

Finally, this bill creates a statute regulating the sale of business opportunities. High-pressure sales people have often taken unfair advantage of the entrepreneurial spirit of Alaskans by resorting to fraudulent, deceptive, and unfair sales practices. This bill, modeled after similar laws in other states, would guard against the promotion of worthless business opportunities laden with hidden costs and sold through the use of inflated earnings claims. This legislation would provide both criminal and civil remedies, and would be an important consumer protection safeguard for Alaskans.

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Session:

State Capitol
Juneau, Alaska 99801
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(fax) (907) 465-3835

Representative Gary L. Davis

SECTIONAL ANALYSIS OF HB 142 A BILL FOR AN ACT ENTITLED

"An Act relating to the sale of new or used vehicles; relating to the confidentiality of certain information related to attorney general investigations of unlawful trade practices and antitrust activities; establishing additional unlawful trade practices; relating to the mail order catalog exemption from telephonic solicitation regulation; regulating the sale of business opportunities; amending Rules 4 and 73, Alaska Rules of Civil Procedure; and providing for an effective date."

Section 1 amends the consumer protection statute AS 45.45.400 (a) to require a used car dealer to provide a buyer with a copy of a certificate of auto emissions compliance or noncompliance for a used vehicle before the buyer enters into a binding sales contract with a dealer. This section also requires that prior to sale, used car dealers obtain the buyer's signature on a document acknowledging receipt of the copy of the certificate of compliance or noncompliance.

Section 2 amends Alaska's Unfair Trade Practices and Consumer Protection Act by requiring motor vehicle manufactures to notify the auto dealer of any material problems with the vehicle that are known or should be known through the exercise of reasonable diligence. If the dealer fails to do so, this section also allows for the consumer to cancel the contract before taking possession of the vehicle or to obtain a refund, less a reasonable allowance, after a consumer has taken possession of the vehicle. This section will also hold harmless an automobile dealer from a situation that the manufacturer should be held accountable for.

Section 3 expands the list of enumerated unfair and deceptive acts and practices to include violations of motor vehicle sales disclosures and the sale of business opportunities.

Section 4 clarifies current law providing that the state's consumer protection and antitrust investigative files are not available for inspection under Alaska's Public Records Act.

Representing House District 8

Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward

Section 5 provides that testimony obtained by the Attorney General during an antitrust investigation is to be provided the same level of confidentiality currently provided for documentary material obtained during antitrust investigations.

Section 6 clarifies that, consistent with section 3 above, antitrust investigative records are subject to the same restrictions and prohibition against disclosure as are investigative records obtained or created pursuant to the State's Consumer Protection Act.

Section 7 amends the mail order catalog exemption contained in Alaska's telemarketing law at AS 45.63.080 (14). Consistent with the 1997 Alaska Supreme Court decision of *Distributel v. State*, this section requires a telemarketer relying on the catalog exemption to have the indices of a legitimate mail order business; (e.g., a catalog distributed in Alaska; name, address, telephone number, and ordering instructions included in the catalog; catalog company awaiting calls from consumers rather than initiating telemarketing sales calls to consumers).

Section 8 creates a new, comprehensive statute regulating the sale of business opportunities; i.e., prepackaged small business deals offered mainly to novice entrepreneurs through classified and radio ads, TV infomercials, the Internet, home business seminars and business opportunity expos. This section requires that business opportunity sellers register and post a bond with the Alaska Department of Law as a condition of selling business opportunities in Alaska.

Section 9 eliminates a confusing and unnecessary exemption in the telemarketing registration law. Currently this exemption could be misinterpreted to apply to telemarketing to all publicly traded companies, however, the exemption was only intended to relate to the sale of securities. Other exemptions adequately cover the sale of securities.

Section 10 modifies Rule 4 and Rule 73 of the Alaska Rules of Civil Procedure by requiring the clerk of the court to mail to the Attorney General a copy of any complaint filed, and any order or judgment entered, under section 8 of this bill.

Section 11 authorizes the Department of Law to adopt regulations it has the authority to adopt under sections 1-8 of this bill, such that pertinent regulations may take effect at the same time as the effective dates of sections 1-8 of this bill.

Section 12 provides that 45.66.110(b), as set forth section 8 of this bill and providing for modifications to the Alaska Rules of Civil Procedure, takes effect only if section 10 of this bill, also providing for modifications to the Alaska Rules of Civil Procedure, receives a constitutionally required two-thirds majority vote.

Section 13 states that sections 1-8 of this bill take effect July 1, 1997.

Section 14 of this bill takes effect immediately under AS 01.10.070(c).

APR 09 1997

Alaska State Legislature

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Session:

State Capitol
Juneau, Alaska 99801
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(fax) (907) 465-3835

Representative Gary L. Davis

MEMORANDUM

DT: April 8, 1997

TO: Representative Norm Rokeberg
Chairman, Labor and Commerce

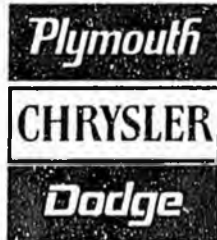


FM: Representative Gary Davis

RE: Hearing request

I would like to request a hearing for SSHB 142 "An act relating to the sale or transfer of new or used vehicles; relating to the confidentiality of certain information related to attorney general investigations of unlawful trade practices and antitrust activities; establishing additional unlawful trade practices; relating to exemptions from telephonic solicitation regulation; regulating the sale of business opportunities; amending Rules 4 and 73, Alaska Rules of Civil Procedure; and providing for an effective date." I've enclosed a copy of the bill, the sponsor statement, and the section analysis.

Should you need anything further, please let me know.



APR 14 1997



ANCHORAGE CHRYSLER DODGE CENTER

2601 E. 5TH AVENUE

ANCHORAGE, ALASKA 99501

TELEPHONE 276-1331

April 10, 1997

ALASKA HOUSE OF REPRESENTATIVES
Representative Norman Rokeberg
Room 24
Juneau, Alaska 99801-1182
(907) 465-3875

Subject: House Bill 142

Dear Mr. Rokeberg,

On April 9, 1997, members of Alaska Auto Dealers Association convened in Juneau for their April membership meeting. During this general meeting our members discussed proposed changes in House Bill 142, and the negative effects it will have on the retail auto industry.

As an active member of Alaska Auto Dealers I had the opportunity to visit you and your staff to address the associations opposition to HB 142. I would like to thank you and your staff for taking under advisement our concerns regarding this bill.

I look forward to assisting you with any issues involving the retail auto industry. Please feel free to call myself for any questions or concerns at (907)276-1331.

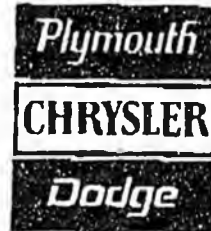
Respectfully,

Marsha Carey
Anchorage Chrysler Center, Inc.
Controller

AUTHORIZED DEALER



CHRYSLER
MOTORS CORPORATION



APR 24 1997,



ANCHORAGE CHRYSLER DODGE CENTER

2601 E. 5TH AVENUE

ANCHORAGE, ALASKA 99501

TELEPHONE 276-1331

April 24, 1997

Senator Rokeberg
ALASKA HOUSE OF REPRESENTATIVES
Room 24
Juneau, Alaska 99801-1182

I wish to speak FOR ANCHORAGE CHRYSLER CENTER, INC. a member of ALASKA AUTO DEALERS ASSOCIATION in opposition of HB 142.

This bill, if passed, will be detrimental to the Auto industry and to Alaskan citizens as a whole. It will cost the citizens of Alaska untold amount of money to no avail. No one in the Auto industry wants an unsafe vehicle on the road. We do however wish to be able to advise our customers and others should have to do the same. In order to do this we must have knowledge. As a group we have been advising the DMV that reconstructed vehicles should have the title marked so that it is visible and also the most important item, the registration, must be stamped in letters that cannot be missed. In most cases, the Dealer does not have a title until it has paid the loan in full and the tile has been sent- sometimes several weeks later. The insurance industry should be regulated so that they comply and the innocent individual consumers do not buy reconstructed vehicles. Plus there seems to be a problem with vehicles being brought into Alaska that have serious water or other damage and nothing on the title to alert consumers and dealers. A \$100.00 paint allowance is ludicrous. You cannot touch up a rock chip for that amount of money. As to Im issues, laws are in place, a car cannot be registered without one.

Serious consideration to the wording of this bill needs to be addressed before it is passed. A committee from the Alaska Auto Dealers would be happy to meet with you and discuss this at length.

Thank you for any consideration you may be able to give us and ALL ALASKAN.

ANCHORAGE CHRYSLER CENTER, INC.


JEANNE B EDWARDS
Chief Financial Officer



APR 28 1997



ALASKA AUTO DEALERS ASSOCIATION

P.O. Box 201305, Anchorage, Alaska 99520-1305

April 28, 1997

The Honorable Representative Norman Rokeberg
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Rokeberg,

In regards to House Bill 142.

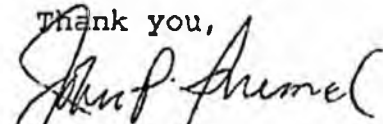
The Alaska Automobile Dealers Association would like to help rewrite this bill for the coming year.

Anchorage and Fairbanks residence are protected by the I/M law our customers must know at the time of sale if it passes the Emissions law. We also cannot finance the vehicle without an I/M statement.

The used and new car body damages does not address "Reconstructed" vehicles which is the most important.

We urge you to not pass this piece of legislation at this time.

Thank you,



John P. Immel
President

APR 28 1997



April 28, 1997

Norman Rokeberg
 Labor & Commerce Committee
 Fax number: 907-465-2040

Dear Representative Rokeberg:

I am writing regarding HB 142. The provisions relating to the sale and disclosure of cars by dealers pose significant problems, and I, along with all other auto dealers in Alaska, oppose the bill as written.

The Alaska Auto Dealers Association's Position Statement for HB 142 addresses the issues clearly and thoughtfully, so I will not restate them. I will add that my primary product is motor homes, and that low dollar amounts for damage disclosure would be harmful. For example, motor homes are typically driven to Alaska rather than shipped (due to the size, shipping is cost prohibitive). Rock dings, and glass replacement are nearly unavoidable, and, in some cases, can run as high as two thousand dollars to restore to new condition. Certainly, these items pose no threat to a consumer, and mandatory disclosure adds significant burdens, risks and penalties to the dealer whose intent is to comply. An appropriate percentage of value would be the preferred method of determining disclosure limits.

The target of this legislation is clearly limited to Alaska dealers, and does not address the same issues in any other mode of vehicle ownership transfer such as private party sales or sales by non-Alaskan dealers. The added cost of doing business for legitimate dealers will increase substantially, raising prices and making it difficult to compete with competitively priced merchandise available through the wholesalers, auctions, private parties and lower 48 dealers. Many states recognize the contribution dealers make to their community, and take measures to protect their dealers' interests; as they mesh with the interests of the public. Conversely, this legislation seeks to penalize dealers by creating an unlevel playing field that puts legitimate dealers at a real disadvantage in the marketplace.

Please consider carefully the Alaska Auto Dealers Association's Position Statement for HB 142.

Sincerely,

Michael P. Gailey
 President



• Phone (907) 279-5508 • Fax (907) 272-4156 • (Toll Free within Alaska) 1-800-478-4678 •

A&M Motors, Inc.



Affordable Used Cars, Inc.

2525 S. Cushman
Fairbanks, Alaska 99701
(907) 452-5707 322-2693

APRIL 28, 1997

APR 29 1997

LABOR AND COMMERCE COMMITTEE
REPRESENTATIVE NORMAN ROKEBERG

CHAIRMAN: ROKEBERG

I WOULD LIKE TO OFFER THE FOLLOWING THOUGHTS ON HB 142, AS IT APPLIES TO OUR CURRENT I.M. PROGRAM. THE STATE ALREADY HAS A LAW ON THE BOOKS THAT REQUIRES THE DEALER TO IM THE AUTOMOBILE PRIOR TO TITLE TRANSFER. IN FACT, THE CUSTOMER DOES GET THE ORIGINAL IM CERTIFICATE WHEN THEY RECEIVE THEIR NEW REGISTRATION. I DON'T SEE THE PURPOSE FOR THIS BILL. SINCE THIS WILL SLOW THE DELIVERY OF VEHICLES TO CUSTOMERS. I WOULD LIKE YOU TO RECONSIDER THIS PORTION OF HB 142

AS FOR HB 142 BILL APPLYING TO DEALERS NOTIFYING CUSTOMERS OF DAMAGE TO VEHICLES, THIS IS A THE MAJOR ISSUE. IN ORDER TO UNDERSTAND HOW THIS LAW EFFECTS CAR DEALERS, LET ME TELL YOU SOME FACTS AS THEY RELATE TO AFFORDABLE USED CARS INC. WE CARRY AN INVENTORY 300 USED CARS, I HAVE THREE SALESMAN AND ONE MANAGER THAT SALE OVER 120 CARS A MONTH. I HAVE AN AVERAGE RECONDITIONING COST OF \$565 PER CAR. THIS INCLUDES, GLASS, ENGINE WORK AND BODY DAMAGE. I HAVE SOLD OVER 6,000 VEHICLES AND HAVE NOT BEEN TO COURT FOR ANYTHING RELATED TO SAFETY ISSUES OR BODY DAMAGE. WE TELL OUR CUSTOMERS OF RECONSTRUCTED VEHICLES OR MAJOR BODY REPAIRS. I DO BODY WORK ON APPROXIMATELY 20 VEHICLES PER MONTH OF WHICH THE BULK ARE MINOR SCRATCHES, PINGS AND DENTS. THE AVERAGE AGE OF A CAR SOLD ON MY LOT IS FOUR YEARS OLD. AT THIS POINT, IM GOING TO MAKE A BEST GUESS ESTIMATE THAT 35% OF MY INVENTORY EITHER HAS HAD PAINT APPLIED BEFORE OR AFTER IT CAME TO OUR LOT. WHEN I BUY USED VEHICLES IT IS DIFFICULT TO IDENTIFY GOOD BODY WORK. ALMOST ANY PAINT AT ALL THAT IS APPLIED TO A VEHICLE WOULD COST OVER \$300.00.

IN SUMMARY, I HAVE TRIED TO ILLUSTRATED HOW HARD IT WOULD BE FOR ME TO TRACK EVERY SMALL BODY DENT... ALTHOUGH, I DO HAVE THE CUSTOMER SIGN A STATEMENT PRIOR TO SALE IF THE VEHICLE HAS A RECONSTRUCTED TITLE OR SUSPENSION OR FRAME WORK DONE. THE BILL ASKED IF THE DEALER HAS REASONABLE KNOWLEDGE OF PREVIOUS BODY DAMAGE! WHAT IS REASONABLE KNOWLEDGE. I DON'T WANT TO END UP IN COURT FOR SOMETHING I HAD NO KNOWLEDGE OF, AND THEN HAVE AN ATTORNEY SAY IT WAS REASONABLE THAT I SHOULD HAVE KNOWN ABOUT THE \$500.00 BODY DAMAGE DONE TO THE CAR TWO YEARS TO ME BUYING IT.

PLEASE CONSIDER REMOVING THIS PORTION OF BILL 142 AT THIS TIME. BECAUSE IT WOULD BE TO DIFFICULT TO TRACT SUCH SMALL BODY REPAIRS, AND MAKE THE DEALERS UNJUSTLY LIABLE FOR THESE CARS.

YOURS TRULY

Steve Dunning

March 19, 1997

The Honorable Gary Davis
Alaska State Legislature
State Capital
Juneau, Alaska 99801-1182

Dear Representative Davis,

On behalf of the Alaska Auto Dealers Association I would like to express my thanks for your consideration during our conversation of March 12. I have just returned from the AADA Board meeting in Anchorage. During the meeting I reviewed sections 1 and 2 of HB 142 with fellow board members.

Section 1 deals with the I/M issue and certification as it relates to used car sales. As you know in Juneau we are not affected by this proposal. I was not as aware of the mechanics of the I/M regulations as my fellow board members. At your request the members in Anchorage and Fairbanks will be reviewing the procedures to provide you with accurate information and suggestions for this section.

Section 2 deals with major damage disclosure of New and Used vehicles. The Alaska Auto Dealers Association cannot support this section in its original form or the revised form proposed by the Department of Law. The original section consumed one paragraph, was vague and non specific, the revised proposal that you and I reviewed still falls far short of addressing major areas of this issue.

Our recommendation is that you delete this section from the Bill and permit the association and other parties that you deem appropriate to craft a separate bill dealing with this issue.

In the numerous hours that the board spent on this issue a number of concerns were brought forth. The following demonstrate just a few of our concerns and recommendations.

- a) The issue of damage to vehicles must be addressed separately for new and used vehicles.
- b) New vehicles should require damage disclosure. However this needs to be damage over a specific dollar amount, e.g., a percentage of the MSRP of the vehicle or a physical dollar limit. The \$300 proposed is unrealistic as simple touch up work can exceed this amount.
- c) Items damaged that require only simple replacement with original factory equipment should be exempt. Examples would include tires, glass, bumpers, radios.
- d) Unrepaired damage on new vehicles (if known) should be disclosed without regard to limitation.
- e) The issue of refund after disclosure should apply to new vehicles that are special ordered on behalf of the customer. An example would be the customer special orders a vehicle. The vehicle is built and subsequently sustains damage during shipment or delivery to the dealer. Subject to the damage limits of the statute the customer should be advised and have the option to rescind the transaction.

f) Used vehicles should be handled differently. Damage disclosure on a used car should be pursued cautiously as it must not be the intent to imply warranty or fitness. The majority of the vehicles on the road have had some repair. The question is not whether the vehicle has been damaged, but whether a proper repair has been performed.

g) Used vehicles that are totaled by an insurance carrier and rebuilt by anyone should be subject to disclosure regardless of dollar amount involved. This responsibility should not be born exclusively by the Dealer, but by Insurance companies and the State clearly on the Title, and Registration.

h) Major damage involving frame or suspension if properly repaired need not be disclosed.

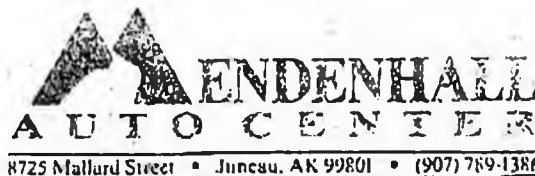
I) Information requested by a consumer should be disclosed truthfully by the Dealer if known.

Again, we urge caution in the crafting of legislation dealing with damage disclosure on used vehicles. The precedents for this type of legislation are limited. In spite of legislative intent the potential exists for a strong negative impact on the consumer.

The Alaska Auto Dealers Association is willing to participate in the process of creating an accurate and appropriate piece of legislation, and we appreciate your willingness to consider our input in this area.

Respectfully Yours,

Steven Allwine
Chairman, Legislative Committee



APR 30 1997

April 30, 1997

The Honorable Norman Rokeberg
 Chairman, House Labor and Commerce Committee
 Alaska State Legislature
 State Capital
 Juneau, Alaska 99801-1182

Dear Representative Rokeberg,

I am writing to express my concern with the the proposed legislation contained in HB 142. My concerns are numerous, however I would draw your attention to the following areas.

Section 1 deals with the I/M issue and certification relating to used car sales. At this time I/M testing only affects Fairbanks and Anchorage exclusively. I am concerned about any legislation that deals with regulations that vary widely by region.

My impression is that there are already regulations in place to address the emissions program and that any statutory change would be extremely cumbersome. A recommendation is to require the I/m program to issue a pass/fail decal placed in a conspicuous position on the vehicle. This would serve to alert both the dealer and consumer to the condition of the vehicle emission system prior to the time a transaction takes place. A decal or sticker will also serve the consumer in private transactions. Perhaps instead of legislating this fix the agencies involved could address this situation.

Section 2 deals with the disclosure of major damage to New and Used vehicles. As an individual, business person, and a member of the Alaska Auto Dealer Association, I cannot support this section in its original form or the revised form proposed by the Department of Law. The original section consumed one paragraph, was vague and non specific. The revised proposal still falls short of addressing major areas of concern.

The issue of damage to vehicles must be addressed separately for new and used vehicles. New vehicles should require damage disclosure. However this needs to be damage over a specific dollar amount, e.g., a percentage of the MSRP of the vehicle or a physical dollar limit. The \$300 proposed is unrealistic as simple touch up work can exceed this amount.

Items damaged that require only simple replacement with original factory equipment should be exempt. Examples would include tires, glass, bumpers, radios.

Unrepaired damage on new vehicles (if known) should be disclosed without regard to limitation. The issue of refund after disclosure should apply to new vehicles that are special ordered on behalf of the customer. An example would be the customer special orders a vehicle. The vehicle is built and subsequently sustains damage during shipment or delivery to the dealer. Subject to the damage limits of the statute the customer should be advised and have the option to rescind the transaction.


Used vehicles should be handled differently. Damage disclosure on a used car should be pursued cautiously as it must not be the intent to imply warranty or fitness. The majority of the vehicles on the road have had some repair performed.

Chrysler • Plymouth • Dodge • Mazda

The single most important item dealing with a used vehicle is proper damage disclosure for a vehicle that has been declared a total loss by an insurance carrier. Used vehicles that are totaled by an insurance carrier and subsequently rebuilt by anyone must be subject to disclosure regardless of dollar amount involved. This responsibility should not be born exclusively by the Dealer, but by Insurance companies and the State, clearly on the Title, and Registration. This issue is not even mentioned in the legislation.

I advise careful consideration of the points I have outlined in this letter. The precedents for this type of legislation are limited. In spite of legislative intent the potential exists for a strong negative impact on the consumer.

Respectfully Yours


Steven J. Allwine
President

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



Easy Street Auto, Inc.

05-02-97 A11:41 IN

May 2, 1997

URGENT--DELIVER AS SOON AS POSSIBLE

VIA FACSIMILE

The Honorable Norman Rokeberg
Alaska State House of Representatives
Juneau, Alaska 99811
fax 465-2040

Written Testimony Regarding HB 142

Dear Representative Rokeberg:

My name is Emory Shelley and I am writing regarding HB 142 which the Labor and Commerce Committee has a hearing on today. I am one of the founders of the Alaska Automobile Dealers Association (AADA) and I also own a used automobile dealership in Anchorage called Easy Street Auto, Inc. I am very proud of being a reputable businessman in Alaska. The members of the Alaska Automobile Dealers Association have taken it upon themselves to change and correct any areas that need changing regarding the automobile industry in Alaska. We have adopted a Code of Ethics that all members follow.

I do not support HB 142 and would like your help in assuring this bill does not become law. There is currently a law in force that states if you are selling vehicles in Anchorage or Fairbanks you must have each automobile IM certified or have a certificate of non-compliance before you sell that vehicle and before you may change ownership of that vehicle. The IM certificate or non-compliance certificate must be surrendered to the Department of Motor Vehicles (DMV) in order to change ownership. Not only that but auto dealers do not get paid from the banks or financial institutions until the transfer of ownership is complete.

HB 142 could send many automobile dealers into bankruptcy. The question that comes to mind is how do we insure ourselves against such great liability? I believe the answer is the State should inspect all vehicles and put IM and safety stickers in all the windows. This would tell consumers and auto dealers that this vehicle is IM certified and safety inspected per the State of Alaska. This would remove liability from the private sector and the dealers.

Alaska currently has adopted a new title branding law that helps auto dealers and the consumer. By putting REC on a vehicle's title, everyone is aware the vehicle has been in an accident and is a reconstructed automobile.

"Easy to do business with Easy Street"

925 East Fifth Avenue • Anchorage, Alaska 99501 • (907) 258-3300

The Honorable Norman Rokeberg
May 2, 1997
Page 2

Now, as far as disclosure laws, we as dealers must disclose whether the vehicle is sold with warranty or sold AS-IS- no warranty under federal law. This form is called the Buyers Guide. This form also tells the consumer what to look for and describes each item: frame and body, engine, transmission, differential, cooling system, electrical system, fuel system, brake system, steering system, suspension, tires, wheels and exhaust system.

Please join me in not supporting HB 142 and ensuring this bill does not make it into law. I would be happy as a independent used car dealer and a member of the Alaska Automobile Dealers Association, to answer any questions you may have regarding the automobile industry in Alaska. I can be reached at 258-3300 if you would like to discuss the matter further.

Thank you for you time.

Sincerely,



EMORY G. SHELLEY
President/Owner

EGS/ds

HB 142 -- CONSUMER PROTECTION AND ANTITRUST ENFORCEMENT

- Requires a used car dealer to provide a buyer with a copy of a certificate of auto emissions compliance or noncompliance for a used vehicle before the buyer enters into a binding sales contract to purchase that vehicle. This protects consumers from unknowingly buying automobiles that will need additional work before they can pass the emissions tests and be licensed.
- Requires a motor vehicle dealer to disclose information to a buyer on the accident history, any safety problems, or other material problem of a vehicle before the buyer enters into a contract to purchase the vehicle. This will protect consumers from dealers who, without disclosure, sell cars that have been in accidents, suffered structural or paint damage, or are otherwise unsafe. If notice is not given, allows for refund to buyer. Also provides that motor vehicle manufacturers and distributors must notify dealers of any damage to cars delivered to them.
- Amends Alaska's antitrust and consumer protection confidentiality statutes to codify current practice and clarify that state investigative records are not records available for inspection under the Public Records Act. This helps make antitrust and consumer protection investigations more effective by protecting those who agree to cooperate in those investigations and individuals or businesses who may be the subject of unwarranted complaints.
- Clarifies that a telemarketer cannot rely on the catalog exemption to avoid registration with the State. In order to be recognized as a legitimate mail order business, a company would have to have a catalog distributed in Alaska; the company's name, address, phone number, and ordering instructions would have to be included in the catalog; and the catalog company would have to be awaiting calls from consumers rather than initiating sales calls to consumers. This expands the coverage of Alaska's current telemarketing law and thus helps to protect consumers from unscrupulous out-of-state telemarketers. Also eliminates a confusing and unnecessary exemption in the telemarketing law relating to the sale of securities.
- Creates a new, comprehensive statute regulating the sale of "business opportunities," prepackaged small business deals offered mainly to novice entrepreneurs through classified and radio ads, TV infomercials, home seminars, and business opportunity expositions. Typical deals involve the sale of vending machines, pay telephones, amusement devices, T-shirt businesses, and the like. Millions of Americans earn income from such opportunities, but the sale of business opportunities is a field in which investment problems, unfair methods of competition, and unfair or deceptive acts or practices are common. Business opportunity fraud nationally targets people who may be out of work or otherwise vulnerable to being taken advantage of, and Alaska has been a particular focus of this type of activity because each Alaskan gets the PFD. The legislation provides for both criminal and civil remedies. It would be an important consumer protection safeguard for entrepreneurial Alaskans.

ADA REPORTING

924 E. 45th Ct., #1
Anchorage, AK 99503

Phone: 563-4819
Fax: 276-1680

May 01, 1997

Hello, my name is Angela. I'm testifying on behalf of myself as a citizen of Anchorage. On July 29, 1996, I purchased an \$11,000 GMC Sierra from a well-known Anchorage used auto dealer. During negotiations, I indicated that I would like to take the vehicle to a mechanic for an inspection before purchasing it. I was told by the salesman that an inspection wasn't necessary and that the truck was in great shape. I proceeded to close the deal. The following morning, upon attempting to start the truck, it made a horrible grinding noise and had to be towed back to the dealership for repairs. I was informed by the dealership that the truck would not pass I/M certification and had to have part of the engine repaired because of extensive smoke damage. Had I known that this \$11,000 vehicle would not pass I/M certification, I never would have purchased it. The dealership, however, required me to sign a paper guaranteeing that my trade-in auto would pass I/M certification, and that if it failed, I would pay to fix it. They offered no such guarantee on the truck they were selling me.

After the dealership made the necessary repairs to the truck, I took it to a mechanic for an inspection and learned that the truck had been in a prior wreck and had no air conditioning. I had asked a mechanic at the dealership why the air wasn't working, and he told me to, quote, let it run a little longer. In actuality, the entire air conditioning system had been removed from the vehicle because of the wreck it had suffered.

After failing to find me a decent vehicle, I asked the dealership to unwind the deal. They refused. I finally sought legal assistance, at which time they unwound the deal.

It was very frustrating and disappointing to be misled and taken advantage of by this used auto dealership. If this bill were in effect when I was in the market for purchasing a used vehicle, it would have saved me from purchasing this "lemon."

A M E N D M E N T

01-30-98P02:32 RCVD

OFFERED IN THE HOUSE
TO: SSHB 142

BY REPRESENTATIVE DAVIS

- 1 Page 1, line 1:
- 2 Delete "new or"

- 3 Page 1, line 4:
- 4 Delete "additional unlawful trade practices"
- 5 Insert "an additional unlawful trade practice"

- 6 Page 2, line 12, through page 5, line 7:
- 7 Delete all material.

- 8 Renumber the following bill sections accordingly.

- 9 Page 5, lines 9 - 10:
- 10 Delete all material.

- 11 Page 5, line 11:
- 12 Delete "(43)"
- 13 Insert "(42)"

- 14 Renumber internal references to bill sections in accordance with this amendment. Internal
- 15 section references occur in the following places:
- 16 Page 21, line 10
- 17 Page 21, line 18
- 18 Page 21, line 19
- 19 Page 21, line 20

- 1 Page 21, line 21
- 2 Page 21, line 24
- 3 Page 21, line 25

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE MEMBERS:

REPRESENTATIVE NORMAN ROKEBERG, CHAIRMAN
REPRESENTATIVE JOHN COWDERY, VICE CHAIRMAN
REPRESENTATIVE BILL HUDSON
REPRESENTATIVE JOE RYAN
REPRESENTATIVE JERRY SANDERS
REPRESENTATIVE TOM BRICE
REPRESENTATIVE GENE KUBINA
COMMITTEE AIDE, SHIRLEY ARMSTRONG
COMMITTEE SECRETARY, CATHY WOOD
COMMITTEE HEARING ROOM 17 STATE CAPITOL



INTERIM:
716 WEST 4TH AVENUE, SUITE 640
ANCHORAGE, AK 99501
PHONE: (907) 258-8191
FAX: (907) 258-2916

SESSION:
STATE CAPITOL, ROOM 24
JUNEAU, AK 99801-1182
PHONE: (907) 465-4954
FAX: (907) 465-2040

Labor and Commerce Committee

MEMORANDUM

TO: Susie Lowell, Chief Clerk

FROM: Representative Norman Rokeberg, Chairman *Norman Rokeberg*
House Labor and Commerce Committee

DATE: October 8, 1997

SUBJECT: House Labor & Commerce Committee Meeting Schedule

**** CORRECTED PUBLIC NOTICE ****

Monday, October 13, 1997, at 1:00 pm, Room 220, 716 West Avenue, Anchorage, Alaska

HB 33 Real Estate Licensing
Teleconference

Wednesday, October 15, 1997, at 1:00 pm, Room 220, 716 West Avenue, Anchorage, Alaska

MEETING CANCELLED

Thursday, October 16, 1997, at 11:00 am, Room 220, 716 West Avenue, Anchorage, Alaska

State Recorder's Office Hearing Update

Monday, October 20, 1997, at 1:00 pm, Room 220, 716 West Avenue, Anchorage, Alaska

HB 178 Uniform Commercial Code: Letters of Credit
HB 142 Business Practice Regulations
Teleconference

Thursday, October 23, 1997, at 2:00 pm, Room 220, 716 West Avenue, Anchorage, Alaska

HB 33 Real Estate Licensing
Bills Previously Heard
Teleconference



Photo courtesy of Alaska attorney general

Car dealer has more legal woes

By LISA SCAGLIOTTI
Daily News reporter

The state attorney general has gone to court alleging that Anchorage Nissan Inc. violated a 1995 court order by selling a previously wrecked and repaired car to an Anchorage consumer without revealing the prior damage.

In a motion filed with state Superior Court on Wednesday, assistant attorney general Daveed Schwartz explained how an Anchorage woman bought a 1995 Nissan Sentra for \$11,000 at Johnson Nissan, a dealership run by Anchorage Nissan Inc.

After taking the car home, the buyer noticed signs that the car had been repaired, and she had a mechanic inspect it. That inspection determined that "it was readily apparent to the trained

The damaged Nissan Sentra above was repaired, right, and resold to an Anchorage consumer who wasn't told of the car's history.



ERIK HILL Anchorage Daily News

Please see Page F-8. NISSAN

9 Oct / 1997 ADK
p. F-1

NISSAN: State claims car dealer violated court order

Continued from Page F-1

eye that the Sentra had experienced a front-end collision," according to the court motion.

James Johnson, president of Anchorage Nissan, criticized Schwartz for the court filing.

"He's on a witch hunt, and I resent it," he said.

Anchorage Nissan is under a court order from April 1995 to disclose vehicle accident-history information to consumers. The order came after a civil jury found the dealership guilty of deceptive practices in the sale of previously wrecked vehicles between 1991 and 1993 and with misrepresentation of vehicle warranties.

The state Supreme Court upheld that order last July, and in August, Anchorage Nissan paid the state over \$190,000 in penalties and restitution.

Schwartz said Johnson Nissan violated the court order in the Sentra case by not

informing the car buyer of the car's damage history.

"They should have disclosed the information so the consumer could take that into account in bargaining the price," he said.

Sales officials at the dealership acknowledged the damage when the buyer brought it to their attention. They said they were unaware of the car's history because the car came from its Fairbanks car rental operation without any service records.

After the buyer returned the car and notified the attorney general's office of the situation, the dealership changed information with the vehicle to say it had been repaired after an accident.

Eventually, the dealership refunded the buyer's money, Schwartz said.

Johnson said that because his business sells over 3,000 cars a year, it can be difficult to comply with the court order in every case.

He said a glitch in the sys-

tem resulted in the Sentra's being sent from Fairbanks without any repair records. Because of that, sales officials in Anchorage were unaware that the car had been in three accidents, the most recent of which was a front-end collision in December that caused \$6,250 in damage.

A Johnson Nissan mechanic with nine years of experience also missed the damage when he inspected the car before it was put out for sale.

"He did not identify the repair work, and he's very distressed about it, and I believe him," Johnson said.

Johnson also disputes whether the car actually was sold to the buyer because the financial transaction was not completed. Schwartz called that allegation "splitting hairs" because the woman had a signed purchase agreement and already had taken the car home.

Johnson also criticized Schwartz' investigation for

not following due process. He said he believes his lawyers should be allowed to sit in on interviews Schwartz and his investigators do on the case.

Schwartz said inviting attorneys from the party in question to participate in interviews would have a chilling effect on the investigation.

Schwartz is seeking civil penalties in the case of up to \$25,000.

In a separate case, the state last year settled a claim with Anchorage Nissan in which vehicles were sold marked "as-is" despite customers paying for service contracts.

The dealership paid \$2,000 to cover state attorney's fees and performed free repairs on some vehicles covered by those contracts, Schwartz said.

AGENDA
October 20, 1997

Good Afternoon

This Meeting Of The House Labor & Commerce Committee is Called To Order
On October 16, 1997 At 1:00 PM

For The Record The Committee Members Present or on Teleconference are:

Rep. Norman Rokeberg, Chairman - On Teleconference at the
Rep. John Cowdery, Vice Chairman
Rep. Bill Hudson
Rep. Joe Ryan
Rep. Jerry Sanders
Rep. Tom Brice
Rep. Gene Kubina

(He is attending the Deferred Maintenance Task Force Mtg)

If A Committee Member Arrives Late Announce:
Representative (Name) Has (Joined) (Left) The Committee At (Time).

A Quorum (Is) (Is Not) Present.

On Today's Calendar ---

HB 178 Uniform Commercial Code: Letters of Credit
HB 142 Business Practice Regulations

The last hearing on HB 178 was May 5, 1997, during the legislative session. This is the 2th hearing on subject At our last hearing Rep Ryan submitted amendments to the model bill for consideration by the committee. We have since received a letter from the Alaska Banker's Association opposing those amendments.

Today we will endeavor to sort through the HB 178 amendments.

- 1. There should be someone here from the Alaska Bankers Assn.**
- 2. Mr. John M. McCabe, Legal Counsel, National Conference of Commissioners on Uniform State Laws out of Chicago, Illinois should be online.**

Anyone Wishing To Testify On this issue and Who Has Not Already Done So Please Come Forward

The last hearing on HB 142 was May 5, 1997, during the legislative session. This is the 2th hearing for this bill. There were a number of members of the public that expressed an interest in testifying on this bill so the committee held the bill over.

Take Testimony In Order, Recognizing Each Witness By Name:

Other Legislators (Ask Other Legislators To Join The Committee At The Table)

Individuals With Time Constraints

Individuals In Order On Witness List.

Teleconferenced Testimony Should Be Rotated Between Locations.

Teleconference Moderator Will Provide You With A List Of Witnesses
At The Various Locations)

Members of the public who would like to send in written testimony - my FAX number here in Anchorage is 258-2916.

At the end of committee business announce: Labor & Commerce Committee will be meeting Thursday, October 23, 1997, at 2:00pm in this same meeting room to HB 33- Real Estate Licensing

THIS COMMITTEE STANDS AJOURNED AT (time)



Photo courtesy of Alaska attorney general

The damaged Nissan Sentra above was repaired, right, and resold to an Anchorage consumer who wasn't told of the car's history.



ERIK HILL / Anchorage Daily News

Car dealer has more legal woes

By LISA SCAGLIOTTI
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Please see Page F-8, NISSAN

9 Oct 1997 ADN
p. F-1

NISSAN: State claims car dealer violated court order

Continued from Page F-1

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Official Business

COMMITTEE:

HOUSE LABOR AND COMMERCE COMMITTEE

DATE: May 5, 1997

SIGN-IN

Subject of meeting:

HB 142 - BUSINESS PRACTICE REGULATIONS

PLEASE PRINT!

NAME ADDRESS (MAILING) & (ZIP) PHONE REPRESENTING DO YOU WANT TO TESTIFY?

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Peggy Molligan	Box 40335, Denver, CO 80245	364-3144	CETF- AARP	<input checked="" type="checkbox"/>
Crystal Smith	PO Box 110300, Jensen 94811	465-2132	Dept. of Law	Yes
Ron King	410 Willoughby Ave Suite 105 99801-0995	465-5100	ADEC	Answer Questions on IIM program if needed.

TOTAL P.02

05-05-1997 08:55AM FROM 9074652267 TO 2040 P.02



Official Business

COMMITTEE:

HOUSE LABOR AND COMMERCE

DATE: October 20, 1997

SIGN-IN

Subject of meeting:

HB 142 - BUSINESS PRACTICE REGULATIONS

Anchorage, Alaska

PLEASE PRINT!

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Emory Shelley	926 E. 4th Ave. Anch. AK 99501	907-258-3300	AK Auto Dealer. Assoc.	
Daveed Schwartz	1031 W. 4th Ave. Anch. 99501	269-5100	State AEO	Yes, if Requested
Julia Costek	same			NO
Paul Gardner	2601 E. 5th Ave. Anch. AK 99501	276-1331	AK Auto Dealers	YES NO
STAN PETIT	2601 E 5th Ave Anch. AK 99501	276-1331	AK AUTO DEALERS	NO
Rick Morrison	935 Gambell Anch AK 99504	272-5527 243	AK Auto Dealers	yes
MICHAEL STEIN	730 E. 5th Ave ANCH, AK. 99501	257-6600	AK AUTO DEALERS ASSOC.	YES, IF REQUESTED
LEONARD BRYND	1300 E 5th Ave ANCH AK 99501	274-9641	AK AUTO DEALERS ASSOC	yes if Requested
Juanita Hensley	5700 E Tudor Rd	269-3776	DMV	NO ^{submit}
Vito Ungaro Peter Eggman	2001 E 5th Ave	277-3336	AK Auto Dealers	Yes if Requested

HP OfficeJet
Personal Printer/Fax/Copier

Fax Log Report

Oct-21-97 05:49 PM

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
19072833075	OK	01	Sent	Oct-21	05:48P	00:00:58	002185230020

7.0.0

COMMITTEE TAPE LOG

COMMITTEE: House Labor & Commerce DATE: 20 Oct 1997 TIME: 1:00 p.m.

SUBJECT: HB 178 - Letters of Credit Under the UCC
HB 142 - Business Practice Regulations

MEMBERS: Robelberg, Ryan, Cowdery,
Staff: Shirley Arndtson, HLC;

SPEAKER	TAPE#	SIGNIFICANT INFORMATION
Robelberg	Tape 1 000	1:09 pm call to order [me not deemed on to 1:11pm - introductory remarks only]
Peterson	019	Art Peterson in Juneau
Weaver	023	Jerry Weaver, Sr VP + Comm. Loan Manager, NBA + Sec. Treasurer of Alaska Banking Association. Re: HB 178, Letters of credit legislation first mechanical steps. Comments in favor of legislation and against proposed amendments.
Robelberg	043	Elementary explanation of letters in credit & float issue - request for
Weaver	048	float issue not discussed. Explain letters of credit.
Robelberg	083	question re wire transfer of funds
Weaver	087	Explanation of wire transfer.
Robelberg	094	Actual transfer of funds?
Weaver	097	Documents & payment procedure
Robelberg	114	back to float time question. What about problems
Weaver	118	legislation discusses arbitration of disputes.
Robelberg	123	level of commerce in Alaska
Weaver	126	answers above. NBA has \$16 million outstanding right now
Cowdery	130	clarify figure

HLC HB178: Letters of credit/U.C.C

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
Woober	133	back to procedures.
Ryan	142	State needs re concerns. Assignment of letters of credit.
Little	153	Melody Little , Letters of Credit Officer, WBA
Ryan	155	assurances wanted re sitting on money, etc.
Little	168	discussion re assignment
Ryan		delay in payment
Ryan	187	conditions condition of letters of credit
Little	203	7-day period expiration
Evan	212	what happens when shipment declined?
Little	216	bill of lading is made negotiable
Ryan	221	once goods ship there payment not made
Little	225	violate on issuing bank
Ryan	229	En on side of caution
Little	234	timeline
Ryan	238	AG letter re reasonable time
		[Reviewing letter - no sound]
Weaver	253	Commercial shipment + documents
Cowdery	266	7-day period - how does it compare
Weaver	270	Uniform standard would be best
Rokobeg	273	thanks to Weaver
Kurtz	279	"Jerry" Kurtz, Ex. ^{Uniform Law Commission} Law witness test explanation! seven days - "reasonable time" Under is end.
Rokobeg	310	
Kurtz	311	identified himself to record.
Rokobeg	323	comment
Kurtz	329	response
Peterson	330	Old Peterson, Geneva, Uniform Law Commission