

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 80/2

9300 HOUSE LABOR & COMMERCE



Alaska State Legislature

APR 10 1997

Please enter into the record my testimony to the House Labor & Commerce committee name

committee on HB 159/189 , dated 4/10/97
bill/subject

I support HB 159 & 189. Young people rarely know what is in their best interest. Most parents try to instill proper values. However, the facts are, young people rebel. These two bills give substantial consequences to minors smoking and to those businesses who sell to minors. The legislature should adopt these two bills. Then in two or three years the state would have statistical results - a reduction of smoking in minors. Then reevaluate or restructure accordingly. Give consequences to the children. Do NOT tax the adults.

Signed: DIANA BUFFINGTON

Testifier

Republican Party District 6

Representing (Optional)

317 Maple Kodiak AK 99615

Address

907-486-2290

Phone No.

Barbara E. Waters
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APR 10 1997

to the Chairman and the Committee Members discussing the tobacco tax bills at 3:15 p.m., 4-10-97:

First of all, I would like to apologise for not being here to testify in person. I would like to offer my testimony via fax.

I have spoken on this issue in the past. I would like to reiterate my feelings. First of all, I am a non-smoker who has lived 43 of the past 47 years with heavy smokers. My parents and my sister smoke(d) and my husband has been smoke-free for just the last four years.

I am not tolerant of the products of smoking. I dislike my hair and clothing smelling of smoke. However, I am tolerant of the smokers that I know. I can separate the issues.

Let's talk about the issues for a moment. The claimed issues for pursuing a tobacco tax I have heard are 1) health costs, and 2) school funding.

1) Health costs: I submit to you that a heavy person is likely to have as many health problems as a smoker, regardless of whether or not he/she has ever smoked. Heart problems, diabetes, blood pressure problems, ambulation, are just a few that can be mentioned as being caused directly or indirectly due to overweight. We in this state are likely to pay out medical costs for obesity problems just as often as for smoking related problems. Shall we begin to tax calories next?

2) School funding: How can this be related to the tobacco tax either legally or justifiably? What has one got to do with another? The original claims about the tax were that it would help educate our youngsters about the health issues of smoking - thereby causing them to quit or never start. I submit to you that currently (at least in the Kenai Peninsula Borough School District) the health programs at the schools are teaching this. (and yet, my daughter, a graduate of KCHS is this day a smoker)

Let's get to the root of the problem. Adults are buying tobacco products for our youth. Some stores are selling tobacco products to underage youth. Youth are walking our streets daily with cigarettes in hand or hanging from their lips. THIS IS AGAINST THE LAW!!!! It is time for the laws on the books to be enforced. I was in line at a large chain grocery store just two days ago and saw a young man purchase cigarettes unchallenged by the clerk. When I remarked that he had not been "carded" the clerk became indignant "do you think he was under 19?" I reassured her that I was under the impression that anyone buying must be carded if under 27 years of age. She then told me that it "was at the discretion of the checker."

I could almost support this tax if I could be assured that the current laws would be enforced and that is where the money would go. However, you cannot assure me of that so I would again speak out against this.

Thanks you for considering my testimony.

Barbara E. Waters

Amendment #4 by
Rokelberg
Conceptual amendment
Change age from 21 to 19
all portions of legislation
Sanders objected, Kott (objct)

JC - N NR - Y

JS - N

TB - N

JR - N

BH - Y

fails

4/16/97
Hudson moved
accepted no objection
of the CS

0-LS0287L
Ford
4/14/97

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

amended
see
amendments

4/16/97
Ryan
Mulder
Kohring
Sanders
Cowdery
+ SSHB
fiscal
note

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KOTT, Mulder, Kohring, Sanders, Ryan, Cowdery

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sale, gift, exchange, possession, and purchase of tobacco and
2 tobacco products; and providing for an effective date."

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

4 * Section 1. AS 11.76.100 is repealed and reenacted to read:

5 Sec. 11.76.100. Selling or giving tobacco to a person under 21. (a) A
6 person commits the offense of selling or giving tobacco to a person under 21 if the
7 person is 21 years of age or older and negligently sells, exchanges, or gives a tobacco
8 product to a person under 21 years of age.

9 (b) The court shall forward a record of each person convicted under this
10 section who holds a business license endorsement under AS 43.70.075, or who is an
11 employee or agent of a person who holds a license endorsement under AS 43.70.075
12 to the Department of Commerce and Economic Development.

13 (c) A person who violates (a) of this section is guilty of a violation and upon
14 conviction shall be punished by a fine of \$250 for a first offense within a two-year

1 period, \$500 for a second offense within a two-year period, and \$1,000 for a third or
2 subsequent offense within a two-year period.

3 * Sec. 2. AS 11.76.105 is repealed and reenacted to read:

4 **Sec. 11.76.105. Possession, purchase, or use of false identification to obtain**
5 **tobacco by a person under 21.** (a) A person under 21 years of age may not
6 knowingly

7 (1) possess or attempt to purchase a tobacco product in this state; or

8 (2) present false or fraudulent proof of age for the purpose of
9 purchasing a tobacco product.

10 (b) A person who violates this section is guilty of a violation and upon
11 conviction shall be punished by a fine of \$250 for a first offense within a two-year
12 period, \$500 for a second offense within a two-year period, and \$1,000 for a third or
13 subsequent offense within a two-year period.

14 * Sec. 3. AS 11.76.107 is repealed and reenacted to read:

15 **Sec. 11.76.107. Restrictions on sale of tobacco and tobacco products.** (a)

16 A person may not sell a tobacco product unless

17 (1) the

18 (A) person also holds a license endorsement issued under
19 AS 43.70.075;

20 (B) sale occurs on the retail premises; and

21 (C) person purchasing or receiving the tobacco product provides
22 proof of age if proof is demanded as provided under (c) of this section;

23 (2) the sale is a wholesale transaction by a person licensed as a
24 manufacturer under AS 43.50.010; or

25 (3) the sale is by mail order.

26 (b) Except as provided in this subsection, a person may not sell a tobacco
27 product by vending machine. The sale of a tobacco product through a vending
28 machine is permitted if the vending machine is located in

29 (1) a factory, business, office, or other place that is not open to the
30 public;

31 (2) a place that is open to the public but to which a person under the

1 age of 21 years is denied access; or

2 (3) a place where alcoholic beverages are sold, but only if the vending
3 machine is

4 (A) under the continuous supervision of the owner or lessee of
5 the licensed premises or an employee of the owner or lessee; and

6 (B) inaccessible to the public when the licensed premises is
7 closed.

8 (c) A person engaged in the sale of a tobacco product shall demand proof of
9 age from a prospective purchaser or recipient if the person has reason to believe that
10 the prospective purchaser or recipient is under 27 years of age. A prosecution for
11 violation of this subsection may not be brought unless a prosecution is also brought
12 for violation of AS 11.76.100.

13 (d) A person engaged in the retail business of selling a tobacco product shall
14 notify each individual employed by that person as a retail sales clerk that state law (1)
15 prohibits the sale of a tobacco product to any person under 21 years of age and the
16 purchase or receipt of a tobacco product by any person under 21 years of age; and (2)
17 requires that proof of age be demanded from a prospective purchaser or recipient if the
18 person engaged in sale of the tobacco product has reason to believe that the
19 prospective purchaser or recipient is under 27 years of age. This notice shall be
20 provided before the individual commences work as a retail sales clerk. The individual
21 shall signify receipt of the notice required by this subsection by signing a form stating
22 as follows:

23 "I understand that state law prohibits the sale of a tobacco
24 product to persons under 21 years of age and requires that proof
25 of age be demanded from a prospective purchaser or recipient
26 if I have reason to believe that the prospective purchaser or
27 recipient is under 27 years of age. I promise, as a condition of
28 my employment, to observe this law."

29 Each form signed by an individual shall indicate the date of signature. The employer
30 shall retain the form signed by an individual employed as a retail sales clerk until 120
31 days after the individual has left the employer's employ.

1 (e) The court shall forward to the Department of Commerce and Economic
2 Development a record of each person convicted under this section.

3 (f) A person who holds a business license endorsement under AS 43.70.075,
4 or an agent or employee of the person, may not sell cigarettes to another person if the
5 cigarettes are sold singly or in numbers that are fewer than contained in the
6 manufacturer's original cigarette pack or contained in a cigarette carton or box.

7 (g) A person who violates this section is guilty of a violation and upon
8 conviction shall be punished by a fine of \$250 for a first offense within a two-year
9 period, \$500 for a second offense within a two-year period, and for a third or
10 subsequent violation within a two-year period by a fine of \$1,000 and suspension of
11 the license endorsement required under AS 43.70.075 for a period of not more than
12 one year.

13 * Sec. 4. AS 11.76 is amended by adding a new section to read:

14 **Sec. 11.76.109. Definitions for AS 11.76.100 - 11.76.109.** In AS 11.76.100 -
15 11.76.109, unless the context requires otherwise,

16 (1) "person" has the meaning given in AS 11.81.900;

17 (2) "proof of age" means a driver's license or other documentary or
18 written evidence that is made of or encased in plastic and contains a photograph of the
19 holder and a statement of age or date of birth that establishes that the person is 21
20 years of age or older;

21 (3) "tobacco product" means a product that contains tobacco and is
22 intended for human consumption;

23 (4) "vending machine" means a mechanical, electric, or electronic self-
24 service device that, upon insertion of money, tokens, or another form of payment,
25 automatically dispenses a tobacco product.

26 * Sec. 5. AS 22.35 is amended by adding a new section to read:

27 **Sec. 22.35.020. Use of fine proceeds.** The administrative director of the court
28 system shall separately account for fines collected for violations of AS 11.76.100,
29 11.76.105, and 11.76.107 and deposit them in the general fund. The annual estimated
30 balance in the account maintained under this section for fines collected under
31 AS 11.76.100, 11.76.105, or 11.76.107 may be appropriated by the legislature to

1 support municipal law enforcement.

2 * Sec. 6. AS 43.50.070 is amended to read:

3 Sec. 43.50.070. Revocation or suspension of licenses. The department may
4 suspend or revoke a license issued under AS 43.50.010 - 43.50.180, (1) for a
5 criminally negligent violation of AS 11.76.100 [, 11.76.107] or a violation of
6 AS 43.50.010 - 43.50.180 or a regulation of the department adopted under
7 AS 43.50.010 - 43.50.180; (2) if a licensee ceases to act in the capacity for which the
8 license was issued; or (3) if a manufacturer, distributor, or wholesale distributor
9 negligently sells tobacco or products containing tobacco to a nonlicensed retailer or a
10 retailer whose license endorsement under AS 43.70.075 has been suspended. The
11 department may suspend or revoke a license issued under AS 43.50.010 -
12 43.50.180 for a period of not more than one year for a criminally negligent
13 violation of AS 11.76.107. A person whose license is suspended or revoked may not
14 sell cigarettes or permit cigarettes to be sold during the period of the suspension or
15 revocation on the premises occupied or controlled by that person and may not apply
16 for a license endorsement under AS 43.70.075 under a different name. A
17 disciplinary proceeding or action is not barred or abated by the expiration, transfer,
18 surrender, renewal, or extension of a license issued under AS 43.50.010 - 43.50.180.
19 The department shall comply with the provisions of AS 44.62 ([THE] Administrative
20 Procedure Act [(AS 44.62)]).

21 * Sec. 7. AS 43.70.075(b) is amended to read:

22 (b) The department, upon payment of a fee of \$100 [\$25], shall issue a
23 business license endorsement to a person who applies for a business license under this
24 chapter, and may renew the endorsement issued under this subsection for a fee of \$100
25 [\$25]. The endorsement expires at the same time as the license to which it attaches.

26 * Sec. 8. AS 43.70.075(f) is amended to read:

27 (f) A person who holds a license endorsement issued under this section shall
28 post on the licensed premises a warning sign as described in this subsection. A
29 warning sign required by this subsection must be at least 6 inches by 18 inches and
30 must read, in lettering at least 1.25 inches high: "The sale of tobacco products to
31 persons under age 21 [19] is illegal." A person holding an endorsement issued under

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this section shall display the sign in a manner conspicuous to a person purchasing or consuming tobacco products on the licensed premises. The department shall, without charge, furnish warning signs required under this section to a person who holds an endorsement issued under this section or a person who requests the sign with the intention of displaying it.

* Sec. 9. AS 43.70.075(d) is amended to read:

unintentionally

(d) If a person who holds an endorsement issued under this section, or an agent or an employee of a person who holds an endorsement issued under this section acting within the scope of the agency or employment, has been convicted of violating AS 11.76.100 or 11.76.107, or violates a provision of this section or a regulation implementing this section [ADOPTED UNDER AS 43.70.090], the department may suspend the endorsement for a period of not more than

(1) 45 days; [OR]

(2) 90 days, if within the past 24 months the person has been previously convicted of violating AS 11.76.100 or 11.76.107, or a provision of this section or a regulation implementing this section; or

(3) one year if within the past 24 months the person has been previously convicted two or more times of violating AS 11.76.100 or 11.76.107 or a provision of this section or a regulation implementing this section [ADOPTED UNDER AS 43.70.090].

* Sec. 10. AS 47.12.030(b) is amended to read:

(b) When a minor is accused of violating a statute specified in this subsection, other than a statute the violation of which is a felony, this chapter and the Alaska Delinquency Rules do not apply and the minor accused of the offense shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult; if a minor is charged, prosecuted, and sentenced for an offense under this subsection, the minor's parent, guardian, or legal custodian shall be present at all proceedings; the provisions of this subsection apply when a minor is accused of violating

(1) a traffic statute or regulation, or a traffic ordinance or regulation of a municipality;

(2) AS 11.76.105 [, RELATING TO THE POSSESSION OF

1 TOBACCO BY A PERSON UNDER 19 YEARS OF AGE];

2 (3) a fish and game statute or regulation under AS 16;

3 (4) a parks and recreational facilities statute or regulation under
4 AS 41.21; and

5 (5) AS 04.16.050, relating to possession, control, or consumption of
6 alcohol.

7 * Sec. 11. TRANSITIONAL NOTICE PROVISION. Within 30 days after the effective
8 date of this Act, the employee notice required under AS 11.76.107(d), enacted in sec. 3 of this
9 Act, shall be given to employees engaged in the retail business of selling a tobacco product
10 on the day before the effective date of this Act.

11 * Sec. 12. This Act takes effect July 1, 1997.

adopted
A M E N D M E N T # 1

OFFERED IN THE HOUSE

BY REPRESENTATIVE KOTT

TO: C S S S H B 159() (Draft 0-LS0287L. Dated 4/14/97)

1 Page 5, line 16:

2 Delete "endorsement under AS 43.70.075"

3 Insert "under AS 43.50.010 - 43.50.180"

4 Page 6, following line 20:

5 Insert a new bill section to read:

6 "* Sec. 10. AS 43.70.075(e) is amended to read:

7 (e) If a person who receives an endorsement under this section has multiple
8 retail outlets, a suspension imposed under (d) of this section applies only to the retail
9 outlet in which the violation occurs. If a person receives a suspension under (d)
10 of this section, the person may not apply for a license endorsement under this
11 section under a different name."

12 Renumber the following bill sections accordingly.

*4/16/97
Bill moved
no objections*

adopted
A M E N D M E N T #2

OFFERED IN THE HOUSE

BY REPRESENTATIVE KOTT

TO: CSSH B 159() (Draft 0-LS0287L, Dated 4/14/97)

- 1 Page 2, following line 13:
- 2 Insert a new subsection to read:
- 3 "(c) In this section, "possess" does not include possession for the purpose of
- 4 retail sale by a person under 21 years of age who holds a license endorsement under
- 5 AS 43.70.075 or who is the employee of a person who holds a license endorsement
- 6 under AS 43.70.075."

4/16/97
Bill moved
no objections

0-LS0287V.3
Ford
4/16/97

accepted

AMENDMENT #3

OFFERED IN THE HOUSE

BY REPRESENTATIVE KOTT

TO: CSSSHB 159() (Draft 0-LS0287V., Dated 4/14/97)

- 1 Page 2, line 25, following "order":
- 2 Insert ", and the person selling the tobacco product has a copy of the purchaser's
- 3 photo identification indicating that the purchaser is at least 21 years of age"

4/16/97
Hudson moved
no objection

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 27, 1997

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 4/16/97

The LABOR AND COMMERCE Committee considered:

SSHB 159

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159

SALE, POSSESSION, OR PURCHASE OF TOBACCO

"An Act relating to sale, gift, exchange, possession, and purchase of tobacco and tobacco products; and providing for an effective date."

recommends it be replaced with the following committee substitute LTC the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) Court, DCED APPROVES PREVIOUS: (Dept/Date)
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) DPS, Revenue, LAW, Administration zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>N. Kately</i>				X
<i>W. Condey</i>	✓			
<i>D. Sanders</i>	✓			
<i>Tom Price</i>			✓	
<i>Joe Murray</i>	✓			
<i>Bill Hudson</i>	✓			

CHAIR'S SIGNATURE

N. Kately

4-16-97

HP OfficeJet
Personal Printer/Fax/Copier

Fax Log Report

Apr-16-97 04:08 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>
2029	OK	04	Sent	Apr-16	04:06P	00:01:33	002485030022

7.00

ALASKA STATE LEGISLATURE
House of Representatives

COMMITTEE ASSIGNMENTS.

LABOR & COMMERCE COMMITTEE, CHAIRMAN
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
JUDICIARY COMMITTEE, MEMBER
CORRECTIONS BUDGET SUBCOMMITTEE, MEMBER
ADMINISTRATION BUDGET SUBCOMMITTEE MEMBER
HEALTH & SOCIAL SERVICES BUDGET SUBCOMMITTEE MEMBER



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JUNEAU, AK 99801-1182
PHONE: (907) 465-4968
FAX: (907) 465-2040

Representative Norman Rokeberg

JUST THE FAX

Date: April 16, 1997 - 4:20 p.m.

TO: Mike Ford, Legal Services

FAX: 2029 Telephone

FROM: Representative Norman Rokeberg

FAX: (907) 465-2040 Telephone: (907) 465-4968

Number of Pages: 4 (including this page)

Comments: RE: HB 159 Version LS0287/L, Ford, 4/14/97. Please prepare House

Labor & Commerce Committee Substitute with the three amendments that
follow.

Thanks. Janet

Call from Mike + insdual
final 4/16/97 4:40pm

Have A Nice Day

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KOTT, Mulder, Kohring, Sanders, Ryan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sale, gift, exchange, possession, and purchase of tobacco and
2 tobacco products; and providing for an effective date."

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

4 * Section 1. AS 11.76.100 is repealed and reenacted to read:

5 Sec. 11.76.100. Selling or giving tobacco to a person under 21. (a) A
6 person commits the offense of selling or giving tobacco to a person under 21 if the
7 person is 21 years of age or older and negligently sells, exchanges, or gives a tobacco
8 product to a person under 21 years of age.

9 (b) The court shall forward a record of each person convicted under this
10 section who holds a business license endorsement under AS 43.70.075, or who is an
11 employee or agent of a person who holds a license endorsement under AS 43.70.075
12 to the Department of Commerce and Economic Development.

13 (c) A person who violates (a) of this section is guilty of a violation and upon
14 conviction shall be punished by a fine of \$250 for a first offense within a two-year

1 period, \$500 for a second offense within a two-year period, and \$1,000 for a third or
2 subsequent offense within a two-year period.

3 * Sec. 2. AS 11.76.105 is repealed and reenacted to read:

4 Sec. 11.76.105. Possession, purchase, or use of false identification to obtain
5 tobacco by a person under 21. (a) A person under 21 years of age may not
6 knowingly

7 (1) possess or attempt to purchase a tobacco product in this state; or

8 (2) present false or fraudulent proof of age for the purpose of
9 purchasing a tobacco product.

10 (b) A person who violates this section is guilty of a violation and upon
11 conviction shall be punished by a fine of \$250 for a first offense within a two-year
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18 (A) person also holds a license endorsement issued under
19 AS 43.70.075;

20 (B) sale occurs on the retail premises; and

21 (C) person purchasing or receiving the tobacco product provides
22 proof of age if proof is demanded as provided under (c) of this section;

23 (2) the sale is a wholesale transaction by a person licensed as a
24 manufacturer under AS 43.50.010; or

25 (3) the sale is by mail order.

26 (b) Except as provided in this subsection, a person may not sell a tobacco
27 product by vending machine. The sale of a tobacco product through a vending
28 machine is permitted if the vending machine is located in

29 (1) a factory, business, office, or other place that is not open to the
30 public;

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1 age of 21 years is denied access; or

2 (3) a place where alcoholic beverages are sold for consumption on the
3 licensed premises, but only if the vending machine is

4 (A) under the continuous supervision of the owner or lessee of
5 the licensed premises or an employee of the owner or lessee; and

6 (B) inaccessible to the public when the licensed premises is
7 closed.

8 (c) A person engaged in the sale of a tobacco product shall demand proof of
9 age from a prospective purchaser or recipient if the person has reason to believe that
10 the prospective purchaser or recipient is under 27 years of age. A prosecution for
11 violation of this subsection may not be brought unless a prosecution is also brought
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1 (e) The court shall forward to the Department of Commerce and Economic
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16 years of age or older;

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5 negligently sells tobacco or products containing tobacco to a nonlicensed retailer or a
6 retailer whose license endorsement under AS 43.70.075 has been suspended. The
7 department may suspend or revoke a license issued under AS 43.50.010 -
8 43.50.180 for a period of not more than one year for a criminally negligent
9 violation of AS 11.76.107. A person whose license is suspended or revoked may not
10 sell cigarettes or permit cigarettes to be sold during the period of the suspension or
11 revocation on the premises occupied or controlled by that person. A disciplinary
12 proceeding or action is not barred or abated by the expiration, transfer, surrender,
13 renewal, or extension of a license issued under AS 43.50.010 - 43.50.180. The
14 department shall comply with the provisions of AS 44.62 ([THE] Administrative
15 Procedure Act [(AS 44.62)]).

16 * Sec. 7. AS 43.70.075(b) is amended to read:

17 (b) The department, upon payment of a fee of \$100 [\$25], shall issue a
18 business license endorsement to a person who applies for a business license under this
19 chapter, and may renew the endorsement issued under this subsection for a fee of \$100
20 [\$25]. The endorsement expires at the same time as the license to which it attaches.

21 * Sec. 8. AS 43.70.075(f) is amended to read:

22 (f) A person who holds a license endorsement issued under this section shall
23 post on the licensed premises a warning sign as described in this subsection. A
24 warning sign required by this subsection must be at least 6 inches by 18 inches and
25 must read, in lettering at least 1.25 inches high: "The sale of tobacco products to
26 persons under age 21 [19] is illegal." A person holding an endorsement issued under
27 this section shall display the sign in a manner conspicuous to a person purchasing or
28 consuming tobacco products on the licensed premises. The department shall, without
29 charge, furnish warning signs required under this section to a person who holds an
30 endorsement issued under this section or a person who requests the sign with the
31 intention of displaying it.

1 * Sec. 9. AS 43.70.075(d) is amended to read:

2 (d) If a person who holds an endorsement issued under this section, or an
3 agent or an employee of a person who holds an endorsement issued under this section
4 acting within the scope of the agency or employment, has been convicted of violating
5 AS 11.76.100 or 11.76.107, or violates a provision of this section or a regulation
6 implementing this section adopted under AS 43.70.090, the department may suspend
7 the endorsement for a period of not more than

8 (1) 45 days; [OR]

9 (2) 90 days, if within the past 24 months the person has been
10 previously convicted of violating AS 11.76.100 or 11.76.107, or a provision of this
11 section or a regulation implementing this section adopted under AS 43.70.090; or

12 (3) one year if within the past 24 months the person has been
13 previously convicted two or more times of violating AS 11.76.100 or 11.76.107 or
14 a provision of this section or a regulation implementing this section adopted under
15 AS 43.70.090.

16 * Sec. 10. AS 47.12.030(b) is amended to read:

17 (b) When a minor is accused of violating a statute specified in this subsection,
18 other than a statute the violation of which is a felony, this chapter and the Alaska
19 Delinquency Rules do not apply and the minor accused of the offense shall be charged,
20 prosecuted, and sentenced in the district court in the same manner as an adult; if a
21 minor is charged, prosecuted, and sentenced for an offense under this subsection, the
22 minor's parent, guardian, or legal custodian shall be present at all proceedings; the
23 provisions of this subsection apply when a minor is accused of violating

24 (1) a traffic statute or regulation, or a traffic ordinance or regulation of
25 a municipality;

26 (2) AS 11.76.105 [, RELATING TO THE POSSESSION OF
27 TOBACCO BY A PERSON UNDER 19 YEARS OF AGE];

28 (3) a fish and game statute or regulation under AS 16;

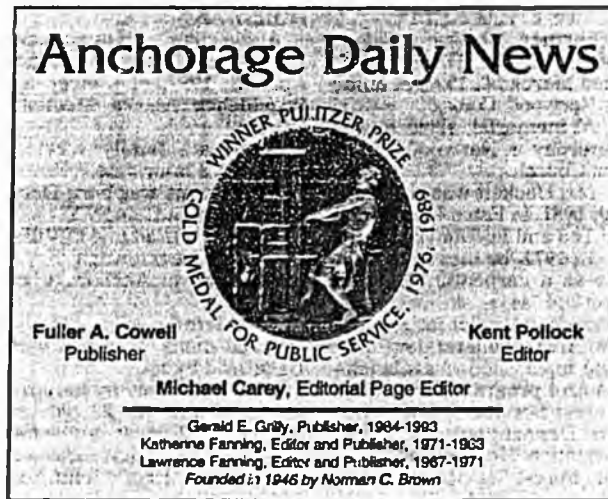
29 (4) a parks and recreational facilities statute or regulation under
30 AS 41.21; and

31 (5) AS 04.16.050, relating to possession, control, or consumption of

1 alcohol.

2 * Sec. 11. TRANSITIONAL NOTICE PROVISION. Within 30 days after the effective
3 date of this Act, the employee notice required under AS 11.76.107(d), enacted in sec. 3 of this
4 Act, shall be given to employees engaged in the retail business of selling a tobacco product
5 on the day before the effective date of this Act.

6 * Sec. 12. This Act takes effect July 1, 1997.



\$1 more a pack

Tougher laws alone won't do the job

Alaska House leaders apparently are starting to feel the heat for once again trying to squelch the \$1 a pack tobacco tax increase. They seem to realize they can't simply kill the tobacco tax in the secrecy of their caucus — which helps explain HB 159, a bill that further cracks down on illegal sales to minors.

The changes contemplated in HB 159, sponsored by Republican Reps. Pete Kott, Eldon Mulder, Vic Kohring, Jerry Sanders, and Joe Ryan could help. But they will be useless without money for enforcement. And the House majority, eager as it is to slash state spending, shows no signs it is prepared to put any money into tougher tobacco control.

As Ann Marie Holen of the Alaska Native Health Board notes, Alaska has toughened its tobacco control laws, but "we don't know of a single instance where a merchant has been cited" for illegally selling to minors.

That's why any serious campaign to combat youth smoking must include the \$1 a pack tax increase. As the industry well knows, measures like HB 159 look good on paper, but tobacco taxes actually work.

Consider this passage from an internal Philip Morris memo, discussing a 1981 proposal to increase the federal tobacco tax. (At that time, the federal tax had not been increased in nearly 30 years):

"It is clear that price has a pronounced effect on the smoking prevalence of teenagers," wrote Myron Johnston, Philip Morris economist, according to a document excerpted in the April 6 New York Times.

Rare is the person who becomes hooked on tobacco as an adult. So if new customers don't start to smoke as teenagers, the industry's customer base will literally shrivel and die.

The Alaska Senate understands the logic here. Last year, senators passed the \$1 a pack increase by a resounding 17-3 vote. To prod this year's House into action, the Senate has begun moving its own tobacco tax measure. This time, the increase has been scaled back to 71 cents in hopes of winning more support on the other side of the Capitol.

The pressure from the Senate is welcome, but the 29 cent reduction is premature. The more lawmakers whittle down the \$1 a pack increase, the greater the numbers of young Alaskans who will hook themselves on the deadly habit.

As complements to a \$1 a pack tobacco tax increase, bills calling for tougher enforcement of tobacco laws won't hurt. But without the tax increase, those bills will do precious little to protect Alaska youth from the ruin that decades of tobacco addiction eventually will inflict on them.

Alaska State Legislature House of Representatives

Committees

Rules Committee, Chair
Legislative Council
International Trade & Tourism
Military & Veterans Affairs
World Trade & State/Federal Relations



Interim:
10928 Eagle River Rd. Suite 141
Eagle River, AK 99577

Session:
Alaska State Capitol
Juneau, AK 99801

SSHB 159 SECTIONAL SUMMARY

At the outset, please note that the following sectional summary of SSHB 159 is not intended to be either an exhaustive or authoritative description of the bill's contents. The best statement of the contents of SSHB 159 is the bill itself.

Section 1: Repeals and reenacts AS 11.76.100. As reenacted, AS 11.76.100 makes it an offense to sell or give tobacco to persons under 19 years of age. Penalties are established at \$250 for the first offense, \$500 for the second offense, and \$1000 for the third and subsequent offenses within a two-year period.

Section 2: Makes it an offense for a person under the age of 19 to possess tobacco, attempt to possess tobacco, or present fraudulent proof of age to purchase tobacco. Penalties are established at \$250 for the first offense, \$500 for the second offense, and \$1000 for the third and subsequent offenses within a two-year period.

Section 3: Repeals and reenacts AS 11.76.107.

AS 11.76.107(a) prohibits the sale of tobacco products except: First, where the seller holds a license endorsement under AS 43.70.075, the sale occurs on retail premises, and the purchaser provides proof of age, if demand is made under this section. Second, where it is a wholesale transaction and the seller is licensed as a manufacturer under AS 43.50.010. Third, where the sale is by mail order.

AS 11.76.107(b) provides a general prohibition on the sale of tobacco by vending machines and establishes several exceptions to the general rule. The exceptions are as follows: First, where the vending machine is located in factory, business, office, or other place not open to the public. Second, where the machine is located in a place that is open to the public but to which persons under 19 are not accorded access. Third, where the machine is located in a place that sells alcohol, provided that the machine is under continuous supervision and is not accessible to the public when the business is closed.



Representative Pete Kott

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AS 11.76.107(c) requires sellers of tobacco to demand proof of age from purchasers who the sellers have reason to believe are under 27 years of age.

AS 11.76.107 (d) requires tobacco retailers to apprise their employees that state law requires purchasers to be at least 19 years of age and that proof of age must be demanded, prior to any sale of tobacco, where there is reason to believe that the purchaser is under 27 years of age. In addition, this section requires employees to sign a statement, the specific contents of which are articulated in this section, stating that they understand the provisions of law governing age restrictions and proof of age requirements, and promising to comply with said provisions of law.

AS 11.76.107(e) requires the Court to notify the Department of Commerce when a person is convicted of violating a section of AS 11.76.107.

AS 11.76.107(e) establishes penalties for a violation of this section at \$100 for a first conviction, \$500 for a second conviction, and \$1000 for a third conviction within a two-year period. In addition to the specified fine of \$1000 for a third conviction within a two-year period, the offender's license endorsement is suspended for up to one year.

Section 4: Definition section.

Section 5: Requires the Court to separately account for fines collected under AS 11.76.100, .105, and .107. Permits such fines to be appropriated by the Legislature to support municipal law enforcement.

Section 6: Amends AS 43.50.070 to permit the Department to revoke or suspend a license issued under AS 4.50.010-180 (Cigarette Tax Act) for up to one year for a criminally negligent violation of AS 11.76.107.

Section 7: Amends AS 43.70.075 to raise the tobacco business license endorsement from \$25 to \$100.

Section 8: Amends AS 43.70.075(d) to permit the Department to suspend the tobacco business license endorsement for a period of up to one year of any person who, within the previous 24 months, was convicted of violating AS 11.76.100 , AS 11.76.107, any provision of this section, or any regulation implementing this section.

Section 9: Conforming amendment.

Section 10: Transitional provision.

Section 11: Effective date.

Alaska State Legislature House of Representatives

Committees

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Interim:
10928 Eagle River Rd. Suite 141
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Session:
Alaska State Capitol
Juneau, AK 99801

SPONSOR STATEMENT SSHB 159

The State of Alaska has a serious problem with underage consumption of tobacco products. Statistics compiled by the Department of Health and Social Services indicate that 21% of Alaska's high school students regularly smoke and that 25% of our middle school students smoked at least one cigarette in the last month. As reported by the February 27, 1997 edition of The Wall Street Journal, the Centers for Disease Control and Prevention has concluded that approximately one million children each year take up smoking and that, unless they quit, over one-third of them will die from tobacco-related illnesses.

These statistics are cause for great concern. It is estimated that 18,000 of Alaska's children will succumb prematurely to tobacco-related illnesses. This is a tragedy, not only for the individuals, but for our state as a whole. I think that we can do better.

Under existing law, no one under 19 years of age is permitted to possess tobacco. Obviously, large numbers of our children are being accorded illegal access to this product. SSHB 159 would have the salutary effect of limiting that access. This bill requires that merchants, prior to the sale of tobacco, demand proof of age from any prospective patron who appears to be under twenty-seven years of age. SSHB 159 requires all clerks involved in the retail sale of tobacco to sign an acknowledgment that they have been advised of this proof of age requirement. In addition, SSHB 159 increases the penalties for underage sale or possession of tobacco.

Your support is urged.

Representative Pete Kott

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Eagle River Office (907) 694-8944 Fax (907) 694-8945 E-Mail: representative_pete_kott@legis.state.ak.us





Department of Health and Social Services
Karen Perdue, Commissioner
3601 C Street, Suite 540, P.O. Box 240249, Anchorage, Alaska 99524-0249 (907) 269-8000

Division of Public Health
Peter M. Nakamura, MD, MPH, Director

Section of Epidemiology
John Middaugh, MD, Editor
Bulletin No. 5 January 21, 1997

Tobacco Use Among Alaska Youth

Importance of Decreasing Youth Tobacco Use

Adolescence is a time when individuals do not often consider long term health effects of their behaviors. Once a person starts using tobacco, stopping the habit is not easy because of the addictive properties of nicotine. The vast majority (83.7%) of Alaska smokers began smoking between the ages of 10 and 20 years.¹ Therefore, one of the major strategies for reducing tobacco related deaths and illnesses is to discourage youths from starting to use tobacco.²

Tobacco Use among Alaska High School Students¹

Alaska high school students are more likely to be frequent smokers and to use smokeless tobacco than are U.S. students (Table 1). Alaska Native students have even higher rates of tobacco use.

Table 1. Tobacco use among high school students, Alaska and U.S. 1995

	Alaska	Alaska Natives	U.S.
	Percent of Students		
Ever Tried Cigarettes	72.1	90.7	71.3
Current Smokers ^a	36.5	61.9	34.8
Frequent smokers ^b	21.1	43.7	16.1
Smokeless Tobacco ^c	15.6	22.5	11.4

^aUsed at least once in past 30 days

^bUsed 20 or more of past 30 days

^cChewing tobacco or snuff on at least one of past 30 days

Smoking rates are similar for boys and girls. However, boys are more likely to use smokeless tobacco (23.5% of boys and 6.7% of girls).

Tobacco Use Among Alaska Middle School Students¹

Over half of middle school students (grades 7 and 8) report having tried smoking at least once (58.3%); 24.8% report smoking on at least one day in the previous 30 days; 5.6% report smoking on 20 or more of the previous 30 days, and 30.3% report having tried smokeless tobacco.

Health Implications

The Centers for Disease Control and Prevention estimates that 32% of youths who become regular smokers in early adulthood will die prematurely of a smoking-related death.⁴ The estimate is based on data from studies of large populations of smokers and never-smokers.

Assuming that current smoking rates persist, 56,246 Alaska youths currently aged 0-17 will eventually become smokers.⁴ Among these smokers, 17,999 (32%) will die prematurely from a smoking-related illness.

Interventions to Prevent Tobacco Use among Youth

The 1994 Surgeon General's Report: *Preventing Tobacco Use among Young People* states "Most of the American public strongly favor policies that might prevent tobacco use among young people. The policies include tobacco education in the schools, restriction on tobacco advertising and promotions, a complete ban on smoking by anyone on school grounds, prohibition of the sale of tobacco products to minors and earmarked tax increases on tobacco products."³

Effects of a Tobacco Tax

Economists use the concept of "price elasticity of demand" to describe the sensitivity of consumption to changes in price. The price elasticity of demand is defined as the percentage change in consumption that results from a 1 percent increase in price.⁵ A recent analysis based on sampling over 110,000 youths across the United States found a youth smoking price elasticity of -

0.675, meaning that for every 1% increase in the price of cigarettes, youth smoking would decrease by 0.675%, an estimate consistent with other studies.⁶ Therefore, a \$1.00 increase per pack of cigarettes would prevent 5704 of the projected 17,999 smoking-related deaths (Table 2). A larger increase would save more lives; conversely, a smaller increase would save fewer lives (Figure 1).

Table 2. Summary of projected health gains due to tobacco price increases in Alaska^a

	No change	Increase \$1.00 per pack	Increase \$2.00 per pack
% ↑ in price	0	46.93%	93.90%
% ↓ in youth smoking	0	31.69%	63.38%
Projected # of smokers ^b	56,246	38,422	20,597
Projected deaths ^c	17,999	12,295	6,591
Deaths prevented ^d	0	5,704	11,408

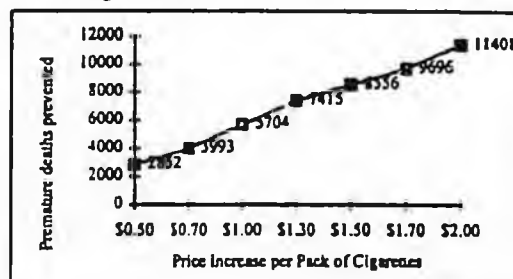
^aAssumes an average cost of \$2.15 per pack of 20 cigarettes in Alaska

^bNumber of youth currently aged 0-17 who would eventually become smokers

^cPremature smoking-related deaths, calculated as 32% of projected smokers

^dPremature smoking-related deaths prevented, calculated as 17999 - projected deaths

Figure 1. Number of premature smoking-related deaths prevented by price increase per pack of cigarettes⁷



Summary

The decisions that children and adolescents make about experimenting with tobacco often result in a life-long addiction. Among Alaska high school students, 21.1% are already frequent smokers. The use of tobacco begins even before high school. Alaska Native youth are disproportionately affected by tobacco. Tobacco use may be even more prevalent among youth not in school. Studies in the U.S. and Canada have clearly shown the effectiveness of increased price in reducing youth consumption.³ Increasing the price by at least \$1.00 per pack would prevent many premature tobacco-related deaths among Alaska youth currently aged 0-17 years, as well as the illness and suffering that would precede the deaths.

References

- 1992 Alaska Behavioral Risk Factor Surveillance System: 1992 Annual Report, Alaska Division of Public Health.
- Keeler DA, Witt AM, Barnett PS, et al. The Food and Drug Administration's regulation of tobacco products. *N Engl J Med* 1996;335:988-94.
- Youth Risk Behavior Survey Alaska Report 1995. Alaska Department of Health and Social Services and Department of Education, Feb. 1996.
- CDC. Projected smoking-related deaths among youth—United States. *MMWR* 1996;45:971-4.
- US Dept of Health and Human Services. Preventing tobacco use among young people: a report of the Surgeon General. Atlanta, Georgia: USDHHS, Public Health Service, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 1994.
- Chaloupka FJ, Grossman M. Price, tobacco control policies and youth smoking. unpublished data.
- Chaloupka FJ. Health and revenue gains from a tobacco tax increase in Alaska. *Communications to American Cancer Society.*

Youth Tobacco Usage

- **83% of adult smokers report that they started smoking before the age of 20.**
- **21% of Alaskan high school students reported they regularly smoked in the last month.**
- **25% of Alaskan middle school students reported smoking at least one cigarette in the last month.**

Youth Tobacco Vendors Survey

- 64% of Alaska tobacco merchants complied with tobacco restriction laws in 1996.
- The federal government mandates an **80% compliance rate** by the year 2000 under the Synar Amendment.
- Tobacco vendors refused to sell to 14-15 year olds **71%** of the time, while 16-17 year olds were refused **58%** of the time.

Alaska State Legislature
House of Representatives

APR 02 1997

Committees

Rules Committee, Chair
Legislative Council
International Trade & Tourism
Military & Veterans Affairs
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Interim:
10928 Eagle River Rd. Suite 141
Eagle River, AK 99577

Session:
Alaska State Capitol
Juneau, AK 99801

TO: Representative Norm Rokeberg
Chair
House Labor and Commerce

FROM: Representative Pete Kott
Chair
House Rules Committee

DATE: April 2, 1996

RE: SSHB 159; Committee Action.

SSHB 159, which would make it much more difficult for children to obtain tobacco products, was read-over on the Floor this date and assigned to the House Labor and Commerce Committee, as the first committee of referral. I respectfully request a committee hearing at your earliest opportunity. Early next week I will provide you with an updated Sponsor Statement, Sectional Analysis, and backup material. I request that the hearing be teleconferenced to Anchorage, Fairbanks, Kenai, as such additional sites as may desire to join.

Thank you in advance for your kind and expeditious assistance in this matter.

Representative Pete Kott

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Eagle River Office (907) 694-8944 Fax (907) 694-8945 E-Mail: representative_pete_kott@legis.state.ak.us



Alaska State Legislature
House of Representatives

MAR 27 1997

Committees
Rules Committee, Chair
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International Trade & Tourism
Military & Veterans Affairs
World Trade & State/Federal Relations



Interim:
10928 Eagle River Rd. Suite 141
Eagle River, AK 99577

Session:
Alaska State Capitol
Juneau, AK 99801

TO: Representative Norm Rokeberg
Chair
House Labor and Commerce

FROM: Representative Pete Kott
Chair
House Rules Committee

DATE: March 27, 1996

RE: SSHB 159: Committee Action.

SSHB 159, which would make it much more difficult for children to obtain tobacco products, was read-over on the Floor this date and assigned to the House Labor and Commerce Committee, as the first committee of referral. I respectfully request a committee hearing at your earliest opportunity. Early next week I will provide you with an updated Sponsor Statement, Sectional Analysis, and backup material. I request that the hearing be teleconferenced to Anchorage, Fairbanks, Kenai, as such additional sites as may desire to join.

Thank you in advance for your kind and expeditious assistance in this matter.



Representative Pete Kott

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 159

Revision Date: _____ Department: Commerce and Economic Development
 Title: An Act relating to sale, possession, and purchase BRU: Occupational Licensing
of tobacco and tobacco products;..... Component: Operations
 Sponsor: Reps. Kott, Mulder, Kohring
 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	66.3	49.2	66.3	49.2	66.3	49.2
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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: \$ 0.0

POSITIONS

POSITION TYPE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HB 159 establishes penalties for individuals and businesses who sell or give tobacco or tobacco related products to minors. The statutory amendments made to the tobacco endorsement attached to a business license will not require new funding to implement. However, the increase of the tobacco endorsement fee from \$25 to \$100 will generate additional revenue. There are currently 884 business licenses with tobacco endorsements due for renewal in FY 98 that will be expected to pay the new fee at the 12/31/97 renewal. There are currently 666 business licenses with tobacco endorsements that will renew in FY 99 at the 12/31/98 renewal. Assuming licensing activity remains relatively constant, the revenue can be expected to repeat in subsequent years. The amount shown above represents "new" revenue resulting from the increase of \$25 to \$100.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 3/11/97
 Date: _____

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: HB 159

Revision Date: 03/15/97 Dept. Affected: Public Safety
 Title: Minor Possession of Tobacco BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Rep. Kott
 Requestor: House Labor & Commerce **COMPONENT SERIAL NO. 0799**

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	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-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 97) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill may increase the number of persons with revoked licenses, however, it is not expected to have any significant fiscal impact on AST.

Prepared By: Capt. Ted M. Bachman Phone: 269-5650
 Division: Alaska State Troopers Date: 03/15/97
 Approved by Commissioner: Ronald L. Otte *[Signature]* Date: 3/19/97
 Agency: Department of Public Safety

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Note:

Jeff Bush, Deputy Commissioner
Department of Commerce & EconDevp Date: 4/23
Commissioner's Office
Juneau - MS 0800 _____

FISCAL NOTE

APR 23 1997

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSSHB 159(L&C)

Revision Date: April 9, 1997
 Title: An Act relating to sale, possession, and purchase
of tobacco and tobacco products;.....
 Sponsor: Reps. Kott, Mulder, Kohring, Sanders, Ryan
 Requestor: House Labor & Commerce

Department: Commerce and Economic Development
 BRU: Occupational Licensing
 Component: Operations
 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	1.8	1.8	1.8	1.8	1.8	1.8
TRAVEL						
CONTRACTUAL	32.6	32.6	32.6	32.6	32.6	32.6
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	34.4	34.4	34.4	34.4	34.4	34.4

CAPITAL EXPENDITURES						
CHANGE IN REVENUES	66.3	49.2	66.3	49.2	66.3	49.2

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	34.4	34.4	34.4	34.4	34.4	34.4
TOTAL	34.4	34.4	34.4	34.4	34.4	34.4

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 CSSSHB 159(L&C) establishes penalties for individuals and businesses who sell or give tobacco or tobacco related products to minors. The statutory amendments requiring suspension or revocation of a tobacco endorsement must be administered in accordance with the Administrative Procedure Act; therefore, this fiscal note identifies the anticipated costs. The increase of the tobacco endorsement fee from \$25 to \$100 will generate additional revenue, and this fiscal note assumes that funding from the tobacco endorsement will be used to cover the costs shown. Further explanation of the costs and revenue are shown on the attached page.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 4/23/97
 Date: 4-23-97

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO.: CSSSHB 159(L&C)

ANALYSIS: (Continued)

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS

Personal Services

1.8

The personal services costs of \$1.8 represent services of an existing paralegal position to be used in preparing files for the litigation process in accordance with the Administrative Procedure Act. The division's existing paralegal position is currently funded through inter-agency receipts for other purposes. The cost is based on 7.5 hours per case @ \$24 per hour x 10 cases = \$1.8

Contractual Services

32.6

Following discussions with the Department of Law it was determined that each suspension or revocation case would require at least five days to prepare and litigate. The cost is based on 7.5 hours per case @ \$87 per hour x 5 days x 10 cases = \$32.6. This funding would be paid to the Department of Law via RSA based on actual time spent on each case.

Total:

\$34.4

Revenue

There are currently 884 business licenses with tobacco endorsements due for renewal in FY 98 that will be expected to pay the new fee at the 12/31/97 renewal. There are currently 656 business licenses with tobacco endorsements that will renew in FY 99 at the 12/31/98 renewal. Assuming licensing activity remains relatively constant, the revenue can be expected to repeat in subsequent years. The amount shown in this fiscal note represents "new" revenue resulting from the increase of \$25 to \$100.

The revenue collected from tobacco endorsements should be used to cover the costs identified in this fiscal note; therefore, the funding source is identified as *designated program receipts*.

HB

161

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 161

Revision Date: _____
Title: Deregulation of refuse public utilities

Department: Commerce and Economic Development
BRU: APUC
Component: _____

Sponsor: Rep. James
Requestor: House Labor and Commerce

COMPONENT SERIAL NO. 364

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL	(1.3)	(1.3)	(1.3)	(1.3)	(1.3)	(1.3)
CONTRACTUAL	(1.3)	(1.3)	(1.3)	(1.3)	(1.3)	(1.3)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(2.6)	(2.6)	(2.6)	(2.6)	(2.6)	(2.6)
CAPITAL EXPENDITURES						
CHANGE IN REVENUES	(2.6)	(2.6)	(2.6)	(2.6)	(2.6)	(2.6)

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (1091 - Designated Program Receipts)	(2.6)	(2.6)	(2.6)	(2.6)	(2.6)	(2.6)
TOTAL	(2.6)	(2.6)	(2.6)	(2.6)	(2.6)	(2.6)

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)
Section 4 repeals AS 42.05.990(4)(f), and thereby removes any reference to garbage collection from the definition of "utility" in the APUC Act, thereby removing garbage collection operations from any regulation or control by the APUC. Other sections of the bill would reconcile other statutes with this repeal. The savings would consist of actual FY97 travel expense to out-of-town hearings and court reporter expense that would no longer be required under refuse deregulation. No personal services reductions result because the duties regulating refuse are widely distributed and do not amount to more than an estimated 10-15% of any one employee's time. The Commission believes that these savings should be used to address the existing backlog of cases.

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

Phone: 276-6222
Date: March 5, 1997
Date: 3/6/97

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Labor and Commerce Committee

No Fiscal Note
Distributed to Labor and Commerce Committee

ALASKA STATE LEGISLATURE
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JUNEAU, AK 99801-1182
PHONE: (907) 485-4954
FAX: (907) 465-2040

Labor and Commerce Committee

JUST THE FAX

Date: 4/29/98

TO: APAC Chairman Patten

FAX: 1-907-276-0160 Telephone: 276-6222

FROM: HLC / Shirley Armstrong

FAX: 465-2040 Telephone: 465-4968

Number of Pages: 1 (including this page)

Comments:

Attached are the letters I received
this year about the end we spoke about
yesterday regarding USA Waste. Maybe you
could review this new CS, 107 H.B. 1611
disregulation of garbage.
Thanks
Shirley

Have a Nice Day

HP OfficeJet
Personal Printer/Fax/Copier

Fax Log Report

Apr-29-98 09:39

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
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Apr-29-98 09:33

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919072760160	OK	18	Sent	Apr-29	09:24	00:08:35	002586030022

0-LS0667AE
Cramer
4/28/98

CS FOR HOUSE BILL NO. 161()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES JAMES, Kohring

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the promotion of competition in commercial and residential**
2 **refuse collection and disposal service; relating to the power of municipalities to**
3 **establish local control over residential refuse collection and disposal service;**
4 **exempting collection and disposal of waste material from regulation by the Alaska**
5 **Public Utilities Commission; and providing for an effective date."**

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

7 *** Section 1. FINDINGS.** The legislature finds that

8 (1) the Alaska Public Utilities Commission has concluded that competition in
9 the provision of commercial refuse collection and disposal service is in the public interest and
10 has allowed competition in every major area in the state;

11 (2) competition replaces regulation to ensure that consumers receive high
12 quality service at low prices;

13 (3) local governments are in the best position to determine the appropriate

1 regulatory framework for residential refuse collection and disposal service;

2 (4) it is in the public interest to eliminate the authority of the Alaska Public
3 Utilities Commission to regulate the provision of residential and commercial refuse collection
4 and disposal service and to allow municipalities the option of establishing control over
5 residential refuse collection and disposal service in their areas by using municipal officials and
6 employees to collect and dispose of residential refuse or by granting franchises or awarding
7 contracts to private refuse collection and disposal companies.

8 * Sec. 2. AS 29.10.200(26) is amended to read:

9 (26) AS 29.35.050 (residential refuse [GARBAGE AND SOLID
10 WASTE] services);

11 * Sec. 3. AS 29.35.050(a) is amended to read:

12 (a) Notwithstanding AS 29.35.200 - 29.35.220, a municipality may by
13 ordinance

14 (1) provide for the establishment, maintenance, and operation of a
15 system of residential refuse [GARBAGE AND SOLID WASTE] collection and
16 disposal for the entire municipality, or for districts or portions of it by using
17 municipal officials and employees to operate the residential refuse system or grant
18 a franchise or award a contract to a private company to operate the system;

19 (2) require all persons in the municipality or district to use the
20 residential refuse collection and disposal service system [AND TO DISPOSE OF
21 THEIR GARBAGE AND SOLID WASTE AS] provided in the ordinance;

22 (3) [AWARD CONTRACTS FOR COLLECTION AND DISPOSAL,
23 OR PROVIDE FOR THE COLLECTION AND DISPOSAL OF GARBAGE AND
24 SOLID WASTE BY MUNICIPAL OFFICIALS AND EMPLOYEES;

25 (4)] pay for residential refuse collection and disposal service
26 [GARBAGE AND SOLID WASTE COLLECTION AND DISPOSAL] from available
27 money; and

28 (4) [(5) REQUIRE PROPERTY OWNERS OR OCCUPANTS OF
29 PREMISES TO USE THE GARBAGE AND SOLID WASTE COLLECTION AND
30 DISPOSAL SYSTEM PROVIDED BY THE MUNICIPALITY;

31 (6) FIX CHARGES AGAINST THE PROPERTY OWNERS OR

1 OCCUPANTS OF PREMISES FOR THE COLLECTION AND DISPOSAL; AND
 2 (7)] provide penalties for violations of the ordinances.

3 * Sec. 4. AS 29.35.050(b) is repealed and reenacted to read:

4 (b) If a municipality provides residential refuse collection and disposal service
 5 in an area in which the Alaska Public Utilities Commission, before the effective date
 6 of this Act, issued a certificate to a public utility to provide residential refuse
 7 collection and disposal service, the municipality may (1) grant an exclusive franchise
 8 or award an exclusive contract to the certificated public utility to continue utility
 9 service in the area for a term of not less than 10 years; (2) purchase all or those
 10 portions of the utility's certificate, equipment, and facilities that are used in the
 11 disposal and collection service in the affected area; or (3) acquire by condemnation all
 12 or those portions of the utility's certificate, equipment, and facilities that are used in
 13 the disposal and collection service in the affected area. A municipality that acquires,
 14 by sale or condemnation, all or a portion of a certificated public utility's certificate,
 15 equipment, and facilities under this subsection shall pay fair market value for them.
 16 The fair market value shall be the net present value of projected revenue over a 10-
 17 year period. Projected revenue shall be the historic revenue, based on the number of
 18 customers on the date of acquisition, the level of service for each customer, and the
 19 existing rate structure, adjusted over a 10-year period using a projected growth rate.
 20 The projected revenue shall then be reduced to present value by an appropriate rate.
 21 Unless the municipality finds that financial conditions warrant a different rate, the
 22 appropriate rate shall be between eight and 10 percent.

23 * Sec. 5. AS 29.35.050(c) is amended to read:

24 (c) A municipality may establish an intermediate transfer site for the collection
 25 and disposal of garbage, refuse, trash, or other waste material without purchasing the
 26 certificate, equipment, or facilities of a waste material carrier certificated by the Alaska
 27 Public Utilities Commission before the effective date of this Act. The municipality
 28 may, without compensating a certificated waste carrier operating in the area, provide
 29 for or contract with a certificated or noncertificated entity to provide for the collection
 30 and disposal of waste material left at the intermediate transfer site.

31 * Sec. 6. AS 29.35.050 is amended by adding new subsections to read:

1 (e) If a municipality grants a franchise or awards a contract under (a) or (b)(1)
2 of this section,

3 (1) the contract or franchise must allow the contractor or franchisee to
4 recover its costs plus a reasonable rate of return of at least 12 percent;

5 (2) the municipality may not provide similar or competing services in
6 the area unless the municipality finds, after notice and a public hearing, that the holder
7 of the franchise or contract is unable or refuses to provide adequate service to the area
8 at a reasonable price.

9 (f) Notwithstanding the repeal of the jurisdiction of the Alaska Public Utilities
10 Commission over utilities furnishing collection and disposal service of waste material,
11 a municipality that, on the effective date of this Act, holds a certificate of public
12 convenience and necessity from the Alaska Public Utilities Commission to provide
13 commercial refuse collection and disposal service and that actually is providing that
14 service on that date, without competition, using municipal officials and employees is
15 entitled to continue to provide exclusive commercial refuse collection and disposal
16 service in the service area included in the certificate of public convenience and
17 necessity for a period of two years from that date.

18 (g) In this section, "residential refuse"

19 (1) means garbage, refuse, trash, or other waste material where the
20 containers from which the material is collected are less than or equal to one cubic yard
21 in volume;

22 (2) does not include garbage, refuse, trash, or other waste material
23 where the containers from which the material is collected are greater than one cubic
24 yard in volume even if the premises from which the material is collected are
25 considered a residential property, including an apartment building or a condominium.

26 * Sec. 7. AS 29.35.210(a) is amended to read:

27 (a) A second class borough may by ordinance exercise the following powers
28 on a nonareawide basis:

29 (1) provide transportation systems;

30 (2) regulate the offering for sale, exposure for sale, sale, use, or
31 explosion of fireworks;

- 1 (3) license, impound, and dispose of animals;
- 2 (4) under [SUBJECT TO] AS 29.35.050, provide for a system of
3 residential refuse collection and disposal [GARBAGE, SOLID WASTE,] and
4 provide for septic waste collection and disposal;
- 5 (5) provide air pollution control under AS 46.14.400;
- 6 (6) provide water pollution control;
- 7 (7) participate in federal or state loan programs for housing
8 rehabilitation and improvement for energy conservation;
- 9 (8) provide for economic development;
- 10 (9) provide for the acquisition and construction of local service roads
11 and trails under AS 19.30.111 - 19.30.251;
- 12 (10) establish an emergency services communication center under
13 AS 29.35.130;
- 14 (11) subject to AS 28.01.010, regulate the licensing and operation of
15 motor vehicles and operators;
- 16 (12) engage in activities authorized under AS 29.47.460;
- 17 (13) contain, clean up, or prevent a release or threatened release of oil
18 or a hazardous substance, and exercise a power granted to a municipality under
19 AS 46.04, AS 46.08, or AS 46.09; the borough shall exercise its authority under this
20 paragraph in a manner that is consistent with a regional master plan prepared by the
21 Department of Environmental Conservation under AS 46.04.210.

22 * Sec. 8. AS 29.60.010(c) is amended to read:

- 23 (c) For purposes of this section, locally generated revenue
- 24 (1) includes
- 25 (A) the actual revenue derived from the levy and collection of
26 local taxes in the taxing unit for municipal services;
- 27 (B) motor vehicle payments received by the municipality under
28 AS 28.10.431;
- 29 (C) revenue from fees, rentals, leases, penalties, licenses, or
30 permits received by the municipality for a function or service over which it has
31 control, including revenues derived from parks and recreation services, mass

1 transit, offstreet parking, and residential refuse [GARBAGE AND SOLID
2 WASTE DISPOSAL] services;

3 (D) special assessments received; and

4 (E) payments received by a municipality from a utility that are
5 in place of taxes levied and collected by the municipality;

6 (2) excludes

7 (A) revenue derived from the levy and collection of municipal
8 taxes and appropriated for the operating expenses and debt service of utilities;

9 (B) revenue from interest earned on investments and from the
10 sale and lease of land or equipment; and

11 (C) all other revenue from whatever service derived;

12 (3) is calculated on the basis of the actual revenue received during the
13 fiscal year of the taxing unit preceding the year in which the department's
14 determination of the millage rate equivalent is made under AS 29.60.030.

15 * Sec. 9. AS 29.60.080(2) is amended to read:

16 (2) "utility" means electric, water, sewer, gas, heat, telephone, or
17 residential refuse [AND GARBAGE] collection and disposal service.

18 * Sec. 10. AS 29.60.450(f)(3) is amended to read:

19 (3) "effect" means the result of fisheries business activities on the
20 municipality's

21 (A) population;

22 (B) employment;

23 (C) finances;

24 (D) air and water quality;

25 (E) fish and wildlife habitats; and

26 (F) ability to provide essential public services, including health
27 care, public safety, education, transportation, marine garbage collection and
28 disposal, residential refuse collection and [SOLID WASTE] disposal, utilities,
29 and government administration;

30 * Sec. 11. AS 29.60.520(a) is amended to read:

31 (a) A grant made under AS 29.60.510 may be made

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(1) only for

(A) provision of subsistence resources on which the residents of the municipality, village, or school district rely for subsistence needs;

(B) the additional costs of a reasonable and appropriate function or service, including administrative expenses for the incremental costs of providing the function or service, limited to [:]

(i) public health and welfare functions and services, including hospital, clinic, and emergency medical services; alcohol, drug abuse, and mental health services; family support services; and the operation of residential refuse and waste disposal systems and water quality improvement systems;

(ii) public safety functions and services, including police protection, search and rescue, and fire protection;

(iii) public utility functions and services, including the operation of electric generating plants and distribution systems, water supply systems, telephone systems, and fuel distribution systems; and

(iv) housing functions and services, limited to leasing or making other arrangements for temporary housing to be occupied by persons associated with containment or cleanup of the release;

(C) costs associated with leasing transportation facilities for use in activities associated with the containment or cleanup;

(D) costs of repair or replacement of equipment or a capital asset associated with a function or service set out in (B) of this paragraph the useful life of which has been substantially reduced by use associated with the containment or cleanup; and

(2) to compensate the municipality, village, or school district for

(A) the reduction of revenue attributable to the release of the oil or hazardous substance; and

(B) the actual costs of projects or activities that are delayed or lost because of the efforts of the municipality, village, or school district responding to the release or associated with the containment or cleanup of oil

1 or the hazardous substance.

2 * **Sec. 12.** AS 42.05.712(h) is amended to read:

3 (h) A utility or cooperative that is already exempt from regulation under this
4 section or that is exempt from regulation under AS 42.05.711(e) [, (i),] or (k) may
5 elect to terminate its exemption in the same manner.

6 * **Sec. 13.** AS 42.05.431(f), 42.05.431(g), 42.05.711(i), 42.05.711(m), and 42.05.990(4)(F)
7 are repealed.

8 * **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).



FAX TRANSMITTAL

TO: REP. NORM ROKEBERG (SHIRLEY)

FROM: JIM ARNESSEN

DATE: 3-19-98

NUMBER OF PAGES (INCLUDING FAX COVER SHEET): 3

MESSAGE: COMMENTS RE: HB 161.

_____ *Jim*

Original is being sent by mail: Yes No

*Willen,
What do
you think
of this.
Jim*

Commercial Refuse

INCORPORATED



March 19, 1998

Rep. Norm Rokeberg
House of Representatives
Labor & Commerce Committee
State Capitol
Juneau, AK 99801-1182

Re: HB 161 Deregulation of Refuse Utilities

Dear Rep. Rokeberg and L&C Committee members,

I am the owner of Commercial Refuse, Inc. (CRI). I have some concerns and wish to make some comments in regards to the above proposed legislation.

In October of 1994, CRI applied for a certificate from the Alaska Public Utilities Commission (APUC) to provide competitive refuse services in Anchorage. The application was opposed and contested by the local monopoly, Anchorage Refuse Inc. (ARI) and procedurally required a hearing. There was a considerable delay in the APUC's response to the application in terms of processing.

Therefore, in early 1995, I contacted Rep. Jeannette James in regards to introducing legislation which would allow for competition in the refuse industry, which became HB 161. The bill did not advance very far that session.

The APUC scheduled a hearing date for April 1, 1996 which was continued in late May. In May of 1997, the APUC issued an order granting a certificate to CRI. The certificate has allowed CRI to slowly expand it's business. My original reason for legislative remedy is now moot. The APUC has streamlined the certification process so that other potential competitors may obtain a certificate without undue delays.

Recently, USA Waste of Alaska (a Delaware Corp.) purchased controlling interest in ARI. USA Waste has made applications with the APUC to purchase the rest of the major refuse utilities in the state. If this is approved by the APUC, the result will be one large financial monopoly.

Page 1 of 2

Commercial Refuse

INCORPORATED

750 E. International Airport Rd.
Anchorage, AK 99518

PHONE (907) 562-3700
FAX (907) 562-3750



Commercial Refuse, Inc.

Jim A. Arnesen
President

750 E. International Airport Rd.
Anchorage, AK 99518
PHONE (907) 562-3700
FAX (907) 562-3750
MOBILE (907) 242-4141

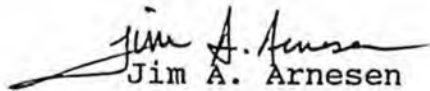
Rep. Norm Rokeberg
House of Representatives
Labor & Commerce Committee
March 19, 1998

I find it difficult to comprehend any valid reason for legislative deregulation in a case where USA Waste would effectively possess a financial monopoly control over the majority of the market without some regulation or oversight from the APUC.

While I do not represent all the minor players in the marketplace, I have heard similar concerns from my competitors. Any lobbyist that would promote the notion that the entire industry is supportive of deregulation has not taken the time to speak to anyone other than the major refuse utilities, who are all waiting to be purchased by USA Waste.

In summary, the present status wherein the APUC maintains some regulatory control, is appropriate. Any legislation at this point to totally deregulate the refuse industry is premature. For these reasons, I am not supporting HB 161 at this time.

Sincerely,


Jim A. Arnesen
President

cc: Rep. John Cowdery
Labor & Commerce Committee



April 8, 1998

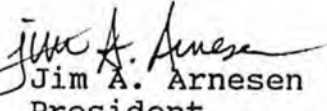
Rep. Norm Rokeberg
House of Representatives
Labor & Commerce Committee
State Capitol
Juneau, AK 99801-1182

Re: HB 161 Deregulation of Refuse Utilities,
additional comments

Dear Rep. Rokeberg and L&C Committee members,

I am enclosing a copy of my latest comments to the APUC in regards to USA Waste's proposed acquisitions of all the major refuse utilities in the state.

Sincerely,


Jim A. Arnesen
President

Commercial Refuse

INCORPORATED

750 E. International Airport Rd.
Anchorage, AK 99518

PHONE (907) 562-3700
FAX (907) 562-3750



April 8, 1998

Alaska Public Utilities Commission
1016 West 6th Avenue
Anchorage, AK 99501

Re: Docket U-98-31, U-98-32, U-98-33

Dear Commissioners,

I had planned to attend and speak at the public meeting today. Unfortunately my schedule was interrupted, so I will make my statement with this letter which is additional to my previous comments.

If the above applications are approved, the result would provide for an unbalanced refuse market for consumers and providers alike. USA Waste of Alaska (UWA) would become the major player in the Alaska market with an enormous capacity to dictate market pricing structures due to the lack of any meaningful established competition. This is a factor not usually present in other parts of the country where competitors of various sizes are operating well-established businesses that provide some resemblance of a balance.

In Alaska, we have the well-established major refuse utilities and the recent introduction of new competition in commercial areas. The new entrants are not yet fully established nor do they present any serious competitive threat or concern to UWA due to size and market penetration.

Since my earlier comments, I have heard that UWA has made offers to the major refuse providers in both Ketchikan and Kodiak. The above applications are just a prelude to events to follow, meaning the eventual establishment of a near monopoly on the whole state.

Commercial Refuse

INCORPORATED

750 E. International Airport Rd.
Anchorage, AK 99518

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Alaska Public Utilities Commission
April 8, 1998
Page two

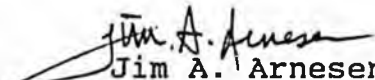
Opinions from refuse industry commentators in the lower '48 indicate prices will go up, not down. This prediction may be related to investment return demands of stockholders in UWA and USA Waste, Inc., who typically will demand the highest rate of return possible without regard to the interests of consumers. USA Waste does not promise to lower costs nor do they have a history of doing so.

I am enclosing one more short article from the most recent issue of Waste News, relating to USA Waste and the issues being raised in New York state. The article speaks for itself.

Here in Alaska, the issues as I see it are:

1. Do we wish to continue to foster a real competitive environment, or are we going to revert to a near-monopoly situation again, one more ominous than before?
2. What and how will the public benefit from these proposed acquisitions? (and others planned?)
3. To what extent will competition exist and will that existence be beneficial or provide real choices to consumers?

Sincerely,


Jim A. Arnesen
President
Commercial Refuse, Inc.

Enclosure: March 30, 1998 Waste News article

Juneau Empire AB/G1
19 Mar 1998

Arrow Refuse sold to international firm

By KRISTAN HUTCHISON

THE JUNEAU EMPIRE

Juneau's garbage collection company is being bought by an international firm.

Arrow Refuse Inc. will become a wholly-owned subsidiary of USA Waste Services Inc. under an agreement Juneau owners George Davidson and Hugh Grant made with the Houston-based firm. An application for the transfer of stock was sent to the Alaska Public Utilities Commission on March 1 for approval, said Arrow Refuse General Manager Fred Morino.

Morino will stay on as district manager for USA Waste Services and the company will retain Arrow Refuse's name and 15 employees.

"We're still Arrow Refuse," Morino said. "We keep all the same employees, but it gives us that opportunity to look at different kinds of equipment and how we can best handle the market."

All Arrow Refuse trucks are more than 10 years old, so the company had been looking to form an alliance that would make it possible to upgrade the equipment, Morino said. He said USA Waste Services has a good reputation and other communities it's moved into have been pleased.

In January, USA Waste Services took over Anchorage Refuse in a similar deal and the company is looking to expand over the whole state, Morino said. About 20 percent of USA Waste Services refuse companies are in Canada, giving it experience in comparable climates and situations, Morino said.

"For us it provides capital capacity that we couldn't do on our own," Morino said, "and a depth of experience since they operate in so many areas similar to our own."

Garbage pick-up rates in Juneau haven't increased in seven years, so Morino wasn't willing to predict what will happen in the future. Being able to buy equipment in bulk through USA Waste Services will be cheaper though, Morino said.

"In the long run it would allow us to keep the rates as low as possible for the longest period of time," Morino said.

USA Waste Services has more than seven million customers in 48 states, the District of Columbia, Puerto Rico, Mexico and Canada. Company representatives in Anchorage and Houston were unavailable by the Empire's midday deadline today.

WASTEN NEWS

A Crain publication/Copyright 1998

Reporting on solid waste management,

from product design to disposal
and recovery

Volume 3, Issue 46 March 30, 1998

<http://www.wastenews.com>

WASTE NEWS, March 30, 1998

5

Wait a minute

N.Y. leader wants investigation of deal between USA and WMI

By Jim Johnson

STATEN ISLAND, N.Y.— A well-known New York politician is raising a red flag about the proposed merger between USA Waste Services Inc. and Waste Management Inc.

Staten Island Borough President Guy V. Molinari has concerns the combined company will control too much of the New York City market, a situation that could drive up waste management costs, he said.

Molinari has sent letters to the U.S. Justice Department and the Federal Trade Commission asking for detailed inquiries into the merger.

"The waste industry has undergone rapid consolidation in recent years," Molinari wrote. "A merger of this magnitude diminishes significantly the already shrunken field from which bids

can be sought, and this could frustrate the bidding process.

The combined company would control 40 percent to 50 percent of the waste market in New York, and 70 percent to 80 percent of the waste processed in the city's transfer stations, Molinari said. Waste Management, of Oak Brook, Ill., is the largest U.S. waste company, and USA Waste, of Houston, ranks third.

Molinari represents Staten Island, home to Fresh Kills landfill, the world's largest. The city is in the process of closing that location and making plans to export trash to other landfills; New York will rely on the private sector for that work.

Officials from USA Waste and Waste Management could not be reached for comment.

The two companies expect their \$14.8 billion merger to close later this year. ■



April 8, 1998

Alaska Public Utilities Commission
1016 West 6th Avenue
Anchorage, AK 99501

Re: Docket U-98-31, U-98-32, U-98-33

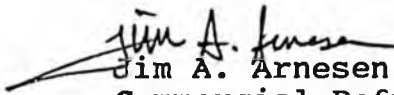
CERTIFICATION OF MAILING

I, Jim A. Arnesen, President of Commercial Refuse, Inc., hereby certify that I have mailed a copy of these comments to:

Bobby L. Cox, Vice President
USA Waste of Alaska, Inc.
6301 Rosewood Street
Anchorage, AK 99518

DATED at Anchorage, Alaska, this 8th day of April, 1998.

Sincerely,


Jim A. Arnesen, President
Commercial Refuse, Inc.

Commercial Refuse

INCORPORATED

750 E. International Airport Rd.
Anchorage, AK 99518

PHONE (907) 562-3700
FAX (907) 562-3750

received 9:25AM
3/12/98 sl

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES
P.O. Box 56622
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-4271

White in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House Of Representatives House District 34

TO: House Labor and Commerce Committee
ATTN: Norm
FROM: Jeannette
RE: HB 161 Deregulation of garbage haulers
DATE: 3/12/98

Please schedule HB 161 for a hearing at you earliest opportunity. It is my understanding that differences between the impacted parties has been largely resolved.

Thank you.

No on this 3/25/98
per Walt
Welp -
agreement was if
everyone agreed - if
not no bill.
sl

She - I told him OK but you as the
Committee Chairman should do what you want to get you OK

(2)

House Judiciary Committee

Dear Mr. [Name],

RE: Garbage
HB 161

Jerry R. told me you were agreeable to move his CS for HB 161.

I told him if you wanted to move your bill it was up to you. I would respect your wishes.

I have a feel he may be playing he said - she said.

Norman

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES

P.O. Box 56622
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-4271


While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House Of Representatives

House District 34

MEMO

To: Norm
From: Jeannette
Re: HB 161
4/28/98



Please prepare the attached as a L&C Committee substitute.

Please schedule a hearing on the CS as time is evaporating.

Thank you

0-LS1739E
Cramer
4/18/98

SENATE BILL NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Introduced:
Referred:

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the promotion of competition in commercial and residential
2 refuse collection and disposal service; relating to the power of municipalities to
3 establish local control over residential refuse collection and disposal service;
4 exempting collection and disposal of waste material from regulation by the Alaska
5 Public Utilities Commission; and providing for an effective date."

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

7 * Section 1. FINDINGS. The legislature finds that

8 (1) the Alaska Public Utilities Commission has concluded that competition in
9 the provision of commercial refuse collection and disposal service is in the public interest and
10 has allowed competition in every major area in the state;

11 (2) competition replaces regulation to ensure that consumers receive high
12 quality service at low prices;

13 (3) local governments are in the best position to determine the appropriate

1 regulatory framework for residential refuse collection and disposal service;

2 (4) it is in the public interest to eliminate the authority of the Alaska Public
3 Utilities Commission to regulate the provision of residential and commercial refuse collection
4 and disposal service and to allow municipalities the option of establishing control over
5 residential refuse collection and disposal service in their areas by using municipal officials and
6 employees to collect and dispose of residential refuse or by granting franchises or awarding
7 contracts to private refuse collection and disposal companies.

8 * Sec. 2. AS 29.10.200(26) is amended to read:

9 (26) AS 29.35.050 (residential refuse [GARBAGE AND SOLID
10 WASTE] services);

11 * Sec. 3. AS 29.35.050(a) is amended to read:

12 (a) Notwithstanding AS 29.35.200 - 29.35.220, a municipality may by
13 ordinance

14 (1) provide for the establishment, maintenance, and operation of a
15 system of residential refuse [GARBAGE AND SOLID WASTE] collection and
16 disposal for the entire municipality, or for districts or portions of it by using
17 municipal officials and employees to operate the residential refuse system or grant
18 a franchise or award a contract to a private company to operate the system;

19 (2) require all persons in the municipality or district to use the
20 residential refuse collection and disposal service system [AND TO DISPOSE OF
21 THEIR GARBAGE AND SOLID WASTE AS] provided in the ordinance;

22 (3) [AWARD CONTRACTS FOR COLLECTION AND DISPOSAL,
23 OR PROVIDE FOR THE COLLECTION AND DISPOSAL OF GARBAGE AND
24 SOLID WASTE BY MUNICIPAL OFFICIALS AND EMPLOYEES;

25 (4)] pay for residential refuse collection and disposal service
26 [GARBAGE AND SOLID WASTE COLLECTION AND DISPOSAL] from available
27 money; and

28 (4) [(5) REQUIRE PROPERTY OWNERS OR OCCUPANTS OF
29 PREMISES TO USE THE GARBAGE AND SOLID WASTE COLLECTION AND
30 DISPOSAL SYSTEM PROVIDED BY THE MUNICIPALITY;

31 (6) FIX CHARGES AGAINST THE PROPERTY OWNERS OR

OCCUPANTS OF PREMISES FOR THE COLLECTION AND DISPOSAL; AND

(7)] provide penalties for violations of the ordinances.

* Sec. 4. AS 29.35.050(b) is repealed and reenacted to read:

(b) If a municipality provides residential refuse collection and disposal service in an area in which the Alaska Public Utilities Commission, before the effective date of this Act, issued a certificate to a public utility to provide residential refuse collection and disposal service, the municipality ~~may~~ (1) grant an exclusive franchise or award an exclusive contract to the certificated public utility to continue utility service in the area for a term of not less than 10 years; (2) purchase all or those portions of the utility's certificate, equipment, and facilities that are used in the disposal and collection service in the affected area; or (3) acquire by condemnation all or those portions of the utility's certificate, equipment, and facilities that are used in the disposal and collection service in the affected area. A municipality that acquires, by sale or condemnation, all or a portion of a certificated public utility's certificate, equipment, and facilities under this subsection shall pay fair market value for them. The fair market value shall be the net present value of projected revenue over a 10-year period. Projected revenue shall be the historic revenue, based on the number of customers on the date of acquisition, the level of service for each customer, and the existing rate structure, adjusted over a 10-year period using a projected growth rate. The projected revenue shall then be reduced to present value by an appropriate rate. Unless the municipality finds that financial conditions warrant a different rate, the appropriate rate shall be between eight and 10 percent.

shall

* Sec. 5. AS 29.35.050(c) is amended to read:

(c) A municipality may establish an intermediate transfer site for the collection and disposal of garbage, refuse, trash, or other waste material without purchasing the certificate, equipment, or facilities of a waste material carrier certificated by the Alaska Public Utilities Commission before the effective date of this Act. The municipality may, without compensating a certificated waste carrier operating in the area, provide for or contract with a certificated or noncertificated entity to provide for the collection and disposal of waste material left at the intermediate transfer site.

* Sec. 6. AS 29.35.050 is amended by adding new subsections to read:

1 (e) If a municipality grants a franchise or awards a contract under (a) or (b)(1)
2 of this section,

3 (1) the contract or franchise must allow the contractor or franchisee to
4 recover its costs plus a reasonable rate of return of at least 12 percent;

5 (2) the municipality may not provide similar or competing services in
6 the area unless the municipality finds, after notice and a public hearing, that the holder
7 of the franchise or contract is unable or refuses to provide adequate service to the area
8 at a reasonable price.

9 (f) Notwithstanding the repeal of the jurisdiction of the Alaska Public Utilities
10 Commission over utilities furnishing collection and disposal service of waste material,
11 a municipality that, on the effective date of this Act, holds a certificate of public
12 convenience and necessity from the Alaska Public Utilities Commission to provide
13 commercial refuse collection and disposal service and that actually is providing that
14 service on that date, without competition, using municipal officials and employees is
15 entitled to continue to provide exclusive commercial refuse collection and disposal
16 service in the service area included in the certificate of public convenience and
17 necessity for a period of two years from that date.

18 (g) In this section, "residential refuse"

19 (1) means garbage, refuse, trash, or other waste material where the
20 containers from which the material is collected are less than or equal to one cubic yard
21 in volume;

22 (2) does not include garbage, refuse, trash, or other waste material
23 where the containers from which the material is collected are greater than one cubic
24 yard in volume even if the premises from which the material is collected are
25 considered a residential property, including an apartment building or a condominium.

26 * Sec. 7. AS 29.35.210(a) is amended to read:

27 (a) A second class borough may by ordinance exercise the following powers
28 on a nonareawide basis:

29 (1) provide transportation systems;

30 (2) regulate the offering for sale, exposure for sale, sale, use, or
31 explosion of fireworks;

- 1 (3) license, impound, and dispose of animals;
- 2 (4) under [SUBJECT TO] AS 29.35.050, provide for a system of
3 residential refuse collection and disposal [GARBAGE, SOLID WASTE,] and
4 provide for septic waste collection and disposal;
- 5 (5) provide air pollution control under AS 46.14.400;
- 6 (6) provide water pollution control;
- 7 (7) participate in federal or state loan programs for housing
8 rehabilitation and improvement for energy conservation;
- 9 (8) provide for economic development;
- 10 (9) provide for the acquisition and construction of local service roads
11 and trails under AS 19.30.111 - 19.30.251;
- 12 (10) establish an emergency services communication center under
13 AS 29.35.130;
- 14 (11) subject to AS 28.01.010, regulate the licensing and operation of
15 motor vehicles and operators;
- 16 (12) engage in activities authorized under AS 29.47.460;
- 17 (13) contain, clean up, or prevent a release or threatened release of oil
18 or a hazardous substance, and exercise a power granted to a municipality under
19 AS 46.04, AS 46.08, or AS 46.09; the borough shall exercise its authority under this
20 paragraph in a manner that is consistent with a regional master plan prepared by the
21 Department of Environmental Conservation under AS 46.04.210.

22 * Sec. 8. AS 29.60.010(c) is amended to read:

23 (c) For purposes of this section, locally generated revenue

24 (1) includes

25 (A) the actual revenue derived from the levy and collection of
26 local taxes in the taxing unit for municipal services;

27 (B) motor vehicle payments received by the municipality under
28 AS 28.10.431;

29 (C) revenue from fees, rentals, leases, penalties, licenses, or
30 permits received by the municipality for a function or service over which it has
31 control, including revenues derived from parks and recreation services, mass

1 transit, offstreet parking, and residential refuse [GARBAGE AND SOLID
2 WASTE DISPOSAL] services;

3 (D) special assessments received; and

4 (E) payments received by a municipality from a utility that are
5 in place of taxes levied and collected by the municipality;

6 (2) excludes

7 (A) revenue derived from the levy and collection of municipal
8 taxes and appropriated for the operating expenses and debt service of utilities;

9 (B) revenue from interest earned on investments and from the
10 sale and lease of land or equipment; and

11 (C) all other revenue from whatever service derived;

12 (3) is calculated on the basis of the actual revenue received during the
13 fiscal year of the taxing unit preceding the year in which the department's
14 determination of the millage rate equivalent is made under AS 29.60.030.

15 * Sec. 9. AS 29.60.080(2) is amended to read:

16 (2) "utility" means electric, water, sewer, gas, heat, telephone, or
17 residential refuse [AND GARBAGE] collection and disposal service.

18 * Sec. 10. AS 29.60.450(f)(3) is amended to read:

19 (3) "effect" means the result of fisheries business activities on the
20 municipality's

21 (A) population;

22 (B) employment;

23 (C) finances;

24 (D) air and water quality;

25 (E) fish and wildlife habitats; and

26 (F) ability to provide essential public services, including health
27 care, public safety, education, transportation, marine garbage collection and
28 disposal, residential refuse collection and [SOLID WASTE] disposal, utilities,
29 and government administration;

30 * Sec. 11. AS 29.60.520(a) is amended to read:

31 (a) A grant made under AS 29.60.510 may be made

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(1) only for

(A) provision of subsistence resources on which the residents of the municipality, village, or school district rely for subsistence needs;

(B) the additional costs of a reasonable and appropriate function or service, including administrative expenses for the incremental costs of providing the function or service, limited to [:]

(i) public health and welfare functions and services, including hospital, clinic, and emergency medical services; alcohol, drug abuse, and mental health services; family support services; and the operation of residential refuse and waste disposal systems and water quality improvement systems;

(ii) public safety functions and services, including police protection, search and rescue, and fire protection;

(iii) public utility functions and services, including the operation of electric generating plants and distribution systems, water supply systems, telephone systems, and fuel distribution systems; and

(iv) housing functions and services, limited to leasing or making other arrangements for temporary housing to be occupied by persons associated with containment or cleanup of the release;

(C) costs associated with leasing transportation facilities for use in activities associated with the containment or cleanup;

(D) costs of repair or replacement of equipment or a capital asset associated with a function or service set out in (B) of this paragraph the useful life of which has been substantially reduced by use associated with the containment or cleanup; and

(2) to compensate the municipality, village, or school district for

(A) the reduction of revenue attributable to the release of the oil or hazardous substance; and

(B) the actual costs of projects or activities that are delayed or lost because of the efforts of the municipality, village, or school district responding to the release or associated with the containment or cleanup of oil

1 or: the hazardous substance.

2 * **Sec. 12.** AS 42.05.712(h) is amended to read:

3 (h) A utility or cooperative that is already exempt from regulation under this
4 section or that is exempt from regulation under AS 42.05.711(e) [, (i),] or (k) may
5 elect to terminate its exemption in the same manner.

6 * **Sec. 13.** AS 42.05.431(f), 42.05.431(g), 42.05.711(i), 42.05.711(m), and 42.05.990(4)(F)
7 are repealed.

8 * **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).

LEGAL SERVICES

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

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

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

MEMORANDUM

April 28, 1998

SUBJECT: Draft CSHB 161() Version "E" (Competition in residential refuse collection service)

TO: Representative Norman Rokeberg
Attn: Shirley Armstrong

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

Enclosed is the draft CSBH 161 () you requested. I have comment for your consideration.

Although the bill states that it applies to "residential refuse," it is not limited to garbage collected from a "residence." In the definition of "residential refuse" in Sec. 29.35.050(g)(1), there is no requirement that the waste material that makes up "residential refuse" come from a residence. The only requirement is that it be contained in a garbage can of a particular size. Paragraph (2) of that subsection describes some of the things that are **not** part of the definition -- including material collected from a residential property if the garbage can is too large. It appears from this distinction that the intent of the legislation is to permit regulation of garbage collection when the size of the garbage cans meets the limit, even if the customer is actually a business. If so, it would be more consistent with the ordinary meaning of words to refer in the bill to "refuse contained in one-cubic-yard containers" or some comparable term, rather than "residential refuse." If the bill is meant to be limited to waste material collected from residences, then the definition of "residential refuse" should be changed to describe that limitation.

TC:jdr
98-275.jdr

Enclosure

0-LS1390\F
Cramer
4/24/98

CS FOR HOUSE BILL NO. 347()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE COWDERY

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an exemption from overtime wage requirements for certain**
2 **motor vehicle mechanics."**

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

4 *** Section 1. AS 23.10.060(d) is amended by adding a new paragraph to read:**

5 (17) work performed by a mechanic primarily engaged in the servicing
6 of automobiles, light trucks, and motor homes if the mechanic

7 (A) is employed as a flat-rate mechanic by a nonmanufacturing
8 establishment primarily engaged in the business of selling or servicing motor
9 vehicles;

10 (B) has signed a written agreement with the employer that
11 specifies the mechanic's flat hourly rate of pay and the automotive manual or
12 manuals on which the flat rate is to be based;

13 (C) is compensated for all hours worked in any capacity for that
14 employer up to and including eight hours a day and 40 hours a week at an

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hourly rate that is not less than the greater of
(i) 75 percent of the flat hourly rate of pay agreed upon
by the employer and employee under (B) of this paragraph; or
(ii) twice the state minimum wage; and
(D) is compensated for all hours worked in any capacity for that
employer in excess of eight hours day or 40 hours week at one and one-half
times the rate described in (C) of this paragraph; in figuring the number of
hours that an employee worked in a day, the employee's hours shall be figured
on a weekly basis.

* Sec. 2. The amendment to AS 23.10.060(d) made by sec. 1 of this Act applies to work
first performed on or after the effective date of this Act.

BUSINESS

ANCHORAGE DAILY NEWS

May 1, 1997

SECTION G

Lid lifts on trash

Ruling allows garbage-hauling rivalry

By **BRUCE MELZER**
Daily News reporter

Businesses and apartment buildings in much of Anchorage will have more freedom to choose who will carry away their garbage under a regulator's new decision to allow competition in part of Anchorage's trash-hauling industry.

The Alaska Public Utilities Commission order breaks the near monopoly held by Anchorage Refuse Inc., the state's largest garbage utility. And the decision may enable commercial and industrial customers to cut their trash bills. Residential customers aren't affected by the ruling.

The ruling allows competition in South Anchorage, Eagle River, Girdwood and some of Midtown and East Anchorage.

The decision is a victory for small-scale trash-hauler Jim Arnesen. A former Anchorage Refuse mechanic, Arnesen said he started Commercial Refuse Inc. in 1994 with a used truck he bought in Ohio. Arnesen served nine customers — companies such as Eagle Hardware, Costco, Safeway and Dimond Center. Any more customers than that and he would need utility commission approval to operate.

In 1994, he sought commis-

sion approval to expand and compete in the trash-hauling business. Three years later, the commission used his case to pry open Anchorage's trash industry to more competition. Juneau, Fairbanks and the Mat-Su area already are open to competition, said Agnes Giles, commission spokeswoman.

The ruling "is not the end of the road," Arnesen said. "Now it's going to be time to compete and to make a go of it."

Anchorage Refuse will not appeal the commission's ruling, said president Bobby

Please see Page G-5, REFUSE



JIM LAVRAKAS / Anchorage Daily News

Jim Arnesen operates Commercial Refuse Inc., a small garbage-collection business that recently won approval to expand.

REFUSE: Ruling allows garbage-hauling rivalry

Continued from Page G-1

Cox. The company served 3,570 commercial and industrial customers last year, financial statements show. Commercial and industrial trash hauling pulled in \$8.3 million — more than half of the company's \$13.5 million in operating revenue last year.

Cox and his consultants opposed full-scale competition during the commission proceedings. Anchorage Refuse maintained that competition already existed in town because small operators like Arnesen were chipping away at its business, Cox said.

The commission's ruling

created a level playing field for everyone, Cox said Wednesday. Competition is "a new environment to work in, and I think it's one we're probably looking forward to," Cox said.

Only part of Anchorage is open to competition, the commission ruled.

Anchorage Refuse and other companies asked for rights to pick up commercial trash from an area of town now controlled by the city-owned Solid Waste Service. That area covers downtown, the northern part of Midtown and some of East Anchorage.

The utilities commission turned down the requests.

APR 22 1997

Tom McGrath
1207 West 36th Avenue
ANCHORAGE, ALASKA 99503
PHONE (907) 562-8730
FAX (907) 563-0836

FAX TRANSMITTAL

ADDRESSEE: _____ Representative Norman Rokeberg _____

ATTENTION: _____ Norman Rokeberg _____

FAX NUMBER: _____ 465-2040 _____

NUMBER OF PAGES (INCLUDING COVER): _____ 1 _____

SENT BY: _____ TOM MC GRATH _____

DATE: _____ 4/22/1997 _____

IF YOU DO NOT RECEIVE ALL PAGES OF THIS FAX, OR IT IS NOT CLEAR,
PLEASE CALL (907) 562-8730. THANK YOU!

COMMENTS:

Representative Norman Rokeberg,

I have been following House Bill 161 and understand that it is being held in your committee. This bill is very important to the recycling issue and I feel that recycling will never get off the ground until garbage collection is deregulated.

A large amount of small businesses would or could be started and a lot more service will be given if deregulation is enacted. This will enable jobs and in looking at the numbers I think we will make a lot of money by recycling.

Please give your support to this bill so that businesses like mine and others can make money, put people to work and deal with less regulation. Imagine that, sounds like the American way.

TOM McGrath

cc: Representative Jeanette James, 465-2381

Position of Anchorage Refuse, Inc.
House Bill 161

House Bill 161 provides for the elimination of regulation of refuse collection and disposal services by the Alaska Public Utilities Commission and provides incentives for municipalities to provide for local control of refuse collection and disposal services.

Anchorage Refuse Inc. ("ARI") has supported effective regulation of the refuse collection and disposal services by the State for many years. This was based on having consistent application of utility standards for ratemaking and protection of public health and safety by a responsive state agency. For various reasons, these circumstances have changed in recent years. As such, ARI would not be opposed to either deregulation or to allowing municipalities the option of establishing local control, subject to certain modifications. ARI has developed proposed language, attached hereto, which would resolve the concerns, which we have with HB 161. These concerns can be summarized as follows:

- ***Provide for a two-year transition period before full deregulation, subject to preemption by municipal action.*** This would allow municipalities an opportunity to undertake the necessary actions to implement local control in a careful, reasoned manner and eliminate the potential for chaotic and destructive competition until local control could be established or determined not to be necessary. It would also ensure protection of community health and safety, which may be effected without some level of control.
- ***Eliminate the repeal of AS 29.35.050 (b).*** This would ensure that the constitutionally protected property interest of ARI and other currently certificated refuse utilities would be protected from unlawful taking by the municipalities without compensation. This doctrine has been well established and the current language provides specific codification of the Takings Clauses of the United States and the Alaska Constitutions which prohibit the government from taking private property without just compensation.

With these concerns addressed, ARI would support passage of a modified HB161 to provide for the safe and orderly transition of regulation of refuse collection and disposal services to local authorities with appropriate recognition of existing property rights.

Juneau Empire HB161
19 Mar 1995

Arrow Refuse sold to international firm

By KRISTAN HUTCHISON

THE JUNEAU EMPIRE

Juneau's garbage collection company is being bought by an international firm.

Arrow Refuse Inc. will become a wholly-owned subsidiary of USA Waste Services Inc. under an agreement Juneau owners George Davidson and Hugh Grant made with the Houston-based firm. An application for the transfer of stock was sent to the Alaska Public Utilities Commission on March 1 for approval, said Arrow Refuse General Manager Fred Morino.

Morino will stay on as district manager for USA Waste Services and the company will retain Arrow Refuse's name and 15 employees.

"We're still Arrow Refuse," Morino said. "We keep all the same employees, but it gives us that opportunity to look at different kinds of equipment and how we can best handle the market."

All Arrow Refuse trucks are more than 10 years old, so the company had been looking to form an alliance that would make it possible to upgrade the equipment, Morino said. He said USA Waste Services has a good reputation and other communities it's moved into have been pleased.

In January, USA Waste Services took over Anchorage Refuse in a similar deal and the company is looking to expand over the whole state, Morino said. About 20 percent of USA Waste Services refuse companies are in Canada, giving it experience in comparable climates and situations, Morino said.

"For us it provides capital capacity that we couldn't do on our own," Morino said, "and a depth of experience since they operate in so many areas similar to our own."

Garbage pick-up rates in Juneau haven't increased in seven years, so Morino wasn't willing to predict what will happen in the future. Being able to buy equipment in bulk through USA Waste Services will be cheaper though, Morino said.

"In the long run it would allow us to keep the rates as low as possible for the longest period of time," Morino said.

USA Waste Services has more than seven million customers in 48 states, the District of Columbia, Puerto Rico, Mexico and Canada. Company representatives in Anchorage and Houston were unavailable by the Empire's midday deadline today.

Phone: (907) 225-5561

Fax: (907) 247-5561

TONGASS SANITATION, INC.P. O. Box 7701
Ketchikan, Alaska 99901*Satisfaction Guaranteed*
or
*Double Your Garbage Back*Legislative Information Office
Ketchikan, Alaska

March 7, 1997

Testimony in re HB-161, "An Act relating to deregulation of public utilities furnishing collection and disposal service of waste material.", pro and con:

- PRO: > Increased competition may create efficiency and lower rates in the long term.
- > Reduced workload for Alaska Public Utility Commission may create a potential budget savings for the state.
- CON: > Public Health may be endangered: regulation creates some guarantee that garbage is collected and disposed of properly. If public health does become an issue, who will be the new policing agency; local police, state troopers or will a new agency be created to police the scofflaws?
- > Service may suffer, especially residential. Competitors will target high dollar volume, commercial customers, "the cream", at the expense of smaller customers.
- > Residential service will not be mandated as condition of certification and unprofitable routes may be jeopardized.
- > Commercial rates will likely drop due to increased competition while residential rates will increase due to the labor intensive nature of this type of service. Rates are currently developed based on combining the commercial and residential operations.
- > "Monopolies" are a give to get situation: limited profits, full cost disclosure, regulated operations, reporting requirements in return for potentially sole source certificate granted by APUC. There is clearly a difference between having an exclusive operating area under income restrictions and a true monopoly with little or no regulation. This is especially true considering that unlike electricity, telephone, sewer, etc., garbage customers have the choice to utilize the service or not.
- > Certificates granted by APUC may have marketable value much like IFQ's in fishing. Elimination of this license to operate may constitute an eminent domain taking by the state and create a financial liability for the state.