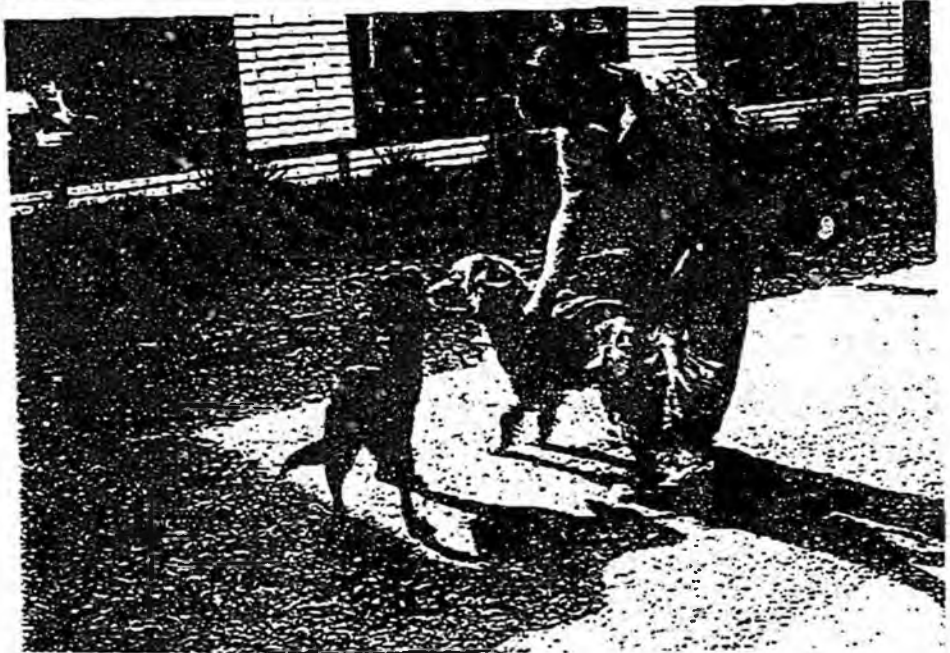
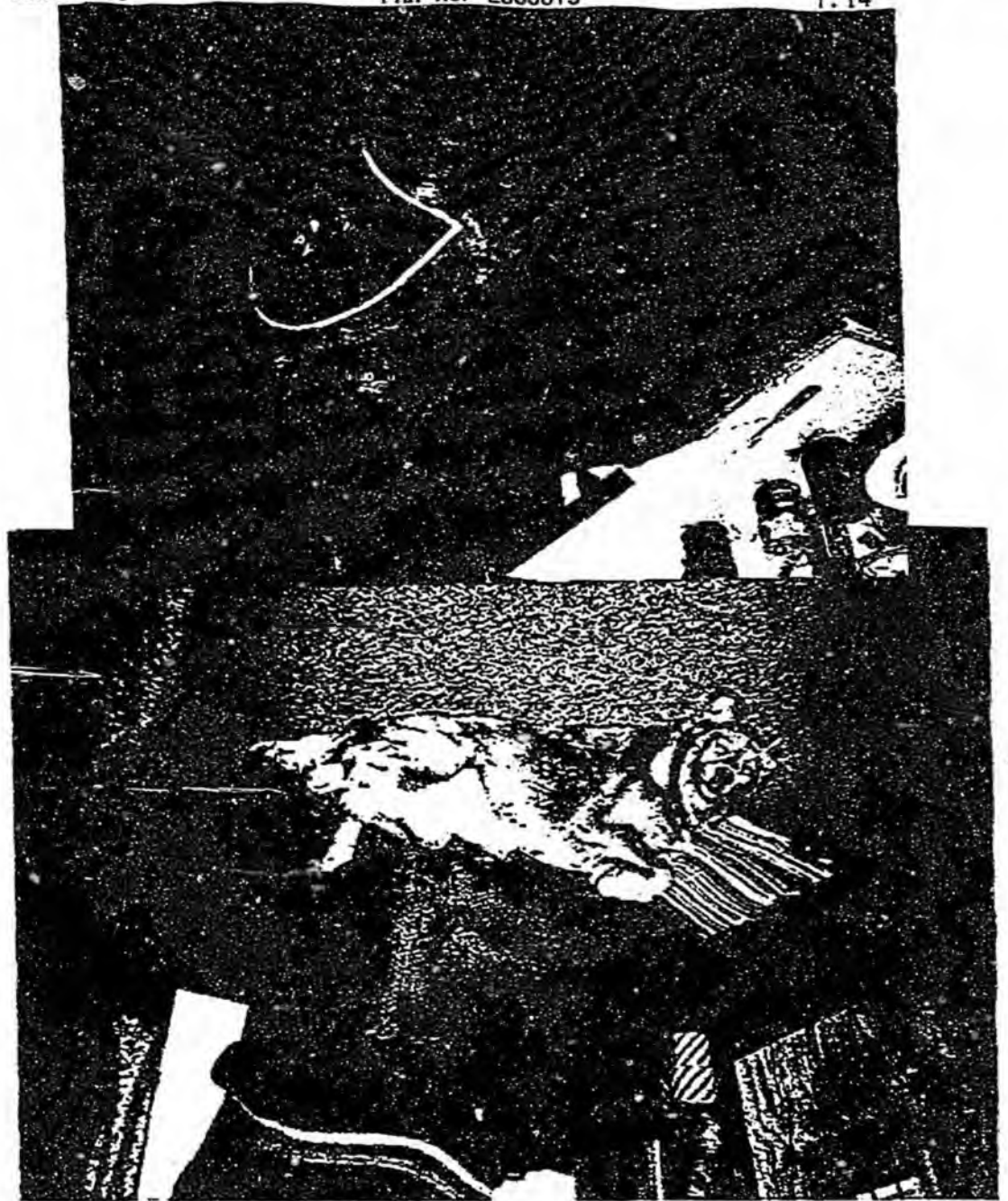


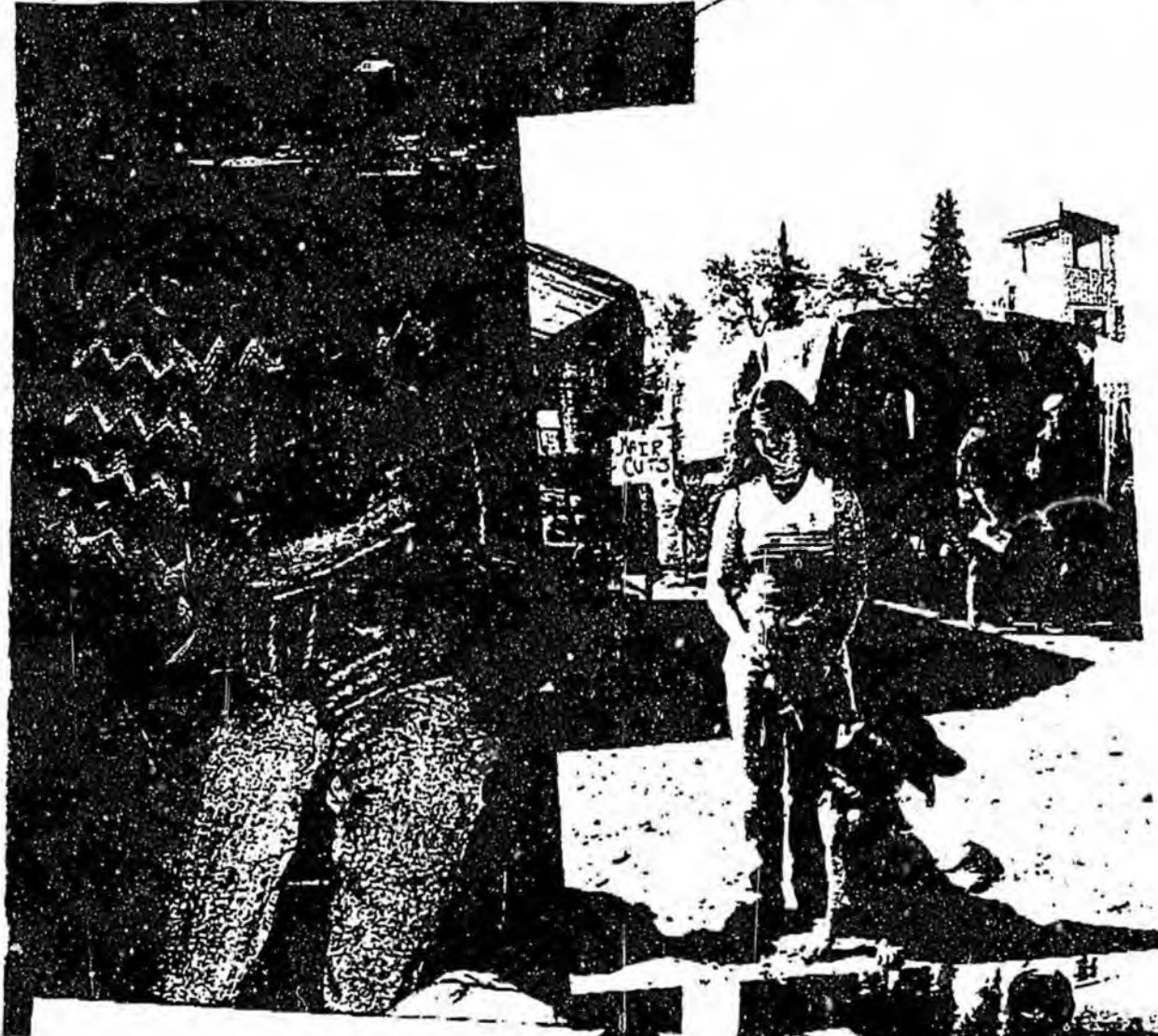
ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 80/2

9547 SENATE HEALTH EDUCATION & SOCIAL SERVICES

*Merrill Roberts & Sarah Roberts  
P.O. Box 111  
Kenai, Alaska*



# *Winnipeg's Great Lodges*



*I'm not asked for my self for blind people.*  
SERVICE ANIMAL IN TRAINING

SOME OF US ALASKA PEOPLE ARE RAISING PUPPY TO BE GUIDE DOG. WE NEED ACCESS TO PUBLIC PLACE IN ALASKA. THERE ARE RAISER WHO HAS BEEN DENIED ENTRANCE INTO PUBLIC PLACE. THEIR ARE NO WAY TO TRAIN A GUIDE DOG IF WE DO NOT HAVE ACCESS TO PUBLIC PLACES.

HERE IS SOME INFO. ABOUT PEOPLE WHO HAVE GUIDES. THEIR STORIES.

SO PLEAS PASS BILL NO.170. THANK YOU

RUBY SCHMIDTBAUER AND YUKON  
P.O. BOX 306 NINILCHIK, AK 9963

PS. THE DOGS THAT COME FROM PALM SPRINGS, CA. ARE GREAT DOGS. WE LOVED YUKON SO VERY MUCH. AND HE LOVES US. THEY ARE ALL 4-H DOGS. THEY ARE A LOT OF BLINE PEOPLE THAT NEEDS GUIDES. YOU COULD RAISE ONE TO .



*Ruby Schmidtbauer*  
2  
me, old  
16 me. old.



P.O. Box 1692  
Palm Springs, California 92263





# Guide Dogs of The Desert Needs Your Support

## INDIVIDUAL MEMBERSHIP

Although our membership drive kicks off in December of each year, memberships are available year round. A contribution of \$25.00 for an individual membership is equal to fifty cents a week. Each member receives a membership patch with the year. The patch is a different color each year and can be proudly worn on a jacket or hat. Some thoughtful individuals give memberships as birthday or Christmas gifts and donations in the name of friends or relatives. A patch and a window decal in the name of the donor will be sent to the person remembered. Your membership is very important in sustaining the work we do. Become a member today.

## SERVICE CLUBS

Service organizations qualify for a Service Club Patch with a minimum club donation of \$100.00. There are three levels of giving, the first level (white and blue patch) is a minimum of \$100.00 to \$249.00; the second level (silver and blue patch) is \$250.00 to \$749.00; the third level (gold and blue patch) is for donations of \$750.00 and up. The patch is designed to be applied to your club banner and it is our way of saying "thank you" for your outstanding support. Our staff and volunteers are always available to present programs for your meetings.



## BUSINESS SPONSORS



This year we designed a window decal for businesses to display. Your business can display the four inch diameter decal in a window or on the door. The response from the business community with sponsorships of the 9th Annual Walk-A-Thon helped make this year a huge success. This generous support provides mobility, independence and companionship to blind men and women. For a minimum of one hundred dollars, your business can be a Guide Dog of The Desert Sponsor. Please ask for the sponsor decal when you send in your donation.

## SPONSOR

As Guide Dogs of the Desert starts our next twenty-five years, the new "Leichstz-g-Silverstein Student Housing" will allow us to provide independence and mobility to many more blind individuals at absolutely no charge to them. We will need the continued support of existing sponsors and friends to help us make our new expansion program a success.



**TRAINING GUIDE DOGS FOR THE BLIND**

Sue Greco, Laurie Brooks and Jim Hyatt have been carrying the Guide Dogs of the Desert story to many events in California and Arizona since February. Puppy Raisers and volunteers have helped man the booth at the Indio Date Festival; American Pet Show, Pomona; Canyon Lake Lions and Lioness Golf Tournament; Maricopa County Fair in Arizona; Inland Empire Association of Health Underwriter "Desert Empire Satellite"; Rialto Health and Pet Fair; Del Webb Sun City, Palm Desert, Fourth Annual Volunteer Fair. These expos acquaint the public with what guide dogs can do and bring new puppy raisers and supporters into the Guide Dogs of the Desert family.

**TRAINING GUIDE DOGS FOR THE BLIND**

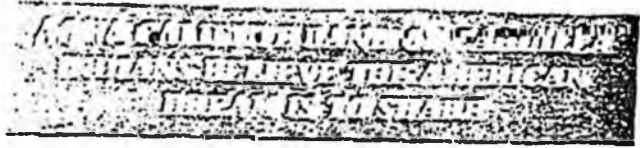
A new Guide Dogs of the Desert support group has formed in the East End of the Coachella Valley. The mission of this East Valley group is Sharing the Vision. Twelve charter members attended the first meeting on the May 15th at Del Webb Sun City, Palm Desert, California. They are planning one to three annual events. The addition of these supporters is another exciting step forward in our 25th anniversary year.



**Guide Dogs of the Desert Club**

SUMMER FLING

**Dinner and Dance**



Guide Dogs of the Desert is privileged to be recognized by the Aqua Caliente Band of Cahuilla Indians in the Coachella Valley.




# Representative Tom Brice

## ALASKA STATE LEGISLATURE

119 N. Cushman, Ste. 205  
Fairbanks, AK 99701  
907-456-7423 / Fax: 451-2293  
*While in Juneau*  
State Capitol  
Juneau, AK 99801-1182  
907-465-3466

Date: May 8, 1998

To: Senator Gary Wilkens  
Chairman, Senate Health, Education and  
Social Services Committee

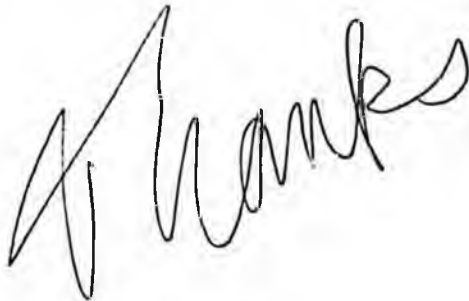
From: Representative Tom Brice 

RE: Synopsis of House Bill 170

The issue addressed by the original version and the current Senate Finance version of HB 170 is access eventhough the Finance committee's version is a more narrow interpretation of the original bill intent.

Relative to the Judiciary version, I agree a statewide certification program should be studied and at some point implemented. I do not believe there is enough consensus among the training community on how a program should be developed to be implemented by HB 170.

HB 170 in its current form provides a provision for liability if an animal destroys property. HB 170 provides a provision which addresses identification of training animals. HB 170 provides a criteria for penalties if someone interferes with the service animal's training. In short, HB 170 provides a framework for service animals to gain access to the facilities of the state of Alaska.



March 6, 1998



To: Alaska Legislators

From: *Jim Douglas* Jim Douglas 4-H Program Chair

Re: Service Animal Legislation

In an attempt to get access to private and public buildings for service animals HB 170 was introduced. The HESS version of the bill was acceptable to the 4-H program, but the version that passed out of Judiciary and through Rules is an affront to over twenty years of outstanding work by 4-H members and volunteers to raise guide dog puppies.

The 4-H program has been in the guide dog raising business for over 40 years. We have programs in every state in the U.S. In all cases we are the agency who certifies and trains our leaders and members with dogs. The 4-H program does not need a certification program. We have been the most successful program in the U.S. in raising guide dog puppies. In Alaska our 4-H program is associated with Guide Dogs for the Desert out of Palm Springs, California. They provide materials that help us certify and train their puppies.

#### **HEALTH AND SOCIAL SERVICES CERTIFICATION**

##### **Cost**

It now costs \$800 to \$1000 for volunteers to raise a guide or service dog for the eighteen months prior to its final training back at the guide dog or service dog school. The families that raise these dogs do so at a great sacrifice to their family budget. Adding a health and social services cost to what is already a very expensive community service is unnecessary. The 4-H program has a screening process as well as a recommended training process in place that works.

##### **Identification**

4-H guide dogs are identified with a blue and white coat that says Guide Dog Puppy and with a 4-H clover. 4-H members carry identification. If any other identification were used as planned in the bill, 4-H could well lose its identity and would certainly lose control over the program.

##### **Swiftness of Service**

At this time when a prospective 4-H member or leader wants to have a guide dog, 4-H agents or volunteers are required to go out to the home and while the family is still interested we certify them and have the dog on order. If H&SS were involved we would have to wait until they could certify the family and then we would still have to certify because of our liability insurance. H&SS becomes an extra cost as well as an extra step in what was already a smooth running operation.

#### **ACTION REQUESTED**

Ask that you vote for HB 170 as it came out of HESS and not the bill that came out of Judiciary.

If you approve the bill out of Judiciary, amend the bill to exempt the 4-H program from the certification process or remove the sections that refers to service animals in training being certified by H&SS.

Thank you for your support.

Alaska Cooperative Extension • University of Alaska Fairbanks & USDA Cooperating

1108 F Street, Suite 130 • Juneau, Alaska 99801 • Phone: (907) 465-8749 • FAX: (907) 465-8742



P. O. Box 1692  
Palm Springs, CA 92263  
(619) 329-6257

## PUPPY RAISER'S FACT SHEET

As a puppy raiser, you should be aware that there are many pros and cons of raising a guide dog puppy. These puppies are right now ordinary puppies who will chew, bark and whine. They are not housebroken. They have been screened and accepted as donations or procured through our own breeding program. Raising a puppy can be fun and rewarding but it can also get difficult and tiresome.

Make sure that everyone in the household likes the idea and agrees to raising the pup. Raising the pup is truly a family affair. Although one individual may be assigned the responsibilities, the whole family will have to adjust and participate. The entire family will hear the pup cry and whine the first few nights, smell occasional accidents, and have articles belonging to them chewed on.

You will receive the pup at approximately 8 to 10 weeks of age and keep it until it is between 12 to 18 months of age. The puppy will have started its inoculations against distemper, hepatitis, leptospirosis, parainfluenza and canine parvo virus. The puppy will have been dewormed, but will need a rabies inoculation at 4 months of age.

Your guide dog puppy will need **LOVE AND SOCIALIZATION** more than anything else. You are expected to housebreak the pup, and fully socialize it to people, animals, traffic, noises, strange surroundings and surfaces. Riding in cars comfortably is also important. We encourage basic obedience training to aid in the pup's socialization program and for general control purposes, but don't overdo it.

Fleas and ticks are the number one problem experienced by raisers. It is of paramount importance that the pup be kept flea and tick free to prevent any allergic reaction from developing.

Female puppies will come into season between 6 and 14 months of age. This is a bloody discharge period of 21 days and the only time a dog will be able to "get pregnant". Please make arrangements to secure the pup during this time (you may bring it to the school to be boarded.) Males will be altered around 8 to 10 months unless they are being considered for the breeding program. These expenses will be reimbursed up to \$50.00 or provided by our own veterinarian.

GUIDE DOGS OF THE DESERT, INC.  
P.O. Box 1692, Palm Springs, California 92263  
(619) 329-6257

APPLICATION TO RAISE A GUIDE DOG PUPPY .

Name (Mr./Mrs./Ms.) \_\_\_\_\_ Age: \_\_\_\_\_

Are there children in the home? \_\_\_\_\_ Their ages \_\_\_\_\_

Address \_\_\_\_\_

Environment: City \_\_\_ Suburban \_\_\_ Rural \_\_\_

Name of parent if applicant under 18 years old: \_\_\_\_\_

Telephone: Home ( ) \_\_\_\_\_ Work ( ) \_\_\_\_\_ Mr./Mrs./Ms.

(circle one)

1. Where did you hear about our puppy raising program? \_\_\_\_\_

2. Have you ever raised a dog before? \_\_\_\_\_ A dog for the blind? \_\_\_\_\_

When and from which school? \_\_\_\_\_

What became of that dog? \_\_\_\_\_

3. If you have a pet/pets, please give type, dog breeds, ages and sexes: \_\_\_\_\_

4. Do you have a fenced yard or enclosed area to relieve the puppy? \_\_\_\_\_

5. Do you agree to allow the puppy to live in your house and sleep in your bedroom? \_\_\_\_\_ (Initial)

GUIDE DOGS OF THE DESERT, INC. provide inoculations and worming if you bring the puppy to the training facility. If pups are not considered for breeding stock, GUIDE DOGS OF THE DESERT, INC will reimburse for neutering up to \$50.00 or provide for neutering by our own veterinarian. GUIDE DOGS OF THE DESERT, INC. will provide occasional boarding at the facility, including boarding of females in season.

6. Do you agree to pay for normal veterinary expenses? \_\_\_\_\_ (Initial)

The raiser is responsible to provide a loving atmosphere and socialization and to teach the pup appropriate house behavior. The approximate cost to the raiser is \$500.00. This cost is a donation and may be tax deductible.

7. I understand and agree this puppy shall remain the property of Guide Dogs of the Desert, Inc. and agree to return the puppy to Guide Dogs of the Desert, Inc. as requested for evaluation, neutering and when the puppy is needed for training. \_\_\_\_\_ (Initial)

8. I have read and agree to the conditions outlined in the attached copy of the "Puppy Raiser's Fact Sheet". \_\_\_\_\_ (Initial)

9. I agree to participate in Puppy and school events held throughout Southern California whenever possible. \_\_\_\_\_ (Initial)

10. What date are you available to receive a puppy? (usually there is a 6 month wait) \_\_\_\_\_

11. Breed Preference:                    ( ) Golden Retriever                    ( ) Female  
    ( ) Labrador Retriever                    ( ) Male  
    ( ) German Shepherd

Signature of applicant(s): \_\_\_\_\_

Parent signature (if applicant is under 18 years of age) \_\_\_\_\_

Alaska Extension Agent \_\_\_\_\_

Application Procedure  
for the  
Alaska Guide Dog Puppy Project

- 1) Person (14 or older) or a family expresses a very strong interest, contacts District Extension Agent or Area Guide Dog Puppy Project Leader.
- 2) Extension Agent or Area Guide Dog Puppy Project Leader provides person with Puppy Raiser's Fact Sheet and Application to Raise a Guide Dog Puppy.
- 3) Person fills out the application and contacts the Area Guide Dog Puppy Project Leader to set up a date for a Home Interview with the whole family and family pet(s). Applicant must join 4-H either as a member (youth) or a leader (adult.)
- 4) Area Guide Dog Puppy Project Leader makes a recommendation on the bottom of the application. If the family meets with the Project Leaders approval provide them with a copy of the Puppy Raiser's Manual so they can become familiar with it while they wait for their puppy.  
Note: There may be a time when you will have to decline a request. It is difficult but keep in mind the best interest of the puppy, that family and the Alaska Guide Dog Puppy Program.
- 5) Give a copy of the approved application to the local Cooperative Extension Agent for their records and send one to the State Coordinator of the Guide Dog Puppy Project: Linda Athons, 34824 K-Beach Rd., Suite A, Soldotna, AK 99669.
- 6) The State Coordinator will send a copy of the application to Guide Dogs of the Desert (GDD) for them to process.
- 7) GDD will contact the raiser directly when a puppy is available.
- 8) GDD will alert the State Coordinator of the available puppy and travel arrangements will be made by the State Coordinator for the puppy to travel to Alaska. Alaska Airlines donates the cost of transporting our puppies.
- 9) The raiser should contact the local Cooperative Extension Agent to notify him/her of the puppy's arrival.
- 10) Let the raising begin!!

Linda Athons  
12/15/97

**HB**

**189**

**SENATE COMMITTEE REPORT**

DATE: 5/10/97

FURTHER: Judiciary

DATE TURNED  
IN TO OFFICE: 2/2/98

HESS Committee considered

CS FOR SSHB NO. 189(JUD) am

"An Act relating to sale, gift, exchange, or distribution of tobacco and tobacco products."

and recommends:

- be replaced with S CSCSSS HB 189 (HES)
- adopt previous      CS      (    )
- attached amendment(s)
- adopt Letter of Intent by      Committee
- further referral to the      Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR#

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>			<input checked="" type="checkbox"/>
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
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CHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>	CHAIR:			

**NEW FISCAL NOTE(S):**

Department      Date      Zero      Fiscal

CSSSHB189  
(JUD)am  
SCS CSSS  
118189(HES)  
  
(Cmte sub)

C+ED	1/12/98	<input checked="" type="checkbox"/>	
C+ED	1/30/98	<input checked="" type="checkbox"/>	
Revenue	1/13/98	<input checked="" type="checkbox"/>	
Revenue		<input checked="" type="checkbox"/>	

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

Department      Date      Zero      Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

0-LS0711\K  
Ford  
1/15/98

Rep. Cowdery

Dean G  
Dept of Law

SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 189( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY

Sew. Loman - possibly raise fine amount

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES COWDERY, Austerman, Ryan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sale, gift, exchange, or distribution of tobacco and tobacco  
2 products."

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

4 \* Section 1. AS 11.76.100(a) is amended to read:

5 (a) A person commits the offense of selling or giving tobacco to a minor if the  
6 person

7 negligently - DoL recommends  
(1) ~~knowingly~~ sells a cigarette, a cigar, tobacco, or a product  
8 containing tobacco to a person under 19 years of age:

9 (2) is 19 years of age or older and knowingly [(1) NEGLIGENTLY  
10 SELLS,] exchanges [,] or gives a cigarette, a cigar, tobacco, or a product containing  
11 tobacco to a person under 19 years of age; or

12 (3) knowingly [(2)] maintains a vending machine that dispenses  
13 cigarettes, cigars, tobacco, or products containing tobacco.

14 \* Sec. 2. AS 11.76.100(b) is amended to read:

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(b) Notwithstanding the provisions of (a) of this section, a person who maintains a vending machine is not in violation of (a)(3) [(a)(2)] of this section if the vending machine is located

(1) on premises licensed as a beverage dispensary under AS 04.11.090, licensed as a club under AS 04.11.110, or licensed as a package store under AS 04.11.150; and

(A) as far as practicable from the primary entrance; and

(B) in a place that is directly and continually supervised by a person employed on the licensed premises during the hours the vending machine is accessible to the public; or

(2) in an employee break room or other controlled area of a private work place that is not generally considered a public place.

\* Sec. 3. AS 11.76.100(d) is amended to read:

(d) A person who violates (a) of this section by selling, exchanging, [SELLING] or giving tobacco to a person under 19 years of age [MINOR] is guilty of a class B misdemeanor, except that, if within the five years preceding the offense, the person has previously been convicted under this subsection or a law or ordinance of this or another jurisdiction with elements substantially similar to this section, the person is guilty of a class A misdemeanor [A VIOLATION AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$300].

\* Sec. 4. AS 11.76.107 is amended by adding a new section to read:

Sec. 11.76.106. Restrictions of sales of tobacco and tobacco products.

Except for sales of cigarettes by vending machine as provided under AS 11.76.100(b), a person may not knowingly sell cigarettes, cigars, tobacco, or a product containing tobacco unless the sale

(1) occurs in a manner that allows only the sales clerk to control access to the cigarettes, cigars, tobacco, or product containing tobacco prior to sale; or is a wholesale transaction and the person selling the cigarettes, cigars, tobacco, or products containing tobacco is licensed as a manufacturer or distributor under AS 43.50.010.

*legal opinion on retail vs wholesale*

\* Sec. 5. AS 43.50.070 is amended to read:

*Under civil penalties, can go after store owner business' license*



*Dol recommends deletion of "criminally"*

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**Sec. 43.50.070. Revocation of licenses.** The department may suspend or revoke a license issued under AS 43.50.010 - 43.50.180 (1) for a **knowing** [~~CRIMINALLY NEGLIGENT~~] violation of AS 11.76.100, **11.76.106**, 11.76.107, or a violation of AS 43.50.010 - 43.50.180 or a regulation of the department adopted under AS 43.50.010 - 43.50.180; (2) if a licensee ceases to act in the capacity for which the license was issued; or (3) if a manufacturer, distributor, or wholesale distributor negligently sells tobacco or products containing tobacco to a nonlicensed retailer or a retailer whose license endorsement under AS 43.70.075 has been suspended. A person whose license is suspended or revoked may not sell cigarettes or permit cigarettes to be sold during the period of the suspension or revocation on the premises occupied or controlled by that person. A disciplinary proceeding or action is not barred or abated by the expiration, transfer, surrender, renewal, or extension of a license issued under AS 43.50.010 - 43.50.180. The department shall comply with the provisions of the Administrative Procedure Act (AS 44.62).

**\* Sec. 6. LEGISLATIVE INTENT CONCERNING HB 159.** On the event that both this Act and a version of HB 159 pass the legislature during the same session of the Twentieth Alaska State Legislature and become law, it is the intent of the legislature that both Acts be given effect to the maximum extent possible.

*Ellis - Break room "tighten up"*

# CORRECTION

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



Rev. 6/98

Central Microfilm Services  
Department of Education  
State of Alaska

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2 maintains a vending machine is not in violation of (a)(3) [(a)(2)] of this section if the  
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6 AS 04.11.150; and

7 (A) as far as practicable from the primary entrance; and

8 (B) in a place that is directly and continually supervised by a  
9 person employed on the licensed premises during the hours the vending  
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18 or ordinance of this or another jurisdiction with elements substantially similar to  
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20 UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$300].

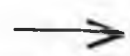
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*Under civil penalties, can go after store  
owner business license*



*legal opinion on retail vs wholesale*

AS 43.70.075 - business license endorsement  
Commerce can revoke endorsement - increase  
limitation - DoL recommend

*Dol recommends deletion of "Criminally"*

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*Ellis - Breakroom "tighten up"*

Sheila

0-LS0711VL

Ford

1/27/98

SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 189(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES COWDERY, Austerman, Ryan

A BILL

FOR AN ACT ENTITLED

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3 vending machine is located

4 (1) on premises licensed as a beverage dispensary under AS 04.11.090,  
5 licensed as a club under AS 04.11.110, or licensed as a package store under  
6 AS 04.11.150; and

7 (A) as far as practicable from the primary entrance; and

8 (B) in a place that is directly and continually supervised by a  
9 person employed on the licensed premises during the hours the vending  
10 machine is accessible to the public; or

11 (2) in an employee break room or other controlled area of a private  
12 work place that is not generally considered a public place and the room or area  
13 contains a posted warning sign at least 11 inches by 14 inches indicating that  
14 possession of tobacco by a person under 19 years of age is prohibited under  
15 AS 11.76.105.

16 \* Sec. 3. AS 11.76.100(d) is amended to read:

17 (d) A person who violates (a) of this section by selling, exchanging,  
18 [SELLING] or giving tobacco to a person under 19 years of age [MINOR] is guilty  
19 of a violation and upon conviction is punishable by a fine of not less than \$300.

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

21 **Sec. 11.76.106. Restrictions of sales of tobacco and tobacco products.** (a)  
22 Except for sales of cigarettes by vending machine as provided under AS 11.76.100(b)  
23 or except as provided under (b) of this section, a person may not negligently sell  
24 cigarettes, cigars, tobacco, or a product containing tobacco unless the sale

25 (1) occurs in a manner that allows only the sales clerk to control access  
26 to the cigarettes, cigars, tobacco, or product containing tobacco prior to sale; or

27 (2) is a wholesale transaction and the person selling the cigarettes,  
28 cigars, tobacco, or products containing tobacco is licensed as a manufacturer or  
29 distributor under AS 43.50.010; this paragraph does not apply to wholesale transactions  
30 by a manufacturer or distributor if both wholesale and retail transactions occur on the  
31 same premises.

1 (b) This section does not apply to a retailer who restricts access to the  
2 premises to only those individuals who are 19 years of age or older.

3 \* Sec. 5. AS 43.50.070 is amended to read:

4 **Sec. 43.50.070. Revocation of licenses.** The department may suspend or  
5 revoke a license issued under AS 43.50.010 - 43.50.180 (1) for a [CRIMINALLY]  
6 negligent violation of AS 11.76.100, 11.76.106, 11.76.107, or a violation of  
7 AS 43.50.010 - 43.50.180 or a regulation of the department adopted under  
8 AS 43.50.010 - 43.50.180; (2) if a licensee ceases to act in the capacity for which the  
9 license was issued; or (3) if a manufacturer, distributor, or wholesale distributor  
10 negligently sells tobacco or products containing tobacco to a nonlicensed retailer or a  
11 retailer whose license endorsement under AS 43.70.075 has been suspended. A person  
12 whose license is suspended or revoked may not sell cigarettes or permit cigarettes to  
13 be sold during the period of the suspension or revocation on the premises occupied or  
14 controlled by that person. A disciplinary proceeding or action is not barred or abated  
15 by the expiration, transfer, surrender, renewal, or extension of a license issued under  
16 AS 43.50.010 - 43.50.180. The department shall comply with the provisions of the  
17 Administrative Procedure Act (AS 44.62).

18 \* Sec. 6. AS 43.70.075(d) is amended to read:

19 (d) If a person who holds an endorsement issued under this section, or an  
20 agent or an employee of a person who holds an endorsement issued under this section  
21 acting within the scope of the agency or employment, has been convicted of violating  
22 AS 11.76.100, 11.76.106, or 11.76.107, or violates a provision of this section or a  
23 regulation implementing this section adopted under AS 43.70.090, the department may  
24 suspend the endorsement for a period of not more than

25 (1) 45 days; or

26 (2) 90 days [,] if, within the past 24 months, the person has been  
27 previously convicted of violating AS 11.76.100, 11.76.106, or 11.76.107, or a provision  
28 of this section or a regulation implementing this section adopted under AS 43.70.090.

0-LS0711VP

Ford

1/29/98

**SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 189(HES)****IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTIETH LEGISLATURE - SECOND SESSION****BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

Offered:

Referred:

Sponsor(s): **REPRESENTATIVES COWDERY, Austerman, Ryan****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to sale, gift, exchange, or distribution of tobacco and tobacco  
2 products."

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

4 \* Section 1. AS 11.76.100(a) is amended to read:

5 (a) A person commits the offense of selling or giving tobacco to a minor if the  
6 person

7 (1) negligently sells a cigarette, a cigar, tobacco, or a product  
8 containing tobacco to a person under 19 years of age;

9 (2) is 19 years of age or older and [(1)] negligently [SELLS],  
10 exchanges [,] or gives a cigarette, a cigar, tobacco, or a product containing tobacco to  
11 a person under 19 years of age; or

12 (3) [(2)] maintains a vending machine that dispenses cigarettes, cigars,  
13 tobacco, or products containing tobacco.

14 \* Sec. 2. AS 11.76.100(b) is amended to read:

1 (b) Notwithstanding the provisions of (a) of this section, a person who  
2 maintains a vending machine is not in violation of (a)(3) [(a)(2)] of this section if the  
3 vending machine is located

4 (1) on premises licensed as a beverage dispensary under AS 04.11.090,  
5 licensed as a club under AS 04.11.110, or licensed as a package store under  
6 AS 04.11.150; and

7 (A) as far as practicable from the primary entrance; and

8 (B) in a place that is directly and continually supervised by a  
9 person employed on the licensed premises during the hours the vending  
10 machine is accessible to the public; or

11 (2) in an employee break room or other controlled area of a private  
12 work place that is not generally considered a public place and the room or area  
13 contains a posted warning sign at least 11 inches by 14 inches indicating that  
14 possession of tobacco by a person under 19 years of age is prohibited under  
15 AS 11.76.105.

16 \* Sec. 3. AS 11.76.100(d) is amended to read:

17 (d) A person who violates (a) of this section [SELLING OR GIVING  
18 TOBACCO TO A MINOR] is guilty of a violation and upon conviction is punishable  
19 by a fine of not less than \$300.

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

**Sec. 11.76.106. Selling tobacco outside controlled access.** (a) Except as provided in  
(b) of this section, a person may not sell cigarettes, cigars, tobacco, or a product containing  
tobacco unless the sale occurs in a manner that allows only the sales clerk to control access to  
the cigarettes, cigars, tobacco, or product containing tobacco.

(b) The provisions of (a) of this section do not apply if the sale

(1) is by vending machine under the provisions of AS 11.76.100(b);

(2) is a wholesale transaction, the person is licensed as a manufacturer or distributor  
under AS 43.50.010, and the sale occurs on premises where no retail transactions occur; or

(3) is by a retailer who sells primarily cigarettes, cigars, tobacco, or a product  
containing tobacco and who restricts access to the premises to only those individuals who are  
19 years of age or older.

(c) A person who violates this section is guilty of a violation and upon conviction is punishable by a fine of not less than \$300.

5 \* Sec. 5. AS 43.50.070 is amended to read:

6           **Sec. 43.50.070. Revocation of licenses.** The department may suspend or  
7           revoke a license issued under AS 43.50.010 - 43.50.180 (1) for a [CRIMINALLY]  
8           negligent violation of AS 11.76.100, 11.76.106, 11.76.107, or a violation of  
9           AS 4. .50.010 - 43.50.180 or a regulation of the department adopted under  
10           AS 43.50.010 - 43.50.180; (2) if a licensee ceases to act in the capacity for which the  
11           license was issued; or (3) if a manufacturer, distributor, or wholesale distributor  
12           negligently sells tobacco or products containing tobacco to a nonlicensed retailer or a  
13           retailer whose license endorsement under AS 43.70.075 has been suspended. A person  
14           whose license is suspended or revoked may not sell cigarettes or permit cigarettes to  
15           be sold during the period of the suspension or revocation on the premises occupied or  
16           controlled by that person. A disciplinary proceeding or action is not barred or abated  
17           by the expiration, transfer, surrender, renewal, or extension of a license issued under  
18           AS 43.50.010 - 43.50.180. The department shall comply with the provisions of the  
19           Administrative Procedure Act (AS 44.62).

20 \* Sec. 6. AS 43.70.075(d) is amended to read:

21           (d) If a person who holds an endorsement issued under this section, or an  
22           agent or an employee of a person who holds an endorsement issued under this section  
23           acting within the scope of the agency or employment, has been convicted of violating  
24           AS 11.76.100, 11.76.106, or 11.76.107, or violates a provision of this section or a  
25           regulation implementing this section adopted under AS 43.70.090, the department may  
26           suspend the endorsement for a period of not more than

27                   (1) 45 days; or

28                   (2) 90 days [,] if, within the past 24 months, the person has been  
29           previously convicted of violating AS 11.76.100, 11.76.106, or 11.76.107, or a provision  
30           of this section or a regulation implementing this section adopted under AS 43.70.090.

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

**Sec. 11.76.106. Selling tobacco outside controlled access.** (a) Except as provided in (b) of this section, a person may not sell cigarettes, cigars, tobacco, or a product containing tobacco unless the sale occurs in a manner that allows only the sales clerk to control access to the cigarettes, cigars, tobacco, or product containing tobacco.

(b) The provisions of (a) of this section do not apply if the sale

(1) is by vending machine under the provisions of AS 11.76.100(b);

(2) is a wholesale transaction, the person is licensed as a manufacturer or distributor under AS 43.50.010, and the sale occurs on premises where no retail transactions occur; or

(3) is by a retailer who sells primarily cigarettes, cigars, tobacco, or a product containing tobacco and who restricts access to the premises to only those individuals who are 19 years of age or older.

(c) A person who violates this section is guilty of a violation and upon conviction is punishable by a fine of not less than \$300.

# FISCAL NOTE

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

**BILL NO: HB 189**

Revision Date: January 12, 1998 Dept. Affected: Public Safety  
 Title: Restrict tobacco sales/possession BRU: DPS Statewide Support  
 Sponsor: Representative Cowdery Component: Commissioner's Office  
 Requestor: Senate HESS COMPONENT SERIAL NO. 0523

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

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL EXPENDITURES</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
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CHANGE IN REVENUES ( ) Revenue Code						
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**FUNDING: (Thousands of Dollars)**

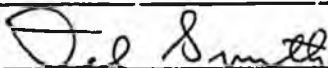
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

Estimate of current year (FY 98) 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.)

Prepared By: Sandy Perry-Provost, Special Assistant to the Commissioner Phone: 465-4322  
 Division: Commissioner's Office Date: January 12, 1998  
 Approved by Commissioner:  Date: January 12, 1998  
 Agency: Ronald L. Otte, Dept. of Public Safety

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information call the Governor's Legislative Office

Revision Date: February 2, 1998 Dept. Affected: Revenue  
 Title: Restrict Tobacco Sales/Possession BRU: Revenue Operations  
 Component: Income and Excise Audit  
 Sponsor: Representative Cowdery  
 Requestor: (S) HES COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Recolpts						
1003 GF Match						
1004 GF						
1001 CBRF						
1048 University of AK recolpts						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year cost \$ 0.0

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

The proposed legislation addresses restricting access to retail cigarettes. It is not anticipated that the cost of administering the tobacco tax program will be affected by this legislation.

Prepared by: Larry Moyers, Director  
 Division: Income and Excise Audit  
 Approved by Commissioner: Wilson L. Condon  
 Agency: Revenue

Phone: 269-6620  
 Date: February 2, 1998  
 Date: February 2, 1998

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information call the Governor's Legislative Office

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Restrict Tobacco Sales/Possession BRU: Revenue Operations  
 Component: Income and Excise Audit  
 Sponsor: Representative Cowdery  
 Requestor: (S) HES COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY98) cost \$ 0.0

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

The proposed legislation lowers the standard under Title 11 upon which the Department of Revenue would follow for suspending or revoking a businesses tobacco license. When revocation or suspension takes place, the business has the right to utilize the administrative appeal process to challenge the departments action. It is hard to determine what effect this will have on the department's administrative hearing resources. No increased budgetary resources are requested at this time.

Prepared by: Larry Meyers, Director Phone: 269-6620  
 Division: Income and Excise Audit Date: January 13, 1998  
 Approved by Commissioner: Wilson L. Condon Date: January 13, 1998  
 Agency: Revenue

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REPRESENTATIVE JOHN J. COWDERY

CS SS HB 189 (JUD)

**Explanation of Committee Substitute**

This legislation will accomplish two things: 1) It will limit public access to tobacco products in retail premises and 3) It will increase the penalties for selling tobacco to minors.

1) CS HB189 (JUD) simply limits public access to tobacco products in retail premises so that only the sales clerk will have access to any tobacco product prior to sale. This will ban self-service tobacco displays found today in many stores. Similar laws have been enacted in 171 cities around the U.S. \*

Page 2, line 7 states "the sale occurs in a manner that allows only the sales clerk access to the cigarettes, cigars, tobacco..." This will limit how retail premises and tobacco shops present tobacco products, in that the products may not be available for customers to handle. Rather, if anyone wishes to buy tobacco, they must first contact the employee.

2) There is a change in penalties as well. In current statute AS 11.76.100(2)(d) selling or giving tobacco to minors is punishable by a fine of not less than \$300. In this substitute version the fines are similar to contributing alcohol to a minor; a first violation is a class B misdemeanor -- with a fine of not more than \$1,000 AS.12.55.035(b)(3). If a second infraction occurs within five years the person will be guilty of a class A misdemeanor -- a possible \$5,000 fine AS.12.55.035(b)(3). Furthermore, we have amended the culpable mental state associated with selling/giving tobacco to minors from "negligently" to "knowingly". In the prosecution of this circumstance, knowingly is a more commensurate term to use with misdemeanor penalties.

I don't know if there will ever be an absolute answer to the problem of underage smoking. We can hope for healthy children through proper education, strong family values and proper enforcement of our laws. I feel this legislation is a small but proper step towards that direction and I urge the body for its passage.

\*Americans for Nonsmokers Rights

## Sponsor Statement for SSHB 189

This legislation will limit public access to tobacco products, create an affidavit for employees and increase the penalties for selling tobacco to minors.

As it is now, one can sell and purchase tobacco products on a licensed liquor premise, retailers who obtain a tobacco endorsement, or by licensed vending machines. HB 189 simply limits public access to tobacco products in retail premises. This bill will allow **only** the sales clerk to have access to any tobacco product prior to sale. This will ban self-service tobacco displays found today in many stores-- similar laws have been enacted in 171 cities around the U.S. Page 2, line 7 states "the sale occurs in a manner that allows only the sales clerk access to the cigarettes, cigars, tobacco". This will not limit how retail premises or tobacco shops store or present tobacco products. Rather if anyone wishes to buy tobacco, they must go through the employee.

New to this substitute is a section that will further require employees to card people whom employees believe to be under 27 -- which they already do now! Furthermore, tobacco retailers shall require their sales clerks to sign a form stating that they understand it is illegal to sell tobacco to persons under the age of nineteen. We believe this will put more responsibility on retail employees who sell tobacco products.

There is a change in penalties as well. In current statute, selling, giving or exchanging tobacco to minors was punishable by a fine, not less than \$300. In this legislation the fines are the same as contributing alcohol to a minor; a first violation is a class A misdemeanor--a \$5,000 fine. If a second infraction occurs within five years the person will be guilty of a class C felony--a possible \$50,000 fine.

## Mayor's Task Force on Youth



3245 Hospital Drive  
Juneau, Ak 99801  
907 463-5845  
Fax: 907 463-5877

Representative John Cowdery  
Alaska State Legislature  
Juneau, AK 99801-1182

October 22, 1997

Dear Representative Cowdery:

We were alarmed to learn that a sales person who is under the age of 19 is not in violation of Alaska law when he or she sells tobacco to a minor. Recently, the district attorney's office in Juneau was forced to void two citations to young sales clerks who the police caught selling tobacco to an eighteen year old! The statute states:

AS 11.76.100(a) "A person commits the offense of selling or giving tobacco to a minor if the person is 19 years of age or older and (1) negligently sells, exchanges, or gives a cigarette, a cigar, tobacco, or a product containing tobacco to a person under 19 years of age....."

Juneau's Mayor's Task Force on Youth is an active community forum of parents, educators, youth, counselors, police, adjudicators and concerned citizens. We have met twice a month since 1993 to make our community a safe, healthy place for our youth. One of our member groups, the Juneau Tobacco Prevention Network, has conducted tobacco compliance checks for three years and has been educating vendors about the laws regarding the sales of tobacco. Recently, the Network, our local police department, district attorney's office and office of the attorney general conducted a "sting" to enforce our tobacco sales laws. That is when this flaw in the law was discovered.

The legislature has made enforcing existing tobacco laws a priority in order to reduce our high incidence of teen tobacco addiction. We must make the laws apply to everyone especially those most likely to sell to their peers.

Our community will continue to actively cite and fine minors caught with tobacco products. We need your help to penalize the illegal sales. As the sponsor of HB189, please do what you can to close the gaping loophole in tobacco sales.

Sincerely,

Ron Gleason



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

8833 DENALI STREET  
SUITE 201

ANCHORAGE, ALASKA  
99503

PHONE  
907-258-6021

STATEWIDE  
800-478-7738

AX  
907-258-6052

E-MAIL  
prevent@alaska.net

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April 9, 1997

Representative John J. Cowdery  
Alaska State Legislature  
FAX #: 907-465-2069

Dear Rep. Cowdery:

Greetings! This letter concerns HB 189—an Act relating to the sale of tobacco and tobacco products; and providing for an effective date. On behalf of the Alaska Council on PREVENTION of Alcohol and Drug Abuse, I would like to provide some information which hopefully will assist in the decision-making process regarding this issue.

The following statistics were taken from the 1995 Youth Risk-Behavior Survey, which was funded by the Alaska Department of Health and Social Services and the Alaska Department of Education.

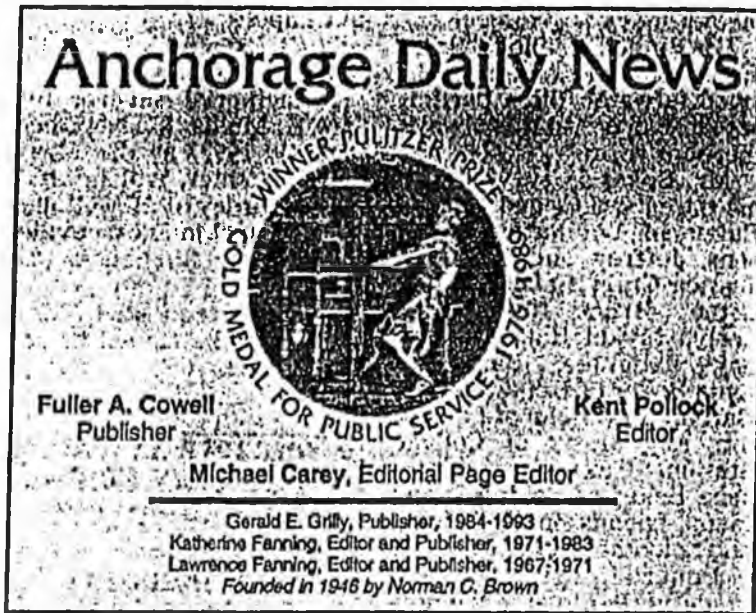
- The majority of Alaskan smokers (83.7%) began smoking between the ages 10 and 20 years. The median age for first time use is 13.
- Seventy-two percent of Alaskan high school students surveyed stated they tried cigarette smoking, compared to 59% nationally. Over 36% of Alaskan students surveyed use cigarettes currently (30% nationally) and 21% smoke daily (14% nationally).
- By the 12th grade, 29% of Alaskan students surveyed used smokeless tobacco frequently, compared to 22% nationally.

These statistics support the assertion that tobacco use among Alaskan students is higher than the national norm. This bill's passage would limit public access to tobacco products, thus making it difficult for minors to purchase. Regulations and accountability are established by setting guidelines on who can sell tobacco products. Lastly, this bill reinforces selling tobacco products to minors is an illegal and punishable offense.

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

Respectfully,

  
Joseph DiMatteo  
Executive Director



## Tobacco sales

### Keeping cigarettes out of young hands

Anchorage Assembly member Kevin Meyer's proposed tobacco ordinance could help keep tobacco, out of the hands — and lungs — of minors.

The ordinance is similar to Rep. John Cowdery's bill, which flew through the House but languished in the Senate during the last legislative session.

Mr. Meyer's proposal is simple: All retail tobacco sales must be clerk-assisted. That means tobacco products would have to be located behind a counter and someone who wants a pack of cigarettes or a can of chew would have to ask the clerk for service. Cigarette vending machines would be allowed only in establishments that have liquor licenses — where you have to be 21 to get in anyway.

Mr. Meyer believes the ordinance would:

- Frighten some minors away from purchasing tobacco products.
- Remind the clerk to check the I.D. of the purchaser.
- Help prevent shoplifting.

The ordinance includes a \$300 fine for retailers that don't comply, which should provide enough money to help enforce the law. Police officers would be able to quickly assess which retailers are in compliance — all they'd have to do is walk in a store and see if the smokes and chew are behind a counter, out of reach of shoplifters.

Critics say the mea-

*warn them. Kevin Meyer's common-sense idea is one small step that could have a major effect.*

sure could cost retailers money and is more government intrusion into private enterprise. But keep in mind: Tobacco is an addictive drug. There can be no good argument for displaying an addictive

drug next to the candy and gum.

For better or for worse, our society has decided that tobacco is a legal drug to sell to adults. OK, but let's do everything we can to make sure it's adults who are using it. Let's do what we can to make sure that those who light their first cigarette or chew their first snuff know exactly what they're getting into.

There is no magic method to keep children away from tobacco, just as there is no magic way to keep your children from repeating your mistakes, no matter how many times you warn them. Mr. Meyer's common-sense idea is one small step that could have a major effect.

Most new smokers are minors, young people who may be easily seduced into the belief that smoking will make them look older, glamorous or rebellious. For many though, by the time they realize that all their tobacco habit is giving them (if they're lucky) is wrinkles and a flatter wallet, it's too late. They're hooked.

Controlling access to tobacco products works well for at least one Anchorage retailer. As part of a recent remodeling, the Northway Mall Safeway moved its cigarettes into a case behind a counter. The case is locked when the counter is unstaffed.

Cindy Fleenor, manager of the store, said, "It's better business sense for us. There is not a chance in our stores that a minor can get ahold of cigarettes. We're including it in all of our newly remodeled stores, it's worked out so well."

□ The Anchorage Assembly will hold a public hearing on the tobacco ordinance beginning after 6:30 p.m. on Tuesday.



## **Tobacco measure good move**

It was a pleasure to attend the Anchorage Assembly meeting Nov. 11 and witness passage by unanimous vote of an ordinance banning self-service tobacco displays. This one simple measure will have an immediate impact on reducing youth access to tobacco. The Assembly members deserve a lot of credit for listening to the health arguments in favor of this ordinance, and this was a great example of government acting in the public interest.

It is quite possible that the tobacco industry will try to weaken the ordinance by requesting amendments and exceptions. We will be counting on the Assembly to stand firm in its goal to keep tobacco products out of the reach of children. The ordinance that passed Tuesday night is simple and easy to enforce, greatly enhancing its effectiveness. No changes are needed.

Many thanks to Kevin Meyer for sponsoring this excellent piece of legislation. I hope other Anchorage residents will take the time to contact their Assembly members to say thank you and urge them to keep up the good work in the effort to eliminate tobacco use by our youth.

— *Craig Harpel, executive director  
American Heart Association  
Alaska Affiliate*

# Municipality of Anchorage



P.O. BOX 196650  
ANCHORAGE, ALASKA 99519-6650  
TELEPHONE: (907) 333-0738

Anchorage Assembly  
Cheryl Clementson

November 18, 1997

Representative John J. Cowdery  
700 West 4<sup>th</sup> Avenue  
Anchorage, Alaska 99501

Dear Representative Cowdery:

Thank you for your letter of November 3rd, requesting support for AO 97-133, and sharing the results of the roll call vote for HB 189. I totally agree that this is indeed a non-partisan issue and a matter of public health. As you are probably aware by now, the Assembly unanimously passed the ordinance which bans tobacco self service displays. I believe that this measure will limit the access to tobacco for youth and hope that this strategy will prove to be effective in the reduction of smoking by youth. Thanks again for taking the time to write.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Cheryl Clementson'.

Cheryl Clementson  
Assemblymember

*Thanks also for  
your phone call!*

1  
2  
3 CLERK'S OFFICE  
4 AMENDED AND APPROVED  
5 Date: 11-11-97

Submitted by: Assembly Member Meyer  
Prepared by: Department of Law  
For reading: November 11, 1997

6 ANCHORAGE, ALASKA  
7 AO NO. 97-133(S)

8 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 8.05 AND 14.60  
9 TO ENACT RESTRICTIONS ON CUSTOMER ACCESS TO TOBACCO AND TOBACCO  
10 PRODUCTS.  
11

12  
13 THE ANCHORAGE ASSEMBLY FINDS:

14  
15 WHEREAS, shoplifting is a significant criminal problem in Anchorage which contributes to a  
16 serious public health problem when the stolen items are tobacco and tobacco products;  
17

18 WHEREAS, smoking by minors is a serious public health problem that ultimately results in  
19 substantial expenditures by the Municipality; and  
20

21 WHEREAS, restricting access to tobacco in stores to sales clerks until the time of sale will tend to  
22 deter shoplifting, encourage proper checking of identification presented by potential purchasers and thereby  
23 reduce the risk of sales of tobacco and tobacco products to minors, and deter minors from attempting to  
24 purchase tobacco and tobacco products,  
25

26 NOW THEREFORE THE ANCHORAGE ASSEMBLY ORDAINS:

27  
28 Section 1: That the Anchorage Municipal Code is hereby amended to add a new section 8.05.454 to read  
29 as follows:  
30

31 8.05.454 Restrictions on sales of tobacco and tobacco products.  
32

33 A. It is unlawful for a person negligently to sell cigarettes, cigars, tobacco, or a product  
34 containing tobacco in any manner that allows any person but the sales clerk to control access  
35 to the cigarettes, cigars, tobacco, or product containing tobacco prior to sale.  
36

37 1. Subsection A. of this section does not apply to wholesale transactions in which the  
38 person selling the cigarettes, cigars, tobacco, or products containing tobacco is  
39 licensed as a manufacturer or distributor under AS 43.50.010.  
40

41 2. Subsection A. of this section does not apply to sales by vending machines which are  
42 located:

43 As far as practical

44 (a) ~~At least ten feet~~ from any entrance on the inside of the licensed premises of  
45 a valid, existing beverage dispensary license, a club license, or a package  
46 store license issued under Alaska Statutes 04.11.090, 04.11.110, and  
47 04.11.150 respectively; and  
48

49 (b) The location described in subsection A.2.(a) of this section is directly and

continually supervised by a person employed on the licensed premises when the vending machine is accessible to the public.

**Section 2:** That section 14.60.030 of the Anchorage Municipal Code is hereby amended to add a new Code Section, Offense, and Penalty/Fine to read as follows:

14.60.030      Fine Schedule

The fine schedule under this chapter is as follows:

<i>Code Section</i>	<i>Offense</i>	<i>Penalty/Fine</i>
	*   *   *   *   *	
<u>8.05.454</u>	<u>Restrictions of Sales of Tobacco and Tobacco Products</u>	<u>\$300.00</u>

**Section 3:** That this ordinance shall be effective on the <sup>one hundred twentieth (120th)</sup> ~~ninetieth (90th)~~ day after passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Municipal Clerk



**MUNICIPALITY OF ANCHORAGE  
ASSEMBLY MEMORANDUM**

NO. AM 953-97

Meeting Date: November 11, 1997

1       **From: Assemblymember Meyer**  
2       **Subject: AO 97-133(S) - Restrictions on Sales of Tobacco and Tobacco**  
3               **Products**

4  
5       Attached is a proposed substitute ordinance to AO 97-133. The only substantive  
6       changes are to clarify the definition of the offense, to add the word "negligently" to the  
7       definition of the offense in Subsection 8.05.454.A, and to add some findings describing  
8       the rationales for the proposed ordinance including:

- 9  
10           1.     To deter minors from attempting to purchase tobacco and tobacco  
11                    products;  
12  
13           2.     To deter shoplifting of tobacco and tobacco products; and  
14  
15           3.     To encourage sales clerks to properly check identification of purchasers of  
16                    tobacco and tobacco products

17  
18       Approval of AO 97-133(S) is recommended.

19  
20  
21       Respectfully submitted:

Prepared by:

22  
23  
24  
25       *Kevin Meyer*  
26       \_\_\_\_\_  
27       Kevin Meyer  
28       Assemblymember *gmm*

25       *Greg Moyer*  
26       \_\_\_\_\_  
27       Greg Moyer, Director  
28       Assembly Office

29  
30

**MUNICIPALITY OF ANCHORAGE**  
**Summary of Economic Effects - General Government**

**AO Number: 97-133(S)**

**Title: Restrictions on Sales of Tobacco and  
Tobacco Products**

**Sponsor: Assemblymember Meyer**

**Preparing Agency: Assembly Office**

**Others Affected: Transportation Inspection**

**CHANGES IN EXPENDITURE AND REVENUES (Thousands of Dollars)**

<i>Operating Expenditures</i>	<i>FY 94</i>	<i>FY 95</i>	<i>FY 96</i>	<i>FY 97</i>	<i>FY 98</i>
<i>1000 Personal Services</i>					
<i>2000 Supplies</i>					
<i>3000 Other Services</i>					
<i>4000 Debt Service</i>					
<i>5000 Capital Outlay</i>					
<b>TOTAL DIRECT COSTS:</b>					

<b>ADD: 6000 Charge from Others</b>					
<b>LESS: 7000 Charge to Others</b>					
<b>FUNCTION COSTS:</b>					

<b>REVENUES:</b>					
------------------	--	--	--	--	--

<b>CAPITAL:</b>					

<b>POSITIONS: FT/PT and Temp.</b>					

**Public Sector Economic Effects:**

*No substantial public sector economic effects anticipated.*

***Private Sector Economic Effects:***

***No substantial private sector economic effects anticipated.***

***Prepared by: Greg Moyer***

***Telephone: 343-4755***

***Date: 11-7-97***

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

January 28, 1998

Bob Bartholomew, Deputy Director  
Income and Excise Audit Division  
Department of Revenue  
P.O. Box 110420  
Juneau, Alaska 99811

Dear Mr. Bartholomew:

You have asked us to address the question of how the reenactment of AS 11.76.107 contained in HB 189 would affect a business having a distributor's or manufacturer's license, but that also engages in retail sales of tobacco products. The section provides that sales of cigarettes, cigars, or other products containing tobacco may only occur in one of two ways: either the tobacco products must be maintained in a manner that allows only the sales clerks to control access, or the products must be the subject of a wholesale transaction and the seller must be licensed as a manufacturer or distributor.

We understand this to require that a business having a manufacturer's or distributor's license that engages also in retail sales must maintain those tobacco products that are intended for retail sale in a manner that only allows a sales clerk access to the products. The business may make tobacco products available for sale in wholesale transactions as well, however, these products may not be available for sale in retail transactions unless the products are maintained under restricted access as required in subsection (1) of the statute.

We hope this is of assistance to you. If you have any questions, please contact the undersigned at your convenience.

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

- 1031 WEST 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 269-5100  
FAX: (907) 278-3697
- KEY BANK BUILDING  
100 CUSHMAN ST., SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 451-2811  
FAX: (907) 451-2846
- P.O. BOX 110300-DIMOND COURTHOUS  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-6735

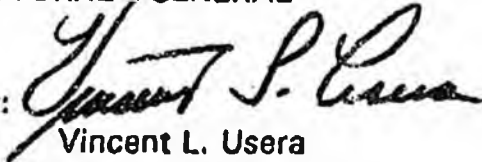
Bob Bartholomew  
Department of Revenue

January 28, 1998  
Page 2

Very truly yours,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:



Vincent L. Usera  
Assistant Attorney General

VLU:ps

# Citizens To Protect Kids from Tobacco

1057 W. Fireweed Lane, Suite 204 • Anchorage, Alaska 99503 • (907) 277-8696 • Fax: (907) 263-2073

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## POSITION PAPER

### CS SS HB 189 (JUD) am REDUCING YOUTH ACCESS TO TOBACCO

January 12, 1998

#### The Need for Youth Access Restrictions

Citizens To Protect Kids from Tobacco is a statewide coalition of health organizations committed to reducing the addiction, disease, and death from tobacco use in Alaska.

Almost all new tobacco users are kids. Ninety percent of smokers start before age 19; the average age is 14.5 (1994 Surgeon General's Report). Therefore, any effective tobacco control program must include laws that address youth access to tobacco. In addition, studies have shown that such laws must be actively enforced to have significant impact.

The 1995 Youth Risk Behavior Survey administered by the Alaska Department of Health and Social Services found:

- 36.5% of high school students in Alaska are current smokers;
- 24.8% of middle school students (grades 7 and 8), are current smokers; the most common sources of cigarettes for youth who smoke is purchasing them, "borrowing" them, and stealing them; and
- 18.6% of smokers in middle school reported that their usual source of cigarettes is to steal them, for 37.2% "borrowing" was the most common source of the smokers, while 2.8% said they purchase their own cigarettes

The figures for high school students reflect the greater ease with which this age group is able to purchase cigarettes:

- 26.3% of high school smokers said their usual source of cigarettes was to buy them, 28% said they borrowed them, and 5.1% said they stole them.

#### Banning Self-Service Tobacco Displays

Almost 200 local governments, including Anchorage, have enacted laws to ban self-service tobacco displays.

A self-service display ban eliminates shoplifting of cigarettes. Research shows that it also increases the likelihood that a young customer will be "carded" (asked for



ID) when tobacco products are requested. Additionally, a ban is important because self-service displays are designed to attract young people and glamorize the use of tobacco products.

The Institute of Medicine's Committee on Preventing Nicotine Addiction in Children and Youths stated that "a youth access plan should include a statewide ban on self-service displays to prevent purchasing and shoplifting of tobacco products by youth" (*Growing Up Tobacco Free*, 1994).

CS SS HB 189 (IUD) am

Citizens To Protect Kids from Tobacco is pleased to see the interest in reducing nicotine addiction among youth reflected in H.B. 189, and we commend the bill's sponsors for proposing this legislation that seeks to reduce youth access to tobacco by requiring all retail tobacco sales to be clerk-assisted.

However, while the intent of the bill is excellent, CPKT is concerned that some of the provisions, as presently written, will inadvertently make it more difficult to keep tobacco products out of the hands of minors. We have two specific concerns and one additional suggestion:

1. *Enforcement and the Standard of Proof:* As currently proposed, the legislation would amend current law to both increase the penalty for a merchant selling tobacco as well as change the standard of proof required to convict a merchant from a "criminal negligence" standard to a "knowing" standard.

Citizens to Protect Kids from Tobacco does not support changing either because the practical effect will be to reduce and/or frustrate enforcement efforts. The current penalties (a fine and suspension of a tobacco sale license endorsement) are just, reasonable, and effective. A substantial increase in the penalties would likely make enforcement agencies less willing to undertake enforcement activities. More importantly, changing the required standard of proof for a conviction would have the unintended effect of making any enforcement efforts essentially impossible. (As a practical matter, it is virtually impossible to prove that a clerk knew that they sold to a minor short of a voluntary confession on the part of the vendor. Moreover, changing the standard to "knowingly" may discourage clerks from checking ID at all—that way, they can claim they didn't know the customer's age.)

The standard of proof was changed to "knowingly" in the House Judiciary Committee as a result of increasing the penalty from a violation to a class A misdemeanor. CPKT does not believe a stronger penalty is necessary to reduce illegal sales to minors. What is needed is continuous, vigorous enforcement of the law. Merchants who sell tobacco to kids need to be caught, convicted, and punished with a fine and suspension of their license to sell tobacco. Such penalties are provided for by existing law.

The new Anchorage ordinance referred to earlier, which retains the "negligence" standard and commensurate penalties in existing state law, provides a good model for legislation that is both practical and effective.

**2. *Repeal of Tobacco Vending Machines Restrictions:*** Another unintended effect of CS SS HB 189 (JUD) as presently drafted would be to repeal current law restricting the placement of cigarette vending machines. In the bill, language in AS 11.76.100 regarding tobacco vending machines has been deleted, with no substitute language provided. The effect would be to remove restrictions that currently limit cigarette vending machines to "adult only" locations and employee break rooms. Studies have shown that young people commonly buy cigarettes from vending machines if the machines are not restricted to "adult only" locations.

If there is any change in existing law, it should only be to remove the exception currently allowed for placement of vending machines in "an employee break room or other controlled area of a private work place that is not generally considered a public place" from existing statute. The recent Anchorage ordinance banning self-service tobacco displays provides a good model, as it allows tobacco vending machines only in locations licensed by the state to sell liquor. Such an amendment in state law would remove vending machines from workplaces where young people are employed.

**3. *Current Loophole Allowing Underaged Youth to Sell Tobacco:*** Current state statutes are crafted in such a way as to inadvertently permit underaged youth to sell cigarettes (as vendors or clerks) to other underaged youth and not be subject to a violation. The legislation should be amended to address this concern as well.

**HB**

**245**

# SENATE COMMITTEE REPORT

DATE: 5/1/98

FURTHER: Finance

DATE TURNED IN TO OFFICE: 5/6/98

HESS Committee considered CS FOR HOUSE BILL NO. 245(RLS) am  
 DOMESTIC VIOLENCE ASSAULTS; PRISONER CONTACTS

and recommends:

- be replaced with S CS CS HB 245 (HES)
- adopt previous      CS
- attached amendment(s)
- adopt Letter of Intent by      Committee
- further referral to the      Committee

- Senate Bill:  
 same title  
 new title  
 House Bill:  
 same title  
 technical title  
 new: SCR#

SIGNING/DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Steven D. Lerman</i>	<input checked="" type="checkbox"/>	<i>Lyda Green</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>Amey We</i>	<input checked="" type="checkbox"/>	CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

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

Department	Date	Zero	Fiscal
Public Admin - Detender	3/27/98		***
Corrections	2/18/98		***
Public Admin - Advocacy	2/19/98	<input checked="" type="checkbox"/>	
Public Safety	2/19/98	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

Passed out as amended

CS FOR HOUSE BILL NO. 245(RLS) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Amended: 4/30/98

Offered: 3/31/98

Sponsor(s): REPRESENTATIVES DYSON, Berkowitz, Hodgins

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to assault in the fourth degree; relating to the definition of  
2 'crime involving domestic violence' in AS 11; relating to unlawful contact with a  
3 victim or witness; relating to rehabilitation programs for perpetrators of domestic  
4 violence; amending Rule 5(b), Alaska Rules of Criminal Procedure and Rule  
5 404(b), Alaska Rules of Evidence; and providing for an effective date."

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

7 \* Section 1. AS 11.56 is amended by adding a new section to read:

8 Sec. 11.56.750. Unlawful contact in the first degree. (a) A person commits  
9 the crime of unlawful contact in the first degree if the person

10 (1) has been ordered not to contact a victim or witness of the offense

11 as

12 (A) part of a sentence imposed under AS 12.55.015; or

13 (B) as a condition of

- 1 (i) release under AS 12.30;  
 2 (ii) probation under AS 12.55.101; or  
 3 (iii) parole under AS 33.16.150; and

4 (2) either directly or indirectly, knowingly contacts or attempts to  
 5 contact the victim or witness in violation of the order.

6 (b) Unlawful contact in the first degree is a class A misdemeanor.

7 \* Sec. 2. AS 11.56 is amended by adding a new section to read:

8 **Sec. 11.56.755. Unlawful contact in the second degree.** (a) A person  
 9 commits the crime of unlawful contact in the second degree if

10 (1) the person is arrested for a crime against a person under AS 11.41  
 11 or a crime involving domestic violence; and

12 (2) before the person's initial appearance before a judge or magistrate  
 13 or before dismissal of the charge for which the person was arrested, whichever occurs  
 14 first, the person initiates communication or attempts to initiate communication with the  
 15 alleged victim of the crime that was the basis for the person's arrest.

16 (b) Unlawful contact with crime victim is a class B misdemeanor.

17 \* Sec. 3. AS 11.56 is amended by adding a new section to read:

18 **Sec. 11.56.756. Definitions.** In AS 11.56.750 and 11.56.755,

19 (1) "victim" has the meaning given in AS 12.55.185; and

20 (2) "witness" has the meaning given in AS 12.61.900.

21 \* Sec. 4. AS 11.81.900(b) is amended by adding a new paragraph to read:

22 (60) "crime involving domestic violence" has the meaning given in  
 23 AS 18.66.990.

24 \* Sec. 5. AS 12.25.150(b) is amended to read:

25 (b) Immediately after an arrest, a prisoner shall have the right to telephone or  
 26 otherwise communicate with the prisoner's attorney and any relative or friend, and any  
 27 attorney at law entitled to practice in the courts of Alaska shall, at the request of the  
 28 prisoner or any relative or **friend** [FRIENDS] of the prisoner, have the right to  
 29 immediately visit the person arrested. **This subsection does not provide a prisoner**  
 30 **with the right to initiate communication or attempt to initiate communication**  
 31 **under circumstances proscribed under AS 11.56.755.**

1 \* Sec. 6. AS 12.55.015(a) is amended to read:

2           **Sec. 12.55.015. Authorized sentences; forfeiture.** (a) Except as limited by  
3 AS 12.55.125 - 12.55.175, the court, in imposing sentence on a defendant convicted  
4 of an offense, may singly or in combination

5           (1) impose a

6                   (A) fine when authorized by law and as provided in  
7 AS 12.55.035; or

8                   (B) day fine when authorized by law and as provided in  
9 AS 12.55.036 [,] if the court does not impose a term of periodic or continuous  
10 imprisonment or place the defendant on probation;

11           (2) order the defendant to be placed on probation under conditions  
12 specified by the court that may include provision for active supervision;

13           (3) impose a definite term of periodic imprisonment;

14           (4) impose a definite term of continuous imprisonment;

15           (5) order the defendant to make restitution under AS 12.55.045;

16           (6) order the defendant to carry out a continuous or periodic program  
17 of community work under AS 12.55.055;

18           (7) suspend execution of all or a portion of the sentence imposed under  
19 AS 12.55.080;

20           (8) suspend imposition of sentence under AS 12.55.085;

21           (9) order the forfeiture to the commissioner of public safety or a  
22 municipal law enforcement agency of a deadly weapon that was in the actual  
23 possession of or used by the defendant during the commission of an offense described  
24 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

25           (10) order the defendant, while incarcerated, to participate in or comply  
26 with the treatment plan of a rehabilitation program that is related to the defendant's  
27 offense or to the defendant's rehabilitation if the program is made available to the  
28 defendant by the Department of Corrections;

29           (11) order the forfeiture to the state of a motor vehicle, weapon,  
30 electronic communication device, or money or other valuables, used in or obtained  
31 through an offense that was committed for the benefit of, at the direction of, or in

1 association with a criminal street gang;

2 (12) order the defendant to have no contact, either directly or  
 3 indirectly, with a victim or witness of the offense until the defendant is  
 4 unconditionally discharged.

5 \* Sec. 7. AS 12.55.101(a) is amended to read:

6 (a) Before granting probation to a person convicted of a crime involving  
 7 domestic violence, the court shall consider the safety and protection of the victim and  
 8 any member of the victim's family. If a person convicted of a crime involving  
 9 domestic violence is placed on probation, the court may order the conditions  
 10 authorized in AS 12.55.100 and AS 18.66.100(c)(1) - (7) and (11), and may

11 (1) require the defendant to participate in and complete to the  
 12 satisfaction of the court one or more programs for the rehabilitation of perpetrators of  
 13 domestic violence that meet the standards set by, and that are approved by, the  
 14 Department of Corrections under AS 44.28.020(b) [,] if the program is available in the  
 15 community where the defendant resides; the court may not order a defendant to  
 16 participate in or complete a program for the rehabilitation of perpetrators of  
 17 domestic violence that does not meet the standards set, and that is not approved,  
 18 by the Department of Corrections under AS 44.28.020(b);

19 (2) require the defendant to refrain from the consumption of alcohol;

20 and

21 (3) impose any other condition necessary to protect the victim and any  
 22 members of the victim's family, or to rehabilitate the defendant.

23 \* Sec. 8. AS 12.55.135(c) is amended to read:

24 (c) A defendant convicted of assault in the fourth degree that is a crime  
 25 involving domestic violence committed in violation of the provisions of an order  
 26 issued or filed under AS 12.30.027 or AS 18.66.100 - 18.66.180 and not subject to  
 27 sentencing under (g) of this section [OR ISSUED UNDER FORMER AS 25.35.010  
 28 OR 25.35.020] shall be sentenced to a minimum term of imprisonment of 20 days.

29 \* Sec. 9. AS 12.55.135 is amended by adding new subsections to read:

30 (g) A defendant convicted of assault in the fourth degree that is a crime  
 31 involving domestic violence shall be sentenced to a minimum term of imprisonment

1 of

2 (1) 30 days if the defendant has been previously convicted of a crime  
3 against a person or a crime involving domestic violence;

4 (2) 60 days if the defendant has been previously convicted two or more  
5 times of a crime against a person or a crime involving domestic violence, or a  
6 combination of those crimes.

7 (h) If a defendant is sentenced under (g) of this section,

8 (1) execution of sentence may not be suspended and probation or parole  
9 may not be granted until the minimum term of imprisonment has been served;

10 (2) imposition of sentence may not be suspended;

11 (3) the minimum term of imprisonment may not otherwise be reduced.

12 (i) In this section,

13 (1) "crime against a person" means a crime under AS 11.41, or a crime  
14 in this or another jurisdiction having elements similar to those of a crime under  
15 AS 11.41;

16 (2) "crime involving domestic violence" has the meaning given in  
17 AS 18.66.990.

18 \* Sec. 10. AS 12.55.145(a) is amended to read:

19 (a) For purposes of considering prior convictions in imposing sentence under

20 (1) AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), or (i),

21 (A) a prior conviction may not be considered if a period of 10  
22 or more years has elapsed between the date of the defendant's unconditional  
23 discharge on the immediately preceding offense and commission of the present  
24 offense unless the prior conviction was for an unclassified or class A felony;

25 (B) a conviction in this or another jurisdiction of an offense  
26 having elements similar to those of a felony defined as such under Alaska law  
27 at the time the offense was committed is considered a prior felony conviction;

28 (C) two or more convictions arising out of a single, continuous  
29 criminal episode during which there was no substantial change in the nature of  
30 the criminal objective are considered a single conviction unless the defendant  
31 was sentenced to consecutive sentences for the crimes; offenses committed

1 while attempting to escape or avoid detection or apprehension after the  
 2 commission of another offense are not part of the same criminal episode or  
 3 objective;

4 (2) AS 12.55.125(l),

5 (A) a conviction in this or another jurisdiction of an offense  
 6 having elements similar to those of a most serious felony is considered a prior  
 7 most serious felony conviction;

8 (B) commission of and conviction for offenses relied on as prior  
 9 most serious felony offenses must occur in the following order: conviction for  
 10 the first offense must occur before commission of the second offense, and  
 11 conviction for the second offense must occur before commission of the offense  
 12 for which the defendant is being sentenced;

13 (3) AS 12.55.135(g).

14 (A) a prior conviction may not be considered if a period of  
 15 five or more years has elapsed between the date of the defendant's  
 16 unconditional discharge on the immediately preceding offense and  
 17 commission of the present offense unless the prior conviction was for an  
 18 unclassified or class A felony;

19 (B) a conviction in this or another jurisdiction of an offense  
 20 having elements similar to those of a crime against a person or a crime  
 21 involving domestic violence is considered a prior conviction;

22 (C) two or more convictions arising out of a single,  
 23 continuous criminal episode during which there was no substantial change  
 24 in the nature of the criminal objective are considered a single conviction  
 25 unless the defendant was sentenced to consecutive sentences for the crimes;  
 26 offenses committed while attempting to escape or avoid detection or  
 27 apprehension after the commission of another offense are not part of the  
 28 same criminal episode or objective.

29 \* Sec. 11. AS 12.55.145(c) is amended to read:

30 (c) The defendant shall file with the court and serve on the prosecuting  
 31 attorney notice of denial, consisting of a concise statement of the grounds relied upon

1 and that may be supported by affidavit or other documentary evidence, no later than  
2 10 days before the date set for the imposition of sentence if the defendant

3 (1) denies

4 (A) the authenticity of a prior judgment of conviction;

5 (B) that the defendant is the person named in the judgment;

6 (C) that the elements of a prior offense committed in this or  
7 another jurisdiction are similar to those of a

8 (i) felony defined as such under Alaska law;

9 (ii) most serious felony, defined as such under Alaska  
10 law;

11 (iii) crime against a person or a crime involving  
12 domestic violence;

13 (D) that a prior conviction occurred within the period specified  
14 in (a)(1)(A) or (3)(A) of this section; or

15 (E) that a previous conviction occurred in the order required  
16 under (a)(2)(B) of this section; or

17 (2) alleges that two or more purportedly separate prior convictions  
18 should be considered a single conviction under (a)(1)(C) or (3)(C) of this section.

19 \* Sec. 12. AS 12.55.145(d) is amended to read:

20 (d) Matters alleged in a notice of denial shall be heard by the court sitting  
21 without a jury. If the defendant introduces substantial evidence that the defendant is  
22 not the person named in a prior judgment of conviction, that the judgment is not  
23 authentic, that the conviction did not occur within the period specified in (a)(1)(A) or  
24 (3)(A) of this section, that a conviction should not be considered a prior felony  
25 conviction under (a)(1)(B) of this section, [OR] a prior most serious felony conviction  
26 under (a)(2)(A) of this section, or a prior crime against a person or a crime  
27 involving domestic violence conviction under (a)(3)(B) of this section, or that a  
28 previous conviction did not occur in the order required under (a)(2)(B) of this section,  
29 then the burden is on the state to prove the contrary beyond a reasonable doubt. The  
30 burden of proof that two or more convictions should be considered a single conviction  
31 under (a)(1)(C) or (3)(C) of this section is on the defendant by clear and convincing

1 evidence.

2 \* Sec. 13. AS 12.55.145 is amended by adding a new subsection to read:

3 (g) In this section,

4 (1) "crime against a person" has the meaning given in AS 12.55.135(i);

5 (2) "crime involving domestic violence" has the meaning given in

6 AS 18.66.990.

7 \* Sec. 14. AS 18.66.100(c)(15) is amended to read:

8 (15) order the respondent, at the respondent's expense, to participate in

9 (A) a program for the rehabilitation of perpetrators of domestic violence that meets the  
10 standards set by, and that is approved by, the Department of Corrections under

11 AS 44.28.020(b), or (B) treatment for the abuse of alcohol or controlled substances,

12 or both; a protective order under this section may not require a respondent to

13 participate in a program for the rehabilitation of perpetrators of domestic

14 violence unless the program meets the standards set by, and that is approved by,

15 the Department of Corrections under AS 44.28.020(b);

16 \* Sec. 15. AS 33.16.150(f) is amended to read:

17 (f) In addition to other conditions of parole imposed under this section, the

18 board may impose as a condition of special medical, discretionary, or mandatory parole

19 for a prisoner serving a term for a crime involving domestic violence (1) any of the

20 terms of protective orders under AS 18.66.100(c)(1) - (7); (2) a requirement that, at

21 the prisoner's expense, the prisoner participate in and complete, to the satisfaction of

22 the board, a program for the rehabilitation of perpetrators of domestic violence that

23 meets the standards set by, and that is approved by, the department under

24 AS 44.28.020(b); and (3) any other condition necessary to rehabilitate the prisoner.

25 The board shall establish procedures for the exchange of information concerning the

26 parolee with the victim and for responding to reports of nonattendance or

27 noncompliance by the parolee with conditions imposed under this subsection. The

28 board may not under this subsection require a prisoner to participate in and

29 complete a program for the rehabilitation of perpetrators of domestic violence

30 unless the program meets the standards set by, and is approved by, the

31 department under AS 44.28.020(b).

1 \* Sec. 16. AS 44.28.020(b) is amended to read:

2 (b) The department shall, with the approval of the Council on Domestic  
3 Violence and Sexual Assault, adopt standards, by regulation, for rehabilitation  
4 programs for perpetrators of domestic violence as defined in AS 18.66.990 and for the  
5 approval of those programs. For purposes of AS 12.55.101, AS 18.66.100(c), and  
6 AS 33.16.150(f), the department shall approve a program if the department  
7 determines that the [DETERMINE WHETHER A] program meets the standards.  
8 Upon application of a program, the department may waive one or more standards  
9 and approve the program if the department determines

10 (1) there is good cause for the waiver;

11 (2) the safety of victims and children is not compromised by the  
12 waiver;

13 (3) an acceptable alternative is provided by the program.

14 \* Sec. 17. Rule 5(b), Alaska Rules of Criminal Procedure, is amended to read:

15 (b) **Rights of Prisoner to Communicate With Attorney or Other Person.**  
16 Immediately after arrest, the prisoner shall have the right forthwith to telephone or  
17 otherwise to communicate with both an attorney and any relative or friend. Any  
18 attorney at law entitled to practice in the courts of Alaska, at the request of either the  
19 prisoner or any relative or friend of the prisoner, shall have the right forthwith to visit  
20 the prisoner in private. This subsection does not provide a prisoner with the right  
21 to initiate communication or attempt to initiate communication under  
22 circumstances proscribed under AS 11.56.755.

23 \* Sec. 18. Rule 404(b)(3), Alaska Rules of Evidence, is amended to read:

24 (3) In a prosecution for a crime of sexual assault in any degree,  
25 evidence of other sexual assaults or attempted sexual assaults by the defendant  
26 against the same or another person is admissible if the defendant relies on a  
27 defense of consent. In a prosecution for a crime of [OR] attempt to commit sexual  
28 assault in any degree, evidence of other sexual assaults or attempted sexual assaults  
29 by the defendant against the same or another person is admissible [IF THE  
30 DEFENDANT RELIES ON A DEFENSE OF CONSENT].

31 ~~\* Sec. 19. Rule 404(b)(4), Alaska Rules of Evidence, is amended to read:~~

1                   (4) In a prosecution for a crime involving domestic violence or of  
2 interfering with a report of a crime involving domestic violence, evidence of other acts  
3 of [CRIMES INVOLVING] domestic violence by the defendant against the same or  
4 another person or of interfering with a report of a crime involving domestic violence  
5 is admissible. In this paragraph, "domestic violence" and "crime involving domestic  
6 violence" have the meanings given in AS 18.66.990.

7 \* ~~Sec. 20.~~ AS 11.56.745(b) is repealed.

8 \* **Sec. 21.** AS 12.25.150(b), as amended by sec. 5 of this Act, amends Rule 5(b), Alaska  
9 Rules of Criminal Procedure, by limiting the people with whom a prisoner may communicate  
10 immediately after arrest.

11 \* **Sec. 22.** Sections 2, 5, and 17 of this Act take effect only if secs. 17 and 21 of this Act  
12 receive the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution  
13 of the State of Alaska.

14 \* **Sec. 23.** APPLICABILITY. (a) The changes made by secs. 5, 17, and 21 of this Act  
15 apply to persons arrested for offenses occurring before, on, or after the effective date of this  
16 Act.

17           (b) Sections 18 and 19 of this Act apply to a criminal or juvenile proceeding held on  
18 or after the effective date of secs. 18 and 19 of this Act regardless of whether the criminal  
19 offense occurred before, on, or after the effective date of secs. 18 and 19 of this Act.

20           (c) References to previous convictions in this Act apply to all convictions occurring  
21 before, on, or after the effective date of this Act.

22 \* **Sec. 24.** Sections 7 and 14 - 15 of this Act take effect on the later of (1) January 1,  
23 1999, or (2) six months after the effective date of the regulations adopted by the Department  
24 of Corrections under AS 44.28.020(b), as amended by sec. 16 of this Act, relating to the  
25 approval of rehabilitation programs for perpetrators of domestic violence. The lieutenant  
26 governor and the commissioner of corrections shall notify the revisor of statutes when the  
27 regulations are filed.

28 \* **Sec. 25.** Except for secs. 7 and 14 - 15, this Act takes effect immediately under  
29 AS 01.10.070(c).

FISCAL NOTE

No: 9

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

Bill Version: CSHB 245 (RLS)  
(H) Publish Date: 3/31/98

Revision Date: \_\_\_\_\_  
Title: "An Act relating to minimum sentences for assault  
in the fourth degree, a crime involving domestic violence..."  
Sponsor: Representative Dyson  
Requestor: (H) Rules

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Public Defender Agency  
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**
CAPITAL EXPENDITURES	**	**	**	**	**	**
CHANGE IN REVENUES ( )	**	**	**	**	**	**

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 98) cost: \$ 0

POSITIONS:

FULL-TIME	**	**	**	**	**	**
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached sheet.

Prepared by: Barbara K. Brink, Director  
Division: Public Defender Agency

Phone: (907) 264-4414  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover  
Agency: Department of Administration

Date: 3/31/98

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FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 245 (FIN)

1998 LEGISLATIVE SESSION

ANALYSIS: (continued)

This CS creates a new A misdemeanor crime if a person knowingly attempts to or directly or indirectly contacts a victim or witness in violation of a court ordered sentence, condition of release, probation or parole. It also creates a class B misdemeanor offense if a person initiates communication with the alleged victim of a domestic violence crime or crime against a person that was the basis of the prisoner's arrest.

This bill also creates mandatory minimum jail sentences for a person convicted of misdemeanor assault when it is "a crime involving domestic violence" and the person has a previous conviction within the last 5 years for any domestic violence crime or crime against a person (30 days if one prior; 60 days if 2 or more).

Mandatory minimum sentences remove the judges' ability to fashion an appropriate punishment given the seriousness of the harm, the rehabilitation potential of the defendant, the deterrent value and reaffirmation of societal norms. Such mandatory minimums create anomalies in the overall criminal sentencing scheme. Under this bill a person may be required to serve more jail time than if they had committed a serious felony crime. Such sentences discourage people from admitting their conduct due to the harsh and somewhat arbitrary consequences. Fewer people will admit their guilt, and more cases will proceed to (costly) jury trials.

Last year, according to Department of Law figures, the state prosecuted 1279 domestic assaults. The Municipality of Anchorage alone prosecuted an additional 1500. The estimates are that a good 30% - 50% of those cases involve repeat offenders, such that an even greater percentage of those would have a prior of any crime against a person. If even a small percentage of those cases which routinely settle go to trial, the financial burden placed upon the Public Defender is enormous. Additionally, it is unknown how many new cases will be generated under the prohibition against contact. Without the ability to predict those numbers, quantification is impossible although impact is certain.



FISCAL NOTE

No: 6

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

Bill Version: CSHB 245 (FIN)  
(H) Publish Date: 2/27/98

Revision Date: (Note if correction)  
Title: "An Act relating to minimum sentences for assault in the fourth degree, a crime involving domestic violence...."  
Sponsor: Representative Dyson  
Requestor: (H) FIN

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Office of Public Advocacy  
COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill does not fiscally impact the Office of Public Advocacy.

Prepared by: Brant McGee, Director  
Division: Office of Public Advocacy

Phone: (907) 269-3500  
Date:

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 2/19/98

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# FISCAL NOTE

No: 5

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

**BILL NO:** Bill Version: CSHB 245 (FIN)  
(H) Publish Date: 2/27/98

Revision Date: February 19 1998 Dept. Affected: Public Safety  
 Title: Domestic Violence Assaults; Prisoner contacts BRU: DPS Statewide Support  
 Sponsor: Representative Berkowitz Component: CDVSA  
 Requestor: House Finance COMPONENT SERIAL NO. 0521

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

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
-----------------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ( ) Revenue Code						
--	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

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

Estimate of current year (FY 98) 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.)**

No fiscal impact is anticipated.

Prepared By: Jayne Andreen Phone: \_\_\_\_\_  
 Division: Council on Domestic Violence and Sexual Assault Date: February 19, 1998  
 Approved by Commissioner: *Ronald L. Otte* Date: February 19, 1998  
 Agency: Ronald L. Otte, Dept. of Public Safety

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## MEMORANDUM

March 27, 1998

**SUBJECT:** Sectional Summary - CSHB 245( ) (Work Order No. 20-LS0450'Z)

**TO:** Representative Fred Dyson  
Attn: Lisa

**FROM:** Gerald P. Luckhaupt *GL*  
Legislative Counsel

You have asked for a sectional summary of the above-referenced bill. A sectional summary is not an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Sections 1, 2, 3, and 4 of the bill amend AS 11.56 (and add a definition to AS 11.81.900(b)) by creating new crimes that provide that a prisoner may not use the right to make a telephone call granted under AS 12.25.150(b) to contact the victim of or a witness to the prisoner's offense.

Section 5 of the bill limits an arrestee's right to use the telephone after arrest; provides that an arrestee may not call or otherwise contact the alleged victim or a witness.

Section 6 of the bill authorizes a court, when sentencing a defendant for a crime, to order the defendant to have no contact with the victim or witness of the offense

Sections 7, 14, 15, and 16 of the bill provide that domestic violence rehabilitation programs must be approved by the Department of Corrections.

Section 8 of the bill provides that this section only applies for sentencing purposes if AS 12.55.135(g) does not apply.

Section 9 of the bill establishes minimum sentences for persons engaging in domestic violence by violating AS 11.41.230, assault in the fourth degree, that is a crime involving domestic violence.

Section 10 of the bill amends AS 12.45.145(a) to provide when prior convictions may be considered for sentencing purposes under AS 12.55.135(g).



Alaska State Legislature

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Juneau, Alaska 99801-1182  
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Toll free (800) 342-2199

## REPRESENTATIVE FRED DYSON

### CSHB 245 (revised) Sponsor Statement

**"An Act relating to minimum sentences for assault in the fourth degree that is a crime involving domestic violence; providing that a prisoner may not contact the victim of the offense when provided access to a telephone or otherwise immediately after an arrest; and amending Rule 5(b), Alaska Rules of Criminal Procedure."**

HB 245 takes five important steps against Domestic Violence (DV).

First, it establishes graduated minimum sentences for domestic violence offenders. Just as the law recognizes the need to ratchet up penalties for drunk drivers, mandatory minimum sentences for repeat DV offenders delivers the message that Alaska does not tolerate the cycle of violence.

Second, HB 245 prevents defendants from contacting victims following arrest before arraignment, this includes their "one phone call". Victims groups and police departments throughout Alaska recognize this as another important step in the fight for victims' rights.

Third, this legislation creates the crime of "Unlawful Contact with a Crime Victim" which allows judges and prosecutors to better enforce restraining orders.

Fourth, it clarifies the original intent of the "1996 Domestic Violence Prevention and Victims Protection Act" intent with regard to batterer programs. The courts may not refer a batterer to a program unless it meets the Department of Corrections standards.

Finally, the bill allows evidence of other sexual assaults or attempted sexual assaults when prosecuting an attempt of sexual assault. It also unifies Rule 404 language by using the common Rule 404 language of "acts of domestic violence" which requires proof that the act had been committed. This will prevent any confusion on evidence inclusion, which has caused some judges to require a prior conviction and many other judges to require proof the act had been committed.

Many organizations have expressed approval of this legislation and appreciate your assistance in giving police and prosecutors needed tools to arrest Domestic Violence.

- E-mail -  
representative\_Fred\_Dyson  
@Legis.state.ak.us

- Internet -  
http://www.akrepublicans.org

# CORRECTION

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Section 5 of the bill limits an arrestee's right to use the telephone after arrest; provides that an arrestee may not call or otherwise contact the alleged victim or a witness.

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Section 10 of the bill amends AS 12.45.145(a) to provide when prior convictions may be considered for sentencing purposes under AS 12.55.135(g).

Representative Fred Dyson

March 27, 1998

Page 2

Sections 11 - 13 of the bill provide conforming changes to the change made in section 5 of the bill.

Section 17 of the bill amends Rule 5(b), Alaska Rules of Criminal Procedure, to provide a change that corresponds to the change made in secs. 1-4 and 5-6 of the bill.

Section 18 of the bill amends Rule 404(b)(3), Alaska Rules of Evidence, by providing that evidence of prior sexual assaults are admissible in a prosecution for (1) sexual assault only if the defendant relies on a defense of consent, and (2) attempted sexual assault.

Section 19 of the bill amends Rule 404(b)(4), Alaska Rules of Evidence, to specify that evidence of other "acts of" domestic violence are admissible in domestic violence prosecutions.

Section 20 of the bill provides a repealer.

Section 21 of the bill provides a notice section to announce that sec. 5 of the bill effects a court rule change.

Section 22 of the bill provides that secs. 2, 5 and 17 only take effect if those sections receive the two-thirds vote required under the Constitution for court rule changes.

Section 23 of the bill provides an applicability section.

Sections 24 and 25 of the bill provide effective dates.

GPL:jdr:glc

98-204.jdr



## REPRESENTATIVE FRED DYSON

### CSHB 245 (revised) Sponsor Statement

**"An Act relating to minimum sentences for assault in the fourth degree that is a crime involving domestic violence; providing that a prisoner may not contact the victim of the offense when provided access to a telephone or otherwise immediately after an arrest; and amending Rule 5(b), Alaska Rules of Criminal Procedure."**

**HB 245 takes five important steps against Domestic Violence (DV).**

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Third, this legislation creates the crime of "Unlawful Contact with a Crime Victim" which allows judges and prosecutors to better enforce restraining orders.

Fourth, it clarifies the original intent of the "1996 Domestic Violence Prevention and Victims Protection Act" intent with regard to batterer programs. The courts may not refer a batterer to a program unless it meets the Department of Corrections standards.

Finally, the bill allows evidence of other sexual assaults or attempted sexual assaults when prosecuting an attempt of sexual assault. It also unifies Rule 404 language by using the common Rule 404 language of "acts of domestic violence" which requires proof that the act had been committed. This will prevent any confusion on evidence inclusion, which has caused some judges to require a prior conviction and many other judges to require proof the act had been committed.

Many organizations have expressed approval of this legislation and appreciate your assistance in giving police and prosecutors needed tools to arrest Domestic Violence.

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**ALASKA NETWORK ON  
DOMESTIC VIOLENCE AND SEXUAL ASSAULT**  
130 Seward, Rm 501 Juneau, Alaska 99801 (907) 586-3650 (907) 463-4493fx

Comments HB245  
April 1998

The Alaska Network on Domestic Violence and Sexual Assault (Network) is the statewide coalition of community domestic violence and sexual assault intervention programs for Alaska.

**The Network supports HB245. The bill:**

\* Makes it unlawful for a person arrested for a crime against a person or a crime involving domestic violence to initiate communication or attempt to initiate communication with the alleged victim of the crime prior to the person's initial appearance before a judge or magistrate or before dismissal of the charge whichever occurs first.

\* Establishes minimum sentences for repeat dv convictions--30 days if the defendant has been previously convicted of a crime against a person or a crime involving domestic violence; 60 days if previously convicted two or more times of a crime against a person or a crime involving domestic violence, or a combination of those crimes.

The sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served; imposition of the sentence may not be suspended; and the minimum term or imprisonment may not otherwise be reduced.

\* Clarifies the intent of the DV Act requiring courts who choose to order perpetrators to rehabilitation programs to only order to programs that are approved by DOC.

\* Amends Court Rule 404(b)(3) to clarify that in a prosecution for a crime of sexual assault in any degree, evidence of other sexual assaults or attempted sexual assault by the defendant against the same or another person is admissible if the defendant relies on a defense of consent.

\* Amends Court Rule 404(b)(4) to read acts of domestic violence instead of [crimes involving] domestic violence to clarify what evidence can be presented in court against a defendant.

Please add your voice of support to HB245 and vote for its passage.

facsimile  
TRANSMITTAL

Packet  
02 245

**To:** The Honorable Fred Dyson

**Of:** Alaska State House of Representatives

**Fax:** 465-4587

**Pages:** 1, including this cover sheet.

**Date:** February 18, 1998

**Re:** CSHB 245, "An Act relating to minimum sentences for assault in the fourth degree that is a crime involving domestic violence; providing that a prisoner may not contact the victim of the offense when provided access to a telephone or otherwise immediately after an arrest; and amending Rule 5(b), Alaska Rules of Criminal Procedure"

Representative Dyson:

Thank you for sponsoring this bill. I have read through it and find that it will address problems experienced by victims of domestic violence which is a population our agency serves. It is also my hope that provisions of the bill also will aid in discouraging incidents of domestic violence.

If you would like any supporting information from our agency, please just let me know.

cc: House Finance Committee Members

FEB 19 1998

From the desk of...

Sandy Sameniago  
Executive Director  
Women In Crisis - Counseling & Assistance  
717 Ninth Avenue  
Fairbanks, AK 99701  
907-452-2293  
Fax 907-452-2613

February 19, 1998

Representative Fred Dyson  
State Capitol  
Room 428  
Juneau, Alaska 99801-1182

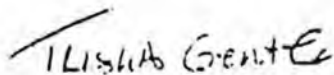
Dear Representative Dyson:

This letter is in support of House Bill 245, graduated penalties for repeat 4<sup>th</sup> degree assault domestic violence offenses and prohibiting a prisoner from contacting the victim of the offense immediately after an arrest. We appreciate your sponsoring this legislation.

STAR focuses mainly on the victims of sexual assault and sexual abuse. At the same time, the problem of domestic violence is a prevalent factor that many of our victims suffer from in addition to sexual violence. It is known that the offenders of domestic violence often continue their abuse while incarcerated via phone calls and other means of contact to keep tabs on the victim. By prohibiting the offender from making these contacts, we can take another step toward alleviating the suffering that victims of domestic violence live with.

We support the passing of House Bill 245, which is scheduled to be heard in House Finance on Thursday, February 19<sup>th</sup>. Thank you for sponsoring this bill, and feel free to contact me for further letters of support.

Sincerely,



Trisha Gentle  
Executive Director



1037 W. Firwood Ln, Suite 130  
Anchorage, Alaska 99503

Business 907/276-7277  
24 Hour Crisis 907/276-7273  
Toll Free 1-800-475-1999  
Fax 907/276-9983  
TTY 907/276-9988

2/19/98

Ms Debra A Pexa  
P.O. box 2467 Valdez  
Valdez AK. 99686 835-2999

Advocates for victims of violence

Supports

BILL#: HB 245 DOM. VIOL. ASSAULTS;PRISONER CONTACTS

MESSAGE: I SUPPORT HB245. OFTEN PERPETRATORS OF  
DOMESTIC VIOLENCE WILL CONTACT THEIR VICTIMS IN ORDER TO  
MANIPULATE OR THREATEN THEM. THIS BILL WOULD CREATE AN  
IMPORTANT PROTECTION FOR VICTIMS ALLOWING THEM TO STAY  
SAFE. THANKYOU FOR YOUR SUPPORT.  
DISTRIBUTION: 13

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**cc:Mail for: Representative Fred Dyson**

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**Subject:** jail space

**From:** ruawaic@aonline.com (Administration) at CC2MHS1 3/4/98 8:48 AM

**To:** Representative Fred Dyson at LAA\_TRANS

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Whereas, the mission of the Abused Women's Aid In Crisis is to teach people to live and love without violence  
and  
Whereas, domestic violence is a crime  
and  
Whereas, it is vital that Anchorage give its citizens a consistent message that domestic violence will not be tolerated  
and  
Whereas, the current shortage of jail space makes it unusual for the perpetrators of domestic violence to serve jail sentences  
Therefor, the Board of Director's of Abused Women's Aid In Crisis resolve to support the expansion of jail space for the Municipality of Anchorage.

Marj Blixhavn  
AWAIC Board President



Kenai-Soldotna Women's Resource & Crisis Center

March 31, 1998

Representative Fred Dyson  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Dyson:

We strongly support HB245. Thank you for taking action to further protect victims!

Sincerely,

Brenda G. Wieffering  
Executive Director

---

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**cc:Mail for: Representative Fred Dyson**

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**Subject:** CSHB245

**From:** ruawaic@aonline.com (Administration) at CC2MHS1 2/19/98 10:24 AM

**To:** Representative Fred Dyson at LAA\_TRANS

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February 17, 1998

**To:** Rep. Dyson

**From:** Jan MacClarence, Executive Director, AWAIC

I'd like to offer support for CSHB245, graduated penalties for repeat 4th degree assault dv offenses. I appreciate the serious approach that this bill takes to the issue of domestic violence. Section two's penalty for contacting the victim immediately after arrest is particularly important. Our shelter advocates witness continued harassment of victims from jail. Your bill will help us send a message that domestic violence is not acceptable in Alaska. Thank you.

**HB**

**256**

# SENATE COMMITTEE REPORT

DATE: 5/6/97

FURTHER:

DATE TURNED IN TO OFFICE: 5/7/97

Health, Education and Social Services Committee considered HOUSE BILL NO. 256 am

"An Act relating to calculation of the default rate for purposes of the student loan program and to regulation of postsecondary educational institutions; and providing for an effective date."

and recommends:

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

**Senate Bill:**

- | same title
- | new title
- House Bill:**
- | same title
- | technical change
- | new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>Kevin D. Luman</i>	✓		
<i>Lydia Green</i>	✓				
CHAIR: <i>Campbell</i>	✓				

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

Ak Cmsn Postsecondary	4/28/97	✓	

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

Department                      Date      Zero      Fiscal

→			

| APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# Alaska State Legislature

**Interim:**

145 Main Street Loop #223  
Kenai, Alaska 99611  
(907) 283-7095  
(907) 283-3075 (fax)  
(907) 262-7574 (h)

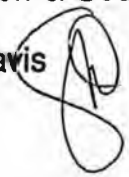
**Session:**

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

Representative Gary L. Davis

## MEMORANDUM

**TO:** Senator Gary Wilken, Chair  
Senate Health, Education & Social Services Committee

**FROM:** Representative Gary Davis 

**DATE:** May 5, 1997

**RE:** HB 256, "Regulation of Postsecondary Schools"

.....

I respectfully request that House Bill 256 be scheduled for a hearing at your earliest convenience.

House Bill 256 allows the Alaska Commission on Postsecondary Education to implement regulations to change the fee structure of schools applying for initial authorization to operate and renewal of authorization to operate. The Commission administers the Alaska Student Loan Program and ensures institutions operate within minimum standards.

Attached please find: Sponsor Statement  
Sectional Analysis  
Fiscal Note, DOE

Thank you for considering this legislation.

Representing House District 8  
Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward

# Alaska State Legislature

Interim:

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Session:

State Capitol  
Juneau, Alaska 99801  
(907) 465-2693  
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Representative Gary L. Davis

## SPONSOR STATEMENT

### HB 256

**"An Act relating to regulation of postsecondary educational institutions; and providing for an effective date."**

HB 256 allows the Alaska Commission on Postsecondary Education to establish, in regulation, fees for the authorization of institutions to operate in the State of Alaska. Current statute imposes a fee structure which the Commission must charge for each application for authorization to operate (\$100) or renewal for authorization to operate (\$100). The current fee structure does not come close to recouping the cost of this function.

Research of 25 similar state approving agencies indicated that rates varied but Alaska had one of the lowest fee schedules of the states surveyed. Through this bill the Commission would have the authority to develop a different method of charging institutions to recover the cost of this program.

The authorization function is primarily to protect students by ensuring institutions operate within minimum standards. These standards are developed and maintained, complaints are investigated and technical assistance is provided to postsecondary schools. The Commission also administers the Alaska Student Loan Program. This bill supports the Legislature's goals and the Administration's directive for state agencies to move toward a "fee for service" basis to fund government operations.

Representing House District 8  
Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. HB 256

Revision Date: \_\_\_\_\_

Dept. Affected: Education

Title: An act relating to regulation of postsecondary education institutions and providing for an effective date

BRU: Alaska Commission on Postsecondary Education

Component: Institutional Relations

Sponsor: Representative Gary Davis

Requester: HOUSE (HSS)

COMPONENT SERIAL NO. 212

**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						
<b>TOTAL OPERATING</b>	00.0	00.0	00.0	00.0	00.01	00.0
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGES IN REVENUES</b>	00.0	00.0	00.0	00.0	00.0	00.0

**FUNDING::**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1007 IA Program Fees	15.0	30.0	30.0	30.0	30.0	30.0
Other: Corp Receipts	(15.0)	(30.0)	(30.0)	(30.0)	(30.0)	(30.0)
<b>TOTAL</b>	00.0	00.0	00.0	00.0	00.0	00.0

Estimate of current year (FY97) cost: \$00.0

POSITIONS: None

FULL-TIME						
PART-TIME						
TEMPORARY						

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

The Corporation currently funds the Institutional Authorization (IA) activities from corporate receipts. Through this bill, the Commission would have the authority to develop a method of allocating these costs to beneficiaries of the program, the regulated public. Staff researched the schedules from 25 similar state approving agencies and found that rates varied from \$100 to \$6000. Alaska had the lowest fee schedule of all states surveyed. (Please see attached sheet)

Prepared by: Deborah Craig

Phone: 465-6749

Division: Alaska Commission on Postsecondary Education

Date: 4/28/97

Approved by Executive Director: Diane Barrans

Agency: Alaska Commission on Postsecondary Education

Date: 4/28/97

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