

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9576 SENATE JUDICIARY

213

SB

304

SENATE COMMITTEE REPORT

DATE: 3/20/98

FURTHER:

DATE TURNED
IN TO OFFICE: 3-25-98

Judiciary Committee considered SENATE BILL NO. 304

"An Act relating to regulation of highways and motor vehicles; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS SP 304 (TRA)
- 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# _____

P. 2916

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Lean Starnell</i>	X		
		<i>Mike Miller</i>	✓		
		<i>Kenace</i>	✓		
CHAIR: <i>Adrian Taylor</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>DGT/DF, COMMISSION</i>	<i>3-20-98</i>	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 1

B Bill Version: CSSB 304 (TRA)

(S) Publish Date: 3-20-98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Revision Date	Dept. Affected
Title	DOT&PF
and motor vehicles; & providing for an effective date	BRU Office of the Commissioner
Sponsor	Component
Senator Donley	Commissioner's Office
Requester	Component Serial No.
Senate Transportation	530

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	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

POSITIONS	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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	Dennis Poshard	Phone	465-3904
Division	Office of the Commissioner	Date	2/23/98
Approved by:	<i>Joseph L. Robinson</i> , Commissioner	Date	2/23/98
Agency	Department of Transportation and Public Facilities		

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SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

Sponsor Statement for CS for SB 304 (TRA)

Senate Bill 304 would double the fines for moving traffic violations in construction zones in an effort to protect highway construction workers. If passed, Alaska would join 26 other states which have increased sanctions for motorists who recklessly endanger the safety of roadway workers.

Work zone accidents and deaths have increased due to motorists speeding in highway construction zones. In 1994, work zone fatalities in the United States climbed to an all-time high when 833 people were killed. Senate Bill 304 imposes stiffer fines on motorists who disregard speeding laws in construction.

Additionally Senate Bill 304 adds a provision stating that drivers operating a motor vehicle on a divided highway may not drive in the far left lane unless;

- a) the person is overtaking another vehicle; or
- b) the person is making a left turn from the divided highway; or
- c) road or traffic conditions require driving in the left lane.

A person violating this provision would be subject to a fine of up to \$50. Encouraging drivers to stay to the right will improve traffic flow and increase the efficiency of divided highways.

DD/jja

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June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-1648

MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee
• Senate Community & Regional Affairs Committee

**Summary Table of Special Sanctions for Exceeding the
Speed Limit in Either a Construction or School Zone**

S T A T E	Sanctions for Speeding in a Construction Zone	Sanctions for Speeding in a School Zone
AK		Six (6) points are assessed on a person's record for exceeding the speed limit in school zone.
AR		1st offense: Jail - 1 to 10 days/fine - \$25 to \$100 2nd offense (within 1 year): Jail - 5 to 25 days/fine - \$50 to \$250 Subsequent offense (within 1 year): Jail -25 days to 6 months/fine - \$250 to \$1,000 3rd offense (within 1 year): License suspension for 1 year.
D (CO)	If a speeding offense occurs in a construction zone, the designed fine is double the usual amount.	
D (CT)	If a speeding offense occurs in a construction zone, the designed fine is double the usual amount.	
D (FL)	If a speeding offense occurs in a construction zone, the designed fine is double the usual amount.	If a speeding offense occurs in a construction zone, the designed fine is double the usual amount.
O GA	Jail - not more than 12 months/fine - \$100 to \$2,000	
O IL	There is a minimum fine of \$150.	There is a minimum fine of \$150.
D (IA)	The fine is double the amount in the fine schedule.	
D (KS)	The fine is double the usual amount.	
D (KY)	If a speeding offense occurs in a construction zone, the designed fine is double the usual amount.	
D (MI)	A fine is double that prescribed by law.	Imprisonment for not more than 90 days and a fine that is double that prescribed by law (i.e., not >\$200).
		A surcharge is assessed

0	MN	A surcharge is assessed which equals the fine. However, the surcharge cannot be <\$25.	which equals the fine. However, the surcharge cannot be <\$25.
0	MS	For exceeding the posted speed limit in a "highway work zone," there is a fine of no more than \$250.	
0	MO	For speeding in a construction zone, a person is assessed an additional fine of \$35.	
D	MT	If a speeding offense occurs in a construction zone, the designed fine is double the usual amount.	
D	NE	If a speeding offense occurs in a construction zone, the designed fine is double the usual amount.	If a speeding offense occurs in a school crossing zone, the designed fine is double the usual amount.
D	NV	There is an additional sanction which is equal to the original sanction imposed for exceeding such limit. Imprisonment sanctions for the original and additional sanctions must run consecutively. However, the combined sanctions cannot exceed 6 months of imprisonment, \$1,000 or 120 hours of community service.	
D	NJ	The fine is double the usual amount.	
0	NY	Exceeding the speed limit <30MPH: Fine -\$60 to \$100. Exceeding the speed limit >30MPH but <30MPH: Jail - Not more than 30 days/fine -\$100 to \$120. Exceeding the speed limit >30MPH: Jail - not more than 30 days/fine - \$240 to \$400 For a 2nd offense (within 18 months) for any of the above offenses, the fine is increased by \$100. For a subsequent offense (within 18 months) for any of the above offenses, the fine is increased by \$250.	
0	NC	There is a mandatory \$100 fine.	There is a mandatory \$25 fine and 3 points are assessed against a person's driving record.
0	ND	Fee schedule for exceeding the speed limit by 1 to 10 MPH - \$40. Fee schedule for exceeding the speed limit by >10 MPH - \$40 plus \$1 for each MPH over 10 MPH.	
D	OH	If a speeding offense occurs in a construction zone, the designed fine is double the usual amount.	
D	PA	If a speeding offense occurs in a construction zone, the designed fine is double the usual amount.	Exceeding the speed limit in a school zone - \$35 plus \$2 for every MPH in excess of 5 MPH.
D	SD	If a speeding offense occurs in a construction zone, the designed fine is double the usual amount.	

<p>0</p> <p>TN</p>	<p>For speeding in a construction zone, a person is subject to a fine from \$250 (mandatory) to \$500.</p> <p>The following points have been assigned for speeding in a construction zone: Speeding violations where the vehicle's speed was not noted on the citation - 3 points; exceeding the speed limit 1 through 5 MPH - 2 points; exceeding the speed limit 6 through 15 MPH - 6 points; exceeding the speed limit 16 through 35 MPH - 7 points; and, exceeding the speed limit by 36 or more MPH - 8 points.</p> <p>The following points have been assigned for speeding in a construction zone by a commercial vehicle: Speeding violations where the vehicle's speed was not noted on the citation - 4 points; exceeding the speed limit 1 through 5 MPH - 2 points; and, exceeding the speed limit 6 through 14 MPH - 5 points.</p>	
<p>D</p> <p>(TX)</p>	<p>If a speeding offense occurs in a construction zone, the minimum and maximum fines are doubled.</p>	
<p>0</p> <p>VA</p>	<p>The fine for exceeding the speed limit in a construction zone is not more than \$250.</p>	<p>The fine for exceeding the speed limit in a school crossing zone is not more than \$250.</p>
<p>WA</p>		<p>There is a mandatory fine for exceeding the speed limit in a school zone which is double the normal amount.</p>
<p>WV</p>		<p><u>1st or subsequent offense:</u> Fine - \$100 to \$500 <u>Subsequent offense (within 2 years):</u> Jail - not more than 6 months.</p>
<p>D</p> <p>(WI)</p>	<p>If a speeding offense occurs in a construction zone, the designed fine is double the usual amount.</p>	<p><u>1st offense:</u> Fine - \$40 to \$300 <u>Subsequent offense:</u> Fine - \$80 to \$600.</p>

**SUMMARY TABLE OF SPECIAL SANCTIONS FOR EXCEEDING THE
SPEED LIMIT IN EITHER A CONSTRUCTION OR SCHOOL ZONE**

STATE	SANCTIONS FOR SPEEDING IN A CONSTRUCTION ZONE	SANCTIONS FOR SPEEDING IN A SCH
AK		Six (6) points are assessed on a person's record for excc school zone.
AR		<p>1st offense: Jail-1 to 10 days jail/fine-\$25 to \$100</p> <p>2nd offense (within 1 year): Jail-5 to 25 days/fine-\$50 t (within 1 year): Jail-25 days to 6 months/fine-\$250 to \$</p> <p>3rd offense (within 1 year): License suspension for 1 ye</p>
D CT	If a speeding offense occurs in a construction zone, the designed fine is <u>double</u> the usual amount.	
D FL	If a speeding offense occurs in a construction zone, the designed fine is <u>double</u> the usual amount.	If a speeding offense occurs in a school zone, the design usual amount.
O GA	Jail-not more than 12 months/fine-\$100 to \$2,000	
O IL	There is a minimum fine of \$150.	There is a minimum fine of \$150.
D KY	If a speeding offense occurs in a construction zone, the designed fine is <u>double</u> the usual amount.	
MI		Jail-not more than 90 days/fine-not more than \$100
O MO	For speeding in a construction zone, a person is assessed an additional fine of \$35.	
D NE	If a speeding offense occurs in a construction zone, the designed fine is <u>double</u> the usual amount.	
O NY	<p><u>Exceeding the speed limit 10 MPH:</u> Fine-\$60 to \$100</p> <p><u>Exceeding the speed limit >10 MPH but <30 MPH:</u> Jail-Not more than 30 days/fine-\$120 to \$100</p> <p><u>Exceeding the speed limit >30 MPH:</u> Jail-Not more than 30 days/fine-240 to \$400</p> <p>For a 2nd offense (within 18 months) for any of the above offenses, the fine is increase by \$100.</p> <p>For a subsequent offense (within 18 months) for any of the above offenses, the fine is increase by \$250.</p>	

D	ND Fee schedule for exceeding the speed limit by 1 to 10 MPH-\$40 Fee schedule for exceeding the speed limit by >10 MPH-\$40 plus \$1 for each MPH over 10 MPH	
D	(OH) If a speeding offense occurs in a construction zone, the designed fine is <u>double the usual amount.</u>	
D	(PA) If a speeding offense occurs in a construction zone, the designed fine is <u>double the usual amount.</u>	Exceeding the speed limit in a school zone-\$35 plus \$2 of 5 MPH
D	(SD) If a speeding offense occurs in a construction zone, the designed fine is <u>double the usual amount.</u>	
O	TN For speeding in a construction zone, a person is subject to a fine of from \$250 to \$500. If the offense occurred while operating a commercial vehicle, 2 to 5 points are added to the person's driving record	
	VA The fine for exceeding the speed limit in a construction zone is not more than \$250.	
	WV	<u>Subsequent offense (within 2 years):</u> Jail-not more than <u>1st or subsequent offense:</u> Fine-\$100 to \$500
D	(WI) If a speeding offense occurs in a construction zone, the designed fine is <u>double the usual amount.</u>	<u>1st offense:</u> Fine-\$40 to \$300 <u>Subsequent offense:</u> Fine-\$80 to \$600



Washington State
Department of Transportation



Washington

Work Zone Safety Legislation

WORK ZONE SAFETY LEGISLATION GIVES WORKERS ADDED PROTECTION

"All it takes is one careless motorist and in the blink of an eye, many lives can be tragically changed forever"... These were the words of Tammy Malone, widow of WSDOT/Northwest Region engineer Michael D. Malone, as she testified in support of work zone safety measures before the Senate Transportation Committee on January 18, 1994. Her husband, Mike Malone, was killed after being struck by a drunk driver last June while working on Interstate 5 in Seattle.

Also testifying was Pat Forinash who was struck by a driver going 65 mph through a work zone in Seattle in August, 1993. He experienced first hand how current safety measures have failed to protect workers from drivers who show blatant disregard for other people's well being, or from drivers who are under the influence of alcohol or other substances or both. "Highway workers no longer wonder whether or not they will be injured by a driver or their passengers. Rather we wonder when and how badly," said Forinash.

As a result of the increasing numbers of work zone accidents, a new law was enacted by the Legislature in 1994 aimed at protecting highway workers. The two major provisions of the law are doubled fines for speeding in work zones and provisions for citing persons who drive negligently in work zones for endangerment of roadway workers.

Statewide, traffic collision reports indicate 17,297 incidents were reported within construction work zones from January 1, 1991 to June 30, 1996. These incidents included 12,184 injuries and 69 fatalities.

WSDOT's Work Zone Safety Task Force convened in September 1993 to study the problem. They found that drivers speeding through work zones created a substantial risk of injury or death to flaggers and other construction crew workers within highway work zones.

This new protective legislation, combined with the task force's 27 other recommendations, will ultimately lead to safer work zones and fewer injuries and deaths for WSDOT personnel. Task force recommendations call for increased and improved worker protection, operating procedures, worker and contractor training and incident reporting.

Some of those improvements will come through the use of innovative work zone safety devices, such as water-filled barriers, truck-mounted attenuators and movable barriers. Other changes include making workers' clothing more visible, using more law enforcement vehicles at work sites, and closely monitoring traffic control operations to make sure unneeded barrels and signs are removed. An added emphasis on safety in the work zone is also being provided for employees at district safety meetings.

Another major part of the work zone safety program is the Washington "Give 'em a Brake" public education campaign. Entering into its fifth year, the campaign will focus on developing a "partnering" agreement with the traveling public. Busboards, media packets, radio and television

public service announcements will be used to develop driver appreciation for what goes on in a construction work zone from a safety standpoint. In return, the department will keep the public informed of work, while minimizing delays by using various techniques to expedite work.

As construction and maintenance activities gear up, we can all do our part to raise awareness of safety in the work zones. Talk to your neighbors and friends. Write a letter to the editor. Let them know we are out there doing an important job and that we matter. If you have a good idea for spreading the word that you want to share, contact the Eastern Region Public Information Office at (509)324-6015 or Headquarters Communications in Olympia at (360)705-7075.

(This story was written by Ann Briggs of the WSDOT Olympic Region Communications Office.)

Washington State Department of Transportation/Eastern Region
2714 N. Mayfair St.
Spokane, WA 99207
(509)324-6000

[Top of page](#)

Last updated: May 05, 1997



Texas Department of Transportation

Texas

FOR IMMEDIATE RELEASE, June 17, 1997

Speeding in work zones becomes costlier with passage of new state law

(Austin, Texas) — Motorists who blatantly disregard construction laws will have to ante up more money for their transgressions. Under House Bill 981, which passed this last legislative session, fines will double for speeding in construction zones or ignoring warning signs. That means that motorists who don't obey posted construction warning signs could pay as much as \$400 for the offense. And for highway construction workers, the news couldn't have come at a better time, say officials with the Texas Department of Transportation (TxDOT).

"Summer is probably our busiest time since a lot of our road way construction and maintenance is done in the warmer, drier months. That's also the time more Texans are on the roadways traveling. Each year between May and August, on-the-job accidents and injuries at TxDOT increase significantly. HB 981 is just one more tool we can use to better our workers' chances of being safe on the roadway," said Bill Burnett, executive director for TxDOT. Burnett and Rep. Clyde Alexander were on hand in Athens today for the first unveiling in the state of a new work zone warning sign that will be posted in construction work zones. Rep. Alexander, as chairman of the House Transportation Committee, authored the legislation.

Instead of the usual "Observe Warning Signs" that motorists typically see in construction zones, the new 3 feet by 6 feet "Traffic Fines Double" sign will greet drivers as they enter work zones. The signs, which bear the typical construction orange and black, are strikingly different from most construction signs. They, according to Rep. Alexander, carry more punch.

"Call it friendly caution from the state to speeders: you've been warned. The next time you speed in a construction zone or ignore a construction warning, it's going to cost you," said Rep. Alexander.

Although the signs were unveiled today, enforcement won't begin until January, the effective date of the legislation. The early posting of the signs, Burnett said, are simple reminders to the public of the importance of the law.

In 1995, there were 9,337 work-zone accidents in Texas, claiming the lives of 112 Texans. More than 19 percent of those accidents were caused by drivers either speeding or driving too fast for conditions.

"Everyday our workers put their lives on the line to make Texas roads better, to help Texans get to their destinations. All we want in return is to work in a safe environment. We don't think that's asking too much," Burnett said.

For more information, call Randall Dillard, (512)463-9896.

TxDOT Phone Numbers

TxDOT Home Page

Give Us a Brake!



Slow down and save a life.

Meet Homer. He's your typical kind of guy. He's your neighbor, your friend, your relative. Every day Homer puts on his flashy orange vest, hard hat and steel-toed boots to protect himself from the dangers he faces at work. Homer is a highway worker. Orange signs, flashing yellow warning lights and winding lanes mark the area that Homer calls his "office." Construction work zones are perceived by motorists as inconvenient, but for highway workers like Homer, they are a way of life. Highway workers know how to make construction work zones safe for motorists and themselves, but Homer needs your help.

Slow down and save a life.

Work zones are designed to keep travelers and workers safe on Texas roads. When motorists fail to obey traffic signs in work zones, both highway workers and motorists can lose.

Slow down and save a life.

Imagine going to work each morning knowing you are putting your life on the line. In 1994, 89 fatal work-zone accidents occurred on Texas highways. The increasing rate of work-zone accidents has cost hundreds of Texas highway workers and motorists their lives.

So drive smart - slow down and save a life.

Highway workers put their lives on the line to improve roads that make your trip safer, faster and more enjoyable. They join Homer in his plea for motorists to slow down and save a life: **Give Us A BRAKE!**

Don't speed.

Observe orange work-zone warning signs calling for reduced speed. Eighteen percent of work-zone accidents are caused by motorists driving too fast for conditions.

Keep a safe distance from the vehicle in front of you.

Most accidents in work zones involve rear-end collisions.

Stay alert.

Keep your eyes peeled for orange work-zone traffic signs. Pay attention to flaggers in orange vests directing traffic.

Be patient.

Traffic delays in work zones are unavoidable as improvements are made to Texas roads. Patience can prevent accidents.

Highway work-zone accident facts

- High speed causes 18 percent of accidents
- Most accidents occur in July
- Most accidents occur on a Friday
- Most accidents occur between 5 and 6 p.m.

For information about work zone safety, contact the TxDOT office nearest you.

[TxDOT Phone Numbers]



Virginia Department of Transportation

General Information

HOME

See Orange? Slow Down!

At any time, Virginia Department of Transportation crews or their contractors are working on more than 300 highway construction and maintenance projects across the Commonwealth.

Each year, hundreds of motorists are injured or killed in Virginia highway work zone accidents. Don't become another statistic. When you drive on Virginia's highways, look for the color orange, which marks highway improvement projects.

As you approach one of these work zones, proceed with caution and drive at the posted speed. Exceeding the speed limit in a Virginia highway work zone carries fines of up to \$250.

Keep an eye out for highway workers and "Give 'em a Brake!"

For the locations of major ongoing highway projects through which you could experience delays, go to the map and listing of current highway construction projects. The map pinpoints locations of selected highway construction and maintenance work areas on major highway corridors in Virginia.

Do you have questions about road construction in Virginia? Refer to the Transportation Directory for more information sources.

Return to [VDOT Home Page](#)



SB

306



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

Sponsor Statement for CS Senate Bill 306 "Tax Deductions for Custodial Parents"

CS Senate Bill 306 would prohibit courts from unconditionally granting non-custodial parents a tax exemption for their child in a divorce, legal separation, dissolution, or annulment. This prevents a parent who is in arrears of child support from unfairly claiming an exemption for a child they are not supporting. Currently many custodial parents are being unfairly denied legitimate tax deductions because of a prior agreement in the child support order. Presently, federal law automatically grants the exemption to the custodial parent, which is determined by the actual amount of time that the parent has custody of the child.

This legislation does allow for the court to conditionally grant a tax exemption to the non-custodial parent for a tax year if the non-custodial parent is in compliance with federal law and also not in arrears of more than four months of their support payments or payment schedule of support payments. Four months is an existing standard for revocation of licenses used by the State Board of Licensing and is defined in AS 25.27.244q(6).

This legislation also requires the Child Support Enforcement Agency provide the payee with a document certifying that the payer was indeed in arrears under AS 25.27.244q(6).

This legislation only applies to future support orders and cannot be retroactive.

DD/ljh

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June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-1648

MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee
• Senate Community & Regional Affairs Committee

Produced in House

Revision Date: _____ Dept. Affected: Revenue
 Title: Tax Exemptions in Child Support Cases BRU: Child Support Enforcement Division
 Component: Child Support Enforcement Division
 Sponsor: Senator Donley
 Requestor: (S) HES COMPONENT SERIAL NO. 111

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	12.2	12.2	12.2	12.2	12.2	12.2
TRAVEL						
CONTRACTUAL	7.2	7.2	7.2	7.2	7.2	7.2
SUPPLIES						
EQUIPMENT	6.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	25.4	19.4	19.4	19.4	19.4	19.4
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	16.8	12.8	12.8	12.8	12.8	12.8
1003 GF Match						
1004 GF	8.6	6.6	6.6	6.6	6.6	6.6
1001 CBRF						
1048 University of AK receipts						
Other						
TOTAL	25.4	19.4	19.4	19.4	19.4	19.4

Estimate of any current year cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Senate Bill 306 would amend AS 25.27. The amendment would mandate that the Child Support Enforcement Division (CSED) certify, in writing, whether the case obligor is in arrears more than four times the monthly obligation, regardless of whether or not a payment schedule has been established. The information must be available to the custodial parent within 30 days of submitting a written request to obtain it. Rule 90.3, Alaska Rules of Civil Procedure would then be amended to entitle the custodial parent to claim the child(ren) as dependents for federal tax purposes (assuming they are entitled to do so under federal law and assuming accumulated arrearages in excess of four months.)

Prepared by: Barbara Mikos, Director
 Division: Child Support Enforcement Division
 Approved by Commissioner: Wilson L. Condon
 Agency: Revenue

Phone: 269-6800
 Date: February 20, 1998
 Date: February 20, 1998

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SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

Sponsor Statement for CS Senate Bill 306 "Tax Deductions for Custodial Parents"

CS Senate Bill 306 would prohibit courts from unconditionally granting non-custodial parents a tax exemption for their child in a divorce, legal separation, dissolution, or annulment. This prevents a parent who is in arrears of child support from unfairly claiming an exemption for a child they are not supporting. Currently many custodial parents are being unfairly denied legitimate tax deductions because of a prior agreement in the child support order. Presently, federal law automatically grants the exemption to the custodial parent, which is determined by the actual amount of time that the parent has custody of the child.

This legislation does allow for the court to conditionally grant a tax exemption to the non-custodial parent for a tax year if the non-custodial parent is in compliance with federal law and also not in arrears of more than four months of their support payments or payment schedule of support payments. Four months is an existing standard for revocation of licenses used by the State Board of Licensing and is defined in AS 25.27.244q(6).

This legislation also requires the Child Support Enforcement Agency provide the payee with a document certifying that the payer was indeed in arrears under AS 25.27.244q(6).

This legislation only applies to future support orders and cannot be retroactive.

DD/ljh

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
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MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee
• Senate Community & Regional Affairs Committee

Produced in House

SB

307

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/16/98

FURTHER:

Date of 5-Day Notice: 2-26-98
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3-2-98

Judiciary Committee considered

SENATE BILL NO. 307

"An Act relating to conditions for filling vacancies in the office of United States senator; 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 title

new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Mike Miller</i>	<input checked="" type="checkbox"/>	<i>Mark Powell</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>Adrian I. Taylor</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

<i>Gov's Office/Execut</i>	<i>3-2-98</i>	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 1
Bill Version: SB307
(S) Publish Date: 3/3/98

Revision Date (Note if correction) _____ Dept. Affected Office of the Governor
 Title Filling vacancies in the office of United BRU Elective Operations
 States senator _____ Component Elections
 Sponsor Senator Halford
 Requester Senate Judiciary Committee Component Serial No. #21

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Gail Fenumiai *Gail Fenumiai* Phone 465-3935
 Division Division of Elections Date 3/2/98
 Approved by C Lt. Governor Fran Ulmer *Fran Ulmer* Date 3/2/98
 Agency Office of the Lieutenant Governor

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DRAFT

Appointments to fill vacancies in the the United States Senate. A historical perspective.

SB 135 (SLA 1967 Ch. 139) was introduced on February 21, 1967 by the late Senator John Butrovich. The original version of this bill *repealed* the requirement that a person appointed to fill a congressional vacancy be a member of the same party as the successor. On February 23, 1967 the Senate State Affairs Committee amended the bill, limiting it to appointments to fill vacancies to the United States Senate. The U.S. House of Representatives requires that vacancies be filled by special elections. Procedures for those elections are determined by individual states.

On March 28, 1967 the senate adopted SB 135 by a vote of 14-6. Immediately after passage of SB 135 the Senate recessed to meet in a joint session with the House to hear an address by U.S. Senator E.L. (Bob) Bartlett.

On March 30, 1967 the House State Affairs Committee approved SB 135. The bill came before the House on April 3, 1967. It was adopted by a vote of 25-15.

SB 135 was transmitted to Governor Hickel on April 5, 1967. On April 25, 1967 Governor Hickel informed the Senate that he had allowed SB 135 to become law without his signature.

On December 24, 1968 State Representative Ted Stevens (R-Anchorage) was appointed to fill the vacancy caused by the death of U.S. Senator E.L. Bartlett (D-Alaska).*

*While being treated for a serious illness in a Cleveland, Ohio hospital Senator Bartlett told his physicians that they had a special responsibility to keep him alive because the Republicans in Alaska had passed a law which would allow them to replace him with a Republican. From Senator E.L. (Bob) Bartlett of Alaska, Claus Naske (1980 University of Washington Press)

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB307

Revision Date (Note if correction) _____	Dept. Affected <u>Office of the Governor</u>
Title <u>Filling vacancies in the office of United</u>	BRU <u>Elective Operations</u>
States senator _____	Component <u>Elections</u>
Sponsor <u>Senator Halford</u>	
Requester <u>Senate Judiciary Committee</u>	Component Serial No. <u>#21</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

POSITIONS	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by <u>Gail Fenumiai</u> <i>Gail Fenumiai</i>	Phone <u>465-3935</u>
Division <u>Division of Elections</u>	Date <u>3/2/98</u>
Approved by C <u>Lt. Governor Fran Ulmer</u> <i>Fran Ulmer</i>	Date <u>3/2/98</u>
Agency <u>Office of the Lieutenant Governor</u>	

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600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 376-4958

Sponsor Statement

Senate Bill 307

"An Act relating to conditions for filling vacancies to the office of United States senator"

Under current law, when a United State senate seat becomes vacant before the term is served, there is no requirement that the vacancy be filled by a person of the same party of the previous occupant. As a result, a governor may appoint whomever they choose, without regard to the position expressed by the voters in the previous election.

Passage of SB 307 would establish a requirement that the person appointed by the governor to fill a vacancy in the office of United States senator shall be of the same political party as that which nominated the predecessor in office. This amendment to AS 15.40.010 would bring the conditions for filling a vacancy for the office of United States senator in line with the requirements for filling vacancies for the offices of the state representative and state senator.

By changing this statute we can; as the states of Hawaii, Arizona and Utah have already done; ensure that the will of the voters, as expressed in the previous election, would not be subverted through the appointment of a person of a different party and philosophy than the individual the appointee is replacing.

S B

3 1 2

SENATE COMMITTEE REPORT

DATE: 4/8/98

FURTHER:

DATE TURNED
IN TO OFFICE: 5-2-98

Judiciary Committee considered SENATE BILL NO. 312

"An Act relating to animals, to food, to pest control, and to the Alaska Food, Drug and Cosmetic Act; 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 title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>J. Elias</i>	X	<i>Ken Samuell</i>			
CHAIR: <i>John Taylor</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
DEC-ENVIR. HEALTH	3-9-98	✓	
DN R - AG. DEVEL.	3-10-98	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill



April 4, 1998

Senator Gary Wilken
Alaska State Senate
Room 510, Capital Building
Juneau, Alaska 99801

Re: SB 312

Dear Senator Wilken,

NorQuest Seafoods, Inc., operates shore plants in four separate locations in Alaska, and we also operate floating processors in the herring, salmon and opilio crab fisheries.

I have reviewed SB 312, which would if enacted consolidate all of Alaska's food related statutes into AS 17.20. The bill would also amend the State's definition of a "critical control point" to coincide with that used by the Food and Drug Administration. A "critical control point" is a central concept under the HACCP (Hazard Analysis and Critical Control Point) system of ensuring safe food production, and therefore its definition should be similar for State and Federal purposes.

Our company supports this consolidation of statutes, and we appreciate very much having the State's definition and the Federal definition of a critical control point being the same. This will reduce confusion and avoid the possibility of unintended discrepancies between State and Federal rules.

I appreciate your support in moving SB 312 towards enactment.

Respectfully,

A handwritten signature in cursive script, appearing to read "John Garner".

John Garner
Senior Vice President

NorQuest Seafoods, Inc.

4225-23rd Avenue West • Seattle, Washington 98199
Telephone: (206) 281-7022 • Fax: (206) 285-8159

Crusader Fisheries • Lafayette Fisheries • Silver Lining Seafoods

PUBLIC COMMENT



Eyak Packing Company

Cannery Direct Mail Order
Smoked & Canned Alaska Salmon of Finest Quality

RECEIVED
MAR 13 1998

3-4-98

To/ The Honorable Gary Wilken
ALASKA State Senate
Room 510, Capitol Building
Juneau Alaska 99801

RE : SB 312

Dear Senator Wilken :

I support the above referenced bill. I have owned & operated a small salmon cannery since 1983 and am always dealing with food related rules & regulations; the more concise & clearly the rules are spelled out, the easier they are to understand & follow.

The "one-definition-for-all" of "critical control point" is also a good idea. Who knows; simpler rules might encourage more people to start food processing businesses & we'll see more jobs generated.



Sincerely,
Gerald
Marolini

PACIFIC ALASKA SHELLFISH, INC

**P. O. Box 7498
Nikiski, Alaska 99635**

March 5, 1998

**The Honorable Gary Wilken
Alaska State Senate
Room 510, Capitol Building
Juneau, AK 99801**

Re: SB 312

Dear Senator Wilken:

As Vice President and General Manager of Pacific Alaska Shellfish, Inc., I have reviewed the above-referenced bill which would consolidate all of Alaska's food related statutes into AS 17.20, Alaska's Food, Drug and Cosmetics Act and would like to voice my support for its passage.

It makes a lot of good sense to have all statutes dealing with food processing rolled into one statute. I also appreciate the bill amending the state's definition of "critical control point" to be the same as the Food and Drug Administration's.

Sincerely,


**Jerry B. Cartee
V.P. & GM**

P

Scott Walther
Colony Gourmet Kitchen
Wasilla, Ak 99654
907-373-1144

HC 32 Box 6685W

The Honorable Gary Wilken
Alaska State Senate
Room 510, Capitol Building
Juneau, AK 99801

~~2-27-98~~

RE: SB 312

Dear Senator Wilken,

I am a small seafood processor here in Alaska and I had the opportunity to review SB 312. I would assume that there would be little or no opposition to this housecleaning legislation. It will obviously make comprehension of the statutes dealing with food processing much easier to understand and thus easier to comply with.

HACCP regulations need to be uniform between state and federal regulators. The paperwork and record keeping that food processors need to maintain can only be helped with this legislation. I applaud your attention to the frustration that processors and regulators have had to go through because of the confusion that the current state of our statutory provisions cause. As processors, we live with these regulations on a daily basis and have worked closely with the DEC during regulation review and comment periods. I want to add that the Alaska Seafood Inspection Program under the direction of Janice Adair has helped me immeasurably. I cannot see how Alaskan seafood processors could maintain their highly recognized standards of safety and quality without the involvement and oversight of the DEC Seafood Inspection Program.

Please feel free to call me if you need any additional information.

Sincerely

Scott Walther
Colony Gourmet Kitchen



February 27, 1998

The Honorable Gary Wilken
Alaska State Senate
Room 510, Capitol Building
Juneau, AK 99801

RE SB 312

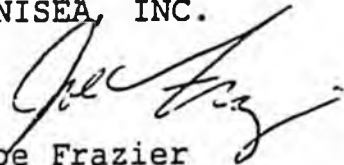
Dear Senator Wilken,

UniSea, Inc. owns and operates several shore-based and floating seafood processing facilities in the State of Alaska. I have reviewed the above-referenced bill which would consolidate all of Alaska's food-related laws into AS 17.20, Alaska's Food, Drug, and Cosmetics Act. The purpose of this letter is to lend our support for passage of this important bill.

As a regulated food processing entity, it is extremely helpful to have all laws governing our industry contained in one single statute. I also appreciate the bill amending the state's definition of "critical control point" (at proposed Sec. 17.20.065) to be the same as the U.S. Food and Drug Administration's.

If you have any questions regarding this matter, please do not hesitate to contact me at (425)-861-5310 (or by fax at (425)-882-1660

Sincerely,
UNISEA, INC.



Joe Frazier
Director of Quality Assurance

cc: T. Shaff, J. Iani, file:jfhealth\aspac\s312.doc



P O BOX 190968 • ANCHORAGE, ALASKA 99519-0968 • (907) 278-1525 • FAX (907) 276-6626

March 5, 1998

The Honorable Gary Wilken
Alaska State Senate
Room 510, capitol building
Juneau, AK 99801

RE: SB 312

Dear Senator Wilken:

I have reviewed the above referenced bill, which would consolidate all of Alaska's food related statutes into AS 17.20, Alaska's Food, Drug and Cosmetics Act and would like to voice my support for its passage.

It makes good sense to have all statutes dealing with food processing in one statute. I also appreciate the bill amending the state's definition of "critical control point" to be the same as the Food and Drug Administration's.

Sincerely,

FAVCO, INC.



Gregory J. Favretto
President



Salamatof Seafoods Inc.

P.O. Box 1450
Kenai, Alaska 99611

(907) 283-7000
FAX (907) 283-8499

February 26, 1998

To: The Honorable Gary Wilken
Alaska State Senate
Room 510 Capitol Building
Juneau, AK 99801

Re: SB 312

Dear Senator Wilken:

You have our support on the above referenced bill, which would consolidate all of Alaska's food related statutes. Having the definition of "Critical Control Point" the same as The Food and Drug Administration's. This should alleviate a lot of confusion.

Sincerely,


Robert L. Scott, President
Salamatof Seafoods, Inc.

FISCAL NOTE

No. 2
 Bill Version: SB312
 (S) Publish Date: 4/8/98

STATE OF ALASKA
 1998 LEGISLATIVE SESSION

Revision Date: _____ Dept Affected: Natural Resources
 Title: FOOD/SEAFOOD/ORGANIC FOOD BRU: Agricultural Development
 Component: Agricultural Development
 Sponsor: Senator Wilken by Request
 Requestor: (S)L&C Component Serial No. #455

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY99	FY00	FY01	FY02	FY03	FY04
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	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

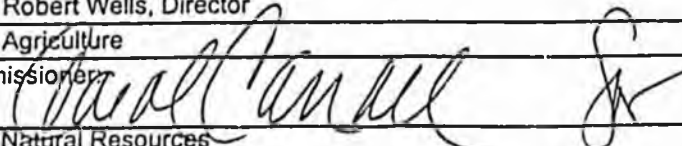
FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: \$ none

POSITIONS	FY99	FY00	FY01	FY02	FY03	FY04
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)

Removes those portions of Title 3 that have recently been enforced by DEC.
 Cuts the reindeer field kill inspection program and funding authorization.
 Removes from Title 3 those portions of the organic food statutes that have been dealt with by DEC. Takes DEC out of Title 3, organic.
 Rewords Title 3 Agriculture organic food responsibilities (need to define processed.)
 Adds Title 3 organic foods to Title 17.

Prepared by: Robert Wells, Director Phone: 745-7200
 Division: Agriculture Date: 10-Mar-98
 Approved by Commissioner:  Date: 3/10/98
 Agency: Natural Resources

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 1
Bill Version: SB.312
(S) Publish Date: 4/8/98

Revision Date (Note if correction) 09-Mar-98 Dept. Affected Environmental Conservation
Title Food, Drug and Cosmetic Act BRU Environmental Health
Component Seafood and Sanitation
Sponsor Senator Wilken
Requester Senate Labor & Commerce Component Serial No. 1936

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY98) cost: 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This legislation consolidates all food-related statutes into the Food, Drug and Cosmetic Act (AS 17.20). There is no fiscal impact.

Prepared by Janice Adair, Director
Division Environmental Health
Approved by Commissioner [Signature]
Agency Department of Environmental Conservation

Phone 269-7644
Date 3/9/98
Date 3/9/98

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GARY WILKEN

SENATOR
Districts 29 & 30
West Fairbanks

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and Social Services (HESS)
Vice Chairman: Transportation
Vice Chairman: Community and
Regional Affairs

Special Committee

Member: Administrative Regulation Review



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[www: akrepublicans.org/wilken.htm](http://www.akrepublicans.org/wilken.htm)
E-mail: Senator_Gary_Wilken@legis.state.ak.us

Interior:
119 N. Cushman St., Room 213
Fairbanks, Alaska 99701
(907) 452-3421
Fax (907) 452-3426

SB 312

An Act relating to domestic animals, to food, to pest control, and to the Alaska Food, Drug and Cosmetic Act, and providing for an effective date

Sponsor Statement

SB 312 is a good government bill designed to help those in the business of food production and service better access the laws that apply to them. It cleans up various statutes relating to food and animals under the purview of the Department of Environmental Conservation by either deleting them or consolidating them into AS 17.20, the Food, Drug and Cosmetic Act. This legislation makes no significant changes to DEC's current authorities relative to food and animals.

Currently, statutory requirements for food production and service are scattered throughout Title 3, which covers agriculture and animals, and Title 17, which covers food and drugs. Some of the provisions between these two titles conflict with one another, while others are obsolete. In present form, statutes relating to food production and service are often confusing and difficult to find for those who need them most – Alaska's food servers and producers. By consolidating the statutes under one act, and eliminating conflicting or obsolete statutes, the Legislature provides greater access to the Laws of Alaska for those most directly effected. This housekeeping measure is also a customer service issue that makes the system more user-friendly to all Alaskans, saves time and provides for more efficient administration of food laws in Alaska.

A full sectional analysis is available from my office.

GARY WILKEN

SENATOR
Districts 29 & 30
West Fairbanks



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Vice Chairman: Community and
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Special Committee

Member: Administrative Regulation Review

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SB 312

An Act relating to domestic animals, to food, to pest control, and to the Alaska Food, Drug and Cosmetic Act, and providing for an effective date.

Sectional Analysis

SB 312 consolidates statutory provisions related to processed food in AS 17.20, the Alaska Food, Drug and Cosmetic Act. Currently, statutory provisions relating to food processing and food service are in Title 3, Animals and Agriculture, and in Title 17, Food and Drugs.

In addition, this legislation repeals some obsolete statutes relating to rabies, standards for bread and flour, and a pest control fund. Other minor changes are made to ensure Alaska's food laws comply with federal food laws or to resolve conflicts between different aspects of Alaska's food statutes. Finally, the legislation proposes to repeal language requiring the establishment of a state-funded field kill inspection program for reindeer.

The end result will find all food processing and service statutes in the Alaska Food, Drug and Cosmetic Act, making it easier for businesses that must follow these laws. It does not increase DEC's food processing authority at all.

Section 1. This amendment clarifies the Department of Environmental Conservation's authority to establish quarantines to eradicate diseases in livestock and brings this provision in statute in line with AS 03.45, Diseased Livestock.

Section 2. This section removes food-related duties of the commissioner of Environmental Conservation from Title 03, Animals and Agriculture. Some of these duties are moved to Title 17 while others are deleted.

- Page 1, lines 9 - 14 and page 2, lines 1 - 8 will be moved to Title 17 in Section 10 (page 6, lines 4 - 10) of this bill, except for authority to establish standards of identity and composition of food (page 1, lines 12 - 13). This provision is in current law at AS 17.20.010. Page 2, lines 17 - 28 will be consolidated and moved to Title 17 in Section 10

(page 6, lines 18 - 21).

- The language dealing with a field kill inspection program for reindeer at state expense on page 2, lines 29 - 31 and page 3, lines 1 - 2, is proposed for deletion.

Section 3. This amends the inspection requirements in Title 3 by removing all references to fish, aquatic farm products, and aquatic farm sites. These requirements are moved to Title 17 in Sections 14 and 17 of this bill.

Section 4. This amends the enforcement provisions of Title 3 by deleting all references to fisheries products. Title 17 already has a similar provision in existing law at AS 17.20.230.

Sections 5 and 6. Under current law, both DEC and DNR have responsibility for ensuring organic food is properly labeled. These sections of the bill delete the organic food statutes that are within the purview of DEC. They are reestablished in Title 17 by Section 9 of this bill. The statutory authorities for DNR remain in Title 3.

Section 7. This is a conforming amendment changing cross-references to the new cross-references in Title 17.

Section 8. This is also a conforming amendment changing the cross-references to Title 17.

Section 9. This section reinstates DEC's organic food authorities, which are deleted in Sections 5 and 6. This language is identical to existing law that can be found at AS 03.58.

Section 10. This is a new section in Title 17. It consists of language currently in Title 3, slightly reworded for context.

- The introductory paragraph (page 6, lines 4 - 6) is the same language currently found at AS 03.05.011.
- Page 6, lines 7 - 10 corresponds with the language deleted in Section 2 of the bill and provides the authority to inspect food products offered to the public as well as authority to set standards of sanitation and handling methods for all phases of food production and sale.
- Page 6, line 11 is currently found at AS 03.05.011(a)(3), proposed for repeal in Section 26 of this bill. It provides the authority to establish food labeling requirements.
- Page 6, line 12 repeats the current AS 03.05.011(a)(2). The control and eradication of pests is critical for proper management of animals and agriculture as well as food products, therefore this language appears in both statutes.
- Page 6, lines 13 - 17 can be found in current law at AS 03.05.011(a)(8). (AS 03.05.011(a)(8) is repealed in Section 26.)

- Page 6, lines 18 - 21 is a restatement of language proposed for deletion in Section 2. It establishes the authority for standards for milk and milk products by following the Pasteurized Milk Ordinance (PMO). Milk may not be sold in interstate commerce which includes sales to the military and other institutions that receive federal funding such as schools unless it meets the standards of the PMO.
- Page 6, lines 22 - 31 can be found in current law at AS 03.05.011(a)(9) and (10). (Both of these statutes are proposed for deletion in Section 26.) This language provides the authority to establish requirements for aquatic farms and aquatic farm products by following the National Shellfish Sanitation Program (NSSP) published by the Food and Drug Administration. Compliance with the NSSP is required before shellfish may be sold on the interstate market.
- Page 7, lines 1 - 2 can be found in current law at AS 03.05.011(a)(4), and provides the department with the ability to conduct tests or analyses or hold hearings to determine whether a stop order or quarantine needs to be issued. Because this is critical for proper management of animals and agriculture as well as food products, this language will appear in both statutes.
- Page 7, lines 3 - 4 is a restatement of language proposed for deletion in Section 2 of this bill. It provides the department with authority regarding quarantined or embargoed food products. The language has been updated to reflect the department's current practice of issuing notices of recalls and or warnings regarding quarantined or embargoed food products.
- Page 7, line 5 is taken from AS 03.05.011(5). It will continue to appear in Title 3, and is simply a statement of cooperation with the federal government and other state agencies.

Section 11. This is currently AS 03.05.035 (which will be deleted in Section 26 of this bill). No changes are proposed to the existing language.

Section 12. Page 7, lines 18 - 31, and page 8, line 1 are in current law at AS 03.05.025 (which will be repealed in Section 26 of this bill). There is one minor change to the current language that will amend the state's current definition of "critical control point" so it is the same as the federal definition. A comparison is attached.

Section 13. This is the same as current law that can be found at AS 03.05.026 and AS 03.05.085 (both are repealed in Section 26). This language is the same as existing law with only conforming amendments changing cross-references to the new sections in Title 17.

Section 14. This reestablishes the inspection authority for "aquatic farms" in Title 17. In current law, this authority is in Title 3. (It is proposed for deletion from that title in Section 3 of this bill.)

Section 15. This is a conforming amendment to reflect the new sections in Title 17.

Section 16. This is a conforming amendment to reflect the new sections in Title 17.

Section 17. Page 9, lines 16 – 23 is a companion amendment to that made in Section 14 adding "aquatic farms" to the inspection authority in Title 17. The current authority is in Title 3. (It is proposed for deletion in Section 3 of this bill.)

- Page 9, line 25 would delete the current requirement that DEC pay for food samples obtained for testing purposes to ensure the food is safe for consumption. The department does not pay for samples. Food processors and other food establishments are equally interested in their products' safety and provide samples to the department for testing when necessary.
- This deletion also impacts the Department of Health and Social Services by deleting the same requirement for that agency as it relates to testing drugs for safety.

Section 18. This is a conforming amendment.

Section 19. This is currently AS 03.05.090, and is being repeated in Title 17 to conform to the transfer of other food statutes from Title 3. It has been modernized to include "recalls" and adding "criminal negligence" as the state of mind necessary to find a violation of the statutes. ("Criminal negligence" is defined at AS 11.81.900(a)(4) as "when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.")

Section 20. This is a conforming amendment.

Section 21. This is a conforming amendment.

Section 22. This is a conforming amendment.

Section 23. This is a conforming amendment.

Section 24. Currently, AS 03.04.100 has a different definition of "aquatic farm" than that found in AS 17.20.370. Section 25 of this bill moves the definition in Title 3 to Title 17. Therefore this section amends AS 17.20.370 to avoid conflicting definitions. The substance of the law is not changed.

Section 25. These definitions are moved from AS 03.05.100(2). (AS 03.05.100(2) is repealed in Section 26.)

Section 26. This is the repealer section. Some statutes are being repealed in Title 3 and readopted in Title 17, some are repealed because they already exist in Title 17, and others

are being repealed completely. Following is the breakdown:

Repealed and moved, or already in Title 17:

AS 03.05.011(a)(3), Powers of the Commissioner

AS 03.05.011(a)(7), Powers of the Commissioner

AS 03.05.011(a)(8), Powers of the Commissioner

AS 03.05.011(a)(9), Powers of the Commissioner

AS 03.05.011(a)(10), Powers of the Commissioner

AS 03.05.025, Seafood Permits

AS 03.05.026, Seafood Quality Standards

AS 03.05.035, Sale and Labeling of Frozen Food

AS 03.05.085, Seafood Processing Research

AS 03.05.100(2), Definition of Aquatic Farm and Aquatic Farm Products

AS 17.05.010, Sale of Unwholesome Provisions Prohibited

AS 17.05.020, Adulteration Prohibited

Repealed completely:

AS 03.05.070, Rabies (rabies control powers of the Department of Health and Social Services, coupled with the animal control powers of local governments, will continue)

AS 03.15.020, Purpose of appropriations (obsolete: this relates to appropriations from the Agriculture Pest and Disease Control Fund, which was repealed in 1968)

AS 17.05.050, Re-serving Prohibited (obsolete: safe re-service should be allowed.)

AS 17.07, Flour and Bread Standards (obsolete: currently regulated by the FDA; the State has authority to implement similar regulations, if necessary, under AS 17.20.010)

AS 17.20.210, Reimbursement for Expenses (obsolete: conflicts with procurement procedures promulgated by the Department of Administration)

AS 17.20.310, Penalties (obsolete: currently used language is in AS 03.05.090, which will be moved to Title 17 by Section 19 of the bill)

Section 29. This is standard language that allows any permits, regulations, embargoes, etc. done under current law to remain in effect despite the changes contained in this legislation.

Section 30. This is the effective date clause: July 1, 1998.

SB

313

SENATE COMMITTEE REPORT

First Committee of Refer.

DATE: 2/16/98

FURTHER: Finance

Date of 5-Day Notice: 3/5/98
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 3-18-98

Judiciary Committee considered

SENATE BILL NO. 313

PETITION CIRCULATION

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 title
 - new: SCR# _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Phyllis Ellis</i>	X		
		<i>Sean Parnell</i>	X		
CHAIR: <i>Wain L Taylor</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>GOVERNOR, ELECTIVE OPS.</i>	<i>3-6-98</i>	✓	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 1
Bill Version: SB313
(S) Publish Date: 3/19/98

Revision Date (Note if correction) _____ Dept. Affected Office of the Governor
Title Relating to initiative petitions BRU Elective Operations
Component Elections
Sponsor Senator Sharp
Requester Senate Judiciary Committee Component Serial No. #21

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Gail Fenumial *Gail Fenumial* Phone 465-3935
Division Division of Elections Date 3/6/98
Approved by C Lt. Governor Fran Ulmer *FU* Date 3/6/98
Agency Office of the Lieutenant Governor

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Senate Finance Committee

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SPONSOR STATEMENT

SB-313

BY: SENATOR BERT SHARP

IT IS OFTEN ASSUMED THAT PERSONS OBTAINING SIGNATURES ON A BALLOT INITIATIVE ARE VOLUNTEERS WHO BELIEVE STRONGLY IN THEIR CAUSE. UNFORTUNATELY, THAT IS MORE OFTEN NOT THE CASE. INSTEAD, IT IS MORE LIKELY THESE SOLICITORS ARE SIGNATURE BOUNTY HUNTERS WHO ARE PAID BY THE SPONSOR OF THE INITIATIVE .

IN AN EFFORT TO BRING THE INITIATIVE PROCESS BACK TO A MORE GRASSROOTS EFFORT, SB-313 REQUIRES VISUAL IDENTIFICATION OF NAME AND A VOTER REGISTRATION IDENTIFICATION NUMBER OF THE PETITION CIRCULATORS AND ALSO PROHIBITS PAYMENT PER SIGNATURE BY THE SPONSOR.

THIS BILL ALSO PROHIBITS PAYING A PERSON TO SIGN A PETITION.

IN ADDITION, EXISTING LAW GRANTS A 30 DAY EXTENSION TO A SPONSOR IF THEY ARE UNSUCCESSFUL IN OBTAINING THE REQUIRED NUMBER OF VERIFIED SIGNATURES WITHIN THE ALLOWED TIME FRAME. SB-313 WILL ELIMINATE THIS 30 DAY EXTENSION. THIS WAY IF THE REQUIRED NUMBER OF SIGNATURES ARE NOT SUCCESSFULLY OBTAINED, THE INITIATIVE SIMPLY DOES NOT APPEAR ON THE BALLOT.

SIMPLY PUT, YOU EITHER GOT'EM OR YOU DONT'T!!!

LEGAL SERVICES

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

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

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

MEMORANDUM

February 23, 1998

SUBJECT: Sectional Summary of SB 313

TO: Senator Bert Sharp
Attn: Marilyn Wilson

FROM: Richard A. Glover - *RAG*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill enacts a requirement for petition circulators to display identification. The section enacts a provision that prohibits payments to petition circulators if the payments are based on the number of signatures gathered. Payments to signatories of initiative petitions are also prohibited. A violation is made a class B misdemeanor.

Section 2 of the bill enacts additional requirements of petition sponsors filing initiative petitions. The sponsors must state in the filing affidavit (in addition to the current requirements) that the signatories are qualified voters, that no payments to the sponsor on a per signature basis were received or agreed to, and the sponsor did not pay or offer payment to signatories.

Section 3 of the bill makes technical corrections required by section 6 of the bill.

Section 4 of the bill makes a technical correction required by sec. 6 of the bill.

Section 5 of the bill makes acts of accepting, soliciting, or agreeing to accept payment for signing a petition, crimes of improper subscription to a petition.

Section 6 of the bill eliminates the provisions for supplemental initiative petitions, and repeals the statute that prohibits invalidation of an initiative based on an insufficiency of the initiative's application or petitions.

Senator Bert Sharp
February 23, 1998
Page 2

Section 7 of the bill specifies the applicability of the bill sections to conform to various constitutional requirements.

RAG:pl:jr
98-036.plm

Collecting signatures often more than just a grass-roots effort

The young man sat next to his crutches on the floor of the arctic entryway to the Lucy Cuddy Center Monday morning. An initiative signature book lay in his lap, with a title page that read: "A bill prohibiting trapping involving snares."

"This is a great job for me, because I have a broken leg," he said. "I'm a laborer. You can't be a laborer on crutches."



MIKE DOOGAN

For every bona fide Alaska voter the young man can cajole into signing his petition, he will be paid from 50 cents to \$1. The young man, who didn't want to give me his name, wouldn't say exactly how much he was being paid. Neither would the man in charge of this petition drive, Kneeland Taylor.

"I'm not going to tell you that," Taylor said. He also said that many of his signature gatherers are volunteers who "believe in the cause."

The initiative process is the way individual Alaskans can write certain kinds of laws — if they can get enough of their fellow citizens to sponsor the law, sign up to put it on the ballot, and vote for it. All this citizen involvement gives the initiative process the veneer of grass-roots politics. Increasingly, that's not the case.

"We've hired a company to pay for signatures," said Ken Jacobus, one of the sponsors of the initiative to make English the official language of the state of Alaska. Through that company, National Voter Outreach, Jacobus' organization is paying \$1 a signature. Most of its money comes from a national organization called U.S. English.

"We used to pay less for signatures," Jacobus said, "and then the National Education Association entered the market and drove up the prices."

The NEA is part of an effort to pass an initiative to establish an endowment for elementary and secondary education in Alaska. A fourth initiative campaign, one to allow candidates to make term-limit pledges that would be printed on the state ballot, also is paying

for signatures. Some of the campaign's money, according to its chairman, Bob Bell, comes from a national organization called U.S. Term Limits.

To get on the 1998 ballot, initiative campaigns have to collect about 24,500 valid signatures by the time the Legislature convenes in January. Because a certain number of signatures will be disallowed for various reasons, that means most campaigns are shooting for 30,000 signatures. Eight initiatives are certified to collect signatures. Five are mounting all-out efforts to make the 1998 ballot. Of those, only the billboard initiative isn't paying signature gatherers.

"We're striving to make it an all-volunteer effort," said coordinator Michele Keck.

Those who are paying cite the sheer magnitude of collecting the signatures required for ballot certification.

"In order to get it by the legislative session, you almost have to pay for signatures," Jacobus said.

The fact that initiative campaigns are paying for signatures was a surprise to me, but not to people who pay close attention to the

political process.

"It's normal to pay," said Chris Ellingson, candidate coordinator for the Alaska Public Offices Commission.

Paying is normal now for a number of reasons, said Gary Jacobson, a professor of political science at the University of California, San Diego. One is that special interests often have money but no organization.

"If you're not responding to the grass roots, you can buy Astroturf," he said.

Another is that political parties have grown weaker, and the services they once offered are now available on the open market. A third is a change in the structure of the society.

"We don't have a lot of people with spare time," Jacobson said. "People have more money than they do time. Activities you used volunteers for, you can't find those people anymore. They'd rather give you the money."

□ Mike Doogan's opinion column appears in the Daily News each Tuesday, Friday and Sunday. His e-mail address is: mdoogan@pop.adn.com.

ADN 11-25-97

Anchorage Daily News

WINNER PULITZER PRIZE
GOLD MEDAL FOR PUBLIC SERVICE 1976

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Founded in 1916 by Norman C. Brown

Who is paying?

Initiative process has significant flaw

You have seen them for months now in shopping malls or libraries, wherever crowds form — signature gatherers for ballot petitions, clipboards at the ready.

Alaskans probably will face half a dozen advisory votes, and proposed changes in statutes next November. The issues range from billboards to the medicinal use of marijuana.

The 49th state is following a national trend. Voters in many states, especially California, are bypassing their legislatures to write their own laws. Often, these ballot initiatives are financed by special interest groups that have built political machines to one end: obtaining signatures to put their issue on the ballot.

It makes sense for Alaskans to know who is financing signature drives. Full disclosure helps inform the voters' judgment. But we don't have full financial disclosure in Alaska. In fact, we don't have anything like it.

To certify a ballot proposition, proponents must send the lieutenant governor a group filing statement containing the proposed language for the initiative and 100 signatures of supporters. Once certified after a legal review, these proponents can spend all they want on getting the 25,000 signatures or more needed for the ballot, but they don't have to disclose where the money came from or how they spent it.

Gren Granquist of the Alaska Public Offices Commission explains the situation this way. "Since 1981 the Commission has taken the position that funds raised and money spent solely to collect signatures to qualify a petition are not reportable under the Campaign Disclosure Law. This view is based, in part, on the constitutional right of citizens to petition their government, and in part, on the emphasis in AS 15.13 on the disclosure of finances that specifically influence the outcome of an election. Clearly, there is no election to influence unless the group successfully concludes the petition drive."

Only if a group rolls over money from a petition drive into the actual campaign — or raises money for the campaign while signature gathering — must it disclose its financial activities.

Mr. Granquist's interpretation of the law is correct — but the law is misguided.

This is a classic case of a conflict of rights: The right of citizens to petition their government and the right of the citizenry to know who is paying for a petition. We believe the right of an informed citizenry should prevail.

When lawmakers convene in January, they should take an immediate look at this hole in the campaign finance law and find out what can be done to close it. The initiative is a vital piece in the machinery of democracy, but it should not be permitted this remarkable exemption from financial disclosure.

In the meantime, the next time you meet a guy or a gal with a clipboard who wants your signature, don't hesitate to ask, "Who is paying for this?" Your John Henry is worth

S B

3 2 3

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/16/98

FURTHER: Finance

Date of 5-Day Notice: 3-5-98
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3-12-98

Judiciary Committee considered

SENATE BILL NO. 323

"An Act relating to sexual offenses, to those who commit sexual offenses, and to registration of sex offenders; amending Rule 6(r)(2), Alaska Rules of Criminal Procedure; and providing for an effective date."

and recommends:

- be replaced with _____ CS FOR SB 323 (JUD)
- 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
Mike Miller	✓	Mike Miller	X		
<u>Mike Miller</u>	✓	Alan Paul	X		
CHAIR: <u>Adrian L. Taylor</u> ✓		CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

SB #1	ADMIN. PUBLIC DEF.	3-11-98	✓	***
SB #2	CORRECTIONS	3-10-98		48.4

CS FN
Forthcoming

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATE

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 2
Bill Version: SB 323
(S) Publish Date: 3/12/98

Revision Date (Note if correction) _____ Dept. Affected Corrections
Title An Act relating to sexual offenses, to those who BRU Administration and Operations
commit sexual offenses, and to registration of sex offenders... Component ALL
Sponsor Senator Pearce
Requester Senate Judiciary Component Serial No. #0694

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	48.4	48.4	48.4	48.4	48.4	48.4
TOTAL OPERATING	48.4	48.4	48.4	48.4	48.4	48.4

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	48.4	48.4	48.4	48.4	48.4	48.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	48.4	48.4	48.4	48.4	48.4	48.4

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Bruce Richards Phone 465-3307
Division Commissioner's Office Date 3/10/98
Approved by Commissioner Margaret M. Pugh Margaret M. Pugh Date 3/10/98
Agency Department of Corrections

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. SB 323
PAGE 2 of 2
DATE 3/10/98

Section 3 of this legislation would increase the penalty for one form of indecent exposure from a misdemeanor to a class B felony. The Dept. of Law estimates that three people would be convicted annually under the felony provision. The current average sentence served for a misdemeanor conviction of indecent exposure is 28 days. The Department of Law anticipates first time offenders convicted under the proposed felony provision would receive a sentence of 90 days, resulting in a net gain of 32 days to be served over the present misdemeanor penalty. The statewide average daily cost of incarceration is \$100.07 per day, per prisoner. In addition, the Dept. of Corrections is required to conduct a presentence investigation for all felony convictions and prepare a report for the court. The cost for a PSI is \$450.

3 prisoners X \$100.07 per day X 32 days = Annual cost of \$9,606
3 prisoners X \$450 per PSI = \$1350

Section 5 of this legislation increases the penalty for distribution of child pornography from a class C felony to a class B felony. The Department of Corrections is unable to estimate the impact of this section. Current data from the Dept. of Corrections does not indicate that anyone was charged and convicted for distribution of child pornography in 1996 or 1997. This section will have an impact due to the severity of the penalty increase which would go from a possible sentence of 5 years to a possible sentence of 10 years.

Section 6 of this legislation increases the penalties for possession of child pornography from a class A misdemeanor to a class B felony. The Dept. of Corrections estimates two prisoners a year will be convicted of possession of child pornography. It is estimated they will be sentenced to 365 days in prison, or 243 days actual time served after statutory good time is subtracted. Of the 243 days, 60 days are subtracted for the sentence that would be served under the current statute.

2 prisoners X \$100.07 per day 183 days = \$36,625
2 prisoners X \$450 per PSI = \$900

Total annualized cost for Senate Bill 323 is \$48,481

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 1
Bill Version: SB.323
(S) Publish Date: 3/12/98

Revision Date: _____
Title: "An Act relating to sexual offenders..."
Sponsor: Senator Pearce
Requestor: (S) JUD

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.

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

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 3/11/98

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FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 323

1998 LEGISLATIVE SESSION

ANALYSIS: (continued)

This bill creates a new Class C felony offense crime of indecent exposure in the first degree if a person knowingly masturbates within the observation of a person under 16 years of age. Indecent exposure in the second degree, which encompasses knowingly exposing one's genitals to another person with reckless disregard for the offensive, insulting or frightening effect the act may have on that person remains a Class A misdemeanor. In conjunction with this distinction in the crime of indecent exposure, the bill changes many statutes with regard to felony indecent exposure. It removes the statute of limitations for prosecution, it requires mandatory arrest by a peace officer for allegations of bail release violation, it allows for the admission of hearsay evidence before the grand jury under the same circumstances as other sex crimes, it requires consecutive sentences for conviction of felony indecent exposure, it includes it as a crime for which an aggravator can be found if there is a history of similar behavior. It also includes both felony and misdemeanor indecent exposure and possession of child pornography as new defined "sex crimes" for which a person will have to register as sex offender. It precludes a person convicted of any kind of indecent exposure from being licensed as a school bus driver for 20 years and requires the Department of Health and Social Services to immediately notify law enforcement if they suspect felony level indecent exposure.

The bill also raises the crime of distribution of child pornography from a C felony to a B felony and the crime of possession of child pornography from an A misdemeanor to a B felony.

While the bill therefore greatly increases the potential penalties faced and the repercussions for these sex crimes, it is difficult to predict fiscal impact. The Department of Law has estimated that last year 35 cases of indecent exposure were prosecuted and of those, only 10 would have been prosecuted as felonies. There are currently only 2 people facing charges on possession of child pornography within the correctional system. Therefore, it was difficult to assess the impact in number of cases that would be added to the list of felony crimes prosecuted by the state. Of course, felony crimes are the most time and labor-intensive of the cases appointed to the Public Defender Agency and as the penalty increases, the likelihood of proceeding to trial also increases. It is anticipated there will be fiscal impact, but at this time it is impossible to quantify.

CS FOR SENATE BILL NO. 323(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR PEARCE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sexual offenses, to those who commit sexual offenses, and to
2 registration of sex offenders; amending Rule 6(r)(2), Alaska Rules of Criminal
3 Procedure; and providing for an effective date."

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

5 * Section 1. AS 09.10.060(c) is amended to read:

6 (c) A person who was the victim of sexual abuse may not maintain an action
7 for recovery of damages against the perpetrator of the act or acts of sexual abuse based
8 on the perpetrator's intentional conduct for an injury or condition suffered as a result
9 of the sexual abuse unless the action is commenced within three years. In this
10 subsection, "sexual abuse" means an act committed by the defendant against the
11 plaintiff maintaining the cause of action if the defendant's conduct would have violated
12 a provision of AS 11.41.410 - 11.41.440 or 11.41.450 - 11.41.458 [11.41.450 -
13 11.41.455] at the time it was committed.

14 * Sec. 2. AS 09.55.650(c) is amended to read:

1 (c) In this section, "sexual abuse" means an act committed by the defendant
 2 against the plaintiff maintaining the cause of action if the defendant's conduct would
 3 have violated a provision of AS 11.41.410 - 11.41.440 or 11.41.450 - 11.41.458
 4 [11.41.450 - 11.41.455], former AS 11.15.120, 11.15.134, or 11.15.160, or former
 5 AS 11.40.110 at the time it was committed.

6 * Sec. 3. AS 11.41 is amended by adding a new section to read:

7 **Sec. 11.41.458. Indecent exposure in the first degree.** (a) An offender
 8 commits the crime of indecent exposure in the first degree if

9 (1) the offender violates AS 11.41.460(a);

10 (2) while committing the act constituting the offense, the offender
 11 knowingly masturbates; and

12 (3) the offense occurs within the observation of a person under 16 years
 13 of age.

14 (b) Indecent exposure in the first degree is a class B felony.

15 * Sec. 4. AS 11.41.460 is amended to read:

16 **Sec. 11.41.460. Indecent exposure in the second degree.** (a) An offender
 17 commits the crime of indecent exposure in the second degree if the offender
 18 knowingly [INTENTIONALLY] exposes the offender's genitals to another person with
 19 reckless disregard for the offensive, insulting, or frightening effect the act may have
 20 on that person.

21 (b) Indecent exposure in the second degree before a person under 16 years
 22 of age is a class C felony [CLASS A MISDEMEANOR]. Indecent exposure in the
 23 second degree before a person 16 years of age or older is a class A [CLASS B]
 24 misdemeanor.

25 * Sec. 5. AS 11.61.125(c) is amended to read:

26 (c) Distribution of child pornography is a class B [CLASS C] felony.

27 * Sec. 6. AS 11.61.127(c) is amended to read:

28 (c) Possession of child pornography is a class B felony [CLASS A
 29 MISDEMEANOR].

30 * Sec. 7. AS 12.10.020(c) is amended to read:

31 (c) Even if the general time limitation has expired, a prosecution under

1 AS 11.41.410 - 11.41.458 [AS 11.41.410 - 11.41.455], AS 11.66.110 - 11.66.130, or
2 former AS 11.41.430, for an offense committed against a person under the age of 18,
3 may be commenced at any time.

4 * Sec. 8. AS 12.25.030(b) is amended to read:

5 (b) In addition to the authority granted by (a) of this section, a peace officer

6 (1) shall make an arrest under the circumstances described in
7 AS 18.65.530;

8 (2) without a warrant may arrest a person if the officer has probable
9 cause to believe the person has, either in or outside the presence of the officer,

10 (A) committed a crime involving domestic violence, whether the
11 crime is a felony or a misdemeanor; in this subparagraph, "crime involving
12 domestic violence" has the meaning given in AS 18.66.990;

13 (B) committed the crime of violating a protective order in
14 violation of AS 11.56.740; or

15 (C) violated a condition of release imposed under AS 12.30.025
16 or 12.30.027;

17 (3) without a warrant may arrest a person when the peace officer has
18 reasonable cause for believing that the person has

19 (A) committed a crime under or violated conditions imposed as
20 part of the person's release before trial on misdemeanor charges brought under
21 AS 11.41.270;

22 (B) violated AS 04.16.050 or an ordinance with similar
23 elements; however, unless there is a lawful reason for further detention, a
24 person who is under the age of 18 and who has been arrested for violating
25 AS 04.16.050 or an ordinance with similar elements shall be cited for the
26 offense and released to the person's parent, guardian, or legal custodian; or

27 (C) violated conditions imposed as part of the person's release
28 before trial on felony charges brought under AS 11.41.410 - 11.41.458
29 [AS 11.41.410 - 11.41.455].

30 * Sec. 9. AS 12.40.110(a) is amended to read:

31 (a) In a prosecution for an offense under AS 11.41.410 - 11.41.458

1 [AS 11.41.410 - 11.41.440 OR 11.41.455], hearsay evidence of a statement related to
 2 the offense, not otherwise admissible, made by a child who is the victim of the offense
 3 may be admitted into evidence before the grand jury if

4 (1) the circumstances of the statement indicate its reliability;

5 (2) the child is under 10 years of age when the hearsay evidence is
 6 sought to be admitted;

7 (3) additional evidence is introduced to corroborate the statement; and

8 (4) the child testifies at the grand jury proceeding or the child will be
 9 available to testify at trial.

10 * Sec. 10. AS 12.55.025(h) is amended to read:

11 (h) If the defendant has been convicted of two or more crimes under
 12 AS 11.41.200 - 11.41.250 or 11.41.410 - 11.41.458 [11.41.410 - 11.41.455] in which
 13 the victim or victims of the crimes were minors and the judgment on any of the
 14 convictions has not been entered, the court shall impose some consecutive period of
 15 imprisonment for each conviction.

16 * Sec. 11. AS 12.55.155(c)(18) is amended to read:

17 (18) the offense was a felony

18 (A) specified in AS 11.41 and was committed against a spouse,
 19 a former spouse, or a member of the social unit comprised of those living
 20 together in the same dwelling as the defendant; or

21 (B) specified in AS 11.41.410 - 11.41.458 [AS 11.41.410 -
 22 11.41.455] and the defendant has engaged in the same or other conduct
 23 prohibited by a provision of AS 11.41.410 - 11.41.460 involving the same or
 24 another victim;

25 * Sec. 12. AS 12.63.100(3) is amended to read:

26 (3) "sex offense" means a crime, or an attempt to commit a crime,
 27 under AS 11.41.410 - 11.41.438, 11.41.450 - 11.41.460, [11.41.450, 11.41.455],
 28 AS 11.61.125, 11.61.127, AS 11.65.110, former AS 11.15.120 or 11.15.134, or former
 29 AS 11.40.110 or 11.40.200, or a similar law in another jurisdiction;

30 * Sec. 13. AS 14.20.020(f) is amended to read:

31 (f) Except as otherwise provided in this subsection, the department may not

1 issue a teacher certificate to a person who has been convicted of a crime involving a
2 minor under AS 11.41.410 - 11.41.460 [AS 11.41.434 - 11.41.440, 11.41.455, OR
3 11.41.460], or under a law in another jurisdiction with elements substantially similar
4 to an offense described in AS 11.41.410 - 11.41.460 [AS 11.41.434 - 11.41.440,
5 11.41.455, OR 11.41.460]. When five years have elapsed after a person has received
6 an unconditional discharge for a conviction of a crime listed in this subsection, the
7 person may petition the department to issue the certificate in spite of the conviction
8 if the person otherwise satisfies the requirements for the certificate. When deciding
9 whether to grant or deny the petition, the department shall consider the nature of the
10 particular crime, whether and to what extent the person has been rehabilitated, and the
11 other factors that the department determines are significant.

12 * Sec. 14. AS 14.20.030(b) is amended to read:

13 (b) The commissioner or the Professional Teaching Practices Commission shall
14 revoke for life the certificate of a person who has been convicted of a crime involving
15 a minor under AS 11.41.410 - 11.41.460 [AS 11.41.434 - 11.41.440, 11.41.455, OR
16 11.41.460], or under a law in another jurisdiction with elements substantially similar
17 to an offense described in AS 11.41.410 - 11.41.460 [AS 11.41.434 - 11.41.440,
18 11.41.455, OR 11.41.460]. When five years have elapsed after the person has received
19 an unconditional discharge for the conviction, the person may petition the commission
20 for recertification. When deciding whether to grant or deny the petition, the
21 commission shall consider the nature of the particular crime, whether and to what
22 extent the person has been rehabilitated, and the other factors that the commission
23 determines are significant.

24 * Sec. 15. AS 28.15.046(c) is amended to read:

25 (c) The department may not issue a license under this section to an applicant
26 who has been convicted of any of the following offenses within 20 years of the time
27 of application:

28 (1) sexual abuse of a minor in any degree under AS 11.41.434 -
29 11.41.440;

30 (2) sexual assault in any degree under AS 11.41.410 - 11.41.425
31 [AS 11.41.410 OR 11.41.420];

- 1 (3) incest under AS 11.41.450;
- 2 (4) unlawful exploitation of a minor under AS 11.41.455;
- 3 (5) contributing to the delinquency of a minor under AS 11.51.130;
- 4 (6) a felony involving possession of a controlled or imitation controlled
- 5 substance under AS 11.71 or AS 11.73;
- 6 (7) a felony or misdemeanor involving distribution of a controlled or
- 7 imitation controlled substance under AS 11.71 or AS 11.73;
- 8 (8) promoting prostitution in the first or second degree under
- 9 AS 11.66.110 or 11.66.120;
- 10 (9) indecent exposure in the first or second degree under
- 11 AS 11.41.458 or AS 11.41.460.

12 * Sec. 16. AS 47.17.020(e) is amended to read:

13 (e) The department shall immediately notify the nearest law enforcement

14 agency if the department

15 (1) concludes that the harm was caused by a person who is not

16 responsible for the child's welfare;

17 (2) is unable to determine

18 (A) who caused the harm to the child; or

19 (B) whether the person who is believed to have caused the harm

20 has responsibility for the child's welfare; or

21 (3) concludes that the report involves

22 (A) possible criminal conduct under AS 11.41.410 - 11.41.458

23 [AS 11.41.410 - 11.41.455]; or

24 (B) abuse or neglect that results in the need for medical

25 treatment of the child

26 * Sec. 17. Rule 6(r)(2), Alaska Rules of Criminal Procedure, is amended to read:

27 (2) In a prosecution for an offense under AS 11.41.410 - 11.41.458

28 [AS 11.41.410 - 11.41.440 OR 11.41.455], hearsay evidence of a statement related to

29 the offense, not otherwise admissible, made by a child who is the victim of the offense

30 may be admitted into evidence before the grand jury if

31 (i) the circumstances of the statement indicate its reliability;

1 (ii) the child is under 10 years of age when the hearsay
2 evidence is sought to be admitted;

3 (iii) additional evidence is introduced to corroborate the
4 statement; and

5 (iv) the child testifies at the grand jury proceeding or the child
6 will be available to testify at trial.

7 * Sec. 18. APPLICABILITY OF SECTION 12. (a) A sex offender with only one
8 conviction for a sex offense that is a violation of AS 11.41.460 or AS 11.61.127 who has been
9 unconditionally discharged from that sex offense before July 1, 1984, is not required to
10 register under or otherwise comply with AS 12.63. A sex offender who has been
11 unconditionally discharged from a sex offense that is a violation of AS 11.41.460 or
12 AS 11.61.127 on or after July 1, 1984, but before the effective date of this Act, shall register
13 under and otherwise comply with AS 12.63 by July 1, 1998. A sex offender with two or more
14 convictions for a sex offense before the effective date of this Act, regardless of whether the
15 sex offender was unconditionally released from the sex offense before, on, or after July 1,
16 1984, who was not required to register under sec. 12, ch. 41, SLA 1994, shall register under
17 and otherwise comply with AS 12.63 by July 1, 1998.

18 (b) A conviction for a sex offense before the effective date of this Act is a sex offense
19 for purpose of the duration of registration requirement of AS 12.63.020(a).

20 (c) In this section, "sex offender" and "sex offense" have the meanings given by
21 AS 12.63.100, as amended by sec. 12 of this Act.

22 * Sec. 19. APPLICABILITY OF SECTIONS 3 - 6. Sections 3 - 6 of this Act apply to
23 offenses committed on or after the effective date of this Act.

24 * Sec. 20. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature



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During Session: (Jan - May)
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Drue Pearce

SPONSOR STATEMENT

SB 323: An Act Relating to Sexual Offenses and Sex Registration

The use of children in the production of sexually explicit material, including photographs, films, videos, and computer images is a form of sexual abuse that can result in physical or psychological harm to the children involved. Individuals who utilize children as sexual objects or are sexually attracted to children often seek out and collect sexually explicit materials for their own sexual gratification. Access to the Internet has become one of the preferred methods of distributing and collecting child pornographic materials; several investigations across the country have revealed thousands of pieces of child pornography in the hands of child pornographers. Congress passed the Child Pornography Prevention Act of 1996 and several states are taking action to strengthen their pornography laws.

The Alaska penalty for distribution of child pornography is not more than five years. Law enforcement officers are encountering problems in trying to prove distribution. Offenders are often charged with or plead down to possession of child pornography, a class A misdemeanor offense with a penalty of not more than one year in prison, unless the offender is convicted of more than one count and receives a consecutive sentence. SB 323 increases the offenses for possession and distribution of child pornography to class B felony offenses, punishable by not more than 10 years in prison.

SB 323 also creates the offense of indecent exposure in the first degree if the offender knowingly masturbates within the observation of a person under 16 years of age, making it the offense of a Class B felony offense. The bill makes the existing offense of indecent exposure, indecent exposure in the 2nd degree. The penalty for this offense is increased to a class C felony when committed before a person under 16 years of age, and a class A misdemeanor when committed before a person 16 years or older.

SB 323 requires sex offender registration for the offenses of indecent exposure in the first and second degree, and the possession of child pornography. Currently, only offenders who distribute of child pornography are required to register.

The existence and distribution of child pornographic images creates the potential for many types of harm in the community and presents a clear and present danger to all children. SB 323 is intended to help protect our children by inhibiting the creation and distribution of child pornography. Strengthening the penalties for these crimes sends a clear message that the degradation and exploitation of our children will not be tolerated.

Eagle River man pleads guilty in child-porn case

By PATTY SULLIVAN
Daily News Reporter

An Eagle River man accused of taking pictures of girls' feet and posting them on the Internet for profit pleaded guilty to some of the charges in U.S. District Court Friday.

In a deal with federal prosecutors, Melford Ray Willis pleaded guilty to wire fraud and possession of child pornography, in exchange for the dismissal of two counts of mail fraud and four counts of wire fraud.

Willis, an Air Force master sergeant who has worked as a financial adviser on Elmendorf Air Force Base, will be sentenced in March. His prison time will range from 27 to 33 months, said assistant U.S. attorney Retta-Rae Randall.

Neither he nor his federal public defender, Kevin McCoy, could be reached late Friday afternoon for comment.

Randall said the plea bargain avoids a costly trial. "It saves us the money of proceedings and bringing in the witnesses and experts, and of putting the victims through all of this," she said. The victims include 15 local children, she added.

Willis ran a photography business called Mel's Imaging out of his apartment at 11407 Heritage Court, where

The plea agreement states that Melford Ray Willis posted close-ups of girls' faces and feet on the Internet page of "The Young Foot Lover's Adoration Society."

he took a series of photographs and videos of children last summer and fall.

According to the written plea agreement, Willis ran a newspaper advertisement requesting models, to be paid \$40 an hour. He met with parents of young girls, telling them the photographs would be used in a children's poetry book written in England. The parents attended the modeling sessions and signed release forms. Willis also videotaped the children, telling parents the video would capture shots his still camera missed.

The girls were clothed during the sessions but prosecutors said Willis captured footage of the girls' crotches and underwear when they adjusted their skirts.

The agreement states that Willis posted close-ups of the girls' faces and feet on the Internet page of "The Young Foot Lover's Adoration Society." The photos were used to advertise videotapes of the

children for \$50 each. The web site noted that there were many barefoot scenes and close-ups.

The original indictment said five men paid for the videos over the Internet, but in the agreement Willis admitted to just one customer. Willis received orders for the videos over his electronic mail address.

In connection with the child pornography charge, investigators found 7,000 pictures of children ages 3 to 16 on his computer hard drive, prosecutors said. None of them were taken during local photo sessions. Willis downloaded them from the Internet. More than 100 were pornographic, the agreement said.

nude

Note: more than 500 of the images found on Willis computer were deemed child pornography under federal standards, the other 8000 were photographs of nude juvenile females.

"To Serve and Protect"



Terry E. Vrabec, Chief
Confidential Fax (907) 474-1971

UNIVERSITY OF ALASKA FAIRBANKS

Police Department

PO Box 755560 • Fairbanks, Alaska 99775-5560
(907) 474-6200 • Fax (907) 474-5555

RECEIVED

MAR 05 1998

March 5, 1998

Senator Drue Pearce
Alaska State Legislature
State capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Pearce,

I recently received some information from the Legislative Affairs Agency in reference to Senate Bill 323. I was very interested in this bill for our agency along with several other law enforcement agencies, have been working some related criminal cases that this bill will effect.

In some of our cases we feel that stronger laws might be a better deterrent to prevent future occurrences. I also think that we would be sending a message that we are not going to allow these type of violations to occur without serious punishment.

It is my understanding that you have received support of this bill from Chief Udland out of Anchorage. I agree with him on the issue of registering these sex offenders. This will also help us track individuals who have been convicted. I support your efforts on this bill and would gladly provide more information if necessary. Thank you for your help.

Sincerely,

A handwritten signature in cursive script that reads "Terry Vrabec".

Terry E. Vrabec
Chief of Police

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 323

Revision Date (Note if correction) _____ Dept. Affected Corrections
 Title An Act relating to sexual offenses, to those who BRU Administration and Operations
commit sexual offenses, and to registration of sex offenders... Component ALL
 Sponsor Senator Pearce
 Requester Senate Judiciary Component Serial No. #0694

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	48.4	48.4	48.4	48.4	48.4	48.4
TOTAL OPERATING	48.4	48.4	48.4	48.4	48.4	48.4

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	48.4	48.4	48.4	48.4	48.4	48.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	48.4	48.4	48.4	48.4	48.4	48.4

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Bruce Richards Phone 465-3307
 Division Commissioner's Office Date 3/10/98
 Approved by Commissioner Margaret M. Pugh Margaret M. Pugh Date 3/10/98
 Agency Department of Corrections

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. SB 323
PAGE 2 of 2
DATE 3/10/98

Section 3 of this legislation would increase the penalty for one form of indecent exposure from a misdemeanor to a class B felony. The Dept. of Law estimates that three people would be convicted annually under the felony provision. The current average sentence served for a misdemeanor conviction of indecent exposure is 28 days. The Department of Law anticipates first time offenders convicted under the proposed felony provision would receive a sentence of 90 days, resulting in a net gain of 32 days to be served over the present misdemeanor penalty. The statewide average daily cost of incarceration is \$100.07 per day, per prisoner. In addition, the Dept. of Corrections is required to conduct a presentence investigation for all felony convictions and prepare a report for the court. The cost for a PSI is \$450.

3 prisoners X \$100.07 per day X 32 days = Annual cost of \$9,606
3 prisoners X \$450 per PSI = \$1350

Section 5 of this legislation increases the penalty for distribution of child pornography from a class C felony to a class B felony. The Department of Corrections is unable to estimate the impact of this section. Current data from the Dept. of Corrections does not indicate that anyone was charged and convicted for distribution of child pornography in 1996 or 1997. This section will have an impact due to the severity of the penalty increase which would go from a possible sentence of 5 years to a possible sentence of 10 years.

Section 6 of this legislation increases the penalties for possession of child pornography from a class A misdemeanor to a class B felony. The Dept. of Corrections estimates two prisoners a year will be convicted of possession of child pornography. It is estimated they will be sentenced to 365 days in prison, or 243 days actual time served after statutory good time is subtracted. Of the 243 days, 60 days are subtracted for the sentence that would be served under the current statute.

2 prisoners X \$100.07 per day 183 days = \$36,625
2 prisoners X \$450 per PSI = \$900

Total annualized cost for Senate Bill 323 is \$48,481



*Rick Mjstrom,
Mayor*

ANCHORAGE POLICE DEPARTMENT

4501 South Bragaw Street • Anchorage, Alaska 99507-1599

Telephone (907) 786-8500



Service since 1921

February 17, 1998

Senator Drue Pearce
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Pearce:

This letter is written in support of your efforts to strengthen the state's child pornography laws through Senate Bill 323. The current laws fall far short of protecting children in light of the new technologies available to anyone with a computer.

Typically, crimes against children involve, or at least begin with simple possession of these materials. Those who now receive sentences of less than one year for possession of child pornography have little chance to rehabilitate. Those who distribute are obviously actively involved in victimizing children, and deserving of stronger penalties.

Mandatory registration of these sex offenders is also a major step in the right direction. This will allow law enforcement to track all potential abusers and serve as a warning to others who might take advantage of Alaska's children.

Thank you for bringing this legislation forward.

Sincerely,

Duane S. Udland
Chief of Police

DSU/ros

Former UAF worker pleads innocent in child-porn case

The Associated Press

FAIRBANKS — A former University of Alaska Fairbanks employee has pleaded innocent in federal court to three felony counts of possessing child pornography.

William Tuttle, 47, is accused of downloading the pornography at his work station last summer while employed at the university.

Tuttle was not required to post \$5,000 in bail after his initial appearance Thursday before U.S. District Judge Harry Branson.

State prosecutors dropped their misdemeanor charges against Tuttle after he was indicted by the federal government last month. He also had pleaded innocent in that case.

Tuttle's lawyer, William Satterberg, claims university officials had no right to

search his client's computer or download images from computer discs that were kept in a filing cabinet.

Satterberg wanted the evidence thrown out when he was dealing with the case in state court, but Superior Court Judge Charles Pengilly disagreed and ruled that university officials had the right to monitor computer traffic.

Tuttle then asked the state Court of Appeals to overturn Pengilly's decision. But the appellate court dismissed the petition for review after the federal indictment came down.

Federal authorities were not aware of Tuttle until December, when investigator Lantz Dahlke of the Alaska State Troopers attended a conference in Anchorage.

One of the speakers was assistant U.S. attorney

Steven Skrocki, who discussed the application of federal statutes in child pornography cases.

Dahlke told Skrocki about the case.

In a December interview with the Fairbanks Daily News-Miner, Skrocki said his office would have taken the case originally but hadn't been contacted.

Tuttle faces up to 15 years in prison if convicted of the federal charges.

UAF worker faces more porn charges

The former University of Alaska Fairbanks carpenter facing misdemeanor criminal charges in state court for possession of child pornography was indicted by a federal grand jury Wednesday on three federal felony charges stemming from the same incident. William Tuttle, 47, was arrested and fired this past summer after the pornography reportedly was found on his computer at work. Tuttle pleaded innocent to the state charges and maintains that he had logged on to the Internet during working hours to show co-workers that computer pornography is easily accessible. Under state law, possession of child pornography is punishable by up to a year in jail and a \$1,000 fine. Under federal law, the felony offense carries up to a five-year prison term and a fine of up to \$250,000 for each offense. Federal prosecutors said Tuttle had three computer Zip disks that contained multiple images of child pornography.

APPENDIX IV

STATE CHILD PORNOGRAPHY STATUTES

STATE & AGE OF MINORITY (under __)	POSSESSION	POSSESSION WITH INTENT TO DISTRIBUTE	PRODUCTION, CREATION, PROMOTION, or KNOWING DUPLICATION	FILM PROCESSORS *Duty To Report
Alabama 17 Inference of age. §13A-12-193.	§13A-12-192(b) Class C Felony	§13A-12-192(a) three or more copies of the same material is prima facie evidence of intent. Class B Felony	§13A-12-197 Class A Felony	
Alaska 18 §11.61.127	§11.61.127 Class A Misdemeanor	§11.61.125 Class C Felony	§11.41.455: Exploitation - Class B Felony. §11.61.125: Distribution- Class C Felony	§47.17.023 Class B Misdemeanor
Arizona 18 with enhanced penalty under 15 Inference of age. §13-3555.	§13-3553.A.2 Class 2 Felony	NONE	§§13-3552 & 13-3553	§13-3553(A)(1) Class 2 Felony
Arkansas 16	§ 5-27-304(a)(2) Class C Felony-- 1st offense. Class B Felony-- subsequent offenses.	§ 5-27-304(u)(1). Prohibits receipt for distribution. Class C Felony--1st offense Class B Felony-- subsequent offenses		NONE

STATE & AGE OF MINORITY (under __)	POSSESSION	POSSESSION WITH INTENT TO DISTRIBUTE	PRODUCTION, CREATION, PROMOTION, or KNOWING DUPLICATION	FILM PROCESSORS *Duty To Report
California Penal Code 18	§311.11(a) 1st offense= Public Offense(1yr/ \$2,500) Subsequent offenses= felonies(2, 4, or 6yrs)	§311.1: non- commercial, obscene CP to anyone = misdemeanor. §311.2(b): commercial, obscene CP to anyone = felony. §311.2(c): CP to adults = misdemeanor. Subsequent offense = Felony. §311.2(d): CP to minors = felony.	§311.4 production §311.1, §311.2, §311.3 (knowingly develop, duplicate, print, or exchange). Innocent film processors not liable.	Duty if observes a depiction of a child under 14 engaged in an act of sexual conduct. §11166(c)-(f).
Colorado 18 §18-6-403(2)(u)	18-6-403(3)(b.5). 1st offense; Class 1 Misdemeanor. Subsequent offenses: Class 4 Felony.	18-6-403(c) for commercial purposes. Class 3 Felony. Three or more identical copies creates presumption of commercial purpose. 18-6-403(4).	18-6-403(3)(a-b)	§19-3-304 Violation is class 3 misdemeanor
Connecticut Penal Code 16 Mistake of age defense. §53a- 196(c).	NONE	NONE. [Importing CP is a Class C felony. §53a- 196c]	§53a-196a-b, Employing/ Promoting a minor in an <i>obscene</i> performance.	NONE
Delaware Title 11 18	§1111 Class A Misdemeanor (1yr/ \$2,300)	§1109 Receives for the purpose of distribution. 1st offense: Class D Felony. Subsequent offenses: Class B Felony.	§1108. Class B Felony. (at least 2 yrs, and up to 20 yrs)	
District of Columbia 16 §22-2011(2)	NONE	NONE	§22-2012 Felony. \$5000/10 years max - 1st offense \$15000/20 years max - subsequent offense.	NONE

STATE & AGE OF MINORITY (under __)	POSSESSION	POSSESSION WITH INTENT TO DISTRIBUTE	PRODUCTION, CREATION, PROMOTION, or KNOWING DUPLICATION	FILM PROCESSORS *Duty To Report
Florida 18	§ 827.071(5) 3rd Degree Felony	§827-071(4) 2nd Degree Felony Possession of three or more identical copies creates presumption of intent to promote.	§827.071(2)-(3) 2nd Degree Felony	NONE
Georgia 18 §16-12-100	§16-12- 100(b)(8); g(2) Misdemeanor	§16-12-100(b)(5) Felony	§16-12-100(h)(1-5) §16-12-100(b)(§16-12-100(c)- immunity if done in good faith Failure to report is a misdemeanor.
Hawaii 16 §707-750(2)	NONE	NONE	§707-750 Class A Felony §707-751 Class C Felony	NONE
Idaho 18 §18-1507	§ 18-1507A Felony(5yrs/\$5,0 00)	§18-1507 Three or more creates presumption of commercial purpose.	§18-1506(1)(c) Felony (up to 15yrs). §18-1507(3)(n-b) §44-1306 Misdemeanor	
Illinois Chapter 720 18 §5/11-20.1	5/11-20.1(a)(6); Class 4 Felony	5/11- 20.1(a)(2); ; Class 3 Felony. Possession of more than one of the same item creates a presumption of intent to disseminate. 5/11-20.1(b)(4)	5/11-20.1(3)-(5), (7)	5/11-20.2. Failure to report is a business offense (\$1,000).
Indiana 16/18	§35-42-4-4(c); (16yrs) Class A misdemeanor	NONE	§35-42-4-4 (18yrs) Class D Felony. If committed using a computer network, it is a Class C Felony.	
Iowa 18	§728.12.3 (purchase or possess) Serious Misdemeanor		§728.12.1(permit to participate) Class C Felony §728.12.2 (promotes such material) Class D Felony	§728.14 Failure to report is a simple misdemeanor

STATE & AGE OF MINORITY (under ___)	POSSESSION	POSSESSION WITH INTENT TO DISTRIBUTE	PRODUCTION, CREATION, PROMOTION, or KNOWING DUPLICATION	FILM PROCESSORS *Duty To Report
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Kansas 16 §21-3516(a)(2)	§21-3516(a)(2) and (c); level 5 person felony	NONE	§21-3516(a)(4) Level 5 Person Felony	NONE
Kentucky 18, and higher penalty if under 16	§531.335; Class A Misdemeanor	§531.340(1)(c)(4); Class D felony Possession of more than one unit of the same material creates rebuttable presumption of intent to distribute. §531.340(2).	§531.320 Class C Felony if under 18; Class B Felony if under 16; Class A if minor was injured. §531.350 1st offense: Class A Misdemeanor; Subsequent: Class C Felony. §341.360 (advertising). Class A Misdemeanor.	
Louisiana 17 §81.1.A.(3)	§81.1.A.(3) *Penalty is up to \$10,000 and imprisoned at hard labor for not less than 2 yrs or more than ten years, without parole. . .	§81.1.A.(3) & §81.1.C: three or more is prima facie evidence of intent to sell. *Same Penalty for all child pornography crimes.	§81.1.A.(1,2,4)	None specifically for film processors. §14:403 places a duty on all people to report child abuse.
Maine Title 17 18--possession. w/ intent to distribute, and production. §2921. 14 - mere possession. §2924.2.	§2924(2) Felony First offense is Class D crime. Subsequent offense is Class C crimes.	§2923.1 Class C crime; subsequent offense is Class B crime. §2923.2: possession of 10 or more raises presumption of intent to disseminate	§2922.1 Class B crime (minimum of 5 years); Subsequent conviction is Class A Crime.	NONE

STATE & AGE OF MINORITY (under __)	POSSESSION	POSSESSION WITH INTENT TO DISTRIBUTE	PRODUCTION, CREATION, PROMOTION, or KNOWING DUPLICATION	FILM PROCESSORS *Duty To Report
Maryland 16--mere possession 18--possession with intent to distribute, and production	Art. 27 §419B Misdemeanor Subsequent offense has increased penalty.	Art. 27 419A(d) Felony Subsequent offense has increased penalty.	Art. 27 §419A(b, c, d) Felony	
Massachusetts 18 §272.29A(a).	NONIS	272 § 29B Felony(min. of \$10,000 and/or min. of 10 years)	29A Felony(min. of \$10,000 and/or min. of 10 years) 29B(b) (dissemination)	
Michigan 18 §28.342a(1)	§28.342a(4) Misdemeanor	§28.342a(3) (prohibits receipt with intent to distribute)	§28.342a(2), and §28.342a(3) Felony	§28.342a(6) (No Duty, but grants immunity if reported)
Minnesota 18 §617.246.1(b).	§617.247.4 Gross Misdemeanor		§617.246.2 Felony §617.245.2 (Liable to minor for damages w/ 6-yr. SOL) §617.246.3 and §617.247.3 (dissemination)	
Mississippi 18 §97-5-31(a).	97-5-33(5) Felony	§97-5-33(4) (prohibits receipt with intent to distribute)	§97-5-33(2) §97-5-33(1) Felony	
Missouri 18 §573.010(1), (6).	§573.037 Class A Misdemeanor Subsequent offense is Class D Felony	§ 573.035.1(2) Class D Felony	§573.025 Class B Felony §573.035 Class D Felony	§ 568.110 (DTR) Class B Misdemeanor (if minor under 17)

STATE & AGE OF MINORITY (under __)	POSSESSION	POSSESSION WITH INTENT TO DISTRIBUTE	PRODUCTION, CREATION, PROMOTION, or KNOWING DUPLICATION	FILM PROCESSORS *Duty To Report
Montana 18, (increased penalty if under 16) eff. 7/1/97 §45-5-625(2)(b).	§45-5-625(1)(e) Max Penalty up to 10 yrs or \$10K	§45-5-625(1)(g) Max Penalty up to life, 100 years, or \$10K	§45-5-625(1) Max Penalty up to life, 100 years, or \$10K	NONE
Nebraska 18 for participant; 16 for portrayed observer §28-1463.02(1)	§28-813.01 Class II Misdemeanor	§28-1463.05 Class IV Felony	§28-1463.03 Class III Felony; Subsequent offense is Class II Felony, subject to max of 50 yrs (§28-1463.04)	§ 28-813.02 (No Duty, but grants immunity if reported)
Nevada 16 for participant §200.730. 18 for observer, §201.259. 14 for lewd acts §201.230.	§200.730 Gross Misdemeanor; Subsequent offense is Felony	§200.720 ("promote" includes possession with intent to distribute) Category A Felony (min term of 15 yrs - Penalties in §200.750)	§200.710 §200.720 Category A Felony (min term of 15 yrs - Penalties in §200.750)	NONE
New Hampshire 16 §649-A:2.1.	§ 649-A:3.III(a) Misdemeanor	§ 649-A:3.I(d) Class B Felony; Subsequent Offenses: Class A Felony	§649-A:3.I(n)-(c) Class B Felony; Subsequent Offenses: Class A Felony	NONE
New Jersey 16 §2C:24-4.b(1) appears under 16 §2C:24-4.b(6)	§ 2C:24-4.b(5)(b) Crime of the 4th Degree	§ 2C:24-4.b(5)(a) (prohibits receipt with intent to distribute) Crime of the 2nd Degree	§2C:24-4.b(3)-(5a) Crime of the 2nd Degree	NONE

STATE & AGE OF MINORITY (under __)	POSSESSION	POSSESSION WITH INTENT TO DISTRIBUTE	PRODUCTION, CREATION, PROMOTION, or KNOWING DUPLICATION	FILM PROCESSORS *Duty To Report
New Mexico 18 §32-1-3.A and §30-6A-3. Increased penalty if under 13.	NONE	§ 30-6A-3.A 3rd Degree Felony	§30-6A-3.B 3rd Degree Felony (2nd Degree Felony if child under age 13) §30-6A-3.C 2nd Degree Felony	NONE
New York 16 §263.00 Proof of Age §263.25. Mistake of Age Defense §263.20.	§263.11 (obscene sexual performance) Class B Felony §263.16 (sexual performance) Class E Felony	NONE	§ 263.10 (obscene sexual performance) Class D Felony § 263.15 (sexual performance) Class D Felony §263.05 Class C Felony	NONE
North Carolina Not Married and Under 18: Inference of Age: §§14-190.17A(b) & 14-190.17(b).	§ 14-190.17A Class J Felony. §14-190.17(a)(2) (<i>recepti</i>) Class F Felony	NONE	§14-190.17(u)(1). Class F Felony. §14-190.16. Class E Felony.	NONE
North Dakota 18 Proof of Age §12.1-27.2-06. Mistake of Age Defense. §12.1-27.2-05.	§ 12.1-27.2-04.1 Class A Misdemeanor; Subsequent Offense Class C Felony	NONE	§12.1-27.2-03 (obscene sexual performance) Class B Felony §12.1-27.2-04 (sexual performance) Class C Felony §12.1-27.2-02 Class B Felony	NONE