

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9951 HOUSE LABOR & COMMERCE

AMENDMENT#3

OFFERED IN THE DEPARTMENT OF LABOR AND WORKFORCE  
DEVELOPMENT HOUSE FINANCE SUBCOMMITTEE

TO: HB 312

INTENT LANGUAGE

It is the intent of the Department of Labor and Workforce Development House Finance Subcommittee that the \$1.5 million cut be predicated on the passage of HB 378/SB 272, "An act relating to Worker's Compensation and Worker Safety".

This eliminates the premium tax and replaces it with a new fee for all companies based on a percentage of their particular workers' compensation claims. The fees would be accounted for separately and deposited into a worker safety and compensation account. Since these fees would fully fund the program, it would be treated as self-supporting in the state budget.

## HOUSE BILL 378/SENATE BILL 272

*"An act eliminating certain taxes under AS 21.09 on premiums from the sale of workers' compensation insurance; relating to the establishment, assessment, collection, and accounting for service fees for state administration of workers' compensation and worker safety programs; establishing civil penalties and sanctions for late payment or nonpayment of the service fee; and providing for an effective date."*

### What it does:

1. **Provides a stable funding source for the Division of Workers Compensation (DWC) and Occupational Safety and Health (OSH).** HB 378 replaces general funds (GF) for DWC and OSH with non-GF designated program receipts and establishes a special workers' safety and compensation administration account.
2. **Creates a means of funding the two programs that is fair and equitable to all employers, regardless of whether they have purchased workers' compensation or are self-insured.** Currently, only those employers that purchase workers' compensation insurance policies pay a premium tax through their carriers. Self-insurers pay nothing. HB 378 eliminates the premium tax and enacts a user fee, charged equally among all users of the two systems.
3. **Provides an economic incentive to employers to create a safe workplace.** The user fee is based on a percentage of workers' compensation claim payments. The fewer accidents an employer has in the workplace, the less they pay for workers' compensation claims. Therefore, the less they pay for claims, the lower the user fee.

### Why support HB 378/SB 272?

Successive budget cuts have threatened the very existence of workers' compensation and safety programs. Last year the Legislature (House) eliminated OSH from their budget, and a federal takeover became a distinct possibility. While OSH was put back into the budget in the Senate side, DWC took a large cut which further reduced services to injured workers and employers, primarily through longer waiting time for hearings. By leveling the playing field and changing the way these programs are funded, continuation of these critical benefits and services to Alaskans will be ensured.

RECEIVED  
FEB 22 2000

## House Bill 378/Senate Bill 272 Analysis

The legislation's intent is to enact a fee on all workers' compensation payments to establish an account for the administration of the workers' compensation program and the Occupational Safety and Health program, and to reduce those programs' reliance on general fund revenues.

### **HB 378/SB 272:**

- Eliminates the premium tax and establishes a fee for service for funding the Workers' Compensation Division and the state match for the Occupational Safety and Health program.
- Reduces the reliance of these programs on general fund revenue.
- Sets out a funding mechanism for the two programs that is fair and equitable to all employers, regardless of whether they purchase a workers' compensation policy or are large enough to self-insure. The payment of the fee is charged equally among all users of the two systems according to their use and need. The fee is based on a percentage of the dollar amount of claims paid under the workers' compensation system. Currently, only those purchasing a workers' compensation policy pay a premium tax. Self-insurers do not pay any type of fee or tax regarding workers' compensation.
- Provides an incentive for safer work places. The fewer accidents that employers have in the workplace, the less they pay for workers' compensation claims. The less those employers or their insurance companies pay for workers' compensation claims, the lower the user fee.

**Section 1 amends AS 21.09.150(a)** to establish the authority of the Director of Insurance over insurers regarding the new annual user fee. Currently, this type of regulation governs premium taxes.

**Section 2 amends AS 21.09.210(b)** to exclude workers' compensation insurance from premium taxes.

**Section 3 amends AS 21.09.210(e)** to provide that the service fee is in lieu of all tax on workers' compensation insurance premiums.

**Section 4 amends AS 21.09.210(n)** to clarify the meaning of workers' compensation insurance for purposes of eliminating its premium tax.

**Section 5 amends AS 21.09.270(b)** to exempt the annual user fee from the "retaliation" provision of AS 21.09.270(a).

**Section 6 amends AS 23.05** by adding a new section for an annual user fee to be charged to all insurers and employers at a rate of 3.3 percent in 2001, 3.1 percent in 2002, 2.9 percent in 2003 and 2.9 percent in 2004 and all years thereafter. The rate declines through 2004 as payments by self-insured employers are phased in. (See Section 9.)

It allows for fees due under the terms of a large lump settlement (\$50,000 or more) to be paid over a five year period. This section also provides for penalties for late payment of the annual service fee.

**Section 7 amends AS 23.30.090** to consider payment of the annual service fee as a factor for certification of a self-insurer.

**Section 8 amends AS 37.05.146(b)(4)** to establish a special workers' safety and compensation administration account.

**Section 9** allows for the phase-in of self-insurers and joint insurance arrangements. The phase-in would be over a four-year period starting in 2001 at 25 percent of the fee and going up 25 percent each succeeding year until the self-insurers pay 100 percent of the fee. These entities currently do not pay a premium tax, but would pay the user fee.

**Section 10** allows for the promulgation of regulations to implement the new user fee.

**Section 11** provides for immediate effective date to promulgate regulations to implement the new user fee.

**Section 12** provides for an effective date of January 1, 2001.



## Office of the Governor Press Releases

### ALASKA IN THE NEWS

February 11, 2000

00048

#### **KNOWLES' BILL PROTECTS, UPDATES WORKERS' COMPENSATION; SAFETY PROGRAMS**

Calling it vital for employees and employers alike, Gov. Tony Knowles today announced legislation that provides a fair, effective way to fund workers' compensation and safety programs. A second bill updates provisions of the compensation program.

"The state's workers' compensation and worker safety programs provide important benefits and services to both employees and employers throughout Alaska," Knowles said. "The bill I am introducing changes the way these programs are funded to ensure these services to Alaskans are put back on firm footing."

Workers' compensation and safety programs are currently paid for with general funds that roughly equate to the amount that the state collects from a tax on workers' compensation insurance premiums. Since only employers who purchase such insurance are taxed, larger self-insured companies pay no tax at all. Successive budget cuts, meanwhile, have threatened the viability of these programs and a takeover of the safety program by the federal government is now considered a distinct possibility.

"Federal management of our occupational health and safety program is unacceptable to me and to most employers and employees in Alaska," Knowles said. "This bill eliminates the premium tax and replaces it with a new fee for all companies based on a percentage of their particular workers' compensation claims."

The fees would be accounted for separately and deposited into a worker safety and compensation account. Since these fees would fully fund the programs, it would be treated as self-supporting in the state budget.

The new fee system is designed to raise the same amount of money as that currently brought in by the tax. Because the new system spreads costs among more employers, fees paid by employers currently paying the premium tax would actually be decreased. The bill would provide for a four-year phase-in of the fees to minimize the impact on those self-insured employers who currently pay no tax.

"This bill gives employers a chance to control our own destiny," said Sally Ann Carey, President of the Workers' Compensation Committee of Alaska. "If we make our workplace safer and manage our claims effectively, our rates go down."

"Effective OSHA and workers' compensation programs are essential to providing a safe and healthy environment for our workforce," said "Safety Herb" Everett, President of the Denali Safety Council and Westmark of Alaska's Director of Safety and Workers Comp. "We almost lost the state OSHA program last year, which would have undone much of the improvement achieved in the last few years. This bill will prevent that from happening."

Alaska's Workers' Compensation Act has not been changed in 12 years and the second bill introduced by Knowles amends the act to keep pace with changing conditions and to ensure that the program is fair and efficient. Knowles' bill reflects the recommendations of an ad hoc committee representing both employers and employees to adjust for the effects of inflation on benefits, recent court decisions, and to provide more efficient ways of handling the workers' compensation program.

Included in the changes are increases in benefits paid to injured workers to make up for losses due

to inflation over the past 12 years. The bill also addresses Alaska Supreme Court decisions as to what benefits should be paid during the rehabilitation process and the timeframe for requests for claim hearings.

Other changes streamline the rehabilitation process, the signing of medical releases, and the dispute resolution process. Benefits are increased for workers in the retraining process and new timelines set for the payment of medical bills. Another provision updates the wage benchmarks to which benefits are tied.

Mano Frey, president of Alaska AFL-CIO, said, "Labor and management came together for the 'Ad Hoc' bill with recommendations that will make a real difference in the lives of injured workers and their families."

##

**Contact:**

Bob King, Press Secretary, (907) 465-3995

Claire Richardson, Deputy Press Secretary, (907) 465-3996

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# FISCAL NOTE

No: 4

B... Version: HB 378

(H) Publish Date: 2/16/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: "An Act eliminating certain taxes  
under AS 21.09 on premiums from the sale"  
 Sponsor: Rules  
 Requestor: Governor

Department Affected: Labor  
 BRU: Labor Standards and Safety  
 Component: \_\_\_\_\_  
Occupational Safety and Health  
 COMPONENT SERIAL NO. 970

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL						
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CHANGE IN REVENUE FUND SOURCE #						
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**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match		(1,131.1)	(1,131.1)	(1,131.1)	(1,131.1)	(1,131.1)
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other (New Fund)		1,131.1	1,131.1	1,131.1	1,131.1	1,131.1
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY00) impact: \$ 0.0

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

See attached

Prepared by: Alan Dwyer, Director *Al Dwyer*  
 Division: Labor Standards and Safety

Phone: 465-2790  
 Date/Time: 1/31/00 1:07 PM

Approved by Commissioner: Ed Flanagan, Commissioner  
 Agency: Department of Labor *Ed Flanagan*

Date: 1/31/00

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# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. \_\_\_\_\_

**Title:** An Act eliminating certain taxes under AS 21.09 from the sale of worker's compensation insurance; relating to the establishment, assessment, collection, and accounting for service fees for state administration of workers' compensation and worker safety programs; establishing civil penalties and sanctions for late payment or nonpayment of the service fee; and providing for an effective date.

The bill would eliminate the 2.7% tax paid on workers' compensation insurance premiums under AS 21.09.150(b), and would replace it with an annual service fee. The annual service fee is to be paid by all insurers who provide workers' compensation insurance as well as those employers who are self-insured or uninsured.

The fee shall be paid each year to the department at the time that the annual report is required. This suggests that initial payments shall be received by the department in March, 2001 with funding available for appropriation to the workers' compensation program on July 1, 2001 (state fiscal year 2002).

For those insurers who provide workers' compensation insurance, the service fee is the following percentage of all payments reported to the Alaska Workers' Compensation Board under AS 23.30.155(m) or (n):

- (1) for payment due in 2001: 3.3 percent;
- (2) for payment due in 2002: 3.1 percent;
- (3) for payment due in 2003: 2.9 percent;
- (4) for payment due in 2004 and subsequent years: 2.6 percent

Other employers who are self-insured under AS 23.30.090 shall pay instead an annual service fee as follows, calculated according to the provisions of AS 23.05.067:

- (1) for payment due in 2001, 25 percent of the amount calculated for the service fee;
- (2) for payment due in 2002, 50 percent of the amount calculated for the service fee;
- (3) for payment due in 2003, 75 percent of the amount calculated for the service fee; and
- (4) for payment due in 2004 and subsequent years, 100 percent of the amount calculated for the service fee .

This fee would be deposited into a workers' safety and compensation administration account, and would be available, through appropriation, to fund the expenses incurred by the state in administering the occupational safety and health program. During the four-year phase-in period, this appropriation would replace the unrestricted general fund match appropriation which currently funds a portion of the cost of the state's occupational safety and health program.

The bill provides penalties for late payment of the fee, and amends AS 37.05.146(b)(4) to ensure that the receipts in the new account are accounted for separately and that appropriations from the account are not made from the unrestricted general fund.

The Division of Labor Standards and Safety does not anticipate any additional need for staff to administer this fee collection program.

**FISCAL NOTE**

No: 3

Bill Version: HB 378

(H) Publish Date: 2/16/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: "An Act eliminating certain taxes  
under AS 21.09 on premiums from the sale"  
 Sponsor: Rules  
 Requestor: Governor

Department Affected: Labor  
 BRU: Workers' Compensation  
 Component: Workers' Compensation

COMPONENT SERIAL NO. 344

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>						
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<b>CHANGE IN REVENUE FUND SOURCE #</b>						
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**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		(2,367.1)	(2,367.1)	(2,367.1)	(2,367.1)	(2,367.1)
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other (New Fund)		2,367.1	2,367.1	2,367.1	2,367.1	2,367.1
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY00) impact: \$ 0.0

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

See attached

Prepared by: Paul Grossi, Director  
 Division: Workers' Compensation

Phone: 465-2790  
 Date/Time: 1/28/00 3:45 PM

Approved by Commissioner: Ed Flanagan, Commissioner  
 Agency: Department of Labor

Date: 1/28/00

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## FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. \_\_\_\_\_

**Title:** An Act eliminating certain taxes under AS 21.09 from the sale of worker's compensation insurance; relating to the establishment, assessment, collection, and accounting for service fees for state administration of workers' compensation and worker safety programs; establishing civil penalties and sanctions for late payment or nonpayment of the service fee; and providing for an effective date.

The bill would eliminate the 2.7% tax paid on workers' compensation insurance premiums under AS 21.09.150(b), and would replace it with an annual service fee. The annual service fee is to be paid by all insurers who provide workers' compensation insurance as well as those employers who are self-insured or uninsured.

The fee shall be paid each year to the department at the time that the annual report is required. This suggests that initial payments shall be received by the department in March, 2001 with funding available for appropriation to the workers' compensation program on July 1, 2001, FY2002.

For those insurers who provide workers' compensation insurance, the service fee is the following percent of all payments reported to the Alaska Workers' Compensation Board under AS 23.30.155(m) or (n):

- (1) for payment due in 2001. 3.3 percent;
- (2) for payment due in 2002. 3.1 percent;
- (3) for payment due in 2003. 2.9 percent
- (4) for payment due in 2004 and subsequent years. 2.6 percent

Other employers who are self-insured under AS 23.30.090 shall instead pay an annual service fee of the following amounts in the following years:

- (1) for payment due in 2001, 25 percent of the amount calculated for the service fee under AS 23.05.067;
- (2) for payment due in 2002, 50 percent of the amount calculated for the service fee under AS 23.05.067;
- (3) for payment due in 2003, 75 percent of the amount calculated for the service fee under AS 23.05.067; and
- (4) for payment due in 2004 and subsequent years, 100 percent of the amount calculated for the service fee under AS 23.05.067.

This fee would be deposited into a workers' safety and compensation administration account, and would be available, through appropriation, to fund the expenses incurred by the state in administering the workers' compensation program under AS 23.30. During the four-year phase-in period, this appropriation would replace the unrestricted general fund appropriation which currently funds a portion of the cost of the state's workers' compensation program.

The bill provides penalties for late payment of the fee, and amends AS 37.05.146(b)(4) to ensure that the receipts in the new account are accounted for separately and that appropriations from the account are not made from the unrestricted general fund.

The Division of Workers' Compensation does not anticipate any additional need for staff to administer this fee collection program.

# FISCAL NOTE

Bi. /ersion: HB 378

(H) Publish Date: 2/16/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Community & Economic Development  
 Title An act eliminating certain taxes under AS 21.09 on BRU Insurance  
premiums from the sale of workers' compensation insurance. . . Component Insurance  
 Sponsor Rule Committee  
 Requester Governor Component No. 354

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>(3,498.2)</b>	<b>(3,498.2)</b>	<b>(3,498.2)</b>	<b>(3,498.2)</b>	<b>(3,498.2)</b>	<b>(3,498.2)</b>
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**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The bill will result in the elimination of tax receipts from workers' compensation premiums currently collected by the Division of Insurance. Under the bill a service fee charged by the Department of Labor and Workforce Development against workers' compensation claims payments and costs will result in fee receipts that are estimated to offset the foregone tax receipts, when the amount generated from self-insured claims is included. The loss in revenue shown above equals the amount the Department of Labor and Workforce Development estimates it will receive in fee receipts.

Prepared by: Robert A. Lohr  
 Division Insurance  
 Approved by Commissioner Deborah B. Sedwick  
 Agency Community & Economic Development

Phone 269-7900  
 Date/Time 2/2/00 12:24 PM  
 Date 2/2/00

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# FISCAL NOTE

Bill Version: HB 378

(H) Publish Date: 2/16/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date 1/27/00 Dept. Affected Administration  
 Title "An act relating to the establishment, assessment, BRU Risk Management  
collection and accounting for service fees for the administration Component Risk Management  
administration of workers' compensation and workers' safety programs.....\*  
 Sponsor Rules Committee  
 Requester Governor Component No. 71

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual	75.8	142.4	199.9	238.9	238.9	238.9
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>75.8</b>	<b>142.4</b>	<b>199.9</b>	<b>238.9</b>	<b>238.9</b>	<b>238.9</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1007 I/A Receipts	75.8	142.4	199.9	238.9	238.9	238.9
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>75.8</b>	<b>142.4</b>	<b>199.9</b>	<b>238.9</b>	<b>238.9</b>	<b>238.9</b>

Estimate of any current year (FY2000) cost: 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 creates an increased expense to Risk Management operating costs for a new administrative assessment fee beginning in 2001.

Applying the proposed rate schedule to the average of the five most recent fiscal years workers' compensation experience (\$9,191,125) estimated costs are projected, although future loss experience will determine actual costs incurred.

As Risk Management is funded solely through inter-agency receipts, this additional expense will require increased cost of risk allocations (premium assessments) to all state agency operating budgets.

Prepared by: Brad Thompson, Director Phone 465-5723  
 Division Risk Management Date/Time 1/27/00  
 Approved by Commissioner Robert Poe Date 1/27/00  
 Agency Administration

TONY KNOWLES  
GOVERNOR  
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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 11, 2000

The Honorable Brian Porter  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Porter:

The state's workers' compensation and worker safety programs in the Department of Labor and Workforce Development provide important benefits and services to employees and employers throughout Alaska. Successive budget cuts to the department have threatened the viability of these programs to the point that a takeover of the safety program by the federal government is a distinct possibility.

Federal management of our occupational health and safety program is unacceptable to me and to most employers and employees in Alaska. The bill I am introducing changes the way in which these programs are funded to ensure these services to Alaskans are put back on firm footing.

These programs are currently paid for with general funds. The costs roughly equate to the amount of money the state collects from the tax on workers' compensation insurance premiums.

The programs clearly benefit all employers, but only those employers who purchase workers' compensation insurance are taxed. Larger self-insured employers pay no tax. This bill more equitably spreads the cost/benefit structure of worker safety programs by eliminating the premium tax and replacing it with a fee for all employers based on a percentage of their individual workers' compensation claims.

The fees would be accounted for separately and deposited into a worker safety and compensation account. The money in the account would be treated as designated program receipts available for appropriation to the workers' compensation and safety programs. The bill provides for a four-year phase-in of the fees to minimize the impact on those self-insured employers who currently pay no tax. The new fee system is designed to raise the same

The Honorable Brian Porter  
February 11, 2000  
Page 2

amount of money as the current tax. Because the new system would spread costs among more employers, those employers currently paying the premium tax would realize a decrease in their payments.

This bill offers a fair, effective way of ensuring continued funding for vital worker protection programs. I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles". The signature is written in a cursive style with a large initial "T".

Tony Knowles  
Governor

WCCA WORKERS' COMPENSATION COMMITTEE OF ALASKA  
P.O. Box 200631 • Anchorage, Alaska • 99520

*W. Gross*

RECEIVED  
Department of Labor

FEB 05 2000

February 4, 2000 Office of the Commissioner

Ed Flanagan  
Commissioner of Labor and Workforce Development  
P.O. Box 21149  
Juneau, Ak 99802

Dear Commissioner Flanagan:

A majority of WCCA board members participating, voted to support the draft legislation to assess service fees for the administration of workers' safety and compensation programs. Several board members choose to abstain or did not participate in the vote.

While the "yes" vote constituted the majority of those voting, there is still some opposition to the draft legislation, primarily from those who represent self-insured interests. The support from those voting in the affirmative was based on the qualification that the fees raised be used specifically for the purpose stated and not be diverted to the other uses or the general fund.

WCCA board members recognize that it is in everyone's interest to have workers' compensation programs administered fairly and as expeditiously as possible. That requires an adequate level of funding and that is why we lend our qualified support to the draft legislation.

Sincerely,



Sally Ann Carey  
President, Board of Directors

1.1-461  
2/2/00

**HB**

**380**

(7)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: February 23, 2000

FURTHER REFERRALS:

Finance

Date of Committee Action: March 1, 2000

The LABOR AND COMMERCE Committee considered:

HB 380

HOUSE BILL NO. 380

INSURER TAX CREDIT: FIRE STANDRDS COUNCIL

"An Act relating to contributions to the Alaska Fire Standards Council and to an insurer tax credit for those contributions; and providing for an effective date."

recommends it be replaced

with the following committee substitute CS HB 380 (L+C)

the same title  
 a new title

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

attached amendment(s)

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

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) Dced 3/1/00

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DPS 2/19/00

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
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CHAIR'S SIGNATURE

*[Signature]*

3-1-00

# Alaska State Legislature

REPRESENTATIVE  
**GENE THERRIAULT**

Mailing Address:  
119 N. Cushman, Suite 101  
Fairbanks, Alaska 99701  
(907) 488-0857  
Fax: (907) 488-4271


While in session  
State Capitol  
Juneau, Alaska  
99801-1182  
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House District 33

## House Of Representatives

### MEMORANDUM

TO: Representative Norm Rokeberg, Chair  
House Labor & Commerce Committee

FROM: Representative Gene Therriault 

DATE: February 23, 2000

SUBJECT: HB 380 Hearing Request

RECEIVED  
FEB 23 2000

---

I respectfully request that the House Labor & Commerce Committee hear House Bill 380 the week of February 28.

House Bill 380 will provide a funding source for the Alaska Fire Standards Council, which is to be established on July 1 of this year as directed in legislation passed during the 20<sup>th</sup> Legislature.

House State Affairs Committee passed the bill out of committee on Tuesday the 22<sup>nd</sup> with every member recommending Do Pass.

Please contact me if you have any additional questions.

HOUSE BILL NO. 380

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE THERRIAULT

Introduced: 2/16/00

Referred: State Affairs, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to contributions to the Alaska Fire Standards Council and to  
2 an insurer tax credit for those contributions; and providing for an effective date."

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

4 \* Section 1. AS 21.89 is amended by adding a new section to read:

5 Sec. 21.89.075. Insurance tax credit for gifts to the Alaska Fire Standards

6 Council. (a) For cash contributions made for fire services training programs to the  
7 Alaska Fire Standards Council established under AS 18.70.330, a taxpayer is allowed  
8 a credit against the tax due

9 (1) that is imposed on insurance that includes coverage for losses due  
10 to fire under AS 21.09.210; or

11 (2) under AS 21.66.110.

12 (b) The amount of the credit allowed under (a) of this section is the lesser of

13 (1) an amount equal to

14 (A) 50 percent of contributions of not more than \$100,000; and

1 (B) 100 percent of the next \$100,000 of contributions; or

2 (2) 50 percent of the taxpayer's tax liability under this title.

3 (c) A contribution claimed as a credit under this section may not

4 (1) be claimed as a credit under more than one provision of this title;

5 and

6 (2) when combined with credits taken during the taxpayer's tax year

7 under AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or

8 AS 43.77.045, exceed \$150,000.

9 \* Sec. 2. AS 37.05.146(b) is amended by adding a new paragraph to read:

10 (6) receipts of the Alaska Fire Standards Council for which a taxpayer

11 is allowed a credit under AS 21.89.075.

12 \* Sec. 3. AS 43.20.014(d) is amended to read:

13 (d) A contribution claimed as a credit under this section may not

14 (1) be claimed as a credit under another provision of this title;

15 (2) also be allowed as a deduction under 26 U.S.C. 170 ag.inst the tax  
16 imposed by this chapter; and

17 (3) when combined with credits taken during the taxpayer's tax year

18 under AS 21.89.070, 21.89.075, AS 43.55.019, AS 43.56.018, AS 43.65.018,

19 AS 43.75.018, or AS 43.77.045, exceed \$150,000.

20 \* Sec. 4. AS 43.55.019(d) is amended to read:

21 (d) A contribution claimed as a credit under this section may not

22 (1) be claimed as a credit under another provision of this title; and

23 (2) when combined with credits taken during the taxpayer's tax year

24 under AS 21.89.070, 21.89.075, AS 43.20.014, AS 43.56.018, AS 43.65.018,

25 AS 43.75.018, or AS 43.77.045, exceed \$150,000.

26 \* Sec. 5. AS 43.56.018(d) is amended to read:

27 (d) A contribution claimed as a credit under this section may not

28 (1) be claimed as a credit under another provision of this title; and

29 (2) when combined with credits taken during the taxpayer's tax year

30 under AS 21.89.070, 21.89.075, AS 43.20.014, AS 43.55.019, AS 43.65.018,

31 AS 43.75.018, or AS 43.77.045, exceed \$150,000.

1 \* Sec. 6. AS 43.65.018(d) is amended to read:

2 (d) A contribution claimed as a credit under this section may not  
3 (1) be claimed as a credit under another provision of this title; and  
4 (2) when combined with credits taken during the taxpayer's tax year  
5 under AS 21.89.070, 21.89.075, AS 43.20.014, AS 43.55.019, AS 43.65.018,  
6 AS 43.75.018, or AS 43.77.045, exceed \$150,000.

7 \* Sec. 7. AS 43.75.018(d) is amended to read:

8 (d) A contribution claimed as a credit under this section may not  
9 (1) be claimed as a credit under another provision of this title; and  
10 (2) when combined with credits taken during the taxpayer's tax year  
11 under AS 21.89.070, 21.89.075, AS 43.20.014, AS 43.55.019, AS 43.56.018,  
12 AS 43.75.018, or AS 43.77.045, exceed \$150,000.

13 \* Sec. 8. AS 43.77.045(c) is amended to read:

14 (c) A contribution claimed as a credit under this section may not  
15 (1) be claimed as a credit under another provision of this title; and  
16 (2) when combined with credits taken during the taxpayer's tax year  
17 under AS 21.89.070, 21.89.075, AS 43.20.014, AS 43.55.019, AS 43.56.018,  
18 AS 43.65.018, or AS 43.75.018, exceed \$150,000.

19 \* Sec. 9. This Act takes effect July 1, 2000.

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. CSHB 380 (SA)

Revision Date/Time (Note if correction) 2/23/00 Dept. Affected Community & Economic Development /Public Safety  
 Title An Act relating to contributions to the Alaska Fire Standards Council and to an insurer tax credit BRU Insurance/Alaska Fire Standards Council  
 Component Insurance/Alaska Fire Standards Council  
 Sponsor Representative Theriault  
 Requester Labor & Commerce Component No. 354

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(280.0)	(280.0)	(280.0)	(280.0)	(280.0)	(280.0)
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health						
Other (AFSC)	280.0	280.0	280.0	280.0	280.0	280.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

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

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

The bill redirects general fund revenue into restricted program receipts for funding the Alaska Fire Standards Council. The language of this bill is very similar to language currently in statute for premium tax credits for contributions made to certain educational institutions (AS 21.89.060). It is impossible to know how many insurance companies may choose to make a contribution and take the limited credit against their premium tax obligation to the state. This fiscal note assumes that the amount taken as a credit will be the same as taken during FY99 by insurance companies under the education tax credit provisions because no better figure is available. However, this example allows the effect on the general fund to be demonstrated for any assumed level.

(continued on next page)

Prepared by: Jeffrey W. Bush Phone 465-2500  
 Division Deputy Commissioner Date/Time 2/23/00 9:57 AM  
 Approved by Commissioner Deborah B. Sedwick Date 2/23/00  
 Agency Community & Economic Development

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The credit in HB 380 is limited to tax due on premiums paid for fire coverage. In 1998 a total of 76 companies received premiums under the fire line of business. This does not include premiums received as fire coverage under other multi-coverage lines of business such as Commercial Multiple Peril and Homeowners Multiple Peril because those categories include fire but do not report it separately. If insurers were to maximize the contribution to obtain the maximum credit, it would equate to a reduction in general fund revenue of \$366,903. It is highly unlikely that the maximum contribution will be made in all cases by all insurers.

# FISCAL NOTE

Bill Version: CSHB 380 (STA)  
 (H) Publish Date: 2/23/00

**STATE OF ALASKA  
 2000 LEGISLATIVE SESSION**

Revision Date		Dept. Affected	Public Safety
Title	<u>INSURER TAX CREDIT: FIRE STANDARDS</u>	BRU	Ak. Fire Standards Council
COUNCIL		Component:	Ak. Fire Standards Council
Sponsor	<u>Representative Theriault</u>		
Requester	<u>H. State Affairs</u>	Component No.	<u>2428</u>

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>						
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (FY2000) 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 bill has the potential, pending taxpayer participation in the program, of generating non-general fund funding to cover costs associated with the Alaska Fire Standards Council (AFSC). The level of taxpayer participation is not known at this time.

NOTE: The Gov. FY2001 budget request includes \$220.00 for the AFSC (\$120.0 GF/\$100.0 Des/PR).

Prepared by:	<u>Royce Weller, Special Assistant</u>	Phone	<u>465-4322</u>
Division	<u>Office of the Commissioner</u>	Date/Time	<u>2/19/2000</u>
Approved by:		Date	<u>2/19/00</u>
Agency	<u>Commissioner Ronald L. Otte, Dept. of Public Safety</u>		

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# Alaska State Legislature

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## House Of Representatives

While in session  
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House District 33

House Bill 380

"An Act relating to contributions to the Alaska Fire Standards Council and to an insurer tax credit for those contributions."

SPONSOR: Representative Gene Therriault

### SPONSOR STATEMENT:

House Bill 380 creates an insurance tax credit for contributions to the Alaska Fire Standards Council for fire services training programs. Development of fire standards that address the unique challenges posed by Alaska's climate will benefit Alaskans as the incidence of casualty and property loss goes down, including fatalities.

The Alaska Fire Standards Council will be established on July 1, 2000 as directed in legislation passed by the 20<sup>th</sup> Alaska State Legislature. It will adopt minimum standards for employment and curriculum requirements for firefighters and fire instructors and their certification. It will establish and maintain firefighter and fire instructor training programs. The certification of firefighters will be optional. While national standards already exist, they do not take into account many of the unique qualities Alaska's climate presents.

**HB**

**382**

(7)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: February 16, 2000

FURTHER REFERRALS:

Finance

Date of Committee Action: March 1, 2000

The LABOR AND COMMERCE Committee considered:

HB 382

HOUSE BILL NO. 382

SOCIAL WORKER LICENSING

"An Act relating to the licensing of social workers and to the use of the title 'social worker' without a license; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 382 (LFE)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

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

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) Deed 3/1/00  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
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CHAIR'S SIGNATURE *[Signature]* 3-1-00

# Alaska State Legislature

REPRESENTATIVE  
JEANNETTE JAMES

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House of Representatives  
House District 34

**REPRESENTATIVE JEANNETTE JAMES**

**SPONSOR STATEMENT FOR HB 382**

**February 29, 2000**

"An Act relating to the licensing of social workers and to the use of the title 'social worker' without a license; and providing for an effective date."

In 1998, I introduced HB 349 that prohibited the use of the title 'social worker' without a license. The intent was to promote, preserve and protect the health, safety and welfare of the public through the licensure of qualified social workers. This legislation would ensure that the people hired by the state to provide have the highest qualifications .

In 1999, the Division of Family and Youth Services found that the restrictions were creating hiring problems and they requested some changes. Experience has shown that the requirements for social workers within the state and private sector are too restrictive. Problems arose because of the wide turnover of social workers, the limited pool of qualified applicants, and the difficulty for applicants to take the required licensing exam. More time is necessary for implementation of the law.

HB 382 will amend the current laws relating to social worker licensing by allowing the temporary licensing for newly hired social workers (up to one year), providing they meet the educational qualifications and other requirements, including receipt of a completed application for a social worker license and the full payment of all fees. Secondly, HB 382 extends the provision AS 08.95.100(b)(1) relating to the criminal penalty for use of the title "social worker" without being licensed under AS 08.95 by one year to July 1, 2001.

## Social Work Licensing Law Passed in 1998

Problems or Issues	Actions Taken or Underway
Personnel Complaint Investigations	The Licensing Board and Division of Occupational Licensing staff do not want to be involved in personnel investigations. They want to be notified of any complaints regarding egregious or unethical practice, and have agreed to wait for our investigation to be completed before taking any action.
Difficulty Recruiting in Rural Alaska	Personnel is working with us to reexamine Social Service Associate job class and develop a new similar job class specific to child protection. Rural recruitment has been difficult in <i>some</i> DFYS office locations. DFYS has had out-of-state recruitment for Bethel, and has not proven effective. Managers want to develop higher levels of the SSA positions for rural positions. This would be modeled after the Community Health Aid program and the VPSO program, which includes real-time support and supervision, and reliable training program
License Fees	Licensing Board has agreed to lower the fees for applicants who apply after April. All licensees renew in July 2000 when fees are reassessed.
Passing Test for License	An applicant can take the exam as many times as needed to pass. The Licensing Board has agreed that new applicants have a full year to pass the exam after their application has been submitted.
Access to the Test for License	Licensing Board uses the national exams that are developed and monitored by a national group. The national group contracts with Sylvian Learning Center to administer the exam. Any state using their exam must use their administrator.

	The only Sylvian Learning Center in Alaska is in Anchorage. Licensing Board has temporarily made provisions for Juneau and Fairbanks to have the test available. This is still a problem for many workers.
Hiring More Often than Licenses are Issued	Division of Occupational Licensing and their Assistant Attorney General do not think there is statutory authority to establish a temporary license. Licensing Board has tried to help, but are not able to do anything. Both the Licensing Board and NASW Board have considered this a "fix" needed in the law.
Licensing Board Late in Issuing Regulations and Applications	Licensing Board and Occupational Licensing staff issued the new regulations and applications in December 1999 - six months before the effective date. This is a problem. There has been discussion with Licensing board members and NASW, and with Rep James' staff that dates need to be pushed back.

#### Other Actions Taken to Implement New Social Work Licensing Law

- Distance Delivery of the BSW funded by the Mental Health Trust Authority.
- UAA and UAF Student Units established for recruitment into DFYS jobs
- DFYS Student Stipends geared towards rural and statewide recruitment
  - ◆ Last year, students demonstrating an interest in a rural job placement were given \$250 extra.
  - ◆ Next year, employees, who are working in rural areas and wishing to return to school, will receive priority
- UAA has agreed to help workers study for the exam

## **Results from Employee and Student Survey From November 1999**

An employee survey was conducted to determine the educational levels and credentials of current DFYS social work staff, whether current staff plan on applying for a social work license, and whether they were interested in training to prepare for the licensing exam. Another survey of BSW and MSW students at the UAA was also completed. This survey measured the level of student knowledge about DFYS and Workplace Alaska, and the students' interest in pursuing a career in child protection. Here are the highlights from the results.

- Employees return rate was 85 percent, or 174 employees responded to the survey.
  - 44 percent or 76 of the 174 employees hold social work degrees.
  - 38 percent or 66 of the 174 employees hold social service related degrees.
  - 17 percent or 30 of the 174 employees hold non-social service related degrees or no degrees (13 employees do not have any college degrees.)
  
- The number of employees expressing an interest in taking the licensing exam was 112, and 138 employees expressed an interest in attending training to help prepare for the licensing exam. 57 employees either did not respond to this part of the survey or were undecided.
  
- A total of 53 students responded to the student survey. Of the 53 students, 30 are in their last year of the BSW program, and 23 are MSW students.
  - Of the 53 students, 45 indicated that they consider themselves as having extensive or some level of knowledge about the purpose and responsibilities of DFYS.
  - Of the 53 students, 27 said they were familiar with Workplace Alaska, and 22 said they are familiar with the job requirements for social work positions at DFYS.
  - Of the 53 students, 35 indicated that they are somewhat interested to very interested in working in child protection.
  - Of the 53 students, 12 are definitely planning on applying for a DFYS position, and another 20 are undecided.

The passage of HB 382 is crucial to the Division of Family and Youth Services.

**HB 382 provides the Division and other agencies an ability hire social workers who meet the qualifications for a social work license and who have initiated the licensing process, but have not yet completed the process. This would be accomplished through the provision of a temporary license.**

The temporary license requires that the applicant meet the education and experience criteria of a regular license. Those who receive a temporary license have one year to complete the licensing process, including passing the exam, and having the licensing board review the complete application. Currently, the exam for all levels of social work licensure is available only in Anchorage and Fairbanks. This significantly increases the financial burden of taking the exam for many Alaskans. The temporary license provides applicants the ability gain professional employment while preparing for and taking the licensing exam.

The temporary license will allow DFYS to recruit and hire qualified candidates without delay due to their licensing status. Candidates such as BSW students with DFYS internship experience, will be able to start employment immediately after their graduation. The stipend program was designed specifically to increase the pool of candidates with child protective services experience. It seems logical that an intern with successful experience should be eligible for employment with DFYS, without delay.

Currently, University of Alaska at Anchorage and Fairbanks graduates approximately 80 students per year, through the School of Social Work. This number includes BSW's and MSW's. A significant number of these graduates indicate a desire to pursue employment in child protection. Being able to employ them prior to their sitting for the test will be extremely valuable.

**HB 382 allows current social workers an appropriate amount of time to make the decision to apply for a transitional license or not, and to financially afford the licensing processes.**

HB 382 would delay the implementation date the new licensing statute for one year, to July 1, 2001. This would allow current DFYS social workers and other social workers the necessary time to complete the licensing application and exam, if they choose to pursue a transitional license. The application and regulations were made available in late December. This has not provided current social workers adequate time to evaluate the impact this may have on their current and future employment. The extra year allows current social workers the time necessary to think through the process and have their questions answered. It allows current social workers time to prepare for the exam, and it allows time for DFYS to support social workers in preparing for the exam.

The Division of Family and Youth Services supports the move toward higher educational standards for our workforce. The division strongly supports HB 382 as it will allow for a time limited temporary license for qualified applicants and give the Division adequate time to prepare our current workforce for the changes.

Alaska State Legislature

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House of Representatives  
House District 34

RECEIVED

FEB 18 2000

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MEMORANDUM

---

TO: REPRESENTATIVE NORMAN ROKEBERG / LABOR & COMMERCE  
FROM: REPRESENTATIVE JEANNETTE JAMES / MYRNA MCGHIE  
SUBJECT: HB 382  
DATE: 02/18/00  
CC:

---

This is to request a hearing on HB 382 to adjust the current law on the licensing of social workers. HB 382 will allow a temporary license (up to one year) for newly hired social workers until they can take their licensing exam and obtain their permanent social worker license, and it will also extend the compliance date one year to July 1, 2001.

Thank you very much.

**HB**

**386**

ALASKA STATE LEGISLATURE

STATE CAPITOL, SUITE 418  
JUNEAU, AK 99801-1182  
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SPECIAL COMMITTEE  
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REPRESENTATIVE ANDREW HALCRO

District 12

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ANCHORAGE, AK 99501  
(907) 269-0244  
FAX (907) 269-0248

To: Rep. Norman Rokeberg  
Chairman  
House Labor and Commerce Committee  
From: Rep. Andrew Halcro  
Re: HB 386, Brewpubs  
Date: March 8, 2000

---

Attached are copies of HB 386, my sponsor statement for the bill, and supporting information. I would appreciate your scheduling this bill for consideration by the House Labor and Commerce Committee at your earliest convenience.

RECEIVED  
MAR 08 2000

# STATE OF ALASKA

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE

TONY KNOWLES, GOVERNOR

P.O. BOX 110608  
JUNEAU, ALASKA 99811-0608  
PHONE: (907) 465-8920  
FAX: (907) 465-4410  
TOLL FREE: 1-800-420-8920

March 28, 2000

RECEIVED  
MAR 30 2000

Representative Norman Rokeberg, Chair  
House Labor and Commerce Committee  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Rokeberg and Committee Members:

On behalf of the Advisory Board on Alcoholism and Drug Abuse I ask your support in defeating passage of HB386, Brewpub Licenses. This bill seeks to double the current limitation on the amount of beer authorized to be produced by the holder of a brewpub license holding beverage dispensary license, from 75,000 gallons annually to 150,000 gallons per year.

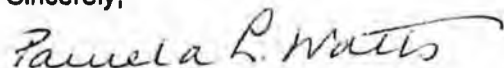
The Advisory Board on Alcoholism and Drug Abuse has been charged with reducing consumption of alcohol statewide. The State Plan for Alcohol and Drug Abuse Services, "Results Within Our Reach" outlines a series of strategies aimed at reducing the negative consequences of substance abuse on individual Alaskans, families and communities.

We would need a population of 1.5 million to support the existing number of beverage dispensary licenses in the state, yet in legislative sessions bills are introduced to circumvent the number of licenses authorized per 3,000 population. This is going in the wrong direction. The Legislature has repeatedly expressed its concern about the high amount of alcohol consumption in the state and related devastating consequences.

The Board understands the rationale for this legislation, however we believe it is time to turn the tide on increasing the number of beverage dispensary licenses and urges you to vote no on passage of this bill.

Thank you for your consideration of this most important issue.

Sincerely,



Pamela L. Watts  
Executive Director

# ALASKA STATE LEGISLATURE

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*VICE-CHAIR*  
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ANCHORAGE, AK 99501  
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FAX (907) 269-0248

**REPRESENTATIVE ANDREW HALCRO**  
District 12

**HB 386**

## **SPONSOR STATEMENT**

There are seven brewpubs in the state of Alaska. A majority of these brewpubs were created during a window in Alaska law that allowed an individual to hold both a brewer's license and a restaurant license. This is no longer allowed and restaurant owners must now purchase a full liquor license to serve their in-house beer.

The holder of a brewpub license is only allowed to manufacture 75,000 gallons of beer in a calendar year. For the average family restaurant, this quantity is not sufficient amount to supply one restaurant.

Alaska law does not currently allow for the establishment of new brewpubs. Additionally, the limit on the number of gallons allowed to be manufactured under a brewpub license does not provide enough capacity to allow sales to additional restaurants that might purchase a full liquor license.

HB 386 would increase the amount of beer a brewpub license holder can manufacture from 75,000 to 150,000 barrels per year.

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. HB 386**

Revision Date/Time (Note if correction) _____	Dept. Affected _____	Revenue _____
Title <u>Brewpub Licenses</u>	BRU	<u>Alcoholic Beverage Control Bd.</u>
	Component	<u>Alcoholic Beverage Control Bd.</u>
Sponsor <u>Representative Halcro</u>		
Requester <u>House Labor &amp; Commerce Committee</u>	Component No.	<u>100</u>

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill doubles the limit on the amount of beer that a brewpub may produce -- from 75,000 gallons a year to 150,000 gallons.

This bill would have no fiscal impact on the Alcoholic Beverage Control Board.

Prepared by: <u>Doug Griffin, Director</u>	Phone <u>269-0351</u>
Division <u>Alcoholic Beverage Control Board</u>	Date/Time <u>March 28, 2000 - 10 a.m.</u>
Approved by: <u>Commissioner Wilson Condon</u>	Date <u>03/28/2000</u>
Agency <u>Department of Revenue</u>	

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

For further distribution information, call the Governor's Legislative Office

**Moose's Tooth Pub and Pizzeria  
d.b.a. Fresh Ale Pubs, L.I.C.  
P.O. Box 202549  
Anchorage, AK 99520  
(907) 258-2327  
(907) 258-2317 fax**

March 16, 2000

Representative Andrew Halcro  
State Capitol  
Juneau, AK 99801-1182

Dear Mr. Halcro:

Since opening Moose's Tooth Brewing Company and Moose's Tooth Pub and Pizzeria in 1996, we have been interested in opening a second eating establishment in the Anchorage area and thanks to the passage of last year's House Bill 69, we are close to completion of our second location, the Bear Tooth Theatre Pub. However, due to the production cap that House Bill 69 placed on our brewery operations, we will not be able to produce enough beer to sell at our second location.

Prior to House Bill 69's passage, our business operated on a restaurant and eating place license and on a separate brewery license. Under that licensing scheme, our brewery could brew an infinite amount of beer. With this in mind and due to the large demand for our product, we moved the brewery in 1998 into a 10,000 square foot building and installed a brewing system four times larger than the previous. Unfortunately, the laws regarding simultaneous ownership of restaurant and brewery licenses had changed since the State's approval of our original licenses in 1996; although our licenses were grandfathered, under the new scheme we could not obtain a second license in order to open a second location.

Since House Bill 69's passage, we have been building our second location and are close to opening. However, we are faced with the ironic situation that while the State now allows us to possess a second eating establishment license, the State's cap on our beer production will leave us without enough beer to support sales at our second location.

Currently, we employ 5 people at Moose's Tooth Brewing Co., 87 people at Moose's Tooth Pub and Pizzeria and within one year of operation of the Bear Tooth and its restaurant, we anticipate employing an additional 100 people. If the production cap remains the same, we know some of the following will likely happen:

1) brewery employment figures will remain the same (currently our brewery can legally brew 2400 barrels but the plant can physically produce 20,000-30,000 barrels with new tankage and employ at least a dozen people)

- 2) our distributor will end our contract to distribute our beer to the 27 draft accounts in southcentral Alaska (from Valdez to Homer) because we will be forced to allocate every last keg to our own locations;
- 3) we will be forced to purchase another brand of beer brewed by a microbrewery in the lower 48, or
- 4) in the alternative, we will contract with a microbrewery in the lower 48 to produce our own beer and we will then import our beer back into the state (not a popular option within the company because we like to be able to claim that our product is made in Alaska);
- 5) we will close our brewery in Anchorage because it will be forced to continue at near present levels because of the cap in production; because of our expenditures for a new brewing system in 1998 we continue to operate at a loss;
- 6) if expansion and potential franchise is possible, and because we can not produce enough beer in Alaska to supply our company's retail establishments, we would relocate the brewery and overall corporate headquarters to the Pacific Northwest were our cost of goods and labor would be substantially lower (although this option is not very attractive to us because as a company and as citizens of this state, we regard southcentral Alaska as home, it makes sense in that many of our largest out-of-state competitors in the microbrew industry have both retail eating establishments and unrestricted brewing capacity in their respective states; because we already compete with these companies (such as Sierra Nevada, Redhook, Portland Brewing Co., Full Sail, etc.) for tap handles in Alaska, our company might want to be in a state where we can at least legally attempt to match our competitors' production levels, especially when these breweries also enjoy the right of operate retail beer and food establishments, cheaper raw materials and cheaper labor).

I believe that we are doing our part as Alaskans to produce jobs and quality Alaskan products but we will not be able to continue doing so if we are now allowed to produce additional product at our brewery. I look forward to discussing our situation with you and your associates in the near future.

Sincerely



Matt Jones

cc: Representative Norm Rokeberg

Municipality  
of  
Anchorage



P.O. Box 196650  
Anchorage, Alaska 99519-6650  
Telephone: (907) 343-4309  
Fax: (907) 343-4220  
<http://www.ci.anchorage.ak.us>

*Rick Mystrom, Mayor*

DEPARTMENT OF COMMUNITY PLANNING AND DEVELOPMENT

April 3, 2000

The Honorable Norman Rokeberg  
Chair Labor and Commerce Committee.  
Alaska Legislature  
State Capitol, Room 24  
Juneau, AK 99801-1182

Dear Representative Rokeberg:

The Municipality of Anchorage opposes HR 386; "An Act relating to brewpub licenses."

We have five brewpubs licenses in the municipality all located within commercial areas. This House Bill will double the allowable beer production for a land use that is expected to be an accessory use to a bar or restaurant. This amendment will have the effect of turning the former accessory use into a full-fledged industrial operation. Industrial land uses are not appropriate the middle of our central business district.

An industrial land use with its attendant truck traffic moving raw materials in and product out is not compatible with a traditional central business district pedestrian environment. 150,000 gallons of beer means production of 266,666 six packs or one six pack for each of our residents. That amount is more beer than our dedicated industrial breweries produce.

If this bill does pass the municipality will have to consider placing limits on beer production at brewpubs through zoning to prevent a wonderful commercial attraction from turning into a nuisance industrial land use.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Alspach", written over a horizontal line.

Donald S. Alspach  
Deputy Director

Cc: Mary K. Hughes, Municipal Attorney

RECEIVED  
APR 10 2000



RECEIVED  
MAR 31 2000

7329 Arctic Boulevard • Anchorage, Alaska 99518 • Office: (907) 344-1179 • Fax: (907) 344-6656

**FACSIMILE COVER SHEET**

To: House Labor & Commerce Committee Office  
Alaska State House

From: Mark Staples  
President  
Midnight Sun Brewing Company  
Anchorage, AK 99518

Please distribute to all Committee Members.

**Comments**

Attached is a letter outlining my opposition to HB386. Please vote no on this unfair bill. This bill will serve the special interest of two licensees at the expense of the whole brewing industry.

Please call if you have any questions regarding this bill.



7329 Arctic Boulevard • Anchorage, Alaska 99518 • Office: (907) 344-1179 • Fax: (907) 344-6656

House Labor & Commerce Committee  
Alaska State House

RE: House Bill 386

Dear Committee Members:

This letter is voice my opposition to HB386. HB386 is designed to help two groups, which currently hold "super licenses". The super license, passed under last year's HB69, allows owners of dispensary licenses to sell up to 75,000 gallons of beer. The 75,000-gallon cap was designed to allow these license holders to produce as much beer as they need to satisfy the demands of their own bars. Both of these license holders have essentially reached or are close to reaching maximum beer sales based on square footage and seating capacity. Even at their maximum, the demand from their own bars is far under the 75,000-gallon cap. It is not feasible that demand from either of these bars will exceed 75,000 gallons.

The true reason for HB386 is that both of these brewpubs are selling significant amounts of beer to other bars and restaurants. The current super license puts breweries at an extremely competitive disadvantage as it allows these groups to sell to other bars, restaurants and events at lower prices as a way to promote their own establishments. By undercutting the pricing of other Alaska breweries and at times offering free beer, these super license holders are undermining the Alaska "free enterprise" beer market. By promoting their beer and pubs with near-cost beer prices to other bars and restaurants, they are growing their brewpub business where highly profitable sales are made.

A recent example is that Glacier Brewhouse gave free beer and bar services to the Anchorage Nordic Ski Association's annual ski train event. Midnight Sun had sold beer to this event in 1997, 1998 and 1999. While Midnight Sun cannot afford to donate free beer to events such as this, Glacier Brewhouse merely uses it as a promotional vehicle to draw customers to its establishment.

The spirit intended in last year's HB69 was clearly designed to allow brewpubs to make enough beer to satisfy the demands of their onsite customers. This new bill goes beyond these intentions. Increasing the 75,000-gallon limit would create full production and distribution breweries fronting as brewpubs.

These super license holders are selling (or have sold) beer to the following establishments: Humpy's, Harry's, Simon's, Snow City Café, Southside Bistro, Piper's at West Coast Int'l Inn, Outback, Cante Company, Sitzmark, Chair 5, Upper One in the Anchorage airport and others. See attachment.

By passing HB386, you are sabotaging Alaska's brewing industry. Breweries work very hard to play by the rules. Please don't let a couple of brewpubs destroy fair beer business in Alaska.

Thank you for taking time to understand our position.

Sincerely,

Mark Staples  
President/Owner

These are the accounts as of September 1999. Both of these brewpubs have many more taps now.

		Number of Taps
Mooses Tooth	HARRY'S RESTAURANT	1
Mooses Tooth	HUMPY'S GREAT ALASKAN ALEHOUSE	3
Mooses Tooth	RAY'S WATERFRONT BAR & GRILL	1
Mooses Tooth	RESURRECTION ROADHOUSE	4
Mooses Tooth	S ANDERSONS CATTLE CO. REST.	1
Mooses Tooth	SIMON AND SEAFORTS	2
Mooses Tooth	SNOW CITY CAFE	1
	Bernie's Bungalo	
Glacier Brewhouse	BUSKIN RIVER INN	1
Glacier Brewhouse	GLACIER SOUND INN	1
Glacier Brewhouse	HAWTHORNE HOTEL-BENIHANA REST	2
Glacier Brewhouse	HENRYS GREAT ALASKAN REST.	2
Glacier Brewhouse	MYKEL'S RESTAURANT & LOUNGE	1
Glacier Brewhouse	NOBODY'S INN	1
Glacier Brewhouse	PRINCESS HOTEL-FAIRBANKS	1
Glacier Brewhouse	REGAL ALASKAN HOTEL	1
Glacier Brewhouse	RESURRECTION ROADHOUSE	3
Glacier Brewhouse	SCHAWBENHOF	1
Glacier Brewhouse	SEVEN GLACIERS	1
Glacier Brewhouse	SIMON AND SEAFORTS	1
Glacier Brewhouse	Flight Deck	1
Glacier Brewhouse	Sheraton Hotel	1
Glacier Brewhouse	Sitzmark	1
Glacier Brewhouse	Chair 5	1
Glacier Brewhouse	Upper 1 @ the Anchorage Airport	1
Glacier Brewhouse	Kodiak Airport	1
Glacier Brewhouse	Hilton Hotel	1
Glacier Brewhouse	Obradys Tutor	1



5429 SHAUNE DRIVE • JUNEAU, ALASKA 99801 • 907/780-5866

Date: 3/31/00

FACSIMILE MESSAGE COVER SHEET

RECEIVED  
MAR 31 2000

To: House Labor & Commerce Committee Office  
Alaska State House

\*\*\* Please distribute to All House Labor & Commerce Committee Members

fax: (907) 465-2040

Following are 2 page(s) including this cover sheet.

Remarks:

Janet, if you haven't already distributed what I previously sent then I'd like the attached  
Brewing license regulations included for the committee members. Thank you for ALL your  
help!

From: Marcy Larson  
Alaskan Brewing Co.  
5429 Shaune Dr.  
Juneau, AK 99801  
Ph: (907) 780-5866  
Fax: (907) 780-4514

**Sec. 04.11.135. Brewpub license.**

(a) A brewpub license authorizes the holder of a beverage dispensary license to

(1) manufacture on premises licensed under the beverage dispensary license not more than 75,000 gallons of beer in a calendar year;

(2) sell beer manufactured on premises licensed under the beverage dispensary license for consumption on the licensed premises or other licensed premises of the beverage dispensary licenses that are also licensed as a beverage dispensary;

(3) sell beer manufactured on the premises licensed under the beverage dispensary license in quantities of not more than five gallons per day to an individual who is present on the licensed premises;

(4) provide a small sample of the brewpub's beer manufactured on the premises free of charge unless prohibited by AS 04.16.030; and

(5) sell beer manufactured on the premises licensed under the beverage dispensary license to a person licensed as a wholesaler under AS 04.11.160.

(b) Except as provided under AS 04.11.360(10), the brewpub license is not transferable, shall remain the property of the state, and is not subject to any form of alienation.

(c) The biennial brewpub license fee is \$500.

(d) Notwithstanding (a) of this section, the holder of a brewpub license who under the provisions of AS 04.11.450(b) formerly held a brewery license and a restaurant or eating place license and who, under the former brewery license, manufactured beer at a location other than the premises licensed under the former restaurant or eating place license may

(1) manufacture not more than 75,000 gallons of beer in a calendar year on premises other than the premises licensed under the beverage dispensary license;

(2) provide a small sample of the manufactured beer free of charge at the location the beer is manufactured unless prohibited by AS 04.16.030; and

(3) sell the beer authorized to be manufactured under this subsection

(A) on the premises licensed under the beverage dispensary license or other licensed premises of the beverage dispensary licensee that are also licensed as a beverage dispensary;

(B) to a wholesaler licensed under AS 04.11.160; or

(C) to an individual who is present on the premises where the beer is manufactured in quantities of not more than five gallons per day.

**History -**

(Sec. 3 ch 111 SLA 1988; am Sec. 7 ch 63 SLA 1993; am Sec. 6, 7 ch 101 SLA 1995; am Sec. 3 ch 136 SLA 1996; am Sec. 5, 6 ch 74 SLA 1999)

**Amendment Notes -**

The 1993 amendment, effective December 31, 1993, in subsection (c), substituted "biennial" for "annual" and increased the license fee.

The 1995 amendment, effective July 1, 1995, substituted "75,000 gallons" for "16,000 gallons" in paragraph (a)(1) and made a section reference substitution in subsection (b).

The 1996 amendment, effective October 1, 1996, in subsection (a), added paragraphs (3) and (4) and made related changes.

The 1999 amendment, effective July 1, 1999, in subsection (a) added "or other licensed premises of the beverage dispensary licensee that are also licensed as a beverage dispensary" at the end of paragraph (2), added paragraph (5), and made related stylistic changes; and added subsection (d).



Silver Gulch Brewing and Bottling, Inc.  
PO Box 82125  
Fairbanks, Alaska 99708

Tel (907) 452-2739 Fax (907) 452-2774

e-mail : glenn@silvergulch.com

March 31, 2000

Alaska State Legislature

House Labor and Commerce Committee

Subject: HB 386

Dear Committee Members :

This letter is to register **opposition** to the proposed **Brewpub Super License Bill (HB 386)** that is currently being reviewed by your committee. By doubling the existing production cap for **brewpubs** from 75,000 gallons/year to 150,000 gallons/year, this bill will effectively **cripple the small breweries** in Alaska.

As many of you know, the primary business operation of a **brewpub** is intended to be **on-premise sales** of beer by the glass, and **food-service operations**. Generally speaking, a brewpub is essentially a restaurant with an 'attached' beer-making facility. The primary revenue for the brewpub comes from the food-service activities, and the beer is essentially a 'marketing tool'.

Unlike the brewpub, a **brewery** is a production facility that's sole purpose is to make beer, and sell it to other license holders (bars/restaurants or beer wholesalers). A **brewery license holder is specifically forbidden by current Alaska statutes from operating an on-premise bar for the sale of beer**. Thus, beer production and sales are the only revenue generating operations of a brewery.

Currently, we as brewers are facing increase 'competition' from these 'brewpubs' in the current market place. By doubling the existing production cap, these brewpubs will have **open license to flood the market with their products** that are subsidized by their restaurant operations, and effectively put the **small breweries out of business**.

As a **proposed alternative** to the current wording of HB386, we have proposed an **amendment** that would give the brewpubs what they desire (increased production allowances for serving their on-premise customers), and give the breweries what they need to stay in business (**a level playing field** in the marketplace). The proposed amendment would disallow the brewpubs from selling to the open market through a wholesaler. This is in keeping with the intent of a brewpub license, which is for production of beer for sale on-premise. The text of this proposed amendment is attached, for your consideration.

Thank You.

Sincerely,

Glenn Brady

President, Silver Gulch Brewing and Bottling, Inc.

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MAR 31 2000

AMERICA'S MOST NORTHERN BREWERY

**AMENDMENT**

OFFERED IN THE HOUSE LABOR & COMMERCE COMMITTEE  
TO: HB 386

Page 2, line 1,  
Delete subsection 5.

Page 2, line 17, following "dispensary"  
Insert "or"

Page 2, line 18  
Delete "(B) to a wholesaler licensed under AS 04.11.160; or"

Page 2, line 19  
Renumber (C) to (B)

# ALASKA STATE LEGISLATURE

## HOUSE LABOR AND COMMERCE COMMITTEE

Representative Norman Rokeberg, Chairman  
Representative Andrew Halcro, Vice-Chairman  
Representative John Harris  
Representative Lisa Murkowski  
Representative Jerry Sanders  
Representative Tom Brice  
Representative Sharon Cissna



State Capitol  
Juneau, AK 99801-1182  
Telephone: (907) 465-4954  
Fax: (907) 465-2040

**FOR YOUR HOUSE BILL 386 FILE**

**For the March 31, 2000 meeting**



5429 SHAUNE DRIVE • JUNEAU, ALASKA 99801 • 907/780-5866

Date: 3/30/00

FACSIMILE MESSAGE COVER SHEET

RECEIVED  
MAR 31 2000

To: House Labor & Commerce Committee Office  
Alaska State House

\*\*\* Please distribute to All House Labor & Commerce Committee Members

fax: (907) 465-2040

Following are 2 page(s) including this cover sheet.

Remarks:

The attached letter is in regards to House Bill 386 currently scheduled for review by your committee on Friday, March 31<sup>st</sup>. Please do not go forward with this unfair brewpub bill by creating a super license at the expense of the brewery license holders!

If you have any questions, please do not hesitate to contact me at the number below. I will be in the office all morning, prior heading up the hill to testify.

From: Marcy Larson  
Alaskan Brewing Co.  
5429 Shaune Dr.  
Juneau, AK 99801  
Ph: (907) 780-5866  
Fax: (907) 780-4514



5429 SHAUNE DRIVE • JUNEAU, ALASKA 99801 • 907/780-5866

RECEIVED  
MAR 31 2000House Labor & Commerce Committee  
Alaska State House

March 30, 2000

Dear Committee Members:

This letter is to register opposition for the proposed **Brewpub Super License bill (HB 386)** currently being reviewed by your committee. By doubling the production cap for brewpubs, you will skewer the current somewhat level playing field for brewers in Alaska. At this time, there are two types of brewing licenses: the Brewery license, and the Brewpub license. Raising the cap to 150,000 gallons for brewpubs and turning this type of license into a "super license", will devastate the small brewers holding only brewery licenses.

The small brewer with only a brewery license is not allowed to sell their beer for consumption on the premises (retail). This law was put in place to protect the three-tier system, and keep the supplier (brewer) from controlling both retail and wholesale venues. Thus a small brewer can only sell beer at wholesale to a licensed retailer or to a distributor. A brewery's primary business is brewing and selling beer. At this time there are nine such licensed brewers.

As you may realize, the profits from selling a keg of beer a pint at a time are far larger than selling the keg to a retailer or distributor. This (the retail business) is the venue in which a brewpub operates. A brewpub's primary business is the restaurant/pub establishment they operate. The brewpub license allows this particular group of licensees the ability to sell their beer both through their pubs AND through wholesale distributors. In other words, a brewpub can sell beer at retail AND at wholesale. The retail part is the profitable portion, while the wholesale portion does not have to be. The sale of brewpub beer to distributors works as an ideal advertising tool to attract consumers to their primary business, the pub. A well placed tap in a place like the Anchorage airport can generate excellent exposure for the brewpub, which for the small or new brewpub may be important. Thus, while wholesale was allowed, the brewpub capacity cap was set up to help eliminate abuse of this advertising tool. Raising the cap, would allow for extensive abuse at the detriment of the small brewer.

If the brewpubs were only using their capacity to supply their own establishments, they would not be in direct and unfair competition with the breweries. But unfortunately, brewpubs are not selling beer only through their pubs. Brewpub beer can be found in a great many establishments outside the brewpub! A quick check around the state indicates that you can find Glacier Brewhouse or Moose's Tooth taphandles (both Anchorage brewpubs) throughout the state. Here are just a few examples: Upper One in the Anchorage airport, Humpy's in downtown Anchorage, Tsaina Lodge in Valdez, Food Factory in Fairbanks, Ruskin Inn in Kodiak, Down East Saloon in Homer, Mykel's Restaurant in Soldotna, etc. **This illustrates that brewpub holders are using their license to sell already significant quantities of beer through wholesale channels all over the state of Alaska, in direct and unfair competition with brewery license holders who cannot sell through retail channels.**

Brewpubs can already sell both wholesale and retail. Breweries can only sell wholesale. The brewpub cap was the only thing that made this workable for both types of licenses. **Do not upset the balance!** Please do not go forward with this unfair brewpub bill by creating a super license at the expense of the brewery license holders. Thank you for your help in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Mary Larson". The ink is dark and the signature is written in a fluid, personal style.



RECEIVED  
MAR 31 2000

To: All members of the House Labor and Commerce Committee  
Re: HB 386

March 30, 2000

I am writing to voice my opposition with the proposed HB 386 that is before your committee. It is a change to HB 69 that was passed in last year's session that changed the state's brewpub license to allow for retail on-premise sales and wholesale distribution. The change was based on the fact that in 1996 four new establishments were licensed in the Anchorage area as a "brewery" and "restaurant or eating place", thus circumventing the "brewpub" license that was more difficult to obtain due to the "beverage dispensary license" that is required in conjunction with this license. Please note, a "beverage dispensary license", if available, is only available on the secondary market at this time. It was at this time Homer Brewing Company was applying for its license. It was at this time the combination licenses were halted, preventing an owner of a brewery to have direct or indirect financial interest in a beverage dispensary license (among other licenses). With the laws in place as they were, it was decided by this company to apply as a "brewery" in order to sell beer on the wholesale market, something a brewpub could not do. Brewpubs were also limited to brewing 75000 gallons per year. This cap far exceeds our current production, however our growth has been anticipated to exceed this amount. In 1999's legislative session, HB 69 was passed that created something of a "super" license. Suddenly "brewpubs" were allowed to sell beer manufactured on premises licensed under the beverage dispensary license for consumption on the licensed premise. (2) sell beer manufactured on the premises licensed under the beverage dispensary license in quantities of not more than 5 gallons per day (4) provide samples of the brewpub's beer (something not allowed as only a beverage dispensary)(5) sell beer manufactured on the premises licensed under the beverage dispensary license to a person licensed as a wholesaler. Homer Brewing Company and other breweries statewide opposed this bill, though it was passed. The only saving grace of the current brewpub license is that there is a cap of production of 75000 gallons. HB 386 doubles the amount to 150000 gallons per year. With this exorbitant amount, why impose a cap? I can appreciate the success of these establishments that would benefit from the change of production, but the intent of a "brewpub" is to sell beer that has been manufactured for sale on the premises. Selling to the wholesale market is not the intent of a "brewpub" and clearly steps onto the turf of Sec 04.11.450. If 75000 gallons is not sufficient to supply a family restaurant's pub then I agree with the change, but do not allow for the sale of their product to a licensed wholesaler with the higher cap. If you leave this in, it is then allowing these "super brewpubs" to market their beer in outlets reserved for breweries. It certainly would make marketing sense for these "brewpubs" to undersell their product in this venue in order to obtain market share, knowing that the higher profits will be obtained through their own retail sales.

This appears to me as unfair competition and will prevent the creation of future small breweries. I repeat to you, the wholesale market is a brewery's sole existence by Alaskan law. With this in mind, I am asking you to either not pass HB 386 or delete the wholesale distribution by a brewpub.

Thank you for your consideration and attention to this matter.

Sincerely,

*Karen E. Berger* *Stephen F. McCasland*  
Karen E. Berger Stephen F. McCasland

Cc: Rep. Gail Phillips  
Andrew Halcro

# STATE OF ALASKA

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE

TONY KNOWLES, GOVERNOR

P.O. BOX 110608  
JUNEAU, ALASKA 99811-0608  
PHONE: (907) 465-8920  
FAX: (907) 465-4410  
TOLL FREE: 1-800-420-8920

March 28, 2000

RECEIVED  
MAR 30 2000

Representative Norman Rokeberg, Chair  
House Labor and Commerce Committee  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Rokeberg and Committee Members:

On behalf of the Advisory Board on Alcoholism and Drug Abuse I ask your support in defeating passage of HB386, Brewpub Licenses. This bill seeks to double the current limitation on the amount of beer authorized to be produced by the holder of a brewpub license holding beverage dispensary license, from 75,000 gallons annually to 150,000 gallons per year.

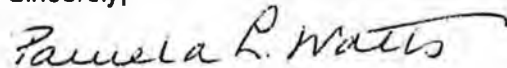
The Advisory Board on Alcoholism and Drug Abuse has been charged with reducing consumption of alcohol statewide. The State Plan for Alcohol and Drug Abuse Services, "Results Within Our Reach" outlines a series of strategies aimed at reducing the negative consequences of substance abuse on individual Alaskans, families and communities.

We would need a population of 1.5 million to support the existing number of beverage dispensary licenses in the state, yet in legislative sessions bills are introduced to circumvent the number of licenses authorized per 3,000 population. This is going in the wrong direction. The Legislature has repeatedly expressed its concern about the high amount of alcohol consumption in the state and related devastating consequences.

The Board understands the rationale for this legislation, however we believe it is time to turn the tide on increasing the number of beverage dispensary licenses and urges you to vote no on passage of this bill.

Thank you for your consideration of this most important issue.

Sincerely,



Pamela L. Watts  
Executive Director

**HB**

**398**

# ALASKA STATE LEGISLATURE

## HOUSE LABOR AND COMMERCE COMMITTEE

Representative Norman Rokeberg, Chairman  
Representative Andrew Halcro, Vice-Chairman  
Representative John Harris  
Representative Lisa Murkowski  
Representative Jerry Sanders  
Representative Tom Brice  
Representative Sharon Cissna



State Capitol  
Juneau, AK 99801-1182  
Telephone: (907) 465-4954  
Fax: (907) 465-2040

### MEMORANDUM

**TO:** Suzi Lowell, Chief Clerk  
Alaska House of Representatives

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

**DATE:** March 17, 2000

**RE:** CSHB 398 (L&C)

A handwritten signature in cursive script that reads "Norman Rokeberg".

CSHB 398 (L&C), LS 1376\H, as read across, is not the bill that was to be reported out of the Committee.

The Committee adopted Version G of this legislation and amended that version. The H version appears to be the original D version of the bill with the amendment that the Committee adopted at its meeting.

Attached is a corrected CS for this legislation. The bill is currently before the House Judiciary Committee for consideration.

Thank you.

Suggested amendment to Committee Substitute HB 398:

Addition of "or intervene" twice.

*Amend #1  
adopted*

Section 21.

AS 21.79.060(r)

(r) The association is entitled to appear OR INTERVENE in a court or agency proceeding in this ~~{THE}~~ state involving an impaired or insolvent insurer that the association is or may be obligated to or involving a person or property against which the association may have rights. The standing conferred by this subsection extends to all matters germane to the powers and duties of the association, including proposals to reinsure or guarantee a covered policy of the impaired or insolvent insurer and the determination of a covered policy and a contractual obligation. The association also has the right to appear OR INTERVENE before a court or agency in another state in a proceeding involving an impaired or insolvent insurer that the association is or may be obligated to or involving a person or property against which the association may have rights.

**CS FOR HOUSE BILL NO. 398( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE HARRIS**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the Alaska Life and Health Insurance Guaranty Association."**

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

3 **\* Section 1.** AS 21.79.010 is repealed and reenacted to read:

4           **Sec. 21.79.010. Purpose.** The purpose of this chapter is to protect, subject to  
5 certain limitations, the persons specified in AS 21.79.020(a) against failure in the  
6 performance of contractual obligations under life insurance and health insurance  
7 policies and annuity contracts specified in AS 21.79.020(b) because of the impairment  
8 or insolvency of the member insurer that issued the policies or contracts. To provide  
9 this protection, an association of insurers is created under AS 21.79.040 to pay benefits  
10 and continue coverages as limited by this chapter, and members of the association are  
11 subject to assessment to provide funds to carry out the purpose of this chapter.

12 **\* Sec. 2.** AS 21.79.020(a) is amended to read:

13           (a) This chapter applies to a policy and contract specified in (b) of this section  
14 and to a person who

15                   (1) except for a nonresident certificate holder under a group policy or

1 contract, is the beneficiary, assignee, or payee of a person described in (2) of this  
2 subsection; and

3 (2) except in the case of an unallocated annuity contract or a  
4 structured settlement annuity, is the owner of, or a certificate holder under, the  
5 policy or contract, [OR, IN THE CASE OF AN UNALLOCATED ANNUITY  
6 CONTRACT, IS THE CONTRACT HOLDER,] and who

7 (A) is a resident; [,] or

8 (B) is not a resident, if the following conditions are satisfied:

9 (i) the insurer that issued the policy or contract is  
10 domiciled in this state;

11 (ii) [THE INSURER NEVER HELD A LICENSE OR  
12 CERTIFICATE OF AUTHORITY IN THE STATE IN WHICH THE  
13 PERSON RESIDES;

14 (iii)] the state in which the person resides has an  
15 association similar to the association created by this chapter; and

16 (iii) [(iv)] the person is not eligible for coverage by an  
17 association in any other state due to the fact that the insurer was  
18 not licensed as required by law in that state [OF THE  
19 ASSOCIATION OF THE STATE IN WHICH THE PERSON  
20 RESIDES].

21 \* Sec. 3. AS 21.79.020(c) is amended to read:

22 (c) This chapter does not apply to

23 (1) that part of a policy or contract that is not guaranteed by the  
24 insurer;

25 (2) that part of the risk borne by the policy or contract holder;

26 (3) a policy or contract of reinsurance, unless an assumption certificate  
27 has been issued;

28 (4) that part of a policy or contract to the extent that [ON WHICH]  
29 the rate of interest on which it is based, or the interest rate, crediting rate, or  
30 similar factor determined by use of an index or other external reference stated in  
31 the policy or contract employed in calculating returns or changes in value.

1 (A) averaged over the period of four years before the date on  
2 which the member insurer becomes an impaired or insolvent insurer under  
3 this chapter, whichever occurs first [ASSOCIATION BECOMES  
4 OBLIGATED WITH RESPECT TO THE POLICY OR CONTRACT], exceeds  
5 the [A] rate of interest determined by subtracting two percentage points from  
6 the published monthly average for that same four-year period or for a lesser  
7 period if the policy or contract was issued less than four years before the  
8 member insurer becomes an impaired or insolvent insurer under this  
9 chapter [ASSOCIATION BECAME OBLIGATED]; and

10 (B) on and after the date on which the member insurer  
11 becomes an impaired or insolvent insurer under this chapter, whichever  
12 occurs first [ASSOCIATION BECOMES OBLIGATED WITH RESPECT TO  
13 THE POLICY OR CONTRACT], exceeds the rate of interest determined by  
14 subtracting three percentage points from the most recent published monthly  
15 average;

16 (5) a plan or program of an employer, association, or similar entity to  
17 provide life, health, or an annuity benefit to an employee or member, to the extent that  
18 the plan or program is self-funded or uninsured, including a benefit payable by the  
19 employer, association, or similar entity under

20 (A) a multiple employer welfare arrangement as defined in 29  
21 U.S.C. 1002 [26 U.S.C. 414] (Employee Retirement Income Security Act of  
22 1974);

23 (B) a minimum premium group insurance plan;

24 (C) a stop-loss group insurance plan; or

25 (D) an administrative services only contract;

26 (6) that part of a policy or contract that provides a dividend or  
27 experience rating credit or voting rights, or provides that a fee or allowance be paid  
28 to a person, including the policy or contract holder, in connection with the service to  
29 or administration of the policy or contract; [AND]

30 (7) a policy or contract issued in this state by a member insurer at a  
31 time when it was not licensed or did not have a certificate of authority to issue the

1 policy or contract in this state;

2 (8) a person who is a payee or beneficiary of a contract holder who  
3 is a resident of this state if the payee or beneficiary is provided coverage by the  
4 association of another state;

5 (9) a person covered under (e) of this section if any coverage is  
6 provided by the association of another state to that person;

7 (10) an unallocated annuity contract issued to or in connection with  
8 a plan protected under the United States Pension Benefit Guaranty Corporation,  
9 regardless of whether the United States Pension Benefit Guaranty Corporation  
10 has become liable to make any payments with respect to the benefit plan;

11 (11) that part of an unallocated annuity contract that is not issued  
12 to or in connection with a specific employee, union, or association of natural  
13 persons benefit plan or a government lottery;

14 (12) that part of a policy or contract to the extent that assessments  
15 required by AS 21.79.070 with respect to the policy or contract are preempted by  
16 law;

17 (13) an obligation that does not arise under the express written  
18 terms of the policy or contract issued by the insurer to the contract owner or  
19 policy owner, including, without limitation,

20 (A) a claim based on marketing materials;

21 (B) a claim based on a side letter or other document that  
22 was issued by the insurer without meeting applicable policy form filing or  
23 approval requirements;

24 (C) a misrepresentation of or regarding policy benefits;

25 (D) an extra contractual claim; or

26 (E) a claim for penalties or consequential or incidental  
27 damages;

28 (14) a contractual agreement that establishes the member insurer's  
29 obligations to provide a book value accounting guaranty for defined contribution  
30 benefit plan participants by reference to a portfolio of assets that is owned by the  
31 benefit plan or its trustee, which, in each case, is not an affiliate of the member

1 insurer; or

2 (15) that part of a policy or contract to the extent the part of the  
3 policy or contract provides for interest or other changes in value to be determined  
4 by the use of an index or other external reference stated in the policy or contract,  
5 but that have not been credited to the policy or contract, or as to which the policy  
6 or contract owner's rights are subject to forfeiture, as of the date the member  
7 insurer becomes an impaired or insolvent insurer under this chapter, whichever  
8 is earlier; if a policy's or contract's interest or changes in value are credited less  
9 frequently than annually, then, for purposes of determining the values that have  
10 been credited and are not subject to forfeiture under this paragraph, the interest  
11 or change in value determined by using the procedures defined in the policy or  
12 contract shall be credited as if the contractual date of crediting interest or  
13 changing values was the date of impairment or insolvency, whichever is earlier,  
14 and will not be subject to forfeiture.

15 \* Sec. 4. AS 21.79.020 is amended by adding new subsections to read:

16 (e) This chapter, except for (a) of this section, applies to an unallocated  
17 annuity contract specified under (b) of this section, and shall provide coverage to a  
18 person who is the owner of

19 (1) the unallocated annuity contract if the contract is issued to or in  
20 connection with a specific benefit plan whose plan sponsor has its principal place of  
21 business in this state; and

22 (2) an unallocated annuity contract issued to or in connection with a  
23 government lottery if the owner is a resident.

24 (f) This chapter, except for (a) of this section, applies to a structured settlement  
25 annuity specified under (b) of this section, and shall provide coverage to a person who  
26 is a payee under a structured settlement annuity, or the beneficiary of a payee if the  
27 payee is deceased, if the payee is

28 (1) a resident, regardless of where the contract owner resides; or

29 (2) not a resident, but only if both of the following conditions exists:

30 (A) the contract owner of the structured settlement annuity is

31 (i) a resident; or

1 (ii) not a resident, but the insurer that issued the  
2 structured settlement annuity is domiciled in this state, and the state in  
3 which the contract owner resides has an association similar to the  
4 association created by this chapter; and

5 (B) the payee, or the payee's beneficiary, and the contract owner  
6 are not eligible for coverage by the association of the state in which the payee  
7 or contract owner resides.

8 \* Sec. 5. AS 21.79.025 is amended to read:

9 **Sec. 21.79.025. Liability limits.** The benefits for which the association may  
10 become liable may not exceed the lesser of

11 (1) the contractual obligations for which the insurer is liable or would  
12 have been liable if it were not an impaired or insolvent insurer;

13 (2) with respect to any one life, regardless of the number of policies  
14 or contracts, [AND SUBJECT TO AN AGGREGATE OF \$300,000,]

15 (A) \$300,000 in life insurance death benefits, but not more than  
16 \$100,000 in net cash surrender and net cash withdrawal values for life  
17 insurance;

18 (B) [\$100,000] in health insurance benefits,

19 (i) \$100,000 for coverage not defined as disability  
20 insurance or basic hospital, medical, and surgical insurance or  
21 major medical insurance, including any net cash surrender and net  
22 cash withdrawal values;

23 (ii) \$300,000 for disability insurance;

24 (iii) \$500,000 for basic hospital, medical, and surgical  
25 insurance or major medical insurance;

26 (C) \$100,000 in the present value of annuity benefits, including  
27 net cash surrender and net cash withdrawal values; [OR]

28 (3) with respect to any one contract holder or plan sponsor whose  
29 plan owns directly or in trust one or more unallocated annuity contracts not  
30 included in (4) of this subsection, \$5,000,000 in unallocated annuity contract benefits,  
31 irrespective of the number of contracts held by that contract holder or plan sponsor

1 except that, in the case of one or more unallocated annuity contracts that are  
2 covered under this chapter and that are owned by a trust or other entity for the  
3 benefit of two or more plan sponsors, coverage shall be provided by the  
4 association if the largest interest in the trust or entity owning the contract is held  
5 by a plan sponsor whose principal place of business is in this state; however, the  
6 association is not liable to cover more than \$5,000,000 in benefits with respect to  
7 an unallocated annuity contract not included in (4) of this subsection;

8 (4) with respect to an individual participating in a governmental  
9 retirement benefit plan established under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26  
10 U.S.C. 457 and covered by an unallocated annuity contract, or to a beneficiary of  
11 the individual if the individual is deceased, in the aggregate, \$100,000 in present-  
12 value annuity benefits, including net cash surrender and net cash withdrawal  
13 values; or

14 (5) with respect to each payee of a structured settlement annuity,  
15 or beneficiary of the payee if the payee is deceased, \$100,000 in present-value  
16 annuity benefits in the aggregate, including net cash surrender and net cash  
17 withdrawal values, if any.

18 \* Sec. 6. AS 21.79.025 is amended by adding new subsections to read:

19 (b) The limitations imposed under this section are limitations on the benefits  
20 for which the association is obligated before taking into account either its subrogation  
21 and assignment rights or the extent to which those benefits could be provided out of  
22 the assets of an impaired or insolvent insurer attributable to covered policies. The  
23 costs of the association's obligations under this chapter may be met by the use of  
24 assets attributable to covered policies or reimbursed to the association under its  
25 subrogation and assignment rights.

26 (c) In providing coverage required under AS 21.79.060, the association may  
27 not be required to guarantee, assume, reinsure, or perform, or cause to be guaranteed,  
28 assumed, reinsured, or performed, the contractual obligations of an insolvent or  
29 impaired insurer under a covered policy or contract when the obligations do not  
30 materially affect the economic values or economic benefits of the covered policy or  
31 contract.

1 (d) The association may not be required to cover more than

2 (1) an aggregate of \$300,000 in benefits with respect to any one life  
3 under (a)(2), (4), and (5) of this section, except that, with respect to benefits for basic  
4 hospital, medical, and surgical insurance or major medical insurance under (a)(2)(B)  
5 of this section, the aggregate liability of the association may not exceed \$500,000 for  
6 any one individual; or

7 (2) \$5,000,000 in benefits with respect to one owner or multiple  
8 nongroup policies of life insurance, whether the policy owner is an individual, firm,  
9 corporation, or other person, and whether the persons insured are officers, managers,  
10 employees, or other persons, regardless of the number of policies and contracts held  
11 by the owner.

12 \* Sec. 7. AS 21.79.030 is amended to read:

13 **Sec. 21.79.030. Construction.** This chapter shall be [LIBERALLY] construed  
14 to achieve the purposes set out in AS 21.79.010.

15 \* Sec. 8. AS 21.79.030 is amended by adding a new subsection to read:

16 (b) This chapter is intended to provide coverage to a person who is a resident  
17 of this state and, in special circumstances, to a nonresident. In order to avoid duplicate  
18 coverage, if a person who would otherwise receive coverage under this chapter is  
19 provided coverage under the law of any other state, the person may not be provided  
20 coverage under this chapter. In determining the application of the provisions of this  
21 subsection, in situations where a person could be covered by the association of more  
22 than one state, whether as an owner, payee, beneficiary, or assignee, this chapter shall  
23 be construed in conjunction with other state laws to result in coverage by only one  
24 association.

25 \* Sec. 9. AS 21.79.040(a) is amended to read:

26 (a) There is established as a nonprofit legal entity the Alaska Life and Health  
27 Insurance Guaranty Association. An insurer that issues an insurance policy described  
28 in AS 21.79.020(b) shall be a member of the association as a condition of the insurer's  
29 authority to transact insurance in this state. The association shall perform its functions  
30 under a plan of operation established and approved under AS 21.79.080 and shall  
31 exercise its powers through the Board of Governors established under AS 21.79.050.

1 For purposes of administration and assessment, the association shall maintain the  
2 following accounts:

3 (1) the health insurance account; and

4 (2) the life insurance and annuity account, including the following  
5 subaccounts:

6 (A) life insurance account;

7 (B) annuity account that must include annuity contracts  
8 owned by a governmental retirement benefit plan, or its trustee, qualified  
9 under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457 (Internal Revenue  
10 Code), but that otherwise excludes unallocated annuities;

11 (C) unallocated annuity account that must exclude [SHALL  
12 INCLUDE] contracts owned by a governmental retirement benefit plan, or  
13 its trustee, qualified under 26 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457  
14 (Internal Revenue Code).

15 \* Sec. 10. AS 21.79.050(a) is amended to read:

16 (a) The Board of Governors of the association consists of not less than five nor  
17 more than nine representatives of member insurers. The director may appoint two  
18 individuals as members of the board to represent the public. Terms of office for  
19 board members shall be established in the plan of operation submitted under  
20 AS 21.79.080. Member insurers shall select the insurer board members, subject to the  
21 approval of the director. A vacancy in a board membership held by an insurer  
22 member [ON THE BOARD] shall be filled for the unexpired term by a majority vote  
23 of the remaining board members, subject to the approval of the director. A vacancy  
24 in a board membership held by a representative of the public shall be filled by  
25 the director. A board member who represents the public may not be an officer,  
26 director, or employee of an insurer and may not be engaged in the business of  
27 insurance.

28 \* Sec. 11. AS 21.79.050(b) is amended to read:

29 (b) Before the director approves the selection of an insurer [A] board member  
30 [OR APPOINTS A BOARD MEMBER], the director shall consider whether all  
31 member insurers are fairly represented on the board.

1 \* Sec. 12. AS 21.79.060(a) is amended to read:

2 (a) If a member [DOMESTIC] insurer becomes impaired, the association may,  
3 with the approval of the director and subject to any conditions imposed by the  
4 association that do not impair the contractual obligations of the impaired insurer,

5 (1) guarantee, assume, reinsure, or provide for the guarantee,  
6 assumption, or reinsurance of the policies or contracts of the impaired insurer; or

7 (2) provide money, ~~notes~~, notes, guarantees, or other means that are  
8 necessary to act under (1) of this subsection and to assure payment of the contractual  
9 obligations of the impaired insurer until those obligations are guaranteed, reinsured,  
10 or assumed [; OR

11 (3) LOAN MONEY TO THE IMPAIRED INSURER].

12 \* Sec. 13. AS 21.79.060(c) is amended to read:

13 (c) The actions specified in (a) [(b)] of this section may not be taken unless

14 (1) the law of the impaired insurer's state of domicile provides that until  
15 all payments of or on account of a contractual obligation of the impaired insurer by  
16 a guaranty association, along with all expenses and interest on all payments and  
17 expenses, have been repaid to the guaranty association or a repayment plan by the  
18 impaired insurer has been approved by a guaranty association,

19 (A) a delinquency proceeding may not be dismissed;

20 (B) neither the impaired insurer nor its assets may be returned  
21 to the control of its shareholders or private management; and

22 (C) solicitation or acceptance of new business or restoration of  
23 a suspended or revoked license may not be permitted; and

24 (2) if the impaired insurer is a

25 (A) domestic insurer, the insurer has been placed under an order  
26 of rehabilitation by a superior court in this state; or

27 (B) foreign or alien insurer,

28 (i) the insurer has been prohibited from soliciting or  
29 accepting new business in this state;

30 (ii) the insurer's certificate of authority has been  
31 suspended or revoked in this state; and

1 (iii) a petition for rehabilitation or liquidation has been  
2 filed in a court of competent jurisdiction in the insurer's state of domicile by  
3 the insurance commissioner of that state.

4 \* Sec. 14. AS 21.79.060(d) is amended to read:

5 (d) If a member insurer becomes insolvent, the association shall, in its  
6 discretion and with the approval of the director,

7 (1) guarantee, assume, reinsure, or provide for the guarantee,  
8 assumption, or reinsurance of the covered policies of the insolvent insurer held by  
9 residents;

10 (2) assure payment to residents of the contractual obligations of the  
11 insolvent insurer;

12 (3) provide money, pledges, notes, guarantees, or other means necessary  
13 to discharge the associator's [INSURER'S] duties under this subsection; or

14 (4) with respect only to life and health insurance policies and  
15 annuities, provide benefits and coverages required under (e) of this section.

16 \* Sec. 15. AS 21.79.060(e) is amended to read:

17 (e) When proceeding under [(b)(2) OR] (d)(4) of this section, the association  
18 shall, with respect to a life or health insurance policy and an annuity,

19 (1) assure payment of benefits, other than terms of conversion and  
20 renewability, for a premium identical to the premium that would have been payable  
21 under a policy of the insolvent insurer for claims incurred with respect to

22 (A) a group policy, not later than the earlier of the next renewal  
23 date under the policy or contract or 45 days, but in no event less than 30 days,  
24 after the date on which the association becomes obligated with respect to the  
25 policy;

26 (B) an individual policy or annuity, not later than the earlier  
27 of the next renewal date, if any, under the policy or contract or one year, but  
28 in no event less than 30 days, from the date on which the association becomes  
29 obligated with respect to the policy or contract;

30 (2) make a diligent effort to provide a known insured, an annuitant,  
31 or a group policyholder or contract holder, with respect to a group policy or

1 contract, 30 days' [DAYS] notice of the termination of the benefits provided;

2 (3) with respect to an individual policy or annuity, make available to  
3 each known insured or annuitant, or owner if other than the insured or annuitant,  
4 and with respect to an individual formerly insured under a group policy or contract  
5 who is not eligible for replacement group coverage, substitute coverage on an  
6 individual basis under the provisions of (f) of this section, if the insured had a right  
7 under law or the terminated policy or contract to convert coverage to individual  
8 coverage, to continue an individual policy or contract in force until a specified age,  
9 or for a specific time during which the insurer did not have the unilateral right to make  
10 changes in any provision of the policy or contract or had a right only to make  
11 changes in premium by class.

12 \* **Sec. 16.** AS 21.79.060(h) is amended to read:

13 (h) If the association elects to reissue terminated coverage at a premium rate  
14 different from that charged under the terminated policy, the premium shall be set by  
15 the association according to the amount of insurance provided and [,] the age and class  
16 of risk, and is subject to the approval of the director and the receivership [OR BY  
17 A] court [OF COMPETENT JURISDICTION].

18 \* **Sec. 17.** AS 21.79.060(j) is amended to read:

19 (j) When proceeding under [(b)(2) OR] (d) of this section with respect to a  
20 policy or contract carrying guaranteed minimum interest rates, the association shall  
21 assure the payment or crediting of a rate of interest consistent with AS 21.79.020(c)(4).

22 \* **Sec. 18.** AS 21.79.060(n) is amended to read:

23 (n) In carrying out its duties under (a) [(b)], (c), and (d) of this section, the  
24 association may impose a permanent policy or contract lien under a guarantee,  
25 assumption, or reinsurance agreement [,] if the policy or contract lien is approved by  
26 a court [,] and the association [COURT] finds that

27 (1) the amount that may be assessed under this chapter is less than the  
28 amount needed to assure full and prompt performance of the insolvent insurer's  
29 contractual obligations; or

30 (2) the economic or financial condition that affects member insurers is  
31 sufficiently adverse that the imposition of a policy or contract lien is in the public

1 interest.

2 \* Sec. 19. AS 21.79.060(o) is amended to read:

3 (o) Before taking action under (a) - (e) [(b) - (e)] of this section, the  
4 association may request the superior court to impose an injunction against the payment  
5 of a cash value and policy loan, or the exercise of another right to withdraw funds held  
6 in connection with a policy or contract, in addition to a contractual provision for  
7 deferral of a cash or policy loan value. In addition, if the receivership court  
8 imposes an injunction on payment of cash values or policy loans or on any other  
9 right to withdraw funds of an impaired or insolvent insurer held in conjunction  
10 with a policy or contract, the association may defer payment of cash values, policy  
11 loans, or other rights for the period of the injunction, except for claims covered  
12 by the association to be paid as required by a hardship procedure established by  
13 the liquidator or rehabilitator and approved by the receivership court.

14 \* Sec. 20. AS 21.79.060(p) is amended to read:

15 (p) If the association fails to take action under (a) - (e) [(b) - (e)] of this  
16 section within a reasonable period of time after a member insurer becomes insolvent,  
17 the director shall assume the powers of the association under (a) - (e) [(b) - (e)] of this  
18 section.

19 \* Sec. 21. AS 21.79.060(r) is amended to read:

20 (r) The association is entitled to appear in a court or agency proceeding in this  
21 [THE] state involving an impaired or insolvent insurer that the association is or may  
22 be obligated to or involving a person or property against which the association  
23 may have rights. The standing conferred by this subsection extends to all matters  
24 germane to the powers and duties of the association, including proposals to reinsure  
25 or guarantee a covered policy of the impaired or insolvent insurer and the  
26 determination of a covered policy and a contractual obligation. The association also  
27 has the right to appear before a court or agency in another state in a proceeding  
28 involving an impaired or insolvent insurer that the association is or may be  
29 obligated to or involving a person or property against which the association may  
30 have rights.

31 \* Sec. 22. AS 21.79.060(s) is amended to read:

1 (s) A person who receives benefits under this chapter is considered to have  
2 assigned the rights under, and any cause of action against a person for losses  
3 arising under, resulting from, or otherwise relating to, the covered policy to the  
4 association to the extent of the benefits received under this chapter, whether the  
5 benefits are payment of or on account of contractual obligations, continuations of  
6 coverage, or provisions of substitute or alternative coverage. The association may  
7 require an assignment to the association of those rights by the payees, policy or  
8 contract owner, beneficiary, insured, or annuitant before a person receives the rights  
9 or benefits conferred by this chapter. [THE ASSOCIATION IS SUBROGATED TO  
10 THESE RIGHTS AGAINST THE ASSETS OF AN INSOLVENT INSURER.] The  
11 priority of the association's subrogation right to the assets of the insolvent insurer is  
12 the same as the priority of the person entitled to benefits under this chapter. In  
13 addition to the rights described in this subsection, the association has common law  
14 rights of subrogation and any other equitable or legal remedy that would have  
15 been available to the impaired or insolvent insurer or owner, beneficiary, or payee  
16 of a policy with respect to the policy. These rights include, in the case of a  
17 structured settlement annuity, the rights of the owner, beneficiary, or payee of the  
18 annuity, to the extent of benefits received under this chapter, against a person  
19 originally or by succession responsible for the losses arising from the personal  
20 injury relating to the annuity or annuity payment, except for a person responsible  
21 solely by reason of being an assignee in respect to a qualified assignment under  
22 26 U.S.C. 130 (Internal Revenue Code). If the provisions of this subsection are  
23 invalid with respect to a person or claim, the amount payable by the association  
24 with respect to the related coverage obligation shall be reduced by the amount  
25 realized by another person from the person or claim covered by the association.  
26 If the association has provided benefits with respect to a covered obligation and  
27 a person recovers amounts to which the association has rights as described in this  
28 subsection, the person recovering the amounts shall pay to the association the  
29 portion of the recovery attributable to the policy covered by the association.

30 \* Sec. 23. AS 21.79.060(t) is amended to read:

31 (t) In addition to the rights and powers otherwise established in this

1 chapter, the [THE] association may

2 (1) enter into contracts that are necessary or proper to carry out the  
3 provisions of this chapter;

4 (2) sue or be sued, and take legal action necessary or proper for  
5 recovery of an unpaid assessment under AS 21.79.070 or settlement of a claim or  
6 potential claim;

7 (3) borrow money to carry out the purposes of this chapter; notes or  
8 other evidence of indebtedness of the association not in default are legal  
9 investments for domestic insurers and may be carried as admitted assets;

10 (4) employ or retain those persons necessary to handle the financial  
11 transactions of the association and other functions under this chapter;

12 (5) negotiate and contract with a liquidator, rehabilitator, conservator,  
13 or ancillary receiver to carry out the powers and duties of the association;

14 (6) exercise, for the purposes of this chapter and to the extent approved  
15 by the director, the powers of a domestic life or health insurer; however, the  
16 association may not issue insurance policies or annuity contracts other than those  
17 issued to perform the contractual obligations of an impaired or insolvent insurer;

18 (7) take legal action to prevent the payment of improper claims;

19 (8) join an organization of one or more other state associations with  
20 similar purposes; [AND]

21 (9) determine, using reasonable business judgment, the means by  
22 which the association is to provide the benefits of this chapter in an economical  
23 and efficient manner;

24 (10) request information from a person seeking coverage from the  
25 association in order to determine the obligations of the association under this  
26 chapter; a person receiving a request under this paragraph shall promptly comply  
27 with the request;

28 (11) request information from a member insurer in order to aid in  
29 the exercise of a power under this section; a member insurer receiving a request  
30 under this paragraph shall promptly comply with the request; and

31 (12) perform all other acts necessary or proper to implement this

1 chapter.

2 \* Sec. 24. AS 21.79.060 is amended by adding new subsections to read:

3 (u) At any time within one year after the date with the association becomes  
4 responsible for the obligations of a member insurer, the association may elect to  
5 succeed to the rights and obligations of the member insurer that accrue on or after that  
6 date and that relate to contracts covered, in whole or in part, by the association, under  
7 one or more indemnity reinsurance agreements entered into by the member insurer as  
8 a ceding insurer and selected by the association. However, the association may not  
9 exercise an election with respect to a reinsurance agreement if the receiver,  
10 rehabilitator, or liquidator of the member insurer has previously and expressly  
11 disaffirmed the reinsurance agreement. The election shall be made by a notice to the  
12 receiver, rehabilitator, or liquidator and to the affected reinsurer. If the association  
13 makes an election, the following paragraphs apply with respect to the agreement  
14 selected by the association:

15 (1) the association is responsible for all unpaid premiums due under the  
16 agreement for periods both before and after the coverage date, and shall be responsible  
17 for the performance of all other obligations to be performed after the coverage date in  
18 each case that relates to contracts covered, in whole or in part, by the association; the  
19 association may, through reasonable allocation methods, charge contracts covered in  
20 part by the association for the costs for reinsurance in excess of the obligations of the  
21 association;

22 (2) the association is entitled to any amounts payable by the reinsurer  
23 under the agreement with respect to losses or events that occur in periods after the  
24 coverage date and that related to the contracts covered by the association, in whole or  
25 in part, except that, upon receipt of any amounts, the association shall pay to the  
26 beneficiary under the policy or contract on account of which the amounts were paid  
27 a portion of the amount equal to the amount received by the association less

28 (A) the benefits paid by the association on account of the policy  
29 or contract; and

30 (B) the retention of the impaired or insolvent member insurer  
31 applicable to the loss or event;

1 (3) within 30 days after the association's election, the association and  
2 each indemnity reinsurer shall calculate the net balance due to or from the association  
3 under each reinsurance agreement as of the date of the association's election; the  
4 calculation shall give full credit to all items paid by either the member insurer, its  
5 receiver, rehabilitator, or liquidator, or the indemnity reinsurer during the period  
6 between the coverage date and the date of the association's election; either the  
7 association or the indemnity reinsurer shall pay the net balance due the other within  
8 five days of the completion of the calculation described in this paragraph; if the  
9 receiver, rehabilitator, or liquidator has received any amounts due to the association  
10 under (2) of this subsection, the receiver, rehabilitator, or liquidator shall remit the  
11 same to the association as promptly as practicable; and

12 (4) if the association, within 60 days of the election, pays the premiums  
13 due for periods both before and after the coverage date that relate to the contracts  
14 covered by the association, in whole or in part, the reinsurer may not terminate the  
15 reinsurance agreement to the extent the agreement relates to contracts covered by the  
16 association, in whole or in part, and may not set off any unpaid premium due for the  
17 periods before the coverage date against amounts due to the association.

18 (v) In the event the association transfers its obligations to another insurer, and  
19 if the association and the other insurer agree, the other insurer shall succeed to the  
20 rights and obligations of the association under (u) of this section, effective as of the  
21 date agreed upon by the association and the other insurer. The other insurer shall  
22 succeed regardless of whether the association has made the election referred to in (u)  
23 of this section if (1) the indemnity reinsurance agreement automatically terminates  
24 former reinsurance unless the indemnity reinsurer and the other insurer agree to the  
25 contrary, and (2) the obligations described in (u)(2) of this section no longer apply on  
26 and after the date the indemnity reinsurance agreement is transferred to the third-party  
27 insurer. This subsection does not apply if the association has previously expressly  
28 determined in writing that it will not exercise the election referred to in (u) of this  
29 section.

30 (w) The provisions of this section apply notwithstanding any other provisions  
31 of law or any provisions of an affected reinsurance agreement that provide for or

1 require a payment of reinsurance proceeds, on account of losses or events that occur  
2 in periods after the coverage date, to the receiver, liquidator, or rehabilitator of the  
3 insolvent member insurer. The receiver, liquidator, or rehabilitator remains entitled to  
4 any amounts payable by the reinsurer under the reinsurance agreement with respect to  
5 losses or events that occur in periods before the coverage date, subject to applicable  
6 setoff provisions.

7 (x) Except as otherwise expressly provided in this section, nothing in this  
8 section alters or modifies the terms and conditions of indemnity reinsurance  
9 agreements of an insolvent member insurer. Nothing in this section

10 (1) abrogates or limits the right of a reinsurer to claim that the reinsurer  
11 is entitled to rescind a reinsurance agreement; or

12 (2) gives a policy owner or beneficiary an independent cause of action  
13 against an indemnity reinsurer that is not otherwise established in the indemnity  
14 reinsurance agreement.

15 (y) When the association has arranged or offered to provide the benefits of this  
16 chapter to a covered person under a plan or arrangement that fulfills the association's  
17 obligations under this chapter, the covered person is not entitled to benefits from the  
18 association in addition to or other than those provided under the plan or arrangement.

19 (z) In carrying out its duties in connection with guaranteeing, assuming, or  
20 reinsuring a policy or contract, the association may, subject to approval of the  
21 receivership court, issue substitute coverage for a policy or contract that provides an  
22 interest rate, crediting rate, or similar factor determined by use of an index or other  
23 external reference stated in the policy or contract employed in calculating returns or  
24 changes in value by issuing an alternative policy or contract under the following  
25 provisions:

26 (1) in place of the index or other external reference provided for in the  
27 original policy or contract, the alternative policy or contract provides for

28 (A) a fixed interest rate;

29 (B) payment of dividends with minimum guarantees; or

30 (C) a different method for calculating interest or changes in

31 value;

1 (2) there is no requirement for evidence of insurability, waiting period,  
2 or other exclusion that would not have applied under the replaced policy or contract;  
3 and

4 (3) the alternative policy or contract is substantially similar to the  
5 replaced policy or contract in all other material terms.

6 \* Sec. 25. AS 21.79.070(b) is amended to read:

7 (b) There shall be two assessments as follows:

8 (1) class A assessments shall be authorized and called [MADE] for  
9 the purpose of meeting administrative and legal costs and other expenses and  
10 examinations conducted under the authority of AS 21.79.060; class A assessments may  
11 be authorized and called [MADE] whether or not related to a particular impaired or  
12 insolvent insurer;

13 (2) class B assessments [ARE POST ASSESSMENT CHARGES AND]  
14 shall be authorized and called [MADE] only as necessary to carry out the powers and  
15 duties of the association with regard to an impaired or an insolvent insurer.

16 \* Sec. 26. AS 21.79.070(c) is amended to read:

17 (c) The amount of a class A assessment shall be determined by the board and  
18 may be made on a pro rata or non pro [NONPRO] rata basis. If a pro rata assessment  
19 is made, the board may provide that it be credited against future class B assessments.  
20 A non pro [NONPRO] rata assessment may not exceed \$250 per member insurer in  
21 a calendar year. The amount of a class B assessment shall be allocated for assessment  
22 purposes among the accounts under an allocation formula that may be based on the  
23 premiums or reserves of the impaired or insolvent insurer or by another standard  
24 determined by the board in its sole discretion as being fair and reasonable under the  
25 circumstances.

26 \* Sec. 27. AS 21.79.070(d) is amended to read:

27 (d) Class B assessments shall be based on the premiums received on business  
28 in this state by each assessed member insurer on [OR FOR] policies or contracts  
29 covered by each account in proportion to the premiums received on business in this  
30 state by all assessed member insurers during the three calendar years preceding the  
31 year in which the insolvency or impairment occurred.

1 \* Sec. 28. AS 21.79.070(e) is amended to read:

2 (e) The association may abate or defer, in whole or in part, the assessment of  
3 a member insurer if, in the opinion of the board, a payment of the assessment would  
4 endanger the ability of the member insurer to fulfill its contractual obligations. The  
5 amount by which an assessment against a member insurer is abated or deferred may  
6 be assessed against the other member insurers in a manner consistent with the basis  
7 for assessments set forth in (c) of this section. Once the conditions that caused a  
8 deferral are removed or rectified, the member insurer shall pay all assessments  
9 that were deferred under a repayment plan approved by the association.

10 \* Sec. 29. AS 21.79.070(f) is amended to read:

11 (f) Except as provided in this subsection, the [THE] total of all assessments  
12 on a member insurer for each subaccount of the life and annuity account and for the  
13 health account [EACH SUBACCOUNT] may not in any one calendar year exceed  
14 two percent of the insurer's average annual premiums received in this state on  
15 policies or contracts covered by the account or subaccount during the three  
16 calendar years preceding the year in which the insurer became an impaired or  
17 insolvent insurer. If two or more assessments are authorized in one calendar year  
18 with respect to insurers that become impaired or insolvent in different calendar  
19 years, the average annual premiums for purposes of the aggregate assessment  
20 percentage limitation imposed under this subsection shall be limited to the highest  
21 of the average annual premiums during the preceding three calendar years for the  
22 applicable subaccount or account as calculated under this section. [THE TOTAL  
23 OF ALL ASSESSMENTS ON A MEMBER INSURER FOR THE HEALTH  
24 ACCOUNT MAY NOT IN ANY ONE CALENDAR YEAR EXCEED TWO  
25 PERCENT OF THE INSURER'S AVERAGE PREMIUMS RECEIVED IN THIS  
26 STATE ON A POLICY OR CONTRACT COVERED BY THE ACCOUNT DURING  
27 THE THREE CALENDAR YEARS PRECEDING THE YEAR IN WHICH THE  
28 INSURER BECAME AN IMPAIRED OR INSOLVENT INSURER.] If the maximum  
29 assessment, together with the other assets of the association in an account, does not  
30 provide in any one year in either account an amount sufficient to carry out the  
31 responsibilities of the association, the necessary additional funds shall be assessed as