

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10293 HOUSE JUDICIARY

138

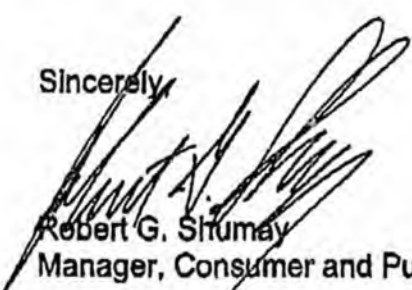
This change and movement makes it clear to all - consumers and regulators alike - that the type of small income-earning opportunity represented by direct sellers does not fall under this law.

For your information, in 1984 the North American Securities Administrators Association developed a model Business Opportunity Sales Act (NASAA Model), which contains a \$500 threshold. In addition, the National Conference of Commissioners on Uniform State Laws has a Model Franchise and Business Opportunity Act. This Act has a \$500 threshold as well.

In summary, DSA opposes House Bill 393 in its current form. We would support an amendment to raise the threshold amount from \$200 to \$500, placing the threshold in the definitions section of the bill. This request is based upon the practices of the vast majority of states regulating the sales of business opportunities as well as the Federal Trade Commission. In addition, the two most widely referenced model acts in this area contain a \$500 threshold. Alaska's resources should be directed at fighting the fraud posed by large business opportunity scams. Any law in this area should not confuse Alaska's consumers with a convoluted definition of a business opportunity.

Thank you for your time and attention to The Kirby Company's concerns. Please do not hesitate to contact me directly with questions or concerns. I can be reached by telephone at (216) 529-6203 or by email to [rgshumay@kirbywhq.com](mailto:rgshumay@kirbywhq.com). Thank you for your time and attention to this request.

Sincerely,



Robert G. Shumay  
Manager, Consumer and Public Relations

RGS\kd



Honorable Norman Rokeberg, Chair  
House Judiciary Committee  
Alaska Capitol Room 118 (MS 3100)  
Juneau, AK 99801-1182

RE: HB 393 (Stevens) – Support

Dear Chair Rokeberg:

On behalf of the 112,000 members of AARP in Alaska, we urge you and your colleagues on the House Judiciary Committee to support HB 393, authored by Representative Gary Stevens.

HB 393 will address an issue that is often of concern to retirees. . . prepackaged "business opportunities" targeted at novice entrepreneurs and "work at home" schemes.

The bill would require that sellers of business opportunities register with the State and would require them to disclose specific information to the potential buyer before the sale. They would also be required to use an escrow account to assure delivery of promised goods and provide a 30-day right of cancellation to the buyer.

Representative Stevens has provided exceptions for some recognized direct selling operations. HB 393 would target those individuals and organizations that should not be allowed to operate in Alaska.

Government has a legitimate role in consumer protection. AARP believes HB 393 is an excellent example of appropriate oversight and regulation.

On behalf of all Alaskans who have been taken in by phony "business opportunities", AARP urges an "AYE" vote on HB 393.

Should you have any questions about our position, please feel free to contact Marie Darlin (586-3637), Coordinator of the AARP Capitol City Task Force; Patrick Luby (907-762-3314), AARP Legislative Representative; or me (907-245-5259).

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Marguerite Stetson".

Marguerite Stetson  
Executive Council Member for Advocacy

cc: Representative Ogan, Vice Chair  
Representative Coghill  
Representative James  
Representative Meyer  
Representative Berkowitz  
Representative Kookesh  
Representative Stevens  
Marie Darlin, AARP Capital City Task Force  
Pat Luby, AARP Legislative Representative



HERBALIFE INTERNATIONAL OF AMERICA, INC.  
1800 Century Park East  
Century City, CA 90067-1501  
(310) 410-9600 FAX (310) 203-7770

BRIAN L. KANE  
Chief Operating Officer

MAR 18 2002

March 14, 2002

The Honorable Norman Rokeberg, Chair  
Legislative Session Contact:  
State Capitol, Room 118  
Juneau, AK 99801-1182

**Re: Opposition to House Bill 393 - a Proposal to Regulate the Sale of Business Opportunities**

Dear Representative Rokeberg:

I am writing on behalf of Herbalife International and its hundreds of Alaska distributors concerning House Bill 393, a proposal to regulate the sale of business opportunities in Alaska. Herbalife, as a leading member of the Direct Selling Association, has been involved in the effort to curb fraud in the sales of business opportunities at the federal and state levels since the 1980s. Business opportunity fraud undermines vital public confidence in industries like direct selling, which utilize and depend upon individual entrepreneurship. Clear distinctions can be drawn between direct selling and business opportunities because the investment required to participate in a direct selling opportunity is comparatively low. Unfortunately, we are concerned that the definition of a business opportunity in HB 393 is not clear and would cause confusion among Alaska's consumers.

We support the purpose of legislation like HB 393, which is to protect Alaska's citizens from risking large amounts of money for what might be an unproven or unprofitable business venture. Twenty-three states have enacted similar laws in response to deceptive and unfair practices in connection with the sale of business opportunities and the Federal Trade Commission has adopted a Trade Regulation Rule (Trade Rule) in this area. Unfortunately, we oppose House Bill 393 in its current form.

Herbalife International is a direct selling company with business in more than 50 countries. Through our network of more than one million independent Distributors, we sell close to \$2 billion in nutritional and personal care products annually. As a member of the DSA, we are part of an \$83 billion global industry. In the U.S. alone, direct selling generates \$25 billion in sales and has a sales force of more than 11 million people. We have on average over 30,000 direct salespeople per Congressional district and thus there are approximately 30,000 direct sellers living and working in Alaska.

## **Profile of the Typical Direct Seller: Part-Time Sales Activity to Supplement Family Income**

Direct selling is a well-established method for marketing products to consumers directly, primarily in their homes. Companies within the industry market a broad range of consumer products and services, including household cleaning products, cosmetics and other personal care products, jewelry, cookware and other house wares, educational materials, household decorative products such as baskets, home improvement products, food, and vitamins. Most direct selling companies within our industry are small businesses. Over 99.5 percent of the direct salespeople that market these companies' products are independent contractors. Each of these independent contractors in effect is a micro-small business. Simply stated, direct selling is an ideal way for people with an entrepreneurial spirit to earn extra money without experience, without capital, and without having to make a full-time commitment to an employer.

As the result of this ease of access and flexibility in work arrangements, direct selling has wide appeal among women who have significant family responsibilities, as well as attracting substantial numbers of minorities, the elderly, and handicapped persons. Of our more than 11 million independent contractor salespeople across the United States, about 73 percent are women.

Alaska's consumers need this proposal to regulate business opportunities to be crystal clear on what exactly constitutes a business opportunity. Our one concern is the exemption threshold of \$200 contained in the bill and its placement in the proposal. The \$200 threshold contained in HB 393 is atypical of the thresholds in the other state business opportunity laws. In fact only three states, Connecticut, New Hampshire and North Carolina, contain a similar threshold. These thresholds exist:

- To require a strict compliance mode on those business opportunities where people invest a large amount of money up-front;
- To focus limited, valuable state resources on situations where people can be seriously harmed; and
- To reassure people involved in small income-earning programs that they will be protected from inadvertent coverage.

The lower threshold would subject many small income-earning opportunities to onerous registration and bonding requirements, which would hurt many of these very small businesses. It would also take the necessary focus of enforcement off the large business opportunities, where people can be seriously harmed, and spread limited state resources over a much wider field.

The clear trend in the regulation of business opportunities is toward higher dollar thresholds stated in the definitions section of the law. A majority of the other twenty-three states that regulate business opportunities and the Federal Trade Commission use a \$500 threshold stated in the definitions section of their statutes and regulations. Twenty-seven states choose not to regulate the sale of business opportunities. If the state chooses

to regulate the sale of business opportunities, Alaska should follow the trend and enact a bill with a \$500 threshold stated in the definition of a business opportunity.

In summary, Herbalife opposes HB 393 in its current form. We would support an amendment to raise the threshold amount from \$200 to \$500, placing the threshold in the definitions section of the bill. This request is based upon the practices of the vast majority of states regulating the sales of business opportunities as well as the Federal Trade Commission. In addition, the two most widely referenced model acts in this area contain a \$500 threshold. Alaska's resources should be directed at fighting the fraud posed by large business opportunity scams. Any law in this area should not confuse Alaska's consumers with a convoluted definition of a business opportunity.

On behalf of our company and its Alaska-based Independent Distributors, I thank you for your time and attention to our concerns.

Sincerely,

Brian L. Kane  
Chief Operating Officer

A handwritten signature in black ink, appearing to read 'B. Kane', with a long, sweeping horizontal line extending to the right.

AVON

the company for women

JOSEPHINE MILLS

DIRECTOR-GLOBAL GOVERNMENT AFFAIRS  
GOVERNMENT AFFAIRS

AVON PRODUCTS, INC.  
WORLD HEADQUARTERS  
1345 AVENUE OF THE AMERICAS  
NEW YORK, NY 10105-0196

212.282.5609 TEL  
212.282.6086 FAX  
josephine.mills@avon.com

March 13, 2002

The Honorable Norman Rokeberg  
Alaska House of Representatives  
State Capitol, Room 118  
Juneau, AK 99801-1182

RE: **House Bill 393 – Relating to Unfair and Deceptive Trade Practices  
and the Sale of Business Opportunities**

Dear Chairman Rokeberg:

On behalf of the many Avon Sales Representatives in the State of Alaska, I'm writing to express concern regarding House Bill 393 as it relates to the sale of business opportunities.

By way of background, for 116 years, Avon Products, Inc. has been selling products through independent Sales Representatives. These independent Representatives are primarily women who often sell on a part-time basis, to supplement their income or to finance a short-term objective, such as, hospital bills, college tuition, or vacation plans. The Avon Representative is free to set her own hours and can sell as much or as little as she pleases, at times convenient to herself and her customers, either at the customer's home or in the workplace where she may hold a traditional job. In most instances, the Avon Representative sells to friends, co-workers, and family members.

We feel the \$200 threshold contained in House Bill 393 is much too low. This low threshold would subject many small income earnings opportunities to onerous registration and requirements that would gnaw at the roots of the direct selling entrepreneur. At the same time, it would cause enforcement agencies to lose focus, which should be based on the larger business opportunities, where individuals can be seriously hurt. We respectfully request the threshold be set at \$500, consistent with most other states. This is also consistent with the Federal Trade Commission rule.

We also suggest that you modify the definition of business opportunity to place the threshold exemption where it can be more easily identified. This would require the following suggested change:

**Add the underlined text to Sec.45.66.900, Definitions;**

...(2) "business opportunity" means an arrangement under which the seller or a person recommended by the seller will provide to the buyer, products, equipment, supplies or services enabling the buyer to start a business for which the buyer is required to pay an initial fee or sum of money in excess of \$500 to the seller and under which one or more of the following occurs or is to occur...and;


**Change Sec.45.66.220, Exemptions, to conform as follows:**

This chapter does not apply to a sale of or an offer to sell (1) a business opportunity if the total amount of the payments to be made by the buyer under the contract is less than \$200 \$500...

In summary, Avon Products, Inc. is asking you to amend House Bill 393 to raise the threshold amount from \$200 to \$500. We are also asking that the dollar exemption be more appropriately placed within the text of the legislation.

We respectfully ask for your consideration in this matter.

Sincerely,



cc: Judiciary Committee



ALTICOR

March 14, 2002

Altacor Inc.  
7575 Fulton St. East  
Ada, MI 49355 USA  
616.787.1000 phone  
www.altacor.com

MAR 18 2002

Representative Norman Rokeberg, Chairman  
House Judiciary Committee  
State Capitol #24  
Juneau, Alaska 99801

**RE: Opposition in Current Form: HB 393/Business Opportunities**

Dear Chairman Rokeberg:

I write on behalf of Altacor and our thousands of Alaskan Amway Distributors and Quixtar Independent Business Owners to express our **opposition** to HB 393 – a bill proposing to create a business opportunity law – **in the bill's existing form**. We'd like to offer a potential practical solution. While we support the sponsor's intent to protect Alaskans from unscrupulous, risky or overly expensive business investments – this bill contains a fundamental flaw that must be corrected.

In 1995, the Wall Street Journal noted cases of business opportunity where the victims were defrauded of between \$1,500 and \$6,000. Alaskan consumers would be best served if efforts, energy and resources were focused on the perpetration of these types of serious and substantial frauds.

HB 393 currently contains a **\$200 threshold** for business opportunities that would be regulated by the act. However, the majority of other states that have found a need to regulate this activity typically use a **\$500 up-front threshold**. It should also be revealing that many states with a reputation for strong consumer protection programs (California, Florida and Illinois) – as well as the Federal Trade Commission - also utilize \$500 thresholds.

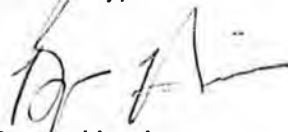
This standard \$500 threshold protects small income opportunities such as those offered by direct sellers including Amway/Quixtar distributors, Avon ladies, and Mary Kay beauty consultants from the unnecessary burdens of state filing, bonding, reporting and other requirements that may be appropriate for larger enterprises. These small entrepreneurs earn money to supplement their family incomes by selling products to family, friends and neighbors while interesting others to do the same. Certainly, we wish to prevent unnecessary burdens upon these small Alaska businesses and avert the chilling effects on others becoming Amway/Quixtar distributors.

The most fundamental reason for excluding opportunities under \$500 (especially direct sales opportunities) from the law is that such low-cost opportunities have not been a significant source of business opportunity frauds – the very problem HB 393 attempts to address. In addition, the mere cost of the regulation could easily exceed the cost of the opportunity itself; and the financial statements and other required documents are largely meaningless to direct sellers.

I have attached a proposed amendment for your consideration that would address our concerns. Adoption of this amendment will protect Alaskan consumers while avoiding inadvertent or unnecessary coverage of Alaskan direct sellers.

Chairman Rokeberg, thank you for your kind attention. If you have any questions please feel free to contact me at (616) 787-5633 or email bharrison@alticor.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryan Harrison", written over a light blue horizontal line.

Bryan Harrison  
Corporate Government Affairs

cc: House Judiciary Committee Members  
Representative Gary Stevens  
John Hesse, Direct Selling Association

**Add the underlined text to Sec. 45.66.900, Definitions;**

(2) "business opportunity" means an arrangement under which the seller or a person recommended by the seller will provide to the buyer products, equipment, supplies, or services enabling the buyer to start a business for which the buyer is required to pay an initial fee or sum of money of \$500 or more to the seller and under which one or more of the following occurs or is to occur . . . and;

**Change Sec. 45.66.220. Exemptions:** This chapter does not apply to a sale of or an offer to sell:

(1) a business opportunity if the total amount of the payments to be made by the buyer under the contract is less than ~~\$200~~ \$500.



March 15, 2002

VIA FACSIMILE (907) 465-2040

Norman Rokeberg  
Legislative Session Contact  
State Capitol, Room 118  
Juneau, AK 99801-1182

Re: House Bill 393 - Business Opportunities

Dear Norman:

I am writing this letter to you as the Chief Administrative Officer of Home Interiors & Gifts, Inc., a direct selling company (the "Company") that has been in existence since 1957. Our Company is based in Dallas, Texas and our products include framed artwork and mirrors, candles and candle holders, plaques, figurines, planters, artificial floral displays, wall shelves and sconces which are sold to independent contractor sales representatives ("Displayers") who resell the products primarily using the "party plan" method to conduct in-home presentations or shows for potential customers. As of the end of the year 2001, the Company sold its products to approximately 59,000 Displayers in the U.S., Mexico, Puerto Rico and Canada.

I understand that your committee is in the process of reviewing House Bill 393 - Business Opportunities concerning the regulation of business opportunities in Alaska. I appreciate your diligence in investigating and considering all communications and the positions of various businesses and individuals that have an interest in House Bill 393. We understand and support your concern about the regulation of business opportunities, but would like to make you aware of the following facts:

- Most states who have enacted such regulations allow a \$500 threshold in the definition of business opportunity, and we encourage you, as you consider House Bill 393, to not only increase the threshold from \$300 to \$500, but also to move it into the definitions section of the bill (see below).
- It is important that your consumers understand exactly what constitutes a "business opportunity" so that they can comply with the bonding and registration requirements in House Bill 393. Please insure that House Bill 393 clearly sets out the definition.
- Keep in mind that the majority of other states do NOT regulate the sale of business opportunities, and the enactment of such legislation in Alaska could be a deterrent to doing business there.

For the reasons stated above, the Company opposes enactment of House Bill 393 in its current form; we would support it if it is revised to raise the threshold level to \$500 and the definition of "business opportunity" is clearly stated in the definitions section of House Bill 393.

I will be happy to speak with you at any time about our concerns and House Bill 393. Please contact me if you have any questions.

Very truly yours,

Leonard A. Robertson  
Chief Administration Officer

**HB**

**396**

# ALASKA STATE LEGISLATURE

## HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman  
Representative Scott Ogan, Vice-Chairman  
Representative John Coghill  
Representative Jeannette James  
Representative Kevin Meyer  
Representative Ethan Berkowitz  
Representative Albert Kookesh



State Capitol  
Juneau, AK 99801-1182  
Telephone: (907) 465-4990  
Fax: (907) 465-2040

Heather M. Nobrega  
Counsel to Committee

### Sponsor Statement for HB 396 The Justin Wollam Act

The House Judiciary Committee at the request of the Anchorage Police Department has introduced this legislation. HB 396 will assist the Department of Public Safety and municipalities with the purchasing of equipment that will assist in the preclusion of alcohol related offenses throughout the state.

HB 396 creates a \$100 surcharge for the following offenses if a defendant pleads guilty or nolo contendere to, forfeits bail for, or is convicted of:

1. an offense listed in AS 04 (Alcoholic Beverages)
2. an offense listed in AS 28 (Motor Vehicles) that includes ingestion or possession of alcohol as an element of the offense,
3. a regulation adopted under AS 28 that includes ingestion or possession of alcohol as an element of the offense, or
4. a municipal ordinance under AS 28.01.010 that includes ingestion or possession of alcohol as an element of the offense

The surcharge cannot be waived, deferred, or suspended. The court may allow a defendant who is unable to pay the surcharge to perform community work in lieu of the surcharge.

In addition to the surcharge, HB 396 creates an Alaska alcohol offense equipment fund in the general fund. The fund consists of appropriations made by the legislature to the fund. The legislature may appropriate to the fund the annual estimated balance in the account created for the collection of this new surcharge. The legislature may make appropriations from the fund to the Department of Public Safety, and municipalities, for the purchase of law enforcement equipment that will assist in the enforcement and prevention of alcohol-related offenses.

If enacted, this new law shall be referred to as "The Justin Wollam Act" in honor of Anchorage Police Officer Wollam who was killed in the line of duty on July 9, 2001 by a drunk driver.

The committee urges your support of this bill.

# ALASKA STATE LEGISLATURE

## HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman  
Representative Scott Ogan, Vice-Chairman  
Representative John Coghill  
Representative Jeannette James  
Representative Kevin Meyer  
Representative Ethan Berkowitz  
Representative Albert Kookesh



State Capitol  
Juneau, AK 99801-1182  
Telephone: (907) 465-1990  
Fax: (907) 465-2000

Heather M. Nobrega  
Counsel to Committee

### Sectional Analysis for HB 396

- Section 1:** This Act may be known as the Justin Wollam Act.
- Section 2:** Adds reference to the new surcharge statute. Makes stylist changes to the language regarding surcharges.
- Section 3:** Changes wording to reflect multiple surcharges.
- Section 4:** Creates a new statute implementing a \$100 surcharge for alcohol related offenses.
- Lists offenses where applied
  - Court cannot fail to impose the surcharge
  - Surcharge cannot be waived, deferred, suspended
  - Surcharge to be paid within 10 days of imposition
  - Failure to pay is contempt of court
  - The state, a municipality, or the court may institute proceedings to collect the surcharge
  - Money collected shall be deposited into the general fund
- Section 5:** Creates the Alaska alcohol offense equipment fund.
- Fund is created in the general fund
  - Consists of appropriations made by the legislature
  - The legislature may appropriate to the fund annual balance of monies collected from surcharge
  - The legislature may appropriate from the fund to
    - Department of Public Safety
    - Municipalitiesfor the purchase of equipment that will assist in the enforcement and prevention of alcohol-related offenses
  - Nothing in this section creates a dedicated fund
- Section 6:** Adds reference to new surcharge statute.

**Section 7:** Adds reference to new surcharge statute.

**Section 8:** Refers to the repeal of Section 9 upon the earlier of:  
(1) the date that the Alaska Court System has the capability to separately track and account electronically for money collected under the new surcharge statute, or  
(2) June 30, 2003  
Requires the executive director of the court system to notify the lieutenant governor and the revisor of statutes when the electronic capability mentioned above has been obtained

**Section 9:** Money collected by the court system under the new surcharge statute shall be accounted for separately and shall be deposited in the general fund. The court system shall by Feb. 1 of each year, provide the Dept. of Administration, the Leg. Budget & Audit Committee, and each house of the legislature with an estimate of the money collected for that fiscal year.

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 396  
( ) Publish Date: 2/21/2002

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
Title Alcohol Offense Surcharge BRU Alaska Court System  
Component Trial Courts  
Sponsor House Judiciary  
Requester House Judiciary Component No. 768

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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 (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The court system does not anticipate any fiscal impact from the passage of HB 396.

Prepared by: Douglas Wooliver  
Division: Alaska Court System  
Approved by: Stephanie Cole  
Agency: Alaska Court System

Phone 463-4750  
Date/Time 2/21/02 2:01 PM  
Date 2/21/2002

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 396  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title "An Act relating to surcharge BRU Legal and Advocacy Services  
on certain offenses..." Component Public Defender Agency  
 Sponsor House Judiciary by Request  
 Requester (H) JUD Component No. 1631

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

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

<b>CHANGE IN REVENUES ( )</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--Do not abbreviate)						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

See attached.

Prepared by: Barbara Brink, Director  
 Division: Public Defender Agency  
 Approved by: Jim Duncan, Commissioner  
 Agency: Department of Administration

Phone (907) 334-4416  
 Date/Time 2/21/02 4:56 PM  
 Date 2/21/2002

FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. HB 396

ANALYSIS CONTINUATION

This bill provides for a mandatory surcharge of \$100.00 to be paid by every person convicted of an offense listed in AS 04, or an alcohol related state or municipal offense listed in AS 28. This would be in addition to other applicable surcharges already levied under existing statutes.

If a person fails to pay, the court can punish him or her through contempt of court proceedings.

This bill will have some impact on the Public Defender Agency. Because contempt of court proceedings can result in imprisonment, a person can be appointed an attorney if it appears that he or she will end up in jail. The Public Defender Agency believes that many people who are convicted of these offenses will have difficulty paying this surcharge because of other financial demands. Fines, restitution payments to victims, attorneys fees under Criminal Rule 39, existing surcharges including police training surcharges, fees for substance abuse, anger management, and other required programs often take up all the available cash indigent offenders and violators have.

Depending on how rigorously this surcharge is enforced, the legislation could have a considerable financial impact on the Public Defender Agency. However, this impact is not possible to predict, therefore, an indeterminate fiscal note is submitted.

**Sec. 12.55.039. Surcharge.**

(a) In addition to any fine or other penalty prescribed by law, a defendant who pleads guilty or nolo contendere to, forfeits bail for, or is convicted of a

(1) felony shall be assessed a surcharge of \$100;

(2) violation of a misdemeanor offense under AS 28.33.030, 28.33.031, AS 28.35.030, or 28.35.032, or a violation of a municipal ordinance comparable to a misdemeanor offense under AS 28.33.030, 28.33.031, AS 28.35.030, or 28.35.032 and adopted under AS 28.01.010, shall be assessed a surcharge of \$75;

(3) misdemeanor or a violation of a municipal ordinance if a sentence of incarceration may be imposed for the misdemeanor or ordinance violation, other than a provision identified in (2) of this subsection, shall be assessed a surcharge of \$50;

(4) misdemeanor for which a sentence of incarceration may not be imposed, a violation or an infraction under state law, or a violation of a municipal ordinance imposing a penalty authorized by AS 29.25.070(a) if a sentence of incarceration may not be imposed for the ordinance violation, shall be assessed a surcharge of \$10 if the fine or bail forfeiture amount for the offense is \$30 or more.

(b) A court may not fail to impose the surcharge required under this section. The surcharge may not be waived, deferred, or suspended. A court may allow a defendant who is unable to pay the surcharge required to be imposed under this section to perform community work under AS 12.55.055(c) in lieu of the surcharge.

(c) The surcharge shall be paid within 10 days of imposition or such shorter period of time as ordered by the court. Failure to pay the surcharge is punishable as contempt of court. Proceedings to collect the surcharge may be instituted by the state, the municipality, or by the court on its own motion.

(d) Money collected under this section shall be deposited into the general fund and accounted for under AS 37.05.142.

(§ 2 ch 119 SLA 1994; am § 4 ch 56 SLA 1998; am § 1 ch 24 SLA 2000)

**Cross references.** For legislative findings and purpose in connection with the enactment of this section, see § 1, ch. 119, SLA 1994 in the Temporary and Special Acts.

**Effect of amendments.** The 1998 amendment, effective August 27, 1998, rewrote subsection (a).

The 2000 amendment, effective July 27, 2000, in paragraph (a)(4) added "misdemeanor for which a sentence of incarceration may not be imposed, a" at the beginning, inserted "imposing a penalty authorized by AS 29.25.070(a)," and deleted "misdemeanor or" preceding "ordinance violation."

F41

JAN 28 2002

**Subject:** Assistance in Obtaining New Legislation

**Date:** Fri, 13 Jul 2001 12:14:40 -0800

**From:** "Monegan, Walt" <wmonegan@ci.anchorage.ak.us>

**To:** "'Representative\_Brian\_Porter@legis.state.ak.us'" <Representative\_Brian\_Porter@legis.state.ak.us>  
"Senator\_Rick\_Halford@legis.state.ak.us" <Senator\_Rick\_Halford@legis.state.ak.us>,  
"madd@corecom.net" <madd@corecom.net>

The Anchorage Police Department has been in the process of trying to evaluate video camera systems for use in our patrol vehicles and have been working with several companies to determine which unit would best fit our needs. The biggest obstacle is always funding for the equipment and I have received information from Richard Meadows of the Shawna LuAnn Meadows that they were able to get the Illinois Public Act 91-0822 passed which states:

In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating this Section, including any person placed on court supervision for violating this Section, shall be fined \$100.00, payable to the circuit clerk, who shall distribute the money to the law enforcement agency that made the arrest. Any moneys received by a law enforcement agency under this subsection shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State.

Any moneys received by the Department of State Police under this subsection shall be deposited into the State Police DUI Fund and shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State.

I would like to get something similar enacted in Alaska to assist in the purchase of equipment for law enforcement agencies to assist in the prevention of alcohol related criminal violence in the State of Alaska. I would appreciate any help you could give me with implementing this. In memory of Officer Justin Wollam who was killed on 7/9/01 in the line of duty by a drunk driver, I was hoping we could name the new law after him.

Thank you for your help.



## Mothers Against Drunk Driving

Anchorage Chapter

3600 Arctic Boulevard Box 3 • Anchorage, AK 99503 • (907) 562-6890/Fax (907) 562-6896

Email: [info@maddalaska.com](mailto:info@maddalaska.com)

---

July 16, 2001

Walt Monegan, Chief of Police  
Anchorage Police Department  
4501 South Bragaw St.  
Anchorage, AK 99508

Dear Chief Monegan,

By way of this letter, please accept MADD's full support toward efforts to create legislation resembling Illinois Public Act 91-0822, which states:

"In addition to any other penalties and liabilities, a person who is found guilty of or pleads to violating this Section, including any person placed on court supervision for violating this Section, shall be fined \$100.00, payable to the circuit clerk, who shall distribute the money to the law enforcement agency that made the arrest. Any monies received by a law enforcement agency under this subsection shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State."

MADD also supports the naming of this legislation after Officer Justin Wollam. The death of Officer Wollam, along with three teenagers, is simply a continuation of the horror of drunk driving deaths in Alaska. Officer Wollam's death shall not be in vain, and this legislation will be a critical step in a direction that will allow offenders who have chosen to drink and drive to provide financial support toward enforcement needs.

The devastation created in Alaska as a result of misuse, abuse and underage use of alcohol has been tolerated too long, and every measure possible must be enacted to stop the destruction now.

Please do not hesitate to contact MADD for any assistance we may provide in your efforts.

Sincerely,

Marti Greeson  
Executive Director

Cc: Representative Brian Porter, Speaker of the House of Representatives  
Jeannette James, House of Representatives Majority Leader  
Ethan Berkowitz, House of Representatives Minority Leader  
Senator Rick Halford, President of the Senate  
Senator Loren Leman, Senate Majority Leader  
Senator Johnny Ellis, Senate Minority Leader

Drunk Driving is Breaking Alaska's





**ALL STARS**  
Players know: It's  
the Year of Ichiro  
**SPORTS**



**TOUR WILTS**  
Garden Club may  
cancel event  
**ALASKA**



**WIMBLEDON**  
Wild card Ivanisevic  
wins a Grand Slam  
**SPORTS**

**WEATHER**  
  
More of the same  
July's cool damp weather  
to stick around; high near 62

50 cents

Final Edition

# Anchorage Daily News

Tuesday, July 10, 2001

ALASKA'S NEWSPAPER

www.adn.com

## Crash kills officer, 3 teens

*Speeding Blazer in wrong lane collides with police cruiser on Glenn Highway*



By SHEILA TOOMEY  
Anchorage Daily News

Four people died in a fiery crash just before sunrise Monday when a teenager fleeing in a Blazer toward Eagle River at speeds of up to 80 mph crossed the median on the Glenn Highway and collided head-on with a police car driving toward Anchorage.

Officer Justin Todd Wollam, 28, died at the scene. Wollam had been with the department since 1999. He leaves a wife and 4-year-old daughter.

The fleeing driver, Robert M. Esper, 19, also died at the scene, as did two of his three juvenile passengers. A fourth passenger was taken to Alaska Regional Hospital in critical condition with a fractured skull.

Esper had a juvenile criminal history involving stolen cars, drug abuse and attempted burglary, according to juvenile probation records. He turned 18 last year and began amassing an adult record. He was convicted last month of drunken driving and vehicle theft, according to court records, and was on felony probation at the time of his death.

BILL ROTH / Anchorage Daily News



BILL ROTH / Anchorage Daily News

Anchorage Police Department officer Justin Todd Wollam, 28, and three teenagers died in a head-on collision Monday on the Glenn Highway near the Fort Richardson exit. A fourth teenager was ejected from the Blazer. A fire caused by the crash was put out by police officers on the scene.

# Officer's hometown heartbroken

“  
He was one  
of those  
guys it  
would take  
you about  
30, 40  
seconds  
to like.”

— Anchorage  
Police Chief  
Walt Monegan

■ **WOLLAM:** Death of friendly guy everyone remembers stuns family, friends in Texas.

By DOUG O'HARRA  
Anchorage Daily News

In his two years as a patrol officer with the Anchorage Police Department, Texas-born Justin Todd Wollam impressed co-workers with his enthusiasm for law enforcement and his way with people.

“He was one of those guys it would take you about 30, 40 seconds to like,” said Anchorage Police Chief Walt Monegan.

A patrol supervisor described

him “as one of the nicest kids you’d ever want to meet,” said police spokesman Ron McGee. “He was eager to do the right thing.”

Wollam had always been that way — as a high school athlete, police rookie or young father, according to neighbors of the Wollam family in close-knit Danbury, a town of about 4,000 in the flat, rice-growing Gulf Coast country south of Houston.

“He was a model student,” said Tim Walch, his high school history teacher and athletic coach. “On the basketball court or the football field, he was one of those guys who always did what he was supposed to do, whatever the coach asked.”

Wollam, a 28-year-old family man fulfilling a dream of serving as a

cop, died Monday morning in a head-on collision with a Chevrolet Blazer driven by a teenager.

Wollam is survived by his 27-year-old wife, Kristy, and 4-year-old daughter, Kristin, of Anchorage, as well as his parents, William and Beverly, an older brother, Russell, and extended family members. His parents were planning to travel to Anchorage from Texas today with tickets purchased by the Anchorage Police Department Employees Association, the police union, McGee said.

In Anchorage, Wollam’s death stunned fellow officers, who declined to be interviewed Monday, McGee said. Down in the Texas

See Back Page, WOLLAM



Officer Justin Todd Wollam, 28, who was killed in a head-on collision Monday, was “one of the nicest kids you’d ever want to meet,” according to a police patrol supervisor.

theft, according to court records, and was on felony probation at the time of his death.

Events leading to the disaster began 34 minutes earlier and miles away, at Lake Otis Parkway and 72nd Avenue, according to police accounts.

At 3:23 a.m., a patrol officer spotted a red 1985 Chevrolet Blazer “full of young people” stopped at the side of the road, said police spokesman Ron McGee. The officer went to investigate and the Blazer took off, McGee said. The officer, who was not identified, pursued briefly, turning on her lights and siren, but the Blazer accelerated.

When it became clear that the driver did not intend to stop, the officer stopped chasing it and activated the department’s no-pursuit policy, Anchorage Police Chief Walt Monegan said.

To avoid the dangers of a high-speed chase, especially through residential streets, officers faced with flight from a routine traffic stop radio a description of the fleeing vehicle to central dispatch. A supervisor then organizes a search by other officers, who try to locate the fleeing driver and keep the car in sight, McGee said.

This is what happened Monday, he said. Over the next half-hour, the Blazer was seen several times and followed from a nonthreatening distance.

Esper was spotted almost immediately traveling west on O’Malley Road toward Min-

See Back Page, ESPER

See Back Page, CRASH

# Teenager's final moments point to recent troubled past

■ **ESPER:** The 19-year-old driver in fatal collision was familiar face to police.

By ZAZ HOLLANDER  
and LISA DEMER  
Anchorage Daily News

Robert M. Esper eluded police for half an hour Monday morning before his life and three others ended in a fiery crash on the Glenn Highway.

But the 19-year-old driving the red Chevrolet Blazer that collided head-on with a police car had slipped in and out of the system’s fingers several times in recent years.

“It appears that in this case we just didn’t find the right combination of interventions and opportunities,” said Robert Buttane, state administrative juvenile probation officer. “I don’t know what the system might have done differently. It’s just that some-

times it doesn’t take.”

Last month, Esper was among 15 students who graduated from McLaughlin Youth Center in Anchorage. When he registered to vote at 18, he gave his address as 2600 Providence Drive — McLaughlin.

Adults who tried to persuade Esper to straighten out found him likable when they talked to him, only to learn that he had gotten into trouble again, said Anchorage politician Ray Met-

calfe, a friend of the family. “I never saw a bad side of him,” Metcalfe said, though he knew it was there.

A chronology of Esper’s offenses can be pieced together from court records and juvenile authorities:

In December 1998, Esper was accused of possessing marijuana at school and was placed on informal probation. Two months later, he was ac-

See Back Page, ESPER

See Back Page, CRASH

Dave Olney, right, the owner of the Arctic Rose fishing boat, talks with his attorney Doug Fryer



# Officers to seek, photograph Arctic Rose

■ **INVESTIGATION:** There are no plans to raise the fishing boat.

are spotted, he said.

“I just hope our search is successful,” he said.

The Coast Guard panel will travel to Dutch

## INSIDE

■ THEFT	Alaska . . . . . B-1
CHARGES:	Bridge . . . . . D-5
A Palmer clerk	Brazelton . . . . . D-2
for the state	Classified . . . . . E-6
	Comics . . . . . D-4
	Continued . . . . .



Photo by JOAN MARSH

A procession of Anchorage Police Department cruisers accompanies the body of officer Justin Wollam from Providence Alaska Medical Center on Monday.

## WOLLAM: Hometown copes with officer's death

*Continued from A-1*

towns of Danbury and Angleton, where Wollam grew up and started his career as a police officer, the news was no less shocking.

"All I know is the community is really upset and just heartbroken about what happened, and we're trying to comfort the family," said Disa Schulze, maintenance supervisor at the Danbury school district, where William Wollam worked and Justin and his brother graduated.

Angleton Police Chief David Ashburn and Cpl. Richard Stone, who gave Wollam his first police job as a reserve officer in 1996, broke the news to Wollam's parents Monday morning.

"They were both just very heartbroken," Ashburn said. "They took it very hard."

Wollam grew up exceptionally well-liked in a friendly small town where the lines between family and community overlap, where Wollam was still considered a local even after moving away.

"After every ballgame, we would always go out and eat in this little old breakfast place, and the Wollams were always there," Walch said.

"When they came down for a visit, his wife would bring the little girl over. I can remember that he would come over and pick her up."

With Wollam's family and co-workers in mourning, many biographical details were unavailable Monday. After graduating from high school, Wollam served in the U.S. Air Force as an aircraft support technician from 1991 to 1995, according to Anchorage police. Several family friends in Texas said they believe Wollam served at least some of his military service in Alaska, where his wife has family.

Wollam had long wanted to be a police officer, Walch said. "His father told me that it's something he always wanted to do."

In 1996, Stone hired Wollam as a volunteer reserve officer at the two-person Danbury Police Department. It took only three months before he was hired at the larger department in Angleton.

"He was very professional," Stone said. "He was a people's policeman. He was very friendly."

In 1999, Wollam and his family moved to An-

chorage, where Wollam secured a job as a patrol officer. Angleton chief Ashburn was sorry to lose him.

In Anchorage, Wollam soon earned a reputation among other officers for an outgoing and idealistic attitude as he patrolled around Eagle River. He liked people and seemed to approach his work with energy and enthusiasm, according to other officers.

"He was at the age we all were when we hired on." Chief Monegan said during a press conference Monday. "You really want to get out there and do good. You really believe in what you're doing."

Wollam lived quietly in a South Anchorage neighborhood with his wife and daughter. His neighbors, who said they didn't know him well yet, described him as likable and friendly.



## Anchorage officers killed in the line of duty

Name	Date	What happened
Benjamin Strong, 29	Jan. 4, 1968	Shot during stakeout
John Flora, 33	Sept. 8, 1975	Shot responding to a burglary. Flora's wife, Brenda, helped establish K-9 unit.
Harry Kler, 30	Oct. 28, 1980	Squad car crash responding to gas station fire
Harry Hanson, 41	July 17, 1986	Shot covering gunfire for another officer
Loulo Mizelle, 35	June 6, 1989	Shot responding to shots-fired call
Dan Seely, 40	Oct. 26, 1996	Shot serving a warrant
Justin Wollam, 28	July 9, 2001	Head-on collision with fleeing suspects

Source: Anchorage Police Department

RON ENGSTROM / Anchorage Daily News

"I know he spent a lot of time with his daughter, and he seemed like a really nice guy," said neighbor Cynthia Ben. "I'm really saddened this morning."

■ Doug O'Hara can be reached at do'hara@adn.com and 257-4334. Reporter Shella Toomey contributed to this story.

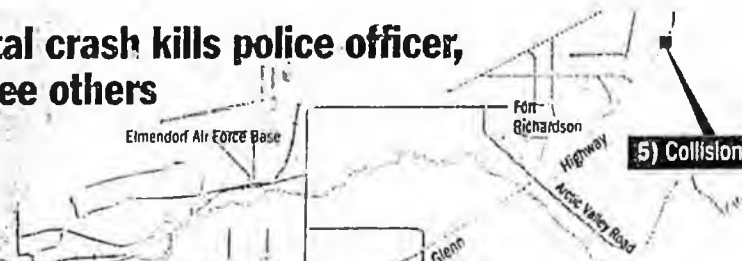
## CRASH: Police seek witnesses to collision

*Continued from A-1*

nesota Bypass on the wrong side of the road. Police blocked an entrance to the bypass to safeguard other drivers,

exit and the Eagle River Loop exit, Esper crossed the median into the Anchorage-bound lanes and continued barreling toward Eagle River.

## Fatal crash kills police officer, three others



## ESPER: In trouble

*Continued from A-1*

cused of stealing a vehicle. The state deferred formal action and referred Esper's case to Youth Court, where youths are prosecutors defendants

## CRASH: Police seek witnesses to collision

Continued from A-1

nesota Bypass on the wrong side of the road. Police blocked an entrance to the bypass to safeguard other drivers, McGee said.

At one point, the Blazer pulled into a trailer park at the dead end of Arctic Boulevard near Garnet Street and police saw three people jump out and run away. Two were captured almost immediately and told police the driver had been drinking, Monegan said.

Minutes later, the Blazer was headed out of town on the Glenn Highway. At least one police car followed at a distance, McGee said.

Meanwhile, Wollam, who was on duty in Eagle River, and a second Eagle River officer were told to drive toward Anchorage, to the Fort Richardson overpass, and mine the exit there with spike strips to keep the Blazer from getting off the highway onto neighborhood streets, said Lt. Audie Holloway.

The Blazer had already survived at least two efforts to spike its tires and force it to stop, Monegan said.

Wollam and the second officer headed toward town in separate cars, traveling at 60 to 65 mph, police said. Esper was now also on the Glenn, thundering outbound.

The effort to spike the Fort Richardson exit was futile. Esper passed it long before Wollam and the second officer got there.

Wollam and Esper should have passed each other, flying in opposite directions with four lanes and a median between them. But shortly before the big S curve, halfway between the Fort Richardson

exit and the Eagle River Loop exit, Esper crossed the median into the Anchorage-bound lanes and continued barreling toward Eagle River.

He had gone less than a mile when a white vehicle appeared, traveling at proper speed in the correct direction, police said. Investigators theorize that Esper swerved to his left to avoid hitting the white vehicle just as Wollam came around the curve.

"Both appeared to try to take evasive action," Monegan said. "They saw each other too late."

The officer in the second car witnessed the collision but was not injured, Monegan said.

The dead, in addition to Wollam and Esper, were identified as Makayla Lewis, 16, and a 14-year-old girl whose name was not released because her next of kin had not yet been notified, McGee said.

A third passenger, Savannah Fielding, 15, was thrown from the Blazer, suffering a fractured skull and broken ankle, Monegan said. She remained hospitalized in critical condition Monday night.

The southbound side of the Glenn remained closed for most of the rush hour, with incoming commuters diverted in crawling streams around the crash site.

"This is a tragedy not only for the Police Department but for the families of the occupants of the other car," Monegan said at a press conference later Monday morning.

He said police don't anticipate charging the three passengers who got out of the Blazer in town.

"They wanted out. ... They

## Fatal crash kills police officer, three others



Source: Police reports

RON ENGSTROM / Anchorage Daily News

### Events leading to disaster

- 1) 72nd Avenue and Lake Otis Parkway — Police officer spots a Blazer full of young people stopped at the side of the road
- 2) O'Malley Road — Later, the Blazer is spotted driving in the wrong lane of O'Malley Road
- 3) Arctic Boulevard and Garnet Street — Three passengers flee Blazer; police apprehend two of them
- 4) C Street — Blazer speeds north
- 5) Head-on collision — Glenn Highway near the Fort Richardson overpass  
Details: The Blazer heads north on the Glenn at 80-85 mph, crosses the median and drives against traffic. Officer Justin Wollam was driving south. He is killed in the collision. Also killed were Robert Esper, 19, driver of the Blazer, Makayla Lewis, 16, and a 14-year-old girl



3:23 a.m.



4 a.m.

were trying to use their common sense," he said.

Police identified only one of the three: Travis Barrett, 19, who was taken into custody on three old warrants, including driving without a valid license.

Monegan said police would like the driver of the white vehicle, described as a sedan or van, to help reconstruct exactly what happened. That driver is not considered at fault in any way, Monegan said.

Monday's collision was a worst-case example of the

Catch-22 that police face when dealing with a fleeing motorist driving erratically and endangering others on the road, Monegan said. Police have to make a fast choice. Do you let someone continue to drive until you corner him or he realizes he can't get away or might run out of gas? Or do you chase him in a way that makes him drive even faster and more dangerously?

According to the National Highway Traffic Safety Administration, about one-third of

the people who end up dead after a high-speed police pursuit are innocent bystanders. In 1999, for example, 318 people died nationally as a result of police pursuits. Of those, three were police officers in pursuit; 212 were in a vehicle being chased, and 103 were bystanders.

Reporters Lisa Demer, Zaz Hollander and Peter Porco contributed to this story. Shella Toomey can be reached at [stoomy@adn.com](mailto:stoomy@adn.com) or 257-4361.

## ESPER: In trouble

Continued from A-1

cused of stealing a vehicle. The state deferred formal action and referred Esper's case to Youth Court, where youths are prosecutors, defendants and judges. Records indicate he also was referred for drug and alcohol treatment, Buttcaane said.

In August 1999, he was accused of stealing another vehicle. Juvenile authorities opted to take the matter and the earlier stolen vehicle case to trial. But before they could, Esper got into more serious trouble.

In October 1999, Anchorage police arrested him on charges of eluding a police officer and theft of a third vehicle. Around the same time, he also was charged with attempted burglary and third-degree assault after driving into someone's leg, according to Buttcaane. He was detained at McLaughlin.

On Jan. 31, 2000, after he was convicted in the juvenile system of three counts of vehicle theft and failing to stop for an officer, he was ordered to stay at McLaughlin for long-term treatment.

In March 2001, just before his 19th birthday, Esper was released.

Days later, on March 10, he was arrested on charges of vehicle theft, drunken driving and driving with a suspended license. Military police found Esper parked on Arctic Valley Road either passed out or asleep, court records show.

On June 22, a judge sentenced him to three years of probation in exchange for a guilty plea on charges of drunken driving and vehicle theft, according to District Attorney Susan Parks. A charge of driving with a suspended license was dropped, Parks said.

Robert Esper, who went by Bobby, grew up a nice kid who played hockey, said Metcalfe, who has known Bobby's father, bus driver Robert F. Esper, for about 20 years.

Bobby's life was never easy, according to Metcalfe. The boy's parents divorced when he was little. He lived with his mother until he was about 7, when she died of cancer. Met-

## ARCTIC ROSE: Owner has declined to testify, citing Fifth

Continued from A-1

boat's emergency locator beacon bobbed on the surface and where a fuel slick and some debris were found.

If found, the boat will be photographed with a propeller-driven vehicle controlled from the surface via an umbilical cord. Whether the water will

boat, originally built as a shrimper in a Mississippi boat yard in 1988.

The owner of the Arctic Rose, Dave Olney, sat silently through Monday's hearing, flanked by his wife and lawyer. In Seattle, Olney declined to testify, taking the Fifth Amendment for fear that his testimony could be used

pilothouse looks like, Morris said.

The boat was a small, floating factory where fish like cod and sole were caught, cleaned, frozen and packed.

On Monday, former deckhand James Valentine, of Auburn, Wash., testified about what he considered safety hazards during a six-week hitch

toss out heads and guts, and propping open the small door made it easier, he said. But Valentine said water gushed through when the boat went into a trough or rolled, and often the fish-cleaning crew left the door open after their shift.

"I told the captain and the mate what was going on," Valentine said. He said that he dropped the door of

**ANCHORAGE**

**Justin Todd Wollam, 28**

Anchorage police officer Justin Todd Wollam, 28, died in the line of duty July 9, 2001, on the Glenn Highway.



Wollam

Services will be at 2 p.m. today at Anchorage Baptist Temple. Dr. Jerry Prevo and the Rev. Dan Hebert will officiate. Pallbearers will include police officers A. Pate, E. Pratt, J. McKay, D. Pardue, C. Mueller, A. Rockom and R. Billet. Honorary pallbearers will include the Anchorage Police Department, Charles Cash II, James Easterling, Russell Wollam and Billy Christensen. Additional services will be held Tuesday in Angleton, Texas. Burial will be in Danbury Cemetery in Danbury, Texas.

Mr. Wollam was born May 16, 1973, in Houston, Texas. A 1991 graduate of Danbury High School, he attended Alvin Community College.

Mr. Wollam served honorably in the U.S. Air Force from 1993 to 1995. After his discharge, he worked for the Danbury Police Department from 1995 to 1996, when he began working for the Angleton Police Department.

In July 1998, he moved to Anchorage. He began his career with the Anchorage Police Department in June 1999.

Mr. Wollam was posthumously awarded the Police Cross on July 9, 2001.

He was a member of the Danbury Baptist Church and Alaska Peace Officer Association.

His family said: "Justin was a very loving husband and father. His family was first in his life. He was an outstanding police officer and was respected and loved by all who knew him. He will be missed by all."

Mr. Wollam is survived by

his wife, Kristy Wollam of Anchorage; daughter, Kristin Wollam of Anchorage; parents, W.R. and Beverly Wollam of Danbury; brother and sister-in-law, Russell and Wendy Wollam of Angleton; grandmother, Louise Wollam of Danbury; nephew, Tyler Wollam of Angleton; nieces, Melanie Wollam of Angleton and Savanna Cash of Anchorage; parents-in-law, Charles and Chris Cash of Anchorage; brother-in-law and his wife, Charles and Kim Cash II of Anchorage; grandparents-in-law, Bud and Allene Cash of Laverne, Okla.; and many aunts, uncles, cousins and friends.

Donations to the Wollam Memorial Fund are being accepted by the Anchorage Police Department and any branch of Alaska USA Federal Credit Union.

Arrangements were by Evergreen Memorial Chapel downtown.

**KENAI**

**Arthur P. Lariviere, 53**

Kenai resident Arthur Paul Lariviere died July 11, 2001, at Central Peninsula Hospital in Soldotna. He was 53.

Mr. Lariviere was born Sept. 1, 1947, in Amesbury, Mass. He completed high school and attended Haverhill Trade School in 1965.

He moved to Alaska in May 1971 and lived in Anchorage and Kenai.

Mr. Lariviere had worked on the Alaska pipeline, as a commercial crab fisherman, as a printer at Fort Richardson Army Base, and as a fishing guide in Kenai.

He is survived by his children, Kristen and Adam Lariviere of Florida; mother, Lucille Lariviere of Massachusetts; brothers and sisters-in-law, David and Gloria Lariviere of New Hampshire, James J. Lariviere of Massachusetts, and Richard L. and Dot of New Hampshire;

ADN  
13 July 2001

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

## HUNTING PERMIT WINNERS

Hunting season is fast approaching. Check to see if you have won the OK to hunt bear, caribou, moose, sheep, elk, mountain goat or musk ox. And learn how to get ready for a successful hunt. **Friday special section**

# ALASKA

ANCHORAGE DAILY NEWS • www.adn.com

FRIDAY, JULY 13, 2001

## ANCHORAGE POLICE OFFICER MOURNED



A roadside memorial to Anchorage Police officer Justin T. Wollam is covered with flowers on Thursday. Wollam was killed early Monday in a head-on collision on the Glenn Highway. He and three other people died in the accident. A memorial service for the police officer is scheduled for 2 p.m. today at Anchorage Baptist Temple.

ERIK HILL  
Anchorage  
Daily News

# Anchorage Daily News

Saturday, July 14, 2001

ALASKA'S NEWSPAPER

www.adn.com

*"We owe him a commitment that we are willing to do our part in keeping the pain and agony of drunk driving from taking yet another life."*

Lt. Gov. Fran Ulmer

## City says last goodbye to fallen police officer



One of hundreds of police officers from various agencies around the state salutes the colors as they are presented at the start of the memorial service for Anchorage police officer Justin Wollam.

■ **MEMORIAL:** Thousands attend the procession, service honoring Justin Wollam.

By LUCAS WALL  
Anchorage Daily News

"Thank you Justin. Thank you officers."

So read a small orange sheet of paper held by a solitary woman Friday afternoon on the sidewalk of Northern Lights Boulevard as hundreds of public safety vehicles escorted Anchorage police officer Justin Wollam's body to Ted Stevens Anchorage International Airport.



Wollam

It was one of many gestures of support for Wollam and his surviving colleagues. Wollam died Monday in a head-on collision with a 19-year-old suspected drunk driver fleeing from police on the wrong side of the Glenn Highway. Robert Esper and two of his passengers also died.

Officers from about 30 federal, state and local agencies across Alaska joined most of the Anchorage Police Department along with family, friends and other citizens for Wollam's memorial service at the Anchorage Baptist Temple. About 1,000 people in all filled the pews to remember Wollam and acknowledge his sacrifice.

Police Chief Walt Monegan said officers confront tragedies on a regular basis, but Wollam's death reminds them they, too, are vulnerable.

"Death, pain and misery are like gi-



Photos by MARC LESTER / Anchorage Daily News

See Back Page. MEMORIAL Kristy Wollam is embraced by her mother, Christine Cash; brother, Charles Cash II; and father, Charles Cash, on Friday at the Anchorage Baptist Temple.

# MEMORIAL: *The community mourns officer*

*Continued from A-1*

gantic storms that more than occasionally drop down and ravage our community," Monegan said. "It is public safety officers like Justin who rush out in the turbulence and the wake of these gigantic storms and try to provide aid for their victims. We do it so routinely that sometimes we forget our own personal danger, at least until such time until one of those storms touches us."

The Rev. Jerry Prevo said it's important to acknowledge all law enforcement officers while honoring Wollam's memory.

"It's not until a time like this that we, the citizens of this community, realize the serious danger the men and women of our police department face each day as they do their jobs," he said.

Prevo noted the efforts of Anchorage police Friday morning to apprehend five suspects in an apparent home invasion robbery. Some officers arrived at the service still wearing their tactical uniforms from the morning's manhunt.

Lt. Gov. Fran Ulmer and Mayor George Wuerch offered similar sentiments. Ulmer also urged people to remember all those lost to drunk driving and to strive to prevent future disasters.

"We all can be part of making this a safer state and keeping the tragedy you're experiencing here today with Justin's family and friends from happening to others," Ulmer said. "We owe him a commitment that we are willing to do our part in keeping the pain and agony of drunk driving from taking yet another life."

Ulmer said Wollam is the 35th officer to die in the line of duty in Alaska. She read his wife, Kristy, a letter from Gov. Tony Knowles and presented her with a state flag that flew over the Alaska Capitol on Friday morning.

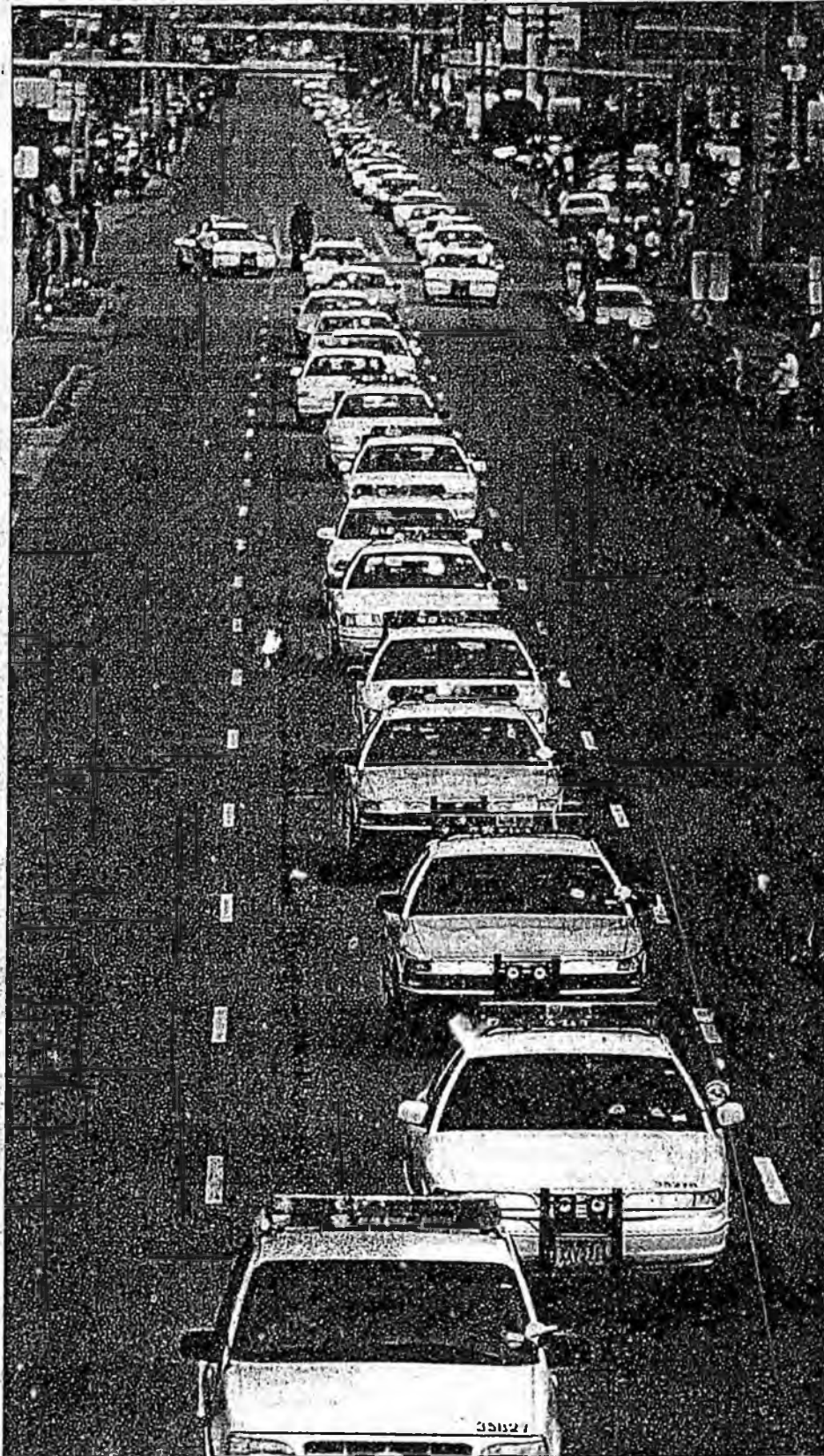
After the speeches and prayers, the audience watched a video of family photos. Sniffles were heard and tears seen across the auditorium as "Go Rest High on That Mountain" played while photos flashed on the large television monitors. The shots included Wollam in his high school football uniform, kissing his wife at their wedding, singing karaoke with friends and lying by a fireplace with his 4-year-old daughter, Kristin.

Outside, an Air Force rifle team fired a 21-gun salute. A police officer played taps while a police honor guard folded the U.S. flag that draped Wollam's coffin. As Monegan presented it to Kristy Wollam, her sobs could be heard in the back of the room.

Thousands of people lined Northern Lights and many more were snarled in traffic jams as the procession escorted Wollam's body to the airport for transport to his hometown of Danbury, Texas. Many people stood at attention with hands over their hearts as the motorcade passed. Some held signs, flags and candles.

Lt. Kris Miller said the sight of so many residents showing their support was gratifying.

"It's to honor the fallen one but it inspires those who have to continue," Miller said as she drove the 40-minute procession route. "It lets



them know their efforts are valued."

Monegan and eight officers are accompanying the body to Danbury, where a funeral and burial will take place Tuesday.

■ Reporter Lucas Wall can be reached at [lw@adn.com](mailto:lw@adn.com) or 257-4321.

MARC LESTER / Anchorage Daily News

Hundreds of police cars head west on Northern Lights Boulevard on Friday during a motorcade for Justin Wollam. Wollam's body was being driven to the airport to be flown to Texas.

# Negotiating tough times

■ **SURVIVORS:** Dead officer's family gets by one day at a time.

By **LUCAS WALL**  
Anchorage Daily News

It has been three weeks since Anchorage police officer Justin Wollam died in a head-on collision. His family is trying to pick up the pieces and get on with life.

Wollam's wife, Kristy, is too devastated to talk publicly about her loss, said her father, Charles Cash.

"She's on an emotional roller coaster right now," Cash

See Back Page, **SURVIVORS**



Officer Justin Wollam died in a head-on collision on the Glenn Highway on July 9. He left a wife and a 4-year-old daughter.

July 31, 2001

Anchorage Daily News

## **SURVIVORS:** *Support*

*Continued from A-1*

said. "She'll have good times, and then you'll just look at her and she just looks like a lost little girl. She's having a really tough time with it because I think it's the last thing anybody expected to go through at age 27, to be a widow."

Wollam's 4-year-old daughter, Kristin, is confused and isn't able to understand what happened July 9. "The other day she was talking about going to Disneyland, and she started running through the list of who all would be going," he said. "The last one of the list, of course, was Daddy. And she asked where Daddy is, and I told her he's in heaven with Jesus. She doesn't comprehend that. She wants to know if we could get on an airplane and fly to heaven to see Daddy."

Cash said he's doing his best to be there for his daughter, even for something as minor as cutting the grass.

"It's a really difficult ordeal to try to get through, and there's no way we can replace Justin," he said. "We've always been a very close family, so we'll try to build on that and

be there as that family unit to support her."

The assistance the family has received has been superb, he said.

"I don't know what kind of shape we'd be in or what we'd be doing if we didn't have the support and the sincere concern of the entire Anchorage community," Cash said. "Kristy is coping as best she can. She's receiving wonderful support from the Police Department. There's been not a day go by that at least one police officer and/or their wife haven't stopped by the house to see how she's doing."

The sight of thousands of people lining Northern Lights Boulevard paying their respects during the procession escorting Wollam's body to the airport left the family amazed and in awe.

"The only message that I can send to both APD and to the Anchorage community is just a great big thank you," Cash said. "We really appreciate the support, and keep it coming. The continued support is going to be needed for her for quite some time."

**Subject: RE: HB 396**

**Date: Wed, 6 Mar 2002 15:11:05 -0900**

**From: "Marti Greeson" <mgreson@maddalaska.com>**

**To: "Heather Nobrega" <Heather\_Nobrega@legis.state.ak.us>**

Hi Heather,

Just a note to add my concerns following the hearing on February 22:

The original gist of HB 396 was that there be a \$100 surcharge on alcohol-related convictions which would be returned to the arresting agency for the purchase of enforcement equipment. As it was originally introduced, this means there would be a 'full circle' of enforcement in the horror of alcohol-related threats to the safety of our communities and our state which currently exist. Enforcement officers would be able to see that their enforcement is an integral part of a larger picture of attacking the alcohol violations, and would see that their commitment to enforcement is also their personal commitment to gaining current enforcement technology to do their job.

As it sounded during the hearing, if the surcharge were to go into a APSC 'general fund' and made available for granting to all agencies, some agencies or individuals may not have the same incentive or commitment to their own communities to work harder for the benefit of other agencies or communities.

I know it may sound strange to say that our enforcement agencies would not see the good of the state as a whole, but having worked for numerous police agencies in my home state of Colorado, I do know that the commitment of the officers is to their own agency and to the community they serve.

Although we are the "Anchorage" Chapter of MADD, we have tried to keep an eye to how the state can best be served, and I know the Legislature's job is to look at what will best serve the state. This does not always apply to individual communities who are looking for what is best for the place they live, which is only right.

Let me know if that makes sense to you.

Marti

-----Original Message-----

From: Heather Nobrega [[mailto:Heather\\_Nobrega@legis.state.ak.us](mailto:Heather_Nobrega@legis.state.ak.us)]

Sent: Tuesday, February 19, 2002 5:37 PM

To: [wmonegan@ci.anchorage.ak.us](mailto:wmonegan@ci.anchorage.ak.us)

Cc: Marti Greeson

Subject: HB 396

Chief Monegan,

Just a quick note to let you know that we have scheduled HB 396 for a hearing in the House Judiciary Committee this Friday, Feb. 22nd. We would appreciate any positive testimony that you, or others may be available to give. This meeting will be teleconferenced at the Anchorage LIO.

Thank you.

Heather Nobrega

AJCClassifieds Jobs Home Care Subscribe to the AJC

ajc.com The Atlanta Journal-Constitution

Place a classified ad

The Journal-Constitution

HOME NEWS METRO SPORTS BRAVES BUSINESS LIVING OPINION TRAVEL

BELLSOUTH Yellow Pages

Sales and Shopping

Top local headlines

- [Speeders beware: Clayton fixes radar glitch.](#)
- [Atlanta earns good marks from NCAA.](#)
- [Atlanta archdiocese discloses abuse cases.](#)
- [Renew driver's license by mail. Internet?](#)
- [Allantans may get a break on school taxes.](#)

AP headlines this hour

- [Virginia Airs Youth Anti-Smoking Ad](#)
- [Parents of Activist Flee NYC Home](#)
- [Protesters Clash at Beirut Embassy](#)
- [Gregory: Church Must Rebuild Trust](#)
- [Student Dies After Playing Joke](#)
- [Israeli Tanks Advance Into Nabius](#)
- [Battle of the Brains Lands in Court](#)
- [Police Release Dog Attack 911](#)

### Conviction surcharges not collected

Georgia courts are having a tough time tracking drunk drivers' payments to a fund for victims.

Eight years ago, Georgia set up a fund to help crime victims. Courts all over the state are supposed to collect an extra fee from drunken drivers to support it.

But the fund may be short \$3.2 million -- nearly half of all it collected -- and no one seems to know why.

The agency in charge, the Criminal Justice Coordinating Council, can't say for sure how much might be missing. It's never really kept track of how much courts are supposed to be sending in.

The confusion is the product of a larger mishmash of surcharges, imposed one by one over the years. They make criminals pay extra on court fines for everything from police pensions to drug abuse treatment.

Legislators who voted for the fines reaped the short-term political benefit of helping victims, but they provided no guidance for setting up a collection system that could operate smoothly and with accountability.

Hundreds of crime victims who were out of work, or facing stacks of medical or funeral bills, might have been helped with that money. Based on last year's average claim of \$2,000, the \$3.2 million could have helped in 1,600 cases.

The CJCC staff started looking into the problem last year. It began as an effort to give more money to victims. But before the CJCC could ask legislators to raise the

### LUCY SOTO

Got a tip? Want to blow the whistle? [Email](#) Lucy Soto.  
• [Mailbag](#): Readers respond  
• [Lucy Soto bio](#)

**UPDATE:**  
**Fulton County terminated its problem-plagued computer contract with Nova Tech. But there's a glitch. The company says it canceled the agreement first, and that the county owes it money.**

Nova Tech has had a rocky relationship with Fulton since it was hired May 1998 to install wiring

### Shine your spotlight

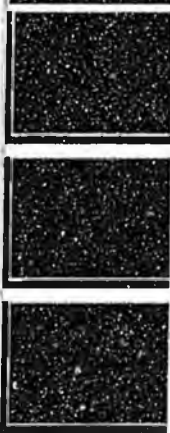
- [A guide](#) to open government on the Internet.
- Use our handy [form letter](#) to request open records in Georgia.
- [New mailbag](#): Readers respond to Spotlight columns on travel guide controversy.
- [Lucy's bio](#)
- [Email a tip](#) to Lucy.

### Recent and related

- [DeKalb tax collector in line for bonus](#)
- [DeKalb DA's bad check plan bounces](#)
- [Authority can end 'extreme' pay deal](#)
- [Barnes takes care of nursing homes](#)
- [Tourism guide publisher feels state just wrote him off](#)
- [Travel guide puts agency on rocky path](#)
- [City golf project sandtrapped](#)
- [Glitches hit plan to end social promotion](#)
- [Lobbyists' top 'thank you' to legislators? Wine and dine.](#)
- [Complain about lawyer at your risk.](#)
- [No pain, no gain from Legislature on ethics.](#)
- [Rape victims being billed for exams.](#)
- [Land purchase made hurriedly.](#)
- [State reins in 'golden parachutes.'](#)
- [Senate leader gets](#)

### SPECIAL SERVICES

- [Email news](#)
- [AJC Info S](#)



A-List Even  
Movie Show  
Local Web

Search The  
ENTER KEYWORD

- [Today's print](#)
- [Front-page](#)
- [Page 1 / A](#)
- [Sports sec](#)
- [Metro news](#)
- [Business s](#)
- [Editorials](#)
- [Living sect](#)

Tape

- Gregory: Church Must Work Harder
- New Afghan Troops Finish Training
- Iraq Boosts Suicide Bomber Payment
- Israeli Warplanes Strike S. Lebanon
- Powell Open to Mideast Meetings
- U.S. Citizens in Ramallah Plight
- Israeli Tanks Enter Nablus

program's limits, it had to predict how much money would be coming in during the next several years.

It couldn't. The agency had never really tried to reconcile how much money it received to how much money it was supposed to receive. When it took a closer look, it appeared Georgia courts had been handling thousands of DUI convictions in which the surcharge for the victims fund hasn't been passed on.

How does this happen? After eight years, shouldn't we have a handle on all this?

I am not in any position at this time to point fingers at anybody, CJCC Director Gale Buckner says.

Buckner took over as head of the CJCC three months ago. In years past, Buckner said, the agency didn't have enough people to monitor the fund day to day. On top of that, the DUI figures it received from the state Department of Public Safety did not contain enough detail to allow a real accounting.

Buckner says she's concentrating now on making sure an outside auditor checks out her numbers before trying to collect from any court. She spoke with one who said they could complete the job by May.

But that might not be necessary. After Spotlight asked Gov. Roy Barnes about the situation, his spokeswoman said Friday he plans to ask the State Auditor to examine the collection system and see what needs to be fixed.

Preliminary work to straighten out CJCC's books shows more than a half dozen courts owe more than \$100,000 apiece. Many others owe tens of thousands of dollars.

The Augusta-Richmond County State Court owes \$164,934, topping the CJCC's preliminary list. Cobb County's state court is next with an estimated debt of \$154,749.

Court clerks say the money might not be missing at all. It's more likely, they say, that the drunken drivers are

may 1998 to install wiring for voice and computer systems in various departments. County files show a long list of complaints about the company's work, lack of responsiveness and overpricing (Spotlight, June 19).

Company workers stopped showing up for work in May. By August, the county sent a letter severing the contract and saying 38 wiring requests were still outstanding. It was returned. Nova Tech has had at least four different addresses in the last six years. It moved out of the Hurt Building downtown in April without leaving a forwarding address.

A county official finally e-mailed owner Marie Egana-Moriarty. She shot a message back saying her company was the first to terminate the contract. But officials are still waiting for her to list the materials she says the county owes her for.

Meanwhile, Fulton has hired at least three other contractors, Gates said, to catch up on the remaining work.

paid help from agency

- Regulator returns donations
- New ethics bill would handcuff overseers
- Buckhead funds spent elsewhere
- Atlanta's rehab program creates house of ill repair
- Reminders for the new year
- Atlanta leaves cold trail on permit fees.
- Motivational speaker doesn't mention conflict of interest.
- Tax-sale tales pour in mail.
- Couple's house lost in tax glitch.
- Panel looks into election fund usage.
- Did Grady give informal advantage?
- Conviction surcharges not collected.
- Public officials can't spend campaign funds on clothes, say the State Ethics Commission's new regulations. But gray areas remain.
- Housing crackdown: City Hall promises another crackdown on housing code violations. But how long will it last?
- Video gambling may soon hit Georgia jackpot.
- Disciplining the judges.
- Co-ops' power over land is unchecked
- Open records requests: Good, bad and ugly
- Updated items: Prison has lock on its problem.
- Updated items: Virginia-Highland's



paying the fines in installments and just haven't finished yet.

But it also could be the result of human error. The system can't even be sure the fines are being assessed, that drunk drivers are paying these fees, or that the money is being passed on to the state treasury.

This is just one surcharge out of many that clerks around the state have to track.

In Cobb County, State Court Clerk Diane Graham said she collects 10 different surcharges for everything from police training to treatment of brain and spinal injuries. Until recently, when a computer began doing the work, sentencing could take up to 30 minutes more just so the judge could work out all the math to arrive at a total fine.

"To keep up on all of them," Graham says, "and to make sure you have applied every surcharge to each case you have to, as far as the clerk goes, it's an accounting nightmare."

That's the kind of nightmare that's just beginning for the CJCC.

Legislators didn't exactly ensure the surcharges they imposed would be easy to collect. But they did insert a provision in the law saying failure to collect and distribute the fees is a misdemeanor. The law also allows the CJCC to charge a 5 percent late fee.

That's never happened. It's hard to do that when you don't know what should be coming in, much less whether it's late.

And, with the legislative session little more than two months away, what does all of this do for the agency's goal of broadening the benefits to victims?

"I do not feel comfortable asking for additional benefits," Buckner says, "when I don't know what's going on in my house right now."

[Back to top](#) | [ajc.com home](#)

funky water, open records, public schools and more.

• [Tax collectors hike pay with separate contracts](#)

• [State probes defunct job training center](#)

• [Agencies make their own rules on open records](#)

• [Windfall follows firm's political donations](#)

• [Grady's answers further cloud subcontracting issue](#)


• [Minority firm's Grady contract a mystery](#)

• [Fulton contract-awarding process fell short on fairness.](#)

• [Questions about emergency county contracts.](#)

[home](#) | [news](#) | [metro](#) | [sports](#) | [business](#) | [living](#) | [opinion](#)

By using AccessAtlanta.com you accept the terms of our [Visitor Agreement](#). Please read it. Questions about your privacy? See our updated [Privacy Statement](#). Interested in reprint permission? See our [Permissions Policy](#).

 [The Atlanta Journal-Constitution](#)

Report on  
*Trends in the State Courts*

• 1998-1999 Edition •



Information Service  
1999



## Surcharge Assessments in State Courts

*Kent Pankey*

Contrary to efforts to improve public trust and confidence in the courts, the assessment of surcharges in state courts has been increasing.<sup>1</sup> In a recent survey of the state court administrators in the fifty states, the District of Columbia, and Puerto Rico, the Information Service found that the assessment of surcharges is more extensive now than was reported in a national survey of practice conducted in 1985. Reporting on practices during the year 1997, forty-four of the forty-five responding jurisdictions (98 percent) indicated that they assessed surcharges in at least one type of court action. Only **Puerto Rico** indicated that it did not assess surcharges.

All forty-four jurisdictions assessed surcharges in some type of criminal case, generally upon conviction. Usually, surcharges were collected for a wide range of offenses; occasionally, they applied only to a narrow range of offenses, such as those involving substance abuse or domestic violence. In the 1985 survey of practice conducted by COSCA, only thirty-six of fifty-three responding jurisdictions reported criminal surcharges.

Thirty-two of the forty-five responding jurisdictions (71 percent) clearly assessed surcharges in civil cases. Twelve jurisdictions reported no civil surcharges, and one response was incomplete. The extent of civil surcharge assessment reported for 1997 is almost double the 38 percent reported for 1985.

As was the case in 1985, many of the responding jurisdictions did not clearly differentiate traffic from criminal surcharges, creating considerable uncertainty about how many states assess surcharges in traffic cases. This difficulty probably stems from the fact that many states still classify minor traffic offenses as criminal offenses (misdemeanors) rather than as infractions or under some other designation. By careful review of responses and examination of state code provisions, the Information Service has found thirty-nine of the responses to be usable. These responses indicate that at least thirty-two of the forty-five respondents (82 percent of the thirty-nine providing usable data) do assess traffic surcharges. Again this data indicates an increase in the extent of surcharge practices among the states, up from 62 percent (sixteen among twenty-six usable responses) in 1985.

### Recipients

Initial classification of the funds to which surcharge revenues are allocated has identified over seventy-five preliminary categories of revenue recipients. With more details about some of these funds, it is possible that some categories could be collapsed, but the Information Service estimates there still would be more than sixty types of funds, with most states having several of each. The courts benefited from very few of the surcharges that were assessed in 1997.

In civil cases, the most frequent recipients of surcharge revenues were:

- court technology funds,
- indigent legal assistance funds,
- law libraries, and
- domestic violence shelters and services.

Other notable recipients were ADR programs, retirement funds for judges and sheriffs, crime victims, and courthouse restoration funds. Among criminal surcharges, the most common beneficiaries were:

- crime victim funds,
- substance abuse counseling or treatment programs,
- law enforcement training funds,
- court technology funds,
- sexual assault/domestic violence funds,
- retirement/pension programs, and
- local jail funds.

Crime victim, substance abuse, and training funds likewise led the list of traffic surcharge beneficiaries.

A few unique funds included a low-income housing fund, a legislative retirement fund, a head injury program, a code revision fund, and an environmental fund.

### **Policy Implications**

From their study of court costs in the mid-1980s, COSCA made the following observations about surcharges:

- A concern of the judiciary must be for the appearance of impropriety that results when the burden of taxation for the support of "public good" is placed on users of the courts system. Surcharges are vulnerable to being viewed with suspicion at best. Surcharges based on convictions present an even higher potential for conflict of interest claims.<sup>2</sup>
- Another concern is the complication and confusion created by a number of surcharges on the administration of monies handled by clerks of courts.<sup>3</sup>
- Superfluous charges, which are not easily understood and accepted by the public, erode confidence and should be eliminated.<sup>4</sup>

At a time when the courts are exerting so much energy in the interest of improving public trust and confidence, such words should have some meaning. In fact, IS findings indicate that the situation is worse now than when those comments were written.

In the Standards that COSCA adopted in 1986, two relevant standards apply to surcharges:

3.1 Surcharges should not be established.

3.2 Fees and miscellaneous charges should not incorporate surcharges.

From the standpoint of surcharges, the COSCA *Standards* have been utter failures so far. Certainly, the authors of the *Standards* should be disappointed in developments to date, but it is important to point out that the *Standards* are not pie-in-the-sky pronouncements that can simply be dismissed as unrealistic dreams. The authors understood political realities and acknowledged them in the introduction to the *Standards*:

The standards are offered with an understanding of the historical, political, and budgetary realities facing courts and legislative bodies and are intended to be used as a model when states consider changes in their fees' systems.

---Jane Hess, Chairperson  
Committee to Examine Court Costs

### Why No Progress?

No one wants to raise taxes; politicians are not going to call a tax a tax if they don't have to. Whether out of ignorance or not, surcharges are promoted as "user fees" that the public, as it understands the term, seems to find more palatable than taxes.

*Every man that findeth  
himselfe unfit to plead his  
owne cause in any Court  
shall have Libertie to  
employ any man against  
whom the Court doth not  
except, to helpe him,  
Provided he give him noe  
fee or reward for his  
paines.*

*--Massachusetts Body of  
Liberties of 1641, §26*

For the benefit of the courts and those who must use them, it is important to understand that surcharges are *not* user fees. A user fee is a charge that someone voluntarily pays in direct exchange for a good or service. A filing fee is a fee that compensates the courts for the administrative cost of handling case documents. COSCA raised no policy objections against fairly imposed filing fees. A surcharge, however, is rarely voluntary and is rarely (in the case of court surcharges) related to any activity in the courts, let alone to any service rendered by the courts in the payor's case. In their basic nature, surcharges are taxes or penalties.

### Conclusion

From a policy standpoint, the persistence of surcharges is contrary to the stated objectives within the justice community aimed at increasing public trust and confidence. Given political realities, reduction of surcharge assessment practices is unlikely to occur overnight. Nevertheless, during a period when improving public trust and confidence is a leading theme of the justice community, a more intensive and effective effort by the

courts to educate both law-makers and the public about the harmfulness of surcharges would be timely and is the most likely strategy to bring about positive change.

---

<sup>1</sup> According to the *Standards Relating to Court Costs* adopted by COSCA in 1986, a surcharge is one of three classes of assessments that are collectively called "court costs":

"Surcharges" are amounts added to fines, fees, or court costs that are used for designated purposes (occasionally, they are configured as deductions from a comprehensive assessment). Examples include law library funds; domestic violence shelter funds; retirement funds for judges, state police, and sheriffs; victims of crime funds; funds for buildings and facilities; and training funds for law enforcement, prosecutors, and others.

<sup>2</sup> Commentary to Standard 3.1, *Standards Relating to Court Costs*.

<sup>3</sup> *Ibid.*

<sup>4</sup> Commentary to Standard 3.3, *Standards Relating to Court Costs*.

**Effective dates.** Section 7, ch. 119, SLA 1994 makes this section effective January 1, 1996.

**Editor's notes.** With respect to subsection (d), § 10, ch. 56, SLA 1998 provides the following: "Notwithstanding the requirements of AS 12.55.039(d) and AS 37.05.142 that surcharges collected under AS 12.55.039 be accounted for separately, the Alaska Court System shall deposit money collected under AS 12.55.039 in the general fund and shall, by February 1 of each year, provide to the Department of Administration, to the Legislative Budget and Audit Committee, and to each house of the legislature an estimate of the money collected under AS 12.55.039 for that fiscal year."

Section 11, ch. 56, SLA 1998 provides a repeal date for § 10, ch. 56, SLA 1998 as follows: "Section 10 of this Act is repealed on the earlier of (1) the date that the Alaska Court System has the capability to separately track and account electronically for money collected under AS 12.55.039, or (2) June 30, 2002. The executive director of the Alaska Court System shall notify the lieutenant governor and the revisor of statutes when the electronic capability described in this section has been obtained."

**HB**

**405**





# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 19

## SPONSOR STATEMENT

### HB 405

**“An Act relating to the prosecution of criminal offenses committed on or against ferries and other watercraft owned or operated by the state; and providing for an effective date.”**

House Bill 405 gives the State jurisdiction over state owned watercraft including watercraft that is outside state waters.

Last year a young woman was sexually assaulted on a state ferry while it was traveling from Bellingham to Ketchikan. The assault occurred while the ferry was in Canadian waters. Under federal maritime law, the United States government has jurisdiction over crimes committed on United States vessels in Canadian waters.

The jurisdiction to prosecute the crime by the federal government is not exclusive. The State of Alaska may also prosecute the offense, as long as the state shows a sufficient connection between the offense and a valid state interest, and the federal government has not indicated intent to exercise exclusive authority over the offense.

In this particular situation, the District Attorney in Ketchikan presented the case to a grand jury and the grand jury indicted the man on two counts of felony sexual assault and four counts misdemeanor assault. However, the Superior Court dismissed the indictment, finding that without a statute specifically authorizing the state to prosecute under these circumstances, Alaska had no jurisdiction. The State is appealing that ruling.

The dismissal by the court is a concern because the crime is unlikely to be prosecuted by the federal government or the Canadian government. The federal government does not generally prosecute offenses such as sexual assault, and the Canadian government has little interest in pursuing charges involving an Alaska victim on an Alaska ferry.

HB 405 will eliminate the loophole that prevents the State from prosecuting such crimes in the future.

\*\*\*

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES



# Inlandboatmen's Union of the Pacific

MARINE DIVISION — INTERNATIONAL LONGSHORE & WAREHOUSE UNION  
 NATIONAL OFFICE • 1711 W. NICKERSON ST. STE. D • SEATTLE, WA 98119 • (206) 234-6001 • FAX: (206) 234-5043



8/8/01

## LOCAL COURT RULES STATE FERRIES AREN'T UNDER STATE JURISDICTION, IMPERILS CREW and PASSENGERS

In a stunning decision by Superior Court Judge Larry Weeks, the crews and passengers on the A.M.H.S. vessels have been threatened with both possible criminal acts and civil actions. They've been left with no one to enforce order or law, and placed in a bizarre situation of being sued by criminals in civil court if the crew acts to protect crew or passengers. The court decision in the Vernon Jack case\* appears to apply just to Canadian Waters, but has implications any time a ferry is not tied to a dock anywhere except possible in Washington.

The US legal system and Common Sense have failed again. Other countries have "Admiralty Courts" staffed with people who know Maritime Law. The United States, and the state of Alaska, appoints Maritime cases to judges who are not experts in Maritime Law and then appoints DAs with far less (or no) experience and knowledge. I am told Judge Weeks is fair and extremely conscientious, but he apparently had limited resources presented to him. Now we are left with the following absurd and dangerous situation:

In a typical case of avoiding responsibility, all the involved bureaucracies refuse to act.

- 1) The U.S. Coast Guard won't enforce "crimes" unless it is a crewmember committing the act, and then only for certain defined acts. They won't enforce if the crime is against crew by passengers/non-crew unless it is certain defined and extreme acts, or passenger against passenger. They dump that on the FBI or, previously, on the State.
- 2) The Canadians won't enforce and arguably do not have jurisdiction. The State (and maritime law) has always argued that is correct — the Canadians don't have jurisdiction.
- 3) The Feds won't enforce criminal statute except possibly specified crimes like terrorism or mass murder. It is apparently a matter of budget and "importance".
- 4) The AK Div. of Retirement & Benefits tried to argue a ferry deck is not Alaskan soil for purposes of Residency. They lost that. Then the Alaska Permanent Fund Corporation argued our decks aren't Alaskan soil south of the Dixon Entrance A-B Line even on the Rupert run. They lost that only when we got help from the Legislature.

We note that there are laws available, but apparently not the will or budget. Just as examples, under Federal laws, 18 USC 2244 gives the Feds jurisdiction over sexual crimes at sea, and 18 USC 13a allows the Feds to take on State laws under the Assimilative Crimes Act. But why should we have to resort to the Feds at all?

- 5) Now a judge who is seemingly unfamiliar with Maritime law and wasn't brought up to speed by the prosecutor declares crime committed on a ferry in Canadian waters is not in Alaska State jurisdiction. Is he aware the entire Inside Passage is "International Waters"? What about the Tustumena and Kennicott when in the Gulf of Alaska — International waters and "beyond the boundary line"?
- 6) After this decision, what use is a Trooper or Police Office riding in uniform except as a scarecrow? Judge Weeks has just had to tell criminals they can disregard uniformed Alaska Peace Officers and the ferry crews. Our uniformed officers have been invaluable up until now. I guess they are at least trained in how to restrain violent people, but this seemingly opens them up to civil penalties.

### REGIONAL OFFICES

PUGET SOUND  
 1711 W. Nickerson, Ste. D  
 Seattle, WA 98119  
 (206) 234-6040  
 FAX: (206) 234-6043

REGION 37  
 1711 W. Nickerson, Ste. D  
 Seattle, WA 98119  
 (206) 234-6321  
 FAX: (206) 234-5043

COLUMBIA RIVER  
 2436 NW Front Ave.  
 Portland, OR 97203  
 (503) 528-0000  
 FAX: (503) 223-2556

SAN FRANCISCO  
 480 Harrison Street  
 San Francisco, CA 94103  
 (415) 776-1234  
 FAX: (415) 898-1226

HAWAII  
 1001 Dillingham Blvd., Rm. 217  
 Honolulu, HI 96817  
 (808) 847-0411  
 FAX: (808) 647-8051

SOUTHERN CALIFORNIA  
 1911 N. Galley, Ste. A-6  
 San Pedro, CA 90731  
 (310) 831-0005  
 FAX: (310) 527-0094

ALASKA  
 Post Office Box 6300  
 Kenai, AK 99501  
 (907) 226-6000  
 FAX: (907) 225-2465

JUNEAU  
 70 Egan Drive, Ste 30  
 Juneau, AK 99801  
 (907) 585-8220  
 FAX: (907) 588-8222

# Alleged crime aboard Alaska ferry in

By ISILA KHEIRY  
Daily News Staff Writer

A man accused of rape on board a state ferry might not be prosecuted if the Alaska Court of Appeals upholds a recent Superior Court judge's decision.

On July 12, Superior Court Judge Larry Weeks of Juneau dismissed a Ketchikan grand jury's indictment against Vernon Jack, 29, of Boise, Idaho, who is accused of sexually

assaulting a 16-year-old girl. The alleged assault took place on board the Alaska Marine Highway Ferry M/V Matanuska while the ship was in Canadian waters. The dismissal is based on Jack's claim that Alaska does not have jurisdiction.

Weeks, presiding judge for the First Judicial District which includes Ketchikan and Juneau, wrote in his dismissal order that "there is no question that this offense was com-

mitted outside the State of Alaska if it was committed."

He cited a statute that allows the state to prosecute crimes committed outside of Alaska only if the crime is completed within the state.

"That, and the lack of any explicit statutory authority allowing for prosecutions on an Alaskan ferry in Canadian waters causes this court to find that it does not have jurisdiction in the case," Weeks wrote.

## Canadian waters raises jurisdiction issue

State prosecutors appealed Weeks' decision on July 17, claiming that Alaska does have jurisdiction over crimes committed on an Alaska vessel. The Matanuska is an American-flagged ship, and is owned and operated by the State of Alaska, said Ketchikan Assistant District Attorney Dan Schally in a Wednesday telephone interview.

Before Weeks' decision, the local prosecutor's office had cited a previ-

ous Ketchikan case in which a man allegedly assaulted a crew member aboard the same ship while it was in Canadian waters. That man was prosecuted, pleaded guilty to the charges and was sentenced to 60 days in jail.

Prosecutors also cited U.S. foreign relations laws to support its jurisdiction claim.

Responding to the prosecutor's opposition, defense attorney Barb

Kissner wrote that her client does not necessarily question the United States' jurisdiction in the matter.

"The issue before this court is whether the State of Alaska has jurisdiction over this case," she wrote.

The Alaska Legislature has "expressly limited its jurisdictional boundaries" in its statute, wrote Kissner, who was unavailable for an

See, "Crime jurisdiction," page 3

C7

interview Wednesday.

Unless the Legislature drafts a broader jurisdiction statute, cases where criminal conduct occurs outside of Alaska's boundaries should not be prosecuted in Alaskan courts, she argued.

"In the instant case, it would ... violate jurisdictional due process for this court to exercise jurisdiction simply because the United States may have jurisdiction," Kissner wrote.

The problem, said Schally, is that if Alaska does not prosecute the case, Jack likely will not be prosecuted at all.

Federal prosecutors do not try "ordinary" criminal cases, he said; most criminal prosecutions in the United States occur at the state or local level.

"Pedestrian or ordinary crimes, even serious ones .. the feds are just not involved in that," Schally said.

Canada could possibly prosecute Jack, said Schally, but is unlikely to do so.

"It has nothing to do with them other than the fact that it happened off their coast," he said. "Their interest in getting involved in that probably would be low."

Therefore, he said, the State of Alaska is responsible for prosecuting crimes committed on its ferries, even when they are in Canadian water.

The prosecution also claims that Alaska has a vital interest in this case.

Its written opposition to the dismissal motion states, "If people believe that crimes can be committed on ferries to Alaska without any real risk of being prosecuted, then this could have a harmful effect on the welfare of Alaska's community, particularly tourism."

According to a clerk at the state Court of Appeals office in Anchorage, paperwork on the case could take up to six months, which means the court might not see the case until January. Schally said the court could choose to act quickly in this case after that, partly because the defendant is still in jail, but that the appeals process can take more than a year.

In the meantime, Jack is being held at the Ketchikan Correctional Center on \$3,000 bail. According to Alaska statutes, if the state appeals a dismissal, the court will set bail as if a trial was going to take place.

Thursday, Aug. 2, 2001  
KETCHIKAN DAILY NEWS

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 405  
 (H) Publish Date: 2/20/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Crimes committed on state BRU Alaska Court System  
watercraft Component Trial Courts  
 Sponsor Representative Meyer  
 Requester House Transportation Component No. 768

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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 (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The court system does not anticipate any fiscal impact from the passage of HB 405.

Prepared by: Douglas Wooliver Phone 463-4750  
 Division Alaska Court System Date/Time 2/20/02 9:24 AM  
 Approved by: Stephanie Cole Date 2/20/02  
 Agency Alaska Court System

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 405  
 (H) Publish Date: 2/20/02

Corrected Version

Revision Date/Time (Note if correction): 2/19/02 8:27 AM Dept. Affected: Law  
 Title "...prosecution of criminal offenses committed BRU Criminal  
on or against ferries and other watercraft..." Component All  
 Sponsor Representative Meyer  
 Requester House Transportation Committee Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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 (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill will allow the state to prosecute offenses committed on, or against, ferries and other state-owned or -operated vessels. Recently, a superior court judge dismissed a prosecution for rape that occurred on an Alaska ferry while in Canadian water. The court found that there was no statutory authority for the State of Alaska to prosecute the crime, even though the victim was an Alaskan, and the ferry was an Alaskan ferry. This bill will clarify that the state has that statutory authority.

Crimes of this nature are relatively rare, and passage of this legislation is not anticipated to have a fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone (907) 465-5370  
 Division: Attorney General's Office Date/Time 2/19/02 8:27 AM  
 Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 2/19/2002  
 Agency: Department of Law

**HB**

**427**

22-LS1349F  
Ford  
2/26/02

*Not addressed  
in last meeting.*

**CS FOR HOUSE BILL NO. 427( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**

**Referred:**

**Sponsor(s): REPRESENTATIVE GREEN**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to civil claims against a third party and to the award of attorney fees in**  
2 **claims against a third party; amending Rules 14(c) and 82, Alaska Rules of Civil**  
3 **Procedure; and providing for an effective date."**

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

5 **\* Section 1.** AS 09.17.080 is amended by adding a new subsection to read:

6 (e) For purposes of apportioning damages under this section, a defendant, as a  
7 third-party plaintiff, may, as allowed under Rule 14, Alaska Rules of Civil Procedure,  
8 add as a third-party defendant a person whose fault may have been a cause of the  
9 damages claimed by the plaintiff.

10 **\* Sec. 2.** AS 09.60.010 is amended by adding a new subsection to read:

11 (b) If a plaintiff asserts a claim against a third party and complies with the  
12 equitable apportionment provisions of Rule 14, Alaska Rules of Civil Procedure, the  
13 court shall award attorney fees to the plaintiff, third-party plaintiff, and third-party  
14 defendant as required under Rule 82, Alaska Rules of Civil Procedure.

1 \* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3 DIRECT COURT RULE AMENDMENT. Rule 14(c), Alaska Rules of Civil  
4 Procedure, is amended to read:

5 (c) **Equitable Apportionment.** For purposes of apportioning damages under  
6 AS 09.17.080, a defendant, as a third-party plaintiff, may follow the procedure of  
7 paragraph (a) to add as a third-party defendant any person whose fault may have been  
8 a cause of the damages claimed by the plaintiff. Judgment may be entered against a  
9 third-party defendant in favor of the plaintiff in accordance with the third-party  
10 defendant's respective percentage of fault if, within 30 days after the third-party  
11 defendant files an answer, the plaintiff files notice with the court of the plaintiff's  
12 intention to have judgment in favor of the plaintiff entered against the third-  
13 party defendant. If the plaintiff files notice as required by this paragraph,  
14 judgment may be entered against a third-party defendant [,] regardless of whether  
15 the plaintiff has asserted a direct claim against the third-party defendant, and attorney  
16 fees may be awarded to the prevailing party as allowed under Civil Rule 82.

17 \* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 DIRECT COURT RULE AMENDMENT. Rule 82, Alaska Rules of Civil Procedure,  
20 is amended by adding a new subsection to read:

21 (g) If a plaintiff asserts a direct claim against a third-party defendant and  
22 complies with Civil Rule 14(c), the court shall award attorney's fees to the plaintiff,  
23 third-party plaintiff, and third-party defendant as follows:

24 (1) if fault was not apportioned to the third-party defendant, the third-  
25 party defendant is entitled to recover attorney's fees calculated under (b)(2) of this  
26 rule, and the award of attorney's fees shall be divided equally between the plaintiff and  
27 the third-party plaintiff; and

28 (2) if fault was apportioned to the third-party defendant, the plaintiff is  
29 entitled to recover attorney's fees against the third-party defendant under (b)(1) of this  
30 rule, and the third-party plaintiff is entitled to recover reasonable actual attorney's fees  
31 or actual attorney's fees necessarily incurred in asserting the claim against the third-

1 party defendant as calculated under (b)(2) of this rule.

2 \* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to  
3 read:

4 CONDITIONAL EFFECT. Sections 1 and 2 of this Act take effect only if secs. 3 and  
5 4 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,  
6 Constitution of the State of Alaska.

7 \* Sec. 6. This Act takes effect July 1, 2002.

**PLETCHER, WEINIG & FISHER**  
ASSOCIATED IN THE PRACTICE OF LAW

John W. Pletcher, III  
A PROFESSIONAL CORPORATION

DIAMOND CENTER OFFICE TOWER  
800 E. DIAMOND BLVD., SUITE 3-620  
ANCHORAGE, ALASKA 99515-2096

Kelly C. Fisher  
ATTORNEY AT LAW

Richard A. Weinig  
ATTORNEY AT LAW

E-mail: [rajw@plef.com](mailto:rajw@plef.com)

Jaime P. Hidalgo  
ATTORNEY AT LAW

TELEPHONE  
(907) 349-1900

FACSIMILE  
(907) 349-7758

Peter W. Glanville  
ATTORNEY AT LAW

February 25, 2002

Laura Achee                      TRANSMITTED BY FACSIMILE -- (907) 465-4316  
Representative Joe Green's Office  
Capitol Building  
Juneau, AK 99801-1182

Re:    Revision to Rule 82(e) revisions

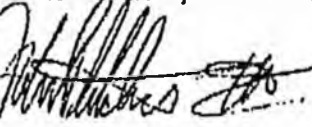
Dear Laura:

John Pletcher reviewed the text of the legislative proposal which I sent you and suggested that an amendment to Civil Rule 82(e) would also be appropriate as part of the same bill. Civil Rule 82(e) governs payment of attorney's fees at the present time. Enclosed is an amendment of Civil Rule 82(e) which compliments the amendment of Civil Rule 14(c) which I sent earlier. Both should be incorporated into the same bill. The statement of purpose behind the bill need not be changed.

A copy of Civil Rule 82, in its present form, is attached.

My best regards,

PLETCHER, WEINIG & FISHER



Richard A. Weinig

RAW/jv  
enc.: Revision of Rule 82(c)  
Civil Rule 82

Ahce Ltr



**A**

**Plaintiff**



**B**

**Original  
Defendant**



**C**

**Third Party  
Defendant**

# Alaska State Legislature

WHILE IN SESSION  
CAPITOL BUILDING  
JUNEAU, ALASKA 99801-1100  
(907) 465-4931  
1 800-870-4931  
(907) 465-4316 FAX

INTERIM ADDRESS  
716 WEST 4TH AVENUE  
ANCHORAGE, ALASKA 99501  
(907) 269-4123  
(907) 869-6124 FAX



CHAIRMAN, LEGISLATIVE COUNCIL  
VICE CHAIR, ECONOMIC DEVELOPMENT,  
TRADE & TOURISM  
MEMBER, RESOURCES  
MEMBER, ETHICS  
MEMBER, MILITARY & VETERAN AFFAIRS

BUDGET SUBCOMMITTEES  
ALASKA COURT SYSTEM  
DEPT. OF CORRECTIONS  
DEPT. OF LAW

## Representative Joe Green

District 10

Under current state law, if a plaintiff sues a defendant who is only partially responsible for the plaintiff's loss, the defendant must prove to the court the portion of fault shared by any third party defendants. If the original defendant is successful, the plaintiff automatically receives a judgment against the third party defendant for the third party defendant's percentage of fault. If a third party defendant prevails, the original defendant must pay the third-party's attorney fees.

The plaintiff bears no risk of incurring any third party defendant's attorney fees. This saves the plaintiff the cost (and liability) of pursuing all of the potential defendants, and allows them to "cherry pick" the easy targets. It also creates an undue burden on a defendant who is not entirely at fault for a plaintiff's loss.

House Bill 427 would place the responsibility for pursuing third party defendants on the plaintiff. The proposed changes to statute would require a plaintiff to file notice with the court if the plaintiff intends to pursue judgment against any third party defendants identified by the original defendant. The plaintiff then becomes partially responsible for the attorney's fees of any prevailing third party defendants the plaintiff chose to seek judgment against.

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 427  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: All Departments  
 Title Third Party Civil Action BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Rep. Joe Green  
 Requester House Judiciary Committee Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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 (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill is expected to have no fiscal impact.

Prepared by: Heather Nobrega, Counsel  
 Division: House Judiciary Committee  
 Approved by: Rep. Norman Rokeberg, Chairman  
 Agency: House Judiciary Committee

Phone 907-465-4990  
 Date/Time 2/28/02 1:16 PM  
 Date 2/28/2002

# Alaska Action Trust

P.O. Box 102323 • Anchorage, Alaska 99510  
Office: 813 West Third Avenue • Anchorage, AK 99501  
(907) 258-4040 • FAX (907) 258-8751

MARCH 1, 2002

MAR 11 2002

HEATHER M. NOBREGA, J.D.  
STAFF TO HOUSE JUDICIARY COMMITTEE  
ALASKA STATE CAPITOL  
JUNEAU, ALASKA 99801

DEAR MS. NOBREGA:

I AM GRATEFUL FOR THE TIME YOU WERE ABLE TO SPEND WITH ME DISCUSSING LEGISLATION OF IMPORTANCE TO THE ALASKA ACADEMY OF TRIAL LAWYERS & THE ALASKA ACTION TRUST.

AS WE DISCUSSED, HOUSE BILL 427 IS OF PARTICULAR INTEREST TO THE PLAINTIFFS' BAR. THE BILL NOT ONLY ENCOURAGES FRIVOLOUS APPORTIONMENT OF FAULT CLAIMS BUT UNFAIRLY SHIFTS THE BURDEN OF THOSE FRIVOLOUS CLAIMS TO THE PLAINTIFF. WE BELIEVE THAT TO FURTHER AND UNFAIRLY BURDEN INJURED PERSONS SEEKING REDRESS IS NOT IN THE PUBLIC'S BEST INTEREST. SPECIFICALLY, TO CREATE A NARROW FACT-FINDING WINDOW WHEN AN ADDITIONAL DEFENDANT IS BROUGHT INTO A LAWSUIT BY THE ORIGINAL DEFENDANT CREATES A SITUATION IN WHICH PLAINTIFFS ARE SUBJECT TO UNFAIR FINANCIAL RISK IN A SITUATION NOT UNDER THEIR CONTROL.

IN ADDITION, WE CONTINUE TO BE CONCERNED ABOUT THE BLANKET IMMUNITY PROVIDED TO CAB DRIVERS IN HOUSE BILL 68 AND WILL WORK WITH THE CHAIRMAN OF THE SENATE JUDICIARY COMMITTEE TO ADDRESS OUR CONCERNS.

AGAIN, THANK YOU FOR TAKING THE TIME TO MEET WITH ME.

YOURS VERY TRULY,

  
MICHAEL J. SCHNEIDER

**HB**

**429**

# LEGAL SERVICES

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

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


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 16, 2002

**SUBJECT:** Regulation of tobacco sales (CSHB 429(L&C))

**TO:** Representative Lisa Murkowski  
Attn: Amy

**FROM:** Michael F. Ford   
Legislative Counsel

The CS you requested is enclosed. I wanted to bring two issues to your attention. First, in section 1 the Department of Revenue is given broad authority to adopt regulations regarding tobacco wholesaler-distributor licenses. This authority is so broad it raises an issue regarding impermissible delegation of legislative authority. This issue could be minimized if the regulatory authority were qualified by some standard such as "necessary for protection of the public" or "necessary for collection of cigarette taxes." Second, in Sec. 43.50.640(b) and 43.50.650(b), new language is added to make certain illegal sale, distribution, ownership or possession of tobacco a separate violation of law each time it occurs. However, while there can certainly be separate instances of sale or distribution, it is difficult to understand how there could be separate instances of ownership or possession.

I would suggest both of these issues be reviewed in the next committee of referral.

Please contact me if you have further questions.

MF:lmb  
02-065.lmb

Enclosure

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 110400  
JUNEAU, ALASKA 99811-0400  
TELEPHONE: (907) 465-2300  
FACSIMILE: (907) 465-2389

Representative Norman Rokeberg  
Chairman, House Judiciary Committee  
Alaska State Legislature  
State Capitol, Room 118

April 24, 2002

Dear Representative Rokeberg:

I want to thank you for scheduling a hearing this week for House Bill 429, which would assist the state in enforcing its tobacco tax laws by requiring the use of tax stamps on cigarette packs — just as 46 other states require.

Requiring the use of tax stamps would make it easier to spot untaxed cigarettes coming into Alaska and could add to state revenues by giving the Department of Revenue another tool in stopping the sale and importation of untaxed cigarettes. Alaska's cigarette tax rate of \$1 per pack is an incentive for consumers to look for ways to avoid the tax. Although we do not know how many untaxed cigarettes are coming into Alaska for personal consumption and resale, we believe it is an issue that could grow in time — and we believe it is better to confront the potential before it becomes a serious problem.

This legislation would provide compensation for businesses for the additional expense of affixing the tax stamps to cigarette packs, allowing them a discount on the cost of the stamps. As part of the legislation, the department also proposes stepping up its tobacco tax enforcement efforts with two additional staff members. We believe the additional tax revenue that would be generated by improved enforcement with the tax stamps would likely more than cover the additional costs and stamp discount paid to businesses. The state would gain an additional \$400,000 a year in cigarette tax revenue for every 1% increase in tax receipts. Michigan, for example, reported an 8.7% gain in cigarette tax revenues the first year of its stamp program in 1999. Although we do not expect a similar revenue gain in Alaska, we believe there would be an increase.

Please contact me or Deputy Commissioner Neil Slotnick if you have any questions about this legislation. Thank you for your consideration.

Sincerely,



Larry Persily  
Deputy Commissioner

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB429(L&C)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
Title: Tobacco Taxation, Licensing BRU: Revenue Operations  
Component: Tax Division  
Sponsor: Rules Committee  
Requester: House Judiciary Committee Component Number: 2476

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	109.5	109.5	109.5	109.5	109.5	109.5
Travel	5.0	5.0	5.0	5.0	5.0	5.0
Contractual	41.0	38.0	38.0	38.0	38.0	38.0
Supplies	2.0	2.0	2.0	2.0	2.0	2.0
Equipment	21.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>178.5</b>	<b>154.5</b>	<b>154.5</b>	<b>154.5</b>	<b>154.5</b>	<b>154.5</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	178.5	154.5	154.5	154.5	154.5	154.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>178.5</b>	<b>154.5</b>	<b>154.5</b>	<b>154.5</b>	<b>154.5</b>	<b>154.5</b>

Estimate of any current year (FY2002) cost: 0.0

**POSITIONS**

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

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

\*\* There will be a decrease in state revenues due to the higher commission paid to licensees (in the form of a discount on the state cigarette tax remittance) to compensate them for the cost of affixing the stamp to cigarette packages, collecting the tax and remitting it to the department.

However, there will be an indeterminate revenue gain to the state from this legislation, likely equal to or greater than the lost revenue.

The department anticipates that a cigarette stamp program will increase compliance with the state's cigarette tax laws, and therefore will result in higher tax revenues to the state. Unfortunately, it is not possible to predict how much additional revenue might be generated for the state from the tax stamp program. (See second page for additional analysis)

Prepared by: Johanna Bales Phone 269-6628  
Division: Tax Division Date/Time 4/12/02 12:30 PM  
Approved by: Larry Persily, Deputy Commissioner Date 4/15/2002  
Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

**CSHB429(L&C)**  
**Department of Revenue**

**Assumptions:** The fiscal effect assumes that 40 million to 50 million packs of cigarettes will be sold each year.

**Program Summary:** The program will consist of the annual purchase of tax stamps from a stamp manufacturer. The stamps will be secured in fireproof safes by the Department of Revenue.

**Positions:** The department expects that it will need two additional positions to handle the purchase, sale, administration and enforcement of the new tax stamp program. Enforcement includes conducting audits and other investigations to ensure that stamps are properly affixed to cigarettes. These positions will also be responsible for the seizure and security of unstamped product and its ultimate destruction. For this type of work, the department expects it will need a full-time Revenue Auditor III (Range 18) at an expected annual cost of \$62,100 and a full-time Tax Technician III (Range 14) at an expected annual cost of \$47,400.

**Other Operating Expenditures:** In the first year, approximately \$10,000 will be needed for two fireproof safes; \$11,000 for two computers, software and work stations; \$5,000 for travel expenses; \$2,000 for supplies; \$3,000 for advertising costs and IT charges; and \$38,000 for stamp design and printing. Printing of stamps in all future years will cost approximately \$35,000, with supplies at \$2,000, travel at \$5,000 and IT and phone charges at \$3,000.

**Revenue:** The department is unable to estimate the amount of additional revenue that may be generated as a result of the tax stamp. Other states that recently adopted a cigarette tax stamp program have found that the stamps significantly increased their tax revenues. Michigan reported an 8.7 percent increase in cigarette taxes in the first year of its program, 1999. Initial reports from Hawaii indicate an amazing 25 percent increase in tax collections. Although these results from other states are encouraging, we do not have a reliable basis to predict the size of the effect of cigarette tax stamps on revenue in Alaska. However, for every 1% increase in cigarette tax collections, Alaska revenue would increase by approximately \$400,000. An increase of 1.25% in tax collections would be enough to cover the Department of Revenue costs of this legislation.

**Commission (discount to licensees):** All other states, except Hawaii, allow licensees to purchase stamps at a discount. The current national average discount is 3.05%. This bill allows for a discount of 3% on the first 1 million stamps purchased by each licensee, 2% on the second 1 million stamps purchased by each licensee, and 0.5% on the next 3 million stamps purchased by each licensee. There is no discount on for purchases in excess of 5 million stamps. The current tobacco statute allows a commission of 4% to licensees as compensation for collecting the tax and remitting it to the department. Based on FY 2001 tax filings, we estimate that the increase in the discount as a result of this bill would be approximately \$371,000 annually.

**Cost Increase to Licensees:** Licensees will incur increased costs to place stamps on cigarette packages. It is estimated that licensees could incur costs between \$4,000 and \$74,000 annually, after taking into consideration the discount, to comply with this bill.

**Effect of Discount Allowed Licensees**

Alaska currently has 61 cigarette licensees. Of the 61, 49 are distinct companies that would be entitled to a 3% discount on the first 1,000,000 cigarettes sold; a 2% discount on the second 1,000,000 cigarettes sold; and a 0.5% discount on the next 3,000,000 cigarettes sold. The following estimated decrease in cigarette revenue due to the increase in the discount is based on FY 2001 cigarette tax filings. The calculation shows what the discount would have been if the new discount rates had been in effect.

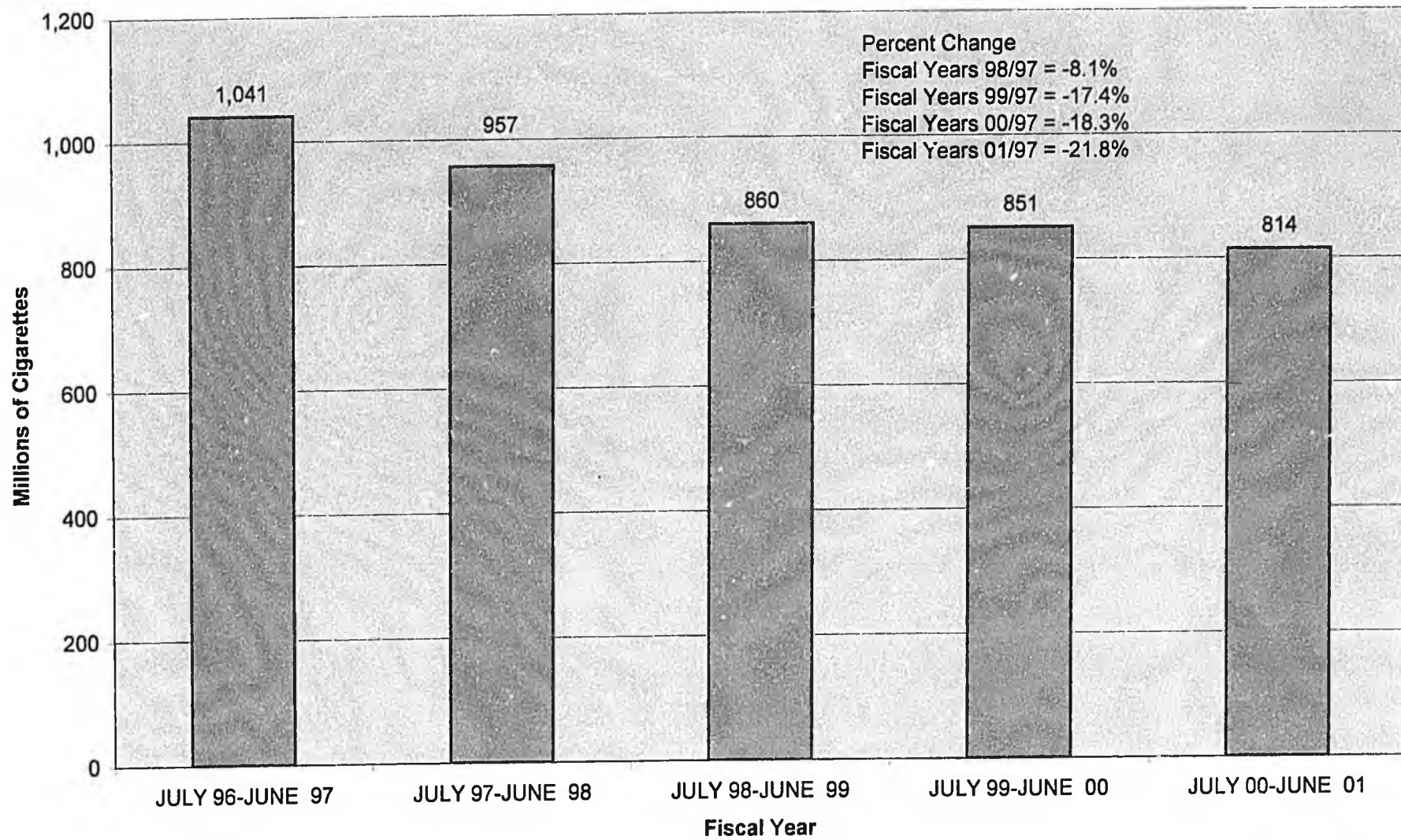
*Total Taxable Cigarettes*

Effect on Revenue	Total Taxable Cigarettes	Packages	Total Discount
Cigarettes eligible for 3% disc	228,098,220	11,404,911	\$ 342,147
Cigarettes eligible for 2% disc	130,828,400	6,541,420	\$ 130,828
Cigarettes eligible for 0.5% disc	250,665,340	12,533,267	\$ 62,666
Cigarettes eligible for 0% disc	214,255,246	10,712,762	\$ -
Total discount based on 2001 data	823,847,206	41,192,360	\$ 535,642
Less 0.4% commission currently allowed			\$ (164,769)
Effect on allowing 3%/2%/0.5% discount on stamp purchases			<u>\$ 370,873</u>

NOTE: Other states give discounts between 0.3% up to 10% of the value of the stamp. Hawaii actually charges licensees a 1.7% fee to purchase the stamps. The average discount allowed by all states is 3.05%.

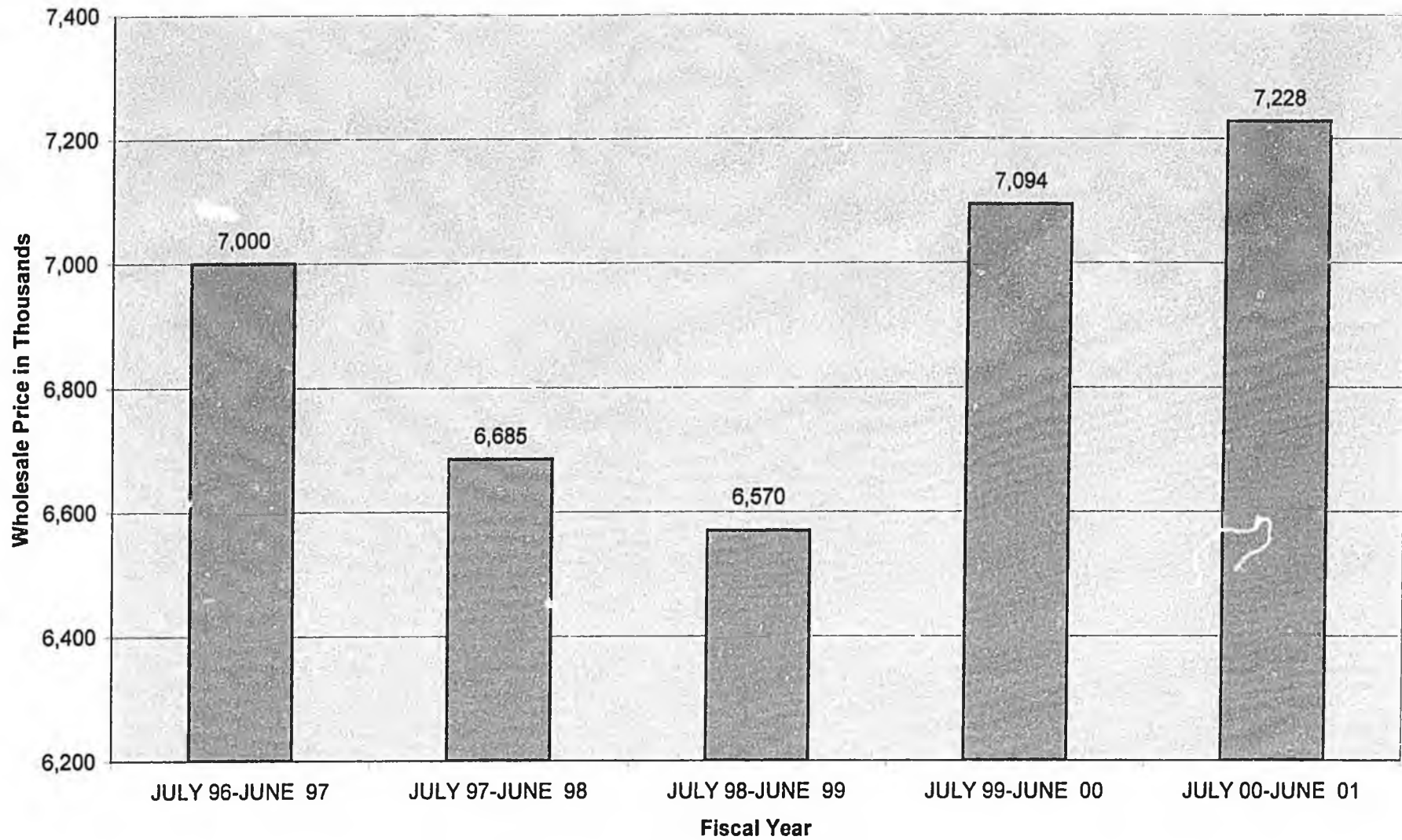
### Reported Taxable Cigarettes

Note: Tax increased from \$.29/pack to \$1.00/pack on 10/1/97



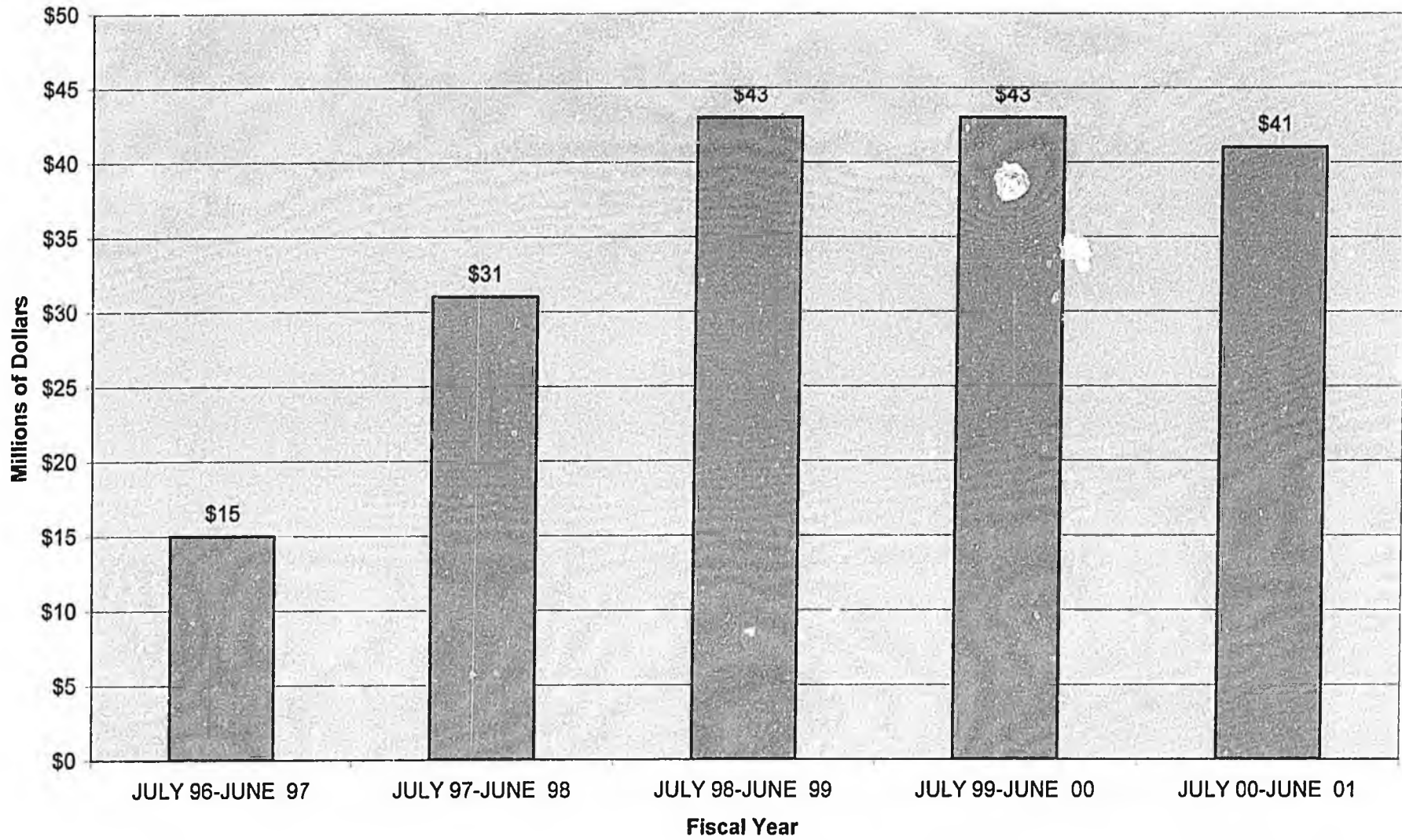
### Reported Taxable Value of Other Tobacco Products (OTP)

Note: Tax increased from 25% to 75% of Wholesale Price on 10/1/97



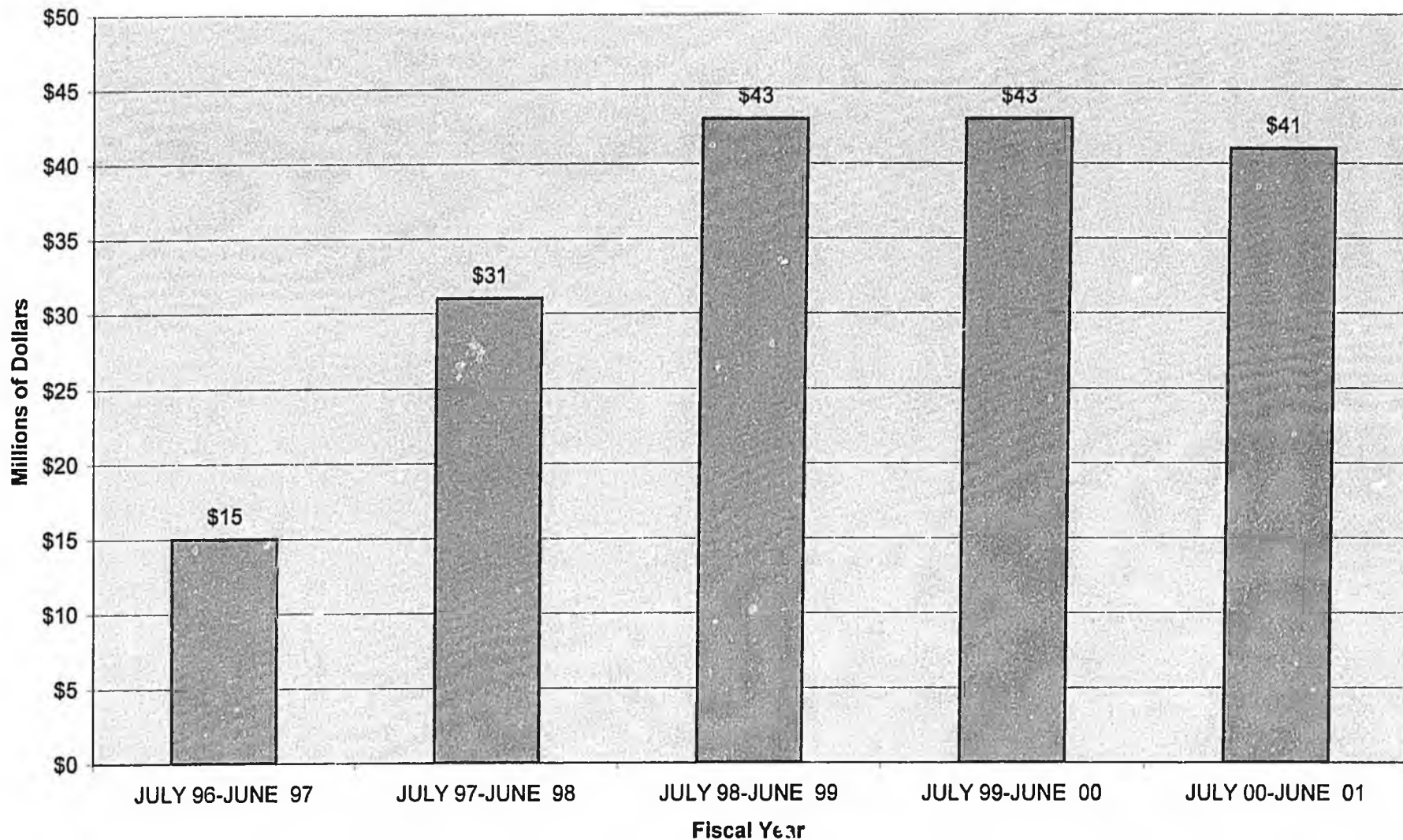
### Actual Cigarette Excise Tax Revenues

Note: Tax increased from \$.29/pack to \$1.00/pack on 10/1/97

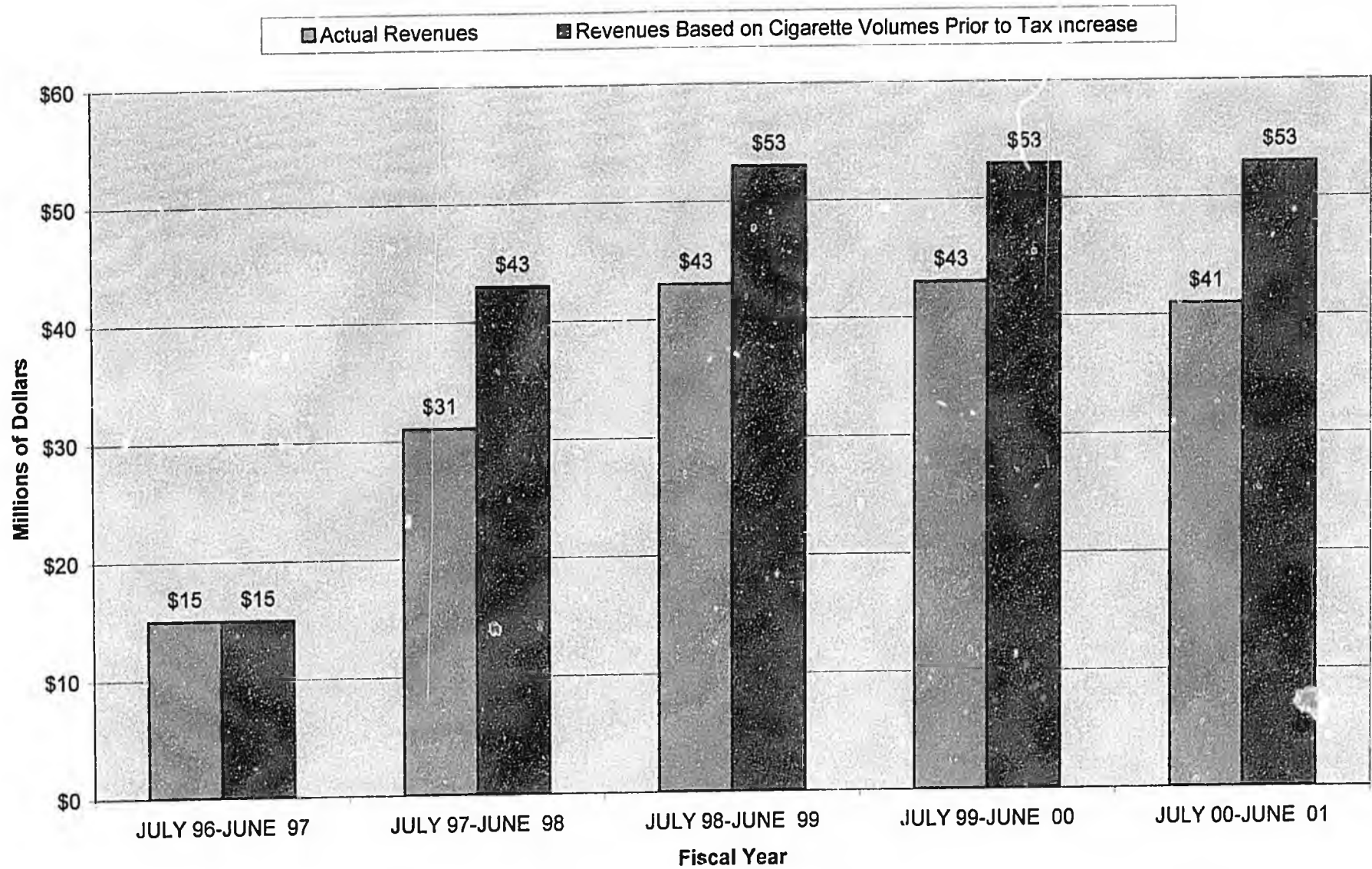


### Actual Cigarette Excise Tax Revenues

Note: Tax increased from \$.29/pack to \$1.00/pack on 10/1/97



### Comparison of Cigarette Excise Tax Revenues



CIG CHART DATA

CIGS. JUNE-JANUARY 4 YEARS			OTP JUNE-JANUARY 4 YEARS		
	(mill. of cigs.)			(thousands \$)	
96	94	94,344,762	1996-06	613	613,428
97	107	106,663,442	1997-06	787	786,515
98	85	84,618,601	1998-06	613	612,528
99	86	86,160,415	1999-06	693	693,180
00	76	75,916,490	2000-06	702	701,766
01	72	72,288,194	2001-06	742	741,518
96	105	104,642,869	1996-07	712	712,376
97	127	126,691,590	1997-07	703	703,353
98	81	80,688,524	1998-07	606	606,088
99	80	80,376,545	1999-07	605	605,362
00	72	72,147,900	2000-07	694	693,536
01	76	75,611,791	2001-07	772	771,538
96	96	95,518,636	1996-08	606	606,433
97	133	133,171,088	1997-08	608	608,242
98	76	76,215,845	1998-08	593	593,315
99	87	87,330,038	1999-08	721	721,406
00	79	78,843,433	2000-08	614	614,147
01	77	77,375,115	2001-08	696	696,035
96	83	83,185,867	1996-09	590	589,823
97	215	214,539,962	1997-09	1,111	1,111,231
98	77	77,528,014	1998-09	580	580,048
99	69	68,811,968	1999-09	672	671,876
00	65	65,030,546	2000-09	652	651,833
01	64	63,766,460	2001-09	619	619,025
96	88	88,117,835	1996-10	547	546,677
97	26	26,526,045	1997-10	457	457,100
98	70	70,092,887	1998-10	476	475,528
99	70	69,538,072	1999-10	555	555,191
00	76	76,412,859	2000-10	604	604,392
01	71	71,046,792	2001-10	757	757,415
96	77	77,354,500	1996-11	504	504,129
97	31	30,713,190	1997-11	354	354,045
98	76	75,803,577	1998-11	556	556,328
99	73	73,099,104	1999-11	593	593,155
00	61	60,668,106	2000-11	539	539,107
01	68	67,545,590	2001-11	572	571,793
96	79	78,909,154	1996-12	510	510,060
97	45	44,753,576	1997-12	462	462,030
98	71	70,754,744	1998-12	443	443,052
99	59	59,043,809	1999-12	533	533,217
00	69	69,470,776	2000-12	467	467,096
01	53	52,725,710	2001-12	575	575,143
97	79	79,377,355	1997-1	465	465,203

CIG CHART DATA

98	46	46,334,443	1998-1	429	429,128
99	54	54,357,026	1999-1	471	471,189
00	68	68,457,233	2000-1	558	558,197
01	65	64,963,321	2001-1	560	560,256
02	75	74,801,340	2002-1	576	576,121
97	71	70,885,314	1997-2	480	480,286
98	46	46,062,218	1998-2	452	451,907
99	60	60,130,008	1999-2	471	470,514
00	55	55,021,063	2000-2	487	487,243
01	56	55,797,200	2001-2	553	552,553
97	85	84,778,728	1997-3	572	572,233
98	59	59,140,802	1998-3	522	522,178
99	76	76,028,654	1999-3	595	594,865
00	75	74,924,052	2000-3	569	569,297
01	66	65,778,146	2001-3	544	544,026
97	83	83,391,887	1997-4	595	595,051
98	56	65,993,502	1998-4	469	468,728
99	62	62,335,961	1999-4	509	508,517
00	61	60,752,280	2000-4	517	517,190
01	64	63,786,651	2001-4	621	620,692
97	88	87,710,606	1997-5	632	632,419
98	78	78,286,670	1998-5	505	505,250
99	71	71,181,496	1999-5	577	577,122
00	78	77,907,804	2000-5	582	581,581
01	69	68,637,988	2001-5	638	637,542

JULY 96-JUNE 97	1,041	1,040,536,193	JULY 96-JUNE 97	7,000	7,001,205
JULY 97-JUNE 98	957	956,831,687	JULY 97-JUNE 98	6,685	6,685,720
JULY 98-JUNE 99	860	861,277,151	JULY 98-JUNE 99	6,570	6,569,746
JULY 99-JUNE 00	851	851,178,458	JULY 99-JUNE 00	7,094	7,095,481
JULY 00-JUNE 01	814	813,831,120	JULY 00-JUNE 01	7,228	7,226,698

Percent Change FY 98/97	-8.1%	-8.0%			
Percent Change FY 99/97	-17.4%	-17.2%	perc. diff fy 99/fy97		-6.2%
Percent Change FY 00/97	-18.3%	-18.2%	perc. diff fy 00/fy99		1.3%
Percent Change FY 01/97	-21.8%	-21.8%	perc. Diff fy 01/fy00		3.2%

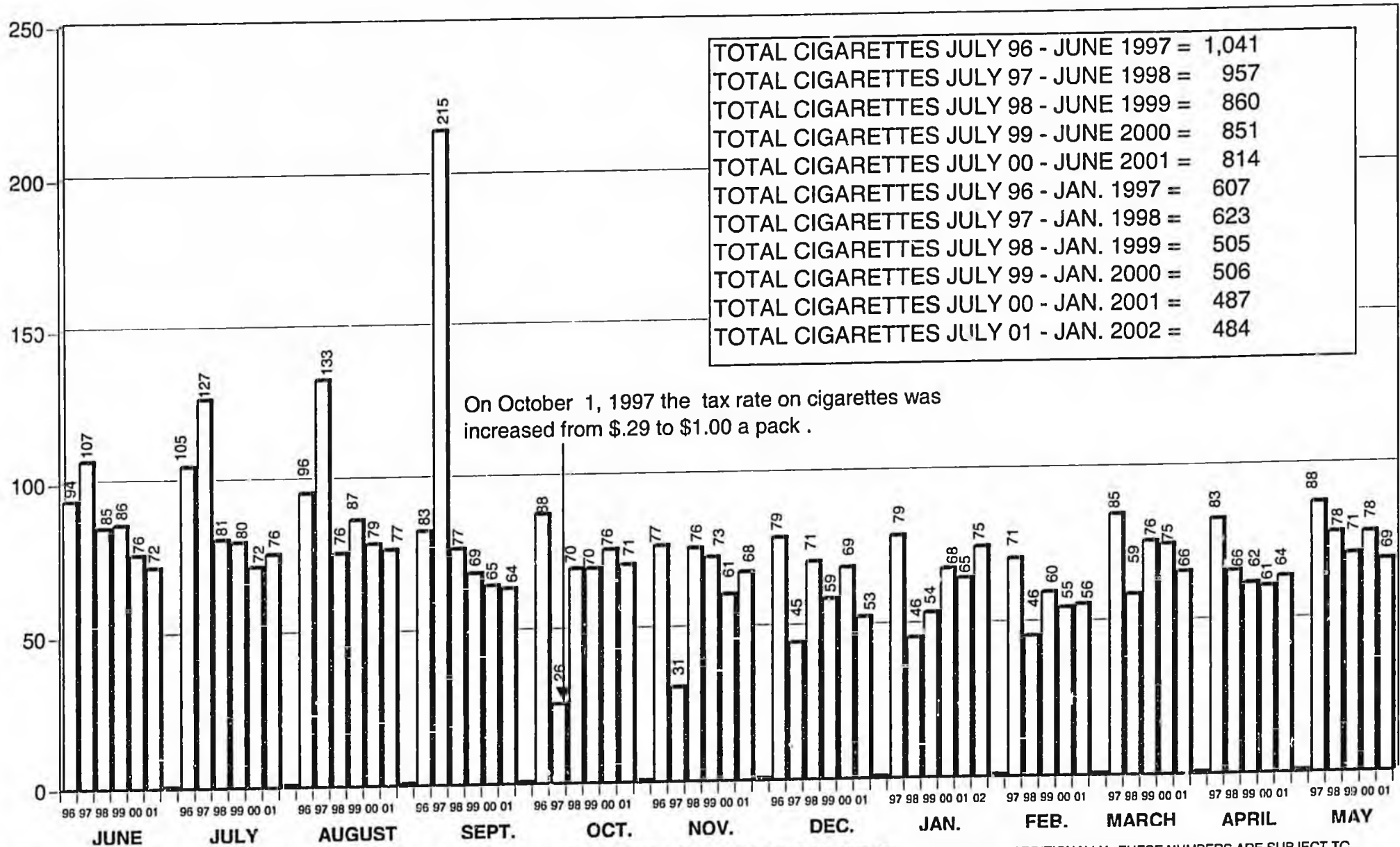
JULY 96-JAN. 97	607	607,106,216	JULY 96-JAN. 97	3,934	3,934,701
JULY 97-JAN. 98	623	622,729,894	JULY 97-JAN. 98	4,124	4,125,129
JULY 98-JAN. 99	505	505,440,617	JULY 98-JAN. 99	3,725	3,725,548
JULY 99-JAN. 00	506	506,656,769	JULY 99-JAN. 00	4,237	4,238,404
JULY 00-JAN. 01	487	487,542,941	JULY 00-JAN. 01	4,130	4,130,367

CIG CHART DATA

JULY 01-JAN. 02	484	482,872,798	JULY 01-JAN. 02	4,567	4,567,070
perc. diff jul-dec. 98/96		-16.7%	perc. diff jul-dec. 98/96		-5.3%
perc. diff jul-dec. 99/96		-16.5%	perc. diff jul-dec. 99/96		7.7%
perc. diff jul-oct. 00/96		-19.7%	perc. diff jul-oct. 00/96		5.0%
perc. diff jul-oct. 01/96		-20.5%	perc. diff jul-oct. 01/96		16.1%

ALASKA DEPARTMENT OF REVENUE  
TAX DIVISION

NUMBER OF TAXABLE CIGARETTES: ACTUALS JULY 1996 - JAN. 2002  
MILLIONS OF CIGARETTES



TOTAL CIGARETTES JULY 96 - JUNE 1997 =	1,041
TOTAL CIGARETTES JULY 97 - JUNE 1998 =	957
TOTAL CIGARETTES JULY 98 - JUNE 1999 =	860
TOTAL CIGARETTES JULY 99 - JUNE 2000 =	851
TOTAL CIGARETTES JULY 00 - JUNE 2001 =	814
TOTAL CIGARETTES JULY 96 - JAN. 1997 =	607
TOTAL CIGARETTES JULY 97 - JAN. 1998 =	623
TOTAL CIGARETTES JULY 98 - JAN. 1999 =	505
TOTAL CIGARETTES JULY 99 - JAN. 2000 =	506
TOTAL CIGARETTES JULY 00 - JAN. 2001 =	487
TOTAL CIGARETTES JULY 01 - JAN. 2002 =	484

CAUTION: COMPARISONS SHOULD BE DONE WITH CARE BECAUSE OF THE EXTENSIVE STOCKPILING THAT TOOK PLACE FROM JUNE -SEPTEMBER 1997. ADDITIONALLY, THESE NUMBERS ARE SUBJECT TO CHANGE DUE TO LATE OR AMMENDED RETURNS.

OTP CHART DATA

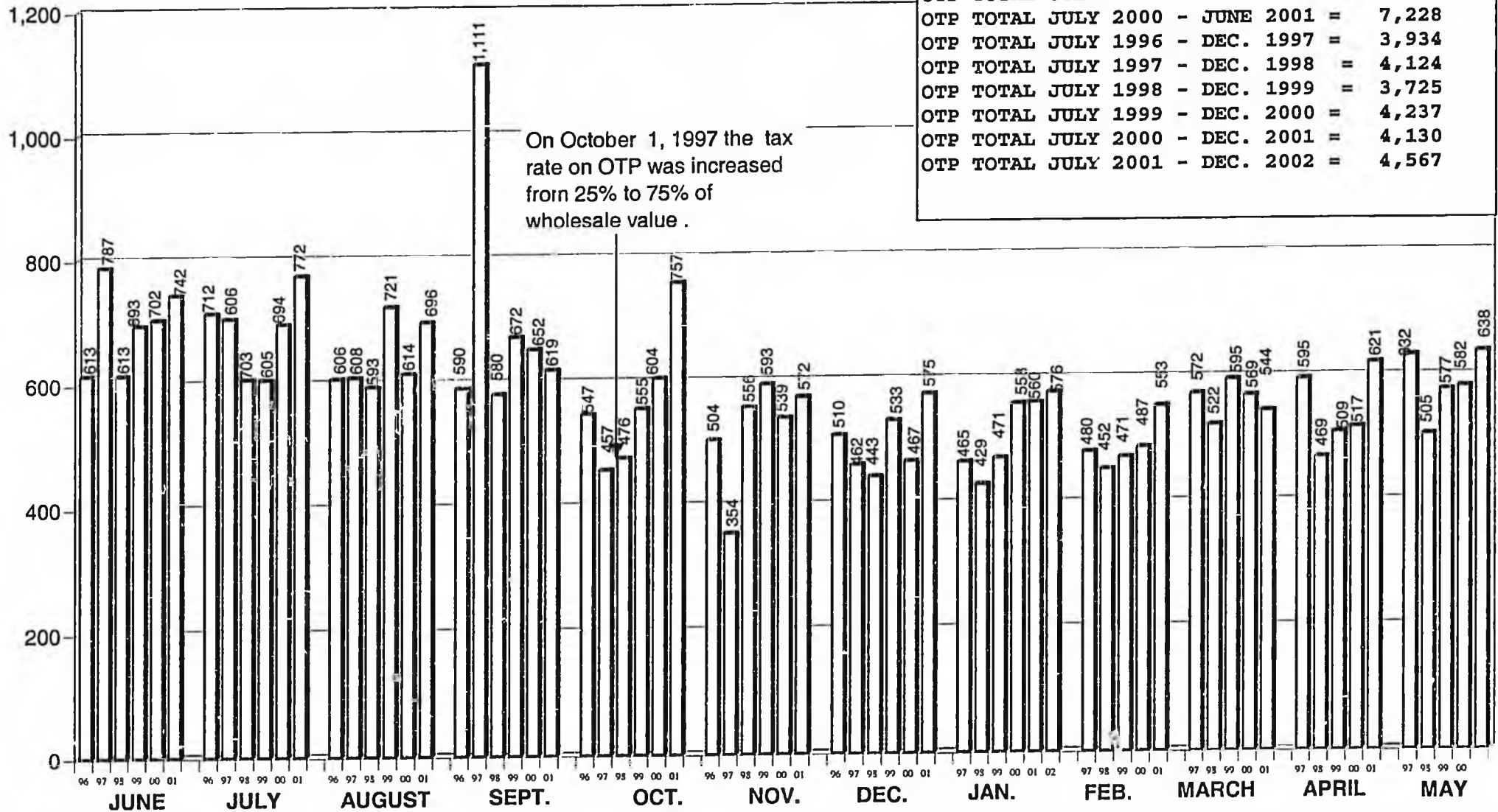
96	613	613,428	June	\$151,006
97	787	786,515		\$196,629
98	613	612,528		\$459,396
99	693	693,180		\$519,886
00	702	701,766		\$526,437
01	742	741,518		\$555,878
96	712	712,376	July	\$178,094
97	703	703,353		\$175,838
98	606	606,088		\$454,566
99	605	605,362		\$454,022
00	694	693,536		\$520,247
01	772	771,538		
96	606	606,433	August	\$151,608
97	608	608,242		\$152,061
98	593	593,315		\$445,118
99	721	721,406		\$541,055
00	614	614,147		\$460,679
01	696	696,035		
96	590	589,823	September	\$147,457
97	1,111	1,111,231		\$277,237
98	580	580,048		\$435,036
99	672	671,876		\$503,907
00	652	651,833		\$489,005
01	619	619,025		
96	547	546,677	October	\$136,670
97	457	457,100		\$343,242
98	476	475,528		\$356,181
99	555	555,191		\$416,397
00	604	604,392		\$515,631
01	757	757,415		
96	504	504,129	November	\$126,032
97	354	354,045		\$268,550
98	556	556,328		\$416,609
99	593	593,155		\$444,866
00	539	539,107		\$404,330
01	572	571,793		
96	510	510,060	December	\$127,515
97	462	462,030		\$346,522
98	443	443,052		\$332,009
99	533	533,217		\$399,914
00	467	467,096		\$350,426
01	575	575,143		
97	465	465,203	January	\$116,301
98	429	429,128		\$318,640

OTP CHART DATA

99	471	471,189		\$353,252
00	558	558,197		\$418,648
01	560	560,256		\$420,729
02	576	576,121		
97	480	480,286	February	\$120,072
98	452	451,907		\$338,944
99	471	470,514		\$353,112
00	487	487,243		\$365,432
01	553	552,553		\$415,246
97	572	572,233	March	\$143,058
98	522	522,178		\$391,270
99	595	594,865		\$446,148
00	569	569,297		\$426,973
01	544	544,026		\$408,420
97	595	595,051	April	\$148,763
98	469	468,728		\$351,026
99	509	508,517		\$381,321
00	517	517,190		\$387,893
01	621	620,692		\$465,200
97	632	632,419	May	\$158,105
98	505	505,250		\$374,888
99	577	577,122		\$425,149
00	582	581,581		\$436,186
01	638	637,542		\$478,157
JULY 96-JUNE 97	7,000	7,001,205	JULY 96-JUNE 97	\$1.8 \$1,750,304
JULY 97-JUNE 98	6,685	6,685,720	JULY 97-JUNE 98	\$3.8 \$3,797,614
JULY 98-JUNE 99	6,570	6,569,746	JULY 98-JUNE 99	\$4.9 \$4,918,387
JULY 99-JUNE 00	7,094	7,095,481	JULY 99-JUNE 00	\$5.3 \$5,321,730
JULY 00-JUNE 01	7,228	7,226,698	JULY 00-JUNE 01	\$5.5 \$5,483,948
perc. diff fy 99/fy97		-6.2%		
perc. diff fy 00/fy99		1.3%		
perc. Diff fy 01/fy00		3.2%		
JULY 96-DEC. 96	3,934	3,934,701		
JULY 97-DEC. 97	4,124	4,125,129		
JULY 98-DEC. 98	3,725	3,725,548		
JULY 99-DEC. 99	4,237	4,238,404		
JULY 00-DEC. 01	4,130	4,130,367		
JULY 01-DEC. 01	4,567	4,567,070		

**ALASKA DEPARTMENT OF REVENUE**  
Tax Division

**WHOLESALE VALUE OF OTHER TOBACCO PRODUCTS: ACTUALS FOR JULY 1996- JAN. 2002**  
(\$ THOUSANDS)



CAUTION: COMPARISONS SHOULD BE DONE WITH CARE BECAUSE OF THE EXTENSIVE STOCKPILING THAT TOOK PLACE FROM JUNE - SEPTEMBER 1997. ADDITIONALLY, THESE NUMBERS ARE SUBJECT TO CHANGE DUE TO LATE OR AMMENDED RETURNS.