

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 86/2

10309 HOUSE JUDICIARY

154

Subject: [Fwd: Oppose SB 183]

Date: Wed, 13 Feb 2002 12:39:37 -0900

From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>

Organization: Alaska State Legislature

To: Heather_Ncbrega@legis.state.ak.us

Subject: Oppose SB 183

Date: Wed, 13 Feb 2002 11:18:19 -0900

From: Eric McCallum <ericrobin@customcpu.com>

To: Representative_Norman_Rokeberg@legis.state.ak.us

Our government works well because of our system of checks and balances. SB 183 would nearly eliminate one check against government misconduct, interference or abuse. As a Republican I want the right to petition my government for redress of grievances. If I win in court then the government should pay for the cost of bringing the case forward. The government should pay for its mistakes.

Oppose SB 183 for everyone's benefit.

GREATER * FAIRBANKS
CHAMBER
OF COMMERCE

250 Cushman St., Suite 2D, Fairbanks, AK 99701-4665
phone: (907) 452-1105, fax: (907) 456-6968

e-mail: staff@fairbankschamber.org
website: www.fairbankschamber.org

Introduced By: Natural Resources
Other Review: Governmental Affairs
Date Introduced: January 21, 2002
Date Passed: January 28, 2002
Date Transmitted: January 28, 2002

RESOLUTION 02-0128A

**A RESOLUTION BY THE GREATER FAIRBANKS CHAMBER OF
COMMERCE TO SUPPORT THE PASSAGE OF SENATE BILL (SB)
183 RELATING TO PUBLIC INTEREST LITIGANTS AND
ATTORNEY FEES**

WHEREAS a critical component to business development in the State of Alaska is ensuring that development projects, once permitted by the appropriate State Agencies, can proceed without delay; and

WHEREAS groups opposed to development routinely file litigation with the sole objective of either preventing or delaying permitted development with absolutely no financial downside to them if they lose the litigation; and

WHEREAS those groups who regularly oppose business development are not simply concerned citizen groups but rather special interest groups supported financially by national and/or international organizations whose stated mission is to prevent development; and

WHEREAS the State of Alaska as well as industry and developers are forced to defend themselves in lengthy and costly litigation with little chance of recovering any costs or attorney fees even when they prevail in the litigation; and

WHEREAS this legislation modifying Alaska's existing rules and regulations by eliminating public interest litigant status in appeals of Administrative decisions and by awarding fees and costs to the prevailing party in such litigation ensures fairness and a level playing field for all litigants; and

WHEREAS an additional provision to this legislation to require disclosure of funding sources by those who seek to qualify as litigants and/or who seek to file an Administrative appeal would permit those defending the litigation know the identity of those who are actually supporting the litigation and the amount of that financial support; and

Benefactors

Alaska Airlines
Alaska Communications Systems
Alaska Railroad
Alyeska Pipeline Service Company
AT&T Alascom
BP Exploration (Alaska) Inc.
CellularOne
Denali State Bank
Design Alaska
Fairbanks Building & Construction Trades Council "The Unions"
Fairbanks Natural Gas, LLC
Fairbanks Urgent Care Center
First National Bank Alaska
Flowline Alaska
Fort Knox Mine
Golden Heart Utilities
Golden Valley Electric Association
K. Janitorial
Key Bank of Alaska
Mt. McKinley Bank
North Star Computing
Northrim Bank
Phillips Alaska, Inc.
Santina's Flowers & Gifts
Tanana Valley Clinic
Third Sector Technologies, Inc.
Totem Ocean Trailer Express
Usibelli Coal Mine
WebWeavers
Wells Fargo Bank Alaska
Wendy's
Westmark Fairbanks Hotel & Conference Center
Williams Alaska

GREATER * FAIRBANKS
CHAMBER
OF COMMERCE

250 Cushman St., Suite 2D, Fairbanks, AK 99701-4665
phone: (907) 452-1105, fax: (907) 456-6968

e-mail: staff@fairbankschamber.org
website: www.fairbankschamber.org

WHEREAS this legislation will inhibit frivolous litigation by ensuring that there is a consequence to those who file such litigation; and

WHEREAS this legislation is critical to promoting and achieving responsible business development in the State of Alaska:

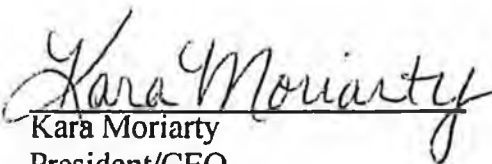
NOW THEREFORE BE IT RESOLVED that the Greater Fairbanks Chamber of Commerce Board of Directors supports the passage of Senate Bill (SB) 183 relating to public interest litigants and attorney fees.

BE IT FURTHER RESOLVED that this resolution be distributed to:
Alaska State House of Representatives
Senator Dave Donley
Interior Delegation
Governor Tony Knowles

PASSED in Fairbanks, Alaska this 28 day of January, 2002 by the Greater Fairbanks Chamber of Commerce Board of Directors.



Buzz Otis
Board Chair



Kara Moriarty
President/CEO

Benefactors

Alaska Airlines

Alaska
Communications
Systems

Alaska Railroad

Alyeska Pipeline
Service Company

AT&T Alascom

BP Exploration
(Alaska) Inc.

CellularOne

Denali State Bank

Design Alaska

Fairbanks Building &
Construction Trades
Council "The Unions"

Fairbanks Natural
Gas, LLC

Fairbanks Urgent
Care Center

First National Bank
Alaska

Flowline Alaska

Fort Knox Mine

Golden Heart Utilities

Golden Valley
Electric Association

K. Janitorial

Key Bank of Alaska

Mt. McKinley Bank

North Star Computing

Northrim Bank

Phillips Alaska, Inc.

Santina's Flowers & Gifts

Tanana Valley Clinic

Third Sector
Technologies, Inc.

Totem Ocean
Trailer Express

Usibelli Coal Mine

WebWeavers

Wells Fargo Bank Alaska

Wendy's

Westmark
Fairbanks Hotel &
Conference Center

Williams Alaska
Petroleum

Subject: [Fwd: Support for SB 183]
Date: Mon, 11 Mar 2002 11:26:18 -0900
From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>
Organization: Alaska State Legislature
To: Heather_Nobrega@legis.state.ak.us

Subject: Support for SB 183
Date: Fri, 8 Mar 2002 21:01:11 -0900
From: "Jim Drew" <jimd@gci.net>
To: <Representative_Norman_Rokeberg@legis.state.ak.us>

I wish to urge passage of SB 183 relating to public interest litigants and attorney fees.

Historically, revenue to fund programs with high public demand in Alaska such as education and health care has come from the development of natural resources. Economic growth of resource industries is essential for increased revenue to maintain these programs and to maintain jobs for Alaskans.

Nevertheless, groups that oppose resource development, often with major funding from outside of Alaska, periodically engage in litigation that stymies resource development. Often this litigation delays or blocks resource projects for which permits have already been issued. Moreover, these groups incur no financial penalty if they lose the litigation.

The outcome is enhanced litigation costs for resource industries and major delays that contribute to increased costs for resource development. These costs and delays can destroy the economic feasibility of a project. Moreover, the state has spent hundreds of thousands of dollars in defending itself against this type of litigation.

At a time when constraints abound in state budgets, it seems rational to pass SB 183. This legislation will discourage frivolous litigation. At the same time, however, it will allow judges to increase fees awarded in public interest litigation when appropriate.

SB 183 will encourage resource development, associated jobs for Alaskans, and revenue for the state.

James V. Drew
4725 Villanova Drive
Fairbanks, Alaska 99709

Alaska Forest Association, Inc.



111 STEDMAN STREET, SUITE 200
KETCHIKAN, ALASKA 99901-6599
Phone 907-225-6114
FAX 907-225-5920
Web Site www.akforest.org

March 12, 2002

Senator Dave Donley
State Capitol, Room 204
Juneau, AK 99801

Re: Senate Bill 183

Dear Senator Donley:

The Alaska Forest Association (AFA) supports SB 183. This legislation would significantly reduce the incentive for environmental lawsuits by putting environmental organizations on the same footing with those whose projects they seek to stop. Most of AFA's experience has been with the Federal Equal Access to Justice Act (EAJA) which actually invites environmental groups to target timber sales. Such groups have nothing to lose if they lose the lawsuit because of their public interest litigates status. On the other hand, if they win they can recover the costs of their suit from the federal government using an hourly rate for their attorneys which far exceeds what they pay their attorneys. Since the seed money for these organizations is provided by groups like the Pew Charitable Trust, EAJA becomes a profit center for environmental organizations.

In the typical AFA situation, the Forest Service spends millions of dollars preparing extensive Environmental Impact Statements (EIS's) in connection with each timber sale. Because of the incentive which EAJA provides to contest such EIS's, the government also encourages environmental groups to attack the agencies work. The timber industry is the real loser.

Because of the way in which the state courts have interpreted Rule 82, a similar situation exists in the State of Alaska. The AFA applauds you for addressing this issue in a constructive way by removing the incentive for environmental groups to file lawsuits against the state.

Sincerely,

Owen J. Graham
Executive Director

cc: Senator Frank H. Murkowski
Senator Ted Stevens
Congressman Don Young

POM for Representative Rokeberg



From: Mr. Gerald R Brookman
715 Muir Ave

Telephone: 283-9329

Kenai, AK 99611

NON Constituent

Registered Voter: V

Email:

Bill: SB 183 Title: ATTY FEES:APPORTIONMT/PUBLIC INT.LITIGANT

Message:

I would like to urge that you vote against passage of SB 183 which would make it very difficult for public interest groups to bring lawsuits against the state when their rights are violated. I do not believe that government is always right. Do you? SB183 seems to assume that government is always right and citizens should have no legal recourse when their rights are violated by the state.

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Distribution: 40

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Message 2 out of 3.

POM for Representative Rokeberg

From: Ms. Suzanne M Miles
PO Box 772196

Telephone: 694-1603

Email: Eagle River, AK 99577

NON Constituent

Registered Voter: V

Bill: SB 183

Title: ATTY FEES:APPORTIONMT/PUBLIC INT.LITIGANT

Message:

SB183 denies First Amendment rights to all but the rich and should be sounding defeated.

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Message 3 out of 3.

Subject: [Fwd: Senate Bill 183]

Date: Mon, 04 Feb 2002 07:57:59 -0900

From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>

Organization: Alaska State Legislature

To: Heather_Nobrega@legis.state.ak.us

Subject: Senate Bill 183

Date: Fri, 1 Feb 2002 15:23:57 -0900

From: "Brad Owens" <bowens@jdoilaw.com>

To: <Representative_Norman_Rokeberg@legis.state.ak.us>

Rep. Rokeberg:

I think this is a dangerous bill that would effectively deny access to the courts for a host of public interest parties. The common wisdom is that public interest litigants are liberal environmental groups, planned parenthood, etc.. But there have also been some important "conservative" public interest cases ... challenges to rural fish and game preferences, to PFD residency requirements, etc.. No matter what a person's political leanings, I think public interest litigation is an important part of the balance of power in state government ... I urge you to oppose this bill...

Brad Owens

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Subject: [Fwd: SB 183]
Date: Fri, 01 Feb 2002 13:46:47 -0900
From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>
Organization: Alaska State Legislature
To: Heather_Nobrega@legis.state.ak.us

Subject: SB 183
Date: Fri, 1 Feb 2002 12:31:43 -0900
From: "Greg Taylor" <gtaylor@jdolaw.com>
To: <Representative_Norman_Rokeberg@legis.state.ak.us>

Please do not let this bill out of committee! It is not a well thought out piece of legislation and regardless of political party affiliation will damage litigants access to justice. Thank you.

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Subject: [Fwd: Senate Bill 183]

Date: Mon, 04 Feb 2002 10:30:59 -0900

From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>

Organization: Alaska State Legislature

To: Heather_Nobrega@legis.state.ak.us

Subject: Senate Bill 183

Date: Mon, 04 Feb 2002 08:40:09 -0900

From: "R. Holmes Johnson" <drbob@keconnect.net>

To: Representative_Norman_Rokeberg@legis.state.ak.us

Senator,

SB 183 may have been devised to streamline government action by eliminating nuisance suits but, whatever the reason, it also eliminates a primary right of citizens to challenge government actions in court. I hope you can see this as unconstitutional and will not allow it out of committee.

Dr. Bob Johnson, Trustee
Alaska Pioneers of Kodiak

Subject: [Fwd: Senate Bill 183]
Date: Mon, 04 Feb 2002 07:57:59 -0900
From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>
Organization: Alaska State Legislature
To: Heather_Nobrega@legis.state.ak.us

Subject: Senate Bill 183
Date: Fri, 1 Feb 2002 15:23:57 -0900
From: "Brad Owens" <bowens@jdolaw.com>
To: <Representative_Norman_Rokeberg@legis.state.ak.us>

Rep. Rokeberg:

I think this is a dangerous bill that would effectively deny access to the courts for a host of public interest parties. The common wisdom is that public interest litigants are liberal environmental groups, planned parenthood, etc.. But there have also been some important "conservative" public interest cases ... challenges to rural fish and game preferences, to PFD residency requirements, etc.. No matter what a person's political leanings, I think public interest litigation is an important part of the balance of power in state government ... I urge you to oppose this bill...

Brad Owens

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Subject: [Fwd: SB183]

Date: Wed, 06 Feb 2002 07:46:49 -0900

From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>

Organization: Alaska State Legislature

To: Heather_Nobrega@legis.state.ak.us

Subject: SB183

Date: Tue, 5 Feb 2002 19:47:08 -0900

From: "mail.mtaonline.net" <mazzella@mtaonline.net>

To: <Representative_Norman_Rokeberg@legis.state.ak.us>

Dear Mr. Rokeberg,

My husband and I are opposed to SB183. It is a bill which would I believe keep me from challenging our government, or anyone else who couldn't afford to fight you. That is like tying your opponents hands, slugging him in the financial belly for speaking out and calling it a fair fight. I think Mr. Leman has done that with our medical marijuana law and now SB183.

It is my privilege to go serve jury duty tomorrow and I am disheartened to think anyone would stop our courts, people, and constitution from serving all of us. Alaska is about the fight. The little guy still gets to win here or they use too... He use to get his say also.

It is wrong to use a persons finances as a way to stop ideas from being tested. It may be political and successful, but it is wrong. Little guy's who can't be heard because someone intimidated them financially; is that the Alaskan way?

We pass a law and the BigBucks R Us buddies come along and say, who the hell are you? Got Cash? We will just override you with this regulation and intimidate you for that dollar in your hand but it is all for you own good and you had well best see it our way. Or we come after your pennies.....with lawyers and tie your hard working hands with law that work to our advantage. It's our court go home or pay to play.

That may be capitalism but it isn't democracy, it's the big bucks bully against little people who are very tired of being laughed at for watching the pennies they have worked for. How cruel to think it is okay to take a persons right to challenge the Goliaths. How odd to think you could not fight an oil company like Enron for fear of having to pay up if you lose; like a cheap football bet lost. How odd to feed fear to people who are trying to fight for the new idea or the better way.

Right now I don't have a fight but I sure want to be able to stand my ground if someone who has had to much power for lunch starts something. If SB183 lives something decent and right about fighting in Alaska will be given a dose of poison from power too full of itself. I am throwing in with the little guy. SB183, not for our family. We like those little guy wins stories most the time at our home and if the big boys can't fight fair then someone brave should step up to the fight. You have the power to do that. I still do today, but I wonder about tomorrow.

Bills and laws should be loud and noisy and out for the fray. Not pushed through and secreted. Put the power in the courts and let us play our best games. Bloody ugly and oh so democratic. Little guys with a black eye from a big bucks fight is a proud thing. Don't neuter the little guy giving it his best shot. Maybe they play that way in Washington but here?

Please stop SB183. It is not the best for Alaska's heart.

Thanks,

Ruth Mazzella
4555 E Dimond Way
Wasilla, AK 99654

Subject: [Fwd: Resolution to support SB 183]

Date: Wed, 06 Feb 2002 10:23:05 -0900

From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>

Organization: Alaska State Legislature

To: Heather_Nobrega@legis.state.ak.us

Subject: Resolution to support SB 183

Date: Wed, 6 Feb 2002 09:26:06 -0900

From: "Administrative Assistant" <staff@fairbankschamber.org>

To: <Representative_Ethan_Berkowitz@legis.state.ak.us>,
<Representative_Con_Bunde@legis.state.ak.us>,
<Representative_Mike_Chenault@legis.state.ak.us>,
<Representative_Sharon_Cissna@legis.state.ak.us>,
<Representative_John_Coghill@legis.state.ak.us>,
<Representative_Harry_Crawford@legis.state.ak.us>,
<Representative_Eric_Croft@legis.state.ak.us>,
<Representative_John_Davies@legis.state.ak.us>,
<Representative_Fred_Dyson@legis.state.ak.us>,
<Representative_Hugh_Fate@legis.state.ak.us>,
<Representative_Richard_Foster@legis.state.ak.us>,
<Representative_Joe_Green@legis.state.ak.us>,
<Representative_Gretchen_Guess@legis.state.ak.us>,
<Representative_Andrew_Halcro@legis.state.ak.us>,
<Representative_John_Harris@legis.state.ak.us>,
<Representative_Joe_Hayes@legis.state.ak.us>,
<Representative_Bill_Hudson@legis.state.ak.us>,
<Representative_Jeannette_James@legis.state.ak.us>,
<Representative_Reggie_Joule@legis.state.ak.us>,
<Representative_Mary_Kapsner@legis.state.ak.us>,
<Representative_Beth_Kerttula@legis.state.ak.us>,
<Representative_Vic_Kohring@legis.state.ak.us>,
<Representative_Albert_Kookesh@legis.state.ak.us>,
<Representative_Pete_Kott@legis.state.ak.us>,
<Representative_Ken_Lancaster@legis.state.ak.us>,
<Representative_Beverly_Masek@legis.state.ak.us>,
<Representative_Lesil_McGuire@legis.state.ak.us>,
<Representative_Kevin_Meyer@legis.state.ak.us>,
<Representative_Carl_Morgan@legis.state.ak.us>,
<Representative_Carl_Moses@legis.state.ak.us>,
<Representative_Eldon_Mulder@legis.state.ak.us>,
<Representative_Lisa_Murkowski@legis.state.ak.us>,
<Representative_Scott_Ogan@legis.state.ak.us>,
<Representative_Brian_Porter@legis.state.ak.us>,
<Representative_Norman_Rokeberg@legis.state.ak.us>,
<Representative_Drew_Scalzi@legis.state.ak.us>,
<Representative_Gary_Stevens@legis.state.ak.us>,
<Representative_Jim_Whitaker@legis.state.ak.us>,
<Representative_Bill_Williams@legis.state.ak.us>,
<Representative_Peggy_Wilson@legis.state.ak.us>,
"Gary Wilken (E-mail)" <Senator_Gary_Wilken@legis.state.ak.us>,

[Fwd: Resolution to support SB 183]


"Gene Therriault \ (E-mail)" <Senator_Gene_Therriault@legis.state.ak.us>,
"Pete Kelly \ (E-mail)" <Senator_Pete_Kelly@legis.state.ak.us>

Hi Everyone, Here is an e-mailed version of our resolution supporting SB
183.
Thank You.

Heather Palow
Administrative Assistant

Your Greater Fairbanks Chamber of Commerce
"Focusing on the Future Together"

Phone: 907.452.1105
Fax: 907.456.6968

 SB 183 Resolution.doc	<p>Name: SB 183 Resolution.doc Type: WINWORD File (application/msword) Encoding: base64 Download Status: Not downloaded with message</p>
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Subject: [Fwd: OPPOSE Senate Bill 183]
Date: Wed, 06 Feb 2002 10:24:01 -0900
From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>
Organization: Alaska State Legislature
To: Heather_Nobrega@legis.state.ak.us

Subject: OPPOSE Senate Bill 183
Date: Wed, 6 Feb 2002 10:18:42 -0900
From: "Jeff & Susan Sloss" <jssloss@gci.net>
To: <Representative_Norman_Rokeberg@legis.state.ak.us>,
<Representative_Scott_Ogan@legis.state.ak.us>,
<Representative_John_Coghill@legis.state.ak.us>,
<Representative_Jeannette_James@legis.state.ak.us>,
<Representative_Kevin_Meyer@legis.state.ak.us>,
<Representative_Ethan_Berkowitz@legis.state.ak.us>,
<Representative_Albert_Kookesh@legis.state.ak.us>

Dear Judicial Committee Members,

SB 183 would eliminate public interest litigant status, thereby holding losing plaintiffs liable for the government's attorney's fees and costs. Most public interest groups, and certainly most individuals in Alaska who might wish to bring valid public interest lawsuits, would be chilled from challenging the government in court because the financial risk would be too great. The bill also changes the way attorneys' fees are apportioned, and the purpose of this is to deter attorneys from being willing to invest their time and energy into these lawsuits when the litigants do not have the resources to pay their fees and costs up front. <?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

SB 183 poses a very grave threat to our ability to bring litigation in the future to defend Alaskans' constitutional rights against encroachments by State or local governments. The Alaska Constitution is worthless if there is no practical way that we can enforce it in the courts. These bills are obviously a legislative attempt to discourage public interest litigation and ensure that unconstitutional laws go unchallenged in court.

We urge you to kill this bill in your Committee.

Thank you, Jeff & Susan Sloss, 740 5th St., Juneau, AK 99801

Jeff and Susan Sloss <jssloss@gci.net> Jeff & Susan Sloss
--

Subject: [Fwd: Public Interest Litigation - SB183]

Date: Thu, 07 Feb 2002 09:42:48 -0900

From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>

Organization: Alaska State Legislature

To: Heather_Nobrega@legis.state.ak.us

Subject: Public Interest Litigation - SB183

Date: Wed, 6 Feb 2002 16:14:03 -0900

From: "Wev Shea" <wws@alaskalife.net>

To: "Albert Kookesh" <Representative_Albert_Kookesh@legis.state.ak.us>,
"Ethan Berkowitz" <Representative_Ethan_Berkowitz@legis.state.ak.us>,
"Jeannette James" <Representative_Jeannette_James@legis.state.ak.us>,
"John Coghill" <Representative_John_Coghill@legis.sate.ak.us>,
"Kevin Meyer" <Representative_Kevin_Meyer@legis.state.ak.us>,
"Norm Rokeberg" <Representative_Norman_Rokeberg@legis.state.ak.us>,
"Scott Ogan" <Representative_Scott_Ogan@legis.state.ak.us>

CC: "Larry Baker" <baker@bkingalaska.com>

Wev Shea
329 F Street
Suite 222
Anchorage, Alaska 99501

907-274-0020
fax 274-3004

Re: House Judiciary Committee - Public Interest Litigation
SB 183

Dear Chairman Rokeburg and Honorable Committee Representatives:

I have been licensed to practice law in Alaska for 25 years, Hawaii for 20 years. I presently handle civil litigation, trials and appeals, in state and federal courts. I also have extensive criminal prosecution experience in Alaska and Hawaii. I was an enlisted Navy Yeoman 3rd Class before 1966 when as a Ensign I was awarded by "wings" prior to attending Naval Justice School.

On two combat cruises on the USS Ranger flying A-6 Intruders I was also (as a "non-flying duty") the legal and public affairs officer. I flew over 100 combat missions, a high number over the Hanoi-Haiphong area of North Vietnam. I understand the importance of freedom and the importance of our "unique" right to vote in free and fair elections. My beliefs are life long, not new.

I also consider myself a lifelong "conservative" Republican. I do not "swing in the breeze" and "take poles" like some "herein."

It has come to my attention that Senator Donley and other Senate co-sponsors I respect are questioning "public interest litigation's" role in Alaska. Over the past few years I have handled a number of cases resulting in Alaska Supreme Court decisions on public interest litigation. I handled the following cases both in the Superior Court and on appeal before the Alaska Supreme Court:

Dancereau v. Ulmer, 955 P.2d 916 (Alaska 1998)

Cook and The Alaska State Legislature v. Botelho, 921 P.2d 1126 (Alaska 1996)

Dancereau v. Ulmer, 903 P. 2d 555 (Alaska 1995)

All of the foregoing were prompted by action or lack of action by the Executive and Legislative Branches. *Dancereau* involved 10 public interest litigants (private Alaska voters) stepping forward as required by statute to address "alleged" voter fraud in the 1994 governor's race. It involved "gas for votes" and "Vote for Tony Knowles, Win \$1000.00" which were violations of state and federal election law.

In 1994, our governor was elected by 536 votes. (As an aside "Democratic" Candidate Donley defeated Republican Larry Baker by 26 votes on the new governor's coat tails.) The foregoing "Gas" and "Win \$1000.00" programs were created to elect "their" candidate. The foregoing "voter" programs affected in excess of ten thousand (10,000) Alaska voters; certainly substantially more than to "affect the result of the election." Most importantly, we all now recognize nothing is more important in our democratic republic than free and fair elections.

No action was taken by the Executive Branch because the Attorney General in Alaska is the Governor's counsel, not the attorney for the citizens of Alaska as many may believe. ("The State of Alaska will not appeal ... to the United States Supreme Court despite the legal foundation for success.") The Legislature, much too late, attempted to take action without standing when in fact public interest litigants would most probably have had standing. The big picture was ignored until it was too late.

In 1994, neither our Republican Legislators nor the new Governor, Lt. Gov., Attorney General, U. S. Attorney or the Republican candidate were willing to "challenge the election fraud." In fact, other than the Republican candidate's counsel Cliff Groh the vast majority of Republicans would not dare "question" the individuals or entities involved, despite the effect on our most basic freedom.

As a result 10 public interest litigants with my assistance stepped forward to litigate against the State. I handled two appeals through the Alaska Supreme Court with the assistance of one attorney. The Attorney General had 10-14 attorneys and para-professionals from his office with the assistance of private counsel representing the newly elected Governor and Lt. Gov.

Complex public interest litigation is tough. No one recognizes the importance of oil and gas development in our state. However, the "perceived" picture of environmental groups bringing litigation to prevent/postpone development does not justify Senator Donley's SB 183 and its grossly overreaching result. The key in litigation is have the facts/evidence and law to destroy the opposition.

Despite prevailing before the Alaska Supreme Court public interest litigation in my experience is not a "money maker." I advanced over \$250,000.00 (attorney time at \$150.00/hour and out of pocket costs). I was awarded attorney fees and costs after years of litigation of less than \$125,000.00. However, I handled the "complex" litigation since I felt our most basic freedom was compromised. Others, did not have the same conviction on the issue as I did at the time. Now they recognize their error.

I was forced into that position due to my strong convictions and the failure of the Executive and Legislative Branches to address the issue of "election fraud." Without public interest litigation no one would have been able to represent Alaska's voters. Quite frankly, it is only after Governor Knowles has had the opportunity to appoint most of the State's Judiciary that many Republicans are realizing the "true importance" of the 1994 governor's election. Unfortunately, they ignored the obvious in 1994.

It is very important to recognize that our Judiciary, regardless of their political positions, in my experience do all they can to be fair to all concerned. Unfortunately, many attorneys when they lose (50% do in every case that goes to trial or appeal) blame the judiciary for their failure on behalf of their client.

Litigation is very difficult to evaluate unless you handle it personally (I do not believe Senator Donley has ever tried a case or written and argued before the Alaska Supreme Court.) or are involved in it personally at every stage. Ethical and professional standards of attorneys in the courtroom are defined by Civil Rule 11 governing sanctions. In my opinion they are rarely applied. Certainly they would be in cases where counsel was able to define for the court the "frivolous" litigation of his opponent. It is counsel's obligation.

It is up to the legal profession to "police its own" just as it is the Legislature's responsibility to have its "representatives" attend the session in Juneau on behalf of all Alaskans, not just those in his/her district. Professional integrity is acquired over one's lifetime. We do not need more laws; we need responsible, professional individuals in the executive branch to enforcement those we have.

Certainly, the picture of public interest litigation painted by now "Republican" Senator Donley is parallel to the litigation "reporting" by *Anchorage Daily News* gossip columnist Sheila Toomey. Whether it is addressing recent State reapportionment or the Public Defender drunk driving cases, you are never assured of the truth with Sheila. Sheila has her own agenda.

I suggest you look at Senator Donley's SB 183 with the same questioning "eye" you do Sheila's "independent" liberal analysis. Senator Donley wants to "throw the baby out with the rinse water." In the present situation it is the public interest litigant's ability to sue in unique situations to protect our most basic rights when the Executive or Legislative Branch will not act.

Please recognize Senator Donley's actions as those of the uninformed lawyer who has simply "lost his way." Especially, regarding litigation, trials or appeals. Do not be "mislead" simply because he is now a "Republican lawyer." Senator Donley's focus is "tainted" by his own inexperience or in some cases experience!!

I will be happy to address in more detail my position on the importance of public interest litigation. Please contact me at any time to address my concerns. I respect each of you for your public service. You have a tough job in Juneau. Thank you for your service.

Respectfully and Best Wishes,

Wev

Wevley William Shea



Alaska State Legislature

Please enter into the record my testimony to the House ~~Finance~~ Judiciary
 committee name
 committee on SB 183, dated 4/30/01
 bill/subject

AKPIRG wishes to express its opposition to SB 183. We believe it is bad legislation. In addition, more input is needed to ensure that the public is cognizant of this effort. Virtually no chance for public testimony was given in the Senate. This bill would eliminate public interest litigant status, thereby holding losing plaintiffs liable for the government's attorney's fees and costs. This would discourage public interest groups and individuals as the financial risk would be too great. In addition, lawyers will be deterred from taking cases from ~~their~~ clients who cannot pay their fees and costs up front.

Unconstitutional laws need to be challenged in court. That is how our rights as citizens are protected and preserved. This legislation undercuts that. Please do not pass SB 183 out of your committee.

Signed: Steve Cleary
 Testifier

AKPIRG--Alaska Public Interest Research Group
 Representing (Optional)

PO Box 101093 Anchorage AK 99501
 Address

(907) 278-3661
 Phone No.

Subject: SUPPORT-SB183

Date: Fri, 4 May 2001 10:56:39 -0800

From: "Susan Fischetti" <sfischetti@gci.net>

To: <sfischetti@gci.net>

MAY 04 2001

(Hard copy to follow)

May 4, 2001

Dear Legislator:

The Alaska Support Industry Alliance (The Alliance) expresses strong support for Senate Bill 183 - Attorney Fees: Apportionment and Public Interest Litigation. We applaud the Senate Finance Committee's efforts to curb the escalating misuse of "public interest litigation" against responsible resource development in Alaska.

The Alliance is a statewide nonprofit trade organization representing 400 member businesses that provide products and services to oil and gas companies in Alaska. We are oilfield service companies, transportation enterprises, technical experts, wholesalers and retailers, and private citizens who advocate the environmentally responsible development of Alaska's petroleum resources. As the voice for Alaska's support industry, we offer the following background for our position.

Since before statehood, Alaska Civil Procedure allowed a prevailing party in a civil lawsuit to recover a portion of its attorney's fees. If the prevailing party recovered a money judgment, the party could automatically recover approximately ten percent (10%) of that judgment as an additional recovery for attorney's fees incurred. If the prevailing party was the defendant, the defendant recovered a portion (now 20% - 30%) of its attorney's fees incurred. The purpose for the rule was, and is, to encourage settlement and to partially compensate parties who are forced to go to litigation to vindicate their rights or defenses.

Beginning in 1968, the Alaska Supreme Court developed what is now called the Public Interest Litigant Doctrine, which provided that if a prevailing party was considered a public interest litigant, the person recovered all of its attorney's fees. If the public interest litigant lost, it did not have to pay any of the other parties' attorney's fees.

When the over 100 cases that have applied this doctrine since 1968 are reviewed, it is clear that the Alaska Supreme Court has selected certain groups that it considers, in its political judgment, more worthy than other interests when the litigation involves public interest issues. Subsistence groups, native cultural interests newspapers, environmental protection and conservation groups (but not miners), homeowners on zoning issues when attempting to prevent development (but not the developers), and sometimes commercial fishermen (but not when attacking the regulations on set netting) have qualified.

On the other hand, oil companies, miners, logging companies, trucking companies, developers, and labor unions have consistently been denied public interest litigation status on the grounds that in each case they had a "sufficient economic incentive to bring a lawsuit," which disqualified them.

The end result is that under the doctrine certain groups are preferred over others according to the political judgment of the Alaska Supreme Court, which political judgment does not necessarily coincide with the political views and values of the majority of Alaskans, as represented by their elected officials in the legislature. Comparing the groups that are accorded this special status to those who are denied it shows a very marked


and distinct anti-development, pro-preservationist political slant.

Senate Bill 183 would have the effect of leveling the playing field s that no groups are accorded special treatment in the awarding of or immunity from attorney's fees according to their political characteristics. The applicable rule of civil procedure, Rule 82, still will permit the trial judge to either raise or lower the amount of attorney's fees awarded based upon a variety of special factors, but all of which would be applied equally to all litigants.

For these reasons, the Alaska Support Industry Alliance encourages passage of Senate Bill 183. We ask for your active support of this bill.

Very truly yours,

Larry J. Houle
General Manager
Alaska Support Industry Alliance

 SB 183 Public Interest Litigant Letter.doc	<p>Name: SB 183 Public Interest Litigant Letter.doc Type: Microsoft Word Document (application/msword) Encoding: base64 Download Status: Not downloaded with message</p>
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MAY 04 2001

Subject: SB 183**Date:** Fri, 04 May 2001 10:18:42 -0800**From:** lisa fitzpatrick <lmf@alaska.net>**To:** "Rep. John Coghill" <Representative_John_Coghill@legis.state.ak.us>,
"Rep. James" <Representative_Jeannette_James@legis.state.ak.us>,
"Rep. Mcyer" <Representative_Kevin_Meyer@legis.state.ak.us>,
"Rep. Ogan" <Representative_Scott_Ogan@legis.state.ak.us>,
"Rep. Rokeberg" <Representative_Norman_Rokeberg@legis.state.ak.us>,
"Rep. Berkowitz" <Representative_Ethan_Berkowitz@legis.state.ak.us>,
"Rep. Kookesh" <Representative_Albert_Kookesh@legis.state.ak.us>

Members of the House Judiciary Committee -

I urge all of you not to pass SB 183 out of committee. It is bad public policy and bad law.

The state will not save any serious money through passage of this bill. Truly frivolous lawsuits filed by so-called "public interest litigants" do not cost the state significant amounts of money because they are thrown out early in litigation through a timely filed motion to dismiss or motion for summary judgment. Those that proceed generally merit consideration - whether they result in the public-interest litigant prevailing or not.

The public interest exemption has served Alaska well. It provides a recourse for ordinary citizens to raise issues of concern to many without fear of incurring substantial litigation costs. Please do not take away this right.

Thank you. Lisa Fitzpatrick



SB

222

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 22, 2002

FURTHER REFERRALS: Finance

Date of Committee Action: 4.24.02

The JUDICIARY Committee considered:

CSSB 222(FIN)

CS FOR SENATE BILL NO. 222(FIN)

REQUIRE SLOW DRIVERS TO PULL OVER

"An Act relating to certain motor vehicles that are required to yield to following traffic."

Recommends it be replaced with H CS FOR CSSB 222 (~~222~~) ^{JUD} [] Same Title [] New Title
 For Senate Bills with new title: [] Technical Title [] New Title: HCR _____

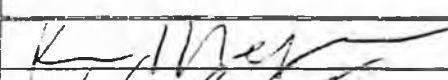
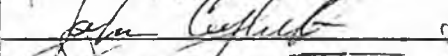
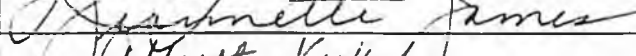
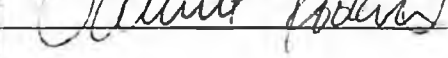
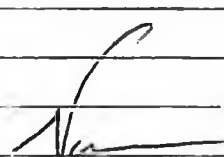
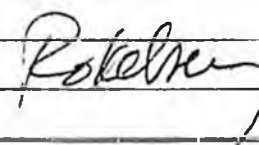
- [] attach amendments
- [] add new referral to _____ Committee
- [] Letter of Intent _____ Committee

List of Abbrev. for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LAA
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*For Chief Clerk's Office Use Only				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DPS	2	✓		✓
DOT	1	✓		

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Mary			✓	
	Cathy			✓	
	JAMES			✓	
	Koblars			✓	
Chair: 	Koblars	✓			
Chair: 	ROBERT KOBLARS	✓			

22-LS06110
Ford
4/22/02

*Adopted
4-24-02*

HOUSE CS FOR CS FOR SENATE BILL NO. 222()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR DONLEY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to certain motor vehicles that are required to yield to following
2 traffic."

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

4 * Section 1. AS 28.35.140 is amended by adding a new subsection to read:

5 (b) A person operating a motor vehicle ^{or more} ~~below~~ ^{five miles} the posted speed limit at any
6 time on a two-lane roadway shall pull the motor vehicle off the roadway at the first
7 opportunity to pull over safely whenever there are five or more motor vehicles
8 immediately following that motor vehicle. A person operating a motor vehicle who
9 violates this subsection is guilty of an infraction as described in AS 28.40.050(d) and
10 shall be punished by a fine of at least \$¹⁰⁰200, ~~and the department shall assess two points~~
11 ~~against the person's driver's license.~~

Amendment #2 Adopted

*Amendment #2
Adopted*



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

MEMORANDUM

TO: House Judiciary Members
FROM: Senator Dave Donley *DB*
DATE: April 23, 2002
RE: Committee Substitute for Senate Bill 222 "An Act relating to certain motor vehicles that are required to yield to following traffic."

I support the adoption of the attached Committee Substitute for CSSB 222 (FIN) "An Act relating to certain motor vehicles that are required to yield to following traffic" for your consideration. This CS work draft removes the condition that a driver is only supposed to pull over when they have 100 feet of unobstructed roadway. It still maintains that they are to pull over only when it is safe to do so.

If you have any additional questions or comments, please contact Sara Wright of my staff at x3892. Thank you.

Attachments: House Work Draft CS for Senate Bill 222()
Sponsor Statement

DD/sew

Co-Chair: Senate Finance Committee
Vice-Chair: Senate Judiciary Committee
Member: Legislative Budget and Audit Committee • Legislative Council

January-May: STATE CAPITOL • JUNEAU, AK • 99801 • (907) 465-3892 • FAX: (907) 465-6595
June-December: 716 West Fourth Avenue • Suite 400 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238
Email: Senator_Dave_Donley@legis.state.ak.us
www.akRepublicans.org/Donley.htm • www.legis.state.ak.us/senate/donley/htm



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT
COMMITTEE SUBSTITUTE TO SENATE BILL 222 (FIN)
"AN ACT RELATING TO CERTAIN MOTOR VEHICLES THAT ARE
REQUIRED TO YIELD TO FOLLOWING TRAFFIC."

Committee Substitute to Senate Bill 222 (FIN) will, with the cooperation of the Department of Transportation and Public Facilities, increase the number of posted signs along some of Alaska's highways informing motorists of the existing law prohibiting a vehicle from delaying traffic. This bill will also increase the fine for those in violation of this law from \$30 to \$200 and will assess two points to the violator's driver's license.

Current Alaska regulation prohibits traffic traveling at less than the posted speed limit from delaying five or more vehicles; however, many drivers are not aware of this. It is the intent of this bill to make motorists more conscious of this law and to lessen some of the congestion on our highways, especially during the summer months.

The Department of Transportation and Public Facilities has committed to placing 20 signs on Alaskan highways with high traffic volume. The signs will indicate that it is unlawful to delay five or more vehicles and that a violation is punishable by a minimum fine of \$200 and an assessment of two points on the violator's driver's license.

This legislation is a step in the right direction to lessen the traffic congestion problems caused by slow vehicles. It is unfair and dangerous to motorists that a few drivers should "own" the road and dictate their own speed limit.

DD/sew

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DOCUMENT(S)
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ORIGINAL
COPIES

Letter to the editor:

SLOW, BUT RESPECTFULLY SAFE

I have lived in Alaska for over 20 years and used to travel more than I do these days. But, recently during the last few years I have noticed a very disturbing trend. Drivers are ever increasing their daring and worse, their ill manners on the road behind the wheel of a motor vehicle by speeding, passing carelessly and cutting too close when passing. It seems many drivers in their impatient zeal to get ahead to where they are going, hit the gas pedal with dangerous enthusiasm, throwing the consequences to the four winds and often insulting other lawful users on the road.

Now, I was properly educated in high school to prepare for my first drivers licence over 49 years ago and during my many relocations took six different state drivers examinations over these years travelling all over the lower 48 and Canada. Early on we were taught that not only following the rules of the road as outlined in the compodium of motor vehicle rules, but that attitude was of prime importance when using a public highway.

It seems that many newer vehicles are finding their way to the wrecking yards now, more than ever before! This tells us something. Car TV ads are trying to excite the buying public to emulate their dangerous and often unlawful behavior in order to sell more cars and pick-up trucks. They appeal to the adolescent impulses by demonstrating and talking about their products in this nefarious way, attracting the public to drive the way "they" do on TV! Many seem to be taking the "bait"; hence the rash of poor drivers who obviously don't intend to behave behind the wheel as they were instructed in order to get their first licence.

Because of the increase in speed limits from 55 to 65 mph, many drivers don't think out their travel plan on the roads by giving enough time to arrive at their destination without temptation to push the safety envelope unwisely the way that many of them do here in Alaska. Roads are often icy and snow covered and many hidden defects are present on the road because of the weather and curtailed maintenance because of budget shortfalls. It seems that added to this mix is the chicano recently here from warmer climates who doesn't have enough understanding of the damaging effects of our typical climate here in the sub-arctic to appreciate these often unseen dangers lurking out there in front of his or her car or pick-up. Four wheel drive does not make for a failsafe truck. Black ice and uneven roadway surfaces and distortion of super-elevation (banking) around curves because of frost heaves are not always noticeable to even the best drivers. Such features can actually change from week to week here in Alaska, particularly during break-up.

The only safe way to deal with these problems, including long periods of darkness and daylight is to allow more than enough time to reach your destination, discipline yourself to obey the rules you were taught to get your driver license and DO NOT try to match the upper limit of the speed limit! Speed limits in Alaska are often set by policies of the federal government by engineers who are NOT always qualified to decide what is safe here in the sub-arctic and beyond. Many of them do not even know what frost heaves, glaciation and black ice are all about...but if you have lost control of your vehicle, you don't want to suffer the experience of finding out the hard way!

Even, and especially in summer, with the very long daylight, beware! People have been killed in head-on collisions at 65 mph, closing and colliding into each other at 130 mph! Obviously, fatigue from trying to fit too much itinerary and too long travelling about in planes, cars, trains and such; overwhelmed their tenacity to stay alert and avoid these deadly accidents.

Therefore, it is very obvious to a competent driver, that going slower than the posted speed limit is necessary where conditions do not permit safe passage at the posted speed. Moreover, some of us are carrying heavy loads and fuel to our homes from town. This extra weight reduces stopping distances, so we MUST

Page 2

drive slower.

Should we, the prudent drivers, be fined and ticketed and even be given 2 infraction points as we are travelling roads we know well, simply because rude, impatient drivers want special privileges to speed; demanding the open road before their path?

What kind of half-baked legislation is this anyway? It seems Senator Donley is opening the flood gates to grant impulsive and irresponsible drivers the free reign to push out all us respectable, law and safety conscious citizens off the road our taxes pay for and turn around and sue and fine us in traffic courts, granting these callous people the satisfaction they crave for in their throat to get to where they are going ahead of everybody else.

I firmly believe we do need to address this problem, but NOT in the way Senator Donley has approached this issue. If indeed, the Sterling highway is overcrowded; we must then add more lanes to safely carry the traffic. Of course, at first glance this looks too expensive, particularly at a time when we need to consider cutting the state budget. But, there is a way to get this done competently and almost painlessly. Make such a road a toll road...only during the summer and on weekends, when traffic pours out heavy from Anchorage towards the Kenai peninsula. Allow for residents who are over 65 and below the poverty line to get travel privileges on this better road at a reduced or free rate and anyone else whose travel on it would become a financial hardship.

The state would as well as travellers gain a decisive benefit. We would all save money avoiding expensive law suits arising from terrible accidents. Fewer people would have accidents and everybody would get to their destinations faster, safer and more reliably in spite of the ice, sheets of water running across the roadway from melting snowberms, and of course; slower drivers!

Yes, even in the eyes of impatient drivers and those who are late for their destinations; THIS would be a better approach to solving this vexing problem. What do YOU think? Please contact your representative and senator giving the take that you have to this alternative. A toll road which aims at those who can pay, especially outsiders who expect to pony up for their vacations in fishing land will also find this a benefit and such a modern, high speed, safe highway will attract and appeal to everyone, bringing us more eager visitors to our beautiful homeland and improving our economy. The same possibilities are true for the Parks highway to Denali Park. The cost at first would have to be floated, but once it was done; this would become a permanent, solid income producer which would eventually pay-off the construction costs, the management for collecting the tolls and then generate good earnings to pay for running state government. Think of it! Act on it!

Robert,
from the "bush".



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT

COMMITTEE SUBSTITUTE TO SENATE BILL 222 (FIN)

"AN ACT RELATING TO CERTAIN MOTOR VEHICLES THAT ARE REQUIRED TO YIELD TO FOLLOWING TRAFFIC."

Committee Substitute to Senate Bill 222 (FIN) will, with the cooperation of the Department of Transportation and Public Facilities, increase the number of posted signs along some of Alaska's highways informing motorists of the existing law prohibiting a vehicle from delaying traffic. This bill will also increase the fine for those in violation of this law from \$30 to \$200 and will assess two points to the violator's driver's license.

Current Alaska regulation prohibits traffic traveling at less than the posted speed limit from delaying five or more vehicles; however, many drivers are not aware of this. It is the intent of this bill to make motorists more conscious of this law and to lessen some of the congestion on our highways, especially during the summer months.

The Department of Transportation and Public Facilities has committed to placing 20 signs on Alaskan highways with the highest traffic volume. The signs will indicate that it is unlawful to delay five or more vehicles and that a violation is punishable by a minimum fine of \$200 and an assessment of two points on a violator's driver's license.

This legislation is a step in the right direction to lessen the traffic congestion problems caused by slow vehicles. It is unfair and dangerous to motorists that a few drivers should "own" the road and dictate their own speed limit.

DD/sew

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www.akrepublicans.org/Donley.htm • www.legis.state.ak.us/senate/donley/htm

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB222
 (S) Publish Date: 2/19/02

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title An Act relating to certain motor BRU Highways and Aviation
vehicles that are required to yield to following traffic Component Central Region Highways and Aviation
 Sponsor Donley
 Requester Senate Transportation Component No. 564

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	30.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	30.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	30.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	30.0	0.0	0.0	0.0	0.0	0.0

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 department expects to install approximately 20 signs at appropriate highway locations to notify the public of the law. Production and installation costs approximately \$1500/sign. 20 signs X \$1500 = \$30.0

Prepared by: Dennis R. Poshard, Assistant to Commissioner
 Division: Commissioner's Office
 Approved by: Joseph L. Perkins, Commissioner
 Agency: Alaska Department of Transportation and Public Facilities

Phone 465-3904
 Date/Time 2/11/02 9:51 AM
 Date 2/11/2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 222(TRA)
 (S) Publish Date: 3/1/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Require Slow Drivers to Pull Over BRU AST Detachments
 Component AST Detachments
 Sponsor Senator Donley
 Requester Senate Finance Committee Component No. 2325

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

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 will have no fiscal impact for the Department of Public Safety.

Prepared by: Lt. Julia Grimes Phone 269-4532
 Division: Division of Alaska State Troopers Date/Time 2/25/02 3:04 PM
 Approved by: Commissioner Glenn Godfrey Date 2/25/2002
 Agency: Department of Public Safety

Subject: [Fwd: Priblems with SB222]
Date: Mon, 08 Apr 2002 13:25:24 -0800
From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>
Organization: Alaska State Legislature
To: Heather_Nobrega@legis.state.ak.us

Subject: Priblems with SB222

Date: Mon, 8 Apr 2002 12:30:25 -0800
From: "Roy Dillard" <rdillard@gci.net>
To: "Berkowitz" <Representative_Ethan_Berkowitz@legis.state.ak.us>,
"Coghill" <Representative_John_Coghill@legis.state.ak.us>,
"James" <Representative_Jeannette_James@legis.state.ak.us>,
"Kookesh" <Representative_Albert_Kookesh@legis.state.ak.us>,
"Meyer" <Representative_Kevin_Meyer@legis.state.ak.us>,
"Ogan" <Representative_Scott_Ogan@legis.state.ak.us>,
"Rokeberg" <Representative_Norman_Rokeberg@legis.state.ak.us>

Roy Dillard
3600 Perenosa Bay
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344-8938
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My understanding is that SB 222 has been sent to the House Judiciary Committee for review. This bill presents numerous safety problems and should not be passed out of committee. Some of the more obvious items that should cause concern are:

1. This bill in effect changes the posted speed limit to a minimum instead of a maximum. If the speed limit is 65, and I am driving 62 with 5 vehicles behind me, I am required to pull over or face a fine and points. If the speed limit is 65, and I am driving 65 with 5 vehicles behind me, I am not required to pull over. How fast do you think I am going to drive even if it is safer to drive at the lower speed? It says that a slow driver is a driver not going the speed limit. Page 56 of the drivers' manual says "You are not required to drive the maximum speed limit." This bill encourages speeding. A fine at 15 MPH below the posted speed limit would be more reasonable and a lot safer.

2. The statement in the bill "100 feet of visible and unobstructed roadway in front of that motor

vehicle" could encourage people to follow to close. I interpret this statement to mean, if there is more than 100 feet between my vehicle and the vehicle in front of me, I am required to pull over (If I am driving below the speed limit with 5 vehicles following). Page 28 of the drivers' manual says use the "TWO-SECOND RULE". Traveling at 65 MPH, the two-second rule would require you to be at least 190 feet behind the vehicle in front of you. The statement above is confusing and doesn't make any sense at all.

3. A person traveling 5 MPH over the speed limit will get less of a fine than a person going 5 MPH under the speed limit. If speed is one of the main causes of accidents, does this make sense?

4. The fast drivers are not satisfied driving the speed limit, they want to drive 10 to 15 MPH over the posted speed. This bill gives the speeders the right of way and tells slower drivers they don't belong on Alaska roads. We are going to tell tourist that we will fine them \$200 dollars if they can't drive the speed limit on our two lane winding roads.

5. This bill takes the courtesy out of driving and will increase road rage.

6. There are not a lot of good turn outs on Alaska roads. One of the most dangerous times driving a RV is pulling into traffic from a turn out. On the Seward Highway it is extremely hazardous. If this bill passes my wife won't be able to drive our RV on the Seward Highway, it will be too dangerous. Speeders have the right of way.

Letter to the editor:

SLOW, BUT RESPECTFULLY SAFE

I have lived in Alaska for over 20 years and used to travel more than I do these days. But, recently during the last few years I have noticed a very disturbing trend. Drivers are ever increasing their daring and worse, their ill manners on the road behind the wheel of a motor vehicle by speeding, passing carelessly and cutting too close when passing. It seems many drivers in their impatient zeal to get ahead to where they are going, hit the gas pedal with dangerous enthusiasm, throwing the consequences to the four winds and often insulting other lawful users on the road.

Now, I was properly educated in high school to prepare for my first drivers license over 49 years ago and during my many relocations took six different state drivers examinations over these years travelling all over the lower 48 and Canada. Early on we were taught that not only following the rules of the road as outlined in the compedium of motor vehicle rules, but that attitude was of prime importance when using a public highway.

It seems that many newer vehicles are finding their way to the wrecking yards now, more than ever before! This tells us something. Car TV ads are trying to excite the buying public to emulate their dangerous and often unlawful behavior in order to sell more cars and pick-up trucks. They appeal to the adolescent impulses by demonstrating and talking about their products in this nefarious way, attracting the public to drive the way "they" do on TV! Many seem to be taking the "bait"; hence the rash of poor drivers who obviously don't intend to behave behind the wheel as they were instructed in order to get their first license.

Because of the increase in speed limits from 55 to 65 mph, many drivers don't think out their travel plan on the roads by giving enough time to arrive at their destination without temptation to push the safety envelope unwisely the way that many of them do here in Alaska. Roads are often icy and snow covered and many hidden defects are present on the road because of the weather and curtailed maintenance because of budget shortfalls. It seems that added to this mix is the chicaco recently here from warmer climates who doesn't have enough understanding of the damaging effects of our typical climate here in the sub-arctic to appreciate these often unseen dangers lurking out there in front of his or her car or pick-up. Four wheel drive does not make for a failsafe truck. Black ice and uneven roadway surfaces and distortion of superelevation (banking) around curves because of frost heaves are not always noticeable to even the best drivers. Such features can actually change from week to week here in Alaska, particularly during break-up.

The only safe way to deal with these problems, including long periods of darkness and daylight is to allow more than enough time to reach your destination, discipline yourself to obey the rules you were taught to get your driver license and DO NOT try to match the upper limit of the speed limit! Speed limits in Alaska are often set by policies of the federal government by engineers who are NOT always qualified to decide what is safe here in the sub-arctic and beyond. Many of them do not even know what frost heaves, glaciation and black ice are all about....but if you have lost control of your vehicle, you don't want to suffer the experience of finding out the hard way!

Even, and especially in summer, with the very long daylight, beware! People have been killed in head-on collisions at 65 mph, closing and colliding into each other at 130 mph! Obviously, fatigue from trying to fit too much itinerary and too long travelling about in planes, cars, trains and such; overwhelmed their tenacity to stay alert and avoid these deadly accidents.

Therefore, it is very obvious to a competent driver, that going slower than the posted speed limit is necessary where conditions do not permit safe passage at the posted speed. Moreover, some of us are carrying heavy loads and fuel to our homes from town. This extra weight reduces: stopping distances, so we MUST

drive slower.

Should we, the prudent drivers, be fined and ticketed and even be given 2 infraction points as we are travelling roads we know well, simply because rude, impatient drivers want special privileges to speed; demanding the open road before their path?

What kind of half-baked legislation is this anyway? It seems Senator Donley is opening the flood gates to grant impulsive and irresponsible drivers the free reign to push out all us respectable, law and safety conscious citizens off the road our taxes pay for and turn around and sue and fine us in traffic courts, granting these callous people the satisfaction they crave for in their thirst to get to where they are going ahead of everybody else.

I firmly believe we do need to address this problem, but NOT in the way Senator Donley has approached this issue. If indeed, the Sterling highway is overcrowded; we must then add more lanes to safely carry the traffic. Of course, at first glance this looks too expensive, particularly at a time when we need to consider cutting the state budget. But, there is a way to get this done competently and almost painlessly. Make such a road a toll road....only during the summer and on weekends, when traffic pours out heavy from Anchorage towards the Kenai peninsular. Allow for residents who are over 65 and below the poverty line to get travel privileges on this better road at a reduced or free rate and anyone else whose travel on it would become a financial hardship.

The state would as well as travellers gain a decisive benefit. We would all save money avoiding expensive law suits arising from terrible accidents. Fewer people would have accidents and everybody would get to their destinations faster, safer and more reliably in spite of the ice, sheets of water running across the roadway from melting snowberms, and of course: slower drivers!

Yes, even in the eyes of impatient drivers and those who are late for their destinations; THIS would be a better approach to solving this vexing problem. What do YOU think? Please contact your representative and senator giving the take that you have to this alternative. A toll road which aims at those who can pay, especially outsiders who expect to pony up for their vacations in fishing land will also find this a benefit and such a modern, high speed, safe highway will attract and appeal to everyone, bringing us more eager visitors to our beautiful homeland and improving our economy. The same possibilities are true for the Parks highway to Denali Park. The cost at first would have to be floated, but once it was done; this would become a permanent, solid income producer which would eventually pay-off the construction costs, the management for collecting the tolls and then generate good earnings to pay for running state government. Think of it! Act on it!

Robert,
from the "bush".

ROBERT Spiegel
PO Box 3082
ANDERSON, AK 99744

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2 3 8

CS FOR SENATE BILL NO. 238(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Offered: 4/30/02

Referred: Today's Calendar

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act exempting from the category of public records certain records and information
2 relating to state safety plans, programs, and procedures, and to systems, facilities, and
3 infrastructure in the state; and providing for an effective date."

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

5 * Section 1. AS 40.25.120(a) is amended by adding a new paragraph to read:

6 (10) records or information pertaining to a plan, program, or
7 procedures for establishing, maintaining, or restoring security in the state, or to a
8 detailed description or evaluation of systems, facilities, or infrastructure in the state,
9 but only to the extent that the production of the records or information

10 (A) could reasonably be expected to interfere with the
11 implementation or enforcement of the security plan, program, or procedures;

12 (B) would disclose confidential guidelines for investigations or
13 enforcement and the disclosure could reasonably be expected to risk
14 circumvention of the law; or

1 (C) could reasonably be expected to endanger the life or
2 physical safety of an individual or to present a real and substantial risk to the
3 public health and welfare.

4 * **Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF MILITARY & VETERANS AFFAIRS
OFFICE OF THE COMMISSIONER

P.O. BOX 5800

FT. RICHARDSON, AK 99505-5800

PH: (907) 428-6003

May 1, 2002

The Honorable Norman Rokeberg, Chair
House Judiciary Committee
Alaska State Capitol
Juneau, AK 99801

Dear Representative Rokeberg:

The Department of Military and Veterans' Affairs respectfully requests a hearing on CSSB 238 (RLS) "An Act exempting from the category of public records certain records and information relating to state safety plans, programs, and procedures, and to systems facilities, and infrastructure in the state; and providing for an effective date."

CSSB238(RLS) provides state agencies the ability to deny requests for public records that describe security plans or detail security systems. The bill creates standards that protect the public's interest prior to denial of access to documents that detail security plans or procedures.

The intent of the bill is to provide protection to the state's residents and visitors by careful consideration of the security of state and municipal facilities. However, the ability to deny public records is limited to circumstances where harm to the public can be shown if the document is released.

CSHB326(STA) is the companion bill to CSSB238(RLS) and is also in your committee.

I look forward to discussing this bill with you and your committee. If I can provide further information please call Carol Carroll at 465-4730.

Sincerely,



MG Phillip Oates

Commissioner
Military and Veterans Affairs

STATE OF ALASKA

TONY KIJOWLES, GOVERNOR

DEPARTMENT OF MILITARY & VETERANS AFFAIRS
OFFICE OF THE COMMISSIONER

P.O. BOX 5800
FT. RICHARDSON, AK 99505-5800
PH: (907) 428-6003

SPONSOR STATEMENT CSSB238(RLS)

An Act exempting from the category of public records certain records and information relating to state safety plans, program and procedures

This bill is a result of the Disaster Policy Cabinet analysis of state security after September 11th. The bill addresses one area that would enhance security of state plans, procedures and systems and thereby the safety of the citizens of the state.

The bill will exempt from the public records law documents pertaining to a plan, program or procedures for establishing, maintaining or restoring security in the state. The exemption could be implemented only if three standards are met: release would reasonably be expected to interfere with implementation or enforcement of a security plan, program or procedure; the document would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or whether disclosure of the document could endanger the safety of individuals or public health and welfare.

Appeals would still be available to ensure that that the public has recourse to a decision of an agency.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF MILITARY & VETERANS AFFAIRS
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SECTIONAL ANALYSIS CSSB238 (RLS)

Section 1 amends the exceptions to the public records statute (AS 40.25.120) to provide that records or information pertaining to a security plan, program, or procedures or to a detailed description or evaluation of systems, facilities, or infrastructure in the state are not publicly accessible, to the extent one of the following factors exists. These records or information will be excluded from disclosure to the extent that dissemination: (A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures; (B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or (C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare.

CS FOR HOUSE BILL NO. 326(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/30/02

Referred: Judiciary

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the security of certain state airports; exempting certain records and
2 information from the category of public records; and providing for an effective date."

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

4 * **Section 1.** AS 02.15 is amended by adding a new section to read:

5 **Sec. 02.15.245. Administrative penalties for security violations.** (a) In
6 addition to applicable criminal and other penalties imposed by the court under
7 AS 02.15.240, a person or an entity that violates or causes or permits to be violated, or
8 that is legally or contractually responsible for the conduct of a person who violates or
9 causes or permits to be violated, a state or federal law or a plan, program, or procedure
10 established under state or federal law pertaining to security of a state airport
11 established under AS 02.15.060 is subject to an administrative penalty of not more
12 than \$1,100 for each incident. The department may assess the penalty by order after
13 following procedures established in regulations adopted under (b) of this section. A
14 person or an entity is subject to assessment of a penalty under this section only if the

1 person or entity had, at the time of the violation, actual or constructive knowledge of
2 the violated law or program adopted under law.

3 (b) The department shall adopt regulations under AS 44.62 (Administrative
4 Procedure Act) to carry out the purposes of this section.

5 * **Sec. 2.** AS 40.25.120(a) is amended by adding a new paragraph to read:

6 (10) records or information pertaining to a plan, program, or
7 procedures for establishing, maintaining, or restoring security in the state, or to a
8 detailed description or evaluation of systems, facilities, or infrastructure in the state,
9 but only to the extent that the production of the records or information

10 (A) could reasonably be expected to interfere with the
11 implementation or enforcement of the security plan, program, or procedures;

12 (B) would disclose confidential guidelines for investigations or
13 enforcement and the disclosure could reasonably be expected to risk
14 circumvention of the law; or

15 (C) could reasonably be expected to endanger the life or
16 physical safety of an individual or to present a real and substantial risk to the
17 public health and welfare.

18 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 238
 (S) Publish Date: 1/16/02

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title An act relating to plans and programs BRU _____
for the safety and security of facilities... Componer ' _____
 Sponsor Rules by Request of Governor _____
 Requester _____ 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

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 allows the department to issue civil fines to airport tenants who violate FAA security policies. These funds will be passed through to the FAA to cover airport fines.

Prepared by: Dennis R. Poshard, Assistant to Commissioner Phone 465-3904
 Division Commissioner's Office Date/Time 1/11/02 10:07 AM
 Approved by: Joseph L. Perkins, Commissioner Date 01/11/2002
 Agency AK DOT&PF

SB

242

Moved by
Berkowitz
3-20-02
later WITHDRAWN

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE BERKOWITZ

To: SB 242

* Section 1. Amend AS 18.65.748 to read:

Sec. 18.65.748. Permit holders from other jurisdictions considered Alaska permit holders. ~~A person is exempt from the requirements in AS 18.65.710 if the person is a nonresident who is at least 21 years of age, has successfully completed a handgun or firearms safety course, has been subject to a fingerprint-based criminal records search and who has a valid permit to carry a concealed handgun from another state; however, a permit under AS 18.65.710 must be obtained by the end of a 120-day period after entry into the state.~~

Amendment
- delete
FAILED

Alaska State Legislature



Chairman,
Judiciary Committee

Vice-Chairman,
Administrative Regulations
Revenue Committee

Member,
Transportation Committee
Resources Committee

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922

50 Front Street
Suite 203
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Senator Robin L. Taylor

SPONSOR STATEMENT

SB 242

"An Act relating to concealed handgun permittees."

A statutory revision is needed to further clarify the recognition of concealed handgun permits from other states. The 21st Legislature passed Senator Taylor's SB 294, which provided for the recognition of permits from states with permit requirements similar to Alaska, and from states which recognize Alaska's permits. SB 294 also directed the Department of Public Safety to determine which states and political subdivisions grant reciprocity to Alaska permit holders and distribute the list to each law enforcement agency in this state. The department has yet to fully implement this statutory requirement, some sixteen (16) months later.

This legislation will simplify the process by plainly recognizing all permits issued by other states. In so doing, the burden on the department of having to evaluate all the other states' laws to determine which ones recognize Alaska permits, as well as the subjectivity on the part of the department in determining which other states' statutes are similar to Alaska law will be removed.

SB 242 will better serve the public and permit holders.

District A:

Hyder • Ketchikan • Kupreanof • Mears Chuck • Petersburg • Saxman • Sitka • Wrangell

E-mail: Senato

**SPONSOR
STATEMENT**

.ak.us

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 242
 (S) Publish Date: 2/13/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Concealed Handgun Permittees BRU AST-Detachments
 Component AST-Detachments
 Sponsor Senator Taylor
 Requester Senate Judiciary Committee Component No. 2325

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

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 will have no fiscal impact for the Department of Public Safety.

Prepared by: Lt. Julia Grimes Phone 269-4532
 Division: Division of Alaska State Troopers Date/Time 1/31/02 8:48 AM
 Approved by: Commissioner Glenn Godfrey Date 1/31/2002
 Agency: Department of Public Safety



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
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(916)446-2455 voice ■ (916)448-7469 fax

STATE & LOCAL AFFAIRS DIVISION
BRIAN JUDY, ALASKA STATE LIAISON

MARCH 19, 2002

RESPONSE TO CONCERNS RAISED REGARDING SENATE BILL 242

→ *Alaska will recognize permits from states with lower issuance standards.*

Forty-three states currently have laws providing for the issuance of "Right-to-Carry" permits to law-abiding citizens. Some states have laws which are more restrictive than Alaska and some are less restrictive. The empirical evidence from every RTC state, however, regardless of the level of qualification or training standards, is the same: Law-abiding citizens who have been issued RTC permits are exercising their constitutional right to bear arms and their natural right to defend themselves with utmost responsibility. **Misuse of firearms and commission of firearm-related crimes by permit holders is universally virtually non-existent. The State of Alaska should not have any reservations about welcoming the law-abiding citizens of other states and honoring their RTC permits.**

→ *SB 242 does not require out-of-state permit holders to notify DPS when they visit Alaska.*

Of the forty-three RTC states, twenty-five currently recognize permits issued to law-abiding citizens from other states. Not one of these states' laws, including Alaska currently, requires out-of-state permit holders to notify law enforcement upon arrival in their state. According to the DPS website, which was just recently updated on March 11, permits from twenty-three other states are currently valid in Alaska. These law-abiding citizens have not caused any problems in Alaska and extending recognition to the other twenty RTC states will not bring about any problems. Alaska law does not require resident permit holders to notify police when they are carrying a firearm (concealed or openly), does not require out-of-state visitors to notify police when they are carrying openly and, as previously mentioned, does not require permit holders from the twenty-three states currently recognized by Alaska to notify police when they carry concealed. Should Alaska require out-of-state drivers to notify DPS before they drive in Alaska? Law-abiding permit holders are NOT the problem and such a notification requirement would only add unnecessary bureaucracy. The intent behind SB 242 is to REDUCE bureaucracy!

→ *SB 242 deletes the 120 day time limit during which out-of-state permits are valid In Alaska.*

Of the twenty-five "recognition and reciprocity" states, only two, Alaska and Utah, limit the amount of time out-of-state permits are valid. It is well documented that permit holders are

universally responsible, law-abiding citizens who are willing to subject themselves to governmental scrutiny in order to be issued the permit and who don't create problems for law enforcement. Thus, it shouldn't matter if permits are valid for 120 days or until the permits expire. Currently, Texas refuses to recognize Alaska permits because of Alaska's 120 day time limitation (Texas recognizes permits without a time limit and won't reciprocate with Alaska and Utah because those states impose a limit on Texas permit holders).

→ *SB 242 doesn't benefit Alaska permit holders.*

Quite the contrary! As just mentioned, deleting the 120 day limit will immediately open the door for recognition of Alaska permits by Texas. Further, several states have laws which specify that permits will be recognized from any state which recognizes their permit. Many of the states which fall into this category, including Georgia and Mississippi are among the twenty new states Alaska would recognize under SB 242 and are, therefore, candidates to subsequently recognize Alaska should SB 242 pass. Ideally, every state will eventually pass a law such as SB 242 so that every state will recognize permits from every other state. The benefit of that potentiality to Alaska permit holders is obvious and the passage of SB 242 gets law-abiding firearm owners one step closer to that becoming a reality.

→ *Will SB 242 allow Vermont residents, who can carry with no permit, to carry in Alaska?*

NO! Under the provisions of SB 242, only people who have been issued a permit from another jurisdiction may carry concealed in Alaska. Vermont law allows all law-abiding citizens (including Alaskans) to carry a firearm in any manner (openly, concealed, loaded or unloaded) without going through a permit issuance process. Since Vermont law does not provide for the issuance of permits, Vermont residents could not carry in Alaska. Interestingly, Vermont ranks 48th in violent crime, according to the FBI Uniform Crime Report. Vermont's crime rate exceeds only Maine and North Dakota, two other RTC states. Despite its incredibly low crime rate, Vermont is rated a "D-" by the gun ban lobby formerly known as Handgun Control. According to previous testimony against SB 242 by the Alaska Million Mom March, "D-" is the same rating Alaska received from the Brady gun ban group (Maine received an "F+" and North Dakota was rated a "D"). Could it be that strict gun control laws which only impact law-abiding citizens, on which the Brady/MMM rating is based, have little impact on crime? Hmmm...

Self defense is a fundamental right.

The right to self defense does not stop at the state border.

As with drivers licenses, RTC permits should be honored universally.

adn.com

Anchorage Daily News

Opinion

(Published: November 17, 2001)

Gun law needs a fix In Alaska, mentally ill can carry concealed weapons

In the fall of 1998, a clerk in an Anchorage store noticed a man who was completely soaked, with water dripping off him. The clerk asked if he needed help. Timothy Wagner replied that he needed to soak out the chemicals that had been injected into him, or else the chemicals were going to kill him. He also said a computer chip had been implanted in his head. What he didn't say was that he was carrying a concealed weapon in his briefcase.

Under Alaska law, the delusional Mr. Wagner had every right to be packing heat. He had a concealed weapons permit, and thanks to a law passed in early 1998, it is perfectly legal for mentally ill people to get and keep concealed weapons permits.

This dangerous aberration in state law was revealed last week in an Alaska Court of Appeals ruling. A judge had tried to revoke Mr. Wagner's concealed carry permit on grounds of mental illness. The 1998 law barred the judge from doing so. It was part of a rewrite of state laws liberalizing access to concealed weapons; the law went into effect after the Legislature overrode Gov. Tony Knowles' veto.

Thankfully, Mr. Wagner didn't hurt anyone during his armed encounter. But it's easy to imagine a different and more deadly outcome. Just eight blocks away from the store in question is Mountain View Elementary School -- the same school where a mentally imbalanced man slashed and nearly killed four students in May.

The judge found another way to keep Mr. Wagner from legally carrying his concealed weapon. She imposed a ban on possessing firearms as a condition of Mr. Wagner's probation on a related offense.

This is a no-brainer: Someone who is not in full possession of his mental faculties should not be in possession of a concealed weapon, with all the attendant risks of injury to himself or others. Imagine the public uproar if some mentally unstable individual should commit mayhem with a weapon permitted under this loophole in the law.

We're all for destigmatizing mental illness and reconsidering restrictions based on old prejudices. But that doesn't mean the state has to give mentally dysfunctional Alaskans the right to carry a gun. While we're all thinking a lot about homeland security, this is a question the Legislature should examine again -- soon.

Information
Statement

NOTICE

Memorandum decisions of this court do not create legal precedent. See Alaska Appellate Rule 214(d) and Paragraph 7 of the Guidelines for Publication of Court of Appeals Decisions (Court of Appeals Order No. 3). Accordingly, this memorandum decision may not be cited for any proposition of law, nor as an example of the proper resolution of any issue.

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

TIMOTHY WAGNER,)
) Court of Appeals No. A-7498
Appellant,) Trial Court No. 3AN-S98-10261 CR
)
v.) MEMORANDUM OPINION
)
STATE OF ALASKA,) AND JUDGMENT
)
Appellee.) [No. 4485 November 7, 2001]
)

Appeal from the District Court, Third Judicial
District, Anchorage, Natalie K. Finn, Judge.

Appearances: Judy M. Scherger, Assistant
Public Defender, and Barbara K. Brink, Public Defender, Anchorage,
for Appellant. Michelle Meshke, Assistant District Attorney, and
Susan Parkes, District Attorney, Anchorage, and Bruce M. Botelho,
Attorney General, Juneau, for Appellee.

Before: Mannheimer and Stewart, Judges, and
Andrews, Superior Court Judge. [Coats, Chief Judge, not
participating.]

STEWART, Judge.

Under AS 18.65.750(b), whenever the holder of a concealed handgun permit is contacted by a peace officer for an official purpose, the permit holder must "immediately inform the peace officer [if the permit holder] is carrying a concealed handgun under the permit." Timothy Wagner was convicted of violating this statute because, during a contact with a police officer, he failed to disclose his possession of a concealed handgun until after the officer specifically asked him if he was armed.

Wagner contends that he did not violate this statute because he was not "carrying" the handgun at the time the officer contacted him. However, Wagner had the gun in a soft-sided briefcase; he was carrying this briefcase, or had it within arm's reach, during his encounter with the officer. Based on our decision in *De Nardo v. State*, [Fn. 1] we conclude that Wagner was "carrying" the weapon when the officer contacted him, and we therefore affirm Wagner's conviction.

Wagner also challenges a provision of his sentence. Wagner argues that the district court exceeded its sentencing authority when it ordered forfeiture of his concealed handgun permit. We agree, and we therefore strike this provision of Wagner's sentence.

Wagner's attack on his conviction

At about 5:30 p.m. on October 7, 1998, Wagner entered Alaska Mining and Diving, a store in Anchorage. Kenneth Hupton, an employee at the store, noticed that Wagner was dripping wet. Hupton asked Wagner why he was so wet, and if he needed any help. Wagner replied that he needed to soak out the chemicals that had been injected into him, or else the chemicals were going to "kill him." Wagner also told Hupton that a computer chip had been implanted in his head. Another employee who overheard this conversation called the police.

Anchorage Police Officer Duane Jones responded to the dispatch; he arrived at Alaska Mining and Diving approximately fifteen minutes later. As Jones approached the store, he saw Wagner

outside. Wagner was carrying a soft-sided briefcase. Jones watched as Wagner set the briefcase into the carrier basket that was on Wagner's bicycle. Unbeknownst to Jones, Wagner's briefcase contained a loaded handgun.

Jones spoke to Wagner, asking him why he was wet. Wagner again stated that he had been injected with toxins and that he was soaking his body and clothing to leech the toxins out. Jones and Wagner conversed for several minutes. During this time, they were standing next to Wagner's bicycle, and Wagner's briefcase was within arm's reach. Wagner furnished identification to Jones, but he did not tell Jones about the handgun.

A short time later, two other police officers arrived at the scene. Jones left Wagner with his fellow officers and went inside Alaska Mining and Diving to interview the store personnel. He also ran a computer check on Wagner. From this check, Jones learned that Wagner had a permit to carry a concealed handgun. Jones went back outside and asked Wagner if he had a gun. Wagner admitted that he did, and he pointed to his briefcase. Jones reached inside the briefcase and found the loaded handgun.

Wagner gave a slightly different version of the encounter. He indicated that he had not engaged in lengthy conversation with Jones. Rather, Jones's first act upon contacting Wagner was to ask for his identification. When Wagner furnished identification, Jones walked away with it.

At the conclusion of this evidence, District Court Judge Natalie Finn (sitting as the trier of fact) found that Wagner had been holding the briefcase containing the loaded weapon when he walked to his bicycle. She further found that the briefcase was in Wagner's hand immediately before Jones contacted Wagner and spoke with him. Although Wagner set the briefcase in the bicycle basket when he conversed with Jones, the briefcase remained within Wagner's easy reach.

In *De Nardo v. State*, we held that Alaska's concealed weapons law prohibits a person from carrying a weapon concealed in a briefcase, purse, or other hand-carried container. [Fn. 2] If Wagner had not owned a concealed handgun permit, he would have been guilty of carrying a concealed weapon under AS 11.61.220(a)(1). As

it was, Wagner's permit authorized him to carry the handgun in his briefcase, but he was obliged to immediately disclose this fact when Officer Jones contacted him.

Wagner argues that Judge Finn erred when she found that Wagner had failed to immediately inform the police that he was carrying a concealed handgun under the authority of his permit. But Judge Finn found that the testimony of the police officers and the store employees was more credible than Wagner's testimony on this point. In particular, the judge found that Wagner and the officers engaged in a lengthy discussion before Wagner mentioned his possession of the handgun. Judge Finn further found that Wagner knew, or reasonably should have known, that the officers were speaking to him for an official purpose. The record supports these findings. Based on these findings, we uphold Judge Finn's verdict that Wagner violated AS 18.65.750(b) by failing to immediately disclose that he was a concealed handgun permit holder and that, under the authority of his permit, he was carrying a concealed weapon.

Wagner's attack on his sentence

As part of Wagner's sentence, Judge Finn ordered forfeiture of Wagner's concealed handgun permit until his mental illness was "either cured or improved." Wagner maintains that Judge Finn did not have the authority to do this. We agree.

Alaska Statute 12.55.015(c) declares that sentencing judges "may invoke any authority conferred by law to order a forfeiture of property, suspend or revoke a license, remove a person from office, or impose any other civil penalty." But AS 12.55.015(c) does not grant sentencing judges an independent power to forfeit property and licenses. Rather, it only reiterates the authority granted by other statutes. [Fn. 3]

The State defends Judge Finn's action by relying on a superseded version of 13 AAC 30.130(b). Under that former administrative regulation, the Department of Public Safety could reject an application for a concealed handgun permit or could deny a permit renewal if the department had reason to believe that the applicant suffered from a mental illness. However, this provision

of the Administrative Code was amended in 1998 to eliminate mental illness as a factor that the department can consider when processing concealed handgun permits. [Fn. 4]

If this was removed as factor from the application process when the department set it's regulations, this still would not exempt an owner from:

Becoming "disqualified to receive and hold a permit under AS 18.65.705", which reads that; a person is "qualified to receive and hold a permit to carry a concealed handgun if the person

1. is 21 years of age or older
2. is eligible to own or possess a handgun under the laws of this state and under **federal law**

Moreover, even if the Administrative Code gave the Department of Public Safety the authority to deny a concealed handgun permit based on the applicant's mental illness, this would not be sufficient to justify the sentencing court's order of forfeiture.

I think this is inaccurate, I think if the dept. became aware of a documented Hx of mental illness without their asking, they would have been made aware of an incidence where a licensee did not qualify for possession under federal law, and would be within their jurisdiction to revoke his permit. Rep. Kerttula currently has a case where DoT has revoked a man's driver's lisc. Because another person called the dept. to alert them that the man had had epileptic seizures, and they knew this disqualified him from holding a permit to drive. When the dept. orderd a medical eval, a Hx of epileptic seizures was found, and his lisc was revoked. Granted, DoT allows that the state ask him this question, and DoPS does not ask about Hx of mental illness – but both are expressed disqualifications for licensure. I think it is applicable.

As already explained, AS 12.55.015(c) requires explicit "authority conferred by law to order a forfeiture ... revo[ca]tion of] a license."

Which is provided by AS 18.65.740

a. A permit to carry a concealed handgun shall be immediately revoked by the department when the permittee

1. becomes disqualified to receive and hold a permit under **AS 18.65.705**

AS 18.65.705: a person is "qualified to receive and hold a permit to carry a concealed handgun if the person

1. is 21 years of age or older
2. is eligible to own or possess a handgun under the laws of this state and under **federal law**

Even assuming that the Department of Public Safety had the authority to deny a permit application because of the applicant's mental illness, the State's argument about Judge Finn's sentencing authority would still rest on analogy, not statute or regulation.

However, in her sentencing remarks, Judge Finn recognized that she might not have the authority to order forfeiture of Wagner's concealed handgun permit.

Correct, because AS 18.65.740 (a) reads that "A permit to carry a concealed handgun shall be immediately revoked by the department when the permittee.....

She may, however, have the authority to order that the department revoke his permit.

Believing that Wagner was mentally ill, and with the goal of protecting the public, Judge Finn placed Wagner on probation for 3 years and ordered that, as a condition of probation, Wagner was not to have any weapons.

I believe this is where Judge Finn acted outside her jurisdiction to achieve a noble end. She has neither the authority nor the training to pronounce a medical diagnosis, and is in fact prohibited from doing so in statute unless she possesses a license to do so. She would have been within her bounds, however, to have ordered a psychological evaluation by a trained psychologist /psychoanalyst, entered that in to the court record, and required the department to revoke Mr. Wagner's permit.

We recently held in *Baum v. State*, [Fn. 5] that a sentencing judge can impose a condition of probation that forbids a defendant from engaging in a licensed activity during the entire term of probation even though the judge could not order a similar revocation of the defendant's license as a direct provision of the sentence. [Fn. 6] We reach a similar conclusion in Wagner's case. Even though Judge Finn had no authority to revoke or forfeit Wagner's concealed handgun permit, she was authorized to impose a condition of probation forbidding Wagner from possessing weapons even though this condition of probation effectively forbids Wagner from exercising the right granted by his concealed handgun permit.

Conclusion

For the reasons explained here, we AFFIRM Wagner's conviction. With regard to Wagner's sentence, we VACATE the provision that orders forfeiture of Wagner's concealed handgun permit, but we AFFIRM the condition of probation that forbids Wagner from possessing weapons during the 3 years of his probation.

**Which appears to produce a right end by a wrong means, unfortunately.
What does this mean for appeals?
If this stands as precedent, it leaves error on the books.**

FOOTNOTES

Footnote 1:

819 P.2d 903 (Alaska App. 1991).

Footnote 2:

Id. at 906-08.

Footnote 3:

See Benboe v. State, 738 P.2d 356, 361 (Alaska App. 1987).

Footnote 4:

See Administrative Code Register 148.

Footnote 5:

24 P.3d 577 (Alaska App. 2001).

Footnote 6:

Id. at 581-82.

CHP notes

➤ Permit Application

Section II question 2:

"Are you eligible to own or possess a firearm under the laws of this state and federal law?"

➤ Responsibilities of the Permittee:

AS 18.65.765 (a) 3:

"shall immediately notify the department if the holder is no longer qualified to hold a permit under AS 18.65.705

AS 18.65.705. Qualifications to Obtain a Permit.

A person is qualified to receive and hold a permit to carry a concealed handgun if the person

- (1) is 21 years of age or older;
- (2) is eligible to own or possess a handgun under the laws of this state and under federal law;
- (3) is a resident of the state and has been for the 90 days immediately preceding the application for a permit;
- (4) has not been convicted of two or more class A misdemeanors of this state or similar laws of another jurisdiction within the six years immediately preceding the application;
- (5) is not now in and has not in the three years immediately preceding the application been ordered by a court to complete an alcohol or substance abuse treatment program; and
- (6) has successfully completed a handgun course as provided in AS 18.65.715.

The basic objectives of Title I of the Gun Control Act of 1968 were to ban mail-order sales of firearms and ammunition, confine the purchase of firearms to the buyer's state of residence, and prohibit certain classes of persons from purchasing, receiving or transporting firearms or ammunition in interstate commerce. Specifically, Title I prohibits dealers from selling any firearm or ammunition to any person who is:

- a. convicted of or under indictment for a felony
- b. a fugitive
- c. adjudicated as a mental defective or who has been committed to any mental institution.
- d. addicted to or an unlawful user of marijuana or a stimulant, depressant, or narcotic drug.
- e. less than eighteen years of age for the purchase of a shotgun or rifle
- f. less than twenty-one years of age for the purchase of a firearm that is other than a shotgun or rifle

AS 18.65.765 (b)

Applies a \$100 fine for non-compliance.

➤ **Permit Revocation:**

13 ACC 30.060 (f):

"a permittee who becomes subject to suspension or revocation under a or c of this section shall immediately notify the department and surrender the permit to the nearest peace officer."

- (a) - [refers to AS 18.65.735]
- (c) - [refers to AS 18.765.740]

13 ACC 30.060 (g):

*specifically covers revocation if the dept. becomes aware that the person is unqualified for possession due to a physical infirmity, this does not expressly exclude (f) from applying to a mental infirmity.

13 AAC 30.130. QUALIFICATIONS REGARDING SAFE HANDLING OF A HANDGUN.

(b) The department will notify a permittee that it intends to revoke a permit under 13 AAC 30.060(g) or (h) if, after investigation of a report from a criminal justice agency, physician or other medical provider, or member of the general public relating to the handling of a handgun by, or the physical condition of, a permittee, the department has reason to believe that a permittee

(1) suffers from a physical infirmity that may prevent the safe handling of a handgun, the department will use the procedures set out in 13 AAC 30.060(g) to revoke the permit;

(2) is not able to safely or competently handle a handgun, the department will use the procedures set out in 13 AAC 30.060(h) to revoke the permit.

- 13 AAC 30.060 (h) If, under 13 AAC 30.130(b), the department has reason to believe that a permittee is not able to safely or competently handle a handgun, the department will mail or deliver to the permittee a notice that the department intends to revoke the permittee's permit. After mailing or delivery of the notice, the following procedures apply:

[This appears to be a loop – but could feasibly cover federal disqualifications for mental instability as a reason the department would have reason to believe a person could not competently handle a handgun – it may be vague, but mental competency could apply]

13 AAC 30.140. APPLICATION FORMS.

(a) The department will provide application forms for persons to use in applying for a permit, certificate of approval, or other service under this chapter. An application form submitted under this chapter, and any

document accompanying an application form, must be completed in ink.

(b) Along with an application form, the department will provide to an applicant for a permit

(1) a copy of the definitions of the following terms, as set out in 13 AAC 30.900:

- (A) alcohol treatment program;
- (B) convicted;
- (C) felony;
- (D) resident; and
- (F) substance abuse treatment program.

(2) a concise summary of where, when, and by whom a handgun can be carried under state and federal law; and

[If the department has failed to list the federal qualifications for firearm possession, including "mental defectiveness", the department is at fault for not meeting its requirements to inform the permit applicant. Such information is required by state law, and in essence we ARE asking the applicant about their mental health (see permit application sec II question 2), albeit not expressly, and we are not recording their answer. This is not "don't ask, don't tell", this is an inquiry that maintains the privacy of the individual.]

➤ Other

AS 18.65.790. Definitions.

In AS 18.65.700 - 18.65.790,

- (1) "commissioner" means the commissioner of public safety;
- (2) "competence" means the ability to place in a life size silhouette target
 - (A) seven out of 10 shots at seven yards;
 - (B) six out of 10 shots at 15 yards;

[Judge Finn may be using this as rationale to only include physical competence in the department's justifications for revocation. This definition, however, does not exempt the permittee from meeting federal compliance as a condition for state permitting.]

GUN CONTROL ACT OF 1968

SUMMARY

The basic objectives of Title I of the Gun Control Act of 1968 were to ban mail-order sales of firearms and ammunition, confine the purchase of firearms to the buyer's state of residence, and prohibit certain classes of persons from purchasing, receiving or transporting firearms or ammunition in interstate commerce. Specifically, Title I prohibits dealers from selling any firearm or ammunition to any person who is:

- a. convicted of or under indictment for a felony
- b.a fugitive
- c.adjudicated as a mental defective or who has been committed to any mental institution.

In the case that was published in the Saturday edition of the Anchorage Daily News, I believe the Judge overlooked the fact that she could order a psychological evaluation, and the Federal law would have still prevailed in separating this man from his firearm. Once there was any documentation in any medical chart citing that he was "mentally defective" (a term that will, no doubt, sooner or later assume a more politically correct descriptive – in fact the medically accepted term at present is "or has a documented history of mental illness") he would have been excluded from ownership under federal law. I know that even with a temporary restraining order against someone, they must remove their firearms - this seems very similar. The Judge accomplished her goal of public safety, by achieving the same ends – removing the firearm from this man. But I do think the write up treated the 1998 legislation unfairly, since I see other alternatives to the same end.

- d.addicted to or an unlawful user of marihuana or a stimulant, depressant, or narcotic drug.
- e.less than eighteen years of age for the purchase of a shotgun or rifle
- f.less than twenty-one years of age for the purchase of a firearm that is other than a shotgun or rifle

g.a non resident of the State in which the licensee's place of business is located

h.an alien illegally or unlawfully in the United States

i.dishonorably discharged from the armed forces

j.subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner

k.convicted in any court of a misdemeanor crime of domestic violence

Such persons correspondingly are prohibited from purchasing or otherwise acquiring any firearm or ammunition which has been shipped in interstate commerce, and also are prohibited from shipping or transporting any firearm or ammunition in interstate commerce.

The first section prohibits those on the exemption list from purchasing a firearm from a dealer. This section extends that exemption from private purchases as well. This means that persons on the exemption list may legally not own or in any way acquire a firearm.

With certain exceptions-primarily, the purchase of rifles and shotguns-all over-the-counter purchases of firearms by persons other than dealers must be made within the buyer's state of residence. A private individual is prohibited from selling a firearm to any buyer whom he has reason to believe resides in another state. Title I also requires all persons engaged in the business of dealing in firearms to be federally licensed. Dealers must require from all firearms purchasers proof of identity and residence, and buyers must sign under penalty of statement certifying eligibility to purchase.

It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a firearm unless the federal firearms licensee

contacts the national instant criminal background check system via a chief law enforcement officer and receives notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the firearm by the transferee would violate Federal, State, or local law.

Dealers are required to keep records of all firearms and are forbidden from selling handguns to persons under 21, or rifles and shotguns to persons under 18. Additionally, dealers are prohibited from making any sale of firearms or ammunition which would place the buyer in violation of state or local law.

I believe that if state law also covers exemptions for diminished mental capacity, then if a dealer / seller knowingly sold a firearm to someone exempted from ownership for that reason, that the dealer / seller, as well as the transferee would as well be in violation and could face penalties. --

Finally, Title I forbids the importation of some military surplus firearms, and permits importation only of firearms shown to be "particularly suitable for, or readily adaptable for sporting purposes."

Title II of the Gun Control Act of 1968 is a revision of the National Firearms Act of 1934, and pertains to machine guns, short or "sawed-off" shotguns and rifles, and so-called "destructive devices" (including grenades, mortars, rocket launchers, large projectiles, and other heavy ordnance). Acquisition of these weapons is subject to prior approval of the Secretary of the Treasury, and federal registration is required for possession. Generally, a \$200 tax is imposed upon each transfer or making of any Title II weapon.

A violation of most provisions of Title I, or the making of any false statement with respect to information required to be recorded for the acquisition or sale of firearms or ammunition, is punishable by imprisonment for up to five years and a \$5,000 fine.

I think this would pose yet another fine if the purchaser / transferee had provided false information on any written applications in acquiring his firearm, including Hx of mental illness.

Any person convicted of transporting or receiving firearms or ammunition in interstate commerce with intent to commit a felony therewith may be punished by imprisonment for up to ten years, and fined up to \$10,000.

In addition, any firearms "involved in or used or intended to be used in" any violation of Title I, or of any regulation promulgated thereunder, or of any violation of any federal criminal law, is subject to seizure and forfeiture. Any violation of, or *failure to comply with*, any provision of Title II is punishable by imprisonment for up to ten years and a \$10,000 fine. (Emphasis added.)

Administration and enforcement of the Gun Control Act are the responsibility of the Bureau of Alcohol, Tobacco and Firearms, of the U.S. Treasury Department.

(Wagner Case Sample 1)

Dear ADN,

Did I miss something?

When did federal law relinquish its authority to supercede state and local law?

According to everything I see printed regarding the Katie John case it sure hasn't.

Your article last Saturday, **Gun law needs a fix In Alaska, mentally ill can carry concealed weapons**, may have accurately reported the weak arguments made in our appeals court by a well intended yet misinformed Judge Finn. But your reporter forgot to finish the homework assignment.

Alaska law allows a resident to obtain a concealed handgun permit after meeting a prescribed set of requirements including eligibility under federal law to possess a firearm. (Federal law requires that a person be mentally competent to possess a firearm.) State law also requires that a person immediately remit their Concealed Handgun Permit if they become ineligible to possess it. Judge Finn was correct in assuming that she could not revoke Mr. Wagner's permit herself (because AS 18.65.740 (a) reads that "A permit to carry a concealed handgun shall be immediately revoked by the department"). She may have, however, ordered that he undergo a psychological evaluation to discover if he were in fact eligible under federal law to possess a firearm, and upon entering a finding to the contrary, order the department to revoke Mr. Wagner's permit.

I believe it was negligent for you to report that Alaska has a virtual "don't ask, don't tell" policy relating to firearm possession and mental competency. This has created the illusion that a program designed, and statistically proven, to increase public safety is instituted with blatant disregard for that which it was created. Each person who applies for a Concealed Handgun Permit in Alaska must answer (in section II, question 2) in the affirmative as to whether they "are eligible to possess a firearm under the laws of the state and under federal law" before the state may issue that permit. We DO ask this question, and we do so in a fashion that protects the individual's privacy. A dealer or private party who knowingly sells or remits a firearm to a person unqualified to possess one faces penalties. A permit applicant who falsely reports that they are eligible under federal law to possess a firearm also faces a penalty. The Department of Public Safety is required to immediately revoke a permit from a person if the department becomes aware of that individual's ineligibility for any reason. Any permittee who becomes ineligible is required to immediately notify the department, and remit his permit.

I am more than willing to educate your staff to the intricacies of state and federal law regarding handgun possession concealed or otherwise in order to prevent the further dispersal of misinformation. Let's start working on that correction / retraction.

XXXXXX

(Wagner Case – Sample 2 – mental health)

As a licensed mental health care professional I was alarmed by last Saturday's article **,Gun law needs a fix In Alaska, mentally ill can carry concealed weapons.** Unless Judge Finn possesses a license by the State of Alaska to diagnose mental illness, she has overstepped her bounds, and should be fined herself. Federal law prohibits any person who has been "adjudicated a mental defective" (and believe me, we need to work on that language as well) from possessing a firearm. Any person in this state who is ineligible to possess a firearm under federal law, is also ineligible to receive a Concealed Handgun Permit. I applaud Judge Finn for her interest in public safety, but I believe that she erred in her choice of means to a noble end. Judge Finn would have been within her jurisdiction to have ordered that a licensed mental health professional evaluate Mr. Wagner, and upon a credible diagnosis of mental illness reported his ineligibility of firearm possession to the department of public safety, who could revoke his permit. The complexities of mental illness are intricate, and often misunderstood. Our state has repeatedly failed to recognize nationally accepted strata of mental health care professionals with regards to licensure, and has now allowed untrained persons in places of political power to assume the role of diagnosing mental illness. Our state has satisfactory laws regarding firearm possession. What we need the legislature to evaluate are the processes that AREN'T working.

XXXXXX

(Wagner Case – Sample 3 – duh)

Dear Editor, (if there is an editor).

Do you check facts at your paper – or just grammar and spelling?
I'll help you out this time, but you only get one freebie, after that I'm freelance.

Gun law needs a fix In Alaska, mentally ill can carry concealed weapons

Possessed a number of errors – so I'll just go over the big ones for you.

1. Under Alaska law, the delusional Mr. Wagner had every right to be packing heat
 - There is no provision under Alaska State Law for mentally ill persons to possess firearms. Federal law prohibits possession of firearms by "mental defectives". (I can supply website addresses and or references if you desire)
2. thanks to a law passed in early 1998, it is perfectly legal for mentally ill people to get and keep concealed weapons permits.
 - See above. An applicant for a CHP must certify under oath that he meets federal requirements for firearm possession.
3. A judge had tried to revoke Mr. Wagner's concealed carry permit on grounds of mental illness. The 1998 law barred the judge from doing so.
 - Federal law delegates the repossession of a firearm to the Bureau of Alcohol Tobacco and Firearms, and or the Department of the Treasury. State Law

delegates that responsibility to the Department of Public Safety. Judge Finn would have been within her jurisdiction to have ordered that the department revoke his permit, or that the permittee remit his weapon to the department rather than to the court. In the event that Mr. Wagner became aware that he did not meet the federal requirements for firearm possession, he is required by both Alaska state law, and his permit to surrender his permit and handgun to the nearest peace officer. In the event that the department becomes aware of a permittee's ineligibility it is required to revoke that permit.

4. This is a no-brainer: Someone who is not in full possession of his mental faculties should not be in possession of a concealed weapon, with all the attendant risks of injury to himself or others.
 - Your reporter is a "no-brainer". Risk of injury to himself or others is the precise reason that federal law exempts a person not in full possession of his mental faculties from the right to possess a firearm.
5. We're all for destigmatizing mental illness and reconsidering restrictions based on old prejudices. But that doesn't mean the state has to give mentally dysfunctional Alaskans the right to carry a gun.
 - The state is in fact prohibited from giving mentally dysfunctional Alaskans the right to carry a gun, concealed or otherwise, under penalty of fine.
6. While we're all thinking a lot about homeland security, this is a question the Legislature should examine again -- soon.
 - We are thinking about homeland security. I submit to you that statistically CHP programs have been shown to create more secure communities, while the widespread propagation of fear inducing misinformation has been shown to have a counter effect.

Please print my letter, and review these discrepancies with your freshman reporter.
XXXXX

Bill Text

BILL ID: HCS CSSB 141(FIN) AM H

00 HOUSE CS FOR CS FOR SENATE BILL NO. 141(FIN) am H

01 "An Act relating to permits to carry concealed handguns; and relating to the
02 possession of firearms."

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

04 * Section 1. AS 11.61.200(a) is amended by adding a new paragraph to read:

05 (12) knowingly possesses a firearm that is concealed on the person after
06 having been convicted of a felony or adjudicated a delinquent minor for conduct that
07 would constitute a felony if committed by an adult by a court of this state, a court of
08 the United States, or a court of another state or territory.

09 * Sec. 2. AS 11.61.200 is amended by adding new subsections to read:

10 (h) For purposes of (a)(12) of this section, a firearm on a person is concealed
11 if it is covered or enclosed in any manner so that an observer cannot determine that
12 it is a firearm without removing it from that which covers or encloses it or without
13 opening, lifting, or removing that which covers or encloses it. A firearm on a person
14 is not concealed if it is unloaded and is encased in a closed container designed for
01 transporting firearms.

02 (i) It is an affirmative defense to a prosecution under (a)(12) of this section
03 that

04 (1) either

05 (A) the defendant convicted of the prior offense on which the
06 action is based received a pardon for that conviction;

07 (B) the underlying conviction upon which the action is based
08 has been set aside under AS 12.55.085 or as a result of post-conviction
09 proceedings; or

10 (C) a period of 10 years or more has elapsed between the date
11 of the defendant's unconditional discharge on the prior offense or adjudication
12 of juvenile delinquency and the date of the violation of (a)(12) of this section,
13 and the prior conviction or adjudication of juvenile delinquency did not result
14 from a violation of AS 11.41 or of a similar law of the United States or of
15 another state or territory; and

16 (2) at the time of possession, the defendant was

17 (A) in the defendant's dwelling or on land owned or leased by

18 the defendant a purtenant to the dwelling; or

19 (B) actually engaged in lawful hunting, fishing, trapping, or
20 other lawful outdoor activity that necessarily involves the carrying of a weapon
21 for personal protection.

22 * Sec. 3. AS 11.61.210(a) is amended to read:

23 Sec. 11.61.210. Misconduct involving weapons in the fourth degree. (a)

24 A person commits the crime of misconduct involving weapons in the fourth degree if
25 the person

26 (1) possesses on the person, or in the interior of a vehicle in which the
27 person is present, a firearm when the person's physical or mental condition is impaired
28 as a result of the introduction of an intoxicating liquor or a controlled substance into
29 the person's body in circumstances other than described in AS 11.61.200(a)(7);

30 (2) discharges a firearm from, on, or across a highway;

31 (3) discharges a firearm with reckless disregard for a risk of damage
01 to property or a risk of physical injury to a person;

02 (4) manufactures, possesses, transports, sells, or transfers metal
03 knuckles;

04 (5) manufactures, sells, or transfers a switchblade or a gravity knife;

05 (6) knowingly sells a firearm or a defensive weapon to a person under
06 18 years of age;

07 (7) other than a preschool, elementary, junior high, or secondary school
08 student, knowingly possesses a deadly weapon or a defensive weapon, without the
09 permission of the chief administrative officer of the school or district or the designee
10 of the chief administrative officer, within the buildings of, on the grounds of, or on the
11 school parking lot of a public or private preschool, elementary, junior high, or
12 secondary school, on a school bus while being transported to or from school or a
13 school-sponsored event, or while participating in a school-sponsored event, except that
14 a person 21 years of age or older may possess

15 (A) a deadly weapon, other than a loaded firearm, in the trunk
16 of a motor vehicle or encased in a closed container in a motor vehicle;

17 (B) a defensive weapon;

18 (C) an unloaded firearm if the person is traversing school
19 premises in a rural area for the purpose of entering public or private land that
20 is open to hunting and the school board with jurisdiction over the school
21 premises has elected to have this exemption apply to the school premises; in
22 this subparagraph, "rural" means a community with a population of 5,500 or
23 less that is not connected by road or rail to Anchorage or Fairbanks or with a

24 population of 1,500 or less that is connected by road or rail to Anchorage or
25 Fairbanks; or

26 (8) being a preschool, elementary, junior high, or secondary school
27 student, knowingly possesses a deadly weapon or a defensive weapon, within the
28 buildings of, on the grounds of, or on the school parking lot of a public or private
29 preschool, elementary, junior high, or secondary school, on a school bus while being
30 transported to or from school or a school-sponsored event, or while participating
31 in a school-sponsored event, except that a student may possess a deadly weapon, other
01 than a firearm as defined under 18 U.S.C. 921, or a defensive weapon if the student
02 has obtained the prior permission of the chief administrative officer of the school or
03 district or the designee of the chief administrative officer for the possession.

04 * Sec. 4. AS 11.61.220(a) is amended to read:

05 (a) A person commits the crime of misconduct involving weapons in the fifth
06 degree if the person

07 (1) knowingly possesses a deadly weapon, other than an ordinary
08 pocket knife or a defensive weapon, that is concealed on the person;

09 (2) knowingly possesses a loaded firearm on the person in any place
10 where intoxicating liquor is sold for consumption on the premises;

11 (3) being an unemancipated minor under 16 years of age, possesses a
12 firearm without the consent of a parent or guardian of the minor;

13 (4) knowingly possesses a firearm

14 (A) within the grounds of or on a parking lot immediately
15 adjacent to a center, other than a private residence, licensed under AS 47.33 or
16 AS 47.35 or recognized by the federal government for the care of children; or

17 (B) within a

18 (i) courtroom or office of the Alaska Court System;

19 or

20 (ii) courthouse that is occupied only by the Alaska

21 Court System and other justice-related agencies;

22 (C) within a domestic violence or sexual assault shelter that

23 receives funding from the state; or

24 (5) possesses or transports a switchblade or a gravity knife.

25 * Sec. 5. AS 11.61.220(b) is amended to read:

26 (b) In a prosecution under (a)(1) of this section, it is an affirmative defense
27 that the defendant, at the time of possession, was

28 (1) in the defendant's dwelling or on land owned or leased by the
29 defendant appurtenant to the dwelling;

30 (2) actually engaged in lawful hunting, fishing, trapping, or other lawful
31 outdoor activity that necessarily involves the carrying of a weapon for personal
01 protection; [OR]

02 (3) the holder of a valid permit to carry a concealed handgun under
03 AS 18.65.700 - 18.65.790, the [DEADLY] weapon [CONCEALED] was a concealed
04 handgun as defined in AS 18.65.790, and the possession did not occur in a
05 municipality or established village in which the possession of concealed handguns is
06 prohibited under AS 18.65.780 - 18.65.785; or

07 (4) the defendant was considered a permittee under AS 18.65.748
08 and

09 (A) the weapon was a concealed handgun as defined in
10 AS 18.65.790; and

11 (B) the possession did not occur in a municipality or
12 established village in which the possession of concealed handguns is
13 prohibited under AS 18.65.780 - 18.65.785.

14 * Sec. 6. AS 11.61.220(c) is amended to read:

15 (c) The provisions of (a)(2) [(a)(1), (2),] and (4) of this section do not apply
16 to a peace officer acting within the scope and authority of the officer's employment.

17 * Sec. 7. AS 11.61.220(d) is amended to read:

18 (d) In a prosecution under (a)(2) of this section, it is

19 (1) an affirmative defense that

20 (A) the defendant, at the time of possession, was the holder
21 of a valid permit to carry a concealed handgun under AS 18.65.700 -
22 18.65.790 or was considered a permittee under AS 18.65.748;

23 (B) the loaded firearm was a concealed handgun as defined
24 in AS 18.65.790;

25 (C) the possession occurred at a place designated as a
26 restaurant for the purposes of AS 04.16.049 and the defendant did not
27 consume intoxicating liquor at the place; and

28 (D) the possession did not occur in a municipality or
29 established village in which the possession of concealed handguns is
30 prohibited under AS 18.65.780 - 18.65.785;

31 (2) a defense that the defendant, at the time of possession, was on
01 business premises

02 (A) [(1) ON BUSINESS PREMISES] owned by or leased by the
03 defendant; or

04 (B) [(2) ON BUSINESS PREMISES] in the course of the

05 defendant's employment for the owner or lessee of those premises.

06 * Sec. 8. AS 11.61.220 is amended by adding new subsections to read:

07 (h) The provisions of (a)(1) of this section do not apply to a peace officer

08 (1) of this state who is certified by the Alaska Police Standards Council

09 as a peace officer; or

10 (2) employed by another state or a political subdivision of another state

11 who is at the time of the possession certified as a peace officer by the other state and

12 is acting within the scope and authority of the officer's employment.

13 (l) In a prosecution

14 (A) under (a)(4)(B) of this section, it is a defense that the

15 defendant, at the time of possession, was authorized to possess the firearm

16 under a rule of court;

17 (B) under (a)(4)(C) of this section, it is a defense that the

18 defendant, at the time of possession, was authorized in writing by the

19 administrator of the shelter to possess the firearm.

20 * Sec. 9. AS 18.65.700(a) is amended to read:

21 (a) The department shall issue a permit to carry a concealed handgun to a

22 person who

23 (1) applies in person at an office of the Alaska State Troopers;

24 (2) qualifies under AS 18.65.705;

25 (3) submits a completed application on a form provided by the

26 department, that provides the information required under AS 18.65.705 and 18.65.710

27 and is executed under oath; with each application form provided by the

28 department, the department shall provide a copy of the state laws and regulations

29 relating to concealed handguns, which must include a concise summary of where,

30 when, and by whom a handgun can be carried under state and federal law;

31 (4) submits two complete sets of fingerprints on Federal Bureau of

01 Investigation approved fingerprint cards that are of sufficient quality so that the

02 fingerprints may be processed; the fingerprints must be taken by a person, group, or

03 agency approved by the department; the department shall maintain a list of persons,

04 groups, or agencies approved to take fingerprints and shall provide the list to the

05 public upon request;

06 (5) submits evidence of competence with handguns as provided in

07 AS 18.65.715;

08 (6) provides two frontal view color photographs of the person taken

09 within the preceding 30 days that include the head and shoulders of the person and are

10 of a size specified by the department;

11 (7) shows a valid Alaska driver's license or identification card at the
12 time of application;

13 (8) does not suffer a physical infirmity that prevents the safe handling
14 of a handgun; and

15 (9) pays the application fee required by AS 18.65.720.

16 * Sec. 10. AS 18.65.700(b) is amended to read:

17 (b) The department shall either approve or reject an application for a permit
18 to carry a concealed handgun under (a) of this section within 30 [15] days of receipt
19 of [PERMIT ELIGIBILITY INFORMATION FROM THE FEDERAL BUREAU OF
20 INVESTIGATION OR OTHER AGENCY NECESSARY TO MAKE A
21 DETERMINATION CONCERNING] the application. If the department has not
22 received necessary fingerprint eligibility information from another agency by the
23 end of this 30-day period, and the applicant is otherwise eligible, the department
24 shall issue a conditional permit to the applicant subject to immediate revocation
25 under the procedure provided in AS 18.65.740(a) - (c) if the fingerprint
26 information subsequently discloses that the applicant is ineligible for a permit
27 [THE DEPARTMENT SHALL REQUEST PERMIT ELIGIBILITY INFORMATION
28 UNDER THIS SUBSECTION WITHIN FIVE DAYS OF THE RECEIPT OF THE
29 APPLICATION]. The department shall notify the applicant in writing of the reason
30 for a rejection.

31 * Sec. 11. AS 18.65.700 is amended by adding a new subsection to read:

01 (e) The department shall issue a permit to carry a concealed handgun to an
02 honorably retired peace officer of this state who applies for a concealed handgun
03 permit within one year of the officer's retirement and who satisfies the requirements
04 of this subsection. To qualify for a permit under this subsection, an honorably retired
05 peace officer must satisfy (a)(1) - (3) and (6) - (9) of this section and, unless the
06 honorably retired peace officer has qualified with a handgun within five years of the
07 officer's retirement, must also satisfy (a)(5) of this section. The department may not
08 require an honorably retired peace officer applying under this subsection to comply
09 with (a)(4) of this section to receive a permit. The department shall issue the permit
10 without submitting information to or receiving permit eligibility information from the
11 Federal Bureau of Investigation. The department may adopt regulations to define an
12 "honorably retired peace officer" and the evidence that must be submitted to establish
13 eligibility under this subsection.

14 * Sec. 12. AS 18.65.705 is repealed and reenacted to read:

15 Sec. 18.65.705. Qualifications to obtain a permit. A person is qualified to
16 receive and hold a permit to carry a concealed handgun if the person

17 (1) is 21 years of age or older;

18 (2) Is eligible to own or possess a handgun under the laws of this state
19 and under federal law;

20 (3) Is a resident of the state and has been for the 90 days immediately
21 preceding the application for a permit;

22 (4) has not been convicted of two or more class A misdemeanors of
23 this state or similar laws of another jurisdiction within the six years immediately
24 preceding the application;

25 (5) Is not now in and has not in the three years immediately preceding
26 the application been ordered by a court to complete an alcohol or substance abuse
27 treatment program; and

28 (6) has demonstrated competence with handguns as provided in
29 AS 18.65.715.

30 * Sec. 13. AS 18.65.710(a)(3) is amended to read:

31 (3) a statement that the applicant has been furnished with a copy of the
01 state laws and regulations relating to concealed handguns [AS 18.65.700 -
02 18.65.790], has read those sections, and understands them;

03 * Sec. 14. AS 18.65.720 is amended to read:

04 Sec. 18.65.720. Fees. The department shall charge a nonrefundable fee for the
05 processing of the application for and initial issuance of a permit, renewal of a permit,
06 or replacement of a permit. The fees shall be set by regulation and must be based on
07 the actual costs incurred by the department. However, the fee for the processing of an
08 application and initial issuance of a permit may not exceed \$99 [\$125] and the fee for
09 renewal of a permit or replacement of a permit may not exceed \$30 [\$60].

10 * Sec. 15. AS 18.65.735(a) is repealed and reenacted to read:

11 (a) The department shall immediately suspend a permit to carry a concealed
12 handgun if a permittee becomes ineligible to hold a permit under AS 18.65.705.

13 * Sec. 16. AS 18.65.740(a) is amended to read:

14 (a) A permit to carry a concealed handgun shall be immediately revoked by
15 the department when the permittee

16 (1) becomes disqualified to receive and hold a permit under
17 AS 18.65.705;

18 (2) is convicted of two class A misdemeanors of this state or similar
19 laws of another jurisdiction within a six-year [FIVE-YEAR] period if at least one of
20 the convictions occurs after the application;

21 (3) knowingly supplied a false or fraudulent answer, statement, or
22 document, or made a material misstatement or omission, in connection with an

23 application for a permit or renewal or replacement of a permit.

24 * Sec. 17. AS 18.65 is amended by adding a new section to read:

25 Sec. 18.65.748. Permit holders from other jurisdictions considered Alaska
26 permit holders. A person holding a valid permit to carry a concealed handgun from
27 another state or a political subdivision of another state with permit requirements at
28 least as strict as those in AS 18.65.700 - 18.65.790 is a permittee under
29 AS 18.65.700(b) for purposes of AS 18.65.750 - 18.65.765 if the person has not been
30 in Alaska for more than 120 consecutive days.

31 * Sec. 18. AS 18.65.755(a) is repealed and reenacted to read:

01 (a) A permittee may not possess a concealed handgun

02 (1) within a residence, other than the permittee's residence, unless the
03 permittee has first obtained the express permission of an adult residing there to bring
04 a concealed handgun within the residence; and

05 (2) anywhere a person is prohibited from possessing a handgun under
06 state or federal law.

07 * Sec. 19. AS 18.65.790(3) is amended to read:

08 (3) "concealed handgun" means a firearm, that is a pistol or a revolver,
09 and that is covered or enclosed in any manner so that an observer cannot determine
10 that it is a handgun without removing it from that which covers or encloses it or
11 without opening, lifting, or removing that which covers or encloses it; however,
12 "concealed handgun" does not include a shotgun, rifle, [DERRINGER OR OTHER
13 MINIATURE HANDGUN,] or a prohibited weapon as defined under AS 11.61.200
14 [; IN THIS PARAGRAPH,

15 (A) "DERRINGER" MEANS A HANDGUN THAT HAS
16 INDIVIDUAL BARRELS FOR EACH CARTRIDGE IT IS CAPABLE OF
17 FIRING AND LACKS A MANUFACTURER'S INSTALLED TRIGGER
18 GUARD THAT COMPLETELY ENCIRCLES THE TRIGGER AND WHICH
19 IS PART OF THE FRAME; AND

20 (B) "MINIATURE HANDGUN" MEANS A HANDGUN
21 THAT HAS A BARREL LENGTH OF THREE AND ONE-HALF INCHES
22 OR LESS AND LACKS A MANUFACTURER'S INSTALLED TRIGGER
23 GUARD THAT COMPLETELY ENCIRCLES THE TRIGGER AND WHICH
24 IS PART OF THE FRAME];

25 * Sec. 20. AS 18.65.715(b), 18.65.725(a)(3), and 18.65.755(b) are repealed.



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January 28, 2002

The Honorable Robin Taylor
Chair, Senate Judiciary Committee
Alaska State Capitol, Room 30
Juneau, AK 99801-1182

Dear Senator Taylor,

On behalf of the Alaska Outdoor Council Board of Directors, I am writing to express our support for Senate Bill 242 and applaud your efforts in resolving this long-standing matter with the Department of Public Safety (DPS).

Please recall that the Alaska Outdoor Council supported enabling legislation regarding conceal carry reciprocity via Senate Bill 294 nearly two years ago. We share the disappointment expressed by the NRA and scores of Alaska conceal carry permit holders who are unnecessarily being restricted simply by inaction on the part of the Administration.

This is a clear example of "administrative override" whereby the inaction of an agency renders the law ineffective in its spirit and letter. Also, it paints an ambiguous picture for those trying to abide by the law – opening them to prosecution – and penalizes those who would otherwise benefit from its passage.

Again, our appreciation for your efforts on this matter and if you have any questions, don't hesitate to contact me.

Sincerely,

Carl Rosier
President

CC: Representative Beverly Masek (with regard to HB 346 companion bill)
Brian Judy, Alaska Liason, NRA-ILA
Eddie Grasser, Field Representative, NRA, Alaska

*Official State Association of the National Rifle Association
"Protecting your hunting, fishing, trapping, and outdoor heritage since 1953."*