

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 86/2

10321 HOUSE LABOR & COMMERCE 166

HB

74

Alaska State Legislature
House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
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Representative Harry Crawford
District 22

**REPRESENTATIVE HARRY CRAWFORD
SPONSOR STATEMENT for HB74**

HB 74 is designed to extend the sunset date for the licensing board of Barbers and hairdressers until 2005. There is broad support for this measure among all parties affected. This is a simple and necessary bill, and there are no known objections to the bill.

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Representative Harry Crawford
District 22

Memorandum

To: Representative Lisa Murkowski, Chair, Labor and Commerce

From: Representative Harry Crawford

Date: January 23, 2001

RE: HB 74: Sectional Analysis, HB74

Section 1 Amends AS 08.03.010 subsection (c)(4), and extends the date from the year 2001 to 2005.

Audit Report

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
BOARD OF BARBERS AND HAIRDRESSERS
SUNSET REVIEW

October 20, 2000



Audit Control Number:

08-20003-00

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Juneau, Anchorage, or our web site <http://www.legis.state.ak.us/legaud/web/default.htm>.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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October 20, 2000

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
BOARD OF BARBERS AND HAIRDRESSERS
SUNSET REVIEW

October 20, 2000

Audit Control Number

08-20003-00

The objective of the audit was to determine whether the Board of Barbers and Hairdressers' statutory termination date should be extended. Currently, under AS 08.03.010(c)(4) the board terminates on June 30, 2001. As of July 1, 2001, the board will begin its one-year "wrap up" period and, if no action is taken by the legislature, the board will be dissolved at June 30, 2002. We recommend that the legislature extend the board until June 30, 2005.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section of this report.

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Barbers and Hairdressers.

As required by AS 44.66.050(a), the committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(4) states that the board will terminate on June 30, 2001, and will have one year from that date to conclude its affairs.

Objectives

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest and determine if the board has exercised general control over the vocations of barbering, hairdressing and manicuring, and esthetics.¹

The assessment of the operations and performance of the board, was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

Another auditor at our direction and supervision conducted a majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

Our audit reviewed the operations and activities of the Board of Barbers and Hairdressers for the period of FY 98 through FY 00.

During the course of our examination, we reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Compliance with statutes and regulations related to the licensing of barbers, hairdressers, and cosmetologists. Our evaluation addressed consideration of license applications and testing of candidates.
3. Minutes of meetings of the Board of Barbers and Hairdressers.

¹Alaska Statute 13.08.220(4) defines esthetics as meaning "the use of the hands, appliances, cosmetic preparations, antiseptics, or lotions in massaging, cleansing, stimulating, or similar work on the scalp, face or neck, including skin care, make-up, and temporary removal of superfluous hair, for cosmetic purposes for a fee."

During the 2000 session, the legislature expanded the board's authority to include oversight and regulation of body piercing, tattooing and cosmetic coloring of the skin. At the time of fieldwork for this review, the board was in the early stages of developing the necessary regulations and policies regarding these professions. Accordingly, the board activities in this area are not addressed in the review.

4. Annual reports issued by the board.
5. Complaints filed with, or generated by, the Division of Occupational Licensing and the Department of Law.
6. Reading files maintained at the Division of Occupational Licensing.

ORGANIZATION AND FUNCTION

Alaska Statute 08.13.010 establishes the Board of Barbers and Hairdressers. It was established in 1980 as a result of the legislature combining the Board of Barbers and the Board of Hairdressing and Beauty Culture Examiners.

The governor appoints members of the board to serve four year terms. Board terms are staggered in order to promote continuity and enhance historical perspective. In 2000, the legislature increased the size of the board from five to six.

The board is made up of two barbers; two hairdressers; a public member; and the new sixth member an individual licensed to practice either body piercing or tattooing and permanent cosmetic coloring.²

Licensing requirements

In general, under a state law a person may not practice barbering, hairdressing, or esthetics without a license, temporary permit, temporary license, or student permit issued by the board. All such practice must take place in a licensed shop or school licensed under terms set by statute and the board. The board also regulates school operations related to barbering, hairdressing, or esthetics.

As of the date of this report, the board was just beginning to develop regulations and standards for the licensing of body piercing and tattoo/cosmetic colorist practitioners.

Department of Community and Economic Development, Division of Occupational Licensing

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Barbers and Hairdressers. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Board of Barbers and Hairdressers
as of October 1, 2000

Professional Members

Sheryl L. Sutton, Chair, Barber
Lawrence R. Krupa, Barber
Darae Crews, Hairdresser
Rosalyn C. Mullen, Hairdresser
Vacant, Hairdresser

Public Member

Robert Pearson, Public Member

² The statutes define "tattooing and permanent cosmetic coloring" as:

the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into the dermal layer of the skin so as to form indelible marks, figures, or decorative designs for nonmedical purposes.

Alaska Statute 08.01.065, mandates the department, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of fees for applications, examinations, licenses, registration, permits, investigations, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to conduct an investigation on its own initiative or in response to a complaint.

REPORT CONCLUSIONS

In our opinion, the Board of Barbers and Hairdressers should be reestablished. The regulation and licensing of qualified barbers, hairdressers and estheticians is of benefit to the public's health, safety, and welfare. The board benefits the public by establishing minimum educational and experience requirements that provide reasonable assurance that persons licensed are qualified. Assurances that those licensed act in a competent manner is provided by active investigation of complaints conducted by the Division of Occupational Licensing's investigative unit within the Department of Community and Economic Development.

Alaska Statute 08.03.010(c)(4) requires the Board of Barbers and Hairdressers be terminated on June 30, 2001. Under AS 08.03.020, the board has a one-year period to administratively conclude its affairs. We recommend the board's termination date be extended to June 30, 2005.

(Intentionally left blank)

ANALYSIS OF PUBLIC NEED

The following analysis of board activities relate to the "public need factors" set out in the "sunset" review law, AS 44.66.050. The italicized, shaded, and bold face phrases are taken from AS 44.66.050 (c) (1) – (9). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

Determine the extent to which the board, commissions, or program has operated in the public interest.

Alaska Statute 08.13.040 requires that the Board of Barbers and Hairdressers administer the examination semi-annually. The Board of Barbers and Hairdressers has administered the examination on an average of six times a year in Anchorage and three times a year in both Fairbanks and Juneau.

The board successfully implemented changes and modifications to regulations and statutes that govern the field of barbering and hairdressing. The new modifications to the statutes and regulations are:

1. Additional statutes, which allow the board to regulate the licensing of manicurists and nail care technicians. This legislation allows the board to regulate nail care professionals specifically in the realm of health and safety, further providing a benefit to the public.
2. Amendment of current legislation regarding student permits, which allow for students to have a temporary permit to work not more than 120 days under a licensed practitioner. This change allows the student to gain practical experience as well as providing themselves with an economic income for a short time period while applying to the board for examination and licensure.

Determine the extent to which the operations of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices, which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

Maintaining full membership on the board has been a problem in the past. The board operated without a public member for all of FY 97 until early in FY 98. Since FY 98 and throughout our review, the board has been operating as designed by statute and regulation with all members appointed, making a conscientious effort to attend all of the board meetings. The licensed hairdresser/esthetician member of the board resigned in November 1999, creating a vacancy on the board. In addition, the passage of new statutes and regulations requiring the board to regulate the field of tattooing, body piercing, and permanent cosmetic coloring, has left the board with an additional vacancy, to be filled by the Office of the Governor.

The lack of board members impacts the board's ability to effectively regulate the profession and increases the risk of not having a quorum if a board member cannot attend a meeting, resigns, or becomes seriously ill. The vacancy in the hairdresser/licensed esthetician position results in the board no longer possessing adequate expertise to regulate and fulfill its responsibilities to the public.

Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

The board supported legislation, which was introduced in 1996 and again in 1998 that expands the mandate of the board to regulate and license nail care professionals. The legislation is consistent with the current statute for barbers and hairdressers and allows the board to regulate the profession with the same consistency, in the same manner in which it currently oversees the other license-holders under its purview. Legislation to regulate the nail-care profession within the State of Alaska, was adopted by the legislature in FY 99.

The board supported additional legislation, which was introduced in 1998 that combines the hairdresser and cosmetology licenses and creates a separate esthetician license for those choosing to have an exclusive "skin-care only" license. This legislation is consistent with the current statute that regulates barbers and hairdressers in the State of Alaska as well as various other states that have a combined cosmetology and hairdresser license. Legislation regulating the esthetician license "skin-care only" was adopted by the legislature in FY 99; legislation regulating hairdresser licenses and combining the cosmetology and hairdressers license remains pending as a recommendation from the Board of Barbers and Hairdressers to the Alaska State Legislature.

Determine the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of services, economy of service, and availability of services that it has provided.

The location, date and time of upcoming board meetings and notices of proposed changes in regulations are published in the *Anchorage Daily News*, the *Fairbanks Daily News-Miner* and the *Juneau Empire*. The board's meeting agenda sets aside adequate time for the board to take public comment, and public comment is actively encouraged by the board any time the public feels it is relevant to the issues at hand. Minutes of the board meetings reflect public participation throughout the meeting.

Determine the extent to which the board has encouraged public participation in the making of its regulations and decisions.

Meetings were adequately advertised and time was set aside for public testimony. The board actively encourages public testimony any time that the public testimony is relative to the issues and topic at hand or will enhance the decision making process. A review of the minutes of board meetings provided public comment throughout the meeting, that is not

limited to the scheduled public comment period. Proposed changes to regulations and statutes are subjected to the public participation process.

Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

During the past three fiscal years (FY 98 – FY 00), the Division of Occupational Licensing handled 58 complaints related to activities regulated by the board. Of these 58 complaints, many were generated internally by division staff either through information obtained by the licensing examiner or from routine shop inspections. Of the 58 case investigations that were generated over the last three years, the division has completed 46 investigations as of the date of our audit fieldwork.

Of the 46 investigations, 34 were resolved without board action: through the use of warning letters (7), voluntary compliance (15), determinations of no violation (8), and four other miscellaneous administrative actions (4).

For the 12 cases brought before it, the board issued 9 reprimands, 11 fines, placed 6 licensees on probation, and directed one licensee to pay back fees. There were no license revocations or suspensions.

Determine the extent to which the board regulates entry into an occupation or profession and whether it has presented qualified applicants to serve the public.

For the period reviewed, the board issued the following number of new licenses.

New License and Permits Issued (Exclusive of Renewals)	FY 98	FY 99	FY 00	Total	Current as of June 30, 2000
Barber	17	9	14	40	239
Hairdresser	141	133	147	421	1,945
Esthetician (previously Cosmetologist)	17	24	28	69	326
Instructor	2	5	8	15	155
Shop Owner	75	67	72	214	519
School	-	1	2	3	13
Student Permits	197	192	245	634	-
Temporary Permits	27	13	19	59	-
Temporary Licenses	-	-	9	9	-

Applicants can apply for licensure by examination or by credentials. Applicants by examination are required to take both a written and practical examination administered by the Board of Barbers and Hairdressers. Three people with at least one being a board member score the practical examination.

Staff of the Division of Occupational Licensing is responsible for calculating each examiner's points, by category, and averaging the three examiner's points to arrive at the applicant's final grade.

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board to its own activities and the area of activity or interest.

We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action in qualifying applicants. We found no instances in which the board denied an applicant a license based on personal attributes.

Determine the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the board to better serve the interest of the public and to comply with the factors enumerated in this subsection.

Over the three year period covered by our review (FY 98 – FY 00) the board established seven specific operational objectives. These objectives involved such things as:

1. Making sure board meets an appropriate number of times necessary to conduct its regulatory function.
2. Making examinations more readily available for prospective applicants.
3. Training board members in the administration of licensing examinations.
4. Maintaining representation on national organizations involving regulatory oversight function.
5. Increased communication with schools regarding test results.
6. Support of the investigative effort involving non-licensed activity, etc.
7. Enhanced oversight of schools in meeting their responsibilities to students.

For the most part, the board either accomplished, or made significant strides towards accomplishment of these goals and objectives. In particular we believe the board's efforts to train its own members in the administration of the practical examination and its monitoring of the services and assistance provided to students are of particular note. By taking these actions the board is providing prospective applicants a more fair and consistent licensing and examination process, while at the same time providing some assurance that schools are training them appropriately, and making sure they are being treated fairly.

Tony Knowles, Governor

Alaska

**Department of Community
and Economic Development**

Division of Occupational Licensing

P.O. Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-5437

Email: license@dced.state.ak.us • Website: www.dced.state.ak.us/occ/

November 22, 2000

Legislative Budget and Audit Committee
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811-3300

Dear Ms. Davidson,

Thank you for this opportunity to comment on the Preliminary Audit Report (#08-20003-00). We concur with the report and support the continuation of the Board of Barbers and Hairdressers through June 30, 2005.

A minor correction needs to be made to the list of board members on page 3. As of October 1, 2000, the vacant position was the tattooist or body piercer seat. The board consists of one public member, one tattooist or body piercer, two barbers and two hairdressers, one of whom must also be an esthetician. As of November 22, all board seats are filled.

Again, thank you for this opportunity to comment.

Sincerely,



Catherine Reardon
Director

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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November 22, 2000

Members of the Legislative Budget
and Audit Committee:

We have reviewed the response and acknowledge the correction made by the department regarding the composition of the board as of October 1, 2000.

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson
Legislative Auditor

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: HB 74
 () Publish Date: _____

Revision Date/Time (Note if correction): 1/26/2001 8:12AM Dept. Affected: DCED
 Title: An Act extending the termination date of the BRU: Occupational Licensing
Board of Barbers and Hairdressers Component: Occupational Licensing
 Sponsor: Representative Crawford
 Requester: House Labor and Commerce Component Number: 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0		

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0		
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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						
1156 RSS						
TOTAL	0.0	0.0	0.0	0.0		

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 The bill extends the Board of Barbers and Hairdressers to June 30, 2005. Funding for the board is included in the FY 2002 Operating Budget request and new funds are not required. For informational purposes, the attached page shows expenditure and revenue information for the last two fiscal years.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division: Occupational Licensing Date/Time 1/26/2001 8:12p.m.
 Approved by: Commissioner Deborah B. Sedwick Date 1/26/2001
 Agency: Department of Community and Economic Development

For distribution information, call the Governor's Legislative Office

ANALYSIS: (continued)

HB 74: An Act extending the termination date of the Board of Barbers and Hairdressers

Page 2 of 2

FY 1999 Expenditures

FY 2000 Expenditures

Personal Services:

Direct	48,563.95	64,571.87
Indirect	91,585.18	95,937.69

Travel:

Direct	5,525.64	4,102.67
Indirect	1,293.75	912.70

Contractual Services:

Direct	16,142.49	25,332.57
Indirect	51,159.85	63,713.76

Supplies:

Direct	266.60	164.50
Indirect	6,468.04	5,442.99

Equipment

Direct	0.00	0.00
Indirect	4,618.76	2,402.29

TOTAL:	225,624.26	262,581.04
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REVENUE:	65,949.00	386,439.69
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HB

80

AMENDMENT #2

OFFERED IN THE HOUSE

BY REPRESENTATIVE HAYES

TO: HB 80

1 Page 1, lines 6 - 7:

2 Delete "alcoholic beverage on premises licensed under this title between the hours of
3 2:00 [5:00] a.m. and 8:00 a.m. each day."

4 Insert "alcoholic beverage on premises licensed under this title between the hours of

5 (1) 3:30 [5:00] a.m. and 8:00 a.m. on Saturday or Sunday; and

6 (2) 2:00 a.m. and 8:00 a.m. on every other day of the week [EACH

7 DAY]."

8

9 Page 1, lines 10 - 11:

10 Delete "alcoholic beverages on the licensed premises between the hours of 2:00
11 [5:00] a.m. and 8:00 a.m. each day."

12 Insert "alcoholic beverages on the licensed premises between the hours of

13 (1) 3:30 [5:00] a.m. and 8:00 a.m. on Saturday or Sunday; and

14 (2) 2:00 a.m. and 8:00 a.m. on every other day of the week [EACH

15 DAY]."

16

17 Page 1, line 14:

18 Delete "2:00"

19 Insert "(1) 3:30"

20

21 Page 2, line 1:

22 Delete "each day"

23 Insert "on Saturday or Sunday; and (2) 2:00 a.m. and 8:00 a.m. on every other
24 day of the week [EACH DAY]"

WASILLA POLICE DEPARTMENT

Statistics for 2nd Quarter of 1997 and 1998 Comparatively

Arrest data 1997			Arrest data 1998			
April	May	June	April	May	June	1998
53	54	51	93	75	63	54% increase from 1997

Defendant Residence Location

Wasilla	Other	Month	Outside City Res	Wasilla	Other	Month	Outside City Res
36	15	June	41%	48	15	June	31%
47	7	May	15%	62	13	May	21%
46	7	April	15%	74	19	April	26%

Type of Arrest

April	DWI	23	April	42	Warrants
May	DWI	17	May	24	Warrants
June	Warrants	17	June	19	DWLS/ Warrants

Stat Spotlight on April 1998

Total Arrests	166		Average value of property lost per crime \$104.86
Juveniles	47	Avg Age 16	47% clearance rate during this month
Adults	119	Avg Age 30-34	

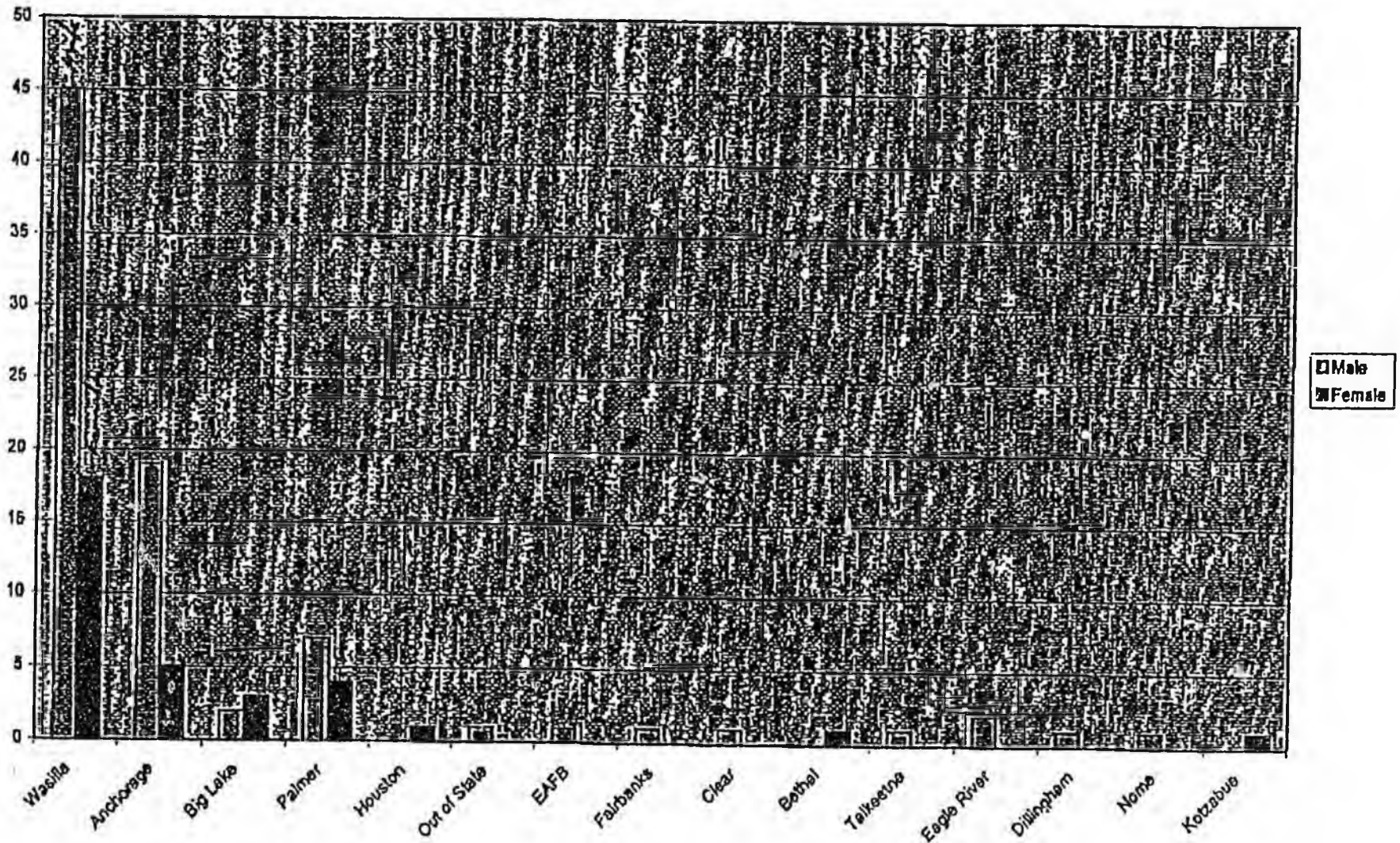
Most common crimes for juveniles, Larceny, Vandalism, Burglary

Most common crime for adults, Assault, Larceny and DWI's

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WASILLA PD
(288) 1901 371 1811
P.000/000

Wasilla Police Department
DWI's by Address of Arrestee
8/1/00 - 1/31/01 - 7 months



Address	Male	Female
Wasilla	45	18
Anchorage	19	5
Big Lake	2	3
Palmer	7	4
Houston		1
Out of State	1	
EAFB	1	
Fairbanks	1	
Clear	1	
Bethel		1
Talkeetna	1	
Eagle River	2	
Dillingham	1	
Nome	1	
Kotzebue		1

STATE OF ALASKA

ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 110608
JUNEAU, AK 99811-0608

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March 22, 2001

The Honorable Lisa Murkowski, Chair;
Members of House Labor and Commerce
Alaska State Capitol
Juneau, Alaska 99801

Dear Ms. Murkowski:

The Advisory Board on Alcoholism and Drug Abuse encourages your support of HB 132 Liquor License Applicant Check/Training. This legislation would strengthen support for local option communities by reducing the amount of alcohol allowed for personal possession, and the amount allowed for shipment to areas with restrictions on the sale of alcohol, by half the current amount.

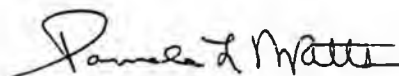
Communities would have increased control over alcohol brought into their communities by requiring purchaser identification by a special identification card, recording of purchases, with records available for inspection by peace officers.

Liquor license applicants would be required to submit fingerprints for the purpose of conducting a criminal history background check, and relates to the use of criminal justice information by the Alcohol Beverage Control Board in approving license applicants. It would also allow the Board to check FBI files in addition to state records. The bill provides for a review of alcohol server education courses by the ABC board every two years.

The Advisory Board on Alcoholism and Drug abuse believes the measures contained in this legislation will assist local option communities in regulating and monitoring the importation of alcohol thereby helping to reduce the negative consequences brought on by alcohol.

Your support for passage of this bill is appreciated.

Respectfully,



Pamela L. Watts
Executive Director

Ms Lisa Murkowski
Labor & Commerce Committee
House of Representatives
State of Alaska

SUBJECT: House Bill 80 (Proposed)

Dear Ms. Murkowski

In 1996, the cities of Wasilla and Palmer both went through a similar proposal. A problem must be defined before a new law is proposed. Residents of the valley were made aware of Mr. Ogan's proposal by way of a newspaper article addressing DWI's and people coming from Anchorage to the valley to drink.

I wrote to Scott Ogan with copies to my representative, Ms Beverly Masek, and Senators Rick Halford and Lyda Green addressing my concerns on 1-29-01 and again on 2-27-01. My second correspondence contained over 1500 signatures of individuals objecting to Proposed HB 80. Today I hold over 700 additional signatures that also oppose such legislation. These are being sent to Mr. Ogan, representatives and senators of the valley also.

I was upset that Mr. Ogan would make such a proposal without talking to the liquor establishments in the valley, the city council, the city assembly or either police chiefs to get their input. Statements of generality without specifics cause people to react with good intentions but poor results.

DWI's have been reduced from the 1996 study in the valley by good working relations between the city police departments, bar owners, cab services and the community itself. As long as alcohol is available DWI's will occur to some extent. Most alcohol related accidents are caused by repeat offenders who will drink no matter what the bar hours are. I have heard of DWI convictions as high as 12. How can this be? Will closing bars at 2AM change this? There is a problem with the system and it is not that bars are open after 2AM.

Information gathered in 1996 from the APD traffic division and the captain of the vice division showed that the number of DWI's did not change with the reduced hours, but were only a measure of enforcement. The more officers on the streets looking for DWI's the more arrests made. Restriction of bar hours created a new set of problems. After hours clubs appeared, gambling, drugs and prostitution with liquor being given away were their business. From police information these clubs are very secretive and difficult to eliminate. Also it is only a misdemeanor when charged. There is already rumor of an upcoming club in the valley as soon as the Frontiersman published the subject article.

No one takes responsibility for the amount of alcohol consumed in house parties, after hours clubs, or parking lots. Isn't it better to have responsible bar owners? If a bar owner is not responsible then deal with them. Do not make across the board laws that have negative consequences.

By closing bars at 2AM in Wasilla, we will create the problem of cab shortages with mass exodus. Our bar normally has over 200 people at 2AM, which will cause pandemonium with both bar personnel and city police trying to control these people. Last call will cause customers to "slam" their final drinks. Parking lot drinking after hours and other non-controlled drinking areas will increase dramatically.

By leaving closure hours as they are, people wind down, leave more orderly, can be managed by bar personnel, cab services and police. At present, our bar normally has between 20 and 50 customers leaving at 4:30AM when alcohol is stopped being served and completely vacate the premises before 5AM. Even with this routine, at times, cab service is limited. In that case, customers awaiting cab service are ordered to wait in the heated arctic entry and are watched by bar personnel.

There is also a people's rights issue. Most people have an 8AM to 5 PM job. To tell the rest of society who work evening shifts, or who do not have to work that they cannot have a drink, (alcoholic or otherwise,) or socialize after 2AM is socialistic at best. As long as these people do not hurt someone else they should be able to do what they want. If they cause a problem they should be dealt with.

We do not need to change the law. We need to address the offenders in a way they cannot hurt someone else. It would be too easy to reduce bar hours across the state and turn our heads from the real problem of alcohol abuse at any hour.

I would be more than happy to work on a committee to evaluate problems associated with DWI's and how they can be reduced. I would not be opposed to some type of mandatory blood alcohol test for every customer who is planning on driving from a bar.

Thank you for your consideration.

Yours truly,



MICHAEL T. LOHMAN
President, M. Lohman Investments Inc.

C.C.

Scott Ogan, Representative, District 27
Beverly Masek, Representative, District 28
Vic Kohring, Representative, District 26
Lyda Green, Senator, District N
Sarah Palin, Mayor, Wasilla
Rick Halford, Senator, District M
Kace' McDowell, CHARR

1998 ALASKA TRAFFIC ACCIDENTS

October 1999

ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
Headquarters, Division of Statewide Planning
3132 Channel Drive, Juneau, Alaska 99801-7898 (907) 465-2171

In Cooperation with
FEDERAL HIGHWAY ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION

Table G.3.1
 1998 Alaska Alcohol-Related Traffic Accidents
 by Time of Day and Accident Severity — All Vehicles

TIME PERIOD	NUMBER OF ACCIDENTS				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
12 - 1:59 a.m.	95	62	18	6	181
2 - 3:59 a.m.	67	60	12	4	143
4 - 5:59 a.m.	34	23	5	3	65
6 - 7:59 a.m.	20	16	4	—	40
8 - 9:59 a.m.	10	15	2	2	29
10 - 11:59 a.m.	10	13	1	1	25
12 - 1:59 p.m.	34	17	2	1	54
2 - 3:59 p.m.	33	23	5	1	62
4 - 5:59 p.m.	48	34	14	—	96
6 - 7:59 p.m.	66	39	20	5	130
8 - 9:59 p.m.	67	53	11	2	133
10 - 11:59 p.m.	73	55	28	1	157
ALL DAY	557	410	122	26	1,115

Table G.3.2
 1998 Alaska Alcohol-Related Traffic Accidents
 Percent by Time of Day and Accident Severity— All Vehicles

TIME PERIOD	PERCENT BY TWO-HOUR PERIOD				ALL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
12 - 1:59 a.m.	17.1	15.1	14.8	23.1	16.2
2 - 3:59 a.m.	12.0	14.6	9.8	15.4	12.8
4 - 5:59 a.m.	6.1	5.6	4.1	11.5	5.9
6 - 7:59 a.m.	3.6	3.9	3.3	—	3.6
8 - 9:59 a.m.	1.3	3.7	1.6	7.7	2.6
10 - 11:59 a.m.	1.3	3.2	0.9	3.3	2.2
12 - 1:59 p.m.	6.1	4.1	1.6	3.9	4.9
2 - 3:59 p.m.	5.9	5.6	4.1	3.3	5.6
4 - 5:59 p.m.	8.6	9.3	11.5	—	9.6
6 - 7:59 p.m.	11.3	9.5	16.4	19.2	11.7
8 - 9:59 p.m.	12.0	12.9	9.0	7.7	11.9
10 - 11:59 p.m.	13.1	13.4	23.0	3.3	14.1
ALL DAY	100.0	100.0	100.0	100.0	100.0

To the House Labor and Commerce Committee members:

If we want to prevent drinking and driving then we have to reduce-high risk drinking and reduce the number of problem drinkers.

It was asked in the last public hearing on HB 80 when alcohol related traffic deaths occur. The attached table clearly demonstrates that 37.4% of the traffic deaths occur in the early morning hours. 26% occur between 2am and 6am. We can reduce the carnage on the roads by closing the alcohol outlets at the same time.

This legislation is 1 piece of the "puzzle". It is about reducing the damage to all of us from all transportation injuries that occur between communities that close one hour and use a boat, car, ATV, or snowmachine to get to another community that stays open later. Three examples where problems are reported are Anchorage, Fairbanks and Nome.

This policy is fair in that it provides the same protections to all of us. It does not single out any one individual. **As long as the second hand effects of alcohol threatens community space; roadways, waterways, offroads, and crisis is paid for by public money, then it is a statewide control issue not local control.**

Joan Diamond
Injury Prevention Specialist
Public Health
343-6583

Post-It™ Fax Note	7671	Date	3/22	# of pages	2
To	ALASKA	From	Joan Diamond		
Co./Dept.	LSC committee	Co.	DAHS		
Phone #	465-3283	Phone #	343-6583		
Fax #	465-2793	Fax #	249-7376		

2-2001 THU 08:53 AM DOT&PF

FAX NO. 907 485 8984

P. 02

	number of fatal alcohol related crashes			3 yr by time	3 yr percent
	1997	1998	1999		
midnight to 2	3	8	8	17	19.3%
2 to 4 am	6	4	6	15	17.0%
4 to 6 am	4	2	2	8	9.1%
6 to 8 am	1	0	0	1	1.1%
8 to 10 am	2	1	0	3	3.4%
10 to noon	0	1	1	2	2.3%
noon to 2 pm	1	1	2	4	4.5%
2 to 4 pm	1	0	1	2	2.3%
4 to 6 pm	4	0	2	6	6.8%
6 to 8 pm	5	5	3	13	14.8%
8 to 10 pm	3	2	2	7	8.0%
10 pm to midnight	3	1	5	9	10.2%
unk	1	0	0	1	1.1%
all day	33	23	32	88	100.0%

To Labor & Commerce Committee

Source -

DOT (prepared 3/21/01)
Division of statewide Planning
Alaska

PAGE 1



Alaska State Legislature

Please enter into the record my testimony to the House Labor & Commerce committee name

committee on HB 80 , dated 3-14-01
bill/subject

WE, MARILYN & TED ANDERSON, OWNERS/OPERATORS OF THE MUG-SHOT SALOON & NOBODY'S INN ^{WASILLA} OPPOSE HB 80 FOR THE FOLLOWING REASONS. EVEN THOUGH THE MUG-SHOT SALOON OPERATES HOURS OTHER THAN THOSE PROPOSED IN HB 80 WE DO THIS MAINLY FOR SECURITY REASONS. WE HAVE SOMEONE ON THE PREMISES 24 HRS. A DAY TO PROTECT AGAINST THEFT, VANDALISM, FIRE ETC. WE HAVE BEEN IN THE BAR BUSINESS FOR APPROX. 25 YRS. THIS ISSUE IS A FREEDOM ISSUE TO MAKE BUSINESS DECISIONS AS LICENSE BUSINESS PEOPLE & FREEDOM OF EACH CITY TO MAKE THEIR OWN DECISIONS AS A COMMUNITY. THE STATE OF ALASKA ALREADY HAS GUIDELINES IN PLACE ENOUGH IS ENOUGH WE OPERATED A LICENSED BAR IN MINNESOTA FOR 3 YRS

Signed: _____

Testifier

Representing (Optional)

Address

Phone No.

CORRECTION

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



Central Microfilm Services
Department of Education & Early Development
State of Alaska

PAGE 1



Alaska State Legislature

Please enter into the record my testimony to the House Law & Commerce committee name
committee on HB 80 , dated 3-14-01
bill/subject

WE, MARILYN & TED ANDERSON, OWNERS/OPERATORS OF THE MUG-SHOT SALOON & NOBODY'S INN ^{WASILLA} OPPOSE HB 80 FOR THE FOLLOWING REASONS. EVEN THOUGH THE MUG-SHOT SALOON OPERATES HOURS OTHER THAN THOSE PROPOSED IN HB 80 WE DO THIS MAINLY FOR SECURITY REASONS. WE HAVE SOMEONE ON THE PREMISES 24 HRS. A DAY TO PROTECT AGAINST THEFT, VANDALISM, FIRE ETC. WE HAVE BEEN IN THE BAR BUSINESS FOR APPROX. 25 YRS. THIS ISSUE IS A FREEDOM ISSUE TO MAKE BUSINESS DECISIONS AS LICENSE BUSINESS PEOPLE & FREEDOM OF EACH CITY TO MAKE THEIR DECISIONS AS A COMMUNITY. THE STATE OF ALASKA ALREADY HAS GUIDELINES IN PLACE ENOUGH IS ENOUGH WE OPERATED A LICENSED BAR IN MINNESOTA FOR 3 YRS

Signed: _____
Testifier

Representing (Optional)

Address

Phone No.

PAGE 2



Alaska State Legislature

Please enter into the record my testimony to the _____ committee name

committee on _____, dated _____ bill/subject

THE HOURS THERE WERE 8:00 A.M. TO 1:00 A.M. TATTONS
 THERE WOULD TRY + GET DOWN AS MUCH ALCOHOL AS
 POSSIBLE BEFORE CLOSING HOURS + THEN WOULD LEAVE
 FOR AFTER HOUR BARS OR CLUBS. ALL BARS WOULD EMPTY
 AT THE SAME TIME. I BELIEVE YOU CAN IMAGINE THE
 MESS + CONGESTION THIS SCENARIO CAN CAUSE + MANY
 TIMES DID. I HAVE DRIVEN SEVERAL TIMES, BOTH WEEK
 DAYS + WEEKENDS AROUND THE VALLEY + TRAFFIC IS
 ALMOST NON EXISTENT. CARS, LOCAL POLICE CARS + VERY
 FEW OTHERS ARE ON OUR HIGHWAYS BETWEEN 2:00 A.M. +
 5:00 A.M. WE SERVE VERY FEW ANCHORAGE RESIDENTS,
 THAT ARE NOT STAYING IN THE VALLEY, THAT WE KNOW TO
 BE DRIVING BACK TO ANCHORAGE, TO OUR KNOWLEDGE THIS IS
 A VERY RARE OCCURANCE. THE REASONING BEHIND HB80 IS
 FAULTY + NOT SUPPORTED BY FACT. OUR FREEDOM OF CHOICE
 IS IMPORTANT + OUR RIGHT PLEASE DON'T TAKE ANY MORE
 AWAY FROM US OR YOURSELVES. WE ALSO CONCUR WITH MIKE
 LOHMAN'S TESTIMONY.

Signed: _____

Testifier

Representing (Optional)

Address

Phone No.

HL4C

HB 80

MICHAEL T. LOHMAN
M. LOHMAN INVESTMENTS INC.

574 Paystreak Cr.
Wasilla, AK. 99654
(907) 376-0948

January 29, 2001

Mr. Scott Ogan
State of Alaska
Representative District 27

Subject: Proposed House Bill 80

Having to write this letter to you highly upsets me. Not that someone wants to reduce speeding, drunken driving and accidents on the highway but finding out by way of the newspaper that you appear to know what is best for Alaskans without their input. That is not what our Party stands for.

The reason both my wife and myself have supported you, by addressing those we can influence directly and those we may influence indirectly by carrying your signs, is that you appeared to stand for individuals rights.

In 1996 both the Palmer assembly and the Wasilla City Council addressed the same subject you are recreating. The Wasilla Mayor at the time ran into opposition by the way he handled the issue very similar to what you have done; proposing legislation with very few facts and no input from the people. A lot of testimony was heard by the City Council from people supporting and opposing the proposed City ordinance. The proposal did not pass the Palmer Assembly nor the Wasilla City Council.

As president of the corporation owning Hotshot & Cinnamons Wasilla Bar I take a lot of personal responsibility, along with my wife, in ensuring that not only the laws of the State of Alaska dealing with the sale of alcoholic beverages on premises are complied with, but go beyond legal requirements in our management duties.

I only wish that before you proposed this law that you would have asked for input as to a perceived problem before creating issues that are of greater concern to our community.

Once again there are existing laws addressing this subject. Maybe it would be helpful to you and others to see what really goes on at our bar between 2am and 5am.

Do you really believe that closing bars at 2am will reduce drunk driving? What about drug laws, gun laws, driving without a license and other laws that can't be controlled adequately?

Have you considered the number of people who drive from the valley to Anchorage to go to night clubs, music concerts and sporting events where alcohol is sold. What do you propose to do to stop that? Have you heard of after hours clubs and understand their consequences?

Did you ever look at the chart that was used by ex Mayor Stein and his Chief of Police Earl Stambaugh addressing DWI arrest hours and compare it to the chart compiled by Chief Charlie

HL KC

HR 80

MICHAEL T. LOHMAN
M. LOHMAN INVESTMENTS INC.

574 Paystreak Cr.
Wasilla, AK. 99654
(907) 376-0948

February 27, 2001

Mr. Scott Ogan
State of Alaska
Representative District 27

Subject: Proposed House Bill 80

On January 29, 2001, I sent you a letter of opposition to proposed House Bill 80. Since that time I have gathered over 1,500 signatures of persons in the area who also oppose your proposal. Attached are those signatures.

I will continue to gather signatures and inform people of the proposal. You might be interested to know that many of those who I am in contact with, want to know who is proposing this change and then who is Scott Ogan. I would have thought your constituents would have known who their representative is or the representative in the adjoining District. At the least, this issue is getting people to take an interest in who represents them.

Yours Truly,

Michael T. Lohman

M. Lohman Investments Inc.

C.C.

Beverly Masek, Representative District 28 w/ att

Vic Kohring, Representative District 26 w/o att

Lyda Green, Senator District N w/o att

Sarah Pailn, Mayor City of Wasilla w/o att

Bar Owners - Mat su Valley w/o att

Kac'e Mc Donald, CHARR w/0 att

OFFICE OF THE
CITY CLERK AND COUNCIL

CITY OF WASILLA
290 E. Heming Ave.
Wasilla, AK 99654-7091
Phone: (907) 373-9090
Fax: (907) 373-9092

February 28, 2001

The Honorable Lisa Murkowski
House of Representatives
House Labor and Commerce Committee Chair
Alaska State Legislature
Mailstop: 3100
State Capitol, Juneau, AK 99801-1182

RE: House Bill 80

Dear Representative Murkowski:

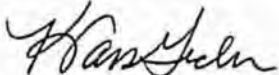
Enclosed you will find a copy of Resolution Serial No. 01-07, adopted by the Wasilla City Council on February 26, 2001. The resolution opposes House Bill 80, relating to the hours during which the sale of alcohol and entry on licensed premises is allowed.

I understand that House Bill 80 is currently under review by the House Labor and Commerce Committee and I would very much appreciate you sharing the resolution with all committee members.

Thank you so much for your assistance in this matter.

Sincerely,

CITY OF WASILLA



Kristie L. VanGorder, CMC
City Clerk

Enc: Resolution Serial No. 01-07

cc: Senator Rick Halford
Senator Lyda Green
Representative Vic Kohring
Representative Beverly Masek
Representative Scott Ogan

Requested by: Council Member Patrick
Prepared by: Deputy Clerk
Adopted: February 26, 2001
Vote: Unanimous; Lowe absent

**CITY OF WASILLA
RESOLUTION SERIAL NO. 01-07**

**A RESOLUTION OF THE WASILLA CITY COUNCIL OPPOSING HOUSE BILL 80,
RELATING TO THE HOURS DURING WHICH SALE OF ALCOHOL AND ENTRY ON
LICENSED PREMISES IS ALLOWED.**

WHEREAS, the city of Wasilla has allowed licensed alcohol beverage dispensaries open from 8 a.m. to 5 a.m. daily; and

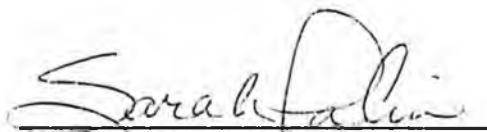
WHEREAS, the city of Wasilla continues to allow the sale of alcohol from 8 a.m. to 5 a.m.; and

WHEREAS, the hours during which the sale of alcohol and entry on licensed premises should be a decision of local communities; and

WHEREAS, the Wasilla City Council supports alcohol control at a local level.

NOW THEREFORE BE IT RESOLVED that the Wasilla City Council opposes House Bill 80, relating to the hours during which sale of alcohol and entry on licensed premises is allowed.

ADOPTED by the Wasilla City Council on February 26, 2001.



SARAH PALIN, Mayor

ATTEST:



KRISTIE L. VANGORDER, CMC
City Clerk

[SEAL]

Memorandum

LKA
To: Representative Lisa Murkowski / Chair House Labor and Commerce

From: Representative Scott Ogan / Sponsor HB-80 *EO*

Date: January 19, 2001

Re: Scheduling of HB-80

House Bill 80 was drafted to bring all bars in the state into conformity with the hours of prescribed closure in most major municipalities.

In the end, this measure is strictly a policy call based on whether or not it is the public's best interest to eliminate public alcohol service during early morning hours.

I selected the time frame based on what has been done in Anchorage, Fairbanks, and the Kenai Peninsula to reduce the temptation of travel from one place or another to continue public drinking.

Current state law mandates closure from 5:00 am to 8:00 am so this bill will add three hours more on to that restriction. If this measure passes, public drinking establishments would be closed from 2:00 am through 8:00am.

I would appreciate your taking up HB-80 at your earliest possible convenience.

Thank you.

Scott Ogan



Sponsor Statement HB 80

Representative Scott Ogan

I introduced HB 80 to put into place a uniform state law regarding bar closures and reduce the number of problem drinkers in public places.

The high costs of *problem drinking* are everywhere and many of our constituents expect the legislature to attempt to find ways of mitigating these costs.

Common sense and in some cases experience suggests the later the drinking hour in bars the higher the number of inebriates. As that number climbs the rise in problems associated with drinking also escalates. Additionally, law enforcement officials arrest a higher percentage of intoxicated drivers in the late night, early morning hours.

We as legislators are faced with basically three options.

1. No action (not acceptable to the public)
2. Reponse -addressing costs of damage (taxes) (increased punishment)
3. Prevention - Reducing problem drinking (fewer public drinking hours)

House Bill 80 is designed to reduce the number of problem drinkers and is based on existing measures both in-state and nationally. It is strictly a policy call for the legislature to consider, but I do believe there is solid evidence that reducing early morning bar hours reduces the number of problem drinkers in public places.

My advice to those in the liquor industry is to support those laws and ordinances that help alleviate problem drinking or risk more stringent measures as the problems on our highways, on our streets and in the home continue to rise.

CS FOR HOUSE BILL NO. 80()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE OGAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the hours during which sale of alcohol and entry on licensed
2 premises is allowed; and providing for an effective date."

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

4 * **Section 1.** AS 04.16.010(a) is amended to read:

5 (a) A person may not sell, offer for sale, give, furnish, deliver, or consume an
6 alcoholic beverage on premises licensed under this title between the hours of

7 (1) 3:00 [5:00] a.m. and 8:00 a.m. on Saturday or Sunday; and

8 (2) 2:30 a.m. and 8:00 a.m. on every other day of the week [EACH
9 DAY].

10 * **Sec. 2.** AS 04.16.010(b) is amended to read:

11 (b) A licensee, an agent, or an employee may not permit a person to consume
12 alcoholic beverages on the licensed premises between the hours of

13 (1) 3:00 [5:00] a.m. and 8:00 a.m. on Saturday or Sunday; and

14 (2) 2:30 a.m. and 8:00 a.m. on every other day of the week [EACH

1 DAY].

2 * Sec. 3. AS 04.16.010(c) is amended to read:

3 (c) A licensee, an agent, or an employee may not permit a person to enter and
4 a person may not enter premises licensed under this title between the hours of (1) 3:00
5 [5:00] a.m. and 8:00 a.m. on Saturday or Sunday; and (2) 2:30 a.m. and 8:00 a.m.
6 on every other day of the week [EACH DAY]. This subsection does not apply to
7 common carriers or to an employee of the licensee who is on the premises to prepare
8 for the next day's business. A person may enter or remain on the premises of a bona
9 fide restaurant or eating place licensed under this title to consume food or
10 nonalcoholic beverages.

11 * Sec. 4. This Act takes effect July 1, 2001.



REPRESENTATIVE SCOTT OGAN

Alaska State Legislature

House District 27 • Palmer • Greater Palmer • Sutton • Chickaloon • Sheep Mountain

For Immediate Release

January 17, 2001

Bill To Unify Bar Hours Statewide

A measure to require bars statewide to close between the hours of 2:00 am and 8:00am has been introduced by Representative Scott Ogan.

"This is not a new concept. Many organized areas already have adopted similar hours of closure by local ordinance. With consistency throughout the state there will be fewer drivers on the road moving to late night bars that now can remain open."



Ogan refers to the difference in Valley bar hours and those in Anchorage. "When people want to keep drinking and partying, they gravitate to open bars. That puts them on the road to the Valley and in many cases back on the road to Anchorage during early morning commuter hours."

Ogan's bill would pertain to all areas both organized and unorganized including the bush. "I believe Public safety records will bear out the rise in trouble as the hours grow late and the number of inebriated patrons increase."

Sample of Bar Closure Hours

Community	Weekdays	Weekends
Anchorage	2:30am	3:00am
Fairbanks	2:00am	3:30am
Juneau	1:00am	3:00am
Ketchikan	2:00am	2:00am
Nome	2:00am	3:00am
North Slope	no bars	no bars
Sitka	2:00am	2:00am closed Sundays
Kenai	5:00am	5:00am

10.50.010 Closing hours for licensed premises.

-  A. Premises licensed under AS 4.11.080 for the service and consumption of alcoholic beverages shall be closed for the sale, service and consumption of alcoholic beverages between the hours of 2:30 a.m. and 10:00 a.m. Monday through Friday, and between the hours of 3:00 a.m. and 10:00 a.m. on Saturday or Sunday or on a legal holiday recognized by the state under AS 44.12.010.
-  B. All other retail premises licensed under AS 4.11.080 shall be closed for the sale of alcoholic beverages between the hours of 1:00 a.m. and 10:00 a.m. Monday through Friday, and between the hours of 2:00 a.m. and 10:00 a.m. on Saturday, and between the hours of 2:00 a.m. and noon on Sunday.



(CAC 6.08.010; AO No. 81-35(S); AO No. 81-197)

10.50.015 Prohibited acts.

It is unlawful:

- A. For a person to barter or sell alcoholic beverages in a business premises that is not licensed by the state alcoholic beverage control board.
- B. For a licensee or his employee or agent to permit a person to drink intoxicating liquor on licensed premises not classified for sale and consumption of hard or distilled liquor by the board.
- C. For a licensee or his employee or agent to sell, attempt to sell, furnish, barter or permit to be consumed alcoholic beverages in any premises licensed under AS 4.11.080 for the service and consumption of alcoholic beverages between the hours of 2:30 a.m. and 10:00 a.m. Monday through Friday, or between the hours of 3:00 a.m. and 10:00 a.m. on Saturday or Sunday or on a legal holiday recognized by the state under AS 44.12.010.
- D. For a licensee, his employee, agent or any person in licensed premises to sell, attempt to sell, furnish, barter or permit to be consumed alcoholic beverages in any other retail premises licensed under AS 4.21.010 between the hours of 1:00 a.m. and 10:00 a.m. each Monday through Friday, or between the hours of 2:00 a.m. and 10:00 a.m. on Saturday, or between the hours of 2:00 a.m. and noon on Sunday.
- E. For a licensee, his employee, agent or any person in licensed premises to give, barter or sell alcoholic beverages to any person who, within the normal powers of observation, appears to be intoxicated. For the purposes of this section, a person appears to be intoxicated when he exhibits any symptom that indicates substantial loss of control of physical or mental facilities, including but not limited to bloodshot eyes, slurred speech, clumsiness, drowsiness, heavy odor of alcoholic beverages or undue or abnormal excitation or suppression of the passions or feelings.
- F. For a licensee, his employee, agent or any person in licensed premises to give, barter or sell alcoholic beverages to a person under 21 years of age.
- G. For a person under the age of 21 years to enter or remain upon licensed premises unless he is accompanied by his parent, guardian or spouse who has attained the age of 21 years. However, a person 18 years of age or older may enter and remain upon licensed premises in the course of his employment as a musician, entertainer or busboy. In addition, a person under the age of 21 years may enter and remain upon licensed premises also recognized as a restaurant for the purpose of dining or dancing if accompanied by his parent or guardian, or by the parent or guardian of any other minor also present, or by any other adult with the consent of the minor's parents or guardian.
- H. For a person under 21 years of age to solicit the purchase, to attempt to purchase or to possess alcoholic beverages.
- I. For a person under 21 years of age to enter a licensed premises and offer or present to a licensee or his employee or agent or a law enforcement officer a document or statement which does not represent the true age of the person under 21 years of age.

10.50.010 Closing hours for licensed premises.

-  A. Premises licensed under AS 4.11.080 for the service and consumption of alcoholic beverages shall be closed for the sale, service and consumption of alcoholic beverages between the hours of 2:30 a.m. and 10:00 a.m. Monday through Friday, and between the hours of 3:00 a.m. and 10:00 a.m. on Saturday or Sunday or on a legal holiday recognized by the state under AS 44.12.010.
-  B. All other retail premises licensed under AS 4.11.080 shall be closed for the sale of alcoholic beverages between the hours of 1:00 a.m. and 10:00 a.m. Monday through Friday, and between the hours of 2:00 a.m. and 10:00 a.m. on Saturday, and between the hours of 2:00 a.m. and noon on Sunday.

(CAC 6.08.010; AO No. 81-35(S); AO No. 81-197)

10.50.015 Prohibited acts.

It is unlawful:

- A. For a person to barter or sell alcoholic beverages in a business premises that is not licensed by the state alcoholic beverage control board.
- B. For a licensee or his employee or agent to permit a person to drink intoxicating liquor on licensed premises not classified for sale and consumption of hard or distilled liquor by the board.
- C. For a licensee or his employee or agent to sell, attempt to sell, furnish, barter or permit to be consumed alcoholic beverages in any premises licensed under AS 4.11.080 for the service and consumption of alcoholic beverages between the hours of 2:30 a.m. and 10:00 a.m. Monday through Friday, or between the hours of 3:00 a.m. and 10:00 a.m. on Saturday or Sunday or on a legal holiday recognized by the state under AS 44.12.010.
- D. For a licensee, his employee, agent or any person in licensed premises to sell, attempt to sell, furnish, barter or permit to be consumed alcoholic beverages in any other retail premises licensed under AS 4.21.010 between the hours of 1:00 a.m. and 10:00 a.m. each Monday through Friday, or between the hours of 2:00 a.m. and 10:00 a.m. on Saturday, or between the hours of 2:00 a.m. and noon on Sunday.
- E. For a licensee, his employee, agent or any person in licensed premises to give, barter or sell alcoholic beverages to any person who, within the normal powers of observation, appears to be intoxicated. For the purposes of this section, a person appears to be intoxicated when he exhibits any symptom that indicates substantial loss of control of physical or mental facilities, including but not limited to bloodshot eyes, slurred speech, clumsiness, drowsiness, heavy odor of alcoholic beverages or undue or abnormal excitation or suppression of the passions or feelings.
- F. For a licensee, his employee, agent or any person in licensed premises to give, barter or sell alcoholic beverages to a person under 21 years of age.
- G. For a person under the age of 21 years to enter or remain upon licensed premises unless he is accompanied by his parent, guardian or spouse who has attained the age of 21 years. However, a person 18 years of age or older may enter and remain upon licensed premises in the course of his employment as a musician, entertainer or busboy. In addition, a person under the age of 21 years may enter and remain upon licensed premises also recognized as a restaurant for the purpose of dining or dancing if accompanied by his parent or guardian, or by the parent or guardian of any other minor also present, or by any other adult with the consent of the minor's parents or guardian.
- H. For a person under 21 years of age to solicit the purchase, to attempt to purchase or to possess alcoholic beverages.
- I. For a person under 21 years of age to enter a licensed premises and offer or present to a licensee or his employee or agent or a law enforcement officer a document or statement which does not represent the true age of the person under 21 years of age.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 80
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title: Legal Hours for Sale of Alcohol BRU: Alcoholic Beverage Control Board
 Component: Alcoholic Beverage Control Board
 Sponsor: Representative Ogan
 Requester: House Labor and Commerce Committee Component Number: 100

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would require that licensed premises stop the sale of alcoholic beverages at 2 a.m. each day. Existing statute requires that licensed premises stop alcohol sales at 5 a.m. each day.

This legislation would have have a fiscal effect on the Alcoholic Beverage Control Board, which regulates licensed premises in the state.

Prepared by: Doug Griffin, Director Phone 269-0351
 Division: Alcoholic Beverage Control Board Date/Time March 9, 2001, 3 p.m.
 Approved by: Larry Persily, Deputy Commissioner Date 03/10/2001
 Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office



Council on Alcohol Abuse & Public Safety - Alaska, Inc.

Box 23007 - Juneau, Alaska - 99802 - (907) 586-3032 - cuaps@alaska.com

March 11, 2001

The Board of Directors of The Council on Alcohol Abuse & Public Safety – Alaska, Inc., encourages the Alaska legislature to initiate and pass legislation which would limit the sale of intoxicating alcoholic beverages to the hours between 10:00 AM and 2:00 AM.

Thank to you for your consideration of this important public safety matter.

A handwritten signature in black ink, appearing to read 'Howard Scaman', is written over a faint, larger version of the same signature. The signature is fluid and cursive.

**Howard Scaman ,
Secretary**

- HB 80
Bar HoursCITIES THAT HAVE ADOPTED ORDINANCES UNDER
AS 04.16.010 TO RESTRICT HOURS OF SALE

<u>CITY</u>	<u>HOURS</u>
Akutan	6PM - 2AM : Closed Sundays
Anchorage	10AM - 1AM Package Stores weekdays 10AM - 2AM Package Stores weekends Noon - 1AM Package Stores Sundays 10AM - 2:30AM Bev Disp weekdays 10AM - 3AM Bev Disp weekends & holidays
Cordova	8AM - 2AM weekdays 8AM - 4AM weekends & holidays 10AM - 2AM Sundays
Dillingham	11AM - 3AM daily
Fairbanks	2PM - 5AM Sundays
Galena	10AM - 2AM weekdays 10AM - 5AM Saturday Noon - 2AM Sunday
Hoonah	10AM - 1AM daily
Juneau	8AM - 1AM Monday thru Friday 8AM - 3AM weekends & holidays
Kake	10AM - Midnight Package Stores 10AM - 2AM Bev Disp weekdays 10AM - 3AM Bev Disp Saturday 2PM - 2AM Bev Disp Sunday
Ketchikan	8AM - 2AM daily
Nome	10AM - 10PM Pkg Str 1PM - 10PM Pkg Str Sunday 8AM - 2AM Bev Disp 8AM - 3AM Bev Disp Saturday

**CITIES THAT HAVE ADOPTED ORDINANCES UNDER
AS 04.16.010 TO RESTRICT HOURS OF SALE**

<u>CITY</u>	<u>HOURS</u>
Petersburg	8AM - 2AM weekdays 8AM - 3AM Saturday Noon - 2AM Sunday
Seward	10Am - 2AM daily
Unalaska	8AM - 3AM Bev Disp weekdays 8AM - 5AM Bev Disp Saturday 8AM - Midnight Bev Disp Sunday (only with meals)
Valdez	8AM - 2AM weekdays 8AM - 5AM weekends & holidays
Wrangell	10AM - 2AM Bev Disp weekdays 10AM - 3AM Saturdays & Holidays

HB

81

Alaska State Legislature

While in session

State Capitol

Juneau, Alaska

99801-1182

(907) 465-4976

Fax: (907) 465-3883

House District 33

REPRESENTATIVE
HUGH "BUD" FATE

Mailing Address:

119 N. Cushman, Suite 101

Fairbanks, Alaska 99701

(907) 452-4448

Fax: (907) 456-3346

House Of Representatives

House Bill 81

"An Act extending the termination date of the
Board of Dental Examiners."

SPONSOR: Representative Hugh Fate

SPONSOR STATEMENT:

Under AS 08.03.101 (c) (7) the Board of Dental Examiners will terminate June 30, 2001. A report released by the Legislative Budget and Audit Committee recommended that the Legislature extend the board's date to June 30, 2005. This is what House Bill 81 accomplishes. The regulation and licensing of qualified dentists and hygienists benefits the public's safety and welfare. The Board contributes to safe guarding the public interests by ensuring competence and integrity of dentists and dental hygienists. As a retired dentist I believe the Board provides an invaluable service and should continue to do so.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 81
 () Publish Date: _____

Revision Date/Time (Note if correction): 1/26/2001 4:45PM Dept. Affected: DCED
 Title: An Act extending the termination date of the BRU: Occupational Licensing
Board of Dental Examiners Component: Occupational Licensing
 Sponsor: Representatives Fate, Harris
 Requester: House Labor and Commerce Component Number: 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0		

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 RSS						
TOTAL	0.0	0.0	0.0	0.0		

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Dental Examiners to June 30, 2005. Funding for the board is included in the FY 2002 Operating Budget request and new funds are not required. For informational purposes, the attached page shows expenditure and revenue information for the last two fiscal years.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division: Occupational Licensing Date/Time 1/26/2001 4:45PM
 Approved by: Commissioner Deborah B. Sedwick Date 1/26/2001
 Agency: Department of Community and Economic Development

For distribution information, call the Governor's Legislative Office

ANALYSIS: (continued)

HB 81: An Act extending the termination date of the Board of Dental Examiners

Page 2 of 2

FY 1999 Expenditures

FY 2000 Expenditures

Personal Services:

Direct	99,330.21	91,183.03
Indirect	23,564.62	22,832.77

Travel:

Direct	22,441.38	22,222.52
Indirect	332.88	217.22

Contractual Services:

Direct	60,563.63	54,456.87
Indirect	13,163.29	15,163.61

Supplies:

Direct	320.59	197.71
Indirect	1,664.21	1,295.41

Equipment

Direct	0.00	0.00
Indirect	1,188.39	571.74

TOTAL:	222,569.20	208,140.88
---------------	-------------------	-------------------

REVENUE:	201,673.10	122,989.44
-----------------	-------------------	-------------------

Sectional Analysis House Bill 81, Board of Dental Examiners

- Section 1. AS 08.03.010(c)(7) Extends the termination date from June 30, 2001 to June 30, 2005.
- Section 2 AS 08.03.110(a)(2) Removes OR PROPHYLACTIC. Prophylactic is duplicate language to preventative. It is covered under preventative agent. Prophylactic is also confusing language because it is similar to other dental terms like prophylaxis.
- Section 3 AS 08.03.110(d) Same reason. [Prophylactic was taken out of both locations because the Department of Law said if one went, they both had to.]
- Section 4 AS 08.36.010 Adds wording that says, the Governor, when making appointments, will consider licensed dentists nominated by the Alaska Dental Society and licensed dental hygienists nominated by the Dental Hygienists' Association.
- Section 5 AS 08.36.030 The president of the Board of Dental Examiners must be a licensed dentist under this chapter.
- Section 6. AS 08.36.075(d) Allows a board authorized inspector to determine whether the owner or lessee of dental radiological equipment is in compliance with the inspection standards of the board, collect the appropriate fee and remit the fee to the board, and issue an inspection seal. The inspector will then remit the paperwork to the board and whether a seal was issued or not.
- Section 7 AS 08.36.160(e) Makes a passing score on a clinical exam given by the Central Regional Dental Testing Service, Inc. an acceptable alternative to the Western Regional Examining Board examination.
- Section 8 AS 08.36.234(a)
- Line 9 Requires that the dentist be currently licensed in another state, with the same requirements as Alaska, in order avoid re-examination to practice in Alaska.
- Line 10 & Line 11 Language that states a dentist could have taken a dental exam in one state and be practicing in another, and as long as the state the they are licensed in has equivalent requirements to Alaska, the dentist can practice in Alaska. (The dentist doesn't have to be licensed and practicing in the same state in order for them to practice in Alaska, if it has equivalent requirements.)
- Section 9 AS 08.36.317 Increases the allowable civil fine from \$5,000 to \$25,000 per violation.

Section 10 08.36.360

Expands the current definition of Dentistry to include the American Dental Association's definition of dentistry which allows a dentist to evaluate, diagnose, treat, or perform preventive procedures relating to diseases, disorders, or conditions of the oral cavity, maxillofacial area, or adjacent and associated structures.

22-LS0375\O
Lauterbach
2/26/01

CS FOR HOUSE BILL NO. 81()

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

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES FATE, Harris

A BILL

FOR AN ACT ENTITLED

1 **"An Act extending the termination date of the Board of Dental Examiners; relating to**
2 **the Board of Dental Examiners and regulation of the practice of dentistry; and relating**
3 **to dental hygienists and dental assistants."**

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

5 *** Section 1.** AS 08.03.010(c)(7) is amended to read:

6 (7) Board of Dental Examiners (AS 08.36.010) -- June 30, 2005
7 [2001];

8 *** Sec. 2.** AS 08.32.110(a) is amended to read:

9 (a) The role of the dental hygienist is to assist members of the dental
10 profession in providing oral health care to the public. A person licensed to practice
11 the profession of dental hygiene in the state may

12 (1) remove calcareous deposits, accretions, and stains from the
13 exposed surfaces of the teeth beginning at the epithelial attachment by scaling and
14 polishing techniques;

1 (2) apply topical preventive [OR PROPHYLACTIC] agents;

2 (3) apply pit and fissure sealants;

3 (4) perform root planning and periodontal soft tissue curettage;

4 (5) perform other dental operations and services delegated by a
5 licensed dentist if the dental operations and services are not prohibited by (c) of this
6 section; and

7 (6) if certified by the board and under the direct or indirect supervision
8 of a licensed dentist, administer local anesthetic agents.

9 * Sec. 3. AS 08.32.110(d) is amended to read:

10 (d) This section does not prohibit a dental assistant from applying topical
11 preventive [OR PROPHYLACTIC] agents or pit and fissure sealants when those
12 duties have been delegated to the assistant by a dentist licensed under AS 08.36 or by
13 a dentist exempt from licensure under AS 08.36.350(a)(2).

14 * Sec. 4. AS 08.36.010 is amended by adding a new subsection to read:

15 (b) When making appointments of dentists and dental hygienists under (a) of
16 this section, the governor shall consider licensed dentists who have been nominated by
17 the Alaska Dental Society and licensed dental hygienists who have been nominated by
18 the Alaska State Dental Hygienists' Association.

19 * Sec. 5. AS 08.36.030 is amended to read:

20 **Sec. 08.36.030. Election of officers.** The board shall elect a president and a
21 secretary from among its members, each to serve for a term not to exceed two years.

22 **The president must be a dentist licensed under this chapter.**

23 * Sec. 6. AS 08.36.075(d) is amended to read:

24 (d) The board shall require that inspection of dental radiological
25 equipment occur once within every five calendar years and require that records
26 concerning the inspection be provided to the board by the owner or lessee of the
27 equipment and kept on file where the equipment is located. The board shall, upon
28 application by the owner or lessee of the dental radiological equipment, submission of
29 evidence documenting compliance with the inspection standards of the board, and
30 payment of a fee set by the board, issue to the owner or lessee an inspection seal
31 indicating the date by which the dental radiological equipment must pass inspection

1 again. The date on the inspection seal shall be December 31 of the fourth calendar
2 year that occurs after the calendar year in which the inspection occurred. A dentist
3 may not use, or allow a person under the dentist's supervision to use, dental
4 radiological equipment in this state after the date on the most recent inspection seal.
5 The board may authorize an inspector who is not a member of the board to
6 determine whether the owner or lessee of dental radiological equipment is in
7 compliance with the inspection standards of the board, collect the appropriate fee
8 and remit the fee to the board, and issue an inspection seal indicating the date by
9 which the dental radiological equipment must pass inspection again. An
10 inspector who performs an inspection under this subsection shall report the
11 results of each inspection to the board and to the department, indicating whether
12 the dental radiological equipment was in compliance with the inspection
13 standards of the board and whether an inspection seal was issued.

14 * Sec. 7. AS 08.36.160(e) is amended to read:

15 (e) A passing score on a clinical examination given by the Western Regional
16 Examining Board or by the Central Regional Dental Testing Service, Inc., which is
17 an entity incorporated in the state of Kansas, within the five years preceding
18 licensure application under this chapter constitutes a passing score on a clinical
19 examination required under this chapter [, PROVIDED THE EXAMINATION WAS
20 TAKEN ON OR AFTER JANUARY 1, 1987].

21 * Sec. 8. AS 08.36.234(a) is amended to read:

22 (a) The board shall provide for the licensing without examination, except as
23 provided in (2) of this subsection, of a dentist who

24 (1) provides certification to the board that the dentist

25 (A) is a graduate of a dental school accredited by the
26 Commission on Accreditation of the American Dental Association, or its
27 successor agency, and holds a certificate from the American Dental
28 Association Joint Commission on National Dental Examinations that the
29 dentist has passed the written examination given by the commission;

30 (B) has passed clinical and written examinations required for
31 licensure in another state, territory, or region of the United States and is [HAS

1 BEEN] licensed to practice dentistry in a [THAT] state, territory, or region of
2 the United States; the state, territory, or region in which the dentist is licensed
3 must have licensing requirements at least generally equivalent to those of this
4 state at the time of application; if the board does not consider the licensing
5 requirements of the other jurisdiction to be generally equivalent to those of this
6 state at the time of application because certain areas of subject matter were not
7 included in the other jurisdiction's examinations, the board may find
8 compliance with the requirements of this subparagraph if the dentist holds a
9 specialty certification in the omitted subject areas;

10 (C) is in good standing with the licensing entity in the
11 jurisdiction where the dentist is currently licensed and in all jurisdictions in
12 which the dentist was previously licensed while practicing in those
13 jurisdictions; if the dentist is employed by the federal government, the dentist
14 must be in good standing with the employing federal agency;

15 (D) has been engaged in continuous active clinical practice
16 averaging at least 20 hours a week for each of the five years immediately
17 preceding the application

18 (i) in a jurisdiction in which the dentist was licensed
19 and in good standing; or

20 (ii) working for the federal government while in good
21 standing with the employing federal agency and after having been
22 licensed by a jurisdiction;

23 (E) is not the subject of an adverse decision based upon a
24 complaint, investigation, review procedure, or other disciplinary proceeding
25 within the five years immediately preceding application, or of an unresolved
26 complaint, investigation, review procedure, or other disciplinary proceeding,
27 undertaken by a state, territorial, local, or federal dental licensing jurisdiction
28 or a dental society;

29 (F) is not the subject of an unresolved or an adverse decision
30 based upon a complaint, investigation, review procedure, or other disciplinary
31 proceeding undertaken by a state, territorial, local, or federal dental licensing

1 jurisdiction, dental society, or law enforcement agency that relates to criminal
2 or fraudulent activity, dental malpractice, or negligent dental care and that
3 adversely reflects on the applicant's ability or competence to practice dentistry
4 or on the safety or well-being of patients;

5 (G) has not previously had a license to practice dentistry
6 suspended for grounds similar to those specified under AS 08.36.315, revoked,
7 or voluntarily surrendered;

8 (H) has completed at least 42 hours of continuing education
9 related to clinical dentistry in the three years preceding application for a
10 license in this state; the continuing education must have been approved by the
11 American Dental Association, the Academy of General Dentistry, or the
12 appropriate specialty board;

13 (I) has not within the previous three years failed the clinical
14 exam given by the Western Regional Examining Board;

15 (J) is not the subject of an adverse report from the National
16 Practitioner Data Bank or the American Association of Dental Examiners
17 Clearinghouse for Disciplinary Information that relates to criminal or
18 fraudulent activity, negligent dental care, or malpractice;

19 (2) has passed, to the satisfaction of the board, a written examination
20 that consists of the portion of the written examination given under AS 08.36.160(b)
21 that pertains to the state's laws on the practice of dentistry; the board may not require a
22 higher passing score for applicants under this section than the board requires for
23 applicants under AS 08.36.110;

24 (3) is personally interviewed by the board for purposes of verifying
25 credentials;

26 (4) pays all required fees;

27 (5) provides the board with an affidavit that the dentist is not an
28 impaired practitioner;

29 (6) provides to the board an authorization for release of records in a
30 form prescribed by the board.

31 * **Sec. 9.** AS 08.36 is amended by adding a new section to read:

1 **Sec. 08.36.317. Civil fine authority.** Notwithstanding AS 08.01.075(a), in a
2 disciplinary action, the board may impose a civil fine not to exceed \$25,000 for each
3 violation of this chapter or of a regulation adopted under this chapter.

4 * **Sec. 10.** AS 08.36.360 is amended to read:

5 **Sec. 08.36.360. Practice of dentistry defined.** A person engages in the
6 practice of dentistry who

7 (1) performs or holds out to the public as being able to perform dental
8 operations;

9 (2) diagnoses, treats, operates on, corrects, attempts to correct, or
10 prescribes for [,] a disease, lesion, pain, injury, deficiency, deformity, or physical
11 condition, malocclusion or malposition of the human teeth, alveolar process, gingiva,
12 maxilla, mandible, or adjacent tissues;

13 (3) performs or attempts to perform an operation incident to the
14 replacement of teeth;

15 (4) furnishes, supplies, constructs, reproduces, or repairs dentures,
16 bridges, appliances or other structures to be used and worn as substitutes for natural
17 teeth, except on prescription of a duly licensed and registered dentist and by the use of
18 impressions or casts made by a duly licensed and registered dentist;

19 (5) uses the words "dentist" or "dental surgeon" or the letters "D.D.S."
20 or "D.M.D." or other letter or title that represents the dentist as engaging in the
21 practice of dentistry;

22 (6) extracts or attempts to extract human teeth;

23 (7) exercises control over professional dental matters or the operation
24 of dental equipment in a facility where the acts and things described in this section are
25 performed or done;

26 (8) evaluates, diagnoses, treats, or performs preventive procedures
27 relating to diseases, disorders, or conditions of the oral cavity, maxillofacial area,
28 or adjacent and associated structures; a dentist whose practice includes the
29 services described in this paragraph may only perform the services if they are
30 within the scope of the dentist's education, training, and experience and in accord
31 with the generally recognized ethical precepts of the dental profession; nothing in

1
2

this paragraph requires a person licensed under AS 08.64 to be licensed under this chapter.

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2 entries found for **prophylactic**.
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prophylactic[1,adjective]
 prophylactic[2,noun]

Main Entry: ¹pro·phy·lac·tic
 Pronunciation: "prO-f&- 'lak-tik also "prä-
 Function: *adjective*
 Etymology: Greek *prophylaktikos*, from *prophylassein* to be on guard, from *pro-* before + *phylassein* to guard, from *phylak-*, *phylax* guard
 Date: 1574
 1 : guarding from or preventing disease
 2 : tending to prevent or ward off : **PREVENTIVE**
 - **pro·phy·lac·ti·cal·ly** /-ti-k(&-)lE/ *adverb*

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Dental Statute Changes

The Board of Dental Examiners would like the legislature to make the following dental statute changes during the consideration of board sunset extension.

- 1) Replace the current definition of the practice of dentistry with the American Dental Association definition.
- 2) Increase the maximum fine for violation of the dental statutes. The board believes the current \$5,000 maximum fine is not sufficient incentive to stop transgressions.
- 3) Delete the term "prophylactic" from AS 08.32.110(d) in order to make it clear that dental assistants cannot perform teeth cleaning. Cleaning has always been an exclusive hygienist function, but the current wording may mislead the public.
- 4) Amend AS 08.36.160(e) so the board may accept the Central Regional Dental Testing Service exam as well as the current Western Regional Examining Board exam.
- 5) Amend AS 08.36.234(a)(1)(B) by changing "has been licensed" to "is licensed." The effect of this change would be to require applicants for licensure by credentials to hold a current license in another state, territory or region of the United States.

Thank you for considering our comments.

Sincerely,



Catherine Reardon, director

Proposed Legislative Changes 2001

Inserted words - [Deleted words]

1st Bill - Dentists and Dental Hygienists (statutes and regulations)

1. (Pg. 5) AS 08.32.110 (a)(2) & (d) Delete the words or prophylactic from both sections to read as follows:
 - (2) apply topical preventive [~~or prophylactic~~] agents;
 - (d) This section does not prohibit a dental assistant from applying topical preventive [~~or prophylactic~~] agents or pit and fissure sealants when those duties have been delegated to the assistant by a dentist licensed under AS 08336.350(a)(2).

2. (Pg. 8) AS 08.36.010. Creation and membership of board. Inserting phrases to read as follows:
 - There is created the Board of Dental Examiners consisting of nine members. Six members shall be licensed dentists who are nominated by the Alaska Dental Society and have been engaged in the practice of dentistry in the state for five years immediately preceding appointment, two members shall be dental hygienists licensed under AS 08.32 who are nominated by the Alaska State Dental Hygiene Association and have been engaged in the practice of dental hygiene in the state for five years immediately preceding appointment, and one member shall be a public member.

3. (Pg. 8) AS 08.36.030 Election of officers. Inserting the phrase to read as follows:
 - The board shall elect a president who is a licensed dentist and a secretary from among its members, each to serve for a term not to exceed two years.

4. (Pg. 11) AS 0836.075(d) Dental radiological equipment Insert the words or board approved inspector to read as follows:
 - (d) ... and kept on file where the equipment is located. The board or board approved inspector shall, upon application by the owner or lessee of the dental radiological equipment, submission of evidence ...

5. (Pg. 13) AS 08.36.160(e) Contents of examination. Insert the words or the Central Regional Dental Testing Service, Inc. and delete the words [, provided the examination was taken on or after January 1, 1987] to read as follows:
 - (e) A passing score on a clinical examination given by the Western Regional Examining Board or the Central Regional Dental Testing Service, Inc. within the five years preceding licensure application

under this chapter constitutes a passing score on a clinical examination required under this chapter], provided the examination was taken on or after January 1, 1987].

6. (Pg. 14) AS 08.36.234(a)(1)(B) Licensure by credentials. The following changes to read as follows:

- (a)(1)(B) has passed clinical and written examinations required for licensure in another state, territory, or region of the United States and is [has been] licensed to practice dentistry in a [that] state, territory, or region in which the dentist is licensed must have licensing requirements at least generally equivalent to those ...

7. (Pg. 21) AS 08.36.360 Practice of dentistry defined. Add section (8) & (9) to read as follows:

- (8) evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body; provided by a dentist, within the scope of his/her education, training and experience, in accordance with the ethics of the profession and applicable law.



2nd Bill - Chapter 01. Centralized Licensing.

AS 08.36.317

8. (Pg. 45) AS 08.01.075(a)(8) Disciplinary powers of the board. To read as follows:

- (8) impose a civil fine not to exceed ~~[\$5,000]~~ \$25,000 per incident .
- ~~(9) The over associated costs from a licensee found in violation include but not limited to expert witnesses, attorney fees, court costs, board and department costs.~~

3rd Bill - Insurance Add language to the effect:

- ~~9. A payment by a third-party payer to a provider in accordance with **** shall be considered final one year after payment was made. After that date, both of the following apply:~~
- ~~• The amount of the overpayment is not subject to adjustment, except in the case of fraud by the provider.~~
 - ~~• The third-party payer shall not deduct any overpayment made to the provider from any other payment it owes the provider.~~

Audit Report

**DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF DENTAL EXAMINERS
SUNSET REVIEW**

November 12, 2000



Audit Control Number:

08-20002-01

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

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November 27, 2000

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF DENTAL EXAMINERS
SUNSET REVIEW

November 12, 2000

Audit Control Number
08-20002-01

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(7), the Board of Dental Examiners is scheduled to terminate on June 30, 2001. The board would be allowed one year in which to conclude its administrative affairs.

In our opinion, the termination date for Board of Dental Examiners should be extended. The regulation and licensure of dental professionals contributes to the protection of the public's welfare. We recommend the legislature extend the termination date of the Board of Dental Examiners to June 30, 2005.

This sunset review was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are set out on page one of this report.

Handwritten signature of Pat Davidson in black ink.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Title 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the board of Dental Examiners. Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the oversight process to determine whether the termination date of the board should be extended. Currently, AS 08.03.010(c)(7) requires the board to terminate on June 30, 2001. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its affairs.

Objectives

There are two central, interrelated, objectives of our report. They are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest and determine if the board has exercised general control over licensed dentists.¹

The assessment of the operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

Another auditor at our direction and supervision conducted a majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

Our audit reviewed the operations and activities of the Board of Dental Examiners for the period of FY 98 through FY 00.

During the course of our examination, we reviewed and evaluated the following:

¹AS 08.36.070(a) states that the board shall:

- (1) Provide for the examination of applicants and issue licenses to those qualified;
- (2) Register licensed dentists and hygienists who are in good standing;
- (3) Affiliate with the American Association of Dental Examiners;
- (4) Hold hearings and order disciplinary sanction of a person who violates this chapter, AS 08.32, or a regulation of the board;
- (5) Adopt regulations ensuring that renewal of registration is contingent upon proof of continued professional competence;
- (6) Enforce the provisions of this chapter and AS 08.32 and adopt or amend the regulations necessary to make the provisions of this chapter and AS 08.32 effective; and
- (7) Require, as a condition of a license or license renewal by the board current certification in cardiopulmonary resuscitation techniques.

1. Applicable statutes and regulations.
2. Compliance with statutes and regulations related to the licensing of dentists and dental hygienists. Our evaluation addressed considerations of license applications, testing of candidates, and continuing education necessary for an individual to maintain their license in good standing.
3. Minutes of meetings of the Board of Dental Examiners.
4. Annual reports issued by the Board of Dental Examiners.
5. Complaints filed with the Department of Community and Economic Development, Division of Occupational Licensing, Office of the Ombudsman, Department of Labor and Workforce Development, Alaska Commission on Human Rights, and Equal Employment Opportunity Commission.
6. Reading and correspondence files maintained with the Department of Community and Economic Development, Division of Occupational Licensing.
7. Interviews with employees of the Department of Community and Economic Development, Division of Occupational Licensing.
8. Other documents deemed pertinent.

ORGANIZATION AND FUNCTION

The Board of Dental Examiners was established in 1955, through Alaska Statute 08.36.010. The powers of the board include:

1. Examining and issuing licenses to qualified applicants.
2. Hold hearings and order the disciplinary sanction of an individual who violates relevant portions of the state statutes or regulations.
3. Adopting regulations ensuring that renewal of registration is contingent upon proof of continued professional competence by a licensed dentist or licensed dental hygienist.
4. Provide the department with the requirements for proof of continued professional competence.
5. Issuing permits or certificates to licensed dentists and licensed dental hygienists who meet the standards determined by the board for specific procedures that require specific education and training.

Board of Dental Examiners
As of November 1, 2000

Professional Members

Rena L. Anderson, RDH Hygienist
James R. Arneson, D.D.S. Dentist
Mary Ann Cerney Hygienist
James A. Clark, D.M.D. Dentist
Raymond L. Lang, D.D.S. Dentist
David G. Logan, D.D.S. Dentist
Michael P. Moriarty, DDS Dentist
1 Dentist position vacant

Public Member

James B. Blasingame Public Member

The board is responsible for safeguarding the public interest by ensuring the competence and integrity of those who hold themselves out to the public as dentists and dental hygienists. The board evaluates the qualifications of candidates, administers examinations, issues certificates and licenses to practice, promulgates rules of professional conduct, and takes disciplinary action.

Department of Community and Economic Development, Division of Occupational Licensing

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Dental Examiners. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065, mandates the Department of Community and Economic Development, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person engaged or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSIONS

In our opinion, the Board of Dental Examiners is operating in an efficient and effective manner and should continue to regulate dentists and dental hygienists. We believe the board contributes to the safeguarding of the public interest, by ensuring the competence and integrity of those who hold themselves out to the public as dentists and dental hygienists.

The board serves a public purpose and has demonstrated an ability to conduct its business in a satisfactory manner. The board continues to propose changes to regulations to improve the effectiveness of the board and ensure that dentists and dental hygienists are licensed in the State of Alaska.

Alaska Statute 08.03.010(c)(7) requires the Board of Dental Examiners be terminated on June 30, 2001. Under AS 08.03.020, the board has a one-year period to administratively conclude its affairs. We recommend the legislature extend the board's termination date to June 30, 2005.