

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 86/2

10344 HOUSE LABOR & COMMERCE

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 16, 2002

FURTHER REFERRALS: Finance

Date of Committee Action: FEBRUARY 15, 2002

The LABOR AND COMMERCE Committee considered:

HB 333

HOUSE BILL NO. 333

EXTENDING THE REGULATORY COM. OF ALASKA

"An Act extending the termination date of the Regulatory Commission of Alaska; and providing for an effective date."

Recommends it be replaced with CS () [] Same Title [] New Title
 For Senate Bills with new title: [] Technical Title [] New Title: HCR _____

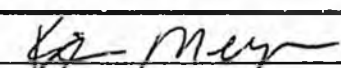
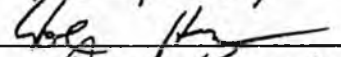
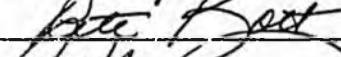
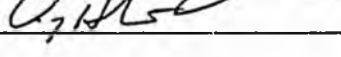
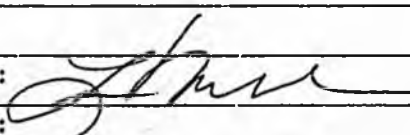
- [] attach amendments
- [] add new referral to _____ Committee
- [X] Letter of Intent HC Committee

List of Abbrev. for Depts.:

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

<u>NEW FISCAL NOTES</u>				
*For Chief Clerk's Office Use Only				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
<u>MSD</u>	<u>1</u>	<u>X</u>		

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

<u>Signing with recommendations</u>	Printed Last Name	DP (1)	DNP	NR	AM
	Mary EV			✓	
	H. S.	✓			
	KOFF			✓	
	HALCRO			✓	
Chair: 	MURKOWSKI			✓	
Chair:					

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: #1
 Bill Version: HB 333
 () Publish Date: _____

Revision Date/Time (Note if correction): 2/4/2002 Dept. Affected: DCED
 Title Extending the Termination Date BRU Regulatory Commission of Alaska (399)
 of the Regulatory Commission of Alaska Component Regulatory Commission of Alaska
 Sponsor House Finance
 Requester House Labor & Commerce Component No. 2417

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	3,951.8	3,951.8	3,951.8	3,951.8	3,951.8	
Travel	55.0	55.0	55.0	55.0	55.0	
Contractual	1,920.0	1,920.0	1,920.0	1,920.0	1,920.0	
Supplies	62.5	62.5	62.5	62.5	62.5	
Equipment	13.8	13.8	13.8	13.8	13.8	
Land & Structures		0.0	0.0	0.0	0.0	
Grants & Claims		0.0	0.0	0.0	0.0	
Miscellaneous		0.0	0.0	0.0	0.0	
TOTAL OPERATING	6,003.1	6,003.1	6,003.1	6,003.1	6,003.1	

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						
1141 - RCA Receipts	6,003.1	6,003.1	6,003.1	6,003.1	6,003.1	
TOTAL	6,003.1	6,003.1	6,003.1	6,003.1	6,003.1	

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal: X

POSITIONS

Full-time	61	61	61	61	61
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)
 The bill extends the Regulatory Commission of Alaska to June 30, 2006. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the commission to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2003 Operating Budget Request. The RCA's budget is funded through the Regulatory Cost Charge (RCC) mechanism and direct charge mechanisms. No general funds are allocated for support of the agency. The RCC is recalculated each year and allows the agency to recover its operating costs through an assessment on the revenues of the utilities and pipeline carriers it regulates.

Prepared by: G. Nanette Thompson, Chair Phone (907) 263-2112
 Division Regulatory Commission of Alaska Date/Time 2/6/02 10:25 AM
 Approved by: Deborah B. Sedwick, Commissioner Date 2/6/2002
 Agency Department of Community & Economic Development

ALASKA STATE LEGISLATURE

Representative Lisa Murkowski Chair
Representative Andrew Halcro Vice-Chair
Representative Pete Kott
Representative Kevin Meyer
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes



Alaska State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4954
Fax: (907) 465-2293
Representative_Lisa_Murkowski@legis.state.ak.us

HOUSE LABOR AND COMMERCE COMMITTEE

Letter of Intent

Recognizing that the Regulatory Commission of Alaska is adjusting and evolving its operations since its inception in 1999, and that it receives numerous and complex complaints requiring time and consideration, and that the commission has an enormous backlog of cases, it is the intent of the House Labor and Commerce Committee in conjunction with the Senate Labor and Commerce Committee, to conduct annual oversight hearings of the Regulatory Commission of Alaska to discuss investigations and complaint follow-up, case backlog, and other matters of public inquiry regarding the activities of the commission.

A handwritten signature in cursive script, appearing to read "Lisa Murkowski", written over a horizontal line.

Representative Murkowski
Chair,
House Labor and Commerce Committee

A handwritten signature in cursive script, appearing to read "Andrew Halcro", written over a horizontal line.

Representative Halcro
Vice-Chair,
House Labor and Commerce Committee

HB

355

ALASKA STATE LEGISLATURE

Representative Lisa Murkowski Chair
Representative Andrew Halcro Vice-Chair
Representative Pete Kott
Representative Kevin Meyer
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes



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HOUSE LABOR AND COMMERCE COMMITTEE

Sponsor Statement House Bill 355 Mobile Telecommunications Tax

In 2000, Congress passed the Mobile Telecommunications Sourcing Act (MTSA), which clarified how mobile telecommunication calls involving multiple jurisdictions should be assigned or "sourced" for tax purposes. Sourcing involves determining which jurisdiction has the right to tax a telephone call that originates and terminates in a different taxing jurisdiction. In the case of mobile telecommunications, the customer might live in one jurisdiction, have her bill sent to a second jurisdiction, make a call in a third jurisdiction, and complete the call in a fourth jurisdiction.

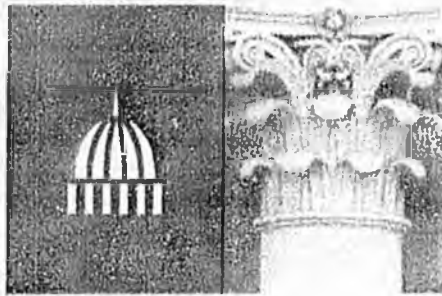
Without clear, national rules for determining which jurisdiction is permitted to tax the call, the possibility exists that the same call could be subject to taxation in multiple jurisdictions, or that a call might escape taxation all together. House Bill 355 conforms Alaska statutes to the federal Mobile Telecommunications Sourcing Act to allow for appropriate taxes and fees on wireless services.

States have until August 1, 2002 to conform their laws applicable to the taxation of wireless telecommunications to the provisions in the federal law. States failing to act by August 1st will be preempted from imposing taxes on most calls made outside of the state where the customer's primary use occurs, so-called "roaming".

House Bill 355 creates the concept that the customer has a "place of primary use" (PPU), which means the residential or primary business street address where the customer's use primarily occurs. The PPU is the jurisdiction with the right to tax wireless calls. For example, a resident of Anchorage that contracts for wireless telecommunications service would designate Anchorage as her place of primary use. If she traveled to Seattle and placed a call from Seattle to Olympia during the trip, the state of Alaska and the city of Anchorage would still have the authority to tax that call even though it did not originate in Alaska.

House Bill 355 conforms Alaska statutes with the federal Mobile Telecommunications Sourcing Act and allows the state of Alaska to appropriately tax wireless telecommunications services. Additionally, House Bill 355 will prevent multiple taxation, achieve administrative simplicity and cost savings in the billing process, and will prevent expensive audit litigation exposure when multiple states claim jurisdiction to tax the same call.

Staff Contact: Amy Erickson 465-4954
Last Updated: March 13, 2002



National Conference of State Legislatures

LEGISBRIEF

BRIEFING PAPERS ON THE IMPORTANT ISSUES OF THE DAY

MARCH 2002

VOL. 10, No. 14

State Conformity to the Mobile Telecommunications Sourcing Act

By Graham Williams

Under existing rules, it is difficult to determine which state has the authority to tax cell phone calls.

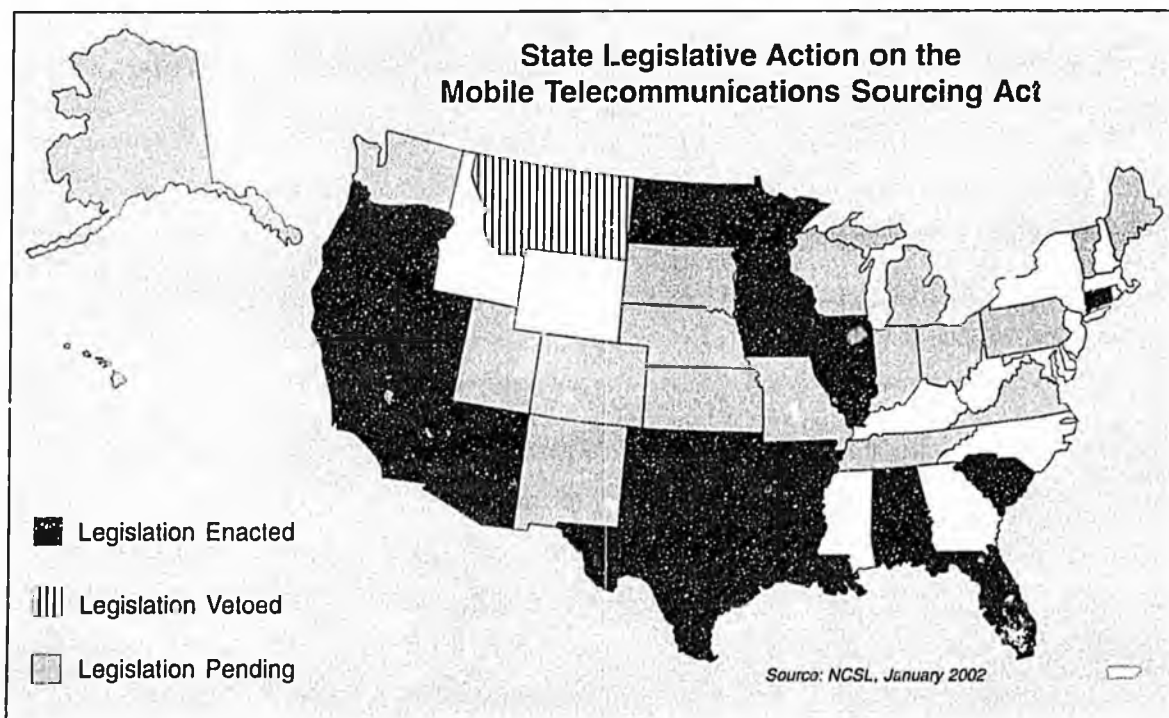
The changing nature of telecommunications is forcing policymakers at all levels to re-evaluate their tax codes. A perfect example of this new pressure is the rapid growth of wireless communication. As state telecommunications policy developed, it was relatively easy to determine which jurisdiction had the right to tax a particular call.

A cell phone customer from New York, however, can now call a friend in California while on a business trip to Florida. Under existing rules, it is difficult to determine which state has the authority to tax such a call. In some cases, more than one jurisdiction has claimed a tax on the same call, while other calls escape taxation altogether.

Congress passed the Mobile Telecommunications Sourcing Act in 2000.

Federal Action

To find a solution and avoid federal preemption, state and local groups joined the wireless industry to develop a compromise that would create a uniform rule for sourcing (matching the tax on a transaction with a jurisdiction), while maintaining revenue neutrality for the states. Congress passed the Mobile Telecommunications Sourcing Act (MTSA) in 2000, which was modeled on



National Conference
of State Legislatures

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that compromise. Most state laws on sourcing telecommunication taxes have been based on the 1989 Supreme Court case *Goldberg vs. Sweet*, which required a jurisdiction to have two out of three of the origination, termination and service addresses of a call to assert its tax. The act taxes wireless calls at the "place of primary use." This is identified by the consumer and can be either a residential or business address, wherever the phone is used most often.

Under such a system, the call made by the New York resident to a friend in California while visiting Florida would be subject only to the applicable tax at the place of primary use, presumably in New York. States applying the federal law will forgo revenue from taxes on calls made within their state by visitors, but will gain authority to tax calls made by residents while out-of-state, otherwise known as "roaming." All states will lose the ability to tax calls made within the state by nonresidents after Aug. 1, 2002. States that fail to conform to the federal act by Aug. 1 will not be able to make up for this lost revenue by taxing residents who make calls in other states until they conform with the federal sourcing requirements.

Requirements for State Conformity. States can incorporate the necessary language and definitions by referring to the federal act (4 USC 116-126) or by making statutory amendments to incorporate the law's provisions. Either way, states must do three things to comply with the federal law:

1. States must include the "place of primary use" definition and source calls to the customer's home or office address.
2. States need to match the primary use jurisdiction to the proper tax. Under the MTSA, states can develop a database using geo-codes to pinpoint the jurisdiction and the applicable tax. The industry would use the state-provided information and be held harmless for errors. Another option would allow the industry to be held harmless for errors if using "due diligence" in applying proper tax rates based on the zip+4 of the address.
3. States must incorporate the act's bundling provisions. These allow providers to bundle taxable and non-taxable services on the bill without separately stating those charges. Providers can collect the money on the taxable charges, as long as the companies demonstrate through their books and records that the other items were exempt.

State Action

To avoid federal preemption, states must act before Aug. 1, 2002. In 2001, 16 states enacted legislation to conform with the federal act, including Alabama, Arizona, Arkansas, California, Connecticut, Florida, Illinois, Iowa, Louisiana, Minnesota, Nevada, North Dakota, Oklahoma, Oregon, South Carolina and Texas. Nineteen additional states had introduced conforming legislation as of Feb. 5, 2002.

Contacts for More Information

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Kimbell, Sherman and Ellis
Representative of the Wireless Industry
(802) 229-5100 ext. 109

The act taxes wireless calls at the "place of primary use."

States must do three things to comply with the federal law.

To avoid federal preemption, states must act before Aug. 1, 2002.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

"(7) **MOBILE TELECOMMUNICATIONS SERVICE.**—The term 'mobile telecommunications service' means commercial mobile radio service, as defined in section 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999.

"(8) **PLACE OF PRIMARY USE.**—The term 'place of primary use' means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be—

"(A) the residential street address or the primary business street address of the customer; and

"(B) within the licensed service area of the home service provider.

"(9) **PREPAID TELEPHONE CALLING SERVICES.**—The term 'prepaid telephone calling service' means the right to purchase exclusively telecommunications services that must be paid for in advance, that enables the origination of calls using an access number, authorization code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis.

"(10) **RESELLER.**—The term 'reseller'—

"(A) means a provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service; and

"(B) does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

"(11) **SERVING CARRIER.**—The term 'serving carrier' means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area.

"(12) **TAXING JURISDICTION.**—The term 'taxing jurisdiction' means any of the several States, the District of Columbia, or any territory or possession of the United States, any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other political subdivision within the territorial limits of the United States with the authority to impose a tax, charge, or fee.

"§ 125. Nonseverability

"If a court of competent jurisdiction enters a final judgment on the merits that—

"(1) is based on Federal law;

"(2) is no longer subject to appeal; and

"(3) substantially limits or impairs the essential elements of sections 116 through 126 of this title,

then sections 116 through 126 of this title are invalid and have no legal effect as of the date of entry of such judgment.

"§ 126. No inference

"(a) **INTERNET TAX FREEDOM ACT.**—Nothing in sections 116 through this section of this title shall be construed as bearing on Congressional intent in enacting the Internet Tax Freedom Act or to modify or supersede the operation of such Act.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB355(CRA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Mobile Telecommunications Tax BRU Revenue Operations
 Component Tax Division
 Sponsor House Labor & Commerce
 Requester House Labor & Commerce Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2002) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See page 2.

Prepared by: Chuck Harlamert, Revenue Audi' Supervisor
 Division Tax Division
 Approved by: Larry Persily, Deputy Commissioner
 Agency Department of Revenue

Phone 465-4773
 Date/Time 3/14/02 7:13 PM
 Date 3/14/2002

FISCAL NOTE

**STATE OF ALASKA
2007 LEGISLATIVE SESSION**

BILL NO. CSHB355(CRA)

ANALYSIS CONTINUATION

The federal Mobile Telecommunications Sourcing Act (P.L. 106-252) preempts existing state and local law by specifying the source of mobile telecommunications services for purposes of state and local sales, excise or other transaction taxes.

Under the act, mobile telecommunications services are sourced to a customer's place of primary use. State and local revenues are expected to be unchanged when states adopt legislation conforming to the federal act.

CSHB355(CRA) brings Alaska law governing municipal taxation into conformity with the Mobile Telecommunications Sourcing Act. In addition to the sourcing provisions of the federal act, this legislation also provides for procedures and remedies for correcting errors in the assignment of place of primary use.

HB

372

MEMORANDUM

TO: Representative Lisa Murkowski, Chair
Labor & Commerce Committee

FROM: Representative Scott Ogan

DATE: February 6, 2002

SUBJECT: Scheduling of HB 372 for Hearing

HB 372 was drafted in light of the limitation in state law that prevents the owner of an animal from choosing the type of care and treatment that is provided to their own property.

In Alaska, individuals have the right to choose their own health care regardless whether that care is through a medical doctor or through one of today's alternative health practitioners. But as Alaskans we do not have the same right of choice when it comes to our animals.

The intent of this bill is to afford the same "choice of treatment" to the owner of an animal as is afforded to a human patient. Regardless whether someone believes alternative medicine provides healing or creates a placebo healing affect, the bottom line is that the patient gets to choose the type of treatment. This choice should be afforded when it comes to the care and treatment of someone's animals, which is their property.

It goes without saying that treatment should be performed with the least amount of stress to the animal and that the animal is still protected against cruelty under Alaska law.

I would appreciate your taking up HB 372 at your earliest possible convenience.

SO/wc



REPRESENTATIVE SCOTT OGAN

Alaska State Legislature

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

Sponsor Statement House Bill 372

An Act amending the definition of 'practice of veterinary medicine.'

It took many years for the practice of human medicine to recognize the value of alternative medicine, and the significant amount of healing that it can provide to human beings suffering from a variety of illnesses and ailments.

This increased acceptance has had the additional benefit of encouraging patients' rights to choose from among various therapies. Whether a person believes alternative medical therapy works to actually heal a medical condition, or merely has a placebo effect encouraging them to believe they are getting better, the bottom line is that the patient gets to choose the type of treatment they want as an autonomous human being.

This same opportunity, however, does not extend to an individual's pets or farm animals, for which they are largely responsible under state law, which considers a person's animals as personal property. State law now prescribes a single model of medical care to animals, and, except for limited treatments administered by the owner only, limits to licensed veterinarians the right to provide all medical treatment to animals.

House Bill 372 is an effort to allow an individual the same "choice of treatment" to the human owner of an animal under state law as is now afforded to that owner. The bill would grant people the right to offer alternative medical therapies to their animals, provided if desired by alternative therapists. It goes without saying that treatment should be performed with the least amount of stress to the animal and that the animal is still protected against cruelty by Alaska Statute 11.61.140.

All Creatures Veterinary Clinic, Inc.

HB
372

Mile 7.4, Palmer-Wasilla Highway
4360 Snider Drive, Wasilla, Alaska 99654

(907) 376-7930
Fax (907) 376-7931

February 6, 2002

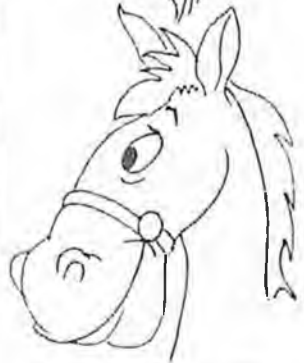
Representative Scott Ogan
State Capital
Juneau, Alaska 99801-1182

Dear Representative Ogan:

It has come to our attention that you have sponsored a bill, HB372, that amends the veterinary practice act. We have read the proposed changes, as noted on the legislative web site.

It is obvious from your proposal that you did not bother to seek input from the veterinary community. It seems to us that you would have done so, before introducing a bill that so drastically affects us. We are strongly opposed to this bill, for the following reasons:

1. The changes do not benefit animal welfare, and have great potential for harm. By allowing unqualified persons to treat animals, you are putting our entire animal population at risk. Treating ill animals is no small undertaking. We had to go to veterinary school for years before we could learn the basics. We don't understand how lay persons could be trusted to know of and perform the best treatment without the benefit of years of schooling, the use of controlled and prescription drugs, the proper equipment, a safe facility, trained support staff, and access to laboratory, radiology, anesthetic, and surgical equipment.
2. This amendment totally devalues what we, as veterinarians, do for a living. The implication here is that ANYONE can perform veterinary work. But not only is this implied, it would be lawful!! Believe us when we say, it is not as easy as it looks. In fact, if we make it look easy, then we must be doing a very good job, because it is mentally and physically a difficult job to do.
3. Your amendment could have adverse economic effects on us. It allows lay persons to charge a fee for their "veterinary" services. In one regard, this means fewer clients would be seeking our services. On the other hand, we could potentially see a lot more cases, ones that have been screwed up by lay persons. We already



Dan A. Walton, D.V.M.
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2/28/2002

House of Representatives
State Capitol
Juneau, AK 99801

Committee on Labor & Commerce

Dear Committee Member,

I would like to make you aware of my opposition to House Bill 372. This bill would allow treatment of animals by persons with proper training and qualifications. The stated intent is "to allow treatment without regard to whether these treatments actually heal, or just create a placebo effect". This attitude would certainly open the Pandora's box for any form of quackery. Any legislator would find this irresponsible legislation difficult to support. Please keep this bill and other bills like from finding there way into law. Thanks for your time.

Cordially,



Dan

Subject: [Fwd: House Bill #372]

Date: Thu, 21 Feb 2002 20:46:20 -0900

From: Lisa Murkowski <Representative_Lisa_Murkowski@legis.state.ak.us>

To: Amy Erickson <Amy_Erickson@legis.state.ak.us>

Subject: House Bill #372

Date: Fri, 15 Feb 2002 11:02:52 -0900

From: "Kim S." <kijo@rogershsa.com>

To: <Representative_Scott_Ogan@legis.state.ak.us>, <Representative_Lisa_Murkowski@legis.state.ak.us>, <Representative_Andrew_Halcro@legis.state.ak.us>, <Representative_Pete_Kott@legis.state.ak.us>, <Representative_Kevin_Meyer@legis.state.ak.us>, <Representative_Norman_Rokeberg@legis.state.ak.us>, <Representative_Harry_Crawford@legis.state.ak.us>, <Representative_Joe_Hayes@legis.state.ak.us>, <Representative_Beverly_Masek@legis.state.ak.us>, <Representative_Vic_Kohring@legis.state.ak.us>

Dear Representatives:

As introduction, my name is Kim Strange. I am a resident of Wasilla, and have lived in Alaska for 25 plus years. I am a strong advocate for the humane care and treatment of animals, with a specific interest in horses. For the last six years I have been actively involved in the promotion of the proper care of horses in the Mat-Su Boro. I have served as rescuer, caretaker, educator, and expert witness for many, many horses. In each capacity and encounter, a licensed veterinarian was consulted and involved. I routinely consult with, seek advice from, and engage a licensed veterinarian on a number of animal care issues.

It is with great concern that I address you today concerning the newly introduced House Bill #372. While this bill has the appearance of public accommodation, the far reaching implications of it could and will be disastrous for the animal population.

Clearly the sentiment that people in Alaska have the right to choose their own type of health care is accurate; however, it is hardly a fair analogy to make concerning the health care choices for animals. As free thinking individuals we do have a choice. We also have the ability to determine if the treatment is working or not – beneficial or not. On the other hand, no animal can verbalize their continued discomfort or ongoing problems that may occur without the proper treatment. Furthermore, while a treatment may have appeared to be successful on the surface, there is simply no method of confirmation without proven scientific methods – i.e., blood work, x-rays, ultrasounds, etc. Actual case in point – a horse owner is told that she does not need to routinely deworm her horse as recommended by the veterinarian, she simply needs to feed a particular “homeopathic” grain product and her animal will be parasite free. While the horse appeared on the outside to be healthy (shiny hair coat due to flax seed in the product), the parasites continued to do their damage of organs and tissues until at some point down the road the horse started having serious problems due to parasite

damage. The horse was scientifically tested for parasites and found to be "loaded" with them. While the parasite population can be destroyed, the damage that occurred during this period of not properly treating the horse cannot be reversed.

While it is a grand sentiment to believe that all animal owners use common sense and due diligence when it comes to the treatment of their animals, this simply is not the case. The general population is a believing group and will trust what they are told or led to believe – even when there is no scientific evidence to support the claims. This is why the government has restricted "homeopathic" product manufacturers from claiming their product will cure, prevent, enhance, etc.; to protect the public from false and non-proven statements.

Allowing anyone to treat, doctor, diagnose or otherwise tend to any animal simply based on their own beliefs and their ability to state "I know what I am doing" without any formal training or education would be completely reckless on the State's part. To relieve accountability for these individuals affirms the idea that they really don't know what they are doing, and are potentially dangerous. Actual case in point – a horse is identified with what appears to be a serious hip injury. An unlicensed, uneducated individual who believes she is able to identify and treat injury and ailments in animals, diagnosed the animal as needing chiropractic adjustments and was proceeding to make these adjustments. However, due to the fact that when asked if she had an equine anatomy background, and her denial of any such training, the owner stopped the process. The veterinarian was called in and based on scientific evidence, (blood work and tissue biopsy) it was discovered the animal suffered from Equine Motor Neuron Disease, treatable with diet adjustments and vitamin supplementation. Fortunately for this horse, the owner was educated as to the danger of "adjusting" without the benefit of x-ray films. Imagine the outcome had the owner not been so educated and the horse did not receive the proper treatment. It would have died. Furthermore, imagine if this horse did indeed have a fractured or dislocated hip and was forced to endure the "chiropractic adjustments" by an uneducated lay person.

Taking this down the road a bit further, it concerns me that in this State, in order for a veterinary assistant to do routine veterinary care practices such as immunizations, lab workups, surgical preparation and assistance, that individual must be a licensed Veterinary Technician. In order to become licensed, an individual must obtain an Associate's Degree in Animal Sciences or have two years of on-the-job training with a licensed veterinarian, and must take and pass a four-hour national exam. Once licensed, they are restricted to activities that are directly supervised by a licensed veterinarian. And yet, a bill is introduced to allow any individual who cares to "to perform standard practices commonly performed on farm or domestic animals in the course of routine farming or animal husbandry or *animal care and treatment.*" The addition of those four words opens the door to anyone with a desire to do so to perform procedures commonly performed in veterinary clinics.

Furthermore, a strong case could be made as to the conflict of this bill with the State's own animal cruelty statute, which in part states "a reasonable mind would have known better". Clearly, a reasonable mind would know that the proper diagnosis and treatment of animal ailments and injuries requires the expertise of an educated, licensed professional. If it is now the State's belief that any person is capable of this

practice, then what is the purpose of the Veterinary Licensing Board?

In my many years of involvement for the care of animals, I have taken every opportunity afforded me to further my own education in their care. This includes many hours of college coursework, riding along with a veterinarian, scouring technical manuals, and asking many, many questions. But at no time have I ever felt qualified or competent to diagnosis or treat an injured or ill animal. A licensed professional is an absolute necessity, as there is just too much information to know. A lay person could not possibly know all there is to know to be safe and effective. I have also found all veterinarians completely willing and comfortable with complimentary care such as physical and massage therapy, supplementation therapy, chiropractic therapy, etc., when it is determined by the veterinarian that such care would be beneficial, that an educated, licensed practitioner is available for the care, and that the veterinarian continue their involvement for concurrent care.

It is without argument that the State of Alaska is far behind the times with regard to animal protection, due in part to the fact that Alaska is a relatively infant State and in part to the frontier spirit of Alaskans. However, I implore you to recognize this bill for what it is – an effort to bypass the six plus years of college education and the following internship that makes a licensed practitioner qualified and accountable – and vote appropriately – NO

Sincerely,

Kim Strange

Kim Strange

P.O. Box 874072

Wasilla, AK 99687

(907) 357-0111

(907) 357-1123 (fax)

kijo@rogershsa.com

Subject: [Fwd: HB 372]

Date: Thu, 21 Feb 2002 21:12:54 -0900

From: Lisa Murkowski <Representative_Lisa_Murkowski@legis.state.ak.us>

To: Amy Erickson <Amy_Erickson@legis.state.ak.us>

Subject: HB 372

Date: Mon, 18 Feb 2002 13:26:01 -0900

From: Christina Spears <tspears@alaska.com>

To: Representative_Lisa_Murkowski@legis.state.ak.us

Dear Rep. Murkowski,

Please put HB 372 up for discussion and vote in the Lagislature. I think pet owners should be able to decide what type of complementary therapy is good for their pets. I recognise that there are somethings only a Vet should do, but it's like equating Physicians to massage therapists. We can currently choose alternative health care for our children; why not our pets?

Thank you,

Christina Spears

631 E. 22nd Ave. A2

Anchorage, AK 99503

Subject: [Fwd: HB 372]

Date: Thu, 21 Feb 2002 21:23:37 -0900

From: Lisa Murkowski <Representative_Lisa_Murkowski@legis.state.ak.us>

To: Amy Erickson <Amy_Erickson@legis.state.ak.us>

Subject: HB 372

Date: Wed, 20 Feb 2002 12:41:18 -0900

From: Teresa Firmin <Teresa_Firmin@admin.state.ak.us>

Organization: State of Alaska

To: Lisa Murkowski <Representative_Lisa_Murkowski@legis.state.ak.us>, Gary R Wilken <Senator_Gary_Wilken@legis.state.ak.us>

CC: Andrew Halcro <Representative_Andrew_Halcro@legis.state.ak.us>, Peter Kott <Representative_Pete_Kott@legis.state.ak.us>, Kevin G Meyer <Representative_Kevin_Meyer@legis.state.ak.us>, Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>, Harry Crawford <Representative_Harry_Crawford@legis.state.ak.us>, Joe L Hayes <Representative_Joe_Hayes@legis.state.ak.us>

Honorable Lisa Murkowski -

Please accept this letter on behalf of a concerned animal owner and supporter of HB 372. This bill affirms the right on animal owners to choose what they feel is appropriate care and treatment of his or her property. Currently a the law reads that you the animal owner may own this property but are not able to choose how this animal is treated in regards to its well being and health. Currently the only providers of health care to your property by law is veterinarians. I have had first hand experience with the amazing effects complimentary care can offer. And frankly I was outraged to find that I did not have the right to choose this method of care.

Complimentary care as we all know is widely excepted in the human medical world. why not the animal as well. We all know that not all knowledge is learned in a school with walls and credits. Most types of care considered alternative go well outside the bounds of what we consider medicine.

Further I have seen a draft of SB321 and was even more outraged by its introduction. This would make me guilty of a crime for something so simple as feeding the horses - since by doing this I am easing their mental anguish. This simply does not make sense - nor would any member of the animal owning community accept this.

I urge you to consider house bill that would give freedom back to the animal/property owner to choose.

Warm Regards,
Teresa A. Firmin

372

Subject: HB 372

Date: Wed, 20 Feb 2002 20:15:57 -0900

From: "Marietta Phillips" <mvp@gci.net>

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

Hello -

I'm an Alaskan constituent - a resident of Anchorage. Please put **HB 372**, proposed by **Scott Ogan** on the agenda for discussion among the State Legislature. I believe pet owners should have more choices and the right to decide who provides petcare for compensation.

Thank You,
Marietta Phillips
9336 Blackberry Street
Anchorage, AK 99502

Subject: HB 372

Date: Wed, 20 Feb 2002 12:41:18 -0900

From: Teresa Firmin <Teresa_Firmin@admin.state.ak.us>

Organization: State of Alaska

To: Lisa Murkowski <Representative_Lisa_Murkowski@legis.state.ak.us>, Gary R Wilken <Senator_Gary_Wilken@legis.state.ak.us>

CC: Andrew Halcro <Representative_Andrew_Halcro@legis.state.ak.us>, Peter Kott <Representative_Pete_Kott@legis.state.ak.us>, Kevin G Meyer <Representative_Kevin_Meyer@legis.state.ak.us>, Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>, Harry Crawford <Representative_Harry_Crawford@legis.state.ak.us>, Joe L Hayes <Representative_Joe_Hayes@legis.state.ak.us>

Honorable Lisa Murkowski -

Please accept this letter on behalf of a concerned animal owner and supporter of HB 372. This bill affirms the right on animal owners to choose what they feel is appropriate care and treatment of his or her property. Currently a the law reads that you the animal owner may own this property but are not able to choose how this animal is treated in regards to its well being and health. Currently the only providers of health care to your property by law is veterinarians. I have had first hand experience with the amazing effects complimentary care can offer. And frankly I was outraged to find that I did not have the right to choose this method of care.

Complimentary care as we all know is widely excepted in the human medical world, why not the animal as well. We all know that not all knowledge is learned in a school with walls and credits. Most types of care considered alternative go well outside the bounds of what we consider medicine.

Further I have seen a draft of SB321 and was even more outraged by its introduction. This would make me guilty of a crime for something so simple as feeding the horses - since by doing this I am easing their mental anguish. This simply does not make sense - nor would any member of the animal owning community accept this.

I urge you to consider house bill that would give freedom back to the animal/property owner to choose.

Warm Regards,
Teresa A. Firmin

F
HB372

ALASKA EQUINE & SMALL ANIMAL HOSPITAL, LLC

21236 Birchwood Loop Road
P.O. Box 671512
Chugiak, Alaska 99567
Phone (907) 688-9303
Fax (907) 688-2520

February 13, 2002

Representative Lisa Murkowski
State Capitol, Room 408
Juneau, AK 99801-1182

Dear Representative Murkowski:

I am writing in opposition to HB 372, currently in committee with Labor and Commerce. This is an act amending the definition of the "practice of veterinary medicine". This proposed change occurs in the exceptions area of the definition of the practice of veterinary medicine and adds wording to 'allowing routine farming and animal husbandry' to include or animal care and treatment by an owner, owner's employee or owner's agent acting with owner's approval.

This change is designed to protect a small special interest group of people who wish to practice veterinary medicine, surgery, and dentistry without a license. The veterinary practice act is in place to allow for well-trained qualified individuals to provide veterinary care for animals in Alaska. Allowing untrained, unlicensed individuals to be protected and validated to provide animal care and treatment under the veterinary practice act undermines the very spirit of a veterinary practice act. Does this change mean that any individual can diagnose, prescribe and treat animals? Should lay people administer drugs and medications and use therapeutic equipment without a proper diagnosis and without proper training to understand the pharmacology of those drugs or the physiological effects of therapy? Does a non-licensed, non-graduate veterinarian have the training and knowledge to deal with an adverse reaction to those treatments? Providing protection to those people under the veterinary practice act and allowing them to diagnose, prescribe and treat animals for compensation is a danger to the animals of Alaska.

One of the reasons proposed for this change is that in Alaska animals are considered private property and citizens ought to have the right to do what they want to with their animals. The problem with this line of reasoning is that it is a very short step to invalidating any animal welfare and protection laws we have as well.

I believe that alternative and complimentary care should be regulated and licensure required so that citizens relying on people that provide those services can be assured of competence in that field as well as they do in the competence of licensed veterinarians operating under the law of the current veterinary practice act. Complimentary medical care should always be undertaken only following a valid diagnosis and with the supervision of a licensed veterinarian. Allowing non-graduate, non-licensed people to practice veterinary medicine without a license undermines and invalidates every licensed veterinarian in this state.

Joseph Grohs, D.V.M.

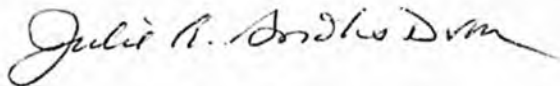
Julie Grohs, D.V.M.

February 13, 2002

I have reviewed the veterinary practice acts of most of the other states and can find none with any wording like that proposed in this bill. The Model State Veterinary Practice Act proposed by the American Association of Veterinary State Boards has specific language allowing for the treatment of animals by individuals under the supervision of a veterinarian that would be a useful change to our existing law. I believe that the Alaska State Board of Veterinary Examiners has proposed some changes to the existing practice act that will bring it more in line with the model practice act. The AVMA and the AAEP both organizations of which I am a member, have guidelines for alternative and complimentary care of animals under the supervision of a licensed veterinarian. Working together for the common goal of protecting and providing the best possible care for animals should be our guideline.

Please reject the proposed change to the veterinary practice act brought forth in HB 372. I can be reached at my office or by e-mail at Grohsaesah@aol.com for further comment or questions.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Grohs D.V.M.".

Julie A. Grohs, D.V.M.



HOMER VETERINARY CLINIC

R. E. BROSHES, D.V.M.
T. E. McCOLLUM, D.V.M.

P.O. Box 1445
Homer, AK 99603
Telephone: (907) 235-8960

February 22, 2002

Representative Lisa Murkowski, Chair

Dear Representative,

We have a concern that HB 372 would deregulate the practice of veterinary medicine in the State of Alaska. The wording of the bill states that the owner's agent can perform animal care and treatment. This would allow anyone an owner wishes to hire to treat their animal.

This would result in no regulation or standards for the treatment of animals. There are veterinarians in the state that practice alternative medicine. These are licensed veterinarians that comply with the Veterinary Practice Act of the State of Alaska. They understand the various treatments of animals and the owner would know the treatment is in the best interest of the animal. Deregulating the practice of veterinary medicine could allow for misdiagnosis and treatment resulting in harm to the animals.

We oppose HB 372 in that it would allow untrained agents to perform treatment on animals that may result in harm to the animals and no regulation to control their actions.

Sincerely,

Ralph E. Broshes, DVM

Dorothy U. Sherwood, MVB, MRCVS

Debra E. Nicholson, DVM

Subject: H.B.372

Date: Sat, 9 Mar 2002 14:41:31 -0800

From: "Jan Wrentmore" <madam@aptalaska.net>

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

CC: <Representative_Scott_Ogan@legis.state.ak.us>

Please schedule a hearing In House Labor and Commerce on H.B. 372 which provides animal owners with the right to choose alternatives options for health care.

As a resident of rural Alaska (Skagway) I am only one of thousands of Alaskans who live in communities where there are no veterinarians. At present I have in my care five dogs, two donkeys and a pig. It is essential that I have all options available to me when health problems arise. In more than one case over the years I would have lost an animal if I had been prohibited from seeking alternative care.

I would appreciate the opportunity to testify on this legislation. As a pet owner, I feel I should have the same rights for seeking help for my animals as I have for myself.

Thank you.

Jan Wrentmore

7 March 2002

Dear Representative Murkowski:

I am writing to oppose HB 372.

This bill seriously infringes on the freedom of choice that an animal owner can exercise in caring for his or her animals. I find it appalling that we are legally given the control of life or death over our pets and other animals, but cannot choose the methods by which we will "relieve or prevent animal disease". Technically if this bill goes through, I would not be able to take my elderly dog to a canine masseuse, or take her to hydrotherapy, or have gentle acupuncture done on her. None of these are invasive techniques, and none are done by veterinarians.

I am not against vets. I take my dog frequently for teeth cleaning and physical checkups. However, there are many techniques that are extremely helpful to my pet's well – being that vets either do not have time to learn, are not interested in, or are too busy to deal with. Vets are extremely busy dealing with acute disease and trauma. Citizens like myself that are against HB 372 do not want to take away any of the importance of that. We simply feel that we should be allowed to decide which sort of health care is appropriate when. I do not go to my medical doctor when I want a massage, or when I want to improve my balance through swimming or tai chi. They simply have a different part to play in health care. Yet I do not tell my masseuse that I won't pay her because she doesn't have a doctor's degree.

Please require a hearing on HB 372 so that all concerns may be heard.

Thank you.

Sincerely,

Kendra Zamzow

March 3, 2002

Rep. Murkowski, Rep. Halcro, Rep. Kott, Rep. Meyer, Rep. Rokeberg, Rep. Crawford,
and Rep. Hayes

Labor and Commerce Committee

Alaska State Legislature

State Capitol (MS 3100)

Juneau, AK 99801-1182

Subject; HB 306, HB 372, SB 321

Dear Representatives,

Does the State of Alaska want unlicensed individuals practicing veterinary medicine? House Bill 306 and House Bill 372 would say "yes". The Board of Veterinary Examiners says "no" and Senator Gary Wilken has introduced legislation, Senate Bill 321, in support of the Board's position.

House Bill 306 would allow municipalities and villages to acquire a permit recognized by the Drug Enforcement Agency (DEA) to purchase "sodium pentobarbital" with and without "lidocaine", for the purpose of euthanizing unwanted pets by unlicensed individuals. Training would consist of a one week certified course for the individuals handling the substance. The authority regulating these permits, on the other hand, would have no training or understanding of the material they are regulating. There is nothing written into this bill that would address reasons for revocation for a permit or disciplinary proceedings for violation of the statute. HB 306 would greatly increase the risk of this abusive substance to be found on the streets of villages and towns. One argument used by Mayor Rhonda Boyles of the Fairbanks North Star Borough (FNSB), in support of this bill, is the cost of hiring a veterinarian to perform these procedures. I find this hard to believe for two reasons. First, the FNSB already employs a veterinarian to spay and neuter pets that are being adopted. Second, the kennel help, dispatcher and animal control officers are paid wages similar to or greater than the veterinarian employed at the FNSB animal shelter. The above-standard wages paid by the FNSB for its animal shelter employees is reflected in the per capita cost of their facility in relation to national averages: \$11.15 per FNSB citizen for the FNSB animal shelter budget and \$1.15 per person across the nation for similar services. This is an issue of management practices and should not be a supporting factor when considering public health and safety.

Representative Ogan introduced the second bill, House Bill 372, without any review or discussion with the Board of Veterinary Examiners. The regulation of the practice of veterinary medicine, including jurisdiction over unlicensed practice in the profession, has a reasonable and rational relation to public health, safety and welfare. See, e.g., State v. Wakeen, 57 N.W.2d 364 (Wis., 1953). cf. State v. VanKeegan, 113 A.2d 141 (Conn., 1955), and Williamson v. Lee Optical of Oklahoma, 348 U.S. 483 (1955). For this reason, vesting power in the Board to regulate illicit practice would not appear to violate constitutional due process requirements. If the ulterior intent of this legislative change by

Rep. Ogan is to generate a public belief that unlicensed individuals may be permitted to perform treatments on animals, then Rep. Ogan is asking the House of Representative to allow unlicensed individuals to perform acts that constitute the practice of veterinary medicine. The concept of licensing professionals is to ensure they meet accepted professional standards. Licensing provides credibility and liability to those regulated, and, as such, protects the public. If we were to allow treatments to be performed by any layperson, there would be no regulation on those individuals, no recourse of action by the public, and no liability for those individuals when they act inappropriately. Public health and safety would be jeopardized.

Senate Bill 321, on the other hand, will allow the Board of Veterinarian Examiners to regulate the position of euthanasia technician. In addition to requiring a euthanasia technician to attend a certified program, they will have a sponsoring veterinarian provide additional hands on training. The sponsoring veterinarian will be responsible for and supply the technician with the necessary drug regimes to ensure safe and humane euthanasia of unwanted pets. I have included a table comparing SB 321 to HB 306 in regards to how they address the issue of handling euthanasia of unwanted pets, in several areas related to public health and safety.

The language found in SB321, guided by its public protection mission, is attempting to reflect the most current thinking on professional regulation nationally. If the Board allowed unlicensed practice by unqualified individuals as proposed in HB 372, it would fail to protect the public. Similar to the American Association of Veterinary State Boards, our State Board believes that the public interest must be the central precept of any professional regulatory act and its administration, and that state regulatory boards must constantly strive to ensure that this basic principle is upheld. These beliefs are clearly articulated in the legislative changes proposed in SB 321 and are not supported by HB 306 and HB 372. The decision you make in regards to these two bills could greatly affect the health and welfare of the citizens and their animals in our state.

I commend your commitment to our Great State and wish you the best of health and protection.

Sincerely,



Dee Thornell, DVM
Chair, Board of Veterinary Examiners

Attachments

**MEMORANDUM**

TO: Representative Lisa Murkowski, Chair
Labor & Commerce Committee

FROM: Representative Scott Ogan

DATE: April 12, 2002

SUBJECT: House Bill 372 revisions and hearing request

On February 6, 2002 a request for hearing was submitted to your office for consideration of HB 372. Since that time my office has engaged in discussion with Veterinarians and other Alaskans who are concerned about the right to choose appropriate care. The underlying principle that the public has a right to choose the care modality for their animals remains paramount while at the same time providing safeguards for the well being of animals from untrained practitioners.

As a result of this dialogue, I have completely revised the original bill. The attached committee substitute requires licensure of anyone who practices a complimentary care modality, identifies many complimentary care disciplines, sets out prohibited practices, provides for disciplinary sanctions and provides that the Division of Occupational Licensing can establish regulations. I have attached a sectional analysis of the bill for your review.

I want to define what is meant by the term "complimentary care therapy." It means a procedure, such as acupuncture, acuthery, acupressure, homeopathy, or manual or manipulative therapy, derived from within an assorted group of preventive, diagnostic, and therapeutic philosophies and practices the techniques of which may diverge from the techniques used in the practice of veterinary medicine routinely taught in accredited veterinary schools.

It has never been the intent of this legislation to devalue the skill and expertise of the veterinarian. It does guarantee the owner the right to choose modalities that are not performed in traditional veterinary practices. The animals will gain exponential benefits from veterinarians and complementary care providers working in collaboration with the owner for the well being of the whole animal.

This bill could also provide an economic stimulus by providing professions whereby interested parties can obtain the proper training and licensure in order to open their own business for the complimentary care and treatment of animals.

Please contact Bill Church, of my staff, if you have any questions concerning this bill.

THE
FOLLOWING
DOCUMENT(S)
ARE
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22-LS1221P
Lauterbach
4/11/02

CS FOR HOUSE BILL NO. 372()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE OGAN BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the practice of veterinary medicine; relating to the practice of**
2 **animal complementary care; and providing for an effective date.."**

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

4 *** Section 1. AS 08 is amended by adding a new chapter to read:**

5 **Chapter 97. Animal Complementary Care.**

6 **Sec. 08.97.010. License required.** A person may not practice an animal
7 complementary care discipline, as established under AS 08.97.030, without a license,
8 training permit, or temporary permit issued under this chapter that includes an
9 endorsement that authorizes practice of that discipline.

10 **Sec. 08.97.020. Relationship between license and endorsements; fees.** (a) A
11 person may not be issued a license under this chapter unless the person applies and
12 qualifies for an endorsement in at least one discipline established under AS 08.97.030.

13 (b) The department shall include on one license all endorsements for which a
14 person has applied and qualified under this chapter.

1 (c) The initial license fee and license renewal fee set by the department under
2 AS 08.01.065 shall be based on the number of endorsements included in the license,
3 with no distinction as to the type of discipline covered by the endorsement. The
4 department may charge an additional prorated fee to add an endorsement after initial
5 licensure and before license renewal, but no endorsement may cost more to add than
6 any other endorsement that would be valid for the same time period.

7 **Sec. 08.97.030. Complementary care disciplines.** (a) As defined in
8 regulations of the department, the following types of procedures, when performed with
9 respect to an animal, are animal complementary care disciplines:

- 10 (1) chiropractic care;
- 11 (2) acupuncture;
- 12 (3) homeopathy;
- 13 (4) herbal therapy;
- 14 (5) holistic therapy;
- 15 (6) farrier;
- 16 (7) massage therapy;
- 17 (8) shiatsu therapy;
- 18 (9) reiki therapy;
- 19 (10) kinesiology;
- 20 (11) touch technique;
- 21 (12) acupressure;
- 22 (13) electro-acuscope therapy;
- 23 (14) cranio-sacral therapy;
- 24 (15) aromatherapy;
- 25 (16) myopulse therapy; and
- 26 (17) therapy by use of magnets.

27 (b) The department may, by regulation, establish other disciplines for which a
28 license and endorsement under this chapter are required if the department determines
29 that there are procedures in addition to those specified in (a) of this section that

30 (1) are derived from within an assorted group of preventive,
31 diagnostic, and therapeutic philosophies and practices related to animal care, the

1 techniques of which may diverge from the techniques used in the practice of
2 veterinary medicine routinely taught in accredited veterinary schools:

3 (2) may be performed safely by persons who are not licensed under
4 AS 08.98 if the person meets the education, training, apprenticeship, examination, or
5 other requirements established by the department for that discipline; and

6 (3) should be subject to the licensing requirement of this chapter in
7 order to promote the public welfare and the safe treatment of animals.

8 **Sec. 08.97.100. Application for license.** A person who desires to be licensed
9 under this chapter shall

10 (1) apply in writing on a form available from the department;

11 (2) specify the endorsements for which the person is applying;

12 (3) provide the documentation required under AS 08.97.110; and

13 (4) pay the required application fees.

14 **Sec. 08.97.110. Qualifications for license endorsement.** (a) In order to
15 qualify for a license endorsement in a discipline, an applicant shall provide proof
16 satisfactory to the department that the applicant has

17 (1) received a degree in the discipline from an accredited four-year
18 college or university;

19 (2) successfully completed a curriculum in the discipline offered by a
20 school whose curriculum in that discipline has been approved by the department;

21 (3) successfully completed an apprenticeship in the discipline under
22 the type of supervision required under AS 08.97.120(a)(2);

23 (4) completed a combination of course work and training acceptable to
24 the department; or

25 (5) passed an examination approved by the department in each subject
26 the department considers necessary for endorsement in the discipline.

27 (b) The department shall adopt regulations that establish criteria that the
28 department will use in determining which curricula, training programs,
29 apprenticeships, course work, and examinations may be used to satisfy the
30 requirements of this section.

31 **Sec. 08.97.120. Training permit.** (a) The department may issue a training

1 permit to a person to practice an animal complementary care discipline if the person
2 applies for the permit, pays the required fee, and provides evidence satisfactory to the
3 department that the person

4 (1) has been accepted into a program of education, apprenticeship, or
5 training that may be used to satisfy an endorsement requirement of AS 08.97.110 for
6 that discipline; and

7 (2) will be supervised in a manner prescribed by the department by a
8 person who is

9 (A) licensed under this chapter, has an endorsement in that
10 discipline, and has been practicing that discipline for at least two years either
11 in this state or in another jurisdiction with endorsement or licensing
12 requirements equivalent to those of this state;

13 (B) a veterinarian licensed under AS 08.98 who is trained in the
14 discipline, as determined under regulations of the department.

15 (b) A training permit shall state which disciplines are authorized under the
16 permit. Practice under a training permit is limited to the stated disciplines and may
17 only be performed under supervision that meets the requirements of (a)(2) of this
18 section.

19 (c) A training permit is valid for two years and may be renewed in accordance
20 with regulations adopted by the department.

21 **Sec. 08.97.130. Temporary permit.** (a) The department may issue a
22 temporary permit to practice an animal complementary care discipline to a person who

23 (1) applies for the permit;

24 (2) applies for a license under AS 08.97.100 that would include an
25 endorsement for that discipline;

26 (3) pays the required fees; and

27 (4) gives evidence satisfactory to the department that the applicant
28 holds a valid license to practice the discipline in another state or in a territory or
29 province of Canada.

30 (b) A temporary permit expires on the earliest of the following:

31 (1) six months after its issuance;

1 (2) the date the department issues a license under this chapter that
2 includes an endorsement for the discipline; or

3 (3) the date on which the department denies an application under this
4 chapter by the person for an endorsement for the discipline.

5 **Sec. 08.97.200. Disclosures by practitioner.** (a) A practitioner shall clearly
6 disclose the discipline for which the practitioner is endorsed

7 (1) to each person for whom animal care is provided;

8 (2) on all material of the practitioner that is made available to the
9 owner of an animal treated by the practitioner or to the public.

10 (b) A practitioner who is not covered by professional liability insurance for the
11 practice of a discipline shall disclose that fact to the owner of any animal on which the
12 practitioner practices that discipline.

13 **Sec. 08.97.210. Practices prohibited.** (a) Unless authorized under a law
14 outside this chapter, a person with a license or permit issued under this chapter may
15 not, in the practice authorized under this chapter,

16 (1) administer or prescribe a prescription drug, a substance that is a
17 controlled substance under AS 11.71.900, or a poison;

18 (2) engage in surgery;

19 (3) perform equine dentistry except under the supervision of a person
20 employed under AS 03.25.010 or licensed under AS 08.98.

21 (b) A person who holds a license or permit issued under this chapter who does
22 not hold a license under AS 08.98 may not use the word "veterinarian" or "veterinary"
23 in the person's title or description of services.

24 **Sec. 08.97.220. Grounds for disciplinary sanctions or license denial.** The
25 department may deny a license or endorsement or, after a hearing, may impose a
26 disciplinary sanction authorized under AS 08.97.230 on a person licensed under this
27 chapter if the department finds that the applicant or licensee, as applicable,

28 (1) secured a license or endorsement through deceit, fraud, or
29 intentional misrepresentation;

30 (2) engaged in deceit, fraud, or intentional misrepresentation in the
31 course of providing professional services or engaging in professional activities.

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- (3) advertised professional services in a false or misleading manner;
- (4) has been convicted of a felony or other crime that affects the licensee's ability to continue to practice competently and safely;
- (5) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the department.
- (6) continued to practice after becoming unfit due to
 - (A) professional incompetence;
 - (B) addiction to or severe dependency on alcohol or other drugs that impairs the ability to practice safely;
 - (C) physical or mental disability; or
- (7) engaged in lewd or immoral conduct in connection with the delivery of professional services.

Sec. 08.97.230. Disciplinary sanctions. (a) The department may take the following disciplinary actions, singly or in combination, for a reason described in AS 08.97.220:

- (1) permanently revoke a license;
 - (2) suspend a license for a determinate period;
 - (3) censure a licensee;
 - (4) issue a letter of reprimand to the licensee;
 - (5) place the licensee on probation and require the licensee to do one or more of the following:
 - (A) report regularly to the department on matters related to the grounds for probation;
 - (B) limit the licensee's practice to disciplines or procedures prescribed by the department;
 - (C) receive professional education until a satisfactory degree of skill has been attained in areas determined by the department to need improvement;
 - (6) impose limitations or conditions on the practice of the licensee.
- (b) The department may withdraw probationary status if the deficiencies that required the sanction are remedied.

1 (c) The department may summarily suspend a licensee from the practice of the
2 profession before a final hearing is held or during an appeal if the department finds
3 that the licensee poses a clear and immediate danger to the public health and safety or
4 the health and safety of animals. A licensee is entitled to a hearing before the
5 department to appeal the summary suspension within seven days after the effective
6 date of the order of suspension. A licensee may appeal a summary suspension upheld
7 after a hearing by the department to a court of competent jurisdiction.

8 **Sec. 08.97.240. Penalties.** (a) A person who knowingly violates
9 AS 08.97.010 is guilty of a class A misdemeanor and, upon conviction, is punishable
10 by a fine of not more than \$1,000 or by imprisonment for not more than a year, or by
11 both.

12 (b) A person who knowingly obtains or attempts to obtain a license or an
13 endorsement under this chapter by dishonest means, or who knowingly forges,
14 counterfeits, or fraudulently alters a license or endorsement issued under this chapter
15 is guilty of a class B misdemeanor.

16 (c) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

17 **Sec. 08.97.280. Regulations.** The department shall adopt regulations to
18 implement this chapter.

19 **Sec. 08.97.290. Definitions.** In this chapter,

20 (1) "animal" means any animal other than a human being, including
21 mammals, birds, fish, and reptiles, wild or domestic, living or dead;

22 (2) "animal complementary care discipline" means a discipline
23 specified under AS 08.97.030(a) or recognized by the department in regulations
24 adopted under AS 08.97.030(b);

25 (3) "department" means the Department of Community and Economic
26 Development;

27 (4) "discipline" means an animal complementary care discipline;

28 (5) "practitioner" means a person licensed under this chapter to
29 practice an animal complementary care discipline.

30 * **Sec. 2.** AS 08.01.010 is amended by adding a new paragraph to read:

31 (57) regulation of providers of animal complementary care under

1 AS 08.97.

2 * Sec. 3. AS 08.98.250(5) is amended to read:

3 (5) "practice of veterinary medicine"

4 (A) means, except as provided in (D) of this paragraph, for
5 compensation to

6 (i) diagnose, treat, correct, change, relieve, or prevent
7 animal disease, deformity, defect, injury, or other physical or mental
8 condition, including the prescription or administration of a drug,
9 biologic apparatus, anesthetic, or other therapeutic or diagnostic
10 substance;

11 (ii) use a manual or mechanical procedure for testing
12 for pregnancy or correcting sterility or infertility; or

13 (iii) render advice or recommendation with regard to
14 any matter listed in (i) or (ii) of this subparagraph;

15 (B) means to represent, directly or indirectly, publicly or
16 privately, an ability or willingness to do any act included in (A) of this
17 paragraph for compensation;

18 (C) means to use a description, title, abbreviation, or letters in a
19 manner or under circumstances tending to induce the belief that the person
20 using it or them is qualified or licensed to do any act included in (A) of this
21 paragraph whether or not for compensation;

22 (D) does not include, whether or not for compensation,

23 (i) practices related to artificial insemination and the use
24 of a title, abbreviation, or letters in a manner which induces the belief
25 that the person using them is qualified to perform artificial
26 insemination;

27 (ii) the practices of an individual holding a license or
28 permit issued under AS 08.97 if the practices are within the scope
29 of the authority granted under the license or permit [A FARRIER
30 DONE IN THE PERFORMANCI OF THE FARRIER'S
31 PROFESSION];

1 (iii) standard practices commonly performed on farm or
2 domestic animals in the course of routine farming or animal husbandry,
3 when performed by an owner or the owner's employee unless
4 ownership of the animal is transferred for the purpose of avoiding
5 application of this chapter or the primary purpose of hiring the
6 employee is to avoid application of this chapter:

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

9 REGULATIONS. The Department of Community and Economic Development and
10 the Board of Veterinary Examiners may proceed to develop and adopt regulations necessary
11 to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure
12 Act), but not before January 1, 2003.

13 * Sec. 5. Except as provided in sec. 6 of this Act, this Act takes effect January 1, 2003.

14 * Sec. 6. Section 4 of this Act takes effect immediately under AS 01.10.070(c).



Sectional Analysis CS for HB 372

Section 1 Amends AS 08 by adding a new chapter:

Sec. 08.97.010 establishes that no one may practice an animal complimentary care discipline without a license. This applies to anyone who practices a modality for compensation.

Sec. 08.97.020 establishes a fee structure for licensure under this chapter.

Sec. 08.97.030 identifies many of the complimentary care disciplines that are practiced, provides that the division of occupational licensing can establish other disciplines for practice by regulation, and how a complimentary care discipline is defined.

Sec. 08.97.100 sets forth the license application process.

Sec. 08.97.110 describes the qualifications for a complimentary care license endorsement and authorization for the department to adopt regulations used to satisfy the requirements of the section.

Sec. 08.97.120 establishes a "training permit" so that an individual under an apprenticeship program or a practicum as part of a program of study may practice a complimentary care discipline in their field of study and provides for the supervision of those issued a training permit.

Sec. 08.97.130 establishes a "temporary permit" for individuals who are applying for licensure under this chapter.

Sec. 08.97.200 requires a practitioner to disclose, 1) the disciplines covered under license to the owner(s) of animals that are to be treated, and, 2) whether they are covered by professional liability insurance.

Sec. 08.97.210 outlines the practices that are prohibited under this chapter.

Sec. 08.97.220 outlines the grounds for disciplinary sanctions or license denial.

Sec. 08.97.230 explains the disciplinary sanctions outlined in the previous section.

Sec. 08.97.240 outlines the penalties for practicing without a license or the illegal attempt to obtain a license.

Sec. 08.97.280 provides authority for the department to adopt and implement regulations under this chapter.

Sec. 08.97.290 definition of terms used under this chapter.

Section 2 amends AS 08.01.010 by adding chapter 08.97 to the list of occupations covered by this title.

Section 3 amends the definitions under 08.98 covering veterinarians by providing that the practice of a complimentary care discipline is not considered the "practice of veterinary medicine." This section also removes the practices of a farrier from under the veterinary code and includes the profession under sec. 08.97.030, complimentary care disciplines.

Section 4 amends the uncodified law of the State of Alaska to provide authority so that the department may proceed to develop and adopt regulations to take effect after December 31, 2002.

Section 5. This act takes effect January 1, 2003, except as provided in section 6.

Section 6. provides that section 4 takes effect immediately.



REPRESENTATIVE SCOTT OGAN

Alaska State Legislature

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

Sponsor Statement for CS for HB 372

DRAFT

Practice Of Complimentary Care Medicine

An Act relating to the practice of veterinary medicine; relating to the practice of animal complementary care.

It took many years for the practice of human medicine to recognize the value of alternative medicine, and the significant amount of healing that it can provide to human beings suffering from a variety of illnesses and ailments.

This increased acceptance has had the additional benefit of encouraging patients' rights to choose from among various therapies. Whether a person believes complementary or alternative medical therapy works to actually heal a medical condition, or merely has a placebo effect encouraging them to believe they are getting better, the bottom line is that the patient gets to choose the type of treatment they want as an autonomous human being.

This same opportunity, however, does not extend to an individual's pets or farm animals, for which they are largely responsible under state law, which considers a persons' animals as personal property. State law now prescribes a single model of medical care to animals, and, except for limited treatments administered by the owner only, limits to licensed veterinarians the right to provide all medical treatment to animals.

House Bill 372 is an effort to guarantee the owner of an animal the right to choose modalities that are not performed in traditional veterinary practices. Animals may gain exponential benefits from veterinarians and complementary care providers working in collaboration with the owner for the well being of the whole animal. The right of choice remains paramount while at the same time providing safeguards for the well being of animals from untrained practitioners.

###

HB

377



ALASKA STATE LEGISLATURE
REPRESENTATIVE JOHN HARRIS
STATE CAPITOL 513, JUNEAU, ALASKA 99801-1182 (907) 465-4859

Sponsor Statement
HB 377

“An Act relating to the establishment of an additional southcentral panel to the Alaska Workers’ Compensation Board and to appointments to that panel; and providing for an effective date.”

HB 377 would amend the Workers’ Compensation Act to provide for an additional panel of the Alaska Workers’ Compensation Board in the Southcentral venue. This is needed to help provide more hearings in that area of the state, and will address the need to reduce the lag time between when a worker files a claim and obtaining a hearing. It will also relieve a growing caseload.

The Alaska Workers’ Compensation Act requires hearings to be conducted by panels of the Workers’ Compensation Board. A panel consists of a labor member and an industry member, with a designee of the commissioner of the department of labor and workforce development. The commissioner’s designee is an employee of the State of Alaska, while the other two members are lay volunteers who receive a \$50 per day stipend.

The industry seat members of the panels usually work in some management position, while the labor members are usually officers of labor unions. This makes for a very good mix for deciding these types of cases, but panel members also have full time jobs outside of the division, and, as a result, tend to be very busy, with limited time that they can devote to hearings. Consequently, there are only so many hearings that can be conducted with the current complement of panel members.

Enactment of HB 377 would be a logical way to provide much-needed relief to the Workers’ Compensation Board.

FISCAL NOTE

UNOFFICIAL FISCAL NOTE

STATE OF ALASKA
2002 Legislative Session

BILL NO. Law Log: 02-0053

Revision Date: 10/29/01

Department Affected: Labor

Title: "An Act relating to the establishment of ;

BRU: Workers' Compensation

Component: Workers' Compensation

Sponsor: _____

Requestor: _____

COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY01	FY02	FY03	FY04	FY05	FY06
PERSONAL SERVICES						
TRAVEL			5.0	5.0	5.0	5.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	5.0	5.0	5.0	5.0

CAPITAL						
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CHANGE IN REVENUE FUND SOURCE #						
------------------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other (Workers' Safety and Compensation Account)			5.0	5.0	5.0	5.0
TOTAL	0.0	0.0	5.0	5.0	5.0	5.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current FY01 _____

ANALYSIS: (Attach a separate page if necessary) This bill provides for an additional panel of the Workers' Compensation Board to allow for additional hearings in that venue to reduce the time lag and back log that exist in that venue.

Prepared by: Paul Grossi, Director Phone: _____

Division: Workers' Compensation Date: 10/29/01

Approved by Commissioner: Ed Flanagan, Commissioner

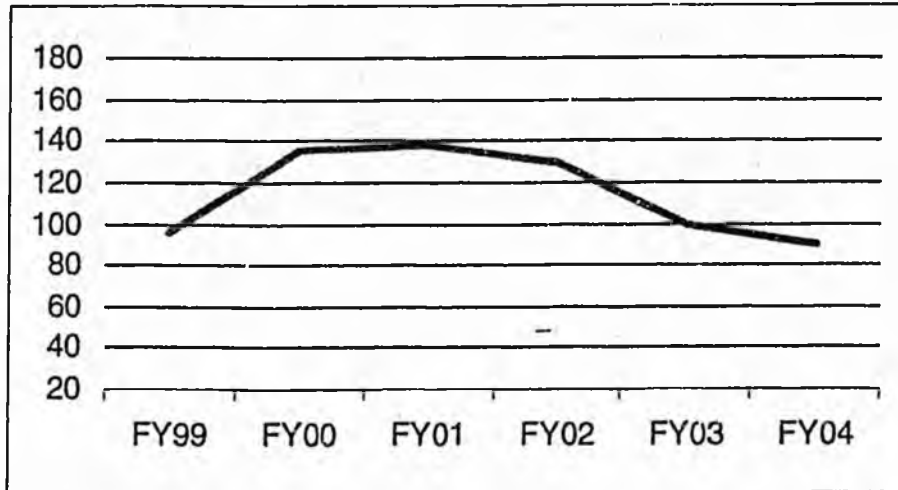
Agency: Department of Labor Date: 10/29/01

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Key Performance Measures for FY2003

Measure:

The average time taken from a compensation hearing request until the date on which the hearing is scheduled.
Sec 90(b)(1) Ch 90 SLA 2001(HB 250)

Alaska's Target & Progress:

Reduce the time lag between the request and scheduling of a hearing.

FY99 - 95.8 days

FY00 - 135.6 days

FY01 - 137.7 days

FY02 - 130 days (projection)

FY03 - 100 days (projection)

FY04 - 90 days (projection)

The time lag has gotten worse because of two major factors: the hearing case load has been going up; and because of funding reductions, we had fewer hearing officers.

Benchmark Comparisons:

The benchmark for this measurement is 90 days. This is based on AS 23.30.110(c). This subsection of the statute provides for a hearing to be scheduled within 60 days of request if not opposed by a party. If an opposition is filed, as they are in the vast majority of cases, a prehearing must be held within 30 days to set a hearing. If the hearing is scheduled within 60 days from the prehearing, 90 days to set a hearing from the date of request is a reasonable benchmark. The division expects to be able to begin meeting the 90 day benchmark in FY04 if the current level of funding is not reduced.

Background and Strategies:

The increase in the hearing time lag was noted in FY00. There was an elimination of a hearing officer as a result of budget cuts, and at the same time there was a corresponding rise in the overall hearing caseload. The legislature granted an increment in the FY02 budget for an additional hearing officer to address the problem. The hearing officer was hired in September of 2001 and additional hearings are currently being scheduled.

The Department promulgated and the Workers' Compensation Board approved a new regulation that would require hearings to be scheduled within 60 days from prehearings to further define the legislative intent in AS 23.30.110(c). The regulation will have to be approved by the Department of Law and filed by the Lieutenant Governor to become final. The department anticipates that it will be finalized and in place by the end of fiscal year 2002.

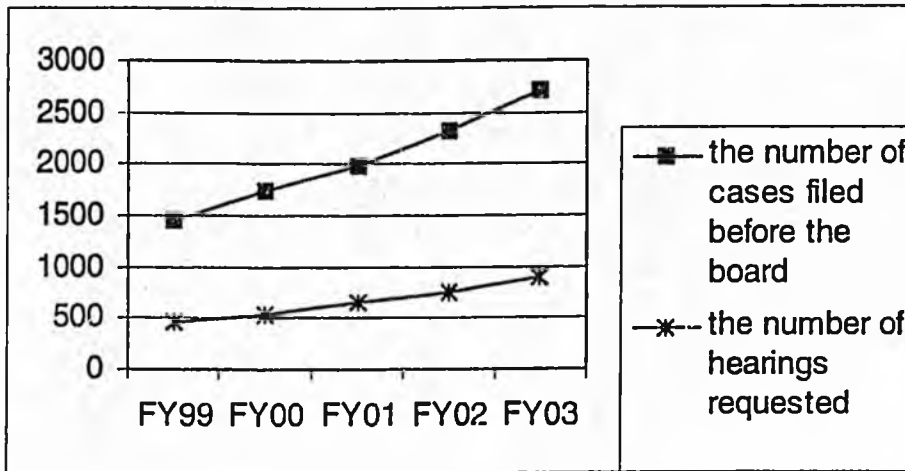
An additional Workers' Compensation Board panel in the Anchorage venue would expedite the handling of cases to

both reduce the time lag and address the back log. The department will present this situation to the legislature.

Measure:

The number of cases filed before the Workers' Compensation Board compared to the number of requests for hearing.
 Sec 90(b)(2) Ch 90 SLA 2001(HB 250)

Alaska's Target & Progress:



Determine the hearing caseload

- FY99 - 1446 cases filed - 459 hearings requested
- FY00 - 1746 cases filed - 539 hearings requested
- FY01 - 1987 cases filed - 651 hearings requested
- FY02 - 2324 cases filed - 760 hearings requested (projections based on current trends)
- FY03 - 2700 cases filed - 890 hearings requested (projections based on current trends)

Benchmark Comparisons:

There is no benchmark for this measure. This measurement will help determine the hearing caseload to give better understanding to hearing time lag and backlog problems.

Background and Strategies:

This measurement was requested by the house legislative budget subcommittee and will track the increases in both the number of cases filed and the number of hearings. Not all cases filed reach the hearing stage as a number are settled or otherwise resolved prior to the arrival of the hearing date.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 377
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Workers' Compensation Board BRU: Workers' Compensation
 Component: Workers' Compensation
 Sponsor: Representative Harris
 Requester: House L&C Component Number: 344

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel	5.0	5.0	5.0	5.0	5.0	5.0
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	5.0	5.0	5.0	5.0	5.0	5.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1157 Workers Safety Account	5.0	5.0	5.0	5.0	5.0	5.0
Other (Specify Type)						
TOTAL	5.0	5.0	5.0	5.0	5.0	5.0

Estimate of any current year (FY2002) cost: None

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill provides for an additional panel of the Workers' Compensation Board in the south-central venue. The panel will allow for additional hearings in that venue to reduce the time lag and back log. The increase in the travel line of the budget is required to provide for the \$50.00 a day stipend paid to the individual panel members when they are presiding over board hearings and other board business. The total is derived from two members working an average of approximately four to five days per month.

Prepared by: Paul Grossi, Director Phone: 465-2790
 Division: Workers' Compensation Date/Time: 2/22/02 3:21 PM
 Approved by: Ed Flanagan, Commissioner Date: 02/22/02
 Agency: Department of Labor and Workforce Development

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HB

393

Alaska State Legislature

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Representative Gary Stevens

Sponsor Statement

This bill creates a new, comprehensive statute regulating the sale of business opportunities. Business opportunities, commonly referred to as "biz opps," are prepackaged small business deals primarily targeted to novice entrepreneurs. Although some business opportunities offer consumers legitimate methods for earning income, the field is fraught with unfair and deceptive practices.

Typical business opportunities range from work-at-home schemes, like medical billing, to the sale of vending machines, ATMs, greeting card display racks and other products, to the sale of "900 numbers." These deals are initially pitched to consumers through classified ads, over the Internet, and through "infomercials," and potential buyers are subjected to high-pressure sales tactics. Unwary consumers are enticed by the promise of high earnings, which rarely materialize. According to the Federal Trade Commission, biz opp scams bilk consumers across the country of tens of millions of dollars each year.

With this bill, Alaska will join approximately half of the states in regulating the sale of business opportunities. Persons who want to sell or advertise business opportunities in Alaska would be required to register with the state, to disclose information to buyers, to use escrow accounts to assure delivery of business assets, and to provide a 30-day right of cancellation to the buyer. Violators will be subject to civil and criminal penalties. The bill provides important consumer safeguards for entrepreneurial-minded Alaskans.

BUSINESS OPPORTUNITIES BILL

Sectional Analysis

***Sec. 1.** Amends AS 37.05.146(b)(4) to include receipts of fees for business opportunity registration and renewals as program receipts.

***Sec. 2.** Amends AS 45.50.471(b) to provide that a violation of the business opportunity statute is a violation of the Unfair Trade Practices and Consumer Protection Act.

***Sec. 3.** Amends AS 45 by creating a new chapter regulating the Sale of Business Opportunities.

***Sec. 45.66.010. Registration required.**

Prohibits a person from selling or offering to sell a business opportunity unless the person is registered with the department at least 30 days before selling or offering to sell a business opportunity.

***Sec. 45.66.020. Registration procedure.**

Requires that a person pay a registration fee and file certain documents in order to register with the department. The required documents include a copy of advertising materials, a disclosure statement to potential buyers, a surety bond, and a completed application form. The application form will require the seller to disclose the nature of the business opportunity and the method by which it will be advertised; the identity of the seller and owners or agents affiliated with the seller; and criminal convictions, civil judgments, and administrative determinations involving allegations of fraud, theft, and unfair trade practices.

***Sec. 45.66.030. Renewal of registration.**

Provides that a person must file a renewal application if the person sells or offers to sell a business opportunity for more than a year following the department's acknowledgment of registration.

***Sec. 45.66.040. Registration Fees.**

Requires that a seller pay a non-refundable fee to the department for a first-time application and a renewal fee for a renewal application. The amount of the fee will be established by regulation.

***Sec. 45.66.050. Material changes in registration information.**

Requires the reporting of any material changes to the application within 10 days of the change.

***Sec. 45.66.060. Surety bond required.**

Requires a business opportunity seller to post a surety bond in the amount of \$75,000 in order to do business in the state.

***Sec. 45.66.070. Location of offer and sale.**

Provides that the statute applies to a sale or offer to sell a business opportunity if the seller directs the offer to residents of this state, if the offer originates in this state, or if the buyer will operate the business opportunity in this state.

***Sec. 45.66.080. Disclosure requirements.**

Establishes that at least 10 days before the buyer signs the contract, the seller shall give the buyer a written disclosure statement. The disclosure statement must include information about the seller's business history, the seller's financial condition, the seller's legal history, the seller's history of business opportunity registration, the total price and payment schedule for the business opportunity, and the rights and obligations of the parties. Requires that if the seller makes claims about potential earnings, the seller must provide the basis for the claim and associated economic risks.

***Sec. 45.66.090. Written contract required.**

Requires that a seller use a written contract for selling the business opportunity. Contract provisions must include: payment terms; contact information for the seller, the seller's agent, and suppliers; a description of services that the seller is to provide; delivery dates; a complete description of the buy-back agreement if applicable; and a statement of the buyer's right to cancel.

***Sec. 45.66.100. Restrictions on down payments.**

Precludes a seller from requiring a buyer to pay as a down payment more than 20 percent of the initial payment unless any amount above the 20 percent is placed in an escrow account.

***Sec. 45.66.110. Escrow account requirements.**

Requires that the escrow account be held by a person who is independent from the seller, and requires that a seller who establishes an escrow account provide account information to the department. Also prevents the release of escrow funds until the buyer provides written notification to the escrow holder that the products or services required by the contract have been delivered.

***Sec. 45.66.120. Actions for claims against escrow account.**

Allows a buyer who has a claim against an escrow account to bring a civil action against the seller or escrow account holder to recover money from the escrow account.

***Sec. 45.66.130. Cancellation of contract.**

Allows for a buyer to cancel a contract for any reason if the buyer gives notice of the cancellation to the seller within 30 days after signing the contract. Also permits a buyer to cancel the contract at any time if the seller fails to meet disclosure requirements, makes deceptive statements about the business opportunity, or fails to provide services or products required under the contract. Provides that within 15 days of such notice by the buyer, the seller must tender payment to the buyer and terminate the buyer's financial obligations.

***Sec. 45.66.140. Prohibited representations.**

Prohibits sellers from representing that they are registered with the department unless they have complied with the registration requirements, and prohibits other misleading representations about registration status or compliance with the law.

***Sec. 45.66.150. Untrue statements or omissions.**

Prohibits a seller from making an untrue statement of material fact in registration information, disclosure statements, advertising or other communications.

***Sec. 45.66.160. Unwarranted conclusions.**

Provides that acknowledgment of registration by the department does not constitute a recommendation or approval of a seller or a business opportunity.

***Sec. 45.66.170. Waiver prohibited and void.**

Prohibits a seller from requesting that a buyer waive rights or defenses under this chapter.

***Sec. 45.66.180. Seller's records and files.**

Requires that a seller maintain records of the advertisement or promotion of a business opportunity for five years and that the seller allow access to the records by the department. Also requires that a seller keep all documents relating to a contract for four years.

***Sec. 45.66.190. Public records.**

Provides that documents required under this chapter are public records. However, testimony and records related to an investigation by the department would not be public records.

***Sec. 45.66.200. Denial, suspension, or revocation of registration.**

Allows the department to deny, suspend, or revoke a registration for a number of reasons, such as the seller's failure to comply with registration requirements; for fraud or deceit perpetrated on the buyer; or if a person represents an unreasonable risk to the public interest and has been convicted of a crime involving fraud or theft or has violated consumer protection laws. Establishes that prior to taking action under this provision, the department must provide to the person a notice of intent to deny, suspend, or revoke the

registration, and the person has an opportunity to respond to the notice by submitting a sworn statement.

***Sec. 45.66.210. Criminal penalties.**

Provides that a person who recklessly violates the registration, disclosure, or contract provisions of the chapter is guilty of a Class C felony; other violations are punishable as Class A misdemeanors.

***Sec. 45.66.220. Exemptions.**

Exempts from coverage certain transactions including sales or offers to sell:

- A business opportunity if the payments by a buyer under the contract are less than \$200
- a franchise under 16 CFR 436
- an ongoing business to be sold in its entirety
- equipment, materials, or samples for use in sales demonstrations and not for resale, or product inventory sold to the buyer at a bona fide wholesale price
- securities
- a business opportunity in which the buyer is a bank or financial institution
- a business opportunity involving a marketing plan made in conjunction with the registration of a trademark or service mark and where the seller has a minimum net worth of \$1,000,000
- a business opportunity where either the seller or the buyer is licensed as a real estate broker, associated real estate broker, or real estate sales person under AS 08.88 and the sale or offer is regulated by AS 08.88

***Sec. 45.66.230. Coordination with other laws.**

Provides that this chapter governs if a sale or offer to sell a business opportunity is regulated by this chapter and by other laws and if compliance with both is not possible.

***Sec. 45.66.240. Regulations.**

Allows the department to adopt regulations under the Administrative Procedure Act to implement this chapter.

***Sec. 45.66.900. Definitions.**

Provides definitions, including the definition of "business opportunity" as a contract or agreement for the sale of products, equipment, supplies, or services enabling the buyer to start a business and in which the seller agrees to provide additional services, such as

- Assisting in finding locations for the use or operation of vending machines, racks, display cases, or other similar devices
- Assisting in finding outlets or accounts for the buyer's products or services;
- Purchasing any or all products made, produced, fabricated, grown, bred, or modified by the buyer
- Agreeing to buy back products from the buyer products

-
- Representing that the buyer will derive income from the business that will exceed the price paid to the seller
 - Providing the buyer with a marketing plan

*Sec. 4. Changes the court rules to require the court clerk, in actions brought against escrow accounts under AS 45.66.120, to mail a copy of the complaint and subsequent orders or judgments to the attorney general.

*Sec. 5. Provides for a grace period for the registration of sellers of business opportunities who are in business before the effective date of Section 3, allowing them to continue selling or offering to sell for up to 45 days, after which time they must be registered.

*Sec. 6. Allows the Department of Law to adopt regulations to implement the act.

*Sec. 7 Provides that AS 45.66.120(b) takes effect only if sec. 4 receives the two-thirds majority vote of each house.

*Sec. 8 Provides that Section 6 of the act takes effect immediately under AS 01.10.070(c).

*Sec. 9 Provides that this act, other than Sec. 6, takes effect July 1, 2002.

February 4, 2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 393
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to unfair and deceptive trade practices and to the sale of business opportunities; . . ." BRU Criminal Division; Civil Division
 Sponsor Representative Stevens Component Criminal Appeals/Special Litigation
 Requester House Labor and Commerce Committee Component No. 2279; 2206
 Fair Business Practices

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Statutory Designated Prog Rcpts	*****	*****	*****	*****	*****	*****
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 HB 393 would provide for the registration and regulation of sellers of business opportunities, which are prepackaged small business deals offered mainly to novice entrepreneurs over the Internet and through newspaper and radio advertisements, television "infomercials," and seminars. Typically, a business opportunity is an arrangement by which the seller provides products, equipment, supplies, or services to the buyer; assists the buyer in finding outlets or accounts for the buyer's products or services; purchases the products made, produced, or modified by the buyer; or provides the buyer with a marketing plan.

 The bill would require that sellers of business opportunities register with the state, disclose specific information regarding the business to the buyer before sale, use an escrow account to assure delivery of business assets, and provide a 30-day right of cancellation for the buyer.

Prepared by: Joan M. Kasson Phone (907) 465-5370
 Division Attorney General's Office Date/Time 2/21/02 2:42 PM
 Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 2/21/2002
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. HB 393

ANALYSIS CONTINUATION

A seller who recklessly violates the registration requirements would be guilty of a class C felony. A seller who recklessly violates the contract or cancellation provisions would be guilty of a class A misdemeanor. The bill would also amend AS 45.50.471(b) to specify that a violation of the sale of business opportunities statute constitutes an unfair or deceptive act or practice in the conduct of trade or commerce.

The Department of Law does not anticipate significant revenues or costs from passage of this legislation. However, because there is no regulatory scheme now in effect, we cannot say with certainty how much additional staff time will be required to implement this bill.

Given our experience with implementing the Telephone Solicitation Act, we would guess that no more than ten or twelve sellers of business opportunities will register in the first year. Assuming an initial registration fee of \$150, the revenue in the first year would be approximately \$1,500 to \$1,800. With an annual renewal fee of \$50, the revenue from these same sellers would be \$500 to \$600 in the second year, plus any new initial registrations.

Costs will be generated both by the time spent processing the registration applications, and by time spent on any enforcement actions against unscrupulous sellers of business opportunities, who are generally located out of state and who make exaggerated earnings claims to induce buyer participation, and who would be unlikely to register with the state. We expect that processing ten to twelve applications per year, while perhaps more time consuming than other registrations due to the relative complexity of the business opportunity registration requirements, can be handled within existing funding levels. We have no way of anticipating how many enforcement actions may be required. The Consumer Protection unit is aware of dozens of business opportunity scams around the country, and they know Alaskans are being targeted, but not to what extent. However, the department does not believe the cost of pursuing limited enforcement actions against a few sellers will entail significant amounts of staff time. If our assumptions prove to be inaccurate, the department may need to seek additional funding in the future.

Subject: [Fwd: House Bill 393]

Date: Wed, 13 Feb 2002 17:11:28 -0900

From: Representative Gary Stevens <Representative_Gary_Stevens@legis.state.ak.us>

Organization: Alaska State Legislature

To: Katrina Matheny <Katrina_Matheny@legis.state.ak.us>

Subject: House Bill 393

Date: Wed, 13 Feb 2002 15:49:12 -0500

From: "John Hesse" <jhesse@dsa.org>

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

The Honorable Gary Stevens
Alaska House of Representatives
State Capitol, Room 428
Juneau, AK 99801-1182

Re: House Bill 393 a Proposal to Regulate the Sales of Business Opportunities

Dear Representative Stevens:

I am writing on behalf of the Direct Selling Association (DSA) concerning House Bill 393, a proposal to regulate the sale of business opportunities in Alaska. Business opportunity fraud undermines vital public confidence in industries like direct selling, which utilize and depend upon individual entrepreneurship. Clear distinctions can be drawn between direct selling and business opportunities because the investment required to participate in a direct selling opportunity is comparatively low. We support the purpose of legislation like House Bill 393, which is to protect Alaska's citizens from risking large amounts of money for what might be an unproven or unprofitable business venture. Twenty-three states have enacted similar laws in response to deceptive and unfair practices in connection with the sale of business opportunities and the Federal Trade Commission has adopted a Trade Regulation Rule ("Trade Rule") in this area. We do have one concern regarding the threshold of \$200 contained in the bill and would request that it be increased consistent with our comments below.

By way of background, DSA is the national trade association of the direct selling industry. DSA represents more than eleven million independent contractor direct salespeople and the 150 direct selling companies with which they deal. Our association members include some of the nation's most well known commercial names, such as Amway, Avon, Mary Kay, and Shaklee. These companies sell their products and services by personal presentation and demonstration, primarily in the home. We have on average over 30,000 direct salespeople per Congressional district and thus there are approximately 30,000 direct sellers living and working in Alaska.

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

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

As the result of this ease of access and flexibility in work arrangements, direct selling has wide appeal among women who have significant family responsibilities, as well as attracting substantial numbers of minorities, the elderly, and handicapped persons. Of our more than 11 million independent contractor salespeople across the United States, about 75 percent are women.

The \$200 threshold contained in House Bill 393 is atypical of the thresholds in the other state business opportunity laws. In fact only two states, Connecticut and North Carolina, contain a similar threshold. The vast majority of states that regulate the sale of business opportunities use a \$500 threshold, as does the Federal Trade Commission Rule. We believe that such a low threshold would pose a burden to business and government alike and would reduce the effectiveness of the legislation. The mere cost of regulatory compliance in many cases would exceed the cost of the opportunity itself. Consequently, we are suggesting the adoption of an amendment to the bill, replacing the \$200 threshold with a \$500 threshold.

We suggest that you modify the definition of business opportunity to fulfill our request as follows:

Add the underlined text to Sec. 45.66.900, Definitions;

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

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

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

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

In summary, DSA asks you to please amend House Bill 393 to raise the threshold amount from \$200 to \$500. This request is based upon the practices of the vast majority of states regulating the sales of business opportunities as well as the Federal Trade Commission. In addition, the two most widely referenced model acts in this area contain a \$500 threshold.

If I can be of additional assistance in this matter please let me know. Do not hesitate to contact me directly with questions or concerns. Thank you for your time and attention to this request.

Sincerely,

John W. Hesse, II
Senior Attorney and Director, Government Relations
The Direct Selling Association
1275 Pennsylvania Ave., NW, # 800
Washington, DC 20004-2411
Phone: 202-220-9420
Fax: 202-347-0055
email: jhesse@dsa.org



ALTICOR

February 21, 2002

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

The Honorable Gary Stevens
Alaska House of Representatives
State Capitol, Room 428
Juneau, AK 99801-1182

RE: House Bill 393 – Sales of Business Opportunities

Dear Representative Stevens:

We understand you have been contacted by the Direct Selling Association (DSA) regarding House Bill 393 - a bill under your sponsorship - proposing to regulate business opportunities in Alaska. We are aware this bill will be considered by the House Labor and Commerce Committee at its meeting on Monday. While we understand your goal of protecting Alaska's citizens from unscrupulous, risky or overly expensive business investment schemes, the changes proposed by DSA would avoid the creation of unnecessary obstacles to small direct sellers.

On behalf of Altacor and our many Alaskan Amway Distributors and Quixtar Independent Business Owners, **we wish to express our strong support of DSA's suggested amendment.** These small entrepreneurs earn money to supplement their family incomes by selling products to family, friends and neighbors while interesting others to do the same. Certainly, we wish to prevent unnecessary burdens upon these small Alaska businesses.

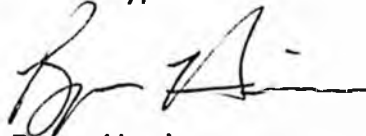
As indicated by DSA, the majority of other states that have found a need to regulate this activity typically have a **\$500 up-front threshold.** This threshold protects small income opportunities such as those offered by direct sellers including Amway/Quixtar distributors, Avon ladies, and Mary Kay beauty consultants from the unnecessary burdens of state filing, bonding, reporting and other requirements that may be appropriate for larger enterprises.

The most fundamental reason for excluding opportunities under \$500 (especially direct sales opportunities) from the law is that such low-cost opportunities have not been a significant source of business opportunity frauds – the very problem you are attempting to address.

In sum, we respectfully urge adoption of the DSA suggested amendments to HB 393 – language that would protect small Alaskan direct sellers from inadvertent coverage. We have attached the proposed amendments for your consideration which are identical to those submitted by DSA.

Thank you for your kind attention. If you have any questions please feel free to contact me at (616) 787-5633.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryan Harrison", written in a cursive style.

Bryan Harrison
Corporate Government Affairs

cc: Chairwoman Lisa Murkowski, Labor and Commerce Committee
Labor and Commerce Committee Members
John Hesse, Direct Selling Association

Add the underlined text to Sec. 45.66.900, Definitions;

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

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

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

HB

395

Alaska State Legislature

House of Representatives

Alaska State Capitol
Juneau, Ak 99801-1182
1-907-465-3438 (phone)
1-888-478-3438 (toll free)
1-907-465-4565 (fax)



Interim Address
716 West Fourth Avenue
Anchorage, Ak 99501-2133
(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry Crawford District 22

Fair Approach to Insurance Rating Sponsor Statement

HB 395 prohibits insurance companies in Alaska from using credit scores in either underwriting or rate setting for car or home insurance.

State divisions of insurance and other organizations have scrutinized the use of credit scores since the insurance industry adopted the methodology in the 80's. Research in other jurisdictions clearly demonstrates credit scoring is discriminatory. A report on the affects of credit scoring, compiled by the Maryland Division of Insurance, shows that areas with a higher density of minorities or lower income families will pay up to twice as much in auto or home premiums regardless of their driving records or claim history.

Many Alaskans feel the negative affects of credit scoring. Some Alaskans have poor credit for reasons beyond their control—those who have gone through a divorce; seasonal workers; those who have had serious medical emergencies; or those who have had unforeseen problems in their businesses or careers. There are many Alaskans without credit histories; minorities that use credit differently or are unfamiliar with the concept of credit; members of religious groups that forbid the use of credit; and many older Alaskans who distrust credit and pay for everything in cash.

One fundamental problem with credit scoring is the lack of information available. Neither insurance consumers nor state regulators have access to scores or how information is manipulated to create those scores. The insurance industry is unwilling to articulate to insurance regulators the cause for any correlation between credit scores and claims filed, thus we cannot know with certainty whether discriminatory factors are used in determining a consumer's credit score. Without such information, the state is unable to fulfill its statutory obligation to ensure that insurance rates do not discriminate.

We do know credit scoring is inconsistent. Scores come from third-party companies, and there is little uniformity in how the credit score is created or which scoring company is used. Furthermore, the credit reports, which provide data to compile scores, are notoriously inaccurate and changing erroneous information is a long and complicated process.

The Alaska Division of Insurance has a statutory mandate (AS.21.36.120) to protect the Alaska consumer against discrimination. Credit scoring is being used by every car and home insurance company in Alaska but one, and available data indicates credit scoring violates the discrimination prohibition in AS.21.36.120.

22-LS1425L

Ford

4/3/02

CS FOR HOUSE BILL NO. 395()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE CRAWFORD

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to using credit history or insurance scoring for insurance purposes;

2 and providing for an effective date."

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

4 * Section 1. AS 21.36 is amended by adding a new section to read:

5 Sec. 21.36.460. Restrictions on credit history or insurance scoring
6 applicable to personal insurance. (a) An insurer that takes adverse action involving
7 personal insurance against a consumer based in whole or in part on credit history or
8 insurance score shall provide written notice to the applicant or named insured. The
9 notice must state the significant factors of the credit history or insurance score that
10 resulted in the adverse action. The insurer shall also inform the consumer that the
11 consumer is entitled to a free copy of the consumer's report under 15 U.S.C. 1681
12 (Fair Credit Reporting Act).

13 (b) Except as provided in (c)(3) of this section an insurer may not cancel or
14 fail to renew personal insurance based in whole or in part on a consumer's credit

1 history or insurance score. An offer of placement with an affiliate insurer does not
2 constitute cancellation or failure to renew under this section.

3 (c) An insurer may use credit history to deny personal insurance only in
4 combination with other substantive underwriting factors. For the purposes of this
5 subsection,

6 (1) refusal to offer personal insurance coverage to a consumer
7 constitutes denial of personal insurance;

8 (2) an offer of placement with an affiliate insurer does not constitute
9 denial of coverage; and

10 (3) an insurer may reject an application when coverage is not bound or
11 cancel an insurance contract within the first 60 days after the effective date of the
12 contract.

13 (d) An insurer may not deny personal insurance coverage based in whole or in
14 part on

15 (1) the absence of credit history or the inability to determine the
16 consumer's credit history if the insurer has received accurate and complete information
17 from the consumer;

18 (2) the number of credit inquiries;

19 (3) credit history or an insurance score based on collection accounts
20 identified with a medical industry code;

21 (4) the initial purchase or finance of a vehicle or house that adds a new
22 loan to the consumer's existing credit history if evident from the consumer report;
23 however, an insurer may consider the bill payment history of any loan, the total
24 number of loans, or both;

25 (5) the consumer's use of a particular type of credit card, charge card,
26 or debit card; or

27 (6) the consumer's total available line of credit.

28 (e) If disputed credit history is used to determine eligibility for personal
29 insurance coverage and a consumer is placed with an affiliate that charges higher
30 premiums or offers less favorable policy terms, the insurer shall reissue or rerate the
31 policy retroactive to the effective date of the current policy term and the policy, as

1 reissued or rerated, shall provide premiums and policy terms the consumer would have
2 been eligible for if accurate credit history had been used to determine eligibility. This
3 subsection only applies if the consumer resolves the dispute under the process in 15
4 U.S.C. 1681 (Fair Credit Reporting Act) and notifies the insurer in writing that the
5 dispute has been resolved.

6 (f) In this section,

7 (1) "adverse action" has the meaning given in 15 U.S.C. 1681 (Fair
8 Credit Reporting Act) and includes

9 (A) cancellation, denial, or failure to renew personal insurance
10 coverage;

11 (B) charging a higher insurance premium for personal
12 insurance than would have been offered if the credit history or insurance score
13 had been more favorable, whether the charge is by

14 (i) application of a rating rule;

15 (ii) assignment to a rating tier that does not have the
16 lowest available rates; or

17 (iii) placement with an affiliate company that does not
18 offer the lowest rates available to the consumer within the affiliate
19 group of insurance companies; or

20 (C) any reduction or adverse or unfavorable change in the
21 terms of coverage or amount of personal insurance due to a consumer's credit
22 history or insurance score; a reduction or adverse or unfavorable change in the
23 terms of coverage occurs when

24 (i) coverage provided to the consumer is not as broad in
25 scope as coverage requested by the consumer but available to other
26 insureds of the insurer or any affiliate; or

27 (ii) the consumer is not eligible for benefits that are
28 available through affiliate insurers;

29 (2) "affiliate" has the meaning given in AS 21.22.200;

30 (3) "cancel" or "cancellation" includes a reduction in coverage below
31 the full replacement value of the item insured;

1 (4) "consumer" means an individual policyholder or applicant for
2 insurance;

3 (5) "consumer report" has the meaning given in 15 U.S.C. 1681 (Fair
4 Credit Reporting Act);

5 (6) "credit history" means written, oral, or other communication of
6 information by a consumer reporting agency bearing on a consumer's
7 creditworthiness, credit standing, or credit capacity that is used or expected to be used,
8 or collected in whole or in part, for the purpose of serving as a factor in determining
9 personal insurance premiums or eligibility for coverage;

10 (7) "insurance score" means a number or rating that is derived from an
11 algorithm, computer application, model, or other process that is based in whole or in
12 part on credit history;

13 (8) "personal insurance" means

14 (A) private passenger automobile coverage;

15 (B) homeowner coverage, including mobile homeowner's,
16 manufactured homeowner's, condominium owner's, and renter's coverage;

17 (C) dwelling property coverage;

18 (D) earthquake coverage for a residence or personal property;

19 (E) personal liability and theft coverage;

20 (F) personal inland marine coverage;

21 (G) mechanical breakdown coverage for personal auto or home
22 appliances; and

23 (H) flood insurance;

24 (9) "tier" means a category within a single insurer into which insureds
25 with substantially like insuring, risk or exposure factors, and expense elements are
26 placed for purposes of determining rate or premium.

27 * Sec. 2. AS 21.39 is amended by adding a new section to read:

28 **Sec. 21.39.035. Making of rates; personal insurance.** (a) Credit history
29 may not be used to determine personal insurance rates, premiums, or eligibility for
30 coverage unless the insurance scoring models are filed with the director. Insurance
31 scoring models include all attributes and factors used in the calculation of an insurance

1 score.

2 (b) Information filed under (a) of this section

3 (1) is confidential, and the information is not subject to public
4 inspection under AS 40.25.100 - 40.20.140;

5 (2) shall be considered a trade secret under AS 45.50.910; and

6 (3) may be made public by the director for the sole purpose of
7 enforcement actions taken by the director.

8 (c) An insurer may not use the following types of credit history to calculate a
9 personal insurance score or determine personal insurance premiums or rates:

10 (1) the absence of credit history or the inability to determine the
11 consumer's credit history unless the insurer has filed actuarial data segmented by
12 demographic factors in a manner prescribed by the director that demonstrates
13 compliance with AS 21.39.030;

14 (2) the number of credit inquiries;

15 (3) credit history or an insurance score based on collection accounts
16 identified with a medical industry code;

17 (4) the initial purchase or finance of a vehicle or house that adds a new
18 loan to the consumer's existing credit history if evident from the consumer report;
19 however, an insurer may consider the bill payment history of any loan, the total
20 number of loans, or both;

21 (5) the consumer's use of a particular type of credit card, charge card,
22 or debit card; or

23 (6) the consumer's total available line of credit; however, an insurer
24 may consider the total amount of outstanding debt in relation to the total available line
25 of credit.

26 (d) If a consumer is charged higher premiums due to disputed credit history,
27 the insurer shall redate the policy retroactive to the effective date of the current policy
28 term. As rerated, the consumer shall be charged the same premiums that would have
29 been charged if the accurate credit history was used to calculate an insurance score.
30 This subsection applies only if the consumer resolves the dispute under the process set
31 out in 15 U.S.C. 1681 (Fair Credit Reporting Act) and notifies the insurer in writing

1 that the dispute has been resolved.

2 (e) In this section,

3 (1) "consumer" means an individual policyholder or applicant for
4 insurance;

5 (2) "credit history" has the meaning given in AS 21.36.460;

6 (3) "insurance score" has the meaning given in AS 21.36.460;

7 (4) "personal insurance" has the meaning given in AS 21.36.460.

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

10 REPORT. The director of the division of insurance shall report to the legislature by
11 January 1, 2004, on issues related to the use of credit history in personal insurance
12 underwriting and rating and the implementation of this Act. The report must include

13 (1) a review of how this Act has been implemented and how it has affected
14 consumers; and

15 (2) a review and analysis of insurance scoring that includes

16 (A) which types of consumers, based on demographic factors, benefit
17 from or are harmed by the use of credit history in personal insurance rating and
18 underwriting;

19 (B) the extent to which the use of credit history affects rates charged to
20 the consumer;

21 (C) whether insurance scoring results in discrimination against a
22 protected class of people or the poor; and

23 (D) other issues as determined by the director.

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

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 395
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Insurance Discrimination By Credit Rating BRU Insurance (116)
 Component Insurance Operations
 Sponsor Representative Crawford
 Requester House Labor & Commerce Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	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						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal'

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on the operations of this division.

Prepared by: Robert Lohr, Director Phone 907-269-7900
 Division Insurance Date/Time 3/6/02 2:22 PM
 Approved by: Deborah B. Sedwick, Commissioner Date 3/6/2002
 Agency Department of Community & Economic Development

Subject: RELEASE 2.08 Elton, Crawford Bills Prohibit Discrimination in Insurance Rates

Date: Fri, 08 Feb 2002 14:55:54 -0900

From: Jordan Marshall <Jordan_Marshall@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Jordan_Marshall@Legis.state.ak.us

www.akdemocrats.org

FOR IMMEDIATE RELEASE · February 9, 2002

CONTACT: Rep. Crawford (907) 465-3438

Sen. Elton (907) 465-4947

Actualities: (907) 465-5001

Elton, Crawford Bills Prohibit Discrimination in Insurance Rates

Bills ban use of credit score to rate auto and home insurance.

JUNEAU – Sen. Kim Elton (D-Juneau) and Rep. Harry Crawford (D-Anchorage) introduced bills to prohibit the use of credit scores in underwriting and rate setting for home and auto insurance.

The insurance industry began using credit scores in underwriting and rate-setting in Alaska in 1993. The industry claims there is a strong correlation between a consumer's credit score and the likelihood that the consumer will file a claim, but they won't explain why the correlation may exist. Credit scores are generated by third-party organizations that run a consumer's credit history through a secret formula. The credit score and the method of its generation are unavailable to both consumers and insurance regulators. This leaves insurance regulators without the knowledge they need to fulfill their statutory obligation to protect Alaska's consumers from discrimination.

"Credit scoring is bad business in Alaska," said Elton. "Why should an Alaskan who doesn't believe in buying on time, but who has a good driving record pay higher car insurance premiums? Why should a woman who divorces a bum but has a good driving record pay a lot more for car insurance? Why should a couple who is approved for a home mortgage not be approved for the insurance coverage necessary to purchase the house?"

"Self-employed workers, recent divorcees, and members of minority and religious groups can be denied insurance if a credit bureau scores them low," said Crawford. "Discrimination in any form is objectionable, but when it works economic hardships on groups and individuals without explanation, we have to put a stop to it."

Crawford also noted that many older Alaskans prefer to pay cash, saying, "Our seniors aren't an insurance risk simply because they don't choose to borrow. How can you defend a rate-setting method that says they are?"

Credit scoring has been a topic of debate across the nation, and research in other jurisdictions has shown clear evidence that the method is discriminatory. One report, done by the Maryland division of insurance, showed that credit scoring resulted in low-income families paying up to twice as much for insurance premiums, regardless of claim history.



Honorable Lisa Murkowski, Chair
House Labor and Commerce Committee
Alaska Capitol Room 408
Juneau, AK 99801

RE: HB 395 (Crawford) – Support

March 2, 2002

Dear Chair Murkowski:

On behalf of the 112,000 AARP members in Alaska, we urge you and your colleagues on the House and Labor Commerce Committee to support HB 395, authorized by Representative Harry Crawford, a member of your committee.

HB395 addresses problems arising from insurance companies using "credit scores" to set rates for individuals.

As you know, retirees are the group least likely to use credit cards and to have debt. Five factors are primarily used for credit scoring:

- payment history
- amount of debt
- credit account history
- recent credit history
- types of credit

If an individual does not use credit regularly, s/he may face a negative discriminatory score on the credit report.

We understand the industry's interest in using tools that may help them identify poor risks, but we do not believe older individuals who do not use credit should be forced to pay higher insurance premiums simply because they are reluctant to build up debt.

AARP Alaska recommends an "AYE" vote on HB 395.

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

Thank you for your consideration.

Sincerely,

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

Marguerite Stetson - Executive Council Member for Advocacy

Cc: Representative Andrew Halcro
Representative Pete Knott
Representative Kevin Meyer
Representative Norman Rokeberg
Representative Joe Hayes
Representative Harry Crawford

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March 5, 2002

Senator Ben Stevens
Chairman of Senate Labor and Commerce
State Capital, Room 119
Juneau, Alaska 99801-1182

Dear Senator Stevens:

I am writing to you on behalf of State Farm to express our concerns with CSSB 320, which is pending before the Senate Labor and Commerce Committee. State Farm presently writes approximately 24.4% of the automobile insurance premiums written in Alaska and 34.7% of the homeowner's insurance premiums written in Alaska. Many of the vehicles insured by State Farm in Alaska are insured by State Farm Mutual, a company owned by its policy holders. When its loss experience in Alaska has been better than anticipated, State Farm Mutual has returned significant sums to its Alaskan policy holders.

Over the last nineteen years, we have been involved in many issues that have come before the Alaska legislature. When providing input on legislation, we have sought to find a balance that allows the insurance market to compete freely and fairly, as we strongly believe consumers are best served by fair competition in the insurance market, just as in any other market. We have provided input to committees such as yours in light of the reality that affordable insurance is a basic necessity of modern life. Automobile liability insurance is required by law in Alaska. Homeowner's insurance is required as a matter of course to obtain home financing. It is hard to imagine a small business owner without liability insurance. Unless these coverages are freely available and affordable, they are of little use to those who need them. It is from this perspective that we provide the following comments to you on CSSB 320, which would prohibit the use of credit scoring in any aspect of insurance rating.

For many years insurers have used factors such as a person's age and driving experience to decide whether to insure that person and what premium to charge. Many studies have shown that an individual's credit history is an accurate predictor of the potential for future loss. Thus, insurers throughout the country have begun to use credit based scoring with other traditional underwriting factors to determine who to insure and what premium to charge. This allows an insurer to more accurately correlate risk with different levels of expected loss and to then match the price of its products with the expected cost of those products.

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Just as with the use of other traditional underwriting factors, the purpose of using additional factors such as credit based scoring is to match the price with the expected cost to insure the risk. We believe it fair for those who present a higher level of risk to pay a higher premium. We believe it also fair for those who present a lower level of risk to pay a lower premium. If we cannot accurately match price with the expected cost to insure the risk we cannot hope to achieve this basic fairness. The end result is that one group of policy holders through no fault of their own can end up subsidizing another. We believe such a result is inconsistent with the concept of personal responsibility and unfair to our policy holders as a whole. Yet this is the result the proponents of CSSB 320 apparently wish to achieve, as this legislation would prevent the use of this valuable tool.

State Farm does not presently use credit based scoring for purposes of setting rates in Alaska. In February of 2001 State Farm began to use an underwriting score which utilizes credit history along with traditional underwriting criteria to determine whether to accept new business. This underwriting score is used primarily to accept customers that would not otherwise be accepted and also to place customers in State Farm Mutual who would not otherwise be so placed. As a result of utilization of this tool new automobile insurance written by State Farm in 2001 in Alaska more than doubled. State Farm only uses this underwriting score to make the determination of whether to accept a new applicant, and then to place that applicant in the appropriate company. It does not use this underwriting score for rating purposes, to cancel insurance or for any other purposes. We are very concerned that this legislation would restrict the use of this important tool.

This bill was introduced on February 19, 2002. The Committee Substitute, which significantly broadens the scope of the credit scoring prohibition, was disclosed to us shortly before the bill was heard by the Transportation Committee on February 28, 2002. No one had any meaningful opportunity to examine or comment on the Committee Substitute before it was passed out of the Transportation Committee. We believe this is unfortunate, as the issues raised by this legislation are important to all insurance consumers.

This rush to legislate is not only unfortunate, but unnecessary, for there already is a comprehensive legislative scheme in place to protect Alaska insurance consumers from excessive rates and from unfair discrimination. Insurance rates in Alaska must first be approved by the Division of Insurance. AS 21.39.010 et. seq. provides regulatory authority to the Division of Insurance to prevent insurance rates that are "excessive, inadequate, or unfairly discriminatory. . ." AS 21.39.030 expressly prevents insurance rates from being excessive, inadequate or unfairly discriminatory. AS 21.36.090 prevents by making an unfair trade practice "arbitrary or unfair discrimination between insureds or property having like insuring or risk characteristics, in the premium or rates charged. . ." A similar prohibition is contained in AS 21.36.120. Any insured affected by a rate can appeal a rating action to the Division of Insurance under the provisions of AS. 21.39.020.

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To the extent that credit based scoring is being used in Alaska to set insurance rates, that use has been approved by the Division of Insurance. Such approval could only be given after a finding by the Division that the rate in question is neither excessive or unfairly discriminatory. If any insured is dissatisfied by the application of a rate, he or she can appeal that action to the Division of Insurance.

Given the protections already present in Alaska law, it is hard to see the justification for the rush to adopt the blanket prohibition of credit based scoring set forth in CSSB 320. Such a rush to judgment inevitably results in errors, particularly when one seeks to make changes to an industry that is already the subject of complex and extensive regulation by professional regulators. The dangers of such a rush to judgment are apparent from the Sponsor's Statement, which unfortunately contains a number of errors, which we have identified below.

The first error is that statement that a credit score has "EVERYTHING" to do with what one pays for automobile insurance. This statement is not verified by any data we are aware of and we do not believe it to be true. State Farm does not use credit based scoring to determine rates in Alaska. If it were to do so, the credit score would merely be one factor it would use to determine the appropriate rate. While we are not privy to what other companies do, we do not believe it common for other companies to base a rate totally on a credit score, nor do we believe the Division of Insurance would approve such a rate.

The second error in this statement is the claim that the Division of Insurance has a statutory mandate to prevent discrimination. The mandate is not to prevent discrimination, but to prevent "unfair" discrimination. For example, it is not unlawful to charge a higher premium to someone who presents a higher risk because of their poor driving record. Nor is it unlawful to charge a lower premium to someone who presents a lower risk, like someone who qualifies for the 55 or older discount of AS 21.89.025. Any time someone is placed in a higher or lower category of risk and charged a premium based on that category of risk there is arguably discrimination, but this is not the "unfair" discrimination which is what our statutes seek to prevent. It is difficult to see how credit based scoring causes "unfair" discrimination. If it did, its use would not be allowed by the Division of Insurance.

The third error is the claim that "credit has nothing to do with risk". This statement is disproved by numerous studies and our own experience. If you would like to review some of these studies, we would be happy to provide them to you. We believe it beyond reasonable dispute that there is a strong correlation between credit history and future loss performance.

The fourth error is the implication that credit scores are "many times inaccurate" and "difficult and cumbersome to correct". A Federal Act, the Fair Credit Reporting Act, provides numerous protections to consumers from the use of inaccurate information, including the right of notification that credit information is being used and the right to immediate correction. Any insurer that uses credit information to make a decision relating to an insured is required to so