

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10414 HOUSE RULES

HJR

37

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HJR 37
 () Publish Date: 2/8/2002

Revision Date/Time (Note if correction): _____ Dept. Affected: All Departments
 Title Alaska Airlines 70th Anniversary BRU _____
 Component _____
 Sponsor Rep. Kott Component No. _____
 Requester House Rules Committee

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)

This resolution is not expected to have any fiscal impact.

Prepared by: Kristopher Knauss Phone 465-3777
 Division _____ Date/Time 2/8/02 11:38 AM
 Approved by: Pete Kott, House Rules Committee Date 2/8/2002
 Agency Chairman

ALASKA STATE LEGISLATURE

Representative Pete Kott, Chair
Representative Brian Porter
Representative Vic Kohring
Representative Carl Morgan
Representative Lesil McGuire
Representative Ethan Berkowitz
Representative Reggie Joule



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House of Representatives Rules Committee

Agenda

February 12, 2002 (4:00 P.M.)
Fahrenkamp Room 203, Alaska State Capitol

- Call to Order
- **HJR 37 (Kott) "A Resolution Congratulating Alaska Airlines on its 70th Anniversary**
- Other Business
- Adjournment

Alaska State Legislature

House of Representatives

RULES COMMITTEE, CHAIR
COMMITTEE ON COMMITTEES
LABOR & COMMERCE COMMITTEE
MILITARY & VETERANS AFFAIRS
LEGISLATIVE COUNCIL



INTERIM:
10928 EAGLE RIVER RD., SUITE 141
EAGLE RIVER, AK 99577

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801

Sponsor Statement for HJR 37

This House Joint Resolution celebrates 70 years of service to the State of Alaska by Alaska Airlines. It offers congratulations on this significant landmark in the airline's corporate history and provides a special thank you for the important role Alaska Airlines plays in "The Great Land."

From its humble beginning as McGee Airways in 1932 with a single-engine, three-passenger Stinson with one destination, Alaska Airlines has grown into a viable and well-regarded regional airlines with a fleet of jet planes and a 19-page schedule to over 80 airports. Alaska Airlines' history footnotes the history of the 49th State capturing the pioneering spirit synonymous with the "Land of the Midnight Sun."

Alaska Airlines is often the sole provider of commercial service between the State's far-flung communities. It connects the people in remote villages and small towns of the "Last Frontier" with Alaska's larger cities and those cities across America and six international destinations. Alaska Airlines serves a critical role – hauling in food and other necessities, and hauling out the fish and other products that are the foundation of our State's economy. Alaska Airlines is a large part of our tourism industry – and many times provides the first hospitality received by visitors to our State.

Alaska Airlines continues to distinguish itself with outstanding services, and it leads with improving technologies and equipment. For example, it was the first airline in the world to integrate the Global Positioning System with the latest in Enhanced Ground Proximity Warning System technology thereby triangulating the plane's position in three dimensions for improved navigation. The skill of its pilots is unequalled, as recently evidenced when the Olympic flame was transported on Alaska Airlines at the request of Delta's president. Alaska Airlines was also the first airline to book travel and sell tickets via the Internet. Alaska Airlines often leads the way.

The Alaska State Legislature congratulates Alaska Airlines.

Representative Pete Kott

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<http://www.akrepublicans.org/Kott.htm>





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Vice President/Treasurer
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206/431-4672

Alaska Air Group

ALMANAC

Alaska Airlines & Horizon Air

HISTORY

Alaska Airlines traces its roots to McGee Airways, which inaugurated service between Anchorage and Bristol Bay, Alaska, in 1932 with a single-engine, three-passenger plane.

Over the years, mergers and acquisitions produced changes in the name of the airline and saw business expand throughout Alaska and the Lower 48. The Alaska Airlines name was adopted in 1944. Alaska's sister carrier, Horizon Air, was founded in September 1981 in Seattle to serve communities on routes vacated by larger airlines after the Airline Deregulation Act of 1978. Through growth and acquisitions, Horizon Air expanded its route system from Washington throughout the Pacific Northwest and Canada.

In 1985, Alaska Air Group was formed as a holding company for Alaska Airlines. A year later, the holding company acquired Horizon Air Industries (which continues to operate as a separate company) and Jet America Airlines of Long Beach, Calif., which merged into Alaska Airlines on Oct. 1, 1987.

MILESTONES

Through the years, Alaska Airlines and Horizon Air have been leaders in the aviation industry:

- 2001 Alaska and Horizon are the first airlines in North America to allow customers to check in via a web enabled phone or a wireless handheld device.
- 2001 As the launch customer, Alaska takes delivery of the world's first Boeing 737-900.
- 1999 Alaska and Horizon are the first airlines in the world to allow customers to check in and print their own boarding passes via the Internet.
- 1999 The FAA authorizes Horizon Air as the first U.S. air carrier to take off and land when certain local ground-based navigational aids are inoperable.
- 1999 Horizon Air makes the first Q200 Dash 8 approach using Global Positioning System (GPS) technology at the Bellingham, Wa. airport.
- 1997 Alaska Airlines celebrates its 65th anniversary.
- 1996 Alaska flies the first commercial passenger flight using Global Positioning System navigation technology.
- 1995 Alaska and Horizon are the first U.S. airlines to book travel and sell tickets via the Internet.
- 1995 Horizon Air is the first turboprop operator in the world to use the "fog-busting" Head-Up Guidance System (HGS®) and be certified for CAT III landings.
- 1995 Horizon Air Dash 8 First Officer Yoshiko Okamura is the first female Japanese national commercial airline pilot.
- 1991 Alaska Airlines is the first U.S. airline to offer regularly scheduled service to Russia from the West Coast.
- 1990 Alaska Airlines is the first U.S. carrier to take off in less

than 600 feet of runway visibility with a passenger-carrying jetliner (B727), which was made possible with a revolutionary Head-Up Guidance System.

- 1989 Alaska Airlines is the first airline in the world to manually land a passenger-carrying jet (B727) in FAA Category III weather (dense fog) made possible with the Head-Up Guidance System.
- 1983 Alaska Airlines begins to trade on the New York Stock Exchange after 40 years on the American Stock Exchange.
- 1981 Horizon Air inaugurates air service with two aircraft and 36 employees, and offers flights from Seattle to Yakima and Pasco, Wash.
- 1967 Alaska is the first airline to obtain FAA certification to land B727s on gravel runways.
- 1965 Alaska is the first airline to fly the Lockheed Hercules for oil field development in Alaska.
- 1960 Alaska begins the "commuter run" from Philadelphia to Fairbanks for the RCA Corporation during construction of the Ballistic Missile Early Warning System.
- 1951 Alaska is the first airline to fly over the North Pole (DC-4).
- 1949 Alaska is the first airline to equip the DC-3 with skis.
- 1948 Alaska flies the Berlin airlift (DC-4s).

RECOGNITION

Through the years, Alaska Airlines and Horizon Air have been recognized for providing outstanding service to its customers (**bold** indicates top rank overall; *italic* indicates best among the 10 major U.S. airlines):

Alaska Airlines

- 2001 **Travel + Leisure** magazine ("Best Domestic Airline"); *Zagat* (a survey); **Forrester PowerRankings** (survey of e-commerce Web sites)
- 2000 *Condé Nast Traveler* magazine; *Travel + Leisure* magazine
- 1999 **Travel + Leisure** magazine ("Best Domestic Airline"); *Condé Nast Traveler* magazine
- 1998 *Condé Nast Traveler* magazine; *Travel + Leisure* magazine
- 1997 *Condé Nast Traveler* magazine; *Travel + Leisure* magazine; *Zagat* (a survey); *Money* magazine (second overall)
- 1996 **Travel + Leisure** magazine; **Entrepreneur** magazine (main-cabin service category); *Condé Nast Traveler* magazine
- 1995 *Condé Nast Traveler* magazine; *Consumer Reports* magazine; *Zagat* (a survey)
- 1994 *Condé Nast Traveler* magazine
- 1993 *Condé Nast Traveler* magazine; International Association of Air Travel Couriers
- 1992 *Condé Nast Traveler* magazine; J.D. Power and Associates (short-haul category); *Zagat* (a survey)

- 1991 Condé Nast Traveler magazine; Consumer Reports magazine; Business Week magazine (recognized in special issue on quality)
- 1990 Condé Nast Traveler magazine; Air Transport World magazine
- 1989 Condé Nast Traveler magazine
- 1988 USA Today (survey of business travelers)

Horizon Air

- 2000 Condé Nast Traveler magazine
- 1999 Condé Nast Traveler magazine
- 1998 Condé Nast Traveler magazine
- 1997 Condé Nast Traveler magazine
- 1994 Seattle Distinguished Marketing Award

TECHNOLOGY

Alaska Airlines and Horizon Air are innovators in the application of new technology, which have resulted in improved safety and improved cost management and productivity.

GPS/EGPWS

In 1996, Alaska Airlines became the first airline in the world to integrate the Global Positioning System (GPS) with the latest in Enhanced Ground Proximity Warning System (EGPWS) technology.

GPS employs a network of 24 orbiting satellites to triangulate a plane's position in three dimensions. EGPWS takes that information and compares it to an onboard computer database of contour maps from around the world to continuously update pilots on their location relative to any nearby land mass, specifically mountains.

Together, these two technologies allow for improved navigation that approaches pinpoint accuracy. They also have the capability to enhance safety and increase schedule reliability.

GPS/EGPWS is operational on Alaska's entire fleet of Boeing 737-400s and -700s, and Horizon's fleet of Q200/Q400 Dash 8s.

Head-Up Guidance System (HGS®)

In late 1989, Alaska became the first airline to use Head-Up Guidance System (HGS) during a passenger-carrying flight to reduce disruptions in scheduled service caused by fog. In 1995, Horizon became the first turboprop operator to use the HGS.

The central component of the system is the head-up display, that superimposes a holographic image of the approaching runway on a transparent screen positioned between the pilot and the cockpit windshield. Flight data from the instrument panel is also displayed on the screen.

The Internet

In 1996, Alaska and Horizon became the first U.S. airlines to book travel and sell tickets via the Internet. In 1999, they became

the first U.S. airlines to check in passengers and issue boarding passes via the Internet. In 2001, they introduced wireless checkin.

Alaska's home page can be found at www.alaskaair.com, while Horizon's Internet address is www.horizonair.com.

Instant Travel™

Alaska and Horizon offer ticketless travel with Instant Travel. This electronic ticketing system provides customers the benefit and convenience of not having to obtain or keep track of a paper ticket.

Instant Travel Machines (ITM) offer an automated check-in procedure to further speed Alaska and Horizon customers through the airport.

Available in most cities, ITMs allow travelers to check in electronically, receive a boarding pass and head to the plane. Alaska has self baggage check for customers checking in at an ITM in Anchorage and Portland and plans to expand the service to other cities.

Or, before leaving for the airport, customers may check-in and print a boarding pass at their home or office via Web check-in. Alaska has also introduced wireless check-in using a Web-enabled phone or a wireless handheld device.

MARKET PRESENCE

Alaska Airlines is the 10th largest U.S. airline, based on 2000 passenger traffic. During that year, Alaska enplaned 13.5 million passengers. Its average passenger trip length was 882 miles.

Although Alaska is relatively small compared to the other major carriers (Alaska carries less than two percent of all U.S. passenger traffic), it is the dominant carrier in the region it serves.

In each of the last 29 years, the airline has carried more people between Alaska and the Lower 48 than any other airline.

Today, Alaska is also the dominant carrier between the Pacific Northwest and California.

Departure share

West Coast to Alaska	73%
Pacific Northwest to No. California	45%
Pacific Northwest to So. California	78%
Pacific Northwest to Nevada	50%
Pacific Northwest to Arizona	39%

Horizon Air is the nation's eighth largest regional carrier based on 2000 passenger traffic and the dominant regional airline in the Pacific Northwest. In 2000, Horizon enplaned 5 million passengers. Its average trip length was 283 miles.

Together, Alaska and Horizon serve 75 cities:

	Alaska	Horizon	Total
U.S. cities	38	35	65*
Int'l. cities	6	5	10*
TOTAL cities	44	40	75*

* Alaska and Horizon jointly serve six U.S. destinations (Portland, Sacramento, Los Angeles, San Jose, Seattle and Spokane) and one international destination (Vancouver, B.C.).

CONTENTS PROMOTIONS TRAVEL MILEAGE PLAN VACATIONS CARGO COMPANY MYALASKAIR



Reno, Nevada - the Biggest Little City

[Alaska News Room](#) [Horizon News Room](#) [Jobs at Alaska](#) [Jobs at Horizon](#) [Alaska Commitment Plan](#)
[Horizon Commitment Plan](#) [About Alaska Air Group](#) [Investor Info](#) [Contract of Carriage](#) [More...](#)

Historical Overview of Alaska Airlines

For nearly 70 years, Alaska Airlines and its people have been guided through thick and thin by a shared commitment to integrity, caring, resourcefulness, professionalism and spirit. Especially spirit - an Alaskan spirit, born in the land the airline is named after - a place where "can-do" and "neighbor-helping-neighbor" are facts of life.

The result? A long list of aviation milestones, as well as countless stories of people going out of their way to help others - both in the course of business and in the support of organizations that makes our communities better places to live.

In the process, Alaska has grown from a small regional airline to one of the most respected in the nation. Carrying more than 12 million customers per year, Alaska's route system spans more than 40 cities and three countries. The Alaska Airlines fleet of 96 Boeing jets is the youngest among all major airlines. And its reputation for outstanding service consistently earns best U.S. airline recognition from the likes of *Travel + Leisure* and *Condé Nast Traveler* magazines.



Storied Roots



The foundation of this success was laid in 1932, when Mac McGee started flying his three-seat Stinson between Anchorage and Bristol Bay, Alaska. Finances were tight, but perseverance ruled the day - Mac and his team often worked round-the-clock, even though the next paycheck might be weeks away.

A merger with Star Air Service in 1934 created the largest airline in Alaska. After several more mergers, the name was changed a couple of times - until they found one that stuck: Alaska Airlines.

By the late 1940s, using surplus military aircraft, Alaska had branched into worldwide charter work, including the Berlin Airlift in 1948 and Operation Magic Carpet, the airlift of thousands of Yemenite Jews, to Israel in 1949.



In the late 1960s, Alaska strengthened its operating base by merging with Alaska Coastal-Ellis and Cordova airlines, legendary Southeast Alaska carriers owned by aviation pioneers Shell Simmons, Bob Ellis and Mudhole Smith. Alaska's world now stretched from Fairbanks south to Ketchikan and down to Seattle. And in some of the coldest days of the Cold War, Alaska made headlines with regular charters to the Soviet Union.

A New Era

When Fairbanks businessmen Ron Cosgrave and Bruce Kennedy came on board in 1972, the airline was in a financial fight for its life. They went to work setting goals and bringing people together. They won back the trust of creditors and improved on-time performance. One break that went their way was the construction of the trans-Alaska Pipeline; carrying supplies, equipment and workers gave Alaska a shot in the arm.

Bottom line, customer service became key in this new era. And it put the airline on course for what would be a nearly unprecedented record in the industry: 19 straight years of profitability.

In 1979, the airline industry was deregulated. For many carriers, this was the end of the road. For Alaska, it was a new beginning. The airline expanded methodically throughout the West Coast and in 1987 joined forces with two carriers similarly committed to outstanding customer service - Horizon Air and Jet America.



By the end of the 80s, Alaska had tripled in size. Its fleet had increased five-fold. And the route map included scheduled service to Mexico and Russia.

Continuing The Legacy

Things haven't changed that much over the years. Alaska is still differentiating itself: offering more flights than any competitor in almost every market it serves; providing a superior level of customer service; and pioneering technologies that improve on-time performance and expand safety margins. And the awards just keep on coming.

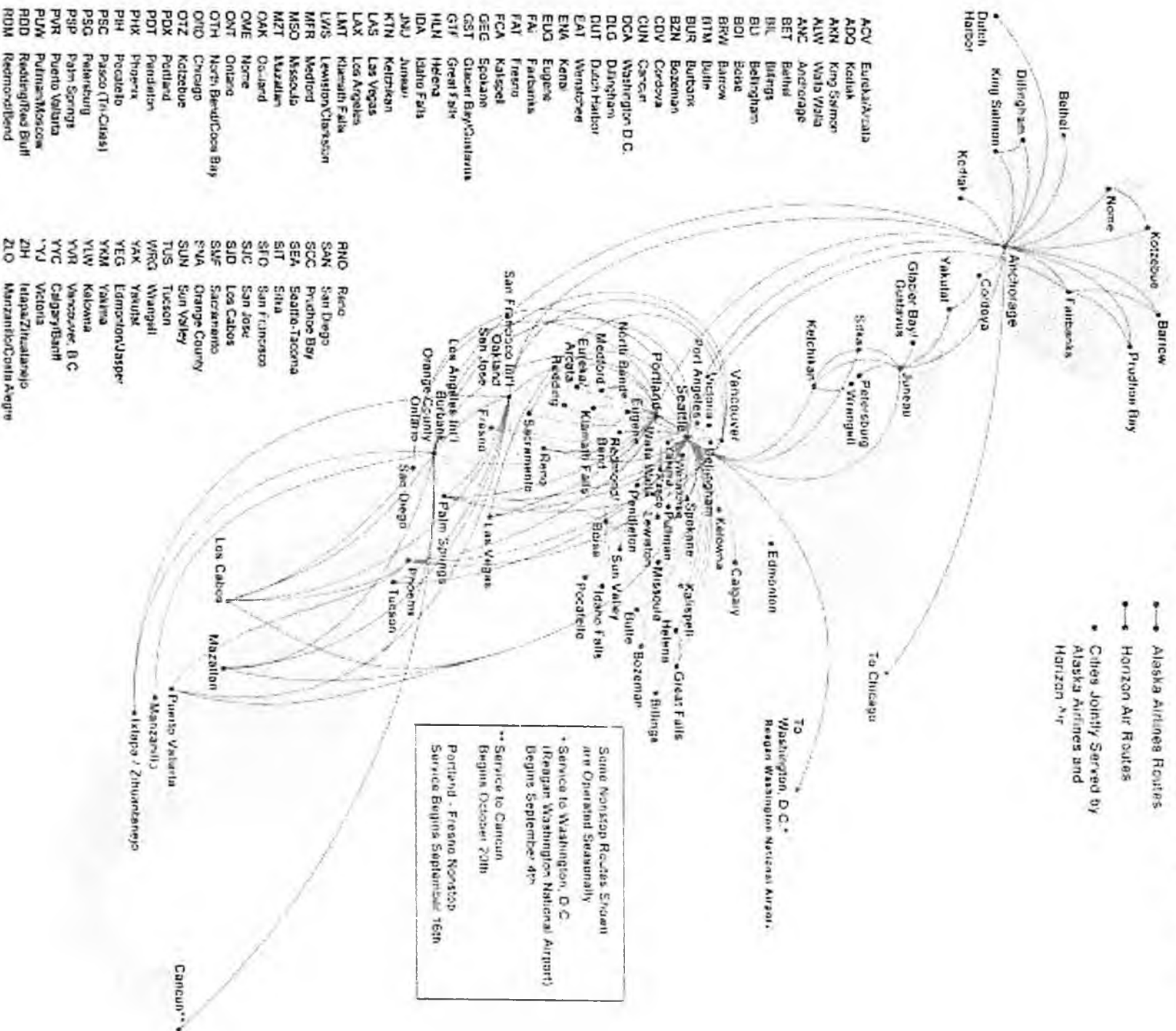


Every time the history of commercial aviation is written, people ask how an obscure little airline in America's hinterland has continued to survive and thrive while once-proud giants disappeared. Grit and determination will be part of the answer.

But more than that, it's the people. Their caring. Their resourcefulness. Their integrity. Their professionalism. And their spirit - the unique spirit of The Great Land where the airline was born.

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www.alaskaair.com OR www.horizonair.com

Alaska Air Group, Inc.



NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611
907-852-0200



February 12, 2002

Representative Pete Kott
Alaska State Legislature
Juneau, AK 99801

Representative Kott:

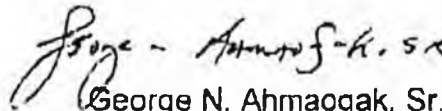
I would like to join you in congratulating Alaska Airlines on its 70th anniversary of service to the state.

As you know, air transportation is crucial to the economic and social fabric of Alaska. It is particularly crucial in the rural areas where there are no alternatives. Air carriers encounter unusually challenging weather-related hazards, as well as financial hardships, in providing service throughout Alaska. It takes a dedicated and resilient company to deliver this service day after day.

Everyone likes to complain about the airlines, especially when there is only one company serving a community. However, we have had experience with other airlines operating our main routes in the past, and few of us were sorry to see them disappear. Alaska Airlines provides a consistent level of service at competitive rates, and has established itself as a good corporate citizen.

On behalf of the people of the North Slope, I offer my congratulations to Alaska Airlines for a job well done.

Sincerely,


George N. Ahmaogak, Sr.
Mayor

HJR

47

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHJR 47(RES)
 (H) Publish Date: 4/4/02

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title: Low sulfur diesel fuel requirements BRU: _____
 Component: _____
 Sponsor: (H)C&RA
 Requester: (H)Resources Committee Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jennifer Yuhas, Committee Aide, House Resources Phone 465-3715

Representative Beverly Masek Date 4/3/02
Committee Chair

22-LS1644L
Craver
4/5/02

CS FOR HOUSE JOINT RESOLUTION NO. 47(RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A RESOLUTION

1 **Urging the United States Environmental Protection Agency and the Alaska Department**
2 **of Environmental Conservation to provide maximum possible flexibility in application**
3 **of ultra low sulfur diesel fuel requirements to Alaska.**

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

5 **WHEREAS** the United States Environmental Protection Agency (EPA) has ruled that,
6 in order to reduce emissions of particulate matter and nitrogen oxide from large trucks and
7 buses into the air, a cause of environmental and health problems in parts of the country, ultra
8 low sulfur diesel fuels having a sulfur content of 15 parts per million (PPM) must be used
9 nationwide for road vehicles; and

10 **WHEREAS** rural Alaska is dependent on diesel for its electrical power generation;
11 and

12 **WHEREAS** rural Alaska villages cannot import multiple grades of diesel fuel for
13 logistic and economic reasons; if ultra low sulfur diesel is required by the EPA for any road
14 fuel, all power generation will have to be accomplished with the same ultra low sulfur diesel;
15 and

1 **WHEREAS** ultra low sulfur diesel fuel costs significantly more than the current type
2 of diesel and is less efficient, resulting in increased retail costs on already expensive power;
3 and

4 **WHEREAS** ultra low sulfur fuel would have to be imported to Alaska at significant
5 cost because the primary fuel product in Alaska is aviation fuel, which is not subject to the
6 new emission rules; refineries in Alaska cannot produce this new product without extensive
7 modifications to existing equipment, and new construction is disproportionately expensive in
8 relation to the demand and market in Alaska; and

9 **WHEREAS** Alaska fuel companies estimate a 20 percent increase in the complexity
10 of fuel shipping, delivery, and use due to the need for discrete handling of this type of fuel
11 while other fuels are also being used; and

12 **WHEREAS** Alaska electrical utilities that serve rural villages estimate significant
13 increases in the costs of electrical power generation due to the higher cost of ultra low sulfur
14 fuel compounded by the lower efficiency of that fuel, such that the retail cost of electricity,
15 now about \$.45 per kilowatt hour (45 cents per KWH), might rise approximately 10 percent or
16 more, increasing the burden on rural consumers and the state power cost equalization
17 program; and

18 **WHEREAS** the Department of Environmental Conservation has recommended
19 applying the "National Plan" to all road communities and Alaska marine highway major
20 communities, despite the fact that many of these are very small, rural communities with few
21 or no heavy-duty diesel trucks and buses;

22 **BE IT RESOLVED** that the Alaska State Legislature urges the United States
23 Environmental Protection Agency and the Alaska Department of Environmental Conservation
24 to reexamine ultra low sulfur fuel requirements that may apply to Alaska, especially in rural,
25 off-road areas, and to provide maximum possible flexibility in application of any low sulfur
26 diesel fuel requirements to Alaska; and be it

27 **FURTHER RESOLVED** that the Alaska State Legislature urges the Alaska
28 Department of Environmental Conservation to revise its recommendation to the United States
29 Environmental Protection Agency to include application of the "National Plan" only to those
30 major urban communities directly on the Alaska highway system.

31 **COPIES** of this resolution shall be sent to the Honorable Christine Todd Whitman,

1 Administrator of the U.S. Environmental Protection Agency; the Honorable Michele Brown,
2 Commissioner, Department of Environmental Conservation; John Iani, Regional
3 Administrator, Environmental Protection Agency - Region 10; and to the Honorable Ted
4 Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young,
5 U.S. Representative, members of the Alaska delegation in Congress.

SB

115

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 115
 (S) Publish Date: 2/6/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
 Title An Act extending the Termination date BRU Spill Prevention and Response
of the Board of Storage Tank Assistance Component Contaminated Sites
 Sponsor Senate Rules Committee
 Requester Senate Finance Committee Component No. 2386

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	11.2	11.2				
Contractual	40.2	40.2				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	51.4	51.4	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						
1052 OHSRPR Prevention Account	51.4	51.4				
TOTAL	51.4	51.4	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	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Board Travel and Contractual Administrative Costs - Funding is provided through FY 02 for Board administrative costs. These costs have been continued into FY 03 and FY 04 as a result of the Board extension and wind down year.

Prepared by: Larry Dietrick
 Division: Spill Prevention and Response
 Approved by: Kurt Fredriksson
 Agency: Department of Environmental Conservation

Phone 465-5250
 Date/Time 1/30/02 1:26 PM
 Date 1/30/02

HOUSE CS FOR SENATE BILL NO. 115(RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered:
Referred:

**Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Board of Marital and Family Therapy and the practitioners of
2 marital and family therapy; extending the termination date of the Board of Storage
3 Tank Assistance; extending the termination date of the Council on Domestic Violence
4 and Sexual Assault; relating to the council's duties; placing the executive director and
5 staff of the council in the exempt service; setting timelines for issuance of final orders by
6 the Regulatory Commission of Alaska, amending the authority of the commission to
7 enter compromise settlement orders, and extending the commission's termination date
8 to June 30, 2006; relating to an exemption that allows one bill to continue more than one
9 board, commission, or agency program; and providing for an effective date."

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

11 * Section 1. AS 08.01.050(d) is amended to read:

12 (d) At the request of one of the following boards, the department may contract

1 with public agencies and private professional organizations to provide assistance and
2 treatment to persons licensed by the board who abuse alcohol, other drugs, or other
3 substances:

- 4 (1) Board of Social Work Examiners;
- 5 (2) Board of Dental Examiners;
- 6 (3) Board of Dispensing Opticians;
- 7 (4) State Medical Board;
- 8 (5) Board of Nursing;
- 9 (6) Board of Examiners in Optometry;
- 10 (7) Board of Pharmacy;
- 11 (8) State Physical Therapy and Occupational Therapy Board;
- 12 (9) Board of Professional Counselors;
- 13 (10) Board of Psychologist and Psychological Associate Examiners;

14 [AND]

- 15 (11) Board of Veterinary Examiners; and
- 16 (12) Board of Marital and Family Therapy.

17 * Sec. 2. AS 08.63.050 is amended by adding a new subsection to read:

18 (b) The board may order a licensed marital and family therapist to submit to a
19 reasonable physical or mental examination if the board has credible evidence
20 sufficient to conclude that the marital and family therapist's physical or mental
21 capacity to practice safely is at issue.

22 * Sec. 3. AS 08.63.100(a) is amended to read:

23 (a) The board shall issue a license to practice marital and family therapy to a
24 person who

- 25 (1) applies on a form provided by the board;
- 26 (2) pays the fee established under AS 08.01.065;
- 27 (3) furnishes evidence satisfactory to the board that the person
 - 28 (A) has not engaged in conduct that is a ground for imposing
29 disciplinary sanctions under AS 08.63.210;
 - 30 (B) holds a master's degree or doctorate in marital and family
31 therapy or allied mental health field from a regionally accredited educational

1 institution approved by the board for which the person completed a course of
2 study that included instruction substantially equivalent to the following:

3 (i) three courses or nine semester or 12 quarter hours of
4 course work in marital and family therapy;

5 (ii) three courses or nine semester or 12 quarter hours of
6 course work in marital and family studies;

7 (iii) three courses or nine semester or 12 quarter hours
8 of course work in human development;

9 (iv) one course or three semester or four quarter hours
10 of course work in professional studies or professional ethics and law;

11 (v) one course or three semester or four quarter hours of
12 course work in research; and

13 (vi) one year of supervised clinical practice in marital
14 and family therapy;

15 (C) after receiving a degree described in (B) of this paragraph,
16 has

17 (i) practiced marital and family therapy [WITHIN
18 THREE YEARS OF THE PERSON'S APPLICATION], including
19 1,500 hours of direct clinical contact with couples, individuals, and
20 families; and

21 (ii) been supervised in the clinical contact for at least
22 200 hours, including 100 hours of individual supervision and 100 hours
23 of group supervision approved by the board;

24 (D) has received training related to domestic violence; and

25 (E) has passed a written or oral examination administered by
26 the board.

27 * Sec. 4. AS 08.63.200(a) is amended to read:

28 (a) A person licensed under this chapter may not reveal to another person a
29 communication made to the licensee by a client about a matter concerning which the
30 client has employed the licensee in a professional capacity. This section does not
31 apply to

1 (1) a case conference or case consultation with other mental health
2 professionals at which the patient is not identified;

3 (2) the release of information that the client in writing authorized the
4 licensee to reveal;

5 (3) information released to the board as part of a disciplinary or other
6 proceeding; [OR]

7 (4) situations where the rules of evidence applicable to the
8 psychotherapist-patient privilege allow the release of the information;

9 (5) a communication to a potential victim or to law enforcement
10 officers where a threat of imminent serious physical harm to an identified victim
11 has been made by a client: or

12 (6) a disclosure revealing a communication about an act that the
13 licensee has reasonable cause to suspect constitutes unlawful or unethical conduct
14 that would be grounds for imposition of disciplinary sanctions by a person
15 licensed to provide health or mental health services, if the disclosure is made only
16 to the licensing board with jurisdiction over the person who allegedly committed
17 the act, and the disclosure is made in good faith.

18 * Sec. 5. AS 08.63.210 is amended to read:

19 Sec. 08.63.210. Grounds for imposition of disciplinary sanctions. After a
20 hearing, the board may impose a disciplinary sanction under AS 08.01.075 on a person
21 licensed under this chapter when the board finds that the person

22 (1) secured a license through deceit, fraud, or intentional
23 misrepresentation;

24 (2) engaged in deceit, fraud, or intentional misrepresentation in the
25 course of providing professional services or engaging in professional activities;

26 (3) advertised professional services in a false or misleading manner;

27 (4) has been convicted of a felony or of another crime that affects the
28 person's ability to practice competently and safely;

29 (5) failed to comply with a provision of this chapter or a regulation
30 adopted under this chapter, or an order of the board;

31 (6) continued to practice after becoming unfit due to

1 (A) professional incompetence;

2 (B) addiction or severe dependency on alcohol or another drug
3 that impairs the person's ability to practice safely;

4 (7) engaged in unethical conduct in connection with the delivery of
5 professional services to clients;

6 (8) engaged in sexual misconduct with a client during the course of
7 therapy, either within or outside the treatment setting, or within two years after
8 therapy or counseling with the client has terminated; in this paragraph, "sexual
9 misconduct" includes sexual contact, as defined in regulations adopted under this
10 chapter, or attempted sexual contact, regardless of the client's or former client's
11 consent or lack of consent.

12 * Sec. 6. AS 08.63.210 is amended by adding a new subsection to read:

13 (b) The board may summarily suspend the license of a licensee who refuses to
14 submit to a physical or mental examination under AS 08.63.050(b). A person whose
15 license is suspended under this subsection is entitled to a hearing by the board within
16 seven days after the effective date of the order. If, after a hearing, the board upholds
17 the suspension, the licensee may appeal the suspension to a court of competent
18 jurisdiction.

19 * Sec. 7. AS 08.63 is amended by adding new sections to read:

20 **Sec. 08.63.230. Disclosure statement.** A client may not be charged a fee for
21 marital and family therapy services unless, before the performance of the services, the
22 client was furnished a copy of a professional disclosure statement that contained

23 (1) the name, title, business address, and business telephone number of
24 the marital and family therapist;

25 (2) a description of the formal professional education of the marital
26 and family therapist, including the institutions attended and the degrees received from
27 the institutions;

28 (3) the marital and family therapist's areas of specialization and the
29 services available;

30 (4) the marital and family therapist's fee schedule listed by type of
31 service or hourly rate;

1 (5) a description of the exception to confidentiality contained in
2 AS 08.63.200(a)(6); and

3 (6) at the bottom of the first page of the statement, the following
4 sentence: "This information is required by the Board of Marital and Family Therapy,
5 which regulates all licensed marital and family therapists," followed by the name,
6 address, and telephone number of the board's office.

7 **Sec. 08.63.240. Limitation of practice.** Notwithstanding that a specific act is
8 within the definition of the "practice of marital and family therapy," a person licensed
9 under this chapter may not perform the act if the person lacks the appropriate
10 education, training, and experience related to the act.

11 * **Sec. 8.** AS 18.66.050 is amended to read:

12 **Sec. 18.66.050. Duties of the council.** The council shall

13 (1) hire an executive director, and the executive director may hire
14 [NECESSARY] staff; the executive director and staff are in the exempt service
15 under AS 39.25.110;

16 (2) elect one of its members as presiding officer;

17 (3) in consultation with authorities in the field, develop, implement,
18 maintain, and monitor domestic violence, sexual assault, and crisis intervention and
19 prevention programs, including educational programs, films, and school curricula on
20 the cause, prevention, and treatment of domestic violence and sexual assault;

21 (4) coordinate services provided by the Department of Law, the
22 Department of Education and Early Development, the Department of Public Safety,
23 the Department of Health and Social Services, and other state agencies and community
24 groups dealing with domestic violence, sexual assault, and crisis intervention and
25 prevention, and provide technical assistance as requested by those state agencies and
26 community groups;

27 (5) develop and implement a standardized data collection system on
28 domestic violence, sexual assault, and crisis intervention and prevention;

29 (6) conduct public hearings and studies on issues relating to violence,
30 including domestic violence and sexual assault, and on issues relating to the role of
31 crisis intervention and prevention;

1 (7) receive and dispense state and federal money and award grants and
2 contracts from appropriations for the purpose to qualified local community entities for
3 domestic violence, sexual assault, and crisis intervention and prevention programs;

4 (8) oversee and audit domestic violence, sexual assault, and crisis
5 intervention and prevention programs that receive money under this chapter;

6 (9) provide fiscal and technical assistance to plan, organize, implement
7 and administer domestic violence, sexual assault, and crisis intervention and
8 prevention programs;

9 (10) make an annual report to the governor on the activities of the
10 council, plans of the council for new services and programs, and concerns of the
11 council, including recommendations for legislation necessary to carry out the purposes
12 of this chapter; the council shall notify the legislature that the report is available;

13 (11) adopt regulations in accordance with AS 44.62 (Administrative
14 Procedure Act) to carry out the purposes of this chapter and to protect the health,
15 safety, well-being, and privacy of persons receiving services financed with grants or
16 contracts under this chapter;

17 (12) consult with the Department of Health and Social Services in the
18 formulation of standards and procedures for the delivery of services to victims of
19 domestic violence by health care facilities and practitioners of healing arts and
20 personnel in those facilities as required in AS 18.66.300;

21 (13) consult with the Alaska Police Standards Council and other police
22 training programs in the state to develop training programs regarding domestic
23 violence for police officers and for correction, probation, and parole officers;

24 (14) consult with public employers, the Alaska Supreme Court, school
25 districts, and prosecuting authorities who are required by AS 18.66.300 - 18.66.310 to
26 provide continuing education courses in domestic violence to employees

27 * **Sec. 9.** AS 39.25.110 is amended by adding a new paragraph to read:

28 (37) the executive director and staff of the Council on Domestic
29 Violence and Sexual Assault established under AS 18.66.010.

30 * **Sec. 10.** AS 42.05 is amended by adding a new section to read:

31 **Sec. 42.05.175. Timelines for issuance of final orders.** (a) The commission

1 shall issue a final order not later than six months after a complete application is filed
2 for an application

- 3 (1) for a certificate of public convenience and necessity;
- 4 (2) to amend a certificate of public convenience and necessity;
- 5 (3) to transfer a certificate of public convenience and necessity; and
- 6 (4) to acquire a controlling interest in a certificated public utility.

7 (b) Notwithstanding a suspension ordered under AS 42.05.421, the
8 commission shall issue a final order not later than nine months after a complete tariff
9 filing is made for a tariff filing that does not change the utility's revenue requirement
10 or rate design.

11 (c) Notwithstanding a suspension ordered under AS 42.05.421, the
12 commission shall issue a final order not later than 15 months after a complete tariff
13 filing is made for a tariff filing that changes the utility's revenue requirement or rate
14 design.

15 (d) The commission shall issue a final order not later than 12 months after a
16 complete formal complaint is filed against a utility or, when the commission initiates a
17 formal investigation of a utility without the filing of a complete formal complaint, not
18 later than 12 months after the order initiating the formal investigation is issued.

19 (e) The commission shall issue a final order in a rule making proceeding not
20 later than 24 months after a complete petition for adoption, amendment, or repeal of a
21 regulation under AS 44.62.180 - 44.62.290 is filed or, when the commission initiates a
22 rule making docket, not later than 24 months after the order initiating the proceeding is
23 issued.

24 (f) The commission may extend a timeline required under (a) - (e) of this
25 section if all parties of record consent to the extension or if, before the timeline
26 expires, the commission

- 27 (1) reasonably finds that good cause exists to extend the timeline; and
- 28 (2) issues a written order extending the timeline and setting out its
29 findings regarding good cause.

30 (g) The commission shall file quarterly reports with the Legislative Budget
31 and Audit Committee identifying all extensions ordered under (f)(2) of this section

1 during the previous quarter, and including copies of the written orders issued under
2 (f)(2) of this section.

3 (h) If the commission does not issue and serve a final order regarding an
4 application or suspended tariff under section (a), (b), or (c) of this section within the
5 applicable timeline specified, and if the commission does not extend the timeline in
6 accordance with (f) of this section, the application or suspended tariff filing shall be
7 considered approved and shall go into effect immediately.

8 (i) For purposes of this section, "final order" means a dispositive
9 administrative order that resolves all matters at issue and that may be the basis for a
10 petition for reconsideration or request for judicial review.

11 (j) For purposes of this section, an application, tariff filing, formal complaint,
12 or petition is complete if it complies with the filing, format, and content requirements
13 established by statute, regulation, and forms adopted by the commission under
14 regulation.

15 * **Sec. 11.** AS 42.05.191 is amended to read:

16 **Sec. 42.05.191. Contents and service of orders.** Every formal order of the
17 commission shall be based upon the facts of record. However, the commission may
18 issue an order approving any settlement supported by all the parties of record in
19 a proceeding, including a compromise settlement, if the settlement is consistent
20 with this chapter and AS 42.06. Every order entered pursuant to a hearing must state
21 the commission's findings, the basis of its findings and conclusions, together with its
22 decision. These orders shall be entered of record and a copy of them shall be served
23 on all parties of record in the proceeding.

24 * **Sec. 12.** AS 44.66.010(a)(4) is amended to read:

25 (4) Regulatory Commission of Alaska (AS 42.04.010) -- June 30, 2006
26 [2002];

27 * **Sec. 13.** AS 44.66.010(a)(11) is amended to read:

28 (11) Council on Domestic Violence and Sexual Assault
29 (AS 18.66.010) -- June 30, 2006 [2002];

30 * **Sec. 14.** AS 44.66.010(a)(18) is amended to read:

31 (18) Board of Storage Tank Assistance (AS 46.03.360) -- June 30,

1 2003 [2001];

2 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 EXEMPTION FROM AS 44.66.050(e). This Act is exempt from the provision of
5 AS 44.66.050(e) that prohibits a bill from continuing the existence of more than one board,
6 commission, or agency program.

7 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 PRIOR DOCKETS. The provisions of AS 42.05.175, added by sec. 10 of this Act do
10 not apply to dockets of the Regulatory Commission of Alaska that are initiated before July 1,
11 2002.

12 * **Sec. 17.** Sections 8 - 16 of this Act take effect immediately under AS 01.10.070(c).

22-LS0634\C
Lauterbach
5/8/02

HOUSE CS FOR SENATE BILL NO. 115(RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered:
Referred:

**Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Board of Marital and Family Therapy and the practitioners of
2 marital and family therapy; extending the termination date of the Board of Storage
3 Tank Assistance; extending the termination date of the Council on Domestic Violence
4 and Sexual Assault; relating to the council's duties; placing the executive director and
5 staff of the council in the exempt service; relating to an exemption that allows one bill to
6 continue more than one board, commission, or agency program; and providing for an
7 effective date."

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

9 * **Section 1.** AS 08.01.050(d) is amended to read:

10 (d) At the request of one of the following boards, the department may contract
11 with public agencies and private professional organizations to provide assistance and
12 treatment to persons licensed by the board who abuse alcohol, other drugs, or other
13 substances:

- 1 (1) Board of Social Work Examiners;
- 2 (2) Board of Dental Examiners;
- 3 (3) Board of Dispensing Opticians;
- 4 (4) State Medical Board;
- 5 (5) Board of Nursing;
- 6 (6) Board of Examiners in Optometry;
- 7 (7) Board of Pharmacy;
- 8 (8) State Physical Therapy and Occupational Therapy Board;
- 9 (9) Board of Professional Counselors;
- 10 (10) Board of Psychologist and Psychological Associate Examiners;

11 [AND]

- 12 (11) Board of Veterinary Examiners; and
- 13 (12) Board of Marital and Family Therapy.

14 * Sec. 2. AS 08.63.050 is amended by adding a new subsection to read:

15 (b) The board may order a licensed marital and family therapist to submit to a
 16 reasonable physical or mental examination if the board has credible evidence
 17 sufficient to conclude that the marital and family therapist's physical or mental
 18 capacity to practice safely is at issue.

19 * Sec. 3. AS 08.63.100(a) is amended to read:

20 (a) The board shall issue a license to practice marital and family therapy to a
 21 person who

- 22 (1) applies on a form , rovided by the board;
- 23 (2) pays the fee established under AS 08.01.065;
- 24 (3) furnishes evidence satisfactory to the board that the person

25 (A) has not engaged in conduct that is a ground for imposing
 26 disciplinary sanctions under AS 08.63.210;

27 (B) holds a master's degree or doctorate in marital and family
 28 therapy or allied mental health field from a regionally accredited educational
 29 institution approved by the board for which the person completed a course of
 30 study that included instruction substantially equivalent to the following:

- 31 (i) three courses or nine semester or 12 quarter hours of

1 course work in marital and family therapy;

2 (ii) three courses or nine semester or 12 quarter hours of
3 course work in marital and family studies;

4 (iii) three courses or nine semester or 12 quarter hours
5 of course work in human development;

6 (iv) one course or three semester or four quarter hours
7 of course work in professional studies or professional ethics and law;

8 (v) one course or three semester or four quarter hours of
9 course work in research; and

10 (vi) one year of supervised clinical practice in marital
11 and family therapy;

12 (C) after receiving a degree described in (B) of this paragraph,

13 has

14 (i) practiced marital and family therapy [WITHIN
15 THREE YEARS OF THE PERSON'S APPLICATION], including
16 1,500 hours of direct clinical contact with couples, individuals, and
17 families; and

18 (ii) been supervised in the clinical contact for at least
19 200 hours, including 100 hours of individual supervision and 100 hours
20 of group supervision approved by the board;

21 (D) has received training related to domestic violence; and

22 (E) has passed a written or oral examination administered by

23 the board.

24 * Sec. 4. AS 08.63.200(a) is amended to read:

25 (a) A person licensed under this chapter may not reveal to another person a
26 communication made to the licensee by a client about a matter concerning which the
27 client has employed the licensee in a professional capacity. This section does not
28 apply to

29 (1) a case conference or case consultation with other mental health
30 professionals at which the patient is not identified;

31 (2) the release of information that the client in writing authorized the

1 licensee to reveal;

2 (3) information released to the board as part of a disciplinary or other
3 proceeding; [OR]

4 (4) situations where the rules of evidence applicable to the
5 psychotherapist-patient privilege allow the release of the information;

6 (5) a communication to a potential victim or to law enforcement
7 officers where a threat of imminent serious physical harm to an identified victim
8 has been made by a client; or

9 (6) a disclosure revealing a communication about an act that the
10 licensee has reasonable cause to suspect constitutes unlawful or unethical conduct
11 that would be grounds for imposition of disciplinary sanctions by a person
12 licensed to provide health or mental health services, if the disclosure is made only
13 to the licensing board with jurisdiction over the person who allegedly committed
14 the act, and the disclosure is made in good faith.

15 * Sec. 5. AS 08.63.210 is amended to read:

16 Sec. 08.63.210. Grounds for imposition of disciplinary sanctions. After a
17 hearing, the board may impose a disciplinary sanction under AS 08.01.075 on a person
18 licensed under this chapter when the board finds that the person

19 (1) secured a license through deceit, fraud, or intentional
20 misrepresentation;

21 (2) engaged in deceit, fraud, or intentional misrepresentation in the
22 course of providing professional services or engaging in professional activities;

23 (3) advertised professional services in a false or misleading manner;

24 (4) has been convicted of a felony or of another crime that affects the
25 person's ability to practice competently and safely;

26 (5) failed to comply with a provision of this chapter or a regulation
27 adopted under this chapter, or an order of the board;

28 (6) continued to practice after becoming unfit due to

29 (A) professional incompetence;

30 (B) addiction or severe dependency on alcohol or another drug
31 that impairs the person's ability to practice safely;

1 (7) engaged in unethical conduct in connection with the delivery of
2 professional services to clients;

3 (8) engaged in sexual misconduct with a client during the course of
4 therapy, either within or outside the treatment setting, or within two years after
5 therapy or counseling with the client has terminated; in this paragraph, "sexual
6 misconduct" includes sexual contact, as defined in regulations adopted under this
7 chapter, or attempted sexual contact, regardless of the client's or former client's
8 consent or lack of consent.

9 * Sec. 6. AS 08.63.210 is amended by adding a new subsection to read:

10 (b) The board may summarily suspend the license of a licensee who refuses to
11 submit to a physical or mental examination under AS 08.63.050(b). A person whose
12 license is suspended under this subsection is entitled to a hearing by the board within
13 seven days after the effective date of the order. If, after a hearing, the board upholds
14 the suspension, the licensee may appeal the suspension to a court of competent
15 jurisdiction.

16 * Sec. 7. AS 08.63 is amended by adding new sections to read:

17 **Sec. 08.63.230. Disclosure statement.** A client may not be charged a fee for
18 marital and family therapy services unless, before the performance of the services, the
19 client was furnished a copy of a professional disclosure statement that contained

20 (1) the name, title, business address, and business telephone number of
21 the marital and family therapist;

22 (2) a description of the formal professional education of the marital
23 and family therapist, including the institutions attended and the degrees received from
24 the institutions;

25 (3) the marital and family therapist's areas of specialization and the
26 services available;

27 (4) the marital and family therapist's fee schedule listed by type of
28 service or hourly rate;

29 (5) a description of the exception to confidentiality contained in
30 AS 08.63.200(a)(6); and

31 (6) at the bottom of the first page of the statement, the following

1 sentence: "This information is required by the Board of Marital and Family Therapy,
2 which regulates all licensed marital and family therapists," followed by the name,
3 address, and telephone number of the board's office.

4 **Sec. 08.63.240. Limitation of practice.** Notwithstanding that a specific act is
5 within the definition of the "practice of marital and family therapy," a person licensed
6 under this chapter may not perform the act if the person lacks the appropriate
7 education, training, and experience related to the act.

8 * **Sec. 8.** AS 18.66.050 is amended to read:

9 **Sec. 18.66.050. Duties of the council.** The council shall

10 (1) hire an executive director, and the executive director may hire
11 [NECESSARY] staff; the executive director and staff are in the exempt service
12 under AS 39.25.110;

13 (2) elect one of its members as presiding officer;

14 (3) in consultation with authorities in the field, develop, implement,
15 maintain, and monitor domestic violence, sexual assault, and crisis intervention and
16 prevention programs, including educational programs, films, and school curricula on
17 the cause, prevention, and treatment of domestic violence and sexual assault;

18 (4) coordinate services provided by the Department of Law, the
19 Department of Education and Early Development, the Department of Public Safety,
20 the Department of Health and Social Services, and other state agencies and community
21 groups dealing with domestic violence, sexual assault, and crisis intervention and
22 prevention, and provide technical assistance as requested by those state agencies and
23 community groups;

24 (5) develop and implement a standardized data collection system on
25 domestic violence, sexual assault, and crisis intervention and prevention;

26 (6) conduct public hearings and studies on issues relating to violence,
27 including domestic violence and sexual assault, and on issues relating to the role of
28 crisis intervention and prevention;

29 (7) receive and dispense state and federal money and award grants and
30 contracts from appropriations for the purpose to qualified local community entities for
31 domestic violence, sexual assault, and crisis intervention and prevention programs;

1 (8) oversee and audit domestic violence, sexual assault, and crisis
2 intervention and prevention programs that receive money under this chapter;

3 (9) provide fiscal and technical assistance to plan, organize, implement
4 and administer domestic violence, sexual assault, and crisis intervention and
5 prevention programs;

6 (10) make an annual report to the governor on the activities of the
7 council, plans of the council for new services and programs, and concerns of the
8 council, including recommendations for legislation necessary to carry out the purposes
9 of this chapter; the council shall notify the legislature that the report is available;

10 (11) adopt regulations in accordance with AS 44.62 (Administrative
11 Procedure Act) to carry out the purposes of this chapter and to protect the health,
12 safety, well-being, and privacy of persons receiving services financed with grants or
13 contracts under this chapter;

14 (12) consult with the Department of Health and Social Services in the
15 formulation of standards and procedures for the delivery of services to victims of
16 domestic violence by health care facilities and practitioners of healing arts and
17 personnel in those facilities as required in AS 18.66.300;

18 (13) consult with the Alaska Police Standards Council and other police
19 training programs in the state to develop training programs regarding domestic
20 violence for police officers and for correction, probation, and parole officers;

21 (14) consult with public employers, the Alaska Supreme Court, school
22 districts, and prosecuting authorities who are required by AS 18.66.300 - 18.66.310 to
23 provide continuing education courses in domestic violence to employees.

24 * **Sec. 9.** AS 39.25.110 is amended by adding a new paragraph to read:

25 (37) the executive director and staff of the Council on Domestic
26 Violence and Sexual Assault established under AS 18.66.010.

27 * **Sec. 10.** AS 44.66.010(a)(11) is amended to read:

28 (11) Council on Domestic Violence and Sexual Assault
29 (AS 18.66.010) -- June 30, 2006 [2002];

30 * **Sec. 11.** AS 44.66.010(a)(18) is amended to read:

31 (18) Board of Storage Tank Assistance (AS 46.03.360) -- June 30,

1 2003 [2001];

2 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 EXEMPTION FROM AS 44.66.050(e). This Act is exempt from the provision of
5 AS 44.66.050(e) that prohibits a bill from continuing the existence of more than one board,
6 commission, or agency program.

7 * **Sec. 13.** Sections 8 - 12 of this Act take effect immediately under AS 01.10.070(c).

SB

176

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 176
 (S) Publish Date: 4/25/01

Revision Date/Time (Note if correction): 04/16/2001 2:35p.m. Dept. Affected: DCED
 Title: An act relating to Distributorships BRU: Banking, Securities & Corporations
 Sponsor: Senate Labor & Commerce By Request Component: Corporations
 Requester: Senate Labor and Commerce Component Number: 1233

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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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)						
TOTAL						

Estimate of any current year (FY2001) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This Legislation has no fiscal impact on this Department.

Prepared by: Franklin Terry Elder, Director Phone 907-465-2521
 Division: Banking, Securities & Corporations Date/Time 04/16/2001 2:35p.m.
 Approved by: Commissioner Deborah B. Sedwick Date 4/16/2001
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

22-LS0818\B
Bannister
4/17/02

Koff

**HOUSE CS FOR CS FOR SENATE BILL NO. 176(RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION**

BY THE HOUSE RULES COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting certain coercive activity by distributors; relating to certain
2 required distributor payments and purchases; prohibiting distributors from requiring
3 certain contract terms as a condition for certain acts related to distributorship and
4 ancillary agreements; allowing dealers to bring certain court actions against distributors
5 for certain relief; and making exemptions that relate to the federal Petroleum
6 Marketing Practices Act, situations regulated by the Alaska Gasoline Products Leasing
7 Act, distributorship agreements relating to motor vehicles required to be registered
8 under AS 28.10, activities and agreements by persons licensed under AS 04, contracts
9 between persons licensed under AS 04 and out-of-state persons in the alcoholic beverage
10 industry, distributorship agreements involving cigarettes, food, drink, or components of
11 food or drink, manufacturers with 50 or fewer employees, suppliers, manufacturers,
12 importers, and wholesalers of alcoholic beverages."

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

2 * **Section 1.** AS 45.45 is amended by adding new sections to read:

3 **Article 9A. Distributorships.**

4 **Sec. 45.45.700. Coercion of dealer.** (a) A distributor may not coerce or
5 attempt to coerce a dealer to perform certain acts by using duress or by threatening to
6 terminate the distributorship agreement or another agreement between the distributor
7 and the dealer.

8 (b) In this section, "certain acts" means

9 (1) the purchase or acceptance of delivery of merchandise that has not
10 been ordered by the dealer;

11 (2) the assignment, sale, or disposal of a contract or property; or

12 (3) making an expenditure that the dealer has not contracted to make.

13 **Sec. 45.45.710. Disposition of merchandise remaining upon contract**
14 **termination.** (a) If a dealer maintains a stock of merchandise supplied for the
15 dealer's resale under a distributorship agreement and if the distributor or the dealer
16 terminates the distributorship agreement, the distributor shall, unless the dealer
17 chooses to keep the merchandise, pay the dealer for the merchandise that was
18 purchased from the distributor and that is held by the dealer on the date of the
19 termination an amount equal to

20 (1) the fair market value for merchandise that is unused and for which
21 the retailer has paid the distributor, plus 100 percent of the transportation charges paid
22 by the dealer to return the merchandise to the distributor; in this paragraph,

23 (A) "fair market value" means the amount the distributor would
24 realize from the sale of the merchandise to another retailer using reasonable
25 good faith efforts;

26 (B) "unused" means unopened merchandise that is still in the
27 original factory packaging or container;

28 (2) 85 percent of the current net price, as listed in the current price list
29 or catalog of the distributor, for repair parts, including superseded parts; and

30 (3) five percent of the current net price of repair parts to cover the
31 handling, packing, and transportation of the repair parts back to the distributor.

1 (b) Upon payment of the amounts required by (a) of this section, the title to
2 the merchandise passes to the distributor making the payment, and the distributor is
3 entitled to the possession of the merchandise for which the payment was made.

4 (c) In (a) of this section, if a repair part is not listed in a current price list or
5 catalog of the distributor, the current net price is the higher of the fair market value or
6 the latest price published by the distributor for the repair part if a dealer has actual
7 proof of the purchase of the repair part from the distributor and if the repair part was
8 purchased within 10 years before the termination.

9 **Sec. 45.45.720. Time for payment.** A distributor shall make the payments to
10 the dealer under AS 45.45.710 not later than three months after the date the agreement
11 is terminated. When the payment is made, the distributor shall provide the dealer with
12 a final detailed statement of account for the merchandise.

13 **Sec. 45.45.730. Death of dealer or holder of majority interest in dealer.**
14 Unless the distributorship agreement is continued by the personal representative, an
15 heir, or a devisee of the individual, upon the death of an individual who is a dealer or
16 holds a majority interest in a dealer, a distributor who supplied merchandise to the
17 dealer shall repurchase from the personal representative, heir, or devisee the
18 merchandise that was purchased from the distributor and that remains when the
19 distributorship agreement is terminated under this section. To repurchase under this
20 section, the distributor shall pay an amount equal to the amount identified under
21 AS 45.45.710(a) and (c), and the repurchase is subject to AS 45.45.720. In this
22 section, "devisee," "heir," and "personal representative" have the meanings given in
23 AS 13.06.050.

24 **Sec. 45.45.740. Required purchase, reimbursement, and supplies.** (a) In
25 addition to any purchase of merchandise required by AS 45.45.710, if a distributor
26 terminates a distributorship agreement or makes substantial changes in the competitive
27 situation of the distributor's dealer with regard to distribution of the merchandise or
28 services that are the subject of the distribution agreement, the distributor shall

29 (1) purchase that portion of the dealer's business directly affected by
30 the distributorship agreement or the change, including assets and machinery, at
31 commercially reasonable business valuations; and

1 (2) reimburse the dealer for the expenses that were necessarily incurred
2 by the dealer

3 (A) for that portion of the dealer's business covered by the
4 distributorship agreement; and

5 (B) during the 12 months before the termination or change.

6 (b) In this section, "change" does not include making a price change that
7 affects similarly situated dealers equally.

8 **Sec. 45.45.750. Prohibited terms.** (a) A distributor may not require a dealer
9 to agree to any of the following terms in a distributorship agreement, or in another
10 agreement that is ancillary to a distributorship agreement, as a condition of an offer,
11 grant, or renewal of a distributorship agreement or ancillary agreement:

12 (1) a requirement that the dealer waive a trial by jury in court cases
13 involving the distributor;

14 (2) a requirement that disputes between the distributor and the dealer
15 be submitted to arbitration or to any other binding alternate dispute resolution
16 procedure, except authorization for the submission of a dispute to arbitration or to
17 binding alternative dispute resolution if the distributor and dealer voluntarily agree to
18 submit the dispute to arbitration or binding alternative dispute resolution when the
19 dispute arises;

20 (3) a requirement that the dealer pay the attorney fees of the
21 distributor;

22 (4) a requirement that prohibits a firearms dealer from selling firearms
23 or related accessories, the sale of which is otherwise legal, but which the firearms
24 distributor does not manufacture or distribute; or

25 (5) a requirement that the agreement be subject to the laws of a state
26 other than Alaska.

27 (b) The provisions of (a) of this section do not apply to an agreement where a
28 lease or sale of real property is the main purpose of the agreement.

29 **Sec. 45.45.760. Civil action.** (a) A dealer may bring an action in court
30 against a distributor if the distributor engages in activity prohibited under this chapter.

31 (b) In an action brought under (a) of this section, the dealer may obtain one or

1 more of the following types of relief that apply to the specific action of the dealer:

- 2 (1) damages suffered by the dealer as a result of the activity;
- 3 (2) an injunction enjoining the distributor from engaging in the
- 4 activity;
- 5 (3) a requirement that the distributor make a payment or a purchase
- 6 required by this chapter;
- 7 (4) any other relief determined by the court to be appropriate under the
- 8 circumstances.

9 (c) In this section, "activity prohibited under this chapter" means

- 10 (1) coercion or attempted coercion under AS 45.45.700;
- 11 (2) terminating a distributorship agreement without paying the dealer
- 12 as required by AS 45.45.710;
- 13 (3) failing to pay the dealer within the time established by
- 14 AS 45.45.720;
- 15 (4) failing to provide the statement of account as required by
- 16 AS 45.45.720;
- 17 (5) failing to make a repurchase payment required by AS 45.45.730;
- 18 (6) failing to make a purchase as required by AS 45.45.740(a)(1);
- 19 (7) failing to make the reimbursement required by AS 45.45.740(a)(2);
- 20 or
- 21 (8) violating AS 45.45.750.

22 **Sec. 45.45.770. Exemptions.** (a) AS 45.45.700 - 45.45.790 do not apply to

- 23 (1) a distributorship agreement that would be considered a franchise
- 24 regulated by 15 U.S.C. 2801 - 2841 (Petroleum Marketing Practices Act);
- 25 (2) a situation regulated by AS 45.50.800 - 45.50.850;
- 26 (3) a distributorship agreement, including a franchise agreement, for
- 27 the sale, repair, or servicing of motor vehicles that are required to be registered under
- 28 AS 28.10;
- 29 (4) an activity or agreement by a person licensed under AS 04 if the
- 30 activity or agreement is within the scope of the license or is incidental to the activity
- 31 or agreement that is within the scope of the license;

1 (5) a distributorship agreement or another contract between a person
2 licensed under AS 04 and a distributor, manufacturer, importer, supplier, or wholesaler
3 of alcoholic beverages who is not located in this state if the subject of the agreement
4 or contract is the distribution of alcoholic beverages to the licensed person by the
5 distributor, manufacturer, importer, supplier, or wholesaler;

6 (6) a distributor, manufacturer, importer, supplier, or wholesaler of
7 alcoholic beverages;

8 (7) a distributorship agreement for the sale or distribution of, or other
9 transaction involving, cigarettes, food, drink, or a component of food or drink; in this
10 paragraph, "cigarette" has the meaning given in AS 43.50.170; or

11 (8) a manufacturer with 50 or fewer employees.

12 (b) In (a) of this section, "alcoholic beverage" has the meaning given in
13 AS 04.21.080.

14 **Sec. 45.45.790. Definitions.** In AS 45.45.700 - 45.45.790,

15 (1) "dealer" means a person who enters into a distributorship
16 agreement and who, under the agreement, receives merchandise or services from a
17 distributor;

18 (2) "distributor" means a person who enters into a distributorship
19 agreement and who, under the agreement, provides merchandise or services to a
20 dealer; the term includes

21 (A) a wholesaler;

22 (B) a manufacturer;

23 (C) a person that is a parent corporation or an affiliated
24 corporation of a person identified in (A) or (B) of this paragraph; and

25 (D) a field representative, an officer, an agent, or another direct
26 or indirect representative of a person identified in (A), (B), or (C) of this
27 paragraph;

28 (3) "distributorship agreement" means an agreement, whether express,
29 implied, oral, or written, between two or more persons

30 (A) by which a person receives the right to

31 (i) sell or lease merchandise or services at retail or

- 1 wholesale; or
- 2 (ii) use a trade name, trademark, service mark,
- 3 logotype, advertising, or other commercial symbol; and
- 4 (B) in which the parties to the agreement have a joint interest,
- 5 whether equal or unequal, in the offering, ~~selling~~, or leasing of the merchandise
- 6 or services;
- 7 (4) "merchandise" includes parts and accessories;
- 8 (5) "terminate" includes failing to renew.

9 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to

10 read:

11 **APPLICABILITY.** This Act applies to a distributorship agreement that is entered into

12 on or after the effective date of this Act.

22-LS0818\S
Bannister
4/12/02

HOUSE CS FOR CS FOR SENATE BILL NO. 176(RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting certain coercive activity by distributors; relating to certain
2 required distributor payments and purchases; prohibiting distributors from requiring
3 certain contract terms as a condition for certain acts related to distributorship and
4 ancillary agreements; allowing dealers to bring certain court actions against distributors
5 for certain relief; and exempting from the provisions of the Act franchises regulated by
6 the federal Petroleum Marketing Practices Act, situations regulated by the Alaska
7 Gasoline Products Leasing Act, distributorship agreements relating to motor vehicles
8 required to be registered under AS 28.10, ~~certain~~ activities and agreements by persons
9 licensed under AS 04, ~~certain~~ contracts between persons licensed under AS 04 and out-
10 of-state alcoholic beverage distributors, including manufacturers, ~~and certain~~
11 ~~manufacturers.~~ and suppliers, ~~importers,~~

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

1 * Section 1. AS 45.45 is amended by adding new sections to read:

2 **Article 9A. Distributorships.**

3 **Sec. 45.45.700. Coercion of dealer.** (a) A distributor may not coerce or
4 attempt to coerce a dealer to perform certain acts by using duress or by threatening to
5 terminate the distributorship agreement or another agreement between the distributor
6 and the dealer.

7 (b) In this section, "certain acts" means

8 (1) the purchase or acceptance of delivery of merchandise that has not
9 been ordered by the dealer;

10 (2) the assignment, sale, or disposal of a contract or property; or

11 (3) making an expenditure that the dealer has not contracted to make.

12 **Sec. 45.45.710. Disposition of merchandise remaining upon contract**
13 **termination.** (a) If a dealer maintains a stock of merchandise supplied for the
14 dealer's resale under a distributorship agreement and if the distributor or the dealer
15 terminates the distributorship agreement, the distributor shall, unless the dealer
16 chooses to keep the merchandise, pay the dealer for the merchandise that was
17 purchased from the distributor and that is held by the dealer on the date of the
18 termination an amount equal to

19 (1) the fair market value for merchandise that is unused and for which
20 the retailer has paid the distributor, plus 100 percent of the transportation charges paid
21 by the dealer to return the merchandise to the distributor; in this paragraph,

22 (A) "fair market value" means the amount the distributor would
23 realize from the sale of the merchandise to another retailer using reasonable
24 good faith efforts;

25 (B) "unused" means unopened merchandise that is still in the
26 original factory packaging or container;

27 (2) 85 percent of the current net price, as listed in the current price list
28 or catalog of the distributor, for repair parts, including superseded parts; and

29 (3) five percent of the current net price of repair parts to cover the
30 handling, packing, and transportation of the repair parts back to the distributor.

31 (b) Upon payment of the amounts required by (a) of this section, the title to

1 the merchandise passes to the distributor making the payment, and the distributor is
2 entitled to the possession of the merchandise for which the payment was made.

3 (c) In (a) of this section, if a repair part is not listed in a current price list or
4 catalog of the distributor, the current net price is the higher of the fair market value or
5 the latest price published by the distributor for the repair part if a ^{dealer} [deleae] has actual
6 proof of the purchase of the repair part from the distributor and if the repair part was
7 purchased within 10 years before the termination.

8 **Sec. 45.45.720. Time for payment.** A distributor shall make the payments to
9 the dealer under AS 45.45.710 not later than three months after the date the agreement
10 is terminated. When the payment is made, the distributor shall provide the dealer with
11 a final detailed statement of account for the merchandise.

12 **Sec. 45.45.730. Death of dealer or holder of majority interest in dealer.**
13 Unless the distributorship agreement is continued by the personal representative, an
14 heir, or a devisee of the individual, upon the death of an individual who is a dealer or
15 holds a majority interest in a dealer, a distributor who supplied merchandise to the
16 dealer shall repurchase from the personal representative, heir, or devisee the
17 merchandise that was purchased from the distributor and that remains when the
18 distributorship agreement is terminated under this section. To repurchase under this
19 section, the distributor shall pay an amount equal to the amount identified under
20 AS 45.45.710(a) and (c), and the repurchase is subject to AS 45.45.720. In this
21 section, "devisee," "heir," and "personal representative" have the meanings given in
22 AS 13.06.050.

23 **Sec. 45.45.740. Required purchase, reimbursement, and supplies.** (a) In
24 addition to any purchase of merchandise required by AS 45.45.710, if a distributor
25 terminates a distributorship agreement or makes substantial changes in the competitive
26 situation of the distributor's dealer with regard to distribution of the merchandise or
27 services that are the subject of the distribution agreement, the distributor shall

28 (1) purchase that portion of the dealer's business directly affected by
29 the distributorship agreement or the change, including assets and machinery, at
30 commercially reasonable business valuations; and

31 (2) reimburse the dealer for the expenses that were necessarily incurred

1 by the dealer

2 (A) for that portion of the dealer's business covered by the
3 distributorship agreement; and

4 (B) during the 12 months before the termination or change.

5 (b) In this section, "change" does not include making a price change that
6 affects similarly situated dealers equally.

7 **Sec. 45.45.750. Prohibited terms.** (a) A distributor may not require a dealer
8 to agree to any of the following terms in a distributorship agreement, or in another
9 agreement that is ancillary to a distributorship agreement, as a condition of an offer,
10 grant, or renewal of a distributorship agreement or ancillary agreement:

11 (1) a requirement that the dealer waive a trial by jury in court cases
12 involving the distributor;

13 (2) a requirement that disputes between the distributor and the dealer
14 be submitted to arbitration or to any other binding alternate dispute resolution
15 procedure, except authorization for the submission of a dispute to arbitration or to
16 binding alternative dispute resolution if the distributor and dealer voluntarily agree to
17 submit the dispute to arbitration or binding alternative dispute resolution when the
18 dispute arises;

19 (3) a requirement that the dealer pay the attorney fees of the
20 distributor;

21 (4) a requirement that prohibits a firearms dealer from selling firearms
22 or related accessories, the sale of which is otherwise legal, but which the firearms
23 distributor does not manufacture or distribute; or

24 (5) a requirement that the agreement be subject to the laws of a state
25 other than Alaska.

26 (b) The provisions of (a) of this section do not apply to an agreement where a
27 lease or sale of real property is the main purpose of the agreement.

28 **Sec. 45.45.760. Civil action.** (a) A dealer may bring an action in court
29 against a distributor if the distributor engages in activity prohibited under this chapter.

30 (b) In an action brought under (a) of this section, the dealer may obtain one or
31 more of the following types of relief that apply to the specific action of the dealer:

- 1 (1) damages suffered by the dealer as a result of the activity;
2 (2) an injunction enjoining the distributor from engaging in the
3 activity;
4 (3) a requirement that the distributor make a payment or a purchase
5 required by this chapter;
6 (4) any other relief determined by the court to be appropriate under the
7 circumstances.

8 (c) In this section, "activity prohibited under this chapter" means

- 9 (1) coercion or attempted coercion under AS 45.45.700;
10 (2) terminating a distributorship agreement without paying the dealer
11 as required by AS 45.45.710;
12 (3) failing to pay the dealer within the time established by
13 AS 45.45.720;
14 (4) failing to provide the statement of account as required by
15 AS 45.45.720;
16 (5) failing to make a repurchase payment required by AS 45.45.730;
17 (6) failing to make a purchase as required by AS 45.45.740(a)(1);
18 (7) failing to make the reimbursement required by AS 45.45.740(a)(2);

19 or

- 20 (8) violating AS 45.45.750.

21 **Sec. 45.45.770. Exemptions.** AS 45.45.700 - 45.45.790 do not apply to

- 22 (1) a distributorship agreement that would be considered a franchise
23 regulated by 15 U.S.C. 2801 - 2841 (Petroleum Marketing Practices Act);
24 (2) a situation regulated by AS 45.50.800 - 45.50.850;
25 (3) a distributorship agreement, including a franchise agreement, for
26 the sale, repair, or servicing of motor vehicles that are required to be registered under
27 AS 28.10;
28 (4) an activity or agreement by a person licensed under AS 04 if the
29 activity or agreement is within the scope of the license or is incidental to the activity
30 or agreement that is within the scope of the license;
31 (5) a distributorship agreement or another contract between a person

Manufacturer, importer, wholesaler, and supplier

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licensed under AS 04 and ^{or} a distributor, of alcoholic beverages who is not located in this state if the subject of the agreement or contract is the distributor's distribution of alcoholic beverages to the licensed person; in this paragraph, "alcoholic beverage" has the meaning given in AS 04.21.080; or ^{(b) supplier, importers, manufacturers, distributor}

^{7 (A)} a manufacturer with 50 or fewer employees. ^{or wholesalers of alcoholic beverages}

Sec. 45.45.790. Definitions. In AS 45.45.700 - 45.45.790,

(1) "dealer" means a person who enters into a distributorship agreement and who, under the agreement, receives merchandise or services from a distributor;

(2) "distributor" means a person who enters into a distributorship agreement and who, under the agreement, provides merchandise or services to a dealer; the term includes

- (A) a wholesaler;
- (B) a manufacturer;
- (C) a person that is a parent corporation or an affiliated corporation of a person identified in (A) or (B) of this paragraph; and
- (D) a field representative, an officer, an agent, or another direct or indirect representative of a person identified in (A), (B), or (C) of this paragraph;

(3) "distributorship agreement" means an agreement, whether express, implied, oral, or written, between two or more persons

- (A) by which a person receives the right to
 - (i) sell or lease merchandise or services at retail or wholesale; or
 - (ii) use a trade name, trademark, service mark, logotype, advertising, or other commercial symbol; and
- (B) in which the parties to the agreement have a joint interest, whether equal or unequal, in the offering, selling, or leasing of the merchandise or services;

(4) "merchandise" includes parts and accessories;

(5) "terminate" includes failing to renew.

L

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

3 APPLICABILITY. This Act applies to a distributorship agreement that is entered into
4 on or after the effective date of this Act.

Terry Bannister
Also include
in (R/s) CS
for SB 176
4/16
Thanks,
Kris

offer the following two additional paragraphs to 45.45.770 (the "Exemptions"

- (6) a distributorship agreement for the sale or distribution of, or other transaction involving, cigarettes; in this paragraph, "cigarette" has the meaning given in AS 43.50.170(2);
- (7) a distributorship agreement for the sale or distribution of, or other transaction involving, any food product; in this paragraph, "food product" has the same meaning as in AS 17.

Alaska Senate Bill No. 176

1. Insert into Section 45.45.770 Exemptions. The following new Section (6) and renumber existing (6) to (7):

“(6) a distiller, brewer, vintner, supplier, manufacturer, importer, distributor, or wholesaler of alcoholic beverages; or”

April 8, 2002

Kris:

Here's the draft CS for SB 176.

Changes from HCS CSSB 176 (JUD)

Title: line 8: adds "persons licensed under AS 04, certain contracts between persons licensed under AS 04 and out-of-state alcoholic beverage manufactures,"

Deletes: "certain alcoholic beverage licensees"

So will need a title change resolution, which I don't have.

Page 3, line 13: deletes: heirs, or devisees

Inserts: an heir, or a devisee

Page 3, line 15: deletes: heirs, or devisees

Inserts: heir, or devisee

Page 5, lines 27-28: deletes: a person licensed as a brewery under AS 04.11.130, a brewpub under AS 04.11.135, or a winery under AS 04.11.140; or

Inserts: a person licensed under AS 04 and acting within the scope of the license;

Page 5, line 29 through page 6, line 2. Inserts new language in subsection (5)

Janet

WORK DRAFT

WORK DRAFT

WORK DRAFT

22-LS0818S
Reviser
4/12/02

HOUSE CS FOR CS FOR SENATE BILL NO. 176(RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Officed:
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting certain coercive activity by distributors; relating to certain
2 required distributor payments and purchases; prohibiting distributors from requiring
3 certain contract terms as a condition for certain acts related to distributorship and
4 ancillary agreements; allowing dealers to bring certain court actions against distributors
5 for certain relief; and exempting from the provisions of the Act franchises regulated by
6 the Federal Petroleum Marketing Practices Act, situations regulated by the Alaska
7 Gasoline Products Leasing Act, distributorship agreements relating to motor vehicles
8 required to be registered under AS 28.10, ~~contracts~~ activities and agreements by persons
9 licensed under AS 04, ~~contracts~~ contracts between persons licensed under AS 04 and out-
10 of-state alcoholic beverage distributors, including manufacturers, and ~~wholesalers~~
11 manufacturers."

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

22-LS0818V.1
Bannister
4/17/02

AMENDMENT # 1

OFFERED IN THE HOUSE

BY REPRESENTATIVE BERKOWITZ

TO: HCS CSSB 176(JUD)

1 Page 3, line 10, following "Death":

2 Insert "or disability"

3

4 Page 3, line 12:

5 Delete "or devisees"

6 Insert "devisees, or other successor in interest"

7 Following "death":

8 Insert "or disability"

9

10 Page 3, line 14:

11 Delete "or devisees"

12 Insert "devisees, or other successor in interest"

HC R.

Senate Bill 176

"An Act relating to distributorships."

Sponsor:

Senate Labor & Commerce Committee *by request*

SPONSOR STATEMENT

The proposed Alaska Small Business Protection Act bill is necessary to level the playing field between large, well-financed manufacturers and distributors, and small businesses in Alaska. Passage of this legislation will protect Alaska's small businesses from unreasonable manipulation by manufacturers and distributors, foster economic growth and development, and keep capital in Alaska.

Alaska is one of the few states without a law addressing distributorship agreements. This bill fixes gross inequities that occur as Alaskan businesses develop markets for products and services based upon specific product lines under distributorship agreements.

As small businesses invest capital and commit to growth and infrastructure based on distributorship agreements, they inherently become dependent upon those product lines. In many cases, this dependency allows manufacturers to unilaterally force changes in distribution contracts to the detriment of Alaskan businesses, and ultimately, the employees and other entities with whom they have committed in order to fulfill obligations under the original contract.

In many cases, if Alaska's businesses do not agree with new contract terms demanded by the manufacturer/distributor, they are terminated and left with inventory they are unable to sell and which typically, manufacturers/distributors refuse to buy back. This loss of capital ranges from \$500 to \$500,000 or more, depending upon the business and the amount of inventory required to fulfill the terms of the original agreement. Additionally, many of these contracts make it possible to unilaterally terminate the distributorship agreement if a small business owner wishes to sell his or her business, thereby eliminating much or all of the goodwill value established over years of service.

While businesses are free to sue to recover losses, making claims in civil court is extremely cost prohibitive, especially for a business that may have had its entire income stream cut off. In one prominent 1995 Anchorage case, the small business was selling approximately \$2.0 million per year in product. It had \$700,000 invested in inventory at the time of termination that the manufacturer/distributor refused to repurchase. However, after the Alaskan business successfully won its case in court, the manufacturer/distributor appealed the outcome. The case continues to date, with legal fees and court costs in excess of one million, and climbing. Many Alaskan small business distributors cannot afford the massive legal costs to pursue these claims through the courts, and still remain in business.

HOUSE CS FOR CS FOR SENATE BILL NO. 176(JUD) am H(efd add H)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 5/7/01

Offered: 5/7/01

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting certain coercive activity by distributors; relating to certain
 2 required distributor payments and purchases; prohibiting distributors from requiring
 3 certain contract terms as a condition for certain acts related to distributorship and
 4 ancillary agreements; allowing dealers to bring certain court actions against distributors
 5 for certain relief; and exempting from the provisions of the Act franchises regulated by
 6 the federal Petroleum Marketing Practices Act, situations regulated by the Alaska
 7 Gasoline Products Leasing Act, distributorship agreements relating to motor vehicles
 8 required to be registered under AS 28.10, and certain manufacturers; and providing for
 9 an effective date."

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

11 * Section 1. AS 45.45 is amended by adding new sections to read:

12 Article 9A. Distributorships.

DRAFT

1 **Sec. 45.45.700. Coercion of dealer.** (a) A distributor may not coerce or
 2 attempt to coerce a dealer to perform certain acts by using duress or by threatening to
 3 terminate the distributorship agreement or another agreement between the distributor
 4 and the dealer.

5 (b) In this section, "certain acts" means

6 (1) the purchase or acceptance of delivery of merchandise that has not
 7 been ordered by the dealer;

8 (2) the assignment, sale, or disposal of a contract or property; or

9 (3) making an expenditure that the dealer has not contracted to make.

10 **Sec. 45.45.710. Disposition of merchandise remaining upon contract**
 11 **termination.** (a) If a dealer maintains a stock of merchandise supplied for the
 12 dealer's resale under a distributorship agreement and if the distributor or the dealer
 13 terminates the distributorship agreement, the distributor shall, unless the dealer
 14 chooses to keep the merchandise, pay the dealer for the merchandise that was
 15 purchased from the distributor and that is held by the dealer on the date of the
 16 termination an amount equal to

17 (1) the fair market value for merchandise that is unused and for which
 18 the retailer has paid the distributor, plus 100 percent of the transportation charges paid
 19 by the dealer to return the merchandise to the distributor; in this paragraph,

20 (A) "fair market value" means the amount the distributor would
 21 realize from the sale of the merchandise to another retailer using reasonable
 22 good faith efforts;

23 (B) "unused" means unopened merchandise that is still in the
 24 original factory packaging or container;

25 (2) 85 percent of the current net price, as listed in the current price list
 26 or catalog of the distributor, for repair parts, including superseded parts; and

27 (3) five percent of the current net price of repair parts to cover the
 28 handling, packing, and transportation of the repair parts back to the distributor.

29 (b) Upon payment of the amounts required by (a) of this section, the title to
 30 the merchandise passes to the distributor making the payment, and the distributor is
 31 entitled to the possession of the merchandise for which the payment was made.

1 (c) In (a) of this section, if a repair part is not listed in a current price list or
 2 catalog of the distributor, the current net price is the higher of the fair market value or
 3 the latest price published by the distributor for the repair part if a dealer has actual
 4 proof of the purchase of the repair part from the distributor and if the repair part was
 5 purchased within 10 years before the termination.

6 **Sec. 45.45.720. Time for payment.** A distributor shall make the payments to
 7 the dealer under AS 45.45.710 not later than three months after the date the agreement
 8 is terminated. When the payment is made, the distributor shall provide the dealer with
 9 a final detailed statement of account for the merchandise.

10 **Sec. 45.45.730. Death of dealer or holder of majority interest in dealer.**
 11 Unless the distributorship agreement is continued by the personal representative, heirs,
 12 or devisees of the individual, upon the death of an individual who is a dealer or holds a
 13 majority interest in a dealer, a distributor who supplied merchandise to the dealer shall
 14 repurchase from the personal representative, heirs, or devisees the merchandise that
 15 was purchased from the distributor and that remains when the distributorship
 16 agreement is terminated under this section. To repurchase under this section, the
 17 distributor shall pay an amount equal to the amount identified under AS 45.45.710(a)
 18 and (c), and the repurchase is subject to AS 45.45.720. In this section, "devisee,"
 19 "heir," and "personal representative" have the meanings given in AS 13.06.050.

20 **Sec. 45.45.740. Required purchase, reimbursement, and supplies.** (a) In
 21 addition to any purchase of merchandise required by AS 45.45.710, if a distributor
 22 terminates a distributorship agreement or makes substantial changes in the competitive
 23 situation of the distributor's dealer with regard to distribution of the merchandise or
 24 services that are the subject of the distribution agreement, the distributor shall

25 (1) purchase that portion of the dealer's business directly affected by
 26 the distributorship agreement or the change, including assets and machinery, at
 27 commercially reasonable business valuations; and

28 (2) reimburse the dealer for the expenses that were necessarily incurred
 29 by the dealer

30 (A) for that portion of the dealer's business covered by the
 31 distributorship agreement; and

1 (B) during the 12 months before the termination or change.

2 (b) In this section, "change" does not include making a price change that
3 affects similarly situated dealers equally.

4 **Sec. 45.45.750. Prohibited terms.** (a) A distributor may not require a dealer
5 to agree to any of the following terms in a distributorship agreement, or in another
6 agreement that is ancillary to a distributorship agreement, as a condition of an offer,
7 grant, or renewal of a distributorship agreement or ancillary agreement:

8 (1) a requirement that the dealer waive a trial by jury in court cases
9 involving the distributor;

10 (2) a requirement that disputes between the distributor and the dealer
11 be submitted to arbitration or to any other binding alternate dispute resolution
12 procedure, except authorization for the submission of a dispute to arbitration or to
13 binding alternative dispute resolution if the distributor and dealer voluntarily agree to
14 submit the dispute to arbitration or binding alternative dispute resolution when the
15 dispute arises;

16 (3) a requirement that the dealer pay the attorney fees of the
17 distributor;

18 (4) a requirement that prohibits a firearms dealer from selling firearms
19 or related accessories, the sale of which is otherwise legal, but which the firearms
20 distributor does not manufacture or distribute; or

21 (5) a requirement that the agreement be subject to the laws of a state
22 other than Alaska.

23 (b) The provisions of (a) of this section do not apply to an agreement where a
24 lease or sale of real property is the main purpose of the agreement.

25 **Sec. 45.45.760. Civil action.** (a) A dealer may bring an action in court
26 against a distributor if the distributor engages in activity prohibited under this chapter.

27 (b) In an action brought under (a) of this section, the dealer may obtain one or
28 more of the following types of relief that apply to the specific action of the dealer:

29 (1) damages suffered by the dealer as a result of the activity;

30 (2) an injunction enjoining the distributor from engaging in the
31 activity;

1 (3) a requirement that the distributor make a payment or a purchase
2 required by this chapter;

3 (4) any other relief determined by the court to be appropriate under the
4 circumstances.

5 (c) In this section, "activity prohibited under this chapter" means

6 (1) coercion or attempted coercion under AS 45.45.700;

7 (2) terminating a distributorship agreement without paying the dealer
8 as required by AS 45.45.710;

9 (3) failing to pay the dealer within the time established by
10 AS 45.45.720;

11 (4) failing to provide the statement of account as required by
12 AS 45.45.720;

13 (5) failing to make a repurchase payment required by AS 45.45.730;

14 (6) failing to make a purchase as required by AS 45.45.740(a)(1);

15 (7) failing to make the reimbursement required by AS 45.45.740(a)(2);

16 or

17 (8) violating AS 45.45.750.

18 **Sec. 45.45.770. Exemptions.** AS 45.45.700 - 45.45.790 do not apply to

19 (1) a distributorship agreement that would be considered a franchise
20 regulated by 15 U.S.C. 2801 - 2841 (Petroleum Marketing Practices Act);

21 (2) a situation regulated by AS 45.50.800 - 45.50.850;

22 (3) a distributorship agreement, including a franchise agreement, for
23 the sale, repair, or servicing of motor vehicles that are required to be registered under
24 AS 28.10; or

25 (4) a manufacturer with 50 or fewer employees.

26 **Sec. 45.45.790. Definitions.** In AS 45.45.700 - 45.45.790,

27 (1) "dealer" means a person who enters into a distributorship
28 agreement and who, under the agreement, receives merchandise or services from a
29 distributor;

30 (2) "distributor" means a person who enters into a distributorship
31 agreement and who, under the agreement, provides merchandise or services to a

1 dealer; the term includes

2 (A) a wholesaler;

3 (B) a manufacturer;

4 (C) a person that is a parent corporation or an affiliated
5 corporation of a person identified in (A) or (B) of this paragraph; and

6 (D) a field representative, an officer, an agent, or another direct
7 or indirect representative of a person identified in (A), (B), or (C) of this
8 paragraph;

9 (3) "distributorship agreement" means an agreement, whether express,
10 implied, oral, or written, between two or more persons

11 (A) by which a person receives the right to

12 (i) sell or lease merchandise or services at retail or
13 wholesale; or

14 (ii) use a trade name, trademark, service mark,
15 logotype, advertising, or other commercial symbol; and

16 (B) in which the parties to the agreement have a joint interest,
17 whether equal or unequal, in the offering, selling, or leasing of the merchandise
18 or services;

19 (4) "merchandise" includes parts and accessories;

20 (5) "terminate" includes failing to renew.

21 * Sec. 2. The uncoded law of the State of Alaska is amended by adding a new section to
22 read:

23 APPLICABILITY. This Act applies to a distributorship agreement that is entered into
24 on or after the effective date of this Act.

25 * Sec. 3. This Act takes effect January 1, 2002.

SB

191

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 191
 (S) Publish Date: 5/2/01

Revision Date/Time (Note if correction): 04/13/2001 4:35p.m. Dept. Affected: DCED
 Title: An Act relating to insurance pooling by BRU: Insurance
members of an airline employers association. Component: Insurance Operations
 Sponsor: Senator Taylor
 Requester: Senate Labor & Commerce Component Number: 354

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

AS 21.76.020(a) provides: "A joint insurance arrangement may not be considered insurance for the purpose of any other law of the state and is not subject to regulations adopted by the director."

Therefore, this legislation will have no fiscal impact on the department.

Prepared by: Robert A. Lohr, Director Phone 907-269-7900
 Division: Insurance Date/Time 04/13/2001 4:35p.m.
 Approved by: Commissioner Deborah B. Sedwick Date 4/13/2001
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HCS CSSB 191(L&C)
 (H) Publish Date: 5/10/02

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Insurance Pooling By Air Carriers BRU _____
 Component _____
 Sponsor Senator Taylor Component No. _____
 Requester _____

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)

Prepared by: Amy Erickson, Committee Aide Phone 465-4954
 Division: HL&C Date/Time 5/8/02 12:00 AM
 Approved by: Representative Murkowski Date 5/8/02
 Agency: Chair, House Labor and Commerce Committee

S B

2 2 2

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

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

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

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	30.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	30.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2002) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

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

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

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

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

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

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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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)

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

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

13 AAC 02.050. DRIVING ON RIGHT SIDE OF ROADWAY - EXCEPTIONS AND SPECIAL SITUATIONS

Statute text

- (a) Upon a roadway of sufficient width, a vehicle must be driven upon the right half of the roadway, except as follows:
- (1) when overtaking and passing another vehicle proceeding in the same direction, or when preparing for a left turn at an intersection or into an alley, private road or driveway;
 - (2) when traveling upon a roadway marked or divided as provided by sec. 25, 85, or 95 of this chapter, or upon a roadway restricted to one-way traffic; or
 - (3) when an obstruction exists making it necessary to drive to the left of the center of the highway; a driver must yield the right-of-way to all vehicles traveling in the opposite direction upon the unobstructed portion of the highway.
 - (4) repealed 6/28/79;
 - (5) repealed 6/28/79.
- (b) Upon all roadways, a vehicle proceeding at less than the maximum authorized speed of traffic must be driven as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into an alley, private road or driveway. However, on a two-lane highway outside an urban area where passing is unsafe because of oncoming traffic or other conditions, the driver of a motor vehicle proceeding at less than the maximum authorized speed of traffic and behind whom five or more vehicles are formed in a line shall turn off the roadway at the nearest place designated as a turnout or wherever sufficient area for a safe turnout exists in order to permit following vehicles to pass.

Sec. 28.35.140. Unlawful obstruction or blocking of traffic.

A person may not purposely obstruct or block traffic on any roadway by any means. However, a service vehicle such as a bus, garbage truck, tow truck, or ambulance may make brief stops on a roadway, which stops on the roadway are necessary in the performance of its services.

History -

(Sec. 50-5-7 ACLA 1949; am Sec. 1 ch 174 SLA 1970)

Decisions -

This law pertains to roads of sufficient width and condition to permit vehicles to pass, without injury to their tires or other parts, and without danger of collision. *Vogler v. Greimann*, 12 Alaska 19, 78 F. Supp. 575 (D. Alaska 1948).

On a two-lane highway, even a one foot obstruction could easily cause a following car to swerve into the opposite lane to clear a parked vehicle. This would interfere with the normal flow of traffic and amount to a violation under this section. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

This section is not an exclusive list of service vehicles. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

A driver, while not operating a professional service vehicle, may be engaged in the same activity as a service vehicle would have been. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

Such as pulling over to aid occupants of overturned car. - This section describes service vehicles as buses, garbage trucks, tow trucks or ambulances, but a reasonable construction of the statute would hold that one who pulled his car over to the side of the road in an emergency situation in order to aid the occupants of an overturned car, was acting in a service capacity. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

A person who pulled over to the side of the road in an emergency situation in order to aid the occupants of an overturned car, apparently parking as far over on the right as he could given the snow conditions and the presence of a ditch on the side of the road, and who also turned his emergency flasher lights on, was entitled to make a brief stop on the roadway as necessary in the performance of samaritan efforts. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

Collateral Refs -

7A Am. Jur. 2d, Automobiles and Highway Traffic, Sec. 277.

61A C.J.S., Motor Vehicles, Sec. 684.



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

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

House Committee Substitute for Committee Substitute for Senate Bill 222 (FIN) will, with the cooperation of the Department of Transportation and Public Facilities, increase the number of posted signs along some of Alaska's highways informing motorists of the existing regulation prohibiting a vehicle from delaying traffic. This bill will also increase the fine for those in violation of this law from \$30 to a fine of at least \$100.

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

The Department of Transportation and Public Facilities has committed to placing 20 signs on key areas of Alaskan Highways. The signs will indicate that it is unlawful to delay five or more vehicles and that a violation is punishable by a fine of at least \$100.

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

DD/sew

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

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

S B

2 3 5

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 235
 (S) Publish Date: 1/16/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Military Affairs
 Title Emergency Management Assistance BRU Disaster Planning and Control
Compact Component Disaster Planning and Control
 Sponsor Rules
 Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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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)

This bill authorizes the department to enter into an agreement with other states for mutual assistance during disasters or emergencies. There is no fiscal impact to the state of joining this pact.

Prepared by: Carol Carroll
 Division: Administrative Services
 Approved by: Carol Carroll
 Agency: Military and Veterans Affairs

Phone 465-4730
 Date/Time 12/11/01 2:55 PM
 Date 12/11/2001