

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10604 SENATE JUDICIARY

HB

1966



Alaska State Legislature

- Interim (May-Dec) -
10928 Eagle River Rd., Suite 140
Eagle River, Alaska 99577
☎ (907) 694-6683
FAX (907) 694-1015

- Session (Jan-May) -
Alaska State Capitol
Juneau, Alaska 99801-1182
☎ (907) 465-2199
FAX (907) 465-4587

Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

MEMORANDUM

April 27, 2001

To: Senator Taylor,
Chair, Senate Judiciary

From: Fred Dyson 
State Representative

RE: Request for consideration of HB 196, Legal Separation

I respectfully request that you schedule HB 196 for hearing at your earliest convenience.

Thank you.

- E-mail -
Representative_Fred_Dyson
@Legis.state.ak.us

- Internet -
<http://www.akrepublicans.org>

Request for Hearing



Alaska State Legislature

- Interim (May-Dec) -
10928 Eagle River Rd., Suite 140
Eagle River, Alaska 99577
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Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

MEMORANDUM

December 19, 2001

To: Senator Taylor,
Chair, Senate Judiciary

From: Fred Dyson
State Representative

A handwritten signature in black ink, appearing to read "Fred Dyson", written over the printed name.

RE: Thanks

Thank you for your willingness to hear HB 196, my bill allowing for couples having marital problems to separate their financial affairs without going all the way through a divorce. This is particularly important for Christian people who generally think of divorce as an option only after they have exhausted all other possibilities. Seventeen other states have a provision for this kind of "separate maintenance". As you observed, Alaskan judges can and have made provisions for this under existing law. This new provision only makes it clearer, easier, and more evident by making it a part of our statutes.

In all of the hearings we had on the house side, no one spoke against the bill and it has the support of the administration. I would like to get the bill passed through the Senate early to avoid the end-of-session congestion, so I would appreciate you scheduling it in the first couple weeks of session.

Thanks again.

A handwritten signature in black ink, appearing to read "Fred Dyson", written below the typed name.

- E-mail -
Representative_Fred_Dyson
@Legis.state.ak.us

- Internet -
<http://www.akrepublicans.org>

Information
Statement



Alaska State Legislature

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REPRESENTATIVE FRED DYSON

HB 196 Sponsor Statement

"An Act relating to legal separation"

Updated: April 18, 2001

Contact: Representative Fred Dyson's office at (907) 465-2199

For many troubled marriages, a Legal Separation would be very valuable while the individuals work on their own issues and relationships separately. Legal Separation allows the marriage partners to separate their property and financial affairs and establish custody, without the final step of a divorce.

In a relationship with one partner having problems with substance abuse, crime, domestic violence etc., an interim status, such as this Legal Separation, allows for a protective status for the victimized spouse while time indicates if the troubled partner will get on top of his/her problem.

For many Alaskans, religious values make divorce a very unattractive alternative, but a legal separation provides for the partners to protect their assets.

HB 196 adds a section of law that defines and sets the guidelines for Legal Separation.

At this time 17 other states allow for "Legal Separation".

- E-mail -
Representative_Fred_Dyson
@legis.state.ak.us

- Internet -
<http://www.akRepublicans.org>

**SPONSOR
STATEMENT**

HB 196 Sectional Analysis

Revised: April 18, 2001 LS0718\C

Section 1: Adds a new section of law that Provides for Legal Separation as an alternative to Divorce or Dissolution.

25.24.400 A husband and/or wife can file a complaint in superior court for legal separation and may only do so once per married couple.

25.24.410 The basis of the complaint must be incompatibility and that there is a legal, financial, social, or religious reason to remain legally married.

25.24.420 Either the husband or wife must be an Alaskan.

25.24.430 Provides for consolidation of legal separation effort and divorce effort if one of the parties escalates to a divorce.

25.24.450 A Legal Separation Decree will be entered with provisions for child custody and visitation, child support, spousal support, division of property and debts as circumstances dictate.

25.24.460 A couple with a decree of legal separation is still married.

Section 2: Gives the courts jurisdiction in an action for legal separation. This section is large, but the only change to existing law is on page 5, line 13 where "legal separation" is included with divorce.

Section 3: Amends Court rule 42(a) to allow consolidation of subsequent divorce and annulment actions with legal separation actions.

Section 4: A new section of law that defines the applicability of this act to divorce and separation actions filed before, on, or after the effective date of this act.

Section 5: Amends Court rules to require appropriate Reporting.

Section 6: Repeals Section 5 of this act on May 1, 2005. The purpose of this sunset is to generate re-evaluation of size of the reporting task.

НВ

206

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 206(2d RES)
 (H) Publish Date: 2/13/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish & Game
 Title Vessel Limited Entry for Commercial Fisheries BRU Comm Fish Entry Commission
 Component Comm Fish Entry Commission
 Sponsor House Resources
 Requester House Resources Component No. 471

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:

SITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact

Prepared by: Roger Kolden Phone 790-6950
 Division: Commercial Fisheries Entry Commission Date/Time 2/11/02 9:34 AM
 Approved by: Mary McDowell, Commissioner Date 02/11/2002
 Agency: Commercial Fisheries Entry Commission



ALASKA STATE LEGISLATURE

REPRESENTATIVE DREW SCALZI
State Capitol, Juneau
Alaska 99801-1182

OFFICIAL BUSINESS

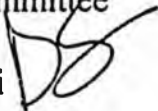
(907) 465-2689; (800) 665-2689

Fax: (907) 465-3472

Email: Representative_Drew_Scalzi@legis.state.ak.us

April 18, 2002

To: Senator Robin Taylor
Chair, Senate Judiciary Committee

From: Representative Drew Scalzi 

Re: HB206 – Vessel Limited Entry for Commercial Fisheries

Senator Taylor, please schedule HB208 before your committee pending referral from Senate Resources Committee.

Thank you for your consideration.

Alaska State Legislature

Representative Beverly Masek
Co-Chair
State Capitol
Juneau, AK 99801-1182
(907) 465-3715
Fax: 465-4822
1-800-505-2678



Representative Drew Scalzi
Co-Chair
State Capitol
Juneau, AK 99801-1182
(907) 465-6890
Fax: 465-3472
1-800-665-2689

House Resources Committee

House Bill 206 Sponsor Statement

"An Act relating to a vessel-based commercial fisheries limited entry system for the Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."

HB 206 establishes a vessel-based commercial fisheries limited entry program. The bill preserves the State's current limited entry program as the primary form of limitation, and authorizes the Commercial Fisheries Entry Commission (CFEC) to implement a vessel-based limitation in a fishery only under certain tightly defined conditions.

In its bill enacting the Hair Crab moratorium in 1996, the Legislature recognized the need to establish a vessel-based limitation program and directed CFEC and the Department of Law to draft and bring to the Legislature legislation to accomplish that. Such legislation was drafted but failed to gain passage during the 21st Session. HB 206 reintroduces enabling provisions for this important fisheries management tool.

Under the current limited entry statute, CFEC may only issue limited entry permits to gear operators in a fishery, not to vessels or vessel owners. This type of limited entry system, based on an "owner-operator" model, is appropriate for fisheries where typically vessels are small and fished by one person usually in nearshore waters. But other fisheries in Alaska, particularly some of those in the Gulf of Alaska and the Bering Sea, are characterized by larger vessels fishing in offshore waters. These vessels move from area to area and may be operated by successive skippers hired by vessel owners to keep the vessel fishing throughout a season. Current law may not be appropriate or workable for this kind of fishery; in fact, it could potentially increase rather than limit the units of gear and not achieve the resource conservation and economic viability purposes of the Limited Entry Act. Further, it would award ongoing fishing privileges to many who have worked essentially as hired crew, and not those who have invested in the fishery.

The bill establishes the framework for a vessel-based limitation system, much as existing law provides the framework for the operator-based program. Effective fishery management tools, such as those authorized in HB 206, will help ensure the State has the flexibility to effectively manage a wide range of fisheries and, in some fisheries, to gain or retain State management authority in the years ahead.

Introduced 3/21/2001
Prepared by Co-chairman Drew Scalzi

***CSHB206 (RLS) Vessel- Based Commercial Fisheries Limitation Program
For Bering Sea Korean Hair Crab and Weathervane Scallop Fisheries***

- Under the current limited entry statute, CFEC may only issue limited entry permits to a person, based on participation in a fishery as a *gear operator*, not to persons or entities based on their ownership of a vessel that has participated in the fishery. This restriction may not be appropriate for some large vessel fisheries in which multiple hired skippers operate vessels owned by others.
- Recognizing this, the Legislature in 1996 directed CFEC and the Department of Law to draft legislation to establish a vessel-based limitation program that could be used in fisheries that cannot be effectively limited under the existing program.
- CS HB 206 (RLS) authorizes the use of a *vessel-based* limited entry program for the Bering Sea Korean Hair Crab and Weathervane Scallop fisheries
- Without this legislation, the Entry Commission will have no alternative approach to use if it finds that limiting these two fisheries under the existing program would not achieve the purposes of the Limited Entry Act. The legislation provides for the protection of these fisheries from a potential influx of new participants upon expiration of the moratoriums
- Presently these fisheries are under legislatively-enacted moratoriums set to expire in 2003 and 2004; passage of this legislation this session is necessary to provide the time required to get the program in place
- Originally the bill's provisions were set forth for generic application. In the House Resources Committee, the bill was amended to allow the program to be used ONLY in the Bering Sea Korean hair crab and weathervane scallop fisheries
- The bill passed the house 34-4
- It is important that the Legislature provide the tools necessary to meet the needs of Alaska's evolving fisheries. This legislation does that, and will help ensure the state's ability to provide for the sound management of the resource and the long-term health of these fisheries

HB206: Vessel-Based Commercial Fisheries Limitation Program

Authorizes implementation of a vessel-based commercial fisheries limited entry program for the Bering Sea Korean Hair Crab and Weathervane Scallop fisheries. (Resources CS)

Why we need this legislation?

Under current statute, CFEC may only issue limited entry permits to gear operators, not to vessels or vessel owners, and only to individual human beings, not to partnerships, corporations, or other "entities." These requirements may not be appropriate for some fisheries, particularly some Gulf of Alaska and Bering Sea fisheries with large vessels operated by successive skippers hired by vessel owners.

Recognizing that, in 1996, the legislature directed CFEC and Dept. of Law to draft legislation to establish a vessel-based limitation program that could be used for fisheries in which limitation under the state's existing operator-based program would not be effective.

Legislatively-enacted moratoria in hair crab and scallop fisheries will expire soon. Passage of HB206 this session is essential to the state's ability to limit these fisheries effectively and avoid their return to open access.

What this legislation will accomplish:

The original HB206 would have established the framework for a vessel-based limitation program much as existing law provides a framework for the operator-based program. The vessel-based program would then have been a tool, an alternate method of limitation, available to CFEC to use for limiting fisheries that could not be effectively limited under the current operator-based system.

House Resources narrowed bill to allow use of vessel-based limitation only in the hair crab and scallop fisheries, which the committee recognized as those in immediate need of new program. Committee was not ready to provide generic authority for use of a vessel-based program in other fisheries.

Petersburg Vessel Owners Association

P.O. Box 232
Petersburg, Alaska 99833
Phone (907) 772-9323 Fax (907) 772-4495

March 8, 2002

Senator Torgerson
Chair
Senate Resources Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

RE: Support HB 206 Vessel Limited Entry System

Petersburg Vessel Owners Association is a group of commercial fishermen who participate in a variety of fisheries statewide. Some of our members participate in the Bering Sea Korean hair crab fishery that would be affected by this bill. The Bering Sea Korean hair crab fishery and the weathervane scallop fishery that are addressed in this bill are both large boat fisheries where the number of participants is restricted by moratorium. These moratoriums will soon expire. Therefore it is necessary to move quickly in establishing a limited entry system for these fisheries. The vessels that participate in these fisheries are large vessels with multiple owners. Therefore, if the entry commission were to offer an individual limited entry system, the number of permits issued would far exceed the current and historical number of participants.

Therefore the most reasonable option for these fisheries is a vessel based limited entry system. This bill will ensure that the entry commission has the necessary tools to limit these fisheries in a meaningful way. A system of vessel limited entry will allow the entry commission to issue a number of permits that corresponds to the current and historical participation in the fisheries. These stocks cannot support a level of fishing effort that far exceeds historical levels. Therefore it is necessary to institute vessel limited entry in these fisheries before the expiration of the moratorium.

We appreciate your consideration of these comments and hope you will support this bill. If we can assist you in any way, please feel free to contact us.

Respectfully,



Cora Cromo
Director

Cc: Senator Taylor, Representative Scalzi

HB

2017

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 207(RLS)
(H) Publish Date: 3/26/02

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Judicial District Boundary Lines ORU Alaska Court System
Component Trial Courts
Sponsor Representative Kapsner
Requester House Rules Committee Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2002) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of CSHB 207(RLS).

Prepared by: Douglas Woolver Phone 463-4750
Division: Alaska Court System Date/Time 3/25/02 4:51 PM
Approved by: Stephanie Cole Date 3/25/02
Agency: Alaska Court System

Representative Mary Kapsner

State Capitol • Juneau, Alaska 99801-1182

Phone: (907) 465-4942 • Fax: (907) 465-4589

E-Mail: Representative_Mary_Kapsner@legis.state.ak.us



House District 39

Lower Kuskowkm and Upper Bristol Bay

MEMORANDUM

Aktachak

Aktak

Aleknagik

Atnautluak

Bethel

Chefornak

Clarks Point

Dillingham

Eek

Ekuk

Ekwok

Goodnews Bay

Kastgluk

Kipnuk

Kotlganek

Kongiganak

Kwethluk

Kwigillingok

Manokotak

Napaktak

Napasktak

New Stuyahok

Nunapitchuk

Oscarville

Platinum

Portage Creek

Quinhagak

Togiak

Tuntutullak

Twin Hills

TO: *Robin* Senator Robin Taylor, Chair
Senate Judiciary Committee

FROM: *Mary* Representative Mary Kapsner

DATE: April 11, 2002

RE: CSHB 207(RLS) - Realignment of Judicial Districts

I would appreciate your consideration of scheduling CSHB 207(RLS). The bill passed the House this week without opposition, and it has a zero fiscal note from the court system.

CSHB 207(RLS) moves the 13 villages in the Lower Yukon currently situated in the 2nd Judicial District to the 4th Judicial District where they receive court services. The statute placing them in the 4th district was established at statehood, based on the transportation and communication systems of the time—Nome and Fairbanks. Today, Bethel serves as the hub for these communities, and legal matters are handled by the Bethel venue within the court system. They cannot, however, vote on retention of judges in the Bethel courts because of this defect in the existing judicial boundaries.

A similar problem exists for residents of Nabesna who are situated in the 4th Judicial District but served by the courts in the 3rd Judicial District. Over this past interim the court system developed language to describe the situation in Nabesna, and it has been included in the version before you.

CSHB 207(RLS) is supported by the court system and the Alaska Judicial Council. I have included copies of supportive documents, including maps of the areas this bill addresses.

Thank you.

**REQUEST FOR
HEARING**

Representative Mary Kapsner

State Capitol • Juneau, Alaska 99801-1182

Phone: (907) 465-4942 • Fax: (907) 465-4589

E-Mail: Representative_Mary_Kapsner@legis.state.ak.us



House District 39

Lower Kuskokwim and Upper Bristol Bay

Aktachak

Aklak

Aleknagik

Atmautluak

Bethel

Chefornak

Clarks Point

Dillingham

Eek

Ekuk

Ekvok

Goodnews Bay

Kasigluk

Kipnuk

Koltiganek

Kongiganak

Kwethluk

Kwigillingok

Manokotak

Napaklak

Napaskiak

New Stuyahok

Nunapitchuk

Oscarville

Platinum

Portage Creek

Quinhagak

Toqtak

Tuntutullak

Twin Hills

HB 207

Realignment of Judicial Districts

Sponsor Statement

Judicial district boundaries were established at Statehood. They were based on the boundaries of the established election districts and reflected commerce and communication systems of the time. Since that time the state has been reapportioned numerous times, and development in the Lower Yukon has changed the region in substantial ways. The result for communities in the region serviced out of the Bethel Venue District is an arbitrary judicial district line that no longer conforms to social, political, and economic structure of the region.

HB 207 addresses the specific circumstance in which villages in the Lower Yukon find themselves aligned with the Second Judicial District but serviced out of the Bethel Venue within the Fourth Judicial District. The bill simply moves jurisdiction of those 13 villages into the Fourth Judicial District.

The movement provides a natural alignment with boundaries recognized under existing cultural and political divisions. The population of these communities is predominantly Yupik. The regional Native corporation is Calista, and most health and safety services are provided by the Association of Village Council Presidents and Yukon-Kuskokwim Health Corporation. Bethel is the transportation hub for communities in the Lower Yukon, and the alignment for the court system in servicing the Lower Yukon villages out of the Bethel court has been natural. The alternative, for citizens to be tried out of the Nome court, would require a complicated travel web from Nome to Anchorage to Bethel to the community, or visa versa.

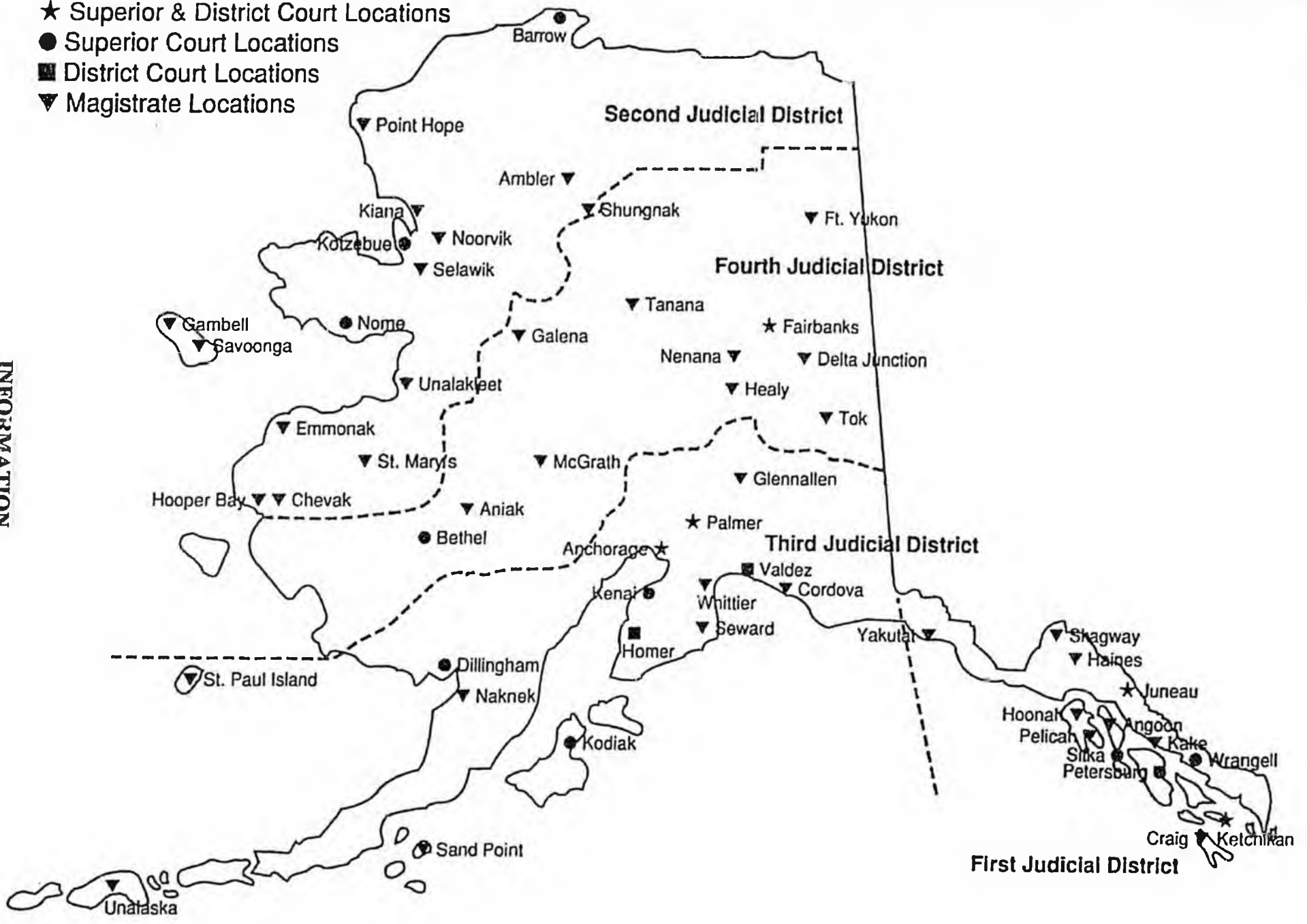
An important additional benefit of moving the villages in this region into the Bethel Court venue is that citizens of these 13 communities would for the first time have the benefit of voting on the question of retention of the judges who preside over cases involving them. It speaks to one of the basic principles of our democracy, citizen participation in governmental processes.

A similar problem exists for residents of Nabesna, presently situated in the Fourth Judicial District but whose venue district is Glennallen, in the Third Judicial District. Over the interim the court system determined language to identify the appropriate new boundary line, and it is included in the proposed committee substitute.

ALASKA COURT LOCATIONS

- ★ Superior & District Court Locations
- Superior Court Locations
- District Court Locations
- ▼ Magistrate Locations

INFORMATION STATEMENT





alaska judicial council

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501-1969 (907) 279-2526 FAX (907) 276-5046
http://www.sjc.state.ak.us E-Mail: postmaster@ajc.state.ak.us

EXECUTIVE DIRECTOR
William T. Cotton

NON-ATTORNEY MEMBERS
Eleanor Andrews
Katie Hurley
Gigi Pitcher

April 4, 2001

ATTORNEY MEMBERS
Geoffroy G. Curran
Robert B. Grosscloss
Robert H. Wegetoff


CHAIR, EX OFFICIO
Dana Fabe
Chief Justice
Supreme Court

Representative Mary Kapsner
Representative Richard Foster
State Capitol
Juneau, AK 99801-1182

Dear Representatives Kapsner and Foster:

The Judicial Council unanimously voted last Thursday to endorse HB207 which corrects the judicial districting problem for several small communities for north of Bethel. Thanks for your attention to this issue. I would be happy to testify for the bill when it comes up.

Please feel free to give me a call if I can be of assistance.

Sincerely,

William T. Cotton
Executive Director

WTC:gf

Alaska Civil Liberties Union Foundation

An Affiliate of the American Civil Liberties Union

P. O. Box 201844, Anchorage, AK 99520-1844

Phone: (907) 258-0044 Fax: (907) 258-0288 Email: akclu@alaska.net

To: House Judiciary Committee
From: Jennifer Rudinger, Executive Director
Date: April 26, 2001

Statement in Support of House Bill 207

Dear Chairman Rokeberg and Honorable Members of the House Judiciary Committee:

Thank you very much for scheduling HB 207 ("An act relating to judicial districts of the state") for a hearing on Friday, April 27th. Unfortunately, I will be unavailable to testify on Friday, so I wish to make this statement in support of HB 207 available to the Committee. Here, in a nutshell, is why it is critical that HB 207 pass as quickly as possible:

THE PROBLEM:

Through two anomalies of boundary lines, the rights of some Alaskans to vote in judicial retention elections have been infringed. The two affected areas are the thirteen villages in the Wade Hampton Census Area (Lower Yukon) and a small area around Nabesna (north of the Wrangells). In these two areas of the state, residents are not permitted to vote for or against the retention of the superior and district court judges that serve them. In Wade Hampton, voters are given judicial retention ballots for judges serving in the Second Judicial District (Nome, Kotzebue, and Barrow). But the court venue district for the Wade Hampton villages is Bethel. That is, when Wade Hampton residents go to court they appear before Bethel judges, who only stand for retention on ballots in the Fourth Judicial District. Similarly, Nabesna is located in the Fourth Judicial District, but its venue district is Glennallen, which is in the Third Judicial District.

The problem is that in these two areas the Judicial District boundaries are not congruent with the court system's venue district boundaries; residents live in one judicial district and access the court system in another judicial district. Since superior and district court judges stand for retention only in the judicial district to which they were appointed, pursuant to Alaska Statutes 15.35.080 & .090, voters in Wade Hampton and Nabesna do not get to approve the judges that are assigned to interpret their legal rights.

THE CONSTITUTIONAL VIOLATION:

Residents of these two areas are the only voters in the state that are deprived of their right to vote for the retention of the judges who serve them. It is clear that the right to vote is fundamental. *Vogler v. Miller*, 651 P.2d 1, 3 (Alaska 1982). The Alaska Supreme Court has noted a significant constitutional interest in protecting "a voter's right to an equally geographically effective or powerful vote." *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1372 (Alaska 1987). The court stated that "it is implicit in our constitutional structure that similarly situated communities be treated in a similar

manner." Id. The current judicial retention balloting scheme clearly deprives the residents of Wade Hampton and Nabesna of their right to fair and effective voting. There is no legitimate justification for the disparate treatment of these Alaskans. Their voting rights have been deprived through historical anomalies of line drawing. Residents of the Wade Hampton villages have requested the assistance of the Legislature and the Alaska Civil Liberties Union in vindicating their voting rights. Their legal claim is absolute and would prevail in court, but HB 207 can fix the problem and avoid unnecessary litigation.

THE SOLUTION:

This problem is solved by making the judicial district boundaries conform to the court system's venue district boundaries. The venue districts are drawn based on important socio-economic considerations, including transportation and commerce routes. For example, the nearest supply center for the Wade Hampton area is Bethel, and for Nabesna, it is Glennallen. It is logical that these areas are served by the courts in their nearest hub cities, so the judicial venue district boundaries should remain unchanged. In contrast, the judicial district boundaries are historical rather than practical, created by Alaska Statute 22.10.010 by combining areas within election districts as they were described in art XIV of the state constitution on March 19, 1959. (These original, statehood, election districts are nothing like the legislative districts today, since they have been redrawn at least once every decade. The current legislative redistricting will similarly not affect the boundaries of the judicial districts, which remain fixed in AS 22.10.010.)

HOUSE BILL NO. 207:

This bill is a simple and elegant fix to the problem of the Wade Hampton area residents. As it happens, the Wade Hampton Census Area was election district 24 on March 19, 1959. So amending AS 22.10.010 to move election district 24 from the Second Judicial District to the Fourth Judicial District will solve the problem for these residents. Bethel is in the Fourth Judicial District, so henceforth the Wade Hampton villages would get ballots that include the Bethel judges that serve them. The current version of HB 207 does exactly this and no more. Since 99% of the affected voters live in Wade Hampton, this solution goes a long way toward correcting the constitutional problem. A complete fix, however, would also alter the boundary line of the Third Judicial District to include Nabesna. The court system should be able to provide language describing its venue district line in that area that could be used to make the boundary lines congruent around Nabesna as well. There has been one prior change to AS 22.10.010, in 1974, to conform the boundary of the Second Judicial District to that of the North Slope Borough, so altering judicial district lines is not unprecedented. Further, the 1974 amendment provides a model of how to impose another geographic description on the described election districts in AS 22.10.010 – a potential way to fix the problem of Nabesna. But since only three voters are registered in Nabesna, with perhaps a dozen more along the Nabesna Road within the Fourth Judicial District, this bill should be passed, even if it cannot easily be amended to help Nabesna.

Bill History/Action Display



BILL: HB 207

SHORT TITLE: REALIGNMENT OF JUDICIAL DISTRICTS

BILL VERSION: CSHB 207(RLS)

SPONSOR(S): REPRESENTATIVE(S)KAPSNER, Foster

CURRENT STATUS: (S) JUD

STATUS DATE: 04/10/02

TITLE: "An Act moving election district 24 as described in the Constitution of the State of Alaska at statehood from the Second Judicial District to the Fourth Judicial District and adding the Nabesna area to the Third Judicial District and removing it from the Fourth Judicial District."

[Full Text](#)

[Fiscal Notes](#)

[Committee Action with Bill History](#)

Jrn-Date	Jrn-Page	Action
03/22/01	0691	(H) READ THE FIRST TIME - REFERRALS
03/22/01	0691	(H) JUD, FIN
04/28/01	1305	(H) JUD RPT 6DP INR
04/28/01	1305	(H) DP: BERKOWITZ, COGHILL, JAMES,
04/28/01	1305	(H) KOOKESH, MEYER, ROKEBERG; NR: OGAN
04/28/01	1305	(H) FN1: ZERO(CRT)
04/28/01	1343	(H) FIN REFERRAL WAIVED
03/26/02	2678	(H) RLS RPT CS(RLS) NT 3DP INR
03/26/02	2678	(H) DP: MCGUIRE, MORGAN, KOTT;
03/26/02	2678	(H) NR: BERKOWITZ
03/26/02	2679	(H) FN2: ZERO(CRT)
03/26/02	2679	(H) RETURNED TO RLS COMMITTEE
04/09/02	2849	(H) RULES TO CALENDAR 4/9/02
04/09/02	2849	(H) READ THE SECOND TIME
04/09/02	2849	(H) RLS CS ADOPTED UNAN CONSENT
04/09/02	2849	(H) ADVANCED TO THIRD READING UNAN CONSENT
04/09/02	2849	(H) READ THE THIRD TIME CSHB 207(RLS)
04/09/02	2849	(H) PASSED Y36 E2 A2
04/09/02	2856	(H) TRANSMITTED TO (S)
04/09/02	2856	(H) VERSION: CSHB 207(RLS)
04/10/02	2705	(S) READ THE FIRST TIME - REFERRALS
04/10/02	2705	(S) JUD
04/10/02	2705	(S) REFERRED TO JUDICIARY

[Similar Subject Match](#) or [Exact Subject Match](#)

[COURTS](#)

[JUDGES](#)

HB

208

Cover Sheet for Fiscal Notes for HB208

Year	02	03	04	05	06	07	08
DEC	0	0	0	0	0	0	0
DNR	98.3	123.9	0	0	0	0	0
F&G/Com Fish	90.0	*	*	*	*	*	*
F&G/Habitat	72.5	36.5	*	*	*	*	*
TOTAL	260.8	159.4					*

DNR estimates \$55,000 revenue within 3-4 years

*may be additional long-term costs

Note: On 4/16/02 F&G notified Rep. Scalzi that the ComFish note would be lowered by approximately \$50,000. Fiscal note forthcoming.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 208(FSH)
(H) Publish Date: 3/6/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
Title: An Act Relating to Aquatic Farming of Shellfish BRU: Environmental Health
Sponsor: Representative Scalzi Component: Food Safety and Sanitation
Requestor: House Fisheries Component No.: 2343

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	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type-Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
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	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)

This fiscal note was developed using information from testimony on the Senate companion bill (SB 141). During this testimony, it became clear that "suitable" did not mean already certified as a growing area under the National Shellfish Sanitation Program (NSSP), therefore the department does not expect any increased costs during the years covered by this fiscal note. Certification under the NSSP normally takes place shortly before commercial harvesting begins. Currently the industry pays for part of the cost to certify growing areas and we would expect that to be the case if this bill passes. However, even with industry support for some of the certification costs, there will be an increased cost to the department when any of the growing sites permitted under this legislation need to be certified under the NSSP.

Prepared by: Janice Adair, Director Phone: (907) 269-7644
Division: Division of Environmental Health Date/Time: 2/28/02 3:49 PM
Approved by: Kurt Fredriksson, Deputy Commissioner Date: 2/28/2002
Agency: Department of Environmental Conservation

FISCAL NOTE

**STATE OF ALASKA
2002 LEGISLATIVE SESSION**

Fiscal Note Number: _____
Bill Version: CSHB 208(RES)

() Publish Date: _____

Revision Date/Time (Note if correction): 3/12/2002
Title: Aquatic Farms for Shellfish

Dept. Affected: Natural Resources
BRU: Minerals, Land & Water Dev
Component: Claims, Permits and Leases

Sponsor: Rep. SCALZI, Chenault, Lancaster, Harris, Hudson, James
Requester: (H) FIN

Component Number: 2460

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	82.8	110.4				
Travel	5.0	10.0				
Contractual	2.5	2.5				
Supplies	1.0	1.0				
Equipment	7.0	0.0				
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	98.3	123.9	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008

CHANGE IN REVENUES ()	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
	0.0	13.9	27.8	41.7	55.5	55.5

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
1002 Federal Receipts						
1003 GF Match						
1004 GF	98.3	123.9				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	98.3	123.9	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: none

Check this box (X) if funding for this bill is included in the Governor's FY2003 budget proposal:

POSITIONS

Position Type	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Full-time	2	2				
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill creates a one-time disposal program of at least 90 aquatic farmsites and requires DNR to condition leases for sites that culture wild stocks of indigenous shellfish to restore the wild stock upon termination or expiration of the lease to the population level that existed prior to issuance of the lease. It provides an attempt at a new type of mariculture program - one that is modeled on DNR's existing land disposal program where state agencies do all of the up-front work and an applicant bids for a site. DNR and DF&G would solicit nominations; pick the areas and sites; prepare best interest finding and coast zone consistency, then put the sites up for bid. With respect to the DNR lease, the applicant could, in the best of circumstances, bid for the site, submit an operating plan and obtain the site with little or no additional work by the agency. This is very different than the 9-month long process currently required of an applicant. As the agencies do the work up front, significant up-front expenses are necessary.
[CONT.]

Prepared by: Bob Loeffler
Division: Minig, Land and Water
Approved by: Pat Pourchot
Agency: Natural Resources

Phone: 269-8600
Date/Time: 12-Mar-02
Date: 12-Mar-02

ANALYSIS: (continued)

DNR's current aquatic farm program, which is very different from the procedures envisioned in this bill, operates with one employee and brings in approximately \$48.0 a year. It would continue to operate while this bill is implemented.

DNR's current mariculture staff consists of one person who is working at full capacity with the current program. Implementing the bill would require a new unit consisting of two employees to pick sites and complete the work.

Total estimated costs for DNR's portion of a one-time mariculture disposal: \$222,200, over two fiscal years.

Changes in revenue (annually): \$13,900+ for the first year, eventually reaching \$55,500+ over a period of 3-4 years.

It is unlikely that the market could absorb 90 aquatic farmsites at once. We come to this conclusion because the average number of applications received during an opening is approximately 15 to 20. For purposes of projecting revenue, we estimate that one-quarter of the sites, or 22, would be taken the first year, and the remainder would be taken "over the counter" over the subsequent three years. Rent for 22 three-acre sites would total approximately \$13,900. If half of the 90 sites, or 45, are taken initially, the possible annual revenue could be \$27,800. The total annual revenue after 90 sites are taken would be \$55,600. This estimate is based on an average 3-acre suspended culture site x 60 sites = \$33,000 and an average of 5-acre on-bottom culture site x 30 sites = \$22,500. (As of August 2, 2001, the aquatic farm lease fee was adjusted to \$350 for the first acre, plus \$100 for each additional acre.)

Personal Services New Position Detail

DRAFT

Department of Natural Resources

Scenario: DNR FY2003 Fiscal Notes - for Positions (2481)
 Component: Claims, Permits & Leases (2460)
 BRU Name: Minerals, Land, and Water Development (330)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs	
10-#075	Natural Resource Mgr I	FT	A	GG	Anchorage	2A	18 C	9.0		35,154	565	0	12,959	48,678	
Justification: HB208						Funding Detail:									
						1004	General Fund Receipts						100.00%	48,678	
													Total Funding:	100.00%	48,678
10-#077	Natural Resource Tech II	FT	A	GG	Anchorage	2A	12 C	9.0		23,247	373	0	10,519	34,139	
Justification: HB208						Funding Detail:									
						1004	General Fund Receipts						100.00%	34,139	
													Total Funding:	100.00%	34,139

Component Summary:

Total New Positions: 2

Fund Description	Fund Percent	Fund Amount
1004 General Fund Receipts	100.00%	82,817
Total Funding:	100.00%	82,817

Note: If a position is split, an asterisk (*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (**) will appear in this column.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 208(RES)
 (H) Publish Date: 3/13/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title: Aquatic Farms For Shellfish BRU: Commercial Fisheries
 Component: Fisheries Development
 Sponsor: Representative Scailz
 Requester: House Resources Component No. 1942

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	40.0	25.0	*	*	*	*
Travel	10.0	5.0	*	*	*	*
Contractual	30.0	10.0	*	*	*	*
Supplies	5.0	3.0	*	*	*	*
Equipment	5.0	2.0	*	*	*	*
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	90.0	45.0	*	*	*	*

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	90.0	45.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
TOTAL	90.0	45.0	*	*	*	*

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	2					

ANALYSIS: (Attach a separate page if necessary)
 ADF&G is required to provide consultation to DNR regarding the suitability of various sites before they are offered for lease. The Mariculture Program Leader and Assistant will lead and coordinate, in conjunction with industry nominations, the selection of sites to survey as well as field activities with ADF&G regional staff, and staff from other participating agencies. To accomplish site surveys for suitability, ADF&G will conduct dive surveys on potential sites. Personnel costs include funding for a seasonal Fisheries Biologist I, certified divers associated with dive surveys and inspections at proposed aquatic farm sites, and laboratory testing of samples taken from the sites. Travel costs include per diem and transport of department staff, including certified divers, to proposed and existing farm sites. Contractual costs include vessel time to conduct surveys and

Prepared by: Doug Mocom Phone 465-6100
 Division: Director Date/Time 3/5/02 3:15 PM
 Approved by: Gordy Williams for Commissioner Frank Rue Date 3/5/2002
 Agency: Fish and Game

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. CSHB 208 (RES) - FN#3

ANALYSIS CONTINUATION

Inspections of proposed farm sites, and laboratory work for the analysis of water quality samples and PSP and Domoic Acid analysis for growing area certifications. Supplies include materials necessary for dive surveys, scientific supplies and data processing supplies, and assistance with regional mariculture plan development.

Additional time and funding needed to complete the work associated with identification of new areas in FY 2004 are roughly estimated at 50% of the FY 2003 costs.

* There will also be increasing costs associated with any large increases in mariculture permitting and support. Many services, such as water quality and product testing, currently provided at little or no cost to aquaculture farm operators by various state facilities, resources, and personnel, will probably not be fiscally possible as the number of mariculture operations increases, unless funding is provided. These are essential to meet statutory requirements. Since such impact is completely contingent on the number of new farms and the size of the farms, these costs are impossible to estimate. This fiscal note merely identifies the likelihood of additional long-term costs.

NOTE: ADFG Division of Habitat and Restoration has also submitted a fiscal note.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: CSHB 208(RES)
(H) Publish Date: 3/13/02

Revision Date/Time (Note if correction): _____ Dept. Affected: ADF&G
Title: Aquatic farms for shellfish BRU: Habitat and Restoration
Component: Habitat
Sponsor: Representative Scalzi
Requestor: House Resources Component No. 486

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	65.5	33.0	*	*	*	*
Travel	5.0	2.5	*	*	*	*
Contractual	2.0	1.0				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	72.5	36.5	*	*	*	*

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	72.5	36.5	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Interagency Receipts from DNR						
TOTAL	72.5	36.5	*	*	*	*

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	1				
Part-time					
Temporary	2				

ANALYSIS: (Attach a separate page if necessary)

CSHB 208 (FSH) creates a one-time offering of at least 90 aquatic farm sites for lease.

In addition to the requirements in the bill, the requirements of other State and Federal statutes may affect sites that could be offered. Those may include, but are not limited to, the Alaska Coastal Management Plan, District Plans, legislatively designated areas statutes and regulations, and 16.40.100-199 which requires that the physical and biological characteristics of a site be suitable for shellfish farming, that a farm site not require significant alterations in traditional fisheries or other existing uses of fish and wildlife resources, and may not affect fisheries, wildlife or their habitats (cont)

Prepared by: Chip Donnorloin
Division: Habitat and Restoration
Approved by: Gordy Williams for Commissioner Frank Rue
Agency: Fish and Game

Phone 465-3065
Date/Time 3/5/02 12:30 PM
Date 3/5/2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. CSHB 208(RES) - FN#4

ANALYSIS CONTINUATION

In an adverse manner, ADNR aquatic farm statutes and guidelines have specific requirements for such things as avoidance of eagle nests, marine mammal and seabird rookeries, and commercial seining areas. ADF&G maintains this information.

Identifying and evaluating 90 permittable lease sites will require intensive effort and additional staff will be needed. A Habitat Biologist III is needed to work with ADNR, ADEC, and ADF&G CFMD to identify potential lease sites. Existing fish and wildlife, habitat and public use data on sites will be collected and evaluated. Potential lease sites will be identified and surveyed in the field to determine suitability. The biologist will: review land use plans, coordinate with ADF&G Wildlife Conservation and Subsistence Divisions, ADNR, ADOL, local governments, and federal agencies; prepare site reports; attend public meetings and hearings; and issue Special Area permits as necessary. A 3-month FT III will aid in habitat site evaluations in the field, and one month of Cartographer 2 time will be needed to enter data into the GIS system.

* Costs for administration and oversight of additional levels of mariculture activity in subsequent years may be significant, but are difficult to quantify at this time.



ALASKA STATE LEGISLATURE

REPRESENTATIVE DREW SCALZI
State Capitol, Juneau
Alaska 99801-1182

OFFICIAL BUSINESS


(907) 465-2689; (800) 665-2689

Fax: (907) 465-3472

Email: Representative_Drew_Scalzi@legis.state.ak.us

April 18, 2002

To: Senator Robin Taylor
Chair, Senate Judiciary Committee.

From: Representative Drew Scalzi 

Re: HB208 – Aquatic Farms for Shellfish

Senator Taylor, please schedule HB208 before your committee pending referral from Senate Resources Committee. This bill is the companion bill to Senator Torgerson's SB141, so we hope it will have a speedy hearing. HB208 will be the version passed.

Thank you for your consideration.

**REQUEST FOR
HEARING**



Alaska State Legislature

Official Business

REPRESENTATIVE DREW SCALZI
State Capitol
Juneau, Alaska 99801-1182

(907) 405-2089; (800) 005-2089
FAX: (907) 405-3472

Representative_Drew_Scalzi@legis.state.ak.us

HB 208 Aquatic Farms for Shellfish

"An Act relating to aquatic farming of shellfish; and providing for an effective date."

The mariculture industry has the potential to increase the availability of fresh seafood to Alaskans, strengthen the competitiveness of Alaskan seafood products in the world marketplace and provide a premium product year-round.

Mariculture is new to Alaska. The permitting process is complex due to the number of agencies that oversee aquatic farming, i.e., Fish and Game, Environmental Conservation, Natural Resources and Governmental Coordination. With cooperation from these entities, this industry, which has proven extremely successful in other states, can certainly enhance economic development in our coastal communities with year-round employment for farmers and processors.

In a good faith effort to encourage good relationships between government agencies and the industry, HB 208 is being introduced as companion legislation to Senator John Torgerson's SB141.

HB 208 requires the Department of Natural Resources to offer public leases on 60 suspended shellfish sites, 20 clam sites and 10 geoduck sites. These lease sites are in addition to those already permitted. Security bonds must be posted according to the value of the product on-site and will be returned upon termination of the lease. Farmers must abide by the sustained yield principle of management when harvesting the wild stock. The Commissioner of DNR must solicit nominations from industry for sites that do not interfere with established commercial, subsistence or personal use.

HB208 is the means for encouraging the state to develop another resource that will add economic diversity to our coffers -- while protecting the right of Alaskans to harvest a common property resource.

Sponsor Statement



Rodger Painter, vice president
P.O. Box 20704 Juneau, AK 99802
Phone/Fax: (907) 463-3600
rodgerpainter@hotmail.com

Payback of Fiscal Notes for SB141/HB208

Lease fees

Aquatic farmers pay DNR \$350 for the first acre and \$250 for each additional acre in annual lease fees. For a five-acre farm this equates to \$1,350 per year. For 90 5-acre farms, this would amount to \$121,500 in annual revenues.

Fisheries Business Taxes

Aquatic farmers are subject to the Fisheries Business Tax. If each of the 90 farms were to generate \$100,000 in gross sales per year, the tax liability per farm would be \$3,000. For 90 farms, the total would be \$270,000.

Other Annual Licensing and Permitting Fees

Fisheries Business License = \$25 per farm. Shellfish shipping permits from DEC = \$100. Growing area certification (DEC) = \$300. Total per farm = \$425. Total for 90 farms = \$38,250.

Total Annual Lease Fees, Taxes and Licensing Fees

Per 5-acre Farm = \$4,775. Annual total for 90 Farms = \$429,750.

Economic Contribution

If each farm generated \$100,000 in gross revenues, 90 farms would contribute \$9 million to the economy. If farm supports two jobs, a total of 180 new jobs would be created.

FISCAL NOTE PAYBACK ESTIMATE

LETTER OF SUPPORT

Glen Haight, Fisheries Development Specialist

April 9, 2002

Introduction

House Bill 208 calls for the designation of 90 aquaculture farm sites by the Department of Natural Resources (DNR) by February 2004. The bill has a fiscal note to cover the cost of DNR and Department of Fish & Game's (ADF&G) work in designating these sites. This analysis measures the cost of this fiscal note in FY 2003 and FY 2004 against the expected future income stream the State might expect from aquaculture operations created from this bill.

This analysis utilizes a technique called "net present valuation". A net present valuation takes future cash flows, positive or negative, and discounts them to a present day value through a risk factor (interest rate) appropriate for the nature of the investment. The analysis and supporting assumptions are attached.

The analysis indicates a return to the state through lease fees and taxes. This return is less than 8% and does not consider additional administrative costs that might come from additional farm operations. From a pure investment perspective, the extent of assumptions and duration in the forecast might be too great for such a small return. However, the Legislature has the ability to view the social and economic benefits from this activity apart from the return to the state.

Uncharted in this analysis are the benefits expected by the shellfish industry and ancillary businesses. Based on the revenue growth rate assumptions, there will be an increase in gross profits to the farm operations of \$9 million by the time full grow out takes place. Current farm values for the existing industry is \$400,000.¹ This growth rate assumes an increased effort by the State to better educate and assist potential new entrants into the industry, as well as increased assistance to existing participants.

While not quantified in this analysis, there is an expectation of increased business for freight companies, gear supplier and other input providers such as the Qutechak Shellfish Hatchery in Seward. Further, much of the farming activity occurs in rural coastal areas. This should provide an infusion of dollars into these small economies. This in turn will

¹ For reference, the statewide ex-vessel value of the salmon industry in 2001 was \$216 million. Herring roe was about \$11 million (includes spawn on kelp and sac). In 2000, halibut measured at \$134 million, shellfish \$142 million, and groundfish at \$564 million.

increase buying power and lower the cost of goods and services into these communities as the volume of purchases increase.

As you know, much of the likelihood of success in meeting the assumptions of this analysis is predicated on a host of events yet to occur. That aside, this particular bill appears to have a number of benefits beyond simply kick starting a budding Alaska industry. Its usefulness as an economic development-building device appears strong and its downstream impact to communities may be very important.

Assumptions

Estimated Gross Revenues from the Additional Sites	
2005 \$	43,200
2006 \$	155,520
2007 \$	311,040
2008 \$	559,872
2009 \$	1,074,954
2010 \$	1,827,422
2011 \$	3,031,371
2012 \$	4,721,199
2013 \$	6,965,703
2014 \$	8,300,000
2015 \$	8,700,000
2016 \$	9,000,000

General Assumptions

Shellfish aquaculture operations will begin to function more efficiently and profitably than the historical norm for Alaska aquaculture operations. This is based on various factors:

- The State will shift its focus from establishing this industry, to maximizing the value of the industry.
- Expected reduction in employment from salmon fisheries (and likely other wild catch fisheries with the advent of black cod and halibut farms) will put a greater emphasis on alternative coastal employment opportunities.
- With greater production, efficiencies and market advantages will likely occur. Efficiencies might include, spreading out of fixed costs with more operations and lower freight rates through greater volumes. Greater volumes should increase producer's leverage in market negotiation.

Costs

Fiscal Note for 2003 = \$254,500 (DNR - \$92,000; F&G - \$162,500)
 Fiscal Note for 2004 = \$196,500 (DNR - \$115,000; F&G - \$81,500)

Agencies are expecting additional administrative expenses from the increase in farm sites, but cannot provide estimates until the farms are actually operating.

Farm Development

The bill calls for 60 suspended culture sites, including oysters and scallops.

The bill calls for 20 littleneck clam sites.

The bill calls for 10 geoduck sites.

Grow out rates

Oysters are assigned a conservative grow-out rate of 4 years.

Scallops are assigned a grow-out rate of 4 years.

Littleneck clams are assigned a conservative grow-out rate of 5 years.

Geoducks are assigned a conservative grow-out rate of 7 years.

Permitting Schedule

- The sites will be determined by February 2004.
- Actual permitting and development on the sites will not begin until 2005.
- There will be an approximate pro rata development of species along the lines of the bill.
 - 2005 = 10 farms (7 suspended, 2 little neck, 1 geoduck)
 - 2006 = 20 farms (14 suspended, 4 little neck, 2 geoduck)
 - 2007 = 20 farms (14 suspended, 4 little neck, 2 geoduck)
 - 2008 = 20 farms (13 suspended, 5 little neck, 2 geoduck)
 - 2009 = 20 farms (12 suspended, 5 little neck, 3 geoduck)
- Permitting rates exceed historical rates given increased ease of permitting from this bill and increased focus and attention on industry.

Closures

Despite increased focus and assistance to start-up operations, it is expected some level of closures of farm sites will occur.

Closure rates

- 20% of farm sites within one year,
- 10% in the second year, and
- none thereafter.

Resale rate

Farm sites that close will be resold to other farmers.

- In order to maintain salability, original farmers will bear the costs of DNR lease fees.
- The sale will occur one year after closure.
- These closed operations will not have any product. Purchased farm sites will undergo grow out rates starting from the time of purchase.

Acreage

The analysis sets farm average farm acreage at 5. DNR records show current average is 3.5. However, some farm sites are not operating at maximum efficiency. Upon advice of industry, 5 acres are set at an optimum minimal size.

Owner/Business Per Farm Site

For the purposes of the analysis, every two farms will be operated by a single owner/company. This will increase efficiencies in the operation, yet decrease business licensing fees to the state.

Farm Revenue

Some of the more efficient farms in Alaska today net in excess of \$20,000/acre. However, DNR information provides that the average revenue per acre was approximately \$2,400. For this analysis, we assume a starting revenue/acre of \$2,400 in 2002 and increase it at 20% until it reaches \$20,000. At that point, future revenue streams are capped at \$20,000. Industry reports a well-maintained farm of littleneck clams and oysters are capable of achieving this level of profitability at this time. Scallops and geoducks are less certain.

For on-bottom operations, once permitting occurs, harvests of standing stocks will be allowable. This revenue stream will continue up until the time that the farmed stock is harvested. This activity will trigger water quality inspections.

State Fees

DCED business licenses = \$25/owner

DNR permitting fees (first acre/acres thereafter) = \$350/\$100

DNR caretaker fee = left out for this analysis.

State Fisheries Tax

Assumed 75% of all product will be exported and taxed.

Oysters/scallops = 3% of farm value

Littleneck clams = 1%

Geoducks = 1%

Rate of return set at different levels to understand the return at various levels of risk. That concludes the list of assumptions used in this analysis.

Department of Community & Economic Development

State Revenue Projections From HB208

	Fiscal Year													
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
State Revenues														
DNR Permit	\$ -	\$ -	\$ 7,500	\$ 22,500	\$ 37,500	\$ 52,500	\$ 67,500	\$ 67,500	\$ 67,500	\$ 67,500	\$ 67,500	\$ 67,500	\$ 67,500	\$ 67,500
Business License	\$ -	\$ -	\$ 125	\$ 350	\$ 563	\$ 800	\$ 1,050	\$ 1,050	\$ 1,100	\$ 1,125	\$ 1,125	\$ 1,125	\$ 1,125	\$ 1,125
Business Tax	\$ -	\$ -	\$ 65	\$ 233	\$ 467	\$ 840	\$ 2,150	\$ 4,999	\$ 9,771	\$ 16,276	\$ 24,587	\$ 29,213	\$ 30,158	\$ 30,225
Total	\$ -	\$ -	\$ 7,690	\$ 23,083	\$ 38,529	\$ 54,140	\$ 70,700	\$ 73,549	\$ 78,371	\$ 84,901	\$ 93,212	\$ 97,838	\$ 98,783	\$ 98,850
State Costs														
Fiscal Note	\$ 254,500	\$ 196,500												
Additional Management Costs														
Identified State Costs	\$ 254,500	\$ 196,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Net Income (Loss)	-\$254,500	-\$196,500	\$ 7,690	\$ 23,083	\$ 38,529	\$ 54,140	\$ 70,700	\$ 73,549	\$ 78,371	\$ 84,901	\$ 93,212	\$ 97,838	\$ 98,783	\$ 98,850
NPV at 0% return	\$368,644													
NPV at 5% return	\$89,567													
NPV at 7.5% return	\$2,177													
NPV at 10% return	(\$62,683)													
NPV at 12.5% return	(\$110,935)													
NPV at 15% return	(\$146,837)													
NPV at 17.5% return	(\$173,488)													
Internal Rate of Return	7.57%													

QUTEKCAK SHELLFISH HATCHERY

PO Box 369

101 Railway Avenue

Seward, AK 99664

907-224-5181 fax 224-5282

qshatch@arctic.net

February 28, 2002

Dear Representative Scalzi,

On behalf of the Qutekcak Native Tribe and the hatchery, I would like to express our support for HB-208, and our appreciation for your sponsoring this important legislation.

The economics of coastal communities have been negatively impacted in the recent past for a variety of reasons too numerous to recount here. What's important is to look for possible solutions, and we feel the shellfish farming industry has demonstrated the potential to bring needed economic diversity to these communities. That potential is enhanced due to the fact that many of the individuals who have been hardest hit are commercial fishermen who already possess many of the necessary skills and equipment.

Over the past few years we have witnessed an increased awareness of this industry's potential in Alaska, and have managed to dispel some perceptions that draw inaccurate parallels between finfish farming and shellfish farming. We have not been as successful in streamlining the permitting process in a way that will allow the industry to reach the "critical mass" necessary to support the hatchery as our research nears completion and the funding for that research needs to be replaced by marketing the developed product.

We recognize that there is no magic wand, and that the proper course for our industry is incremental and steady improvements in regulation and understanding, and in further demonstrating the economic benefits of the industry. This legislation represents an important step along that course of improvement by making available sites that will increase our customer base. We are cognizant that some investment in the form of agency budgets will be necessary on the State's part to make this legislation work, but are confident that we can provide returns over time on that investment many times over.

Thank you for your support and best regards,

Ron Long,
Director

Letters of Support

MARINE ADVISORY PROGRAM

UNIVERSITY OF ALASKA FAIRBANKS

SCHOOL OF FISHERIES AND OCEAN SCIENCES

April 5, 2002

2221 E. NORTHERN LIGHTS BLVD., #110
ANCHORAGE, ALASKA 99508-4140

PHONE: 907-274-9691

FAX: 907-277-5242

To: Representative Drew Scalzi
State Capitol, Room No.13
Juneau, AK 99801-1182

From: Raymond RaLonde
Aquaculture Specialist

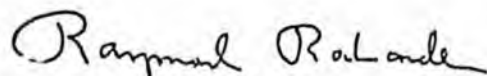
Subject: Supporting information for HB 208

In support of the HB 208, I can contribute substantial support within the University to assist with planning of shellfish aquaculture expansion. Specifically, I have received funding for aquatic farm site evaluations from the following sources and amounts

Source	Funding amount	Project duration
Alaska Sea Grant	\$81,350	2002-04
UAF President's Resources Fund	\$20,000	2002-2004
Alaska Cooperative Extension Service	\$4,200	2002
Alaska Cooperative Extension Service	\$20,000	2003

The initiative to identify and open additional sites for shellfish aquaculture development that you addressed in HB 208 exactly matches the goals of the aquatic site evaluation projects described here. Over the next two years, I and a team of scientists, state agency personnel, industry representatives, and coastal Alaska citizens hope to work together to identify and scale up shellfish aquaculture development in a systematic and environmental responsible manner to improve the economic plight of our coastal communities.

Good luck with your efforts to carry HB 208 through the legislature. Thank you for your support.



Raymond RaLonde

Southeast Conference

P.O. Box 21939 Juneau Alaska 99803-1939 Tel. (907) 463-3445 Fax (907) 463-5670

April 11, 2002

Honorable Drew Scalzi
State Capitol, Room 13
Juneau, AK 99801-1182

RE: Support of HB 208, Aquatic Farms For Shellfish

Dear Representative Scalzi:

Southeast Conference strongly supports the aquatic farm lease sale provided for in CSHB 208 (Resources). This measure complements ongoing efforts by Southeast Conference to develop a strong shellfish farming industry in the region.

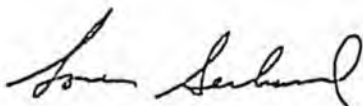
The economies of many Southeast communities have been devastated by the collapse of the timber industry and declining economics of the salmon fisheries. Shellfish farms provide viable opportunities for rural communities to diversify their economic base with year-round jobs.

Shellfish mariculture development is one of our key legislative priorities this year. Southeast Conference has initiated a pilot project on Prince of Wales Island to create "Aquaculture Development Zones" where shellfish farming would be encouraged. Participants in our project include the University of Alaska, the community of Naukati, the Prince of Wales Community Action Council, the Alaskan Shellfish Growers Association, the U.S. Forest Service, and the Alaska Departments of Natural Resources and Fish and Game, and Division of Governmental Coordination.

Passage of HB 208 would solve one of the biggest challenges faced by our informal working group: identifying high potential sites where applicants can be assured of obtaining leases and permits. Since we already have initiated site surveys on Prince of Wales Island, we will be prepared to assist in providing detailed site-specific environmental and biological data along with our areas nominations provided for in HB 208.

We wish to thank you for your efforts to encourage economic development in our coastal communities.

Sincerely,



Loren Gerhard
Executive Director

Legends of the Mountain

412 Washington Street
Seward, Alaska 99664

To Whom It May Concern:

I am currently re-opening a full service restaurant in Seward, Alaska. We are a semi-casual concept with a focus on steaks and fresh seafood.

It has been my experience that local Alaskans and tourists alike look specifically for Alaskan products. Therefore, it is very important to me to have local seafood available not only to make my customers happy, but also to help keep my purchasing dollars in the State that I live in.

I think it is time for us to seriously support aquatic farming projects within the State of Alaska. This should create a renewable source that will benefit everybody now and in the future.

Sincerely,

Jeff Kilgore
Executive Chef/General Manager

Honorable Drew Scalzi
State Capital, Room 13
Juneau, AK 99801-1182

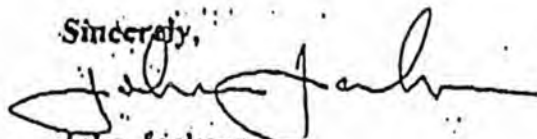
Dear Rep. Scalzi:

Sagaya Corporation is delighted to learn that you have sponsored legislation to increase the number of shellfish farms in Alaska. The oysters and clams we purchase from shellfish growers are among the finest seafood we feature in our stores, and they're the only local products we can obtain fresh on a year-round basis.

The potential for growth in the market for Alaska oysters and clams is great. We recently increased our efforts to push Alaska steamer clams and the response from customers has been very positive. During a recent promotion, customers snapped up about 1,000 pounds of Alaska clams over the weekend.

Increasing the number of aquatic farms in the state is the best gift you can give to seafood consumers in Anchorage and the rest of Alaska. House Bill 208 is a winner in our books.

Sincerely,



John Jackson



Rodger Painter, vice president
P.O. Box 20704 Juneau, AK 99802
Phone/Fax: (907) 463-3600
rodgerpainter@hotmail.com

February 11, 2002

Senator John Torgerson
State Capitol, Room 427
Juneau, AK 99801-1182

Dear Senator Torgerson:

After carefully considering your comments on our proposed "aquaculture development zone" concept, we have decided that your approach on Senate Bill 141 is superior. We'd like to work closely with you and Rep. Scalzi in getting the legislation approved this session.

There is one amendment to SB 141 that we believe is vital to accomplishing the intent of the legislation: removal of the section on lease valuation. Here's the language we'd like to have deleted:

In determining the fair market value of a lease for an aquatic farming site where shellfish indigenous to the site are cultured, the department shall consider the value of the harvestable shellfish resource on the site and the potential productivity of the site for cultured shellfish.

Here's our rationale for removal of the language:

- Adoption of regulations by ADF&G subsequent to development of SB 141 has effectively rendered this section moot. Under current ADF&G procedures, the harvestable "standing stock" of native shellfish on an aquatic farm site must be harvested under commercial fishing permits prior to transfer of the site to the applicant. In addition, ADF&G policies prohibit applicants from obtaining sites with significant numbers of wild geoducks. Insertion of this language could confuse the validity of these practices.
- SB 141 also contains language codifying current ADF&G regulations and permit conditions requiring growers to replace standing stocks prior to relinquishing the site. The practical effect of putting both sections into law would be to require growers to pay for standing stocks twice, in addition to paying the state the same fisheries business tax rates of commercial fishermen AND lease fees for use of state land and waters.
- The existing language could create concerns for growers attempting to farm mussels and other species not subject to commercial fisheries. If the shellfish is not subject to commercial fisheries and we have a great abundance of the species, the state shouldn't create disincentives for utilizing surplus natural resources.
- The final clause of the section includes "potential productivity of the site" as a reason for increasing lease valuations. ASGA has objected strongly to this

language in ADF&G regulations and we will seek to have it removed when a more friendly administration takes office. The "potential productivity" of a site is an extremely elusive concept that is extremely troublesome for the industry.

- Alaska already has some of the highest tidelands lease fees for aquatic farm sites of any jurisdiction in North America, and we have been attempting to convince DNR to bring them more in line with our competitors. The existing language in SB 141 has the potential for increasing existing lease fees and moving us away from our goal.

After discussing your intent behind SB 141, we have become convinced it is a very good approach to moving the industry forward. DNR confirms the sites will remain "in the bank" following the initial offering and that it is possible to obtain annual offerings or even an over-the-counter approach. DNR also says it will be possible to divide a large site between two or more applicants.

We were unaware of these attributes of the state's land disposal process. We appreciate your vision in putting together this package and apologize for taking so long to get solidly behind the legislation. We look forward to working with you and Rep. Scalzi in getting SB 141 approved during this legislative session.

Sincerely,

Rodger Painter

c.c. Rep. Drew Scalzi
Sen. Robin Taylor
Rep. Lesil McGuire



Rodger Painter, vice president
P.O. Box 20704 Juneau, AK 99802
Phone/Fax: (907) 463-3600
rodgerpainter@hotmail.com

February 20, 2002

Honorable John Torgerson
State Capitol, Suite 427
Juneau, AK 99801-1182

Dear Senator Torgerson:

Your efforts to create a "bank" of aquatic farm sites are greatly appreciated by aquatic farmers throughout the state. The committee substitute for SB 141 you have developed has made good bill even better, and we are enthusiastic about working with you to move it through the process this year.

We are particularly grateful for the changes in the committee substitute. We believe SB 141 represents a wise investment in creating new economic development opportunities in coastal Alaska with the use of one of the state's most abundant natural resources. What a better way to bolster the sagging economies of coastal regions than promote an environmentally friendly industry supporting year-round jobs.

We believe this approach to aquaculture development may become a model for the rest of the country. We again thank you.

Sincerely,

Rodger Painter
Vice President

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF ENVIRONMENTAL HEALTH
DIRECTOR'S OFFICE
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501
<http://www.state.ak.us/dec/deh>

Telephone: (907) 269-7644
Fax: (907) 269-7654
e-mail: Janice_Adair@envircon.state.ak.us

March 1, 2002

The Honorable Drew Scalzi
Alaska House of Representatives
Room 13, Capitol Building
Juneau, AK 99801

Re: HB 208, an Act relating to aquatic farming of shellfish

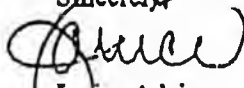
Dear Representative Scalzi:

Enclosed please find a copy of a letter I recently sent to Senator Torgerson regarding SB 141 which, as you know, is the companion bill to yours referenced above.

Although the Department of Environmental Conservation (DEC) has now submitted zero fiscal notes on both pieces of legislation, it is important that everyone understand that any shellfish sites must be certified by DEC under the National Shellfish Sanitation Program (NSSP) before the product can be sold in commerce. We are required by both state law (AS 17.20.005(6)) and federal law to comply with the NSSP. There are significant costs associated with certification, some of which are currently borne by the farmers themselves. The rest is covered in DEC's operating budget. Should either of these bills pass, down the road there will be increased costs to DEC for this certification. In the interest of full disclosure, I wanted you and the rest of the committee members to know that.

I do not plan to be on line for the hearing on HB 208 unless you'd like me to be available to answer questions, which I would be happy to do. You or your staff can reach me at 269-7644 or via email at Janice_Adair@envircon.state.ak.us to let me know.

Sincerely,



Janice Adair
Director

Enclosure:

- Letter to Senator Torgerson dated February 28, 2002

Safe Food, Safe Water, Healthy Communities

DEC Comments

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF ENVIRONMENTAL HEALTH
DIRECTOR'S OFFICE
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501
<http://www.state.ak.us/dec/deh>

Telephone: (907) 269-7644
Fax: (907) 269-7654
e-mail: Janice_Adair@envircon.state.ak.us

February 28, 2002

The Honorable John Torgerson
Chairperson, Senate Resources Committee
Room 427, Capitol Building
Juneau, AK 99801

Re: SB 141, Shellfish Growing Areas

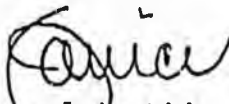
Dear Senator Torgerson:

I have had a chance to discuss the above-referenced legislation with Rodger Painter with the Alaska Shellfish Grower's Association. As you know, we did include a fiscal note on this bill because we interpreted "suitable" to mean certified under the National Shellfish Sanitation Program (NSSP).

While the definition of "suitable" was not discussed in any of the testimony on the bill that I heard, Rodger did point out some very legitimate problems with certifying an area so early in the process. Therefore, I will be submitting a zero fiscal note on the committee substitute when it arrives in the Senate Finance Committee. Certification under the NSSP normally takes place shortly before commercial harvesting begins. Although the industry currently pays for a part of the cost to certify growing areas and we would expect that to remain the case, there will be an increased cost to the department when certification of growing areas is required. However, from talking with Rodger, I believe those costs will be incurred after the time frame covered by the fiscal note form.

I hope our misunderstanding of the bill and the resultant fiscal note did not cause you any undue problems in moving this legislation, and please accept my sincere apologies if it did.

Sincerely,



Janice Adair
Director

cc: Michele Brown, Commissioner

Safe Food, Safe Water, Healthy Communities

Why Clam Farming?

Alaska has enormous potential as a supplier of littleneck clams, often called steamer clams, to the seafood market. Past and current efforts to develop a commercial fishery on the abundant clam resources of Alaska have resulted in limited harvest caused by logistics and economic problems associated with managing the fishery. At present, only Kachemak Bay has a commercial harvest of littleneck clams, and because of depleted stocks, the fishery is limited to only 25,000 pounds annually.

The topic of clam farming in Alaska first appeared as an agenda item at the 1987 4th Alaska Sea Grant Aquaculture Conference. With high worldwide consumer demand for steamer clams and short supply of littleneck clams for the Alaska seafood market, new and existing farms are eager to pursue clam farming.

In 1991, Alaska's original clam farmers were allowed to harvest clams only under commercial fisheries regulations of the Alaska Department of Fish and Game (ADF&G). The first official clam farms were permitted in 1993. Expecting broader interest in clam farming a conference, titled Broadening Shellfish Farming Opportunities in Alaska, was sponsored in 1996 by the ADF&G, the Alaskan Shellfish Growers Association, and the University of Alaska Marine Advisory Program. The purpose of the conference was to begin development of a regulatory program for on-bottom aquaculture in Alaska. At the conference, ADF&G representatives issued a clear statement that the department did not have the resources to manage a commercial clam fishery beyond that existing in Kachemak Bay and favored development of clam farming.

By the end of 1997, three aquatic farmers have obtained tidelands leases to farm littleneck clams in southeastern Alaska. Their combined 1998 harvest was 35,014 pounds of clams worth nearly \$87,535.

What is Clam Farming?

Farming clams requires application of well established farming practices to an existing clam population that will increase the beach productivity and allow for a sustained harvest of the enhanced clam population. In Alaska, farming activities include:

1. Regular inventories of standing stock and determination of the size composition of the clams.
2. Optimizing growth and production of clams by controlling their density by harvest planning, redistribution of seed from overstocked parts of the bed, and/or planting hatchery produced clam seed.
3. Reducing clam mortality by appropriate use of predator exclusion netting.
4. Maintaining the beach free of major deposits of large debris and improving the substrate quality.
5. Harvesting clams to maximize their value and marketability.
6. Complying with the required Alaska Department of Environmental Conservation water quality testing program, and marine toxin certification of farmed product.

Performance of these farming activities, is far beyond what is required of a commercial clam harvester.

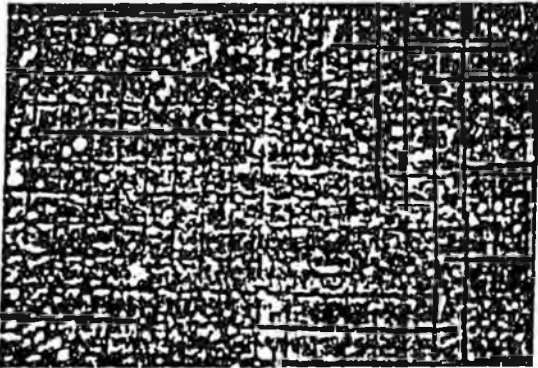
What is a clam farm? A pictorial tour



Clam farming may require application of predator exclusion netting. In this picture, a trench has been dug to anchor the margins of the net.



Predator exclusion netting is rolled out over the prepared plot.



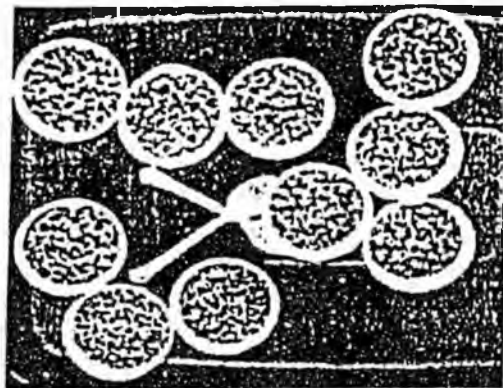
Predator netting is about 1" square mesh. It is not intended to exclude all predators. Crabs and starfish are the farmers primary concern. Birds can feed through the netting



Predator nets anchored and ready for seeding clams.



The farm plot after a few months. Predator netting is partially covered by sediment and algae growth.



Measured quantities of clam seed ready for planting the farm.



Planting clam seed over the netting. Clams are smaller than the net mesh and will dig themselves in as the tide covers them.



In Alaska, clam harvesting is done by hand.

Impacts of clam farming

Environmental (Statements in parenthesis are editorial comments needed for clarification).

Mojica, R. and W.G. Nelson. 1993. Environmental effects of a hard clam (*Mercenaria mercenaria*) aquaculture site in the Indian River Lagoon, Florida. *Aquaculture*. Volume 113, page 326.

- "Measurements of water column nutrients and chlorophyll concentrations gave no indication of changes..."
- "sediment differences were not associated with significant changes in benthic dwelling organisms."
- "Differences in mobile macrofauna were minimal ..." (between aquaculture and natural sites)

Spencer, B.E., M.J. Kaiser, and D.B. Edwards. 1997. Ecological effects of intertidal Manila clam cultivation: observations at the end of the cultivation phase. *Journal of Applied Ecology*. Number 34. Page 451.

"Our results suggest that the biotic and abiotic changes caused as a result of clam cultivation are relatively benign compared to other forms of marine cultivation..."

Kaiser, M.J., I. Laing, S.D. Utting, G.M. Burnell. 1998. Environmental impacts of bivalve mariculture. *Journal of Shellfish Research*. Volume 17. Number 1. Page 63.

"...the benthic community within dredged plots was indistinguishable only 3 months after harvesting regardless of the scale of disturbance..."

Brooks, K. 1996. Intensive clam culture and the environment. Proceedings of the conference: Broadening Alaska's shellfish farming opportunities: A conference and workshops focusing on public issues involved with the development of on-bottom culture of indigenous shellfish. University of Alaska Marine Advisory Program. Anchorage, Alaska. Page 41.

"Of all the forms of aquaculture, intertidal shellfish culture is undoubtedly the most benign. If you minimize encroachment on eel grass beds and find effective methods of predator control, the several hundred pages of literature reviewed in preparing this talk suggest only positive environmental affects associated with either intensive clam or oyster culture."

Economic impacts

The current commercial harvest limit for littleneck clams in Kachemak Bay is 40,000 lbs. Local management has set the commercial harvest at 25,000 lbs having a market value at \$2.50/lb or \$62,500. Actual 1998 harvest was less than 20,000 lbs.

An aquatic farm can produce, with predator protection and seeding, about 10 times the biomass of clams as a natural population. By any definition, this level of production increase would be considered enhancing the clam population of the beach.

Aquatic farming in can produce an estimated conservative production of 12 harvestable clams per square foot per year. From a 10 acre plot, the annual harvest would be 435,000 lbs. worth approximately \$1.1 million.

What is the market?

Homer

- Lands End during the summer buys 6,000 lbs and had indicated that they could sell more than 20,000 lbs if more clams were available.
- His Catch Seafood, Homer, Alaska indicated a sales potential of over 40,000 lbs. annually.

Anchorage

- Favco, Anchorage's largest seafood wholesaler, estimates the Anchorage market demand for littleneck clams at over 1,000,000 lbs. annually.

Western Region of U.S. (Aquaculture situation outlook, Western Regional Aquaculture Center)

- "In 1997, it is estimated that over 5.4 million pounds of clams were produced at an estimate of over \$13.7 million." Farmers are converting oyster production into clam farms, and by 2002 production will increase to 7.7 million pounds

United States

- The long term trend (1988-1998) for clam landings showed an overall decrease, however, imports have increased.

Export market

- The long term trend of clam exports (1988-1998) have shown an increase of 196.16% from 661 metric tons to 1,958 metric tons.
- Recently, exports of clams have been somewhat variable depending on the economic circumstances in Asia. In 1998 exports rose 8% while in first half of 1999, exports declined by 15%. We do know, however, that water quality in Asia is a great concern, and shellfish grown in clean water will have an economic advantage.

Effect clam farming on other clam fisheries in Alaska

- There is no littleneck clam fishery outside of Kachemak Bay
- The Kachemak Bay clam commercial fishery is very limited
- In a hearing before the Alaska Legislature: House Resources Standing Committee Mr. Kevin Duffy, acting deputy director of the ADF&G Division of Commercial Fisheries Management and Development was asked by Representative Harris.

Rep Harris: "Is there anything about this industry that has a negative effect on any other seafood industries that it works around or that it's processed around?"

Kevin Duffy: "The clear answer to that is no."

HB

210

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 210(JUD)
(H) Publish Date: 4/11/01

Revision Date/Time (Note if correctio
Title "An Act relating to sexual assault and sexual abuse of a minor." Dept. Affected: Law
Sponsor Representative Meyer BRU Criminal Division
Requester House Judiciary Committee Component: 1st-4th Judicial Districts
Component No. 2198-99;2201;61;79

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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 pro

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 210 removes the statute of limitations on when the crime of sexual assault against an adult may be prosecuted. Under current law, the crime may not be brought for prosecution after ten years have passed. (There is no statute of limitations on sexual assault or sexual abuse of a minor.)

The Department of Law expects only a handful of cases to result from passage of this legislation. As a practical matter, it is much more difficult to prosecute a case the older it gets. The department anticipates it can handle any increase in caseload with existing resources.

Prepared by: Joan M. Kasson Phone 465-5370
Division Attorney General's Office Date/Time 4/6/01 4:36 PM
Approved by: Bob Meiners for Bruce M. Botelho, Attorney General Date 4/6/01
Agency Department of Law

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 210(JUD)
 (H) Publish Date: 4/11/01

Revision Date/Time (Note if correction) _____ Dept. Affected _____
 Title Statute of Limitation for Sex Crimes BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Meyer
 Requester House Judiciary Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

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

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

CHANGE IN REVENUES ()						
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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)

The court system does not anticipate any fiscal impact from the passage of HB 210.

Prepared by: Douglas Wooliver Phone 463-4750
 Division Alaska Court System Date/Time 4/06/01 2:30 p.m.
 Approved by: Stephanie Cole Date _____
 Agency Alaska Court System

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 210(JUD)
(H) Publish Date: 4/11/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: "An Act relating to sexual assault
and sexual abuse of a minor." BRU: Legal & Advocacy Svc.
Sponsor: Representative Meyer Component: Public Defender Agency
Requester: (H) Judiciary Component Number: 1631

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

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

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

FUND SOURCE (Thousands of Dollars)

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

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 bill would eliminate the statute of limitations on prosecutions for any degree of sexual assault.

There would be some fiscal impact on the Public Defender Agency if this bill becomes law. Generally speaking, older cases present unique difficulties. They can be much harder to investigate. And often there are issues (such as "recovered memory") in which psychological testimony is required.

Therefore, even if there were relatively few cases, the cases that are prosecuted will most likely be expensive to defend. But, it is not possible to predict the number of cases that would be brought. Therefore, we are submitting an indeterminate fiscal note.

Prepared by: Barbara Brink, Director Phone (907) 334-4414
Division: Public Defender Agency Date/Time April 9, 2001
Approved by: Jim Duncan, Commissioner Date 4/9/01
Agency: Department of Administration

For distribution information, call the Governor's Legislative Office



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 19

SPONSOR STATEMENT

CSHB 210(JUD)am

“An Act relating to sexual assault and sexual abuse of a minor.”

CS HB 210(JUD)am amends existing law by removing the statute of limitations on felony sexual assault involving penetration.

Currently, there are two crimes that do not have a statute of limitations, murder and sexual abuse of a minor. CS HB 210(JUD)am adds felony sexual assault to this list of extreme crimes against a person. The prosecution of sexual assault should not be limited by time. Sexual assault has life long impacts on victims, their families and friends, and our society.

New technology in DNA testing and evidence collection is allowing greater efficiency and certainty in proving crimes. New scientific procedures used in evidence collection and testing better preserve the purity of evidence. If sexual assault can be proven even 20 years from the time it occurs, our state laws should protect a victim's right to justice.

CS HB 210(JUD)am makes clear that the removal of the statute of limitations would allow civil, as well as criminal cases, to be filed at any time after a felony sexual assault involving penetration.

Subject: [Fwd: DNA Database Links Salinas Man to 1981 Murder]
Date: Fri, 26 Jan 2001 06:56:00 -0900
From: Delbert Smith <delbert_smith@dps.state.ak.us>
Organization: Department of Public Safety
To: Royce Weller <royce_weller@dps.state.ak.us>

Royce,
For DNA file and use during session.

--
Del Smith
Deputy Commissioner
Department of Public Safety
907-465-4322
907-465-4362 (fax)
delbert_smith@dps.state.ak.us
E-page 1611@pager.state.ak.us

Subject: DNA Database Links Salinas Man to 1981 Murder
Date: Thu, 25 Jan 2001 11:12:06 -0900
From: Chris Stockard <christopher_stockard@dps.state.ak.us>
Reply-To: christopher_stockard@pssun02x.dps.state.ak.us
Organization: Department of Public Safety
To: George M Taft JR <george_taft@dps.state.ak.us>,
Delbert W Smith <delbert_smith@dps.state.ak.us>,
Kenneth E Bischoff <kenneth_bischoff@dps.state.ak.us>

"DNA Database Links Salinas Man to 1981 Murder"
KPIX Online (01/23/01)

The 20-year-old kidnapping/rape/murder case of Sylvia Edgren in Monterey, Calif., has been solved thanks to a state DNA database. The state Department of Justice made a direct match of DNA at the scene with DNA of Salinas resident Michael Adams, which is stored in the California Convicted Felon Database. His DNA was included in records because of an assault crime he committed 14 years ago. In California, authorities have taken DNA samples from all convicted violent offenders for years, though the database has only been up and running since 1994. Funding for the project took time, and currently only a portion of the samples are entered into the database. A direct match or "cold hit" can significantly help authorities build a case against an offender.

Del Smith <delbert_smith@dps.state.ak.us>

Dogged detective work, DNA crack 5-year-old killing

By Sheila Toomey
Daily News Reporter

(Published October 31, 2000)

They found her body on a Sunday morning five years ago, wearing a purple tank top and silver necklace, dumped at the edge of Ship Creek where it runs through the warehouse district near Yakutat Street.

They identified her from her tattoos and her jail record: Doris Ann Hainta, 34, a longtime street hooker carrying a double load of drug and alcohol addiction. Everybody called her Sunny, but someone strangled her.

Homicide investigators worked the slim leads they had as hard as they could. A witness saw a blue van backing to the edge of the creek and a man dumping something there. Police took plaster casts of tire tracks and crawled around on their hands and knees taking paint scrapings from a post and hoping to pick a bit of evidence from the muddy ground.

They spent weeks talking to prostitutes and their customers, checking alibis and stopping blue vans. After a while, the investigation lagged. She was probably killed by someone who bought her services, police figured, someone with no other connection to her, the toughest kind of homicide to solve.

But Anchorage police had an ace up their sleeve. Hainta had been raped or had consensual sex shortly before she died, so if the police ever identified a suspect, they had a DNA sample.

Last month, technicians at the state crime lab matched the DNA to a man in North Carolina. And on Monday the Anchorage district attorney charged Eugene Poirier, 33, with first-degree murder. An arrest warrant with bail set at \$1 million will be faxed south and served on Poirier at the Nash Correctional Facility, where he is doing 22 years for a murder he committed after leaving Alaska.

Assistant District Attorney Adrienne Bachman said Alaska will seek to extradite Poirier and will try him for Hainta's death. Charging documents filed Monday say he has confessed to strangling her in the back of a blue van he used in his carpet business.

If Poirier is convicted here, he will be returned to North Carolina to serve out his sentence there then returned to do his Alaska time, Bachman said.

In Oklahoma, where Hainta was born, her sister Emma Hainta was surprised to hear that anyone in



Anchorage police detective Scott Jessen traveled to North Carolina to confront Eugene Poirier with evidence against him in the killing of Doris Ann Hainta. Poirier eventually admitted strangling Hainta. (Jim Lavrakas / Anchorage Daily News)

Anchorage still cared about solving her sister's slaying and was pleased someone's been charged in Sunny's death.

The family often tried to talk Sunny into coming home. She became a prostitute in her teens and seemed unable to get out of the life, Emma Hainta said. She came to Alaska in the mid-1980s to start a new life. But it didn't work.

"She had no confidence," Hainta said. "She didn't have the drive to do anything different."

The family, which includes an ex-police chief, didn't approve of her life but they loved and accepted her, Hainta said.

"I always thought it would be AIDS that would get her. I was prepared for that. I knew one day she would be knocking at my door."

The Hainta case, old and cold, was solved because police officers stationed at opposite sides of the continent made an extra effort and because in March the Alaska State Scientific Crime Detection Laboratory began using DNA technology capable of making positive identifications.

The first break was a 1998 computer message from Det. Sgt. Julie Gibson of the Iredell County sheriff's office, a blind query to police departments in cities where Poirier had lived before he showed up in North Carolina in 1997. A 16-year-old girl, Christy Rambo, a neighbor of Poirier and his wife, had been strangled in August of that year, her body dumped by the side of a country road about five miles from the trailer park where she and Poirier both lived. She'd been doused with gasoline and set on fire.

Poirier was one of several suspects. Could Anchorage police check him out? Gibson asked.

Poirier's name had not surfaced in the Hainta investigation, but when Sgt. Mike Grimes, then head of homicide, looked at him, bells rang. He owned a blue van. His uncle had a business close to where Hainta's body was found.

If Anchorage had no suspects in Hainta's death, Iredell County had too many in the Rambo case: her boyfriend, another man she told friend had made threats, and a man she said had raped her and was set to testify against the following week. Poirier and his wife were casual friends with Rambo, and he had been seen talking to her in his driveway before she disappeared. But he wasn't at the top of the list until he started acting "pretty odd," Gibson said. "He pushed himself into the investigation. We had to almost push him away from us. He just stayed in our face ... so we paid him a little more attention."

Then Poirier turned up on a convenience store security video buying gasoline about an hour after Rambo disappeared, less than an hour before someone spotted her still-burning body.

He eventually admitted the killing but refused to give any details, Gibson said. He was charged with first-degree murder, a death penalty case. But questions were raised about the admissibility of the confession, and last October the district attorney accepted a plea to second-degree murder. Because he had no prior record, Poirier got the minimum mandatory sentence, 22 years without parole.

While Poirier was still awaiting trial, Anchorage police detective Larry Arend, who was originally in charge of the Hainta case, asked Iredell sheriffs if they could send a sample of Poirier's blood north. They could.

At the time, Alaska's crime lab was certified only for six-point DNA matches. They got a six-point match on Poirier, Bachman said. But legal identification in criminal cases requires 13 points of match. It cost from \$1,000 to \$2,000 to have the test done in a private lab. Anchorage police don't have the money to do them all, said Anchorage detective Scott Jessen, who took over the case when Arend retired.

Poirier was in prison, not a danger to other women and the test could wait, police reasoned.

By March, the crime lab staff was trained and the DNA operation accredited. And it had a one-year backlog of cases involving violent crimes. Each test takes six weeks, said lab director George Taft. Jessen pushed. In September, the Hainta results were certified: Poirier was a match.

With what looked like a solid case, Chief Duane Udland sent Jessen to North Carolina.

"Gene, howya doing?" Jessen said to Poirier. "I'm from Anchorage."

In an office at the prison, Poirier denied knowing Hainta or even where Yakutat Street was. Jessen laid the DNA report on a table in front of him. "This line is semen from Doris," he said. "This is your blood. They match."

It took awhile, but eventually Poirier said he killed Hainta. He picked her up on Fourth Avenue, near the old Hub Bar, according to the account of his confession in the charging document. After having sex, Hainta "spazzed out" on him, he told Jessen. She wanted more money and tried to hit him with a tack hammer. He took the hammer away from her, wrapped an electric cord around her neck and strangled her.

Jessen isn't finished. Poirier spent a lot of time driving around the country. With two murders known, he wonders, what are the chances of more unsolved cases out there? Both victims were strangled, both were Native American -- Hainta was Kiowa. That's the kind of detail the FBI puts in a computer. Jessen has asked them to check their files.

Reporter Sheila Toomey can be reached at stoomev@adn.com or 257-4341.

Close Window :

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HB

230

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 230
 (H) Publish Date: 4/20/01

Revision Date/Time (Note if correction): 04/12/2001 12:30p.m. Dept. Affected: DCED
 Title: Wage and Hour protections for employees of BRU: ARRC
the Alaska Railroad Component: _____
 Sponsor: House Labor and Commerce by request Component Number: _____
 Requester: House Labor and Commerce

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 ()						
------------------------	--	--	--	--	--	--

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)

House Bill 230 does not impact the state's budget because the Alaska Railroad Corporation does not require any state funding to operate. Alaska Railroad employees are paid for through corporate revenues. They are not covered by state public employee contracts, nor do they receive state-funded pensions and benefits. Approximately 545 of the Alaska Railroad's employees are represented by five unions that negotiate contracts with the corporation.

Prepared by: Wendy Lindskoog, Director External Affairs
 Division: Alaska Railroad Corporation
 Approved by: Commissioner Deborah B. Sedwick
 Agency: Department of Community & Economic Development

Phone: (907)265-2498
 Date/Time: 04/12/2001 12:30p.m.
 Date: 4/12/2001

For distribution information, call the Governor's Legislative Office

ALASKA STATE LEGISLATURE

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



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

HOUSE LABOR AND COMMERCE COMMITTEE

Sponsor Statement

HB 230

Railroad Employee Salaries and Wages

House Bill 230 by request of the Alaska Railroad Corporation, serves a dual purpose. It provides Alaska Railroad Corporation (ARRC) employees minimum wage and overtime protection by clarifying that the ARRC is regulated by Alaska's Wage and Hour Act (AWHA). HB 230 also enables locomotive engineers, conductors, and brakemen represented by the United Transportation Union (UTU), to opt out of the Wage and Hour Act if ARRC management and UTU members mutually agree to do so in a collective bargaining agreement.

The ARRC is exempt from the Fair Labor Standards Act, the federal law governing minimum wage and overtime, by virtue of an exemption in that act for employees of rail carriers. If the ARRC is regulated by Alaska's Wage and Hour Act, then ARRC employees will enjoy the wage and hour protections available to virtually all other employees.

Clarifying the ARRC's status under the AWHA not only protects ARRC employees, it provides clear guidance to ARRC management with regard to employee relations. It also protects the ARRC from liability for unintentional violations of employee rights.

The exemption for UTU members provided by HB 230 would not leave UTU members unprotected with regard to hours worked. Unlike most other Alaska Railroad employees, UTU members are protected by the federal Hours of Service Act (HOSA). This Act prevents excessive or unreasonable work hours by limiting the number of hours employees can work to 12 consecutive hours without a required rest period. American Train Dispatcher's Association are also covered by the HOSA, as are a few Transportation Communication Union members.

The UTU exemption is mutually beneficial to the ARRC's operation and the UTU members. It allows ARRC management and UTU representatives to negotiate an agreement allowing UTU employees to be paid on a basis other than an hourly basis (for example, a salary basis or a day rate). This arrangement would enhance UTU member retirement benefits. In exchange, the ARRC would eventually be able to operate trains with a two-person crew, mirroring railroad industry standards and contributing positively to the ARRC's bottom line.

Last Updated: April 3, 2001
Staff Contact: Amy Erickson 465-4954

Michael L. Weatherell
General Chairman

John T. Fleming
Vice Chairman



Jefferson "Lee" Davis
Vice Chairman

Darren M. Rupe
Secretary

555 West Northern Lights #203
Anchorage, AK 99503

Phone 907-279-7117 Fax 907-279-7118
Email utu1626@pci.net

united transportation union

Local 1626

General Committee of Adjustment GO-ARR

The Alaska Railroad Corporation

MEMORANDUM

TO: Alaska Legislaturc

FROM: Mike Weatherell, General Chairman
United Transportation Union
Alaska Railroad

DATE: March 2, 2001

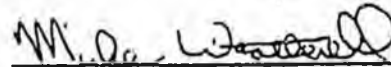
RE: Proposed Changes to AS 42.40.710.

I am General Chairman of the United Transportation Union Local 1626. The UTU represents conductors, engineers, firemen, and brakemen on the Alaska Railroad. We fully support the proposed amendment to AS 42.40.710, which would clarify that the Alaska Railroad is subject to Alaska's Wage and Hour Act and which would also provide a conditional exemption that could apply to our bargaining unit under special circumstances.

Historically, train and enginemen have been paid by the mile. That changed after the Alaska Railroad was purchased by the state. For a variety of reasons, both the Railroad and our members would like to return to a compensation system similar to the one we had. In order to do so, we have to be exempt from Alaska's wage and hour law. To protect both parties, we have provided that the exemption only applies when the agreement is "mutual" and when the agreement is codified into a bona fide collective bargaining agreement. That way, neither party can force an agreement on the other. In the absence of an agreement, Alaska's Wage and Hour Act would apply as it does now. There is also no danger to the public safety. Our members are subject to the federal Hours of Service Act which already governs the number of hours our members can be on the road, rest periods between shifts, etc. This is a win-win proposal for all concerned and I hope you can join us in supporting its passage.

I have worked closely with the other employee groups on the Alaska Railroad. It is my belief and understanding that all represented employees support the passage of this amendment to AS 42.40. Again, we urge your assistance and support.

Date: 5/5/01


Mike Weatherell, General Chairman
United Transportation Union
Alaska Railroad



ALASKA PUBLIC EMPLOYEES ASSOCIATION/AFT(AFL-CIO)

State Headquarters/Juneau Field Office
211 Fourth Street, Suite 306, Juneau, Alaska 99801
Telephone (907) 586-2334, (800) 478-9921, Fax 466-4960

March 30, 2001

Senator Randy Phillips
Alaska State Capitol, Room 103
Juneau, AK 99801-1182

Dear Senator Phillips:

I am writing to let you know that Alaska Public Employees Association/AFT supports the legislation being proposed by the Alaska Railroad and the United Transportation Union which will clarify that employees of the corporation are covered by Alaska's Wage and Hour Act and which will also allow the train and engine men on the Railroad, represented by the United Transportation Union to opt out of the Wage and Hour Act if the parties mutually agree to do so in a collective bargaining agreement. I understand that the UTU employees are negotiating to work as exempt salaried employees. I also understand that the UTU employees are subject to the federal Hours of Service Act so there is no danger of excessive or unreasonable work hours for the employees involved.

Thank you for your attention to this matter.

Sincerely,

Bruce Ludwig
Business Manager
Alaska Public Employees Association/AFT

cc:
United Transportation Union (fax 279-7118)
Ann Courtney, Alaska Railroad (fax 265-2443)
Charles A. Dunnagan (fax 563-7322)

Anchorage Field Office
1689 C Street, Suite 204, Anchorage, Alaska 99501
Telephone (907) 274-1668, (800) 478-9922, Fax 277-4588

Fairbanks Field Office
825 College Road, Fairbanks, Alaska 99701
Telephone (907) 466-6412, (800) 478-9923, Fax 456-7478

Mar-28-01 03:57P John Henry

1-907-279-7118

P.03



Alaska Railroad Workers Local 183

A.F.G.E./AFL-CIO

P.O. BOX 100035

Anchorage, Alaska 99510-0035

Phone (907) 272-8316

Fax (907) 274-5244

To: Alaska Legislation

March 23, 2001

From: Ed Rivera
President ARW

Subject: U.T.U. Wage Proposal

Dear Legislators

I would like to state that the ARW has looked over the proposed changes to AS 42.40.710, and met with the UTU attorney to discuss this issue. After consideration I have found nothing that would impact any of my members or any negative issues associated with this proposal. The ARW therefore supports the change in the law as it is outlined by the UTU. Thank you for your support in this important piece of legislation.

Sincerely

Ed Rivera
President ARW

Sent By: ARR HEADQUARTERS;

9072852312;

Mar-30-01 3:59PM;

Page 7/7

Mar-25-01 03:56P John Henry

1-907-279-7118

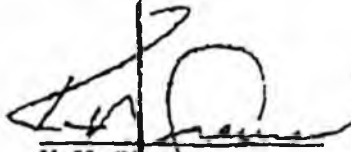
P.02

March 25, 2001

American Train Dispatchers Department/BLE
Alaska Railroad Corporation System
P.O. Box 671490
Chugiak Alaska 99567

The Alaska Legislature,

The A.T.D.D./BLE supports the amendment to AS 42.40.710 proposed by the United Transportation Union Local 1626 and the Alaska Railroad Corporation that states in part UTU employees are exempt from the AWA when mutually agreed to in a collective bargaining agreement.



K. H. Gibbons
General Chairman
American Train Dispatchers Department/BLE

5-11-1998 6:01PM FROM CREW DISPATCH 289243M

HB

243

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 243
() Publish Date: _____

Revision Date/Type (Note if correction): _____ Dept. Affected: Law
Title: "An Act relating to sexual assault or abuse of BRU Criminal Division
a minor." Component All
Sponsor: Representative Dyson
Requester: House Judiciary Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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)
HB 243 relates to sexual abuse of a minor where the definition of the crime depends on the victim being under a certain age. The bill requires that a defendant must have taken reasonable measures such as checking identification or verifying the victim's age with the victim's parents in order to assert the affirmative defense that the defendant believed the victim of be old enough to consent to sexual activity. It would be insufficient for the defendant to rely solely on the word of the victim or the victim's friends.

Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division: Attorney General's Office Date/Time 1/17/02 10:57 AM
Approved by: Bob Meiners for Bruce M. Botelho, Attorney General Date 1/17/2002
Agency: Department of Law



Alaska State Legislature

• Interim (May-Dec) •
10928 Eagle River Rd., Suite 140
Eagle River, Alaska 99577
☎ (907) 694-6683
FAX (907) 694-1015

• Session (Jan-May) •
Alaska State Capitol
Juneau, Alaska 99801-1182
☎ (907) 465-2199
FAX (907) 465-4587

Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

MEMORANDUM

February 26, 2002

To: Senator Taylor,
Chair, Senate Judiciary

From: Fred Dyson
State Representative

A handwritten signature in cursive script that reads "Fred Dyson". Below the signature, the initials "WDC" are written in a smaller, handwritten font.

RE: Request for consideration of HB 243, relating to sexual assault
or abuse of a minor.

I respectfully request that you schedule HB 243 for hearing at your earliest
convenience.

Thank you.

• E-mail •
Representative_Fred_Dyson
@Legis.state.ak.us

• Internet •
<http://www.akrepublicans.org>

**REQUEST FOR
HEARING**



Alaska State Legislature

- Interim (May-Dec) -
10928 Eagle River Rd., Suite 140
Eagle River, Alaska 99577
☎ (907) 694-6683
FAX (907) 694-1015

- Session (Jan-May) -
Alaska State Capitol
Juneau, Alaska 99801-1182
☎ (907) 465-2199
FAX (907) 465-4587

Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

HB 243 Sponsor Statement

"An Act relating to sexual assault or abuse of a minor

Updated: February 8, 2002

Contact: Representative Fred Dyson's office at (907) 465-2199

Periodically, sexual predators use the defense that they did not know that the victim was under age, and, that the victim said he/she was of age. House Bill 243 will force the perpetrator to show they took some action to verify the victim's age. This requirement is a step beyond the claim that they "reasonably believed" the victim was of age.

It is far too likely that fathers of babies born to teen mothers are much older than the mother. According to an Alaska Public Health Publication, 36% of known male partners of teen mothers (17 and under) were 21 years of age or older. There seems to be growing evidence that the teen pregnancies experienced by many young teens are the result of non-voluntary sex.

Our existing law that covers minors having sex with minors whose ages are within three years (AS 11.41.440) will still apply.

- E-mail -
Representative_Fred_Dyson
@Legis.state.ak.us

- Internet -
<http://www.akrepublicans.org>

Sponsor Statement

Sec. 11.41.410. Sexual assault in the first degree.

- (a) An offender commits the crime of sexual assault in the first degree if
- (1) the offender engages in sexual penetration with another person without consent of that person;
 - (2) the offender attempts to engage in sexual penetration with another person without consent of that person and causes serious physical injury to that person;
 - (3) the offender engages in sexual penetration with another person
 - (A) who the offender knows is mentally incapable; and
 - (B) who is in the offender's care
 - (i) by authority of law; or
 - (ii) in a facility or program that is required by law to be licensed by the state; or
 - (4) the offender engages in sexual penetration with a person who the offender knows is unaware that a sexual act is being committed and
 - (A) the offender is a health care worker; and
 - (B) the offense takes place during the course of professional treatment of the victim.
- (b) Sexual assault in the first degree is an unclassified felony and is punishable as provided in AS 12.55.

Sec. 11.41.420. Sexual assault in the second degree.

- (a) An offender commits the crime of sexual assault in the second degree if
- (1) the offender engages in sexual contact with another person without consent of that person;
 - (2) the offender engages in sexual contact with a person
 - (A) who the offender knows is mentally incapable; and
 - (B) who is in the offender's care
 - (i) by authority of law; or
 - (ii) in a facility or program that is required by law to be licensed by the state;
 - (3) the offender engages in sexual penetration with a person who the offender knows is
 - (A) mentally incapable;
 - (B) incapacitated; or
 - (C) unaware that a sexual act is being committed; or
 - (4) the offender engages in sexual contact with a person who the offender knows is unaware that a sexual act is being committed and
 - (A) the offender is a health care worker; and
 - (B) the offense takes place during the course of professional treatment of the victim.
- (b) Sexual assault in the second degree is a class B felony.

Sec. 11.41.425. Sexual assault in the third degree.

- (a) An offender commits the crime of sexual assault in the third degree if the offender
- (1) engages in sexual contact with a person who the offender knows is
 - (A) mentally incapable;
 - (B) incapacitated; or
 - (C) unaware that a sexual act is being committed;
 - (2) while employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, engages in sexual penetration with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment; or
 - (3) engages in sexual penetration with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of the person.
- (b) Sexual assault in the third degree is a class C felony.

Sec. 11.41.427. Sexual assault in the fourth degree.

- (a) An offender commits the crime of sexual assault in the fourth degree if
 - (1) while employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, the offender engages in sexual contact with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment; or
 - (2) the offender engages in sexual contact with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of the person.
- (b) Sexual assault in the fourth degree is a class A misdemeanor.

Sec. 11.41.432. Defenses.

- (a) It is a defense to a crime charged under AS 11.41.410 (a)(3), 11.41.420(a)(2), 11.41.420(a)(3), or 11.41.425 that the offender is
 - (1) mentally incapable; or
 - (2) married to the person and neither party has filed with the court for a separation, divorce, or dissolution of the marriage.
- (b) Except as provided in (a) of this section, in a prosecution under AS 11.41.410 or 11.41.420, it is not a defense that the victim was, at the time of the alleged offense, the legal spouse of the defendant.

Sec. 11.41.434. Sexual abuse of a minor in the first degree.

- (a) An offender commits the crime of sexual abuse of a minor in the first degree if
 - (1) being 16 years of age or older, the offender engages in sexual penetration with a person who is under 13 years of age or aids, induces, causes, or encourages a person who is under 13 years of age to engage in sexual penetration with another person;
 - (2) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian; or
 - (3) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 16 years of age, and
 - (A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or
 - (B) the offender occupies a position of authority in relation to the victim.
- (b) Sexual abuse of a minor in the first degree is an unclassified felony and is punishable as provided in AS 12.55.

Sec. 11.41.436. Sexual abuse of a minor in the second degree.

- (a) An offender commits the crime of sexual abuse of a minor in the second degree if
- (1) being 16 years of age or older, the offender engages in sexual penetration with a person who is 13, 14, or 15 years of age and at least three years younger than the offender, or aids, induces, causes or encourages a person who is 13, 14, or 15 years of age and at least three years younger than the offender to engage in sexual penetration with another person;
 - (2) being 16 years of age or older, the offender engages in sexual contact with a person who is under 13 years of age or aids, induces, causes, or encourages a person under 13 years of age to engage in sexual contact with another person;
 - (3) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian;
 - (4) being 16 years of age or older, the offender aids, induces, causes, or encourages a person who is under 16 years of age to engage in conduct described in AS 11.41.455 (a)(2) - (6); or
 - (5) being 18 years of age or older, the offender engages in sexual contact with a person who is under 16 years of age, and
 - (A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or
 - (B) the offender occupies a position of authority in relation to the victim.
- (b) Sexual abuse of a minor in the second degree is a class B felony.

Sec. 11.41.438. Sexual abuse of a minor in the third degree.

- (a) An offender commits the crime of sexual abuse of a minor in the third degree if
- (1) being 16 years of age or older, the offender engages in sexual contact with a person who is 13, 14, or 15 years of age and at least three years younger than the offender; or
 - (2) being 18 years of age or older, the offender engages in sexual penetration with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim.
- (b) Sexual abuse of a minor in the third degree is a class C felony.

Sec. 11.41.440. Sexual abuse of a minor in the fourth degree.

- (a) An offender commits the crime of sexual abuse of a minor in the fourth degree if
- (1) being under 16 years of age, the offender engages in sexual penetration or sexual contact with a person who is under 13 years of age and at least three years younger than the offender; or
 - (2) being 18 years of age or older, the offender engages in sexual contact with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim.
- (b) Sexual abuse of a minor in the fourth degree is a class A misdemeanor.

Sec. 11.41.445. General provisions.

(a) In a prosecution under AS 11.41.434 - 11.41.440 it is an affirmative defense that, at the time of the alleged offense, the victim was the legal spouse of the defendant unless the offense was committed without the consent of the victim.

(b) In a prosecution under AS 11.41.410 - 11.41.440, whenever a provision of law defining an offense depends upon a victim's being under a certain age, it is an affirmative defense that, at the time of the alleged offense, the defendant reasonably believed the victim to be that age or older, unless the victim was under 13 years of age at the time of the alleged offense.



Alaska Association of Chiefs of Police

January 3, 2002

The Honorable Fred Dyson
Alaska House of Representatives
State Capitol, Room 104
Juneau, AK 99801-1182

Re: Support for HB 243

Dear Representative Dyson:

As you are aware, the Alaska Association of Chiefs of Police is actively engaged in supporting or opposing legislation that impacts law enforcement efforts in Alaska.

I would like to advise you of our support for HB 243, which appropriately places the responsibility for determining the age of potential sexual partners where it belongs. To often in the past, perpetrators have been able to avoid conviction by claiming they "thought" the person appeared to be older.

If we can be of any assistance during the upcoming hearings, please let me know.

Thank you for your efforts on behalf of Alaska's youth.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Clemons".

Tom Clemons
President, AACOP

April 26, 2001

Representative Dyson:

I am sorry I was unable to speak on HB 243. I expect that the Chairman was unaware that I was on line. I had called in as a representative of the Department of Public Safety to support your bill.

I wanted to tell the committee that we supported this bill for a couple of reasons;

- 1) The bill provides for a two prong requirement for the defendant:
 - a) that he/she had reason to believe the "partner" was of age; and
 - b) that the defendant took some positive step to confirm the age of the partner prior to having sex.
- 2) Currently, if a person is charged with a sexual offense and his defense is that he/she "reasonably believes" there is a good chance that prosecution will not go forth. As you know, "reason to believe" is difficult to prove. This bill extends reasonable belief by requiring that the defendant present some additional evidence that he/she actually had some credible information which was used to establish his/her reasonable belief.
- 3) Typically what happens is a young teen goes to a teen club or private party where they meet up with one or more young adults and before the night is over there are sexual relations. When these cases are reported to the police the investigation is started and most of the time the suspect admits to the sexual act but says it was consensual and when confronted about the age of the partner, the suspect usually says he/she said they were 16 or older and the suspect believed it. At that point prosecution is difficult because of the current affirmative defense. We believe that requiring some additional action would be very beneficial to the prosecutors, victims and potential future victims.
- 4) The bottom line is the offender does not get a free pass simply based on his/her statement "I reasonably believed the victim to be that age or older." This bill establishes the requirement that a person must take some form of responsible action to confirm the age of the other person before having sex.

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Lieutenant Steve Dunnagan
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