

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10636 SENATE LABOR & COMMERCE 481



Alaska Pet Care

VETERINARY HOSPITAL & BOARDING LODGE

March 6, 2002

Representative Ken Lancaster
State Capital
Juneau, AK 99801

Representative Lancaster:

It has been brought to my attention there have been two pieces of legislature submitted to the Alaska House of Representatives which concern me. These bills are HB-306 and HB-372. I highly oppose the proposed changes in this legislation affecting the safety and welfare of both people and animals in Alaska. As a practicing and licensed veterinarian in the state of Alaska I believe that the practice of veterinary medicine is best served by individuals like myself who have the education and experience in this field. I feel these bills represent a serious risk to the general public, animal welfare and the veterinary profession. I highly recommend that you do not support either of these bills. Feel free to contact me with any questions you may have regarding this issue.

Sincerely,

Hilary Humm, D.V.M.
Alaska Pet Care
3900 Lake Otis Parkway
Anchorage, AK 99508
(907) 562-7387



Alaska Pet Care

VETERINARY HOSPITAL & BOARDING LODGE

RECEIVED
MAR 13 2002

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Sincerely,

Jackie Frederickson, D.V.M.

Alaska Pet Care
3900 Lake Otis Parkway
Anchorage, AK 99508
(907) 562-7387



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Sincerely,

Karen Brophy, D.V.M.
Alaska Pet Care
3900 Lake Otis Parkway
Anchorage, AK 99508
(907) 562-7387



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Sincerely,

Michelle Humphreys

Michelle Humphreys
Alaska Pet Care
3900 Lake Otis Parkway
Anchorage, AK 99508
(907) 562-7387



Alaska Pet Care

VETERINARY HOSPITAL & BOARDING LODGE

RECEIVED

MAR 13 2002

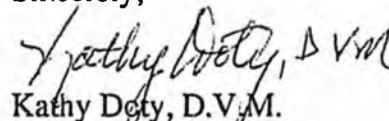
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Sincerely,



Kathy Doty, D.V.M.
Alaska Pet Care
3900 Lake Otis Parkway
Anchorage, AK 99508
(907) 562-7387



Alaska Pet Care

VETERINARY HOSPITAL & BOARDING ~~EDDDEE~~

MAR 13 2002

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Sincerely,

Mary Ann Hollick, D.V.M.
Alaska Pet Care
3900 Lake Otis Parkway
Anchorage, AK 99508
(907) 562-7387



Fax

Date: Friday, March 15, 2002
To: Rep. Ken Lancaster, 907-465-2693, 907-465-3835 (fax)
Attn: Amy
From: Victoria C. Faeo
HC30 Box 5478-W
Wasilla, AK 99654

Subject: HB 306 Small Animal Euthanasia Bill

Number of pages including cover page: 3

Hi, Amy. Here is the *Frontiersman Spectrum* article I wrote on November 1, 2000 about the Mat-Su Borough Animal Care and Regulation Shelter's policies. After this article was printed I worked with John Duffy, the Borough Manager, and Betty Vehrs, who is on the Animal Care and Regulation Board, to successfully rewrite the shelter's Policy and Procedure Manual, but according to Betty on March 14, 2002 "uncontrolled activities are rampant at our shelter." She says that the shelter has a caring and compassionate contract veterinarian now who "in some cases refuses to destroy some animals that are set for euthanasia at the whim of shelter assistants." Without this kind of check and balance system many more healthy and adoptable animals will be euthanized unnecessarily. Even though this problem has been exposed to the public for over a year now, the shelter is still not complying. I just found this out yesterday, so I'm not sure why yet. But in Alaskan communities like those in the MSB, evidence exists to show that the problem is not the lack of humanely euthanizing suffering animals but the thoughtless disposal of too many animals when time and space exist to aid in their adoption. Please reconsider the passing of this bill in the Senate. With current policies at the MSB shelter the money this bill might save will not be spent to improve the inhumanity to animals.

Thank you,
Victoria C. Faeo
907-786-4113
Victoria@cbpp.uaa.alaska.edu

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asked to retain two judges:
rt and Suzanne Lombardi of

BUSINESS & PUBLIC POLICY

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Animal Control policy should be changed

The Mat-Su Valley Animal Control Shelter located on West 49th State Street in Palmer is too quickly euthanizing dogs that are brought in by their owners.

I have experienced this firsthand, and came to this conclusion cautiously after observing shelter practices during three separate weeks, from March 2000 to August 2000. I respectfully request support from the Valley community and Borough government to have their policies reviewed and the shelter adopt more humane practices.

My most unsettling experience, about which I still feel stabs of heartfelt pain, was in August. I visited the facility on a Thursday evening (the shelter is open until 8 p.m. on Tuesdays and Thursdays) looking for a straying pup for a friend. As I usually cannot help but do, I read the tags on all of the kennels which state when the pet arrived, if it was picked up as a stray or released by its owner, its age, breed, and sex.

I fell in love with two 6-month old puppies at once, and decided to adopt them myself. Their tags said "terrier cross" but they looked more like tall leggy Briard/Gordon Setter crosses with all of the silky beauty of the setter plus a little curly hair on their noses.

To me they were the dogs I had always dreamed of — unique, very affectionate, and glossy beautiful. They were released

by their owner along with a female puppy and the mom earlier that day. It was almost 8 p.m., closing time, so knowing that each dog has a minimum of three days until euthanasia, I decided to come back Saturday morning.

I was told the vet was coming Friday morning to euthanize, so I cried for all of the animals who had run out of time and would be euthanized the next day.

There were about 10 that fit into this category. Mostly strays which are kept for a week hoping to be claimed. The Anchorage shelter will keep a dog for two weeks, even more, if there is room, but this shelter is small and I knew they wouldn't/couldn't. All of the kennels were full, but the 6-month-old puppies had arrived only hours before and were each in separate kennels side by side. I knew they could always be combined.

There was a litter of six very small young puppies, all in one kennel, who had also been owner-released that day, so I knew they also would be OK for now. I drove home thinking how cute the pictures of the terrier-crosses were going to look up on the Shelter's Web site.

Friday at work I was elated. Saturday morning arrived and I entered the shelter to find the entire left side of the adoptable

Spectrum

Victoria C. Faeo

row of cages empty! I knew right away that not that many dogs had time-out dates on their tags.

And, the whole family of terrier-crosses I was looking at were gone. The whole litter of young puppies was also gone, and many others that had just arrived two days before.

In disbelief, I asked a shelter official if the terrier crosses had been adopted or rescued by an organization. They were so beautiful — they almost appeared to be purebred.

She shot back "My vet came yesterday!" I said, "I know, but the terrier-crosses still had two days!"

She said "It took me 2-1/2 hours to clean all of the cages that night! We were full!"

I was stunned, and protested, "But, why?" She said, "We have the option to do what we want with owner-released dogs!"

So, that was it then, that was the reason. The law apparently says if the dog is owner-released and therefore no person has legal recourse, they can euthanize it immediately, without regard to adoptability, health, age, time, anything.

Even six small puppies that eat little, take up little space, are healthy, active, and have a high adoption potential are "dis-

See FAEO, Page A11

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FAEO: Pet owners should be responsible

Continued from Page A6

posable" in a matter of hours. All of the animals on the left side of the single row of adoption cages were euthanized that Friday morning. There were easily 20 living bright-eyed beings that were killed.

The decision to kill so many was not necessary. Ten to 15 cages would have been vacated by the euthanasia of animals whose time was up. Even three days isn't time enough to decide on a lifelong commitment.

Euthanizing animals just hours after arrival is just not humane. Not only did it end the lives of innocent beings, but it harmfully affected mine and that of any other person who happened to be aware of what happened.

I even wonder if one objective was to avoid the new arrivals being photographed by the young Web site volunteer that weekend. Photographing pets certainly lengthens their stay while they are being made available to be viewed on the Web.

I understand the terrible burnout and frustration that must occur from working in a shelter, but if that is the case,

then the work situation should be adjusted — not innocent puppies euthanized!

Over the period of the summer I witnessed similar procedures at the shelter and believe the Valley community is unaware of this practice. So many people bring whole litters of puppies to the Mat-Su Shelter in the belief that some, or maybe even most, will be adopted.

I don't think these owners realize that their whole litter may not see the dawn of a new day.

If you agree that these practices should be reviewed, call, write, or send an e-mail message to:

- Matanuska-Susitna Borough Mayor Tim Anderson, 350 E. Dahlia Ave. Palmer, AK 99645-6488; (907) 745-9682; Tim.Anderson@MSB.co:Mat-Su.ak.us

- House District 28 Rep. Beverly Masek, State Capitol, Room 432, Juneau, AK 99801-1182; (800) 505-2678; Representative.Beverly.Masek@legis.state.ak.us

- Senate District N Sen. Lyda Green, State Capitol, Room 125, Juneau, AK 99801-1182; (907) 465-6600; Senator.Lyda.Green@legis.state.ak.us

- Mat-Su Borough assembly member District 5 Jody Simp-

son, 350 E. Dahlia Ave. Palmer, AK 99645-6488; (907) 892-5636; jesimpson@gci.net.

- Gov. Tony Knowles, P.O. Box 110001, Juneau, AK 99811-0001; (907) 465-3500; tony_knowles@gov.state.ak.us

If you are having trouble finding homes for your puppies, or know people who are, call me, I can help. Please do not take them to the Mat-Su Shelter, or, even worse, abandon them. Be responsible men and women. Take up the challenge and find your puppies and kittens a home.

If you or your children yearn to experience new life, go to the Mat-Su Shelter and play with the baby animals there. Realize that many of them will not be alive tomorrow. If you

are stressed out by caring for a litter, that is a normal feeling, call me and I will help.

I am starting a nonprofit newsletter to find homes for animals and teach pet owners new ways to care for pets in their lives.

I will begin distribution after licensing is approved, but regardless of these efforts or those of others, the Mat-Su Shelter will continue its practices unless we have it reviewed.

Please write or call. The animals have no one to help them but you.

Victoria C. Faeo is a Knik resident. She can be reached at 357-8086 or victoria@cbpp.uaa.alaska.edu.

**MATANUSKA-SUSITNA BOROUGH
SCHOOL DISTRICT**

SCHOOL BOARD WORK SESSION

PALMER HIGH SCHOOL

NOVEMBER 8, 2000

6:30 PM



FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 306 (L&C)
() Publish Date: _____

Revision Date/Time (Note if correction): 02/11/02 3:15 PM Dept. Affected: DCED
Title An Act authorizing...DCED to issue permits... BRU: Occupational Licensing (117)
for euthanizing domestic animals. Component Occupational Licensing
Sponsor Representative Lancaster
Requester House Labor and Commerce Component No. 2360

Expenditure/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Receipt Supported Services)	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						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

CSHB 306 (L&C) establishes a new program to issue permits to certain agencies that qualify to euthanize domestic animals. It is anticipated that at least 20 agencies will be issued permits. The bill also places the new program under the self-sufficiency mandate of AS 08.01.065. Fees will be established to cover the costs of the program. Based on a program similar in size and structure, initial fees are estimated at \$450.00 per licensee.

Prepared by: Jennifer Strickler, Administrative Manager
Division: Occupational Licensing
Approved by: Deborah B. Sewick, Commissioner
Agency: Department of Community & Economic Development

Phone (907) 465-2144
Date/Time 2/11/02 3:14 PM
Date 2/11/2002

HB

319

ALASKA STATE LEGISLATURE

REPRESENTATIVE
PETE KOTT
10928 Eagle River Rd Ste. 141
Eagle River, Alaska 99577
(907) 694-8944
FAX (907) 694-8945



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3777
FAX (907) 465-2519

House of Representatives
House District 24

Sponsor Statement

HB 319

One of Alaska's major attractions is outdoor adventure opportunities and the businesses that coordinate access to them. They are synonymous with Alaska lifestyles and visitor expectations, yet the associated liability insurance costs continue to be a tremendous obstacle for Alaska's businessmen and women that provide these commercial recreation opportunities.

HB 319 establishes the responsibilities of commercial recreation businesses and the responsibilities of persons who elect to participate in recreation activities. It addresses specific guidelines operators and participants must follow to minimize the possibility of accidents. Commercial businesses remain responsible for meeting safety standards and for providing trained and competent personnel, as outlined in Section 05.50.040.

However, HB 319 adds the presumption that a participant accepts the inherent risks of a commercial recreation activity and as such plays a part in damages resulting from that inherent risk. Likewise, a non-paying guest who is transported by a non-commercial aircraft or watercraft is considered to have assumed the same inherent risks as the commercial recreation user.

This legislation decreases uncertainties regarding the legal responsibilities for injuries and encourages the continued viability of responsible businesses that offer commercial recreational activities to the public. Existing legal uncertainties have resulted in high liability insurance costs. HB 319 helps avoid unfair and unreasonable claims that make it difficult to provide recreational and outdoor activities that Alaskans are so proud of.

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House of Representatives
House District 24

Sectional Analysis CS for HB 319

Section 1: Establishes the purpose of the bill, which is to decrease the legal uncertainties regarding liability for injuries that result from participation in commercial recreational activities.

As well, the purpose of this legislation is to encourage the continued availability of businesses that offer recreational activities to the public.

Section 2: Amends Title 5 – Amusements & Sports, by adding a new chapter entitled, “Civil Liability for Commercial Recreational Activities.”

1. This chapter establishes an acceptance of inherent risk on the part of the participants and responsibilities of the operators. Specifically,
 - a. **Acceptance of inherent risks.** Participation in a commercial recreational activity constitutes acceptance of the inherent risks.
 - b. **Contributory negligence.** A person who accepts the inherent risks of a commercial recreational activity is contributorily negligent to the extent that the inherent risk caused the injury or loss. An action to recover damages shall be reduced for contributory negligence as provided under *AS 09.17.060.
 - c. **Responsibilities of participants.** The participant is responsible to learn about and to expressly accept the risks of the activity and they must heed all relative warnings. They must act within the constraints of their health. The participant must heed all warnings regarding their The participant must maintain control of themselves, any minors under their control and any equipment or animals that the participant is using. The participant must not act in a fashion that could contribute to the injury of another participant.
 - d. **Responsibilities of operators of commercial recreational activities.** An operator must explain to the participants the fundamental inherent

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House of Representatives House District 24

risks of the commercial recreational activity and must explain the skills and equipment that are not apparent to a novice. The operator must ensure that employees that assist participants are trained in basic first aid and in CPR. The operator must maintain all equipment, provide trained and competent employees and act in a reasonably safe and competent manner.

- e. **Interaction with other laws.** This chapter doesn't affect the immunity of the ski area operator immunity or owner of unimproved land.
- f. **Effect of violations.** A commercial operator who breaches their responsibilities laid out in this chapter is negligent and liable to the extent that the breach caused injury or loss to a participant.

Section 3: Amends Title 9 by adding a new section entitled, "Civil liability for aircraft and watercraft guest passengers."

1. This chapter establishes that an owner or operator is not liable for civil damages of their guest except for damages resulting from:
 - a. gross negligence or reckless or intentional misconduct
 - b. an act or omission of a common carrier owner or operator
 - c. an act or omission that occurs while demonstrating an aircraft or watercraft to a prospective buyer
2. This new section also provides that if the owner or operator has insurance is not liable for damages that exceed their insurance coverage.
3. The owner or operator is not shielded by this chapter if they fail to provide notice to the guest that they are uninsured.

***09.17.060 Effect of contributory fault.** In an action based on fault seeking to recover damages for injury or death to a person or harm to property, contributory fault chargeable to the claimant diminishes proportionately the amount awarded as compensatory damages for the injury attributable to the claimant's contributory fault, but does not bar recover.

Alaska State Legislature

House of Representatives

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



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

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801

The Critical Need for HB 319

By Rep. Pete Kott

Over the past 20 years, many recreation-oriented states have enacted statutes defining the inherent risk doctrine pertaining to commercial recreational activities. Theoretically, general common law has held that a recreation provider has no duty to protect participants from the inherent risks of recreational activities and no corresponding liability to participants for injury or loss resulting from those inherent risks.

In the real world, recreational providers can be and very often have been held responsible if a court or jury finds that their negligence caused the participant's injuries.

Unfortunately, the line between inherent risk and negligence is often blurred. Negligence is a provider's failure to fulfill a duty owed to the participant – the duty generally being to exercise reasonable care under the circumstances. The inevitability of a certain level of danger in sport is recognized in law by means of the concept of inherent risk.

Most providers will state that while they've rarely been taken to court, they must frequently fend off threats of lawsuits. Many of these types of claims would not stand up in court, but fighting them is costly for the businesses in terms of legal expenses, insurance premiums and settlement costs.

Because of the court's inconsistent decisions over these principals many states have taken an alternative path and have enacted statutes that define recreation law.

Some states have enacted statutes that cover one activity. For example, Colorado has a Ski and an Equine Act. These statues attempt to define the types of inherent risks specific to the activity. Nevada has a statute that

Representative Pete Kott

JUNEAU OFFICE (907) 465-3777 TOLL FREE 1-800-861-KOTT(5688) FAX (907) 465-2819
EAGLE RIVER OFFICE (907) 694-8944 FAX (907) 694-8945 E-MAIL: representative_pete_kott@legis.state.ak.us
<http://www.akrepublicans.org/Kott.htm>



covers amusement and recreational attractions. Before one boards the roller coaster at New York, New York, signage instructs the participant that by boarding the ride, they specifically understand the inherent risks and if a claim for damages is made, that person will be considered contributing to their own loss.

Wyoming and Vermont, on the other hand have enacted broad "Recreation Safety Acts" that covers all recreational activities. These state statutes generally define inherent risks, but do not include an exhaustive list of risks or a list of provider duties.

Alaska has enacted the Alaska Ski Safety Act where a skier's participation means that they have accepted the inherent risks of skiing and the ski area operator is shielded from liability. Similar to the bill before you now, the Ski Safety Act identifies the responsibilities of the both the participant and the operator.

Another area that Alaska has taken action is for private landowners of unimproved land.

Noting that participation in outdoor recreation carries with it many inherent risks, HB 319 seeks to decrease the uncertainties regarding the legal responsibilities for injuries or loss. HB 319 establishes the responsibilities of commercial recreation businesses and the responsibilities of persons who elect to participate in recreation activities. It addresses specific guidelines operators and participants must follow to minimize the possibility of accidents. Commercial businesses are still responsible for meeting safety standards and providing trained and competent personnel, as outlined in Section 05.50.040.

However, HB 319 will add the presumption that a participant accepts the inherent risks of a commercial recreation activity and as such has played a part in any damages resulting from that inherent risk.

This legislation will decrease uncertainties regarding the legal responsibilities for injuries and encourage the continued viability of responsible businesses that offer commercial recreational activities to the public. This bill will help avoid unfair and unreasonable claims that make it difficult to provide recreational and outdoor activities that are synonymous with Alaska lifestyles and visitor expectations.

Likewise, a non-paying guest who is transported by a non-commercial aircraft or watercraft is considered to have assumed the same inherent risks as the commercial recreation user.

The addition of Section 3 amends AS 09.65 **Actions, Immunities, Defenses and Duties** by adding a section that shields owners or operators of watercraft or aircraft under certain circumstances related to their guests.

Again, the intent is to provide clarity and set out the responsibilities of the aircraft and watercraft owners. It would prevent the family of a pilot from losses due to anything other than gross negligence.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Ed & Inge Crane

5260 Lupin Place
Anchorage, AK 99507

April 4, 2002

Representative Pete Kott
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Kott,

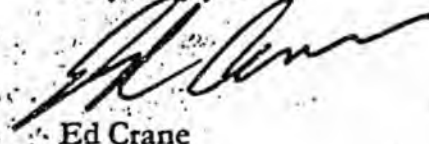
Thank you for your sponsorship of HB 319. Should it become law, it will resolve a range of dilemmas which confront most private pilots and/or aircraft owners in one way or another.

My aircraft (a PA 28-180) is modest with respect to market value, maintenance and operating costs, and capabilities. Nevertheless, it is a source of much enjoyment as well as an indulgence which my spouse and my circumstances can tolerate.

Over the years, a particular and recurring pleasure has been to treat friends and visitors to the awesomeness and beauty of parts of Southcentral Alaska that can be accessed by a simple and inexpensive flight. Because my lifestyle affords an association with younger people, even greater joys have accrued through the introduction of literally dozens of youngsters to general aviation.

For the past few years, though, as I've had to more seriously contemplate the future for myself and my family, and as I've watched our society become increasingly litigious, those activities have been curtailed. Today, I fly either alone or with my wife only. Because of my record, I am one of those pilots still able to buy insurance (for about \$2,800 annually, and even at that cost it does not cover off-airport operations). However, my policy limits coverage to \$100,000 per passenger. From a practical standpoint, this creates elements of uncontrollable risk which I cannot tolerate. The passage of HB 319 will alleviate that situation in a dramatic way!

Very truly yours,



Ed Crane

Alaska State Legislature
House of Representatives

April 16, 2002

RE: HB 319, Recreational Liability

Distributed by Rep. [Signature]

Dear Representative:

House Bill 319 will be on the floor before you shortly. I urge you to pass this piece of legislation so it may go on to be considered on the Senate side.

I have testified for several years on behalf of Recreational Liability. Here is a brief synopsis I can tell you from 20 years of experience as a Commercial Outdoor Recreation Provider. It will save our businesses both money and wasted time in the short term from fighting off frivolous claims to keep them out of very expensive suits in court. It will save us more in the long term through both the above and through reduced insurance costs. This legislation will particularly help small businesses, 90% of Alaska tourism business have less than five employees, who face ever increasing costs and an increase in the number and size of frivolous claims.

You probably don't notice many businesses going away from specific injury suits. That's generally not how it happens. What happens is the cost and time of defending yourself from these claims as well as drastically increasing insurance rates starts to outweigh the advantages of owning your own business. The bottom line gets eaten away enough that the risk is no longer worth it. At that point the business either tries to sell to someone bigger or just goes away.

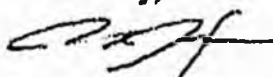
Here's a perfect example for you. In the last three years we have shutdown seven tours that were profitable, but the risk began to outweigh the benefit. This legislation would have solved that and we would probably employ another 30 - 50 people if we still ran them. We have also been approached by probably 15 small businesses in the same time period asking us to buy them. We didn't because of this risk factor and I suspect they wouldn't have been eager to sell if they knew their whole net worth was not on the chopping block every time someone tripped over their own two feet.

The fact is that some of the traveling public and some less than honorable attorneys from out of state have become so adept at being able to squeeze thousands of dollars out of operators, knowing that court would cost tens of thousands, that it has become a pervasive problem. In Alaska we offer pristine wilderness and outdoor opportunities that don't exist elsewhere. Our guests want to go to these untamed areas and do adventurous activities. Yet when part of that untamed wilderness or activity causes harm, we pay even if it's not our fault.

This Legislation will help Alaska tourism businesses. It will put some accountability back into making a decision about the outdoor activity a guest to Alaska chooses to participate in. It will put some fairness back into an industry that needs your help.

Thank you for your time. I ask you to pass HB 319.

Sincerely,



Michael J. Windred
Director of Operations



FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 319(L&C)
 (H) Publish Date: 3/15/02

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Recreational Activity Liability BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Kott
 Requester House Labor and Commerce 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 ()						
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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)

The court system does not anticipate any fiscal impact from the passage of HB 319.

Prepared by: Douglas Wooliver Phone 463-4750
 Division: Alaska Court System Date/Time 3/14/02 2:12 PM
 Approved by: Stephanie Cole Date 3/14/02
 Agency: Alaska Court System

HB

355

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 355(CRA)
(H) Publish Date: 3/15/02

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2002) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See page 2.

Prepared by: Chuck Harlamert, Revenue Audit Supervisor Phone 465-4773
Division: Tax Division Date/Time 3/14/02 7:13 PM
Approved by: Larry Persily, Deputy Commissioner Date 3/14/2002
Agency: Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. CSHB 355(CRA) - FN#1

ANALYSIS CONTINUATION

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

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

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

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 House Bill 355

Mobile Telecommunications Tax

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

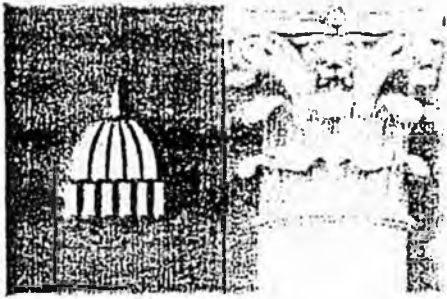
Without clear, national rules for determining which jurisdiction is permitted to tax the call, the possibility exists that the same call could be subject to taxation in multiple jurisdictions, or that a call might escape taxation all together. House Bill 355 conforms Alaska statutes to the federal Mobile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

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

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

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

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



National Conference of State Legislatures

LEGISBRIEF

BRIEFING PAPERS ON THE IMPORTANT ISSUES OF THE DAY

MARCH 2002

VOL. 10, No. 14

State Conformity to the Mobile Telecommunications Sourcing Act

By Graham Williams

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

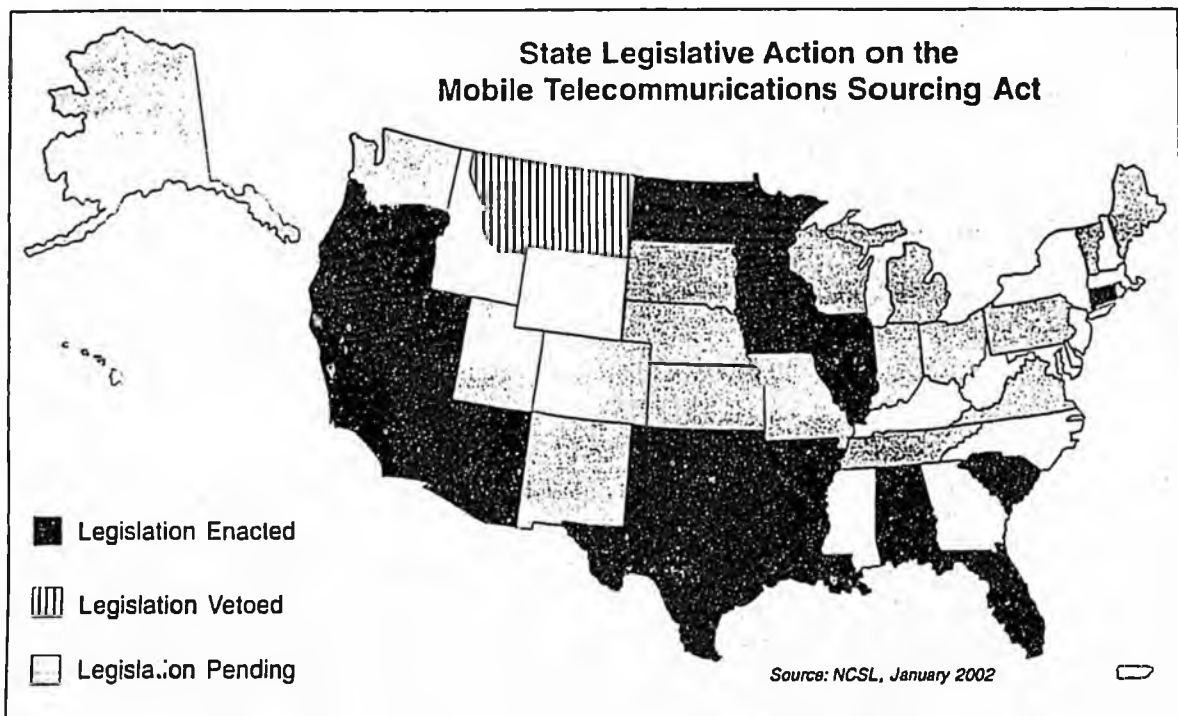
The changing nature of telecommunications is forcing policymakers at all levels to re-evaluate their tax codes. A perfect example of this new pressure is the rapid growth of wireless communication. As state telecommunications policy developed, it was relatively easy to determine which jurisdiction had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

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

Federal Action

Congress passed the Mobile Telecommunications Sourcing Act in 2000.

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



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

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

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

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

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

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

State Action

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

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

Contacts for More Information

Graham Williams
NCSL—Washington, D.C.
(202) 624-8683
graham.williams@ncsl.org

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

Jeff Dale
NCSL—Denver
(303) 830-2200 ext. 237
jeff.dale@ncsl.org

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

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

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

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

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

"(10) RESELLER.—The term 'reseller'—

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

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

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

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

"§ 125. Nonseparability

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

"(1) is based on Federal law;

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

"(3) substantially limits or impairs the essential elements of sections 116 through 125 of this title,

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

"§ 126. No inference

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

HB

389

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
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Fax -(907) 373-4729



Session:

State Capitol Building, Room 24
Juneau, Alaska 99801-1182
(907) 465-2186
Fax - (907) 465-3818

REPRESENTATIVE VIC KOHRING
DISTRICT 26

SPONSOR STATEMENT

HOUSE BILL 389

MUNI TAX EXEMPTION: DETERIORATED PROPERTIES

Alaska Statute 29.45.050 allows municipalities to exempt certain properties from property taxes. Historical sites, non-profit organization properties, and student housing are examples of allowed exemptions.

AS 29.45.050(o) allows municipalities to exempt deteriorated properties once substantial rehabilitation improvements have started. This concept is to encourage economic revitalization and increase a municipality's tax base.

AS 29.45.050(o) sunsets July 1, 2002. This bill deletes the sunset clause.

There are many safeguards within the statute to protect the public from potential abuse of the tax exemption by individuals. In order to qualify for the tax exemption, several steps must be taken by the local governing body. The statute will still require that the "deteriorated property"

(1) has been the subject of an order by a government agency requiring the property to be vacated, condemned, or demolished by reason of noncompliance with laws, ordinances, or regulations;

(2) has a structure on it not less than 15 years of age that has undergone substantial rehabilitation, renovation, or replacement, subject to any conditions prescribed in the ordinance; or

(3) is located in a deteriorating or deteriorated area with boundaries that have been determined by the municipality.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 389(CRA)
 (H) Publish Date: 2/27/02

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Municipal Tax Exemption: Deteriorated Property BRU Community Assist & Econ Dev. (405)
 Component Community & Business Development
 Sponsor Representative Kohring
 Requester House Community & Regional Affairs Component No. 2486

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2002) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill does not impact the operations of the department.

Prepared by: Pat Poland, Director
 Division Community & Business Development
 Approved by: Deborah B. Sedwick, Commissioner
 Agency Department of Community & Economic Development

Phone 907-269-4578
 Date/Time 2/25/02 5:04 PM
 Date 2/25/2002

MARC A. MARLOW

229 Whitney Road
Anchorage, Alaska 99501
Phone: (907) 258-9662 • Fax: (907) 277-0623

February 20, 2002

Representative Kevin Meyer
Representative Carl Morgan, Jr.
Co-Chairmen Community & Regional Affairs

Dear Sirs:

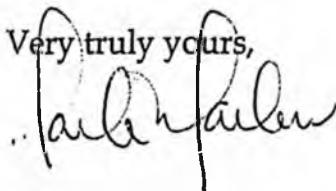
I am writing to request your support for HB 389. This bill extends the sunset provision that was attached to the law when it was first passed in 1998. Passing this bill would allow this law to stay in effect.

This law was originally passed to provide a tool to municipalities that wanted to provide property tax incentives to redevelop deteriorated areas.

Despite the fact the improvements in Alaska are fairly new as compared to some areas in the lower forty-eight, there are some deteriorated areas in Alaska, the redevelopment of which could be hastened if this tool remains available.

I appreciate your thoughtful consideration of my request.

Very truly yours,



Marc A. Marlow

HB 389

MUNI TAX EXEMPTION: DETERIORATED PROPERTIES

Background Information

HB 399 was filed during the 1997 legislative session. HB 399 provided municipalities with the option to exempt and defer municipal property taxes on defined "deteriorated properties." This exemption/deferral was for up to five years once substantial rehabilitation was started and could only be granted once. The intent was to provide tax relief to increase financing options for those willing to rehabilitate condemned properties, eventually resulting in increased property values and municipal property taxes. No expiration date was included.

HB 399 was passed and AS 29.45.050(o) took effect July 1, 1998.

HB 76 was filed in the 1998 session. HB 76 amended AS 29.45.050(o) at the request of the Municipality of Anchorage. The changes were technical amendments to clarify the intent to encourage rehabilitation of deteriorated properties. HB 76 also included an expiration/sunset date of July 1, 2002.

HB 76 was passed and took effect July 1, 1999.

Alaska State Legislature

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE
MILITARY & VETERANS AFFAIRS
COMMUNITY & REGIONAL AFFAIRS
OIL & GAS



Representative Joe Ryan

1 800-922-3875 <http://www.akrepublicans.org>

INTERIM:

716 W. 4TH AVE.
ANCHORAGE, AK 99501
PHONE (907) 258-8161

SESSION:

STATE CAPITOL
ROOM 420
JUNEAU, AK 99801-1182
PHONE (907) 465-3875

SPONSOR STATEMENT for

House Bill 399

The intent of this bill is to authorize local municipalities the option to provide a tax exemption for improvements of deteriorated real property. The concept is based on other state's local economic revitalization tax programs. Local municipalities will have the flexibility of allowing renovations of real property in order to increase the value of that real property, for tax purposes.

ALASKA STATE LEGISLATURE

CO-CHAIR
COMMUNITY AND REGIONAL AFFAIRS

VICE-CHAIR
LABOR AND COMMERCE
TRANSPORTATION

SPECIAL COMMITTEE
ECONOMIC DEVELOPMENT AND TOURISM



REPRESENTATIVE ANDREW HALCRO

District 12

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INTERIM
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ANCHORAGE, AK 99501
(907) 269-0244
FAX (907) 269-0248

Sponsor Statement HB 76

During the last session, the Legislature approved HB 399, which authorized municipal governments to exempt and defer the payment of municipal taxes on deteriorated property. This legislation is reflected in the addition of subsection (o) to AS 29.45.050.

In response to this legislation, the Anchorage Assembly adopted a Municipal Ordinance (OA-98-135) providing for the tax deferral for deteriorated property to encourage redevelopment.

However, because of ambiguities in the new statute, the Municipality of Anchorage has requested technical amendments to AS 29.45.050. These amendments include:

1. Clarifying that a Municipality may either partially or totally exempt a deteriorated property from property taxes;
2. Providing that the exemption may begin any time on or after substantial rehabilitation begins; and
3. Prohibits an exemption and deferral of property taxes to be in effect simultaneously.

These are minor changes to the statute, but are required to fully realize the intent of the legislation passed last year to encourage rehabilitation of deteriorated properties.

Bill Text



BILL ID: HB 76

00 CS FOR HOUSE BILL NO. 76 (RLS) am S

01 "An Act relating to an exemption from and deferral of payment on municipal
02 taxes on deteriorated property; and providing for an effective date."

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

04 * Section 1. AS 29.45.050(o) is amended to read:

05 (o) A municipality may by ordinance partially or totally exempt all or some
06 types of deteriorated property from taxation for up to five years beginning on or any
07 time after the day substantial rehabilitation, renovation, or replacement of any structure
08 on the property begins. A municipality may by ordinance permit deferral of payment
09 of taxes on all or some types of deteriorated property for up to five years beginning
10 on or any time after the day substantial rehabilitation, renovation, or replacement of
11 any structure on the property begins. However, if the ownership of property for which
12 a deferral has been granted is transferred, all tax payments deferred under this
13 subsection are immediately due and the deferral ends, or, if ownership of any [ONLY]
14 part of the property is transferred, all tax payments [ATTRIBUTABLE TO THAT
01 PART] are immediately due. The amount deferred each year is a lien on that
02 property for that year [AND THE DEFERRAL ATTRIBUTABLE TO THAT PART
03 ENDS]. Only one exemption and only one deferral may be granted to the same
04 property under this subsection, and, if an exemption and a deferral are granted to
05 the same property, both may not be in effect on the same portion of the property
06 during the same time. An ordinance adopted under this subsection must include
07 specific eligibility requirements and require a written application for each
08 exemption or deferral. In this subsection, "deteriorated property" means real property
09 that is commercial property not used for residential purposes or that is multi-unit
10 residential property with at least eight residential units, and that

11 (1) has been the subject of an order by a government agency requiring
12 the property to be vacated, condemned, or demolished by reason of noncompliance
13 with laws, ordinances, or regulations;

14 (2) has a structure on it not less than 15 years of age that has
15 undergone substantial rehabilitation, renovation, or replacement, subject to any
16 conditions prescribed in the ordinance; or

17 (3) is located in a deteriorating or deteriorated area with boundaries that
18 have been determined by the municipality.

19 * Sec. 2. AS 29.45.050(o) is repealed July 1, 2002.

20 * Sec. 3. This Act takes effect July 1, 1999.

Bill Root: Display Bill Root



TO REPORT PROBLEMS WITH BASIS INQUIRY

Submitted by: Assemblymember Wohlforth

Prepared by: Assembly Office

For reading: February 2, 1999

CLERK'S OFFICE

APPROVED

Date: 2-2-99

ANCHORAGE, ALASKA

AR NO. 99- 29

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING CERTAIN
AMENDMENTS TO ALASKA STATUTE 29.45.050(o) REGARDING TAX EXEMPTION AND
DEFERRAL FOR DETERIORATED PROPERTY

WHEREAS, in May, 1998, the Alaska Legislature approved HB 399, an act authorizing municipalities to permit, by ordinance, the exemption from, and deferral of payment of, municipal taxes on deteriorated property, and defining 'deteriorated property' for purposes of the exemption or deferral; and HB 399 became law on July 1, 1998 and resulted in the addition of subsection (o) to AS 29.45.050; and

WHEREAS, in September, 1998, pursuant to AS 29.45.050(o), the Assembly adopted AO 98-135, providing for tax exemption and tax deferral for deteriorated property; and

WHEREAS, it has come to the attention of the Municipality that certain ambiguities exist in the state law, AS 29.45.050(o), relating to (1) the intent of the legislature to permit a total exemption, (2) the date when the exemption shall begin, and (3) whether the exemption and deferral are permitted to run consecutively; and

WHEREAS, a bill amending AS 29.45.050(o) has been drafted (see attached) and will be introduced in the state legislature which will clarify the language of AS 29.45.050(o) and will allow partial or total tax exemption for deteriorated property, will permit the exemption to begin on or after the day of substantial rehabilitation, renovation, or replacement of a structure on deteriorated property, and will permit the exemption and deferral to run consecutively for a total of up to ten years; and

WHEREAS, the Assembly finds that the changes to AS 29.45.050(o), as proposed in the draft bill, would benefit the Municipality by stimulating the redevelopment by private enterprise of blighted property within the Municipality.

NOW, THEREFORE, the Anchorage Assembly resolves:

Section 1. That the Assembly supports the proposed amendments to AS 29.45.050(o).

Section 2. That, upon passage and approval, the Municipal Clerk shall forward this resolution to the Alaska Legislature.

PASSED AND APPROVED by the Anchorage Assembly this 2nd day of February,
1999.

For Wohlforth
Chair

ATTEST:

L. L. L. L.
Municipal Clerk



February 10, 1999

To: House Community on Regional Affairs Committee

Att: Chairman Halcro

RE: HB76

From: Rod Pfeleiger
Executive Director

Dear Representative Halcro:

The statute embodied in SB54, AS29.45.050(o), became law last year. Subsequent to that the Anchorage Assembly passes A098-135 to amend municipal code so that the law could be utilized. The municipal attorney asked for the minor changes to AS29.15.050(o) contained in SB54 in order to make things more clear.

This fits into our mission by allowing financing for residential projects which creates an increase in cleanliness, occupancy rates, investments values and lease income, to decrease crime, and to generally stimulate economic development and improve the quality of life in downtown Anchorage.

Please pass SB54 out of your committee so it may become law.

Sincerely,

Rod Pfeleiger

WRITTEN TESTIMONY OF MARGARET J. RAWITZ
IN SUPPORT OF SB 54 AND HB 76

I am an attorney and I have practiced law in Alaska since 1975. I have been closely involved with the legislation providing for municipal authority to grant tax exemptions and tax deferrals for deteriorated property. I researched laws in other states which granted tax exemptions for deteriorated property and drafted the original version of HB 399, which was introduced in the legislature in 1998, and which eventually became codified as AS 29.45.050(o).

After HB 399 was passed, I drafted an ordinance creating a tax exemption and deferral program in the Municipality of Anchorage. This ordinance was passed by the Anchorage Assembly and became codified in AMC 12.35. I have had several discussions with municipal officials regarding certain concerns they have expressed about the interpretation of AS 29.45.050(o) and practical issues relating to timing.

I have drafted SB 54/HB 76, which is now before you. The purpose of SB 54/HB 76 is to clarify language in AS 29.45.050(o) that is potentially confusing. I believe the amendments contained in SB 54/HB 76 will resolve the legal concerns expressed to me by the municipality. Three changes to subsection (o) are proposed in SB 54/HB 76:

- 1) The words "or totally" have been added at line 5, page 1. The original version of HB 399 provided for a partial or total exemption. The bill that finally emerged from committee and became law did not contain the word "totally".

I believe the change may have been the result of a typographical error. I researched the committee reports and could not find any discussion of, or explanation for, the change. It does not make sense to limit the exemption to a partial exemption because no parameters have been specified. By contrast, AS 29.45.050(j) provides for an exemption of "up to 75%". But without such parameters in subsection (o), a 99.9% exemption is permitted as a "partial" exemption. Rep. Joe Ryan, who sponsored HB 399 last year, has advised me that it was his intention to allow a partial or total exemption.

- 2) A change has been made at lines 6-7 and 9-10, page 1. It is not clear whether the statute requires that an exemption or deferral begin only at the time that renovation begins or whether it permits an exemption or deferral to begin at any time after the beginning of renovation. Since most municipalities would prefer to (or are required to) begin a period of exemption or deferral on the first day of the tax year, it is appropriate to permit an exemption to begin at any time on or after the beginning of renovation, since renovation is not likely to begin on the first day of the tax year.

Furthermore, municipalities have an interest in assuring that the renovation is completed. The new language would allow a municipality to delay the exemption and/or deferral until the renovation work has been substantially completed.

- 3) It is not clear whether AS 29.45.050(o) permits a five-year exemption to be followed by a five-year deferral. The addition at lines 2-4 on page 2 makes it clear that a five-year exemption may be followed by a five-year deferral. Again, this was what Representative Ryan intended.



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February 17, 1999

TO: House Community on Regional Affairs Committee

ATTN: Chairman Halcro

RE: HB76

Dear Representative Halcro:

The statute embodied in HB76, AS29.45.050(o), became law last year. Subsequent to that the Anchorage Assembly passed AO98-135 to amend municipal code so that the law could be utilized. The municipal attorney asked for the minor changes to AS29.45.050(o) contained in HB76 in order to make things more clear.

Please pass HB76 out of your committee so it may become law.

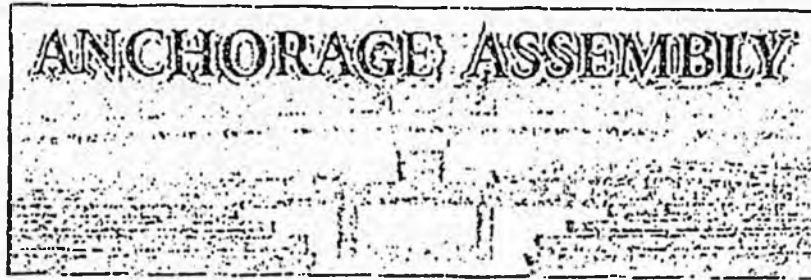
Very truly yours,

Royce R. Rock
Business Manager

Greg Moyer
Director
(907) 343-4753

Eli Gray-Jackson
Assembly Analyst
(907) 343-4751

Joy Pantalon
Admin. Assistant
(907) 343-4750



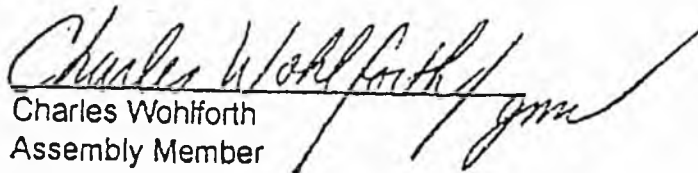
Date: February 10, 1999
To: House Community & Regional Affairs Committee
Attn: Rep. Halcro, Chairman
From: Charles Wohlforth, Assembly Member
Subject: HB76

Rep. Halcro:

As you know, the statute embodied in HB76 - AS29.45.050(o) - became law last year. Then, the Anchorage Assembly passed AO 98-135 which amended Municipal code so that the law could be utilized. The Municipal Attorney has requested minor changes to AS29.45.050(o) - which are contained in HB76 - in order to make things more clear.

I respectfully request that, upon your Committee's review, that this bill be passed out of Committee. I hope you agree with me that this bill should become law.

Sincerely,


Charles Wohlforth
Assembly Member

Tel: 274-2271

Post-It® Fax Note	7671	Date	# of pages
To	Rep. Halcro	From	
Co./Dept		Co	
Phone #		Phone #	

MARC A. MARLOW

2500 Railroad Avenue
Anchorage, Alaska 99501
Phone: (907) 258-9662 • Fax: (907) 277-0623

February 10, 1999

To: House Community on Regional Affairs Committee

Att: Chairman Halcro

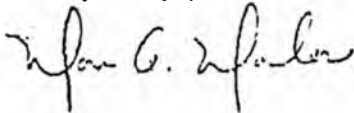
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Please pass HB76 out of your committee so it may become law.

Very truly yours,



Marc A. Marlow

HB

393

Alaska State Legislature

SESSION ADDRESS:

Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4925
Fax: (907) 465-3517
Toll Free: 1-800-821-4925



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Representative Gary Stevens BUSINESS OPPORTUNITIES BILL

Sponsor Statement – HB 393

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

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

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

CS HB 393 (JUD) -THE SALE OF BUSINESS OPPORTUNITIES

- Business opportunities, or “biz opps,” are prepackaged small business deals offered primarily to novice entrepreneurs. Fraudulent biz opps bilk consumers nationwide of tens of millions of dollars a year, according to the FTC. These scams take a variety of forms, from stuffing envelopes or doing medical billing at home, to the sale of vending machines or greeting card display racks, to selling internet businesses. Promoters use high-pressure sales tactics and promise huge earnings to buyers. The scams often target vulnerable Alaskans: senior citizens, individuals at home because of disability or illness, or people experiencing financial difficulties.
- HB 393 will protect Alaskans from this type of scam by requiring sellers of business opportunities to register with the state and providing safeguards for consumers. It will allow the Department of Law to take preventative action *before* consumers are scammed. The bill:
 - Requires promoters to register prior to offering to sell business opportunities in Alaska. They will have to disclose information about the business opportunity and about their civil and criminal history and meet other registration requirements.
 - Obligates a promoter to give a buyer a disclosure statement 10 days before selling a business opportunity. The disclosure must include information about the seller’s legal and financial background and the total price and payment schedule.
 - Requires the use of a written contract that sets out the payment terms, the services to be provided by the seller, delivery dates, and the buyer’s right to cancel.
 - Precludes a seller from obtaining more than 20% of payment up front, unless the additional amount is placed in an escrow account at a financial institution.
 - Allows a buyer to cancel the contract within 30 days. The contract can also be cancelled after this 30-day period if the seller failed to meet disclosure requirements, made deceptive statements about the business opportunity, or failed to provide services.
- HB 393 provides exemptions for business opportunities that involve total payments under \$250, for business transactions that fall under other regulatory schemes, for ongoing business transactions, and for direct sellers under certain circumstances.
- Under HB 393, violations of the business opportunity registration requirements are also violations of the Unfair Trade Practices and Consumer Protections Act, AS 45.50.471, et seq. In addition, they may be punishable as criminal offenses.

CS HB 393 (JUD) –THE BUSINESS OPPORTUNITIES BILL

Sectional Analysis

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CORRECTION

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

***Sec. 45.66.220. Exemptions.**

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

- A business opportunity if the payments by a buyer under the contract are less than \$250
- a franchise under 16 CFR 436
- an ongoing business to be sold in its entirety
- equipment, materials, or samples for use in sales demonstrations and not for resale, or product inventory sold to the buyer at a bona fide wholesale price
- securities
- a business opportunity in which the buyer is a bank or financial institution
- a business opportunity involving a marketing plan made in conjunction with the registration of a trademark or service mark and where the seller has a minimum net worth of \$1,000,000
- a business opportunity where either the seller or the buyer is licensed as a real estate broker, associated real estate broker, or real estate sales person under AS 08.88 and the sale or offer is regulated by AS 08.88

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

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

***Sec. 45.66.240. Regulations.**

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

***Sec. 45.66.900. Definitions.**

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

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

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

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

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

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

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

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

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

April 15, 2002

So you want to work at home?

You're conflicted. You need extra income, but you want to be around for your kids. So you're tantalized by the idea of staying home and earning cash. Clever marketers know they have you. They promise a whole world of work-at-home possibilities that sound perfect: "Stuff envelopes on your own time." "Doctors need you to do their medical billing from home." "Like crafts? Great pay for assembly work." They try to lure you with enticing salaries: "Earn hundreds: The faster you work, the more you make."

The problem is, you rarely end up making the money you're promised. In fact, few people make any at all, and most lose money. An investigation of 112 work-at-home companies conducted in 2000 by Operation Job Fraud, a task force made up of several Better Business Bureaus and the U.S. Postal Inspection Service, turned up nothing but scams. When the task force investigated ads on the Internet, on posted flyers, and in magazines and newspapers, they "found no evidence of making the money promised," says Katy Conklin of the Better Business Bureau in Chattanooga, Tennessee. "We tried them ourselves. We spent our own money on the kits and materials, and we never made back our investment."

The Federal Trade Commission estimates that tens of millions of dollars a year are lost on these pitiful offers. Although most people are cheated out of anywhere from \$20 to a couple of hundred, some lose more.

Targeting potential victims is easy. Conklin recalls it happening in her own family. "Two years ago my daughter gave

Read this before you fall for some of the most common rip-offs. **BY JANICE LIEBERMAN**



BEEN CONNED? ←

Complain! Consumer agencies can go after bogus companies only if they know about them. File a complaint with the regional Better Business Bureau where the company is located, and call the Federal Trade Commission at 877-FTC-HELP or log on to ftc.gov.

birth to a baby boy, and in the hospital she was bombarded with magazines for new moms, with work-at-home offers in the back," she recalls. "The ads preyed on the vulnerable,

using guilt tactics such as 'Why would you leave your kids at home to work?' The scammers stop at nothing!" Conklin says that working moms, the disabled, the elderly, students, and non-English-speaking immigrants most often fall victim to these scams.

So why aren't these fraudulent companies tracked down—and shut down? For one thing, many change their names

or addresses and go out of business within a year or two, making it daunting for investigators to track them. Second, such scams often go unreported: Many victims are too embarrassed to complain or don't want to spend time filing a claim.

All of which means it's up to you to protect yourself. As an assistant director of the Bureau of Consumer Protection at the Federal Trade Commission, Mona Spivack works to put these shady companies out of business. We asked her to describe three of the most common fraudulent schemes:

RIP-OFF #1: MEDICAL BILLING FROM HOME

This scam robs you of big bucks up front: According to Spivack, you're typically asked to shell out several hundred dollars for medical-billing software and a list of doctors who need your services. You're told that the doctors will give you lists of patients to bill and forms to input into your computer. You're supposed to submit the computerized forms to a clearinghouse that will forward them to Medicare for reimbursement. "They tell you it can be done on your own time and that you can make \$1,500 a week," says Spivack.

Sounds great, right? But here's the reality: You get the software, and it's hard to use. And when you send out letters to doctors offering them your help, they've never heard of you and aren't interested in your services. In fact, Tom Collier of the Better Business Bureau in Tucson, along with the Pima County Medical Society, surveyed 2,100 doctors to find out whether they'd even consider

having an outsider do their medical billing. Only 15 doctors said yes. "That's 0.6 percent of the market," says Collier.

Carolyn Agustin-Acosta learned about this scam the hard way. She saw an ad in a local paper for medical billing that promised earnings of \$20 to \$40 an hour. The Northridge, California, nurse was working 53 hours a week and needed to supplement her income but didn't want to spend any more time away from her 3-year-old son. After paying \$339 for the software, she received a list of doctors who she then realized didn't exist. "I was in tears," she says. "I lost all that money. I was looking forward to spending more time with my son and having more children, but I can't do it like this."

And once you've been scammed, good luck getting your money back. According to Stephen Gurwitz, a senior trial attorney with the FTC, "You call the customer service department [of the medical-billing company] to tell them the software is useless, and they say, 'Once you open the software, it can't be returned.'" To try to get a refund, he says, you can write letters of complaint to the company, the Better Business Bureau, the FTC, and the consumer protection agency in the state where the business is located.

A variation on the medical-billing scheme is one in which you're encouraged to help out Uncle Sam. The company provides you with a list of people who are due a government refund for some reason, say they overpaid on their taxes. Allegedly you'll get a cut of that refund as a commission. The list runs you about \$80, but as in the medical billing scam, the phone numbers and addresses

you're furnished with are fake (or if they're real, you have to talk strangers into giving you their money)—and you're still responsible for the cost of the phone calls and the postage.

RIP-OFF #2: HOME ASSEMBLY

Feeling crafty? Think you might try your hand at assembling picture frames or sewing—all on your own time? This offer, usually found in the classifieds, promises you up to several hundred dollars a week, depending on how fast you can assemble the products. You're asked to send in \$40 to \$100 for the supplies, which you receive in the mail with an instruction booklet. But you're sent only enough supplies for one sample item, and then your handiwork must be seen and "approved" by management. That part, of course, is rarely mentioned over the phone when you call the number posted in the ad.

Investigators say that these operators make it impossible for you to earn money. These wheeler-dealers send you craft kits with parts missing or pieces that don't fit. Or they ask you to sew something relatively easy but reject the result. "I've had professional seamstresses call me up crying, saying their sewing on something simple was sent back," Spivack says.

RIP-OFF #3: ENVELOPE STUFFING

It *sounds* so simple—which is why this scam has been around for years. How it works: You respond to an ad and are promised about \$5 per stuffed envelope. You pay \$25 to \$50 for envelopes, stamps, flyers, and a mailing list. What you get in return is a flyer to photocopy

4 clues that you're being scammed

CLUE 1: "Act now" pitches. Some con artists try to pressure you by saying that most of the positions are filled, so you had better act now. A legitimate employer will give you time to think about signing on.

CLUE 2: Evasive answers. Always ask for a detailed description of what you're expected to do to earn money, and of how, when, and how much you'll be paid. Get it in writing, and read the fine print.

CLUE 3: The claim that "anyone can do it." A real employer usually wants a résumé and references.

CLUE 4: Claims that you can make more at home than in a similar office job. To check out a work-at-home job, research the going rate for doing that same job in an office. For instance, data entry may pay \$7 to \$10 an hour. That's \$1,600 a month if you work full-time. An ad that promises you \$2,000 a week for doing the same job at home is probably bogus.

and send to people whom you're supposed to solicit by placing a newspaper ad conning them to "make money stuffing envelopes." So you've essentially passed along a chain letter duping others.

"It happened to us twice. I'm almost embarrassed to say it," one scammed woman confided to *Redbook*. The first incident happened a year ago, when she was pregnant and wanted to supplement her husband's income. What could be easier than stuffing envelopes in the comfort of her own home? Plus, she had worked in an office and knew how to get the job done quickly. She was so excited that she paid extra to have the kit sent to her faster. After spending \$40 she received a packet. Realizing it was a chain-letter scam, she did nothing with it; she didn't want to cheat other people.

The next time she answered an ad for stuffing envelopes, it read "This is not a scam." She sent \$80 and received nothing. "I actually called directory assistance to find the name of the person whose testimonial was in the original ad," she says. "Of course there was no listing for that person. I was so angry." She has since decided to make money babysitting. □

Where the real jobs are

Here's the good news about working from home: Legitimate opportunities *do* exist. Some require special skills, such as typing and bookkeeping, and most will want you to have your own work space. Below are job-list websites recommended by Rosalind Mays, author of *The Real Deal on Telecommuting*, who has a work-at-home site of her own (see below). Before you sign on with any company, check it out with the Better Business Bureau in the region where the business is located.

www.wahm.com/jobs.html This site—the Work at Home Moms job listing—links to job postings at monster.com, hotjobs.com, and other sites.

www.tjobs.com Search here by category for listings of creative and technical jobs (such as writing and programming), among others.

www.workaholics4hire.com This site provides links to other sites' job postings, but also includes its own listings of telecommuting positions in various fields.

www.sohojobs.org The Small Office-Home Office Jobs website profiles and evaluates other job sites, including their weekly job postings.

www.telecommuting.cjb.net Rosalind Mays's site lists jobs from newspapers, websites, and other sources, as well as links to other job-list sites.

—Lisa Pilnik

HB 393 –THE "BUSINESS OPPORTUNITIES" BILL

What is a business opportunity?

A business opportunity, or "biz opp", is a pre-packaged small business deal offered primarily to novice entrepreneurs. Unfortunately, these enterprises are often fraudulent. Typical business opportunities range from a variety of work-at-home schemes such as medical billing, to the sale of vending machines, pay telephones, greeting card display racks and other products, to the sale of "900 numbers." They almost always promise high earnings, which rarely materialize. According to the Federal Trade Commission, biz opp scams bilk hundreds of thousands of consumers out of tens of millions of dollars each year.

How are biz opps advertised?

Biz opps are frequently pitched to consumers through classified ads, over the Internet, and through "infomercials," followed up with high-pressure sales pitches. The following are typical biz opp advertisements:

- "Medical Billing. Work from home – Full or Part Time. From \$24K to \$50K+ per year. Home Computer Required. CALL NOW."
- "1000 Envelopes=\$4000. From Home! \$4 per envelope you stuff GUARANTEED!"
- "HERSHEY AND NABISCO VENDING – High weekly income potential. Work 6-8 hrs/wk. Secured and guaranteed locations. \$7000 investment required."
- Small Town Entrepreneur Discovers Amazing Way to Earn Money at Home! FREE Report reveals how you can earn \$\$\$Thousands\$\$\$ each week...sending Fax-Ads to Business Offices in your area.

Who are the likely targets of biz opp scams?

Generally, biz opp fraud targets stay-at-home parents, retirees, people who are out of work, and individuals looking to create their own business. Alaskans may be targeted because of the seasonal nature of many jobs in Alaska, because of the disposable income associated with the PFD, and because of the entrepreneurial spirit of many Alaskans.

What does HB 393 do?

HB 393 creates a new, comprehensive statute regulating promoters of business opportunities. It requires persons who sell business opportunities to register with the state, to disclose information to buyers, to use escrow accounts to assure delivery of business assets, and to provide a 30-day right of cancellation to the buyer. With this bill, Alaska would be joining approximately half of the states, which have statutes requiring registration of business opportunities. In addition to providing an enforcement mechanism for the state, the bill will ensure that potential investors can be fully informed about a business before entering into a

sales agreement. As discussed below, some types of business opportunities are specifically exempted from the registration requirements of HB 393.

HB 393 provides for civil and criminal penalties for violators. A person who recklessly violates the registration requirements is guilty of a Class C felony. A person who recklessly violates the contract or cancellation provisions is guilty of a Class A misdemeanor. HB 393 also makes clear that a violation of the biz opp statute is also a violation of the Unfair Trade Practices and Consumer Protection Act.

Are there exemptions from the HB 393 registration requirements?

The registration requirements of HB 393 do not apply to a number of transactions, including those in which the total payment from the buyer to the seller is less than \$200. They also do not apply to the sale of sales demonstration equipment, materials, or samples for use in sales demonstrations and not for resale, or product inventory sold to the buyer at a bona fide wholesale price (businesses such as Amway or Mary Kay); sale of a franchise (as defined under federal law); sale of an ongoing business sold in its entirety; sales of securities; and real estate transactions regulated by AS 08.88. Exemption language is found on pages 12-14 (AS 45.66.220 – Exemptions).

*Prepared by Department of Law
March 2002*

So you want to work at home?

You're conflicted. You need extra income, but you want to be around for your kids. So you're tantalized by the idea of staying home and earning cash. Clever marketers know they have you. They promise a whole world of work-at-home possibilities that sound perfect: "Stuff envelopes on your own time." "Doctors need you to do their medical billing from home." "Like crafts? Great pay for assembly work." They try to lure you with enticing salaries: "Earn hundreds: The faster you work, the more you make."

The problem is, you rarely end up making the money you're promised. In fact, few people make any at all, and most *lose* money. An investigation of 112 work-at-home companies conducted in 2000 by Operation Job Fraud, a task force made up of several Better Business Bureaus and the U.S. Postal Inspection Service, turned up nothing but scams. When the task force investigated ads on the Internet, on posted flyers, and in magazines and newspapers, they "found no evidence of making the money promised," says Katy Conklin of the Better Business Bureau in Chattanooga, Tennessee. "We tried them ourselves. We spent our own money on the kits and materials, and we never made back our investment."

The Federal Trade Commission estimates that tens of millions of dollars a year are lost on these phony offers. Although most people are cheated out of anywhere from \$20 to a couple of hundred, some lose more.

Targeting potential victims is easy. Conklin recalls it happening in her own family. "Two years ago my daughter gave

Read this before you fall for some of the most common rip-offs. **BY JANICE LIEBERMAN**



BEEN CONNED? ←

Complain! Consumer agencies can go after bogus companies only if they know about them. File a complaint with the regional Better Business Bureau where the company is located, and call the Federal Trade Commission at 877-FTC-HELP or log on to ftc.gov.

birth to a baby boy, and in the hospital she was bombarded with magazines for new moms, with work-at-home offers in the back," she recalls. "The ads preyed on the vulnerable,

using guilt tactics such as 'Why would you leave your kids at home to work?' The scamsters stop at nothing!" Conklin says that working moms, the disabled, the elderly, students, and non-English-speaking immigrants most often fall victim to these scams.

So why aren't these fraudulent companies tracked down—and shut down? For one thing, many change their names

or addresses and go out of business within a year or two, making it daunting for investigators to track them. Second, such scams often go unreported: Many victims are too embarrassed to complain or don't want to spend time filing a claim.

All of which means it's up to you to protect yourself. As an assistant director of the Bureau of Consumer Protection at the Federal Trade Commission, Mona Spivack works to put these shady companies out of business. We asked her to describe three of the most common fraudulent schemes:

RIP-OFF #1: MEDICAL BILLING FROM HOME

This scam robs you of big bucks up front: According to Spivack, you're typically asked to shell out several hundred dollars for medical-billing software and a list of doctors who need your services. You're told that the doctors will give you lists of patients to bill and forms to input into your computer. You're supposed to submit the computerized forms to a clearinghouse that will forward them to Medicare for reimbursement. "They tell you it can be done on your own time and that you can make \$1,500 a week," says Spivack.

Sounds great, right? But here's the reality: You get the software, and it's hard to use. And when you send out letters to doctors offering them your help, they've never heard of you and aren't interested in your services. In fact, Tom Collier of the Better Business Bureau in Tucson, along with the Pima County Medical Society, surveyed 2,100 doctors to find out whether they'd even consider

having an outsider do their medical billing. Only 15 doctors said yes. "That's 0.6 percent of the market," says Collier.

Carolyn Agustin-Acosta learned about this scam the hard way. She saw an ad in a local paper for medical billing that promised earnings of \$20 to \$40 an hour. The Northridge, California, nurse was working 53 hours a week and needed to supplement her income but didn't want to spend any more time away from her 3-year-old son. After paying \$339 for the software, she received a list of doctors who she then realized didn't exist. "I was in tears," she says. "I lost all that money. I was looking forward to spending more time with my son and having more children, but I can't do it like this."

And once you've been scammed, good luck getting your money back. According to Stephen Gurwitz, a senior trial attorney with the FTC, "You call the customer service department [of the medical-billing company] to tell them the software is useless, and they say, 'Once you open the software, it can't be returned.'" To try to get a refund, he says, you can write letters of complaint to the company, the Better Business Bureau, the FTC, and the consumer protection agency in the state where the business is located.

A variation on the medical-billing scheme is one in which you're encouraged to help out Uncle Sam. The company provides you with a list of people who are due a government refund for some reason, say they overpaid on their taxes. Allegedly you'll get a cut of that refund as a commission. The list runs you about \$80, but as in the medical billing scam, the phone numbers and addresses

you're furnished with are fake (or if they're real, you have to talk strangers into giving you their money)—and you're still responsible for the cost of the phone calls and the postage.

RIP-OFF #2: HOME ASSEMBLY

Feeling crafty? Think you might try your hand at assembling picture frames or sewing—all on your own time? This offer, usually found in the classifieds, promises you up to several hundred dollars a week, depending on how fast you can assemble the products. You're asked to send in \$40 to \$100 for the supplies, which you receive in the mail with an instruction booklet. But you're sent only enough supplies for one sample item, and then your handiwork must be seen and "approved" by management. That part, of course, is rarely mentioned over the phone when you call the number posted in the ad.

Investigators say that these operators make it impossible for you to earn money. These wheeler-dealers send you craft kits with parts missing or pieces that don't fit. Or they ask you to sew something relatively easy but reject the result. "I've had professional seamstresses call me up crying, saying their sewing on something simple was sent back," Spivack says.

RIP-OFF #3: ENVELOPE STUFFING

It *sounds* so simple—which is why this scam has been around for years. How it works: You respond to an ad and are promised about \$5 per stuffed envelope. You pay \$25 to \$50 for envelopes, stamps, flyers, and a mailing list. What you get in return is a flyer to photocopy

4 clues that you're being scammed

CLUE 1: "Act now" pitches. Some con artists try to pressure you by saying that most of the positions are filled, so you had better act now. A legitimate employer will give you time to think about signing on.

CLUE 2: Evasive answers. Always ask for a detailed description of what you're expected to do to earn money, and of how, when, and how much you'll be paid. Get it in writing, and read the fine print.

CLUE 3: The claim that "anyone can do it." A real employer usually wants a résumé and references.

CLUE 4: Claims that you can make more at home than in a similar office job. To check out a work-at-home job, research the going rate for doing that same job in an office. For instance, data entry may pay \$7 to \$10 an hour: That's \$1,600 a month if you work full-time. An ad that promises you \$2,000 a week for doing the same job at home is probably bogus.

and send to people whom you're supposed to solicit by placing a newspaper ad conning them to "make money stuffing envelopes." So you've essentially passed along a chain letter duping others.

"It happened to us twice. I'm almost embarrassed to say it," one scammed woman confided to *Redbook*. The first incident happened a year ago, when she was pregnant and wanted to supplement her husband's income. What could be easier than stuffing envelopes in the comfort of her own home? Plus, she had worked in an office and knew how to get the job done quickly. She was so excited that she paid extra to have the kit sent to her faster. After spending \$40 she received a packet. Realizing it was a chain-letter scam, she did nothing with it; she didn't want to cheat other people.

The next time she answered an ad for stuffing envelopes, it read "This is not a scam." She sent \$80 and received nothing. "I actually called directory assistance to find the name of the person whose testimonial was in the original ad," she says. "Of course there was no listing for that person. I was so angry." She has since decided to make money babysitting. □

Where the real jobs are

Here's the good news about working from home: Legitimate opportunities *do* exist. Some require special skills, such as typing and bookkeeping, and most will want you to have your own work space. Below are job-list websites recommended by Rosalind Mays, author of *The Real Deal on Telecommuting*, who has a work-at-home site of her own (see below). Before you sign on with any company, check it out with the Better Business Bureau in the region where the business is located.

www.wahm.com/jobs.html This site—the Work at Home Moms job listing—links to job postings at monster.com, hotjobs.com, and other sites.

www.tjobs.com Search here by category for listings of creative and technical jobs (such as writing and programming), among others.

www.workaholics4hire.com This site provides links to other sites' job postings, but also includes its own listings of telecommuting positions in various fields.

www.sohojobs.org The Small Office-Home Office Jobs website profiles and evaluates other job sites, including their weekly job postings.

www.telecommuting.cjb.net Rosalind Mays's site lists jobs from newspapers, websites, and other sources, as well as links to other job-list sites.

—Lisa Pilnik

Corrected Copy

TIME SENSITIVE – IMMEDIATE ATTENTION NEEDED



ALTICOR

April 29, 2002

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

Senator Ben Stevens
State Capitol, Room 119
Juneau, AK 99801-4919

RE: Opposition to HB 393/Business Opportunities

Dear Senator Stevens:

On behalf of Altacor and our thousands of independent Alaskan Amway Distributors and Quixtar Independent Business Owners, I wish to express our **opposition** to HB 393 – a bill proposing to create a new business opportunity law. This bill is scheduled to be heard Tuesday, April 30 before the Senate Labor and Commerce Committee. Please note that we worked hard to reach an agreement with the bill sponsor that would have allowed us to withdraw our opposition to the bill. However, that agreement was subsequently broken by the addition of an amendment on the House floor. That amendment negated the effect of the agreement that had been made and **we now must ask that you oppose passage of this bill.**

While we support the intent of protecting Alaskans from unscrupulous and risky business investments – this bill contains a fundamental flaw that must be corrected. HB 393 contains a **\$250 threshold** for business opportunities that would be regulated by the act. However, the majority of other states that have found a need to regulate this activity typically use a **\$500 up-front threshold**. It is important to note that many states with a reputation for strong consumer protection programs e.g., California, Florida and Illinois – as well as the Federal Trade Commission - also use \$500 thresholds.

This standard \$500 threshold protects small income opportunities such as those offered by direct sellers including Amway/Quixtar distributors, Avon ladies, and Mary Kay beauty consultants from being regulated under a law that is appropriate for larger enterprises. Small direct sellers earn money to supplement their family incomes by selling products to family, friends and neighbors while interesting others to do the same. We wish to prevent unnecessary burdens being heaped upon these small Alaska businesses and we want to keep it simple for Alaskans to become, and remain, Amway/Quixtar distributors.

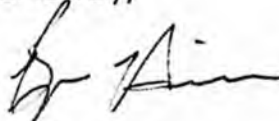
The most fundamental reason for excluding opportunities under \$500 (especially direct sales opportunities) from the law is that such low-cost opportunities have not been a significant source of business opportunity frauds – the very problem HB 393 attempts to address. Further, the mere cost of the regulation could easily exceed the cost of the opportunity itself; and the financial statements and other required documents are largely meaningless to direct sellers.

Finally, to the objectionable amendment adopted on the House floor: the bill now requires the regulation of low cost business opportunities if *"the aggregate amount of the sales or offers to sell the business opportunity that were made in the previous one-year period...exceeded \$10,000."* This arbitrary amendment was never discussed or explained in committee or by the sponsor. This language is seriously flawed, and could impact many small direct sellers who have built successful businesses, with total sales to a number of separate downlines exceeding this threshold, and arguably inadvertently drawing them into this provision. In its essence, the amendment will perversely punish those individuals that have been able to successfully build a sales organization.

Given this fatal flaw with the bill, **we encourage your opposition** when the bill comes before you for consideration.

Senator, thank you for your kind attention. If you have any questions please feel free to contact me at (616) 787-5633 or email bharrison@alticor.com.

Sincerely,



Bryan Harrison
Corporate Government Affairs

cc: Senate Labor and Commerce Committee Members
Alaska Senate Members
Representative Gary Stevens
John Hesse, Direct Selling Association

May 1, 2002

The Honorable Ben Stevens
Alaska Senate
State Capitol
Juneau, AK 99801-1182

RE: DSA Opposition to House Bill 393 – a Proposal to Regulate the Sale of Business Opportunities

Dear Senator Stevens:

I am writing on behalf of the Direct Selling Association (DSA) concerning House Bill 393, a proposal to regulate the sale of business opportunities in Alaska. Unfortunately, we were of the impression that we had an understanding with both the House sponsor as well as the three committees that considered the bill. We had agreed to put aside our concerns, which are detailed below, and compromise on the issue of most concern to us; the threshold dollar exemption for business opportunities originally set at \$200. We had agreed to a threshold of \$250, even though we requested a \$500 threshold. It now appears that we compromised more than we had bargained for. The bill was amended on the House floor to severely limit the application of this exemption. Consequently, I am writing to express our outright opposition to the bill and ask that you vote against it in committee.

DSA's Opposition to House Bill 393

Alaska's consumers need this proposal to be crystal clear on what exactly constitutes a business opportunity. Our one concern was the exemption threshold of \$200 contained in the original bill and its placement in the proposal. Even as amended, the \$250 exemption contained in the version that passed the House is atypical of other state business opportunity fraud statutes.

The clear trend in the regulation of business opportunities is toward higher dollar thresholds stated in the definitions section of the law. A majority of the other twenty-three states that regulate business opportunities and the Federal Trade Commission use a \$500 threshold stated in the definitions section of their statutes and regulations. **Twenty-seven (27) states choose not to regulate the sale of business opportunities.** If the state chooses to regulate the sale of business opportunities, Alaska should follow the trend and enact a bill with a \$500 threshold stated in the definition of a business opportunity.

- continued -

WEST BEND

The Cookware Company

Business Opportunity Dollar Threshold Amounts Exist:

- To focus limited, valuable state resources on situations where people can be seriously harmed;
- To reassure people involved in small income-earning programs that they would be protected from inadvertent coverage; and
- To require a strict compliance mode on those business opportunities where people invest a large amount of money up front.

The lower threshold would subject many small income-earning opportunities to onerous registration and bonding requirements, which would hurt many of these very small businesses. It would also take the necessary focus of enforcement off the large business opportunities, where people can be seriously harmed, and spread limited state resources over a much wider field.

In 1980, the Iowa Attorney General's Office showed that the average business opportunity fraud victim lost on average \$5,400. In 1995, the Wall Street Journal ran a story entitled "Undercover Blitz Targets Business Opportunity Scams." This story noted that the victims were defrauded of between \$1,500 and \$6,000. We believe that Alaska should target the business opportunities that pose the most harm. For your information, in 1984 the North American Securities Administrators Association developed a model Business Opportunity Sales Act (NASAA Model), which contains a \$500 threshold. In addition, the National Conference of Commissioners on Uniform State laws has a Model Franchise and Business Opportunity Act. This Act has a \$500 threshold as well.

For all of these reasons, we opposed the bill in its original form. We then agreed to compromise in the interests of consumer protection to leave the limit in its place within the exemptions section and to live with a dollar amount of \$250. We did not agree to any other language or limitation. The bill passed cleanly through its remaining committees, but was then amended on the House floor, inconsistently with our agreement.

Consequently, DSA opposes House Bill 393 in its current form, as it passed the House. Thank you for your time and attention to DSA's concerns. Please do not hesitate to contact me directly with questions or concerns. I can be reached by telephone at 262.334.6925 or by email to freckner@westbend.com. Thank you for your time and attention to this request.

Regards,



Fred A. Reckner
Executive Director
West Bend, The Cookware Company



Home Interiors
AND GIFTS

April 29, 2002

Via Facsimile (907) 465-3872

The Honorable Ben Stevens
Alaska Senate
State Capitol
Juneau, AK 99801-1182

Re: Home Interiors & Gifts, Inc. Opposition to House Bill 393 - a Proposal to Regulate the Sale of Business Opportunities

Dear Senator Stevens:

I am writing on behalf of Home Interiors and Gifts, Inc. concerning House Bill 393, a proposal to regulate the sale of business opportunities in Alaska. Recently the Direct Selling Association (the "DSA"), which Home Interiors is a member, has been in contact with the bill's sponsor as well as other members of the House Judiciary Committee to identify reasons why the bill, in its present state, is not beneficial to the state and to suggest possible compromises. As a result of these contacts, I was of the impression that the DSA had an understanding with both the House sponsor as well as the three committees that considered the bill regarding the bill's negative impact to our ability to sell in Alaska. I thought that we had agreed to put aside our concerns, which are detailed below, and compromise on the issue which is of most concern to us; the threshold dollar exemption for business opportunities which was originally set at \$200. Through the DSA, we agreed to a threshold of \$250, even though we requested a \$500 threshold. It now appears that we compromised more than we bargained for. The bill, as amended on the House floor, severely limits the application of this exemption. Consequently, I am writing to express our company's outright opposition to the bill and ask that you vote against it in committee.

Home Interiors and the DSA's Opposition to House Bill 393:

Alaska's consumers need this proposal to be crystal clear on what exactly constitutes a business opportunity. Our original concern was the low exemption threshold of \$200 contained in the original bill and its placement in the proposal. Even as amended, the \$250 exemption contained in the version that passed the House is atypical of other state business opportunity fraud statutes. Our concern with the bill as passed is that this low threshold is effectively now zero, with the

“except that...”¹⁵ language that was added by the House. The clear trend in the regulation of business opportunities is toward higher dollar thresholds, which are stated in the definitions section of the law. A majority of the other twenty-three states that regulate business opportunities and the Federal Trade Commission use a \$500 threshold stated in the definitions section of their statutes and regulations. Twenty-seven states choose not to regulate the sale of business opportunities. If the state chooses to regulate the sale of business opportunities, Alaska should follow the trend and enact a bill with a \$500 threshold and place that threshold in the definition section of the Law. In addition, the process of accumulating the sale of opportunities over an extended period of time is unnecessary and is simply a trap for the unwary entrepreneur who is seeking to grow her business. Beside, I am not aware of any abuses that have occurred that this accumulation process solves.

In the present legal environment, business opportunity dollar threshold amounts exist to do three things.

- To focus limited, valuable state resources on situations where people can be seriously harmed;
- To reassure people involved in small income-earning programs that they will be protected from inadvertent coverage; and
- To require a strict compliance mode on those business opportunities where people invest a large amount of money up-front.

The legislation, as passed, will not do any of this, as the lower threshold subjects many small income-earning opportunities to onerous registration and bonding requirements, which hurts many of these very small businesses. It also takes the necessary focus of enforcement off the large business opportunities, where people can be seriously harmed, and spreads limited state resources over a much wider field.

In addition to the above, Home Interiors must oppose this bill as there is currently a zero threshold based on the following exception placed in the bill: “except that this exemption does not apply if the aggregate amount of the sales or offers to sell the business opportunity that were made in the previous one-year period by the seller or offeror of the business opportunity, or by the agent of the seller, or by the agent of the seller of offeror, exceeded \$10,000”. As a direct sales company we offer people the opportunity to sell our products with little up front investment. Based on the except for language, if 40 people in the entire state chose to buy our product at the \$250 level, we have crossed the \$10,000 threshold and now the \$250 limit becomes zero. In addition, if one of our Displayers tries to build a business and recruit over 40 people, she has now exceeded the \$10,000 limit. Please note that our average displayers, nationally, sells \$13,684 annually, thereby earning a gross profit of only \$6,158 a year, making

¹⁵ “except that this exemption does not apply if the aggregate amount of the sales or offers to sell the business opportunity that were made in the previous one-year period by the seller or offeror of the business opportunity, or by the agent of the seller, or by the agent of the seller of offeror, exceeded \$10,000.”

her a very small business person in the eyes of the state. I do not believe this bill was designed to penalize this small entrepreneur.

In 1980, the Iowa Attorney General's Office showed that the average business opportunity fraud victim lost on average \$5,400. In 1995, the Wall Street Journal ran a story entitled "Undercover Blitz Targets Business Opportunity Scams". This story noted that the victims were defrauded of between \$1,500 and \$6,000. These dollars can be significant and we, like Alaska, believe you should target the business opportunities that pose the most harm. As you can imagine, you are not the only state to address this issue. In 1984 the North American Securities Administrators Association developed a model Business Opportunity Sales Act (NASAA Model), which contains a \$500 threshold. In addition, the National Conference of Commissioners on Uniform State Laws developed a Model Franchise and Business Opportunity Act. This Act has a \$500 threshold as well.

As stated above, we, along with the DSA, opposed the bill in its original form. Hoping to avoid animosity with the Department of Law, we agreed to compromise in the interests of consumer protection and leave the limit in its place within the exemptions section and to live with a dollar amount of \$250. We did not agree to any other language or limitation. The bill, as expected, cleared the remaining committees, but, unfortunately, was then amended on the House floor, adding the unacceptable language.

Because of the above, Home Interiors opposes House Bill 393 in its current form, as it passed the House. We request that you vote against the bill with the expectation that a bill designed to target the proper complaints will be forthcoming. Thank you for your time and attention to our concerns and I ask that you contact me directly with questions or concerns. I can be reached by telephone at (972) 386-1150, ext. 2010 or by email to lrobertson@homeinteriors.com.

Sincerely,



Leonard A. Robertson
Chief Administrative Officer

LAR:slg

TIME SENSITIVE - IMMEDIATE ATTENTION NEEDED

April 29, 2002
Via facsimile: 907-465-3872

Senator Ben Stevens

RE: Opposition to HB 393/Business Opportunities

Dear Senator Stevens:

On behalf of Mannatech, Incorporated and our thousands of independent Alaskan Mannatech Distributors and Mannatech Independent Business Owners, I wish to express our **opposition** to HB 393 - a bill proposing to create new a business opportunity law. This bill is scheduled to be heard Tuesday, April 30 before the Senate Labor and Commerce Committee. Please note that we worked hard to reach an agreement with the bill sponsor that would have allowed us to withdraw our opposition to the bill. However, that agreement was subsequently broken by the addition of an amendment on the House floor. That amendment negated the effect of the agreement that had been made and **we now must ask that you oppose passage of this bill.**

While we support the intent of protecting Alaskans from unscrupulous and risky business investment - this bill contains a fundamental flaw that must be corrected. HB 393 contains a **\$250 threshold** for business opportunities that would be regulated by the act. However, the majority of other states that have found a need to regulate this activity typically use a **\$500 up-front threshold**. It is important to note that many states with a reputation for strong consumer protection programs e.g., California, Florida and Illinois - as well as the Federal Trade Commission - also use \$500 thresholds.

This standard \$500 threshold protects small income opportunities such as those offered by direct sellers including Mannatech distributors, Avon ladies, and Mary Kay beauty consultants from being regulated under a law that is appropriate for larger enterprises. Small direct sellers earn money to supplement their family incomes by selling products to family, friends and neighbors while interesting others to do the same. We wish to prevent unnecessary burdens being heaped upon these small Alaska businesses and we want to keep it simple for Alaskans to become, and remain, Mannatech distributors.

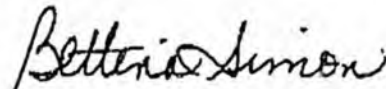
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Finally, to the objectionable amendment adopted on the House floor: the bill now requires the regulation of low cost business opportunities if *"the aggregate amount of the sales or offers to sell the business opportunity that were made in the previous one-year period...exceeded \$10,000."* This arbitrary amendment was never discussed or explained in committee or by the sponsor. This language is seriously flawed, and could impact many small direct sellers who have built successful businesses, with total sales to a number of separate downlines exceeding this threshold, and arguably inadvertently drawing them into this provision. In its essence, the amendment will perversely punish those individuals that have been able to successfully build a sales organization.

Given this fatal flaw with the bill, **we encourage your opposition** when the bill comes before you for consideration.

Senator, thank you for your kind attention. If you have any questions please feel free to contact me at bsimon@mannatech.com.

Sincerely,



Bettina Simon
Senior Vice President &
General Counsel

cc: Senate Labor and Commerce Committee Members
Alaska Senate Members
Representative Gary Stevens
John Hesse, Direct Selling Association



Home Interiors
AND GIFTS

April 29, 2002

Via Facsimile (907) 465-3872

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Alaska Senate
State Capitol
Juneau, AK 99801-1182

Re: Home Interiors & Gifts, Inc. Opposition to House Bill 393 - a Proposal to Regulate the Sale of Business Opportunities

Dear Senator Stevens:

I am writing on behalf of Home Interiors and Gifts, Inc. concerning House Bill 393, a proposal to regulate the sale of business opportunities in Alaska. Recently the Direct Selling Association (the "DSA"), which Home Interiors is a member, has been in contact with the bill's sponsor as well as other members of the House Judiciary Committee to identify reasons why the bill, in its present state, is not beneficial to the state and to suggest possible compromises. As a result of these contacts, I was of the impression that the DSA had an understanding with both the House sponsor as well as the three committees that considered the bill regarding the bill's negative impact to our ability to sell in Alaska. I thought that we had agreed to put aside our concerns, which are detailed below, and compromise on the issue which is of most concern to us; the threshold dollar exemption for business opportunities which was originally set at \$200. Through the DSA, we agreed to a threshold of \$250, even though we requested a \$500 threshold. It now appears that we compromised more than we bargained for. The bill, as amended on the House floor, severely limits the application of this exemption. Consequently, I am writing to express our company's outright opposition to the bill and ask that you vote against it in committee.

Home Interiors and the DSA's Opposition to House Bill 393:

Alaska's consumers need this proposal to be crystal clear on what exactly constitutes a business opportunity. Our original concern was the low exemption threshold of \$200 contained in the original bill and its placement in the proposal. Even as amended, the \$250 exemption contained in the version that passed the House is atypical of other state business opportunity fraud statutes. Our concern with the bill as passed is that this low threshold is effectively now zero, with the

"except that..."¹⁵ language that was added by the House. The clear trend in the regulation of business opportunities is toward higher dollar thresholds, which are stated in the definitions section of the law. A majority of the other twenty-three states that regulate business opportunities and the Federal Trade Commission use a \$500 threshold stated in the definitions section of their statutes and regulations. Twenty-seven states choose not to regulate the sale of business opportunities. If the state chooses to regulate the sale of business opportunities, Alaska should follow the trend and enact a bill with a \$500 threshold and place that threshold in the definition section of the Law. In addition, the process of accumulating the sale of opportunities over an extended period of time is unnecessary and is simply a trap for the unwary entrepreneur who is seeking to grow her business. Beside, I am not aware of any abuses that have occurred that this accumulation process solves.

In the present legal environment, business opportunity dollar threshold amounts exist to do three things.

- To focus limited, valuable state resources on situations where people can be seriously harmed;
- To reassure people involved in small income-earning programs that they will be protected from inadvertent coverage; and
- To require a strict compliance mode on those business opportunities where people invest a large amount of money up-front.

The legislation, as passed, will not do any of this, as the lower threshold subjects many small income-earning opportunities to onerous registration and bonding requirements, which hurts many of these very small businesses. It also takes the necessary focus of enforcement off the large business opportunities, where people can be seriously harmed, and spreads limited state resources over a much wider field.

In addition to the above, Home Interiors must oppose this bill as there is currently a zero threshold based on the following exception placed in the bill: "except that this exemption does not apply if the aggregate amount of the sales or offers to sell the business opportunity that were made in the previous one-year period by the seller or offeror of the business opportunity, or by the agent of the seller, or by the agent of the seller of offeror, exceeded \$10,000". As a direct sales company we offer people the opportunity to sell our products with little up front investment. Based on the except for language, if 40 people in the entire state chose to buy our product at the \$250 level, we have crossed the \$10,000 threshold and now the \$250 limit becomes zero. In addition, if one of our Displayers tries to build a business and recruit over 40 people, she has now exceeded the \$10,000 limit. Please note that our average displayers, nationally, sells \$13,684 annually, thereby earning a gross profit of only \$6,158 a year, making

¹⁵ "except that this exemption does not apply if the aggregate amount of the sales or offers to sell the business opportunity that were made in the previous one-year period by the seller or offeror of the business opportunity, or by the agent of the seller, or by the agent of the seller of offeror, exceeded \$10,000."

The Honorable Stevens
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her a very small business person in the eyes of the state. I do not believe this bill was designed to penalize this small entrepreneur.

In 1980, the Iowa Attorney General's Office showed that the average business opportunity fraud victim lost on average \$5,400. In 1995, the Wall Street Journal ran a story entitled "Undercover Blitz Targets Business Opportunity Scams". This story noted that the victims were defrauded of between \$1,500 and \$6,000. These dollars can be significant and we, like Alaska, believe you should target the business opportunities that pose the most harm. As you can imagine, you are not the only state to address this issue. In 1984 the North American Securities Administrators Association developed a model Business Opportunity Sales Act (NASAA Model), which contains a \$500 threshold. In addition, the National Conference of Commissioners on Uniform State Laws developed a Model Franchise and Business Opportunity Act. This Act has a \$500 threshold as well.

As stated above, we, along with the DSA, opposed the bill in its original form. Hoping to avoid animosity with the Department of Law, we agreed to compromise in the interests of consumer protection and leave the limit in its place within the exemptions section and to live with a dollar amount of \$250. We did not agree to any other language or limitation. The bill, as expected, cleared the remaining committees, but, unfortunately, was then amended on the House floor, adding the unacceptable language.

Because of the above, Home Interiors opposes House Bill 393 in its current form, as it passed the House. We request that you vote against the bill with the expectation that a bill designed to target the proper complaints will be forthcoming. Thank you for your time and attention to our concerns and I ask that you contact me directly with questions or concerns. I can be reached by telephone at (972) 386-1150, ext. 2010 or by email to lrobertson@homeinteriors.com.

Sincerely,



Leonard A. Robertson
Chief Administrative Officer

LAR:slg

Corrected Copy

TIME SENSITIVE – IMMEDIATE ATTENTION NEEDED



Altacor Inc.
7575 Fulcon St. East
Ada, MI 49355 USA
616.767.1000 phone
www.altacor.com

April 29, 2002

Senator Ben Stevens
State Capitol, Room 119
Juneau, AK 99801-4919

RE: Opposition to HB 393/Business Opportunties

Dear Senator Stevens:

On behalf of Altacor and our thousands of independent Alaskan Amway Distributors and Quixtar Independent Business Owners, I wish to express our **opposition** to HB 393 – a bill proposing to create a new business opportunity law. This bill is scheduled to be heard Tuesday, April 30 before the Senate Labor and Commerce Committee. Please note that we worked hard to reach an agreement with the bill sponsor that would have allowed us to withdraw our opposition to the bill. However, that agreement was subsequently broken by the addition of an amendment on the House floor. That amendment negated the effect of the agreement that had been made and **we now must ask that you oppose passage of this bill.**

While we support the intent of protecting Alaskans from unscrupulous and risky business investments – this bill contains a fundamental flaw that must be corrected. HB 393 contains a **\$250 threshold** for business opportunities that would be regulated by the act. However, the majority of other states that have found a need to regulate this activity typically use a **\$500 up-front threshold**. It is important to note that many states with a reputation for strong consumer protection programs e.g., California, Florida and Illinois – as well as the Federal Trade Commission - also use \$500 thresholds.

This standard \$500 threshold protects small income opportunities such as those offered by direct sellers including Amway/Quixtar distributors, Avon ladies, and Mary Kay beauty consultants from being regulated under a law that is appropriate for larger enterprises. Small direct sellers earn money to supplement their family incomes by selling products to family, friends and neighbors while interesting others to do the same. We wish to prevent unnecessary burdens being heaped upon these small Alaska businesses and we want to keep it simple for Alaskans to become, and remain, Amway/Quixtar distributors.

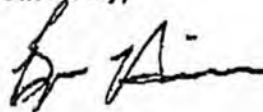
The most fundamental reason for excluding opportunities under \$500 (especially direct sales opportunities) from the law is that such low-cost opportunities have not been a significant source of business opportunity frauds – the very problem HB 393 attempts to address. Further, the mere cost of the regulation could easily exceed the cost of the opportunity itself; and the financial statements and other required documents are largely meaningless to direct sellers.

Finally, to the objectionable amendment adopted on the House floor: the bill now requires the regulation of low cost business opportunities if *"the aggregate amount of the sales or offers to sell the business opportunity that were made in the previous one-year period...exceeded \$10,000."* This arbitrary amendment was never discussed or explained in committee or by the sponsor. This language is seriously flawed, and could impact many small direct sellers who have built successful businesses, with total sales to a number of separate downlines exceeding this threshold, and arguably inadvertently drawing them into this provision. In its essence, the amendment will perversely punish those individuals that have been able to successfully build a sales organization.

Given this fatal flaw with the bill, **we encourage your opposition** when the bill comes before you for consideration.

Senator, thank you for your kind attention. If you have any questions please feel free to contact me at (616) 787-5633 or email bharrison@alticor.com.

Sincerely,



Bryan Harrison
Corporate Government Affairs

cc: Senate Labor and Commerce Committee Members
Alaska Senate Members
Representative Gary Stevens
John Hesse, Direct Selling Association

1302 Pleasant Ridge Road
Greensboro, North Carolina 27409
Voice: 336.605.0040



FAX: 336.605.0041
E-Mail: mamerica@morebv.com
Web Site: marketamerica.com

April 29, 2002

The Honorable Ben Stevens
Alaska Senate
Phone Number: (907) 465-4993
Fax Number: (907) 465-3872

Re: Market America's Opposition to House Bill 393 - a Proposal to Regulate the Sale of Business Opportunities

Dear Senator Ben Stevens :

I am writing on behalf of Market America concerning House Bill 393, a proposal to regulate the sale of business opportunities in Alaska. As a member of the Direct Selling Association (DSA), Market America supports the efforts made by DSA to curb fraud in the sales of business opportunities at the federal and state levels. Business opportunity fraud undermines vital public confidence in industries like direct selling, which utilize and depend upon individual entrepreneurship. Clear distinctions can be drawn between direct selling and business opportunities because the investment required to participate in a direct selling opportunity is comparatively low. Unfortunately, we are concerned that the definition of a business opportunity under your review is not clear and would cause confusion among Alaska's consumers.

Market America supports the purpose of legislation like House Bill 393, which is to protect Alaska's citizens from risking large amounts of money for what might be an unproven or unprofitable business venture. Twenty-three states have enacted similar laws in response to deceptive and unfair practices in connection with the sale of business opportunities and the Federal Trade Commission has adopted a Trade Regulation Rule (Trade Rule) in this area. Unfortunately, we do not support House Bill 393 as it written.

Market America, established in 1992, is an establishment that relies on the direct selling industry in which we market our products to the consumer through distributors who are independent contractors. They sell our products to their own established clientele through the use of home parties, one-on-one sales calls and the Internet. Some of our distributors work on a part-time basis as a way to supplement their family income.

Direct selling is a well-established method for marketing products to consumers directly, primarily in their homes. Companies within the industry market a broad range of consumer products and services, including household cleaning products, cosmetics and other personal care products, jewelry, cookware and other house wares, educational materials, household decorative products such as baskets, home improvement products, food, and vitamins. Most direct selling companies within our industry are small businesses. Over 99.5 percent of the direct salespeople that market these companies' products are independent contractors. Each of these independent

contractors in effect is a micro-small business. Simply stated, direct selling is an ideal way for people with an entrepreneurial spirit to earn extra money without experience, without capital, and without having to make a full-time commitment to an employer.

As the result of this ease of access and flexibility in work arrangements, direct selling has wide appeal among women who have significant family responsibilities, as well as attracting substantial numbers of minorities, the elderly, and handicapped persons.

Market America's Opposition to House Bill 393

Alaska's consumers need this proposal to regulate business opportunities to be crystal clear on what exactly constitutes a business opportunity. Our one concern was the exemption threshold of \$200 contained in the original bill and its placement in the proposal. The \$200 threshold contained in House Bill 393 is atypical of the thresholds in the other state business opportunity laws. In fact only three states, Connecticut, New Hampshire and North Carolina, contain a similar threshold. These thresholds exist:

- To require a strict compliance mode on those business opportunities where people invest a large amount of money up-front;
- To focus limited, valuable state resources on situations where people can be seriously harmed; and
- To reassure people involved in small income-earning programs that they would be protected from inadvertent coverage.

The lower threshold would subject many small income-earning opportunities to onerous registration and bonding requirements, which would hurt many of these very small businesses. It would also take the necessary focus of enforcement off the large business opportunities, where people can be seriously harmed, and spread limited state resources over a much wider field.

In 1980, the Iowa Attorney General's Office showed that the average business opportunity fraud victim lost on average \$5,400. In 1995, the Wall Street Journal ran a story entitled "Undercover Blitz Targets Business Opportunity Scams". This story noted that the victims were defrauded of between \$1,500 and \$6,000.

The clear trend in the regulation of business opportunities is toward higher dollar thresholds stated in the definitions section of the law. A majority of the other twenty-three states that regulate business opportunities and the Federal Trade Commission use a \$500 threshold stated in the definitions section of their statutes and regulations. Twenty-seven states choose not to regulate the sale of business opportunities. If the state chooses to regulate the sale of business opportunities, Alaska should follow the trend and enact a bill with a \$500 threshold stated in the definition of a business opportunity. For all of these reasons, Market America opposes the bill in its original form.

Market America supports the DSA's decision to support the adoption of an amendment to the bill, replacing the \$200 threshold with a \$500 threshold. But cannot support the bill as it passed

the House. Market America reiterates the DSA's suggestion that you modify the definition of business opportunity to fulfill our request as follows:

Add the underlined text to Sec. 45.66.900, Definitions;

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

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

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

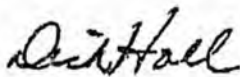
This change and movement makes it clear to all - consumers and regulators alike - that the type of small income-earning opportunity represented by the DSA membership does not fall under this law.

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

In summary, Market America, in support of the DSA, opposes House Bill 393 in its current form as it passed the House. We will only support an amendment to raise the threshold amount from \$200 to \$500, placing the threshold in the definitions section of the bill. This request is based upon the practices of the vast majority of states regulating the sales of business opportunities as well as the Federal Trade Commission. In addition, the two most widely referenced model acts in this area contain a \$500 threshold. Alaska's resources should be directed at fighting the fraud posed by large business opportunity scams. Any law in this area should not confuse Alaska's consumers with a convoluted definition of a business opportunity.

Thank you for your time and attention to Market America's concerns. Please do not hesitate to contact me directly with questions or concerns. I can be reached by telephone at (336) 605-0040 or by email to dickh@morebv.com. Thank you for your time and attention to this request.

Sincerely,



Richard D. Hall, Jr.
General Counsel
Market America, Inc.

Mary Kay Inc.
Corporate Affairs Department
P. O. Box 799045
Dallas, Texas 75379-9045
(972) 687-1613 Facsimile
(972) 687-6300 Telephone

Mary Kay's mission is to enrich women's lives.

FACSIMILE TRANSMISSION COVER SHEET

DATE: 04/29/02

TO: Senator Ben Stevens

FAX #: 907/465-3872

FROM: Anne Crews, Vice President, Corporate Affairs

CC:

You should receive 2 page(s) including this cover sheet. If you do not receive all the pages, please contact *Jan Guthrie* at (972) 687-5717.

M E S S A G E

Subject: DSA Opposition to House Bill 393 - a Proposal to Regulate the Sale of Business Opportunities

On behalf of Mary Kay Inc. and our independent contractor direct sellers in Alaska, let me express strong opposition to the current version of House Bill 393, a proposal to regulate the sale of business opportunities in Alaska. We and the Direct Selling Association believed we had an understanding with both the House sponsor and the three House committees that considered the bill. We thought we had agreed to compromise on the issue of most concern to us; the threshold dollar exemption for business opportunities originally set at \$200. We had agreed to a threshold of \$250, even though we strongly suggested a \$500 threshold. To our surprise, the bill was amended on the House floor to severely limit the application of this exemption.

Mary Kay Inc. is a direct selling company and an active member of the Direct Selling Association (DSA). Mary Kay Independent Beauty Consultants and Sales Directors buy directly from the Company and sell quality skin care and color cosmetics directly to loyal customers.

Each is in effect a micro-small business. A Mary Kay career is an ideal way to earn extra money without experience, without capital, and without having to

make a full-time commitment to an employer. One of the attractions of the career is the low start-up cost and lack of red tape.

Casual careers in direct selling should not be confused with business opportunities; enterprises which require registration, financial disclosure, bonding and other red tape.

Alaska's consumers need this proposal to be crystal clear on what exactly constitutes a business opportunity. Our one concern was the exemption threshold of \$200 contained in the original bill and its placement in the proposal. Even as amended the \$250 exemption contained in the version that passed the House is atypical of other state business opportunity fraud statutes.

The clear trend in the regulation of business opportunities is toward higher dollar thresholds stated in the definitions section of the law. A majority of the other twenty-three states that regulate business opportunities and the Federal Trade Commission use a \$500 threshold stated in the definitions section of their statutes and regulations. Twenty-seven states choose not to regulate the sale of business opportunities. If the state chooses to regulate the sale of business opportunities, Alaska should follow the trend and enact a bill with a \$500 threshold stated in the definition of a business opportunity.

As you know, Business Opportunity Dollar Threshold Amounts Exist:

- To focus limited, valuable state resources on situations where people can be seriously harmed;
- To reassure people involved in small income-earning programs that they would be protected from inadvertent coverage; and
- To require a strict compliance mode on those business opportunities where people invest a large amount of money up-front.

The lower threshold would subject many small income-earning opportunities to onerous registration and bonding requirements, which would hurt many of these very small businesses. It would also take the necessary focus of enforcement off the large business opportunities, where people can be seriously harmed, and spread limited state resources over a much wider field.

The direct selling industry opposed the bill in its original form and agreed to compromise in the interests of consumer protection to leave the limit in its place within the exemptions section and to live with a dollar amount of \$250. We did NOT agree to any other language or limitation. The bill passed cleanly through its remaining committees, but was then amended on the House floor, inconsistently with our agreement.

Mary Kay Inc. opposes House Bill 393 in its current form, as it passed the House. We urge you to oppose the bill in its current form.

Thank you for your time and consideration.



April 29, 2002

The Honorable Ben Stevens
Alaska Senate
State Capitol
Juneau, AK 99801-1182

Re: DSA Opposition to House Bill 393 - a Proposal to Regulate the Sale of Business Opportunities

Dear Senator Stevens :

I am writing on behalf of the Direct Selling Association (DSA) concerning House Bill 393, a proposal to regulate the sale of business opportunities in Alaska. Unfortunately, we were of the impression that we had an understanding with both the House sponsor as well as the three committees that considered the bill. We had agreed to put aside our concerns, which are detailed below, and compromise on the issue of most concern to us; the threshold dollar exemption for business opportunities originally set at \$200. We had agreed to a threshold of \$250. It now appears that we compromised more than we had bargained for. The bill was amended on the House floor to severely limit the application of this exemption. Consequently, I am writing to express our outright opposition to the bill and ask that you vote against it in committee.

DSA and its members have been involved in the effort to curb fraud in the sales of business opportunities at the federal and state levels since the late 1970's. Business opportunity fraud undermines vital public confidence in industries like direct selling, which utilize and depend upon individual entrepreneurship. Clear distinctions can be drawn between direct selling and business opportunities because the investment required to participate in a direct selling opportunity is comparatively low. Unfortunately, we are concerned that the definition of a business opportunity under your review is not clear and would cause confusion among Alaska's consumers.

We support the purpose of legislation like House Bill 393, which is to protect Alaska's citizens from risking large amounts of money for what might be an unproven or unprofitable business venture. Twenty-three states have enacted similar laws in response to deceptive and unfair practices in connection with the sale of business opportunities and the Federal Trade Commission has adopted a Trade Regulation Rule (Trade Rule) in this area. Unfortunately, we oppose House Bill 393.

The Direct Selling Association, established in 1910, is the trade association representing the more than 150 companies that market their products and/or services to customers via independent salespeople, primarily through home parties or person-to-person sales. Our association members include some of the nation's most well known commercial names, such as Amway, Avon, Mary Kay, and Shaklee. This global industry generates more than \$83 billion in worldwide sales each year, \$25.57 billion in the U.S. and has a salesforce of more than 11

dynamic essentials

610 Crescent Executive Court, Suite 112, Lake Mary, FL 32746 Phone 407-444-9933 Fax 407-801-1714 www.dynamicessentials.com
DSA Member

The Honorable Ben Stevens
DSA Opposition to House Bill 393
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million people in the U.S. We have on average over 30,000 direct salespeople per Congressional district and thus there are approximately 30,000 direct sellers living and working in Alaska.

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

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

As the result of this ease of access and flexibility in work arrangements, direct selling has wide appeal among women who have significant family responsibilities, as well as attracting substantial numbers of minorities, the elderly, and handicapped persons. Of our more than 11 million independent contractor salespeople across the United States, about 73 percent are women.

DSA's Opposition to House Bill 393

Alaska's consumers need this proposal to regulate business opportunities to be crystal clear on what exactly constitutes a business opportunity. **Our one concern was the exemption threshold of \$200 contained in the original bill and its placement in the proposal.** The \$200 threshold contained in House Bill 393 is atypical of the thresholds in the other state business opportunity laws. In fact only three states, Connecticut, New Hampshire and North Carolina, contain a similar threshold. These thresholds exist:

- To require a strict compliance mode on those business opportunities where people invest a large amount of money up-front;
- To focus limited, valuable state resources on situations where people can be seriously harmed; and
- To reassure people involved in small income-earning programs that they would be protected from inadvertent coverage.

The lower threshold would subject many small income-earning opportunities to onerous registration and bonding requirements, which would hurt many of those very small businesses. It would also take the necessary focus of enforcement off the large business opportunities, where people can be seriously harmed, and spread limited state resources over a much wider field.

The Honorable Ben Stevens
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Page 3

In 1980, the Iowa Attorney General's Office showed that the average business opportunity fraud victim lost on average \$5,400. In 1995, the Wall Street Journal ran a story entitled "Undercover Blitz Targets Business Opportunity Scams". This story noted that the victims were defrauded of between \$1,500 and \$6,000. We believe that Alaska should target the business opportunities that pose the most harm.

The clear trend in the regulation of business opportunities is toward higher dollar thresholds stated in the definitions section of the law. A majority of the other twenty-three states that regulate business opportunities and the Federal Trade Commission use a \$500 threshold stated in the definitions section of their statutes and regulations. Twenty-seven states choose not to regulate the sale of business opportunities. If the state chooses to regulate the sale of business opportunities, Alaska should follow the trend and enact a bill with a \$500 threshold stated in the definition of a business opportunity.

For all of these reasons, we opposed the bill in its original form. We then agreed to compromise in the interests of consumer protection to leave the limit in its place within the exemptions section and to live with a dollar amount of \$250. We did not agree to any other language or limitation. The bill passed cleanly through its remaining committees, but was then amended on the House floor, inconsistently with our understanding.

We would support the adoption of an amendment to the bill, replacing the \$200 threshold with a \$500 threshold. But cannot support the bill as it passed the House. We suggest that you modify the definition of business opportunity to fulfill our request as follows:

Add the underlined text to Sec. 45.66.900, Definitions;

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

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

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

This change and movement makes it clear to all - consumers and regulators alike - that the type of small income-earning opportunity represented by the DSA membership does not fall under this law.

For your information, in 1984 the North American Securities Administrators Association developed a model Business Opportunity Sales Act (NASAA Model), which contains a \$500