

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

10852 HOUSE JUDICIARY

WESTERN ALASKA LAND TITLE CO.

Agents for Stewart Title Guaranty Co.

February 11, 2004

The Honorable Tom Anderson
House of Representatives
State Capitol
Juneau, Alaska 99801-1182
VIA Fax: (907) 465-2418

Dear Mr. Anderson;

With HB421 we have an opportunity to speed up the Real Estate closing process. Title searches consistently turn up mortgages, which have been paid in full and have never been released of record. Although lenders are quick to secure their loans, some never produce the proper paperwork to release their interests of record after receiving satisfaction in full. HB421 would at least provide a tool to the industry to help alleviate the backlog of unreleased mortgages which burden the "Public Records". The speedy passage of this bill can only benefit the consumer and the industry.

Sincerely,



Tim Hurley
President

TJH/ds
CC: Representative Dan Ogg



**First American
Title Insurance Company**

3035 "C" Street • Anchorage, Alaska 99503 • Phone (907) 561-1844 • Fax (907) 561-1948

February 11, 2004

Representative Tom Anderson
State Capitol, Room 432
Juneau, AK 99801-1182

Via Fax 907-465-2418

Re: HB 421

Dear Rep. Anderson:

I am State Agency Manager, Counsel & Underwriter for First American Title Insurance Company, the largest underwriter of title insurance in the State of Alaska, and the Immediate Past President of the Alaska Land Title Association, the trade organization made up of the active title insurance agents and underwriters in Alaska. I am writing today to express First American's support for HB 421, relating to reconveyances of deeds of trust.

This bill would solve a growing problem in Alaska and other states, where as years have passed lenders and borrowers have not, for one reason or another, followed through on releasing deeds of trust representing mortgage loans on both residential and commercial properties. Title insurance agents, acting both as insurers of the status of title and as neutral escrow closers of such transactions, often pay off these loans but never receive the paperwork from the lender or borrowers to get the liens released of record at the Recorder's Office. This bill would allow us in the title industry to help future owners of the properties still encumbered with such unreleased, but paid off, loans to clear the record by reconveying (a deed of reconveyance is the document signed by the trustee under a deed of trust) the deeds of trust. This is of benefit to the real estate community as a whole, as it will result in quicker, cleaner real estate closings.

I have spoken to Josh Applebee in your office about the bill, and I would be happy to answer any questions you or others may have about it. Thank you for your assistance and support.

Very truly yours,

FIRST AMERICAN TITLE INSURANCE CO.

Bryan S. Merrell
State Agency Manager, Counsel & Underwriter

cc: John Bitney

HB

423

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: HB423-LAW-2-9-04
Bill Version: HB423
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to accidents involving the RDU CIVIL
vehicle of a person under the influence of an alcoholic..." Component Torts and Workers' Compensation
Sponsor Representative Anderson
Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill limits the liability for personal injury, death, or property damage resulting from a motor vehicle accident in circumstances where the damages result from driving the vehicle of a person under the influence of an alcoholic beverage.

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

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division Administrative Services Date/Time 2/9/04 1:15 PM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/9/2004
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB423-DPS-ABC-2-9-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Taxicab Driver Liability RDU Statewide Support
 Component ABC Board
 Sponsor Rep. Anderson
 Requester H.State Affairs Component No. 2690

Expenditures/Revenues (Thousands of Dollars)

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

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Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill provides legal liability protection to taxicab/limousine drivers and liquor licensees and their employees trying to provide a "safe ride" home for alcohol impaired patrons.

No fiscal impact is anticipated to the Department of Public Safety.

Prepared by: Doug Griffin, Director Phone 269-0351
 Division ABC Board Date/Time 2/9/04 2:28 PM
 Approved by: Commissioner William Tandeske Date 2/9/2004
 Agency Public Safety

ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. Jim Holm
Rep. Dan Ogg
Rep. Ralph Samuels
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Leg. Legal

From: Vanessa Tondini, Committee Aide
House Judiciary Committee

Date: March 26, 2004

Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS1600N, HB 423, incorporating the attached two amendments (Amendments 2A and 2B). The bill was passed out of committee today.

If you have any questions, please call me at 4990. Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

4

2 Amendments to CSAB 423 (JUD)
"E" versions by Grunberg

Amendment #2A - PASSED

page 1 line 7 after "by" insert "or on behalf of"

Amendment #2B - PASSED

page 2 line 12 after "person insert "or entity"

HB423

Gara ^N

Amendment 3 - FAILED

A page 2 line 19, after "vehicle", insert
"or other applicable."



Amendment #1 -

WITHDRAWN
by Samuels

N

~~Liability on the~~

~~Cab driver driving the~~

~~Cab~~

The ~~auto~~^{auto} insurance that

covers the driver ~~and~~ also

covers the taxi-cab driver

that drives the car from

the licensed premises to the

home or ~~the~~ directed location of

the original driver.

23-LS1600V
Luckhaupt
3/17/04

CS FOR HOUSE BILL NO. 423()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE ANDERSON

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to accidents involving the vehicle of a person under the influence of an**
2 **alcoholic beverage."**

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

4 *** Section 1. AS 09.65 is amended by adding a new section to read:**

5 **Sec. 09.65.300. Damages resulting from driving the vehicle of a person**
6 **under the influence of an alcoholic beverage. (a) A person is not liable beyond the**
7 **limits of any applicable insurance policy purchased by the owner of the vehicle for**
8 **damages resulting from a motor vehicle accident if the person was driving a vehicle**
9 **involved in the accident and**

10 **(1) before the accident, started driving the vehicle involved in the**
11 **accident from or near licensed premises;**

12 **(2) is, at the time of the accident, a person employed in the course and**
13 **scope of employment to or under contract to drive a taxicab or limousine, a taxicab or**
14 **limousine owner, a holder of a taxicab or limousine permit issued by a municipality,**

1 or an owner or employee of a company that dispatches taxicabs or limousines;

2 (3) was not under the influence of an alcoholic beverage, inhalant, or
3 controlled substance at the time of the accident;

4 (4) was driving the vehicle to the motor vehicle owner's residence or
5 designated residential location at the request of the motor vehicle owner or operator or
6 a law enforcement officer; and

7 (5) was driving the vehicle because the motor vehicle owner or
8 operator was under the influence of an alcoholic beverage or reasonably believed to be
9 under the influence of an alcoholic beverage.

10 (b) A person licensed under AS 04.11.080 - 04.11.250, or an agent or
11 employee of the person, is not liable for damages resulting from a motor vehicle
12 accident described under (a) of this section. A person that participates in making
13 arrangements for transportation of a vehicle under (a) of this section is not liable for
14 damages resulting from a motor vehicle accident described in (a) of this section.

15 (c) This section does not

16 (1) preclude liability for civil damages as a result of gross negligence
17 or reckless or intentional misconduct; or

18 (2) limit the ability of a person to recover damages under any
19 applicable uninsured or under insured motor vehicle insurance coverage.

20 (d) A motor vehicle owner is considered to have given consent to another
21 person to drive the owner's motor vehicle if the other person is involved in an accident
22 and the provisions of (a) of this section apply to the other person.

23 (e) In this section,

24 (1) "controlled substance" has the meaning given in AS 28.33.190;

25 (2) "inhalant" has the meaning given to the phrase "hazardous volatile
26 material or substance" in AS 47.37.270;

27 (3) "licensed premises" has the meaning given in AS 04.21.080.

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

30 APPLICABILITY. This Act applies to a civil action that accrues on or after the
31 effective date of this Act.

1 * **Sec. 3.** AS 09.65.300 is repealed July 1, 2007.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS
LABOR & COMMERCE COMMITTEE, CHAIRMAN
COMMUNITY & REG AFFAIRS COMMITTEE, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
ADMINISTRATIVE REGULATION REVIEW COMMITTEE, MEMBER

website: <http://www.akRepublicans.org/Anderson.htm>



INTERIM
716 WEST 4TH AVENUE, SUITE 650
ANCHORAGE, AK 99501
PHONE (907) 269-0265
FAX: (907) 269-0264

SESSION
ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4939
1-800-465-4939
FAX: (907) 465-2418

Representative Tom Anderson

email: Representative_Tom_Anderson@legis.state.ak.us

MEMORANDUM

DATE: March 9, 2004

TO: Representative Lesil McGuire
Chairman, House Judiciary Committee

FROM: Representative Tom Anderson

RE: HB 423 Taxicab Driver Liability

At your earliest convenience, please schedule House Bill 423 Taxicab Driver Liability for a hearing in the House Judiciary Committee. Attached please find the completed bill packet.

Under HB 423, taxicab operators who transport intoxicated persons or who drive an intoxicated person's motor vehicle to their home or another directed location would be not civilly liable for damages. HB 423 allows a taxicab operator to drive an intoxicated person home while a second operator follows them home in their vehicle.

Thank you for your time and consideration of this matter.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT FOR HB 423

BY: Representative Tom Anderson

TITLE: "An Act relating to accidents involving the vehicle of a person under the influence of an alcoholic beverage; and providing for an effective date."

House Bill 423 is a "Good Samaritan" bill for taxicab operators who transport intoxicated persons or who drive an intoxicated person's motor vehicle to their home or another directed location. Absent gross negligence or reckless or intentional misconduct, a person engaging in this activity would not be civilly liable for damages.

There are times when Alaskans find themselves in an "end of evening" dilemma – they are over the .08 blood alcohol limit and shouldn't drive, but are worried and reluctant to leave their car unattended overnight. HB 423 resolves this dilemma by allowing a taxicab operator to drive an intoxicated person home while a second operator follows them home in their vehicle.

This legislation would allow the intoxicated person and his or her vehicle to get home safely without the taxicab operator fearing liability. HB 423 promotes responsible behavior and encourages people to do the right thing and not drive while intoxicated.

I urge your support of this important piece of legislation.

23-LS1600H
Luckhaupt
3/8/04

CS FOR HOUSE BILL NO. 423(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE ANDERSON

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to accidents involving the vehicle of a person under the influence of an**
2 **alcoholic beverage."**

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

4 *** Section 1. AS 09.65 is amended by adding a new section to read:**

5 **Sec. 09.65.300. Damages resulting from driving the vehicle of a person**
6 **under the influence of an alcoholic beverage. (a) A person is not liable for personal**
7 **injury, death, or property damage resulting from a motor vehicle accident if the person**
8 **was driving a vehicle involved in the accident and**

9 (1) before the accident, started driving the vehicle involved in the
10 accident from or near licensed premises;

11 (2) is, at the time of the accident, a person employed in the course and
12 scope of employment to or under contract to drive a taxicab or limousine, a taxicab or
13 limousine owner, a holder of a taxicab or limousine permit issued by a municipality,
14 or an owner or employee of a company that dispatches taxicabs or limousines;

1 (3) was not under the influence of an alcoholic beverage, inhalant, or
2 controlled substance at the time of the accident;

3 (4) was driving the vehicle to the motor vehicle owner's residence or
4 designated residential location at the request of the motor vehicle owner or operator or
5 a law enforcement officer; and

6 (5) was driving the vehicle because the motor vehicle owner or
7 operator was under the influence of an alcoholic beverage or reasonably believed to be
8 under the influence of an alcoholic beverage.

9 (b) A person licensed under AS 04.11.080 - 04.11.250, or an agent or
10 employee of the person, is not liable for personal injury, death, or property damage
11 resulting from a motor vehicle accident described under (a) of this section.

12 (c) This section does not preclude liability for civil damages as a result of
13 gross negligence or reckless or intentional misconduct.

14 (d) A motor vehicle owner is considered to have given consent to another
15 person to drive the owner's motor vehicle if the other person is involved in an accident
16 and the provisions of (a) of this section apply to the other person.

17 (e) In this section,

18 (1) "controlled substance" has the meaning given in AS 28.33.190;

19 (2) "inhalant" has the meaning given to the phrase "hazardous volatile
20 material or substance" in AS 47.37.270;

21 (3) "licensed premises" has the meaning given in AS 04.21.080.

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

24 APPLICABILITY. This Act applies to a civil action that accrues on or after the
25 effective date of this Act.

26 * Sec. 3. AS 09.65.300 is repealed July 1, 2007.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SECTIONAL ANALYSIS HOUSE BILL 423 BY: Representative Tom Anderson

TITLE: "An Act relating to accidents involving the vehicle of a person under the influence of an alcoholic beverage; and providing for an effective date."

- Section 1:** Adds new section to 09.65. Under certain specific circumstances, a taxicab operator is not civilly liable for personal injury or death during the transportation of an intoxicated person or an intoxicated person's vehicle except as a result of gross negligence or reckless or intentional misconduct. Additionally, owner of vehicle or third-party may not bring civil action against taxicab operator unless gross negligence or reckless or intentional misconduct is involved.
- Section 2:** Applicability section.
- Section 3:** Effective date: July 1, 2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: HB423-LAW-2-9-04
Bill Version: HB423
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to accidents involving the RDU CIVIL
vehicle of a person under the influence of an alcoholic..." Component Torts and Workers' Compensation
Sponsor Representative Anderson
Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

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Other (Specify Type--Do not abbreviate)						
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Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
This bill limits the liability for personal injury, death, or property damage resulting from a motor vehicle accident in circumstances where the damages result from driving the vehicle of a person under the influence of an alcoholic beverage.

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

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division Administrative Services Date/Time 2/9/04 1:15 PM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/9/2004
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB423-DPS-ABC-2-9-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Taxicab Driver Liability RDU Statewide Support
 Component ABC Board
 Sponsor Rep. Anderson
 Requester H.State Affairs Component No. 2690

Expenditures/Revenues (Thousands of Dollars)

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ANALYSIS: (Attach a separate page if necessary)

This bill provides legal liability protection to taxicab/limousine drivers and liquor licensees and their employees trying to provide a "safe ride" home for alcohol impaired patrons.

No fiscal impact is anticipated to the Department of Public Safety.

Prepared by: Doug Griffin, Director Phone 269-0351
 Division ABC Board Date/Time 2/9/04 2:28 PM
 Approved by: Commissioner William Tandeske Date 2/9/2004
 Agency Public Safety

John L. George and Associates
3328 Fritz Cove Road
Juneau Alaska 99801
Tel.907 789-0172 Fax 907 789-6964

Honorable Tom Anderson
Chairman
House labor and Commerce Committee
State Capitol
Juneau, Alaska 99801

Re: House Bill 423

Dear Representative Anderson,

I represent the Property Casualty Insurers Association of America. PCI member companies write thirty eight percent of the automobile insurance premium in the state. The PCI supports HB423 with the amended language faxed to me by your staff on March 15. These amendments preserve recovery by injured individuals from existing insurance policies while they appropriately relieve persons arranging transportation for impaired drivers from liability.

There is no question that insurers and insured owners are better served by having a non impaired permissive driver operating a motor vehicle when the owner is impaired. This bill is a positive step toward removing drunk drivers from the highway.

Sincerely,

John L. George



MADD
Activism | Victim Services | Education™

Mothers Against Drunk Driving
JUNEAU CHAPTER
211 4th St., Suite 314
Juneau, AK 99801
Phone (907)463-2562
Fax (907)463-2540
madd@alaska.net
www.madd.org/ak/juneau

February 10, 2004

Representative Tom Anderson
State Capitol, room 432
Juneau, Alaska 99801

Re: House Bill 423
"An Act relating to accidents involving the vehicle of a person under the influence of an alcoholic beverage; and providing for an effective date."

Dear Representative Anderson:

The MADD Alaska Chapters, *Anchorage, Fairbanks, Juneau and Mat-Su*, support House Bill 423.

House Bill 423 will encourage and protect designated drivers. It is imperative that support is provided for those who drive potential drunk drivers to their destination. A designated driver is "life insurance" for all who use our road system.

House Bill 423 would create a deterrent for those who might otherwise drive impaired if unable to find an alternative method of transportation.

While annual alcohol-related traffic fatalities have decreased by more than 33 percent over the past few decades, the latest statistics show a recent increase with more than 17,400 people killed and more than half a million others injured in alcohol-related crashes in 2002.

Alaska had 87 traffic deaths of which 35 were alcohol-related(40%) in 2002. The previous year our state lost 47 Alaskans out of 89 (53%) because of alcohol.

Sincerely,

Cindy Cashen

Executive Director

Subject: TAXI BILL From Frank Dahl

Date: Mon, 01 Mar 2004 20:22:15 -0900

From: Frank Dahl <frankdahl@customcpu.com>

To: Representative_Tom_Anderson@legis.state.ak.us

DUI taxi bill a positive approach

By Frank Dahl

During lent and upcoming Easter holiday, many of us center on our faith and family, but also on our dedication and responsibility to each other. House Bill 423 is a perfect example of taking responsibility one step further by truly watching out for our friends and patrons. And many state House members agree as they ponder the passage of this bill seeing what could be its positive effects.

Sponsored by Rep. Tom Anderson, this proposed legislation will help reduce our DUI (driving under the influence) problem. The premise behind Rep. Anderson's proposal is that people fail to find an alternative means of transportation when they feel they may be legally intoxicated because they do not wish to incur the cost of a cab, risk vandalism to their vehicle or be hindered by retrieval of their vehicle the next morning. With no "perceived" alternative, they opt to drive home intoxicated. Many arrive safely at home, but for those who are arrested, or cause an accident or injury, the consequences surpass the negligible cost of a cab or time spent returning the next day sober to locate the car.

Initially proposed by the Anchorage Downtown Partnership and Downtown License Beverage Association and solidly supported by Anchorage CHARR, the concept is to provide a means through which an intoxicated individual, hesitant to drive because he/she is above the legal limit, (most recently reduced to a new low, .08% blood alcohol content), can ask for an employee at the participating bar or restaurant to request cab service, not only for him/herself, but also for the car. The cab company will dispatch a cab with an extra driver who will subsequently drive the patron's car home at the same time the intoxicated patron is driven home in the cab. Not a bad idea! And best of all, public safety is not compromised...

Not only does this solution instill a partnership mentality between community, patron and business, but it also reminds residents of the fact that the hospitality industry cares about your safety. Anchorage Cabaret, Restaurant and Retailers Association (CHARR) , wholeheartedly endorses the concept. And many establishments have endorsed the bill and are eager to participate upon enactment of the program. In the end, it's a win-win for everyone.

One concern that has arisen stems from the potential for a lawsuit if the cab company employee, who drives the individual's vehicle home, causes an accident from negligence. The context of the bill is intended to hold harmless the driver, cab company and licensed establishment if intentional misconduct is not a factor. In other words, no one will be liable for acting responsibly. To that end, we must formulate effective insurance language in the bill to maintain the integrity of the no-liability intent.

During troubled times, certain members of society tend to find it easier to cast the first stone, rather than seek lasting solutions to complicated issues like alcohol abuse and DUI prevention. The easiest approach is to criticize our laws and legislators, and be reactive, rather than proactive. Or, to mandate harsher penalties and fill our correctional system beyond its capacity while increasing our need for more taxes. And, of course, we must always expect certain self serving groups to demand more taxes on individual industries as a supposed answer. Higher prices have never dissuaded the addicted toward lesser consumption. No matter how hard one tries, it is impossible to understand the mindset of why people do what they do. Drunks don't make thought-out decisions. They act and react. Driving under the influence is no exception. Many of us are guilty of bad judgment in some form. The solution lies in curbing behavior with "quality" treatment, education and hope, or as an alternative, preventing behavior like driving under the influence from even happening.

HB 423 eliminates the consequences of a DUI, while at the same time partnering with the hospitality industry, with the cab company with the insurance industry, in concert with law enforcement at the city and state level. The innovators and sponsor of this bill should be commended for a novel and positive approach to a growing problem that doesn't need to exist.

HB 423 is right on target for a controllable problem. And it will save the state of Alaska real tax dollars.

Let 2004 be the year of understanding and compassion, neighbor helping neighbor. Let this year be one in which we stop casting stones and instead, embrace, using the stones to build a bridge of cooperation. Rep. Andersons HB 423 can be the first step.



Presents

“OFF THE ROAD PROGRAM”

**A free ride home for you and your car
Let us all add safety to our community. Together we can make
Anchorage a safer place to live.**

**ANCHORAGE Cabaret, Hotel, Restaurant, and Retailers Association
(CHARR)
OFF THE ROAD PROGRAM**

Our Vision:

Anchorage CHARR, a unified financially sound organization to protect, foster and grow the hospitality industry serving a strong membership and to maintain a positive relationship with the Anchorage community.

Our Mission:

Our mission is to serve and represent the hospitality industry within the Municipality of Anchorage. Collaborate with responsible members, stakeholders, and businesses as a vital part of the community.

Our Concerns:

Unintentional acts created by patron drivers of vehicles under the influence that may be harmful to other members of the community. This may occur when:

- **A patron has a need for their vehicle the following morning and does not want the inconvenience of collecting the vehicle.**
- **Vehicles can be towed for a number of reasons thus incurring unwanted costs.**
- **There is also the possibility the vehicle could be vandalized and/or burglarized.**
- **Simply the patron choose not to pay or can not pay for the cost of a taxi.**

"These are reasons some patrons may justify drinking and driving"

Our Solution:

To provide a safe mode of transportation for the patron and his/her vehicle. This service can be requested by the patron or by the determination of the establishment to limit liabilities and to protect the general public. This accompaniment program would be provided by the municipal licensed chauffeurs (taxi cab drivers).

- **Transportation provided from the establishment to the patrons home.**
- **Patron and vehicle arrive home safe together.**
- **Limited or no cost to the patron for this service.**
- **Educate establishment staff and public of the availability of this program and the benefits that it provides.**



January 21, 2004

In order for this program to be successful the cab companies and the liquor establishments must work and communicate closely. To help facilitate this program, the establishments will implement the following strategies and policies:

- 1. Place signs near pay phones, direct lines to cab companies and in other conspicuous areas of the establishment such as restrooms and near the exits where signs can be easily read.**
- 2. Train the establishment staff members on the availability of this program, how to inform patrons, and how to implement the procedures agreed upon by program officials.**
- 3. Make public service announcements (PSA) on in-house sound systems (if establishment is equipped) from time to time and at closing time to help influence patrons decisions to use the program.**
- 4. Pay a portion of the cab fare cost agreed upon by establishments and program officials.**
- 5. Promote program from time to time in conjunction with other advertising and promotions. Make program informational hand outs available to patrons in the establishments.**
- 6. Track program usage (in conjunction with the cab companies) to assess effectiveness and demographics and to provide informational statistics for program officials to use in promoting and or improving this program.**

Anchorage CHARR feels, with the establishments implementing these strategies and policies will help assure the success of this exciting and new collaboration.

**John G. Pattee
Anchorage CHARR**

***RNT Services D.B.A. Checker Cab Company
3215 Mountain View Drive
Anchorage, Alaska 99501-3108
Office (907) 274-3333 Fax (907) 258-7775 24-Hour Dispatch (907) 276-1234***

Regarding: Off The Road Program

In order for this program to work and be successful the Restraunt's, Lounge's and all Taxicab Companies **MUST** work together and communicate closely with everyone. To help facilitate this, Checker Cab Company will implement the following procedure and policies:

1. We will have a minimum of six (6) designated taxi drivers on duty every night to be available for this program.
2. We will set a flat rate fee of \$40.00 per car deliveries made from any licensed establishment to one (1) destination in the Anchorage Area, for **BOTH** the patron and his/her vehicle.
3. Every Car Delivery that we do will be logged into a log book in the Dispatch office as it comes in, so it will be easy to track our progress with this program and how well it is working to benefit the Anchorage Community.
4. Train All Taxicab Drivers and Dispatch Employees with our Company about this program, incase designated driver's are not available they will be able to cover the car delivery safely.
5. Promote, with all the taxi drivers help, how this program is available to **ALL** Customers headed to any drinking establishment in the Anchorage Area, A Safe and Convenient way to enjoy all licensed establishments and not have to worry about retrieving their vehicle the next day if it has not been towed away.

RNT Services and Checker Cab Company feel that this program will work to help solve some of the drinking and driving problems that exist here in the Anchorage Area and will make the Community a much safer community for everyone to live in.

Nancy R Brockway
Owner - RNT Services
Office Manager - Checker Cab Company

Bill jumps 'Off the Road' hurdle

■ DRUNK: Program would see car, driver home by cabbie.

The Associated Press

JUNEAU — Drunken drivers and their vehicles could get a ride home if a bill that passed the House on Tuesday has its intended effect.

State Rep. Norm Rokeberg, R-Anchorage, introduced the bill, which limits liability for taxis transporting drunken drivers' cars. He said he's trying to clear the way for an Anchorage program called "Off the Road" to get off the ground.

The Downtown Licensed Beverage Association, the Downtown Partnership and corporate sponsors have pitched in to fund the program, which would pay for cab drivers to take both an individual and his car home from participating downtown bars,

Rokeberg said.

The program should remove one obstacle that prevents drunken drivers from giving up their keys, Rokeberg said.

"Many drivers are really reluctant to leave their dearest possession, sometimes their vehicle, in a parking lot," Rokeberg said.

Often they need their car to get to work the next day, they worry about vandalism or they fear it will be towed, he said.

High insurance costs have kept the "Off the Road" program from starting, Rokeberg said. He said insurance would have cost taxi companies \$1,000 per month per cab.

The bill exempts cab drivers operating the drunken drivers' vehicle from liability in an accident except in cases of gross negligence or reckless or intentional misconduct.

The vehicle owner's insurance would still have to pay for damages in an accident, the

same as if the owner had been driving.

Rep. Eric Croft, D-Anchorage, said that provision removed his concern about the bill. Without it, he said, he had feared accident victims would have no recourse.

The bill passed the House 37-0. Rep. John Davies, D-Fairbanks, gave notice of reconsideration of his vote, so the measure could come up for a final vote today. After that, it would go to the Senate.

The measure is House Bill 68.

In other news at the Capitol

on Tuesday:

• The House State Affairs Committee approved House Joint Resolution 30, by Rep. Pete Kott, R-Eagle River. It urges the U.S. Congress to begin the process of amending the U.S. Constitution to prohibit desecration of the U.S. flag.

• Groups on both sides of the abortion issue held rallies on the Capitol steps to commemorate the anniversary of Roe vs. Wade, the U.S. Supreme Court decision that legalized abortion in the United States.



Map of shopping, public facilities and medium- to high-density; a local area for seven sub-areas in the Anchorage Bowl

(907) 336-7178

The Bradley House

Feb 11 2004 5:12PM

Wednesday, January 30, 2002 B-7

oice of the Times

A CONSERVATIVE VOICE FOR ALASKANS

WILLIAM J. TOBIN

Senior editor

DUI taxi bill a positive approach

By FRANK DAHL

The early part of the year is a time for reflection, for many reasons. Many of us center on our faith and family and lives; but also on our dedication and responsibility to each other. House Bill 68 is a perfect example of taking responsibility one step further by truly watching out for our friends and patrons. And the state House agrees, as they recently passed the bill to the state Senate.

Sponsored by Rep. Norma Rokeberg, this proposed legislation will help reduce our DUI (driving under the influence of alcohol) problem. The premise behind Rep. Rokeberg's proposal is that people fail to find an alternative means of transportation when they are legally intoxicated because they do not wish to incur the cost of a cab, risk vandalism to their vehicle or be hindered by retrieval of their vehicle the next morning. With no "paralyzed" alternative, they opt to drive home intoxicated. Many arrive safely at home, but for those who are arrested, or cause an accident or injury; the consequences surpass the negligible cost of a cab or time spent returning the next day sober to locate the car.

Proposed by the Anchorage Downtown Partnership and Downtown License Beverage Association, the concept is to provide a means through which an intoxicated individual, hesitant to drive because he/she is above the legal limit (.08 blood-alcohol content), can ask an employee at the participating bar or restaurant to request cab service for himself and his vehicle. The participating cab company will dispatch a cab with an extra driver who will subsequently drive the patron's vehicle home at the same time the intoxicated patron is driven home in the cab. Not a bad idea. And best of all, public safety is not compromised.

Not only does this solution instill a partnership mentality between community, patron and business, but it also



reminds residents of the fact that the hospitality industry cares about your safety. Anchorage Cabaret, Hotel, Restaurant & Retailers Association, for example, wholeheartedly endorses the concept. And many establishments have endorsed the bill and are eager to participate upon enactment of the program. In the end, it's a win-win for everyone.

One concern that has arisen stems from the potential for a lawsuit. If the cab company employee, who drives the individual's vehicle home, causes an accident from negligence. The context of the bill is intended to hold harmless the driver, cab company and licensed establishment if intentional misconduct is not a factor. In other words, no one will be liable for acting responsibly. To that end, we must formulate effective insurance language in the bill to maintain the integrity of the no-liability intent.

During troubled times, members of society tend to find it easier to cast the first stone, rather than seek lasting solutions to issues like alcohol abuse and DUI prevention. The easiest approach is to criticize our laws and legislators, and be reactive, rather than proactive. Or, mandate harsher penalties and fill our correctional system beyond its capacity while increasing our need for more taxes.

But sometimes, no matter how hard one tries, it is impossible to understand the mindset of why people do what they do. Drunks don't make thought-out decisions. They act and react. Driving under the influence is no exception. Many of us are guilty of bad judgment. The solution lies in curbing behavior with quality treatment and education, or, as an alternative, preventing behavior like driving under the influence from even happening.

HB 68 eliminates the consequence of a DUI, while at the same time partnering the hospitality industry with the cab industry with the insurance industry, in concert with law enforcement at the city and state level. The innovators and sponsor of this bill should be commended for a novel and positive approach to a growing problem that doesn't need to exist.

HB 68 is right on target for a controllable problem. And it will save the state of Alaska real tax dollars.

Let 2002 be the year of understanding, neighbor helping neighbor. Let this year be one in which we stop casting stones and instead, embrace using the stones to build a bridge of cooperation. HB 68 can be the first step.

Frank Dahl is president of the Anchorage Cabaret, Hotel, Restaurant and Retailers Association (CHARF).



Dahl

Anchorage CHARR
 OFF THE ROAD PROGRAM
 Budget

Category	July	August	September	October	November	December	Total
Operation:							
Salaries	0	0	0	0	0	0	0
Payroll taxes	0	0	0	0	0	0	0
Accounting	500	500	500	500	500	500	3000
Tax return preparation	0	0	0	0	0	0	0
Bank charges	100	100	100	100	100	100	600
Advertising (events)	0	0	14,000	16,000	0	0	30000
Printing	0	0	8,000	0	2,000	0	10000
Entertainment	100	100	100	100	100	100	600
Telephone	50	50	50	50	50	50	300
Utilities	0	0	0	0	0	0	0
Repairs & Maint.	0	0	0	0	0	0	0
Administrative O.H.	2312.5	2312.5	2312.5	2312.5	2312.5	2312.5	13875
Medical Insurance	0	0	0	0	0	0	0
Insurance - other	500	500	500	500	500	500	3000
Legal	4000		2000	0	0	2000	8000
Transportation cost	6000	6000	6000	6000	6000	6000	36000
Miscellaneous	0	0	0	0	0	0	0
Subtotal Operations	13562.5	9562.5	33562.5	25582.5	11582.5	11562.5	105375

BUDGET
Continuation

Category	January	February	March	April	May	June	Total
Operation:							
Salaries	0	0	0	0	0	0	0
Payroll taxes	0	0	0	0	0	0	0
Accounting	500	500	500	500	500	500	3000
Tax return preparation	0	0	0	0	0	0	0
Bank charges	100	100	100	100	100	100	600
Advertising (events)	0	0	14,000	16,000	0	0	30000
Printing	0	0	8,000	0	2,000	0	10000
Entertainment	100	100	100	100	100	100	600
Telephone	50	50	50	50	50	50	300
Utilities	0	0	0	0	0	0	0
Repairs & Maint.	0	0	0	0	0	0	0
Administrative O.H.	2312.5	2312.5	2312.5	2312.5	2312.5	2312.5	13875
Medical Insurance	0	0	0	0	0	0	0
Insurance - other	500	500	500	500	500	500	3000
Legal	4000		2000	0	0	2000	8000
Transportation cost	6000	6000	6000	6000	6000	6000	36000
Miscellaneous	0	0	0	0	0	0	0
Subtotal Operations	13562.5	9562.5	33562.5	25562.5	11562.5	11562.5	105375

Bill Text



BILL ID: HB 68

00 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 68 (JUD) (efd am)

01 "An Act relating to accidents involving the vehicle of a person under the influen

02 alcoholic beverage; and providing for an effective date."

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

04 * Section 1. AS 09.65 is amended by adding a new section to read:

05 Sec. 09.65.280. Damages resulting from driving the vehicle of a perso

06 under the influence of an alcoholic beverage. (a) A person is not liable

07 injury, death, or property damage resulting from a motor vehicle accident i

08 was driving a vehicle involved in the accident and

09 (1) before the accident, started driving the vehicle involved in

10 accident from or near licensed premises; -

11 (2) is, at the time of the accident, a person employed to or und

12 contract to drive a taxicab or limousine, a taxicab or limousine owner, a h

13 taxicab or limousine permit issued by a municipality, or an owner or employ

14 company that dispatches taxicabs or limousines;

01 (3) was not under the influence of an alcoholic beverage at the

02 the accident;

03 (4) was driving the vehicle to the motor vehicle owner's residen

04 the request of the motor vehicle owner or a law enforcement officer; and

05 (5) was driving the vehicle because the motor vehicle owner or

06 operator was under the influence of an alcoholic beverage or reasonably bel

07 under the influence of an alcoholic beverage.

08 (b) A person licensed under AS 04.11.080 - 04.11.250, or an agent or

09 employee of the person, is not liable for personal injury, death, or proper

10 resulting from a motor vehicle accident described under (a) of this section

11 (c) This section does not preclude liability for civil damages as a r

12 gross negligence or reckless or intentional misconduct.

13 (d) A motor vehicle owner is considered to have given consent to anot

14 person to drive the owner's motor vehicle if the other person is involved i

15 and the provisions of (a) of this section apply to the other person.

16 (e) In this section, "licensed premises" has the meaning given in

17 AS 04.21.080.

18 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a ne

19 read:

20 APPLICABILITY. This Act applies to a civil action that accrues on or after

21 effective date of this Act.

22 * Sec. 3. This Act takes effect July 1, 2002.

Bill Root:

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FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSSHB 68(JUD)
 (H) Publish Date: 1/22/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to accidents involving the BRU Civil Division
vehicle of a person under the influence of an alcoholic ..." Component Special Litigation
 Sponsor Representative Rokeberg
 Requester House Judiciary Committee Component No. 2213

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						
-----------------------------	--	--	--	--	--	--

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)
 CSSS HB 68 (JUD) prevents anyone from bringing a civil action for personal injury, death, or property damage against the driver when the driver holds a taxicab or limousine permit, or is the owner or other employee of a taxicab or limousine company, and is involved in a motor vehicle accident while driving an intoxicated owner's vehicle to the owner's residence from a licensed premises at the request of the owner or a law enforcement officer. The immunity from civil liability does not extend to cases of gross negligence or reckless or intentional misconduct.

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

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

Journal Text



01-22-2002 House Journal 2032

The Rules Committee submitted the following updated fiscal note:

2. Zero, Dept. of Law

Representative James moved and asked unanimous consent that the following committee substitute be adopted in lieu of the original bill:

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO.
68 (JUD)

"An Act relating to accidents involving the vehicle of a person under the influence of an alcoholic beverage; and providing for an effective date."

There being no objection, it was so ordered.

Amendment No. 1 was offered by Representative Rokeberg:

Page 2, line 22:

Delete "2001"

Insert "2002"

Representative Rokeberg moved and asked unanimous consent that Amendment No. 1 be adopted. There being no objection, it was so ordered.

Representative James moved and asked unanimous consent that CSSSHB 68 (JUD) (efd am) be considered engrossed, advanced to third reading, and placed on final passage. There being no objection, it was so ordered.

CSSSHB 68 (JUD) (efd am) was read the third time.

The question being: "Shall CSSSHB 68 (JUD) (efd am) pass the House?" The roll was taken with the following result:

CSSSHB 68 (JUD) (efd am)

Third Reading

Final Passage

YEAS: 37 NAYS: 0 EXCUSED: 3 ABSENT: 0

01-22-2002 House Journal 2033

Yeas: Berkowitz, Bunde, Chenault, Cissna, Coghill, Crawford, Croft, Davies, Dyson, Fate, Foster, Green, Guess, Halcro, Harris, Hayes, Hudson, James, Joule, Kapsner, Kerttula, Kookesh, Kott, Lancaster, McGuire, Meyer, Morgan, Moses, Mulder, Murkowski, Ogan, Porter, Rokeberg, Stevens, Whitaker, Williams, Wilson

Excused: Kohring, Masek, Scalzi

And so, CSSSHB 68 (JUD) (efd am) passed the House.

Representative James moved and asked unanimous consent that the

roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

Representative Davies gave notice of reconsideration of the vote on CSSSHB 68(JUD) (efd am).

Bill Root:

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Changes to House Bill 423:

- Page 1, lines 11, insert language after “a person employed” in the course and scope of employment. This was added to clarify that the driver must be currently working for the taxicab company at the time of the accident.
- Page 2, line 1, after the words “alcoholic beverage” insert, inhalant, or controlled substance. This language conforms to the description given in AS 28.35.030 of a person driving under the influence.
- Page 2, line 3, after the words “owner’s residence” insert or designated residential location. This is a clarification so people will not abuse the service by having the taxicab operators drive them to another bar.

23-LS1600W
Luckhaupt
3/3/04

CS FOR HOUSE BILL NO. 423()

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

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE ANDERSON

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to accidents involving the vehicle of a person under the influence of an**
2 **alcoholic beverage; and providing for an effective date."**

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

4 *** Section 1.** AS 09.65 is amended by adding a new section to read:

5 **Sec. 09.65.300. Damages resulting from driving the vehicle of a person**
6 **under the influence of an alcoholic beverage. (a)** A person is not liable for personal
7 **injury, death, or property damage resulting from a motor vehicle accident if the person**
8 **was driving a vehicle involved in the accident and**

9 (1) before the accident, started driving the vehicle involved in the
10 accident from or near licensed premises;

11 (2) is, at the time of the accident, a person employed in the course and
12 scope of employment to or under contract to drive a taxicab or limousine, a taxicab or
13 limousine owner, a holder of a taxicab or limousine permit issued by a municipality,
14 or an owner or employee of a company that dispatches taxicabs or limousines;

1 (3) was not under the influence of an alcoholic beverage, inhalant, or
2 controlled substance at the time of the accident;

3 (4) was driving the vehicle to the motor vehicle owner's residence or
4 designated residential location at the request of the motor vehicle owner or a law
5 enforcement officer; and

6 (5) was driving the vehicle because the motor vehicle owner or
7 operator was under the influence of an alcoholic beverage or reasonably believed to be
8 under the influence of an alcoholic beverage.

9 (b) A person licensed under AS 04.11.080 - 04.11.250, or an agent or
10 employee of the person, is not liable for personal injury, death, or property damage
11 resulting from a motor vehicle accident described under (a) of this section.

12 (c) This section does not preclude liability for civil damages as a result of
13 gross negligence or reckless or intentional misconduct.

14 (d) A motor vehicle owner is considered to have given consent to another
15 person to drive the owner's motor vehicle if the other person is involved in an accident
16 and the provisions of (a) of this section apply to the other person.

17 (e) In this section,

18 (1) "controlled substance" has the meaning given in AS 28.33.190;

19 (2) "inhalant" has the meaning given to the phrase "hazardous volatile
20 material or substance" in AS 47.37.270;

21 (3) "licensed premises" has the meaning given in AS 04.21.080.

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

24 APPLICABILITY. This Act applies to a civil action that accrues on or after the
25 effective date of this Act.

26 * Sec. 3. This Act takes effect July 1, 2004.

HB

424

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: 23-LS0732(S)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
 Title "An Act relating to review by the BRU Legislative Council
Legislative Affairs Agency of certain state agency...." Component: Council and Subcommittees
 Sponsor Representative Holm
 Requestor Representative Holm Component No. 2028

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	98.0	98.0	98.0	98.0	98.0	98.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	98.0	98.0	98.0	98.0	98.0	98.0

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	98.0	98.0	98.0	98.0	98.0	98.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	98.0	98.0	98.0	98.0	98.0	98.0

Estimate of any current year (FY2004) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

23-LS0732(S) proposes establishing in statute, a review of proposed regulations, other than regulations of the Boards of Game or Fisheries, that would implement newly enacted legislation, or any proposed regulations a standing legislative committee, the Administrative Regulation Review Committee, or the Legislative Council requested be reviewed as implicating major policy development. This review would be conducted by the LAA-Legal and Research Services Division, within available staff resources and priorities set by Legislative Council. This legislation directs the Legislative Affairs Agency to assign one or more attorneys to conduct a review of the proposed regulations. Legal Services is currently at it's workload capacity and could not, without additional staff, review more than one, possible two, regulations per year.

Prepared by: Karla Schofield, Deputy Director Phone 465-6626
 Division Administrative Services Date/Time 3/3/04 9:17 AM
 Approved by: Pamela Varni, Executive Director Date 3/3/2004
 Agency Legislative Affairs Agency

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION
ANALYSIS CONTINUATION

BILL NO. 23-LS0732IS

A legislative staff regulation reviewer in Colorado, which performs a limited regulation review function, estimates that reviewing one regulation of average complexity could take up to 5 hours. Taking on the additional responsibilities of regulation review with existing division staff is unworkable because the impact of reviewing regulations as the session is gearing up in December, on top of the need to adequately research and draft prefiled bills for the upcoming session, or at the end of session when attorneys are working on rewrites or amendments does not allow time to perform this new function. During the remaining portion of the year, the division is not fully staffed as some employees are seasonal and others are on annual leave. The division performs interim projects on other matters such as examining and preparing a report on all court decisions and opinions of the Attorney General construing Alaska Statutes, contract and litigation work, and interim projects such as title reviews and annual statute revision to incorporate new laws. During the interim the division receives and assigns between 50 and 100 new drafting requests per month.

The language in the legislation states that the Legislative Affairs Agency

1. "...may review each proposed regulation.."
2. "...that the review by LAA-Legal Services does not affect a state agency's authority to complete its proposed action regarding the regulation.."
3. "...suggestions for changes to a proposed regulation by the Legislative Affairs Agency are not binding on a state agency..."
4. "...No action may be brought for the failure of the Legislative Affairs Agency to conduct a legal review under this section..."

This makes it is clear that there are no consequences if the Legislative Affairs Agency does not have the staff to carry out the legislation. The legislation does make it very clear that the Legislature would like to have the ability to review a certain percentage of regulations proposed by state agencies over the course of a year.

As we are unable to determine exactly how many regulations, whether simple or complex, would actually be reviewed under this legislation, we have included funding for one attorney to perform this work. It is anticipated that the Legislature would wish to review, at a minimum, 30% of all proposed regulations. The 98.0 included in this fiscal note to fund the new attorney position represents approximately 30% of the 348.4 cost to review all proposed regulations for the State of Alaska. If the demand by the Legislature for regulation review exceeded the amount of work one attorney could accomplish, the Legislature would have at least two ways of increasing funding for this function, or they could choose to cease reviewing regulations. Method one for increasing funding for this function would be to increase the Legislative Affairs Agency budget request in subsequent fiscal years to include more positions and more funding for Legal Services. Method two would be for the Legislative Council to authorize the expenditure of Legislative Council funds for the Legislative Affairs Agency to retain a law firm to accomplish the review of specific regulations.

Personal Services

Legal Admin Reg Review Attorney IV position (R24) - 98.0

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: HB424-LAW-L&R-2-24-0
 Bill Version: HB 424
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: "An Act relating to review of regulations under the
Administrative Procedure Act by the Legislative Affairs Agency..." RDU: ADMINISTRATION & SUPPORT
 Component: Legislation & Regulations
 Sponsor: Representative Holm
 Requester: House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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						
1007 Interagency Receipts						
1141 RCA Receipts						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a process by which the Legislative Affairs Agency reviews certain regulations subject to the Administrative Procedure Act. The Department of Law will be impacted in three major ways by legislation:

- 1) The Department of Law is required to submit regulations to the Legislative Affairs Agency for review;
- 2) the Legislative Affairs Agency may consult with the Department of Law in the review process;
- 3) Department of Law will be notified of Legislative Affairs Agency's conclusions and assist agencies in analyzing comments.
- 4) Regulations may not be adopted until after the Department of Law receives notice from Legislative Affairs Agency that the review has been completed

It is anticipated that the Legislative Affairs Agency's review will lengthen the time for finalizing

Prepared by: Kathryn A. Daughhete, Director Phone: 465-3673
 Division: Administrative Services Date/Time: 2/25/04 9:05 AM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date: 2/25/2004
 Agency: Department of Law

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. HB 424

ANALYSIS CONTINUATION

regulations. The Drafting Manual will require revision to reflect the changes in the process and training will be needed on the changes. Agencies will require assistance from the Department of Law in responding to public records requests for the analysis produced by the Legislative Affairs Agency. Precluding agencies from acting on regulations absent approval from Legislative Affairs creates a separation of powers issue, and may result in a court test on constitutionality.

The fiscal impact is indeterminate and dependent on the volume of regulations subject to the process in any fiscal year and the level of legal assistance that agencies will need to appropriately consider the comments and to respond to requests.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB424-DHSS-DAS-02-23-04

() Publish Date: _____
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction): _____
 Title REVIEW OF REGULATIONS BY LEGISLATIVE AFFAIRS

RDU Departmental Support Services
 Component Commissioner's Office

Sponsor HOLM
 Requester HOUSE (JUD)

Component No. 317

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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)						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation will likely result in significant costs to the Department of Health and Social Services. However those costs are indeterminate given the department's inability to predict with any certainty the timeliness or consequences of the Legislative Affairs Agency's reviews of the department's regulations.

Under current law incumbent legislators and the Legislative Affairs Agency receive copies of notices of regulatory changes as part of the normal public comment process. Individual legislators, legislative committees including the Administrative Regulation Review Committee, and Legislative Affairs all have the ability to comment on the proposed regulations.

Prepared by: Sherry Hill, Special Assistant
 Division: Office of the Commissioner
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-1618
 Date/Time 02/23/2004
 Date 02/23/2004

FISCAL NOTE
FN #

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB424-DHSS-DAS-02-23-04

ANALYSIS CONTINUATION

The proposed legislation would require the Department of Law to provide a copy of proposed regulations to the Legislative Affairs Agency prior to opening the normal public comment period. The bill prohibits the agency from adopting the regulations pending receipt of the Legislative Affairs Agency review.

At this point in time a majority of the department's new regulations are necessary to achieve cost-savings in order for the department to live within its budget. Many of these cost-savings have been explicitly mandated by the legislature as discrete transactions in the department's budget. It is likely that the reviews conducted by the Legislative Affairs Agency will result in delays in implementing cost-containment activities. Delays may result from 1) Lack of timeliness of reviews; 2) Additional redrafting of regulations to address perceived deficiencies; or 3) Legal challenges arising from an unfavorable review.

If the department is unable to achieve its cost containment goals through the timely adoption of regulations, the department would have two choices: 1) To request a supplemental appropriation; or 2) Undertake alternative cost containment activities which may not have been envisioned in the budget passed by the legislature and signed by the Governor.

ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. Jim Holm
Rep. Dan Ogg
Rep. Ralph Samuels
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Tam Cook, Leg. Legal
From: Vanessa Tondini, Committee Aide
House Judiciary Committee
Date: March 4, 2004
Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS0732\S, HB 424, incorporating the technical, conceptual amendment #1 described below and also the attached amendment # 2. The bill was passed out of committee yesterday.

Amendment #1:

Page 2, Line 18:

Change "the statute" to "the applicable statutes" if you feel that it should read that way instead. (there was just concern by Rep. Gruenberg that grammatically and technically there might be more than one applicable statute, but if stating it singularly works, than that's fine).

If you have any questions, please call me at 4990. Thank you very much!

AMENDMENT NO. 2 - PASSED
TO HB 424

BY REPRESENTATIVE GRUENBERG

Page 1, line 3: After "Act;" insert the following:

repealing obsolete provisions of law concerning legislative annulment of regulations
and review;

Page 3, Line 19: Insert new bill section 5 and renumber sections accordingly:

*Sec. 5. AS 44.62.320 is repealed.

23-LS0732S
Cook
3/2/04

CS FOR HOUSE BILL NO. 424()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE HOLM

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to review by the Legislative Affairs Agency of certain state agency
2 regulations proposed for adoption, amendment, or repeal under the Administrative
3 Procedure Act; and providing for an effective date."

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

5 * Section 1. AS 24.20 is amended by adding a new section to read:

6 **Sec. 24.20.105. Review of proposed regulations.** (a) The Legislative Affairs
7 Agency may review each proposed regulation that is subject to AS 44.62.010 -
8 44.62.300 (Administrative Procedure Act). A review of proposed regulations under
9 this section must be conducted by an attorney employed by that agency.

10 (b) Reviews shall be conducted under (a) of this section in the following order
11 of priority:

12 (1) proposed regulations that would implement newly enacted
13 legislation;

14 (2) proposed regulations requested in writing to be reviewed by a

1 standing committee, the Administrative Regulation Review Committee, or the
2 legislative council as implicating major policy development.

3 (c) Under AS 44.62.190(a)(7), the notice of proposed action, along with a
4 copy of the proposed regulation, shall be furnished electronically by the state agency
5 to the

- 6 (1) Legislative Affairs Agency;
- 7 (2) chairs of the standing committees with jurisdiction over the subject
8 of the proposed regulation;
- 9 (3) Administrative Regulation Review Committee;
- 10 (4) legislative council.

11 (d) Within available staff resources and priorities set by the legislative council,
12 the Legislative Affairs Agency shall assign one or more attorneys to conduct a review
13 of proposed regulations. The review shall evaluate

- 14 (1) the legality and constitutionality of the proposed regulation;
- 15 (2) whether the state agency has statutory authority to adopt the
16 proposed regulation to implement, interpret, make specific, or otherwise carry out a
17 statute; and
- 18 (3) whether the proposed regulation is consistent with the statute.

19 (e) In conducting its review under this section, the assigned attorney may
20 consult with the Department of Law, the committee or council that requests the review
21 under (b)(2) of this section, and the state agency proposing the regulation change. If
22 the assigned attorney determines that the proposed action fails to meet the standards
23 set out in (d) of this section, the assigned attorney shall notify, in writing, the
24 Department of Law, the state agency, the Administrative Regulation Review
25 Committee, the president of the senate, and the speaker of the house of
26 representatives.

27 (f) In addition to the review specified in (d) of this section, the assigned
28 attorney shall notify the Administrative Regulation Review Committee, the president
29 of the senate, and the speaker of the house of representatives of any provision of the
30 proposed regulation that may be inconsistent with legislative intent and appropriate for
31 additional legislative oversight as a result.

*w/ the
"applicable
statutes"*

1 (g) Except as provided in this section, the Legislative Affairs Agency may not
2 release any information regarding its review of a proposed regulation under this
3 section.

4 (h) The process of review of a proposed regulation under this section does not
5 affect a state agency's authority to complete its proposed action regarding the
6 regulation. Suggestions for changes to a proposed regulation made by the Legislative
7 Affairs Agency are not binding on a state agency.

8 (i) No action may be brought for the failure of the Legislative Affairs Agency
9 to conduct a legal review under this section.

10 (j) The provisions of (b) - (i) of this section do not apply to proposed
11 regulations of the Board of Game or the Board of Fisheries.

12 (k) In this section, "proposed regulation" means a proposed adoption,
13 amendment, or repeal of a regulation.

14 * Sec. 2. AS 40.25.120(a) is amended by adding a new paragraph to read:

15 (11) the written notification regarding a proposed regulation provided
16 under AS 24.20.105 to the Department of Law and the affected state agency and
17 communications between the Legislative Affairs Agency, the Department of Law, and
18 the affected state agency under AS 24.20.105.

19 * Sec. 3. AS 44.62.190(a) is amended to read:

20 (a) At least 30 days before the adoption, amendment, or repeal of a regulation,
21 notice of the proposed action shall be

22 (1) published in the newspaper of general circulation or trade or
23 industry publication that the state agency prescribes and posted on the Alaska Online
24 Public Notice System; in the discretion of the state agency giving the notice, the
25 requirement of publication in a newspaper or trade or industry publication may be
26 satisfied by using a combination of publication and broadcasting; when broadcasting
27 the notice, an agency may use an abbreviated form of the notice if the broadcast
28 provides the name and date of the newspaper or trade or industry journal and the
29 Internet address of the Alaska Online Public Notice System where the full text of the
30 notice can be found;

31 (2) furnished to every person who has filed a request for notice of

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proposed action with the state agency;

(3) if the agency is within a department, furnished to the commissioner of the department;

(4) when appropriate in the judgment of the agency,

(A) furnished to a person or group of persons whom the agency believes is interested in the proposed action; and

(B) published in the additional form and manner the state agency prescribes;

(5) furnished to the Department of Law together with a copy of the proposed regulation, amendment, or order of repeal for the department's use in preparing the opinion required after adoption and before filing by AS 44.62.060;

(6) furnished by electronic format, if the state agency has the technological capability, to all incumbent State of Alaska legislators, and furnished to the Legislative Affairs Agency; if the state agency does not have the technological capability to furnish the notice by electronic format to the legislators, the state agency shall furnish the notice to the legislators by other means;

(7) furnished by electronic format, along with a copy of the proposed regulation, amendment, or order of repeal, as required by AS 24.20.105(c).

* Sec. 4. This Act takes effect July 1, 2004.

23-LS0732V
Cook
2/20/04

CS FOR HOUSE BILL NO. 424()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE HOLM

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to review of certain regulations under the Administrative Procedure**
2 **Act by the Legislative Affairs Agency; and providing for an effective date."**

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

4 *** Section 1.** AS 24.20 is amended by adding a new section to read:

5 **Sec. 24.20.105. Review of regulations.** (a) The Legislative Affairs Agency
6 shall review each proposed adoption, amendment, or repeal of a regulation that is
7 subject to AS 44.62.010 - 44.62.300 (Administrative Procedure Act), other than a
8 proposal of a board, commission, council, or public corporation.

9 (b) An agency shall, at the time it provides a copy to the Department of Law,
10 submit each proposed adoption, amendment, or repeal of a regulation that it works on
11 and that is subject to review under (a) of this section to the Legislative Affairs
12 Agency. The copy shall be provided before notice of the proposed action is given
13 under AS 44.62.190 or a public hearing is held on the proposal. The Legislative
14 Affairs Agency shall review each proposal to determine whether the

1 (1) agency making the proposal has express or implied authority to
2 adopt, amend, or repeal the regulation;

3 (2) proposal implements, interprets, makes specific, or otherwise
4 carries out a statute;

5 (3) proposal is consistent with the statute;

6 (4) proposal is reasonably necessary to carry out the purpose of the
7 statute; and

8 (5) proposal is clear, grammatically and structurally sound, and
9 understandable by those affected.

10 (c) In conducting its review of a proposal, the Legislative Affairs Agency may
11 consult with the Department of Law and make recommendations for changes in the
12 proposal. If changes are made in the proposal, the Legislative Affairs Agency shall
13 continue its review of the proposal as changed. If, at the completion of its review, the
14 Legislative Affairs Agency determines that the proposal does not meet the standards
15 under (b) of this section, the agency shall notify the Department of Law in writing of
16 its conclusions. If the Legislative Affairs Agency determines that the proposal fails to
17 meet the requirements of AS 44.62.030, it shall also send a copy of its conclusions to
18 the Administrative Regulation Review Committee.

19 (d) The Legislative Affairs Agency may not release any information regarding
20 its receipt or review of a proposal under this section except to the Department of Law,
21 the Administrative Regulation Review Committee, the president of the senate, and the
22 speaker of the house of representatives.

23 (e) The adoption, amendment, or repeal of a regulation may not be delayed
24 because of the review by the Legislative Affairs Agency under this section.
25 Suggestions for changes to a proposal made by the agency are not binding.

26 * **Sec. 2.** AS 44.62.125(b) is amended by adding a new paragraph to read:

27 (8) submit each proposed adoption, amendment, or repeal of a
28 regulation that the department works on under (4) of this subsection to the Legislative
29 Affairs Agency for review under AS 24.20.105.

30 * **Sec. 3.** AS 44.62.250 is amended to read:

31 **Sec. 44.62.250. Emergency regulations.** A regulation or order of repeal may

1 be adopted as an emergency regulation or order of repeal if a state agency makes a
2 written finding, including a statement of the facts that constitute the emergency, that
3 the adoption of the regulation or order of repeal is necessary for the immediate
4 preservation of the public peace, health, safety, or general welfare. The requirements
5 of AS 24.20.105, AS 44.62.040(c), 44.62.060, 44.62.125(b)(8), and 44.62.190 -
6 44.62.215 do not apply to the initial adoption of emergency regulations; however,
7 upon adoption of an emergency regulation the adopting agency shall immediately
8 submit a copy of it to the lieutenant governor for filing and for publication in the
9 Alaska Administrative Register, and within five days after filing by the lieutenant
10 governor the agency shall give notice of the adoption in accordance with
11 AS 44.62.190(a). Failure to give the required notice by the end of the 10th day
12 automatically repeals the regulation.

13 * Sec. 4. AS 44.62.260 is amended to read:

14 **Sec. 44.62.260. Limitation on effective period of emergency regulations.**

15 (a) A regulation adopted as an emergency regulation does not remain in effect more
16 than 120 days unless the adopting agency complies with AS 24.20.105,
17 AS 44.62.040(c), 44.62.060, 44.62.125(b)(8), and 44.62.190 - 44.62.215 either before
18 submitting the regulation to the lieutenant governor or during the 120-day period.

19 (b) Before the expiration of the 120-day period, the agency shall transmit to
20 the lieutenant governor for filing a certification that AS 24.20.105, AS 44.62.040(c),
21 44.62.060, 44.62.125(b)(8), and 44.62.190 - 44.62.215 were complied with before
22 submitting the regulation to the lieutenant governor, or that the agency complied with
23 those sections within the 120-day period. Failure to so certify repeals the emergency
24 regulation; it may not be renewed or refiled as an emergency regulation.

25 * Sec. 5. This Act takes effect July 1, 2004.

STATE OF ALASKA



Interim:

119 North Cushman, Rm. 205
Fairbanks, Alaska 99701
(907) 456-7423
Fax: (907) 451-9293

Session:

State Capitol Building
Juneau, Alaska 99801
(907) 465-3466
Fax: (907) 465-2937

REPRESENTATIVE JIM HOLM DISTRICT 9

DATE: February 12, 2004

TO: Representative Lesil McGuire, Chair
House Judiciary Committee

FROM: Representative Jim Holm

RE: HB 424

A handwritten signature in black ink, appearing to read "Jim Holm", written over the printed name in the "FROM:" field.

Please schedule HB 424, REGULATION REVIEW, for hearing in the Judiciary at your earliest convenience. Back-up material is attached.

Thanks very much for your help with this bill.

STATE OF ALASKA
HOUSE OF REPRESENTATIVES
Representative Jim Holm



119 N. Cushman
Fairbanks, AK 99701
TEL 456-7423, FAX 451-9293

State Capitol
Juneau, AK 99801
TEL 465-3466, FAX 465-2937

SPONSOR STATEMENT

HB 424

Legislative Review of Proposed Regulations

2/12/4

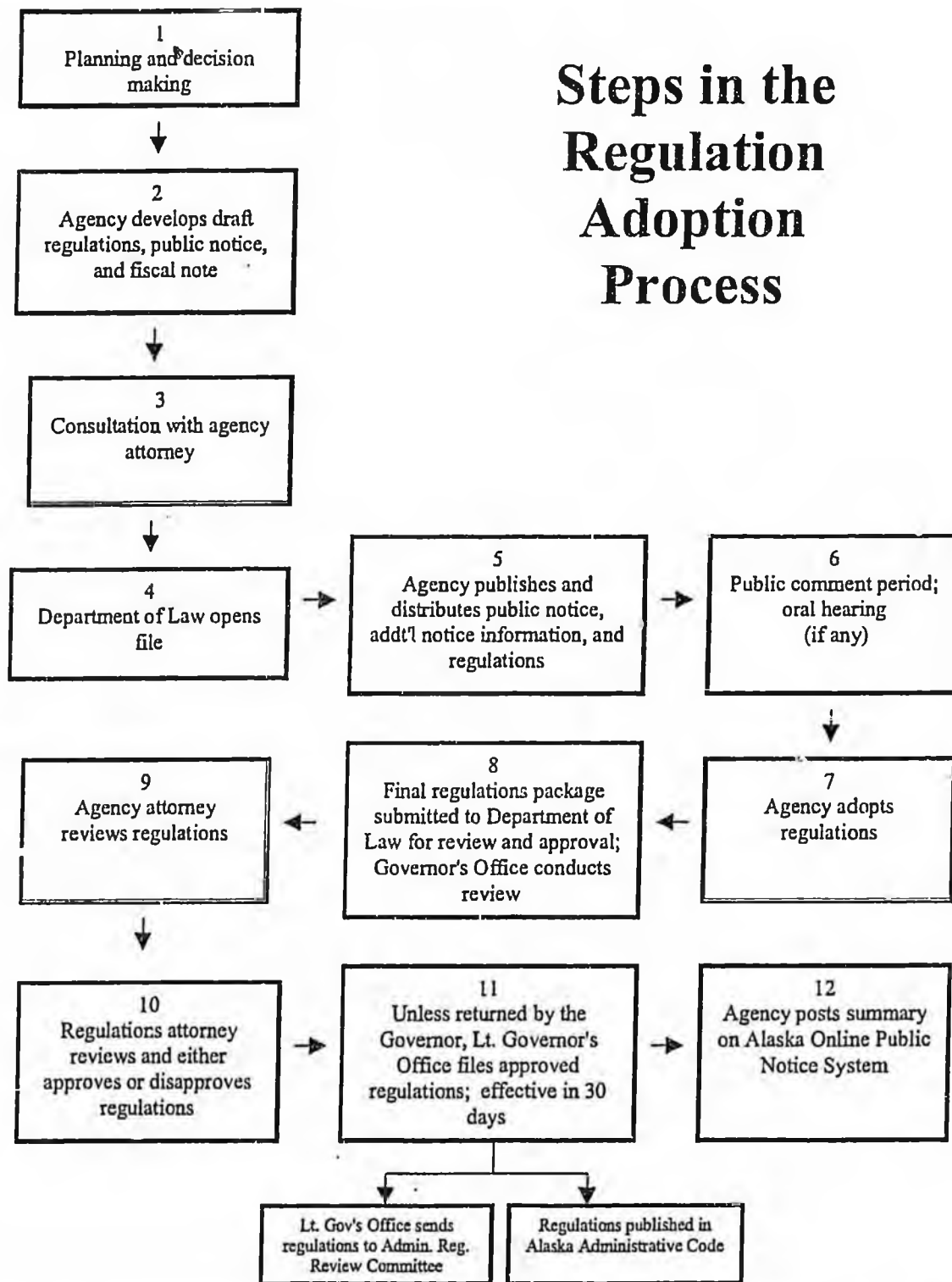
House Bill 424 requires legislative legal review of regulations before they go out for public comment.

Under current statute, only the Attorney General formally reviews proposed regulations, and this review comes late in the process, when public comment has already been closed. After the Attorney General approves proposed regulations they are transmitted to the Lt. Governor's office. As a practical matter, once the proposed regulations have reached the Lt. Governor they are seldom changed. And then the public justifiably gets frustrated when they see regulations adopted that are different from the ones on which they commented.

Under HB 424, legislative attorneys who actually draft the bills will review, prior to public comment, proposed regulations being promulgated from those bills. By working cooperatively with the Attorney General's office, differences of opinion can be worked out before the public sees the regulations. In the event differences cannot be worked out, the legislature will have an opportunity for input.

Overall impact to the state's economy will be positive. Adding legislative review to the regulation process prior to the public comment period will help eliminate conflicts, create a more stable business environment, and increase the public's trust in government.

Steps in the Regulation Adoption Process



FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB424-DHSS-DAS-02-23-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Health & Social Services

Title REVIEW OF REGULATIONS BY LEGISLATIVE AFFAIRS

RDU Departmental Support Services

Component Commissioner's Office

Sponsor HOLM

Requester HOUSE (JUD)

Component No. 317

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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)						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation will likely result in significant costs to the Department of Health and Social Services. However those costs are indeterminate given the department's inability to predict with any certainty the timeliness or consequences of the Legislative Affairs Agency's reviews of the department's regulations.

Under current law incumbent legislators and the Legislative Affairs Agency receive copies of notices of regulatory changes as part of the normal public comment process. Individual legislators, legislative committees including the Administrative Regulation Review Committee, and Legislative Affairs all have the ability to comment on the proposed regulations.

Prepared by: Sherry Hill, Special Assistant

Phone 465-1618

Division Office of the Commissioner

Date/Time 02/23/2004

Approved by: Joel S. Gilbertson, Commissioner

Date 02/23/2004

Agency Department of Health and Social Services

FISCAL NOTE
FN #

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB424-DHSS-DAS-02-23-04

ANALYSIS CONTINUATION

The proposed legislation would require the Department of Law to provide a copy of proposed regulations to the Legislative Affairs Agency prior to opening the normal public comment period. The bill prohibits the agency from adopting the regulations pending receipt of the Legislative Affairs Agency review.

At this point in time a majority of the department's new regulations are necessary to achieve cost-savings in order for the department to live within its budget. Many of these cost-savings have been explicitly mandated by the legislature as discrete transactions in the department's budget. It is likely that the reviews conducted by the Legislative Affairs Agency will result in delays in implementing cost-containment activities. Delays may result from 1) Lack of timeliness of reviews; 2) Additional redrafting of regulations to address perceived deficiencies; or 3) Legal challenges arising from an unfavorable review.

If the department is unable to achieve its cost containment goals through the timely adoption of regulations, the department would have two choices: 1) To request a supplemental appropriation; or 2) Undertake alternative cost containment activities which may not have been envisioned in the budget passed by the legislature and signed by the Governor.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 424
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
 Title "An Act relating to review of regulations
under the Administrative Procedures Act by the" BRU Legislative Council
 Sponsor Representative Holm Component: Legal and Research Svcs
 Requestor House Judiciary Committee Component No. 2028

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	326.4	326.4	326.4	326.4	326.4	326.4
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	12.0	12.0	12.0	12.0	12.0	12.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	10.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	348.4	338.4	338.4	338.4	338.4	338.4

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	348.4	338.4	338.4	338.4	338.4	338.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	348.4	338.4	338.4	338.4	338.4	338.4

Estimate of any current year (FY2004) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	4	4	4	4	4	4
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 424 would amend AS 24 and AS 44 to add a legal review by the Legislative Affairs Agency, Legal and Research Services Division of all proposed new, amended, or repealed State of Alaska administrative regulations, including a post review of emergency regulations which must be conducted within 120 days in order for the emergency regulation to remain in effect.

HB 424 would increase the workload of the division significantly, particularly during the session, as the review requires the Agency to determine if the agency making the proposal has express or implied authority to adopt, amend, or repeal the regulation; whether the proposal implements, interprets, makes specific, or otherwise carries out a statute; if the proposal is consistent with the statute, if it is reasonably necessary to carry out the purpose of the statute; and if the proposal is clear, grammatically and structurally sound, and understandable by those affected.

Prepared by: Karla Schofield, Deputy Director Phone 465-6626
 Division Administrative Services Date/Time 2/23/04 10:09 AM
 Approved by: Pamela Varni, Executive Director Date 2/23/2004
 Agency Legislative Affairs Agency

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB 424

ANALYSIS CONTINUATION

In order to make the judgments required in the bill, the attorneys reviewing the regulations would need a breadth of knowledge about numerous agency responsibilities and diverse, often complex, subject matters, such as oil and gas regulations or, in another example, wildlife management principles underlying fish and game regulations. These two particular groups of regulations are also significant because they are usually changed prior to the beginning of the calendar year (oil and gas tax revenue regulations), or in the spring (summer fishing regulations and fall hunting regulations). The impact of reviewing these regulations as the session is gearing up in December, on top of the need to adequately research and draft prefiled bills for the upcoming session, or at the end of session when attorneys are working on rewrites or amendments, would make the option of using existing staff unworkable.

During the remaining portion of the year, the division is not fully staffed, and is working on other matters such as examining and preparing a report on court decisions and opinions of the Attorney General construing Alaska Statutes, contract and litigation work, and interim projects such as title reviews and annual statute revision to incorporate new laws. Legal Services receives 50 to 100 new work orders each month during the interim. It is the opinion of the Legislative Affairs Agency that additional year round staff, both professional and secretarial would be needed to manage the added workload and provide continuity. The administrative attorneys would also provide consulting assistance to the Administrative Regulation Review Committee, in the rare, but inevitable situation where the Department of Law and the Legislative Affairs Agency do not agree upon a certain regulation and the committee is notified and wishes to take some action. In order to accomplish this new function, the current drafting attorneys would need to assist the new regulation attorneys with their review.

The Department of Law currently employs four legal professionals to perform their administrative regulation review responsibilities, ranging in pay scale from a 19 to a 25. Some of the responsibilities the Department of Law administers would not be required of the Legislative Affairs Agency, such as alerting agencies of the need for regulations. However, the substantive matters being reviewed are much the same, and could easily be sent back and forth between the Department of Law and LAA during the review process multiple times for discussion and rewrites. The Legislative Affairs Agency believes, in order to perform the oversight and review responsibilities required by this legislation in the manner envisioned under this bill, the following increased costs would be required.

Personal Services - full time positions

Legal Admin Reg Review Supervisor - (Attny V) Range 25 - 103.8
Senior Admin Review Attorney - (Attny IV) Range 24 - 97.4
Admin Reg Review Associate Attorney - Range 19 - 71.9
Legal Secretary - Range 14 - 53.3

Total Personal Services 326.4

Travel

Travel costs are not anticipated for these attorney's.

Contractual

Contractual costs for phones, advertising for position vacancies, and other contractual items will be absorbed within existing budgets. There is no room to house the new staff in the TMLOB. 500 square feet of office space would need to be rented to house the new staff. Estimated costs for renting the space are 500 sq ft at 2.00 sq foot x 12 months. **Total Contractual 12.0**

Office Space

Supply costs will be absorbed within existing budgets.

Equipment

One time purchase of 4 computers - $4 \times 1.5 = 6.0$

One time purchase of 2 printers = 4.0

Total Equipment 10.0

Page 2 of 2

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: HB424-LAW-L&R-2-24-0.
 Bill Version: HB 424
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to review of regulations under the RDU ADMINISTRATION & SUPPORT
Administrative Procedure Act by the Legislative Affairs Agency..." Component Legislation & Regulations
 Sponsor Representative Holm
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 Interagency Receipts						
1141 RCA Receipts						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill establishes a process by which the Legislative Affairs Agency reviews certain regulations subject to the Administrative Procedure Act. The Department of Law will be impacted in three major ways by legislation:

- 1) The Department of Law is required to submit regulations to the Legislative Affairs Agency for review;
- 2) the Legislative Affairs Agency may consult with the Department of Law in the review process;
- 3) Department of Law will be notified of Legislative Affairs Agency's conclusions and assist agencies in analyzing comments.
- 4) Regulations may not be adopted until after the Department of Law receives notice from Legislative Affairs Agency that the review has been completed.

It is anticipated that the Legislative Affairs Agency's review will lengthen the time for finalizing

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
 Division: Administrative Services Date/Time 2/25/04 9:05 AM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/25/2004
 Agency: Department of Law

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. HB 424

ANALYSIS CONTINUATION

regulations. The Drafting Manual will require revision to reflect the changes in the process and training will be needed on the changes. Agencies will require assistance from the Department of Law in responding to public records requests for the analysis produced by the Legislative Affairs Agency. Precluding agencies from acting on regulations absent approval from Legislative Affairs creates a separation of powers issue, and may result in a court test on constitutionality.

The fiscal impact is indeterminate and dependent on the volume of regulations subject to the process in any fiscal year and the level of legal assistance that agencies will need to appropriately consider the comments and to respond to requests.

HB

427

FISCAL NOTE

CSHB427(Jud)

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: #2
Bill Version: HB427CS-ACS-TC-4-14-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Protection of Persons and Property BRU Alaska Court System
Component Trial Courts
Sponsor Representative Anderson
Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)
Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
The court system does not anticipate any fiscal impact from the passage of CSHB 427(HES).

Prepared by: Doug Wooliver Administrative Attorney, Phone 463-4750
Division: Alaska Court System Date/Time 4/14/04 10:26 AM
Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 4/14/2004
Agency: Alaska Court System

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 21, 2004

SUBJECT: CSHB 427(JUD) relating to guardianships, conservatorships, and other matters (Work Order No. 23-LS1627/S)

TO: Representative Lesil McGuire
Chair, House Judiciary Committee
Attn: Vanessa

FROM: *TLB*
Theresa L. Bannister
Legislative Counsel

This memo accompanies a draft of the bill described above. The draft includes the requested court rule change and small corrections, which are described below. Per your request, a copy of my 4-16-04 memo about the court rule change is attached for your reference.

1. Court rule change. The court rule change provisions have been added to the bill: in the title and at the end of the bill (bill sec. 32(a)). They are added for sec. 08.26.100 only because, upon rethinking, sec. 08.26.180 is an exemption and would, therefore, not affect the court rule. Sec. 35 has also been changed accordingly.
2. Sec. 08.26.050 conforming change. In sec. 08.26.050(a)(1) and (b), the two references to "National Guardianship Foundation" have been changed to conform to the governing language in sec. 08.26.020(3) and 08.26.030(3). The replacement language is "a nationally recognized organization in the field of guardianships."
3. Grammatical tense change. In AS 13.26.145(d)(1) and 13.26.210(d)(1), "has" is changed to "had" because it is meant to refer to an action in the past when the protected person nominated a guardian or conservator and may have had capacity.
4. Sec. 13.26.210(f) correction. Since this section deals with conservators, the reference to "guardian" in two places in sec. 13.26.210(f) has been changed to "conservator."
5. Effective date correction. Bill sec. 37 has been adjusted to reflect that bill sec. 34 has its own effective date.

If I may be of further assistance, please advise.

TLB:med
04-435.med

CC: Jim Shine

Enclosure

LEGAL SERVICES

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MEMORANDUM

April 16, 2004

SUBJECT: CSHB 427(JUD) relating to guardianships, conservatorships, guardians ad litem, and related matters
(Work Order No. 23-LS1627\Q)

TO: Representative Lesil McGuire
Chair, House Judiciary Committee
Attn: Vanessa

FROM: Theresa L. Bannister
Legislative Counsel

You have asked whether the bill described above has the effect of indirectly amending Rule 17(c), Alaska Rules of Civil Procedure. In my opinion, AS 08.26.100 and 08.26.180 may possibly be interpreted to indirectly amend Rule 17(c) because these sections are not limited to proceedings under AS 13.26. The Alaska Rules of Probate Procedure normally govern proceedings under AS 13.26 (see Rule 1, Alaska Rules of Probate Procedure). However, the prohibition in AS 08.26.100 (against appointing a guardian or conservator in a court proceeding unless the person is licensed) and the exemption in AS 08.26.180 are not limited to proceedings under AS 13.26. Rule 17(c) includes broad language that arguably could cover AS 08.26.100 and 08.26.180 by providing that the "court shall make such other order as it deems proper for the protection of the infant or incompetent person." Although the language in Rule 17(c) is not specifically changed, it is broad enough that I would recommend indicating this change in the bill (including in its title) or limiting the scope of the new provisions to proceedings brought under AS 13.26.

If I may be of further assistance, please advise.

TLB:med
04-415.med

23-LS1627\S
Bannister
4/21/04

CS FOR HOUSE BILL NO. 427(JUD)

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

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE ANDERSON

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to guardianships and conservatorships, to the public guardian and the
2 office of public advocacy, to private professional guardians and private professional
3 conservators, to court visitors, court-appointed attorneys, guardians ad litem, and
4 fiduciaries, and to the protection of the person or property of certain individuals,
5 including minors; amending Rule 17(c), Alaska Rules of Civil Procedure, and Rules
6 16(f) and 17(e), Alaska Rules of Probate Procedure; and providing for an effective
7 date."

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

9 * **Section 1.** AS 08.01.010 is amended by adding a new paragraph to read:

10 (38) regulation of private professional guardians and private
11 professional conservators (AS 08.26).

12 * **Sec. 2.** AS 08 is amended by adding a new chapter to read:

13 **Chapter 26. Private Professional Conservators and Guardians.**

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Article 1. Licensing.

Sec. 08.26.010. License required. Except as provided by AS 08.26.180, a person may not engage in the business of providing services as a guardian or a conservator unless the person has a license issued under this chapter.

Sec. 08.26.020. Requirements for individual private professional guardian license. The department shall issue an individual private professional guardian license to an individual

(1) who is at least 21 years of age;

(2) who has two or more years of professional client casework experience or at least an associate degree in human services, social work, psychology, sociology, gerontology, special education, or a closely related field;

(3) who is certified as a guardian by a nationally recognized organization in the field of guardianships;

(4) who provides proof satisfactory to the department that the individual is able to be bonded and insured;

(5) whose criminal history record checks under AS 08.26.070 show that the individual has not been convicted of a crime within 10 years of the application that would affect the individual's ability to provide the services of a guardian competently and safely for the ward; and

(6) who satisfies the application requirements of AS 08.26.060.

Sec. 08.26.030. Requirements for individual private professional conservator license. The department shall issue an individual private professional conservator license to an individual

(1) who is at least 21 years of age;

(2) who has obtained a high school diploma, or a general education development diploma or its equivalent;

(3) who has six months' employment experience in a position involving financial management, or has at least an associate degree in accounting or a closely related field;

(4) who is certified as a guardian by a nationally recognized organization in the field of guardianships;

1 (5) who provides proof satisfactory to the department that the
2 individual is able to be bonded and insured;

3 (6) whose criminal history record checks under AS 08.26.070 show
4 that the person has not been convicted of a crime within 10 years before the
5 application that would affect the individual's ability to provide the services of a
6 conservator competently and safely for the protected person; and

7 (7) who satisfies the application requirements of AS 08.26.060.

8 **Sec. 08.26.040. Requirements for organizational license.** (a) The
9 department shall issue an organizational license to a person who is not an individual if

10 (1) the person maintains a place of business in this state;

11 (2) the person is in compliance with the state and federal requirements
12 that apply to the organization;

13 (3) the person submits proof satisfactory to the department that the
14 person is able to be bonded and insured;

15 (4) the results of the criminal history record checks of the person under
16 AS 08.26.070 show that the person or following individuals have not been convicted
17 of a felony within the 10 years before the application that would affect the person's or
18 individuals' ability to provide the services of a guardian or conservator, whichever is
19 applicable, competently and safely for the ward or protected person:

20 (A) the officers of the organization, if the organization is a for-
21 profit corporation or a nonprofit corporation;

22 (B) the members or manager of the organization, if the
23 organization is a limited liability company; or

24 (C) the partners of the organization, if the organization is a
25 partnership, limited partnership, or limited liability partnership;

26 (5) the person designates in writing one of the following individuals to
27 be responsible within the organization for monitoring the organization's compliance
28 with this chapter and the other laws of this state:

29 (A) an officer of the organization, if the organization is a for-
30 profit corporation or a nonprofit corporation;

31 (B) a member or manager of the organization, if the

1 organization is a limited liability company;

2 (C) a partner of the organization, if the organization is a
3 partnership, limited partnership, or limited liability partnership;

4 (6) all of the individuals employed by the person to provide the
5 services of a private professional guardian or private professional conservator for the
6 organization have licenses under this chapter; and

7 (7) the person satisfies the application requirements of AS 08.26.060.

8 (b) If the organization's employees have licenses under both AS 08.26.020 and
9 08.26.030, the license issued under (a) of this section shall cover providing the
10 services of a guardian and a conservator.

11 (c) If the organization's employees have licenses only under AS 08.26.020 but
12 not under AS 08.26.030, the license issued under (a) of this section is limited to
13 providing the services of a guardian.

14 (d) If the applicant's employees have licenses under AS 08.26.030 but not
15 under AS 08.26.020, the license issued under (a) of this section is limited to providing
16 the services of a conservator.

17 **Sec. 08.26.050. Temporary license.** (a) The department shall issue a
18 temporary license to an individual under AS 08.26.020 or 08.26.030 who

19 (1) is not certified by a nationally recognized organization in the field
20 of guardianships at the time of the application but is likely to become certified within
21 one year from the date of the license, and otherwise satisfies the licensing
22 requirements of AS 08.26.020 or 08.26.030; and

23 (2) satisfies the application requirements of AS 08.26.060.

24 (b) If the individual with a temporary license under (a) of this section submits
25 proof of certification by a nationally recognized organization in the field of
26 guardianships within one year from the date of the issuance of the temporary license,
27 the department shall issue the individual a license under AS 08.26.020 or 08.26.030
28 without requiring a new application.

29 (c) A temporary license issued under this section may not be renewed.

30 **Sec. 08.26.060. Application requirements.** To apply for a license under this
31 chapter, a person shall submit an application on a form provided by the department

1 and submit

2 (1) two complete fingerprint cards containing fingerprints and other
3 information required by the Department of Public Safety to obtain state and national
4 criminal history record information under AS 12.62 and AS 12.64; the fingerprints
5 must be the fingerprints of the applicant if the applicant is an individual, or, if the
6 applicant is an organization, fingerprints of the

7 (A) officers of the organization, if the applicant is a
8 corporation;

9 (B) members of the organization, if the applicant is a limited
10 liability company;

11 (C) partners of the organization, if the applicant is a
12 partnership;

13 (2) proof of the ability to be insured and bonded;

14 (3) a written waiver of confidentiality signed by the applicant allowing
15 the department to access at any time relevant complaint information made about the
16 applicant to adult protective services, the designated protection and advocacy agency,
17 the long-term care ombudsman, or an entity that certifies or licenses private
18 professional guardians or private professional conservators;

19 (4) a written statement signed by the applicant that the applicant will
20 allow immediate access at any time to the department to the file of a ward or protected
21 person and to financial information regarding the applicant, including corporate or
22 other business records;

23 (5) a detailed resume, including relevant experience, for each
24 employee and contractor of the applicant who may provide services to a ward or
25 protected person;

26 (6) payment of the application fee, any criminal history record
27 information checks fee charged under AS 12.62.160(d), and any other fees required by
28 the department; and

29 (7) if the applicant is not an individual, a copy of the documents under
30 which the applicant was formed, including articles of incorporation and bylaws if the
31 applicant is a corporation.

1 **Sec. 08.26.070. Criminal history record information checks.** (a) For each
2 applicant for a license under this chapter, the department shall submit the fingerprint
3 cards and other relevant information received with the application to the Department
4 of Public Safety and request the Department of Public Safety to

5 (1) submit the fingerprints to the Federal Bureau of Investigation for a
6 national criminal history record information check on the applicant;

7 (2) perform a state criminal history record information check on the
8 applicant; and

9 (3) provide the department with the results of the criminal history
10 record information checks made under (1) and (2) of this subsection.

11 (b) The department may not issue a license to a person under this section
12 unless the department receives the report required by (a)(3) of this section.

13 **Article 2. Reports.**

14 **Sec. 08.26.080. Annual report.** Within 30 days following the end of each
15 calendar year, a licensee shall submit to the department

16 (1) evidence of the initial and continuing existence of a bond and
17 professional liability insurance required by a court to be maintained by the guardian or
18 conservator;

19 (2) a list, including case numbers, of the wards and protected persons
20 for whom the licensee is acting as a private professional guardian or private
21 professional conservator;

22 (3) an accurate financial statement of the licensee;

23 (4) a letter stating that the licensee has filed all required court reports
24 in the previous calendar year;

25 (5) a copy of all of the licensee's federal tax documents filed with the
26 Internal Revenue Service and all of the licensee's correspondence with the Internal
27 Revenue Service; and

28 (6) a list of all persons currently employed by the licensee in the
29 business for which the license was issued.

30 **Sec. 08.26.090. Submission of court reports to department.** Upon request
31 of the department, a licensee shall submit to the department a copy of the reports that

1 the licensee is required to submit to a court under AS 13.26.

2 **Article 3. Practices.**

3 **Sec. 08.26.100. Court appointment.** A person who engages in the business
4 of providing services as a guardian or conservator may not be appointed a guardian or
5 a conservator in a court proceeding unless the person is licensed under this chapter or
6 exempt under AS 08.26.180.

7 **Sec. 08.26.110. Fees.** (a) A licensee may not receive a payment for services
8 rendered to a ward or a protected person until the licensee obtains court approval of a
9 proposed fee schedule. The fee schedule must include a statement of the hourly fee
10 for professional and administrative services and a monthly maximum amount that the
11 licensee can charge the ward or protected person.

12 (b) A payment requested by a licensee that exceeds the established monthly
13 maximum amount identified under (a) of this section may not be made unless the
14 payment is approved by the court. A request for court approval of a fee that exceeds
15 the established monthly maximum amount must include the following information for
16 the services covered by the fee:

- 17 (1) the name of the person who provided the service;
18 (2) the date when the service was provided;
19 (3) the hourly rate of compensation for the service;
20 (4) a description of the service; and
21 (5) the amount of time used to perform the service.

22 **Sec. 08.26.120. Required notification.** A licensee shall notify the department
23 immediately if

- 24 (1) the licensee fails to file a report to the court required by this
25 chapter;
26 (2) the licensee has been removed as a guardian or conservator for a
27 ward or protected person;
28 (3) the licensee has received a gift with a value of more than \$100
29 from a ward or protected person during the two years before the appointment;
30 (4) the licensee has an interest in an enterprise that provides services to
31 the ward or protected person;