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Culture kaleidoscope

Growth in Asian population presents challenges, opportunities in Mountain View

BY ROB STAPLETON
STAFF WRITER

Bob Breager knew that Mountain View residents' tastes were changing, so he recently added two new aisles of exotic foods to his Red Apple Market.

"We have aisles of Asian and tropical food I have never seen before in my life," said Breager, owner of the Mountain View grocer.

The change in the store's food items aims to better serve its

See MOUNTAIN VIEW, page 3A

Naked truth reviewed

Community voices concerns about high school students working as under-21 dancers

BY HEATHER A. RESS
STAFF WRITER

A hearing has been scheduled to review community concerns about high school students working and patronizing under-21 strip clubs.

The Anchorage Public Safety Advisory Commission is scheduled to take up the item at its May 14 meeting at the

See NUDE, page 11A

Banking on our land

Is the Heritage Land Bank running itself out of business?

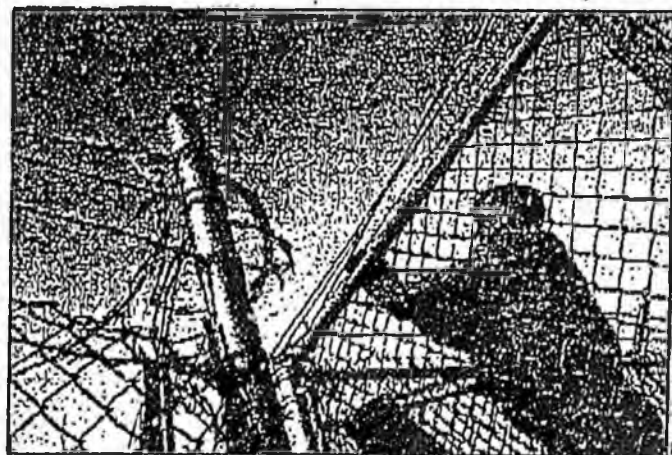
BY NAOMI KLOUDA
CONSULTING WRITER

At the end of Hollywood Drive on Government Hill, a barbed-wire fence stretches around an empty plot of land, a maximum-security

enclosure that protects nothing but a smattering of trees and some lonely weeds.

Beyond the fence is the Anchorage skyline and the Chugach Mountains — a sight that would delight the eye if not for the imposing fence residents across the street have viewed for

See LAND BANK, page 6A



Clyde Odorn cuts wire from a fence at the end of Hollywood Drive where the Heritage Land Bank owns property that will be used for low-cost housing.

Nude: Police will investigate if club owners are recruiting teens

FROM PAGE 1

emergency operations center downtown, said commission chairman Scott Heyworth.

"This is the start of the conversation," he said. "We haven't decided whether or not to do a full review yet."

Kevin Bruce, a spokesman for the mayor's office, said staff members and city attorneys looked at the issue and forwarded it to public safety for a more in-depth review.

"We got involved after concerned parents and several community councils requested a public dialog on the city's three under-21 strip clubs," he said.

Service High parent Nancy Fair began raising the issue with local governmental bodies after hearing stories from her two teenage sons about high school students who work as strippers, and high school students who pay to watch.

After a little research, Fair found that the district has about 2,200 students 18 years old or older who are eligible to work at and patronize adult entertainment venues.

"Basically we're raising the question, 'Is this what our community wants to offer high school students and older teens?'" Fair said.

Heyworth said the advisory commission will likely vote to do an in-depth review. A report on their findings would then be forwarded to the mayor for possible further action, he said.

Anchorage Police Department deputy chief Bill Miller said most people have no idea what really goes on in strip clubs. "There's really a very small part of the community that patronizes these places," he said.

Many young women lured into stripping end up as prostitutes with sexually transmitted diseases, unwanted pregnancies, \$500-a-day drug habits and felony and misdemeanor convictions, he said.

"This whole thing is about money," Miller said. "None of those girls are up there dancing because it is an art. We're talking about a place where women and men strip, and dance butt naked in front of people for money."

His department has been asked to investigate whether club owners are recruiting and employing high school students, he said.

Strip clubs tend to attract a certain element of the community,



Anchorage Police Department deputy chief Bill Miller said his department has been asked to investigate whether club owners are recruiting and employing high school students.

said longtime Anchorage officer Capt. Dave Cooper, who heads the department's detective division.

"These kinds of activities attract criminals," he said. "That's not the type of people we want the city's teens hanging around."

Both officers said there is room under the law for legitimate businesses to operate. Their concern is about the possibility that vulnerable high school students are being lured into Anchorage's sex industry.

"High school kids need to be worried about getting themselves on in life, not stripping in front of strangers and the criminal element," Miller said.

Licensed as adult entertainment establishments, he said the nude dancing clubs are more appropriate entertainment venue for adults than high school students.

"A lot of kids are trying to make up their mind what they want to do," Miller said. "They see the glamorous part of it. Not what goes on behind the scenes."

In his time on the force, he said he has arrested several women for prostitution, who turned out to be underage high school dropouts working in strip clubs to support themselves.

"Management will tell you what the girls do on their own time is their own business," he said. "But if you want to find a prostitute, that's a reasonable place to go."

Strip clubs are not the only businesses that serve as links between those selling sex and those looking to buy, Cooper

"Finally someone is waking up to the possibility that these girls could be high school students."

— Bill Miller,

Anchorage Police Department deputy chief

part of the city," Cooper said. "Prostitutes come from all walks of life."

Miller said since the first under-21 club opened, the department has had concerns that high school students could be involved.

"We are absolutely interested in whether there are high school kids working in these clubs," he said. "Finally someone is waking up to the possibility that these girls could be high school students."

Compared to other states, Alaska's regulations for nude dancing are very permissive, Miller said. While Alaska law permits fully nude dancing with contact between dancer and

patron, many other states have more restrictive laws, he said.

"In some other states you have to wear at least pasties and a G-string," Miller said.

But police investigations take time and resources, he said. The largest resource guzzler is traffic complaints, Miller said.

"We have more crimes in this city than we can investigate," he said. "People are worried about racial profiling, but we have more than enough work to keep us busy without going around looking for ways to steal people's civil rights."

Heather A. Resz can be reached at hresz@anchoragechronicle.com or 348-2432.

Subject: For friday 3:15 House Labor and Commerce Comitec hearing. Thank You

Date: Wed, 28 Jan 2004 23:37:19 -0900

From: Regina Manteufel <regina@anch.net>

To: Tom Anderson <Representative_Tom_Anderson@legis.state.ak.us>,
Les Gara <Representative_Les_Gara@legis.state.ak.us>,
Lesil MCGuire <Representative_Lesil_McGuire@legis.state.ak.us>

1/27/2004

Dear Representative Anderson and other committee members,

My name is Regina Manteufel and I am a former stripper known as Amazon. I came up to Alaska in 1984 and worked at H and J Corporation also known as PJ'S. At that time I was paid \$300. Per week for a 6 night 40hr wk. When I left Hallie Mc Ginnies I filled for unemployment. He had not been paying into unemployment or social security for any of the girls. But he did house them for free and protect them better than any place in town. Since I kept every paycheck stub and w2 I got PJs girls social security and unemployment. He didn't put up a big fight with the labor department. To this day he will fly a girl out and save her if needed.

But beauty and greed struck me. So I left for the Bush Co. They didn't pay any one except me when I filled in as house mother and for show girls. The Bush Co was run by a madam at the time when Edna Cox was not around. Rosemary's famous line was no madder what they said, "say that sounds wonderful". She viewed the men like tricks in the Trap Line Massage polar. Get their money and who cares if they are drunk. If they didn't have cash run the credit card up as high as possible and always get Champaign when ever you can. In there I saw, learned things, and grew to not trust any man I met in those places.

You probably wonder how women as intelligent as me could get me in a situation like that. You think how is woman who ran for office 4 times and got things on her platform being so stupid to be in a place like that. Well we all get started somewhere. You see I had a dream and that was to graduate from College. But even though I was pro-material for basketball there were few scholarships for women even with title 9. I applied for state grants and federal ones that always came in late. I received one at the end of the semester. After being raped by a previous landlord because I didn't have the rent I had had enough .I had

already been though one rape trial at 16 putting a mass brutal rapist away. I was #75 and the one to lock him up. I started hearing about stripping. I was tired of being sexually harassed by the manager of Dominoes Pizza and said why not. The rapist was getting out and I was too politically strong running Proposition A crew. I came home and my house was gone threw and I was hated for being the team to expose a corrupt planning commission. So I took a plane in the middle of winter to get away from it all to Alaska. My mom and dad drove me to the airport. It was one of 4 times I have ever seen him cry. But I wouldn't listen to him try to talk me out of it. I realized on the plane that I was flying with a prostitute on the same contract I had. But I made up my mind I was going to make my school money. At that time all I wanted was to go to school and play sports. But my parents didn't have the money to give me. My father's priority was never me or he would have saved his money instead of spending it on women. My father taught me about womanizing.

Some people say it is political suicide for what I am telling you next. But I don't care. There is a saying, "The Truth Shall Set You Free". What I will tell you next may save over 350 women that make it through Alaskan strip joints per year of what I have seen and endured. I am in favor of HB 367. I don't think un-graduated 18 year olds should be working in massage polar, strip joints, peep shows and adult book stores. Especially on school nights after 10pm. First off there are parasites called pimps and they look for young girls with no guidance at home. Luckily I am big and strong and lifted a pimp by his nut sack when one of them tried to recruit me. But there are women working after hrs that have been taken into a room and told to pick her pimp. These men carry guns and beat women into submission or get the girls strung out on drugs. There are club owners who knowingly let the parasites in. Yes they can make lots of money but if they get strung out or get pimped not a dime will go in the bank. Alaska has OSHA that looks after the fish processors on labor violations weekly. But strip club enforcement of wage and hour has never been a priority with the department of labor. Due to supervisors above office workers. Yet there are many Alaskan rulings specific to strippers that support them receiving wages with no loop holes and ethics of behavior.

1. Alaskan Bush Co (Edna Cox) was busted for making girls pay \$20. Per night to work and had house mother clock them in and out. Mabel Logan and other women /AK Wage and Hour won the case guaranteed strippers get paid minimum wage. No shift paid out to club. A.S. 23.10.065, 8AAC 15.907
2. Anchorage Prostitution ordinance: Dancers must table dance 3 feet from a customer. Always enforced by Officer Tip Casper.
3. Crazy House (Genet) vs. Attorney Generals office/ AK wage and hr. You can't fine a girl for being late or dancing too close. Also plaintiffs got wages. 8AAC

15.160

4. Herbert Adams of ABC Board made court ruling vs. Great Alaskan Bush Company that no women in the state of Alaska can profit or receive commissions off drinking Alcohol. I'm a good news paper reader. You can't require girls to sell a certain amount of drinks per night either.

5. Regina Manteufel / AK Attorney Generals Office vs. The Great Alaskan Bush Co (Vicky and Billy Cox) Tips Law. You cannot take stage tips or parade tips to suffice minimum wage. 8 AAC 15.907, A.S. 23.10.065

6. There is a federal law that you can't make a person work at a set time and say they are contract labor or independent contractor.

There are clubs in Alaska that boldly violate these laws with no regard for recourse of AK wage and Hr enforcement or Federal. The clubs cover themselves though political payouts, photos and film of whoever doing whatever. There are cameras in wood, lights, and lord knows what else. I don't know what clubs keep what where and can bet you they use it for their best interest. This is a good old boys state when it comes to strippers. The more innocent the girls are the more they can get from them and exploit them. Once they start getting smarter they are fired. Crazy Horse (Teasers) charges \$10. per hr to work, (Fantasy's) \$50. Per night plus 15% of all your tips and table dance money. Club owners call it contract labor, renting the stage, shift pay and tips commission. They force them to sign contracts to make it look legal. Regularity I heard house mothers tell the girls pay the money when you get back tomorrow. **That is illegal.** A few girls are so desperate on a slow night that they will sell themselves doing hand jobs in the club below his coat. So they can do there shift pay. There are managers that have told the girls, "You obviously don't have what it takes to be a stripper so either pay me tonight or quit.". Terry Stallman of Showboat is the most mentally unsound (drug addict) of all the club owners and I don't want him operating in any part of this state. Club owners hate it when you expose exactly what they are doing illegal and you have to constantly watch you back once you tell. They use mental intimidation to control you as a employer.

Lucky I found a way out even though it was suing the B. & V. INC., after getting fired for registering girls to vote and signing petitions. But at least I am not exposed to drunks after bar closing time. I have seen men in a black out rage. They never remember what they did and usually wake up in jail for what they have done. I don't understand why the Alcohol Control Board doesn't patrol these clubs parking lots. I drove a truck with a special race engine and was followed several times. To this day this really freaky guy I met in the club bothers me while grocery shopping. He still solicits me for prostitution even though I was

never pimped by any one, worked at a massage parlor or solicited him. That's the sickness of American society. If you worked in any of the strip clubs you must be a prostitute. Men who go to these clubs are regarded as studs. But a lot of companies will not hire former strippers. I have a permanent mark on my record for suing, "The Great Alaskan Bush Company". I would have gotten out sooner. But no one reached out to me until I went to a welfare meeting at the Fairview Community Center. I was recovering from a car accident and needed help. There were 2 ladies there called Libby Roderick and Jean Craciun running it. They saw I was no dummy and made me speak to the group. After that they worked like a tag team. They convinced me to go to Wage and Hour. Jean also got me in the women's political caucus by talking me in to it. There WPC regularly arranged for me to get grants for workshops to advance myself. I am living proof that other career and educational options is this bill's most important area. But it takes money. We need 3 hours of Labor Law, STD, Career, and other educational options training to receive annual dancer license. Girls also need to hear about filing for back wages for 2 years and penalties the clubs can get for not paying by a certain time. My tips law is violated in almost every strip club in Alaska. We also need money in the bank to get started. But it is the investment that counts. Today I have an AA degree in education, online domestic violence training, certified in construction management, certified in Community Development Principles Practices and Strategies. In 2002 I received a legislative citation for Paint Fairview Program and 1995 a mayor's award from Rick Mystrom. Regina's Rooming house is well known for it's, "Back to Work Closet" and tough love approach that gets people on their feet. I used to dress up strippers to be strippers know I dress up strippers to join the straight work force for over 10 years. Look at how nice Fairview is and remember it was a stripper who was vice president and Beautification Director for many years.

(Wage & Hour factors to consider for independent contractor status)

Based on the Sam Jeffcoat dba/Lonely Lady v. State Department of Labor

Alaska Supreme Court in Jeffcoat v. State, Dept. of Labor, Sup. Ct. Op. No. 3162 (File No. S-1444), 732 P.2d 1073 (1987). These criteria include

(A) the degree of the alleged employer's right to control the manner in which the work is to be performed;

(B) the alleged employee's opportunity for profit or loss depending upon

their managerial skill;

(C) the alleged employee's investment in equipment or materials required for their task, or their employment of helpers;

(D) whether the service rendered requires a special skill;

(E) the degree of permanence of the working relationship; and

(F) whether the service rendered is an integral part of the alleged employer's business.

Dear Representative Anderson and other committee members:

Mary Magdalene Home Alaska (MMHA) serves women in Anchorage who have been involved in the act or practice of trading or selling sexual services for money, drugs or safety and now seek a way to redefine themselves and build a positive and healthy life style. Since 1998 MMHA has served over 130 women.

Because we work closely with former nude dancers, we are familiar with many of the problems that occur at Alaska strip clubs. These include but are not limited to: exchanging sexual acts for money and drugs; entry into drug and alcohol abuse; entry in criminal behavior, usually tied to using substances or obtaining substances, prostitution as a way of life, underage dancers, under age drinking, and sometimes communicable diseases.

HB 367 would be an effective tool to combat these problems and relieve the greater community of the burden of their consequences. In addition, the educational and career counseling would inform the young dancers of the hazards of the job and ensure them that they have options, other than prostitution, when they want to quit dancing.

We urge your support for HB 367.

Sincerely,

Alice Meyers
Andrea Rowland
Teri Inch
Flo Pearson
Maria Bouleris

Mary Magdalene Home Alaska, Inc. Organization
555 W. Northern Lights Blvd. suite 261
Anchorage, AK 99503. Phone: 277-6642, fax: 277-6643

January 30, 2004

Dear Representative Anderson and other committee members:

The Service High School Parent-Teacher-Student Association, the Anchorage Council of PTAs and the Alaska State PTA all support enactment of legislation to regulate sex-oriented businesses (also known as SOBs) in order to protect high school students and other youth under 21 years old.

In Anchorage alone we have over 3,400 students annually that are ages 18-20, and we are concerned for their health and safety as well as other vulnerable teens in the state. We are aware of SOBs involving teens in Anchorage, Fairbanks and Soldotna, including at least 5 non-liquor licensed strip clubs open to 18 year old patrons and dancers. More are planned. Yet Alaska has some of the weakest laws in the country regulating SOBs even though they are associated with many illegal activities and negative community impacts.

Business and employee licensing, as proposed in HB 367, would be an important first step to protecting teens and our communities. Over 250 other cities and states have similar licensing laws. Business and employee licensing would help insure that underage teens are not involved. We have had numerous reports about this problem in Anchorage (see QUOTES).

Business licensing would also be a powerful incentive to insure that SOBs follow existing laws related to illegal drugs, alcohol, prostitution, wage and hour, worker safety, sexual harassment and tax evasion. Violations of these laws have been documented in other states, and we have reports of the same problems here. Many cities have documented a higher rate of sex crimes in the vicinity of SOBs. Oklahoma City was able to significantly reduce that effect by strong laws and enforcement at SOBs (see NLC studies).

Employee licensing requirements would insure that dancers are aware of laws and practices to protect their own health, safety and welfare.

Specifically, educating dancers about the state wage and hour laws would help curb violations. I understand that violations of state labor laws have occurred, and the state labor department has a file on wage and hour cases from nude dancers. Without adequate wages, employees may be tempted to engage in illegal activities.

Education about assaults and self-defense would help dancers who are often victims of assault. An extremely high rate of verbal, physical and sexual abuse of dancers by patrons was documented in a study from the University of Minnesota. Up to 35% suffered regular verbal abuse, such as being called "whore" or "bitch." 91% had their buttocks grabbed, and 73% had their breasts grabbed. 42% had been sexually assaulted. Others were bitten, slapped, punched, pinched and spit upon (see Stripping Away the Lies). One former Anchorage teen dancer reported being grabbed by patrons and smacked by one when she wouldn't go home with him (see Quotes). With Alaska leading the nation in sexual assaults, this educational provision is important.

Licensing requirements for young dancers would also provide education about prevention of sexually transmitted diseases. A court-accepted study from Ft. Myers Florida documented up to 50 communicable diseases that could be transmitted at strip clubs, including many STDs. According to a Municipality of Anchorage health worker, there have been outbreaks of STDs among strip club dancers. With Alaska's young people leading the nation in STD rates, this would be an important health precaution (see PTSA Resolution and State health data).

Employee licensing of young dancers would also require knowledge of other educational and career options. This would also benefit young dancers as this industry is fraught with danger, and is frequently a pathway to drug and alcohol addiction and prostitution. The study from Minnesota found that 78% of nude dancers were

solicited daily for prostitution by the strip club patrons. Court accepted independent studies have shown that nude dancing in SOBs encourages prostitution. According to the Anchorage Westside Community Patrol, most of the prostitutes in Spenard started as strip club dancers (see Quotes).

The PTAs would prefer some additional provisions be considered as well. We support raising the minimum age for both patrons and dancers to at least 19, if not 21 years old, as we are aware of the vulnerability of even older teens to the negative impacts of SOBs. This would be consistent with state laws regarding tobacco, alcohol and gambling. Recent research from Duke University indicates that adolescent brains are not fully mature until age 20 or older, and raising the age would be appropriate for sex-oriented business pornography as well.

Another health protection to consider, common in other states, would be to add a requirement to keep genitals covered and outlaw genital contact with stage props, customers or other employees. This could help reduce the spread of sexually-transmitted diseases.

Statistics and other background data to support our comments can be found in your packets. Thank you for your consideration of this important legislation for our children's welfare.

Sincerely,

Nancy Fair
Service High School
Parent-Teacher-Student Association
4741 E. 112th Avenue
Anchorage, AK 99516
fairwinds@qci.net

10.40.050 Adult-oriented establishment license; physical layout of premises; conduct of business.

A. *Definitions.* For the purpose of this section, the following words and phrases shall have the meanings indicated in this subsection:

Adult-oriented establishment, or adult business, shall include, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments, physical culture studios, massage parlors, escort services, or similar type businesses where, by the nature of the business, minors under the age of 18 are denied entry, or businesses which are prohibited by law from having minors or unaccompanied minors on the premises for reasons other than the sale of liquor. Provided however, that adult-oriented establishment, or adult business shall not include a business for which minors are permitted on the premises, or an adult cabaret. If a premises, whose primary business is overnight lodging, offers adult movies via a cable, closed circuit or pay per view system, in the absence of any other adult entertainment activities, the availability of such movies, does not render the business an adult-oriented establishment for the purposes of this section.

Adult bookstore means an establishment having as its stock in trade, for sale, rent, lease, inspection or viewing, books, films, videocassettes, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities, or specified anatomical areas, as defined in this section, and in conjunction therewith have facilities for the presentation of adult-oriented films, movies or live performances, for observation.

Adult cabaret means a cabaret which features topless dancers, strippers, male or female impersonators, or similar entertainers.

Adult entertainment means any exhibition of any motion pictures, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated specified sexual activities, or specified anatomical areas, as defined in this section.

Adult mini-motion picture theater means an enclosed building with a capacity of less than 50 persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities, or specified anatomical areas, as defined in this section, for observation by patrons therein.

Adult motion picture theater means an enclosed building with a capacity of 50 or more persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities, or specified anatomical areas, as defined in this section, for observation by patrons therein.

Escort service means a person or business that furnishes, offers to furnish or advertises to furnish escorts for a fee, tip or other consideration or prohibits service to or entry onto their premises of minors under the age of 18. Escort service shall not include computerized or telephonic services which do not allow access to the premises by customers.

Operators means any person, partnership or corporation operating, conducting, maintaining or owning any adult-oriented establishment.

Physical culture studio or massage parlor means an establishment where minors are not allowed which:

- a. Provides any of the following services for hire or compensation:
 1. Baths or bathing facilities;
 2. Steamrooms, saunas or related facilities;
 3. Modeling or modeling facilities;
 4. Services involving the use of conditioning or exercise equipment;
 5. Massage or related services; and

- b. Does not have a license for the practice of a profession or vocation licensed or regulated under AS Title 8 or which provides services through persons acting as employees, independent contractors or otherwise who do not have a current license to provide such services pursuant to AS Title 8.

Specified anatomical areas means:

- a. Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola.
- b. Human male genitals in a discernible turgid state, even if opaquely covered.

Specified sexual activities means simulated or actual:

- a. Showing of human genitals in a state of sexual stimulation or arousal.
- b. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus.
- c. Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

B. License required; transfer of license.

1. Except as provided in subsection B.4 of this section, from and after May 1, 1994, no adult-oriented establishment shall be operated or maintained in the municipality without first obtaining a license to operate issued by the municipal clerk.
2. A license may be issued only for one adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one adult-oriented establishment must have a license for each. The requirements of Section 21.45.240 will apply to each location.
3. No license or interest in a license may be transferred to any person, partnership or corporation.
4. All adult-oriented establishments existing on February 16, 1994, must submit an application for a license within 60 days of such date. If an application is not received within such date, then such existing adult-oriented establishments shall cease operations.
5. No person shall advertise or offer services regulated by this chapter unless they are licensed to provide such services pursuant to this chapter.

C. Application for license.

1. Any person, partnership or corporation desiring to secure an adult-oriented establishment license shall make application to the municipal clerk. The application shall be filed in triplicate with, and dated by, the municipal clerk. A copy of the application shall be distributed promptly by the municipal clerk to the municipal police department and to the applicant.
2. The application for a license shall be upon a form provided by the municipal clerk. An applicant for a license shall furnish the following information under oath:
 - a. Name and address.
 - b. Written proof that the individual is at least 18 years of age.
 - c. The address of the adult-oriented establishment and the name of the business to be operated by the applicant.
 - d. If the applicant is a corporation, the name of the corporation, the date and state of incorporation, the name and address of the registered agent and the name and address of all shareholders owning more than five percent of the stock in the corporation and all officers and directors of the corporation.

3. Within 21 days of receiving an application for a license the municipal clerk shall notify the applicant whether the application is granted or denied.
4. Whenever an application is denied, the municipal clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten days of receipt of notification of denial, a public hearing shall be held within ten days thereafter before the municipal clerk, as provided in this section.
5. Failure or refusal of the applicant to give any information relevant to the investigation for the application or his refusal or failure to appear at any reasonable time and place for examination under oath regarding the application or his refusal to submit to or cooperate with any investigation required by this section shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial thereof by the municipal clerk.

D. *Standards for issuance of license.*

1. To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

a. If the applicant is an individual:

(1) The applicant shall be at least 18 years of age.

(2) The applicant must have not been convicted of a violation of this section or any of the offenses listed in subsection I.1.f(1) of this section within the two years immediately preceding the date of application.

b. If the applicant is a corporation:

(1) All officers, directors and stockholders required to be named under subsection C.2.d of this section shall be at least 18 years of age.

(2) The applicant must have not been convicted of a violation of this section or any of the offenses listed in subsection I.1.f(1) of this section within the two years immediately preceding the date of application.

c. If the applicant is a partnership, joint venture or any other type of organization where two or more persons have a financial interest:

(1) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least 18 years of age.

(2) The applicant must have not been convicted of a violation of this section or any of the offenses listed in subsection I.1.f(1) of this section within the two years immediately preceding the date of application.

2. The location for which the license is sought must meet the requirements of Section 21.45.240 or comply with that section as an existing nonconforming use. Provided however, that any structural changes required to comply with the physical layout requirements of subsection J of this section shall not terminate an existing nonconforming use right.

E. *License fee.* A license fee of \$300.00 shall be submitted with the application for a license. If the application is denied, the fee shall be returned.

F. *Display of license.* The license shall be displayed in a conspicuous public place in the adult-oriented establishment. Any premises licensed under this section shall also post a notice at all entrances that such premises are premises where minors are not allowed.

G. *Reserved.*

H. *Renewal of license.*

1. Every license issued pursuant to this section will terminate at the expiration of one year from the

date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the municipal clerk. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be filed in triplicate with and dated by the municipal clerk. A copy of the application for renewal shall be distributed promptly by the municipal clerk to the municipal police department and to the operator. The application for renewal shall be upon a form provided by the municipal clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

2. A license renewal fee of \$300.00 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of \$100.00 shall be assessed against the applicant who files for a renewal less than 60 days before the license expires. If the application is denied, the renewal fee only shall be returned.

3. If the municipal police department is aware of any information bearing on the operator's qualifications, or that of the applicant's employees, that information shall be filed in writing with the municipal clerk. Approval or clearance by the municipal police department is not a prerequisite to the issuance of a license under this chapter.

I. *Revocation of license.*

1. The municipal clerk may revoke or suspend a license or permit for any of the following reasons:

a. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

b. The operator violates any provision of subsection J.1.b.2 or K of this section or any rule or regulation adopted pursuant to this section.

c. The operator becomes ineligible to obtain a license or permit.

d. Any cost or fee required to be paid by this section is not paid.

e. Any intoxicating liquor or other alcoholic beverage is served on the premises of the adult-oriented establishment.

f. The licensee, manager or designated representative, is convicted of the following offenses at the location to which an adult business license has been issued:

(1) Involving any of the following offenses as described in Chapter 8 of the Anchorage Municipal Code:

(a) Assignment for prostitution;

(b) Prostitution;

(c) Offering to secure another for prostitution;

(d) Maintaining a place of prostitution;

(e) Owning or leasing a place of prostitution;

(f) Coercing another to become a prostitute;

(g) Violation of Section 8.50.010, relating to prohibited performances and exhibitions to minors;

(h) Violation of Section 8.50.020, relating to disseminating indecent material to minors; or

(i) Violation of Section 8.50.040, relating to sexual exploitation of minors.

(2) The fact that a conviction is being appealed shall have no effect on the revocation

of the license.

g. Any of the reasons set forth in Section 10.10.035.

2. The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

3. The municipal clerk, before revoking or suspending any license or permit, shall give the operator at least ten days' written notice of the charges against him, and the opportunity for a hearing before the municipal clerk, as provided in this section. In deciding whether to revoke or suspend a license or permit the municipal clerk may consider remedial measures taken by the licensee or permittee.

4. Any person whose license has been revoked under this section may apply for a new license when they have met the qualifications required for new license applicants.

J. *Physical condition of premises; sanitation requirements.*

1. *Booths, rooms or cubicles for private viewing.* Any adult-oriented establishment having available for customers, patrons or members any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

a. *Access.* Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment, and shall be unobstructed by any curtain, door, lock or other control-type devices except in compliance with subsection J.1.b.(2) of this section.

b. *Construction.* Every booth, room or cubicle shall meet the following construction requirements:

(1) Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.

(2) Each booth, room or cubicle which is fitted with a curtain or door shall be configured so that when the door is closed or curtain drawn the entire room may be observed with an unobstructed view from outside of the room. No such door may be locked. If the door or curtain, when closed, obstructs the view of any portion of the room such condition constitutes a violation of this subsection.

(3) All walls shall be solid and without any openings, shall be extended from the floor to a height of not less than six feet, and shall be light colored, nonabsorbent, smooth textured and easily cleanable.

(4) The floor must be light colored, nonabsorbent, smooth textured and easily cleanable.

(5) The lighting level of each booth, room or cubicle, when not in use shall be a minimum of ten footcandles at all times, as measured from the floor.

c. *Occupants.* Only one individual shall occupy a booth, room or cubicle at any time. For the purposes of live performance or other live adult entertainment only, the one person per booth limit shall not apply. No occupant of any booth, room or cubicle shall engage in any type of sexual activity, or cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

2. *Physical culture studios and massage parlors.* The licensee of any adult-oriented establishment which is a physical culture studio or massage parlor shall keep licensed premises clean and sanitary. Clean towels, sheets and linens shall be provided for each patron receiving massage services. Disinfecting agents and sterilizing equipment sufficient to ensure the cleanliness and safe condition of all equipment shall be provided and used.

3. *Exterior.*

a. Shall be maintained in a neutral tone to conform with surrounding building appearance.

- b. Building will be repaired and maintained in a timely manner.
 - c. Fences to be maintained in conforming appearance and maintained in good condition.
4. *Parking lots and grounds.*
- a. To be maintained in safe and clean condition.
 - b. Grounds to be kept clean and not used for outdoor storage.
 - c. All refuse removed weekly.
5. *Signage, in addition to the requirements of Title 21.*
- a. Each business shall be limited to one sign per entrance.
 - b. Each sign shall be no larger than 20 square feet.
 - c. No neon, reader or mobile signs.
 - d. All signs shall conform to exterior decor requirements.
6. *Ingress or egress.* An operator may not have his/her business premises connected by any means of ingress or egress with premises occupied by an establishment selling or dispensing alcoholic beverages.
7. *Interior.*
- a. Appropriate window coverings to maintain conforming appearance (no foil, sheets, boards, at cetera).
 - b. Premises to be maintained in a clean and sanitary manner.
 - c. The operator shall maintain at least ten footcandles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining aisles, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one footcandle of illumination in such aisles, as measured from the floor.
 - d. Each business shall comply with annual inspections for the following:
 - i. Health.
 - ii. Fire.
 - iii. Building.
 - iv. Other Code compliance.
- K. *Responsibilities of operator.*
- 1. Every act or omission by an employee constituting a violation of the provision of this section shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission. Such acts or omissions can be considered in determining whether to revoke, suspend or renew a license.
 - 2. No employee of an adult-oriented establishment shall allow any minor to enter, to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined in this section.
 - 3. No licensee shall have any other license or permits for games of chance to be played or sold on that

premises licensed as an adult **business**.

4. Licensees who operate physical culture studios or massage parlors must keep records of treatments given and the names of masseurs or masseuses giving such treatments. Such records, as well as the premises of the **business** establishment, shall be subject to administrative inspection by municipal officers as permitted under this title.

L. *Review of actions on license.* Review of the grant, denial, renewal, nonrenewal, suspension or revocation of a license shall be in accordance with Section 10.10.035 and Chapter 3.60.

M. *Penalties and prosecution.* Any person who is found to have violated this section shall be fined a definite sum not exceeding \$300.00 and such conviction shall result in the revocation of any license. The municipal clerk shall notify the administrative official, as identified in Section 21.25.030, of any convictions for violations of this section. Whenever a particular establishment is the location of two or more violations of subsection I of this section for which the licensee is responsible under subsection K.1 of this section occurring within a 24-month period, the administrative official shall proceed against the use entitlement under Section 21.25.030.

N. *Enforcement.* The municipal police department shall have the authority to enter any adult-oriented establishment at all reasonable times to inspect the premises and enforce this section.

(AO No. 93-157(S-6), § 1, 5-1-94; AO No. 94-145(S), § 1, 8-23-94)

Cross references: Restrictions regarding location of places where minors are prohibited from entering, § 21.45.240.

10.40.015 Prohibited acts by holders of adult-oriented establishment license or massage license.

A person holding an adult-oriented establishment license or a masseur/masseuse license may not:

- A. Operate the **business** or engage in the licensed activity between the hours of 2:00 a.m. and 6:00 a.m.
- B. Lock patrons inside any part of the premises during **business** hours.
- C. Solicit for another person, engage in or offer to engage in an act of prostitution, cunnilingus or fellatio with a **business** invitee.
- D. Intentionally expose their genitals to a **business** invitee or intentionally touch the genitals of a **business** invitee.

(CAC 6.28.050; AO No. AO No. 93-157(S-6), § 2, 5-1-94)

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE ANDERSON

TO: HB 367

1 Page 1, lines 2 and 3:

2 Delete "relating to protection of the safety and health of and to education of
3 young persons who perform in adult entertainment establishments;"

4

5 Page 4, line 5:

6 Delete "19"

7 Insert "21"

8

9 Page 4, lines 16 - 23:

10 Delete all material.

11

12 Page 6, line 5:

13 Delete "(a)"

14

15 Page 6, lines 9 - 12:

16 Delete all material.

17

18 Page 9, line 9:

19 Delete "18"

20 Insert "21"

21

22 Page 9, line 11:

23 Delete "18"

- 1 Insert "21"
- 2
- 3 Page 9, line 16:
- 4 Delete "18"
- 5 Insert "21"
- 6
- 7 Page 9, line 22:
- 8 Delete "18"
- 9 Insert "21"
- 10
- 11 Page 10, line 2:
- 12 Delete "18"
- 13 Insert "21"
- 14
- 15 Page 11, lines 18 - 31:
- 16 Delete all material.
- 17
- 18 Renumber the following bill sections accordingly.
- 19
- 20 Page 12, line 6:
- 21 Delete "Sections 3 - 5 of this Act take"
- 22 Insert "Section 3 of this Act takes"
- 23
- 24 Page 12, line 12:
- 25 Delete "Sections 3 - 5 of this Act take"
- 26 Insert "Section 3 of this Act takes"
- 27
- 28 Page 12, line 13:
- 29 Delete "sec. 7(b)"
- 30 Insert "sec. 5(b)"
- 31

- 1 Page 12, line 19:
- 2 Delete "Sections 1, 2, 6, and 7"
- 3 Insert "Sections 1, 2, 4, and 5"

23-LS1394H
Craver
1/30/04

CS FOR HOUSE BILL NO. 367()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MCGUIRE AND GARA

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the licensing and regulation of sex-oriented businesses and sex-
2 oriented business entertainers; relating to protection of the safety and health of and to
3 education of young persons who perform in adult entertainment establishments; and
4 providing for an effective date."

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

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

7 (38) regulation of sex-oriented businesses and sex-oriented business
8 entertainers under AS 08.90.

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

10 **Chapter 90. Sex-Oriented Businesses and Entertainers.**

11 **Article 1. Licensing.**

12 **Sec. 08.90.010. License required.** A person may not

13 (1) work as a sex-oriented business entertainer without a sex-oriented
14 business entertainer license;

1 (2) operate a sex-oriented business without a 21 and over sex-oriented
2 business license or a 19 and over sex-oriented business license;

3 (3) permit a sex-oriented business entertainer to work in a sex-oriented
4 business without a sex-oriented business entertainer license;

5 (4) permit the use of the person's sex-oriented business entertainer
6 license by another person;

7 (5) obtain or attempt to obtain a license under this chapter by
8 fraudulent means.

9 **Sec. 08.90.020. Sex-oriented business license for premises employing**
10 **entertainers at least 21 years old.** An applicant for a license to operate a sex-
11 oriented business employing sex-oriented business entertainers 21 years of age and
12 older at a licensed premises shall submit to the department, in the manner and on
13 forms prescribed by the department, written evidence, verified by oath, that the
14 applicant meets the qualifications to operate a sex-oriented entertainment business,
15 and that the owner of the premises consents to the operation of the sex-oriented
16 business on the premises. A licensee under this section may not employ a sex-oriented
17 business entertainer who is less than 21 years of age.

18 **Sec. 08.90.025. Sex-oriented business license for premises employing**
19 **entertainers at least 19 years old.** An applicant for a license to operate a sex-
20 oriented business employing sex-oriented business entertainers 19 years of age and
21 older at a licensed premises shall submit to the department, in the manner and on
22 forms prescribed by the department, written evidence, verified by oath, that the
23 applicant meets the qualifications to operate a sex-oriented entertainment business,
24 and that the owner of the premises consents to the operation of the sex-oriented
25 business on the premises. A licensee under this section may not employ a sex-oriented
26 business entertainer who is less than 19 years of age.

27 **Sec. 08.90.030. Sex-oriented business entertainer license.** (a) An applicant
28 for a license to work as a sex-oriented business entertainer shall submit to the
29 department, in the manner and on forms prescribed by the department, written
30 evidence, verified by oath, that the applicant meets the qualifications to work as a sex-
31 oriented business entertainer.

1 (b) A sex-oriented business entertainer license may only be issued to a natural
2 person.

3 **Sec. 08.90.040. Regulations for sex-oriented business licenses.** The
4 department shall by regulation establish requirements for licensing businesses
5 providing sex-oriented entertainment at the premises specified in the application,
6 licensure and renewal procedures, inspection procedures, standards, fees, and
7 requirements for operation. In adopting regulations under this section, the department
8 shall regulate the following standards of conduct and physical characteristics of
9 licensed premises:

10 (1) unless the sex-oriented business owner resides on the business
11 premises and the sex-oriented business owner is a legal guardian of minors residing in
12 the residential unit, a licensed sex-oriented business premises may not share with any
13 residential unit inhabited by minors a

14 (A) public entrance;

15 (B) restroom or entrance to a restroom; or

16 (C) hallway;

17 (2) the interior layout of the premises of a sex-oriented business must
18 physically separate sex-oriented business entertainers from patrons during
19 performances and ensure that any booth, stall, room, or partitioned portion of a room
20 is open to view from a public room of the premises, except for private offices or other
21 rooms that are not open to any person other than employees, or individual restrooms
22 on the premises;

23 (3) an applicant shall provide satisfactory evidence that the owner of
24 the real property in which the sex-oriented business is conducted consents to the
25 operation of the sex-oriented business;

26 (4) an individual whose name and address is required to be provided
27 with an application for a license under AS 08.90.070 may not have been convicted of
28 any of the following offenses:

29 (A) prostitution or promotion of prostitution; unlawful
30 exploitation of a minor; possession or distribution of child pornography;
31 indecent exposure; sexual assault; sexual abuse of a minor; or any similar sex-

1 related offenses to those described above under the criminal or penal code of
2 this state, other states, or other countries; tax evasion; underage employment;
3 alcohol violations; illegal drugs; allowing a minor to enter and remain within
4 premises where adult entertainment is offered; or any offense causing
5 revocation of a sex-oriented business license or sex-oriented business
6 entertainer license; or

7 (B) an offense for which less than 10 years have elapsed since
8 the date of conviction or the date of release from confinement imposed for a
9 conviction, whichever date is later, if the conviction is of a felony offense.

10 **Sec. 08.90.050. Regulations for sex-oriented business entertainer licenses.**

11 The department shall by regulation establish requirements for licensing sex-oriented
12 business entertainers, including licensure and renewal procedures. In adopting
13 regulations under this section, the department shall require sex-oriented business
14 entertainers to

15 (1) be at least 19 years of age;

16 (2) receive education about

17 (A) assertiveness training to protect sex-oriented business
18 entertainers against sexual and or physical assaults;

19 (B) wage and hour laws to protect sex-oriented business
20 entertainers against improper pay deduction claims and working hour or
21 condition requirements; and

22 (C) any other area the department considers necessary for
23 protection of the health or safety of sex-oriented business entertainers; and

24 (3) have the other qualifications and training that the department
25 considers necessary.

26 **Sec. 08.90.060. Additional provisions for sex-oriented business entertainer**
27 **licenses for persons who are 19 or 20 years of age.** In addition to educational
28 information required under AS 08.90.050, the department shall by regulation establish
29 educational requirements for entertainer license applicants who are 19 or 20 years of
30 age. An entertainer license applicant shall attend a course developed by the
31 department to inform applicants of career and educational opportunities that are not

1 part of the sex-oriented entertainment business and shall be given counseling on the
2 prevention of sexually transmitted diseases.

3 **Sec. 08.90.070. Application for license.** (a) An applicant for a license shall
4 file with the department a written application, signed and sworn to by the applicant,
5 giving the applicant's name and address. If the applicant is a corporation, the
6 application shall be executed by the authorized officers of the corporation. If the
7 applicant is a partnership, including a limited partnership, the application shall be
8 executed by an authorized general partner. The application must include

9 (1) the type of license desired;

10 (2) the license fee;

11 (3) any other information required by the department.

12 (b) A corporation applying for a sex-oriented business license shall provide
13 the names and addresses of the president, vice-president, secretary, managing officer,
14 and all stockholders who own 10 percent or more of the stock in the corporation,
15 together with any other information required by the department.

16 (c) A partnership, including a limited partnership, that applies for a license
17 shall provide information required by the department including the names and
18 addresses of all general partners and all partners with an interest of 10 percent or
19 more.

20 (d) A limited liability organization that applies for a license shall provide
21 information required by the department, including the names and addresses of all
22 members with an ownership interest of 10 percent or more and the names and
23 addresses of all managers.

24 **Sec. 08.90.075. Notice of application for sex-oriented business license.** (a)
25 Before a new license is issued, the applicant shall post a copy of the application for 10
26 days at the location of the proposed licensed premises and at any additional locations
27 designated by the department. The department may require the applicant to provide

28 (1) a copy of the application to newspapers and radio and television
29 stations for public service announcement; or

30 (2) paid notice of the application once each week for three successive
31 weeks in a newspaper or by radio.

1 (b) Upon receipt of an application for the issuance or renewal of a license for
 2 premises or proposed premises that are located within one-half mile of the boundary of
 3 a community council established by municipal charter or ordinance, the department
 4 shall

5 (1) immediately provide written notice of the application to
 6 (A) the community council; and
 7 (B) any nonprofit community organization that has requested
 8 notification in writing; and

9 (2) at least 10 days before the date set for departmental action on the
 10 application, provide written notice of the proposed action to

11 (A) the community council; and
 12 (B) any nonprofit community organization that has requested
 13 notification in writing.

14 **Sec. 08.90.080. Fees.** (a) The department shall set fees under AS 08.01.065
 15 for each of the following:

- 16 (1) a 21 and over sex-oriented business license application or renewal;
- 17 (2) a 19 and over sex-oriented business license application or renewal;
- 18 and
- 19 (3) a sex-oriented business entertainer license application or renewal.

20 (b) A sex-oriented business licensee who is entitled to employ sex-oriented
 21 business entertainers who are 19 or 20 years of age shall be assessed fees to fully
 22 defray the cost of providing the educational and counseling requirement described in
 23 AS 08.90.060.

24 **Sec. 08.90.090. Grounds for denial, suspension, or revocation of license.**

25 The department may deny, suspend, or revoke the license of a person who

- 26 (1) has obtained or attempted to obtain a license under this chapter by
 27 fraud or deceit;
- 28 (2) has been convicted of a felony or other crime if the felony or other
 29 crime is substantially related to the qualifications, functions, or duties of the licensee;
- 30 or
- 31 (3) has wilfully or repeatedly violated a provision of this chapter or

1 regulations adopted under it.

2 **Sec. 08.90.100. Person and location for sex-oriented business license. (a)**

3 Each sex-oriented business license shall be issued to a specific individual or
4 individuals, to a partnership, including a limited partnership, to a limited liability
5 organization, or to a corporation. If the license is issued to a corporation or a limited
6 liability organization, the registered agent of the corporation or limited liability
7 organization is required to be an individual resident of the state.

8 (b) A specific location shall be indicated on the license as the licensed
9 premises, the principal address of which shall be indicated on the license. The mailing
10 address of a licensee or, if the licensee is a corporation, the address of the registered
11 office of the corporation must be kept current and on file in the main office of the
12 department.

13 (c) A license issued by the department is not transferable or assignable.

14 (d) A licensed facility shall report to the department

15 (1) permanent closing; and

16 (2) other matters and occurrences the department may require by
17 regulation.

18 **Article 2. Miscellaneous Provisions.**

19 **Sec. 08.90.300. Disciplinary sanctions. (a)** If, after a hearing, the
20 department finds that a licensee has committed an act set out in AS 08.90.090, the
21 department may

22 (1) permanently revoke a license issued under this chapter or suspend a
23 license for a determinate period of time; and

24 (2) impose a civil fine of not more than \$10,000.

25 (b) The department may summarily suspend a license before final hearing or
26 during the appeals process if the department finds that the licensee poses a clear and
27 immediate danger to the public health and safety if the licensee continues to work or
28 operate under a license issued under this chapter. A person whose license is
29 suspended under this subsection is entitled to a hearing by the department not later
30 than seven days after the effective date of the order.

31 (c) A person who receives a disciplinary sanction under this section may

1 appeal the sanction to a court of competent jurisdiction.

2 (d) The department shall be consistent in the application of disciplinary
3 sanctions. A significant departure from earlier decisions of the department involving
4 similar situations must be explained in findings of fact or orders made by the
5 department.

6 **Sec. 08.90.310. Violations.** (a) A person who violates this chapter is guilty
7 of a misdemeanor and, upon conviction, is punishable by a fine of not more than
8 \$5,000, or by imprisonment for not more than one year, or by both. Each day of
9 illegal practice is a separate offense.

10 (b) A person who knowingly provides false information in an application for a
11 sex-oriented business license or a sex-oriented business entertainer license is guilty of
12 a misdemeanor and, upon conviction, is punishable by a fine of not more than \$5,000,
13 or by imprisonment for not more than one year, or by both, except that a person who
14 knowingly provides false information about the applicant's specified criminal activity
15 is guilty of a class C felony.

16 **Sec. 08.90.320. Limitation of liability.** An action may not be brought against
17 a person for damages resulting from a report made in good faith to a public agency by
18 the person or participation by the person in an investigation by a public agency or an
19 administrative or judicial proceeding relating to the report if the report relates to a
20 person who has a license under this chapter.

21 **Sec. 08.90.330. Accessibility of license and licensed premises to inspection.**

22 (a) A sex-oriented business licensee shall, upon request, make the licensed premises
23 available for inspection by officers charged with the enforcement of this chapter,
24 including employees of the department, during all regular business hours.

25 (b) A license for a sex-oriented business issued under this chapter shall be
26 conspicuously posted within the licensed premises so as to be easily viewed by the
27 public and available for inspection upon request by a peace officer or other person
28 during regular business hours.

29 **Sec. 08.90.340. License a privilege.** (a) A license issued under this chapter
30 is a personal privilege, not a property right.

31 (b) The privilege conferred upon the licensee is personal in nature and affords

1 protection to the licensee only.

2 **Sec. 08.90.345. Access of persons under 18 years of age to licensed**
3 **premises.** A licensee or an agent or employee of a sex-oriented business licensee may
4 not with criminal negligence allow a person under 18 years of age to enter and remain
5 within licensed premises. In this section, "criminal negligence" has the meaning given
6 in AS 11.81.900.

7 **Sec. 08.90.350. Proof of age.** (a) If a sex-oriented business licensee or an
8 agent or employee of the sex-oriented business licensee questions or has reason to
9 question whether a person entering licensed premises has attained the age of 18 years,
10 the licensee, agent, or employee shall require the person to furnish proof of age
11 acceptable under (b) of this section in a form determined by the department. If the
12 person questioned does not furnish proof of age acceptable under (b) of this section, or
13 if a licensee, agent, or employee questions or has reason to question the validity of the
14 proof of age furnished, the licensee, employee, or agent shall require the person to sign
15 a statement that the person is over 18 years of age. This statement shall be made on a
16 form prepared by and furnished to the licensee by the department.

17 (b) A valid driver's license or a valid identification card is acceptable as proof
18 of age when used for identification in securing entry to and remaining on the premises
19 of a sex-oriented business if the license or identification card is made of or encased in
20 plastic and contains a photograph of the licensee or card holder and a statement of age
21 or date of birth.

22 (c) A licensee or an agent or employee of the licensee may not be charged for
23 a violation of AS 08.90.345 if a signed statement as provided in (a) of this section is
24 secured in good faith, or if a valid driver's license or identification card is presented
25 indicating that the owner and possessor of the presented driver's license or
26 identification card is 18 years of age or older.

27 **Sec. 08.90.360. Responsibility of licensees, agents, and employees.** A sex-
28 oriented business licensee has a duty to exercise that degree of care that a reasonable
29 person would observe to ensure that a business under the person's control is lawfully
30 conducted. This duty of the licensee includes ensuring the compliance

31 (1) by agents or employees with this chapter and regulations adopted

1 under this chapter, including acting with reasonable diligence to determine that agents
 2 or employees are advised of the provisions of this chapter and the regulations adopted
 3 under this chapter, either by securing the agent's or employee's written
 4 acknowledgment of posted instructions or otherwise; and

5 (2) of the premises with public health, fire, and safety codes and
 6 ordinances of the state or municipality having jurisdiction.

7 **Article 3. General Provisions.**

8 **Sec. 08.90.500. Definitions.** In this chapter,

9 (1) "department" means the Department of Community and Economic
 10 Development;

11 (2) "employee" means a person who performs any service on the
 12 premises of a sex-oriented business on a full-time, part-time, contract, or independent
 13 basis, whether or not the person is an employee, independent contractor, agent, or
 14 otherwise and whether or not the said person is paid a salary, wage, or other
 15 compensation by the operator of the sex-oriented business; "employee" does not
 16 include a person exclusively on the premises for repair or maintenance of the premises
 17 or equipment on the premises, or for the delivery of goods to the premises, nor does
 18 "employee" include a person exclusively on the premises as a patron or customer;

19 (3) "nudity" means the appearance of an anus, anal area, pubic area,
 20 male genitals, female genitals, or vulva, either bare or with less than a fully opaque
 21 covering; or a female breast with less than a fully opaque covering of any part of the
 22 areola;

23 (4) "premises" means the real property on which the sex-oriented
 24 business is located, including the sex-oriented business, the grounds, private
 25 walkways, parking lots, and parking garages of the sex-oriented business under the
 26 ownership, control, or supervision of the licensee, as described in the application for a
 27 sex-oriented business license under this chapter;

28 (5) "semi-nude" or "semi-nudity" means the appearance of the female
 29 breast below a horizontal line across the top of the areola at its highest point; this term
 30 includes the entire lower portion of the human female breast, but does not include any
 31 portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt,

1 leotard, bathing suit, or other wearing apparel if the areola is not exposed in whole or
2 in part;

3 (6) "sex-oriented business" means a person who offers entertainment at
4 a premises for compensation for the sexual interests or titillation of an audience or
5 customers' entertainment involving a person who personally appears before the
6 audience or customers in a state of nudity or semi-nudity;

7 (7) "sex-oriented business entertainer" means an employee of a sex-
8 oriented business who performs one or more services described in (6) of this section
9 for the sexual interests or titillation of an audience or customers;

10 (8) "sex-oriented business license" means a license issued under
11 AS 08.90.020 and 08.90.025;

12 (9) "sex-oriented business licensee" means a person licensed under
13 AS 08.90.020 or 08.90.025.

14 * **Sec. 3.** AS 08.90.010 is repealed and reenacted to read:

15 **Sec. 08.90.010. License required.** A person may not

16 (1) work as a sex-oriented business entertainer without a sex-oriented
17 business entertainer license;

18 (2) operate a sex-oriented business without a 21 and over sex-oriented
19 business license or an 18 and over sex-oriented business license;

20 (3) permit a sex-oriented business entertainer to work in a sex-oriented
21 business without a sex-oriented business entertainer license;

22 (4) permit the use of the person's sex-oriented business entertainer
23 license by another person;

24 (5) obtain or attempt to obtain a license under this chapter by
25 fraudulent means.

26 * **Sec. 4.** AS 08.90.025 is repealed and reenacted to read:

27 **Sec. 08.90.025. Sex-oriented business license for premises employing**
28 **entertainers at least 18 years old.** An applicant for a license to operate a sex-
29 oriented business employing sex-oriented business entertainers 18 years of age and
30 older at a licensed premises shall submit to the department, in the manner and on
31 forms prescribed by the department, written evidence, verified by oath, that the

1 applicant meets the qualifications to operate a sex-oriented entertainment business,
2 and that the owner of the premises consents to the operation of the sex-oriented
3 business on the premises. A licensee under this section may not employ a sex-oriented
4 business entertainer who is less than 18 years of age.

5 * Sec. 5. AS 08.90.050(1) is repealed and reenacted to read:

6 (1) be at least 18 years of age;

7 * Sec. 6. AS 08.90.060 is repealed and reenacted to read:

8 **Sec. 08.90.060. Additional provisions for sex-oriented business entertainer**
9 **licenses for persons who are under 21 years of age.** In addition to educational
10 information required under AS 08.90.050, the department shall by regulation establish
11 educational requirements for entertainer license applicants who are under 21 years of
12 age. An entertainer license applicant shall attend a course developed by the
13 department to inform applicants of career and educational opportunities that are not
14 part of the sex-oriented entertainment business and shall be given counseling on the
15 prevention of sexually transmitted diseases.

16 * Sec. 7. AS 08.90.080 is repealed and reenacted to read:

17 **Sec. 08.90.080. Fees.** (a) The department shall set fees under AS 08.01.065
18 for each of the following:

19 (1) a 21 and over sex-oriented business license application or renewal;

20 (2) an 18 and over sex-oriented business license application or
21 renewal; and

22 (3) a sex-oriented business entertainer license application or renewal.

23 (b) A sex-oriented business licensee who is entitled to employ sex-oriented
24 business entertainers who are under 21 years of age shall be assessed fees to fully
25 defray the cost of providing the educational and counseling requirements described in
26 AS 08.90.060.

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

29 SEVERABILITY. Under AS 01.10.030, the provisions of this Act are severable.

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

1 CONTINGENT EFFECT. (a) Sections 3 - 7 of this Act take effect only if a court of
2 competent jurisdiction whose decisions are binding in this state enters a final judgment on the
3 merits that AS 08.90.050(1), added by sec. 2 of this Act, violates the Constitution of the
4 United States or the Constitution of the State of Alaska.

5 (b) The attorney general shall promptly notify the lieutenant governor and the revisor
6 of statutes of the occurrence of the contingency described in (a) of this section.

7 * **Sec. 10.** Sections 3 - 7 of this Act take effect on the date of the attorney general's
8 notification to the lieutenant governor and to the revisor of statutes under sec. 9(b) of this Act
9 that a court has entered final judgment that AS 08.90.050(1), added by sec. 2 of this Act,
10 violates the Constitution of the United States or the Constitution of the State of Alaska and
11 that the time for an appeal of that judgment has expired or, if an appeal was taken, a final
12 order on the appeal has been entered that AS 08.90.050(1) violates the Constitution of the
13 United States or the Constitution of the State of Alaska.

14 * **Sec. 11.** Sections 1, 2, 8, and 9 of this Act take effect July 1, 2005.

Diana L. Straub

Chair- Board of Barbers and Hairdressers
PTA President - Wasilla Middle School
Council Member - City of Wasilla

1452 Bertha Lane
Wasilla, AK 99654
(907) 373-7230
(907) 242-1353

February 2, 2004

House Labor and Commerce Committee

Dear Legislators:

I appreciated listening to the valuable testimony given on Friday January to, 2004 regarding HB369. Due to time constraints for testimony, I offered to forward my comments to you in written form. I will gladly participate via teleconference as often as possible and I appreciate the opportunity to interact with you.

As you will recall, my greatest concern was our ability to follow through with the enforcement of this bill. I fully value and agree with the intent of which created this bill, however I do not believe that **HB 367 will not be enforceable** for a number of reasons.

I have arrived at this conclusion from my experience serving the Board of Barbers and Hairdressers. This board oversees tattooing and body piercing. In the state of Alaska a practitioner may not tattoo or pierce any person under the age of 18 years. We are finding this extremely difficult to enforce due to lack of financial resources in multiple departments.

The solution I bring to the table is, **halt the employment of all persons under the age of 21 in a Sex Oriented Business.**

If you are not old enough to drink a cocktail, you are not old enough to take your clothes off on the cocktail table.

As I look at this bill, I see the following departments involved (keeping in mind there are other department choices available).

1. **Occupational Licensing** to process the licensing applications
2. **Alcohol Beverage Control** to work with the establishments that do hold a liquor license
3. _____ to work with the S.O. B. that do not hold a liquor license.
4. **DEC** to provide health inspections in a timely manner to protect the entertainers against the spread of diseases i.e., hepatitis. Let me remind you, this department has been cut back so much that our restaurants are now self-inspecting. As a board member of the Board of Barbers and Hairdressers, I have waited 5 weeks for a salon to be inspected by DEC after requesting the inspection. The inspection requested was due to animal urine in the salon in multiple areas. To date this salon has not been inspected, however DEC did issue a letter of non-objection to this salon becoming a school.
5. **Public Safety**
6. **Division of Occupational Licensing Investigators** to investigate and build cases against unethical employers and unlicensed employees. Hope they stay in the same place long enough to build a case. We already know that the businesses move frequently and change names as they do so. Remember that Occupational investigators are 8:00 AM to 5:00 PM employees. Will we hire more investigators or just pay overtime?
7. **Police / Troopers** responding to immediate safety needs and the needs of nearby residents or businesses. Will we take our officers off the streets to provide these occupational investigations?

I do not believe that *all costs in each of these departments will not be recovered in the occupational licensing fees*. What would you believe to be the total number of man-hours for investigations alone in the first year? Where will that money come from?

The way I understand the process necessary to begin employment will look like this.

1. **Decide to be a stripper** (you must need fast cash and feel desperate)
2. **Call DCED to scheduled classes** in STD, Sexual Assault, Wage and Hour, Career-counseling. When will classes be available? How often will classes be available? Weekly, monthly yearly? Will classes be offered together in one day or will this take several days?
3. **Attend and pay for the classes.** How much will this cost? HB 367 says the employer will cover these costs, however at this point you are not licensed to look for a job, there is no employer to pay the fee.
4. **Complete the Occupational Licensing application and mail the fee of about \$175.00** (the average fee for Barbers and Hairdressers) to Juneau.
5. **Wait about two weeks for the licensing process to be completed** and in your license in mailbox. You do have a mailbox, don't you?
6. **Now you are ready to seek employment.**

Great! You got a job at the first place you asked. When you asked your new employer to reimburse you for the cost of the classes (remember HB 367 says the employer will pick up the costs) he laughed at you and let you know that he does not pay for *those* classes. You could quit and go to work down the street the next night and then he is out the money.

Your new employer laughed again when you gave him your **occupational license to post in the establishment.** You just provided him with the information that you are new to the business, naive and now you are a target. Let me remind you that the license has **your full legal name and address** in a place that anyone could make a note of your name and find you later, when you least expect it.

It's your first night at work and you notice that the stage props are not cleaned and sanitized between performers. You call **DEC** and wait for an inspection.

Unless we put money and manpower in each department that will work with this legislation, we are providing nothing more than lip service. On the surface, it appears that *we tried*, but in reality, we knew that it would not protect the safety of these young adults and it may even put them further in harms way because they'll believe they are protected. They will believe that because we taught them that in the *mandatory* classes they took.

It seems to me the way HB 367 is currently laid out, we have several carts before our single horse and no money to push with. I encourage each committee to consider the full trickle down effect of HB367.

In conclusion, please keep in mind that I truly support the protection of our youth.

Sincerely,

Diana L. Straub

HOUSE BILL NO.367

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURES – SECOND SESSION

BY REPRESENTATIVE(S) MCGUIRE, GARA

Introduced: 1/09/94

Referred: Labor and Commerce

**A BILL
FOR AN ACT ENTITLED**

“ An Act relating to the licensing and regulation of sex-oriented businesses and sex-oriented business entertainers; relating to protection of the safety and health of and to education of young persons who perform in adult entertainment establishments; and providing for an effective date.”

Legislative Hearing Date: January 30, 2004, 3:15 PM
Public Testimony by: R. Roberts

January 30, 2004

Dear Representative Anderson and other committee members:

I urge your support of HB 367 which will provide stricter licensing requirements and regulation for sexually oriented businesses and employees in order to protect school children and other youth under the age of 21.

This legislation is desperately needed to start addressing a very serious state-wide issue: The adverse effects of sexually oriented businesses such as increased crime especially sex related crimes, sexually transmitted diseases, endangerment of youth, urban blight, declining property values, and diminished quality of life.

According to the National Law Center for Children and Families numerous case studies across America show that prostitution, crime and drug use correspond with sexually oriented businesses. In particular, live nude dance clubs encourage prostitution, increase sexual assaults, and attract other criminal activity. I believe it is appropriate to regulate sexually oriented businesses differently from other commercial businesses, based on the significant negative impact caused by this industry.

I appreciate the fact that this bill will strengthen the public notification process regarding sexually oriented businesses by notifying community councils and other non-profit groups when license applications or renewals for sexually oriented businesses are submitted.

Public testimony for HB 367 continued, page 2

This bill is a reasonable licensing procedure and an appropriate mechanism to place the burden of regulation on the owners, operators and employees of sexually oriented businesses. There shouldn't be a fiscal note tied to this bill as DCED is under mandate to make their licensing program self-supporting thru license fees. Such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of youth and other patrons and employees, as well as the citizens of the communities where they locate.

I welcome this legislation and encourage you to pass it.

Thank you for your time.

Suggestion at line 10 of the bill:

10 Chapter 90. Sex-Oriented Businesses and Entertainers.

(a) It is the intent of this legislation to protect young persons who perform in adult entertainment establishments through enactment of safety and health, educational requirements.

(b) The Department of Community and Economic Development will be the lead agency to coordinate with other State entities as necessary to implement these provisions, and shall work in consultation with knowledgeable groups and organizations that focus on the protection of women and youth.

This suggestion is based on legislation from 1997 "An Act Relating to Civil Actions...."
SCS CSSHB 58 (RLS) am S

This legislation specifically stated the intent of the legislation as well as directing the Alaska Judicial Council to consult with the Alaska Dispute Settlement Association.

COVENANT HOUSE ALASKA

Testimony Notes of Kara Nyquist, Esq., Director of Advocacy on HB 367, January 30, 2004 before House Labor & Commerce Committee.

Support HB 367

INTRODUCTION – CHA Director of Advocacy; CHA provides a continuum of services for homeless, runaway and at-risk youth including shelter, transitional living, health services, a drop-in center and job development center. Last year CHA served 3,600 youth and this year is CHA's 15th year of service to Alaska. The staff at CHA has worked with over 15,000 youth in Alaska.

I also represent the Alaska Association of Homes for Children "AAHC," an association of 20 social service providers providing 46.5 million dollars in programs to serve Alaska's children and youth each year. The association has passed a resolution in support of HB 367.

I am also a licensed attorney in the State of Alaska and have been working with Representatives McGuire and Gara and their staff for months on this bill and have spent time researching the constitutionality of the bill and talking with youth and with staff that have had contact with youth working in strip clubs.

LAW - Currently under Alaska law if you are eighteen you can become a nude dancer or patronize clubs that employ nude dancers.

The Alaska Supreme Court and the United States Supreme Court have recognized that dancing, including nude dancing is a constitutionally protected form of expression under the first amendment to the United States Constitution. Mickens v. City of Kodiak, 640 P.2d 818, 820 (Alaska 1982).

However, both courts have recognized that rights protected by the First Amendment are not immune from governmental regulation; and that content neutral restrictions, which are reasonable restrictions aimed at addressing the secondary effects of the speech and the not the speech itself are permissible. These restrictions are referred in the courts as time, place, and manner restrictions. Seward Chapel, Inc. v. City of Seward, 655 P.2d 1293, 1300 (Alaska 1982).

The United States Supreme Court has specifically recognized that local governments have a right and duty under their police powers to regulate Sexually Oriented Businesses "SOBs" to control where, when, and how they will locate and operate in order to minimize their adverse secondary effects. Young v. American Mini Theatres, Inc., 427 U.S. 50 (1976), City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986).

Harmful secondary effects occurring in Alaska, which have also been recognized by the US Supreme Court in other juris. include,

- Increased crime (prostitution, drug use, sexual assault)
- Decreased property values
- Increased potential for the Spreading of sexually transmitted diseases
- Sexual harassment
- Pills in parking lot
- Sexual exploitation of minors
- Wage and hour law violations

The United States Supreme Court has held that curbing these secondary effects constitutes a substantial government interest. The US Supreme Court has stated that the legislative record should include the evidence available on these effects. Record should include any reports or studies prepared by and for government agencies. Additional local, regional, or national information and

experiences can be added through hearings and testimony. Importantly, the Supreme Court has held that local governments may rely on the past experiences of other communities and consider the studies and reports of harmful effects without generating their own new studies in their localities. City of Renton v. Playtime Theatres Inc., 475 U.S. 41 (1986).

The legal staff at the National Law Center for Children and Families that has expressed that they are unaware of any jurisdiction that has held age restrictions unconstitutional when the government feels there is a substantial interest in regulating Sexually Oriented Businesses; the only case law I am aware of is a case where the court found that the legislature had not created a record to change the age to 21. (Tenth Circuit decision Essence Inc., v. City of Federal Heights).

The agencies I represent support HB 367 because no enforcement of these businesses is currently taking place and children are being exploited. Former dancers have expressed to me that they worked in strip clubs in Anchorage where they were not paid an hourly wage but rather were required to pay \$50 a night to work at the clubs, were encouraged to perform lap dances with no clothing on, engage in prostitution, unsanitary health conditions existed, drugs were freely available, tobacco use occurs although you must be 19 in Alaska to use tobacco, sixteen year olds are employed, they did not feel they had other employment options, and they did not feel safe saying no to the owners because of body guards and pimps in the clubs. The health community tells us that youth are at high risks of STD's and Aids. These acts are a health and safety concerns. As lawmakers I encourage you to support this bill to prevent others from preying on our children.

Our laws regulate various industries; we must regulate this industry that has fallen through the cracks of our legal system.

Jurisdictions across the county regulate Sexually Oriented Businesses.

Today you will or have heard testimony from former dancers, from the PTA, former assembly member, social service providers.....Scott Swartzwelder, Neuro-psychologist on Adolescent Brain Development

I encourage this committee to require employees and patrons of strip-clubs to be at least 19 if not older.

The agencies I represent are not here to make a moral argument or here to ask that any constitutional rights of youth be stepped on; as an attorney I strongly support the protection of everyone's constitutional rights but I like many attorneys before me have recognized that state has a duty to create regulations to protect the health and safety of its citizens, especially children.

The activities described today may not take place in all strip clubs in Alaska but the reality is that these illegal activities are taking place and need to be regulated.

Thank you for your time. I am happy to answer any questions you may have.



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Ruling keeps Missouri from raising minimum age for strippers

The Associated Press
FRIDAY, AUGUST 29, 2003

KANSAS CITY, MO — A Missouri law raising the minimum age for nude dancers from 18 to 19 appears to be a violation of the First Amendment right to free expression, a federal judge ruled in barring enforcement of the law.

"I'm not persuaded that (the law) furthers a substantial government interest, nor am I persuaded that the government interest in this case is unrelated to suppression of free speech," U.S. District Judge Otrrie Smith ruled Wednesday.

The law had been set to take effect Thursday, but Bazooka's, a Kansas City cabaret featuring nude dancing, and two of its 18-year-old dancers sought a restraining order.

Smith said the 18-year-old dancers were likely to suffer irreparable harm if the statute were enforced. Both dancers testified Wednesday, describing themselves as "live adult entertainers" whose work at Bazooka's was the primary means of support for themselves and their 2-year-old children.

After the hearing, the general manager of Bazooka's, Richard T. Snow, said he was pleased with Smith's ruling.

"I didn't think the government's case had any merit," Snow said.

Bazooka's and the two dancers -- Ashlea Nichol Williamson and Christine Dunkin - sued on Monday to prevent enforcement of the statute. Jay Nixon, as the state's attorney general charged with enforcing Missouri's laws, was named as the only defendant.

The law was passed by the General Assembly in May and signed by Gov. Bob Holden last month. Tucked into an otherwise unrelated liquor-control bill, the provision was sponsored by Sen. Sarah Steelman, R-Rolla.

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At the time, Steelman was quoted as saying that women could earn hundreds of dollars a day dancing nude but were at risk of being exploited. She also expressed concern that young women who performed in adult clubs might get involved in pornography.

Bazooka's is a so-called juice bar and serves no alcohol. As such, it is not regulated by state and local laws requiring dancers in clubs that serve alcohol to be partly covered.

In arguing that the minimum-age law was arbitrary and violated the First Amendment, Bazooka's attorney Richard Bryant acknowledged that the government could regulate nude dancing but said the statute impinged too much on the right of free speech.

E The bill, he said, bans 18-year-olds "from engaging in the exact same activity as a 19-year-old," even though 18-year-olds are not considered minors under Missouri law.

Assistant Atty. Gen. John Mollenkamp argued that while the law prohibited 18-year-olds from dancing nude in adult clubs, it did not prevent them from dancing partly clothed in clubs that serve liquor, dancing nude in the privacy of their homes or even appearing nude in videotapes.

Mollenkamp said it was up to lawmakers, not the courts, to determine the rightful age.

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Phylene JEFFCOAT, Sam Jeffcoat and Lawn, Inc., d/b/a the Lonely Lady,
Appellants, v. STATE of Alaska, DEPARTMENT OF LABOR, Appellee

No. 3162, File No. S-1444

Supreme Court of Alaska

732 P.2d 1073; 1987 Alas. LEXIS 237; 27 Wage & Hour Cas. (BNA) 1709; 106
Lab. Cas. (CCH) P55,745

February 20, 1987

PRIOR HISTORY: [1]**

Appeal from the Superior Court of the State of Alaska,
Fourth Judicial District, Fairbanks, Mary E. Greene,
Judge.

LexisNexis (TM) HEADNOTES - Core Concepts:

COUNSEL:

Dennis E. McKelvie, Downes and McKelvie, for
Appellant.

Randy O. Olsen, Assistant Attorney General; Harold
M. Brown, Attorney General, for Appellee.

JUDGES:

Rabinowitz, Chief Justice, Burke, Matthews,
Compton and Moore, Justices.

OPINIONBY:

PER CURIAM

OPINION:

[*1074] We have considered each of appellant's
arguments and points on appeal. The record fully
supports the Memorandum Decision and Order entered
by Judge Mary E. Greene, which we adopt as the opinion
of this court. It is set forth in full below.

MEMORANDUM DECISION AND ORDER

This matter comes before the court upon both
plaintiff's and defendant's motions for summary
judgment. Plaintiff, the Alaska Department of Labor, on
behalf of Cathy Adler, brought suit alleging defendant
violated provisions of Alaska's wage and subsistence
statutes. n1 For the Department of Labor to maintain the
action, defendant must have been in an
employee/employer relationship with Adler. Each party
requests the court to determine whether or not an
employee/employer relationship exists for purposes of
Alaska's labor laws.

n1 AS 23.10.065, AS 23.10.110(a), AS
23.05.140(d) and AS 23.10.380.

[2]**

The basic facts are undisputed. Cathy Adler, a
dancer, was in Las Vegas. There [*1075] she was
recruited by a booking agency to dance for the
defendant, the Lonely Lady (hereinafter the "Club"), in
Alaska. The Club is owned by the Jeffcoats, who are also
defendants. Adler was presented with the terms and
conditions of the contract. Under the terms of the
contract Adler agreed to work six days a week for a six-
week period and to receive a flat weekly rate. Adler was
told by management to obtain a business license.

Adler was required to clock in and to work eight
hour shifts. The Club required three dances from her a
night. She danced the first two dances largely clothed;
the third dance was done while topless. Each dance
lasted from nine to fifteen minutes, for a total of less than
an hour of stage dancing. Adler spent the remaining
hours soliciting table dances and drinks. Payment for the

table dances was made by the individual customer, and Adler and the other women were allowed to keep such monies for themselves. The table dances and tips composed the primary source of income for the women.

The women were encouraged to have customers buy them drinks. Solicitation of drinks [**3] was made on a "pennies" basis. For each \$5.00 billed to the customers, a woman received a penny. The pennies turned in at the end of each shift were considered gauges of a woman's popularity. The more popular dancers were assigned to better shifts, and the Club considered the pennies evidence that a woman was not in breach of her contract.

Plaintiff contends Adler was an employee of the Club. Defendants maintain Adler was an independent contractor.

Alaska's labor laws are based on the federal Fair Labor Standards Act (FLSA) of 1938. *McGinnis v. Stevens*, 543 P.2d 1221, 1238 (Alaska 1975); *Webster v. Bechtel*, 621 P.2d 890 [, 895] (Alaska 1980). Alaska has looked to federal case law for aid in interpreting Alaska's labor laws. See, *McGinnis v. Stevens*, [543 P.2d at 1238].

The distinction between employees and independent contractors has been viewed from various perspectives. In essence, the distinction varies depending upon the context of the dispute. Tort concepts of the distinction between employees and independent contractors have proven somewhat inappropriate in labor cases, as those concepts arose in an effort to limit employer liability under the doctrine of respondeat [**4] superior. [Wolfe, Determination of Employer-Employee Relationships in Social Legislation,] 41 Col. Rev. 1015 [, 1025-26] (1941). For the remedial purposes of the FLSA to be effectuated, there should be a broad interpretation of the term "employer," the term should be used "in the broadest sense ever . . . in any act." *Robicheaux v. Radcliff Material, Inc.*, 697 F.2d 662, 665 (5th Cir. 1983).

Alaska has devised a "nature of the work" test to determine whether a worker should be designated an employee or an independent contractor under the worker's compensation statutes. *Grothe v. Olafson*, 659 P.2d 602 [, 605] (Alaska 1983). Alaska has not, however, directly addressed the distinction between employee and independent contractor for purposes of Alaska's counterpart to the FLSA. We must turn to federal authorities for appropriate case law.

The focal inquiry is whether the worker whose status is in question is within the class of persons meant to be protected by the Act. The court must determine whether the worker is dependent upon finding employment in the business of others. If the facts show such a dependency,

the worker is an employee. *Castillo v. Givens*, 704 F.2d [**5] 181, 190 (5th Cir. 1983). Two factors are critically significant: (1) how specialized is the nature of the work; and (2) whether the worker is in business for herself. *Id.* To aid analysis the courts have broken these factors into a six-part inquiry:

- 1) the degree of the alleged employer's right to control the manner in which the work is to be performed; 2) the alleged employee's opportunity for profit or loss depending upon his managerial skill; 3) [*1076] the alleged employee's investment in equipment or materials required for his task, or his employment of helpers; 4) whether the service rendered requires a special skill; 5) the degree of permanence of the working relationship; 6) whether the service rendered is an integral part of the alleged employer's business.

Donovan v. Dialamerica Marketing, Inc., 757 F.2d 1376, 1382 (3d Cir. 1985). No single factor is controlling. *Id.* These factors will be considered in turn, without losing sight of the fact that the Act is to protect those who, as a matter of economic reality, are dependent upon the business in which they render service. *Castillo v. Givens*, [704 F.2d] at 189; *Robicheaux v. Radcliff*, [**6] [697 F.2d] at 665.

1. *The degree of the alleged employer's right to control the manner in which the work was to be performed.*

Defendant argues that the Club exerted little control and presents the following facts for consideration. The women designed or purchased their own costumes, they created their own dancing routines and could request specific music from the disc jockey. Dancers were allowed to drink alcoholic beverages on the job, but they were not required to tend bar nor to act as cocktail waitresses. Table dances and tips were independently solicited by the women and constituted a major part of their income.

The factors indicating control are quite persuasive. Some control was exercised over costumes. The dancers were required to wear dresses on weekends, and country and western gear on Wednesdays. The music was at the Club's discretion. The Club rules provided that the disc jockey was free to play whatever he wanted, and dancers were not to complain. The dances were also controlled to an extent. While specific dance steps were at the dancers' discretion, dancers were required to do three dances onstage each shift: the first dance was to be performed fully clothed, [**7] the second dance

involved removal of some item(s) of clothing, and the third dance was to be done while topless. Additionally, and significantly, the Club controlled the working hours of the dancers.

The "pennies" practice is extremely persuasive evidence of control. As was described earlier, the dancers, when not dancing, encouraged the customers to drink and to buy the dancers drinks. Each \$5.00 billed a customer on the woman's behalf was marked by a penny. The more pennies a woman accrued the more "popular" she was assumed to be, and the Club rewarded her with better shifts. The evidence before the court indicates that the dancers' stage performances did not last more than an hour each shift. Each shift was eight hours. The remaining seven hours were spent either table dancing or soliciting pennies. The time spent soliciting pennies is indicative of control; in essence the women were selling liquor for the Club. Even the table dances were controlled; dancers were to strip to their waists, and only to their waists, and could not wear bikinis.

There are many other Club rules which indicate control. Should a dancer's friend have visited during a period when the dancer was offstage, [**8] the friend had to buy the dancer a drink. The dancers could only drink house drinks during working hours, and no complaints could be made about the drinks unless, for example, the glass was chipped. The women were also required to finish the drinks. In short, defendants exercised considerable control.

2. *The alleged employee's opportunity for profit or loss depending upon her managerial skill.*

The contract was for a fixed sum. It did not matter how good the dancer was, or how many pennies the dancer collected, the sum and the hours would not vary. Dancers could, of course, receive tips for their stage performances and table dances. However, waitresses and bellhops also received tips for their services, and the existence of tips alone does not mandate independent contractor status.

[*1077] 3. *The alleged employee's investment in equipment or materials required for his task, or his employment of helpers.*

The dancer provided her own costumes. As defendant stated during her deposition, the dancer's trousseau could have been completed with purchases from Penneys. There is no indication the costumes varied significantly from street clothes. This factor does not weigh in [**9] favor of a finding of independent contractor status. Courts have found employee status even where welding equipment worth several thousand dollars was purchased by the worker, where the major part of the worker's time was spent in a manner not

requiring use of the investment. *Robicheaux v. Radcliff Material, Inc.*, [697 F.2d at 665-66]. In the instant case, time spent soliciting drinks (pennies) did not require the use of the accoutrements of stripping.

Defendant also points to airfare and agent fees as evidence favorable to its position. However, airfare to Alaska is a given for any outsider and cannot be considered an investment in materials. The costs associated with the booking agency also do not represent an investment in equipment or materials. Though it is often the case that performers are booked into positions which result in independent contractor status, use of the booking agency is not determinative of the worker's status once the worker is on the job.

4. *Whether the service rendered required a special skill.*

Defendant states that dancing is an art, and that not everyone can perform it. The Club, however, hired dancers without knowing whether or not they had [**10] danced previously. Apparently the skill required for topless dancing was slight. Since neither long training nor highly developed skills were required, this factor must also weigh against independent contractor status. See *Donovan v. Sureway Cleaners*, 656 F.2d 1368, 1372 (9th Cir. 1981).

5. *The degree of permanence of the working relationship.*

Adler signed a contract to work for a six week period, with an option to extend to eight weeks. Generally employees are hired for indefinite periods, whereas independent contractors work for periods established by contract. However, as plaintiff has argued, the period at issue is longer than some union calls. The court in *Castillo v. Givens*, [704 F.2d] at 191, held that cotton pickers hired from mid-June to mid-August qualified as employees for purposes of the act. At best this factor weighs only slightly in favor of independent contractor status.

6. *Whether the service rendered is an integral part of the alleged employer's business.*

Defendant believes that the dancer's services were largely cosmetic to the real function of the Club, which was to sell liquor. The facts do not support defendant's view. The facts clearly establish [**11] the integral nature of the womens' role to the sale of liquor, as evidenced by the pennies practice, and by the fact that patrons must pay double the normal drink price to purchase drinks for the dancers.

Turning to other arguments made by defendant, the parties' intent to contract is not a determinative factor. An employee is not permitted to waive employee status.

732 P.2d 1073, *; 1987 Alas. LEXIS 237, **;
27 Wage & Hour Cas. (BNA) 1709; 106 Lab. Cas. (CCH) P55,745

Robicheaux v. Radcliff Material, Inc., [697 F.2d] at 667. The fact that the parties "may not have had the intention to create an employment relationship is irrelevant . . ." *Donovan v. New Floridian Hotel, Inc.*, [676 F.2d 468, 470-471 (11th Cir. 1982)].

The fact that management made the dancers purchase business licenses does not require the court to find independent contractor status. If the court found that business licenses resulted in independent contractor status ". . . this interpretation would permit wholesale evasion of the requirements of the F.L.S.A." *Castillo v. Givens*, [704 F.2d] at 192.

[*1078] On balance and in consideration of these factors, the court determines that Cathy Adler was an employee of the Club for purposes of Alaska's labor laws. Workers ". . . are often found to [**12] be 'employees' although they possess attributes common to independent contractors." *Robicheaux v. Radcliff Material, Inc.*, [697 F.2d at 665 n.4].

In this matter, there is no genuine issue of material fact with respect to the issue of employee/contractor

status. For reasons set forth above, the court concludes that plaintiff prevails on this issue as a matter of law. However, there are legitimate factual disputes as illustrated by defendants' statement of genuine issues which preclude the award of total summary judgment. n[2] Therefore,

n2 [These "genuine issues" have since been resolved by stipulation of the parties.]

IT IS HEREBY ORDERED that plaintiff is granted partial summary judgment on the issue of employment status. Defendants' motion for summary judgment is denied.

DATED at Fairbanks, Alaska, this 25th day of October, 1985.

Mary E. Greene, Superior Court Judge

AFFIRMED.

HOUSE BILL NO.367

IN THE LEGISLATURE OF THE STATE OF ALASKA
 TWENTY-THIRD LEGISLATURES – SECOND SESSION
 BY REPRESENTATIVE(S) MCGUIRE, GARA

Introduced: 1/09/94
 Referred: Labor and Commerce

A BILL
 FOR AN ACT ENTITLED

“ An Act relating to the licensing and regulation of sex-oriented businesses and sex-oriented business entertainers; relating to protection of the safety and health of and to education of young persons who perform in adult entertainment establishments; and providing for an effective date.”

Legislative Hearing Date: January 30, 2004, 3:15 PM
 Public Testimony by: Rebecca Roberts
 Address: 8032 Queen Victoria Drive
 Anchorage, Alaska 99518
 Bee_happy55@hotmail.com
 Phone: (907)229-6137

January 30, 2004

Dear Representative Anderson and other committee members:

I urge your support of HB 367 which will provide stricter licensing requirements and regulation for sexually oriented businesses and employees in order to protect school children and other youth under the age of 21.

This legislation is desperately needed to start addressing a very serious state-wide issue: The adverse effects of sexually oriented businesses such as increased crime especially sex related crimes, sexually transmitted diseases, endangerment of youth, urban blight, declining property values, and diminished quality of life.

According to the National Law Center for Children and Families numerous case studies across America show that prostitution, crime and drug use correspond with sexually oriented businesses. In particular, live nude dance clubs encourage prostitution, increase sexual assaults, and attract other criminal activity. I believe it is appropriate to regulate sexually oriented businesses differently from other commercial businesses, based on the significant negative impact caused by this industry.

Public testimony for HB 367 continued, page 2

I appreciate the fact that this bill will strengthen the public notification process regarding sexually oriented businesses by notifying community councils and other non-profit groups when license applications or renewals for sexually oriented businesses are submitted.

This bill is a reasonable licensing procedure and an appropriate mechanism to place the burden of regulation on the owners, operators and employees of sexually oriented businesses. There shouldn't be a fiscal note tied to this bill as DCED is under mandate to make their licensing program self-supporting thru license fees. Such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of youth and other patrons and employees, as well as the citizens of the communities where they locate.

I welcome this legislation and encourage you to pass it.

Thank you for your time.

Rebecca Roberts

Suggestion at line 10 of the bill:

10 Chapter 90. Sex-Oriented Businesses and Entertainers.

(a) It is the intent of this legislation to protect young persons who perform in adult entertainment establishments through enactment of safety and health, educational requirements.

(b) The Department of Community and Economic Development will be the lead agency to coordinate with other State entities as necessary to implement these provisions, and shall work in consultation with knowledgeable groups and organizations that focus on the protection of women and youth.

This suggestion is based on legislation from 1997 "An Act Relating to Civil Actions...."

SCS CSSHB 58 (RLS) am S

This legislation specifically stated the intent of the legislation as well as directing the Alaska Judicial Council to consult with the Alaska Dispute Settlement Association.

HB

379

ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



ALASKA
STATE CAPITOL
JUNEAU, ALASKA
99801-1182

SPONSOR STATEMENT

(907) 465-3744
FAX (907) 465-2273

Citizen Assistance Office

“An act establishing an Office of Citizenship Assistance in the Department of Labor and Workforce Development.”

House Bill 379 would create an office to assist naturalized citizens and citizen candidates in Alaska.

HB 379 establishes the Office of Citizenship Assistance in the Department of Labor and Workforce Development. Naturalized citizens and people who are actively pursuing United States citizenship could receive help navigating through state employment and federal immigration agencies.

The Office of Citizenship Assistance would also act as a liaison between individuals, the office of the Commissioner and state and federal agencies as well as private sector. Under this legislation the Office would assist in immigration services, employment services, affordable legal service, medical services, and educational opportunities. Information would be available regarding job discrimination, sexual harassment, and unsafe working conditions.

Alaska has a rich history of immigration. Through this legislation, the Office would be sensitive to the diverse cultural backgrounds of those it would serve. This Office will bridge the transition of adjustment for incoming new citizens to Alaska.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB379-DOLWD-CO-02-27-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Office of Citizenship Assistance RDU: Office of the Commissioner
Sponsor: Representative Weyhrauch Component: Commissioner's Office
Requester: House L&C Component Number: 340

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	64.0	64.0	64.0	64.0	64.0	64.0
Travel	3.0	3.0	3.0	3.0	3.0	3.0
Contractual	35.6	35.6	35.6	35.6	35.6	35.6
Supplies	9.7	3.5	3.5	3.5	3.5	3.5
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	112.3	106.1	106.1	106.1	106.1	106.1

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	112.3	119.0	119.0	119.0	119.0	119.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	112.3	106.1	106.1	106.1	106.1	106.1

Estimate of any current year (FY2004) cost: None
Mark 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)

See attached analysis.

Prepared by: Guy Bell, Director Phone 465-2720
Division: Administrative Services Division Date/Time 2/27/04 8:22 AM
Approved by: Greg O'Claray, Commissioner Date 2/27/2004
Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL VERSION: HB379-DOLWD-CO-02-27-04

ANALYSIS: (continued)

HB 379 establishes the Office of Citizenship Assistance. The Office will provide employment information and referrals to public and private resources to persons who reside in the state, are not a citizen of the United States, and are in compliance with federal visa requirements. The Office will have an office located in Juneau that will be staffed by an Employment Security Analyst II. The Office will establish a web page and retain the services of language interpreters. Costs are estimated at \$112,250 and include:

Personal Services

Employment Security Analyst II	Range 17	64,000
--------------------------------	----------	--------

Travel

4 trips to assist clients	3,000
---------------------------	-------

Contractual

Interpreter Fees (200 hrs @ \$120/hour)	24,000	
Phones (office and toll free number)	1,200	
Postage	1,000	
Office Lease	3,000	
Dept Overhead (10% of Pers Svcs)	6,400	
		35,600

Supplies

Office Supplies	2,000
Informational Booklets and Publications	1,500

One Time Items to Establish Office

PC and Printer	3,750	
Phones and Fax Machine	1,250	
Desk and Chair	850	
Chairs for Waiting Clients	300	
		9,650

HB

386

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB386
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title Expediting Contracts of AK Natural Gas Dev Authority from RDU Centralized Administrative Svcs
the State Procurement Authority Component Purchasing
 Sponsor Representative Croft
 Requester _____ Component No. 60

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
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:

Prepared by: Kevin Jardell, Assistant Commissioner
 Division: Commissioner's Office
 Approved by: Mike Miller, Commissioner
 Agency: Administration

Phone 907-465-2200
 Date/Time 2/11/04 7:56 a.m.
 Date 2/11/2004

Some Comments on HB 386

- The State of Alaska's procurement code applies to all branches and agencies of state government with the exception of:

The legislature and the court system, and

State agencies such as:

Alaska Railroad Corporation
Alaska Aerospace Development Corporation
Alaska Housing Finance Corporation
Alaska State Pension Investment Board
Alaska marine highway system & new vessels
Alaska Seafood Marketing Institute
University of Alaska

See: Secs 36.30.015 to 36.30.040 and Sec. 36.30.990

- All these arms of State government have adopted a procurement code of their own that works for their particular circumstances.
- Additionally there are 43 types of contracts which are excluded from the procurement code provisions. (See: **Sec 36.30.850**) Such as:
 - Alaska Permanent Fund Corporation
 - Alaska Mental Health Trust Authority
 - AIDEA clean coal plant
- The procurement code specifies a series of process steps and time intervals for larger projects (over \$100 thousand) that will delay the timely selection of major project contractors.
- The procurement code does not allow ANGDA to place the emphasis it wishes to on Alaska contractors and Alaska hire.



REPRESENTATIVE ERIC CROFT

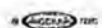
Sponsor Statement HB 386

HB 386 releases the Alaska Natural Gas Development Authority from the requirements of the state Procurement Code. By exempting the Authority from these obligations, HB 386 allows the Authority to respond more efficiently to contract offers and market fluctuations.

The Procurement Code is a set of regulations that allow for specific public process surrounding state business contracts. This often time-consuming process works well for state entities such as the University that work from a set annual budget and have predictable contract needs. In the dynamic natural gas industry, it is imperative that the Authority be able to respond quickly to contract offers in a timely manner.

Recently, several major corporations have entered into contracts to purchase natural gas from international suppliers at the exclusion of Alaska. The Authority needs every advantage the state can give it to compete with the less-regulated international suppliers.

HB 386 gives the Authority one more necessary tool to capitalize on opportunities to get Alaska's natural gas to market.



HB

389

SENATOR
JOHN J. COWDERY

Anchorage

Committees

Chair: Rules
Chair: Transportation
Chair: World Trade &
State/Federal Relations
Legislative Council
State Affairs



January - May:
State Capitol, Suite 101
Juneau, Alaska 99801-1182
Tel: 907-465-3879
Toll Free: 888-269-3879
Fax: 907-465-2069

May - December:
716 W. 4th Avenue
Anchorage, Alaska 99501
Tel: 907-269-0222
Fax: 907-269-0223

Senator_John_Cowdery@legis.state.ak.us

SPONSOR STATEMENT FOR SB 272

"An Act relating to certain monetary advances in which the deposit or other negotiation of certain instruments to pay the advances is delayed until a later date ..."

The deferred deposit advance industry, recognizing consumer demand for small, short-term credit, has rapidly expanded across the United States. Thirty-nine states and the District of Columbia specifically regulate this service; Alaska is currently unregulated.

The purpose of SB 272 is to regulate deferred deposit/payroll advance businesses in two ways. One is consumer protection – requiring reasonable fees and preventing predatory lending tactics. The second is to protect deferred deposit/payroll advance businesses from unreasonable regulatory burdens.

SB 272 proposes licensing and record-keeping requirements, limits on terms and the number of allowable renewals, fees, and reasonable limits on the amount of the advances. It would provide the consumer detailed information about the type of service and require full disclosure for all fees and costs incurred during the advance process.

Additionally, provisions of the bill create a next day "change of mind" provision allowing the consumer time to reconsider their decision for any reason. Also included is a requirement that the borrower be offered a repayment installment plan.

Additionally, SB 272 clearly states that businesses may not threaten customers with criminal action as a result of a payment deficit.

I urge your support for this legislation.

Subject: FW: [paydayloans] Georgia Panel approves changes to payday loan laws

Date: Thu, 5 Feb 2004 10:45:27 -0800

From: "Luby, John Patrick" <JLuby@aarp.org>

To: <josh_applebee@legis.state.ak.us>, <Representative_Tom_Anderson@legis.state.ak.us>, "Jay Hardenbrook" <Jay_Hardenbrook@legis.state.ak.us>, <Representative_Harry_Crawford@legis.state.ak.us>, <Representative_Bob_Lynn@legis.state.ak.us>, <Representative_Carl_Gatto@legis.state.ak.us>, <Representative_David_Guttenberg@legis.state.ak.us>, <representative_norman_rokeberg@legis.state.ak.us>, <Representative_Nancy_Dahlstrom@legis.state.ak.us>, "Con Bunde" <Senator_Con_Bunde@Legis.state.ak.us>

CC: "akpirg" <akpirg@akpirg.org>, "Angela Liston" <Angela.Liston@caa-ak.org>, <goriune_dudukgian@alsc-law.org>, "Jan Jones" <jjones@akanhs.org>, <edward_steffans@law.state.ak.us>, <cynthia_drinkwater@law.state.ak.us>, "Chip Wagoner" <citw@alaska.net>

FYI from the Georgia House of Representatives concerning capping interest rates and forbidding targeting of military personnel.

-----Original Message-----

From: Zuckerman, Deborah [<mailto:DZUCKERMAN@aarp.org>]

Sent: Thursday, February 05, 2004 10:05 AM

To: paydayloans@yahoo.com

Cc: Polacheck, Laura

Subject: [paydayloans] Georgia Panel approves changes to payday loan laws

The Macon Telegraph

February 5, 2004 Thursday HO EDITION

SECTION: A; Pg.

LENGTH: 770 words

HEADLINE: Panel approves changes to payday loan laws

BYLINE: By Andy Peters; Telegraph Staff Writer

DATELINE: ATLANTA

BODY:

A House committee Wednesday approved changes in state law that would crack down on payday lenders, while opening the door to change the face of the state's banking industry.

The House Banking Committee voted to put payday lenders under the Georgia Industrial Loan Act - meaning payday lenders will be required to

get a state license to do business and to cap their interest rates at 60 percent. Currently payday lenders charge interest rates of 500 percent or more.

"This will help protect Georgians from these unscrupulous lenders," said committee chairman Johnny Floyd, D-Cordele.

Floyd was the primary sponsor of the bill that would regulate payday lenders the same as industrial loan shops. Consumer advocacy groups such as the AARP of Georgia and Georgia Watch support Floyd's bill.

"We want payday lending to stop, and this bill will do that," said Danny Orrock, legislative coordinator for Georgia Watch.

The payday lending or cash-advance industry has blossomed in Georgia in recent years. The state's regulatory agencies say they are understaffed and unable to enforce weak laws against high interest rates. State law permits loans with up to 60 percent in annual interest charges; so-called payday loans carry annual interest rates of 400 percent or higher.

Asking only for proof of a job and a checking account and requiring no credit check, payday lenders offer advances of \$100 to \$500 to get the borrower out of a short-term hole. But consumers can end up in an even deeper hole and owing much more because of the interest and fees. Borrowers who cannot pay back their initial loan quickly can end up borrowing hundreds and owing thousands.

But during the course of Wednesday's committee meeting, Rep. Earl Ehrhart, R-Powder Springs, tried to amend Floyd's bill to let payday lenders keep operating without an industrial-loan license, but under strict guidelines.

Ehrhart argued that industrial loan companies are no better than payday lenders. He pointed to two examples of loans floated by industrial lenders in Augusta and Valdosta that carried annual percentage rates of 562 percent and 888 percent.

Ehrhart's substitute legislation failed to pass the House Banking Committee, but he pledged to bring the issue up again in the full House.

Though Ehrhart may have failed to win backing of his bill, he raised a red flag to lawmakers that industrial lenders also should be examined more closely, said Rep. Larry O'Neal, R-Warner Robins.

"That stuff is another ball game," said O'Neal, who voted against Ehrhart's legislation in the committee. "I think we need to take another look at (the Georgia Industrial Loan Act) and do some tweaking."

Some payday lenders say the legislation introduced by Floyd, which will be taken up by the full House in the coming weeks, is a ruse to drive them out of business, to the benefit of industrial lenders.

"The entire bill is designed simply to stifle competition and reduce the number of options for consumers," said Steve Benjamin, an attorney with the Community Financial Services Association of America, a trade group that includes Spartanburg, S.C.-based Advance America Cash Advance, which has numerous locations in Middle Georgia.

Members of the CFSA clearly spell out the terms of their loans to customers and operate under strict industry guidelines that limit unfair interest rates, Benjamin said. Alabama, South Carolina and 33 other states regulate payday lenders in a reasonable fashion without forcing them to become industrial lenders, Benjamin said.

"Rational people believe it is better to enact tough but responsible regulation that will bring Georgia in line with the rest of the nation," Benjamin said.

But many payday lenders take advantage of poor people, said Rep. Lynmore James, D-Montezuma, a member of the banking committee.

"It seems like these people are hurting the little guy," James said.

The House Banking Committee did approve one of Ehrhart's suggestions: The legislation will include clauses that will prevent payday lenders - even after receiving an official state Industrial Loan Act license - from specifically targeting military personnel. Some commanders from Georgia military bases have told lawmakers that payday lenders crop up around the entrance gates to their bases to prey on soldiers and sailors.

The military phrase included in Floyd's bill helps Middle Georgia, specifically Robins Air Force Base, O'Neal said.

"For Warner Robins and Houston County, that was a godsend to us," he said.

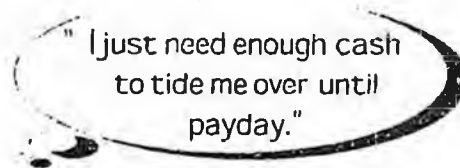
[Non-text portions of this message have been removed]

To Post a message, send it to: paydayloans@eGroups.com
To Unsubscribe, send a blank message to:
paydayloans-unsubscribe@eGroups.com
Yahoo! Groups Links

FTC Consumer Alert

Federal Trade Commission ■ Bureau of Consumer Protection ■ Office of Consumer and Business Education

Payday Loans = Costly Cash



"GET CASH UNTIL PAYDAY! . . . \$100 OR MORE . . . FAST!"

The ads are on the radio, television, the Internet, even in the mail. They refer to payday loans — which come at a very high price.

Check cashers, finance companies and others are making small, short-term, high-rate loans that go by a variety of names: payday loans, cash advance loans, check advance loans, post-dated check loans or deferred deposit check loans.

Usually, a borrower writes a personal check payable to the lender for the amount he or she wishes to borrow plus a fee. The company gives the borrower the amount of the check minus the fee. Fees charged for payday loans are usually a percentage of the face value of the check or a fee charged per amount borrowed — say, for every \$50 or \$100 loaned. And, if you extend or "roll-over" the loan — say for another two weeks — you will pay the fees for each extension.

Under the Truth in Lending Act, the cost of payday loans — like other types of credit — must be disclosed. Among other information, you must receive, in writing, the finance charge (a dollar amount) and the annual percentage rate or APR (the cost of credit on a yearly basis).

A cash advance loan secured by a personal check — such as a payday loan — is very expensive credit. Let's say you write a personal check for \$115 to borrow \$100 for up to 14 days. The check casher or payday lender agrees to hold the check until your next payday. At that time, depending on the particular plan, the lender deposits the check, you redeem the check by paying the \$115 in cash, or you roll-over the check by paying a fee to extend the loan for another two weeks. In this example, the cost of the initial loan is a \$15 finance charge and 391 percent APR. If you roll-over the loan three times, the finance charge would climb to \$60 to borrow \$100.

Alternatives to Payday Loans

There are other options. Consider the possibilities before choosing a payday loan:

- When you need credit, shop carefully. Compare offers. Look for the credit offer with the lowest APR — consider a small loan from your credit union or small loan company, an advance on pay from your employer, or a loan from family or friends. A cash advance on a credit card also may be a possibility, but it may have a higher interest rate than your other sources of funds: find out the terms before you decide. Also, a local community-based organization may make small business loans to individuals.

- Compare the APR and the finance charge (which includes loan fees, interest and other types of credit costs) of credit offers to get the lowest cost.
- Ask your creditors for more time to pay your bills. Find out what they will charge for that service — as a late charge, an additional finance charge or a higher interest rate.
- Make a realistic budget, and figure your monthly and daily expenditures. Avoid unnecessary purchases — even small daily items. Their costs add up. Also, build some savings — even small deposits can help — to avoid borrowing for emergencies, unexpected expenses or other items. For example, by putting the amount of the fee that would be paid on a typical \$300 payday loan in a savings account for six months, you would have extra dollars available. This can give you a buffer against financial emergencies.
- Find out if you have, or can get, overdraft protection on your checking account. If you are regularly using most or all of the funds in your account and if you make a mistake in your checking (or savings) account ledger or records, overdraft protection can help protect you from further credit problems. Find out the terms of overdraft protection.
- If you need help working out a debt repayment plan with creditors or developing a budget, contact your local consumer credit counseling service. There are non-profit groups in every state that offer credit guidance to consumers. These services are available at little or no cost. Also, check with your employer, credit union or housing authority for no- or low-cost credit counseling programs.
- If you decide you must use a payday loan, borrow only as much as you can afford to pay with your next paycheck and still have enough to make it to the next payday.

To Complain/For More Information

If you believe a lender has violated the Truth in Lending Act, you can file a complaint with the FTC. The FTC works for the consumer to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop and avoid them. To file a complaint or to get free information on consumer issues, call toll-free, 1-877-FTC-HELP (1-877-382-4357), or use the complaint form at www.ftc.gov. The FTC enters Internet, telemarketing, identity theft and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.



February 2000



Alaska State Legislature

Please enter into the record my testimony to the House LABOR & COMMERCE
committee name

committee on HB 329, dated 3-3-04
bill/subject

House Labor and Commerce Committee
Date: 3/3/04

We are writing in **SUPPORT** of **bill HB329**, the 3-year early retirement for school district and state employees. We feel that in this time of budget concerns for education, we need to save money where we can. Just because Anchorage School District is not in a position to save on this and is not interested, doesn't mean that the state can't support this bill. There are many other school districts who will save money over a period of time. We would appreciate your support in this bill.

Sheryl Heikes
Dennis Heikes

Sheryl and Dennis Heikes
840 Plymouth Cir.
Wasilla, AK 99654
907-373-6278

Phone Number

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Amatto
?

Dear Senator Cowdery,

This letter is written in concern of HB389. I am one of 2 stores here in Anchorage that sells Gift Certificates, good for Catalog Merchandise, and allow their customers to write a check for more than the purchase price, and trust their customers enough to give them their change back, in cash. I have been open for only 5 months and have had a wonderful outcome from my services. The service that I provide is very helpful to all consumers who have a steady job and a checking account. The consumers just can't find means to make ends meet and this is where I come into the picture to help. HB389 has grouped these businesses into a bunch of Payday Lenders that will be affected by the Bill. The Bill addresses regulation of small loans. Mr. Sniffen introduced this bill on January 28th, in Juneau. I am a different sales model, my model use's Defered Deposit to give its customers their change back in cash. This bill will greatly affect the 2 stores here in Anchorage. As any consumer, don't they have rights to choose businesses of their choice and what businesses that can better their needs. I have managed and been able to watch my store grow within these past 5 months. Although fairly new to this business, I sincerely hope that you give this matter your favorable consideration. Thank you for your time.

Sincerely,

Cara Coloma

Cara Coloma

*payday
loan
advancement*

HB 389/

SB 272

Dist 26-V

*called T. Anderson office - 405W
on 3-18-04 - LM Re: status of
this issue.*

*(fax#
2418)*

Subject: Non Constituent POMS Re:HB 389

Date: Mon, 23 Feb 2004 11:22:21 -0900

From: <POMS@legis.state.ak.us>

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

Ms. Cynthia A Brown
5701 Samoa St

Anchorage AK, 99507

Email:

Non Constituent

BILL#: HB 389 DEFERRED DEPOSIT ADVANCES (PAYDAY LOANS)

SUBJECT:

MESSAGE: HB389 addresses the need to regulate Small Loans in the state, and Deferred Deposit Laws. Please find favorably on this Bill; as it will create new Revenues for the State on collecting Fees for new licensure and Auditing Fees; as well as allow consumers the right to choose for themselves, who they do business with.

DISTRIBUTION: Rep. Anderson, Rep. Berkowitz, Sen. Bunde, Rep. Cissna, Sen. Cowdery,
Rep. Crawford, Rep. Croft, Sen. Davis, Rep. Dahlstrom, Sen. Ellis,
Sen. Elton, Rep. Fate, Sen. French, Rep. Gara, Sen. Green,
Rep. Gruenberg, Rep. Guttenberg, Sen. Guess, Rep. Hawker, Rep. Heinze,
Rep. Holm, Rep. Kerttula, Rep. Kohring, Rep. Lynn, Rep. McGuire,
Rep. Meyer, Rep. Rokeberg, Rep. Samuels, Sen. Seekins, Sen. Stevens P,
Sen. Wagoner, Rep. Weyhrauch, Sen. Wilken, Rep. Wolf

March 4, 2004

TO. ALL LEGISLATORS

RE; HOUSE BILL 329

In the Department of Corrections we have heard that the Commissioner has decreed that because the vacant positions can not be filled by new hires that the Officers will not be offered the RIP program. This is the second time this has happened in case people there in Juneau have forgotten.

I realize that life isn't fair but it seems to be you should be able to figure out that a new hire who has passed all the tests and has his choice between the pay and benefits of an Alaskan State Trooper or a Corrections Officer at lower pay and benefits would hardly chose to be a Corrections Officer unless he was an idiot.

The older officers who would have had a chance to leave Corrections after their 17-19 years never had to pass the Police Standard Act nor the other tests you are requiring now and suddenly they are so precious that you can't let them retire under the above bill. What are you going to do when the next 3 years or so come down the line and they reach their full 20 years? Lock the up with the inmates because you can not fill their jobs?

You tried closing prisons, you tried sending inmates to every State in the lower 48 you could because it would save? you money. It just simply has not worked. If you want a State Department of Corrections you should pay attention to building more prisons here and also lower the Standards because you will never get new hires with low starting pay and shrinking benefits every year. Soon Alaska will be like South Dakota where the Corrections Officers can apply for welfare because their pay and benefits are so low. That would look just great for a State like ours.



Alice I. Fairchild
P.O. Box 302
Kasilof, Alaska 99610

907-262-3738

Subject: Non Constituent POMS Re:HB 389

Date: Fri, 23 Jan 2004 14:15:16 -0900

From: <POMS@legis.state.ak.us>

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

J Harold Michal
Po Box 3549
Po Box 3549
Valdez AK, 99686-3549

Email:

Non Constituent Supports

BILL#: HB 389 DEFERRED DEPOSIT ADVANCES (PAYDAY LOANS)

SUBJECT:

MESSAGE: this is a good bill if it is enough and enforced.

DISTRIBUTION: Rep. Anderson, Rep. Cissna, Rep. Gara, Rep. Gruenberg, Rep. Harris,
Rep. Holm, Rep. Kapsner, Rep. Kohring, Rep. Kookesh, Rep. Kott,
Rep. Masek, Rep. McGuire, Rep. Morgan, Rep. Ogg, Rep. Samuels,
Rep. Stepovich, Sen. Therriault, Rep. Wolf

ALASKA UNSECURED LOANS MINIMUMS

BANK	MINIMUM LOAN AMT	FEES	ELIGIBILITY CRITERIA
Key Bank	\$3,000		
Northrim Bank	\$2,500		
Alaska Pacific Bank	\$2,500		
Alaska First Community	\$2,000		
Wells Fargo	\$1,000		
First National Bank	\$500 - 1 yr term	\$50 loan fee/13.5% interest	Must have checking account, loan application, good credit report, good employment history.
Credit Union 1	\$500 - 3 yr term	10.95% interest.	
AK USA	\$250 - 2 yr term	14.9% interest.	

Based on data collected by Cash Alaska on February 2, 2003.

Alaska AK Payday Loan Online

Alaska Payday Loans & Cash Advance

Apply Now \$ How it Works \$ Security & Privacy \$ Questions

\$500 Alaska Payday Loan

No Credit Check, No Application Fee

U.S. Personal Cash Advance will give alaska residence up to a \$500.00 payday loan just by simple filling out our payday loan online form. We specialize in giving you cash until payday loans to help your financial needs. If your in Alaska and need an instant cash payday loan you can start now and receive your payday cash advance instantly! It's quick and simple at **U.S. Personal Cash Advance!** To begin just click the "Start" button below to start your fast payday loan online.

Give Me A Cash Payday Loan

U.S. Cash the only way to get a Payday Loan online Quickly

<Alaska Payday Loan Start Here>

SERVING PAYDAY LOANS ACROSS AMERI

4 examples of
internet fees allowed
under Federal law.



- HOME
- FAQ
- FEES
- DISCLOSURE
- PRIVACY
- CONTACT
- ABOUT US
- WEB

EZPayDayCash.com

"The easiest way to get your payday loan!"

FEES



Apply

EZPaydaycash charges \$25 per \$100 advanced to you.

To ha
depos
person

Schedule of Fees

Meml

Annual Percentage Rate (APR)

Term Loan Amount

Term (in days)	\$200		\$300		\$400		\$500	
	Fee	APR	Fee	APR	Fee	APR	Fee	APR
7	\$50	1303.57%	\$75	1303.57%	\$100	1303.57%	\$125	1303.57%
8	\$50	1140.62%	\$75	1140.62%	\$100	1140.62%	\$125	1140.62%
9	\$50	1013.88%	\$75	1013.88%	\$100	1013.88%	\$125	1013.88%
10	\$50	912.50%	\$75	912.50%	\$100	912.50%	\$125	912.50%
11	\$50	829.54%	\$75	829.54%	\$100	829.54%	\$125	829.54%
12	\$50	760.42%	\$75	760.42%	\$100	760.42%	\$125	760.42%
13	\$50	701.92%	\$75	701.92%	\$100	701.92%	\$125	701.92%
14	\$50	651.78%	\$75	651.78%	\$100	651.78%	\$125	651.78%
15	\$50	608.33%	\$75	608.33%	\$100	608.33%	\$125	608.33%
16	\$50	570.31%	\$75	570.31%	\$100	570.31%	\$125	570.31%
17	\$50	536.76%	\$75	536.76%	\$100	536.76%	\$125	536.76%
18	\$50	506.94%	\$75	506.94%	\$100	506.94%	\$125	506.94%
19	\$50	480.26%	\$75	480.26%	\$100	480.26%	\$125	480.26%
20	\$50	456.25%	\$75	456.25%	\$100	456.25%	\$125	456.25%
21	\$50	434.52%	\$75	434.52%	\$100	434.52%	\$125	434.52%
22	\$50	414.77%	\$75	414.77%	\$100	414.77%	\$125	414.77%
23	\$50	396.74%	\$75	396.74%	\$100	396.74%	\$125	396.74%
24	\$50	380.21%	\$75	380.21%	\$100	380.21%	\$125	380.21%

Wele
are
deligl
you
again