

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004

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November 17, 2003

RECEIVED

NOV 17 2003

LEGISLATIVE AUDIT

Pat Davidson, Legislative Auditor
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811-3300

Re: BOARD OF DISPENSING OPTICIANS – PRELIMINARY AUDIT

Dear Ms. Davidson:

Thank you for the opportunity to comment on your preliminary audit report of the Board of Dispensing Opticians.

The department concurs with the findings in your report. Specifically, we share your concerns with viability of the board and support the recommendation that the board not be extended.

The department recommends the legislature amend the law to provide for mandatory registration of Dispensing Opticians, through a registration program administered by the department. We recommend the registration be for the Dispensing Optician level only and that apprentices not be registered.

FINDINGS AND RECOMMENDATIONS

If the legislature decides to extend the termination date for the Board of Dispensing Opticians (BDO), we believe it is important for the board to take the following actions.

Recommendation No. 1

The board should develop and propose legislation to clarify statutes related to the various aspects of dispensing opticians.

The department concurs with the concerns raised in items 1-3 referenced under this recommendation. If the legislature decides to extend the termination of the board, the Board should be requested to assist with developing and proposing conceptual language

for legislation. However, we believe the legislature has the staff and expertise to draft legislation.


Recommendation No. 2

The Division of Occupational Licensing (OccLic), in conjunction with the board, should increase optician's licensing fees to eliminate the cumulative deficit.

The department recently increased the Dispensing Optician biennial license fee from \$380 to \$590. Although we concur that the board needs to be self-sufficient, we are concerned that as the fees continue to increase fewer licensees will chose to renew, thus creating a larger deficit. Licensing programs that show a significant deficit have been allowed to recoup the deficit over two biennial periods; this approach has provided incremental increase in fees and gives the profession time to reduce its operating costs where applicable. The department has attempted to apply this process consistently to all licensing programs, and will continue to work with professions in reducing their operating costs while also reducing their deficit. We believe by eliminating the board and creating a registration system administered by the department, reduction in operating costs can be realized.

We appreciate the thoroughness of your review and the opportunity to comment.

Sincerely,



Edgar Blatchford
Commissioner

Cc: Rick Urion, Director
Division of Occupational Licensing

RECEIVED
NOV 19 2003
LEGISLATIVE AUDIT

November 10, 2002

Pat Davidson, Legislative Auditor
Alaska State Legislature
Legislative Budget and Audit Committee
P. O. Box 113300
Juneau, Ak. 99811-3300

Re: Audit Control Number 08-20022-03
Board of Dispensing Opticians Sunset Review
October 2, 2003

Dear Pat Davidson:

I received your Preliminary Audit Report and wish to thank you for an opportunity to respond.

Response to the recommendations in your October 29, 2003 letter follow:

- Recommendation No. 1 - "The board should develop and propose legislation to clarify statutes related to the various aspects of dispensing optician licensing." Item #1, #2 and #3 were addressed in my response, dated September 26, 2003, to the "management letter #1". dated September 18, 2003 from audit manager Mr. Jim Griffin. The legislative bill we propose (which was attached) would clarify these areas. This bill will be presented in the 2004 legislature.
- Recommendation No. 2 - "The Division of Occupational Licensing, in conjunction with the board, should increase optician's licensing fees to eliminate the cumulative deficit." The Schedule of License Revenues and Board Expenditures included in your report is information on FY2003 that had not been provided to the Board. I formally request a more detailed breakdown of FY2003 expenses and revenues. As to the recommendation, I refer to my response in my September 26, 2003 letter stating I do not believe there will need to be a substantial increase in licensing fees in 2005 because of cost cutting changes we are implementing and the passing of our 2004 legislative bill.

There are some short and long term consequences of de-licensing that should be considered:

- Short Term Consequences
 1. Licensed Opticians (spectacles). There is little likelihood that any portion of the present deficit, \$22,000, will be paid by individuals being de-licensed, or sunsetted. Economic revenue and activity from registration of apprentices will disappear as "entry"

into an occupation that has such a decreased level of economic opportunity with the prospect of wages being decreased by one half will no longer be attractive.

2. Licensed Opticians (contact lenses). This area will be addressed by another board member.

- Long Term Consequences

There are relative few licensed opticians in the State, approximately 100. These opticians and their families have enjoyed the opportunity to work for a "living wage". You mentioned the state of Texas voluntary registration program as a viable alternative for Alaska. I have enclosed a wage comparison report that shows Texas median wages for opticians to be 56% of what Alaska, a licensed state is. De-licensing will mean no longer having "portable credentials" that distinguishes an educated and trained professional from anyone off the street. It will devalue the occupation and effectively close the door on what has been an alternative occupation and trade for someone unable to obtain a college education.

- Comments

On page #7 footnote #3 your report states "The examination given by ABO measures the basic knowledge required to dispense eyeglasses safely and effectively." This an opinion, not a fact, and it is an opinion not supported by this Board or the professional optical community. To rely on the written ABO exam alone for competency can be likened to relying on a written DMV test for competency to operate a motor vehicle. There is much more involved in the fitting and dispensing of spectacles and contact lenses than the current entry level written test from ABO or NCLE alone can evaluate.

- Conclusion

The State of Alaska has a skilled, educated and trained workforce providing professional services in the fitting and dispensing of spectacles and contacts. What is proposed by this Legislative Budget Audit is to dismantle this profession by de-licensing. I feel it is in the best interest of the public to maintain licensure of Dispensing Opticians. Thank you for your consideration.

Other board members may be responding to this preliminary audit report. My hard copy response will contain a copy of my response to "letter No. 1, dated September 26, 2003, for your reference. Thank you for your time and consideration.

Sincerely,



James Rothmeyer, Chair
Board of Dispensing Opticians.

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September 26, 2003

Mr. Jim Griffin
Alaska State Legislature
Legislative Budget and Audit Committee
Division of Legislative Audit
P. O. Box 113300
Juneau, Ak. 99811-3300

Re: Letter Sept. 18, 2003

Dear Mr. Griffin:

I received management letter No. 1 on September 23, 2003, thank you. I will try to respond as briefly and the best I can.

Just for clarification the Board does not set renewal fees. They are set by the Department of Commerce, Division of Occupational Licensing .

The notion that untrained, uneducated persons perform to the standards of practice as those who have spent hundreds of hours and thousands of dollars in educational courses and training , is in my opinion not a sensible argument.

Ensuring the individual dispenser/optician has the education and training to sort and select the appropriate and safe combination of eyewear and lenses from the complex and extensive variety of products on the market is not just a valuable service it is essential to the publics safety. This is amply documented by the numerous warnings and vision safety notices that are part of every set of lenses from optical laboratories. Concern for "vision safety" has never been more acute than now. The wide choices of sport, safety and dress eyewear can lead to mistakes and have caused the loss of sight (see attached documents). The need for educated and trained contact lens fitters and dispensers is even more important as permanent harm can be caused by patients not having professional advice regarding their contact lenses. (see attached)

The Board has reviewed the 2002 changes in statutes that were vague and inconsistent. The Board had a bill to remedy this in 2002. That bill never made it into the legislation because the lobbyist for the Opticians Association of Alaska thought the timing to introduce the bill was wrong and then it became to late in the legislative session for consideration. The Board will have this introduced in the 2003 legislation. (see attached draft).

The Board did research and give recommendations to the then licensing examiner and the Director of the Division of Occupational Licensing for a practical exam from a private sector contractor. One alternative, Dr. Ferguson's The Learning Curve could of been procured and administrated at no cost to the Department. This information was a part of the 2001 audit report (Sept. 2001). The "acquiescence" to the 2002 legislatures bill SB 270 (no practical) was the best alternative available to us at the time as we were told it would take at least 2 years and a large sum of money for a "request for proposal" bid for a practical test.

Deficit - The current deficit began in 1998 when the board was informed of an "accounting error" which caused a deficit. In the next two years our licensing examiner was new and spent probably more time than necessary getting up to speed. From documented time sheets, she spent about one half of her time on the apprentice program. In 2002, \$5,500 was billed to the Board by the Department of Law for litigation from a class action law suit regarding contact lenses. This constitutes 22% of our current deficit and these charges should be reversed. The Board has yet to received a breakdown of the \$9300.00 "contractual" charges for 2003.

RECOMMENDATIONS

I agree with your recommendations for clarifying training hours, licensing individuals from other jurisdictions and transferring apprentice registration and administration to the U.S.D.O.L. See attached "draft bill".

I feel that there is no need to increase licensing fees. I have been in contact with the licensing examiner, Denise Williams, and she states that if there is no apprentice program to administer, she will spend less than 5% of her time on BDO activities annually. With no other unforeseen bills from the Department of Law, this should bring our expenses to a manageable figure and reduce our deficit to the point we will be in compliance.

The Board respectfully request that you extend the Board of Dispensing Opticians for another 6 years. The Board has made great strides to comply with recommendations and work with the Optometrist and Ophthalmologists.

The fact that of the 83% of the licensed opticians in the state, renewed their license even with the increased fees, shows that the profession feels the need to hold themselves up to a higher standard of performance and education then stylists, assistants or sales persons. The Licensed Optician whether licensed in spectacles, contacts or in both is continually working to insure the health, safety and welfare of the public through education and training.

Thank you for your time and consideration.

Sincerely,



James Rothmeyer
Chair. Board of Dispensing Opticians

Corrected Copy

A BILL
FOR AN ACT ENTITLED

"An act relating to dispensing Opticians and dispensing Opticians apprentices"
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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- Section 08.71.080 License required is amended to read;
- Sec. 08.71.080 License required. A person may not act as a dispensing optician in the state unless that person is licensed under this chapter. A license shall be issued for (1) the fitting and dispensing of contact lenses, or (2) the fitting and dispensing of other lenses, eyeglasses, spectacles, artificial eyes and their appurtenances, or (3) both.

*Sec. 08.71.090. Examination requirement is amended to read;

Sec.08.71.090 Examination requirement. To be licensed to fit and dispense contact lenses, a person, unless eligible for licensing under AS 08.71.145, shall document to the board that the person has passed the contact lens registry exam offered by the National Contact Lens Examiners with a score acceptable to the board. In order to be licensed to fit and dispense other lenses, eyeglasses, spectacles, artificial eyes, and their appurtenances, a person, unless eligible for licensing under AS 08.71.145, shall document to the board that the person has passed the national opticianry competency examination offered by the American Board of Opticianry with a score acceptable to the board. An applicant for licensure in both areas shall document having received a score acceptable to the board on both examinations. The board shall by regulation, establish the scores that will be acceptable for the examinations described in this section.

*Section 1. AS08.71.110(a) is amended to read:

- (a) The board may issue a license to a person who
 - (1) has [HAD EDUCATION EQUIVALENT TO FOURS YEARS ATTENDANCE AT] a high school diploma or its equivalent;
 - (2) Has either
 - (A) completed at least 1,800 hours of training for spectacles and/or 1,800 hours for contact lenses as an apprentice after registering with the US Dept. of Labor as an apprentice; or
 - (B) been engaged for at least 1,800 hours practice as a dispensing optician in spectacles and /or 1,800

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hours practice in contact lenses, in a state, territory, district, or possession of the ~~United~~ ^{UNITED} States;

- (3) has passed the applicable examination required under AS08.71.090 with a score acceptable to the board;
- (4) has passed a course designated in the board's regulations as being acceptable; and
- (5) has paid the required license fee.

*Sec. 2 AS 08.71.145 is amended to read:

08.71.145. Licensure by credentials. A person with a valid license as a dispensing optician from another state, territory, district, or possession of the United States with licensing requirements substantially equivalent to or higher than those of this state shall, without further examination, be issued a license under this chapter for those professional areas in which the person is licensed in the other jurisdiction upon payment of any fee and documentation that the board may require by regulation.

*Sec.3 AS 08.71.145 is amended by adding a new subsection to read:

- (b) A person who is designated by the American Board of Opticianry as a Master Optician or as an individual certified as an Advanced Certified optician may be issued a license authorizing that person to be a licensed dispensing optician with respect to spectacles upon payment of the appropriate fee and submission of the documentation that the board may require by regulation.;
- (c) A person who is designated a Fellow of the Contact Lens Society of America, or who is designated by the National Contact Lens Examiners as an Advanced Certified Contact Lens Fitter may be issued a license authorizing that person to be a licensed dispensing optician with respect to contact lenses upon payment of the appropriate fees and submission of the documentation that the board may require by regulation.

*Sec. 4. AS. 08.71.160 (a) is amended to read:

(a) A person may be employed by [OR SERVE UNDER] a licensed Physician, optometrist, or dispensing optician as an apprentice for dispensing optician tasks. An apprentice shall register with the U.S. Department of Labor [DEPARTMENT] before beginning employment [OR SERVICE] as an apprentice[, SHALL BE DESIGNATED AS SUCH IN THE RECORDS OF THE BOARD] and shall be in training under the supervision of the [a] licensed physician, optometrist, or dispensing optician. Notwithstanding AS 08.71.180, a registered apprentice may perform dispensing opticians tasks that are delegated by and performed under the regular supervision of the licensed physician, optometrist, or dispensing optician and may use the title "dispensing optician apprentice".

*Sec. 5 AS 08.71.200 is amended to read:

Sec. 08.71.200 Contact lenses. Contact lenses shall be fitted in conjunction with and under the supervision of a licensed physician or an optometrist using [AND WITH] a written contact lens fitting authorization that (1) shows the powers of the sphere, cylinder and axis location; (2) includes an authorization to fit; and (3) states a requirement that the patient return to the prescriber for a final recheck after the contact fitting has been completed. [PRESCRIPTION SHOWING THAT THE PRESCRIPTION MAY BE FILLED FOR CONTACT LENSES AND REQUIRING THAT THE PATIENT RETURN TO SEE THE PRESCRIBING PHYSICIAN OR OPTOMETRIST]. In no case may contact lenses be prepared by neutralizing a persons eyeglasses or spectacles. Duplicated contact lenses may be dispensed, mailed to, or otherwise delivered to a patient from a written contact lens prescription that shows the exact specifications and parameters needed to exactly duplicate the patients previous contact lenses. Notwithstanding other provisions of this section, contact lenses may not be provided to a patient at a time that is after the expiration of the most recent prescription for the patient unless authorized in writing or orally by the person who issued the prescription.

*Prescription
Physician or
Optometrist*

EVALUATED

*Sec. 6 AS 08.71.230 is amended to read:

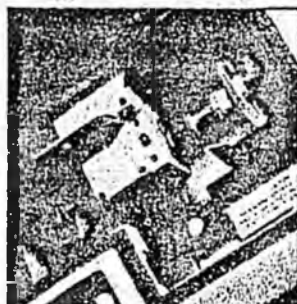
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Sec. 08.71.230 Exemptions from and limitations on the application of this chapter. This chapter may not be construed to

- (1) limit or restrict a licensed physician or optometrist from the practices enumerated in this chapter, and each licensed physician and optometrist has all the rights and privileges which may accrue under this chapter to dispensing opticians licensed under it;
- (2) prohibit an unlicensed person from performing mechanical work upon inert matter in an optical office, laboratory or shop;
- (3) prohibit an unlicensed person from engaging in the sale of eyeglasses, spectacles, magnifying glasses, goggles, sunglasses, telescopes, binoculars, or any like articles which are completely preassembled and sold only as merchandise; however, the exemption in this paragraph does not authorize an unlicensed person to sell contact lenses of any type.
- (4) authorize or permit a licensee under this chapter to hold out as being able to, or to offer to, or to attempt by any means, to refract or exercise eyes, diagnose, treat, correct, relieve, operate or prescribe for any human ailment, deficiency, deformity, disease or injury.

"Duty To Warn" – A Growing Responsibility

It has been seven years since the Optical Laboratories Association (OLA) issued its first "Duty To Warn" kit. To appreciate why this subject has become so important to the whole industry, it might help to review how laboratories first became involved in a problem that seems to be more a concern of those who deal directly with patients at the retail level.



When retail offices are involved in litigation resulting from broken eyewear, manufacturers and laboratories used in making the glasses are usually brought into the action so that, no matter who ends up with the blame, that person will be involved in the lawsuit. What brought "duty to warn" into prominence in recent years has been the emergence of polycarbonate as a viable lens material for dress eyewear.

The first recorded court case occurred in 1981 when a Wyoming rancher wearing photochromic lenses in a dress frame, sustained an injury while roping. No award was granted on the basis that polycarbonate was so new a product, it was only available from one source at the time the glasses were dispensed. The case did, however, alert the Optical Laboratories Association to the problem and their concern led directly to the development of the OLA "Duty To Warn" kit.

Since that time, polycarbonate lenses have matured and are now readily available in almost any type of lens design. At the same time, there has been additional litigation in which the courts consistently ruled that "failure to warn" patients about their options regarding lens materials justifies damage claims. This places a considerable burden on everyone dispensing eyewear to the public. The OLA is attempting to answer that concern with their program. They have just revised their kit and reissued it with a number of improvements and additions.

Among the new items included in the revised kit are the following:

Practitioner Forms. One of the most persistent requests from retail offices during the last few years

has been for office forms that would help establish that patients had been properly informed regarding lens materials. They particularly asked for a Patient Rejection Form. Three new practitioner forms are now included in the kit.

Refractionist's Duty and Script. A concise examination of the refractionist's obligations under "Duty To Warn" is provided along with a suggested script for the doctor to follow.

Dispenser's Duty and Script. Just as the refractionist has a "duty to warn", so do dispensers, whether they work in the refractionist's office or in an outside office. These duties are clearly outlined.

Lens Menu. The Lens Menu patient brochure is a key component in the "Duty To Warn" process. A sample Lens Menu and an order form are included.

Safety Warnings. Every pair of eyeglasses dispensed must be accompanied by a printed Safety Warning. Offices that order finished eyewear from an OLA laboratory usually receive this important form with each pair of finished eyewear they order. Offices doing their own edging have the obligation of providing their own Safety Warnings to pass on with the eyewear they dispense. Camera-ready artwork for each Safety Warning form (dress eyewear and safety eyewear) is part of the kit.

In-Office Edging. Edging lenses in a retail office imposes special responsibilities under the "Duty To Warn". In the eyes of the FDA and OSHA, these offices become the eyewear manufacturer and, as a consequence, assume the same legal responsibilities as laboratories. To help them meet these obligations, a brochure titled "Impact Testing of Ophthalmic Dress Lenses" is included in the kit.

A variety of other background material is also included so that retail offices have everything they need to set up a "Duty To Warn" process in their office. Today's economic climate makes compliance with the duty to warn process as important as maintaining proper fire insurance.

The OLA is making these kits available at minimal cost (\$14.95). They are available through most OLA laboratories. If you need information on OLA laboratories in your area, you may call 1-800-477-5652 for the names.

— Joe Brunetti

Informing The Patient

An Increasingly Important Professional Responsibility

by
Pamela Joyce Miller, O.D., F.A.A.O., J.D.



Published as a public service
to the Eyecare Professions by the
Optical Laboratories Association

Informing The Patient — An Increasingly Important Professional Responsibility

by Pamela Miller, O.D., F.A.A.O., J.D.

It was not until the mid 1980's that this industry began to realize that there were some potential problems regarding the impact resistance of lens materials. The subject first arose when a Wyoming lawsuit was filed over a broken lens. The suit claimed one lens material was more impact resistant than any other and the company selling the glasses should have informed the patient about polycarbonate.

In that case, the patient was a cowboy wearing glasses while performing in a rodeo. While twirling a rope, his glasses broke and an eye injury resulted. Fortunately for the dispenser, the court ruled that, while the dispenser had a duty to inform the patient about polycarbonate, these lenses were not yet readily available or in general use at that time. The Court issued no award, but the subject did receive close attention from the industry. It illuminated a subject to which few eyecare professionals had given much thought.

The Optical Laboratories Association (OLA) immediately set up a study group to establish how laboratories and their customers could best deal with the legal, professional, moral and business issues involved. The result of this study was the development of a practical program to meet these new responsibilities of retailers and labora

tories.

The study concluded that dispensers and doctors have a legal and professional responsibility to make sure patients have all the information required to make an informed decision about lens materials and frames. **Because of these legal responsibilities, the duty to warn must be part of every dispensing transaction.** To help professionals comply with this new responsibility, the OLA published a "DUTY TO WARN" kit, with sections fully documenting the responsibilities of the doctor, the dispenser and the manufacturing laboratory. It provided specific details on how to discharge the professional's "duty to warn" and included sample forms for setting up a "Duty to Warn" system for retailers and for laboratories.

Issued in 1988, the OLA has distributed thousands of these guides through member labs and made them available to O.A.A. and A.O.A. members. That, however, was six years ago and concerns about the doctor/dispenser's responsibilities and "DUTY TO WARN" were gradually forgotten.

A recent lawsuit in Minnesota reminded the professions of the importance of this duty to warn patients regarding choice of lens material. A youngster suffered an eye injury while wearing conventional plastic lenses. The court ruled the retailer did not adequately inform the patient about a safer lens material. The award was for \$73,610.93.

The OLA has now revised the original "Duty to Warn" kit and again made it available through OLA members for \$14.95. One issue is clear. The only way to make sure every patient is properly informed regarding lens materials is to set up a standard office routine and follow it for every patient. The "Duty to Warn" kit provides camera ready copies of various forms to be used for this purpose. It's always best when the dispenser (*or doctor*) personally discusses the options for polycarbonate lenses with each patient. This is sometimes difficult and it only takes one omission to lay the groundwork for potential problems.

The OLA recently revised their popular "Lens Menu", an attractive four color patient brochure that explains each lens option available to persons ordering eyewear. This latest revision adds a powerful "Vision Safety Notice" to the back panel. Verbiage in this important section was taken in whole from the OLA "Duty to Warn" kit. Now, offices who provide the Lens Menu to each patient going through their office will be subtly reinforcing their professional responsibility to fully inform patients regarding lens materials.

The obligation to inform buyers of a product's inherent dangers is nothing new. Nearly every product today is accompanied by warnings of one type or another. When someone is involved in recommending a product, they assume certain liabilities based on those recommendations. It's important to remember that eyeglass manufacturers-

and/or laboratories cannot get their warning message to the purchaser until after the patient has selected a lens material and a frame.

Because of this, doctors and dispensers have a legal and professional responsibility to make sure patients understand the risks involved in wearing eyeglasses and the relative safety of each lens material or frame style. This doesn't mean every patient must order polycarbonate. It just means that each lens material must be explained, along with the relative risks of each material. It's important to establish a program in your office that makes sure every patient is fully informed about lens materials. Some offices take this so seriously they insist every patient sign a document indicating that they have been told about the safety issues involved. There is some question whether this really does much good and it does have the potential of upsetting some patients. The best procedure is to set up a standard routine that makes sure every patient is informed of safety issues with the doctor or dispenser noting on the patient's file that the patient was so informed.

Do this and you can be secure you are fulfilling your "duty to warn".

Pamela Joyce Miller holds a doctorate in both Optometry and Jurisprudence. She has a solo practice in Highland, California and is a widely known practice management consultant who lectures and publishes worldwide. She has authored over 100 articles, including THE VISION CARE ASSISTANT, a guide for new paraoptometrists, published by Vision Extension in Santa Ana, California.



LITIGATION YOU SHOULD KNOW ABOUT

by Pamela Joyce Miller, O.D., F.A.A.O., J.D.

(12)

January, 1981

January, 1981 saw one of the first significant cases involving Polycarbonate lenses. In essence, a Wyoming farmer, wearing photochromic lenses in a dress frame, suffered an injury resulting in a cataract, when his lens shattered during a roping accident. The basic claim was that the doctor should have prescribed polycarbonate lenses in view of the fact that the patient was involved in an active and dangerous endeavor. The jury concluded *(based on expert testimony)* that the accident would not have been prevented with polycarbonate lenses, although polycarbonate was a new product and only available from one source at the time of the dispensing.

1982

A 1982 case in Louisiana involved a high school student who suffered a severe eye and lower lid cut during a volleyball game, while wearing glass lenses. The patient claimed that no one had told him that scratched lenses had a greater propensity toward shattering. Although the case was settled, it was alleged that the dispenser failed to warn of the risks associated with wearing the glasses in sporting events. A claim for contribution against the school board was also filed by the dispenser *(to defray the costs of settlement)*.

January, 1993

A January, 1993 jury ruling involved a Minnesota optical chain that failed to warn a customer sufficiently about his spectacle lens options. A 13 year old boy purchased a metal semi-rimless frame with CR 39 lenses in November, 1986. Some 6 months later, he was hit in the eye, and the lens shattered resulting in permanent eye damage. The case centered on the "FAILURE TO WARN" issue. The case resulted in a settlement *(not to exceed \$73,610.93)*, with the amount and the jury proceedings sealed in the court records.

The Present

"Duty to Warn"

The trend is obviously toward an emphasis on the dispenser's or doctor's "duty to warn" or failure to advise a patient of their options. Greater responsibility is placed on patient education, informed consent, and documentation of the information given to a patient *(or the parent or guardian)*.

Your Duty

You have a clear cut duty to the patient. A breach of that duty, which results in harm to the patient, could result an action for Negligence. The result may be lengthy and costly litigation against the dispenser, the laboratory, and the lens manufacturer. If you elect to have an in-office laboratory, your liability may be substantially increased.

Your Responsibility

In essence, the last person to work on the lens may be regarded as the manufacturer in a Product Liability case. The concept of professional responsibility is growing and with that growth comes your responsibility to document what was advised and provided to every patient.

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o The continued impact resistance of your lenses depends on how well you protect them from physical shocks and abuse. For your own protection, scratched or pitted lenses should be replaced immediately.

o If your occupational or recreational activities expose you to the risk of flying objects or physical impacts, your eye safety requires special safety spectacles with safety lenses, side shields, goggles and/or a full face shield.

o Federal Regulation 29 CFR 1910.133 states that your employer shall make available eye protection suitable for your work, and that you shall use such protectors. For more information, consult your safety officer or supervisor.

Your vision specialist can provide more information and help you select the proper eyewear to meet these vision safety needs

Sports Eyewear

Many sports present unique eye safety risks. Industrial safety eyeglasses are not designed to protect against these special risks. As a result, special eyewear designs have been developed for a number of sports. The standards for such eyewear vary according to the sport for which they are designed, so it is important to base your selection on how the eyewear will be used.

• The continued impact resistance of your lenses depends on how well you protect them from physical shocks and abuse. For your own protection, scratched or pitted lenses should be replaced immediately.

• If your occupational or recreational activities expose you to the risk of flying objects or physical impacts, your eye safety requires special safety spectacles with safety lenses, side shields, goggles and/or a full face shield.

Your vision specialist can provide more information and help you select the proper eyewear to meet these vision safety needs.

Sports Eyewear

Many sports present unique eye safety risks. Neither dress eyewear nor industrial safety eyewear are designed to protect against these special risks. As a result, special eyewear designs have been developed for a number of sports. The standards for such eyewear vary according to the sport for which they are designed, so it is important to base your selection on how the eyewear will be used.



Optical Laboratories Association
Post Office Box 2000
Memfield, VA 22116-2000

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Optical Laboratories Association
Post Office Box 2000
Memfield, VA 22116-2000

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Dispenser: Safety spectacles with polycarbonate lenses must not be dispensed without this warning.

Important!

Read this notice before using your new safety eyewear.

Proper selection and use of eyewear is critical to your eye safety. No single pair of eyeglasses is best for all situations, so make sure you consider how your eyeglasses will be used before deciding whether to wear dress, safety or sports eyewear.

Vision Safety Notice:

o The polycarbonate lenses in these safety spectacles have been prepared in accordance with the order of your plant safety officer or vision specialist. The lenses meet or exceed American National Standard Z87.1 and the requirements of the Occupational Safety and Health Administration, but they are not unbreakable or shatterproof.

o If struck with sufficient force, the lenses can break into sharp pieces that can cause serious injury to the eye, or blindness. Even if the lenses do not break, the force of impact may cause the lenses or spectacle frame to contact the eye or surrounding area, causing injury.

o For tasks requiring additional impact protection, polycarbonate lenses should be used. Of all the materials that lenses can be made from, polycarbonate is the most impact resistant.

Dispenser: Dress eyewear must not be dispensed without this warning.

14

Important!

Read this notice before using your new eyewear.

Proper selection and use of eyewear is critical to your eye safety. No single pair of eyeglasses is best for all situations, so make sure you consider how your eyeglasses will be used before deciding whether to wear dress, safety or sports eyewear.

Vision Safety Notice:

• Your new eyeglasses are dress eyewear, not safety spectacles.

• The type and style of the spectacle frame is an important factor in determining how much protection your eyeglasses will provide. Many frames are fragile and are designed for appearance—not for protection.

• Your lenses meet or exceed American National Standard Z80.1 and FDA requirement 21 CFR Sec 301.410 for impact resistance, but they are not unbreakable or shatterproof. Of all the materials that lenses can be made from, polycarbonate is the most impact resistant.

• If struck with sufficient force, the lenses can break into sharp pieces that can cause serious injury to the eye, or blindness. Even if the lenses do not break, the force of impact may cause the lenses or spectacle frame to contact the eye or surrounding area, causing injury.

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Public Opinion Message

Please contact your local Legislative Information Office (LIO) to send POMs.
A listing of LIOs can be found at <http://www.legis.state.ak.us/legaff/liolist.htm>

This form must be completely filled out. You may phone, fax, or deliver your POM to any LIO.

From: Please PRINT the information below. This form must be signed by the sender.

Mr./Ms./Mrs.	First Name	Initials	Last Name	X./S./#
	Ms Cynthia	K	JONES	
Group affiliation (if applicable)				Daytime telephone number
				907.561.1167
Address				Zip code
807 Linda Ln. Anch, AK 99518				99518
Residence (or mail) address if different from mailing address				Zip code
E-mail address				Date
CTLVNAK@YCI.NET <i>Cynthia Jones</i>				3/30/04

To: Put a ✓ in the appropriate box(es).

Committees	House members	Senate members																																																																																																																																														
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><th>H or S</th><th></th></tr> <tr><td><input type="checkbox"/></td><td>Community & Regional Affairs</td></tr> <tr><td><input type="checkbox"/></td><td>Finance (fin)</td></tr> <tr><td><input type="checkbox"/></td><td>Health, Ed., & Social Services</td></tr> <tr><td><input type="checkbox"/></td><td>Judiciary (jud)</td></tr> <tr><td><input checked="" type="checkbox"/></td><td>Labor & Commerce (l&c)</td></tr> <tr><td><input type="checkbox"/></td><td>Resources (res)</td></tr> <tr><td><input type="checkbox"/></td><td>Rules (ris)</td></tr> <tr><td><input type="checkbox"/></td><td>State Affairs (sta)</td></tr> <tr><td><input type="checkbox"/></td><td>Transportation (tra)</td></tr> <tr><td><input type="checkbox"/></td><td>Other:</td></tr> </table>	H or S		<input type="checkbox"/>	Community & Regional Affairs	<input type="checkbox"/>	Finance (fin)	<input type="checkbox"/>	Health, Ed., & Social Services	<input type="checkbox"/>	Judiciary (jud)	<input checked="" type="checkbox"/>	Labor & Commerce (l&c)	<input type="checkbox"/>	Resources (res)	<input type="checkbox"/>	Rules (ris)	<input type="checkbox"/>	State Affairs (sta)	<input type="checkbox"/>	Transportation (tra)	<input type="checkbox"/>	Other:	<table border="1" style="width: 100%; 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Subject Fill out the boxes below OR enter a Subject.

HB or SB	Bill number	and check one:	<input checked="" type="checkbox"/> Support	<input type="checkbox"/> Oppose	<input type="checkbox"/> Amend	OR enter a general Subject (LIO staff may modify):
HB	502					

Message Your PRINTED message cannot exceed 50 words or contain any vulgar language.

I	Support	the	house	bill	5
502	for	higher	standards	of	10
educational	for	a	opticians.	This	15
crucially	affects	the	patient	directly	20
regarding	higher	standard	of	Care.	25
This	patient	would	receive	more	30
accurate	dispensing	of	glasses	avoiding	35
Catastrophic	downfalls	as	those	dispensed	40
by	untreated	people	in	our	45
industry.					50

Public Opinion Message

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From: Please PRINT the information below. This form must be signed by the sender.

Mr. / Ms. / Mrs. Mr	First name Michael	Initials M.	Last name Hoffman	Jr. / Sr. / III
Group affiliation (if applicable)				Daytime telephone number
Mailing address 2369 Success Dr Anchorage, AK				Zip code 99504
Residence (street) address if different from mailing address Same				Zip code
Email address		Signature 		Date 3/29/04

To: Put a ✓ in the appropriate box(es).

Committees		House members		Senate members	
<input type="checkbox"/>	H or S	<input checked="" type="checkbox"/>	Anderson (ado)	<input type="checkbox"/>	Kertula (ker)
<input type="checkbox"/>	Community & Regional Affairs	<input type="checkbox"/>	Berkowitz (bor)	<input type="checkbox"/>	Kohring (koh)
<input type="checkbox"/>	Finance (fin)	<input type="checkbox"/>	Chenault (che)	<input type="checkbox"/>	Kookesh (kos)
<input type="checkbox"/>	Health, Ed., & Social Services	<input type="checkbox"/>	Cisena (c's)	<input type="checkbox"/>	Kott (kot)
<input type="checkbox"/>	Judiciary (jud)	<input type="checkbox"/>	Coighill (cog)	<input type="checkbox"/>	Lynn (lyn)
<input checked="" type="checkbox"/>	Labor & Commerce (l&c)	<input checked="" type="checkbox"/>	Crawford (crf)	<input type="checkbox"/>	Masek (mas)
<input type="checkbox"/>	Resources (res)	<input type="checkbox"/>	Crift (cro)	<input type="checkbox"/>	McGuire (mcg)
<input type="checkbox"/>	Rules (rls)	<input checked="" type="checkbox"/>	Dahlstrom (daf)	<input type="checkbox"/>	Mayer (may)
<input type="checkbox"/>	State Affairs (sta)	<input type="checkbox"/>	Fale (fal)	<input type="checkbox"/>	Morgan (mor)
<input type="checkbox"/>	Transportation (tra)	<input type="checkbox"/>	Foster (fos)	<input type="checkbox"/>	Moses (mos)
<input type="checkbox"/>	Other:	<input type="checkbox"/>	Gará (gar)	<input type="checkbox"/>	Ogg (ogg)
<input type="checkbox"/>	Other:	<input checked="" type="checkbox"/>	Galto (gal)	<input checked="" type="checkbox"/>	Rokeberg (rok)
<input type="checkbox"/>		<input type="checkbox"/>	Gruenberg (gm)	<input type="checkbox"/>	Samuels (saf)
<input type="checkbox"/>		<input checked="" type="checkbox"/>	Guttenberg (git)	<input type="checkbox"/>	Seaton (san)
<input type="checkbox"/>		<input type="checkbox"/>	Harris (har)	<input type="checkbox"/>	Stepovich (stp)
<input type="checkbox"/>		<input type="checkbox"/>	Hawker (haw)	<input type="checkbox"/>	Stoltze (stz)
<input type="checkbox"/>		<input type="checkbox"/>	Heinze (hez)	<input type="checkbox"/>	Weyhrauch (weh)
<input type="checkbox"/>		<input type="checkbox"/>	Holm (hol)	<input type="checkbox"/>	Williams (wil)
<input type="checkbox"/>		<input type="checkbox"/>	Joule (jou)	<input type="checkbox"/>	Wilson (wls)
<input type="checkbox"/>		<input type="checkbox"/>	Kapsner (kap)	<input type="checkbox"/>	Wolf (wol)
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Bunde (bun)
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Cowdery (coy)
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Davis (dab)
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<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Ellis (eli)
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Elton (elt)
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	French (fre)
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<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Guess (gue)
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<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Lincoln (lin)
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Ogan (oga)
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Olson (ols)
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<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Stedman (smn)
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	B. Stevens (stc)
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	G. Stevens (stv)
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Therault (thr)
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Wagoner (wag)
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	Wilken (wik)

Subject Fill out the boxes below OR enter a Subject.

HB or SB HB	Bill number 502	and check one:	<input checked="" type="checkbox"/> Support	OR	enter a general Subject (LIO staff may modify):
			<input type="checkbox"/> Oppose		
			<input type="checkbox"/> Amend		

Message Your PRINTED message cannot exceed 50 words or contain any vulgar language.

I	wish	to	show	my	5
concern	about	dispensing	Opticians.	I	10
believe	the	public	has	the	15
right	to	knowledgeable,	well	trained	20
Opticians.	I	want	to	stress	25
this	importance	especially	for	specialty	30
situations	such	as	prism	in	35
eyeglasses	and	safety	glasses.	I	40
very	much	support	Bill	502.	45
					50

Public Opinion Message

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This form must be completely filled out. You may phone, fax, or deliver your POM to any LIO.

From: Please PRINT the information below. This form must be signed by the sender.

Mr. / Ms. / Mrs. <input checked="" type="checkbox"/>	First name FRANCES	M.I. L	Last name SCHOLZ	Jr. / Sr. / III
Group affiliation (if applicable)				Daytime telephone number 907 3491893
Mailing address 10062 THIMBLEBERRY DRIVE				Zip code
Residence (street) address if different from mailing address ANCHORAGE ALASKA				Zip code 99515
Email address			Signature <i>Frances J. Scholz</i>	Date 3-29-03

To: Put a in the appropriate box(es).

Committees		House members		Senate members	
<input type="checkbox"/> H or S	Community & Regional Affairs	<input checked="" type="checkbox"/> Anderson (ade)	<input type="checkbox"/> Kortula (ker)	<input checked="" type="checkbox"/> Bunde (bun)	
<input type="checkbox"/>	Finance (fin)	<input type="checkbox"/> Borkowitz (ber)	<input type="checkbox"/> Kohring (koh)	<input type="checkbox"/> Cowdery (cay)	
<input type="checkbox"/>	Health, Ed., & Social Services	<input type="checkbox"/> Chmault (che)	<input type="checkbox"/> Kookesh (kos)	<input type="checkbox"/> Davis (dab)	
<input type="checkbox"/>	Judiciary (jud)	<input type="checkbox"/> Cissna (cls)	<input type="checkbox"/> Kott (kot)	<input type="checkbox"/> Dyson (dys)	
<input checked="" type="checkbox"/>	Labor & Commerce (l&c)	<input type="checkbox"/> Coghlin (cog)	<input checked="" type="checkbox"/> Lynn (lyn)	<input type="checkbox"/> Ellis (ell)	
<input type="checkbox"/>	Resources (res)	<input checked="" type="checkbox"/> Crawford (crf)	<input type="checkbox"/> Masok (mas)	<input type="checkbox"/> Elton (elt)	
<input type="checkbox"/>	Rules (rts)	<input type="checkbox"/> Croft (cro)	<input type="checkbox"/> McGuire (mcg)	<input type="checkbox"/> French (fro)	
<input type="checkbox"/>	State Affairs (sta)	<input checked="" type="checkbox"/> Dahlstrom (dal)	<input type="checkbox"/> Meyer (may)	<input type="checkbox"/> Green (gre)	
<input type="checkbox"/>	Transportation (tra)	<input type="checkbox"/> Fate (fht)	<input type="checkbox"/> Morgan (mor)	<input type="checkbox"/> Guess (gue)	
<input type="checkbox"/>	Other:	<input type="checkbox"/> Foster (fos)	<input type="checkbox"/> Moses (mos)	<input type="checkbox"/> Hoffman (hof)	
<input type="checkbox"/>	Other:	<input type="checkbox"/> Gara (gar)	<input type="checkbox"/> Ogg (ogg)	<input type="checkbox"/> Lincoln (lin)	
Caucuses		<input checked="" type="checkbox"/> Gallo (gal)	<input checked="" type="checkbox"/> Rokeberg (rok)	<input type="checkbox"/> Ogan (oga)	
<input type="checkbox"/>	Anchorage (age)	<input type="checkbox"/> Gruenberg (grn)	<input type="checkbox"/> Samuels (saf)	<input type="checkbox"/> Olson (ola)	
<input type="checkbox"/>	Bush (bus)	<input checked="" type="checkbox"/> Guttentberg (gtl)	<input type="checkbox"/> Sealon (san)	<input type="checkbox"/> Seekins (sek)	
<input type="checkbox"/>	Fairbanks/Interior (int)	<input type="checkbox"/> Harris (har)	<input type="checkbox"/> Stepovich (stp)	<input type="checkbox"/> Stedman (smn)	
<input type="checkbox"/>	Matsu (mat)	<input checked="" type="checkbox"/> Hawker (haw)	<input type="checkbox"/> Stoltze (stz)	<input type="checkbox"/> B. Stevens (sta)	
<input type="checkbox"/>	Majority (maj)	<input type="checkbox"/> Heinze (hez)	<input type="checkbox"/> Weyhrauch (weh)	<input type="checkbox"/> G. Stevens (stv)	
<input type="checkbox"/>	Minority (min)	<input type="checkbox"/> Holm (hol)	<input type="checkbox"/> Williams (wil)	<input type="checkbox"/> Theriault (thr)	
		<input type="checkbox"/> Joule (jou)	<input type="checkbox"/> Wilson (wis)	<input type="checkbox"/> Wagoner (wag)	
		<input type="checkbox"/> Kapsner (kap)	<input type="checkbox"/> Wolf (wol)	<input type="checkbox"/> Wilton (wtk)	

Subject Fill out the boxes below OR enter a Subject.

HB or SB HB	Bill number 502	and check one:	<input checked="" type="checkbox"/> Support	OR enter a general Subject (LIO staff may modify):
		<input type="checkbox"/> Oppose		
		<input type="checkbox"/> Amend		

Message Your PRINTED message cannot exceed 50 words or contain any vulgar language.

I	support	HOUSE	BILL	502
Higher	STANDARDS	OF	EDUCATION	for
ALL	OPTICIANS.	IT	IS	NECESSARILY
TO	PROTECT	THE	PUBLIC	FROM
UNTRAINED	PEOPLE	FILLING	THE	DOCTOR'S
PRESCRIPTION	INCORRECTLY.	CHILDRENS	VISION	CAN
BE	DETRIMENTALLY	AFFECTED	BY	THE
QUALITY	OF	GLASSES	DISPENSED.	INDUCED
PRISM	AS	WELL	AS	WRONG
MATERIALS	CHOSEN	EFFECT	THEIR	SAFETY

Public Opinion Message

Please contact your local Legislative Information Office (LIO) to send POMs.
 A listing of LIOs can be found at <http://www.legis.state.ak.us/legaff/lolist.htm>

This form must be completely filled out. You may phone, fax, or deliver your POM to any LIO.

From: Please PRINT the information below. This form must be signed by the sender.

Mr./Ms./Mrs. <input checked="" type="radio"/> Mrs.	First Name Julie	Initial R	Last Name Sandys	Jr./Sr./III
Group affiliation (if applicable)			Daytime telephone number 907-561-1167	
Mailing address 3431 Hopper Cir Anch AK			Zip code 99515	
Residence (circle 0 address if different from mailing address) Same			Zip code	
E-mail address		Signature <i>J Sandys</i>		Date 3-29-04

To: Put a ✓ in the appropriate box(es).

Committees		House members		Senate members	
<input type="checkbox"/> H or S	Community & Regional Affairs	<input checked="" type="checkbox"/> Anderson (ade)	<input type="checkbox"/> Kartula (kar)	<input checked="" type="checkbox"/> Bunde (bun)	
<input type="checkbox"/>	Finance (fin)	<input type="checkbox"/> Berkowitz (ber)	<input type="checkbox"/> Kohring (koh)	<input type="checkbox"/> Cowdery (coy)	
<input type="checkbox"/>	Health, Ed., & Social Services	<input type="checkbox"/> Chenault (che)	<input type="checkbox"/> Kookesh (kos)	<input type="checkbox"/> Davis (dab)	
<input type="checkbox"/>	Judiciary (jud)	<input type="checkbox"/> Cissna (cis)	<input type="checkbox"/> Kott (kot)	<input type="checkbox"/> Dyson (dys)	
<input type="checkbox"/>	Labor & Commerce (l&c)	<input checked="" type="checkbox"/> Coghill (cog)	<input checked="" type="checkbox"/> Lynn (lyn)	<input type="checkbox"/> Ellis (eli)	
<input type="checkbox"/>	Resources (res)	<input checked="" type="checkbox"/> Crawford (crf)	<input type="checkbox"/> Masek (mas)	<input type="checkbox"/> Elton (eli)	
<input type="checkbox"/>	Rules (rts)	<input type="checkbox"/> Croft (cro)	<input type="checkbox"/> McGuire (mcg)	<input type="checkbox"/> French (fre)	
<input type="checkbox"/>	State Affairs (sta)	<input checked="" type="checkbox"/> Dahlstrom (dal)	<input type="checkbox"/> Meyer (mey)	<input type="checkbox"/> Green (gre)	
<input type="checkbox"/>	Transportation (tra)	<input type="checkbox"/> Fate (fnt)	<input type="checkbox"/> Morgan (mor)	<input type="checkbox"/> Guens (gue)	
<input type="checkbox"/>	Other:	<input type="checkbox"/> Foster (fos)	<input type="checkbox"/> Mosas (mos)	<input type="checkbox"/> Hoffman (hof)	
<input type="checkbox"/>	Other:	<input checked="" type="checkbox"/> Gara (gar)	<input type="checkbox"/> Ogg (ogg)	<input type="checkbox"/> Lincoln (lin)	
Caucuses		<input type="checkbox"/> Gatto (gat)	<input checked="" type="checkbox"/> Rokeberg (rok)	<input type="checkbox"/> Ogan (oga)	
<input type="checkbox"/>	Anchorage (age)	<input type="checkbox"/> Gruenberg (gm)	<input type="checkbox"/> Samuels (søl)	<input type="checkbox"/> Olson (ols)	
<input type="checkbox"/>	Bush (bus)	<input checked="" type="checkbox"/> Guitenberg (glt)	<input type="checkbox"/> Seaton (san)	<input type="checkbox"/> Seekins (sak)	
<input type="checkbox"/>	Fairbanks/Interior (fnt)	<input type="checkbox"/> Harris (har)	<input type="checkbox"/> Stepovich (slp)	<input type="checkbox"/> Stadman (smn)	
<input type="checkbox"/>	Matsui (mat)	<input checked="" type="checkbox"/> Hawker (haw)	<input type="checkbox"/> Stolze (stz)	<input type="checkbox"/> B. Stevens (ste)	
<input type="checkbox"/>	Majority (mjr)	<input type="checkbox"/> Heinz (hez)	<input type="checkbox"/> Weyhrauch (weh)	<input type="checkbox"/> G. Stevens (stv)	
<input type="checkbox"/>	Minority (mnr)	<input type="checkbox"/> Holm (hol)	<input type="checkbox"/> Williams (wll)	<input type="checkbox"/> Therafault (thr)	
		<input type="checkbox"/> Joule (jou)	<input type="checkbox"/> Wilson (wls)	<input type="checkbox"/> Wegoner (wag)	
		<input type="checkbox"/> Kapsner (kap)	<input type="checkbox"/> Wolf (wol)	<input type="checkbox"/> Wilton (wik)	

Subject Fill out the boxes below OR enter a Subject.

HB or SB HB	Bill number 502	and check one:	<input checked="" type="checkbox"/> Support	<input type="checkbox"/> Oppose	<input type="checkbox"/> Amend	OR	enter a general Subject (LIO staff may modify):
----------------	--------------------	----------------	---	---------------------------------	--------------------------------	----	--

Message Your PRINTED message cannot exceed 50 words or contain any vulgar language.

I	Support	House	Bill	502	5
we	need	people	with	Higher	10
education	in	this	field.		15
prescriptions	incorrectly	filled	can	be	20
detrimental	to	the	public.		25
					30
					35
					40
					45
					50

Public Opinion Message

Please contact your local Legislative Information Office (LIO) to send POMs.
A listing of LIOs can be found at <http://www.lgls.state.ak.us/legaff/001ct.htm>

This form must be completely filled out. You may phone, fax, or deliver your POM to any LIO.

From: Please PRINT the information below. This form must be signed by the sender.

Mr. / Ms. (Mrs.)	First name	M.I.	Last name	Jr. / Sr. / III
	Kelly	M	Lauriza	
Group affiliation (if applicable)				Daytime telephone number
				9079011167
Mailing address				Zip code
9200 Independence Dr #109				
Residence (street) address if different from mailing address				Zip code
Anchorage AK 99507				99507
Email address		Signature		Date
		Kelly M. Lauriza		

To: Put a in the appropriate box(es).

Committees		House members		Senate members	
<input type="checkbox"/> H or S	Community & Regional Affairs	<input checked="" type="checkbox"/>	Anderson (ade)	<input type="checkbox"/>	<input checked="" type="checkbox"/> Bunde (bun)
<input type="checkbox"/>	Finance (fin)	<input type="checkbox"/>	Berkowitz (ber)	<input type="checkbox"/>	<input type="checkbox"/> Cowdery (coy)
<input type="checkbox"/>	Health, Ed., & Social Services	<input type="checkbox"/>	Chenault (che)	<input type="checkbox"/>	<input type="checkbox"/> Davis (dab)
<input type="checkbox"/>	Judiciary (jud)	<input type="checkbox"/>	Cisna (ds)	<input type="checkbox"/>	<input type="checkbox"/> Dyson (dys)
<input checked="" type="checkbox"/>	Labor & Commerce (l&c)	<input checked="" type="checkbox"/>	Coghil (cog)	<input checked="" type="checkbox"/>	<input type="checkbox"/> Ellis (ell)
<input type="checkbox"/>	Resources (res)	<input type="checkbox"/>	Crawford (crf)	<input type="checkbox"/>	<input type="checkbox"/> Elton (elt)
<input type="checkbox"/>	Rules (rls)	<input type="checkbox"/>	Croft (cro)	<input type="checkbox"/>	<input type="checkbox"/> French (fro)
<input type="checkbox"/>	State Affairs (sta)	<input checked="" type="checkbox"/>	Dahlstrom (dal)	<input type="checkbox"/>	<input type="checkbox"/> Green (gre)
<input type="checkbox"/>	Transportation (tra)	<input type="checkbox"/>	Fate (fit)	<input type="checkbox"/>	<input type="checkbox"/> Guess (gue)
<input type="checkbox"/>	Other:	<input type="checkbox"/>	Foster (fos)	<input type="checkbox"/>	<input type="checkbox"/> Hoffman (hof)
<input type="checkbox"/>	Other:	<input type="checkbox"/>	Gara (gar)	<input type="checkbox"/>	<input type="checkbox"/> Lincoln (lin)
		<input checked="" type="checkbox"/>	Gatto (gat)	<input checked="" type="checkbox"/>	<input type="checkbox"/> Ogan (oga)
		<input type="checkbox"/>	Gruenberg (gm)	<input type="checkbox"/>	<input type="checkbox"/> Olson (ols)
		<input checked="" type="checkbox"/>	Guttenberg (gtt)	<input type="checkbox"/>	<input type="checkbox"/> Seaton (san)
		<input type="checkbox"/>	Harris (har)	<input type="checkbox"/>	<input type="checkbox"/> Spedman (sbn)
		<input type="checkbox"/>	Hawker (haw)	<input type="checkbox"/>	<input type="checkbox"/> B. Stevens (sta)
		<input type="checkbox"/>	Heinze (hez)	<input type="checkbox"/>	<input type="checkbox"/> G. Stevens (stv)
		<input type="checkbox"/>	Holm (hol)	<input type="checkbox"/>	<input type="checkbox"/> Therault (thr)
		<input type="checkbox"/>	Joule (jou)	<input type="checkbox"/>	<input type="checkbox"/> Wagoner (wag)
		<input type="checkbox"/>	Kapsner (kap)	<input type="checkbox"/>	<input type="checkbox"/> Wilken (wk)
		<input type="checkbox"/>	Kertula (ker)	<input type="checkbox"/>	
		<input type="checkbox"/>	Kohring (koh)	<input type="checkbox"/>	
		<input type="checkbox"/>	Kookesh (kos)	<input type="checkbox"/>	
		<input type="checkbox"/>	Kott (kot)	<input type="checkbox"/>	
		<input type="checkbox"/>	Lynn (lyn)	<input type="checkbox"/>	
		<input type="checkbox"/>	Masek (mas)	<input type="checkbox"/>	
		<input type="checkbox"/>	McGuire (mcg)	<input type="checkbox"/>	
		<input type="checkbox"/>	Meyer (may)	<input type="checkbox"/>	
		<input type="checkbox"/>	Morgan (mor)	<input type="checkbox"/>	
		<input type="checkbox"/>	Moses (mos)	<input type="checkbox"/>	
		<input type="checkbox"/>	Ogg (ogg)	<input type="checkbox"/>	
		<input type="checkbox"/>	Rokeberg (rok)	<input type="checkbox"/>	
		<input type="checkbox"/>	Samuels (saf)	<input type="checkbox"/>	
		<input type="checkbox"/>	Seaton (san)	<input type="checkbox"/>	
		<input type="checkbox"/>	Stepovich (stp)	<input type="checkbox"/>	
		<input type="checkbox"/>	Stoltze (stz)	<input type="checkbox"/>	
		<input type="checkbox"/>	Weytrauch (weh)	<input type="checkbox"/>	
		<input type="checkbox"/>	Williams (wil)	<input type="checkbox"/>	
		<input type="checkbox"/>	Wilson (wis)	<input type="checkbox"/>	
		<input type="checkbox"/>	Wolf (wol)	<input type="checkbox"/>	

Subject Fill out the boxes below OR enter a Subject.

HB or SB	Bill number	and check one:	<input checked="" type="checkbox"/> Support	<input type="checkbox"/> Oppose	<input type="checkbox"/> Amend	OR	enter a general Subject (LIO staff may modify):
HB	502						

Message Your PRINTED message cannot exceed 50 words or contain any vulgar language.

I	Support	this	bill	because	5
there	are	too	many	untrained	10
people	-filling	doctor's	prescriptions	incorrectly	15
people's	vision	can	be	hugely	20
affected	especially	children			25
I	strongly	support	House	Bill	30
502	higher	education	protection	of	35
the	public	safety			40
					45
					50



**National Association of
Optometrists and Opticians**

Professionalism Consumerism Education

February 19, 2004

TO: Charlie Miller
FAX # 907-586-4273

RE: ALASKA - House Bill 502 (Dispensing Opticians)

Total pages: 3

Dear Charlie:

As promised, the following critique of certain portions of House Bill 502 is forwarded for your information and appropriate action.

GENERAL ANALYSIS AND COMMENTARY

Based on the audit conducted by the Division of Legislative Audit under date of October 2, 2003 (Audit Control Number 08-20022-03), this legislative proposal represents a **total reversal** of their recommended course of action. The Division recommended: (1) termination of the Board of Dispensing Opticians and (2) legislative consideration of a registration process for opticians during the one-year "wrap-up" period of the Board's existence. We concur with the Division's recommendations based on our experience in Alaska and throughout the other 49 state jurisdictions.

Only 22 of the 50 state jurisdictions regulate dispensing opticians despite numerous legislative initiatives to license the business of optical dispensing. Our experience in Alaska demonstrates an inadequate level of optician manpower resulting in higher than normal employee costs and higher costs paid by Alaska vision-care consumers for their eyeglasses and contact lenses.

House Bill 502 would, in our opinion, exacerbate the inadequate supply of qualified optician manpower, increase the prices for eyeglasses and contact lenses and only benefit current licensees while adversely impacting the vision-care consumers of Alaska through higher prices for their eyeglasses and contact lenses.

SECTION BY SECTION ANALYSIS AND RECOMMENDATIONS

Section 1. - It appears the intent of the proposed revisions is to **eliminate** any person other than a licensee to engage in the tasks and functions related to dispensing of these products. At the present time, non-licensed persons can engage in numerous tasks not requiring a license like helping a customer to select a frame, making simple repairs to eyeglass frames, selling pre-packaged contact lenses based on a valid prescription, etc. These proposed changes will result in a loss of employment since, only a licensed person

..... Reply to

1925 Enterprise Parkway, Twinsburg, Ohio 44087 (330) 486-3341

P.O. Box 459, Marblehead, Ohio 43440 (419) 798-2031

Page 2

would be permitted to engage in all the tasks relating to optical dispensing. There is no evidence non-licensed persons cannot adequately perform these tasks as they have in the past nor is there any evidence of public harm.

RECOMMENDATION: Maintain the current language in Section 08.71.080 to allow non-licensed persons to assist in these ancillary tasks and functions.

Section 2. - Same concerns as expressed for Section 1.

RECOMMENDATION: Maintain the current language in Section 08.71.090.

Section 3. - The proposed revisions **dramatically increase** the requirements for apprentices by **doubling** the number of training hours while requiring registration with the United States Department of Labor. There is no evidence such massive changes are required to protect the public health and we are unaware of the rationale for apprentices to register with an agency of the federal government since, the Department has, in the past, performed this oversight function. The clear intent is to make it more difficult for apprentices in Alaska to become eligible for licensure while erecting another barrier to opticians in other state jurisdictions to be eligible for licensure.

Once again, the only beneficiaries are the persons currently licensed and the losers are the vision-care consumers of Alaska based on inadequate manpower needs and higher operating costs for companies who hire licensed persons to sell prescription eyewear. This is truly a case of the "fox guarding the chicken coop".

RECOMMENDATION: Keep the current language in Section 08.71.110(a).

Section 4. - No problems with the proposed revisions.

Section 5. - No problems with the proposed revisions.

Section 6. - The proposed revisions offer two obstacles to lowering the costs of prescription eyewear to Alaska's vision care consumers. First, the striking of the wording "or serve under" has permitted physicians, optometrists and dispensing opticians to train apprentices without employing those persons. This is cost beneficial to both the apprentice and the sponsoring trainer since, they would not be responsible for all the costs associated with employment. Another benefit is to encourage persons to learn this occupation with minimal investment based on their respective schedules. Next, the requirement to register with U.S. Department of Labor **rather than the Department** as currently is the case is troubling. We contend the Department can do a better job of monitoring apprenticeship as opposed to a federal bureaucrat.

RECOMMENDATION: Maintain the current language in Section 08.71.160(a).

Page 3

Section 7. - No problems with the proposed revisions.

Section 8. - The proposed language in lines 25-26 could be construed to prohibit mail-order or Internet providers of replacement contact lenses from selling these products to Alaska's vision-care consumers. Although this revision might benefit our business operations, we believe in maximum competition with a "fair and level playing field" and therefore, oppose the presumed intent of this language. In any event, we contend this proposed revision is inconsistent with recently-enacted federal legislation (H.R. 3140) relating to prescription release for contact lenses.

RECOMMENDATION: Delete the proposed language in lines 25-26 since it is anti-competitive and anti-consumer. We believe any person should be entitled to sell contact lenses based on a valid prescription from either a physician or optometrist.

Section 9. - We have no objection to this proposed new section although our earlier comments render it non-necessary.

CONCLUSION

As stated previously, we support the recommendations of Alaska's Division of Legislative Audit as submitted to the members of the Legislative Budget and Audit Committee given the problems they identified and based on our experience in this marketplace for optical goods. A registration program for opticians would protect the vision-care consumers of Alaska while increasing the availability of qualified manpower and reducing operating costs that may well reduce the prices consumers must pay for corrective eyewear.

cc. David J. Sherriff, Esq. via FAX
Joseph B. Neville, Esq. via FAX

**COMMENTS AND RECOMMENDATIONS
CONCERNING THE LEGISLATIVE AUDIT
FOR THE BOARD OF DISPENSING OPTICIANS**

The National Association of Optometrists and Opticians, Inc. ("NAOO") is a trade association representing the retail optical business. Its membership is drawn primarily from national and regional retail optical companies. NAOO was formed in 1959 and is consumer service oriented, dedicated to the proposition the consumer's visual care needs are met most completely and economically by the free market, in the tradition of the American business system. The NAOO represents over 2,800 optical stores and serves millions of optical consumers each year. Its member firms operate in every State jurisdiction plus the Territories of Puerto Rico and the Virgin Islands.

1. **RECOMMENDATION # 1 - We agree with the Division of Legislative Audit's recommendations on page 7 that the "Termination date for the board should not be extended." and their suggestion to replace the current mandatory licensing scheme with a "voluntary registration program."**

DISCUSSION: Our vast experience across the country demonstrates the licensing of opticians is not in the overall public interest. In the 22 state jurisdictions requiring licensure, there are inadequate levels of manpower causing higher operating costs for personnel and higher prices for consumers. Most importantly, we are unable to demonstrate any improvement in the quality of care rendered to customers by licensed opticians versus non-regulated optical personnel. The Legislative Audit report on page 19 shows a total of 8 complaints (only ONE from an optical consumer) over a 48 month period. The balance of complaints emanated from competitors. The Departments of Health in Colorado, Kansas and Minnesota have in formal written reports advised against the need to license opticians. These independent agencies found: (a) no public health or protection benefit; (b) adequate existing training; (c) numerous means for customer redress of problems and (d) economic disadvantage for optical customers. We concur with the Audit report's observation on page 11 "The harm that unlicensed opticians can potentially cause the public does not appear to warrant state licensure."

2. **RECOMMENDATION # 2 - The current three (3) tiered system (one license to dispense eyeglasses); another license to dispense contact lenses) or another license to dispense both eyeglasses and contact lenses should be COMBINED into one REGISTRATION CREDENTIAL.**

Page 2

DISCUSSION: With the exception of Rhode Island, all State jurisdictions permit opticians to dispense eyeglasses and contact lenses. Only a few States' require separate credentials to dispense contact lenses. The multiple benefits of a single credential are: (a) lower State administrative costs; (b) lower fees to optician registrants and (c) hopefully, lower costs to optical consumers since, operating costs are reduced.

3. **RECOMMENDATION # 3 - In the event the Legislature decides to extend the termination date for the Board of Dispensing Opticians while maintaining the 3 tiered licensing system, we submit the 2002 legislative amendments to the opticianry statutes concerning (a) at least 1,800 hours of apprentice training and (b) the definition of "supervision" in Section 08.71.240 (4) be RETAINED. We contend the Board's interpretive regulations of "supervision" should be "RESTRICTED" to the Legislature's definition and NOT be expanded by the Board as they did in 12 AAC 30.125.**

DISCUSSION: The proponents of continued licensure have introduced H.B. 502 and seek to further limit optical manpower by requiring 4,000 hours of training for eyeglasses or at least 2,000 hours for contact lenses in Section 3. Additionally, Sections 1 and 3 remove "dispensing" of contact lenses and would require a licensee to additionally pass a national examination to simply sell replacement contact lenses based on a valid prescription from an eye doctor. This proposed change would limit the availability of current personnel to engage in this task and likely raise prices to current wearers of contact lenses. This bill deserves to be rejected since, it benefits licensees - to the detriment of consumers. Finally, we believe the Board's regulations defining "supervision" is overly restrictive and confirms the saying "The fox is guarding the chicken coop!" We recommend amending Section 08.71.240 (4) entitled "supervision" with the proposed change in black as follows:

"(4) "supervision" means the provision of any needed direction, control, consultation, instruction, evaluation, and personal inspection of work being performed. Any existing board regulations are null and void and the board shall not interpret this definition in future regulations."

Date: March 4, 2004

HB

505

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 505
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Alcohol Licensing: Connoisseur License RDU Revenue Programs & Services
Component Tax Division
Sponsor Representative Pete Kott
Requester House Labor & Commerce Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

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

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

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Bill Analysis:

This legislation would require individuals who import beer and wine for personal consumption to acquire a license from the Alcoholic Beverage Control Board prior to importing the beer and wine and pay the alcoholic beverage excise tax on those imports to the Department of Revenue each year.

Revenues from this bill are indeterminate. The intent of this bill is to regulate the shipment of alcoholic beverages into the state to ensure that they are not shipped to "dry" communities and to individuals who are under the age of 21. We do not expect a large amount of alcoholic beverage tax revenue to be generated from this legislation. This legislation is aimed more at prevention and regulation than revenue generation.

Prepared by: Johanna Bales Phone 269-6628
Division: Tax Division Date/Time 2/27/04 7:51 AM
Approved by: Steve Porter, Deputy Commissioner Date 2/27/2004
Agency: Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 505-DPS-ABC-2-27-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____	Dept. Affected: <u>Public Safety</u>
Title: <u>An act related to direct shipment of alcoholic beverages and connoisseurs license</u>	RDU: <u>Statewide Support</u>
Sponsor: <u>Representative Kott</u>	Component: <u>ABC Board</u>
Requester: <u>H. Labor & Commerce</u>	Component No.: <u>2690</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	5.0	1.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	5.0	1.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	1.0	1.0	1.5	1.5	2.0	2.0
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	5.0	1.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	5.0	1.0	0.0	0.0	0.0	0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 HB 505 establishes a regulatory framework to address the practice of direct shipment of alcoholic beverages, primarily wine, from producers to consumers. This method of selling alcohol circumvents wholesalers, the middle portion of the three-tier system (the three tiers are producers, wholesalers, and retailers) that is traditionally used to account for alcohol products and collect and pay taxes.

HB 505 creates a new class of license, a connoisseur license, for persons wishing to purchase beer or wine via direct shipment from producers. The importation for personal consumption is limited to beer and wine. Direct purchase and shipment of other alcoholic beverages will be prohibited. This bill is modeled on provisions that have been law in Montana since 2001.

Prepared by: <u>Douglas B. Griffin, Director</u>	Phone <u>269-0351</u>
Division: <u>ABC Board</u>	Date/Time <u>2/27/04 9:58 AM</u>
Approved by: <u>Commissioner William Tandeske</u>	Date <u>2/27/2004</u>
Agency: <u>Department of Public Safety</u>	

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB 505-DPS-ABC-2-27-04

ANALYSIS CONTINUATION

The cost of a connoisseur license for a two-year period would be \$100 for either beer or wine or \$200 for both. It is difficult to predict how many licenses of this type will be purchased. Only 17 connoisseur licenses have been purchased in Montana in the last two years. For purposes of this fiscal note, ten \$100 licenses are projected to be issued for FY 2005 and FY 2006, renewals plus five additional new licenses for FY 2007 and FY 2008, and renewals plus five additional new licenses in FY 2009 and FY 2010.

Sec. 3 of the bill requires breweries and wineries shipping to persons with a connoisseur license to register with the ABC Board. Wineries and breweries are limited to 60 cases of product in a calendar year. Violation of direct shipping provisions contained in this bill constitutes a class C felony.

Data is not available to determine the amount of alcohol being shipped directly to individuals and the number of breweries or wineries involved in Alaska sales. The fiscal note assumes enforcement and licensing efforts will take place only to the extent current staffing priorities allow.

The cost reflected in the contractual line would pay for the printing of "distinctive address labels", registering breweries and wineries shipping to Alaska, preparation and adoption of regulations, and minimal publicity to make Alaskans aware of the need to obtain a connoisseur license in order to legally have beer and wine directly shipped.

THE
FOLLOWING
DOCUMENT(S)
ARE
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ORIGINAL
COPIES



State of Alaska
Department of Public Safety
Alcoholic Beverage Control Board

Frank H. Murkowski, Governor
William Tandeske, Commissioner

March 3, 2004

Representative Tom Anderson, Chairman
House Labor and Commerce Committee
Alaska House of Representatives
State Capitol
Juneau, Alaska 99801-1182

RE: HB 505—Direct Shipment of Wine/Alcohol to Dry Communities

Dear Representative ^{Tom}Anderson:

The testimony and discussion at the hearing on HB 505 before your committee was interesting and covered many topics related to alcohol regulation and access to alcohol products in Alaska. The subject of direct shipment from out-of-state wineries to communities that have voted by local option to ban importation and possession of alcohol was raised and, due to time constraints, I was unable to respond. This is a very important point. I believe the House Labor and Commerce Committee needs to understand the role the Alcoholic Beverage Control Board plays in advising persons wishing to ship to Alaskan consumers.

It is impossible for me to categorically state that no winery, brewery, or distiller has ever directly shipped to a person living in a local option city or established village that bans importation and possession, but available evidence would lead me to believe it is a rare occurrence. The ABC Board has never been advised of a seizure of direct shipments from manufacturers to "dry" communities by the Alaska State Troopers, Village Public Safety Officers, or municipal police. With the variety of state laws regarding direct shipment, wineries are very careful regarding sales directly to consumers. When the ABC Board is contacted regarding direct shipment laws in Alaska, our staff always advises these producers of the existence of many small communities in Alaska where importation and possession of alcohol is illegal. ABC Board staff then refers these businesses to our web site where a current listing of local option communities is posted. Wineries generally appreciate the information we give them about this unique local control aspect of Alaska liquor law and I am sure they use this knowledge to prevent problems.

I hope this additional information proves useful to you and your Committee members. I would happy to respond to questions you may have about this matter or other regulatory issues pertaining to HB 505.

Sincerely,

Handwritten signature of Douglas B. Griffin in cursive.

Douglas B. Griffin
Director

cc: William Tandeske, Commissioner, Department of Public Safety
Lee Ann Lucas, Special Assistant, Department of Public Safety

Alcoholic Beverage Control Board
5848 E. Tudor Road - Anchorage, AK 99507 - Voice (907) 269-0350 - Fax (907) 272-5412

Subject: HB 505 - Alcohol Licensing

Date: Sat, 21 Feb 2004 17:06:54 -0900

From: Lee Ann Lucas <lee_lucas@dps.state.ak.us>

To: Josh Applebee <josh_applebee@legis.state.ak.us>

CC: Robyn Ramos <robyn_ramos@dps.state.ak.us>, Douglas B Griffin <doug_griffin@dps.state.ak.us>

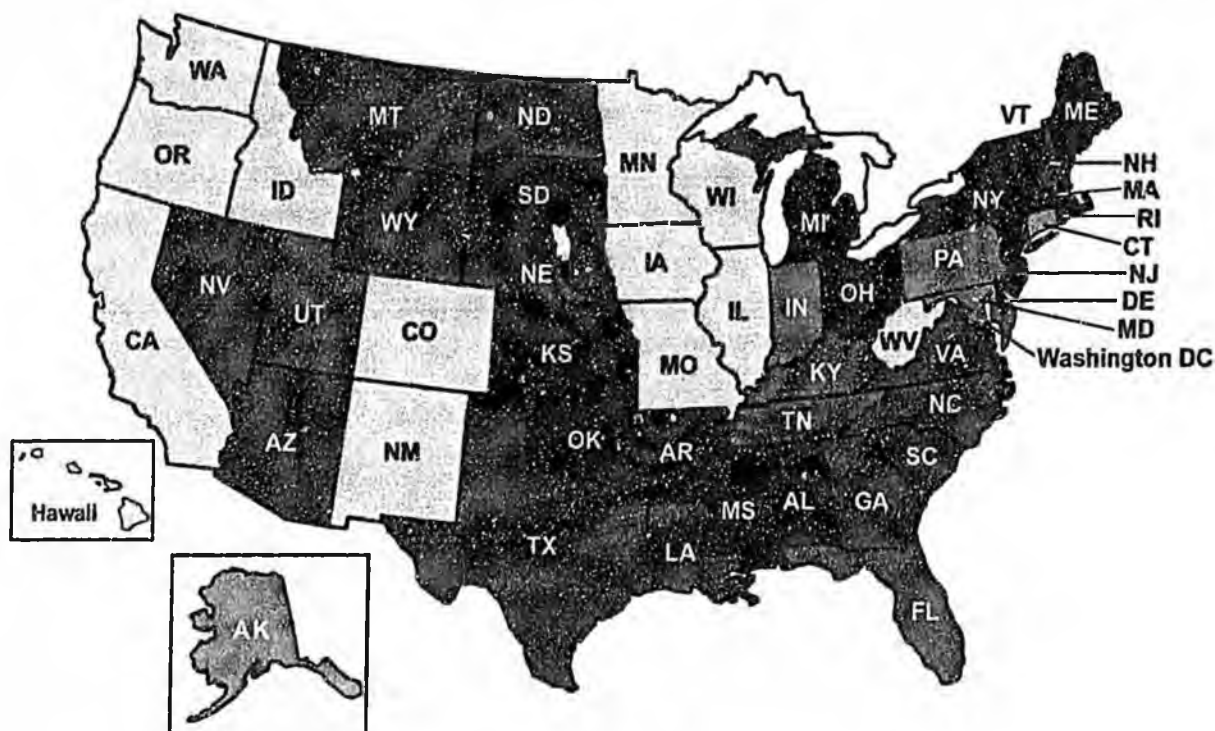
Josh -

HB 505 is up Friday 2/27 in (H)L&C - am requesting Doug Griffin, ABC Board be available for questions off-net , his # is 269-0351. Please advise and I will provide him with the bridge # to participate.

Thanks, Lee Ann Lucas

Direct Shipment Laws by State for Wineries
(As of October 2003)

Contact: Wine Institute
www.wineinstitute.org
(415) 512-0151



Reciprocity state:

California
Colorado (on site visit required)
Hawaii
Idaho
Illinois
Iowa
Minnesota
Missouri
New Mexico
Oregon
Washington
Wisconsin (report required)
West Virginia

Attorneys general interpretation or regulatory allowance of limited shipments:

Alaska (a reasonable amount)
Connecticut (consumer must get permit)
Washington D.C. (one quart per person)

Felony for wineries or retailers to direct ship:

Florida
Georgia (except in compliance with limited direct provision)
Kentucky
Maryland (except in compliance with special order below)
Tennessee
Utah

Special order states (via three-tier system):

Maryland
Pennsylvania

Limited direct shipping & permit states:

Arizona (on-site only)
Georgia (permit required and taxes paid except for on-site sales; also see felony listing)
Louisiana (permit required - taxes paid)
Montana (consumer permit required)
Nebraska (permit required and taxes paid as of 9/1/01)
Nevada (taxes paid - permit over 2,000 cases)
New Hampshire (permit required - taxes paid)
North Carolina (permit required - taxes paid)
North Dakota (permit required and taxes paid as of 8/1/01)
South Carolina (permit required)
Rhode Island (on-site sales only)
Texas (permitted areas only)
Virginia (permit required - report required)
Wyoming (permit required - taxes paid)

Felony for non-basic permit holders to direct ship:

Indiana

Direct shipments via common carrier prohibited:

Alabama	Mississippi
Arkansas	New Jersey
Delaware	New York
Kansas	Ohio
Maine	Oklahoma
Massachusetts	South Dakota
Michigan	Vermont

HOUSE LABOR &
COMMERCE

COMMITTEE
PACKET
Index

February 27, 2004

1

HB 505

*Alcohol Licensing:
Connoisseur License*

2

HB 453

Joint Action Agencies

Alaska State Legislature

Session: (Jan-May)
State Capitol, Room 208
Juneau, AK 99801-1182
(907) 465-3777
Fax (907) 465-2819



Interim: (June-Dec)
716 West 4th Avenue, Suite 600
Anchorage, AK 99501-2133
(907) 269-0155
(907) 269-0154 Fax

Pete Kott
Speaker of the House

Sponsor Statement

HB 505

"An Act relating to importing beer or wine for personal consumption and a liquor license for that purpose, and to taxes on beer or wine imported for personal consumption."

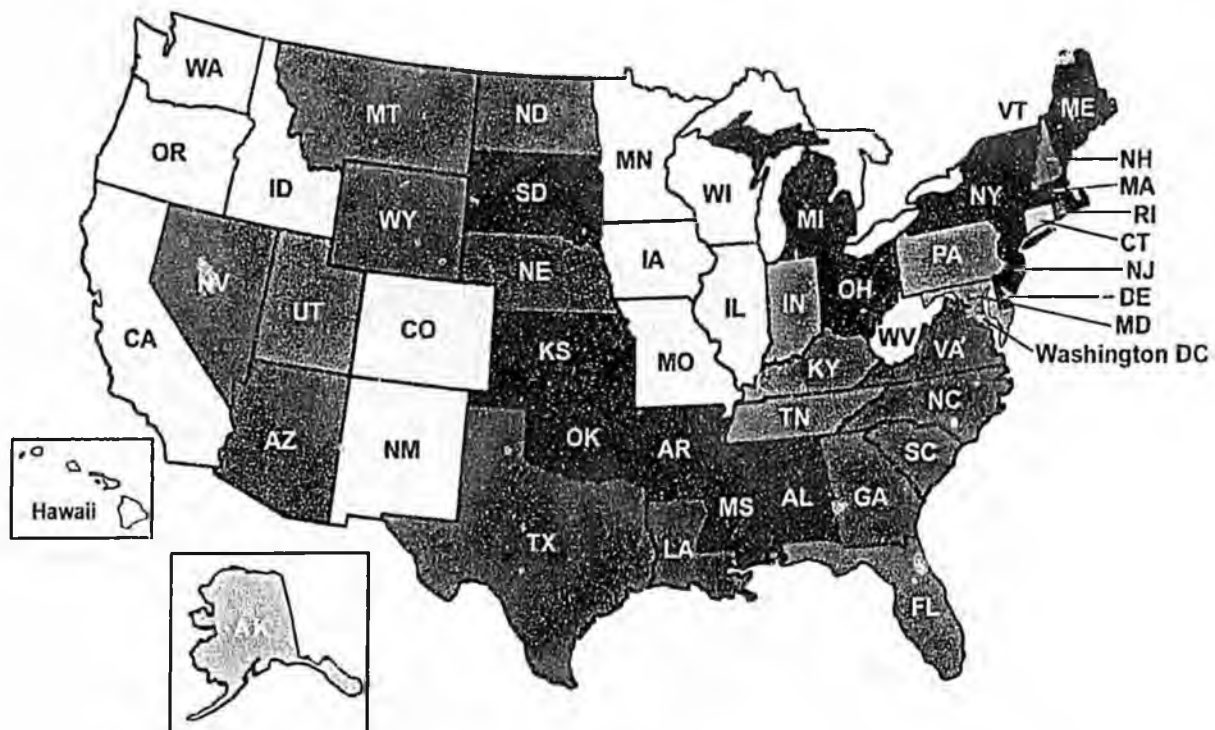
The 21st Amendment to the United States Constitution grants to states the authority to regulate taxation, distribution and sale of alcoholic beverages. The key provision in the 21st Amendment reads as follows: "The transportation of importation into any State, Territory, or possession of the United States for the delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited."

The vast majority of states require consumers to purchase alcoholic beverages from retailers licensed by the state. This type of system for the distribution and marketing of alcohol is called the "three tier" system. The "three tier" system is the system that the State of Alaska adopted at statehood and has operated successfully in the state for nearly one-half century. However, technology, primarily in the form of direct purchasing of alcohol over the Internet, threatens the "three tier" system in Alaska. It is estimated that more than \$1 billion in alcohol sales is illegally shipped to consumers in the United States, avoiding state taxation and state laws, which prohibit the sale of alcohol to minors.

HB 505 was introduced to establish a statutory framework for control of alcohol sales over the Internet while we still have time to avoid problems, which have occurred in the lower 48 states.

Direct Shipment Laws by State for Wineries
(As of October 2003)

Contact: Wine Institute
www.wineinstitute.org
(415) 512-0151



Reciprocity state:

- California
- Colorado (on site visit required)
- Hawaii
- Idaho
- Illinois
- Iowa
- Minnesota
- Missouri
- New Mexico
- Oregon
- Washington
- Wisconsin (report required)
- West Virginia

Attorneys general interpretation or regulatory allowance of limited shipments:

- Alaska (a reasonable amount)
- Connecticut (consumer must get permit)
- Washington D.C. (one quart per person)

Felony for wineries or retailers to direct ship:

- Florida
- Georgia (except in compliance with limited direct provision)
- Kentucky
- Maryland (except in compliance with special order below)
- Tennessee
- Utah

Special order states (via three-tier system):

- Maryland
- Pennsylvania

Limited direct shipping & permit states:

- Arizona (on-site only)
- Georgia (permit required and taxes paid except for on-site sales; also see felony listing)
- Louisiana (permit required - taxes paid)
- Montana (consumer permit required)
- Nebraska (permit required and taxes paid as of 9/1/01)
- Nevada (taxes paid - permit over 2,000 cases)
- New Hampshire (permit required - taxes paid)
- North Carolina (permit required - taxes paid)
- North Dakota (permit required and taxes paid as of 8/1/01)
- South Carolina (permit required)
- Rhode Island (on-site sales only)
- Texas (permitted areas only)
- Virginia (permit required - report required)
- Wyoming (permit required - taxes paid)

Felony for non-basic permit holders to direct ship:

- Indiana

Direct shipments via common carrier prohibited:

- | | |
|---------------|--------------|
| Alabama | Mississippi |
| Arkansas | New Jersey |
| Delaware | New York |
| Kansas | Ohio |
| Maine | Oklahoma |
| Massachusetts | South Dakota |
| Michigan | Vermont |

HB

509

Alaska State Legislature

Session: (Jan-May)
State Capitol, Room 208
Juneau, AK 99801-1182
(907) 465-3777
Fax (907) 465-2819



Interim: (June-Dec)
716 West 4th Avenue, Suite 600
Anchorage, AK 99501-2133
(907) 269-0155
(907) 269-0154 Fax

Pete Kott
Speaker of the House

Sponsor Statement

HB 509

"An Act relating to establishing the Alaska Gaming Commission."

House Bill 509 establishes the Alaska Gaming Commission in statute. The Alaska Gaming Commission will regulate all forms of gaming activity in Alaska. This includes current forms, and additional forms that may be authorized by the legislature under AS 15.15.100.

Gaming activity currently allowed in AS 05.15.100 includes bingo, raffles, lotteries, pull-tab games, "classics", fish derbies and contests of skill. If, sometime in the future, additional forms of gaming become legal in Alaska, it will be critical that appropriate regulatory oversight be in place.

The goal of HB 509 is to put the regulatory framework in place by establishing the Alaska Gaming Commission within the Department of Revenue. This bill establishes parameters for a seven-member commission appointed by the governor and confirmed by the legislature. The bill clearly specifies commission make-up, qualifications for commissioners, meeting times, and powers and duties.

HB 509 makes it clear that the commission may not authorize a charitable gaming activity unless that activity is authorized under AS 05.15. This bill only gives the commission tools necessary to administer gaming once the legislature and governor adopt activity into law.

We respectfully request the committee consider to HB 509 and passes it from committee.



Alaska Native Brotherhood Camp 2

February 23, 2004

Representative Tom Anderson
And Representative Carl Gatto
House of Representatives
Labor & Commerce Committee
State Capitol
Juneau, AK 99801

Dear Representatives:

The establishment of the Alaska Gaming Commission is a vehicle that is welcome and has been needed for a long time. The House Bill 509 establishing the commission brings a few things to light that concerns the Alaska Native Brotherhood Camp #2.

1. (page 1, line 3) "(c) If the board receives notice from the Alaska Gaming Commission [DEPARTMENT OF REVENUE] that a licensee or permittee has violated a provision of AS 05.15 related to gambling, the board (1) may suspend the license or permit; and ..."

This concerns us because of the potential dual power and potential conflicts of authority management by the state of Alaska, under title AS 04.

2. (page 2, line 8) "The commission consists of seven members appointed by the governor, subject to confirmation by the legislature. One member shall be appointed from each of the four judicial districts of the state. Three members shall be at-large members. Not more than four of the seven members may be members of the same political party...."

This concerns us because four people from the same party could ultimately control the commission.

3. (page 2, line 21) "(e) A person may not serve as a member of the commission if that person... (2) holds a license, permit, or registration under AS 05.15..."

For years we have advocated that a commission should be established with at least two members from the industry on the commission. We feel that the commission would be improved by inclusion of industry members because of their experience and knowledge of gaming in Alaska.

4. (page 2, line 31) '(g) Four members of the commission constitute a quorum for the transaction of business.'

We would recommend a **five** member quorum.

5. (page 5, line 1) "The director shall ... (3) contract with agents and contractors to engage in or conduct or operate gaming activities."

It appears that the executive director could enter into contracts without the commissions approval. We feel the director should only be able to enter into contracts approved by the commission.

We appreciate this opportunity to provide testimony. We look forward to working closely with you and your staff.

Sincerely,
ALASKA NATIVE BROTHERHOOD CAMP #2



Bob Loescher
Chairman, Legislative Committee

Cc: Andrew Ebona, President, ANB Camp #2
Don Kubley

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 509
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Alaska Gaming Commission RDU Revenue Programs & Services
Component Tax Division
Sponsor Representative Kott
Requester House Labor & Commerce Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	616.0	616.0	616.0	616.0	616.0	616.0
Travel	39.0	39.0	39.0	39.0	39.0	39.0
Contractual	35.8	35.8	35.8	35.8	35.8	35.8
Supplies	8.0	8.0	8.0	8.0	8.0	8.0
Equipment	8.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	707.3	698.8	698.8	698.8	698.8	698.8

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

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	159.0	150.5	150.5	150.5	150.5	150.5
1005 GF/Program Receipts	548.3	548.3	548.3	548.3	548.3	548.3
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	707.3	698.8	698.8	698.8	698.8	698.8

Estimate of any current year (FY2004) cost: 0.0

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

POSITIONS

Full-time	8	8	8	8	8	8
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Larry Meyers Phone 269-6620
Division Tax Division Date/Time 2/23/04 2:03 PM
Approved by: _____ Date 2/23/2004
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB 509

ANALYSIS CONTINUATION

The proposed legislation provides for the transfer of the current charitable gaming program to a newly formed Alaska Gaming Commission in the Department of Revenue. The Gaming Commission consists of seven members appointed by the governor. The commissioners do not receive a salary but they are required to meet quarterly and receive per diem and travel expenses. The Commission is required to hire an executive director to oversee the program.

The fiscal note identifies the costs associated with administering the current charitable gaming unit, plus the costs associated with the Commission and the hiring of an executive director. Funding for the current charitable gaming unit falls within the Tax Division and consists of \$548.3 of General Fund Program Receipts reflected in this note and is contained in the Governor's FY 2005 Budget. It is anticipated that these funds will be made available to the Alaska Gaming Commission to administer the program.

The legislation creates a state gaming fund in the general fund. It also requires that the commission shall have an audit of the books and accounts of the commission performed at least once a year by certified public accountants. The charitable gaming unit has not had this audit requirement in the past and it is estimated that the cost will be \$25,000 and are reflected in contractual.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 509
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Alaska Gaming Commission RDU Revenue Programs & Services
 Component Tax Division
 Sponsor Representative Kott
 Requester House Labor & Commerce Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

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

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

CHANGE IN REVENUES ()	**	**	**	**	**	**
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

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

POSITIONS

Full-time	**	**	**	**	**	**
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

** Please see attached cost and revenue discussion.

Prepared by: Larry Meyers
 Division: Tax Division
 Approved by: Steve Porter, Deputy Commissioner
 Agency: Department of Revenue

Phone 269-6620
 Date/Time 2/20/04 8:06 AM
 Date 2/20/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB 509

ANALYSIS CONTINUATION

We cannot provide credible estimates of costs or revenues without information on the number and types of games and the associated regulations. For example, if this bill becomes law, the Legislature could choose games in any of the following categories:

- (1) Instant -- winner is revealed when a flap is removed or the latex is scratched off of a card (e.g., instant tickets and pull-tabs).
- (2) Online Games -- selection of a number of digits out of a field of numbers and played through a network of computer terminals located at retail locations (e.g., Powerball, Mega Millions, Tri-State & others).
- (3) Electronic Gaming -- games played on a video screen (e.g., video poker, keno, blackjack, spinning games & others).

If any of these games, or other games not shown above, are chosen by the legislature, the Gaming Commission would then select which of these choices would be "appropriate" gaming activities for the state.

An Example of Revenue and Expenses for Alaska Using South Dakota

The following example is an estimate of lottery revenue for Alaska, if this legislation was passed and the newly authorized Gaming Commission chose the same type and number of games and associated regulations as South Dakota. The following are some reasons why South Dakota is a good choice as a proxy for a lottery in Alaska:

- (1) South Dakota has a small population (764,309 in South Dakota versus 648,818 in Alaska).
- (2) Unlike states such as Vermont, New Hampshire, Rhode Island or Delaware, South Dakota has a relatively low population density and is surrounded by states with relatively low population densities.
- (3) The South Dakota lottery includes a large variety of types of games including electronic gaming.
- (4) Total personal income in South Dakota is almost equivalent to Alaska's total personal income (\$20.3 billion in South Dakota versus \$20.5 billion in Alaska).

Online Games and Instant Tickets

South Dakota has a number of online games such as Powerball and sells instant tickets. Total net proceeds in FY 2002 for online games and instant tickets was over \$6 million. However, if we adjust for the ratio of adults in Alaska versus South Dakota (.8) and adjust for differences in average pay between the states (1.4), then the comparable net proceeds in Alaska would be about \$3 million.

Electronic Gaming

South Dakota allows ten electronic gaming machines per qualifying establishment, restricts play to adults 21 years or older, requires vendors to buy the machines and requires vendors to pay 50 percent of after-prize income to the state. Total lottery after-prize income for electronic gaming in South Dakota was approximately \$104 million in FY 2002. Because these machines are expensive (around \$10,000 each), it does take time for a mature electronic gaming market to develop (usually around five years). If we adjust for differences in the population of individuals 21 years or older, then we estimate that the comparable after-prize income in Alaska would be \$30 million in the first year after implementation and \$80 million within five years.

Substitution with Charitable Gaming

A final consideration is the effect on charitable gaming receipts of a change in the gaming mix. Five years after the introduction of electronic gaming machines in Louisiana, their charitable gaming gross receipts dropped from \$400 million to \$210 million, or by almost 50 percent. In Saskatchewan, pull-tab receipts dropped from \$124 million to \$45 million after introduction of electronic gaming machines, or by almost 60 percent.

23-LS1768U
Luckhaupt
2/23/04

CS FOR HOUSE BILL NO. 509()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE KOTT

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to establishing the Alaska Gaming Commission."

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

3 * Section 1. AS 04.11.370(c) is amended to read:

4 (c) If the board receives notice from the Alaska Gaming Commission
5 [DEPARTMENT OF REVENUE] that a licensee or permittee has violated a provision
6 of AS 05.15 related to gambling, the board

7 (1) may suspend the license or permit; and

8 (2) shall suspend the license or permit for a period of at least 30 days if
9 the offense is the person's second or subsequent violation of AS 05.15 related to
10 gambling.

11 * Sec. 2. AS 05.15.010 is amended to read:

12 Sec. 05.15.010. Alaska Gaming Commission [DEPARTMENT OF
13 REVENUE] to administer chapter. The Alaska Gaming Commission in the
14 Department of Revenue shall administer this chapter.

15 * Sec. 3. AS 05.15.690 is amended by adding a new paragraph to read:

1 (46) "commission" means the Alaska Gaming Commission.

2 * Sec. 4. AS 05 is amended by adding a new chapter to read:

3 **Chapter 18. Alaska Gaming Commission.**

4 **Article 1. Administration.**

5 **Sec. 05.18.010. Creation of commission.** (a) The Alaska Gaming
6 Commission is established for the purposes of generating revenue for the state and
7 regulating gaming activities in the state. The commission is established in the
8 Department of Revenue. The commission consists of seven members appointed by the
9 governor, subject to confirmation by the legislature. One member shall be appointed
10 from each of the four judicial districts of the state. Three members shall be at-large
11 members. Not more than four of the seven members may be members of the same
12 political party. Three members of the commission must be involved in charitable
13 gaming in this state, one of whom must be a representative from a permittee holding a
14 permit under AS 05.15 for bingo, one of whom must be a representative from a
15 permittee holding a permit under AS 05.15 for pull-tabs, and one of whom must be a
16 representative from a permittee holding a permit under AS 05.15 for a charitable
17 gaming activity other than bingo or pull-tabs. The members of the commission shall
18 elect one member to serve as chair of the commission.

19 (b) Members serve staggered terms of three years. A member may be
20 reappointed but may not serve for more than six years.

21 (c) A member of the commission does not receive a salary for service on the
22 commission but is entitled to per diem and travel expenses authorized for members of
23 boards and commissions under AS 39.20.180.

24 (d) A member of the commission may not have a pecuniary interest in a
25 contract or agreement entered into by the commission.

26 (e) A person may not serve as a member of the commission if that person

27 (1) has been convicted of

28 (A) a felony; or

29 (B) an offense under this chapter, AS 11.66.200 - 11.66.280, or a
30 comparable provision of municipal, state, or federal law; or

31 (2) is an elected official of the state or of a political subdivision of the

1 state.

2 (f) A person may not serve as a member of the commission until the
3 investigation required under AS 18.65.080(b) is completed.

4 (g) Four members of the commission constitute a quorum for the transaction of
5 business.

6 (h) The governor may remove a member for cause, including incompetence,
7 neglect of duty, or misconduct in office. A member being removed for cause shall be
8 given a copy of the charges and afforded an opportunity to publicly present a defense in
9 person or by counsel upon not less than 10 days' notice. If a member is removed for
10 cause, the governor shall file with the lieutenant governor a complete statement of all
11 charges made against the member and the governor's findings based on the charges,
12 together with a complete record of the proceedings.

13 (i) The governor may immediately suspend a member for a violation of law or
14 for misconduct in office pending removal from office under (a) of this section.

15 **Sec. 05.18.020. Meetings.** (a) The commission shall meet at least quarterly at
16 the call of the chair, at the request of a majority of the members, or at a regularly
17 scheduled time set by the commission.

18 (b) An action of the commission is not binding unless taken at a meeting
19 where four or more of the members are present and vote in favor of the action.

20 **Sec. 05.18.030. Duties and powers of commission.** (a) The commission
21 shall

22 (1) enter into contracts and agreements necessary to carry out the
23 provisions of this chapter;

24 (2) adopt regulations necessary to carry out the provisions of this
25 chapter;

26 (3) administer, regulate, and enforce the charitable gaming laws under
27 AS 05.15;

28 (4) recommend policy direction for the operation and administration of
29 gaming activities in Alaska;

30 (5) report to the governor and the legislature each quarter on the
31 gaming activities authorized and on the total revenue, prize disbursement, and other

1 expenses for the preceding quarter;

2 (6) report to the governor and the legislature each year on authorized
3 gaming activities, including a full and complete statement of revenue, prize
4 disbursement, and other expenses, and recommendations for changes in this chapter;

5 (7) report to the governor and the legislature as frequently as the
6 commission determines necessary on conclusions from the analysis of the reaction of
7 state residents to gaming activities, and on matters that require changes in the law to
8 prevent violations or evasions of this chapter or to correct undesirable conditions in
9 connection with the operation or administration of gaming activities;

10 (8) monitor the operation of gaming throughout the state; and

11 (9) study and investigate the operation and administration of gaming
12 laws of other states and of federal laws that affect gaming activities.

13 (b) The commission may participate with other states in multi-state gaming
14 activities if permitted by the legislature.

15 **Sec. 05.18.040. Regulations.** The commission shall adopt regulations under
16 AS 44.62 (Administrative Procedure Act) to establish

17 (1) the types of gaming activities to be conducted;

18 (2) the places and locations where gaming activities may be conducted;

19 and

20 (3) all matters necessary or desirable to carry out this chapter and
21 AS 05.15, to operate gaming activities efficiently and economically, and to make the
22 participation in gaming activities and the distribution of prizes convenient.

23 **Sec. 05.18.050. Executive director and employees.** (a) The commission
24 shall employ an executive director who is qualified by training and experience to
25 conduct the day-to-day work of the commission. The director may not engage in
26 another profession or occupation.

27 (b) Subject to the approval of the commission, the director may appoint
28 deputies required to carry out the functions and duties of the commission. The
29 director may appoint professional, technical, and clerical employees necessary to
30 perform the duties of the commission.

31 (c) The director and other employees of the commission are in the exempt

1 service under AS 39.25.110.

2 (d) The commission may not employ a person who has been convicted,
3 including conviction based on a guilty plea or plea of nolo contendere, of an offense
4 that disqualifies a person from being a member of the commission.

5 **Sec. 05.18.060. Duties of director.** The director shall

- 6 (1) supervise the operation and administration of gaming activities;
7 (2) act as secretary to the commission;
8 (3) contract with agents and contractors to engage in or conduct or
9 operate gaming activities;
10 (4) meet at least quarterly with the commission on the operation and
11 administration of gaming activities;
12 (5) make available for inspection by the commission, upon request, all
13 books, records, files, and other information and documents of the commission;
14 (6) advise the commission and make recommendations to improve the
15 operation and administration of gaming in the state;
16 (7) suspend or revoke a contract issued under this chapter for a
17 violation of this chapter or the regulations adopted under this chapter;
18 (8) subject to the approval of the commission, enter into contracts for
19 the operation and administration of gaming activities, except that agent contracts are
20 not subject to the approval of the commission;
21 (9) provide each month to the commission a full and complete
22 statement of the revenue, prize disbursements, and other expenses for the preceding
23 month; and
24 (10) administer and enforce the charitable gaming laws in AS 05.15.

25 **Sec. 05.18.070. Subpoenas.** (a) The director or the commission may
26 subpoena witnesses and documents in a matter over which the commission has
27 jurisdiction, control, or supervision. The director or the commission may administer
28 oaths and affirmations to persons whose testimony is required.

29 (b) If a person fails to obey a subpoena, or if a person refuses to answer a
30 relevant question or to exhibit a document when ordered to do so by the director or the
31 commission, the director or the commission may apply to the superior court for an

1 order directing the person to comply with the subpoena or the order. The court may
2 order the person to comply.

3 **Article 2. Gaming Activities.**

4 **Sec. 05.18.100. Gaming activities.** The commission shall authorize the
5 gaming activities that the commission determines to be appropriate if the legislature
6 has authorized those activities to be conducted in the state. The commission may not
7 authorize a charitable gaming activity unless that activity is authorized under
8 AS 05.15.

9 **Article 3. Miscellaneous Provisions.**

10 **Sec. 05.18.300. State gaming fund and appropriations.** There is created in
11 the general fund the state gaming fund. The state gaming fund consists of all revenue
12 received from gaming activities and all other money credited or transferred to the fund
13 from another fund or source.

14 **Sec. 05.18.310. Audit.** The commission shall have an audit of the books and
15 accounts of the commission performed at least once in each year by certified public
16 accountants. The Legislative Budget and Audit Committee shall annually perform
17 post-audits of the commission and report to the legislature. The commission may have
18 special audits performed at any time on its own motion or at the request of the
19 director. The commission shall file a copy of each audit with the commissioner of
20 revenue and the legislature.

21 **Sec. 05.18.320. Prohibited acts.** (a) A person may not

22 (1) knowingly act as an agent or sell a gaming product unless the
23 person has a contract with the commission to be an agent, or is an employee of an
24 agent and sells gaming products or awards gaming prizes under the supervision of the
25 agent;

26 (2) knowingly sell a gaming product at a price greater than that fixed
27 by the commission;

28 (3) knowingly sell or offer to sell a gaming product to a person under
29 21 years of age;

30 (4) knowingly present a counterfeit or altered gaming product for
31 payment or transfer a counterfeit or altered gaming product to another person to

1 present for payment;

2 (5) with intent to defraud, falsely make, alter, forge, utter, pass or
3 counterfeit a gaming product; or

4 (6) impersonate a representative of the commission.

5 (b) A contractor, an agent, the governor, or an officer or employee of the
6 commission may not purchase a gaming product, receive a gaming prize, or participate
7 in a gaming activity.

8 (c) An agent or contractor may not knowingly withhold funds owed to the
9 commission.

10 (d) This section does not prohibit a person from giving a gaming product to
11 another person of any age.

12 (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

13 **Sec. 05.18.330. Assignment of contracts.** A person that enters into a contract
14 under this chapter may not assign the contract without the approval of the commission.

15 **Sec. 05.18.340. Penalty.** A person that violates AS 05.18.320 or 05.18.330 is
16 guilty of a class C felony.

17 **Sec. 05.18.350. Statement of odds.** Each gaming product must indicate the
18 odds of winning a prize in the particular gaming activity represented by the product.

19 **Article 4. General Provisions.**

20 **Sec. 05.18.900. Definitions.** In this chapter, unless the context requires
21 otherwise,

22 (1) "commission" means the Alaska Gaming Commission;

23 (2) "director" means the executive director of the commission;

24 (3) "gaming product" means a ticket, receipt, card, or other item,
25 except a prize, received by a person from an agent or an employee of an agent as
26 evidence of participation in a gaming activity under this chapter;

27 (4) "operation and administration" includes accounting, sales,
28 promotion, and security;

29 (5) "person" has the meaning given in AS 01.10.060 and also includes
30 an estate, receiver, trustee, assignee, referee, or other person acting in a fiduciary or
31 representative capacity, whether appointed by a court or otherwise, and a department,

1 commission, agency, or instrumentality of the state, including a municipality and an
2 agency or instrumentality of a municipality.

3 * Sec. 5. AS 11.66.280(2) is amended to read:

4 (2) "gambling" means that a person stakes or risks something of value
5 upon the outcome of a contest of chance or a future contingent event not under the
6 person's control or influence, upon an agreement or understanding that that person or
7 someone else will receive something of value in the event of a certain outcome;
8 "gambling" does not include

9 (A) bona fide business transactions valid under the law of
10 contracts for the purchase or sale at a future date of securities or commodities
11 and agreements to compensate for loss caused by the happening of chance,
12 including contracts of indemnity or guaranty and life, health, or accident
13 insurance;

14 (B) playing an amusement device that

15 (i) confers only an immediate right of replay not
16 exchangeable for something of value other than the privilege of
17 immediate replay; and

18 (ii) does not contain a method or device by which the
19 privilege of immediate replay may be cancelled or revoked; or

20 (C) an activity authorized by the Alaska Gaming Commission
21 [DEPARTMENT OF REVENUE] under AS 05.15 or AS 05.18;

22 * Sec. 6. AS 18.65.080 is amended by adding a new subsection to read:

23 (b) The Department of Public Safety shall investigate and ascertain whether a
24 person appointed by the governor to serve as a member of the Alaska Gaming
25 Commission has been convicted of a crime set out in AS 05.18.010(e).

26 * Sec. 7. AS 39.25.110(11) is amended to read:

27 (11) the officers and employees of the following boards, commissions,
28 and authorities:

29 (A) [REPEALED

30 (B)] Alaska Permanent Fund Corporation;

31 (B) [(C)] Alaska Industrial Development and Export Authority;

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- (C) [(D)] Alaska Commercial Fisheries Entry Commission;
- (D) [(E)] Alaska Commission on Postsecondary Education;
- (E) [(F)] Alaska Aerospace Development Corporation;
- (F) [(G)] Alaska Natural Gas Development Authority;
- (G) Alaska Gaming Commission;

* Sec. 8. AS 39.50.200(b) is amended by adding a new paragraph to read:

(58) Alaska Gaming Commission (AS 05.18).

* Sec. 9. AS 05.15.690(9) is repealed.

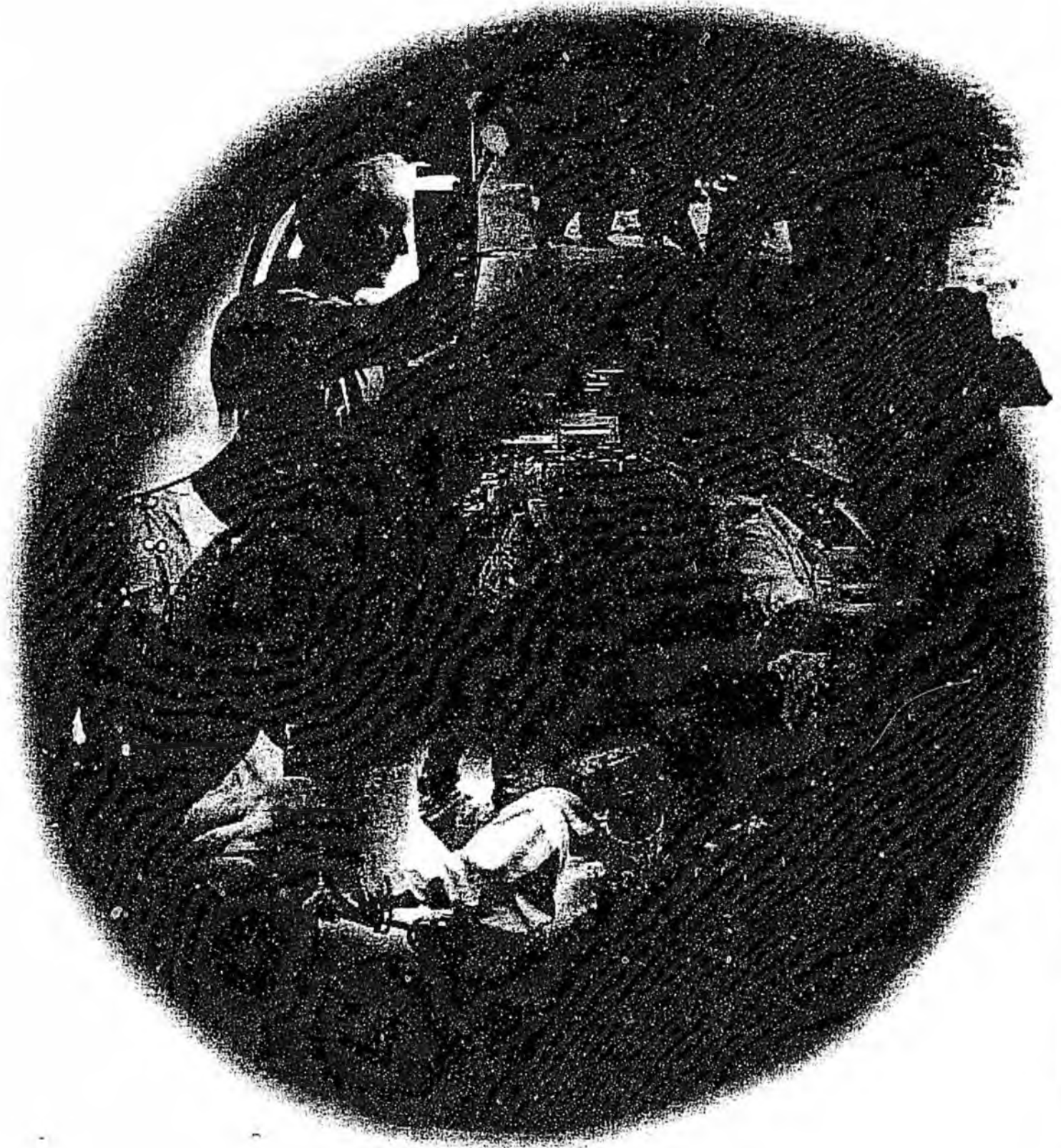
* Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to

10

REVISOR INSTRUCTION. The revisor of statutes is instructed to change references to the "commissioner" and "department" in AS 05.15 to "commission" unless it is clear from the context that "commissioner" refers to a commissioner other than the commissioner of revenue and "department" refers to a department other than the Department of Revenue.

HB

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701 West Eighth Avenue, Suite 300 • Anchorage, Alaska 99501-3469
907.276.6222 • www.state.ak.us/rca

**Testimony to House Labor and Commerce Committee
HB111 Extend Regulatory Commission of Alaska
March 10, 2003**

G. Nanette Thompson, RCA

Good afternoon Chair Anderson and Vice-Chair Lynn, committee members. Thank you for allowing me to testify before your committee today. I want to thank you for so quickly confirming the Governor's two new appointments to the RCA, Dave Harbour and Mark Johnson.

The RCA supports the Governor's bill that will reauthorize the agency for four years. The RCA's mission is to protect consumer interests by ensuring affordable, reliable utility and pipeline services and ensuring that utility and pipeline infrastructure is adequate to support community needs. We have come a long way since the agency was created in 1999, reducing the notorious backlog to a manageable open caseload of several hundred. We hope to be able to spend time focusing on some of the important policy issues facing the markets in transition to competition during the next year.

Every state has a regulatory agency to insure that utility service is available at reasonable prices to its citizens. Regulatory agencies historically were formed to make sure that monopoly providers of utility service did not take advantage of their customers. In markets transitioning to competition, our role is different. We need look no further than the California energy markets for an example of why responsible deregulation is important. The transition from a monopoly to a competitive market does not happen overnight. It is our responsibility to effect the transition that the law directs, and make sure that consumers continue to receive fairly priced services during and after the transition. We strive to strike the appropriate balance between regulatory oversight and open markets by adjusting the level of regulation as markets develop.

Because the telecommunications industry and their lobbyists in your halls have played out the "phone wars", I'll use that industry as an example and try to put some of what you may be hearing from them in perspective.

There is competition in the telecommunications industry because in 1996 Congress said there should be. Congress gave states the responsibility to transition monopoly markets to competition because they recognized that markets varied by state, and national rules would not get the job done. The larger local markets in Alaska are ahead of the rest of the country in the transition to competition. We got a head start because the Bell companies never provided service in Alaska. All other states had to go through the "271 process" to insure that the incumbent carrier's network was open to competitors before the local company could enter the long distance business. We skipped that step, and the three to five years it took most states to complete it, and went directly to arbitrating interconnection agreements. Just after the Telecom Act was passed, GCI filed a petition for interconnection and asked us to set prices for leasing parts of the incumbent's network. The APUC finished that process even before the FCC adopted regulations telling state commissions how to set prices. The APUC's order acknowledged that the

FCC was in the process of setting national pricing rules, and invited either party to ask them to revisit the results after those rules were clear. The RCA is now in the process of doing that for the Anchorage market. This controversy we face about the appropriate level of continued regulation and the best way to set prices, is being played out in almost every state nationwide, and in the courts. In May of last year, the United States Supreme Court upheld the FCC's methodology for setting interconnection prices. The Supreme Court noted that competitors were making significant investments and that the FCC correctly looked at what it would cost for another efficient carrier to replace the incumbent's network with the best available technology, not what the incumbent spent or would spend to rebuild the existing network. (*Verizon v. FCC*, 122 S.Ct.1646, 2002). The RCA has stayed involved in the details of these enormous changes in the telecommunications sector, as it has played out in our markets and across the country.

Our appeal record tells you that we are doing our job well. As an administrative agency, we do not make the law; we apply it. If we are not applying it correctly, parties may appeal to state or federal court and ask them to set us straight. The RCA has issued hundreds of final orders since we started in July 1999. So far, sixteen have been appealed. The agency's decisions have not yet been reversed, although there are several appeals pending. In one case the court remanded a case to us with instructions to hold a hearing before making a decision, but none have reversed a substantive decision. That track record should tell you that we are successfully analyzing the facts presented to us and issuing decisions that are consistent with legal precedents and supported by the facts in the record. We make decisions based on evidence presented through a process designed to insure that all parties' rights are protected.

The RCA does more than settle phone wars. We administer the PCE program. We are reviewing our PCE regulations in response to a resolution from ARECA to improve the reliability of the information we use to administer the program and to increase efficiency amongst the program's beneficiaries. We also review tariff prices for pipelines to insure that those who ship to destinations in Alaska pay just and reasonable rates. We also review costs incurred by providers of monopoly services; water, sewer, electric and gas, to insure that customers pay a fair price for the services they receive. We set rules in other markets that are transitioning to competition, such as refuse in some parts of the state, and long distance statewide. We just finished modifying our regulations to make it easier for long distance carriers that serve only a small part of the market to sell their services to Alaskan consumers.

I offer a few final notes. First, our budget. All of the money used by the RCA comes from utility ratepayer through the Regulatory Cost Charge. We get no general fund monies. Therefore the proposal in the Governor's budget to reduce our staff level by seven and transfer the Public Advocacy Section to the Attorney General's office will not save the state money. The Public Advocacy Section should be independent, and reassigning the function to Department of Law may preserve that independence. It may also, however, compromise the agency's ability to continue to meet the case processing deadlines imposed during the last legislative session. The Governor's Executive Order transferred the public advocacy function, but remained silent on what that section has

spent a significant amount of time doing-investigating filings where there are no other parties. If five of the seven eliminated positions are restored to our budget, we can transfer them to the agency staff and handle the additional workload. Without those positions restored, we are unlikely to be able to continue to process cases within the statutory timelines. Third, the reports. The legislative auditor spent time in our office and is familiar with our mission. I commend the legislative auditor's report to you. The study commissioned by Department of Administration and done by Bearing Point has some helpful background on the telecommunications industry in our state. The recently released Darby report is the work of three individuals, not the seven contemplated by the statute, and did not include any input from the RCA. It cannot be called a comprehensive study of the agency because they never talked to us, or looked at the publicly available information on our website or in our annual report. Many of the recommendations are for actions that we have already begun.

I encourage you to let this agency continue to do its job. Participation in the sunset reauthorization process is time-consuming for the agency and detracts from our ability to handle cases. The legislature has the option any year to redirect our mission. I urge you to reauthorize the agency for four years.

TESTIMONY OF KRISTI CATLIN
HOUSE LABOR AND COMMERCE COMMITTEE
HOUSE BILL 111
MARCH 10, 2003

Good afternoon, Representative Anderson and members of the committee. For the record, my name is Kristi Catlin, Director of Government Affairs for AT&T Alascom, with its main business address at 210 E. Bluff Drive, Anchorage, Alaska, 99501.

Thank you for the opportunity to testify at this hearing. As you know, AT&T Alascom, and before that, Alascom, has a long history of providing telecommunications services to the state of Alaska. In fact, it has the longest history of any interexchange carrier in the state today. It is from those very roots, and having witnessed the broad changes in technology and market shift over the years, that we would like to offer our perspective and respectfully make some requests for the legislature to consider.

We believe that both telecom service providers and policy-makers have a two-fold obligation to the constituents of this state. Those are: ensuring that basic telecom services remain affordable to everyone in the state; and providing a regulatory environment that fosters continued investment in the state telecom infrastructure, thereby ensuring that advanced services will reach to all parts of the state.

In the early days, Alascom was the only long distance carrier in Alaska, and as such, the regulated monopoly. Regulations were put in place to ensure that Alascom did not misuse its monopoly power in pricing its services to consumers. In addition, in 1991, when intrastate long distance competition was initiated, additional regulations were developed to ensure that Alascom did not misuse its monopoly power to subvert competition. At the same time, new entrants to the long distance market were granted broad and significant freedoms. And even though the market was highly competitive in 1995 when AT&T bought Alascom, for the most part, it bought a company regulated as though it were a monopoly. As we all know, the regulations governing utilities with a legal monopoly work in two directions: they protect the consumer from unreasonable prices on one side of the equation, and they ensure a reasonable return for the regulated entity on the other side. Without a reasonable return, companies do not invest and services, therefore, do not advance.

Many of the regulations which restrict AT&T Alascom today are vestiges of that monopolistic environment I spoke of previously. However, in this highly competitive marketplace, they do not serve as an incentive for investment – they only serve to add cost and thereby provide a disincentive for investment. As far as protection of the consumer on prices, we have almost 20 years of empirical evidence in the long distance market in the U.S. to show that competition serves the consumer well. In 1984, when AT&T was first broken up, the average discounted corporate minute was around \$.45. Today, the average discounted corporate minute is under \$.045. That's a whole order of magnitude swing. And yet, during that same time period, the long distance industry went from approximately \$9 -10B to about \$90-110B. It was deregulation of the industry and the management of competition that spurred investment. And in 1995, when AT&T fell below 60% market share in the lower 48, the FCC ceased regulating AT&T as the "dominant carrier" and deemed the market for long distance as "competitive".

And yet, here in Alaska, where AT&T Alascom now has 42% of the long distance business (and shrinking), and our largest competitor, GCI, has 46-48% of the long distance business (and growing), AT&T Alascom is still considered the dominant carrier, despite a four-year attempt to get relief from this regulation at the RCA. This regulation

adds substantially to our cost structure for tracking, journalization, and reporting. It also adds regulatory process that our competitors don't have that keeps us from being competitive in the marketplace. The whole situation really begs a definition for "dominance". Additionally, with the increased costs and inability to compete effectively because of outdated regulations, our ability to attract capital and invest in the network is severely "hamstrung".

I believe that over the next 12-18 months, this state must wrestle with some difficult issues of telecom regulation. At stake is the very survival of an infrastructure that's struggling to keep up with the rest of the country. In a true free market, there is less regulation, not more. And competition, not regulation, becomes the force to shape the market.

I would ask you to carefully and thoughtfully consider the market dynamics at work here, and the definitions of broader market issues such as "dominance" and "competition". I would also ask you to carefully consider your role in mandating an environment that has less regulation, not more, in order to create and maintain incentives to invest in the modern telecommunications infrastructure that all Alaskans desire.

As you consider House Bill 111 reauthorizing the RCA, please know that AT&T Alascom could support legislation which would extend the RCA for another 2-4 years, however, as we stated last year -- only if the RCA is truly committed to bringing about regulatory reform. Status quo is not an option, if you intend to have a healthy, competitive telecom market and infrastructure in Alaska. We have drafted appropriate language to assist the legislature in defining "dominance," and are submitting it for your consideration.

Thank you, once again for this opportunity to present our testimony. I would be happy to answer any questions you might have.

Testimony of Wesley E. Carson
Before the House Labor & Commerce Committee
March 10, 2003

Mr. Chairman and members of the committee, thank you for this opportunity to address you today. My reason for being here is to emphasize the importance of deferring any action to re-authorize the Regulatory Commission of Alaska until the state has articulated a clear set of telecommunications policies to guide the commission.

Although we have long advocated for the development of state policies to guide the RCA, this is of even more critical importance today. On February 20th, the Federal Communications Commission issued its long-awaited rules to revise network unbundling obligations for competition in the local telephone market. In making this decision, the FCC took the unprecedented step of delegating to state commissions broad regulatory discretion that previously was thought only to be exercised by federal authority.

This delegation will allow the RCA to now unilaterally determine whether incumbent local telephone companies, like ACS, must continue to provide elements of their networks to competitive carriers at below-cost prices. As the FCC has failed to provide specific instructions to the states, it is now imperative that the Legislature act to develop appropriate telecommunications policies to guide the RCA in its decision-making going forward.

There are many telecommunications policy issues that require your attention. The Report to the Senate Appointees to the Task Force on Operations of the RCA, submitted on January 30 by Darby Associates, makes some very relevant points, including that regulators need to fashion rules designed to encourage investment; that the RCA should review the adequacy, need and rationale for legacy regulations based on an assumption of incumbent market power; and that it is time to explore a wide range of less regulatory options and find ways to substitute market forces for regulation.

The RCA has clearly demonstrated a propensity for more regulation as the means of promoting competition, rather than allowing market forces to govern. The Darby Report quite correctly concludes that "application of old regulatory models based on market conditions that no longer prevail does a gross disservice to the people of Alaska."

As you may know, Anchorage holds the distinction for being the most competitive local telephone market in the country. Although open to competition for a much shorter period of time, Fairbanks and Juneau are rapidly moving in a similar direction. In all three of these markets, the RCA has unfairly mandated that the competitor be allowed to use the ACS networks at rates that are below cost. The RCA has also taken an activist role in terminating the "rural exemptions" that Congress authorized to ensure that the nation's smaller markets remained viable – even terminating the "rural exemption" in locations as small and costly to serve as Nenana and Seldovia.

The net result of these regulatory actions has been to compromise the Company's ability to attract and commit capital. This is clearly not just an ACS opinion, but rather a fact that is becoming broadly understood.

As you are aware, the State of Alaska contracted with BearingPoint (formerly KPMG Consulting) to produce the "Telecommunications Policy Study and Assessment for the State of Alaska," which was submitted to the Department of Administration in November 2002. The report concluded that local telephone competition which forces incumbent local telephone companies to lease their network to competitors as below-cost pricing "potentially imposes a financial burden on incumbents, and may artificially support competitors at the same time." The RCA, by means of the interconnection terms it imposed on ACS, has done exactly that.

A recent press release by Standard & Poor's addresses the downgrade of ACS as being "based on competitive pressure that has materially weakened ACS's business profile, impaired operating performance, and resulted in credit measures." The press release further explains: "The rating on ACS reflects the company's position as the leading local exchange carrier in Alaska, offset by heavy competition in the local retail access line business due to low regulatory mandated local resale loop rates to the company's local network, a narrow market with limited growth opportunities, and high acquisition and capital spending-related debt levels."

Clearly, we are not alone in our judgment that the RCA has impaired ACS's ability to raise capital. The State must act to assure that the RCA does not destroy the economic viability of Alaska's largest local telephone company, providing the last-mile connection to nearly three out of four of its citizens.

ACS urges the Legislature to move cautiously in your deliberations on the RCA extension and to properly sequence your decisions. In addition to a general review of the RCA's structure and procedures, Alaska's policy-makers must carefully review the Commission's ongoing role in the administration of the Telecommunications Act of 1996. While this was an important consideration at the beginning of the legislative session, it has been magnified considerably by the FCC's decision on February 20. As the RCA goes forward to accept the broad new delegation it has received from the FCC, it should have the benefit of clear policy guidance that is lacking in the FCC's ruling. Once the legislature has provided that guidance, the second matter of reauthorizing the Commission can be decided.

On behalf of Alaska Communications Systems, I thank you, Mr. Chairman and Committee members, for the privilege of addressing you today.



Honorable Tom Anderson, Chair
House Labor and Commerce Committee
Alaska Capital, Room 432
Juneau, AK 99801-1182

March 9, 2003

RE: HB 111 (Governor Murkowski) - Support

Dear Chair Anderson:

On behalf of the AARP members in Alaska, we encourage you and your colleagues on the House Labor and Commerce Committee to support HB 111 submitted by the House Rules Committee at the request of Governor Murkowski.

HB 111 would reauthorize the Regulatory Commission of Alaska for a period of four years. Much of the debate over the RCA in the past has focused on the utilities supervised by the Regulatory Commission of Alaska and the relationship of the RCA with the entities it supervises. AARP relies on the RCA because it offers our members and all Alaskans the best opportunity to achieve basic consumer protections:

- The ability to make informed choices about utility services
- The security of safe and reliable energy and telecommunications services
- The assurance that sales practices and advertisements are fair, so they do not confuse, mislead, or frighten the public
- The reassurance that consumers receive accurate information, communicated clearly and in plain language so we understand our rights and remedies

The RCA assures consumers the right to affordable rates and access to such basic necessary services as utilities and communications. We emphasize "reasonable" rates but we also emphasize access for our rural citizens.

The RCA allows consumers an opportunity to participate in the governmental decision-making process that shapes the marketplace and ensures meaningful consumer input.

When wronged, the RCA offers consumers redress and complaint resolution.

AARP believes the Regulatory Commission of Alaska is necessary for our organization and for our members. Without the RCA, we would be deprived of any public oversight of energy and telecommunications services and, when a complaint is warranted, we would not have the RCA available and willing to listen to a consumer's side of an argument.

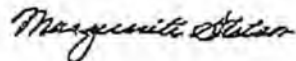
The RCA protects our rights as consumers. We ask that the House Labor and Commerce Committee support Governor Murkowski's bill to reauthorize the RCA for four years. Our AARP families need it. All Alaskans need it.

AARP urges an "AYE" vote on HB 111.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capitol City Task Force; Patrick Luby (907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Thank you for your consideration.

Sincerely,



Marguerite Stetson
AARP Alaska
Executive Council Member for Advocacy
3009 Northwood Street
Anchorage, AK 99517-1871
907.245.5259 voice
907.245.5279 fax
ffmas@aurora.uaf.edu

cc: Governor Frank Murkowski
Vice-Chair Bob Lynn
Representative Nancy Dahlstrom
Representative Carl Gatto
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg
Marie Darlin
Patrick Luby

March 10, 2003

The Honorable Tom Anderson
Chair, Labor and Commerce Committee
House of Representatives
State Capitol, Room 432
Juneau, AK 99801-1182

Dear Representative Anderson:

Chugach is concerned about a recent order from the Regulatory Commission of Alaska. While we are hopeful that some of the most troublesome provisions of the order may be changed during the process of hearing our Petition for Reconsideration, the damage has already been done.

Chugach worked hard to demonstrate its financial strength and stability to national rating agencies and financial markets. Over the past decade we have successfully improved our bond ratings. We were pleased when we achieved "investment grade" ratings a few years ago. Our high bond ratings translate into lower interest rates when it is necessary to finance projects by issuing bonds on the financial markets. This in turn leads to lower costs paid by consumers through utility rates.

Chugach feels strongly that we have a case for reconsideration of the order from the RCA. We are working through the appeal process and are confident things will change for the better; however, a signal about the stability of the utility and investment climate in Alaska has already been sent to the nation's markets and individual investors.

Source documents are attached for your review.

Signed,

Evan J. Griffith, General Manager
Chugach Electric Association, Inc.



ALASKA PERMANENT
CAPITAL MANAGEMENT COMPANY

900 West Fifth Avenue, Suite 601
Anchorage, Alaska 99501

Phone: (907) 272-7575

February 24, 2003

Regulatory Commission of Alaska
1016 W. 6th Ave.
Anchorage, AK 99501-1963

Dear Commissioners;

I have reviewed your Order 26 in the Chugach Electric rate docket (U-01-108) and write to express my concern over the impact of the order on Chugach's bondholders. APCM is a substantial holder of Chugach's bonds for clients and for this reason has a direct fiduciary responsibility to help assure that the rates you set for Chugach are adequate to maintain Chugach's financial health and good bond rating. If Chugach's bond rating were to drop, bondholders would lose value immediately. Additionally, future bond issues would be relatively more costly to Chugach and new issues may be rated below the level presently permitted by some client investment policy. This would compel us to discontinue purchasing and holding Chugach bonds.

Frankly, your Order 26 has me very concerned. I want to stress to you the need to maintain a viable market for Chugach's bonds. To accomplish, this, the utility needs stability in its revenues and must earn solid margins that give comfort to those who may buy those bonds. I urge you to establish rates such as those which have been adequate in the past to allow reliable coverage of debt service and allow modest but steady growth in equity.

I know that your concerns are wider than just those of bondholders but I honestly believe that in the long run, all of the various stakeholders in this matter – including the public – are best served by stability. For this reason I strongly urge that you consider carefully the impacts of this order and revise your ruling as needed to achieve a more moderate result.

I ask that this letter be made a part of the permanent record in this proceeding.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "David Rose", written in a cursive style.

David A. Rose
Chairman and CEO

cc: Respective client files (thirteen)
Michael R. Cunningham, CFO, Chugach Electric

Publication date: 28-Feb-2003
Reprinted from RatingsDirect

Chugach Electric Association, Alaska; Utility, Wholesale Electric

Credit Analyst: Leo Carrillo, San Francisco (1) 415-371-5077; Kathryn Mock Masterson, San Francisco (1) 415-371-5009

Credit Profile

ON CREDITWATCH:NEGATIVE

To:
From:

\$150.000 mil. Chugach Elec Assoc 1st lien
rev bnds ser 2001A dtd 04/17/2001 due
03/15/2011
AAA/A(SPUR)
A

\$120.000 mil. Chugach Elec Assoc new
bnds ser 2002A dtd 02/01/2002 due
02/01/2012
AAA/A(SPUR)
A

\$60.000 mil. Chugach Elec Assoc new
bnds ser 2002B dtd 02/01/2002 due
02/01/2012
AAA/A(SPUR)
A

Rationale

Standard & Poor's Ratings Services has placed its 'A' underlying ratings on Chugach Electric Association, Alaska's revenue bonds on CreditWatch with negative implications. The rating action reflects the expected financial impact on the utility of the latest rate order by the Regulatory Commission of Alaska (RCA). The underlying ratings reflect the credit quality of Chugach's approximately \$394 million in bonds outstanding before the credit enhancement provided by bond insurance. The insured ratings on the bonds remain unaffected by the CreditWatch listing.

The RCA, the agency that sets retail rates charged by Chugach, released a rate order on February 6 that effectively reduces Chugach's revenue requirement by approximately \$6 million in 2003 and requires the utility to refund approximately \$7.1 million to ratepayers for overcollection in 2001 and 2002. If the refunding is charged against the 2002 fiscal year, it is likely the utility would violate in that year the bond covenant requiring margin-for-interest (MFI) coverage of 1.1x. Chugach has petitioned the commission to reconsider its decision, which the RCA has partially granted. A final determination may come as early as the end of March 2003. If a sufficiently favorable order is not forthcoming, a rating downgrade is expected.

Chugach maintains sufficient liquidity to meet the refund obligation required by the latest rate order. Chugach has access to over \$50 million in lines of credit from CoBank and National Rural Utilities Co-op Finance Corp., versus the estimated \$7.1 million in refunds due under Order No. 26, the new rate order. Chugach indicated that it would increase its short-term borrowing in 2003 under these credit facilities to finance its payment obligation.

Use of the credit facilities, however, will increase debt and weaken financial ratios. The utility estimates that the \$6 million reduction in revenue required by Order No. 26 would result in an MFI of 1.08x under current budgeting assumptions. Estimates also indicate that the \$7.1 million in refunds—representing a reduction in revenue of approximately \$1.1 million in 2001 and \$6 million in 2002—would result in an MFI of only 0.92x for 2002. The \$7.1 million reimbursement, while only a small percentage of operating revenues, represents about 23% of operating margins.

In additions to substantially weakening debt service coverage, RCA's rate order signals heightened regulatory and refinancing risks for the utility and may cause Standard & Poor's to apply more stringent guidelines in assessing Chugach's credit quality. Standard & Poor's is finding it increasingly difficult to distinguish the credit characteristics of Chugach, a generation and transmission (G&T) cooperative, from those of investor-owned utilities. Unlike

many G&T cooperatives, Chugach is subject to oversight by a state regulatory agency. The latest RCA rate order indicates that the RCA is willing to overlook the MFI covenant in the mortgage indenture, and suggests that the agency is now less supportive of credit quality than it had been in the past.

In light of the increased regulatory risk, Standard & Poor's is also focusing more closely on Chugach's capital structure and its use of bullet maturities associated with 75% of its debt, which further distinguishes Chugach from other G&Ts. Chugach's heavy reliance on bullet debt is more closely akin—although not fully so—to an investor-owned utility's use of non-amortizing debt. It is Standard & Poor's practice to require higher coverage ratios for utilities whose financial performance need to be measured by coverage of interest-only payments. While Chugach will not need to address the bullet maturities until 2011 and 2012, these two maturities account for approximately 75%, or \$295 million, of Chugach's outstanding principal. Standard & Poor's had previously cited Chugach's coverage of interest as weak for a utility with mostly non-amortizing debt, and that degradation of coverage margins, even by small amounts, could result in lower ratings.

Chugach is an electric cooperative serving two-thirds of the population of Alaska, mainly around Anchorage, the Kenai Peninsula, and, through a member-distribution cooperative, north to Fairbanks. Chugach faces no competition from investor-owned utilities; its only meaningful competition is the municipal utility serving Anchorage, Anchorage Municipal Light & Power.

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CHUGACH ELECTRIC ASSOCIATION, INC

Anchorage, Alaska, United States

Ratings

<u>Category</u>	<u>Moody's Rating</u>
First Mortgage Bonds	A2
Bkd Senior Secured	Aaa

Contacts

<u>Analyst</u>	<u>Phone</u>
Kevin G. Rose/New York	1.212.553.1653
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John Diaz/New York	

Opinion

Rating Rationale

Chugach's Aaa rating on its bonds reflects the insurance policy provided by MBIA Insurance Corporation, providing for the payment of principal and interest when due. The A2 underlying rating for these bonds has come under some pressure recently due to an unsupportive decision by the Regulatory Commission of Alaska (RCA) in the co-op's recently concluded rate case. This rate case outcome is in contrast to largely supportive regulatory treatment provided to Chugach in the recent past. Chugach's standalone credit fundamentals still benefit from its dominance in the Alaskan market, its low-risk operating profile, and generally conservative financial strategies. We also note that although some 30% of Chugach's total revenues come from two customers, these customers have signed either a take and pay or partial requirements contract with the co-op.

We note that although Chugach is a small co-op, it is still the largest power provider in Alaska, serving over two-thirds of the Railbelt and owning a majority of the transmission assets in Southcentral Alaska. Most of the co-op's generating capacity comes from gas-fired plants that are near the wellhead, making fuel costs more affordable. Although certain fuel costs are cyclical, Chugach has typically managed other costs and relied on increases in sales to minimize the need for rate increases. Also, equity levels have been maintained at about 25%, while providing regular returns of capital to members. Lastly, any efforts to establish electric competition in Alaska are effectively at a standstill.

Recent Developments

Chugach's request for a 5.7% rate increase and a change in the rate setting methodology were denied in an order issued by the RCA on 2/6/03. Preliminarily, Chugach estimates revenue refunds required by the rate decision would cause an operating loss of about \$2MM for fiscal 12/31/02, causing a shortfall in meeting the required 1.1 interest coverage under the Rate Covenant in Chugach's bond indenture. Furthermore, Chugach would need to achieve cost savings or otherwise compensate for the rate reduction to restore compliance with the Rate Covenant in 2003. Importantly, noncompliance with the Rate Covenant interest coverage test is not

cause for acceleration of the obligations. Also, we note that on 2/18/03, the RCA agreed to stay some aspects of the order, including any change in rates, pending the outcome of Chugach's planned filing of a motion for reconsideration of the order on or before 2/28/03.

Rating Outlook - Stable

The outlook for the Aaa rating is stable as the bond insurance policy stands behind repayment of the obligations. We will continue to monitor the pressure on Chugach's underlying rating. The extent of relief will depend in part on the degree to which Chugach can be successful in obtaining a more supportive outcome through a planned filing of a motion for reconsideration of the 2/6/03 rate order.

Item 5. Other Events

On February 6, 2003, Chugach Electric Association, Inc. (Chugach) received Order No. 26, "Order Determining Revenue Requirement and Rate Design Issues and Requiring Filings" in Docket U-01-108, "In the Matter of the Tariff Revision, Designated as TA226-8, Filed by CHUGACH ELECTRIC ASSOCIATION, INC., for a Rate Increase and Rate Redesign," from the Regulatory Commission of Alaska (RCA).

Chugach filed a general rate case on July 10, 2001, based on the 2000 test year, requesting a permanent base rate increase of 6.5%, and an interim base rate increase of 4.0%. On September 5, 2001, the RCA granted a 1.6% interim increase effective September 14, 2001. Chugach filed a petition for reconsideration and on October 25, 2001, the RCA revised its Interim Approval to permit Chugach to collect an interim base rate increase of 3.97%. The additional rate increase was implemented on November 1, 2001. The interim rate increase was based on a normalized (adjusted for recurring expenses) test year and a system ratemaking Times Interest Earned Ratio (TIER) of 1.35.

In its filing with the RCA, Chugach proposed that margins be calculated using a rate base/rate of return methodology rather than the TIER methodology previously used. The request to change from the TIER-based methodology to the return-on-rate-base methodology would not have any material adverse effect on future ratemaking or on Chugach's ability to service its outstanding indebtedness.

As anticipated in Chugach's July 2001 original filing, on April 15, 2002, Chugach submitted a filing with the RCA to update certain known and measurable costs and savings that had occurred outside the 2000 Test Year. In the updated filing, Chugach reduced its base rate increase request from 6.5% to 5.7%, or approximately \$0.9 million in the revenue requirement on a system basis. The revised filing also reflected an increase in depreciation expense of approximately \$1.5 million due to the completion of the Beluga Unit 7 re-powering project and a reduction in annualized interest expense of \$2.4 million due to Chugach's recent refinancings. In this revised filing, Chugach continued to request \$11.9 million in margins. As a result of reduced interest costs, Chugach's supplemental filing would have yielded an equivalent system TIER of 1.47.

The RCA hearing on Chugach's proposed rates took place in November and December of 2002, concluding on December 13, 2002. The RCA issued an order dated January 31, 2003, on February 6, 2003.

The Order resolved several issues in Chugach's favor:

- o The RCA rejected intervenor mismanagement allegations regarding re-powering of Beluga Units 6, 7 and Cooper Lake Power Plant (CLPP) overhaul and polychlorinated biphenyl (PCB) remediation.
- o The RCA accepted Chugach's rate lock cost amortization and did not question other refinancing activities.

- o The RCA approved the 1999 depreciation study, in part, and allowed implementation of remaining life depreciation methodology.
- o The RCA approved recovery of rate lock and CLPP remediation expenses.

The Order contains several adjustments not in Chugach's favor:

- o The RCA required Chugach to continue using TIER in calculating return levels.
- o The RCA adjusted Chugach's system overall TIER downwards from 1.35 to 1.30, a difference of approximately \$1.3 million in margins based on the 2000 test year and would have similar impacts in subsequent years. Chugach had requested that its permanent rates in this case be established with an effective TIER of 1.47, or a difference of approximately \$4 million in margins based on the 2000 test year between the now-authorized TIER of 1.30.
- o The RCA required Chugach to treat Allowance for Funds Used During Construction/Interest During Construction (AFUDC / IDC) as a reduction to long-term interest expense, which reduces the revenue requirement by approximately \$1.2 million. With the required AFUDC/IDC adjustment alone, Chugach's effective TIER would be below a 1.30.
- o The RCA required a 1.8 percentage point interest rate reduction (from 3.8% to 2%) on Chugach's \$60.0 million of variable debt, which equates to a revenue requirement reduction of approximately \$1.1 million.
- o Chugach's overall Depreciation Study was approved, although the RCA did require approximately \$0.7 million in downward adjustments, primarily related to Bernice Lake Units 2 - 4 and Chugach's North Submarine Cable field. This reduction in the revenue requirement will match Chugach's reduction in depreciation expense, resulting in a net effect of zero to margins in subsequent years.

Chugach's analysis of the financial impact of the Order is still preliminary. There are several outstanding questions regarding interpretation of the Order that have not yet been clarified. However, based upon this preliminary analysis, the Order would require the following:

- c A refund of revenues collected in 2001 of approximately \$1.1 million and in revenues collected in 2002 of approximately \$6.0 million, which would result in a net operating loss of \$2 million in 2002. Under the Order, Chugach's financial performance for 2002 would fall below the 1.10 level contained in the Rate Covenant in its currently effective indenture. In accordance with the Rate Covenant, Chugach is taking the actions described below to promptly address this margin shortfall.

- o A reduction in estimated 2003 revenues of approximately \$6.0 million. Chugach has calculated, that based on the budgeted revenues and expenditures, under Order 26, Chugach may have insufficient margins over interest in 2003 to comply with the requirements of the Rate Covenant in its bond indenture. Chugach is taking the actions described below to promptly address this margin shortfall.

On February 13, 2003, Chugach filed a Motion with the RCA asking the RCA to stay the effect of its Order until after the RCA considers Chugach's Petition for Reconsideration of Order 26.

On February 18, 2003, the RCA granted in part Chugach's motion for stay. Specifically, the RCA stayed until further order of the RCA Ordering Paragraph 1, of Order U-01-108(26) which states "Chugach's rates will be established on the basis of the 2000 test year revenue requirement recomputed in accordance with our decisions set out in the body of this Order." The RCA also stayed two other obligations until further order of the Commission pertaining to filing tariff sheets and a recalculated Cost of Power Adjustment Base Cost of Power. The RCA also allowed a one-week extension until February 28, 2003 to comply with ordering paragraphs 2 and 3 which require Chugach to recalculate its revenue requirement and cost-of-service studies reflecting the impact of Order U-01-108(26) on Chugach's rates. The RCA also extended the time to file Petitions for Reconsideration of Order U-01-108(26) one week to February 28, 2003. Chugach intends to file the Petition for Reconsideration with the RCA on or before February 28, 2003.

SIGNATURES

Pursuant to the requirements of the Securities and Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: February 19, 2003

CHUGACH ELECTRIC ASSOCIATION, INC.

By: _____
Evan J. Griffith
General Manager

Chugach Electric Association, Inc.

Anchorage, Alaska

March 10, 2003

**RCA Must Consider Financial Health of Alaska Utilities
Chugach Electric Association's finances are impacted by RCA order**

Below are citations from some of Chugach's rating agencies and major bondholders. Full documents are attached for your review. In addition we have provided a copy of Chugach's 8K filing to the Security and Exchange Commission (SEC) and Chugach's Petition For Reconsideration with the Regulatory Commission of Alaska (RCA).

Moody's Investors Service

"The A2 underlying rating for these [Chugach] bonds has come under some pressure recently due to an unsupportive decision by the Regulatory Commission of Alaska (RCA) in the co-op's recently concluded rate case."

"This rate case outcome is in contrast to largely supportive regulatory treatment provided to Chugach in the recent past."

Standard & Poors Rating Services

"Standard & Poors Rating Services has placed its 'A' underlying rating on Chugach Electric Association, Alaska's revenue bonds on CreditWatch with negative implications."

"The rating action reflects the expected financial impact on the utility of the latest rate order by the Regulatory Commission of Alaska (RCA)."

"In additions to substantially weakening debt service coverage, RCA's rate order signals heightened regulatory and refinancing risks for the utility and may cause Standard & Poors to apply more stringent guidelines in assessing Chugach's credit quality."

Alaska Permanent Capital Management Company – (Letter from Dave Rose to RCA)

"I have reviewed your [RCA] Order 26 in the Chugach Electric rate docket (U-01-108) and write to express my concern over the impact of the order on Chugach's bondholders."

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