

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11195 SENATE JUDICIARY

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Arson injury stats

**Subject: Arson injury stats**

**Date: Wed, 21 Jan 2004 14:41:40 -0900**

**From: Jodie Hettrick <jodie\_hettrick@dps.state.ak.us>**

**To: kelly\_nicolello <kelly\_nicolello@dps.state.ak.us>**

Kelly,

We found the following stats -

2001 - 4 injuries - 2 incidents

2002 - 7 injuries - 3 incidents

2003 - 7 injuries - 1 incident (2003 stats are incomplete so far)

Jodie

Community	Full Name	Sex	Race	D.O.B	Age	Date of Fire	Date of Death	Loss Cause	Multi-Victim	Fire Cause	Smoke Detector Installed	Drugs or Alcohol	Occupancy
Upper Kal	Karneroff, M	M	Native American		24	4/19/1975	4/19/1975	Asphyxiation	No	Arson	Not installed	No	Residential home
Anchorage	Whitson, M	M	Caucasian		23	2/5/1976	2/5/1976	Hemorrhage	No	Arson	Not installed	No	Structural, Business
Anchorage	Hiratsuka, F	F	Other		8	12/7/1978	12/7/1978	Carbon Monoxide	No	Arson	Not installed	No	Structural, Business
Anchorage	Smith, M	M	Other		20	1/25/1981	1/25/1981	Asphyxiation	No	Arson	Not installed	Yes	Structural, Business
Northway	Ervin, Leo	M	Native Am	1/15/1959	22	4/10/1984	4/10/1984	Burns	No	Arson	Undetermined	Unknown	Residential home
Nome	Pochopov, F	F	Native Am	1/12/1963	21	9/22/1984	9/22/1984	Asphyxiation	Yes	Arson	Not installed	Yes	Residential home
Nome	Olianna, D	M	Native Am	8/24/1974	10	9/22/1984	9/22/1984	Asphyxiation	Yes	Arson	Not installed	Yes	Residential home
Fairbanks	Silas, Sus	F	Native Am	7/5/1955	29	9/23/1984	10/12/1984	Burns	No	Arson	Not installed	No	Residential home
Fairbanks	Hansen, A	M	Caucasian	9/23/1925	59	2/4/1985	2/5/1985	Burns	No	Arson	Not installed	Yes	Residential home
Atliak	Jackson, M	M	Native Am	6/28/1970	17	6/28/1987	6/28/1987	Burns	No	Arson	Undetermined	Yes	Other
Anchorage	Smith, Jeff	M	Caucasian	5/4/1953	37	1/11/1991	1/11/1991	Asphyxiation	Yes	Arson	Undetermined	Yes	Residential, trailer
Anchorage	Dohman, F	F	Caucasian	5/9/1956	34	1/11/1991	1/11/1991	Asphyxiation	Yes	Arson	Undetermined	Yes	Residential, trailer
Knik Area	DeBeaulieu, M	M	Native American		6	4/11/1996	4/11/1996	Asphyxiation	No	Arson	Not installed	No	Residential, trailer
Anchorage	Alex, Alced	M	Native Am	4/9/1941	55	4/24/1996	4/24/1996	Asphyxiation & Burns	No	Arson	Not installed	Yes	Residential, home
Bear Creek	Ferguson, M	M	Caucasian	9/19/1952	46	11/16/1998	11/16/1998	Asphyxiation	No	Arson	Not installed	Undetermined	Residential, home
Anchorage	Dubose, J	M	Black	3/22/1953	45	12/31/1998	12/31/1998	Burns	No	Arson	Did not operate	Yes	Multi-dwelling structure
Anchorage	Robinson, F	F	Black	1/14/1968	29	12/31/1998	12/31/1998	Burns	No	Arson	Did not operate	Yes	Multi-dwelling structure
Delta Junction	Roll, W	M	Caucasian	1/7/1920	79	3/21/1999	3/21/1999	Asphyxiation	No	Arson/homicide	Undetermined	Yes	Residential, home
Soldotna	Richel, D	F	Caucasian	1/11/1948	51	9/10/1999	9/10/1999	Asphyxiation & Burns	No	Arson	Undetermined	Undetermined	Residential, home
Kenai	Adams, D	M	Caucasian	10/11/1957	41	9/17/1999	9/17/1999	Burns	No	Arson/Suicide	Operated	Yes	Residential, home
Klawock	Williams, M	M	Caucasian	2/11/1997	3	6/10/2000	6/10/2000	Burns	No	Arson	Not installed	Undetermined	Residential, trailer
Wasilla	Wilson, S	M	Caucasian	11/12/1985	15	9/15/2000	9/15/2000	Asphyxiation	No	Arson	Did not operate	No	Multi-dwelling structure
North Pole	Rainer, W	F	Caucasian	7/16/1944	57	10/23/2000	10/23/2000	Asphyxiation	No	Arson	Did not operate	Undetermined	Residential, home

Deaths resulting from arson  
(in Alaska)  
From State Fire Marshall's Office

**HB**

**357**

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 357(JUD)

Page 2, lines 16-19:

Delete all material and insert the following:

“(n) Notwithstanding another provision of law, the court shall accept (1) payments of restitution from a defendant at any time; and (2) prepayments of restitution or payments in anticipation of an order of restitution. If the recipient has elected to have the Department of Law collect the judgment of restitution under AS 12.55.051(g), the court shall forward all payments of restitution to the Department of Law within five days of the court’s acceptance.”

Page 3, lines 3 - 7:

Delete all material and insert the following:

“(f) Notwithstanding another provision of law, the court shall accept (1) payments of restitution from a defendant at any time; and (2) prepayments of restitution or payments in anticipation of an order of restitution. If the recipient has elected to have the Department of Law collect the judgment of restitution under AS 12.55.051(g), the court shall forward all payments of restitution to the Department of Law within five days of the court’s acceptance.”

# **REPRESENTATIVE RALPH SAMUELS**

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HOUSE DISTRICT 29

## **CS HB 357**

### **Sponsor Statement**

#### **“An Act relating to restitution; and providing for an effective date”**

HB 357, if passed, would require judges to order restitution from criminals in *all* cases where a victim has suffered a financial loss.

When financial losses of victims are ignored, or given less priority than the rights of criminals, we cause them to be victimized again. HB 357 would require judges to order restitution in *every* case where a victim has suffered a financial loss. Under present law, a judge may, but is not required, to do so. This change will also ensure that offenders are ordered to make realistic restitution payments to help make the victim whole within a reasonable time. The act of ordering restitution serves as an acknowledgment by the criminal justice system that the victim sustained harm. Prompt and full payment of restitution can help rectify that harm.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 357(JUD)  
 (H) Publish Date: 2/12/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title An Act relating to restitution BRU Legal and Advocacy Services  
 Component Public Defender Agency  
 Sponsor Representative Samuels  
 Requester (H) Judiciary Component No. 1631

**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						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	*	*	*	*	*	*

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill will likely have a fiscal impact on the operations of the Agency, but it is impossible to determine with any accuracy what that impact will be. Requiring restitution in every case with a victim will result in more restitution hearings. Determinations on the amount of mandatory restitution will have to be made at these hearings. More hearings require more work of Agency attorneys, but it is not possible to predict how many cases this new legislation will affect. In addition the requirement that restitution be ordered in a case without consideration of the defendant's inability to pay will result in more petitions to revoke probation being filed and litigated for the failure to pay the ordered restitution, which will also affect the operations of the Agency, since it will increase its assigned caseload of probation revocations. An indeterminate fiscal note is submitted.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416  
 Division Public Defender Agency Date/Time 1/23/04 10:40 a.m.  
 Approved by: Mike Miller, Commissioner Date \_\_\_\_\_  
 Agency Administration

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 357(JUD)  
 (H) Publish Date: 2/12/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title "An Act relating to restitution...." RDU Civil  
 Component Collections and Support  
 Sponsor Representatives Samuels, Stolze, McGuire, Dahlstrom  
 Requester House Judiciary Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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

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

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>

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

**POSITIONS**

POSITIONS	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill amends AS 12.55 by replacing the word "may" with "shall" in the ordering of a defendant to make restitution.  
  
 At this time we are unable to determine whether passage of this legislation will result in significant new restitution orders transferred to the Department of Law. Our fiscal note at this time is indeterminate pending further information from the Court System.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673  
 Division Administrative Services Date/Time 1/23/04 4:33 PM  
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 1/23/2004  
 Agency Department of Law

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FOLLOWING  
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SPECIAL MILLENNIUM EDITION

The  
Constitutions  
of the  
State of Alaska  
and the United States



Lt. Governor Fran Ulmer • January 2001

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8, 1994 - Effective De-

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§ 18. Eminent Domain. Private property shall not be taken or damaged for public use without just compensation.

§ 19. Right to Keep and Bear Arms. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. The individual right to keep and bear arms shall not be denied or infringed by the State or a political subdivision of the State. [Amendment approved November 8, 1994 - Effective December 30, 1994]

§ 20. Quartering Soldiers. No member of the armed forces shall in time of peace be quartered in any house without the consent of the owner or occupant, or in time of war except as prescribed by law. The military shall be in strict subordination to the civil power.

§ 21. Construction. The enumeration of rights in this constitution shall not impair or deny others retained by the people.

§ 22. Right of Privacy. The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section. [Amendment approved August 22, 1972 - Effective October 14, 1972]

§ 23. Resident Preference. This constitution does not prohibit the State from granting preferences, on the basis of Alaska residence, to residents of the State over non-residents to the extent permitted by the Constitution of the United States. [Amendment approved November 8, 1988 - Effective January 4, 1989]

§ 24. Rights of Crime Victims. Crime victims, as defined by law, shall have the following rights as provided by law: the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely disposition of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered; the right to restitution from the accused; and the right to be informed, upon request, of the accused's escape or release from custody before or after conviction or juvenile adjudication. [Amendment approved November 8, 1994 - Effective December 30, 1994]

§ 25. Marriage. To be valid or recognized in this State, a marriage may exist only between one man and one woman. [Amendment approved November 3, 1998 - Effective January 3, 1999.]

*Editor's Note. Article I, Section 25 consists of the first sentence of 1998 Legislative Resolve 71 (20<sup>th</sup> Legislature's HCS CSSJR 42 (RLS)). The second sentence of 1998 Legislative Resolve 71 did not appear on the ballot pursuant to an order of the Supreme Court of the State of Alaska in Bess v. Ulmer, 985 P.2d 979 (Alaska 1999) (Preliminary opinion and order dated September 22, 1998.)*

(4) misdemeanor for which a sentence of incarceration may not be imposed, a violation or an infraction under state law, or a violation of a municipal ordinance imposing a penalty authorized by AS 29.25.070(a) if a sentence of incarceration may not be imposed for the ordinance violation, shall be assessed a surcharge of \$10 if the fine or bail forfeiture amount for the offense is \$30 or more.

(b) A court may not fail to impose the surcharge required under this section. The surcharge may not be waived, deferred, or suspended. A court may allow a defendant who is unable to pay the surcharge required to be imposed under this section to perform community work under AS 12.55.055(c) in lieu of the surcharge.

(c) The surcharge shall be paid within 10 days of imposition or such shorter period of time as ordered by the court. Failure to pay the surcharge is punishable as contempt of court. Proceedings to collect the surcharge may be instituted by the state, the municipality, or by the court on its own motion.

(d) Money collected under this section shall be deposited into the general fund and accounted for under AS 37.05.142. (§ 2 ch 119 SLA 1994; am § 4 ch 56 SLA 1998; am § 1 ch 24 SLA 2000)

**Cross references.** — For legislative findings and purpose in connection with the enactment of this section, see § 1, ch. 119, SLA 1994 in the Temporary and Special Acts.

**Effect of amendments.** — The 1998 amendment, effective August 27, 1998, rewrote subsection (a).

The 2000 amendment, effective July 27, 2000, in

paragraph (a)(4) added "misdemeanor for which a sentence of incarceration may not be imposed, a" at the beginning, inserted "imposing a penalty authorized by AS 29.25.070(a)," and deleted "misdemeanor or" preceding "ordinance violation."

**Effective dates.** — Section 7, ch. 119, SLA 1994 makes this section effective January 1, 1996.

*Sec. 12.55.040. Increased punishment for habitual criminal after conviction of petty larceny or misdemeanor involving fraud. [Repealed, § 21 ch 166 SLA 1978.]*

**Sec. 12.55.045. Restitution.** (a) The court may order a defendant convicted of an offense to make restitution as provided in this section, including restitution to the victim or other person injured by the offense, to a public, private, or private nonprofit organization that has provided or is or will be providing counseling, medical, or shelter services to the victim or other person injured by the offense, or as otherwise authorized by law. In determining the amount and method of payment of restitution, the court shall take into account the

(1) public policy that favors requiring criminals to compensate for damages and injury to their victims; and

(2) financial burden placed on the victim and those who provide services to the victim and other persons injured by the offense as a result of the criminal conduct of the defendant.

(b) An order of restitution under this section does not limit any civil liability of the defendant arising from the defendant's conduct.

(c) If a defendant is sentenced to pay restitution, the court may grant permission for the payment to be made within a specified period of time or in specified installments. If the defendant fails to make one or more payments required under this section, the victim or the state on the victim's behalf may enforce the total amount remaining under the order of restitution as provided in (1) of this section.

(d) In any case, including a case in which the defendant is convicted of a violation of AS 11.46.120 — 11.46.150 and the property is commercial fishing gear as defined in AS 16.43.990, the court shall consider the victim's loss and may order restitution that may include compensation for loss of income.

(e) If a defendant is convicted of vehicle theft in the first degree in violation of AS 11.46.360 or vehicle theft in the second degree in violation of AS 11.46.365(a)(1), and the victim of the offense incurs damage or loss as a result of the offense, the court shall order the defendant to pay restitution.

(f) If a court proposes to order a defendant to pay restitution under this section of more than \$5,000, and the defendant's sentence includes a period of unsuspended incarceration exceeding 90 days, (the court may take into account at the time of sentencing the defendant's present and future ability to pay the restitution proposed.) The court shall presume that the defendant has the ability to pay the amount proposed unless the defendant at the sentencing hearing establishes by clear and convincing evidence the inability to pay the amount proposed.

(g) Except as provided by (f) of this section, the court may not, in ordering the amount of restitution, consider the defendant's ability to pay restitution.

(h) In imposing restitution under this section, the court may require the defendant to make restitution by means other than the payment of money.

(i) An order of restitution made under this section is a condition of the defendant's sentence and, in cases in which the court suspends all or a portion of the defendant's sentence, the order of restitution is a condition of the suspended sentence. If the court suspends imposition of sentence under AS 12.55.085, the order of restitution is a condition of the suspended imposition of sentence.

(j) A defendant who is convicted of an offense for which restitution may be ordered shall submit financial information as ordered by the court. The Alaska Court System shall prepare a form, in consultation with the Department of Law, for the submission of the information; the form must include a warning that submission of incomplete or inaccurate information is punishable as unsworn falsification under AS 11.56.210. A defendant who is convicted of (1) a felony shall submit the form to the probation office within 30 days after conviction, and the probation officer shall attach the form to the presentence report, or (2) a misdemeanor shall file the form with the defendant's response or opposition to the restitution amount. The defendant shall provide a copy of the completed form to the prosecuting authority.

(k) The court, on its own motion or at the request of the prosecuting authority or probation officer, may order a defendant on probation who has been ordered to pay restitution to submit financial information to the court using the form specified in (j) of this section. The defendant shall file the completed form with the court within five days after the court's order. The defendant shall provide a copy of the completed form to the prosecuting authority and the person's probation officer, if any.

(l) An order by the court that the defendant pay restitution is a civil judgment for the amount of the restitution. An order by the court that the defendant pay restitution when the court suspends imposition of sentence under AS 12.55.085 is a civil judgment for the amount of the restitution and remains enforceable and is not discharged when a conviction is set aside under AS 12.55.085. The victim or the state on behalf of the victim may enforce the judgment through any procedure authorized by law for the enforcement of a civil judgment. If the victim enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded. If the state on the victim's behalf enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded, up to a maximum of twice the amount of restitution owing at the time the civil process was initiated. This section does not limit the authority of the court to enforce orders of restitution.

(m) In this section, "conviction" means that the defendant has entered a plea of guilty, guilty but mentally ill, or nolo contendere, or has been found guilty or guilty but mentally ill by a court or jury. (§ 12 ch 166 SLA 1978; am § 38 ch 102 SLA 1980; am § 1 ch 73 SLA 1986; am §§ 1, 2 ch 75 SLA 1988; am § 3 ch 53 SLA 1991; am §§ 3, 4 ch 71 SLA 1992; am § 4 ch 71 SLA 1996; am §§ 3, 4 ch 103 SLA 2000; am §§ 9, 10 ch 92 SLA 2001; am § 1 ch 23 SLA 2002)

**Cross references.** — For restitution as condition of probation, see AS 12.55.100; for requirement that court suspend commercial fishing privileges of certain

defendants, see AS 16.05.710(b); for legislative purpose of the 1992 amendments to this section, see § 1, ch. 71, SLA 1992 in the Temporary and Special Acts;

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HB

367

# Alaska State Legislature

*Session:*  
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Phone: (907) 465-2995  
Fax: (907) 465-6592



*Interim:*  
716 W 4<sup>th</sup> Avenue, Suite 300  
Anchorage, AK 99501-2133  
Phone: (907) 269-0250  
Fax: (907) 269-0249

**Representative Lesil McGuire**  
Chair, Judiciary Committee

## MEMORANDUM

To: Sen. Ralph Seekins, Chair – Senate Judiciary Committee

Cc:

From: Rep. Lesil McGuire

Date: April 30, 2004

Re: Request for hearing for HB 367 – *“An Act relating to the licensing and regulation of adult-oriented businesses”*

---

I have attached a bill packet for HB 367, which passed the House earlier this week by a vote of 36 yeas, 2 nays. This bill has had extensive committee hearings in the House and I would be happy to work with you and your staff to structure a Senate Judiciary Committee hearing to focus on the heart of the legal issues associated with this bill.

I would appreciate having this bill scheduled for consideration by the committee at your earliest possible opportunity. I realize how busy these remaining days are and the many pressures our committee's face, so I would be exceptionally appreciative of any expedited consideration.

If you have questions or need additional material, please feel free to contact me directly at extension 2995. Heath Hilyard is my staff contact on this bill.

Thank you for your time and consideration.



**Alaska State Legislature**  
**Representative Lesil McGuire**  
**Representative Les Gara**  
Official Business, State Capitol, Juneau, Alaska, 99801

---

**Sponsor Statement For HB 367:**

**Protection Of Young Adults and Minors, and Requirements For Protective Licensing at Strip Clubs, Massage Parlors and Other Nude Entertainment Establishments**

Introduction

The Statewide Parent Teacher Association (PTA) has passed a resolution asking the Legislature to pass a law to protect under 21-year-old employees and minors from some of the ill effects caused by strip clubs, massage parlors and other nude entertainment businesses. Accordingly, it has worked to help craft HB 367. Among the findings in the statewide PTA resolution, from a review of studies and court findings, is a showing that the operation of sexually oriented businesses leads to higher rates of crime, including sexual assaults, prostitution, drug sales and drug use.

The primary goals of HB 367 are: to permit the legal operation of these businesses while protecting young Alaskans who work at them; to protect minors; and to protect the public from operations by those adult establishments that do not follow the law.

Summary of Bill Provisions

HB 367 protects the public and young adults in the following ways.

- It prohibits nude entertainment from sharing a common entrance, restroom or hallway with businesses or residences used by minors.
- It prohibits the use of closed private booths where illegal sexual activities may occur.
- It prohibits the operation of sexually oriented businesses by those with felony records, or records involving sexually-related, drug-related, or violence-related crimes.
- Businesses are required to obtain licenses to show these requirements have been followed. The state, as it does in other areas, will set the license fees at a level to cover the state's costs of administration and enforcement in this area.

Communities shall be apprised of adult business license applications through reasonable public notice rules. It allows suspension of an adult entertainment business license if provisions of this law are knowingly violated.

Please feel free to contact either Rep. McGuire's or Rep. Gara's offices with any questions you may have.

Representative Lesil McGuire  
Alaska State Capitol, Rm. 118  
Juneau, AK 99801

465-2995  
Representative\_Lesil\_McGuire@legis.state.ak.us

Representative Les Gara  
Alaska State Capitol, Rm. 422  
Juneau, AK 99801

465-2647  
Representative\_Les\_Gara@legis.state.ak.us

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 367(JUD)  
 (H) Publish Date: 3/3/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: Labor and Workforce Development  
 Title: Licensing Sex Oriented Businesses RDU: Labor Standards & Safety  
 Component: Wage & Hour  
 Sponsor: Representatives McGuire and Gara  
 Requester: House Judiciary Component Number: 345

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: None  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

There is no anticipated fiscal impact to the department as a result of this legislation.

Prepared by: Grey Mitchell, Director Phone 465-4855  
 Division: Division of Labor Standards & Safety Date/Time 2/20/04 11:03 AM  
 Approved by: Greg O'Claray, Commissioner Date 2/20/2004  
 Agency: Department of Labor and Workforce Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSHB 367(FIN)  
 (H) Publish Date: 4/19/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DPS  
 Title Licensing Adult Oriented Businesses RDU Statewide Support  
 Component Criminal Records & ID  
 Sponsor Rep. McGuire  
 Requester H. Labor & Commerce Component No. 1190

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The intent is to protect minors and other young people working in adult oriented businesses by more closely regulating the businesses.

Based on the assumption that the Department of Commerce and Economic Development will not require state and national fingerprint based criminal justice information background checks under AS 12.62.160, but will rely on sworn statements of eligibility from the applicants, no fiscal impact is anticipated.

Prepared by: Kathryn M. Monfreda, Chief Criminal Records & ID Bureau Phone 907-269-5581  
 Division Statewide Services Date/Time 4/15/04 8:35 AM  
 Approved by: Commissioner William Tandeske Date 4/15/2004  
 Agency Department of Public Safety

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: CSHB 367(FIN)  
 (H) Publish Date: 4/19/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Licensing Sex-Oriented Businesses RDU Occupational Licensing (117)  
 Component Occupational Licensing  
 Sponsor Representatives McGuire & Gara, et al  
 Requester House Judiciary Component No. 2360

**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	4.0	4.0	2.0	2.0	2.0	2.0
Travel	4.2	4.2	1.8	1.8	1.8	1.8
Contractual	13.0	13.0	3.0	3.0	3.0	3.0
Supplies	5.0	5.0	5.0	5.0	5.0	5.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>26.2</b>	<b>26.2</b>	<b>11.8</b>	<b>11.8</b>	<b>11.8</b>	<b>11.8</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( 1156 )</b>	<b>26.2</b>	<b>26.2</b>	<b>11.8</b>	<b>11.8</b>	<b>11.8</b>	<b>11.8</b>
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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						
1156 Receipt Supported Services	26.2	26.2	11.8	11.8	11.8	11.8
<b>TOTAL</b>	<b>26.2</b>	<b>26.2</b>	<b>11.8</b>	<b>11.8</b>	<b>11.8</b>	<b>11.8</b>

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	0	0	0	0	0	0
Part-time						
Temporary						

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

CSHB 367 (JUD) creates new licensing and regulation for adult-oriented businesses. The bill also requires the department to establish by regulations licensure procedures, inspection procedures, physical characteristics of licensed premises, and other requirements on applying for and renewing licenses.

A detailed explanation of the above costs is attached.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
 Division Occupational Licensing Date/Time 3/10/04 2:55 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/10/2004  
 Agency Department of Community and Economic Development

FISCAL NOTE #4

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. CSHB 367(FIN)

ANALYSIS CONTINUATION

**PERSONAL SERVICES: \$4.0**

This funding will provide staff support to establish the licensing program for adult-oriented businesses. Supporters of the bill indicate approximately 20 business owners may be subject to licensure. The funding amount is based on a program in existence with similar numbers of licensees. It is doubled in the first two years during start up of the licensing program.

**TRAVEL: \$4.2**

Travel funding is anticipated for the following -

- Regulation Hearings (travel for the Regulations Specialist), at least 4 trips @ \$600/per trip = \$2.4
- Travel for Enforcement to areas outside of Anchorage, 3 trips @ \$600/per trip = \$1.8

2nd Year: Regulations and Enforcement costs are also anticipated to repeat in the second year = \$4.2

3rd Year: By the third year of operation, the regulations hearings should be completed and only Enforcement travel is expected = \$1.8

**CONTRACTUAL: \$13.0**

- Regulation costs (notices, hearings, etc.), \$10.0
- Communications expenses (phones, postage, etc.) = \$3.0

2nd Year: Regulations and communication costs are anticipated to repeat in the second year = \$13.0

3rd Year: By the third year of operation, only communication costs are anticipated - \$3.0

Section 08.90.200(b) requires the department to develop and provide businesses with written material regarding certain subjects specified in the bill. However, the department is of the understanding that material already exists and that the department's responsibility will be to identify the material and secure copies for distribution.

**SUPPLIES: \$5.0**

This funding provides basic operating supplies for the program (paper, etc.) This funding remains the same in the event the department is required to purchase written material for distribution.

**TOTAL: \$26.2**

Funding Source: Receipt Supported Services

This program is anticipated to be funded by licensing fees. Under AS 08.01.065(c) licensure programs are expected to pay their actual costs through licensing fees.

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# LEGISLATIVE RESEARCH REPORT

MARCH 1, 2004



REPORT NUMBER 04.135

## STATEWIDE AGE RESTRICTIONS ON NUDE OR SEMI-NUDE DANCERS

PREPARED FOR REPRESENTATIVE LESIL MCGUIRE

BY PATRICIA YOUNG, MANAGER

You wished to know if lawmakers in any states have enacted specific statewide age restrictions on nude or semi-nude dancers, also known as *exotic* dancers. If so, you wished to know whether the laws have been challenged.

Local governments, rather than state governments, generally regulate nude and semi-nude dancing as part of sexually oriented businesses. While we have not conducted an exhaustive search, we identified only two states having enacted statewide age restrictions for such dancing.<sup>1</sup> Those states are Missouri and West Virginia, and courts have enjoined enforcement of the laws in both, although the age restriction in West Virginia was not among the provisions specifically challenged. We also found an opinion issued by the Office of the Attorney General of Nevada concluding that Nevada law, while not specifically restricting the age of exotic dancers, prohibits the employment of persons 18 through 20 as dancers in adult entertainment establishments where alcohol is served for on-site consumption.

In 2003, the Missouri Legislature passed a law prohibiting persons under the age of 19 from dancing in *adult cabarets*—establishments in which persons appear nude in the performance of their duties.<sup>2</sup> Before the law could take effect, a Kansas City juice bar (featuring nude dancing but no alcohol) and two 18-year old dancers brought a suit in federal court claiming that the law was arbitrary and violated dancers' First Amendment rights. According to news reports at the time, plaintiffs argued that restricting 18-year olds from such employment serves no compelling state interest. They noted that a *minor* in Missouri is defined as anyone under the age of 18; and

<sup>1</sup> We also identified one state (North Carolina) that gives local government explicit authority to regulate such businesses through various measures including limits on the age of patrons and employees (North Carolina General Statutes § 160A - 181.1).

<sup>2</sup> Assistant Attorney General John Mollenkamp was reported to have argued that the law allowed for alternatives—although it prohibited 18-year olds from dancing nude in adult clubs, it did not prevent them from dancing partly-clothed in clubs that serve liquor, dancing nude in the privacy of their homes or even appearing on videotapes. Dan Margolies, "Judge Bars Age Change for Nude Dancers—18-Year Olds Can Still Work in Clubs," *Kansas City Star*, August 28, 2003. We include a copy of Missouri Statute § 573-509 and this news article as Attachment A.

that 18-year olds in Missouri are allowed to vote, enter into contracts, consent to surgical or medical treatment, and become notaries. The judge granted a temporary restraining order noting that the plaintiffs would likely prevail on the merits and stating as follows:

I am not persuaded that [the law] furthers a substantial government interest, nor am I persuaded that the government interest in this case is unrelated to suppression of free speech.<sup>3</sup>

According to the Office of the Missouri Attorney General, the case is still pending in U.S. District Court, with a hearing set for September. The district attorney for Jackson County has replaced the Attorney General as a party to the action. The most recent order continues to enjoin enforcement of the law.<sup>4</sup>

In 2000, the West Virginia Legislature enacted a law requiring that operators of commercial exotic entertainment facilities obtain licenses and providing a very limited window for securing such licenses.<sup>5</sup> Among other things, the law prohibited licensees from allowing individuals under the age of 18 to perform as exotic entertainers and from allowing individuals under the age of 21 (other than performing exotic entertainers) to be on the premises on any day that any such entertainment was offered.

Within a short amount of time, the law was challenged, particularly in regard to the limited time for licensing. Although the State argued that the licensing scheme was designed to regulate *juice bars*—unlicensed establishments with nude dancing where alcohol is served—the court determined that the unlicensed sale of alcohol in juice bars was already illegal, and the statute's purpose was clearly to regulate, restrict, and eventually to prohibit nude dancing. The court found that the statute imposed a prior restraint on expressive conduct protected by the First Amendment, and that it conferred unlimited discretion on government agents to grant or withhold licensing of such facilities. On that basis, the court enjoined implementation or enforcement of the law.

Although not specifically a statewide age restriction on nude or semi-nude dancing, laws in Nevada—NRS § 202.030 and 202.060—prohibit saloonkeepers from allowing persons under the age of 21 years either to "loiter" or to "remain" in establishments where alcohol is sold. In 2002, the Office of the Attorney General of Nevada issued an opinion concluding that these laws prohibit the employment of young adults aged 18 through 20 as dancers in adult entertainment establishments where alcohol is served for on-site consumption. As the author of the opinion noted,

We do not believe the Nevada Legislature intended to permit persons under 21 to engage in such employment activities in establishments where alcohol is served for on-site consumption. Certainly neither NRS 202.030 nor 202.060 expressly provide an exception that would permit such activity, and we are unwilling to read one into the statutes. Moreover, the Nevada Supreme Court has held that statutes regulating the sale of alcohol are legally analogous to

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<sup>3</sup> Margolies, August 28, 2003.

<sup>4</sup> Mark Long, assistant attorney general, Missouri Office of the Attorney General, 573-751-3321.

<sup>5</sup> We include a copy of West Virginia Code §60-4-23 and *R.W.B. of Riverview, Inc. v. Stemple*, 222 F. Supp. 2d 748 (2000 U.S. Dist.) as Attachment B.

statutes regulating gaming and, given the special class of industry and the privileges that are at issue, such statutes should be strictly construed against the licensee.<sup>6</sup>

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I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

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<sup>6</sup> Attachment C is a copy of Nevada Revised Statutes § 202.030 and 202.060 and Opinion No. 2002-45, Office of the Attorney General, November 13, 2002.

## Briefing Paper on Teens at Strip Clubs:

**Issue:** At least three live nude entertainment venues in Anchorage and Fairbanks (*Fantasies on 5th, Showboat Show Club and Showboat II*) are open for high school students and other young people 18 years or older as places of entertainment and employment. Three more are in development in Anchorage. These places feature very explicit nude shows, including graphic nude contact with patrons, and they are associated with prostitution, sexual assaults, illegal drug, alcohol and tobacco use, sexually transmitted diseases and a degradation of neighborhoods. These are not "victimless" crimes and activities. The true victims are on the streets, in jail, clients of social service groups, taxpayers, property owners, and our school children. These venues are not well monitored since they don't serve alcohol (though sometimes patrons drink in their cars), and so are not licensed or investigated by the state Alcoholic Beverage Control Board, and local ordinances for police enforcement are weak.

Although some people think that age 18 is "adult," it is not the age of full legal rights in Alaska. Tobacco purchase is restricted to age 19 and over, state tobacco laws define age 18 as a "minor," and alcohol purchase and use is restricted to age 21 and over. Also, many rental car companies and hotels will not rent to teenagers. Medical and psychological research indicates that full maturity for many people does not occur until well after age 18.

Each year, thousands of high school students are 18 to 20 years old (over 3,400 in Anchorage alone), and can legally work at or attend these very graphic live nude shows. Attending these shows has become a "rite of passage" for some high school students when they turn 18. Knowingly or not, these venues have hired and allowed access by even younger teens. Some high school students have worked as nude entertainers, and some have even become prostitutes. This type of sexual behavior is injected into the high school environment (of over 14,000 students in Anchorage alone), with many as young as 14 years old.

These clubs exploit our young people, especially young women and girls, and may contribute to Alaska's high rate of sexual crimes against women (see studies from other cities). Social service organizations are aware that these clubs recruit teens with "amateur nights" and the lure of high pay. Police officers and community patrol workers believe that there is a strong relationship between teen strip dancing, drug use and prostitution, and this has been verified by former prostitutes and social service groups. Beyond that, some dancers have been lured here from other states, and have subsequently become stranded homeless and jobless when they don't want to do what the clubs require of them. This is an additional burden to Alaska's social services.

Some people feel that volunteer soldiers under age 21 deserve to have access to strip clubs, however the Department of Defense does not allow nude entertainment on the military bases for soldiers of any age. The number of soldiers under age 21 in Alaska is small (under 1,000) compared to the tens of thousands of high school students plus other young people in Alaska that regulation changes would protect. Should our communities allow under-21 nude venues to exploit our young people for the entertainment of young volunteer soldiers and other patrons, when even the military has zero tolerance for these venues?

### What should be done?

1. Raise the minimum age limit for attending or working at any nude entertainment venues to 21 years old in local and state laws (e.g., revise Anchorage Municipal Code 8.50.010, Alaska Statutes Sec. 11.66.300 and Sec. 23.10.350).
2. Put these businesses and nude entertainers under stricter licensing requirements, health inspections and building codes.
3. Disallow licenses for prior convictions related to prostitution, alcohol, drugs, underage employments and patronage, and tax evasion, and for any business under federal investigation.
4. Notify Community Councils when license applications or renewals are submitted for any type of "sexually-oriented business." (e.g., AMC 10.40.050)
5. Establish tougher penalties for violations.
6. Increase enforcement of current and new regulations.

Raising the minimum age has been supported by the Anchorage Council of PTAs, and several community councils and social service organizations. Some police officers and community patrol workers have suggested the additional measures above. The U.S. Supreme Court and state courts have ruled that nude "dancing" is at the outer edge of protected free speech, and that it can be regulated in accordance with obscenity laws and to protect youth.

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*For more information, or to send a letter of support from your organization for the above measures, contact:*

Nancy Fair, Service High School Parent-Teacher-Student Association, Anchorage  
[fairwinds@gci.net](mailto:fairwinds@gci.net)

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### QUOTES:

"...yes, I don't think high school girls should be working as dancers. I think that is highly distracting in the high school setting."

*Terry Stahlman, Owner of Showboat Show Clubs, Anchorage and Fairbanks  
(Alaska Star, February 13, 2003)*

"I talked with [one client, a former prostitute for 25 years in Anchorage]. I got the distinct impression that there is a strong relationship between teen strip dancing and drug use and prostitution. She expressed the following: It is very common to start down the road to drugs and prostitution in a strip club. The older prostitutes and the drug dealers go to the teen strip clubs to 'recruit.' The older men there are definitely predators looking for fresh young women."

*Staff, Mary Magdalene Home  
(a program for recovering prostitutes)*

"Young adult guys who are going there [under-21 strip clubs] have no respect for women. The whole thing does not make for a healthy community."

*D. Cowan, former stripper in Anchorage [starting at age 14]  
(Anchorage Chronicle, March 20, 2002)*

"It certainly didn't turn out to be the glitzy, glamorous world I had imagined it would be. Instead, I soon realized how dark and dirty and degrading it really was. And I desperately wanted out."

*Kimberly Drake, former stripper  
Founder of Spokane's Citizens for Community Values*

"If you say no to bad business, better business will come."

*E. McMahon, Community Planner and Author*

"These enterprises have been determined, by court-accepted independent studies, to produce secondary impacts on surrounding land uses. The impacts include a decline in property values, an increase in the level of criminal activity, including prostitution, rape and assaults in the vicinity of these types of enterprises, and the degradation of the community standard of morality by inducing a loss of sensitivity to the adverse effect of pornography upon children, upon established family relations, and upon respect for marital relationships."

*Anchorage Municipal Code 21.45.240*

Teens at Strip Clubs

"A few years ago, I attended a bachelor party at one of these under-21 strip clubs. We were offered anything [sexual] by the young girls there. We left in disgust."

*Anchorage Westside Community Patrol worker*

"I hear a lot of stories from the high school teens about recruitment of girls, even under 18 years old, to work in these clubs. Often a male teen will invite the girls to attend with him. After he gets them there, the club recruits the girls to work there. Asian and Native girls seem to be particular targets, and the money is very attractive to them.... I know that high school boys attend these places. We even found a Fantasies card in one West High School boy's lost wallet."

*Staff member, Mountain View Boys and Girls Club*

"My son and his friend were recruited to be male dancers at one under-21 club. My son declined, but his friend tried it. The money was great, but he quit because he didn't like what they were asking him to do."

*Anchorage mother and social service worker*

"Almost all of the prostitutes I have talked to in the Spenard area started out in strip clubs."

*Anchorage Westside Community Patrol worker*

While treating a teen stripper who had had four unwanted pregnancies and numerous sexually-transmitted diseases, the physician asked her if her lifestyle was worth enduring all this. She replied, "Are you kidding? Of course it is. I made \$265,000 last year, tax-free!"

*17-year old Anchorage stripper [note underage]*

"I spoke with a former bouncer from the Showboat, and he told me he was paid under the table in cash every night."

*Community Council President, Anchorage*

"You mean to tell me that the state legislature is considering banning soda pop sales in schools, but they're not taking action on strip clubs involving high school teens?"

*PTA Board Member, Anchorage*



*everychild.one voice.*

"Alaska PTA supports the enactment of legislation to regulate sexually oriented businesses and employees in order to protect school children and other youth under 21 years old."

*Passed Nov. 15, 2003*

*Alaska PTA Issues Conference*

### **Anchorage Council of PTA's Legislative Priorities 2003-2004**

1. Stable, reliable, adequate and inflation proofed funding so every child can meet the standards of the "No Child Left Behind" Act.  
**RATIONALE:** In order to provide a quality education to each child in Alaska, stable, reliable, adequate, and inflation proofed funding is necessary. The amount of time, money, and creative energy spent on securing annual funding for education would be better spent in the classroom.
2. Advocate graduated driver's licenses for 16 to 18 year old drivers.  
**RATIONALE:** Because inexperienced drivers are involved in a high number of accidents causing injury and death, we support graduated licensing aimed at reducing the number of accidents of young drivers.
3. Reduce teen involvement in sexually oriented businesses.  
**RATIONALE:** Sexually oriented businesses in Alaska are largely unregulated. In an effort to protect high schools and students from being affected by the negative influences of such businesses we support regulations that would discourage teen involvement. Anchorage Council also supports raising the minimum age of dancers and patrons to at least 19 years old.
4. Support funding for security for schools during non-school hours.  
**RATIONALE:** Vandalism is a real problem for our public buildings, especially schools. While this needs to be addressed in a multi-faceted way, one thing that would serve as a deterrent is to provide for security at schools during non-school hours—the time when most vandalism occurs.

*These legislative priorities were determined by the Anchorage Council of PTAs General Membership, Monday, October 6, 2003.*

LAW OFFICES OF  
**FRIEDMAN, RUBIN & WHITE**

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ALASKA OFFICE

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Kirsten Tingham Friedman, Of Counsel\*  
Christine S. Schlessa, Of Counsel

February 16, 2004

\*Admitted in AK and WA  
\*\*Admitted in AK, WA, and MT  
\*\*\*Admitted in SD  
All others admitted in AK

Representative Les Gara  
State Capital, Room 422  
Juneau, AK 99801-1182

Sent by FAX to: 907-465-3518

RE: House Bill 367 Regulating Sexually Oriented Businesses

Dear Representative Gara:

You asked me for an opinion as to whether HB 367 would necessarily be deemed unconstitutional pursuant to Mickens v. City of Kodiak, 640 P.2d 818 (Alaska 1982). The short answer is clearly no.

First, it is important to remember that the U.S. Supreme Court has held that nude dancing is at the outer limitation of First Amendment speech. I think our Supreme Court would agree.

In Mickens, the City of Kodiak had prohibited nude entertainment at places where alcohol was sold. The only factual support for this ban was public testimony from citizens who feared increased crime, and an increase in the number of police calls to the location where this entertainment occurred. Mickens, 640 P.2d at 822. The court noted that there was no evidence that the increase in police calls was caused by the nude entertainment, as opposed to an increase in business that would result from any type of live entertainment.

Representative Les Gara  
February 16, 2004  
Page 2 of 3

Id. The court made very clear that any limits on expression must be justified:

Here the City has offered no justification for distinguishing between entertainment involving nudity from other forms of entertainment as a means to prevent crowds from congregating in establishments where intoxicating liquor is sold. Without such a justification, the ordinance can't stand.

Id. The court also noted that it was important to keep in mind that Kodiak's ordinance was not an effort to protect children from non-obscene sexually oriented displays. Mickens, 640 P.2d at 823.

There are several ways in which the proposed legislation differs from the ordinance in Mickens. First, the Legislature has heard far more scientific testimony about the ill effects of this type of entertainment. Unlike the situation in Kodiak, you have heard testimony on the difficulty in enforcing health and safety laws, wage and hour laws, and other regulations designed to protect the public. You have heard evidence that it is particularly difficult to enforce those laws in sexually oriented business establishments aimed at the under-21 age group.

Second, you have heard scientific testimony of the ill effects this type of entertainment has both on young dancers and young viewers. This scientific evidence is a very significant difference between the proposed legislation and the Kodiak ordinance.

A third difference is the Kodiak was simply banning dancing. Twenty years later, the live nude entertainment we are talking about includes physically rubbing nude body parts against the clothed body parts of the patrons in exchange for money.

Finally, the proposed legislation is an effort to protect children. In Alaska, the Legislature has determined that citizens under 21 are not adults for all purposes. It has found that they are children for purposes of buying alcoholic beverages until age 21 and that they

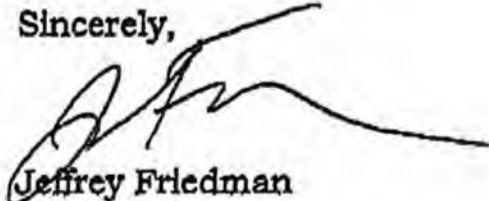
Representative Les Gara  
February 16, 2004  
Page 3 of 3

are children for purposes of buying tobacco until age 19.<sup>1</sup> There is nothing wrong in recognizing the medical research, and finding that people are still children until age 21 for purposes of viewing or participating in live nude entertainment.<sup>2</sup>

In conclusion, the Supreme Court could certainly rely on the Mickens decision as precedent in holding that the proposed legislation is unconstitutional. It could just as easily, and in my view more likely, distinguish this legislation and hold that it is constitutional because of the differences discussed above.

Please let me know if you have any further questions.

Sincerely,



Jeffrey Friedman

JAF:ms

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<sup>1</sup> Restrictions on use of alcohol and tobacco are just as much Free Speech issues as restrictions on nude dancing. Current advertising demonstrates that smoking cigarettes and drinking beer are considered expressions of one's personality and lifestyle choices at least to the same extent as dancing naked on a stage.

<sup>2</sup> I believe the state also restricts under 21 year olds in practicing the profession of Acupuncturist and Fish and Game guide.

**CONFIDENTIAL**

**To:** Representative Les Gara & Representative Lesil McGuire  
**From:** Kara Nyquist, Esq.  
**Date:** February 9, 2004  
**Re:** House Bill 367

---

In follow-up to my recent memorandum dated February 3, 2004, I conducted additional research on age and licensing restrictions of operators and dancers at strip clubs. I have located no case law that has found an age restriction unconstitutional other than the case previously mentioned in my last memorandum where an adequate record was not established. Below are cases located that address licensing and/or age restrictions; although no case is exactly on point to HB 367, these cases provide support of the efforts of the Alaska Legislature via HB 367 to exercise state power to regulate strip clubs.

Salt Lake City v. Wood, 991 P.2d 595 (Utah 1999). Appellant challenged the constitutionality of Salt Lake City's ordinance that requires dancers to obtain a license and be at least twenty-one to dance in a nude establishment which served alcohol, after appellant received a misdemeanor conviction for dancing at the age of eighteen. The Utah Court of Appeals held that the license requirement did not violate the freedom of expression guaranteed by the First Amendment because it is a content-neutral time, place, and manner restriction tailored to meet legitimate objectives. The court explains that the Twenty-first Amendment authorizes states authority to regulate establishments selling alcoholic beverages and cites several cases holding that the twenty-first amendment authorizes states to prohibit minors from working or entering establishments that serve alcohol. Under the First Amendment analysis of the licensing requirement the court applied a four-part test to determine whether the government regulation was sufficiently justified; (1) if it is within the constitutional power of the Government, (2) if it furthers an important government interest, (3) if the governmental interest is unrelated to the suppression of free expression, and (4) if the incidental restriction on alleged First Amendment freedoms is no greater than is essential to furtherance of that interest.

Ninth Circuit Decision, Kev, Inc., v. Kitsap County, 793 F.2d 1053 (1986). Strip club challenged the constitutionality of a county ordinance regulating non-alcoholic topless dancing establishments. The ordinance required licensing of erotic dance studios and their dancers, required dancers and patrons to be at least eighteen years of age, dancing to occur on a raised platform at least ten feet from patrons, and that all books and records of erotic dance studios be open to official inspection, and additional provisions. The stated purpose of the ordinance was to regulate topless dancing to minimize perceived side effects, such as illegal drug dealing, fights, and prostitution, which would purportedly threaten the community's well-being. The court upheld the constitutionality of the ordinance provisions requiring establishments and dancers to receive licenses but found that a five day waiting period requirement was unconstitutional because the County failed to demonstrate a need or the waiting period.

Ino Ino Inc., v. City of Bellevue., 937 P.2d 154 (Washington 1997). Two adult entertainment establishments and three dancers challenged the constitutionality of Bellevue's ordinance regulating adult cabarets. The ordinance includes provisions requiring operators and dancers to receive licenses and distance requirements between dancers and patrons. The court upheld the licensing provisions for operators and dancers; the court found that a fourteen-day processing period for a manager's license is an unconstitutional prior restraint.

# HOUSE BILL NO. 724

- View [Daily Data Tracking History](#)
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**This sentence is marked with bold and underline to show added text.**

~~*This sentence is marked with strikethrough and italic, indicating text to be removed.*~~

## Daily Data Tracking History

H0724.....by STATE AFFAIRS  
SEXUALLY ORIENTED BUSINESS - Adds to and amends existing law to require that sexually oriented businesses and their employees must obtain a license from the Department of Law Enforcement; to provide legislative intent and findings; to provide application to existing businesses; to provide contents of license applications and license fees; to provide for issuance and expiration of licenses; to prohibit certain acts and to provide for suspension and revocation of licenses; to provide for hearings and appeals; to provide for hours of operation and inspections of businesses; to allow for local regulation; and to provide that certain records are confidential.

- 03/08 House intro - 1st rdg - to printing
- 03/09 Rpt prt - to Bus

## Bill Text

H0724

|||| LEGISLATURE OF THE STATE OF IDAHO ||||  
 Fifty-fifth Legislature Second Regular Session - 2000

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 724

BY STATE AFFAIRS COMMITTEE

1 AN ACT  
 2 RELATING TO SEXUALLY ORIENTED BUSINESSES; AMENDING TITLE 18, IDAHO CODE, B  
 3 THE ADDITION OF A NEW CHAPTER 85, TITLE 18, IDAHO CODE, TO REQUIRE LICENS  
 4 ING OF SEXUALLY ORIENTED BUSINESSES AND EMPLOYEES, TO PROVIDE LEGISLATIV  
 5 INTENT AND FINDINGS, TO PROVIDE DEFINITIONS, TO REQUIRE THAT SEXUALLY ORI  
 6 ENTED BUSINESSES AND THEIR EMPLOYEES MUST OBTAIN A LICENSE FROM TH  
 7 DEPARTMENT OF LAW ENFORCEMENT, TO REQJIRE A LICENSE AND TO PROVIDE APPLI  
 8 CATION TO EXISTING BUSINESSES, TO PROVIDE CONTENTS OF LICENSE APPLICA  
 9 TIONS, TO PROVIDE JICENSE FEES, TO PROVIDE FOR ISSUANCE OF LICENSES, T  
 10 PROVIDE FOR EXPIRATION OF LICENSES, TO PROHIBIT CERTAIN ACTS AND PROVID

11 FOR MISDEMEANORS, TO PROHIBIT TRANSFER OF LICENSES, TO PROVIDE FOR SUSPEN  
 12 SION AND REVOCATION OF LICENSES, TO PROVIDE A RIGHT AND PROCEDURES FO  
 13 PROMPT JUDICIAL REVIEW OF DENIAL, SUSPENSION OR REVOCATION OF A LICENSE  
 14 TO PROVIDE FOR ISSUANCE OF TEMPORARY LICENSES PENDING RESOLUTION OF A  
 15 APPEAL, TO PROVIDE HOURS OF OPERATION, TO PROVIDE FOR INSPECTIONS OF BUSI  
 16 NESSES, TO PROVIDE SEVERABILITY, TO PROVIDE FOR CONFLICTS AND TO ALLO  
 17 LOCAL REGULATION; AND AMENDING SECTION 9-340B, IDAHO CODE, TO PROVIDE THA  
 18 CERTAIN RECORDS ARE CONFIDENTIAL.

19 Be It Enacted by the Legislature of the State of Idaho:

20 SECTION 1. That Title 18, Idaho Code, be, and the same is hereby amende  
 21 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap  
 22 ter 85, Title 18, Idaho Code, and to read as follows:

23 CHAPTER 85  
 24 LICENSING OF SEXUALLY ORIENTED BUSINESSES AND EMPLOYEES

25 18-8501. LEGISLATIVE INTENT AND FINDINGS. (1) This chapter promotes th  
 26 health, safety and welfare of the citizens of Idaho by requiring licensing o  
 27 sexually oriented businesses and employees of those businesses. This chapte  
 28 is not intended to restrict the content of communicative materials, includin  
 29 sexually oriented materials or to restrict access by adults to sexually ori  
 30 ented materials protected by the first amendment to the United States consti  
 31 tution, or to deny access by the distributors and exhibitors of sexually ori  
 32 ented entertainment to their intended market. However, this chapter does no  
 33 condone or make legitimate the distribution of obscene material.

34 (2) The legislature finds that:

- 35 (a) Sexually oriented businesses lend themselves to ancillary unlawfu  
 36 and unhealthy activities that are presently uncontrolled by the operator  
 37 of the establishments. Further, there is presently no mechanism to mak  
 38 the owners of these establishments respo..sible for the activities tha  
 39 occur on their premises;  
 40 (b) Certain employees of adult theaters and adult cabarets engage in  
 41 higher incidence of certain types of illegal sexual behavior than employ  
 42 ees of other establishments;

2

- 1 (c) Persons sometimes visit adult theaters and adult cabarets for th  
 2 purpose of engaging in sex on the premises of the theaters and cabarets;  
 3 (d) At least fifty (50) communicable diseases may be spread by activitie  
 4 occurring in sexually oriented businesses, including syphilis, gonorrhea  
 5 human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepati  
 6 tis B, Non A, Non B amebiasis, salmonella infections and shigella infec  
 7 tions;  
 8 (e) Since 1981, there has been an increasing cumulative number o  
 9 reported cases of AIDS caused by the human immunodeficiency virus (HIV) i  
 10 the United States and in Idaho;  
 11 (f) Scientific evidence indicates that HIV and AIDS infection, as well a  
 12 syphilis and gonorrhea, are principally transmitted by sexual acts; and  
 13 (g) Sanitary conditions in some sexually oriented businesses ar  
 14 unhealthy, in part, because the activities conducted there are unhealthy  
 15 and, in part, because of the unregulated nature of the activities and th  
 16 failure of the owners and the operators of the facilities to properly reg  
 17 ulate those activities and maintain those facilities.  
 18 (3) These findings raise substantial governmental concerns which ar  
 19 properly addressed by regulating sexually oriented businesses by requirin  
 20 licensing of those businesses and employees of those businesses. Licensin  
 21 will require sexually oriented businesses to be operated in a manner consis

22 tent with the law and the health, safety and welfare of its employees, patron  
23 and the citizens of the state.

24 18-8502. DEFINITIONS. As used in this chapter:

25 (1) "Adult cabaret" means a nightclub, bar, restaurant or similar commer  
26 cial establishment which regularly features:

27 (a) Persons who appear nude or seminude; or

28 (b) Live performances which are characterized by the exposure o  
29 "specified anatomical areas" or by "specified sexual activities"; or

30 (c) Films, motion pictures, video cassettes, slides or other photographi  
31 reproductions which are characterized by an emphasis on the exhibition o  
32 description of "specified sexual activities" or "specified anatomica  
33 areas."

34 (2) "Adult theater" means a theater, concert hall, auditorium or simila  
35 commercial establishment which regularly features persons who appear nude o  
36 seminude, or live performances which are characterized by the exposure o  
37 "specified anatomical areas" or by "specified sexual activities."

38 (3) "Department" means the Idaho department of law enforcement.

39 (4) "Employee" means a person who performs seminude on the premises of  
40 sexually oriented business on a full-time, part-time or contract basis  
41 whether or not the person is denominated an employee, independent contractor  
42 agent or otherwise, and whether or not the person is paid a salary, wage o  
43 other compensation by the operator of the business. "Employee" does no  
44 include a person exclusively on the premises for repair or maintenance of th  
45 premises or equipment on the premises, or for the delivery of goods to th  
46 premises.

47 (5) "Establishment" means:

48 (a) The opening or commencement of a sexually oriented business as a ne  
49 business;

50 (b) The conversion of an existing business, whether or not a sexuall  
51 oriented business, to any sexually oriented business;

52 (c) The additions of any sexually oriented business to any other existin  
53 sexually oriented business; or

54 (d) The relocation of any sexually oriented business.

3

1 (6) "Licensee" means a person in whose name a license to operate a sexu  
2 ally oriented business is issued, as well as the individual(s) listed as a  
3 applicant on the application for a license; and in the case of an employee,  
4 person in whose name a license has been issued authorizing employment in  
5 sexually oriented business.

6 (7) "Nude" means the showing of the human male or female genitals, publi  
7 area, vulva, anus, anal cleft or cleavage with less than a fully opaque cover  
8 ing, the showing of the female breast with less than a fully opaque coverin  
9 of any part of the nipple, or the showing of the covered male genitals in  
10 discernibly turgid state.

11 (8) "Person" means an individual, proprietorship, partnership, corpora  
12 tion, association or any other legal entity.

13 (9) "Regularly features" means, with respect to an adult theater or adul  
14 cabaret, a continuing and substantial course of conduct, such that films o  
15 exhibitions shown constitute a substantial portion of the films or exhibition  
16 offered as part of the regular business of the adult theater or adult cabaret

17 (10) "Seminude" means the showing of the female breast below a horizonta  
18 line across the top of the areola at its highest point or the showing of th  
19 male or female buttocks. This definition shall include the entire lower por  
20 tion of the human female breast, but shall not include any portion of th  
21 cleavage of the human female breast, exhibited by a dress, blouse, skirt  
22 leotard, bathing suit or other wearing apparel provided the areola is no  
23 exposed in whole or in part.

- 24 (11) "Sexually oriented business" means an adult cabaret or adult theater  
 25 (12) "Specified anatomical areas" means:  
 26 (a) The human male genitals in a discernibly turgid state, even if com  
 27 pletely and opaquely covered; or  
 28 (b) Less than completely and opaquely covered human genitals, pubi  
 29 region, buttocks or a female breast below a point immediately above th  
 30 top of the areola.  
 31 (13) "Specified criminal activity" means:  
 32 (a) Any of the offenses listed in section 18-8304(1)(a), Idaho Code, o  
 33 any crime, attempt, solicitation or conspiracy to commit a crime i  
 34 another state, territory, commonwealth or jurisdiction of the Unite  
 35 States, that is substantially equivalent to the offenses listed in sectio  
 36 18-8304(1)(a), Idaho Code;  
 37 (b) Any violation of chapter 56, title 18, Idaho Code (prostitution an  
 38 related crimes); and  
 39 (c) Any violation of chapter 41, title 18, Idaho Code (indecent an  
 40 obscenity).  
 41 (d) For which:  
 42 (i) Less than two (2) years have elapsed since the date of convic  
 43 tion or the date of release from confinement imposed for the convic  
 44 tion, whichever is the later date, if the conviction is of a misde  
 45 meanor offense;  
 46 (ii) Less than five (5) years have elapsed since the date of convic  
 47 tion or the date of release from confinement for the conviction  
 48 whichever is the later date, if the conviction is of a felon  
 49 offense; or  
 50 (iii) Less than five (5) years have elapsed since the date of th  
 51 last conviction or the date of release from confinement for the las  
 52 conviction, whichever is the later date, if the convictions are o  
 53 two (2) or more misdemeanor offenses or combination of misdemeano  
 54 offenses occurring within any twenty-four (24) month period.  
 55 (e) The fact that a conviction is being appealed shall have no effect o

4

- 1 the disqualification of the applicant or a person residing with the appli  
 2 cant.  
 3 (14) "Specified sexual activities" means any of the following:  
 4 (a) The fondling or other erotic touching of human genitals, pubi  
 5 region, buttocks, anus or female breasts;  
 6 (b) Sex acts, actual or simulated, including intercourse, ora  
 7 copulation, masturbation or sodomy; or  
 8 (c) Excretory functions as part of or in connection with any of th  
 9 activities set forth in paragraphs (a) and (b) of this subsection.  
 10 (15) "Substantial enlargement of a sexually oriented business" means th  
 11 increase in floor areas occupied by the business by more than twenty-five per  
 12 cent (25%), as the floor areas exist on the initial effective date of thi  
 13 chapter.  
 14 (16) "Transfer of ownership or control of a sexually oriented business  
 15 means:  
 16 (a) The sale, lease, or sublease of the business;  
 17 (b) The transfer of securities which constitutes a controlling interes  
 18 in the business, whether by sale, exchange or similar means; or  
 19 (c) The establishment of a trust, gift or other similar legal devic  
 20 which transfers the ownership or control of the business, except fo  
 21 transfer by bequest or other operation of law upon the death of the perso  
 22 possessing the ownership or control.  
 23 18-8503. LICENSES REQUIRED -- APPLICATION -- EXISTING BUSINESSES. (1  
 24 Sexually oriented businesses and employees of sexually oriented businesses, a

25 both are defined in this chapter, must obtain a license from the departmen  
26 pursuant to this chapter.

27 (2) This chapter applies to all sexually oriented businesses and employ  
28 ees of sexually oriented businesses described in this chapter. Sexually ori  
29 ented businesses established on or before the initial effective date of thi  
30 chapter and employees of sexually oriented businesses so employed on or befor  
31 the initial effective date of this chapter must comply with this chapte  
32 within ninety (90) days of the initial effective date of this chapter.

33 18-8504. APPLICATIONS FOR LICENSES -- CONTENTS. (1) An application for  
34 license must be made on a form provided by the department.

35 (2) All applicants must be qualified under this chapter. The departmen  
36 may request and the applicant must provide information, includin  
37 fingerprints, to enable the department to determine whether the applican  
38 meets the requirements of this chapter.

39 (3) If a person who wants to operate a sexually oriented business is a  
40 individual, the individual must sign the license application as applicant. I  
41 a person who wants to operate a sexually oriented business is other than a  
42 individual, each individual who has a twenty percent (20%) or greater interes  
43 in the business must sign the license application as applicant. Each appli  
44 cant must be qualified under this chapter. Each applicant is considered  
45 licensee if a license is granted.

46 (4) A person applying for a license to operate a sexually oriented busi  
47 ness must submit the following information with its license application:

48 (a) If the applicant is an individual, the individual must state his/he  
49 legal name and any aliases and submit proof that he/she is eighteen (18  
50 years of age;

51 (b) If the applicant is a partnership, the partnership must state it  
52 complete name, whether the partnership is general or limited, a copy o  
53 the partnership agreement, if any, and the names of all partners;

5

1 (c) If the applicant is a corporation, the corporation must state it  
2 complete name, the date of its incorporation, evidence that the corpora  
3 tion is in good standing under the laws of its state of incorporation, th  
4 names and capacity of all officers, directors and principal stockholders  
5 those who own a twenty percent (20%) interest or greater, and the name o  
6 the registered corporate agent and the address of the registered offic  
7 for service of process;

8 (d) A full disclosure of whether the applicant has been convicted of  
9 specified criminal activity as defined in this chapter and, if so, th  
10 specified criminal activity involved, and the date, place and jurisdictio  
11 of each;

12 (e) A full disclosure of whether the applicant has had a license unde  
13 this chapter or other similar law regulating sexually oriented business i  
14 another city, county, state or country denied, suspended or revoked  
15 including the name and location of the sexually oriented business fo  
16 which the license was denied, suspended or revoked, as well as the date o  
17 the denial, suspension or revocation, and whether the applicant has been  
18 partner in a partnership or an officer, director or principal stockholde  
19 of a corporation that is licensed under this chapter whose license ha  
20 previously been denied, suspended or revoked, including the name and loca  
21 tion of the sexually oriented business for which the license was denied  
22 suspended or revoked as well as the date of denial, suspension or revoca  
23 tion;

24 (f) A full disclosure of whether the applicant holds any other license  
25 under this chapter or other similar sexually oriented business law fro  
26 another city, county, state or country and, if so, the names and location  
27 of the other licensed businesses;

- 28 (g) Whether the license sought under this chapter is for an adult theate  
 29 or adult cabaret;  
 30 (h) The location of the proposed sexually oriented business, including  
 31 legal description of the property, street address and telephone number(s)  
 32 if any;  
 33 (i) The applicant's mailing address and residential address;  
 34 (j) A recent photograph of the applicant(s);  
 35 (k) The applicant's driver's license number, social security number, an  
 36 state or federally issued tax identification number, if applicable;  
 37 (l) A sketch or diagram showing the configuration of the premises  
 38 including a statement of total floor space occupied by the business. Th  
 39 sketch or diagram need not be professionally prepared, but it must b  
 40 drawn to a designated scale or drawn with marked dimensions of the inte  
 41 rior of the premises to an accuracy of plus or minus six (6) inches;  
 42 (m) If the applicant intends to operate the sexually oriented busines  
 43 under a name other than that of the applicant, the applicant must provid  
 44 the sexually oriented business's fictitious name.  
 45 (5) An individual applying for a license to work as an employee of a sex  
 46 ually oriented business must submit the following information with the appli  
 47 cation:  
 48 (a) All names, including aliases and "stage" names, ever used by th  
 49 individual;  
 50 (b) Age, date and place of birth;  
 51 (c) Height, weight, hair and eye color;  
 52 (d) Present home and business address and telephone number;  
 53 (e) Date, issuing state and number of driver's license or other identifi  
 54 cation card information;  
 55 (f) Social security number;

6

- 1 (g) Proof that the individual is at least eighteen (18) years of age;  
 2 (h) A color photograph of the applicant clearly showing the ap icant'  
 3 face, and the applicant's fingerprints on a form provided by a la  
 4 enforcement agency. Any fees for the photographs and fingerprints shall b  
 5 paid by the applicant;  
 6 (i) A statement detailing the license history of the applicant for th  
 7 five (5) years immediately preceding the date of the filing of the appli  
 8 cation, including whether the applicant has ever, in conjunction with  
 9 sexually oriented business operated in this or any other city, county  
 10 state or country, had a license, permit or authorization to do busines  
 11 denied, revoked or suspended, or had any professional or vocationa  
 12 license or permit denied, revoked or suspended. If there was such  
 13 denial, revocation or suspension, the applicant must state the name of th  
 14 business, the name of the issuing or denying jurisdiction, and describe i  
 15 full the reason for the denial, revocation or suspension. A copy of an  
 16 order of denial, revocation or suspension must be attached to the applica  
 17 tion;  
 18 (j) A full disclosure of whether the applicant has been convicted of  
 19 specified criminal activity as defined in this chapter and if so, th  
 20 specified criminal activity involved, the date, place and jurisdiction o  
 21 each offense.  
 22 (6) Information obtained by or disclosed to the department in connectio  
 23 with an application for a license or license renewal under this chapter i  
 24 confidential and exempt from public disclosure pursuant to section 9-340B(5)  
 25 Idaho Code; provided, that the department may disclose such information to la  
 26 enforcement officials pursuant to a lawful investigation and to other person  
 27 in connection with an action brought pursuant to this chapter, or upon orde  
 28 of a court.

29 18-8505. LICENSE FEES. (1) Every application for a sexually oriente  
30 business license, whether for a new license or for renewal of an existin  
31 license, shall be accompanied by a two hundred dollar (\$200) nonrefundabl  
32 application and investigation fee.

33 (2) In addition to the application and investigation fee, every sexuall  
34 oriented business that is granted a license, whether new or renewal, shall pa  
35 to the department an annual nonrefundable license fee of one hundred dollar  
36 (\$100) within thirty (30) days of license issuance or renewal.

37 (3) Every application for a license to work as an employee of a sexuall  
38 oriented business, whether for a new license or for renewal of an existin  
39 license, shall be accompanied by an annual one hundred dollar (\$100) nonre  
40 fundable application, investigation and license fee.

41 (4) All license applications and fees shall be submitted to the depart  
42 ment.

43 18-8506. ISSUANCE OF LICENSES. (1) Upon the filing of a license applica  
44 tion and license application fees pursuant to this chapter, the departmen  
45 shall investigate the information contained in the application. All departmen  
46 action required to process the application shall be completed within thirt  
47 (30) days from the date the completed application is filed with the depart  
48 ment. The term "filed" means the date a complete application is postmarked i  
49 mailed, or the date a complete application is received by the department i  
50 the application is hand delivered. The department shall issue a license withi  
51 thirty (30) days of the filing of the complete application, unless the depart  
52 ment determines by a preponderance of the evidence that:

53 (a) The applicant has failed to provide information required in thi

7

1 chapter or has falsely answered a question or request for information o  
2 the application form;

3 (b) The applicant is under eighteen (18) years of age;

4 (c) The applicant has been convicted of a "specified criminal activity  
5 as defined in this chapter;

6 (d) The license to work as an employee of a sexually oriented business i  
7 to be used for employment in a business prohibited by any law, rule o  
8 regulation; or

9 (e) The applicant has had a sexually oriented business employee licens  
10 revoked, for a reason other than delinquency in payment of fees or taxes  
11 by the department within two (2) years of the date of the current applica  
12 tion. If the sexually oriented business employee license is denied, an  
13 temporary license previously issued is immediately deemed null and void.

14 (2) A license granted pursuant to this section is subject to annua  
15 renewal upon the written application of the applicant and a finding by th  
16 state that the applicant has not been convicted of any specified crimina  
17 activity as defined in this chapter or committed any act during the existenc  
18 of the previous license, which would be grounds to deny the initial licens  
19 application. Such a finding by the state must be made within thirty (30) day  
20 from the date that the written application for license renewal was submitte  
21 or by the date of annual renewal, whichever is later. The renewal of th  
22 license is subject to the payment of the license fee required in this chapter

23 (3) Within thirty (30) days after receipt of a completed sexually ori  
24 ented business application, the department shall approve or deny the issuanc  
25 of a license to an applicant. The department shall appr e the issuance of  
26 license to an applicant unless it is determined by a prepc derance of the evi  
27 dence that:

28 (a) An applicant is under eighteen (18) years of age;

29 (b) An applicant is overdue in payment to the state of taxes, fees, fine  
30 or penalties assessed against or imposed upon him/her in relation to an  
31 business;

32 (c) An applicant has failed to provide information reasonably necessar  
 33 for issuance of the license or has falsely answered a question or reques  
 34 for information on the application form;  
 35 (d) An applicant has been denied a license by the department to operat  
 36 a sexually oriented business within the preceding twelve (12) months o  
 37 whose license to operate a sexually oriented business has been revoke  
 38 within the preceding twelve (12) months;  
 39 (e) An applicant has been convicted of a spec'fied criminal activity a  
 40 defined in this chapter;  
 41 (f) The premises to be used for the sexually oriented business has no  
 42 been approved by the appropriate state and local agencies and officials a  
 43 complying with applicable state and local law;  
 44 (g) The license fee required by this chapter has not been paid;  
 45 (h) An applicant of the proposed establishment is not in compliance wit  
 46 this chapter.  
 47 (4) The license, if granted, shall state on its face the name of the per  
 48 son or persons to whom it is granted, the expiration date, the address of th  
 49 sexually oriented business or address of the employee of the sexually oriente  
 50 business, and whether the license applies to an adult theater or adult caba  
 51 ret. Licenses to operate sexually oriented businesses must be posted in a con  
 52 spicuous place at or near the entrance to the sexually oriented business s  
 53 that they may be easily read at any time. Licenses to work as an employee of  
 54 sexually oriented business shall be kept on or near the individual employee i  
 55 whose name the license is issued when the employee is working at the sexuall

8

1 oriented business.

2 (5) The appropriate state and local agencies and officials shall complet  
 3 their certification that the premises complies with applicable law withi  
 4 thirty (30) days of receipt of the application by the department.

5 18-8507. EXPIRATION OF LICENSES. (1) Licenses issued under this chapte  
 6 expire one (1) year from the date they were issued. Licenses may be renewe  
 7 only by applying as provided in this chapter. Application for renewal must b  
 8 made at least thirty (30) days before the expiration date. If application fo  
 9 renewal is made less than thirty (30) days before the expiration date, th  
 10 expiration date of the license shall not be affected, and the department shal  
 11 renew the license or deny the license renewal within thirty (30) days of th  
 12 date that the application for renewal was submitted.

13 (2) Unless a temporary license is issued pursuant to section 18-8512  
 14 Idaho Code, if the department denies renewal of a license the applicant shal  
 15 not be issued a license for one (1) year from the date of denial; provided  
 16 that if the application for renewal was denied solely because the applican  
 17 has not paid fees or taxes, the department shall grant a license within thirt  
 18 (30) days of the date that the applicant pays the fees or taxes. If, after th  
 19 denial of an application for renewal, the department finds that the basis fo  
 20 denial, other than for not paying fees or taxes, of the renewal license ha  
 21 been corrected or abated, the applicant may be granted a license if at leas  
 22 ninety (90) days have elapsed since the date the denial became final.

23 18-8508. PROHIBITED ACTS -- MISDEMEANORS -- LICENSES NOT TRANSFERABLE  
 24 (1) A person who operates or causes to be operated a sexually oriented busi  
 25 ness without a valid license or in violation of this chapter may be enjoine  
 26 and/or prosecuted for criminal violations. Each day a sexually oriented busi  
 27 ness operates in violation of this chapter is a separate offense or violation

28 (2) It is a misdemeanor for a person:

29 (a) Who operates a sexually oriented business to take into service a  
 30 employee as defined in this chapter to work for the sexually oriente  
 31 business, if the person taken into service is not licensed as a sexuall

- 32 oriented business employee pursuant to this chapter;  
33 (b) To knowingly or intentionally appear nude or exhibit specified sexual  
34 activities in a sexually oriented business;  
35 (c) To knowingly or intentionally appear seminude in a sexually oriented  
36 business unless the person is a licensed employee who is at least six (6)  
37 feet from any patron or customer and on a stage at least two (2) feet from  
38 the floor;  
39 (d) Who is a licensed employee who is seminude in a sexually oriented  
40 business to solicit pay or gratuities from patrons or customers;  
41 (e) Who is a customer or patron to pay or give a gratuity to the person  
42 of a licensed employee who is seminude in a sexually oriented business.  
43 Customers or patrons shall contribute pay or gratuities to a licensed  
44 employee of a sexually oriented business only by deposit of the pay or  
45 gratuity in a receptacle kept at least six (6) feet away from the licensed  
46 employee;  
47 (f) Who is a licensed employee to knowingly touch a customer or the  
48 customer's clothing while the employee is seminude in a sexually oriented  
49 business;  
50 (g) To knowingly allow a person under eighteen (18) years of age on the  
51 premises of a sexually oriented business;  
52 (h) Who operates a sexually oriented business or his agent or employee to  
53 refuse to permit lawful inspection of the premises at any time the premises

9

1 ises are open for business.

2 18-8509. LICENSES NOT TRANSFERABLE. Licenses issued under this chapter  
3 may not be transferred.

4 18-8510. LICENSE SUSPENSION AND REVOCATION. (1) The department shall sus-  
5 pend a license issued under this chapter for a period not to exceed thirty  
6 (30) days if it determines that the sexually oriented business or employee to  
7 whom the license was issued has not complied with any provision of this chap-  
8 ter.

9 (2) The department must revoke a license issued under this chapter if  
10 within twelve (12) months of the suspension of such a license, another offense  
11 occurs which would by itself cause a suspension of the license.

12 (3) The department must revoke the license of the offending sexually ori-  
13 ented business or employee if it determines that the licensee:

14 (a) Gave false or misleading information in the license application or in  
15 materials submitted in the application process, if the licensee knew or  
16 should have known that the information was false or misleading;

17 (b) Knowingly allowed or participated in the possession, use or sale of  
18 controlled substances on the premises;

19 (c) Knowingly allowed, or participated in, prostitution on the premises;

20 (d) Knowingly operated the sexually oriented business during a period of  
21 time when the licensee's license was suspended;

22 (e) Knowingly allowed, or participated in, any act of sexual intercourse  
23 sodomy, oral copulation, masturbation or other sex act to occur in or on  
24 the licensed premises.

25 (4) Licenses must be revoked for a period of ninety (90) days to one (1)  
26 year. If, after revocation, the department finds that the basis for the revo-  
27 cation has been corrected or abated, the applicant may be granted a license if  
28 at least ninety (90) days have passed since the date the revocation became  
29 effective.

30 18-8511. RIGHT TO PROMPT JUDICIAL REVIEW OF DENIAL, SUSPENSION OR REVOCATION  
31 OF A LICENSE. (1) An applicant or license holder aggrieved by an action  
32 of the department which results in denial, suspension or revocation of

33 license issued under this chapter has the right to prompt judicial review an  
34 decision according to this section.

35 (2) Notwithstanding any state statute, administrative rule or court rul  
36 to the contrary, an action or proceeding to review the issuance, revocation  
37 suspension, or denial of a license or other entitlement for expressive conduc  
38 protected by the First Amendment to the United States Constitution shall b  
39 conducted in accordance with this section.

40 (3) For purposes of this section, the following definitions shall apply:

41 (a) The terms "license" and "entitlement" are used interchangeably.

42 (b) The term "license applicant" means both an applicant for a licens  
43 and a holder of a license.

44 (c) The term "public agency" means a city, county, city and county,  
45 joint powers authority or similar public entity formed pursuant to law, o  
46 any other public entity authorized by law to issue licenses for expressiv  
47 conduct protected by the First Amendment to the United States Constitu  
48 tion.

49 (4) A public agency may, if it so chooses, designate the licenses o  
50 entitlements to which this section applies by adopting an ordinance or resolu  
51 tion which contains a specific listing or other description of the licenses o  
52 entitlements issued by the public agency which are eligible for expedite

10

1 judicial review pursuant to this section because the licenses regulate expres  
2 sive conduct protected by the First Amendment to the United States Constitu  
3 tion.

4 (5) The procedure set forth in this subsection, when applicable, shal  
5 supersede anything to the contrary as set forth in state statute, administra  
6 tive rules, and court rules regulating civil procedure.

7 (a) Within five (5) court days after receipt of written notification fro  
8 a license applicant that the applicant will seek judicial review of a pub  
9 lic agency's action on the license, the public agency shall prepare, cer  
10 tify, and make available the administrative record to the license appli  
11 cant.

12 (b) Either the public agency or the license applicant may bring an actio  
13 in accordance with the procedure set forth in this section. If th  
14 license applicant brings the action, the action shall be in the form of  
15 petition for writ of mandate pursuant to the Idaho rules of civil proce  
16 dure.

17 (c) The party bringing the action pursuant to this section shall file an  
18 serve the petition on the respondent no later than twenty-one (21) calen  
19 dar days following the public agency's final decision on the license. Th  
20 title page of the petition shall contain the following language in eigh  
21 teen (18) point type:

22 "ATTENTION: THIS MATTER IS ENTITLED TO PRIORITY AND SUBJECT TO  
23 THE EXPEDITED HEARING AND REVIEW PROCEDURES CONTAINED IN SECTION  
24 18-8511, IDAHO CODE."

25 (d) The clerk of the court shall set a hearing for review of the petitio  
26 no later than twenty-five (25) calendar days from the date the petition i  
27 filed. Moving, opposition, and reply papers shall be filed as provided i  
28 the Idaho rules of civil procedure. The petitioner shall lodge the admin  
29 istrative record with the court no later than ten (10) calendar days i  
30 advance of the hearing date.

31 (e) Following the conclusion of the hearing, the court shall render it  
32 decision in an expeditious manner consistent with constitutional require  
33 ments in view of the particular facts and circumstances. In no even  
34 shall the decision be rendered later than twenty (20) calendar days afte  
35 the matter is submitted or fifty (50) calendar days after the date th  
36 petition is filed pursuant to subsection (4) of this section, whichever i  
37 earlier.

38 (6) If the presiding judge of the court in which the action is file  
39 determines that, as a result of either the press of other court business or  
40 other factors, the court will be unable to meet any one (1) or more of th  
41 deadlines provided within this section, the presiding judge shall request th  
42 temporary assignment of a judicial officer to hear the petition and render  
43 decision within the time limits contained in this section. Given the shor  
44 time period involved, the request shall be entitled to priority.

45 (7) In any action challenging the issuance, revocation, suspension, o  
46 denial of a license or entitlement, the parties to the action shall be permit  
47 ted to jointly waive the time limits provided for in this section.

48 18-8512. ISSUANCE OF TEMPORARY LICENSES PENDING APPEAL. A sexually ori  
49 ented business or an employee of a sexually oriented business that is denie  
50 issuance of a license under this chapter, or that has a license suspended  
51 revoked or has been denied renewal, shall be issued a temporary license if th  
52 business or employee perfects an appeal of the denial, suspension, revocatio  
53 or denial of renewal. The temporary license shall be effective until resolu  
54 tion of the appeal.

11

1 18-8513. HOURS OF OPERATION. Sexually oriented businesses shall no  
2 remain open between the hours of two o'clock (2:00 a.m.) and eight o'clock  
3 (8:00 a.m.) on weekdays and Saturdays, and two o'clock (2:00 a.m.) and noo  
4 (12:00 p.m.) on Sundays. These restrictions do not apply to adult motels.

5 18-8514. INSPECTION OF SEXUALLY ORIENTED BUSINESSES. An applicant o  
6 licensee shall permit representatives of applicable state and local agencie  
7 to perform lawful inspections of the premises of a sexually oriented busines  
8 for the purpose of ensuring compliance with the law, at any time the busines  
9 is occupied or open for business.

10 18-8515. SEVERABILITY. If any provision of this chapter or its applica  
11 tion to any person or circumstance is held invalid, the invalidity does no  
12 affect other provisions or applications of this chapter which can be give  
13 effect without the invalid provision or application, and to this end the pro  
14 visions of this chapter are severable.

15 18-8516. CONFLICTING STATUTES REPEALED -- LOCAL REGULATION PERMITTED. I  
16 case of conflict between any provision of this chapter and other statutes o  
17 parts of statutes, the provision of this chapter in question shall prevail  
18 The enactment of this chapter does not abrogate the authority of local govern  
19 mental authorities to enact local zoning or licensing regulations, so long a  
20 the licensing requirements are not less restrictive than those imposed in thi  
21 chapter.

22 SECTION 2. That Section 9-340B, Idaho Code, be, and the same is hereb  
23 amended to read as follows:

24 9-340B. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS, INVE  
25 TIGATORY RECORDS OF AGENCIES, WORKER'S COMPENSATION. The following records ar  
26 exempt from disclosure:

27 (1) Investigatory records of a law enforcement agency, as defined in sec  
28 tion 9-337(5), Idaho Code, under the conditions set forth in section 9-335  
29 Idaho Code.

30 (2) Juvenile records of a person maintained pursuant to chapter 5, titl  
31 20, Idaho Code, except that facts contained in such records shall be furnishe  
32 upon request in a manner determined by the court to persons and governmenta  
33 and private agencies and institutions conducting pertinent research studies o  
34 having a legitimate interest in the protection, welfare and treatment of th

35 juvenile who is thirteen (13) years of age or younger. If the juvenile i  
36 petitioned or charged with an offense which would be a criminal offense i  
37 committed by an adult, the name, offense of which the juvenile was petitione  
38 or charged and disposition of the court shall be subject to disclosure as pro  
39 vided in section 20-525, Idaho Code. Additionally, facts contained in an  
40 records of a juvenile maintained under chapter 5, title 20, Idaho Code, shal  
41 be furnished upon request to any school district where the juvenile i  
42 enrolled or is seeking enrollment.

43 (3) (a) Records of the department of correction or the commission of par  
44 dons and parole to the extent that disclosure thereof would interfere wit  
45 the secure and orderly conduct of their operations, or the rehabilitatio  
46 of any person in the custody of the department of correction or on parole  
47 or would substantially prejudice or prevent the carrying out of the func  
48 tions of the department of correction or the commission of pardons an  
49 parole if the public interest in confidentiality clearly outweighs th  
50 public interest in disclosure. Records exempt from disclosure shal

12

1 include, but not be limited to, those containing the names and addresse  
2 of witnesses or victims or those containing information identifying vic  
3 tims or witnesses.

4 (b) Operation manuals of county jails. "Operation manuals" are thos  
5 internal documents of any county jail that define the procedures utilize  
6 to maintain security within the jail.

7 (4) Voting records of the sexual offender classification board. In accor  
8 dance with section 18-8315, Idaho Code, the written record of the vote t  
9 classify an offender as a violent sexual predator by each board member in eac  
10 case reviewed by that board member shall be exempt from disclosure to the pub  
11 lic and shall be made available upon request only to the governor, the chair  
12 man of the senate judiciary and rules committee, and the chairman of the hous  
13 of representatives judiciary, rules and administration committee, for all law  
14 ful purposes.

15 (5) Records of the sheriff or department of law enforcement received o  
16 maintained pursuant to section 18-3302, Idaho Code, and chapter 85, title 18  
17 Idaho Code, relating to an applicant or licensee.

18 (6) Records of investigations prepared by the department of health an  
19 welfare pursuant to its statutory responsibilities dealing with the protectio  
20 of children, the rehabilitation of youth, adoptions and the commitment of men  
21 tally ill persons.

22 (7) Records including, but not limited to, investigative reports, result  
23 ing from investigations conducted into complaints of discrimination made t  
24 the Idaho human rights commission unless the public interest in allowin  
25 inspection and copying of such records outweighs the legitimate public or pri  
26 vate interest in maintaining confidentiality of such records. A person ma  
27 inspect and copy documents from an investigative file to which he or she is  
28 named party if such documents are not otherwise prohibited from disclosure b  
29 federal law or regulation or state law. The confidentiality of this subsectio  
30 will no longer apply to any record used in any judicial proceeding brought b  
31 a named party to the complaint or investigation, or by the Idaho human right  
32 commission, relating to the complaint of discrimination.

33 (8) Records containing information obtained by the manager of the Idaho  
34 state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or o  
35 behalf of employers or employees contained in underwriting and claims for ben  
36 efits files.

37 (9) The worker's compensation records of the Idaho industrial commissio  
38 provided that the industrial commission shall make such records available:

39 (a) To the parties in any worker's compensation claim and to the indus  
40 trial special indemnity fund of the state of Idaho; or

41 (b) To employers and prospective employers subject to the provisions o

42 the Americans with disabilities act, 42 U.S.C. 12112, or other statutor  
 43 limitations, who certify that the information is being requested wit  
 44 respect to a worker to whom the employer has extended an offer of employ  
 45 ment and will be used in accordance with the provisions of the American  
 46 with disabilities act, 42 U.S.C. 12112, or other statutory limitations; o  
 47 (c) To employers and prospective employers not subject to the provision  
 48 of the Americans with disabilities act, 42 U.S.C. 12112, or other statu  
 49 tory limitations, provided the employer presents a written authorizatio  
 50 from the person to whom the records pertain; or  
 51 (d) To others who demonstrate that the public interest in allowin  
 52 inspection and copying of such records outweighs the public or privat  
 53 interest in maintaining the confidentiality of such records, as determine  
 54 by a civil court of competent jurisdiction.  
 55 (10) Records of investigations compiled by the commission on aging involv

13

1 ing vulnerable adults, as defined in section 18-1505, Idaho Code, alleged t  
 2 be abused, neglected or exploited.  
 3 (11) Criminal history records and fingerprints, as defined by sectio  
 4 67-3001, Idaho Code, and compiled by the department of law enforcement. Suc  
 5 records shall be released only in accordance with chapter 30, title 67, Idah  
 6 Code.

## Statement of Purpose / Fiscal Impact

### STATEMENT OF PURPOSE RS10204C2

The purpose of this bill is to regulate sexually oriented businesses commonly known as cabarets and adult theaters so as to prevent the negative secondary effects that are associated with such establishments. These include, but are not limited to, prostitution, paid sexual contact, the spread of diseases that can result from such acts, narcotics violations, increased noise, traffic, and litter, and that occurs through a depression of property values in the vicinity of the establishment. To meet constitutional requirements, the bill allows erotic performances to continue; however, illegal and harmful conduct ancillary to the performances is regulated.

### FISCAL NOTE

None.

CONTACT: Rep. Jeff Alltus (208) 332-1000  
Vince Hughes (208) 773-8022

STATEMENT OF PURPOSE/ FISCAL

**Subject: Fwd: Opposition to HB 367 Licensing Adult-Oriented Businesses**

**Date:** Tue, 4 May 2004 18:21:54 -0700 (PDT)

**From:** CAROL HARTMAN <caroljhartman@prodigy.net>

**To:** brian\_hove@legis.state.ak.us

Note: forwarded message attached.

Brian, hope you get this message, we will be forwarding other information also, and the fax will be coming as soon as I am off the internet. As we agreed, if our packets don't arrive there in time for the meeting that is scheduled to begin 16 HOURS after being scheduled, you will forward them to the Finance Committee.

Thanks.

Carol and Kathy Hartman

P.S. Please check with Senator Seekins and make sure he received the e-mails.

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**Subject: Opposition to HB 367 Licensing Adult-Oriented Businesses**

**Date:** Sun, 2 May 2004 19:43:48 -0700 (PDT)

**From:** CAROL HARTMAN <caroljhartman@prodigy.net>

**To:** Senator\_Ben\_Stevens@legis.state.ak.us, Senator\_Bert\_Stedman@legis.state.ak.us, Senator\_Bettye\_Davis@legis.state.ak.us, Senator\_Con\_Bunde@legis.state.ak.us, Senator\_Donny\_Olson@legis.state.ak.us, Senator\_Fred\_Dyson@legis.state.ak.us, Senator\_Gary\_Stevens@legis.state.ak.us, Senator\_Gary\_Wilken@legis.state.ak.us, Senator\_Gene\_Therriault@legis.state.ak.us, Senator\_Georgianna\_Lincoln@legis.state.ak.us, Senator\_Gretchen\_Guess@legis.state.ak.us, Senator\_Hollis\_French@legis.state.ak.us, Senator\_John\_Cowdery@legis.state.ak.us, Senator\_Johnny\_Ellis@legis.state.ak.us, Senator\_Kim\_Elton@legis.state.ak.us, Senator\_Lyda\_Green@legis.state.ak.us, Senator\_Lyman\_Hoffman@legis.state.ak.us, Senator\_Ralph\_Seekins@legis.state.ak.us, Senator\_Scott\_Ogan@legis.state.ak.us, Senator\_Thomas\_Wagoner@legis.state.ak.us

Dear members of the Senate Judiciary and Finance Committees;

We are Kathy and Carol Hartman, owners of Fantasies on Fifth located in Anchorage, Alaska.

You've probably heard numerous stories related to Adult-Oriented Establishments in Alaska. We, our staff and our employees have tried, and are still trying, in vein to refute all these anecdotal and unsubstantiated allegations.

The proponents keep churning out unverifiable information that is out-dated and from the lower-48. In turn, we keep submitting an exorbitant amount of accurate and provable reports and studies confirming that what they are saying is not based on facts and are, in all actuality, full of embellishments, innuendoes and hear-say.

We oppose HB367 for the following reasons:

- There are current laws in place that address all the crimes that are alleged to be taking place.

The issue is lack of law enforcement. More laws will not take care of the problem when current laws are not being enforced. We do not hire anyone under 18 years of age, nor do we allow them in as patrons. We do not have drugs available, nor do we allow drugs, prostitution, alcohol, or any other illegal actions to take place. <?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

- We do not hire high school students, no matter what age they are.
- The Alaska Supreme Court has recognized that dancing, including nude dancing is a constitutionally protected form of expression under the First Amendment of The United States Constitution. Mickens v. City of Kodiak, 640 P.2d 818, 820 (Alaska 1982).
- Anytime you have the licensing of speech, restrictions can have no discretion. As soon as they allow discretion by those who grant the license, those laws are unconstitutional. Requiring disclosures of the applicant's criminal and past licensing histories are unnecessary because, absent any disqualification ground on those bases, such disclosures are unjustified by a government interest. Joseph Schultz v. City of Cumberland
- Raising the age for employment at an adult cabaret to 21 years of age is unconstitutional. There are many young adults working at night in various jobs, i.e. fast food restaurants, gas stations, etc. It appears that working in some of these places can be very dangerous considering the murders and robberies that have taken place in the last few years. We have never had a murder, sexual assault, robbery, etc. We have a safe and controlled environment. It's not safe to work at Taco Bell, banks, pizza parlors, Wendy's, etc. Why not work to make those places safer? We have plenty of security at our place.
- We are regulated through the Municipality of Anchorage and are required to be licensed. We are required to have a "Permit for Premises Where Minors Are Not Allowed" and are required to be 1000 feet away from schools, churches, 24- hour day care centers, public parks, public libraries, and several other places.
- We are annually inspected by the Fire Marshal and Health Department.
- We have been accused of causing adverse secondary effects, because of higher crime rates, prostitution, drugs, sexual assaults, kidnapping, and other crimes that are being committed. The report received from Anchorage Police Department shows that all adult cabarets, whether serving alcohol or not, have much fewer police calls than do other bars and nightclubs.
- Research of property values surrounding adult cabarets in Anchorage for 2001, 2002, and 2003 show that property values have risen steadily every year.
- The National Law Center Summaries of "SOB Land Use" Studies that were presented as evidence and put in the record are outdated, and do not compare to Anchorage, Alaska 2004. The studies were from large cities and were conducted in the 1970's and 1980's with the exception of one that was done in 1992 in Oklahoma City, Oklahoma.

- Many dancers are attending college, have attended college while working, or have graduated from college. Some dancers are married and raising a family. Some are single parents raising children.
- It was stated that dancing in adult cabarets leads to prostitution and drug use. We still keep in touch with most of the dancers that have worked for us over the years, and we've never known even one that has gone into prostitution. However, many dancers came to work for us with drug or alcohol problems, and we've watched them beat the problem and change their lives for the better.

You'll be receiving a packet from us that will include substantiated and verifiable evidence supporting our position against HB367, and hope you'll take the time to read it. I'm sure you all have more important issues to spend your time and our money on.

Should you have any questions or concerns, please do not hesitate to contact us.

Respectfully,

Kathy and Carol Hartman

563-0042

**Subject: Fwd: Background Info on HB367 - Licensing Adult-Oriented Businesses**

**Date: Tue, 4 May 2004 18:24:03 -0700 (PDT)**

**From: CAROL HARTMAN <caroljhartman@prodigy.net>**

**To: brian\_hove@legis.state.ak.us**

Note: forwarded message attached.

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**Subject: Background Info on HB367 - Licensing Adult-Oriented Businesses**

**Date: Sun, 2 May 2004 20:04:58 -0700 (PDT)**

**From: CAROL HARTMAN <caroljhartman@prodigy.net>**

**To: Senator\_Ben\_Stevens@legis.state.ak.us, Senator\_Bert\_Stedman@legis.state.ak.us,  
Senator\_Bettye\_Davis@legis.state.ak.us, Senator\_Con\_Bunde@legis.state.ak.us,  
Senator\_Donny\_Olson@legis.state.ak.us, Senator\_Fred\_Dyson@legis.state.ak.us,  
Senator\_Gary\_Stevens@legis.state.ak.us, Senator\_Gary\_Wilken@legis.state.ak.us,  
Senator\_Gene\_Therriault@legis.state.ak.us, Senator\_Georgianna\_Lincoln@legis.state.ak.us,  
Senator\_Gretchen\_Guess@legis.state.ak.us, Senator\_Hollis\_French@legis.state.ak.us,  
Senator\_John\_Cowdery@legis.state.ak.us, Senator\_Johnny\_Ellis@legis.state.ak.us,  
Senator\_Kim\_Elton@legis.state.ak.us, Senator\_Lyda\_Green@legis.state.ak.us,  
Senator\_Lyman\_Hoffman@legis.state.ak.us, Senator\_Ralph\_Seekins@legis.state.ak.us,  
Senator\_Scott\_Ogan@legis.state.ak.us, Senator\_Thomas\_Wagoner@legis.state.ak.us**

**CC: Anchorage CHARR <anchoragecharr@gci.net>**

**! PROPAGANDA THROUGH FICTION IS ALL WE'VE HEARD**

**!<?xml:namespace prefix = o ns =**

**"urn:schemas-microsoft-com:office:office" />**

**! SLANDEROUS LIBEL, & DEFAMATORY STATEMENTS !**

**"WHY DOESN'T ANYONE CARE, OR PAY ATTENTION TO THE**

**FACTS !!!"**

- The Adult Oriented Cabaret industry, its owners, or employees, were never included in the talks, formulation, or proposal of HB 367.
- The statements and resolutions being made and sent all over the state by Nancy Fair are full of unsubstantiated statements, false statements, embellishments, innuendos, and here-say that have maligned our business, our employees, our families, and ourselves personally.
- Nancy Fair and Kara Nyquist have made many statements that are slanderous libel.
- Our lives, our families, and our businesses have been threatened and maligned by the

materials being sent out by Nancy Fair and Kara Nyquist, yet we are ignored when we come forward to defend ourselves against the malicious and un-true accusations being made against us.

- Nancy Fair, a proponent of HB 367, and a member of Service High School PTA, has sent out numerous materials to Legislators, statewide PTA's, select members of the public, and others, that are filled with un-truths, embellishments, and here-say.
- Nancy Fair has done this while at work, (<?xml:namespace prefix = st1 ns = "urn:schemas-microsoft-com:office:smarttags" />U.S. Fish and Wildlife) while on government time, using her government computer! Is this any different than what Randy Ruedrich did?
- Nancy Fair, Kara Nyquist, Regina Manteufel, and the PTA's among others, has attempted to degrade us, and our businesses. They have made very malicious, un-true statements that have reached the general public, and thereby affected ours and our family's reputations personally, as business owners and as working, tax paying citizens of this community.
- Nancy Fair will not testify in public, as she states she has been threatened, yet she goes behind our backs and spreads unsubstantiated rumors, un-true statements, innuendos, and more about our businesses, our industry, and our employees.
- We have been told that the stories told by persons wanting to stay at Covenant House are embellished all the time, because the bigger and better the story is, or the worse that person can make it sound, the more help they are given, and they are allowed to stay longer. Therefore, why would these people NOT embellish their stories, and lie about what's happened?
- Regina Manteufel is basing her statements regarding things that happened to her while she was a "stripper" on things that happened 20-25 years ago when non-alcoholic adult cabarets did not even exist, and the clubs that were licensed to sell alcohol were not regulated as they are now.
- Regina Manteufel has stated during testimony that all of the adult cabarets treat their employees as independent contractors, and do not do payroll, withhold and pay taxes, or have workman's comp insurance. This is a lie! All the clubs do payroll with the exception of the Showboat, which treat their employees as independent contractors.
- We have furnished copies of our state quarterly reports, federal 941 quarterly reports, and W-3 transmittal, along with copies of our workman's comp insurance policy to those that have bothered to question our compliance with wage and hour laws.
- Both of our businesses, The Setter Lounge and Fantasies on 5<sup>th</sup> Avenue, belong to HERE Local 878. The dancer's have the option of joining after they have been employed long enough. We have had, and currently have dancers in the union. They are eligible for the same mandatory benefits as everyone else, including pension and health insurance, along with an optional 401 (k) program.
- Nancy Fair and Kara Nyquist stated that "One SOB claims to run a "clean club" without drugs or crime and thinks that new laws are unnecessary. However, they could sell their business tomorrow to an unscrupulous operator." Let me say that we have been in business for over 15 years and are in the process of a two million dollar, two story expansion. This is a family owned and operated business, and several of our family members have been employed here for 1, 6, 9, 12 and 15 years. We do not intend to sell this family business!
- We have a zero tolerance for drugs and alcohol on the premises, and employees have been fired for violating the rules regarding these issues.
- We have run a trouble free business for over 15 years, and remained in good standing in this community until the proposal of HB 367. Now our lives are in shambles while we try to defend ourselves against all the malicious things being said about us and our business.
- This should be a LOCAL issue, as we are currently regulated locally.
- Laws pertaining to any illegal activities thought to be taking place should be enforced!

- **We are, and have always been in compliance with the following requirements:**
  - ✓ **Health inspections and certificates for 15 years.**
  - ✓ **Food safety (ServSafe certificate and classes) since program was implemented.**
  - ✓ **Fire Marshall Inspections and certificate of occupancy for 15 years.**
  - ✓ **Complied with 1000 foot zoning ordinance since implementation.**
  - ✓ **Held a "Permit for Premises Where Minors Are Not Allowed" since implemented.**
  - ✓ **Applied for Municipal Adult Entertainment License when implemented.**
  - ✓ **Treat employees as such and comply with wage and hour laws.**
  - ✓ **Withhold federal withholding, social security, M-care, state and federal unemployment taxes, and submit a check to the Department of Treasury bi-weekly.**
  - ✓ **Renew our workman's compensation insurance every year.**
  - ✓ **File state and federal quarterly reports on all employees.**
  - ✓ **Carry general liability insurance (and liquor liability on The Setter).**
  - ✓ **File Personal Property Assessment and pay property taxes every year.**
  - ✓ **Hold current business licenses and renew them every year.**
  - ✓ **Have current liquor license for the Setter and renew it every year.**
  - ✓ **Have and renew Special Occupational Tax through AFT every year.**
  - ✓ **File an 11-C Occupational Tax and Registration Return for Wagering every year.**
  - ✓ **File a Form 730 (wagering tax) monthly**
  - ✓ **File State of Alaska Biennial Reports with State of Alaska Corporations Section.**
  - ✓ **File monthly reports with HERE Local 878 and pay union dues.**
  - ✓ **File monthly reports with Alaska Hotel, Restaurant and Camp Employees Trusts and pay the health insurance and pension funds. (We pay .90 per hour towards employees health insurance, they pay .85 per hour). (We also pay .50 per hour toward their pension and the employees pay .83 per hour).**
  - ✓ **File monthly reports with Labor Unions 401 (K) plan and send in the funds.**
  - ✓ **Our businesses DO NOT create adverse secondary effects.**

- ✓ Our business has NO pornography, NO obscenity, NO alcohol, NO drugs, NO physical or sexual abuse, NO STD's being transmitted, NO pornographic litter, NO pills or needles in our parking lot, and No prostitution.
- ✓ NO decrease in property values surrounding adult cabarets (researched, sent copies).
- ✓ NO increase in crime that is attributable to adult entertainment businesses.
- ✓ Adult cabarets, even those with alcohol, have far fewer police calls than do other clubs, bars, and similar businesses in the Municipality of Anchorage.
- ✓ There has been NO blight to neighborhoods (as evidenced by neighbor's letters).
- ✓ We have a safe environment with professional security personnel on duty at all times.

**LAWS SHOULD NOT BE WRITTEN ACCORDING TO ANYONES MORAL OPINIONS!!!!!!**

People that find this form of adult entertainment offensive or disagreeable are not forced to be subjected to it. If you have a moral issue with adult entertainment, and you raise your children to agree with your moral values, then when they are adults, they will either follow your same moral values, and not enter AOB's or, as adults, they will make their own choices.

***TO RESTRICT FREEDOM OF SPEECH OR \_EXPRESSION ONLY TO POLITICAL MATTERS  
WOULD SEVERELY NARROW THE SCOPE OF LIBERTY.***

ALASKA STATE LEGISLATURE  
Senate Judiciary Committee Members

Kathy and Carol Hartman  
1911 E 5th Avenue  
Anchorage, AK 99501  
563-0042

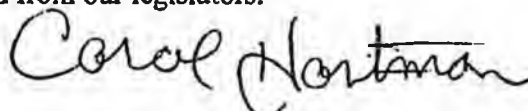
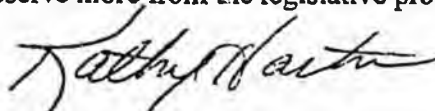
*If society punishes controversial expression,  
everyone in society loses some measure of their freedom.*

This bill should never have been brought forward. From the beginning, we were excluded from discussions that formulated this bill. During the interim, meetings were held between sponsors of the bill, a couple of Service High PTA members, Kara Nyquist from Covenant House, and a few anonymous former and current "strippers", and others we don't know about as no minutes are available from those meetings. Not one person from any of the adult oriented establishment businesses was invited to take part in any of the discussions. Had we been given the opportunity to participate, many, if not all of the reasons justifying HB 367 would have been mitigated.

- We have been in business for over 15 years.
- There are current laws in place that address all the crimes that are alleged to be taking place. The issue is lack of law enforcement. More laws will not take care of the problem when current laws are not being enforced. We do not hire anyone under 18 years of age, nor do we allow them in as patrons. We do not have drugs available, nor do we allow drugs, prostitution, alcohol, or any other illegal actions to take place.
- We do not hire high school students, no matter what age they are.
- The Alaska Supreme Court has recognized that dancing, including nude dancing is a constitutionally protected form of expression under the First Amendment of The United States Constitution. Mickens v. City of Kodiak, 640 P.2d 818, 820 (Alaska 1982).
- Anytime you have the licensing of speech, restrictions can have no discretion. As soon as they allow discretion by those who grant the license, those laws are unconstitutional. Requiring disclosures of the applicant's criminal and past licensing histories are unnecessary because, absent any disqualification ground on those bases, such disclosures are unjustified by a government interest. Joseph Schultz v. City of Cumberland
- Raising the age for employment at an adult cabaret to 21 years of age is unconstitutional. There are many young adults working at night in various jobs, i.e. fast food restaurants, gas stations, etc. It appears that working in some of these places can be very dangerous considering the murders and robberies that have taken place in the last few years. We have never had a murder, sexual assault, robbery, etc. We have a safe and controlled environment. It's not safe to work at Taco Bell, banks, pizza parlors, Wendy's, etc. Why not work to make those places safer? We have plenty of security at our place.

- We are regulated through the Municipality of Anchorage and are required to be licensed. We are required to have a "Permit for Premises Where Minors Are Not Allowed" and are required to be 1000 feet away from schools, churches, 24- hour day care centers, public parks, public libraries, and several other places.
- We are annually inspected by the Fire Marshall and Health Department.
- We have been accused of causing adverse secondary effects, because of higher crime rates, prostitution, drugs, sexual assaults, kidnapping, and other crimes that are being committed. The report received from Anchorage Police Department shows that all adult cabarets, whether serving alcohol or not, have much fewer police calls than do other bars and nightclubs.
- Research of property values surrounding adult cabarets in Anchorage for 2001, 2002, and 2003 show that property values have risen steadily every year.
- The National Law Center Summaries of "SOB Land Use" Studies that were presented as evidence and put in the record are outdated, and do not compare to Anchorage, Alaska 2004. The studies were from large cities and were conducted in the 1970's and 1980's with the exception of one that was done in 1992 in Oklahoma City, Oklahoma.
- Many dancers are attending college, have attended college while working, or have graduated from college. Some dancers are married and raising a family. Some are single parents raising children.
- It was stated that dancing in adult cabarets leads to prostitution and drug use. We still keep in touch with most of the dancers that have worked for us over the years, and we've never known even one that has gone into prostitution. However, many dancers came to work for us with drug or alcohol problems, and we've watched them beat the problem and change their lives for the better.
- We've received many letters of support, including some from Alaska CHARR, HERE Union Local 878, Safe Harbor Inn, and other neighbors and members of the community.

Lack of enforcement of existing laws does not rationalize violating our rights to hire employees who have been convicted of a specified criminal activity, nor the rights of entertainers to be employed who have paid their debts to society. As it stands, we won't be allowed to hire people who have had drug convictions. The sex-related crimes listed in Sec.08.90.200 (b) typically do not pertain to entertainers, and shows how unstudied this bill really is. Also, the state does not have a compelling reason to violate owners' rights to hire 18, 19, and 20-year old adults, nor for 18, 19 and 20-year olds to be employed. If the intent is to educate young adult workers to know their wage and hour rights, then a broader bill has to be introduced to require all young adult workers to know their wage and hour rights. Better preparation would have mitigated every concern predicating the intent of this bill. Clearly, Alaskans deserve more from the legislative process and from our legislators.



## APPENDIX

Appendix A.....	Police Calls For Service at Requested Locations
Appendix B.....	Dept. of Labor & Workforce Development letter and W-3's
Appendix C.....	Legal Economics, Inc. 10 year study
Appendix D.....	Letter opposing HB 367 from CHARR, HERE Union, etc.
Appendix E.....	Press Releases on Opposition of HB 367
Appendix F.....	Partial Peek-A-Boo Case
Appendix G.....	The Riggs Institute - Kid's Brain Power
Appendix H.....	HB 430
Appendix I.....	Pimps
Appendix J.....	Contradictory Kelly Holsopple publication
Appendix K.....	Juvenile Competence to Stand Trial
Appendix L.....	Rape
Appendix M.....	Rebuttal to Regina Manteufel letter
Appendix N.....	Municipal Code 21.45.240
Appendix O.....	Municipal Code 10.40.050
Appendix P.....	Pornography definition
Appendix Q.....	Definition of Prostitution
Appendix R.....	Jeffcoat and The Lonely Lady v. SOA, Dept. of Labor
Appendix S.....	First Amendment Center Opinions
Appendix T.....	Mickens v. City of Kodiak
Appendix U.....	Signatures from people opposing under-21 ban of HB 367
Appendix V.....	Letter from Clinician Colleen Dire disputing HB 367 info
Appendix W.....	Bill Miller quote, The Anchorage Chronicle, May 1, 2003
Appendix X.....	Currently held permits, licenses, certificates, etc.



Mark Begich  
Mayor

# ANCHORAGE POLICE DEPARTMENT

4501 Bragaw Street • Anchorage, Alaska 99507-1599

Telephone (907) 786-8500

<http://www.muni.org>



February 20, 2004

Carol Hartman  
Fantasies on Fifth Avenue  
1911 E. Fifth Avenue  
Anchorage, AK 99501

Dear Ms. Hartman:

Pursuant to your information request of February 4, 2004 we have prepared a Calls For Service (CFS) Report (See Enclosure).

Your request was received by the Anchorage Police Department on February 6<sup>th</sup> and required internal staff review as well as legal review. We apologize for any perceived delay.

Please feel free to direct your questions to me via phone (786-2477) or E-Mail ([dhsieh@muni.org](mailto:dhsieh@muni.org)).

Sr. Patrol Officer Derek Hsieh  
Administrative Officer

dh  
enclosure

Calls For Service at Requested Locations  
1998 - 2003



ANCHORAGE POLICE DEPARTMENT

OFFICER  
DEREK HSIEH

4501 SOUTH BRADY ST.  
ANCHORAGE, ALASKA 99502-1588  
DISPATCH: (907) 786-8500  
VOICE MAIL: (907) 786-3872  
E-MAIL: DHRHSIEH@ANCHORAGE.PK.US

CALL TYPE FINAL TRANSLATION	ALS ALASKAN INN 515 CLUB	AVENUE BAR	BUSH COMPANY	CHILKOOT	CRAZY HORSE GAMBELL	CRAZY HORSE MULDOON	FANTASIES ON 5TH	MILLENNIUM CLUB	PJS	RUMRUNNERS	SHOWBOAT	TEASERS/CRAZY HORSE MULDOON	Grand Total
ADMINISTRATIVE				4									4
ALARM	45		10										55
ALL BOMB CALLS			1										1
ASSAULT	6	3	11	5	16	1	2	2	3	10	5		64
ASSAULT WITH A WEAPON			1	1	4				1	1			8
BURGLARY		2											2
CHILD ABUSE/NEGLECT/CUST										1	1		2
CIVIL PROBLEM/STANDBY		1			2	1				1			5
DEAD BODY		1											1
DISORDERLY CONDUCT	1		3	1				1		2	1		9
DIST WITH WEAPON				1					1				2
DISTURBANCE	13	13	27	5	21	2	1	6	5	20	13	5	131
DRIVING WHILE INTOXICATED	2	1	2	3			1	1		2			12
DRIVING WITH LIC S/R/C				1	1								2
DRUGS/FORGED PERSCRIPTION	1	1	9	1	3		1			2			18
DRUNK PROBLEM	6	6	6	5			1			10			34
DRUNK TRANSPORT	3	1	6	1						5			16
DV WRIT SERVICE				1		1							2
ELUDING/EVADING OFFICER				1									1
FALSE RPT/FALSE INFO			2	4						2			8
FIRE DEPT ASSIST				1	1								2
FOLLOW UP	2	8	14	6	14	3	2	3	4	9	2		67
FOUND PROPERTY				2				1					3
FRAUD		1	1	2						1	1	1	7
GAMBLING/PROSTITUTION									2				2
GENERAL LOCATE	1	6	1	2	12	1	1	2	2	1	1	1	31
HARASSMENT									1				1
HIT AND RUN		1	1	3	15				2	1	2		25
HIT AND RUN WINJURY				1									1
INDECENT EXPOSURE										2			2
JUVENILE PROBLEM								1					1
LIQUOR LAW VIOLATION	2		6	1	26					2	1		38
LOST PROPERTY		1	2	8						1			12
MEDIC ASSIST		7	1	4	4	1				4	1		22
MENTAL PERSON			1						1	2		1	5
MISCONDUCT INV/WEAPON				3	4		1						8
MISSING PERSON (NOT RUNAWAY)		1		2						3			6
NOISE VIOLATION		1		3						3			7
OFFICER HAILED			3	3									6
OUTSIDE AGENCY ASSIST	1	3	1	1	2				1				9
PARKING PROBLEM/OVER 24	4	1	5	2	3			2		15			32
PUBLIC ASSIST		1								2			3
ROBBERY				1	1						1		3
SECURITY CHECK	1		10	7	7	2		1		2			23
SEXUAL ASSAULT	1		1		1					1	1		5
STOLEN VEHICLE		1		11	1				2	2	2		19
STRONGARM ROBBERY					1					1			2
SUBJECT STOP	1	4	11		6		1	1	5	6			35
SUICIDE ATTMP/THREAT			1										1
SUSPICIOUS PER/VEH/CIRC	2			8			1	1	2	2	3	1	20
THEFT	1	16	3	2	45	4	2	1	4	11	9	1	99
THREATS				3					2				5
TRESPASS		1	12	2	3	2		1		1	5	2	29
VANDALISM		2	2	5	8			1	4	2	3		27
VIOL CITY/STATE REGS		2	5	1	2		1			1			13
WARRANT SERVICE		5	4	9	6		6		3	2	1		36
WELFARECHK/911 HANG UP	12	13	21	4	39	7	3		5	21	4		129
Grand Total	66	148	173	65	311	26	7	25	22	52	157	64	1116

2/19/2004 12:25 PM  
Handwritten notes and initials at the bottom of the page.

# STATE OF ALASKA

## DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT

WAGE AND HOUR ADMINISTRATION  
LABOR STANDARDS & SAFETY DIVISION

FRANK H. MURKOWSKI, GOVERNOR

3301 Eagle Street, Suite 301  
Anchorage, Alaska 99503-4149  
Phone: (907) 269-4300  
Fax: (907) 269-4915

February 26, 2004  
Dictated: 02/23/04

Fantasies on 5<sup>th</sup>  
1911 East 5<sup>th</sup> Avenue  
Anchorage, AK 99501

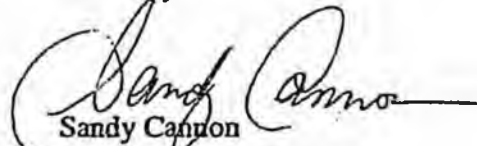
Ladies and Gentlemen:

This letter serves as a reminder that minors under the age of 18 are not allowed to work in your establishment.<sup>1</sup>

Please ensure all employees have valid identification that provides proof of age indicating they are at least "18 years of age or older."

If you have any questions concerning this or any other Wage & Hour matters, please feel free to contact our office for cost free counseling.

Sincerely,

  
Sandy Cannon  
Supervising Investigator  
Wage & Hour Administration  
Anchorage Regional Office

SC:ws  
Adult Clubs Fantasies

<sup>1</sup> AS 23.10.350(f) A minor under the age of 18 may not be employed or allowed to work in any capacity on the premises of a business that offers adult entertainment. In this subsection, "business that offers adult entertainment" means a business in which one or more individuals are employed or contracted to, wholly or in part, or permitted to entertain others by

- (1) removing clothes or other items that clothe or hide the person's body;
- (2) dancing or in any other manner exhibiting the individual's body in a completely or almost completely unclothed state;
- (3) participating in an actual or simulated illegal, indocent, or lewd exhibition, act, or practice including
  - (A) sexual penetration;
  - (B) the lewd exhibition or touching of a person's genitals, anus, or breast; or
  - (C) bestiality.

**33333**      For Official Use Only  
OMB No. 1545-0008

<b>b</b> Kind of Payer	<input checked="" type="checkbox"/> 941	<input type="checkbox"/> Military	<input type="checkbox"/> 943	<b>1</b> Wages, tips, other compensation		<b>2</b> Federal income tax withheld
	<input type="checkbox"/> CT-1	<input type="checkbox"/> Hshld. emp.	<input type="checkbox"/> Medicare govt. emp.	<input type="checkbox"/> Third-party sick pay	\$ 458675.02	\$ 42587.00
<b>c</b> Total number of Forms W-2	<b>d</b> Establishment number			<b>3</b> Social security wages		<b>4</b> Social security tax withheld
77				\$ 405084.82		\$ 30966.45
<b>e</b> Employer identification number				<b>5</b> Medicare wages and tips		<b>6</b> Medicare tax withheld
92-0133421				\$ 499458.82		\$ 7242.20
<b>f</b> Employer's name				<b>7</b> Social security tips		<b>8</b> Allocated tips
Sands North Inc.				\$ 94374.00		\$
Fantasies On 5th Ave 1911 E 5th Ave Anchorage AK 99501				<b>9</b> Advance EIC payments		<b>10</b> Dependent care benefits
				\$		\$
g Employer's address and ZIP code				<b>11</b> Nonqualified plans		<b>12</b> Deferred compensation
				\$		\$ 30464.00
h Other EIN used this year				<b>13</b> For third-party sick pay use only		
				<b>14</b> Income tax withheld by payer of third-party sick pay		
				\$		
<b>15</b> State	Employer's state ID number			<b>16</b> State wages, tips, etc.		<b>17</b> State income tax
				\$		\$
				<b>18</b> Local wages, tips, etc.		<b>19</b> Local income tax
				\$		\$
Contact person Carol Hartman				Telephone number (907) 561-8679	For Official Use Only	
E-mail address				Fax number ( )		

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature

Title

Date

### W-3 Transmittal of Wage and Tax Statements

2003

Department of the Treasury  
Internal Revenue Service

Send this entire page with the entire Copy A page of Form(s) W-2 to the Social Security Administration. Photocopies are not acceptable.

Do not send any payment (cash, checks, money orders, etc.) with Forms W-2 and W-3.

#### Item To Note

Read the separate instructions. See the separate 2003 Instructions for Forms W-2 and W-3 for information on completing this form.

#### Purpose of Form

Use this form to transmit Copy A of Form(s) W-2, Wage and Tax Statement. Make a copy of Form W-3, and keep it with Copy D (For Employer) of Form(s) W-2 for your records. Use Form W-3 for the correct year. File Form W-3 even if only one Form W-2 is being filed. If you are filing Form(s) W-2 on magnetic media or electronically, do not file Form W-3.

#### When To File

File Form W-3 with Copy A of Form(s) W-2 by March 1, 2004.

#### Where To File

Send this entire page with the entire Copy A page of Form(s) W-2 to:

Social Security Administration  
Data Operations Center  
Wilkes-Barre, PA 18769-0001

**Note:** If you use "Certified Mail" to file, change the ZIP code "18769-0002." If you use an IRS approved private delivery service, add "ATTN: W-2 Process, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See Circular E, Employer's Tax Guide (Pub. 15), for a list of IRS approved private delivery services.

Do not send magnetic media to the address shown above.

Alaska Cabaret, Hotel,  
Restaurant & Retailers Association



1111 East 80th Ave., Suite 3 - Anchorage, Alaska 99518  
(907) 274-8133 - Fax: (907) 274-8640  
Toll Free In Alaska: (800) 478-2427

March 10, 2004

House Finance Committee  
The Honorable Kevin Meyer, Chairman  
House of Representatives  
Alaska State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Meyer,

I am writing on behalf of the hundreds of members of Alaska CHARR from around the state to oppose House Bill 367, an act related to adult-oriented businesses. Alaska CHARR is generally opposed to anti-business legislation and is adamantly opposed to this bill in its current form.

We disagree with the legislative purpose and findings on 4 out of 5 issues stated as fact, enumerated below:

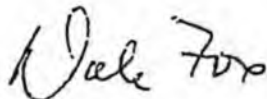
1. This bill will not reduce the incidence of, and opportunities for, illegal activities.
2. There is no documentation of the adverse impacts on neighbors.
3. These law-abiding businesses do not accost or harass law-abiding residents nor do they create litter of an adult nature.
4. This bill will have no impact on preventing prostitution, spread of disease, blighting of neighborhoods, or reducing crime.

The proposed legislation is a solution looking for a problem that does not exist.

We respectfully suggest that the State of Alaska enforce the many laws on the books that already address the illegal activities outlined by the sponsors. It is our understanding that law enforcement needs additional funding to enforce the laws already on the books. It is interesting that this bill proposes to educate, regulate, inspect, license and enforce all of the terms of this bill with a fiscal note of \$0.

Alaska CHARR's Government Affairs Committee was unanimous in their opposition to HB 367 in its current form.

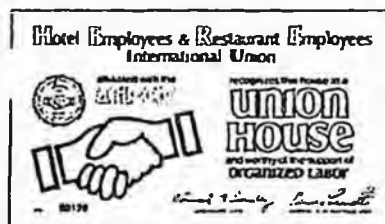
Sincerely,



Dale Fox  
Executive Director, Alaska CHARR

Cc: Rep McGuire  
Rep. Anderson  
Rep Gara  
Rep Dahlstrom

VISIT ALASKA - IT'S AN AMERICAN ADVENTURE



## HOTEL EMPLOYEES, RESTAURANT EMPLOYEES UNION LOCAL 878

530 E. 4th Avenue - P.O. Box 100564 - Anchorage, Alaska 99510  
(907) 272-6591 • 1-800-478-HERE • FAX: (907) 277-8595  
Health / Pension / Legal Information: call (800) 478-8329

Fairbanks area office:  
(907) 452-2332

Juneau area office:  
(907) 780-4844

Kenai/Soldotna area office:  
(907) 250-3060

Ketchikan area office:  
(907) 225-4508

Kodiak area office:  
(907) 486-4561

Valdez area office:  
(907) 835-2391



February 1, 2004

To Whom It May Concern:

I am writing on behalf of Hotel Employee Restaurant Employee Union Local 878 (H.E.R.E.) to express our support for Fantasies on 5<sup>th</sup>, a member in good standing since September, 2001.


I have dealt with many business owners during my tenure as the President of H.E.R.E. Local 878 and it is with no reservations that vouch for the honesty and integrity of Kathy and Carol Hartman, owner of Fantasies, and their management team.

There has been much controversy over young adult clubs and the treatment of their employees, and the types of activities that go on. This business is very responsive to the needs of its employees, and tolerates no improper or illegal activities.

In my experience the vast majority of owners of clubs in Alaska are decent, responsible owners who look out for the well being of their workers. To stereotype these establishments as all bad is ridiculous as stereotyping all car salesmen as dishonest. It is unfair, and inaccurate.

Please look carefully at blanket legislation that attacks this industry and consider looking at remedies that address specific problems.

Sincerely,

  
Martin Jones  
President  
H.E.R.E Local 878



February 26, 2004

To Whom It May Concern:

As the Sales Manager for a locally owned group of radio stations here in the Anchorage area, I have been involved with the owners of Fantasies On 5<sup>th</sup> since 1997 when they operated Sands North on International Road.

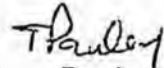
I have advertised their businesses on our stations, I have been present when we have done live remote broadcasts from their locations and I have had them and their business involved in other promotions pertaining to our stations.

Of the countless times that I have been in their premises over the years, both of a professional and personal nature, I have NEVER ONCE saw any activity that made me feel uncomfortable, or activity that would be considered illicit. Nor have I even HEARD of any activity that would be considered illicit.

I am 37 years of age, married and have 4 children. My wife and I attend church regularly and have been involved in several church organizations. I felt that I should write this letter as I am not oblivious to what's going on with the underage (it's funny how over 18 is considered "underage") strip clubs in regards to proposed legislation.

To many times policy makers think that they have to pass legislation in order to feel that they are doing something. I'm all for that. However, I encourage you that read this to make sure you are basing your decisions on fact, and not on premises or speculation.

Kind Regards,

  
Tony Pauley  
Sales Manager

HB 430

Pertaining to HB 430 by Representative Beth Kertulla.

Current law requires parental permission for 18-year olds who are legal adults to work in establishments that serve alcohol. HB 430 would allow 18-year olds to work in these establishments without parental permission. Under the law, they would still not be able to sell, serve, deliver or dispense alcoholic beverages.

This change would clear up difficulties that 18-year olds have had in finding gainful employment.

According to previous testimony, other representatives have said they don't want young people to be up late at night working. They don't want young adults exposed to people who have had anything to drink. They feel there is a safety issue when the two are combined. Why is it okay if they wear a uniform but not okay if they are taking their clothes off?

There was a study done in Minnesota by Kelly Holsopple, program director for Freedom and Justice for Prostitution Resources. It has been referenced continuously for number of percentages of things that have happened to strippers. The title is Strip Clubs According to Strippers: Exposing Sexual Violence.

She has another study out. Promoting the Priorities and Leadership of Women in the Sex Industry.

She says, "Women in stripping claim no single defining experience or perception of stripping. Experience and perception are particular to each stripper and can change from song to song, customer to customer, shift to shift, club to club. Strippers may describe stripping as fun or abusive, flattering or exploitive, draining or exhilarating at different times over the course of their involvement in stripping."

She says again women claim no defining experience or perception regarding customers.

The study or paper substantially counters what she said in her first paper. We regard her study, which included only 18 people, as very narrow and biased. It was not a scientific study. I would ask you not to rely on her numbers too heavily.

## Indoor Prostitution Research

Holsopple (1994): sample of 18 women in stripclubs in the Minneapolis/St. Paul area.

- 44% reported that the men threatened to hurt them.
- 39% experienced vaginal penetration with fingers.
- 17% experienced anal penetration with fingers.
- 11% experienced attempted penetration with objects.
- 17% experienced forced masturbation from customers.
- 11% experienced rape.

During testimony Leisel  
McSwire said over 100 people  
were surveyed and quotes were  
quoted, which were embellished  
unbelievably. We are being  
judged on the actions of a study  
of 18 people and our facts from  
our own dancers testimony is  
ignored. This is not right &



# UNIVERSITY of ALASKA ANCHORAGE

## Justice Center College of Health & Social Welfare

### Alaska Justice Statistical Analysis Center

The Justice Center is an academic, research, and public education program serving Alaska. The Alaska Justice Statistical Analysis Center is the Statistical Analysis Center (SAC) for Alaska.  
[About the Justice Center](#) | [Faculty & Staff](#) | [What's New](#) | [Search Site](#)



Nenana District Court  
Click on the image to learn more.

RESEARCH>

### Sexual assaults in Anchorage

It has long been known that sexual assaults occur at a higher rate in Anchorage and in Alaska than in the U.S. as a whole. The Justice Center announces release of a new research report which for the first time takes a detailed look at the characteristics of sexual assaults in Anchorage. *Descriptive Analysis of Sexual Assaults in Anchorage.*

*Alaska* by André Rosay and Robert Langworthy is based on 541 sexual assault cases reported to the Anchorage Police Department in 2000 and 2001. Among its findings:

- Victims were most likely to be White (48%) or Native (45%).
- Suspects and victims were acquainted prior to the time of the assault in 56% of the cases. A stranger 44% of the cases.
- Both victims and suspects had typically been drinking alcohol prior to the assault.
- Sexual assaults occurred more frequently from May to October, and they occurred more frequently weekends.
- Private residences were the most common place for the "pick-up" before the assault and for the assault.
- Most sexual assaults in Anchorage were concentrated in five community council areas: Downtown Mountain View and, to a lesser extent, Northeast Anchorage.

The complete report is available for on this site in Adobe Acrobat .pdf format.

[Academics](#) | [Research](#) | [Forum](#) | [Publications](#) | [Resources](#) | [Focus](#) | [Search, Reference, & News](#) | [Links](#)

ACADEMIC PROGRAM>

### Fall semester room changes

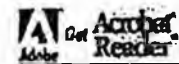
The following courses have had room changes for the Fall 2003 semester:

- **PARL 101**, "Introduction to Law" -- to BEB 117 (from BEB 101)

ACADEMIC PROGRAM>

### Crime Prevention offered in Fall 2003

JUST 320, "Crime Prevention," was not published in the Fall 2003 schedule, but it is being offered for the fall semester, taught by Sharon Chamard. This course is an examination of crime prevention



Many of the files on this site are available for download; we require Adobe Acrobat Reader 4.0 or above.

available for download; we require Adobe Acrobat Reader 4.0 or above.

ACADEMIC PROGRAM>

### Seminar in Criminology

TESTIMONY to Senate Judiciary Committee  
HB 367 - Licensing Adult Oriented Businesses  
Hearing date: May 5, 2004, 8:00 A.M.

Dear Chair and members of the Senate Judiciary committee:

Public awareness alone cannot stop the harmful secondary effects of Adult-oriented businesses; stricter laws are needed if there is to be significant progress in the battle against sexual assault and other crimes and violations associated with the strip club industry.

Workers in the strip club industry, especially youth, are unlikely to attempt to assert rights they do not know they have. Workers' rights can be ensured only if resources are sufficient, legally mandated, and enforced.

According to a study done by the National Health Research and Development Program-Health Canada, "*Erotic/Exotic Dancing: Hiv-Related Risk Factors*", <http://www.walnet.org/csis/papers/lewis-strip.html>. "The findings of this study suggest there is a need for a change in policy regarding the regulation of strip clubs. Instead of relying on criminal law or municipal by-laws, which regardless of intent, have been used to the disadvantage of dancers, we need to move toward treating exotic dancers as workers. Controlling work place activities and protecting employees, through the use of employment-standards law, human-rights law, occupational-health-and safety law and workers-compensation law, would help control the sexual contact occurring in the clubs and the assault and other forms of violation reported by dancers."

"Efforts to develop and deliver health programs to exotic dancers have met with limited success. The most successful attempts have been those initiated by community nurses who, working with one or two dancers, have spent time in the clubs talking to the dancers about their needs and gaining trust. Such programs require the cooperation of club managers, are time consuming, costly, and subject to budget cuts."

Given that the average age of entry into prostitution is between 13 and 14 years old, it seems most appropriate that we provide middle school and high school student's with education about the harmful effects of sex-oriented businesses, workers' legal rights and training in hazard recognition and safe work practices. This training may be the only training students get before they are part of the workforce. This type of education along with raising the age requirement to 21 for both dancer and patron could be a powerful deterrent to sexual exploitation of women and youth.

In my estimation, this backlash against regulation and licensing of adult oriented businesses is all about money. Shaky charges of civil liberty violations are just a smoke screen.

TESTIMONY to Senate Judiciary Committee  
HB 367 - Licensing Adult Oriented Businesses  
Hearing date: May 5, 2004, 8:00 A.M.  
Page 2

I believe the real problem the strip club industry has with this bill is that it has the audacity to bring into line a severely unregulated and much protected industry that has for some time contributed to crime and exploitation of youth while being subsidized by tax payers.

Even if there are "good" owners and operators of adult oriented businesses in Alaska today that is no assurance that all of them are that way, and they could easily be sold to disreputable management tomorrow. The policies of adult-oriented businesses are meaningless. There is no way to revoke a license; strict licensing laws are necessary as a powerful deterrent to the numerous crimes associated with strip clubs which are difficult to enforce and prosecute. Because of this, business and employee licensing has been strongly endorsed in testimony from the Anchorage Police Department, Fairbanks Police Department and the State Troopers.

As legislators, you are in a position to help build our state's economy, but along with that charge I hope you will be mindful of the need to put necessary regulations in place that will safeguard our communities. Unchecked industries such as the strip clubs combined with capital projects such as the anticipated gas pipeline spell disaster especially for our youth.

Please know that, in discussing this bill, I am not offering an endorsement to take away anyone's civil liberty or freedom. Just the contrary, I believe this bill left intact, with the age requirement of 21 for both dancer and patron will provide the incentive for young people to stay in school and get the education and training they deserve and so desperately need to become productive and useful citizens.

As a long time resident and business owner of a residential construction company in Anchorage (an industry highly regulated and licensed by special legislation of the state), I am more than willing to comply fully with all state and municipal licensing requirements and regulations.

**State Occupational Licensing Requirements (Biannual):**

- State Business License,
- General Contractor's License;
- Residential Contractor's Endorsement;
- General Liability Insurance;
- Worker's Compensation Insurance;
- Employee Safety training
- General Contractor's License Bond;
- Unemployment Insurance, and;
- 16 credit hours of continuing education

TESTIMONY to Senate Judiciary Committee  
HB 367 - Licensing Adult Oriented Businesses  
Hearing date: May 5, 2004, 8:00 A.M.  
Page 3

**Municipal Licensing Requirements (Biannual):**

- Municipal Contractor's License;
- Building Permits as required.

My annual cost for these requirements and other fees and requirements that apply outside of occupational licensing is approximately \$73,121.00 which is designed to cover the cost of administration, enforcement, and investigations. Without similar requirements for adult-oriented businesses and employees, these costs and associated crime and social impacts will unfairly be borne by the rest of the taxpayers.

Based on the significant negative impact caused by adult-oriented businesses, I believe impact fees should be applied to and strictly enforced for those industries the Municipal Assembly determines have a significant adverse impact on the community and which are significantly inconsistent with community standards.

According to the National Law Center for Children and Families numerous case studies across America show that prostitution, crime and drug use correspond with adult oriented businesses. To that end, I believe licensing of adult-oriented businesses should be self supporting based on the full cost of administration and their impacts to the community.

Having shared my views now and in previous testimony, may I encourage you to take the time to study this issue fully before amending this bill. The last thing we need in this area is weak legislation. Employee licensing procedures and strict business licensing are important law enforcement tools to reduce crime that should be implemented as in many other states.

Thank you for your time,

*Rebecca Roberts*

CC: Edger Blanchford, Commissioner, DCEd  
Rick Urion, Director, Occupational Licensing, DECD

ALASKA STATE LEGISLATURE  
Senate Judiciary Committee Members

Kathy and Carol Hartman  
1911 E 5th Avenue  
Anchorage, AK 99501  
563-0042

*If society punishes controversial expression,  
everyone in society loses some measure of their freedom.*

This bill should never have been brought forward. From the beginning, we were excluded from discussions that formulated this bill. During the interim, meetings were held between sponsors of the bill, a couple of Service High PTA members, Kara Nyquist from Covenant House, and a few anonymous former and current "strippers", and others we don't know about as no minutes are available from those meetings. Not one person from any of the adult oriented establishment businesses was invited to take part in any of the discussions. Had we been given the opportunity to participate, many, if not all of the reasons justifying HB 367 would have been mitigated.

- We have been in business for over 15 years.
- There are current laws in place that address all the crimes that are alleged to be taking place. The issue is lack of law enforcement. More laws will not take care of the problem when current laws are not being enforced. We do not hire anyone under 18 years of age, nor do we allow them in as patrons. We do not have drugs available, nor do we allow drugs, prostitution, alcohol, or any other illegal actions to take place.
- We do not hire high school students, no matter what age they are.
- The Alaska Supreme Court has recognized that dancing, including nude dancing is a constitutionally protected form of expression under the First Amendment of The United States Constitution. Mickens v. City of Kodiak, 640 P.2d 818, 820 (Alaska 1982).
- Anytime you have the licensing of speech, restrictions can have no discretion. As soon as they allow discretion by those who grant the license, those laws are unconstitutional. Requiring disclosures of the applicant's criminal and past licensing histories are unnecessary because, absent any disqualification ground on those bases, such disclosures are unjustified by a government interest. Joseph Schultz v. City of Cumberland
- Raising the age for employment at an adult cabaret to 21 years of age is unconstitutional. There are many young adults working at night in various jobs, i.e. fast food restaurants, gas stations, etc. It appears that working in some of these places can be very dangerous considering the murders and robberies that have taken place in the last few years. We have never had a murder, sexual assault, robbery, etc. We have a safe and controlled environment. It's not safe to work at Taco Bell, banks, pizza parlors, Wendy's, etc. Why not work to make those places safer? We have plenty of security at our place.

- We are regulated through the Municipality of Anchorage and are required to be licensed. We are required to have a "Permit for Premises Where Minors Are Not Allowed" and are required to be 1000 feet away from schools, churches, 24-hour day care centers, public parks, public libraries, and several other places.
- We are annually inspected by the Fire Marshall and Health Department.
- We have been accused of causing adverse secondary effects, because of higher crime rates, prostitution, drugs, sexual assaults, kidnapping, and other crimes that are being committed. The report received from Anchorage Police Department shows that all adult cabarets, whether serving alcohol or not, have much fewer police calls than do other bars and nightclubs.
- Research of property values surrounding adult cabarets in Anchorage for 2001, 2002, and 2003 show that property values have risen steadily every year.
- The National Law Center Summaries of "SOB Land Use" Studies that were presented as evidence and put in the record are outdated, and do not compare to Anchorage, Alaska 2004. The studies were from large cities and were conducted in the 1970's and 1980's with the exception of one that was done in 1992 in Oklahoma City, Oklahoma.
- Many dancers are attending college, have attended college while working, or have graduated from college. Some dancers are married and raising a family. Some are single parents raising children.
- It was stated that dancing in adult cabarets leads to prostitution and drug use. We still keep in touch with most of the dancers that have worked for us over the years, and we've never known even one that has gone into prostitution. However, many dancers came to work for us with drug or alcohol problems, and we've watched them beat the problem and change their lives for the better.
- We've received many letters of support, including some from Alaska CHARR, HERE Union Local 878, Safe Harbor Inn, and other neighbors and members of the community.

Lack of enforcement of existing laws does not rationalize violating our rights to hire employees who have been convicted of a specified criminal activity, nor the rights of entertainers to be employed who have paid their debts to society. As it stands, we won't be allowed to hire people who have had drug convictions. The sex-related crimes listed in Sec.08.90.200 (b) typically do not pertain to entertainers, and shows how unstudied this bill really is. Also, the state does not have a compelling reason to violate owners' rights to hire 18, 19, and 20-year old adults, nor for 18, 19 and 20-year olds to be employed. If the intent is to educate young adult workers to know their wage and hour rights, then a broader bill has to be introduced to require all young adult workers to know their wage and hour rights. Better preparation would have mitigated every concern predicated the intent of this bill. Clearly, Alaskans deserve more from the legislative process and from our legislators.

*Kathy Hartman*

*Carol Hartman*

## APPENDIX

- Appendix A.....Police Calls For Service at Requested Locations
- Appendix B.....Dept. of Labor & Workforce Development letter and W-3's
- Appendix C.....Legal Economics, Inc. 10 year study
- Appendix D.....Letter opposing HB 367 from CHARR, HERE Union, etc.
- Appendix E.....Press Releases on Opposition of HB 367
- Appendix F.....Partial Peek-A-Boo Case
- Appendix G.....The Riggs Institute - Kid's Brain Power
- Appendix H.....HB 430
- Appendix I.....Pimps
- Appendix J.....Contradictory Kelly Holsopple publication
- Appendix K.....Juvenile Competence to Stand Trial
- Appendix L.....Rape
- Appendix M.....Rebuttal to Regina Manteufel letter
- Appendix N.....Municipal Code 21.45.240
- Appendix O.....Municipal Code 10.40.050
- Appendix P.....Pornography definition
- Appendix Q.....Definition of Prostitution
- Appendix R.....Jeffcoat and The Lonely Lady v. SOA, Dept. of Labor
- Appendix S.....First Amendment Center Opinions
- Appendix T.....Mickens v. City of Kodiak
- Appendix U.....Signatures from people opposing under-21 ban of HB 367
- Appendix V.....Letter from Clinician Colleen Dire disputing HB 367 info
- Appendix W.....Bill Miller quote, The Anchorage Chronicle, May 1, 2003
- Appendix X.....Currently held permits, licenses, certificates, etc.



Mark Begich  
Mayor

# ANCHORAGE POLICE DEPARTMENT

4501 Bragaw Street • Anchorage, Alaska 99507-1599

Telephone (907) 786-8500

<http://www.muni.org>



February 20, 2004

Carol Hartman  
Fautasies on Fifth Avenue  
1911 E. Fifth Avenue  
Anchorage, AK 99501

Dear Ms. Hartman:

Pursuant to your information request of February 4, 2004 we have prepared a Calls For Service (CFS) Report (See Enclosure).

Your request was received by the Anchorage Police Department on February 6<sup>th</sup> and required internal staff review as well as legal review. We apologize for any perceived delay.

Please feel free to direct your questions to me via phone (786-2477) or E-Mail ([dhsieh@muni.org](mailto:dhsieh@muni.org)).

Sr. Patrol Officer Derek Hsieh  
Administrative Officer

dh  
enclosure

**Calls For Service at Requested Locations  
1998 - 2003**



**ANCHORAGE POLICE DEPARTMENT**

**OFFICER  
DEREK HSEIH**

4501 SOUTH BRIDGWAY ST. ANCHORAGE, ALASKA 99502-1528  
 DISPATCH: (907) 786-8500  
 VOICEMAIL: (907) 292-9477  
 E-MAIL: DHEIH@CIANCHORAGE.AK.US

CALL TYPE FINAL TRANSLATION	ALS ALASKAN INN 515 CLUB	AVENUE BAR	BUSH COMPANY	CHILKOOT	CRAZY HORSE GAMBLELL	CRAZY HORSE MULDON	FANTASIES ON 5TH	MILLENIUM CLUB	PJS	RUMRUNNERS	SHOWBOAT	TEASERS( CRAZY HORSE MULDON	Grand Total
ADMINISTRATIVE				2					1				3
ALARM	45		10	4									59
ALL BOMB CALLS			1										1
ASSAULT	6	3	11	5	16	1	2	2	3	10	5		64
ASSAULT WITH A WEAPON			1	4					1	1			8
BURGLARY	2												2
CHILD ABUSE/NEGLECT/CUST										1	1		2
CIVIL PROBLEM/STANDBY		1		2	1					1			5
DEAD BODY		1											1
DISORDERLY CONDUCT	1		3	1				1		2		1	9
DIST WITH WEAPON				1					1				2
DISTURBANCE	13	13	27	5	21	2	1	6	5	20	13	5	131
DRIVING WHILE INTOXICATED	2	1		2	3		1	1		2			12
DRIVING WITH LIC S/R/C				1	1								2
DRUGS/FORGED PERSCRIPTION	1	1	9	1	3		1			2			18
DRUNK PROBLEM	6	6	6		5		1			10			34
DRUNK TRANSPORT	3	1	6		1					5			16
DV WRIT SERVICE					1	1							2
ELUDING/EVADING OFFICER					1								1
FALSE RPT/FALSE INFO			2	4						2			8
FIRE DEPT ASSIST				1	1								2
FOLLOW UP	2	8	14	6	14	3	2	3	4	9	2		67
FOUND PROPERTY				2				1					3
FRAUD	1		1	2						1	1	1	7
GAMBLING/PROSTITUTION									2				2
GENEAL LOCATE	1	6	1	2	12	1	1	2	2	1	1	1	31
HARASSMENT									1				1
HIT AND RUN	1	1	3	15					2	1	2		25
HIT AND RUN W/INJURY				1									1
INDECENT EXPOSURE										2			2
JUVENILE PROBLEM								1					1
LIQUOR LAW VIOLATION	2		6	1	26					2	1		38
LOST PROPERTY		1		2	8					1			12
MEDIC ASSIST		7	1	4	4	1				4	1		22
MENTAL PERSON			1						1	2		1	5
MISCONDUCT INV/WEAPON				3	4		1						8
MISSING PERSON (NOT RUNAWAY)	1			2						3			6
NOISE VIOLATION	1			3						3			7
OFFICER HAILED			3	3									6
OUTSIDE AGENCY ASSIST	1	3	1	1	2				1				9
PARKING PROBLEM/OVER 24	4	1	5	2	3		2			15			32
PUBLIC ASSIST		1								2			3
ROBBERY				1	1						1		3
SECURITY CHECK	1		10	7		2		1		2			23
SEXUAL ASSAULT	1		1		1					1	1		5
STOLEN VEHICLE		1		11	1				2	2	2		19
STRONGARM ROBBERY					1					1			2
SUBJECT STOP	1	4	11		6		1	1	5	6			35
SUICIDE ATTMP/THREAT			1										1
SUSPICIOUS PER/VEH/CIRC	2			8			1	1	2	2	3	1	20
THEFT	1	16	3	2	45	4	2	1	4	11	9	1	99
THREATS				3					2				5
TRESPASS		1	12	2	3	2		1	1	5	2		29
VANDALISM		2	2	5	8			1	4	2	3		27
VIOL CITY/STATE REGS		2	5	1	2	1		1			1		13
WARRANT SERVICE	5	4	9		6		6		3	2	1		36
WELFARECHK/911 HANG UP	12	13	21	4	39	7	3		5	21	4		129
Grand Total	65	148	173	65	311	26	7	25	22	52	157	54	1116

2/19/2004 12:25 PM  
 ALS  
 Bush  
 Koots  
 PJS  
 Rumrunners  
 Showboat  
 Teasers

# STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

3301 Eagle Street, Suite 301  
Anchorage, Alaska 99503-4149  
Phone: (907) 269-4900  
Fax: (907) 269-4915

## DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT

WAGE AND HOUR ADMINISTRATION  
LABOR STANDARDS & SAFETY DIVISION

February 26, 2004

Dictated: 02/23/04

Fantasies on 5<sup>th</sup>  
1911 East 5<sup>th</sup> Avenue  
Anchorage, AK 99501

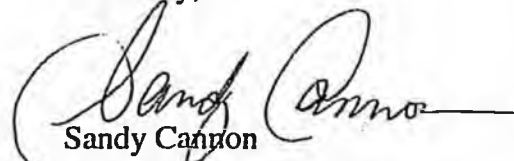
Ladies and Gentlemen:

This letter serves as a reminder that minors under the age of 18 are not allowed to work in your establishment.<sup>1</sup>

Please ensure all employees have valid identification that provides proof of age indicating they are at least "18 years of age or older."

If you have any questions concerning this or any other Wage & Hour matters, please feel free to contact our office for cost free counseling.

Sincerely,



Sandy Cannon  
Supervising Investigator  
Wage & Hour Administration  
Anchorage Regional Office

SC:ws

Adult Clubs Fantasies

<sup>1</sup> AS 23.10.350(f) A minor under the age of 18 may not be employed or allowed to work in any capacity on the premises of a business that offers adult entertainment. In this subsection, "business that offers adult entertainment" means a business in which one or more individuals are employed or contracted to, wholly or in part, or permitted to entertain others by

- (1) removing clothes or other items that clothe or hide the person's body;
- (2) dancing or in any other manner exhibiting the individual's body in a completely or almost completely unclothed state;
- (3) participating in an actual or simulated illegal, indecent, or lewd exhibition, act, or practice including
  - (A) sexual penetration;
  - (B) the lewd exhibition or touching of a person's genitals, anus, or breast; or
  - (C) bestiality.

33333

FOR OFFICIAL USE ONLY  
OMB No. 1545-0008

b Kind of Payer		941 <input checked="" type="checkbox"/>	Military <input type="checkbox"/>	943 <input type="checkbox"/>	1 Wages, tips, other compensation	2 Federal income tax withheld
		CT-1 <input type="checkbox"/>	Hshld. emp. <input type="checkbox"/>	Medicare govt. emp. <input type="checkbox"/>	\$ 458675.02	\$ 42587.00
				Third-party sick pay <input type="checkbox"/>	3 Social security wages	4 Social security tax withheld
					\$ 405084.82	\$ 30966.45
c Total number of Forms W-2		d Establishment number			5 Medicare wages and tips	6 Medicare tax withheld
77					\$ 499458.82	\$ 7242.20
e Employer identification number					7 Social security tips	8 Allocated tips
92-0133421					\$ 94374.00	\$
f Employer's name					9 Advance EIC payments	10 Dependent care benefits
Sands North Inc.					\$	\$
Fantasies On 5th Ave 1911 E 5th Ave Anchorage AK 99501					11 Nonqualified plans	12 Deferred compensation
					\$	\$ 30464.00
					13 For third-party sick pay use only	
g Employer's address and ZIP code					14 Income tax withheld by payer of third-party sick pay	
h Other EIN used this year					\$	
15 State Employer's state ID number					16 State wages, tips, etc.	17 State income tax
					\$	\$
					18 Local wages, tips, etc.	19 Local income tax
					\$	\$
Contact person					Telephone number	For Official Use Only
Carol Hartman					(907) 561-8679	
E-mail address					Fax number	
					( )	

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature ▶

Title ▶

Date ▶

## W-3 Transmittal of Wage and Tax Statements

2003

Department of the Treasury  
Internal Revenue Service

Send this entire page with the entire Copy A page of Form(s) W-2 to the Social Security Administration.  
Photocopies are not acceptable.

Do not send any payment (cash, checks, money orders, etc.) with Forms W-2 and W-3.

### Item To Note

Read the separate instructions. See the separate 2003 Instructions for Forms W-2 and W-3 for information on completing this form.

### Purpose of Form

Use this form to transmit Copy A of Form(s) W-2, Wage and Tax Statement. Make a copy of Form W-3, and keep it with Copy D (For Employer) of Form(s) W-2 for your records. Use Form W-3 for the correct year. File Form W-3 even if only one Form W-2 is being filed. If you are filing Form(s) W-2 on magnetic media or electronically, do not file Form W-3.

### When To File

File Form W-3 with Copy A of Form(s) W-2 by March 1, 2004.

### Where To File

Send this entire page with the entire Copy A page of Form(s) W-2 to:

Social Security Administration  
Data Operations Center  
Wilkes-Barre, PA 18769-0001

**Note:** If you use "Certified Mail" to file, change the ZIP code "18769-0002." If you use an IRS approved private delivery service, add "ATTN: W-2 Process, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See Circular E, Employer's Tax Guide (Pub. 15), for a list of IRS approved private delivery services.

Do not send magnetic media to the address shown above.

# 10 Years, 700 Dancers, 400 Patrons—One Study

Exotic dancers are alcoholics? Victims of spousal abuse? Carriers of STDs? Not so, according to Legal Economics, Inc., who recently began releasing the results of their very interesting 10-year study of exotic dancers and club patrons.

**L**egal Economics, Inc., a consulting firm based in Las Vegas, NV, recently began releasing the initial results of an unprecedented 10-year study—which tracks over 700 exotic dancers and 400 club patrons—that offers a new perspective on arguments linking dance clubs to negative “secondary effects.” Dr. Robert Schmidt headed up the multi-disciplinary group of internationally recognized scholars and researchers whose extensive project provides adult-oriented business owners, lawyers and public policy makers with empirical information about the short and long-term effects of exotic dancing.

The study examines industry impacts in terms of social, economic, public health and safety, and environmental effects. Because of the large volume of data, academic publication requirements and the potential implications for various elements of the industry, the data is being released in segments. Clubs in the study are placed into six classifications: Class 1 through Class 6. For example, Class 1 are very upscale gentlemen’s clubs; Class 6 are “peep shows” which do not serve alcohol (which are generally not considered to be part of the adult nightclub industry—Ed.).

In the past, local governments trying to limit or ban adult nightclubs have based their contentions on studies that claim to connect sexually-oriented businesses with such negative secondary effects as high crime rates and decreases in contiguous property values. According to Schmidt, the data compiled for his ongoing project refutes a number of the allegations most frequently cited in the policy arguments made by the detractors of adult clubs.

“(This study) should have significant implications on zoning laws in a multitude of jurisdictions,” says Schmidt, a respected

expert on urban and labor issues who has advanced degrees in economics, law, and sociology. “Local governments tend to focus on the wrong problems, like trying to prove an often nonexistent causal relationship linking alcohol and nudity with negative secondary effects. One conclusion we see is that it’s time for virtually every jurisdiction to review its strategies regarding how this industry is regulated.”

“We can provide information to individual dancers or give business owners the support they need to disprove negative secondary effects that are allegedly related to certain clubs and locations,” Schmidt continues. “There are some exceptions, of course, but in most cases we can also show communities and club owners how to reduce the incidence of problems by using proper management controls and designs.”

The study results also contain a significant amount of copyrighted literature and unreleased data that can be used in shaping support for distinctive circumstances. “We have the ability to build highly accurate profiles for specific clubs or jurisdictions,” Schmidt says. “We are in a position to address the requirements of almost any individual situation. And in terms of admissibility and reliability, the methodologies employed in this research meet all the legal standards set out by the *Frye*, *Daubert*, *Joiner*, and *Kumho Tire* decisions” (major

Supreme Court cases concerning scientific evidence).

## Issues Addressed by the Study

The original focus of the self-funded study was to empirically examine the occupation of exotic dancing in terms of its social and economic impacts. In addition to creating customer profile databases and collating statistics on clubs, the study considered both near and long-term effects on three specific

target groups: dancers, their families and the community in which they work.

Schmidt also aimed at developing a comprehensive data set based on key characteristics that could be used to measure biological, social, economic and psychological variations between exotic dancers and similarly situated women on regional and national levels. Additionally, he developed an economic database of dancer wages that could be used to estimate the financial impacts of change in a dancer’s earning potential.

According to contributor Dr. Andrea Fontana, an internationally-recognized professor of sociology, compiling reliable data concerning the women who work in the industry was a unique aspect of the study. “We need to clarify and reformulate some key ideas about these women and their bodies,” said Fontana, whose academic work deals with issues of women and self. “First people need to accept the changing social view regarding adult-oriented businesses. Second, we need to be concerned for the safety and economic well-being of the literally hundreds of thousands of women who work in this industry.”

The numerous study categories can be grouped roughly by economic, social and physical variables. Economic data covers financial and labor-related areas such as dancer income by business type, average hourly wages, tip-out amounts, shift data and earnings histories. Information here not limited only to current employment; previous, current and post-dancing occupations are also covered, along with spousal occupations. Social data compares such dancer characteristics as household composition, marital status, education and sexual behavior to the regional and national norms of women in similar age groups and economic situations.

The study also examined alcohol and illicit drug use and domestic violence. The physical aspect of the study covered topics that range from the impact of augmentation on dancer income to the prevalence (or lack thereof) of STDs.

## Some Study Results Reveal

Some of the results were startling even to the researchers, and much of the information runs contrary to what opponents of adult-oriented businesses would like people to believe. The current ages of the women in the study are between 18 and 51 years of age.

The results reveal that, on a national level, the majority of dancers share behavioral patterns with women in similar age groups who are in the same or similar economic situations. The marriage profile of the dancers in the study mirrors those in the nation in their respective age groups. They include 157 married dancers, 431 single dancers, 120 widowed, divorced or separated dancers. A significant number of dancer

(over 31%) marry people they meet at their workplace. This statistic is similar for the public at large.

Alcohol and illicit drug use by cabaret employees is a major concern of licensing agencies and club owners alike. There are numerous ways to measure these activities. One standard measure used by the federal government to measure alcohol consumption in terms of either (a) whether an individual consumed alcohol in the last month and (b) whether the individual had one or more occurrences of binge drinking (five or more drinks at a sitting) in the last month. In both

cases, the alcohol consumption habits for dancers were similar to that of other women in their age group (and less than half of all dancers consumed alcohol.)

For example, the incidence of binge drinking among exotic dancers is within half a percentage point of the national average for this cohort. Moreover, increased alcohol consumption by dancers is not related to whether the club they work in serves alcohol. This is an important finding.

Dancers have a lower incidence of sexually transmitted diseases (STDs) than similarly situated women. The national incidence of

all STDs in women of this age is estimated nearly 20 percent. Dancer rates (9.6%) were less than half this rate.

The incidence of domestic violence against dancers decreased while they are employed as dancers. No comparison to national statistics have been completed on domestic violence since there are no generally accepted available. However, it can be said that most Class 1 clubs provide a safer environment than an average workplace.

The study also examined the "post-dance" status of dancers. The preliminary findings of the "post-dance" status effect on dancing suggest that these women re-enter society without statistically different outcomes than the general public. Their divorce rates, incidence of mental illness and general economic well-being are statistically the same as the general public. They do, however, appear to have improved measures of "self-esteem."

There is much concern about illicit drug use among dancers. The study found slightly higher illicit drug use (17.3% used illicit drugs in the last month) among dancers than among American women. The drugs most commonly used were marijuana, ecstasy, and diet pills. However, the data varied considerably by club type and geography.

The best way for adult businesses to fight unfair restrictions on their right to operate is to challenge the factual basis of the severely flawed studies of the past few decades, and the best way for local jurisdictions to create progressive and sustainable standards for the regulation of adult-oriented businesses is to be in command of the facts.

To be considered reliable in the social sciences, a population data set must be sufficiently random and sufficiently large to assure scientists that the data is generalizable to the total population. The Legal Economics, Inc. study tracks over 700 dancers and 400 patrons over more than a decade. From a technical perspective, Schlottmann says, researchers followed rigorous social science collection methods in building the database. The study continued to meet or exceeded conventional standards for statistical reliability and verification, sample size, re-sampling, and other design criteria.

"Practically speaking, anyone who wants to reexamine the facts should call us," Schlottmann says.

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March 10, 2004

House Finance Committee  
The Honorable Kevin Meyer, Chairman  
House of Representatives  
Alaska State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Meyer,

I am writing on behalf of the hundreds of members of Alaska CHARR from around the state to oppose House Bill 367, an act related to adult-oriented businesses. Alaska CHARR is generally opposed to anti-business legislation and is adamantly opposed to this bill in its current form.

We disagree with the legislative purpose and findings on 4 out of 5 issues stated as fact, enumerated below:

1. This bill will not reduce the incidence of, and opportunities for, illegal activities.
2. There is no documentation of the adverse impacts on neighbors.
3. These law-abiding businesses do not accost or harass law-abiding residents nor do they create litter of an adult nature.
4. This bill will have no impact on preventing prostitution, spread of disease, blighting of neighborhoods, or reducing crime.

The proposed legislation is a solution looking for a problem that does not exist.

We respectfully suggest that the State of Alaska enforce the many laws on the books that already address the illegal activities outlined by the sponsors. It is our understanding that law enforcement needs additional funding to enforce the laws already on the books. It is interesting that this bill proposes to educate, regulate, inspect, license and enforce all of the terms of this bill with a fiscal note of \$0.