



HB

1900

LEGAL SERVICES

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

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Mail Stop 3101


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

MEMORANDUM

April 21, 2005

SUBJECT: Drunk Driving Amendment - CSHB 190(L&C)
(Work Order No. 24-LS0617\Y)

TO: Representative Tom Anderson
Attn: Jon

FROM: Gerald P. Luckhaupt
Legislative Counsel 

Enclosed is the final CS(L&C) you requested. Per my conversation with Jon, I changed "drunk driving" in the amendment adopted by the committee to "a crime under AS 28.35.030." AS 28.35.030 is our operating a vehicle, aircraft, or watercraft while under the influence statute. Be advised persons who refuse a chemical test of their blood are not convicted of this offense but are convicted of AS 28.35.032.

GPL:med
05-286.med

Enclosure

Josh Applebee

From: Janies Barlow - Alexander [courtwatch@maddalaska.com]
Sent: Tuesday, March 22, 2005 11:44 AM
To: Rep. Tom Anderson; Rep. Pete Kott; Rep. Bob Lynn;
Rep_Gabriel_LeDoux@legis.state.ak.us; Rep_Norm_Rokeberg@legis.state.ak.us; Rep.
David Guttenberg
Subject: HOUSE BILL 190

My Dear Representatives,

This Bill is to be heard this afternoon and I ask for your full support for this practical, sensible legislation.

This is legislation which responsible retailers support and thereby will be enforced. Let it be known, that in the great state of Alaska, the right to drive and a drivers license are privileges, which will be revoked for driving crimes.

Thank you.

Janies

Janies Barlow-Alexander
Court Monitoring Coordinator
(907)562-6890-T (907)562-6896-F
4105 Turnagain Blvd, Ste A (99517)

"We cannot solve the problems that we have created with the same thinking that created them" AE

For more information about MADD, its free victim services or to donate, please visit www.maddalaska.com or call (907) 562-6890.

The number also connects victims to trained staff who can provide emotional support and guidance through the criminal justice system.

24-LS0617F
Luckhaupt
4/11/05

CS FOR HOUSE BILL NO. 190()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE CPAWFORD

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to the purchase of alcoholic beverages and to access to license¹**
2 **premises; relating to civil liability for certain persons accessing licensed premises;**
3 **requiring driver's licenses and identification cards to be marked if a person is restricted**
4 **from consuming alcoholic beverages as a result of a conviction or condition of probation**
5 **or parole."**

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

7 *** Section 1. AS 04.16 is amended by adding a new section to read:**

8 **Sec. 04.16.047. Access of persons with restricted privileges. (a) A person**
9 **who is not privileged to purchase alcohol under AS 04.16.160 may not knowingly**
10 **enter or remain in premises licensed under this title.**

11 **(b) A licensee may bring a civil action against a person who violates this**
12 **section if the violation occurs on the premises of that licensee. If judgment is entered**
13 **in favor of the licensee, the court shall award civil damages in the amount of \$1,000**

1 and award reasonable costs and reasonable attorney fees allowed under the Alaska
2 Rules of Civil Procedure.

3 * Sec. 2. AS 04.16 is amended by adding a new section to read:

4 **Sec. 04.16.160. "Privilege to purchase alcoholic beverages.** A person who is
5 21 years of age or older has a privilege to purchase alcoholic beverages, unless the
6 person has been ordered to refrain from consuming alcoholic beverages as part of a
7 sentence for conviction of a crime or as a condition of probation or parole.

8 * Sec. 3. AS 04.21.050(b) is amended to read:

9 (b) Except as provided in AS 04.16.160, [A] valid driver's license or a
10 valid identification card is acceptable as proof of ag. when used for identification in
11 the purchase of alcoholic beverages and for securing entry to and remaining on
12 premises where alcoholic beverages are sold if the license or identification card is
13 made of or encased in plastic and contains a photograph of the licensee [LICENSE] or
14 card holder and a statement of age or date of birth.

15 * Sec. 4. AS 28.15.111(a) is amended to read:

16 (a) Upon successful completion of the application and all required
17 examinations, and upon payment of the required fee, the department shall issue to
18 every qualified applicant a driver's license indicating the type or general class of
19 vehicles that the licensee may drive. The license must [DISPLAY] (1) display a
20 distinguishing number assigned to the license; (2) display the licensee's full name,
21 address, date of birth, brief physical description, and color photograph; (3) display
22 either a facsimile of the signature of the licensee or a space upon which the licensee
23 must write the licensee's usual signature with pen and ink; (4) display a holographic
24 symbol intended to prevent illegal alteration or duplication; [AND] (5) display, for a
25 qualified applicant who is under [AGE] 21 years of age, the words "UNDER 21"; and
26 (6) be designed to allow the electronic reading and electronic display of the
27 information described under (2) of this subsection and the electronic reading and
28 display and a physical display on the license of a statement of whether the
29 person's privilege to purchase alcohol has been restricted under AS 04.16.160. A
30 license may not display the licensee's social security number and is not valid until
31 signed by the licensee. If facilities are not available for the taking of the photograph

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required under this section, the department shall endorse on the license, the words "valid without photograph."

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 190

BY REPRESENTATIVE CRAWFORD

- 1 Page 2, Line 7; delete "crime"
- 2 Insert, "drunk driving offense"



MADD
Activism | Victim Services | Education™

Anchorage Chapter
4105 Turnagain Boulevard, Suite A • Anchorage, AK 99517
(907) 562-6890/Fax (907) 562-6896
Email: info@maddalaska.com
Visit our Web Site: www.maddalaska.com

Our Mission is to stop drunk driving, support the victims of this violent crime and prevent underage drinking

DATE: March 22, 2005

TO: Labor and Commerce Commission
Representative Tom Anderson, Chair
Representative Pete Kott
Representative Bob Lynn
Representative Norm Rokeberg
Representative David Guttenberg
Representative Gabriel LeDoux

FROM: Marti Greeson, Executive Director
MADD Anchorage Chapter

RE: HB 190

On behalf of the members, board of directors and staff of MADD in Anchorage, I am writing in support of HB 190.

The purchase of alcoholic beverages for persons over the age of 21 is a privilege, which can be and is revoked upon conviction for a DUI related offense. This revocation must be monitored and sales of alcohol refused to persons under order by the courts and/or as a consequence of probation or parole. Information provided on identification cards or driver's licenses will aid retailers and their agents in ensuring legal sales, and as a result reduce the recidivism rates for repeat offenders.

Heather D. Beaty

From: Brenda Moore [bmoore@christianhealth.org]
Sent: Tuesday, March 22, 2005 11:57 AM
To: Rep. Tom Anderson; Rep. David Guttenberg; Rep_Norm_Rokeberg@legis.state.ak.us;
Rep_Gabriel_LeDoux@legis.state.ak.us; Rep. Bob Lynn; Rep. Pete Kott
Cc: Rep. Harry Crawford
Subject: HB 190

To: Labor & Commerce Committee

From: Brenda Moore

Re: HB 190

Representative Harry Crawford has introduced HB 190 "An Act relating to the purchase of alcoholic beverages and to requiring identification to buy alcoholic beverages; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole."

This is written in favor of HB 190. A number of years ago the daughter of a close friend was struck while driving her children to an activity. She was killed and one of her children was injured.

The driver of the car that struck and killed my friend's daughter was driving with a revoked license, while under the influence of alcohol. He had several previous convictions of driving while under the influence, which resulted in his license being revoked.

I feel my friend's daughter might be alive today if the driver that killed her had been required to prove his privilege to drive and purchase alcohol.

I ask that you support the passage of HB 190 as a measure to preserve lives.

Sincerely,
Brenda Moore
907-522-7081

Alaska State Legislature
House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-3438 (phone)
1-888-478-3438 (toll free)
1-907-465-4565 (fax)



Interim Address
716 West Fourth Avenue
Anchorage, Alaska 99501-2133
(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry Crawford
District 21

Memorandum

TO: Rep. Tom Anderson, Chair, House Labor & Commerce Committee

FROM: Representative Harry T. Crawford

DATE: March 1st, 2005

RE: House Bill 190

I respectfully request that House Bill 190, "An Act relating to the purchase of alcoholic beverages and to requiring identification to buy alcoholic beverages; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole." be scheduled for hearing in the House Labor and Commerce Committee at your earliest possible convenience. I have attached a sponsor statement, and background information will follow.

Alaska State Legislature

House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-3438 (phone)
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1-907-465-4565 (fax)



Interim Address
716 West Fourth Avenue
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(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry Crawford
District 21

SPONSOR STATEMENT FOR HB 190

Alaska has some of the strictest drunken driving laws in the country, and yet our rates of alcoholism, and alcohol related crimes are among the highest in the nation.

HB 190 proposes a different approach. In an attempt to keep alcohol out of the hands of repeat offenders, HB 190 requires that liquor stores and bars check state issued identification of residents before selling them alcohol. It also provides for a physical display on state issued ID's if a person has been prohibited from purchasing alcohol by a court.

This is a strong first step toward stopping problem drinkers from purchasing alcohol.

HB

192



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Anchorage Daily News

Egegik processor also owes students

BOUNCED CHECKS: Turks among those who have filed for wages.

The Associated Press

(Published: August 13, 2004)

KODIAK -- Exchange students from Turkey are among workers who have filed claims for unpaid wages against a fish processor operating in Egegik.

The Turkish exchange students traveled to Alaska to work at Woodbine Alaska Fish Co. and were paid with checks that bounced.

Woodbine, which is now closed, has left both fishermen and cannery workers unpaid and owes taxes from last year. The company has numerous wage claims filed against it by the state, said Sandy Cannon, supervising investigator for the Alaska Department of Labor.

"We heard there would be 18, but so far 15 students have filed wage claims. We still have outstanding wage claims -- there are quite a few," Cannon said.

Egegik is on the west side of the Alaska Peninsula, 326 miles southwest of Anchorage.

The students were sponsored by the Council of International Education Exchange, one of the United States' largest university student exchange programs.

The students are on an inbound student exchange summer work and travel program to the United States, exchange program vice president Elizabeth O'Neill said.

"We are working on the students' behalf to try to get to the bottom of the set of circumstances there and make sure they get the wages they are due for the work they completed," she said.

As soon as the issue came to its attention, the organization sent a staff member to the Woodbine cannery to investigate. Several of the students already had left for Kodiak or other communities, she said.

KODIAK DAILY MIRROR

August 17, 2004
1:37:42

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STORY

Slipshod management leaves workers unpaid

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Article published on Wednesday, August 11th, 2004
By DEANNA COOPER
Mirror Writer

A group of Turkish exchange students traveled to Alaska to work at Woodbine Alaska Fish Company in Egegik for the summer season, but discovered they got the raw end of the deal when their checks bounced.

Woodbine, which is now closed, has left both fishermen and cannery workers unpaid and owes taxes from last year. They have numerous wage claims filed against them by the state, said supervising investigator for the Alaska Department of Labor, Sandy Cannon.

"We heard there would be 18, but so far 15 students have filed wage claims. We still have outstanding wage claims (against Woodbins) — there are quite a few," Cannon said.

The students were sponsored by the Council of International Education Exchange (CIEE), one of the United States' largest university student exchange programs. It is a nonprofit organization that has been in existence since 1947 and is involved in student exchange programs globally.

The students are on an inbound student exchange summer work/travel program to the United States.

CIEE vice president Elizabeth O'Neill said, "They are part of a program that enables them to come to the U.S. and work during their summer university holiday period and see a bit of the U.S. They return back to their studies in the fall.

"There have been some problems involving one particular employer. We're currently investigating the circumstances with respect to the students and their paychecks. As we understand it, some of the checks are coming back with insufficient funds," O'Neill said.

"We are working on the students' behalf to try and get to the bottom of the set of circumstances there and make sure they get the wages they are due for the work they completed," she said.

As soon as the issue came to their attention, CIEE sent a staff member to the Woodbine cannery to investigate the situation. When the staff member arrived, several of the students had already left the cannery and came to

CURRENT

Kodiak
City, 5
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COMMUNITY

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Kodiak.

O'Neill said if there are students remaining in Kodiak with difficulties, they should get in touch with CIEE staff or their legal sponsor.

"We're still working to ensure that the students get paid, but we don't have a resolution yet," she said.

CIEE sponsors the students to travel to and work in the United States, and they offer around-the-clock support to the students.

"We not only want to make sure they get the money they are due, but we have moved some students to other jobs outside of Alaska. We assist students throughout their stay in the summer, that is one of our main roles," O'Neill said.

Unpaid workers are a small part of the larger story. A source currently involved in the ongoing investigation of the Woodbine Company who spoke on the condition of anonymity said around 30 Turkish students worked at the Woodbine cannery in Egegik during the course of the summer. Most of them left and went to three different places, Valdez, Nikiski and Kodiak.

"As I understand it, the paychecks the students received when they left Woodbine all bounced. Last week four students from Kodiak flew to Egegik to demand paychecks for themselves and their other friends still in Kodiak.

As the students flew in, the owner of the company was flying out, the source said.

The students spent two days in Egegik and left empty-handed, but were soon sent some money, though it is unclear if they were paid in full. Other workers received nothing.

"The owner promised to wire transfer the money into the other people's accounts but she has been promising that all summer long. Nobody has held their breath," the source said.

"There are fishermen who have not been paid since last year. Last year they received checks that bounced. The owner wrote them replacement checks this year that have also bounced. We have an open case for issuing bad checks and there is a warrant out for her arrest for credit card fraud," he said.

Woodbine has been operating in a slipshod manner for years, but some years are worse than others. This is one of the bad years, he said.

He said U.S. marshals seized the company's two tenders in Egegik, the Naknek Spirit and the Egegik Spirit for nonpayment of a loan. They have had several other liens placed against their property and business.

"The owners have made a lot of empty promises. They still owe the city of Egegik about \$40,000 which does not include taxes from last year or this year.

"They were able to get their license to operate a business by paying the state, but the state doesn't need the money as badly as these small villages. They rely on that money to purchase their winter fuel supply," the source said.

"They are playing with the lives of the people who stay in the villages all winter long while they live in their multi-million dollar house in California," he said, adding that when the owner and her husband left they didn't let

anyone know they were leaving. "They just disappeared," he said.

"I believe they took off because the owner knew she was going to be arrested, and she got out of here a day before it happened."

The Alaska Department of Labor continues to investigate the situation.

The students remaining in Kodiak could not be located for comment.

[t o p]

[printable version]

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FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 192 (F)
 (j) Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Bonds & Accountability Processors/UI RDU Revenue Programs & Services
/UI/OSHA Component Tax Division
 Sponsor Governor
 Requester House Rules Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	25.0	15.0	15.0	15.0	15.0	15.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The bill represents several modifications to existing fisheries business tax licensing and surety bond requirements: 1) it adds the Seafood Marketing Assessment, UI tax, OSHA fines, and local fish taxes to the list of liabilities that must be paid in full to obtain and hold a fisheries business license; 2) lowers the requirements for payment of UI tax from a processors surety bond while retaining priority for employees and fishermen; 3) includes tender operators as eligible claimants against the bond; and 4) increases protections in place for employees and fishermen by modifying the rules under which bonding requirements are raised for processors that fail to pay employees, fishermen, tender operators, or UI tax.

 We do not expect to incur additional costs as a result of the legislation. We expect to collect additional Seafood Marketing Assessments under this legislation.

Prepared by: Chuck Harlamert Phone: 465-2320
 Division: Tax Division Date/Time: 4/1/05 3:12 AM
 Approved by: Tom Boutin, Deputy Commissioner Date: 4/1/2005
 Agency: Revenue

SB 124 / HB 192

Overview

The bill adds Employment Security Contributions, OSHA fines, and the Seafood Marketing Assessment to the list of obligations that a processor must be current with to hold a fisheries business license. Current law requires processors to be current with their taxes under Title 43, principally fish taxes and the corporate net income tax. The change will significantly improve collections of the added obligations and reduce the degree to which employers and employees subsidize non-paying employers. The provisions are contained in Section 1 of the bill.

The bill streamlines the process under which the Department of Labor and Workforce Development collects unpaid Employment Security Contributions from a processor's labor bond. Existing law requires a court ordered judgment - an expensive and sometimes ineffective process. Priority for claims is given to employees and fishermen. The provisions are contained in Section 2 of the bill.

The bill modifies bond requirements to increase bond levels and restrict the form of the bond in response to processor behavior. These provisions are contained in Section 2 of the bill.

- Bond level made more responsive to processor behavior. Existing law increases the bond requirement if the bond is insufficient to satisfy a claim actually paid from the bond. Processors who have failed to pay ESC, employees or fishermen can avoid higher bond requirements by simply paying the judgment directly. The bill specifies that bond levels are adjusted upward in response to a judgment without regard for the source of payment under this bill.
- Restriction on use of real property in lieu of bond. Under current law, processors with real property in Alaska are not required to post bond if their equity is at least equal to their bond requirement. It is normally not economically feasible to pursue claims against the processors real property, particularly for small claims. The bill prohibits the use of real property in lieu of bond by processors' who incur a judgment for unpaid wages or fish. The use of real property is also denied any processor that fails to pay ESC of \$10,000 or more.

CS for HOUSE BILL No. 192

"An Act relating to requirements to obtain and maintain a fisheries business license; relating to security required of fish processors and primary fish buyers; and providing for an effective date."

SECTIONAL ANALYSIS
OFFICE OF THE ATTORNEY GENERAL

Section 1: Amends 43.75.020(a) to require a fisheries business license applicant to agree to pay, as a condition of their license, all title 43 taxes, seafood marketing assessments under AS 16.51, employment security contributions imposed under AS 23.20, administrative penalties assessed for a State occupational safety and health standards violation, and local fishery sales taxes. Current law requires payment of taxes under title 43 only.

Amends 43.75.020(b) to require the Department of Revenue (department) to deny an applicant a license if the applicant has failed to pay any of the obligations they agreed to pay in 43.75.020(a).

Section 2: Amends 43.75.055 to allow an applicant for a fisheries business license to secure payment of estimated tax for the year of application using security already provided to the department to secure payment of unpaid tax for the prior year as long as the department approves of the security previously posted and the applicant has timely paid their title 43 taxes in the preceding three years.

Section 3: This section repeals and reenacts AS 44.25.040 as follows:

44.25.040(a) requires a fish processor or primary fish buyer to file a performance bond with the department, promising to pay: 1) wages and contractual benefits to their employees, 2) fisherman for fish purchased from them, 3)

employment security contributions required by AS 23.230, and 4) fees owing to a fish tender for transporting their raw fish. This subsection restates existing law with the addition of allowing the bond to be used to cover fees owed to tender fisherman.

4.25.040(b) sets the presumptive amount of the bond at \$10,000 for all primary fish buyers and processors who process at least 30,000 pounds of fish per year. This restates existing law. This subsection also describes three events which trigger an increase in the bond amount, if this event took place within five years of the current licensing year.

(1) **Final Judgment:** a final judgment against the bond can increase the amount of the bond. If the final judgment is more than \$10,000 but less than \$50,000, the bond requirement is increased to \$50,000. If the final judgment is \$50,000 or more, the bond requirement is increased to \$100,000. This makes no change to existing law. Existing law requires the bond to actually be used to satisfy the judgment before the bond amount can be increased. The \$10,000, \$50,000, and \$100,000 bond levels are unchanged.

(2) **Department finding of non-compliance:** if the department discovers the licensee is operating without a bond or with a bond that is less than the required amount, and also has an unsatisfied judgment to an employee or fisherman, the bond requirement is increased to \$100,000. This restates existing law.

(3) **Delinquent Employment Security Contributions:** the bond amount can also increase if the department has allowed the Department of Labor to collect against the bond for delinquent employment security contributions. If the amount of the delinquency is more than \$10,000, but less than \$50,000, the bond requirement is increased to \$50,000. If the amount of the delinquency is \$50,000 or more, the bond requirement is

increased to \$100,000. There is a 45 day wait period before these bond increases go in effect after Department of Labor has given the department notice of the licensee's delinquency. Current law required a final judgment to collect against the bond for delinquent employment security contributions and does not provide a wait period.

44.25.040(c) sets the presumptive amount of the bond at \$2,000 for processors who process 30,000 pounds of fish per year or less. This subsection also describes the same three events which trigger an increase in the bond amount in (b), if this event took place within five years of the current licensing year. The amounts of the bond, and bond increases are unchanged.

(1) **Final Judgment:** a final judgment against the bond can increase the amount of the bond. If the final judgment is more than \$2,000 but less than \$10,000, the bond requirement is increased to \$10,000. If the final judgment is \$10,000 or more, the bond requirement is increased to \$20,000. This restates existing law with the minor modification noted in (b)(1).

(2) **Department finding of non-compliance:** If the department discovers the licensee is operating without a bond or with a bond that is less than the required amount, and also has an unsatisfied judgment to an employee or fisherman, the bond requirement is increased to \$20,000. This restates existing law.

(3) **Delinquent Employment Security Contributions:** The bond amount can also increase if the department has allowed the Department of Labor to collect against the bond for delinquent employment security contributions. If the amount of the delinquency is more than \$2,000 but less than \$10,000, the bond requirement is increased to \$10,000. If the amount of the delinquency is \$10,000 or more, the bond requirement is increased to \$20,000. There is a 45 day wait

period before these bond increases go in effect after Department of Labor has given the department notice of the licensee's delinquency. Current law required a final judgment to collect against the bond for delinquent employment security contributions and does not provide a wait period.

44.25.040(d) requires a processor who posted a \$2,000 bond under subsection (c) to notify and post with the department a \$10,000 bond within a week of exceeding the 30,000 pounds a fish per year threshold, or cease operations. This subsection restates existing law.

44.25.040(e) describes the different forms of performance bonds that are acceptable: surety bond, cash deposit, or other negotiable security. This subsection also requires the department to waive the posting of a bond if the licensee demonstrates to the department they have sufficient equity in the real property to cover their required bond amount and they are not required to post an increased bond amount due to one of the three events set out in (b) or (c). Current law allows the use of real property in lieu of bond for amounts in excess of \$10,000 irrespective of the processor or primary fish buyer's record of paying fishermen, wages, or employment security contributions.

44.25.040(f) provides that the department may issue a license upon a showing the licensee has posted the bond required by this section. This subsection restates existing law.

44.25.040(g) describes the process for an employee, fisherman or fish tender to file a civil action to collect against the bond posted under this section. This subsection also describes the department's obligation to inform the surety of the existence of a civil action and keep a record of these actions. This section restates current law except that the existing authority for the commissioner to accept

assignment of a claim against the bond, and to bring suit on behalf of the assignor is repealed.

44.25.040(h) describes the requirements the Department of Labor must follow to file an administrative claim against the bond for delinquent employment security contributions. These requirements are designed to assure the licensee has been afforded due process at the administrative level before the licensee's bond can be used to satisfy Department of Labor's administrative claim. This subsection is new law.

44.25.040(i) describes the process the department is to follow after deciding to accept or deny the Department of Labor's request to collect their administrative claim from the bond under (h). This subsection is new law.

44.25.040(j) preserves the priority for using the bond to satisfy the claims of fisherman and employees over the Department of Labor's administrative claims under (h). This is achieved by requiring the Department of Labor to 'kick back' to the department money they received from the bond if a fisherman or employee subsequently gets a judgment against the bond under (g) and the: 1) licensee has not replenished the bond after it was used to satisfy Department of Labor's claim, or 2) amount of the fisherman or employee's judgment exceeds the amount of the bond currently posted. Fish Tenders are given equal priority to employees and fishermen. This section is new law.

44.25.040(k) provides for the bond's expiration two years after the processor or buyer is no longer licensed. However, if during this two year waiting period, a claim is filed against the bond, the bond will not expire until five years after the processor or buyer is no longer licensed. This subsection also provides for a 30 day notice by the surety to cancel a bond posted

under this section. This section restates existing law.

Section 4: Amends 44.25.042 to require the department to suspend the processor or buyer's license if the Department of Labor has been allowed to collect against the bond their administrative claim under AS 44.25.040(i) and the licensee does not immediately replenish the bond. This is new law.

Section 5: The section provides an immediate effective date.

SB 124 / HB 192

Overview

The bill adds Employment Security Contributions, OSHA fines, and the Seafood Marketing Assessment to the list of obligations that a processor must be current with to hold a fisheries business license. Current law requires processors to be current with their taxes under Title 43, principally fish taxes and the corporate net income tax. The change will significantly improve collections of the added obligations and reduce the degree to which employers and employees subsidize non-paying employers. The provisions are contained in Section 1 of the bill.

The bill streamlines the process under which the Department of Labor and Workforce Development collects unpaid Employment Security Contributions from a processor's labor bond. Existing law requires a court ordered judgment - an expensive and sometimes ineffective process. Priority for claims is given to employees and fishermen. The provisions are contained in Section 2 of the bill.

The bill modifies bond requirements to increase bond levels and restrict the form of the bond in response to processor behavior. These provisions are contained in Section 2 of the bill.

- Bond level made more responsive to processor behavior. Existing law increases the bond requirement if the bond is insufficient to satisfy a claim actually paid from the bond. Processors who have failed to pay ESC, employees or fishermen can avoid higher bond requirements by simply paying the judgment directly. The bill specifies that bond levels are adjusted upward in response to a judgment without regard for the source of payment under this bill.
- Restriction on use of real property in lieu of bond. Under current law, processors with real property in Alaska are not required to post bond if their equity is at least equal to their bond requirement. It is normally not economically feasible to pursue claims against the processors real property, particularly for small claims. The bill prohibits the use of real property in lieu of bond by processors' who incur a judgment for unpaid wages or fish. The use of real property is also denied any processor that fails to pay ESC of \$10,000 or more.

HB192



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 1, 2005

The Honorable John Harris
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill recommending changes to the requirements to obtain and maintain a fisheries business license and to the bonding requirements for fish processors and primary fish buyers.

This bill proposes to require, as a condition of obtaining and maintaining a fisheries business license under AS 43.75.020, an acknowledgment of the obligation to pay the taxes levied under AS 43, Alaska Seafood Marketing Institute (ASMI) assessments under AS 16.51, employment security contributions under AS 23.20, and Alaska Occupational, Safety, and Health Administration (OSHA) fines under AS 18.60. The bill proposes denying an applicant a fisheries business license until the applicant has paid in full all of those same taxes, assessments, contributions, and fines that are outstanding.

The bill also would repeal and reenact AS 44.25.040, which requires the filing of a performance bond by fish processors and primary fish buyers. Under the bill, the performance bond would be more accessible for collection of claims by the Department of Labor and Workforce Development (DLWD) for unpaid employment security contributions. The bill would achieve this by providing a process for the DLWD to file directly with the commissioner of revenue a claim against the bond instead of obtaining a court judgment against the bond. However, this bill would preserve the existing statutory priority for use of the bond to pay fishermen and employees first. To achieve this, the DLWD would be obligated to return money collected from the bond if the processor or buyer does not replenish the bond and a fisherman or employee has obtained a final judgment against the bond.

The Honorable John Harris
March 1, 2005
Page 2

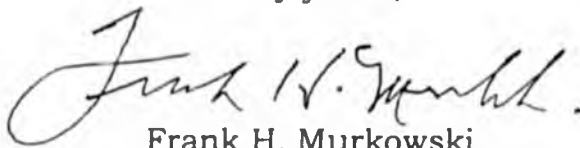
Additionally, the bill would provide that if a bond is depleted by the DLWD's claim, the fish processor or fish buyer would be subjected to an increased bonding requirement (the bill would preserve the existing increased bonding requirement in the case of a final court judgment against the bond).

Last, the bill proposes to prevent the use of real property as a bond substitute if the fish processor or fish buyer has been subjected to an increased bonding requirement or if a final judgment has been obtained against the bond in the preceding five years.

My purpose in introducing changes to the licensing requirements is to prevent the licensure of a fisheries business that has demonstrated that it is, and remains, unwilling to pay its taxes, ASMI assessments, employment security contributions, or OSHA fines. My purpose in introducing changes to the bonding requirements is to expedite the collection of unpaid unemployment insurance contributions by the DLWD and to make the bonding amount more representative of the risk of nonpayment posed to fishermen and employees who work for these bonded fish processors and buyers.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 192
 (F.) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title: Fisheries Business License and RDU: Investments (122)
Fish Processor/Primary Buyer Bonds Component: Investments
 Sponsor: Rules
 Requester: By Request of the Governor Component No.: 383

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation changes requirements to obtain and maintain a fisheries business license, and to the bonding requirements for fish processors and primary fish buyers. It does not impact the operations of the division.

Prepared by: Greg Winegar, Director Phone 907.465.2510
 Division: Investments Date/Time 2/4/05 6:25 PM
 Approved by: Edgar Blatchford, Commissioner Date 2/4/2005
 Agency: Department of Commerce, Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 192
 (H) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Relating to requirements to obtain and RD:J _____
maintain a fisheries business license Component _____
 Sponsor Fisheries Committee _____
 Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson Phone 465-6137
 Division: Legislative Liaison Date/Time 12/16/04 3:01 PM
 Approved by: Commissioner Kevin Duffy Date 12/16/2004
 Agency: Alaska Department of Fish & Game

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: HB 192
(H) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: "An Act relating to requirements to obtain RDU: Employment Security
and maintain a fisheries business license..." Component: Unemployment Insurance
Sponsor: Rules
Requester: Governor Component Number: 2276

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type - Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0	0.0

Estimate of any current year (FY2005) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation changes bonding requirements for fish processors and primary fish buyers. There is no anticipated financial impact to the department as a result of this legislation.

Prepared by: Tom W. Nelson, Director Phone: 465-5933
Division: Employment Security Division Date/Time: 2/24/05 10:47 AM
Approved by: Greg O'Clary, Commissioner Date: 2/24/2005
Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: HB 192
 (H) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: "An Act relating to requirements to obtain RDU: Labor Standards and Safety
and maintain a fisheries business license..." Component: Wage and Hour
 Sponsor: Rules
 Requester: Governor Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2005) cost: None
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation changes bonding requirements for fish processors and primary fish buyers. There is no anticipated financial impact to the department as a result of this legislation.

Prepared by: Grey Mitchell, Director Phone: 465-4855
 Division: Labor Standards and Safety Date/Time: 2/24/05 10:47 AM
 Approved by: Greg O'Claray, Commissioner Date: 2/24/2005
 Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: HB 192
 (H) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Bonds & Accountability: Processors/UI RDU Revenue Programs & Services
/UI/OSHA Component Tax Division
 Sponsor Governor
 Requester House Rules Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	25.0	15.0	15.0	15.0	15.0	15.0
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill represents three modifications to existing fisheries business tax licensing and surety bond requirements: 1) it adds the Seafood Marketing Assessment, UI tax, and OSHA fines to the list of state liabilities that must be paid in full to obtain and hold a fisheries business license; 2) lowers the requirements for payment of UI tax from a processors surety bond while retaining priority for employees and fishermen; and 3) increases protections in place for employees and fishermen by modifying the rules under which bonding requirements are raised for processors that fail to pay employees, fishermen, or UI tax.

We do not expect to incur additional costs as a result of the legislation. We expect to collect additional Seafood Marketing Assessments under this legislation.

Prepared by: Chuck Harlamert Phone 465-2320
 Division: Tax Division Date/Time 2/3/05 1:19 PM
 Approved by: Tomas Boutin Date 2/3/2005
 Agency: Department of Revenue

COMMITTEE COPY

HB

203

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 203
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept Affected: Commerce
 Title Motor Vehicle Dealer Sales RDU Insurance (116)
 Component Insurance Operations
 Sponsor Anderson
 Requester House Labor & Commerce Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation relates to a motor vehicle dealer selling certain motor vehicles as new models, or as new models having a manufacturer's warranty. It does not impact the operations of the division.

Prepared by: Linda S. Hall, Director Phone 907-269-7900
 Division: Insurance Date/Time 3/16/05 5:27 PM
 Approved by: Edgar Blatchford, Commissioner Date 3/16/2005
 Agency: Commerce, Community & Economic Development

Alaska State Legislature

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Alaska State Capitol, Rm 408
Juneau, AK 99801-1182

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Toll Free: (800) 465-4939
Rep.Tom_Anderson@legis.state.ak.us

Representative Tom Anderson
District 19 - Anchorage

Sponsor Statement CSHB 203

Title: "An Act relating to a motor vehicle dealer's selling certain motor vehicles as new model motor vehicles or as new model motor vehicles having a manufacturer's warranty."

CSHB 203 amends AS 08.66.015 deleting the reference to current model motor vehicles and adds provisions for the sale of a vehicle as "new". A new vehicle must retain a manufacturer's certificate of origin, the manufacturer's warranty and the dealer must have a current sales and service agreement with the manufacturer of the vehicle.

Sec. AS 08.66.015 is amended by adding a new subsection, which outlines when a vehicle may be offered for sale as new. Definitions are also added to clarify the language of the new section.

CSHB 203 ensures that consumers who buy "new" cars are protected from dealers selling slightly used cars as new. It clarifies the definition of what constitutes a new car to provide the greatest amount of protection to the consumer while refraining from restricting vehicle dealers from overly restrictive regulations.

I urge your support for this bill.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK
99801-1182

Sectional Analysis for CSHB 203 BY: Representative Tom Anderson

Section 1. Amends AS 08.66.015(a)

Removes the restriction on selling a vehicle as a current model motor vehicle. Outlines the provisions that must be met to offer a motor vehicle for sale as new.

Section 2. Amends AS 08.66.015 by adding a new subsection

This subsection outlines the exemptions to the previous section's restrictions on the sale of new motor vehicles. Also defines "new motor vehicle" and "bona fide retail purchaser or lessee".

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 203
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Motor Vehicle Dealer Sales RDU Insurance (116)
 Component Insurance Operations
 Sponsor Anderson
 Requester House Labor & Commerce Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contract						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation relates to a motor vehicle dealer selling certain motor vehicles as new models, or as new models having a manufacturer's warranty. It does not impact the operations of the division.

Prepared by: Linda S. Hall, Director Phone 907-269-7900
 Division Insurance Date/Time 3/16/05 5:27 PM
 Approved by: Edgar Blatchford, Commissioner Date 3/16/2005
 Agency Commerce, Community & Economic Development

FRANK H. MURKOWSKI,
GOVERNOR

DEPARTMENT OF LAW

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-5903
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OFFICE OF THE ATTORNEY GENERAL

REPORT TO THE LEGISLATURE
REGARDING AMENDMENTS TO AS 08.66.015

January 13, 2005

Background

At the end of the 2004 regular legislative session, the Alaska Legislature passed HB 272, an Act relating to certain amendments to Alaska's Auto Dealer Act. Section 10 of the bill requires the Department of Law ("Department") to: (1) monitor and investigate consumer and enforcement problems associated with AS 08.66.015 that relate to the sale of new or current model motor vehicles;¹ and (2) report to the legislature on or before January 24, 2005, on the consumer and enforcement problems identified under (1) and include a recommendation for resolving the problems. This Report discusses these issues and proposes amendments to AS 08.66.015.

AS 08.66.015 reads in its entirety as follows:

Sec. 08.66.015. Sale of motor vehicle. (a) A person who does business as a dealer in the state may not offer to sell or sell a motor vehicle as a new or current model motor vehicle unless the motor vehicle retains the manufacturer's certificate of origin.

(b) A person who does business as a dealer in the state may not offer to sell or sell a motor vehicle as a new or current model motor vehicle having a manufacturer's warranty unless

(1) the dealer has a current sales and service agreement with the manufacturer and the agreement requires the dealer, upon demand of the motor vehicle buyer, to perform or arrange for, within a reasonable distance of the dealer's place of business in the state, the repair and replacement work required of the manufacturer under the warranty; or

(2) the dealer offers to give the buyer a rebate to cover the repair and replacement work that the dealer cannot perform or arrange for within a reasonable distance of the dealer's place of business.

Accordingly, AS 08.66.015(a) prohibits the sale of a new *or* current model motor vehicle unless the motor vehicle retains the manufacturer's statement of origin, referred to as the "MSO." An MSO is issued for every new vehicle when it leaves the factory. When the vehicle is sold to the first purchaser, the MSO is delivered to the Division of Motor Vehicles ("DMV") as part of the application for a new title. Once titled, the MSO for the vehicle is retained by the DMV. No used current model vehicle will have an MSO. Thus, AS 08.66.015 prohibits the sale of any used current model vehicle in Alaska by any auto dealer.

There are a variety of circumstances under which an auto dealer may come into possession of a used current model vehicle. It may be purchased at an auction, from a rental fleet, from an individual consumer, or taken on trade. Regardless of how the vehicle is obtained, AS 08.66.015 prohibits all Alaska auto dealers from selling used current model vehicles.

Legislative History of AS 08.66.015

When enacting AS 08.66.015, the 1993 legislature did not discuss, and was likely not aware of, the result this language would have on the sale of used current model vehicles. AS 08.66.015 was added as part of a comprehensive bill (Senate Bill 105, and concurrent House Bill 164) aimed at regulating auto brokers. According to the bill's sponsor, Senator Robin Taylor, an auto broker operating in Southeast Alaska sold cars to several consumers then went out of business. Some consumers did not get the car they thought they purchased, did not receive titles, and had warranty problems. The auto broker was gone, and these consumers had no recourse.

In response to these problems, AS 08.66 was amended to define a "buyers agent" and regulate the conduct of these agents doing business in Alaska. A new section was added to AS 45.45 (now in AS 08.66) to require that buyer's agents obtain a license just like an auto dealer, and follow certain practices. Only limited discussion about the sale of "new or current model" vehicles occurred in the House Judiciary committee. Joe Ambrose, aid to Senator Taylor, testified the bill would prevent a car from being sold as new if it had been sold before. This was important, according to Mr. Ambrose, for warranty reasons. In this same

committee, Mr. Steve Allwine, representing the Alaska Auto Dealers Association, testified that customers sometimes bought cars that were supposed to be new, but in fact were used, resulting in warranty problems. The nature of the "warranty problems" mentioned by Messrs. Ambrose and Allwine is not discussed in the legislative history anywhere.

The only other consideration in SB 105 of current model vehicles is found in a proposed definition of "current model motor vehicle." These vehicles were defined as "a motor vehicle that is the current model made by the manufacturer and that has been sold one or more times before the dealer proposes to sell it." This definition no longer appears in the statute.

The Departments understanding of this history is that AS 08.66.015 was primarily aimed at stopping auto brokers from selling cars to consumers unless they were licensed as auto dealers. The restriction on selling new or current model motor vehicles was part of this effort, and was not intended to restrict legitimate car dealers from selling used current model motor vehicles. Instead, it appears the 1993 legislature intended to stop auto brokers from selling used current model vehicles as "new" vehicles if the vehicle had in fact been sold at least once before.

Concerns raised by the AADA

Representatives of the Alaska Auto Dealers Association ("AADA") have raised several concerns with the purchase and resale of used current model vehicles. Many of these vehicles are obtained from Canadian auto dealers through "straw" purchasers and importers who immediately sell them to Alaska dealers for resale to the public. There is no question that auto manufacturers in the U.S. and Canada universally agree that its dealers are prohibited, under existing franchise agreements, from selling vehicles for the purpose of export to another country. There is nothing illegal about these restrictions. Unfortunately, manufacturers have had difficulties in stopping this practice because Canadian dealers are often unaware that some sales result in the immediate export of the vehicle.

Regardless of the method, in most circumstances there appears to be an illegitimate transaction somewhere in the chain of events that results in a low mileage, used current model vehicle making its way to Alaska, even though the actual importation may be legal.

The AADA believes this practice results in unfair competition between franchised dealers and used car dealers. Franchised dealers not only invest significant amounts of time and money in their facilities, but are also required to

provide training to its employees, maintain service facilities, and are responsible for the vehicle after it is sold. The majority of used car dealers are not burdened with these requirements. Regardless of the impacts on franchised auto dealers, *the fact remains that existing law already prohibits the sale of used current model vehicles.*

Concerns Raised by the IADA

The Alaska Independent Auto Dealers Association ("IADA") is concerned about any restriction on the sale of used vehicles, regardless of whether the vehicle is a current model. Most IADA members express the belief that a vehicle is either new or used, and current model vehicles should not be treated differently. A vehicle is "used" once it has been title to the first purchaser and loses its MSO. Thus, the IADA believes that used auto dealers should be allowed to sell any used vehicle. The problem addressed by AS 08.66.015 associated with transient "brokers" is not a concern for legitimate, licensed used car dealers in Alaska.

Consumer Impacts

It is unclear whether consumers would be adversely impacted if the Department began enforcing AS 08.66.015 to prohibit the sale of used current model vehicles. These vehicles have the appearance of new vehicles with very low mileage when, in fact, they are used. This has significant consequences. Alaska's lemon law, for example, does not apply to used vehicles. Some manufacturers are not honoring warranties on vehicles originally manufactured for sale in Canada or another country. Nearly all odometers must be changed before importation, and the Department is aware that not all odometer swaps are performed in accordance with federal requirements.

Some auto dealers offer after-market service contracts to consumers for vehicles that are not covered by a manufacturer's warranty. The viability of some after-market service contracts has been recently called into question. National Warranty Insurance Company ("NWIC") was a large Risk Retention Group ("RRG") that offered service contracts called "Smart Choice" contracts. Several Alaska used car dealers sold these contracts with used vehicles. NWIC went into "provisional liquidation" in 2003. Most consumers who purchased contracts from NWIC will not receive the benefit of the contract (repairs will not be paid for), and will not get a refund of the cost of the contract. NWIC was formed under the laws of the Cayman Islands, and the liquidation proceeding will be governed by Cayman Island law. There is some concern that consumers who purchase used

current model vehicles with these kinds of service contracts will not understand the risks associated with them.

Alaska law requires that every motor vehicle dealer disclose, in writing, whether a motor vehicle was originally manufactured for sale in Canada or a foreign country, whether the warranty provisions of AS 45.45.300 - 45.45.36 (the lemon law) apply, and whether the vehicle is subject to the manufacturer's warranty. AS 45.25.465. These disclosures provide important information to the consumer, and address many of the issues surrounding the enactment of AS 08.66.015.

The Department has received several consumer complaints relating to the purchase of a used current model vehicle. Nearly all of these complaints relate to warranty and odometer issues. These complaints allege that franchised auto dealers refuse to honor warranties for used current model vehicles imported from Canada. One consumer complained, for example, that Chrysler refused to repair an odometer cluster because the cluster was replaced with an after-market cluster during the importation process. Most manufacturers will not perform warranty work on after-market parts. The "big three" American auto makers (Chrysler, Ford, and GM) are aware of this issue, and are taking varying steps to address this. These types of complaints have slowed significantly in the past six months.

The majority of other consumer complaints allege that adequate disclosures were not made when the vehicle was purchased. Some consumers allege they were not told the vehicle was imported (i.e. from Canada), or that factory warranties will not apply.

Recommendations

There are several approaches to resolving the issues presented by AS 08.66.015(a). The decision on how to resolve the concerns expressed above are largely policy questions to be decided by the legislature. AS 08.66.015 in its current form, however, should be amended or repealed. The Department recommends that the legislature consider one of the following.

Proposal 1: Remove the phrase "current model" from AS 08.66.015(a) and (b).

This proposal would remove the term "current model" from AS 08.66.015 so that a dealer could not sell a vehicle as "new" unless the vehicle has an MSO,

but allows any dealer to sell a used vehicle of any kind, including current model vehicles. This proposal leaves the issue of how to deal with "undesirable" sales of used current model vehicles to the manufactures and its dealers.

Proposal 2: Remove the phrase "current model" from AS 08.66.015(a) and (b) and add a definition of "new vehicle" to accomplish the goals of the legislature.

This option is a compromise that addresses most of the concerns raised by the new and used car dealers in Alaska. The State of Washington has adopted this approach. This proposal removes the phrase "current model" from AS 08.66.015(a) and (b), then defines "new vehicle" in a way that protects franchised car dealers from the practices described above.

New language would then be added that defines a used vehicle. The Department proposes adoption of the Washington definition, which is:

"A used vehicle is a vehicle that either: (1) has been operated to the extent that its odometer registers 3,000 miles or more; or (2) titled or registered to a purchaser for a period of 90 days or more."

In addition, an exemption should be added for any vehicle purchased or leased by a bona fide retail purchaser/lessee who purchases or leases the vehicle for the purpose of using it rather than for resale. Washington uses the following language in its exemption:

"The requirements of this section will not apply if a bona fide retail purchaser/lessee sells, trades, or otherwise disposes of the vehicle prior to its having met these requirements. A "bona fide retail purchaser/lessee" is one who purchases or leases a vehicle for the purpose of using it, rather than for the purpose of resale or lease."

This option would allow the acquisition and sale of used current model vehicles with any number of miles so long as the vehicle was obtained from a bona fide retail purchaser/lessee as defined above. Thus, an ordinary consumer who purchases or leases a new vehicle for the purpose of using it could still sell the vehicle regardless of the mileage or title requirements, and Alaska auto dealers can resell it. Otherwise, a vehicle will be considered "new" (and subject to the

requirements of AS 08.66.015(a) and (b)) and can not be sold as "used" until it has at least 3,000 miles on the odometer, or it has been titled for at least 3 months.

Conclusion

The Department recommends the legislature consider amendments to AS 08.66.015 to correct the current problems associated with the sale of used "current model" vehicles. Either of the two proposals set out above will accomplish this goal. The Department is available to assist in drafting any proposed amendments to the statute.

Please contact Assistant Attorney General Ed Sniffen with any questions.
269-5200; ed_sniffen@law.state.ak.us.

1 A vehicle is a "current model" vehicle if it is still within the same year as currently offered new vehicles of the same model. For example, a 2005 Ford F-150 pickup truck is a current model vehicle so long as the 2006 F-150's are not available to the public. As soon as the 2006 model F-150's are available, the 2005 year is no longer the "current model" year.

HB

211

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 211
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Dentists, Hygienists; Board of RDU Occupational Licensing (117)
Dental Examiners Component Occupational Licensing
 Sponsor Kelly
 Requester House Labor & Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services		90.5	90.5	90.5	90.5	90.5
Travel		12.1	12.1	12.1	12.1	12.1
Contractual		21.4	21.4	21.4	21.4	21.4
Supplies		0.1	0.1	0.1	0.1	0.1
Equipment		0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	124.1	124.1	124.1	124.1	124.1

CAPITAL EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011

CHANGE IN REVENUES (1156)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
	0.0	124.1	124.1	124.1	124.1	124.1

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	0.0	124.1	124.1	124.1	124.1	124.1
TOTAL	0.0	124.1	124.1	124.1	124.1	124.1

Estimate of any current year (FY2005) cost: 124.1
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Dental Examiners to June 30, 2011. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2006 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2006 budget. The bill also makes other amendments to AS 08.32 and AS 08.36 relating to dentists and dental hygienists. New funds are not required to implement the provisions of this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division: Occupational Licensing Date/Time 3/29/05 7:07 PM
 Approved by: Edgar Blatchford, Commissioner Date 3/29/2005
 Agency: Commerce, Community, and Economic Development



Alaska Dental Society, Inc.

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akdental@alaska.net

The Honorable Mike Kelly
House of Representatives
State Capitol, Rm. 434
Juneau, AK 99801 + 1182

RECEIVED

MAR 29 2005

Dear Sir:


Thank you for your sponsorship of the Alaska Dental Society's legislation that is being incorporated into the Sunset Review of the Alaska Board of Dental Examiners, House Bill 211.

These changes incorporated in HB-211 were discussed and negotiated with representatives of the Board of Dental Examiners, the Division of Occupational Licensing and the Alaska State Dental Hygiene Association. Accordingly we have dubbed this bill the "consensus bill" because we proposed these changes with the consensus of all parties involved and affected.

We appreciate your willingness to undertake this critical legislation and your support for the Alaska Dental Society and its members across the state.

If we can be of any assistance, please don't hesitate to contact me.

Respectfully yours


James R. Towle
Executive Director

ADS 2005 Legislative Issues House Bill 211 -- Fact Sheet

Bill # & Title: HB-211 "Dental Board Sunset Review"
Bill Sponsor: **Rep. (Mike Kelly)**, Fairbanks
Capitol Office 907-465-4976
866-465-4976
Capitol Fax 907-465-3883
Capitol Address State Capitol Rm 434
Juneau, AK 99801 + 1182

Purpose of bill:

This bill makes changes to the Dental Practice Law that will:

- ① **allow** the Alaska Board of Dental Examiners to **more expeditiously** approve licenses for **qualified new dental school graduates** who want to practice in Alaska. The changes in the bill will allow the board to **delegate** the performance of routine administrative functions to **appropriate, board designated**, staff within the Division of Occupational Licensing.
- ② **Enhance** the Alaska **Board** of Dental Examiners **authority to authorize** a dental hygiene license to **qualified applicants** under the existing "Licensure by credentials" criteria.
- ③ **Grant** the Alaska **Board** of Dental Examiners the **authority to "supervise an informal and confidential chemical dependency intervention program."**
And,
- ④ makes administrative **changes** to the "Dental radiological equipment" provision of the Dental Practice Law **necessary for a timely renewal process.**

Why needed:

- ① The present requirements commonly result in **long delays** from the time a **qualified applicant**, who has recently graduated from dental school, can receive their Alaska license and **begin practicing** in the state. The **Alaska Dental Society** has worked with the **Alaska Board of Dental Examiners** and the **Division of Occupational Licensing** to **achieve consensus** on these issues and to ensure that the process **continues to provide** first and foremost for the **safety and well being of the public.**
- ② The present requirements can cause **undue delay for fully qualified applicants** to become licensed, primarily because certain actions that can **appropriately be delegated** to a staff person are restricted to be done at quarterly board meetings. The **Alaska Dental Society** has worked with the **Board of Dental Examiners and the Alaska State Dental Hygiene Association** for consensus of all parties affected.
- ③ The Alaska **Board of Dental Examiners** is **one of the few** dental regulatory boards in the nation that **does not have the authority to refer dentists and**

ADS 2005 Legislative Issues House Bill 211 -- Fact Sheet

hygienists to participate in a **monitored program** for individuals that are either identified as having an **alcohol or chemical dependency problem**. The effectiveness of these types of programs at getting individuals who suffer from alcohol or chemical dependency of getting assistance **before they harm patients** or family members is greatly **enhanced** when **voluntary enlistment** is included. **The Alaska Dental Society** has worked with the **Board of Dental Examiners and the Division of Occupational Licensing** in developing a **consensus on the appropriateness** of granting the dental board this authority.

- ④ The original legislation inadvertently contained a provision that would require all machines in the state to be inspected during the same calendar year. The **original intent** was to have machines inspected once every five years, with a **rotational initial inspection** so that each machine would be inspected within on the fifth year. This provision corrects the bill to reflect the original intent and implementation of **effective and sustainable ongoing inspections**.

Supported by:

**Alaska Dental Society,
Alaska State Dental Hygiene Association,
Alaska Board of Dental Examiners,
Division of Occupational Licensing**

Opposed by:

Its supporters are aware of no groups or organizations that are opposed to, or can be expected to oppose this legislation.

Alaska State Legislature

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Fairbanks

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Representative Mike Kelly

House District 7

Sponsor Statement

HB 211

(24-LS0707\A)

House Bill 211 provides for the extension of the Board of Dental Examiners to June 30, 2011 as recommended by Legislative Audit #08-20031-04 dated August 5, 2004. The Audit states **"The board is operating in the public interest by effectively regulating the individuals who hold themselves out to the public as licensed dentists and dental hygienists."** The extension to 2011 is recommended by Legislative Audit to aid in **"smoothing out the number of boards and commissions that come under sunset in a particular year."**

House Bill 211 also includes several changes to the Dental Board Statutes that clean-up issues for the Board of Dental Examiners. The changes are further described as follows:

- Implements continuing education requirements for dental hygienists in an amount of 14 hours for the previous two years.
- Modifies inspection period for radiological equipment used in dentistry to five years from four years to better accommodate periodic inspections.
- Clarifies qualifications for licensure by more clearly identifying impairment **"that affects the applicant's ability to practice dentistry"**, and by adding a new section that provides an applicant **"has not been convicted of a crime that adversely reflects on the applicant's ability or competency to practice dentistry or that jeopardizes the safety or well-being of a patient"**
- Clarifies the requirements for specialty licensure by requiring that the applicant meet the qualifications for licensure as a dentist in Alaska, and passes an examination given by either the Western Regional Examining Board, Central Region Dental Testing Service, Central Region Examining Board, or that the applicant meet the qualifications for licensure as a dentist in Alaska, and be board

certified by a specialty certification board which is recognized by the American Dental Association.

These changes were the result of a joint meeting with representatives from the Department of Occupational Licensing, Alaska Board of Dental Examiners, and Alaska Dental Society. The changes were also discussed with representatives of the Alaska State Dental Hygiene Association. All involved could not think of any opposition to these changes.

September 1, 2004

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
BOARD OF DENTAL EXAMINERS

August 5, 2004

Audit Control Number

08-20031-04

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(7), the Board of Dental Examiners is scheduled to terminate on June 30, 2005. If the legislature takes no action to extend the termination date, the board would be allowed one year in which to conclude its administrative operations. We recommend that the legislature extend the board's termination date to June 30, 2011.

The sunset review was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing this report are set out in the Objectives, Scope, and Methodology section.

Pat Davidson, CPA
Legislative Auditor

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes, we have reviewed the activities of the Board of Dental Examiners (BDE). As required by state law, the legislative committees of reference are to consider this report when considering whether to extend the termination date for BDE. Currently under AS 08.03.010(c)(7) the board will terminate on June 30, 2005. If the legislature does not extend the termination date for the board, BDE will have one year to conclude its administrative operations.

Objectives

Central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of licensed dentists and dental hygienists.

The assessment of the operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the board.

Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and their work was competent and sufficient.

The major areas of our review were board proceedings, licensing, complaint investigation, and resolution functions for fiscal years ending June 30, 2001, 2002, and 2003. During the course of our examination we reviewed and evaluated the following:

- Applicable statutes and regulations related to the licensing of dentists and dental hygienists.
- Minutes of meetings of the Board of Dental Examiners.

- Annual reports issued by the Board of Dental Examiners.
- Complaints filed with the Department of Commerce, Community, and Economic Development, Division of Occupational Licensing.
- Reading and correspondence files maintained with the Department of Commerce, Community, and Economic Development, Division of Occupational Licensing.
- Interviews with employees of the Department of Commerce, Community, and Economic Development, Division of Occupational Licensing.
- Review of financial records related to the revenues generated and the operating costs incurred by BDE.
- Files related to applicants for, and holders of, licenses issued by BDE.

ORGANIZATION AND FUNCTION

The Board of Dental Examiners was established in 1955, through Alaska Statute 08.36.010. The board is made up of six licensed dentists, two licensed dental hygienists, and one public member. The dentists and dental hygienists must have been practicing in Alaska for the five years immediately preceding their appointment to the board. Alaska statute also requires that the public member not have direct financial interest in the occupation the board regulates. Board members are appointed by the governor and serve staggered terms for four years.

The powers of the board include:

- Examining and issuing licenses to qualified applicants.
- Hold hearings and order the disciplinary sanction of a person who violates this chapter, Alaska Statute 08.32, Alaska Statute 08.36 or a regulation of the Board.
- Adopting regulations ensuring that renewal of registration is contingent upon proof of continued professional competence by a licensed dentist or licensed dental hygienist.
- Provide the department with the requirements for proof of continued professional education.
- Issuing permits or certificates to licensed dentists and licensed dental hygienists who meet the standards determined by the board for specific procedures that require specific education and training.

Board of Dental Examiners

(as of June 30, 2004)

Robert E. Warren, Dentist, Chairman
James B. Blasingame, Public Member
Mary Ann Cerney, Dental Hygienist
David L. Eichler, Dentist
William Gerace, Dentist
Keith L. Gottlieb, Dentist
Rena L. Lehmann, Dental Hygienist
Rebecca Neslund, Dentist
Arne R. Pihl, Dentist

The board is responsible for safeguarding the public interest by ensuring the competence and integrity of those who hold themselves out to the public as dentists and dental hygienists. The board evaluates the qualifications of candidates, administers examinations, issues certificates and licenses to practice, promulgates rules of professional conduct, and takes disciplinary action.

Department of Commerce, Community, and Economic Development, Division of Occupational Licensing

The Department of Commerce, Community, and Economic Development, Division of Occupational Licensing, provides administrative and investigative assistance to the Board of Dental Examiners. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

REPORT CONCLUSIONS

In our opinion, the termination date for the Board of Dental Examiners should be extended. The board is operating in the public interest by effectively regulating the individuals who hold themselves out to the public as licensed dentists and dental hygienists.

The board has adopted regulatory changes and supported legislation that improved the board's oversight process and has promoted more effective regulation of licensed dentists and dental hygienists.

Alaska Statute 08.03.010(c)(7) requires the Board of Dental Examiners be terminated on June 30, 2005. If the legislature does not extend the termination date, the board will have a one-year "wrap-up" period to administratively conclude its operations. We recommend the legislature extend the termination date of the board until June 30, 2011.

Implementation of our recommendation would require the legislature to exercise some discretion permitted by state law. Alaska Statute 08.03.020(c) provides for the following:

A board scheduled for termination ... may be continued or reestablished by the legislature for a period not to exceed four years unless the board is continued or reestablished for a longer period ... [emphasis added]

Two factors influence our recommendation that the legislature extend the board to June 30, 2011. First, the board has operated effectively and in the public's interest over the past four years. Secondly, this extension would work towards smoothing out the number of boards and commissions that come under sunset in a particular year. Typically, there are four to six boards and/or commissions scheduled for a legislative sunset review; however, in 2005 there are 12 boards scheduled for sunset. Nonstandard extension dates will allow for a more even distribution of organizations going through the sunset process in any given year.

A ANALYSIS OF PUBLIC NEED D

The following analyses of board activities relate to the public-need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

The board, through regulation of the licensure of dentists and dental hygienists, has provided the public with qualified professionals in the dental industry. The profession has adopted regulations related to continuing professional education to ensure licensees remain current in the field of dentistry and dental hygiene practice.

The board licenses applicants in two ways, by examination and by credentials. Licensure by credentials requires that the applicant document their previous work history as a dentist or dental hygienist as basis for receiving a state license to practice. In prior reports we have expressed concerns that licensure by credential has been unnecessarily cumbersome and difficult. The board adopted new and revised old regulations related to licensure by credentials that have made this process less restrictive. Further, the board adopted new regulations that expanded continuing education requirements and provided for the issuance of licenses in a more uniform and consistent manner.

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

Regulations pertaining to background checks and administration of anesthetic agents were amended, both of which benefit the public by: (1) promoting the integrity and competence of dentists and dental hygienists; and, (2) allowing more efficient access to licensure by prospective applicants. Specifically, regulations were amended allowing dental hygienists to become licensed to administer a local anesthetic on the basis of practical work experience alone.¹ Previously, only individuals who passed an examination were allowed to administer anesthetic agents. The board also instituted change to both dental and dental hygienist regulations relating to background investigations, making it less expensive and time intensive for new graduates entering the dental profession.²

¹ 12 AAC 28.320

² The new regulation also applies to those individuals who have not previously held a dental license in any jurisdiction before the 90 days immediately preceding the date of application for licensure.

Annual reports for fiscal years ended June 30, 2001, 2002, and 2003 were submitted in a timely manner to the Division of Occupational Licensing.

As reflected by the schedule below, the board renews licenses in the odd-numbered fiscal years. This is reflected in the fluctuation of board revenues between each fiscal year. Even though FY 04 revenues will be significantly less compared to that of the prior year, the board's surplus carryover will be sufficient to cover costs, given anticipated FY 04 expenditures. The table summarizes financial information for the board for fiscal years 2001, 2002, and 2003.

State of Alaska Board of Dental Examiners FY 01 - FY 03 Schedule of License Revenues and Board Expenditures (Unaudited)			
	<u>FY 03</u>	<u>FY 02</u>	<u>FY 01</u>
Revenue	\$ 375,100	\$ 158,200	\$ 357,300
Direct Expenses			
Personal Services	88,800	112,400	74,900
Travel	14,600	14,100	15,700
Contractual	37,600	154,300 ³	65,000
Supplies	200	300	100
Equipment	-	-	-
Total Expenses	<u>141,200</u>	<u>281,100</u>	<u>155,600</u>
Indirect Expense	<u>50,700</u>	<u>53,000</u>	<u>45,500</u>
Total Expenses	<u>191,900</u>	<u>334,100</u>	<u>201,200</u>
Annual Surplus (Deficit)	<u>183,200</u>	<u>(175,900)</u>	<u>156,100</u>
Beginning Cumulative Surplus (Deficit)	(128,500)	47,400	(108,700)
Ending Cumulative Surplus (Deficit)	<u>\$ 54,700</u>	<u>\$ (128,500)</u>	<u>\$ 47,400</u>

³ The increase in contractual expenses is attributable primarily to two significant disciplinary hearings.

HB

213

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 213
 (H) Publish Date: 4/18/05

Revision Date/Time (Note if correction): _____ Dept. Affiliated: Public Safety
 Title: "An Act relating to alcohol server education." RDU: Alcohol Beverage Control Board
 Component: Alcohol Beverage Control Board
 Sponsor: Representative Ramras
 Requester: House Finance Committee Component No.: 2690

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) 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)

Section 1 amends state law pertaining to alcohol server training to require a card demonstrating successful completion of the approved alcohol server education course.

Section 2 adds that upon completion of this training course, a written test was to be taken to show sufficient mastery of the subject of safely serving alcohol. An appropriate card will be issued by the course provider to reflect that the individual bearing the card has completed the course work and passed the written test. The card is valid for three years and may be renewed by passing another written test at that time. This means the alcohol server does not need to sit through the 4 to 5 hour training course every three years.

Passage of this legislation is not anticipated to have a fiscal impact on the Department of Public Safety.

Prepared by: Director Douglas B. Griffin Phone 907-269-0351
 Division: Alcoholic Beverage Control Board Date/Time 4/18/05 10:25 AM
 Approved by: Commissioner William Tandeske Date 4/18/2005
 Agency: Department of Public Safety

Representative Jay Ramras
Co-Chair, House Resources
V-Chair, Economic Develop.
Tourism & Trade
House State Affairs

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Alaska State Legislature



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House District 10

House of Representatives

Sponsor Statement

HB 213

HB 213 will work to make it easier for alcohol servers to maintain their livelihood by removing unnecessary coursework for those competent enough to pass their alcohol server education test.

HB 213 works to amend current laws and allow bartenders to renew their alcohol server education card, by passing a written test, demonstrating understanding of the course subjects. Previously, an alcohol server would have to take the alcohol server education course every three years.

Representative Jay Ramras
Co-Chair, House Resources
V-Chair, Economic Develop.

Tourism & Trade

House State Affairs

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Alaska State Legislature



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House District 10

House of Representatives

Sectional Summary

HB 213/Renewal of Alcohol Server Education Cards

Work Order 24-LS0753\A

Section 1. States that a person who sells or serves alcoholic beverages shall keep their alcohol server identification card on the licensed premises during work hours.

Section 2. Amends the requirement for renewing an alcohol server education card. Under this bill, a licensee, agent, or employee may renew their alcohol server education card by passing a written test demonstrating an understanding of the course subjects, without having to retake the whole four-hour course.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB213-DPS-ABC-4-11-05
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act relating to Alcohol Server RDU Alcohol Beverage Control Board
Education" Component Alcohol Beverage Control Board
 Sponsor Representative Ramras
 Requester House Labor and Commerce Committee Component No. 2690

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()					1.5	
-------------------------------	--	--	--	--	------------	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 Section 1 amends state law pertaining to alcohol server training to require a card demonstrating successful completion of the approved alcohol server education course.

 Section 2 adds that upon completion of this training course, a written test has to be taken to show sufficient mastery of the subject of safely serving alcohol. An appropriate card will be issued by the course provider to reflect that the individual bearing the card has completed the course work and passed the written test. The card is valid for three years and may be renewed by passing another written test at that time. This means the alcohol server does not need to sit through the 4 to 5 hour training course every three years.

 Passage of this legislation is not anticipated to have a fiscal impact on the Department of Public Safety.

Prepared by: Director Douglas B. Griffin Phone 907-269-0351
 Division: Alcoholic Beverage Control Board Date/Time 4/11/05 11:23 AM
 Approved by: Commissioner William Tandeske Date 4/11/2005
 Agency: Department of Public Safety



13 AAC 104.465. Alcohol server education course

(a) While selling or serving alcoholic beverages, a person required under AS 04.21.025 to complete an alcohol server education course and the person's on-duty supervisor shall carry a current course card certifying completion of an approved alcohol server education course. The card is effective for three years from date of issuance during which time the person shall complete another approved course. The card must be made of or encased in plastic, and must include the name and birth date of the card holder, the name of the course, date of expiration of the card, and a signature of an authorized course representative. If the card does not include a photograph of the holder, the person shall also carry a valid identification under 13 AAC 104.425(b). The card must be shown upon request of a peace officer or board representative. If the person cannot show a current card or a copy of it on file on the premises, or show a date of hire less than 30 days earlier, the person shall immediately cease selling or serving alcoholic beverages.

(b) State or nationally recognized organizations or associations that address the subject of responsible alcoholic beverage service may obtain approval of an alcohol server education course by making written application on forms provided by the board. The application must include the course book to be provided to students, any video or audio presentations that will be used, the written test required under (d) of this section, detailed lesson plans, and a description of the qualifications of and training provided to course instructors. The application must identify the communities where the course will be presented and the frequency of the presentation. The applicant shall explain how rural premises will be served under (e) of this section.

(c) In addition to written materials and audio and video presentations provided to students, an instructor shall be available during an alcohol server education course to answer questions from students. Subjects covered by alcohol server education courses must include:

- (1) function of Alcoholic Beverage Control Board, licensing procedures, and types of licenses;
- (2) server responsibilities to the employer, patron, and law;
- (3) criminal and civil liability, including discussion of criminal negligence standard;
- (4) effects of alcohol consumption, including
 - (A) effect of food on alcohol consumption;
 - (B) blood alcohol levels;
 - (C) identifying a drunken person; and
 - (D) fetal alcohol syndrome and fetal alcohol effect;
- (5) drunken persons and intervention;
- (6) underage persons;

- (A) checking identification;
- (B) identifying valid identification; and
- (C) obtaining "statement of proof of age";
- (7) state and local hours of service and cutting off service;
- (8) "happy hour" laws;
- (9) restaurant designation;
- (10) other permits;
- (11) local option provisions;
- (12) warning signs;
- (13) gambling, drugs, and prostitution;
- (14) adulteration;
- (15) penalties for licensees and their agents and employees; and
- (16) sale by package stores in response to written orders.

(d) A provider of an alcohol server education course shall issue a card as described under (a) of this section to a student who successfully completes the course. Before issuing the card, the course provider shall require the student to pass a written test that demonstrates that the student understands the course subjects.

(e) Rural premises are those licensed premises not on a state-wide road system or further than 50 miles on a road system from a community where a course is offered. For the purpose of training for rural premises, course providers may provide video or audiotapes and written materials to a licensee that cover all topics required under (c) of this section, and conduct telephonic question and answer sessions for the students. The students shall, under the supervision of the licensee or licensee's manager, take the test required under (d) of this section. The licensee or licensee's manager, whoever supervises the test, shall certify to the course provider that the student did not receive outside help in taking the test and that no copies of the test have been kept.

(f) The board will issue a certificate of approval for each alcohol server education course the board approves. Certificates of approval may not be transferred.

(g) A course provider shall

- (1) maintain records of each student's participation, and completion of server training, including rural training;
- (2) use, at a minimum, the course approved by the board; and

(3) make its records available to peace officers or board investigators.

(h) An organization or association that has received board approval for an alcohol server education course shall apply for board reapproval within 33 months of last board approval. Application must be made on a form provided by the board. If application for reapproval is not approved by the board within 36 months after last board approval, training must cease. The application for reapproval must state the following for training provided since the last application:

(1) the number and names of students trained;

(2) the locations and dates of training; and

(3) the names of instructors.

(i) The board will, in its discretion, terminate approval of a course if the board determines that the course is not being presented as approved, that records are not being maintained as required, that students are being certified who have not successfully completed the course, or for other reasons in the public interest. The board will, in its discretion, make its termination of approval effective immediately, if the board determines that immediate termination is in the public interest.

(j) For the purposes of this section and AS 04.21.025, a person who, before 4/1/94, successfully completed:

(1) Techniques of Alcohol Management (Alaska Cabaret, Hotel, Restaurant and Retailers Association);

(2) Training In Intervention Procedures for Servers (Health Communications, Inc.);

(3) Come of Age (Tesaro Northstar Co.);

(4) Serve Safe (Alaska Professional Bartender School);

(5) Providing Alcohol With Care and Empathy (Stuart Anderson Cattle Co.);

(6) Responsible Establishments Alcohol Consumption Trained Servers (Bartenders Against Drunk Driving); or

(7) Alcohol Servers Knowledge (Alaska Training Academy), has completed an approved course, but shall complete a course approved under (f) of this section within 36 months of 4/1/93.

(k) A provider of an alcohol server education course approved by the board under this section shall advise the board of the methods used to train and certify the instructors providing the training.

History: Eff. 4/1/94, Register 129; am 8/24/2001, Register 159

Authority: AS 04.06.090

AS 04.06.100

AS 04.21.025

Editor's note: As of Register 166 (July 2003), and acting under AS 44.62.125 (b)(6), the regulations attorney relocated former 15 AAC 104.465 to 13 AAC 104.465, and made a conforming technical change to 13 AAC 104.465(a), to reflect Executive Order 110 (2003). Executive Order 110 relocated the Alcoholic Beverage Control Board from the Department of Revenue to the Department of Public Safety. The history note for 13 AAC 104.465 carries forward the history from former 15 AAC 104.465.

Article 5 Enforcement

Section

505. Powers of investigative personnel.

515. Inspection.

525. Communication with licensees.

535. Suspension and revocation of license.

540. Civil fine.

545. Effect of revocation.

13 AAC 104.505. Powers of investigative personnel

(a) The board's investigative personnel may

(1) conduct inspections of licensed premises and investigations of licensees, applicants, transferees and other persons with respect to applications, the possession and sale of alcoholic beverages, or licensed premises;

(2) issue notices of violation;

(3) seize alcoholic beverages which are subject to forfeiture under AS 04.16.220 ;

(4) serve subpoenas issued by a hearing officer in a board adjudicative proceeding;

(5) execute search warrants;

(6) exercise specified peace officer powers upon the written concurrence of the commissioner of public safety filed with the lieutenant governor and the director, but only if necessary for the enforcement of the criminally punishable provisions of AS 04 and regulations adopted under AS 04;

(7) take such other action as is considered necessary by the director to assure the enforcement of AS 04 and is not in conflict with a law or regulation.

(b) Consistent with federal, state, and local law, the board's investigative personnel may carry firearms in the performance of their duties, if individually authorized by the board.