

1962 HOUSE RESOURCES

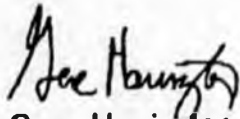
Page Four

The Honorable Jay Ramras

February 25, 2005

NPMA appreciates the your time and consideration of this matter. I encourage you to contact me at (800) 678-6722, ext. 130 or gharrington@pestworld.org should you have any questions.

Sincerely,



Gene Harrington

Manager of Government Affairs

CSHB19 - Y – What would DEC do?

Registration Fees

- Would estimate fee at \$105
- Would cover program costs to regulate the use of pesticides in Alaska
- Establish fee waiver for limited use, new products, or research

Certification

- Require individuals who apply pesticides in public areas to become certified
- \$25 annual fee with a free course and test every three years
- Public areas include: parks, government buildings, parking lots, places of business that are accessible by the public, multi-family dwellings
- Develop a CD that trains applicators who can't attend a class in person

Public Notification

- Private property not accessed by the public is exempt
- Would vary by type of facility. Examples:
 - Multi-family dwellings – notification of occupants
 - Parking lot – signs posted
 - Municipal park – signs posted

Fiscal Note

- Would replace all GF by FY 2008 with fees (\$105 registration, \$25 certified applicators)
- Three new staff for increased inspection, enforcement, and complaint investigation
- Reflect database improvement costs, regulation drafting expenses, and cost to create CD

Impact to various industries

- Farmers – no changes
- Restaurants - no changes
- Hotels – no changes
- Commercial pesticide applicators – business increase, may be reduction of products available

Promulgation of regulations with public and industry input.

Douglas Owen

From: Mike Turek [turek_mike@yahoo.com]
Sent: Sunday, February 20, 2005 1:02 PM
To: Rep. Jay Ramras
Cc: Rep. Beth Kerttula
Subject: HB 19

FEB 21 2005

Representatives, Jay Ramras and Beth Kerttula,

I support Representatives Kevin Meyer (R-Anchorage) and Beth Kerttula's (D-Juneau) bill, HB 19—Public Right to Know About Pesticides. This bill provides valuable information about where and when pesticides are used, and protects our health by requiring public notice before pesticides are used.

Why Is Pesticide Regulation Important?

- Nearly 6,000 pesticides are currently registered for use in Alaska. They are used in places where we live, work, and play: in parks, public buildings, grocery stores, apartment buildings, airports, schools, day care facilities, universities, greenhouses, agricultural and forest lands, hospitals, nursing homes and military reservations.
- Pesticides are linked to serious health problems including cancer, reduced fertility, birth defects, neurological diseases, and hormone disruption.
- Alaskans have a right to know where, when, and what toxic pesticides are being sprayed so we can avoid exposure in public places.
- Children are particularly vulnerable to the toxic effects of pesticides.
- Many pesticides are highly toxic or extremely toxic to fish and wildlife.
- Pesticides degrade our water quality and the health of our environment.
- Despite these known risks, we have no accurate information on which pesticides are used, where, when, and in what amounts.
- Alaska is the ONLY state that does not collect fees on pesticides registered for commercial use.
- There is broad-based support for pesticide use reporting, including support from the medical community, subsistence food users, parents, workers, and environmental advocates.

How Would HB 19 Help? Provisions of the current "work draft" of HB 19 include:

1. **Registration Fees:** HB 19 authorizes the Department of Environmental Conservation to charge a fee to chemical manufactures to register their chemicals in the state. Alaska is currently the only state in the country that does not set a fee. DEC estimates that they would charge a \$115 fee per chemical to help cover the costs of the state's pesticide program in Alaska.

2. **Certification:** HB 19 requires that all persons who apply pesticides in 'public areas' become certified in application techniques and guidelines. A nominal certification fee would be charged. Public areas are defined as: parks, government buildings, common areas of apartment buildings, and outdoor areas that the general public may frequent. The bill specifically exempts restaurants, hotels, and motels from the definition of public place.

3. Public Notification: HB 19 requires DEC to develop regulations for reasonable, on-site notice for the application of pesticides in a public place.

Thank you, Michael F. Turek, 4443 Mountainside Drive, Juneau, Alaska 99801

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Douglas Owen

From: Dave Murray [dmurray@alaska.net]
Sent: Saturday, February 19, 2005 5:58 PM
To: Rep. Jay Ramras
Subject: HB-19

Representative Ramras: I have just learned about House Bill 19, and I want very much to urge your support of the Public Right to Know About [the Use of] Pesticides.
David F. Murray
1518 Moose Trail
Fairbanks AK 99709-6614

FEB 21 2005

Douglas Owen

From: Ken(neth J) Perry [Mail@Paratex-PP.com]**Sent:** Monday, February 21, 2005 10:22 AM**To:** Rep. Jay Ramras

FEB 21 2005

Subject: HB19 Wednesday Hearing

Honorable Representative, Committee Co-Chair Mr. Jay Ramras:

As you know, your Resources Committee is to consider HB19 at Wednesday's meeting. I intend to testify, of course, but wanted to extend a courteous caution to you in advance and encourage you to give this bill serious consideration before the highly charged hearing. This bill **MUST NOT** be passed!

FIRST – The manufacturers of pesticides represented by RISE have said they would not boycott a reasonable fee structure (est. \$25 per year) for a revenue supporting bill used to offset reasonable State pesticide regulation. Such a bill could bring in as much as \$85,000-\$100,000 a year to offset the State budget. **HOWEVER**, if a punitive dollar amount such as recommended in this bill **AND** if any amount is dedicated to anti-pesticide regulation such as the suggested notification requirements, they have stated clearly to me that they will review **ALL** of their current registrations and remove many if not all. This includes not just the small number that this bill seeks to over regulate, but a large number of personal use items that your constituents have asked to purchase here (including cleaning agents, paints, solvents etc.). This could be disastrous to the ADEC Pesticide Division if they base their budget on such revenues, and will be a source of embarrassment to the Legislature when they have to request other State Funds to cover their fiscal needs.

SECOND – The attempt to make LAW in an area already closely governed by the Federal government is a dangerous agenda. The chemicals you seek to restrict have already been labeled by EPA with full consideration of personal and public safety. The concerns of exposure are addressed on the label under "re-entry requirements", and in other areas therein, and are therefore Federally enforced. Billions of dollars have been (and continue to be) spent on research and testing both by the manufacturers and EPA. Chemicals which pose a significant threat to public safety are either made "Restricted Use" or not allowed to be registered. In addition, the manufacturers have sought to encourage the public to use trained professionals to apply pesticides that may have a higher risk than over-the-counter pesticides available to the public. **YET**, the enclosed notification legislation seeks to override the Label – in effect negating it. In addition, to ask every business, industry, church and charity (except Hotels and Restaurants) in Alaska to post a misleading written sign in their facilities whenever they choose to use any pesticide is egregious!

I will appear at the Anchorage LAO for a more in depth testimony and to answer your questions. However I urge you not to put off your consideration until then **AND** to avoid being swayed by sensationalism and unsupported anecdotal stories you will likely be subjected to by the environmental extremists who continue to push this type of legislation.

Respectfully,

(Representing Alaska Pesticide Applicators Group;
NPMA-National Pest Management Association, www.pestworld.org;
RISE-Responsible Industry for a Sound Environment, www.pestfacts.org)

Kenneth J (Ken) Perry

General Manager

Mail@Paratex-PP.com

PARATEX Pied Piper Pest Control (est. 1965)

2440 E 88th Ave., Ste. A (907) 344-2538

Anchorage, AK 99507 (Fax) 344-9111

ICQ, MSN, AIM, Yahoo available on Request

FEB 21 2005

Douglas Owen

From: jai crapella [jaiping@yahoo.com]
Sent: Monday, February 21, 2005 9:44 AM
To: Rep. Jay Ramras
Subject: HB 19

Please support HB 19. The public has a right to be protected from the harmful effects of pesticides and herbicides.

thank you

Jai Crapella

1204 2nd St Douglas, AK 99824

Do you Yahoo!?

Yahoo! Search presents - [Jib Jab's 'Second Term'](#)

Douglas Owen

FEB 21 2005

From: Cheryl & Brian Hilmes [twoteachers@gci.net]
Sent: Sunday, February 20, 2005 9:00 PM
To: Rep. Ralph Samuels; Rep. Jay Ramras; Rep. Gabrielle LeDoux; Rep. Kurt Olson; Rep. Paul Seaton; Rep. Harry Crawford; Rep. Mary Kapsner; Rep. Carl Gatto; Rep. Jim Elkins
Cc: Brian & Cheryl Hilmes
Subject: HB 19 - Public Right to Know About Pesticides

I fully support HB 19 which will provide valuable information about where and when pesticides are used, and which will protect our health by requiring public notice before pesticides are used.

Nearly 6,000 pesticides are currently used in places where we live, work, and play: in parks, public buildings, grocery stores, apartment buildings, airports, schools, day care facilities, universities, greenhouses, agricultural and forest lands, hospitals, nursing homes and military reservations.

Pesticides are linked to serious health problems including cancer, reduced fertility, birth defects, neurological diseases, and hormone disruption. Alaskans have a right to know where, when, and what toxic pesticides are being sprayed so we can avoid exposure in public places.

Children are particularly vulnerable to the toxic effects of pesticides. Many pesticides are highly toxic or extremely toxic to fish and wildlife. Pesticides degrade our water quality and the health of our environment.

Despite these known risks, we have no accurate information on which pesticides are used, where, when, and in what amounts. Alaska is the ONLY state that does not collect fees on pesticides registered for commercial use. Something is terribly wrong with this.

I am a public school teacher, mother and frequent park visitor. I have supported each pesticide bill that has been before the legislature. I appreciate that Sharon Cissna has raised the importance of this issue many times in the past. It is time that our leaders did the right thing to protect the public health of our people, water and other natural resources. It would be unconscionable to continue to allow the pesticide companies free reign in our villages, cities and state.

Please pass HB 19. Please do what's right.

Quyana,
Cheryl Hilmes
2411 Lyvona Lane
Anchorage, AK 99502

Douglas Owen

From: Ken(neth J) Perry [Mail@Paratex-PP.com]
Sent: Tuesday, February 22, 2005 3:52 PM
To: Rep. Jay Ramras; Rep. Ralph Samuels; Rep. Jim Elkins; Rep. Carl Gatto; Rep. Gabrielle LeDoux; Rep. Kurt Olson; Rep. Paul Seaton; Rep. Harry Crawford; Rep. Mary Kapsner
Subject: *****SPAM***** HB 19 Comments
Attachments: HB19 Comments.pdf

Alaska House of Representatives
Resources Committee

RE: House Bill 19 Please note that references to 'this Bill' herein are based on CHSB19 Work Draft 24-LS0149\Y 2/11/05 and that, as of this writing, we have not seen the Fiscal Note from ADEC.

Honorable Chairpersons and Members:

I would like to comment specifically on our objections to the passage of SB19 presently before your committee. By way of introduction, I am President of my company, PARATEX Pied Piper, spokesman for a group of Alaska Pest Control Applicators, spokesman by proxy for NPMA - our national trade group and RISE - the pesticide manufacturers' trade group.

REGISTRATION AND CERTIFICATION FEES

As you are aware, this bill would provide for the collection of fees to register pesticides in our State, and an annual fee to pesticide applicators certified by ADEC. While we recognize that it is appropriate that a modest fee could rightly be asked of both groups, we feel that it should be a reasonable amount, not arbitrary, and not attached to legislation that is (in our view) anti-pesticide in nature. This source of potential revenue was addressed in 2004 by ADEC. At that time they estimated a 40% loss in registrations (Fiscal Note 4/1/04 to SB027-CS-LC-EC-EH-4-01-04). When manufacturers were polled at about the same time regarding a potential \$25 per year registration, they echoed the same likely scenario of losses. That percentage will most certainly rise in lock-step with the fee schedule. When informed of the potential amounts of the current bill, the reaction was consistent with that hypothesis. Some manufacturers have spoken of removing ALL their registrations if this bill goes through, including some of the lowest toxicity alternatives currently registered.

It needs to be pointed out here, that we are not just discussing the 100 or so insecticides and rodenticides that are currently used by the professional applicators among us. The 5700 currently registered pesticides include fungicides, herbicides, disinfectants, paints, pet care, lawn care, plant care, and mosquito products etc, often used in negligible sales volume amounts by specialty preference of the citizens of Alaska. There is little incentive for these manufacturers to maintain their labels in a low volume, high cost, (and the explosive environmental activism) such as exists in Alaska. Many are registered only because it IS free, even though they may have very little (sometimes no) market here. Were time allowed, I would share with you a few experiences we have already had in not getting some newer, safer products registered FOR FREE in Alaska due to the recent history of environmental activism and its intrusion into our Legislature. While I am not in a position to estimate actual losses, my personal research and communications on this are not encouraging.

On the issue of certification fees (for applicators) our industry has stated a willingness to pay a modest fee in recognition of the cost to our State of our overseers in ADEC. HOWEVER, we will not be

likely to certify anyone except essential personnel, and will not pay for any more than one year certification for a new employee unless we are certain of their long-term status with us, especially if this certification fee is combined with (what we perceive to be) anti-business legislation. ADEC will need to be aware of this as they plan their budgets over the next several years if they intend to replace their General Fund support with fees and registrations connected to this Bill.

In conclusion to this section, I wish to make you aware that our Alaska Applicators and NPMA have spoken in favor of certification fees as an offset (not replacement) of General Funds expenditures to the ADEC Pesticide Program. And my personal feeling is that a modest fee of \$25 per year will be acceptable to a great many manufacturers under the same terms. We (Alaska Pesticide Applicators and NPMA) have already offered to this Legislature and the last to support or not oppose a revenue only bill that makes that happen. In fact, if this Committee desires to strike all the language from Page 3 Line 28 to page 4 Line 9, and reduce the Dollar amount on Page 2 Line 5 to \$25, we will withdraw our objection to this bill's passage and encourage the manufacturers to accept it.

PESTICIDE APPLICATION & NOTIFICATION

The second feature of the Bill before you is the attempt to require certified applicators and "written notice(s) posted on the application site" in "public places". As to the matter of requiring certified applicators in certain situations, this is something that our industry has been looking forward to seeing addressed by ADEC for some time. There is a large loophole at present in 18 AAC 90 which removes from oversight persons who apply pesticides (with no training) on property other than their own private access property. Our concerns have been for the countless numbers of untrained landlords and their employees who are applying pesticides in apartments and office buildings across the State. However, in the language of the current Bill, with the exception of hallways and common areas, nothing is changed. In addition, many restaurant owners are purchasing large amounts of chemicals and applying them in their food preparation and storage areas with no knowledge of their potential risk. Yet, this Bill exempts Hotels/Motels and Restaurants (but not Bars interestingly) from the requirement. While I applaud their industry in getting this exemption from notification (See Below), it has been my experience that most progressive food service and lodging businesses DO hire a professional, and I wonder if the language was correctly intended to exempt them from the requirement of certification and training as well. If passed with this language, ADEC will be hamstrung should it ever decide, scientifically, that it is in the best interest of the public that these facilities be required to have training.

As to the issue of "written notification" we categorically oppose this type of regulation. This issue is an attempt to place restrictions on pesticides that are neither warranted nor appropriate. Determination of possible contact with a pesticide is addressed by Federal Laws such as FIFRA and regulated/enforced by EPA. If a state authority decides to require regulations that surpass the Label, they can require that a special label be produced for their State only. Currently ADEC reviews any registration request and determines, based on their scientific resources, whether this needs to be done for Alaska. While they have refused a handful of registrations, they have not seen the need to require additional labeling, including notification requirements. In addition, other than extremist groups, I am not aware that the citizens of Alaska have been overly concerned about this issue. HOWEVER, if and when ADEC feels the need to address this matter, they can certainly enact regulations and enforce them, just as they did recently with the issue of pesticides in schools. It is often the market place which drives the matter of public awareness. If there is a demand for public notification, I am sure that entrepreneurial business owners will take the lead in advertising that there are "no pesticides used on (their) premises". Until then, it seems likely that anyone with a particular need to know has already taken upon themselves the necessity of inquiring ahead of time, just like they might ask the waiter if the food they are serving has something to which they are allergic, or if the bedding in the motel they are about to check into has been washed with a chemical they cannot tolerate. The signage suggested by this Bill is intended to make it appear that the use of a pesticide is wrong or presents a clear and present danger. This is NOT accurate, and is an unreasonable burden to place on the businesses that choose to hire a professional

applicator. (Do-it-yourselfers seldom read labels, let alone regulations, and most certainly will not put up signs.)

I am pleased that the Hotel/Motel and Restaurant industry has convinced the sponsor of the inappropriateness of this regulation. By securing an exemption for themselves (Page 4 Lines 8, 9), they have certainly relieved a potential threat to their businesses and ours. However, the same principles apply to ALL privately owned businesses and properties, and they should, in fairness, have the same exemption. Since that leaves only State and Local government owned property, it appears appropriate that the Alaska Legislative body should only venture into State owned properties, advising if they choose that ADEC draft regulation for these alone, and allow our Cities, Towns and Rural governments to decide for themselves what is necessary in this regard (and carry the burden of enforcement). More realistically, however, the entire matter of written notification needs to be removed from consideration at this time.

I/We urgently recommend that this Bill be voted down in your Committee. If I may answer any questions for you, please do not hesitate to call or write.

Respectfully,

Kenneth J (Ken) Ferry General Manager

Mail@Paratex-PP.com

PARATEX Pied Piper Pest Control (est. 1965)

2440 E 88th Ave., Ste. A (907) 344-2538

Anchorage, AK 99507 (Fax) 344-9111

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Douglas Owen

From: Marina Lindsey [marina_lindsey@yahoo.com]
Sent: Tuesday, February 22, 2005 4:04 PM
To: Rep. Mary Kapsner; Rep. Harry Crawford; Rep. Paul Seaton; Rep. Kurt Olson; Rep. Gabrielle LeDoux; Rep. Carl Gatto; Rep. Jim Elkins; Rep. Jay Ramras; Rep. Ralph Samuels
Cc: aurah@seacc.org; Representative_Beth_Kerrtula@legis.state.ak.us
Subject: Please support HB 19 - Notice of Pesticide Use

Dear Representatives,

I am writing to urge you to support HB 19. The public has the right to know when they could be exposed to pesticide use in public areas. As you know, pesticide related cancers are prevalent in our country, and children and pets are highly susceptible to the adverse effects of exposure.

Thank you for your support of this bill and for making Alaska a great place to live.

Sincerely,

Marina Lindsey
3431 Greenwood Ave.
Juneau, AK 99801

Douglas Owen

From: seahag@mtaonline.net
Sent: Tuesday, February 22, 2005 12:26 PM
To: Rep. Jay Ramras; Rep. Ralph Samuels; Rep. Jim Elkins; Rep. Gabrielle LeDoux; Rep. Kurt Olson
Cc: Rep. Paul Seaton; Rep. Harry Crawford; Rep. Mary Kapsner; abby@akcenter.org
Subject: Pesticide right to know

Dear House Resource Committee Members,

I am sending you a copy of the letter I sent to Representative Carl Gatto on 2/22/05 regarding the Pesticides Right to Know. In my opinion, our informed consent to expose ourselves to known toxins is everyone's problem, regardless of where we live.

Dear Carl Gatto,

Hi! I understand you have been friends with my parents for many years. I have noted many of the good decisions you have made, including using public safety funding for rape crisis and prevention. Although you are not my representative, I am writing you this letter because the damage done by pesticides affects us all, and I know that you are a smart man who strives to do the right thing.

As you may well know, my son Obie has acute asthma and several deadly allergies which, to my chagrin, might be a direct result of his having been exposed to pesticides, both in his diet and in his environment (of course, his conditions may also be a result of genetically engineered foods or toxins in required vaccinations, but that's a letter for a different day).

Our federal government has done nothing to protect us, and has done little to inform us about the potential risks of pesticides, as several of the higher-ups in the EPA leave their positions every other year to work for Monsanto Chemical Corporation (If you would like names of these offenders, I have them, but can't provide them at the moment because I am at work and trying to get this letter out before the 23rd)! I'm sure you remember the "DDT is Good For Me" campaign in the seventies, at a time when Eagle River could hardly boast the presence of one or two eagles, and that the species was nearly rendered extinct before anything was done about it. I'm sure you'll agree that our local government needs to rise above the sloppy standards of the feds.

Anyway, not only should the companies that are risking our health and environment be held accountable for the damage they do to our children and environment, but also those of us who are indeed aware of their injustices have a right to know when and where their toxins are sprayed so we can avoid contact with things that will, over time, kill us! Please support our right to know when and where pesticides are sprayed, as well as making these companies financially accountable for their damage to our environment.

Sincerely,

M. Gallion
16623 Rivers Edge Lane
Eagle River, AK 99577
(907) 622-2888

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ALASKA PUBLIC HEALTH ASSOCIATION

Committed To Advancing Alaska's Public Health Since 1978

ALPHA

FEB 21 2005

**HB 19—Public Right to Know About Pesticides
(H)Resources Committee Wednesday, Feb.23, 2005**

Dear Members of the House Resources Committee:

Thank you for listening to public testimony on HB 19 "Public Right to Know About Pesticides."

On behalf of the Alaska Public Health Association, representing two hundred twenty public health professionals across Alaska who are committed to developing sound public health policy to improve the health of all Alaskans, I would like to express support for HB 19 as important public health policy.

The Alaska Public Health Association and our national organization, the American Public Health Association, have long established resolutions in support of Environmental Health and Preserving the Right-To-Know Information to Reduce the Risk of Exposure to Toxic Substances. My comments reflect this rich tradition of preserving the Right-To-Know of individuals and the community in an effort to reduce the risk of exposure to toxic substances and to best protect the public's health.

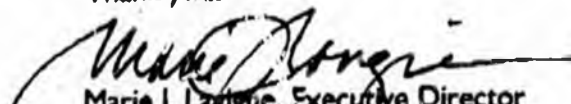
We firmly believe the right-to-know about chemicals in one's community, work place or near one's child's school is not only an important right in our democracy but a vital component of public health. HB 19 makes the commercial use of pesticides in public areas – such as schools, parks and municipal buildings – known to the public.

Hazard reduction activities and Right-to-Know programs are as an essential means to protect individuals and communities from the harm due to the release of hazardous chemicals, including the use of many common herbicides and pesticides, which have been correlated to serious health risks to people, the environment and toxicity to the fish our economy and subsistence depend on.

Community Right-To-Know about potential exposure to pesticide use is as an essential information tool for public health and affirms that individual citizens, community leaders as well as their elected representatives have the necessary information to make informed choices about their own and their community's health and safety.

We encourage you to move HB 19 out of Committee when you hear it this Wednesday.

Thank you.


Marie J. Longie, Executive Director
Alaska Public Health Association

PO Box 202045
Anchorage, AK 99520
February 22, 2005

FEB 23 2005

Representative Jay Ramras, Co-Chair
Representative Ralph Samuels, Co-Chair
House Resources Committee

Re: HB 19

We know that toxics need to be handled with care – even toxics that make our lives better.


I'm pleased that Representative Meyer is sponsoring this needed legislation. As a longtime Alaskan who works in the health industry, I know good information helps us make reasonable decisions about our health.

Requiring all persons who apply pesticides in public areas to become certified in proper application techniques is just good business. The AK Department of Environmental Conservation has the expertise to handle this certification process and the expertise to handle chemical manufactures registering their chemicals. This expert management costs so it is only sensible that a fee be charged to cover those costs.

Reasonable on-site, timely notices about the coming application of pesticides will assist those with asthma and other health problems to avoid those public places. The Anchorage School District found strong support from parents, teachers, school nurses, food workers and others when they instituted similar pesticide regulations.

I urge passage of this legislation.

Thanks for your consideration of my brief comments.



Mary Grisco

Douglas Owen

From: Neil Wagner [nlights@xyz.net]
Sent: Wednesday, February 23, 2005 8:15 AM
To: Rep. Jay Ramras
Subject: HB 19

To Ray Ramras,

I would like to express my support for House bill 19. I am aware of the benefits and liabilities of pesticide use.

This bill takes a reasonable approach to management:

DEC should register chemical companies and charge a fee for it.

I believe that anyone who can apply pesticides in public areas should be certified in application techniques and guidelines.

DEC should have regulations for reasonable, on-site notice for the application of pesticides in a public place.

Thank you in advance for your support of this timely bill.

Sincerely,

Neil Wagner
POB 1801
Homer, AK 99603

907 235-6953

Douglas Owen

FEB 23 2005

From: Robert Andrews [andrews@aptalaska.net]

Sent: Wednesday, February 23, 2005 12:25 AM

To: Rep. Jay Ramras

Dear Representative

I believe that HB 19 is a very important piece of legislation aimed at the protection of all Alaskans. I urge you to support this timely bill.

Thank you,

Bob Andrews
HC 60 Box 3710
Haines, Alaska 99827

FEB 23 2005

Douglas Owen

From: Nina Faust [fausball@xyz.net]
Sent: Tuesday, February 22, 2005 6:25 PM
To: Rep. Jay Ramras
Subject: HB 19

Dear Representative Ramras:

I was surprised to learn that nearly 6,000 pesticides are currently registered for use in Alaska. They are pervasive in our lives. Often we do not even know we are being exposed to substances linked to cancer, fertility problems, birth defects, neurological and other diseases, and hormone disruption. Notification of pesticide use in public places gives Alaskans the opportunity to avoid exposure to these toxic substances, a choice particularly important for children who are more vulnerable to pesticides' toxic effects.

It is also surprising that Alaska is the only state that does not collect fees on pesticides registered for commercial use. Given the known toxic properties of pesticides, the public is very supportive of reporting requirements. Collecting fees would provide funds to oversee pesticide registration. I support requiring fees for chemical manufacturers to register their pesticides in Alaska.

Requiring all people applying pesticides in 'public areas' to become certified in application techniques and pesticide handling guidelines is good commonsense. This would not only protect the public, but it would also protect the applicator. I support this part of the bill.

Under HB 19, the Department of Environmental Conservation would be required to develop regulations for reasonable, on-site notice for the application of pesticides in a public place. I hope the regulations will include a requirement of at least 24-hours notice to be prominently posted around public areas before spraying so Alaskans can avoid these areas during pesticide application.

HB 19 is a great step forward in protecting the health of all Alaskans, as well as the health of the subsistence foods we eat. We should not continue the cavalier attitude of applying pesticides without public knowledge. There is too much at stake for us and for Alaska's children. Please pass a strong Pesticide Right-to-Know Bill.

Nina Faust
P.O. Box 2994
Homer AK 99603
907-235-6262

FEB 23 2005

Douglas Owen

From: southeast sea kayaks [kayakketchikan@kpunet.net]
Sent: Tuesday, February 22, 2005 5:30 PM
To: Rep. Jay Ramras
Cc: Rep. Raiph Samuels
Subject: Support for HB 19

Kim Kirby
1430 Millar Street
Ketchikan
AK 99901

February 22nd 2005

Attention: Representative Jay Ramras on HB 19

Dear Sir,

I am writing to let you know that I think HB 19, an initiative to make the public aware about the use of pesticides, is a good thing for Alaska.

I think Alaskans have a right to know when and where these chemicals are being used so we have a choice in avoiding them, particularly as subsistence gathering of foods is so prevalent here.

As pesticides are so harmful to humans and the environment I would certainly want to know if they were being used locally in my area.

I hope you will see fit to support this measure and you submit my comments in the bill's record.

Yours sincerely,

Kim Kirby

Douglas Owen

From: Andy Hackman [ahackman@cspa.org]
Sent: Wednesday, February 23, 2005 1:29 PM
To: Rep. Jay Ramras
Subject: Opposition to House Bill 19
Importance: High
Attachments: AK HB19 testimony.doc

FEB 23 2005

Dear: Representative Ramras:

The Consumer Specialty Products Association (CSPA) is **opposed** to the provisions of House Bill 19 that would create an annual pesticide registration fee of \$115. We believe that this fee is **excessive and exceeds the true cost of the pesticide registration program.**

CSPA appreciates your consideration of our position on this important issue. Attached please find a written copy of CSPA's testimony on House Bill 19, while we are not able to testify in person we hope that this document clearly expresses our industry's position and is helpful to the Committee.

Please feel free to contact me directly if you have any questions or if there is another opportunity where we may present oral testimony on this legislation.

Respectfully Submitted,

Andy Hackman
Manager, State Affairs Programs
The Consumer Specialty Products Association
P: (202) 833-7328
F: (202) 872-8114

The Consumer Specialty Products Association

Testimony on Senate Bill 275

Submitted: February 23, 2005

**By: Andrew Hackman, Manager State Affairs Programs
To: House Resources Committee**

Representatives Ramras and Samuels, and distinguished members of the House Resources Committee, the Consumer Specialty Products Association (CSPA) is opposed to the provisions of House Bill 19 that would, among other things, create an annual pesticide registration fee of \$115 for the 5,500 pesticides brands sold in Alaska. We strongly believe this increase would be unnecessary and excessive.

CSPA is a national nonprofit trade association representing over 240 companies engaged in the formulation, manufacture, distribution and sale of specialty products for consumer and institutional use. Our member companies produce a wide range of products including disinfectants, disinfectant cleaners, household insecticides, insect repellants, and rodenticides, which will be directly affected by this fee.

Consumer and institutional pesticide products and antimicrobials play a vital role in protecting consumers from dangerous pests and biological contaminants. They help eliminate biological contaminants such as mold and bacteria (including many pathogens) that cause a variety of human health problems; and consumer and institutional pesticide products also protect against disease carrying pests such as cockroaches and rodents.

All of these products must be registered as pesticides with the U.S. EPA and the State of Alaska. According to CSPA's recent national pesticide registration fee survey, our members represent nearly 90% of those companies who will be paying any registration fee in the State. Therefore, any fee will be a significant cost to our member companies. In view of the fact that many of these companies register hundreds of products in Alaska, an extreme increase, such as the one proposed in House Bill 19, could deter companies from registering and selling their products in Alaska.

CSPA is not generally opposed to pesticide registration fees that fund the cost of administering the registration program and benefit all registrants equally. However, the proposed fee is superfluous of the cost of administering the registration program. According to Fiscal Note 1 on Senate Bill 275 of 2004 and our past discussions with Kristin Ryan, Director of the Division of Environmental Health at the Department of Environmental Conservation, the needs of the department would warrant a pesticide registration fee no larger than \$40. The proposed \$115 fee exceeds the essential costs of the program.

The Consumer Specialty Products Association
Senate Resources Committee
February 23, 2005

Page 2 of 2

Therefore, CSPA urges you to amend House Bill 19 to eliminate this excessive pesticide registration fee.

CSPA appreciates your consideration of our industry's perspective on this important issue. Please feel free to contact me at (202) 833-7328 if you have any questions about CSPA's position on this important issue.

FEB 23 2005

Douglas Owen

From: Cathy Cooke [cookecath@hotmail.com]
Sent: Wednesday, February 23, 2005 6:22 PM
To: Rep. Jay Ramras
Subject: Pesticide Bill

Represtative Ramras,

Please consider regulated pesticides in Alaska. My health has personally been affected in an extremely negative way due to pesticide exposure. In short, they make us very sick and even kill, not to mention what they do to the earth. I trust you will do the right thing. Here is what you need to remember:

- Pesticides are linked to serious health problems including certain cancers, reduced fertility, birth defects, neurological impairment, asthma, and endocrine disruption.
- Citizens of Alaska have a right to know where, when, and what toxic pesticides are being sprayed so they can avoid exposure in public places.
- Children are particularly vulnerable to the toxic effects of pesticides.
- Many pesticides are highly toxic or extremely toxic to fish and wildlife.
- Despite these known risks, we have no accurate information on which pesticides are used, where, when, and in what amounts.
- Alaska is the ONLY state that does not require fees on pesticides registered for commercial use
- There is broad-based support for pesticide use reporting, including support from the medical community, subsistence food users, parents, workers, and environmental advocates.

Thank you for your time and concern,

Sincerely,

Cathy Cooke

Douglas Owen

From: Lawrence D. Weiss [ldweiss@gmail.com]
Sent: Thursday, February 24, 2005 11:00 AM
To: Rep. Jay Ramras; Rep. Ralph Samuels
Cc: Rep. Jim Elkins; Rep. Carl Gatto; Rep. Gabrielle LeDoux; Rep. Kurt Olson; Rep. Harry Crawford; Rep. Mary Kapsner
Subject: *****SPAM*****

Dear Representatives Ramras and Samuels:

Yesterday I waited at the Anchorage LIO for one hour and 45 minutes to give testimony regarding House Bill 19, but just when testimony was actually being taken (due to the late start), I had other obligations that I had to run out to attend to. Nevertheless, I would like to provide a copy of what I was going to say...

My name is Lawrence D. Weiss. I recently retired from UAA as Research Professor in Public Health. I was trained at Harvard School of Public Health. I am now Professor Emeritus at the University of Alaska Anchorage.

In addition, I am President of the Board of ACPP, and past President of the Alaska Public Health Association. Given my background and professional interests, you can see why I have a compelling interest in HB 19.

I want to thank Rep. Meyer for sponsoring this bill, and thank all the other legislators who do or will support this bill, because it promotes a critical public health principle: This bill promotes education of the public about matters that will affect their health, and the health of their children, and gives them the opportunity to make informed choices. Sometimes this principle is known as "right to know," but really, it is just old fashioned health education--not much different than the school nurse telling kids to wash their hands, or the doctor advising parents to have their children vaccinated.

What can an informed public do with this information? A parent who has a child known to suffer from asthma can find out that a possible asthma trigger has been applied indoors or outside. Armed with this critical knowledge, this parent will know to keep the child away from the area. This informed parent may well have prevented a serious asthma attack which would have landed the child in the emergency room. That would be a major medical expense that would be avoided by the knowledge given parents by the provisions of this bill.

So with this example, I want to emphasize that the monetary savings in costs to families and employers are very real when an informed public has the ability to make decisions to keep themselves healthy--and this bill gives the public the knowledge they need to make that decision.

Some parents are fully aware that the vast majority of pesticides and related chemicals are not specifically tested with regard to effects on children, despite a tremendous amount of scientific evidence that demonstrates that infants and children are far more sensitive to the effects of exposure to many harmful substances. These parents will have the option of keeping their children out of possible harm's way during the critical years of growth. This is a very reasonable public health decision--why risk the possibility of exposure when avoiding it is relatively easy, and the possible consequences can be quite serious?

I am not a toxicologist, but I am a trained and experienced public health professional. If there is any information I can provide to you in order to clarify any of these issues, please do not hesitate to ask.

Thank you for the difficult but important work you are doing.

Lawrence D. Weiss

Lawrence D. Weiss Ph.D., M.S.
Alaska Center for Public Policy
www.acpp.info
phone: 907.240.4141
email: ldweiss@gmail.com
Mail: Box 210490
Anchorage AK 99521

Douglas Owen

From: Ken(neth J) Perry [Mail@Paratex-PP.com]
Sent: Thursday, February 24, 2005 11:03 AM
To: Rep. Jay Ramras; Rep. Ralph Samuels; Rep. Jim Elkins; Rep. Carl Gatto; Rep. Gabrielle LeDoux; Rep. Kurt Olson; Rep. Paul Seaton; Rep. Harry Crawford; Rep. Mary Kapsner
Cc: ADEC - Kristin Ryan; Mike Pawlowski; Rep. Kevin Meyer
Subject: *****SPAM***** Note of Thanks and Clarifications.
Attachments: Committee Hearing Thanks and Follow-Up.pdf

Honorable Chairman, Mr Ramras;
Respected Members of the House Resources Committee:

I thank you again for your kind offer to allow me longer commenting time at the hearing yesterday. I felt that, even though the remaining testimony would be redundant, those people should have a right to be heard as well. Below are a few comments and clarifications I would like to have made had we been able. I also have not asked for large numbers of our supporters to present public testimony, nor urged an e-mail campaign such as the proponents have done. My personal feeling, as a businessman like you, is that facts, clearly presented one time, have more value than repetitive, often non-target verbiage in person or via e-mail. IF, however, you feel that your Committee needs to hear from our clients, or a cadre of other affected property owners, I will make an effort to provide you with such a mass E-mailing. My comments attempt to follow the order of their presentation according to my notes on the hearing.

Mr Meyer stated that there was currently no charge for training. While ADEC *certification* is free, the cost of ADEC required training, administered by UAF Co-Operative Extension, ranges from \$30.00-\$50.00 (and may easily increase in the future) and must be paid to receive initial certification as well as renewals. So any certification fee will be in addition to these already mandated charges.

Mr Samuels asked about flowers along a public walkway and about weed & feed etc. Yes, if enacted as law, this Bill will require written notification and certified applicators in all of those cases.

Mr Gatto asked about smoking areas, and the question of pesticides came up. It was stated that tobacco was not a pesticide, however Nicotine was a very popular insecticide used in the 40's & 50's and is still an active ingredient in several pesticides sold today.

Mr Seaton asked for a clarification of "Public Accommodation", and whether that would apply to a location such as the Conoco-Phillips Atrium. That expression means any place to which the public has implied access ("accommodates the public"), and so not only would the Atrium be included in the certification and notification requirements, but so would any office in the complex where anyone other than an employee might be allowed to visit or conduct business.

Ms LaDoux asked for further clarification of the term "broadcast chemicals". The term is most often used of any material wherein the material is "scattered" in various directions. This would include distribution from a dry spreader such as you might use on your lawn, or an aerosol can which can release any material into the air currents whereby it can move from the site of its actual release. As an example, a time dispenser in a bathroom releases a "broadcast chemical" called deodorizer into the room. The reason it is kept in regulation is so that some chemicals, such as fertilizers (natural and chemically produced) to name just one category, while not registered pesticides, can still be managed by the

regulation in which it is ensconced. So in this case, they would require the same certified applicator to apply and notification requirements be applied if enacted.

Mr Seaton also asked about the purchase and sale of wood preservatives (including paints) covered in **18 AAC 90**. The *seller* is not required to obtain certification unless the chemical (and I am not aware of any in his category) is a Restricted Use Pesticide and they are selling from within Alaska. Nor is a *seller* required to verify that the purchaser is certified unless it is an RUP. The *user* is not required to have certification to purchase any pesticide, but is only required to have it if he *uses* the product. It is in this capacity that he will be required to post a written notice any time he uses the material anywhere someone besides himself or an employee (such as a customer) might have any opportunity to visit.

Ms Ryan indicated that there are no monetary penalties for violating **18 AAC 90** regulations, and that is technically true as regards the code itself. However, they do have the authority to seek legal action through the State's Attorney and *level civil penalties* as a result. This is something I believe they have done a time or two through the years. She also indicated that restaurants are already covered under sanitation rules, but these rules do not specifically require any actual training on the use of pesticides. I appreciated that ADEC is not concerned about hotels because there is little risk of "long-term exposure", but should not the same principle apply to these randomly accessed "public areas"?

Mr Samuels asked about home businesses and the answer is yes. Since these invite public access, they fall under the "public accommodation" rules and will have to meet all of the enclosed new regulations.

During **Ms Hamilton's** (AK Farm Bureau) testimony **Ms Ryan** explained how the determination of fee amounts was decided. She explained that ADEC decided what its budget would be and divided the State portion (by subtracting Federal contributions) into estimated receipts (estimating a 40% drop on labels and a 100% increase in applicators) from Certification and Label Registration fees. My math indicates this would be \$359,100 from registrations and \$50,000 from applicators for a total of \$409,100. I did not incorporate the reductions in the first figure for the reductions in cost that may be given for new or low revenue items she spoke about. I am sure her Fiscal Note will be more specific, and look forward to seeing it if this Bill moves forward.

Dr Von Hippel stated that historical applications of pesticides against Spruce Bark Beetle (and other tree insects) were not successful. I am sure that one of our hundreds of customers who still have healthy Spruce in their yards can be convinced to share their shade with him over a glass of lemonade if asked to provide a rebuttal. As to his unsubstantiated claims of pesticide induced angina etc, I join with you in wishing him good health and a long life.

Ms Neenan's testimony helped to clarify part of the intent of this Bill. That it would "increase public awareness" as to pesticides, is in keeping with similar remarks made a year ago in MOA discussions by ACAT representatives that the expanded notification rules would "educate people to the dangers of pesticides" and 'provide more opportunity for neighbors to convince them (customer) not to use pesticides' (sic). As we stated then, it is not the government's role to pay for these tax-free anti-pesticide groups' propaganda, and certainly not to accommodate them to harass legal users of pesticides. Ms Neenan also referred to this Bill as a stepping stone to further anti-pesticide legislation that they have previously failed to successfully act in the AK Legislature. I am certain that is in their agenda.

As to the bulk of the supporting testimony heard yesterday, it should not be lost on this Committee that the issues raised as to chemical safety and unsubstantiated claims of pesticide related illnesses are not germane to this Bill. While they may serve the purpose of the proponents to strike fear into the hearers, they can only be addressed at the Federal level where these materials are tested and registered for use. OR, through ADEC, if they feel that a particular pesticide is not compatible with

Alaska's environment and should therefore not be registered for sale here. As an industry, we are concerned about any of these anecdotal stories, and therefore strive to use pesticides safely and as needed. EPA and the manufacturers also have all of these concerns in their minds and continue to give them appropriate consideration at all times. Again, notification can be made a part of any EPA label (and in some cases is) if they deem it appropriate. If in the future we decide to use any such labeled material, we will abide by those requirements, just as we have attempted to do for decades.

As was readily apparent from the testimony you heard yesterday, the issues raised by this Bill are extremely complex, and attempting to enact them in this manner is what an old Missourian friend of mine used to call a "shag-nasty" for you. While I recognize a potential desire to "let it through and the house will vote it down", I strongly encourage you to reject this Bill outright, or if that is not possible, that you dismiss any regulatory language from this Bill and reduce it to a revenue generating bill only. However, please do not rewrite it in such a way as to *replace* the DEC Pesticide Division needs from the General Fund. It will be impossible for them to work with any confidence in behalf of the citizens of Alaska if each day they have to worry whether they will garner enough funds 'this year' from new fees to maintain their staff toward the end of the fiscal year or for the next. Unlike the anti-pesticides obvious disdain for this department, I have come to have deep respect for the knowledge and education represented here, regardless of whether I agree or disagree with some of their actions. I have always supported increasing their department's budget rather than the constant decreases they have seen through the past several years. I urge you to send a message of support to this overworked and under-appreciated department and, as for the concerns we may all have about public right-to-know and balancing that with property rights, let ADEC decide as part of their already given mandate how to proceed. There are many alternatives to the strict language of this Bill that they can pursue, and I will be pleased, as in the past, to work with them on the decision making process. (One possibility I am aware of could even be offset by user fees paid by those demanding this regulation.)

Again, I thank this Committee most humbly for allowing my input. If I may be of any service to you, please do not hesitate to call or write.

Respectfully,

Kenneth J (Ken) Perry

Kenneth J (Ken) Perry General Manager

Mail@Paratex-PP.com

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Anchorage, AK 99507 (Fax) 344-9111

ICQ, MSN, AIM, Yahoo available on Request.

Douglas Owen

From: Ryan, Kristin J. [Kristin_Ryan@dec.state.ak.us]
Sent: Thursday, February 24, 2005 4:52 PM
To: Rep. Kevin Meyer; Rep. Kurt Olson; Rep. Paul Seaton; Rep. Jay Ramras; Rep. Ralph Samuels;
Rep. Jim Elkins; Rep. Carl Gatto; Rep. Gabrielle LeDoux; Rep. Harry Crawford; Rep. Mary Kapsner
Cc: Mike Pawlowski; Brown, Benjamin
Subject: Follow up for hb19 testimony

Honorably House Resource Committee Members:

To follow up with my testimony on HB19, the definition in Statute of broadcast chemicals is:
Ser. 46.03.900. Definitions.

(3) "broadcast chemicals" means chemical substances which are released into the air or onto land or water for the purpose of preventing, destroying, repelling, stimulating, or retarding plant or animal life, or chemical substances released for meteorological control, oil spill control, or fire control;

Also, a private apartment would not be considered a public space whereas the hallway or parking area would be. Under existing tenant/landlord laws, landlords should be giving notice before entering leased space. This provides the tenant an opportunity to deny entrance for spraying if preferred.

Regulations would need to establish the definition of "frequented by the public" that would most likely be based on the number of customers/public who enter the area daily. If the number is small, such as a book keeper out of their house, the business would be exempt from the public notification and certification requirements.

Thanks,

Kristin Ryan

Director

Division of Environmental Health

Department of Environmental Conservation

555 Cordova St., Anchorage, Alaska 99501

907.269.7644 phone 907.269.7654 fax

February 7, 2005

The Honorable Kevin Meyer
Alaska House of Representatives
State Capitol, Room 515
Juneau, Alaska 99801-1182

Re: Concerns Regarding House Bill 19

Dear Representative Meyer:

The Consumer Specialty Products Association (CSPA) is concerned about House Bill 19 that would, among other things, create an annual pesticide registration fee of \$115 for the approximately 5,500 pesticides brands sold in Alaska. We believe this increase would be unnecessary and excessive.

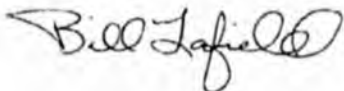
CSPA is a national nonprofit trade association representing over 240 companies engaged in the formulation, manufacture, distribution and sale of specialty products for consumer and institutional use. Our member companies produce a wide range of products including disinfectants, disinfectant cleaners, household insecticides, insect repellants, and rodenticides, which will be directly affected by this fee.

These consumer products must be registered as pesticides with the U.S. EPA and the State of Alaska. According to CSPA's recent national pesticide registration fee survey, our members represent nearly 90% of those companies who will be paying any registration fee in Alaska. Therefore, any fee will be a substantial cost to our member companies. In view of the fact that many of these companies register hundreds of products in Alaska, a significant increase, such as the one proposed in House Bill 19, could deter companies from registering and selling their products in Alaska.

CSPA is not generally opposed to pesticide registration fees that fund the cost of administering the registration program and benefit all registrants equally. However, we assert that the proposed fee is in excess of the cost of administering the registration program. According to Fiscal Note 1 on Senate Bill 275 of 2004 and past discussions with Kristin Ryan, Director of the Division of Environmental Health at the Department of Environmental Conservation, the needs of the department would warrant a pesticide registration fee no larger than \$40. Undoubtedly, the proposed \$115 fee exceeds the essential costs of the program.

We truly appreciate your consideration of our views, and we urge you to amend House Bill 19 to eliminate this excessive pesticide registration fee. Please contact me (202) 872-8110 or blafield@cspa.org if I can provide any additional information about CSPA or our position on House Bill 19.

Sincerely,



William L. Lafield
Vice President State Affairs

cc: Kristin Ryan, Department of Environmental Conservation
Representative Jay Ramras, Co-Chair House Resources Committee
Representative Ralph Samuels, Co-Chair House Resources Committee

HB

26

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


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

MEMORANDUM

February 22, 2005

SUBJECT: HB 26; Nonresident fee differential for short term commercial fishing crewmember fishing licenses

TO: Representative Carl Moses
Attn: Adam Berg

FROM: George Utermohle 
Legislative Counsel

You have asked whether the state may charge a nonresident fee differential for a short term commercial fishing crewmember fishing license under HB 26, and whether the Carlson case would apply to any such nonresident differential.

The short answer to both questions is yes.

The privileges and immunities clause (art. IV, sec. 2) of the federal constitution, allows a person to pursue a livelihood in any state without unjust discrimination based on the person's state of residence. The short term commercial fishing crewmember fishing license allows a person to engage in commercial fishing. Commercial fishing is an occupation or livelihood that is protected by the federal privileges and immunity clause. Thus, the right of United States citizens to participate in Alaska commercial fisheries, regardless of their state of residence, is protected from unfair discrimination, including fee differentials, by the state.

The federal constitution does not prevent the state from imposing a fee differential on nonresidents; however, the federal constitution does limit the amount of the nonresident differential that nonresidents can be required to pay. The Alaska Supreme Court has determined that, under the privileges and immunities clause of the United States Constitution, the state cannot charge nonresident commercial fishermen more than their equal share of the costs of managing commercial fisheries in Alaska. Carlson v. State of Alaska, Commercial Fisheries Entry Commission, 798 P.2d 1269 (Alaska 1990), and 919 P.2d 1337 (Alaska 1996). In the Carlson decisions, the court determined that nonresident fee differentials based merely on a multiple of resident fees are not permissible. The amount of a permissible nonresident differential must be based on the amount necessary to equalize the amount that residents pay for the management of commercial fisheries (through license fees and other state taxes) with the amount that nonresidents pay toward management of commercial fisheries. The Alaska Supreme Court has held that the maximum amount of the differential that may be charged nonresidents for commercial

Representative Carl Moses
February 22, 2005
Page 2

fishing licenses can be determined by the following formula:

State fisheries budget divided by state population to determine the per capita cost of the state commercial fishery program. The answer is then multiplied by the proportion of state revenues derived from oil revenues. The resulting answer is a dollar amount which is the maximum allowable fee differential that the state may charge nonresidents.

See, Carlson, 919 P.2d at 1343 and 1345.

if I may be of further assistance, please advise.

GU:jad
05-114.jad

**Representative Carl E. Moses, House District 37
(907) 465-4451 – Adam Berg, Staff**

SPONSOR STATEMENT / SECTIONAL ANALYSIS

CSHB26 (FSH) – Short-Term Commercial Fishing Crewmember Licenses

The economic health of certain communities in Western Alaska has been jeopardized by unprecedented low salmon returns and / or prices. It is in the best interest of the State of Alaska and these communities to maximize options available for commercial fishermen to earn a living. One option available is to allow the purchase of short-term commercial fishing crewmember licenses. This would allow visitors an affordable way to engage in a sort of extreme tourism adventure by actually participating in the fishery as a crewmember.

Currently, tourists can go out with a commercial boat but cannot have any form of active participation without buying a full year crewmember license.

The House Fisheries Committee changed the bill as follows: The committee added a clause that prohibits fishing with rod and reel from a commercial fishing vessel and changed the length of the short-term license to seven days.

BILL SECTIONS 1-2: Changes the term from a “crewmember fishing license” to an “annual crewmember fishing license”. (Note: The reason for the term change applies to Bill Section 4.)

BILL SECTION 3: Allows residents and non-residents to purchase a seven-day commercial fishing crewmember license for \$30. Also assures that a short-term license holder is prohibited from using rod and reel while on a commercial vessel.

BILL SECTION 4: Assures that a short-term license holder is not considered a fisherman eligible for the Commercial Fishing Revolving Loan Fund.

BILL SECTION 5: Allows the Department of Fish & Game to add and collect an additional administrative fee of \$3 on licenses issued in 2005.

BILL SECTION 6: Makes the effective date July 1, 2005.

LEGAL SERVICES

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

MEMORANDUM

February 28, 2005

SUBJECT: HB 26; Short term commercial fishing crewmember licenses and the fishermen's fund (HB 26)

TO: Representative Paul Seaton
Attn: Louis Flora

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is in response to your questions regarding the effect that certain proposed changes to HB 26, relating to short term commercial fishing crewmember licenses, may have in regard to the fishermen's fund.

HB 26 proposes to create a short term commercial fishing crewmember license (the proposal varies from one-day to seven-day licenses). One of the issues raised by the proposal for short term licenses concerns whether the short term license holders should be eligible for benefits from the fishermen's fund. None of the versions of HB 26 considered by the Twenty-Fourth Alaska State Legislature have excluded short term license holders from participation in the fishermen's fund. However, you have inquired as to what the consequences may be if short term license holders were excluded from participation in the fishermen's fund.

The fishermen's fund, created in 1951, is a grandfathered dedicated fund, that is, one existing at the time of ratification of the Alaska Constitution. This dedication qualifies for grandfathering under the language of article IX, sec. 7, which states that "This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification . . ." (emphasis added). As a grandfathered dedicated fund, the fishermen's fund is funded through the dedication of a portion of the commercial fishing license fees collected under AS 16.05.480 from entry permit and interim-use permit holders and from crewmember license holders. See, AS 23.35.060(a). Provided that the dedication of a specific fund source is not significantly altered by the legislature, the stream of revenue from that source can continue to be dedicated to the identified purpose until the legislature repeals the dedication. However, because the dedication of commercial fishing license fees to the fishermen's fund is a grandfathered dedicated fund, the legislature must take care when dealing with commercial fishing license fees so as to not affect those license fees in a way that would have the effect of destroying the dedication. The Department of Law has taken a conservative approach to protect the dedication of commercial fishing license fees to the fishermen's fund and has

Representative Paul Seaton
February 28, 2005
Page 2

generally warned against any changes in the rate or the amount of the dedicated commercial fishing license fees that go into the fishermen's fund in order to prevent an inadvertent revocation of the dedication.

ONE: Would the exclusion of the short term license holders from participation in the fishermen's fund affect the dedication of commercial fishing crewmember license fees to the fishermen's fund?

The short answer is probably no.

The determination of eligibility for participation in the benefits of the fishermen's fund is separate from, and unrelated to, the dedication of commercial fishing license fees, including crewmember license fees, to the fund. Excluding short term crewmember license holders from participation in the fishermen's fund does not affect the stream of revenue or the amount or rate of revenue that is dedicated to the fishermen's fund. It is the alteration of the stream of dedicated revenue that may place the continued dedication of a revenue stream at risk. A change to the eligibility requirements for participation in the benefits of the fishermen's fund or a change in the benefits provided under the program will not affect the continued dedication of commercial fishing license fees. Therefore, an exclusion of short term crewmember license holders from participation in the fishermen's fund is unlikely to jeopardize the continued dedication of commercial fishing license fees to the fishermen's fund.

TWO: Would the exclusion of short term commercial fishing crewmember license holders from participation in the fishermen's fund violate the equal protection rights of those short term license holders?

The short answer is that the proposal to exclude short term license holders from participation in the benefits of the fishermen's fund does raise an equal protection issue. Whether the proposal would survive judicial review will depend on the state's purpose for excluding the short term license holders and the relationship between the state's purpose and the means chosen to achieve the purpose. If the state can demonstrate that it has a legitimate purpose and that the exclusion of short term license holders from participation in the fishermen's fund is reasonably and substantially related to that purpose, the proposal should survive an equal protection challenge. It is also possible that there would be no viable equal protection issue if the state can show that holders of short term licenses are not similarly situated with other commercial fishing license holders and thus the two groups are not entitled to equal access to the fishermen's fund.

Under the state equal protection clause of art. I, sec. 1, of the Alaska Constitution, the Alaska courts apply a sliding scale under which the applicable standard of review is determined by the importance of the individual rights asserted and by the degree of suspicion by which the classification scheme is viewed. As the right asserted to be violated becomes more fundamental or the classification scheme becomes more constitutionally suspect, the challenged law is subjected to more rigorous scrutiny at a

more elevated position on the sliding scale. Classifications based on race are inherently suspect and are subject to the highest level of scrutiny. As the level of scrutiny applied on the sliding scale becomes higher, the asserted governmental interests must be more compelling and the legislation's means to ends fit must be correspondingly closer. If less scrutiny is required, less important governmental objectives will be sufficient and a greater degree of under inclusiveness or over inclusiveness in the means to ends fit will be tolerated. State, Department of Revenue v. Cosio, 858 P.2d 621 (Alaska 1993); State v. Ostrosky, 667 P.2d 1184 (Alaska 1983).

A reasonable argument can be made that a short term license holder is equally entitled to the benefits of the fishermen's fund on the same basis as are other commercial fishing license holders because they are subject to the same risk of occupational injury as the other crewmembers. Also, if part of the fee paid by the short term license holders is dedicated to the fishermen's fund then it would seem only fair that they be entitled to benefit from the fund.

The right of a short term crewmember license holder to benefit from the fishermen's fund in the same manner as a person who holds an annual crewmembers license affects the short term license holder's personal economic interests and as such falls at the low end of the equal protection spectrum. The Alaska Constitution requires only that legislation affecting economic rights have a legitimate purpose and that there be a fair and substantial relationship between the purpose and means chosen to achieve the purpose in order to satisfy equal protection. Chiropractors for Justice v. State, 895 P.2d 962 (Alaska 1995); Katmailand v. Lake and Peninsula Borough, 904 P.2d 397 (Alaska 1995). If the legislature has a legitimate reason for excluding short term crewmember license holders from receiving benefits of the fishermen's fund and the exclusion of short term crewmembers from the benefits of the fund reasonably achieved that purpose then the courts are likely to uphold the legislature's decision. It is, generally, relatively easy for the state to justify discrimination between individuals at this low level of scrutiny, but the Alaska Supreme Court has invalidated some legislative enactments because the state was not able to provide sufficient justification to survive such judicial scrutiny. Gilman v. Martin, 662 P.2d 120 (Alaska 1983); Turner Construction Co., Inc. v. Scales, 752 P.2d 467 (Alaska 1988); and Gilmore v. Alaska Workers' Compensation Board, 882 P.2d 922 (Alaska 1994). The ability of the legislature to exclude short term license holders from participating in the fishermen's fund will largely depend on the legitimacy of the legislature's reasons for its decision and the ability of the legislature to narrowly craft the means chosen to achieve that purpose.

The fundamental principle underlying the concept of equal protection is that similarly situated persons are to be treated equally. The Alaska Supreme Court has found that equal protection under art. I is not violated if the person challenging the law is not similarly situated with those included or excluded, as appropriate to the particular case, under the law at issue. Brandon v. Corrections Corporation of America, 28 P.3d 269 (Alaska 2001); Fairbanks North Star Borough Assessor's Office v. Golden Heart Utilities, Inc., 13 P.2d 263 (Alaska 2001); Rutter v. Alaska Board of Fisheries 963 P.2d 1007

Representative Paul Seaton
February 28, 2005
Page 4

(Alaska 1998). Concluding that two groups are not similarly situated necessarily implies that the different legal treatment of the two groups is justified by the differences between the groups.

If the state can establish that short term license holders were not similarly situated with annual license holders then the state may discriminate between the two groups without violating the equal protection clause. For example, if the persons who obtained short term licenses were tourists who needed a crew members license only to be present on a commercial fishing boat while it was engaged in fishing and were not employed in commercial fishing for a living then the state could reasonably argue that those persons were different from the crew members who held annual licenses and were continuously engaged in commercial fishing for a livelihood.

A further discussion of equal protection issues may be possible once a specific proposal to exclude short term crew member license holders from the benefits of the fishermen's fund is adopted, but a more definite answer concerning the equal protection issue may have to await a decision by the courts.

If I may be of further assistance, please advise.

GU:med
05-127.med

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 26(FSH)

- 1 Page 2, line 17, following "may not":
- 2 Insert "be paid, receive crew shares, or receive other compensation for work
- 3 performed under the license and may not"

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 26 (FSH)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Short-term Commercial Fishing RDU Administration and Support
Crewmember License Component Administrative Services
 Sponsor Representative Moses
 Requester House Fisheries Committee Component No. 479

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	1.7	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.7	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1024)	1.5	1.5	1.5	1.5	1.5	1.5
----------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.7	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
1024 Fish and Game Fund						
TOTAL	1.7	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)

Assumptions:
 1. 100 new short-term licenses will be purchased.
 2. Per AS 23.35.060(a) Fishermen's Fund will receive 39% of the gross revenue. Fish and Game Fund will receive 61%.
 3. Given the mid-year effective date, the department must print 5,000 new licenses for distribution statewide. We estimate the printing costs for these new licenses to be a one-time cost of roughly \$1,700. In the following years, this new license option will be incorporated into our standard license, so there will be no additional cost for offering this option.

(Continued on page 2)

Prepared by: Tom Lawson Phone 465-5999
 Division Administrative Services Date/Time 2/11/05 3:19 PM
 Approved by: Acting Commissioner Wayne Regelin Date 2/11/2005
 Agency Department of Fish and Game

ANALYSIS CONTINUATION

This bill gives the department the ability to charge a \$3 administrative fee per license that would be imposed through regulation. If such a fee were imposed, printing costs would decrease by \$300 (\$3 fee x 100 new licenses sold).

Type of License Sold	Number of Licenses Sold	Amoun.	Total Gross Revenue	Vendor Commission	Total Commission	Total Net Revenue
Seven-day	100	\$30	\$3,000.00	10%	\$300.00	\$2,700.00
			\$3,000.00		\$300.00	\$2,700.00
<u>Break-out of Funds:</u>						
Fishermen's Fund		39%	\$1,170.00			
Fish & Game Fund		61%	\$1,530.00			
		Total	\$2,700.00			

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: **CSHB026-DOLWD-FF-02-15-05**
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: **Labor & Workforce Development**
 Title: **Short-Term Com Fishing Crewmember License** RDU: **Workers' Compensation**
 Component: **Fisherman's Fund**
 Sponsor: **Representative Moses**
 Requester: **House FSH** Component Number: **343**

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	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1032)	1.1	1.1	1.1	1.1	1.1	1.1
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (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)
 According to information provided by the Department of Fish and Game, it is anticipated 100 new licenses will be purchased. Under AS 23.35.060(a) the Fishermen's Fund will receive 39% of the revenue (\$1,053.00).

 The revenues to the Fund generated by the new licenses (\$30 for a seven day license) compare favorably to those from annual licenses (\$21.06) that expose the Fund to much longer periods of potential liability. However, licensees who are tourists or otherwise inexperienced in fisheries may be more likely to sustain an injury. Consequently, the ultimate impact on the Fund's claim payment outlays is indeterminate.

Prepared by: Paul F. Lisanti, Director Phone: 465-6059
 Division: Workers' Compensation Division Date/Time: 2/15/05 4:36 PM
 Approved by: Greg O'Clary, Commissioner Date: 2/15/2005
 Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 26
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Short-Term Commercial Fishing RDU Investments (122)
Crewmember License Component Investments
 Sponsor Moses
 Requester House Fisheries 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 provides for a new type of commercial fishing crewmember license that may be obtained for a one or three day time period. The bill will not impact the operations of the division.

Prepared by: Greg Winegar, Director Phone 907.465.2510
 Division Investments Date/Time 2/7/05 4:54 PM
 Approved by: Edgar Blatchford, Commissioner Date 2/7/2005
 Agency Commerce, Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB026- DOLWD-FF-02-07-05
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Short-Term Com Fishing Crewmember License RDU: Workers' Compensation
Sponsor: Representative Moses Component: Fishermen's Fund
Requester: House FSH Component Number: 343

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	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1032)	1.5	1.5	1.5	1.5	1.5	1.5
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (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)

According to information provided by the Department of Fish and Game, it is anticipated:

- 60 new licensees will purchase the one-day license.
- 40 new licensees will purchase the three-day license.
- 10% of revenue generated by those sales will remit to vendors' commissions.
- Under AS 23.35.060(a) the Fishermen's Fund will receive 39% of the gross revenue (\$1,482.00).

The revenues to the Fund generated by the new licenses (\$10.53/one-day and \$17.55/three-day) compare favorably to those from annual licenses (\$21.06) that expose the Fund to much longer periods of potential liability. However, licensees who are tourists or otherwise inexperienced in fisheries may be more likely to sustain an injury. Consequently, the ultimate impact on the Fund's claim payment outlays is indeterminate.

Prepared by: Paul F. Lisankie, Director Phone: 455-6059
Division: Workers' Compensation Division Date/Time: 2/7/05 3:34 PM
Approved by: Greg O'Claray, Commissioner Date: 2/7/2005
Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bil. Version: H.B. 26
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title: Short-term Commercial Fishing RDU: Administration and Support
Crowmember License Component: Administrative Services
 Sponsor: Representative Moses
 Requester: House Fisheries Committee Component No.: 479

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	1.7	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.7	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES (1024)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
	1.9	1.9	1.9	1.9	1.9	1.9

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.7	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
1024 Fish and Game Fund						
TOTAL	1.7	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)

Assumptions:

- 100 new short-term licenses will be purchased.
- Per AS 23.35.060(a) Fishermen's Fund will receive 39% of the gross revenue. Fish and Game Fund will receive 61%.
- Given the mid-year effective date, the department must print 5,000 new licenses for distribution statewide. We estimate the printing costs for these new licenses to be a one-time cost of roughly \$1,700. In the following years, this new license option will be incorporated into our standard license, so there will be no additional cost for offering this option.

(Continued on page 2)

Prepared by: Tom Lawson Phone 465-5999
 Division: Administrative Services Date/Time 2/8/05 3:58 PM
 Approved by: Acting Commissioner Wayne Regelin Date 2/8/2005
 Agency: Department of Fish and Game

ANALYSIS CONTINUATION

This bill gives the department the ability to charge a \$3 administrative fee per license that would be imposed through regulation. If such a fee were imposed, printing costs would decrease by \$300 (\$3 fee x 100 new licenses sold).

Type of License Sold	Number of Licenses Sold	Amount	Total Gross Revenue	Vendor Commission	Total Commission	Total Net Revenue
One - day	60	\$30	\$1,800.00	10%	\$180.00	\$1,620.00
Three - day	40	\$50	\$2,000.00	10%	\$200.00	\$1,800.00
			\$3,800.00		\$380.00	\$3,420.00
<u>Break-out of Funds:</u>						
			39%	\$1,482.00		
			61%	\$1,938.00		
			Total	\$3,420.00		



Alaska State Legislature

Please enter into the record my testimony to the House Resources
 committee name

Committee on HB 26, dated 2-23-05
 bill # / subject public hearing date

I am a Commercial Fishermen in Cook Inlet and would like to go on record that I support HB 26.

Having a short term crew permit would make it easier to manage our day help during the salmon run.

We have many experienced former crew members that know how to fish and are willing to help us if the need arises such as run strength and time in the water. In the Cook Inlet region our run comes quickly and is over in just a few days. Our ability to hire for a short term at an adjusted rate would help the already financially strapped industry.

I would not hire an inexperienced crewmen. Our season is very short and the pressure to make the "Payment" is a real burden. We do not train rookies during the run.

This is a good bill for several reasons and I applaud your diligence to streamline our industry to make it better for all.

Thank you,

Elizabeth J. Chase

Signed: Elizabeth J. Chase
 Testifier

Representing (optional)

PO Box 39 Kasilof, AK 99610
 Address

(907) 262-3233
 Phone number

HB

37

ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

HB 37: State Land Trades/Purchases With Willing Landowners To Regain Fishing Stream Access (Revised March 31, 2005)

Alaska's rivers are a treasured resource for fishermen, boaters, hunters, hikers, and people of all walks of life. We need to protect the public's access to them. House Bill 37 aims to ensure future public access to Alaska's fishing streams by putting in place a mechanism for **voluntary** land exchanges (or purchases) between the State and private owners along important recreational rivers. The program would be facilitated by the Department of Natural Resources and would be completely voluntary. The purchases or trades would only occur if a landowner is willing to engage in trade or sale voluntarily.

There are currently large stretches of private land on streams such as the Anchor River, Deep Creek, Parks Highway Streams, the Salcha River and others throughout the state. Today the public uses these streams, and has access to them. Once they're developed, we'll never be able to afford to get them back. HB 37 requires the state to identify private lands along certain high value recreational waters for possible easement or land purchases or trades.

To avoid costly litigation, it requires the state to use its expertise within the Departments of Fish and Game and Natural Resources to identify the most desirable lands for purchase or trade, after public input. But the bill does not allow legal challenges of those determinations.

Other states have waited too long to take steps like the ones proposed by this bill. In Montana, for example, fishermen have to pay for public access to some rivers. One hundred eighty miles of the Missouri River have been lost to public access, and that state now budgets \$300,000 per year to buy back parcels of riverbank land.

HB 37 will help insure that unparalleled recreational opportunities in our vibrant river corridors remain accessible, for our own and for future generations. It provides that the state should keep a registry of lands for possible trade or purchase.

The bill does not mandate any funding for trades or purchases, and therefore will lapse, in effect, once the state determines there is no longer a need to trade for or purchase public access.

ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

HB 37: Sectional Analysis State Land Trades/Purchases To Regain Fishing Stream Access From Willing Landowners

The Bill's sections provide as follows:

Section 1: Findings.

Section 2. This section gives the Commissioner of DNR the authority to prioritize lands that provide important public fishing stream access after public comment and consultation with the Department of Fish and Game. To prevent unneeded expense, the Commissioner's determinations are not appealable. The Commissioner is given the leeway to make these decisions, and is allowed to make the decisions upon available agency knowledge and public comment without engaging in expensive study.

Section 3. The state is encouraged to develop a registry of lands that are important for public fishing access, and to try to arrange a trade with willing landowners for other state lands, purchase the land outright, or purchase easements on it. The bill specifically requires that if landowners do not want to be listed, or approached with a trade or purchase offer, their land must be removed from the list. It further clarifies that eminent domain cannot be exercised under this section, as any purchases or trades will be purely voluntary under this bill.

Section 4. The Commissioner is encouraged to seek land purchases or exchanges on important fishing streams prior to private development on those streams, at which point such a transaction would become prohibitively expensive. Streams with undeveloped private lands that, if developed, would impede important public access, include the following prized trout/steelhead/salmon fisheries: Montana and Willow Creeks above the Parks Highway in Southcentral Alaska; the Anchor River and Deep Creek on the Kenai Peninsula; and the Salcha River south of North Pole. The Commissioner is encouraged to seek to obtain public access on these and other streams that provide important public fishing opportunities.

SECTIONAL ANALYSIS

Carried

AMENDMENT

OFFERED IN THE HOUSE
TO: CHHB37(FSH)

Page 3, line 14, following "use,":

Insert: "sport"

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB037-DNR-Title-03-18-4
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title: Public Access to Fishing Streams RDU: Resource Development
 Component: Title Acquisition & Defense
 Sponsor: Rep. Gara
 Requester: (H) FSH Component No.: 2459

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	40.2	40.2	40.2	40.2	40.2	40.2
Travel	2.0	2.0	2.0	2.0	2.0	2.0
Contractual	2.0	2.0	2.0	2.0	2.0	2.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	45.2	45.2	45.2	45.2	45.2	45.2

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	45.2	45.2	45.2	45.2	45.2	45.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify type--Do not abbreviate)						
TOTAL	45.2	45.2	45.2	45.2	45.2	45.2

Estimate of any current year: (FY2005) cost: 00
 Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)
 This bill requires DNR, working with the Alaska Department of Fish and Game (ADF&G), to identify private lands that the state should acquire to provide public access to and along popular fishing streams, and then directs DNR to pursue acquisition through purchase of easements, land exchanges, and or fee simple purchase.

 Section 2 of the bill requires ADF&G to identify undeveloped land along popular fishing streams for possible acquisition. The bill identifies three areas where this process will look at first, but envisions an ongoing, statewide process. ADF&G then submits the list of parcels to DNR to acquire the land. This fiscal note does not include the actual cost to negotiate and appraise individual acquisitions, and does not include funding to pay the purchase price for acquisitions.

Prepared by: Bob Loeffler, Director Phone 269-8625
 Division: Mining, Land & Water Date/Time 3/18/2005
 Approved by: Tom Irwin, Commissioner Date 3/18/2005
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB037-DNR-Title-03

ANALYSIS CONTINUATION

This fiscal note assumes that ADF&G will provide DNR with a list of parcels, maps of the parcels, names and addresses of property owners, and other information about the parcels. ADF&G will submit a separate fiscal note for these costs.

Section 3 of the bill directs DNR to acquire the lands identified by ADF&G. This fiscal note only includes DNR's costs to conduct initial land title work, field inspections of parcels to be acquired, and preliminary discussions with the owners of parcels that the state desires to acquire.

After these preliminary discussions, DNR would then request appropriations from the legislature to fund work on each parcel or group of parcels, including costs for negotiation, appraisals, surveys, complete land title reviews, and purchase of the land. If the specific acquisitions are not funded, DNR would not be able to pursue the acquisitions further.

DNR's initial costs that are included in this Fiscal Note are:

PERSONAL SERVICES COST - \$40.2

Natural Resource Specialist (NRS) III and Land Appraiser II (range 18s) - total 2 months @ \$6.0/month = \$12.0 - to discuss acquisitions with property owners and estimate costs associated with individual parcel acquisitions.

Natural Resource Specialist (NRS) I (range 14) - 6 months @ \$4.7/month = \$28.2 - to conduct initial land title, preliminary valuation, and other research for all parcels.

TRAVEL, CONTRACTUAL, SUPPLIES - total \$5.0 - includes travel to sites (initial areas are all road accessible), research of municipal title records, office supplies, etc.

LONG TERM COSTS ASSOCIATED WITH ACTUAL ACQUISITIONS - Not Included in Fiscal Note.

This fiscal note does not include the cost associated with negotiating the land purchase or exchanges, land appraisals, preparing and recording title documents, any necessary survey costs, and other related costs. DNR's experience with recent land acquisitions indicates that one NRS III position can negotiate and coordinate about four acquisitions per year. Some support staff time is also needed for document preparation, record keeping, additional title research, etc. Based on this, the estimated cost for each purchase is \$40.0 (\$25.0 for personal services and \$15.0 for contractual services including appraisal and environmental audit). Land exchanges are significantly more labor intensive, based on recent experience the cost for land exchanges is \$50.0 to \$100.0 per parcel.

Actual acquisition costs will vary by area and size of parcels. DNR estimates that parcels that provide access to Montana and Willow Creeks along the Parks Highway will cost about \$7,500 per acre for 5-10 acre parcels (\$37.5 - \$75.0 per parcel). Recent ADF&G purchases of parcels for access along the Anchor River and Deep Creek on the Kenai Peninsula were higher, averaging about \$100.0 per parcel.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: H.B. 37
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title An act relating to public access RDU Sport Fisheries
to fishing streams Component Sport Fisheries
 Sponsor Representative Gara
 Requester House Special Committee on Fisheries Component No. 464

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 bill requires the Alaska Department of Fish and Game (ADF&G) to annually compile a list of land along fishing waterways where access to the waterways is impeded by private land ownership. In compiling this list, ADF&G is required to take public input and consider a number of conditions outlined in this bill. Once completed, ADF&G will submit this list to the Commissioner of the Department of Natural Resources for consideration. ADF&G is able to comply with the provisions in this legislation without additional funding and/or staff.

Prepared by: Sarah Gilbertson Phone 465-6137
 Division Legislative Liaison Date/Time 1/28/05 8:35 a.m.
 Approved by: Acting Commissioner Wayne Regelin Date 1/28/2005
 Agency Alaska Department of Fish & Game

Sec. ~~38.05.127~~. Access to navigable or public water.

(a) Before the sale, lease, grant, or other disposal of any interest in state land adjacent to a body of water or waterway, the commissioner shall,

(1) determine if the body of water or waterway is navigable water, public water, or neither;

(2) upon finding that the body of water or waterway is navigable or public water, provide for the specific easements or rights-of-way necessary to ensure free access to and along the body of water, unless the commissioner finds that regulating or limiting access is necessary for other beneficial uses or public purposes.

(b) The department shall adopt regulations implementing this section.

(c) Nothing in this section affects valid existing rights or limits in any way the constitutional right of the public to use and have free access to the navigable or public waters of the state.

(d) Upon application by a municipality or an affected owner of land, the department may vacate, release, modify, or relocate an easement and right-of-way for public access to or along navigable or public waters reserved by the department in a patent issued under AS 29.65 or former AS 29.18, if the commissioner determines the action is consistent with the public interest.

(e) The establishment of easements or rights-of-way for oil and gas, gas only, and mineral leases under (a) of this section need not be made until the leases are ready to be developed.

(f) Rights-of-way or easements to waterways established under (a)(2) of this section shall be established approximately once each mile unless the commissioner makes a written finding that regulating or limiting access is necessary for other beneficial uses or public purposes.

(g) The commissioner may exchange land under AS 38.50 to create access to public water of the state.



Representative Los Gara
State Capitol
Juneau, AK 99801

April 20, 2005

Re: HB37

Dear Representative Gara:

The Kenai River Sportfishing Association (KRSA) supports the legislative objective of House Bill 37, an act relating to voluntary land trades and purchases to enhance public access to fishing streams.

Alaska is home to some of the best sportfishing, personal use and subsistence opportunities in the world, and HB37 is an important piece of legislation that provides ADF&G and ADNR a mechanism to ensure broad public access to these important public resources. HB37 places into statute a process that mandates the Commissioner of ADF&G list land along fishing waterways where access is impeded by private land ownership and the Commissioner of ADNR responsible for proceeding to acquire public access across those lands.

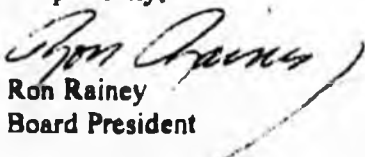
KRSA is a non-profit 501 (c) 3 conservation organization dedicated to ensuring the sustainability of the greatest sportfishing river in the world – the Kenai. Our goals are to conserve and rehabilitate fisheries habitat, promote predictable and meaningful sportfishing opportunity, encourage and foster fisheries research and provide public aquatic education. Over the past ten years we have raised and invested over \$5 million towards these goals.

While on the Kenai River (the primary focus of our organization) there is broad public access to its fishery resources, KRSA has been concerned with the privatization of public lands along other waterways in our state which reduces or eliminates public access to some of our prized sport fishing rivers and streams. On the Kenai Peninsula, we have public access concerns on the neighboring rivers of the Kenai, specifically the Anchor, Deep Creek and Kasilof. If public access is denied or severely restricted on these neighboring rivers, it will only serve to place more pressures on the Kenai itself, which is already the state's most popular sport and personal use fishery.

KRSA supports the public access mechanisms in place in the bill, such as using public easements and land trades as well as outright purchases of the land with voluntary private land owners, and we are also very encouraged that the right of eminent domain may not be exercised to acquire land or interest in land. The initial nominations, which include the Anchor and Deep Creek, could have a significant positive impact on public access to fishery resources in on the Kenai Peninsula as well as other areas of the state.

We appreciate your efforts and those of your colleagues in regards to HB37.

Respectfully,


Ron Rainey
Board President

Dedicated to preserving the greatest sportfishing river in the world, the Kenai.

P.O. Box 1228 • 224 Kenai Ave., Suite 102 • Soldotna, Alaska 99669

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ALASKA FLYFISHERS

Winners of the 1994 McKenzie Cup



March 9, 2005

Dear Representative Gara:

Based on our collective individual and organizational experience, the Alaska Fly Fishers strongly support the objective of House Bill 37.


The Alaska Fly Fishers (AFF) was founded in 1973 at Anchorage with the objectives of "to preserve the sport of fly fishing, advance the principles of fair chase and fair catch, educate members and the public in the necessity of preserving our outdoor heritage, promote the ethical utilization of the resources of our woods and waters and to organize and unite the fly fishers of Alaska for mutual community benefit." AFF is one of the largest sport fishing organizations in Alaska. I feel we have consistently taken actions which support those objectives.

For nearly as long as AFF has existed, we have provided public education (at low or no cost), participated in conservation projects, and participated in organizations which contribute to Alaska's natural resources. Our public education includes annual seminars on fly fishing, fly tying, and donations of books to the public libraries. Conservation projects include an annual Kenai River Cleanup (for 11 consecutive years), bank stabilization of Campbell Creek, and bank stabilization at Jim's Landing on the Kenai River. The organizations our members have participated in include Fish & Game Advisory Committees and Regional Subsistence Advisory Councils.

An important element of maintaining our habitat and resources is public involvement and support. In order to do this, the public must have a vested interest. If they are denied access to these resources, we can't expect this broad support.

The AFF concludes that the objectives of HB 37 are mutually supportive of the objectives of AFF.

Sincerely,


Bob Fairchild
President

SUPPORT

Cindy Smith

From: Phil Cutler [filcut@ak.net]
Sent: Friday, March 18, 2005 9:40 PM
To: Cindy Smith
Cc: Jeff Parker
Subject: HB 37 GARA

Alaska Sportfishing Association

P. O. Box 243106 Anchorage, AK 99524

**Representative Les Gara
State Capitol
Juneau, AK 99801**

Re: HB37

Dear Representative Gara,

I have presented HB37 at the latest Board of Directors meeting and the latest public membership meeting of the Alaska Sportfishing Association. After thorough discussion at both venues, I am pleased to relate that we enthusiastically support this legislation.

The Alaska Sportfishing Association has prided itself in being an organization that works to promote access to areas where sport fishing can be done in concert with sustained yield of the fishery and proper environmental safeguards. One of our longstanding concerns has been the privatization of public lands which in turn reduces or eliminates public access to some of our prized sport fishing rivers and streams.

HB37 places into statute a process that mandates that the Commissioner of Fish and Game nominate privately owned lands that might be returned to public ownership. It also makes the Commissioner of Natural Resources responsible to effecting the acquisition of the lands nominated.

Much of our discussions were centered on the methods SB37 promotes to acquire the land. Our fiscally conservative members were pleased that the bill endorsed using public easements and land trades as well as outright purchase of the land. The members were excited that your initial nominations could have a significant positive impact on sport fishing access in South-central and Interior Alaska.

We appreciate your efforts in sponsoring HB37.

Phil Cutler, President

Rep. Les Gara

From: Brent Fenty [bfenty@earthlink.net]
Sent: Sunday, February 27, 2005 5:42 PM
To: Rep. Les Gara
Subject: HB 37

Rep. Gara-

I just want to say thanks for your introduction of HB 37. I was particularly pleased to see that Montara and Willow Creek were prioritized in the bill as I think development threats loom in the near future for these terrific fisheries. Thanks again.

Tight lines,
Brent

—
Brent Fenty
PO Box 142771
Anchorage, AK 99514

(907) 770-9967
bfenty@earthlink.net

B**MOLLY IVINS LETS LOOSE**

Political columnist Molly Ivins will speak in Anchorage on July 21. Check out what she told the Daily News about both George Bushes, sodomy in Texas, tax cuts, her new book, and the Alaska-Texas rivalry. **Q&A in Opinion, Page 1-3**

ALASKA

ANCHORAGE DAILY NEWS • www.adn.com

★ SUNDAY, JULY 13, 2003

Prime fishing land might be sold off

■ **ANCHOR RIVER:** Sale of five-acre parcels could eliminate public access.

By JOE GAY
Anchorage Daily News

The beaches, banks and wetlands along one of the Kenai Peninsula's most popular fishing streams are being subdivided into five-acre parcels that, if sold, could eliminate public access to the lower Anchor River.

The owners say they've tried for years to sell the land to the state but could never agree on a price. Now it's time to move on, they say, and the first

step is chopping their two large parcels into 20 smaller ones.

They hope to win preliminary approval of their subdivision plan Monday night from the Kenai Peninsula Borough. The lots could be on the market later this summer.

Supporters of a buyout still hope the land can be purchased and put into public ownership. The landowners say they're still willing to sell. But time is drawing short, said Lynn Whitmore, a longtime local angler who just recently learned about the proposed subdivision.

"I'm going to urge that they try to convert this to public land, by whatever means necessary," he said. "I want the (borough) mayor or somebody to sit down with these two sides and resolve this."

■ **THE KENAI PENINSULA BOROUGH PLAT COMMITTEE** will hold a public hearing on the proposed Anchor River subdivision at 5:30 p.m. Monday in the Borough Building in Soldotna. For more information, go to www.borough.kenai.ak.us/planningdept, then click on Plat Committee, then Agendas.

er means necessary," he said. "I want the (borough) mayor or somebody to sit down with these two sides and resolve this."

Anchor Point pioneer Vern Mutch homesteaded the area decades ago, selecting land that ran from atop the bluffs to the Cook Inlet beach, with the

river running through it. His son Paul, a commercial fisherman who lives in Ugashuk, now owns much of the land, including a 45-acre parcel just north of one of the river's most popular fishing spots, the Graas Hole.

The state Division of Parks owns the adjoining lot to the south, where it provides parking and a boat launch. But thousands of fishermen every year pass through the state land onto the Mutch property, where they camp on the gravel beach and tromp through wetlands to reach the river.

Many also walk or drive ATVs even farther north, toward the river mouth, where they trespass on a 12-acre parcel owned by Jim Jacobs.

The parks superintendent on the lower peninsula, Chris Degernes, said it's difficult to imagine the private land suddenly being posted with no-trespassing signs. "The public has used that property so many years — as if it were public — that it will be difficult to keep the public off," she said.

The Division of Parks and the Alaska Department of Fish and Game have wanted to buy the Anchor River lands for years, she said. It's rich territory. About 50,000 to 60,000 people visit every year, she said, mostly to fish. The

See Page B-4. LAND

Trees cut to reduce fire danger

■ **CLEARING:** Crews of firefighters at work in woods throughout city.

By TATABOLINE BRANT
Anchorage Daily News

Firefighters cut down several tall trees in Kincaid Park last week and chopped them into firewood-sized logs, and officials say the work is just one small part of an ongoing federally funded effort to reduce the chance of a bad wildfire in Alaska's largest city.

About a dozen brush piles lined Reservoir Road near Kincaid

WEST COAST WEATHER



HUD funds for city in jeopardy

■ **GRANTS:** "It's at a critical stage," says Mayor Begich, who has stepped in.

By ROSEMARY SHINOHARA
Anchorage Daily News

The new mayor's transition report last week pointed to a crisis in public housing. The city is in danger of losing federal Housing and Urban Development grants next year if it doesn't spend \$2.6 million by Nov. 2.

LAND: Price undecided

Continued from B-1

season starts Memorial Day with king salmon, then continues through freezeup with runs of silver salmon, Dolly Varden and steelhead trout. Migrating birds stop by every spring and fall, and others spend the winter.

There is strong support for public ownership, Degernes said, but the stumbling block has always been the land appraisal.

"Land like that is difficult to appraise," she said. Comparable lands rarely sell, so there is little to base an estimate of land value on. And the land is impossible to develop because of its wetlands, the constantly changing river course and winter storm damage.

The Kenai Peninsula Borough appraises the Mutch property at \$16,500 and the Jacobs land at \$15,000. The owners believe the parcels are worth much more, as does the state, though neither side will reveal its offer. But they can't agree on a price, Degernes said.

"We can't just pay what the seller wants," she said. "It has to be based on fair market value, and that's been the stumbling block time and time again."

After negotiations with Fish and Game fell apart several years ago, The Nature Conservancy stepped in. The conservancy buys high-value land, often using a combination of government grants and private funds. It won a \$417,000 National Coastal Wetland Conservation grant to buy the Mutch and Jacobs properties, plus another large lot in the same area. A deal looked possible, according to both sides.

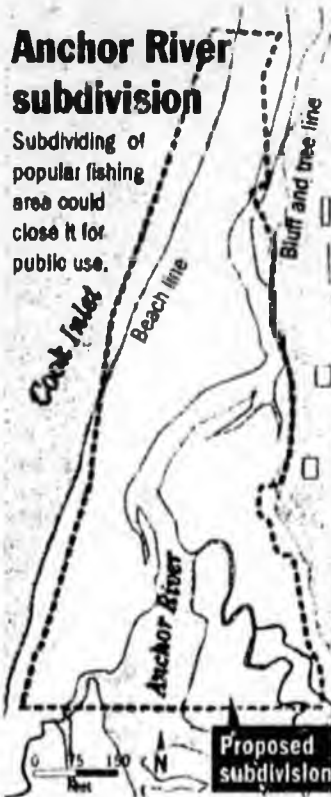
Then a new hurdle arose regarding the river bottom itself. Who owns it?

Surveyor Jerry Anderson, who represents the landowners, said previous court cases make it clear: "The water belongs to the state, but the land underneath (belongs) to the owner." By his reckoning, the two parcels add up to roughly 93 acres.

The Nature Conservancy isn't sure. It wants the issue cleared up to determine how much acreage really exists, said Kenny Powers, the group's director of land protection. "We're

Anchor River subdivision

Subdividing of popular fishing area could close it for public use.



CHARLES ATKINS / Anchorage Daily News

turn the normally angler-friendly Anchor River into a comb fishery. More fishermen would likely cause more habitat damage on the grassy banks of the stream, he said.

The closure would also block access to the river mouth key fishing area. Many anglers start fishing at low tide, walk steadily upstream and follow the fish as the water rises. Except at low tides, they could reach the river mouth with trespassing.

He understands the owners' frustration, Whitmore said. Rowdy teens and adults party on the land every Memorial Day, and even law-abiding fishermen trespass regularly. Nevertheless, he added, "it'd be an absolute catastrophe to have it developed."

Even if the two sides can agree on a price, a potential

land they own. It's just a question of who owns the river bed," he said.

Powers said he thinks a deal is still possible. "The public values are there and the resources are there that deserve public protection, so we're continuing to be interested," he said. All that remains is to agree on a price. "That's the million-dollar question," he said.

The sellers are broadening the market, Anderson said. "If (the state) isn't going to put the money up, they're going to sell it somebody else."

The land is too wet for homes or cabins, Anderson said, but people will buy the five-acre lots if only to have a place to park their recreational vehicles.

Local fishermen would hate to see no-trespassing signs appear on the lower river, said Whitmore, who has fished there 30 years. The new subdivision could close off about a mile of riverbank.

"If you lose access to that portion of river, it means you compress those 1,000 fishermen into one-third less space," he said. "The people will still come, but they'll have much less space to fish," which could

Murkowski, who has voiced philosophical objection to the government's buying private land, would have to approve the use of state or federal funds. Last month, he killed one such land deal on Afognak Island while approving another for ski trail land near Homer.

Powers, of The Nature Conservancy, said he doubts the governor would veto a deal. "The state has been very supportive of this acquisition, as has community, because of the high value of the resources," he said. "I'd be surprised if Gov. Murkowski did not support this project."

Daily News reporter Joel Gay can be reached at jgay@adn.com or at 257-4310.

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TOYS OF SUMMER

HB

57

ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4



ALASKA
STATE CAPITOL
JUNEAU, ALASKA
99801-1182

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

HB 57

Sponsor Statement

“ An Act relating to the sale of certain land to adjacent landowners ”

House Bill 57 would authorize the State of Alaska, through the Department of Natural Resources (DNR) Director of Lands, to negotiate the sale of state lands smaller than 20 acres at fair market value to an adjacent landowner provided the state property is completely enclosed by the adjacent landowner. The bill would not mandate DNR to sell state property under such circumstances, but would grant it the ability to allow a landowner to purchase the state land the property encompasses.

Contact: Terry Harvey

Issued 02-14-06

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SSM8657-DNR-ML&W-03-21-08
 () Publish Date: _____

Revision Date/Time (Note if correction): 3/22/06 Dept. Affected: Natural Resources
 Title: AUTHORITY TO PURCHASE FEDERAL LAND RDU: Resource Development
 Component: Claims, Permits and Leases
 Sponsor: Rep. Weyhrauch
 Requester: (H) RES Component No.: 2460

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING						

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

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

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would allow DNR to convey title to an isolated parcel of state owned land, through negotiated sale to an adjacent land owner at fair market value, if a parcel is smaller than 20 acres and is completely enclosed by property owned by the adjacent land owner.

Other than a small but indeterminate amount of revenue expected to be generated from the sale of an anticipated small number of parcels, there is no anticipated significant fiscal impact associated with this proposed legislation. DMLW's existing preference right staff will process these additional preference rights sales, as DMLW received a budget increment for these purposes starting in FY06.

Prepared by: Dick Mylius, Acting Director
 Division: Mining, Land & Water
 Approved by: Michael L. Menge, Commissioner
 Agency: Natural Resources

Phone: 907-269-8625
 Date/Time: 3/21/2006
 Date: 3/21/2006



Map Example

HB

71

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 71
LL UB
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

January 11, 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 relating to a credit for certain exploration expenses against oil and gas properties production taxes on oil and gas produced from a lease or property in the state and relating to the deadline for certain exploration expenditures used as credits against production tax on oil and gas produced from a lease or property in the Alaska Peninsula competitive oil and gas areawide lease sale area after July 1, 2004.

The Bristol Bay area is one of the largest onshore tracts in Alaska to potentially open for oil and gas leasing in the last 20 years. The northerly portion of the basin is believed to be gas prone. Extending the timeframe for exploration incentives will benefit the residents of the region with the potential for a natural gas supply that could lower their fishing costs, provide heat for their homes and result in less expensive power.

In the interest of providing tax incentives to encourage exploration in Alaska, new AS 43.55.025, which allows oil producers to credit exploration expenditures against production tax on oil and gas produced after July 1, 2004, was added in the 2003 session (HCS CSSB 185(O&G) am H; ch. 59, SLA 2003 (effective September 9, 2003)).

In order to qualify for the production tax credit under that statute, exploration expenditures must be incurred on or after July 1, 2003, and before July 1, 2007. It has become apparent that the July 1, 2007, deadline will come too soon for oil producers that obtain leases in the proposed Bristol Bay (Alaska Peninsula) Competitive Oil and Gas Areawide Lease Sale Area described in ch. 9, SLA 2004 (which took effect March 18, 2004). In this proposed lease sale area, the Department of Natural Resources anticipates that leases would

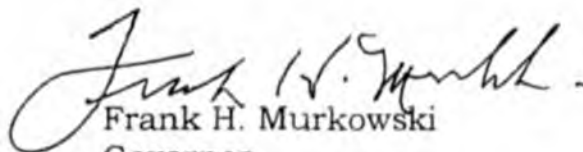
The Honorable John Harris
January 11, 2005
Page 2

not be issued until the spring of 2006. Given this timetable, it is likely that exploration expenditures on these leases would occur after July 1, 2007, in which case they could not be credited against future production taxes.

In order to provide similar tax incentives to the bidders on these proposed oil and gas leases, this bill would extend the deadline for exploration expenditures in the proposed Bristol Bay (Alaska Peninsula) competitive oil and gas areawide lease sale area to July 1, 2010. This bill also would make some minor technical changes to AS 43.55.025 to clarify the intent and harmonize terms used in that recently enacted section.

I urge your support of this important legislation.

Sincerely yours,



Frank H. Murkowski
Governor

Enclosure

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

P.O. BOX 110400
JUNEAU, ALASKA 99811-0400
TELEPHONE: (907) 465-2300
FACSIMILE: (907) 465-2389

House Bill 71 is intended to encourage exploration and development of one of the largest undeveloped onshore oil and gas fields remaining in Alaska, outside of the north slope. Development of this field has the potential to bring stable, high paying, year round jobs to an area which has traditionally relied on a seasonal commercial fishing economy. Gas from this field can provide an efficient relatively low cost energy source for heating and the production of electricity to the Alaska Peninsula area. Oil and gas development can provide transportation infrastructure and lower the cost of living in this area. Local residents and commercial interests including native corporations in the Alaska Peninsula area support development of the gas and oil resources in this area.

The exploration credit enacted last year provides oil and gas explorers a credit against their production taxes of (1) 20% of allowable expenses for exploration wells drilled more than 3 miles from a preexisting well, (2) 20% of allowable expenses for exploration wells drilled more than 25 miles from the boundary of a unit, or (3) 40% of allowable expenses for certain seismic work and for exploration wells that meet both condition (1) and (2). Once approved, the credit or any remaining portion of it can be either carried forward month to month until fully applied, or sold or transferred to another taxpayer and applied to Alaskan production tax liabilities. The work must be performed between July 1, 2003 and July 1, 2007. In general allowable expenses include the direct costs of the work performed and exclude overhead, administration and environmental costs.

This bill extends the period for performing qualifying exploration work for the tax credit until July 1, 2010, for exploration in the proposed Alaska Peninsula competitive oil and gas area wide lease sale area. Exploration as a result of that lease sale is not expected to occur until after the expiration of the current production tax credit on July 1, 2007, therefore we are proposing extending the qualifying period four years.

LEGAL SERVICES

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

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FAX (907) 465-2029
Mail Stop 3101


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

MEMORANDUM

January 17, 2005

SUBJECT: Draft House Ways & Means Committee Substitute for House Bill 71 [CSHB 71(W&M)] prepared solely for the purpose of conformity with Legislative Drafting Manual (Work Order No. 24-GH1040\G)

TO: Representative Bruce Weyhrauch, Chair
House Special Committee on Ways and Means

FROM: Jack Chenoweth
Assistant Revisor 

Ginny Austerman has asked this office to prepare a draft committee substitute that conforms House Bill 71, a governor's bill, to the requirements of the Legislative Drafting Manual.

These are the changes to HB 71 that are incorporated into the draft committee substitute:

-- page 2, line 15: I have deleted reference in the amendment to a permanent law provision of a reference to "section 5 of this Act". Our practice, with a very limited number of exceptions made where it is not possible to substitute an appropriate permanent law cross-reference, has been to omit temporary law bill section references in the body of permanent law.

-- page 3, line 27 through page 5, line 6:

Based on examples appearing in AS 16.20.036(a)(10) and AS 16.20.615(a), I have omitted the first reference to "West" in the legal description of the range numbers of the land proposed for inclusion in the Alaska Peninsula Competitive Oil and Gas Areawide Lease Sale Area.

I have also opted to recommend that the legal description of the areawide lease sale area be incorporated as an addition to the permanent law. The test of whether the provision should be treated as permanent law or as temporary law, as recommended in the administration bill, turns on language in the Legislative Drafting Manual directing that "[b]ills creating uncodified law are generally . . . most laws of a temporary or special character." Drafting Manual at page 23. While the provision in question might be treated as "special [in] character," in point of fact the description of the withdrawn areawide oil and gas lease sale may hold the land and water areas in that status for a longer period than most provisions that are typically treated as "temporary."

Drafting Changes to HB 71

Representative Bruce Weyhrauch
January 17, 2005
Page 2

Finally, I would propose that the legal description, codified, not appear as part of AS 43.55.025, a provision that is already fairly technical, but that it stand apart in a section of its own.

-- page 5, following line 13: Bill section 7 makes the contingently effective amendments to AS 43.55.025(b) [bill section 2] and the legal description of the proposed Alaska Peninsula Competitive Oil and Gas Areawide Lease Sale Area [bill section 5] effective "the day the commissioner of natural resources notifies the revisor of statutes that the lease sale . . . has occurred." There is no corresponding duty or obligation imposed on the commissioner to transmit that report. Section 6(b), new in the draft committee substitute, adds that obligation.

*

There are some other potential problems with the bill that I am unable to address, which the committee may want to question the administration representative(s) who appear to testify on it:

--page 1, line 5: The bill title refers to "expenditures" claimed as credits "on production tax on oil and gas produced from a lease sale . . . after July 1, 2004," but the authorization in the body of the bill, at page 2, lines 13 - 15, refers to activity occurring on or after July 1, 2003; should the title date reference be conformed? It is the opinion of at least one of the revising attorneys in that office that it should.

-- page 3, line 10: In the text of bill section 3, eligibility is extended for the second 20 percent credit covering an exploration well located within 25 miles outside of the outer boundary, as delineated on July 1, 2003, of a unit that is under a plan of development. If exploration wells associated with, but located outside the proposed Alaska Peninsula Competitive Oil and Gas Areawide Lease Sale Area are intended to be covered by this provision, does the fact that the outer boundary might not have been delineated by that date prevent eligibility? Should the date be altered?

Finally, as a policy consideration -- you do understand, do you not, that the change of the "or" to "and" on page 2, line 5 of the measure as introduced allows for a doubling of the potential cumulation of expenditures that may be claimed as credits from the 40 percent maximum of current law to a possible maximum of 80 percent.

JBC:jad
05-015.jad

Enclosure